

WSR 18-23-017
PROPOSED RULES
DEPARTMENT OF
FINANCIAL INSTITUTIONS
 [Filed November 9, 2018, 12:00 p.m.]

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 18-24 issue of the Register.

WSR 18-23-050
PROPOSED RULES
DEPARTMENT OF ARCHAEOLOGY
AND HISTORIC PRESERVATION
 [Filed November 15, 2018, 12:43 p.m.]

Supplemental Notice to WSR 18-04-077 [18-14-028].
 Preproposal statement of inquiry was filed as WSR 18-04-077.

Title of Rule and Other Identifying Information: Chapter 25-48 WAC, Archaeology and historic preservation, new definition and requirements for the creation of an archaeological monitoring permit.

Hearing Location(s): On December 28, 2018, at 9:00 a.m., at 1110 South Capitol Way, Suite 40, Olympia, WA 98501.

Date of Intended Adoption: January 1, 2019.

Submit Written Comments to: Lance Wollwage, P.O. Box 48343, Olympia, WA 98504-8343, email lance.wollwage@dahp.wa.gov, by December 28, 2018.

Assistance for Persons with Disabilities: Contact Lance Wollwage, phone 360-586-3536, email lance.wollwage@dahp.wa.gov, by December 14, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The Washington state department of archaeology and historic preservation (DAHP) is revising rules for the issuance of archaeological excavation and removal permits under WAC 25-48-020 and 25-48-060. DAHP has identified the need to develop rules that simplify requirements for permits that propose archaeological monitoring. The proposed monitoring permit simplifies and reduces application requirements and DAHP anticipates the cost to applicants for this permit will be reduced.

Reasons Supporting Proposal: Under WAC 25-48-060, application requirements for archaeological excavation and removal permits are based on the needs of intensive scientific data-recovery efforts, including lengthy and detailed context statements and research designs. Archaeological monitoring work does not require the context and level of detail currently required for permit applications under WAC 25-48-060. Simplifying the application requirements for archaeological monitoring permit applications will reduce the time and effort needed to produce applications by professional archaeologists and project proponents, and the time and effort to review applications by agency and tribal staff.

Statutory Authority for Adoption: RCW 27.34.220, 27.53.140, 43.21C.120.

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

Name of Proponent: DAHP, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Lance Wollwage, Olympia, 360-586-3536.

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

A cost-benefit analysis is not required under RCW 34.05.328. Adoption of the proposed rules will reduce applicant costs.

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

Is exempt under RCW 19.85.025(3) as the rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

November 15, 2018

Lance Wollwage
 Assistant State Archaeologist

AMENDATORY SECTION (Amending WSR 06-06-001, filed 2/15/06, effective 3/18/06)

WAC 25-48-020 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Archaeology" means systematic, scientific study of the human past through material remains.

(2) "Historic" means peoples and cultures who are known through written documents in their own or other languages. As applied to underwater archaeological resources, the term historic shall include only those properties which are listed in or eligible for listing in the Washington State Register of Historic Places (RCW 27.34.220) or the National Register of Historic Places as defined in the National Historic Preservation Act of 1966 (Title 1, Sec. 101, Public Law 889-665; 80 Stat. 915; 16 U.S.C. Sec. 470) as now or hereafter amended.

(3) "Prehistoric" means peoples and cultures who are unknown through contemporaneous written documents in any language.

(4) "Professional archaeologist" means a person who:

(a) Has designed and executed an archaeological study as evidenced by a thesis or dissertation and been awarded an advanced degree such as an M.A., M.S., or Ph.D. in archaeology, anthropology, history or other germane discipline with a specialization in archaeology from an accredited institution of higher education; and

(b) Has a minimum of one year of field experience with at least twenty-four weeks of field work under the supervision of a professional archaeologist, including no less than twelve weeks of survey or reconnaissance work and at least eight weeks of supervised laboratory experience. Twenty weeks of field work in a supervisory capacity must be documentable with a report on the field work produced by the individual.

(5) "Public lands" means lands owned by or under the possession, custody, or control of the state of Washington or any county, city, or political subdivision of the state; includ-

ing the state's submerged lands under the Submerged Lands Act, 43 U.S.C. Sec. 1301 et seq.

(6) "Site restoration" means to repair the archaeological property to its preexcavation vegetational and topographic state.

(7) "Amateur society" means any organization composed primarily of persons who are not professional archaeologists, whose primary interest is in the archaeological resources of the state, and which has been certified in writing by two professional archaeologists.

(8) "Archaeological object" means an object that comprises the physical evidence of an indigenous and subsequent culture including material remains of past human life including monuments, symbols, tools, facilities, and technological by-products.

(9) "Archaeological site" means a geographic locality in Washington, including but not limited to, submerged and submersible lands and the bed of the sea within the state's jurisdiction, that contains archaeological objects.

(10) "Archaeological resource" means any material remains of human life or activities which are of archaeological interest, including all sites, objects, structures, artifacts, implements, and locations of prehistorical or archaeological interest, whether previously recorded or still unrecognized, including, but not limited to, those pertaining to prehistoric and historic American Indian or aboriginal burials, campsites, dwellings, and their habitation sites, including rock shelters and caves, their artifacts and implements of culture such as projectile points, arrowheads, skeletal remains, grave goods, basketry, pestles, mauls, and grinding stones, knives, scrapers, rock carvings and paintings, and other implements and artifacts of any material.

(11) "Historic archaeological resources" means those properties which are listed in or eligible for listing in the Washington State Register of Historic Places (RCW 27.34.-220) or the National Register of Historic Places as defined in the National Historic Preservation Act of 1966 (Title 1, Sec. 101, Public Law 89-665; 80 Stat. 915; 16 U.S.C. Sec. 470) as now or hereafter amended.

(12) "Of archaeological interest" means capable of providing scientific or humanistic understandings of past human behavior, cultural adaptation, and related topics through the application of scientific or scholarly techniques such as controlled observation, contextual measurement, controlled collection, analysis, interpretation, and explanation.

(13) "Director" means the director of the department of archaeology and historic preservation or his or her designee.

(14) "Department" means the department of archaeology and historic preservation.

(15) "State historic preservation officer" means the director, who serves as the state historic preservation officer under RCW 43.334.020.

(16) "Suspension" means the abeyance of a permit under this chapter for a specified period of time.

(17) "Revocation" means the termination of a permit under this chapter.

(18) "Mitigation" means:

(a) Avoiding the impact altogether by not taking a certain action or parts of an action;

(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;

(c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

(d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;

(e) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and/or

(f) Monitoring the impact and taking appropriate corrective measures.

(19) "Abandonment" means that the resource has been deserted and the owner has relinquished ownership rights with no retention, as demonstrated by a writing, oral communication, action, or inaction.

(20) "Person" means any individual, corporation, partnership, trust, institution, association, or other private entity; or any officer, employee, agent, department, or instrumentality of the state or any county, city, or other political subdivision of the state.

(21) "Permittee" means any person who holds an active archaeological excavation permit issued under RCW 27.53.060 and this chapter.

(22) "Respondent" means any person who has received a notice of violation under WAC 25-48-041, a notice of permit denial under WAC 25-48-105, a notice that a right of first refusal has been extinguished under WAC 25-48-108, or a notice of suspension or revocation under WAC 25-48-110, and who has filed an application for an adjudicative proceeding.

(23) "Repository" means a facility, including but not limited to, a museum, archeological center, laboratory, or storage facility managed by a university, college, museum, other educational or scientific institution of a federal, state or local government agency or Indian tribe that provides secure, environmentally controlled storage, for archaeological collections and their associated records making them available for scientific, educational and cultural needs.

(24) "Archaeological value" means the cost comparable volume archaeological excavation would be, including retrieving scientific information from the site before it was vandalized. This includes field work, lab analysis, background research and reporting, and curation of the collection and records.

(25) "Archaeological monitoring" means the supervision of ground-disturbing activities by a professional archaeologist as described in subsection (4) of this section in order to identify, document, avoid, and/or recover human skeletal remains and/or archaeological resources, under a plan approved by the department.

AMENDATORY SECTION (Amending WSR 06-06-001, filed 2/15/06, effective 3/18/06)

WAC 25-48-060 Summary of information required of an applicant. (1) Each application for ((a)) an archaeological site alteration and excavation permit shall include:

(a) An archaeological site alteration and excavation permit application coversheet;

(b) Sufficient background information and summary of previous field investigation, research and data gaps about the site(s) proposed for excavation such that the reviewers have a comprehensive understanding of the site(s) and current research questions to be able to review the proposal as a complete document((-

~~(b)~~);

(c) The nature and extent of the work proposed, including how and why it is proposed to be conducted and the methods proposed for excavation and recovery, number and placement of excavation units, proposed excavation volumes, proposed time of performance, locational maps, and a completed site inventory form((-

~~(c)~~);

(d) Summary of the environmental setting and depositional context, with an emphasis on vegetation, past and present available natural resources, geomorphology and formation processes, and their relationship to the archaeological deposits((-

~~(d)~~);

(e) An artifact inventory plan detailing the character of the expected data categories to be recovered including the proposed methods of inventorying the recovered data and proposed methods of cleaning, stabilizing, and curating of specimens and recovered data consistent with the Secretary of the Interior's standards for archaeological curation in 36 C.F.R. Part 79((-

~~(e)~~);

(f) If human remains are proposed for recovery, a plan for their removal and disposition must be provided; if human remains are not proposed for recovery, a plan for responding to the inadvertent discovery of human remains must be provided((-

~~(f)~~);

(g) A professional, scientific research design, including research questions, demonstrating that the work and reporting will be performed in a scientific and technically acceptable manner utilizing methods and techniques designed to address current scientific research questions and cultural resource management plans((-

~~(g)~~);

(h) The name and address of the individual(s) proposed to be responsible for conducting the work, institutional affiliation, if any, and evidence of education, training, and experience in accord with the minimal qualifications listed in this chapter((-

~~(h)~~);

(i) The name and address of the individual(s) proposed to be responsible for carrying out the terms and conditions of the permit, if different from the individual(s) enumerated under (g) of this subsection((-

~~(i)~~);

(j) Financial evidence of the applicant's ability to initiate, conduct, and complete the proposed work, including evidence of logistical support and laboratory facilities and evidence of financial support for analysis and report writing((-

~~(j)~~);

(k) A plan for site restoration following excavation activities and evidence of plans to secure bonding to cover the cost of site restoration((-

~~(k)~~);

(l) Evidence of an agreement for the proposed work from the owner, agency, or political subdivision with management responsibility over the land((-

~~(l)~~);

(m) A site security plan to assure the protection of the site and its contents during the public permit review and excavation process((-

~~(m)~~);

(n) A public participation plan detailing the extent of public involvement and dissemination of project results to the public, as appropriate. Examples of appropriate public dissemination can include, but not be limited to: *Archaeology Month* lectures, slide shows, anthropological conferences, school presentations, newspaper articles, if warranted((-

~~(n)~~);

(o) A completed environmental checklist as required by WAC 197-11-100 to assist the department in making a threshold determination and to initiate SEPA compliance((-

~~(o)~~);

(p) Evidence of abandonment: Abandonment will be presumed where the applicant presents information that thirty or more years have elapsed since the loss of the resource. If it appears to the department from any source that the resource has not been abandoned or may not have been abandoned, and in the case of all United States government warships, aircraft, or other public vessels, the department will find that the presumption does not arise and will require proof of abandonment. Proof may be satisfied by submission of a statement of abandonment from the owner, his or her successors, assigns or legal representatives, or through final adjudication by a court of law((-

~~(p)~~);

(q) Disclosure by the applicant of any previous violation of this chapter or any federal or state law regulating archaeological objects or sites, historic archaeological resources, glyptic or painted records, or native Indian cairns or graves. The applicant shall disclose any such violation by the applicant, by the individual(s) proposed to be responsible for conducting the work, or by the individual(s) proposed to be responsible for carrying out the terms and conditions of the permit, and shall provide details, dates, and circumstances of each violation((-

~~(q)~~); and

(r) Disclosure by the applicant of outstanding archaeological excavation permits issued by the department to the applicant.

(2) Each application for an archaeological monitoring permit shall include:

(a) An archaeological monitoring permit application coversheet;

(b) Sufficient background information and summary of previous field investigation and research about the archaeological site(s) proposed for monitoring, such that the reviewers have a comprehensive understanding of the archaeological site(s) to be able to review the proposal as a complete document;

(c) The nature and extent of the work proposed, including how and why it is proposed to be conducted and the methods proposed for monitoring, proposed time of performance, locational maps showing archaeological and project construction elements and monitoring areas;

(d) A protocol for immediate steps to be taken on-site by the archaeological monitor should they find archaeological resources or human skeletal remains and stating the authority of the archaeologists to suspend excavations or other activities that may endanger archaeological resources or human skeletal remains. The protocol must state that if archaeological resources are identified during archaeological monitoring, measures to avoid, minimize and mitigate impacts, collect and curate artifacts and records must be addressed through a permit amendment after additional consultation with the DAHP and interested/affected tribes;

(e) The name and address of the professional archaeologist(s) who will conduct the monitoring work;

(f) The name and address of the individual(s) proposed to be responsible for carrying out the terms and conditions of the permit, if different from the individual(s) enumerated under (e) of this subsection; and

(g) A completed site inventory form.

(3) Where the application is for the excavation and/or removal of archaeological resources on public lands, the name of the Washington university, museum, repository or other scientific or educational institution meeting the Secretary of the Interior's standards for archaeological curation in 36 C.F.R. Part 79, in which the applicant proposes to store all collections, and copies of records, data, photographs, and other documents derived from the proposed work other than human skeletal remains and funerary objects. The applicant shall submit written certification, signed by an authorized official of the institution, of willingness to assume curatorial responsibility for the collections, records, data, photographs and other documents and to safeguard, preserve, and allow for the future scientific access to these materials as property of the state.

~~((3))~~ (4) Where the application is for the excavation and/or removal of archaeological resources on private land, the name of the university, museum, repository, or other scientific or educational institution in which the applicant proposes to store copies of records, data, photographs, and other documents derived from the proposed work and all collections in the event the landowner wishes to take custody of the collection. The applicant shall submit written certification from the landowner stating this intention. If the landowner does not wish to take custody of the collection, the name of the university, museum, repository, or other scientific or educational institution in which the collection will be curated. The applicant shall submit written certification, signed by an authorized official of the institution, of willingness to assume curatorial responsibility for the collections, if applicable, and/or the records, data, photographs, and other documents derived from the proposed work and to safeguard, preserve, and allow for the future scientific access to these materials.

~~((4))~~ (5) An applicant may temporarily curate a collection identified in subsection ~~((2) or (3))~~ (3) or (4) of this section in a repository that meets the Secretary of the Interior's standards for archaeological curation in 36 C.F.R. Part 79

until the appropriate Indian tribe has available facilities meeting the Secretary of the Interior's standards for archaeological curation in 36 C.F.R. Part 79 into which the collection may be curated.

~~((5))~~ (6) Where the application is for the excavation and/or removal of a historic archaeological resource that is an historic aircraft, the name of the Washington museum, historical society, nonprofit organization, or governmental entity that proposes to assume curatorial responsibility for the resource. The applicant shall submit written certification, signed by an authorized official of the institution, of willingness to assume curatorial responsibility for the resource and all associated records, data, photographs and other documents derived from the proposed work and to safeguard, preserve, and allow for the future scientific and public access to these materials.

~~((6))~~ (7) After review of the application, the department may require additional information to properly evaluate the proposed work and shall so inform the applicant. Field investigation or research may be required of the applicant or conducted by the department at the applicant's cost. A bond in an amount specified by the department may be required of the applicant to ensure payment of the professional expenses incurred by the department. Advance notice of any anticipated cost shall be given to the applicant.

WSR 18-23-053

WITHDRAWL OF PROPOSED RULES DEPARTMENT OF REVENUE

(By the Code Reviser's Office)

[Filed November 15, 2018, 1:38 p.m.]

WAC 458-16-210 and 458-16-260, proposed by the department of revenue in WSR 18-10-051, appearing in issue 18-10 of the Washington State Register, which was distributed on May 16, 2018, is withdrawn by the office of the code reviser under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
Washington State Register

WSR 18-23-064

PROPOSED RULES DEPARTMENT OF HEALTH

[Filed November 16, 2018, 11:08 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-21-018.

Title of Rule and Other Identifying Information: WAC 246-976-420 Trauma registry—Department responsibilities and 246-976-430 Trauma registry—Provider responsibilities, the department of health (department) is proposing amendments to update rules to improve data quality, better align

with national standards, and remove unnecessary data elements.

Hearing Location(s): On January 8, 2019, at 10:00 a.m., at the Department of Health, Town Center 2, Room 145, 111 Israel Road S.E., Tumwater, WA 98501.

Date of Intended Adoption: January 16, 2019.

Submit Written Comments to: Tim Orcutt, P.O. Box 47853, Olympia, WA 98504-7853, email <https://fortress.wa.gov/doh/policyreview>, fax 360-236-2830, by January 8, 2019.

Assistance for Persons with Disabilities: Contact Tim Orcutt, phone 360-236-2874, fax 360-236-2830, TTY 360-833-6388 or 711, email tim.orcutt@doh.wa.gov, by December 31, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing updating rules to: (1) More closely align with the national trauma data standard (NTDS) data elements; (2) improve alignment with the new registry collection software (Collector V5); (3) allow for changes in the international classification of disease (ICD-10) coding system; (4) remove outdated or unnecessary data elements; and (5) add new data elements to improve data quality and overall trauma system evaluation. Rule amendments being proposed will potentially benefit the public's health by ensuring participating providers will collect and report trauma data based on current industry standards culminating in stronger trauma system evaluation for Washington state.

Reasons Supporting Proposal: WAC 246-976-420 and 246-976-430 were last updated in 2014. Since then, the American College of Surgeons Committee on Trauma (ACS-COT) has made changes to the data elements in NTDS. The department is proposing updating rules to more closely align with these national data standards.

In addition, the department updated the trauma registry data collection software (Collector) to version five (V5) in 2015. This software is provided to each designated trauma service to report mandatory data elements. To better align mandatory data elements with the new V5 software the department is proposing the rules be revised.

The proposed revisions will help ensure the Washington trauma registry is consistent with ongoing changes in the management and care of trauma patients. Removing unnecessary data elements and adding others will help improve data quality and overall system evaluation. The proposed rule amendments will benefit the public's health by ensuring participating trauma services will be collecting and reporting trauma data based on current industry standards that will culminate in stronger trauma system evaluation leading to improved trauma care outcomes for the citizens of Washington state.

