

WSR 21-03-036
PROPOSED RULES
DEPARTMENT OF HEALTH

[Filed January 13, 2021, 11:55 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-13-008.

Title of Rule and Other Identifying Information: Chapter 246-803 WAC, Acupuncture and Eastern medicine practitioner, the department of health (department) is proposing rule making necessary to implement various legislative changes throughout the chapter, including: Adding continuing education; making title changes; repealing apprenticeship and tutorial requirements; repealing the AIDS education and training requirement; and adding new rules for suicide prevention and education. Nonsubstantive housekeeping changes are being proposed as well.

Hearing Location(s): On February 24, 2021, at 10:00 a.m. In response to the coronavirus disease 2019 (COVID-19), the department of health (DOH) will not provide a physical location for this hearing to promote social distancing and the safety of the citizens of Washington state. A virtual public hearing, without a physical meeting space, will be held instead. To access the meeting please register at <https://attendee.gotowebinar.com/register/1163873052618881807>. After registering, you will receive a confirmation email containing information about joining the webinar. Participants can use their telephone or computer mic and speakers (VoIP). United States +1-914-614-3221.

Date of Intended Adoption: March 3, 2021.

Submit Written Comments to: Vicki Brown, Program Manager, Office of Health Professions, P.O. Box 47852, Olympia, WA 98504-7852, email <https://fortress.wa.gov/doh/policyreview>, fax 360-236-2901, vicki.brown@doh.wa.gov, by February 24, 2021.

Assistance for Persons with Disabilities: Contact Vicki Brown, phone 360-236-4865, fax 360-236-2901, TTY 711, email vicki.brown@doh.wa.gov, by February 17, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing amendments to comply with and align the rules with 2019 and 2020 legislation. Other housekeeping changes are also proposed to implement these amendments.

Reasons Supporting Proposal: SHB 1865 (chapter 308, Laws of 2019). The department is proposing a new rule for continuing education, has changed the term "East Asian" to "acupuncture and Eastern medicine," deleted the apprenticeship and tutorial requirements, and made other housekeeping changes.

ESHB 1551 (chapter 76, Laws of 2020) amended RCW 70.24.270 Health professionals—Rules for AIDS education and training by removing AIDS education and training requirements. The proposed amendments will remove subsections in WAC 246-803-100, 246-803-110, and 246-803-130 requiring AIDS education and training. These rules detail the definitions, acceptable training and education, and documentation requirements for acupuncture and Eastern medicine practitioners concerning AIDS including the number of hours of training required. The department is proposing to no

longer require these in support of legislation and reducing stigma towards people living with HIV/AIDS (PLWH).

ESHB 2411 (chapter 229, Laws of 2020) amended RCW 43.70.442 to require acupuncture and Eastern medicine practitioners to complete one-time training in suicide assessment, treatment and management approved by the relevant disciplining authority. The rules address this required training.

Statutory Authority for Adoption: RCW 18.06.160; and SHB 1855 (chapter 308, Laws of 2019).

Statute Being Implemented: Chapter 18.06 RCW; SHB 1855 (chapter 308, Laws 2019), ESHB 2411 (chapter 229, Laws of 2020), and ESHB 1551 (chapter 76, Laws of 2020).

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

Name of Proponent: DOH, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Vicki Brown, Program Manager, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-4865.

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

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Vicki Brown, Program Manager, Office of Health Professions, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-4865, fax 360-236-2901, TTY 711, email vicki.brown@doh.wa.gov.

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

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

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The requirements proposed in WAC 246-803-420 and 246-803-430 do not apply to businesses.

January 12, 2021
 Jessica Todorovich
 Chief of Staff
 for Umair A. Shah, MD, MPH
 Secretary

Chapter 246-803 WAC

**~~((EAST ASIAN))~~ ACUPUNCTURE AND EASTERN
 MEDICINE PRACTITIONER**

**~~((EAST ASIAN))~~ ACUPUNCTURE AND EASTERN
 MEDICINE PRACTITIONERS**

AMENDATORY SECTION (Amending WSR 20-03-112, filed 1/15/20, effective 2/15/20)

WAC 246-803-010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise:

(1) "Accredited school, college or program" means:

(a) Accredited or has candidacy status as a United States postsecondary school, college or program; or

(b) Accredited by or has candidacy status with the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM).

(2) "Acupuncture needles" means solid filiform instruments intended to pierce the skin in the practice of acupuncture. Acupuncture needles used on a patient must be sterile and disposable, and may only be used once.

(3) "Acupuncturist or acupuncture and Eastern medicine practitioner" is a person licensed under chapter 18.06 RCW.

(4) "Acupuncturist or acupuncture and Eastern medicine program" means training in acupuncture or Eastern medicine offered by an academic institution that satisfies the education requirements set out in WAC 246-803-210, 246-803-220, and 246-803-230. A program is an established area of study offered on a continuing basis. An acupuncture or acupuncture and Eastern medicine program may be referred to as a program in acupuncture, acupuncture and Eastern medicine, or Eastern medicine.

(5) "Acupuncture or acupuncture and Eastern medicine school" means an accredited academic institution which has the sole purpose of offering training in acupuncture or acupuncture and Eastern medicine that satisfies the education requirements set out in WAC 246-803-210, 246-803-220, and 246-803-230.

(6) "Approved school" means a school, college or program approved by the secretary of the department of health that meets the requirements of WAC 246-803-500.

~~((4))~~ (7) "Credit" means ten classroom contact hours on the quarter system or fifteen classroom contact hours on the semester or trimester system.

~~((5))~~ (8) "Department" means the department of health.

~~((6))~~ "East Asian medicine apprenticeship" means training in East Asian medicine administered by an apprenticeship trainer that satisfies the educational requirements set out in WAC 246-803-210, 246-803-220, and 246-803-230. An apprenticeship is of limited duration and ends at the time the parties to the apprenticeship agreement have completed their obligations.

(7) "East Asian medicine practitioner" is a person licensed under chapter 18.06 RCW.

(8) "East Asian medicine program" means training in East Asian medicine offered by an academic institution that satisfies the education requirements set out in WAC 246-803-210, 246-803-220, and 246-803-230 and also offers training in other areas of study. A program is an established area of study offered on a continuing basis. An East Asian medicine program may be referred to as a program in acupuncture, acupuncture and Oriental medicine, or Oriental medicine.

(9) "East Asian medicine school" means an accredited academic institution which has the sole purpose of offering training in East Asian medicine that satisfies the education requirements set out in WAC 246-803-210, 246-803-220, and 246-803-230.

(10) "East Asian medicine tutorial instruction" means training in East Asian medicine which is offered by an academic institution or qualified instructor on the basis of a tutorial agreement between the school or instructor and the student and satisfies the education requirements set out in WAC 246-803-210, 246-803-220, and 246-803-230. A tutorial is of limited duration and ends at the time the parties to the tutorial

~~agreement have performed their obligations under the agreement.~~

~~((11))~~ (9) "Hypodermic needle" means a device intended to inject fluids into, or withdraw fluids from, parts of the body below the surface of the skin.

~~((12))~~ (10) "Primary health care provider" means an individual licensed under:

(a) Chapter 18.36A RCW, Naturopathy;

(b) Chapter 18.57 RCW, Osteopathy—Osteopathic medicine and surgery;

(c) Chapter 18.57A RCW, Osteopathic physicians' assistants;

(d) Chapter 18.71 RCW, Physicians;

(e) Chapter 18.71A RCW, Physician assistants; or

(f) RCW 18.79.050, "Advanced registered nursing practice" defined—Exceptions.

AMENDATORY SECTION (Amending WSR 11-17-105, filed 8/22/11, effective 9/22/11)

WAC 246-803-020 Advertising. (1) A person licensed under this chapter may use the title ~~((East Asian medicine practitioner (EAMP) or))~~ acupuncturist (Ac), licensed acupuncturist (L.Ac.), acupuncture and Eastern medicine practitioner (AEMP), EAMP, or any derivative thereof in all forms of advertising, professional literature and billing.

(2) An ~~((East Asian))~~ acupuncturist or acupuncture and Eastern medicine practitioner may not use the title "doctor," "Dr.," or "Ph.D." on any advertising or other printed material unless the nature of the degree is clearly stated.

(3) An ~~((East Asian))~~ acupuncturist or acupuncture and Eastern medicine practitioner may not represent that he or she holds a degree from an ~~((East Asian))~~ acupuncture or acupuncture and Eastern medicine school other than that degree which appears on his or her application for licensure.

(4) An ~~((East Asian))~~ acupuncturist or acupuncture and Eastern medicine practitioner shall not engage in false, deceptive, or misleading advertising including, but not limited to, the following:

(a) Advertising that misrepresents the potential of ~~((East Asian medicine or))~~ acupuncture or Eastern medicine; and

(b) Advertising of any service, technique, or procedure that is outside the scope of practice for an ~~((East Asian))~~ acupuncturist or acupuncture and Eastern medicine practitioner.

AMENDATORY SECTION (Amending WSR 20-03-112, filed 1/15/20, effective 2/15/20)

WAC 246-803-030 ~~((East Asian)) Acupuncture or Eastern medicine.~~ ~~((East Asian))~~ Acupuncture or Eastern medicine is a health care service using ~~((East Asian))~~ acupuncture or Eastern medicine diagnosis and treatment to promote health and treat organic or functional disorders. ~~((East Asian))~~ Acupuncture and Eastern medicine includes the following:

(1) Acupuncture, includes the use of acupuncture needles or lancets to directly ~~((or))~~ and indirectly stimulate acupuncture points and meridians;

(2) Use of electrical, mechanical, or magnetic devices to stimulate acupuncture points and meridians;

(3) Moxibustion;

- (4) Acupressure;
- (5) Cupping;
- (6) Dermal friction technique;
- (7) Infrared;
- (8) Sonopuncture;
- (9) Laserpuncture;
- (10) Point injection therapy (~~((acupuncture))~~):

(a) Is defined as meaning the subcutaneous, intramuscular and intradermal injection of substances consistent with the practice of ~~((East Asian))~~ acupuncture or Eastern medicine to stimulate acupuncture points, ashi points, trigger points and meridians. Substances are limited to:

- (i) Saline;
- (ii) Sterile water;
- (iii) Herbs specifically manufactured for injection by means of hypodermic needles;
- (iv) Minerals specifically manufactured for injection by means of hypodermic needles;
- (v) Vitamins in liquid form specifically manufactured for injection by means of hypodermic needles; and
- (vi) Homeopathic and nutritional substances specifically manufactured for injection by means of hypodermic needles.

(b) For the purposes of this section, includes trigger points as a subset of acupuncture points and ashi points as recognized in the current practice of ~~((East Asian))~~ acupuncture or Eastern medicine.

(c) Does not include injection of controlled substances contained in Schedules I through V of the Uniform Controlled Substances Act, chapter 69.50 RCW or steroids as defined in RCW 69.41.300.

(11) Dietary advice and health education based on ~~((East Asian))~~ acupuncture or Eastern medical theory, including the recommendation and sale of herbs, vitamins, minerals, and dietary and nutritional supplements.

~~((Health education))~~ (a) Health education is educational information directed to the patient that attempts to improve, maintain, promote and safeguard the health care of the patient. Health education consists of educating the patient on how the mind, body and spirit connect in context of imbalances, emotional patterns and tendencies as defined by and treated in ~~((East Asian))~~ acupuncture or Eastern medicine.

(b) Health education does not include mental health counseling;

(12) Breathing, relaxation, and ~~((East Asian))~~ Eastern exercise techniques;

(13) Qi gong;

(14) ~~((East Asian))~~ Eastern massage. ~~((East Asian))~~ Eastern massage means manual techniques having originated in East Asia involving the manipulation of the soft tissues of the body for therapeutic purposes.

(a) ~~((East Asian))~~ Eastern massage consists of:

- (i) Applying fixed or movable pressure;
- (ii) Passive, resistive, and assisted stretching of fascial and connective tissue;
- (iii) Holding or causing movement of the body; or
- (iv) Tapping, compressions or friction.

(b) ~~((East Asian))~~ Eastern massage may be performed with the use of tools common to the practice and aids of superficial heat, cold, water, lubricants, salts, minerals, liniments, poultices, and herbs.

(c) ~~((East Asian))~~ Eastern massage does not include attempts to adjust or manipulate any articulations of the body or spine or mobilization of these articulations by the use of a thrusting force.

(15) Tui na. Tui na is a method of ~~((East Asian))~~ Eastern bodywork, characterized by the kneading, pressing, rolling, shaking, and stretching of the body and does not include spinal manipulation; and

(16) Superficial heat and cold therapies.

AMENDATORY SECTION (Amending WSR 17-15-006, filed 7/5/17, effective 7/5/17)

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

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

(a) Consist of a minimum total of twenty-four contact hours of training in the topics required in this section;

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

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

(2) A curriculum for a point injection therapy training program must include:

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

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

(c) Emergency procedures;

(d) Point injection therapy techniques and contraindication within the ~~((East Asian))~~ acupuncture or Eastern medicine scope of practice relative to the authorized substances listed in WAC 246-803-030 (10)(a)(i) through (vi).

(3) Except for the training in the use of intramuscular epinephrine, the training must be delivered in person and not through webinar or other online or distance learning method.

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

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

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

(5) In addition to point injection therapy meeting the requirements of subsections (1) and (2) of this section, ~~((East Asian))~~ acupuncturists or acupuncture and Eastern medicine practitioners using point injection therapy must complete training in the use of intramuscular epinephrine.

(a) Training in the use of intramuscular epinephrine must be according to RCW 70.54.440(4).

(b) This training may be taken separately from the training in point injection therapy.

(c) Up to two hours of training in the use of intramuscular epinephrine count in meeting the requirement for twenty-four hours of training.

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

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

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

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

(7) The requirements of subsections (1) through (6) of this section do not apply to an ~~((East Asian))~~ acupuncturist or acupuncture and Eastern medicine practitioner who has provided point injection therapy prior to July 1, 2017. ~~((East Asian))~~ Acupuncturists or acupuncture and Eastern medicine practitioners using point injection therapy prior to July 1, 2017, must have completed training and education in point injection therapy.

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

AMENDATORY SECTION (Amending WSR 16-01-158, filed 12/21/15, effective 1/21/16)

WAC 246-803-100 Application requirements for applicants from approved schools, colleges or programs.

An applicant for an ~~((East Asian))~~ acupuncturist or acupuncture and Eastern medicine practitioner license who has graduated from an approved school, college or program must submit to the department:

(1) A completed application.

(2) The application fee required under WAC 246-803-990.

(3) Verification of academic or educational study and clinical training at a school, college or program approved by the secretary. The school, college or program verification must include one of the following:

(a) Original copy of school transcript evidencing completion of a program in ~~((East Asian))~~ acupuncture or Eastern medicine that includes the required basic sciences sent directly from the school, college or program ~~((☞☞))~~. If all the required basic sciences were not included as a part of the curriculum, then the applicant must also provide official transcripts from where the basic sciences were obtained;

(b) A notarized affidavit or statement signed by an officer of the school, college, or program certifying the applicant's satisfactory completion of the training and designating the subjects and hours; or

(c) If the school no longer exists, a copy of the transcript and a sworn affidavit stating the school no longer exists.

(4) Verification of clinical training as required in WAC 246-803-230.

(5) Verification of successful completion of the examinations as required in WAC 246-803-240.

(6) Verification of all ~~((East Asian))~~ acupuncture, acupuncture and Eastern medicine practitioner or health care

licenses held, submitted directly from the licensing agency. The certification shall include the license number, issue date, expiration date and whether the ~~((East Asian))~~ acupuncturist or acupuncture and Eastern medicine practitioner has been the subject of final or pending disciplinary action.

~~(7) ((Verification of completion of seven clock hours of AIDS education as required in chapter 246-12 WAC, Part 8.~~

~~(8)))~~ Verification of current cardiopulmonary resuscitation (CPR) certification. The training in CPR shall consist of a minimum of one quarter credit or equivalent. Red Cross certification or documentation of equivalent training may be substituted for the one quarter credit.

~~((☞))~~ (8) Any additional documents requested by the secretary.

AMENDATORY SECTION (Amending WSR 16-01-158, filed 12/21/15, effective 1/21/16)

WAC 246-803-110 Application requirements for applicants from accredited schools, colleges or programs.

An applicant for an ~~((East Asian))~~ acupuncturist or acupuncture and Eastern medicine practitioner license who has graduated from an accredited school, college or program must submit to the department:

(1) A completed application.

(2) The application fee required under WAC 246-803-990.

(3) Verification of academic or educational study and clinical training at a school, college or program accredited by the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM). The school, college or program verification must include one of the following:

(a) Original copy of school transcript evidencing completion of a program in ~~((East Asian))~~ acupuncture or Eastern medicine that includes the required basic sciences sent directly from the school, college or program. If all of the required basic sciences were not included as a part of the curriculum, then the applicant must also provide official transcripts from where the basic sciences were obtained; or

(b) A notarized affidavit or statement signed by an officer of the school, college or program certifying the applicant's satisfactory completion of the training and designating the subjects and hours; or

(c) If the school no longer exists, a copy of the transcript and a sworn affidavit stating the school no longer exists.

(4) Verification of clinical training as required in WAC 246-803-230.

(5) Verification of successful completion of the examinations as required in WAC 246-803-240.

(6) Verification of all ~~((East Asian))~~ acupuncture, acupuncture or Eastern medicine practitioner or health care licenses held, submitted directly from the licensing agency. The certification shall include the license number, issue date, expiration date and whether the ~~((East Asian))~~ acupuncturist or acupuncture and Eastern medicine practitioner has been the subject of final or pending disciplinary action.

~~(7) ((Verification of completion of seven clock hours of AIDS education as required in chapter 246-12 WAC, Part 8.~~

~~(8)))~~ Verification of current cardiopulmonary resuscitation (CPR) certification. The training in CPR shall consist of

a minimum of one quarter credit or equivalent. Red Cross certification or documentation of equivalent training may be substituted for the one quarter credit.

~~((9))~~ (8) Any additional documents requested by the secretary.

