

**WSR 21-23-003**  
**PERMANENT RULES**  
**BOARD OF ACCOUNTANCY**

[Filed November 3, 2021, 3:25 p.m., effective December 4, 2021]

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

Purpose: Rule making is needed to align the board rule with the National Association of State Boards of Accountancy.

Citation of Rules Affected by this Order: Amending WAC 4-30-062.

Statutory Authority for Adoption: RCW 18.04.055.

Adopted under notice filed as WSR 21-17-057 on August 10, 2021.

Changes Other than Editing from Proposed to Adopted Version: Changed the exam passed date from the date the exam was taken to the date that the grade is released by eliminating the words, "you took the exam section and not the date that" from subsection (5)(b)(iii).

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 29, 2021.

David E. Trujillo, CPA  
 Executive Director

AMENDATORY SECTION (Amending WSR 19-10-080, filed 5/1/19, effective 6/1/19)

**WAC 4-30-062 Applying to take the CPA examination.** (1) **Application process and due dates:** Your application to take the CPA examination must be submitted to the board's examination administrator. Applicants must submit all required information, documents, and fees to complete their application within ~~((sixty))~~ 60 days of the date their application is submitted to the board's examination administrator. Your application is not considered complete until all of the following are provided:

- Complete application information and requested documents;
- Fee(s).

(2) **Fee refund and forfeiture:** Upon submission of your application to the examination administrator, no portion of the board's administrative fee is refundable. Upon the examination administrator's authorization to test, no portion of the total exam fee (both administrative fee and section fee(s)) is refundable. If you fail to meet the board's schedul-

ing or admission requirements, you forfeit all of the exam fee(s) and you must reapply to take the section(s) of the exam.

(3) **Notice of admittance to the examination or denial of your application:** You must contact the approved test provider to schedule the time and location for your examination. The notice of eligibility to take the examination is called a Notice to Schedule (NTS), the NTS will be valid for one taking of the examination within the six months following the date of the NTS.

Notice of a denial of your application, or notice of your eligibility to take the examination will be sent to you by the examination administrator.

(4) **Examination content and grading:** The CPA examination shall test the knowledge and skills required for performance as an entry-level certified public accountant. The examination shall include the subject areas of accounting and auditing and related knowledge and skills as the board may require. ~~((The examination will consist of the following four sections: Auditing and attestation; financial, accounting and reporting; regulation; and business environment and concepts.))~~ The board may accept the advisory grading services of the American Institute of Certified Public Accountants.

**(5) Examination process:**

(a) **Conditions for examinations held prior to January 1, 2004:** Contact a customer service representative at customerservice@acb.wa.gov or by phone at 360-753-2586.

(b) **For examinations taken after December 31, 2003:** The board uses all parts of the uniform CPA examination and the advisory grading services of the American Institute of Certified Public Accountants.

(i) To satisfy the examination requirement for a license you must have achieved a score of ~~((seventy five))~~ 75 on all ~~((four))~~ sections of the examination within a rolling ~~((eighteen-month))~~ 18-month period.

(ii) You may take the required ~~((four))~~ sections individually and in any order. Credit for any section(s) taken and passed after December 31, 2003, will be valid for ~~((eighteen))~~ 18 months from the actual date you successfully passed any particular section of the examination.

(iii) You must pass all ~~((four))~~ sections of the examination within a rolling ~~((eighteen-month))~~ 18-month period, which begins on the date that the first section(s) is passed. A section is considered passed on the date that ~~((you took the exam section and not the date that))~~ your grade is released.

(iv) You may not retake a failed section(s) in the same examination window. An examination window refers to a three-month period in which candidates have an opportunity to take the examination (comprised of two months in which the examination is available to be taken and one month in which the examination will not be offered while routine maintenance is performed and the examination is refreshed).

(v) If the board determines that the examination system changes necessary to eliminate the test window limitations have been implemented, (iv) of this subsection will no longer be effective, and a candidate can retake a test section once their grade for any previous attempt of that same section has been released.

(vi) In the event you do not pass all ~~((four))~~ sections of the examination within the rolling ~~((eighteen-month))~~ 18-

month period, credit for any section(s) passed prior to the ~~((eighteen-month))~~ 18-month period will expire and you must retake any expired section.

**WSR 21-23-014**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

(Aging and Long-Term Support Administration)

[Filed November 4, 2021, 3:54 p.m., effective December 5, 2021]

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

Purpose: The department is amending WAC 388-113-0020 Which criminal convictions and pending charges automatically disqualify an individual from having unsupervised access to adults or minors who are receiving services in a program under chapters 388-71, 388-101, 388-106, 388-76, 388-78A, 388-97, 388-825, and 388-107 WAC?

The department is implementing changes to WAC 388-113-0020 related to the passage of SHB 1411 passed in the 2021 legislative session. The effective date of the bill was July 25, 2021.

The bill adds limitations to certain crimes which were previously permanently disqualifying: Assault 2, Assault 3, Delivery of marijuana, Extortion 2, Theft 1, and Robbery 2; and adds a provision which removes the automatic disqualification, allowing for a character competence and suitability review, for a crime listed in which is accompanied by a court issued certificate of restoration of opportunity. Domestic violence (felonies only) was removed from the list of automatically disqualifying crimes because by law this is an aggravator added to another crime, not a stand-alone crime.

Citation of Rules Affected by this Order: Amending WAC 388-113-0020.

Statutory Authority for Adoption: RCW 74.08.090, 43.43.842, 74.39A.056.

Adopted under notice filed as WSR 21-17-077 on August 12, 2021.

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

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

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

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

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

Date Adopted: November 4, 2021.

Katherine I. Vasquez  
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 18-08-066, filed 4/2/18, effective 5/3/18)

**WAC 388-113-0020 Which criminal convictions and pending charges automatically disqualify an individual from having unsupervised access to adults or minors who are receiving services in a program under chapters 388-71, 388-101, 388-106, 388-76, 388-78A, 388-97, 388-825, and 388-107 WAC?** (1) Individuals who must satisfy background checks requirements under chapters 388-71, 388-101, 388-106, 388-76, 388-78A, 388-97, 388-825, and 388-107 WAC must not work in a position that may involve unsupervised access to minors or vulnerable adults if the individual has been convicted of or has a pending charge for any of the following crimes:

- (a) Abandonment of a child;
- (b) Abandonment of a dependent person;
- (c) Abuse or neglect of a child;
- (d) Arson 1;
- (e) Assault 1;
- (f) Assault 2 (less than five years);
- (g) Assault 3 (less than five years);
- (h) Assault 4/simple assault (less than three years);
- (i) Assault 4 domestic violence felony;
- (j) Assault of a child;
- (k) Burglary 1;
- (l) Child buying or selling;
- (m) Child molestation;
- (n) Coercion (less than five years);
- (o) Commercial sexual abuse of a minor/patronizing a juvenile prostitute;
- (p) Communication with a minor for immoral purposes;
- (q) Controlled substance homicide;
- (r) Criminal mistreatment;
- (s) Custodial assault;
- (t) Custodial interference;
- (u) Custodial sexual misconduct;
- (v) Dealing in depictions of minor engaged in ~~((sexual))~~ sexually explicit conduct;
- (w) ~~((Domestic violence (felonies only))~~;
- ~~((x))~~ Drive-by shooting;
- ~~((y))~~ (x) Drug crimes(~~(, if they involve))~~ involving one or more of the following:
  - (i) ~~((Manufacture of))~~ Manufacturing or possession with the intent to manufacture a drug;
  - (ii) Delivery ~~((of))~~ or possession with the intent to deliver a drug other than marijuana;
  - (iii) ~~((Possession of a drug with the intent to manufacture or deliver))~~ Delivery of marijuana (less than three years).
- ~~((z))~~ (y) Endangerment with a controlled substance;
- ~~((aa))~~ (z) Extortion 1;
- (aa) Extortion 2 (less than five years);
- ~~((bb))~~ (bb) Forgery (less than five years);
- ~~((cc))~~ (cc) Homicide by abuse, watercraft, vehicular homicide (negligent homicide);
- ~~((dd))~~ (dd) Identity theft (less than five years);
- ~~((ee))~~ (ee) Incendiary devices (possess, manufacture, dispose);
- ~~((ff))~~ (ff) Incest;
- ~~((gg))~~ (gg) Indecent exposure/public indecency (felony);

~~((hh))~~ (hh) Indecent liberties;  
~~((ii))~~ (ii) Kidnapping;  
~~((jj))~~ (jj) Luring;  
~~((kk))~~ (kk) Malicious explosion 1;  
~~((ll))~~ (ll) Malicious explosion 2;  
~~((mm))~~ (mm) Malicious harassment;  
~~((nn))~~ (nn) Malicious placement of an explosive 1;  
~~((oo))~~ (oo) Malicious placement of an explosive 2 (less than five years);  
~~((pp))~~ (pp) Malicious placement of imitation device 1 (less than five years);  
~~((qq))~~ (qq) Manslaughter;  
~~((rr))~~ (rr) Murder/aggravated murder;  
~~((ss))~~ (ss) Possess depictions minor engaged in sexual conduct;  
~~((tt))~~ (tt) Promoting pornography;  
~~((uu))~~ (uu) Promoting prostitution 1;  
~~((vv))~~ (vv) Promoting suicide attempt (less than five years);  
~~((ww))~~ (ww) Prostitution (less than three years);  
~~((xx))~~ (xx) Rape;  
~~((yy))~~ (yy) Rape of child;  
~~((zz))~~ (zz) Residential burglary;  
~~((aaa))~~ (aaa) Robbery 1;  
~~((bbb))~~ (bbb) Robbery 2 (less than five years);  
~~((ccc))~~ (ccc) Selling or distributing erotic material to a minor;  
~~((ddd))~~ (ddd) Sending or bringing into the state depictions of a minor engaged in sexually explicit conduct;  
~~((eee))~~ (eee) Sexual exploitation of minors;  
~~((fff))~~ (fff) Sexual misconduct with a minor;  
~~((ggg))~~ (ggg) Sexually violating human remains;  
~~((hhh))~~ (hhh) Stalking (less than five years);  
~~((iii))~~ (iii) Theft 1 (less than ten years);  
~~((iii))~~ (iii) Theft from a vulnerable adult 1;  
~~((iii))~~ (iii) Theft from a vulnerable adult 2 (less than ten years);  
~~((kkk))~~ (kkk) Theft 2 (less than five years);  
~~((lll))~~ (lll) Theft from a vulnerable adult 2 (less than ten years);  
~~((lll))~~ (lll) Theft 3 (less than three years);  
~~((mmm))~~ (mmm) Unlawful imprisonment;  
~~((nnn))~~ (nnn) Unlawful use of building for drug purposes (less than five years);  
~~((ooo))~~ (ooo) Use of machine gun in a felony;  
~~((ppp))~~ (ppp) Vehicular assault;  
~~((qqq))~~ (qqq) Violation of temporary restraining order or preliminary injunction involving sexual or physical abuse to a child;  
~~((rrr))~~ (rrr) Violation of a temporary or permanent vulnerable adult protection order (VAPO) that was based upon abandonment, abuse, financial exploitation, or neglect; and  
~~((sss))~~ (sss) Voyeurism.

(2) If "(less than ten years)," "(less than five years)," or "(less than three years)" appears after a crime listed in subsection (1) of this section, the individual is not automatically disqualified if the required number of years has passed since the date of the conviction. This will result in a letter from the background check central unit indicating a character, competence, and suitability review is required before allowing unsupervised access to children or vulnerable adults. This

provision applies to convictions that the department has determined under subsection (3) of this section as equivalent to a crime listed in subsection (1) of this section once the period of time listed in subsection (1) of this section has passed.

(3) When the department determines that a conviction or pending charge in federal court or in any other court, including state court is equivalent to a Washington state crime that is disqualifying under this section, the equivalent conviction or pending charge is also disqualifying.

(4) In instances where a court has issued a certificate of restoration of opportunity of one of the crimes listed above, according to the procedure in RCW 9.97.020, the conviction is not automatically disqualifying but is subject to a character, competence, and suitability review.

### WSR 21-23-020

#### PERMANENT RULES DEPARTMENT OF

#### SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed November 8, 2021, 8:01 a.m., effective December 9, 2021]

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

Purpose: The department is adopting amendments to WAC 388-454-0006. The department makes background checks on adults who are acting in place of a parent without court-ordered custody. These amendments align TANF and SFA background check rules with 2SHB 1645 (chapter 270, Laws of 2020) and related department of children, youth, and families policies, and clarify that the department will not consider a founded finding of abuse, neglect, or dependency for clients who have a verified certificate of parental improvement.

Amendments also clarify that the department will not consider a conviction that is pardoned, vacated, or that the client has received a certificate of rehabilitation, for the purposes of this section.

Citation of Rules Affected by this Order: Amending WAC 388-454-0006.

Statutory Authority for Adoption: RCW 43.43.832, 74.04.050, 74.04.055, 74.04.057, 74.08.090, and 74.12.290.

Adopted under notice filed as WSR 21-11-068 on May 17, 2021, 21-08-[0]72 on April 6, 2021, and 20-20-[0]86 on October 5, 2020.

Changes Other than Editing from Proposed to Adopted Version: Subsection (7) has been modified to clarify that convictions that receive a pardon or certificate of rehabilitation do not count against the *In Loco Parentis* caregiver in the background check. The change was made because of comments received during the public comment period.

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

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

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

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

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

Date Adopted: November 4, 2021.

Katherine I. Vasquez  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 16-24-037, filed 11/30/16, effective 1/1/17)

**WAC 388-454-0006 The department makes background checks on adults who are acting in place of a parent without court-ordered custody.** (1) We check your background when you ask for temporary assistance for needy families (TANF) or state family assistance (SFA) benefits for a child who:

(a) Is not related to you; and  
(b) Lives with you but you do not have a court order that gives you legal custody of the child.

(2) A child who is not related to you cannot receive TANF/SFA benefits while living with you until we have completed a background check and the results of the background check meet the criteria in subsection (3) through (5) of this section.

(3) A child who is not related to you cannot receive benefits while living with you if:

(a) You have been convicted of a crime listed in WAC ((388-06A-0170)) 110-04-0100 (1)(a) through (e); or

(b) You have been convicted of a crime listed in WAC ((388-06A-0180)) 110-04-0110 (1) through (3) within the last five years; or

(c) You have a pending criminal charge for a disqualifying crime listed in WAC 110-04-0130 (1)(a) through (b); or

(d) You are determined by the department to not have the character, suitability, and competence necessary to receive benefits for a child not related to you, as described in subsection (4) and (5) of this section.

(4) We review your background when you have been convicted of a crime listed in WAC ((388-06A-0180)) 110-04-0110 (1) through (3), more than five years ago to determine your character, suitability, and competence to receive benefits for a child not related to you. We consider the following factors:

(a) The amount of time that has passed since you were convicted;

(b) The seriousness of the crime that led to the conviction;

(c) The number and types of convictions in your background; and

(d) Your age at the time of the conviction.

(5) When you have a conviction for a crime other than those listed in WAC ((388-06A-0170)) 110-04-0100 (1)(a) through (e), or ((388-06A-0180)) 110-04-0110 (1) through (3) or have a founded finding of child abuse or neglect, as

defined in WAC 110-03-0020, we review your background as described in subsection (4) of this section.

(6) If you disclose to us that you have received a certificate of parental improvement, as described in WAC 110-05-0001, and we verify it, then the related founded finding of child abuse or neglect, or dependency finding will not be considered in our determination under this section.

(7) Expunged ((Ø)), pardoned, sealed, or vacated conviction records, or those convictions for which you received a certificate of rehabilitation, do not count against you.

### WSR 21-23-036

#### PERMANENT RULES

#### DEPARTMENT OF

#### SOCIAL AND HEALTH SERVICES

[Filed November 8, 2021, 1:48 p.m., effective December 9, 2021]

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

Purpose: The purpose of these adopted rules is to amend WAC 388-97-0001 Definitions, 388-97-1090 Direct care hours, and other related rules as is required to implement EHB 1564 (chapter 301, Laws of 2019).

Citation of Rules Affected by this Order: Amending WAC 388-97-0001 and 388-97-1090.

Statutory Authority for Adoption: RCW 18.51.070.

Adopted under notice filed as WSR 21-18-104 on August 31, 2021.

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

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

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

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: November 8, 2021.

Katherine I. Vasquez  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 16-23-094, filed 11/16/16, effective 12/17/16)

**WAC 388-97-0001 Definitions. "Abandonment"** means action or inaction by an individual or entity with a duty of care for a vulnerable adult that leaves the vulnerable individual without the means or ability to obtain necessary food, clothing, shelter, or health care.

**"Abuse"** means the willful action or inaction that inflicts injury, unreasonable confinement, intimidation, or punishment of a vulnerable adult. In instances of abuse of a

vulnerable adult who is unable to express or demonstrate physical harm, pain or mental anguish, the abuse is presumed to cause physical harm, pain, or mental anguish. Abuse includes sexual abuse, mental abuse, physical abuse, personal exploitation of a vulnerable adult, and improper use of restraint against a vulnerable adult which have the following meanings:

(1) **"Mental abuse"** means a willful verbal or nonverbal action that threatens, humiliates, harasses, coerces, intimidates, isolates, unreasonably confines, or punishes a vulnerable adult. Mental abuse may include ridiculing, yelling, or swearing.

(2) **"Physical abuse"** means the willful action of inflicting bodily injury or physical mistreatment. Physical abuse includes, but is not limited to, striking with or without an object, slapping, pinching, choking, kicking, shoving, or prodding.

(3) **"Sexual abuse"** means any form of nonconsensual sexual conduct, including, but not limited to, unwanted or inappropriate touching, rape, sodomy, sexual coercion, sexually explicit photographing, and sexual harassment. Sexual conduct may include interactions that do not involve touching, including but not limited to sending a resident sexually explicit messages, or cuing or encouraging a resident to perform sexual acts. Sexual abuse includes any sexual conduct between a staff person and a resident, whether or not it is consensual.

(4) **"Personal exploitation"** means an act of forcing, compelling, or exerting undue influence over a vulnerable adult causing the vulnerable adult to act in a way that is inconsistent with relevant past behavior, or causing the vulnerable adult to perform services for the benefit of another.

(5) **"Improper use of restraint"** means the inappropriate use of chemical, physical, or mechanical restraints for convenience or discipline or in a manner that:

(a) Is inconsistent with federal or state licensing or certification requirements for facilities, hospitals, or programs authorized under chapter 71A.12 RCW;

(b) Is not medically authorized; or

(c) Otherwise constitutes abuse under this section.

**"Administrative hearing"** is a formal hearing proceeding before a state administrative law judge that gives:

(1) A licensee an opportunity to be heard in disputes about licensing actions, including the imposition of remedies, taken by the department; or

(2) An individual an opportunity to appeal a finding of abandonment, abuse, neglect, financial exploitation of a resident, or misappropriation of a resident's funds.

**"Administrative law judge (ALJ)"** means an impartial decision-maker who presides over an administrative hearing. ALJs are employed by the office of administrative hearings (OAH), which is a separate state agency. ALJs are not DSHS employees or DSHS representatives.

**"Administrator"** means a nursing home administrator, licensed under chapter 18.52 RCW, who must be in active administrative charge of the nursing home, as that term is defined in the board of nursing home administrator's regulations.

**"Advanced registered nurse practitioner (ARNP)"** means an individual who is licensed to practice as an

advanced registered nurse practitioner under chapter 18.79 RCW.

**"Applicant"** means an individual, partnership, corporation, or other legal entity seeking a license to operate a nursing home.

**"ASHRAE"** means the American Society of Heating, Refrigerating, and Air Conditioning Engineers, Inc.

**"Attending physician"** means the doctor responsible for a particular individual's total medical care.

**"Berm"** means a bank of earth piled against a wall.

**"Chemical restraint"** means the administration of any drug to manage a vulnerable adult's behavior in a way that reduces the safety risk to the vulnerable adult or others, has the temporary effect of restricting the vulnerable adult's freedom of movement, and is not standard treatment for the vulnerable adult's medical or psychiatric condition.

**"Civil adjudication proceeding"** means judicial or administrative adjudicative proceeding that results in a finding of, or upholds an agency finding of, domestic violence, abuse, sexual abuse, neglect, abandonment, violation of a professional licensing standard regarding a child or vulnerable adult, or exploitation or financial exploitation of a child or vulnerable adult under any provision of law, including but not limited to chapter 13.34, 26.44, or 74.34 RCW, or rules adopted under chapters 18.51 and 74.42 RCW. "Civil adjudication proceeding" also includes judicial or administrative findings that become final due to the failure of the alleged perpetrator to timely exercise a legal right to administratively challenge such findings.

**"Civil fine"** is a civil monetary penalty assessed against a nursing home as authorized by chapters 18.51 and 74.42 RCW. There are two types of civil fines, "per day" and "per instance."

(1) **"Per day fine"** means a fine imposed for each day that a nursing home is out of compliance with a specific requirement. Per day fines are assessed in accordance with WAC 388-97-4580(1); and

(2) **"Per instance fine"** means a fine imposed for the occurrence of a deficiency.

**"Condition on a license"** means that the department has imposed certain requirements on a license and the licensee cannot operate the nursing home unless the requirements are observed.

**"Consent"** means express written consent granted after the vulnerable adult or his or her legal representative has been fully informed of the nature of the services to be offered and that the receipt of services is voluntary.

**"Commuting distance radius"** means the one-way travel time between any two points traveling on the generally fastest route without any impediments such as traffic, road work, or road closure.

**"Deficiency"** is a nursing home's failed practice, action or inaction that violates any or all of the following:

(1) Requirements of chapters 18.51 or 74.42 RCW, or the requirements of this chapter; and

(2) In the case of a medicare and medicaid contractor, participation requirements under Title XVIII and XIX of the Social Security Act and federal medicare and medicaid regulations.

**"Deficiency citation"** or **"cited deficiency"** means written documentation by the department that describes a nursing home's deficiency(ies); the requirement that the deficiency(ies) violates; and the reasons for the determination of noncompliance.

**"Deficient facility practice"** or **"failed facility practice"** means the nursing home action(s), error(s), or lack of action(s) that provide the basis for the deficiency.

**"Dementia care"** means a therapeutic modality or modalities designed specifically for the care of persons with dementia.

**"Denial of payment for new admissions"** is an action imposed on a nursing home (facility) by the department that prohibits payment for new medicaid admissions to the nursing home after a specified date. Nursing homes certified to provide medicare and medicaid services may also be subjected to a denial of payment for new admissions by the federal Centers for Medicare and Medicaid Services.

**"Department"** means the state department of social and health services (DSHS).

**"Department on-site monitoring"** means an optional remedy of on-site visits to a nursing home by department staff according to department guidelines for the purpose of monitoring resident care or services or both.

**"Dietitian"** means a qualified dietitian. A qualified dietitian is one who is registered by the American Dietetic Association or certified by the state of Washington.

**"Direct care staff"** (~~are those individuals who, through interpersonal contact with residents or resident care management, provide care and services to allow residents to attain or maintain the highest practicable physical, mental, and psychosocial well-being. Direct care staff does not include individuals whose primary duty is to maintain the long-term care facility's physical environment, such as housekeeping~~) means the staffing domain identified and defined in the Centers for Medicare and Medicaid Service's five-star quality rating system and as reported through the Centers for Medicare and Medicaid Service's payroll-based journal.

**"Directly supervising"** means that the individual responsible for providing oversight to staff is on the premises and quickly and easily available to provide necessary assessments and other direct care of residents.

**"Disclosure statement"** means a signed statement by an individual in accordance with the requirements under RCW 43.43.834. The statement should include a disclosure of whether or not the individual has been convicted of certain crimes or has been found by any court, state licensing board, disciplinary board, or protection proceeding to have neglected, sexually abused, financially exploited, or physically abused any minor or adult individual.

**"Drug"** means a substance:

(1) Recognized as a drug in the official *United States Pharmacopoeia*, *Official Homeopathic Pharmacopoeia of the United States*, *Official National Formulary*, or any supplement to any of them; or

(2) Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease.

**"Drug facility"** means a room or area designed and equipped for drug storage and the preparation of drugs for administration.

**"Emergency closure"** is an order by the department to immediately close a nursing home.

**"Emergency transfer"** means immediate transfer of residents from a nursing home to safe settings.

**"Entity"** means any type of firm, partnership, corporation, company, association, or joint stock association.

**"Essential community provider"** means a nursing home, which is the only nursing home within a commuting distance radius of at least forty minutes duration, traveling by automobile.

**"Financial exploitation"** means the illegal or improper use, control over, or withholding of the property, income, resources, or trust funds of the vulnerable adult by any person or entity for any person or entity's profit or advantage other than the vulnerable adult's profit or advantage. Some examples of financial exploitation are given in RCW 74.34.020(7).

**"Geriatric behavioral health worker"** means a person with a bachelor's or master's degree in social work, who has received specialized training devoted to mental illness and treatment of older adults.

**"Habilitative services"** means the planned interventions and procedures which constitute a continuing and comprehensive effort to teach an individual previously undeveloped skills.

**"Highest practicable physical, mental, and psychosocial well-being"** means providing each resident with the necessary individualized care and services to assist the resident to achieve or maintain the highest possible health, functional and independence level in accordance with the resident's comprehensive assessment and plan of care. Care and services provided by the nursing home must be consistent with all requirements in this chapter, chapters 74.42 and 18.51 RCW, and the resident's informed choices. For medicaid and medicare residents, care and services must also be consistent with Title XVIII and XIX of the Social Security Act and federal medicare and medicaid regulations.

**"Informal department review"** is a dispute resolution process that provides an opportunity for the licensee or administrator to informally present information to a department representative about disputed, cited deficiencies. Refer to WAC 388-97-4420.

**"Inspection"** or **"survey"** means the process by which department staff evaluates the nursing home licensee's compliance with applicable statutes and regulations.

**"Intermediate care facility for individuals with intellectual disabilities (ICF/IID)"** means an institution certified under chapter 42 C.F.R., Part 483, Subpart I, and licensed under chapter 18.51 RCW.

**"Large nonessential community providers"** means nonessential community providers that have more than sixty licensed nursing home beds, even if some of those beds are not set up or are not in use.

**"License revocation"** is an action taken by the department to cancel a nursing home license in accordance with RCW 18.51.060 and WAC 388-97-4220.

**"License suspension"** is an action taken by the department to temporarily revoke a nursing home license in accordance with RCW 18.51.060 and this chapter.

**"Licensee"** means an individual, partnership, corporation, or other legal entity licensed to operate a nursing home.

**"Licensed practical nurse"** means an individual licensed to practice practical nursing under chapter 18.79 RCW.

**"Mandated reporter"** as used in this chapter means any employee of a nursing home, any health care provider subject to chapter 18.130 RCW, the Uniform Disciplinary Act, and any licensee or operator of a nursing home. Under RCW 74.34.020, mandated reporters also include any employee of the department of social and health services, law enforcement officers, social workers, professional school personnel, individual providers, employees and licensees of assisted living facilities, adult family homes, soldiers' homes, residential habilitation centers, or any other facility licensed by the department, employees of social service, welfare, mental health, adult day health, adult day care, home health, home care, or hospice agencies, county coroners or medical examiners, or Christian Science practitioners.

**"Mechanical restraint"** means any device attached or adjacent to the vulnerable adult's body that he or she cannot easily remove that restricts freedom of movement or normal access to his or her body. "Mechanical restraint" does not include the use of devices, materials, or equipment that are:

- (1) Medically authorized, as required; and
- (2) Used in a manner that is consistent with federal or state licensing or certification requirements for facilities.

**"Misappropriation of resident property"** means the deliberate misplacement, exploitation, or wrongful, temporary or permanent use of a resident's belongings or money.

**"NFPA"** means National Fire Protection Association, Inc.

**"Neglect":**

(1) In a nursing home licensed under chapter 18.51 RCW, neglect means:

(a) A pattern of conduct or inaction by a person or entity with a duty of care that fails to provide the goods and services that maintain physical or mental health of a vulnerable adult, or that fails to avoid or prevent physical or mental harm or pain to a vulnerable adult; or

(b) An act or omission by a person or entity with a duty of care that demonstrates a serious disregard of consequences of such a magnitude as to constitute a clear and present danger to the vulnerable adult's health, welfare, or safety, including but not limited to conduct prohibited under RCW 9A.42.-100.

(2) In a skilled nursing facility or nursing facility, neglect also means a failure to provide a resident with the goods and services necessary to avoid physical harm, mental anguish, or mental illness.

**"Noncompliance"** means a state of being out of compliance with state and/or federal requirements for nursing homes/facilities.

**"Nonessential community provider"** means a nursing home located within a commuting distance radius of less than forty minutes duration by automobile from another nursing home.

**"Nursing assistant"** means a nursing assistant as defined under RCW 18.88A.020 or successor laws.

**"Nursing facility (NF)"** or **"medicaid-certified nursing facility"** means a nursing home, or any portion of a hospital, veterans' home, or residential habilitation center, that is

certified to provide nursing services to medicaid recipients under section 1919(a) of the federal Social Security Act. All beds in a nursing facility are certified to provide medicaid services, even though one or more of the beds are also certified to provide medicare skilled nursing facility services.

**"Nursing home"** means any facility licensed to operate under chapter 18.51 RCW.

**"Officer"** means an individual serving as an officer of a corporation.

**"Owner of five percent or more of the assets of a nursing home"** means:

(1) The individual, and if applicable, the individual's spouse, who operates, or is applying to operate, the nursing home as a sole proprietorship;

(2) In the case of a corporation, the owner of at least five percent of the shares or capital stock of the corporation; or

(3) In the case of other types of business entities, the owner of a beneficial interest in at least five percent of the capital assets of an entity.

**"Partner"** means an individual in a partnership owning or operating a nursing home.

**"Permanent restraining order"** means a restraining order or order of protection issued either following a hearing, or by stipulation of the parties. A "permanent" order may be in force for a specific time period (for example, one year), after which it expires.

**"Person"** means any individual, firm, partnership, corporation, company, association or joint stock association.

**"Pharmacist"** means an individual licensed by the Washington state board of pharmacy under chapter 18.64 RCW.

**"Pharmacy"** means a place licensed under chapter 18.64 RCW where the practice of pharmacy is conducted.

**"Physical restraint"** means the application of physical force without the use of any device for the purpose of restraining the free movement of a vulnerable adult's body. "Physical restraint" does not include briefly holding without undue force a vulnerable adult in order to calm or comfort him or her, or holding a vulnerable adult's hand to safely escort him or her from one area to another.

**"Physician's assistant (PA)"** means a physician's assistant as defined under chapter 18.57A or 18.71A RCW or successor laws.

**"Plan of correction"** is a nursing home's written response to cited deficiencies that explains how it will correct the deficiencies and how it will prevent their reoccurrence.

**"Reasonable accommodation"** and **"reasonably accommodate"** has the meaning given in federal and state antidiscrimination laws and regulations. For the purpose of this chapter:

(1) Reasonable accommodation means that the nursing home must:

(a) Not impose admission criteria that excludes individuals unless the criteria is necessary for the provision of nursing home services;

(b) Make reasonable modification to its policies, practices or procedures if the modifications are necessary to accommodate the needs of the resident;

(c) Provide additional aids and services to the resident.

(2) Reasonable accommodations are not required if:

(a) The resident or individual applying for admission presents a significant risk to the health or safety of others that cannot be eliminated by the reasonable accommodation;

(b) The reasonable accommodations would fundamentally alter the nature of the services provided by the nursing home; or

(c) The reasonable accommodations would cause an undue burden, meaning a significant financial or administrative burden.

**"Receivership"** is established by a court action and results in the removal of a nursing home's current licensee and the appointment of a substitute licensee to temporarily operate the nursing home.

**"Recurring deficiency"** means a deficiency that was cited by the department, corrected by the nursing home, and then cited again within fifteen months of the initial deficiency citation.

**"Registered nurse"** means an individual licensed to practice as a registered nurse under chapter 18.79 RCW.

**"Rehabilitative services"** means the planned interventions and procedures which constitute a continuing and comprehensive effort to restore an individual to the individual's former functional and environmental status, or alternatively, to maintain or maximize remaining function.

**"Resident"** generally means an individual residing in a nursing home. Except as specified elsewhere in this chapter, for decision-making purposes, the term "resident" includes the resident's surrogate decision maker acting under state law. The term resident excludes outpatients and individuals receiving adult day or night care, or respite care.

**"Resident care unit"** means a functionally separate unit including resident rooms, toilets, bathing facilities, and basic service facilities.

**"Respiratory isolation"** is a technique or techniques instituted to prevent the transmission of pathogenic organisms by means of droplets and droplet nuclei coughed, sneezed, or breathed into the environment.

**"Siphon jet clinic service sink"** means a plumbing fixture of adequate size and proper design for waste disposal with siphon jet or similar action sufficient to flush solid matter of at least two and one-eighth inches in diameter.

**"Skilled nursing facility (SNF)"** or **"medicare-certified skilled nursing facility"** means a nursing home, a portion of a nursing home, or a long-term care wing or unit of a hospital that has been certified to provide nursing services to medicare recipients under section 1819(a) of the federal Social Security Act.

**"Small nonessential community providers"** means nonessential community providers that have sixty or fewer nursing home licensed beds, even if some of those beds are not set up or are not in use.

**"Social/therapeutic leave"** means leave which is for the resident's social, emotional, or psychological well-being; it does not include medical leave.

**"Staff work station"** means a location at which nursing and other staff perform charting and related activities throughout the day.

**"Stop placement"** or **"stop placement order"** is an action taken by the department prohibiting nursing home

admissions, readmissions, and transfers of patients into the nursing home from the outside.

**"Substantial compliance"** means the nursing home has no deficiencies higher than severity level 1 as described in WAC 388-97-4500, or for medicaid certified facility, no deficiencies higher than a scope and severity "C."

**"Surrogate decision maker"** means a resident representative or representatives as outlined in WAC 388-97-0240, and as authorized by RCW 7.70.065.

**"Survey"** means the same as **"inspection"** as defined in this section.

**"Temporary manager"** means an individual or entity appointed by the department to oversee the operation of the nursing home to ensure the health and safety of its residents, pending correction of deficiencies or closure of the facility.

**"Temporary restraining order"** means restraining order or order of protection that expired without a hearing, was dismissed following an initial hearing, or was dismissed by stipulation of the parties before an initial hearing.

**"Termination"** means an action taken by:

(1) The department, or the nursing home, to cancel a nursing home's medicaid certification and contract; or

(2) The department of health and human services Centers for Medicare and Medicaid Services, or the nursing home, to cancel a nursing home's provider agreement to provide services to medicaid or medicare recipients, or both.

**"Toilet room"** means a room containing at least one toilet fixture.

**"Uncorrected deficiency"** is a deficiency that has been cited by the department and that is not corrected by the licensee by the time the department does a revisit.

**"Violation"** means the same as **"deficiency"** as defined in this section.

**"Volunteer"** means an individual who is a regularly scheduled individual not receiving payment for services and having unsupervised access to a nursing home resident.

**"Vulnerable adult"** includes a person:

(1) Sixty years of age or older who has the functional, mental, or physical inability to care for himself or herself;

(2) Found incapacitated under chapter 11.88 RCW;

(3) Who has a developmental disability as defined under RCW 71A.10.020;

(4) Admitted to any facility;

(5) Receiving services from home health, hospice, or home care agencies licensed or required to be licensed under chapter 70.127 RCW;

(6) Receiving services from an individual provider; or

(7) Who self directs his or her own care and receives services from a personal aide under chapter 74.39 RCW.

**"Whistle blower"** means a resident, employee of a nursing home, or any person licensed under Title 18 RCW, who in good faith reports alleged abandonment, abuse, financial exploitation, or neglect to the department, the department of health or to a law enforcement agency.

**AMENDATORY SECTION** (Amending WSR 16-23-094, filed 11/16/16, effective 12/17/16)

**WAC 388-97-1090 Direct care hours.** (1) Each nursing home must provide a minimum of 3.4 hours of direct care



per resident day (HRD). Direct care means the staffing domain identified and defined in the Centers for Medicare and Medicaid Services' five star quality rating system and as reported through the Centers for Medicare and Medicaid Services' payroll-based journal. Compliance with the minimum staffing standard must be measured using the Centers for Medicare and Medicaid Services' payroll based journal and nursing home census and payroll data.

(a) For purposes of calculating hours per resident day minimum staffing standards for facilities with sixty-one or more licensed beds, the director of nursing services classification (job title code five), as identified in the Centers for Medicare and Medicaid Service's payroll-based journal, shall not be used.

(b) For facilities with sixty or fewer beds, the director of nursing services classification (job title code five) shall be included in calculating hours per resident day minimum staffing standards.

(2) On a quarterly basis the department will use the Centers for Medicare and Medicaid Services' payroll based journal to determine compliance with the minimum staffing standard.

(3) Payroll based journal data must be submitted after the end of each calendar quarter and filed electronically.

(4) The department will presume that all hours worked by direct care employees at the nursing home have been spent providing direct care.

(5) The department may use census and payroll data from facilities to perform enforcement audits.

(6) The department must periodically review the nursing home's census information, reported staff hours, and payroll data to determine whether HRD figures are relatively constant throughout a quarter or are being increased at the end of the quarter through unusual spending on direct care.

(7) A nursing home may use the hours of geriatric behavioral health workers as defined under RCW 74.42.010 to meet this section's direct care minimum staffing requirements.

(8) A nursing home that fails to meet the minimum staffing requirement of 3.4 hours and of direct care per resident day for any quarter is subject to a fine. The department will determine the amount of the fine as follows:

(a) The fine must be based on the total cost the nursing home would have incurred had it complied with the 3.4 HRD requirement;

(b) The department will use a formula that calculates a fine based on the cost of certified nurse aid wages and benefits for the missing staff hours;

(c) If the nursing home believes that the department's application of the standard in subsection (8)(b) of this section is inequitable, it may explain its position to the department and request consideration of an alternative method of calculating the fine; and

(d) The fine will be one and a half times the additional amount it would have cost the nursing home to provide direct care at the 3.4 HRD standard for a nursing home's first violation and two times the additional amount for each subsequent violation by the nursing home. After a nursing home has not violated the 3.4 HRD requirement for three years the depart-

ment will reset the nursing home's status and treat any subsequent violation as an initial violation.

(9) If a noncompliant nursing home believes that it made a good-faith effort to meet the minimum staffing requirement and asks that the penalty not be imposed, the department may in its sole discretion waive the penalty.

(10) If the department waives a nursing home's fine under subsection (9) of this section, its noncompliance with the 3.4 HRD requirement must not count as a violation for determining whether a future violation is a first violation or a subsequent violation under subsection (8)(d) of this section and must not count as a violation for the purposes of resetting a nursing home's status under section (8)(d).

(11) The amount of money the nursing home would have been required to spend to reach 3.4 HRD must be treated as a direct care cost for the year in which the staffing was deficient for settlement purposes. The portion of the fine representing the additional one-half or one times that amount is a penalty, and will not be added to the actual costs of the nursing home in the settlement process.

(12) The department will monitor compliance with the 3.4 HRD minimum staffing requirement for the quarter beginning July 1, 2016, but will not impose any penalties on nursing homes that do not comply during that quarter. The department instead will notify noncomplying nursing homes what their penalty would otherwise have been, and will require those nursing homes to submit a written plan for correcting the deficiency. The department will begin imposing fines for the quarter beginning October 1, 2016. Noncompliance with the 3.4 HRD requirement during the quarter beginning July 1, 2016 must not count as a first violation for fine calculation purposes under subsection (8)(d) of this section.

(13) The nursing home must pay penalties under WAC 388-97-1090(8) by check. The department will deposit penalty checks into the nursing home quality enhancement account in the custody of the state treasurer. The department's secretary, or the secretary's designee, may authorize expenditures from the nursing home quality enhancement account. Such expenditures may only be for: Technical assistance to nursing homes, specialized training for nursing homes, or an increase to the quality enhancement component of the daily medicaid rate provided by RCW 74.46.581.

(14) The department may grant a limited exception to the 3.4 HRD staffing requirements for nursing homes demonstrating a good faith effort to hire and retain staff.

(15) To determine initial eligibility for exception consideration, the department must send surveys to facilities anticipated to be below, at, or slightly above the 3.4 HRD requirement.

(16) These surveys report the staffing of a nursing home from October through December 2015, January through March 2016, and April through June 2016. These surveys must measure the HRD in a manner as similar as possible to the Centers for Medicare and Medicaid Services' payroll-based journal.

(17) In the event the Centers for Medicare and Medicaid Services' payroll-based journal is not available, the department may use any data source that is reasonably consistent with data metrics used by the payroll-based journal to measure direct care being provided by a nursing home. To gather

data similar to the data gathered by the payroll-based journal, the department may provide a written survey to nursing homes. The metrics will be used to determine whether the nursing home has complied with the 3.4 HRD requirement.

**WSR 21-23-037**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 21-247—Filed November 8, 2021, 1:55 p.m., effective December 9, 2021]

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

Purpose: Amendments to WAC listed below were presented by department staff and approved by the fish and wildlife commission on October 22, 2021. The purpose of the rule changes are as follows: WAC 220-413-030 Importation and retention of dead nonresident wildlife. The department added Ohio to the list of states and provinces where it is unlawful to import or possess certain parts of deer, elk, or moose. This will protect Washington from the spread of chronic wasting disease, and 220-413-180 Special closures and firearm restricted areas. This change clarifies firearm restrictions for all San Juan County including Game Management Units 423 (Henry) and 424 (Stuart).

Citation of Rules Affected by this Order: Amending WAC 220-413-030 and 220-413-180.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.055, 77.12.047, and 77.12.240.

Adopted under notice filed as WSR 21-16-092 on August 3, 2021.

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

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

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

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

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

Date Adopted: October 22, 2021.

Larry M. Carpenter, Chair  
Washington Department of Fish  
and Wildlife Commission

AMENDATORY SECTION (Amending WSR 19-10-011, filed 4/19/19, effective 5/20/19)

**WAC 220-413-030 Importation and retention of dead nonresident wildlife.** (1) It is unlawful:

(a) To import or possess dead wildlife, taken in another state or country, into Washington unless such wildlife was acquired lawfully. Proof of legal acquisition must be retained during the period of retention of the carcass or edible parts.

(b) For a person who imports a dead bighorn sheep, mountain goat, cougar or bear to fail to report such importation to the department in writing within ten days of the importation. The report must contain the name and address of the importer, the location where the dead wildlife is being stored, and general information describing where and how the wildlife was obtained.

(c) To import or possess deer, elk, or moose, or parts thereof, harvested in (~~(Pennsylvania, Texas, Missouri, Colorado, Wyoming, Utah, New Mexico, Wisconsin, Illinois, South Dakota, Nebraska, Kansas, New York, West Virginia, Virginia, North Dakota, Alberta, Maryland, Minnesota, Montana, Mississippi, Iowa, Arkansas, Michigan, Saskatchewan, and Tennessee)~~ Alberta, Arkansas, Colorado, Illinois, Iowa, Kansas, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Mexico, New York, North Dakota, Ohio, Pennsylvania, Saskatchewan, South Dakota, Tennessee, Texas, Utah, Virginia, West Virginia, Wisconsin, and Wyoming with the following exceptions:

(i) Meat that has been deboned in the state or province where it was harvested and is imported as boned-out meat;

(ii) Skulls and antlers, antlers attached to the skull plate, or upper canine teeth (buglers, whistlers, ivories) from which all soft tissue has been removed;

(iii) Hides or capes without heads attached;

(iv) Tissue imported for use by a diagnostic or research laboratory; and

(v) Finished taxidermy mounts.

(2) Violation of subsection (1) of this section is punishable under RCW 77.15.290 Unlawful transportation of fish or wildlife—Penalty.

(3) It is unlawful for an importer or receiver of deer or elk to fail to notify the department within twenty-four hours if a state or province alerts the importer or receiver that a harvested animal has tested positive for chronic wasting disease. Violation of this subsection is an infraction punishable under RCW 77.15.160 Infractions.

AMENDATORY SECTION (Amending WSR 20-12-080, filed 6/1/20, effective 7/2/20)

**WAC 220-413-180 Special closures and firearm restriction areas.** (1) **RESTRICTED HUNTING AREAS.**

It is unlawful to hunt in the following restricted hunting areas unless otherwise provided:

(a) Parker Lake (GMU 117, Pend Oreille County): All lands south of Ruby Creek Road (USFS Road 2489), north of Tacoma Creek Road (USFS Road 2389), and west of Bonneville Power Administration power lines are designated as "CLOSED AREA" to hunting wild animals and wild birds year-round except for special hunts adopted by the fish and wildlife commission. The Parker Lake closure provides a protected area for the U.S. Air Force Military Survival Training Program.

(b) Columbia River: The Columbia River, all islands except privately owned, in the river, the Benton County

shoreline below the high water mark, Central Hanford Department of Energy property, and any peninsula originating on the Benton County shoreline, between Vernita Bridge on Highway 24 downstream to the Richland city limits are designated as a "CLOSED AREA" to hunting wild animals and wild birds except waterfowl hunting is open below the high water mark between the old Hanford townsite power line crossing in Section 24, T 13 N, R 27 E, and the Richland city limits.

(c) Green River (GMU 485): Except for special permit hunters, who may also take a black bear and/or cougar with the appropriate license/tag options, all lands within GMU 485 are designated as a "CLOSED AREA" to hunting big game year-round. During the general westside elk season and general and late deer seasons, all lands within GMU 485 year-round are also designated as a "CLOSED AREA" to hunting all wild animals, including wild birds, year-round. The city of Tacoma enforces trespass within GMU 485 year-round on lands owned or controlled by the city.

(d) McNeil Island (part of GMU 652): Closed to hunting all wild animals, including wild birds, year-round.

(e) Loo-wit (GMU 522): Closed to hunting and trapping, except for elk and mountain goat hunting by special permit holders during established seasons and in designated areas.

(2) A violation of subsection (1) of this section is punishable under RCW 77.15.400, 77.15.410, or 77.15.430, depending on the species hunted.

**(3) CLOSED BIG GAME HUNTING AREAS.**

It is unlawful to hunt big game in the following closed areas, unless otherwise specified:

(a) Clark, Cowlitz, Pacific, and Wahkiakum counties: Closed to hunting for Columbian whitetail deer.

(b) Cathlamet: Except for special permits issued by the department for nonendangered deer and elk, this area is closed to all deer and elk hunting to protect the Columbian whitetail deer. This area's boundaries are described as:

Beginning in the town of Skamokawa; then east along SR 4 to Risk Road; then south and east along Risk Road to Foster Road; then south along the Foster Road to the Elochoman River; then upstream along the Elochoman River to Elochoman Valley Road (old SR 407); then west along the Elochoman Valley Road to SR 4; then east along SR 4 to SR 409; then south along SR 409 to the Cathlamet Channel of the Columbia River; then east along the north shore of the Cathlamet Channel to Cape Horn; then south in the Columbia River to the state line; then west along the state line to a point directly south of the mouth of Skamokawa Creek; then north on Skamokawa Creek to SR 4 and the point of beginning.

(c) Walla Walla Mill Creek Watershed (GMU 157): All lands in the Mill Creek Watershed are designated as a "CLOSED AREA" to hunting all wild animals, including wild birds. The only exception is for deer or elk hunting by holders of GMU-157 special deer or elk permits during the established open season. These permit holders must have a U.S. Forest Service permit to enter the hunt area, and the area is closed to motorized vehicles. No entry into the Mill Creek Watershed is allowed at other times.

(d) Westport: Closed to hunting all big game animals on the part of Westport Peninsula lying north of State Highway

105 from the Elk River Bridge west end and the Schafer Island Road to the ocean beach.

(e) Cottonwood and Howard islands (GMU 564): Closed to all deer hunting.

(4) A violation of subsection (3) of this section is a gross misdemeanor or a class C felony punishable under RCW 77.15.410, depending on the circumstances of the violation.

**(5) FIREARM RESTRICTION AREAS.**

(a) It is unlawful to hunt wildlife in the following firearm restriction areas with centerfire or rimfire rifles, or to fail to comply with additional firearm restrictions, except as established below:

COUNTY	AREA
Chelan	That portion of GMU 251 (Mission) beginning at the intersection of the Duncan Road and Highway 2; south on Duncan Road to Mountain Home Road; south along Mountain Home Road to the Icicle Irrigation Ditch; south and west along the Icicle Irrigation Ditch to the Snow Lake Trail; west and north along the Snow Lake Trail and across the Icicle River to Icicle River Road; east and north along Icicle River Road to the Wenatchee River; northwest along the Wenatchee River to Highway 2; north and east on Highway 2 to Duncan Road and the point of beginning.
Clallam	That portion of GMU 624 (Coyle) located within Clallam County.
Clark	GMU 564 (Battle Ground). That portion of GMU 554 (Yale) in Clark County.
Cowlitz	GMU 554 (Yale). GMU 504 (Stella). That portion of GMU 564 (Battle Ground) in Cowlitz County.
Grays Harbor	The following restriction applies only during modern firearm general elk seasons: That portion of GMU 658 (North River) beginning at Bay City; then west along Highway 105 to Twin Harbors State Park; then south along Highway 105 to Cranberry Road; then east on Cranberry Road to Turkey Road; then east and north on Turkey Road to Bayview Logging Road; then north and east along Bayview Logging Road to Mallard Slough; then east and south along the Bayview Road to Andrews Creek; then north along main channel of Andrews Creek to Grays Harbor; then north and west along the main navigation channel to Bay City and point of beginning.

COUNTY	AREA	COUNTY	AREA
Grays Harbor	The following restriction applies only during modern firearm general elk seasons: That portion of GMU 660 (Minot Peak) described as follows: Beginning at Highway 12 and Highway 107 junction near Montesano; east and south on Highway 12 to State Street in Oakville; south on State Street to its merge with Oakville Road; west on Oakville Road to its merge with South Bank Road; northwest along South Bank Road to Wakefield Road; north on Wakefield Road to the Chehalis River; west along the Chehalis River to Highway 107 bridge; north on Highway 107 to Highway 12 to the point of beginning.	Pacific	GMU 684 (Long Beach) the following Long Beach Peninsula restriction applies only during modern firearm general deer and elk seasons: Beginning at the end of Outer Harbor Way in the City of Ilwaco to U.S. Highway 101, west and north on Highway 101 to Sandridge Road; north on Sandridge Road to 95th Street; west on 95th Street to Tarlatt Slough; out Tarlatt Slough to Willapa Bay, north along the shoreline of Willapa Bay, then west to the Pacific Ocean. South along the west coast of the peninsula to Cape Disappointment State Park; east along state park boundary to Baker Bay; east along Baker Bay to the point of beginning.
Island	GMUs 421 (Camano) and 420 (Whidbey).		The portion of GMU 658 (North River) south and west of State Highway 105 and Airport Road between Raymond and North River Bridge.
Jefferson	Indian and Marrowstone islands.		GMU 681 (Chinook Valley) beginning at confluence of Wallacut River, east along the Columbia River to the Astoria-Megler bridge; west along U.S. Highway 101 to Houtchen Road, north on Houtchen Road to the Chinook River; west on the Chinook River to the Chinook Valley Road; west on the Chinook Valley Road to Highway 101 and Wallacut River bridge; southwest on Wallacut River to point of beginning.
King	The area west of Highway 203 (Monroe-Fall City, then Fall City-Preston Road) to Interstate 90 (I-90), I-90 to Highway 18, Highway 18 to Interstate 5 (I-5), I-5 to the Pierce-King County line; and GMU 422 (Vashon-Maury).		Ketron Island in GMU 652 limited to archery, shotgun, and muzzleloader.
King	This area is restricted to archery only during general season hunts (agency directed damage permit hunts exempt): The following portion of GMU 652 (Puyallup): Beginning at the intersection of State Highway 410 and the southeast Mud Mountain Dam Road near the King/Pierce County line north of Buckley; then east along the southeast Mud Mountain Road to 284th Avenue Southeast; then north along 284th Avenue Southeast to State Highway 410; then west along Highway 410 to the point of the beginning.	Pierce	GMU 655 (Anderson) limited to archery, shotgun, and muzzleloader. McNeil Island closed to hunting.
Kitsap	East of State Highway 16 originating at the Tacoma Narrows Bridge to Gorst, and east of Highway 3 to Newberry Hill Road, north of Newberry Hill Road and the Bremerton-Seabeck Highway to Big Beef Creek Bridge; all of Bainbridge Island, and Bangor Military Reservation.		See GMU 652 restriction area outlined for King County.
Klickitat	Elk Area 5062 (Trout Lake) closed to center-fire rifles, handguns, and muzzleloaders October 1 to January 30.		GMU 627 (Kitsap) south of Highway 302 on the Key (Longbranch) Peninsula is a firearm restriction area.
Mason	GMU 633 (Mason Lake) south of Hammersley Inlet; and all of Harstine Island.	San Juan	All San Juan County, including GMUs 411 (Orcas), 412 (Shaw), 413 (San Juan), 414 (Lopez), 415 (Blakely), 416 (Decatur), <u>423 (Henry)</u> , <u>424 (Stuart)</u> , and those portions of GMU 410 (Islands) that occur in San Juan County.
		Snohomish	All areas west of Highway 9, until the intersection of Highway 9 and Highway 2, then east along Highway 2 to Highway 203, then all areas west of Highway 203 to the Snohomish/King County line.

COUNTY	AREA
Skagit	All mainland areas and islands, including GMU 419 (Guemes), in Skagit County west of I-5 and north of the Skagit/Snohomish County line, except Cypress Island. This restriction applies to big game hunting only.
Skamania	That portion of GMU 564 (Battle Ground) in Skamania County.
Thurston	GMU 666 (Deschutes) north of U.S. Highway 101 and Interstate 5 between Oyster Bay and the mouth of the Nisqually River.
Whatcom	All mainland areas and islands of Whatcom County that are west of I-5. This restriction applies to big game hunting only.

(b) Archery tag holders may only hunt during established archery seasons with archery equipment as defined under WAC 220-414-070.

(c) Muzzleloader tag holders may only hunt during established muzzleloader seasons with muzzleloader equipment or archery equipment as defined by department rule.

(d) Modern firearm tag holders may hunt during established modern firearm seasons with bows and arrows; crossbows; muzzleloaders; revolver-type handguns; semiautomatic handguns of .40 (10 mm) caliber or larger; or shotguns, so long as the equipment and ammunition complies with department rules.

(6) A violation of subsection (5) of this section is punishable under RCW 77.15.400, 77.15.410, or 77.15.430, depending on the species hunted.

**WSR 21-23-041**  
**PERMANENT RULES**  
**CLARK COLLEGE**

[Filed November 9, 2021, 12:44 p.m., effective December 10, 2021]

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

Purpose: Amending chapter 132N-156 WAC, Parking and traffic rules and regulations, to reflect recent changes in Clark College's internal policies and procedures, organizational structure, and management of parking, traffic regulations, fees, and fines.

Citation of Rules Affected by this Order: Repealing WAC 132N-156-740; and amending WAC 132N-156-310, 132N-156-330, 132N-156-400, 132N-156-410, 132N-156-420, 132N-156-440, 132N-156-450, 132N-156-460, 132N-156-500, 132N-156-530, 132N-156-550, 132N-156-560, 132N-156-570, 132N-156-600, 132N-156-610, 132N-156-620, 132N-156-630, 132N-156-640, 132N-156-645, 132N-156-650, 132N-156-700, 132N-156-710, 132N-156-720, 132N-156-730, 132N-156-750, 132N-156-760, 132N-156-800, and 132N-156-810.

Statutory Authority for Adoption: RCW 28B.50.140.

Adopted under notice filed as WSR 21-18-050 on August 21 [25], 2021.

Changes Other than Editing from Proposed to Adopted Version: The term "physically disabled persons" has been

replaced with "people with disabilities" and the term "physically disabled persons parking" has been replaced with "accessible parking."

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

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

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 28, Repealed 1.

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

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

Date Adopted: November 9, 2021.

G. Burley  
Executive Vice President  
of Operations

AMENDATORY SECTION (Amending WSR 00-20-034, filed 9/28/00, effective 10/29/00)

**WAC 132N-156-310 Authority.** Pursuant to RCW 28B.50.140(10) the board is granted authority to establish rules and regulations for pedestrians and vehicular and non-vehicular traffic over property owned, operated, and/or maintained by the college.

The enforcement of these rules and regulations shall be the responsibility of the (~~security/safety office~~) security and safety department.

Security (~~officers~~) personnel are authorized to issue parking and traffic citations, impound and/or immobilize vehicles, and control and regulate facilities use, traffic, and parking as prescribed in these rules and regulations.

Any person interfering with (~~the~~) college security (~~officers~~) personnel in the discharge of the provisions of these rules and regulations shall be in violation of RCW 9A.76-020, Obstructing governmental operation, and may be subject to arrest by a peace officer.

Failure by students to abide by these rules and regulations may be considered to be a violation of the code of student conduct (chapter 132N-120 WAC, as applicable).

Compliance with these rules and regulations is considered a standard part of job performance for all employees. Failure by faculty or staff of the college to abide by these rules and regulations may result in disciplinary action or other authorized sanctions.

AMENDATORY SECTION (Amending WSR 00-20-034, filed 9/28/00, effective 10/29/00)

**WAC 132N-156-330 Liability of the college.** The college assumes no liability for vehicles parking or traveling on college property, nor shall it be held responsible for the loss

of goods or property from vehicles parked on college property.

The college, the ~~((security/safety office))~~ security and safety department, security ~~((officers))~~ personnel, or other employees or agents shall not be held liable for any damages, claims, or losses occurring to or from vehicles or equipment when rendering motorist assistance, impounding vehicles, or performing any duties as described in these rules and regulations. This section also applies to nonvehicular modes of transportation.

The college provides only limited maintenance to college parking lots during periods of inclement weather. Persons using the college parking lots do so at their own risk. The college will not be responsible for any liability or damage claims arising from weather or other natural disaster-related causes or conditions.

AMENDATORY SECTION (Amending WSR 97-23-018, filed 11/10/97, effective 12/11/97)

**WAC 132N-156-400 Authorized use of facilities.** Only those vehicles as defined and regulated in RCW 46.04.670 and as defined herein, may be operated in parking lots or in traffic areas by licensed drivers. No vehicle, with the exception of nonmotorized bicycles, wheelchair conveyances, and certain maintenance vehicles, may be operated on intracampus property, pathways, or sidewalks without the specific permission of the ~~((security/safety office))~~ security and safety department.

AMENDATORY SECTION (Amending WSR 87-19-103, filed 9/18/87)

**WAC 132N-156-410 Vehicle speed limitations.** No vehicle shall be operated on the campus in excess of ~~((ten))~~ 10 miles per hour. When safety circumstances dictate, a speed less than ~~((ten))~~ 10 miles per hour should be maintained.

AMENDATORY SECTION (Amending WSR 93-20-080, filed 10/4/93, effective 11/4/93)

**WAC 132N-156-420 Regulatory signs and directions.** Drivers of vehicles shall obey regulatory signs and markings at all times and shall comply with directions given by security ~~((officers))~~ personnel in the control and regulation of traffic and parking.

AMENDATORY SECTION (Amending WSR 00-20-034, filed 9/28/00, effective 10/29/00)

**WAC 132N-156-440 Traffic accidents.** Persons involved in traffic accidents on college property are to report the accident to the ~~((security/safety office))~~ security and safety department. Security personnel will investigate the incident and, in the case of injury, extensive property damage, apparent criminal activity, or unusual circumstances, file an accident report with the appropriate law enforcement agency with 24 hours in accordance with RCW 46.52.030. ~~((In addition, RCW 46.52.030 requires that accidents on college property involving injury or property damage in excess~~

~~of five hundred dollars be reported to local law enforcement agencies within twenty-four hours.))~~ Security ~~((officers))~~ personnel are authorized to obtain and share with all parties to an accident information on the insurance coverage of the parties.

Nothing in this section should be interpreted so as to delay the immediate reporting of traffic accidents which involve injury or loss of life to appropriate noncollege authorities.

AMENDATORY SECTION (Amending WSR 00-20-034, filed 9/28/00, effective 10/29/00)

**WAC 132N-156-450 Traffic offenses.** When safety considerations warrant, security ~~((officers))~~ personnel may issue a citation for any of the following traffic offenses:

- (1) Failure to yield right of way (posted).
- (2) Failure to yield right of way to pedestrian.
- (3) Failure to yield right of way to vehicle.
- (4) Failure to obey one-way directional arrows.
- (5) Failure to yield right of way to emergency vehicle.
- (6) Driving with excessive speed.
- (7) Failure to stop at traffic signal/sign.
- (8) Failure to use due care and caution.
- (9) Driving without lights after dark.
- (10) Having a passenger or animal outside of vehicle while in motion.
- (11) Driving with an obstructed view.
- (12) Driving on shoulder, or sidewalk or intracampus sidewalk or lane without authorization.
- (13) Disobeying flagger, peace officer, security ~~((officer))~~ personnel, firefighter, or other agent of the college.
- (14) Damaging college property including, but not limited to, landscape and plant material, curbs, sidewalks, utilities, etc.
- (15) Driving while under the influence of intoxicants or with an open container of intoxicants.
- (16) Allowing an unattended vehicle to roll, obstruct traffic, or damage property.
- ~~((All traffic offenses carry a fifty-dollar fine.))~~ (17) Driving while distracted. Fines associated with traffic offenses shall be set and approved by the board, or its designee in accordance with WAC 132N-156-700. Students that commit traffic offenses may be referred to student conduct for violations of the code of student conduct, chapter 132N-125 WAC.

AMENDATORY SECTION (Amending WSR 97-23-018, filed 11/10/97, effective 12/11/97)

**WAC 132N-156-460 Bicycles and nonvehicular transportation usage.** Bicycles may be ridden any place where vehicles are permitted. They may also be ridden on campus sidewalks or pathways, though pedestrians always have the right of way. An audible signal shall be used by bicyclists to warn pedestrians of oncoming bicycles. Bicyclists shall not ride in a reckless manner or engage in stunts or dangerous acts, or operate at speeds greater than ~~((ten))~~ 10 miles per hour or such lower speed as is reasonable and prudent under the circumstances. With the exception of wheelchair conveyances and certain college service vehicles, no

other nonvehicular modes of transportation as specified in the preceding "definitions" will be allowed on college property.