Statutory Authority for Adoption: RCW 70.168.050.

Statute Being Implemented: RCW 70.168.060, 70.168.070, 70.168.090.

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: Tim Orcutt, 111 Israel Road S.E., Olympia, WA 98504-7853, 360-236-2874.

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

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Tim Orcutt, P.O. Box 47853, Olympia, WA 98504-7853, phone 360-236-2874, fax 360-236-2830, TTY 360-833-6388 or 711, email tim.orcutt@doh.wa.gov.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The NAICS code for general medical and surgical hospitals 622110 was used to calculate industry threshold which is one percent of annual payroll. The total \$6,566,100,000.00 annual payroll from the NAICS table was divided by one hundred [(number of establishment[s] in the industry)] and one percent of the result was used as threshold for the industry as follows: $(6,566,100 * 1000 / 100) * (0.01) = \$656,610.00$. The estimated costs of the proposed rule was determined to be between \$0 - \$28,169.00, which falls below the NAICS threshold of \$656,610.00. It was determined that a small business economic impact statement was not required.

November 15, 2018

Jessica Todorovich

Chief of Staff

for John Wiesman, DrPH, MPH

Secretary

AMENDATORY SECTION (Amending WSR 14-19-012, filed 9/4/14, effective 10/5/14)

WAC 246-976-420 Trauma registry—Department responsibilities. (1) Purpose: The department maintains a trauma registry, as required by RCW 70.168.060 and 70.168.090. The purpose of this registry is to:

(a) Provide data for trauma surveillance, analysis, and prevention programs;

(b) Monitor and evaluate the outcome of care of ~~((major))~~ trauma patients, in support of statewide and regional quality assurance and system evaluation activities;

(c) Assess compliance with state standards for trauma care;

(d) Provide information for resource planning, system design and management; and

(e) Provide a resource for research and education.

(2) Confidentiality: ~~((It is essential for the department to protect information regarding specific patients and providers.))~~ RCW 70.168.090, 70.41.200, and chapter 42.56 RCW apply to trauma registry data and patient quality assurance proceedings, records, and reports developed pursuant to RCW 70.168.090. Data elements related to the identification of individual patient's, provider's, and facility's care outcomes ~~((must))~~ shall be confidential, ~~((must))~~ shall be exempt from ~~((RCW 42.17.250 through 42.17.450, and must))~~ chapter 42.56 RCW, and shall not be subject to discovery by subpoena or admissible as evidence. Patients pursuant to RCW

70.168.090 are confidential, exempt from chapter 42.56 RCW, and are not subject to discovery by subpoena or admissible as evidence.

(a) The department may release confidential information from the trauma registry in compliance with applicable laws and regulations. No other person may release confidential information from the trauma registry without express written permission from the department.

(b) The department may approve requests for trauma registry data reports from qualified agencies or individuals, consistent with applicable statutes and rules. The department may charge reasonable costs associated with customized reports, prepared in response to such requests.

~~(c) ((The data elements indicated in Tables E, F and G below are considered confidential.~~

~~(d))~~ The department ~~((will establish))~~ has established criteria defining situations in which additional trauma registry information is confidential, in order to protect confidentiality for patients, providers, and facilities.

~~((e) This paragraph))~~ (d) Subsection (2)(a) through (d) of this section does not limit access to confidential data by approved regional quality assurance and improvement programs established under chapter 70.168 and described in WAC 246-976-910.

(3) Inclusion criteria: ~~((a))~~ The department ~~((will establish))~~ establishes inclusion criteria to identify those injured patients whom ~~((designated))~~ trauma services must report to the trauma registry.

~~((These))~~ (a) The criteria ((with)) includes((s)) all patients who were discharged with International Classification of Diseases (ICD) diagnosis codes for injuries, drowning, burns, asphyxiation, or electrocution per the department's specifications((s)) and one of the following additional criteria:

(i) ~~((For whom the hospital))~~ The trauma service trauma resuscitation team (full or modified) was activated for the patient; ((or))

(ii) ~~((Who were))~~ The patient was dead on arrival at the ((facility; or)) trauma service;

(iii) ~~((Who were))~~ The patient was dead at discharge from the ((facility; or)) trauma service;

(iv) ~~((Who were))~~ The patient was transferred by ambulance into the ((facility)) trauma service from another facility; ((or))

(v) ~~((Who were))~~ The patient was transferred by ambulance out of the ((facility)) trauma service to another acute care facility; ((or))

(vi) The patient was an adult patient((s)) (age fifteen or greater) ((who were)) and was admitted to the ((facility)) trauma service and ((have)) had a length of stay of more than ((forty-eight)) twenty-four hours; ((or))

(vii) The patient was a pediatric patient((s)) (ages under fifteen years) ((who were)) and was admitted ((as inpatients)) to the ((facility)) trauma service, regardless of length of stay; or

(viii) ~~((All injuries))~~ The patient was an injured patient flown from the scene.

(b) For all licensed rehabilitation services, ~~((these))~~ the criteria ((will)) includes all patients who ((were included in the trauma registry for acute care)) received rehabilitative care for acute injury or illness.

(4) Other data: The department and regional quality assurance programs may request data from medical examiners and coroners to be used in support of the trauma registry.

(5) Data submission: The department ~~((will establish))~~ establishes procedures and format for ~~((providers))~~ trauma services to submit data electronically. These will include a mechanism for the reporting agency to check data for validity and completeness before data is sent to the trauma registry.

(6) Data quality: The department ~~((will establish))~~ establishes mechanisms to evaluate the quality of trauma registry data. These mechanisms will include ~~((at least))~~:

(a) Detailed protocols for quality control, consistent with the department's most current data quality guidelines.

(b) Validity studies to assess the timeliness, completeness and accuracy of case identification and data collection.

(7) Trauma registry reports:

(a) Annually, the department ~~((will))~~ reports:

(i) Summary statistics and trends for demographic and related trauma care information ~~((about trauma care;))~~ for the state and for each emergency medical service/trauma care (EMS/TC) region;

(ii) Risk adjusted benchmarking and outcome measures, for system-wide evaluation((s)) and regional quality improvement programs;

(iii) Trends, patient care outcomes, and other data, for the state and each EMS/TC region ((and for the state)), for the purpose of regional evaluation; and

(iv) Aggregate regional data ~~((to the regional EMS/TC council))~~ upon request, excluding any confidential or identifying data.

(b) The department will provide reports to ~~((facilities))~~ trauma services and qualified agencies upon request, according to the confidentiality provisions in subsection (2) of this section.

AMENDATORY SECTION (Amending WSR 14-19-012, filed 9/4/14, effective 10/5/14)

WAC 246-976-430 Trauma registry—Provider responsibilities. (1) ~~((All))~~ A trauma care provider~~((s must))~~ shall protect the confidentiality of data in their possession and as it is transferred to the department.

(2) A verified prehospital ~~((agencies))~~ agency that transports trauma patients ~~((shall))~~ must:

(a) Provide an initial report of patient care to the receiving facility at the time the trauma patient is delivered as described in WAC 246-976-330.

(b) Within twenty-four hours after the trauma patient is delivered, send a complete patient care report to the receiving facility to include the data shown in Table ~~((E))~~ A.

Table A:
Prehospital Patient Care Report Elements for the Washington Trauma Registry

Data Element	Prehospital-Transport:	Inter-Facility:
Incident Information		
Transporting emergency medical services (EMS) agency number	X	X
Unit en route date/time	X	
Patient care report number	X	X
First EMS agency on scene identification number	X	
Crew member level	X	X
Method of transport	X	X
Incident county	X	
Incident zip code	X	
Incident location type	X	
Patient Information		
Name	X	X
Date of birth, or age	X	X
Sex	X	X
Cause of injury	X	
Use of safety equipment	X	
Extrication required	X	
Transportation		
Facility transported from (code)		X
Times		
Unit notified by dispatch date/time	X	X
Unit arrived on scene date/time	X	X
Unit left scene date/time	X	X
Vital Signs		
Date/time of first vital signs taken	X	
First systolic blood pressure	X	
First respiratory rate	X	
First pulse	X	
First oxygen saturation	X	
First Glasgow coma score (GCS) with individual component values (eye, verbal, motor, total, and qualifier)	X	

Data Element	Prehospital-Transport:	Inter-Facility:
Treatment		
Procedure performed	X	

- (3) A designated trauma service(~~s shall~~) must:
- (a) Have a person identified as responsible for trauma registry activities, and who has completed (~~a department-approved~~) the department trauma registry training(~~(b))~~) course within eighteen months of hire. For level I-III trauma services the person identified must also complete the abbreviated injury scale (AIS) course within eighteen months of hire;
- (b) Report data elements (~~shown in Table F~~) for all patients defined in WAC 246-976-420(~~:~~);
- (c) Report patients with a discharge date (~~in a~~) for each calendar quarter in a department-approved format by the end of the following quarter(~~:~~);
- (4) ~~All designated trauma care facilities shall~~);
- (d) Have procedures in place for internal monitoring of data validity, which may include methods to reabstract data for accuracy; and
- (e) Correct and resubmit records that fail the department's validity tests as described in WAC 246-976-420(7)(~~:~~ The trauma care facilities shall send corrected records to the department) within three months of notification of errors.
- (~~(5))~~) (4) A designated trauma rehabilitation service(~~s shall~~) must provide data, as identified in subsection (7) of this section, to the trauma registry in a format determined by the department upon request.
- (Data elements shown in Table G are to be provided to the trauma registry in a format determined by the department.

TABLE E: Prehospital Data Elements for the Washington Trauma Registry

Data Element	Type of patient	Pre-Hosp-Transport	Inter-Facility
Incident Information			
Transporting EMS agency number		X	X
Unit en route date/time		X	
Patient care report number		X	X
First EMS agency on scene identification number		X	
Crew member level		X	X
Method of transport		X	X
Incident county		X	
Incident zip code		X	
Incident location type		X	
Mass casualty incident declared			
Patient Information			
Name		X	X
Date of birth, or Age		X	X
Sex		X	X
Cause of injury		X	
Use of safety equipment (occupant)		X	
Extrication required		X	

TABLE E: Prehospital Data Elements for the Washington Trauma Registry

Data Element	Type of patient	Pre-Hosp Transport	Inter-Facility
Transportation			
Facility transported from (eode)			X
Times			
Unit notified by dispatch date/time		X	X
Unit arrived on scene date/time		X	X
Unit left scene date/time		X	X
Vital Signs			
Date/time vital signs taken		X	
Systolic blood pressure (first)		X	
Respiratory rate (first)		X	
Pulse (first)		X	
GCS eye, GCS verbal, GCS motor, GCS total, GCS qualifier		X	
Treatment: Procedure performed			
Procedure performed prior to this unit's care		X	

TABLE F: Hospital-Designated Trauma Services Data Elements for the Washington Trauma Registry

AH)) (5) A designated trauma service((s)) must submit the following data elements for trauma patients((:)). All other licensed hospitals must submit data upon request per WAC 246-976-420(3):

- (a) Record identification data elements must include:
 - (i) Identification (ID) of reporting facility;
 - (ii) Date and time of arrival at reporting facility;
 - (iii) Unique patient identification number assigned to the patient by the reporting facility((:)).
- (b) Patient identification data elements must include:
 - (i) Name;
 - (ii) Date of birth;
 - (iii) Sex;
 - (iv) Race;
 - (v) Ethnicity;
 - (vi) Last four digits of the patient's Social Security number;
 - (vii) Home zip code((:)).
- (c) Prehospital ((~~Incident Information~~)) data elements must include:
 - (i) Date and time of incident;
 - (ii) Incident zip code;
 - (iii) Mechanism/type of injury;
 - (iv) External cause codes;
 - (v) Injury location codes;
 - (vi) First EMS agency on-scene identification (ID) number;
 - (vii) Transporting agency ID and unit number;
 - (viii) Transporting agency patient care report number;
 - (ix) Cause of injury;
 - (x) Incident county code;
 - ((~~Incident location type~~))
 - (xi) Work related;
 - (xii) Use of safety equipment ((~~occupant~~));
 - (xiii) Procedures performed((:)).

- ~~(viii) Earliest Available~~);
- (d) Prehospital vital signs data elements (from first EMS agency on scene) must include:
 - (i) Time;
 - (ii) First systolic blood pressure ((~~first~~));
 - (iii) First respiratory rate ((~~first~~));
 - (iv) First pulse rate ((~~first~~); Glasgow coma score (GCS));
 - (v) First oxygen saturation;
 - (vi) First GCS with individual component values (eye, verbal, motor, total, and qualifiers)((~~total~~));
 - (vii) Intubated at time of ((~~scene GCS~~)) first vital sign assessment;
 - (viii) Pharmacologically paralyzed at time of ((~~scene GCS~~); Vitals from first EMS agency on scene)) first vital sign assessment;
 - (ix) Extrication((:)).
- (e) Transportation ((~~Information~~)) data elements must include:
 - (i) Date and time unit dispatched;
 - (ii) Time unit arrived at scene;
 - (iii) Time unit left scene;
 - (iv) Transportation mode;
 - ((~~Crew member level~~))
 - (v) Transferred in from another facility;
 - ((~~Transported from (hospital patient transferred from); Who initiated the transfer~~))
 - (vi) Transferring facility ID number.
 - (f) Emergency department (ED) ((~~or Admitting Information~~)) data elements must include:
 - (i) Readmission;
 - (ii) Direct admit;
 - (iii) Time ED physician was called;
 - (iv) Time ED physician was available for patient care;
 - (v) Trauma team activated;
 - (vi) Level of trauma team activation;
 - (vii) Time of trauma team activation;
 - (viii) Time trauma surgeon was called;
 - (ix) Time trauma surgeon was available for patient care;
 - (x) Vital signs in ED((:)), which must also include:
 - (A) First systolic blood pressure;
 - (B) First temperature;
 - (C) First pulse rate;
 - (D) First spontaneous respiration rate;
 - (E) Controlled rate of respiration;
 - (F) First oxygen saturation measurement;
 - (G) Lowest systolic blood pressure (SBP); ((~~Lowest SBP confirmed Y/N?~~); First hematocrit level;
 - GCS)) (H) GCS score with individual component values (eye, verbal, motor, total, and qualifiers);
 - (I) Whether intubated at time of ED GCS;
 - (J) Whether pharmacologically paralyzed at time of ED GCS;
 - ((~~MCI~~)) (K) Height;
 - (L) Weight;
 - (M) Whether mass casualty incident disaster plan implemented((:)).

(xi) Injury scores must include:
 (A) Injury severity score ((~~HSS~~));
 (B) Revised trauma score ((~~RTS~~)) on admission;
 ((~~For pediatric patients~~))
 (C) Pediatric trauma score ((~~PTS~~)) on admission;
 ((~~TRISS~~)); (D) Trauma and injury severity score.
 (xii) ED procedures performed;
 ((~~ED care issues~~));
 (xiii) Blood and blood components administered;
 (xiv) Date and time of ED discharge;
 (xv) ED discharge disposition, including:
 (A) If transferred ((~~out~~)), ID number of receiving hospital;
 (B) Was patient admitted to hospital?((?));
 (C) If admitted, the admitting service;
 ((~~Reason for referral (receiving facility)~~));
 (D) Reason for transfer (sending facility)((?));
 (g) Diagnostic and consultative ((~~Information Did~~)) data elements must include:
 (i) Whether the patient ((~~receive~~)) received aspirin in the four days prior to the injury((?
 Did));
 (ii) Whether the patient ((~~receive clopidogrel (Plavix)~~)) received any oral antiplatelet medication in the four days prior to the injury((?
 Did)), such as clopidogrel (Plavix), or other antiplatelet medication, and, if so, include:
 (A) Whether the patient ((~~receive~~)) received any oral anticoagulation medication in the four days prior to the injury, such as warfarin (Coumadin), dabigatran (Pradaxa), rivaroxaban (Xarelto), or other((?
 What was)) anticoagulation medication, and, if so, include:
 (B) The name of the anticoagulation medication((?));
 (iii) Date and time of head ((~~CT~~)) computed tomography scan;
 ((~~Date/time~~)) (iv) Date and time of first international normalized ratio (INR) performed at ((~~your hospital~~)) the reporting trauma service;
 (v) Results of first INR ((~~done at your hospital~~)) performed at the reporting trauma service;
 ((~~Date/time~~)) (vi) Date and time of first partial ((~~thrombin~~)) thromboplastin time (PTT) performed at the ((~~hospital~~)) reporting trauma service;
 (vii) Results of first PTT ((~~done~~)) performed at the ((~~hospital~~);
 Source of date and time of CT scan of head)) reporting trauma service;
 ((~~Was an~~)) (viii) Whether any attempt was made to reverse anticoagulation((?)) at the reporting trauma service;
 ((~~What~~)) (ix) Whether any medication (other than Vitamin K) was first used to reverse anticoagulation((?)) at the reporting trauma service;
 (x) Date and time of the first dose of anticoagulation reversal medication at the reporting trauma service;
 (xi) Elapsed time from ED arrival;
 ((~~Date of physical therapy consult~~));
 (xii) Date of rehabilitation consult;
 (xiii) Blood alcohol content;
 (xiv) Toxicology ((~~screen~~)) results;

((~~Drugs found~~;
 Was)) (xv) Whether a brief substance ((~~use intervention done?~~)) abuse assessment, intervention, and referral for treatment done at the reporting trauma service;
 (xvi) Comorbid factors/preexisting conditions;
 (xvii) Hospital events.
 (h) Procedural ((~~Information For the~~)) data elements:
 (i) First operation information must include:
 ((~~Date and time patient arrived in operating room~~));
 (A) Date and time operation started;
 (B) Operating room (OR) procedure codes;
 (C) OR disposition((?));
 (ii) For later operations information must include:
 (A) Date and time of operation;
 (B) OR procedure codes;
 (C) OR disposition((?
Critical Care Unit Information
 Patient admitted to ICU;
 Patient readmitted to ICU);
 (i) Admission data elements must include:
 (i) Date and time of admission order;
 (ii) Date and time of admission or readmission;
 (iii) Date and time of admission for primary stay in critical care unit;
 (iv) Date and time of discharge from primary stay in critical care unit;
 (v) Length of readmission stay(s) in critical care unit;
 (vi) Other in-house procedures performed (not in OR),
 ((~~Discharge Status~~))
 (j) Disposition data elements must include:
 (i) Date and time of facility discharge;
 (ii) Most recent ICD diagnosis codes/discharge codes, including nontrauma diagnosis codes;
 ((~~E-codes, primary and secondary~~;
 Glasgow Score at discharge));
 (iii) Disability at discharge (feeding/locomotion/expression);
 (iv) Total ventilator days;
 ((~~Discharge Disposition Hospital~~)) (v) Discharge disposition location;
 (vi) If transferred out, ID of facility the patient was transferred to;
 (vii) If transferred to rehabilitation, facility ID;
 ((~~If patient died in the~~)) (viii) Death in facility((?));
 (A) Date and time of death;
 (B) Location of death;
 ((~~Was an autopsy done?~~;
 Was patient declared brain dead?;
 Was)) (C) Autopsy performed;
 (D) Organ donation requested((?));
 (E) Organs donated((?
 Did));
 (ix) End-of-life care and documentation;
 (A) Whether the patient ((~~have~~)) had an end-of-life care document before injury((?));
 ((~~Was~~)) (B) Whether there was any new end-of-life care decision documented during the inpatient stay ((~~in the facility?~~)) at the reporting trauma service;

~~((Did))~~ (C) Whether the patient receive a consult for comfort care, hospice care, or palliative care during the inpatient stay~~((?))~~ at the reporting trauma service;

~~((Did))~~ (D) Whether the patient ~~((receive))~~ received any comfort care, in-house hospice care, or palliative care during the inpatient stay (i.e., was acute care withdrawn~~((?))~~) at the reporting trauma service;

(k) Financial information ~~((All Confidential))~~

For each patient) must include:

(i) Total billed charges;

(ii) Payer sources (by category);

(iii) Reimbursement received (by payer category)~~((;~~

~~**TABLE G: Data Elements for Designated Rehabilitation Services))**~~

(6) Designated trauma rehabilitation services must provide the following data upon request by the department for patients identified in WAC 246-976-420(3).