AMENDATORY SECTION (Amending WSR 20-03-112, filed 1/15/20, effective 2/15/20)

WAC 246-803-130 Application requirements for applicants from foreign schools. (1) An applicant for an ~~((East Asian))~~ acupuncturist or acupuncture and Eastern medicine practitioner license who has graduated from a foreign ~~((East Asian))~~ acupuncture or Eastern medicine practitioner program not accredited, or approved by the secretary must:

(a) Have at least a bachelor's or master's degree in ~~((East Asian))~~ Eastern medicine or acupuncture from an institution of higher learning which is approved by the foreign country's ministry of education/health, or other governmental entity;

(b) Have graduated from a program of ~~((East Asian))~~ Eastern medicine or acupuncture education with requirements substantially equal to those required of graduates of secretary-approved programs; and

(c) Demonstrate fluency in reading, speaking, and understanding the English language by taking the examinations required in WAC 246-803-240 (2)(a) through (c) in English or by passage of the test of English as a foreign language in WAC 246-803-240(3).

(2) An applicant for an ~~((East Asian))~~ acupuncturist or acupuncture and Eastern medicine practitioner license must submit to the department:

(a) A completed application.

(b) The application fee required under WAC 246-803-990.

(c) Original copy of school transcripts from the ~~((East Asian))~~ Eastern medicine or acupuncture program showing degree and degree date.

(d) A credentialing evaluation report from the International Consultants of Delaware (ICD).

(e) Verification of clinical training as required in WAC 246-803-230.

(f) Verification of successful completion of the examinations as required in WAC 246-803-240.

(g) Verification of all ~~((East Asian))~~ acupuncturist, acupuncture and Eastern medicine practitioner or health care licenses held, submitted directly from the licensing agency. The verification shall include the license number, issue date, expiration date and whether the ~~((East Asian))~~ acupuncturist or acupuncture and Eastern medicine practitioner has been the subject of final or pending disciplinary action.

~~((h))~~ ~~(Verification of completion of seven clock hours of AIDS education as required in chapter 246-812 WAC, Part 8.~~

~~((i))~~ (i) Verification of current cardiopulmonary resuscitation (CPR) certification. The training in CPR shall consist of a minimum of one quarter credit or equivalent. Red Cross certification or documentation of equivalent training may be substituted for the one quarter credit.

~~((j))~~ (j) Any additional documents requested by the secretary.

(3) The department recognizes the ICD for credential evaluations. The applicant shall request that the ICD send their evaluation directly to the department. To obtain a credentialing evaluation report, the applicant shall submit to the ICD:

(a) Transcripts;

(b) Appropriate fees; and

(c) Other requested documentation.

AMENDATORY SECTION (Amending WSR 11-17-105, filed 8/22/11, effective 9/22/11)

WAC 246-803-200 Training for ~~((East Asian))~~ acupuncture and Eastern medicine practitioners. To become an ~~((East Asian))~~ acupuncturist or acupuncture and Eastern medicine practitioner, an applicant must have training in:

(1) Basic sciences as described in WAC 246-803-210;

(2) ~~((East Asian))~~ Acupuncture and Eastern medicine sciences as described in WAC 246-803-220; and

(3) Clinical training as described in WAC 246-803-230.

AMENDATORY SECTION (Amending WSR 11-17-105, filed 8/22/11, effective 9/22/11)

WAC 246-803-210 Basic sciences. To become an ~~((East Asian))~~ acupuncturist or acupuncture and Eastern medicine practitioner, an applicant must have training in basic sciences that must consist of a minimum of forty-five quarter credits or thirty semester or trimester credits. These credits shall consist of the following:

(1) Anatomy;

(2) Physiology;

(3) Microbiology;

(4) Biochemistry;

(5) Pathology;

(6) Survey of western clinical sciences; and

(7) Hygiene.

AMENDATORY SECTION (Amending WSR 11-17-105, filed 8/22/11, effective 9/22/11)

WAC 246-803-220 ~~((East Asian))~~ Acupuncture and Eastern medicine sciences. To become an ~~((East Asian))~~ acupuncturist or acupuncture and Eastern medicine practitioner, an applicant must have training in ~~((East Asian))~~ acupuncture or Eastern medicine sciences consisting of a minimum of seventy-five quarter credits or fifty semester or trimester credits. These credits must include, but not be limited to, the following subjects of ~~((acupuncture/East Asian))~~ acupuncture/Eastern medicine:

(1) Fundamental principles;

(2) Diagnosis;

(3) Pathology;

(4) Therapeutics;

(5) Meridians/vessels and points; and

(6) Techniques, including electro-acupuncture.

AMENDATORY SECTION (Amending WSR 11-17-105, filed 8/22/11, effective 9/22/11)

WAC 246-803-230 Clinical training. To become an ~~((East Asian))~~ acupuncturist or acupuncture and Eastern medicine practitioner, an applicant must complete a minimum of five hundred hours of supervised clinical training in acupuncture or Eastern medicine including no more than one hundred hours of observation which includes case presentation and discussion. At least four hundred hours must be patient treatment.

(1) Qualified instructors must observe and provide guidance to the student as appropriate. Instructors must be qualified to provide instruction in their areas of specialization in ~~((East Asian))~~ acupuncture or Eastern medicine as demonstrated by possession of the following:

(a) Broad and comprehensive training in ~~((East Asian))~~ acupuncture or Eastern medicine; and

(b) Two years of relevant current work experience or teaching experience in ~~((East Asian))~~ acupuncture or Eastern medicine.

(2) Qualified instructors must be available within the clinical facility to provide consultation and assistance to the student for patient treatments. Prior to initiation of each treatment, instructors must have knowledge of and approve the diagnosis and treatment plan.

(3) "Patient treatment" includes:

(a) Conducting a patient intake interview concerning the patient's past and present medical history;

(b) Performing ~~((East Asian))~~ acupuncture or Eastern medicine examination and diagnosis;

(c) Discussion between the instructor and the student concerning the proposed diagnosis and treatment plan;

(d) Applying ~~((East Asian))~~ acupuncture or Eastern medicine treatment principles and techniques; and

(e) Charting of patient conditions, evaluative discussions and findings, and concluding remarks.

AMENDATORY SECTION (Amending WSR 11-17-105, filed 8/22/11, effective 9/22/11)

WAC 246-803-240 Examinations. (1) The examinations administered by the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) are the official examinations for licensure as an ~~((East Asian))~~ acupuncturist or acupuncture and Eastern medicine practitioner.

(2) An applicant for licensure as an ~~((East Asian))~~ acupuncturist or acupuncture and Eastern medicine practitioner must pass the following examinations:

(a) Foundations of Oriental medicine examination;

(b) Acupuncture with point location examination;

(c) Biomedicine examination; and

(d) Council of Colleges of Acupuncture and Oriental Medicine (CCAOM) clean needle technique course.

(3) If the applicant takes the examinations listed in subsection (2) of this section in a language other than English, they must also take and pass the test of English as a foreign language (TOEFL) internet-based (IBT) examination. This is done by obtaining scores on the TOEFL IBT of at least:

(a) 24 on the writing section;

(b) 26 on the speaking section;

(c) 21 on the reading section; and

(d) 18 on the listening comprehension section.

AMENDATORY SECTION (Amending WSR 20-03-112, filed 1/15/20, effective 2/15/20)

WAC 246-803-300 Patient notification of qualifications and scope of practice. ~~((East Asian))~~ Acupuncturists or acupuncture and Eastern medicine practitioners in the state of Washington shall provide to each patient prior to or at the time of the initial patient visit the qualifications and scope of practice form. The form must include:

(1) The ~~((East Asian))~~ acupuncturist's or acupuncture and Eastern medicine practitioner's education. The degree obtained ~~((or if the education was by apprenticeship;))~~ and the dates and locations of the didactic and clinical training.

(2) License information, including state license number and date of licensure.

(3) A statement that the practice of ~~((East Asian))~~ acupuncture or acupuncture and Eastern medicine in the state of Washington includes the following:

(a) Acupuncture, including the use of acupuncture needles or lancets to directly and indirectly stimulate acupuncture points and meridians;

(b) Use of electrical, mechanical, or magnetic devices to stimulate acupuncture points and meridians;

(c) Moxibustion;

(d) Acupressure;

(e) Cupping;

(f) Dermal friction technique;

(g) Infrared;

(h) Sonopuncture;

(i) Laserpuncture;

(j) Point injection therapy ~~((acupuncture))~~ is defined as meaning the subcutaneous, intramuscular and intradermal injection of substances consistent with the practice of ~~((East Asian))~~ acupuncture or Eastern medicine to stimulate acupuncture points, ashhi points, trigger points and meridians.

(i) For the purposes of this section, point injection therapy includes trigger points as a subset of acupuncture points and ahshi points as recognized in the current practice of ~~((East Asian))~~ acupuncture and Eastern medicine.

(ii) Does not include injection of controlled substances contained in Scheduled I through V of the Uniform Controlled Substance Act, chapter 69.50 RCW or steroids as defined in RCW 69.41.300.

(iii) Substances are limited to:

(A) Saline;

(B) Sterile water;

(C) Herbs specifically manufactured for injection by means of hypodermic needles;

(D) Minerals specifically manufactured for injection by means of hypodermic needles;

(E) Vitamins in liquid form specifically manufactured for injection by means of hypodermic needles; and

(F) Homeopathic and nutritional substances specifically manufactured for injection by means of hypodermic needles.

(k) Dietary advice and health education based on ~~((East Asian))~~ acupuncture or Eastern medical theory, including the

recommendation and sale of herbs, vitamins, minerals, and dietary and nutritional supplements;

(l) Breathing, relaxation, and ~~((East Asian))~~ Eastern exercise techniques;

(m) Qi gong;

(n) ~~((East Asian))~~ Eastern massage and Tui na (which is a method of ~~((East Asian))~~ Eastern bodywork); and

(o) Superficial heat and cold therapies.

(4) A statement that side effects of the treatments listed above may include, but are not limited to, the following:

(a) Pain following treatment;

(b) Minor bruising;

(c) Infection;

(d) Needle sickness; and

(e) Broken needle.

(5) A statement that patients must inform the ~~((East Asian))~~ acupuncturist or acupuncture and Eastern medicine practitioner if they have a severe bleeding disorder or pacemaker prior to any treatment.

AMENDATORY SECTION (Amending WSR 20-03-112, filed 1/15/20, effective 2/15/20)

WAC 246-803-305 Patient record content. (1) A licensed ~~((East Asian))~~ acupuncturist or acupuncture and Eastern medicine practitioner shall:

(a) Make a complete, legible, and accurate record of each patient to whom an ~~((East Asian))~~ acupuncture or Eastern medicine treatment is given. The ~~((East Asian))~~ acupuncturist or acupuncture and Eastern medicine practitioner shall ensure that a patient record is in English and includes:

(i) Name of the patient;

(ii) Patient history;

(iii) Dates of treatment;

(iv) Treatment given; and

(v) Progress made during treatment.

(b) Maintain a patient record for six years after the last treatment of the patient.

(c) Maintain a patient record for at least six years after the patient reaches eighteen years of age.

(2) A licensed ~~((East Asian))~~ acupuncturist or acupuncture and Eastern medicine practitioner shall comply with chapter 70.02 RCW and the Health Insurance Portability and Accountability Act, 45 C.F.R. destruction and privacy regulations.

(3) For the purposes of this section "patient records" means all records maintained by a practitioner that includes all information related to the patient.

AMENDATORY SECTION (Amending WSR 20-03-112, filed 1/15/20, effective 2/15/20)

WAC 246-803-308 Patient abandonment. (1) An ~~((East Asian))~~ acupuncturist or acupuncture and Eastern medicine practitioner may accept or reject a patient, but shall respond to any reasonable request for services in the interest of public health and welfare.

(2) The attending ~~((East Asian))~~ acupuncturist or acupuncture and Eastern medicine practitioner, without reasonable cause, shall not neglect, ignore, abandon, or refuse to treat a patient. If the ~~((East Asian))~~ acupuncturist or acupuncture

and Eastern medicine practitioner chooses to withdraw responsibility for a patient of record, the ~~((East Asian))~~ acupuncturist or acupuncture and Eastern medicine practitioner shall:

(a) Advise the patient in writing that treatment is being terminated and that another ~~((East Asian))~~ acupuncturist or acupuncture and Eastern medicine practitioner should be sought for future care; and

(b) Advise the patient that the ~~((East Asian))~~ acupuncturist or acupuncture and Eastern medicine practitioner shall remain reasonably available for up to fifteen calendar days from the date of such notice to address clinical concerns related to the care provided.

AMENDATORY SECTION (Amending WSR 11-17-105, filed 8/22/11, effective 9/22/11)

WAC 246-803-310 Referral to primary health care provider. (1) When an ~~((East Asian))~~ acupuncturist or acupuncture and Eastern medicine practitioner sees a patient with a potentially serious disorder, the ~~((East Asian))~~ acupuncturist or acupuncture and Eastern medicine practitioner shall immediately request a consultation or written diagnosis from a primary health care provider.

(2) Potentially serious disorders include, but are not limited to:

(a) Cardiac conditions including uncontrolled hypertension;

(b) Acute abdominal symptoms;

(c) Acute undiagnosed neurological changes;

(d) Unexplained weight loss or gain in excess of fifteen percent body weight within a three-month period;

(e) Suspected fracture or dislocation;

(f) Suspected systemic infection;

(g) Any serious undiagnosed hemorrhagic disorder; and

(h) Acute respiratory distress without previous history or diagnosis.

(3) In the event a patient with a potentially serious disorder refuses to authorize such consultation or provide a recent diagnosis from a primary health care provider, ~~((East Asian))~~ medical treatments, including) acupuncture or Eastern medicine treatments, may only continue after the patient signs a written waiver acknowledging the risks associated with the failure to pursue treatment from a primary health care provider.

(4) The written waiver must include:

(a) A statement acknowledging that failure by the patient to pursue treatment from a primary health care provider may involve risks that such a condition can worsen without further warning and even become life threatening;

(b) An explanation of an ~~((East Asian))~~ acupuncturist's or acupuncture and Eastern medicine practitioner's scope of practice, to include the services and techniques ~~((East Asian))~~ acupuncturists or acupuncture and Eastern medicine practitioners are authorized to provide; and

(c) A statement that the services and techniques that an ~~((East Asian))~~ acupuncturist or acupuncture and Eastern medicine practitioner is authorized to provide will not resolve the patient's underlying potentially serious disorder.

AMENDATORY SECTION (Amending WSR 20-03-112, filed 1/15/20, effective 2/15/20)

WAC 246-803-320 Instrument sterilization procedure. (1) An ~~((East Asian))~~ acupuncturist or acupuncture and Eastern medicine practitioner shall use sterile instruments and follow proper instrument sterilization procedures and the keeping of accurate records of sterilization cycles and equipment service maintenance as described in the manufacturer's instruction manual and the 7th edition of "*Best Practices for Acupuncture Needle Safety and Related Procedures*" published by the Council of Colleges of Acupuncture and Oriental Medicine revised May 2017. This shall not apply to needles, which may not be reused or sterilized for a subsequent use on more than one patient under any circumstances.

(2) "Sterilization" means to kill all microbial life, including bacterial spores, for instruments which enter tissues. Sterilization is accomplished by subjecting clean items to steam pressure (autoclaving), ultraviolet-C, or to dry heat.

AMENDATORY SECTION (Amending WSR 20-03-112, filed 1/15/20, effective 2/15/20)

WAC 246-803-325 Preparing and maintaining a clean field. (1) A clean field is the area that has been prepared to contain the equipment necessary for acupuncture in such a way as to reduce the possible contamination of sterile needles and other clean or sterile equipment.

(2) An ~~((East Asian))~~ acupuncturist or acupuncture and Eastern medicine practitioner must prepare and maintain a clean field for each patient.

AMENDATORY SECTION (Amending WSR 11-17-105, filed 8/22/11, effective 9/22/11)

WAC 246-803-400 Inactive status. (1) An ~~((East Asian))~~ acupuncturist or acupuncture and Eastern medicine practitioner may obtain an inactive license by meeting the requirements of WAC 246-12-090.

(2) An inactive license must be renewed every year on the ~~((East Asian))~~ acupuncturist's or acupuncture and Eastern medicine practitioner's birthday according to WAC 246-12-100 and 246-803-990.

(3) If a license is inactive for three years or less, to return to active status an ~~((East Asian))~~ acupuncturist or acupuncture and Eastern medicine practitioner must meet the requirements of WAC 246-12-110 and 246-803-990.

(4) If a license is inactive for more than three years and the ~~((East Asian))~~ acupuncturist or acupuncture and Eastern medicine practitioner has been actively practicing in another state of the United States or its major territories, to return to active status the ~~((East Asian))~~ acupuncturist or acupuncture and Eastern medicine practitioner must:

(a) Provide certification of an active ~~((East Asian))~~ acupuncturist or acupuncture and Eastern medicine practitioner license, submitted directly from another licensing entity. The certification shall include the license number, issue date, expiration date and whether the ~~((East Asian))~~ acupuncturist or acupuncture and Eastern medicine practitioner has been the subject of final or pending disciplinary action;

(b) Provide verification of current active practice in another state of the United States or its major territories for the last three years; and

(c) Meet the requirements of WAC 246-12-110 and 246-803-990.

(5) If a license is inactive for more than three years, and the ~~((East Asian))~~ acupuncturist or acupuncture and Eastern medicine practitioner has not been actively practicing in another state of the United States or its major territories, to return to active status the ~~((East Asian))~~ acupuncturist or acupuncture and Eastern medicine practitioner must provide:

(a) A written request to change licensure status;

(b) ~~((The applicable fees according to WAC))~~ Meet the requirements of WAC 246-12-110 and 246-803-990;

(c) Proof of successful completion of the examinations as required in WAC 246-803-240 (2)(a), (b), and (c) within the past year; and

(d) Written certification of all ~~((East Asian))~~ acupuncturist, acupuncture and Eastern medicine practitioner or health care licenses held, submitted directly from the licensing agency. The certification shall include the license number, issue date, expiration date and whether the ~~((East Asian))~~ acupuncturist or acupuncture and Eastern medicine practitioner has been the subject of final or pending disciplinary action(~~;~~ and

~~(e) Proof of AIDS education according to WAC 246-803-100, 246-803-110 or 246-803-120)).~~

AMENDATORY SECTION (Amending WSR 20-03-112, filed 1/15/20, effective 2/15/20)

WAC 246-803-410 Expired license. An ~~((East Asian))~~ acupuncturist or acupuncture and Eastern medicine practitioner with an expired license may return his or her license to an active license. During the time the license is expired, an ~~((East Asian))~~ acupuncturist or acupuncture and Eastern medicine practitioner cannot practice in Washington state.

