

WSR 16-02-008
PERMANENT RULES
DEPARTMENT OF LICENSING

[Filed December 28, 2015, 8:46 a.m., effective January 28, 2016]

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

Purpose: Amending these rules is necessary to ensure the agency is in compliance with Title XI of the Financial Institutions, Reform, Recovery and Enforcement Act (FIRREA) as amended by the 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act.

All rule changes are approved and recommended to the director by the real estate appraiser commission. These changes update education requirements for all classification levels; implement housekeeping changes recommended by the real estate appraiser commission, and update experience requirements to be consistent with statute.

Citation of Existing Rules Affected by this Order: Amending WAC 308-125-025, 308-125-030, 308-125-040, 308-125-045, 308-125-070, and 308-125-095.

Statutory Authority for Adoption: RCW 18.140.030 (1) and (15).

Adopted under notice filed as WSR 15-22-023 on October 26, 2015.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 6, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 6, Repealed 0.

Date Adopted: December 28, 2015.

Damon Monroe
Rules Coordinator

AMENDATORY SECTION (Amending WSR 13-17-002, filed 8/7/13, effective 9/7/13)

WAC 308-125-025 Application process to register as a real estate appraiser trainee. (1) Anyone who is not a licensed or certified appraiser or a registered appraiser trainee cannot provide assistance that includes analytical work and exercising discernment or discretion that leads to an appraisal conclusion.

(2) As a prerequisite to registration as a registered appraiser trainee, the applicant shall present evidence satisfactory to the director of successful completion within five years of the date of application of the following appraiser qualifications board modules of qualifying core curriculum of approved qualifying education:

(a) Basic appraisal principles, thirty hours.

(b) Basic appraisal procedures, thirty hours.

(c) The National USPAP course or equivalent fifteen hours.

(d) ~~((Effective January 1, 2015,))~~ A course that, at a minimum, complies with the specifications for course content established by the appraiser qualifications board that is oriented toward the expectations for the applicant.

(3) Application for registration as a trainee from persons who have had either a real estate license or real estate appraiser license suspended or revoked shall not be accepted by the department until after the time period of the suspension or revocation has expired.

(4) An applicant for registration as a trainee shall present a completed registration form together with the appropriate fee and copies of core curriculum course completion certificates to the director prior to issuance of the approved trainee registration certificate.

(5) Registration as a trainee may be denied for unprofessional conduct as provided in RCW 18.235.130.

AMENDATORY SECTION (Amending WSR 13-17-002, filed 8/7/13, effective 9/7/13)

WAC 308-125-030 Examination prerequisite general classification. The general real estate appraiser classification applies to the appraisal of all types of real property.

(1) As a prerequisite to taking the examination for certification as a state-certified general real estate appraiser, an applicant shall present evidence satisfactory to the director that he/she has successfully completed not less than three hundred hours in the following core modules:

(a) Basic appraisal principles, thirty hours.

(b) Basic appraisal procedures, thirty hours.

(c) The National USPAP course or equivalent, fifteen hours.

(d) General appraiser market analysis and highest and best use, thirty hours.

(e) Statistics, modeling and finance, fifteen hours.

(f) General appraiser sales comparison approach, thirty hours.

(g) General appraiser site valuation and cost approach, thirty hours.

(h) General appraiser income approach, sixty hours.

(i) General appraiser report writing and case studies, thirty hours.

(j) Appraisal subject matter electives, thirty hours.

(2) Credit towards qualifying education requirements may be obtained via the completion of a degree program in real estate from an accredited degree-granting college or university provided the college or university has had its curriculum reviewed and approved by the appraiser qualifications board.

(3) An original certification as a state-certified general real estate appraiser shall not be issued to any person who does not possess three thousand hours of appraisal experience obtained continuously over a period of not less than thirty months in Washington or in another state having comparable certification requirements.

(4) To fulfill the experience requirement, an applicant must have at least one thousand five hundred hours of nonresidential appraisal experience.

(5) ~~((Effective January 1, 2015,)) Applicants for the certified general license must possess a bachelor's degree or higher in any field of study. ((Through December 31, 2014, applicants for the certified general license must possess a bachelor's degree or higher in any field of study or, in lieu of the required degree, thirty semester credit hours covering the following subject matter courses:~~

- ~~(a) English composition;~~
- ~~(b) Principles of economics (micro and macro);~~
- ~~(c) Finance;~~
- ~~(d) Algebra, geometry or, higher mathematics;~~
- ~~(e) Statistics;~~
- ~~(f) Introduction to computers: Word processing/spread-sheets;~~
- ~~(g) Business or real estate law; and~~
- ~~(h) Two elective courses in accounting, geography, agricultural economics, business management, or real estate; as approved by the appraiser qualifications board and the director, in addition to the required qualifying core curriculum requirements.))~~

AMENDATORY SECTION (Amending WSR 13-17-002, filed 8/7/13, effective 9/7/13)

WAC 308-125-040 Examination prerequisite state-certified residential classification. The state-certified residential real estate appraiser classification applies to appraisals of all types of residential property of one to four units without regard to transaction value or complexity and nonresidential property having a transaction value less than two hundred fifty thousand dollars.

(1) As a prerequisite to taking the examination for certification as a state-certified residential real estate appraiser, an applicant shall present evidence satisfactory to the director that he/she has successfully completed not less than two hundred hours in the following core modules:

- (a) Basic appraisal principles, thirty hours.
- (b) Basic appraisal procedures, thirty hours.
- (c) The National USPAP course or equivalent, fifteen hours.
- (d) Residential market analysis and highest and best use, fifteen hours.
- (e) Residential appraiser site valuation and cost approach, fifteen hours.
- (f) Residential sales comparison and income approaches, thirty hours.
- (g) Residential appraiser report writing and case studies, fifteen hours.
- (h) Statistics, modeling and finance, fifteen hours.
- (i) Advanced residential applications and case studies, fifteen hours.
- (j) Appraisal subject matter electives, twenty hours.

(2) Credit towards qualifying education requirements may be obtained via the completion of a degree program in real estate from an accredited degree-granting college or university provided the college or university has had its curriculum

reviewed and approved by the appraiser qualifications board.

(3) An original certification as a state-certified residential real estate appraiser shall not be issued to any person who does not possess two thousand five hundred hours of appraisal experience obtained continuously over a period of not less than twenty-four months in Washington or in another state having comparable certification requirements.

(4) ~~((Effective January 1, 2015,)) Applicants for the certified residential appraiser license must possess a bachelor's degree or higher in any field of study. ((Through December 31, 2014, certified residential real estate appraiser applicants must possess an associate degree or higher in any field of study or, in lieu of the required degree, twenty-one semester credit hours covering the following subject matter courses:~~

- ~~(a) English composition;~~
 - ~~(b) Principles of economics (micro or macro);~~
 - ~~(c) Finance;~~
 - ~~(d) Algebra, geometry or, higher mathematics;~~
 - ~~(e) Statistics;~~
 - ~~(f) Introduction to computers: Word processing/spread-sheets; and~~
 - ~~(g) Business or real estate law;~~
- ~~as approved by the appraiser qualifications board and the director, in addition to the required core curriculum.))~~

AMENDATORY SECTION (Amending WSR 13-17-002, filed 8/7/13, effective 9/7/13)

WAC 308-125-045 Examination prerequisite state-licensed classification. The state-licensed real estate appraiser classification applies to appraisal of noncomplex one to four residential units having a transaction value less than one million dollars and complex one to four residential units having a transaction value less than two hundred fifty thousand dollars and nonresidential property having a transaction value less than two hundred fifty thousand dollars.

(1) As a prerequisite to taking the examination for certification as a state-licensed real estate appraiser, an applicant shall present evidence satisfactory to the director that he/she has successfully completed not less than one hundred fifty hours in the following core modules:

- (a) Basic appraisal principles, thirty hours.
- (b) Basic appraisal procedures, thirty hours.
- (c) The National USPAP course or equivalent, fifteen hours.
- (d) Residential market analysis and highest and best use, fifteen hours.
- (e) Residential appraiser site valuation and cost approach, fifteen hours.
- (f) Residential sales comparison and income approaches, thirty hours.
- (g) Residential appraiser report writing and case studies, fifteen hours.

(2) Credit toward qualifying education requirements may be obtained via the completion of a degree program in real estate from an accredited degree-granting college or university provided the college or university has had its curriculum reviewed and approved by the appraiser qualifications board.

(3) An original certification as a state-licensed real estate appraiser shall not be issued to any person who does not possess two thousand hours of appraisal experience obtained continuously over a period of not less than twenty-four months in Washington or in another state having comparable certification requirements.

(4) (~~Effective January 1, 2015,)~~ Applicants for the state-licensed real estate appraiser license must possess an (~~associate~~) associate's degree or higher in any field of study, or in lieu of the required degree, thirty semester credit hours of college-level education from an accredited college, junior college, community college, or university.

AMENDATORY SECTION (Amending WSR 13-17-002, filed 8/7/13, effective 9/7/13)

WAC 308-125-070 Experience requirements. (1) A minimum of two years (twenty-four months) full-time experience within five years of application is required for the state licensed and certified residential appraiser. Certified general applicants must accumulate three thousand hours within a minimum of thirty months and a maximum of seven years. However, no more than one thousand five hundred hours may be credited in any consecutive twelve months for any of the licensing categories.

(2) Any work product claimed for experience credit dated January 1, 1990, and later shall conform to the Uniform Standards of Professional Appraisal Practice in effect at the time the appraisal is completed.

(a) Reports shall be in writing.

(b) An appraisal work file must be available to the director to substantiate work performed.

(c) Appraisal experience must have been performed as a licensed or certified appraiser or a registered trainee to qualify.

(3) A registered trainee may gain experience under the supervision of no more than six supervisory appraisers during his/her trainee period.

(4) The department may request appraiser work files to verify, confirm, or compare entries made on the experience log. Failure to provide work files to the department upon its request may disqualify the reports as qualifying experience.

(5) An applicant for certification or license shall certify, under penalty of perjury, the completion of the required experience.

(6) Appraisal work qualifying for appraisal experience includes, but is not limited to, the following: Fee and staff appraisal, ad valorem tax appraisal, appraisal review, appraisal analysis, appraisal consulting, highest and best use analysis, feasibility analysis/study.

(7) The department may require a supervisory appraiser to certify, under penalty of perjury, the applicant's work experience.

(8) The department may request written reports or work files to verify an applicant's experience.

AMENDATORY SECTION (Amending WSR 13-17-002, filed 8/7/13, effective 9/7/13)

WAC 308-125-095 Responsibilities of the appraiser supervisor. (1) A certified real estate appraiser licensed by

the state of Washington may supervise trainees in accordance with the following provisions:

(a) The certified real estate appraiser is in good standing and not subject to any disciplinary action which affects their legal eligibility to engage in appraisal practice within the three years preceding registration to become a supervisory appraiser.

(b) (~~Effective January 1, 2015,)~~ The certified real estate appraiser shall have been certified for a minimum of three years prior to becoming a supervisory appraiser.

(c) (~~Effective January 1, 2015,)~~ The certified real estate appraiser shall have completed a course that, at a minimum, complies with the specification for course content established by the appraiser qualifications board. This course must be completed prior to supervising a registered appraiser trainee.

(d) Not more than three real estate appraiser trainees may be supervised in accordance with the appraiser qualifications board standards unless written authorization by the department is granted to exceed that number of trainees at any one time.

(e) Supervision of trainees in the process of appraising real property shall occur within the boundaries of the state of Washington and comply with jurisdictional and established agreements with other states. If a trainee is supervised by a certified appraiser who is licensed in both the state of Washington and with another state or has a temporary license in another state; and the trainee is registered as a trainee in that other state by either temporary permit, license, or registration, then the appraisal assignments shall qualify as work experience on the experience log.

(f) Authorization to exceed supervision of three trainees may be granted by the director upon approval of a written request and under the provisions of subsection (2) of this section.

(g) A registered real estate appraiser trainee may assist in the completion of an appraisal report, including determination of an opinion of value and may sign the appraisal report, provided that he/she is actively and personally supervised by a state-certified real estate appraiser, and provided that the appraisal report is reviewed and signed by the state-certified real estate appraiser; and provided the state-certified appraiser accepts total responsibility for the appraisal report.

(h) The certified appraiser shall:

(i) Personally inspect with the trainee, at a minimum, the interior of twenty-five subject properties, or until the supervisory appraiser considers the trainee competent.

(ii) Personally review and verify each appraisal report prepared by the trainee as entered on the trainee experience log as qualifying work experience prior to the log being submitted to the department by the supervised trainee. The trainee shall be entitled to obtain copies of the appraisal reports in which the trainee provided appraisal assistance.

(iii) Personally review and verify each appraisal report prepared by a state licensed or certified residential appraiser as entered on the qualifying work experience log prior to the log being submitted to the department by the licensee. The state licensed or certified residential appraiser shall be entitled to obtain copies of the appraisal reports in which the state licensed and certified residential appraiser provided appraisal assistance.

(iv) Comply with all USPAP requirements.

(v) Maintain a separate "properties inspected with trainee" log for each supervised trainee. This log must be made available to the department upon request and is to be submitted with trainee's application for license or certification.

(vi) Register with the department as a supervisory appraiser and include the names of the registered real estate appraiser trainees being supervised. Registration must be five business days prior to the start of supervision. The supervisory appraiser shall notify the department when they are no longer a supervisory appraiser of a trainee, with such notice including the name, address, and registration number of the registered trainee.

(2) Authorization may be granted by the director to a certified appraiser to exceed the number of trainees allowed to be supervised providing:

(a) The certified appraiser has more than five years certified experience.

(b) The certified appraiser shall make a written application to the department requesting to supervise not more than three trainees with less than one year experience; and three trainees with more than one year experience; and five trainees with greater than two years experience. The total number of supervised trainees shall not exceed eight for all experience levels at any one time.

(c) The certified appraiser shall prepare and maintain trainee progress reports and make them available to the department until such time as the trainee becomes certified or licensed or after two years has lapsed since supervising the trainee.

(d) The certified appraiser shall provide to the department a mentoring plan for consideration prior to the department authorizing supervision of more than three trainees.

WSR 16-02-028

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed December 29, 2015, 3:05 p.m., effective February 1, 2016]

Effective Date of Rule: February 1, 2016.

Purpose: The department is amending WAC 388-400-0010 Who is eligible for state family assistance?, to allow state family assistance to be issued in certain situations to two-parent families that are otherwise eligible for temporary assistance for needy families. This change will not impact services or benefits to clients.

This change will help improve the state's work participation rate and reduce, or eliminate, the penalty imposed on the state for not meeting the federal participation rate set by the administration for children and families.

Citation of Existing Rules Affected by this Order: Amending WAC 388-400-0010.

Statutory Authority for Adoption: RCW 74.04.050, 74.08.283, 74.08.090, and 74.04.057.

Adopted under notice filed as WSR 15-23-073 on November 16, 2015.

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

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

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

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

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

Date Adopted: December 29, 2015.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 14-10-046, filed 4/30/14, effective 6/1/14)

WAC 388-400-0010 Who is eligible for state family assistance? (1) To be eligible for state family assistance (SFA), aliens must meet Washington state residency requirements as listed in WAC 388-468-0005 and immigrant eligibility requirements as listed in WAC 388-424-0015.

(2) You are eligible for SFA if you are not eligible for temporary assistance for needy families (TANF) for the following reasons:

(a) You are a qualified alien and have been in the United States for less than five years as described in WAC 388-424-0006;

(b) You are a nonqualified alien as defined in WAC 388-424-0001, who meets the Washington state residency requirements as listed in WAC 388-468-0005;

(c) You are a nineteen or twenty-year-old student that meets the education requirements of WAC 388-404-0005;

(d) You are a caretaker relative of a nineteen or twenty-year-old student that meets the education requirements of WAC 388-404-0005; or

(e) You are a pregnant woman who has been convicted of misrepresenting their residence in order to receive benefits from two or more states at the same time.

(3) You and the other TANF eligible members of your assistance unit may receive, at the department's discretion, SFA rather than TANF if:

(a) You are otherwise eligible for TANF as a parent; and

(b) Another parent in your assistance unit is eligible for TANF or SFA; and

(c) One of the following conditions exists:

(i) You or the other parent in your assistance unit is pregnant; or

(ii) Your assistance unit includes a child under twelve months of age.

(4) If you apply for SFA, have not received SFA within the past thirty days, and will be a mandatory WorkFirst par-

participant as described in WAC 388-310-0200 once approved, you must complete a WorkFirst orientation before we approve your application.

WSR 16-02-032
PERMANENT RULES
DEPARTMENT OF LICENSING

[Filed December 29, 2015, 3:54 p.m., effective January 29, 2016]

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

Purpose: Update the personalized plate configuration restrictions and make technical corrections in WAC 308-96A-065 and 308-96A-550.

Citation of Existing Rules Affected by this Order: Amending WAC 308-96A-065 and 308-96A-550.

Statutory Authority for Adoption: RCW 46.01.110, 46.18.020.

Adopted under notice filed as WSR 15-21-073 on October 20, 2015.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

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

Date Adopted: December 29, 2015.

Damon Monroe
Rules Coordinator

AMENDATORY SECTION (Amending WSR 15-10-005, filed 4/22/15, effective 5/23/15)

WAC 308-96A-065 Personalized license plates. (1) **What is a personalized license plate?** Personalized license plates are plates reflecting the registered owner's chosen format or designation and are limited to those described in RCW 46.04.385 and 46.18.275.

(2) **Are there any restrictions on the use of letters and numbers on personalized license plates?** Personalized license plates may be issued with one to seven characters. Motorcycles and motorcycle trailers can have up to six characters. The letters "I" and "O" and the numbers "1" (one) and "0" (zero) may not be issued as single-digit plates.

(3) **When may the department deny an application for or cancel personalized plates?**

(a) The department may deny an application for personalized license plates or cancel personalized license plates previously issued if it determines the plate configuration to be:

- (i) Offensive to good taste and decency;
- (ii) Potentially misleading;
- (iii) Vulgar, profane, or sexually suggestive in nature;
- (iv) A racial, ethnic, lifestyle, or gender slur;
- (v) Related to ~~((alcohol or to))~~ intoxicating substances or illegal activities ((or substances));
- (vi) ~~((Blasphemous;~~
- ~~((vii)))~~ Derogatory;
- ~~((viii)))~~ (vii) Slanderous;
- ~~((ix)))~~ (viii) A duplication of license plate or decal numbers provided in chapter 46.09, 46.10 or 46.16A RCW; or
- ~~((x)))~~ (ix) The personalized message appears to replicate the standard configuration for a special license plate; or
- ~~((xi)))~~ (x) Contrary to the department's mission to promote highway safety.

(b) If the personalized license plates are canceled due to one or more reasons specified in subsection (3) of this section, the vehicle owner may:

(i) Apply for a refund for the fee paid under RCW 46.17.210 and 46.68.435 for such license plates; or

(ii) Instead of a refund, apply for and upon approval be issued personalized license plates with a different configuration without payment of additional personalized license plate fees.

(c) The department may cancel personalized license plates if they are:

(i) Not renewed by the owner within forty-five days of the vehicle expiration; or

(ii) Removed from a vehicle and not transferred to a replacement vehicle within thirty days; or

(iii) Transferred to a new owner who does not make proper application for the plates within twenty-five days.

(4) What special plates cannot be personalized?

(a) Medal of honor;

(b) Horseless carriage;

(c) Restored;

(d) Collector vehicle;

(e) Ham and Mars license plates;

(f) Former prisoner of war;

(g) Pearl Harbor survivor;

(h) Disabled veteran;

(i) Exempt license plates.

(5) If my registration for personalized license plates has elapsed, how do I get them reinstated or reissued?

(a) If you are an owner of a personalized license plate and do not renew it within forty-five days, you must reapply and pay the original personalized license plate fee in order to reinstate the plate.

(b) If you purchase a vehicle with a personalized plate and do not transfer the ownership of the personalized plate within twenty-five days, you forfeit ownership of the plate. The department will make that personalized plate available to the first applicant for that plate configuration.

(c) If you are the owner of a personalized license plate who does not transfer the plate as described in (b) of this subsection, you must reapply and pay the original personalized license plate fee in order to reinstate the plate.

(6) **Can I transfer my personalized license plate?** Yes, if you are the owner(s) of a vehicle with personalized license plates and sell, trade, or otherwise transfer ownership of the

vehicle, you may transfer the plates to another vehicle within thirty days; (the personalized license plates may be transferred at any vehicle licensing office or through a vehicle dealer if the owner wishes to transfer a plate to a dealer-purchased vehicle) or transfer the plates to a new owner. If the plates are transferred to a new owner, the current owner must provide the new owner with a notarized or certified release of interest for the plates. The new owner must make application to the department within twenty-five days, including payment of the original personalized license plate fee.

(7) How do I dispose of my personalized vehicle license plates?

(a) You may turn the plates in to the department with a notarized release of interest from the owner(s) relinquishing the right to that personalized license plate configuration; or

(b) If your vehicle has personalized license plates and is sold to a wrecker or you accept a total loss claim from your insurance company and you choose not to retain the salvage, you must either transfer the plates to another vehicle within thirty days or turn the plates in to the department with a notarized release of interest from all registered owner(s) relinquishing the right to that personalized license plate.

Note: If the license plate has been reported as stolen or if the department record indicates the vehicle has been stolen, the same number and letter combination will not be issued.

AMENDATORY SECTION (Amending WSR 15-10-005, filed 4/22/15, effective 5/23/15)

WAC 308-96A-550 Vehicle special collegiate license plates. (1) **What are the criteria for establishing collegiate license plates?** Application for license plate series from an institution of higher education under RCW 46.18.225 may be submitted to the department through the process established in RCW 46.18.100 and 46.18.110. In addition the following criteria must be satisfied:

(a) The plates will consist of numbers, letters, colors, and a symbol or artwork approved by the department.

(b) The numbers and letters combination may not exceed seven positions.

(c) The plate series will not conflict with existing license plates.

(d) The plate design must provide at least four positions to accommodate serial numbering.

(e) The plate must not carry connotations which are offensive to good taste or decency, which may be misleading or vulgar in nature, a racial, ethnic, lifestyle, or gender slur, related to intoxicating substances or illegal activities (~~or substances, blasphemous~~), contrary to the department's mission to promote highway safety, or a duplication of other license plates provided in chapter 46.16A RCW.

(f) The plate must be designed so that it is legible and clearly identifiable by law enforcement personnel as an official Washington state issued license plate. A collegiate license plate design may not be issued in combination with any other license plate configuration including special, personalized, or exempt license plate(s). A collegiate license plate design may be issued in combination with a personalized plate as described in RCW 46.18.277.

(2) **How is the design for a collegiate plate determined?** The institution of higher education must provide a design, including color and dimension specifications of the logo requested on the special collegiate license plate series, with their application. Design services may be purchased through the department. The design must be legible and clearly identifiable as a Washington state plate to be approved by the department, Washington state patrol, and the legislature.

(3) **Who may apply for the special collegiate license plate?** Upon receipt of all applicable fees, the special collegiate license plate will be issued to a registered owner of the vehicle.

(4) **When ownership of a vehicle issued collegiate license plates is sold, traded, or otherwise transferred, what happens to the plates?** The owner may relinquish the plates to the new vehicle owner or remove the plates from the vehicle for transfer to a replacement vehicle. If the plates are removed from the vehicle, a transfer fee to another vehicle shall be charged as provided in RCW 46.17.200(1).

(5) **Will any new fees be charged when the collegiate license plates are sold, traded, or otherwise transferred?** If the registration expiration date for the new vehicle exceeds the old vehicle registration expiration date, an abated fee for the collegiate plate will be charged at the rate of one-twelfth of the annual collegiate plate fee for each exceeding month and partial month. If the new registration expiration date is sooner than the old expiration date, a refund will not be made for the remaining registration period.

(6) **Will I be able to retain my current collegiate license plate number and letter combination if my plate is lost, defaced, or destroyed?** Yes. Upon the loss, defacement, or destruction of one or both collegiate license plates, the owner will make application for new collegiate plates or other license plates and pay the fees described in RCW 46.17.200 as applicable. See note following subsection (8) of this section.

(7) **How does the department define "current license plate registration"?** For the purposes of this section, a current license plate registration is defined as: A registration that has not expired or a registration where it is less than one year past the expiration date.

(8) **When I am required to replace my collegiate license plate, will I receive the same license plate number and letter combination?** Yes. In addition to the license plate replacement fee, you may pay an additional plate retention fee to retain the same number and letter combination as shown on the current vehicle computer record as long as the plate meets a current approved license plate configuration and background.

WSR 16-02-033

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed December 29, 2015, 4:04 p.m., effective January 29, 2016]

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

Purpose: The department will amend chapter 308-20 WAC to ensure we are meeting current safety and sanitation

requirements regarding public safety. Also, the department will restructure the cosmetology salon shop license fee when cosmetology and permanent cosmetic services are offered at the same location to reduce the burden to small business. The department has received numerous requests from stakeholders to have the existing safety and sanitation procedures updated and amended for clarity, intent, and statutory authority. The proposed rule amendments are supported by industry.

SHB 1063 was passed during the 2015 legislative session giving the department authority to make changes to chapter 308-20 WAC. The department will amend chapter 308-20 WAC to:

- Implement the new hair design license;
- Allow an instructor-trainee to submit documentation that provides evidence of experience as a licensed cosmetologist, hair designer, barber, manicurist, esthetician, or master esthetician for competency evaluation toward credit of not more than three hundred hours of instructor training; and
- Define online learning.

Citation of Existing Rules Affected by this Order: Amending WAC 308-20-010, 308-20-055, 308-20-080, 308-20-090, 308-20-110, and 308-20-210.

Statutory Authority for Adoption: RCW 18.16.030, 43.24.023, 43.24.086.

Adopted under notice filed as WSR 15-21-015 on October 12, 2015, and WSR 15-21-072 on October 20, 2015.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 4, Repealed 0.

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Date Adopted: December 29, 2015.

Damon Monroe
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AMENDATORY SECTION (Amending WSR 10-06-092, filed 3/2/10, effective 4/2/10)

WAC 308-20-010 Definitions. (1) "Chemical compounds formulated for professional use only" are those compounds containing hazardous chemicals in a form not generally sold to the public; including but not limited to, bulk concentrates of permanent wave solution, neutralizers, chemical relaxers, oxidizing agents, flammable substances, facial creams, or approved chemical compounds. These compounds

must be designated for use on the hair, face, neck, skin, or scalp.

(2) "Monthly student report" are forms provided by the school, approved by the department, preprinted with the school name. The report must include the month, year and daily activities of the student in each subject, (i.e., number of shampoos, haircuts, perms, colors, etc.) within each course (i.e., barbering, manicuring, cosmetology, hair design, esthetics, master esthetics, or instructor-trainee).

(3) "Completed and graduated" is the completion of the school curriculum and the state approved minimum hourly course of training.

(4) "Apprentice salon/shop" is a location certified by the Washington state apprenticeship and training committee, that provides training for individuals accepted into the apprenticeship program. Apprentice salon/shops shall not receive payment from the apprentice for training.

(5) "Apprentice trainer" is a person that is currently licensed and in good standing. This person provides training in a licensed shop approved for the apprenticeship program, who must have received journey level training and have held a license in the curriculum for which he or she is providing training for a minimum of three years.

(6) "Journey level training" is the completion of three years working as a licensed cosmetologist, hair designer, barber, manicurist ((~~or~~)), esthetician, or master esthetician.

(7) "Completion of the apprenticeship training" is the completion of the apprentice salon/shop curriculum that includes the state approved hourly course of training as described in WAC 308-20-080.

(8) "Monthly apprentice report" forms provided by the apprentice shop, approved by the department, printed with the shop name, for use in recording apprentice training hours and activities.

(9) "Online training" means an approved electronic learning environment through a licensed school in which a student is enrolled. This training is limited to theory only. Online training may be used for up to twenty-five percent of the approved course of study.

AMENDATORY SECTION (Amending WSR 13-24-042, filed 11/26/13, effective 1/1/14)

WAC 308-20-055 Apprentice records. (1) Apprentice salon/shops shall collect and record monthly and final apprentice training records. These reports described in WAC 308-20-010(8) shall contain the cumulative number of hours the apprentice has earned in each area of the minimum instruction guidelines and the number of times an apprentice performs an activity. Records shall include the month, year, and daily activities of the apprentice in each subject.

(2) Copies of each apprentice's records shall be kept on file at the apprentice salon shop for the duration of training for each apprentice and provided to the apprentice and the apprenticeship program at the end of each month of training.

(3) Monthly and final apprentice records shall be signed by the apprentice trainer (~~(and shop owner)~~). The apprentice salon/shop shall notify the department of persons authorized to sign the apprentice's records on forms provided by the department.

(4) The apprenticeship program shall certify that an apprentice has satisfied the minimum instruction guidelines required in the standards of the apprenticeship program as described in WAC 308-20-080 at the time the final hours are reported to the department.

(5) The apprentice records shall be maintained by the shop during the training and by the Washington state apprenticeship and training committee for three years once training is completed. The apprentice records shall include documentation of apprentice training.

AMENDATORY SECTION (Amending WSR 13-24-042, filed 11/26/13, effective 1/1/14)

WAC 308-20-080 Minimum instruction guidelines for cosmetology, hair design, barbering, manicuring ~~((and))~~, esthetics and master esthetics training. The minimum instruction guidelines for training required for a student or apprentice to be eligible to take the license examination for the following professions shall include:

- (1) For cosmetology:
- (a) Theory of the practice of cosmetology including business practices and basic human anatomy and physiology;
- (b) At least 100 hours of skills in the application of manicuring and pedicuring services;
- (c) At least 100 hours of skills in the application of esthetics services;
- (d) Shampooing including draping, brushing, scalp manipulations, conditioning and rinsing;
- (e) Scalp and hair analysis;
- (f) Hair cutting and trimming including scissors, razor, thinning shears and clippers;
- (g) Hair styling including wet, dry and thermal styling, braiding and styling aids;
- (h) Cutting and trimming of facial hair including beard and mustache design and eyebrow, ear and nose hair trimming;
- (i) Artificial hair;
- (j) Permanent waving including sectioning, wrapping, preperm test curl, solution application, processing test curl, neutralizing and removal of chemicals;
- (k) Chemical relaxing including sectioning, strand test, relaxer application, and removal of chemicals;
- (l) Hair coloring and bleaching including predisposition test and strand test, and measurement, mixing, application and removal of chemicals;
- (m) ~~((Sanitizing))~~ Cleaning and disinfecting of individual work stations, individual equipment and tools and proper use and storage of linens;
- (n) Diseases and disorders of the scalp, hair, skin and nails;
- (o) Safety including proper use and storage of chemicals, implements and electrical appliances;
- (p) First aid as it relates to cosmetology; and
- (q) ~~((No more than twenty-five percent of skills training using mannequins.~~
- ~~(2))~~ Not all training may be on mannequins.
- (2) For hair design:
- (a) Theory of the practice of hair design including business practices and basic human anatomy and physiology;

(b) Shampooing including draping, brushing, scalp manipulations, conditioning and rinsing;

(c) Scalp and hair analysis;

(d) Hair cutting and trimming including scissors, razor, thinning shears and clippers;

(e) Hair styling including wet, dry and thermal styling, braiding and styling aids;

(f) Cutting and trimming of facial hair including beard and mustache design and eyebrow, ear and nose hair trimming;

(g) Artificial hair;

(h) Permanent waving including sectioning, wrapping, preperm test curl, solution application, processing test curl, neutralizing and removal of chemicals;

(i) Chemical relaxing including sectioning, strand test, relaxer application, and removal of chemicals;

(j) Hair coloring and bleaching including predisposition test and strand test, and measurement, mixing, application and removal of chemicals;

(k) Cleaning and disinfecting of individual work stations, individual equipment and tools and proper use and storage of linens;

(l) Diseases and disorders of the scalp and hair;

(m) Safety including proper use and storage of chemicals, implements and electrical appliances;

(n) First aid as it relates to hair design; and

(o) Not all training may be on mannequins.

(3) For barbering:

(a) Theory of the practice of barbering services and business practices and basic human anatomy and physiology;

(b) Shampooing including draping, brushing, scalp manipulations, conditioning and rinsing;

(c) Scalp and hair analysis;

(d) Hair cutting and trimming including scissors, razor, thinning shears and clippers;

(e) Hair styling, wet, dry and thermal styling and styling aids;

(f) Cutting and trimming of facial hair including shaving, beard and mustache design and eyebrow, ear and nose hair trimming;

(g) Artificial hair;

~~((Sanitizing))~~ Cleaning and disinfecting of individual work stations, individual equipment and tools and proper use and storage of linens;

(i) Diseases and disorders of the skin, scalp and hair;

(j) Safety including proper use of implements and electrical appliances;

(k) First aid as it relates to barbering; and

~~((No more than twenty-five percent of skills training using mannequins.~~

~~(3))~~ Not all training may be on mannequins.

(4) For manicuring:

(a) Theory of the practice of manicuring and pedicuring services ~~((and))~~, business practices and basic human anatomy and physiology;

(b) Artificial nails including silk, linen, fiberglass, acrylic, gel, powder, extensions and sculpting, preparation, application, finish and removal;

(c) Cleaning, shaping and polishing of nails of the hands and feet and treatment of cuticles;

(d) ~~((Sanitizing))~~ Cleaning and disinfecting of individual work station, individual equipment and tools and proper use and storage of linens;

(e) Diseases and disorders of the nails of the hands and feet;

(f) Safety including proper use and storage of chemicals, implements and electrical appliances;

(g) First aid as it relates to manicuring and pedicuring; and

(h) ~~((No more than twenty-five percent of skills training using mannequins-~~

~~(4)))~~ Not all training may be on mannequins.

~~(5)~~ For esthetics:

Theory in the practice of esthetics services ~~((and))~~, business practices and basic human anatomy and physiology (750 hours):

(a) Care of the skin compresses, massage, facials, wraps, masks, exfoliation, use of electrical or mechanical appliances or chemical compounds;

(b) Temporary removal of superfluous hair of the skin by means including tweezing, waxing, tape, chemicals, lotions, creams, sugaring, threading, mechanical or electrical apparatus and appliances;

(c) ~~((Sanitizing))~~ Cleaning and disinfecting of individual work stations, individual equipment and tools and proper use and storage of linens;

(d) Diseases and disorders of the skin ~~((of the face, neck and hands));~~

(e) Safety including proper use and storage of chemicals, implements and electrical appliances;

(f) First aid as it relates to esthetics; and

(g) ~~((No more than twenty-five percent of skills training using mannequins-~~

~~(5)))~~ Not all training may be on mannequins.

~~(6)~~ Master esthetics (450 additional hours):

Theory in the practice of master esthetics ~~((and))~~, business practices ~~((includes))~~, and basic human anatomy and physiology including all of subsection (4) of this section and the following:

~~((a))~~ ~~((Exfoliation and medical esthetic procedures;~~

~~(b)))~~ Laser, light frequency, radio frequency, ultrasound, and plasma practices;

~~((c))~~ ~~((b))~~ Medium depth chemical peels;

~~((d))~~ ~~((c))~~ Advanced client assessment, documentation, indications/contraindications;

~~((e))~~ ~~((d))~~ Pretreatment and post-treatment procedures;

~~((f))~~ ~~((e))~~ Lymphatic drainage and advanced facial massage;

~~((g))~~ ~~((f))~~ Advanced diseases and disorders of the skin; and

~~((h))~~ ~~((g))~~ Advanced theories; alternative, touch, and spa body treatments.

(7) Online training curriculums must be approved by the department.

AMENDATORY SECTION (Amending WSR 13-24-042, filed 11/26/13, effective 1/1/14)

WAC 308-20-090 Student credit for training in a licensed school. (1) A maximum of twenty students per instructor is required within a licensed school.

(2) Only those hours of instruction a student is given under the direction of a licensed instructor of the licensed school in which the student is enrolled and in the courses listed in WAC 308-20-080 and 308-20-105 or hours earned under WAC 308-20-091 shall be credited toward completion of the course of study required in RCW 18.16.100.

(3) When all of a school's requirements have been met by a student and within thirty days of a student leaving a school, the school shall provide to the student a certified copy of the student's final report and refer the student for examination(s) in a manner and format prescribed by the department.

(4) Students may transfer between the schools and apprenticeship salon/shops licensed under chapter 18.16 RCW and may receive credit toward completion of the curriculum in the new school or apprenticeship salon/shop. In order to enroll a transfer student or apprentice, the new school or apprentice salon/shop shall do the following:

(a) Confirm that the student is available for transfer through the student registration process in a manner and format prescribed by the department;

(b) Evaluate the certified final student report provided by the student or apprentice and compare the report with the new school or apprentice salon/shop curriculum requirements; and

(c) The new school or apprentice salon/shop may accept or reject the final student or apprentice report in part or in total from the previous school or salon/shop and shall prepare a monthly report that documents the amount of instructions being accepted.

(5) Both the transferring and receiving school or salon/shop shall maintain student or apprentice records including the transfer record as required in WAC 308-20-040(4).

(6) Licensed instructors must be physically present where the students are training with the exception of approved online theory training.

(7) Certified training hours expire three years after the last day of attendance. Any hours earned by a student that are more than three years old are considered by the department to be expired and will not be considered valid towards initial licensure.

(8) Documentation providing evidence of experience as a licensed cosmetologist, hair designer, barber, manicurist, esthetician or master esthetician credited towards instructor training shall be included in the student record as required in WAC 308-20-040(4).

AMENDATORY SECTION (Amending WSR 13-24-042, filed 11/26/13, effective 1/1/14)

WAC 308-20-110 Minimum safety and sanitation standards for schools, cosmetologists, manicurists, estheticians, master estheticians, barbers, instructors, salons/shops, mobile units and personal services. Every licensee shall maintain the following safety and sanitation

standards. In addition, school instructors and apprentice trainers must assure persons training in a school or apprentice salon/shop will adhere to the following safety, sanitation and disinfection standards:

(1) Requirements and standards.

(a) All locations where chemical services are provided to clients must have a dispensing sink with hot and cold running water. Dispensing sinks are used for mixing chemicals, and disinfecting supplies, tools, equipment, and other materials. Dispensing sinks must be labeled "not for public use."

(b) On-site laundry facilities must be maintained in ~~((a sanitary))~~ clean condition.

(c) Single-use hand soap and disposable or single-use hand-drying towels for customers must be provided.

(d) Use of bar soap or a common towel is prohibited.

(e) A licensee~~((s))~~ must not perform or continue services on a client with ~~((visible parasites, open wounds, or signs of infection. If the licensee has reason to believe or observes that the client has a contagious condition such as head lice, nits, ringworm, an open wound or sore or signs of infection in the area to be serviced, the licensee must:~~

~~((i) Stop services immediately in a safe manner;~~

~~((ii) Inform the client of the reason the service was stopped;~~

~~((iii) Sanitize and disinfect all affected tools, work, and waiting areas.~~

~~((f) A licensee who has a contagious disease, visible parasite, or open wound of a nature that may be transmitted, must not perform services on a client until the licensee takes medically approved measures to prevent transmission of the disease.))~~ visible open sores, inflamed skin, rash, or parasitic infestations.

(f) No licensee who knowingly has open sores, or who is exhibiting symptoms of an infectious or contagious disease or a disorder of the skin or a parasitic infestation shall provide services in cosmetology, manicuring, barbering, esthetics, or master esthetics while the licensee has the above mentioned symptoms.

If a licensee or a client has exhibited the symptoms mentioned in (e) and (f) of this subsection, the area in which the affected individual received or provided services, and all equipment and implements that could have possibly been touched by that individual shall be cleaned and disinfected, including the work and waiting areas.

(g) All liquids, creams, and other cosmetic preparations including paraffin wax and depilatory wax must be kept in clean and closed containers.

(h) All bottles and containers must be distinctly and correctly labeled to disclose their contents. All bottles and containers containing poisonous substances must be additionally and distinctly marked as such.

(i) Items subject to possible cross contamination such as liquids, creams and lotions, cosmetic preparations and chemicals including paraffin wax and depilatory wax must be dispensed in a way that does not contaminate the remaining portion by using a disposable, or sanitized and disinfected applicator. Applicators shall not be redipped in product. Liquids must be dispensed with a squeeze bottle ~~((or))~~ pump, or spray. Any product that ~~((becomes contaminated))~~ cannot be

disinfected that comes in contact with the client shall be discarded after use on that particular client.

(j) Pencil cosmetics must be sharpened before each use. ~~((Sanitize))~~ Clean and disinfect or dispose of the sharpener after service on each client.

(k) A licensee must thoroughly wash his or her hands with soap and warm water or any equally effective cleansing agent immediately before providing services to each client, before checking a student's work on a client, or after smoking, eating, or using the restroom.

(l) A client's skin upon which services will be performed must be washed with soap and warm water or wiped and/or sprayed with antiseptic or waterless hand cleanser approved for use on skin before a service ~~((on the hands and feet))~~.

(m) After service on each client, hair and nail clippings must immediately be placed in a closed covered waste container.

(2) Articles in contact with a client.

(a) A neck strip or towel must be placed around the client's neck to prevent direct contact between a multiple use haircloth or cape and the client's skin, and must be in place during entire service.

(b) All items, which come in direct contact with the client's skin that do not require disinfecting, must be ~~((sanitized, including reusable gloves))~~ discarded after each use.

(3) Materials in contact with a client.

(a) Paraffin wax and depilatory wax must be covered in a manner to prevent contamination except during the waxing service, and maintained at a temperature specified by the manufacturer's ~~((instructions))~~ directions.

(b) Paraffin wax and depilatory wax must be dispensed in a way that does not contaminate the remaining portion by using one of the following methods:

(i) Use a new spatula each time wax is removed from the pot;

(ii) Apply wax directly onto a disposable strip;

(iii) Use one dedicated spatula to remove wax from the pot, and then spread the wax with a second spatula. The first spatula should never come in contact with either the client's skin or the second spatula; or

(iv) Separate a quantity of wax from the main wax pot to use on a single client; this quantity should be placed in a small single-use container. Double-dipping is allowed ~~((as long as the remaining wax is not reused between clients. Once the waxing procedure is complete, any remaining wax, as well as the single-use container, must be discarded))~~ from a single client-use container.

(c) All used wax that has been in contact with a client's skin shall not be reused under any circumstances and shall be disposed of immediately after each use.

(d) All wax pots shall be cleaned and disinfected according to manufacturer's ~~((recommendations))~~ directions. No applicators shall be left standing in wax at any time.

(4) Chemical use and storage.

(a) When administering services to a client that involve the use of chemicals or chemical compounds, all licensees must follow safety procedures according to manufacturer's ~~((instructions))~~ directions or ~~((material))~~ safety data sheets ~~((MSDSs))~~ (SDSs), to prevent injury to the client's person or clothing.

(b) Salon shops, personal service, mobile units and schools shall have in the immediate working area access to all ~~((material))~~ safety data sheets ~~((MSDSs))~~ (SDSs) provided by manufacturers for any chemical products used.

(c) Flammable chemicals must be stored away from potential sources of ignition.

(d) Chemicals which could interact in a hazardous manner such as oxidizers, catalysts, and solvents, must be stored per manufacturer's instruction.

(e) Licensees using chemicals or chemical compounds ~~((in))~~ when providing services to clients must store the chemicals so as to prevent fire, explosion, or bodily harm. All chemicals must be stored in accordance with the manufacturer's directions.

(5) Refuse and waste material.

(a) All waste must be deposited in a covered waste disposal container. Containers located in the reception or office area, which do not contain waste relating to the performance of services, are exempt from having covers.

(b) All chemical, flammable, toxic or otherwise harmful waste material must be disposed of in the manner required by local hazardous waste management regulations.

(c) All waste containers must be emptied when full ~~((and at the end of each day and be kept clean by sanitizing or using plastic liners. Outer))~~. Surfaces of waste disposal containers must be kept clean.

(d) Any disposable sharp objects that come in contact with blood or other body fluids must be disposed of in a sealable rigid (puncture proof) labeled container that is strong enough to protect the licensee, client and others from accidental cuts or puncture wounds that could happen during the disposal process.

(e) Licensees must have sealable rigid containers available for use at all times services are being performed.

(6) Sanitation/disinfecting. Environmental Protection Agency (EPA) approved disinfectants are indicated by their registration number on the product label. The product's manufacturer's directions for use shall always be followed.

(a) All tools and implements must be ~~((sanitized))~~ cleaned and disinfected or disposed of after service on each client. Tools and implements not approved for disinfection and reuse under manufacturers' specifications must be given to the client or discarded after service on each client. These tools and implements include, but are not limited to: Nail files, cosmetic make-up sponges, buffer blocks, sanding bands, toe separators or sleeves, orangewood sticks, and disposable nail bits. Presence of used articles in the work area will be considered prima facie evidence of reuse.

(b) When used according to the manufacturer's ~~((instructions))~~ directions, each of the following is an approved method of disinfecting tools and implements after they are cleaned of debris:

(i) Complete immersion or spray with an EPA-registered ~~((hospital grade))~~ disinfectant solution of the object(s) or portion(s) thereof to be disinfected; or

(ii) Steam sterilizer, registered and listed with the U.S. Food and Drug Administration; or

(iii) Dry heat sterilizer, registered and listed with the U.S. Food and Drug Administration, or Canadian certification.

(c) All ~~((sanitized))~~ cleaned and disinfected tools and implements must be stored in a closed nonairtight container or UV sterilizer. UV sterilizers shall be used only for clean storage of already ~~((sanitized))~~ cleaned and disinfected tools and implements.

(d) All disinfecting solutions and/or agents must be kept at manufacturer recommended strengths to maintain effectiveness, be free from foreign material and be available for immediate use at all times the location is open for business and changed daily.

(e) All articles, which come in direct contact with the client's skin that cannot be ~~((sanitized))~~ cleaned and disinfected, must be disposed of in a waste receptacle immediately after service on each client. Presence of these articles in the work area will be considered prima facie evidence of reuse.

(f) Disposable protective gloves must be disposed of after service on each client.

(7) Disinfecting nonelectrical tools and implements.

(a) All tools and implements used within a field of practice must be ~~((sanitized))~~ cleaned and disinfected after service on each client in the following order:

(i) **Remove** all hair and/or foreign material;

(ii) ~~((Sanitize))~~ **Clean** thoroughly with soap or detergent and water;

(iii) **Rinse** thoroughly with clear, clean water; and

(iv) **Disinfect** with an EPA-registered ~~((hospital grade))~~ disinfectant with demonstrated bactericidal, fungicidal, and virucidal activity, used according to manufacturer's ~~((instructions))~~ directions or in a steam sterilizer or dry heat sterilizer under subsection (6)(b)(ii) and (iii) of this section.

(b) Tools and implements without sharp edges or points, including but not limited to combs, brushes, rollers, rods, etc., must be totally immersed in an EPA registered ~~((hospital grade))~~ disinfectant according to manufacturer's ~~((instructions))~~ directions.

(c) Clips or other tools and instruments must not be placed in mouths, pockets or unsanitized holders.

(d) A client's personal tools and instruments must not be used in the establishment except when prescribed by a physician.

(8) Disinfecting electrical tools and implements. Electrical tools and implements must be disinfected after service on each client in the following order:

(a) Remove hair and/or foreign matter;

(b) Disinfect with an EPA ~~((hospital grade))~~ disinfectant specifically made for electrical tools and implements.

(9) Storage of tools and implements.

(a) New and/or ~~((sanitized))~~ cleaned and disinfected tools and implements must be stored separately from all other items.

(b) Used tools and implements must be stored in a labeled drawer or container at the work station.

(c) Roller storage receptacles and contents must be ~~((sanitized))~~ cleaned and disinfected and free of foreign material.

(d) Storage cabinets, work stations and storage drawers for ~~((sanitized))~~ cleaned and disinfected tools and implements must be ~~((clean))~~ free of debris and used only for ~~((sanitized))~~ cleaned and disinfected tools and implements.

(10) Cleaning and disinfecting foot spas.

(a) As used in this section, "foot spa" or "spa" is defined as any basin using circulating water.

(b) After each client:

(i) **Drain** the water from the foot spa basin and remove any visible debris;

(ii) **Clean** the surfaces of the foot spa with soap or detergent, rinse with clean water and drain;

(iii) **Disinfect** the surface with an EPA registered (~~hospital grade~~) disinfectant according to the manufacturer's directions on the label. Surfaces must remain wet with disinfectant for ten minutes or the time stated on the label.

(c) Nightly:

(i) For whirlpool foot spas, air-jet basins, "pipeless" foot spas and other circulating spas:

(A) **Drain** the water from the foot spa basin or bowl and remove any visible debris.

(B) **Clean** the surfaces of the foot spa with soap or detergent, rinse with clean water and drain.

(C) **Disinfect** - Fill the basin with clean water, adding the appropriate amount of EPA registered (~~hospital grade~~) disinfectant. Turn the unit on to circulate the disinfectant for the entire contact time according to the manufacturer's directions on the label.

(D) **Drain and rinse** the basin with clean water and allow to air dry.

(ii) For foot spas with filter screens, inlet jets and other removable parts that require special attention during the disinfecting process.

(A) **Drain** the water from the foot spa basin and remove any visible debris.

(B) **Remove** the filter screen, inlet jets and all other removable parts from the basin and clean out any debris trapped behind or in them.

(C) **Scrub** the removable parts using a brush and soap or detergent.

(D) **Rinse** the removed parts with clean water and replace them in the basin.

(E) **Clean** the surfaces of the foot spa with soap or detergent, rinse with clean water and drain.

(F) **Disinfect** - Fill the basin with clean water, adding the appropriate amount of EPA registered (~~hospital grade~~) disinfectant. Turn the unit on to circulate the disinfectant for the entire contact time according to the manufacturer's directions on the label.

(G) **Drain and rinse** the basin with clean water and allow to air dry.

(d) ~~(Weekly: Once per week after the nightly cleaning and disinfecting as provided in (c) of this subsection, each foot spa must be cleaned and disinfected in the following order:~~

(i) ~~Fill~~ the spa basin completely with water and one teaspoon of 5.25% bleach for each gallon of water, or a solution of sodium hypochlorite of approximately 50 ppm used according to manufacturer's instructions.

(ii) ~~Flush~~ the spa system with the bleach and water solution or sodium hypochlorite solution for five to ten minutes and allow to sit for six to ten hours.

(iii) ~~Drain~~ the spa system and flush with water before service on a client.

~~(e))~~ A record must be made of the date and time of each cleaning and disinfecting as required by (c) and (d) of this subsection ~~(, and indicate whether the cleaning was a daily or weekly cleaning)~~. This record must be made at the time of cleaning and disinfecting. Cleaning and disinfecting records must be made available upon request by either a client or a department representative.

~~((f))~~ (e) For simple basins and reusable liners (no circulation):

(i) **Drain** the basin and remove any visible debris.

(ii) **Scrub** the basin with a clean brush and soap or detergent following manufacturer's ~~(instructions)~~ directions.

(iii) **Rinse** the basin with clean water and drain.