~~((Rehabilitation services, Levels I and II~~

Patient Information

- Facility ID
- Patient code
- Date of birth
- Social Security number
- Patient name
- Patient sex

Care Information

- Date of admission
- Admission class
- Date of discharge
- Impairment group code
- ASIA impairment scale

Diagnosis Codes

- Etiologic diagnosis
- Comorbidities
- Complications
- Diagnosis for transfer or death

Other Information

- Date of onset
- Admit from (type of facility)
- Admit from (ID of facility)
- Acute trauma care by (ID of facility)
- Prehospital living setting
- Discharge to living setting

Inpatient Rehabilitation Facility—Patient Assessment Instrument (IRF-PAI)—One set on admission and one on discharge

Self care

- Eating
- Grooming
- Bathing
- Dressing—Upper
- Dressing—Lower
- Toileting

Sphincter control

- Bladder
- Bowel

Transfers

- Bed/chair/wheelchair
- Toilet

–Tub/shower

Locomotion

- Walk/wheelchair
- Stairs

Communication

- Comprehension
- Expression

Social cognition

- Social interaction
- Problem solving
- Memory

Payment Information (all confidential)

- Payer source—Primary and secondary
- Total charges
- Total remitted reimbursement

Rehabilitation, Level III

Patient Information

- Facility ID
- Patient number
- Social Security number
- Patient name

Care Information

- Date of admission

Impairment Group Code

Diagnosis Codes

- Etiologic diagnosis
- Comorbidities
- Complications

Other Information

- Admit from (type of facility)
- Admit from (ID of facility)
- Acute trauma care given by (ID of facility)
- Inpatient trauma rehabilitation given by (ID of facility)
- Discharge to living setting

Payment Information (all confidential)

- Payer source—Primary and secondary
- Total charges

Total remitted reimbursement)) (a) Data submission elements will be based on the current inpatient rehabilitation facility patient assessment instrument (IRF-PAI). All individual data elements included in the IRF-PAI categories below and defined in the data dictionary must be submitted upon request:

- (i) Identification information;
- (ii) Payer information;
- (iii) Medical information;
- (iv) Function modifiers (admission and discharge);
- (v) Functional measures (admission and discharge);
- (vi) Discharge information;
- (vii) Therapy information.

(b) In addition to IRF-PAI data elements each rehabilitation service must submit the following information to the department:

- (i) Admit from (facility ID);
- (ii) Payer source (primary and secondary);
- (iii) Total charges;
- (iv) Total remitted reimbursement.

WSR 18-23-066
PROPOSED RULES
DEPARTMENT OF REVENUE
 [Filed November 16, 2018, 12:10 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 18-20-060.

Title of Rule and Other Identifying Information: WAC 458-40-540 Forest land values—2019 and 458-40-660 Timber excise tax—Stumpage value tables—Stumpage value adjustments.

Hearing Location(s): On December 27, 2018, at 10:00 a.m., at Conference Room 114A, 6400 Linderson Way S.W., Tumwater, WA 98501. Copies of draft rules are available for viewing and printing on our web site at dor.wa.gov. Call-in option can be provided upon request no later than three days before the hearing date.

Date of Intended Adoption: December 28, 2018.

Submit Written Comments to: Brenton M. Madison, P.O. Box 47453, Olympia, WA 98504-7453, email Brenton M@dor.wa.gov, fax 360-534-1606, by December 27, 2018.

Assistance for Persons with Disabilities: Contact Julie King or Renee Cosare, phone 360-704-5733 or 360-704-5734, TTY 800-833-6384.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: RCW 84.33.091 requires the department to revise the stumpage value tables every six months. The department establishes the stumpage value tables to apprise timber harvesters of the timber values used to calculate the timber excise tax. The values in the proposed rule will apply beginning January 1 through June 30, 2019.

The stumpage value table in WAC 458-40-660 has been modified to remove haul zones from the valuation methodology. Additionally, the stumpage value table has been separated into two separate tables, the first representing stumpage values for western Washington and the second representing stumpage values for eastern Washington.

Reasons Supporting Proposal: This proposal provides the revised stumpage value tables for January 1 through June 30, 2019. This proposal represents the new method for stumpage valuation in which haul zones are removed from the valuation tables.

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

Statute Being Implemented: RCW 84.33.091.

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

Name of Proponent: Department of revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Brenton M. Madison, 6400 Linderson Way S.W., Tumwater, WA, 360-534-1583; Implementation and Enforcement: Randy Simmons, 6400 Linderson Way S.W., Tumwater, WA, 360-534-1605.

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

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Brenton M. Madison, Interpretations and Techni-

cal Advice Division, P.O. Box 47453, Olympia, WA 98504-7453, phone 360-534-1583, fax 360-534-1606.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. Only large businesses are required to use the values contained in the rules, small businesses have other statutory authority for their tax-reporting obligations.

November 16, 2018
 Erin T. Lopez
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 18-02-058, filed 12/29/17, effective 1/1/18)

WAC 458-40-540 Forest land values—~~((2018))~~ 2019. The forest land values, per acre, for each grade of forest land for the ~~((2018))~~ 2019 assessment year are determined to be as follows:

LAND GRADE	OPERABILITY CLASS	((2018)) 2019 VALUES PER ACRE
1	1	\$(208) <u>211</u>
	2	((206)) <u>209</u>
	3	((192)) <u>195</u>
	4	((141)) <u>143</u>
2	1	((177)) <u>180</u>
	2	((171)) <u>173</u>
	3	((164)) <u>166</u>
	4	((116)) <u>118</u>
3	1	((137)) <u>139</u>
	2	((133)) <u>135</u>
	3	((132)) <u>134</u>
	4	((102)) <u>103</u>
4	1	((106)) <u>108</u>
	2	((103)) <u>104</u>
	3	((102)) <u>103</u>
	4	((77)) <u>78</u>
5	1	((77)) <u>78</u>
	2	((68)) <u>69</u>
	3	((67)) <u>68</u>
	4	((47)) <u>48</u>
6	1	((39)) <u>40</u>
	2	((37)) <u>38</u>
	3	((37)) <u>38</u>
	4	((35)) <u>36</u>
7	1	17
	2	17
	3	16
	4	16
8	1	1

AMENDATORY SECTION (Amending WSR 18-14-023, filed 6/26/18, effective 7/1/18)

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

(2) Stumpage value tables. The following stumpage value tables are used to calculate the taxable value of stumpage harvested from ((July 1, 2018 through December 31, 2018)) January 1 through June 30, 2019:

**~~(Washington State Department of Revenue~~
~~STUMPAGE VALUE TABLE~~**

~~July 1 through December 31, 2018~~

~~Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾~~

~~Starting July 1, 2012, there are no separate Quality Codes per Species Code.~~

Species Name	Species-Code	SVA (Stumpage-Value Area)	Haul-Zone				
			1	2	3	4	5
Douglas-fir ⁽²⁾	DF	1	\$545	\$538	\$531	\$524	\$517
		2	550	543	536	529	522
		3	553	546	539	532	525
		4	616	609	602	595	588
		5	657	650	643	636	629
		6	306	299	292	285	278
Western-Hemlock and Other Conifer ⁽³⁾	WH	1	395	388	381	374	367
		2	429	422	415	408	401
		3	350	343	336	329	322
		4	401	394	387	380	373
		5	510	503	496	489	482
		6	278	271	264	257	250
Western-Red-cedar ⁽⁴⁾	RC	1-5	1314	1307	1300	1293	1286
		6	1302	1295	1288	1281	1274
Ponderosa-Pine ⁽⁵⁾	PP	1-6	211	204	197	190	183
Red-Alder	RA	1-5	626	619	612	605	598
Black-Cottonwood	BC	1-5	112	105	98	91	84
Other Hardwood	OH	1-5	340	333	326	319	312
		6	23	16	9	2	1
Douglas-fir-Poles & Piles	DFL	1-5	841	834	827	820	813
Western-Red-cedar-Poles	RCL	1-5	1549	1542	1535	1528	1521
		6	1484	1477	1470	1463	1456
Chipwood ⁽⁶⁾	CHW	1-5	13	12	11	10	9
		6	1	1	1	1	1
Small-Logs ⁽⁶⁾	SML	6	28	27	26	25	24
RC-Shake & Shingle-Blocks ⁽⁷⁾	RCS	1-6	299	292	285	278	271
Posts ⁽⁸⁾	LPP	1-6	0.35	0.35	0.35	0.35	0.35

Species Name	Species-Code	SVA (Stumpage-Value Area)	Haul-Zone				
			1	2	3	4	5
DF-Christmas-Trees ⁽⁹⁾	DFX	1-6	0.25	0.25	0.25	0.25	0.25
Other-Christmas-Trees ⁽⁹⁾	TFX	1-6	0.50	0.50	0.50	0.50	0.50

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

**Washington State Department of Revenue
WESTERN WASHINGTON STUMPAGE VALUE TABLE**

January 1 through June 30, 2019

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Starting January 1, 2019, there are no Haul Zone adjustments.

Species Name	Species-Code	SVA (Stumpage-Value Area)	Stumpage Values
		2	590
		3	576
		4	635
		5	620
		6	493
Western Hemlock and Other Conifer ⁽³⁾	WH	1	384
		2	474
		3	375
		4	408
		5	512
		6	370
Western Red-cedar ⁽⁴⁾	RC	1-5	1251
		6	1237
Ponderosa Pine ⁽⁵⁾	PP	1-5	207
		6	193
Red Alder	RA	1-5	661
		6	647
Black Cottonwood	BC	1-5	90
		6	76
Other Hardwood	OH	1-5	335
		6	321

<u>Species Name</u>	<u>Species Code</u>	<u>SVA (Stump- age Value Area)</u>	<u>Stumpage Values</u>
<u>Douglas-fir</u>	<u>DFL</u>	<u>1-5</u>	<u>845</u>
<u>Poles & Piles</u>		<u>9</u>	<u>831</u>
<u>Western Red- cedar Poles</u>	<u>RCL</u>	<u>1-5</u>	<u>1483</u>
		<u>9</u>	<u>1469</u>
<u>Chipwood⁽⁶⁾</u>	<u>CHW</u>	<u>1-5</u>	<u>16</u>
		<u>9</u>	<u>14</u>
<u>RC Shake & Shingle Blocks⁽⁷⁾</u>	<u>RCS</u>	<u>1-9</u>	<u>285</u>
<u>Posts⁽⁸⁾</u>	<u>LPP</u>	<u>1-9</u>	<u>0.35</u>
<u>DF Christmas Trees⁽⁹⁾</u>	<u>DFX</u>	<u>1-9</u>	<u>0.25</u>
<u>Other Christ- mas Trees⁽⁹⁾</u>	<u>TFX</u>	<u>1-9</u>	<u>0.50</u>

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

<u>Species Name</u>	<u>Species Code</u>	<u>SVA (Stump- age Value Area)</u>	<u>Stumpage Values</u>
<u>Western Red- cedar Poles</u>	<u>RCL</u>	<u>6</u>	<u>1444</u>
		<u>7</u>	<u>1458</u>
<u>Chipwood⁽⁶⁾</u>	<u>CHW</u>	<u>6</u>	<u>1</u>
		<u>7</u>	<u>1</u>
<u>Small Logs⁽⁶⁾</u>	<u>SML</u>	<u>6</u>	<u>23</u>
		<u>7</u>	<u>25</u>
<u>RC Shake & Shingle Blocks⁽⁷⁾</u>	<u>RCS</u>	<u>6-7</u>	<u>285</u>
<u>Posts⁽⁸⁾</u>	<u>LPP</u>	<u>6-7</u>	<u>0.35</u>
<u>DF Christmas Trees⁽⁹⁾</u>	<u>DFX</u>	<u>6-7</u>	<u>0.25</u>
<u>Other Christ- mas Trees⁽⁹⁾</u>	<u>TFX</u>	<u>6-7</u>	<u>0.50</u>

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

**Washington State Department of Revenue
EASTERN WASHINGTON STUMPAGE VALUE TABLE
January 1 through June 30, 2019**

Stumpage Values per Thousand Board Feet Net Scribner Log
Scale⁽¹⁾

Starting January 1, 2019, there are no Haul Zone adjustments.

<u>Species Name</u>	<u>Species Code</u>	<u>SVA (Stump- age Value Area)</u>	<u>Stumpage Values</u>
<u>Douglas-fir⁽²⁾</u>	<u>DF</u>	<u>6</u>	<u>\$315</u>
		<u>7</u>	<u>329</u>
<u>Western Hem- lock and Other Conifer⁽³⁾</u>	<u>WH</u>	<u>6</u>	<u>272</u>
		<u>7</u>	<u>286</u>
<u>Western Red- cedar⁽⁴⁾</u>	<u>RC</u>	<u>6</u>	<u>1193</u>
		<u>7</u>	<u>1207</u>
<u>Ponderosa Pine⁽⁵⁾</u>	<u>PP</u>	<u>6</u>	<u>193</u>
		<u>7</u>	<u>207</u>
<u>Other Hard- wood</u>	<u>OH</u>	<u>6</u>	<u>9</u>
		<u>7</u>	<u>9</u>

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

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

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

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

(d) The volume per acre adjustment is a single adjustment class for all quarterly returns reporting a harvest unit. A harvest unit is established by the harvester prior to harvesting. The volume per acre is determined by taking the volume logged from the unit excluding the volume reported as chipwood or small logs and dividing by the total acres logged.

Total acres logged does not include leave tree areas (RMZ, UMZ, forested wetlands, etc.) over 2 acres in size.

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

(i) **Public timber** - Harvest of timber not sold by a competitive bidding process that is prohibited under the authority of state or federal law from foreign export may be eligible for the domestic market adjustment. The adjustment may be applied only to those species of timber that must be processed domestically. According to type of sale, the adjustment may be applied to the following species:

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

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

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

The following harvest adjustment tables apply from ~~((July 1 through December 31, 2018))~~ January 1 through June 30, 2019:

**TABLE 9—Harvest Adjustment Table
Stumpage Value Areas 1, 2, 3, 4, 5, and ~~(5)~~ 2
~~((July 1 through December 31, 2018))~~
January 1 through June 30, 2019**

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of 30 thousand board feet or more per acre.	\$0.00
Class 2	Harvest of 10 thousand board feet to but not including 30 thousand board feet per acre.	-\$15.00
Class 3	Harvest of less than 10 thousand board feet per acre.	-\$35.00
II. Logging conditions		
Class 1	Ground based logging a majority of the unit using tracked or wheeled vehicles or draft animals.	\$0.00
Class 2	Cable logging a majority of the unit using an overhead system of winch driven cables.	-\$85.00
Class 3	Applies to logs yarded from stump to landing by helicopter. This does not apply to special forest products.	-\$145.00
III. Remote island adjustment:		
	For timber harvested from a remote island	-\$50.00

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
IV. Thinning		
Class 1	A limited removal of timber described in WAC 458-40-610 (28)	-\$100.00

**TABLE 10—Harvest Adjustment Table
Stumpage Value Areas 6 and 7
~~((July 1 through December 31, 2018))~~
January 1 through June 30, 2019**

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of more than 8 thousand board feet per acre.	\$0.00
Class 2	Harvest of 8 thousand board feet per acre and less.	-\$8.00
II. Logging conditions		
Class 1	The majority of the harvest unit has less than 40% slope. No significant rock outcrops or swamp barriers.	\$0.00
Class 2	The majority of the harvest unit has slopes between 40% and 60%. Some rock outcrops or swamp barriers.	-\$50.00
Class 3	The majority of the harvest unit has rough, broken ground with slopes over 60%. Numerous rock outcrops and bluffs.	-\$75.00
Class 4	Applies to logs yarded from stump to landing by helicopter. This does not apply to special forest products.	-\$145.00
Note:	A Class 2 adjustment may be used for slopes less than 40% when cable logging is required by a duly promulgated forest practice regulation. Written documentation of this requirement must be provided by the taxpayer to the department of revenue.	
III. Remote island adjustment:		
	For timber harvested from a remote island	-\$50.00

TABLE 11—Domestic Market Adjustment

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

(4) **Damaged timber.** Timber harvesters planning to remove timber from areas having damaged timber may apply to the department of revenue for an adjustment in stumpage values. The application must contain a map with the legal descriptions of the area, an accurate estimate of the volume of damaged timber to be removed, a description of the damage sustained by the timber with an evaluation of the extent to which the stumpage values have been materially reduced from the values shown in the applicable tables, and a list of estimated additional costs to be incurred resulting from the removal of the damaged timber. The application must be

received and approved by the department of revenue before the harvest commences. Upon receipt of an application, the department of revenue will determine the amount of adjustment to be applied against the stumpage values. Timber that has been damaged due to sudden and unforeseen causes may qualify.