AMENDATORY SECTION (Amending WSR 00-20-034, filed 9/28/00, effective 10/29/00)

**WAC 132N-156-500 Allocation of parking space.** The parking spaces available on college properties shall be assigned by the ~~((office of administrative services))~~ executive vice president of operations, or designee, in a manner which will best attain the objectives of these regulations. The ~~((plant))~~ facilities services department is authorized to mark various parking areas on college property with numbers or titles or by posting signs, or marking the pavement.

**Open parking -** Open parking is limited to those parking areas not otherwise marked as reserved for faculty/staff, ~~((physically disabled persons))~~ people with disabilities, special use, service vehicle, or visitor. Users of open parking are not required to display a parking permit.

**Faculty/staff parking -** Faculty, staff and administrators using college-owned or leased parking facilities between 7:00 a.m. and 10:00 p.m. Mondays through Fridays during fall, winter, and spring quarters are to purchase parking permits. The purchase of a permit for designated parking does not ensure the regular availability of a parking space.

Faculty/staff parking spaces are marked on the pavement with an F/S. Only college employee vehicles displaying a valid parking permit may park in faculty/staff parking spaces. Faculty/staff parking spaces shall be considered open parking spaces from ~~((10:00))~~ 5:30 p.m. to 7:00 a.m. and on weekends during fall, winter, and spring quarters, and at all times during summer quarter.

~~((Vehicles with approved faculty/staff parking permits are permitted to park in open parking areas only when the designated parking faculty/staff spaces are full.))~~

**Visitor parking -** All visitors, including guests, salespersons, maintenance or service personnel and all other members of the public, may park on college property in open parking, in designated special use visitor zones, or as directed by the ~~((security/safety office))~~ security and safety department.

**Use of vehicle as habitation -** No vehicle or vehicle trailer may be used as a place of habitation on any college facility without permission from the ~~((security/safety office))~~ security and safety department.

~~((Handicapped))~~ Accessible parking - ((Physically disabled persons parking zones)) Accessible parking spaces, parking spaces for use by a vehicle displaying a valid accessible parking permit, may be occupied only by vehicles displaying a valid temporary parking permit issued by the college or a valid permanent or temporary permit issued by the state of Washington in compliance with RCW 46.16.381 and 46.16.390. Temporary parking permits are available in health services. Valid parking permits issued by other states will be honored.

If all accessible parking spaces are occupied, those with a valid, properly displayed placard or permit may also park in metered parking spaces without paying for time parked in the space. If all accessible parking spaces and metered spaces are occupied, those with a valid, properly displayed placard, or permit, may park in faculty/staff spaces.

**Motorcycle parking -** Motorcycle parking zones are reserved for motorcycles and motor-driven cycles. ~~((These vehicles))~~ Motorcycles are ((not)) to occupy ((regular automobile parking spaces or other)) those areas ((not designed)) designated for motorcycle parking specifically.

**Service vehicle parking -** Service vehicle parking zones are limited to use by authorized college service or contractor vehicles only.

**Electric vehicle charging stations -** These spaces are for the specific purpose of charging electric vehicles. These areas are designated by green paint on the pavement in accordance with RCW 46.08.185(1). These are not parking spaces. Those using charging stations are expected to remove their vehicles immediately after the vehicle has been charged. The use of charging equipment outside of the designated charging station area is prohibited and is subject to citation and fine.

**Meter spaces -** There are metered parking spaces located on campus. The meters have marked designated time limits. The meters provide spaces to those individuals who have short-term parking needs on campus. Meter hours are Monday through Thursday, 8:00 a.m. to 5:30 p.m., and Friday 8:00 a.m. to 5:00 p.m.

AMENDATORY SECTION (Amending WSR 00-20-034, filed 9/28/00, effective 10/29/00)

**WAC 132N-156-530 Impounding of disabled/abandoned vehicles.** No disabled or inoperative vehicle shall be parked on college property for a period in excess of ~~((twenty-four))~~ 24 hours, unless permission is granted by the ~~((security/safety office))~~ security and safety department. Vehicles which have been parked in excess of ~~((twenty-four))~~ 24 hours may be impounded and stored at the expense of either or both the owner or operator thereof. Notice of intent to impound will be posted on the vehicle at least ~~((twenty-four))~~ 24 hours prior to impoundment unless a vehicle is illegally or hazardously parked. Neither the college nor college employees shall be responsible for claims, loss or damage of any kind resulting from such impounding and storage.

Vehicles under repair in the college's instructional program must be ~~((parked in a designated area and must have an approved "vehicle in repair" notice visibly posted within the vehicle. This includes vehicles upon which service has been completed and which are awaiting pick up by the owners))~~ clearly identified and parked in an area designated for these vehicles.

AMENDATORY SECTION (Amending WSR 17-22-093, filed 10/30/17, effective 11/30/17)

**WAC 132N-156-550 Illegal parking.** No person shall stop, place, or park a vehicle at any place where official signs, curbs, or pavement markings prohibit parking, or within ~~((fifteen))~~ 15 feet of a fire hydrant, or at any place for which the vehicle does not have a valid parking permit. Any vehicle not parked in a parking stall shall be considered illegally parked.

Drivers who are instructed by a security ~~((officer))~~ personnel to ~~((either))~~ move an illegally parked vehicle ((or not to park in violation of this section)), and refuse, will have their vehicle immediately impounded or immobilized.

~~((Security officers may issue citations resulting in fines if the vehicle is found in the commission of any of the following parking violations:))~~ Under the authority granted by RCW 28B.50.140(10), security personnel may issue a citation for parking violations that include the following and any other offenses provided in chapter 46.61 RCW as amended:

(1) Parking in a faculty/staff parking zone without a valid permit.

(2) Parking a disabled or inoperable vehicle on campus in excess of ~~((twenty-four))~~ 24 hours without appropriate permission.

(3) Parking any vehicle in such a manner as to obstruct, impede, hinder, or prevent the use of another parking space. This violation includes, but is not limited to, parking over the line, parking an oversized vehicle in a space too small, allowing part of a vehicle to protrude into another space, and parking too close to another vehicle.

(4) Parking in a space not designated for parking.

(5) Parking in an area not authorized.

(6) Blocking vehicular or pedestrian traffic.

(7) Parking within ~~((fifteen))~~ 15 feet of a fire hydrant.

(8) Parking in a fire lane, sidewalk, or intracampus avenue.

(9) Parking in a "No Parking" zone.

(10) Parking on the grass.

(11) Parking overnight without ~~((security office permission and/or permit))~~ authorization.

(12) Parking of a bicycle illegally.

(13) Parking in ~~((physically disabled persons))~~ accessible parking zone without an authorized parking permit.

(14) Use of a vehicle for habitation without permission.

(15) Illegal use of or failure to display permit.

(16) Creating a safety hazard in the opinion of ~~((the))~~ security ((officer)) personnel.

(17) Allowing a vehicle alarm to sound, repeatedly or for an extended period of time (false alarm).

(18) Parking in a metered parking spot without payment of the meter fee stated on the meter during the posted time limits.

~~((All parking citations carry a twenty dollar fine, with the exception of physically disabled persons parking violations which carry a fifty dollar fine.))~~ (19) Parking in an area designated as an "Electric Vehicle Charging Station" while not actively charging an electric vehicle.

Illegally parked vehicles which require removal will be done so at the owner's or operator's expense.

AMENDATORY SECTION (Amending WSR 97-23-018, filed 11/10/97, effective 12/11/97)

**WAC 132N-156-560 Hazardous parking.** No person shall stop, place, or park a vehicle so as to obstruct traffic along or upon any street, firelane, or sidewalk or at any location as described in RCW 46.61.570. Due to the severe risk to public safety created by any vehicle parking in violation of this section, security ~~((officers))~~ personnel are authorized to cite and immediately impound said vehicle. Security ~~((officers))~~ personnel will complete a vehicle impound report, including the reason for the impoundment. Removal and impoundment will be at the owner's or operator's expense.

AMENDATORY SECTION (Amending WSR 00-20-034, filed 9/28/00, effective 10/29/00)

**WAC 132N-156-570 Bicycle parking.** Bicycles shall be parked in bicycle racks or other facilities provided for the purpose. Bicycles may only be parked inside a building if specific areas (i.e., indoor bicycle lockers) have been provided and are available or if a college employee (faculty or staff) has expressed written permission from their immediate supervisor to park a bicycle inside a building.

Before authorizing an employee to park inside of a building, supervisors must ensure that any bicycles parked inside will not interfere with the daily operations of the work area(s) nor will they obstruct any evacuation or egress routes in any way. Bicycles are not to be taken onto any elevator at any time.

At no time shall a bicycle be parked ~~((in a building;))~~ against a building, near a building exit, on a path or sidewalk, or chained (or otherwise secured) to trees, lamp standards, utilities, stairway railings, or sign posts. Any bicycle found in violation of this section may be cited for illegal parking and impounded by the ~~((security/safety office))~~ security and safety department without warning.

AMENDATORY SECTION (Amending WSR 00-20-034, filed 9/28/00, effective 10/29/00)

**WAC 132N-156-600 Faculty and staff parking permits.** All college faculty, staff, and administrators using college parking facilities at any time between 7:00 a.m. and ~~((4:00))~~ 5:30 p.m. Mondays through Fridays during fall, winter, and spring quarters are to purchase and display a valid parking permit. The fact that an employee may be eligible to park in ~~((a physically disabled persons))~~ an accessible parking zone will not relieve the employee of this requirement. A valid faculty/staff parking permit may not, by itself, constitute authority to park in other parking facilities leased or owned by the college.

AMENDATORY SECTION (Amending WSR 93-20-080, filed 10/4/93, effective 11/4/93)

**WAC 132N-156-610 Permit parking on campus.** The correct parking permit must be properly displayed in accordance with permit instructions.

Temporary parking permits are issued by the ~~((security/safety office))~~ security and safety department and must be displayed in accordance with permit instructions.

Parking permits are not transferable and shall not be utilized by any person except the person designated on the parking permit application. The college reserves the right to deny any application, or to revoke any permit at any time, if actions resulting from such application or permission constitute present, imminent danger of unlawful activity, or if a prospective user has previously violated college parking policies or other written rules or regulations. All outstanding college parking fines must be paid before a parking permit will be issued or renewed.

No bailment is created by the sale or issuance of a permit.



AMENDATORY SECTION (Amending WSR 00-20-034, filed 9/28/00, effective 10/29/00)

**WAC 132N-156-620 Fees for parking permits.** The fees charged by the college for the issuance of permits shall be those established by the board of trustees. Parking permits are issued as a license to park at college facilities.

Fees collected will be utilized for parking operations including parking enforcement, parking lot maintenance, security and safety improvements and for those transportation demand management and commute trip reduction activities and programs permitted by law.

~~((Current faculty/staff parking permit fees are seven dollars and fifty cents per quarter for one vehicle, and an additional one dollar per quarter for each additional vehicle.))~~ Permits are required for fall, winter, and spring quarters. Administrators, exempt staff, permanent classified staff, and tenure-track faculty may ~~((purchase))~~ acquire permanent permits. Adjunct faculty and temporary classified staff may ~~((purchase))~~ acquire annual or quarterly permits. ~~((Annual permits may be purchased by full-time temporary faculty and adjunct faculty who have received approval from the security/safety manager.))~~

AMENDATORY SECTION (Amending WSR 97-23-018, filed 11/10/97, effective 12/11/97)

**WAC 132N-156-630 Parking fee payment.** ~~((Faculty and staff can purchase annual or quarterly parking permits at either the college bookstore or at the cashier's office in the Baird Administration Building. Annually contracted faculty and staff members may select the payroll deduction plan for payment of the permanent permit. Those selecting this payment plan must complete a payroll deduction authorization form before issuance of a permit. The form is available in the security/safety office and the personnel services office.))~~ Unless otherwise authorized by the president of the college or their designee, employees will be given the option of having parking fees deducted on either a pretax or post-tax basis.

AMENDATORY SECTION (Amending WSR 93-20-080, filed 10/4/93, effective 11/4/93)

**WAC 132N-156-640 Temporary parking permits.** Any permit holder may obtain a temporary parking permit from the ~~((security/safety office))~~ security and safety department for an ~~((unregistered))~~ unpermitted vehicle when ~~((the registered))~~ their permitted vehicle is unavailable due to repairs or for ~~((another))~~ other valid reasons. These permits are ~~((good))~~ valid for a period of two weeks.

AMENDATORY SECTION (Amending WSR 00-20-034, filed 9/28/00, effective 10/29/00)

**WAC 132N-156-645 Guest parking permits.** College faculty or staff who have invited a guest speaker, lecturer, presenter, or other special guest to the college may apply to the ~~((security/safety office))~~ security and safety department for a guest parking permit. A guest parking permit will entitle the holder to park in faculty/staff parking, and to park in visitor parking without registering, in order to facilitate their

appearance at the college. Permits will be valid only for the day(s) specified on the permit. Guest parking permits will not be issued for personal guests of college employees or for staff employed by the college on a temporary basis.

Requestors will provide the ~~((security/safety office))~~ security and safety department with the name of the guest and the date, time, place, and nature of appearance at the college. Permits may be picked up at the ~~((security/safety office))~~ security and safety department, or ~~((security/safety))~~ security and safety department can mail or email the permit directly to the guest. Staff should apply for guest parking permits far enough in advance of the appearance to allow for delivery of the permit.

AMENDATORY SECTION (Amending WSR 00-20-034, filed 9/28/00, effective 10/29/00)

**WAC 132N-156-650 Revocations.** Parking permits are licenses and the property of the college and may be revoked for any of the following reasons:

- (1) The purpose for which the permit was issued changes or no longer exists.
- (2) The permit is used on an ~~((unregistered))~~ unauthorized vehicle or by an unauthorized individual.
- (3) A parking permit application form was falsified.
- (4) These parking regulations were violated.
- (5) The parking permit was counterfeited or altered or transferred without authorization.
- (6) ~~((There has been))~~ Failure to comply with a specific determination, decision, or directive by college officials.

~~((Appeals of parking permit revocations may be made within twenty days to the security/safety manager for a brief adjudicative procedure. Appeals to the vice president of administrative services must be filed within twenty one days of the date of notice of revocation. The decision of the vice president is final.))~~

AMENDATORY SECTION (Amending WSR 93-20-080, filed 10/4/93, effective 11/4/93)

**WAC 132N-156-700 Policy.** The board of trustees, or its designee, shall set and approve fair and uniform fines for violations of these rules and shall provide adequate means for the enforcement and/or collection of such fines. If a violation of these rules and regulations is committed, the ~~((security/safety office))~~ security and safety department is authorized to issue ~~((a))~~ citations as prescribed in these rules.

Any violation occurring after the second citation for any parking violation may result in the violator's vehicle being impounded or immobilized and held until all outstanding citations have been paid and/or the loss of parking privileges on college property/facilities.

AMENDATORY SECTION (Amending WSR 97-23-018, filed 11/10/97, effective 12/11/97)

**WAC 132N-156-710 Payment of fines.** Persons cited for violations of these rules and regulations may respond either by filing a written appeal with the ~~((security/safety manager))~~ director of security and safety or their designee, or by paying a fine within ~~((fifteen))~~ 15 calendar days of receipt

of the citation. All fines are payable to Clark College. Fines can be paid by mail or in person at the cashier's office (~~(in the Baird Administration Building)~~). Fines that are mailed must be received within ~~((fifteen))~~ 15 calendar days of receipt of the citation. If a person chooses to appeal a citation in accordance with WAC 132N-156-730 Appeals, any imposed fine, whether reduced or not, will not be due until a decision of the appeal has been rendered.

AMENDATORY SECTION (Amending WSR 97-23-018, filed 11/10/97, effective 12/11/97)

**WAC 132N-156-720 Reduction in fines.** Fines for parking and traffic offenses will be reduced by ~~((five dollars))~~ an amount approved by the president of the college or their designee if paid in person within ~~((forty-eight))~~ 48 hours, excluding weekends and holidays. No reduction will be made on mail-in payments.

AMENDATORY SECTION (Amending WSR 00-20-034, filed 9/28/00, effective 10/29/00)

**WAC 132N-156-730 Appeals.** Alleged violators may appeal to the ~~((security/safety manager))~~ director of security and safety or their designee for a brief adjudicative procedure within ~~((twenty))~~ 20 calendar days ~~((of))~~ from the date of the citation. The ~~((security/safety manager))~~ director of security and safety or their designee may uphold the citation/fine, may dismiss, suspend, ((impose any lesser)) or reduce the imposed fine, and/or grant an extension of time within which to pay the fine.

Appeals of the decision of the ~~((security/safety manager))~~ director of security and safety or their designee are to be submitted to the ~~((vice president of administrative services without posting of fine))~~ president of the college or their designee within ~~((twenty-one))~~ 20 calendar days. Written notification of the ~~((vice))~~ president's or their designee's decision shall be made within ~~((twenty))~~ 20 calendar days of the appeal and shall be final.

AMENDATORY SECTION (Amending WSR 00-20-034, filed 9/28/00, effective 10/29/00)

**WAC 132N-156-750 Unpaid fines.** If any fine remains unpaid, any or all of the following actions may be taken by the ~~((security/safety office))~~ security and safety department.

- ~~((1))~~ (1) ~~((A hold may be placed on transcripts.~~
- ~~((2))~~ (2) Registration for the following quarter may be delayed.
- ~~((3))~~ (2) Parking privileges may be revoked.
- ~~((4))~~ (3) The amount ~~((due))~~ owed as a result of fines due and payable may be deducted from paychecks of college employees.
- ~~((5))~~ (4) Outstanding fines may be referred to a collection agency.
- ~~((6))~~ (5) The vehicle may be immobilized or impounded.

~~((If a violator has two or more unpaid fines, his/her vehicle will be impounded or immobilized and held until all outstanding fines are paid. Immobilization of a vehicle may result in an additional \$20.00 fine.))~~ These procedures will be

applicable to all students, faculty, and staff or other persons utilizing college facilities who receive fines for violations of these rules and regulations. Visitors who have received citations for parking violations may return the citation to the ~~((security/safety office))~~ security and safety department with name, address, and a brief explanation. The ~~((security/safety manager may void the citation as a courtesy notice))~~ director of security and safety may, at their discretion, void the citation.

AMENDATORY SECTION (Amending WSR 93-20-080, filed 10/4/93, effective 11/4/93)

**WAC 132N-156-760 Special circumstances.** During special ~~((occasions))~~ circumstances that result in extraordinary traffic conditions and during emergencies, the ~~((security/safety office))~~ security and safety department is authorized to impose special traffic and parking regulations ~~((and))~~ that may include additional parking restrictions to mitigate and reduce the risk of inconvenience, personal injury or property damage. Whenever possible, prior notice of these regulations or restriction changes shall be posted. Such authorization is ~~((of a))~~ temporary ((nature)) and should last only as long as the situation necessitates.

AMENDATORY SECTION (Amending WSR 00-20-034, filed 9/28/00, effective 10/29/00)

**WAC 132N-156-800 Policy.** College faculty or staff who coordinate special events involving the participation of dignitaries from off-campus may request that parking spaces be reserved for those participants on the day of the event. All requests for reserved parking will be made in writing to the office of the president or their designee at least a week in advance. Aside from traffic revisions necessary for construction and maintenance work, the ~~((security/safety office))~~ security and safety department will not reserve parking spaces without prior approval from the president's office or their designee.

AMENDATORY SECTION (Amending WSR 00-20-034, filed 9/28/00, effective 10/29/00)

**WAC 132N-156-810 Process.** The requesting party will forward a copy of the approved request to the ~~((security/safety manager))~~ director of security and safety for implementation. After receiving an approved request, the ~~((security/safety manager))~~ director of security and safety will contact the requesting party to confirm the details and ~~((to))~~ assign the reserved spaces. All attempts will be made to accommodate the needs of the participants and the event, but the final decision on the allocation of spaces rests with the ~~((security/safety manager))~~ director of security and safety.

Reserved spaces will be established only for arrival of participants to the event ~~((; no "in and out" areas will be maintained)).~~

On the day of the event, the ~~((security/safety office))~~ security and safety department will set up barricades or otherwise designate the reserved spaces. Unless other arrangements are made, it will be the responsibility of the requesting party to provide personnel to meet those individuals autho-

rized to park in the reserved spaces and to remove the barricades to allow them to park. If the requesting party wants to have a security (~~(officer staff)~~) personnel supervise the parking spaces, they must make prior arrangements for staffing. Security (~~(officers)~~) personnel will be assigned to such duty only if available, and their time will be charged to the requesting (~~(party)~~) party's budget.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 132N-156-740 Security/parking advisory committee.

**WSR 21-23-044**  
**PERMANENT RULES**  
**HEALTH CARE AUTHORITY**

[Filed November 9, 2021, 4:01 p.m., effective December 10, 2021]

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

Purpose: The health care authority (HCA) is amending these rules to change occurrences of "ordering physician" to "authorized practitioner" to align with amendments in chapters 182-543 and 182-551 WAC recently made in WSR 21-12-051. HCA also added a definition to WAC 182-551-2010 for authorized practitioner.

Citation of Rules Affected by this Order: Amending WAC 182-543-2000, 182-551-2010, and 182-551-2210.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 21-19-156 on September 22, 2021.

Changes Other than Editing from Proposed to Adopted Version:

Proposed/Adopted	WAC Subsection	Reason
<b>WAC 182-551-2010</b>		
Proposed	" <b>Authorized practitioner</b> " means a physician, nurse practitioner, clinical nurse specialist, or physician assistant who may order home health services, including face-to-face encounter services.	In response to a stakeholder's request, clarifies that certified nurse midwives are authorized practitioners who may conduct home health services, including face-to-face encounter services.
Adopted	" <b>Authorized practitioner</b> " means: <u>(a) A physician, nurse practitioner, clinical nurse specialist, or physician assistant who may order and conduct home health services, including face-to-face encounter services;</u> <u>or</u> <u>(b) A certified nurse midwife under 42 C.F.R. 440.70 when furnished by a home health agency that meets the conditions of participation for Medicare who may conduct home health services, including face-to-face encounter services.</u>	

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

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

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

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

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

Date Adopted: November 9, 2021.

Wendy Barcus  
 Rules Coordinator

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

**WAC 182-543-2000 Eligible providers and provider requirements.** (1) The medicaid agency pays qualified pro-

viders for medical equipment and repairs on a fee-for-service basis as follows:

(a) Providers who are enrolled with medicare for medical equipment and related repair services;

(b) Qualified complex rehabilitation technology (CRT) suppliers who are enrolled with medicare;

(c) Medical equipment dealers and pharmacies who are enrolled with medicare, and have a national provider identifier (NPI) for medical supplies;

(d) Prosthetics and orthotics providers who are licensed by the Washington state department of health in prosthetics and orthotics. Medical equipment dealers and pharmacies that do not require state licensure to provide selected prosthetics and orthotics may be paid for those selected prosthetics and orthotics only as long as the medical equipment dealers and pharmacies meet the medicare enrollment requirement;

(e) Occupational therapists providing orthotics who are licensed by the Washington state department of health in occupational therapy;

(f) Physicians who provide medical equipment in the office; and

(g) Out-of-state prosthetics and orthotics providers who meet their state regulations.

(2) Providers and suppliers of medical equipment must:

(a) Meet the general provider requirements in chapter 182-502 WAC;

(b) Have the proper business license and be certified, licensed and bonded if required, to perform the services billed to the agency;

(c) Have a valid prescription for the medical equipment.

(i) To be valid, a prescription must:

(A) Be written on the agency's Prescription Form (HCA 13-794). The agency's electronic forms are available online at <https://www.hca.wa.gov/billers-providers/forms-and-publications>;

(B) Be written by ~~((a physician))~~ an authorized practitioner as defined in WAC ~~((182-500-0085))~~ 182-551-2010 and meet the face-to-face encounter requirements described in WAC 182-551-2040;

(C) Be written, signed (including the prescriber's credentials), and dated by the prescriber on the same day and before delivery of the medical equipment. Prescriptions must not be back-dated;

(D) Be no older than one year from the date the prescriber signs the prescription; and

(E) State the specific item or service requested, diagnosis, estimated length of need (weeks, months, or years), and quantity.

(ii) For dual-eligible clients when medicare is the primary payer and the agency is being billed for only the copay, only the deductible, or both, subsection (2)(a) of this section does not apply.

(d) Provide instructions for use of equipment;

(e) Provide only new equipment to clients, which include full manufacturer and dealer warranties. See WAC 182-543-2250(3);

(f) Provide documentation of proof of delivery, upon agency request (see WAC 182-543-2200); and

(g) Bill the agency using only the allowed procedure codes listed in the agency's published medical equipment billing guide.

AMENDATORY SECTION (Amending WSR 18-24-023, filed 11/27/18, effective 1/1/19)

**WAC 182-551-2010 Definitions.** The following definitions and abbreviations and those found in chapter 182-500 WAC apply to subchapter II:

**"Acute care"** means care provided by a home health agency for clients who are not medically stable or have not attained a satisfactory level of rehabilitation. These clients require frequent intervention by a registered nurse or licensed therapist.

**"Authorized practitioner" means:**

(a) A physician, nurse practitioner, clinical nurse specialist, or physician assistant who may order and conduct home health services, including face-to-face encounter services; or

(b) A certified nurse midwife under 42 C.F.R. 440.70 when furnished by a home health agency that meets the conditions of participation for medicare who may conduct home health services, including face-to-face encounter services.

**"Brief skilled nursing visit"** means a registered nurse, or a licensed practical nurse under the supervision of a registered nurse, performs only one of the following activities during a visit to a client:

- (a) An injection;
- (b) Blood draw; or
- (c) Placement of medications in containers.

**"Chronic care"** means long-term care for medically stable clients.

**"Full skilled nursing visit"** means a registered nurse, or a licensed practical nurse under the supervision of a registered nurse, performs one or more of the following activities during a visit to a client:

- (a) Observation;
- (b) Assessment;
- (c) Treatment;
- (d) Teaching;
- (e) Training;
- (f) Management; and
- (g) Evaluation.

**"Home health agency"** means an agency or organization certified under medicare to provide comprehensive health care on an intermittent or part-time basis to a patient in any setting where the patient's normal life activities take place.

**"Home health aide"** means a person registered or certified as a nursing assistant under chapter 18.88 RCW who, under the direction and supervision of a registered nurse or licensed therapist, assists in the delivery of nursing or therapy related activities, or both.

**"Home health aide services"** means services provided by a home health aide only when a client has an acute, intermittent, short-term need for the services of a registered nurse, physical therapist, occupational therapist, or speech therapist who is employed by or under contract with a home health agency. These services are provided under the supervision of the previously identified authorized practitioners and include, but are not limited to, ambulation and exercise, assistance with self-administered medications, reporting changes in a client's condition and needs, and completing appropriate records.

**"Home health skilled services"** means skilled health care (nursing, specialized therapy, and home health aide) services provided on an intermittent or part-time basis by a medicare-certified home health agency with a current provider number in any setting where the client's normal life activities take place. See also WAC 182-551-2000.

**"Long-term care"** is a generic term referring to various programs and services, including services provided in home and community settings, administered directly or through contract by the department of social and health services' (DSHS) division of developmental disabilities (DDD) or aging and long-term support administration (ALTSA) through home and community services (HCS).

**"Plan of care (POC)"** (also known as **"plan of treatment (POT)"**) means a written plan of care that is established and periodically reviewed and signed by both an (~~ordering physician~~) authorized practitioner and a home health agency provider. The plan describes the home health care to be provided in any setting where the client's normal life activities take place. See WAC 182-551-2210.

**"Review period"** means the three-month period the medicaid agency assigns to a home health agency, based on the address of the agency's main office, during which the medicaid agency reviews all claims submitted by that home health agency.

**"Specialized therapy"** means skilled therapy services provided to clients that include:

- (a) Physical;
- (b) Occupational; or
- (c) Speech/audiology services.

(See WAC 182-551-2110.)

**"Telemedicine"** - For the purposes of WAC 182-551-2000 through 182-551-2220, means the use of telemonitoring to enhance the delivery of certain home health skilled nursing services through:

(a) The collection and transmission of clinical data between a patient at a distant location and the home health provider through electronic processing technologies. Objective clinical data that may be transmitted includes, but is not limited to, weight, blood pressure, pulse, respirations, blood glucose, and pulse oximetry; or

(b) The provision of certain education related to health care services using audio, video, or data communication instead of a face-to-face visit.

**AMENDATORY SECTION** (Amending WSR 18-24-023, filed 11/27/18, effective 1/1/19)

**WAC 182-551-2210 Provider requirements.** For any delivered home health service to be payable, the medicaid agency requires home health providers to develop and implement an individualized plan of care (POC) for the client.

(1) The POC must:

- (a) Be documented in writing and be located in the client's home health medical record;
- (b) Be developed, supervised, and signed by a licensed registered nurse or licensed therapist;
- (c) Reflect the (~~ordering physician's~~) authorized practitioner's orders and client's current health status;
- (d) Contain specific goals and treatment plans;

(e) Be reviewed and revised by an (~~ordering physician~~) authorized practitioner at least every (~~sixty~~) 60 calendar days, signed by the (~~ordering physician~~) authorized practitioner within (~~forty-five~~) 45 days of the verbal order, and returned to the home health agency's file; and

(f) Be available to medicaid agency staff or its designated contractor(s) on request.

(2) The provider must include all the following in the POC:

(a) The client's name, date of birth, and address (to include name of residential care facility, if applicable);

(b) The primary diagnosis (the diagnosis that is most related to the reason the client qualifies for home health services) or the diagnosis that is the reason for the visit frequency;

(c) All secondary medical diagnoses, including date or dates of onset or exacerbation;

(d) The prognosis;

(e) The type or types of equipment required, including telemedicine as appropriate;

(f) A description of each planned service and goals related to the services provided;

(g) Specific procedures and modalities;

(h) A description of the client's mental status;

(i) A description of the client's rehabilitation potential;

(j) A list of permitted activities;

(k) A list of safety measures taken on behalf of the client;

and

(l) A list of medications which indicates:

(i) Any new prescription; and

(ii) Which medications are changed for dosage or route of administration.

(3) The provider must include in or attach to the POC:

(a) A description of the client's functional limits and the effects;

(b) Documentation that justifies why the medical services should be provided in any setting where the client's life activities take place instead of an (~~ordering physician's~~) authorized practitioner's office, clinic, or other outpatient setting;

(c) Significant clinical findings;

(d) Dates of recent hospitalization;

(e) Notification to the department of social and health services (DSHS) case manager of admittance;

(f) A discharge plan, including notification to the DSHS case manager of the planned discharge date and client disposition at time of discharge; and

(g) Order for the delivery of home health services through telemedicine, as appropriate.

(4) The individual client medical record must comply with community standards of practice, and must include documentation of:

(a) Visit notes for every billed visit;

(b) Supervisory visits for home health aide services as described in WAC 182-551-2120(3);

(c) All medications administered and treatments provided;

(d) All (~~physician's~~) authorized practitioner's orders, new orders, and change orders, with notation that the order was received before treatment;

- (e) Signed (~~(physician's)~~) authorized practitioner's new orders and change orders;
- (f) Home health aide services as indicated by a registered nurse or licensed therapist in a home health aide care plan;
- (g) Interdisciplinary and multidisciplinary team communications;
- (h) Inter-agency and intra-agency referrals;
- (i) Medical tests and results;
- (j) Pertinent medical history; and
- (k) Notations and charting with signature and title of writer.
- (5) The provider must document at least the following in the client's medical record:
- (a) Skilled interventions per the POC;
- (b) Client response to the POC;
- (c) Any clinical change in client status;
- (d) Follow-up interventions specific to a change in status with significant clinical findings;
- (e) Any communications with the attending (~~(ordering physician)~~) authorized practitioner; and
- (f) Telemedicine findings, as appropriate.
- (6) The provider must include the following documentation in the client's visit notes when appropriate:
- (a) Any teaching, assessment, management, evaluation, client compliance, and client response;
- (b) Weekly documentation of wound care, size (dimensions), drainage, color, odor, and identification of potential complications and interventions provided;
- (c) If a client's wound is not healing, the client's (~~(ordering physician)~~) authorized practitioner has been notified, the client's wound management program has been appropriately altered and, if possible, the client has been referred to a wound care specialist; and
- (d) The client's physical system assessment as identified in the POC.

**WSR 21-23-050****PERMANENT RULES****HEALTH CARE AUTHORITY**

[Filed November 10, 2021, 9:50 a.m., effective December 11, 2021]

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

Purpose: The 2021-2023 operating budget (ESSB 5092, section 211 (34)-(36)), included a proviso directing the health care authority (HCA) to provide rate increases for behavioral health services, primary care services, and family planning services. The HCA is amending WAC 182-531-1850 Payment methodology for physician-related services—General and billing modifiers, to allow for adjustment of rates as directed by the legislature.

Citation of Rules Affected by this Order: Amending WAC 182-531-1850.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 21-20-071 on September 29, 2021.

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

Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

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

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

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

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

Date Adopted: November 10, 2021.

Wendy Barcus  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 17-21-040, filed 10/12/17, effective 11/12/17)

**WAC 182-531-1850 Payment methodology for physician-related services—General and billing modifiers.**

**GENERAL PAYMENT METHODOLOGY**

(1) The medicaid agency bases the payment methodology for most physician-related services on medicare's RBRVS. The agency obtains information used to update the agency's RBRVS from the MPFSPS.

(2) The agency updates and revises the following RBRVS areas each January prior to the agency's annual update.

(3) The agency determines a budget-neutral conversion factor (CF) for each RBRVS update, by:

(a) Determining the units of service and expenditures for a base period. Then,

(b) Applying the latest medicare RVU obtained from the MPFSDB, as published in the MPFSPS, and GCPI changes to obtain projected units of service for the new period. Then,

(c) Multiplying the projected units of service by conversion factors to obtain estimated expenditures. Then,

(d) Comparing expenditures obtained in (c) of this subsection with base period expenditure levels. Then,

(e) Adjusting the dollar amount for the conversion factor until the product of the conversion factor and the projected units of service at the new RVUs equals the base period amount.

(4) The agency calculates maximum allowable fees (MAFs) in the following ways:

(a) For procedure codes that have applicable medicare RVUs, the three components (practice, malpractice, and work) of the RVU are:

(i) Each multiplied by the statewide GPCI. Then,

(ii) The sum of these products is multiplied by the applicable conversion factor. The resulting RVUs are known as RBRVS RVUs.

(b) For procedure codes that have no applicable medicare RVUs, RSC RVUs are established in the following way:

(i) When there are three RSC RVU components (practice, malpractice, and work):

(A) Each component is multiplied by the statewide GPCI. Then,

(B) The sum of these products is multiplied by the applicable conversion factor.

(ii) When the RSC RVUs have just one component, the RVU is not GPCI adjusted and the RVU is multiplied by the applicable conversion factor.

(c) For procedure codes with no RBRVS or RSC RVUs, the agency establishes maximum allowable fees, also known as "flat" fees.

(i) The agency does not use the conversion factor for these codes.

(ii) The agency updates flat fee reimbursement only when the legislature authorizes a vendor rate increase, except for the following categories which are revised annually during the update:

(A) Immunization codes are reimbursed at the Medicare Part B drug file price or POS AAC when there is no Part B rate. (See WAC 182-530-1050 for explanation of POS AAC.) When the provider receives immunization materials from the department of health, the agency pays only a flat fee for administering the immunization.

(B) A cast material maximum allowable fee is set using an average of wholesale or distributor prices for cast materials.

(iii) Other supplies are reimbursed at physicians' acquisition cost, based on manufacturers' price sheets. Reimbursement applies only to supplies that are not considered part of the routine cost of providing care (e.g., intrauterine devices (IUDs)).

(d) For procedure codes with no RVU or maximum allowable fee, the agency reimburses "by report." By report codes are reimbursed at a percentage of the amount billed for the service.

(e) For supplies that are dispensed in a physician's office and reimbursed separately, the provider's acquisition cost when flat fees are not established.

(f) The agency reimburses at acquisition cost those HCPCS J and Q codes that do not have flat fees established.

(5) The technical advisory group reviews RBRVS changes.

(6) The agency also makes fee schedule changes when the legislature grants a vendor rate increase and the effective date of that increase is not the same as the agency's annual update.

(7) If the legislatively authorized vendor rate increase, or other increase, becomes effective at the same time as the annual update, the agency applies the increase after calculating budget-neutral fees. The agency pays providers a higher reimbursement rate for primary health care E&M services that are provided to children age twenty and under.

(8) The agency may adjust rates to maintain or increase access to health care services as directed by the legislature.

(9) The agency does not allow separate reimbursement for bundled services. However, the agency allows separate reimbursement for items considered prosthetics when those items are used for a permanent condition and are furnished in a provider's office.

~~((9))~~ (10) Variations of payment methodology which are specific to particular services, and which differ from the

general payment methodology described in this section, are included in the sections dealing with those particular services.

#### CPT/HCFA MODIFIERS

~~((10))~~ (11) A modifier is a code a provider uses on a claim in addition to a billing code for a standard procedure. Modifiers eliminate the need to list separate procedures that describe the circumstance that modified the standard procedure. A modifier may also be used for information purposes.

~~((11))~~ (12) Certain services and procedures require modifiers in order for the agency to reimburse the provider. This information is included in the sections dealing with those particular services and procedures, as well as the fee schedule.

### WSR 21-23-052

#### PERMANENT RULES

#### HEALTH CARE AUTHORITY

[Filed November 10, 2021, 10:55 a.m., effective December 11, 2021]

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

Purpose: The agency is amending WAC 182-559-100 to remove the community support services benefit exclusion for institutes for mental diseases (IMDs) and is amending WAC 182-559-100, 182-559-200, 182-559-300, and 182-559-350 to correct outdated rule citations and make other clarifying changes.

Citation of Rules Affected by this Order: Amending WAC 182-559-100, 182-559-200, 182-559-300, and 182-559-350.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 21-20-068 on September 29, 2021.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 4, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 4, Repealed 0.

Date Adopted: November 10, 2021.

Wendy Barcus  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 18-15-007, filed 7/6/18, effective 8/6/18)

**WAC 182-559-100 General.** (1) Under the authority of the medicaid transformation project, RCW 71.24.385, and subject to available funds, the medicaid agency covers targeted foundational community supports to eligible medicaid beneficiaries, which include the following benefits:

- (a) Community support services; and
- (b) Supported employment services.
- (2) Community support services include:
  - (a) Pretenancy supports:
    - (i) Conducting a functional needs assessment to:
      - (A) Identify the participant's preferences related to housing (type, location, living alone or with someone else, identifying a roommate, accommodations needed, or other important preferences); and
      - (B) Identify the participant's needs for support to maintain community integration. This includes what type of setting works best for the client, assistance in budgeting for housing/living expenses, assistance in connecting the client with social services to assist with filling out applications and submitting appropriate documentation (~~(in order)~~) to obtain sources of income necessary for community living and establishing credit, and in understanding and meeting obligations of tenancy.
    - (ii) Assisting clients to connect with social services to help with finding and applying for housing necessary to support the clients in meeting their medical care needs;
    - (iii) Developing an individualized community integration plan based upon the assessment as part of the overall person-centered plan;
    - (iv) Identifying and establishing short and long-term measurable goal(s), and establishing how goals will be achieved and how concerns will be addressed;
    - (v) Participating in person-centered plan meetings at redetermination and revision plan meetings, as needed;
    - (vi) Providing supports and interventions according to the person-centered plan.
  - (b) Tenancy-sustaining services:
    - (i) Service planning support and participating in person-centered plan meetings at redetermination and revision plan meetings as needed;
    - (ii) Coordinating and linking the client to services including:
      - (A) Primary care and health homes;
      - (B) Substance use disorder treatment providers;
      - (C) Mental health providers;
      - (D) Medical, vision, nutritional and dental providers;
      - (E) Vocational, education, employment and volunteer supports;
      - (F) Hospitals and emergency rooms;
      - (G) Probation and parole;
      - (H) Crisis services;
      - (I) End of life planning; and
      - (J) Other support groups and natural supports.
    - (iii) Entitlement assistance including assisting clients in obtaining documentation, navigating and monitoring application process and coordinating with the entitlement agency;
    - (iv) Assistance in accessing supports to preserve the most independent living, including skills coaching, financing

counseling, anger management, individual and family counseling, support groups, and natural supports;

(v) Providing supports to assist the client in communicating with the landlord and/or property manager regarding the participant's disability (if authorized and appropriate), detailing accommodations needed, and addressing components of emergency procedures involving the landlord and/or property manager;

(vi) Coordinating with the client to review, update and modify their housing support and crisis plan on a regular basis to reflect current needs and address existing or recurring housing retention barriers; and

(vii) Connecting the client to training and resources that will assist the client in being a good tenant and lease compliance, including ongoing support with activities related to household management.

(c) The community support services benefit does not include:

(i) Payment of rent or other room and board costs;

(ii) Capital costs related to the development or modification of housing;

(iii) Expenses for utilities or other regular occurring bills;

(iv) Goods or services intended for leisure or recreation;

(v) Duplicative services from other state or federal programs; and

(vi) Services to clients in a correctional institution (~~or an institute for mental disease (IMD)~~).

(d) Community support services must be provided:

(i) In an integrated setting of the client's choice; and

(ii) In a manner that ensures the client's individual right of privacy, dignity, respect, and freedom from coercion and restraint;

(iii) Post tenancy, in settings consistent with home and community-based services, as defined in 42 C.F.R. Sec. 441.530, such as those that:

(A) Do not have the qualities of an institution;

(B) Are not located in a building that is also a publicly or privately operated facility providing inpatient institutional treatment;

(C) Are not on the grounds of, or immediately adjacent to a public institution;

(D) Do not have the effect of isolating the client from community members who are not receiving medicaid services; and

(E) Are not a licensed residential care facility such as an adult family home or assisted living facility.

(3) Supported employment, such as individual placement and support (IPS) services, is individualized and includes one or more of the following services:

(a) Preemployment services:

(i) Prevocational/job-related discovery or assessment;

(ii) Person-centered employment planning;

(iii) Individualized job development and placement;

(iv) Job carving;

(v) Benefits education and planning; or

(vi) Transportation (only in conjunction with the delivery of an authorized service).

(b) Employment sustaining services:

(i) Career advancement services;



- (ii) Negotiation with employers;
  - (iii) Job analysis;
  - (iv) Job coaching;
  - (v) Benefits education and planning;
  - (vi) Transportation (only in conjunction with the delivery of an authorized service);
  - (vii) Asset development; or
  - (viii) Follow-along supports.
- (c) The IPS benefit does not include:
- (i) Generalized employer contacts that are not connected to a specific enrolled individual or an authorized service;
  - (ii) Employment support for individuals in subminimum wage, or sheltered workshop settings; and
  - (iii) Facility-based habilitation or personal care services.
- (d) Supported employment services must be provided in settings consistent with settings defined in 42 C.F.R. 441.530 (a)(1)(i) through (v) and (a)(2).
- (4) Clients who meet the eligibility criteria for both community support services and supported employment services (~~are able to~~) may receive both services concurrently. See WAC 182-559-300 for community support services eligibility criteria and WAC 182-559-350 for supported employment eligibility criteria.
- (5) In order to ensure the demand for services remains within available funds, the agency may impose enrollment wait lists for services. The wait list for foundational community supports services is considered on a first-come first-serve basis using the date the client requests community support services.
- (6) Services described in this chapter must be approved under the explicit authority of the medicaid transformation project.

**AMENDATORY SECTION** (Amending WSR 18-15-007, filed 7/6/18, effective 8/6/18)

**WAC 182-559-200 Eligible providers.** (1) Providers of community support services and supported employment services under this authority must be:

- (a) Health care professionals, entities, or contractors as defined by WAC 182-502-0002;
- (b) Agencies, centers, or facilities as defined by WAC 182-502-0002;
- (c) Health home providers as described in WAC 182-557-0050;
- (d) Behavioral health providers licensed and certified according to chapter ~~((388-877))~~ 246-809 WAC; or
- (e) Housing, employment, social service, or related agencies with demonstrated experience and ability to provide community support services, supported employment, or equivalent services.

(i) Community support services experience may be demonstrated by:

(A) Two years' experience in the coordination of supportive housing or in the coordination of independent living services in a social service setting under qualified supervision; or

(B) ~~((Certified))~~ Certification in supportive housing services (WAC ~~((388-877-0720 or 388-877-0722))~~ by the depart-

~~ment of social and health services/division of behavioral health and recovery (DSHS/DBHR))~~ 246-341-0722).

(ii) Supported employment experience may be demonstrated by one or more of the following:

(A) Accredited by the commission on accreditation of rehabilitation facilities (CARF) in employment services;

(B) Certified in employment services (WAC ~~((388-877-0718 or 388-877-0720))~~ by DSHS/DBHR)) 246-341-0720 or 246-341-0722); or

(C) All staff that will be performing supported employment services meet one of the following criteria:

(I) Be a certified employment support professional (CESP) by the employment support professional certification council (ESPCC);

(II) Be a certified rehabilitation counselor (CRC) by the commission of rehabilitation counselor certification (CRCC);

(III) Have a bachelor's degree or higher in human or social services from an accredited college or university and at least two years of demonstrated experience providing supported employment or similar services; or

(IV) Have four or more years of demonstrated experience providing supported employment or similar services.

(2) Providers of community support services or supported employment services must:

(a) Obtain a core provider agreement in accordance with WAC 182-502-0005;

(b) Enroll with the medicaid agency as a nonbilling provider in accordance with WAC 182-502-0006; or

(c) Be qualified to bill for aging and long-term support administration services to provide community support services or supported employment services.

**AMENDATORY SECTION** (Amending WSR 18-15-007, filed 7/6/18, effective 8/6/18)

**WAC 182-559-300 Eligibility for community support services.** To be eligible for community support services, a client must:

- (1) Be age eighteen or older;
- (2) Be eligible for Washington apple health (medicaid);
- (3) Meet at least one of the following health criteria and be expected to benefit from community support services:

(a) Clients assessed by a licensed behavioral health agency, under chapter ~~((388-877))~~ 246-341 WAC, to have a behavioral health need, which is defined as one or both of the following criteria:

(i) Mental health needs, including a need for improvement, stabilization, or prevention of deterioration of functioning (including the ability to live independently without support) resulting from the presence of a mental illness; or

(ii) Substance use needs determined by an assessment using the American Society of Addiction Medicine (ASAM) criteria indicates that the client meets at least ASAM level 1.0, indicating the need for outpatient substance use disorder (SUD) treatment. The ASAM is a multi-dimensional assessment approach for determining a client's need for SUD treatment.

(b) Clients assessed via a CARE assessment, per WAC 388-106-0050, to have a need for assistance demonstrated by:

(i) The need for assistance with at least three activities of daily living (ADLs) defined in WAC 388-106-0010, one of which may be body care; or

(ii) The need for hands-on assistance with at least one ADL which may include body care.

(c) Clients assessed to be a homeless person with a disability, according to 24 C.F.R. 578.3, which is defined as a long continuing or indefinite physical condition requiring improvement, stabilization, or prevention of deterioration of functioning (including ability to live independently without support).

(4) Exhibit at least one of the following risk factors:

(a) Homeless clients who:

(i) Have been homeless for at least twelve months; or

(ii) Have been homeless on at least four separate occasions in the last three years, as long as the combined occasions equal at least twelve months.

Homeless is defined as living in a safe haven, an emergency shelter, or a place not meant for human habitation. See 24 C.F.R. 578.3.

(b) A history of frequent or lengthy institutional contact.

(i) Institutional care facilities include jails, substance (~~abuse~~) use disorder or mental health treatment facilities, hospitals, or other similar facilities, as defined in 24 C.F.R. 578.3, or skilled nursing facilities as defined in WAC 388-97-0001.

(ii) Frequent means more than one contact in the past twelve months.

(iii) Lengthy means ninety or more consecutive days within an institutional setting in the past twelve months.

(c) A history of frequent stays at adult residential care facilities as defined by WAC 388-110-020 or residential treatment facilities as defined by WAC 246-337-005. Frequent means more than one contact in the past twelve months.

(d) Have frequent turnover of in-home caregivers as defined by WAC 388-106-0040, where within the last twelve months the client utilized three or more different in-home caregiver providers and the current placement is not appropriate for the client.

(e) Have a predictive risk score of 1.5 or above. See WAC 182-557-0225.

**AMENDATORY SECTION** (Amending WSR 18-15-007, filed 7/6/18, effective 8/6/18)

**WAC 182-559-350 Eligibility for supported employment services.** To be eligible for supported employment services, a client must:

(1) Be age sixteen or older;

(2) Be eligible for apple health (medicaid);

(3) Desire to obtain employment;

(4) Meet at least one of the following health criteria and is expected to benefit from supported employment services:

(a) Clients assessed by a licensed behavioral health agency, under chapter (~~388-877~~) 246-341 WAC, to have a behavioral health need, which is defined as one or both of the following criteria:

(i) Mental health needs, including a need for improvement, stabilization, or prevention of deterioration of function-

ing (including ability to live independently without support) resulting from the presence of a mental illness; or

(ii) Substance use needs determined by an assessment using the American Society of Addiction Medicine (ASAM) criteria indicates that the client meets at least ASAM level 1.0, indicating the need for outpatient substance use disorder (SUD) treatment. The ASAM is a multi-dimensional assessment approach for determining a client's need for SUD treatment.

(b) Clients assessed via a CARE assessment, per WAC 388-106-0050, to have a need for assistance demonstrated by:

(i) The need for assistance with at least three activities of daily living (ADLs) defined in WAC 388-106-0010, one of which may be body care; or

(ii) The need for hands-on assistance with at least one ADL which may include body care.

(c) There is objective evidence, as defined by the sequential evaluation process in chapter 388-449 WAC or the progressive evaluation process in chapter 388-447 WAC, of physical or mental impairments because of which the client needs assistance with basic work-related activities, including one or more of the following: Sitting, standing, walking, lifting, carrying, handling, manipulative or postural functions (pushing, pulling, reaching, handling, stooping or crouching), seeing, hearing, communicating, remembering, understanding and following instructions, responding appropriately to supervisors and coworkers, tolerating the pressures of a work setting, maintaining appropriate behavior, using judgment, and adapting to changes in a routine work setting.

(5) Exhibit at least one of the following risk factors:

(a) Unable to be gainfully employed for at least ninety consecutive days due to a mental or physical impairment, as demonstrated by eligibility for the aged, blind, or disabled program as defined in WAC 388-449-0001, or the housing and essential needs program as defined in WAC 388-447-0001;

(b) More than one instance of treatment for a substance use disorder within the past two years;

(c) At risk of deterioration of mental illness and substance use disorder, or both, including one or more of the following:

(i) Persistent or chronic risk factors such as social isolation due to a lack of family or social supports, poverty, criminal justice involvement, or homelessness;

(ii) Care for mental illness and substance use disorder, or both, requires multiple provider types, including behavioral health, primary care, long-term services and supports, or other supportive services; or

(iii) Past psychiatric history, with no significant functional improvement that can be maintained without treatment and/or supports.

(d) Dysfunction in role performance due to a behavioral health condition, including one or more of the following:

(i) Behaviors that disrupt employment or schooling, or put employment at risk of termination or schooling suspension;

(ii) A history of multiple terminations from work or suspensions/expulsions from school;

(iii) Cannot succeed in a structured work or school setting without additional support or accommodations; or

(iv) Performance significantly below expectations for cognitive/developmental level.

(e) An inability to obtain or maintain employment resulting from age, physical disability, or traumatic brain injury.

Atif Aziz  
Rules Coordinator

**WSR 21-23-063**  
**PERMANENT RULES**  
**DEPARTMENT OF REVENUE**

[Filed November 12, 2021, 8:37 a.m., effective December 13, 2021]

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

Purpose: The department is amending WAC 458-19-045 to incorporate 2021 legislation, E2SHB 1069. This legislation allows a county with a population of more than 1,500,000 to supplant existing funds when voters approve a lid lift and the lid lift is approved during certain years.

Citation of Rules Affected by this Order: Amending WAC 458-19-045 Levy limit—Removal of limit (lid lift).

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

Other Authority: RCW 84.55.050.

Adopted under notice filed as WSR 21-18-076 on August 27, 2021.

Changes Other than Editing from Proposed to Adopted Version: **Subsection (7)(b)(iii) was edited to correct an error that was inconsistent with the applicable statute, RCW 84.55.050.**

*Proposed:* In counties with a population of one million five hundred thousand or more, funds raised through a lid lift can be used to supplant existing funds ((for levies)) if the levy was approved by the voters ((between)) after July 26, 2009, ((and December 31, 2011)) or in one of the following calendar years: 2009, 2010, 2011, 2015, 2016, 2017, 2018, 2019, 2020, 2021, and 2022.

*Adopted:* In counties with a population of one million five hundred thousand or more, funds raised through a lid lift can be used to supplant existing funds ((for levies)) if the levy was approved by the voters ((between)) after July 26, 2009, ((and December 31, 2011)) or and in one of the following calendar years: 2009, 2010, 2011, 2015, 2016, 2017, 2018, 2019, 2020, 2021, and 2022.

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

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

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

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

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

Date Adopted: November 12, 2021.

AMENDATORY SECTION (Amending WSR 18-24-104, filed 12/4/18, effective 1/4/19)

**WAC 458-19-045 Levy limit—Removal of limit (lid lift).** (1) **Introduction.** This rule explains the procedures for implementing a lid lift ballot measure when a taxing district wants to ask its voters for the authority to exceed the levy limit.

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

(3) **Lid lift - Purpose.** The purpose of a lid lift is to allow additional property taxes to be collected at a time when the levy limit in chapter 84.55 RCW is the effective legal constraint to increasing property taxes. A levy limit may be exceeded when authorized by a majority of the voters voting on a proposition to "lift the lid" of the levy limit as described in RCW 84.55.050. This "lid lift" is intended to allow the levy limit to be exceeded for the levy made immediately following the vote on the proposition. Lid lifts may result in increasing the limit factor, as defined in WAC 458-19-005, for one year or up to six consecutive years. The result of the limit factor increase can temporarily or permanently impact subsequent levy limit calculations.

(4) **Election for approval of lid lift proposition - When held.** The election to approve a lid lift proposition must be held within the taxing district and may be held at the time of a general election, or at a special election called by the governing body of the taxing district for that purpose. The election must not be held more than twelve months prior to the date the proposed levy is to be made. For purposes of this rule, a levy is "made" when the taxing district's budget is certified. The ballot title and measure proposing the lid lift are prepared by the county prosecutor or city attorney, as applicable, in accordance with RCW 29A.36.071. RCW 29A.36.071 requires a ballot title to include a concise description of the measure, not to exceed ~~((seventy-five))~~ 75 words. The requirements for the text of a ballot title and measure differ depending on whether the levy limit will be exceeded for a single year or multiple years, up to six consecutive years. A simple majority vote is required for approval of a lid lift.

(5) **Single year lid lift.** A single year lid lift allows a taxing district to increase its levy by more than one percent over its highest lawful levy since 1985 for 1986 collection, for one year.

(6) **Ballot title and measure - Single year lid lift.** The text of a ballot title and measure for a single year lid lift must contain the following:

(a) The dollar rate of the proposed levy so that it reflects the total dollar rate for the taxing district, which may be less than the maximum statutory dollar rate allowed for the particular class of taxing district; and

(b) Any of the following conditions that are applicable:

(i) The number of years the increased levy is to be made by the taxing district; however, if one of the purposes of the increased levy is to make redemption payments on bonds of the taxing district, the duration of the increased levy cannot

exceed nine years, except for taxes levied for collection in 2018 and thereafter in Thurston County, the period for which the increased levies are made may not exceed ~~((twenty-five))~~ 25 years;

(ii) The purpose or purposes of the increased levy;

(iii) Whether the dollar amount of the increased levy will be used for the purpose of computing the limitations for subsequent levies and thereby permanently increase the taxing district's levy base; and

(iv) Whether the increase in regular property taxes by a county or city resulting from the approval of the lid lift will not apply to property exempt under the senior citizens and disabled persons property tax exemption in RCW 84.36.381.

(7) **Multiple year lid lift.** A multiple year lid lift allows a taxing district to increase its levy by more than one percent over its highest lawful levy since 1985 for 1986 collection, for up to six consecutive years.

(a) **Ballot title and measure.** The text of a ballot title and measure for a multiple year lid lift must contain the following:

(i) The dollar rate of the first year's proposed levy so that it reflects the total dollar rate for the taxing district, which may be less than the maximum statutory dollar rate allowed for the particular class of taxing district;

(ii) The limit factor, or specific index used to determine the limit factor (such as the consumer price index), which is not required to be the same for all years, by which the regular tax levy for the district may be increased in each of the subsequent consecutive years;

(iii) The limited purposes for which the proposed annual increases will be used; and

(iv) Any of the following conditions that are applicable:

(A) The number of years the increased levy is to be made by the taxing district; however, if one of the purposes of the increased levy is to make redemption payments on bonds of the taxing district, the duration of the increased levy cannot exceed nine years, except for taxes levied for collection in 2018 and thereafter in Thurston County, the period for which the increased levies are made may not exceed ~~((twenty-five))~~ 25 years;

(B) The purpose or purposes of the increased levy;

(C) Whether the dollar amount of the increased levy will be used for the purpose of computing the limitations for subsequent levies and thereby permanently increase the taxing district's levy base; and

(D) Whether the increase in regular property taxes by a county or city resulting from the approval of the lid lift will not apply to property exempt under the senior citizens and disabled persons property tax exemption in RCW 84.36.381.

(b) **Supplanting of existing funds.**

(i) Except as otherwise provided in (b) of this subsection, funds raised by a levy under this rule may not supplant existing funds used for the limited purpose specified in the ballot title. For purposes of (b) of this subsection, existing funds means the actual operating expenditures for the calendar year in which the ballot measure is approved by voters. Actual operating expenditures excludes:

(A) Lost federal funds;

(B) Lost or expired state grants or loans;

(C) Extraordinary events not likely to reoccur;

(D) Changes in contract provisions beyond the control of the taxing district receiving the services; and

(E) Major nonrecurring capital expenditures.

(ii) In counties with a population of less than ~~((one million five hundred thousand))~~ \$1,500,000, funds raised through a lid lift can be used to supplant existing funds beginning with levies submitted and approved by the voters after July 26, 2009.

(iii) In counties with a population of ~~((one million five hundred thousand))~~ 1,500,000 or more, funds raised through a lid lift can be used to supplant existing funds ~~((for levies))~~ if the levy was approved by the voters ~~((between))~~ after July 26, 2009, and ~~((December 31, 2014))~~ in one of the following calendar years: 2009, 2010, 2011, 2015, 2016, 2017, 2018, 2019, 2020, 2021, and 2022.

(8) **Permanent lid lift.** A permanent lid lift occurs when the ballot title and measure expressly state that the levy will be used for the purpose of computing the limitations for subsequent levies as provided in subsections (6)(b)(iii) and (7)(a)(iv)(C) of this rule. Approval of a permanent lid lift permanently increases the base used to calculate the levy limit.

(a) **First levy after voter approval.** The first regular levy of a taxing district made after voter approval of a permanent lid lift proposition is calculated on the basis of the dollar rate stated in the ballot title. The dollar rate is subject to the constitutional one percent limit, the statutory aggregate dollar rate limit, and any applicable prorationing.

(b) **Subsequent levies.** The levy limit on regular levies of a taxing district made subsequent to the first regular levy made after voter approval of a permanent lid lift proposition is calculated by multiplying the highest amount that could have been lawfully levied since 1985 for 1986 collection, including the dollar amount of the regular levy calculated in (a) of this subsection, by the limit factor.

(9) **Temporary lid lift.** If the ballot title and measure do not expressly indicate that the final levy will be used for the purpose of computing subsequent levies, the levy increase is temporary.

(a) **First levy after voter approval.** The first regular levy of a taxing district made after voter approval of a temporary lid lift proposition is calculated on the basis of the dollar rate stated in the ballot title. The dollar rate is subject to the constitutional one percent limit, the statutory aggregate dollar rate limit, and any applicable prorationing.

(b) **Subsequent levies.** The levy limit on regular levies of a taxing district made subsequent to the first regular levy made after voter approval of a temporary lid lift proposition is calculated by multiplying the highest amount that could have been lawfully levied since 1985 for 1986 collection, including the dollar amount of the regular levy calculated in (a) of this subsection, by the limit factor.

**WSR 21-23-066**  
**PERMANENT RULES**  
**OFFICE OF THE**  
**INSURANCE COMMISSIONER**

[Filed November 12, 2021, 2:42 p.m., effective January 1, 2022]

Effective Date of Rule: January 1, 2022.

Purpose: When a homeowner has property damage covered under their homeowners insurance policy, the insurance company investigates the loss, values the damage, and then issues an actual cash value (ACV) payment. The ACV payment is replacement cost less depreciation. After the repairs are fully completed, the insurance company releases the withheld depreciation to the insured to fulfill their obligation to cover the replacement cost as defined in the policy. Besides applying depreciation to the loss of value due [to] wear and tear, deterioration, and obsolescence to physical material items, some insurance companies are applying depreciation to the labor costs associated with the repair process.

The practice of depreciating labor costs on insurance payments for property damage claims floats a significant part of the labor repair costs to the consumer and their repair contractor, unfairly shifting a burden to the consumer during the repair process and likely against the principle of indemnity. The commissioner has seen a steady rise of policy forms that are writing this practice into their definition of ACV. The commissioner implemented rule making to prohibit the depreciation of labor on property claims.

Citation of Rules Affected by this Order: Amending WAC 284-20-010.

Statutory Authority for Adoption: RCW 48.02.060, 48.27.020, 48.18.120.

Adopted under notice filed as WSR 21-18-093 on August 30, 2021.

A final cost-benefit analysis is available by contacting David Forte, P.O. Box 40260, Olympia, WA 98504-0260, phone 360-725-7042, fax 360-586-3109, email rulescoordinator@oic.wa.gov.

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

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

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

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

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

Date Adopted: November 21, 2021.

Mike Kreidler  
Insurance Commissioner

AMENDATORY SECTION (Amending Order R 77-2, filed 4/28/77)

**WAC 284-20-010 Standard fire policies.** (1) This regulation is promulgated pursuant to RCW 48.18.120(1) to define and effect reasonable uniformity in all basic contracts of fire insurance.

(2) All policies which include coverage against loss or damage by fire are hereby defined to be basic contracts of fire insurance unless they come within the scope of insurance code provisions, or regulations adopted by the commissioner, providing that they may be regarded as marine, inland marine, vehicle, or casualty policies.

(3) Except for the provisions of the next succeeding three paragraphs, no company shall issue any basic contract of fire insurance covering property or interest therein in this state other than on the form known as the 1943 New York Standard Fire Insurance Policy, herein referred to as the "standard fire policy": Provided, however, that such form shall be modified to conform to RCW 48.18.290 with respect to the number of days' notice of cancellation required. In addition, such form shall be modified as necessary to conform to WAC 284-20-020 with respect to inception and expiration times. Such modifications may be by endorsement.

(a) Insurers issuing a standard fire policy pursuant to this regulation are hereby authorized to affix thereto or include therein a written statement that the policy does not cover loss or damage caused by nuclear reaction or nuclear radiation or radioactive contamination, all whether directly or indirectly resulting from an insured peril under said policy: Provided, however, that nothing herein contained shall be construed to prohibit the attachment to any such policy of an endorsement or endorsements specifically assuming coverage for loss or damage caused by nuclear reaction or nuclear radiation or radioactive contamination provided such assumption clause has been filed with and approved by the commissioner in accordance with RCW 48.18.100.

(b) The pages of the standard fire policy issued pursuant to this regulation may be renumbered and the format rearranged for convenience in the preparation of individual contracts, and to provide space for the listing of rates and premiums for coverages insured thereunder or under endorsement attached to or printed thereon, and such other data as may be conveniently included for duplication on daily reports for office records.

(c) As an alternative form, a form written in clear, understandable language, which provides terms, conditions and coverages not less favorable to the insured than the "standard fire policy," may be used. Such alternative form may be incorporated in or integrated within a form providing other or additional coverages, as, for example, a homeowners policy or a special multiperil policy. The intent of this subsection is to permit understandable plain language policies and package policies without diminishing any rights an insured would have under the 1943 New York Standard Fire Insurance Policy.

(d) By use of such alternative form, an insurer certifies that it is not less favorable to the insured than the "standard fire policy." If, in the adjustment of claims, any provision of the "standard fire policy" applicable to such claims is found to be more favorable to the insured than the alternative form

used, then provisions of the "standard fire policy" shall govern.

(4) Except for the intrinsic labor costs that are included in the cost of manufactured materials or goods, the expense of labor necessary to repair, rebuild, or replace covered property is not a component of physical depreciation and may not be subject to depreciation or betterment.

**WSR 21-23-067**  
**PERMANENT RULES**  
**OFFICE OF THE**  
**INSURANCE COMMISSIONER**

[Filed November 12, 2021, 2:42 p.m., effective December 13, 2021]

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

Purpose: To clarify the purpose, membership, and annual reporting requirements for the Washington state health insurance pool (WSHIP).

Citation of Rules Affected by this Order: New WAC 284-91-100, 284-91-110, 284-91-120 and 284-91-130; and amending WAC 284-91-001.

Statutory Authority for Adoption: RCW 48.41.170 and 48.02.060.

Adopted under notice filed as WSR 21-19-140 on September 21, 2021.

A final cost-benefit analysis is available by contacting Shari Maier, 302 Sid Snyder Avenue S.W., Suite 200, Olympia, WA 98501, phone 360-725-7173, email ShariM@oic.wa.gov.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 4, Amended 1, Repealed 0.

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

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

Date Adopted: November 12, 2021.

Mike Kreidler  
Insurance Commissioner

AMENDATORY SECTION (Amending WSR 03-07-007, filed 3/6/03, effective 4/6/03)

**WAC 284-91-001 Plan of operation approved.** Under RCW 48.41.040(4), the commissioner approves the plan of operation submitted by the board of directors of the (~~Washington state health insurance~~) pool ((~~WSHIP~~)). The plan of operation is composed of the following documents:

(1) Articles of organization approved by the WSHIP board on September 5, 2002, and amended by the insurance commissioner on March ((4)) 5, 2003;

(2) Bylaws approved by the WSHIP board on September 5, 2002, and approved by the insurance commissioner on March 5, 2003. The WSHIP board subsequently amended and restated its bylaws on January 8, 2020, which were approved by the insurance commissioner on January 27, 2020; and

(3) Operating rules approved by the WSHIP board on September 5, 2002.

NEW SECTION

**WAC 284-91-100 Intent.** The Washington state health insurance pool (WSHIP) was created with the intent of ensuring the availability of comprehensive health insurance to residents who are denied health insurance and are otherwise unable to obtain such insurance coverage directly under any individual or group health plan.

NEW SECTION

**WAC 284-91-110 Definitions.** The definitions in this section apply throughout this chapter.

(1) "Accounting year" means a 12-month period determined by the board for purposes of recordkeeping and accounting. The first accounting year may be more or less than 12 months and, from time to time in subsequent years, the board may order an accounting year of other than 12 months as may be required for orderly management and accounting of the pool.

(2) "Administrator" means the entity chosen by the board to administer the pool under RCW 48.41.080.

(3) "Board" means the board of directors of the pool.

(4) "Commissioner" means the insurance commissioner.

(5) "Health care provider" means any physician, facility, or health care professional, who is licensed in Washington state and entitled to reimbursement for health care services.

(6) "Health care services" means services for the purpose of preventing, alleviating, curing, or healing human illness or injury.

(7) "Health carrier" or "carrier" has the same meaning as in WAC 284-43-0160.

(8)(a) "Health coverage" means any group or individual disability insurance policy, health care service contract, and health maintenance agreement, except those contracts entered into for the provision of medicare.

(b) "Health coverage" does not include:

(i) Short-term care, long-term care, dental, vision, accident, fixed indemnity, disability income contracts, limited benefit or credit insurance;

(ii) Coverage issued as a supplement to liability insurance;

(iii) Insurance arising out of the worker's compensation or similar law;

(iv) Automobile medical payment insurance; or

(v) Insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

(9) "Health plan" means any arrangement by which persons, including dependents or spouses, covered or making application to be covered under this pool, have access to hospital and medical benefits or reimbursement.

(a) This includes any: "Health coverage," as defined under this section; uninsured arrangements of group or group-type contracts, including employer self-insured, cost-plus, or other benefit methodologies not involving insurance or not governed by Title 48 RCW; coverage under group-type contracts which are not available to the general public and can be obtained only because of connection with a particular organization or group; and coverage by medicare or other governmental benefits.

(b) "Health plan" excludes the types of insurance excluded under the definition of "health coverage" in this section.

(10)(a) "Member" means:

(i) Any commercial health carrier which provides disability insurance or stop loss insurance, any health care service contractor, any health maintenance organization licensed under Title 48 RCW, and any self-funded multiple employer welfare arrangement as defined in RCW 48.125-010;

(ii) The Washington state health care authority as issuer of the state uniform medical plan; or

(iii) When authorized by federal law, employers and other entities, including self-insured employers, other self-funding entities, and employee welfare benefit plans that provide health plan benefits in this state.

(b) "Member" does not include any carrier, health care service contractor, or health maintenance organization whose products are exclusively dental products or those products excluded from the definition of "health coverage" in this section.

(11) "Plan of operation" means the pool, including articles, bylaws, and operating rules, adopted by the board pursuant to RCW 48.41.050.

(12) "Pool" means the Washington state health insurance pool.

#### NEW SECTION

**WAC 284-91-120 Health insurance pool—Membership.** All entities in this state, on or after May 18, 1987, meeting the definition of a member (as per WAC 284-91-110), shall be members of the pool.

#### NEW SECTION

**WAC 284-91-130 Financial participation in pool—Computation, deficit assessments.** (1) Following the close of each accounting year, the pool administrator shall determine the total net cost of pool operation which shall include:

(a) Net premium (premiums less administrative expense allowances), the pool expenses of administration, and incurred losses for the year, taking into account investment income and other appropriate gains and losses; and

(b) The amount of pool contributions specified in the state Omnibus Appropriations Act for deposit into the health benefit exchange account under RCW 43.71.060, to assist

with the transition of enrollees from the pool into the health benefit exchange created by chapter 43.71 RCW.

(2) Each member's proportion of participation in the pool shall be determined annually, by the board based on annual statements and other reports deemed necessary by the board and filed by carriers with the commissioner, by multiplying the total cost of pool operation by a fraction. The numerator of the fraction equals that member's total number of resident insured persons, including spouse and dependents, covered under all health plans in the state by that member during the preceding calendar year. The denominator of the fraction equals the total number of resident insured persons, including spouses and dependents, covered under all health plans in the state by all pool members during the preceding calendar year.

(a) All carriers that meet the definition of a member, regardless of whether they actually provided applicable health coverage during the accounting year, must file these statements and other reports.

(b) For purposes of calculating the numerator and the denominator under this subsection:

(i) All health plans in the state by the state health care authority include only the uniform medical plan;

(ii) Each ten resident insured persons, including spouse and dependents, under a stop loss plan or the uniform medical plan shall count as one resident insured person; and

(iii) Health plans serving medical care services program clients under RCW 74.09.035 are exempted from the calculation.

(c) Except as provided in RCW 48.41.037, any deficit incurred by the pool, including pool contributions for deposit into the health benefit exchange account, shall be recouped by assessments among members apportioned under this subsection pursuant to the formula set forth by the board among members. The monthly per member assessment may not exceed the 2013 assessment level of \$2.57. If the maximum assessment is insufficient to cover a pool deficit, the assessment shall be used first to pay all incurred losses and pool administrative expenses, with the remainder being available for deposit in the health benefit exchange account.

(3)(a) The board may abate or defer, in whole or in part, the assessment of a member if they determine that payment of the assessment would endanger the ability of the member to fulfill its contractual obligations.

(b) If an assessment against a member is abated or deferred, in whole or in part, the amount by which such assessment is abated or deferred may be assessed against the other members in a manner consistent with the basis for assessments set forth in subsection (2) of this section. The member receiving such abatement or deferment shall remain liable to the pool for the deficiency.

(4)(a) Subject to the limitation imposed in subsection (2)(c) of this section, the pool administrator shall transfer the assessments for pool contributions for the operation of the health benefit exchange to the treasurer for deposit into the health benefit exchange account.

(b) If assessments exceed actual losses and administrative expenses of the pool and pool contributions for deposit into the health benefit exchange account, the excess shall be held at interest and used by the board to offset future losses or

to reduce pool premiums. As used in this subsection, "future losses" includes reserves for incurred but not reported claims.

#### NEW SECTION

The following section of the Washington Administrative Code is decodified and recodified as follows:

Old WAC Number	New WAC Number
284-91-001	284-91-140

**WSR 21-23-068**  
**PERMANENT RULES**  
**OFFICE OF THE**  
**INSURANCE COMMISSIONER**

[Filed November 12, 2021, 2:42 p.m., effective January 1, 2022]

Effective Date of Rule: January 1, 2022.

Purpose: Chapter 275, Laws of 2020 (HB 2390) amended several statutes to reflect respectful language as identified under current law by replacing references to "handicapped persons" with references to "individuals with disabilities."

The purpose of the proposal is to amend WAC 284-50-330 to reflect respectful language as identified under current law by replacing references to "handicapped persons" with references to "individuals with disabilities."

Citation of Rules Affected by this Order: Amending WAC 284-50-330.

Statutory Authority for Adoption: RCW 48.02.060.

Adopted under notice filed as WSR 21-19-136 on September 21, 2021.

A final cost-benefit analysis is available by contacting Simon Casson, P.O. Box 40260, Olympia, WA 98504-0260, phone 360-725-7038, fax 360-586-3109, email [rulescoordinator@oic.wa.gov](mailto:rulescoordinator@oic.wa.gov).

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

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

Number of Sections Adopted on the Agency's own Initiative: New 4, Amended 1, Repealed 0.

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

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

Date Adopted: November 12, 2021.

Mike Kreidler  
Insurance Commissioner

AMENDATORY SECTION (Amending WSR 17-18-102, filed 9/6/17, effective 10/7/17)

**WAC 284-50-330 General rules as to minimum standards.** (1) A "noncancellable," "guaranteed renewable" or "noncancellable and guaranteed renewable" policy shall not provide for termination of coverage of the spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than nonpayment of premium. The policy shall provide that in the event of the insured's death the spouse of the insured, if covered under the policy, shall become the insured.

(2) The terms "noncancellable," "guaranteed renewable" or "noncancellable and guaranteed renewable" shall not be used without further explanatory language in accordance with the disclosure requirements of WAC 284-50-375(1). The terms "noncancellable" or "noncancellable and guaranteed renewable" may be used only in a policy which the insured has the right to continue in force by the timely payment of premiums set forth in the policy until the age of 65 or to eligibility for medicare, during which period the insurer has no right to make unilaterally any change in any provision of the policy while the policy is in force: Provided, however, any accident and health or accident only policy which provides for periodic payments, weekly or monthly, for a specified period during the continuance of disability resulting from accident or sickness may provide that the insured has the right to continue the policy only to age 60 if, at age 60, the insured has the right to continue the policy in force at least to age 65 while actively or regularly employed. Except as provided above, the term "guaranteed renewable" may be used only in a policy which the insured has the right to continue in force by the timely payment of premiums until the age of 65 or to eligibility for medicare, during which period the insurer has no right to make unilaterally any change in any provision of the policy while the policy is in force, except that the insurer may make changes in premium rates by classes: Provided, however, any accident and health or accident only policy which provides for periodic payments, weekly or monthly, for a specified period during the continuance of disability resulting from accident or sickness may provide that the insured has the right to continue the policy only to age 60, if at age 60, the insured has the right to continue the policy in force at least to age 65 while actively and regularly employed.

(3) In a family policy covering both husband and wife the age of the younger spouse may be used as the basis for meeting the age and durational requirements of the definitions of "noncancellable" or "guaranteed renewable." However, this requirement shall not prevent termination of coverage of the older spouse upon attainment of the stated age limit (e.g., age 65) so long as the policy may be continued in force as to the younger spouse to the age or for the durational period as specified in said definition.

(4) When accidental death and dismemberment coverage is part of the insurance coverage offered under the contract, the insured shall have the option to include all insureds under such coverage and not just the principal insured.

(5) If a policy contains a status type military service exclusion or a provision which suspends coverage during military service, the policy shall provide, upon receipt of



written request, for refund of premiums as applicable to such person on a pro rata basis.

(6) In the event the insurer cancels or refuses to renew, policies providing pregnancy benefits shall provide for an extension of benefits as to pregnancy commencing while the policy is in force and for which benefits would have been payable had the policy remained in force.

(7) Policies providing convalescent or extended care benefits following hospitalization shall not condition such benefits upon admission to the convalescent or extended care facility with a period of less than fourteen days after discharge from the hospital.

(8) In accord with RCW 48.20.420, coverage shall continue for any dependent child who is incapable of self-sustaining employment due to developmental or physical disability (~~(or physical handicap)~~), on the date that such child's coverage would otherwise terminate under the policy due to the attainment of a specified age limit for children, and who is chiefly dependent on the insured for support and maintenance. The policy may require that within 31 days of such date the company receive due proof of such incapacity and dependency in order for the insured to elect to continue the policy in force with respect to such child, or that a separate converted policy be issued at the option of the insured or policyholder.

(9) Any policy providing coverage for the recipient in a transplant operation shall also provide reimbursement of any medical expenses of a live donor to the extent that benefits remain and are available under the recipient's policy, after benefits for the recipient's own expenses have been paid.

(10) A policy may contain a provision relating to recurrent disabilities; provided, however, that no such provision shall specify that a recurrent disability be separated by a period greater than six months.

(11) Accidental death and dismemberment benefits shall be payable if the loss occurs within no less than ninety days from the date of the accident, irrespective of total disability. Disability income benefits, if provided, shall not require the loss to commence less than thirty days after the date of accident, nor shall any policy which the insurer cancels or refuses to renew require that it be in force at the time disability commences if the accident occurred while the policy was in force.

(12) Specific dismemberment benefits shall not be in lieu of other benefits unless the specific benefit equals or exceeds the other benefits.

(13) Any accident only policy providing benefits which vary according to the type of accidental cause shall prominently set forth in the outline of coverage the circumstances under which benefits are payable which are lesser than the maximum amount payable under the policy.

(14) All medicare supplement policies providing in-hospital benefits only shall include in their provided benefits the initial Part A medicare deductible as established from time to time by the Social Security Administration. Premiums may be reduced or raised to correspond with changes in the covered deductible.

(15) Termination of the policy shall be without prejudice to any continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period the policy was in force may be predicated upon the continu-

ous total disability of the insured, limited to the duration of the policy benefit period, if any, or payment of the maximum benefits.

(16) As an alternative to hospitalization or institutionalization of an insured and with the intent to cover placement of the insured patient in the most appropriate and cost-effective setting, every individual disability insurance policy or contract issued, amended, or renewed on or after January 1, 1995, which provides coverage for hospitalization or other institutional expenses to a resident of this state shall include substitution of home health care, provided in lieu of hospitalization or other institutional care, furnished by home health, hospice, or home care agencies licensed under chapter 70.127 RCW, at equal or lesser cost.

(a) In addition, such expenses may include coverage for durable medical equipment which permits the insured to stay at home, care provided in Alzheimer's centers, adult family homes, assisted living facilities, congregate care facilities, adult day health care, home health, hospice, and home care, or similar alternative care arrangements which provide necessary care in less restrictive or less expensive environments.

(b) Substitution of less expensive or less intensive services shall be made only with the consent of the insured and upon the recommendation of the insured's attending physician or licensed health care provider that such services will adequately meet the insured patient's needs. The decision to substitute less expensive or less intensive services shall be determined based on the medical needs of the individual insured patient.

(c) An insurer may require that home health agencies or similar alternative care providers have written treatment plans which are approved by the insured patient's attending physician or other licensed health care provider.

(d) Coverage may be limited to no less than the maximum benefits which would be payable for hospital or other institutional expenses under the policy or contract, and may include all deductibles and coinsurances which would be payable by the insured under the hospital or other institutional expense coverage of the insured's policy or contract.

(e) This subsection shall not apply to long-term care, medicare supplement, or disability income protection insurance policies or contracts. This subsection shall not apply to guaranteed renewable disability insurance policies or contracts issued prior to January 1, 1995.

### WSR 21-23-070

#### PERMANENT RULES DEPARTMENT OF FISH AND WILDLIFE

[Filed November 15, 2021, 9:40 a.m., effective December 16, 2021]

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

Purpose: In 2019, state law was adopted (2SSB 5577) creating a commercial whale watching license. In 2020, the Washington department of fish and wildlife (WDFW) completed the rule-making process directed in the legislation regarding the commercial whale watching license and rules

applicable to license-holders, resulting in the creation of chapter 220-460 WAC.

The Washington state legislature amended the statute through bill ESB 5330 in the 2021 legislative session. The bill changed the commercial whale watching license structure: It separated business licenses from operator licenses, eliminated the "designated" and "alternate" operator distinctions, and created a separate license for motorized commercial whale watching operators and non-motorized tour operators (e.g., kayak guides). In addition, the bill exempted Canadian businesses from needing proof of authorization to do business in Washington (i.e., providing a Unified Business Identifier, UBI) and Canadian individuals from the residency requirement in RCW 77.65.040. The bill also modified the fee structure and waived fees for 2021 and 2022.

In May of 2021, WDFW filed WSR 21-11-095 via the expedited rule-making process. Now, WDFW is entering this order adopting the rule in order to finalize the rule making. The intent of the rule is to (1) adopt content explicitly directed in Washington state statute by updating and aligning the definitions and language in chapter 220-460 WAC with the 2021 amendments to RCW 77.65.615, and (2) correct typographical errors and clarify language of the rule without changing its effect.

No written objections to the expedited rule making were filed with the agency within 45 days after the notice of proposed expedited rule making was published. Therefore, the agency is entering an order adopting the rule without further notice or a public hearing.

Citation of Rules Affected by this Order: Amending chapter 220-460 WAC.

Statutory Authority for Adoption: RCW 77.65.615.

Other Authority: RCW 77.65.615, 77.65.620.

Adopted under notice filed as WSR 21-11-095 on May 19, 2021.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 11, Repealed 0.

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

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

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

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

Date Adopted: November 15, 2021.

Kelly Susewind  
Director

**AMENDATORY SECTION** (Amending WSR 21-01-216, filed 12/23/20, effective 1/23/21)

**WAC 220-460-010 Definitions.** For the purposes of this chapter, the following definitions apply:

**(1) Commercial whale watching.**

"Commercial whale watching" shall be defined as the act of taking, or offering to take, passengers aboard a vessel or guided kayak tour in order to view marine mammals in their natural habitat for a fee.

**(2) Commercial whale watching ((designated primary operator)) business.**

"Commercial whale watching ((designated primary operator)" shall be defined as the person identified on the application to operate the commercial whale watching vessel on behalf of the whale watching business.

**(3) Commercial whale watching alternate operator.**

"Alternate operators" shall be defined as individuals besides the designated primary operator who are designated to operate the vessel on behalf of the whale watching business.

**(4) Commercial whale watching vessel operators.**

"Commercial whale watching vessel operators" shall be defined to include operators of commercial vessels and kayak rentals that are engaged in the business of commercial whale watching. The term "operators" shall be used to identify primary operators and alternate operators who conduct commercial whale watching tours, including operators who direct the movement or positioning of any nonmotorized commercial whale watching vessels involved in a tour.

~~(5))~~ **business** means a business that engages in the activity of commercial whale watching.

**(3) Commercial whale watching operator.**

"Commercial whale watching operator" means a person who operates a motorized or sailing vessel engaged in the business of whale watching.

**(4) Kayak guide.**

"Kayak guide" means a person who conducts guided kayak tours on behalf of a commercial whale watching business. The term kayak guide includes anyone who directs the movement or positioning of any nonmotorized commercial whale watching vessel(s) involved in a tour.

**(5) Commercial whale watching license.**

"Commercial whale watching license" means a commercial whale watching business license, a commercial whale watching operator license, or a kayak guide license as defined in this section.

(a) "Commercial whale watching business license" means a department-issued license to operate a commercial whale watching business.

(b) "Commercial whale watching operator license" means a department-issued license to operate a commercial motorized or sailing vessel on behalf of a commercial whale watching business.

(c) "Kayak guide license" means a department-issued license to conduct commercial guided kayak tours on behalf of a commercial whale watching business.

**(6) Commercial whale watching vessel.**

"Commercial whale watching vessel" (~~shall be defined as~~) means any vessel that is being used as a means of transportation for individuals to engage in commercial whale watching.

"Vessel" includes aircraft while on the surface of the water, and every description of watercraft on the water that is

used or capable of being used as a means of transportation on the water.

(a) "Motorized commercial whale watching vessel" shall be defined as any vessel with an engine being used as a means of transportation for individuals to engage in commercial whale watching, regardless of whether the engine is in use. This definition includes sailboats with inboard or outboard motors.

(b) "Nonmotorized commercial whale watching vessel" shall be defined as any vessel without an engine being used as a means of transportation for individuals to engage in commercial whale watching. This definition includes human-powered watercraft such as kayaks and paddleboards. In this chapter, the terms "kayak," "kayak guide," and "kayak tour" encompass any nonmotorized vessels used for whale watching.

~~((6))~~ **(7) Group of southern resident killer whales.**

"Group of southern resident killer whales" is defined as a single southern resident killer whale or an assemblage of southern resident killer whales wherein each member is within one nautical mile of at least one other southern resident killer whale. Any individual(s) farther than one nautical mile constitutes a separate group.

~~((7))~~ **(8) Vicinity.**

"Vicinity" is defined as one-half nautical mile from all southern resident killer whales in the group. References to "vicinity" in this chapter do not permit operators to approach a southern resident killer whale closer than the statutorily defined distances in RCW 77.15.740.

~~((8))~~ **(9) Vicinity instance.** Each time any commercial whale watching vessel operating under a license enters within one-half nautical mile of a southern resident killer whale will count as one vicinity instance associated with that license.

~~((9))~~ **(10) Automatic identification system (AIS).** AIS refers to a maritime navigation safety communications system standardized by the International Telecommunication Union, adopted by the International Maritime Organization, that:

(a) Provides vessel information, including the vessel's identity, type, position, course, speed, navigational status and other safety-related information automatically to appropriately equipped shore stations, other ships, and aircraft;

(b) Receives automatically such information from similarly fitted ships, monitors and tracks ships; and

(c) Exchanges data with shore-based facilities.

~~((10))~~ **(11) Inland waters of Washington.**

"Inland waters of Washington" means Puget Sound and related inland marine waters, including all salt waters of the state of Washington inside the international boundary line between Washington and British Columbia, and lying east of the junction of the Pacific Ocean and the Strait of Juan de Fuca, and the rivers and streams draining to Puget Sound as mapped by water resource inventory areas 1 through 19 in WAC 173-500-040 as it exists on July 1, 2007.

**AMENDATORY SECTION** (Amending WSR 21-01-216, filed 12/23/20, effective 3/1/2021)

**WAC 220-460-020 Commercial whale watching licenses—Application process and deadline.** (1) A com-

mercial whale watching license is required for commercial whale watching businesses, motorized and sailing vessel (~~(; sailboat)) operators~~, and kayak (~~(operators)) guides~~.

(2) Applicants must be at least sixteen years of age and possess a driver's license or other government-issued identification number and jurisdiction of issuance.

(3) Applicants for a commercial whale watching business license must be authorized to conduct business within the state of Washington. However, the residency and business requirements of RCW 77.65.040 (2) and (3) do not apply to Canadian individuals or corporations applying for and holding Washington commercial whale watching licenses.

(4) The commercial whale watching business license application must include the following information regarding the whale watching business:

(a) The applicant must identify the whale watching business (~~(Business))~~ name, type of business (i.e., sole proprietor, partnership, corporation), and for all associated business owner(s) (~~(;))~~: Full name (~~((s))~~), (~~(physical address, mailing address))~~ association to the business, email address, telephone number, and Social Security number (~~(s of all))~~ if the business owner(s) is a United States citizen or resident.

(b) The applicant must identify and confirm the whale watching business is registered to conduct business within the state by providing the unified business identifier (UBI) number. Canadian commercial whale watching businesses are exempt from this requirement.

(5) The commercial whale watching business license applicant must also designate (~~((s))~~) all commercial whale watching operators (~~(for each))~~ authorized to operate a motorized or sailing vessel (~~(or kayak engaging in whale watching activity))~~ and all kayak guides authorized to guide a kayak tour on behalf of the business. The applicant must identify the operator's (~~(name of the associated business))~~ or kayak guide's full name (~~(;))~~ and date of birth (~~(Social Security number, gender, hair, eyes, weight, height, physical address, mailing address, email address, and telephone number))~~).

(6) On the commercial whale watching business license application, the applicant must designate all commercial whale watching vessels to be used while engaging in commercial whale watching.

(a) The applicant must indicate either motorized or sailing vessels or kayaks on the application.

~~((s))~~ (b) If motorized or sailing vessels are selected, then the applicant must select the appropriate option for the passenger capacity on the designated vessel.

~~((b))~~ If kayak is selected, then the applicant must select the appropriate option for the number of kayaks engaging in whale watching activities.

~~(7) The applicant may designate alternate operators to be listed on the whale watching license.)~~ **(7) Commercial whale watching operator license applicants and kayak guide license applicants must provide their full name, date of birth, Social Security number (U.S. citizens and residents only), gender, hair, eyes, weight, height, physical address, mailing address, email address, and telephone number.**

(8) An application submitted to the department shall contain the applicant's declaration under penalty of perjury that the information on the application is true and correct.

(9) Applications must be completed and submitted online through the department-provided commercial licensing system, or by mailing the application to:

Washington Department of Fish and Wildlife  
Attn: Commercial License Sales  
P.O. Box 43154  
Olympia, WA 98504-3154

(10) If the required fields are blank or omitted from the application, then the department will consider the application to be incomplete, and it will not be processed.

**AMENDATORY SECTION** (Amending WSR 21-01-216, filed 12/23/20, effective 1/23/21)

**WAC 220-460-040 Commercial whale watching licensing business organizations—Operator designation.**

(1) Any person that holds a commercial whale watching business license (~~and is a business organization~~) may designate other persons associated with the business to act on behalf of the license holder to update the business information within the organization's account (~~and/or operate a designated vessel~~).

(2) (~~In addition to the designated operator,~~) A commercial whale watching business license holder (~~that is a business organization~~) may designate an unlimited number of (~~alternate~~) operators or kayak guides, so long as each individual obtains the license required under WAC 220-460-070.

(3) A commercial whale watching business license holder (~~that is a business organization may substitute the designated operator by surrendering the whale watching license card, redesignating the operator under the criteria provided in RCW 77.65.050~~) must maintain an accurate record with the department of operators authorized to operate motorized vessels and kayak guides authorized to guide kayak tours on behalf of the business. Commercial whale watching business license holders may add operators and kayak guides to the list associated with the business license by entering the operator's or kayak guide's full name and date of birth in the business account through the commercial licensing system.

**AMENDATORY SECTION** (Amending WSR 21-01-216, filed 12/23/20, effective 1/23/21)

**WAC 220-460-050 Whale watching vessel designation requirements.** (1) RCW 77.65.615 requires commercial whale watching (~~operators~~) businesses to designate the motorized vessel(s) (~~to~~) and indicate if kayaks will be used for commercial whale watching (~~tours~~). It is unlawful to engage in commercial whale watching activities unless:

(a) The licensee has designated all commercial whale watching motorized, including sailing, vessels to be used, (~~regardless if using a motorized or sailing vessel, or~~) and has designated if kayaks (~~to guide tours~~) will be used;

(b) The department has issued a commercial license to the licensee showing the motorized vessel or kayaks so designated; and

(c) The person conducting commercial whale watching activities on behalf of the business has the appropriate documentation in physical possession.

(i) The operator of a motorized or sailing vessel (~~operator has~~) must have both the commercial whale watching business license listing the vessel and their individual operator license for the current calendar year in physical possession.

(ii) The guide of a commercial kayak tour must have their individual kayak guide license in physical possession and must have either the commercial whale watching business license for the current calendar year or a printed or digital scan thereof.

(2) The licensee does not have to own the vessel being designated on the license.

(3) For motorized or sailing vessels, the commercial whale watching business licensee must provide applicable documentation numbers such as a hull identification number (HIN), current United States Coast Guard or Transport Canada certification inspection documentation (~~which allows the designated vessel to carry more than six passengers~~), and/or a vessel registration number.

**AMENDATORY SECTION** (Amending WSR 21-01-216, filed 12/23/20, effective 1/23/21)

**WAC 220-460-060 Whale watching vessel substitutions—Fees.** The holder of a commercial whale watching business license may add or substitute (~~the~~) a vessel designated on the license (~~or designate a vessel if none has previously been designated~~) within the calendar year if the license holder:

(1) Surrenders the previously issued license to the department;

(2) Submits to the department a substitution application and application fee that identifies the currently assigned vessel, and the vessel proposed to be designated; and

(3) Submits vessel substitution fees corresponding to the size of the vessel.

**AMENDATORY SECTION** (Amending WSR 21-01-216, filed 12/23/20, effective 1/23/21)

**WAC 220-460-070 Whale watching** (~~alternate~~) **operator and kayak guide license requirements.** (1) A person (~~who is not the license holder~~) may operate a motorized or sailing vessel designated on the commercial whale watching business license only if:

(a) The person holds a valid commercial whale watching (~~alternate~~) operator license issued from the department; (~~and~~)

(b) The (~~alternate~~) operator is designated on the underlying commercial whale watching business license; and

(c) The person has both the commercial whale watching business license listing the vessel and their individual operator license for the current calendar year in physical possession.

(2) A person may lead a guided kayak tour on behalf of the commercial whale watching business only if:

(a) The person holds a valid kayak guide license issued from the department;

(b) The kayak guide is designated on the underlying commercial whale watching business license; and

(c) The person has their individual kayak guide license in physical possession and must have either the commercial whale watching business license for the current calendar year or a printed or digital scan thereof.

~~((2))~~ (3) Only an individual at least sixteen years of age may hold an ((alternate)) operator license or kayak guide license.

~~((3) Commercial whale watching license holders must maintain an accurate record with the department of designated alternate operators. The commercial whale watching license holder must confirm the utilization of a whale watching alternate operator and identify the alternate by entering the alternate's full name and date of birth in the business account through the commercial licensing system.)~~

(4) An individual may hold only one ((alternate)) commercial whale watching operator license. Holders of an ((alternate)) operator license may be designated on an unlimited number of commercial whale watching business licenses.

(5) An individual may hold only one kayak guide license. Holders of a kayak guide license may be designated on an unlimited number of commercial whale watching business licenses.

AMENDATORY SECTION (Amending WSR 21-01-216, filed 12/23/20, effective 1/23/21)

**WAC 220-460-090 Commercial whale watching of southern resident killer whales—General.** (1) It is unlawful for ~~((an operator of))~~ a commercial whale watching ~~((vessel))~~ operator or kayak guide to violate any of the restrictions in RCW 77.15.740.

(2) A commercial whale watching license is not an exemption under RCW 77.15.740 (2)(c).

(3) The rules and requirements outlined in this chapter regarding southern resident killer whales apply to commercial whale watching activity in the inland waters of Washington.

AMENDATORY SECTION (Amending WSR 21-01-216, filed 12/23/20, effective 1/23/21)

**WAC 220-460-100 Areas closed to commercial whale watching.** (1) It is unlawful for operators of motorized commercial whale watching vessels to operate one-quarter nautical mile from shore from Mitchell Point to Cattle Point on the west side of San Juan Island or within one-half nautical mile of Lime Kiln Point State Park. ~~((Operators of nonmotorized commercial whale watching vessels))~~ Kayak guides and all vessels on guided kayak tours must stay within one hundred yards of shore within this zone except when safety conditions preclude it.

(2) Modifications or additions to closed areas may be issued by the department by rule. Violation of such rules shall be unlawful.

AMENDATORY SECTION (Amending WSR 21-01-216, filed 12/23/20, effective 1/23/21)

**WAC 220-460-120 Time limitations on watching southern resident killer whales.** (1) It is unlawful for an operator of a motorized commercial whale watching vessel to approach within one-half nautical mile of a southern resident killer whale between October 1st and June 30th.

(2) It is unlawful for an operator of a motorized commercial whale watching vessel to approach within one-half nautical mile of a southern resident killer whale outside these time periods: 10:00 a.m. to 12:00 p.m. and 3:00 p.m. to 5:00 p.m. from July 1st through September 30th.

(3) If any motorized commercial whale watching vessel designated under a commercial whale watching business license enters within the vicinity of a southern resident killer whale between 10:00 a.m. and 12:00 p.m., no vessels operating under that business license may enter the vicinity of a southern resident killer whale after 12:00 p.m. on the same day.

(4) If an operator of a motorized commercial whale watching vessel enters within one-half nautical mile of a group of killer whales outside of the provisions in this section, after taking reasonable measures to determine whether the killer whales were southern resident killer whales, and then identifies the whales as southern resident killer whales, the operator must:

(a) Immediately safely reposition the vessel to be one-half nautical mile or farther from the southern resident killer whales.

(b) Immediately after repositioning the vessel, report the location of the southern resident killer whale(s) to the WhaleReport application for the whale report alert system (WRAS), or to a successor transboundary notification system designated by the department that is adopted by the international shipping community in the Salish Sea.

(c) Accurately log the incident, including measures taken to determine whether the whales were southern resident killer whales, following the provisions of WAC 220-460-140 and submit the log to the department within twenty-four hours of the incident.

AMENDATORY SECTION (Amending WSR 21-01-216, filed 12/23/20, effective 1/23/21)

**WAC 220-460-130 Nonmotorized commercial whale watching vessels.** (1) Tours involving any nonmotorized watercraft used for the purposes of commercial whale watching, such as kayaks, are subject to these requirements. Such watercraft constitute commercial whale watching vessels and are referred to as "vessels" in this chapter. Regardless of the type of nonmotorized watercraft involved, the person operating on behalf of the business to conduct the tour is referred to as a "kayak guide" in this chapter.

(2) ~~((Operators))~~ Kayak guides must prevent all vessels in their tour group from disturbing southern resident killer whales. All vessels in the tour group must adhere to the following requirements:

(a) It is unlawful to launch if southern resident killer whales are within one-half nautical mile of the launch location.

(b) Vessels are prohibited from being paddled, positioned, or waiting in the path of a southern resident killer whale. If a southern resident killer whale is moving towards a vessel, the vessel must immediately be moved out of the path of the whale.

(c) If a vessel or vessels inadvertently encounter a southern resident killer whale, they must immediately be moved as close to shore as possible and secured, or be rafted up close to shore or in a kelp bed, and paddling shall cease until any and all killer whales have moved to at least four hundred yards away from the vessels. Rafting up is defined as manually holding vessels close together, maintaining a tight grouping.

**AMENDATORY SECTION** (Amending WSR 21-01-216, filed 12/23/20, effective 5/1/21)

**WAC 220-460-140 Commercial whale watching compliance and reporting.** (1) An automatic identification system (AIS) must be fitted aboard all motorized commercial whale watching vessels. The AIS must be capable of providing information about the vessel (including the vessel's identity, type, position, course, speed, and navigational status) to state and federal authorities automatically. Operators must maintain the AIS in operation at all times that the vessel is ~~((on a commercial whale watching tour))~~ conveying passengers for a fee.

(2) All ~~((motorized and nonmotorized))~~ commercial whale watching license holders ~~((and alternate operators))~~ must complete annual training from the department on marine mammals, distances on the water, impacts of whale watching on marine mammals, and southern resident killer whale-related rules and reporting.

(a) At completion of training, license holders must demonstrate adequate understanding of course materials.

(b) It is unlawful ~~((for an operator))~~ to operate a commercial whale watching vessel or guide a tour of nonmotorized vessels without completing the training for the current calendar year.

(c) Naturalists and others who work upon commercial whale watching vessels but are not license holders are encouraged to ~~((attend))~~ participate in the annual training.

(3) All ~~((motorized and nonmotorized))~~ commercial whale watching license holders shall maintain accurate logs on each instance a vessel operating under a license enters within one-half nautical mile vicinity of southern resident killer whales and submit copies of the logs to the department.

(a) Logs must include business license holder name; vessel operator ~~((and))~~ or kayak guide name; other staff names and roles; vessel name; port(s) of departure; departure time(s); return time(s); number of passengers; location(s) (Lat/Long) of southern resident killer whales encountered; time(s) entering and departing the one-half nautical mile vicinity of southern resident killer whales; time(s) entering and departing within four hundred yards of southern resident killer whales; and qualitative details of southern resident killer whale encounters including whale identification, whale behavior and health, other vessel behavior, and any operator behavior, including contact with other boaters or government entities, and resulting outcomes.

(b) Information from the logs shall be submitted to the department on the following schedule:

(i) All vicinity instances in July must be reported by August 15th.

(ii) All vicinity instances in August must be reported by September 15th.

(iii) All vicinity instances in September must be reported by October 15th.

(iv) Operators of motorized commercial whale watching vessels must report vicinity instances that happen outside of the permitted hours and days described in WAC 220-460-120 within twenty-four hours.

~~((Operators of nonmotorized whale watching vessels))~~ Kayak guides must report vicinity instances that happen October through June within one week.

(c) It is unlawful to fail to report a vicinity instance or to fraudulently report the details of a vicinity instance.

(d) Logs must be provided for inspection on request of department law enforcement.

(4) All motorized commercial whale watching license holders must log accurate, complete sighting information to the WhaleReport application for the whale report alert system (WRAS), or to a successor transboundary notification system designated by the department that is adopted by the international shipping community in the Salish Sea, immediately upon entering within one-half nautical mile of a southern resident killer whale.

**AMENDATORY SECTION** (Amending WSR 21-01-216, filed 12/23/20, effective 1/23/21)

**WAC 220-460-150 Penalties.** (1) Commercial ~~((operators))~~ whale watching license holders in violation of WAC 220-460-090 may be issued a notice of infraction punishable under chapter 7.84 RCW that carries a fine of five hundred dollars, not including statutory assessments added pursuant to RCW 3.62.090.

(2) ~~((Operators))~~ Commercial whale watching license holders out of compliance with WAC 220-460-100, 220-460-110, 220-460-120, 220-460-130, or 220-460-140 may be issued a notice of infraction that carries a fine of up to five hundred dollars, not including statutory assessments added pursuant to RCW 3.62.090.

(3) Nothing in this chapter prohibits the filing of criminal charges for violations of RCW 77.15.815 in lieu of issuance of a notice of infraction.

## WSR 21-23-076

### PERMANENT RULES

### OFFICE OF THE

### INSURANCE COMMISSIONER

[Filed November 15, 2021, 4:36 p.m., effective January 1, 2022]

Effective Date of Rule: January 1, 2022.

Purpose: The purpose of this proposal is to permit actuaries with other NAIC-accepted actuarial designations to be considered qualified actuaries. The proposal amends a subsection of WAC 284-07-060 Statement of actuarial opinion.

The proposal amends the subsection pertaining to qualified actuarial designations.

The proposed rule will provide guidance regarding NAIC-accepted actuarial designations. The NAIC has updated the requirements as of 2019 and the proposed rule conforms to these updated requirements. The existing designations require an actuary to be a member of the Casualty Actuarial Society (CAS). The new designations are as follows:

- Fellow of the CAS having passed the United States version of Exam 6.
- Associate of the CAS having passed Exam 7 and the United States version of Exam 6.
- Fellow of the Society of Actuaries (SOA) including completion of the general insurance track and these exams: The United States version of the Financial and Regulatory Environment Exam and the Advanced Topics in General Insurance Exam.

Citation of Rules Affected by this Order: Amending WAC 284-07-060.

Statutory Authority for Adoption: RCW 48.02.060, 48.05.073, 48.05.383.

Adopted under notice filed as WSR 21-19-138 on September 21, 2021.

A final cost-benefit analysis is available by contacting Simon Casson, P.O. Box 40260, Olympia, WA 98504-0260, phone 360-725-7038, fax 360-586-3109, email rulescoordinator@oic.wa.gov.

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

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 1, Repealed 0.

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

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

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

Date Adopted: November 15, 2021.

Mike Kreidler  
Insurance Commissioner

**AMENDATORY SECTION** (Amending WSR 14-15-149, filed 7/23/14, effective 8/23/14)

**WAC 284-07-060 Statement of actuarial opinion.** (1) For purposes of this section "insurer" has the same meaning as set forth in RCW 48.01.050. It also includes health care service contractors registered under chapter 48.44 RCW, health maintenance organizations registered under chapter 48.46 RCW, fraternal benefit societies registered under chapter 48.36A RCW, and self-funded multiple employer welfare arrangements authorized under chapter 48.125 RCW.

(2)(a) Each insurer must include with its annual statement, a statement from a qualified actuary, as defined in WAC 284-05-060, or as defined in subsection (4) of this section for domestic property and casualty insurers, or as defined in subsection (5) of this section for health care service contractors, health maintenance organizations, and self-funded multiple employer welfare arrangements authorized under chapter 48.125 RCW entitled "Statement of Actuarial Opinion," setting forth the actuary's opinion relating to the insurer's reserves and other actuarial items, prepared in accordance with the appropriate *Annual Statement Instructions* and *Accounting Practices and Procedures Manuals* adopted by the National Association of Insurance Commissioners. If an exemption is allowed by the *Annual Statement Instructions* and is approved by the domiciliary commissioner, an insurer shall be exempt from this requirement (unless the commissioner of Washington makes a specific finding, by order, bulletin, letter, or otherwise, that for a specific insurer, or one or more insurers, company compliance is necessary to carry out the commissioner's statutory responsibilities). A certified copy of the approved exemption must be filed with the annual statement in all jurisdictions in which the company is authorized.

(b) After December 31, 2014, statements of actuarial opinion for all domestic and foreign insurers must be filed electronically with the NAIC. The filing with the NAIC will be deemed to be a filing with the commissioner. This includes the statement of actuarial opinion for the year ended December 31, 2014. Insurers must electronically transmit the statement of actuarial opinion, as described in (a) of this subsection, in PDF or other format as noted on the commissioner's website. The commissioner has the discretion to allow an insurer to file a statement of actuarial opinion electronically with the commissioner. The insurer must demonstrate that filing with the NAIC will create an undue financial hardship for the insurer. Applications for permission to not file with the NAIC must be received by the commissioner at least ninety days before the statement of actuarial opinion is due.

(c) To comply with requirements that statements of actuarial opinion must be signed by the actuary, an insurer may:

(i) Use a method of electronic signature verification that has been approved by the commissioner for use by the insurer; or

(ii) Include in the electronic filing an image of the original signature in PDF format as noted on the commissioner's website. This electronically filed document must contain a legally binding signature of the actuary and any person providing supporting documentation.

(3) This section does not relieve an insurer from its obligation to comply with other requirements of Titles 48 RCW and 284 WAC.

(4) With respect to statements of actuarial opinion for property and casualty insurers domiciled in this state, a person can demonstrate competency in loss reserve evaluation, and thus be considered to be a qualified actuary, only by being:

(a) A ~~(member in good standing of the Casualty Actuarial Society)~~ person who meets the basic education, experience, and continuing education requirements of the qualifica-

tion standards promulgated by the American Academy of Actuaries, has obtained and maintains an accepted actuarial designation prescribed by the *Annual Statement Instructions*, and is a member of a professional actuarial association that requires adherence to the same Code of Professional Conduct and U.S. Qualification Standards promulgated by the American Academy of Actuaries, and participates in the Actuarial Board for Counseling and Discipline when its association members are practicing in the U.S.; or

(b) A member in good standing of the American Academy of Actuaries who has been approved as qualified for signing casualty loss reserve opinions by the Casualty Practice Council of the American Academy of Actuaries; or

(c) A person with documented experience, skill, and knowledge substantially equivalent to that required for either (a) or (b) of this subsection, acceptable to the commissioner. A person qualifying under this alternative (c) must be approved in advance by the commissioner, as prescribed by the *Annual Statement Instructions*.

(5) With respect to statements of actuarial opinion for health care service contractors, health maintenance organizations, and self-funded multiple employer welfare arrangements the qualified actuary must be:

(a) A member in good standing of the American Academy of Actuaries;

(b) A person recognized by the American Academy of Actuaries as qualified for such actuarial evaluation; or

(c) A person with documented experience, skill, and knowledge substantially equivalent to that required for either (a) or (b) of this subsection, acceptable to the commissioner. A person qualifying under this alternative (c) must be approved in advance by the commissioner. In such a case, the health care service contractor or health maintenance organization must request approval at least ninety days prior to the filing of its annual statement.

### WSR 21-23-078

#### PERMANENT RULES

#### OFFICE OF THE

#### INSURANCE COMMISSIONER

[Filed November 15, 2021, 5:18 p.m., effective December 21, 2021]

Effective Date of Rule: December 21, 2021.

Purpose: The act relating to captive insurance (2SSB 5315) has become effective as law (chapter 48.201 RCW). This law establishes statutory framework for Washington-based private entities and public institutions of higher education to manage their risks through captive insurers, which will require proper regulation and taxation by the office of the insurance commissioner (OIC). This law also authorizes OIC rule making to incorporate the statutory framework and requirements for captive insurance into the Washington Administrative Code, along with implementation processes, clarifications, and regulatory guidance.

The anticipated effects of the rule making relate to determining eligibility of captive insurers, registering and renewing eligible captive insurers, enforcement, and collecting associated taxes, registration fees, and annual renewal fees

from captive insurers that are licensed by their domicile jurisdictions and insure Washington-based entities.

These rules will facilitate implementation of captive insurance by ensuring that all affected entities understand their rights and obligations under the new law.

Citation of Rules Affected by this Order: New chapter 284-201 WAC.

Statutory Authority for Adoption: RCW 48.02.060 (3)(a) and 48.201.060.

Adopted under notice filed as WSR 21-20-093 on October 1, 2021.

Changes Other than Editing from Proposed to Adopted Version: The proposed captive insurance regulations outline insurance limitations, where captive insurers are unable to provide workers compensation, unless under certain parameters in WAC 284-201-230 (1)(b). Feedback received in response to the proposed rule making (CR-102) suggested that the rules be revised to include "state" in front of workers compensation insurance, so as to make it clear this limitation is a state or jurisdiction limit for Washington, and not for United States L&H coverage. Captives covering Washington risk cannot provide Washington state workers compensation directly under Title 51 RCW. The requested revision attempts to achieve that which the rule was drafted for, limiting captive insurers from providing workers compensation insurance in Washington, unless done properly through United States L&H coverage and not under Title 51 RCW. Therefore, the rule received a minor technical revision, which clarifies that "*Captive insurers may not provide workers compensation coverage subject to Title 51 RCW that directly covers the worker. Captive insurers may indemnify a self-insured employer for their state workers' compensation liability.*" (WAC 284-201-230 (1)(b)). This change is within the general subject matter of the proposed rule (RCW 34.05.340).

A final cost-benefit analysis is available by contacting Michael Walker, Policy Analyst, 302 Sid Snyder Avenue, Olympia, WA 98504, phone 360-725-7036, fax 360-586-3109, TTY 360-586-0241, email RulesCoordinator@oic.wa.gov, website OIC.WA.GOV.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 11, Amended 0, Repealed 0.

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

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

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

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

Date Adopted: November 15, 2021.

Mike Kreidler  
Insurance Commissioner



**Chapter 284-201 WAC**  
**CAPTIVE INSURANCE**

NEW SECTION

**WAC 284-201-110 Purpose.** These regulations implement captive insurance (chapter 48.201 RCW) including, but not limited to, the processes and procedures for regulation and taxation of captive insurers by the office of the insurance commissioner (commissioner).

NEW SECTION

**WAC 284-201-120 Applicability and scope.** This chapter applies to eligible captive insurers as defined in chapter 48.201 RCW, except for risk retention groups that must register pursuant to chapter 48.92 RCW and captive insurers that solely place insurance through a surplus line broker pursuant to chapter 48.15 RCW.

NEW SECTION

**WAC 284-201-130 Definitions.** The definitions in RCW 48.201.020, apply in this regulation unless otherwise specified or unless the context clearly requires otherwise. The following definitions apply to this chapter and to chapter 48.201 RCW:

(1) "Captive insurer" means an entity that is wholly or partially owned by a "captive owner" and it insures risks of the captive owner, the captive owner's other affiliates, or both.

(2) "Eligible captive insurer" has the same meaning as set forth in chapter 48.201 RCW.

(3) "Insurer" has the same meaning as set forth in RCW 48.01.050.

(4) "Principal place of business" refers to the place where a business entity's management direct, control, and coordinate the corporation's activities, i.e., its "nerve center," which will typically be found at its corporate headquarters. Except where the parent corporation is the alter ego of the subsidiary, subsidiaries are analyzed separately from their parent or holding companies. For example, if a captive insurer insures a subsidiary that is headquartered in Washington, then this state would be the principal place of business for the insured subsidiary, even if the parent company was headquartered elsewhere.

(5) "Registered eligible captive insurer" means an eligible captive insurer who submitted an application that was approved by the commissioner. A registered eligible captive insurer that fails to properly renew its registration will no longer be considered registered under chapter 48.201 RCW.

(6) "Reinsurance" means a form of insurance issued to insurers.

(7) "Reinsurer" means an insurer that assumes all or part of an insurance or reinsurance policy written by the ceding insurer.

NEW SECTION

**WAC 284-201-140 Computation of time.** In computing any period of time prescribed by this rule, the commissioner:

- (1) Will not count the first day; and
- (2) Will count the next and last day, unless either is a weekend or a state legal holiday.

NEW SECTION

**WAC 284-201-150 Severability.** If any provision of this chapter or its application to any person or circumstances is held invalid, the remainder of the chapter or its application of the provision to other persons or circumstances is not affected.

NEW SECTION

**WAC 284-201-210 Registration.** (1) Eligible captive insurers must register with the commissioner within 120 days of May 12, 2021, or if later, within 120 days after first issuing a policy that covers Washington risks.

(2) The registration period for eligible captive insurers will be from the date the registration is approved by the commissioner, through June 30th.

(3) The commissioner may request and the eligible captive insurer must provide additional documentation and information to show registration requirements have been met.

(4) The registration fee is \$2,500.00.

(5) The commissioner will approve an eligible captive insurer's registration, if the commissioner determines that it meets the eligibility requirements in chapter 48.201 RCW, and this section.

NEW SECTION

**WAC 284-201-220 Renewal.** (1) To maintain registration, a registered eligible captive insurer must renew certificates of registration annually by June 30th. If an eligible captive insurer fails to properly renew their certificate of registration, then its registration will expire at the end of its registration period.

(2) The renewal process will require that a registered eligible captive insurer continue to meet eligibility requirements in accordance with RCW 48.201.020 and 48.201.030, and pay a renewal fee.

(3) For renewal, the commissioner will charge an annual renewal fee not to exceed \$2,500.00. The amount of the renewal fee will be published on the commissioner's website and must be paid by June 30th.

(4) The renewal period will be from July 1st through June 30th.

(5) In order to obtain a timely annual renewal, a registered eligible captive insurer should file the renewal application no later than April 1st. Otherwise, OIC may not approve the eligible captive insurer's renewal before the June 30th expiration date and the eligible captive insurer's registration will expire. If an eligible captive insurer's registration expires, it will then need to complete and file a new application and pay the fee for a new registration.

NEW SECTION

**WAC 284-201-230 Insurance limitations.** (1) For Washington risks, a registered eligible captive insurer may provide only property and casualty insurance, and may provide such insurance to only a captive owner, to the captive owner's other affiliates, or both, unless it places the insurance through a surplus lines broker pursuant to chapter 48.15 RCW.

(a) A registered eligible captive insurer may not provide stop loss insurance as defined in RCW 48.11.030 or 48.21-015.

(b) A registered eligible captive insurer may not provide workers' compensation coverage subject to Title 51 RCW that directly covers the worker. A registered eligible captive insurer may indemnify a self-insured employer for their state workers' compensation liability.

(2) A registered eligible captive insurer may assume risks from other insurers as a reinsurer without regard to the limitations in subsection (1) of this section.

NEW SECTION

**WAC 284-201-240 Taxes.** (1) A registered eligible captive insurer shall on or before the first day of March of each year pay to the state treasurer through the commissioner's office a two percent tax on premiums for insurance directly procured by and provided to its parent or another affiliate for Washington risks during the previous calendar year. A registered eligible captive insurer that fails to remit the tax by the last day of the month in which the tax becomes due, will be subject to the tax, penalties, and interest provided in RCW 48.14.060.

(2) A registered eligible captive insurer shall file with the commissioner a statement of premiums on a tax form furnished by the commissioner. For tax purposes, the reporting of premiums shall be on a written basis.

(3) Instructions for accessing the online tax forms will be sent out to the registered eligible captive insurer's tax contact in January of each year. Tax contact information is provided to the commissioner as part of the registration process.

(4) The registered eligible captive insurer must share its methodology and relevant analysis in determining its Washington risks allocation by submitting this information to the commissioner by April 1st of each year, in a method as prescribed and furnished by the commissioner.

(5) Prior period taxes. Eligible captive insurers who insured Washington risk for any period after January 1, 2011, must remit a two percent tax on premiums for insurance directly procured by and provided to its parent or another affiliate for Washington risks, if not previously remitted to the commissioner. The reporting of premiums under this section shall be on a written basis, in a method as prescribed and furnished by the commissioner. Taxes due for premiums procured prior to January 1, 2021, are not subject to the penalties or interest provided in RCW 48.14.060.

(6) Eligible captive insurers must pay premium tax for Washington risks covered by all types of insurance, including premiums collected for insurance that is not property or casualty insurance, if the eligible captive insurer provided such coverage for any period after January 1, 2011.

NEW SECTION

**WAC 284-201-250 Administration.** (1) The commissioner is authorized to make use of any of the powers established under Title 48 RCW to enforce the laws of this state. This includes, but is not limited to, the commissioner's administrative authority to investigate, issue subpoenas, conduct depositions and hearings, issue orders, impose penalties, and seek injunctive relief. Regarding any investigation, administrative proceedings, or litigation, the commissioner can rely on the procedural laws and regulations of the state.

(2) Fines and penalties.

(a) An eligible captive insurer that fails to register or maintain registration under this chapter or chapter 48.92 RCW is acting as an unlawful, unauthorized insurer, as set forth in RCW 48.15.020 and is subject to the fines and penalties under RCW 48.15.023, taxation under RCW 48.14.095 and penalties and interest under RCW 48.14.060.

(b) Captive insurers that have insured risks in Washington but are not eligible to register with the commissioner, continue to be subject to RCW 48.15.020, 48.15.023, 48.14-020, 48.14.060, and 48.14.095.

(c) A registered eligible captive insurer that violates any provision of this chapter will be subject to the fines and penalties applicable to authorized insurers generally, as set forth in chapter 48.05 RCW, including revocation of its registration, suspension of registration, and refusal to renew registration.

(d) The commissioner may deny the registration or renewal of a captive insurer who the commissioner has determined failed to sufficiently demonstrate the requirements outlined in RCW 48.201.020 and 48.201.030, and this chapter.

NEW SECTION

**WAC 284-201-300 Adjudicative proceedings.** (1) Captive insurers may demand a hearing with the commissioner by submitting a request for an adjudicative proceeding in accordance with WAC 284-02-070 and RCW 48.04.010.

(2) General procedural and substantive requirements for adjudicative proceedings are contained in WAC 284-02-070, chapters 48.04 and 34.05 RCW.

**WSR 21-23-079****PERMANENT RULES****OFFICE OF THE****INSURANCE COMMISSIONER**

[Filed November 15, 2021, 5:24 p.m., effective December 21, 2021]

Effective Date of Rule: December 21, 2021.

Purpose: The purpose of this proposal includes improving administrative hearings, discovery, and service processes. WAC 284-02-070 incorporates by reference many of the civil discovery rules for administrative hearings. Currently this creates several problems, where parties propound discovery without justifying the same with the presiding officer. This results in the office of the insurance commissioner (OIC) receiving overly broad discovery requests that do not provide

any commensurate benefit to the administrative hearing process and can delay proceedings or obstruct agency action. OIC is also currently required to reach electronic service agreements on a case-by-case basis with all opposing parties. The anticipated effects of this rule making include optimizing discovery, such as limiting depositions, interrogatories, requests for production, and requests for admissions, and authorizing electronic service in all OIC hearings.

Citation of Rules Affected by this Order: Amending WAC 284-02-070.

Statutory Authority for Adoption: RCW 34.05.220 (1)(a), 34.05.250, 34.05.446(2), and 48.02.060 (3)(a).

Adopted under notice filed as WSR 21-18-092 on August 30, 2021.

A final cost-benefit analysis is available by contacting Michael Walker, 302 Sid Snyder Avenue, Olympia, WA 98504, phone 360-725-7036, fax 360-586-3109, TTY 360-586-0241, email RulesCoordinator@oic.wa.gov, website OIC.WA.GOV.

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

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

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

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

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

Date Adopted: November 15, 2021.

Mike Kreidler  
Insurance Commissioner

**AMENDATORY SECTION** (Amending WSR 12-11-022, filed 5/7/12, effective 6/7/12)

**WAC 284-02-070 Hearings.** (1)(a) Hearings of the OIC are conducted according to chapter 48.04 RCW and chapter 34.05 RCW, the Administrative Procedure Act. Two specific types of hearings are conducted pursuant to the Administrative Procedure Act: Rule-making hearings and adjudicative proceedings. Adjudicative proceedings include both contested case hearings and other types of adjudicative proceedings which are required by law. Contested case hearings include appeals from disciplinary actions taken by the commissioner.

(b) **How to demand a hearing.** Under RCW 48.04.010 the commissioner is required to hold a hearing upon demand by any person aggrieved by any act, threatened act, or failure of the commissioner to act, if the failure is deemed an act under the insurance code or the Administrative Procedure Act.

(i) A hearing can also be demanded by an aggrieved person based on any report, promulgation, or order of the commissioner.

(ii) Demands for hearings must be in writing and delivered to the Tumwater office of the OIC by mail, hand delivery, facsimile, or email. Unless a person aggrieved by an order of the commissioner demands a hearing within ninety days after receiving notice of that order, or in the case of persons or entities authorized by the OIC to transact the business of insurance under Title 48 RCW, within ninety days after the order was mailed to the most recent address shown in the OIC's licensing records, the right to a hearing is conclusively deemed to have been waived. A hearing is considered demanded when the demand for hearing is received by the commissioner.

(c) Accommodation will be made for persons needing assistance due to difficulty with language or disability.

**(2) Procedural and substantive requirements for adjudicative proceedings including contested cases.**

(a) Provisions applicable to adjudicative proceedings are contained in chapter 48.04 RCW and chapter 34.05 RCW, the Administrative Procedure Act, and chapter 10.08 WAC.

(b) Substantive provisions specifically relating to action taken against persons or entities authorized by the OIC to transact the business of insurance are contained in RCW 48.17.530, 48.17.540, 48.17.550, 48.17.560, chapter 48.102 RCW, and other chapters related to specific licenses. The grounds for disciplinary action against insurance producers, title insurance agents and adjusters are contained in RCW 48.17.530 and 48.17.540(1); grounds for disciplinary action against surplus line brokers are contained in RCW 48.15.140; grounds for similar action against insurance companies are contained in RCW 48.05.130 and 48.05.140; grounds for actions against fraternal benefit societies are found in RCW 48.36A.310; grounds for actions against life settlement providers are found in chapter 48.102 RCW; grounds for actions against health care service contractors are contained in RCW 48.44.160; grounds for action against health maintenance organizations are contained in RCW 48.46.130; grounds for actions against other persons or entities authorized by the OIC under Title 48 RCW are found in the chapters of Title 48 RCW applicable to those licenses; grounds for action against unauthorized individuals or entities are found generally throughout Title 48 RCW.

(c) The commissioner may suspend or revoke any license, certificate of authority, or registration issued by the OIC. In addition, the commissioner may generally levy fines against any persons or organizations having been authorized by the OIC.

(d) Adjudicative proceedings or contested case hearings of the insurance commissioner are informal in nature, and compliance with the formal rules of pleading and evidence is not required.

(i) The insurance commissioner may delegate the authority to hear and determine the matter and enter the final order under RCW 48.02.100 and 34.05.461 to a chief presiding officer. The commissioner may appoint a chief presiding officer who will have primary responsibility for the conduct of hearings, the procedural matters preliminary thereto, and the preservation of hearing records. The position of chief presid-

ing officer does not report to any of the major divisions of the OIC. The commissioner may also use the services of an administrative law judge in accordance with chapter 34.12 RCW and chapter 34.05 RCW, the Administrative Procedure Act. The initial order of an administrative law judge will not become a final order without the commissioner's review (RCW 34.05.464) and entry of a final order.

(ii) The hearing will be recorded by any method chosen by the chief presiding officer. Except as required by law, the OIC is not required, at its expense, to prepare a transcript. Any party, at the party's expense, may cause a reporter approved by the chief presiding officer to prepare a transcript from the agency's record, or cause additional recordings to be made during the hearing if, in the opinion of the presiding officer, the making of the additional recording does not cause distraction or disruption. If appeal from the insurance commissioner's order is made to the superior court, the recording of the hearing will be transcribed and certified to the court after confirmation of payment of all costs for the transcription by the appellant.

(iii) The commissioner or the chief presiding officer may allow any person affected by the hearing to be present during the giving of all testimony and will allow the aggrieved person a reasonable opportunity to inspect all documentary evidence, to examine witnesses, and to present evidence. Any person heard must make full disclosure of the facts pertinent to the inquiry under oath.

(iv) Prehearing or other conferences for settlement or simplification of issues may be held at the discretion and direction of the chief presiding officer.

(e) Discovery is only available ((in adjudicative proceedings pursuant to Civil Rules 26 through 37 as now or hereafter amended without first obtaining the permission of the presiding officer or the administrative law judge in accordance with RCW 34.05.446(2)).

~~(i) Civil Rules 26 through 37 are adopted and incorporated by reference in this section, with the exception of CR 26 (j) and (3) and CR 35, which are not adopted for purposes of this section.)~~ as herein set forth:

(i) Available methods of discovery include: Interrogatories pursuant to Civil Rule 33, requests for production pursuant to Civil Rule 34, and requests for admission pursuant to Civil Rule 36. Depositions are excluded as an acceptable method of discovery, except as provided in (e)(iv) of this subsection.

(ii) The chief presiding officer or administrative law judge is authorized to make any order that a court could make under CR 37 (a) through (e), including an order awarding expenses of the motion to compel discovery or dismissal of the action.

(iii) This rule does not limit the chief presiding officer's or administrative law judge's discretion and authority to condition or limit discovery as set forth in RCW 34.05.446(3).

(iv) Discovery is limited in frequency to ten requests per discovery form, unless further discovery is permitted by the presiding officer or the administrative law judge in accordance with RCW 34.05.446(3). Discovery, in addition to that specifically authorized in these rules, should not be granted unless necessary to the resolution of the case and not available by the means specified in this rule. The burden for estab-

lishing such necessity and unavailability is on the party requesting additional discovery.

(f) Limitations on discovery. In addition to limitations on discovery set forth in any other applicable law, regulation, or rule, discovery does not include:

(i) Information or documents from the personnel file of any commissioner employee;

(ii) Information or documents relating to any investigation conducted by the commissioner against unrelated parties;

(iii) Information or documents relating to any action brought by the commissioner against unrelated parties;

(iv) Information or documents relating to any examination conducted by the commissioner of unrelated parties;

(v) Information or documents relating to any license applications or determinations made by the commissioner of unrelated parties; or

(vi) Depositions of the insurance commissioner or deputy insurance commissioner.

(g) Adjudicative proceedings are determined on the merits of the individual case and are not binding precedence for unrelated cases.

(h) Service by electronic transmission is authorized for all OIC hearings in accordance with RCW 34.05.010(19). All parties to a proceeding must provide a valid email address in that party's demand for a hearing, and if not filing a demand for hearing, by the time of the prehearing conference. The party must monitor this email address throughout the hearing process for the purposes of accepting and providing service of process. Service of pleadings and other documents is deemed complete upon transmission to the email address provided by a party under this section.

(i) The burden of proof in OIC administrative hearings is by a preponderance of the evidence.

(3) **Rule-making hearings.** Rule-making hearings are conducted based on requirements found in chapter 34.05 RCW, the Administrative Procedure Act and chapter 34.08 RCW (the State Register Act).

(a) Under applicable law all interested parties must be provided an opportunity to express their views concerning a proposed rule, either orally or in writing. The OIC will accept comments on proposed rules by mail, telefacsimile, or email but will not accept comments by recorded telephonic communication or voice mail (RCW 34.05.325(3)).

(b) Notice of intention of the insurance commissioner to adopt a proposed rule or amend an existing rule is published in the state register and is sent to anyone who has requested notice in advance and to persons who the OIC determines would be particularly interested in the proceeding. Persons requesting paper copies of all proposed rule-making notices of inquiry and hearing notices may be required to pay the cost of mailing these notices (RCW 34.05.320(3)).

(c) Copies of proposed new rules and amendments to existing rules as well as information related to how the public may file comments are available on the OIC web site [www.insurance.wa.gov](http://www.insurance.wa.gov).

**WSR 21-23-094**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)

[Filed November 16, 2021, 6:12 p.m., effective December 17, 2021]

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

Purpose: The department is adopting amendments to WAC 388-474-0020 What can an aged, blind, or disabled (ABD) cash assistance client expect when supplemental security income (SSI) benefits begin?, to support a corrective action plan and address errors when an ABD client signs an interim assistance reimbursement authorization (IARA). Amendments also intend to support ABD program outcomes and better align with Social Security Administration policies and procedures.

Citation of Rules Affected by this Order: Amending WAC 388-474-0020.

Statutory Authority for Adoption: RCW 74.04.005, 74.04.050, 74.04.057, 74.04.510, 74.04.630, 74.04.655, 74.04.770, 74.04.0052, 74.08.043, 74.08.090, 74.08.335, 74.08A.100.

Adopted under notice filed as WSR 21-19-045 on September 10, 2021.

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

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

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

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

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

Date Adopted: November 16, 2021.

Katherine I. Vasquez  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 12-10-042, filed 4/27/12, effective 6/1/12)

**WAC 388-474-0020 What can an aged, blind, or disabled (ABD) cash assistance client expect when supplemental security income (SSI) benefits begin?** You may only receive assistance to meet your basic needs from one government source at a time (WAC 388-449-0210). If you are an ABD cash client who begins getting SSI, you should know that:

(1) If you got advance, emergency, or retroactive SSI cash assistance for any period (~~where~~) in which you received (~~general assistance (GA), disability lifeline (DL), or~~) aged, blind, or disabled (ABD) cash assistance, you must

repay the department the amount of cash assistance paid to you for the matching time period.

(2) When you (~~apply for~~) receive ABD cash and have an SSI application pending with the Social Security Administration, you must sign DSHS (~~(18-235(X))~~) 18-235, interim assistance reimbursement (~~(agreement)~~) authorization (IARA), to continue to receive ABD cash assistance.

(3) You cannot use your ABD money to replace money deducted from your SSI check to repay an SSI overpayment.

**WSR 21-23-096**  
**PERMANENT RULES**  
**STATE BOARD OF HEALTH**

[Filed November 17, 2021, 7:31 a.m., effective January 1, 2022]

Effective Date of Rule: January 1, 2022.

Purpose: Chapter 246-390 WAC, Drinking water laboratory certification and data reporting (lab rule). The adopted amendments align laboratory data reporting requirements with the adopted amendments to chapter 246-290 WAC, Group A public water supplies (Group A rule) as related to per- and polyfluoroalkyl substances (PFAS). The changes to the lab rule are for explicit PFAS reporting of sample results and notification requirements of specific PFAS contaminants and technical and clarifying edits.

Citation of Rules Affected by this Order: Amending WAC 246-390-010, 246-390-055, 246-390-065, 246-390-075, 246-390-085, and 246-390-095.

Statutory Authority for Adoption: RCW 43.20.050 and 70A.125.080.

Adopted under notice filed as WSR 21-16-094 on August 3, 2021.

Changes Other than Editing from Proposed to Adopted Version: WAC 246-390-010(9): The amendment clarifies the definition of "confirmation" to distinguish the difference between an inner laboratory confirmation sample and a secondary confirmation sample taken in the field. WAC 246-390-010(36): The amendment removed the word "must" from the definition because definitions should not specify requirements. The requirement is specified elsewhere in the rule.

A final cost-benefit analysis is available by contacting Nina D. Helpling, Washington State Department of Health, P.O. Box 47820, Olympia, WA 98504-7820, phone 360-236-3065, TTY 711, email nina.helpling@doh.wa.gov.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 6, Repealed 0.

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

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

New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 6, Repealed 0.

Date Adopted: November 17, 2021.

Michelle A. Davis  
Executive Director

AMENDATORY SECTION (Amending WSR 18-09-048, filed 4/13/18, effective 5/14/18)

**WAC 246-390-010 Definitions, abbreviations, and acronyms.** The definitions, abbreviations, and acronyms in this section apply throughout this chapter, unless the context clearly indicates otherwise.

(1) "µmhos/cm" means micromhos per centimeter (1 µmhos/cm = 1 S/cm).

(2) "µg/L" means micrograms per liter (1 µg/L = 1 ppb).

(3) "Acute" means posing an immediate risk to human health.

~~((2))~~ "Analyte" means the constituent or property of a sample measured using an analytical method for compliance purposes under chapters 246-290 and 246-291 WAC.

~~((3))~~ (4) "Bioaccumulative" means a chemical that can accumulate in the body when regular exposure occurs through drinking water.

(5) "C.F.R." means the Code of Federal Regulations.

~~((4))~~ (6) "CFU" means colony-forming unit.

(7) "Chronic" means ~~((human exposure over many years to a contaminant at levels above the MCL))~~ posing a risk to human health only when exposure occurs over many years to a contaminant above a state or federal health standard.

~~((5))~~ (8) "Close of business" means the latest time during a business day when a lab is no longer in routine operation for accepting or performing drinking water sample analysis.

~~((6))~~ (9) "Confirmation" means ~~((an additional sample is analyzed from the same location where a detection has occurred to confirm the detection. The original sample and the confirmation sample are collected and analyzed within a reasonable period of time, generally not to exceed two weeks. Confirmation occurs when the confirmation sample analysis result falls within plus or minus thirty percent of the original sample result))~~ to demonstrate that the results of a sample accurately represents the original sample result by analyzing another sample from the same location within a reasonable given period of time. This confirmation analysis is in addition to any analytical method confirmation requirements.

~~((7))~~ (10) "Contaminant" means a substance present in drinking water that may adversely affect the health of the consumer or the aesthetic quality of the water. It is measured using an analytical method for compliance purposes under chapters 246-290 and 246-291 WAC.

(11) "Contracted lab" means a certified lab that receives a drinking water sample from another certified lab for analysis.

~~((8))~~ (12) "Contracting lab" means a certified lab that sends a drinking water sample to another certified lab to be analyzed.

~~((9))~~ (13) "CU" means color unit.

(14) "Department" means the Washington state department of health or health officer as identified in a joint plan of responsibility under WAC 246-290-030(1).

~~((10))~~ (15) "Ecology" means the Washington state department of ecology.

~~((11))~~ (16) "EPA" means the United States Environmental Protection Agency.

~~((12))~~ (17) "Estimated concentration" means the level of the ~~((analyte))~~ contaminant reported to the department is above a lab's MDL, but below the lab's MRL.

~~((13))~~ (18) "GWR" means groundwater rule.

~~((14))~~ (19) "Lab" or "certified lab" means an environmental lab accredited under chapter 173-50 WAC for one or more drinking water ~~((analytes))~~ contaminants and meets the requirements of this chapter.

~~((15))~~ (20) "Maximum contaminant level (MCL)" means the maximum permissible level of a contaminant in water that a public water system delivers to consumers. MCLs are established in chapters 246-290 and 246-291 WAC.

~~((16))~~ (21) "Minimum detectable activity (MDA)" means the smallest activity or concentration of radioactive material in a sample that will yield a net count (above sample background) that can be detected with ~~((ninety-five))~~ 95 percent probability.

~~((17))~~ (22) "Minimum detection level (MDL)" means the minimum measured concentration of a substance that can be reported with ~~((ninety-nine))~~ 99 percent confidence that the measured concentration is distinguishable from the method blank results.

~~((18))~~ (23) "Method reporting limit (MRL)" means the lowest concentration of a standard used for calibration.

~~((19))~~ (24) "MFL" means microfibers per liter.

(25) "mg/L" means milligrams per liter (1 mg/L = 1 ppm).

(26) "MPN" means most probable number.

(27) "ng/L" means nanograms per liter (1 ng/L = 1 ppt).

(28) "NTU" means nephelometric turbidity units.

(29) "pCi/L" means picocuries per liter.

(30) "ppb" means parts per billion (1 ppb = 1 µg/L).

(31) "ppm" means parts per million (1 ppm = 1 mg/L).

(32) "ppt" means parts per trillion (1 ppt = 1 ng/L).

(33) "Proficiency testing (PT)" means the evaluation of sample analysis results, the true values of which are known to the supplier of the samples, but unknown to the lab conducting the analysis. PT samples are provided by a source external to the certified lab.

~~((20))~~ (34) "Public water system" is defined ~~((and referenced))~~ under WAC 246-290-020 and 246-291-010.

~~((21))~~ (35) "Quality control (QC)" means a set of measures used during an analytical method to ensure that the process is within specified control parameters.

~~((22))~~ (36) "State action level (SAL)" means the concentration of a contaminant or group of contaminants, without an MCL, established to protect public health in accordance with WAC 246-290-315 and which, if exceeded, triggers actions a purveyor takes in accordance with WAC 246-290-320.

(37) "State detection reporting limit (SDRL)" means the minimum reportable detection of ~~((an analyte))~~ a contami-

nant as established in Tables ((1)) 3 through ((4)) 7 of this chapter.

(38) "Tentatively identified compound (TIC)" means compounds detected in samples that are not target compounds, internal standards, system monitoring compounds or surrogates.

AMENDATORY SECTION (Amending WSR 18-09-048, filed 4/13/18, effective 5/14/18)

**WAC 246-390-055 Reporting contracted analytical results.** (1) A contracting lab that contracts with another lab shall:

((1)) (a) Verify that the contracted lab is ((a)) currently certified ((lab)) in Washington to analyze samples for the contaminant;

((2)) (b) Notify the public water system that a sample will be contracted to another lab at the time the contracting lab confirms that the sample will be contracted out to another lab;

(c) Confirm that the contracted lab receives the sample within ((fourteen)) 14 calendar days of the contracting lab receiving the sample, but not to exceed ((an analyte)) a contaminant holding time if the holding time is less than ((fourteen)) 14 calendar days;

AMENDATORY SECTION (Amending WSR 18-09-048, filed 4/13/18, effective 5/14/18)

**WAC 246-390-065 Notification requirements.** (1) In addition to the data reporting requirements under WAC 246-390-075, a lab shall notify the department and the public water system ((for:

(a)(i) ~~Routine, repeat, GWR, triggered source water monitoring, and assessment source water monitoring results, as required under chapter 246-290 WAC, that are *E. coli* bacteria present.~~

(ii) ~~Notification occurs with no less than three attempts to contact the department and the public water system by telephone, facsimile, or email as soon as possible after sample results have been determined, but no later than the close of business.~~

(b)(i) ~~Routine, repeat, GWR, triggered source water monitoring, and assessment source water monitoring results that are total coliform bacteria present.~~

(ii) ~~Notification occurs with one attempt to contact the department and the public water system by telephone (voice mail is acceptable), facsimile, or email as soon as possible after sample results have been determined, but no later than the close of business on the next business day. For labs that operate seven days per week or observe regular holidays, weekends and holidays are not considered "business days" for the purposes of this subsection.~~

(c) ~~Routine or confirmation sample results for nitrate or nitrite that exceed the MCL under chapters 246-290 and 246-291 WAC; or~~

(d)(i) ~~Routine or confirmation sample results for inorganic, organic, or radiological contaminants that exceed four times the contaminant's primary MCL under chapters 246-290 and 246-291 WAC.~~

(ii) ~~For (c) and (d) of this subsection, notification occurs with one attempt to contact the department and public water system by telephone, facsimile, or email as soon as possible after sample results have been verified by quality control staff, but no later than the close of business.~~

((2)) in accordance with Table 1 of this section for the following exceedances:

**Table 1 - Notification Requirements for Routine Compliance Samples**

<u>Sample type</u>	<u>Exceeds</u>	<u>Required Notification</u>	<u>Required Number of Attempts to Contact the Department</u>
<u>Routine, repeat, triggered, and assessment water coliform samples</u>	<u>Total coliform positive and <i>E. coli</i> positive</u>	<u>Close of business same day</u>	<u>3</u>
<u>Routine, repeat, triggered, and assessment water coliform samples</u>	<u>Total coliform positive and <i>E. coli</i> negative</u>	<u>Close of business<sup>2</sup> next business day</u>	<u>1</u>
<u>Routine or confirmation samples for nitrate or nitrite</u>	<u>MCL under chapters 246-290 and 246-291 WAC</u>	<u>Close of business same day</u>	<u>3</u>

((2)) (d) Provide the following information to the contracted lab:

((a)) (i) The public water system's department assigned water system identification number;

((b)) (ii) The name of the public water system;

((c)) (iii) The date the sample was collected;

((d)) (iv) The location where the sample was collected;

((e)) (v) The public water system's department assigned source identification number;

((f)) (vi) The purpose for the sample;

((g)) (vii) The sample composition; and

((h)) (viii) The sample type;

(e) Identify, on the final analytical results to the public water system, which sample results were contracted to another lab and clearly identify the lab.

~~((4) The contracted lab shall)~~ (2) A contracted lab that receives a sample from a contracting lab shall:

(a) Submit to the department a copy of the analytical results following the requirements under WAC 246-390-065 and 246-390-075;

~~((5) The contracted lab shall)~~ (b) Submit a copy of the analytical results to the contracting lab in the format and time frame per the contract terms established between the contracting lab and the contracted lab.

<u>Sample type</u>	<u>Exceeds</u>	<u><sup>1</sup>Required Notification</u>	<u>Required Number of Attempts to Contact the Department</u>
<u>Routine or confirmation sample results for other inorganic, organic, or radiological contaminant sample results</u>	<u>4 times the state or federal MCL under chapters 246-290 and 246-291 WAC</u>	<u>Close of business same day</u>	<u>1</u>

(2) For routine or confirmation sample results for contaminants that exceed the SAL or state MCL under WAC 246-290-315 and classified as Tier 1, Tier 2 bioaccumulative, or Tier 2 nonbioaccumulative under WAC 246-290-71006 Table 17, a lab shall notify the department as indicated in Table 2 of this section:

**Table 2 - Notification Requirements for Contaminants with a SAL or State MCL**

<u>Tier Number</u>	<u>Bioaccumulative (Y/N)</u>	<u>Exceeds</u>	<u><sup>1</sup>Required Notification</u>	<u>Required Number of Attempts to Contact the Department</u>
<u>Tier 1</u>	<u>Either</u>	<u>SAL or state MCL</u>	<u>Close of business same day</u>	<u>3</u>
<u>Tier 2</u>	<u>Y</u>	<u>4 times SAL or state MCL</u>	<u>Close of business same day</u>	<u>3</u>
<u>Tier 2</u>	<u>Y</u>	<u>SAL or state MCL</u>	<u>Close of business<sup>2</sup> next business day</u>	<u>1</u>
<u>Tier 2</u>	<u>N</u>	<u>4 times SAL or state MCL</u>	<u>Close of business same day</u>	<u>1</u>

<sup>1</sup> Notification may occur by telephone, facsimile, or email. If close of business is after 5 p.m. PST, contact the department's after-hours telephone number.

<sup>2</sup> For labs that operate seven days per week or observe regular holidays; weekends and holidays are not considered business days for the purposes of this subsection.

(3) A lab shall:

(a) Document all notification attempts required under subsections (1) and (2) of this section by recording the following information in a paper or electronic logbook:

- (i) Date;
- (ii) Time;
- (iii) Sample number;
- (iv) Public water system name and department-assigned identification number;
- (v) The contact person and telephone number, facsimile number, or email address for the public water system;
- (vi) The contact person and telephone number, facsimile number, or email address of the department; and
- (vii) The initials of the lab person that made the attempt.

(b) Make the logbook available to the department upon request; and

(c) Retain the logbook for a minimum of two years after the last entry date.

**AMENDATORY SECTION** (Amending WSR 18-09-048, filed 4/13/18, effective 5/14/18)

**WAC 246-390-075 Reporting.** (1) A lab shall report analytical results to the department and the public water system.

(2) (~~Effective December 1, 2018,~~) A lab submitting paper reports shall complete and submit to the department data reports following the procedures and templates in the department's *Laboratory Reporting Guidance*, Publication DOH 331-530, (~~March 2018~~) January 2022.

(3) A lab submitting electronic reports shall complete and submit to the department data reports following the procedures in the department's *Electronic Reporting Guidance*, Publication 331-289, (~~March 2018~~) January 2022.

(4) Labs shall submit reports to the public water system in the format and time frame that was agreed upon when executing the service agreement between the laboratory and the public water system.

(5) Labs shall submit reports of acute contaminant results within (~~ten~~) 10 business days after receiving the sample.

(6) Labs shall submit reports of chronic contaminants within (~~forty-five business~~) 30 calendar days after receiving the sample.

(7) Analytical results must be complete, legible, and accurate.

(8) A lab shall report numerical results consistent with the accuracy of the EPA-approved methods and any associated lab instruments, glassware, or tools.

(9) A lab shall report numerical results out to, but not exceed, one decimal place past the SDRL in cases where the last definitely known digit exceeds one decimal place past the SDRL as follows:

(a) If the SDRL is 1.1 and the result, out to the last definitely known digit is 1.132, then the value reported to the department is 1.13;

(b) If the digit 6, 7, 8, or 9 is dropped, increase the preceding digit by one unit;

(c) If the digit 0, 1, 2, 3, or 4 is dropped, do not alter the preceding digit; or



(d) If the digit 5 is dropped, round off the preceding digit to the nearest even number. For example, 2.25 becomes 2.2, and 2.35 becomes 2.4.

(10) A lab shall include the following data qualifiers adjacent to the results that are affected:

(a) "B" - This data qualifier is used when the target ~~((analyte))~~ contaminant is detected in the method blank above the lab's established MRL or SDRL, whichever is lower;

(b) "J" - This data qualifier is used when the result is an estimated concentration per subsections (13) ~~((and))~~, (14), and (17) of this section;

(c) "NDDS" - This data qualifier is used when the ~~((analyte))~~ contaminant is not detected in duplicate sample; or

(d) "U" - This data qualifier is used when the radiochemistry ~~((analyte))~~ contaminant is not detected at or above the lab's established MDA.

(11) A lab shall notate on the report to the public water system and the department when any analysis is completed using a provisional accreditation.

(12) At the department's request, a lab shall submit the following information:

(a) The method specific QC for any given analytical report.

(b) The most recent MDL procedures performed for any given ~~((analyte))~~ contaminant.

(c) The most recent PT study performed for any given ~~((analyte))~~ contaminant.

(13) The SDRLs for organic chemical ~~((analytes))~~ contaminants are established in Table ~~((+))~~ 3 of this section. All contaminants in Table 3 are considered chronic contaminants.

(a) Labs shall attach to the ~~((lab report))~~ analytical result a copy of the method specific QC results for any organic chemical detection that is reported to the department which is at or above the SDRLs listed in Table ~~((+))~~ 3 of this section except for:

(i) Chloroform (0027);

(ii) Bromodichloromethane (0028);

(iii) Dibromochloromethane (0029);

(iv) Bromoform (0030);

(v) Monochloroacetic Acid (0411);

(vi) Dichloroacetic Acid (0412);

(vii) Trichloroacetic Acid (0413);

(viii) Monobromoacetic Acid (0414);

(ix) Monobromoacetic Acid (0415); and

(x) Total Organic Carbon (0421).

(b) A lab shall report organic chemical ~~((analyte))~~ contaminant results when the lab's established MRL is greater than the SDRL as:

(i) "Nondetect" or "ND" when a lab's result is less than the SDRL and MRL;

(ii) An estimated concentration, notated with a "J" data qualifier when a result is equal to or greater than the SDRL, but less than the lab's established MRL;

(iii) A number when a result is equal to or greater than the lab's established MRL.

(c) A lab shall report organic chemical ~~((analyte))~~ contaminant results when the lab's established MRL is less than the SDRL as:

(i) "Nondetect" or "ND" when a lab's result is less than the lab's established MRL;

(ii) "Nondetect" or "ND" when a lab's result is less than the ~~((lab's))~~ established SDRL; or

(iii) A number when a result is equal to or greater than the SDRL.

(d) A lab shall report organic chemical ~~((analyte))~~ contaminant results when their established MRL is equal to the SDRL as:

(i) "Nondetect" or "ND" when a lab's result is less than the SDRL and MRL; or

(ii) A number when a result is equal to or greater than the SDRL and the lab's established MRL.

**Table ~~((4))~~ 3 - Organic ~~((Chemicals))~~ Contaminants**

<del>((Analyte))</del> <u>Contaminant Name</u>	<del>((Analyte))</del> <u>Contaminant Number</u>	Units	SDRL
1,1 Dichloroethane	0058	µg/L	0.5
1,1 Dichloroethylene	0046	µg/L	0.5
1,1 Dichloropropene	0062	µg/L	0.5
1,1,1 Trichloroethane	0047	µg/L	0.5
1,1,1,2 Tetrachloroethane	0072	µg/L	0.5
1,1,2 Trichloroethane	0067	µg/L	0.5
1,1,2,2 Tetrachloroethane	0080	µg/L	0.5
1,2 Dichlorobenzene	0084	µg/L	0.5
1,2 Dichloroethane	0050	µg/L	0.5
1,2 Dichloropropane	0063	µg/L	0.5
1,2,3 Trichlorobenzene	0098	µg/L	0.5
1,2,3 Trichloropropane	0079	µg/L	0.5
1,2,4 Trichlorobenzene	0095	µg/L	0.5
1,2,4 Trimethylbenzene	0091	µg/L	0.5

<b>((Analyte)) Contaminant Name</b>	<b>((Analyte)) Contaminant Number</b>	<b>Units</b>	<b>SDRL</b>
1,3 Dichloropropane	0070	µg/L	0.5
1,3 Dichloropropene	0154	µg/L	0.5
1,3,5 Trimethylbenzene	0089	µg/L	0.5
1,4 Dichlorobenzene	0052	µg/L	0.5
2,2 Dichloropropane	0059	µg/L	0.5
2,3,7,8 TCDD (dioxin)	0149	ng/L	0.005
2,4 D	0037	µg/L	0.1
2,4 DB	0135	µg/L	1
2,4,5 T	0136	µg/L	0.4
2,4,5 TP (Silvex)	0038	µg/L	0.2
3,5 Dichlorobenzoic Acid	0226	µg/L	0.5
4,4 DDD	0232	µg/L	0.1
4,4 DDE	0233	µg/L	0.1
4,4 DDT	0234	µg/L	0.1
Acenaphthylene	0244	µg/L	0.2
Acifluorfen	0223	µg/L	2
Alachlor	0117	µg/L	0.2
Aldicarb	0142	µg/L	0.5
Aldicarb Sulfone	0143	µg/L	0.8
Aldicarb Sulfoxide	0144	µg/L	0.5
Aldrin	0118	µg/L	0.1
Anthracene	0246	µg/L	0.2
Arochlor 1016	0180	µg/L	0.08
Arochlor 1221	0173	µg/L	20
Arochlor 1232	0174	µg/L	0.5
Arochlor 1242	0175	µg/L	0.3
Arochlor 1248	0176	µg/L	0.1
Arochlor 1254	0177	µg/L	0.1
Arochlor 1260	0178	µg/L	0.2
Atrazine	0119	µg/L	0.1
Bentazon	0220	µg/L	0.5
Benzene	0049	µg/L	0.5
Benzo (a) anthracene	0247	µg/L	0.2
Benzo (a) Pyrene	0120	µg/L	0.02
Benzo (b) fluoroanthene	0248	µg/L	0.2
Benzo (k) fluoranthene	0250	µg/L	0.2
Benzyl Butyl Phthalate	0258	µg/L	1.0
Bromacil	0179	µg/L	0.1
Bromobenzene	0078	µg/L	0.5
Bromochloromethane	0086	µg/L	0.5
Bromodichloromethane	0028	µg/L	0.5
Bromoform	0030	µg/L	0.5

<b>((Analyte)) Contaminant Name</b>	<b>((Analyte)) Contaminant Number</b>	<b>Units</b>	<b>SDRL</b>
Bromomethane	0054	µg/L	0.5
Butachlor	0121	µg/L	0.1
Carbaryl	0145	µg/L	2
Carbofuran	0146	µg/L	0.9
Carbon Tetrachloride	0048	µg/L	0.5
Chlordane (total)	0122	µg/L	0.2
Chlorobenzene	0071	µg/L	0.5
Chloroethane	0055	µg/L	0.5
Chloroform	0027	µg/L	0.5
Chloromethane	0053	µg/L	0.5
Chrysene	0251	µg/L	0.2
Cis- 1,2 Dichloroethylene	0060	µg/L	0.5
Cis- 1,3 Dichloropropene	0065	µg/L	0.5
Dalapon	0137	µg/L	1
DBCP	0103	µg/L	0.02
DBCP (screening)	0428	µg/L	0.5
DCPA Acid Metabolites	0225	µg/L	0.1
Di (2-Ethylhexyl) Adipate	0124	µg/L	0.6
Di (2-Ethylhexyl) Phthalate	0125	µg/L	0.6
Dibromoacetic Acid	0415	µg/L	1
Dibromochloromethane	0029	µg/L	0.5
Dibromomethane	0064	µg/L	0.5
Dicamba	0138	µg/L	0.2
Dichloroacetic Acid	0412	µg/L	1
Dichlorodifluoromethane	0104	µg/L	0.5
Dichloroprop	0221	µg/L	0.5
Dieldrin	0123	µg/L	0.1
Diethyl Phthalate	0260	µg/L	1.0
Dimethyl Phthalate	0261	µg/L	1.0
Di-n-butyl Phthalate	0259	µg/L	1.0
Dinoseb	0139	µg/L	0.2
Diquat	0150	µg/L	0.4
EDB	0102	µg/L	0.01
EDB (screening)	0427	µg/L	0.5
Endothal	0151	µg/L	9
Endrin	0033	µg/L	0.01
EPTC	0208	µg/L	0.1
Ethylbenzene	0073	µg/L	0.5
<del>((Fluoranthene</del>	<del>0253</del>	<del>µg/L</del>	<del>0.2))</del>
Fluorene	0254	µg/L	0.2
Glyphosate	0152	µg/L	6
HAA(5)	0416	µg/L	((*) ±

<b>((Analyte)) Contaminant Name</b>	<b>((Analyte)) Contaminant Number</b>	<b>Units</b>	<b>SDRL</b>
Heptachlor	0126	µg/L	0.04
Heptachlor Epoxide	0127	µg/L	0.02
Hexachlorobenzene	0128	µg/L	0.1
Hexachlorobutadiene	0097	µg/L	0.5
Hexachlorocyclopentadiene	0129	µg/L	0.1
Isopropylbenzene	0087	µg/L	0.5
Lindane (bhc - gamma)	0034	µg/L	0.02
M- dichlorobenzene	0083	µg/L	0.5
M/P Xylenes (MCL for total)	0074	µg/L	0.5
Methomyl	0147	µg/L	4
Methoxychlor	0035	µg/L	0.1
Methylene Chloride (Dichloromethane)	0056	µg/L	0.5
Metolachlor	0130	µg/L	0.1
Metribuzin	0131	µg/L	0.1
Molinate	0218	µg/L	0.1
Monobromoacetic Acid	0414	µg/L	1
Monochloroacetic Acid	0411	µg/L	2
Naphthalene	0096	µg/L	0.5
N-Butylbenzene	0094	µg/L	0.5
N-Propylbenzene	0088	µg/L	0.5
O- Chlorotoluene	0081	µg/L	0.5
O- Xylene (MCL for total)	0075	µg/L	0.5
Oxamyl	0148	µg/L	2
P- Chlorotoluene	0082	µg/L	0.5
Paraquat	0400	µg/L	0.8
PCB (as Decachlorobiphenyl)	0401	µg/L	0.1
Pentachlorophenol	0134	µg/L	0.04
Phenanthrene	0256	µg/L	0.2
Picloram	0140	µg/L	0.1
P-Isopropyltoluene	0093	µg/L	0.5
Propachlor	0132	µg/L	0.1
Pyrene	0257	µg/L	0.2
Sec- Butylbenzene	0092	µg/L	0.5
Simazine	0133	µg/L	0.07
Styrene	0076	µg/L	0.5
Terbacil	0190	µg/L	0.1
Tert- Butylbenzene	0090	µg/L	0.5
Tetrachloroethylene	0068	µg/L	0.5
Toluene	0066	µg/L	0.5
Total organic carbon	0421	mg/L	0.7
Total Trihalomethane	0031	µg/L	((*) ±
Total Xylenes	0160	µg/L	0.5

<b>((Analyte)) Contaminant Name</b>	<b>((Analyte)) Contaminant Number</b>	<b>Units</b>	<b>SDRL</b>
Toxaphene	0036	µg/L	1
Trans- 1,2 Dichloroethylene	0057	µg/L	0.5
Trans- 1,3 Dichloropropene	0069	µg/L	0.5
Trichloroacetic Acid	0413	µg/L	1
Trichloroethylene	0051	µg/L	0.5
Trichlorofluoromethane	0085	µg/L	0.5
Trifluralin	0243	µg/L	0.1
Vinyl Chloride	0045	µg/L	0.5

**((Key**

**mg/L** = parts per million, or milligrams per liter

**ng/L** = nanograms per liter

**µg/L** = parts per billion, or micrograms per liter

**±** =) ± Results are calculated values based on other analytical results.

(14) The SDRLs for inorganic chemical **((analytes)) contaminant**s are established in Table **((2)) 4** of this section. All contaminants in Table 4 are considered chronic contaminants except annual, quarterly, or monthly nitrate analysis which is considered an acute contaminant. Labs shall report analytical results within 10 business days after receiving the nitrate sample. If nitrate analysis is part of a routine complete inorganic compound panel, then labs shall submit a report to the department within 30 calendar days after receiving the sample.

(a) A lab shall report inorganic chemical **((analyte)) contaminant** results when the lab's established MRL is greater than the SDRL as:

- (i) "Nondetect" or "ND" when a lab's result is less than the SDRL and MRL;
- (ii) An estimated concentration, notated with a "J" data qualifier, when a result is equal to or greater than the SDRL, but less than the lab's established MRL; or
- (iii) A number when a result is equal to or greater than the lab's established MRL.

(b) A lab shall report inorganic chemical **((analyte)) contaminant** results when the lab's established MRL is less than the SDRL as:

- (i) "Nondetect" or "ND" when a lab's result is less than the lab's established MRL;
- (ii) "Nondetect" or "ND" when a lab's result is less than the **((lab's)) department's** established SDRL, but greater than the lab's established MRL; or
- (iii) A number when a result is equal to or greater than the SDRL.

(c) A lab shall report inorganic chemical **((analyte)) contaminant** results when the lab's established MRL is equal to the SDRL as:

- (i) "Nondetect" or "ND" when a lab's result is less than the SDRL and MRL; or
- (ii) A number when a result is equal to or greater than the SDRL and the lab's established MRL.

**Table ((2)) 4 - Inorganic ((Chemicals)) Contaminants**

<b>((Analyte)) Contaminant Name</b>	<b>((Analyte)) Contaminant Number</b>	<b>Units</b>	<b>SDRL</b>
Alkalinity-Lab	0403	mg/L	5
Antimony	0112	mg/L	0.003
Arsenic	0004	mg/L	0.001
Asbestos	0115	MFL	0.20
Barium	0005	mg/L	0.1
Beryllium	0110	mg/L	0.0003
Bromate	0419	mg/L	0.005/0.001 <del>((±))</del>
Cadmium	0006	mg/L	0.001
Chloride	0021	mg/L	<del>((20)) 2</del>
Chlorite	0418	mg/L	0.02
Chromium	0007	mg/L	0.007

<del>((Analyte))</del> Contaminant Name	<del>((Analyte))</del> Contaminant Number	Units	SDRL
Color	0018	CU	15
Conductivity	0016	µmhos/cm	70
Copper	0023	mg/L	0.02
Cyanide	0116	mg/L	0.05
Fluoride	0019	mg/L	0.2
Hardness	0015	mg/L	10
Iron	0008	mg/L	0.1
Lead	0009	mg/L	0.001
Manganese	0010	mg/L	0.01
Mercury	0011	mg/L	0.0002
Nickel	0111	mg/L	0.005
Nitrate-n	0020	mg/L	0.5
Nitrite-n	0114	mg/L	0.1
Selenium	0012	mg/L	0.002
Silver	0013	mg/L	0.1
Sodium	0014	mg/L	5
Sulfate	0022	mg/L	<del>((50))</del> 2
TDS-total dissolved solids	0026	mg/L	100
Thallium	0113	mg/L	0.001
Total nitrate/nitrite	0161	mg/L	0.5
Turbidity	0017	NTU	0.1
Zinc	0024	mg/L	0.2

~~((Key~~

- ~~CU~~ = color units
- ~~MFL~~ = million fibers per liter
- ~~mg/L~~ = parts per million, or milligrams per liter
- ~~NTU~~ = nephelometric turbidity units
- ~~µmhos/cm~~ = micromhos per centimeter
- \* =)) Labs that use EPA Methods 317.0, 326.0 or 321.8 must meet a 0.0010 mg/L SDRL for bromate.

(15) The SDRLs for radiochemistry ~~((analytes))~~ contaminants are established in Table ~~((3))~~ 5 of this section. All contaminants in Table 5 are considered chronic contaminants.

- (a) A lab's MDA must meet the established SDRL levels for the analysis to be considered for compliance purposes.
- (b) A lab shall report radiochemistry ~~((analyte))~~ contaminant results as:
  - (i) A number and a "U" qualifier if the ~~((analyte))~~ contaminant was analyzed for, but not detected at or above the lab's established MDA; or
  - (ii) A number when a result is equal to or greater than the lab's established MDA.

**Table ~~((3))~~ 5 - Radiochemistry Contaminants**

<del>((Analyte))</del> Contaminant Name	<del>((Analyte))</del> Contaminant Number	Units	SDRL
Cesium 134	0107	pCi/L	10.0
Gross Alpha	0165	pCi/L	3.0
Gross Alpha (Minus Uranium)	0041	pCi/L	<del>((*)</del> ±
Gross Beta	0042	pCi/L	4.0
Iodine 131	0108	pCi/L	1.0
Radium 226	0039	pCi/L	1.0

<del>((Analyte))</del> Contaminant Name	<del>((Analyte))</del> Contaminant Number	Units	SDRL
Radium 226 + 228	0040	pCi/L	<del>((*)</del> ) ±
Radium 228	0166	pCi/L	1.0
Radon	0109	pCi/L	<del>((*)</del> ) ±
Strontium 90	0044	pCi/L	2.0
Tritium	0043	pCi/L	1000
Uranium	0105	µg/L	1.0

~~((Key~~

- ~~pCi/L~~ = picocuries per liter
- ~~µg/L~~ = parts per billion, or micrograms per liter
- ~~\*~~ => ± Results are calculated values based on other analytical results.

(16) The units for microbiology ~~((analytes))~~ contaminants are established in Table ~~((4))~~ 6 of this section. All contaminants in Table 6 are considered acute contaminants.

(a) Total coliform and *E. coli* results for routine and repeat samples in accordance with 40 C.F.R. 141 Subpart Y - Revised Total Coliform Rule, GWR triggered, and GWR assessment source sample results that are absent or present as follows:

- (i) "Satisfactory" if no total coliforms are detected.
- (ii) "Unsatisfactory" if:
  - (A) Total coliforms are detected; and
  - (B) *E. coli* absent if *E. coli* is not detected; or
  - (C) *E. coli* present if *E. coli* is detected.

- (b) A lab shall report routine filtered and unfiltered surface water microbiology ~~((analyte))~~ contaminant results as a number.
- (c) A lab shall report routine heterotrophic plate count results as a number.

(d) A lab shall report results of investigative samples or samples collected for information only to the public water system for total coliforms, fecal coliforms, and *E. coli* as a number or, as absent or present. Investigative samples or samples collected for information only are not required to be reported to the department.

**Table ~~((4))~~ 6 - Microbiology Contaminants**

<del>((Analyte))</del> Contaminant Name	<del>((Analyte))</del> Contaminant Number	Units
<del><i>E. coli</i> (numerical)</del>	<del>0003</del>	<del>CFU/100mL</del>
<del><i>E. coli</i> (numerical)</del>	<del>0003</del>	<del>MPN/100mL</del>
<del><i>E. coli</i> (absence/presence)</del>	<del>0003</del>	<del>N/A</del>
<del>Fecal Coliform (numerical)</del>	<del>0002</del>	<del>CFU/100mL</del>
<del>Fecal Coliform (numerical)</del>	<del>0002</del>	<del>MPN/100mL</del>
<del>Fecal Coliform (absence/presence)</del>	<del>0002</del>	<del>N/A</del>
<del>Heterotrophic Plate Count (numerical)</del>	<del>0101</del>	<del>CFU/1mL</del>
<del>Heterotrophic Plate Count (numerical)</del>	<del>0101</del>	<del>MPN/mL</del>
<del>Total Coliform (numerical)</del>	<del>0001</del>	<del>CFU/100mL</del>
<del>Total Coliform (numerical)</del>	<del>0001</del>	<del>MPN/100mL</del>
<del>Total Coliform (absence/presence)</del>	<del>0001</del>	<del>N/A</del>
<del>((Fecal Coliform (numerical))</del>	<del>0002</del>	<del>CFU/100mL</del>
<del>Fecal Coliform (numerical)</del>	<del>0002</del>	<del>MPN/100mL</del>
<del>Fecal Coliform (absence/presence)</del>	<del>0002</del>	<del>N/A</del>
<del><i>E. coli</i> (numerical)</del>	<del>0003</del>	<del>CFU/100mL</del>
<del><i>E. coli</i> (numerical)</del>	<del>0003</del>	<del>MPN/100mL</del>
<del><i>E. coli</i> (absence/presence)</del>	<del>0003</del>	<del>N/A</del>
<del>Heterotrophic Plate Count (numerical)</del>	<del>0101</del>	<del>CFU/1mL</del>

~~Key~~

~~CFU/100mL~~ = colony forming units per 100 milliliters of sample

**CFU/mL** = colony forming units per 1 milliliter of sample

**MPN/100mL** = most probable number per 100 milliliters of sample)

(17) The SDRLs for per- and polyfluoroalkyl substances (PFAS) are established in Table 7 of this section. All contaminants in Table 7 are considered chronic contaminants.

(a) A lab shall analyze PFAS samples using EPA method 537.1, or EPA method 533, or with written approval, other department-approved methods.

(b) A lab shall report PFAS contaminant results when the lab's established MRL is greater than the SDRL as follows:

(i) "Nondetect" or "ND" when a lab's result is less than the SDRL and MRL;

(ii) An estimated concentration, notated with a "J" data qualifier when a result is equal to or greater than the SDRL, but less than the lab's established MRL; or

(iii) A number when a result is equal to or greater than the lab's established MRL.

(c) A lab shall report PFAS contaminant results when the lab's established MRL is less than the SDRL as follows:

(i) "Nondetect" or "ND" when a lab's result is less than the lab's established MRL;

(ii) "Nondetect" or "ND" when a lab's result is less than the established SDRL; or

(iii) A number when a result is equal to or greater than the SDRL.

(d) A lab shall report PFAS contaminant results when the lab's established MRL is equal to the SDRL as follows:

(i) "Nondetect" or "ND" when a lab's result is less than the SDRL and MRL; or

(ii) A number when a result is equal to or greater than the SDRL and the lab's established MRL.

(e) A lab shall report to the department any tentatively identified compounds (TIC) that are detected while analyzing a PFAS sample if the approved method allows for TIC determinations to be made.

(f) A lab shall attach to the analytical result a copy of the method-specific QC results for any TIC detections that are reported to the department.

**Table 7 - Per- and Polyfluoroalkyl Contaminants**

<u>Contaminant Name</u>	<u>Contaminant Number</u>	<u>Units</u>	<u>SDRL</u>	<u><sup>3</sup>Required Contaminant List for EPA 537.1</u>	<u><sup>4</sup>Required Contaminant List for EPA 533</u>
(11Cl-PF3OUdS) 11-Chloroeicosafuoro-3-oxaundecane-1-sulfonic acid	448	ng/L	2	Y	Y
(4:2FTS) 1H,1H, 2H, 2H-Perfluorohexane sulfonic acid	450	ng/L	2	N	Y
(6:2FTS) 1H,1H, 2H, 2H-Perfluorooctane sulfonic acid	451	ng/L	2	N	Y
(8:2FTS) 1H,1H, 2H, 2H-Perfluorodecane sulfonic acid	452	ng/L	2	N	Y
(9Cl-PF3ONS) 9-Chlorohexadecafluoro-3-oxanonane-1-sulfonic acid	446	ng/L	2	Y	Y
(ADONA) 4,8-Dioxa-3H-perfluorononanoic acid	445	ng/L	2	Y	Y
(HFPO-DA) Hexafluoropropylene oxide dimer acid	447	ng/L	2	Y	Y
(NEtFOSAA) N-ethyl perfluorooctanesulfonamidoacetic acid	441	ng/L	3	Y	N
(NFDHA) Nonafluoro-3,6-dioxaheptanoic acid	453	ng/L	2	N	Y
(NMeFOSAA) N-methyl perfluorooctanesulfonamidoacetic acid	442	ng/L	3	Y	N
(PFBA) Perfluorobutanoic acid	454	ng/L	2	N	Y
(PFBS) Perfluorobutanesulfonic acid	429	ng/L	2	Y	Y
(PFDA) Perfluorodecanoic acid	436	ng/L	2	Y	Y
(PFDoA) Perfluorododecanoic acid	438	ng/L	2	Y	Y
(PFEESA) Perfluoro(2-ethoxyethane)sulfonic acid	460	ng/L	2	N	Y
(PFHpA) Perfluoroheptanoic acid	430	ng/L	2	Y	Y
(PFHpS) Perfluoroheptanesulfonic acid	455	ng/L	2	N	Y



<u>Contaminant Name</u>	<u>Contaminant Number</u>	<u>Units</u>	<u>SDRL</u>	<u><sup>3</sup>Required Contaminant List for EPA 537.1</u>	<u><sup>4</sup>Required Contaminant List for EPA 533</u>
(PFHxA) Perfluorohexanoic acid	435	ng/L	2	Y	Y
(PFHxS) Perfluorohexanesulfonic acid	431	ng/L	2	Y	Y
(PFMBA) Perfluoro-4-methoxybutanoic acid	456	ng/L	2	N	Y
(PFMPA) Perfluoro-3-methoxypropanoic acid	457	ng/L	2	N	Y
(PFNA) Perfluorononanoic acid	432	ng/L	2	Y	Y
(PFOA) Perfluorooctanoic acid	434	ng/L	2	Y	Y
(PFOS) Perfluorooctanesulfonic acid	433	ng/L	2	Y	Y
(PFPeA) Perfluoropentanoic acid	458	ng/L	2	N	Y
(PFPeS) Perfluoropentanesulfonic acid	459	ng/L	2	N	Y
(PFTA) Perfluorotetradecanoic acid	440	ng/L	2	Y	N
(PFTrDA) Perfluorotridecanoic acid	439	ng/L	2	Y	N
(PFUnA) Perfluoroundecanoic acid	437	ng/L	2	Y	Y

<sup>3</sup> For a water system to qualify for a monitoring waiver these contaminants must be reported to the department if analyzing the sample using EPA method 537.1.

<sup>4</sup> For a water system to qualify for a monitoring waiver these contaminants must be reported to the department if analyzing the sample using EPA method 533.

**AMENDATORY SECTION** (Amending WSR 18-09-048, filed 4/13/18, effective 5/14/18)

**WAC 246-390-085 Enforcement.** (1) When a lab fails to comply with the requirements of this chapter, the department may initiate one or more of the following enforcement actions:

(a) An informal ~~((letter))~~ enforcement document directing appropriate corrective measures to return a lab to compliance with the requirements of this chapter prior to taking formal enforcement measures;

(b) A formal enforcement process that includes, but is not limited to:

(i) ~~A notice ((of)) to correct violations ((requiring appropriate corrective measures;~~

(e) ~~A compliance schedule of specific actions needed to achieve compliance;~~

(d) ~~A notice of correction with specific actions needed within a designated time period to achieve compliance));~~

(ii) An order to correct violations; or

(iii) A formal compliance agreement.

(2) If a lab fails to comply with ~~((a notice of correction as))~~ the terms and deadlines specified in one or more enforcement documents in subsection (1)((4)) of this section, the department may revoke or suspend a lab's drinking water certification in accordance with WAC 246-390-095.

**AMENDATORY SECTION** (Amending WSR 18-09-048, filed 4/13/18, effective 5/14/18)

**WAC 246-390-095 Revocation and suspension.** (1) The department may suspend a lab's certification for up to one year or revoke a lab's certification for up to five years if

a lab fails to comply with ~~((a notice of correction as))~~ any formal enforcement actions specified in WAC 246-390-085(1).

(2) A lab whose certification is suspended or revoked may, after the period of suspension or revocation has ended, apply for certification in conformance with the requirements at the time of application.

(3) If ecology suspends or revokes a lab's accreditation for drinking water ~~((analytes))~~ contaminants as authorized under chapter 173-50 WAC, the department shall immediately suspend or revoke a lab's certification to analyze drinking water samples. The lab must immediately notify the department and public water systems of any samples that are invalidated as a result of the revocation or suspension.

## WSR 21-23-097

### PERMANENT RULES STATE BOARD OF HEALTH

[Filed November 17, 2021, 7:36 a.m., effective January 1, 2022]

Effective Date of Rule: January 1, 2022.

Purpose: Chapter 246-290 WAC, Group A public water supplies. The state board of health has amended this chapter to include requirements regarding per- and polyfluoroalkyl substances (PFAS), federally unregulated contaminants. The rule establishes the administrative processes for setting drinking water quality standards as state action levels (SAL) and state maximum contaminant levels (MCLs). The rule establishes SALs for five PFAS contaminants: perfluorooctanoic acid (PFOA), perfluorooctane sulfonic acid (PFOS), perfluorohexane sulfonic acid (PFHxS), perfluorononanoic acid (PFNA), and perfluorobutane sulfonic acid (PFBS). The rule requires Group A community and nontransient noncommu-

nity public water systems to test for PFAS. For those Group A water systems that have detections of PFAS, but do not exceed the SAL, the rule requires additional ongoing monitoring, with the frequency of monitoring based upon the detected level in comparison to the SAL. It also establishes reporting, recordkeeping, and consumer confidence report requirements. For those Group A water systems that exceed the SAL, the rule requires follow-up actions such as monitoring, public notification, additional recordkeeping, and reporting requirements.

Citation of Rules Affected by this Order: New WAC 246-290-315; and amending WAC 246-290-001, 246-290-010, 246-290-050, 246-290-100, 246-290-107, 246-290-130, 246-290-300, 246-290-310, 246-290-320, 246-290-415, 246-290-453, 246-290-455, 246-290-480, 246-290-490, 246-290-630, 246-290-638, 246-290-654, 246-290-660, 246-290-686, 246-290-71002, 246-290-71004, 246-290-71006, 246-290-72001, 246-290-72004, 246-290-72005, 246-290-72012, and 246-290-810.

Statutory Authority for Adoption: RCW 43.20.050.

Other Authority: RCW 70A.125.080, 70A.130.010.

Adopted under notice filed as WSR 21-16-095 on August 3, 2021.

Changes Other than Editing from Proposed to Adopted Version: WAC 246-290-010(44) is amended for clarity: "Confirmation" means to demonstrate that the result of a sample accurately represents the original sample result by analyzing another sample from the same location within a reasonable given period of time."

WAC 246-290-010(170) is amended to add a reference to RCW 70A.350.010(8) for clarity: "(170) "PFAS" means per- and polyfluoroalkyl substances, a group of man-made chemicals found in products such as aqueous film-forming foam used to suppress petroleum-based fires, nonstick cookware, stain-resistant fabrics and many other products and as defined in RCW 70A.350.010(8)."

WAC 246-290-130 (4)(g)(vi) is amended to provide cross references: "Contaminants with a SAL as required under WAC 246-290-300(10), except where waived or not applicable under WAC 246-290-300 (10)(h)."

WAC 246-290-300 (10)(b) is amended to clarify which analytes [analyses] are required: "Purveyors shall monitor for PFAS contaminants using an approved method in WAC 246-390-075 (17)(a) and all method specific contaminants as listed on Table 7 in WAC 246-390-075."

WAC 246-290-455(2) Operation of chemical contaminant treatment facilities is amended to provide clarity: "Purveyors that treat to remove, or blend to reduce, a contaminant that exceeds the SAL, shall ..."

WAC 246-290-71006 (now titled) Public notification for contaminants with a SAL is amended to: Remove "DCPA acid metabolites" from Table 17, in this section. This was a drafting error.

WAC 246-290-72004(5) Report contents—Definitions is amended to make the definition consistent with WAC 246-290-010(44): "State action level (SAL) means the concentration of a contaminant or group of contaminants, without an MCL, in drinking water established to protect public health and which, if exceeded, triggers actions a water system purveyor must take."

WAC 246-290-72012 Regulated contaminants is amended to: Remove the last sentence in the table for PFOA, PFOS, PFNA, and PFHxS that says, "When water levels of (respective PFAS) are much higher than the SAL, shorter period of exposure are of concern."

A final cost-benefit analysis is available by contacting Jocelyn W. Jones, P.O. Box 47820, Olympia, WA 98504-7820, phone 360-236-3020, TTY 711, email [jocelyn.jones@doh.wa.gov](mailto:jocelyn.jones@doh.wa.gov).

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

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

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 27, Repealed 0.

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 27, Repealed 0.

Date Adopted: November 17, 2021.

Michelle A. Davis  
Executive Director

**AMENDATORY SECTION** (Amending WSR 17-01-062, filed 12/14/16, effective 1/14/17)

**WAC 246-290-001 Purpose and scope.** (1) The purpose of this chapter is to define basic regulatory requirements and to protect the health of consumers using public drinking water supplies.

(2) The rules of this chapter are specifically designed to ~~((ensure))~~ **set requirements for:**

(a) Adequate design, construction, sampling, management, maintenance, and operation practices; and

(b) Provision of safe and high-quality drinking water in a reliable manner and in a quantity suitable for intended use.

(3) Purveyors shall be responsible for complying with the regulatory requirements of this chapter.

(4) These rules are intended to conform with Public Law 93-523, the Federal Safe Drinking Water Act of 1974, and Public Law 99-339, the Safe Drinking Water Act Amendments of 1986, and certain provisions of Public Law 104-182, the Safe Drinking Water Act Amendments of 1996.

(5) The rules set forth are adopted under chapter 43.20 RCW. Other statutes relating to this chapter are:

(a) RCW 43.20B.020, Fees for services—Department of health and department of social and health services;

(b) Chapter 43.70 RCW, Department of health;

(c) Chapter 70.05 RCW, Local health department, boards, officers—Regulations;

(d) Chapter ~~((70.116))~~ 70A.100 RCW, Public Water System Coordination Act of 1977;

(e) Chapter ~~((70.119))~~ 70A.120 RCW, Public water supply systems—Operators;

(f) Chapter ~~((70.119A))~~ 70A.125 RCW, Public water systems—Penalties and compliance; and

(g) Chapter ~~((70.142))~~ 70A.130 RCW, Chemical contaminants and water quality.

**AMENDATORY SECTION** (Amending WSR 17-01-062, filed 12/14/16, effective 1/14/17)

**WAC 246-290-010 Definitions, abbreviations, and acronyms.** The definitions in this section apply throughout this chapter unless the context clearly indicates otherwise.

(1) "Acute" means posing an immediate risk to human health.

(2) ~~((("ADD" means an average day demand.~~

~~((("AG" means an air gap.~~

~~((4))~~ "Adverse effect" means a biological change, functional impairment, or pathologic lesion that may affect the performance of the whole organism or reduce an organism's ability to respond to an additional environmental challenge.

~~((3))~~ "Alternative filtration technology" means a filtration process for substantial removal of particulates (generally > 2-log *Giardia lamblia* cysts and ≥ 2-log removal of *Cryptosporidium* oocysts) by other than conventional, direct, diatomaceous earth, or slow sand filtration processes.

~~((5))~~ (4) "Analogous treatment system" means an existing water treatment system that has unit processes and source water quality characteristics that are similar to a proposed treatment system.

~~((6))~~ (5) "ANSI" means the American National Standards Institute.

~~((7))~~ (6) "Approved air gap (AG)" means a physical separation between the free-flowing end of a potable water supply pipeline and the overflow rim of an open or nonpressurized receiving vessel.

To be an air gap approved by the department, the separation must be at least:

(a) Twice the diameter of the supply piping measured vertically from the overflow rim of the receiving vessel, and in no case be less than one inch, when unaffected by vertical surfaces (sidewalls); and

(b) Three times the diameter of the supply piping, if the horizontal distance between the supply pipe and a vertical surface (sidewall) is less than or equal to three times the diameter of the supply pipe, or if the horizontal distance between the supply pipe and intersecting vertical surfaces (sidewalls) is less than or equal to four times the diameter of the supply pipe and in no case less than one and one-half inches.

~~((8))~~ (7) "Approved atmospheric vacuum breaker (AVB)" means an AVB of make, model, and size that is approved by the department. AVBs that appear on the current approved backflow prevention assemblies list developed by the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research or that are listed or approved by other nationally recognized testing agencies (such as IAPMO, ANSI, or UL) acceptable to the authority having jurisdiction are considered approved by the department.

~~((9))~~ (8) "Approved backflow preventer" means an approved air gap, an approved backflow prevention assembly,

or an approved AVB. The terms "approved backflow preventer," "approved air gap," or "approved backflow prevention assembly" refer only to those approved backflow preventers relied upon by the purveyor for the protection of the public water system. The requirements of WAC 246-290-490 do not apply to backflow preventers installed for other purposes.

~~((10))~~ (9) "Approved backflow prevention assembly" means an RPBA, RPDA, DCVA, DCDA, PVBA, or SVBA of make, model, and size that is approved by the department. Assemblies that appear on the current approved backflow prevention assemblies list developed by the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research or other entity acceptable to the department are considered approved by the department.

~~((11))~~ (10) "As-built drawing" means the drawing created by an engineer from the collection of the original design plans, including changes made to the design or to the system, that reflects the actual constructed condition of the water system.

~~((12))~~ (11) "Assessment source water monitoring" means an evaluation of groundwater sources that may be at risk for fecal contamination. Assessment source water monitoring involves the collection of source water samples at regular intervals and analysis of those samples for fecal indicators as directed by the department.

~~((13))~~ (12) "Authority having jurisdiction" (formerly known as local administrative authority) means the local official, board, department, or agency authorized to administer and enforce the provisions of the Uniform Plumbing Code as adopted under chapter 19.27 RCW.

~~((14))~~ (13) "Authorized agent" means any person who:

(a) Makes decisions regarding the operation and management of a public water system whether or not he or she is engaged in the physical operation of the system;

(b) Makes decisions whether to improve, expand, purchase, or sell the system; or

(c) Has discretion over the finances of the system.

~~((15))~~ (14) "Authorized consumption" means the volume of metered and unmetered water used for municipal water supply purposes by consumers, the purveyor, and others authorized to do so by the purveyor(;) including, but not limited to, ~~((fire fighting))~~ firefighting and training, flushing of mains and sewers, street cleaning, and watering of parks and landscapes. These volumes may be billed or unbilled.

~~((16))~~ "AVB" means an atmospheric vacuum breaker.

~~((17))~~ (15) "Average day demand (ADD)" means the total quantity of water use from all sources of supply as measured or estimated over a calendar year divided by three hundred sixty-five. ADD is typically expressed as gallons per day (gpd) per equivalent residential unit (ERU).

~~((18))~~ (16) "AWWA" means the American Water Works Association.

~~((19))~~ (17) "Backflow" means the undesirable reversal of flow of water or other substances through a cross-connection into the public water system or consumer's potable water system.

~~((20))~~ (18) "Backflow assembly tester (BAT)" means a person holding a valid BAT certificate issued under chapter 246-292 WAC.

~~((21))~~ (19) "Backpressure" means a pressure (caused by a pump, elevated tank or piping, boiler, or other means) on the consumer's side of the service connection that is greater than the pressure provided by the public water system and which may cause backflow.

~~((22))~~ (20) "Backsiphonage" means backflow due to a reduction in system pressure in the purveyor's distribution system and/or consumer's water system.

~~((23))~~ (21) "Bag filter" means a pressure-driven separation device that removes particulate matter larger than 1 micrometer using an engineered porous filtration media. They are typically constructed of a nonrigid, fabric filtration media housed in a pressure vessel in which the direction of flow is from the inside of the bag to outside.

~~((24))~~ (22) "Bank filtration" means a water treatment process that uses a well to recover surface water that has naturally infiltrated into groundwater through a ~~((river bed))~~ riverbed or bank(s). Infiltration is typically enhanced by the hydraulic gradient imposed by a nearby pumping water supply or other well(s).

~~((25))~~ **"BAT"** means a backflow assembly tester.

~~((26))~~ (23) "Best available technology" means the best technology, treatment techniques, or other means that EPA finds, after examination for efficacy under field conditions, are available, taking cost into consideration.

~~((27))~~ (24) "Bioaccumulative" means a chemical that can accumulate in the body when regular exposure occurs through drinking water.

(25) "Blended sample" means a sample collected from two or more individual sources at a point downstream of the confluence of the individual sources and prior to the first connection.

~~((28))~~ (26) "C" means the residual disinfectant concentration in mg/L at a point before or at the first consumer.

~~((29))~~ (27) "Cartridge filter" means a pressure-driven separation device that removes particulate matter larger than 1 micrometer using an engineered porous filtration media. They are typically constructed as rigid or semi-rigid, self-supporting filter elements housed in pressure vessels in which flow is from the outside of the cartridge to the inside.

~~((30))~~ (28) "Category red operating permit" means an operating permit identified under chapter 246-294 WAC. Placement in this category results in permit issuance with conditions and a determination that the system is inadequate.

~~((31))~~ **"CCP"** means composite correction program.

~~((32))~~ **"CCS"** means a cross-connection control specialist.

~~((33))~~ (29) "C.F.R." means the Code of Federal Regulations.

~~((34))~~ (30) "Chemical contaminant treatment facility" means a treatment facility specifically used for the purpose of removing chemical contaminants.

~~((35))~~ (31) "Clarification" means a treatment process that uses gravity (sedimentation) or dissolved air (flotation) to remove flocculated particles.

~~((36))~~ (32) "Clean compliance history" means a record of:

- (a) No *E. coli* MCL violations;
- (b) No monitoring violations under WAC 246-290-300(3); and

(c) No coliform treatment technique trigger exceedances or treatment technique violations under WAC 246-290-320(2) or 246-290-415.

~~((37))~~ (33) "Closed system" means any water system or portion of a water system in which water is transferred to a higher-pressure zone closed to the atmosphere, such as when no gravity storage is present.

~~((38))~~ (34) "Coagulant" means a chemical used in water treatment to destabilize particulates and accelerate the rate at which they aggregate into larger particles.

~~((39))~~ (35) "Coagulation" means a process using coagulant chemicals and rapid mixing to destabilize colloidal and suspended particles and agglomerate them into flocs.

~~((40))~~ (36) "Combination fire protection system" means a fire sprinkler system that:

- (a) Is supplied only by the purveyor's water;
- (b) Does not have a fire department pumper connection; and

(c) Is constructed of approved potable water piping and materials that serve both the fire sprinkler system and the consumer's potable water system.

~~((41))~~ (37) "Combined distribution system" means the interconnected distribution system consisting of the distribution systems of wholesale systems and of the consecutive systems that receive finished water.

~~((42))~~ (38) "Completely treated water" means water from a surface water source, or a groundwater source under the direct influence of surface water (GWI) source that receives filtration or disinfection treatment that fully complies with the treatment technique requirements of Part 6 of this chapter as determined by the department.

~~((43))~~ (39) "Composite correction program (CCP)" means a program that consists of two elements - a comprehensive performance evaluation (CPE) and comprehensive technical assistance (CTA).

~~((44))~~ (40) "Composite sample" means a sample in which more than one source is sampled individually by the water system and then composited by a certified laboratory by mixing equal parts of water from each source (up to five different sources) and then analyzed as a single sample.

~~((45))~~ (41) "Comprehensive monitoring plan" means a schedule that describes both the frequency and appropriate locations for sampling of drinking water contaminants as required by state and federal rules.

~~((46))~~ (42) "Comprehensive performance evaluation (CPE)" means a thorough review and analysis of a treatment plant's performance-based capabilities and associated administrative, operation and maintenance practices. It is conducted to identify factors that may be adversely impacting a plant's capability to achieve compliance and emphasizes approaches that can be implemented without significant capital improvements.

The comprehensive performance evaluation must consist of at least the following components:

- (a) Assessment of plant performance;
- (b) Evaluation of major unit processes;
- (c) Identification and prioritization of performance limiting factors;
- (d) Assessment of the applicability of comprehensive technical assistance; and

(e) Preparation of a CPE report.

~~((47))~~ (43) "Comprehensive technical assistance (CTA)" means the performance improvement phase that is implemented if the CPE results indicate improved performance potential. The system must identify and systematically address plant-specific factors. The CTA is a combination of using CPE results as a basis for follow-up, implementing process control priority-setting techniques, and maintaining long-term involvement to systematically train staff and administrators.

~~((48))~~ (44) "Confirmation" means to demonstrate ~~that the ((accuracy of)) result((s)) of a sample ((by analyzing another))~~ accurately represents the original sample result by analyzing another sample from the same location within a reasonable given period of time ~~((, generally not to exceed two weeks. Confirmation is when analysis results fall within plus or minus thirty percent of the original sample results))~~.

~~((49))~~ (45) "Confluent growth" means a continuous bacterial growth covering a portion or the entire filtration area of a membrane filter in which bacterial colonies are not discrete.

~~((50))~~ (46) "Consecutive system" means a public water system that receives some or all of its finished water from one or more wholesale systems. Delivery may be through a direct connection or through the distribution system of one or more consecutive systems.

~~((51))~~ (47) "Construction completion report" means a form provided by the department and completed for each specific construction project to document:

- (a) Project construction in accordance with this chapter and general standards of engineering practice;
- (b) Physical capacity changes; and
- (c) Satisfactory test results.

The completed form must be stamped with an engineer's seal ~~((;))~~ and signed and dated by a professional engineer.

~~((52))~~ (48) "Consumer" means any person receiving water from a public water system from either the meter, or the point where the service line connects with the distribution system if no meter is present. For purposes of cross-connection control, "consumer" means the owner or operator of a water system connected to a public water system through a service connection.

~~((53))~~ (49) "Consumer's water system," as used in WAC 246-290-490, means any potable or industrial water system that begins at the point of delivery from the public water system and is located on the consumer's premises. The consumer's water system includes all auxiliary sources of supply, storage, treatment, and distribution facilities, piping, plumbing, and fixtures under the control of the consumer.

~~((54))~~ (50) "Contaminant" means a substance present in drinking water that may adversely affect the health of the consumer or the aesthetic qualities of the water.

~~((55))~~ (51) "Contingency plan" means that portion of the wellhead protection program section of the water system plan or small water system management program that addresses the replacement of the major well(s) or wellfield in the event of loss due to groundwater contamination.

~~((56))~~ (52) "Continuous monitoring" means determining water quality with automatic recording analyzers that operate without interruption twenty-four hours per day.

~~((57))~~ (53) "Conventional filtration treatment" means a series of processes including coagulation, flocculation, clarification, and filtration that together result in substantial particulate removal in compliance with Part 6 of this chapter.

~~((58))~~ (54) "Corrective action plan" means specific written actions and deadlines developed by the water system or the department that the system must follow as a result of either the identification of significant deficiencies during a sanitary survey or the determination of a fecal indicator-positive sample in source water monitoring.

~~((59))~~ (55) "Cost-effective" means the benefits exceed the costs.

~~((60))~~ (56) "Council" means the Washington state building code council under WAC 51-04-015(2).

~~((61))~~ ~~"CPE" means a comprehensive performance evaluation.~~

~~((62))~~ (57) "Critical water supply service area (CWSSA)" means a geographical area which is characterized by a proliferation of small, inadequate water systems, or by water supply problems which threaten the present or future water quality or reliability of service in a manner that efficient and orderly development may best be achieved through coordinated planning by the water utilities in the area as set forth by the Public Water System Coordination Act, chapter ~~((70-116))~~ 70A.100 RCW and chapter 246-293 WAC.

~~((63))~~ (58) "Cross-connection" means any actual or potential physical connection between a public water system or the consumer's water system and any source of nonpotable liquid, solid, or gas that could contaminate the potable water supply by backflow.

~~((64))~~ (59) "Cross-connection control program" means the administrative and technical procedures the purveyor implements to protect the public water system from contamination via cross-connections as required in WAC 246-290-490.

~~((65))~~ (60) "Cross-connection control specialist (CCS)" means a person holding a valid CCS certificate issued under chapter 246-292 WAC.

~~((66))~~ (61) "Cross-connection control summary report" means the annual report that describes the status of the purveyor's cross-connection control program.

~~((67))~~ (62) "CT" or "CTcalc" means the product of "residual disinfectant concentration" (C) and the corresponding "disinfectant contact time" (T) i.e., "C" x "T."

~~((68))~~ (63) "CT<sub>99.9</sub>" means the CT value required for 99.9 percent (3-log) inactivation of *Giardia lamblia* cysts.

~~((69))~~ ~~"CTA" means comprehensive technical assistance.~~

~~((70))~~ (64) "CTreq" means the CT value a system shall provide to achieve a specific percent inactivation of *Giardia lamblia* cysts or other pathogenic organisms of health concern as directed by the department.

~~((71))~~ (65) "Curtailment" means short-term, infrequent actions by a purveyor and its consumers to reduce their water use during or in anticipation of a water shortage.

~~((72))~~ ~~"CWSSA" means a critical water supply service area.~~

~~((73))~~ (66) "DBPs" means disinfection byproducts.

~~((74))~~ (67) "DCDA" means a double check detector assembly.

~~((75))~~ (68) "DCVA" means a double check valve assembly.

~~((76))~~ (69) "Dead storage" means the volume of stored water not available to all consumers at the minimum design pressure under WAC 246-290-230 (5) and (6).

~~((77))~~ (70) "Demand forecast" means an estimate of future water system water supply needs assuming historically normal weather conditions and calculated using numerous parameters, including population, historic water use, local land use plans, water rates and their impacts on consumption, employment, projected water use efficiency savings from implementation of a water use efficiency program, and other appropriate factors.

~~((78))~~ (71) "Department" means the Washington state department of health or health officer as identified in a joint plan of responsibility under WAC 246-290-030(1).

~~((79))~~ (72) "Design and construction standards" means department design guidance and other peer reviewed documents generally accepted by the engineering profession as containing fundamental criteria for design and construction of water facility projects. Design and construction standards are comprised of performance and sizing criteria and reference general construction materials and methods.

~~((80))~~ (73) "Detectable residual disinfectant concentration" means 0.2 mg/L free chlorine, total chlorine, combined chlorine, or chlorine dioxide.

~~((81))~~ (74) "Diatomaceous earth filtration" means a filtration process for substantial removal of particulates (> 2-log *Giardia lamblia* cysts) in which:

(a) A precoated cake of graded diatomaceous earth filter media is deposited on a support membrane (septum); and

(b) Water is passed through the cake on the septum while additional filter media, known as body feed, is continuously added to the feed water to maintain the permeability of the filter cake.

~~((82))~~ (75) "Direct filtration" means a series of processes including coagulation, flocculation, and filtration (but excluding sedimentation) that together result in substantial particulate removal in compliance with Part 6 of this chapter.

~~((83))~~ (76) "Direct service connection" means a service hookup to a property that is contiguous to a water distribution main and where additional distribution mains or extensions are not needed to provide service.

~~((84))~~ (77) "Disinfectant contact time (T in CT)" means:

(a) When measuring the first or only C, the time in minutes it takes water to move from the point of disinfectant application to a point where the C is measured; and

(b) For subsequent measurements of C, the time in minutes it takes water to move from one C measurement point to the C measurement point for which the particular T is being calculated.

~~((85))~~ (78) "Disinfection" means the use of chlorine or other agent or process the department approves for killing or inactivating microbiological organisms, including pathogenic and indicator organisms.

~~((86))~~ (79) "Disinfection profile" means a summary of *Giardia lamblia* inactivation through a surface water treatment plant.

~~((87))~~ (80) "Distribution coliform sample" means a sample of water collected from a representative location in the distribution system at or after the first service and analyzed for coliform presence in compliance with this chapter.

~~((88))~~ (81) "Distribution-related projects" means distribution projects such as storage tanks, booster pump facilities, transmission mains, pipe linings, and tank coating. It does not mean source of supply (including interties) or water quality treatment projects.

~~((89))~~ (82) "Distribution system" means all piping components of a public water system that serve to convey water from transmission mains linked to source, storage and treatment facilities to the consumer excluding individual services.

~~((90))~~ (83) "Domestic or other nondistribution system plumbing problem" means contamination of a system having more than one service connection with the contamination limited to the specific service connection from which the sample was taken.

~~((91))~~ (84) "Dual sample set" means a set of two samples collected at the same time and same location, with one sample analyzed for TTHM and the other sample analyzed for HAA5. Dual sample sets are collected for the purposes of conducting an IDSE under WAC 246-290-300 (6)(b)(i)(F) and determining compliance with the TTHM and HAA5 MCLs under WAC 246-290-310(4).

~~((92))~~ (85) "Duplicate (verification) sample" means a second sample collected at the same time and location as the first sample and used for verification.

~~((93))~~ (86) "DVGW" means Deutsche Vereinigung des Gas und Wasserfaches.

~~((94))~~ (87) "Elected governing board" means the elected officers with ultimate legal responsibility for operational, technical, managerial, and financial decisions for a public water system.

~~((95))~~ (88) "Emergency" means an unforeseen event that causes damage or disrupts normal operations and requires immediate action to protect public health and safety.

~~((96))~~ (89) "Emergency source" means any source that a purveyor intends to use for emergency purposes only and not used for routine or seasonal water demands.

~~((97))~~ (90) "Engineering design review report" means a form provided by the department and completed for a specific distribution-related project to document:

(a) Engineering review of a project report and/or construction documents under the submittal exception process in WAC 246-290-125(3); and

(b) Design in accordance with this chapter and general standards of engineering practice.

(c) The completed form must be stamped with engineer's seal, and signed and dated by a professional engineer.

~~((98))~~ (91) "EPA" means the U.S. Environmental Protection Agency.

~~((99))~~ (92) "Equalizing storage" means the volume of storage needed to supplement supply to consumers when the peak hourly demand exceeds the total source pumping capacity.

~~((100))~~ (93) "Equivalent residential unit (ERU)" means a system-specific unit of measure used to express the amount

of water consumed by a typical full-time single family residence.

~~((101))~~ **"ERU"** means an equivalent residential unit.

~~((102))~~ **(94)** "Expanding public water system" means a public water system that increases the geographical area where direct service connections are available or increases the approved number of service connections.

~~((103))~~ **(95)** "Filter profile" means a graphical representation of individual filter performance in a direct or conventional surface water filtration plant, based on continuous turbidity measurements or total particle counts versus time for an entire filter run, from startup to backwash inclusively, that includes an assessment of filter performance while another filter is being backwashed.

~~((104))~~ **(96)** "Filtration" means a process for removal of particulate matter from water by passage through porous media.

~~((105))~~ **(97)** "Financial viability" means the capability of a water system to obtain sufficient funds to construct, operate, maintain, and manage a public water system, on a continuing basis, in full compliance with federal, state, and local requirements.

~~((106))~~ **(98)** "Finished water" means water introduced into a public water system's distribution system and is intended for distribution and consumption without further treatment, except as treatment necessary to maintain water quality in the distribution system (e.g., booster disinfection, addition of corrosion control chemicals).

~~((107))~~ **(99)** "Finished water storage facility" means a water storage structure that is integrated with a water system's distribution network to provide for variable system demands including, but not limited to, daily equalizing storage, standby storage, or fire reserves, or to provide for disinfectant contact time.

~~((108))~~ **(100)** "Fire flow" means the maximum rate and duration of water flow needed to suppress a fire under WAC 246-293-640 or as required under local fire protection authority standards.

~~((109))~~ **(101)** "Fire suppression storage" means the volume of stored water available during fire suppression activities to satisfy minimum pressure requirements per WAC 246-290-230.

~~((110))~~ **(102)** "First consumer" means the first service connection associated with any source (i.e., the point where water is first withdrawn for human consumption, excluding connections where water is delivered to another water system covered by these regulations).

~~((111))~~ **(103)** "Flocculation" means a process enhancing agglomeration and collection of colloidal and suspended particles into larger, more easily settleable or filterable particles by gentle stirring.

~~((112))~~ **(104)** "Flowing stream" means a course of running water flowing in a definite channel.

~~((113))~~ **(105)** "Flow-through fire protection system" means a fire sprinkler system that:

- (a) Is supplied only by the purveyor's water;
- (b) Does not have a fire department pumper connection;
- (c) Is constructed of approved potable water piping and materials to which sprinkler heads are attached; and

(d) Terminates at a connection to a toilet or other plumbing fixture to prevent stagnant water.

~~((114))~~ **(106)** "Forecasted demand characteristics" means the factors that may affect a public water system's projected water needs.

~~((115))~~ **(107)** "Future service area" means a specific area a water system in a CWSSA plans to provide water service as determined by a written agreement between purveyors under chapter ~~((70.116))~~ **70A.100** RCW and chapter 246-293 WAC.

~~((116))~~ **(108)** "GAC" means granular activated carbon.

~~((117))~~ **(109)** "GAC10" means granular activated carbon filter beds with an empty-bed contact time of ten minutes based on average daily flow and a carbon reactivation frequency of every one hundred eighty days, except that the reactivation frequency for GAC10 used as a best available technology for compliance with MCLs under WAC 246-290-310(4) shall be one hundred twenty days.

~~((118))~~ **(110)** "GAC20" means granular activated carbon filter beds with an empty-bed contact time of twenty minutes based on average daily flow and a carbon reactivation frequency of every two hundred forty days.

~~((119))~~ **(111)** "Governing body" means the individual or group of individuals with ultimate legal responsibility for operational, technical, managerial, and financial decisions for a public water system.

~~((120))~~ **(112)** "gph" means gallons per hour.

~~((121))~~ **(113)** "gpm" means gallons per minute.

~~((122))~~ **(114)** "Grab sample" means a water quality sample collected at a specific instant in time and analyzed as an individual sample.

~~((123))~~ **(115)** "Groundwater system" means all public water systems that use groundwater including:

(a) Consecutive systems receiving finished groundwater; or

(b) Surface water systems with groundwater sources except those systems that combine all sources prior to treatment.

~~((124))~~ **(116)** "Groundwater under the direct influence of surface water (GWI)" means any water beneath the surface of the ground that the department determines has the following characteristics:

(a) Significant occurrence of insects or other macroorganisms, algae, or large-diameter pathogens such as *Giardia lamblia* or, *Cryptosporidium*; or

(b) Significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH closely correlating to climatological or surface water conditions where natural conditions cannot prevent the introduction of surface water pathogens into the source at the system's point of withdrawal.

~~((125))~~ **(117)** "Guideline" means a department document assisting the purveyor in meeting a rule requirement.

~~((126))~~ **"GWI"** means ~~groundwater under the direct influence of surface water.~~

~~((127))~~ **(118)** "GWR" means groundwater rule.

~~((128))~~ **(119)** "HAA5" means haloacetic acids (five).

~~((129))~~ **(120)** "Health officer" means the health officer of the city, county, city-county health department or district, or an authorized representative.

~~((130))~~ (121) "Heterotrophic plate count (HPC)" means a procedure to measure a class of bacteria that use organic nutrients for growth. The density of these bacteria in drinking water is measured as colony forming units per milliliter and is referred to as the HPC.

~~((131))~~ (122) "High health cross-connection hazard" means a cross-connection involving any substance that could impair the quality of potable water and create an actual public health hazard through injury, poisoning, or spread of disease.

~~((132))~~ ~~"HPC" means heterotrophic plate count.~~

~~((133))~~ (123) "Human consumption" means the use of water for drinking, bathing or showering, hand washing, food preparation, cooking, or oral hygiene.

~~((134))~~ (124) "Hydraulic analysis" means the study of a water system's distribution main and storage network to determine present or future adequacy for provision of service to consumers within the established design parameters for the system under peak flow conditions, including fire flow. The analysis is used to establish any need for improvements to existing systems or to substantiate adequacy of design for distribution system components such as piping, elevated storage, booster stations or similar facilities used to pump and convey water to consumers.

~~((135))~~ (125) "IAPMO" means the International Association of Plumbing and Mechanical Officials.

~~((136))~~ (126) "IDSE" means an initial distribution system evaluation.

~~((137))~~ (127) "Inactivation" means a process which renders pathogenic microorganisms incapable of producing disease.

~~((138))~~ (128) "Inactivation ratio" means the ratio obtained by dividing CTcalc by CTreq.

~~((139))~~ (129) "Incompletely treated water" means water from a surface or GWI source that receives filtration and/or disinfection treatment that does not fully comply with the treatment technique requirements of Part 6 of this chapter as determined by the department.

~~((140))~~ (130) "In-line filtration" means a series of processes, including coagulation and filtration (but excluding flocculation and sedimentation) that together result in particulate removal.

~~((141))~~ (131) "In-premises protection" means a method of protecting the health of consumers served by the consumer's potable water system, located within the property lines of the consumer's premises by the installation of an approved air gap or backflow prevention assembly at the point of hazard, which is generally a plumbing fixture.

~~((142))~~ (132) "Intertie" means an interconnection between public water systems permitting the exchange or delivery of water between those systems.

~~((143))~~ (133) "kPa" means kilo pascal (SI units of pressure).

~~((144))~~ (134) "Lake or reservoir" means a natural or man-made basin or hollow on the earth's surface in which water collects or is stored that may or may not have a current or single direction of flow.

~~((145))~~ (135) "Legionella" means a genus of bacteria containing species which cause a type of pneumonia called Legionnaires' disease.

~~((146))~~ (136) "Level 1 assessment" means an evaluation to identify the possible presence of sanitary defects, defects in distribution system coliform monitoring practices, and when possible, the likely reason that the system triggered the assessment. The assessment is conducted by the system operator or the purveyor.

~~((147))~~ (137) "Level 2 assessment" means an evaluation to identify the possible presence of sanitary defects, defects in distribution system coliform monitoring practices, and when possible, the likely reason that the system triggered the assessment. A level 2 assessment is a more detailed examination of the system (including the system's monitoring and operational practices) than is a level 1 assessment through the use of a more comprehensive investigation and review of available information, additional internal and external resources, and other relevant practices. The level 2 assessment is conducted by a party approved by the department.

~~((148))~~ (138) "Limited alternative to filtration" means a process that ensures greater removal and/or inactivation efficiencies of pathogenic organisms than would be achieved by the combination of filtration and chlorine disinfection.

~~((149))~~ (139) "Local plans and regulations" means any comprehensive plan or development regulation adopted under chapter 36.70A RCW or any other applicable comprehensive plan, land use plan, or development regulation adopted by a city, town, or county for the applicable service area.

~~((150))~~ (140) "Locational running annual average (LRAA)" means the average of sample analytical results for samples taken at a particular monitoring location during the previous four calendar quarters.

~~((151))~~ (141) "Low cross-connection hazard" means a cross-connection that could impair the quality of potable water to a degree that does not create a hazard to the public health, but does adversely and unreasonably affect the aesthetic qualities of potable waters for domestic use.

~~((152))~~ ~~"LRAA" means the locational running annual average.~~

~~((153))~~ (142) "Major project" means all construction projects subject to the State Environmental Policy Act (SEPA) under chapter 43.21C RCW, and meeting the requirements of WAC 246-03-030 (3)(a).

~~((154))~~ (143) "Mandatory curtailment" means curtailment required by a public water system of specified water uses and consumer classes for a specified period of time.

~~((155))~~ (144) "Marginal costs" means the costs incurred by producing the next increment of supply.

~~((156))~~ (145) "Maximum contaminant level (MCL)" means the maximum permissible level of a contaminant in water the purveyor delivers to any public water system user, measured at the locations identified under WAC 246-290-310, Table 5.

~~((157))~~ (146) "Maximum contaminant level violation" means a confirmed measurement above the MCL and for a duration of time, where applicable, as outlined under WAC 246-290-310.

~~((158))~~ (147) "Maximum day demand (MDD)" means the highest actual or estimated quantity of water that is, or is expected to be, used over a twenty-four hour period, exclud-



ing unusual events or emergencies. MDD is typically expressed as gallons per day per ERU (gpd/ERU).

~~((159))~~ "MCL" means the maximum contaminant level.

~~((160))~~ "MDD" means the maximum day demand.

~~((161))~~ (148) "Membrane filtration" means a pressure or vacuum driven separation process in which particulate matter larger than 1 micrometer is rejected by an engineered barrier, primarily through a size-exclusion mechanism, and which has a measurable removal efficiency of a target organism that can be verified through the application of a direct integrity test. This definition includes the common membrane technologies of microfiltration, ultrafiltration, nanofiltration, and reverse osmosis.

~~((162))~~ (149) "Metabolite" means a byproduct of a contaminant in drinking water formed during a natural biological process in the body.

(150) "mg/L" means milligrams per liter (1 mg/L = 1 ppm).

~~((163))~~ (151) "mL" means a milliliter.

~~((164))~~ (152) "mm" means a millimeter.

~~((165))~~ (153) "Monitoring waiver" means an action taken by the department under WAC 246-290-300 (4)(g) ~~((☉))~~, (7)(f), or (10)(h) to allow a water system to reduce specific monitoring requirements based on a determination of low source vulnerability to contamination.

~~((166))~~ (154) "MRDL" means the maximum residual disinfectant level.

~~((167))~~ (155) "MRDLG" means the maximum residual disinfectant level goal.

~~((168))~~ (156) "MTTP" means maximum total trihalo-methane potential.

~~((169))~~ (157) "Municipal water supplier" means an entity that supplies water for municipal water supply purposes.

~~((170))~~ (158) "Municipal water supply purposes" means a beneficial use of water:

(a) For residential purposes through fifteen or more residential service connections or for providing residential use of water for a nonresidential population that is, on average, at least twenty-five people for at least sixty days a year;

(b) For governmental or governmental proprietary purposes by a city, town, public utility district, county, sewer district, or water district; or

(c) Indirectly for the purposes in (a) or (b) of this definition through the delivery of treated or raw water to a public water system for such use.

(i) If water is beneficially used under a water right for the purposes listed in (a), (b), or (c) of this definition, any other beneficial use of water under the right generally associated with the use of water within a municipality is also for "municipal water supply purposes," including, but not limited to, beneficial use for commercial, industrial, irrigation of parks and open spaces, institutional, landscaping, fire flow, water system maintenance and repair, or related purposes.

(ii) If a governmental entity holds a water right that is for the purposes listed in (a), (b), or (c) of this definition, its use of water or its delivery of water for any other beneficial use generally associated with the use of water within a municipality is also for "municipal water supply purposes," including, but not limited to, beneficial use for commercial, indus-

trial, irrigation of parks and open spaces, institutional, landscaping, fire flow, water system maintenance and repair, or related purposes.

~~((171))~~ (159) "Nested storage" means one component of storage is contained within the component of another.

~~((172))~~ (160) "ng/L" means nanograms per liter.

(161) "Nonacute" means posing a possible or less than immediate risk to human health.

~~((173))~~ (162) "Nonresident" means a person having access to drinking water from a public water system who lives elsewhere. Examples include travelers, transients, employees, students, etc.

~~((174))~~ (163) "Normal operating conditions" means those conditions associated with the designed, day-to-day provision of potable drinking water that meets regulatory water quality standards and the routine service expectations of the system's consumers at all times, including meeting fire flow demands. Operation under conditions such as power outages, floods, or unscheduled transmission or distribution disruptions, even if considered in the system design, are considered abnormal.

~~((175))~~ (164) "NSF" means NSF International (formerly known as the National Sanitation Foundation (NSF)).

~~((176))~~ (165) "NTNC" means nontransient noncommunity.

~~((177))~~ (166) "NTU" means a nephelometric turbidity unit.

~~((178))~~ (167) "ONORM" means Österreichisches Normungsinstitut.

~~((179))~~ (168) "Operational storage" means the volume of distribution storage associated with source or booster pump normal cycling times under normal operating conditions and is additive to the equalizing and standby storage components, and to fire flow storage if this storage component exists for any given tank.

~~((180))~~ "PAA" means a project approval application.

~~((181))~~ (169) "pCi/L" means picocuries per liter.

~~((182))~~ (170) "PFAS" means per- and polyfluoroalkyl substances, a group of man-made chemicals found in products such as aqueous film-forming foam used to suppress petroleum-based fires, nonstick cookware, stain-resistant fabrics and many other products, and as defined in RCW 70A.350.010(8).

(171) "PFBS" means perfluorobutane sulfonic acid.

(172) "PFHxS" means perfluorohexane sulfonic acid.

(173) "PFNA" means perfluorononanoic acid.

(174) "PFOA" means perfluorooctanoic acid, also known as C8.

(175) "PFOS" means perfluorooctane sulfonic acid.

(176) "Peak hourly demand (PHD)" means the maximum rate of water use, excluding fire flow, that can be expected to occur within a defined service area over a continuous sixty minute time period. PHD is typically expressed in gallons per minute (gpm).

~~((183))~~ (177) "Peak hourly flow" means, for the purpose of CT calculations, the greatest volume of water passing through the system during any one hour in a day.

~~((184))~~ (178) "Performance criteria" means the level at which a system shall operate in order to maintain system reli-

ability compliance, in accordance with WAC 246-290-420, and to meet consumers' reasonable expectations.

~~((185))~~ (179) "Permanent residence" means any dwelling that is, or could reasonably be expected to be, occupied on a continuous basis.

~~((186))~~ (180) "Permanent source" means a public water system supply source that is used regularly each year, and based on expected operational requirements of the system, will be used more than three consecutive months in any twelve-month period. For seasonal water systems that are in operation for less than three consecutive months per year, their sources ~~(shall)~~ are also ~~(be)~~ considered to be permanent.

~~((187))~~ ~~"PHD" means peak hourly demand.~~

~~((188))~~ (181) "Plant intake" means the works or structures at the head of a conduit through which water is diverted from a source (e.g., river or lake) into the treatment plant.

~~((189))~~ (182) "Point of disinfectant application" means the point where the disinfectant is added, and where water downstream of that point is not subject to contamination by untreated surface water.

~~((190))~~ (183) "Population served" means the number of persons, resident and nonresident, having immediate access to drinking water from a public water system, whether or not persons have actually consumed water from that system. The number of nonresidents ~~(shall be)~~ is the average number of persons having immediate access to drinking water on days access was provided during that month. In the absence of specific population data, the number of residents ~~(shall be)~~ is computed by multiplying the number of active services by two and one-half.

~~((191))~~ (184) "Potable" means water suitable for drinking by the public.

~~((192))~~ (185) "Potential GWI" means a source identified by the department as possibly under the influence of surface water, and includes, but is not limited to, all wells with a screened interval fifty feet or less from the ground surface at the wellhead and located within two hundred feet of a surface water, and all Ranney wells, infiltration galleries, and springs.

~~((193))~~ (186) "ppm" means parts per million (1 ppm = 1 mg/L).

~~((194))~~ (187) "ppt" means parts per trillion (1 ppt = 1 ng/L).

(188) "Premises isolation" means a method of protecting a public water system by installation of approved air gaps or approved backflow prevention assemblies at or near the service connection or alternative location acceptable to the purveyor to isolate the consumer's water system from the purveyor's distribution system.

~~((195))~~ (189) "Presedimentation" means a preliminary treatment process used to remove gravel, sand, and other particulate material from the source water through settling before the water enters the primary clarification and filtration processes in a treatment plant.

~~((196))~~ (190) "Pressure filter" means an enclosed vessel containing properly sized and graded granular media through which water is forced under greater than atmospheric pressure.

~~((197))~~ (191) "Primary disinfection" means a treatment process for achieving inactivation of *Giardia lamblia* cysts, viruses, or other pathogenic organisms of public health concern to comply with the treatment technique requirements of Part 6 of this chapter.

~~((198))~~ (192) "Primary standards" means standards based on chronic, nonacute, or acute human health effects.

~~((199))~~ (193) "Primary turbidity standard" means an accurately prepared formazin solution or commercially prepared polymer solution of known turbidity (prepared in accordance with "standard methods") that is used to calibrate bench model and continuous turbidimeters (instruments used to measure turbidity).

~~((200))~~ (194) "Project approval application (PAA)" means a department form documenting ownership of water system, design engineer for the project, and type of project.

~~((201))~~ (195) "Protected groundwater source" means a groundwater source the purveyor shows to the department's satisfaction as protected from potential sources of contamination on the basis of hydrogeologic data and/or satisfactory water quality history.

~~((202))~~ (196) "psi" means pounds per square inch.

~~((203))~~ (197) "Public forum" means a meeting open to the general public that allows for their participation.

~~((204))~~ (198) "Public water system" is defined and referenced under WAC 246-290-020.

~~((205))~~ (199) "Purchased source" means water a purveyor purchases from a public water system not under the control of the purveyor for distribution to the purveyor's consumers.

~~((206))~~ (200) "Purveyor" means an agency, subdivision of the state, municipal corporation, firm, company, mutual or cooperative association, institution, partnership, or person or other entity owning or operating a public water system. Purveyor also means the authorized agents of these entities.

~~((207))~~ (201) "PVBA" means a pressure vacuum breaker assembly.

~~((208))~~ ~~"RAA" means the running annual average.~~

~~((209))~~ (202) "Reclaimed water" means effluent derived in any part from sewage from a wastewater treatment system that has been adequately and reliably treated, so that as a result of that treatment, it is suitable for beneficial use or a controlled use that would not otherwise occur, and it is no longer considered wastewater.

~~((210))~~ (203) "Record drawings" means the drawings bearing the seal and signature of a professional engineer that reflect the modifications made to construction documents, documenting actual constructed conditions of the water system facilities.

~~((211))~~ (204) "Recreational tract" means an area that is clearly defined for each occupant, but has no permanent structures with internal plumbing, and the area has been declared in the covenants or on the recorded plat in order to be eligible for reduced design considerations.

~~((212))~~ (205) "Regional public water supplier" means a water system that provides drinking water to one, or more, other public water systems.

~~((213))~~ (206) "Regularly" means four hours or more per day for four days or more per week.

~~((214))~~ (207) "Removal credit" means the level (expressed as a percent or log) of *Giardia* and virus removal the department grants a system's filtration process.

~~((215))~~ (208) "Repeat sample" means a sample collected to confirm the results of a previous analysis.

~~((216))~~ (209) "Resident" means an individual living in a dwelling unit served by a public water system.

~~((217))~~ (210) "Residual disinfectant concentration" means the analytical level of a disinfectant, measured in milligrams per liter, that remains in water following the application (dosing) of the disinfectant after some period of contact time.

~~((218))~~ (211) "Retail service area" means the specific area defined by the municipal water supplier where the municipal water supplier has a duty to provide service to all new service connections as set forth in RCW 43.20.260.

~~((219))~~ (212) "RPBA" means reduced pressure back-flow assembly.

~~((220))~~ (213) "RPDA" means reduced pressure detector assembly.

~~((221)) "SAL" means state advisory level.~~

~~((222))~~ (214) "Running annual average (RAA)" means the average of analytical results from compliance samples collected at the monitoring locations identified in WAC 246-290-300 during any consecutive four calendar quarters. If a system fails to collect the required number of samples, the RAA is based on the total number of samples collected. If a sample result is less than the SDRL, zero is used to calculate the RAA.

(215) "Same farm" means a parcel of land or series of parcels that are connected by covenants and devoted to the production of livestock or agricultural commodities for commercial purposes and does not qualify as a Group A public water system.

~~((223))~~ (216) "Sanitary defect" means a defect that could provide a pathway of entry for microbial contamination into the distribution system or that is indicative of a failure or imminent failure in a barrier that is already in place.

~~((224))~~ (217) "Sanitary survey" means a review, inspection, and assessment of a public water system, by the department or department designee, to determine the adequacy of the system and its operation for producing and distributing safe and reliable drinking water. Each survey includes, but is not limited to, an evaluation of the following components:

- (a) Source;
- (b) Treatment;
- (c) Distribution system;
- (d) Finished water storage;
- (e) Pump, pump facilities, and controls;
- (f) Monitoring, reporting, and data verification;
- (g) System management and operation; and
- (h) Operator compliance.

~~((225))~~ (218) "Satellite system management agency (SMA)" means a person or entity that is approved by the department to own or operate public water systems on a regional or county-wide basis without the necessity for a physical connection between the systems.

~~((226))~~ (219) "SCA" means a sanitary control area.

~~((227))~~ (220) "SDWA" means the Safe Drinking Water Act.

~~((228))~~ (221) "Seasonal source" means a public water system source used on a regular basis, that is not a permanent or emergency source.

~~((229))~~ (222) "Seasonal system" means a noncommunity water system defined ~~((and referenced under))~~ in WAC 246-290-020 that is not operated as a public water system on a year-round basis and starts up and shuts down at the beginning and end of each operating season.

~~((230))~~ (223) "Secondary standards" means standards based on factors other than health effects.

~~((231))~~ (224) "SEPA" means the State Environmental Policy Act.

~~((232))~~ (225) "Service area" means the specific area a water system currently serves and areas where future water service is planned. A wholesale system may include areas where it provides wholesale water to other public water systems in its service area. A water system in a CWSSA includes its future service area in its service area as "future service area" as defined under chapters ~~((70-116))~~ 70A.100 RCW and 246-293 WAC.

~~((233))~~ (226) "Service connection" means a connection to a public water system designed to provide potable water to a single family residence, or other residential or nonresidential population. When the connection provides water to a residential population without clearly defined single family residences, the following formulas ~~((shall be))~~ are used in determining the number of services to be included as residential connections on the WFI form:

(a) Divide the average population served each day by two and one-half; or

(b) Using actual water use data, calculate the total ERUs represented by the service connection in accordance with department design guidance.

(c) ~~((In no case shall))~~ The calculated number of services ~~((be))~~ is never less than one.

~~((234))~~ (227) "Severe health cross-connection hazard" means a cross-connection which could impair the quality of potable water and create an immediate, severe public health hazard through poisoning or spread of disease by contaminants from radioactive material processing plants, nuclear reactors, or wastewater treatment plants.

~~((235))~~ (228) "Simple disinfection" means any form of disinfection that requires minimal operational control in order to maintain the disinfection at proper functional levels, and that does not pose safety concerns that would require special care, equipment, or expertise. Examples include hypochlorination, UV-light, contactor chlorination, or any other form of disinfection practice that is safe to use and easy to routinely operate and maintain.

~~((236))~~ (229) "Slow sand filtration" means a process involving passage of source water through a bed of sand at low velocity (generally less than 0.10 gpm/ft<sup>2</sup>) that results in substantial particulate removal (> 2-log *Giardia lamblia* cysts) by physical and biological mechanisms.

~~((237)) "SMA" means a satellite system management agency.~~

~~(238) "SOC" means a synthetic organic chemical.~~

~~((239))~~ (230) "Societal perspective" means:

A point of view that includes a broad spectrum of public benefits including, but not limited to:

- (a) Enhanced system reliability;
- (b) Savings that result from delaying, deferring, or minimizing capital costs; and
- (c) Environmental benefits such as increased water in streams, improvements in aquifer recharge and other environmental factors.

~~((240))~~ (231) "Source meter" means a meter that measures total output of a water source over specific time periods.

~~((241))~~ (232) "Source water" means untreated water that is not subject to recontamination by surface runoff and:

- (a) For unfiltered systems, enters the system immediately before the first point of disinfectant application; and
- (b) For filtered systems, enters immediately before the first treatment unit of a water treatment facility.

~~((242))~~ ~~"SPI" means a special purpose investigation.~~  
~~(243))~~ (233) "Special purpose investigation (SPI)" means on-site inspection of a public water system by the department or designee to address a potential public health concern, regulatory violation, or consumer complaint.

~~((244))~~ (234) "Special purpose sample" means a sample collected for reasons other than the monitoring compliance specified in this chapter.

~~((245))~~ (235) "Spring" means a source of water where an aquifer comes in contact with the ground surface.

~~((246))~~ ~~"SRF" means the state revolving fund.~~

~~(247)~~ ~~"SSNC" means state significant noncomplier.~~

~~(248))~~ (236) "Standard methods" means the book, titled *Standard Methods for the Examination of Water and Waste Water*, jointly published by the American Public Health Association, American Water Works Association (AWWA), and Water Pollution Control Federation. This book is available through public libraries or may be ordered from AWWA, 6666 West Quincy Avenue, Denver, Colorado 80235. The edition to be used is that specified by EPA for the relevant drinking water parameter in 40 C.F.R. Part 141.

~~((249))~~ (237) "Standby storage" means the volume of stored water available for use during a loss of source capacity, power, or similar short-term emergency.

~~((250))~~ (238) "State ~~(advisory)~~ action level (SAL)" means ~~((a level established by the department and state board of health for a contaminant without an existing MCL. The SAL represents a level that when exceeded, indicates the need for further assessment to determine if the chemical is an actual or potential threat to human health))~~ the concentration of a contaminant or group of contaminants, without an MCL, established to protect public health in accordance with WAC 246-290-315 and which, if exceeded, triggers actions a purveyor takes in accordance with WAC 246-290-320.

~~((251))~~ (239) "State board of health" and "board" means the board created by RCW 43.20.030.

~~((252))~~ (240) "State building code" means the codes adopted by and referenced in chapter 19.27 RCW; the state energy code; and any other codes so designated by the Washington state legislature as adopted and amended by the council.

~~((253))~~ (241) "State detection reporting limit (SDRL)" means the minimum reportable detection of a contaminant established in WAC 246-390-075.

(242) "State revolving fund (SRF)" means the revolving loan program financed by the state and federal governments and managed by the state for the purpose of assisting water systems to meet their capital needs associated with complying with the federal Safe Drinking Water Act under chapter 246-296 WAC.

~~((254))~~ (243) "State significant noncomplier (SSNC)" means a system that is violating or has violated department rules, and the violations may create, or have created an imminent or a significant risk to human health.

The violations include, but are not limited to:

- (a) Repeated violations of monitoring requirements;
- (b) Failure to address an exceedance of permissible levels of regulated contaminants;
- (c) Failure to comply with treatment technique standards or requirements;
- (d) Failure to comply with waterworks operator certification requirements; or
- (e) Failure to submit to a sanitary survey.

~~((255))~~ (244) "Subpart H System" see definition for "surface water system."

~~((256))~~ (245) "Surface water" means a body of water open to the atmosphere and subject to surface runoff.

~~((257))~~ (246) "Surface water system" means a public water system that uses in whole, or in part, source water from a surface supply, or GWI supply. This includes systems that operate surface water treatment facilities, and systems that purchase "completely treated water". A "surface water system" is also referred to as a "Subpart H System" in some federal regulatory language adopted by reference and the two terms are considered equivalent for the purposes of this chapter.

~~((258))~~ (247) "Susceptibility assessment" means the completed susceptibility assessment survey form for ground-water sources, or a surface water checklist for surface water sources, developed by the department to evaluate the hydrologic setting of the water source and assess its contribution to the source's overall susceptibility to contamination from surface activities.

~~((259))~~ (248) "SUVA" means specific ultraviolet absorption.

~~((260))~~ (249) "SVBA" means spill resistant vacuum breaker assembly.

~~((261))~~ (250) "SWTR" means the surface water treatment rule.

~~((262))~~ (251) "Synthetic organic chemical (SOC)" means a manufactured carbon-based chemical.

~~((263))~~ (252) "System capacity" means the system's operational, technical, managerial, and financial capability to achieve and maintain compliance with all relevant local, state, and federal plans and regulations.

~~((264))~~ (253) "System physical capacity" means the maximum number of service connections or equivalent residential units (ERUs) that the system can serve when considering the limitation of each system component such as source, treatment, storage, transmission, or distribution, individually and in combination with each other.

~~((265))~~ (254) "T" means disinfectant contact time in minutes.

~~((266))~~ (255) "Time-of-travel" means the time required for groundwater to move through the water bearing zone from a specific point to a well.

~~((267))~~ (256) "TNC" means transient noncommunity.

~~((268) "TNTC" means too numerous to count.~~

~~(269))~~ (257) "TOC" means total organic carbon.

~~((270))~~ (258) "Too numerous to count (TNTC)" means the total number of bacterial colonies exceeds 200 on a 47-mm diameter membrane filter used for coliform detection.

~~((271))~~ (259) "Tracer study" means a field study conducted to determine the disinfectant contact time, T, provided by a water system component, such as a clearwell or storage reservoir, used for *Giardia lamblia* cyst and virus inactivation. The study involves introducing a tracer chemical at the inlet of the contact basin and measuring the resulting outlet tracer concentration as a function of time.

~~((272))~~ (260) "Transmission line" means pipes used to convey water from source, storage, or treatment facilities to points of distribution or distribution mains, and from source facilities to treatment or storage facilities. This also can include transmission mains connecting one section of distribution system to another section of distribution system as long as this transmission main is clearly defined on the plans and no service connections are allowed along the transmission main.

~~((273))~~ (261) "Treatment technique (TT) requirement" means a department-established requirement for a public water system to provide treatment, such as filtration or disinfection, as defined by specific design, operating, and monitoring requirements. A (~~"treatment technique"~~) TT requirement<sup>(4)</sup> is established in lieu of a primary MCL when monitoring for the contaminant is not economically or technologically feasible.

~~((274))~~ (262) "Triggered source water monitoring" means collection of groundwater source samples as a result of a total coliform-positive routine sample in the distribution system under WAC 246-290-300(3).

~~((275))~~ (263) "Trihalomethane (THM)" means one of a family of organic compounds, named as derivatives of methane, where three of the four hydrogen atoms in methane are each substituted by a halogen atom in the molecular structure. THMs may occur when chlorine, a halogen, is added to water containing organic material and are generally found in water samples as disinfection byproducts.

~~((276))~~ (264) "TTHM" means total trihalomethane.

~~((277))~~ (265) "Turbidity event" means a single day or series of consecutive days, not to exceed fourteen, when one or more turbidity measurement each day exceeds 5 NTU.

~~((278))~~ (266) "Two-stage lime softening" means a process in which chemical addition and hardness precipitation occur in each of two distinct unit clarification processes in series prior to filtration.

~~((279))~~ (267) "T10" means the time it takes ten percent of the water passing through a system contact tank intended for use in the inactivation of *Giardia lamblia* cysts, viruses, and other microorganisms of public health concern, as determined from a tracer study conducted at peak hourly flow or

from published engineering reports or guidance documents for similarly configured tanks.

~~((280))~~ (268) "ug/L" means micrograms per liter.

~~((281))~~ (269) "UL" means the Underwriters Laboratories, Inc.

~~((282))~~ (270) "umhos/cm" means micromhos per centimeter.

~~((283))~~ (271) "Unapproved auxiliary water supply" means a water supply (other than the purveyor's water supply) on or available to the consumer's premises that is either not approved for human consumption by the health agency having jurisdiction or is not otherwise acceptable to the purveyor.

~~((284))~~ (272) "Uncovered finished water storage facility" means a tank, reservoir, or other facility used to store water, which will undergo no further treatment to reduce microbial pathogens except residual disinfection and is directly open to the atmosphere without a suitable water-tight roof or cover.

~~((285))~~ (273) "Uniform Plumbing Code (UPC)" means the code adopted under RCW 19.27.031(4) and implemented under chapter 51-56 WAC. This code establishes statewide minimum plumbing standards applicable within the property lines of the consumer's premises.

~~((286) "UPC" means the Uniform Plumbing Code.~~

~~(287))~~ (274) "Used water" means water which has left the control of the purveyor.

~~((288))~~ (275) "UTC" means the utilities and transportation commission.

~~((289))~~ (276) "Verification" means to demonstrate the results of a sample to be precise by analyzing a duplicate sample. Verification occurs when analysis results fall within plus or minus thirty percent of the original sample.

~~((290))~~ (277) "Virus" means a virus of fecal origin which is infectious to humans and transmitted through water.

~~((291) "VOC" means a volatile organic chemical.~~

~~(292))~~ (278) "Volatile organic chemical (VOC)" means a manufactured carbon-based chemical that vaporizes quickly at standard pressure and temperature.

~~((293))~~ (279) "Voluntary curtailment" means a curtailment of water use requested, but not required of consumers.

~~((294))~~ (280) "WAC" means the Washington Administrative Code.

~~((295))~~ (281) "Waterborne disease outbreak" means the significant occurrence of acute infectious illness, epidemiologically associated with drinking water from a public water system, as determined by the appropriate local health agency or the department.

~~((296))~~ (282) "Water demand efficiency" means minimizing water use by the public water system's consumers through purveyor sponsored activities that may include, but are not limited to, distributing water saving devices, providing rebates or incentives to promote water efficient technologies or by providing water audits to homes, businesses, or landscapes.

~~((297))~~ (283) "Water facilities inventory (WFI) form" means the department form summarizing each public water system's characteristics.

~~((298))~~ (284) "Water right" means a certificated water right, water right permit, valid claim, or other authorization,

on record with or accepted by the department of ecology, authorizing the beneficial use of water in accordance with all applicable state laws.

~~((299))~~ (285) "Water right self-assessment" means an evaluation of the legal ability of a water system to use water for existing or proposed usages in conformance with state water right laws. The assessment may be done by a water system, a purveyor, the department of ecology, or any combination thereof.

~~((300))~~ (286) "Watershed" means the region or area that:

(a) Ultimately drains into a surface water source diverted for drinking water supply; and

(b) Affects the physical, chemical, microbiological, and radiological quality of the source.

~~((301))~~ (287) "Water shortage" means a situation during which the water supplies of a system cannot meet normal water demands for the system, including peak periods.

~~((302))~~ (288) "Water shortage response plan" means a plan outlining policies and activities to be implemented to reduce water use on a short-term basis during or in anticipation of a water shortage.

~~((303))~~ (289) "Water supply characteristics" means the factors related to a public water system's source of water supply that may affect its availability and suitability to provide for both short-term and long-term needs.

Factors include, but are not limited to:

(a) Source location;

(b) Name of any body of water and water resource inventory area from which water is diverted or withdrawn;

(c) Production capacity;

(d) The source's natural variability;

(e) The system's water rights for the source;

(f) Other legal demands on the source such as water rights for other uses;

(g) Conditions established to protect species listed under the Endangered Species Act in 50 C.F.R. 17.11;

(h) Instream flow restrictions established under Title 173 WAC; and

(i) Any conditions established by watershed plans approved under chapter 90.82 RCW and RCW 90.54.040(1) or salmon recovery plans under chapter 77.85 RCW.

~~((304))~~ (290) "Water supply efficiency" means increasing a public water system's transmission, storage and delivery potential through activities that may include, but are not limited to:

(a) System-wide water audits;

(b) Documenting authorized uses;

(c) Conducting leak surveys; and

(d) Repairs on:

(i) Meters;

(ii) Lines;

(iii) Storage facilities; and

(iv) Valves.

~~((305))~~ (291) "Water use efficiency (WUE)" means increasing water supply efficiency and water demand efficiency to minimize water withdrawals and water use.

~~((306))~~ (292) "Water use efficiency program" means policies and activities focusing on increasing water supply

efficiency and water demand efficiency to minimize water withdrawals and water use.

~~((307))~~ (293) "Well field" means a group of wells one purveyor owns or controls that:

(a) Draw from the same aquifer or aquifers as determined by comparable inorganic chemical analysis and comparable static water level and top of the open interval elevations; and

(b) Discharge water through a common pipe and the common pipe shall allow for collection of a single sample before the first distribution system connection.

~~((308))~~ (294) "Wellhead protection area (WHPA)" means the portion of a well's, wellfield's or spring's zone of contribution defined using WHPA criteria established by the department.

~~((309) "WFI" means a water facilities inventory form.~~

~~(310))~~ (295) "Wholesale system" means a public water system that treats source water as necessary to produce finished water and then delivers some or all of that finished water to another public water system. Delivery may be through a direct connection or through the distribution system of one or more consecutive systems.

~~((311) "WHPA" means a wellhead protection area.~~

~~(312) "WUE" means water use efficiency.~~

~~(313))~~ (296) "Zone of contribution" means the area surrounding a pumping well or spring that encompasses all areas or features that supply groundwater recharge to the well or spring.

AMENDATORY SECTION (Amending WSR 99-07-021, filed 3/9/99, effective 4/9/99)

**WAC 246-290-050 Enforcement.** When any purveyor is out of compliance with a law or rule regulating public water systems and administered by the department, the department may initiate appropriate enforcement actions, regardless of any prior approvals issued. These actions may include, but are not limited to, any one or combination of the following:

(1) Notice of violation instructing or requiring appropriate corrective measures;

(2) Compliance schedule for specific actions necessary to achieve compliance status;

(3) Departmental order requiring submission of project reports, construction documents, and construction report forms;

(4) Departmental order requiring specific actions or ceasing unacceptable activities within a designated time period;

(5) Departmental order to stop work and/or refrain from using any public water system or improvements thereto until all written approvals required by statute or rule are obtained;

(6) Imposition of civil penalties may be issued for up to five thousand dollars per day per violation, or, in the case of a violation that has been determined to be a public health emergency, a penalty of not more than ten thousand dollars per day per violation under authority of chapter ~~((70.119A))~~ 70A.125 RCW;

(7) Imposition of civil penalties may be issued to a person who constructs, modifies, or expands a public water sys-

tem or who commences the construction, modification, or expansion of a public water system without first obtaining the required department approval. The amount of the penalty may be up to five thousand dollars per service connection, or, in the case of a system serving a transient population, a penalty of not more than four hundred dollars per person based on the highest average daily population the system serves or is anticipated to serve. The total penalty that may be imposed pursuant to this subsection and RCW ((70.119A.040)) 70A.125.040 (1)(b) is five hundred thousand dollars;

(8) Action that requires the purveyor to take preventive or corrective steps when results of a sanitary survey or special purpose investigation conducted by, or on behalf of, the department indicate conditions that are currently or may become a detriment to system operation;

(9) Legal action may be taken by the attorney general or local prosecutor. The legal action may be criminal or civil.

**AMENDATORY SECTION** (Amending WSR 17-01-062, filed 12/14/16, effective 1/14/17)

**WAC 246-290-100 Water system plan.** (1) The purpose of this section is to establish a uniform process for purveyors to:

(a) Demonstrate system capacity as defined in WAC 246-290-010;

(b) Demonstrate how the system will address present and future needs in a manner consistent with other relevant plans and local, state, and federal laws, including applicable land use plans;

(c) Establish eligibility for funding under chapter 246-296 WAC.

(2) Purveyors of the following categories of community public water systems shall submit a water system plan for review and approval by the department:

(a) Systems serving one thousand or more service connections;

(b) Systems required to develop water system plans under the Public Water System Coordination Act of 1977, chapter ((70.116)) 70A.100 RCW((+));

(c) Any system experiencing problems related to system capacity, as determined by the department;

(d) All new systems;

(e) Any system proposing to:

(i) Increase or otherwise modify the service area identified in a previously approved planning document; or

(ii) Increase the geographical area where direct service is provided if a planning or engineering document has not been previously approved; or

(iii) Install additions, extensions, or changes to existing source, storage, or transmission facilities and increase the approved number of service connections.

(f) Any system proposing to use the document submittal exception process in WAC 246-290-125; or

(g) Any system operating under or proposing to operate under an unspecified number of service connections.

(3) The purveyor shall work with the department to establish the relative priority and level of detail for each element of the water system plan. The priority and level of detail must be related to size, complexity, water supply characteris-

tics, forecasted demand characteristics, past performance, planning history, and use of the water system. Project reports may be combined with a water system plan.

(4) The purveyor shall, at a minimum, address the following elements in the water system plan:

(a) Description of the water system, including:

(i) Ownership and management, including the current names, addresses, and telephone numbers of the owners, operators, and emergency contact persons for the system;

(ii) System history and background;

(iii) Related plans, such as coordinated water system plans, abbreviated coordinated water system plans, local land use plans, groundwater management plans, and basin plans;

(iv) Service area maps, including retail service area and future service area, if applicable, and areas where wholesale water is provided to other public water systems. Municipal water suppliers shall identify the area that will expand their water rights' place of use if the requirements under WAC 246-290-107 have been met;

(v) Service area characteristics, agreements, and policies;

(vi) Satellite management, if applicable.

(b) Basic planning data, including:

(i) Current population, service connections, water use, and equivalent residential units; and

(ii) Sufficient water production and consumption data to identify trends including the following elements:

(A) Monthly and annual production totals for each source, including water purchased from another public water system;

(B) Annual usage totals for each customer class as determined by the purveyor;

(C) Annual usage totals for water supplied to other public water systems; and

(D) For systems serving one thousand or more total connections, a description of the seasonal variations in consumption patterns of each customer class defined by the purveyor.

(iii) Designated land use, zoning, population, and water demand within the water system's service area for the plan approval period, and at least a twenty-year planning period.

(c) Demand forecasts, developed under WAC 246-290-221, for the plan approval period, and at least a twenty-year planning period. These ((shall)) must show future use with and without savings expected from the system's water use efficiency program.

(d) For systems serving one thousand or more total connections, a demand forecast for the plan approval period and at least a twenty-year planning period that projects demand if the measures deemed cost-effective per WAC 246-290-810 were implemented.

(e) System analysis, including:

(i) System design standards;

(ii) Water quality analysis;

(iii) Inventory and analysis of water system facilities; and

(iv) Summary of system deficiencies.

(f) Water resource analysis for the plan approval period and at least a twenty-year planning period, including:

(i) A water use efficiency program. Municipal water suppliers must meet the requirements in WAC 246-290-810;

- (ii) Source of supply analysis, which includes:
  - (A) An evaluation of water supply alternatives if additional water rights will be pursued within twenty years; and
  - (B) A narrative description of the system's water supply characteristics and the foreseeable effect from current and future use on the water quantity and quality of any body of water from which its water is diverted or withdrawn based on existing data and studies;
- (iii) A water shortage response plan as a component of the reliability and emergency response requirements under WAC 246-290-420;
  - (iv) Water right self-assessment;
  - (v) Water supply reliability analysis;
  - (vi) Interties; and
  - (vii) For systems serving one thousand or more total connections, an evaluation of opportunities for the use of reclaimed water, where they exist, as defined in RCW 90.46-120.
- (g) Source water protection program under WAC 246-290-135.
- (h) Operation and maintenance program under WAC 246-290-415 and 246-290-654(5), as applicable.
- (i) Improvement program, including a capital improvement schedule that identifies all capital improvements scheduled within the plan approval period and any major projects or other capital improvements planned within at least a twenty-year planning period.
- (j) Financial program, including demonstration of financial viability by providing:
  - (i) A summary of past income and expenses;
  - (ii) A balanced operational budget for the plan approval period;
  - (iii) A plan for collecting the revenue necessary to maintain cash flow stability and to fund the capital improvement program and emergency improvements; and
  - (iv) An evaluation that has considered:
    - (A) The affordability of water rates; and
    - (B) The feasibility of adopting and implementing a rate structure that encourages water demand efficiency.
- (k) Other documents, such as:
  - (i) Documentation of SEPA compliance;
  - (ii) Agreements; and
  - (iii) Comments from each local government with jurisdiction and adjacent utilities.
- (5) Purveyors intending to implement the project report and construction document submittal exceptions authorized under WAC 246-290-125 must include:
  - (a) Standard construction specifications for distribution mains; and/or
  - (b) Design and construction standards for distribution-related projects, including:
    - (i) Description of project report and construction document internal review procedures, including engineering design review and construction completion reporting requirements;
    - (ii) Construction-related policies and requirements for external parties, including consumers and developers;
    - (iii) Performance and sizing criteria; and
    - (iv) General reference to construction materials and methods.

(6) Purveyors shall submit reports identifying the progress in developing their water system plans if required by the department.

(7) Purveyors shall transmit water system plans to adjacent utilities and each local government with jurisdiction, to assess consistency with ongoing and adopted planning efforts.

(8) Prior to department approval of a water system plan or a water system plan update, the purveyor shall:

(a) Hold an informational meeting for the water system consumers and notify consumers in a way that is appropriate to the size of the water system; and

(b) Obtain approval of the water system plan from the purveyor's governing body or elected governing board.

(9) Department approval of a water system plan is effective for ten years from the date of written approval unless:

(a) The purveyor requests and receives a plan approval period of less than ten years; or

(b) The department requests an updated plan.

(10) The purveyor shall update the water system plan and obtain department approval at or before the expiration of the current plan approval if the system meets any of the conditions of subsection (2) of this section.

(11) Water system plan amendments. A purveyor may submit an amendment to its current approved water system plan for department approval at any time during the plan approval period. Project reports may be included in a water system plan amendment to meet the requirements under WAC 246-290-110(3). Department approval of a water system plan amendment does not alter the current plan approval period in accordance with subsection (9) of this section and does not satisfy the requirement of subsection (2) of this section to update the water system plan.

**AMENDATORY SECTION** (Amending WSR 17-01-062, filed 12/14/16, effective 1/14/17)

**WAC 246-290-107 Place of use expansion.** The place of use of a surface or groundwater right may be expanded to include any portion of the approved service area that was not previously within the place of use for the water right when documented in an approved planning or engineering document under chapter 43.20 RCW or in accordance with procedures adopted under chapter ((70.146)) 70A.100 RCW. This occurs as an effect of the department's approval of a service area identified in a water system plan, water system plan amendment, small water system management program, engineering document, or as an effect of the local legislative authority's approval of a service area as part of a coordinated water system plan.

(1) The following conditions must be met:

(a) The municipal water supplier is in compliance with the terms of the water system plan or small water system management program, including those regarding water use efficiency.

(b) The alteration of the place of use is not inconsistent regarding an area added to the place of use with any local plans and regulations.

(c) The alteration of the place of use is not inconsistent regarding an area added to the place of use with any water-



shed plan approved under chapter 90.82 RCW or a comprehensive watershed plan approved under RCW 90.54.040(1) after September 3, 2003, if such a watershed plan has been approved for the area.

(2) As part of the planning or engineering document, municipal water suppliers must:

(a) Identify the area where the place of use will be expanded.

(b) Document that subsection (1)(a) and (c) of this section are met.

(c) Meet the requirements of WAC 246-290-108 for the area where the place of use will be expanded.

**AMENDATORY SECTION** (Amending WSR 17-01-062, filed 12/14/16, effective 1/14/17)

**WAC 246-290-130 Source approval.** (1) Every purveyor shall obtain drinking water from the highest quality source feasible. ~~((No))~~ Every purveyor shall, prior to using a source as a public water supply, obtain approval from the department for:

(a) All new sources((s));

(b) Previously unapproved sources((s or f));

(c) Modifications ((of an)) to existing sources ((shall be used as a public water supply without department approval. No)).

~~((2))~~ (2) In no case may a purveyor maintain an intake or other connection ~~((shall be maintained))~~ between a public water system and a source of water not approved by the department.

~~((3))~~ (3) Before initiating source development or modification, the purveyor shall contact the department to identify submittal requirements.

~~((4))~~ (4) Any party seeking source approval shall provide the department sufficient documentation, in a project report, construction documents, or in supplemental documents, that the source:

(a) Is reasonable and feasible for the type and size of the system;

(b) May legally be used in conformance with state water rights laws;

(c) Supplies water that is physically and reliably available in the necessary quantities, as shown in:

(i) A hydrogeologic assessment of the proposed source;

(ii) A general description of the watershed, spring, and/or aquifer recharge area affecting the quantity or quality of flow, which includes seasonal variation and upstream water uses that may significantly affect the proposed source;

(iii) For groundwater and spring sources, well source development data that are available from a pump test at the maximum design rate and duration, or are available from other sources of information, that establish pump settings (depth) in the well and demonstrate adequacy of water quantity to meet design criteria while not leading to water quality problems;

(iv) For groundwater and spring sources, installation of a source meter or other equivalent device that reliably measures volume of flow into the system;

(d) Is, or is not, a GWI under WAC 246-290-640, and meets or can meet the applicable requirements for GWI sources as described in that section including treatment;

(e) Adequately provides for source protection, as shown in:

(i) For surface water and GWI sources, the watershed control program identified under WAC 246-290-135 and Part 6 of this chapter;

(ii) For wells, a preliminary department susceptibility assessment or equivalent information, and preliminary WHPA delineation and contaminant inventory, under the requirements for sanitary control and wellhead protection under WAC 246-290-135;

(f) Is designed and constructed in conformance with this chapter, and relevant requirements of chapter 173-160 WAC (department of ecology well construction standards);

(g) Meets water quality standards under WAC 246-290-310, as shown in an initial water quality analysis that includes, at a minimum, the following:

(i) Bacteriological, in addition to water quality standards under WAC 246-290-310, the raw water coliform source sample must be satisfactory;

(ii) Complete inorganic chemical and physical except that the MCL for arsenic under WAC 246-290-310 does not apply to TNC systems;

(iii) Complete VOC;

(iv) Radionuclides, if source approval is requested for a community system;

(v) SOC, except where waived or not required under WAC 246-290-300; ~~((and))~~

(vi) Contaminants with a SAL, as required under WAC 246-290-300(10) except where waived or not applicable under WAC 246-290-300 (10)(h); and

(vii) Any other information required by the department relevant to the circumstances of the particular source.

(h) Sources that otherwise would not meet water quality standards under WAC 246-290-310 or that have unsatisfactory raw water coliform source samples may be approved if treatment is provided.

~~((4))~~ (5) The required documentation under subsection (3) of this section ((shall)) must include, at a minimum:

(a) A water right self-assessment;

(b) A map showing the project location and vicinity;

(c) A map depicting topography, distances to the surface water intake, well or spring from existing property lines, buildings, potential sources of contamination, ditches, drainage patterns, and any other natural or man-made features affecting the quality or quantity of water;

(d) The dimensions, location, and legal documentation of the SCA under WAC 246-290-135;

(e) A copy of the on-site inspection form completed by the department or local health department representative;

(f) A copy of the water well report including the unique well identification tag number, depth to open interval or top of screened interval, overall depth of well from the top of the casing, vertical elevation, and location (both plat location and latitude/longitude); and

(g) Documentation of source meter installation. The purveyor may utilize other documents, such as a water system plan, susceptibility assessment, wellhead protection program, project report, or construction documents, to provide the documentation and information to the department, provided that

the documents are current, and the purveyor indicates the location in the document of the relevant information.

~~((5))~~ (6) If treatment of a source is necessary to meet water quality standards, the purveyor may be required to meet the provisions of WAC 246-290-250 and Part 6 of this chapter, if applicable, prior to or as a condition of approval.

~~((6))~~ (7) An intertie must be adequately described in a written agreement between the purveyor and the supplier of the water, and otherwise meet the requirements of WAC 246-290-132.

~~((7))~~ (8) The purveyor shall not construct facilities for source development and use without prior approval of the department pursuant to the provisions of WAC 246-290-120.

~~((8))~~ (9) The purveyor may request a conditional source approval, such as one that sets limits on use or requires interim treatment, if further analysis of the quality of the source is required before final approval.

~~((9))~~ (10) For sources or supplies of water used by bottled water or ice plants to produce bottled water or ice:

(a) If the bottled water or ice plant is a Group A community water system and the plant uses the system's source for the water that is bottled or made into ice, the source and supply used for the bottled water and ice ~~((shall))~~ must meet the applicable Group A requirements;

(b) If the bottled water or ice plant uses its own source for the water that is bottled or made into ice, and the plant is not a Group A community water system, the owner or operator shall obtain source approval from the department, and the source water ~~((shall))~~ must meet the ongoing source water quality monitoring requirements for a Group A community system;

(c) If the bottled water or ice plant purchases the water for bottling or making ice from another source or supply, the water ~~((shall))~~ must meet the minimum requirements for a Group A community water system, and the owner or operator of the plant shall ensure that the water meets the requirements;

(d) The source or supply for the water that is bottled or made into ice ~~((shall))~~ must be protected from contamination prior to the bottling or ice making process; and

(e) In addition to the requirements imposed under this subsection, the processing of bottled water ~~((shall be))~~ is subject to regulation by the state department of agriculture and the United States Food and Drug Administration.

**AMENDATORY SECTION** (Amending WSR 17-01-062, filed 12/14/16, effective 1/14/17)

**WAC 246-290-300 Monitoring requirements.** (1) General.

(a) The monitoring requirements specified in this section are minimums. The department may require additional monitoring when:

(i) Contamination is present or suspected in the water system;

(ii) A groundwater source is determined to be a potential GWI;

(iii) The degree of source protection is not satisfactory;

(iv) Additional monitoring is needed to verify source vulnerability for a requested monitoring waiver;

(v) Under other circumstances as identified in a department order; or

(vi) Additional monitoring is needed to evaluate continuing effectiveness of a treatment process where problems with the treatment process may exist.

(b) Special purpose samples collected by the purveyor ~~((shall))~~ do not count toward fulfillment of the monitoring requirements of this chapter unless the quality of data and method of sampling and analysis are acceptable to the department.

(c) The purveyor shall ensure samples required by this chapter are collected, transported, and submitted for analysis according to EPA-approved methods. The analyses ~~((shall))~~ must be performed by a laboratory accredited by the state using EPA-approved methods or other department-approved methods. Qualified water utility, accredited laboratory, health department personnel, and other parties approved by the department may conduct measurements for pH, temperature, residual disinfectant concentration, alkalinity, bromide, chlorite, TOC, SUVA, turbidity, calcium, conductivity, orthophosphate, and silica as required by this chapter, provided, these measurements are made according to EPA approved methods.

(d) Compliance samples required by this chapter ~~((shall))~~ must be taken at locations listed in Table 4 of this section.

(e) Purveyors failing to comply with a monitoring requirement shall notify:

(i) The department under WAC 246-290-480; and

(ii) The owner or operator of any consecutive system served and the appropriate water system users under 40 C.F.R. 141.201 and Part 7, Subpart A of this chapter.

(2) Selling and receiving water.

(a) Source monitoring. Purveyors, with the exception of those that "wheel" water to their consumers (i.e., sell water that has passed through another purchasing purveyor's distribution system), shall conduct source monitoring under this chapter for the sources under their control. The level of monitoring ~~((shall))~~ must satisfy the monitoring requirements associated with the total population served by the source.

(b) Distribution system monitoring. The purveyor of a system that receives and distributes water shall perform distribution-related monitoring requirements. Monitoring ~~((shall))~~ must include, but not be limited to, the following:

(i) Collect coliform samples under subsection (3) of this section;

(ii) Collect disinfection byproduct samples as required by subsection (6) of this section;

(iii) Perform the distribution system residual disinfectant concentration monitoring under subsection (6) of this section, and as required under WAC 246-290-451, 246-290-664, or 246-290-694. Systems with fewer than one hundred connections shall measure residual disinfectant concentration at the same time and location that a routine or repeat coliform sample is collected, unless the department determines that more frequent monitoring is necessary to protect public health;

(iv) Perform lead and copper monitoring required under 40 C.F.R. 141.86, 141.87, and 141.88;

(v) Perform the distribution system monitoring under 40 C.F.R. 141.23(b) for asbestos if applicable;

(vi) Other monitoring as required by the department.

(c) Reduced monitoring for regional programs. The receiving purveyor may receive reductions in the coliform, lead and copper, disinfection byproduct (including (~~TTHMs~~) TTHMs and HAA5) and distribution system disinfectant residual concentration monitoring requirements, provided the receiving system:

(i) Purchases water from a purveyor that has a department-approved regional monitoring program;

(ii) Has a written agreement with the supplying system or regional water supplier that is acceptable to the department, and which identifies the responsibilities of both the supplying and receiving system(s) with regards to monitoring, reporting and maintenance of the distribution system; and

(iii) Has at least one compliance monitoring location for disinfection byproducts, if applicable.

(d) Periodic review of regional programs. The department may periodically review the sampling records of public water systems participating in a department-approved monitoring program to determine if continued reduced monitoring is appropriate. If the department determines a change in the monitoring requirements of the receiving system is appropriate:

(i) The department shall notify the purveyor of the change in monitoring requirements; and

(ii) The purveyor shall conduct monitoring as directed by the department.

(3) Bacteriological.

(a) The purveyor shall be responsible for collection and submittal of coliform samples from representative points throughout the distribution system. Samples (~~shall~~) must be collected after the first service and at regular time intervals each month the system provides water to consumers. Samples (~~shall~~) must be collected that represent normal system operating conditions.

(i) Systems providing disinfection treatment shall measure the residual disinfectant concentration within the distribution system at the same time and location of routine and repeat samples.

(ii) Systems providing disinfection treatment shall assure that disinfectant residual concentrations are measured and recorded on all coliform sample report forms submitted for compliance purposes.

(b) Coliform monitoring plan.

(i) Systems shall develop a written coliform monitoring plan that identifies sampling sites and a sample collection schedule that are representative of water throughout the distribution system. The plan is subject to department review and approval. Systems shall collect total coliform samples according to the plan. Monitoring may take place at a customer's premises, dedicated sampling station, or other designated compliance sampling location. Routine and repeat sample sites and any sampling points necessary to meet the requirements of Part 6 of this chapter and WAC 246-290-300 (3)(h) must be identified in the plan.

(ii) Systems shall collect samples at regular time intervals throughout the month, except for systems that use groundwater and serve four thousand nine hundred or fewer

people may collect all required samples on a single day if the samples are taken from different sites.

(iii) Systems shall take at least the minimum number of required samples even if the system has had an *E. coli* MCL violation or has exceeded the coliform treatment technique triggers in WAC 246-290-320(2).

(iv) Systems may conduct more compliance monitoring than is required under subsection (3)(b) of this section to investigate potential problems in the distribution system and use monitoring as a tool to assist in identifying problems. Systems may take more than the minimum number of required routine samples and must include the results in calculating whether or not the coliform treatment technique triggers in WAC 246-290-320(2) have been exceeded only if the samples are taken in accordance with the plan and are representative of water throughout the distribution system.

(v) Systems shall identify repeat monitoring locations in the plan. Unless the provisions of subsection (3)(b)(i) through (iv) of this section are met, the system shall collect at least one repeat sample from the sample tap where the original total coliform-positive sample was taken, and at least one repeat sample at a tap within five service connections upstream and at least one repeat sample at a tap within five service connections downstream of the original sample site. If a total coliform-positive sample is at the end of the distribution system, or one service connection away from the end of the distribution system, the system shall still take all required repeat samples. The department may allow an alternative sampling location in lieu of the requirement to collect at least one repeat sample upstream or downstream of the original sampling site. Systems may propose repeat monitoring locations to the department that the system believes to be representative of a pathway for contamination of the distribution system. A system may elect to specify either alternative fixed locations or criteria for selecting repeat sampling sites on a situational basis in a standard operating procedure (SOP) in its plan. The system shall design its SOP to focus the repeat samples at locations that best verify and determine the extent of potential contamination of the distribution system area based on specific situations. The department may modify the SOP or require alternative monitoring locations as needed.

(vi) The purveyor shall:

(A) Keep the coliform monitoring plan on file with the system and make it available to the department for inspection upon request;

(B) Revise or expand the plan at any time the plan no longer ensures representative monitoring of the system, or as directed by the department; and

(C) Submit the plan to the department for review and approval when requested and as part of the water system plan required under WAC 246-290-100.

(c) Special purpose coliform samples. Special purpose coliform samples, such as those taken to determine whether disinfection practices are sufficient following pipe placement, replacement, or repair, must not be used to determine whether or not the coliform treatment technique trigger has been exceeded. Repeat samples taken in accordance with subsection (3) of this section are not considered special purpose coliform samples, and must be used to determine

whether or not the coliform treatment technique trigger has been exceeded.

(d) Invalidation of total coliform samples. A total coliform-positive sample invalidated under subsection (3) of this section does not count toward meeting the minimum monitoring requirements of this section.

(i) The department may invalidate a total coliform-positive sample if one or more of the following conditions are met:

(A) The laboratory establishes that improper sample analysis caused the total coliform-positive result;

(B) The department, on the basis of the results of repeat samples collected as required under subsection (3) of this section, determines that the total coliform-positive samples resulted from a domestic or other nondistribution system plumbing problem. The department may not invalidate a sample on the basis of repeat sample results unless all repeat samples collected at the same tap as the original total coliform-positive sample are also total coliform-positive, and all repeat samples collected at a location other than the original tap are total coliform-negative. For example, the department may not invalidate a total coliform-positive sample on the basis of repeat samples if all the repeat samples are total coliform-negative, or if the system has only one service connection; or

(C) The department has substantial grounds to believe that a total coliform-positive result is due to a circumstance or condition that does not reflect water quality in the distribution system. In this case, the system shall still collect all repeat samples required under subsection (3) of this section, and use the samples to determine whether a coliform treatment technique trigger under WAC 246-290-320(2) has been exceeded.

(ii) Unless total coliforms are detected, a laboratory shall invalidate a total coliform sample if the sample produces a turbid culture in the absence of gas production using an analytical method where gas formation is examined such as the multiple-tube fermentation technique, produces a turbid culture in the absence of an acid reaction in the presence-absence coliform test, or exhibits confluent growth or produces colonies TNTC with an analytical method using a membrane filter such as a membrane filter technique. If a laboratory invalidates a sample because of such interference, the system shall collect another sample from the same location as the original sample within twenty-four hours of notification of the interference problem, and have it analyzed for the presence of total coliforms. The system shall continue to re sample within twenty-four hours and have the samples analyzed until it obtains a valid result. The department may waive the twenty-four hour time limit on a case-by-case basis.

(e) Monitoring frequency. The number of required routine coliform sampling is based on total population served.

(i) Purveyors of community systems shall collect and submit for analysis no less than the number of routine samples listed in Table 2 of this section during each calendar month of operation;

(ii) Unless directed otherwise by the department, purveyors of noncommunity systems shall collect and submit for analysis no less than the number of samples required in Table 2 of this section. Each month's population (~~shall~~) must be

based on the average daily population and (~~shall~~) must include all residents and nonresidents served during that month. During months when the average daily population served is less than twenty-five, routine sample collection is not required when:

(A) Using only protected groundwater sources;

(B) The system has a clean compliance history for a minimum of twelve months;

(C) The system has no sanitary defects or significant deficiencies;

(D) The system has detected no total coliform-positive routine or repeat samples in the previous month; and

(E) The system has collected and submitted for analysis one routine sample during one of the previous two months.

(iii) Purveyors of NTNC and TNC systems are not required to collect routine samples in months when the population served is zero.

(iv) Purveyors of systems serving both a resident and a nonresident population shall base their minimum sampling requirement on the total of monthly populations served, both resident and nonresident as determined by the department, but no less than the minimum required in Table 2 of this section.

(v) Seasonal systems.

(A) In accordance with WAC 246-290-480 (2)(f)(ii), seasonal systems shall certify that a department-approved start-up procedure, which may include a requirement for start-up sampling, was completed prior to serving water to the public.

(B) Seasonal systems shall monitor every month that it is in operation unless it meets the criteria in subsection (3)(e)(ii) of this section.

(C) The department may exempt a seasonal system from some or all of the requirements in subsection (3)(e)(v)(A) of this section if the entire distribution system remains pressurized during the entire period that the system is not operating, except that systems that monitor less frequently than monthly shall still monitor during the vulnerable period designated by the department.

**Table 2**  
**Total Coliform Monitoring Frequency**

Population served	Minimum number of samples per month
1 to 1,000*	1
1,001 to 2,500	2
2,501 to 3,300	3
3,301 to 4,100	4
4,101 to 4,900	5
4,901 to 5,800	6
5,801 to 6,700	7
6,701 to 7,600	8
7,601 to 8,500	9
8,501 to 12,900	10
12,901 to 17,200	15

Population served	Minimum number of samples per month
17,201 to 21,500	20
21,501 to 25,000	25
25,001 to 33,000	30
33,001 to 41,000	40
41,001 to 50,000	50
50,001 to 59,000	60
59,001 to 70,000	70
70,001 to 83,000	80
83,001 to 96,000	90
96,001 to 130,000	100
130,001 to 220,000	120
220,001 to 320,000	150
320,001 to 450,000	180
450,001 to 600,000	210
600,001 to 780,000	240
780,001 to 970,000	270
970,001 to 1,230,000	300
1,230,001 to 1,520,000	330
1,520,001 to 1,850,000	360
1,850,001 to 2,270,000	390
2,270,001 to 3,020,000	420
3,020,001 to 3,960,000	450
3,960,001 or more	480

\*Noncommunity systems using only protected groundwater sources and serving less than twenty-five individuals, may collect and submit for analysis, one sample every three months per WAC 246-290-300 (3)(e)(ii).

(f) Repeat monitoring.

(i) If a routine sample taken under subsection (3) of this section is total coliform-positive, the system shall collect a set of repeat samples within twenty-four hours of being notified of the positive result. Additional treatment, such as batch or shock chlorination must not be started prior to the collection of repeat samples unless the department gives prior authorization. The purveyor shall contact the department to determine the best interim approach in this situation. The system shall collect no fewer than three repeat samples for each total coliform-positive sample found. The department may extend the twenty-four hour limit on a case-by-case basis if the system has a logistical problem in collecting the repeat samples within twenty-four hours that is beyond its control. Following the collection of repeat samples, and before the analytical results are known, the system may provide interim precautionary treatment or other means to protect public health.

(ii) The system shall collect all repeat samples on the same day, except the department may allow a system with a single connection to collect the required set of repeat samples

over a three-day period or to collect a larger volume of repeat samples in one or more sample containers of any size, as long as the total volume collected is at least 300 (~~ml~~) ml.

(iii) The system shall collect an additional set of repeat samples in the manner specified in subsection (3)(f)(i) through (iii) of this section if one or more repeat samples in the current set of repeat samples is total coliform-positive. The system shall collect the additional set of repeat samples within twenty-four hours of being notified of the positive result, unless the department extends the time limit as provided in subsection (3)(f)(i) of this section. The system shall continue to collect additional sets of repeat samples until either total coliforms are not detected in one complete set of repeat samples or the system determines that a coliform treatment technique trigger specified in WAC 246-290-320 (2)(a) has been exceeded as a result of a repeat sample being total coliform-positive and notifies the department. If a treatment technique trigger identified in WAC 246-290-320 (2)(a) is exceeded as a result of a routine sample being total coliform-positive, the system is required to conduct only one round of repeat monitoring for each total coliform-positive routine sample.

(iv) After a system collects a routine sample and before it gets the results of the analysis of that sample, if it collects subsequent routine samples from within five adjacent service connections of the initial sample, and the initial sample, after analysis, is found to contain total coliforms, then the system may count the subsequent samples as a repeat sample instead of as a routine sample.

(v) Results of all routine and repeat samples taken under subsection (3)(e) and (f) of this section not invalidated by the department under subsection (3)(d) of this section must be used to determine whether a coliform treatment technique trigger specified in WAC 246-290-320 (2)(a) has been exceeded.

(g) *E. coli* testing.

(i) If any routine or repeat sample is total coliform-positive, the system shall analyze that total coliform-positive culture medium to determine if *E. coli* are present. If *E. coli* are present, the system shall notify the department by the end of the day when the system is notified of the test result.

(ii) The department may allow a system, on a case-by-case basis, to forgo *E. coli* testing on a total coliform-positive sample if the system assumes that the total coliform-positive sample is *E. coli*-positive. Accordingly, the system shall notify the department as specified in WAC 246-290-320 (1)(a).

(h) Triggered source water monitoring.

(i) All groundwater systems with their own groundwater sources must conduct triggered source water monitoring unless the following conditions exist:

(A) The system has submitted a project report and received department approval that it provides at least 4-log treatment of viruses using inactivation, removal, or a department-approved combination of 4-log virus inactivation and removal before or at the first customer for each groundwater source; and

(B) The system is conducting compliance monitoring under WAC 246-290-453(2).

(ii) Any groundwater source sample required under this subsection (3) must be collected at the source prior to any treatment unless otherwise approved by the department.

(iii) Any groundwater source sample collected under this subsection (3) must be at least 100 mL in size and must be analyzed for *E. coli* using one of the analytical methods under 40 C.F.R. 141.402(c).

(iv) Groundwater systems shall collect at least one sample from each groundwater source in use at the time a routine sample collected under subsection (3) of this section is total coliform-positive and not invalidated under subsection (3)(d) of this section. These source samples must be collected within twenty-four hours of notification of the total coliform-positive sample. The following exceptions apply:

(A) The twenty-four hour time limit may be extended if granted by the department and will be determined on a case-by-case basis. If an extension is granted, the system shall sample by the deadline set by the department.

(B) Systems with more than one groundwater source may meet the requirements of subsection (3)(h)(iv) of this section by sampling a representative groundwater source or sources. The system shall have a department-approved triggered source water monitoring plan that identifies one or more groundwater sources that are representative of each monitoring site in the system's coliform monitoring plan under subsection (3)(b) of this section. The plan must be approved by the department before representative sampling will be allowed.

(v) Groundwater systems with an *E. coli* positive source water sample that is not invalidated under subsection (3)(h)(vii) of this section, shall:

(A) Notify the department by the end of the day when the system is notified of the test result.

(B) Provide Tier 1 public notice as required under Part 7, Subpart A of this chapter and special notification under WAC 246-290-71005 (4) and (5);

(C) If directed by the department, take corrective action as required under WAC 246-290-453(1); and

(D) Systems that are not directed by the department to take corrective action shall collect five additional samples from the same source within twenty-four hours of being notified of the *E. coli* positive source water sample. If any of the five additional samples are *E. coli* positive, the system shall take corrective action under WAC 246-290-453(1).

(vi) Any consecutive groundwater system that has a total coliform-positive routine sample collected under this subsection and not invalidated under subsection (3)(d) of this section shall notify each wholesale system it receives water from within twenty-four hours of being notified of the total coliform-positive sample and comply with subsection (3)(h) of this section.

(A) A wholesale groundwater system that receives notice from a consecutive system under subsection (3)(h)(vi) of this section shall conduct triggered source water monitoring under subsection (3)(h) of this section unless the department determines and documents in writing that the total coliform-positive sample collected was caused by a distribution system deficiency in the consecutive system.

(B) If the wholesale groundwater system source sample is *E. coli* positive, the wholesale system shall notify all con-

secutive systems served by that groundwater source within twenty-four hours of being notified of the results and shall meet the requirements of subsection (3)(h)(v) of this section.

(C) Any consecutive groundwater system receiving water from a source with an *E. coli* positive sample shall notify water system users as required under subsection (3)(h)(v)(B) of this section.

(vii) An *E. coli* positive groundwater source sample may be invalidated only if one of the following conditions apply:

(A) The system provides the department with written notice from the laboratory that improper sample analysis occurred; or

(B) The department determines and documents in writing that there is substantial evidence that the *E. coli* positive groundwater sample is not related to source water quality.

(viii) If the department invalidates an *E. coli* positive groundwater source sample, the system shall collect another source water sample within twenty-four hours of being notified by the department of its invalidation decision and have the sample analyzed using the same analytical method. The department may extend the twenty-four hour time limit as allowed under subsection (3)(h)(iv)(A) of this section.

(ix) Groundwater systems that fail to meet any of the monitoring requirements of subsection (3)(h) of this section shall conduct Tier 2 public notification under Part 7, Subpart A of this chapter.

(i) Assessment source water monitoring. If directed by the department, a groundwater system shall conduct assessment source water monitoring which may include, but is not limited to, the collection of at least one representative groundwater source sample each month the source provides groundwater to the public, for a minimum of twelve months.

(i) Sampling must be conducted as follows:

(A) Source samples must be collected at a location prior to any treatment. If the water system's configuration does not allow sampling at the source itself, the department may approve an alternative source sampling location representative of the source water quality.

(B) Source samples must be at least 100 mL in size and must be analyzed for *E. coli* using one of the analytical methods under 40 C.F.R. 141.402(c).

(ii) A groundwater system may use a triggered source water sample collected under subsection (3)(h) of this section to meet the requirements for assessment source water monitoring.

(iii) A groundwater system with an *E. coli* positive assessment source water sample that is not invalidated under subsection (3)(h)(vii) of this section, and consecutive systems receiving water from this source shall:

(A) Provide Tier 1 public notice under Part 7, Subpart A of this chapter and special notification under WAC 246-290-71005 (4) and (5); and

(B) Take corrective action as required under WAC 246-290-453(1).

(iv) A groundwater system that fails to conduct assessment source water monitoring as directed by the department shall provide Tier 2 public notice under Part 7, Subpart A of this chapter.

(4) Inorganic chemical and physical.

(a) A complete inorganic chemical and physical analysis ~~((shall))~~ must consist of the primary and secondary chemical and physical ~~((substances))~~ contaminants.

(i) Primary chemical and physical ~~((substances))~~ contaminants are antimony, arsenic, asbestos, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, nitrate (as N), nitrite (as N), selenium, sodium, thallium, and for unfiltered surface water, turbidity. (Except that the MCL for arsenic under WAC 246-290-310 does not apply to TNC systems.)

(ii) Secondary chemical and physical ~~((substances))~~ contaminants are chloride, color, hardness, iron, manganese, specific conductivity, silver, sulfate, total dissolved solids~~((≠))~~, and zinc. Total dissolved solids are required only when specific conductivity exceeds seven hundred micromhos/centimeter.

~~((≠Required only when specific conductivity exceeds seven hundred micromhos/centimeter.))~~

(b) Purveyors shall monitor for all primary and secondary chemical and physical ~~((substances))~~ contaminants identified in WAC 246-290-310, Table 5 and Table 6. Samples ~~((shall))~~ must be collected in accordance with the monitoring requirements referenced in 40 C.F.R. 141.23 introductory text, 141.23(a) through 141.23(j), and 40 C.F.R. 143.4, except for composite samples for systems serving less than three thousand three hundred one persons. For these systems, compositing among different systems may be allowed if the systems are owned or operated by a department-approved satellite management agency.

(c) Samples required by this subsection ~~((shall))~~ must be taken at designated locations under 40 C.F.R. 141.23(a) through 141.23(j), and 40 C.F.R. 143.4, and Table 4 ~~((herein))~~ of this section.

(i) Wellfield samples ~~((shall be))~~ are allowed from department designated wellfields; and

(ii) Under 40 C.F.R. 141.23 (a)(3), alternate sampling locations may be used if approved by the department. The process for determining these alternate sites is described in department guidance. Purveyors of community and NTNC systems may ask the department to approve an alternate sampling location for multiple sources within a single system that are blended prior to entry to the distribution system. Alternate sampling plans ~~((shall))~~ must address the following:

- (A) Source vulnerability;
- (B) Individual source characteristics;
- (C) Previous water quality information;
- (D) Status of monitoring waiver applications; and
- (E) Other information deemed necessary by the department.

(d) Composite samples:

(i) Under 40 C.F.R. 141.23 (a)(4), purveyors may ask the certified ~~((lab))~~ laboratory to composite samples representing as many as five individual samples from within one system. Sampling procedures and protocols are outlined in department guidance; and

(ii) For systems serving a population of less than three thousand three hundred one, the department may approve composite sampling between systems when those systems are part of an approved satellite management agency.

(e) When the purveyor provides treatment for one or more inorganic chemical or physical contaminants, the department may require the purveyor to sample before and after treatment. The department shall notify the purveyor if and when this additional source sampling is required.

(f) Inorganic monitoring plans.

(i) Purveyors of community and NTNC systems shall prepare an inorganic chemical monitoring plan and base routine monitoring on the plan.

(ii) The purveyor shall:

(A) Keep the monitoring plan on file with the system and make it available to the department for inspection upon request;

(B) Revise or expand the plan at any time the plan no longer reflects the monitoring requirements, procedures or sampling locations, or as directed by the department; and

(C) Submit the plan to the department for review and approval when requested and as part of the water system plan required under WAC 246-290-100.

(g) Monitoring waivers.

(i) Purveyors may request in writing, a monitoring waiver from the department for any nonnitrate/nitrite inorganic chemical and physical monitoring requirements identified in this chapter.

(ii) Purveyors requesting a monitoring waiver shall comply with applicable subsections of 40 C.F.R. 141.23 (b)(3), and 141.23 (c)(3).

(iii) Purveyors shall update and resubmit requests for waiver renewals as applicable during each compliance cycle or period or more frequently as directed by the department.

(iv) Failure to provide complete and accurate information in the waiver application ~~((shall))~~ may be grounds for denial of the monitoring waiver.

(h) The department may require the purveyor to repeat sample for confirmation of results.

(i) Purveyors with emergency and seasonal sources shall monitor those sources when they are in use.

(5) Lead and copper. Monitoring for lead and copper shall be conducted in accordance with 40 C.F.R. 141.86 (a) - (f), 141.87, and 141.88. All systems that have fewer than five drinking water taps used for human consumption shall collect at least one sample from each tap and then collect additional samples from those taps on different days during the monitoring period to meet the required number of samples as described in 40 C.F.R. 141.86(c).

(6) Disinfection byproducts (DBP), disinfectant residuals, and disinfection byproduct precursors (DBPP). Purveyors of community and NTNC systems providing water treated with chemical disinfectants and TNC systems using chlorine dioxide shall monitor as follows:

(a) General requirements.

(i) Systems shall collect samples during normal operating conditions.

(ii) All monitoring shall be conducted in accordance with the analytical requirements in 40 C.F.R. 141.131.

~~((Systems may consider multiple wells drawing from a single aquifer as one treatment plant for determining the minimum number of TTHM and HAA5 samples required, with department approval in accordance with department guidance.))~~

(iv)) Systems required to monitor under this subsection shall prepare and implement a monitoring plan in accordance with 40 C.F.R. 141.132(f) or 40 C.F.R. 141.622, as applicable.

(A) Community and NTNC surface water and GWI systems that deliver water that has been treated with a disinfectant other than ultraviolet light and serve more than three thousand three hundred people shall submit a monitoring plan to the department.

(B) The department may require submittal of a monitoring plan from systems not specified in subsection (6)(a)((iv)) (iii)(A) of this section, and may require revision of any monitoring plan.

(C) Failure to monitor for TTHM, HAA5, or bromate will be treated as a violation for the entire period covered by the annual average where compliance is based on a locational running annual average or running annual average of monthly or quarterly samples or averages, as applicable.

(D) Failure to monitor for chlorine and chloramine residuals will be treated as a violation for the entire period covered by the annual average where compliance is based on a running annual average of monthly or quarterly samples or averages and the systems' failure to monitor makes it impossible to determine compliance with the MRDLs.

(b) Disinfection byproducts - Community and NTNC systems only.

(i) TTHMs and HAA5.

(A) Systems shall monitor for TTHM and HAA5 in accordance with 40 C.F.R. ((141.132 (b)(1)(i) until the dates set in Table 3. On and after the dates set in Table 3, the systems shall monitor in accordance with 40 C.F.R.)) 141.620, 141.621, and 141.622.

((Table 3

Population Served	Routine Monitoring Start Date <sup>1</sup>
100,000 or more	April 1, 2012
50,000 – 99,999	October 1, 2012
10,000 – 49,999	October 1, 2013
Less than 10,000	October 1, 2013 <sup>2</sup> October 1, 2014 <sup>3</sup>

<sup>1</sup>Systems that have nonemergency interties with other systems must comply with the dates associated with the largest system in their combined distribution system.

<sup>2</sup>Surface water and GWI systems that did not have to do *Cryptosporidium* monitoring under 40 C.F.R. 141.701 (a)(4).

<sup>3</sup>Surface water and GWI systems that also did *Cryptosporidium* monitoring under 40 C.F.R. 141.701 (a)(4);)

(B) With department approval, systems may reduce monitoring in accordance with ((40 C.F.R. 141.132 (b)(1)(ii) and (iii), or) 40 C.F.R. 141.623((, as applicable)).

(C) Systems on department-approved reduced monitoring schedules may be required to return to routine monitoring, or initiate increased monitoring in accordance with ((40 C.F.R. 141.132 (b)(1)(iv);) 40 C.F.R. 141.625((;)) or 40 C.F.R. 141.627, as applicable.

(D) ((The department may return systems on increased monitoring to routine monitoring if, after one year, annual

average results for TTHMs and HAA5 are less than or equal to 0.060 mg/L and 0.045 mg/L, respectively, or monitoring results are consistently below the MCLs indicating that increased monitoring is no longer necessary. After the dates set in Table 3;) Systems must meet requirements of 40 C.F.R. 141.628 and 40 C.F.R. 141.625(c) to return to routine monitoring.

(E) ((After the dates set in Table 3,)) Systems must calculate operational evaluation levels each calendar quarter and take action, as needed, in accordance with 40 C.F.R. 141.626.

(F) NTNC systems serving ten thousand or more people and community systems must comply with the provisions of 40 C.F.R. Subpart U - Initial Distribution System Evaluation under:

- 40 C.F.R. 141.600 General requirements.
- 40 C.F.R. 141.601 Standard monitoring.
- 40 C.F.R. 141.602 System specific studies.
- 40 C.F.R. 141.603 40/30 certification.
- 40 C.F.R. 141.604 Very small system waivers.
- 40 C.F.R. 141.605 Subpart V compliance monitoring location recommendations.

(ii) Chlorite - Only systems that use chlorine dioxide.

(A) Systems using chlorine dioxide shall conduct daily and monthly monitoring in accordance with 40 C.F.R. 141.132 (b)(2)(i) and additional chlorite monitoring in accordance with 40 C.F.R. 141.132 (b)(2)(ii).

(B) With department approval, monthly monitoring may be reduced in accordance with 40 C.F.R. 141.132 (b)(2)(iii) (B). Daily monitoring at entry to distribution required by 40 C.F.R. 141.132 (b)(2)(i)(A) may not be reduced.

(iii) Bromate - Only systems that use ozone.

(A) Systems using ozone for disinfection or oxidation must conduct bromate monitoring in accordance with 40 C.F.R. 141.132 (b)(3)(i).

(B) With department approval, monthly bromate monitoring may be reduced to once per quarter in accordance with 40 C.F.R. 141.132 (b)(3)(ii)(B).

(c) Disinfectant residuals.

(i) Chlorine and chloramines. Systems that deliver water continuously treated with chlorine or chloramines, including consecutive systems, shall monitor and record the residual disinfectant level in the distribution system under WAC 246-290-300 (2)(b), 246-290-451, 246-290-664(6), or 246-290-694(8).

(ii) Chlorine dioxide. Community, NTNC, or TNC systems that use chlorine dioxide shall monitor in accordance with 40 C.F.R. 141.132 (c)(2) and record results.

(d) Disinfection byproducts precursors.

Community and NTNC surface water or GWI systems that use conventional filtration with sedimentation as defined in WAC 246-290-660(3) shall monitor under 40 C.F.R. 141.132(d), and meet the requirements of 40 C.F.R. 141.135.

(7) Organic chemicals.

(a) Purveyors of community and NTNC water systems shall comply with monitoring requirements under 40 C.F.R. 141.24 ((a) – (d), 141.24) (f)(1) - (f)(15), 141.24 (f)(18) -



(19), 141.24 (f)(21), 141.24 (~~((g)(1)-(9), 141.24 (g)(12)-(14), 141.24))~~) (h)(1) - (11), and 141.24 (h)(14) - (17).

(b) Sampling locations shall be as defined in 40 C.F.R. 141.24(f)(~~(, 141.24(g),~~) and 141.24(h).

(i) Wellfield samples (~~(shall be)~~) are allowed from department designated wellfields; and

(ii) Under 40 C.F.R. 141.24 (f)(3) and 141.24 (h)(3), alternate sampling locations may be allowed if approved by the department. These alternate locations are described in department guidance. Purveyors may ask the department to approve an alternate sampling location for multiple sources within a single system that are blended prior to entry to the distribution system. The alternate sampling location shall consider the following:

(A) Source vulnerability;

(B) An updated organic monitoring plan showing location of all sources with current and proposed sampling locations;

(C) Individual source characteristics;

(D) Previous water quality information;

(E) Status of monitoring waiver applications; and

(F) Other information deemed necessary by the department.

(c) Composite samples:

(i) Purveyors may ask the certified lab to composite samples representing as many as five individual samples from within one system. Sampling procedures and protocols are outlined in department guidance;

(ii) For systems serving a population of less than three thousand three hundred one, the department may approve composite sampling between systems when those systems are part of an approved satellite management agency.

(d) The department may require the purveyor to sample both before and after treatment for one or more organic contaminants. The department shall notify the purveyor if and when this additional source sampling is required.

(e) Organic chemical monitoring plans.

(i) Purveyors of community and NTNC systems shall prepare an organic chemical monitoring plan and base routine monitoring on the plan.

(ii) The purveyor shall:

(A) Keep the monitoring plan on file with the system and make it available to the department for inspection upon request;

(B) Revise or expand the plan at any time the plan no longer reflects the monitoring requirements, procedures or sampling locations, or as directed by the department; and

(C) Submit the plan to the department for review and approval when requested and as part of the water system plan required under WAC 246-290-100.

(f) Monitoring waivers.

(i) Purveyors may request in writing, a monitoring waiver from the department for any organic monitoring requirement (~~(except those relating to unregulated VOCs)~~);

(ii) Purveyors requesting a monitoring waiver shall comply with 40 C.F.R. 141.24 (f)(7), 141.24 (f)(10), 141.24 (h)(6), and 141.24 (h)(7);

(iii) Purveyors shall update and resubmit requests for waiver renewals as directed by the department; and

(iv) Failure to provide complete and accurate information in the waiver application shall be grounds for denial of the monitoring waiver.

(g) Purveyors with emergency and seasonal sources shall monitor those sources under the applicable requirements of this section when they are actively providing water to consumers.

(8) Radionuclides. Monitoring for radionuclides shall be conducted under 40 C.F.R. 141.26.

(9) *Cryptosporidium* and *E. coli* source monitoring. Purveyors with surface water or GWI sources shall monitor the sources in accordance with 40 C.F.R. 141.701 and 702.

(10) (~~Other substances.~~

~~On the basis of public health concerns, the department may require the purveyor to monitor for additional substances-))~~ Contaminants with a SAL under WAC 246-290-315, Table 9.

(a) Purveyors shall monitor for contaminants with a SAL in accordance with Tables 3 and 4 of this section. Source sample locations and blended samples are allowed as consistent with other federally regulated organic contaminants referenced in subsection (7)(b) of this section.

TABLE 3  
SAL MONITORING

<u>Contaminant or Group of Contaminants</u>	<u>Applicable Water System Classification</u>	<u>Initial Sampling</u>	<u>Routine Sampling Frequency</u>	<u>Sampling Location</u>
<u>Organic Contaminants</u>				
<u>Per- and polyfluoroalkyl substances (PFAS)</u>	<u>Community and NTNC, and if applicable, TNC</u>	<u>One sample on or before December 31, 2025</u>	<u>Once every three years</u>	<u>Per the locations described in WAC 246-290-300 (7)(b) and Table 4 of this section</u>

(b) Purveyors shall monitor for PFAS contaminants using an approved method in WAC 246-390-075 (17)(a) and all method specific contaminants as listed on Table 7 in WAC 246-390-075.

(i) Purveyors, on a schedule determined by the department, but no later than December 31, 2025, shall complete initial sampling for PFAS from a sample location representing each source as listed in Table 4 of this section.

(ii) Initial PFAS sampling prioritization and scheduling is based on the following criteria:

(A) Susceptibility of the source water to contamination by surface activities due to physical attributes of the source;

(B) Vulnerability of the source water to PFAS contamination; and

(C) Population served.

(iii) Purveyors of TNC systems determined by the department to be at risk of PFAS contamination due to proximity of the system's water supply to known PFAS contamination shall collect a sample for analysis as directed by the department and, if detected, comply with the follow-up requirements under WAC 246-290-320(8).

(c) Analytical results for contaminants or groups of contaminants listed in Table 3 of this section reported prior to January 1, 2023, that meet the SDRL and requirements established in chapter 246-390 WAC with the effective date of January 1, 2022, or later may be used to comply with the initial PFAS monitoring requirement in this chapter.

(d) For sources that become active after January 1, 2022, purveyors shall perform the required monitoring as part of the source approval process under WAC 246-290-130.

(e) The department may require a confirmation sample. If a confirmation sample is required by the department, the result will be averaged with the first sampling result and the average is used as the final result. The department has the discretion to delete results of obvious sampling errors from this calculation.

(f) After completing initial sampling as described in Table 3 of this section, each source must be monitored as follows:

(i) For sources with organic results less than the SDRL, purveyors shall begin routine monitoring as described in Table 3 of this section, unless a monitoring waiver is granted by the department under (h) of this subsection.

(ii) For sources with organic detections equal to or greater than the SDRL, purveyors shall conduct follow-up monitoring under WAC 246-290-320(8).

(iii) For sources with inorganic detections below the SAL, purveyors shall monitor as identified in subsection (4) of this section.

(iv) For sources with inorganic detections above the SAL, purveyors shall conduct follow-up monitoring under WAC 246-290-320(9).

(g) For public water systems required to sample for PFAS under EPA's fifth Unregulated Contaminant Monitoring Rule (UCMR5), if the minimum reporting limits are less than fifty percent of any SAL, the department shall accept data that has been accepted by EPA under UCMR5 for the purposes of meeting initial monitoring requirements under WAC 246-290-300. Public water systems required to sample for PFAS shall submit all results to the department to be considered in compliance with the initial monitoring requirements.

(i) If the minimum reporting limit for a result is greater than twenty percent of any SAL, but the result is reported as a nondetect, then follow-up monitoring per WAC 246-290-320 will not be required.

(ii) If a detection is reported below the minimum detection limit and is greater than twenty percent of a SAL, then

one additional quarter of follow-up monitoring will be required per WAC 246-290-320 (8)(b).

(h) Monitoring waivers for contaminants with a SAL.

(i) The department may grant a waiver for SAL monitoring requirements identified in this chapter.

(ii) As a condition of the waiver, the department may require a purveyor take a minimum of one sample per source while the waiver is effective.

(11) Other contaminants. On the basis of public health concerns, the department may require a purveyor to monitor for additional contaminants.

TABLE 4  
MONITORING LOCATION

Sample Type	Sample Location
Asbestos	One sample from distribution system or if required by department, from the source.
Bacteriological	From representative points throughout distribution system.
<i>Cryptosporidium</i> and <i>E. coli</i> (Source Water) - WAC 246-290-630(16)	Under 40 C.F.R. 141.703.
Complete Inorganic Chemical & Physical	From a point representative of the source, after treatment, and prior to entry to the distribution system.
Lead/Copper	From the distribution system at targeted sample tap locations.
Nitrate/Nitrite	From a point representative of the source, after treatment, and prior to entry to the distribution system.
Disinfection Byproducts - TTHMs and HAA5 - WAC 246-290-300(6)	Under 40 C.F.R. 141.132 (b)(1) (Subpart L of the C.F.R.).
Disinfection Byproducts - TTHMs and HAA5 - WAC 246-290-300(6)	Under 40 C.F.R. 141.600 - 629 (IDSE and LRAA in Subparts U and V of the C.F.R.).
Disinfection Byproducts - Chlorite (Systems adding chlorine dioxide)	Under 40 C.F.R. 141.132 (b)(2).
Disinfection Byproducts - Bromate (Systems adding ozone)	Under 40 C.F.R. 141.132 (b)(3).
Disinfectant Residuals - Chlorine and Chloramines	Under 40 C.F.R. 141.132 (c)(1).
Disinfectant Residuals - Chlorine dioxide	Under 40 C.F.R. 141.132 (c)(2).
Disinfection Precursors - Total Organic Carbon (TOC)	Under 40 C.F.R. 141.132(d).

Sample Type	Sample Location
Disinfection Precursors - Bromide (Systems using ozone)	From the source before treatment.
Radionuclides	From a point representative of the source, after treatment and prior to entry to distribution system.
Organic Chemicals (VOCs (&)), SOCs, & PFAS)	From a point representative of the source, after treatment and prior to entry to distribution system.
<del>((Other Substances (unregulated chemicals))</del>	<del>From a point representative of the source, after treatment, and prior to entry to the distribution system, or as directed by the department.)</del>
Other contaminants without an MCL, MRDL, TT or SAL	As directed by the department.

AMENDATORY SECTION (Amending WSR 17-01-062, filed 12/14/16, effective 1/14/17)

**WAC 246-290-310 Maximum contaminant levels (MCLs) and maximum residual disinfectant levels (MRDLs).** (1) General.

(a) The purveyor shall be responsible for complying with the standards of water quality identified in this section. If a ~~((substance))~~ contaminant exceeds its MCL or its maximum residual disinfectant level (MRDL), the purveyor shall take follow-up action under WAC 246-290-320.

(b) When enforcing the standards described under this section, the department shall enforce compliance with the primary standards as its first priority.

(2) Bacteriological.

(a) An *E. coli* MCL under this subsection is considered a primary standard.

(b) *E. coli* MCL. An *E. coli* MCL violation occurs each month in which a system is required to monitor for total coliforms when there is:

(i) *E. coli* presence in a repeat sample following a total coliform presence routine sample;

(ii) Total coliform presence in any repeat samples collected as a follow-up to a sample with *E. coli* presence;

(iii) The system fails to take all required repeat samples following an *E. coli* presence routine sample; or

(iv) The system fails to test for *E. coli* when any repeat samples test positive for total coliform.

((Note: For the purposes of the public notification requirements in Part 7, Subpart A of this chapter, an *E. coli* MCL is a violation that requires Tier 1 public notification.))

(3) Inorganic chemical and physical.

(a) The primary and secondary ~~((MCLs))~~ standards are listed in Tables 5 and 6 of this section:

TABLE 5  
INORGANIC CHEMICAL CHARACTERISTICS

<del>((Substance))</del> <u>Contaminant</u>	Primary MCLs (mg/L)
Antimony (Sb)	0.006
Arsenic (As)	0.010*
Asbestos	7 million fibers/liter (longer than 10 microns)
Barium (Ba)	2.0
Beryllium (Be)	0.004
Cadmium (Cd)	0.005
Chromium (Cr)	0.1
Copper (Cu)	**
Cyanide <del>((HCN))</del> <u>(CN)</u>	0.2
Fluoride (F)	4.0***
Lead (Pb)	**
Mercury (Hg)	0.002
<del>((Nickel (Ni))</del> <u>(Ni)</u>	<del>0.1</del> )
Nitrate (as N)	10.0
Nitrite (as N)	1.0
Selenium (Se)	0.05
Sodium (Na)	**
Thallium (Tl)	0.002
<del>((Substance))</del> <u>Contaminant</u>	Secondary MCLs (mg/L)
Chloride (Cl)	250.0
Fluoride (F)	2.0***
Iron (Fe)	0.3
Manganese (Mn)	0.05
Silver (Ag)	0.1
Sulfate (SO <sub>4</sub> )	250.0
Zinc (Zn)	5.0

Note\* Does not apply to TNC systems.

Note\*\* Although the state board of health has not established MCLs for copper, lead, and sodium, there is sufficient public health significance connected with copper, lead, and sodium levels to require inclusion in inorganic chemical and physical source monitoring. For lead and copper, the EPA has established distribution system related levels at which a system is required to consider corrosion control. These levels, called "action levels," are 0.015 mg/L for lead and 1.3 mg/L for copper and are applied to the highest concentration in ten percent of all samples collected from the distribution system. The EPA has also established a recommended level of twenty mg/L for sodium as a level of concern for those consumers that may be restricted for daily sodium intake in their diets.

Note\*\*\* If a water system provides community fluoridation, the level of fluoride and associated requirements are set under WAC 246-290-460.

TABLE 6  
PHYSICAL CHARACTERISTICS

<del>((Substance))</del> Contaminant	Secondary MCLs
Color	15 Color Units
Specific Conductivity	700 umhos/cm
Total Dissolved Solids (TDS)	500 mg/L

(b) Compliance with the MCLs, except for nitrate and nitrite, in this subsection is determined by a running annual average at each sampling point. The system will not be considered in violation of the MCL until it has completed one year of quarterly sampling and at least one sampling point is in violation of the MCL. If one sampling point is in violation of the MCL, the system is in violation of the MCL.

(i) If any sample will cause the running annual average to exceed the MCL at any sampling point, the system is out of compliance with the MCL immediately.

(ii) If a system fails to collect the required number of samples, compliance will be based on the total number of samples collected.

(iii) If a sample result is less than the detection limit, zero will be used to calculate the running annual average.

(c) Compliance with the MCLs for nitrate and nitrite is determined based on one sample if the levels of these contaminants are below the MCLs as determined under Table 5 of this section. If the levels of nitrate or nitrite exceed the MCLs in the initial sample, a confirmation sample is required under 40 C.F.R. 141.23 (f)(2), and compliance shall be determined based on the average of the initial and confirmation samples.

(4) Disinfection byproducts.

(a) The department shall consider standards under this subsection as primary standards. The MCLs in this subsection apply to monitoring required by WAC 246-290-300(6) and 40 C.F.R. 141.620 - 629.

(b) The MCLs for disinfection byproducts are as follows:

Contaminant	Chemical Abstract Service (CAS) Number	MCL (ppb)
Vinyl chloride	75-01-4	2
Benzene	71-43-2	5
Carbon tetrachloride	56-23-5	5
1,2-Dichloroethane	107-06-2	5
Trichloroethylene	79-01-6	5
para-Dichlorobenzene	106-46-7	75
1,1-Dichloroethylene	75-35-4	7
1,1,1-Trichloroethane	71-55-6	200

TABLE 7  
DISINFECTION BYPRODUCTS

Disinfection Byproduct	MCL (mg/L)
Total Trihalomethanes (TTHMs)	0.080
Haloacetic acids (five) (HAA5)	0.060
Bromate	0.010
Chlorite	1.0

(c) Whether a system has exceeded the disinfection byproduct MCLs shall be determined in accordance with 40 C.F.R. 141.133. Beginning on the dates specified for compliance in 40 C.F.R. 141.620(c), compliance with the TTHMs and HAA5 MCLs shall be based on the LRAAs as required by 40 C.F.R. 141.64 (b)(2) and 40 C.F.R. 141.620(d). Compliance with the bromate and chlorite MCL will continue to be determined in accordance with 40 C.F.R. 141.133.

(5) Disinfectant residuals.

(a) The department shall consider standards under this subsection primary standards. The MRDLs in this subsection apply to monitoring required by WAC 246-290-300(6).

(b) The MRDL for disinfectants is as follows:

TABLE 8  
DISINFECTANT RESIDUAL MRDLs

Disinfectant Residual	MRDL (mg/L)
Chlorine	4.0 (as Cl <sub>2</sub> )
Chloramines	4.0 (as Cl <sub>2</sub> )
Chlorine Dioxide	0.8 (as ClO <sub>2</sub> )

(c) Whether a system has exceeded MRDLs shall be determined in accordance with 40 C.F.R. 141.133.

(6) Radionuclides.

(a) The department shall consider standards under this subsection primary standards.

(b) The MCLs for radium-226 and radium-228, gross alpha particle activity, beta particle and photon radioactivity, and uranium shall be as listed in 40 C.F.R. 141.66.

(7) Organic chemicals.

(a) The department shall consider standards under this subsection primary standards.

(b) VOCs.

(i) The MCLs for VOCs (~~shall be as listed in 40 C.F.R. 141.61(a-)~~) are as follows:

<u>Contaminant</u>	<u>Chemical Abstract Service (CAS) Number</u>	<u>MCL (ppb)</u>
<u>cis-1,2-Dichloroethylene</u>	<u>156-59-2</u>	<u>70</u>
<u>1,2-Dichloropropane</u>	<u>78-87-5</u>	<u>5</u>
<u>Ethylbenzene</u>	<u>100-41-4</u>	<u>700</u>
<u>Monochlorobenzene</u>	<u>108-90-7</u>	<u>100</u>
<u>o-Dichlorobenzene</u>	<u>95-50-1</u>	<u>600</u>
<u>Styrene</u>	<u>100-42-5</u>	<u>100</u>
<u>Trichloroethane</u>	<u>127-18-4</u>	<u>5</u>
<u>Toluene</u>	<u>108-88-3</u>	<u>1,000</u>
<u>trans-1,2-Dichloroethylene</u>	<u>156-60-5</u>	<u>100</u>
<u>Xylenes (total)</u>	<u>1330-20-7</u>	<u>10,000</u>
<u>Dichloromethane</u>	<u>75-09-2</u>	<u>5</u>
<u>1,2,4-Trichlorobenzene</u>	<u>120-82-1</u>	<u>70</u>
<u>1,1,2-Trichloroethane</u>	<u>79-00-5</u>	<u>5</u>

(ii) The department shall determine compliance with this subsection based on compliance with 40 C.F.R. 141.24(f).

(c) SOCs.

(i) MCLs for SOCs shall be as listed in 40 C.F.R. 141.61 (c).

(ii) The department shall determine compliance with this subsection based on compliance with 40 C.F.R. 141.24(h).

(8) Other (~~(chemicals)~~) contaminants.

~~((a))~~ The state board of health shall determine (~~(maximum contaminant levels)~~) state MCLs for any additional (~~(substances~~

~~(b) Purveyors may be directed by the department to comply with state advisory levels (SALs) for contaminants that do not have a MCL established in chapter 246-290 WAC. SALs shall be:~~

~~(i) MCLs that have been promulgated by the EPA, but which have not yet been adopted by the state board of health; or~~

~~(ii) State board of health adopted levels for substances recommended by the department and not having an EPA established MCL. A listing of these may be found in the department document titled *Procedures and References for the Determination of State Advisory Levels for Drinking Water Contaminants* dated June 1996, that has been approved by the state board of health and is available)) contaminants as described in WAC 246-290-315 (5) through (8).~~

#### NEW SECTION

**WAC 246-290-315 State action levels (SALs) and state maximum contaminant levels (MCLs).** (1) The department shall consider the following criteria to select a contaminant for developing a SAL:

(a) Drinking water contributes to human exposure to the contaminant.

(b) The contaminant is known or likely to occur in public water systems at levels of public health concern. Sources of occurrence information include, but are not limited to:

(i) Washington state department of agriculture;

(ii) Washington state department of ecology; and

(iii) Monitoring results reported in accordance with 40 C.F.R. 141.35.

(c) The contaminant has a possible adverse effect on the health of persons exposed based on peer-reviewed scientific literature or government publications, such as:

(i) An EPA health assessment such as an Integrated Risk Information System assessment;

(ii) Agency for Toxic Substances and Disease Registry toxicological profiles;

(iii) State government science assessment; and

(iv) EPA guidelines for exposure assessment such as the EPA exposure factors handbook.

(d) A certified drinking water lab can accurately and precisely measure the concentration of the contaminant in drinking water at and below the level of public health concern using EPA-approved analytical methods.

(2) After consideration of the criteria in subsection (1) of this section, the department may develop a SAL based on the following:

(a) Evaluation of available peer-reviewed scientific literature and government publications on fate, transport, exposure, toxicity and health impacts of the contaminant and relevant metabolites;

(b) An assessment based on the most sensitive adverse effect deemed relevant to humans and considering susceptibility and unique exposures of the most sensitive subgroup such as pregnant women, fetuses, young children, or overburdened and underserved communities; and

(c) Technical limitations to achieving the SAL such as insufficient analytical detection limit achievable at certified drinking water laboratories.

(3) The state board of health shall consider the department's findings under subsections (1) and (2) of this section when considering adopting a SAL under this chapter.

(4) Contaminants with a SAL.

(a) If a SAL under Table 9 of this section is exceeded, the purveyor shall take follow-up action as required under WAC 246-290-320. For contaminants where the SAL exceedance is determined based upon an RAA, the RAA will be calculated consistent with other organic contaminants per WAC

246-290-320(6) or other inorganic contaminants per WAC 246-290-320(3).

TABLE 9  
STATE ACTION LEVELS

Contaminant or Group of Contaminants	SAL	SAL Exceedance Based On:
Per- and polyfluoroalkyl substances (PFAS)		
PFOA	10 ng/L	Confirmed detection
PFOS	15 ng/L	Confirmed detection
PFHxS	65 ng/L	Confirmed detection
PFNA	9 ng/L	Confirmed detection
PFBS	345 ng/L	Confirmed detection

(b) If a system fails to collect and submit a confirmation sample to a certified lab within ten business days of notification of the sample results, or as required by the department, the results of the original sample will be used to determine compliance with the SAL.

(5) The department shall consider the following when developing a state MCL:

- (a) The criteria in subsection (1) of this section;
- (b) Whether regulating the contaminant presents a meaningful opportunity to reduce exposures of public health concern for persons served by public water systems;
- (c) The need for an enforceable limit to achieve uniform public health protection in Group A public water systems; and

(d) The need for an enforceable limit to support source water investigation and clean-up of a contaminant in drinking water supplies by responsible parties.

(6) In addition to the requirements in subsection (5) of this section, the department shall:

- (a) Meet the requirements of subsection (2) of this section;
- (b) Comply with the requirements in RCW 70A.130.010 to establish standards for chemical contaminants in drinking water;
- (c) Consider the best available treatment technologies and affordability taking into consideration the costs to small water systems; and

(d) Determine that the probable benefits of the rule are greater than its probable costs, taking into account both the qualitative and quantitative benefits and costs.

(7) The state board of health shall consider the department's findings under subsections (5) and (6) of this section and follow the requirements under chapters 34.05 and 19.85 RCW when adopting a state MCL under this chapter.

(8) Upon federal adoption of an MCL, the federal MCL will supersede a SAL or a less stringent state MCL, and the associated requirements, including for monitoring and public notice. If the federally adopted MCL is less stringent than a SAL or state MCL, the board may take one of the following actions:

- (a) Adopt the federal MCL; or

(b) Adopt a state MCL, at least as stringent as the federal MCL, using the process in subsections (6) and (7) of this section.

AMENDATORY SECTION (Amending WSR 17-01-062, filed 12/14/16, effective 1/14/17)

**WAC 246-290-320 Follow-up action.** (1) General.

(a) When an MCL or MRDL violation or SAL exceedance occurs, the purveyor shall take follow-up action as described in this section.

(b) When a primary standard violation occurs(;;) the purveyor shall:

- (i) Notify the department under WAC 246-290-480;
- (ii) Notify the consumers served by the system and the owner or operator of any consecutive system served in accordance with 40 C.F.R. 141.201 through 208, and Part 7, Subpart A of this chapter;

(iii) ~~(Determine)~~ Investigate the cause of the contamination, within the purveyor's control; and

(iv) Take action as directed by the department.

(c) When a secondary standard violation occurs, the purveyor shall notify the department and take action as directed by the department.

(d) When a SAL exceedance under WAC 246-290-315 occurs, the purveyor shall:

(i) Notify the department in accordance with WAC 246-290-480;

(ii) Notify water system users and the owner or operator of any consecutive system served water in exceedance of the SAL in accordance with WAC 246-290-71006;

(iii) Continue monitoring in accordance with subsection (8) or (9) of this section, as applicable;

(iv) Investigate the cause of the contamination within the purveyor's control; and

(v) Take action as directed by the department.

(e) The department may require additional sampling for confirmation of results.

(2) Bacteriological. Coliform treatment technique triggers and assessment requirements for protection against potential fecal contamination.

(a) Treatment technique triggers. Systems shall conduct assessments in accordance with (b) of this subsection after exceeding treatment technique triggers as follows:

(i) Level 1 treatment technique triggers.

(A) For systems taking forty or more routine samples per month, the system exceeds 5.0 percent total coliform-positive samples for the month.

(B) For systems taking fewer than forty routine samples per month, the system has two or more total coliform-positive samples in the same month.

(C) The system fails to take every required repeat sample after any single total coliform-positive routine sample.

(ii) Level 2 treatment technique triggers.

(A) An *E. coli* MCL violation, as specified in WAC 246-290-310 (2)(b).

(B) A second level 1 treatment technique trigger as defined in (a)(i) of this subsection within a rolling twelve-month period, unless the department has determined a likely reason that the samples that caused the first level 1 treatment

technique trigger were total coliform-positive and has established that the system has corrected the problem.

(b) Requirements for assessments.

(i) Systems shall conduct level 1 and 2 assessments to identify the possible presence of sanitary defects and defects in distribution system coliform monitoring practices. Level 1 assessments must be conducted by the system operator or purveyor. Level 2 assessments must be conducted by the department or a party approved by the department which may include the system operator.

(ii) When conducting assessments, systems shall direct the assessor to evaluate minimum elements that include:

(A) Review and identification of atypical events that could affect distributed water quality or indicate that distributed water quality was impaired;

(B) Changes in distribution operation and maintenance that could affect distributed water quality, including water storage;

(C) Source and treatment considerations that bear on distributed water quality, where appropriate. For example, whether or not a groundwater system is disinfected;

(D) Existing water quality monitoring data;

(E) Inadequacies in sample sites, sampling protocol, and sample processing; and

(F) The system shall conduct the assessment consistent with any department directives that tailor specific assessment elements with respect to the size and type of the system and the size, type, and characteristics of the distribution system.

(iii) Level 1 assessments. A system shall conduct a level 1 assessment consistent with the requirements in subsection (2)(b) of this section if the system exceeds one of the treatment technique triggers in (a)(i) of this subsection.

(A) The system shall complete a level 1 assessment as soon as practical after any treatment technique trigger is met in (a)(i) of this subsection. The completed assessment must describe sanitary defects detected, corrective actions completed, and a proposed timetable for any corrective actions not already completed. The assessment may also note that no sanitary defects were identified. The system shall submit the completed level 1 assessment to the department within thirty days after the system learns that it has exceeded a treatment technique trigger.

(B) Upon completion and submission of the level 1 assessment by the system, the department shall determine if the system has identified a likely cause for the level 1 treatment technique trigger and has corrected the problem. If the system has not corrected the problem, the department shall determine if the proposed timetable for corrective action is sufficient.

(C) If after reviewing the completed level 1 assessment, the department determines the assessment is not sufficient, including any proposed timetable for any corrective actions not already completed, the department may require the system to submit a revised assessment to the department within thirty days from the date of department notification.

(iv) Level 2 assessments. A system shall conduct a level 2 assessment consistent with requirements in subsection (2)(b) of this section if the system exceeds one of the treatment technique triggers in (a)(ii) of this subsection. The system shall comply with any expedited actions or additional

actions required by the department in the case of an *E. coli* MCL violation.

(A) A level 2 assessment must be conducted as soon as practical after any treatment technique trigger in (a)(ii) of this subsection and shall be conducted by either a water distribution manager 2, 3, or 4 certified in accordance with chapter 246-292 WAC, a licensed professional engineer that meets the requirements of WAC 246-290-040(1), a local health jurisdiction, or the department. The system shall submit a completed level 2 assessment to the department within thirty days after the system learns that it has exceeded a treatment technique trigger. The completed assessment must describe sanitary defects detected, corrective actions completed, and a proposed timetable for any corrective actions not already completed in accordance with (d) of this subsection. The assessment may also note that no sanitary defects were identified.

(B) Upon completion and submission of the level 2 assessment by the system, the department shall determine if the system has identified a likely cause for the level 2 treatment technique trigger and has corrected the problem. If the system has not corrected the problem, the department shall determine if the proposed timetable for corrective action is sufficient.

(C) If after reviewing the submitted level 2 assessment, the department determines the assessment is not sufficient, including any proposed timetable for any corrective actions not already completed in accordance with (d) of this subsection, the department may require the system to submit a revised assessment within thirty days from the date of department notification.

(c) To achieve compliance with the MCL for *E. coli* under WAC 246-290-310 (2)(b), the following are identified as the best technology, treatment techniques, or other means available:

(i) Protection of wells from fecal contamination by appropriate placement and construction;

(ii) Maintenance of a disinfectant residual throughout the distribution system;

(iii) Proper maintenance of the distribution system including appropriate pipe replacement and repair procedures, main flushing programs, proper operation and maintenance of storage tanks and reservoirs, cross-connection control, and continual maintenance of positive water pressure in all parts of the distribution system;

(iv) Filtration, disinfection, or both, of surface water, using the proper strength of oxidants such as chlorine, chlorine dioxide, or ozone; and

(v) For systems using groundwater, compliance with a wellhead protection program developed and implemented under WAC 246-290-135(3).

(d) Corrective action. Systems shall correct sanitary defects found through either a level 1 or level 2 assessment conducted under (b) of this subsection. For corrections not completed by the time of submission of the assessment to the department, the system shall complete the corrective actions in compliance with a timetable approved by the department in consultation with the system under (e) of this subsection. The system shall notify the department when each scheduled corrective action is completed.

(e) Consultation. At any time during the assessment or corrective action phase, the water system may request a consultation with the department to determine the appropriate actions to be taken. The system may consult with the department on all relevant information that may impact the system's ability to comply with the requirements of subsection (2) of this section, including the method of accomplishment, an appropriate time frame, and other relevant information.

(f) A treatment technique violation occurs when a system exceeds a treatment technique trigger specified in subsection (2)(a) of this section and then fails to conduct the required assessment or complete corrective actions within the time frame specified in subsection (2)(b) and (d) of this section.

(3) Inorganic chemical and physical follow-up monitoring shall be conducted in accordance with the following:

(a) For nonnitrate/nitrite primary inorganic chemicals, 40 C.F.R. 141.23 (a)(4), 141.23 (b)(8), 141.23 (c)(7), 141.23 (c)(9), 141.23 (f)(1), 141.23(g), 141.23(m) and 141.23(n);

(b) For nitrate, 40 C.F.R. 141.23 (a)(4), 141.23 (d)(2), 141.23 (d)(3), 141.23 (f)(2), 141.23(g), 141.23(m), 141.23 (n), and 141.23(o);

(c) For nitrite, 40 C.F.R. 141.23 (a)(4), 141.23 (e)(3), 141.23 (f)(2), and 141.23(g); or

(d) The purveyor of any public water system providing service that has secondary inorganic MCL exceedances shall take follow-up action as required by the department. Follow-up action shall be commensurate with the degree of consumer acceptance of the water quality and their willingness to bear the costs of meeting the secondary standard. For new community water systems and new nontransient noncommunity water systems without active consumers, treatment for secondary contaminant MCL exceedances will be required.

(4) Lead and copper follow-up monitoring shall be conducted in accordance with 40 C.F.R. 141.85(c), 141.86 (d)(2), 141.86 (d)(3), 141.87(c), 141.87(d) and 141.88(b) through 141.88(d).

(5) Turbidity.

Purveyors monitoring turbidity in accordance with Part 6 of this chapter shall provide follow-up under WAC 246-290-634.

(6) Organic chemicals. Follow-up monitoring shall be conducted in accordance with the following:

(a) For VOCs, 40 C.F.R. 141.24 (f)(11) through 141.24 (f)(15), and 141.24 (f)(22); or

(b) For SOCs, 40 C.F.R. ((141.24(b), 141.24(e) and) 141.24 (h)(7) through 141.24 (h)(11), and 141.24 (h)(20).

(7) Radionuclide follow-up monitoring shall be conducted under 40 C.F.R. 141.26 (a)(2)(iv), 141.26 (a)(3)(ii) through (v), 141.26 (a)(4), 141.26 (b)(6), and 141.26 (c)(5).

(8) Organic contaminants with a SAL.

(a) All increased monitoring for organic contaminants will be for the test panel on which the contaminant is listed in WAC 246-390-075.

(b) The purveyor shall monitor quarterly as shown in Table 10 of this section. The number of samples required in the three quarters after the first detection will be determined based on the highest detection in the year of monitoring. For public water systems required to sample for PFAS under the federal Unregulated Contaminant Monitoring Rule 5 (UCMR5), if a detection is reported below the minimum

detection limit per UCMR5 and is greater than twenty percent of a SAL, then one additional quarter of follow-up monitoring is required. The samples must be taken:

(i) Beginning in the calendar quarter following the first confirmed detection per WAC 246-290-315 (4)(b); and

(ii) At each sampling point from which the result was equal to or greater than the SDRL under chapter 246-390 WAC.

TABLE 10  
MONITORING REQUIREMENTS FOLLOWING THE FIRST DETECTION OF AN ORGANIC CONTAMINANT WITH A SAL

<u>If the highest detection in the first year is:</u>	<u>Total number of additional consecutive quarters.</u>
<u>&lt; 20% of the SAL.</u>	<u>1</u>
<u>&gt; 20% but &lt; 80% of the SAL.</u>	<u>2</u>
<u>≥ 80% of the SAL.</u>	<u>3</u>

(c) Ongoing monitoring is specified in Table 11 of this section, or as directed by the department. Ongoing monitoring is based upon the results of samples collected in the most recent year of monitoring, or the most recent result for samples collected less frequently than annually.

TABLE 11  
ONGOING MONITORING REQUIREMENTS FOR SOURCES WITH ORGANIC CONTAMINANTS WITH A SAL

<u>If highest detection being considered is:</u>	<u>Monitoring frequency:</u>
<u>&lt; 20% of the SAL.</u>	<u>Every 3 years</u>
<u>&gt; 20% but &lt; 80% of the SAL.</u>	<u>Annually</u>
<u>≥ 80% of the SAL.</u>	<u>1. Quarterly, if contaminant is Tier 1, or Tier 2 and bioaccumulative per Table 17 in WAC 246-290-71006.</u> <u>2. Annually if the contaminant is Tier 2 and not bioaccumulative per Table 17 in WAC 246-290-71006.</u>

(d) When the monitoring frequency is less often than quarterly, the purveyor shall collect samples during the quarter assigned by the department.

(e) The department may reduce the annual monitoring frequency to one sample every three years after three consecutive years of results that demonstrate the levels are less than eighty percent of the SAL.

(f) The department may increase the monitoring frequency from once every year or once every three years to once every quarter if results of reduced monitoring are equal to or greater than eighty percent of the SAL.

(9) Inorganic contaminants with a SAL.

(a) The purveyor shall collect quarterly samples at each sampling point beginning in the quarter following a detection greater than the SAL under Table 9 of this section. Increased



monitoring for inorganic contaminants will be for a specific contaminant which is detected above the SAL.

(b) The department may reduce the quarterly monitoring frequency when results are reliably and consistently below the SAL. When the monitoring frequency is less often than quarterly, the purveyor shall collect samples during the quarter assigned by the department.

(10) If a contaminant has no MCL, MRDL, TT, or SAL, the department may use an EPA health advisory level to determine subsequent monitoring per this section.

(11) The department shall determine the purveyor's follow-up action when a ((substance)) contaminant not included in this chapter is detected.

AMENDATORY SECTION (Amending WSR 17-01-062, filed 12/14/16, effective 1/14/17)

**WAC 246-290-415 Operations and maintenance.** (1)

The purveyor shall ~~((ensure that))~~ operate the system ~~((is operated))~~ in accordance with the operations and maintenance program as established in the approved water system plan required under WAC 246-290-100 or the small water system management program under WAC 246-290-105.

(2) The operations and maintenance program ~~((shall))~~ must include the following elements as applicable:

- (a) Water system management and personnel;
- (b) Operator certification;
- (c) Comprehensive monitoring plan for all contaminants under WAC 246-290-300;
- (d) Emergency response program;
- (e) Cross-connection control program; and
- (f) Maintenance of service reliability in accordance with WAC 246-290-420.

(3) Seasonal system startup.

(a) Seasonal systems shall submit a start-up procedure to the department for review and approval.

(b) Seasonal systems shall certify in accordance with WAC 246-290-480 (2)(f)(ii) that a department-approved start-up procedure, which may include a requirement for start-up sampling, was completed prior to serving water to the public.

(c) A treatment technique violation occurs when a seasonal system fails to complete a department-approved start-up procedure prior to serving water to the public.

(4) The purveyor shall ~~((ensure that the system is operated))~~ operate the system in accordance with good operations procedures such as those available in texts, handbooks, and manuals available from the following sources:

- (a) American Water Works Association (AWWA);
- (b) American Society of Civil Engineers (ASCE);
- (c) Ontario Ministry of the Environment;
- (d) The Chlorine Institute;
- (e) California State University;
- (f) Health Research Inc.; and
- (g) Any other standards acceptable to the department.

(5) ~~((The purveyor shall not establish))~~ Establishing or ~~((maintain))~~ maintaining a bypass to divert water around any feature of a treatment process is prohibited, except ~~((by))~~ with written approval from the department.

(6) The purveyor shall take preventive or corrective action as directed by the department when results of an inspection conducted by the department indicate conditions which are currently or may become a detriment to system operation.

(7) The purveyor of a system using surface water or GWI shall meet operational requirements specified in Part 6 of this chapter.

(8) The purveyor shall have a certified operator if required under chapter ~~((70.149))~~ 70A.120 RCW and chapter 246-292 WAC.

(9) The purveyor shall at all times employ reasonable security measures to assure the raw water intake facilities, water treatment processes, water storage facilities, and the distribution system are protected from possible damage or compromise by unauthorized persons, animals, vegetation, or similar intruding agents. Such measures include elements such as locks on hatches, fencing of facilities, screening of reservoir vents or openings, and other recommendations as may be found in the current edition of the *Recommended Standards for Water Works, A Committee Report of the Great Lakes - Upper Mississippi River Board of State Public Health and Environmental Managers*.

(10) All purveyors utilizing groundwater wells shall monitor well levels from ground level to the static water level on a seasonal basis, including low demand and high demand periods, to document the continuing availability of the source to meet projected, long-term demands. Purveyors shall maintain this data and provide it to the department upon request.

(11) All operation and maintenance practices ~~((shall))~~ must conform to Part 5 of this chapter.

AMENDATORY SECTION (Amending WSR 17-01-062, filed 12/14/16, effective 1/14/17)

**WAC 246-290-453 Corrective action under the GWR.** (1)

Groundwater systems with significant deficiencies identified under WAC 246-290-416, or source fecal contamination as determined under WAC ~~((246-290-320 (2)(g)(v)(C) or 246-290-300 (3)(e), or as directed by the department under WAC 246-290-320 (2)(g)(v)(B))~~) 246-290-300 (3)(h) must:

- (a) Take one or more of the following corrective actions:
  - (i) Correct all significant deficiencies;
  - (ii) Provide an alternate source of water;
  - (iii) Eliminate the source of contamination; or
  - (iv) Provide treatment that reliably achieves at least 4-log treatment of viruses (using inactivation, removal, or a department-approved combination of 4-log virus inactivation and removal) before or at the first customer for the groundwater source.

(b) Consult with the department regarding appropriate corrective action within thirty days unless otherwise directed by the department to implement a specific corrective action.

(c) Complete corrective action as directed by the department or be in compliance with an approved corrective action plan within one hundred twenty days (or earlier if directed by the department) of receiving written notice from the department of a significant deficiency or source fecal contamination.

tion under this subsection. Any modifications of a corrective action plan must be approved by the department.

(2) When treatment is installed to provide at least 4-log treatment of viruses under subsection (1)(a)(iv) of this section, compliance monitoring must be conducted and reported as follows:

(a) For chemical disinfection, conduct compliance monitoring under 40 C.F.R. 141.403 (b)(3)(i).

(i) For groundwater systems serving greater than three thousand three hundred people, conduct compliance monitoring under 40 C.F.R. 141.403 (b)(3)(i)(A).

(ii) For groundwater systems serving three thousand three hundred or fewer people, conduct compliance monitoring under 40 C.F.R. 141.403 (b)(3)(i)(B).

(b) For membrane filtration, conduct compliance monitoring under 40 C.F.R. 141.403 (b)(3)(ii).

(c) For alternative treatment, conduct compliance monitoring under 40 C.F.R. 141.403 (b)(3)(iii).

(d) For new sources, conduct compliance monitoring under 40 C.F.R. 141.403 (b)(2)(i) and (ii).

(e) Submit monthly groundwater treatment plant reports to the department using a department-approved form by the tenth day of the following month in accordance with 40 C.F.R. 141.31.

(3) A groundwater system may discontinue 4-log treatment of viruses installed under subsection (1)(a)(iv) of this section or WAC 246-290-451(4) if the department determines and documents in writing that 4-log treatment of viruses is no longer necessary for that groundwater source. A system that discontinues 4-log treatment of viruses is subject to the triggered source water monitoring requirements under WAC 246-290-320 (2)(g).

(4) Failure to meet the compliance monitoring requirements under subsection (2) of this section is a monitoring violation and requires Tier 3 public notification under Part 7, Subpart A of this chapter.

(5) Failure to submit a monthly groundwater treatment plant report to the department using a department-approved form by the tenth day of the following month is a reporting violation.

(6) Failure to provide 4-log treatment of viruses under subsection (1)(a)(iv) of this section is a treatment technique violation if the failure is not corrected within four hours of the time the purveyor determines that at least 4-log treatment of viruses is not maintained and requires Tier 2 public notification under Part 7, Subpart A of this chapter.

(7) Failure to complete corrective action as directed by the department or be in compliance with an approved corrective action plan within one hundred twenty days (or earlier if directed by the department) of receiving notice from the department of a significant deficiency or an *E. coli* positive groundwater sample that is not invalidated under WAC 246-290-320 (2)(g)(vii) is a treatment technique violation and requires Tier 2 public notification under Part 7, Subpart A of this chapter.

AMENDATORY SECTION (Amending WSR 99-07-021, filed 3/9/99, effective 4/9/99)

**WAC 246-290-455 Operation of chemical contaminant treatment facilities.** (1) ~~((Purveyors shall ensure))~~ Finished drinking water from chemical contaminant treatment facilities ~~((complies))~~ must comply with the minimum water quality standards established in WAC 246-290-310. This section does not apply to facilities used only for corrosion control treatment purposes.

~~((2))~~ (a) The purveyor shall collect finished drinking water samples at a point directly downstream of the treatment system prior to the first consumer on a monthly basis.

~~((a))~~ (i) Finished drinking water samples from treatment systems utilized for removal of contaminants with established primary MCLs shall be submitted to a certified laboratory for analysis of the specific contaminant(s) of concern.

~~((b))~~ (ii) Finished drinking water samples from treatment systems utilized for removal of contaminants with established secondary MCLs shall be submitted to a certified laboratory for analysis or analyzed for the specific contaminant(s) of concern by the purveyor through department-approved on-site methods.

~~((c))~~ (iii) Additional finished drinking water monitoring may be required by the department based on the complexity or size of the water system.

~~((3))~~ (b) If primary MCLs following treatment are exceeded in four or more months of a consecutive twelve-month compliance period, the purveyor shall submit a project report to the department that addresses the failure to maintain compliance. The project report shall include methods and schedules to correct the treatment deficiency and/or indicate schedules for implementing an alternate source of supply or an effective treatment technology.

~~((4))~~ (c) If secondary MCLs following treatment are exceeded in four or more months of a consecutive twelve-month compliance period, the purveyor shall take action per WAC 246-290-320 (3)(d).

(2) Purveyors that treat to remove or blend to reduce a contaminant that exceeds the SAL shall:

(a) Collect finished drinking water samples at a point downstream of the treatment system prior to the first consumer on a quarterly basis; and

(b) Submit the samples to a certified lab for analysis or analyze the samples using department-approved on-site methods.

AMENDATORY SECTION (Amending WSR 17-01-062, filed 12/14/16, effective 1/14/17)

**WAC 246-290-480 Recordkeeping and reporting.** (1) Records. The purveyor shall keep the following records of operation and water quality analyses:

(a) Bacteriological and turbidity analysis results ~~((shall))~~ must be kept for five years. Chemical analysis results ~~((shall))~~ must be kept for as long as the system is in operation. Records of source meter readings ~~((shall))~~ must be kept for ten years. Other records of operation and analyses required by the department shall be kept for three years. All records ~~((shall))~~ must bear the signature of the operator in responsible

charge of the water system or his or her representative. Systems ~~((shall))~~ must keep these records available for inspection by the department and ~~((shall))~~ must send the records to the department if requested. Actual laboratory reports may be kept or data may be transferred to tabular summaries, provided the following information is included:

(i) The date, place, and time of sampling, and the name of the person collecting the sample;

(ii) Identification of the sample type (routine distribution system sample, repeat sample, source or finished water sample, or other special purpose sample);

(iii) Date of analysis;

(iv) Laboratory and person responsible for performing analysis;

(v) The analytical method used; and

(vi) The results of the analysis.

(b) The purveyor shall maintain documentation of any level 1 or level 2 assessment regardless of who conducts the assessment, and documentation of corrective actions completed as a result of the assessments, or other summary documentation of the sanitary defects and corrective actions taken under WAC 246-290-320(2) for department review. The documentation must be maintained by the purveyor for a period of not less than five years after completion of the assessment or corrective action.

(c) For consecutive systems, documentation of notification to the wholesale systems of total coliform-positive samples that are not invalidated under WAC 246-290-300 (3)(d) must be kept for a period of not less than five years.

(d) Records of action taken by the system to correct violations of primary drinking water standards and exceedances of SALs. For each violation of a primary drinking water standard or SAL exceedance, records of actions taken to correct the violations or SAL exceedance, and copies of public notifications ~~((shall))~~ must be kept for a period of no less than ten years after the last corrective action taken.

(e) Copies of any written reports, summaries, or communications relating to sanitary surveys or SPI of the system conducted by system personnel, by a consultant or by any local, state, or federal agency, ~~((shall))~~ must be kept for ten years after completion of the sanitary survey or SPI involved.

(f) Copies of project reports, construction documents and related drawings, inspection reports and approvals ~~((shall))~~ must be kept for the life of the facility.

(g) Where applicable, records of the following ~~((shall))~~ must be kept for a minimum of three years:

(i) Chlorine residual;

(ii) Fluoride level;

(iii) Water treatment plant performance including, but not limited to:

(A) Type of chemicals used and quantity;

(B) Amount of water treated;

(C) Results of analyses; and

(iv) Other information as specified by the department.

(h) The purveyor shall retain copies of public notices made under Part 7, Subpart A of this chapter and certifications made to the department under 40 C.F.R. 141.33(e) for a period of at least three years after issuance.

(i) Purveyors using conventional, direct, or in-line filtration that recycle spent filter backwash water, thickener super-

natant, or liquids from dewatering processes within their treatment plant shall, beginning no later than June 8, 2004, collect and retain on file the following information for review and evaluation by the department:

(i) A copy of the recycle notification and information submitted to the department under WAC 246-290-660 (4)(a)(i).

(ii) A list of all recycle flows and the frequency with which they are returned.

(iii) Average and maximum backwash flow rate through the filters and the average and maximum duration of the filter backwash process in minutes.

(iv) Typical filter run length and a written summary of how filter run length is determined.

(v) The type of treatment provided for the recycle flow.

(vi) Data on the physical dimensions of the equalization and/or treatment units, typical and maximum hydraulic loading rates, type of treatment chemicals used and average dose and frequency of use, and frequency at which solids are removed, if applicable.

(j) Purveyors required to conduct disinfection profiling and benchmarking under 40 C.F.R. 141.530 through 141.544 shall retain the results on file indefinitely.

(k) Copies of monitoring plans developed under this chapter shall be kept for the same period of time as the records of analyses taken under the plan are required to be kept under (a) of this subsection.

(l) Purveyors using surface water or GWI sources must keep the records required by 40 C.F.R. 141.722.

(2) Reporting.

(a) Unless otherwise specified in this chapter, the purveyor shall report to the department within forty-eight hours the failure to comply with any national primary drinking water regulation or a SAL (including failure to comply with any monitoring requirements) as set forth in this chapter. For violations assigned to Tier 1 in WAC 246-290-71001 or in Table 17 in WAC 246-290-71006, the ~~((department must be notified))~~ purveyor shall notify the department as soon as possible, but no later than twenty-four hours after the violation or SAL exceedance is known.

(b) The purveyor shall submit to the department reports required by this chapter, including tests, measurements, and analytic reports. Monthly reports are due before the tenth day of the following month, unless otherwise specified in this chapter.

(c) The purveyor shall submit to the department copies of any written summaries or communications relating to the status of monitoring waivers during each monitoring cycle or as directed by the department.

(d) Source meter readings ~~((shall))~~ must be made available to the department.

(e) Water facilities inventory form (WFI).

(i) Purveyors of community and NTNC systems shall submit an annual WFI update to the department;

(ii) Purveyors of TNC systems shall submit an updated WFI to the department as requested;

(iii) Purveyors shall submit an updated WFI to the department within thirty days of any change in name, category, ownership, or responsibility for management of the water system, or addition of source or storage facilities; and

(iv) At a minimum the completed WFI shall provide the current names, addresses, and telephone numbers of the owners, operators, and emergency contact persons for the system.

(f) Bacteriological.

(i) The purveyor shall notify the department of the presence of total coliform in a sample within ten days of notification by the laboratory;

(ii) Prior to serving water to the public, a seasonal system shall submit a certification to the department demonstrating that the system has complied with the department-approved start-up procedure; and

(iii) The system shall report treatment technique violations identified under WAC 246-290-320 (2)(f) to the department no later than the end of the next business day after the violation is known.

(g) Systems monitoring for disinfection byproducts under WAC 246-290-300(6) shall report information to the department as specified in (a) and (b) of this subsection, and 40 C.F.R. 141.134(b).

(h) Systems monitoring for disinfectant residuals under WAC 246-290-300(6) shall report information to the department as specified in (a) and (b) of this subsection, and 40 C.F.R. 141.134(c).

(i) Systems required to monitor for disinfection byproduct precursor removal under WAC 246-290-300(6) shall report information to the department as specified in (a) and (b) of this subsection, and 40 C.F.R. 141.134(d).

(j) Systems required to monitor for disinfection byproducts under WAC 246-290-300(6) shall report information to the department as specified in (a) and (b) of this subsection, and 40 C.F.R. 141.600 - 629.

(k) Systems subject to the enhanced treatment requirements for *Cryptosporidium* under WAC 246-290-630(4) shall report information to the department as specified in 40 C.F.R. 141.706 and 141.721.

(l) Systems that use acrylamide and epichlorohydrin in the treatment of drinking water, must certify annually in writing to the department that the combination (or product) of dose and monomer level does not exceed the levels specified in (l)(i) and (ii) of this subsection. Certifications (~~shall~~) must reference maximum use levels established by an ANSI-accredited listing organization approved by the department.

(i) Acrylamide = 0.05 percent dosed at 1 ppm (or equivalent); and

(ii) Epichlorohydrin = 0.01 percent dosed at 20 ppm (or equivalent).

(m) Use of products that exceed the specified levels constitutes a treatment technique violation and the public must be notified under the public notice requirements under Part 7, Subpart A of this chapter.

(n) Systems shall submit to the department, in accordance with 40 C.F.R. 141.31(d), a certification that the system has complied with the public notification regulations (Part 7, Subpart A of this chapter) when a public notification is required. Along with the certification, the system shall submit a representative copy of each type of notice.

AMENDATORY SECTION (Amending WSR 08-03-061, filed 1/14/08, effective 2/14/08)

**WAC 246-290-490 Cross-connection control.** (1) Applicability, purpose, and responsibility.

(a) All community water systems shall comply with the cross-connection control requirements specified in this section.

(b) All noncommunity water systems shall apply the principles and provisions of this section, including subsection (4)(b) of this section, as applicable to protect the public water system from contamination via cross-connections. Noncommunity systems that comply with subsection (4)(b) of this section and the provisions of WAC 51-56-0600 of the UPC (which addresses the installation of backflow preventers at points of water use within the potable water system) shall be considered in compliance with the requirements of this section.

(c) The purpose of the purveyor's cross-connection control program shall be to protect the public water system, as defined in WAC 246-290-010, from contamination via cross-connections.

(d) The purveyor's responsibility for cross-connection control shall begin at the water supply source, include all the public water treatment, storage, and distribution facilities, and end at the point of delivery to the consumer's water system, which begins at the downstream end of the service connection or water meter located on the public right of way or utility-held easement.

(e) Under this section, purveyors are not responsible for eliminating or controlling cross-connections within the consumer's water system. Under chapter 19.27 RCW, the responsibility for cross-connection control within the consumer's water system, i.e., within the property lines of the consumer's premises, lies with the authority having jurisdiction.

(2) General program requirements.

(a) The purveyor shall develop and implement a cross-connection control program that meets the requirements of this section, but may establish a more stringent program through local ordinances, resolutions, codes, bylaws, or operating rules.

(b) Purveyors shall ensure that good engineering and public health protection practices are used in the development and implementation of cross-connection control programs. Department publications and the most recently published editions of references, such as, but not limited to, those listed below, may be used as guidance for cross-connection program development and implementation:

(i) *Manual of Cross-Connection Control* published by the Foundation for Cross-Connection Control and Hydraulic Research, University of Southern California (USC Manual);

(ii) *Cross-Connection Control Manual, Accepted Procedure and Practice* published by the Pacific Northwest Section of the American Water Works Association (PNWS-AWWA Manual); or

(iii) Guidance document: *Cross-Connection Control for Small Water Systems* published by the department.

(c) The purveyor may implement the cross-connection control program, or any portion thereof, directly or by means of a contract with another agency or party acceptable to the department.

(d) The purveyor shall coordinate with the authority having jurisdiction in all matters concerning cross-connection control. The purveyor shall document and describe the coordination, including delineation of responsibilities, in the written cross-connection control program required in (e) of this subsection.

(e) The purveyor shall include a written description of the cross-connection control program in the water system plan required under WAC 246-290-100 or the small water system management program required under WAC 246-290-105. The cross-connection control program (~~shall~~) must include the minimum program elements described in subsection (3) of this section.

(f) The purveyor shall ensure that cross-connections between the distribution system and a consumer's water system are eliminated or controlled by the installation of an approved backflow preventer commensurate with the degree of hazard. This can be accomplished by implementation of a cross-connection program that relies on:

(i) Premises isolation as defined in WAC 246-290-010; or

(ii) Premises isolation and in-premises protection as defined in WAC 246-290-010.

(g) Purveyors with cross-connection control programs that rely both on premises isolation and in-premises protection:

(i) Shall comply with the premises isolation requirements specified in subsection (4)(b) of this section; and

(ii) May reduce premises isolation requirements and rely on in-premises protection for premises other than the type addressed in subsection (4)(b) of this section, only if the following conditions are met:

(A) The in-premises backflow preventers provide a level of protection commensurate with the purveyor's assessed degree of hazard;

(B) Backflow preventers which provide the in-premises backflow protection meet the definition of approved backflow preventers as described in WAC 246-290-010;

(C) The approved backflow preventers are installed, inspected, tested (if applicable), maintained, and repaired in accordance with subsections (6) and (7) of this section;

(D) Records of the backflow preventers are maintained in accordance with subsections (3)(j) and (8) of this section; and

(E) The purveyor has reasonable access to the consumer's premises to conduct an initial hazard evaluation and periodic reevaluations to determine whether the in-premises protection is adequate to protect the purveyor's distribution system.

(h) The purveyor shall take appropriate corrective action as authorized by the legal instrument required by subsection (3)(b) of this section, when:

(i) A cross-connection exists that is not controlled commensurate to the degree of hazard assessed by the purveyor; or

(ii) A consumer fails to comply with the purveyor's requirements regarding the installation, inspection, testing, maintenance or repair of approved backflow preventers required by this chapter.

(i) The purveyor's corrective action may include, but is not limited to:

(i) Denying or discontinuing water service to a consumer's premises until the cross-connection hazard is eliminated or controlled to the satisfaction of the purveyor;

(ii) Requiring the consumer to install an approved backflow preventer for premises isolation commensurate with the degree of hazard; or

(iii) The purveyor installing an approved backflow preventer for premises isolation commensurate with the degree of hazard.

(j) Except in the event of an emergency, purveyors shall notify the authority having jurisdiction prior to denying or discontinuing water service to a consumer's premises for one or more of the reasons listed in (h) of this subsection.

(k) The purveyor shall prohibit the intentional return of used water to the purveyor's distribution system. Used water includes, but is not limited to, water used for heating, cooling, or other purposes within the consumer's water system.

(3) Minimum elements of a cross-connection control program.

(a) To be acceptable to the department, the purveyor's cross-connection control program (~~shall~~) must include the minimum elements identified in this subsection.

(b) Element 1: The purveyor shall adopt a local ordinance, resolution, code, bylaw, or other written legal instrument that:

(i) Establishes the purveyor's legal authority to implement a cross-connection control program;

(ii) Describes the operating policies and technical provisions of the purveyor's cross-connection control program; and

(iii) Describes the corrective actions (~~used to ensure that~~) required of consumers to comply with the purveyor's cross-connection control requirements.

(c) Element 2: The purveyor shall develop and implement procedures and schedules for evaluating new and existing service connections to assess the degree of hazard posed by the consumer's premises to the purveyor's distribution system and notifying the consumer within a reasonable time frame of the hazard evaluation results. At a minimum, the program shall meet the following:

(i) For connections made on or after April 9, 1999, procedures shall ensure that an initial evaluation is conducted before water service is provided;

(ii) For all other connections, procedures shall ensure that an initial evaluation is conducted in accordance with a schedule acceptable to the department; and

(iii) For all service connections, once an initial evaluation has been conducted, procedures shall ensure that periodic reevaluations are conducted in accordance with a schedule acceptable to the department and whenever there is a change in the use of the premises.

(d) Element 3: The purveyor shall develop and implement procedures and schedules for ensuring that:

(i) Cross-connections are eliminated whenever possible;

(ii) When cross-connections cannot be eliminated, they are controlled by installation of approved backflow preventers commensurate with the degree of hazard; and

(iii) Approved backflow preventers are installed in accordance with the requirements of subsection (6) of this section.

(e) Element 4: The purveyor shall ensure that personnel, including at least one person certified as a CCS, are provided to develop and implement the cross-connection control program.

(f) Element 5: The purveyor shall develop and implement procedures to ensure that approved backflow preventers relied upon to protect the public water system are inspected and/or tested (as applicable) under subsection (7) of this section.

(g) Element 6: The purveyor shall develop and implement a backflow prevention assembly testing quality control assurance program(;) including, but not limited to, documentation of BAT certification and test kit calibration, test report contents, and time frames for submitting completed test reports.

(h) Element 7: The purveyor shall develop and implement (when appropriate) procedures for responding to backflow incidents.

(i) Element 8: The purveyor shall include information on cross-connection control in the purveyor's existing program for educating consumers about water system operation. The public education program may include periodic bill inserts, public service announcements, pamphlet distribution, notification of new consumers and consumer confidence reports.

(j) Element 9: The purveyor shall develop and maintain cross-connection control records including, but not limited to, the following:

(i) A master list of service connections and/or consumer's premises where the purveyor relies upon approved backflow preventers to protect the public water system from contamination, the assessed hazard level of each, and the required backflow preventer(s);

(ii) Inventory information on backflow preventers that protect the public water system including:

(A) Approved air gaps installed in lieu of approved assemblies including exact air gap location, assessed degree of hazard, installation date, history of inspections, inspection results, and person conducting inspections;

(B) Approved backflow assemblies including exact assembly location, assembly description (type, manufacturer, model, size, and serial number), assessed degree of hazard, installation date, history of inspections, tests and repairs, test results, and person performing tests; and

(C) Approved AVBs used for irrigation system applications including location, description (manufacturer, model, and size), installation date, history of inspection(s), and person performing inspection(s).

(iii) Cross-connection program summary reports and backflow incident reports required under subsection (8) of this section.

(k) Element 10: Purveyors who distribute and/or have facilities that receive reclaimed water within their water service area shall meet any additional cross-connection control requirements imposed by the department in a permit issued under chapter 90.46 RCW.

(4) Approved backflow preventer selection.

(a) The purveyor shall ensure that a CCS:

(i) Assesses the degree of hazard posed by the consumer's water system upon the purveyor's distribution system; and

(ii) Determines the appropriate method of backflow protection for premises isolation as described in Table ((8)) 12 of this section.

**TABLE ((8)) 12  
APPROPRIATE METHODS OF BACKFLOW PROTECTION FOR  
PREMISES ISOLATION**

Degree of Hazard	Application Condition	Appropriate Approved Backflow Preventer
High health cross-connection hazard	Backsiphonage or backpressure backflow	AG, RPBA, or RPDA
Low cross-connection hazard	Backsiphonage or backpressure backflow	AG, RPBA, RPDA, DCVA, or DCDA

(b) Premises isolation requirements.

(i) The purveyor shall ensure that an approved air gap, RPBA, or RPDA is installed for premises isolation for service connections to premises posing a high health cross-connection hazard including, but not limited to, those premises listed in Table ((9)) 13 of this section, except those premises identified as severe in (b)(ii) of this subsection.

(ii) For service connections to premises posing a severe health cross-connection hazard including wastewater treatment plants, radioactive material processing plants, and nuclear reactors, the purveyor shall ensure that either an:

(A) Approved air gap is installed for premises isolation; or

(B) Approved RPBA or RPDA is installed for premises isolation in combination with an in-plant approved air gap.

(iii) If the purveyor's CCS determines that no hazard exists for a connection serving premises of the type listed in Table ((9)) 13 of this section, the purveyor may grant an exception to the premises isolation requirements of (b)(i) of this subsection.

(iv) The purveyor shall document, on a case-by-case basis, the reasons for granting an exception under (b)(i) of this subsection and include the documentation in the cross-connection control program annual summary report required in subsection (8) of this section.

**TABLE ((9)) 13 (formerly codified as TABLE 9)  
SEVERE\* AND HIGH HEALTH CROSS-CONNECTION HAZARD  
PREMISES REQUIRING PREMISES ISOLATION BY AG OR RPBA**

Agricultural (farms and dairies)
Beverage bottling plants
Car washes
Chemical plants
Commercial laundries and dry cleaners
Premises where both reclaimed water and potable water are provided
Film processing facilities

Food processing plants
Hospitals, medical centers, nursing homes, veterinary, medical and dental clinics, and blood plasma centers
Premises with separate irrigation systems using the purveyor's water supply and with chemical addition*
Laboratories
Metal plating industries
Mortuaries
Petroleum processing or storage plants
Piers and docks
Radioactive material processing plants or nuclear reactors*
Survey access denied or restricted
Wastewater lift stations and pumping stations
Wastewater treatment plants*
Premises with an unapproved auxiliary water supply interconnected with the potable water supply

+ For example, parks, playgrounds, golf courses, cemeteries, estates, etc.  
 \* RPBA's for connections serving these premises are acceptable only when used in combination with an in-plant approved air gap; otherwise, the purveyor shall require an approved air gap at the service connection.

(c) Backflow protection for single-family residences.

(i) For single-family residential service connections, the purveyor shall comply with the premises isolation requirements of (b) of this subsection when applicable.

(ii) If the requirements of (b) of this subsection do not apply and the requirements specified in subsection (2)(g)(ii) of this section are met, the purveyor may rely on backflow protection provided at the point of hazard in accordance with WAC 51-56-0600 of the UPC for hazards such as, but not limited to:

- (A) Irrigation systems;
- (B) Swimming pools or spas;
- (C) Ponds; and
- (D) Boilers.

For example, the purveyor may accept an approved AVB on a residential irrigation system, if the AVB is properly installed under the UPC.

(d) Backflow protection for fire protection systems.

(i) Backflow protection is not required for residential flow-through or combination fire protection systems constructed of potable water piping and materials.

(ii) For service connections with fire protection systems other than flow-through or combination systems, the purveyor shall ensure that backflow protection consistent with WAC 51-56-0600 of the UPC is installed. The UPC requires minimum protection as follows:

(A) An RPBA or RPDA for fire protection systems with chemical addition or using unapproved auxiliary water supply; and

(B) A DCVA or DCDA for all other fire protection systems.

(iii) For connections made on or after April 9, 1999, the purveyor shall ensure that backflow protection is installed before water service is provided.

(iv) For existing fire protection systems:

(A) With chemical addition or using unapproved auxiliary supplies, the purveyor shall ensure that backflow protection is installed within ninety days of the purveyor notifying the consumer of the high health cross-connection hazard or in accordance with an alternate schedule acceptable to the purveyor.

(B) Without chemical addition, without on-site storage, and using only the purveyor's water (i.e., no unapproved auxiliary supplies on or available to the premises), the purveyor shall ensure that backflow protection is installed in accordance with a schedule acceptable to the purveyor or at an earlier date if required by the code official administering the State Building Code as defined in chapter 51-04 WAC.

(C) When establishing backflow protection retrofitting schedules for fire protection systems that have the characteristics listed in (d)(iv)(B) of this subsection, the purveyor may consider factors such as, but not limited to, impacts of assembly installation on sprinkler performance, costs of retrofitting, and difficulty of assembly installation.

(e) Purveyors may require approved backflow preventers commensurate with the degree of hazard as determined by the purveyor to be installed for premises isolation for connections serving premises that have characteristics such as, but not limited to, the following:

(i) Complex plumbing arrangements or plumbing potentially subject to frequent changes that make it impracticable to assess whether cross-connection hazards exist;

(ii) A repeated history of cross-connections being established or reestablished; or

(iii) Cross-connection hazards are unavoidable or not correctable, such as, but not limited to, tall buildings.

(5) Approved backflow preventers.

(a) The purveyor shall ensure that all backflow prevention assemblies relied upon by the purveyor are models included on the current list of backflow prevention assemblies approved for use in Washington state. The current approved assemblies list is available from the department upon request.

(b) The purveyor may rely on testable backflow prevention assemblies that are not currently approved by the department, if the assemblies:

(i) Were included on the department (~~and/or~~) or USC list of approved backflow prevention assemblies at the time of installation;

(ii) Have been properly maintained;

(iii) Are commensurate with the purveyor's assessed degree of hazard; and

(iv) Have been inspected and tested at least annually and have successfully passed the annual tests.

(c) The purveyor shall ensure that an unlisted backflow prevention assembly is replaced by an approved assembly commensurate with the degree of hazard, when the unlisted assembly:

(i) Does not meet the conditions specified in (b)(i) through (iv) of this subsection;

(ii) Is moved; or

(iii) Cannot be repaired using spare parts from the original manufacturer.

(d) The purveyor shall ensure that AVBs meet the definition of approved atmospheric vacuum breakers as described in WAC 246-290-010.

(6) Approved backflow preventer installation.

(a) The purveyor shall ensure that approved backflow preventers are installed in the orientation for which they are approved (if applicable).

(b) The purveyor shall ensure that approved backflow preventers are installed in a manner that:

(i) Facilitates their proper operation, maintenance, inspection, in-line testing (as applicable), and repair using standard installation procedures acceptable to the department such as those in the USC Manual or PNWS-AWWA Manual;

(ii) Ensures that the assembly will not become submerged due to weather-related conditions such as flooding; and

(iii) Ensures compliance with all applicable safety regulations.

(c) The purveyor shall ensure that approved backflow assemblies for premises isolation are installed at a location adjacent to the meter or property line or an alternate location acceptable to the purveyor.

(d) When premises isolation assemblies are installed at an alternate location acceptable to the purveyor, the purveyor shall ensure that there are no connections between the point of delivery from the public water system and the approved backflow assembly, unless the installation of the connection meets the purveyor's cross-connection control requirements and is specifically approved by the purveyor.

(e) The purveyor shall ensure that approved backflow preventers are installed in accordance with the following time frames:

(i) For connections made on or after April 9, 1999, the following conditions shall be met before service is provided:

(A) The provisions of subsection (3)(d)(ii) of this section; and

(B) Satisfactory completion of the requirements of subsection (7) of this section.

(ii) For existing connections where the purveyor identifies a high health cross-connection hazard, the provisions of (3)(d)(ii) of this section shall be met:

(A) Within ninety days of the purveyor notifying the consumer of the high health cross-connection hazard; or

(B) In accordance with an alternate schedule acceptable to the purveyor.

(iii) For existing connections where the purveyor identifies a low cross-connection hazard, the provisions of subsection (3)(d)(ii) of this section shall be met in accordance with a schedule acceptable to the purveyor.

(f) The purveyor shall ensure that bypass piping installed around any approved backflow preventer is equipped with an approved backflow preventer that:

(i) Affords at least the same level of protection as the approved backflow preventer that is being bypassed; and

(ii) Complies with all applicable requirements of this section.

(7) Approved backflow preventer inspection and testing.

(a) For backflow preventers that protect the public water system, the purveyor shall ensure that:

(i) A CCS inspects backflow preventer installations (~~to ensure~~) so that protection is provided commensurate with the assessed degree of hazard;

(ii) Either a BAT or CCS inspects:

(A) Air gaps installed in lieu of approved backflow prevention assemblies for compliance with the approved air gap definition; and

(B) Backflow prevention assemblies for correct installation and approval status.

(iii) A BAT tests approved backflow prevention assemblies for proper operation.

(b) The purveyor shall ensure that inspections and/or tests of approved air gaps and approved backflow assemblies that protect the public water system are conducted:

(i) When any of the following occur:

(A) Upon installation, repair, reinstallation, or relocation of an assembly;

(B) Upon installation or replumbing of an air gap;

(C) After a backflow incident involving the assembly or air gap; and

(ii) Annually thereafter, unless the purveyor requires more frequent testing for high hazard premises or for assemblies that repeatedly fail.

(c) The purveyor shall ensure that inspections of AVBs installed on irrigation systems are conducted:

(i) At the time of installation;

(ii) After a backflow incident; and

(iii) After repair, reinstallation, or relocation.

(d) The purveyor shall ensure that approved backflow prevention assemblies are tested using procedures acceptable to the department, such as those specified in the most recently published edition of the USC Manual. When circumstances, such as, but not limited to, configuration or location of the assembly, preclude the use of USC test procedures, the purveyor may allow, on a case-by-case basis, the use of alternate (non-USC) test procedures acceptable to the department.

(e) The purveyor shall ensure that results of backflow prevention assembly inspections and tests are documented and reported in a manner acceptable to the purveyor.

(f) The purveyor shall ensure that an approved backflow prevention assembly or AVB, whenever found to be improperly installed, defective, not commensurate with the degree of hazard, or failing a test (if applicable) is properly reinstalled, repaired, overhauled, or replaced.

(g) The purveyor shall ensure that an approved air gap, whenever found to be altered or improperly installed, is properly replumbed or, if commensurate with the degree of hazard, is replaced by an approved RPBA.

(8) Recordkeeping and reporting.

(a) Purveyors shall keep cross-connection control records for the following time frames:

(i) Records pertaining to the master list of service connections (~~and/or~~) or consumer's premises required in subsection (3)(j)(i) of this section shall be kept as long as the premises pose a cross-connection hazard to the purveyor's distribution system;

(ii) Records regarding inventory information required in subsection (3)(j)(ii) of this section shall be kept for five years or for the life of the approved backflow preventer whichever is shorter; and



(iii) Records regarding backflow incidents and annual summary reports required in subsection (3)(j)(iii) of this section shall be kept for five years.

(b) Purveyors may maintain cross-connection control records in original form or transfer data to tabular summaries.

(c) Purveyors may maintain records or data in any media, such as paper, film, or electronic format.

(d) The purveyor shall complete the cross-connection control program summary report annually. Report forms and guidance on completing the report are available from the department.

(e) The purveyor shall make all records and reports required in subsection (3)(j) of this section available to the department or its representative upon request.

(f) The purveyor shall notify the department, authority having jurisdiction, and local health jurisdiction as soon as possible, but no later than the end of the next business day, when a backflow incident is known by the purveyor to have:

(i) Contaminated the public water system; or

(ii) Occurred within the premises of a consumer served by the purveyor.

(g) The purveyor shall:

(i) Document details of backflow incidents contaminating the public water system on a backflow incident report form available from the department; and

(ii) Include all backflow incident report(s) in the annual cross-connection program summary report referenced in (d) of this subsection, unless otherwise requested by the department.

**AMENDATORY SECTION** (Amending WSR 17-01-062, filed 12/14/16, effective 1/14/17)

**WAC 246-290-630 General requirements.** (1) The purveyor shall ~~((ensure that))~~ provide treatment ~~((is provided))~~ for surface and GWI sources consistent with the treatment technique requirements specified in Part 6 of this chapter ~~((246-290 WAC))~~.

(2) The purveyor shall install and properly operate water treatment processes to ~~((ensure))~~ achieve at least:

(a) 99.9 percent (3-log) removal and/or inactivation of *Giardia lamblia* cysts;

(b) 99.99 percent (4-log) removal and/or inactivation of viruses; and

(c) 99 percent (2-log) removal of *Cryptosporidium* oocysts if required to filter.

(3) The purveyor shall ensure that the requirements of subsection (2) of this section are met between a point where the source water is not subject to contamination by untreated surface water and a point at or before the first consumer.

(4) The department may require higher levels of removal and/or inactivation of *Giardia lamblia* cysts, *Cryptosporidium* oocysts, and viruses than specified in subsection (2) of this section if deemed necessary to protect the health of consumers served by the system.

(5) The purveyor shall ensure that personnel operating a system subject to Part 6 of this chapter ~~((246-290 WAC))~~ meet the requirements under chapter ~~((70.119))~~ 70A.120 RCW and chapter 246-292 WAC.

(6) The purveyor of a Group A community system serving water from a surface or GWI source to the public before January 1, 1991, shall comply with applicable minimum treatment requirements. The purveyor shall meet either:

(a) The filtration and disinfection requirements under WAC 246-290-660 and 246-290-662 respectively;

(b) The criteria to remain unfiltered under WAC 246-290-690 and the disinfection requirements under WAC 246-290-692; or

(c) The criteria to provide a limited alternative to filtration under WAC 246-290-691 and the disinfection requirements under WAC 246-290-692.

(7) The purveyor of a Group A noncommunity system serving water from a surface or GWI source, shall meet either:

(a) The filtration and disinfection requirements under WAC 246-290-660 and 246-290-662, respectively; or

(b) The criteria to provide a limited alternative to filtration under WAC 246-290-691 and the disinfection requirements under WAC 246-290-692.

(8) The purveyor of a Group A system first serving water from a surface or GWI source to the public after December 31, 1990, shall meet either:

(a) The filtration and disinfection requirements under WAC 246-290-660 and 246-290-662, respectively; or

(b) The criteria to provide a limited alternative to filtration under WAC 246-290-691 and the disinfection requirements under WAC 246-290-692.

(9) The purveyor of a system required to install filtration may choose to provide a limited alternative to filtration or abandon the surface or GWI source as a permanent or seasonal source and develop an alternate, department-approved source. Purveyors that develop alternate groundwater sources or purchase water from a department-approved public water system using a groundwater source shall no longer be subject to Part 6 of chapter 246-290 WAC, once the alternate source is approved by the department and is on line.

(10) A purveyor that chooses to provide a limited alternative to filtration shall submit an application to the department that contains the information necessary to determine whether the source can meet the criteria.

(11) If a limited alternative to filtration is provided, then the purveyor shall install and properly operate treatment processes ~~((to ensure))~~ for greater removal and/or inactivation efficiencies of *Giardia lamblia* cysts, viruses, or other pathogenic organisms of public health concern (including *Cryptosporidium* oocysts) than would be achieved by the combination of filtration and chlorine disinfection.

(12) Systems that were required to develop a disinfection profile under 40 C.F.R. 141.172 shall provide that profile and a calculated disinfection benchmark, as described in 40 C.F.R. 141.172 (c)(2) and (3), along with other project information specified in WAC 246-290-110, when proposing any change to the disinfection treatment system. The proposal for change ~~((shall))~~ must include an analysis of how the proposed change will affect the current level of disinfection. The profile must also be available for inspection during routine sanitary surveys conducted under WAC 246-290-416.

(13) Community and nontransient noncommunity systems serving less than ten thousand persons must meet the

disinfection profiling and benchmarking provisions required under 40 C.F.R. 141.530 through 141.544.

(14) Systems required to develop a disinfection profile under 40 C.F.R. 141.530 shall provide that profile and a calculated disinfection benchmark, as described in 40 C.F.R. 141.543 along with other project information specified in WAC 246-290-110, when proposing any change to the disinfection treatment system. The proposal for change (~~shall~~) must include an analysis of how the proposed change will affect the current level of disinfection. The profile must also be available for inspection during routine sanitary surveys conducted under WAC 246-290-416.

(15) A system using conventional, direct, or in-line filtration that must arrange for the conduct of a CPE, under 40 C.F.R. 141.175 (b)(4) or 40 C.F.R. 141.563, may be required to arrange for CTA. The department will determine the need for CTA on a case-by-case basis.

(16) Water systems subject to the requirements of Part 6 of this chapter must also comply with the enhanced treatment requirements for *Cryptosporidium* under 40 C.F.R. Subpart W. The requirements are in addition to the requirements of Part 6 of this chapter and include:

- (a) General requirements under 40 C.F.R. 141.700;
- (b) Source monitoring requirements under 40 C.F.R. 141.701-707;
- (c) Disinfection profiling and benchmarking requirements under 40 C.F.R. 141.708-709;
- (d) Treatment technique requirements under 40 C.F.R. 141.710-714;
- (e) Requirements for microbial toolbox components under 40 C.F.R. 141.715-720; and
- (f) Reporting and recordkeeping requirements under 40 C.F.R. 141.721-722.

(17) Water systems using UV reactors to obtain treatment credit for *Cryptosporidium* inactivation must:

- (a) Validate the reactors using the validation testing procedures specified under 40 C.F.R. 141.720 (d)(2); or
- (b) Validate the reactor under Austrian ONORM Standards or German DVGW Standards.

**AMENDATORY SECTION** (Amending WSR 19-07-063, filed 3/19/19, effective 4/19/19)

**WAC 246-290-638 Analytical requirements.** (1) The purveyor shall ensure that only qualified persons conduct measurements for pH, temperature, turbidity, and residual disinfectant concentrations. In this section, qualified means:

- (a) A person certified under chapter 246-292 WAC;
- (b) An analyst, with experience conducting these measurements, from the state public health laboratory or another laboratory certified by the department;
- (c) A state or local health jurisdiction professional experienced in conducting these measurements; or
- (d) For the purpose of monitoring distribution system residual disinfectant concentration only, a person designated by and under the direct supervision of a waterworks operator certified under chapter 246-292 WAC.

(2) The purveyor shall ensure that measurements for temperature, turbidity, pH, and residual disinfectant concen-

tration are made in accordance with "standard methods," or other EPA approved methods.

(3) The purveyor shall ensure that samples for coliform and HPC analysis are:

- (a) Collected and transported in accordance with department-approved methods; and
- (b) Submitted to the state public health laboratory or another laboratory certified by the department to conduct the analyses.

(4) Turbidity monitoring.

(a) The purveyor shall equip the system's water treatment facility laboratory with a:

- (i) Bench model turbidimeter; and
- (ii) Continuous turbidimeter and recorder if required under WAC 246-290-664 or 246-290-694.

(b) The purveyor shall ensure that bench model and continuous turbidimeters are:

(i) Designed to meet the criteria in "standard methods," approved methods under 40 C.F.R. 141.74 (a)(1), or alternative testing methods under Appendix A to Subpart C of 40 C.F.R. Part 141; and

(ii) Properly operated, calibrated, and maintained at all times in accordance with the manufacturer's recommendations.

(c) The purveyor shall validate continuous turbidity measurements for accuracy as follows:

(i) Calibrate turbidity equipment (~~(based upon)~~) using a primary standard (~~(in the expected range of measurements)~~) on at least a quarterly basis for instruments using an incandescent light source and on at least an annual basis for instruments using an LED or laser light source; and

(ii) Verify continuous turbidimeter performance on a weekly basis, not on consecutive days, with grab sample measurements made using either a properly calibrated bench model turbidimeter or a secondary standard as specified by the manufacturer.

(d) When continuous turbidity monitoring equipment fails, the purveyor shall measure turbidity on grab samples collected at least every four hours from the combined filter effluent and individual filters while the system serves water to the public and the equipment is being repaired or replaced. The purveyor shall have continuous monitoring equipment online within five working days of failure.

(5) Purveyors shall verify instruments used for continuous monitoring of free and total chlorine residual with a grab sample measurement at least every five days, or with a protocol approved by the department as required under 40 C.F.R. 141.74 (a)(2).

(6) Purveyors monitoring for *Cryptosporidium* or *E. coli* as required under 40 C.F.R. 141.701 shall collect samples and have them analyzed under 40 C.F.R. 141.704 and 141.705.

**AMENDATORY SECTION** (Amending WSR 17-01-062, filed 12/14/16, effective 1/14/17)

**WAC 246-290-654 Treatment criteria for filtered systems.** (1) The purveyor shall operate filters so that maximum flow rates do not exceed those specified in Table ~~((+0))~~ 14 of this section. The purveyor may operate filters at higher

flow rates, if the purveyor demonstrates to the department's satisfaction that filtration at the higher rate consistently achieves at least 99 percent (2-log) removal of *Giardia lamblia* cysts and 99 percent (2-log) removal of *Cryptosporidium* oocysts and meets the turbidity performance requirements of Table ((4+)) 15.

**Table ((40)) 14**  
**FILTRATION OPERATION CRITERIA**

FILTRATION TECHNOLOGY/MEDIA	MAXIMUM FILTRATION RATE (gpm/ft <sup>2</sup> )
Conventional, Direct and In-Line	
Gravity Filters with Single Media	3
Gravity Filters with Deep Bed, Dual or Mixed Media	6
Pressure Filters with Single Media	2
Pressure Filters with Deep Bed, Dual or Mixed Media	3
Slow Sand	0.1
Diatomaceous Earth	1.0

(2) The purveyor using conventional, direct or in-line filtration shall ensure that effective coagulation is in use at all times the water treatment facility produces water served to the public.

(3) The purveyor using conventional, direct, or in-line filtration shall demonstrate treatment effectiveness for *Giardia lamblia* cyst and *Cryptosporidium* oocyst removal by one of the following methods:

(a) Turbidity reduction method.

(i) The purveyor shall make source and filtered water turbidity measurements in accordance with WAC 246-290-664 (2) and (3) respectively.

(ii) The purveyor shall achieve:

(A) The turbidity performance requirements specified in WAC 246-290-660(1) and at least an eighty percent reduction in source turbidity based on an average of the daily turbidity reductions measured in a calendar month; or

(B) An average daily filtered water turbidity less than or equal to 0.1 NTU.

(b) Particle counting method. The purveyor shall:

(i) Use a particle counting protocol acceptable to the department; and

(ii) Demonstrate at a frequency acceptable to the department at least the following log reduction of particles in the size range of five to fifteen microns (*Giardia lamblia* cyst-sized particles) and three to five microns (*Cryptosporidium* oocyst-sized particles), as applicable:

(A) 2.5-log reduction in *Giardia lamblia* cyst-sized particles and a 2-log reduction in *Cryptosporidium* particles for systems using conventional filtration; or

(B) 2.0 log reduction for systems using direct or in-line filtration.

(c) Microscopic particulate analysis method. The purveyor shall:

(i) Use a protocol acceptable to the department; and

(ii) Demonstrate at a frequency acceptable to the department at least the following log reduction of *Giardia lamblia* cysts and *Cryptosporidium* oocysts or *Giardia lamblia* cyst and *Cryptosporidium* oocyst surrogate indicators as applicable:

(A) 2.5-log reduction in *Giardia lamblia* cysts or surrogates and a 2-log reduction in *Cryptosporidium* oocyst or surrogates for systems using conventional filtration; and

(B) 2.0 log reduction for systems using direct or in-line filtration.

(d) Other methods acceptable to the department.

(4) The purveyor shall ((ensure)) provide continuous disinfection of all water delivered to the public and shall:

(a) Maintain an adequate supply of disinfection chemicals and keep back-up system components and spare parts on hand;

(b) Develop, maintain, and post at the water treatment facility a plan detailing:

(i) How water delivered to the public will be continuously and adequately disinfected; and

(ii) The elements of an emergency notification plan to be implemented whenever the residual disinfectant concentration at entry to distribution falls below 0.2 mg/L for more than one hour.

(c) Implement the plan during an emergency affecting disinfection.

(5) Operations program.

(a) For each water treatment facility treating a surface or GWI source, the purveyor shall develop an operations program and make it available to the department for review upon request.

(b) The program shall be submitted to the department as an addendum to the purveyor's water system plan (WAC 246-290-100) or small water system management program (WAC 246-290-105).

(c) The program shall detail how the purveyor will produce optimal filtered water quality at all times the water treatment facility produces water to be served to the public.

(d) The purveyor shall operate the water treatment facility in accordance with the operations program.

(e) The operations program shall include, but not be limited to, a description of:

(i) For conventional, direct or in-line filtration, procedures used to determine and maintain optimized coagulation as demonstrated by meeting the requirements of WAC 246-290-654(3);

(ii) Procedures used to determine chemical dose rates;

(iii) How and when each unit process is operated;

(iv) Unit process equipment maintenance program;

(v) Treatment plant performance monitoring program;

(vi) Laboratory procedures;

(vii) Records;

(viii) Reliability features; and

(ix) Response plans for water treatment facility emergencies, including disinfection failure and watershed emergencies.

(f) The purveyor shall ensure the operations program is:

(i) Readily available at the water treatment facility for use by operators and for department inspection;

(ii) Consistent with department guidelines for operations procedures such as those described in department guidance on surface water treatment and water system planning; and

(iii) Updated as needed to reflect current water treatment facility operations.

(6) Pressure filters. Purveyors using pressure filters shall:

(a) Inspect and evaluate the filters, at least every six months, for conditions that would reduce their effectiveness in removing *Giardia lamblia* cysts;

(b) Maintain, and make available for department review, a written record of pressure filter inspections; and

(c) Be prepared to conduct filter inspections in the presence of a department representative, if requested.

**AMENDATORY SECTION** (Amending WSR 17-01-062, filed 12/14/16, effective 1/14/17)

**WAC 246-290-660 Filtration.** (1) Turbidity performance requirements.

(a) The ~~((purveyor shall ensure that the))~~ turbidity level of representative filtered water samples must:

(i) ~~((Complies))~~ Comply with the performance standards in Table ~~((+))~~ 15 of this section;

(ii) Never exceed~~((s))~~ 5.0 NTU for any system using slow sand, diatomaceous earth;

(iii) Never exceed~~((s))~~ 1.0 NTU for any system using conventional, direct, or in-line filtration; and

(iv) Never exceed~~((s))~~ the maximum allowable turbidity determined by the department on a case-by-case basis for any system using an alternative filtration technology approved under WAC 246-290-676 (2)(b).

**Table ~~((4))~~ 15**

**TURBIDITY PERFORMANCE STANDARDS**

Filtration Technology	Filtered water turbidity (in NTUs) shall be less than or equal to this value in at least 95% of the measurements made each calendar month
Conventional, Direct and In-line	0.30
Slow Sand	1.0
Diatomaceous Earth	1.0
Alternative Technology	As determined by the department through case-by-case approval of technology, under WAC 246-290-676 (2)(b).

(b) The department may allow the turbidity of filtered water from a system using slow sand filtration to exceed 1.0 NTU, but never 5.0 NTU, if the system demonstrates to the department's satisfaction that the higher turbidity level will not endanger the health of consumers served by the system. As a condition of being allowed to produce filtered water with a turbidity exceeding 1.0 NTU, the purveyor may be required to monitor one or more parameters in addition to the parameters specified under WAC 246-290-664. The department shall notify the purveyor of the type and frequency of monitoring to be conducted.

(2) *Giardia lamblia*, *Cryptosporidium*, and virus removal credit.

(a) The department shall notify the purveyor of the removal credit granted for the system's filtration process. The department shall specify removal credit for:

(i) Existing filtration facilities based on periodic evaluations of performance and operation; and

(ii) New or modified filtration facilities based on results of pilot plant studies or full scale operation.

(b) Conventional, direct, and in-line filtration.

(i) The removal credit the department may grant to a system using conventional, direct, or in-line filtration and demonstrating effective treatment is as follows:

Percent Removal Credit (log)

Filtration Technology	<i>Giardia</i>		Virus		<i>Cryptosporidium</i>	
	Percent	log	Percent	log	Percent	log
Conventional	99.7	2.5	99	2.0	99	2.0
Direct and in-line	99	2.0	90	1.0	99	2.0

(ii) A system using conventional, direct, or in-line filtration shall be considered to provide effective treatment, if the purveyor demonstrates to the satisfaction of the department that the system meets the:

(A) Turbidity performance requirements under subsection (1) of this section; and

(B) Operations requirements of WAC 246-290-654.

(iii) The department shall not grant removal credit to a system using conventional, direct, or in-line filtration that:

(A) Fails to meet the minimum turbidity performance requirements under subsection (1) of this section; or

(B) Fails to meet the operating requirements under WAC 246-290-654.

(c) Slow sand filtration.

The department may grant a system using slow sand filtration 99 percent (2-log) *Giardia lamblia* cyst and *Cryptosporidium* oocyst removal credit and 99 percent (2-log) virus removal credit, if the system meets the department design requirements under WAC 246-290-676 and meets the minimum turbidity performance requirements in subsection (1) of this section.

(d) Diatomaceous earth filtration.

The department may grant a system using diatomaceous earth filtration 99 percent (2-log) *Giardia lamblia* cyst and *Cryptosporidium* oocyst removal credit and 90 percent (1 log) virus removal credit, if the system meets the department design requirements under WAC 246-290-676 and meets the

minimum turbidity performance requirements in subsection (1) of this section.

(e) Alternative filtration technology.

The department shall grant, on a case-by-case basis, *Giardia lamblia* cyst, *Cryptosporidium* oocyst, and virus removal credit for systems using alternative filtration technology based on results of product testing acceptable to the department.

(f) The purveyor granted no *Giardia lamblia* cyst removal credit and no *Cryptosporidium* oocyst removal credit shall:

(i) Provide treatment under WAC 246-290-662 (2)(d); and

(ii) Within ninety days of department notification regarding removal credit, submit an action plan to the department for review and approval. The plan shall:

(A) Detail how the purveyor plans to comply with the turbidity performance requirements in subsection (1) of this section and operating requirements of WAC 246-290-654; and

(B) Identify the proposed schedule for implementation.

(iii) Be considered in violation of the treatment technique specified in WAC 246-290-632 (2)(a)(i) and shall take follow-up action specified in WAC 246-290-634.

(g) Higher level removal credit.

(i) The department may grant a higher level of *Giardia lamblia*, *Cryptosporidium*, and virus removal credit than listed under (b) through (e) of this subsection, if the purveyor demonstrates to the department's satisfaction that the higher level can be consistently achieved.

(ii) As a condition of maintaining the maximum removal credit, purveyors may be required to periodically monitor one or more parameters not routinely monitored under WAC 246-290-664. The department shall notify the purveyor of the type and frequency of monitoring to be conducted.

(3) Disinfection byproduct precursor removal requirements.

(a) Conventional systems using sedimentation shall meet the treatment technique requirements for control of disinfection byproduct precursors specified in 40 C.F.R. 141.135.

(i) Applicability of this requirement shall be determined in accordance with 40 C.F.R. 141.135(a).

(ii) Enhanced coagulation and enhanced softening shall be provided in accordance with 40 C.F.R. 141.135(b), if applicable.

(iii) Compliance with the treatment technique requirements for control of disinfection byproduct precursors shall be determined in accordance with 40 C.F.R. 141.135(c).

(b) For the purposes of compliance with (a) of this subsection, sedimentation shall be considered applicable when:

(i) Surface overflow rates and other design parameters are in conformance with traditionally accepted industry standards and textbook values, such as those prescribed in nationally accepted standards, including the most recent version of the *Recommended Standards for Water Works, A Committee Report of the Great Lakes - Upper Mississippi River Board of State Public Health and Environmental Managers*; and

(ii) The system has received pathogen removal credit for the sedimentation basin.

(4) Filter backwash recycling requirements.

(a) Purveyors using conventional, direct, or in-line filtration must report to the department, in writing, whether they recycle spent filter backwash water, thickener supernatant, or liquids from dewatering processes within the treatment plant. Purveyors that do recycle spent filter backwash water, thickener supernatant, or liquids from dewatering processes must also report the following information:

(i) A plant schematic showing the origin of all flows that are recycled (including, but not limited to, spent filter backwash water, thickener supernatant, and liquids from dewatering processes), the hydraulic conveyance (i.e., pipe, open channel) used to transport them, and the location where they are reintroduced back into the treatment plant.

(ii) Typical recycle flow in gallons per minute (gpm), the highest observed plant flow experienced in the previous year (gpm), design flow for the treatment plant (gpm), and the approved operating capacity for the plant.

(b) Purveyors using conventional, direct, or in-line filtration that recycle spent filter backwash water, thickener supernatant, or liquids from dewatering processes within the treatment plant shall:

(i) Return the recycled flow prior to, or concurrent with the location where primary coagulant is introduced into the flow stream.

(ii) By no later than June 8, 2006, complete any capital improvements (physical modifications requiring engineering planning, design, and construction) necessary to meet the requirements of (b)(i) of this subsection.

(iii) On a case-by-case basis, the department may approve an alternate location for the return of recycle flows.

**AMENDATORY SECTION** (Amending WSR 10-20-068, filed 9/29/10, effective 11/1/10)

**WAC 246-290-686 Compliance requirements for unfiltered systems.** (1) The purveyor using an unfiltered surface or GWI source shall comply with:

(a) Subparts A and D of Part 6 of chapter 246-290 WAC; and

(b) All other applicable sections of this chapter.

(2) The purveyor purchasing water from a system using a surface or GWI source shall comply with:

(a) The applicable requirements of Subpart A of Part 6 of chapter 246-290 WAC;

(b) The disinfection, monitoring and reporting requirements under WAC 246-290-692 (5)(b), 246-290-694 (8)(b) and 246-290-696(4) respectively when purchasing completely treated surface or GWI water; or

(c) The treatment technique, monitoring and reporting requirements as directed by the department when the purveyor is purchasing incompletely treated surface or GWI water.

(3) The purveyor using an unfiltered GWI source shall be subject to the effective dates, compliance requirements, and violations specified in Table ((42)) 16 of this section.

**Table ((12)) 16**  
**COMPLIANCE REQUIREMENTS FOR**  
**SYSTEMS USING UNFILTERED GWI SOURCES**

REQUIREMENTS BECOME EFFECTIVE	APPLICABLE PART 6 REQUIREMENTS	VIOLATION TYPE	
		Turbidity MCL	Treatment Technique
Six months after GWI determination	Only Analytical, Monitoring and Reporting Requirements (WAC 246-290-638, 246-290-694 and 246-290-696 respectively)	Refer to 40 C.F.R. 141.13 and 141.22	Not in effect yet
Eighteen months after GWI determination	Subparts A and D	No longer in effect	In effect as defined in WAC 246-290-632

(4) Purveyors of community systems using surface water sources had the option to remain unfiltered if they demonstrated compliance with the department's criteria to remain unfiltered by December 30, 1991.

(5) A purveyor that served water to the public before January 1, 1991, using a GWI source may have that source remain unfiltered, if, within eighteen months of GWI determination, the purveyor complies with Part 6 of this chapter and, the source water quality and site-specific conditions under WAC 246-290-690 or 246-290-691 as demonstrated through monitoring conducted in accordance with WAC 246-290-694.

(6) The purveyor with sources that are approved to remain unfiltered shall comply with the source water quality and site-specific conditions under WAC 246-290-690 or 246-290-691 as demonstrated through monitoring conducted in accordance with WAC 246-290-694.

(7) The purveyor shall install filtration when the system fails to meet one or more of the source water quality and site-specific conditions under WAC 246-290-690 and 246-290-691, or the department determines that installation of filtration is necessary to protect the health of consumers served by the water system.

(8) The purveyor, in response to a written notification by the department, shall install filtration within eighteen months.

(9) The purveyor may comply with the requirements to install filtration by:

(a) Constructing a water treatment facility that is designed, operated, and maintained in accordance with Subparts A, B, and C of Part 6 of this chapter;

(b) Satisfying the source water quality and site-specific criteria specified in WAC 246-290-691 and constructing treatment facilities that are designed, operated, and maintained to provide a limited alternative to filtration in accordance with WAC 246-290-692; or

(c) Abandoning the surface water or GWI source, and:

(i) Developing an alternate, department-approved groundwater source; or

(ii) Purchasing completely treated water from a department-approved public water system.

AMENDATORY SECTION (Amending WSR 03-08-037, filed 3/27/03, effective 4/27/03)

**WAC 246-290-71002 Public notice content.** (1) Public notices required under WAC 246-290-71001(1) ~~((shall))~~ **must** contain the elements and standard language required under 40 C.F.R. 141.205 (a), (b), and (d) and be presented in accordance with 40 C.F.R. 141.205 (c), except that notification of the availability of ~~((unregulated contaminant))~~ results required per 40 C.F.R. 141.40 and notification of an exceedance of the secondary MCL for fluoride ~~((shall))~~ **must** be in accordance with WAC 246-290-71005.

(2) Public notices required under WAC 246-290-71001 (3)(a) and (c) for the issuance of a departmental order or category red operating permit ~~((shall))~~ **must** include:

(a) A clear, concise, and simple explanation of the violation;

(b) Discussion of potential adverse health effects and any segments of the population that may be at higher risk;

(c) Mandatory health effects information in accordance with WAC 246-290-71004(2);

(d) A list of steps the purveyor has taken or is planning to take to remedy the situation;

(e) A list of steps the consumer should take, including advice on seeking an alternative water supply if necessary;

(f) The purveyor's name and telephone number; and

(g) When appropriate, notices ~~((shall))~~ **must** be bilingual or multilingual.

Note: The purveyor may provide additional information to further explain the situation.

AMENDATORY SECTION (Amending WSR 03-08-037, filed 3/27/03, effective 4/27/03)

**WAC 246-290-71004 Public notification mandatory language.** (1) Public notice required under WAC 246-290-71001(1) ~~((shall))~~ **must** contain any specific health effects language set forth in WAC 246-290-72012 in accordance with 40 C.F.R. 141.205 (d)(1) and other standard language in accordance with 40 C.F.R. 141.205 (d)(2) and (3), except that notification of the availability of ~~((unregulated contaminant))~~ results required per 40 C.F.R. 141.40 and notification of the exceedance of the secondary MCL for fluoride ~~((shall))~~ **must** be in accordance with WAC 246-290-71005.

(2) The purveyor shall provide specific mandatory language, contained in department guidance, in its notification when the purveyor is issued a category red operating permit.

AMENDATORY SECTION (Amending WSR 03-08-037, filed 3/27/03, effective 4/27/03)

**WAC 246-290-71006 ((Consumer information-)) Public notice for contaminants with a SAL and other unregulated contaminants.** (1) The purveyor shall provide ~~((consumer information))~~ public notice to the water system users ~~((within twenty one days of receipt of confirmation sample results))~~ when the department determines that a ~~((substance not included in this chapter is confirmed at a level greater than a SAL.~~

(1) Consumer information shall include:

(a) Name and level of chemical detected;

- (b) Location where the chemical was detected;
  - (c) Any health effects that the chemical could cause at its present concentration;
  - (d) Plans for follow-up activities; and
  - (e) The purveyor's name and telephone number.
- (2) Consumer information shall be distributed by any of the following methods:
- (a) Notice placed in a daily newspaper of general circulation or in a weekly newspaper of general circulation if a daily newspaper does not serve the affected area;
  - (b) Direct mail to consumers;
  - (c) Posting for at least one week if a NTNC system; or
  - (d) Any other method approved by the department.)
- contaminant exceeds a SAL listed in WAC 246-290-315, Table 9.

(2) The public notice must be in conformance with the requirements under WAC 246-290-71001 through 246-290-71004 and based upon the public notice tier designation of the contaminant or group of contaminants in Table 17 of this section.

TABLE 17  
PUBLIC NOTICE TIER DESIGNATION FOR CONTAMINANTS WITH A SAL

<u>Contaminant or Group of Contaminants</u>	<u>Public Notice Tier</u>	<u>Bioaccumulative</u>
<u>PFOA</u>	<u>Tier 2</u>	<u>Yes</u>
<u>PFOS</u>	<u>Tier 2</u>	<u>Yes</u>
<u>PFHxS</u>	<u>Tier 2</u>	<u>Yes</u>
<u>PFNA</u>	<u>Tier 2</u>	<u>Yes</u>
<u>PFBS</u>	<u>Tier 2</u>	<u>Yes</u>

(a) The purveyor shall complete public notice for an initial exceedance of a Tier 1 designated SAL within twenty-four hours of confirmation, and for every subsequent quarter in which analytical results exceed a SAL.

(b) The purveyor shall complete public notification for an initial exceedance of a Tier 2 designated SAL as soon as practical, but no less than within thirty days of exceeding the SAL per Table 9 in WAC 246-290-315, and every three months thereafter as long as the results continue to exceed the SAL per Table 9 in WAC 246-290-315, or as directed by the department.

(3) The department may require public notice for other unregulated contaminants that are reported per requirements in WAC 246-390-075.

AMENDATORY SECTION (Amending WSR 17-01-062, filed 12/14/16, effective 1/14/17)

**WAC 246-290-72001 Purpose and applicability of the consumer confidence report requirements.** WAC 246-290-72001 through 246-290-72012 establishes minimum requirements for the content of annual reports that community water systems must deliver to their customers. WAC 246-290-72013 establishes additional requirements for the content of annual reports that community water systems using groundwater must deliver to their customers. These

reports must contain information on the quality of the water delivered by the systems and characterize the risks (if any) from exposure to contaminants detected in the drinking water in an accurate and understandable manner.

(1) This section applies only to community water systems.

(2) For the purpose of WAC 246-290-72001 through 246-290-72013:

(a) "Customers" means billing units or service connections to which water is delivered by a community water system.

(b) "Detected" means at or above the ((levels prescribed by WAC 246-290-300(4) for inorganic contaminants, at or above the levels prescribed by WAC 246-290-300(7) for organic contaminants, at or above the levels prescribed by 40 C.F.R. 141.131 (b)(2)(iv) for disinfection byproducts, and at or above the levels prescribed by 40 C.F.R. 141.25(e) for radioactive contaminants)) SDRLs under chapter 246-390 WAC.

AMENDATORY SECTION (Amending WSR 17-01-062, filed 12/14/16, effective 1/14/17)

**WAC 246-290-72004 Report contents—Definitions.**

(1) Each report must include the following definitions:

(a) Maximum contaminant level goal or MCLG: The level of a contaminant in drinking water below which there is no known or expected risk to health. MCLGs allow for a margin of safety.

(b) Maximum contaminant level or MCL: The highest level of a contaminant that is allowed in drinking water. MCLs are set as close to the MCLGs as feasible using the best available treatment technology.

(2) A report for a community water system operating under a variance or an exemption issued under WAC 246-290-060 must include the following definition: Variances and exemptions: State or EPA permission not to meet an MCL or a treatment technique under certain conditions.

(3) A report that contains data on contaminants that the Environmental Protection Agency regulates using any of the following terms must include the applicable definitions:

(a) Treatment technique: A required process intended to reduce the level of a contaminant in drinking water.

(b) Action level: The concentration of a contaminant which, if exceeded, triggers treatment or other requirements which a water system must follow.

(c) Maximum residual disinfectant level goal or MRDLG: The level of a drinking water disinfectant below which there is no known or expected risk to health. MRDLGs do not reflect the benefits of the use of disinfectants to control microbial contaminants.

(d) Maximum residual disinfectant level or MRDL: The highest level of a disinfectant allowed in drinking water. There is convincing evidence that addition of a disinfectant is necessary for control of microbial contaminants.

(4) A report that contains level 1 or level 2 assessment information must include the applicable definitions:

(a) Level 1 assessment: A level 1 assessment is a study of the water system to identify potential problems and deter-

mine, if possible, why total coliform bacteria have been found in our water system.

(b) Level 2 assessment: A level 2 assessment is a very detailed study of the water system to identify potential problems and determine, if possible, why an *E. coli* MCL violation has occurred and, if applicable, why total coliform bacteria have been found in our water system on multiple occasions.

(5) A report that contains information regarding a detection of a contaminant with a SAL must include the following definition: State action level (SAL) means the concentration of a contaminant or group of contaminants, without an MCL, in drinking water established to protect public health and which, if exceeded, triggers actions a water system purveyor must take. SALs are established for contaminants without an MCL, federal action level, or treatment technique.

AMENDATORY SECTION (Amending WSR 17-01-062, filed 12/14/16, effective 1/14/17)

**WAC 246-290-72005 Report contents—Information on detected contaminants.** (1) This section specifies the requirements for information to be included in each report for contaminants subject to mandatory monitoring. It applies to:

(a) Contaminants subject to an MCL, federal action level, ~~((maximum residual disinfectant level or treatment technique))~~ SAL, TT, or MRDL (regulated contaminants); and

(b) Detected ~~((unregulated))~~ contaminants without an MCL, federal action level, SAL, TT, or MRDL for which monitoring is required ~~((under WAC 246-290-300(10) and 40 C.F.R. 140.40; and~~

~~((c) Disinfection byproducts for which monitoring is required by WAC 246-290-300(6) and 40 C.F.R. 141.142 or microbial contaminants for which monitoring is required by WAC 246-290-300(3) and 40 C.F.R. 141.143, except as provided under WAC 246-290-72006(1), and which are detected in the finished water)).~~

(2) The data relating to these contaminants must be displayed in one table or in several adjacent tables. Any additional monitoring results which a community water system chooses to include in its report must be displayed separately.

(3) The data must be derived from data collected to comply with EPA and state monitoring and analytical requirements during the previous calendar year except ~~((that:~~

~~((a))~~ where a system is allowed to monitor for regulated contaminants less than once a year, the table(s) must include the date and results of the most recent sampling and the report must include a brief statement indicating that the data presented in the report are from the most recent testing done in accordance with the regulations. No data older than five years need be included.

~~((b) Results of monitoring in compliance with 40 C.F.R. 141.142 and 40 C.F.R. 141.143 need only be included for five years from the date of last sample or until any of the detected contaminants becomes regulated and subject to routine monitoring requirements, whichever comes first.))~~

(4) For detected regulated contaminants listed in WAC 246-290-72012, the table(s) must contain:

(a) The MCL or SAL for that contaminant expressed as a number equal to or greater than 1.0 (as provided in WAC 246-290-72012);

(b) The MCLG for that contaminant expressed in the same units as the MCL;

(c) If there is no MCL or SAL for a detected contaminant, the table must indicate that there is a treatment technique, or specify the action level, applicable to that contaminant, and the report must include the definitions for treatment technique and/or action level, as appropriate, specified in WAC 246-290-72004;

(d) For contaminants ~~((subject to an MCL))~~ with a SAL, or contaminants with an established MCL, except turbidity, ~~((total coliform,))~~ and *E. coli*, the highest contaminant level used to determine compliance with a SAL or a National Primary Drinking Water Regulation and the range of results, as follows:

(i) When compliance with the MCL or SAL is determined annually or less frequently: The highest detected level at any sampling ~~((point))~~ location and the range of results expressed in the same units as the MCL or SAL.

(ii) When compliance with the MCL or SAL is determined by calculating a running annual average of all samples taken at a sampling ~~((point))~~ location: The highest average of any of the sampling ~~((points))~~ locations and the range of all sampling ~~((points))~~ locations expressed in the same units as the MCL or SAL. For the TTHM and HAA5 MCLs determined on the basis of the LRAA, systems must include the highest LRAA for TTHM and HAA5 and the range of individual sample results for all monitoring locations expressed in the same units as the MCL. If more than one location exceeds the TTHM or HAA5 MCL, the system must include the LRAA for all locations that exceed the MCL.

(iii) When compliance with the MCL is determined on a system-wide basis by calculating a running annual average of all samples at all sampling points: The average and range of detection expressed in the same units as the MCL. The system is required to include individual sample results for the IDSE conducted under WAC 246-290-300 (6)(b)(i)(F) when determining the range of TTHM and HAA5 results to be reported in the annual consumer confidence report for the calendar year that the IDSE samples were taken.

(iv) Note to WAC 246-290-72005 (4)(d): When rounding of results to determine compliance with the MCL or SAL is allowed by the regulations, rounding should be done prior to multiplying the results by the factor listed in WAC 246-290-72012;

(e) For turbidity.

(i) When it is reported under chapter 246-290 WAC Part 6, Subpart C: The highest average monthly value.

(ii) When it is reported under the requirements of chapter 246-290 WAC Part 6, Subpart D: The highest monthly value. The report should include an explanation of the reasons for measuring turbidity.

(iii) When it is reported under chapter 246-290 WAC Part 6, Subpart B: The highest single measurement and the lowest monthly percentage of samples meeting the turbidity limits specified in chapter 246-290 WAC Part 6, Subpart B for the filtration technology being used. The report should include an explanation of the reasons for measuring turbidity;



(f) For lead and copper: The 90th percentile value of the most recent round of sampling and the number of sampling sites exceeding the action level;

(g) For *E. coli* analytical results under WAC 246-290-300 (3)(e) through (g): The total number of positive samples; and

(h) The likely source(s) of detected contaminants to the best of the purveyor's knowledge. Specific information regarding contaminants may be available in sanitary surveys and source water assessments, and should be used when available to the purveyor. If the purveyor lacks specific information on the likely source, the report must include one or more of the typical sources for that contaminant listed in WAC 246-290-72012 which are most applicable to the system.

(5) If a community water system distributes water to its customers from multiple hydraulically independent distribution systems that are fed by different raw water sources, the

table should contain a separate column for each service area and the report should identify each separate distribution system. Alternatively, systems could produce separate reports tailored to include data for each service area.

(6) The table(s) must clearly identify any data indicating violations of MCLs, MRDLs, or treatment techniques and the report must contain a clear and readily understandable explanation of the violation including: The length of the violation, the potential adverse health effects, and actions taken by the system to address the violation. To describe the potential health effects, the system must use the relevant language of WAC 246-290-72012.

(7) ~~((For detected unregulated))~~ Detected contaminants without an MCL, SAL, federal action level, TT or MRDL for which monitoring is required, the table~~((+))~~ must contain the average and range at which the contaminant was detected. The report may include a brief explanation of the reasons for monitoring for unregulated contaminants.

**AMENDATORY SECTION** (Amending WSR 17-01-062, filed 12/14/16, effective 1/14/17)

**WAC 246-290-72012 Regulated contaminants.**

Contaminant <del>((units))</del>	<del>((traditional MCL in mg/L))</del> <u>MCL or SAL (units match lab results)</u>	To convert <u>lab results</u> for CCR, multiply by	MCL or <u>SAL</u> in CCR units	MCLG in <u>CCR units</u>	Major Sources in Drinking Water	Health Effects Language
<b>Microbiological Contaminants</b>						
Total Coliform Bacteria	TT	-	TT	<del>((N/A))</del> 0	Naturally present in the environment	Coliforms are bacteria that are naturally present in the environment and are used as an indicator that other, potentially harmful, waterborne pathogens may be present or that a potential pathway exists through which contamination may enter the drinking water distribution system. We found coliforms indicating the need to look for potential problems in water treatment or distribution. When this occurs, we are required to conduct assessment(s) to identify problems and to correct any problems that were found during these assessments.
<i>E. coli</i>	Routine and repeat samples are total coliform-positive and either is <i>E. coli</i> -positive or system fails to take repeat samples following <i>E. coli</i> -positive routine sample or system fails to analyze total coliform-positive repeat sample for <i>E. coli</i> .	-	Routine and repeat samples are total coliform-positive and either is <i>E. coli</i> -positive or system fails to take repeat samples following <i>E. coli</i> -positive routine sample or system fails to analyze total coliform-positive repeat sample for <i>E. coli</i> .	0	Human and animal fecal waste	<i>E. coli</i> are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Human pathogens in these wastes can cause short-term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a greater health risk for infants, young children, the elderly, and people with severely-compromised immune systems.

Contaminant (((units)))	((traditional MCL in mg/L)) MCL or SAL (units match lab results)	To convert lab results for CCR, multiply by	MCL or SAL in CCR units	MCLG in CCR units	Major Sources in Drinking Water	Health Effects Language
Fecal indicators ( <i>E. coli</i> )	TT	-	TT	((N/A)) 0	Human and animal fecal waste	Fecal indicators are microbes whose presence indicates that the water may be contaminated with human or animal wastes. Microbes in these wastes can cause short-term health effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a special health risk for infants, young children, some of the elderly, and people with severely compromised immune systems.
Total organic carbon ((ppm))	TT	-	TT	N/A	Naturally present in the environment	Total organic carbon (TOC) has no health effects. However, total organic carbon provides a medium for the formation of disinfection byproducts. These byproducts include trihalo-methanes (THMs) and haloacetic acids (HAAs). Drinking water containing these byproducts in excess of the MCL may lead to adverse health effects, liver or kidney problems, or nervous system effects, and may lead to an increased risk of getting cancer.
Turbidity ((NTU))	TT	-	TT	N/A	Soil runoff	Turbidity has no health effects. However, turbidity can interfere with disinfection and provide a medium for microbial growth. Turbidity may indicate the presence of disease-causing organisms. These organisms include bacteria, viruses, and parasites that can cause symptoms such as nausea, cramps, diarrhea and associated headaches.
<i>Giardia lamblia</i> Viruses <i>Cryptosporidium</i>	TT	-	TT	((N/A)) 0	Human and animal fecal waste	Inadequately treated water may contain disease-causing organisms. These organisms include bacteria viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.
Heterotrophic plate count (HPC) bacteria	TT	-	TT	N/A	HPC measures a range of bacteria that are naturally present in the environment	Inadequately treated water may contain disease-causing organisms. These organisms include bacteria viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.
Legionella	TT	-	TT	((N/A)) 0	Found naturally in water; multiplies in heating systems	Inadequately treated water may contain disease-causing organisms. These organisms include bacteria viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.

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<b>Radioactive Contaminants</b>						
Beta/photon emitters ((mrem/yr))	4 mrem/yr	-	4 mrem/yr	((N/A)) 0	Decay of natural and man-made deposits	Certain minerals are radioactive and may emit forms of radiation known as photons and beta radiation. Some people who drink water containing beta and photon emitters in excess of the MCL over many years may have an increased risk of getting cancer.
Alpha emitters ((pCi/l)) [gross alpha excluding uranium and radon]	15 pCi/l	-	15 (pCi/L)	((N/A)) 0	Erosion of natural deposits	Certain minerals are radioactive and may emit a form of radiation known as alpha radiation. Some people who drink water containing alpha emitters in excess of the MCL over many years may have an increased risk of getting cancer.
Combined radium ((pCi/l)) [226 & 228]	5 pCi/l	-	5 (pCi/L)	((N/A)) 0	Erosion of natural deposits	Some people who drink water containing radium 226 or 228 in excess of the MCL over many years may have an increased risk of getting cancer.
Uranium ((pCi/l))	30 ((micro g/l)) ppb	-	30 ppb	0	Erosion of natural deposits	Some people who drink water containing uranium in excess of the MCL over many years may have an increased risk of getting cancer and kidney toxicity.
<b>Inorganic Contaminants</b>						
Antimony ((ppb))	.006 ppm	1000	6 ppb	6 ppb	Discharge from petroleum refineries; fire retardants; ceramics; electronics; solder	Some people who drink water containing antimony well in excess of the MCL over many years could experience increases in blood cholesterol and decreases in blood sugar.
Arsenic ((ppb))	0.010 ppm	1000	10 ppb	0	Erosion of natural deposits; Runoff from orchards; Runoff from glass and electronics production wastes	Some people who drink water containing arsenic in excess of the MCL over many years could experience skin damage or problems with their circulatory system, and may have an increased risk of getting cancer.
Asbestos ((MFL))	7 MFL	-	7 MFL	7 MFL	Decay of asbestos cement water mains; Erosion of natural deposits	Some people who drink water containing asbestos in excess of the MCL over many years may have an increased risk of developing benign intestinal polyps.
Barium ((ppm))	2 ppm	-	2 ppm	2 ppm	Discharge of drilling wastes; Discharge from metal refineries; Erosion of natural deposits	Some people who drink water containing barium in excess of the MCL over many years could experience an increase in their blood pressure.
Beryllium ((ppb))	.004 ppm	1000	4 ppb	4 ppb	Discharge from metal refineries and coal-burning factories; Discharge from electrical, aerospace, and defense industries	Some people who drink water containing beryllium well in excess of the MCL over many years could develop intestinal lesions.

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Cadmium <del>((ppb))</del>	.005 ppm	1000	5 ppb	5 ppb	Corrosion of galvanized pipes; Erosion of natural deposits; Discharge from metal refineries; Runoff from waste batteries and paints	Some people who drink water containing cadmium in excess of the MCL over many years could experience kidney damage.
Chromium <del>((ppb))</del>	.1 ppm	1000	100 ppb	100 ppb	Discharge from steel and pulp mills; Erosion of natural deposits	Some people who use water containing chromium well in excess of the MCL over many years could experience allergic dermatitis.
Copper <del>((ppm))</del>	<u>TT</u> AL = 1.3 ppm	-	<u>TT</u> AL = 1.3 ppm	1.3 ppm	Corrosion of household plumbing systems; Erosion of natural deposits	Copper is an essential nutrient, but some people who drink water containing copper in excess of the action level over a relatively short amount of time could experience gastrointestinal distress. Some people who drink water containing copper in excess of the action level over many years could suffer liver or kidney damage. People with Wilson's Disease should consult their personal doctor.
Cyanide <del>((ppb))</del>	.2 ppm	1000	200 ppb	200 ppb	Discharge from steel/metal factories; Discharge from plastic and fertilizer factories	Some people who drink water containing cyanide well in excess of the MCL over many years could experience nerve damage or problems with their thyroid.
Fluoride <del>((ppm))</del>	4 ppm	-	4 ppm	4 ppm	Erosion of natural deposits; Water additive which promotes strong teeth; Discharge from fertilizer and aluminum factories	Some people who drink water containing fluoride in excess of the MCL over many years could get bone disease, including pain and tenderness of the bones. Fluoride in drinking water at half the MCL or more may cause mottling of children's teeth, usually in children less than nine years old. Mottling, also known as dental fluorosis, may include brown staining and/or pitting of the teeth, and occurs only in developing teeth before they erupt from the gums.
Lead <del>((ppb))</del>	<u>TT</u> AL = .015 ppm	1000	<u>TT</u> AL = 15 ppb	0	Corrosion of household plumbing systems; Erosion of natural deposits	Infants and children who drink water containing lead in excess of the action level could experience delays in their physical or mental development. Children could show slight deficits in attention span and learning abilities. Adults who drink this water over many years could develop kidney problems or high blood pressure.
Mercury [inorganic] <del>((ppb))</del>	.002 ppm	1000	2 ppb	2 ppb	Erosion of natural deposits; Discharge from refineries and factories; Runoff from landfills; Runoff from cropland	Some people who drink water containing inorganic mercury well in excess of the MCL over many years could experience kidney damage.

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Nitrate ((ppm))	((10))	-	((10)) 10.0 ppm	((10)) 10.0 ppm	Runoff from fertilizer use; Leaching from septic tanks, sewage; Erosion of natural deposits	Infants below the age of six months who drink water containing nitrate in excess of the MCL could become seriously ill and, if untreated, may die. Symptoms include shortness of breath and blue baby syndrome.
Nitrite ((ppm))	((+) 1.0 ppm	-	((+) 1.0 ppm	((+) 1.0 ppm	Runoff from fertilizer use; Leaching from septic tanks, sewage; Erosion of natural deposits	Infants below the age of six months who drink water containing nitrite in excess of the MCL could become seriously ill and, if untreated, may die. Symptoms include shortness of breath and blue baby syndrome.
Selenium ((ppb))	.05 ppm	1000	50 ppb	50 ppb	Discharge from petroleum and metal refineries; Erosion of natural deposits; Discharge from mines	Selenium is an essential nutrient. However, some people who drink water containing selenium in excess of the MCL over many years could experience hair or fingernail losses, numbness in fingers or toes, or problems with their circulation.
Thallium ((ppb))	.002 ppm	1000	2 ppb	0.5 ppb	Leaching from ore-processing sites; Discharge from electronics, glass, and drug factories	Some people who drink water containing thallium in excess of the MCL over many years could experience hair loss, changes in their blood, or problems with their kidneys, intestines, or liver.
<b>Disinfection Byproducts (DBPs)</b>						
Bromate	.010 ppm	1000	10 ppb	0	Byproduct of drinking water disinfection	Some people who drink water containing bromate in excess of the MCL over many years may have an increased risk of getting cancer.
Chloramines	MRDL = 4 ppm	=	MRDL = 4 ppm	MRDLG = 4 ppm	Water additive used to control microbes	Some people who use drinking water containing chloramines well in excess of the MRDL could experience irritating effects to their eyes and nose. Some people who drink water containing chloramines well in excess of the MRDL could experience stomach discomfort or anemia.
Chlorine	MRDL = 4 ppm	=	MRDL = 4 ppm	MRDLG = 4 ppm	Water additive used to control microbes	Some people who use drinking water containing chlorine well in excess of the MRDL could experience irritating effects to their eyes and nose. Some people who drink water containing chlorine well in excess of the MRDL could experience stomach discomfort.
Chlorite	1 ppm	=	1 ppm	0.8 ppm	Byproduct of drinking water disinfection	Some infants and young children who drink water containing chlorite in excess of the MCL could experience nervous system effects. Similar effects may occur in fetuses of pregnant mothers who drink water containing chlorite in excess of the MCL. Some people may experience anemia.

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Chlorine dioxide	MRDL = .8 ppm	1000	MRDL = 800 ppb	MRDLG = 800 ppb	Water additive used to control microbes	Some infants and young children who drink water containing chlorine dioxide in excess of the MRDL could experience nervous system effects. Similar effects may occur in fetuses of pregnant mothers who drink water containing chlorine dioxide in excess of the MRDL. Some people may experience anemia.
Haloacetic Acids (HAA5)	60 ppb	=	60 ppb	N/A for combined dichloroacetic acid = 0; monochloroacetic acid = 70 ppb; trichloroacetic acid = 20 ppb	Byproduct of drinking water disinfection	Some people who drink water containing haloacetic acids in excess of the MCL over many years may have an increased risk of getting cancer.
Total Trihalomethanes [TTHMs]	80 ppb	=	80 ppb	N/A (chloroform = 70 ppb; dibromochloromethane = 60 ppb; bromoform = 0; bromodichloromethane = 0)	Byproduct of drinking water disinfection	Some people who drink water containing trihalomethanes in excess of the MCL over many years may experience problems with their liver, kidneys, or central nervous systems, and may have an increased risk of getting cancer.
<b>Synthetic Organic Contaminants including Pesticides and Herbicides</b>						
2,4-D ((ppb))	((.07) 70 ppb	((1000) =	70 ppb	70 ppb	Runoff from herbicide used on row crops	Some people who drink water containing the weed killer 2,4-D well in excess of the MCL over many years could experience problems with their kidneys, liver, or adrenal glands.
2,4,5-TP [Silvex]((ppb))	((.05) 50 ppb	((1000) =	50 ppb	50 ppb	Residue of banned herbicide	Some people who drink water containing silvex in excess of the MCL over many years could experience liver problems.
((Acrylamide	FF	-	FF	0	Added to water during sewage/wastewater treatment	Some people who drink water containing high levels of acrylamide over a long period of time could have problems with their nervous system or blood, and may have an increased risk of getting cancer.)
Alachlor ((ppb))	((.002) 2 ppb	((1000) =	2 ppb	0	Runoff from herbicide used on row crops	Some people who drink water containing alachlor in excess of the MCL over many years could have problems with their eyes, liver, kidneys, or spleen, or experience anemia, and may have an increased risk of getting cancer.
Atrazine ((ppb))	((.003) 3 ppb	((1000) =	3 ppb	3 ppb	Runoff from herbicide used on row crops	Some people who drink water containing atrazine well in excess of the MCL over many years could experience problems with their cardiovascular system or reproductive difficulties.

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Benzo(a)pyrene [PAH] ((nanograms/l))	((.002)) .2 ppb	((1,000,000)) 1000	200 ppt	0	Leaching from linings of water storage tanks and distribution lines	Some people who drink water containing benzo(a)pyrene in excess of the MCL over many years may experience reproductive difficulties and may have an increased risk of getting cancer.
Carbofuran ((ppb))	((.04)) 40 ppb	((1000)) -	40 ppb	40 ppb	Leaching of soil fumigant used on rice and alfalfa	Some people who drink water containing carbofuran in excess of the MCL over many years could experience problems with their blood, or nervous or reproductive systems.
Chlordane ((ppb))	((.002)) 2 ppb	((1000)) -	2 ppb	0	Residue of banned termiticide	Some people who drink water containing chlordane in excess of the MCL over many years could experience problems with their liver or nervous system, and may have an increased risk of getting cancer.
Dalapon ((ppb))	((.2)) 200 ppb	((1000)) -	200 ppb	200 ppb	Runoff from herbicide used on rights of way	Some people who drink water containing dalapon well in excess of the MCL over many years could experience minor kidney changes.
Di(2-ethylhexyl) adipate ((ppb))	((.4)) 400 ppb	((1000)) -	400 ppb	400 ppb	Discharge from chemical factories	Some people who drink water containing di (2-ethylhexyl) adipate well in excess of the MCL over many years could experience toxic effects or reproductive difficulties.
Di(2-ethylhexyl) phthalate ((ppb))	((.006)) 6 ppb	((1000)) -	6 ppb	0	Discharge from rubber and chemical factories	Some people who drink water containing di (2-ethylhexyl) phthalate well in excess of the MCL over many years may have problems with their liver, or experience reproductive difficulties, and may have an increased risk of getting cancer.
Dibromochloropropane ((ppt)) [DBCP]	((.002)) .2 ppb	((1,000,000)) 1000	200 ppt	0	Runoff/leaching from soil fumigant used on soybeans, cotton, pineapples, and orchards	Some people who drink water containing DBCP in excess of the MCL over many years could experience reproductive problems and may have an increased risk of getting cancer.
Dinoseb ((ppb))	((.007)) 7 ppb	((1000)) -	7 ppb	7 ppb	Runoff from herbicide used on soybeans and vegetables	Some people who drink water containing dinoseb well in excess of the MCL over many years could experience reproductive difficulties.
((Diquat (ppb))	.02	1000	20	20	Runoff from herbicide use	Some people who drink water containing diquat in excess of the MCL over many years could get cataracts.))
Dioxin [2,3,7,8-TCDD] ((ppt))	((.0000003)) .03 ppt	((1,000,000,000)) 1,000	30 ppt	0	Emissions from waste incineration and other combustion; Discharge from chemical factories	Some people who drink water containing dioxin in excess of the MCL over many years could experience reproductive difficulties and may have an increased risk of getting cancer.
((Endothall (ppb))	.1	1000	100	100	Runoff from herbicide use	Some people who drink water containing endothall in excess of the MCL over many years could experience problems with their stomach or intestines.))

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Diquat	.02 ppb	1000	20 ppt	20 ppt	Runoff from herbicide use	Some people who drink water containing diquat in excess of the MCL over many years could get cataracts.
Endothall	100 ppb	-	100 ppb	100 ppb	Runoff from herbicide use	Some people who drink water containing endothall in excess of the MCL over many years could experience problems with their stomach or intestines.
Endrin	((002)) 2 ppb	((1000)) -	2 ppb	2 ppb	Residue of banned insecticide	Some people who drink water containing endrin in excess of the MCL over many years could experience liver problems.
((Epichlorohydrin	TT	-	TT	0	Discharge from industrial chemical factories; An impurity of some water treatment chemicals	Some people who drink water containing high levels of epichlorohydrin over a long period of time could experience stomach problems, and may have an increased risk of getting cancer.)
Ethylene dibromide ((ppt))	((00005)) .05 ppb	((1,000,000)) 1000	50 ppt	0	Discharge from petroleum refineries	Some people who drink water containing ethylene dibromide in excess of the MCL over many years could experience problems with their liver, stomach, reproductive system, or kidneys, and may have an increased risk of getting cancer.
Glyphosate ((ppb))	((7)) 700 ppb	((1000)) -	700 ppb	700 ppb	Runoff from herbicide use	Some people who drink water containing glyphosate in excess of the MCL over many years could experience problems with their kidneys or reproductive difficulties.
Heptachlor ((ppt))	((0004)) .4 ppb	((1,000,000)) 1000	400 ppt	0	Residue of banned pesticide	Some people who drink water containing heptachlor in excess of the MCL over many years could experience liver damage and may have an increased risk of getting cancer.
Heptachlor epoxide ((ppt))	((0002)) .2 ppb	((1,000,000)) 1000	200 ppt	0	Breakdown of heptachlor	Some people who drink water containing heptachlor epoxide in excess of the MCL over many years could experience liver damage, and may have an increased risk of getting cancer.
Hexachlorobenzene ((ppb))	((001)) 1 ppb	((1000)) -	1 ppb	0	Discharge from metal refineries and agricultural chemical factories	Some people who drink water containing hexachlorobenzene in excess of the MCL over many years could experience problems with their liver or kidneys, or adverse reproductive effects, and may have an increased risk of getting cancer.
Hexachlorocyclopentadiene ((ppb))	((05)) 50 ppb	((1000)) -	50 ppb	50 ppb	Discharge from chemical factories	Some people who drink water containing hexachlorocyclopentadiene well in excess of the MCL over many years could experience problems with their kidneys or stomach.
Lindane ((ppt))	((0002)) .2 ppb	((1,000,000)) 1000	200 ppt	200 ppt	Runoff/leaching from insecticide used on cattle, lumber, gardens	Some people who drink water containing lindane in excess of the MCL over many years could experience problems with their kidneys or liver.



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Methoxychlor <del>((ppb))</del>	<del>((.04))</del> 40 ppb	<del>((1000))</del> =	40 ppb	40 ppb	Runoff/leaching from insecticide used on fruits, vegetables, alfalfa, livestock	Some people who drink water containing methoxychlor in excess of the MCL over many years could experience reproductive difficulties.
Oxamyl [Vydate] <del>((ppb))</del>	<del>((.2))</del> 200 ppb	<del>((1000))</del> =	200 ppb	200 ppb	Runoff/leaching from insecticide used on apples, potatoes and tomatoes	Some people who drink water containing oxamyl in excess of the MCL over many years could experience slight nervous system effects.
PCBs [Polychlorinated biphenyls] <del>((ppb))</del>	<del>((.005))</del> .5 ppb	<del>((1,000,000))</del> 1000	500 ppt	0	Runoff from landfills; Discharge of waste chemicals	Some people who drink water containing PCBs in excess of the MCL over many years could experience changes in their skin, problems with their thymus gland, immune deficiencies, or reproductive or nervous system difficulties, and may have an increased risk of getting cancer.
Pentachlorophenol <del>((ppb))</del>	<del>((.001))</del> 1 ppb	<del>((1000))</del> =	1 ppb	0	Discharge from wood preserving factories	Some people who drink water containing pentachlorophenol in excess of the MCL over many years could experience problems with their liver or kidneys, and may have an increased risk of getting cancer.
PFOA	10 ppt	=	10 ppt	N/A	<u>Run-off or leaching from fire-fighting foam, industrial discharge, and landfills; wastewater treatment plants</u>	<u>Some people who drink water containing PFOA in excess of the SAL over many years may experience problems with their cholesterol, liver, thyroid or immune system; have high blood pressure during pregnancy, have babies with lower birthweights; and be at higher risk of getting certain types of cancers.</u>
PFOS	15 ppt	=	15 ppt	N/A	<u>Run-off or leaching from fire-fighting foam, industrial discharge, and landfills; wastewater treatment plants</u>	<u>Some people who drink water containing PFOS in excess of the SAL over many years may experience problems with their cholesterol, liver, thyroid, kidney, or immune systems; or have children with lower birthweights.</u>
PFHxS	65 ppt	=	65 ppt	N/A	<u>Run-off or leaching from fire-fighting foam, industrial discharge, and landfills; wastewater treatment plants</u>	<u>Some people who drink water containing PFHxS in excess of the SAL over many years may experience liver or immune problems, or thyroid hormone problems during pregnancy and infancy. It is possible that exposed children may have increased risk of abnormal behavior.</u>
PFNA	9 ppt	=	9 ppt	N/A	<u>Run-off or leaching from fire-fighting foam, industrial discharge, and landfills; wastewater treatment plants</u>	<u>Some people who drink water containing PFNA in excess of the SAL over many years may experience cholesterol, immune, liver or reproductive problems. Children exposed prenatally may have lower birthweights and increased risk of abnormal development.</u>

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PFBS	345 ppt	=	345 ppt	N/A	Run-off or leaching from fire-fighting foam, industrial discharge, and landfills; wastewater treatment plants	Some people who drink water containing PFBS in excess of the SAL may experience higher risk of cholesterol, liver, kidney or thyroid problems. Early life is the most sensitive period for altered thyroid hormone; sensitive populations include persons who are pregnant, nursing or less than a year old.
Picloram ((ppb))	((.5)) 500 ppb	((1000)) =	500 ppb	500 ppb	Herbicide runoff	Some people who drink water containing picloram in excess of the MCL over many years could experience problems with their liver.
Simazine ((ppb))	((.004)) 4 ppb	((1000)) =	4 ppb	4 ppb	Herbicide runoff	Some people who drink water containing simazine in excess of the MCL over many years could experience problems with their blood.
Toxaphene ((ppb))	((.003)) 3 ppb	((1000)) =	3 ppb	0	Runoff/leaching from insecticide used on cotton and cattle	Some people who drink water containing toxaphene in excess of the MCL over many years could have problems with their kidneys, liver, or thyroid, and may have an increased risk of getting cancer.
<b>Volatile Organic Contaminants</b>						
Benzene ((ppb))	((.005)) 5 ppb	((1000)) =	5 ppb	0	Discharge from factories; Leaching from gas storage tanks and landfills	Some people who drink water containing benzene in excess of the MCL over many years could experience anemia or a decrease in blood platelets, and may have an increased risk of getting cancer.
((Bromate (ppb)	.010	1000	10	0	Byproduct of drinking water disinfection	Some people who drink water containing bromate in excess of the MCL over many years may have an increased risk of getting cancer.))
Carbon tetrachloride ((ppb))	((.005)) 5 ppb	((1000)) =	5 ppb	0	Discharge from chemical plants and other industrial activities	Some people who drink water containing carbon tetrachloride in excess of the MCL over many years could experience problems with their liver and may have an increased risk of getting cancer.
((Chloramines (ppm)	MRDL=4	-	MRDL=4	MRDLG=4	Water additive used to control microbes	Some people who use drinking water containing chloramines well in excess of the MRDL could experience irritating effects to their eyes and nose. Some people who drink water containing chloramines well in excess of the MRDL could experience stomach discomfort or anemia.
Chlorine (ppm)	MRDL=4	-	MRDL=4	MRDLG=4	Water additive used to control microbes	Some people who use drinking water containing chlorine well in excess of the MRDL could experience irritating effects to their eyes and nose. Some people who drink water containing chlorine well in excess of the MRDL could experience stomach discomfort.

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Chlorite (ppm)	±	-	±	0.8	Byproduct of drinking water disinfection	Some infants and young children who drink water containing chlorite in excess of the MCL could experience nervous system effects. Similar effects may occur in fetuses of pregnant mothers who drink water containing chlorite in excess of the MCL. Some people may experience anemia.
Chlorine dioxide (ppb)	MRDL = .8	1000	MRDL = 800	MRDLG = 800	Water additive used to control microbes	Some infants and young children who drink water containing chlorine dioxide in excess of the MRDL could experience nervous system effects. Similar effects may occur in fetuses of pregnant mothers who drink water containing chlorine dioxide in excess of the MRDL. Some people may experience anemia.)
Chlorobenzene ((ppb))	((+) 100 ppb	((1000)) ±	100 ppb	100 ppb	Discharge from chemical and agricultural chemical factories	Some people who drink water containing chlorobenzene in excess of the MCL over many years could experience problems with their liver or kidneys.
o-Dichlorobenzene ((ppb))	((-6) 600 ppb	((1000)) ±	600 ppb	600 ppb	Discharge from industrial chemical factories	Some people who drink water containing o-dichlorobenzene well in excess of the MCL over many years could experience problems with their liver, kidneys, or circulatory systems.
p-Dichlorobenzene ((ppb))	((-075) 75 ppb	((1000)) ±	75 ppb	75 ppb	Discharge from industrial chemical factories	Some people who drink water containing p-dichlorobenzene in excess of the MCL over many years could experience anemia, damage to their liver, kidneys, or spleen, or changes in their blood.
1,2-Dichloroethane ((ppb))	((-005) 5 ppb	((1000)) ±	5 ppb	0	Discharge from industrial chemical factories	Some people who drink water containing 1,2-dichloroethane in excess of the MCL over many years may have an increased risk of getting cancer.
1,1-Dichloroethylene ((ppb))	((-007) 7 ppb	((1000)) ±	7 ppb	7 ppb	Discharge from industrial chemical factories	Some people who drink water containing 1,1-dichloroethylene in excess of the MCL over many years could experience problems with their liver.
cis-1,2-Dichloroethylene ((ppb))	((-07) 70 ppb	((1000)) ±	70 ppb	70 ppb	Discharge from industrial chemical factories	Some people who drink water containing cis-1,2-dichloroethylene in excess of the MCL over many years could experience problems with their liver.
trans-1,2-Dichloroethylene ((ppb))	((+) 100 ppb	((1000)) ±	100 ppb	100 ppb	Discharge from industrial chemical factories	Some people who drink water containing trans-1,2-dichloroethylene well in excess of the MCL over many years could experience problems with their liver.
Dichloromethane ((ppb))	((-005) 5 ppb	((1000)) ±	5 ppb	0	Discharge from pharmaceutical and chemical factories	Some people who drink water containing dichloromethane in excess of the MCL over many years could have liver problems and may have an increased risk of getting cancer.

Contaminant ((units))	((traditional MCL in mg/L)) MCL or SAL (units match lab results)	To convert lab results for CCR, multiply by	MCL or SAL in CCR units	MCLG in CCR units	Major Sources in Drinking Water	Health Effects Language
1,2-Dichloropropane ((ppb))	((.005)) 5 ppb	((1000)) -	5 ppb	0	Discharge from industrial chemical factories	Some people who drink water containing 1,2-dichloropropane in excess of the MCL over many years may have an increased risk of getting cancer.
Ethylbenzene ((ppb))	((.7)) 700 ppb	((1000)) -	700 ppb	700 ppb	Discharge from petroleum refineries	Some people who drink water containing ethylbenzene well in excess of the MCL over many years could experience problems with their liver or kidneys.
((Haloacetic Acids (HAA) (ppb))	.060	1000	60	n/a	Byproduct of drinking water disinfection	Some people who drink water containing haloacetic acids in excess of the MCL over many years may have an increased risk of getting cancer.)
Styrene ((ppb))	((.1)) 100 ppb	((1000)) -	100 ppb	100 ppb	Discharge from rubber and plastic factories; Leaching from landfills	Some people who drink water containing styrene well in excess of the MCL over many years could have problems with their liver, kidneys, or circulatory system.
Tetrachloroethylene ((ppb))	((.005)) 5 ppb	((1000)) -	5 ppb	0	Discharge from factories and dry cleaners	Some people who drink water containing tetrachloroethylene in excess of the MCL over many years could have problems with their liver, and may have an increased risk of getting cancer.
1,2,4-Trichlorobenzene ((ppb))	((.07)) 70 ppb	((1000)) -	70 ppb	70 ppb	Discharge from textile-finishing factories	Some people who drink water containing 1,2,4-trichlorobenzene well in excess of the MCL over many years could experience changes in their adrenal glands.
1,1,1-Trichloroethane ((ppb))	((.2)) 200 ppb	((1000)) -	200 ppb	200 ppb	Discharge from metal degreasing sites and other factories	Some people who drink water containing 1,1,1-trichloroethane in excess of the MCL over many years could experience problems with their liver, nervous system, or circulatory system.
1,1,2-Trichloroethane ((ppb))	((.005)) 5 ppb	((1000)) -	5 ppb	3 ppb	Discharge from industrial chemical factories	Some people who drink water containing 1,1,2-trichloroethane well in excess of the MCL over many years could have problems with their liver, kidneys, or immune systems.
((Trichloroethylene (ppb))	.005	1000	5	0	Discharge from metal degreasing sites and other factories	Some people who drink water containing trichloroethylene in excess of the MCL over many years could experience problems with their liver and may have an increased risk of getting cancer.
TTHMs [Total trihalomethanes] (ppb)	.080	1000	80	N/A	Byproduct of drinking water disinfection	Some people who drink water containing trihalomethanes in excess of the MCL over many years may experience problems with their liver, kidneys, or central nervous systems, and may have an increased risk of getting cancer.)
Toluene ((ppm))	((1)) 1000 ppm	-	((1)) 1000 ppm	((1)) 1000 ppm	Discharge from petroleum factories	Some people who drink water containing toluene well in excess of the MCL over many years could have problems with their nervous system, kidneys, or liver.

Contaminant <del>((units))</del>	<del>((traditional MCL in mg/L))</del> MCL or SAL <del>(units match lab results)</del>	To convert lab results for CCR, multiply by	MCL or SAL in CCR units	MCLG in CCR units	Major Sources in Drinking Water	Health Effects Language
Vinyl Chloride <del>((ppb))</del>	<del>((002))</del> 2 ppb	<del>((1000))</del> -	2 ppb	0	Leaching from PVC piping; Discharge from plastics factories	Some people who drink water containing vinyl chloride in excess of the MCL over many years may have an increased risk of getting cancer.
Xylenes <del>((ppm))</del>	<del>((10))</del> 10,000 ppb	-	<del>((10))</del> 10,000 ppb	<del>((10))</del> 10,000 ppb	Discharge from petroleum factories; Discharge from chemical factories	Some people who drink water containing xylenes in excess of the MCL over many years could experience damage to their nervous system.

**Treatment Technique Violations**

Acrylamide	TT	-	TT	0	Added to water during sewage/wastewater treatment	Some people who drink water containing high levels of acrylamide over a long period of time could have problems with their nervous system or blood, and may have an increased risk of getting cancer.
Epichlorohydrin	TT	-	TT	0	Discharge from industrial chemical factories; an impurity of some water treatment chemicals	Some people who drink water containing high levels of epichlorohydrin over a long period of time could experience stomach problems, and may have an increased risk of getting cancer.
Groundwater rule TT violations	TT	-	TT	N/A	-	Inadequately treated or inadequately protected water may contain disease-causing organisms. These organisms can cause symptoms such as diarrhea, nausea, cramps, and associated headaches.

**Key**

AL = Action Level  
MCL = Maximum Contaminant Level  
MCLG = Maximum Contaminant Level Goal  
MFL = million fibers per liter  
MRDL = Maximum Residual Disinfectant Level  
MRDLG = Maximum Residual Disinfectant Level Goal  
mrem/year = millirems per year (a measure of radiation absorbed by the body)  
N/A = Not Applicable  
NTU = Nephelometric Turbidity Units (a measure of water clarity)  
~~((pCi/L))~~ pCi/L = picocuries per liter (a measure of radioactivity)  
ppm = parts per million, or milligrams per liter ~~((mg/L))~~ (mg/L)  
ppb = parts per billion, or micrograms per liter (ug/L)  
ppt = parts per trillion, or nanograms per liter (ng/L)  
ppq = parts per quadrillion, or picograms per liter (pg/L)  
SAL = state action level  
TT = Treatment Technique

**AMENDATORY SECTION** (Amending WSR 17-01-062, filed 12/14/16, effective 1/14/17)

**WAC 246-290-810 Water use efficiency program.** (1) Water system plans and small water system management programs submitted for approval for the first year after ~~((the effective date of this rule))~~ January 22, 2007, must describe the municipal water supplier's existing water use efficiency program. The municipal water supplier must continue existing levels of water use efficiency.

(2) Subsections (3) and (4) of this section apply to:

(a) Water system plans submitted to the department for approval under WAC 246-290-100 one year after the effective date of this rule.

- (b) Small water system management programs developed and implemented or submitted to the department for approval one year after the effective date of this rule.
- (3) Municipal water suppliers shall develop and implement a water use efficiency program which includes sufficient cost-effective water use efficiency measures to meet the water use efficiency goals developed under WAC 246-290-830.
- (4) Municipal water suppliers shall complete the following items in the water use efficiency program:
  - (a) Describe the current water use efficiency program;
  - (b) For systems serving one thousand or more total connections, estimate the amount of water saved through implementation of the water use efficiency program over the prior six or more years; the estimate may include the entire approval period of the most recent water system plan required under WAC 246-290-100;
  - (c) Describe the chosen water use efficiency goals and document the goals were established in accordance with WAC 246-290-830;
  - (d) Evaluate water use efficiency measures to determine if they are cost-effective as follows:
    - (i) Evaluate or implement, at a minimum, the number of water use efficiency measures specified in Table ((43)) 18 of this section based on the system's total number of connections.
    - (ii) Evaluate or implement water use efficiency measures from the following categories of measures if they are applicable: Indoor residential, outdoor, and industrial/commercial/institutional.
    - (iii) For systems serving less than one thousand total connections, describe the evaluation process used to select water use efficiency measures.
    - (iv) For systems serving one thousand or more total connections, include the following criteria when evaluating water use efficiency measures:
      - (A) Quantitatively evaluate water use efficiency measures to determine if they are cost-effective from the system's perspective including the marginal costs of producing water.
      - (B) Address whether the water use efficiency measures are cost-effective if the costs are shared with other entities.
      - (C) Quantitatively or qualitatively evaluate water use efficiency measures to determine if they are cost-effective from the societal perspective.

Table ((43)) 18

Number of connections	Less than 500	500-999	1,000-2,499	2,500-9,999	10,000-49,999	50,000 or more
Water use efficiency measures	1	4	5	6	9	12

- (e) Describe all water use efficiency measures to be implemented over the next six or more years, including a schedule and a budget that demonstrates how the water use efficiency measures will be funded. Purveyors may submit a schedule and budget for the entire water system plan approval period, if the approval period is longer than six years;
- (f) Describe how consumers will be educated on water use efficiency practices;
- (g) Estimate projected water savings from selected water use efficiency measures;
- (h) Describe how the water use efficiency program will be evaluated for effectiveness;
- (i) Evaluate water distribution system leakage as follows:
  - (i) Include distribution system leakage annual totals in accordance with WAC 246-290-820 for each of the past six or more years. Purveyors shall submit distribution system leakage annual totals for the entire water system plan approval period if the approval period was longer than six years.
  - (ii) If necessary, include a copy of the water loss control action plan in accordance with WAC 246-290-820(4).
  - (iii) If all or portions of transmission lines are excluded when determining distribution system leakage, estimate the amount of leakage from the excluded portion of the transmission mains and describe how it is maintained to minimize leakage.

**WSR 21-23-102**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed November 17, 2021, 8:11 a.m., effective January 1, 2022]

Effective Date of Rule: January 1, 2022.

Purpose: The department is amending WAC 388-478-0015 Need standards for cash assistance, to update cash assistance program need standards, as required annually by RCW 74.04.770.

Citation of Rules Affected by this Order: Amending WAC 388-478-0015.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.770, and 74.08.090.

Adopted under notice filed as WSR 21-20-125 on October 5, 2021.

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

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

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

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

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

Date Adopted: November 17, 2021.

Katherine I. Vasquez  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 20-20-007, filed 9/24/20, effective 10/25/20)

**WAC 388-478-0015 Need standards for cash assistance.** The monthly need and payment standards for cash assistance are based on a determination of the assistance unit size. The need standards for cash assistance units are:

~~((1) Effective January 1, 2020:))~~

Assistance unit size	Need standard
1	<del>(\$1,520)</del> <u>\$1,631</u>
2	<del>((1,923))</del> <u>2,064</u>
3	<del>((2,374))</del> <u>2,548</u>
4	<del>((2,804))</del> <u>3,007</u>
5	<del>((3,229))</del> <u>3,465</u>
6	<del>((3,656))</del> <u>3,924</u>
7	<del>((4,226))</del> <u>4,535</u>
8	<del>((4,677))</del> <u>5,020</u>
9	<del>((5,128))</del> <u>5,504</u>
10 or more	<del>((5,579))</del> <u>5,988</u>

~~((2) Effective January 1, 2021:))~~

<del>((Assistance unit size</del>	<del>Need standard))</del>
<del>((1</del>	<del>\$1,538))</del>
<del>((2</del>	<del>1,946))</del>
<del>((3</del>	<del>2,402))</del>
<del>((4</del>	<del>2,834))</del>
<del>((5</del>	<del>3,267))</del>
<del>((6</del>	<del>3,699))</del>
<del>((7</del>	<del>4,276))</del>
<del>((8</del>	<del>4,732))</del>
<del>((9</del>	<del>5,188))</del>
<del>((10 or more</del>	<del>5,645))</del>

**WSR 21-23-103**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)  
(Division of Child Support)

[Filed November 17, 2021, 8:33 a.m., effective December 18, 2021]

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

Purpose: The division of child support (DCS) is enacting WAC 388-14A-2210 What is the procedure for service by certified mail due to COVID-19? Due to the COVID-19 pandemic, the United States Postal Service (USPS) has altered certified mail delivery practices to limit in-person contact for signatures. DCS relies on the certified mail return receipt requested delivery method for service of various notices. Because these USPS practices do not have a projected end date at this time, DCS is proposing a permanent rule to ensure due process and adequate service under the modified USPS processes.

Citation of Rules Affected by this Order: New WAC 388-14A-2210.

Statutory Authority for Adoption: RCW 26.23.110, 34.05.220, 74.08.090, 74.20A.055.

Adopted under notice filed as WSR 21-20-129 on October 5, 2021.

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

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

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

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

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

Date Adopted: November 17, 2021.

Katherine I. Vasquez  
Rules Coordinator

NEW SECTION

**WAC 388-14A-2210 What is the procedure for service by certified mail due to COVID-19?** (1) The United States Postal Service has made temporary changes to its certified mail signature gathering procedures to limit direct contact with recipients. As long as these special signature gathering procedures remain in effect, the division of child support (DCS) will consider service by certified mail, return receipt requested when required under chapter 388-14A WAC to be successful 10 days after the following requirements are satisfied:

(a) The notice is sent by certified mail, return receipt requested, with restricted delivery to the noncustodial or custodial parent DCS is serving; and

(b) The postal service employee signs the receipt on behalf of the individual taking delivery as required by current postal service restricted delivery procedures.

(2) The individual taking delivery under section (1)(b) of this section is presumed to be the subject of service or the authorized agent of the subject.