(1) If an ~~((East Asian))~~ acupuncturist's or acupuncture and Eastern medicine practitioner's license has expired for one year or less, the ~~((East Asian))~~ acupuncturist or acupuncture and Eastern medicine practitioner may return to active status by meeting the requirements of WAC 246-12-040 (3)(a)(i) through (v) and 246-803-990.

(2) If an ~~((East Asian))~~ acupuncturist's or acupuncture and Eastern medicine practitioner's license has expired for more than one year but less than three, the ~~((East Asian))~~ acupuncturist or acupuncture and Eastern medicine practitioner may return to active status by meeting the requirements of WAC 246-12-040 (3)(b)(i) through (ix) and 246-803-990.

(3) If an ~~((East Asian))~~ acupuncturist's or acupuncture and Eastern medicine practitioner's license has expired for three years or more at the time of application and they have been engaged in practice in another state or United States jurisdiction, the ~~((East Asian))~~ acupuncturist or acupuncture and Eastern medicine practitioner may return to active status by submitting proof to the department of:

(a) Verification of active practice from any other state or United States jurisdiction. For this purpose "active practice" means a minimum of five hundred sixty hours of practice in the preceding twenty-four months; and

(b) Having met the requirements of WAC 246-12-040 (3)(c)(i) through (xi) and 246-803-990.

(4) If an (~~(East Asian))~~ acupuncturist's or acupuncture and Eastern medicine practitioner's license has expired for three years or more at the time of application and they have not been engaged in practice in another state or United States jurisdiction, the (~~(East Asian))~~ acupuncturist or acupuncture and Eastern medicine practitioner may return to active status by submitting proof to the department of:

(a) Having met the requirements of subsection (2) of this section; and

(b) In addition to these requirements, the practitioner has the choice of:

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

(ii) Successfully retaking and passing the examinations as required in WAC 246-803-240.

NEW SECTION

WAC 246-803-420 Continuing education requirements. The goal of continuing education is to encourage the lifetime development of the licensed acupuncturist or acupuncture and Eastern medicine practitioner, and enhance the professional skills and judgment needed to protect the health and safety of all patients.

(1) A licensed acupuncturist or acupuncture and Eastern medicine practitioner shall complete a minimum of twenty hours of continuing education every two years.

(a) The two-year continuing education reporting period for an acupuncturist or acupuncture and Eastern medicine practitioner licensed in Washington before April 30, 2021, begins May 1, 2021, and verification of completion of continuing education hours will be due on the acupuncturist's or acupuncture and Eastern medicine practitioner's annual license renewal date in 2023, and every two years thereafter. The two-year continuing education reporting period for an acupuncturist or acupuncture and Eastern medicine practitioner initially licensed in Washington on or after May 1, 2021, begins upon date of licensure.

(b) A licensed acupuncturist or acupuncture and Eastern medicine practitioner shall attest to the completion of twenty hours of continuing education every two years as a part of their license renewal requirement.

(c) The department of health (department) may randomly audit up to twenty-five percent of licensed acupuncturists or acupuncture and Eastern medicine practitioners every two years for compliance after the license is renewed as allowed by chapter 246-12 WAC, Part 7.

(d) A licensed acupuncturist or acupuncture and Eastern medicine practitioner shall comply with the requirements of chapter 246-12 WAC, Part 7.

(e) The department will not authorize or approve specific continuing education courses.

(2) A licensed acupuncturist or acupuncture and Eastern medicine practitioner may alternatively meet the requirement of twenty hours of continuing education every two years if they hold a current diplomate status from the National Certification Commission for Acupuncture and Oriental Medicine

(NCCAOM). The required documentation is proof of diplomate status during the two-year period.

(3) A licensed acupuncturist or acupuncture and Eastern medicine practitioner shall maintain a current cardiopulmonary resuscitation (CPR) and basic first aid certification. A licensed acupuncturist or acupuncture and Eastern medicine practitioner may count the actual hours earned per renewal cycle for this requirement.

(4) Continuing education must contribute to the professional knowledge and development of the licensed acupuncturist or acupuncture and Eastern medicine practitioner or enhance services provided to patients or public health and safety. Continuing education must be completed in one or more of the following categories:

(a) Educational courses as listed in RCW 18.06.050 relating to the practice of health care, western clinical sciences, acupuncture, or acupuncture and Eastern medicine;

(b) Emergency management or disaster preparedness;

(c) Infection control and federal/state safety standards;

(d) Ethics;

(e) Patient care related education including patient communication, risk management, methods of health delivery, cultural diversity, and suicide prevention education;

(f) Washington state acupuncture and Eastern medicine law;

(g) Patient communication;

(h) Practice management and billing practices. A licensed acupuncturist or acupuncture and Eastern medicine practitioner may not count more than ten hours every two years in this category.

(5) Continuing education in subject categories identified in subsection (4) of this section may be completed using any of the following activities or methods:

(a) Attendance at local, state, national, or international education courses, live interactive webinars, postdoctoral education, and study clubs. A study club is defined as two or more practitioners meeting to discuss topics relative to their health care practice;

(b) Self-study by various means, relevant to acupuncture or acupuncture and Eastern medicine, without an instructor physically present.

(i) Self-study can be continuing education provided online or through the mail provided by a continuing education provider.

(A) A licensee must have documentation of course completion; or

(B) Provide a two-page synopsis of what was learned written by the licensed acupuncturist or acupuncture and Eastern medicine practitioner is required. Two hours of continuing education for each synopsis will be granted. A licensed acupuncturist or acupuncture and Eastern medicine practitioner may earn up to a maximum of six hours every two years for this activity.

(ii) Self-study can be reading a book that contributes to the professional knowledge and development of the licensed acupuncturist or acupuncture and Eastern medicine practitioner, or enhance services provided to patients. A two-page synopsis of what was learned written by the licensed acupuncturist or acupuncture and Eastern medicine practitioner is required. Two hours of continuing education for each book

and synopsis will be granted. A licensed acupuncturist or acupuncture and Eastern medicine practitioner may earn up to a maximum of six hours every two years for this activity.

(c) Teaching, presenting, or lecturing in a course, only if the presentation or lecture is created or authored by the acupuncturist or acupuncture and Eastern medicine practitioner claiming the continuing education hours, may earn up to a maximum of ten hours every two years;

(d) Panelist at a conference or seminar for health care providers. Up to a maximum of two hours may be applied per topic in the two-year period;

(e) Primary author of published multimedia material including, but not limited to: CD, audio, or video. Up to a maximum of five hours may be applied per publication in the two-year period;

(f) Participating member of a clinical research study team. Up to a maximum of ten hours may be applied in the two-year period;

(g) Direct clinical supervision of acupuncturist or acupuncture and Eastern medicine students in a school verified externship, internship, or preceptorship, may earn up to a maximum of ten hours every two years;

(h) Acupuncturist or acupuncture and Eastern medicine licensure examinations or serving on an acupuncturist or acupuncture and Eastern medicine professional board, committee or association may earn up to a maximum of ten hours every two years;

(i) Publishing a paper in a peer review journal up to a maximum of five hours the year the paper is published; and

(j) Provision of clinical acupuncturist or acupuncture and Eastern medicine patient care services in a documented volunteer capacity, may earn up to a maximum of ten hours every two years.

(6) The department may not accept any claim of credit for a continuing education course that does not meet the requirements of subsection (4) or (5) of this section.

(7) Proof of continuing education is a certificate of completion, letter, or other documentation verifying or confirming attendance or completion of continuing education hours. Documentation must be from the organization that provided the activity, except in subsection (5)(b)(i) and (ii), and (c) of this section, and must contain at least the following:

(a) Date of attendance or completion;

(b) Name of licensed acupuncturist or acupuncture and Eastern medicine practitioner;

(c) Hours earned; and

(d) Course title or subject.

(8) Upon showing good cause by the licensed acupuncturist or acupuncture and Eastern medicine practitioner in writing, the department may waive the acupuncturist or acupuncture and Eastern medicine practitioner from any, all, or part of the continuing education requirements in this chapter or may grant additional time for the acupuncturist or acupuncture and Eastern medicine practitioner to complete the requirements. Good cause includes, but is not limited to:

(a) Illness;

(b) Medical necessity or family emergency;

(c) Hardship to practice; or

(d) Other extenuating circumstances.

NEW SECTION

WAC 246-803-430 Suicide prevention education.

Effective June 11, 2020, a licensed acupuncturist or acupuncture and Eastern medicine practitioner must complete a department-approved one-time training that is at least six hours in length for suicide assessment that includes assessment, treatment, and management.

(1) This training must be completed by the end of the first full continuing education reporting period after August 1, 2021, or during the first full continuing education reporting period after initial licensure, whichever is later.

(2) Training approved by the department for this requirement must be on the department's model list as authorized in chapter 246-12 WAC, Part 14.

(3) Training completed between June 11, 2020, and August 1, 2021, that meets the requirements of this section, is accepted as meeting the one-time training requirement of this section.

(4) The hours spent completing the training in suicide assessment under this section count toward meeting applicable continuing education requirements for acupuncturist or acupuncture and Eastern medicine practitioner license renewal.

((EAST ASIAN)) ACUPUNCTURE AND EASTERN MEDICINE PROGRAM APPROVAL

AMENDATORY SECTION (Amending WSR 11-17-105, filed 8/22/11, effective 9/22/11)

WAC 246-803-990 ((East Asian)) Acupuncturist or acupuncture and Eastern medicine practitioner fees and renewal cycle.

(1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2.

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
License application	\$100.00
License renewal	196.00
Inactive license renewal	50.00
Late renewal penalty	105.00
Expired license reissuance	50.00
Expired inactive license reissuance	50.00
Duplicate license	15.00
Certification of license	25.00
<u>((East Asian)) Acupuncture or Eastern medicine training program application</u>	500.00
UW library access fee	9.00

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 246-803-120 Application requirements for applicants from approved apprenticeships or tutorials.

WAC 246-803-510 Application for approval of alternative training.

WSR 21-03-063

WITHDRAWAL OF PROPOSED RULES CONSERVATION COMMISSION

(By the Code Reviser's Office)

[Filed January 18, 2021, 12:42 p.m.]

WAC 135-110-130, 135-110-150, 135-110-160, 135-110-170, 135-110-250, 135-110-300, 135-110-400, 135-110-420, 135-110-450, 135-110-550, 135-110-630, 135-110-720, 135-110-770, 135-110-810, 135-110-900, 135-110-910, and 135-110-960, proposed by the conservation commission in WSR 20-14-015, appearing in issue 20-14 of the Washington State Register, which was distributed on July 15, 2020, is withdrawn by the office of the code reviser under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Jennifer C. Meas, Editor
Washington State Register

WSR 21-03-072

PROPOSED RULES GAMBLING COMMISSION

[Filed January 19, 2021, 12:52 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-15-154.

Title of Rule and Other Identifying Information: WAC 230-03-408 Applying for sports wagering preclicensing qualification.

Hearing Location(s): On February 24, 2021, or March 11, 2021, at 9:00 a.m., at the Washington State Gambling Commission, 4565 7th Avenue S.E., Lacey, WA 98503. Public hearings will take place at scheduled commission meetings. The meeting dates, times, and locations are tentative. Visit our website at www.wsgc.wa.gov approximately seven days prior to the meeting, select "The Commission," and then select "Public Meetings" to confirm hearing date, location, start time, and agenda items.

Date of Intended Adoption: Special meeting on February 24, 2021, or at agency's March 11, 2021, public meeting. Please monitor the agency's public meetings webpage at www.wsgc.wa.gov to confirm the date and time.

Submit Written Comments to: Ashlie Laydon, P.O. Box 42400, Olympia, WA 98504-2400, email rules.coordinator@wsgc.wa.gov, fax 360-486-3632, by February 24, 2021.

Assistance for Persons with Disabilities: Contact Julie Anderson, phone 360-486-3453, TTY 360-486-3637, email julie.anderson@wsgc.wa.gov, by February 24, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The gambling commission is considering adopting new and amending current rules to implement the new sports wagering law, HB 2638, passed by the legislature during the 2020 session. A new state regulatory structure will need to be created to cover all aspects of sports wagering consistent with any new tribal-state sports wagering compact amendment. This rule would allow individuals and organizations to apply to begin the preclicensing investigation process prior to the adoption of final sports wagering licensing rules.

Reasons Supporting Proposal: The intent of this rule would be to save time and resources for both individuals and organizations who anticipate applying for a future license to provide equipment and/or services for sports wagering pursuant to a tribal-state compact as well as gambling commission staff.

Statutory Authority for Adoption: RCW 9.46.070, 9.46.075, 9.46.153.

Statute Being Implemented: RCW 9.46.070.

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

Name of Proponent: Washington state gambling commission, governmental.

Name of Agency Personnel Responsible for Drafting: Brian Considine, Attorney, 4565 7th Avenue S.E., Lacey, WA 98503, 360-486-3469; Implementation: David Trujillo, Director, 4565 7th Avenue S.E., Lacey, WA 98503, 360-486-3512; and Enforcement: Tina Griffin, Assistant Director, 4565 7th Avenue S.E., Lacey, WA 98503, 360-486-3546.

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

A cost-benefit analysis is not required under RCW 34.05.328. A cost-benefit analysis is not required per RCW 34.05.328 (5)(a)(i).

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

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute; and rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

January 19, 2021
Ashlie Laydon
Rules Coordinator

NEW SECTION

WAC 230-03-408 Applying for sports wagering preclicensing qualification. (1) Any individual or organization anticipating applying for a future license to provide equipment and/or services for sports wagering pursuant to a tribal-state compact may apply for a preclicensing qualification letter.

(2) To apply for preclicensing qualification letter, the applicant and each substantial interest holder will go through a preclicensing investigation to determine if the applicant and substantial interest holders are initially qualified.

(3) It is the responsibility of each applicant and persons who have a substantial interest therein to establish by clear and convincing evidence the necessary qualifications.

(4) A preclicensing investigation of the applicant includes, but is not limited to:

(a) Identification of all substantial interest holders of the applicant; and

(b) Conducting a criminal history background investigation on all substantial interest holders; and

(c) Verification that cash, goods or services for the startup of the operations or the continuation of the business is from a qualified source; and

(d) Compliance with all other applicable rules and laws.

(5) You are required to complete an online application, submit any required supplemental documentation, and submit a five thousand dollar deposit for us to begin the preclicensing investigation process.

(6) We may request additional information during our preclicensing investigation. All work will stop until we receive the requested information. You must provide us with the required items within thirty days of notification or we will administratively close your preclicensing qualification application.

(7) You must pay all costs associated with the preclicensing investigation.

(a) We will give you an estimate of the anticipated costs based on the information we have received at that time.

(b) You will be asked to pay the additional deposit to cover the anticipated costs, such as staff time to conduct the preclicensing investigation, travel time, and travel costs.

(c) We may amend our estimate during our preclicensing investigation process.

(d) You will have thirty days to submit any additional balance requested. We will not work on the application until we have received all funds requested. Failure to pay the balance within the required time frame will result in administrative closure of the application and all unused funds will be refunded.

(e) We will stop the preclicensing qualification process if the cost of our investigation exceeds the balance and request additional funds to cover the anticipated costs to continue our investigation. We will resume work upon receipt of the requested deposit to cover anticipated costs to complete the investigation.

(f) Any unused funds will be refunded.

(g) We will retain funds to cover all costs incurred if you withdraw your application or if your application is denied.

(8) Upon completion of a preclicensing investigation, a determination regarding an applicant's qualification will be made. Applicants who are qualified will receive a preclicensing qualification letter from us stating the determination is made based on the information and representations made by the applicant up to that date.

(9) Applicants are required to provide notice of any changes to the organization or substantial interest holders after a preclicensing qualification letter has been issued and will be required to pay for any additional investigation costs.

(10) A preclicensing qualification letter is not a sports wagering license. You must apply for a sports wagering

license once a sports wagering tribal-state compact(s) and future licensing rules are effective.

(11) Preclicensing qualification letters will be valid for one year from the date of issuance. The term of this letter can be extended by the director or designee if the year term is about to expire and sports wagering licensing rules are not in effect.

(12) Applicants who are determined to be unqualified to receive a preclicensing qualification letter will be given the following options:

(a) Have thirty days to correct the issue that keeps them from being qualified; or

(b) Withdraw their application; or

(c) Receive an application denial.

WSR 21-03-074

PROPOSED RULES

HEALTH CARE AUTHORITY

[Filed January 19, 2021, 1:29 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-22-026.

Title of Rule and Other Identifying Information: New chapter 182-110 WAC, Partnership access line and psychiatric consultation line.

Hearing Location(s): On February 23, 2021, at 10:00 a.m. In response to the coronavirus disease 2019 (COVID-19) public health emergency, the agency will not provide a physical location for this hearing. This promotes social distancing and the safety of the citizens of Washington state. A virtual public hearing, without a physical meeting space, will be held instead. To attend the virtual public hearing, you must register at the following link <https://attendee.gotowebinar.com/register/3849005792212880141>, Webinar ID: 687-366-971. After registering, you will receive a confirmation email containing the information about joining the webinar.

Date of Intended Adoption: Not sooner than February 24, 2021.

Submit Written Comments to: Health Care Authority (HCA) Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email arc@hca.wa.gov, fax 360-586-9727, by February 23, 2021.

Assistance for Persons with Disabilities: Contact Amber Lougheed, phone 360-725-1349, fax 360-586-9727, telecommunication[s] relay service 711, email amber.lougheed@hca.wa.gov, by February 5, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules implement the requirements of SHB 2728 (66th legislature, 2020 regular session), which requires HCA to:

(1) Calculate the annual costs to operate and administer the partnership lines described in SHB 2728;

(2) Calculate the proportion of clients covered by medic-aid program; and

(3) Collect a proportional share of program costs from entities that are not for covered lives under contract with HCA as medicaid managed care organizations.

The proposed rules require assessed entities to register with HCA, submit the required data, and timely send payment to fund program costs.

Reasons Supporting Proposal: See purpose above.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Statute Being Implemented: RCW 41.05.021, 41.05.160, 71.24.061, 71.24.062.