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

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

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

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

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

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

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

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

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

Reasons Supporting Proposal: Clarifies the new REET exemption provided in RCW 82.45.010 (3)(t).

Statutory Authority for Adoption: RCW 82.45.150 and 82.01.060(2).

Statute Being Implemented: RCW 82.45.010 (3)(t).

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

Name of Proponent: Department of revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Brenton M. Madison, 6400 Linderson Way S.W., Tumwater, WA, 360-534-1583; Implementation and Enforcement: Randy Simmons, 6400 Linderson Way S.W., Tumwater, WA, 360-534-1605.

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

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Brenton M. Madison, Interpretations and Technical Advice Division, 6400 Linderson Way S.W., Tumwater, WA 98501, phone 360-534-1583, fax 360-534-1606, email BrentonM@dor.wa.gov.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The proposed rule does not create any new reporting requirement. The rule clarifies a new REET exemption for certain types of transfers.

November 16, 2018

Erin T. Lopez

Rules Coordinator

WSR 18-23-067

PROPOSED RULES

DEPARTMENT OF REVENUE

[Filed November 16, 2018, 12:45 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 18-19-077.

Title of Rule and Other Identifying Information: WAC 458-61A-219 Developmentally disabled persons—Housing—Transfers and improvements.

Hearing Location(s): On January 2, 2019, at 10:00 a.m., at Conference Room 114A, 6400 Linderson Way S.W., Tumwater, WA 98501. Copies of the draft rule are available for viewing and printing on our web site at dor.wa.gov. Call-in option can be provided upon request no later than three days before the hearing date.

Date of Intended Adoption: January 9, 2019.

Submit Written Comments to: Brenton M. Madison, P.O. Box 47453, Olympia, WA 98504-7453, email BrentonM@dor.wa.gov, fax 360-534-1606, by January 2, 2019.

Assistance for Persons with Disabilities: Contact Julie King or Renee Cosare, phone 360-704-5733 or 360-704-5734, TTY 800-833-6384.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 458-61A-219 (Rule 219) explains the real estate excise tax (REET) exemption provided by RCW 82.45.010 (3)(t) for transfers of real property by a legal representative of a person with a developmental disability to a qualified entity as defined in RCW 82.45.010 (3)(t)(iii).

NEW SECTION

WAC 458-61A-219 Developmentally disabled persons—Housing—Transfers and improvements. (1) **Introduction.** A transfer of real property by a legal representative of a person with a developmental disability to a qualified entity as defined in RCW 82.45.010 (3)(t)(iii) is not subject to the real estate excise tax if certain conditions are met and no consideration passes in the transfer. This rule explains the eligibility and continued use requirements, and provides documentation requirements for persons who make qualifying transfers of real property described in RCW 82.45.010 (3)(t).

(2) **Other rules that may apply.** Readers may want to refer to other rules for additional information, including:

(a) WAC 458-61A-100 Real estate excise tax—Overview.

(b) WAC 458-61A-102 Definitions.

(c) WAC 458-61A-201 Gifts.

(3) **Examples.** This rule includes examples that identify a number of facts and then state a conclusion. These examples should only be used as a general guide. The tax results of other situations must be determined after a review of all the facts and circumstances.

(4) **Definitions.** The following definitions apply throughout this rule:

(a) The definitions in chapter 82.45 RCW.

(b) The definitions in RCW 71A.10.020.

(c) "Affordable housing program" defined in RCW 43.185A.020.

(d) "Qualified entity" is:

(i) A nonprofit organization under 26 U.S.C. Sec. 501(c)(3) of the federal Internal Revenue Code of 1986, as amended, as of June 7, 2018, or a subsidiary under the same taxpayer identification number that provides residential supported living for persons with developmental disabilities; or

(ii) A nonprofit adult family home, as defined in RCW 70.128.010, that exclusively serves persons with developmental disabilities.

(5) **Required conditions.** The transfer of residential property by a legal representative of a person with developmental disabilities to a qualified entity is not subject to real estate excise tax if the following conditions are met:

(a) The transferor's adult child (or otherwise legally represented person) with developmental disabilities retains a life estate in the property and must be allowed to reside in the residence or successor residence so long as the placement is safe and appropriate, as determined by the department of social and health services.

(b) The title of the property is conveyed by the legal representative of a person with developmental disabilities to a qualified entity without any consideration. Consideration may include money or anything of value, the performance of services, or assumption of debt.

(c) The residential property must have no more than four living units located on it.

(d) The residential property transferred to the qualified entity must remain in continued use as supported living for persons with developmental disabilities for a period of at least fifty years by the qualified entity or successor entity.

(6) **Additional continued use requirements.**

(a) The property will not be considered in continued use if the department of social and health services finds that the property has failed, after a reasonable time to remedy, to meet any health and safety statutory or regulatory requirements.

(i) If the department of social and health services determines that the property fails to meet the requirements for continued use, the department of social and health services must notify the department and the real estate excise tax becomes immediately due and payable by the qualified entity.

(ii) The measure of the tax is the value of the property at the time of its initial transfer into use as residential property for persons with developmental disabilities.

(iii) The tax due is not subject to penalties, fees, or interest.

(b) If the qualified entity sells or otherwise conveys ownership of the residential property, including the conveyance of the residential property as a result of casualty, the proceeds of the sale or conveyance must be used to acquire similar residential property and such similar residential property must be considered the successor for continued use.

The exemption from real estate excise tax is limited to the initial transfer to the qualified entity. Any subsequent sale or conveyance of the real property is subject to real estate excise tax.

(7) **Documentation requirements.**

(a) In order to receive the exemption under this rule, a real estate excise tax affidavit must be provided to the county

treasurer of the county in which the real property is located and recorded with the county auditor, by the transferor of the residential property and must include:

(i) A copy of the transfer agreement; and

(ii) A copy of the property tax assessment for the real property parcel issued by the applicable county in the same year as the initial qualifying transfer.

(b) A copy of all documentation required under this subsection will be retained indefinitely by the Washington office of the secretary of state, Washington state archives branch.

(8) **Examples.**

Example 1. Pamela Sutton is the legal representative of Susan Park, a person with developmental disabilities. Pamela owns a single family residential property with a county assessed value of \$250,000. The property is encumbered by an outstanding mortgage of \$150,000. On August 1, 2019, Pamela transfers 100 percent of her interest in the real property to Helping Homes of Washington, a qualified nonprofit adult family home. As part of the transfer, Helping Homes of Washington agrees to assume the property's \$150,000 encumbrance of debt. In this example, the transfer is not eligible for the exemption because it includes consideration in the form of assumption of debt.

Example 2. Patrick Sampson is the legal representative of Andrew Sampson, his adult child with developmental disabilities. Patrick owns a single family residential property with a county assessed value of \$300,000. The property is not encumbered by debt. On July 1, 2019, Patrick transfers 100 percent of his interest in the real property to Helping Homes of Washington, a qualified nonprofit adult family home. Andrew is allowed to reside in the residence and the department of social and health services has determined the placement is safe and appropriate. Assuming the eligibility requirements under subsections (5)(c) and (d) of this rule are also met, the transfer is exempt from real estate excise tax.

Example 3. Assume the facts from Example 2. On December 31, 2029, Helping Homes of Washington sells the residential property for \$450,000. A similar property is purchased shortly thereafter. Andrew will reside in the new residence. In this example, the initial transfer remains exempt from real estate excise tax because the requirements for continued use are met. However, Helping Homes of Washington is subject to real estate excise tax on the subsequent sale of the residential property because the exemption is limited to the initial transfer.

Example 4. Assume the facts from Example 2. On April 1, 2025, the department of social and health services finds that Helping Homes of Washington has failed, after a reasonable time to remedy, to meet certain health regulatory requirements for the property. The department of social and health services notifies the department of revenue. In this example, the initial transfer no longer qualifies for the exemption and is now subject to real estate excise tax, which is due immediately. The measure of the tax is the county assessed value of \$300,000 at the time of its initial transfer. The initial transfer is not subject to penalties, fees, or interest.

Example 5. Assume the facts from Example 2. On July 1, 2025, the property is destroyed by fire. The qualifying entity receives casualty insurance proceeds of \$350,000 for the loss of real property improvements. On July 1, 2026, the

remaining unimproved property is sold for \$100,000. On December 1, 2026, the casualty insurance proceeds and proceeds from sale are used to purchase a similar residential property. Andrew will reside in the newly purchased residential property. The conditions for continued use are met, and the initial transfer remains exempt from real estate excise tax. While real estate excise tax is due from the qualified entity on the \$100,000 sale of the unimproved property parcel, it is not due on the proceeds from casualty insurance.

Example 6. Assume the facts from Example 2. On August 1, 2019, the department of social and health services determines the residential property requires improvements to meet building codes before Andrew is able to safely reside in the home. Helping Homes of Washington is an eligible entity under RCW 43.185A.040 and the residential property was transferred in accordance with the required conditions in subsection (5) of this rule. Helping Homes of Washington is eligible to seek funding in the form of grants and loans through the affordable housing program, administered by the department of commerce, in order to bring the residential property into compliance with building codes. If Helping Homes of Washington fails to meet the building standards required by the department of social and health services within a reasonable period of time, real estate excise tax will become due immediately and payable by Helping Homes of Washington. The tax is not subject to penalties, fees, or interest.

WSR 18-23-068
PROPOSED RULES
DEPARTMENT OF REVENUE

[Filed November 16, 2018, 1:03 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 18-07-072.

Title of Rule and Other Identifying Information: WAC 458-19-090 Fire protection district formation—Cities and towns—Highest lawful levy, this new rule was written because of legislation passed in 2017, ESSB 5628, which allows a city or town to form a fire protection district under certain conditions.

Hearing Location(s): On January 2, 2019, at 1:00 p.m., at Conference Room 114A, 6400 Linderson Way S.W., Tumwater, WA 98501. Copies of draft rules are available for viewing and printing on our web site at dor.wa.gov. Call-in option can be provided upon request no later than three days before the hearing date.

Date of Intended Adoption: January 9, 2019.

Submit Written Comments to: Leslie Mullin, P.O. Box 47453, Olympia, WA 98504-7453, email LeslieMu@dor.wa.gov, fax 360-534-1606, by January 2, 2019.

Assistance for Persons with Disabilities: Contact Julie King or Renee Cosare, phone 360-704-5733 or 360-704-5734, TTY 800-833-6384.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This new rule provides a comprehensive example to cities and towns on how to calculate their highest lawful levy, if the city or town forms a fire protection district under RCW 52.02.160.

Reasons Supporting Proposal: Providing an example of how to calculate the highest lawful levy for cities or towns that establish a fire protection district under RCW 52.02.160 will assist the county assessor's office in its levy calculations and assist the affected taxing districts with budgeting.

Statutory Authority for Adoption: RCW 84.08.010, 84.08.070, 84.55.060.

Statute Being Implemented: RCW 52.02.160 and 84.55-092.

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

Name of Proponent: Department of revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Leslie Mullin, 6400 Linderson Way S.W., Tumwater, WA, 360-534-1589; Implementation and Enforcement: Randy Simmons, 6400 Linderson Way S.W., Tumwater, WA, 360-534-1605.

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

A cost-benefit analysis is not required under RCW 34.05.328. This rule is not a significant legislative rule as defined by RCW 34.05.328.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The proposed language for this new rule clarifies the calculation of the highest lawful levy already described in RCW 52.02.160 and 84.55.092. This proposed new rule does not impose more-than-minor costs on businesses, as it does not propose any new requirements not already provided for in statute.

November 16, 2018
Erin T. Lopez
Rules Coordinator

NEW SECTION

WAC 458-19-090 Fire protection district formation—Cities and towns—Highest lawful levy. (1) **Introduction.** RCW 52.02.160 allows a city or town to establish a fire protection district, subject to voter approval, within the same corporate boundaries of the city or town, for the provision of fire prevention services, fire suppression services, emergency medical services, and for the protection of life and property within the city or town. This rule explains how to calculate the highest amount of regular property taxes that can be lawfully levied (highest lawful levy) by a city or town that creates this type of fire protection district.

(2) **Definitions.** The definitions found in WAC 458-19-005 apply to this rule.

(3) **Example.** This rule includes an example that identifies a number of facts and then states a conclusion. This example should only be used as a general guide. The tax results of other situations must be determined after a review of all the facts and circumstances.

(4) **Highest lawful levy limit calculation.**

(a) **First year.** A city or town that establishes a fire protection district under RCW 52.02.160 must reduce its highest lawful levy by the total amount initially levied in the first year by the newly established fire protection district. This

reduced amount will become the new highest lawful levy for the city or town, and will be used for subsequent levy limit calculations under chapter 84.55 RCW. This reduction in the highest lawful levy for the city or town must occur in the first year the newly established fire protection district imposes its property tax levy.

(b) **Second and subsequent years.** The city or town must further reduce its highest lawful levy in subsequent years if the fire protection district initially imposes any additional regular property tax levies as allowed under RCW 52.16.140 and 52.16.160 in those subsequent years.

(c) **Maximum rate.** The maximum statutory dollar rate for fire protection districts is one dollar and fifty cents per one thousand dollars of assessed value. This rate consists of three regular property tax levies as follows: RCW 52.16.130 (up to \$0.50), 52.16.140 (up to \$0.50), and 52.16.160 (up to \$0.50).

Example. City A establishes a fire protection district under RCW 52.02.160. Prior to the formation, City A annually levied an amount of \$200,390, which is equal to its highest lawful levy. In this example, the maximum statutory dollar rate of the city is \$3.375 per \$1,000 of assessed value.

First year levy. In its first year, the newly established fire protection district determines it will need to levy \$57,000 and its total assessed value is \$59,375,000 (the same total assessed value as City A). This levy amount is the equivalent to a levy rate for the fire protection district of \$0.96 per \$1,000 of assessed value ($\$57,000/\$59,375,000(1,000)$), thus the district is initially imposing regular property tax levies under RCW 52.16.130 (\$0.50) and 52.16.140 (\$0.46) in the first year. Therefore, City A must reduce its highest lawful levy by \$57,000. City A's reduced highest lawful levy amount is the amount it will use when calculating the following year's levy calculations.

Second year levy. One year later, the fire protection district requests an increased levy amount of \$74,000 and its total assessed value, along with the total assessed value of City A, has increased to \$60,655,738. The increased levy amount is the equivalent to a levy rate for the fire protection district of \$1.22 per \$1,000 of assessed value ($\$74,000/\$60,655,738(1,000)$), thus the district is imposing regular levies under RCW 52.16.130, 52.16.140, and is initially imposing the third regular levy under RCW 52.16.160 (\$0.22). Therefore, City A must further reduce its highest lawful levy by the amount resulting from the fire district initially imposing the third regular levy under RCW 52.16.160. The additional amount resulting from the initial imposition of the fire protection district's third regular levy under RCW 52.16.160 is \$13,344 ($\0.22 per \$1,000 of assessed value multiplied by the total assessed value of \$60,655,738). City A must make a reduction of \$13,344 to its highest lawful levy. City A's newly reduced highest lawful levy is the amount it will use when calculating the following year's levy calculations.

Subsequent year levies. In subsequent years, if the fire protection district's levy rate increases beyond \$1.22 per \$1,000 of assessed value, City A is not required to further reduce its highest lawful levy because the fire protection district had already initially imposed all three regular levies under RCW 52.16.130, 52.16.140, and 52.16.160.

(5) **Constitutional one percent limit and five dollars and ninety cents aggregate dollar limit.** Fire protection district levies are subject to the constitutional one percent limit for regular property taxes and the statutory aggregate dollar rate limit of five dollars and ninety cents per thousand dollars of assessed value. If a reduction in a fire protection district levy is required because it exceeds these limits, it is reduced in the manner described in RCW 84.52.010, 84.52.043, and 84.52.125.

WSR 18-23-076

PROPOSED RULES

BOARD OF

PILOTAGE COMMISSIONERS

[Filed November 19, 2018, 9:49 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 18-19-057.

Title of Rule and Other Identifying Information: WAC 363-116-078 Training program and 363-116-080 Licensing of pilots.

Hearing Location(s): On January 17, 2019, at 10:00 a.m., at 2901 Third Avenue, 1st Floor, Agate Conference Room.

Date of Intended Adoption: January 17, 2019.

Submit Written Comments to: Sheri J. Tonn, Chair, 2901 Third Avenue, Suite 500, Seattle, WA 98121, email BeverJ@wsdot.wa.gov, fax 206-515-3906, by January 10, 2019.

Assistance for Persons with Disabilities: Contact Jolene Hamel, phone 206-515-3904, fax 206-515-3906, email HamelJ@wsdot.wa.gov, by January 10, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule changes are intended to codify several statements of policy enacted by the board including policies concerning the training program stipend, conning quizzes and local knowledge exams, and the length of the training program in the Puget Sound pilotage district, modernize the training program rules to better align with current board practices and recent enhancements, improve the alignment between WAC 363-116-078 and 363-116-080, and clarify existing language.

Reasons Supporting Proposal: Stakeholder comments are welcome and will continue to be considered.

Statutory Authority for Adoption: Chapter 88.16 RCW.

Statute Being Implemented: Chapter 88.16 RCW.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The board has received the proposed amendments from the trainee evaluation committee favoring the adoption of these new rules. The board's WAC/legislative committee and assistant attorney general reviewed the proposed changes prior to presentation to the board.

Name of Proponent: Board of pilotage commissioners, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Board of Pilotage Commissioners, 2901 Third Avenue, Seattle, WA 98121, 206-515-3904.

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

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to the adoption of these rules. The Washington state board of pilotage commissioners is not a listed agency in RCW 34.05.328 (5)(a)(i).

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

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute.

November 19, 2018
Jaimie C. Bever
Executive Director

AMENDATORY SECTION (Amending WSR 13-08-025, filed 3/27/13, effective 4/27/13)

WAC 363-116-078 Pilot training program. After passing the written examination and simulator evaluation, pilot ~~((applicants))~~ candidates pursuing a pilot license ~~((will be put))~~ are positioned on a list for the applicable pilotage district(s) and must enter and successfully complete a training program specified by the board before consideration for licensure.