(iv) **Disinfect** basin surfaces with an EPA registered (~~hospital grade~~) disinfectant following manufacturer's ~~(instructions)~~ directions. Surfaces must remain wet with disinfectant for ten minutes or the contact time stated on the label.

(v) **Drain and rinse** the basin with clean water and allow to **air dry**.

(11) Headrests, shampoo bowls, and treatment tables.

(a) The headrest of chairs must be ~~(sanitized)~~ cleaned and disinfected after service on each client.

(b) Shampoo trays and bowls must be ~~(sanitized)~~ cleaned and disinfected after each shampoo, kept in good repair and in a ~~(sanitary)~~ clean condition at all times.

(c) All treatment tables must be ~~(sanitized)~~ cleaned, disinfected and covered with ~~(sanitary)~~ clean linens or examination paper, which must be changed after each service on a client.

(12) **Walls, floors, and ceilings.** Walls, floors, and ceilings must be ~~(sanitized)~~ cleaned and disinfected as necessary and kept clean and free of excessive spots, mildew, condensation, or peeling paint.

~~(13) Towels (or linens. Clean towels or linens must be used for each client in cosmetology, esthetics, manicuring and barbering services. Towels and linens must be sanitized and disinfected by washing with hot water, laundry detergent and chlorine bleach used according to manufacturer's instructions for disinfection purposes), linens, capes and robes. No towels, linens, capes, or robes shall be used more than once without proper laundering as described in this section.~~

(14) All towels, linens, capes, robes, and similar items shall be laundered in a washing machine with laundry detergent and chlorine bleach used according to manufacturer's directions for disinfecting purposes. A closed dustproof cabinet with solid sides and a top shall be provided for cleaned towels, linens, capes and robes. A hamper with solid sides or a receptacle that is closed and ventilated shall be provided for all soiled cloth towels, linens, capes and robes and never left overnight.

~~((14))~~ (15) **Prohibited hazardous substances - Use of products.** No establishment or school may have on the premises cosmetic products containing hazardous substances which have been banned by the U.S. Food and Drug Administration for use in cosmetic products. Use of 100% liquid methyl methacrylate monomer and methylene chloride products are prohibited. No product must be used in a manner that is disapproved by the U.S. Food and Drug Administration.

~~((15))~~ **(16) Prohibited instruments or practices.** Any razor-edged tool, which is designed to remove calluses.

~~((16))~~ **(17) Blood spills.** If there is a blood spill or exposure to other body fluids during a service, licensees and students must stop and proceed in the following order:

- (a) Stop service;
- (b) Put on gloves;
- (c) Clean the wound with an antiseptic solution;
- (d) Cover the wound with a sterile bandage;
- (e) If the wound is on a licensee hand in an area that can be covered by a glove or finger cover, the licensee must wear a clean, fluid proof protective glove or finger cover. If the wound is on the client, the licensee providing service to the client must wear gloves on both hands;

(f) Discard all contaminated objects. Contaminated objects shall be placed in a sealed plastic bag (~~labeled "bio-hazard"~~) and that bag must be placed inside another plastic bag and discarded;

(g) All equipment, tools and instruments that have come into contact with blood or other body fluids must be (~~sani-tized~~) cleaned and disinfected or discarded;

- (h) Remove gloves; and
- (i) Wash hands with soap and water before returning to the service.

~~((17))~~ **(18) First-aid kit.** The establishment must have a first-aid kit that contains at a minimum:

- Small bandages;
- Gauze;
- Antiseptic; and
- A blood spill kit that contains:
 - Disposable bags;
 - Gloves(~~and~~ ~~Biohazard labels~~).

~~((18))~~ **(19) Restroom.**

(a) All locations must have a restroom available. The restroom must be located on the premises or in adjoining premises, which is reasonably accessible.

(b) All restrooms located on the premises must be kept clean(~~, sanitary~~) and in proper working order at all times.

AMENDATORY SECTION (Amending WSR 13-24-042, filed 11/26/13, effective 1/1/14)

WAC 308-20-210 Fees. In addition to any third-party examinations fees, the following fees shall be charged by the professional licensing division of the department of licens-ing:

Title of Fee	Fee
Cosmetologist:	
License application	\$25.00
Reciprocity license	50.00
Renewal (two-year license)	55.00
Late renewal penalty	55.00
Duplicate license	15.00
Hair design:	
<u>License application</u>	<u>25.00</u>
<u>Reciprocity license</u>	<u>50.00</u>

Title of Fee	Fee
<u>Renewal (two-year license)</u>	<u>55.00</u>
<u>Late renewal penalty</u>	<u>55.00</u>
<u>Duplicate license</u>	<u>15.00</u>
Instructor:	
License application	25.00
Reciprocity license	50.00
Renewal (two-year license)	55.00
Late renewal penalty	55.00
Duplicate license	15.00
Manicurist:	
License application	25.00
Reciprocity license	50.00
Renewal (two-year license)	55.00
Late renewal penalty	55.00
Duplicate	15.00
Esthetician:	
License application	25.00
Reciprocity license	50.00
Renewal (two-year license)	55.00
Late renewal penalty	55.00
Duplicate	15.00
Master esthetician:	
License application	25.00
Reciprocity license	50.00
Renewal (two-year license)	55.00
Late renewal penalty	55.00
Duplicate license	15.00
Barber:	
License application	25.00
Reciprocity license	50.00
Renewal (two-year license)	55.00
Late renewal penalty	55.00
Duplicate license	15.00
School:	
License application	300.00
Renewal (one-year license)	300.00
Late renewal penalty	175.00
Duplicate	15.00
Salon/shop:	
License application	110.00
<u>*Reduced license application (permanent cosmetics)</u>	<u>15.00</u>
Renewal (one-year license)	110.00

Title of Fee	Fee
<u>*Reduced renewal (permanent cosmetics)</u>	<u>15.00</u>
Late renewal penalty	50.00
Duplicate license	15.00
Mobile unit:	
License application	110.00
<u>*Reduced license application (permanent cosmetics)</u>	<u>15.00</u>
Renewal (one-year license)	110.00
<u>*Reduced renewal (permanent cosmetics)</u>	<u>15.00</u>
Late renewal penalty	50.00
Duplicate license	15.00
Personal services:	
License application	110.00
<u>*Reduced license application (permanent cosmetics)</u>	<u>15.00</u>
Renewal (one-year license)	110.00
<u>*Reduced renewal (permanent cosmetics)</u>	<u>15.00</u>
Late renewal penalty	50.00
Duplicate license	15.00

* If you have an individual artist license and an artist shop location license to practice permanent cosmetics under chapter 18.300 RCW, and an operator license under chapter 18.16 RCW you may qualify for a reduction of the license fee for your salon shop license if it is at the same location as your artist shop location license.

**WSR 16-02-034
PERMANENT RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION**

[Filed December 29, 2015, 4:41 p.m., effective January 29, 2016]

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

Purpose: The purpose of these amendments to the state special education regulations is to implement changes made to chapter 28A.155 RCW and RCW 28A.600.485 under SHB 1240 (2015). SHB 1240 prohibits the planned use of aversive interventions, and prohibits schools from physically restraining or isolating any student except when the student's behavior poses an imminent likelihood of serious harm to that student or another person. As a result of SHB 1240, and taking into account comments received on or before November 12, 2015, regarding WSR 15-20-068, the office of superintendent of public instruction has repealed regulations regarding the use of aversive interventions, added definitions consistent with SHB 1240, and added rules specifying the limited circumstances and conditions in which isolation, restraint and restraint devices may be used. In addition, WAC 392-172A-05125(4) regarding student placement when an administrative law judge orders a change in placement as a result of a hearing decision, has been amended so that WAC 392-172A-05125(4) is consistent with federal law.

Citation of Existing Rules Affected by this Order: Repealing WAC 392-172A-03120, 392-172A-03125, 392-172A-03130 and 392-172A-03135; and amending WAC 392-172A-03090, 392-172A-03110, 392-172A-05110, and 392-172A-05125.

Statutory Authority for Adoption: RCW 28A.155.090.

Other Authority: 42 U.S.C. 1400 et seq.; 34 C.F.R. Part 300.

Adopted under notice filed as WSR 15-20-068 on October 2, 2015.

Changes Other than Editing from Proposed to Adopted Version: Language and processes were clarified for readability and to assist with consistent implementation. Some language was added or amended after public comment to clarify responsibilities under federal and state special education laws. Some sections were rearranged, and new sections were added to provide definitions consistent with SHB 1240 and establish an emergency response protocol (WAC 392-172A-02105).

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 1, Repealed 0; or Recently Enacted State Statutes: New 3, Amended 2, Repealed 0.

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

Number of Sections Adopted on the Agency's Own Initiative: New 7, Amended 1, Repealed 0.

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

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

Date Adopted: December 29, 2015.

Randy Dorn
State Superintendent
of Public Instruction

NEW SECTION

WAC 392-172A-01031 Behavioral intervention plan.

A behavioral intervention plan is a plan incorporated into a student's IEP if determined necessary by the IEP team for the student to receive FAPE. The behavioral intervention plan, at a minimum, describes:

(1) The pattern of behavior(s) that impedes the student's learning or the learning of others;

(2) The instructional and/or environmental conditions or circumstances that contribute to the pattern of behavior(s) being addressed by the IEP team;

(3) The positive behavioral interventions and supports to:

(a) Reduce the pattern of behavior(s) that impedes the student's learning or the learning of others and increases the desired prosocial behaviors;

(b) Ensure the consistency of the implementation of the positive behavioral interventions across the student's school-sponsored instruction or activities;

(4) The skills that will be taught and monitored as alternatives to challenging behavior(s) for a specific pattern of behavior of the student.

NEW SECTION

WAC 392-172A-01092 Imminent. Imminent as defined in RCW 70.96B.010 means: The state or condition of being likely to occur at any moment or near at hand, rather than distant or remote.

NEW SECTION

WAC 392-172A-01107 Isolation. Isolation as defined in RCW 28A.600.485 means: Restricting the student alone within a room or any other form of enclosure, from which the student may not leave. It does not include a student's voluntary use of a quiet space for self-calming, or temporary removal of a student from his or her regular instructional area to an unlocked area for purposes of carrying out an appropriate positive behavior intervention plan.

NEW SECTION

WAC 392-172A-01109 Likelihood of serious harm. Likelihood of serious harm as defined in RCW 70.96B.010 means:

- (1) A substantial risk that:
 - (a) Physical harm will be inflicted by a person upon his or her own person, as evidenced by threats or attempts to commit suicide, or inflict physical harm on oneself;
 - (b) Physical harm will be inflicted by a person upon another, as evidenced by behavior that has caused such harm or that places another person or persons in reasonable fear of sustaining such harm; or
 - (c) Physical harm will be inflicted by a person upon the property of others, as evidenced by behavior that has caused substantial loss or damage to the property of others; or
- (2) The person has threatened the physical safety of another and has a history of one or more violent acts.

NEW SECTION

WAC 392-172A-01142 Positive behavioral interventions. Positive behavioral interventions are strategies and instruction that can be implemented in a systematic manner in order to provide alternatives to challenging behaviors, reinforce desired behaviors, and reduce or eliminate the frequency and severity of challenging behaviors. Positive behavioral interventions include the consideration of environmental factors that may trigger challenging behaviors and teaching a student the skills to manage his or her own behavior.

NEW SECTION

WAC 392-172A-01162 Restraint. Restraint as defined in RCW 28A.600.485 means: Physical intervention or force used to control a student, including the use of a restraint device to restrict a student's freedom of movement. It does not include appropriate use of a prescribed medical, orthopedic,

or therapeutic device when used as intended, such as to achieve proper body position, balance, or alignment, or to permit a student to participate in activities safely.

NEW SECTION

WAC 392-172A-01163 Restraint device. Restraint device as defined in RCW 28A.600.485 means: A device used to assist in controlling a student including, but not limited to, metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, pepper spray, tasers, or batons. This section shall not be construed as encouraging the use of these devices. A restraint device does not include a seat harness used to transport a student safely or other safety devices, including safety belts for wheelchairs, changing tables, booster seats, and other ambulatory or therapeutic devices when used for the purpose intended for the safety of a student.

NEW SECTION

WAC 392-172A-02076 Prohibited practices. (1) School district personnel are prohibited from using aversive interventions with a student eligible for special education, and are prohibited from physically restraining or isolating any student, except when the student's behavior poses an imminent likelihood of serious harm as defined in WAC 392-172A-01092 and 392-172A-01109.

(2) There are certain practices that are manifestly inappropriate by reason of their offensive nature or their potential negative physical consequences, or their illegality. The purpose of this section is to prohibit the use of certain practices with students eligible for special education as follows:

(a) Electric current. No student may be stimulated by contact with electric current including, but not limited to, tasers.

(b) Food services. A student who is willing to consume subsistence food or liquid when the food or liquid is customarily served must not be denied or subjected to an unreasonable delay in the provision of the food or liquid.

(c)(i) Force and restraint in general. A district must not use force or restraint that is either unreasonable under the circumstances or deemed to be an unreasonable form of corporal punishment as a matter of state law. See RCW 9A.16.100, which prohibits the following uses of force or restraint including:

- (A) Throwing, kicking, burning, or cutting a student.
- (B) Striking a student with a closed fist.
- (C) Shaking a student under age three.
- (D) Interfering with a student's breathing.
- (E) Threatening a student with a deadly weapon.
- (F) Doing any other act that is likely to cause bodily harm to a student greater than transient pain or minor temporary marks.

(ii) The statutory listing of worst case uses of force or restraint described in this subsection may not be read as implying that all unlisted uses (e.g., shaking a four year old) are permissible. Whether or not an unlisted use of force or restraint is permissible depends upon such considerations as the balance of these rules, and whether the use is reasonable under the circumstances.

(d) Hygiene care. A student must not be denied or subjected to an unreasonable delay in the provision of common hygiene care.

(e) Isolation. A student must not be excluded from his or her regular instructional or service area and isolated within a room or any other form of enclosure, except under the conditions set forth in WAC 392-172A-02110.

(f) Medication. A student must not be denied or subjected to an unreasonable delay in the provision of medication.

(g) Noise. A student must not be forced to listen to noise or sound that the student finds painful.

(h) Noxious sprays. A student must not be forced to smell or be sprayed in the face with a noxious or potentially harmful substance.

(i) Physical restraints. A student must not be physically restrained or immobilized by binding or otherwise attaching the student's limbs together or by binding or otherwise attaching any part of the student's body to an object, except under the conditions set forth in WAC 392-172A-02110.

(j) Taste treatment. A student must not be forced to taste or ingest a substance which is not commonly consumed or which is not commonly consumed in its existing form or concentration.

(k) Water treatment. A student's head must not be partially or wholly submerged in water or any other liquid.

NEW SECTION

WAC 392-172A-02105 Emergency response protocols. (1) If the parent and the school district determine that a student requires advanced educational planning, the parent and the district may develop emergency response protocols to be used in the case of emergencies that pose an imminent likelihood of serious harm, as defined in this section. Emergency response protocols, if developed, must be incorporated into a student's IEP. Emergency response protocols shall not be used as a substitute for the systematic use of a behavioral intervention plan that is designed to change, replace, modify, or eliminate a targeted behavior. Emergency response protocols are subject to the conditions and limitations as follows:

(a) The student's parent provides consent, as defined in WAC 392-172A-01040, in advance, to the emergency response protocols to be adopted;

(b) The emergency response protocols specify:

(i) The emergency conditions under which isolation, restraint, or restraint devices, if any, may be used;

(ii) The type of isolation, restraint, and/or restraint device, if any, that may be used;

(iii) The staff members or contracted positions permitted to use isolation, restraint, or restraint devices with the student, updated annually, and identify any required training associated with the use of isolation, restraint, or restraint device for each staff member or contracted position;

(iv) Any other special precautions that must be taken.

(c) Any use of isolation, restraint, and/or restraint device must be discontinued as soon as the likelihood of serious harm has dissipated.

(d) Any staff member or other adults using isolation, restraint, or a restraint device must be trained and certified by

a qualified provider in the use of isolation, restraint, or a restraint device.

(2) School districts must follow the documentation and reporting requirements for any use of isolation, restraint, or restraint device consistent with RCW 28A.600.485, regardless of whether the use of isolation, restraint, or restraint device is included in the student's emergency response protocols.

(3) Nothing in this section is intended to limit the application of a school district's policy developed under RCW 28A.600.485 to protect the general safety of students and staff from an imminent likelihood of serious harm.

(4) Nothing in this section is intended to limit the provision of a free and appropriate public education under Part B of the federal Individuals with Disabilities Education Act or Section 504 of the federal Rehabilitation Act of 1973.

NEW SECTION

WAC 392-172A-02110 Isolation and restraint—Conditions. Any use of isolation, restraint, and/or restraint device shall be used only when a student's behavior poses an imminent likelihood of serious harm. The limited use of isolation, restraint, or restraint device not prohibited in WAC 392-172A-02076 is conditioned upon compliance with the following procedural and substantive safeguards:

(1) Isolation. The use of isolation as defined by RCW 28A.600.485 is subject to each of the following conditions:

(a) The isolation must be discontinued as soon as the likelihood of serious harm has dissipated.

(b) The isolation enclosure shall be ventilated, lighted, and temperature controlled from inside or outside for purposes of human occupancy.

(c) The isolation enclosure shall permit continuous visual monitoring of the student from outside the enclosure.

(d) An adult responsible for supervising the student shall remain in visual or auditory range of the student at all times.

(e) Either the student shall be capable of releasing himself or herself from the enclosure, or the student shall continuously remain within view of an adult responsible for supervising the student.

(f) Any staff member or other adults using isolation must be trained and certified by a qualified provider in the use of isolation, or otherwise available in the case of an emergency when trained personnel are not immediately available due to the unforeseeable nature of the emergency.

(2) Restraint. The use of restraint as defined by RCW 28A.600.485 is subject to each of the following conditions:

(a) The restraint must be discontinued as soon as the likelihood of serious harm has dissipated.

(b) The restraint shall not interfere with the student's breathing.

(c) Any staff member or other adults using a restraint must be trained and certified by a qualified provider in the use of such restraints, or otherwise available in the case of an emergency when trained personnel are not immediately available due to the unforeseeable nature of the emergency.

(3) Restraint device. The use of a restraint device as defined by RCW 28A.600.485 is subject to each of the following conditions:

(a) The restraint device must be discontinued as soon as the likelihood of serious harm has dissipated.

(b) The restraint device shall not interfere with the student's breathing.

(c) Either the student shall be capable of releasing himself or herself from the restraint device or the student shall continuously remain within view of an adult responsible for supervising the student.

(d) Any staff member or other adults using a restraint device must be trained and certified by a qualified provider in the use of such restraint devices, or otherwise available in the case of an emergency when trained personnel are not immediately available due to the unforeseeable nature of the emergency.

(4) School districts must follow the documentation and reporting requirements for any use of isolation, restraint, or restraint device consistent with RCW 28A.600.485.

AMENDATORY SECTION (Amending WSR 07-14-078, filed 6/29/07, effective 7/30/07)

WAC 392-172A-03090 Definition of individualized education program. (1) The term IEP means a written statement for each student eligible for special education that is developed, reviewed, and revised in a meeting in accordance with WAC 392-172A-03095 through 392-172A-03100, and that must include:

(a) A statement of the student's present levels of academic achievement and functional performance, including:

(i) How the student's disability affects the student's involvement and progress in the general education curriculum (the same curriculum as for nondisabled students); or

(ii) For preschool children, as appropriate, how the disability affects the child's participation in appropriate activities;

(b)(i) A statement of measurable annual goals, including academic and functional goals designed to:

(A) Meet the student's needs that result from the student's disability to enable the student to be involved in and make progress in the general education curriculum; and

(B) Meet each of the student's other educational needs that result from the student's disability; and

(ii) For students who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives;

(c) A description of:

(i) How the district will measure the student's progress toward meeting the annual goals described in (b) of this subsection; and

(ii) When the district will provide periodic reports on the progress the student is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards);

(d) A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the student, or on behalf of the student, and a statement of the program modifications or supports for school personnel that will be provided to enable the student:

(i) To advance appropriately toward attaining the annual goals;

(ii) To be involved in and make progress in the general education curriculum, and to participate in extracurricular and other nonacademic activities; and

(iii) To be educated and participate with other students including nondisabled students in the activities described in this section;

(e) An explanation of the extent, if any, to which the student will not participate with nondisabled students in the general education classroom and extracurricular and nonacademic activities;

(f)(i) A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the student on state and ~~((districtwide))~~ district-wide assessments; and

(ii) If the IEP team determines that the student must take an alternate assessment instead of a particular regular state or ~~((districtwide))~~ district-wide assessment of student achievement, a statement of why:

(A) The student cannot participate in the regular assessment; and

(B) The particular alternate assessment selected is appropriate for the student;

(g) Extended school year services, if determined necessary by the IEP team for the student to receive FAPE.

~~(h) ((Aversive interventions, if any, required for the student.~~

~~(i)) Behavioral intervention plan, if determined necessary by the IEP team for the student to receive FAPE.~~

~~(i) Emergency response protocols, if determined necessary by the IEP team for the student to receive FAPE, and the parent provides consent, as defined in WAC 392-172A-01040.~~

~~(j) The projected date for the beginning of the services and modifications described in (d) of this subsection, and the anticipated frequency, location, and duration of those services and modifications.~~

~~((k)) (k) Beginning not later than the first IEP to be in effect when the student turns sixteen, or younger if determined appropriate by the IEP team, and updated annually, thereafter, the IEP must include:~~

~~(i) Appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and~~

~~(ii) The transition services including courses of study needed to assist the student in reaching those goals.~~

~~((l)) (l) Transfer of rights at age of majority. Beginning not later than one year before the student reaches the age of eighteen, the IEP must include a statement that the student has been informed of the student's rights under the act, if any, that will transfer to the student on reaching the age of majority.~~

~~(m) The school district's procedures for notifying a parent regarding the use of isolation, restraint, or a restraint device as required by RCW 28A.155.210.~~

(2) Construction. Nothing in this section shall be construed to require:

(a) Additional information be included in a student's IEP beyond what is explicitly required by the federal regulations implementing the act or by state law; or

(b) The IEP team to include information under one component of a student's IEP that is already contained under another component of the student's IEP.

AMENDATORY SECTION (Amending WSR 07-14-078, filed 6/29/07, effective 7/30/07)

WAC 392-172A-03110 Development, review, and revision of IEP. (1) In developing each student's IEP, the IEP team must consider:

- (a) The strengths of the student;
- (b) The concerns of the parents for enhancing the education of their student;
- (c) The results of the initial or most recent evaluation of the student; and
- (d) The academic, developmental, and functional needs of the student.

(2)(a) When considering special factors unique to a student, the IEP team must:

(i) Consider the use of positive behavioral interventions and supports, ~~((and other strategies;))~~ to address behavior, in the case of a student whose behavior impedes the student's learning or that of others; and

(ii) Consider the language needs of the student as those needs relate to the student's IEP, for a student with limited English proficiency;

(iii) In the case of a student who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP team determines, after an evaluation of the student's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the student's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the student;

(iv) Consider the communication needs of the student, and in the case of a student who is deaf or hard of hearing, consider the student's language and communication needs, opportunities for direct communications with peers and professional personnel in the student's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the student's language and communication mode; and

(v) Consider whether the student needs assistive technology devices and services.

(b) A general education teacher of a student eligible for special education, as a member of the IEP team, must, to the extent appropriate, participate in the development of the student's IEP, including the determination of:

(i) Appropriate positive behavioral interventions and supports ~~((and other strategies;))~~ for the student; and

(ii) Supplementary aids and services, program modifications, and support for school personnel consistent with WAC 392-172A-01185.

(c) After the annual IEP team meeting for a school year, the parent of a student eligible for special education and the school district may agree not to convene an IEP team meeting for the purposes of making changes to the IEP, and instead

may develop a written document to amend or modify the student's current IEP. If changes are made to the student's IEP the school district must ensure that the student's IEP team is informed of those changes and that other providers responsible for implementing the IEP are informed of any changes that affect their responsibility to the student, consistent with WAC 392-172A-03105(3).

(d) Changes to the IEP may be made either by the entire IEP team at an IEP team meeting, or as provided in (c) of this subsection, by amending the IEP rather than by redrafting the entire IEP. Upon request, a parent must be provided with a revised copy of the IEP with the amendments incorporated.

(e) To the extent possible, the school districts must encourage the consolidation of reevaluation meetings and other IEP team meetings for the student.

(3) Each public agency must ensure that, subject to subsections (4) and (5) of this section the IEP team:

(a) Reviews the student's IEP periodically, but not less than annually, to determine whether the annual goals for the student are being achieved; and

(b) Revises the IEP, as appropriate, to address:

(i) Any lack of expected progress toward the annual goals described in WAC 392-172A-03090 (1)(b) and in the general education curriculum, if appropriate;

(ii) The results of any reevaluations;

(iii) Information about the student provided to, or by, the parents, as described under WAC 392-172A-03025;

(iv) The student's anticipated needs; or

(v) Other matters.

(4) In conducting a review of the student's IEP, the IEP team must consider the special factors described in subsection (2)(a) of this section. ~~((In the case of a student whose behavior continues to impede the progress of the student or others despite the use of positive behavioral support strategies: Consider the need for aversive interventions only as a last resort, if positive behavior supports have been used in accordance with the student's IEP, the use of positive behavior supports has been documented to be ineffective, and the IEP team, consistent with WAC 392-172A-03120 through 392-172A-03135 determines that an aversive intervention plan is necessary for the student.))~~

(5) A general education teacher of the student, as a member of the IEP team, must, consistent with subsection (2)(b) of this section, participate in the review and revision of the IEP of the student.

(6)(a) If a participating agency, other than the school district, fails to provide the transition services described in the IEP in accordance with WAC 392-172A-03090 (1)(j), the school district must reconvene the IEP team to identify alternative strategies to meet the transition objectives for the student set out in the IEP.

(b) Nothing in this chapter relieves any participating agency, including a state vocational rehabilitation agency, of the responsibility to provide or pay for any transition service that the agency would otherwise provide to students eligible for special education services who meet the eligibility criteria of that agency.

(7)(a) The following requirements do not apply to students eligible for special education who are convicted as adults under state law and incarcerated in adult prisons:

(i) The requirement that students eligible for special education participate in district or statewide assessments.

(ii) The requirements related to transition planning and transition services, if the student's eligibility for special education services will end because of their age, before they will be eligible to be released from prison based on consideration of their sentence and eligibility for early release.

(b)(i) Subject to (b)(ii) of this subsection, the IEP team of a student with a disability who is convicted as an adult under state law and incarcerated in an adult prison may modify the student's IEP or placement if the state has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated.

(ii) Contents of the IEP and LRE (least restrictive environment) requirements do not apply with respect to the modifications described in (b)(i) of this subsection.

AMENDATORY SECTION (Amending WSR 13-20-034, filed 9/24/13, effective 10/25/13)

WAC 392-172A-05110 Timelines and convenience of hearings. (1) Not later than forty-five days after the expiration of the thirty day resolution period, or the adjusted time periods described in WAC 392-172A-05090(3):

(a) A final decision shall be reached in the hearing; and

(b) A copy of the decision shall be mailed to each of the parties.

(2) Reconsideration of the decision under RCW (~~34.05-070~~) 34.05.470 is not allowed under Part B of the act due to the timelines for issuing a final decision.

(3) An administrative law judge may grant specific extensions of time beyond the period in subsection (1) of this section at the request of either party.

(4) Each due process hearing must be conducted at a time and place that is reasonably convenient to the parents and student involved.

AMENDATORY SECTION (Amending WSR 07-14-078, filed 6/29/07, effective 7/30/07)

WAC 392-172A-05125 Student's status during proceedings. (1) Except for due process hearings involving special education discipline procedures, during the pendency of any administrative hearing or judicial proceeding regarding the due process hearing proceedings, the student involved in the hearing request must remain in his or her current educational placement, unless the school district and the parents of the child agree otherwise.

(2) If the hearing request involves an application for initial admission to public school, the student, with the consent of the parents, must be placed in the public school until the completion of all the proceedings.

(3) If the hearing request involves an application for initial Part B services for a child who is transitioning from Part C of the act to Part B and is no longer eligible for Part C services because the child has turned three, the school district is not required to provide the Part C services that the child had been receiving. If the student is found eligible for special education and related services and the parent consents to the initial provision of special education and related services, then the school district must provide those special education

and related services that are not in dispute between the parent and the school district.

(4) If the administrative law judge agrees with the student's parents that a change of placement is appropriate (~~(through the final decision or during the pendency of the due process hearing)~~), that placement must be treated as an agreement between the school district and the parents for purposes of subsection (1) of this section.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 392-172A-03120 Aversive interventions definition and purpose.

WAC 392-172A-03125 Aversive intervention prohibitions.

WAC 392-172A-03130 Aversive interventions—Conditions.

WAC 392-172A-03135 Aversive interventions—Individualized education program requirements.

WSR 16-02-044

PERMANENT RULES

BUILDING CODE COUNCIL

[Filed December 30, 2015, 3:08 p.m., effective July 1, 2016]

Effective Date of Rule: July 1, 2016.

Purpose: Adoption and amendment of the 2015 Uniform Plumbing Code, chapter 51-56 WAC.

Citation of Existing Rules Affected by this Order: Amending chapter 51-56 WAC (nineteen sections).

Statutory Authority for Adoption: RCW 19.27.031.

Other Authority: RCW 19.27.074.

Adopted under notice filed as WSR 15-16-099 on August 4, 2015.

Changes Other than Editing from Proposed to Adopted Version: **Section 301.3** was modified to remove the proposed new text, replace it with text from the 2015 UPC, retaining one sentence from the original proposals - "Where the alternate material, design or method of construction is not approved, the code official shall respond in writing, stating the reasons why the alternative was not approved."

The proposed amendments to **Sections 301.3.1, 301.3.2, and 301.3.3** were not adopted.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 1, Amended 19, Repealed 0.

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

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

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

Date Adopted: November 13, 2015.

David F. Kokot
Council Chair

Chapter 51-56 WAC

STATE BUILDING CODE ADOPTION AND AMENDMENT OF THE ~~((2012))~~ 2015 EDITION OF THE UNIFORM PLUMBING CODE

AMENDATORY SECTION (Amending WSR 13-04-054, filed 2/1/13, effective 7/1/13)

WAC 51-56-003 Uniform Plumbing Code. The ~~((2012))~~ 2015 edition of the Uniform Plumbing Code, including Appendices A, B, and I, published by the International Association of Plumbing and Mechanical Officials, is hereby adopted by reference with the following additions, deletions and exceptions: Provided that chapters 12 and ~~((15))~~ 14 of this code are not adopted. Provided further, that those requirements of the Uniform Plumbing Code relating to venting and combustion air of fuel fired appliances as found in chapter 5 and those portions of the code addressing building sewers are not adopted.

AMENDATORY SECTION (Amending WSR 13-04-054, filed 2/1/13, effective 7/1/13)

WAC 51-56-008 Implementation. The Uniform Plumbing Code adopted by chapter 51-56 WAC shall become effective in all counties and cities of this state on July 1, ~~((2013, unless local government residential amendments have been approved by the state building code council))~~ 2016.

AMENDATORY SECTION (Amending WSR 13-04-054, filed 2/1/13, effective 7/1/13)

WAC 51-56-0100 Chapter 1—Administration.

~~((101.4.1.4))~~ **102.1 Conflict Between Codes.** Delete paragraph.

~~((103.1.3))~~ **103.3.1 Certification.** State rules and regulations concerning certification shall apply.

AMENDATORY SECTION (Amending WSR 13-23-094, filed 11/20/13, effective 4/1/14)

WAC 51-56-0200 Chapter 2—Definitions.

205.0 Certified Backflow Assembly Tester - A person certified by the Washington state department of health under chapter 246-292 WAC to inspect (for correct installation and approval status) and test (for proper operation), maintain and

repair (in compliance with chapter 18.106 RCW) backflow prevention assemblies, devices and air gaps.

210.0 Hot Water - Water at a temperature exceeding or equal to 100°F.

211.0 Insanitary - A condition that is contrary to sanitary principles or is injurious to health.

Conditions to which "insanitary" shall apply include the following:

- (1) A trap that does not maintain a proper trap seal.
- (2) An opening in a drainage system, except where lawful, that is not provided with an approved liquid-sealed trap.
- (3) A plumbing fixture or other waste discharging receptor or device that is not supplied with water sufficient to flush and maintain the fixture or receptor in a clean condition, except as otherwise provided in this code.
- (4) A defective fixture, trap, pipe, or fitting.
- (5) A trap, except where in this code exempted, directly connected to a drainage system, the seal of which is not protected against siphonage and backpressure by a vent pipe.
- (6) A connection, cross-connection, construction, or condition, temporary or permanent, that would permit or make possible by any means whatsoever for an unapproved foreign matter to enter a water distribution system used for domestic purposes.
- (7) The foregoing enumeration of conditions to which the term "insanitary" shall apply, shall not preclude the application of that term to conditions that are, in fact, insanitary.

218.0 Plumbing System - Includes all potable water, building supply and distribution pipes, all reclaimed or other alternate source water systems, all rainwater systems, all plumbing fixtures and traps, all drainage and vent pipe(s), and all building drains including their respective joints and connection, devices, receptors, and appurtenances within the property lines of the premises and shall include potable water piping, potable water treating or using equipment, medical gas and medical vacuum systems, and water heaters: Provided, That no certification shall be required for the installation of a plumbing system within the property lines and outside a building.

225.0 Water/Wastewater Utility - A public or private entity, including a water purveyor as defined in chapter 246-290 WAC, which may treat, deliver, or do both functions to reclaimed (recycled) water, potable water, or both to wholesale or retail customers.

AMENDATORY SECTION (Amending WSR 13-04-054, filed 2/1/13, effective 7/1/13)

WAC 51-56-0300 Chapter 3—General regulations.

~~((301.1.2))~~ **301.2.2 Standards.** Standards listed or referred to in this chapter or other chapters cover materials which will conform to the requirements of this code, when used in accordance with the limitations imposed in this or other chapters thereof and their listing. Where a standard covers materials of various grades, weights, quality, or configurations, the portion of the listed standard that is applicable shall be used. Design and materials for special conditions or materials not provided for herein ~~((are allowed))~~ shall be permitted to be

used by special permission of the authority having jurisdiction after the authority having jurisdiction has been satisfied as to their adequacy in accordance with Section 301.2.

301.3 Alternative Materials and Methods of Construction Equivalency. Nothing in this code is intended to prevent the use of systems, methods, or devices of equivalent or superior quality, strength, fire resistance, effectiveness, durability, and safety over those prescribed by this code. Technical documentation shall be submitted to the authority having jurisdiction to demonstrate equivalency. The authority having jurisdiction shall have the authority to approve or disapprove the system, method, or device for the intended purpose. Where the alternate material, design or method of construction is not approved, the code official shall respond in writing, stating the reasons why the alternative was not approved.

However, the exercise of this discretionary approval by the authority having jurisdiction shall have no effect beyond the jurisdictional boundaries of said authority having jurisdiction. An alternate material or method of construction so approved shall not be considered as in accordance with the requirements, intent or both of this code for a purpose other than that granted by the authority having jurisdiction where the submitted data does not prove equivalency.

310.4 Use of Vent and Waste Pipes. Except as hereinafter provided in Sections 908.0(~~(, 909.0, 910.0,)~~) through 911.0 and Appendix C, no vent pipe shall be used as a soil or waste pipe, nor shall any soil or waste pipe be used as a vent.

312.6 Freezing Protection. No water, soil, or waste pipe shall be installed or permitted outside of a building, in attics or crawl spaces, or in an exterior wall unless, where necessary, adequate provision is made to protect such pipe from freezing. All hot and cold water pipes installed outside the conditioned space shall be insulated to a minimum ((R-4)) R-3.

312.7 Fire-Resistant Construction. All pipe penetrating floor/ceiling assemblies and fire-resistance rated walls or partitions shall be protected in accordance with the requirements of the building code.

AMENDATORY SECTION (Amending WSR 13-04-054, filed 2/1/13, effective 7/1/13)

WAC 51-56-0400 Chapter 4—Plumbing fixtures and fixture fittings.

402.5 Setting. Fixtures shall be set level and in proper alignment with reference to adjacent walls. No water closet or bidet shall be set closer than fifteen (15) inches (381 mm) from its center to any side wall or obstruction nor closer than thirty (30) inches (762 mm) center to center to any similar fixture. The clear space in front of any water closet or bidet shall be not less than ~~((twenty one (21) inches (533 mm)))~~ twenty-four (24) inches (610 mm). No urinal shall be set closer than twelve (12) inches (305 mm) from its center to any side wall or partition nor closer than twenty-four (24) inches (610 mm) center to center.

EXCEPTIONS: ((The installation of paper dispensers or accessibility grab bars shall not be considered obstructions.)) 1. The clear space in front of a water closet, lavatory or bidet in dwelling units and sleeping units shall be not less than 21 inches (533 mm).
2. The installation of paper dispensers or accessibility grab bars shall not be considered obstructions.

~~((403.0 Water Conserving Fixtures and Fittings.~~

~~403.1~~ The purpose of this section shall be to implement water conservation performance standards in accordance with RCW 19.27.170.

~~403.2 Application.~~ This section shall apply to all new construction and all remodeling involving replacement of plumbing fixtures and fittings in all residential, hotel, motel, school, industrial, commercial use, or other occupancies determined by the council to use significant quantities of water. Plumbing fixtures, fittings and appurtenances shall conform to the standards specified in this section and shall be provided with an adequate supply of potable water to flush and keep the fixtures in a clean and sanitary condition without danger of backflow or cross-connection.

~~403.3 Water Efficiency Standards.~~

~~403.3.1 Standards for Vitreous China Plumbing Fixtures.~~

~~403.3.1.1~~ The following standards shall be adopted as plumbing materials, performance standards, and labeling standards for water closets and urinals. Water closets and urinals shall meet either the ANSI/ASME standards or the CSA standard.

ANSI/ASME A112.19.2-2008/CSA B45.1-2008	Vitreous China Plumbing Fixtures
ANSI/ASME A112.19.6-1995	Hydraulic Requirements for Water Closets and Urinals

~~403.3.1.2~~ The maximum water use allowed in gallons per flush (gpf) or liters per flush (lpf) for any of the following water closets shall be the following:

Tank-type toilets	1.6 gpf/6.0 lpf
Flushometer-valve toilets	1.6 gpf/6.0 lpf
Flushometer-tank toilets	1.6 gpf/6.0 lpf
Electromechanical hydraulic toilets	1.6 gpf/6.0 lpf

EXCEPTIONS: 1. Water closets located in day care centers, intended for use by young children may have a maximum water use of 3.5 gallons per flush or 13.25 liters per flush.
2. Water closets with bed pan washers may have a maximum water use of 3.5 gallons per flush or 13.25 liters per flush.
3. Blow out bowls, as defined in ANSI/ASME A112.19.2M, Section 5.1.2.3 may have a maximum water use of 3.5 gallons per flush or 13.25 liters per flush.

~~403.3.1.3~~ The maximum water use allowed for any urinal shall be 1.0 gallons per flush or 3.78 liters per flush.

~~403.3.1.3.1 Nonwater Urinals.~~ Nonwater urinals shall be listed and comply with the applicable standards referenced in Table 1401.1. Nonwater urinals shall have a barrier liquid

sealant to maintain a trap seal. Nonwater urinals shall permit the uninhibited flow of waste through the urinal to the sanitary drainage system. Nonwater urinals shall be cleaned and maintained in accordance with the manufacturer's instructions after installation. Where nonwater urinals are installed, they shall have a water distribution line rough-in to the urinal location to allow for the installation of an approved backflow prevention device in the event of a retrofit.

403.3.1.4 No urinal or water closet that operates on a continuous flow or continuous flush basis shall be permitted.

403.3.1.5 This section does not apply to fixtures installed before the effective date of this section, that are removed and relocated to another room or area of the same building after the effective date of this section.

403.3.2 Standards for Plumbing Fixture Fittings:

403.3.2.1 The following standards are adopted as plumbing material, performance requirements, and labeling standards for plumbing fixture fittings. Faucets, aerators, and shower heads shall meet either the ANSI/ASME standard or the CSA standard:

ANSI/ASME A112.18.1- Plumbing Fixture Fittings
2005/CSA B125.1-2005

403.3.2.2 The maximum water use allowed for any shower head is 2.5 gallons per minute or 9.5 liters per minute.

EXCEPTION: Emergency use showers shall be exempt from the maximum water usage rates.

403.3.2.3 The maximum water use allowed in gallons per minute (gpm) or liters per minute (lpm) for any of the following faucets and replacement aerators is the following:

Lavatory faucets	2.5 gpm/9.5 lpm
Kitchen faucets	2.5 gpm/9.5 lpm
Replacement aerators	2.5 gpm/9.5 lpm
Public lavatory faucets other than metering	0.5 gpm/1.9 lpm

403.4 Metering Valves. Lavatory faucets located in restrooms intended for use by the general public shall be equipped with a metering valve designed to close by spring or water pressure when left unattended (self-closing).

EXCEPTIONS: 1. Where designed and installed for use by persons with a disability.
2. Where installed in day care centers, for use primarily by children under 6 years of age.

403.5 Pre-rinse Spray Valve. Commercial food service pre-rinse spray valves shall have a maximum flow rate of 1.6 gallons per minute (gpm) at 60 pounds force per square inch (psi) (0.10 L/s at 414 kPa) in accordance with ASME A112.18.1/CSA B125.1 and shall be equipped with an integral automatic shutoff.

403.6 Implementation:

403.6.1 The standards for water efficiency and labeling contained within Section 402.3 shall be in effect as of July 1,

1993, as provided in RCW 19.27.170 and amended July 1, 1998.

403.6.2) 405.4 Application. No individual, public or private corporation, firm, political subdivision, government agency, or other legal entity, may, for purposes of use in the state of Washington, distribute, sell, offer for sale, import, install, or approve for installation any plumbing fixtures or fittings unless the fixtures or fittings meet the standards as provided for in this ((section)) chapter.

407.2 Water Consumption. The maximum water use allowed in gallons per minute (gpm) or liters per minute (lpm) for any of the following faucets and replacement aerators is the following:

Lavatory faucets	2.5 gpm/9.5 lpm
Kitchen faucets	2.5 gpm/9.5 lpm
Replacement aerators	2.5 gpm/9.5 lpm
Public lavatory faucets other than metering	0.5 gpm/1.9 lpm

407.4 Metering Valves. Lavatory faucets located in restrooms intended for use by the general public shall be equipped with a metering valve designed to close by spring or water pressure when left unattended (self-closing).

EXCEPTIONS: 1. Where designed and installed for use by persons with a disability.
2. Where installed in day care centers, for use primarily by children under 6 years of age.

408.2 Water Consumption. Showerheads shall have a maximum flow rate of not more than 2.5 gpm at 80 psi (9.5 L/m at 552 kPa), in accordance with ASME A112.18.1/CSA B125.1.

EXCEPTION: Emergency use showers shall be exempt from the maximum water usage rates.

408.4 Waste Outlet. Showers shall have a waste outlet and fixture tailpiece not less than two (2) inches (50 mm) in diameter. Fixture tailpieces shall be constructed from the materials specified in Section 701.1 for drainage piping. Strainers serving shower drains shall have a waterway at least equivalent to the area of the tailpiece.

EXCEPTION: In a residential dwelling unit where a 2 inch waste is not readily available and approval of the AHJ has been granted, the waste outlet, fixture tailpiece, trap and trap arm may be 1-1/2 inch when an existing tub is being replaced by a shower sized per Section 408.6(2). This exception only applies where one shower head rated at 2.5 gpm is installed.

408.6 Shower Compartments. Shower compartments, regardless of shape, shall have a minimum finished interior of nine hundred (900) square inches (0.58 m²) and shall also be capable of encompassing a thirty (30) inch (762 mm) circle. The minimum required area and dimensions shall be measured at a height equal to the top of the threshold and at a point tangent to its centerline. The area and dimensions shall be maintained to a point of not less than seventy (70) inches (1.778 mm) above the shower drain outlet with no protrusions other than the fixture valve or valves, shower head,

soap dishes, shelves, and safety grab bars or rails. Fold-down seats in accessible shower stalls shall be permitted to protrude into the thirty (30) inch (762 mm) circle.

- EXCEPTIONS:
1. Showers that are designed to comply with ICC/ANSI A117.1.
 2. The minimum required area and dimension shall not apply for a shower receptor having overall dimensions of not less than thirty (30) inches (762 mm) in width and sixty (60) inches (1,524 mm) in length.

411.2 Water Consumption. Water closets shall have a maximum consumption not to exceed 1.6 gallons (6.0 L) of water per flush in accordance with ASME A112.19.2/CSA B45.1. No water closet that operates on a continuous flow or continuous flush basis shall be permitted.

- EXCEPTIONS:
1. Water closets located in day care centers, intended for use by young children may have a maximum water use of 3.5 gallons per flush or 13.25 liters per flush.
 2. Water closets with bed pan washers may have a maximum water use of 3.5 gallons per flush or 13.25 liters per flush.
 3. Blow out bowls, as defined in ANSI/ASME A112.19.2M, Section 5.1.2.3 may have a maximum water use of 3.5 gallons per flush or 13.25 liters per flush.

412.1 Application. Urinals shall comply with ASME A112.19.2/CSA B45.1, ASME A112.19.19, or CSA B45.5/IAPMO Z124. Urinals shall have an average water consumption not to exceed 1 gallon (3.8 L) of water per flush. No urinal that operates on a continuous flow or continuous flush basis shall be permitted.

414.3 Drainage Connection. Domestic dishwashing machines shall discharge indirectly through an air gap fitting in accordance with Section 807.4 into a waste receptor, a wye branch fitting on the tailpiece of a kitchen sink, or dishwasher connection of a food waste (~~(grinder)~~) **disposer**. Commercial dishwashing machines shall discharge indirectly through an air gap.

415.2 Drinking Fountain Alternatives. This section is not adopted. See Building Code chapter 29.

418.3 Location of Floor Drains. Floor drains shall be installed in the following areas:

1. Toilet rooms containing two (2) or more water closets or a combination of one (1) water closet and one (1) urinal, except in a dwelling unit. The floor shall slope toward the floor drains.

2. Laundry rooms in commercial buildings and common laundry facilities in multifamily dwelling buildings.

422.0 Minimum Number of Required Fixtures. For minimum number of plumbing fixtures required, see Building Code chapter 29 and Table 2902.1.

Sections 422.1 through 422.5 and Table 422.1 are not adopted.

AMENDATORY SECTION (Amending WSR 13-04-054, filed 2/1/13, effective 7/1/13)

WAC 51-56-0500 Chapter 5—Water heaters.

~~((501.0 General))~~ **501.1 Applicability.** The regulations of this chapter shall govern the construction, location, and installation of fuel burning and other types of water heaters heating potable water. The minimum capacity for water heaters shall be in accordance with the first hour rating listed in Table 501.1. See the Mechanical Code for combustion air and installation of all vents and their connectors. ~~((All design, construction, and workmanship shall be in conformity with accepted engineering practices, manufacturer's installation instructions, and applicable standards and shall be of such character as to secure the results sought to be obtained by this Code. No water heater shall be hereinafter installed which does not comply in all respects with the type and model of each size thereof approved by the authority having jurisdiction. A list of accepted gas appliance standards is included in Table 1401.1.))~~ No water heater shall be hereinafter installed that does not comply with the manufacturer's installation instructions and the type and model of each size thereof approved by the authority having jurisdiction. A list of accepted water heater appliance standards is referenced in Table 501(2). Listed appliances shall be installed in accordance with the manufacturer's installation instructions. Unlisted water heaters shall be permitted in accordance with Section 504.3.2.

TABLE 501.1^{1,3}

Number of Bathrooms	1 to 1.5			2 to 2.5				3 to 3.5			
	1	2	3	2	3	4	5	3	4	5	6
Number of Bedrooms											
First Hour Rating ² , Gallons	42	54	54	54	67	67	80	67	80	80	80

Notes: ¹The first hour rating is found on the "Energy Guide" label.

²Nonstorage and solar water heaters shall be sized to meet the appropriate first hour rating as shown in the table.

³For replacement water heaters, see Section ~~((401-6))~~ 102.4.

504.1 Location. Water heater installation in bedrooms and bathrooms shall comply with one of the following:

(1) Fuel-burning water heaters may be installed in a closet located in the bedroom or bathroom provided the closet is equipped with a listed, gasketed door assembly and a listed self-closing device. The self-closing door assembly shall meet the requirements of Section 505.1.1. The door

assembly shall be installed with a threshold and bottom door seal and shall meet the requirements of Section 505.1.2. All combustion air for such installations shall be obtained from the outdoors in accordance with the International Mechanical Code. The closet shall be for the exclusive use of the water heater.

(2) Water heater shall be of the direct vent type.

505.2 Safety Devices. All storage-type water heaters deriving heat from fuels or types of energy other than gas, shall be provided with, in addition to the primary temperature controls, an over-temperature safety protection device constructed, listed, and installed in accordance with nationally recognized applicable standards for such devices and a combination temperature and pressure relief valve.

506.0 Combustion Air. For issues relating to combustion air, see the Mechanical Code.

Sections 506.1 through 506.9 are not adopted.

Sections 507.6 through 507.9 are not adopted.

507.2 Seismic Provisions. Water heaters shall be anchored or strapped to resist horizontal displacement due to earthquake motion. Strappings shall be at points within the upper one-third and lower one-third of its vertical dimensions. At the lower point, a distance of not less than four (4) inches (9.102 mm) shall be maintained from the controls to the strapping.

507.13 Installation in Garages. Appliances in garages and in adjacent spaces that open to the garage and are not part of the living space of a dwelling unit shall be installed so that burners, burner-ignition devices and ignition sources are located not less than eighteen (18) inches above the floor unless listed as flammable vapor ignition resistant.

507.16 Venting of Flue Gases - Delete entire section.

Sections 507.18 through 507.22 are not adopted.

509.0 Venting of Equipment. Delete entire section.

510.0 Sizing of Category I Venting Systems. Delete entire section.

511.0 Direct Vent Equipment. Delete entire section.

AMENDATORY SECTION (Amending WSR 13-23-094, filed 11/20/13, effective 4/1/14)

WAC 51-56-0600 Chapter 6—Water supply and distribution.

601.1 Applicability. This chapter shall govern the materials, design and installation of water supply systems, including backflow prevention devices, assemblies and methods used for backflow prevention.

603.1 General. Cross-connection control shall be provided in accordance with the provisions of this chapter. Devices or assemblies for protection of the public water system must be models approved by the department of health under WAC 246-290-490. The authority having jurisdiction shall coordinate with the local water purveyor where applicable in all matters concerning cross-connection control within the property lines of the premises.

No person shall install any water operated equipment or mechanism, or use any water treating chemical or substance, if it is found that such equipment, mechanism, chemical or substance may cause pollution or contamination of the domestic water supply. Such equipment or mechanism may be permitted only when equipped with an approved backflow prevention device or assembly.