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

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Melinda Froud, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-1408; Implementation and Enforcement: Martha Cortes Leon, P.O. Box 45500, Olympia, WA 98504-5500, 360-725-1650.

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

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

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

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

Is exempt under RCW 34.05.310 (4)(e).

January 19, 2021

Wendy Barcus

Rules Coordinator

Chapter 182-110 WAC

PARTNERSHIP ACCESS LINE AND PSYCHIATRIC CONSULTATION LINE

NEW SECTION

WAC 182-110-0100 General. (1) The Washington state health care authority (authority), the University of Washington department of psychiatry and behavioral sciences, and Seattle children's hospital administer the partnership access lines described in RCW 71.24.061, relating to mental health services for children and the treatment of depression in pregnant women and new mothers.

(2) The authority and the University of Washington department of psychiatry and behavioral sciences administer the psychiatric consultation line described in RCW 71.24.062 to give certain providers on-demand access to psychiatric and substance use disorder clinical consultation for adult patients.

(3) The authority or its designee:

(a) Determines the administrative costs for each program identified in subsections (1) and (2) of this section;

(b) Calculates the proportion of clients that are covered by programs administered under chapter 74.09 RCW; and

(c) Collects a proportionate share of program costs that are not for covered lives from the assessed entities under contract with the authority as medicaid managed care organizations.

NEW SECTION

WAC 182-110-0200 Definitions. For the purposes of this chapter:

(1) "Assessed entity" means:

(a) Health carriers, as defined in RCW 48.43.005;

(b) Self-funded multiple employer welfare arrangements, as defined in RCW 48.125.010; and

(c) Employers or other entities that provide health care in Washington, including self-funding entities or employee welfare benefit plans.

(2) "Covered lives" means a Washington resident who is covered by an assessed entity, including an enrollee, subscriber, policyholder, beneficiary of a group plan, or person covered by any other health plan.

NEW SECTION

WAC 182-110-0300 Registration requirements. (1)

An assessed entity must register with the authority or its designee and provide the required contact information. Reporting entities must comply with the authority's or its designee's processes for registering and submitting data, as outlined in the data submission guide published on the authority's or its designee's website.

(2) Reregistration is required only if there is a change in the contact information previously provided. Assessed entities are responsible for maintaining current and accurate contact information with the authority or its designee.

(3) Failure to register and provide or maintain accurate contact information with the authority or its designee may result in an assessed entity's inability to submit required data in compliance with this chapter.

NEW SECTION

WAC 182-110-0400 Data reporting. (1) Beginning July 1, 2021, no later than the end of forty-five calendar days after the end of each calendar quarter, an assessed entity must submit to the authority or its designee, in the required format, the total number of Washington resident covered lives for each calendar month from the prior quarter.

(2) An assessed entity must immediately notify the authority or its designee if it identifies a covered lives reporting error.

(3) Each assessed entity must collect and maintain the data in a manner consistent with applicable state and federal health information privacy laws.

(4) Failure to report accurate data to the authority or its designee may result in an assessed entity's inability to maintain compliance with this chapter.

NEW SECTION

WAC 182-110-0500 Assessment. Each assessed entity receives a quarterly invoice for its share of the total amount of program costs that are for the proportion of the entity's covered lives. Entities must timely send payment to fund the partnership access lines described in RCW 71.24.061 and the psychiatric consultation line described in RCW 71.24.062.

WSR 21-03-075
PROPOSED RULES
HEALTH CARE AUTHORITY
 [Filed January 19, 2021, 2:15 p.m.]

January 19, 2021
 Wendy Barcus
 Rules Coordinator

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-24-036.

Title of Rule and Other Identifying Information: WAC 182-533-0327 Maternity support services—Professional staff qualifications and interdisciplinary team.

Hearing Location(s): On February 23, 2021, at 10:00 a.m. As the governor's Safe Start plan progresses, it is yet unknown whether by the date of this public hearing restrictions of meeting in public places will be eased. To continue to be safe, this hearing is being scheduled as a virtual only hearing. This will not be an in-person hearing and there is not a physical location available. To attend, you must register prior to the virtual public hearing (February 23, 2021, 10:00 a.m. Pacific Time). Registration URL <https://attendee.gotowebinar.com/register/3849005792212880141>, Webinar ID 687-366-971. After registering, you will receive a confirmation email containing the information about joining the webinar.

Date of Intended Adoption: Not sooner than February 23, 2021.

Submit Written Comments to: Health Care Authority (HCA) Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email arc@hca.wa.gov, fax 360-586-9727, by February 24, 2021.

Assistance for Persons with Disabilities: Contact Amber Lougheed, phone 360-725-1349, fax 360-586-9727, telecommunication[s] relay service 711, email amber.lougheed@hca.wa.gov, by February 5, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule replaces "chemical dependency professional" with "substance use disorder professional." This change aligns with RCW 18.205.020.

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: RCW 18.205.020, 41.05.021, 41.05.160.

Statute Being Implemented: RCW 41.05.021, 41.05.160.

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

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Michael Williams, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-1346; Implementation and Enforcement: Heather Weiher, P.O. Box 45530, Olympia, WA 98504-5330, 360-725-1293.

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

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

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. These rules do not impose a disproportionate cost impact on small businesses or nonprofits.

AMENDATORY SECTION (Amending WSR 16-12-060, filed 5/26/16, effective 6/26/16)

WAC 182-533-0327 Maternity support services—Professional staff qualifications and interdisciplinary team. (1) MSS providers must use qualified professionals, as specified in this section.

(a) Behavioral health specialists who are currently credentialed, certified, or licensed in Washington by the department of health under chapters 246-809, 246-810, 246-811, and 246-924 WAC as one of the following:

- (i) Licensed mental health counselor.
- (ii) Licensed independent clinical social worker.
- (iii) Licensed social worker.
- (iv) Licensed marriage and family therapist.
- (v) Licensed psychologist.
- (vi) Associate mental health counselor.
- (vii) Associate independent clinical social worker.
- (viii) Associate social worker.
- (ix) Associate marriage and family therapist.
- (x) Certified counselor.
- (xi) Certified (~~(chemical dependency)~~) substance use disorder professional.

(b) Certified dietitians who are currently registered with the commission on dietetic registration and certified by the Washington state department of health under chapter 246-822 WAC.

(c) Community health nurses who are currently licensed as registered nurses in the state of Washington by the department of health under chapter 246-840 WAC.

(d) Community health workers (CHWs) who have a high school diploma or the equivalent and:

- (i) Have a minimum of one year of health care and/or social services experience.
- (ii) Carry out all activities under the direction and supervision of a professional member or supervisor of the MSS interdisciplinary team.
- (iii) Complete a training plan developed by their provider.

(2) The provider's qualified staff must participate in an MSS interdisciplinary team consisting of at least a community health nurse, a certified registered dietitian, a behavioral health specialist, and, at the discretion of the provider, a community health worker.

(a) The interdisciplinary team must work together to address risk factors identified in a client's care plan.

(b) Each qualified staff member acting within her/his area of expertise must address the variety of client needs identified during the maternity cycle.

(c) An MSS interdisciplinary team case conference is required at least once prenatally for clients who are entering MSS during pregnancy, and are eligible for the maximum level of service. Using clinical judgment and the client's risk factors, the provider may decide which interdisciplinary team members to include in case conferencing.

(3) All Indian health programs, tribes, and any MSS provider within a county with fewer than fifty-five medicaid births per year are required to have at least one MSS interdisciplinary team member, as described in subsection (1) of this section:

- (a) A behavioral health specialist;
- (b) A registered dietitian; or
- (c) A community health nurse.

WSR 21-03-078
PROPOSED RULES
BUILDING CODE COUNCIL

[Filed January 19, 2021, 3:03 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-21-055.

Title of Rule and Other Identifying Information: Chapter 51-54A WAC, Amendments to the 2018 International Fire Code, addressing on-demand mobile fueling operations.

Hearing Location(s): On April 16, 2021, at 10:00 [a.m.], at 1500 Jefferson Street S.E., Olympia, WA 98504. Due to COVID-19, this meeting might be held virtually.

Date of Intended Adoption: May 21, 2021.

Submit Written Comments to: Shannon Pitts, 1500 Jefferson Street S.E., Olympia, WA 98504, email SBCC@des.wa.gov, by April 16, 2021.

Assistance for Persons with Disabilities: Contact Shannon Pitts, phone 360-407-9255, email Shannon.pitts@des.wa.gov [Shannon.pitts@des.wa.gov], by April 12, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposed rule is in response to ESHB 2783 and addresses on-demand mobile fueling operations.

Reasons Supporting Proposal: Required by ESHB 2783.

Statutory Authority for Adoption: RCW 19.27.031 and 19.27.074.

Statute Being Implemented: Chapters 19.27 and 34.05 RCW.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The council is seeking comments on the issues proposed in these changes: WAC 51-54-5707, 5707.1 Notes what is being addressed, 5707.1.1 Addresses required approvals, 5707.1.2 Addresses permit coordination, 5702.2 Addresses mobile fueling vehicles, 5702.3 Addresses required documents, 5707.4 Addresses mobile fueling areas, 5707.5 Addresses equipment, 5707.6 Addresses operations.

Name of Proponent: Diane Glenn, Chair, state building code council, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Stoyan Bumbalov, 1500 Jefferson Street S.E., Olympia, WA 98504, 360-407-9277; Enforcement: Local jurisdictions having authority.

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

A cost-benefit analysis is not required under RCW 34.05.328. Exemption per RCW 34.05.328 (5)(b)(v) for statute RCW 19.27.077.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. Changes are intended to clarify permitting and operation for greater clarity and conformity between jurisdictions. This should lower operating costs.

A copy of the detailed cost calculations may be obtained by contacting Stoyan Bumbalov, 1500 Jefferson Street [S.E.], Olympia, WA 98504 [98504], phone 360-407-9277, email Stoyan.bumbalov@des.wa.gov.

January 8, 2021

Diane Glenn
Chair

AMENDATORY SECTION (Amending WSR 16-03-064, filed 1/19/16, effective 7/1/16)

WAC 51-50-0427 Section 427—Electric vehicle charging infrastructure.

427.1 Scope. The provisions of this section shall apply to the construction of new buildings (~~(serving Group B, Group R-1 hotel and motel only, and Group R-2 occupancies)~~).

EXCEPTIONS:

1. Occupancies classified as Group R-3 or Group U.
2. Group A, Group E, or Group M occupancies, except where employee parking spaces are designated. The provisions of Section 427 shall apply only to those designated employee parking spaces.

427.2 Required electric vehicle charging infrastructure.

Where parking is provided, (~~(five)~~) ten percent of parking spaces shall be provided with electric vehicle charging infrastructure in compliance with Sections 427.3, 427.4 and 427.5. When the calculation of percent served results in a fractional parking space, the applicant shall round up to the next whole number.

((EXCEPTION: Group R and Group B occupancies served by less than 20 on-site parking spaces.))

427.3 Electrical room(s). Electrical room(s) serving buildings with on-site parking (~~(areas shall be designed)~~) spaces must be sized to accommodate the potential for electrical equipment and distribution required to serve a minimum of 20 percent of the total parking spaces with 208/240 V 40-amp circuit or equivalent electric vehicle charging infrastructure.

427.4 Electric vehicle charging infrastructure. Electric vehicle charging infrastructure shall (~~(be installed meeting one of)~~) meet the following requirements:

1. A minimum number of 208/240 V 40-amp, circuit or equivalent electric vehicle charging stations required to serve the parking spaces specified in section 427.2. The electric vehicle charging stations shall be located to serve spaces designated for parking and charging electric vehicles (~~(to be)~~).

2. Additional service capacity, space for future meters, panel capacity or space for additional panels, and raceways for future installation of electric vehicle charging stations. The service capacity and raceway size shall be designed to

accommodate the future installation of the number of 208/240 V 40-amp, circuit or equivalent electric vehicle charging stations specified in section 427.2. The raceway shall terminate at spaces designated for parking and charging electric vehicles in the future.

Where designated electric vehicle charging locations serve exterior on-grade parking spaces that are located more than 4 feet from a building, raceways shall be extended below grade to a pull box in the vicinity of the designated future electric vehicle charging locations or stub above grade in the vicinity of the designated future electric vehicle charging locations, protected from vehicles by a curb or other device.

EXCEPTION: In lieu of surface-mounted raceway between the electrical panel and the designated electric vehicle charging locations, it is permitted to provide permanent markings indicating the pathway for future raceway, and one-inch diameter capped sleeves through each wall and floor assembly that are penetrated along that route. This pathway and the locations of capped sleeves shall also be indicated on the electrical plans. Raceway shall be installed for any portion of the pathway located below slabs, below grade, or within floor, wall or roof assemblies.

Load management infrastructure may be used to adjust the size and capacity of the required building electric service equipment and circuits on the customer facilities, as well as electric utility owned infrastructure, as allowed by applicable local and national electric codes.

427.5 Electric vehicle charging infrastructure for accessible parking spaces. When electric vehicle charging infrastructure is required, ~~((one))~~ ten percent of accessible parking space, rounded to the next whole number, shall be ~~((served by))~~ provided with electric vehicle charging infrastructure. The electric vehicle charging infrastructure may also serve adjacent parking spaces not designated as accessible parking. A maximum of ten percent rounded to the next whole number, of the accessible parking spaces are allowed to be included in the total number of electric vehicle parking spaces required under Section 427.2.

NEW SECTION

WAC 51-54A-5707 Section 5705—On-demand mobile fueling operations.

5707.1 General. On-demand mobile fueling operations that dispense Class I, II and III liquids into the fuel tanks of motor vehicles shall comply with Sections 5707.1 through 5707.6.6.

EXCEPTION: Fueling from an *approved* portable container in cases of an emergency or for personal use.

5707.1.1 Approval required. Mobile fueling operations shall not be conducted without first obtaining a *permit* and approval from the fire code official. Mobile fueling operations shall occur only at *approved* locations. The fire code official is authorized to *approve* individual locations or geographic areas where mobile fueling is allowed.

5707.1.2 Coordination of permits. *Permits* across multiple authorities having jurisdiction shall be coordinated in accordance with Sections 5707.1.2.1 through 5707.1.2.4.

5707.1.2.1 Acceptance of permits issued by other authorities having jurisdiction. Local authorities having jurisdiction that allow mobile on demand fueling trucks may accept conforming *permits* issued and/or inspections performed by any other local authorities having jurisdiction in Washington state. Local authorities having jurisdiction that choose to accept conforming *permits* issued by other local authorities having jurisdiction in Washington state retain the right to enforce the provisions of this section.

5707.1.2.2 Local authorities having jurisdiction not offering operator or truck certification. A conforming operator or vehicle *permit* issued by one local authority having jurisdiction shall be recognized and accepted by all local authorities having jurisdiction in Washington state, if those local authority having jurisdictions allow mobile on-demand fueling and do not offer such operator or truck certification. Under no circumstances will an issuing local authority having jurisdiction be expected to perform permissive inspections beyond their jurisdiction.

5707.1.2.3 Commencing permit issuance. When a local authority having jurisdiction that has previously authorized mobile fueling operations but not issued their own *permits* commences *permit* issuance for mobile fueling operations or vehicles, that local authority having jurisdiction shall continue to accept *permits* previously issued by another local authority having jurisdiction in Washington state for three months or until their expiration date, whichever is sooner.

5707.1.2.4 Permit record maintenance. Issuing local authorities having jurisdiction shall maintain a publicly available list of current *permits* or other information source to enable all parties to have information about whether *permits* are in good standing.

5707.2 Mobile fueling vehicle. An on-demand mobile fueling vehicle shall be utilized in on-demand fueling operations for the dispensing of Class I, II or III liquids into the fuel tanks of motor vehicles and shall comply with Sections 5707.2.1 and 5707.2.2.

5707.2.1 Mobile fueling vehicle classifications. An on-demand mobile fueling vehicle shall be classified as one of the following:

1. **Type 1 Mobile Fueling Vehicle** - A tank vehicle that complies with NFPA 385 and that has chassis-mounted tanks where the aggregate capacity does not exceed 1600 gallons (6057 L).

2. **Type 2 Mobile Fueling Vehicle** - A vehicle with one or more chassis-mounted tanks or chassis-mounted containers, not to exceed 110 gallons (415 L) capacity for each tank or container and having an aggregate capacity not exceeding 800 gallons (3028 L) or the weight capacity of the vehicle in accordance with DOTn.

3. **Type 3 Mobile Fueling Vehicle** - A vehicle that carries a maximum aggregate capacity of 60 gallons (227 L) of motor fuel in metal safety cans *listed* in accordance with UL 30 or other *approved* metal containers, each not to exceed 5 gallons (19 L) in capacity.

5707.2.2 Mobile fueling vehicle requirements. Each mobile fueling vehicle shall comply with all local, state and federal requirements, and the following:

1. Mobile fueling vehicles with a chassis-mounted tank in excess of 110 gallons (415 L) shall also comply with the requirements of Section 5706.6 and NFPA 385.
2. The mobile fueling vehicle and its equipment shall be maintained in good repair.
3. Safety cans and *approved* metal containers shall be secured to the mobile fueling vehicle except when in use.
4. Fueling a motor vehicle from tanks or containers mounted in a trailer connected to a mobile fueling vehicle shall be prohibited.

5707.3 Required documents. Documents developed to comply with Sections 5707.3.1 through 5707.3.3 shall be updated as necessary by the owner of the mobile fueling operation and shall be maintained in compliance with Section 108.3.

5707.3.1 Safety and emergency response plan. Mobile fueling operators shall have an *approved* written safety and emergency response plan that establishes policies and procedures for fire safety, spill prevention and control, personnel training and compliance with other applicable requirements of this code. The safety and emergency response plan shall specifically address and require that all operators assess surroundings prior to fueling to consider the presence of items listed in Section 5707.3.3.

5707.3.2 Training records. Mobile fueling vehicles shall be operated only by designated personnel who are trained on proper fueling procedures and the safety and emergency response plan. Training records of operators shall be maintained.

5707.3.3 Site plan. Where required by the fire code official, a site plan shall be developed for each location or area at which mobile fueling occurs. The site plan shall be in sufficient detail to indicate but not be limited to the following:

1. All buildings, structures.
2. Lot lines or property lines.
3. Electric car chargers.
4. Solar photovoltaic parking lot canopies.
5. Appurtenances on-site and their use or function.
6. All uses adjacent to the lot lines of the site.
7. Fueling locations.
8. Locations of all storm drain openings and adjacent waterways or wetlands.
9. Information regarding slope, natural drainage, curbing, and impounding.
10. How a spill will be kept on the site property.
11. Scale of the site plan.

5707.3.4 Tiered sites. Where a site permitting process is required by the local jurisdiction, a site shall be designated by the fire code official to be one of the following and based on local provisions as necessitated by zoning laws, environmental laws, public safety, and other characteristics.

5707.3.4.1 Tier 1 sites. Sites that do not present atypical geographic, safety or environmental concerns shall be provided expedited permitting review and shall allow *permit* issuance prior to site inspection. The fire code official may impose

additional conditions and may perform a site inspection during the period of *permit* validity.

5707.3.4.2 Tier 2 sites. Sites that require an inspection shall be approved by the fire code official prior to *permit* issuance.

5707.4 Mobile fueling areas. During fueling, the mobile fueling vehicle and point of connection of the vehicle being fueled shall not be located on public streets, public ways or inside buildings. Fueling on the roof level of parking structures or other buildings is prohibited.

5707.4.1 Separation. During fueling, the point of connection of the vehicle being fueled shall not take place within 25 feet (7620 mm) of buildings, lot lines, property lines or combustible storage. Mobile fueling vehicles shall not park within 10 feet (3048 mm) of buildings, lot lines, property lines or combustible storage.

- EXCEPTIONS:
1. The fire code official shall be authorized to decrease the separation distance for dispensing from metal safety cans or other *approved* metal containers in accordance with Section 5707.2.
 2. The point of fueling shall not take place within 10 feet (3048 mm) of buildings, lot lines, property lines or combustible storage when the mobile fueling vehicle has an approved vapor recovery system or is servicing vehicles with on board refueling vapor recovery.

Where dispensing operations occur within 15 feet (4572 mm) of a storm drain, an *approved* storm drain cover or an *approved* equivalent method that will prevent any fuel from reaching the drain shall be used.

5707.4.2 Sources of ignition. Smoking, open flames and other sources of ignition shall be prohibited within 25 feet (7620 mm) of fuel dispensing activities. Signs prohibiting smoking or open flames within 25 feet (7620 mm) of the vehicle or the point of fueling shall be prominently posted on the mobile fueling vehicle. The engines of vehicles being fueled shall be shut off during fueling.

5707.4.3 Electrical equipment. Mobile fueling shall not occur within 20 feet of electrical equipment located within 18 inches of the ground unless such electrical equipment is rated for Class 1, Division 2 hazardous locations in accordance with NFPA 70.

5707.5 Equipment. Mobile fueling equipment shall comply with Sections 5707.5.1 through 5707.5.5.

5707.5.1 Dispensing hoses and nozzles. Where equipped, the dispensing hose shall not exceed 50 feet (15240 mm) in length. The dispensing nozzles and hoses shall be of an *approved* and *listed* type. Where metal-to-metal contact cannot be made between the nozzle and the fuel fill opening, then a means for bonding the mobile fueling vehicle to the motor vehicle shall be provided and employed during fueling operations.

5707.5.2 Break-away device. A listed break-away device shall be provided at the nozzle.

EXCEPTION: Mobile fueling vehicles equipped with an approved brake interlock tied to the nozzle holder that prohibits movement of the mobile fueling vehicle when the nozzle is removed from its holder or tied to the delivery of fuel that prevents activation of the pumping system.

5707.5.3 Shut-off valve and fuel limit. Mobile fueling vehicles shall be equipped with a *listed* shut-off valve assembly and a fuel limit switch set to a maximum of 30 gallons (116 L).

5707.5.4 Fire extinguisher. An *approved* portable fire extinguisher complying with Section 906 with a minimum rating of 4A:80-B:C shall be provided on the mobile fueling vehicle with signage clearly indicating its location.

5707.5.5 Spill kit. Mobile fueling vehicles shall contain a minimum 5 gallon (19 L) spill kit of an *approved* type.

5707.6 Operations. Mobile fueling vehicles shall be constantly attended during fueling operations with brakes set and warning lights in operation. Mobile fueling vehicles shall not obstruct emergency vehicle access roads.

5707.6.1 Dispensing hose. Where equipped, mobile fueling vehicles shall be positioned in a manner to preclude traffic from driving over the dispensing hose. The dispensing hose shall be properly placed on an *approved* reel or in an *approved* compartment prior to moving the mobile fueling vehicle.

5707.6.2 Drip control. Operators shall place a drip pan or an absorbent pillow under the nozzle and each fuel fill opening prior to and during dispensing operations to catch drips.

5707.6.3 Safety cones. Safety cones or other visual barriers shall be employed as warning devices to highlight the vehicle fueling area. Signs prohibiting smoking or open flames within 25 feet (7620 mm) shall be prominently posted in the vehicle fueling area.

5707.6.4 Vehicle lights. The mobile fueling vehicle flasher lights shall be in operation while dispensing operations are in progress.

5707.6.5 Nighttime deliveries. Nighttime deliveries shall only be made in areas adequately lighted per WAC 296-800-21005.

5707.6.6 Spill reporting. Spills shall be reported in accordance with Section 5003.3.1.

WSR 21-03-079
PROPOSED RULES
BUILDING CODE COUNCIL

[Filed January 19, 2021, 3:07 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-21-054.

Title of Rule and Other Identifying Information: Chapter 51-50 WAC, Amendments to the 2018 International Building

Code and International Existing Building Code, addressing increased beds for adult family homes.

Hearing Location(s): On April 16, 2021, at 10:00 [a.m.], at 1500 Jefferson Street S.E., Olympia, WA 98504. Due to COVID-19, this meeting might be held virtually.

Date of Intended Adoption: May 21, 2021.

Submit Written Comments to: Shannon Pitts, 1500 Jefferson Street S.E., Olympia, WA 98504, email SBCC@des.wa.gov, by April 16, 2021.

Assistance for Persons with Disabilities: Contact Shannon Pitts, phone 360-407-9255, email Shannon.pitts@des.wa.gov [Shannon.pitts@des.wa.gov], by April 12, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposed rule is in response to ESHB 1023 and addresses increasing adult family home beds.

Reasons Supporting Proposal: Required by ESHB 1023.

Statutory Authority for Adoption: RCW 19.27.031 and 19.27.074.

Statute Being Implemented: Chapters 19.27 and 34.05 RCW.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The council is seeking comments on the issues proposed in these changes: WAC 51-50-0200 Definitions, modifies the definition for adult family homes to address conditions that would allow an increase from six beds to eight beds, and WAC 51-50-480200 Definitions, defines adult family homes.

Name of Proponent: Diane Glenn, Chair, state building code council, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Stoyan Bumbalov, 1500 Jefferson Street S.E., Olympia, WA 98504, 360-407-9277; and Enforcement: Local jurisdictions having authority.

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

A cost-benefit analysis is not required under RCW 34.05.328. Exemption per RCW 34.05.328 (5)(b)(v) for statute RCW 19.27.077.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. This will decrease the cost per occupant for impacted projects.

A copy of the detailed cost calculations may be obtained by contacting Stoyan Bumbalov, 1500 Jefferson Street [S.E.], Olympia, WA 08504 [98504], phone 360-407-9277, email Stoyan.bumbalov@des.wa.gov.

January 8, 2021

Diane Glenn
Chair

AMENDATORY SECTION (Amending WSR 20-01-090, filed 12/12/19, effective 7/1/20)

WAC 51-50-0200 Chapter 2—Definitions.

SECTION 202—DEFINITIONS.

ADULT FAMILY HOME. A dwelling, licensed by (~~Washington~~) the state of Washington department of social and health services, in which a person or persons provide personal care, special care, room and board to more than one but not more than six adults who are not related by blood or marriage to the person or persons providing the services. An existing adult family home may provide services to up to eight adults upon approval from the department of social and health services in accordance with RCW 70.128.066.

ASSISTED LIVING FACILITY. A home or other institution, licensed by the state of Washington, providing housing, basic services and assuming general responsibility for the safety and well-being of residents under chapters 18.20 RCW and 388-78A WAC. These facilities may provide care to residents with symptoms consistent with dementia requiring additional security measures.

BOTTLE FILLING STATION. A plumbing fixture connected to the potable water distribution system and sanitary drainage system that is designed and intended for filling personal use drinking water bottles or containers not less than 10 inches (254 mm) in height. Such fixtures can be separate from or integral to a drinking fountain and can incorporate a water filter and a cooling system for chilling the drinking water.

CHILD CARE. The care of children during any period of a 24-hour day.

CHILD CARE, FAMILY HOME. A child care facility, licensed by Washington state, located in the dwelling of the person or persons under whose direct care and supervision the child is placed, for the care of twelve or fewer children, including children who reside at the home.

CLIMATE ZONE. A geographical region that has been assigned climatic criteria as specified in the Washington State Energy Code.

CLUSTER. Clusters are multiple *portable school classrooms* separated by less than the requirements of the building code for separate buildings.

EFFICIENCY DWELLING UNIT. A dwelling unit where all permanent provisions for living, sleeping, eating and cooking are contained in a single room.

HOSPICE CARE CENTER. A building or portion thereof used on a 24-hour basis for the provision of hospice services to terminally ill inpatients.

MASS TIMBER. Structural elements of Type IV construction primarily of solid, built-up, panelized or engineered wood products that meet minimum cross section dimensions of Type IV construction.

NIGHTCLUB. An A-2 Occupancy use under the 2006 *International Building Code* in which the aggregate area of concentrated use of unfixed chairs and standing space that is specifically designated and primarily used for dancing or viewing performers exceeds three hundred fifty square feet, excluding adjacent lobby areas. "Nightclub" does not include theaters with fixed seating, banquet halls, or lodge halls.

NONCOMBUSTIBLE PROTECTION (For MASS TIMBER). Non-combustible material, in accordance with Section 703.5, designed to increase the fire-resistance rating and delay the combustion of mass timber.

PORTABLE SCHOOL CLASSROOM. A prefabricated structure consisting of one or more rooms with direct exterior egress from the classroom(s). The structure is transportable in one or more sections and is designed to be used as an educational space with or without a permanent foundation. The structure shall be capable of being demounted and relocated to other locations as needs arise.

RESIDENTIAL SLEEPING SUITES. A unit that provides multiple rooms or spaces for up to five residents, includes provisions for sleeping and can include provisions for living, eating, sanitation, and kitchen facilities.

SMALL BUSINESS. Any business entity (including a sole proprietorship, corporation, partnership or other legal entity) which is owned and operated independently from all other businesses, which has the purpose of making a profit, and which has fifty or fewer employees.

STAGED EVACUATION. A method of emergency response, that engages building components and trained staff to provide occupant safety during an emergency. Emergency response involves moving or holding certain occupants at temporary locations for a brief period of time before evacuating the building. This response is used by ambulatory surgery facility and assisted living facilities to protect the health and safety of fragile occupants and residents.

WALL, LOAD-BEARING. Any wall meeting either of the following classifications:

1. Any metal or wood stud wall that supports more than 100 pounds per linear foot (1459 N/m) of vertical load in addition to its own weight.
2. Any masonry or concrete, or mass timber wall that supports more than 200 pounds per linear foot (2919 N/m) of vertical load in addition to its own weight.

AMENDATORY SECTION (Amending WSR 20-21-021, filed 10/9/20, effective 11/9/20)

WAC 51-50-480200 Section 201.3—Definitions.

201.3 Terms defined in other codes. Where terms are not defined in this code and are defined in the other International Codes and the Uniform Plumbing Code, such terms shall have the meanings ascribed to them in those codes.

202 General definitions.

ADULT FAMILY HOME. A dwelling, licensed by the state of Washington department of social and health services, in which a person or persons provide personal care, special care, room and board to more than one but not more than six adults who are not related by blood or marriage to the person or persons providing the services. An existing adult family home may provide services to up to eight adults upon approval from the department of social and health services in accordance with RCW 70.128.066.

WSR 21-03-080
PROPOSED RULES
BUILDING CODE COUNCIL

[Filed January 19, 2021, 3:09 p.m.]

January 8, 2021

Diane Glenn

Chair

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-23-096.

Title of Rule and Other Identifying Information: Chapter 51-50 WAC, amendments to the 2018 International Building Code and International Existing Building Code, addressing increased beds for adult family homes.

Hearing Location(s): On April 16, 2021, at 10:00 [a.m.], at 1500 Jefferson Street S.E., Olympia, WA 98504. Due to COVID-19, this meeting might be held virtually.

Date of Intended Adoption: May 21, 2021.

Submit Written Comments to: Shannon Pitts, 1500 Jefferson Street S.E., Olympia, WA 98504, email SBCC@des.wa.gov, by April 16, 2021.

Assistance for Persons with Disabilities: Contact Shannon Pitts, phone 360-407-9255, email Shannon.pitts@des.wa.gov, by April 12, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposed rule is in response to ESHB 1023 and addresses increasing adult family home beds.

Reasons Supporting Proposal: Required by ESHB 1023.

Statutory Authority for Adoption: RCW 19.27.031 and 19.27.074.

Statute Being Implemented: Chapters 19.27 and 34.05 RCW.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The council is seeking comments on the issues proposed in this change: WAC 51-51-0202 Definitions, modifies the definition for adult family homes to address conditions that would allow an increase from six beds to eight beds.

Name of Proponent: Diane Glenn, Chair, state building code council, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Stoyan Bumbalov, 1500 Jefferson Street S.E., Olympia, WA 98504, 360-407-9277; Enforcement: Local jurisdictions having authority.

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

A cost-benefit analysis is not required under RCW 34.05.328. Exemption per RCW 34.05.328 (5)(b)(v) for statute RCW 19.27.077.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. This will decrease the cost per occupant for impacted projects.

A copy of the detailed cost calculations may be obtained by contacting Stoyan Bumbalov, 1500 Jefferson Street [S.E.], Olympia, WA 08504 [98504], phone 360-407-9277, email Stoyan.bumbalov@des.wa.gov.

AMENDATORY SECTION (Amending WSR 20-21-041, filed 10/13/20, effective 11/13/20)

WAC 51-51-0202 Section R202—Definitions.

ADULT FAMILY HOME. ~~((means))~~ A dwelling, licensed by the state of Washington department of social and health services, in which a person or persons provide personal care, special care, room and board to more than one but not more than six adults who are not related by blood or marriage to the person or persons providing the services. An existing adult family home may provide services to up to eight adults upon approval from the department of social and health services in accordance with RCW 70.128.066.

BALANCED WHOLE HOUSE VENTILATION. Balanced whole house ventilation is defined as any combination of concurrently operating residential unit mechanical exhaust and mechanical supply whereby the total mechanical exhaust airflow rate is within 10 percent or 5 cfm, whichever is greater, of the total mechanical supply airflow rate. Intermittent dryer exhaust, intermittent range hood exhaust, and intermittent toilet room exhaust airflow rates above the residential dwelling or sleeping unit minimum ventilation rate are exempt from the balanced airflow calculation.

BATTERY SYSTEM, STATIONARY STORAGE. This definition is not adopted.

BUILDING, EXISTING. A building or structure erected prior to the adoption of this code, or one that has passed a final inspection.

BUILDING. Any one- or two-family dwelling or *townhouse*, or portion thereof used or intended to be used for human habitation, for living, sleeping, cooking or eating purposes, or any combination thereof, or any accessory structure.

CHILD CARE, FAMILY HOME. A child care facility, licensed by Washington state, located in the dwelling of the person or persons under whose direct care and supervision the child is placed, for the care of twelve or fewer children, including children who reside at the home.

CHILD DAY CARE, shall, for the purposes of these regulations, mean the care of children during any period of a 24 hour day.

CONDITIONED SPACE. An area, 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.

DISTRIBUTED WHOLE HOUSE VENTILATION. A whole house ventilation system shall be considered distributed when it supplies outdoor air directly (not transfer air) to each dwelling or sleeping unit habitable space (living room, den, office,

interior adjoining spaces or bedroom), and exhausts air from all kitchens and bathrooms directly outside.

DWELLING UNIT. A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. Dwelling units may also include the following uses:

1. Adult family homes, foster family care homes and family day care homes licensed by the Washington state department of social and health services.

2. Offices, mercantile, food preparation for off-site consumption, personal care salons or similar uses which are conducted primarily by the occupants of the dwelling unit and are secondary to the use of the unit for dwelling purposes, and which do not exceed 500 square feet (46.4 m²).

EGRESS ROOF ACCESS WINDOW. A skylight or roof window designed and installed to satisfy the *Emergency Escape and Rescue Opening* requirements of Section R310.2.

ENERGY STORAGE SYSTEMS (ESS). One or more devices, assembled together, capable of storing energy in order to supply electrical energy at a future time.

FIRE SEPARATION DISTANCE. The distance measured from the foundation wall or face of the wall framing, whichever is closer, to one of the following:

1. To the closest interior lot line; or
2. To the centerline of a street, an alley or public way; or
3. To an imaginary line between two buildings on the lot.

The distance shall be measured at a right angle from the wall.

FLOOR AREA. The area within the inside perimeter of exterior walls of the building. The floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above.

LANDING PLATFORM. A landing provided as the top step of a stairway accessing a *Sleeping Loft*.

LOCAL EXHAUST. An exhaust system that uses one or more fans to exhaust air from a specific room or rooms within a residential dwelling or sleeping unit.

LOT. A measured portion or parcel of land considered as a unit having fixed boundaries.

LOT LINE. The line which bounds a plot of ground described as a *lot* in the title to the property.

MIXED VENTILATION ZONE. This definition is not adopted.

SALT WATER COASTAL AREA. Those areas designated as salt water coastal areas by the local jurisdiction.

SLEEPING LOFT. A sleeping space on a floor level located more than 30 inches (762 mm) above the main floor and open to the main floor on one or more sides with a ceiling height of less than 6 feet 8 inches (2032 mm).

SMALL BUSINESS. Any business entity (including a sole proprietorship, corporation, partnership or other legal entity) which is owned and operated independently from all other

businesses, which has the purpose of making a profit, and which has fifty or fewer employees.

TOWNHOUSE. A building that contains three or more attached *townhouse units*.

TOWNHOUSE UNIT. A single-family *dwelling unit* in a *townhouse* that extends from foundation to roof and that has a yard or public way on not less than two sides that extends at least 50 percent of the length of each of these two sides.

WHOLE HOUSE VENTILATION SYSTEM. A mechanical ventilation system, including fans, controls, and ducts, which replaces, by direct means, air from the habitable rooms with outdoor air.

WSR 21-03-081

PROPOSED RULES

BUILDING CODE COUNCIL

[Filed January 19, 2021, 3:12 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-21-054.

Title of Rule and Other Identifying Information: Chapter 51-50 WAC, Amendments to the 2018 International Building Code, addressing electrical vehicle charging stations.

Hearing Location(s): On April 16, 2021, at 10:00 [a.m.], at 1500 Jefferson Street S.E., Olympia, WA 98504. Due to COVID-19, this meeting might be held virtually.

Date of Intended Adoption: May 21, 2021.

Submit Written Comments to: Shannon Pitts, 1500 Jefferson Street S.E., Olympia, WA 98504, email SBCC@des.wa.gov, by April 16, 2021.

Assistance for Persons with Disabilities: Contact Shannon Pitts, phone 360-407-9255, email Shannon.pitts@des.wa.gov [Shannon.pitts@des.wa.gov], by April 12, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposed rule is in response to ETSHB [E3SHB] 1257 and addresses electrical vehicle charging stations.

Reasons Supporting Proposal: Required by ETSHB [E3SHB] 1257.

Statutory Authority for Adoption: RCW 19.27.031 and 19.27.074.

Statute Being Implemented: Chapters 19.27 and 34.05 RCW.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The council is seeking comments on the issues proposed in these changes: WAC 51-50-0427 sections, 427.1 Modifies the scope of projects impacted, 427.2 Changes the percentage from five to ten, 427.3 Addresses electrical rooms, 427.4 Addresses load management infrastructure, 427.5 Changes the percentage from five to ten and address[es] how to count accessible stalls.

Name of Proponent: Diane Glenn, Chair, state building code council, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Stoyan Bumbalov, 1500 Jefferson Street S.E., Olympia, WA 98504, 360-407-9277; and Enforcement: Local jurisdictions having authority.

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

A cost-benefit analysis is not required under RCW 34.05.328. Exemption per RCW 34.05.328 (5)(b)(v) for statute RCW 19.27.077.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. This will increase the cost of construction for impacted project[s] but the cost is minor when compared to the overall development cost.

A copy of the detailed cost calculations may be obtained by contacting Stoyan Bumbalov, 1500 Jefferson Street [S.E.], Olympia, WA 08504 [98504], phone 360-407-9277, email Stoyan.bumbalov@des.wa.gov.

January 8, 2021
Diane Glenn
Chair

AMENDATORY SECTION (Amending WSR 16-03-064, filed 1/19/16, effective 7/1/16)

WAC 51-50-0427 Section 427—Electric vehicle charging infrastructure.

427.1 Scope. The provisions of this section shall apply to the construction of new buildings (~~(serving Group B, Group R-1 hotel and motel only, and Group R-2 occupancies)~~).

EXCEPTIONS:

1. Occupancies classified as Group R-3 or Group U.
2. Group A, Group E, or Group M occupancies, except where employee parking spaces are designated. The provisions of Section 427 shall apply only to those designated employee parking spaces.

427.2 Required electric vehicle charging infrastructure. Where parking is provided, (~~(five)~~) ten percent of parking spaces shall be provided with electric vehicle charging infrastructure in compliance with Sections 427.3, 427.4 and 427.5. When the calculation of percent served results in a fractional parking space, the applicant shall round up to the next whole number.

(EXCEPTION: Group R and Group B occupancies served by less than 20 on-site parking spaces.)

427.3 Electrical room(s). Electrical room(s) serving buildings with on-site parking (~~(areas shall be designed)~~) spaces must be sized to accommodate the potential for electrical equipment and distribution required to serve a minimum of 20 percent of the total parking spaces with 208/240 V 40-amp, circuit or equivalent electric vehicle charging infrastructure.

427.4 Electric vehicle charging infrastructure. Electric vehicle charging infrastructure shall (~~(be installed meeting one of)~~) meet the following requirements:

1. A minimum number of 208/240 V 40-amp, circuit or equivalent electric vehicle charging stations required to serve the parking spaces specified in section 427.2. The electric

vehicle charging stations shall be located to serve spaces designated for parking and charging electric vehicles(~~(-or-)~~).

2. Additional service capacity, space for future meters, panel capacity or space for additional panels, and raceways for future installation of electric vehicle charging stations. The service capacity and raceway size shall be designed to accommodate the future installation of the number of 208/240 V 40-amp, circuit or equivalent electric vehicle charging stations specified in section 427.2. The raceway shall terminate at spaces designated for parking and charging electric vehicles in the future.

Where designated electric vehicle charging locations serve exterior on-grade parking spaces that are located more than 4 feet from a building, raceways shall be extended below grade to a pull box in the vicinity of the designated future electric vehicle charging locations or stub above grade in the vicinity of the designated future electric vehicle charging locations, protected from vehicles by a curb or other device.

EXCEPTION: In lieu of surface-mounted raceway between the electrical panel and the designated electric vehicle charging locations, it is permitted to provide permanent markings indicating the pathway for future raceway, and one-inch diameter capped sleeves through each wall and floor assembly that are penetrated along that route. This pathway and the locations of capped sleeves shall also be indicated on the electrical plans. Raceway shall be installed for any portion of the pathway located below slabs, below grade, or within floor, wall or roof assemblies.

Load management infrastructure may be used to adjust the size and capacity of the required building electric service equipment and circuits on the customer facilities, as well as electric utility owned infrastructure, as allowed by applicable local and national electric codes.

427.5 Electric vehicle charging infrastructure for accessible parking spaces. When electric vehicle charging infrastructure is required, (~~(one)~~) ten percent of accessible parking space, rounded to the next whole number, shall be (~~(served by)~~) provided with electric vehicle charging infrastructure. The electric vehicle charging infrastructure may also serve adjacent parking spaces not designated as accessible parking. A maximum of ten percent rounded to the next whole number, of the accessible parking spaces are allowed to be included in the total number of electric vehicle parking spaces required under Section 427.2.

WSR 21-03-084
PROPOSED RULES
OLYMPIC COLLEGE

[Filed January 19, 2021, 3:56 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-24-106.

Title of Rule and Other Identifying Information: Olympic College student conduct code, chapter 132C-120 WAC; and repeal of Olympic College grievance procedure, chapter 132C-285 WAC.

Hearing Location(s): On February 23, 2021, at 1:00 p.m., <https://olympic.zoom.us/j/96809052641>. Meeting will held via Zoom in accordance with the Open Public Meeting[s] Act.

Date of Intended Adoption: February 24, 2021.

Submit Written Comments to: Adam Morris, 1600 Chester Avenue, Bremerton, WA 98337-1699, email amorris@olympic.edu by February 18, 2021.

Assistance for Persons with Disabilities: Contact human resources, Americans with Disabilities Act coordinator, phone 360-475-7300, email hr@olympic.edu, by February 15, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: On May 19, 2020, the Federal Register printed amendments to Title IX regulations (85 F.R. 30575/34 C.F.R. Part 106). The new regulations address the grievance process for formal complaints of sexual harassment and require the college to revise its student conduct code. The student conduct code will also be updated consistent with best practices. As such procedures can be implemented and approved as a matter of college policy, the grievance procedure will be repealed from WAC and be replaced by the Olympic College discrimination and harassment procedure #200-30, which has been updated to conform with the recent amendments to the Title IX regulations.

Statutory Authority for Adoption: Chapter 34.05 RCW; and RCW 28B.50.140(13); 20 U.S.C. § 1092(f); Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq.

Statute Being Implemented: Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq.

Rule is necessary because of federal law, Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq.

Name of Proponent: Olympic College, public.

Name of Agency Personnel Responsible for Drafting: Brendon Taga, 1600 Chester Avenue, Bremerton, WA 98337-1699, 360-475-7476; Implementation: Cheryl Nunez, 1600 Chester Avenue, Bremerton, WA 98337-1699, 360-475-7125; and Enforcement: Brendon Taga, 1600 Chester Avenue, Bremerton, WA 98337-1699, 360-475-7476.

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

A cost-benefit analysis is not required under RCW 34.05.328. A cost-benefit analysis is not required under RCW 34.05.328 because neither the college nor the rule is subject to such a requirement under RCW 34.05.328(5).

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

Is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Citation of the specific federal statute or regulation and description of the consequences to the state if the rule is not adopted: Title IX of the Federal Education Act Amendment of 1972, 20 U.S.C. § 1681 et seq., and 34 C.F.R. Part 106 as amended on May 19, 2020. Failure to adopt procedures to address allegations of sexual harassment by students that conform with Title IX and the recently amended regulations could result in the college incurring significant penalties

imposed by the United States Department of Education up to and including the loss of federal funding.

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect; and rule content is explicitly and specifically dictated by statute; and rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

January 15, 2021

Martin Cavalluzzi

President

SUPPLEMENTAL TITLE IX STUDENT CONDUCT PROCEDURES

NEW SECTION

WAC 132C-120-320 Order of precedence. These supplemental procedures apply to allegations of sexual harassment subject to Title IX jurisdiction pursuant to regulations promulgated by the United States Department of Education. See 34 C.F.R. Part 106. To the extent these supplemental hearing procedures conflict with Olympic College's standard disciplinary procedures, WAC 132C-120-010 through 132C-120-315 these supplemental procedures shall take precedence.

NEW SECTION

WAC 132C-120-325 Prohibited conduct under Title IX. Pursuant to RCW 28B.50.140(13) and Title IX of the Education Amendments Act of 1972, 20 U.S.C. Sec. 1681, the college may impose disciplinary sanctions against a student who commits, attempts to commit, or aids, abets, incites, encourages, or assists another person to commit, an act(s) of "sexual harassment."

For purposes of these supplemental procedures, "sexual harassment" encompasses the following conduct:

(1) Quid pro quo harassment. A college employee conditioning the provision of an aid, benefit, or service of the college on an individual's participation in unwelcome sexual conduct.

(2) Hostile environment. Unwelcome conduct that a reasonable person would find to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the college's educational programs or activities, or employment.

(3) Sexual assault. Sexual assault includes the following conduct:

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

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

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

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

(d) Statutory rape. Consensual sexual intercourse between someone who is eighteen years of age or older and someone who is under the age of sixteen.

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

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

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

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

(i) The length of the relationship;

(ii) The type of relationship; and

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

(6) Stalking. Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress.

NEW SECTION

WAC 132C-120-330 Title IX jurisdiction. (1) These supplemental procedures apply only if the alleged misconduct:

(a) Occurred in the United States;

(b) Occurred during a college educational program or activity; and

(c) Meets the definition of sexual harassment as that term is defined in these supplemental procedures.

(2) For purposes of these supplemental procedures, an "educational program or activity" is defined as locations, events, or circumstances over which the college exercised substantial control over both the respondent and the context in which the alleged sexual harassment occurred. This defini-

tion includes any building owned or controlled by a student organization that is officially recognized by the college.

(3) Proceedings under this supplemental procedure must be dismissed if the decision maker determines that one or all of the requirements of subsection (1)(a) through (c) of this section have not been met. Dismissal under this supplemental procedure does not prohibit the college from pursuing other disciplinary action based on allegations that the respondent violated other provisions of the college's student conduct code, WAC 132C-120-065.

(4) If the student conduct officer determines the facts in the investigation report are not sufficient to support Title IX jurisdiction and/or pursuit of a Title IX violation, the student conduct officer will issue a notice of dismissal in whole or part to both parties explaining why some or all of the Title IX claims have been dismissed.

NEW SECTION

WAC 132C-120-335 Initiation of discipline. (1) Upon receiving the Title IX investigation report from the Title IX coordinator, the student conduct officer will independently review the report to determine whether there are sufficient grounds to pursue a disciplinary action against the respondent for engaging in prohibited conduct under Title IX.

(2) If the student conduct officer determines that there are sufficient grounds to proceed under these supplemental procedures, the student conduct officer will initiate a Title IX disciplinary proceeding by filing a written disciplinary notice with the chair of the student conduct committee and serving the notice on the respondent and the complainant, and their respective advisors. The notice must:

(a) Set forth the basis for Title IX jurisdiction;

(b) Identify the alleged Title IX violation(s);

(c) Set forth the facts underlying the allegation(s);

(d) Identify the range of possible sanctions that may be imposed if the respondent is found responsible for the alleged violation(s);

(e) Explain that the complainant and the respondent are entitled to be accompanied by their chosen advisors during the hearing and that:

(i) The advisors will be responsible for questioning all witnesses on the party's behalf;

(ii) An advisor may be an attorney; and

(iii) The college will appoint the party an advisor of the college's choosing at no cost to the party, if the party fails to do so.

(3) Explain that if a party fails to appear at the hearing, a decision of responsibility may be made in their absence.

NEW SECTION

WAC 132C-120-340 Prehearing procedure. (1) Upon receiving the disciplinary notice, the chair of the student conduct committee will send a hearing notice to all parties, in compliance with WAC 132C-120-122. In no event will the hearing date be set less than ten days after the Title IX coordinator provided the final investigation report to the parties.

(2) A party may choose to have an attorney serve as their advisor at the party's own expense. This right will be waived unless, at least five days before the hearing, the attorney files

a notice of appearance with the committee chair with copies to all parties and the student conduct officer.

(3) In preparation for the hearing, the parties will have equal access to all evidence gathered by the investigator during the investigation, regardless of whether the college intends to offer the evidence at the hearing.

NEW SECTION

WAC 132C-120-345 Rights of parties. (1) The college's student conduct procedures, WAC 132C-120-010 through 132C-120-315 and these supplemental procedures shall apply equally to all parties.

(2) The college bears the burden of offering and presenting sufficient testimony and evidence to establish that the respondent is responsible for a Title IX violation by a preponderance of the evidence.

(3) The respondent will be presumed not responsible until such time as the disciplinary process has been finally resolved.

(4) During the hearing, each party shall be represented by an advisor. The parties are entitled to an advisor of their own choosing and the advisor may be an attorney. If a party does not choose an advisor, then the Title IX coordinator will appoint an advisor of the college's choosing on the party's behalf at no expense to the party.

NEW SECTION

WAC 132C-120-350 Evidence. The introduction and consideration of evidence during the hearing is subject to the following procedures and restrictions:

(1) **Relevance:** The committee chair shall review all questions for relevance and shall explain on the record their reasons for excluding any question based on lack of relevance.

(2) **Relevance means** that information elicited by the question makes facts in dispute more or less likely to be true.

(3) Questions or evidence about a complainant's sexual predisposition or prior sexual behavior are not relevant and must be excluded, unless such question or evidence:

(a) Is asked or offered to prove someone other than the respondent committed the alleged misconduct; or

(b) Concerns specific incidents of prior sexual behavior between the complainant and the respondent, which are asked or offered on the issue of consent.

(4) **Cross-examination required:** If a party or witness does not submit to cross-examination during the live hearing, the committee must not rely on any statement by that party or witness in reaching a determination of responsibility.

(5) **No negative inference:** The committee may not make an inference regarding responsibility solely on a witness's or party's absence from the hearing or refusal to answer questions.

(6) **Privileged evidence:** The committee shall not consider legally privileged information unless the holder has effectively waived the privilege. Privileged information includes, but is not limited to, information protected by the following:

(a) Spousal/domestic partner privilege;

(b) Attorney-client and attorney work product privileges;

(c) Privileges applicable to members of the clergy and priests;

(d) Privileges applicable to medical providers, mental health therapists, and counselors;

(e) Privileges applicable to sexual assault and domestic violence advocates; and

(f) Other legal privileges identified in RCW 5.60.060.

NEW SECTION

WAC 132C-120-355 Initial order. (1) In addition to complying with WAC 132C-120-122, the student conduct committee will be responsible for conferring and drafting an initial order that:

(a) Identifies the allegations of sexual harassment;

(b) Describes the grievance and disciplinary procedures, starting with filing of the formal complaint through the determination of responsibility, including notices to parties, interviews with witnesses and parties, site visits, methods used to gather evidence, and hearings held;

(c) Makes findings of fact supporting the determination of responsibility;

(d) Reaches conclusions as to whether the facts establish whether the respondent is responsible for engaging in sexual harassment in violation of Title IX;

(e) Contains a statement of, and rationale for, the committee's determination of responsibility for each allegation;

(f) Describes any disciplinary sanction or conditions imposed against the respondent, if any;

(g) Describes to what extent, if any, complainant is entitled to remedies designed to restore or preserve complainant's equal access to the college's education programs or activities; and

(h) Describes the process for appealing the initial order to the college president.

(2) The committee chair will serve the initial order on the parties simultaneously.

NEW SECTION

WAC 132C-120-360 Appeals. (1) The parties shall have the right to appeal from the initial order's determination of responsibility and/or dismissal of an allegation(s) of sexual harassment in a formal complaint. The right to appeal will be subject to the same procedures and time frames set forth in WAC 132C-120-139.

(2) The president or their delegate will determine whether the grounds for appeal have merit, provide the rationale for this conclusion, and state whether the disciplinary sanction and condition(s) imposed in the initial order are affirmed, vacated, or amended, and, if amended, set forth any new disciplinary sanction and/or condition(s).

(3) President's office shall serve the final decision on the parties simultaneously.

WSR 21-03-085
PROPOSED RULES
BATES TECHNICAL COLLEGE

[Filed January 19, 2021, 4:25 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-24-110.

Title of Rule and Other Identifying Information: Amending chapter 495A-108 WAC, Practice and procedure, to update and align with current practice and procedure of Bates Technical College.

Hearing Location(s): On March 9, 2021, at 1:00 - 2:00 p.m. Due to COVID-19, public hearing held via Zoom platform. Join Zoom meeting <https://batestech.zoom.us/j/83318501076>.

Date of Intended Adoption: April 1, 2021.

Submit Written Comments to: Dr. Jean Hernandez, 1101 South Yakima Avenue, Room A332, Tacoma, WA 98405-4895, email jehernandez@batestech.edu, by February 24, 2021.

Assistance for Persons with Disabilities: Contact Dr. Jean Hernandez, email jehernandez@batestech.edu, by February 24, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Amending chapter 495A-108 WAC, Practice and procedure, to reflect current practices.

Reasons Supporting Proposal: See purpose above.

Statutory Authority for Adoption: RCW 28B.50.140; chapter 34.05 RCW.

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

Name of Proponent: Bates Technical College, governmental.

Name of Agency Personnel Responsible for Drafting: Dr. Jean Hernandez, Bates Technical College, jehernandez@batestech.edu; Implementation and Enforcement: Office of the President, Bates Technical College, 253-680-7105.

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

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

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

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; rules are adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of state-wide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule; rules only correct typographical errors, make address or name changes, or clarify language of a

rule without changing its effect; and rule content is explicitly and specifically dictated by statute.

January 19, 2021

Dr. Jean Hernandez

Special Assistant to the President

AMENDATORY SECTION (Amending WSR 92-12-017, filed 5/26/92, effective 6/26/92)

WAC 495A-108-010 Adoption of model rules of procedure. The model rules of procedure adopted by the chief administrative law judge pursuant to RCW 34.05.250 are adopted for use at (~~this college~~) Bates Technical College District 28. Those rules may be found in chapter 10-08 WAC. Other procedural rules adopted in this title are supplementary to the model rules of procedure. In the case of a conflict between the model rules of procedure and procedural rules previously adopted by this college, the model rules prevail.

AMENDATORY SECTION (Amending WSR 92-12-017, filed 5/26/92, effective 6/26/92)

WAC 495A-108-020 Appointment of presiding officers. The president or (~~president's~~) designee shall (~~designate~~) appoint a presiding officer for an adjudicative proceeding. The presiding officer shall be an administrative law judge, a member in good standing of the Washington State Bar Association, a panel of individuals, the president or (~~his or her~~) designee, or any combination of the above. Where more than one individual is (~~designated~~) appointed to be the presiding officer, the president or (~~president's~~) designee shall designate one person to make decisions concerning discovery, closure, means of recording adjudicative proceedings, and similar matters.

AMENDATORY SECTION (Amending WSR 92-12-017, filed 5/26/92, effective 6/26/92)

WAC 495A-108-030 Method of recording. Proceedings (~~shall~~) will be recorded by a method determined by the presiding officer, among those available under the model rules of procedure.

AMENDATORY SECTION (Amending WSR 92-12-017, filed 5/26/92, effective 6/26/92)

WAC 495A-108-040 Application for adjudicative proceeding. An application for adjudicative proceeding shall be in writing. Application forms are available at the following address: Office of the President, Bates Technical College, Downtown Campus, 1101 South Yakima Avenue, Tacoma, WA 98405-4895.

Written application for an adjudicative proceeding should be submitted to the above address within twenty days of the date of the agency action (~~giving~~) that gave rise to the application, unless provided for otherwise by statute or rule.

AMENDATORY SECTION (Amending WSR 92-12-017, filed 5/26/92, effective 6/26/92)

WAC 495A-108-050 Brief adjudicative procedures.

This rule is adopted in accordance with RCW 34.05.482 through 34.05.494, the provisions of which are adopted by reference. In addition to those proceedings specified elsewhere in college regulations, brief adjudicative procedures shall be used in all matters related to:

- (1) Residency determinations;
- (2) Challenges to contents of education records; or
- (3) ~~((Student conduct proceedings;~~
- (4) ~~Parking violations;~~
- (5) Outstanding debts owed by students or employees;
- (6) ~~Loss of eligibility for participation in college-sponsored athletic events).~~

AMENDATORY SECTION (Amending WSR 92-12-017, filed 5/26/92, effective 6/26/92)

WAC 495A-108-060 Discovery. Discovery in adjudicative proceedings may be permitted at the discretion of the presiding officer. In permitting discovery, the presiding officer shall refer to the civil rules of procedure. The presiding officer may control the frequency and nature of discovery permitted and order discovery conferences to discuss discovery issues.

AMENDATORY SECTION (Amending WSR 92-12-017, filed 5/26/92, effective 6/26/92)

WAC 495A-108-070 Procedure for closing parts of the hearings. Any party may apply for a protective order to close part of a hearing. The party making the request shall state the reasons for making the application to the presiding officer. If the other party opposes the request, a written response to the request shall be made within ten days of the request to the presiding officer. The presiding officer shall determine which, if any, parts of the proceeding shall be closed and state the reasons in writing within twenty days of receiving the request.

AMENDATORY SECTION (Amending WSR 92-12-017, filed 5/26/92, effective 6/26/92)

WAC 495A-108-080 Recording devices. No cameras or recording devices are allowed in those parts of the proceedings that the presiding officer has determined shall be closed under WAC 495A-108-070, except for the method of official recording selected by the college.

**WSR 21-03-086
PROPOSED RULES
BATES TECHNICAL COLLEGE**

[Filed January 19, 2021, 4:28 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-24-111.

Title of Rule and Other Identifying Information: Repealing chapter 495A-310 WAC, Grievance procedures—Handicapped.

Hearing Location(s): On March 11, 2021, at 11:00 a.m. - 12:00 p.m. Due to COVID-19, public hearing held via Zoom virtual platform. Join Zoom meeting <https://batestech.zoom.us/j/89128328304>.

Date of Intended Adoption: April 1, 2021.

Submit Written Comments to: Dr. Jean Hernandez, 1101 South Yakima Avenue, Room A332, Tacoma, WA 98405-4895, email jehernandez@batestech.edu, by February 24, 2021.

Assistance for Persons with Disabilities: Contact Dr. Jean Hernandez, due to COVID-19, please use email to contact, email jehernandez@batestech.edu, by February 24, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Repealing chapter 495A-310 WAC, Grievance procedures—Handicapped.

Reasons Supporting Proposal: Repealing.

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

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

Name of Proponent: Bates Technical College, governmental.

Name of Agency Personnel Responsible for Drafting: Dr. Jean Hernandez, Bates Technical College, jehernandez@batestech.edu; Implementation and Enforcement: Office of the President, Bates Technical College, 253-680-7105.

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

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

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

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; rules are adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule; rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect; and rule content is explicitly and specifically dictated by statute.

January 19, 2021

Dr. Jean Hernandez

Special Assistant to the President

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 495A-310-010 Preamble.

WAC 495A-310-020 Informal procedure.

WAC 495A-310-030 Formal procedure.

WAC 495A-310-040 Other remedies.

WSR 21-03-090
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Filed January 20, 2021, 8:52 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-22-107 on November 4, 2020.

Title of Rule and Other Identifying Information: The department is amending several regulations in WAC chapters that affect harvesting clams and oysters for personal use and include the following: WAC 220-330-110 Clams other than razor clams, and mussels—Areas and seasons, and 220-330-140 Oysters—Areas and seasons.

Hearing Location(s): On February 23, 2021, at 5:30 p.m. Zoom webinar. Register in advance for this webinar <https://us02web.zoom.us/join/9tJNt6u9474>. This meeting will take place via webinar. The public may participate in the meeting.

Date of Intended Adoption: February 24, 2021.

Submit Written Comments to: Ben Power, Washington Department of Fish and Wildlife Rules Coordinator, P.O. Box 43152, Olympia, WA 98501, email Rules.coordinator@dfw.wa.gov, by February 23, 2021.

Assistance for Persons with Disabilities: Contact Delores Noyes, phone 360-902-2349, TTY 360-902-2207, email Delores.noyes@dfw.wa.gov, by February 23, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: In accordance with recent clam and oyster survey data, recreational harvest projections, comanagement agreements, and public health considerations, recreational clam and oyster seasons require extension or shortening on some public beaches. This rule proposal reflects these changes.

Reasons Supporting Proposal: The amendments to the rules will perpetuate shellfish resources while maximizing recreational fishing opportunity and protecting public health.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.055, 77.12.045, and 77.12.047.

Statute Being Implemented: RCW 77.04.012, 77.04.055, 77.12.045, and 77.12.047.

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

Name of Proponent: Governmental.

Name of Agency Personnel Responsible for Drafting: Camille Speck, 375 Hudson Street, Port Townsend, WA 98368, 360-302-3030; Implementation: Kelly Cunningham,

1111 Washington Street S.E., Olympia, WA 98501, 360-302-2325; and Enforcement: Chief Steve Bear, 1111 Washington Street S.E., Olympia, WA 98501, 360-902-2373.

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

A cost-benefit analysis is not required under RCW 34.05.328. These rule changes clarify dates for anticipated open and closed periods and areas for harvesting clams and oysters for personal use. There are no anticipated professional services required to comply.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. These rule changes clarify dates for anticipated open and closed periods and areas for harvesting clams and oysters for personal use. There are no anticipated professional services required to comply. Based on the department's analysis, the proposed rules do not require any additional equipment, supplies, labor, or administrative costs on the part of the public or businesses.

January 21, 2021

Ben Power

Rules Coordinator

AMENDATORY SECTION (Amending WSR 20-05-019, filed 2/7/20, effective 3/9/20)

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

(1) Ala Spit: All public tidelands of Ala Spit are open May 1 through May 31 only.

(2) Alki Park: Closed year-round.

(3) Alki Point: Closed year-round.

(4) Bay Center Oyster Reserve (Willapa Harbor reserves): Palix River channel, extending from the Palix River bridge to beyond Bay Center to the north of Goose Point, is closed year-round.

(5) Bay View State Park: Closed year-round.

(6) Belfair State Park: Open January 1 through ~~((May))~~ March 31 and August 1 through ~~((December 31))~~ September 30 only.

(7) Blaine Marine Park: Closed year-round.

(8) Blake Island State Park Marina: Closed year-round.

(9) Blowers Bluff North: Closed year-round.

(10) Brown's Point Lighthouse: Closed year-round.

(11) Budd Inlet: All state-owned tidelands of Budd Inlet south of a line drawn from the southern boundary of Burfoot Park west to the opposite shore near 68th Avenue N.W. are closed year-round.

(12) Cama Beach State Park: Closed year-round.

(13) Camano Island State Park: Closed year-round.

(14) Chuckanut Bay: All tidelands of Chuckanut Bay north of the railroad trestle are closed year-round.

(15) Coupeville: Closed year-round.

- (16) Cultus Bay: Closed year-round.
- (17) Dash Point State Park: Open September 1 through May 31 only.
- (18) Dave Mackie County Park: Closed year-round.
- ~~((18))~~ (19) Deception Pass State Park: Open year-round, except the tidelands of Rosario Bay from the northern park boundary, south to Rosario Head (48° 25.03'N, 122° 39.98'W) are closed year-round.
- (20) Des Moines City Park: Closed year-round.
- ~~((19))~~ (21) Discovery Park: Closed year-round.
- ~~((20))~~ (22) DNR-142: Closed year-round.
- ~~((21))~~ (23) DNR-144 (Sleepers): Closed year-round.
- ~~((22))~~ (24) Dockton County Park: Closed year-round.
- ~~((23))~~ (25) Dosewallips State Park: The area defined by boundary markers and signs posted on the beach is open June ~~((45))~~ 1 through September 30 only.
- ~~((24))~~ (26) Dosewallips State Park South: Closed year-round south of the line defined by boundary markers and signs posted on the beach.
- ~~((25))~~ (27) Drayton Harbor: All public tidelands of Drayton Harbor are open year-round, except tidelands identified as prohibited or unclassified by the department of health and defined by boundary markers and signs posted on the beach are closed year-round.
- ~~((26))~~ (28) Duckabush: Open November 1 through April 30 only.
- ~~((27))~~ (29) Dungeness Spit and Dungeness National Wildlife Refuge Tidelands: Open May 15 through September 30 only.
- ~~((28))~~ (30) Eagle Creek: Open June 1 through August 31 only.
- ~~((29))~~ (31) East San de Fuca: Tidelands east of the Rolling Hills Glencairn Community dock are closed year-round.
- ~~((30))~~ (32) Eld Inlet Oyster Reserves (Mud Bay reserves): Closed year-round.
- ~~((31))~~ (33) English Camp: Tidelands between the National Park Service dinghy dock to the southern park boundary are closed year-round.
- ~~((32))~~ (34) Evergreen Rotary Park (Port Washington Narrows): Closed year-round.
- ~~((33))~~ (35) Fay Bainbridge Park: Closed year-round.
- ~~((34))~~ (36) Fort Flagler State Park: Open January 1 through April 15 and ~~((July))~~ June 1 through December 31 only, except that portion of Rat Island and the spit west and south of the park boundary is closed year-round from two white posts on the north end of the island at the vegetation line south to the end of the island.
- ~~((35))~~ (37) Freeland County Park: Open October 1 through May 31 only.
- ~~((36))~~ (38) Frye Cove County Park: Open May 1 through May 31 only.
- ~~((37))~~ (39) Fudge Point State Park: Closed year-round.
- ~~((38))~~ (40) Gertrude Island: All tidelands of Gertrude Island are closed year-round.
- ~~((39))~~ (41) Golden Gardens: Closed year-round.
- ~~((40))~~ (42) Graveyard Spit: Closed year-round.
- ~~((41))~~ (43) Guillemot Cove Nature Reserve: Closed year-round.
- (44) Guss Island: All tidelands of Guss Island are closed year-round.
- ~~((42))~~ (45) Hoodsport: Tidelands at Hoodsport Salmon Hatchery are closed year-round.
- ~~((43))~~ (46) Hope Island State Park (South Puget Sound): Open May 1 through May 31 only.
- ~~((44))~~ (47) Howarth Park/Darlington Beach: Closed year-round.
- ~~((45))~~ (48) Illahee State Park: Open April 1 through July 31 only.
- ~~((46))~~ (49) Indian Island County Park/Lagoon Beach: From the jetty boundary with Port Townsend Ship Canal east to the beach access stairs on Flagler Road near milepost 4 open ~~((August 15))~~ September 1 through September 30 only.
- ~~((47))~~ (50) Joemma Beach State Park: Closed year-round.
- ~~((48))~~ (51) Kayak Point County Park: Closed year-round.
- ~~((49))~~ (52) Kitsap Memorial State Park: Closed year-round.
- ~~((50))~~ (53) Kopachuck State Park: Open April 1 through May 31 only.
- ~~((51))~~ (54) Lent Landing (Port Washington Narrows): Closed year-round.
- ~~((52))~~ (55) Liberty Bay: All state-owned tidelands in Liberty Bay north and west of the Keyport Naval Supply Center are closed year-round, except the western shoreline of Liberty Bay from the unincorporated Kitsap County line south to Virginia Point is open October 1 through April 30 only.
- ~~((53))~~ (56) Lincoln Park: Closed year-round.
- ~~((54))~~ (57) Lions Park (Bremerton): Closed year-round.
- ~~((55))~~ (58) Lofall: Closed year-round.
- ~~((56))~~ (59) Long Island Oyster Reserve, Diamond Point and Pinnacle Rock (Willapa Harbor reserves): Diamond Point on the northwest side of Long Island between reserve monuments 39 and 41 and Pinnacle Rock on the southwest side of Long Island between reserve monuments 58 and 59 is open year-round.
- ~~((57))~~ (60) Long Island Slough Oyster Reserve (Willapa Harbor reserves): Closed year-round.
- ~~((58))~~ (61) Long Point West: Closed year-round.
- ~~((59))~~ (62) Lower Roto Vista Park: Closed year-round.
- ~~((60))~~ (63) March Point Recreation Area: Closed year-round.
- ~~((61))~~ (64) McNeil Island: All tidelands of McNeil Island are closed year-round.
- ~~((62))~~ (65) Meadowdale County Park: Closed year-round.
- ~~((63))~~ (66) Mee-Kwa-Mooks Park: Closed year-round.
- ~~((64))~~ (67) Monroe Landing: Closed year-round.
- ~~((65))~~ (68) Mukilteo: Closed year-round.
- ~~((66))~~ (69) Mystery Bay State Park: Open October 1 through April 30 only.
- ~~((67))~~ (70) Nahcotta Tidelands: State-owned tidelands east of the Willapa Bay Field Station and Nahcotta Tidelands interpretive site are closed year-round.

~~((68))~~ (71) Nemah Oyster Reserve (Willapa Harbor reserves): Oyster reserves between reserve monuments 10 and 11 are closed year-round.

~~((69))~~ (72) Nisqually National Wildlife Refuge: All state-owned tidelands of the Nisqually River delta south of a line drawn from Luhr Beach boat ramp to Sequelitchew Creek are closed year-round.

~~((70))~~ (73) North Bay (Case Inlet): All state-owned tidelands north of the power transmission lines and those extending 1,900 feet south of the power transmission lines along the eastern shore are open March 1 through April 30 and September 1 through September 30, from one hour before official sunrise until one hour after official sunset only.

~~((71))~~ (74) North Beach County Park: Closed year-round.

~~((72))~~ (75) Oak Bay County Park: Closed year-round.

~~((73))~~ (76) Oak Harbor: Closed year-round.

~~((74))~~ (77) Oak Harbor Beach Park: Closed year-round.

~~((75))~~ (78) Oak Harbor City Park: Closed year-round.

~~((76))~~ (79) Oakland Bay: State-owned oyster reserves are open year-round except in areas defined by boundary markers and signs posted on the beach.

~~((77))~~ (80) Old Mill County Park (Silverdale): Closed year-round.

~~((78))~~ (81) Olympia Shoal: Closed year-round.

~~((79))~~ (82) Pat Carey Vista Park: Closed year-round.

~~((80))~~ (83) Penrose Point State Park: Open March 1 through April 30 only, except that portion of Mayo Cove within the commercially prohibited growing area is closed year-round.

~~((81))~~ (84) Picnic Point County Park: Closed year-round.

~~((82))~~ (85) Pitship Point: Closed year-round.

~~((83))~~ (86) Pitt Island: All tidelands on Pitt Island are closed year-round.

~~((84))~~ (87) Pleasant Harbor State Park: Closed year-round.

~~((85))~~ (88) Pleasant Harbor WDFW Boat Launch: Closed year-round.

~~((86))~~ (89) Point Defiance: Closed year-round.

~~((87))~~ Point No Point South: Closed year-round.

~~((88))~~ Point Whitney Lagoon: Open January 1 through May 31 only.

~~((89))~~ (90) Point Whitney Tidelands (~~excluding~~) and Point Whitney Lagoon(~~?~~): Open January 1 through (~~May 31~~) April 30 only.

~~((90))~~ (91) Port Angeles Harbor: All public tidelands of Port Angeles Harbor and interior tidelands of Ediz Hook are closed year-round.

~~((91))~~ (92) Port Gamble Heritage Park Tidelands: Open January 1 through (~~May 15 and July 15 through December 31~~) April 30 only.

~~((92))~~ (93) Port Gardner: Closed year-round.

~~((93))~~ (94) Port Townsend Ship Canal/Portage Beach: (~~Open January 1 through April 15 only~~) Closed year-round.

~~((94))~~ (95) Post Point: Closed year-round.

~~((95))~~ Potlatch DNR tidelands: Open April 1 through July 31 only.)

(96) Potlatch State Park and Potlatch DNR tidelands: Open April 1 through (~~July 31~~) April 30 only.

(97) Priest Point County Park: Closed year-round.

(98) Purdy Spit County Park: The southern shore of the spit from the boat ramp east to the southern utility tower near Purdy Bridge is open April 1 through April 30 only.

(99) Quilcene Bay Tidelands: All state-owned tidelands in Quilcene Bay north of a line drawn from the Quilcene Boat Haven to Fisherman's Point are closed to the harvest of clams year-round, except those state-owned tidelands on the west side of the bay north of the Quilcene Boat Haven are open year-round.

(100) Quilcene Bay Boat Ramp: Open January 1 through April 30 only.

(101) Retsil: Closed year-round.

~~((101))~~ (102) Richmond Beach Saltwater Park: Closed year-round.

~~((102))~~ (103) Salt Creek Recreation Area (DNR-419): Closed year-round.

~~((103))~~ (104) Saltair Beach (Kingston Ferry Terminal): Closed year-round.

~~((104))~~ (105) Saltwater State Park: Closed year-round.

~~((105))~~ (106) Samish Bay: Public tidelands of Samish Bay between Scotts Point and a point on the shore (48° 34.47'N, 122° 26.64'W) are closed year-round.

~~((106))~~ (107) Scenic Beach State Park: Closed year-round.

~~((107))~~ (108) Seahurst County Park: Closed year-round.

~~((108))~~ (109) Semiahmoo County Park: Closed year-round.

~~((109))~~ (110) Semiahmoo Marina: Closed year-round.

~~((110))~~ (111) Sequim Bay State Park: Open January 1 through June 30 only.

~~((111))~~ (112) Shine Tidelands State Park: Open January 1 through May 15 only.

~~((112))~~ (113) Silverdale Waterfront Park: Closed year-round.

~~((113))~~ (114) Sinclair Inlet: All public tidelands of Sinclair Inlet west of a line drawn from the intersection of Bancroft Road and Beach Drive East northerly to Point Herron are closed year-round.

~~((114))~~ (115) Skagit Bay Estuary Wildlife Areas: All public tidelands of Skagit Bay Estuary Wildlife Area, Fir Island Farms Reserve Wildlife Area, Island Wildlife Area, Camano Island Wildlife Area and Leque Island Wildlife Area are closed year-round.

~~((115))~~ (116) South Carkeek Park: Closed year-round.

~~((116))~~ (117) Southworth: Closed year-round.

~~((117))~~ (118) Spencer Spit State Park: Open March 1 through July 31 only.

~~((118))~~ (119) Stuart Island State Park - Reid Harbor (South Beach): Closed year-round.

~~((119))~~ (120) Taylor Bay: Closed year-round.

~~((120))~~ (121) Totten Inlet Oyster Reserve (Oyster Bay reserves): Closed year-round.

~~((121))~~ (122) Triton Cove Tidelands: Open June 1 through August 31 only.

~~((122))~~ (123) Twanoh State Park: Open August (~~(15)~~) 1 through September 30 only.

~~((123))~~ (124) Walker County Park: Closed year-round.
~~((124))~~ (125) West Dewatto: DNR Beach 44A open July 1 through September 30 only.

~~((125))~~ (126) West Pass Access: Closed year-round.

~~((126))~~ (127) West Penn Cove: From the property boundary at the Grasser's Lagoon access on Highway 20 to the dock extending across the tidelands from Captain Whidbey Inn on Madrona Road is open August 1 through September 30 only.

~~((127))~~ (128) Willapa River Oyster Reserve (Willapa Harbor reserves): Reserves located in the Willapa River channel extending west and upriver from a point approximately one-quarter mile from the blinker light marking the division of Willapa River channel and the North River channel are closed year-round.

~~((128))~~ (129) Wolfe Property State Park: Open January 1 through May 15 only.

~~((129))~~ (130) Woodard Bay Natural Resource Conservation Area: Closed year-round.

~~((130))~~ (131) It is lawful to take, dig for, and possess clams and mussels, not including razor clams, for personal use from the Pacific Ocean beaches from November 1 through March 31 only.

AMENDATORY SECTION (Amending WSR 20-05-019, filed 2/7/20, effective 3/9/20)

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

(1) Ala Spit: All public tidelands of Ala Spit open May 1 through May 31 only.

(2) Alki Park: Closed year-round.

(3) Alki Point: Closed year-round.

(4) Bay Center Oyster Reserve (Willapa Harbor reserves): Palix River channel, extending from the Palix River bridge to beyond Bay Center to the north of Goose Point, is closed year-round.

(5) Bay View State Park: Closed year-round.

(6) Belfair State Park: Open January 1 through ~~((May))~~ March 31 and August 1 through ~~((December 31))~~ September 30 only.

(7) Blaine Marine Park: Closed year-round.

(8) Blake Island State Park Marina: Closed year-round.

(9) Blowers Bluff North: Closed year-round.

(10) Brown's Point Lighthouse: Closed year-round.

(11) Budd Inlet: All state-owned tidelands of Budd Inlet south of a line drawn from the southern boundary of Burfoot Park west to the opposite shore near 68th Avenue N.W. are closed year-round.

(12) Cama Beach State Park: Closed year-round.

(13) Camano Island State Park: Closed year-round.

(14) Chuckanut Bay: All tidelands of Chuckanut Bay north of the railroad trestle are closed year-round.

(15) Coupeville: Closed year-round.

(16) Cultus Bay: Closed year-round.

(17) Dash Point State Park: Open September 1 through May 31 only.

(18) Dave Mackie County Park: Closed year-round.

~~((18))~~ (19) Deception Pass State Park: Open year-round, except the tidelands of Rosario Bay from the northern park boundary to Rosario Head (48° 25.03'N, 122° 39.98'W) are closed year-round.

(20) Des Moines City Park: Closed year-round.

~~((19))~~ (21) Discovery Park: Closed year-round.

~~((20))~~ (22) DNR-142: Closed year-round.

~~((21))~~ (23) DNR-144 (Sleeper): Closed year-round.

~~((22))~~ (24) Dockton County Park: Closed year-round.

~~((23))~~ (25) Dosewallips State Park: Open year-round only in the area defined by boundary markers and signs posted on the beach.

~~((24))~~ (26) Dosewallips State Park South: Closed year-round south of the line defined by boundary markers and signs posted on the beach.

~~((25))~~ (27) Drayton Harbor: All public tidelands of Drayton Harbor are open year-round, except the tidelands identified as prohibited or ~~((approved))~~ unclassified by the department of health and defined by boundary markers and signs posted on the beach are closed year-round.

~~((26))~~ (28) Duckabush: Open November 1 through April 30 only.

~~((27))~~ (29) Dungeness Spit/National Wildlife Refuge: Open May 15 through September 30 only.

~~((28))~~ (30) East San de Fuca: Tidelands east of the Rolling Hills Glencairn Community dock are closed year-round.

~~((29))~~ (31) Eld Inlet Oyster Reserves (Mud Bay reserves): Closed year-round.

~~((30))~~ (32) English Camp: Tidelands between the National Park Service dinghy dock to the southern park boundary are closed year-round.

~~((31))~~ (33) Evergreen Rotary Park (Port Washington Narrows): Closed year-round.

~~((32))~~ (34) Fay Bainbridge Park: Closed year-round.

~~((33))~~ (35) Fort Flagler State Park: Open January 1 through April 15 and ~~((July))~~ June 1 through December 31 only, except that portion of Rat Island and the spit west and south of the park boundary is closed year-round from two white posts on the north end of the island at the vegetation line south to the end of the island.

~~((34))~~ (36) Freeland County Park: Open October 1 through May 31 only.

~~((35))~~ (37) Frye Cove County Park: Open May 1 through May 31 only.

~~((36))~~ (38) Fudge Point State Park: Closed year-round.

~~((37))~~ (39) Gertrude Island: All tidelands of Gertrude Island are closed year-round.

~~((38))~~ (40) Golden Gardens: Closed year-round.

~~((39))~~ (41) Graveyard Spit: Closed year-round.

~~((40))~~ (42) Guillemot Cove Nature Reserve: Closed year-round.

(43) Guss Island: All tidelands of Guss Island are closed year-round.

~~((41))~~ (44) Hoodspout: Tidelands at the Hoodspout Salmon Hatchery are closed year-round.

~~((42))~~ (45) Hope Island State Park (South Puget Sound): Open May 1 through May 31 only.

~~((43))~~ (46) Howarth Park/Darlington Beach: Closed year-round.

~~((44))~~ (47) Illahee State Park: Open April 1 through July 31 only.

~~((45))~~ (48) Indian Island County Park/Lagoon Beach: From the jetty boundary with Port Townsend Ship Canal east to the beach access stairs on Flagler Road near milepost 4 open ~~((August 15))~~ September 1 through September 30 only.

~~((46))~~ (49) Joemma Beach State Park: Closed year-round.

~~((47))~~ (50) Kayak Point County Park: Closed year-round.

~~((48))~~ (51) Kitsap Memorial State Park: Closed year-round.

~~((49))~~ (52) Kopachuck State Park: Open April 1 through May 31 only.

~~((50))~~ (53) Lent Landing (Port Washington Narrows): Closed year-round.

~~((51))~~ (54) Liberty Bay: All state-owned tidelands in Liberty Bay north and west of the Keyport Naval Supply Center are closed year-round, except the western shoreline of Liberty Bay from the unincorporated Kitsap County line south to Virginia Point is open October 1 through April 30 only.

~~((52))~~ (55) Lincoln Park: Closed year-round.

~~((53))~~ (56) Lions Park (Bremerton): Closed year-round.

~~((54))~~ (57) Lofall: Closed year-round.

~~((55))~~ (58) Long Island Oyster Reserve, Diamond Point and Pinnacle Rock (Willapa Harbor reserves): Diamond Point on the northwest side of Long Island between reserve monuments 39 and 41 and Pinnacle Rock on the southwest side of Long Island between reserve monuments 58 and 59 is open year-round.

~~((56))~~ (59) Long Island Slough Oyster Reserve (Willapa Harbor reserves): Closed year-round.

~~((57))~~ (60) Long Point West: Closed year-round.

~~((58))~~ (61) Lower Roto Vista Park: Closed year-round.

~~((59))~~ (62) March Point Recreation Area: Closed year-round.

~~((60))~~ (63) McNeil Island: All tidelands of McNeil Island are closed year-round.

~~((61))~~ (64) Meadowdale County Park: Closed year-round.

~~((62))~~ (65) Mee-Kwa-Mooks Park: Closed year-round.

~~((63))~~ (66) Monroe Landing: Closed year-round.

~~((64))~~ (67) Mukilteo: Closed year-round.

~~((65))~~ (68) Mystery Bay State Park: Open October 1 through April 30 only.

~~((66))~~ (69) Nahcotta Tidelands: State-owned tidelands east of the Willapa Bay Field Station and Nahcotta Tidelands interpretive site are open year-round.

~~((67))~~ (70) Nemah Oyster Reserve (Willapa Harbor reserves): Oyster reserves between reserve monuments 10 and 11 are closed year-round.

~~((68))~~ (71) Nisqually National Wildlife Refuge: All state-owned tidelands of the Nisqually River delta south of a line drawn from Luhr Beach boat ramp to Sequelitchew Creek are closed year-round.

~~((69))~~ (72) North Bay (Case Inlet): All state-owned tidelands north of the power transmission lines and those extending 1,900 feet south of the power transmission lines

along the eastern shore are open March 1 through April 30 and September 1 through September 30, from one hour before official sunrise until one hour after official sunset only.

~~((70))~~ (73) North Beach County Park: Closed year-round.

~~((71))~~ (74) Oak Bay County Park: Closed year-round.

~~((72))~~ (75) Oak Harbor: Closed year-round.

~~((73))~~ (76) Oak Harbor Beach Park: Closed year-round.

~~((74))~~ (77) Oak Harbor City Park: Closed year-round.

~~((75))~~ (78) Oakland Bay: State-owned oyster reserves are open year-round except in areas defined by boundary markers and signs posted on the beach.

~~((76))~~ (79) Old Mill County Park (Silverdale): Closed year-round.

~~((77))~~ (80) Olympia Shoal: Closed year-round.

~~((78))~~ (81) Pat Carey Vista Park: Closed year-round.

~~((79))~~ (82) Penrose Point State Park: Open March 1 through April 30 only, except that part of Mayo Cove within the commercially prohibited growing area is closed year-round.

~~((80))~~ (83) Pitship Point: Closed year-round.

~~((81))~~ (84) Picnic Point County Park: Closed year-round.

~~((82))~~ (85) Pitt Island: Closed year-round.

~~((83))~~ (86) Pleasant Harbor State Park: Closed year-round.

~~((84))~~ (87) Pleasant Harbor WDFW Boat Launch: Closed year-round.

~~((85))~~ (88) Point Defiance: Closed year-round.

~~((86))~~ Point No Point South: Closed year-round.

~~(87)~~ Point Whitney Lagoon: Open January 1 through July 31 only.

~~((88))~~ (89) Point Whitney Tidelands ~~((excluding))~~ and Point Whitney Lagoon ~~((+))~~: Open January 1 through ~~((July))~~ August 31 only.

~~((89))~~ (90) Port Angeles Harbor: All public tidelands of Port Angeles Harbor and interior tidelands of Ediz Hook are closed year-round.

~~((90))~~ (91) Port Gamble Heritage Park Tidelands: Open January 1 through ~~((May 15 and July 15 through December 31))~~ April 30 only.

~~((91))~~ (92) Port Gardner: Closed year-round.

~~((92))~~ (93) Port Townsend Ship Canal/Portage Beach: ~~((Open January 1 through April 15 only))~~ Closed year-round.

~~((93))~~ (94) Post Point: Closed year-round.

~~((94))~~ Potlatch DNR Tidelands: Open April 1 through July 31 only.

(95) Potlatch State Park and Potlatch DNR tidelands: Open April 1 through ~~((July 31))~~ April 30 only.

(96) Priest Point County Park: Closed year-round.

(97) Purdy Spit County Park: The southern shore of the spit from the boat ramp east to the southern utility tower near Purdy Bridge is open April 1 through April 30 only.

(98) Quilcene Bay Tidelands: All state-owned tidelands in Quilcene Bay north of a line drawn from the Quilcene Boat Haven to Fisherman's Point are closed year-round except those state-owned tidelands on the west side of the bay north of the Quilcene Boat Haven are open year-round.

~~((99))~~ (99) Quilcene Boat Ramp: Open January 1 through April 30 only.

~~((100))~~ (100) Retsil: Closed year-round.

~~((101))~~ (101) Richmond Beach Saltwater Park: Closed year-round.

~~((102))~~ (102) Salt Creek Recreation Area (DNR-419): Closed year-round.

~~((103))~~ (103) Saltair Beach (Kingston Ferry Terminal): Closed year-round.

~~((104))~~ (104) Saltwater State Park: Closed year-round.

~~((105))~~ (105) Samish Bay: Public tidelands of Samish Bay between Scotts Point and a point on the shore (48°34.47'N, 122°26.64'W) are closed year-round.

~~((106))~~ (106) Scenic Beach State Park: Closed year-round.

~~((107))~~ (107) Seahurst County Park: Closed year-round.

~~((108))~~ (108) Semiahmoo County Park: Closed year-round.

~~((109))~~ (109) Semiahmoo Marina: Closed year-round.

~~((110))~~ (110) Sequim Bay State Park: Open January 1 through June 30 only.

~~((111))~~ (111) Shine Tidelands State Park: Open January 1 through May 15 only.

~~((112))~~ (112) Silverdale Waterfront Park: Closed year-round.

~~((113))~~ (113) Sinclair Inlet: All public tidelands of Sinclair Inlet west of a line drawn from the intersection of Bancroft Road and Beach Drive East northerly to Point Herron are closed year-round.

~~((114))~~ (114) Skagit Bay Estuary Wildlife Areas: All public tidelands of the Skagit Bay Estuary Wildlife Area, Fir Island Farms Reserve Wildlife Area, Island Wildlife Area, Camano Island Wildlife Area and Leque Island Wildlife Area are closed year-round.

~~((115))~~ (115) South Carkeek Park: Closed year-round.

~~((116))~~ (116) Southworth: Closed year-round.

~~((117))~~ (117) Spencer Spit State Park: Open March 1 through July 31 only.

~~((118))~~ (118) Stuart Island State Park - Reid Harbor (South Beach): Closed year-round.

~~((119))~~ (119) Taylor Bay: Closed year-round.

~~((120))~~ (120) Totten Inlet Oyster Reserve (Oyster Bay reserves): Closed year-round.

~~((121))~~ (121) Walker County Park: Closed year-round.

~~((122))~~ (122) West Pass Access: Closed year-round.

~~((123))~~ (123) West Penn Cove: From the property boundary at the Grasser's Lagoon access on Highway 20 to the dock extending across the tidelands from Captain Whidbey Inn on Madrona Road is open August 1 through September 30 only.

~~((124))~~ (124) Willapa River Oyster Reserve (Willapa Harbor reserves): Reserves located in the Willapa River channel extending west and upriver from a point approximately one-quarter mile from the blinker light marking the division of Willapa River channel and the North River channel are closed year-round.

~~((125))~~ (125) Wolfe Property State Park: Open January 1 through May 15 only.

~~((126))~~ (126) Woodard Bay Natural Resource Conservation Area: Closed year-round.

~~((127))~~ (127) It is lawful to take and possess oysters for personal use from the Pacific Ocean beaches from November 1 through March 31 only.