(1) Notification. Pilot ~~((applicants))~~ candidates on a list as described in subsection (2) of this section, waiting to enter a training program shall provide the board with ~~((a current))~~ the best address ~~((to be used))~~ for notification ~~((for entry))~~ to enter into a training program. ~~((Such address shall be a place at which mail is delivered.))~~ In addition, a pilot ~~((applicant may))~~ candidate shall provide the board with other means of contact such as ~~((a))~~ postal mailing or email address, phone number, and/or fax number ~~((, and/or an email address))~~. The ~~((mailing))~~ email address ~~((will))~~ with a read receipt request, however, will be considered the primary means of notification by the board. It will be the responsibility of the pilot ~~((applicant))~~ candidate to ensure ~~((that))~~ the board has ~~((a))~~ current ~~((mailing address))~~ contact information at all times. If a pilot ~~((applicant))~~ candidate cannot personally receive ~~((mail))~~ postal or electronic mail at the ~~((address))~~ address(es) provided to the board for any period of time, another person may be designated in writing ~~((with a notarized copy to the board))~~ as having power of attorney specifically to act in the pilot ~~((applicant's))~~ candidate's behalf regarding such notice. If notice sent to the email address provided by the pilot ~~((applicant))~~ candidate is not acknowledged after three attempts or if notice sent via certified mail is returned after three attempts to deliver, that pilot ~~((applicant))~~ candidate will be skipped and the next pilot ~~((applicant))~~ candidate on the list will be contacted for entry into a training program. A person so skipped will remain next on the list. A pilot ~~((applicant))~~ candidate or his/her designated attorney-in-fact shall respond within fifteen calendar days of receipt of notification to accept, refuse, or request a delayed entry into a training program.

(2) Entry. At such time that the board chooses to start a pilot ~~((applicant or applicants))~~ candidate or candidates in a training program for ~~((a))~~ either pilotage district, notification shall be given as provided in ~~((this section))~~ subsection (1) of this section. Pilot ~~((applicants))~~ candidates shall be ranked in accordance with a point system established by the board ~~((to assess))~~ based on overall performance on the written examination and simulator evaluation. ~~((Applicants))~~ Candidates shall be eligible to enter a training program for a pilotage district in the order of such rankings or as otherwise may be determined by the board. A pilot ~~((applicant))~~ candidate who refuses entry into a program will be removed from the waiting list with no further obligation by the board to offer a position in that district's training program to such pilot ~~((applicant))~~ candidate. If the pilot ~~((applicant applied for a license))~~ candidate indicated interest in the other pilotage district ~~((when applying))~~ on the application for the written examination, the ~~((applicant))~~ candidate shall remain available for that other district's training program in accordance with his/her position on that list.

(a) A pilot ~~((applicant))~~ candidate who is not able to start a training program within two months of the board's specified entry date may, with written consent of the board, delay entry into that training program. When ~~((an applicant))~~ a pilot candidate delays entry into a training program by more than two months, the board ~~((will))~~ gives notice to the next pilot ~~((applicant))~~ candidate on the list for that pilotage district to enter a training program. The pilot ~~((applicant))~~ candidate who delays entry ~~((;))~~ shall remain eligible for the next position in that district ~~((;))~~ provided that the next position becomes available within the earlier of:

(i) Four years from the pilot ~~((applicant's))~~ candidate's taking the written examination; or

(ii) The date scheduled for the next pilotage examination for the district.

(b) A pilot ~~((applicant))~~ candidate not able to start in a training program within two months of the board's specified entry date and who does not obtain the board's written consent to delay entry into a training program shall no longer be eligible for that district's training program without retaking the examination provided in WAC 363-116-076 and the simulator evaluation provided in WAC 363-116-077.

(3) Training license. Prior to receiving a training license pilot ~~((applicants))~~ candidates must pass a physical examination by a board-designated physician and in accordance with the requirements of WAC 363-116-120 for initial pilot ~~((applicants))~~ candidates. A form provided by the board must be completed by the physician and submitted to the board along with a cover letter indicating the physician's findings and recommendations as to the pilot ~~((applicant's))~~ candidate's fitness to pilot. The physical examination must be taken not more than ninety days before issuance of the training license. Holders of a training license will be required to pass a general physical examination annually within ninety days prior to the anniversary date of that training license. Training license physical examinations will be at the expense of the pilot ~~((applicant))~~ candidate. All training licenses shall be signed by the chairperson or his/her designee and shall have an expiration date. Training licenses shall be surren-

dered to the board upon completion or termination of the training program.

(4) Development. As soon as practical after receiving notification of eligibility for entry into a training program as set forth in this section, the pilot (~~((applicant shall meet with))~~) candidate shall provide a completed experience questionnaire to the trainee evaluation committee (TEC) ((for the purpose of devising a training program for that pilot applicant)), a committee created per subsection (11) of this section. The training program (~~((shall be tailored to the ability and experience of the individual pilot applicant and shall))~~) consists of three phases: Observation trips, training trips, and evaluation trips, and such other forms of learning and instruction that may be designated. The TEC shall recommend a training program for adoption by the board. After adoption by the board, it will be presented to the pilot (~~((applicant))~~) candidate. If the pilot (~~((applicant))~~) candidate agrees in writing to the training program, the board shall issue a training license to the pilot (~~((applicant))~~) candidate, which license shall authorize the pilot (~~((applicant))~~) candidate to take such actions as are contained in the training program. If the pilot (~~((applicant))~~) candidate does not agree to the terms of a training program, in writing, within fifteen business days of it being (~~((mailed to the applicant))~~) received by certified mail((:)) return receipt, or by email read receipt requested, that pilot ((applicant)) candidate shall no longer be eligible for entry into that pilotage district's training program and the board may give notice to the next available pilot (~~((applicant))~~) candidate that he/she is eligible for entry into a training program pursuant to the terms in subsections (1) and (2) of this section.

(5) Initial assigned route.

(a) The (~~((trainee evaluation committee (TEC)))~~) TEC shall assign an initial route to each trainee at the beginning of his/her training program between a commonly navigated port or terminal and the seaward boundary of the pilotage district (~~((to each trainee at the beginning of his/her training program))~~).

(b) Unless an extension of time is granted by the board, within eight months of the beginning of the training program if the trainee is continuously on stipend (~~((or within fifteen months of the beginning of the training program if the trainee is not on stipend))~~), plus an additional month for every month a trainee is off stipend (up to a maximum of fifteen months), the trainee must:

(i) Take and pass with a minimum score of eighty percent all conning quizzes provided by the board applicable to the initial assigned route as described in subsection (8) of this section. These quizzes (~~((can))~~) may be repeated as necessary(~~((:))~~) provided that they may not be taken more than once in any seven-day period, and further provided that they must be successfully passed (~~((before the expiration date))~~) within the time period specified in (b) of this subsection; and

(ii) Take and pass with a minimum score of eighty-five percent the local knowledge (~~((examinations))~~) examination(s) provided by the board applicable to the initial assigned route as described in subsection (8) of this section. These examinations can be repeated as necessary(~~((:))~~) provided that they may not be taken more than once in any seven-day period, and further provided that they must be successfully passed before

the expiration date time period specified in (b) of this subsection; and

(iii) Possess a first class pilotage endorsement without tonnage or other restrictions on his/her United States Coast Guard license to pilot on the initial assigned (~~((initial))~~) route.

(6) Specification of trips. To the extent possible, a training program shall provide a wide variety of (~~((assignments,))~~) assigned requirements in three phases: Observation, training, and evaluation trips. A training program may contain deadlines for achieving full or partial completion of certain necessary actions. Where relevant, it may specify such factors as route, sequence of trips, weather conditions, day or night, stern or bow first, draft, size of ship and any other relevant factors. The board may designate specific trips or specific numbers of trips that shall be made with training pilots or with the pilot members of the (~~((trainee evaluation committee (TEC)))~~) TEC or with pilots (~~((of specified experience))~~) designated by the TEC. In the Puget Sound pilotage district, pilot trainees shall complete a minimum of one hundred fifty trips. The board shall set from time to time the minimum number of trips for pilot trainees in the Grays Harbor pilotage district. The total number of trips in a training program shall be established by the board based on the recommendation of the TEC. The board will ensure that during a training program the pilot trainee will get significant review by (~~((training))~~) supervising pilots and the pilot members of the TEC or with pilots designated by the TEC.

(7) Length of training program. (~~((The board shall set the minimum length of a training program provided that it will not be less than eight months in the Puget Sound pilotage district.))~~) For the Puget Sound district the length of the program shall not exceed thirty-six months. For the Grays Harbor district the length of the program will be determined at the time the training program is written.

(8) Local knowledge conning quizzes and local knowledge exams. A training program shall provide opportunities for the education of pilot trainees and shall provide for testing of pilot trainees on the local knowledge necessary to become a pilot. (~~((This education program shall be developed by the trainee evaluation committee (TEC) and recommended to the board for adoption, in the form of a policy statement, and shall be tailored to the needs of the individual pilot trainee.))~~) It shall be the responsibility of the pilot trainee to obtain the local knowledge necessary to be licensed as a pilot in the pilotage district for which he/she is applying. (~~((Prior to the completion of a training program, the board, or its designee, may give such local knowledge examination(s) as it deems appropriate to the pilot trainees who shall be required to pass such examination(s) before completing a training program. The TEC may require a pilot trainee to sit for a local knowledge examination provided the TEC informs the pilot trainee in writing sixty days in advance of the scheduled date of the examination. Failure to sit for the examination on the date scheduled may constitute cause for removal from the training program. The TEC may also establish in writing such interim performance requirements as it deems necessary. These local examinations can be repeated as necessary, except that an examination for the same local area may not be taken more than once in any seven-day period and all required local knowledge examinations must be successfully passed before~~))

~~the expiration date of the training program.))~~ Each conning quiz will be organized by main channel routes, ports, and approaches. A conning quiz is not intended to replace a local knowledge exam as specified in subsection (5)(b)(ii) of this section, but there will be some overlap of subject matter. A pilot trainee shall pass a conning quiz or quizzes related to the route or harbor area to move from the observation phase to the training phase of his/her training program for that route or harbor area. After a trainee has successfully passed a conning quiz on a main channel route or a port and approach, he/she will be eligible to take the conn on that route or approach unless it is a U.S. flag vessel and the required federal pilotage endorsement has not been obtained. The local knowledge exam for the initial route must be completed within eight months of the training start date if the trainee is taking the stipend. For each month the trainee is off stipend, an additional month is added up to a maximum of fifteen months to successfully pass the appropriate local knowledge exam. The final local knowledge exam must be completed before consideration for licensing and must be successfully passed before the expiration date of the training program. The conning quizzes and local knowledge exams will be administered at the offices of the board of pilotage commissioners. Eighty percent is the passing grade for conning quizzes, and eighty-five percent is required for the local knowledge exams. If a trainee fails a conning quiz or local knowledge exam, it may be retaken after seven days, but must be passed within the timing deadlines discussed above. The local knowledge required of a pilot trainee and the local knowledge examination(s) may include the following subjects as they pertain to the pilotage district for which the pilot trainee seeks a license:

- (a) Area geography;
- (b) Waterway configurations including channel depths, widths and other characteristics;
- (c) Hydrology and hydraulics of large ships in shallow water and narrow channels;
- (d) Tides and currents;
- (e) Winds and weather;
- (f) Local aids to navigation;
- (g) Bottom composition;
- (h) Local docks, berths and other marine facilities including length, least depths and other characteristics;
- (i) Mooring line procedures;
- (j) Local traffic operations e.g., fishing, recreational, dredging, military and regattas;
- (k) Vessel traffic system;
- (l) Marine VHF usage and phraseology, including bridge-to-bridge communications regulations;
- (m) Air draft and keel clearances;
- (n) Submerged cable and pipeline areas;
- (o) Overhead cable areas and clearances;
- (p) Bridge transit knowledge - Signals, channel width, regulations, and closed periods;
- (q) Lock characteristics, rules and regulations;
- (r) Commonly used anchorage areas;
- (s) Danger zone and restricted area regulations;
- (t) Regulated navigation areas;
- (u) Naval operation area regulations;
- (v) Local ship assist and escort tug characteristics;

- (w) Tanker escort rules - State and federal;
- (x) Use of anchors and knowledge of ground tackle;
- (y) Applicable federal and state marine and environmental safety law requirements;
- (z) Marine security and safety zone concerns;
- (aa) Harbor safety plan and harbor regulations;
- (bb) Chapters 88.16 RCW and 363-116 WAC, and other relevant state and federal regulations in effect on the date the examination notice is published pursuant to WAC 363-116-076; and

(cc) Courses in degrees true and distances in nautical miles and tenths of miles between points of land, navigational buoys and fixed geographical reference points, and the distance off points of land for such courses as determined by parallel indexing along pilotage routes.

(9) Rest. It is the ~~((pilot trainee's))~~ responsibility ~~((to provide adequate rest time so that he/she is fully able to pilot on training trips. Pilot trainees shall not take pilot training trips in which they will be piloting the vessel without observing))~~ of the pilot trainee to obtain adequate rest. Pilot trainees shall observe the rest rules for pilots in place by federal or state law or regulation and rules established in the applicable pilotage district in which they will train, or any other rest requirements contained in a training program. ~~((For purposes of calculating rest required before a training trip in which the pilot trainee will be piloting after an observation trip in which the pilot trainee did not pilot the vessel, such observation trip shall be treated as though it had been a normal pilot training assignment.))~~

(10) Stipend.

(a) At the initial meeting with the ~~((trainee evaluation committee (TEC)))~~ TEC the pilot trainee shall indicate whether he/she wishes to receive a stipend during their training program. In the Puget Sound pilotage district, as a condition of receiving such stipend, pilot trainees will agree to forego during their training program other full- or part-time employment which prevents them from devoting themselves on a full-time basis to the completion of their training program. With the consent of the ~~((board and, if necessary, the restructuring of their training program))~~ TEC, pilot trainees may elect to change from a stipend to nonstipend status, and vice versa, during their training program provided that such change request is provided in writing from the trainee. If the trainee intends to be in nonstipend status more than four consecutive months, his/her particular training program may be constructed to provide recency and/or a change in seniority placement prior to resuming the training program. In the Puget Sound pilotage district the stipend paid to pilot trainees shall be a maximum of six thousand dollars per month (or such other amount as may be set by the board from time to time), shall be contingent upon the board's setting of a training surcharge in the tariffs levied pursuant to WAC 363-116-300 sufficient to cover the expense of the stipend, and shall be paid from a pilot training account as directed by the board ~~((and pursuant thereto shall be paid to pilot trainees as set forth below:~~

~~((b)))~~ In the Grays Harbor pilotage district the stipend paid to pilot trainees shall be determined by the board and shall be contingent upon the board's receipt of funds, from any party collecting the tariff or providing funds, sufficient to

cover the expense of the stipend and shall be paid from a pilot training account as directed by the board ~~((and pursuant thereto shall be paid to pilot trainees as set forth below))~~.

Determinations as to stipend entitlement will be made on a full calendar month basis and documentation of trips will be submitted to the board by the ~~((fifth))~~ third day of the following month. Proration of the stipend ((will be paid on an all or nothing basis for each month except that prorations)) shall be allowed at the rate of two hundred dollars per day (or such other amount as may be set by the board from time to time), under the following circumstances:

(i) For the first and last months of a training program (unless the training program starts on the first or ends on the last day of a month); or

(ii) For a pilot trainee who is deemed unfit for duty by a board-designated physician during a training month~~((or~~

~~((iii) For a pilot trainee who requests a change from a nonstipend status to a stipend status, or from a stipend status to a nonstipend status as set forth in (g) of this subsection)).~~

~~((e))~~ (b) In the Puget Sound pilotage district a minimum of ((eighteen)) twelve trips are required each month for eligibility to receive the ((stipend)) minimum stipend amount as set by the board, or eighteen trips to receive the maximum stipend amount as set by the board. A trainee may make more than eighteen trips in a calendar month, but no further stipend will be earned for doing so. In the Grays Harbor pilotage district the minimum number of trips each month for eligibility to receive the stipend is seventy percent or such number or percentage of trips that may be set by the board of the total number of vessel movements occurring in this district during that month. Only trips required by the training program can be used to satisfy these minimums. Trips will be documented at the end of each month.

~~((d))~~ (c) The TEC will define areas that are considered to be hard-to-get, which many differ for trainees depending on their date of entry. It is the pilot trainee's responsibility to make all available hard-to-get trips ~~((before the end of the training program. If a training program is extended due to a failure to get all of these trips))~~, as defined and assigned by the TEC. The board may elect not to pay the stipend if the missing trips were available to the pilot trainee but not taken.

~~((e))~~ (d) The TEC, with approval by the board may allocate, assign or specify training program trips among multiple pilot trainees. Generally, the pilot trainee who entered his/her training program earlier has the right of first refusal of training program trips provided that the TEC may, with approval by the board, allocate or assign training trips differently as follows:

(i) When it is necessary to accommodate any pilot trainee's initial route;

(ii) When it is necessary to spread hard-to-get trips among pilot trainees so that as many as possible complete required trips on time. If a pilot trainee is deprived of a hard-to-get trip by the TEC, that trip will not be considered "available" under (c) of this subsection. However, the pilot trainee will still be required to complete the minimum number of trips for the month in order to receive a stipend, and the minimum number of trips as required to complete his/her training program;

~~((f))~~ (e) If a pilot trainee elects to engage in any full-or part-time employment, the terms and conditions of such employment must be submitted to the TEC for prior determination by the board of whether such employment complies with the intent of this section prohibiting employment that "prevents (pilot trainees) from devoting themselves on a full-time basis to the completion of the training program."

~~((g))~~ (f) If a pilot trainee requests to change to a nonstipend status as provided in this section such change shall be effective for a minimum nonstipend period of thirty days beginning at the beginning of a month, provided that before any change takes effect ~~((the board and)), a request is made to the TEC in writing. The requirement for designated hard-to-get trips is waived during the time the pilot trainee ((must agree in writing on the terms of a revised training program)) is authorized to be in nonstipend status.~~

~~((h))~~ (g) Any approved pilot association or other organization collecting the pilotage tariff levied by WAC 363-116-185 or 363-116-300 shall transfer the pilot training surcharge receipts to the board at least once a month or otherwise dispose of such funds as directed by the board. In the Grays Harbor pilotage district, if there is no separate training surcharge in the tariff, any organization collecting the pilotage tariff levied by WAC 363-116-185 shall transfer sufficient funds to pay the stipend to the board at least once a month or otherwise dispose of such funds as directed by the board. The board may set different training stipends for different pilotage districts. Receipts from the training surcharge shall not belong to the pilot providing the service to the ship that generated the surcharge or to the pilot association or other organization collecting the surcharge receipts, but shall be disposed of as directed by the board. Pilot associations or other organizations collecting surcharge receipts shall provide an accounting of such funds to the board on a ~~((quarterly))~~ monthly basis or at such other intervals as may be requested by the board. Any audited financial statements filed by pilot associations or other organizations collecting pilotage tariffs shall include an accounting of the collection and disposition of these surcharges. The board shall direct the disposition of all funds in the account.