603.2 Approval of Devices or Assemblies. Before any device or assembly is installed for the prevention of backflow, it shall have first been approved by the authority having jurisdiction. Devices or assemblies shall be tested for conformity with recognized standards or other standards acceptable to the authority having jurisdiction. Backflow prevention devices and assemblies shall comply with Table 603.2, except for specific applications and provisions as stated in Section 603.5.1 through 603.5.21.

All devices or assemblies installed in a potable water supply system for protection against backflow shall be maintained in good working condition by the person or persons having control of such devices or assemblies. Such devices or assemblies shall be tested in accordance with Section 603.4.2 and WAC 246-290-490. If found to be defective or inoperative, the device or assembly shall be replaced or repaired. No device or assembly shall be removed from use or relocated or other device or assembly substituted, without the approval of the authority having jurisdiction.

Testing shall be performed by a Washington state department of health certified backflow assembly tester.

TABLE 603.2
Backflow Prevention Devices, Assemblies and Methods
The following line is deleted from the table:

Device, Assembly or Method	Applicable Standards	Pollution (Low Hazard)		Contamination (High Hazard)		Installation
		Back Siphonage	Back Pressure	Back Siphonage	Back Pressure	
Backflow preventer for carbonated beverage dispensers (two independent check valves with a vent to the atmosphere.)	ASSE 1022	X				Installation includes carbonated beverage machines or dispensers. These devices operate under intermittent or continuous pressure conditions.

603.4.2 Testing. For devices and assemblies other than those regulated by the Washington department of health in conjunction with the local water purveyor for the protection of public water systems, the authority having jurisdiction shall ensure that the premise owner or responsible person shall have the backflow prevention assembly tested by a Washington state department of health certified backflow assembly tester:

- (1) At the time of installation, repair or relocation; and
- (2) At least on an annual schedule thereafter, unless more frequent testing is required by the authority having jurisdiction.

603.4.9 Prohibited Location. Backflow prevention devices with atmospheric vents or ports shall not be installed in pits, underground or in submerged locations. Backflow preventers shall not be located in any area containing fumes or aerosols that are toxic, poisonous, infectious, or corrosive.

603.5.6 Protection from Lawn Sprinklers and Irrigation Systems. Potable water supplies to systems having no pumps or connections for pumping equipment, and no chemical injection or provisions for chemical injection, shall be protected from backflow by one of the following:

- (1) Atmospheric vacuum breaker (AVB).
- (2) Pressure vacuum breaker backflow prevention assembly (PVB).
- (3) Spill-resistant pressure vacuum breaker (SVB).
- (4) Reduced pressure principle backflow prevention assembly (RP).
- (5) A double check valve backflow prevention assembly (DC) may be allowed when approved by the water purveyor and the authority having jurisdiction.

603.5.10 Steam or Hot Water Boilers. Potable water connections to steam or hot water boilers shall be protected by an air gap or a reduced pressure principle backflow preventer.

603.5.12 Beverage Dispensers. Potable water supply to carbonators shall be protected by a listed reduced pressure principle backflow preventer as approved by the authority having jurisdiction for the specific use. The backflow preventer shall be located in accordance with Section 603.4.3. The piping downstream of the backflow preventer shall not be of copper, copper alloy, or other material that is affected by carbon dioxide.

~~((603.5.13 Prohibited Location. Backflow preventers shall not be located in any area containing fumes or aerosols that are toxic, poisonous, infectious, or corrosive.))~~

603.5.15 Protection from Fire Systems. Except as provided under Sections 603.5.15.1 and 603.5.15.2, potable water supplies to fire protection systems that are normally under pressure, including but not limited to standpipes and automatic sprinkler systems, except in one or two family or townhouse residential flow-through or combination sprinkler systems piped in materials approved for potable water distribution systems, shall be protected from back-pressure and back-siphonage by one of the following testable assemblies:

1. Double check valve backflow prevention assembly (DC).

2. Double check detector fire protection backflow prevention assembly.

3. Reduced pressure principle backflow prevention assembly (RP).

4. Reduced pressure detector fire protection backflow prevention assembly.

Potable water supplies to fire protection systems that are not normally under pressure shall be protected from backflow and shall meet the requirements of the appropriate standard(s) referenced in Table 1401.1.

~~((604.11 Lead Content. The maximum allowable lead content in pipes, pipe fittings, plumbing fittings and fixtures intended to convey or dispense water for human consumption shall be not more than a weighted average of 0.25 percent with respect to the wetted surfaces of pipes, pipe fittings, plumbing fittings and fixtures. For solder and flux, the lead content shall be not more than 0.2 percent where used in piping systems that convey or dispense water for human consumption.~~

EXCEPTIONS:

1. Pipes, pipe fittings, plumbing fittings, fixtures or backflow preventers used for nonpotable services such as manufacturing, industrial processing, irrigation, outdoor watering, or any other uses where the water is not used for human consumption.
2. Water closets, bidets, urinals, fill valves, flushometer valves, tub fillers, shower valves, service saddles, or water distribution main gate valves that are two inches (50 mm) in diameter or larger.))

604.14 Plastic Pipe Termination. Plastic water service piping may terminate within a building, provided the connection to the potable water distribution system shall be made as near as is practical to the point of entry and shall be accessible. Barbed insert fittings with hose clamps are prohibited as a transition fitting within the building.

606.5 Control Valve. A control valve shall be installed immediately ahead of each water-supplied appliance and immediately ahead of each slip joint or appliance supply.

Parallel water distribution systems shall provide a control valve either immediately ahead of each fixture being supplied or installed at the manifold, and shall be identified with the fixture being supplied. Where parallel water distribution system manifolds are located in attics, crawl spaces, or other locations not accessible, a separate shutoff valve shall be required immediately ahead of each individual fixture or appliance served.

608.3 Expansion Tanks, and Combination Temperature and Pressure-Relief Valves. A water system provided with a check valve, backflow preventer, or other normally closed device that prevents dissipation of building pressure back into the water main, independent of the type of water used, shall be provided with an approved, listed, and adequately sized expansion tank or other approved device having a similar function to control thermal expansion. Such expansion tank or other approved device shall be installed on the building side of the check valve, backflow preventer, or other device and shall be sized and installed in accordance with the manufacturer's installation instructions.

EXCEPTION: Instantaneous hot water systems installed in accordance with the manufacturer's installation instructions.

608.3.1 A water system containing storage water heating equipment shall be provided with an approved, listed, adequately sized combination temperature and pressure-relief valve, except for listed nonstorage instantaneous heater having an inside diameter of not more than three (3) inches (80 mm). Each such approved combination temperature and pressure-relief valve shall be installed on the water-heating device in an approved location based on its listing requirements and the manufacturer's installation instructions. Each such combination temperature and pressure-relief valve shall be provided with a drain in accordance with Section 608.5.

608.5 Drains. Relief valves located inside a building shall be provided with a drain, not smaller than the relief valve outlet, of galvanized steel, hard drawn copper piping and fittings, CPVC, PP, or listed relief valve drain tube with fittings which will not reduce the internal bore of the pipe or tubing (straight lengths as opposed to coils) and shall extend from the valve to the outside of the building, with the end of the pipe not more than two (2) feet (610 mm) nor less than six (6) inches (152 mm) above the ground or the flood level of the area receiving the discharge and pointing downward. Such drains may terminate at other approved locations. No part of such drain pipe shall be trapped or subject to freezing. The terminal end of the drain pipe shall not be threaded.

EXCEPTION: Where no drainage was provided, replacement water heating equipment shall only be required to provide a drain pointing downward from the relief valve to extend between two (2) feet (610 mm) and six (6) inches (152 mm) from the floor. No additional floor drain need be provided.

609.9 Disinfection of Potable Water System. New or repaired *potable water* systems shall be disinfected prior to use where required by the *authority having jurisdiction*. The method to be followed shall be that prescribed by the health authority or, in case no method is prescribed by it, the following:

(1) The *pipe system* shall be flushed with clean, *potable water* until *potable water* appears at the points of outlet.

(2) The system or parts thereof shall be filled with a water-chlorine solution containing not less than 50 parts per million of chlorine, and the system or part thereof shall be valved-off and allowed to stand for twenty-four hours; or, the system or part thereof shall be filled with a water-chlorine solution containing not less than 200 parts per million of chlorine and allowed to stand for three hours.

(3) Following the allowed standing time, the system shall be flushed with clean, *potable water* until the chlorine residual in the water coming from the system does not exceed the chlorine residual in the flushing water.

(4) The procedure shall be repeated when a standard bacteriological test for drinking water, performed by a laboratory certified for drinking water in Washington state, shows unsatisfactory results indicating that *contamination* persists in the system.

609.11 Insulation of Potable Water Piping. Domestic water piping within commercial buildings shall be insulated in

accordance with Section C403.2.8 and Table C403.2.8 or Section C404.6 of the Washington State Energy Code, as applicable.

610.4 Sizing Water Supply and Distribution Systems. Systems within the range of Table 610.4 may be sized from that table or by the method set forth in Section 610.5.

Listed parallel water distribution systems shall be installed in accordance with their listing.

611.1 Application. Drinking water treatment units shall comply with NSF 42 or NSF 53. Water softeners shall comply with NSF 44. Ultraviolet water treatment systems shall comply with NSF 55. Reverse osmosis drinking water treatment systems shall comply with NSF 58. Drinking water distillation systems shall comply with NSF 62.

The owner of a building that serves potable water to twenty-five or more people at least sixty or more days per year and that installs drinking water treatment units including, but not limited to, the treatment units in Section 611.1, may be regulated (as a Group A public water system) by the Washington state department of health under chapter 246-290 WAC. See Washington state department of health publication 331-488 for guidance.

612.1 General. Where residential fire sprinkler systems are installed, they shall be installed in accordance with the International Building Code or International Residential Code.

~~((613.0 Insulation of Potable Water Piping. Domestic water piping within commercial buildings shall be insulated in accordance with Section C403.2.8 and Table C403.2.8 or Section C404.6 of the Washington State Energy Code, as applicable.))~~ Sections 612.2 through 612.7.2 are not adopted.

AMENDATORY SECTION (Amending WSR 13-04-054, filed 2/1/13, effective 7/1/13)

WAC 51-56-0700 Chapter 7—Sanitary drainage.

~~((701.1))~~ **701.2 Drainage Piping.** Materials for drainage piping shall be in accordance with one of the referenced standards in Table 701.1 except that:

1. No galvanized wrought-iron or galvanized steel pipe shall be used underground and shall be kept not less than 6 inches (152 mm) above ground.

2. ABS and PVC DWV piping installations shall be installed in accordance with applicable standards in Table 1401.1. Except for individual single family dwelling units, materials exposed within ducts or plenums shall have a maximum flame-spread index of 25 and a maximum smoke developed index of 50, when tested in accordance with ASTM E-84 and UL 723.

3. No vitrified clay pipe or fittings shall be used above ground or where pressurized by a pump or ejector. They shall be kept not less than 12 inches (305 mm) below ground.

4. Copper tube for drainage and vent piping shall have a weight of not less than that of copper drainage tube type DWV.

5. Stainless steel 304 pipe and fittings shall not be installed underground and shall be kept not less than 6 inches (152 mm) above ground.

6. Cast-iron soil pipe and fittings shall be listed and tested in accordance with standards referenced in Table 1401.1. Such pipe and fittings shall be marked with country of origin and identification of the original manufacturer in addition to markings required by referenced standards.

Table 703.2

MAXIMUM UNIT LOADING AND MAXIMUM LENGTH OF DRAINAGE AND VENT PIPING

Notes:

1. Excluding trap arm.
2. Except sinks, urinals, and dishwashers - Exceeding 1 fixture unit.
3. Except six-unit traps or water closets.
4. Only four water closets or six-unit traps allowed on a vertical pipe or stack; and not to exceed three water closets or six-unit traps on a horizontal branch or drain.

EXCEPTION: In a single family dwelling addition or alteration where a 4 inch horizontal waste is not readily available four water closets not to exceed 1.6 gpf each may be allowed on a 3 inch horizontal waste when approved by the AHJ.

5. Based on one-fourth inch per foot (20.8 mm/m) slope. For one-eighths of an inch per foot (10.4 mm/m) slope, multiply horizontal fixture units by a factor of 0.8.

6. The diameter of an individual vent shall be not less than one and one-fourth inches (32 mm) nor less than one-half the diameter of the drain to which it is connected. Fixture unit load values for drainage and vent piping shall be computed from Table 702.1 and Table 702.2(b). Not to exceed one-third of the total permitted length of a vent shall be permitted to be installed in a horizontal position. Where vents are increased one pipe size for their entire length, the maximum length limitations specified in this table do not apply. This table is in accordance with the requirements of Section 901.2.

704.3 Commercial (~~Dishwashing Machines and~~) Sinks.

Except where specifically required to be connected indirectly to the drainage system, or when first approved by the authority having jurisdiction, all plumbing fixtures, drains, appurtenances, and appliances shall be directly connected to the drainage system of the building or premises.

~~(705.4.2 Mechanical Joints. Mechanical joints for cast iron pipe and fittings shall be of the compression or mechanical joint coupling type. Compression type joints with an elastomeric gasket for cast iron hub and spigot pipe shall comply with ASTM C 564. Hub and spigot shall be clean and free of dirt, mud, sand, and foreign materials. Cut pipe shall be free from sharp edges. Fold and insert gasket into hub. Lubricate the joint following manufacturer's instructions. Insert spigot into hub until the spigot end of the pipe bottom out in the hub. Use the same procedure for the installation of fittings.~~

A mechanical joint shielded coupling type for hubless cast iron pipe and fittings shall have a metallic shield and shall comply with ASTM A 1056, ASTM C 1277, ASTM C 1540, or CISPI 310. The elastomeric gasket shall comply with ASTM C 564. Hubless cast iron pipe and fittings shall be clean and free of dirt, mud, sand, and foreign materials. Cut pipe shall be free from sharp edges. Gasket shall be placed on the end of the pipe or fitting and the stainless steel

~~shield and clamp assembly on the end of the other pipe or fitting. Pipe or fittings shall be seated against the center stop inside the elastomeric sleeve. Slide the stainless steel shield and clamp assembly into position centered over the gasket and tighten. Bands shall be tightened using an approved calibrated torque wrench specifically set by the manufacturer of the couplings.~~

~~710.3 Sewage Ejector and Pumps. The minimum size of any pump or any discharge pipe from a sump having a water closet connected thereto shall be not less than two (2) inches (52 mm);~~) **707.4 Location.** Each horizontal drainage *pipe shall be provided with a cleanout at its upper terminal, and each run of piping, that is more than 100 feet (30,480 mm) in total developed length, shall be provided with a cleanout for each 100 feet (30,480 mm), or fraction thereof, in length of such piping. An additional cleanout shall be provided in a drainage line for each aggregate horizontal change of direction exceeding 135 degrees (2.36 rad).*

- EXCEPTIONS:
1. Cleanouts *shall be permitted to be omitted on a horizontal drain line less than 5 feet (1,524 mm) in length unless such line is serving sinks or urinals.*
 2. Cleanouts *shall be permitted to be omitted on a horizontal drainage pipe installed on a slope of 72 degrees (1.26 rad) or less from the vertical angle (one-fifth bend).*
 3. Except for the *building drain, its horizontal branches, and urinals, a cleanout shall not be required on a pipe or piping that is above the floor level of the lowest floor of the building.*
 4. An *approved type of two-way cleanout fitting, installed inside the building wall near the connection between the building drain and the building sewer or installed outside of a building at the lower end of a building drain and extended to grade, shall be permitted to be substituted for an upper terminal cleanout.*

707.9 Clearance. Each cleanout in piping 2 inches (50 mm) or less in size *shall be so installed that there is a clearance of not less than 12 inches (457 mm) in front of the cleanout. Cleanouts in piping exceeding 2 inches (50 mm) shall have a clearance of not less than 18 inches (610 mm) in front of the cleanout. Cleanouts in under-floor piping shall be extended to or above the finished floor or shall be extended outside the building where there is less than 18 inches (457 mm) vertical overall, allowing for obstructions such as ducts, beams, and piping, and 30 inches of (762 mm) horizontal clearance from the means of access to such cleanout. No under-floor cleanout shall be located exceeding 20 feet (1,524 mm) from an access door, trap door, or crawl hole.*

CHAPTER 7, PART II—BUILDING SEWERS

Part II Building Sewers. Delete all of Part II (Sections 713 through 723, and Tables 717.1 and 721.1).

AMENDATORY SECTION (Amending WSR 13-04-054, filed 2/1/13, effective 7/1/13)

WAC 51-56-0900 Chapter 9—Vents.

903.1 Applicable Standards. Vent pipe and fittings shall comply with the applicable standards referenced in Table 701.1, except that:

1. No galvanized steel or 304 stainless steel pipe shall be installed underground and shall be not less than 6 inches (152 mm) above ground.

2. ABS and PVC DWV piping installations shall be installed in accordance with applicable standards in Table 1401.1. Except for individual single family dwelling units, materials exposed within ducts or plenums shall have a maximum flame-spread index of 25 and a maximum smoke developed index of 50, when tested in accordance with ASTM E-84 and UL 723.

~~((908.2 Horizontal Wet Venting for Bathroom Groups. Water closets, bathtubs, showers, bidets, and floor drains within one or two bathroom groups located on the same floor level and for private use shall be permitted to be vented by a wet vent. The wet vent shall be considered the vent for the fixtures and shall extend from the connection of the dry vent along the direction of the flow in the drain pipe to the most downstream fixture drain or trap arm connection to the horizontal branch drain. Each wet-vented fixture drain or trap arm shall connect independently to the wet-vented horizontal branch drain. Each individual fixture drain or trap arm shall connect horizontally to the wet-vented horizontal branch drain or shall be provided with a dry vent. The trap to vent distance shall be in accordance with Table 1002.2. Only the fixtures within the bathroom groups shall connect to the wet-vented horizontal branch drain. The water closet fixture drain or trap arm connection to the wet vent shall be downstream of any fixture drain or trap arm connections. Any additional fixtures shall discharge downstream of the wet vent system and be conventionally vented.))~~ **908.2.4 Water Closet.** This section is not adopted.

AMENDATORY SECTION (Amending WSR 13-04-054, filed 2/1/13, effective 7/1/13)

WAC 51-56-1000 Chapter 10—Traps and interceptors.

~~((1014.1.3 Food Waste Disposal Units and Dishwashers. Unless specifically required or permitted by the authority having jurisdiction, no food waste disposal unit or dishwasher shall be connected to or discharge into any hydromechanical grease interceptor. Commercial food waste disposers shall be permitted to discharge directly into the building's drainage system.))~~

AMENDATORY SECTION (Amending WSR 13-04-054, filed 2/1/13, effective 7/1/13)

WAC 51-56-1100 Chapter 11—Storm drainage.

~~((4101.3))~~ **1101.4 Material Uses.** ((Rainwater piping placed within the interior of a building or run within a vent or shaft shall be of cast iron, galvanized steel, wrought iron, brass, copper, lead, Schedule 40 ABS DWV, Schedule 40 PVC DWV, or other approved materials)) Pipe, tube, and fittings conveying rainwater shall be of such materials and design as to perform their intended function to the satisfaction of the authority having jurisdiction. Conductors within a vent or shaft shall be of cast iron, galvanized steel, wrought iron, copper, copper alloy, lead, Scheduled 40 ASB DWV, Sched-

uled 40 PVC DWV, stainless steel 304 or 316L (stainless steel 304 pipe and fittings shall not be installed underground and shall be kept not less than six (6) inches (152 mm) aboveground), or other approved materials, and changes in direction shall conform to the requirements of Section 706.0. ABS and PVC DWV piping installations shall be installed in accordance with IS 5 and IS 9. Except for individual single-family dwelling units, materials exposed within ducts or plenums shall have a maximum flame-spread index of 25 and a maximum smoke-developed index of 50, when tested in accordance with ASTM E-84 and UL 723.

~~((4101.12))~~ **1101.13 Cleanouts.** Cleanouts for building storm drains shall comply with the requirements of this section.

~~((4101.12.4))~~ **1101.13.1 Locations.** Rain leaders and conductors connected to a building storm sewer shall have a cleanout installed at the base of the outside leader or outside conductor before it connects to the horizontal drain. Cleanouts shall be placed inside the building near the connection between the building drain and the building sewer or installed outside the building at the lower end of the building drain and extended to grade.

~~((4101.12.2))~~ **1101.13.2 Cleaning.** Each cleanout shall be installed so that it opens to allow cleaning in the direction of flow of the soil or waste or at right angles thereto, and except in the case of wye branch and end-of-line cleanouts, shall be installed vertically above the flow line of the pipe.

~~((4101.12.3))~~ **1101.13.3 Access.** Cleanouts installed under concrete or asphalt paving shall be made accessible by yard boxes, or extending flush with paving with approved materials and be adequately protected.

~~((4101.12.4))~~ **1101.13.4 Manholes.** Approved manholes may be installed in lieu of cleanouts when first approved by the authority having jurisdiction. The maximum distance between manholes shall not exceed three hundred (300) feet (91.4 m).

The inlet and outlet connections shall be made by the use of a flexible compression joint no closer than twelve (12) inches (305 mm) to, and not farther than three (3) feet (914 mm) from the manhole. No flexible compression joints shall be embedded in the manhole base.

~~((4108.0))~~ **1105.0 Controlled-Flow Roof Drainage.** This section is not adopted.

AMENDATORY SECTION (Amending WSR 13-04-054, filed 2/1/13, effective 7/1/13)

WAC 51-56-1300 Chapter 13—Health care facilities and medical gas and vacuum systems.

Part II Medical Gas and Vacuum Systems

~~((1309.0 Scope.~~

~~1309.1 General.~~ The provisions herein shall apply to the design, installation, testing, and verification of medical gas, medical vacuum systems, and related permanent equipment in hospitals, clinics, veterinary clinics and other health care facilities.

~~1309.2 Purpose.~~ The purpose of this chapter is to provide minimum requirements for the design, installation, testing and verification of medical gas, medical vacuum systems, and related permanent equipment, from the central supply system to the station outlets or inlets.

~~1321.3))~~ **1303.8 Water Mains for Hospitals.** Hospitals shall be provided with not less than two *approved potable water mains* that are installed in such a manner as to prevent the interruption of water service.

1305.3 Minimum Station Outlets/Inlets. Station outlets and inlets for medical gas and medical vacuum systems for facilities licensed or certified by Washington state department of health (DOH) or Washington state department of social and health services (DSHS) shall be provided as listed in chapters 246-320 and 246-330 WAC as required by the applicable licensing rules as applied by DOH construction review services. All other medical gas and medical vacuum systems shall be provided as listed in Table ((1312.3)) **1305.3.**

~~((1327.0 System Verification.~~

~~1327.1 Verification.~~ Prior to any medical gas system being placed in service, each and every system shall be verified as described in section 1328.2.

~~1327.1.1 Verification Tests.~~ Verification tests shall be performed only after all tests required in section 1326.0, *Installer Performed Tests*, have been completed.

Testing shall be conducted by a party technically competent and experienced in the field of medical gas and vacuum pipeline testing and meeting the requirements of ANSI/ASSE Standard 6030, *Medical Gas Verifiers Professional Qualifications Standard*.

Testing shall be performed by a party other than the installing contractor or material vendor.

When systems have been installed by in-house personnel, testing shall be permitted by personnel of that organization who meet the requirements of this section.))

AMENDATORY SECTION (Amending WSR 13-04-054, filed 2/1/13, effective 7/1/13)

WAC 51-56-1400 Chapter 14—((Referenced standards)) Reserved.

~~((TABLE 1401.1~~

~~**Standards for Materials, Equipment, Joints and Connections**~~

Where more than one standard has been listed for the same material or method, the relevant portions of all such standards shall apply.

Add the following standard to those listed in Table 1401.1:

Standard Number	Standard Title	Application
WAC 246-290-490	Washington State Department of Health Cross-connection Control Requirements	Backflow Protection))

NEW SECTION

WAC 51-56-1500 Chapter 15—Alternate water sources for nonpotable applications.

1501.1.1 Allowable use of Alternative Water. Where approved or required by the authority having jurisdiction, alternate water sources (reclaimed (recycled) water, gray water and on-site treated nonpotable water) shall be permitted to be used in lieu of potable water for the applications identified in this chapter. Reclaimed (recycled) water shall not be used to flush toilets or for other indoor use in any residential property or dwelling unit where residents have access to plumbing systems for repairs or modifications.

1501.2 System Design. *Alternate water source systems* shall be designed in accordance with this chapter by a registered design professional or person who demonstrates competency to design the alternate water source system as required by the authority having jurisdiction. Components, piping, and fittings used in an alternate water source system shall be *listed*.

1501.7 Minimum Water Quality Requirements. The minimum water quality for alternate water source systems shall meet the applicable water quality requirements for the intended application as determined by the authority having jurisdiction. In the absence of water quality requirements, the EPA/625/R-04/108 contains recommended water reuse guidelines to assist regulatory agencies develop, revise, or expand alternate water source water quality standards.

The treatment for gray water used to flush toilets or urinals shall be oxidized, coagulated, filtered and disinfected, and be consistent at all times with Washington Class A reclaimed water or better and be approved by the authority having jurisdiction.

1501.11.2.3 Discovery of Cross-Connection. In the event that a cross-connection is discovered, the following procedure, in the presence of the AHJ, shall be activated immediately:

- (1) Reclaimed (recycled) water piping to the building shall be shutdown at the meter, and the reclaimed (recycled) water riser shall be drained.
- (2) Potable water piping to the building shall be shutdown at the meter.
- (3) The cross-connection shall be uncovered and disconnected.
- (4) The building shall be retested following procedures listed in Sections 1501.11.2.1 and 1501.11.2.2.
- (5) The potable water system shall be chlorinated with 50 parts-per-million (ppm) chlorine for twenty-four hours.
- (6) The potable water system shall be flushed after twenty-four hours, and a standard bacteriological test for drinking water shall be performed by a laboratory certified for drinking water in Washington state. Where test results are satisfactory to the authority having jurisdiction, health authority having jurisdiction, and the water purveyor, the potable water system shall be permitted to be recharged. See also chapter 246-290 WAC.

1501.13.1 General. An abandoned system or part thereof covered under the scope of this chapter shall be disconnected from remaining systems, drained, plugged, and capped in an

approved manner. Components of the abandoned system including, but not limited to, pipe, tubing, fittings, and valves shall not be used for potable water systems.

1502.0 Gray Water Systems, is not adopted. Gray water shall not be used for irrigation except as permitted by the department of health rules.

1503.4 Connection to Potable or Reclaimed (Recycled) Water Systems. Reclaimed (recycled) water systems shall have no connection to a potable water supply or alternate water source system. Potable water is permitted to be used as makeup water for a reclaimed (recycled) water storage tank provided the water supply inlet is protected by an approved air gap in accordance with this code.

1504.1 General. The provisions of this section shall apply to the installation, construction, alteration, and repair of on-site treated nonpotable water systems intended to supply uses such as water closets, urinals, trap primers for floor drains and floor sinks, and other uses approved by the authority having jurisdiction.

1504.7 On-Site Treated Nonpotable Water Devices and Systems. Devices or equipment used to treat nonpotable water for on-site use in order to maintain the minimum water quality requirements determined by the authority having jurisdiction shall be listed or labeled (third-party certified) by a listing agency (accredited conformity assessment body) or approved for the intended application. Devices or equipment used to treat gray water or sewage for use in water closet and urinal flushing, surface irrigation, and similar applications shall oxidize, coagulate, filter and disinfect the gray water or sewage, and be consistent at all times with Washington Class A reclaimed water or better and be approved by the authority having jurisdiction.

1504.10.2 Reserved.

AMENDATORY SECTION (Amending WSR 13-23-094, filed 11/20/13, effective 4/1/14)

WAC 51-56-1600 Chapter 16—(~~Alternate water sources for nonpotable applications~~) Nonpotable rainwater catchment systems.

~~(1601.1.1 Allowable use of Alternative Water. Where approved or required by the authority having jurisdiction, alternate water sources (reclaimed (recycled) water, gray water and on site treated nonpotable water) shall be permitted to be used in lieu of potable water for the applications identified in this chapter. Gray water shall not be used for irrigation except as permitted by the department of health rules.~~

~~1601.2 System Design. Alternate water source systems in accordance with this chapter shall be designed by a person registered or licensed to perform plumbing design work. Components, piping, and fittings used in an alternate water source system shall be listed.~~

~~1601.3 Permit. It shall be unlawful for a person to construct, install, alter, or cause to be constructed, installed, or altered an alternate water source system in a building or on a premise without first obtaining a permit to do such work from the Authority Having Jurisdiction.~~

~~1601.5.2 Maintenance Log. A maintenance log for gray water, and on-site treated nonpotable water systems required to have a permit in accordance with Section 1601.3 shall be maintained by the property owner and be available for inspection. The property owner or designated appointee shall ensure that a record of testing, inspection and maintenance in accordance with Table 1601.5 is maintained in the log. The log will indicate the frequency of inspection and maintenance for each system.~~

~~1601.10 Abandonment. Where alternate water source systems for nonpotable use are abandoned, the procedure for abandonment shall be as required by the Authority Having Jurisdiction. Components of the abandoned system including, but not limited to, pipe, tubing, fittings and valves shall not be used for potable water systems.~~

~~1602.0 Gray Water Systems, is not adopted.~~ Gray water shall not be used for irrigation except as permitted by the department of health rules.

~~1603.4 Connection to Potable or Reclaimed (Recycled) Water Systems. Reclaimed (recycled) water systems shall have no connection to a potable water supply or alternate water source system. Potable water is permitted to be used as makeup water for a reclaimed (recycled) water storage tank provided the water supply inlet is protected by an approved air gap in accordance with this code.~~

~~1603.11.2.3 Discovery of Cross Connection. In the event that a cross connection is discovered, the following procedure, in the presence of the AHJ, shall be activated immediately:~~

~~(1) Reclaimed (recycled) water piping to the building shall be shutdown at the meter, and the reclaimed (recycled) water riser shall be drained.~~

~~(2) Potable water piping to the building shall be shutdown at the meter.~~

~~(3) The cross connection shall be uncovered and disconnected.~~

~~(4) The building shall be retested following procedures listed in Sections 1603.11.2.1 and 1603.11.2.2.~~

~~(5) The potable water system shall be chlorinated with 50 parts per million (ppm) chlorine for twenty-four hours.~~

~~(6) The potable water system shall be flushed after twenty-four hours, and a standard bacteriological test for drinking water shall be performed by a laboratory certified for drinking water in Washington state. Where test results are satisfactory to the authority having jurisdiction, health authority having jurisdiction, and the water purveyor, the potable water system shall be permitted to be recharged. See also chapter 246-290 WAC.~~

~~1604.1 General. The provisions of this section shall apply to the installation, construction, alteration, and repair of on-site treated nonpotable water systems intended to supply uses such as water closets, urinals, trap primers for floor drains and floor sinks, and other uses approved by the authority having jurisdiction.~~

~~1604.12.2.3 Discovery of Cross Connection. In the event that a cross connection is discovered, the following procedure,~~

dures, in the presence of the AHJ, shall be activated immediately:

(1) On-site treated nonpotable water piping to the building shall be shutdown at the meter, and the on-site treated water riser shall be drained.

(2) Potable water piping to the building shall be shutdown at the meter.

(3) The cross-connection shall be uncovered and disconnected.

(4) The building shall be retested following procedures listed in Sections 1603.11.2.1 and 1603.11.2.2.

(5) The potable water system shall be chlorinated with 50 parts-per-million (ppm) chlorine for twenty-four hours.

(6) The potable water system shall be flushed after twenty-four hours, and a standard bacteriological test for drinking water shall be performed by a laboratory certified for drinking water in Washington state. Where test results are satisfactory to the authority having jurisdiction, health authority having jurisdiction, and the water purveyor, the potable water system shall be permitted to be recharged. See also chapter 246-290 WAC.) **1601.11.1 General.** An abandoned system or part thereof covered under the scope of this chapter shall be disconnected from remaining systems, drained, plugged and capped in an *approved* manner. Components of the abandoned system including, but not limited to, pipe, tubing, fittings and valves shall not be used for potable water systems.

1602.0 Nonpotable Rainwater Catchment Systems.

1602.1 General. The installation, construction, alteration, and repair of rainwater catchments systems intended to supply uses such as water closets, urinals, trap primers for floor drains and floor sinks, irrigation, industrial processes, water features, cooling tower makeup and other uses shall be approved by the authority having jurisdiction.

EXCEPTION: Exterior irrigation piping.

1602.11.2.3 Discovery of Cross-Connection. In the event that a cross-connection is discovered, the following procedure, in the presence of the AHJ, shall be activated immediately:

(1) Rainwater catchment water piping to the building shall be shutdown at the meter, and the rainwater water riser shall be drained.

(2) Potable water piping to the building shall be shutdown at the meter.

(3) The cross-connection shall be uncovered and disconnected.

(4) The building shall be retested following procedures listed in Sections 1603.11.2.1 and 1603.11.2.2.

(5) The potable water system shall be chlorinated with 50 parts-per-million (ppm) chlorine for twenty-four hours.

(6) The potable water system shall be flushed after twenty-four hours, and a standard bacteriological test for drinking water shall be performed by a laboratory certified for drinking water in Washington state. Where test results are satisfactory to the authority having jurisdiction, health authority having jurisdiction, and the water purveyor, the potable water system shall be permitted to be recharged. See also chapter 246-290 WAC.

AMENDATORY SECTION (Amending WSR 13-23-094, filed 11/20/13, effective 4/1/14)

WAC 51-56-1700 Chapter 17—(~~Nonpotable rainwater catchment systems~~) Referenced standards.

~~(1702.0 Nonpotable Rainwater Catchment Systems.~~

~~1702.1 General.~~ The installation, construction, alteration, and repair of rainwater catchments systems intended to supply uses such as water closets, urinals, trap primers for floor drains and floor sinks, irrigation, industrial processes, water features, cooling tower makeup and other uses shall be approved by the authority having jurisdiction.

EXCEPTION: Exterior irrigation piping.

~~1702.2 Permit.~~ It shall be unlawful for a person to construct, install, alter, or cause to be constructed, installed, or altered a nonpotable rainwater catchment system in a building or on a premises without first obtaining a permit to do such work from the authority having jurisdiction.

EXCEPTIONS:

1. A permit is not required for exterior rainwater catchment systems used for outdoor drip and subsurface irrigation with a maximum storage capacity of 360 gallons (1363 L).
2. A plumbing permit is not required for rainwater catchment systems for single family dwellings where outlets, piping, and system components are located on the exterior of the building. This does not exempt the need for permits where required for electrical connections, tank supports, or enclosures.

~~1702.2.1 Plumbing Plan Submission.~~ No permit for a rainwater catchment system shall be issued until complete plumbing plans, with data satisfactory to the Authority Having Jurisdiction, have been submitted and approved.

~~1702.2.3 Discovery of Cross Connection.~~ In the event that a cross-connection is discovered, the following procedure, in the presence of the AHJ, shall be activated immediately:

(1) Rainwater catchment water piping to the building shall be shutdown at the meter, and the rainwater water riser shall be drained.

(2) Potable water piping to the building shall be shutdown at the meter.

(3) The cross-connection shall be uncovered and disconnected.

(4) The building shall be retested following procedures listed in Sections 1603.11.2.1 and 1603.11.2.2.

(5) The potable water system shall be chlorinated with 50 parts-per-million (ppm) chlorine for twenty-four hours.

(6) The potable water system shall be flushed after twenty-four hours, and a standard bacteriological test for drinking water shall be performed by a laboratory certified for drinking water in Washington state. Where test results are satisfactory to the authority having jurisdiction, health authority having jurisdiction, and the water purveyor, the potable water system shall be permitted to be recharged. See also chapter 246-290 WAC.

~~1702.12 Abandonment.~~ Where nonpotable rainwater catchment systems are abandoned, the procedure for abandonment shall be as required by the Authority Having Jurisdiction. Components of the abandoned system including, but not lim-

ited to, pipe, tubing, fittings and valves shall not be used for potable water systems.)) **Referenced Standards.**

TABLE 1701.1

Standards for Materials, Equipment, Joints and Connections

Where more than one standard has been listed for the same material or method, the relevant portions of all such standards shall apply.

Add the following standard to those listed in Table 1701.1:

<u>Standard Number</u>	<u>Standard Title</u>	<u>Application</u>
WAC 246-290-490	Washington State Department of Health Cross-connection Control Requirements	Backflow Protection

AMENDATORY SECTION (Amending WSR 13-04-054, filed 2/1/13, effective 7/1/13)

WAC 51-56-90700 ((Installation Standard 7 03—Polyethylene cold water building supply and yard piping—)) Reserved.

~~((2.6.1 Location. Polyethylene piping may terminate within a building or structure. The connection to the potable water distribution system shall be accessible, except that it may be buried underground outside of the building or structure in an accessible location. Barbed insert fittings with hose clamps are prohibited within a building.))~~

AMENDATORY SECTION (Amending WSR 13-04-054, filed 2/1/13, effective 7/1/13)

WAC 51-56-90800 ((Installation Standard 8 03—PVC cold water building supply and yard piping—)) Reserved.

~~((2.7.1 Location. PVC piping may terminate within a building or structure. The connection to the potable water distribution system shall be accessible, except that it may be buried underground outside of the building or structure in an accessible location.))~~

AMENDATORY SECTION (Amending WSR 13-04-054, filed 2/1/13, effective 7/1/13)

WAC 51-56-92000 ((Installation Standard 20 2010—CPVC solvent cemented hot and cold water distribution systems—)) Reserved.

~~((2.1.2 Primer. Listed primers shall be used that are compatible with the type of listed CPVC cement and pipe used. The primer shall be a true solvent for CPVC, containing no slow-drying ingredient. Cleaners shall not be allowed to be used as a substitute or equivalent for a listed primer.~~

EXCEPTION: ~~Listed solvent cements that do not require the use of primer shall be permitted for use with CPVC pipe and fittings, manufactured in accordance with ASTM D2845, 1/2 inch through 2 inches in diameter.))~~

WSR 16-02-059

PERMANENT RULES

DEPARTMENT OF REVENUE

[Filed January 4, 2016, 9:36 a.m., effective February 4, 2016]

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

Purpose: WAC 458-20-176 (Rule 176) explains the business and occupation (B&O) tax, sales tax and use tax responsibilities of those engaged in commercial deep sea fishing and suppliers selling to those persons. Rule 176 has been revised to:

- Include information pertaining to RCW 82.04.4269 that allows a B&O tax exemption for value of product or proceeds of sales for manufactured seafood products that remain in a raw, raw frozen or raw salted state at the completion of the manufacturing by that person or when the same is sold to buyers that transport the seafood products out of the state of Washington. This exemption, not previously discussed in the rule, has been extended to July 1, 2025. Chapter 6, Laws of 2015 3rd sp. sess. (ESSB 6057).
- Add an introduction and references to other rules that may be helpful to readers.
- Remove verbiage pertaining to and the example of the "Diesel Fuel Exemption Certificate" as no longer needed. Qualified buyers should use the Buyers' Retail Sales Tax Exemption Certificate found on the department's web site.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-176 (Rule 176) Commercial deep sea fishing—Commercial passenger fishing—Diesel fuel.

Statutory Authority for Adoption: RCW 82.32.300 and 82.01.060(2).

Other Authority: RCW 82.04.4269.

Adopted under notice filed as WSR 15-21-012 on October 12, 2015.

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

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

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

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

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

Date Adopted: January 4, 2016.

Kevin Dixon
Rules Coordinator

AMENDATORY SECTION (Amending WSR 88-03-055, filed 1/19/88)

WAC 458-20-176 Commercial deep sea fishing—Commercial passenger fishing—Diesel fuel. (1) **Introduction.** This rule explains the business and occupation (B&O) tax, sales tax and use tax responsibilities of those engaged in commercial deep sea fishing, and suppliers selling to those persons.

Other rules that may apply. Readers may want to refer to other rules for additional information, including those in the following list:

(a) WAC 458-20-119 Sales by caterers and food service contractors;

(b) WAC 458-20-135 Extracting natural products;

(c) WAC 458-20-178 Use tax and the use of tangible personal property;

(d) WAC 458-20-193 Interstate sales of tangible personal property;

(e) WAC 458-20-244 Food and food ingredients.

(2) **Definitions.** ((As used herein:)) The following definitions apply to this rule.

(a) **Commercial deep sea fishing.** "Commercial deep sea fishing" means fishing done for profit outside the territorial waters of the state of Washington. It does not include sport fishing or the operation of charter boats for sport fishing. ((See WAC 458-20-183 for tax liability of such persons.)) Nor does the phrase include the operation or purchase of watercraft for kelping, purse seining, or gill netting, because such fishing methods can be legally performed in Washington only within the territorial waters of the state (the three-mile limit). Therefore, watercraft rigged for fishing by any of these methods will be deemed for use in other than commercial deep sea fishing unless proof, including documentation to be retained by sellers, is furnished that said watercraft will be used for these purposes exclusively outside the Washington territorial limit.

(b) ((("Watercraft" means every type of floating equipment which is designed for the purpose of carrying therein or therewith fishing gear, fish catch or fishing crews, and used primarily in commercial deep sea fishing operations.)) **Commercial passenger fishing.** "Commercial passenger fishing" means that done from charter boats for sport outside the territorial waters of the state of Washington.

(c) **Component part.** "Component part" includes all tangible personal property ((which)) that is attached to and a part of a watercraft. It includes dories, gurdies and accessories, bait tanks, baiting tables and turntables. It also includes spare parts ((which)) that are designed for ultimate attachment to a watercraft. The ((said)) term "component part" does not include equipment or furnishings of any kind ((which)) that are not attached to a watercraft, nor does it include consumable supplies. Thus, it does not include, among other things, bedding, table and kitchen wares, fishing nets, hooks, lines, floats, hand tools, ice, fuel or lubricants.

(d) ((("Commercial passenger fishing" means that done from charter boats for sport outside the territorial waters of the state of Washington.

(2)) **Watercraft.** "Watercraft" means every type of floating equipment that is designed for carrying fishing gear,

fish catch or fishing crews, and used primarily in commercial deep sea fishing operations.

(3) Business and occupation tax.

(a) Persons engaged in commercial deep sea fishing are not taxable under the extracting classification with respect to catches obtained outside the territorial waters of this state.

(b) Such persons are taxable under either the retailing or the wholesaling classification with respect to sales made within this state, unless entitled to exemption by reason of the commerce clauses of the federal constitution. ((See WAC 458-20-193.))

(3)) (c) Such persons may qualify for a B&O tax exemption under RCW 82.04.4269. This exemption pertains to the value of products or the gross proceeds of sales derived from:

(i) Manufacturing seafood products that remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing by that person; or

(ii) In the ordinary course of business, manufactured seafood products that remain in a raw, raw frozen or raw salted state to buyers that transport the goods out of the state of Washington. A person taking an exemption must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the buyer in the ordinary course of business out of the state of Washington.

(d) Persons claiming the exemption in (c) of this subsection must file a completed annual survey with the department under RCW 82.32.585. In addition, persons claiming this tax preference must report the amount of the exemption on their monthly or quarterly excise tax return. For more information on reporting requirements for this tax preference see RCW 82.32.808.

(e) The exemption provided by RCW 82.04.4269 is scheduled to expire on July 1, 2025.

(4) Retail sales tax.

(a) ((By reason of the exemption contained in)) Under RCW 82.08.0262, the retail sales tax does not apply ((upon)) to sales of watercraft (including component parts thereof) which are primarily for use in conducting commercial deep sea fishing operations, nor does ((said)) retail sales tax apply to sales of or charges made for labor and services rendered in respect to the constructing, repairing, cleaning, altering or improving of such property.

(b) The retail sales tax applies ((upon)) to sales made to persons engaged in commercial deep sea fishing of every ((other)) type of tangible personal property (except only sales of watercraft and component parts thereof) and ((upon)) to sales of or charges made for labor and services rendered in respect to the construction, repairing, cleaning, altering or improving of such ((other)) types of property. Thus, the retail sales tax applies ((upon)) to sales to such persons of such things as fishing nets, hooks, lines, floats and bait; table and kitchen wares; hand tools, ice, fuel except diesel fuel as noted ((below)) in subsection (7) of this rule, and lubricants for use or consumption((, except only sales of watercraft and component parts thereof)). For sales of food ((products)) and food ingredients see WAC 458-20-119 and 458-20-244.

~~((4))~~ (5) Exemption certificates required.

(a) Persons selling watercraft or component parts thereof to persons engaged in commercial deep sea fishing or performing services with respect to such craft or parts, are required to obtain from the ~~((purchaser))~~ buyer a certificate evidencing the exempt nature of the transaction. ~~((This certificate must identify the purchaser by name and address, and by name of the watercraft with respect to which the purchase is made, and must contain a statement to the effect that the property purchased or repaired is for use primarily in commercial deep sea fishing operations.~~

~~(b) The certificate should be in substantially the following form:~~

Exemption Certificate

~~I HEREBY CERTIFY that the this day ordered from or purchased from you, will be used primarily in commercial deep sea fishing operations outside the territorial waters of the State of Washington; that the vessel is not for fishing inside such territorial waters, and is not rigged or equipped for such fishing; that the registered name of the watercraft to which said purchase applies is (name of fishing boat); and that said sale is entitled to exemption under the provisions of RCW 82.08.0262.~~

~~Dated, 19~~

~~_____ (Name of Purchaser)
By _____ (Name of officer or agent)
Address _____)~~

(b) Buyers claiming the exemption may use the department's Buyers' Retail Sales Tax Exemption Certificate. The certificate can be found on the department's web site at dor.wa.gov. Sellers must retain certificates in its records as evidence of the exempt nature of the sales to eligible buyers.

(c) ((Incidental use)) Fishing boats used primarily in commercial deep sea fishing operations that are incidentally used within the waters of this state ((of fishing boats which are used primarily in deep sea fishing operations, will not deprive the owners thereof of the statutory exemption from the)) are still eligible for the exemption from retail sales tax.

(d) ((In the event the)) Sales of fishing ((boat with respect to which an exemption is claimed is of a)) boats, that are the types used in the waters of Puget Sound or the Columbia River and the tributaries thereof, and ((is)) are not practical for use in deep sea fishing, ((sellers should collect)) are subject to the retail sales tax ((upon all sales of such boats and)) including sales of component parts thereof and ((upon)) on charges made for the repair of the same.

(e) It is a gross misdemeanor for a buyer to make a false certificate of exemption for the purpose of avoiding the tax.

~~((5))~~ (6) Use tax.

(a) The use tax does not apply ~~((upon))~~ to the use of watercraft or component parts thereof. RCW 82.12.0254.

(b) The use tax ~~((does apply upon))~~ applies to the actual use within this state of all other types of tangible personal property purchased at retail ~~((and upon which))~~ where the

sales tax has not been paid ~~((see WAC 458-20-178) except on diesel fuel as noted below))~~ and no exemption exists.

~~((6))~~ (7) Diesel fuel.

(a) ~~((The law provides for))~~ RCW 82.08.0298 and 82.12.0298 provide sales and use tax exemptions on diesel fuel for both commercial passenger fishing (charter boats for sport fishing) and commercial deep sea fishing operations.

(b) Neither retail sales nor use tax applies with respect to sales or use of diesel fuel in the operation of watercraft in commercial deep sea fishing operations or commercial passenger fishing operations by persons who are regularly engaged in the business of such operations outside the territorial waters (three-mile limit) of this state. For purposes of this exemption, a person is not regularly engaged in either business if the person has gross receipts from the extra territorial operations of less than five thousand dollars a year. For persons involved in both commercial deep sea fishing operations and commercial passenger fishing operations, the receipts from both ~~((shall))~~ will be added together to determine eligibility for this exemption.

(c) ~~((This exemption is plenary in scope and it is not required that all of the diesel fuel purchased be used outside of the territorial waters of this state.))~~ If a person qualifies for the exemptions by virtue of operating a deep sea fishing vessel, and has the requisite amount of gross receipts from that activity, all diesel fuel purchases and uses by such person for such vessel are tax exempt. It is not required that all the diesel fuel purchased be used outside the territorial waters of this state.

(d) **Diesel fuel exemption certificates required.** Persons selling diesel fuel to such persons are required to obtain from the ~~((purchaser))~~ buyer a certificate evidencing the exempt nature of the transaction. This certificate must identify the ~~((purchaser))~~ buyer by name and address, and by the registered name and number of the watercraft with respect to which the purchase is made. ~~((It must contain a statement to the effect that the diesel fuel is for use by a person who is engaged in commercial deep sea fishing and/or commercial passenger fishing operations who has annual gross receipts therefrom of at least five thousand dollars.))~~ Blanket certificates covering all diesel fuel purchases for specified watercraft may be used, where appropriate. A seller of diesel fuel who accepts such a certificate ~~((in good faith shall not be))~~ is not liable for sales tax on the diesel fuel sold. Certificates must be retained by the sellers in their permanent records as evidence of the exempt nature of diesel sales to eligible buyers. It is a gross misdemeanor for a buyer to make a false certificate of exemption for the purpose of avoiding the tax. Buyers may use the Buyers' Retail Sales Tax Exemption Certificate found on the department's web site at dor.wa.gov.

~~((e))~~ The certificate should be in substantially the following form:

Diesel Fuel Exemption Certificate

~~I HEREBY CERTIFY that diesel fuel which I will purchase from (name of dealer) will be used in the operation of a watercraft which is used in commercial deep sea or commercial passenger fishing operations outside the territorial waters of the state of Washington; that the registered name and number of the watercraft to which said purchase applies is (registered vessel name and number); that the owner(s) of said vessel~~

~~has gross income, based on federal income tax returns, of not less than five thousand dollars a year from such extra-territorial fishing operations; and that said sales are entitled to exemption under the provisions of chapter 494, Laws of 1987.~~

Dated _____, 19 ____

 (Name of Purchaser)
 By _____
 (Name of officer or agent)
 Address _____))

WSR 16-02-063
PERMANENT RULES
DEPARTMENT OF REVENUE

[Filed January 4, 2016, 10:07 a.m., effective February 4, 2016]

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

Purpose: The department is proposing revision to WAC 458-20-13501 to:

- Define log transportation businesses and indicate that effective August 1, 2015, a reduced public utility tax rate is available to most log transportation businesses (RCW 82.16.020, chapter 6, Laws of 2015 3rd sp. sess.);
- Update and add statute references;
- Update definition for "small harvester" to match RCW 84.33.035;
- Update reporting requirements on timber purchases including the extended expiration date of July 1, 2018, as provided by RCW 84.33.088; and
- Revise language pertaining to "services furnished jointly" to correspond with the statute and *Puget Sound v. Dep't of Revenue*, 158 Wash. App. 616 (2010).

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-13501 (Rule 13501) Timber harvest operations.

Statutory Authority for Adoption: RCW 82.32.300 and 82.01.060(2).

Other Authority: RCW 82.16.020.

Adopted under notice filed as WSR 15-21-014 on October 12, 2015.