(11) Trainee evaluation committee. There is hereby created a trainee evaluation committee (TEC) to which members shall be appointed by the board. The TEC shall include at a minimum: Three active licensed Washington state pilots, who, to the extent possible, shall be from the pilotage district in which the pilot trainee seeks a license and at least one of whom shall be a member of the board; one representative of the marine industry (who may be a board member) who holds, or has held, the minimum U.S. Coast Guard license required by RCW 88.16.090; and one other member of the board who is not a pilot. The TEC may include such other persons as may be appointed by the board. The TEC shall be chaired by a pilot member of the board and shall meet as necessary to complete the tasks accorded it. In the event that the TEC cannot reach consensus with regard to any issue it shall report both majority and minority opinions to the board.

(12) ~~((Training))~~ Supervising pilots. The board shall designate as ~~((training))~~ supervising pilots those pilots who are willing to undergo such specialized training as the board may require and provide. ~~((Training))~~ Supervising pilots shall

receive such training from the board to better enable them to give guidance and training to pilot trainees and to properly evaluate the performance of pilot trainees. The board shall keep a list of ~~((training))~~ supervising pilots available for public inspection at all times. All pilot members ~~((of the trainee evaluation committee (TEC)))~~ TEC shall also be ~~((training))~~ supervising pilots.

(13) Training ~~((and assessment. Before, during and after a pilot trainee pilots a vessel under the supervision of a pilot on a training trip, the supervising pilot shall, to the extent possible, communicate with and give guidance to the pilot trainee in an effort to make the trip a valuable learning experience. On an evaluation trip, this communication will normally occur after completion of the trip))~~ program trip reports. After each training program trip, the licensed or supervising pilot shall complete a training program trip report form (TPTR) provided by the board. ~~((Trip report forms prepared by licensed pilots who are not))~~ Training program trip report forms prepared by licensed pilots who are supervising pilots shall be used by the ~~((trainee evaluation committee (TEC)))~~ TEC and the board for assessing a pilot trainee's progress, providing guidance to the pilot trainee and for making alterations to a training program. ~~((The use of trip report forms prepared by))~~ Licensed pilots who are not ((training pilots shall be appropriately weighed by the board and the TEC when making licensing decisions and recommendations)) supervising pilots may only have trainees on board for observation trips. All trip report forms shall be delivered or mailed by the licensed or supervising pilot to the board. They shall not be given to the pilot trainee. The licensed or supervising pilot may show the contents of the form to the pilot trainee, but the pilot trainee has no right to see the form until it is filed with the board. The TEC shall review these training program trip report forms from time to time and the chairperson of the TEC shall report the progress of all pilot trainees at each meeting of the board. If it deems it necessary, the TEC may recommend, and the board may make, changes from time to time in the training program requirements applicable to a pilot trainee, including the number of trips in a training program.

(14) Termination of and removal from a training program. A pilot trainee's program may be immediately terminated and the trainee removed from a training program by the board if it finds any of the following:

- (a) Failure to maintain the minimum federal license required by RCW 88.16.090;
- (b) Conviction of an offense involving drugs or involving the personal consumption of alcohol;
- (c) Failure to devote full time to training in the Puget Sound pilotage district ~~((if))~~ while receiving a stipend;
- (d) The pilot trainee is not physically fit to pilot;
- (e) Failure to make satisfactory progress toward timely completion of the program or timely meeting of interim performance requirements in a training program;
- (f) Inadequate performance on examinations or other actions required by a training program;
- (g) Failure to complete the initial route requirements specified in subsection (5) of this section within the time periods specified;

(h) Inadequate, unsafe, or inconsistent performance in a training program and/or on training program trips as determined by the supervising pilots, the ~~((trainee evaluation committee (TEC)))~~ TEC and/or the board; or

(i) Violation of a training program requirement, law, regulation or directive of the board.

(15) Completion of a training program shall include the requirements that the pilot trainee:

(a) Successfully ~~((and timely complete the))~~ complete all requirements set forth in the training program including any addendum(s) to the program;

(b) Possess a valid first class pilotage endorsement without tonnage or other restrictions on his/her United States government license to pilot in all of the waters of the pilotage district in which the pilot ~~((applicant))~~ candidate seeks a license; and

(c) ~~((Successfully complete any local knowledge examination(s) required by the board and specified in the training program.))~~ Complete portable piloting unit (PPU) training as defined by the TEC.

AMENDATORY SECTION (Amending WSR 12-05-064, filed 2/15/12, effective 3/17/12)

WAC 363-116-080 Licensing of pilots. (1) No person shall be issued a pilot license until he/she has applied for a pilot license and successfully completed:

- (a) The written examination(s);
- (b) The simulator evaluation;
- (c) The pilot training program, as determined by the board;
- (d) A physical examination; and
- (e) Tendered the license fee stipulated in WAC 363-116-070.

(2) A majority of board members in attendance at a meeting where licensing of an applicant is scheduled for consideration, shall ~~((pass))~~ vote on the issuance of a pilot license. Pilot licenses shall be signed by the chairperson or his/her designee.

(3) At the time of completion of a training program as provided in WAC 363-116-078 and at the time of consideration for licensing, all applicants must provide a copy of his/her U.S. master license required by RCW 88.16.090 with a first class U.S. pilotage endorsement without tonnage or other restrictions on that U.S. master license to pilot in all of the waters of the pilotage district defined in RCW 88.16.050 in which the applicant desires to be licensed and an endorsement on that U.S. master license as a radar observer (unlimited); and a certificate representing competency in automatic radar plotting aids (ARPA).

(4) No person shall be licensed by the board who has been convicted of an offense involving drugs or the personal consumption of alcohol in the twelve months prior to the date of application. This restriction shall not apply to license renewals.

(5) After completion of a training program the trainee evaluation committee (TEC) shall review the evaluations and the pilot trainee's performance on other required aspects of the training program and ~~((make a recommendation))~~ report to the board that the pilot trainee ~~((is: Suitable for licensing;~~

~~not suitable for licensing; or, in need of more training and further evaluation))~~ has or has not: Successfully completed all requirements set forth in the training program including any addendum(s) to the program. The board shall consider ~~((such recommendation))~~ training program documentation and TEC reports and may: Issue the license if there is a need for a pilot in the relevant pilotage district; ~~((require more training for the pilot trainee if necessary;))~~ deny a license if it finds that the pilot trainee should not be licensed; or, delay the issuance of a license, if there is no need for a pilot at that time in the relevant district. If the board delays the issuance of a license, it ~~((may prescribe additional training trips for the pilot trainee and continue the pilot trainee in the training program))~~ may at its discretion offer an optional program that would maintain piloting skills and knowledge and may enable stipend credit to be earned and paid. The criteria to be followed by the board in issuing or denying licenses shall include, but not be limited to: Performance in the training program; piloting and ship handling and general seamanship skills; local knowledge; and, bridge presence and communication skills.

(6) If two or more pilot trainees are deemed qualified by the board for issuance of a license at the same meeting of the board, the pilot trainee with the highest combined score on the initial written examination and simulator evaluation shall be licensed first.

WSR 18-23-089
PROPOSED RULES
CRIMINAL JUSTICE
TRAINING COMMISSION
[Filed November 20, 2018, 8:40 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 18-20-039.

Title of Rule and Other Identifying Information: WAC 139-05-200 Requirement of basic law enforcement training for general authority peace officers.

Hearing Location(s): On Wednesday, March 13, 2019, at 10 a.m., at the Washington State Criminal Justice Training Commission (WSCJTC), 19010 1st Avenue South, Room C-121, Burien, WA 98148.

Date of Intended Adoption: March 13, 2019.

Submit Written Comments to: Sonja Peterson, 19010 1st Avenue South, Burien, WA 98148, email speterson@cjtc.state.wa.us, by March 9, 2019.

Assistance for Persons with Disabilities: Contact Sonja Peterson, phone 206-835-7356, TTY 206-835-7300, email speterson@cjtc.state.wa.us, by March 9, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed change makes this WAC applicable to full-time, general authority peace officers. Also, a paragraph was added to clearly state ineligibility for previously revoked, suspended, sanctioned, etc., peace officers. This closes the loophole in the existing WAC.

Statutory Authority for Adoption: RCW 43.101.080.

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, Implementation, and Enforcement: Tisha Jones, Lacey, Washington, 360-486-2431.

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

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

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

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

November 20, 2018
Sonja Peterson
Rules Coordinator

AMENDATORY SECTION (Amending WSR 06-17-021, filed 8/7/06, effective 9/7/06)

WAC 139-05-200 Requirement of basic law enforcement training for general authority peace officers. (1) Unless certification eligibility has been reinstated, 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 law enforcement academy certificate, regardless of the officer's prior years of law enforcement service.

(2) All fully commissioned law enforcement officers of a city, county, or political subdivision of the state of Washington, ~~((except volunteers and reserve officers, whether paid or unpaid,))~~ and officers of the Washington state patrol, unless otherwise exempted by the commission must, as a condition of continued employment, successfully complete a basic law enforcement academy or an equivalent basic academy sponsored or conducted by the commission. Basic law enforcement training must be commenced within the initial six-month period of law enforcement employment, unless otherwise extended by the commission.

~~((2))~~ (3) Law enforcement personnel exempted from the requirement of subsection ~~((1))~~ (2) of this section include:

(a) Individuals holding the office of sheriff of any county on September 1, 1979; and

(b) Commissioned personnel:

(i) Whose initial date of full-time, regular and commissioned law enforcement employment within the state of Washington precedes January 1, 1978;

(ii) Who have received a certificate of completion in accordance with the requirement of subsection ~~((1))~~ (2) of this section, and thereafter have engaged in regular and commissioned law enforcement employment without break or interruption in excess of twenty-four months duration; or

(iii) Who are employed as tribal police officers in Washington state, natural resource investigators employed by the Washington department of natural resources, special agents

employed by the Washington state gambling commission, and liquor enforcement officers employed by the Washington state liquor control board who have received a certificate of successful completion from the basic law enforcement academy or the basic law enforcement equivalency and thereafter engage in regular and commissioned law enforcement employment with that agency without break or interruption in excess of twenty-four months duration.

~~((3))~~ (4) Each law enforcement agency of the state of Washington, or any political subdivision thereof, must immediately notify the commission by approved form of each instance where a commissioned officer begins continuing and regular employment with that agency.

~~((4))~~ (5) Failure to comply with any of the above requirements of basic law enforcement training will result in notification of noncompliance by the commission to:

- (a) The individual in noncompliance;
- (b) The head of his/her agency; and
- (c) Any other agency or individual, as determined by the commission.

WSR 18-23-090
PROPOSED RULES
CRIMINAL JUSTICE
TRAINING COMMISSION
 [Filed November 20, 2018, 8:44 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 18-20-036.

Title of Rule and Other Identifying Information: WAC 139-05-250 Basic law enforcement curriculum.

Hearing Location(s): On Wednesday, March 13, 2019, at 10 a.m., at the Washington State Criminal Justice Training Commission (WSCJTC), 19010 1st Avenue South, Room C-121, Burien, WA 98148.

Date of Intended Adoption: March 13, 2019.

Submit Written Comments to: Sonja Peterson, 19010 1st Avenue South, Burien, WA 98148, email speterson@cjtc.state.wa.us, by March 9, 2019.

Assistance for Persons with Disabilities: Contact Sonja Peterson, phone 206-835-7356, TTY 206-835-7300, email speterson@cjtc.state.wa.us, by March 9, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed changes include wording clarifying that a reserve academy curriculum shall include specific areas of instruction (same as full-time peace officer academy).

Statutory Authority for Adoption: RCW 43.101.080.

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, Implementation, and Enforcement: Tisha Jones, Lacey, Washington, 360-486-2431.

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

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

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

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

November 20, 2018

Sonja Peterson
 Rules Coordinator

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

WAC 139-05-250 Basic law enforcement curriculum.
 The basic law enforcement and reserve academy curriculum of the commission may include, but not be limited to, the following core subject areas with common threads of communications, community policing, and professional ethics throughout:

- (1) Orientation and history of policing;
- (2) Criminal law;
- (3) Criminal procedures;
- (4) Patrol procedures;
- (5) Crisis intervention;
- (6) Emergency vehicle operation course;
- (7) Report writing;
- (8) Traffic law;
- (9) Firearms;
- (10) Defensive tactics; and
- (11) Criminal investigation.

WSR 18-23-091
PROPOSED RULES
CRIMINAL JUSTICE
TRAINING COMMISSION
 [Filed November 20, 2018, 9:03 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 18-20-046.

Title of Rule and Other Identifying Information: WAC 139-05-800 Basic law enforcement reserve classifications.

Hearing Location(s): On Wednesday, March 13, 2019, at 10 a.m., at the Washington State Criminal Justice Training Commission (WSCJTC), 19010 1st Avenue South, Room C-121, Burien, WA 98148.

Date of Intended Adoption: March 13, 2019.

Submit Written Comments to: Sonja Peterson, 19010 1st Avenue South, Burien, WA 98148, email speterson@cjtc.state.wa.us, by March 9, 2019.

Assistance for Persons with Disabilities: Contact Sonja Peterson, phone 206-835-7356, TTY 206-835-7300, email speterson@cjtc.state.wa.us, by March 9, 2019.

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

so the WSCJTC is able to clearly identify the classification of reserve peace officers.

This new section outlines two classifications of reserve peace officers. By outlining the classification, stakeholders will have a clear understanding of the minimum training and supervision requirements for each classification of reserve peace officers.

Statutory Authority for Adoption: RCW 43.101.080.

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: Tisha Jones, Lacey, Washington, 360-486-2431; Implementation and Enforcement: Tom Hill, Burien, Washington, 206-835-7344.

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

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

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

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

November 20, 2018
Sonja Peterson
Rules Coordinator

NEW SECTION

WAC 139-05-800 Basic law enforcement reserve classifications. (1) "Reserve peace officer" 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.

(2) A level I basic reserve certificate, as defined in this chapter, will be issued by the commission to any specially commissioned reserve peace officer who successfully completes the basic law enforcement reserve academy as required by the commission and the requirements set forth in RCW 43.101.080(19) and WAC 139-05-810.

(a) A level I reserve officer shall:

(i) Work under the immediate supervision of a regular full-time Washington peace officer until the reserve officer has completed a minimum of six hundred forty hours of post academy supervised training (including successful participation in a field training program). Training must be completed within three years after completion of the basic law enforcement reserve academy.

(ii) The first one hundred fifty hours of the six hundred forty hours of post academy training shall be with a training officer who has completed either the field training officer (FTO) or the police training officer (PTO) course as sponsored or hosted by the commission.

(iii) The remaining four hundred ninety hours should be with a training officer who has completed either the FTO or PTO course sponsored or hosted by the commission, but may

also be completed by a regular, full-time peace officer at the discretion of the hiring agency.

(iv) The twenty-four hours of mandatory in-service training as required by WAC 139-05-300 (2)(a) through (d) may be included in the annual training hours.

(b) Except in exigent circumstances at the discretion of the sponsoring agency, a level I reserve shall not be assigned to work unsupervised, or in a single officer patrol vehicle or with a level II reserve officer during the first six hundred forty hours of training;

(c) Nothing in this section shall prevent a level I reserve peace officer from being armed off duty as an individual citizen in lawful possession as allowed by law.

(3) A level II reserve officer is a reserve peace officer with a minimum of six hundred forty hours of post academy training as a level I reserve officer. A level II certificate may be issued after the following conditions have been met:

(a) Reserve must have six hundred forty hours of post academy training as a level I reserve as specified under subsection (2) of this section.

(b) Reserve must complete the application for level II status attesting that the minimum requirements have been met.

(c) Level I reserve must submit the request for level II status to their sponsoring agency. CJTC will not accept direct applications from level I reserve officers seeking level II classification.

(i) The sponsoring agency retains the sole discretion to submit the request for level II classification application. An agency may believe, based upon policy or their firsthand experience and observations, that level II reserve status is not appropriate given the individual circumstances or by agency policy.

(ii) If the sponsoring agency deems the reserve requesting level II classification is appropriate, the sponsoring agency will complete application for level II, attesting that the reserve has met the minimum requirements and submit the application to CJTC.

(iii) At no time shall an agency require that a level I reserve become a level II reserve. The decision to request level II status shall only be initiated at the request of the reserve officer.

(iv) Sponsoring agency signs the application, attesting the reserve has successfully completed and met all requirements to become level II classified and forwards the approved application to CJTC for review.

(v) After review, and upon satisfied conditions, CJTC will issue a reserve level II certificate to the requesting level I reserve officer.

(vi) A level II reserve officer may then, at the discretion of their sponsoring agency, work as a solo officer car in the capacity described in subsection (1) of this section.

(d) Nothing in this section shall prevent a level II reserve peace officer from being armed off duty as an individual citizen in lawful possession as allowed by law.

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

(5) 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).

(6) Nothing in this chapter shall restrict an agency from using an already established program, or designing a program that may be more restrictive than the minimum requirements listed in this section. A level I reserve peace officer is still eligible for level II classification after completing the minimum required six hundred forty hours of post academy training. However, an agency can delay sending the application for level II classification to the commission until local agency requirements are fulfilled.

WSR 18-23-093
PROPOSED RULES
CRIMINAL JUSTICE
TRAINING COMMISSION
 [Filed November 20, 2018, 9:53 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 18-20-037.

Title of Rule and Other Identifying Information: WAC 139-05-810 Requirement of basic training requirement level I reserve officers.

Hearing Location(s): On Wednesday, March 13, 2019, at 10 a.m., at the Washington State Criminal Justice Training Commission (WSCJTC), 19010 1st Avenue South, Room C-121, Burien, WA 98148.

Date of Intended Adoption: March 13, 2019.

Submit Written Comments to: Sonja Peterson, 19010 1st Avenue South, Burien, WA 98148, email speterson@cjtc.state.wa.us, by March 9, 2019.

Assistance for Persons with Disabilities: Contact Sonja Peterson, phone 206-835-7356, TTY 206-835-7300, email speterson@cjtc.state.wa.us, by March 9, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Changes to the chapter heading gives clear direction that this section is for reserve officers. Adds a start date for the beginning of the different reserve officer classification, when approved. Clarifies that specific elements are to be completed: Poly, psych, background (reinforces working [wording] already in the WAC). Adds wording that a statement of fitness, as required by WAC 139-05-230 is completed by each applicant. Reinforces the attestation that at a minimum, the background is completed before the start of the reserve academy.

Statutory Authority for Adoption: RCW 43.101.080.

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: Tisha Jones, Lacey, Washington, 360-486-2431; Implementation and Enforcement: Tom Hill, Burien, Washington, 206-835-7344.

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

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

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

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

November 20, 2018
 Sonja Peterson
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 15-19-076, filed 9/14/15, effective 10/15/15)

WAC 139-05-810 Requirement of basic training requirement for level I reserve officers. (1) Unless certification eligibility has been reinstated, 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" 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.

(4) Beginning (*Date to be determined*), within the initial six months of hire, unless otherwise extended by the commission, all reserve peace officers must attend a basic law enforcement reserve academy as prescribed by the commission.

(5) 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))~~ (6) 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.

~~((6))~~ (7) 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))~~ (8) 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))~~ (9) 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)~~;

(a) Ensure the requirements of RCW 43.101.080(19) as described in chapter 139-07 WAC are met.

(b) 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.~~

~~(9))~~ (10) A basic reserve level I certificate will be issued by the commission to any specially 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 as prescribed and required by the commission.

~~((10))~~ (11) 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))~~ (12) Level I or II 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.

Preproposal statement of inquiry was filed as WSR 18-20-038.

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

Hearing Location(s): On Wednesday, March 13, 2019, at 10 a.m., at the Washington State Criminal Justice Training Commission (WSCJTC), 19010 1st Avenue South, Room C-121, Burien, WA 98148.

Date of Intended Adoption: March 13, 2019.

Submit Written Comments to: Sonja Peterson, 19010 1st Avenue South, Burien, WA 98148, email speterson@cjtc.state.wa.us, by March 9, 2019.

Assistance for Persons with Disabilities: Contact Sonja Peterson, phone 206-835-7356, TTY 206-835-7300, email speterson@cjtc.state.wa.us, by March 9, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Helps clarify the different classifications of reserves (Level 1 or 2) and their effects on prior experience reserve officers from in and out of state. Provides guidance for in and out of state full-time officers who either retire or returned to reserve duty or those who have a full-time peace officer certificate that are no longer working full-time for any number of reasons but want to work as a reserve [officer]. Clarifies that a qualifying lateral must participate in the equivalency process as required by the commission.

Statutory Authority for Adoption: RCW 43.101.080.

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: Tisha Jones, Lacey, Washington, 360-486-2431; Implementation and Enforcement: Tom Hill, Burien, Washington, 206-835-7344.

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

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

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

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

November 20, 2018

Sonja Peterson
Rules Coordinator

AMENDATORY SECTION (Amending WSR 15-19-080, filed 9/15/15, effective 10/16/15)

WAC 139-05-825 Basic reserve law enforcement academy certificate of equivalency. (1) Unless certification eligibility has been reinstated, 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 equivalence.

WSR 18-23-094

PROPOSED RULES

**CRIMINAL JUSTICE
TRAINING COMMISSION**

[Filed November 20, 2018, 10:02 a.m.]

Original Notice.

lency, 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 (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. 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) Eligibility for participation in the basic reserve law enforcement equivalency process shall be limited to:

(a) Reserve peace officers who have previously attained a ~~((basic))~~ level I or II 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) Less than twelve months are not required to complete the reserve equivalency or skills requirement. Agencies are required to submit a notice of hire form, and comply with RCW 43.101.080(19);

(ii) More than twelve but less than twenty-four months must successfully complete the requirements of RCW 43.101.080(19), current documentation showing all requirements outlined in subsection (8) of this section have been completed within six months, and the comprehensive reserve final test proctored by the commission; ~~((or~~

~~((ii))~~

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

(iv) Applicants with less than twenty-four months break in service may retain their level I or II reserve officer classification.

(b) Fully commissioned general authority peace officers or tribal police officers of this state who have attained peace officer certification through completion of an approved basic training program in this or another state 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.

All out-of-state full-time peace officers applying for reserve equivalency will begin as a level I reserve.

(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.

(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. 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.

(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 reserve academy or program and/or a copy of the applicant's peace officer certification certificate;

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

(c) ~~((A))~~ Submit a current record showing the applicant has met the firearms training with an approved instructor as set forth by the commission;

(d) ~~((A))~~ Submit a current record showing the applicant has met the defensive tactics training with an approved instructor as set forth by the commission; and

(e) ~~((A))~~ Submit a current record showing the applicant has met the emergency vehicle operations training with an approved instructor as set forth by the commission.

(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 18-23-097
PROPOSED RULES
WASHINGTON STATE PATROL

[Filed November 20, 2018, 12:40 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 18-19-060.

Title of Rule and Other Identifying Information: Ignition interlock device.

Hearing Location(s): On December 27, 2018, at 10:00 a.m., at 106 11th Avenue S.W., Room G015B, Olympia, WA 98504.

Date of Intended Adoption: December 28, 2018.

Submit Written Comments to: Kimberly Mathis, Agency Rules Coordinator, 106 11th Avenue S.W., email wsprules@wsp.wa.gov, by December 26, 2018.

Assistance for Persons with Disabilities: Contact Kimberly Mathis, phone 360-596-4017, email wsprules@wsp.wa.gov, by December 26, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Updates to the following chapter are necessary to cleanup and provide clarification to the existing language to ensure the rules reference and comply with current laws in the state of Washington: WAC 204-50-050 and 204-50-070.

Reasons Supporting Proposal: Updates are to provide clarity and consistency in terms used throughout the chapter and cleanup existing language.

Statutory Authority for Adoption: RCW 43.43.395, 43.37.005, and 46.04.215.

Statute Being Implemented: RCW 43.43.395, 43.37.005, and 46.04.215.

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

Name of Proponent: Washington state patrol (WSP), governmental.

Name of Agency Personnel Responsible for Drafting: Kimberly Mathis, Olympia, Washington, 360-596-4017; Implementation and Enforcement: WSP, Ignition Interlock Unit, Seattle, Washington, 206-720-3018.

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

A cost-benefit analysis is not required under RCW 34.05.328. This rule is exempt pursuant to RCW 34.05.328 (5)(b)(v).

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

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute.

November 20, 2018
 John R. Batiste
 Chief

AMENDATORY SECTION (Amending WSR 12-17-153, filed 8/22/12, effective 10/1/12)

WAC 204-50-050 Modifications to a certified ignition interlock device. (1) A manufacturer shall (~~immedi-~~

~~ately~~) notify the impaired driving section, (~~in writing, of~~) not less than thirty calendar days before implementing any material modification of a certified ignition interlock device. A material modification (~~is any addition or reduction in features,~~) includes any software version change (s, configuration profile changes or alteration in the components and/or the) or any addition or reduction in features, components or design of the certified ignition interlock device. (~~Written notification of a material modification may be submitted to the impaired driving section in an electronic format approved by the impaired driving section.~~

~~(2) A manufacturer must resubmit evidence)~~ (2) The notice must be provided in writing on a form provided by the impaired driving section, and must include verification of compliance with all applicable standards as required in WAC 204-50-040 (to the impaired driving section within thirty days of notifying the impaired driving section of a material modification) (2)(b)(ii).

(3) Material modification of a certified ignition interlock device may require device testing as determined by the impaired driving section. If the impaired driving section (will determine if the) determines that the modified device must be submitted for (recertification) testing, the impaired driving section will notify the manufacturer in writing within fifteen calendar days after receipt of the notice of material modification. If device testing is required, the modification shall not be implemented until the device has been tested and approved.

(4) It will be cause for suspension or revocation of the letter of certification if the manufacturer fails to notify the impaired driving section as required in this section or implements a modification while material modification approval is pending.

AMENDATORY SECTION (Amending WSR 12-17-153, filed 8/22/12, effective 10/1/12)

WAC 204-50-070 Variable calibration of an ignition interlock device. (1) To be certified, an ignition interlock device must be capable of being preset(~~by only~~) by the manufacturer(~~at any~~) to a predetermined fail level from .02 (~~through .09 g/210L BrAC~~) to, plus or minus .005 (~~g/210L BrAC~~). The actual setting) BrAC. Unless otherwise mandated by the originating court, the fail level of each ignition interlock device (, unless otherwise mandated by the originating court,) must be (-.025 g/210L) set at .025 BrAC. The capability to change this setting must be made secure(~~g~~) by the manufacturer.

(2) The manufacturer must notify the patrol in writing within seven calendar days of installing an ignition interlock device with a preset fail level other than .025 BrAC.

(3) As used this section, "fail level" means a BrAC of .025 or a level set by the originating court, if lower, at which the ignition interlock device will either prevent the operator from starting the vehicle, or once the vehicle is started, the level below which the operator must record a test to continue operating the vehicle, or both.

WSR 18-23-099
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed November 20, 2018, 2:40 p.m.]

November 19, 2018
Katherine I. Vasquez
Rules Coordinator

Original Notice.

Preproposal statement of inquiry was filed as WSR 18-18-104.

Title of Rule and Other Identifying Information: The department is proposing to amend WAC 388-460-0010 Do I have an authorized representative for basic food if I live in a treatment center or group home?

Hearing Location(s): On December 26, 2018, at 10:00 a.m., at Office Building 2, Department of Social and Health Services (DSHS) Headquarters, 1115 Washington, Olympia, WA 98504. Public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/sesa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2>.

Date of Intended Adoption: Not earlier than December 27, 2018.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAU RulesCoordinator@dshs.wa.gov, fax 360-664-6185, by 5:00 p.m., December 26, 2018.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant, phone 360-664-6092, fax 360-664-6185, TTY 711 relay service, email Kildaja@dshs.wa.gov, by December 12, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Changes proposed under this filing will amend WAC 388-460-0010 to align with changes to federal regulations regarding use of basic food by authorized representatives.

Reasons Supporting Proposal: This change is necessary to comply with changes in federal regulations.

Statutory Authority for Adoption: RCW 74.04.500, 74.04.510, 74.08A.120.

Rule is necessary because of federal law, 7 C.F.R. 273.11 (e) and (f).

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Ezra Paskus, 712 Pear Street S.E., Olympia, WA 98501, 360-725-4611.

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

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

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

Is exempt under RCW 19.85.030.

Explanation of exemptions: The proposed rule does not have an economic impact on small businesses.

AMENDATORY SECTION (Amending WSR 15-16-022, filed 7/24/15, effective 8/24/15)

WAC 388-460-0010 Do I have an authorized representative for basic food if I live in a treatment center or group home? (1) If you live in a qualified developmental disabilities administration (DDA) group home under WAC 388-408-0040, you may choose to apply for basic food benefits:

- (a) On your own behalf;
- (b) Through an authorized representative of your choice;

or

- (c) Through the DDA group home acting as your authorized representative.

(2) If you live in a qualified drug and alcohol treatment center under WAC 388-408-0040, ~~((you must have an employee of the facility as your authorized representative))~~ a designated treatment center employee must apply for your basic food benefits, and the center will act as your authorized representative.

(3) ~~When the ((person acting as authorized representative for residents in a))~~ qualified drug and alcohol treatment facility or qualified DDA group home is your authorized representative, it must:

- (a) Be aware of ~~((the resident's))~~ your circumstances;
- (b) Notify the department of any changes in your income, resources, or circumstances within ten days of the change;

- (c) Use ~~((the resident's))~~ your basic food benefits for meals served to ~~((the resident))~~ you; and

- (d) ~~((Keep enough benefits in the facility's account to transfer one half of a client's monthly allotment to the client's own account. If the client leaves the facility on or before the fifteenth of the month, the facility must return one half of the client's Basic Food allotment for that month))~~ Give you a change in circumstances report form, when the center or group home learns you plan to leave, and advise you to report any changes as required under WAC 388-418-0005 to the department within ten days of the date of change.

(4) When a ~~((facility assigns an employee as the))~~ center or group home is an authorized representative for residents, the facility accepts responsibility for:

- (a) Any misrepresentation or intentional program violation; and

- (b) Liability for basic food benefits held at the facility on behalf of ~~((the resident))~~ residents.

(5) When you leave a facility and the center or group home is your authorized representative, it must:

- (a) Either:

- (i) Return to you a prorated amount of your basic food allotment for that month based on the number of days remaining in the month; or

- (ii) Notify the department, within five days of your departure, that the facility is unable to refund your prorated share;

(b) Notify the department of your change in address, new address if available, and that the facility is no longer your authorized representative; and

(c) Provide you with your electronic benefits transfer (EBT) card within five days of leaving the facility if the facility was in possession of the card; or

(d) Return your EBT card to the department within five days if they are unable to provide it to you.

WSR 18-23-100
PROPOSED RULES
WASHINGTON STATE PATROL

[Filed November 20, 2018, 2:42 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 18-12-019.

Title of Rule and Other Identifying Information: Towing business requirements.

Hearing Location(s): On December 27, 2018, at 11:00 a.m., at 106 11th Avenue S.W., Room G015B, Olympia, WA 98504.

Date of Intended Adoption: December 28, 2018.

Submit Written Comments to: Kimberly Mathis, Rules Coordinator, 106 11th Avenue S.W., Olympia, WA 98504, email wsprules@wsp.wa.gov, by December 28, 2018.

Assistance for Persons with Disabilities: Contact Kimberly Mathis, phone 360-596-4017, email wsprules@wsp.wa.gov, by December 26, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: There is a need to update and clarify the application and qualifications for a letter of appointment in WAC 204-91A-060. Additionally, stakeholders have asked the agency to amend the disqualifications for applicants, partners, corporate officers, and employees.

Reasons Supporting Proposal: Updates are to provide clarity and consistency in terms used throughout the chapter and cleanup existing language.

Statutory Authority for Adoption: RCW 46.37.005, 46.55.050, 46.55.115.

Statute Being Implemented: RCW 46.37.005, 46.55.050, 46.55.115.

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

Name of Proponent: Washington state patrol (WSP), governmental.

Name of Agency Personnel Responsible for Drafting: Kimberly Mathis, Olympia, Washington, 360-596-4017; Implementation and Enforcement: WSP, Olympia, Washington, 360-596-4017.

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

A cost-benefit analysis is not required under RCW 34.05.328. This rule is exempt pursuant to RCW 34.05.328 (5)(b)(v).

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

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute.

November 20, 2018
John R. Batiste
Chief

AMENDATORY SECTION (Amending WSR 14-17-104, filed 8/19/14, effective 9/19/14)

WAC 204-91A-060 Application and qualifications for letter of appointment. (1) An application must be approved and a letter of appointment issued by the patrol before an operator is authorized to provide towing services for the patrol pursuant to this chapter. However, nothing herein prohibits the patrol from calling a towing business upon the specific request of a person responsible for a vehicle or his/her agent.

(2) An application for letter of appointment must be completed by:

Type of business	Who must complete the application
Tow company	Owner/operator
Partnership	Each partner
Corporation	The patrol may require each of the present and subsequent officers, managers, and stakeholders holding 10% or more of the total issued stock to complete an application.

(3) To be issued a letter of appointment, the applicant(s) must:

(a) Complete the application form provided by the patrol; and

(b) Attach to the application a signed "letter of contractual agreement" listing the maximum tow rates to be charged for services resulting from state patrol originated calls; and

(c) Satisfy the requirements contained in WAC 204-91A-070; and

(d) Demonstrate through a letter included with the application that they have at least two years of experience within the towing industry, or be granted a waiver if the owner/operator does not have the required two years experience.

(i) The two years of experience must have been acquired within five years of the date of application. The two years of experience may be satisfied by demonstrating any of the following:

(A) He or she has been a registered tow truck operator for a minimum of two years prior to the date of application with at least one approved "A" or "B" class tow truck, additional trucks are optional, and has a working knowledge of the paperwork requirements for impounds; or

(B) He or she has worked as an employee of a tow company on the state patrol's rotational tow list and gained experience within the towing industry including, but not limited to, the operation of vehicles, complying with the state and

federal standards and regulations, and processing of paperwork for auditing and other purposes; or

(C) He or she will keep in place the existing management team/employees for a minimum of one year upon purchasing the business.

(ii) If the owner/operator does not have the required two years experience, the owner/operator may be granted a waiver of this requirement. If the owner/operator is granted a waiver, the letter of appointment may be granted on a probationary basis for a period of one year from the date of the waiver.

(4) Upon receipt by the patrol of a completed application:

(a) The district office must:

(i) Complete the tow zone portion of the application form. The district commander or designee will enter "approved" or "disapproved" next to the zone designation and sign the application form; and

(ii) Forward the application form to the section.

(b) The section will review the application form to ensure the applicant(s) meet all the requirements as outlined under subsections (5) through (9) of this section. If the application is denied, a letter will be sent to the applicant(s) from the section articulating the reasons for the denial. If the application is approved it will be assigned a docket number which will be its permanent identification number for all matters relating to the application and letter of appointment.