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

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making:

New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: January 4, 2016.

Kevin Dixon
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 01-13-042, filed 6/14/01, effective 7/15/01)

WAC 458-20-13501 Timber harvest operations. (1) **Introduction.** Timber harvest operations generally consist of a variety of different activities. These activities ~~((are))~~ may be subject to different tax rates ~~((and/))~~ or classifications under the ~~((Revenue Act))~~ business and occupation tax and public utility tax, depending on the nature of the activity.

(a) **Scope of rule.** This rule explains the application of the business and occupation (B&O), public utility, retail sales, and use taxes to persons performing activities associated with timber harvest operations. This rule explains how the public utility tax deduction ~~((available))~~ provided by RCW 82.16.050 for the transportation of commodities to an export facility ~~((RCW 82.16.050))~~ applies to the transportation of logs ~~((subsection (13)))~~. It also explains how the B&O tax exemption provided by RCW 82.04.333 for small timber harvesters applies ~~((subsection (14)))~~.

(b) **Additional information sources for activities associated with timber harvest operations.** In addition to the taxes addressed in this rule, the forest excise and real estate excise taxes often apply to certain activities or sales associated with timber harvest operations. Persons engaged in timber harvest operations should refer to the following rules for additional information:

- (i) WAC 458-20-135 ~~(())~~ Extracting natural products ~~(())~~;
- (ii) WAC 458-20-136 ~~(())~~ Manufacturing, processing for hire, fabricating ~~(())~~;
- (iii) WAC 458-20-13601 ~~(())~~ Manufacturers and processors for hire—Sales and use tax exemption for machinery and equipment ~~(())~~;
- (iv) Chapter 458-40 WAC ~~(())~~ Taxation of forest land and timber ~~(())~~; and
- (v) Chapter ~~((458-61))~~ 458-61A WAC ~~(())~~ Real estate excise tax ~~(())~~.

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

(d) **Information regarding short-rotation hardwoods.** ~~((Effective July 22, 2001,))~~ Persons cultivating short-rotation hardwoods are considered farmers. Refer to WAC ~~((458-20-122,))~~ 458-20-209 ~~(())~~ and 458-20-210 for tax-reporting information for farmers and persons selling property to or performing horticultural services for farmers. "Short-rotation hardwoods" are hardwood trees, such as, but not limited to, hybrid cottonwoods, cultivated by agricultural methods in growing cycles shorter than fifteen years. ~~((Chapter 97, Laws of 2001))~~ RCW 84.33.035.

(2) **Timber harvesters.** Timber harvesters may engage in business activities that require them to report under the

extracting, manufacturing, ~~((and/or))~~ wholesaling, or retailing B&O tax classifications.

The definition of "extractor" ~~((f))~~found in RCW 82.04.100~~((-as it))~~ relates to the harvesting of trees (other than plantation Christmas trees) and is generally identical to the definition of "harvester" ~~((f))~~found in RCW 84.33.035~~((g))~~. An exception is the specific provisions in the definition of "harvester" relating to trees harvested by federal, state, and local government entities. Both definitions include every person who from the person's own land or from the land of another under a right or license granted by lease or contract, either directly or by contracting with others for the necessary labor or mechanical services, fells, cuts (severs), or takes timber for sale or for commercial or industrial use. Both definitions exclude persons performing under contract the necessary labor or mechanical services for the extractor/harvester.

(a) **Timber purchasers to file information report.** A purchaser must report to the department of revenue (department) purchases of privately owned timber in an amount exceeding two hundred thousand board feet, if purchased in a voluntary sale made in the ordinary course of business. The report must contain ~~((the))~~ all information relevant to the value of the timber purchased including, but not limited to, the following, as applicable: Purchaser's name ~~((and))~~, address ~~((-purchase information (dates, price, descriptions of land, acreage, and required improvements, the volume purchased, and cruise and thinning data) and all relevant information to the value of the timber purchased))~~ and contact information; seller's name, address, and contact information; sale date; termination date in sale agreement; total sale price; legal description of sale area; sale name; forest practice application/harvest permit number if available; total acreage involved in the sale; estimated net volume of timber purchased by tree species and log grade; and description and value of property improvements.

This report must be filed on or before the last day of the month following the purchase of the timber. A two hundred fifty dollar penalty may be imposed against a purchaser for each failure to satisfy the requirements for filing this report. These filing requirements ~~((become effective July 1, 2001, and))~~ are scheduled to expire July 1, ~~((2004. Chapter 320, Laws of 2001))~~ 2018. RCW 84.33.088.

(b) **Extracting.** The felling, cutting (severing from land), or taking of trees is an extracting activity~~((:-))~~ as defined in RCW 82.04.100. The extracting B&O tax classification applies to the value of the products extracted, which is the value of the severed trees prior to any manufacturing activity.

(c) **Manufacturing.** The cutting into length (bucking), delimiting, and measuring (for bucking) of felled, cut (severed), or taken trees is a manufacturing activity~~((:-))~~ as defined in RCW 82.04.120. The manufacturing B&O tax ~~((applies to))~~ is measured by the value of the products manufactured, which is generally the gross proceeds of sale~~((-whether the manufactured product is sold at retail or wholesale. Refer also to RCW 82.04.450 and WAC 458-20-112)).~~ For more information regarding the value of products see RCW 82.04.450 and WAC 458-20-112.

If the product is delivered to a point outside the state, transportation costs incurred by the seller from the last point at which manufacturing takes place within Washington may

be deducted from the gross proceeds of sale when determining the value of the product. ~~((For example,))~~

Example 1. In each of the following situations ~~((below))~~ presume that the timber harvester delivers the product to the customer at a point outside the state:

(i) If there is no further manufacturing subsequent to manufacturing conducted at the harvest site, the measure of tax is the gross proceeds of the sale of the logs less transportation costs incurred by the seller from the harvest site to delivery to the customer;

(ii) If logs are hauled to a facility for processing into lumber, poles, or piles, the measure of tax is the gross proceeds of sale of the lumber, poles, or piles less transportation costs incurred by the seller from the facility to delivery to the customer; and

(iii) If logs are hauled to a facility that only removes the bark, the measure of tax is the gross proceeds of sale of the logs less transportation costs incurred by the seller from the harvest site to the customer. This is because the mere removal of bark is not a manufacturing activity.

However, if at that facility the debarking is a part of a manufacturing process (e.g., cutting the logs into lumber), the entire process, including the debarking, is a manufacturing activity. In such a case, the measure of tax is the gross proceeds of sale of the products manufactured from the logs less transportation costs incurred by the seller from the facility to the customer.

(d) **Selling.** The income from the sale of the logs is subject to tax under either the wholesaling or retailing B&O tax classification, as the case may be, unless exempt by law. The measure of tax is the gross proceeds of sale without any deduction for transportation costs.

(i) When determining the gross proceeds of sale, the timber harvester may not deduct amounts paid to others. ~~((For example,))~~

Example 2. A timber harvester enters into a contract with another person to perform the necessary labor and mechanical services for the harvesting of timber. The harvester is to receive sixty percent of the log sale proceeds, and the person contracting to perform the services is to receive forty percent. The log buyer purchases the logs for five hundred thousand dollars. The buyer pays three hundred thousand dollars to the harvester and two hundred thousand dollars to the person performing the harvesting services. The harvester's gross proceeds of sale is five hundred thousand dollars.

(ii) Retail sales tax must be collected and remitted on all sales to consumers, ~~((again))~~ unless exempt by law. For wholesale sales, sellers must obtain ~~((resale certificates from their customers to document the wholesale nature of any transaction. (Refer to WAC 458-20-102 on resale certificates.))~~ and retain copies of their customers' reseller permits to document the wholesale nature of the transaction. For information on reseller permits see WAC 458-20-102 and 458-20-10201.

(e) **Multiple activities tax credit (MATC).** An extractor ~~((and/or))~~ or manufacturer who sells the product ~~((he or she extracts and/or manufactures))~~ extracted or manufactured must report under each of the appropriate "production" (extracting ~~((and/or))~~ or manufacturing) and "selling" (whole-

saling or retailing) classifications ~~((of the B&O tax, RCW 82.04.440))~~ on the excise tax return. The extractor ~~((and))~~ or manufacturer may then claim a multiple activities tax credit (MATC) as described in RCW 82.04.440 for the extracting tax (RCW 82.04.230) or manufacturing tax (RCW 82.04.240), provided the credit does not exceed the wholesaling or retailing tax liability. ~~((See WAC 458-20-19301 (Multiple activities tax credits)))~~ For a more detailed explanation of the MATC reporting requirements see WAC 458-20-19301.

(3) **Extractors for hire.** Persons performing extracting activities (labor or mechanical services) such as independent contractors, for timber harvesters are subject to tax under the extracting for hire B&O tax ~~((upon))~~ classification measured by the gross income from those services. RCW 82.04.280 ~~((3)).~~ ~~((For example, a person severing trees owned by a timber harvester is performing an extracting activity, and is considered an extractor for hire with respect to those services. (See also WAC 458-20-135 for more information regarding extractors for hire.) The measure of tax is the gross income from the services. This income is not subject to the retail sales tax.))~~

Example 3. Tree Severing Corporation (TSC) is hired by Timber Harvester to fell trees owned by Timber Harvester. TSC is performing an extracting activity, and is considered an extractor for hire with respect to those services. TSC owes B&O tax under the extractor for hire tax classification measured by its gross income from the services.

Extracting activities commonly performed by extractors for hire include, but are not limited to:

- (a) Cutting or severing trees;
- (b) Logging road construction or maintenance;
- (c) Activities related to and performed on timber-producing property that are necessary and incidental to timber operations, such as:
 - (i) Slash cleanup and burning;
 - (ii) Scarification;
 - (iii) Stream and pond cleaning or rebuilding;
 - (iv) Restoration of logging roadways to a natural state;
 - (v) Restoration of wildlife habitat; and
 - (vi) Fire trail work.

(4) **Processors for hire.** Persons performing ~~((labor or mechanical))~~ services as independent contractors for timber harvesters during the manufacturing portion of a timber harvest operation are subject to tax under the processing for hire B&O tax classification measured by the gross income from those services. RCW 82.04.280 ~~((3)).~~ ~~((See also WAC 458-20-136 for more)).~~ For information regarding processors for hire see WAC 458-20-136. ~~((For example, a person delimiting and bucking severed trees at the harvest site is a processor for hire if another person owns the severed trees. A person transporting))~~

Example 4. Tree Services Inc. (TSI) is hired to delimit and buck severed trees at the harvest site by the owner of the severed trees, the TTT Company. TSI is a processor for hire and is subject to B&O tax under the processing for hire tax classification. TTT then hires Chopper Services to transport the logs by helicopter from where the logs were ~~((severed to a landing))~~ delimited and bucked to a location from which the logs will be transported to a mill ~~((is generally)).~~ Under these circumstances, Chopper Services is a processor for hire as the

manufacturing of the logs has started. However, if the manufacturing process on those logs ~~((has))~~ had not yet begun ~~((the helicopter operator is))~~ Chopper Services would be an extractor for hire. In either case, the measure of tax is the gross income from the services.

Persons performing processing for hire ~~((activities))~~ or extracting for hire services for consumers must collect and remit retail sales tax on those services unless otherwise exempt by law.

(5) **Hauling activities.** Persons performing services for timber harvesters are often required to haul logs by motor vehicle from the harvest site ~~((exclusively or in part))~~ over public roads. The income attributable to this hauling activity is subject to the public utility tax ~~((While the appropriate tax rate will generally be the motor transportation tax rate, refer to WAC 458-20-180 for more information regarding the distinction between the motor and urban transportation tax rates and classifications))~~ (PUT).

Effective August 1, 2015, RCW 82.16.020 provides a reduced PUT rate for most log transportation businesses. A "log transportation business" means the business of transporting logs by truck, except when the transportation meets the definition of urban transportation business or occurs exclusively on private roads. RCW 82.16.010. The distinction between motor and urban transportation is explained in WAC 458-20-180. If the hauling is exclusively performed over private roads, the gross income from the transportation activity is subject to tax under the service and other activities B&O tax ~~((applies. For example,))~~ classification, not the PUT.

Example 5. Hauler A hauls logs over private roads from the harvest site to the transfer site ~~((at which))~~ where the logs are unloaded. Hauler B hauls these logs over both private and public roads from the transfer site to a mill. The income received by Hauler A is subject to tax under the service and other activities B&O tax classification. The income received by Hauler B is subject to the ~~((appropriate classification of the))~~ public utility tax.

(a) **Subcontracting hauls to a third party.** If the person hired to haul logs by motor carrier subcontracts part or all of the hauling to a third party, the amount paid to the third party is subject to the ~~((appropriate tax classification for the hauling activity. If the hauling is subject to the public utility tax, a))~~ public utility tax if any part of the transportation performed by the third party occurred on a public road, and is subject to the B&O tax if the transportation occurred exclusively on private roads. The person originally hired to haul the logs by motor carrier may be entitled to claim the deduction for ~~((the amount paid to the third party may be claimed as))~~ jointly furnished services ~~((RCW 82.16.050(3). The law provides no))~~ in computing its PUT liability, depending on the circumstances. See WAC 458-20-179 for more information on the PUT deduction for services furnished jointly. No similar deduction ~~((for hauls subject to the service and other activities))~~ is available under the B&O tax.

~~((For example, EFH is hired by a timber harvester to perform the necessary labor and services to fell trees, delimit and buck these trees to length, and haul the logs to a mill. EFH is paid two hundred fifty thousand dollars. EFH hires Trucking to haul all of the logs from the woods to the mill, in part over public roads. Trucking is paid one hundred thousand dollars.~~

The amount of income received by EFH attributable to felling the trees is fifty-five thousand dollars, while ninety-five thousand dollars is attributable to delimiting and bucking the trees. EFH will report fifty-five thousand dollars and ninety-five thousand dollars under the extracting for hire and processing for hire B&O tax classifications, respectively. EFH will report one hundred thousand dollars under the appropriate public utility tax classification, and claim a deduction for the full one hundred thousand dollars as "jointly furnished services.")

(b) **Hauls using own equipment.** If the person hauls the product using his or her own equipment, and has established hauling rates that ~~((he or she pays))~~ are paid to third-parties for comparable hauls, these rates may be used to establish the measure of tax for the hauling activity. Otherwise, the measure of the tax should be all costs attributable to the hauling activity including, but not limited to, the following costs relative to the hauling equipment: Depreciation; repair parts and repair labor; and wages and benefits for employees or compensation to contractors driving or maintaining the equipment. If appropriate records are not maintained to document these costs, the department will accept one-third of the gross income derived from a contract for all labor or mechanical services beginning with the cutting or severance of trees through the hauling services as the measure of the tax under the motor transportation ((tax)) PUT classification.

(c) **Deduction for hauls to export facilities.** Refer ~~((also))~~ to subsection (13) ~~((below))~~ of this rule for information regarding the deduction available for certain log hauls to export facilities.

(6) **Common timber sale arrangements.** Persons who sell and/or take timber may ~~((incur either a))~~ be subject to various taxes including the B&O tax, timber excise((-or) tax, and real estate excise tax ((liability, or possibly both a B&O and a timber excise tax liability)). There are a number of ways in which harvesting activities are conducted and timber is sold. The timing of the transfer of ownership of, or the contractual right to sever, standing timber determines which taxes are due and who is liable for remitting tax.

The following examples briefly identify two common types of timber sale arrangements and then state a conclusion as to the taxes that apply. These examples are not an all-inclusive list of the different types of timber sale arrangements, or the variations that may occur. ~~((This information should only be used as a general guide. The tax results of other types of arrangements must be determined only after a review of all the facts and circumstances.))~~ These examples presume that the trees being harvested are not Christmas trees, and that no participant is a federal, state, or local government entity.

(a) **Example 6. Sale of standing timber (stumpage sales).** In this type of arrangement, Seller (landowner or other owner of the rights to standing timber) sells standing timber to Buyer. Buyer receives title to the timber from Seller before it is severed from the stump. Buyer may hire Contractor to perform the harvesting activity.

The tax consequences are:

(i) Seller is liable for real estate excise tax. A sale of real property has occurred under RCW 82.45.060. Refer to chapter 458-61 WAC for information on ~~((remitting))~~ the real estate excise tax.

(ii) Buyer is liable for both timber excise tax and B&O tax. Buyer is a "harvester" under RCW 84.33.035 and an "extractor" under RCW 82.04.100 because Buyer "from the...land of another under a right or license...fells, cuts (severs), or takes timber for sale or for commercial or industrial use." ~~((f))~~ See subsection (2) of this rule. ~~((g))~~

(iii) Contractor is liable for B&O tax and possibly public utility tax because Contractor "is performing under contract the necessary labor or mechanical services for the extractor/harvester." ~~((f))~~ See subsections (3), (4), and (5) of this rule. ~~((g))~~

(b) **Example 7. Sale of harvested timber (logs).** In this type of sales transaction, Seller (landowner or other owner of the rights to standing timber) hires Contractor to perform the harvesting activity. Contractor obtains all the necessary cutting permits, performs all of the harvesting activities from severing the trees to delivering the logs for scaling, and makes all the arrangements for the sale of the logs. Contractor, in effect, is performing the harvesting and marketing services for Seller. Seller retains title to the logs until after they are scaled, at which time title transfers to Buyer.

The tax consequences are:

(i) Seller is liable for both timber excise tax and B&O tax. Seller is a "harvester" under RCW 84.33.035 and an "extractor" under RCW 82.04.100 because Seller is "the person who from the person's own land or from the land of another under a right or license granted by lease or contract...fells, cuts (severs), or takes timber for sale or for commercial or industrial use." ~~((f))~~ See subsection (2) of this rule. ~~((g))~~

(ii) Contractor is liable for B&O tax and possibly public utility tax because Contractor "is performing under contract the necessary labor or mechanical services for the extractor/harvester." ~~((f))~~ See subsections (3), (4), and (5) of this rule. ~~((g))~~

(iii) There is no real estate excise tax liability because there is no sale of real property under chapter 82.45 RCW.

(7) **Equipment and supplies used in timber harvest operations.** The retail sales tax applies to all purchases of equipment, component parts of equipment, and supplies by persons engaging in timber operations unless a specific exemption applies. Purchases of fertilizer and spray materials (e.g., pesticides) for use in the cultivating of timber are also subject to the retail sales tax, unless purchased for resale as tangible personal property. If the seller fails to collect the appropriate retail sales tax, the buyer is required to remit the retail sales tax (commonly referred to as "deferred retail sales tax") or use tax directly to the department.

If a person using property in Washington incurs a use tax liability, and prior to that use paid a retail sales or use tax on the same property to another state or foreign country (or political subdivision of either), that person may claim a credit for those taxes against the Washington use tax liability.

(a) **Exemption available for certain manufacturing equipment.** RCW 82.08.02565 and 82.12.02565 provide ~~((a))~~ retail sales and use tax exemptions for certain machinery and equipment used by manufacturers. Persons engaged in both extracting and manufacturing activities should refer to WAC 458-20-13601 for an explanation of how these exemptions may apply to them.

(b) **Property manufactured for commercial use.** Persons manufacturing tangible personal property for commercial or industrial use are subject to both the manufacturing B&O ~~tax~~ and use ~~((taxes upon)) tax on~~ the value of the property manufactured, unless a specific exemption applies. ~~((See also))~~ WAC 458-20-134 defines and provides information on commercial or industrial use, and WAC 458-20-112 ~~((on))~~ describes how to determine the value of products. ~~((s))~~ If the person also extracts the product, ~~((the extracting))~~ B&O tax is ~~((also))~~ due under the extracting tax classification, and a MATC may be taken.

~~((For example,))~~ **Example 8.** ABC Company severs trees, manufactures the logs into lumber, and then uses the lumber to construct an office building. The use of the lumber by ABC in constructing its office building is a commercial or industrial use. ABC is subject to tax under the extracting and manufacturing B&O ~~((taxes)) tax classifications~~ and may claim a MATC. ABC is also responsible for remitting use tax on the value of the lumber incorporated into the office building.

(8) **Seeds and seedlings.** Persons cultivating timber often purchase or collect tree seeds that are raised into tree seedlings. The growing of the seed may be performed by the person cultivating timber, or through the use of a third-party grower. In the case of a third-party grower, the seed is provided to the grower and tree seedlings are received back after a specified growing period.

(a) **Responsibility to remit retail sales or use tax.** The purchase of seeds or seedlings by a person cultivating timber is subject to the retail sales tax. If the seller fails to collect retail sales tax, the buyer must remit retail sales tax (commonly referred to as "deferred sales tax") or use tax, unless otherwise exempt by law. The use of seed collected by a person cultivating timber is subject to use tax. In the case of seed provided to third-party growers in Washington, the seed owner, and not the third-party grower, incurs any use tax liability ~~((upon))~~ on the value of the seed. The value of seedlings brought into and used in Washington is subject to the use tax, unless retail sales or use tax was previously paid on the seedlings or on the seed from which the seedlings were grown.

(b) **Limited sales and use tax exemptions for conifer seeds.** ~~((Chapter 129, Laws of 2001,))~~ RCW 82.08.850 and 82.12.850 provide ~~((s))~~ retail sales and use tax exemptions for certain sales ~~((and/))~~ or uses of conifer seeds. A deferral mechanism is also available if the buyer cannot at the time of purchase determine whether the purchase is ~~((in whole or in part))~~ eligible for the sales tax exemption.

(i) **Retail sales tax exemption.** Retail sales tax does not apply to the sale of conifer seed that is immediately placed into freezer storage operated by the seller if the seed is to be used for growing timber outside Washington. This exemption also applies to the sale of conifer seed to an Indian tribe or member and is to be used for growing timber in Indian country, again only if the seed is immediately placed into freezer storage operated by the seller. For the purposes of this exemption, "Indian country" has the meaning given in RCW 82.24.010.

This exemption applies only if the buyer provides the seller with an exemption certificate in a form and manner pre-

scribed by the department. The seller must retain a copy of the certificate to substantiate the exempt nature of these sales.

(ii) **Deferring payment of retail sales tax if unable to determine whether purchase qualifies for the retail sales tax exemption.** If a buyer of conifer seed is normally engaged in growing timber both within and outside Washington and is not able to determine at the time of purchase whether the seed acquired, or the seedlings germinated from the seed acquired, will be used for growing timber within or outside Washington, the buyer may defer payment of the sales tax until it is determined that the seed, or seedlings germinated from the seed, will be planted for growing timber in Washington. A buyer that does not pay sales tax on the purchase of conifer seed and subsequently determines that the sale did not qualify for the tax exemption must remit to the department the amount of sales tax that would have been paid at the time of purchase. It is important to note that the sales tax liability may be deferred only if the seller immediately places the conifer seed into freezer storage operated by the seller.

(iii) **Tax paid at source deduction.** A buyer who pays retail sales tax on the purchase of conifer seed and subsequently determines that the sale qualifies for ~~((this))~~ the tax ~~((exemption))~~ paid at source deduction may claim a ~~((tax paid at source))~~ deduction on ~~((the buyer's))~~ its excise tax return. The deduction is allowed only if the buyer keeps and preserves records that show from whom the seed was purchased, the date of the purchase, the amount of the purchase, and the tax that was paid.

(iv) **Use tax exemption.** Use tax does not apply to the use of conifer seed to grow seedlings if the seedlings are grown by a person other than the owner of the seed. This exemption applies only if the seedlings will be used for growing timber outside Washington, or if the owner of the conifer seed is an Indian tribe or member and the seedlings will be used for growing timber in Indian country. If the owner of the conifer seed is not able to determine at the time the seed is used in a growing process whether the use of the seed qualifies for this exemption, the owner may defer payment of the use tax until it is determined that the seedlings will be planted for growing timber in Washington. For the purposes of this exemption, "Indian country" has the meaning given in RCW 82.24.010.

(9) **Activities ~~((and/))~~ or income incidental to timber operations.** The following activities or income, and the applicable tax classifications are often associated with timber operations. These tax-reporting requirements apply even if these activities are incidental to the person's primary business activity.

(a) **Taking other natural products from timberland.** The ~~((taking))~~ value of natural products such as boughs, mushrooms, seeds, and cones taken for sale or commercial or industrial use is subject to the tax under the extracting B&O tax classification. The sale of these products is subject to B&O tax under the wholesaling or retailing ~~((B&O))~~ tax classification, as the case may be. Persons both extracting and selling natural products should refer to WAC 458-20-19301 ~~((Multiple activities tax credit))~~ for an explanation of the MATC reporting requirements. The retail sales tax applies to sales to consumers, unless a specific exemption applies.

(b) **Timber cruising, scaling, and access fees.** ~~((Charges for))~~ Gross income from timber cruising, scaling services, and ~~((to allow))~~ allowing others to use private roads ~~((are))~~ is subject to tax under the service and other activities B&O tax classification. This tax classification also applies to access fees for activities such as hunting, taking firewood, bough cutting, mushroom picking, or grazing. Charges to allow a person to take an identified quantity of tangible personal property are considered sales of that property ~~((f))~~. See subsection (9)(d) ~~((below))~~ of this rule.

(c) **Planting, thinning, and spraying.** The service and other activities B&O tax applies to the gross proceeds of sale received for planting trees or other vegetation, precommercial thinning, and spraying or applying fertilizers, pesticides, or herbicides.

(d) **Sales of firewood and Christmas trees.** Sales of firewood, Christmas trees, and other tangible personal property are either wholesale (subject to B&O tax under the wholesaling ~~((B&O))~~ tax classification) or retail (subject to B&O tax under the retailing ~~((B&O))~~ tax classification and also to retail sales ~~((taxes))~~ tax sales, depending on the nature of the transaction. ~~((See WAC 458-20-102 for an explanation of the documentation requirements for wholesale sales.))~~ These sales are often made in the nature of charges allowing the buyer to select and take an identified quantity of the property (e.g., six cords of firewood or two Christmas trees).

(e) **Unloading logs from logging trucks.** Gross income from the unloading of logs from logging trucks onto rail cars at transfer points is subject to the retailing B&O and retail sales taxes when the activity is a rental of equipment with operator. RCW 82.04.050. ~~((See also WAC 458-20-211))~~ For more information regarding the rental of equipment with an operator see WAC 458-20-211. ~~((+))~~ If this activity is not a rental of equipment with operator, gross income from the activity is subject to tax under the service and other activities B&O tax classification. The income from unloading of logs from logging trucks is subject to tax under the stevedoring B&O tax classification if performed at an export facility as a part of or to await future movement in waterborne export. ~~((See also WAC 458-20-193D for additional))~~ For tax-reporting information regarding services associated with interstate or foreign commerce see WAC 458-20-193D. ~~((+))~~

(f) **Transporting logs by water.** Gross income received for transporting logs by water (e.g., log booming and rafting) or log patrols is subject to tax under the "other public service business" classification of the public utility tax.

This tax classification applies to the gross income from this activity even if the person segregates a charge for boomsticks used while transporting the logs. In many cases logs will be towed to a location specified by the customer for storage. Any charges for boomsticks while the logs are stored are rentals of tangible personal property and subject to the tax under the retailing B&O tax classification and retail sales tax if to a consumer. ~~((See also WAC 458-20-211 for more))~~ For information regarding the rental of tangible personal property see WAC 458-20-211. ~~((+))~~

(g) **Export sorting yard operations.** Export sorting yard operations generally consist of multiple activities. These activities can include, but are not necessarily limited to, ser-

vices such as weighing, tagging, banding, appraising, and sorting of logs. Other incidental activities, such as the debarking, removal of imperfections such as crooks, knots, splits, and seams, and trimming of log ends to remove defects, are also performed as needed. Income received by persons performing the export sorting yard activities as identified in this subsection is subject to tax under the service and other activities B&O tax classification.

(10) **Harvesting Christmas trees.** Persons growing, producing, or harvesting Christmas trees are either farmers or extractors under the law, as explained below. Activities generally associated with the harvesting of Christmas trees, such as cutting, trimming, shearing, and baling (packaging) are not manufacturing activities because they are not the "cutting, delimiting, and measuring of felled, cut, or taken trees" under RCW 82.04.120.

(a) **Plantation Christmas tree operations.** Persons growing or producing plantation Christmas trees on their own lands or ~~((upon))~~ on lands in which they have a present right of possession are farmers. RCW 82.04.213. Plantation Christmas trees are Christmas trees that are exempt from the timber excise tax under RCW 84.33.170. This requires that the Christmas trees be grown on land prepared by intensive cultivation and tilling, such as irrigating, plowing, or turning over the soil, and on which all unwanted plant growth is controlled continuously for the exclusive purpose of raising Christmas trees. RCW 82.04.035~~((,-84.33.170,))~~ and 84.33.035.

(i) Gross income from wholesale sales of plantation Christmas trees by farmers ~~((are))~~ is exempt from B&O tax. RCW 82.04.330. Gross income from retail sales of plantation Christmas trees by farmers ~~((are))~~ is subject to the retailing B&O tax and to retail sales ~~((taxes. See also WAC 458-20-210-))~~ tax. For information on sales of agricultural products by farmers(+)) see WAC 458-20-210.

(ii) Farmers growing or producing plantation Christmas trees may purchase seeds, seedlings, fertilizer, and spray materials at wholesale. RCW 82.04.050 and 82.04.060. ~~((See also WAC 458-20-122 (Sales of feed, seed, fertilizer, spray materials, and other tangible personal property for farm use.))~~

(iii) Persons performing cultivation or harvesting services for farmers are generally subject to the service and other activities B&O tax ~~((upon))~~ on the gross income from those services. See ~~((also))~~ WAC 458-20-209 ~~((f))~~ for information on farming for hire and horticultural services performed for farmers(+)).

(b) **Other Christmas tree operations.** Persons who either directly or by contracting with others for the necessary labor or mechanical services fell, cut, or take Christmas trees other than plantation Christmas trees are extractors. RCW 82.04.100. The tax-reporting instructions regarding extracting and extracting for hire activities provided elsewhere in this rule apply.

(11) **Timber harvest operations in conjunction with other land clearing or construction activities.** Persons sometimes engage in timber harvest operations in conjunction with the clearing of land for ~~((and/or))~~ the construction of residential communities, golf courses, parks, or other development. In such cases, these persons are engaging in

separate business activities, and income from each (~~of which~~) may be subject to different tax liabilities. Income attributable to the timber harvest operations is subject to tax under the tax classifications as described elsewhere in this rule. Income attributable to the clearing of land for (~~and/or~~) the construction of the residential community, golf course, park, or other development is subject to the wholesaling, retailing, retail sales, or public road construction (~~taxes~~) tax, as the case may be. Refer to WAC 458-20-170, 458-20-171, and (~~or~~) 458-20-172 for tax-reporting information regarding these construction activities. Persons performing landscape and horticultural services such as cutting (~~and~~) or trimming trees after the land is developed should refer to WAC 458-20-226 (~~(Landscape and horticultural services)~~).

(12) Logging road construction and maintenance.

Constructing or maintaining logging roads (whether active or inactive) is considered an extracting activity. Income derived from this activity is subject to the extracting or extracting for hire B&O tax, as the case may be. This income is not subject to the retail sales tax. A person constructing or maintaining a logging road is a consumer of all materials incorporated into the logging road. The purchase (~~and~~) or use of these materials is subject to either the retail sales or use tax.

(a) Logging road materials provided without charge.

Landowners/timber harvesters may provide materials (e.g., crushed rock) without charge to persons constructing or maintaining logging roads. In such cases, while both the person providing the materials without charge and the person applying the materials to the road are consumers under the law, tax is due only once on the value of the materials. The person constructing or maintaining the roads is responsible for remitting use tax on the value of the materials, unless that person documents that the landowner (~~and~~) or timber harvester previously remitted the appropriate retail sales or use tax.

Alternatively, the person may take a written statement from the landowner/timber harvester certifying that the landowner/timber harvester has remitted (for past periods) and/or will remit (for future periods) all applicable retail sales or use taxes due on materials provided without charge. This statement must identify the period of time, not to exceed four years, for which it is effective. The statement must identify the landowner/timber harvester's tax reporting account number and must be signed by a person who is authorized to make such a representation.

(b) Extracted (~~and~~) or manufactured logging road materials. Persons constructing or maintaining logging roads are subject to the B&O and use taxes on the value of applied materials they extract (~~and~~) or manufacture from private pits, quarries, or other locations. The measure of tax is the value of the extracted or manufactured products, as the case may be. See WAC 458-20-112 for additional information regarding how to determine the "value of products."

(i) If the person either directly or by contracting with others extracts and crushes, washes, screens, or blends materials to be incorporated into the road, (~~extracting~~) B&O tax under the extracting classification is due on the value of the extracted product before any manufacturing. (~~The manufacturing~~) B&O tax under the manufacturing classification, and use (~~taxes~~) tax are also due upon the value of manufactured

product. If the "cost basis" is the appropriate method for determining the value of products under WAC 458-20-112, this value includes the cost of transportation to a processing point, but does not include any transportation from the processing point to the road site. A MATC may be taken (~~under~~) when computing the B&O tax (~~classification~~) as explained in WAC 458-20-19301.

(ii) In the case of fill dirt, sand, gravel, or rock that is extracted from a location away from the logging road site, but not further processed, (~~extracting~~) B&O tax under the extracting classification, and use (~~taxes~~) tax are due upon the value of the extracted product. If the "cost of production basis" is the appropriate method for determining the value of products under WAC 458-20-112, this value does not include transportation costs to the road site.

(iii) The mere severance of fill dirt, sand, gravel, or rock from outcroppings at the side of a logging road for placement in the road is a part of the logging road construction or maintenance activity. The person incorporating these materials into the road does not incur (~~an extracting and/or use~~) a tax liability (~~with respect to~~) for either the extracting or the use of these materials.

(13) Deduction for hauling logs to export yards. RCW 82.16.050 provides a public utility tax deduction for amounts derived from the transportation of commodities from points of origin within this state to an export elevator, wharf, dock, or shipside ("export facility") on tidewater or navigable tributaries of tidewaters. The commodities must be forwarded from the facility, without intervening transportation, by vessel and in their original form, to an interstate or foreign destination. No deduction is allowed when the point of origin and the point of delivery are located within the corporate limits of the same city or town.

(a) Conditions for deduction. This deduction is available only to the person making the last haul, not including hauls within the export facility, before the logs are put on the ship. This deduction is not available if the haul starts in the same city or town where the export facility is located.

The deduction is available only if:

(i) The logs eventually go by vessel to another state or country; and

(ii) The form of the logs does not change between the time the logs are delivered to the export facility and the time the logs are put on the ship. The mere removal of bark from the logs (debarking) (~~and~~) or the incidental removal of imperfections (see subsection (9)(g), (~~above~~) of this rule) while the logs are at the export facility is not itself a manufacturing activity, nor does it result in a change in the "original form" of the logs as contemplated by RCW 82.16.050.

(b) Documentation requirements for deduction. The log hauler must prove entitlement to the deduction. Delivery tickets that show delivery to an export facility are not, alone, sufficient proof. A certificate from the export facility operator is acceptable additional proof if it is substantially in the following form. Rather than a certificate covering each haul, a "blanket certificate" may be used for a one-year period of time if no significant changes in operation will occur within this period of time.

Exemption certificate for logs delivered to an export facility

The undersigned export facility operator hereby certifies:
 That _____ percentage or more of all logs hauled to the storage facilities at _____, the same located on tidewater or navigable tributaries thereto, will be shipped by vessel directly to an out-of-state or foreign destination and the following conditions will be met:

1. The logs will not go through a process to change the form of the logs before shipment to another state or country.
2. There will be no intervening transportation of these logs from the time of receipt at the export facility until loaded on the vessel for the interstate or foreign journey.

Trucking Firm _____
 Trucking Firm Address _____
 Trucking Firm UBI# _____
 Export Facility Operator _____
 Operator UBI# _____
 Person Giving Statement _____
 Title of Person Giving Statement _____

(c) **Examples.** The following examples identify a number of facts and then state a conclusion regarding the deductibility of income derived from hauling logs to export facilities. Unless specifically provided otherwise, presume that the logs are shipped directly to another country from the export facility. ~~((These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all of the facts and circumstances.))~~

(i) **Example 9.** Logs are hauled from the harvest site to an export facility. While the bark will be removed from fifty percent of the logs, no other processing takes place. Because the mere removal of bark is not considered a change in the form of the logs, the export facility may provide a certificate in the above form indicating that all logs at this facility will ultimately be shipped to another country. The hauler may then claim a deduction for one hundred percent of this haul.

(ii) **Example 10.** Logs are hauled from the harvest site to an export sorting area. At this location further sorting takes place and eighty percent of the logs are hauled approximately one mile on public roads to shipside and shipped to another country. The other twenty percent of the logs are sold to local sawmills. The haul to the sorting yard is subject to tax because there is another haul from the sorting yard to shipside. It is immaterial that the hauler may be paid based on an "export" rate.

The haul from the sorting yard to shipside is deductible if it does not start and end within the corporate limits of the same city or town, and the hauler obtains the appropriate exemption certificate. The haul to the local sawmills is not deductible.

(iii) **Example 11.** Logs are hauled from the harvest site to an export facility. The hauler is aware that all logs will need to be hauled a distance of approximately one-half mile across the export facility yard to reach the ship when it arrives at the dock. The dock is located next to the export

facility. The hauler may take the deduction, provided the appropriate exemption certificate is obtained. Movement of the logs within the export facility is not an intervening haul.

(14) **Small timber harvesters - Business and occupation tax exemption.** RCW 82.04.333 provides a limited exemption from B&O tax for small harvesters (~~(whose value of product harvested, gross proceeds of log sales, or gross income of the timber harvesting business is less than one hundred thousand dollars per year)).~~ A small harvester may take a deduction for an amount not to exceed one hundred thousand dollars per tax year from the gross receipts or value of products proceeding or accruing from timber harvested. A deduction may not reduce the amount of tax due to less than zero.

A "small harvester" ((is a harvester who takes timber in an amount not exceeding two million board feet in a calendar year. It is important to note that whenever the United States or any instrumentality thereof, the state, including its departments and institutions and political subdivisions, or any municipal corporation therein, fells, cuts, or takes timber for sale or for commercial or industrial use, not exceeding these amounts, the small harvester is the first person other than the United States or any instrumentality thereof, the state, including its departments and institutions and political subdivisions, or any municipal corporation therein, who acquires title to or a possessory interest in such timber. RCW 84.33-073)) means every person who from his or her own land or from the land of another under a right or license granted by lease or contract, either directly or by contracting with others for the necessary labor or mechanical services, fells, cuts, or takes timber for sale or for commercial or industrial use in an amount not exceeding two million board feet in a calendar year. When the United States or any instrumentality thereof, the state, including its departments and institutions and political subdivisions, or any municipal corporation therein so fells, cuts, or takes timber for sale or for commercial or industrial use, not exceeding these amounts, the small harvester is the first person other than the United States or any instrumentality thereof, the state, including its departments and institutions and political subdivisions, or any municipal corporation therein, who acquires title to or a possessory interest in the timber. Small harvester does not include persons performing under contract the necessary labor or mechanical services for a harvester, and it does not include the harvesters of Christmas trees or short-rotation hardwoods. RCW 84.33.035.

(a) **Registration - Tax return.** A person whose only business activity is as a small harvester of timber and whose gross income in a calendar year from the harvesting of timber is less than one hundred thousand dollars, is not required to register with the department for B&O tax purposes. This person must nonetheless register with the forest tax division of the department for payment of the timber excise tax. ~~((f))~~ See ~~((also))~~ chapters 84.33 RCW and 458-40 WAC for more information regarding the timber excise tax. ~~((g))~~

An unregistered small harvester of timber is required to register with the department for B&O tax purposes in the month when the gross proceeds received during a calendar year from the timber harvested exceed the exempt amount. The harvester must then file and report on ~~((a))~~ an excise tax

return all proceeds received during the calendar year to the time when the filing of ~~((a))~~ the excise tax return is required.

(b) **Examples.** ~~((The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all facts and circumstances.))~~ In each ~~((example))~~ of the following examples, the harvester must register with the department's forest tax division for the payment of timber excise tax, and must report under the appropriate tax classifications as described above in this rule.

(i) **Example 12.** A small harvester not currently registered with the department for B&O tax purposes harvests timber in June and again in August, receiving fifty thousand dollars in June and two hundred thousand dollars in August from the sale of the logs harvested.

B&O tax is due on the entire two hundred fifty thousand dollars received from the sale of logs. The small harvester must register with the department in August when the receipts from the timber harvesting business exceed the one hundred thousand dollars exemption amount. ~~((A))~~ An excise tax return is to be filed in the appropriate period as provided in WAC 458-20-22801.

(ii) **Example 13.** A person is primarily engaged in another business that is currently registered with the department for B&O tax purposes and has monthly receipts of two hundred fifty thousand dollars. The person is a small harvester ~~((under RCW 84.33.073))~~ as defined in RCW 84.33.035 and receives sixty thousand dollars from the sale of the timber harvested.

B&O tax remains due on two hundred fifty thousand dollars from the other business activities. The sixty thousand dollars received from the sale of logs is exempt and is not reported on the person's ~~((combined))~~ excise tax return. The exemption applies to the activity of harvesting timber and receipts from the sale of logs are not combined with the receipts from other business activities to make the sale of logs taxable.

(iii) **Example 14.** A small harvester not otherwise registered with the department for B&O tax purposes contracts with a logging company to provide the labor and mechanical services of the harvesting. The small harvester is to receive sixty percent and the logging company forty percent of the log sale proceeds. The log purchaser pays two hundred fifty thousand dollars for the logs during the calendar year, paying one hundred fifty thousand dollars to the small harvester and one hundred thousand dollars to the logging company.

For the small harvester, B&O tax is due on the entire two hundred fifty thousand dollars paid for the logs. The small harvester is taxed upon the gross sales price of the logs without deduction for the amount paid to the logging company. RCW 82.04.070. The small harvester must register with the department for B&O tax purposes in the month when, for the calendar year, the proceeds from all timber harvested exceed one hundred thousand dollars. The logging company is taxed on the one hundred thousand dollars it received under the appropriate business tax classification(s). The logging company is not a small harvester as defined in RCW ~~((84.33.073))~~ 84.33.035.

WSR 16-02-076
PERMANENT RULES
UTILITIES AND TRANSPORTATION
COMMISSION

[Docket TE-151080, General Order R-583—Filed January 4, 2016, 1:07 p.m., effective February 4, 2016]

In the matter of amending and adopting rules in chapter 480-30 WAC relating to charter bus companies.

1 STATUTORY OR OTHER AUTHORITY: The Washington utilities and transportation commission (commission) takes this action under Notice No. WSR 15-21-087, filed with the code reviser on October 21, 2015. The commission has authority to take this action pursuant to RCW 80.01.040, 80.04.160, 80.54.020, and 80.54.060.

2 STATEMENT OF COMPLIANCE: This proceeding complies with the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

3 DATE OF ADOPTION: The commission adopts this rule on the date this order is entered.

4 CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE: RCW 34.05.325(6) requires the commission to prepare and publish a concise explanatory statement about an adopted rule. The statement must identify the commission's reasons for adopting the rule, describe the differences between the version of the proposed rules published in the register and the rules adopted (other than editing changes), summarize the comments received regarding the proposed rule changes, and state the commission's responses to the comments reflecting the commission's consideration of them.

5 To avoid unnecessary duplication in the record of this docket, the commission designates the discussion in this order, including appendices, as its concise explanatory statement. This order provides a complete but concise explanation of the agency's actions and its reasons for taking those actions.

6 REFERENCE TO AFFECTED RULES: This order adopts WAC 480-30-244 Liquor permit required; and amends WAC 480-30-011 Exempt operations, 480-30-036 Definitions, general, 480-30-076 Regulatory fees, 480-30-086 Certificates, general, 480-30-216 Operation of motor vehicles, general, and 480-30-246 Sanctions for operating without a valid certificate.

7 PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS THEREUNDER: The commission filed a preproposal statement of inquiry (CR-101) on June 17, 2015, at WSR 15-13-130. The statement advised interested persons that the commission was considering entering a rule making to implement SSB 5362, passed and signed into law in the 2015 legislative session, which amends chapter 81.70 RCW to include transportation of persons by party bus over any public highway within the state as a charter party carrier. The commission also informed persons of this inquiry by providing notice of the subject and the CR-101 to everyone on the commission's list of persons requesting such information pursuant to RCW 34.05.320(3), and by sending notice to all transportation companies holding certificates and the commission's list of transportation attorneys. The commission posted the relevant rule-making information on its web site at www.utc.wa.gov/

151080 and solicited written comments from stakeholders by July 20, 2015. The commission received no written comments.

8 On August 12, 2015, the commission issued a notice soliciting written comments from stakeholders on draft rules by September 11, 2015. The commission received comments from Lucky Limousine & Towncar Service LLC and Shuttle Express, Inc.

9 **NOTICE OF PROPOSED RULE MAKING:** The commission filed a notice of proposed rule making (CR-102) on October 21, 2015, at WSR 15-21-087. The commission scheduled this matter for oral comment and adoption under that notice at 9:30 a.m., Tuesday, December 15, 2015, in the Commission's Hearing Room, Second Floor, Richard Hemstad Building, 1300 South Evergreen Park Drive S.W., Olympia, WA. The notice provided interested persons the opportunity to submit written comments to the commission by November 23, 2015.

10 The proposal would amend and adopt rules to implement SSB 5362, passed and signed into law in the 2015 legislative session. The proposed rules would affect chapter 480-30 WAC, relating to charter bus companies, as follows: Define "party bus"; remove the current exemption for buses operating within a single city; regulate alcohol served or consumed on party buses; prohibit smoking on charter buses; change the due date for charter bus regulatory fees; define charter party services to include certain advertising activities; and allow a penalty up to \$5,000 for operating without a permit.

11 **WRITTEN COMMENTS:** The commission received a written comment in response to the WSR 15-21-087 Notice from JPH International Inc. d/b/a A&A Limousine & Bus Service. Summaries of all written comments and the commission's responses are contained in Appendix A, shown below, and made part of this order.

12 **RULE-MAKING HEARING:** The commission considered the proposed rules for adoption at a rule-making hearing on Tuesday, December 15, 2015, before Chairman David W. Danner, Commissioner Philip B. Jones, and Commissioner Ann E. Rendahl. The commission heard oral comments from Suzanne Stillwell, representing commission staff. No other interested person made oral comments.

13 **COMMISSION ACTION:** After considering all of the information regarding this proposal, the commission finds and concludes that it should adopt the rules as proposed in the CR-102 at WSR 15-21-087 with the changes described below and in Appendix A.

14 **CHANGES FROM PROPOSAL:** The commission adopts the proposal with the following changes from the text noticed at WSR 15-21-087: WAC 480-30-011, first sentence - insert "conducted wholly within the limits of an incorporated city or town, or auto transportation company operations" after "Auto transportation company operations."

This change was made to clarify that auto transportation companies are not impacted by removing the exemption in WAC 480-30-011 (1)(a) for operations conducted wholly within the limits of an incorporated city or town. SSB 5362 only pertains to charter and excursion companies and not auto transportation companies.

15 **STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE:** After reviewing the entire record, the commission determines that chapter 480-30 WAC should be amended and adopted to read as set forth in Appendix B, as rules of the Washington utilities and transportation commission, to take effect pursuant to RCW 34.05.380(2), on the thirty-first day after filing with the code reviser.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 1, amended 6, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

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

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

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

ORDER

16 THE COMMISSION ORDERS:

17 The commission amends WAC 480-30-011, 480-30-036, 480-30-076, 480-30-086, 480-30-216, 480-30-246, and adopts WAC 480-30-244 to read as set forth in Appendix B, as rules of the Washington utilities and transportation commission, to take effect on the thirty-first day after filing with the code reviser pursuant to RCW 34.05.380(2).

18 This order and the rule set out below, after being recorded in the order register of the Washington utilities and transportation commission, shall be forwarded to the code reviser for filing pursuant to chapters 80.01 and 34.05 RCW and 1-21 WAC.

DATED at Olympia, Washington, January 4, 2016.

Washington Utilities and Transportation Commission
David W. Danner, Chairman
Philip B. Jones, Commissioner
Ann E. Rendahl, Commissioner

**Appendix A
Comment Summary Matrix
TE-151080 Party Bus Rule Making
Comment Summary Matrix**

Section	Commenter	Comments	Staff Response
WAC 480-30-244 Liquor permit required. WAC 480-30-036(1) Definitions, general, liquor permit holder.	Jess Sandhu A&A Limousine & Bus Service	The commenter agrees with the recommendations made by the utilities and transportation commission, however, suggests that if there are passengers under twenty-one, liquor should not be served and a chaperone should not be required.	The underlying statute and proposed rules do not specifically require a chaperone for passengers under twenty-one. The statute and proposed rules require that if a party chartered a bus and serves alcoholic beverages, that party must obtain a liquor permit. The holder of the liquor permit must be twenty-one or older and responsible for compliance with the requirements of WAC 480-30-244 and chapter 66.20 RCW during the provision of transportation services. These are the only requirements for any chaperone-type service. Companies may include more stringent requirements.

Appendix B

AMENDATORY SECTION (Amending WSR 06-13-006, filed 6/8/06, effective 7/9/06)

WAC 480-30-011 Exempt operations. ~~((+))~~ The commission does not regulate the following passenger transportation operations under this chapter:

~~((a)) Operations conducted wholly within the limits of an incorporated city or town.~~

~~((b)) (1) Auto transportation company operations conducted wholly within the limits of an incorporated city or town, or auto transportation company operations from a point in a city or town in the state of Washington for a distance of not more than three road miles beyond the corporate limits of the city or town in which the trip began. The operations must not be part of a journey beyond the three-mile limit, either alone or in conjunction with another vehicle or vehicles.~~

~~((c)) (2) Commuter ride sharing or ride sharing for persons with special transportation needs under RCW 46.74.-010, provided the ride-sharing operation does not compete with nor infringe upon comparable service that was actually provided by an auto transportation company under chapter 81.68 RCW before the ride-sharing operation started.~~

~~((d)) (3) Municipal corporations and other government entities.~~

~~((e)) (4) Public transit agencies.~~

~~((f)) (5) Persons operating vehicles under exclusive contract to a public transit agency.~~

~~((g)) (6) Persons owning, operating, controlling, or managing taxi cabs, hotel buses, or school buses, when operated as such.~~

~~((h)) (7) Passenger vehicles carrying passengers on a noncommercial basis, including but not limited to, nonprofit corporations.~~

~~((i)) (8) Private carriers who, in their own vehicles, transport passengers as an incidental adjunct to some other~~

established private business owned or operated by them in good faith.

~~((j)) (9) Transporting transient air flight crew or in-transit airline passengers between an airport and temporary hotel accommodations under an arrangement between the airline carrier and the passenger transportation company.~~

~~((k)) (10) Substituting ground transportation for air transportation under an arrangement between the airline carrier and the passenger transportation company in emergency situations arising from the inability of the air carrier to perform air transportation due to adverse weather conditions, equipment failure, or other causes.~~

~~((l)) (11) Transporting passengers who have had or will have had a prior or subsequent movement by air under a through ticket or common arrangement with an airline or with a connecting out-of-state passenger transportation company.~~

~~((m)) (12) Any other carrier or company that does not come within the term:~~

~~((n)) (a) "Auto transportation company" as defined in RCW 81.68.010;~~

~~((o)) (b) "Charter party carrier ~~((of passengers))~~" as defined in RCW 81.70.020; or~~

~~((p)) (c) "Excursion service carrier" as defined in RCW 81.70.020.~~

AMENDATORY SECTION (Amending WSR 06-13-006, filed 6/8/06, effective 7/9/06)

WAC 480-30-036 Definitions, general. (1) See WAC 480-30-261 for definition of terms used primarily in tariffs and time schedules and WAC 480-30-216 for definitions used in driver and vehicle safety rules.

(2) Unless the language or context indicates that a different meaning is intended, the following definitions apply:

"Agent" means a person authorized to transact business for, and in the name of, another.

"Airporter service" means an auto transportation service that starts or ends at a station served by another type of transportation such as, air or rail transportation. Airporter service is often a premium service that involves handling luggage. Although stops may be made along the way, they are usually limited to picking up or discharging passengers, luggage, and/or express freight bound to or from the airport or depot served.

"Alternate arrangements for passengers" means the travel arrangements made by an auto transportation company that has accepted a trip booking or reservation from a passenger and that is unable to provide the agreed transportation. The alternate arrangements may require travel by another carrier or mode of transportation at no additional cost to the passenger beyond what the passenger would have paid for the original transportation arrangement.

"Application docket" means a commission publication providing notice of all applications requesting auto transportation operating authority, with a description of the authority requested. The commission sends this publication to all persons currently holding auto transportation authority, to all persons with pending applications for auto transportation authority, to affected local jurisdictions or agencies, and to all other persons who asked to receive copies of the application docket.

"Area" means a defined geographical location. Examples include, but are not limited to:

- (a) A specified city or town;
- (b) A specified county, group of counties, or subdivision of the state, e.g., western Washington;
- (c) A zone, e.g., company designated territory; or
- (d) A route, e.g., area within four road miles of Interstate 5.

"Auto transportation company" means every person owning, controlling, operating, or managing any motor-propelled vehicle not usually operated on or over rails, used in the business of transporting persons over any public highway in this state between fixed termini or over a regular route, and not operating exclusively within the incorporated limits of any city or town.

"Between fixed termini or over a regular route" means the fixed points between which an auto transportation company provides service or the route over which an auto transportation company ordinarily operates any motor-propelled vehicle, even though there may be variance whether the variance is periodic or irregular.

"Bus" means a motor vehicle designed, constructed, and/or used for the transportation of passengers.

"Business days" means days of the week excluding Saturdays, Sundays, and official state holidays.

"By-reservation-only service" means transportation of passengers by an auto transportation company, with routes operated only if passengers have made prior reservations.

"Certificate" means:

(a) The certificate of public convenience and necessity issued by the Washington utilities and transportation commission under the provisions of chapter 81.68 RCW to operate as an auto transportation company; or

(b) The certificate issued by the Washington utilities and transportation commission under chapter 81.70 RCW to

operate as a charter and excursion carrier in the state of Washington.

"Certificated authority" means:

(a) The territory and services granted by the commission and described in an auto transportation company's certificate of public convenience and necessity; or

(b) Operations in the state of Washington for charter and excursion service carriers.

"Charter party carrier ((of passengers))" or "charter carrier" means every person engaged in the transportation of a group of persons who, pursuant to a common purpose and under a single contract, have acquired the use of a motor bus to travel together as a group to a specified destination or for a particular itinerary, either agreed upon in advance or modified by the chartering group after having left the place of origin, or who is engaged in the transportation of persons by party bus over any public highway in this state.

"Claim" means a demand made on a company for payment resulting from a loss sustained through the company's negligence or for inadequate service provided by the company.

"Closed-door service" means a portion of a route or territory in which an auto transportation company is not allowed to pick up or deliver passengers. Closed-door service restrictions must be clearly stated in an auto transportation company's certificate.

"Common purpose" means that a group of persons is traveling together to achieve a common goal or objective. For example, a group of persons traveling together to attend a common function or to visit a common location. For the purposes of these rules it does not mean a group of persons who have no common goal other than transportation to, or from, the airport.

"Commission" means the Washington utilities and transportation commission.

"Common carrier" means any person who transports passengers by motor vehicle over the public highways for compensation.

"Company" means an entity authorized by the commission to transport passengers, for compensation, using a motor vehicle, over the public highways of the state.

"Complaint" means one of two types of actions by a person against a passenger transportation company that the commission regulates:

(a) **"Informal complaints"** are those complaints filed with the commission under the provisions of WAC 480-07-910. Informal complaints are normally investigated and resolved by commission staff.

(b) **"Formal complaints"** are those complaints filed with the commission under the provisions of WAC 480-07-370. In a formal complaint, the burden of proof resides with the complaining party who must prove its assertions in a formal commission proceeding.

"Connecting service" means an auto transportation company service over a route, or routes, that require passengers to transfer from one vehicle to another vehicle operated by either the same company or a different company before reaching the ending point.

"Contract carrier" means a person holding a certificate issued by the commission authorizing transportation of passengers under special and individual contracts or agreements.

"Customer" means a person who purchased transportation services from an auto transportation company or a person, corporation, or other entity that prearranges for transportation services with a charter party carrier or purchases a ticket for transportation services aboard an excursion service carrier.

"Direct route" means an auto transportation company service over a route that goes from the beginning point to the ending point with limited, if any, stops along the way, and traveling only to points located on the specific route without requiring a passenger to transfer from one vehicle to another.

"Discontinuance of service":

(a) **"Permanent discontinuance of service"** means that a company holding auto transportation authority issued by the commission is unable to continue to provide all, or part of, the service authorized by the company's certificate, filed tariff, or filed time schedule and requests commission permission to permanently discontinue all, or part of, its service and relinquish that certificate or portion of that certificate. See WAC 480-30-186.

(b) **"Temporary discontinuance of service"** means that a company holding auto transportation authority issued by the commission is unable to continue to provide all, or part of, the service authorized by the company's certificate, filed tariff, or filed time schedule and requests commission permission to discontinue all, or part of, its service for a specified, limited period of time.

"Door-to-door service" means an auto transportation company service provided between a location identified by the passenger and a point specifically named by the company in its filed tariff and time schedule.

"Double-decker bus" means a motor vehicle with more than one passenger deck.

"Excursion service carrier" or "excursion carrier" means every person engaged in the transportation of persons for compensation over any public highway in the state from points of origin within any city, town, or area, to any other location within the state of Washington and returning to that origin. The service will not pick up or drop off passengers after leaving and before returning to the area of origin. The excursions may or may not be regularly scheduled. Compensation for the transportation offered must be computed, charged, or assessed by the excursion service company on an individual fare basis.

"Express freight/package service" means transportation of freight and packages, other than packages or baggage carried or checked by passengers, offered by a passenger transportation company.

"Express passenger service" means auto transportation company service provided between fixed points or stations with few, if any, stops along the route, and is designed to get passengers from origin to destination more quickly than normally scheduled passenger service.

"Federal Motor Carrier Safety Administration" means an agency of the United States Department of Transportation (USDOT) and successor agency to the former Interstate Commerce Commission.

"Filing" means any application, petition, tariff proposal, annual report, comment, complaint, pleading, or other document submitted to the commission.

"Fixed termini" means points of origin and destination that are set, static locations or defined geographic areas. Examples include a city or town, a building or an airport. In addition "fixed termini" can include service between an airport and unlimited points within a defined geographic area.

"Flag stops" means a point along an auto transportation company's normally traveled routes where the company stops only if it receives notification that a passenger wishes to board the vehicle at that point. An auto transportation company must list available flag stops in the company's tariffs and time schedules. Flag stops may only be named at points that provide waiting passengers safe access to the vehicle.

"Group" means:

- (a) Two or more passengers traveling together;
- (b) A class of passengers to whom special rates and/or rules apply. For example, active military personnel.

"Intermediate point" means a point located on a route between two other points that are specifically named in an auto transportation company's certificate or tariff.

"Intermediate service" means service to an intermediate point.

"Interruption in service" means a period of time during which an auto transportation company cannot provide service listed in its certificate, its filed tariff, or its filed time schedule. An interruption in service is normally short lived, lasting no more than a few hours or a few days.

"Leasing":

(a) **"Leasing authority"** means one auto transportation company allowing another person to operate all, or a portion, of the authority granted to the first company by the commission. A joint application to, and approval from, the commission is required to lease authority. See WAC 480-30-141.

(b) **"Leasing equipment"** means the act of a passenger transportation company to supplement its fleet by acquiring a vehicle(s) from a third party for a specified period of time under contract. See WAC 480-30-236.

"Liquor permit holder" means a holder of an appropriate special permit to provide liquor issued under chapter 66.20 RCW, who is twenty-one years of age or older and who is responsible for compliance with the requirements of WAC 480-30-244 and chapter 66.20 RCW during the provision of transportation services.

"Motor vehicle" or "vehicle" means:

(a) As related to auto transportation companies: Every self-propelled vehicle used on the public highways, for the transportation of persons for compensation.

(b) As related to charter and excursion carriers: Every self-propelled vehicle with a manufacturer's seating capacity for eight or more passengers, including the driver, used on the public highways, for the transportation of persons for compensation.

"Named points" means cities, towns, or specific locations that are listed in an auto transportation company's certificate, tariff, or time schedule.

"Nonstop service" means transportation of passengers from point of origin to point of destination without stopping at any intermediate points.

"On-call service" means unscheduled auto transportation company service provided only to those passengers that have by prior arrangement requested service prior to boarding.

"Party bus" means any motor vehicle whose interior enables passengers to stand and circulate throughout the vehicle because seating is placed around the perimeter of the bus or is nonexistent and in which food, beverages, or entertainment may be provided. A motor vehicle configured in the traditional manner of forward-facing seating with a center aisle is not a party bus.

"Passenger facility" means a location at which an auto transportation company stations employees and at which passengers can purchase tickets or pay fares for transportation service.

"Passenger transportation company" means an auto transportation company or charter and excursion carrier.

"Person" means an individual, firm, corporation, association, partnership, lessee, receiver, trustee, consortium, joint venture, or commercial entity.

"Premium service" means a type of service provided by an auto transportation company that is outside normal service. Examples include express service, direct route service, and nonstop door-to-door service.

"Private carrier" means a person who transports passengers in the person's own vehicle purely as an incidental adjunct to some other established private business owned or operated by that person in good faith.

"Private motor vehicle" means a vehicle owned or operated by a private carrier.

"Public highway" means every street, road, or highway in this state.

"Public transit agency" means a municipal corporation or agency of state or local government formed under the laws of the state of Washington for the purpose of providing transportation services including, but not limited to, public transportation benefit areas, regional transit authorities, municipal transit authorities, city and county transit agencies.

"Residence" means the regular dwelling place of an individual or individuals.

"Route" means a highway or combination of highways over which an auto transportation company provides passenger service. There are two types of routes:

(a) **"Irregular route"** means travel between points named in an auto transportation company's certificate via any highway or combination of highways the company wishes to operate over. The certificate issued to the company does not list highways to be used, but the company defines routes in its tariffs and time schedules.

(b) **"Regular route"** means an auto transportation company providing passenger transportation over a route named in the certificate issued to the company by the commission.

"Scheduled service" means an auto transportation company providing passenger service at specified arrival and/or departure times at points on a route.

"Single contract" means an agreement between a charter carrier and a group of passengers to provide transportation services at a set price for the group or trip. Under a single contract, passengers are not charged individually.

"Small business" means any company that has fifty or fewer employees.

"Special or promotional fares" means temporary fares for specific services offered for no more than ninety days.

"State" means the state of Washington.

"Subcontracting - Auto transportation company" means that an auto transportation company holding authority from the commission contracts with a second auto transportation company to provide service that the original company has agreed to provide, but finds it is unable to provide. See WAC 480-30-166.

"Subcontracting - Charter and excursion carrier" means that a charter and excursion carrier holding authority from the commission contracts with a second charter and excursion carrier to provide service that the original carrier has agreed to provide, but finds it is unable to provide.

"Substitute vehicle" means a vehicle used to replace a disabled vehicle for less than thirty days.

"Suspension" means an act by the commission to temporarily revoke a company's certificated authority; or an act by the commission to withhold approval of an auto transportation company's tariff filing.

"Tariff" or "tariff schedule" means a document issued by an auto transportation company containing the services provided, the rates the company must assess its customers for those services, and the rules describing how the rates apply.

"Tariff service territory" means a company-defined geographic area of its certificated authority in which a specific tariff applies.

"Temporary certificate" means the certificate issued by the Washington utilities and transportation commission under RCW 81.68.046 to operate as an auto transportation company for up to one hundred eighty days or pending a decision on a parallel filed auto transportation company certificate application.

"Temporary certificate authority" means the territory and services granted by the commission and described in an auto transportation company's temporary certificate.

"Ticket agent agreements" means a signed agreement between an auto transportation company and a second party in which the second party agrees, for compensation, to sell tickets to passengers on behalf of the auto transportation company. See WAC 480-30-391.

"Time schedule" means a document filed as part of an auto transportation company's tariff, or as a separate document, that lists the routes operated by the company including the times and locations at which passengers may receive service and any rules specific to operating those routes.

AMENDATORY SECTION (Amending WSR 06-13-006, filed 6/8/06, effective 7/9/06)

WAC 480-30-076 Regulatory fees. A regulatory fee is an annual assessment paid by each company to cover the costs of regulation.

(1) **Auto transportation company regulatory fees.** The maximum auto transportation company regulatory fee is set by statute at two-fifths of one percent of gross intrastate operating revenue.

(a) The maximum regulatory fee is assessed each year, unless the commission issues an order establishing the regulatory fee at an amount less than the statutory maximum.

(b) The minimum fee that an auto transportation company must pay is twenty dollars.

(c) The twenty dollar minimum regulatory fee is waived for any auto transportation company with less than five thousand dollars in gross intrastate operating revenue.

(d) Each auto transportation company must pay its regulatory fee by May 1st of each year.

(2) **Charter and excursion carrier regulatory fees.** The charter and excursion carrier regulatory fee is established by commission order.

(a) The minimum fee a charter and excursion carrier must pay is the amount established for a single vehicle.

(b) Each charter and excursion carrier must pay its regulatory fee on or before ~~((December 31))~~ May 1st of each year ~~((to cover the ensuing year beginning February 1)).~~

(3) **Extension of time to pay regulatory fees.** The commission cannot grant extensions for payment of regulatory fees.

(4) **Penalties for late fees.** If a company does not pay its regulatory fee by the due date established in this rule, the commission will assess an automatic late fee of two percent of the amount due, plus one percent interest for each month the fee remains unpaid.

(5) The commission may take action to suspend or cancel a certificate, if a company fails to pay its regulatory fee.

AMENDATORY SECTION (Amending WSR 06-13-006, filed 6/8/06, effective 7/9/06)

WAC 480-30-086 Certificates, general. (1) **Certificate required.** A person must have a certificate from the commission before operating as a passenger transportation company in the state of Washington.

(2) **Company name.** The company name is the name of the certificate holder.

(a) A company electing to conduct operations under a trade name must first register the trade name with the commission.

(b) A company must conduct all operations under the company name, a registered trade name, or both. ~~((The term "Operations" includes, but is not limited to, advertising, ticketing, and identifying vehicles.~~

(c) A company may not operate under a company name or trade name that is similar to that of another company if use of the similar name misleads the public or results in unfair or destructive competitive practices.

(3) **Display.** A company must keep its original certificate on file at its principal place of business open to inspection by any customer, law enforcement officer, or authorized commission representative who asks to see it.

(4) **Replacement.** The commission will replace a lost or destroyed original certificate at no charge.

(5) **Description of certificated authority.** When a company's certificate authority includes boundaries such as cities, towns, streets, avenues, roads, highways, townships, ranges or other descriptions, the boundaries remain established as they existed at the time the commission granted the authority.

(6) **Operating within certificated authority.**

(a) A company must operate strictly within the authority described in its certificate.

(b) The commission may take administrative action against a company operating outside its certificated authority. Refer to WAC 480-30-241 for information regarding the commission's compliance policy.

AMENDATORY SECTION (Amending WSR 06-13-006, filed 6/8/06, effective 7/9/06)

WAC 480-30-216 Operation of motor vehicles, general.

(1) **Discrimination prohibited.** No company operating motor vehicles under the provisions of this chapter will operate a vehicle in intrastate commerce on which the seating of passengers is based on race, color, creed, or national origin.

(2) **Inspection of baggage and other materials passengers wish to be carried in or on a motor vehicle.** Auto transportation companies are responsible for the safety and comfort of all passengers transported. To ensure the safety and comfort of passengers and employees it may be necessary for companies to inspect baggage and other materials to be transported in or on motor vehicles.

(a) Companies must include in their filed tariffs, in information provided to passengers, and on their tickets, information that advises passengers that all baggage and other materials to be carried in or on a motor vehicle is subject to inspection by the company.

(b) The information required by (a) of this subsection must include a list of examples of materials that will not be accepted for transportation. Examples may include, but are not limited to, the following items:

(i) Articles whose transportation as baggage are prohibited by law or regulation;

(ii) Fragile or perishable articles;

(iii) Articles whose dimensions exceed the size limitations in the company's filed tariff;

(iv) Packages, bags, or parcels that are leaking;

(v) Firearms;

(vi) Articles that have foul and obnoxious odors; or

(vii) Items that cause annoyance, discomfort, or harm to persons or property.

(3) **Service requirement.**

(a) An auto transportation company is a public service company with an obligation to provide service to the satisfaction of the commission to all customers within its certificated authority.

(b) Except to the extent allowed by WAC 480-30-451, no driver or operator of a motor vehicle used in the transportation of passengers by an auto transportation company shall refuse to carry any person presenting him or herself at a regular stopping place who tenders the appropriate fare. Exception: Companies limiting operations to passengers with prior reservations are not subject to this provision.

(4) **Passenger loading capacity.** No motor vehicle used in the transportation of passengers will carry more passengers than can be carried safely. In no case will a motor vehicle transport more than one hundred fifty percent of its rated seating capacity.

(5) **Standing passengers.** No passenger will be permitted to stand unless the vehicle is equipped with devices designed and permanently installed to provide stability and safety for standing passengers. Even if the vehicle is properly equipped, no passenger will be permitted to stand for a distance exceeding thirty-five miles.

(6) **Double-decker bus.** Any company that operates a double-decker bus must comply with the maximum height vehicle requirement of RCW 46.44.020.

(7) **Reserve equipment.** All auto transportation companies must maintain sufficient reserve equipment to insure the reasonable operation of established routes and fixed time schedules.

~~((7))~~ (8) **Smoking on motor vehicles.**

(a) Smoking or carrying lit cigars, cigarettes, or other smoking materials is prohibited on vehicles ~~((operated by auto transportation companies))~~.

(b) Each ~~((auto transportation))~~ company must post signs in its vehicles informing passengers that smoking is not permitted.

NEW SECTION

WAC 480-30-244 Liquor permit required. (1) A charter party carrier or excursion service carrier operating a party bus must be in compliance with the requirements of section 8, chapter 233, Laws of 2015.

(2) A charter party carrier or excursion service carrier operating a party bus must be in compliance with Title 66 RCW.

(3) A copy of the liquor permit obtained by any party under Title 66 RCW must be maintained with the contract of carriage for at least six months from the ending date of the trip.

AMENDATORY SECTION (Amending WSR 06-13-006, filed 6/8/06, effective 7/9/06)

WAC 480-30-246 Sanctions for operating without a valid certificate. (1) **Operating without a certificate - Auto transportation companies.**

(a) If a representative of the commission or other law enforcement agency observes a company operating as a passenger transportation company without a certificate from the commission, that company is subject to a gross misdemeanor citation, for which the company must appear in court.

(b) If the commission receives information that a company is operating as a passenger transportation company without a certificate, and a commission representative or other law enforcement agency has not observed those operations, the commission may:

(i) Issue a citation through the court; or

(ii) Contact the company and provide education and technical assistance concerning applicable regulations. This includes giving the company a copy of the applicable laws, rules, and certificate application forms.

(c) If the company continues to operate without a certificate after commission education and technical assistance is offered, the commission may begin an administrative proceeding to classify the company as a regulated company under RCW 81.04.510. If, as a result of that proceeding, the

commission formally classifies the company as an auto transportation company or a charter and excursion carrier operating without the required certificate, the commission will issue a cease and desist order under RCW 81.04.510.

(d) If a company operates in violation of a commission order, the commission may impose penalties and/or take legal action in court.

(2) **Operating without a certificate - Charter and excursion service carriers.**

(a) For the purposes of this section, "engage in the business of a charter party carrier or excursion service carrier" includes advertising or soliciting, offering or entering into an agreement to provide such service.

(b) Each advertisement reproduced, broadcast or displayed via a particular medium constitutes a separate violation.

(c) Any person who engages in the business of a charter party carrier or excursion service carrier in violation of (a) of this subsection is subject to a penalty of up to five thousand dollars per violation.

(3) **Operating while certificate is suspended - Auto transportation company.** A company that operates after the commission suspends the company's certificate is subject to:

(a) Misdemeanor or gross misdemeanor citations, for which the company must appear in district court;

(b) Monetary penalty assessments or other commission administrative actions; or

(c) Commission proceedings to cancel the company's certificate.

~~((3))~~ (4) **Operating after certificate is canceled - Auto transportation company.** A company that continues to operate after the commission cancels the company's certificate is subject to:

(a) Misdemeanor or gross misdemeanor citations, for which the company must appear in district court; and

(b) Enforcement proceedings in superior court.

(5) **Operating while certificate is suspended or canceled - Charter party or excursion service carriers.**

(a) Operations includes advertising or soliciting, offering or entering into an agreement to provide such service.

(b) Each advertisement reproduced, broadcast, or displayed via a particular medium constitutes a separate violation.

(c) Any person who engages in the business of a charter party carrier or excursion service carrier in violation of subsection (2)(a) of this section is subject to a penalty of up to five thousand dollars per violation.

WSR 16-02-087

PERMANENT RULES

STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

[Filed January 5, 2016, 10:44 a.m., effective February 5, 2016]

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

Purpose: Updating WAC to integrate technical colleges into the tuition and fee provisions, consistent with chapter 55, Laws of 2015; updating WAC to incorporate change from

section 5, chapter 274, Laws of 2011 (removed community colleges from the requirement that tuition fees must be rounded to the nearest whole dollar); and making clarifying and technical corrections.

Citation of Existing Rules Affected by this Order: Amending WAC 131-28-005, 131-28-021, 131-28-025, 131-28-02501, 131-28-026, 131-28-030, 131-28-045, and 131-28-070.

Statutory Authority for Adoption: Chapter 28B.15 RCW.

Adopted under notice filed as WSR 15-22-031 on October 27, 2015.

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

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

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

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

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

Date Adopted: January 5, 2016.

Beth Gordon
Executive Assistant
and Rules Coordinator

AMENDATORY SECTION (Amending WSR 01-22-010, filed 10/26/01, effective 11/26/01)

WAC 131-28-005 Tuition and fees for community and technical colleges established. Tuition ~~((and))~~ fees, ~~and~~ waivers for community and technical college state-funded courses are established in accordance with chapter 28B.15 RCW. ~~((Technical colleges are required to administer tuition and tuition waivers for state-funded courses under policies and procedures of their respective boards of trustees. This chapter applies only to community colleges unless technical colleges are specified.))~~

AMENDATORY SECTION (Amending WSR 01-22-010, filed 10/26/01, effective 11/26/01)

WAC 131-28-021 Definitions. For the purpose of ~~((WAC 131-28-025))~~ chapter 131-28 WAC, the following definitions shall apply:

(1) "Resident student" and "nonresident student" shall be defined in the same manner as in chapter 28B.15 RCW.

(2) "Tuition fees," "building fees," "operating fees" and "services and activities fees" shall be defined in the same manner as in chapter 28B.15 RCW.

(3) "Special fees" shall be defined as all fees established by the district board of trustees other than tuition, building fees, operating fees or services and activities fees and as such

shall include fees charged to an individual student for specific services and privileges received by such student.

(4) "Student funded course" shall be defined as any organized instructional activity, typically ungraded, primarily offered for part-time students, not normally an integral part of any specific study program leading to either an academic or an occupational degree or certificate, and specifically identified as such by a community or technical college consistent with the course classification procedures established by the state board.

~~((5)) ("Required course" shall be defined as any course specified in the college catalog or official curriculum description of any vocational preparatory program as necessary for completion of such program, except courses prerequisite to such program.~~

~~((6))~~ "State-funded course" shall be defined as any course reported by the college for state funding that is eligible for state funding under chapters 28.15 and 28B.50 RCW, Title 131 WAC and state board policy.

AMENDATORY SECTION (Amending WSR 14-20-063, filed 9/26/14, effective 10/27/14)

WAC 131-28-025 Method of assessing tuition and fee charges. Tuition and fees charged to students in state-funded courses shall conform to chapter 28B.15 RCW, the legislative budget and policies of the state board and the following:

(1) For credit- and credit equivalent-based programs, tuition, and fees charged to students:

(a) Shall be based upon the number of credits assigned to such courses as listed in the official and current catalog of the college, or for courses not given such credit designations, the number of credit equivalents as computed by the method for deriving such equivalents established by the state board.

(b) Shall be assessed on a per-credit basis at uniform rates for resident and for nonresident students, respectively. Partial credits shall be assessed on a proportionate basis. The respective maximums charged to any resident or nonresident student shall not exceed the amount allowed by law.

(c) Shall be assessed for part-time students, for each credit of registration or its equivalent.

(d) Shall include an additional operating fee for each credit in excess of eighteen at the tuition fee rate charged to part-time students.

(2) For competency-based degree programs, tuition and fees charged to students:

(a) Shall be based on the tuition and fee rates charged for a fifteen-credit load for one quarter, prorated for the length of the competency-based degree program term.

(b) For the purposes of the proration required under (a) of this subsection, a quarter shall be considered to be three months long.

AMENDATORY SECTION (Amending WSR 01-22-010, filed 10/26/01, effective 11/26/01)

WAC 131-28-02501 Waivers. Community and technical college boards may grant waivers from the standard tuition and fees rate ~~((for))~~ to students in ungraded courses designated in WAC 131-28-026(3) and to students who qualify under a waiver created in Title 28B RCW.

Except for ungraded courses, colleges shall waive the building fee, services and activities fees, and operating fees in equal proportion.

Colleges may not impose conditions or eligibility criteria beyond that specified in this chapter, state board policy, or Title 28B RCW. Colleges may restrict the number of waivers granted.

~~((Colleges may round the amount collected to the nearest dollar.))~~

AMENDATORY SECTION (Amending WSR 12-14-020, filed 6/22/12, effective 7/23/12)

WAC 131-28-026 Tuition charges for certain ungraded courses. (1) The state board shall designate ungraded courses. These courses may be offered at tuition rates that differ from the standard rates set by WAC 131-28-025. Ungraded shall mean courses not categorized by level of instruction and may be assigned degree credit or letter grades.

(2) Ungraded courses shall meet the following qualifications:

(a) The course has a specialized purpose in that it is intended to meet the unique educational needs of a specific category or group of students.

(b) The course is offered for the purpose of providing the individual student with a discrete skill or basic body of knowledge that is intended to enhance potential for initial or continued employment, parenting skills or retirement.

(c) The course cannot be administered as a contract course pursuant to WAC 131-28-027, 131-32-010, or 131-32-020.

(d) The course is not one specifically or primarily intended to satisfy requirements for receiving a high school diploma.

(3) Colleges may establish the amount of waiver for the following ungraded courses:

(a) Farm management and small business management;

(b) Emergency medical technician and paramedic continuing education;

(c) Retirement;

(d) Industrial first aid offered to satisfy WISHA and approved by the department of labor and industries;

(e) Journey person training in cooperation with joint apprenticeship and training committees;

(f) Parenting education including, but not limited to, cooperative preschool programs.

(4) The waiver amounts for the following ungraded courses shall conform with the following schedule:

(a) Adult basic education, English as a second language, GED preparation: An amount to be established by the state board.

(b) Courses offered for the purpose of satisfying related or supplemental educational requirements for apprentices registered with the Washington state apprenticeship council or federal Bureau of Apprenticeship and Training: A college shall waive one-half of the standard per credit tuition and services and activities fee. The college may convert the credit hour charge to a rounded amount per clock hour. Colleges may deduct the tuition owed from training contracts with apprentice organizations.

(5) Students taking both regular and ungraded courses will be charged separately for the courses.

(6) Application of this section shall be subject to administrative procedures established by the state director with respect to maximum credit values of such ungraded courses, curriculum, or any unique circumstances related to enrollment in such courses.

(7) Ungraded course fees received pursuant to this section shall be accounted for and deposited in local ~~((community))~~ college operating fee accounts established in RCW 28B.15.031.

(8) Ungraded course fees may be paid by the sponsoring entity rather than an individual student.

AMENDATORY SECTION (Amending WSR 95-13-070, filed 6/20/95, effective 7/21/95)

WAC 131-28-030 Waiver of tuition and fees for needy or disadvantaged students. Pursuant to authority granted by RCW 28B.15.740, the boards of trustees of community and technical college districts are authorized to waive all or part of tuition and services and activities fees for needy students: Provided, That the students shall qualify for such waiver under criteria set forth in WAC 131-28-040 through 131-28-045.

AMENDATORY SECTION (Amending WSR 98-22-062, filed 11/2/98, effective 12/3/98)

WAC 131-28-045 Procedure for implementing tuition and fee waivers authorized pursuant to RCW 28B.15.740. (1) Community and technical colleges may waive the tuition and service and activities fees for needy resident students under the provisions of RCW 28B.15.740. The amount that can be waived under this provision is limited by the waiver limits set forth in RCW 28B.15.910.

(2) In addition, colleges may waive up to three-quarters of one percent of the estimated gross collection of tuition and service and activities fees for other students. These waivers are not to be awarded based on participation in intercollegiate athletics. The estimated gross collection of tuition and service and activities fees shall be based on budgeted, state supported, annual average enrollment, after deducting the portion of the gross amount which is attributed to the difference between resident and nonresident tuition and fees.

AMENDATORY SECTION (Amending Order 47, filed 9/12/75)

WAC 131-28-070 Combination of tuition and fee waivers with other forms of student financial aid. Nothing in ~~((WAC 131-28-030 through 131-28-050))~~ chapter 131-28 WAC is intended to prevent the award of tuition and fee waivers in conjunction with other forms of student financial aid as a package designed to meet the overall educational assistance needs of any student.

WSR 16-02-114
PERMANENT RULES
ENVIRONMENTAL AND
LAND USE HEARINGS OFFICE

[Filed January 6, 2016, 9:53 a.m., effective February 6, 2016]

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

Purpose: The proposal revises and clarifies the growth management hearings board rules of practice and procedure, in light of court rulings, practitioner questions and advances in electronic communications.

Citation of Existing Rules Affected by this Order: Amending WAC 242-03-070, 242-03-140, 242-03-230, 242-03-240, 242-03-260, 242-03-270, 242-03-500, 242-03-510, 242-03-520, 242-03-535, 242-03-640, 242-03-860, 242-03-970, and 242-03-990.

Statutory Authority for Adoption: RCW 36.70A.270 (4) and (7).

Adopted under notice filed as WSR 15-21-044 on October 16, 2015.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 14, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 14, Repealed 0.

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

Date Adopted: January 6, 2016.

Paulette Yorke
Administrative Manager

AMENDATORY SECTION (Amending WSR 11-13-109, filed 6/21/11, effective 7/22/11)

WAC 242-03-070 Regular meetings. Regular meetings of the board will be held at the office of the growth management hearings board or a designated location on the first Wednesday of each month at ~~((10:00 a.m.))~~ 1:30 p.m. or following any scheduled hearing on that date. Meetings may be held telephonically.

AMENDATORY SECTION (Amending WSR 11-13-109, filed 6/21/11, effective 7/22/11)

WAC 242-03-140 Signing of pleadings, motions, and legal memoranda. Every pleading, motion and legal memorandum of a party shall be dated and signed by the party, or the party's attorney or other authorized representative and include an address, telephone ~~((and fax numbers,))~~ and electronic mail address.

AMENDATORY SECTION (Amending WSR 13-01-026, filed 12/11/12, effective 1/11/13)

WAC 242-03-230 Petition for review—Filing and service. (1) Filing a petition for review. A petition for review shall be filed with the board by electronic mail, as provided in WAC 242-03-240, unless a petitioner does not have the technological capacity to do so. The original and three copies of the petition for review shall be filed with the board personally, or by ~~((first class, certified, or registered))~~ mail or commercial parcel delivery service. Filings may also be made with the board by ~~((telex))~~ ~~((facsimile))~~ fax transmission as provided in WAC 242-03-240. A petition for review is deemed filed on the date the board receives it by electronic mail or by ~~((telex))~~ ~~((facsimile))~~ fax transmission by 5:00 p.m. provided that the original and three copies are sent by mail or by a commercial parcel delivery service postmarked ~~((and mailed))~~ on the same date as the electronic filing. See WAC 242-03-060 for contact information.

(2) Service of petition for review.

(a) A copy of the petition for review shall be served upon the named respondent(s) and must be received by the respondent(s) on or before the date filed with the board. Service of the petition for review may be by mail, ~~((or))~~ personal service, or a commercial parcel delivery service, so long as the petition is received by respondent on or before the date filed with the board.

(b) When a county is a respondent, the petition for review shall be served on the county auditor ~~((in noncharter counties and the agent designated by the legislative authority in charter counties))~~ or on the agent designated by the legislative authority of the county. When a city is a respondent, the mayor, city manager, or city clerk shall be served. When the state of Washington is a respondent, the office of the attorney general shall be served at its main office in Olympia unless service upon the state is otherwise provided by law. In a challenge to the adoption of, or amendment to, a shoreline master program approved by the department of ecology, the department of ecology shall be named as a respondent and served.

(3) Proof of service shall be filed with the board pursuant to WAC 242-03-245.

(4) The board may dismiss a case for failure to substantially comply with this section.

AMENDATORY SECTION (Amending WSR 13-01-026, filed 12/11/12, effective 1/11/13)

WAC 242-03-240 Filing and service of all other papers. (1) Filing of papers: All pleadings and briefs shall be filed with the board by electronic mail unless a petitioner does not have the technological capacity to do so. The original and three copies of all documents shall be filed with the board personally, or by ~~((first class, certified, or registered))~~ mail or commercial parcel delivery service and must be postmarked ~~((and mailed))~~ or sent on the same date as the electronic filing. Filings less than fifteen pages may be made by ~~((telex))~~ ~~((facsimile))~~ fax transmission. The original and three copies must be ~~((mailed))~~ postmarked or sent on the same date as the ~~((telex))~~ ~~((facsimile))~~ fax transmission to be deemed filed.

Filings made by electronic mail and/or ~~((telefacsimile))~~ fax transmission shall be deemed filed upon actual receipt during office hours of 8:00 a.m. to 5:00 p.m. excluding Saturdays, Sundays, and legal holidays. Any transmission not completed before 5:00 p.m. will be stamped received on the following business day. The date and time indicated by the board's ~~((telefacsimile))~~ fax machine or receiving computer shall be presumptive evidence of the date and time of receipt of transmission. All papers will be deemed filed with the board on the date received by electronic mail provided that the original document and three copies are ~~((mailed and))~~ postmarked or commercially sent on the same date as the ~~((telefacsimile))~~ fax transmission or electronic mail filing. See WAC 242-03-060 for contact information.

(2) Service: Parties shall serve copies of all filings on all other named parties by electronic mail, on or before the date filed with the board, unless a party lacks technical capability. Service is accomplished when the document is transmitted electronically, or, by agreement among the parties or exception granted by the presiding officer, is ~~((deposited in the mail and))~~ postmarked or commercially sent by the required date.

AMENDATORY SECTION (Amending WSR 11-13-109, filed 6/21/11, effective 7/22/11)

WAC 242-03-260 Amendments to petitions for review. (1) A petition for review may be amended as a matter of right until ~~((thirty))~~ fourteen days after its date of filing. Any such amendments shall be limited to amending the legal bases for challenging the matters raised in the original petition, but may not raise new challenges to the ordinance.

(2) Thereafter any amendments shall be requested in writing by motion, and will be made only after approval by the presiding officer. Amendments shall not be freely granted and may be denied upon a showing by the adverse party of unreasonable and unavoidable hardship, or by the presiding officer's finding that granting the same would adversely impact the board's ability to meet the time requirements of RCW 36.70A.300 for issuing a final order.

(3) At the prehearing conference the presiding officer will work with the parties to clarify the issues raised in the petition for review. ~~The presiding officer may, upon motion of a party or upon its~~ own motion, require a more complete or concise statement of the issues presented for resolution by the board.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 11-13-109, filed 6/21/11, effective 7/22/11)

WAC 242-03-270 Intervention. (1) Upon motion, any person may request status as an intervenor in a case. The motion shall state the applicant's interests relating to the subject of the action, how disposition of the action may impair that interest, and whether that interest is adequately represented by existing parties. The motion shall specify the legal issue(s) in the case which the intervenor seeks to address and

may not raise new issues beyond the issues already in the case. In determining whether a person qualifies as an intervenor, the presiding officer shall apply any applicable provisions of law. Granting intervention must be in the interests of justice and shall not impair the orderly and prompt conduct of the proceedings.

~~(2) The motion to intervene shall be filed at least thirty days prior to the deadline for filing the initial hearing brief, unless good cause is shown.~~ The applicant should ~~((make an effort to))~~ contact the parties so that the motion may be filed without objection. ~~((The motion to intervene shall be filed at least ten days prior to the deadline for filing the petitioner's prehearing brief, unless good cause is shown.~~

~~(2) In determining whether a person qualifies as an intervenor, the presiding officer shall apply any applicable provisions of law and may consider the applicable superior court civil rules (CR) of this state. The granting of intervention must be in the interests of justice and shall not impair the orderly and prompt conduct of the proceedings.)~~

(3) If the person qualifies for intervention, the presiding officer may impose conditions upon the intervenor's participation in proceedings, either at the time that intervention is granted or at any subsequent time. Conditions may include:

(a) Limiting the intervenor's participation to designated issues in which the intervenor has a particular interest as demonstrated by the motion;

(b) Requiring two or more intervenors to combine their presentations of evidence and argument, or requiring intervenor to combine its argument with the party whose position the intervenor supports; and

(c) Limiting the intervenor's role in settlement proceedings.

~~((4) The presiding officer shall timely grant or deny each motion and specify conditions, if any.~~

~~(5))~~ (4) Pleadings and briefs of an intervenor shall be filed and served in accordance with the deadlines applicable to the party whose position the intervenor supports, in accordance with the board's order on intervention.

(5) An intervenor is subject to dismissal pursuant to WAC 242-03-710.

AMENDATORY SECTION (Amending WSR 11-13-109, filed 6/21/11, effective 7/22/11)

WAC 242-03-500 Notice of hearing. (1) Within ten days of the filing of a petition for review or of the filing of the last filed of consolidated petitions, unless ~~((a))~~ the petition for review has been dismissed pursuant to RCW 36.70A.290(3) or removed to superior court~~((7))~~ pursuant to WAC 242-03-290, the board or presiding officer will issue a notice of hearing.

(2) The notice of hearing shall identify the appeal to be heard, the names of the parties to the appeal and their attorneys or other authorized representatives, if any, and shall include the information specified in RCW 34.05.434.

(3) The notice of hearing will inform the parties of the presiding officer and the panel members designated to hear the matter.

(4) The notice of hearing will include an order setting a date and time for a prehearing conference. If the prehearing

conference is to be held by teleconference, the notice shall so state.

(5) The notice of hearing shall contain a tentative schedule for the case prepared by the presiding officer for review and finalization at the prehearing conference. The notice of hearing shall contain a date for the hearing on the merits. The presiding officer will thereafter schedule a place for the hearing.

(6) The notice shall state that if a limited-English-speaking or hearing impaired party needs an interpreter, a qualified interpreter will be appointed and that there will be no cost to the party. The notice shall include a form for a party to indicate if an interpreter is needed and identification of the primary language, or if a participant is hearing impaired or has other disability to be accommodated.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 11-13-109, filed 6/21/11, effective 7/22/11)

WAC 242-03-510 Index of the record. (1) Within thirty days of service of a petition for review, the respondent shall file with the board and serve a copy on the parties of an index listing all material used in taking the action which is the subject of the petition for review, including materials submitted in public comment. The index shall contain sufficient identifying information to enable unique documents to be distinguished.

(2) Concurrent with the filing of the index, the respondent shall make all documents in the index reasonably available to the petitioners for inspection and copying without the necessity for a public records request. In addition, the written or ~~((tape recorded))~~ electronic record of the legislative proceedings where action was taken shall be available to the parties for inspection or transcription. Respondents may charge for the cost of copies of documents requested by other parties in accordance with RCW 42.56.120, as amended.

(3) Within seven days after the filing of the index, any other party may file a list of proposed additions to the index. To the extent such documents were submitted to the jurisdiction or a part of the jurisdiction's proceedings prior to the challenged action, they are presumed admissible subject to relevance. If the respondent objects to any proposed addition, the petitioner may bring a motion to supplement the record as provided in WAC 242-03-565.

(4) Respondent may file a corrected index to add, delete, or correct the listing of documents it considered, without the necessity for a motion to supplement the record, by no later than a week before the date for filing the petitioner's prehearing brief.

AMENDATORY SECTION (Amending WSR 11-13-109, filed 6/21/11, effective 7/22/11)

WAC 242-03-520 Exhibits. Except as otherwise provided in these rules, the evidence in a case shall consist of the exhibits cited in the briefs or as exhibits allowed pursuant to a motion to supplement and attached thereto.

Exhibits shall be documents, portions of documents, or transcriptions of ~~((proceedings))~~ electronic records listed in the index, unless a motion to supplement the record has been granted. Exhibits admitted on motion to supplement will be assigned a number by the presiding officer.

The relevant portion of any exhibit cited in a brief or motion must be attached to the brief or motion and identified by the exhibit's index of the record (or assigned) number and number of the page cited. When such attachment is redundant, the presiding officer may allow the participants to cross-reference to exhibits attached to previously submitted materials so long as they are identified in the same manner.

~~((Exhibits attached to motions to supplement shall be cross-referenced in briefs for the hearing on the merits. The presiding officer may, at her/his discretion, require copies of all exhibits to be attached to both the motion to supplement and the hearing on the merits brief, or may just allow the exhibits to be cross-referenced.))~~

This requirement will be stated in the order on motion to supplement.

AMENDATORY SECTION (Amending WSR 11-13-109, filed 6/21/11, effective 7/22/11)

WAC 242-03-535 Prehearing conference—When held. The prehearing conference will be held ~~((thirty))~~ twenty-one days after the filing of the petition for review or as scheduled in the notice of hearing. The prehearing conference is conducted by the presiding officer and is ordinarily held telephonically.

AMENDATORY SECTION (Amending WSR 11-13-109, filed 6/21/11, effective 7/22/11)

WAC 242-03-640 Official notice—Material facts. (1) In the absence of conflicting evidence, the board or presiding officer, upon oral or written request made by any party before or during a hearing, or upon the board's own motion, may officially notice the following kinds of material facts:

(a) Business customs. General customs and practices followed in the transaction of business.

(b) Notorious facts. Facts so generally and widely known to all well-informed persons as not to be subject to reasonable dispute or specific facts which are capable of immediate and accurate demonstration by resort to accessible sources of generally accepted authority, including, but not exclusively, facts stated in any publication authorized or permitted by law to be made by any federal or state officer, department, or agency.

(c) Technical or scientific facts. Facts of a technical or scientific nature ~~((Technical or scientific facts))~~ within the board's specialized knowledge.

~~((2) Request. Any party may request, orally or in writing, that official notice be taken of a material fact. The board or presiding officer may take official notice of a material fact on its own initiative.~~

~~((3) Notice.))~~ (2) Whenever official notice of material facts is requested, the requesting party, or board, if on its own motion, ((Parties)) shall ((be notified either before or during a hearing)) notify the other parties of the material fact(s) pro-

posed to be officially noticed, and the other parties shall be afforded the opportunity to contest such facts and materials.

~~((4))~~ (3) Statement of official notice.

(a) In determining whether to take official notice of material facts, the presiding officer may consult any source of pertinent information, whether or not furnished by any party and whether or not admissible under the rules of evidence.

(b) If official notice of a material fact is taken, it shall be clearly and precisely stated and made part of the record.

(c) Where a decision of the board rests in whole or in part upon official notice of a material fact, such fact shall be clearly and precisely stated in such decision.

AMENDATORY SECTION (Amending WSR 11-13-109, filed 6/21/11, effective 7/22/11)

WAC 242-03-860 Stay. ~~((The presiding officer pursuant to RCW 34.05.467 or the board pursuant to RCW 34.05.550(1) may stay the effectiveness of a final order upon motion for stay filed within ten days of filing an appeal to a reviewing court))~~ The board pursuant to RCW 34.05.550(1) may stay the effectiveness of a final order upon motion for stay.

A stay may be granted if the presiding officer or board finds:

(1) An appeal is pending in court, the outcome of which may render the ~~((ease moot))~~ city or county compliance efforts futile or unduly burdensome; and

(2) Delay in application of the board's order will not substantially harm the interest of other parties to the proceedings; and

(3)(a) Delay in application of the ~~((board's))~~ final order is not likely to result in actions that substantially interfere with ~~((the))~~ fulfillment of the goals of the GMA, including the goals and policies of the Shoreline Management Act(~~(:))~~ or the State Environmental Policy Act; or

(b) The parties have agreed to halt implementation of the noncompliant ordinance and undertake no irreversible actions regarding the subject matter of the case during the pendency of the stay; and

(4) Delay in application of the ~~((board's))~~ final order furthers the orderly administration of justice.

The board's order granting a stay will contain appropriate findings and conditions. The board may require periodic status reports from the parties. An ~~((board))~~ order denying stay is not subject to judicial review.

AMENDATORY SECTION (Amending WSR 12-05-110, filed 2/22/12, effective 3/24/12)

WAC 242-03-970 Appeals of a board's final decision.

(1) Any party aggrieved by a final decision of the board may appeal the decision to superior court as provided in RCW 34.05.514 and 34.05.542 or 36.01.050 within thirty days of service of the final decision of the board.

(2) The petition for review of a final decision of the board shall be served on the board, however, it is not necessary to name the board as a party.

~~((2))~~ (3) In the event that direct appellate review is sought, within thirty days of the filing of a petition for review in the superior court, a party may request a certificate of

appealability for direct review by the court of appeals. If the issue on review is the jurisdiction of the board, the board may file an application for direct review. Application for direct review of a decision of the board is governed by the procedures and criteria of RCW 34.05.518.

AMENDATORY SECTION (Amending WSR 11-13-109, filed 6/21/11, effective 7/22/11)

WAC 242-03-990 Procedure on remand. Within forty-five days of receipt of a reviewing court's ~~((final order))~~ mandate remanding a decision of the board, or final remand order in the case of a superior court decision, the presiding officer will ~~((schedule))~~ convene a conference of the parties as necessary to determine the procedures required to resolve the matter in accordance with the mandate or final order.

WSR 16-02-122

PERMANENT RULES

HEALTH CARE AUTHORITY

(Washington Apple Health)

[Filed January 6, 2016, 10:55 a.m., effective February 6, 2016]

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

Purpose: The agency is amending the Washington apple health definition for "agency designee" to include any state agency selected to act on behalf of the health care authority. The agency is also amending the definition of "agency" to include the term "medicaid agency."

Citation of Existing Rules Affected by this Order: Amending WAC 182-500-0015 [182-500-0010].

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 15-24-112 on December 1, 2015.

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

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

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

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

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

Date Adopted: January 6, 2016.

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 15-15-143, filed 7/17/15, effective 8/17/15)

WAC 182-500-0010 Medical assistance definitions—

A. "Administrative renewal" means the agency uses ~~((verification from))~~ electronically available income data sources to verify and recertify a person's Washington apple health benefits for a subsequent certification period. A case is administratively renewed when the person's self-attested income is reasonably compatible (as defined in WAC 182-500-0095) with the information available to the agency from the electronic data sources and the person meets citizenship, immigration, Social Security number, and age requirements.

"Agency" or "medicaid agency" means the Washington state health care authority (HCA) ~~((created under chapter 41.05 RCW)).~~

"Agency's designee" means ~~((the Washington state department of social and health services (DSHS), created under chapter 43.20A RCW))~~ any entity expressly designated by the agency to act on its behalf.

"Allowable costs" are the documented costs as reported after any cost adjustment, cost disallowances, reclassifications, or reclassifications to nonallowable costs which are necessary, ordinary and related to the outpatient care of medical care clients or not expressly declared nonallowable by applicable statutes or regulations. Costs are ordinary if they are of the nature and magnitude which prudent and cost-conscious management would pay.

"Alternative benefits plan" means the range of health care services included within the scope of service categories described in WAC 182-501-0060 available to persons eligible to receive health care coverage under the Washington apple health modified adjusted gross income (MAGI)-based adult coverage described in WAC 182-505-0250.

"Ancillary services" means additional services ordered by the provider to support the core treatment provided to the patient. These services may include, but are not limited to, laboratory services, radiology services, drugs, physical therapy, occupational therapy, and speech therapy.

"Apple health for kids" is the umbrella term for health care coverage for certain groups of children that is funded by the state and federal governments under Title XIX medicaid programs ~~(($\text{\textcircled{R}}$))~~, Title XXI Children's Health Insurance Program, or solely through state funds (including the program formerly known as the children's health program). Funding for any given child depends on the program for which the child is determined to be eligible. Apple health for kids programs are included in the array of health care programs available through Washington apple health (WAH).

"Attested income" means a self-declared statement of a person's income made under penalty of perjury to be true. (See also "self-attested income.")

"Authorization" means the agency's or the agency's designee's determination that criteria are met, as one of the preconditions to the agency's or the agency's designee's decision to provide payment for a specific service or device. (See also "expedited prior authorization" and "prior authorization.")

"Authorized representative" is defined under WAC 182-503-0130.

WSR 16-02-126
PERMANENT RULES
DEPARTMENT OF REVENUE

[Filed January 6, 2016, 11:06 a.m., effective February 6, 2016]

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

Purpose: Updates WAC 458-19-070 and 458-19-075 to incorporate 2015 legislation:

- ESHB 2263 (chapter 24, Laws of 2015), creating, funding, and imposing tax for cultural access program; and
- 2ESSB 5987 (chapter 44, Laws of 2015), creating, funding, and imposing tax for regional transit authority.

WAC 458-19-070 Five dollars and ninety cents statutory aggregate limit calculation, explains the prorating process used to establish a consolidated levy rate when the assessor finds the statutory aggregate levy rate exceeds five dollars and ninety cents per thousand dollars of assessed value.

WAC 458-19-075 Constitutional one percent limit calculation (Rule 19-075), explains how to determine if the constitutional one percent limit is being exceeded and the sequence in which levy rates will be reduced or eliminated if exceeded.

Citation of Existing Rules Affected by this Order: Amending WAC 458-19-070 and 458-19-075.

Statutory Authority for Adoption: RCW 84.08.010, 84.08.070, 84.52.0502, and 84.55.010.

Adopted under notice filed as WSR 15-22-058 on October 30, 2015.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

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

Date Adopted: January 6, 2016.

Kevin Dixon
Rules Coordinator

AMENDATORY SECTION (Amending WSR 14-14-023, filed 6/23/14, effective 7/24/14)

WAC 458-19-070 Five dollars and ninety cents statutory aggregate limit calculation. (1) Introduction. The aggregate of all regular levy rates of junior taxing districts and senior taxing districts, other than the state and other specifically identified districts, cannot exceed five dollars and ninety cents per thousand dollars of assessed value in accordance with RCW 84.52.043. When the county assessor finds

that this limit has been exceeded, the assessor recomputes the levy rates and establishes a new consolidated levy rate in the manner set forth in RCW 84.52.010. This section describes the prorationing process used to establish a consolidated levy rate when the assessor finds the statutory aggregate levy rate exceeds five dollars and ninety cents. If prorationing is required, the five dollar and ninety cents limit is reviewed before the constitutional one percent limit.

(2) Levies not subject to statutory aggregate dollar rate limit. The following levies are not subject to the statutory aggregate dollar rate limit of five dollars and ninety cents per thousand dollars of assessed value:

- (a) Levies by the state;
- (b) Levies by or for port or public utility districts;
- (c) Excess property tax levies authorized in Article VII, section 2 of the state Constitution;
- (d) Levies by or for county ferry districts under RCW 36.54.130;
- (e) Levies for acquiring conservation futures under RCW 84.34.230;
- (f) Levies for emergency medical care or emergency medical services under RCW 84.52.069;
- (g) Levies for financing affordable housing for very low-income households under RCW 84.52.105;
- (h) The portion of metropolitan park district levies protected under RCW 84.52.120;
- (i) The portion of fire protection district levies protected under RCW 84.52.125;
- (j) Levies for criminal justice purposes under RCW 84.52.135;
- (k) Levies for transit-related purposes by a county under RCW 84.52.140; ~~((and))~~
- (l) The protected portion of the levies imposed under RCW 86.15.160 by flood control zone districts in a county with a population of seven hundred seventy-five thousand or more that are coextensive with a county; and
- (m) Levies imposed by a regional transit authority under RCW 81.104.175.

(3) Prorationing under consolidated levy rate limitation. RCW 84.52.010 sets forth the prorationing order in which the regular levies of taxing districts will be reduced or eliminated by the assessor to comply with the statutory aggregate dollar rate limit of five dollars and ninety cents per thousand dollars of assessed value. The order contained in the statute lists which taxing districts are the first to either reduce or eliminate their levy rate. Taxing districts that are at the same level within the prorationing order are grouped together in tiers. Reductions or eliminations in levy rates are made on a pro rata basis within each tier of taxing district levies until the consolidated levy rate no longer exceeds the statutory aggregate dollar rate limit of five dollars and ninety cents.

As opposed to the order contained in RCW 84.52.010, which lists the taxing districts that are the first to have their levy rates reduced or eliminated, this section is written in reverse order; that is, it lists the taxing districts that must be first either fully or partially funded. If the statutory aggregate dollar rate is exceeded, then the levy rates for taxing districts within a particular tier must be reduced or eliminated on a pro rata basis. The proration factor, which is multiplied by each levy rate within the tier, is obtained by dividing the dollar rate

remaining available to the taxing districts in that tier as a group by the sum of the levy rates originally certified by or for all of the taxing districts within the tier.

(a) Step one: Total the aggregate levy rates requested by all affected taxing districts in the tax code area. If this total is less than five dollars and ninety cents per thousand dollars of assessed value, no prorationing is necessary. If this total levy rate is more than five dollars and ninety cents, the assessor must proceed through the following steps until the aggregate dollar rate is brought within that limit.

(b) Step two: Subtract from \$5.90 the levy rates of the county and the county road district if the tax code area includes an unincorporated portion of the county, or the levy rates of the county and the city or town if the tax code area includes an incorporated area, as applicable.

(c) Step three: Subtract from the remaining levy capacity the levy rates, if any, for fire protection districts under RCW 52.16.130, regional fire protection service authorities under RCW 52.26.140 (1)(a), library districts under RCW 27.12.-050 and 27.12.150, the first fifty cents per thousand dollars of assessed value for metropolitan park districts created before January 1, 2002, under RCW 35.61.210, and the first fifty cents per thousand dollars of assessed value for public hospital districts under RCW 70.44.060(6).

(i) If the balance is zero, there is no remaining levy capacity for any other junior taxing district at a lower tier and their levies, if any, must be eliminated.

(ii) If the balance is less than zero, then the levies within this tier must be reduced on a pro rata basis until the balance is zero. After prorationing, there is no remaining levy capacity for any other junior taxing districts at a lower tier and their levies, if any, must be eliminated.

(iii) If the remaining balance is greater than zero, this amount is available to the remaining junior taxing districts at a lower tier and the assessor should proceed on to step four.

(d) Step four: Subtract from the remaining levy capacity the levy rates, if any, for fire protection districts under RCW 52.16.140 and 52.16.160, and regional fire protection service authorities under RCW 52.26.140 (1)(b) and (c). However, under RCW 84.52.125 fire protection districts may protect up to twenty-five cents per thousand dollars of assessed value of the total levies made under RCW 52.16.140 and 52.16.160 from prorationing.

(i) If the balance is zero, there is no remaining levy capacity for any other junior taxing districts at a lower tier and their levies, if any, must be eliminated.

(ii) If the balance is less than zero, then the levies within this tier must be reduced on a pro rata basis until the balance is zero. It is at this point that the provisions of RCW 84.52.-125 come into play; that is, a fire protection district may protect up to twenty-five cents per thousand dollars of assessed value of the total levies made under RCW 52.16.140 and 52.16.160 from prorationing under RCW 84.52.043(2), if the total levies would otherwise be prorated under RCW 84.52.-010 (2)(e) with respect to the five-dollar and ninety cent per thousand dollars of assessed value limit. After prorationing, there is no remaining levy capacity for any other junior taxing district at a lower tier and their levies, if any, must be eliminated.

(iii) If the remaining balance is greater than zero, this amount is available to the remaining junior taxing districts at a lower tier and the assessor should proceed on to step five.

(e) Step five: Subtract from the remaining levy capacity the levy rate, if any, for the first fifty cents per thousand dollars of assessed value of metropolitan park districts created on or after January 1, 2002, under RCW 35.61.210.

(i) If the balance is zero, there is no remaining levy capacity for any other junior taxing districts at a lower tier and their levies, if any, must be eliminated.

(ii) If the balance is less than zero, then the levies within this tier must be reduced on a pro rata basis until the balance is zero. After prorationing, there is no remaining levy capacity for any other junior taxing district at a lower tier and their levies, if any, must be eliminated.

(iii) If the remaining balance is greater than zero, this amount is available to the remaining junior taxing districts at a lower tier and the assessor should proceed on to step six.

(f) Step six: Subtract from the remaining levy capacity the twenty-five cent per thousand dollars of assessed value levy rate for metropolitan park districts if it is not protected under RCW 84.52.120, the twenty-five cent per thousand dollars of assessed value levy rate for public hospital districts under RCW 70.44.060(6), and the levy rates, if any, for cemetery districts under RCW 68.52.310 and all other junior taxing districts if those levies are not listed in steps three through five or seven or eight of this subsection.

(i) If the balance is zero, there is no remaining levy capacity for any other junior taxing districts at a lower tier and their levies, if any, must be eliminated.

(ii) If the balance is less than zero, then the levies within this tier must be reduced on a pro rata basis until the balance is zero. After prorationing, there is no remaining levy capacity for any other junior taxing district at a lower tier and their levies, if any, must be eliminated.

(iii) If the remaining balance is greater than zero, this amount is available to the remaining junior taxing districts at a lower tier and the assessor should proceed on to step seven.

(4) Example.

DISTRICT	ORIGINAL LEVY RATE	PRORATION FACTOR	FINAL LEVY RATE	REMAINING LEVY CAPACITY
County Road	1.8000 2.2500	NONE NONE	1.8000 2.2500	1.850
Library	.5000	NONE	.5000	.350
Fire	.5000	NONE	.5000	
Hospital	.5000	NONE	.5000	
Fire	.2000	NONE	.2000	.150
Cemetery	.1125	.4138	.0466	
Hospital	.2500	.4138	.1034	
Totals	6.1125		5.90	

1. Beginning with the limit of \$5.90, subtract the original certified levy rates for the county and county road taxing districts leaving \$1.85 available for the remaining districts.

2. Subtract the total of the levy rates for each district within the next tier: The library's \$.50, the fire district's \$.50 and the hospital's \$.50 = \$1.50, which leaves \$.35 available for the remaining districts.

(g) Step seven: Subtract from the remaining levy capacity the levy rate, if any, for flood control zone districts other than the portion of a levy protected under RCW 84.52.815.

(i) If the balance is zero, there is no remaining levy capacity for any other junior taxing districts at a lower tier and their levies, if any, must be eliminated.

(ii) If the balance is less than zero, then the levies within this tier must be reduced on a pro rata basis until the balance is zero. After prorationing, there is no remaining levy capacity for any other junior taxing district at a lower tier and their levies, if any, must be eliminated.

(iii) If the remaining balance is greater than zero, this amount is available to the remaining junior taxing districts at a lower tier and the assessor should proceed on to step eight.

(h) Step eight: Subtract from the remaining levy capacity the levy rates, if any, for city transportation authorities under RCW 35.95A.100, park and recreation service areas under RCW 36.68.525, park and recreation districts under RCW 36.69.145, and cultural arts, stadium, and convention districts under RCW 67.38.130 ~~((on a pro rata basis until the remaining levy capacity equals zero))~~.

(i) If the balance is zero, there is no remaining levy capacity for other junior taxing districts at a lower tier and their levies, if any, must be eliminated.

(ii) If the balance is less than zero, then the levies within this tier must be reduced on a pro rata basis until the balance is zero. After prorationing, there is no remaining levy capacity for any other junior taxing district at a lower tier and their levies, if any, must be eliminated.

(iii) If the remaining balance is greater than zero, this amount is available to the remaining junior taxing districts at a lower tier and the assessor should proceed on to step nine.

(i) Step nine: Subtract from the remaining levy capacity the levy imposed, if any, for cultural access programs under RCW 36.160.080 until the remaining levy capacity equals zero.

3. Subtract the fire district's additional \$.20 levy rate, which leaves \$.15 available for the remaining districts.

4. The remaining \$.15 must be shared by the cemetery and the hospital districts within the next tier of levies. The cemetery district originally sought to levy \$.1125 and the hospital district sought to levy \$.25. The proration factor is arrived at by dividing the amount available (\$.15) by the orig-

inal levy rates (\$.3625) requested within that tier resulting in a proration factor of .4138. And finally, the original levy rates in this tier of \$.1125 and \$.25 for the cemetery and hospital respectively are multiplied by the proration factor.

AMENDATORY SECTION (Amending WSR 14-14-023, filed 6/23/14, effective 7/24/14)

WAC 458-19-075 Constitutional one percent limit calculation. (1) **Introduction.** The total amount of all regular property tax levies that can be applied against taxable property is limited to one percent of the true and fair value of the property in money. The one percent limit is stated in Article VII, section 2 of the state Constitution and the enabling statute, RCW 84.52.050. The constitutional one percent limit is based upon the amount of taxes actually levied on the true and fair value of the property, not the dollar rate used in computing property taxes. This section explains how to determine if the constitutional one percent limit is being exceeded and the sequence in which levy rates will be reduced or eliminated in accordance with RCW 84.52.010 if the constitutional one percent limit is exceeded. The constitutional one percent calculation is made after the assessor ensures that the \$5.90 statutory aggregate dollar rate limit is not exceeded.

(2) **Preliminary calculations.** After prorationing under RCW 84.52.043 (the five dollar and ninety cent per thousand dollars of assessed value limit) has occurred, make the following calculations to determine if the constitutional one percent limit is being exceeded:

(a) First, add all the regular levy rates, except the rates for port and public utility districts, in the tax code area, to arrive at a combined levy rate for that tax code area. "Regular levy rates" in this context means the levy rates that remain after prorationing under RCW 84.52.043 has occurred. The levy rates for port and public utility districts are not included in this computation because they are not subject to the constitutional one percent limit. The rates for the following regular levies are used to calculate the combined levy rate of any particular tax code area:

- (i) The local rate for the state levy;
- (ii) Levies by or for county ferry districts under RCW 36.54.130;
- (iii) Levies for acquiring conservation futures under RCW 84.34.230;
- (iv) Levies for emergency medical care or emergency medical services under RCW 84.52.069;
- (v) Levies for financing affordable housing for very low-income households under RCW 84.52.105;
- (vi) The portion of metropolitan park district levies protected under RCW 84.52.120;
- (vii) The portion of fire protection district levies protected under RCW 84.52.125;
- (viii) Levies for criminal justice purposes under RCW 84.52.135;
- (ix) Levies for transit-related purposes by a county with a population of one million five hundred thousand or more under RCW 84.52.140; (~~and~~)
- (x) The protected portion of the levies imposed under RCW 86.15.160 by flood control zone districts in a county

with a population of seven hundred seventy-five thousand or more that are coextensive with a county; and

(xi) Levies imposed, if any, by a regional transit authority under RCW 81.104.175.

(b) Second, divide ten dollars by the higher of the real or personal property ratio of the county for the assessment year in which the levy is made to determine the maximum effective levy rate. If the combined levy rate exceeds the maximum effective levy rate, then the individual levy rates must be reduced or eliminated until the combined levy rate is equal to the maximum effective levy rate.

(3) **Prorationing - Constitutional one percent limit.** RCW 84.52.010 sets forth the prorationing order in which levy rates are to be reduced or eliminated when the constitutional one percent limit is exceeded.

As opposed to the order contained in RCW 84.52.010, which lists the taxing districts that are the first to have their levy rates reduced or eliminated, this section is written in reverse order; that is, it lists the taxing districts that must be first either fully or partially funded. If the constitutional one percent limit is exceeded, then the levy rates for taxing districts within a particular tier must be reduced or eliminated on a pro rata basis.

If the constitutional one percent limit is exceeded after performing the preliminary calculations described in subsection (2) of this section, the following levies must be reduced or eliminated until the combined levy rate no longer exceeds the maximum effective levy rate:

- (a) Step one: Subtract the levy rate for the state for the support of common schools from the effective rate limit;
- (b) Step two: Subtract the levy rates for the county, county road district, regional transit authority, and for city or town purposes;

(c) Step three: Subtract from the remaining levy capacity the levy rates for fire protection districts under RCW 52.16.-130, regional fire protection service authorities under RCW 52.26.140 (1)(a), library districts under RCW 27.12.050 and 27.12.150, the first fifty cents per thousand dollars of assessed value for metropolitan park districts created before January 1, 2002, under RCW 35.61.210, and the first fifty cents per thousand dollars of assessed value for public hospital districts under RCW 70.44.060(6).

(i) If the balance is zero, there is no remaining levy capacity for any other junior taxing district at a lower tier and their levies, if any, must be eliminated.

(ii) If the balance is less than zero, then the levies within this tier must be reduced on a pro rata basis until the balance is zero. After prorationing, there is no remaining levy capacity for any other junior taxing districts at a lower tier and their levies, if any, must be eliminated.

(iii) If the remaining balance is greater than zero, this amount is available to the remaining junior taxing districts at a lower tier and the assessor should proceed on to step four.

(d) Step four: Subtract from the remaining levy capacity the levy rates for fire protection districts under RCW 52.16.-140 and 52.16.160, and regional fire protection service authorities under RCW 52.26.140 (1)(b) and (c).

(i) If the balance is zero, there is no remaining levy capacity for any other junior taxing districts at a lower tier and their levies, if any, must be eliminated.

(ii) If the balance is less than zero, then the levies within this tier must be reduced on a pro rata basis until the balance is zero. After prorationing, there is no remaining levy capacity for any other junior taxing district at a lower tier and their levies, if any, must be eliminated.

(iii) If the remaining balance is greater than zero, this amount is available to the remaining junior taxing districts at a lower tier and the assessor should proceed on to step five.

(e) Step five: Subtract from the remaining levy capacity the levy rate for the first fifty cents per thousand dollars of assessed value of metropolitan park districts created on or after January 1, 2002, under RCW 35.61.210.

(i) If the balance is zero, there is no remaining levy capacity for any other junior taxing districts at a lower tier and their levies, if any, must be eliminated.

(ii) If the balance is less than zero, then the levy is reduced to the remaining balance from step four. There is no remaining levy capacity for any other junior taxing district at a lower tier and their levies, if any, must be eliminated.

(iii) If the remaining balance is greater than zero, this amount is available to the remaining junior taxing districts at a lower tier and the assessor should proceed on to step six.

(f) Step six: Subtract from the remaining levy capacity the levy rates for all other junior taxing districts if those levies are not listed in steps three through five or steps seven through ~~(sixteen)~~ seventeen of this subsection.

(i) If the balance is zero, there is no remaining levy capacity for any other junior taxing districts at a lower tier and their levies, if any, must be eliminated.

(ii) If the balance is less than zero, then the levies within this tier must be reduced on a pro rata basis until the balance is zero. After prorationing, there is no remaining levy capacity for any other junior taxing district at a lower tier and their levies, if any, must be eliminated.

(iii) If the remaining balance is greater than zero, this amount is available to the remaining junior taxing districts at a lower tier and the assessor should proceed on to step seven.

(g) Step seven: Subtract from the remaining levy capacity the levy rate for flood control zone districts other than the portion of a levy protected under RCW 84.52.815.

(i) If the balance is zero, there is no remaining levy capacity for any other junior taxing districts at a lower tier and their levies, if any, must be eliminated.

(ii) If the balance is less than zero, then the levy is reduced to the remaining balance in step six. There is no remaining levy capacity for any other junior taxing district at a lower tier and their levies, if any, must be eliminated.

(iii) If the remaining balance is greater than zero, this amount is available to the remaining junior taxing districts at a lower tier and the assessor should proceed on to step eight.

(h) Step eight: Subtract from the remaining levy capacity the levy rates for city transportation authorities under RCW 35.95A.100, park and recreation service areas under RCW 36.68.525, park and recreation districts under RCW 36.69.-145, and cultural arts, stadium, and convention districts under RCW 67.38.130.

(i) If the balance is zero, there is no remaining levy capacity for any other junior taxing districts at a lower tier and their levies, if any, must be eliminated.

(ii) If the balance is less than zero, then the levies within this tier must be reduced on a pro rata basis until the balance is zero. After prorationing, there is no remaining levy capacity for any other junior taxing district at a lower tier and their levies, if any, must be eliminated.

(iii) If the remaining balance is greater than zero, this amount is available to the remaining junior taxing districts at a lower tier and the assessor should proceed on to step nine.

(i) Step nine: Subtract from the remaining levy capacity the levy ~~((rate for))~~ imposed, if any, for cultural access programs under RCW 36.160.080.

(i) If the balance is zero, there is no remaining levy capacity from any other junior taxing districts at a lower tier and their levies, if any, must be eliminated.

(ii) If the balance is less than zero, the levy is reduced to the remaining balance in step eight. There is no remaining levy capacity for any other junior taxing districts at a lower tier and their levies, if any, must be eliminated.

(iii) If the remaining balance is greater than zero, this amount is available to the remaining junior taxing districts at a lower tier and the assessor should proceed to step ten.

(j) Step ten: Subtract from the remaining levy capacity the levy rate for the first thirty cents per thousand dollars for emergency medical care or emergency medical services under RCW 84.52.069.

(i) If the balance is zero, there is no remaining levy capacity for any other junior taxing districts at a lower tier and their levies, if any, must be eliminated.

(ii) If the balance is less than zero, then the levy is reduced to the remaining balance in step ~~((eight))~~ nine. There is no remaining levy capacity for any other junior taxing district at a lower tier and their levies, if any, must be eliminated.

(iii) If the remaining balance is greater than zero, this amount is available to the remaining junior taxing districts at a lower tier and the assessor should proceed on to step ~~((ten))~~ eleven.

~~((j))~~ (k) Step ((ten)) eleven: Subtract from the remaining levy capacity the levy rates for levies used for acquiring conservation futures under RCW 84.34.230, financing affordable housing for very low-income households under RCW 84.52.105, and any portion of a levy rate for emergency medical care or emergency medical services under RCW 84.52.069 in excess of thirty cents per thousand dollars of assessed value.

(i) If the balance is zero, there is no remaining levy capacity for any other junior taxing districts at a lower tier and their levies, if any, must be eliminated.

(ii) If the balance is less than zero, then the levies within this tier must be reduced on a pro rata basis until the balance is zero. After prorationing, there is no remaining levy capacity for any other junior taxing district at a lower tier and their levies, if any, must be eliminated.

(iii) If the remaining balance is greater than zero, this amount is available to the remaining junior taxing districts at a lower tier and the assessor should proceed on to step ~~((eleven))~~ twelve.

~~((k))~~ (l) Step ((eleven)) twelve: Subtract from the remaining levy capacity the portion of the levy by a metropolitan park district with a population of one hundred fifty thousand or more that is protected under RCW 84.52.120.

(i) If the balance is zero, there is no remaining levy capacity for any other junior taxing districts at a lower tier and their levies, if any, must be eliminated.

(ii) If the balance is less than zero, then the portion of the levy within this tier must be reduced to the remaining balance in step ~~((ten)) eleven~~. There is no remaining levy capacity for any other junior taxing district at a lower tier and their levies, if any, must be eliminated.

(iii) If the remaining balance is greater than zero, this amount is available to the remaining junior taxing districts at a lower tier and the assessor should proceed on to step ~~((twelve)) thirteen~~.

~~((H)) (m)~~ Step ~~((twelve)) thirteen~~: Subtract from the remaining levy capacity the levy rates for county ferry districts under RCW 36.54.130.

(i) If the balance is zero, there is no remaining levy capacity for any other junior taxing districts at a lower tier and their levies, if any, must be eliminated.

(ii) If the balance is less than zero, then the levy is reduced to the remaining balance in step ~~((eleven)) twelve~~. There is no remaining levy capacity for any other junior taxing district at a lower tier and their levies, if any, must be eliminated.

(iii) If the remaining balance is greater than zero, this amount is available to the remaining junior taxing districts at a lower tier and the assessor should proceed on to step ~~((thirteen)) fourteen~~.

~~((m)) (n)~~ Step ~~((thirteen)) fourteen~~: Subtract from the remaining levy capacity the levy rate for criminal justice purposes imposed under RCW 84.52.135.

(i) If the balance is zero, there is no remaining levy capacity for any other junior taxing districts at a lower tier and their levies, if any, must be eliminated.

(ii) If the balance is less than zero, then the levy is reduced to the remaining balance in step ~~((twelve)) thirteen~~. There is no remaining levy capacity for any other junior taxing district at a lower tier and their levies, if any, must be eliminated.

(iii) If the remaining balance is greater than zero, this amount is available to the remaining junior taxing districts at a lower tier and the assessor should proceed on to step ~~((fourteen)) fifteen~~.

~~((n)) (o)~~ Step ~~((fourteen)) fifteen~~: Subtract from the remaining levy capacity the levy rate for fire protection districts protected under RCW 84.52.125.

(i) If the balance is zero, there is no remaining levy capacity for any other junior taxing districts at a lower tier and their levies, if any, must be eliminated.

(ii) If the balance is less than zero, then the portion of the levy within this tier must be reduced to the remaining balance in step ~~((thirteen)) fourteen~~. There is no remaining levy capacity for any other junior taxing district at a lower tier and their levies, if any, must be eliminated.

(iii) If the remaining balance is greater than zero, this amount is available to the remaining junior taxing districts at a lower tier and the assessor should proceed on to step ~~((fifteen)) sixteen~~.

~~((o)) (p)~~ Step ~~((fifteen)) sixteen~~: Subtract from the remaining levy capacity the levy rate for transit-related purposes by a county under RCW 84.52.140.

(i) If the balance is zero, there is no remaining levy capacity for any other junior taxing districts at a lower tier and their levies, if any, must be eliminated.

(ii) If the balance is less than zero, then the levy is reduced to the remaining balance in step ~~((fourteen)) fifteen~~. There is no remaining levy capacity for any other junior taxing district at a lower tier and their levies, if any, must be eliminated.

(iii) If the remaining balance is greater than zero, this amount is available to the remaining junior taxing districts at a lower tier and the assessor should proceed on to step ~~((sixteen)) seventeen~~.

~~((P)) (q)~~ Step ~~((sixteen)) seventeen~~: Subtract from the remaining levy capacity the protected portion of the levy imposed under RCW 86.15.160 by a flood control zone district in a county with a population of seven hundred seventy-five thousand or more that is coextensive with a county.

(i) If the balance is zero, there is no remaining levy capacity for any other junior taxing districts at a lower tier and their levies, if any, must be eliminated.

(ii) If the balance is less than zero, then the portion of the levy within this tier must be reduced to the remaining balance in step ~~((fifteen)) sixteen~~. There is no remaining levy capacity for any other junior taxing district at a lower tier and their levies, if any, must be eliminated.

(iii) If the remaining balance is greater than zero, this amount is available to the remaining junior taxing districts at a lower tier and the assessor should proceed on to step ~~((seventeen)) eighteen~~.

~~((Q)) (r)~~ Step ~~((seventeen)) eighteen~~: Subtract from the remaining levy capacity the portion of the levy by a metropolitan park district that has a population of less than one hundred fifty thousand and is located in a county with a population of one million five hundred thousand or more that is protected under RCW 84.52.120 until the remaining levy capacity equals zero.

WSR 16-02-127

PERMANENT RULES

BUILDING CODE COUNCIL

[Filed January 6, 2016, 11:07 a.m., effective July 1, 2016]

Effective Date of Rule: July 1, 2016.

Purpose: Adoption and amendment of the 2015 International Energy Conservation Code (IECC)/Washington State Energy Code (WSEC) (Residential), chapter 51-11R WAC. The rules adopt the 2015 edition of WSEC (Residential) with amendments to incorporate requirements from the 2015 IECC (Residential), and formatted to the 2015 IECC, to provide increase clarity and energy efficiency as required in RCW 19.27A.160.

Citation of Existing Rules Affected by this Order: WAC 51-11R-10100, 51-11R-10200, 51-11R-10300, 51-11R-10400, 51-11R-10600, 51-11R-10800, 51-11R-20201, 51-11R-20203, 51-11R-20205, 51-11R-20206, 51-11R-20208, 51-11R-20209, 51-11R-20218, 51-11R-30310, 51-11R-40100, 51-11R-40210, 51-11R-40211, 51-11R-40213, 51-11R-40220, 51-11R-40230, 51-11R-40240, 51-11R-40241, 51-11R-40250, 51-11R-40310, 51-11R-40320, 51-11R-

40330, 51-11R-40340, 51-11R-40350, 51-11R-40351, 51-11R-40360, 51-11R-40370, 51-11R-40380, 51-11R-40390, 51-11R-40410, 51-11R-40530, 51-11R-40540, 51-11R-40551, 51-11R-40552, 51-11R-40620, 51-11R-40621, and 51-11R-50000.

Statutory Authority for Adoption: RCW 19.27A.020, 19.27A.045, 19.27A.160.

Other Authority: RCW 19.27.074.

Adopted under notice filed as WSR 15-16-102 on August 4, 2015.

Changes Other than Editing from Proposed to Adopted Version: **Table R405.5.2(1)** was modified to retain the previous footnote b, renumbered as footnote h, which was mistakenly deleted by the model code organization and reintroduced into the 2015 IECC via an errata.

Option 1 of **Section R406.2** was selected, but modified to require 1.5 credits for a small dwelling unit rather than the 2.5 credits proposed.

A final cost-benefit analysis is available by contacting Tim Nogler, P.O. Box 41449, Olympia, WA 98504-1449, phone (360) 407-9280, fax (360) 586-9088, e-mail sbcc@ga.wa.gov.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 8, Amended 41, Repealed 0.

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 8, Amended 41, Repealed 0.

Date Adopted: November 20, 2015.

David F. Kokot
Council Chair

Chapter 51-11R WAC

STATE BUILDING CODE ADOPTION AND AMENDMENT OF THE ~~((2012))~~ 2015 EDITION OF THE INTERNATIONAL ENERGY CONSERVATION CODE, RESIDENTIAL

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

WAC 51-11R-10100 Section R101—Scope and general requirements.

R101.1 Title. This code shall be known as the ~~((*International Energy Conservation Code* of THE STATE OF WASHINGTON))~~ *Washington State Energy Code*, and shall be cited as such. It is referred to herein as "this code."

R101.2 Scope. This code applies to *residential buildings* and the buildings sites and associated systems and equipment. This code shall be the maximum and minimum energy code for residential construction in each town, city and county.

R101.3 Intent. This code shall regulate the design and construction of buildings for the effective use and conservation of energy over the useful life of each building. This code is intended to provide flexibility to permit the use of innovative approaches and techniques to achieve this objective. This code is not intended to abridge safety, health or environmental requirements contained in other applicable codes or ordinances.

R101.4 Applicability. Where, in any specific case, different sections of this code specify different materials, methods of construction or other requirements, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall govern.

~~((**R101.4.1 Existing buildings.** Except as specified in this chapter, this code shall not be used to require the removal, alteration or abandonment of, nor prevent the continued use and maintenance of, an existing building or building system lawfully in existence at the time of adoption of this code.~~

~~**R101.4.2 Historic buildings.** The building official may modify the specific requirements of this code for historic buildings and require in lieu of alternate requirements which will result in a reasonable degree of energy efficiency. This modification may be allowed for those buildings or structures that are listed in the state or national register of historic places; designated as a historic property under local or state designation law or survey; certified as a contributing resource with a national register listed or locally designated historic district; or with an opinion or certification that the property is eligible to be listed on the national or state registers of historic places either individually or as a contributing building to a historic district by the state historic preservation officer or the keeper of the national register of historic places.~~

~~**R101.4.3 Additions, alterations, renovations or repairs.** Additions, alterations, renovations or repairs to an existing building, building system or portion thereof shall conform to the provisions of this code as they relate to new construction without requiring the unaltered portion(s) of the existing building or building system to comply with this code. Additions, alterations, renovations or repairs shall not create an unsafe or hazardous condition or overload existing building systems. An addition shall be deemed to comply with this code if the addition alone complies or if the existing building and addition comply with this code as a single building.~~

EXCEPTION: The following need not comply provided the energy use of the building is not increased:

1. Storm windows installed over existing fenestration.
2. Glass only replacements in an existing sash and frame.
3. Existing ceiling, wall or floor cavities exposed during construction provided that these cavities are filled with insulation. 2x4 framed walls shall be insulated to a minimum of R-15 and 2x6 framed walls shall be insulated to a minimum of R-21.

4. Construction where the existing roof, wall or floor cavity is not exposed.
5. Reroofing for roofs where neither the sheathing nor the insulation is exposed. Roofs without insulation in the cavity and where the sheathing or insulation is exposed during reroofing shall be insulated either above or below the sheathing.
6. Replacement of existing doors that separate *conditioned space* from the exterior shall not require the installation of a vestibule or revolving door, provided, however, that an existing vestibule that separates a *conditioned space* from the exterior shall not be removed.
7. Alterations that replace less than 60 percent of the luminaires in a space, provided that such alterations do not increase the installed interior lighting power.
8. Alterations that replace only the bulb and ballast within the existing luminaires in a space provided that the alteration does not increase the installed interior lighting power.

The building official may approve designs of alterations or repairs which do not fully conform with all of the requirements of this code where in the opinion of the building official full compliance is physically impossible and/or economically impractical and:

1. The alteration or repair improves the energy efficiency of the building; or
2. The alteration or repair is energy efficient and is necessary for the health, safety, and welfare of the general public.

R101.4.3.1 Mechanical systems. When a space conditioning system is altered by the installation or replacement of space conditioning equipment (including replacement of the air handler, outdoor condensing unit of a split system air conditioner or heat pump, cooling or heating coil, or the furnace heat exchanger), the duct system that is connected to the new or replacement space conditioning equipment shall be tested as specified in WSU RS-33. The test results shall be provided to the building official and the homeowner.

- EXCEPTIONS:
1. Duct systems that are documented to have been previously sealed as confirmed through field verification and diagnostic testing in accordance with procedures in WSU RS-33.
 2. Ducts with less than 40 linear feet in unconditioned spaces.
 3. Existing duct systems constructed, insulated or sealed with asbestos.
 4. Additions of less than 750 square feet.

R101.4.4 Change in occupancy or use. Any space not within the scope of Section R101.2 which is converted to space that is within the scope of Section R101.2 shall be brought into full compliance with this code.

Spaces undergoing a change in occupancy that would result in an increase in demand for either fossil fuel or electrical energy shall comply with this code.

R101.4.5 Change in space conditioning. Any noneconditioned space that is altered to become *conditioned space* shall be required to be brought into full compliance with this code.

R101.4.6) R101.4.1 Mixed occupancy. Where a building includes both *residential* and *commercial* occupancies, each occupancy shall be separately considered and meet the appli-

cable provisions of the ((IECC)) WSEC - Commercial and Residential Provisions.

R101.5 Compliance. *Residential buildings* shall meet the provisions of ((IECC)) WSEC - Residential Provisions. *Commercial buildings* shall meet the provisions of ((IECC)) WSEC - Commercial Provisions.

R101.5.1 Compliance materials. The *code official* shall be permitted to approve specific computer software, worksheets, compliance manuals and other similar materials that meet the intent of this code.

~~(**R101.5.2 Low energy buildings.** The following buildings, or portions thereof, separated from the remainder of the building by *building thermal envelope* assemblies complying with this code shall be exempt from the *building thermal envelope* provisions of this code:~~

1. Those with a peak design rate of energy usage less than 3.4 Btu/h • ft² (10.7 W/m²) or 1.0 watt/ft² (10.7 W/m²) of floor area for space conditioning purposes.
2. Those that do not contain *conditioned space*.
3. Greenhouses isolated from any conditioned space and not intended for occupancy.)

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

WAC 51-11R-10200 Section R102—(~~Alternate materials—Method of construction, design or insulating systems.~~) Applicability—Duties and powers of the code official.

R102.1 (~~General.~~ This code is not intended to prevent the use of any material, method of construction, design or insulating system not specifically prescribed herein, provided that such construction, design or insulating system has been approved by the *code official* as meeting the intent of this code.) Alternate materials, design and methods of construction and equipment. The provisions of this code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been approved. The *code official* shall be permitted to approve an alternative material, design or method of construction where the code official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code.

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

WAC 51-11R-10300 Section R103—Construction documents.

R103.1 General. Construction documents, technical report, and other supporting data shall be submitted in one or more sets with each application for a permit. The construction documents and technical reports shall be prepared by a registered design professional where required by the statutes of the jurisdiction in which the project is to be constructed. Where

special conditions exist, the *code official* is authorized to require necessary construction documents to be prepared by a registered design professional.

EXCEPTION: The *code official* is authorized to waive the requirements for construction documents or other supporting data if the *code official* determines they are not necessary to confirm compliance with this code.

R103.2 Information on construction documents. Construction documents shall be drawn to scale upon suitable material. Electronic media documents are permitted to be submitted when *approved* by the *code official*. Construction documents shall be of sufficient clarity to indicate the location, nature and extent of the work proposed, and show in sufficient detail pertinent data and features of the building, systems and equipment as herein governed. Details shall include, but are not limited to, the following as applicable(~~(:)~~):

1. Insulation materials and their *R*-values(~~(:)~~)
2. Fenestration *U*-factors and SHGCs(~~(:)~~)
3. Area-weighted *U*-factor and SHGC calculations(~~(:)~~)
4. Mechanical system design criteria(~~(:)~~)
5. Mechanical and service water heating system and equipment types, sizes and efficiencies(~~(:—economizer description:)~~)
6. Equipment and systems controls(~~(:—fan motor horsepower (hp) and controls:)~~)
7. Duct sealing, duct and pipe insulation and location(~~(: lighting fixture schedule with wattage and control narrative; and)~~)
8. Air sealing details.

R103.2.1 Building thermal envelope depiction. The building's thermal envelope shall be represented on the construction documents.

R103.3 Examination of documents. The *code official* shall examine or cause to be examined the accompanying construction documents and shall ascertain whether the construction indicated and described is in accordance with the requirements of this code and other pertinent laws or ordinances. The *code official* is authorized to utilize a registered design professional or other approved entity not affiliated with the building design or construction in conducting the review of the plans and specifications for compliance with the code.

R103.3.1 Approval of construction documents. When the *code official* issues a permit where construction documents are required, the construction documents shall be endorsed in writing and stamped "Reviewed for Code Compliance." Such *approved* construction documents shall not be changed, modified or altered without authorization from the *code official*. Work shall be done in accordance with the *approved* construction documents.

One set of construction documents so reviewed shall be retained by the *code official*. The other set shall be returned to the applicant, kept at the site of work and shall be open to inspection by the *code official* or a duly authorized representative.

R103.3.2 Previous approvals. This code shall not require changes in the construction documents, construction or des-

igned occupancy of a structure for which a lawful permit has been heretofore issued or otherwise lawfully authorized, and the construction of which has been pursued in good faith within 180 days after the effective date of this code and has not been abandoned.

R103.3.3 Phased approval. The *code official* shall have the authority to issue a permit for the construction of part of an energy conservation system before the construction documents for the entire system have been submitted or *approved*, provided adequate information and detailed statements have been filed complying with all pertinent requirements of this code. The holders of such permit shall proceed at their own risk without assurance that the permit for the entire energy conservation system will be granted.

R103.4 Amended construction documents. (~~Changes made during construction that are not in compliance~~) Work shall be installed in accordance with the *approved* construction documents, and any changes made during construction that are not in compliance with the *approved* construction documents shall be resubmitted for approval as an amended set of construction documents.

R103.5 Retention of construction documents. One set of *approved* construction documents shall be retained by the *code official* for a period of not less than 180 days from date of completion of the permitted work, or as required by state or local laws.

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

WAC 51-11R-10400 Section R104—Inspections.

R104.1 General. Construction or work for which a permit is required shall be subject to inspection by the *code official* or his or her designated agent, and such construction or work shall remain accessible and exposed for inspection purposes until *approved*. It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes. Neither the *code official* nor the jurisdiction shall be liable for expense entailed in the removal or replacement of any material, product, system or building component required to allow inspection to validate compliance with this code.

R104.2 Required (~~approvals. Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the *code official*. The *code official*, upon notification, shall make the requested inspections and shall either indicate the portion of the construction that is satisfactory as completed, or notify the permit holder or his or her agent wherein the same fails to comply with this code. Any portions that do not comply shall be corrected and such portion shall not be covered or concealed until authorized by the *code official*) **inspections.** The *code official* or his or her designated agent, upon notification, shall make the inspections set forth in Sections R104.2.1 through R104.2.5.~~

R104.2.1 Footing and foundation inspection. Inspections associated with footings and foundations shall verify compli-

ance with the code as to *R*-value, location, thickness, depth of burial and protection of insulation as required by the code and approved plans and specifications.

~~((R104.2.1) **Wall insulation inspection.** The building official, upon notification, shall make a wall insulation inspection in addition to those inspections required in Section R109 of the *International Residential Code*. This inspection shall be made after all wall and cavity insulation is in place and prior to cover.~~

R104.3) R104.2.2 Framing and rough-in inspection. Inspections at framing and rough-in shall be made before application of interior finish and shall verify compliance with the code as to types of insulation and corresponding *R*-values and their correct location and proper installation; fenestration properties (*U*-factor and SHGC) and proper installation; and air leakage controls as required by the code and approved plans and specifications.

R104.2.2.1 Wall insulation inspection. The building official, upon notification, shall make a wall insulation inspection in addition to those inspections required in Section R109 of the *International Residential Code*. This inspection shall be made after all wall and cavity insulation is in place and prior to cover.

R104.2.3 Plumbing rough-in inspection. Inspections at plumbing rough-in shall verify compliance as required by the code and approved plans and specifications as to types of insulation and corresponding *R*-values and protection, required controls.

R104.2.4 Mechanical rough-in inspection. Inspections at mechanical rough-in shall verify compliance as required by the code and approved plans and specifications as to installed HVAC equipment type and size, required controls, system insulation and corresponding *R*-value, system air leakage control, programmable thermostats, dampers, whole-house ventilation and minimum fan efficiency.

EXCEPTION: Systems serving multiple dwelling units shall be inspected in accordance with Section C104.2.4.

R104.2.5 Final inspection. The building shall have a final inspection and not be occupied until *approved*.

~~((R104.4))~~ **R104.3 Reinspection.** A building shall be reinspected when determined necessary by the *code official*.

~~((R104.5))~~ **R104.4 Approved inspection agencies.** The *code official* is authorized to accept reports of ~~((approved))~~ third-party inspection agencies not affiliated with the building design or construction, provided such agencies ~~((satisfy the requirements))~~ are approved as to qualifications and reliability relevant to the building components and systems they are inspecting.

~~((R104.6))~~ **R104.5 Inspection requests.** It shall be the duty of the holder of the permit or their duly authorized agent to notify the *code official* when work is ready for inspection. It shall be the duty of the permit holder to provide access to and means for inspections of such work that are required by this code.

~~((R104.7))~~ **R104.6 Reinspection and testing.** Where any work or installation does not pass an initial test or inspection, the necessary corrections shall be made so as to achieve compliance with this code. The work or installation shall then be resubmitted to the *code official* for inspection and testing.

~~((R104.8))~~ **R104.7 Approval.** After the prescribed tests and inspections indicate that the work complies in all respects with this code, a notice of approval shall be issued by the *code official*.

~~((R104.8.1))~~ **R104.7.1 Revocation.** The *code official* is authorized to, in writing, suspend or revoke a notice of approval issued under the provisions of this code wherever the certificate is issued in error, or on the basis of incorrect information supplied, or where it is determined that the building or structure, premise, or portion thereof is in violation of any ordinance or regulation or any of the provisions of this code.

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

WAC 51-11R-10600 Section R106—Referenced standards.

R106.1 Referenced codes and standards. The codes and standards referenced in this code shall be those listed in Chapter 5, and such codes and standards shall be considered as part of the requirements of this code to the prescribed extent of each such reference and as further regulated in Sections R106.1.1 and R106.1.2.

R106.1.1 Conflicts. Where differences occur between provisions of this code and referenced codes and standards, the provisions of this code shall apply.

R106.1.2 Provisions in referenced codes and standards. Where the extent of the reference to a referenced code or standard includes subject matter that is within the scope of this code, the provisions of this code, as applicable, shall take precedence over the provisions in the referenced code or standard.

~~((R106.2))~~ ~~**Conflicting requirements.** Where the provisions of this code and the referenced standards conflict, the provisions of this code shall take precedence.~~

~~((R106.3))~~ **Application of references.** References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of this code.

~~((R106.4))~~ **R106.3 Other laws.** The provisions of this code shall not be deemed to nullify any provisions of local, state or federal law. In addition to the requirements of this code, all occupancies shall conform to the provisions included in the state building code (chapter 19.27 RCW). In case of conflicts among codes enumerated in RCW 19.27.031 (1) through (4) and this code, an earlier named code shall govern over those following. In the case of conflict between the duct sealing and insulation requirements of this code and the duct insulation requirements of Sections 603 and 604 of the *Interna-*

tional Mechanical Code, the duct insulation requirements of this code shall govern.

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

WAC 51-11R-10800 Section R108—Stop work order.

R108.1 Authority. Whenever the *code official* finds any work regulated by this code being performed in a manner either contrary to the provisions of this code or dangerous or unsafe, the *code official* is authorized to issue a stop work order.

R108.2 Issuance. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's authorized agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume.

R108.3 Emergencies. Where an emergency exists, the *code official* shall not be required to give a written notice prior to stopping the work.

R108.4 Failure to comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be ~~((able to a fine as established by the applicable governing entity))~~ subject to a fine as set by the applicable governing authority.

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

WAC 51-11R-20201 Section R202.1—A.

ABOVE-GRADE WALL. A wall enclosing *conditioned space* that is not a below-grade wall. This includes between-floor spandrels, peripheral edges of floors, roof and basement knee walls, dormer walls, gable end walls, walls enclosing a mansard roof and skylight shafts.

ACCESSIBLE. Admitting close approach as a result of not being guarded by locked doors, elevation or other effective means (see "*Readily accessible*").

ADDITION. An extension or increase in the *conditioned space* floor area or height of a building or structure.

ADVANCED FRAMED WALLS. Studs framed on 24-inch centers with double top plate and single bottom plate. Corners use two studs or other means of fully insulating corners, and one stud is used to support each header. Headers consist of double 2x material with R-10 insulation between the header and exterior sheathing. Interior partition wall/exterior wall intersections are fully insulated in the exterior wall. (See **Standard Framing** and Appendix A, of this code.)

AIR BARRIER. Material(s) assembled and joined together to provide a barrier to air leakage through the building envelope. An air barrier may be a single material or a combination of materials.

ALTERATION. Any construction, retrofit or renovation to an existing structure other than repair or addition that requires a

permit. Also, a change in a building, electrical, gas, mechanical or plumbing system that involves an extension, addition or change to the arrangement, type or purpose of the original installation that requires a permit.

APPROVED. Approval by the *code official* as a result of investigation and tests conducted by him or her, or by reason of accepted principles or tests by nationally recognized organizations.

APPROVED AGENCY. An established and recognized agency regularly engaged in conducting tests or furnishing inspection services, when such agency has been approved by the *code official*.

AUTOMATIC. Self-acting, operating by its own mechanism when actuated by some impersonal influence, as, for example, a change in current strength, pressure, temperature or mechanical configuration (see "Manual").

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

WAC 51-11R-20203 Section R202.3—C.

C-FACTOR (THERMAL CONDUCTANCE). The coefficient of heat transmission (surface to surface) through a building component or assembly, equal to the time rate of heat flow per unit area and the unit temperature difference between the warm side and cold side surfaces (Btu/h ft² × °F) [W/(m² × K)].

CIRCULATING HOT WATER SYSTEM. A specifically designed water distribution system where one or more pumps are operated in the service hot water piping to circulate heated water from the water-heating equipment to the fixture supply and back to the water-heating equipment.

CLIMATE ZONE. A geographical region based on climatic criteria as specified in this code.

CODE OFFICIAL. The officer or other designated authority charged with the administration and enforcement of this code, or a duly authorized representative.

COMMERCIAL BUILDING. For this code, all buildings that are not included in the definition of "Residential buildings."

CONDITIONED FLOOR AREA. The horizontal projection of the floors associated with the *conditioned space*.

CONDITIONED SPACE. An area ((~~or room within a building being heated or cooled, containing uninsulated ducts, or with a fixed opening directly into an adjacent conditioned space~~)), room or space that is enclosed within the building thermal envelope and that is directly or indirectly heated or cooled. Spaces are indirectly heated or cooled where they communicate through openings with conditioned spaces, where they are separated from conditioned spaces by uninsulated walls, floors or ceilings, or where they contain uninsulated ducts, piping or other sources of heating or cooling.

CONTINUOUS AIR BARRIER. A combination of materials and assemblies that restrict or prevent the passage of air through the building thermal envelope.

CONTINUOUS INSULATION (c.i.). ~~((Insulation))~~ Insulating material that is continuous across all structural members without thermal bridges other than fasteners and service openings. It is installed on the interior or exterior or is integral to any opaque surface of the building envelope.

CURTAIN WALL. Fenestration products used to create an external nonload-bearing wall that is designed to separate the exterior and interior environments.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

WAC 51-11R-20205 Section R202.5—E.

ENERGY ANALYSIS. A method for estimating the annual energy use of the *proposed design* and *standard reference design* based on estimates of energy use.

ENERGY COST. The total estimated annual cost for purchased energy for the building functions regulated by this code, including applicable demand charges.

ENERGY SIMULATION TOOL. An *approved* software program or calculation-based methodology that projects the annual energy use of a building.

~~((ENTRANCE DOOR. Fenestration products used for ingress, egress and access in nonresidential buildings including, but not limited to, exterior entrances that utilize latching hardware and automatic closers and contain over 50 percent glass specifically designed to withstand heavy use and possibly abuse.))~~

EXTERIOR WALL. Walls including both above-grade walls and below-grade walls.

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

WAC 51-11R-20206 Section R202.6—F.

~~FENESTRATION. ((Skylights, roof windows, vertical windows (fixed or moveable), opaque doors, glazed doors, glazed block and combination opaque/glazed doors. Fenestration includes products with glass and nonglass glazing materials.)) Products classified as either vertical fenestration or skylights.~~

VERTICAL FENESTRATION. Windows (fixed or moveable), glazed doors, glazed block and combination opaque/glazed doors composed of glass or other transparent or translucent glazing materials and installed at a slope of at least 60 degrees from horizontal. Opaque areas such as spandrel panels are not considered vertical fenestration.

SKYLIGHT. Glass or other transparent or translucent glazing material installed with a slope of less than 60 degrees from horizontal.

FENESTRATION AREA. Total area of the fenestration measured using the rough opening, and including the glazing, sash and frame.

FENESTRATION PRODUCT, FIELD-FABRICATED. A fenestration product whose frame is made at the construction site of standard dimensional lumber or other materials that were not previously cut, or otherwise formed with the specific intention of being used to fabricate a fenestration product or exterior door. Field fabricated does not include site-built fenestration.

FENESTRATION PRODUCT, SITE-BUILT. A fenestration designed to be made up of field-glazed or field-assembled

units using specific factory cut or otherwise factory-formed framing and glazing units. Examples of site-built fenestration include storefront systems, curtain walls, and atrium roof systems.

F-FACTOR. The perimeter heat loss factor for slab-on-grade floors (Btu/h × ft × °F) [W/(m × K)].

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

WAC 51-11R-20208 Section R202.8—H.

HEATED SLAB-ON-GRADE FLOOR. Slab-on-grade floor construction in which the heating elements, hydronic tubing, or hot air distribution system is in contact with, or placed within or under, the slab.

HIGH-EFFICACY LAMPS. Compact fluorescent lamps, T-8 or smaller diameter linear fluorescent lamps, or lamps with a minimum efficacy of:

1. 60 lumens per watt for lamps over 40 watts;
2. 50 lumens per watt for lamps over 15 watts to 40 watts; and
3. 40 lumens per watt for lamps 15 watts or less.

HISTORIC BUILDINGS. Buildings that are listed in or eligible for listing in the *National Register of Historic Places*, or designated as historic under an appropriate state or local law.

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

WAC 51-11R-20209 Section R202.9—I.

INFILTRATION. The uncontrolled inward air leakage into a building caused by the pressure effects of wind or the effect of differences in the indoor and outdoor air density or both.

INSULATED SIDING. A type of continuous insulation with manufacturer-installed insulating material as an integral part of the cladding product having a minimum *R*-value of *R*-2.

INSULATING SHEATHING. An insulating board with a core material having a minimum *R*-value of *R*-2.

INTEGRATED ENERGY EFFICIENCY RATIO (IEER). A single-number figure of merit expressing cooling part-load EER efficiency for unitary air-conditioning and heat pump equipment on the basis of weighted operation at various load capacities for the equipment.

INTERMEDIATE FRAMED WALLS. Studs framed on 16-inch centers with double top plate and single bottom plate. Corners use two studs or other means of fully insulating corners, and each opening is framed by two studs. Headers shall be insulated to *R*-10.

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

WAC 51-11R-20218 Section R202.18—R.

READILY ACCESSIBLE. Capable of being reached quickly for operation, renewal or inspection without requiring those to whom ready access is requisite to climb over or remove obstacles or to resort to portable ladders or access equipment (see "*Accessible*").

REPAIR. The reconstruction or renewal of any part of an existing building for the purpose of its maintenance or to correct damage.

REEROOFING. The process of recovering or replacing an existing roof covering. See "Roof recover" and "Roof replacement."

RESIDENTIAL BUILDING. For this code, includes detached one- and two-family dwellings and multiple single-family dwellings (townhouses) as well as Group R-2, R-3 and R-4 buildings three stories or less in height above grade plane.

ROOF ASSEMBLY. A system designed to provide weather protection and resistance to design loads. The system consists of a roof covering and roof deck or a single component serving as both the roof covering and the roof deck. A roof assembly includes the roof covering, underlayment, roof deck, insulation, vapor retarder and interior finish.

ROOF RECOVER. The process of installing an additional roof covering over a prepared existing roof covering without removing the existing roof covering.

ROOF REPAIR. Reconstruction or renewal of any part of an existing roof for the purposes of its maintenance.

ROOF REPLACEMENT. The process of removing the existing roof covering, repairing any damaged substrate and installing a new roof covering.

R-VALUE (THERMAL RESISTANCE). The inverse of the time rate of heat flow through a body from one of its bounding surfaces to the other surface for a unit temperature difference between the two surfaces, under steady state conditions, per unit area ($h \cdot \text{ft}^2 \cdot ^\circ\text{F}/\text{Btu}$) [$(\text{m}^2 \cdot \text{K})/\text{W}$].

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

WAC 51-11R-30310 Section R303.1—Identification.

R303.1 Identification. Materials, systems and equipment shall be identified in a manner that will allow a determination of compliance with the applicable provisions of this code.

R303.1.1 Building thermal envelope insulation. An R-value identification mark shall be applied by the manufacturer to each piece of *building thermal envelope* insulation 12 inches (305 mm) or greater in width. Alternately, the insulation installers shall provide a certification listing the type, manufacturer and R-value of insulation installed in each element of the *building thermal envelope*. For blown or sprayed insulation (fiberglass and cellulose), the initial installed thickness, settled thickness, settled R-value, installed density, coverage area and number of bags installed shall be *listed* on the certification. For sprayed polyurethane foam (SPF) insulation, the installed thickness of the areas covered and R-value of installed thickness shall be *listed* on the certification. For insulated siding, the R-value shall be labeled on the product's package and shall be listed on the certification. The insulation installer shall sign, date and post the certification in a conspicuous location on the job site.

R303.1.1.1 Blown or sprayed roof/ceiling insulation. The thickness of blown-in or sprayed roof/ceiling insulation

(fiberglass or cellulose) shall be written in inches (mm) on markers that are installed at least one for every 300 square feet (28 m²) throughout the attic space. The markers shall be affixed to the trusses or joists and marked with the minimum initial installed thickness with numbers a minimum of 1 inch (25 mm) in height. Each marker shall face the attic access opening. Spray polyurethane foam thickness and installed R-value shall be *listed* on certification provided by the insulation installer.

R303.1.2 Insulation mark installation. Insulating materials shall be installed such that the manufacturer's R-value mark is readily observable upon inspection.

R303.1.3 Fenestration product rating. *U*-factors of fenestration products (windows, doors and skylights) shall be determined in accordance with NFRC 100.

EXCEPTION: Where required, garage door U-factors shall be determined in accordance with either NFRC 100 or ANSI/DASMA 105.

U-factors shall be determined by an accredited, independent laboratory, and labeled and certified by the manufacturer.

Products lacking such a labeled *U*-factor shall be assigned a default *U*-factor from Table R303.1.3(1), R303.1.3(2) or R303.1.3(4). The solar heat gain coefficient (SHGC) and visible transmittance (VT) of glazed fenestration products (windows, glazed doors and skylights) shall be determined in accordance with NFRC 200 by an accredited, independent laboratory, and labeled and certified by the manufacturer. Products lacking such a labeled SHGC or VT shall be assigned a default SHGC or VT from Table R303.1.3(3).

EXCEPTIONS: 1. Units without NFRC ratings produced by a small business may be assigned default U-factors from Table R303.1.3(5) for vertical fenestration.

2. Owner-built, nonoperable wood frame window consisting of a double pane unit with low-e (E = 0.04 or less), 1/2-inch air space with argon fill.

R303.1.4 Insulation product rating. The thermal resistance (R-value) of insulation shall be determined in accordance with the U.S. Federal Trade Commission R-value rule (C.F.R. Title 16, Part 460) in units of $h \times \text{ft}^2 \times ^\circ\text{F}/\text{Btu}$ at a mean temperature of 75°F (24°C).

R303.1.4.1 Insulated siding. The thermal resistance (R-value) of insulated siding shall be determined in accordance with ASTM C1363. Installation for testing shall be in accordance with the manufacturer's installation instructions.

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

WAC 51-11R-40100 Section R401—General.

R401.1 Scope. This chapter applies to residential buildings.

R401.2 Compliance. Projects shall comply with ~~((sections identified as "mandatory" and with either sections identified as "prescriptive" or the performance approach in Section R405. In addition, one- and two-family dwellings and townhouses, as defined in Section 101.2 of the *International Resi-*~~

idential Code, shall comply with Section R406)) one of the following:

1. Sections R401 through R404.
2. Section R405 and the provisions of Sections R401 through R404 labeled "Mandatory."

In addition, dwelling units and sleeping units in a residential building shall comply with Section R406.

R401.3 Certificate (Mandatory). A permanent certificate shall be completed by the builder or registered design professional and posted on ~~((or within three feet of the electrical distribution panel by the builder or registered design professional. The certificate shall be completed by the builder or registered design professional and shall not cover or obstruct the visibility of the circuit directory label, service disconnect label or other required labels))~~ a wall in the space where the furnace is located, a utility room, or an approved location inside the building. When located on an electrical panel, the certificate shall not cover or obstruct the visibility of the circuit directory label, service disconnect label, or other required labels. The certificate shall list the predominant *R*-values of insulation installed in or on ceiling/roof, walls, foundation (slab, *below-grade wall*, and/or floor) and ducts outside conditioned spaces; *U*-factors for fenestration and the solar heat gain coefficient (SHGC) of fenestration, and the results from any required duct system and building envelope air leakage testing done on the building. Where there is more than one value for each component, the certificate shall list the value covering the largest area. The certificate shall list the types and efficiencies of heating, cooling and service water heating equipment. Where a gas-fired unvented room heater, electric furnace, or baseboard electric heater is installed in the residence, the certificate shall list "gas-fired unvented room heater," "electric furnace" or "baseboard electric heater," as appropriate. An efficiency shall not be *listed* for gas-fired unvented room heaters, electric furnaces or electric baseboard heaters.

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

WAC 51-11R-40210 Section R402.1—General.

R402.1 General (Prescriptive). The *building thermal envelope* shall meet the requirements of Sections R402.1.1 through ~~((R402.1.4))~~ R402.1.5.

EXCEPTION: The following buildings, or portions thereof, separated from the remainder of the building by *building thermal envelope* assemblies complying with this code shall be exempt from the *building thermal envelope* provisions of this code.

1. Those with a peak design rate of energy usage less than 3.4 Btu/h ft² (10.7 W/m²) or 1.0 watt/ft² (10.7 W/m²) of floor area for space conditioning purposes.
2. Those that do not contain *conditioned space*.
3. Greenhouses isolated from any conditioned space and not intended for occupancy.

R402.1.1 Insulation and fenestration criteria. The *building thermal envelope* shall meet the requirements of Table R402.1.1 based on the climate zone specified in Chapter 3.

R402.1.2 *R*-value computation. Insulation material used in layers, such as framing cavity insulation ~~((and insulating sheathing)), or continuous insulation~~ shall be summed to compute the corresponding component *R*-value. The manufacturer's settled *R*-value shall be used for blown insulation. Computed *R*-values shall not include an *R*-value for other building materials or air films. Where insulated siding is used for the purpose of complying with the continuous insulation requirements of Table R402.1.1, the manufacturer must supply an ICC Report that the *R*-factor has been certified, or use R-5 per inch for extruded polystyrene, and R-6 per inch for polyisocyanurate rigid insulation.

R402.1.3 *U*-factor alternative. An assembly with a *U*-factor equal to or less than that specified in Table R402.1.3 shall be permitted as an alternative to the *R*-value in Table R402.1.1.

R402.1.4 Total UA alternative. If the total *building thermal envelope* UA (sum of *U*-factor times assembly area) is less than or equal to the total UA resulting from using the *U*-factors in Table R402.1.3 (multiplied by the same assembly area as in the proposed building), the building shall be considered in compliance with Table R402.1.1. The *U*-factors for typical construction assemblies are included in Appendix A in chapter 51-11C WAC. These values shall be used for all calculations. Where proposed construction assemblies are not represented in Appendix A, values shall be calculated in accordance with the ASHRAE *Handbook of Fundamentals* using the framing factors listed in Appendix A where applicable and shall include the thermal bridging effects of framing materials. The SHGC requirements shall be met in addition to UA compliance. When using REScheck, the *U*-factors calculated by the software based on component *R*-value descriptions are acceptable. For the base building UA calculation, the maximum glazing area is 15% of the floor area.

R402.1.5 Vapor retarder. Wall assemblies in the *building thermal envelope* shall comply with the vapor retarder requirements of Section R702.7 of the *International Residential Code* or Section 1405.3 of the *International Building Code*, as applicable.

AMENDATORY SECTION (Amending WSR 13-20-121, filed 10/1/13, effective 11/1/13)

WAC 51-11R-40211 Table R402.1.1—Insulation and fenestration requirements by component.

**TABLE R402.1.1
INSULATION AND FENESTRATION REQUIREMENTS BY COMPONENT^a**

Climate Zone	Fenestration U-Factor ^b	Skylight ^b U-Factor	Glazed Fenestration SHGC ^{b, c}	Ceiling R-Value ^k	Wood Frame Wall ^{g, m, n} R-Value	Mass Wall R-Value ⁱ	Floor R-Value	Below-Grade ^{c, m} Wall R-Value	Slab ^d R-Value & Depth
5 and Marine 4	0.30	0.50	NR	49	21 int	21/ 21((^h))	30((^g))	10/15/ 21int+TB	10, 2 ft
((6	0.30	0.50	NR	49	21+5ei	21+5^h	30^g	10/15/ 21int+TB	10, 4 ft))

For SI: 1 foot = 304.8 mm, ci = continuous insulation, int = intermediate framing.

^a R-values are minimums. U-factors and SHGC are maximums. When insulation is installed in a cavity which is less than the label or design thickness of the insulation, the compressed R-value of the insulation from Appendix Table A101.4 shall not be less than the R-value specified in the table.

^b The fenestration U-factor column excludes skylights. The SHGC column applies to all glazed fenestration. (~~Exception: Skylights may be excluded from glazed fenestration SHGC requirements in Climate Zones 1 through 3 where the SHGC for such skylights does not exceed 0.30.~~)

^c "10/15/21+TB" means R-10 continuous insulation on the exterior of the wall, or R-15 on the continuous insulation on the interior of the wall, or R-21 cavity insulation plus a thermal break between the slab and the basement wall at the interior of the basement wall. "10/15/21+TB" shall be permitted to be met with R-13 cavity insulation on the interior of the basement wall plus R-5 continuous insulation on the interior or exterior of the wall. "10/13" means R-10 continuous insulation on the interior or exterior of the home or R-13 cavity insulation at the interior of the basement wall. "TB" means thermal break between floor slab and basement wall.

^d R-10 continuous insulation is required under heated slab on grade floors. See R402.2.9.1.

^e There are no SHGC requirements in the Marine Zone.

^f (~~Basement wall insulation is not required in warm humid locations as defined by Figure R301.1 and Table R301.1.~~) Reserved.

^g Reserved.

^h (~~First value is cavity insulation, second is continuous insulation or insulated siding, so "13+5" means R-13 cavity insulation plus R-5 continuous insulation or insulated siding. If structural sheathing covers 40 percent or less of the exterior, continuous insulation R-value shall be permitted to be reduced by no more than R-3 in the locations where structural sheathing is used to maintain a consistent total sheathing thickness.~~) Reserved.

ⁱ The second R-value applies when more than half the insulation is on the interior of the mass wall.

^j Reserved.

^k For single rafter- or joist-vaulted ceilings, the insulation may be reduced to R-38.

^l Reserved.

^m Int. (intermediate framing) denotes standard framing 16 inches on center with headers insulated with a minimum of R-10 insulation.

ⁿ Log and solid timber walls with a minimum average thickness of 3.5 inches are exempt from this insulation requirement.

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

WAC 51-11R-40213 Table R402.1.3—Equivalent U-factors.

**TABLE R402.1.3
EQUIVALENT U-FACTORS^a**

Climate Zone	Fenestration U-Factor	Skylight U-Factor	Ceiling U-Factor	Frame Wall U-Factor	Mass Wall U-Factor ^b	Floor U-Factor	Below-Grade Wall U-Factor
5 and Marine 4	0.30	0.50	0.026	0.056	0.056	0.029	0.042
((6	0.30	0.50	0.026	0.044	0.044	0.029	0.042))

^a Nonfenestration U-factors shall be obtained from measurement, calculation or an approved source or as specified in Section R402.1.3.

^b Reserved.

^c (~~Basement wall U-factor of 0.360 in warm humid locations as defined by Figure R301.1 and Table R301.1.~~) Reserved.

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

WAC 51-11R-40220 Section R402.2—Specific insulation requirements.

R402.2 Specific insulation requirements (Prescriptive). In addition to the requirements of Section R402.1, insulation shall meet the specific requirements of Sections R402.2.1 through ~~((R402.2.12))~~ R402.2.11.

R402.2.1 Ceilings with attic spaces. ~~((When Section R402.1.1 would require R-38 in the ceiling, R-30 shall be deemed to satisfy the requirement for R-38 wherever the full height of uncompressed R-30 insulation extends over the wall top plate at the eaves. Similarly, R-38))~~ Where Section R402.1.1 would require R-49 in the ceiling, installing R-38 over 100 percent of the ceiling area requiring insulation shall be deemed to satisfy the requirement for R-49 wherever the full height of uncompressed R-38 insulation extends over the wall top plate at the eaves. This reduction shall not apply to the U-factor alternative approach in Section R402.1.3 and the total UA alternative in Section R402.1.4.

R402.2.1.1 Loose insulation in attic spaces. Open-blown or poured loose fill insulation may be used in attic spaces where the slope of the ceiling is not more than 3 feet in 12 and there is at least 30 inches of clear distance from the top of the bottom chord of the truss or ceiling joist to the underside of the sheathing at the roof ridge.

R402.2.3 Eave baffle. For air permeable insulations in vented attics, a baffle shall be installed adjacent to soffit and eave vents. Baffles shall maintain an opening equal or greater than the size of the vent. The baffle shall extend over the top of the attic insulation. The baffle shall be permitted to be any solid material.

R402.2.4 Access hatches and doors. Access doors from conditioned spaces to unconditioned spaces (e.g., attics and crawl spaces) shall be weatherstripped and insulated to a level equivalent to the insulation on the surrounding surfaces. Access shall be provided to all equipment that prevents damaging or compressing the insulation. A wood framed or equivalent baffle or retainer is required to be provided when loose fill insulation is installed, the purpose of which is to prevent the loose fill insulation from spilling into the living space when the attic access is opened, and to provide a permanent means of maintaining the installed R-value of the loose fill insulation.

EXCEPTION: Vertical doors that provide access from conditioned to unconditioned spaces shall be permitted to meet the fenestration requirements of Table R402.1.1.

R402.2.5 Mass walls. Mass walls for the purposes of this chapter shall be considered above-grade walls of concrete block, concrete, insulated concrete form (ICF), masonry cavity, brick (other than brick veneer), earth (adobe, compressed earth block, rammed earth) and solid timber/logs, or any other walls having a heat capacity greater than or equal to 6 Btu/ft² x °F (123 kJ/m² x K).

R402.2.6 Steel-frame ceilings, walls, and floors. Steel-frame ceilings, walls, and floors shall meet the U-factor requirements of Table R402.1.3.

R402.2.7 Floors. Floor framing cavity insulation shall be installed to maintain permanent contact with the underside of the subfloor decking. Insulation supports shall be installed so spacing is no more than 24((-))inches on center. Foundation vents shall be placed so that the top of the vent is below the lower surface of the floor insulation.

EXCEPTIONS:

1. The floor framing cavity insulation shall be permitted to be in contact with the topside of sheathing or continuous insulation installed on the bottom side of floor framing where combined with insulation that meets or exceeds the minimum Wood Frame Wall R-value in Table R402.1.1 and extends from the bottom to the top of all perimeter floor framing members.
2. When foundation vents are not placed so that the top of the vent is below the lower surface of the floor insulation, a permanently attached baffle shall be installed at an angle of 30° from horizontal, to divert air flow below the lower surface of the floor insulation.
- ~~((2-))~~ 3. Substantial contact with the surface being insulated is not required in enclosed floor/ceiling assemblies containing ducts where full R-value insulation is installed between the duct and the exterior surface.

R402.2.8 ((Basement)) Below-grade walls. Below-grade exterior wall insulation used on the exterior (cold) side of the wall shall extend from the top of the below-grade wall to the top of the footing and shall be approved for below-grade use. Above-grade insulation shall be protected. Insulation used on the interior (warm) side of the wall shall extend from the top of the below-grade wall to the below-grade floor level and shall include R-5 rigid board providing a thermal break between the concrete wall and the slab.

R402.2.9 Slab-on-grade floors. The minimum thermal resistance (R-value) of the insulation around the perimeter of unheated or heated slab-on-grade floors shall be as specified in Table C402.1.1. The insulation shall be placed on the outside of the foundation or on the inside of the foundation wall. The insulation shall extend downward from the top of the slab for a minimum distance as shown in the table or to the top of the footing, whichever is less, or downward to at least the bottom of the slab and then horizontally to the interior or exterior for the total distance shown in the table. A two-inch by two-inch (maximum) pressure treated nailer may be placed at the finished floor elevation for attachment of interior finish materials. Insulation extending away from the building shall be protected by pavement or by a minimum of 10 inches (254 mm) of soil.

R402.2.9.1 Heated slab-on-grade floors (Mandatory). The entire area of a heated slab-on-grade floor shall be thermally isolated from the soil with a minimum of R-10 insulation. The insulation shall be an approved product for its intended use. If a soil gas control system is present below the heated slab-on-grade floor, which results in increased convective flow below the heated slab-on-grade floor, the heated slab-on-grade floor shall be thermally isolated from the sub-slab gravel layer. R-10 heated slab-on-grade floor insulation is required for all compliance paths.

R402.2.10 Reserved.

R402.2.11 Masonry veneer. Insulation shall not be required on the horizontal portion of the foundation that supports a masonry veneer.

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

WAC 51-11R-40230 Section R402.3—Fenestration.

R402.3 Fenestration (Prescriptive). In addition to the requirements of Section R402, fenestration shall comply with Sections R402.3.1 through ~~((R402.3.6))~~ R402.3.5.

R402.3.1 U-factor. An area-weighted average of fenestration products shall be permitted to satisfy the *U*-factor requirements.

R402.3.2 Glazed fenestration SHGC. An area-weighted average of fenestration products more than 50 percent glazed shall be permitted to satisfy the SHGC requirements.

R402.3.3 Glazed fenestration exemption. Up to 15 square feet (1.4 m²) of glazed fenestration per dwelling unit shall be permitted to be exempt from *U*-factor and SHGC requirements in Section R402.1.1. This exemption shall not apply to the *U*-factor alternative approach in Section R402.1.3 and the total UA alternative in Section R402.1.4.

R402.3.4 Opaque door exemption. One side-hinged opaque door assembly up to 24 square feet (2.22 m²) in area is exempted from the *U*-factor requirement in Section R402.1.1. This exemption shall not apply to the *U*-factor alternative approach in Section R402.1.3 and the total UA alternative in Section R402.1.4.

R402.3.5 Reserved.

~~((**R402.3.6 Replacement fenestration.** Where some or all of an existing fenestration unit is replaced with a new fenestration product, including sash and glazing, the replacement fenestration unit shall meet the applicable requirements for *U*-factor and SHGC in Table R402.1.1.))~~

AMENDATORY SECTION (Amending WSR 14-24-123, filed 12/3/14, effective 1/3/15)

WAC 51-11R-40240 Section R402.4—Air leakage.

R402.4 Air leakage (Mandatory). The building thermal envelope shall be constructed to limit air leakage in accordance with the requirements of Sections R402.4.1 through R402.4.4.

R402.4.1 Building thermal envelope. The *building thermal envelope* shall comply with Sections R402.4.1.1 and R402.4.1.2. The sealing methods between dissimilar materials shall allow for differential expansion and contraction.

R402.4.1.1 Installation. The components of the *building thermal envelope* as listed in Table R402.4.1.1 shall be installed in accordance with the manufacturer's instructions and the criteria listed in Table R402.4.1.1, as applicable to the method of construction. Where required by the *code official*,

an *approved* third party shall inspect all components and verify compliance.

R402.4.1.2 Testing. The building or dwelling unit shall be tested and verified as having an air leakage rate of not exceeding 5 air changes per hour. Testing shall be conducted with a blower door at a pressure of 0.2 inches w.g. (50 Pascals). Where required by the *code official*, testing shall be conducted by an *approved* third party. A written report of the results of the test shall be signed by the party conducting the test and provided to the *code official*. Testing shall be performed at any time after creation of all penetrations of the *building thermal envelope*. Once visual inspection has confirmed sealing (see Table R402.4.1.1), operable windows and doors manufactured by *small business* shall be permitted to be sealed off at the frame prior to the test.

During testing:

1. Exterior windows and doors, fireplace and stove doors shall be closed, but not sealed, beyond the intended weatherstripping or other infiltration control measures;
2. Dampers including exhaust, intake, makeup air, backdraft and flue dampers shall be closed, but not sealed beyond intended infiltration control measures;
3. Interior doors, if installed at the time of the test, shall be open, access hatches to conditioned crawl spaces and conditioned attics shall be open;
4. Exterior openings for continuous ventilation systems and heat recovery ventilators shall be closed and sealed;
5. Heating and cooling systems, if installed at the time of the test, shall be turned off; and
6. Supply and return registers, if installed at the time of the test, shall be fully open.

EXCEPTIONS:

1. Additions less than 500 square feet of conditioned floor area.
2. Additions tested with the existing home having a combined maximum air leakage rate of 7 air changes per hour. To qualify for this exception, the date of construction of the existing house must be prior to the 2009 Washington State Energy Code.

R402.4.2 Fireplaces. New wood-burning fireplaces shall have tight-fitting flue dampers or doors, and outdoor combustion air. When using tight-fitting doors on factory-built fireplaces listed and labeled in accordance with UL 127, the doors shall be tested and listed for the fireplace. Where using tight-fitting doors on masonry fireplaces, the doors shall be listed and labeled in accordance with UL 907.

R402.4.3 Air leakage of fenestration. Windows, skylights and sliding glass doors shall have an air infiltration rate of no more than 0.3 cfm per square foot (1.5 L/s/m²), and swinging doors no more than 0.5 cfm per square foot (2.6 L/s/m²), when tested according to NFRC 400 or AAMA/WDMA/CSA 101/I.S.2/A440 by an accredited, independent laboratory and *listed* and *labeled* by the manufacturer.

EXCEPTIONS:

1. Field-fabricated fenestration products (windows, skylights and doors).

2. Custom exterior fenestration products manufactured by a small business provided they meet the applicable provisions of Chapter 24 of the *International Building Code*. Once visual inspection has confirmed the presence of a gasket, operable windows and doors manufactured by *small business* shall be permitted to be sealed off at the frame prior to the test.

R402.4.4 Combustion air openings. In Climate Zones 3 through 8, where open combustion air ducts provide combustion air to open combustion, space conditioning fuel burning appliances, the appliances and combustion air openings shall be located outside of the building thermal envelope, or enclosed in a room isolated from inside the thermal envelope. Such rooms shall be sealed and insulated in accordance with the envelope requirements of Table R402.1.1, where the walls, floors and ceilings shall meet the minimum of the below-grade wall R-value requirement. The door into the room shall be fully gasketed and any water lines and ducts in

the room insulated in accordance with Section R403. The combustion air duct shall be insulated where it passes through conditioned space to a minimum of R-8.

- EXCEPTIONS:**
1. Direct vent appliances with both intake and exhaust pipes installed continuous to the outside.
 2. Fireplaces and stoves complying with Section R402.4.2 and Section R1006 of the *International Residential Code*.

R402.4.5 Recessed lighting. Recessed luminaires installed in the *building thermal envelope* shall be Type IC-rated and certified under ASTM E283 as having an air leakage rate not more than 2.0 cfm (0.944 L/s) when tested at a 1.57 psf (75 Pa) pressure differential and shall have a label attached showing compliance with this test method. All recessed luminaires shall be sealed with a gasket or caulk between the housing and the interior wall or ceiling covering.

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

WAC 51-11R-40241 Table R402.4.1.1—Air barrier and insulation installation.

**TABLE R402.4.1.1
AIR BARRIER AND INSULATION INSTALLATION**

((COMPONENT	CRITERIA ^A
Air barrier and thermal barrier	A continuous air barrier shall be installed in the building envelope. Exterior thermal envelope contains a continuous air barrier. Breaks or joints in the air barrier shall be sealed. Air-permeable insulation shall not be used as a sealing material.
Cavity insulation installation	All cavities in the thermal envelope shall be filled with insulation. The density of the insulation shall be at the manufacturers' product recommendation and said density shall be maintained for all volume of each cavity. Batt type insulation will show no voids or gaps and maintain an even density for the entire cavity. Batt insulation shall be installed in the recommended cavity depth. Where an obstruction in the cavity due to services, blocking, bracing or other obstruction exists, the batt product will be cut to fit the remaining depth of the cavity. Where the batt is cut around obstructions, loose fill insulation shall be placed to fill any surface or concealed voids, and at the manufacturers' specified density. Where faced batt is used, the installation tabs must be stapled to the face of the stud. There shall be no compression to the batt at the edges of the cavity due to inset stapling installation tabs. Insulation that upon installation readily conforms to available space shall be installed filling the entire cavity and within the manufacturers' density recommendation.
Ceiling/attic	The air barrier in any dropped ceiling/soffit shall be aligned with the insulation and any gaps in the air barrier sealed. Access openings, drop-down stair or knee wall doors to unconditioned attic spaces shall be sealed. Batt insulation installed in attic roof assemblies may be compressed at exterior wall lines to allow for required attic ventilation.
Walls	Corners and headers shall be insulated and the junction of the foundation and sill plate shall be sealed. The junction of the top plate and top of exterior walls shall be sealed. Exterior thermal envelope insulation for framed walls shall be installed in substantial contact and continuous alignment with the air barrier. Knee walls shall be sealed.
Windows, skylights and doors	The space between window/door jambs and framing and skylights and framing shall be sealed.
Rim joists	Rim joists shall be insulated and include the air barrier.
Floors (including above-garage and cantilevered floors)	Insulation shall be installed to maintain permanent contact with underside of subfloor decking. The air barrier shall be installed at any exposed edge of insulation.

((COMPONENT	CRITERIA ^a
Crawl space walls	Where provided in lieu of floor insulation, insulation shall be permanently attached to the crawl space walls. Exposed earth in unvented crawl spaces shall be covered with a Class I vapor retarder with overlapping joints taped.
Shafts, penetrations	Duct shafts, utility penetrations, and flue shafts opening to exterior or unconditioned space shall be sealed.
Narrow cavities	Batts in narrow cavities shall be cut to fit and installed to the correct density without any voids or gaps or compression. Narrow cavities shall be filled by insulation that on installation readily conforms to the available cavity space.
Garage separation	Air sealing shall be provided between the garage and conditioned spaces.
Recessed lighting	Recessed light fixtures installed in the building thermal envelope shall be air tight, IC rated, and sealed to the drywall.
Plumbing and wiring	Batt insulation shall be cut neatly to fit around wiring and plumbing in exterior walls. There shall be no voids or gaps or compression where cut to fit. Insulation that on installation readily conforms to available space shall extend behind piping and wiring.
Shower/tub on exterior wall	Exterior walls adjacent to showers and tubs shall be insulated and the air barrier installed separating them from the showers and tubs.
Electrical/phone box on exterior walls	The air barrier shall be installed behind electrical or communication boxes or air sealed boxes shall be installed.
HVAC register boots	HVAC register boots that penetrate building thermal envelope shall be sealed to the subfloor or drywall.
Fireplace	An air barrier shall be installed on fireplace walls. Fireplaces shall have gasketed doors.))

<u>COMPONENT</u>	<u>AIR BARRIER CRITERIA^a</u>	<u>INSULATION CRITERIA^a</u>
<u>General requirements</u>	<p><u>A continuous air barrier shall be installed in the building envelope.</u></p> <p><u>Exterior thermal envelope contains a continuous air barrier.</u></p> <p><u>Breaks or joints in the air barrier shall be sealed.</u></p>	<u>Air-permeable insulation shall not be used as a sealing material.</u>
<u>Cavity insulation installation</u>		<p><u>All cavities in the thermal envelope shall be filled with insulation. The density of the insulation shall be at the manufacturers' product recommendation and said density shall be maintained for all volume of each cavity. Batt type insulation will show no voids or gaps and maintain an even density for the entire cavity. Batt insulation shall be installed in the recommended cavity depth. Where an obstruction in the cavity due to services, blocking, bracing or other obstruction exists, the batt product will be cut to fit the remaining depth of the cavity. Where the batt is cut around obstructions, loose fill insulation shall be placed to fill any surface or concealed voids, and at the manufacturers' specified density. Where faced batt is used, the installation tabs must be stapled to the face of the stud. There shall be no compression to the batt at the edges of the cavity due to inset stapling installation tabs.</u></p>

<u>COMPONENT</u>	<u>AIR BARRIER CRITERIA^a</u>	<u>INSULATION CRITERIA^a</u>
		<u>Insulation that upon installation readily conforms to available space shall be installed filling the entire cavity and within the manufacturers' density recommendation.</u>
<u>Ceiling/attic</u>	<u>The air barrier in any dropped ceiling/soffit shall be aligned with the insulation and any gaps in the air barrier sealed.</u> <u>Access openings, drop down stair or knee wall doors to unconditioned attic spaces shall be sealed.</u>	<u>The insulation in any dropped ceiling/soffit shall be aligned with the air barrier.</u> <u>Batt insulation installed in attic roof assemblies may be compressed at exterior wall lines to allow for required attic ventilation.</u>
<u>Walls</u>	<u>The junction of the foundation and sill plate shall be sealed. The junction of the top plate and top of exterior walls shall be sealed. Knee walls shall be sealed.</u>	<u>Cavities within corners and headers of frame walls shall be insulated by completely filling the cavity with a material having a thermal resistance of R-3 per inch minimum.</u> <u>Exterior thermal envelope insulation for framed walls shall be installed in substantial contact and continuous alignment with the air barrier.</u>
<u>Windows, skylights and doors</u>	<u>The space between window/door jambs and framing and skylights and framing shall be sealed.</u>	
<u>Rim joists</u>	<u>Rim joists shall include the air barrier.</u>	<u>Rim joists shall be insulated.</u>
<u>Floors (including above garage and cantilevered floors)</u>	<u>The air barrier shall be installed at any exposed edge of insulation.</u>	<u>Floor framing cavity insulation shall be installed to maintain permanent contact with the underside of subfloor decking or floor framing cavity insulation shall be permitted to be in contact with the topside of sheathing or continuous insulation installed on the underside of floor framing and extend from the bottom to the top of all perimeter floor framing members.</u>
<u>Crawl space walls</u>	<u>Exposed earth in unvented crawl spaces shall be covered with a Class I, black vapor retarder with overlapping joints taped.</u>	<u>Where provided instead of floor insulation, insulation shall be permanently attached to the crawlspace walls.</u>
<u>Shafts, penetrations</u>	<u>Duct shafts, utility penetrations, and flue shafts opening to exterior or unconditioned space shall be sealed.</u>	
<u>Narrow cavities</u>		<u>Batts in narrow cavities shall be cut to fit and installed to the correct density without any voids or gaps or compression, or narrow cavities shall be filled by insulation that on installation readily conforms to the available cavity space.</u>
<u>Garage separation</u>	<u>Air sealing shall be provided between the garage and conditioned spaces.</u>	
<u>Recessed lighting</u>	<u>Recessed light fixtures installed in the building thermal envelope shall be sealed to the drywall.</u>	<u>Recessed light fixtures installed in the building thermal envelope shall be air tight and IC rated.</u>
<u>Plumbing and wiring</u>		<u>Batt insulation shall be cut neatly to fit around wiring and plumbing in exterior walls. There shall be no voids or gaps or compression where cut to fit. Insulation that on installation readily conforms to available space shall extend behind piping and wiring.</u>

<u>COMPONENT</u>	<u>AIR BARRIER CRITERIA^a</u>	<u>INSULATION CRITERIA^a</u>
<u>Shower/tub on exterior wall</u>	<u>The air barrier installed at exterior walls adjacent to showers and tubs shall separate them from the showers and tubs.</u>	<u>Exterior walls adjacent to showers and tubs shall be insulated.</u>
<u>Electrical/phone box on exterior wall</u>	<u>The air barrier shall be installed behind electrical or communication boxes or air sealed boxes shall be installed.</u>	
<u>HVAC register boots</u>	<u>HVAC register boots that penetrate building thermal envelope shall be sealed to the subfloor or drywall.</u>	
<u>Concealed sprinklers</u>	<u>When required to be sealed, concealed fire sprinklers shall only be sealed in a manner that is recommended by the manufacturer. Caulking or other adhesive sealants shall not be used to fill voids between fire sprinkler cover plates and walls or ceilings.</u>	

IC = insulation contact.

^a In addition, inspection of log walls shall be in accordance with the provisions of ICC-400.

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

WAC 51-11R-40250 Section R402.5—Maximum fenestration U-factor and SHGC.

R402.5 Maximum fenestration U-factor (~~and SHGC~~) (Mandatory). The area-weighted average maximum fenestration U-factor permitted using tradeoffs from Section R402.1.4 or R405 shall be 0.48 (~~in Climate Zones 4 and 5 and 0.40 in Climate Zones 6 through 8~~) for vertical fenestration, and 0.75 (~~in Climate Zones 4 through 8~~) for skylights. (~~The area-weighted average maximum fenestration SHGC permitted using tradeoffs from Section R405 in Climate Zones 1 through 3 shall be 0.50.~~)

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

WAC 51-11R-40310 Section R403.1—Controls.

R403.1 Controls (Mandatory). At least one thermostat shall be provided for each separate heating and cooling system.

R403.1.1 Programmable thermostat. Where the primary heating system is a forced-air furnace, at least one thermostat per dwelling unit shall be capable of controlling the heating and cooling system on a daily schedule to maintain different temperature set points at different times of the day. The thermostat shall allow for, at a minimum, a 5-2 programmable schedule (weekdays/weekends) and be capable of providing at least two programmable setback periods per day. This thermostat shall include the capability to set back or temporarily operate the system to maintain *zone* temperatures down to 55°F (13°C) or up to 85°F (29°C). The thermostat shall initially be programmed by the manufacturer with a heating temperature set point no higher than 70°F (21°C) and a cooling temperature set point no lower than 78°F (26°C). The thermostat and/or control system shall have an adjustable deadband of not less than 10°F.

- EXCEPTIONS:
1. Systems controlled by an occupant sensor that is capable of shutting the system off when no occupant is sensed for a period of up to 30 minutes.
 2. Systems controlled solely by a manually operated timer capable of operating the system for no more than two hours.

R403.1.2 Heat pump supplementary heat (Mandatory). Unitary air cooled heat pumps shall include controls that minimize supplemental heat usage during start-up, set-up, and defrost conditions. These controls shall anticipate need for heat and use compression heating as the first stage of heat. Controls shall indicate when supplemental heating is being used through visual means (e.g., LED indicators). Heat pumps equipped with supplementary heaters shall be installed with controls that prevent supplemental heater operation above 40°F. At final inspection the auxiliary heat lock out control shall be set to 35°F or less.

NEW SECTION

WAC 51-11R-40315 Section R403.2—Hot water boiler.

R403.2 Hot water boiler outdoor temperature setback. Hot water boilers that supply heat to the building through one- or two-pipe heating systems shall have an outdoor temperature setback control that lowers the boiler water temperature based on the outdoor temperature.

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

WAC 51-11R-40320 Section (~~(R403.2)~~) R403.3—Ducts.

(~~(R403.2)~~) R403.3 Ducts. Ducts and air handlers shall be in accordance with Sections (~~(R403.2.1 through R403.2.3)~~) R403.3.1 through R403.3.5.

((R403.2.1)) R403.3.1 Insulation (Prescriptive). Ducts outside the building thermal envelope shall be insulated to a minimum of R-8. Ducts within a concrete slab or in the ground shall be insulated to R-10 with insulation designed to be used below grade.

EXCEPTION: Ducts or portions thereof located completely inside the *building thermal envelope*. Ducts located in crawl spaces do not qualify for this exception.

((R403.2.2)) R403.3.2 Sealing (Mandatory). Ducts, air handlers, and filter boxes shall be sealed. Joints and seams shall comply with either the *International Mechanical Code* or *International Residential Code*, as applicable.

EXCEPTIONS:

1. Air-impermeable spray foam products shall be permitted to be applied without additional joint seals.
(2. Where a duct connection is made that is partially inaccessible, three screws or rivets shall be equally spaced on the exposed portion of the joint so as to prevent a hinge effect.)
3. Continuously welded and locking-type longitudinal joints and seams in ducts operating at static pressures less than 2 inches of water column (500 Pa) pressure-classification shall not require additional closure systems.)
2. For ducts having a static pressure classification of less than 2 inches of water column (500 Pa), additional closure systems shall not be required for continuously welded joints and seams, and locking-type joints and seams of other than the snap-lock and button-lock types.

((Ducts shall be leak tested in accordance with WSU RS-33, using the maximum duct leakage rates specified. Duct tightness shall be verified by either of the following:

1. Postconstruction test: Total leakage shall be less than or equal to 4 cfm (113.3 L/min) per 100 square feet (9.29 m²) of conditioned floor area when tested at a pressure differential of 0.1 inches w.g. (25 Pa) across the entire system, including the manufacturer's air handler enclosure. All register boots shall be taped or otherwise sealed during the test. Leakage to outdoors shall be less than or equal to 4 cfm (133.3 L/min) per 100 square feet of conditioned floor area.

2. Rough-in test: Total leakage shall be less than or equal to 4 cfm (113.3 L/min) per 100 square feet (9.29 m²) of conditioned floor area when tested at a pressure differential of 0.1 inches w.g. (25 Pa) across the system, including the manufacturer's air handler enclosure. All registers shall be taped or otherwise sealed during the test. If the air handler is not installed at the time of the test, total leakage shall be less than or equal to 3 cfm (85 L/min) per 100 square feet (9.29 m²) of conditioned floor area.

EXCEPTION: The total leakage test is not required for ducts and air handlers located entirely within the building thermal envelope. Ducts located in crawl spaces do not qualify for this exception.

(R403.2.2.1)) R403.3.2.1 Sealed air handler. Air handlers shall have a manufacturer's designation for an air leakage of no more than 2 percent of the design air flow rate when tested in accordance with ASHRAE 193.

((R403.2.3)) R403.3.3 Duct testing (Mandatory). Ducts shall be leak tested in accordance with WSU RS-33, using the maximum duct leakage rates specified.

EXCEPTION: The total leakage or leakage to the outdoors test is not required for ducts and air handlers located entirely within the building thermal envelope. For forced air ducts, a maximum of 10 linear feet of return ducts and 5 linear feet of supply ducts may be located outside the conditioned space. All metallic ducts located outside the conditioned space must have both transverse and longitudinal joints sealed with mastic. If flex ducts are used, they cannot contain splices. Flex duct connections must be made with nylon straps and installed using a plastic strapping tensioning tool. Ducts located in crawl spaces do not qualify for this exception.

A written report of the results shall be signed by the party conducting the test and provided to the *code official*.

R403.3.4 Duct leakage (Mandatory). The total leakage of the ducts, where measured in accordance with Section R403.3.3, shall be as follows:

1. Rough-in test: Total leakage shall be less than or equal to 4 cfm (113.3 L/min) per 100 square feet (9.29 m²) of conditioned floor area when tested at a pressure differential of 0.1 inches w.g. (25 Pa) across the system, including the manufacturer's air handler enclosure. All registers shall be taped or otherwise sealed during the test. If the air handler is not installed at the time of the test, total leakage shall be less than or equal to 3 cfm (85 L/min) per 100 square feet (9.29 m²) of conditioned floor area.

2. Postconstruction test: Leakage to outdoors shall be less than or equal to 4 cfm (113.3 L/min) per 100 square feet (9.29 m²) of conditioned floor areas or total leakage shall be less than or equal to 4 cfm (113.3 L/min) per 100 square feet (9.29 m²) of conditioned floor area when tested at a pressure differential of 0.1 inches w.g. (25 Pa) across the entire system, including the manufacturer's air handler enclosure. All register boots shall be taped or otherwise sealed during the test.

R403.3.5 Building cavities (Mandatory). Building framing cavities shall not be used as ducts or plenums. Installation of ducts in exterior walls, floors or ceilings shall not displace required envelope insulation.

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

WAC 51-11R-40330 Section ((R403.3)) R403.4—Mechanical system piping insulation.

((R403.3)) R403.4 Mechanical system piping insulation (Mandatory). Mechanical system piping capable of carrying fluids above 105°F (41°C) or below 55°F (13°C) shall be insulated to a minimum of R-6.

EXCEPTION: Up to 200 feet of hydronic system piping installed within the conditioned space may be insulated with a minimum of 1/2-inch insulation with a *k* value of 0.28.

((R403.3.1)) R403.4.1 Protection of piping insulation. Piping insulation exposed to weather shall be protected from damage, including that caused by sunlight, moisture, equipment maintenance, and wind, and shall provide shielding from solar radiation that can cause degradation of the material. Adhesive tape shall not be permitted.

AMENDATORY SECTION (Amending WSR 14-24-053, filed 11/25/14, effective 5/1/15)

WAC 51-11R-40340 Section ((R403.4)) R403.5—Service hot water systems.

~~((R403.4))~~ **R403.5 Service hot water systems.** Energy conservation measures for service hot water systems shall be in accordance with Sections ~~((R403.4.1 through R403.4.3))~~ R403.5.1 through R403.5.5.

~~((R403.4.1 Circulating hot water systems (Mandatory))~~ Circulating hot water systems shall be provided with an automatic or ~~readily accessible~~ manual switch that can turn off the hot water circulating pump when the system is not in use.

~~(R403.4.2))~~ **R403.5.1 Heated water circulation and temperature maintenance system (Mandatory).** Heated water circulation systems shall be in accordance with Section R403.5.1.1. Heat trace temperature maintenance systems shall be in accordance with Section R403.5.1.2. Automatic controls, temperature sensors and pumps shall be accessible. Manual controls shall be readily accessible.

R403.5.1.1 Circulation systems. Heated water circulation systems shall be provided with a circulation pump. The system return pipe shall be a dedicated return pipe or a cold water supply pipe. Gravity and thermo-syphon circulation systems shall be prohibited. Controls for circulating hot water system pumps shall start the pump based on the identification of a demand for hot water within the occupancy. The controls shall automatically turn off the pump when the water in the circulation loop is at the desired temperature and when there is no demand for hot water.

R403.5.1.2 Heat trace systems. Electric heat trace systems shall comply with IEEE 515.1 or UL 515. Controls for such systems shall automatically adjust the energy input to the heat tracing to maintain the desired water temperature in the piping in accordance with the times when heated water is used in the occupancy.

R403.5.2 Demand recirculation systems. A water distribution system having one or more recirculation pumps that pump water from a heated water supply pipe back to the heated water source through a cold water supply pipe shall be a demand recirculation water system. Pumps shall have controls that comply with both of the following:

1. The control shall start the pump upon receiving a signal from the action of a user of a fixture or appliance, sensing the presence of a user of a fixture or sensing the flow of hot or tempered water to a fixture fitting or appliance.
2. The control shall limit the temperature of the water entering the cold water piping to 104°F (40°C).

R403.5.3 Hot water pipe insulation (Prescriptive). Insulation for hot water pipe, both within and outside the conditioned space, shall have a minimum thermal resistance (R-value) of R-3.

EXCEPTION: Pipe insulation is permitted to be discontinuous where it passes through studs, joists or other structural members and where the insulated pipes pass other piping, conduit or vents, provided the insulation is installed tight to each obstruction.

~~((R403.4.3))~~ **R403.5.4 Drain water heat recovery units.** Drain water heat recovery units shall comply with CSA 55.2. Drain water heat recovery units shall be in accordance with CSA 55.1. Potable water-side pressure loss of drain water heat recovery units shall be less than 3 psi (20.7 kPa) for individual units connected to one or two showers. Potable water-side pressure loss of drain water heat recovery units shall be less than 2 psi (13.8 kPa) for individual units connected to three or more showers.

R403.5.5 Electric water heater insulation. All electric water heaters in unheated spaces or on concrete floors shall be placed on an incompressible, insulated surface with a minimum thermal resistance of R-10.

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

WAC 51-11R-40350 Section ((R403.5)) R403.6—Mechanical ventilation.

~~((R403.5))~~ **R403.6 Mechanical ventilation (Mandatory).** The building shall be provided with ventilation that meets the requirements of the *International Residential Code* or *International Mechanical Code*, as applicable, or with other approved means of ventilation. Outdoor air intakes and exhausts shall have automatic or gravity dampers that close when the ventilation system is not operating.

~~((R403.5.1))~~ **R403.6.1 Whole-house mechanical ventilation system fan efficacy.** Mechanical ventilation system fans shall meet the efficacy requirements of Table ~~((R403.5.1))~~ R403.6.1.

EXCEPTION: Where mechanical ventilation fans are integral to tested and listed HVAC equipment, they shall be powered by an electronically commutated motor.

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

WAC 51-11R-40351 Table ((R403.5.1)) R403.6.1—Mechanical ventilation system fan efficacy.

**TABLE ((R403.5.1)) R403.6.1
MECHANICAL VENTILATION SYSTEM FAN EFFICACY**

Fan Location	Air Flow Rate Minimum (cfm)	Minimum Efficacy (cfm/watt)	Air Flow Rate Maximum (cfm)
Range hoods	Any	2.8	Any
In-line fan	Any	2.8	Any
Bathroom, utility room	10	1.4	< 90
Bathroom, utility room	90	2.8	Any

For SI: 1 cfm = 28.3 L/min.

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

WAC 51-11R-40360 Section ((R403.6)) R403.7—Equipment sizing.

((R403.6)) R403.7 Equipment sizing and efficiency rating (Mandatory). Heating and cooling equipment shall be sized in accordance with ACCA Manual S based on building loads calculated in accordance with ACCA Manual J or other *approved* heating and cooling calculation methodologies. The output capacity of heating and cooling equipment shall not be greater than that of the smallest available equipment size that exceeds the loads calculated, including allowable oversizing limits. New or replacement heating and cooling equipment shall have an efficiency rating equal to or greater than the minimum required by federal law for the geographic location where the equipment is installed.

R403.7.1 Electric resistance zone heated units. All detached one- and two-family dwellings and multiple single-family dwellings (townhouses) up to three stories in height above grade plane using electric zonal heating as the primary heat source shall install an inverter-driven ductless mini-split heat pump in the largest zone in the dwelling. Building permit drawings shall specify the heating equipment type and location of the heating system.

EXCEPTION: Total installed heating capacity of 2 kW per dwelling unit or less.

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

WAC 51-11R-40370 Section ((R403.7)) R403.8—Systems serving multiple dwelling units.

((R403.7)) R403.8 Systems serving multiple dwelling units (Mandatory). Systems serving multiple dwelling units shall comply with Sections C403 and C404 of the ((~~HECC~~) WSEC—Commercial Provisions in lieu of Section R403.

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

WAC 51-11R-40380 Section ((R403.8)) R403.9—Snow melt system controls.

((R403.8)) R403.9 Snow melt system controls (Mandatory). Snow and ice-melting systems, supplied through energy service to the building, shall include automatic controls capable of shutting off the system when the pavement temperature is above 50°F, and no precipitation is falling and an automatic or manual control that will allow shutoff when the outdoor temperature is above 40°F.

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

WAC 51-11R-40390 Section ((R403.9)) R403.10—Pool((s and in-ground spas)) and spa energy consumption.

((R403.9 Pools and in-ground permanently installed spas)) R403.10 Pool and permanent spa energy consump-

tion (Mandatory). Pools and ((~~in-ground permanently installed~~)) permanent spas shall comply with Sections ((R403.9.1 through R403.9.4.2)) R403.10.1 through R403.10.4.2.

((R403.9.1)) R403.10.1 Heaters. ((~~All heaters shall be equipped with a readily accessible on-off switch that is mounted outside of the heater to allow shutting off the heater without adjusting the thermostat setting.~~) The electric power to heaters shall be controlled by a readily accessible on-off switch that is an integral part of the heater mounted on the exterior of the heater, or external to and within 3 feet (914 mm) of the heater. Operation of such switch shall not change the settings of the heater thermostat. Such switches shall be in addition to a circuit breaker for the power to the heater. Gas-fired heaters shall not be equipped with constant burning pilot lights.

((R403.9.2)) R403.10.2 Time switches. Time switches or other control method that can automatically turn off and on ((~~heaters and pumps~~)) according to a preset schedule shall be installed ((~~on all~~)) for heaters and pump((s)) motors. Heaters((, pumps)) and pump motors that have built in ((timers)) time switches shall be deemed in compliance with this requirement.

EXCEPTIONS:

1. Where public health standards require 24-hour pump operation.
2. ((Where pumps are required to)) Pumps that operate solar- and waste-heat-recovery pool heating systems.

((R403.9.3)) R403.10.3 Covers. Outdoor heated pools and ((in-ground permanently installed)) outdoor permanent spas shall be provided with a vapor-retardant cover, or other approved vapor retardant means.

EXCEPTION: ((Pools deriving over)) Where more than 70 percent of the energy for heating, computed over an operating season, is from site-recovered energy, such as from a heat pump or solar energy source ((computed over an operating season)), covers or other vapor-retardant means shall not be required.

((R403.9.4)) R403.10.4 Residential pool pumps. Pool pump motors may not be split-phase or capacitor start-induction run type.

((R403.9.4.1)) R403.10.4.1 Two-speed capability.

1. Pump motors: Pool pump motors with a capacity of 1 hp or more shall have the capability of operating at two or more speeds with low speed having a rotation rate that is no more than one-half of the motor's maximum rotation rate.

2. Pump controls: Pool pump motor controls shall have the capability of operating the pool pump with at least two speeds. The default circulation speed shall be the lowest speed, with a high speed override capability being for a temporary period not to exceed one normal cycle.

((R403.9.4.2)) R403.10.4.2 Pump operation. Circulating water systems shall be controlled so that the circulation pump(s) can be conveniently turned off, automatically or manually, when the water system is not in operation.

NEW SECTION**WAC 51-11R-40391 Section R403.10—Other pools and spas.**

R403.11 Portable spas (Mandatory). The energy consumption of electric-powered portable spas shall be controlled by the requirements of APSP-14.

R403.12 Residential pools and permanent residential spas. Residential swimming pools and permanent residential spas that are accessory to detached one- and two-family dwellings and townhouses three stories or less in height above grade plane and that are available only to the household and its guests shall be in accordance with APSP-15.

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

WAC 51-11R-40410 Section R404.1—Lighting equipment.

R404.1 Lighting equipment (Mandatory). A minimum of 75 percent of ~~((permanently installed))~~ lamps in permanently installed lighting fixtures shall be high-efficacy lamps.

R404.1.1 Lighting equipment (Mandatory). Fuel gas lighting systems shall not have continuously burning pilot lights.

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

WAC 51-11R-40530 Section R405.3—Performance-based compliance.

R405.3 Performance-based compliance. Compliance based on simulated energy performance requires that a proposed residence (*proposed design*) be shown to have an annual energy consumption based on site energy expressed in Btu and Btu per square foot of *conditioned floor area* as follows:

1. For structures less than 1,500 square feet of conditioned floor area, the annual energy consumption shall be less than or equal to ~~((97))~~ 80 percent of the annual energy consumption of the *standard reference design*.
2. For structures 1,500 to 5,000 square feet of conditioned floor area, the annual energy consumption shall be no more than ~~((89))~~ 72 percent of the *standard reference design*.
3. For structures over 5,000 square feet of conditioned floor area, the annual energy consumption shall be no more than ~~((83))~~ 66 percent of the *standard reference design*.

EXCEPTION: For structures serving Group R-2 occupancies, the annual energy consumption shall be less than or equal to 85 percent of the annual energy consumption of the *standard reference design*.

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

WAC 51-11R-40540 Section R405.4—Documentation.

R405.4 Documentation. Documentation of the software used for the performance design and the parameters for the

building shall be in accordance with Sections R405.4.1 through R405.4.3.

R405.4.1 Compliance software tools. Documentation verifying that the methods and accuracy of the compliance software tools conform to the provisions of this section shall be provided to the *code official*.

R405.4.2 Compliance report. Compliance software tools shall generate a report that documents that the *proposed design* complies with Section R405.3. ~~((The compliance documentation shall include the following information:~~

1. Address or other identification of the residence;
2. ~~An inspection checklist documenting the building component characteristics of the *proposed design* as listed in Table R405.5.2(1). The inspection checklist shall show results for both the *standard reference design* and the *proposed design*, and shall document all inputs entered by the user necessary to reproduce the results;~~
3. Name of individual completing the compliance report; and
4. Name and version of the compliance software tool.

EXCEPTION: Multiple orientations. When an otherwise identical building model is offered in multiple orientations, compliance for any orientation shall be permitted by documenting that the building meets the performance requirements in each of the four cardinal (north, east, south and west) orientations.))

A compliance report on the *proposed design* shall be submitted with the application for the building permit. Upon completion of the building, a compliance report based upon the as-built condition of the building shall be submitted to the *code official* before a certificate of occupancy is issued. Batch sampling of buildings to determine energy code compliance for all buildings in the batch shall be prohibited.

Compliance reports shall include information in accordance with Sections R405.4.2.1 and R405.4.2.2. Where the *proposed design* of a building could be built on different sites where the cardinal orientation of the building on each site is different, compliance of the *proposed design* for the purposes of the application for the building permit shall be based upon the worst-case orientation, worst-case configuration, worst-case building air leakage and worst-case duct leakage. Such worst-case parameters shall be used as inputs to the compliance software for energy analysis.

R405.4.2.1 Compliance report for permit application. A compliance report submitted with the application for building permit shall include all of the following:

1. Building street address, or other building site identification.
2. A statement indicating that the *proposed design* complies with Section R405.3.
3. An inspection checklist documenting the building component characteristics of the *proposed design* as indicated in Table R405.5.2(1). The inspection checklist shall show results for both the *standard reference design* and the *proposed design* with all user inputs to the compliance software to generate the results.
4. A site-specific energy analysis report that is in compliance with Section R405.3.

5. Name of the individual performing the analysis and generating the report.

6. Name and version of the compliance software tool.

R405.4.2.2 Compliance report for certificate of occupancy. A compliance report submitted for obtaining the certificate of occupancy shall include all of the following:

1. Building street address, or other building site identification.

2. A statement indicating that the as-built building complies with Section R405.3.

3. A certificate indicating that the building passes the performance matrix for code compliance and the energy saving features of the building.

4. A site-specific energy analysis report that is in compliance with Section R405.3.

5. Name of the individual performing the analysis and generating the report.

6. Name and version of the compliance software tool.

R405.4.3 Additional documentation. The *code official* shall be permitted to require the following documents:

1. Documentation of the building component characteristics of the *standard reference design*.

2. A certification signed by the builder providing the building component characteristics of the *proposed design* as given in Table R405.5.2(1).

3. Documentation of the actual values used in the software calculations for the *proposed design*.

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

WAC 51-11R-40551 Table R405.5.2(1)—Specifications for the standard reference and proposed designs.

**TABLE R405.5.2(1)
SPECIFICATIONS FOR THE STANDARD REFERENCE AND PROPOSED DESIGNS**

BUILDING COMPONENT	STANDARD REFERENCE DESIGN	PROPOSED DESIGN
Above-grade walls	Type: Mass wall if proposed wall is mass; otherwise wood frame. Gross area: Same as proposed U-factor: From Table R402.1.3 Solar absorptance = 0.75 Remittance = 0.90	As proposed As proposed As proposed As proposed As proposed
Below-grade walls	Type: Same as proposed Gross area: Same as proposed U-factor: From Table R402.1.3, with insulation layer on interior side of walls.	As proposed As proposed As proposed
Above-grade floors	Type: Wood frame Gross area: Same as proposed U-factor: From Table R402.1.3	As proposed As proposed As proposed
Ceilings	Type: Wood frame Gross area: Same as proposed U-factor: From Table R402.1.3	As proposed As proposed As proposed
Roofs	Type: Composition shingle on wood sheathing Gross area: Same as proposed Solar absorptance = 0.75 Emittance = 0.90	As proposed As proposed As proposed As proposed
Attics	Type: Vented with aperture = 1 ft ² per 300 ft ² ceiling area	As proposed
Foundations	Type: Same as proposed foundation wall area above and below-grade Soil characteristics: Same as proposed.	As proposed As proposed
<u>Opaque doors</u>	Area: 40 ft ² Orientation: North U-factor: Same as fenestration from Table R402.1.3.	As proposed As proposed As proposed
((Glazing)) <u>Vertical fenestration other than opaque doors^a</u>	Total area ^(b) h = (a) The proposed glazing area; where proposed glazing area is less than 15% of the conditioned floor area. (b) 15% of the conditioned floor area; where the proposed glazing area is 15% or more of the conditioned floor area.	As proposed

BUILDING COMPONENT	STANDARD REFERENCE DESIGN	PROPOSED DESIGN
	Orientation: Equally distributed to four cardinal compass orientations (N, E, S & W).	As proposed
	<i>U</i> -factor: From Table R402.1.3	As proposed
	SHGC: From Table R402.1.1 except that for climates with no requirement (NR) SHGC = 0.40 shall be used.	As proposed
	Interior shade fraction: $0.92 - (0.21 \times \text{SHGC for the standard reference design})$ External shading: None	0.92 - $(0.21 \times \text{SHGC as proposed})$ As proposed
Skylights	None	As proposed
Air exchange rate	Air leakage rate of 5 air changes per hour at a pressure of 0.2 inches w.g. (50 Pa). The mechanical ventilation rate shall be in addition to the air leakage rate and the same as in the proposed design, but no greater than $0.01 \times CFA + 7.5 \times (N_{br} + 1)$ where: <i>CFA</i> = conditioned floor area <i>N_{br}</i> = number of bedrooms - Energy recovery shall not be assumed for mechanical ventilation.	For residences that are not tested, the same air leakage rate as the standard reference design. For tested residences, the measured air exchange rate ^(e) ^a . The mechanical ventilation rate ^(d) ^b shall be in addition to the air leakage rate and shall be as proposed.
Mechanical ventilation	None, except where mechanical ventilation is specified by the proposed design, in which case: Annual vent fan energy use: $\text{kWh/yr} = .03942 \times CFA + 29.565 \times (N_{br} + 1)$ where: <i>CFA</i> = conditioned floor area <i>N_{br}</i> = number of bedrooms	As proposed
Internal gains	$\text{IGain} = 17,900 + 23.8 \times CFA + 4104 \times N_{br}$ (Btu/day per dwelling unit)	Same as standard reference design
Internal mass	An internal mass for furniture and contents of 8 pounds per square foot of floor area.	Same as standard reference design, plus any additional mass specifically designed as a thermal storage element ^(e) ^c but not integral to the building envelope or structure.
Structural mass	For masonry floor slabs, 80% of floor area covered by R-2 carpet and pad, and 20% of floor directly exposed to room air.	As proposed
	For masonry basement walls, as proposed, but with insulation required by Table R402.1.3 located on the interior side of the walls.	As proposed
	For other walls, for ceilings, floors, and interior walls, wood frame construction.	As proposed
Heating systems ^(f-g) ^{d,e}	Where the proposed design utilizes electric heating without a heat pump the standard reference design shall be an air source heat pump meeting the requirements of Section C403 of the ((IECC)) WSEC—Commercial Provisions. For all other systems, the same system type as proposed, and the same system efficiency required by prevailing minimum federal standard. Capacity: Sized in accordance with Section R403.6	As proposed

BUILDING COMPONENT	STANDARD REFERENCE DESIGN	PROPOSED DESIGN
Cooling systems ^(f, h) d, f	Same system type as proposed. Same system efficiency as required by prevailing minimum federal standard. Capacity: Sized in accordance with Section R403.6.	As proposed
Service water heating ^{d, e, f, g((h, i))}	Same system type as proposed. Same system efficiency as required by prevailing minimum federal standard. Use: Same as proposed design	As proposed gal/day = 30 + (10 × N _{br})
Thermal distribution systems	<u>Duct insulation: From Section R403.3.3.</u> <u>A thermal distribution system efficiency (DSE) of 0.93 shall be applied to both the heating and cooling system efficiencies for all systems.</u>	((Thermal distribution system efficiency shall be as tested- øf)) As specified in Table R405.5.2(2) ((if not tested- Duct insulation shall be as proposed)).
Thermostat	Type: Manual, cooling temperature setpoint = 75°F; Heating temperature setpoint = 72°F	Same as standard reference

For SI: 1 square foot = 0.93 m², 1 British thermal unit = 1055 J, 1 pound per square foot = 4.88 kg/m², 1 gallon (U.S.) = 3.785 L, °C = (°F-3)/1.8, 1 degree = 0.79 rad

~~Glazing shall be defined as sunlight-transmitting fenestration, including the area of sash, curbing or other framing elements, that enclose conditioned space. Glazing includes the area of sunlight-transmitting fenestration assemblies in walls bounding conditioned basements. For doors where the sunlight-transmitting opening is less than 50 percent of the door area, the glazing area is the sunlight-transmitting opening area. For all other doors, the glazing area is the rough frame opening area for the door including the door and the frame.~~

~~^b For residences with conditioned basements, R-2 and R-4 residences and townhouses, the following formula shall be used to determine glazing area:~~

$$AF = A_s \times FA \times F$$

where:

~~AF = Total glazing area.~~

~~A_s = Standard reference design total glazing area.~~

~~FA = (Above-grade thermal boundary gross wall area)/(above-grade boundary wall area + 0.5 x below-grade boundary wall area).~~

~~F = (Above-grade thermal boundary wall area)/(above-grade thermal boundary wall area + common wall area) or 0.56, whichever is greater.~~

and where:

~~Thermal boundary wall is any wall that separates conditioned space from unconditioned space or ambient conditions.~~

~~Above-grade thermal boundary wall is any thermal boundary wall component not in contact with soil.~~

~~Below-grade boundary wall is any thermal boundary wall in soil contact.~~

~~Common wall area is the area of walls shared with an adjoining dwelling unit.~~

~~L and CFA are in the same units.)~~

~~(e) Where required by the code official, testing shall be conducted by an approved party. Hourly calculations as specified in the ASHRAE Handbook of Fundamentals, or the equivalent, shall be used to determine the energy loads resulting from infiltration.~~

~~(d) The combined air exchange rate for infiltration and mechanical ventilation shall be determined in accordance with Equation 43 of 2001 ASHRAE Handbook of Fundamentals, page 26.24 and the "Whole-house Ventilation" provisions of 2001 ASHRAE Handbook of Fundamentals, page 26.19 for intermittent mechanical ventilation.~~

~~(e) Thermal storage element shall mean a component not part of the floors, walls or ceilings that is part of a passive solar system, and that provides thermal storage such as enclosed water columns, rock beds, or phase-change containers. A thermal storage element must be in the same room as fenestration that faces within 15 degrees (0.26 rad) of true south, or must be connected to such a room with pipes or ducts that allow the element to be actively charged.~~

~~(f) For a proposed design with multiple heating, cooling or water heating systems using different fuel types, the applicable standard reference design system capacities and fuel types shall be weighted in accordance with their respective loads as calculated by accepted engineering practice for each equipment and fuel type present.~~

~~(g) For a proposed design without a proposed heating system, a heating system with the prevailing federal minimum efficiency shall be assumed for both the standard reference design and proposed design.~~

~~(h) For a proposed design home without a proposed cooling system, an electric air conditioner with the prevailing federal minimum efficiency shall be assumed for both the standard reference design and the proposed design.~~

~~(i) For a proposed design with a nonstorage-type water heater, a 40-gallon storage-type water heater with the prevailing federal minimum energy factor for the same fuel as the predominant heating fuel type shall be assumed. For the case of a proposed design without a proposed water heater, a 40-gallon storage-type water heater with the prevailing federal minimum efficiency for the same fuel as the predominant heating fuel type shall be assumed for both the proposed design and standard reference design.~~

~~^h For residences with conditioned basements, R-2 and R-4 residences and townhouses, the following formula shall be used to determine fenestration area:~~

$$AF = A_s \times FA \times E$$

Where:

AF = Total fenestration area.

A_s = Standard reference design total fenestration area.

FA = (Above-grade thermal boundary gross wall area)/(above-grade boundary wall area + 0.5 x below-grade boundary wall area).

E = (Above-grade thermal boundary wall area)/(above-grade thermal boundary wall area + common wall area) or 0.56, whichever is greater.

and where:

Thermal boundary wall is any wall that separates conditioned space from unconditioned space or ambient conditions.

Above-grade thermal boundary wall is any thermal boundary wall component not in contact with soil.

Below-grade boundary wall is any thermal boundary wall in soil contact.

Common wall area is the area of walls shared with an adjoining dwelling unit.

L and CFA are in the same units.

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

WAC 51-11R-40552 Table R405.5.2(2)—Default distribution system efficiencies for proposed designs.

**TABLE R405.5.2(2)
DEFAULT DISTRIBUTION SYSTEM EFFICIENCIES FOR PROPOSED DESIGNS^a**

DISTRIBUTION SYSTEM CONFIGURATION AND CONDITION	((FORCED AIR SYSTEMS)) DISTRIBUTION SYSTEM EFFICIENCY	((HYDRONIC SYSTEMS^b))
Distribution system components located in unconditioned space	((-)) <u>0.88</u>	((0.95))
((Untested)) Distribution systems entirely located in conditioned space ^(e) ^b	((0.88)) <u>0.93</u>	((+))
((“Ductless” systems^d)) Zonal systems ^c	((+)) <u>1.00</u>	((-))

For SI: 1 cubic foot per minute = 0.47 L/s, 1 square foot = 0.093m², 1 pound per square inch = 6895 Pa, 1 inch water gauge = 1250 Pa.

^a ~~((Default))~~ Values given by this table are for ~~((untested))~~ distribution systems, which must still meet ~~((minimum))~~ all prescriptive requirements for duct and pipe system insulation and leakage.

~~((^bHydronic systems shall mean those systems that distribute heating and cooling energy directly to individual spaces using liquids pumped through closed-loop piping and that do not depend on ducted, forced airflow to maintain space temperatures.))~~

~~((^e)^b Entire system in conditioned space shall mean that no component of the distribution system, including the air-handler unit, is located outside of the conditioned space. All components must be located on the interior side of the thermal envelope (inside the insulation) and also inside of the air barrier. Refrigerant compressors and piping are allowed to be located outside.~~

~~((^dDuctless systems shall be allowed to have forced airflow across a coil but shall not have any ducted airflow external to the manufacturer's air handler enclosure.))~~ ^c Zonal systems are systems where the heat source is located within each room. Systems shall be allowed to have forced airflow across a coil but shall not have any ducted airflow external to the manufacturer's air-handler enclosure. Hydronic systems do not qualify.

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

WAC 51-11R-40620 Section R406.2—Additional energy efficiency requirements.

R406.2 Additional energy efficiency requirements (Mandatory). Each dwelling unit in ~~((one- and two-family dwellings and townhouses, as defined in Section 101.2 of the International Residential Code))~~ a residential building shall comply with sufficient options from Table R406.2 so as to achieve the following minimum number of credits:

1. Small Dwelling Unit: ((0.5 points))
 Dwelling units less than 1500 square feet in conditioned floor area with less than 300 square feet of fenestration area. Additions to existing building that are ~~((less than 750))~~ greater than 500 square feet of heated floor area but less than 1500 square feet. 1.5 credits
2. Medium Dwelling Unit: ((1.5 points))
 All dwelling units that are not included in #1 or #3. 3.5 credits
Exception: Dwelling units serving R-2 occupancies shall require 2.5 credits.
3. Large Dwelling Unit: ((2.5 points))
 Dwelling units exceeding 5000 square feet of conditioned floor area. 4.5 credits
Exception: Dwelling units serving R-2 occupancies shall require 2.5 credits.
4. Additions less than 500 square feet: 0.5 credits

The drawings included with the building permit application shall identify which options have been selected and the point value of each option, regardless of whether separate mechanical, plumbing, electrical, or other permits are utilized for the project.

AMENDATORY SECTION (Amending WSR 14-24-123, filed 12/3/14, effective 1/3/15)

WAC 51-11R-40621 Table R406.2—Energy credits.

**TABLE 406.2
ENERGY CREDITS ((~~DEBITS~~))**

OPTION	DESCRIPTION	CREDIT(S)
1a	<p>EFFICIENT BUILDING ENVELOPE 1a:</p> <p>Prescriptive compliance is based on Table R402.1.1 with the following modifications: <u>Vertical fenestration U = 0.28</u> Floor R-38 Slab on grade R-10 perimeter and under entire slab Below grade slab R-10 perimeter and under entire slab</p> <p>or</p> <p>Compliance based on Section R402.1.4: Reduce the Total UA by 5%.</p>	0.5
1b	<p>EFFICIENT BUILDING ENVELOPE 1b:</p> <p>Prescriptive compliance is based on Table R402.1.1 with the following modifications: <u>Vertical fenestration U = 0.25</u> Wall R-21 plus R-4 Floor R-38 Basement wall R-21 int plus R-5 ci Slab on grade R-10 perimeter and under entire slab Below grade slab R-10 perimeter and under entire slab</p> <p>or</p> <p>Compliance based on Section R402.1.4: Reduce the Total UA by 15%.</p>	1.0
1c	<p>EFFICIENT BUILDING ENVELOPE 1c:</p> <p>Prescriptive compliance is based on Table R402.1.1 with the following modifications: <u>Vertical fenestration U = 0.22</u> Ceiling and single-rafter or joist-vaulted R-49 advanced Wood frame wall R-21 int plus R-12 ci Floor R-38 Basement wall R-21 int plus R-12 ci Slab on grade R-10 perimeter and under entire slab Below grade slab R-10 perimeter and under entire slab</p> <p>or</p> <p>Compliance based on Section R402.1.4: Reduce the Total UA by 30%.</p>	2.0

OPTION	DESCRIPTION	CREDIT(S)
1d ^a	<p>EFFICIENT BUILDING ENVELOPE 1d:</p> <p>Prescriptive compliance is based on Table R402.1.1 with the following modifications: <u>Vertical fenestration U = 0.24</u></p>	0.5
2a	<p>AIR LEAKAGE CONTROL AND EFFICIENT VENTILATION 2a:</p> <p>((and))</p> <p>Compliance based on R402.4.1.2: Reduce the tested air leakage to ((4.0)) <u>3.0</u> air changes per hour maximum and</p> <p>All whole house ventilation requirements as determined by Section M1507.3 of the <i>International Residential Code</i> shall be met with a high efficiency fan (maximum 0.35 watts/cfm), not interlocked with the furnace fan. Ventilation systems using a furnace including an ECM motor are allowed, provided that they are controlled to operate at low speed in ventilation only mode.</p> <p>To qualify to claim this credit, the building permit drawings shall specify the option being selected and shall specify the maximum tested building air leakage and shall show the qualified ventilation system.</p>	0.5
2b	<p>AIR LEAKAGE CONTROL AND EFFICIENT VENTILATION 2b:</p> <p>Compliance based on Section R402.4.1.2: Reduce the tested air leakage to 2.0 air changes per hour maximum</p> <p>and</p> <p>All whole house ventilation requirements as determined by Section M1507.3 of the <i>International Residential Code</i> shall be met with a heat recovery ventilation system with minimum sensible heat recovery efficiency of 0.70.</p> <p>To qualify to claim this credit, the building permit drawings shall specify the option being selected and shall specify the maximum tested building air leakage and shall show the heat recovery ventilation system.</p>	1.0
2c	<p>AIR LEAKAGE CONTROL AND EFFICIENT VENTILATION 2c:</p> <p>((and))</p> <p>Compliance based on Section R402.4.1.2: Reduce the tested air leakage to 1.5 air changes per hour maximum</p> <p>All whole house ventilation requirements as determined by Section M1507.3 of the <i>International Residential Code</i> shall be met with a heat recovery ventilation system with minimum sensible heat recovery efficiency of 0.85.</p>	1.5

OPTION	DESCRIPTION	CREDIT(S)
	To qualify to claim this credit, the building permit drawings shall specify the option being selected and shall specify the maximum tested building air leakage and shall show the heat recovery ventilation system.	
3a ^b	HIGH EFFICIENCY HVAC EQUIPMENT 3a: Gas, propane or oil-fired furnace with minimum AFUE of ((95)) <u>94%</u> , or gas, propane or oil-fired boiler with minimum AFUE of 92%. To qualify to claim this credit, the building permit drawings shall specify the option being selected and shall specify the heating equipment type and the minimum equipment efficiency.	((0.5)) <u>1.0</u>
3b ^b	HIGH EFFICIENCY HVAC EQUIPMENT 3b: Air-source heat pump with minimum HSPF of ((8.5)) <u>9.0</u> To qualify to claim this credit, the building permit drawings shall specify the option being selected and shall specify the heating equipment type and the minimum equipment efficiency.	1.0
3c ^b	HIGH EFFICIENCY HVAC EQUIPMENT 3c: Closed-loop ground source heat pump; with a minimum COP of 3.3 or Open loop water source heat pump with a maximum pumping hydraulic head of 150 feet and minimum COP of 3.6 To qualify to claim this credit, the building permit drawings shall specify the option being selected and shall specify the heating equipment type and the minimum equipment efficiency.	((2.0)) <u>1.5</u>
3d ^b	HIGH EFFICIENCY HVAC EQUIPMENT 3d: DUCTLESS SPLIT SYSTEM HEAT PUMPS, ZONAL CONTROL: In homes where the primary space heating system is zonal electric heating, a ductless heat pump system shall be installed and provide heating to ((at least one)) <u>the largest zone</u> of the housing unit. To qualify to claim this credit, the building permit drawings shall specify the option being selected and shall specify the heating equipment type and the minimum equipment efficiency.	1.0

OPTION	DESCRIPTION	CREDIT(S)
4	HIGH EFFICIENCY HVAC DISTRIBUTION SYSTEM: ((*)) All heating and cooling system components installed inside the conditioned space. <u>This includes all equipment and distribution system components such as forced air ducts, hydronic piping, hydronic floor heating loop, convectors and radiators.</u> All combustion equipment shall be direct vent or sealed combustion. ((Locating system components in conditioned crawl spaces is not permitted under this option.)) <u>For forced air ducts: A maximum of 10 linear feet of return ducts and 5 linear feet of supply ducts may be located outside the conditioned space. All metallic ducts located outside the conditioned space must have both transverse and longitudinal joints sealed with mastic. If flex ducts are used, they cannot contain splices. Flex duct connections must be made with nylon straps and installed using a plastic strapping tensioning tool. Ducts located outside the conditioned space must be insulated to a minimum of R-8.</u> <u>Locating system components in conditioned crawl spaces is not permitted under this option.</u> Electric resistance heat ((is)) <u>and ductless heat pumps</u> are not permitted under this option. Direct combustion heating equipment with AFUE less than 80% is not permitted under this option. To qualify to claim this credit, the building permit drawings shall specify the option being selected and shall specify the heating equipment type and shall show the location of the heating and cooling equipment and all the ductwork.	1.0
5a	EFFICIENT WATER HEATING 5a: ((Water heating system shall include one of the following: Gas, propane or oil water heater with a minimum EF of 0.62 or Electric water heater with a minimum EF of 0.93. and for both cases)) All showerhead and kitchen sink faucets installed in the house shall be rated at 1.75 GPM or less. All other lavatory faucets shall be rated at 1.0 GPM or less. ^{(b) 5}	0.5

OPTION	DESCRIPTION	CREDIT(S)
	<p>To qualify to claim this credit, the building permit drawings shall specify the option being selected and shall specify the ((water heater equipment type and the minimum equipment efficiency and shall specify the)) maximum flow rates for all showerheads, kitchen sink faucets, and other lavatory faucets.</p>	
5b	<p>EFFICIENT WATER HEATING 5b:</p> <p>Water heating system shall include one of the following: Gas, propane or oil water heater with a minimum EF of ((0.82)) <u>0.74</u></p> <p>or</p> <p>((Solar water heating supplementing a minimum standard water heater. Solar water heating will provide a rated minimum savings of 85 therms or 2000 kWh based on the Solar Rating and Certification Corporation (SRCC) Annual Performance of OG-300 Certified Solar Water Heating Systems</p> <p>or</p> <p>Electric heat pump water heater with a minimum EF of 2.0 and meeting the standards of NEEA's Northern Climate Specifications for Heat Pump Water Heaters or))</p> <p>Water heater heated by ground source heat pump meeting the requirements of Option 3c.</p> <p>or</p> <p><u>For R-2 occupancy, a central heat pump water heater with an EF greater than 2.0 that would supply DHW to all the units through a central water loop insulated with R-8 minimum pipe insulation.</u></p> <p>To qualify to claim this credit, the building permit drawings shall specify the option being selected and shall specify the water heater equipment type and the minimum equipment efficiency ((and, for solar water heating systems, the calculation of the minimum energy savings)).</p>	<p>((1.5)) <u>1.0</u></p>
5c	<p>EFFICIENT WATER HEATING 5c:</p> <p><u>Water heating system shall include one of the following:</u> Gas, propane or oil water heater with a minimum EF of <u>0.91</u></p> <p>or</p> <p><u>Solar water heating supplementing a minimum standard water heater. Solar water heating will provide a rated minimum savings of 85 therms or 2000 kWh based on the Solar Rating and Certification Corporation (SRCC) Annual Performance of OG-300 Certified Solar Water Heating Systems.</u></p> <p>or</p>	<p><u>1.5</u></p>

OPTION	DESCRIPTION	CREDIT(S)
	<p><u>Electric heat pump water heater with a minimum EF of 2.0 and meeting the standards of NEEA's Northern Climate Specifications for Heat Pump Water Heaters.</u></p> <p>To qualify to claim this credit, the building permit drawings shall specify the option being selected and shall specify the water heater equipment type and the minimum equipment efficiency and, for solar water heating systems, the calculation of the minimum energy savings.</p>	
5d	<p>EFFICIENT WATER HEATING 5d:</p> <p><u>A drain water heat recovery unit(s) shall be installed, which captures waste water heat from all the showers, and has a minimum efficiency of 40% if installed for equal flow or a minimum efficiency of 52% if installed for unequal flow. Such units shall be rated in accordance with the CSA B55.1 standard and be so labeled.</u></p> <p><u>To qualify to claim this credit, the building permit drawings shall include a plumbing diagram that specifies the drain water heat recovery units and the plumbing layout needed to install it and labels or other documentation shall be provided that demonstrates that the unit complies with the standard.</u></p>	<p><u>0.5</u></p>
6	<p>RENEWABLE ELECTRIC ENERGY:</p> <p>For each 1200 kWh of electrical generation <u>per housing unit</u> provided annually by on-site wind or solar equipment a 0.5 credit shall be allowed, up to 3 credits. Generation shall be calculated as follows:</p> <p>For solar electric systems, the design shall be demonstrated to meet this requirement using the National Renewable Energy Laboratory calculator PVWATTs. Documentation noting solar access shall be included on the plans.</p> <p>For wind generation projects designs shall document annual power generation based on the following factors:</p> <p>The wind turbine power curve; average annual wind speed at the site; frequency distribution of the wind speed at the site and height of the tower.</p>	<p>0.5</p>
	<p>To qualify to claim this credit, the building permit drawings shall specify the option being selected and shall show the photovoltaic or wind turbine equipment type, provide documentation of solar and wind access, and include a calculation of the minimum annual energy power production.</p>	

Footnotes: ~~((² Interior Duct Placement. Ducts included as Option 4 of Table R406.2 shall be placed wholly within the heated envelope of the housing unit. The placement shall be inspected and certified to receive the credits associated with this option.~~

EXCEPTION: Ducts complying with this section may have up to 5% of the total linear feet of ducts located in the exterior cavities or buffer spaces of the dwelling. If this exception is used the ducts will be tested to the following standards:
 Post-construction test: Leakage to outdoors shall be less than or equal to 1 CFM per 100 ft² of conditioned floor area when tested at a pressure differential of 0.1 inches w.g. (25 Pa) across the entire system, including the manufacturer's air handler enclosure. All register boots shall be taped or otherwise sealed during the test.)^a Projects using this option may not use option 1a, 1b, or 1c.
^b Projects may only include credit from one space heating option, 3a, 3b, 3c or 3d. When a housing unit has two pieces of equipment (i.e., two furnaces) both must meet the standard to receive the credit.

^(b) **Plumbing Fixtures Flow Ratings.** Low flow plumbing fixtures (water closets and urinals) and fittings (faucets and showerheads) shall comply with the following requirements:
 1 Residential bathroom lavatory sink faucets: Maximum flow rate - 3.8 L/min (1.0 gal/min) when tested in accordance with ASME A112.18.1/CSA B125.1.
 2 Residential kitchen faucets: Maximum flow rate - 6.6 L/min (1.75 gal/min) when tested in accordance with ASME A112.18.1/CSA B125.1.
 3 Residential showerheads: Maximum flow rate - 6.6 L/min (1.75 gal/min) when tested in accordance with ASME A112.18.1/CSA B125.1.

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

WAC 51-11R-50000 Chapter 5—(~~Referenced standards~~) Existing buildings. ((This chapter lists the standards that are referenced in various sections of this document. The standards are listed herein by the promulgating agency of the standard, the standard identification, the effective date and title, and the section or sections of this document that reference the standard. The application of the referenced standards shall be as specified in Section R106.

AAMA	American Architectural Manufacturers Association 1827 Walden Office Square Suite 550 Schaumburg, IL 60173-4268	
Standard reference number	Title	Referenced in code section number
AAMA/WDMA/CSA 101/LS.2/A C440-11	North American Fenestration Standard/Specifications for Windows, Doors and Unit Skylights	R402.4.3
ACCA	Air Conditioning Contractors of America 2800 Shirlington Road, Suite 300 Arlington, VA 22206	
Standard reference number	Title	Referenced in code section number
Manual J-11	Residential Load Calculation Eighth Edition	R403.6
Manual S-10	Residential Equipment	R403.6
ASHRAE	American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc. 1791 Tullie Circle, N.E. Atlanta, GA 30329-2305	
Standard reference number	Title	Referenced in code section number
ASHRAE-2009	ASHRAE Handbook of Fundamentals R402.1.4, Table R405.5.2(1)	
ASHRAE 193-2010	Method of Test for Determining the Airtightness of HVAC Equipment	R403.2.2.1
ASTM	ASTM International 100 Barr Harbor Drive West Conshohocken, PA 19428-2859	
Standard reference number	Title	Referenced in code section number
E 283-04	Test Method for Determining the Rate of Air Leakage Through Exterior Windows, Curtain Walls and Doors Under Specified Pressure Differences Across the Specimen	R402.4.4
CSA	Canadian Standards Association 5060 Spectrum Way Mississauga, Ontario, Canada L4W 5N6	

Standard reference number	Title	Referenced in code section number
AAMA/WDMA/CSA 101/1.S.2/A440-11	North American Fenestration Standard/Specifica- tion for Windows, Doors and Unit Skylights	R402.4.3
ICC	International Code Council, Inc. 500 New Jersey Avenue, N.W. 6th Floor Washington, DC 20001	
Standard reference number	Title	Referenced in code section number
IBC-12	International Building Code	R201.3, R303.2, R402.2.10
ICC 400-12	Standard on the Design and Construction of Log- Structures	Table R402.4.1.1
IFC-12	International Fire Code	R201.3
IFGC-12	International Fuel Gas Code	R201.3
IMC-12	International Mechanical Code	R201.3, R403.2.2, R403.5
IRC-12	International Residential Code	R104.2.1, R201.3, R303.2, R401.2, R403.2.2, R403.5, R406.1, R406.2, Table R406.2
NEEA	Northwest Energy Efficiency Alliance 421 S.W. 6th Ave., Suite 600 Portland, OR 97204	
Standard reference number	Title	Referenced in code section number
NEEA-2011	Northern Climate Specification for Heat Pump- Water Heaters, Vers. 4.0	Table R406.2
NERC	National Fenestration Rating Council, Inc. 6305 Ivy Lane, Suite 140 Greenbelt, MD 20770	
Standard reference number	Title	Referenced in code section number
100-2010	Procedure for Determining Fenestration Products- U-factors	R303.1.3
200-2010	Procedure for Determining Fenestration Product Solar Heat Gain Coefficients and Visible Trans- mittance at Normal Incidence	R303.1.3
400-2010	Procedure for Determining Fenestration Product Air Leakage	R402.4.3
US-FTC	United States Federal Trade Commission 600 Pennsylvania Avenue N.W. Washington, DC 20580	
Standard reference number	Title	Referenced in code section number
C.F.R. Title 16 (May 31, 2005)	R-value	Rule R303.1.4
WDMA	Window and Door Manufacturers Association 1400 East Touhy Avenue, Suite 470 Des Plaines, IL 60018	
Standard reference number	Title	Referenced in code section number
AAMA/WDMA/CSA 101/1.S.2/A440-11	North American Fenestration Standard/Specifica- tion for Windows, Doors and Unit Skylights	R402.4.3
WSU	Washington State University Energy Extension Program 905 Plum Street S.E., Bldg 3 P.O. Box 43165 Olympia, WA 98506-3166	
Standard reference number	Title	Referenced in code section number
WSU-RS-33	Duct Testing Standard for New and Existing Con- struction Publication No. WSUEEP12-016	R403.2.2))

NEW SECTION**WAC 51-11R-50100 Section R501—General.**

R501.1 Scope. The provisions of this chapter shall control the alteration, repair, addition and change of occupancy of existing buildings and structures.

R501.1.1 Additions, alterations, or repairs. Additions, alterations, or repairs to an existing building, building system or portion thereof shall comply with Sections R502, R503 or R504. Unaltered portions of the existing building or building supply system shall not be required to comply with this code.

R501.2 Existing buildings. Except as specified in this chapter, this code shall not be used to require the removal, alteration or abandonment of, nor prevent the continued use and maintenance of, an existing building or building system lawfully in existence at the time of adoption of this code.

R501.3 Maintenance. Buildings and structures, and parts thereof, shall be maintained in a safe and sanitary condition. Devices and systems that are required by this code shall be maintained in conformance with the code edition under which installed. The owner or the owner's authorized agent shall be responsible for the maintenance of buildings and structures. The requirements of this chapter shall not provide the basis for removal or abrogation of energy conservation, fire protection and safety systems and devices in existing structures.

R501.4 Compliance. Alterations, repairs, additions and changes of occupancy to, or relocation of, existing buildings and structures shall comply with the provisions for alterations, repairs, additions and changes of occupancy or relocation, respectively, in the *International Residential Code*, *International Building Code*, *International Fire Code*, *International Fuel Gas Code*, *International Mechanical Code*, *Uniform Plumbing Code*, *International Property Maintenance Code*, and NFPA 70.

R501.5 New and replacement materials. Except as otherwise required or permitted by this code, materials permitted by the applicable code for new construction shall be used. Like materials shall be permitted for repairs, provided hazards to life, health or property are not created. Hazardous materials shall not be used where the code for new construction would not permit their use in buildings of similar occupancy, purpose and location.

R501.6 Historic buildings. The building official may modify the specific requirements of this code for historic buildings and require alternate provisions which will result in a reasonable degree of energy efficiency. This modification may be allowed for those buildings or structures that are listed in the state or national register of historic places; designated as a historic property under local or state designation law or survey; certified as a contributing resource with a national register listed or locally designated historic district; or with an opinion or certification that the property is eligible to be listed on the national or state register of historic places either individually or as a contributing building to a historic district by the state historic preservation officer or the keeper of the *National Register of Historic Places*.

NEW SECTION**WAC 51-11R-50200 Section R502—Additions.**

R502.1 General. Additions to an existing building, building system or portion thereof shall conform to the provisions of this code as those provisions relate to new construction without requiring the unaltered portion of the existing building or building system to comply with this code. Additions shall not create an unsafe or hazardous condition or overload existing building systems. An addition shall be deemed to comply with this code where the addition alone complies, where the existing building and addition comply with this code as a single building, or where the building with the addition uses no more energy than the existing building. Additions shall be in accordance with Section R502.1.1 or R502.1.2.

R502.1.1 Prescriptive compliance. Additions shall comply with Sections R502.1.1.1 through R502.1.1.4.

R502.1.1.1 Building envelope. New building envelope assemblies that are part of the addition shall comply with Sections R402.1, R402.2, R402.3.1 through R402.3.5, and R402.4.

EXCEPTION: Where nonconditioned space is changed to conditioned space, the building envelope of the addition shall comply where the UA, as determined in Section R402.1.4, of the existing building and the addition, and any alterations that are part of the project, is less than or equal to UA generated for the existing building.

R502.1.1.2 Heating and cooling systems. New heating, cooling and duct systems that are part of the addition shall comply with Sections R403.1, R403.2, R403.3, R403.5, and R403.6.

EXCEPTION: The following need not comply with the testing requirements of Section R403.3.3:

1. Additions of less than 750 square feet.
2. Duct systems that are documented to have been previously sealed as confirmed through field verification and diagnostic testing in accordance with procedures in WSU RS-33.
3. Ducts with less than 40 linear feet in unconditioned spaces.
4. Existing duct systems constructed, insulated or sealed with asbestos.

R502.1.1.3 Service hot water systems. New service hot water systems that are part of the addition shall comply with Section R403.4.

R502.1.1.4 Lighting. New lighting systems that are part of the addition shall comply with Section 404.1.

R502.1.2 Existing plus addition compliance (Simulated Performance Alternative). Where nonconditioned space is changed to conditioned space the addition shall comply where the annual energy use of the addition and the existing building, and any alterations that are part of the project, is less than or equal to the annual energy use of the existing building when modeled in accordance with Section R405. The addition and any alterations that are part of the project shall comply with Section R405 in its entirety.

NEW SECTION**WAC 51-11R-50300 Section R503—Alterations.**

R503.1 General. Alterations to any building or structure shall comply with the requirements of the code for new construction. Alterations shall be such that the existing building or structure is no less conforming to the provisions of this code than the existing building or structure was prior to the alteration.

Alterations to an existing building, building system or portion thereof shall conform to the provisions of this code as they relate to new construction without requiring the unaltered portions of the existing building or building system to comply with this code. Alterations shall not create an unsafe or hazardous condition or overload existing building systems.

Alterations shall be such that the existing building or structure uses no more energy than the existing building or structure prior to the alteration. Alterations to existing buildings shall comply with Sections R503.1.1 through R503.2.

The *code official* may approve designs of alterations which do not fully conform to all of the requirements of this code where in the opinion of the building official full compliance is physically impossible and/or economically impractical and:

The alteration improves the energy efficiency of the building; or

The alteration is energy efficient and is necessary for the health, safety, and welfare of the general public.

R503.1.1 Building envelope. Building envelope assemblies that are part of the alteration shall comply with Section R402.1.1 or R402.1.4, Sections R402.2.1 through R402.2.11, R402.3.1, R402.3.2, R402.4.3, and R402.4.4.

EXCEPTION: The following alterations need not comply with the requirements for new construction provided the energy use of the building is not increased:

1. Storm windows installed over existing fenestration.
2. Existing ceiling, wall or floor cavities exposed during construction provided that these cavities are filled with insulation. 2 x 4 framed walls shall be insulated to a minimum of R-15 and 2 x 6 framed walls shall be insulated to a minimum of R-21.
3. Construction where the existing roof, wall or floor cavity is not exposed.
4. Roof recover.
5. Roofs without insulation in the cavity and where the sheathing or insulation is exposed during reroofing shall be insulated either above or below the sheathing.
6. Surface-applied window film installed on existing single pane fenestration assemblies to reduce solar heat gain provided the code does not require the glazing fenestration to be replaced.

R503.1.1.1 Replacement fenestration. Where some or all of an existing fenestration unit is replaced with a new fenestration product, including sash and glazing, the replacement fenestration unit shall meet the applicable requirements for *U*-factor and SHGC in Table R402.1.1.

R503.1.2 Heating and cooling systems. New heating, cooling and duct systems that are part of the alteration shall comply with Sections R403.1, R403.2, R403.3, and R403.6.

EXCEPTIONS:

1. Where ducts from an existing heating and cooling system are extended, duct systems with less than 40 linear feet in unconditioned spaces shall not be required to be tested in accordance with Section R403.2.2.
2. Existing duct systems constructed, insulated or sealed with asbestos.

R503.1.3 Service hot water systems. New service hot water systems that are part of the alteration shall comply with Section R403.4.

R503.1.4 Lighting. New lighting systems that are part of the alteration shall comply with Section R404.1.

EXCEPTION: Alterations that replace less than 50 percent of the luminaires in a space, provided that such alterations do not increase the installed interior lighting power.

R503.2 Change in space conditioning. Any nonconditioned or low-energy space that is altered to become conditioned space shall be required to be brought into full compliance with this code.

EXCEPTION: Where the simulated performance option in Section R405 is used to comply with this section, the annual energy use of the proposed design is permitted to be 110 percent of the annual energy use otherwise allowed by Section R405.3.

NEW SECTION**WAC 51-11R-50400 Section R504—Repairs.**

R504.1 General. Buildings, structures and parts thereof shall be repaired in compliance with Section R501.3 and this section. Work on nondamaged components that is necessary for the required repair of damaged components shall be considered part of the repair and shall not be subject to the requirements for alterations in this chapter. Routine maintenance required by Section R501.3, ordinary repairs exempt from permit, and abatement of wear due to normal service conditions shall not be subject to the requirements for repairs in this section.

The *code official* may approve designs of repairs which do not fully conform with all of the requirements of this code where in the opinion of the building official full compliance is physically impossible and/or economically impractical and:

1. The repair improves the energy efficiency of the building; or
2. The repair is energy efficient and is necessary for the health, safety, and welfare of the general public.

R504.2 Application. For the purposes of this code, the following shall be considered repairs.

1. Glass only replacements in an existing sash and frame.
2. Roof repairs.
3. Repairs where only the bulb and/or ballast within the existing luminaires in a space are replaced provided that the replacement does not increase the installed interior lighting power.

NEW SECTION

WAC 51-11R-50500 Section R505—Change of occupancy or use.

R505.1 Change in occupancy or use. Any space not within the scope of Section R101.2 which is converted to space that is within the scope of Section R101.2 shall be brought into full compliance with this code.

Spaces undergoing a change in occupancy that would result in an increase in demand for either fossil fuel or electrical energy shall comply with this code.

Any space that is converted to a dwelling unit or portion thereof from another use or occupancy shall comply with this code.

EXCEPTION: Where the simulated performance option in Section R405 is used to comply with this section, the annual energy use of the proposed design is permitted to be 110 percent of the annual energy use otherwise allowed by Section R405.3.

NEW SECTION

WAC 51-11R-51000 Chapter 6—Referenced standards. This chapter lists the standards that are referenced in various sections of this document. The standards are listed herein by the promulgating agency of the standard, the standard identification, the effective date and title, and the section or sections of this document that reference the standard. The application of the referenced standards shall be as specified in Section R106.

AAMA	American Architectural Manufacturers Association 1827 Walden Office Square Suite 550 Schaumburg, IL 60173-4268	
Standard reference number	Title	Referenced in code section number
AAMA/WDMA/CSA 101/I.S.2/A C440-11	North American Fenestration Standard/Specifications for Windows, Doors and Unit Skylights	R402.4.3
ACCA	Air Conditioning Contractors of America 2800 Shirlington Road, Suite 300 Arlington, VA 22206	
Standard reference number	Title	Referenced in code section number
Manual J-11	Residential Load Calculation Eighth Edition	R403.7
Manual S-10	Residential Equipment	R403.7
ASHRAE	American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc. 1791 Tullie Circle, N.E. Atlanta, GA 30329-2305	
Standard reference number	Title	Referenced in code section number
ASHRAE-2009 ASHRAE 193-2010	ASHRAE Handbook of Fundamentals Method of Test for Determining the Airtightness of HVAC Equipment	R402.1.4, Table R405.5.2(1) R403.3.2.1
ASTM	ASTM International 100 Barr Harbor Drive West Conshohocken, PA 19428-2859	
Standard reference number	Title	Referenced in code section number
C1363-11	Standard Test Method for Thermal Performance of Building Materials and Envelope Assemblies by Means of a Hot Box Apparatus	R303.1.4.1
E 283-04	Test Method for Determining the Rate of Air Leakage Through Exterior Windows, Curtain Walls and Doors Under Specified Pressure Differ- ences Across the Specimen	R402.4.5
CSA	Canadian Standards Association 5060 Spectrum Way Mississauga, Ontario, Canada L4W 5N6	
Standard reference number	Title	Referenced in code section number
AAMA/WDMA/CSA 101/I.S.2/A440-11	North American Fenestration Standard/Specification for Windows, Doors and Unit Skylights	R402.4.3

CSA 55.1-2012	Test Method for Measuring Efficiency and Pressure Loss of Drain Water Heat Recovery Systems	R403.5.4, Table R406.2
CSA 55.2-2012	Drain Water Heat Recovery Units	R403.5.4
ICC	International Code Council, Inc. 500 New Jersey Avenue, N.W. 6th Floor Washington, DC 20001	
Standard reference number	Title	Referenced in code section number
IBC-15	International Building Code	R201.3, R303.2, R402.11, R4501.4
ICC 400-15	Standard on the Design and Construction of Log Structures	Table R402.5.1.1
IFC-15	International Fire Code	R201.3, R501.4
IFGC-15	International Fuel Gas Code	R201.3, R501.4
IMC-15	International Mechanical Code	R201.3, R403.3.2, R403.6, R501.4
IPMC-15	International Property Maintenance Code	R501.4
IRC-15	International Residential Code	R104.2.1, R201.3, R303.2, R401.2, R403.2.2, R403.5, R406.1, R406.2, Table R406.2
IEEE	The Institute of Electrical and Electronic Engineers, Inc. 3 Park Avenue New York, NY 10016-5997	
Standard reference number	Title	Referenced in code section number
515.1-2012	IEEE Standard for the Testing, Design, Installation and Maintenance of Electrical Resistance Trace Heating for Commercial Applications	R403.5.1.2
NEEA	Northwest Energy Efficiency Alliance 421 S.W. 6th Ave., Suite 600 Portland, OR 97204	
Standard reference number	Title	Referenced in code section number
NEEA-2011	Northern Climate Specification for Heat Pump Water Heaters, Vers. 4.0	Table R406.2
NFRC	National Fenestration Rating Council, Inc. 6305 Ivy Lane, Suite 140 Greenbelt, MD 20770	
Standard reference number	Title	Referenced in code section number
100-2010	Procedure for Determining Fenestration Products <i>U</i> -factors	R303.1.3
200-2010	Procedure for Determining Fenestration Product Solar Heat Gain Coefficients and Visible Transmittance at Normal Incidence	R303.1.3
400-2010	Procedure for Determining Fenestration Product Air Leakage	R402.4.3
UL	Underwriters Laboratory 333 Pfingsten Road Northbrook, IL 60062	
Standard reference number	Title	Referenced in code section number
UL 127-11	Factory Built Fireplace	R402.4.2
UL 515-11	Electric Resistance Heat Tracing for Commercial and Industrial Applications	R403.5.1.2
UL 907-94	Fireplace Accessories (with revisions through April 2010)	R402.4.2
US-FTC	United States-Federal Trade Commission 600 Pennsylvania Avenue N.W. Washington, DC 20580	

Standard reference number	Title	Referenced in code section number
C.F.R. Title 16 (May 31, 2005)	R-value	Rule R303.1.4
WDMA	Window and Door Manufacturers Association 1400 East Touhy Avenue, Suite 470 Des Plaines, IL 60018	
Standard reference number	Title	Referenced in code section number
AAMA/WDMA/CSA 101/I.S.2/A440-11	North American Fenestration Standard/Specification for Windows, Doors and Unit Skylights	R402.4.3
WSU	Washington State University Energy Extension Program 905 Plum Street S.E., Bldg 3 P.O. Box 43165 Olympia, WA 98506-3166	
Standard reference number	Title	Referenced in code section number
WSU RS 33	Duct Testing Standard for New and Existing Con- struction Publication No. WSUEEP15-016	R403.3.3