(5) The patrol will refuse to issue or may revoke a letter of appointment or contract if the applicant, partner, corporate officer involved in daily operations, or any employee who operates a tow truck, assists in vehicle auctions, or is involved in daily operations:

(a) Has been convicted of any of the following:

(i) Any class A felony or any "sex offense" as defined in RCW 9.94A.030, regardless of the date of conviction; or

(ii) Any class B felony within the last ten years; or

(iii) Any class C felony within the last five years; or

(iv) A DUI, as defined in chapter 46.61 RCW, two or more times within the last five years; or

(v) Any gross misdemeanor listed in this subsection within the last three years;

(A) Any attempt, conspiracy or solicitation to commit a class C felony as defined in RCW 9A.28.020, 9A.28.030, and 9A.28.040;

(B) Any domestic violence as defined in RCW 10.99.-020;

(C) Assault in the fourth degree as defined in RCW 9A.36.041;

(D) Reckless endangerment as defined in RCW 9A.36.-050;

(E) Coercion as defined in RCW 9A.36.070;

(F) Interfering with reporting domestic violence as defined in RCW 9A.36.150;

(G) Aiming or discharging firearm, dangerous weapon as defined in RCW 9.41.230;

(H) Dangerous weapon as defined in RCW 9.41.250;

(I) Unlawful carrying/handling weapon apparently capable of producing bodily harm as defined in RCW 9.41.270;

(J) Possessing dangerous weapon on school facilities as defined in RCW 9.41.280;

(K) Failure to register as felony firearm offender as defined in RCW 9.41.335;

(L) Any sexual motivation as defined in RCW 9.94A.-835 and 13.40.135;

(M) Failure to report child pornography as defined in RCW 9.68A.080;

(N) Communication with minor for immoral purposes as defined in RCW 9.68A.090;

(O) Permitting commercial sexual abuse of a minor as defined in RCW 9.68A.103;

(P) Sexual misconduct with a minor in the second degree as defined in RCW 9A.44.096;

(Q) Voyeurism as defined in RCW 9A.44.115;

(R) Failure to register as sex offender or kidnapping offender as defined in RCW 9A.44.132;

(S) Custodial sexual misconduct in the second degree as defined in RCW 9A.44.170;

(T) Indecent exposure as defined in RCW 9A.88.010;

(U) Vehicle prowling in the second degree as defined in RCW 9A.52.100;

(V) Making or having burglar tools as defined in RCW 9A.52.060;

(W) Criminal trespass in the first degree as defined in RCW 9A.52.070;

(X) Theft in the third degree as defined in RCW 9A.56.050;

(Y) Making or possessing motor vehicle theft tools as defined in RCW 9A.56.063;

(Z) Theft of rental, leased, lease-purchased, or loaned property as defined in RCW 9A.56.096;

(AA) Possession of stolen property in the third degree as defined in RCW 9A.56.170;

(BB) Obscuring identity of machine as defined in RCW 9A.56.180;

(CC) Criminal impersonation in the second degree as defined in RCW 9A.60.045;

(DD) Unlawful issuance of checks or drafts as defined in RCW 9A.56.060;

(EE) Food stamps—Unlawful sale as defined in RCW 9.91.140;

(FF) Food stamps—Trafficking as defined in RCW 9.91.142;

(GG) Theft of motor vehicle fuel as defined in RCW 46.61.740;

(HH) Driving under the influence as defined in RCW 46.61.502;

(II) Physical control of vehicle under the influence as defined in RCW 46.61.504;

(JJ) Reckless driving as defined in RCW 46.61.500;

(KK) Reckless endangerment of roadway workers as defined in RCW 46.61.527;

(LL) Hit and run attended as defined in RCW 46.52.020;

(MM) Operating railroad, steamboat, vehicle while intoxicated as defined in RCW 9.91.020;

(NN) Operation of personal watercraft in a reckless manner as defined in RCW 79A.60.040;

(OO) Obstructing a law enforcement officer as defined in RCW 9A.76.020;

(PP) Stalking as defined in RCW 9A.46.110;

(QQ) Harassment as defined in RCW 9A.46.020;

(RR) Violation of antiharassment order as defined in RCW 9A.46.040;

(SS) Violation of order restricting contact as defined in RCW 9A.46.080;

(TT) Escape in the third degree as defined in RCW 9A.76.130;

(UU) Rendering criminal assistance in the first degree as defined in RCW 9A.76.070;

(VV) Malicious mischief in the third degree as defined in RCW 9A.48.090;

(WW) Making a false or misleading statement to a public servant as defined in RCW 9A.76.175;

(XX) False reporting as defined in RCW 9A.84.040;

(YY) False swearing as defined in RCW 9A.72.040;

(ZZ) Criminal mistreatment in the third degree as defined in RCW 9A.42.035;

(AAA) Abandonment of a dependent person in the third degree as defined in RCW 9A.42.080;

(BBB) Violation of order as defined in RCW 26.50.110;

(CCC) Jury tampering as defined in RCW 9A.72.140;

(DDD) Tampering with evidence as defined in RCW 9A.72.150;

(EEE) Animal cruelty in the second degree as defined in RCW 16.52.207;

(FFF) Reckless burning in the second degree as defined in RCW 9A.48.050;

(GGG) Any comparable out-of-state, federal or municipal crimes.

(b) Must register as a sex offender or kidnapping offender; or

(c) Has been granted a deferred prosecution under chapter 10.05 RCW for any gross misdemeanor within the last three years.

(6) The patrol may refuse to issue or may revoke a letter of appointment or contract if the applicant, partner, corporate officer involved in daily operations, or any employee who operates a tow truck, assists in vehicle auctions, or is involved in daily operations:

(a) Has been convicted of any misdemeanor listed in this subsection within the last year; or:

(i) Any domestic violence as defined in RCW 10.99.020;

(ii) Alteration of identifying marks as defined in RCW 9A.41.140;

(iii) Any sexual motivation as defined in RCW 9A.94A.835 and 13.40.135;

(iv) Indecent exposure as defined in RCW 9A.88.010;

(v) Permitting prostitution as defined in RCW 9A.88.090;

(vi) Patronizing a prostitute as defined in RCW 9A.88.110;

(vii) Criminal trespass in the second degree as defined in RCW 9A.52.080;

(viii) Food stamps—Unlawful sale as defined in RCW 9.91.140;

(ix) Driver under twenty-one consuming alcohol or marijuana as defined in RCW 46.61.503;

(x) Hit and run unattended as defined in RCW 46.52.010;

(xi) Negligent driving in the first degree as defined in RCW 46.61.5249;

(xii) Escape in the third degree as defined in RCW 9A.76.130;

(xiii) Rendering criminal assistance in the second degree as defined in RCW 9A.76.080;

(xiv) Rendering criminal assistance in the third degree as defined in RCW 9A.76.090;

(xv) Criminal mistreatment in the fourth degree as defined in RCW 9A.42.037;

(xvi) Leaving a child in the care of a sex offender as defined in RCW 9A.42.110;

(xvii) Violation of restraining order or preliminary injunction as defined in RCW 26.44.063;

(xviii) Temporary restraining order restricting visitation for persons accused of sexually or physically abusing a child as defined in RCW 26.44.150;

(xix) Refusing to summon aid for a peace officer as defined in RCW 9A.76.030;

(xx) Resisting arrest as defined in RCW 9A.76.040;

(xxi) Bail jumping as defined in RCW 9A.76.170;

(xxii) Disorderly conduct as defined in RCW 9A.84.030;

and (xxiii) Any comparable out-of-state, federal or municipal crimes.

(b) Has been granted a deferred prosecution under chapter 10.05 RCW for any misdemeanor within the last year.

(7) The patrol may refuse to issue or may revoke a letter of appointment or contract if any applicant, partner or corporate officer involved in daily operations, or any employee who operates a tow truck or assists in vehicle auctions:

(a) Has demonstrated a willful disregard for complying with ordinances, statutes, administrative rules or court orders, whether at the local, state or federal level; or

(b) Fails to demonstrate character and general fitness sufficient to command the confidence of the patrol and warrant a belief that the business will be operated honestly, fairly and efficiently in the conduct of towing, impound, and vehicle auction activities. In determining character and general fitness, the patrol may consider:

(i) Prior contacts with law enforcement; and

(ii) Criminal record; and

(iii) Reputation in the community; and

(iv) Associations.

(8) A misrepresentation of fact found to have been made by an applicant during the application process or by a letter of appointment holder shall be deemed a lack of good faith and shall constitute good and sufficient cause for the denial of an application or the revocation or suspension of the letter of appointment.

(9) Only one application per year to tow on the patrol's rotational tow list will be accepted and considered for an applicant who has had their previous application denied or had their letter or contract of appointment revoked. The year will run from the date of application denial or the date of revocation of the letter of appointment.

(10) The term "conviction" as used in this section will have the same meaning as used in RCW 9.94A.030.

(11) Crimes referenced in this section are as defined in the criminal code as they existed at the time of the violation, as they now exist or may later be amended in the state of Washington. Out-of-state convictions for offenses will be

classified according to the comparable offense definitions and sentences provided by Washington law.

(12) An individual may request to review their record using the form outlined in WAC 446-20-400. The request must be made by the person whose record is sought. When requested by the patrol, other documentation to prove identification must be provided prior to viewing the record. An individual wishing to contest the information contained in their criminal history must do so using the process established in chapter 446-20 WAC.

(13) For the purpose of this chapter, the term daily operations will mean processing:

(a) The acceptance or release of a vehicle under a letter of appointment; or

(b) Transactions for any tow requested under a letter of appointment.

WSR 18-23-107
PROPOSED RULES
CRIMINAL JUSTICE
TRAINING COMMISSION
[Filed November 20, 2018, 4:04 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 18-20-034.

Title of Rule and Other Identifying Information: Chapter 139-09 WAC, Crisis intervention training (CIT).

Hearing Location(s): On Wednesday, March 13, 2019, at 10 a.m., at the Washington Criminal Justice Training Commission (WSCJTC), 19010 1st Avenue South, Room C-121, Burien, WA 98148.

Date of Intended Adoption: March 13, 2019.

Submit Written Comments to: Sonja Peterson, 19010 1st Avenue South, Burien, WA 98148, email speterson@cjtc.state.wa.us, by March 9, 2019.

Assistance for Persons with Disabilities: Contact Sonja Peterson, phone 206-835-7356, TTY 206-835-7300, email speterson@cjtc.state.wa.us, by March 9, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: RCW 43.101.427 requires the commission to establish by rule: A program to certify organizations, other than the commission to provide crisis intervention training as required and standards for the successful completion of the annual two hours of crisis intervention training.

Statutory Authority for Adoption: RCW 43.101.080.

Statute Being Implemented: RCW 43.101.427.

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, Implementation, and Enforcement: Bob Graham, Burien, Washington, 206-835-7302.

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

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

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

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

November 20, 2018

Sonja Peterson

Rules Coordinator

Chapter 139-09 WAC

CRISIS INTERVENTION TRAINING (CIT)

NEW SECTION

WAC 139-09-010 Definitions. For the purposes of this chapter:

(1) The term "crisis intervention training" means training designed to provide tools and resources to Washington state law enforcement personnel in order to respond effectively to individuals who may be experiencing an emotional, mental, physical, behavioral, or chemical dependency crisis, distress or problem and that are designed to increase the safety of both criminal justice personnel and individuals in crisis.

(2) The term "crisis intervention team training" means a forty-hour crisis intervention training and is equivalent in meaning to the enhanced crisis intervention training referenced in RCW 43.101.427(3).

(3) "Peace officer" means any law enforcement personnel subject to the basic law enforcement training requirement of RCW 43.101.200 and any other requirements of that section, notwithstanding any waiver or exemption granted by the commission, and notwithstanding the statutory exemption based on date of initial hire under RCW 43.101.200. Commissioned officers of the Washington state patrol, whether they have been or may be exempted by rule of the commission from the basic training requirement of RCW 43.101.200, are included as peace officers for purposes of this chapter. Fish and wildlife officers with enforcement powers for all criminal laws under RCW 77.15.075 are peace officers for purposes of this chapter.

NEW SECTION

WAC 139-09-020 Requirements of training for law enforcement personnel. (1) The following law enforcement personnel are subject to the requirements of this chapter:

(a) All general authority Washington peace officers;

(b) Reserve peace officers who have completed a reserve academy as per WAC 139-05-810 or 139-05-825; and

(c) Certified tribal police officers as defined in RCW 43.101.157.

(2) Annually, every peace officer must complete the commission's two-hour online crisis intervention course as part of the officer's annual twenty-four-hour in-service training requirement (WAC 139-05-300). Successful completion will include a passing score of eighty percent or higher on the online test given at the conclusion of the training.

(3) Each recruit as part of the basic law enforcement academy or Washington state patrol academy will successfully complete the eight-hour block of crisis intervention training. (RCW 43.101.427)

(4) Every general authority Washington peace officer that did not complete eight-hours of crisis intervention training as part of their basic law enforcement academy or Washington state patrol academy shall complete a training of not less than eight hours and shall be substantially similar in hours and content to the training offered through the basic training academy, or show proof of successful completion of an enhanced CIT program after January 1, 2008. Each attendee of the program shall be required to obtain written proof of completion of the program as provided by rules of the commission. (RCW 43.101.427)

NEW SECTION

WAC 139-09-030 Crisis intervention training—Eight-hour course. (1) Agencies seeking to provide the eight-hour crisis intervention training shall receive a certification from the commission and use commission-certified curricula and instructors.

(2) Agencies must use commission-approved curricula that contains at the minimum the following subject matter:

- (a) Signs and symptoms of common mental health issues encountered by law enforcement personnel;
- (b) Recommended crisis intervention techniques for common behavioral health and substance use disorder issues; and
- (c) Deescalation skills.

NEW SECTION

WAC 139-09-040 Crisis intervention team training—Forty-hour course. (1) Agencies seeking to provide the forty-hour crisis intervention team training shall receive a certification from the commission and use commission-certified curricula and instructors.

(2) Agencies must use commission-approved curricula that contains at the minimum the following subject matter:

- (a) Signs and symptoms of common mental health issues encountered by law enforcement;
- (b) Crisis intervention techniques for common behavioral health and substance use disorder issues;
- (c) Deescalation skills;
- (d) Suicide prevention;
- (e) Elders in crisis;
- (f) Developmental and intellectual disabilities;
- (g) Community resources;
- (h) Interactions with community members with a mental health diagnosis;
- (i) Commonly prescribed psychotropic medications; and
- (j) Mock scenes or other practical exercises for students to demonstrate proficiency.

NEW SECTION

WAC 139-09-060 Exemption, waiver, extension or variance. Any request for exemption, waiver, extension, or

variance from any requirement of this chapter must be made under WAC 139-03-030.

WSR 18-23-110
PROPOSED RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed November 21, 2018, 8:48 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 18-19-042.

Title of Rule and Other Identifying Information: WAC 392-343-019 Definitions—Instructional space.

Hearing Location(s): On January 3, 2019, at 10:00 a.m., at the Office of Superintendent of Public Instruction (OSPI), Old Capitol Building, 600 South Washington Street, Olympia, WA 98501. Those planning to comment during the hearing should arrive by 10:00 a.m. The hearing will be held in the Wanamaker Room.

Date of Intended Adoption: January 8, 2019.

Submit Written Comments to: Scott Black, OSPI, P.O. Box 47200, Olympia, WA 98504-7200, email school facilitiesrules@k12.wa.us, fax 360-586-3946, by January 3, 2019.

Assistance for Persons with Disabilities: Contact Kristin Murphy, phone 360-725-6131, fax 360-753-4201, TTY 360-664-9631, email Kristin.murphy@k12.wa.us, by December 26, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 392-343-019 currently references the American Institute of Architects (AIA) Document D-101, "The Architectural Area and Volume of Buildings," as the standard for calculating gross square feet. However, D-101 does not clearly define how to address vertical shafts and stairwells. This proposed amendment to WAC 392-343-019 would clarify that stairwells and vertical shafts (mechanical shafts, elevator shafts, etc.) shall be counted at each level of a building, excluding unoccupied basements and attics, for the purpose of state funding assistance in the construction of school facilities. The proposed amendment would also clarify that all double or triple height spaces (gyms, commons, etc.) shall be counted only once, at the lowest level of such spaces.

Reasons Supporting Proposal: OSPI is considering the proposed changes to provide for a more consistent process for the gathering of square footage throughout the state.

Statutory Authority for Adoption: RCW 28A.525.020.

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

Name of Agency Personnel Responsible for Drafting and Implementation: Scott Black, OSPI, Old Capitol Building, Olympia, WA 98501, 360-725-6268; and Enforcement: Justin Rogers, OSPI, Old Capitol Building, Olympia, WA 98501, 360-725-6265.

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

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

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

Is exempt under RCW 19.85.030.

Explanation of exemptions: No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed amendment does not have an impact on small business and therefore does not meet the requirements for a statement under RCW 19.85.030 (1) or (2).

November 21, 2018
Chris P. S. Reykdal
State Superintendent
of Public Instruction

~~((a))~~ (i) Is dedicated by the written terms of the grant to joint use by the school district for educational purposes and by the general public for community activities for the useful life of the space(s); and

~~((b))~~ (ii) The school district board of directors has accepted the gift in accordance with the joint use terms of the grant: Provided, That this exception does not apply to space(s) jointly financed by two or more school districts.

~~((1))~~ (k) Facilities that are shared or collocated between multiple school districts pursuant to a written, lawful agreement, and that are jointly used by and/or benefit those school districts.

AMENDATORY SECTION (Amending WSR 12-20-013, filed 9/24/12, effective 10/25/12)

WAC 392-343-019 Definition—Instructional space.

(1) As used in this chapter, the term "instructional space" means the gross amount of square footage calculated in accordance with the *American Institute of Architects, Document D101, The Architectural Area and Volume of Buildings*, latest edition, for a school facility utilized by a school district for the purpose of instructing students(~~(-Provided, That)~~).

(2) The instructional space for multiple-storied space (for example, commons, gymnasiums, cafeterias) shall be counted once at the lowest floor level.

(3) Stairwells, elevator shafts, mechanical shafts, and other vertical shafts shall be counted at one hundred percent at each occupied level.

(4) Open stairs (such as in commons) shall be counted once. Open usable space underneath open stairs shall be counted only where equal to or greater than seven feet in height.

(5) The following areas shall not be included in any calculation of instructional space:

~~((1))~~ (a) Exterior covered walkways, cantilevered or supported.

~~((2))~~ (b) Exterior porches including loading platforms.

~~((3))~~ (c) Areas located above instructional (~~spaces~~) floor levels which are either vacant or primarily housing mechanical and/or electrical equipment.

~~((4))~~ (d) Space used by central administrative personnel.

~~((5))~~ (e) Stadia and grandstands.

~~((6))~~ ~~Bus garages.~~

~~((7))~~ (f) Central district support facilities such as bus garages, operations and maintenance facilities, and facilities dedicated to technology warehouse, repair, and support.

(g) Free-standing or attached district warehouse, food storage space specifically designed for that purpose.

~~((8))~~ (h) Portable facilities.

~~((9))~~ (i) Other square footage not otherwise available or related to direct instruction or instructional support of the education program in the district.

~~((10))~~ (j) The portion(s) of any space(s) constructed from grants made as a gift to a school district by a private entity or a public entity which: