

WSR 05-20-017
PROPOSED RULES
DEPARTMENT OF REVENUE

[Filed September 26, 2005, 4:02 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-12-137.

Title of Rule and Other Identifying Information: WAC 458-20-229 Refunds.

Hearing Location(s): Capital Plaza Building, 4th Floor, Large L&P Conference Room, 1025 Union Avenue S.E., Olympia, WA 98504, on November 8, 2005, at 9:30 a.m.

Date of Intended Adoption: November 15, 2005.

Submit Written Comments to: Gilbert Brewer, P.O. Box 47453, Olympia, WA 98504-7453, e-mail gilb@dor.wa.gov, fax (360) 586-5543, by November 8, 2005.

Assistance for Persons with Disabilities: Contact Sandy Davis at (360) 725-7499, no later than ten days before the hearing date. Deaf and hard of hearing individuals may call 1-800-451-7985 (TTY users).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 458-20-229, describes tax refund procedures. The proposed rule would: (1) Clarify the application of statutory time limits on the granting of refunds, including requiring refund applications to be complete when the time limits expire, or reasonably soon thereafter; (2) explain the effects of *Paccar, Inc. v. Dept. of Revenue*, 135 Wash. 2d 301, 957 P.2d 669 (Wash. 1998); (3) incorporate legislation affecting how interest for refunds is computed (e.g., chapter 73, Laws of 2003); (4) adding specific factual examples to demonstrate the rule's operation; and (5) rewrite and reorganize the rule to make it more complete and easier to use.

Reasons Supporting Proposal: The proposed rule will more accurately reflect current law, provide more information to taxpayers and department staff, and make the rule easier for persons to use.

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

Statute Being Implemented: RCW 82.32.060.

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

Name of Proponent: Department of Revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Gilbert Brewer, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6133; Implementation: Alan R. Lynn, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6125; and Enforcement: Janis P. Bianchi, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6147.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule does not impose more than minor costs upon taxpayers who seek reviews of tax determinations made by department personnel.

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

September 26, 2005

Alan R. Lynn

Rules Coordinator

AMENDATORY SECTION (Amending WSR 93-04-077, filed 2/1/93, effective 3/4/93)

WAC 458-20-229 Refunds. (1) Introduction. (~~This section explains the procedures relating to refunds or credits for overpayment of taxes, and penalties or interest. It indicates the statutory period for refunds and the interest rate which applies to those refunds.~~

~~(2) Statute of limitations for refunds or credits.~~

~~(a) With the exception of (b) of this subsection, no refund or credit may be made for taxes, penalties, or interest paid more than four years prior to the beginning of the calendar year in which a refund or credit application is made or examination of records by the department is completed.~~

~~(b) Where a taxpayer has executed a written waiver of the limitations governing assessment under RCW 82.32.050 or 82.32.100, a refund or credit may be granted for taxes, penalties, or interest paid during, or attributable to, the years covered by such waiver if, prior to expiration of the waiver period, an application for a refund or credit of such taxes, penalties, or interest is made by the taxpayer or the department discovers a refund or credit is due. (Refer to WAC 458-20-230 for the circumstances under which the department may request a taxpayer to execute a statute of limitations waiver.)~~

~~(3) Refund/credit procedures. Refunds are initiated in the following ways:~~

~~(a) Departmental review. When the department audits or examines the taxpayer's records and determines the taxpayer has overpaid its taxes, penalties, or interest, the department will issue a refund or a credit, at the taxpayer's option. When overpayments are discovered by the department within the statute of limitations, the taxpayer does not need to file a petition or request for a refund or credit.~~

~~(b) Taxpayer request. When a taxpayer discovers that it has overpaid taxes, penalties, or interest, it may file an amended return or a petition for refund or credit with the department. The petition or amended tax return must be submitted within the statute of limitations. Refund or credit requests should generally be made to the division of the department to which payment of the tax, penalty, or interest was originally made. The amended tax returns or petitions are subject to future verification or examination of the taxpayer's records. If it is later determined that the refund or credit exceeded the amount properly due the taxpayer, an assessment may be issued to recover the excess amount, provided the assessment is made within four years of the close of the tax year in which the taxes were due or prior to the expiration of a statute of limitations waiver. The following are examples of refund or credit requests:~~

~~(i) A taxpayer discovers in January 1992 that the June 1991 combined excise tax return was prepared using incorrect figures which overstated its sales resulting in an overpayment of tax. The taxpayer files an amended June 1991 tax return with the department's taxpayer account administration division. The department treats the taxpayer's amended June 1991 tax return as a petition for refund or credit of the amounts overpaid during that tax period and may take whatever action it considers appropriate under the circumstances to verify the overpayment.~~

(ii) A customer of a seller pays retail sales tax on a transaction which the customer later believes was not taxable. The customer should request a refund or credit directly from the seller from whom the purchase was made. If the seller determines the tax was not due and issues a refund or credit to the customer, the seller may request a refund or credit from the department. It is generally to the advantage of a consumer to seek a refund directly from the seller for retail sales tax believed to have been paid in error. This is because the seller has the source records to know if retail sales tax was collected on the original sale, knows the customer, knows the circumstances surrounding the original sale, is aware of any disputes between itself and the customer concerning the product, may already be aware of the circumstances as to why a refund of sales tax is appropriate such as the return of the merchandise. When in doubt as to whether sales tax should be refunded, a seller may contact the department and request advice. However, in certain situations, upon presentation of acceptable proof of payment of retail sales tax, the department will consider making refunds of retail sales tax directly to consumers. These situations are as follows:

(A) The seller is no longer engaged in business.

(B) The seller has moved and the consumer can not locate the seller.

(C) The seller is insolvent and is financially unable to make the refund.

(D) The consumer has attempted to obtain a refund from the seller and can document that the seller refuses to refund the retail sales tax. However, the department will not consider making refunds directly to consumers when the law leaves it at the discretion of the seller to collect the tax. See, for example, RCW 82.08.0273.

(iii) The department completes an audit of the taxpayer's records relating to taxes reported on combined excise tax returns and an assessment is issued. After the assessment is paid, but within the statute of limitations for refund or credit, the taxpayer locates additional records which would have reduced the tax, penalties, or interest liability if these records had been available in the audit. The taxpayer contacts the department's audit division, requests that a reexamination of the appropriate records be performed, and files a petition for a refund or credit of overpaid amounts. The statute of limitations will be determined based on the date the assessment was paid for an adjustment of taxes, penalties, or interest assessed in the audit. For taxes, penalties, or interest paid through the filing of combined excise tax returns by the taxpayer, the statute of limitations will be based on the date the amounts were paid without regard to when the audit was completed or the assessment was issued.

(c) Taxpayer appeal. If the taxpayer believes that the tax, penalties, or interest overpayment is the result of a difference of legal opinion with the department as to the taxability of a transaction, the application of penalties or the inclusion of interest, the taxpayer may appeal to the department as provided in WAC 458-20-100 or directly to Thurston County superior court.

(d) Court decision. Refunds or credits will be made by the department as required by decisions of any court of competent jurisdiction when the decision of the court is not being appealed.

(i) In the case of court actions regarding refund or credit of retail sales taxes, the department will not require that consumers obtain a refund of retail sales tax directly from the seller if it would be unreasonable and an undue burden on the person seeking the refund to obtain the refund from the seller. In this case the department may make the refunds directly to the claimant and may use the public media to attempt to notify all persons who may be entitled to refunds or credits.

(ii) Forms for applications for refunds for these situations will be available either by mail or at the department's offices and the claimant will need to file an application for refund. The application will request the appropriate information needed to identify the claimant, item purchased, amount of sales tax to be refunded, and the seller. The department may at its discretion request additional documentation which the claimant could reasonably be expected to retain, based on the particular circumstances and value of the transaction. Such refund requests shall be approved or denied within thirty days after all documentation has been submitted by the claimant and legal questions have been resolved. If approved for refund, such refunds shall be made within sixty days after all documentation has been submitted.

(4) Prompt refunds. Taxpayers may expect refund requests to be processed promptly by the department. Refunds can generally be processed faster if the taxpayer provides the following information at the time a refund application is made:

(a) The taxpayer should include its registration number on all documents.

(b) The taxpayer should include the telephone number and name of the person the department should contact in case the department needs additional information or has questions.

(c) The taxpayer should include a detailed description or explanation of the claimed overpayment.

(d) Amended tax returns or worksheets should be attached to the refund or credit application and clearly identify the tax reporting periods involved.

(e) If the refund or credit request involves a situation where a seller has refunded retail sales tax to a customer and the seller is now seeking a refund or credit of the tax from the department, proof of refund to the customer should be attached.

(f) Generally, refund or credit requests require verification by the department through a review of specific taxpayer records which have a bearing on the refund or credit request. If the refund or credit request relates to a year for which the statute of limitations will expire within a short period, the department may be able to more promptly issue a refund by delaying the verification process until it is more convenient to the taxpayer and/or the department if the taxpayer will execute a statute of limitations waiver.

(5) Interest on refunds or credits. Interest will be allowed on credits or refunds.

(a) Interest is paid at the rate of three percent per annum for refunds and credits of taxes or penalties which were paid by the taxpayer prior to January 1, 1992.

(b) For amounts overpaid by a taxpayer after December 31, 1991, the rate of interest on refunds and credits is the average of the federal short-term rate as defined in 26 U.S.C. Sec. 1274(d) plus one percentage point. The rate will be

adjusted on the first day of January of each year by taking an arithmetical average to the nearest percentage point of the federal short-term rate, compounded annually, for the months of January, April, July, and October of the immediately preceding calendar year as published by the United States Secretary of Treasury.

(e) The department will include interest on credit notices with the interest computed to the date the taxpayer could reasonably be expected to use the credit notice, generally the due date of the next tax return.

(d) If a taxpayer requests that a credit notice be converted to a refund, interest will be recomputed to the date the refund (warrant) is issued, but not to exceed the interest which would have been granted through the credit notice.

(6) Offsetting overpayments against deficiencies. The department may apply overpayments against existing deficiencies/assessments for the same legal entity. However, a potential deficiency which is yet to be determined will not be reason to delay the processing of an overpayment where an overpayment has been conclusively determined. The following examples illustrate the use of offsets:

(a) The taxpayer's records are audited for the period 1988 through 1991. The audit disclosed underpayments in 1989 and overpayments in 1991. The department will apply the overpayments in 1991 to the deficiencies in 1989. The resulting amount will indicate whether a refund or credit is owed the taxpayer or whether the taxpayer owes additional amounts.

(b) The department has determined that the taxpayer has overpaid its real estate excise tax in 1991. The department believes that the taxpayer may owe additional B&O taxes,

but this has yet to be established. The department will not delay the processing of the refund of the real estate excise tax while it proceeds with scheduling and performing of an audit for the B&O taxes.

(e) The department simultaneously performed a timber tax audit and a B&O tax audit of a taxpayer. The department determined that the taxpayer underpaid its B&O tax and overpaid its timber tax. Separate assessments were issued on the same date, one showing additional taxes due and the other overpayments. The department may offset the overpayment against the tax deficiency assessment since both the underpayment and overpayment have been established.)) This section explains the procedures relating to refunds or credits for the overpayment of taxes, penalties, or interest. It describes the statutory time limits for refunds and the interest rates that apply to those refunds.

References to a "refund application" in this section also include a request for a credit against future tax liability instead of a refund to the taxpayer.

Examples provided in this section should be used only as a general guide. The tax results of other situations must be determined after a review of all facts and circumstances.

(2) What are the time limits for a tax refund or credit?

(a) Time limits. No refund or credit may be made for taxes, penalties, or interest paid more than four years before the beginning of the calendar year in which a refund application is made or examination of records by the department is completed. See RCW 82.32.060.

For example, a refund or credit may be granted for any overpayment made in a shaded year in the following chart.

<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4</u>	<u>Year 5</u>	<u>Year 6</u>
					<u>Refund application is filed no later than December 31st</u>

(b) Relation back to date paid. Because the time limits relate to the date the tax, penalty, or interest is paid, a refund application can be timely even though the payment concerned liabilities for a tax year normally outside the time limits. For example, Taxpayer P owes \$1,000 in B&O tax for activity undertaken in December 2000. In January 2001, Taxpayer P makes an arithmetic error and submits a payment of \$1,500 with its December 2000 tax return. In December 2005, Taxpayer P requests a refund of \$500 for the overpayment of taxes for the December 2000 period. This request is timely, even though it relates to a period (December 2000) more than four years before the beginning of the calendar year in which the refund application is made. It is timely because the overpayment occurred within the time limits,

even though the payment concerned tax liabilities incurred outside the time limits.

Some fact situations can become quite complicated in this area. For example, Taxpayer P pays B&O taxes in Years 1 through 4. The department subsequently conducts an audit of Taxpayer P that includes Years 1-4. The audit is completed in Year 5. As a result of the audit, the department issues an assessment in Year 5 for \$50,000 in additional retail sales taxes that were due from Years 1-4. Taxpayer P pays the assessment in full in Year 6. In year 10, Taxpayer P files an application requesting a refund of B&O taxes. Taxpayer P's application is timely because it relates to a payment (payment of the assessment in Year 6) made no more than four years before the year in which the application is filed. It does

not matter that the taxes relate to years outside the time limits; the actual payment occurred within four years before the refund application. Nor does it matter that the refund is based on an overpayment of B&O taxes while the assessment involved retail sales taxes, because both taxes relate to the same tax years. However, the amount of any refund is limited to \$50,000 - the amount of the payment that occurred within the time limits.

Assume the same facts as described above. When the department reviews Taxpayer P's refund application, it determines that the refund request is valid. After reviewing the new information, however, the department also determines that Taxpayer P should have paid \$20,000 in additional B&O taxes during Years 1-4. Because Taxpayer P paid \$30,000 more than the amount properly due (\$50,000 overpayment less \$20,000 underpayment), the amount of the refund will be \$30,000.

(c) **Waiver.** Under RCW 82.32.050 or 82.32.100, a taxpayer may agree to waive the time limits and extend the time for the assessment of taxes, penalties and interest. If the taxpayer executes such a waiver, the time limits for a refund or credit are extended for the same period. Refer to WAC 458-20-230 (Statutory limitations on assessments) for the circumstances under which the department may ask a taxpayer to execute a waiver.

(3) **How do I get a refund or credit?**

(a) **Departmental review.** If the department audits or examines the taxpayer's records and determines the taxpayer has overpaid taxes, penalties, or interest, the department will issue a refund or a credit, at the taxpayer's option. The taxpayer does not need to apply for a refund.

(b) **Taxpayer application.**

(i) If a taxpayer discovers that it has overpaid taxes, penalties, or interest, it may apply for a refund or credit. Refund application forms are available from the following sources:

- The department's internet web site at <http://dor.wa.gov>
- By facsimile by calling Fast Fax at 360-705-6705 or 800-647-7706 (using menu options)
- By writing to:

Taxpayer Services
Washington State Department of Revenue
P.O. Box 47478
Olympia, WA 98504-7478

(ii) A taxpayer must submit a complete refund application within the time limits described in subsection (2) of this section. An application is complete when it specifically identifies the basis for the refund or credit and contains sufficient documentation to support the claim for refund or credit. No basis for a refund or credit may be considered except those specifically identified in the application; however, an application may be amended at any time before the time limits in subsection (2) of this section expire. Taxpayers are encouraged to use the department's refund application form to ensure that all necessary information is provided in a timely manner.

(iii) Taxpayers may expect the department to respond to refund applications promptly. If the department notifies the taxpayer that additional documentation is required, the taxpayer must provide the necessary supporting documentation

within thirty days after the notice is sent. If the department fails to receive the necessary documentation within thirty days, the application is automatically denied. In the notice sent to the taxpayer, the department must state the deadline for providing the necessary supporting documentation and notify the taxpayer that the application will be automatically denied if the documentation is not received within this period. Any application automatically denied for lack of supporting documentation may be refiled at any time before the time limits in subsection (2) of this section expire.

(iv) The department, in its discretion, may extend the thirty-day period for providing supporting documentation. The department may extend the thirty-day period on its own motion or at the taxpayer's request.

(v) The following examples illustrate the refund application process:

(A) A taxpayer discovers in January 2005 that its June 2004 excise tax return was prepared using incorrect figures that overstated its sales, resulting in an overpayment of tax. The taxpayer files an amended June 2004 tax return with the department's taxpayer account administration division. The department will treat the taxpayer's amended June 2004 tax return as a request for a refund or credit of the amounts overpaid during that tax period. The taxpayer must specifically identify the basis for the refund or credit and provide sufficient documentation to support the claim for refund or credit. The taxpayer may satisfy this obligation by submitting a completed application form with its amended return or providing the necessary information by other means.

(B) On December 31, 2005, a taxpayer files an amended return for the 2001 calendar year. The return includes changed figures indicating that an overpayment occurred, but does not provide any supporting documentation. No written waiver of the time limits for this time period exists. The department sends a letter notifying the taxpayer that the taxpayer's application is not complete and supporting documentation must be provided within thirty days or the application will be automatically denied and cannot be refiled after the time limits expire. If the taxpayer does not provide the necessary documentation by the stated date, the claim is automatically denied and cannot be resubmitted as it is now past the time limits of the statute.

(C) Taxpayer submits a refund application on December 31, 2004, claiming the taxpayer overpaid use tax in 2000 on certain machinery and equipment obtained by the taxpayer at that time. No supporting documentation is provided with the application and no written waiver of the time limits for this time period exists. The department sends a letter notifying the taxpayer that the taxpayer's application is not complete and supporting documentation must be provided within thirty days or the application will be automatically denied and cannot be refiled after the time limits expire. The taxpayer does not respond by the stated date. The claim is automatically denied and cannot be resubmitted as it is now past the time limits of the statute.

(D) Assume the same facts as in (b)(v)(C) of this subsection, except that the taxpayer submits sufficient supporting documentation within thirty days after the department sends the letter. The taxpayer's application is considered timely, notwithstanding that it was not complete when the time limits

expired, as long as the taxpayer provides the supporting documentation within the thirty-day period.

(E) Assume the same facts as in (b)(v)(C) of this subsection, except that before the thirty-day period expires, the taxpayer requests an additional fifteen days in which to respond, explaining why the documentation will require the additional time to assemble. The department agrees to the extended deadline. If the taxpayer submits the requested information within the resulting forty-five-day period, the application is considered timely.

(F) Assume the same facts as in (b)(v)(C) of this subsection, except that the taxpayer submits supporting documentation within thirty days. The department reviews the supporting documentation and finds that it is still insufficient. The department, in its discretion, may extend the deadline and request additional documentation from the taxpayer or may deny the refund claim as untimely.

(4) Can I get a refund of retail sales tax paid in error?

(a) Refund from seller. If a customer pays retail sales tax on a transaction that the customer later believes was not taxable, the customer should request a refund or credit directly from the seller from whom the purchase was made. If the seller determines the tax was not due and issues a refund or credit to the customer, the seller may seek its own refund from the department. It is better for a customer to seek a retail sales tax refund directly from the seller. This is because the seller has the records to know if retail sales tax was collected on the original sale, knows the customer, knows the circumstances surrounding the original sale, is aware of any disputes between itself and the customer concerning the product, and may already be aware of the circumstances as to why a refund of sales tax is appropriate. If a seller questions whether he or she should refund sales tax to a customer, the seller may request advice from the department's telephone information center at 1-800-647-7706.

(b) Refund from department. However, in certain situations where the customer has not received a refund from the seller, the department will refund retail sales tax directly to a customer. The customer must file a complete refund application as described in subsection (3)(b) of this section and either a seller's affidavit or a claimant/consumer affidavit.

(i) If the customer is able to obtain a waiver from the seller of the seller's right to claim the refund, the customer should file a seller's affidavit with the refund application. A seller's affidavit documents that:

(A) Retail sales tax was collected and paid to the department on the purchase for which a refund is sought;

(B) The seller has not refunded the retail sales tax to the buyer or claimed a refund from the department; and

(C) The seller will not seek a refund of the sales tax from the department.

(ii) If the seller no longer exists, the seller refuses to sign the affidavit, or the buyer is unable to locate the seller, the customer should file a claimant/consumer affidavit with the refund application. The claimant/consumer affidavit explains why the claimant is unable to obtain a seller's affidavit and provides information about the seller.

(iii) Seller's affidavit and claimant/consumer affidavit forms are available from the following sources:

- The department's internet web site at <http://dor.wa.gov>
- By facsimile by calling Fast Fax at 360-705-6705 or 800-647-7706 (using menu options)

• By writing to:

Taxpayer Services
Washington State Department of Revenue
P.O. Box 47478
Olympia, WA 98504-7478.

(iv) The department will not make refunds directly to customers for sales where the seller had discretion to collect the tax. For example, RCW 82.08.0273 permits—but does not require—a retailer to make sales to certain nonresidents without collecting retail sales tax. If a retailer opts to charge sales tax on a purchase made by a qualifying nonresident, the nonresident purchaser may not seek a refund from the department.

(5) Is my refund final? The department may review a refund or credit provided on the basis of a taxpayer application. If the department subsequently determines that the refund or credit exceeded the amount properly due the taxpayer, the department may issue an assessment to recover the excess amount. This assessment must be made within the time limits of RCW 82.32.050. See WAC 458-20-230, Statutory limitations on assessments, for more information on the time limits for imposing assessments.

(6) Refunds made as a result of a court decision. The department will grant refunds or credits required by a court decision, if the decision is not being appealed.

If the court action requires the refund or credit of retail sales taxes, the department will not require that consumers attempt to obtain a refund directly from the seller if it would be unreasonable and an undue burden on the consumer. In such a case, the department may refund the retail sales tax directly to the claimant and may use the public media to notify persons that they may be entitled to refunds or credits. The department will make available special refund application forms that claimants must use for these situations. The application will request the appropriate information needed to identify the claimant, item purchased, amount of sales tax to be refunded, and the seller. The department may, at its discretion, request additional documentation that the claimant could reasonably be expected to retain, based on the particular circumstances and value of the transaction. The department will approve or deny such refund requests within thirty days after the claimant has submitted all documentation and legal questions have been resolved. If approved for refund, the department will provide the refund within sixty days after all documentation has been submitted.

(7) What interest is due on my refund? Interest is due on a refund or credit granted to a taxpayer as provided in this subsection.

(a) Rate for overpayments made between 1992 and 1998. For amounts overpaid by a taxpayer between January 31, 1991, and December 31, 1998, the rate of interest on refunds and credits is:

(i) Computed the same way as the rate provided under (b) of this subsection minus one percent, for interest allowed through December 31, 1998; and

(ii) Computed the same way as the rate provided under (b) of this subsection, for interest allowed after December 31, 1998.

(b) Rate for overpayments after 1998. For amounts overpaid by a taxpayer after December 31, 1998, the rate of interest on refunds and credits is the average of the federal short-term rate as defined in 26 U.S.C. Sec. 1274(d) plus two percentage points. The rate is adjusted on the first day of January of each year by taking an arithmetical average to the nearest percentage point of the federal short-term rate, compounded annually, for the months of January, April and July of the immediately preceding calendar year and October of the previous preceding year, as published by the United States Secretary of the Treasury.

(c) Start date for the calculation of interest. If the taxpayer made all overpayments for each calendar year and all reporting periods ending with the final month included in a credit notice or refund on or before the due date of the final return for each calendar year or the final reporting period included in the notice or refund, interest is computed from either:

(i) January 31st following each calendar year included in a notice or refund; or

(ii) The last day of the month following the final month included in a notice or refund.

If the taxpayer did not make all overpayments for each calendar year and all reporting periods ending with the final month included in the notice or refund, interest is computed from the last day of the month following the date on which payment in full of the liabilities was made for each calendar year included in a notice or refund, and the last day of the month following the date on which payment in full of the liabilities was made if the final month included in a notice or refund is not the end of a calendar year.

(d) Calculation of interest on credits. The department will include interest on credit notices with the interest computed to the date the taxpayer could reasonably be expected to use the credit notice, generally the due date of the next tax return. If a taxpayer requests that a credit notice be converted to a refund, interest is recomputed to the date the refund (warrant) is issued, but not to exceed the interest that would have been granted through the credit notice.

(8) Can the department apply my refund against other taxes I owe? The department may apply overpayments against existing deficiencies/assessments for the same legal entity. However, the existence of a potential deficiency that has not yet been determined may not delay the refund of an overpayment that has been conclusively determined. The following examples illustrate the application of overpayments against existing deficiencies:

(a) The taxpayer's records are audited for the period Year 1 through Year 4. The audit disclosed underpayments in Year 2 and overpayments in Year 4. The department will apply the overpayments in Year 4 to the deficiencies in Year 2. The resulting amount will indicate whether a refund or credit is owed the taxpayer or whether the taxpayer owes additional tax.

(b) The department has determined that the taxpayer has overpaid its real estate excise tax. The department believes that the taxpayer may owe additional B&O taxes, but this has

yet to be established. The department will not delay the refund of the real estate excise tax while it schedules and performs an audit for the B&O taxes.

(c) The department simultaneously performed a timber tax audit and a B&O tax audit of a taxpayer. The audit disclosed underpayments of B&O tax and overpayments of timber tax. Separate assessments were issued on the same date, one showing additional taxes due and the other overpayments. The department may apply the overpayment against the tax deficiency assessment since both the underpayment and overpayment have been established.

(9) How do I appeal the department's decision? If the taxpayer believes that the tax, penalties, or interest overpayment results from a difference of legal opinion with the department as to the taxability of a transaction; the application of penalties; or the inclusion of interest, the taxpayer may appeal:

(a) To the department as provided in WAC 458-20-100, Appeals, small claims and settlements; or

(b) Directly to Thurston County superior court.

(10) When is a mailed document "received" for purposes of this section? The postmark date of a mailed application or other document is conclusive evidence of the date that the material was received by the department.

WSR 05-20-030

PROPOSED RULES

CRIMINAL JUSTICE TRAINING COMMISSION

[Filed September 28, 2005, 9:09 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-15-137.

Title of Rule and Other Identifying Information: WAC 139-10-530 Basic community corrections officer academy curriculum.

Hearing Location(s): Washington State Criminal Justice Training Commission, 19010 1st Avenue South, Burien, WA 98148, on Wednesday, December 14, 2005, at 10:00 a.m.

Date of Intended Adoption: December 14, 2005.

Submit Written Comments to: Sonja Hirsch, 19010 1st Avenue South, Burien, WA 98148, e-mail shirsch@cjtc.state.wa.us, fax (206) 439-3860, by December 1, 2005.

Assistance for Persons with Disabilities: Contact Sonja Hirsch by December 1, 2005, TTY (206) 835-7300.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Originally, the Department of Corrections (DOC) planned to introduce defensive tactics training into the community corrections officer (CCO) course in September 2005. This WAC was updated accordingly to include defensive tactics. In a recent DOC message, the introduction has been deferred for further study. DOC requested that defensive tactics not be included at this time in the WAC covering the CCO curriculum.

Statutory Authority for Adoption: RCW 43.101.080.

Statute Being Implemented: Not applicable.

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

Name of Proponent: Staff in response to a request from the Washington State Department of Corrections, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Al Isaac, Burien, Washington, (206) 835-7306.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Proposal is exempt under RCW 19.85.025(2); therefore a small business economic impact statement is not required.

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

Sonja Hirsch
for Cheryl Price
Accreditation Manager

AMENDATORY SECTION (Amending WSR 05-13-078, filed 6/14/05, effective 7/15/05)

WAC 139-10-530 Basic community corrections officers academy curriculum. The basic community corrections officers academy curriculum of the commission must be at least eighty instructional hours in length and will include, but not be limited to, the following subject matter areas:

- (1) Core skills
 - (a) Assessment
 - (b) Motivation
 - (c) Goal setting/action planning
 - (d) Monitoring and intervention
 - (e) Arrest and search procedures
- (2) Key skills
 - (a) Interpersonal skills
 - (b) Interviewing
 - (c) Classification
 - (d) Offense prevention
- (3) Related skills
 - (a) Dealing with aggressive and resistive behavior
 - (b) Legal issues
 - (c) Counseling techniques
 - (d) Managing information
 - (e) (~~Defensive tactics and~~) Security management.

**WSR 05-20-031
PROPOSED RULES
NOXIOUS WEED
CONTROL BOARD**

[Filed September 28, 2005, 1:49 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-13-039.

Title of Rule and Other Identifying Information: Chapter 16-750 WAC, State noxious weed list and schedule of monetary penalties.

Hearing Location(s): Washington Cattlemen's Association, 1301 Dolar Way Road, Ellensburg, WA, on November 16, 2005, at 1:30 p.m.

Date of Intended Adoption: November 30, 2005.

Submit Written Comments to: Steve McGonigal, P.O. Box 42560, Olympia, WA 98504, e-mail smcgonigal@agr.wa.gov, fax (360) 902-2053, by November 9, 2005.

Assistance for Persons with Disabilities: Contact Virginia Walsh by November 9, 2005, (360) 902-1976.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The state noxious weed list provides the basis for noxious weed control efforts by county noxious weed control boards, weed districts, the state weed board and the Washington State Department of Agriculture, under the auspices of chapter 17.10 RCW. The effect of the state noxious weed list is to prioritize control of noxious weed species statewide, concentrating on prevention and early detection, while still allowing for local program flexibility.

This proposal amends chapter 16-750 WAC by: (1) Adding two weed species to the Class A weed list; (2) adding two weed species to the Class C weed list; and (3) changing the designated control areas for three Class B weeds. Two of the Class B weeds would have their designated control areas increased. For one of the Class B weeds, Dalmation toadflax, the proposed change is simply a technical correction and will not affect on-the-ground control work.

Reasons Supporting Proposal: Reed sweetgrass, floating primrose willow, yellow archangel and common fennel are present in the state and have been found to be highly destructive, competitive or difficult to control, so their addition to the noxious weed list is proposed. Distribution data indicated that the control designation areas for two existing Class B noxious weeds should be amended, and those changes are proposed. A technical error was found in the control designation area for Dalmation toadflax, and a correction of that error is proposed.

Statutory Authority for Adoption: Chapter 17.10 RCW.

Statute Being Implemented: Chapter 17.10 RCW.

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

Name of Proponent: Washington State Noxious Weed Control Board, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Steve McGonigal, 1111 Washington Street, Olympia, WA 98504-2560, (360) 902-2053.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Net economic impact of the proposed changes on small business would be negligible. Adding plants to the Class C list does not mandate control, forbid sale, nor make other regulatory changes. Of the two plants proposed for the Class A list, one is already forbidden for sale under chapter 16-752 WAC, and the other is not present in the nursery trade. For two of the Class B weeds for which changes to designated control areas are proposed, the new control areas proposed are areas where the plants are of limited distribution. The control designation area change for Dalmation toadflax is a technical correction of an earlier error, and will not impact on-the-ground control.

A cost-benefit analysis is not required under RCW 34.05.328. The Washington State Noxious Weed Control Board is not one of the agencies listed in this section.

September 28, 2005
 Steve McGonigal
 Executive Secretary

AMENDATORY SECTION (Amending WSR 03-04-001, filed 1/22/03, effective 2/22/03)

WAC 16-750-005 State noxious weed list—Class A noxious weeds.

Common Name	Scientific Name
bean-caper, Syrian	<i>Zygophyllum fabago</i>
blueweed, Texas	<i>Helianthus ciliaris</i>
broom, Spanish	<i>Spartium junceum</i>
buffalobur	<i>Solanum rostratum</i>
clary, meadow	<i>Salvia pratensis</i>
cordgrass, dense flower	<i>Spartina densiflora</i>
cordgrass, salt meadow	<i>Spartina patens</i>
crupina, common	<i>Crupina vulgaris</i>
flax, spurge	<i>Thymelaea passerina</i>
four o'clock, wild	<i>Mirabilis nyctaginea</i>
goatsrue	<i>Galega officinalis</i>
hawkweed, yellow devil	<i>Hieracium floribundum</i>
hogweed, giant	<i>Heracleum mantegazzianum</i>
hydrilla	<i>Hydrilla verticillata</i>
johnsongrass	<i>Sorghum halepense</i>
knapweed, bighead	<i>Centaurea macrocephala</i>
knapweed, Vochin	<i>Centaurea nigrescens</i>
kudzu	<i>Pueraria montana var. lobata</i>
lawnweed	<i>Soliva sessilis</i>
mustard, garlic	<i>Alliaria petiolata</i>
nightshade, silverleaf	<i>Solanum elaeagnifolium</i>
<u>primrose-willow, floating</u>	<u><i>Ludwigia peploides</i></u>
sage, clary	<i>Salvia sclarea</i>
sage, Mediterranean	<i>Salvia aethiopis</i>
spurge, eggleaf	<i>Euphorbia oblongata</i>
starthistle, purple	<i>Centaurea calcitrapa</i>
<u>sweetgrass, reed</u>	<u><i>Glyceria maxima</i></u>
thistle, Italian	<i>Carduus pycnocephalus</i>
thistle, milk	<i>Silybum marianum</i>
thistle, slenderflower	<i>Carduus tenuiflorus</i>
velvetleaf	<i>Abutilon theophrasti</i>
woad, dyers	<i>Isatis tinctoria</i>

AMENDATORY SECTION (Amending WSR 05-01-012, filed 12/2/04, effective 1/2/05)

WAC 16-750-011 State noxious weed list—Class B noxious weeds.

Name	Will be a "Class B designate" in all lands lying within:	
(1) alyssum, hoary <i>Berteroa incana</i>	(a)	regions 1, 2, 5, 6, 8, 9, 10
	(b)	region 3, except Okanogan County
	(c)	Okanogan County, of region 3, except Ranges 29 through 31 East of Townships 37 through 40 North
	(d)	Adams and Whitman counties of region 7.
(2) arrowhead, grass-leaved <i>Sagittaria graminea</i>	(a)	regions 1, 3, 4, 6, 7, 8, 9, 10
	(b)	region 2 except Lake Roesiger, Lake Serene, Lake Loma and Echo Lake in Snohomish County
	(c)	region 5 except Mason Lake in Mason County.
(3) blackgrass <i>Alopecurus myosuroides</i>	(a)	regions 1, 2, 3, 5, 6, 8, 9, 10
	(b)	Ferry, Stevens, Pend Oreille counties of region 4
	(c)	Adams County of region 7.
(4) blueweed <i>Echium vulgare</i>	(a)	regions 1, 2, 3, 4, 5, 6, 8, 9, 10
	(b)	region 7 except for an area starting at the Stevens County line on SR 291 south to the SR 291 bridge over the Little Spokane River, thence upstream along the Little Spokane River to the first Rutter Parkway Bridge; thence south along the Rutter Parkway to the intersection of Rutter Parkway and Indian Trail Road; thence southerly along Indian Trail Road to a point three miles south (on section line between sections 22 and 27, T-26N, R-42E); thence due west to a point intersecting the line between Ranges 41 and 42; thence north along this line to a point 1/4 mile south of Charles Road; thence northwesterly parallel to Charles Road to a point 1/4 miles south of the intersection of Charles Road and West Shore Road; thence northerly along West Shore Road to the Spokane River (Long Lake); thence southeasterly along the Spokane River to the point of beginning.
(5) broom, Scotch <i>Cytisus scoparius</i>	(a)	regions 3, 4, 6, 7, 9, 10.
(6) bryony, white <i>Bryonia alba</i>	(a)	regions 1, 2, 3, 4, 5, 6, 8, 9
	(b)	region 7 except Whitman County
	(c)	Franklin County of region 10.

		Will be a "Class B designate" in all lands lying within:				Will be a "Class B designate" in all lands lying within:	
	Name				Name		
(7)	bugloss, common <i>Anchusa officinalis</i>	(a)	regions 1, 2, 3, 5, 6, 8, 9, 10	(13)	cinquefoil, sulfur <i>Potentilla recta</i>	(a)	regions 1, 3, 8, 10
		(b)	region 4 except Stevens and Spokane counties			(b)	region 2 except Skagit County
		(c)	Lincoln, Adams, and Whitman counties of region 7.			(c)	region 4 except Stevens, Ferry, and Pend Oreille counties
(8)	bugloss, annual <i>Anchusa arvensis</i>	(a)	regions 1, 2, 3, 4, 5, 6, 8, 9			(d)	region 5 except Thurston and Pierce counties
		(b)	Lincoln and Adams counties			(e)	region 6 except Yakima County
		(c)	Whitman County except ranges 43 through 46 East of Townships 16 through 20 North.			(f)	region 7 except Spokane County
(9)	camelthorn <i>Alhagi maurorum</i>	(a)	regions 1, 2, 3, 4, 5, 7, 8, 9			(g)	region 8 except Lewis County
		(b)	region 6 except those portions of Sections 23, 24, 25, and 29 through 36, T16N, R27E, W.M. lying outside Intercounty Weed District No. 52 and except Sections 1 through 12, T15N, R27E, W.M. in Grant County and except the area west of Highway 17 and north of Highway 26 in Adams County	(14)	cordgrass, smooth <i>Spartina alterniflora</i>	(h)	region 9 except Klickitat County.
		(c)	Franklin, Columbia, Garfield, and Asotin counties of region 10			(a)	regions 1, 3, 4, 5, 6, 7, 9, 10
		(d)	an area beginning at the Washington—Oregon border at the southwest portion of section 5, R32E, T6N, then north to the northwest corner of section 3, R32E, T7N, then east to the northeast corner of section 3, R36E, T7N, then south to southeast portion of section 15, R36E, T6N, at the Washington—Oregon border, then west along the Washington—Oregon border to the point of beginning.	(15)	cordgrass, common <i>Spartina anglica</i>	(b)	region 2 except bays and estuaries of Skagit and Island counties and except bays and estuaries north of Everett in Snohomish County.
(10)	carrot, wild <i>Daucus carota</i>	(a)	regions 3, 7 (except where intentionally cultivated)			(a)	regions 1, 3, 4, 5, 6, 7, 8, 9, 10
		(b)	Spokane and Ferry counties of region 4 (except where intentionally cultivated)	(16)	daisy, oxeye <i>Leucanthemum vulgare</i>	(b)	region 2 except bays and estuaries of Skagit and Island counties and except bays and estuaries north of Everett in Snohomish County.
		(c)	region 6, except Yakima County (except where intentionally cultivated)			(a)	regions 7, 10
		(d)	region 9, except Yakima County (except where intentionally cultivated)			(b)	region 9 except those areas lying within Klickitat and Yakima counties west of Range 13 East
		(e)	region 10, except Walla Walla County (except where intentionally cultivated).			(c)	region 6 except those areas lying within Yakima and Kittitas counties west of Range 13 E.
(11)	catsear, common <i>Hypochaeris radicata</i>	(a)	regions 3, 4, 6, 7, 10	(17)	elodea, Brazilian <i>Egeria densa</i>	(a)	regions 3, 4, 6, 7, 9, 10
		(b)	region 9 except Klickitat County.			(b)	Lewis County of region 8
(12)	chervil, wild <i>Anthriscus sylvestris</i>	(a)	regions 1, 3, 4, 6, 7, 9, 10			(c)	Clallam County of region 1
		(b)	region 5 except those portions of Thurston County within T15, 16, 17N, R2, 3, 4W	(18)	fanwort <i>Cabomba caroliniana</i>	(d)	King County of region 5, except lakes Washington, Sammamish, Union and Fenwick.
		(c)	region 2 except Guemes Island in Skagit County			(a)	regions 1, 2, 3, 4, 5, 6, 7, 9, 10
		(d)	region 8 except Clark County.			(b)	region 8 except T8N, R3W of Cowlitz County.
				(19)	fieldcress, Austrian <i>Rorippa austriaca</i>	(a)	regions 1, 2, 3, 4, 5, 6, 8, 9
						(b)	regions 7 and 10 except within the Palouse River Canyon from Big Palouse Falls to the Snake River.
				(20)	floating heart, yellow <i>Nymphoides peltata</i>	(a)	regions 1, 2, 3, 5, 6, 7, 8, 9, 10
						(b)	region 4 except the Spokane River between Long Lake Dam and Nine Mile Dam.
				(21)	gorse <i>Ulex europaeus</i>	(a)	regions 1, 3, 4, 6, 7, 9, 10
						(b)	Skagit, <u>Island</u> , and Whatcom counties of region 2
						(c)	Thurston, <u>Kitsap</u> , Pierce, and King counties of region 5
						(d)	Wahkiakum, <u>Clark</u> , <u>Skamania</u> , Cowlitz, and Lewis counties of region 8.

		Will be a "Class B designate" in all lands lying within:				Will be a "Class B designate" in all lands lying within:	
	Name				Name		
(22)	hawkweed, mouseear <i>Hieracium pilosella</i>	(a)	regions 1, 2, 3, 4, 6, 7, 8, 9, 10			(c)	regions 8, 9, and 10 except within 200 feet of the Columbia River.
		(b)	region 5 except Thurston County	(33)	knapweed, black <i>Centaurea nigra</i>	(a)	regions 1, 2, 3, 4, 7, 9, 10
		(c)	Thurston County lying within T17N, R1W, S31; T16N, R2W, S30 W1/2; T16N, R3W, S25, SE1/4; T16N, R3W, S36, N1/2; T16N, R2W, S31, NW1/4.			(b)	region 5 except that area below the ordinary highwater mark of the Nisqually River, beginning at Alder Dam and downstream to the mouth of the Nisqually River in Pierce and Thurston counties
(23)	hawkweed, orange <i>Hieracium aurantiacum</i>	(a)	regions 3, 6, 9, 10			(c)	region 6 except Kittitas County
		(b)	Clallam County of region 1			(d)	region 8 except Clark County.
		(c)	Skagit County of region 2	(34)	knapweed, brown <i>Centaurea jacea</i>	(a)	regions 1, 2, 3, 4, 7, 9, 10
		(d)	Ferry County of region 4			(b)	region 5 except that area below the ordinary highwater mark of the Nisqually River, beginning at Alder Dam and downstream to the mouth of the Nisqually River in Pierce and Thurston counties
		(e)	Thurston and King counties of region 5			(c)	region 6 except Kittitas County
		(f)	Lincoln and Adams counties of region 7			(d)	region 8 except Clark County.
		(g)	Lewis County of region 8.			(a)	regions 1, 2, 3, 4, 7, 9, 10
(24)	hawkweed, polar <i>Hieracium atratum</i>	(a)	regions 1, 2, 3, 4, 6, 7, 8, 9, 10			(b)	region 5 except that area below the ordinary highwater mark of the Nisqually River, beginning at Alder Dam and downstream to the mouth of the Nisqually River in Pierce and Thurston counties
		(b)	region 5 outside the boundaries of Mt. Rainier National Park.			(c)	region 6 except Kittitas County
(25)	hawkweed, queen-devil <i>Hieracium glomeratum</i>	(a)	regions 1, 2, 3, 5, 6, 7, 8, 9, 10			(d)	region 8 except Clark County.
		(b)	Ferry County of region 4.	(35)	knapweed, diffuse <i>Centaurea diffusa</i>	(a)	regions 1, 2, 5, 8
(26)	hawkweed, smooth <i>Hieracium laevigatum</i>	(a)	regions 1, 3, 4, 5, 6, 7, 8, 9, 10			(b)	Grant County lying in Townships 13 through 16 North, Ranges 25 through 27 East; Townships 17 and 18 N., Ranges 25 through 30 East; Townships 19 and 20 North, Ranges 29 and 30 East; T21N, R23E, Sections 1 through 30; T21N, R26E., Sections 5, 6, 7, 8, 17, and 18; East 1/2 Township 21N, Range 27E.; T21N, Ranges 28 through 30 E; those portions of Townships 22 through 28N, Ranges 28 through 30 E.; those portions of Township 22 through 28N., Ranges 23 through 30E. lying in Grant County; all W.M.
		(b)	San Juan, Island, and Skagit counties of region 2.			(c)	Adams County except those areas within T15N, R36E, Section 36; T15N, R37E, Sections 22, 26, 27, 28, 31, 32, 33 and 34; T15N, R37E, western half of Sections 23, 24 and 25; T15N, R38E, Sections 2, 10, 11, 14, 15, 19 and 20; T16N, R38E, Sections 34 and 35; T17N, R37E, Sections 5 and 6
(27)	hawkweed, yellow <i>Hieracium caespitosum</i>	(a)	regions 1, 2, 3, 5, 6, 7, 8, 10			(d)	Franklin County of regions 9 and 10.
		(b)	region 4 except Stevens and Pend Oreille counties			(a)	regions 1, 2, 3, 4, 7, 9, 10
		(c)	region 9 except sections 32, 33 and 34 of T6N, R12E, and sections 4, 5, 6, and 7 of T5N, R12E, and section 12 of T5N, R11E, of Klickitat County.	(36)	knapweed, meadow <i>Centaurea jacea x nigra</i>	(b)	region 5 except that area below the ordinary highwater mark of the Nisqually River, beginning at Alder Dam and downstream to the mouth of the Nisqually River in Pierce and Thurston counties
(28)	hedgearsley <i>Torilis arvensis</i>	(a)	regions 1, 2, 3, 4, 5, 6, 7, 8, 10				
		(b)	Yakima, Benton, Franklin counties				
		(c)	Klickitat County except those lands lying within T4N, R10E, R11E, R12E, R13E, R14E; T3N, R10E, R11E, R12E, R13E; T2N, R12E, R13E.				
(29)	helmet, policeman's <i>Impatiens glandulifera</i>	(a)	regions 1, 3, 4, 6, 7, 8, 9, 10				
		(b)	region 2 except Whatcom County				
		(c)	region 5 except Pierce and Thurston counties.				
(30)	herb-Robert <i>Geranium robertianum</i>	(a)	regions 3, 4, 6, 7, 9, 10				
(31)	houndstongue <i>Cynoglossum officinale</i>	(a)	Kittitas County of region 6				
		(b)	Douglas County of regions 3 and 6.				
(32)	indigobush <i>Amorpha fruticosa</i>	(a)	regions 1, 2, 3, 4, 5, 6				
		(b)	regions 7 and 10 except within 200 feet of the Snake River from Central Ferry downstream				

		Will be a "Class B designate" in all lands lying within:			Will be a "Class B designate" in all lands lying within:		
Name			Name				
(37)	knapweed, Russian <i>Acropilton repens</i>	(c)	region 6 except Kittitas County	(45)	loosestrife, garden <i>Lysimachia vulgaris</i>		
		(d)	region 8 except Clark County.			(a)	regions 1, 2, 3, 4, 6, 7, 8, 9, 10
		(a)	regions 1, 2, 5, 7, 8			(b)	region 5 except King County
		(b)	region 4 except that area lying within the boundaries of the Colville Indian Reservation within Ferry County			(c)	Those portions of King County lying north of I-90 and east of the line extending from SR522 to SR202 to E. Lake Sammamish Parkway; west of I-5 including Vashon Island; south of I-90 and east and south of I-405 to the county line.
		(c)	Adams County of region 6 except for the area west of Highway 17 and North of Highway 26			(a)	regions 1, 4, 7, 8
(38)	knapweed, spotted <i>Centaurea biebersteinii</i>	(d)	Intercounty Weed District No. 52	(46)	loosestrife, purple <i>Lythrum salicaria</i>		
		(e)	region 10 except Franklin County.			(b)	region 2 except Snohomish County
		(a)	regions 1, 2, 3, 5, 6, 9			(c)	region 3 except within 100 feet of the ordinary highwater mark of the Okanogan River from the Canadian border south to Riverside
		(b)	Ferry County of region 4			(d)	Grays Harbor, Mason, Kitsap, and Thurston counties of region 5
		(c)	Adams and Whitman counties of region 7			(e)	Those portions of King County lying north of I-90 and east of the line extending from SR522 to SR202 to E. Lake Sammamish Parkway; west of I-5 including Vashon Island; south of I-90 and east and south of I-405 to the county line
(39)	knotweed, Bohemian <i>Polygonum bohemicum</i>	(d)	region 8, except that portion of Lewis County below the ordinary high watermark of the Tilton River from Hwy. 508 to Lake Mayfield				
		(e)	region 10 except Garfield County.			(f)	Pierce County, except those areas lying within T2D, 21, 22N, R1W and R1E, all sections
		(a)	Kittitas County of region 6			(g)	region 6 except that portion of Grant County lying northerly of the Frenchmen Hills-O'Sullivan Dam Road, southerly of Highway Interstate 90, easterly of the section line of the location of County Road J SW/NW if constructed and westerly of the section line of the location of County Road H SE/NE if constructed
(40)	knotweed, giant <i>Polygonum sachalinense</i>	(b)	Chelan and Douglas counties of regions 3 and 6				
		(c)	Pend Oreille County of region 4.				
(41)	knotweed, Himalayan <i>Polygonum polystachyum</i>	(a)	Kittitas County of region 6				
(42)	knotweed, Japanese <i>Polygonum cuspidatum</i>	(b)	Pend Oreille County of region 4				
		(c)	Lewis County of region 8.				
		(a)	Kittitas County of region 6	(h)	region 9 except Benton County		
(43)	kochia <i>Kochia scoparia</i>	(b)	Chelan and Douglas counties of regions 3 and 6	(i)	region 10 except Walla Walla County		
		(c)	Pend Oreille County of region 4.	(j)	Intercounty Weed Districts No. 51 and No. 52.		
		(a)	Clallam County of region 1	(a)	regions 1, 4, 7, 8		
		(b)	Skagit and Whatcom counties of region 2	(b)	region 2 except Snohomish County		
		(e))	Regions 1, 2, 5, 8	(c)	region 3 except within 100 feet of the ordinary highwater mark of the Okanogan River from the Canadian border south to Riverside		
(44)	lepyrodiclis <i>Lepyrodiclis holosteoides</i>	(b)	Pend Oreille County of region 4	(47)	loosestrife, wand <i>Lythrum virgatum</i>		
		((d))	King County of region 5			(a)	regions 1, 4, 7, 8
		(e))	Kittitas County of region 6.			(b)	region 2 except Snohomish County
		(c)			(c)	region 3 except within 100 feet of the ordinary highwater mark of the Okanogan River from the Canadian border south to Riverside	
		(a)	regions 1, 2, 3, 4, 5, 6, 8, 9, 10			(d)	region 5 except King County
		(b)	region 7 except an area within Whitman County east of the Pullman—Wawawai Road from Wawawai to Pullman and south of State Highway 270 from Pullman to Moscow, Idaho.				

		Will be a "Class B designate" in all lands lying within:				Will be a "Class B designate" in all lands lying within:	
Name				Name			
(48)	nutsedge, yellow <i>Cyperus esculentus</i>	(e)	Those portions of King County lying north of I-90 and east of the line extending from SR522 to SR202 to E. Lake Sammamish Parkway; west of I-5 including Vashon Island; south of I-90 and east and south of I-405 to the county line				to the intersection of Highway 22 and the Reservation Boundary (Division Road) and continuing north to the Yakima River. Then it will follow the river northwest to the Wapato-Donald Road continuing north along said road to Highway 12 then Highway 12 to Parker Heights Road.
		(f)	region 6 except that portion of Grant County lying northerly of the Frenchmen Hills-O'Sullivan Dam Road, southerly of Highway Interstate 90, easterly of the section line of the location of County Road J SW/NW if constructed and westerly of the section line of the location of County Road H SE/NE if constructed			(ii)	an area lying southerly of State Route 14 and within T2N, Ranges 13 and 14 E of Klickitat County
		(g)	region 9 except Benton County			(d)	region 10 except Walla Walla County.
		(h)	region 10 except Walla Walla County	(49)	oxtonweed,	(a)	regions 1, 2, 3, 4, 5, 6, 7, 9, 10
		(i)	Intercounty Weed Districts No. 51 and No. 52.		hawkweed <i>Picris hieracioides</i>	(b)	region 8 except Skamania County.
		(a)	regions 1, 2, 3, 4, 5, 7, 8	(50)	parrotfeather <i>Myriophyllum aquaticum</i>	(a)	regions 1, 2, 3, 4, 5, 6, 7, 9, 10
		(b)	region 6 except those areas lying between State Highway 26 and State Highway 28, and westerly of Dodson Road in Grant County, and except S 1/2, Sec. 2, T20N, R25E., W.M.	(51)	pepperweed, perennial <i>Lepidium latifolium</i>	(b)	region 8 except Clark, Cowlitz, and Wahkiakum counties.
		(c)	region 9 except:			(a)	regions 1, 2, 3, 4, 5, 7, 8, 10
		(i)	except those areas lying within the following boundary description within Yakima County: Beginning at the intersection of Highway 12 and Parker Heights Road and continuing easterly to Konnowac Pass Road follow said road north to the intersection of Konnowac Pass Road and Nightingale Road. The northern boundary shall be the Roza Canal, continuing from the established point at Nightingale Road. The boundaries will follow the Roza Canal easterly to the County Line Road. The east boundaries will be the Yakima/Benton County Line from a point beginning at the County Line and Highway 22 (near Byron) continuing westerly along Highway 22 (to near the city of Mabton)			(b)	Intercounty Weed Districts No. 51 and 52
						(c)	Kittitas County of region 6
				(d)	Adams County of region 6 except for the area west of Highway 17 and north of Highway 26.		
		(52)	primrose, water <i>Ludwigia hexapetala</i>	(a)	regions 1, 2, 3, 4, 5, 6, 7, 9, 10		
		(53)	puncturevine <i>Tribulus terrestris</i>	(b)	region 8 except T8N, R3W, S14 of Cowlitz County.		
		(54)	ragwort, tansy <i>Senecio jacobaea</i>	(a)	Skagit County of region 2		
				(b)	Kittitas County of region 6		
				(c)	Adams County		
				(d)	Clallam County of region 1.		
				(a)	regions 3, 4, 6, 7, 9, 10		
				(b)	region 5, that portion of Pierce County lying south or east of a boundary beginning at the White River and State Highway 410, then west along State Highway 410 to intersection with State Highway 162 (Orting) to intersection with Orville Road, then south along Orville Road to intersection with Kapowsin Highway (304th Street East), then west following Kapowsin Highway to intersection with State Route 7, then south along State Route 7 to intersection with State Route 702, then west along State Route 702 to intersection with State Route 507, then southwest		

		Will be a "Class B designate" in all lands lying within:			Will be a "Class B designate" in all lands lying within:
Name			Name		
		along State Route 507 to intersection with the Nisqually River.			(i) Columbia County from the Walla Walla County line on Highway 12, all areas south of Turner Road; at Turner Road to the Garfield county line, all areas south and east of Turner Road
(55)	Saltcedar <i>Tamarix ramosissima</i>	(a) regions 1, 2, 3, 4, 5, 7, 8, unless intentionally established prior to 2004			(j) Whitman County lying in Ranges 43 through 46 East of Townships 15 through 20 North; T14N, Ranges 44 through 46 East; and T13N, Ranges 45 and 46 East.
		(b) region 6 except Grant County, unless intentionally established prior to 2004			(a) regions 1, 2, 3, 4, 7, 8, 9, 10
		(c) region 9 except Benton and Franklin counties, unless intentionally established prior to 2004	(58)	sowthistle, perennial <i>Sonchus arvensis ssp. arvensis</i>	(b) Adams County of region 6
		(d) region 10 except Franklin County, unless intentionally established prior to 2004.			(c) region 5 except for sections 28, 29, 30, 31, 32, and 33 in T19N, R1E of Thurston and Pierce counties.
(56)	sandbur, long-spine <i>Cenchrus longispinus</i>	(a) regions 1, 2, 3, 4, 5, 7, 8	(59)	spurge, leafy <i>Euphorbia esula</i>	(a) regions 1, 2, 3, 4, 5, 6, 8, 9, 10
		(b) Adams County of region 6 except for that area lying within Intercounty Weed District No. 52			(b) region 7 except as follows:
		(c) Intercounty Weed District No. 51			(i) T27N, R37E, Sections 34, 35, 36; T27N, R38E, Sections 31, 32, 33; T26N, R37E, Sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 16, 26; T26N, R38E, Sections 5, 6, 7, 8 of Lincoln County
		(d) Kittitas County of region 6.			(ii) T24N, R43E, Section 12, Qtr. Section 3, Parcel No. 9068 of Spokane County.
(57)	skeletonweed, rush <i>Chondrilla juncea</i>	(a) regions 1, 2, 3, 5, 8, 9	(60)	spurge, myrtle <i>Euphorbia myrsinites L</i>	(a) Pend Oreille County of region 4.
		(b) Franklin County except T13N, R36E; and T14N, R36E	(61)	starthistle, yellow <i>Centaurea solstitialis</i>	(a) regions 1, 2, 3, 5, 6, 8
		(c) Adams County except those areas lying east of a line running north from Franklin County along the western boundary of Range 36 East to State Highway 26 then north on Sage Road until it intersects Lee Road, then due north until intersection with Providence Road, then east to State Highway 261, then north along State Highway 261 to its intersection with Interstate 90, henceforth on a due north line to intersection with Bauman Road, then north along Bauman Road to its terminus, then due north to the Lincoln County line.			(b) region 4 except those areas within Stevens County bounded by a line beginning at the intersection of State Highway 20 and State Highway 25, then north to intersection with Pinkston Creek Road, then east along Pinkston Creek Road to intersection with Highland Loop Road, then south along Highland Loop Road to intersection with State Highway 20, then west along State Highway 20 to intersection with State Highway 25
		(d) region 6 except that portion lying within Grant County that is southerly of State Highway 28, northerly of Interstate Highway 90 and easterly of Grant County Road I Northwest			(c) region 7 except those areas within Whitman County lying south of State Highway 26 from the Adams County line to Colfax and south of State Highway 195 from Colfax to Pullman and south of State Highway 270 from Pullman to the Idaho border
		(e) Stevens County north of Township 33 North of region 4			
		(f) Ferry and Pend Oreille counties of region 4			
		(g) Asotin County of region 10			
		(h) Garfield County south of Highway 12			

		Will be a "Class B designate" in all lands lying within:				Will be a "Class B designate" in all lands lying within:	
Name				Name			
		(d)	Franklin County	(66)	toadflax, Dalmatian <i>Linaria dalmatICA ssp. dalmatICA</i>	(a)	regions 1, 2, 5, 8, 10
		(e)	region 9 except Klickitat County			(b)	Douglas County of region 3 lying south of T25N(=) and west of R25E(= and east of R28E))
		(f)	in all lands lying within Asotin County, Region 10, except as follows: T11N, R44E, Sections 25, 26, 27, 28, 29, 31, 32, 33, 34, and 35; T11N, R45E, Sections 21, 22, 23, and 25; T11N, R36E, Sections 19, 20, 21, 28, 29, 30, 31, 32, and 33; T10N, R44E, Sections 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 15, and 16; T10N, R45E, Sections 23 and 24; T10N, R46E, Sections 7, 8, 17, 18, 19, 20, 21, 22, 27, 34, and 35; T9N, R46E, Sections 1, 2, 12, 13, 14, 23, 24, 25, 26, 35, and 36; T9N, R47E, Sections 18, 19, 30, and 31; T8N, R46E, Sections 1, 2, 3, 9, 10, 11, 12, 13, 14, 15, 16, 23, and 24; T8N, R47E, Sections 8, 17, 18, 19, 20, 29, 30, 31, and 32.			(c)	Okanogan County lying within T 33, 34, 35N, R19, 20, 21, 22E, except the southwest, southeast, and northeast quarters of the northeast quarter of section 27, T35N, R21E; and the northeast quarter of the southeast quarter of section 27, T35N, R21E
(62)	Swainsonpea <i>Sphaerophysa salsula</i>	(a)	regions 1, 2, 3, 4, 5, 7, 8			(d)	Kittitas, Chelan, Douglas, and Adams counties of region 6
		(b)	Columbia, Garfield, Asotin, and Franklin counties			(e)	Intercounty Weed District No. 51
		(c)	an area beginning at the Washington—Oregon border at the southwest portion of Section 15, R32E, T6N, then north to the northwest corner of Section 3, R32E, T7N, then east to the northeast corner of Section 3, R36E, T7N, then south to the southeast portion of Section 15, R36E, T6N, at the Washington—Oregon border, then west along the Washington—Oregon border to the point of beginning			(f)	Weed District No. 3 of Grant County
		(d)	Weed District No. 3 of Grant County			(g)	Lincoln and Adams counties
		(e)	Adams County of region 6.			(h)	The western two miles of Spokane County of region 7
(63)	thistle, musk <i>Carduus nutans</i>	(a)	regions 1, 2, 3, 5, 6, 7, 8, 9, 10			(i)	region 9 except as follows: (i) those areas lying within Yakima County (ii) those areas lying west of the Klickitat River and within Klickitat County.
		(b)	Spokane and Pend Oreille counties.	(67)	watermilfoil, Eurasian <i>Myriophyllum spicatum</i>	(a)	regions 1, 9, 10
(64)	thistle, plumeless <i>Carduus acanthoides</i>	(a)	regions 1, 2, 3, 5, 6, 7, 8, 9, 10			(b)	region 7 except Spokane County
		(b)	region 4 except those areas within Stevens County lying north of State Highway 20.			(c)	region 8 except within 200 feet of the Columbia River
(65)	thistle, Scotch <i>Onopordum acanthium</i>	(a)	regions 1, 2, 3, 4, 5, 6, 8, 9			(d)	Adams County of region 6
		(b)	region 7 except for those areas within Whitman County lying south of State Highway 26 from the Adams County line to Colfax and south of State Highway 195 from Colfax to Pullman and south of State Highway 270 from Pullman to the Idaho border			(e)	in all water bodies of public access, except the Pend Oreille River, in Pend Oreille County of region 4.
		(c)	Franklin County.				

AMENDATORY SECTION (Amending WSR 05-01-012, filed 12/2/04, effective 1/2/05)

WAC 16-750-015 State noxious weed list—Class C noxious weeds.

Common Name	Scientific Name
<u>archangel, yellow</u>	<i>Lamiasstrum galeobdolon</i>
babysbreath	<i>Gypsophila paniculata</i>
beard, old man's	<i>Clematis vitalba</i>
bindweed, field	<i>Convolvulus arvensis</i>
butterfly bush	<i>Buddleja davidii</i>
canarygrass, reed	<i>Phalaris arundinacea</i>
cockle, white	<i>Silene latifolia ssp. alba</i>
cocklebur, spiny	<i>Xanthium spinosum</i>
cress, hoary	<i>Cardaria draba</i>
dodder, smoothseed alfalfa	<i>Cuscuta approximata</i>
<u>fennel, common</u>	<i>Foeniculum vulgare</i>
goatgrass, jointed	<i>Aegilops cylindrica</i>
groundsel, common	<i>Senecio vulgaris</i>

Common Name
hawkweed, nonnative species

Scientific Name
Hieracium sp., except species designated in the note in the left-hand column

Note:

This listing includes all species of *Hieracium*, except the following:

- Species designated as Class A noxious weeds in WAC 16-750-005;
- Species designated as Class B noxious weeds in WAC 16-750-011;
- Native species designated below:
 - Canada hawkweed (*H. canadense*)
 - houndstongue hawkweed (*H. cynoglossoides*)
 - long-beaked hawkweed (*H. longiberbe*)
 - narrow-leaved hawkweed (*H. umbellatum*)
 - slender hawkweed (*H. gracile*)
 - western hawkweed (*H. albertinum*)
 - white-flowered hawkweed (*H. albiflorum*)
 - woolley-weed (*H. scouleri*)

henbane, black
iris, yellow flag
ivy, English, 4 cultivars only:

Hyoscyamus niger
Iris pseudocorus
Hedera hibernica 'Hibernica'
Hedera helix 'Baltica'
Hedera helix 'Pittsburgh'
Hedera helix 'Star'

mayweed, scentless
poison-hemlock
pondweed, curly-leaf
reed, common, nonnative genotypes
rye, cereal
spikeweed
St. Johnswort, common
tansy, common
thistle, bull
thistle, Canada
toadflax, yellow
water lily, fragrant
whitetop, hairy
willow-herb, hairy
wormwood, absinth

Matricaria perforata
Conium maculatum
Potamogeton crispus
Phragmites australis

Secale cereale
Hemizonia pungens
Hypericum perforatum
Tanacetum vulgare
Cirsium vulgare
Cirsium arvense
Linaria vulgaris
Nymphaea odorata
Cardaria pubescens
Epilobium hirsutum
Artemisia absinthium

WSR 05-20-032
WITHDRAWAL OF PROPOSED RULES
STATE BOARD OF EDUCATION

[Filed September 28, 2005, 2:51 p.m.]

We are requesting that the notice of proposed rule making regarding WAC 3-20-410 filed under WSR 05-07-127 be withdrawn at this time. The Academic Achievement and Accountability (A+) Commission chose not to act upon the proposal at its May 9 meeting. The State Board of Education will not be acting on the proposal.

Larry Davis
Executive Director

WSR 05-20-042
PROPOSED RULES
PUGET SOUND
CLEAN AIR AGENCY

[Filed September 29, 2005, 3:14 p.m.]

Continuance of WSR 05-16-071.

Title of Rule and Other Identifying Information: Amending Regulation I, Section 6.01 (Components of New Source Review Program).

Hearing Location(s): Puget Sound Clean Air Agency, 110 Union Street, #500, Seattle, WA 98101, on November 17, 2005, at 9:15 a.m.

Date of Intended Adoption: November 17, 2005.

Submit Written Comments to: Lynn Sykes, Puget Sound Clean Air Agency, 110 Union Street, #500, Seattle, WA 98101, e-mail lynns@pscleanair.org, fax (206) 343-7522, by November 16, 2005.

Assistance for Persons with Disabilities: Contact Agency Receptionist, (206) 689-4010, by November 10, 2005, TTY (800) 833-6388 or (800) 833-6385 (Braille).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Continue hearing from September 22, 2005, to November 17, 2005.

September 26, 2005
Steve M. Van Slyke
Supervisory Engineer

WSR 05-20-043
PROPOSED RULES
DEPARTMENT OF ECOLOGY

[Order 04-07—Filed September 29, 2005, 3:49 p.m.]

Supplemental Notice to WSR 05-16-023.

Preproposal statement of inquiry was filed as WSR 04-23-039.

Title of Rule and Other Identifying Information: This rule making will adopt a new rule, chapter 173-333 WAC, Persistent bioaccumulative toxins regulation, that will establish ecology's process and procedures to address the subject of persistent bioaccumulative toxic substances.

This rule is being refiled, as a result of comments received, which resulted in changes made to the original proposal.

Hearing Location(s): St. Benedict School, 4811 Wallingford Avenue North, Seattle, WA 98103, on November 9, 2005, at 7:00 p.m.

Date of Intended Adoption: December 15, 2005.

Submit Written Comments to: Mike Gallagher, PBT Coordinator, Department of Ecology, P.O. Box 47600, Olympia, WA 98504, e-mail mgal461@ecy.wa.gov, fax (360) 407-6884, by November 15, 2005.

Assistance for Persons with Disabilities: Contact Joan Letourneau by October 15, 2005, TTY (800) 833-6388 or (360) 407-6764.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The 2004 legislature, and Governor Locke, in Executive Order 04-01, directed the Department of Ecology to establish, through rule, specific criteria for use in identifying persistent, toxic chemicals (PBTs) that pose human health or environmental impacts in Washington state, and a clear process for developing chemical action plans to address those impacts.

The purpose of this refiled is for ecology to propose new draft rule language representing necessary changes based on public comments received between June 1 - July 29, 2005.

Reasons Supporting Proposal: PBTs are long-lasting chemicals that break down very slowly when released into the environment. As PBTs move up the food chain, they increase in concentration and they can build up in the tissues of animals and people. Exposure to PBTs has been linked to a wide range of toxic effects in fish, wildlife, and humans, including effects on the nervous system, reproductive and developmental problems, immune-response suppression, cancer, and endocrine disruption. This rule helps the Department of Ecology set its internal priorities in addressing PBTs.

Statutory Authority for Adoption: Chapter 276, Laws of 2004 PV and chapter 70.105 RCW, Hazardous waste management.

Statute Being Implemented: Chapters 70.94, 90.48, 49.70, 90.52, 70.105, 70.95C, and 70.105D RCW.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Ecology created an external rule advisory committee, involving business associations, government associations, environmental and public health advocates, and other community groups to provide input in the development of rule language. This advisory committee met six times between August - December 2004, in all-day meetings to provide input and recommendations to ecology as draft rule language was being developed. Ecology will also develop a focus sheet and maintain our current PBT web site (<http://www.ecy.wa.gov/programs/eap/pbt/rule/index.html>) regard-

ing PBT rule-making activities. Ecology will hold one formal public hearing on the draft PBT rule proposal. For the rule refiled, there will be a thirty-day public comment period (October 19 - November 18, 2005) and one formal public hearing November 9, 2005, in Seattle.

Name of Proponent: Department of Ecology, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Michael J. Gallagher, Ecology Headquarters, P.O. Box 47600, Olympia, WA 98504, (360) 407-6868.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The PBT rule is a procedural rule. This rule does not impose a cost on business. There is no cost to a regulated entity as a result of an agency "putting something on an internal list." Therefore, a small business economic impact statement does not need to be prepared for this rule proposal.

A cost-benefit analysis is not required under RCW 34.05.328. The PBT rule is an internal procedural rule directed to the Department of Ecology. This rule development *in itself* does not impose a cost on business. The rule will establish a list and a process for treating that list, but it won't actually direct any specific action that has specific impacts. Based on this decision, the need for a cost-benefit analysis and a small business economic impact statement is not necessary or appropriate *within the rule itself*.

September 21, 2005

Polly Zehm

Deputy Director

Chapter 173-333 WAC

PERSISTENT BIOACCUMULATIVE TOXINS

PART I GENERAL PROVISIONS

NEW SECTION

WAC 173-333-100 Introduction. Persistent, bioaccumulative toxins (PBTs) are chemicals that pose a unique threat to human health and the environment in Washington state. They remain in the environment for long periods of time, are hazardous to the health of humans and wildlife, can build up in the food chain, and can be transported long distances and readily move between air, land and water media.

Because of the unique threat that these PBTs pose, special attention is necessary to identify actions that will reduce and eliminate threats to human health and the environment. While ecology addresses PBTs through existing regulatory and nonregulatory programs, there remains a need for multi-media, cross-program measures that will reduce and phase-out releases and uses of PBTs over time.

The goal of this chapter is to reduce and phase-out PBT uses, releases and exposures in Washington. Ecology recognizes that many factors will influence whether and when this goal can be attained and that those factors will often vary depending on the PBT and the uses of the PBT. These factors include environmental and human health benefits, economic

and social costs, technical feasibility, availability of safer substitutes, and consistency with other regulatory requirements. This chapter establishes a process that ecology will use to evaluate and identify actions that should be taken for particular PBTs. This process is designed to enhance actions being taken under other environmental laws and regulations.

NEW SECTION

WAC 173-333-110 What is the purpose of this chapter? The purpose of this chapter is to:

- (1) Establish criteria ecology will use to identify persistent bioaccumulative toxins that pose human health or environmental threats in Washington state;
- (2) Establish a list of persistent bioaccumulative toxins;
- (3) Establish procedures ecology will use to review and periodically update the list;
- (4) Establish criteria for selecting persistent bioaccumulative toxins for which ecology will prepare chemical action plans;
- (5) Define the scope and content of chemical action plans and establish the process ecology will use to prepare those plans; and
- (6) Define the processes ecology will use to coordinate the implementation of this chapter with the department of health and other agencies.

NEW SECTION

WAC 173-333-120 Applicability. (1) This chapter applies to the department of ecology (ecology). This chapter does not impose new requirements on persons using or releasing PBTs, and it does not create new authorities nor does it constrain existing authorities for ecology.

(2) This chapter provides for public involvement opportunities to allow interested persons to participate in the ecology processes for identifying PBTs and developing recommendations on measures to address uses and releases of PBTs.

NEW SECTION

WAC 173-333-130 Exemptions to the PBT list. Any pesticide with a currently valid registration that has been issued by the Environmental Protection Agency under the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. 136 et seq., or any fertilizer regulated under the Washington Fertilizer Act, chapter 15.54 RCW, will not be included on the persistent bioaccumulative toxin list established under this chapter.

NEW SECTION

WAC 173-333-140 Administrative principles. (1) **Scientific information.** Ecology will base decisions on PBTs on sound public policy and credible scientific information. However, ecology believes that lack of full scientific consensus should not be used as a justification for delaying reasonable measures to prevent harm to human health or the environment.

(2) **Public involvement.** Ecology will provide opportunities for public involvement during the decision-making processes for identifying PBTs and preparing a CAP.

(3) **Clear documentation.** Ecology will provide clear and understandable descriptions and rationale for decisions implementing this chapter.

(4) **Predictability.** Ecology will implement this chapter in ways that allow stakeholders, interest groups, and the public to plan their participation in decision-making processes and future responses to recommendations that result from those processes.

(5) **Coordination.** Ecology will coordinate with federal and state agencies, local governments, tribes, and other interested parties in the development and implementation of CAPs and when revising the PBT list.

(6) **Rule amendments.** When amending any portion of this rule, Ecology will follow the requirements of the Administrative Procedure Act (APA), chapter 34.05 RCW.

PART II DEFINITIONS

NEW SECTION

WAC 173-333-200 Definitions. "Administrative Procedure Act" or "APA" means the Washington Administrative Procedure Act, chapter 34.05 RCW.

"Bioaccumulation" means the process by which substances increase in concentration in living organisms as they take in contaminated air, water, soil, sediment or food because the substances are very slowly metabolized or excreted.

"Bioaccumulation factor" or "BAF" means the ratio of the concentration of a chemical in an organism to the concentration of the chemical in the surrounding environment. The BAF is a measure of the extent to which the organism accumulates the chemical as a result of uptake through ingestion as well as contact from contaminated media, such as water.

"Bioconcentration factor" or "BCF" means the ratio of the concentration of a chemical in an organism to the concentration of the chemical in the surrounding environment. The BCF is a measure of the extent of chemical partitioning between an organism and the surrounding environment.

"Carcinogen" means a chemical or chemical group that is known or suspected to increase the probability of developing cancer. For purposes of implementing this chapter, the term carcinogen applies to substances that have been identified as "carcinogenic to humans" or "likely to be carcinogenic to humans" by the Environmental Protection Agency, as a Group 1, 2A or 2B carcinogen by the International Agency for Research on Cancer or as a "known to be a human carcinogen" or "reasonably anticipated to be a human carcinogen" by the National Toxicology Program.

"Chemical" means a naturally occurring element, mixture, or group of organic and inorganic compounds that is produced by or used in a chemical process.

"Chemical action plan" or "CAP" means a plan that identifies, characterizes and evaluates uses and releases of a

specific PBT or a group of PBTs and recommends actions to protect human health or the environment.

"Chemical group" means a grouping of chemicals which share a common chemical structure.

"Credible scientific information" means information that is based on a theory or technique that is generally acceptable in the relevant scientific community or has been collected or derived using standard or generally accepted methods and protocols and appropriate quality assurance and control procedures.

"Cross-media transfer of chemicals" means the movement of a chemical from one medium, such as air, water, soil, or sediment, to another.

"Degradation" means the processes by which organic chemicals are transformed into derivative chemicals and ultimately broken down.

"Developmental or reproductive toxicant" means a chemical or chemical group that is known or suspected to cause adverse effects on development or reproduction. For purposes of implementing this chapter, the term developmental or reproductive toxicant applies to chemicals or chemical groups identified as posing developmental or reproductive hazards by the National Toxicology Program or chemicals or chemical groups with sufficient evidence of a developmental or reproductive hazard in humans or experimental animals consistent with the United States Environmental Protection Agency's Guidelines for Reproductive Toxicity Risk Assessment and Guidelines for Developmental Toxicity Risk Assessment as set forth in 61 FR 56274 et seq. and 56 FR 63798 et seq., respectively.

"Ecology" means the department of ecology.

"Environment" means any plant, animal, natural resource, surface water (including underlying sediments), ground water, drinking water supply, land surface (including tidelands and shorelands) or subsurface strata, or ambient air.

"Environmental half-life" means the time required for the concentration of a chemical to diminish to half its original value. The environmental half-life of a chemical is a measure of a chemical's persistence in the environment.

"Feasible" means reasonably capable of being accomplished or brought about or capable of being utilized or dealt with successfully.

"High-exposure populations" means groups of people that are at greater risk because they have a higher potential for exposure than the general population.

"Log-octanol water partition coefficient" or **"Log K_{ow} "** means the ratio of a chemical's concentration in the octanol phase to its concentration in the aqueous phase of a two-phase octanol/water system as expressed in a logarithmic format.

"Media" or **"medium"** means a component of the environment (air, water, soil or sediment) in which a contaminant is measured and an organism lives its life, and from which an organism can accumulate contaminants.

"Neurotoxicant" means a chemical or chemical group that is known or suspected to cause adverse changes in the structure or function of the central and/or peripheral nervous system. For purposes of implementing this chapter, the term neurotoxicant applies to chemicals or chemical groups with sufficient evidence of a neurotoxic hazard in humans or

experimental animals consistent with the United States Environmental Protection Agency's Guidelines for Neurotoxicity Risk Assessment as set forth in 63 FR 26926 et seq.

"No observed effect concentration" or **"NOEC"** means the highest concentration of a chemical evaluated in an aquatic toxicity test that does not cause a statistically significant difference in effects compared with controls.

"Persistent bioaccumulative toxin" or **"PBT"** means a chemical or chemical group that meets or exceeds the criteria for persistence, bioaccumulation and toxicity criteria established in WAC 173-33-320.

"Persistence" means the tendency of a chemical to remain in the environment without transformation or breakdown into another chemical form. It refers to the length of time a chemical is expected to reside in the environment and be available for exposure.

"Reference dose" means a numerical estimate of a daily exposure to the human population, including sensitive subgroups such as children, that is likely to be without harmful effects during a lifetime.

"Sensitive population group" means groups of people that exhibit a different or enhanced response to a chemical than most people exposed to a similar level of the chemical because of genetic makeup, age, nutritional status or exposure to other toxic substances.

"Toxicity" means the degree to which a substance or mixture of substances can harm humans, plants or wildlife.

PART III

THE PBT LIST AND CRITERIA AND PROCEDURES FOR REVISING THE LIST

NEW SECTION

WAC 173-333-300 What is the purpose of the PBT list? (1) Purpose. The purpose of the PBT list is to identify toxic chemicals that require further action because they remain ("persist") in the environment for long periods of time where they can bioaccumulate to levels that pose threats to human health and environment in Washington.

(2) **Intended uses of the PBT list.** Ecology will use the PBT list in the following ways:

(a) **Chemical action plans.** To select chemicals for chemical action plan development.

(b) **Ambient monitoring.** To help guide decisions on the design and implementation of ecology programs for characterizing chemical concentrations in the ambient environment.

(c) **Biomonitoring.** To encourage and inform the department of health regarding their efforts to monitor chemicals in human tissue.

(d) **Public awareness.** To promote greater public awareness on the problems associated with PBT chemicals, the uses and sources of individual PBTs and steps that individuals and organizations can take to reduce PBT uses, releases and exposure.

(e) **Voluntary measures.** To help identify opportunities for government agencies, businesses and individuals to implement voluntary measures for reducing and phasing out PBT uses and releases.

(3) **Relationship to actions addressing chemical uses and releases.** Ecology has determined that the chemicals on the PBT list pose a potential threat to human health and the environment in Washington.

(a) Ecology's decision to include a particular chemical on the PBT list does not represent a decision that all uses and releases of that chemical should be reduced and phased-out.

(b) Ecology does not intend to use the PBT list as the sole basis for establishing discharge monitoring requirements that are not required under current permits. Ecology will evaluate and, if appropriate, prepare recommendations for additional monitoring requirements when preparing chemical action plans (WAC 173-333-420 and 173-333-430).

NEW SECTION

WAC 173-333-310 What chemicals or chemical groups are included on the PBT list? (1) Purpose. This section identifies the chemicals and chemical groups that ecology has determined meet the criteria specified in WAC 173-333-320.

(2) **PBT list.** Ecology has determined that the following chemicals or chemical groups meet the criteria specified in WAC 173-333-320.

Chemicals listed in alphabetical order	CAS Number
Aldrin	309-00-2
Cadmium	7440-43-9
Chlordane	57-74-9
Chlordecone (Kepone)	3734-48-3
Dichlorodiphenyltrichloroethane (DDT)	50-29-3
Dieldrin	60-57-1
Endrin	72-20-8
Heptachlor/Heptachlor epoxide	76-44-8/1024-57-3
Hexabromobiphenyl	36355-01-8
Hexabromocyclododecane	25637-99-4
Hexachlorobenzene	118-74-1
Hexachlorobutadiene	87-68-3
Lead	7439-92-1
Mercury	7439-97-6
Mirex	2385-85-5
Nonylphenol/4-nonylphenol (branched)	25154-52-3/84852-15-3
Pentachlorobenzene	608-93-5
Short-chain chlorinated paraffins	85535-84-8
Tetrabromobisphenol A	79-94-7
Tetrachlorobenzene, 1,2,4,5-	95-94-3
Toxaphene	8001-35-2
Chemical categories listed in alphabetical order	
Perfluorooctane sulfonates (PFOS)	

Chemicals listed in alphabetical order	CAS Number
Acid	1763-32-1
Ammonium salt	29081-56-9
Diethanolamine salt	70225-14-8
Lithium salt	29457-72-5
Potassium salt	2795-39-3
Phthalate esters	
Di-isodecyl phthalate (DIDP)	68515-49-1 and 26761-40-0
Di-n-hexyl phthalate (DnHP)	84-75-3
Polycyclic aromatic hydrocarbons (PAHs)	
3-Methyl chlolanthrene	56-49-5
7H-Dibenzo(c,g)carazole	194-59-2
Benzo(a)phenanthrene (Chrysene)	218-01-9
Benzo(b)fluoranthene	205-99-2
Benzo(g,h,i)perylene	191-24-2
Benzo(j)fluoranthene	205-82-3
Benzo(k)fluoranthene	207-08-9
Benzo(r,s,t)pentaphene	189-55-9
Dibenzo(a,e)pyrene	192-65-4
Dibenzo(a,h)pyrene	189-64-4
Dibenzo(a,h)acridine	226-36-8
Dibenzo(a,h)anthracene	53-70-3
Dibenzo(a,j)acridine	224-42-0
Fluoranthene	206-44-0
Indeno(1,2,3-cd)pyrene	193-39-5
Perylene	198-55-0
Polybrominated dibenzodioxins and furans	
2,3,7,8-tetrabromodibenzo-p-dioxin	50585-41-6
2,3,7,8-tetrabromodibenzofuran	67733-57-7
Polybrominated diphenyl ethers	
Pentabromodiphenyl ether	32534-81-9
Octabromodiphenyl ether	32536-52-0
Decabromodiphenyl ether	13654-09-6
Polychlorinated biphenyls (PCBs)	
2,3',4,4',5' Pentachlorobiphenyl	31508-00-6
2,3,4,4',5' Pentachlorobiphenyl	74472-37-0
2,3,3',4,4' Pentachlorobiphenyl	32598-14-4
3,3',4,4',5,5' Hexachlorobiphenyl	32774-16-6
2,3',4,4',5,5' Hexachlorobiphenyl	52663-72-6
2,3,3',4,4',5' Hexachlorobiphenyl	69782-90-7
2,3,3',4,4',5 Hexachlorobiphenyl	38380-08-4

Chemicals listed in alphabetical order	CAS Number
2,3,3',4,4',5,5' Heptachlorobiphenyl	39365-31-9
Polychlorinated dibenzo-p-dioxins	
2,3,7,8 Tetrachlorodibenzo-p-dioxin	1746-01-6
1,2,3,7,8 Pentachlorodibenzo-p-dioxin	40321-76-4
1,2,3,4,7,8 Hexachlorodibenzo-p-dioxin	39227-28-6
1,2,3,6,7,8 Hexachlorodibenzo-p-dioxin	576-53-8
1,2,3,7,8,9 Hexachlorodibenzo-p-dioxin	19408-74-3
1,2,3,4,6,7,8 Heptachlorodibenzo-p-dioxin	35822-46-9
1,2,3,4,6,7,8,9 Octachlorodibenzo-p-dioxin	3268-87-9
Polychlorinated dibenzofurans	
2,3,7,8 Tetrachlorodibenzofuran	51207-31-9
1,2,3,7,8 Pentachlorodibenzofuran	57117-41-6
2,3,4,7,8 Pentachlorodibenzofuran	57117-31-4
1,2,3,4,7,8 Hexachlorodibenzofuran	70648-26-9
1,2,3,6,7,8 Hexachlorodibenzofuran	57117-44-9
1,2,3,7,8,9 Hexachlorodibenzofuran	72918-21-9
2,3,4,7,8,9 Hexachlorodibenzofuran	60851-34-5
1,2,3,4,6,7,8 Heptachlorodibenzofuran	67562-39-4
1,2,3,4,7,8,9 Heptachlorodibenzofuran	55673-89-7
1,2,3,4,6,7,8,9 Octachlorodibenzofuran	39001-02-0
Polychlorinated naphthalenes	
Trichloronaphthalene	1321-65-9
Tetrachloronaphthalene	1335-88-2
Pentachloronaphthalene	1321-64-8
Hexachloronaphthalene	1335-87-1
Heptachloronaphthalene	32241-08-0

(3) **Lead and cadmium.** Ecology will not develop a chemical action plan for lead and cadmium until the Environmental Protection Agency concludes the development of a metals assessment framework and ecology completes its review of the bioavailability of these two substances.

(4) **Revising the PBT list.** Ecology will periodically review and, as appropriate, revise the PBT list in subsection (2) of this section using the criteria and procedures in WAC 173-333-320 through 173-333-340.

NEW SECTION

WAC 173-333-320 What criteria will ecology use to identify and add chemicals or chemical groups to the PBT list? (1) **Purpose.** This section describes the criteria that ecology will use to determine whether a chemical or group of chemicals should be included on the PBT list.

(2) **Criteria for identifying PBTs.** A chemical or group of chemicals will be included on the PBT list if ecology determines it meets each of the following criteria:

(a) **Persistence.** The chemical or chemical group can persist in the environment based on credible scientific information that:

(i) The half-life of the chemical in water is greater than or equal to sixty days; or

(ii) The half-life of the chemical in soil is greater than or equal to sixty days; or

(iii) The half-life of the chemical in sediments is greater than or equal to sixty days; and

(b) **Bioaccumulation.** The chemical or chemical group has a high potential to bioaccumulate based on credible scientific information that the bioconcentration factor or bioaccumulation factor in aquatic species for the chemical is greater than 1,000 or, in the absence of such data, that the log-octanol water partition coefficient ($\log K_{ow}$) is greater than five; and

(c) **Toxicity.** The chemical or chemical group has the potential to be toxic to humans or plants and wildlife based on credible scientific information that:

(i) The chemical (or chemical group) is a carcinogen, a developmental or reproductive toxicant or a neurotoxicant;

(ii) The chemical (or chemical group) has a reference dose or equivalent toxicity measure that is less than 0.003 mg/kg/day; or

(iii) The chemical (or chemical group) has a chronic no observed effect concentration (NOEC) or equivalent toxicity measure that is less than 0.1 mg/L or an acute no observed effect concentration (NOEC) or equivalent toxicity measure that is less than 1.0 mg/L.

(d) **Additional criteria applicable to metals.** The chemical or chemical group is a metal and ecology determines that it is likely to be present in forms that are bioavailable.

(3) **Degradation products.** Ecology will consider both the chemical and its degradation products when making decisions on whether a chemical meets the criteria in subsection (2) of this section. If a chemical does not meet the criteria in this section for a PBT but degrades into chemicals that do meet the criteria in this section for a PBT, the parent chemical will be considered in the development of a CAP for those derivative chemicals.

NEW SECTION

WAC 173-333-330 What criteria will ecology use to remove a PBT from the PBT list? (1) Purpose. This section describes the criteria and factors ecology will use to determine whether a chemical or group of chemicals should be removed from the PBT list.

(2) Criteria for removing a chemical from the PBT list. Ecology will remove a chemical or chemical group from the PBT list if the department determines that credible scientific information developed subsequent to the listing decision provides evidence that the chemical or chemical group does not meet the PBT criteria in WAC 173-333-320(2).

NEW SECTION

WAC 173-333-340 What process would ecology follow to revise the PBT list? (1) Purpose. This section describes the processes ecology will use to notify the public and amend the PBT list after making a determination that chemicals or groups of chemicals should be added or removed from the PBT list.

(2) Reviewing and updating the PBT list. Ecology will periodically review and update WAC 173-333-310. The frequency of review will be determined by credible scientific information available on individual chemicals or chemical groups, rule-making petitions submitted to ecology, and available agency resources. Ecology will comply with the requirements for reviewing and responding to rule-making petitions in the Administrative Procedure Act, chapter 34.05 RCW.

(3) Public notification. If ecology makes a preliminary determination that a chemical should be added or removed from the PBT list, the department will prepare a technical discussion paper that summarizes the scientific information supporting the addition or removal of a chemical and notify the public through an announcement posted on the ecology web site and published in the *Washington State Register*.

(4) Amending the PBT list. If ecology makes a final determination that a chemical or chemical group should be added or removed from the PBT list, the department will initiate actions to amend WAC 173-333-310 through formal rule making.

PART IV**CHEMICAL ACTION PLANS (CAPs)**NEW SECTION

WAC 173-333-400 What is a chemical action plan (CAP)? A chemical action plan (CAP) is a plan that identifies, characterizes and evaluates uses and releases of a specific PBT or a group of PBTs and recommends actions to protect human health or the environment.

NEW SECTION

WAC 173-333-410 What evaluation factors and processes will ecology use to select PBTs for chemical action plan preparation? (1) Purpose. Ecology will consult with the department of health to develop a multiyear schedule for

the preparation of chemical action plans. The purpose of this section is to describe the evaluation factors and processes ecology will use to prepare and update the multiyear schedule.

(2) Evaluation factors.

(a) Ecology will consider the following factors when preparing the multiyear schedule:

(i) Relative ranking. The relative ranking assigned to each PBT based on ecology's evaluation of information on PBT characteristics, uses of the chemical in Washington, releases of the chemical in Washington, the levels of the chemical present in the Washington environment, and levels of the chemical present in Washington residents.

(ii) Opportunities for reductions. Whether there are opportunities for reducing or phasing out uses, production or releases of the PBT in Washington. In reviewing available information, the agencies shall consider whether more than one PBT is present in particular products, generated in particular processes or released from particular sources (co-occurring chemicals).

(iii) Multiple chemical releases and exposures. Scientific evidence on the combined effects of exposure to one or more PBTs and other substances commonly present in the Washington environment.

(iv) Sensitive population groups and high-exposure populations. Scientific evidence on the susceptibility of various population groups including the timing of the exposure and the cumulative effects of multiple exposures.

(v) Existing plans or regulatory requirements. Whether there are existing plans or regulatory requirements that reduce and phase out uses and releases of a particular PBT or group of PBTs.

(b) Ecology will not prepare CAPs if the department determines:

(i) All uses and releases of the PBT are prohibited under other state and federal laws or regulations;

(ii) There is credible scientific information to support a conclusion that the PBT is not used, released or present in Washington; or

(iii) There are no available opportunities for reducing or phasing out the uses, releases or exposures of the PBT beyond levels required under other federal or state laws or regulations.

(3) Preliminary schedule. Ecology will prepare a preliminary schedule that will identify the PBTs for which CAPs will be developed for the multiyear schedule, the rationale for selecting these PBTs and a timeline for completing CAPs for these PBTs.

(4) Public notice and comment. Ecology will notify the public when it has prepared a preliminary schedule and provide an opportunity for public review and comment. Ecology will notify the public through an announcement published in the *Washington State Register* and posted on the ecology web site. Ecology will also send a written announcement to interested persons and organizations. Ecology will provide sixty days, from the date the notice is published in the *Washington State Register* for the public to review and submit comments on the preliminary selection.

(5) Final schedule. Ecology will review all public comments on the preliminary schedule prior to preparing a final

schedule. Ecology will notify the public of the final decision through an announcement published in the *Washington State Register* and posted on the ecology web site. Ecology will also provide written notification to individuals or organizations who submitted comments on the preliminary schedule.

(6) **Schedule updates.** Ecology will review and, as appropriate, update the schedule for chemical action plans at least once every three years. In making such revisions, ecology will follow the process for preparing the schedule (including an opportunity for public review and comment) specified in this section.

NEW SECTION

WAC 173-333-420 What are the contents of a CAP?

(1) **Contents of the chemical action plans.** Chemical action plans will include, as appropriate, the following types of information, evaluations and recommendations:

(a) **General chemical information.** General information includes, but is not limited to, chemical name, properties, uses and manufacturers.

(b) **Production, uses and releases.** An analysis of information on the production, unintentional production, uses and disposal of the chemical. This will include estimates on the amount of each PBT used and released from all sources or activities in Washington and other man-made and naturally occurring sources that may contribute to exposures in Washington. Sources may include other chemicals or products that are known or suspected to degrade to the chemical included on the PBT list.

(c) **Human health and environmental impacts.** Information on the potential impacts on human health and the environment associated with the use and release of the PBT chemical. This will include consideration of available information on the levels of the PBT present in Washington's environment, the likely fate and transport mechanisms, available body-burden data, toxicity effects, and the rates of diseases that have been associated with exposure to the particular PBT.

(d) **Current management approaches.** An evaluation of the regulatory and nonregulatory approaches that influence production, uses, releases and management of each PBT.

(e) **Identification of policy options.** A list of options for managing, reducing and eliminating the different uses and releases of the PBTs addressed in the CAP. The range of options for particular uses and releases will include:

- (i) A no-action option;
- (ii) An option that results in the elimination of PBT uses and releases;
- (iii) An option to manage chemicals to reduce exposure; and
- (iv) Other options, including the use of available substitutes, which will enable full consideration of the opportunities and constraints for reducing particular uses, releases and exposures.

(f) **Recommendations.** Recommendations for:

- (i) Reducing and phasing-out uses and releases of the specific PBT or group of PBTs addressed in the CAP;
- (ii) Managing products or wastes that contain the specific PBT or group of PBTs addressed in the CAP; and

(iii) Minimizing exposure to the specific PBT or group of PBTs.

The recommendations will be based on an evaluation of the following factors:

(A) Environmental and human health benefits associated with implementing the action;

(B) Economic and social impacts associated with implementing the action;

(C) Feasibility of implementing the action;

(D) Availability, cost and effectiveness of safer substitutes for uses of the PBT being addressed in the plan; and

(E) Consistency with existing federal and state regulatory requirements.

(g) **Implementation steps.** A description of the steps ecology will take to implement the CAP, including a description of:

(i) The existing resources and necessary additional budget ecology intends to use;

(ii) Potential funding sources for CAP implementation, including those that tie implementation costs to PBT sources and products;

(iii) How ecology intends to inform and educate affected persons about the CAP;

(iv) How ecology will promote and assist voluntary actions;

(v) How ecology will collect additional information needed to evaluate the feasibility of potential actions; and

(vi) Any recommended regulatory actions and how ecology will pursue them.

(h) **Performance measures.** A description of interim milestones to assess progress and the use of objectively measurable outcomes, including recommendations for environmental and human health monitoring to measure levels of the chemical(s) (in the CAP) over time.

(i) **Other.** Other information that ecology determines is necessary to support the decision-making process.

(2) **Regulatory consistency.** When evaluating the consistency with existing federal and state regulatory requirements under subsection (1)(f)(iii)(E) of this section, ecology will:

(a) Ensure that the recommendations do not violate existing federal or state laws;

(b) Determine if the recommendations would impose more stringent performance requirements on private entities than on public entities, unless already required to do so by federal or state law, and if so, describe the justification for doing so; and

(c) Determine if the recommendations differ from federal regulations and statutes, and if so, explain why the difference is necessary and how ecology will coordinate with other federal, state, and local laws applicable to the same activity or subject matter.

(3) **Economic analyses.** In assessing economic impacts under subsection (1)(f)(iii)(B) of this section, ecology will identify costs of implementing the recommendations. This may include a qualitative and/or quantitative analysis of the probable benefits and costs of the CAP.

(4) **Safer substitutes.** When evaluating the availability of safer substitutes for PBT uses, ecology will:

(a) Determine if the recommendations include the use of safer substitutes, and if not, explain why ecology has not recommended this option.

(b) Determine if the recommendations call for additional research for uses with no safer substitutes, and if not, explain why ecology has not recommended this option.

(c) Provide for periodic reevaluation of whether substitutes are available.

NEW SECTION

WAC 173-333-430 What process will ecology use to develop CAPs? (1) **Purpose.** The purpose of this section is to identify the process ecology will use to develop CAPs.

(2) **Workplan/scoping.** Once a chemical is selected for CAP development, ecology will initially plan and scope the CAP of the selected chemical based upon available information regarding the chemical's products, uses and releases; human health exposure and ecological hazards; environmental releases, fate, and transport; environmental concentrations and available substitutes; available options for managing uses and releases; estimated costs, benefits and effectiveness of alternate management options; and any other information ecology determines is necessary to support the CAP development process. Ecology will consult with the department of health regarding all portions of the CAP related to human health exposures.

(3) **Advisory committee.** Ecology will create an external advisory committee for each CAP that ecology develops. The purpose of the advisory committee is to provide stakeholder input and expertise.

(a) The advisory committee membership will include, but not be limited to, representatives from: Large and small business sectors, community, environmental and public health advocacy groups, local governments, and public health agencies. When appropriate, representatives from the following groups will also be invited to participate: Agricultural groups, worker safety advocacy groups, and other interested parties. Federally recognized tribal governments will also be encouraged to participate. In addition, representation from other state executive agencies may be requested to provide input and to represent agency interests in the CAP development process. Outside experts (if needed) may be requested to provide technical expertise.

(b) A neutral third-party facilitator may be hired to facilitate advisory committee meetings.

(c) The advisory committee will follow a consultative process, where ecology will draft the CAP in consideration of input from advisory committee members.

(d) All advisory committee meetings will be open to the public. Ecology will notify the public of advisory committee meetings through an announcement posted on the ecology web site and written notification to interested individuals and organizations.

(4) **Information collection phase.** Ecology will collect all necessary and up-to-date information regarding the selected chemical. CAP advisory committee members will be asked to contribute, and as appropriate, review information from ecology during this phase of CAP development.

The department of health will be asked to review any information related to human health.

(5) **Draft recommendations.** Ecology will develop a draft CAP for advisory committee review and comment. Ecology will review all advisory committee comments and, as appropriate, revise the draft CAP prior to distributing it for public review and comment.

(6) **Public review and comment.** Ecology will notify the public when it has developed a draft CAP and provide an opportunity for public review and comment. The public comment period for each draft CAP will be a minimum of sixty days. Ecology will notify the public through an announcement posted concurrently on the ecology web site, a notice in the *Washington State Register*, and sent to interested persons and organizations. The comment period shall start from the date the notice is published in the *Washington State Register*. During the comment period, ecology will hold a minimum of two public meetings on the draft CAP. One meeting shall be held on the western side of the state, and one meeting shall be held on the eastern side of the state. Ecology may hold additional public meetings during the public comment period if determined necessary. Ecology will provide a response to all public comments.

(7) **Final recommendations.** Ecology will review and provide responses to all public comments on the draft CAP prior to issuing the final recommendations. Ecology will notify the public of the final recommendations through an announcement that will be published in the *Washington State Register* and posted on the ecology web site. Ecology will also provide written notification to individuals or organizations who submitted comments on the draft CAP.

(8) **Coordination with other agencies.** Ecology will coordinate with other government agencies and interested parties as appropriate on the implementation of the final CAP. Ecology will consult with the department of health on public information materials addressing food safety issues.

WSR 05-20-052

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed September 30, 2005, 4:36 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-03-007 and 04-05-034.

Title of Rule and Other Identifying Information: To amend WAC 388-450-0100 Allocating income—Definitions, 388-450-0106 How does the department count my income if I or someone in my family cannot get assistance because of our alien status?, 388-450-0155 How does being a sponsored immigrant affect my eligibility for cash, medical, and food assistance programs?, 388-450-0156 When am I exempt from deeming?, and 388-450-0160 How does the department decide how much of my sponsor's income to count against my benefits?

To repeal WAC 388-450-0116 How does the department count my income if I cannot get assistance because I am an alien?

To create WAC 388-450-0157 When is my sponsor not liable to repay state or federal benefits?

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane, behind Goodyear Tire. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6097), on November 8, 2005, at 10:00 a.m.

Date of Intended Adoption: Not earlier than November 9, 2005.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA, e-mail fernaax@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m. November 8, 2005.

Assistance for Persons with Disabilities: Contact Stephanie Schiller, DSHS Rules Consultant, by November 4, 2005, TTY (360) 664-6178 or phone (360) 664-6097 or by e-mail at schilse@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This revision proposes to clarify and streamline existing rules, reducing the need for policy clarifications.

Reasons Supporting Proposal: The rules governing deeming of a sponsor's income for purposes of determining eligibility for public assistance are among the most complex that department staff are required to administer.

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

Statute Being Implemented: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090.

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

Name of Proponent: Department of Social and Health Services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Tom Berry, 1009 College S.E., Lacey, WA 98504, (360) 725-4617.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposed rule does not have an economic impact on small businesses, it only affects DSHS clients by outlining the rules clients must meet in order to be eligible for the department's cash assistance or food benefit programs.

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

September 27, 2005

Andy Fernando, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 04-15-057, filed 7/13/04, effective 8/13/04)

WAC 388-450-0100 Allocating income—Definitions.

The following definitions apply to the allocation rules for TANF/SFA, RCA, and GA programs:

(1) **"Dependent"** means a person who:

(a) Is or could be claimed for federal income tax purposes by the financially responsible person; or

(b) The financially responsible person is legally obligated to support.

(2) **"Financially responsible person"** means a parent, stepparent, adoptive parent, or spouse (~~(or caretaker relative)~~).

(3) A **"disqualified assistance unit member"** means a person who is:

(a) An unmarried pregnant or parenting minor under age eighteen who has not completed a high school education or general education development (GED) certification and is not participating in those educational activities which would lead to the attainment of a high school diploma or GED;

(b) An unmarried pregnant or parenting minor under age eighteen who is not living in a department-approved living situation;

(c) The financially responsible person who does not report to the department within five days of the date it becomes reasonably clear that the absence of a child will exceed ninety days;

(d) A person who has been convicted in federal or state court of having made a fraudulent statement or representation about their place of residence in order to receive assistance from two or more states at the same time as defined in WAC 388-446-0010; and

(e) A person who has been convicted of unlawfully receiving public assistance as defined under WAC 388-446-0005.

(4) **"Ineligible assistance unit member"** means an individual who is:

(a) Ineligible for cash or medical assistance due to not meeting the citizenship/alien status requirements in WAC 388-424-0010 or ineligible for Basic Food due to not meeting the citizenship/alien status requirements in WAC 388-424-0020;

(b) Ineligible to receive assistance under WAC 388-442-0010 for having been convicted after August 21, 1996, under federal or state law, of possession, use or distribution of a controlled substance;

(c) Ineligible to receive assistance under WAC 388-442-0010 for fleeing to avoid prosecution or custody or confinement after conviction for a crime or attempt to commit a crime;

(d) Ineligible to receive assistance under WAC 388-442-0010 for violating a condition of probation or parole which was imposed under a federal or state law as determined by an administrative body or court of competent jurisdiction;

(e) The spouse of a woman who receives cash benefits from the ~~((GA-S))~~ GA program; ~~((or))~~

(f) The adult parent of a minor parent's child; or

(g) A sponsored immigrant and otherwise eligible assistance unit member not exempt from deeming who chooses

not to apply for benefits for himself and any other non-exempt AU member who makes the same choice.

AMENDATORY SECTION (Amending WSR 04-15-057, filed 7/13/04, effective 8/13/04)

WAC 388-450-0106 How does the department count my income if I or someone in my family cannot get assistance because of ~~((their)) our~~ alien status? This section applies to TANF/SFA, RCA, and RMA. We count your income differently if you are applying for medical assistance only(-) (see WAC 388-408-0055) or for Basic Food (see WAC 388-450-0140).

If you are included in the assistance unit and you are financially responsible for someone, as defined in WAC 388-450-0100, who does not meet the alien requirements described in WAC 388-424-0010 for TANF/SFA or WAC 388-466-0005 for RCA/RMA, we do not count all of your income. We subtract some of it so that you can use that part to help support the people who cannot get assistance. If you cannot get assistance because you do not meet the alien requirements described above but you are financially responsible for someone in the assistance unit, as defined in WAC 388-450-0100, we count some of your income as part of the assistance unit's income. In either case, to figure out how much of your income we count, we take the following seven steps:

- (1) We start by only counting fifty percent of your earned income, as defined in WAC 388-450-0030;
- (2) We add all of your unearned income, as defined in WAC 388-450-0025.
- (3) We subtract the difference between the following payment standards (payment standards can be found in WAC 388-478-0020):
 - (a) One that includes both eligible assistance unit members and those who cannot get assistance because of their alien status; and
 - (b) One that includes only the eligible assistance unit members.
- (4) We subtract the payment standard for the number of people who are ineligible for reasons other than alien status, as defined in WAC 388-450-0100 (4)(b) through (f).
- (5) We subtract any court or administratively ordered child support you pay for legal dependents. This includes both current and back support. The amount cannot be more than the need standard in WAC 388-478-0015 for the number of dependents.
- (6) We subtract any employment-related child care expenses you have.
- (7) Then, we count whatever is left as unearned income.

AMENDATORY SECTION (Amending WSR 01-21-026, filed 10/9/01, effective 11/1/01)

WAC 388-450-0155 How does being a sponsored immigrant affect my eligibility for cash, medical, and food assistance programs? (1) The following definitions apply to this section:

(a) ~~((("INS")))~~ **"USCIS"** means ~~((the United States))~~ "U.S. Citizenship and Immigration Services" (formerly the Immigration and Naturalization Service or INS).

(b) **"Sponsor"** means a person who agreed to meet the needs of a sponsored immigrant by signing an INS Affidavit of Support form I-864 or I-864A. This includes a sponsor's spouse if the spouse signed the affidavit of support.

(c) **"Sponsored immigrant"** means a person who must have a sponsor under the Immigration and Nationality Act (INA) to be admitted into the United States for residence.

(d) **"Deeming"** means the department counts a part of the sponsor's income and resources as available to the sponsored immigrant.

(e) **"Exempt"** means you meet one of the conditions of WAC 388-450-0156. If you are exempt:

(i) You do not need to provide us information about your sponsor's income and resources; and

(ii) We do not deem your sponsor's income or resources to you.

(2) If you are a sponsored immigrant ~~((and you are not exempt, you must do the following to be eligible for benefits even if your sponsor is not supporting you:~~

~~(a) Give us the name and address of your sponsor;~~

~~(b) Get your sponsor to provide us the information we need about their income and resources; and~~

~~(c) Give us the information and proof we need to decide:~~

~~(i) If we must deem income to your assistance unit (AU); and~~

~~(ii) The amount of income we deem to your AU); we first determine if you are exempt from sponsor deeming for any of the reasons listed in WAC 388-450-0156.~~

~~(3) If you ((are not eligible for benefits because we do not have the information we need about your sponsor, we do not delay benefits to the unsponsored people in your AU who are eligible for benefits. We do not count your needs when we decide if your AU is eligible for benefits, but we count:~~

~~(a) All earned or unearned income you have that is not excluded under WAC 388-450-0015; and~~

~~(b) All deductions you would be eligible for under chapter 388-450 WAC)) are a sponsored immigrant and an eligible assistance unit (AU) member but not exempt from deeming under WAC 388-450-0156 and your AU includes unsponsored family members or family members who are exempt from deeming. you may choose not to apply for benefits for yourself or for other non-exempt AU members. By making this choice, you become an ineligible AU member. See WAC 388-450-0015 for how we count your income as an ineligible AU member. In this situation, you will not need to provide us information about your sponsor.~~

~~(4) If you ((refuse to provide us with the information we need about your sponsor, the other adult members in your AU must provide the information. If the same person sponsored everyone in your AU, your AU is not eligible for benefits until someone in your AU provides us the information we need)) choose not to apply for benefits for yourself or for other non-exempt AU members, this decision will apply to both cash and food assistance programs. You cannot choose to be an ineligible AU member for cash assistance but not for food, or vice versa. This rule does not apply to medical assistance.~~

~~(5) If you are ((an ineligible member of your AU, but you must be the AU under chapter 388-408 WAC, we do not deem your sponsor's income or resources to the AU)) a spon-~~

sored immigrant, are applying for benefits for yourself, and are **not** exempt from deeming under WAC 388-450-0156, you must do the following to be eligible for benefits even if your sponsor is not supporting you:

- (a) Give us the name and address of your sponsor;
- (b) Get your sponsor to provide us the information we need about their income and resources; and
- (c) Give us the information and proof we need to decide:
 - (i) If we must deem income to your AU; and
 - (ii) The amount of income we deem to your AU.
- (6) If you are a sponsored immigrant and are applying for benefits for yourself but are not eligible for benefits because we do not have the information we need about your sponsor, we do not delay benefits to any unsponsored people in your AU who are eligible for benefits.

AMENDATORY SECTION (Amending WSR 04-15-057, filed 7/13/04, effective 8/13/04)

WAC 388-450-0156 When am I exempt from deeming? (1) If you meet any of the following conditions, you are **permanently** exempt from deeming and we do not count your sponsor's income or resources (~~(against your)~~) in determining your eligibility for federal or state benefits:

(a) The Immigration and Nationality Act (INA) does not require you to have a sponsor. Immigrants who are not required to have a sponsor include those with the following status (~~(with Immigration and Naturalization Service (INS))~~):

- (i) Refugee;
- (ii) Parolee;
- (iii) Asylee;
- (iv) Cuban or Haitian entrant; (~~(or)~~)
- (v) (~~(Haitian entrant)~~) Victim of trafficking;
- (vi) Persons granted withholding of deportation or removal; or
- (vii) "Qualified aliens" who are self-petitioners under the Violence Against Women Act or VAWA (see definition of "qualified alien" in WAC 388-424-0001).

(b) You (~~(were sponsored by an organization or group as opposed to an individual;~~) did any of the following prior to December 19, 1997:

- (i) Adjusted to Lawful Permanent Resident (LPR) status;
- (ii) Applied for adjustment to LPR status; or
- (iii) Applied for an immigrant visa at a consular office;
- (c) You (~~(do not meet the alien status requirements to be eligible for benefits under chapter 388-424 WAC)~~) were sponsored with an affidavit of support form I-134 or I-361;

(d) You (~~(have worked or can get credit for forty qualifying quarters of work under Title II of the Social Security Act. We do not count a quarter of work toward this requirement if the person working received TANF, food stamps, Basic Food, SSI, CHIP, or nonemergency Medicaid benefits. We count a quarter of work by the following people toward your forty qualifying quarters:~~

- (i) Yourself;
- (ii) Each of your parents for the time they worked before you turned eighteen years old (including the time they worked before you were born); and

~~(iii) Your spouse if you are still married or your spouse is deceased;))~~ were sponsored by an organization or group as opposed to an individual;

(e) You ((become a United States (U.S.) Citizen)) do not meet the alien status requirements to be eligible for benefits under chapter 388-424 WAC;

(f) ((Your sponsor is dead; or) You have worked or can get credit for forty qualifying quarters of work under title II of the Social Security Act. See WAC 388-424-0008 for an explanation of how Social Security work quarters are obtained;

(g) ((If INS or a court decides that you, your child, or your parent was a victim of domestic violence from your sponsor and:

- (i) You no longer live with your sponsor; and
 - (ii) Leaving your sponsor caused your need for benefits))
- You become a naturalized U.S. citizen; or

(h) Your sponsor is dead.

(2) ((You are exempt from the deeming process while you are in the same AU as your sponsor;

(3) For Basic Food, you are exempt from deeming while you are under age eighteen.

(4) For state family assistance, general assistance, state-funded Basic Food benefits, and state-funded medical assistance for legal immigrants you are exempt from the deeming process)) For state family assistance, general assistance, and state Basic Food you are permanently exempt from the deeming process if:

(a) Your sponsor signed the affidavit of support more than five years ago;

(b) Your sponsor becomes permanently incapacitated; or

(c) You are a qualified alien according to WAC 388-424-0001 and you(~~:~~

(i) Are on active duty with the U.S. armed forces or you are the spouse or unmarried dependent child of someone on active duty;

(ii) Are an honorably discharged veteran of the U.S. armed forces or you are the spouse or unmarried dependent child of a honorably discharged veteran;

(iii) Were employed by an agency of the U.S. government or served in the armed forces of an allied country during a military conflict between the U.S. and a military opponent; or

(iv) Are a victim of domestic violence and you have petitioned for legal status under the Violence Against Women Act)) meet the qualifications for armed services or veteran status as described in WAC 388-424-0007(1).

(3) If you meet any of the following conditions, you are temporarily exempt from sponsor deeming for federal or state programs:

(a) Your Affidavit of Support is not in effect because you have not yet adjusted to lawful permanent resident (LPR) status;

(b) You are applying for:

- (i) Medicaid under the Alien Emergency Medical (AEM) program; or
- (ii) Medical coverage for pregnancy;

(c) You are living in the same household as your sponsor and the sponsor;

(i) For the purposes of cash and food assistance, is included in the same assistance unit; or

(ii) For the purposes of medical programs, is included in the same assistance unit or is otherwise a financially responsible spouse or parent of the sponsored immigrant;

(d) For Basic Food only, while you are under age eighteen.

(4) If you are an LPR with a sponsor who signed an I-864 Affidavit of Support and do not meet the criteria in WAC 388-424-0001 for an abused immigrant, but nevertheless you, your child, or your parent was a victim of domestic violence perpetrated by your sponsor or a family member and you no longer live with your abuser, you may still be temporarily exempt from sponsor deeming for twelve months. This exemption applies to federal or state programs and is renewable if the abuse is recognized by a court order, an administrative law judge, or USCIS.

~~(5) If you, your child, or your parent was a victim of domestic violence, you are exempt from the deeming process for twelve months if:~~

~~(a) You no longer live with the person who committed the violence; and~~

~~(b) Leaving this person caused your need for benefits.~~

(6) If you are an LPR with a sponsor who signed an I-864 Affidavit of Support and your AU has income at or below one hundred thirty percent of the Federal Poverty Level (FPL), you may be eligible for the indigence exemption from sponsor deeming for twelve months. This exemption applies to federal and state programs and is renewable for additional twelve-month periods if you continue to meet the financial criteria. For this rule, we count the following as income to your AU:

(a) Earned and unearned income your AU receives from any source; and

(b) Any noncash items of value such as free rent, commodities, goods, or services you receive from an individual or organization.

~~((7)) (6) If you are (exempt from deeming because your AU does not have income over one hundred thirty percent of the FPL, we) eligible for the indigence exemption, you may choose to exercise this exemption or not to exercise it, in full knowledge of the possible risks involved. If you choose to exercise the indigence exemption, and are applying for a federal program, we are required by law to give the United States Attorney General the following information:~~

~~(a) The names of the sponsored people in your AU;~~

~~(b) That you are exempt from deeming due to your income; ((and))~~

~~(c) Your sponsor's name; and~~

(d) The effective date that your twelve-month exemption began.

NEW SECTION

WAC 388-450-0157 When is my sponsor not liable to re-pay state or federal benefits? (1) A sponsor is not liable to repay state or federal benefits for a period when:

(a) The sponsor lives in the same household as the sponsored immigrant and is included in the same AU or is other-

wise a financially responsible spouse or parent of the sponsored immigrant;

(b) The sponsored immigrant starts to receive benefits after they become a naturalized U.S. citizen or were credited with forty qualifying quarters of work (once a sponsored immigrant is credited with forty quarters, the sponsor's liability is terminated and will not be revived even by subsequent loss of quarters due to divorce);

(c) The benefits are received by unsponsored household members; or

(d) The sponsored immigrant is exempt from deeming as a child under eighteen years old.

(2) A sponsor is not liable to repay state benefits for a period when:

(a) Five years have passed since the affidavit of support is signed;

(b) The sponsor is disabled; or

(c) The sponsored immigrant is on active duty or a veteran of the U.S. military as defined in WAC 388-424-0007(1).

(3) If you are exempt from sponsor deeming due to the fact that you are a victim of domestic violence, as defined in WAC 388-450-0156, the department will not take action to recover the cost of benefits from your sponsor without first determining whether you will be at risk from the sponsor. The department will follow the rules and procedures set out for a domestic violence victim who may have "good cause" not to cooperate with child support enforcement. See WAC 388-422-0020.

AMENDATORY SECTION (Amending WSR 01-21-026, filed 10/9/01, effective 11/1/01)

WAC 388-450-0160 How does the department decide how much of my sponsor's income to count against my benefits? (1) We must count some of your sponsor's gross income as unearned income to your assistance unit (AU) if:

(a) Your sponsor signed the ~~((INS))~~ USCIS affidavit of support form I-864 or I-864A; ~~((and))~~

(b) You are not exempt from the deeming process under WAC 388-450-0156; and

(c) You or a family member do not choose to decline benefits for yourselves as described in WAC 388-450-0155(3).

(2) We determine your AU as consisting of all sponsored members. We determine the eligibility of unsponsored members separately.

(3) We take the following steps to decide the monthly amount of your sponsor's income which we deem as your income and count against your benefits:

(a) We start with your sponsor's earned and unearned gross income that is not excluded under WAC 388-450-0015;

(b) If your sponsor's spouse signed the affidavit of support, and is living with the sponsor, we add all of the spouse's earned and unearned income that is not excluded under WAC 388-450-0015;

(c) For Basic Food, we subtract twenty percent of the above amount that is earned income under WAC 388-450-0030;

(d) For cash and medical assistance, we subtract the need standard under WAC 388-478-0015. We count the following people who live in your sponsor's home as a part of your sponsor's AU to decide the need standard:

- (i) Your sponsor;
- (ii) Your sponsor's spouse; ~~((and))~~
- (iii) Everyone else ~~((in their home))~~ that they could claim as a dependent for federal income tax purposes even if they do not live in the sponsor's home; and

(iv) The sponsored immigrants, who have been sponsored under the current affidavit of support, even if they do not live at the same residence as the sponsor.

(e) For food assistance, we subtract the maximum gross monthly income under WAC 388-478-0060. We count the following people that live in your sponsor's home as a part of your sponsor's AU to decide the maximum gross monthly income:

- (i) Your sponsor;
- (ii) Your sponsor's spouse; ~~((and))~~
- (iii) Everyone else ~~((in their home))~~ that they could claim as a dependent for federal income tax purposes even if they do not live in the sponsor's home; and

(iv) The sponsored immigrants, who have been sponsored under the current affidavit of support, even if they do not live at the same residence as the sponsor.

(f) If you can show that your sponsor has sponsored other people as well, we divide the result by the total number of people whom they sponsored. If you do not have copies of the affidavits of support, a declaration from the sponsor or sponsored immigrant will be accepted.

~~((3))~~ (4) After we have decided how much income to deem to you, we count the greater amount of the following against your benefits:

- (a) The amount of income calculated from deeming; or
- (b) The amount of money your sponsor actually gives you for your needs.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-450-0116	How does the department count my income if I cannot get assistance because I am an alien?
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WSR 05-20-053
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed September 30, 2005, 4:38 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-08-091.

Title of Rule and Other Identifying Information: WAC 388-414-0001 Do I have to meet all eligibility requirements for Basic Food?

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane, behind Goodyear Tire. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6097, on November 8, 2005, at 10:00 a.m.

Date of Intended Adoption: Not earlier than November 9, 2005.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA, e-mail fernaax@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m. November 8, 2005.

Assistance for Persons with Disabilities: Contact Stephanie Schiller, DSHS Rules Consultant, by November 4, 2005, TTY (360) 664-6178 or phone (360) 664-6097 or by e-mail at schilse@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Rule amendments are necessary to describe all deemed requirements and verifications when a household is "categorically eligible" (CE) under federal rule at 7 C.F.R. 273.2.

Reasons Supporting Proposal: Current rule text does not explicitly state that residency, enumeration, and sponsored alien information are considered deemed when a Basic Food household meets CE criteria and the information is available from another program.

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

Statute Being Implemented: RCW 74.04.050, 74.04.-055, 74.04.057, 74.08.090.

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

Name of Proponent: Department of Social and Health Services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Rebecca Henrie, 1009 College S.E., Lacey, WA 98504, (360) 725-4615.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposed rule does not have an economic impact on small businesses, it only affects DSHS clients by outlining the rules clients must meet in order to be eligible for the department's cash assistance or food benefit programs.

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

September 27, 2005

Andy Fernando, Manager

Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 04-14-038, filed 6/29/04, effective 8/1/04)

WAC 388-414-0001 Do I have to meet all eligibility requirements for Basic Food? (1) What is (~~"categorical eligibility"~~) "categorically eligible" (CE)?

(a) ~~Being (~~"categorical eligibility"~~)~~ categorically eligible (CE) means that you have already met requirements for ~~(a)~~ the program. If you are CE, you do not have to meet every program requirement to be eligible for Basic Food.

(b) If your assistance unit (AU) is CE, you automatically meet the following requirements for Basic Food:

(i) Residency under WAC 388-468-0005;

(ii) Countable resource limit under WAC 388-470-0005;
~~((i+))~~ (iii) Maximum gross monthly income under WAC 388-478-0060; and

~~((i+))~~ (iv) Maximum net monthly income under WAC 388-478-0060.

~~((b+))~~ (c) If your AU is CE and the information is available from another program, you do not need to provide the following for Basic Food:

(i) Social Security Number information under WAC 388-476-0005; and

(ii) Sponsored alien information under WAC 388-450-0155.

(d) Being CE does not mean that your AU is guaranteed to get Basic Food benefits. If your AU is CE:

(i) You must still meet the other Basic Food program requirements under WAC 388-400-0040; and

(ii) If you meet the other program requirements, we must budget your AU's income to determine the amount of benefits your AU will receive.

(2) Who is categorically eligible for Basic Food?

Your Basic Food AU is CE when:

(a) **Every member** of your AU gets either general assistance (GA), Alcohol and Drug Abuse Treatment Support Act (ADATSA), or Supplemental Security Income (SSI) cash benefits on their own behalf;

(b) Any member of your AU gets or is authorized to get payments from the following programs because we have determined that the entire AU benefits from someone receiving the assistance:

(i) Temporary assistance for needy families (TANF) cash assistance;

(ii) State family assistance (SFA); or

(iii) Diversion cash assistance (DCA). You are CE for the month you receive DCA and the three following months as long as you have one adult relative caretaker with a dependent child in the Basic Food AU.

(c) Your AU's income that we don't exclude under WAC 388-450-0015 is not over the maximum gross monthly income under WAC 388-478-0060. If your income is not over the gross monthly income limit, we provide your AU information about department programs and referral to resources in the community.

(3) Who is not CE even if my AU meets the above criteria?

(a) Even if your AU is CE, members of your AU are not eligible for Basic Food if they:

(i) Are not eligible because of their alien or student status;

(ii) Were disqualified from Basic Food under WAC 388-444-0055 for failing work requirements;

(iii) Are not eligible for failing to provide or apply for a Social Security number;

(iv) Receive SSI in a cash-out state (state where SSI payments are increased to include the value of the client's food stamp allotment); or

(v) Live in an institution not eligible for Basic Food under WAC 388-408-0040.

(b) If a person in your AU is not eligible for Basic Food, we do not include them as an **eligible member** of your CE AU.

(c) Your AU is not CE if:

(i) Your AU is not eligible because of striker requirements under WAC 388-480-0001;

(ii) Your AU is ineligible for knowingly transferring countable resources in order to qualify for benefits under WAC 388-488-0010;

(iii) Your AU refused to cooperate in providing information that is needed to determine your eligibility;

(iv) The head of household for your AU failed to meet work requirements; or

(v) Anyone in your AU is disqualified because of an intentional program violation under WAC 388-446-0015.

WSR 05-20-054

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed September 30, 2005, 4:39 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-08-091.

Title of Rule and Other Identifying Information: WAC 388-446-0015 Intentional program violation (IPV) and disqualification hearings for food assistance.

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane, behind Goodyear Tire. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6097, on November 8, 2005, at 10:00 a.m.

Date of Intended Adoption: Not earlier than November 9, 2005.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA, e-mail fernaax@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m. November 8, 2005.

Assistance for Persons with Disabilities: Contact Stephanie Schiller, DSHS Rules Consultant, by November 4, 2005, TTY (360) 664-6178 or phone (360) 664-6097 or by e-mail at schilse@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Rule amendments are necessary to remove language inconsistent with federal requirements under 7 C.F.R. 273.16 and incorporate traffick-

ing into the definition; also to remove obsolete WAC and procedure references and update language.

Reasons Supporting Proposal: Current rule text is out of compliance with referral policy under federal regulation, which stipulates that the state agency cannot pursue both an administrative disqualification hearing and a criminal proceeding for an IPV simultaneously. Trafficking benefits is considered an IPV offense under federal rule and must be added to the WAC definition.

Further, WAC references for hearings in the rule are obsolete and need correction, and outdated procedures and language require updating.

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

Statute Being Implemented: RCW 74.04.050, 74.04.-055, 74.04.057, 74.08.090.

Rule is necessary because of federal law, 7 U.S.C. 2015 (b)(1) and (2).

Name of Proponent: Department of Social and Health Services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Rebecca Henrie, 1009 College S.E., Lacey, WA 98504, (360) 725-4615.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposed rule does not have an economic impact on small businesses, it only affects DSHS clients by outlining the rules clients must meet in order to be eligible for the department's cash assistance or food benefit programs.

A cost-benefit analysis is not required under RCW 34.05.328. The amendments to subsections (1) and (2) are exempt as allowed under RCW 34.05.328 (5)(b)(iii) which states in-part, "[t]his section does not apply to...rules adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies...if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule."

The amendments to subsections (3) through (11) are procedural in nature and are not significant legislative rules as defined under RCW 34.05.328 (5)(c)(i) which states in-part, "[f]or purposes of this subsection...a "procedural rule" is a rule that adopts, amends, or repeals (A) any procedure, practice, or requirement relating to any agency hearings."

September 23, 2005

Andy Fernando, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

WAC 388-446-0015 Intentional program violation (IPV) and disqualification hearings for ~~((food assistance)) Basic Food.~~ (1) An intentional program violation (IPV) is defined as an act in which a person intentionally:

- (a) Makes a false or misleading statement;
- (b) Misrepresents, conceals or withholds facts; or
- (c) Acts in violation of the Food Stamp Act, the Food Stamp Program regulations, or any state statute relating to the

use, presentation, transfer, acquisition, receipt, trafficking, or possession of food (~~(stamp coupons or FCAs))~~ benefits.

(2) Basic Food (~~(assistance))~~ clients suspected of committing an ~~((IPV))~~ are subject to referral for an administrative disqualification hearing, if:

(a) The suspected IPV causes an over issuance of four hundred fifty dollars or more; ~~((and))~~ or

(b) The suspected IPV is due to the trafficking of food benefits; and

~~((c))~~ (c) The ((administrative proceedings will not jeopardize)) person has not been referred for criminal proceedings; and

~~((e))~~ (d) The person resides in Washington state, at the time of the referral; or

~~((f))~~ (e) The person resides outside Washington state, but is within one hour's reasonable drive to a CSO.

(3) An administrative disqualification hearing (ADH) is a formal hearing to determine if a person committed an IPV. ADHs are governed by the rules found in chapter ~~((388-08))~~ 388-02 WAC. However, rules in this section are the overriding authority if there is a conflict.

(4) A client who commits one or more IPV's and is suspected of committing another, is referred for an ADH when the act of suspected violation occurred:

(a) After the department mailed the disqualification notice to the client for the most recent IPV; or

(b) After ~~((an order was entered in))~~ criminal proceedings for the most recent IPV are concluded.

(5) A person suspected of IPV is entitled to receive notice of an ADH at least thirty days in advance of the hearing date. The notice is sent by certified mail, or provided to the client by personal service and will contain the following:

(a) The date, time, and place of the hearing;

(b) The charges against the individual;

(c) A summary of the evidence, and how and where the evidence can be examined;

(d) A warning that a decision will be based solely on evidence provided by the department, if the individual fails to appear at the hearing;

(e) A statement that the individual has ten days from the date of the scheduled hearing to show good cause for failure to appear at the hearing and to request rescheduling;

(f) A warning that a determination of IPV will result in a disqualification period; and

(g) A statement that if a telephone hearing is scheduled, the individual can request an in-person hearing by filing a request with the administrative law judge one week or more prior to the date of the hearing.

(6) The person or a representative shall have the right to one continuance of up to thirty days if a request is filed ten days or more prior to the hearing date.

(7) The hearing will be conducted and a decision rendered even if the person or representative fail to appear, unless within ten days from the date of the scheduled hearing:

(a) The person can show good cause for failing to appear; and

(b) The person or representative requests the hearing be re-instated.

(8) A scheduled telephone hearing may be changed to an in-person hearing if requested one week or more in advance.

If requested less than one week in advance the person must show good cause for the requested change.

(9) The ALJ issues a ~~((preliminary))~~ final decision ~~((based on))~~ as specified in WAC 388-02-0215(5) and WAC 388-02-0527. The decision determines whether evidence presented by the department ((establishing)) clearly establishes that the person committed and intended to commit an IPV. ((The department and the client each have the right to request a review of the ALJ's decision by writing to the department's board of appeals as specified in WAC 388-08-464.))

(10) ~~((A final decision of the disqualification hearing is mailed by the department's board of appeals))~~ The department and the client each have the right to request a reconsideration of the decision as specified in WAC 388-02-0610 through 388-02-0635. The final order or the reconsideration decision is the final agency decision.

(11) A client's disqualification is not implemented and benefits continue at the current amount when:

(a) The client can show good cause for not attending the hearing within thirty days from the date the disqualification notice was mailed; and

(b) An administrative law judge determines the client had good cause; or

(c) The client requests reconsideration or files a petition for judicial review to appeal the disqualification as specified in WAC 388-02-0530 (1) or (4).

(12) An administrative disqualification hearing and ~~((an overissuance))~~ a regular hearing can be combined when the cause for both hearings is related. ~~((The hearing procedures and notice requirements are the same as for administrative disqualification hearings.))~~

WSR 05-20-061
PROPOSED RULES
DEPARTMENT OF
RETIREMENT SYSTEMS

[Filed October 3, 2005, 12:49 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-24-064.

Title of Rule and Other Identifying Information: WAC 415-02-380 How will my retirement allowance be affected if I choose a benefit option with a survivor feature?, 415-103-225 What are my WSPRS Plan 2 benefit options?, 415-104-215 What are my retirement benefit options—LEOFF Plan 2?, 415-108-326 What are my retirement benefit options? (PERS), 415-110-610 What are my retirement benefit options? (SERS), 415-112-504 What are the benefit options for Plan 1 members? (TRS), and 415-112-505 What are the benefit options for Plan 2 and 3 members? (TRS).

Hearing Location(s): Department of Retirement Systems, 6835 Capitol Boulevard, Conference Room 115, Tumwater, WA, on November 8, 2005, at 1:00 p.m.

Date of Intended Adoption: November 9, 2005.

Submit Written Comments to: Leslie L. Saeger, Rules Coordinator, Department of Retirement Systems, P.O. Box

48380, Olympia, WA 98504-8380, e-mail leslies@drs.wa.gov, fax (360) 753-3166, by 5:00 p.m. on November 8, 2005.

Assistance for Persons with Disabilities: Contact Leslie Saeger, Rules Coordinator, by November 1, 2005, TDD (360) 664-7291, TTY (360) 586-5450, phone (360) 664-7291.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These rules clarify the benefit options for retirees and the distribution of any remaining contributions upon their death.

These rules affect members of the Washington State Patrol retirement system, law enforcement officers' and fire fighters' retirement system, public employees' retirement system, school employees' retirement system and the teachers' retirement system.

Statutory Authority for Adoption: For WAC 415-02-380 is RCW 41.50.050(5); for WAC 415-103-225 is RCW 41.50.050(5), 43.43.271; for WAC 415-104-215 is RCW 41.50.050(5), 41.26.460; for WAC 415-108-326 is RCW 41.50.050(5), 41.40.188, 41.40.660, 41.40.845; for WAC 415-110-610 is RCW 41.50.050(5), 41.35.220; for WAC 415-112-504 is RCW 41.50.050(5), 41.32.530; and for WAC 415-112-505 is RCW 41.50.050(5), 41.32.785, and 41.32.851.

Statute Being Implemented: For WAC 415-103-225 is RCW 43.43.271; for WAC 415-104-215 is RCW 41.26.460; for WAC 415-108-326 is RCW 41.40.188, 41.40.660, 41.40.845; for WAC 415-110-610 is RCW 41.35.220; for WAC 415-112-504 is RCW 41.32.530, 41.32.550; and for WAC 415-112-505 is RCW 41.32.790, 41.32.785, and 41.32.851.

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

Name of Proponent: Department of Retirement Systems, governmental.

Name of Agency Personnel Responsible for Drafting: Leslie Saeger, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7291; Implementation and Enforcement: Dave Nelsen, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7291.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules have no effect on businesses.

A cost-benefit analysis is not required under RCW 34.05.328. The Department of Retirement Systems is not one of the named departments in RCW 34.05.328.

October 3, 2005

Leslie Saeger

Rules and Contracts Coordinator

AMENDATORY SECTION (Amending WSR 03-12-014, filed 5/27/03, effective 7/1/03)

WAC 415-02-380 ~~((Survivor options factors.))~~ How will my retirement allowance be affected if I choose a benefit option with a survivor feature? This section applies to LEOFF Plan 1 and 2; PERS Plan 1, 2, and 3; SERS Plan 2 and 3; TRS Plan 1, 2, and 3; and WSPRS Plan 2. For information about WSPRS Plan 1, see RCW 43.43.278 and WAC 415-103-215.

(1) What is a survivor feature? Some benefit options include a survivor feature, which provides a monthly allowance for your survivor beneficiary after your death.

(2) What is a "(surviving) survivor beneficiary"? ((A surviving beneficiary is a person you designate who will receive benefit payments for the duration of his or her life, beginning at your death.

(2) Will selecting a surviving beneficiary affect my retirement benefits? Yes. Retirees who select a surviving beneficiary retirement option receive smaller benefit payments than those retirees who do not select this option.

(3) Does it matter if I am married? Yes. If you are married, you must provide your spouse's written consent to the option you select (except in LEOFF Plan 1). If you are married, and you and your spouse do not give written consent to an option, the department will pay you a joint and fifty percent survivor benefit and record your spouse as the beneficiary. For details, please review:

LEOFF Plan 1:	RCW 41.26.162	WAC 415-104-202
LEOFF Plan 2:	RCW 41.26.460(2)	WAC 415-104-211 and 415-104-215
PERS Plan 1:	RCW 41.40.188(2)	WAC 415-108-324 and 415-108-326
PERS Plan 2:	RCW 41.40.660(2)	WAC 415-108-324 and 415-108-326
PERS Plan 3:	RCW 41.40.845(2)	WAC 415-108-324 and 415-108-326
SERS Plans 2/3:	RCW 41.35.220(2)	WAC 415-110-324 and 415-110-326
TRS Plan 1:	RCW 41.32.530(2)	WAC 415-112-710 to 415-112-727
TRS Plan 2:	RCW 41.32.785(2)	WAC 415-112-710 to 415-112-727
TRS Plan 3:	RCW 41.32.851(2)	WAC 415-112-710 to 415-112-727
WSPRS Plan 2:	RCW 43.43.271(2)	WAC 415-103-225

(4) Why does the surviving beneficiary's age matter? The surviving beneficiary's age is used in determining the amount of the payments. The younger the surviving beneficiary, the longer he or she is expected to receive payments. The monthly benefit must be reduced accordingly.

(5) What are the survivor options? The survivor options are described in detail within each plan. For details, please see the list in subsection (3) of this section.

To summarize:

Option 2 – Joint and 100 percent survivorship

Option 3 – Joint and 50 percent survivorship

Option 4 – Joint and 66.67 percent survivorship

(6)) The person you name at the time of retirement to receive a monthly allowance after your death is referred to as your "survivor beneficiary."

(3) What benefit options include a survivor feature? Benefit options are described in detail for each system and plan in the following state law and regulations:

LEOFF Plan 1:	RCW 41.26.164	WAC 415-104-202
LEOFF Plan 2:	RCW 41.26.460	WAC 415-104-215
PERS Plan 1:	RCW 41.40.188	WAC 415-108-326
PERS Plan 2:	RCW 41.40.660	WAC 415-108-326
PERS Plan 3:	RCW 41.40.845	WAC 415-108-326

SERS Plans 2/3:	RCW 41.35.220	WAC 415-110-326
TRS Plan 1:	RCW 41.32.530	WAC 415-112-492
TRS Plan 2:	RCW 41.32.785	WAC 415-112-493
TRS Plan 3:	RCW 41.32.851	WAC 415-112-493
WSPRS Plan 2:	RCW 43.43.271	WAC 415-103-225

(4) Will selecting a benefit option with a survivor feature affect my monthly retirement allowance? Yes. Your monthly retirement allowance will be actuarially reduced to offset the cost of the survivor feature.

(5) Does my survivor beneficiary's age affect how much my monthly retirement allowance will be reduced? Yes. Your survivor beneficiary's age is used in determining the amount of your monthly retirement allowance and the allowance of your survivor. The younger the survivor beneficiary, the longer he or she is expected to receive an allowance. Your monthly allowance will be reduced accordingly.

Examples

(a) Example (a):

Kendra, a PERS Plan 2 member, chooses Option 3 (joint and 50 percent survivorship) at retirement. She names her nephew, Steve, as her ((surviving)) survivor beneficiary. This means ((that Steve would receive half of Kendra's benefit amount after Kendra's death)), if Kendra dies before Steve. Steve will receive a monthly allowance equal to half the amount Kendra was receiving. Steve is 30 years younger than Kendra. ((PERS would use)) The department will calculate the adjustment to Kendra's monthly retirement allowance by using the survivor option factor table ("member older") ((to calculate the adjustment)) in subsection (6) of this section. With a 30-year age difference (member's age minus beneficiary's age), the value corresponding to PERS Plan 2 and Option 3 is 0.753. This value, 0.753, is multiplied against the amount Kendra would have received under Option 1 (no survivor feature). Kendra's monthly retirement ((benefits)) allowance will be reduced to about 75% of her Option 1 level.

(b) Example (b):

Mark, a LEOFF Plan 2 member, chooses Option 2 (joint and 100 percent survivorship) at retirement. He names his wife, Susan, as his ((surviving)) survivor beneficiary. This means ((Susan would receive the same benefit amount Mark had received prior to his death)), if Mark dies before Susan. Susan will receive a monthly allowance equal to the amount Mark was receiving. Mark is five years younger than Susan. ((LEOFF would use)) The department will calculate the adjustment to Mark's monthly retirement allowance by using the survivor option factor((s)) table ("member younger") ((to calculate the adjustment for the age difference)) in subsection (9) of this section. With a 5-year age difference (member's age minus beneficiary's age), the value corresponding to LEOFF Plan 2 and Option 2 is 0.894. This value, 0.894, will be multiplied against the amount Mark would have received under Option 1 (no survivor feature). Mark's monthly retirement ((benefits)) allowance will be reduced to about 89 percent of his Option 1 level.

((7)) (6) Table - Member older (PERS and SERS)

Survivor option factor table: Member older than beneficiary

Age difference: Member's age minus beneficiary's age

Age Difference	PERS 1 Opt. 2 100%	PERS 1 Opt. 3 50%	PERS 1 Opt. 4 66 2/3%	PERS 2/3 Opt. 2 100%	PERS 2/3 Opt. 3 50%	PERS 2/3 Opt. 4 66 2/3%	SERS 2/3 Opt. 2 100%	SERS 2/3 Opt. 3 50%	SERS 2/3 Opt. 4 66 2/3%
0	.870	.930	.909	.791	.883	.850	.799	.888	.857
1	.862	.926	.904	.778	.875	.840	.773	.872	.836
2	.857	.923	.900	.767	.868	.832	.760	.864	.826
3	.844	.915	.890	.758	.863	.825	.748	.856	.816
4	.840	.913	.887	.751	.858	.819	.741	.851	.811
5	.836	.910	.884	.743	.853	.813	.734	.846	.805
6	.831	.908	.881	.736	.848	.807	.726	.841	.799
7	.818	.900	.871	.728	.843	.801	.719	.836	.793
8	.814	.897	.867	.721	.838	.795	.712	.832	.787
9	.809	.895	.864	.713	.833	.789	.705	.827	.782
10	.805	.892	.861	.706	.828	.783	.698	.822	.776
11	.802	.890	.858	.699	.823	.777	.692	.818	.771
12	.787	.881	.847	.693	.818	.772	.685	.813	.766
13	.784	.879	.845	.686	.814	.766	.679	.809	.760
14	.780	.876	.842	.680	.809	.761	.673	.805	.755
15	.777	.874	.839	.673	.805	.756	.667	.800	.750
16	.773	.872	.836	.667	.801	.751	.662	.796	.746
17	.770	.870	.834	.662	.796	.746	.656	.792	.741
18	.767	.868	.832	.656	.792	.741	.651	.789	.737
19	.764	.866	.829	.651	.788	.736	.646	.785	.732
20	.762	.865	.827	.645	.785	.732	.641	.781	.728
21	.759	.863	.825	.640	.781	.728	.637	.778	.724
22	.756	.861	.823	.636	.777	.724	.632	.775	.720
23	.754	.860	.821	.631	.774	.720	.628	.771	.717
24	.752	.858	.820	.627	.771	.716	.624	.768	.713
25	.750	.857	.818	.622	.767	.712	.620	.765	.710
26	.748	.856	.817	.618	.764	.709	.616	.762	.707
27	.746	.855	.815	.615	.761	.705	.613	.760	.703
28	.744	.853	.814	.611	.758	.702	.609	.757	.700
29	.743	.852	.812	.607	.756	.699	.606	.755	.697
30	.741	.851	.811	.604	.753	.696	.603	.752	.695
31	.740	.850	.810	.601	.751	.693	.600	.750	.692
32	.738	.849	.809	.598	.748	.690	.597	.748	.690
33	.737	.849	.808	.595	.746	.688	.594	.745	.687
34	.736	.848	.807	.592	.744	.685	.592	.743	.685
35	.735	.847	.806	.589	.742	.683	.589	.741	.683
36	.734	.846	.805	.587	.740	.680	.587	.740	.680
37	.733	.846	.804	.584	.738	.678	.585	.738	.678
38	.732	.845	.804	.582	.736	.676	.582	.736	.677
39	.731	.844	.803	.580	.734	.674	.580	.734	.675
40	.730	.844	.802	.578	.732	.672	.578	.733	.673

((8)) (7) Table - Member younger (PERS and SERS)

Survivor option factor(s) table: Member younger than beneficiary

Age difference: Member's age minus beneficiary's age

Age Difference	PERS 1 Opt. 2 100%	PERS 1 Opt. 3 50%	PERS 1 Opt. 4 66 2/3%	PERS 2/3 Opt. 2 100%	PERS 2/3 Opt. 3 50%	PERS 2/3 Opt. 4 66 2/3%	SERS 2/3 Opt. 2 100%	SERS 2/3 Opt. 3 50%	SERS 2/3 Opt. 4 66 2/3%
-20	.958	.978	.971	.939	.969	.959	.949	.974	.965
-19	.955	.977	.970	.935	.967	.956	.946	.972	.963
-18	.952	.976	.968	.931	.964	.953	.942	.970	.961
-17	.949	.974	.966	.927	.962	.950	.938	.968	.958
-16	.947	.973	.964	.922	.959	.947	.934	.966	.955
-15	.944	.971	.962	.917	.957	.943	.930	.964	.952
-14	.940	.969	.959	.912	.954	.940	.926	.961	.949

Age Difference	PERS 1 Opt. 2 100%	PERS 1 Opt. 3 50%	PERS 1 Opt. 4 66 2/3%	PERS 2/3 Opt. 2 100%	PERS 2/3 Opt. 3 50%	PERS 2/3 Opt. 4 66 2/3%	SERS 2/3 Opt. 2 100%	SERS 2/3 Opt. 3 50%	SERS 2/3 Opt. 4 66 2/3%
-13	.937	.968	.957	.907	.951	.936	.921	.959	.946
-12	.934	.966	.955	.902	.948	.932	.917	.956	.943
-11	.930	.964	.953	.896	.945	.928	.912	.954	.939
-10	.927	.962	.950	.890	.942	.924	.907	.951	.936
-9	.923	.960	.948	.884	.938	.919	.901	.948	.932
-8	.920	.958	.945	.878	.935	.915	.896	.945	.928
-7	.916	.956	.942	.871	.931	.910	.890	.942	.924
-6	.912	.954	.940	.865	.927	.905	.885	.939	.920
-5	.908	.952	.937	.858	.924	.901	.879	.935	.916
-4	.901	.948	.931	.848	.918	.893	.873	.932	.911
-3	.896	.945	.928	.840	.913	.887	.863	.927	.905
-2	.889	.941	.923	.826	.905	.877	.853	.920	.897
-1	.879	.935	.916	.805	.892	.861	.834	.909	.883
0	.870	.930	.909	.791	.883	.850	.799	.888	.857

~~((9))~~ (8) Table - Member older (LEOFF Plan 2 and WSPRS Plan 2)

Survivor option factor(s) table: Member older than beneficiary

Age difference: Member's age minus beneficiary's age

Age Difference	LEOFF 2 Option 2 100%	LEOFF 2 Option 3 50%	LEOFF 2 Option 4 66 2/3%	WSP 2 Option 2 100%	WSP 2 Option 3 50%	WSP 2 Option 4 66 2/3%
0	0.870	0.930	0.909	0.870	0.930	0.909
1	0.865	0.927	0.905	0.865	0.927	0.905
2	0.860	0.924	0.902	0.860	0.924	0.902
3	0.855	0.922	0.898	0.855	0.922	0.898
4	0.850	0.919	0.894	0.850	0.919	0.894
5	0.845	0.916	0.891	0.845	0.916	0.891
6	0.840	0.913	0.887	0.840	0.913	0.887
7	0.835	0.910	0.883	0.835	0.910	0.883
8	0.830	0.907	0.880	0.830	0.907	0.880
9	0.825	0.904	0.876	0.825	0.904	0.876
10	0.821	0.902	0.873	0.821	0.902	0.873
11	0.816	0.899	0.870	0.816	0.899	0.870
12	0.812	0.896	0.866	0.812	0.896	0.866
13	0.808	0.894	0.863	0.808	0.894	0.863
14	0.803	0.891	0.860	0.803	0.891	0.860
15	0.799	0.888	0.857	0.799	0.888	0.857
16	0.795	0.886	0.854	0.795	0.886	0.854
17	0.792	0.884	0.851	0.792	0.884	0.851
18	0.788	0.881	0.848	0.788	0.881	0.848
19	0.784	0.879	0.845	0.784	0.879	0.845
20	0.781	0.877	0.842	0.781	0.877	0.842
21	0.777	0.875	0.840	0.777	0.875	0.840
22	0.774	0.873	0.837	0.774	0.873	0.837
23	0.771	0.871	0.835	0.771	0.871	0.835
24	0.768	0.869	0.832	0.768	0.869	0.832
25	0.765	0.867	0.830	0.765	0.867	0.830
26	0.763	0.865	0.828	0.763	0.865	0.828
27	0.760	0.864	0.826	0.760	0.864	0.826
28	0.757	0.862	0.824	0.757	0.862	0.824
29	0.755	0.860	0.822	0.755	0.860	0.822
30	0.753	0.859	0.820	0.753	0.859	0.820
31	0.750	0.857	0.818	0.750	0.857	0.818
32	0.748	0.856	0.817	0.748	0.856	0.817
33	0.746	0.855	0.815	0.746	0.855	0.815

Age Difference	LEOFF 2 Option 2 100%	LEOFF 2 Option 3 50%	LEOFF 2 Option 4 66 2/3%	WSP 2 Option 2 100%	WSP 2 Option 3 50%	WSP 2 Option 4 66 2/3%
34	0.744	0.853	0.814	0.744	0.853	0.814
35	0.742	0.852	0.812	0.742	0.852	0.812
36	0.741	0.851	0.811	0.741	0.851	0.811
37	0.739	0.850	0.809	0.739	0.850	0.809
38	0.737	0.849	0.808	0.737	0.849	0.808
39	0.736	0.848	0.807	0.736	0.848	0.807
40	0.734	0.847	0.806	0.734	0.847	0.806

~~((10))~~ (9) Table - Member younger (LEOFF Plan 2 and WSPRS Plan 2)

Survivor option factor(s) table: Member younger than beneficiary
Age difference: Member's age minus beneficiary's age

Age Difference	LEOFF 2 Option 2 100%	LEOFF 2 Option 3 50%	LEOFF 2 Option 4 66 2/3%	WSP 2 Option 2 100%	WSP 2 Option 3 50%	WSP 2 Option 4 66 2/3%
-20	0.953	0.976	0.968	0.953	0.976	0.968
-19	0.950	0.974	0.966	0.950	0.974	0.966
-18	0.947	0.973	0.964	0.947	0.973	0.964
-17	0.944	0.971	0.962	0.944	0.971	0.962
-16	0.940	0.969	0.959	0.940	0.969	0.959
-15	0.937	0.967	0.957	0.937	0.967	0.957
-14	0.933	0.965	0.954	0.933	0.965	0.954
-13	0.929	0.963	0.952	0.929	0.963	0.952
-12	0.925	0.961	0.949	0.925	0.961	0.949
-11	0.921	0.959	0.946	0.921	0.959	0.946
-10	0.917	0.957	0.943	0.917	0.957	0.943
-9	0.913	0.954	0.940	0.913	0.954	0.940
-8	0.908	0.952	0.937	0.908	0.952	0.937
-7	0.904	0.949	0.934	0.904	0.949	0.934
-6	0.899	0.947	0.930	0.899	0.947	0.930
-5	0.894	0.944	0.927	0.894	0.944	0.927
-4	0.890	0.942	0.924	0.890	0.942	0.924
-3	0.885	0.939	0.920	0.885	0.939	0.920
-2	0.880	0.936	0.916	0.880	0.936	0.916
-1	0.875	0.933	0.913	0.875	0.933	0.913
0	0.870	0.930	0.909	0.870	0.930	0.909

~~((11))~~ (10) Table - Member younger (TRS)

Survivor option factor(s) table: Member younger than beneficiary
Age difference: Member's age minus beneficiary's age

Age Difference	TRS 1 Option 2 100%	TRS 1 Option 3 50%	TRS 1 Option 4 66 2/3%	TRS 2/3 Option 2 100%	TRS 2/3 Option 3 50%	TRS 2/3 Option 4 66 2/3%
-20	0.968	0.984	0.979	0.952	0.975	0.967
-19	0.966	0.983	0.977	0.949	0.974	0.965
-18	0.964	0.982	0.976	0.945	0.972	0.963
-17	0.962	0.981	0.974	0.942	0.970	0.960
-16	0.960	0.979	0.973	0.938	0.968	0.958
-15	0.957	0.978	0.971	0.934	0.966	0.955
-14	0.955	0.977	0.969	0.929	0.963	0.952
-13	0.952	0.976	0.968	0.925	0.961	0.949
-12	0.950	0.974	0.966	0.921	0.959	0.946
-11	0.947	0.973	0.964	0.916	0.956	0.942
-10	0.944	0.971	0.962	0.911	0.953	0.939
-9	0.942	0.970	0.960	0.906	0.951	0.935
-8	0.939	0.968	0.958	0.900	0.948	0.931
-7	0.936	0.967	0.956	0.895	0.945	0.927

Age Difference	TRS 1 Option 2 100%	TRS 1 Option 3 50%	TRS 1 Option 4 66 2/3%	TRS 2/3 Option 2 100%	TRS 2/3 Option 3 50%	TRS 2/3 Option 4 66 2/3%
-6	0.933	0.965	0.954	0.889	0.941	0.923
-5	0.927	0.962	0.950	0.884	0.938	0.919
-4	0.923	0.960	0.947	0.877	0.934	0.914
-3	0.918	0.957	0.944	0.865	0.928	0.906
-2	0.913	0.955	0.941	0.855	0.922	0.899
-1	0.907	0.951	0.936	0.839	0.912	0.887
0	0.898	0.946	0.930	0.815	0.898	0.869

~~((12))~~ (11) Table - Member older (TRS)
Survivor option factor(s) table: Member older than beneficiary
Age difference: Member's age minus beneficiary's age

Age Difference	TRS 1 Option 2 100%	TRS 1 Option 3 50%	TRS 1 Option 4 66 2/3%	TRS 2/3 Option 2 100%	TRS 2/3 Option 3 50%	TRS 2/3 Option 4 66 2/3%
0	0.898	0.946	0.930	0.815	0.898	0.869
1	0.892	0.943	0.925	0.801	0.889	0.858
2	0.888	0.941	0.922	0.790	0.883	0.849
3	0.877	0.935	0.915	0.781	0.877	0.842
4	0.873	0.932	0.912	0.772	0.871	0.835
5	0.869	0.930	0.909	0.765	0.867	0.830
6	0.858	0.924	0.901	0.758	0.862	0.824
7	0.855	0.922	0.898	0.751	0.858	0.819
8	0.851	0.920	0.896	0.744	0.853	0.813
9	0.848	0.918	0.893	0.737	0.849	0.808
10	0.845	0.916	0.891	0.730	0.844	0.802
11	0.842	0.914	0.889	0.724	0.840	0.797
12	0.839	0.912	0.887	0.717	0.835	0.792
13	0.836	0.911	0.884	0.711	0.831	0.787
14	0.824	0.904	0.875	0.705	0.827	0.782
15	0.821	0.902	0.873	0.699	0.823	0.777
16	0.819	0.900	0.871	0.694	0.819	0.773
17	0.816	0.899	0.869	0.688	0.815	0.768
18	0.814	0.897	0.868	0.683	0.812	0.764
19	0.812	0.896	0.866	0.678	0.808	0.760
20	0.809	0.895	0.864	0.673	0.805	0.755
21	0.807	0.893	0.863	0.668	0.801	0.751
22	0.805	0.892	0.861	0.664	0.798	0.748
23	0.803	0.891	0.860	0.660	0.795	0.744
24	0.802	0.890	0.858	0.655	0.792	0.740
25	0.800	0.889	0.857	0.651	0.789	0.737
26	0.798	0.888	0.856	0.648	0.786	0.734
27	0.797	0.887	0.855	0.644	0.783	0.731
28	0.796	0.886	0.854	0.640	0.781	0.728
29	0.794	0.885	0.853	0.637	0.778	0.725
30	0.793	0.885	0.852	0.634	0.776	0.722
31	0.792	0.884	0.851	0.631	0.774	0.719
32	0.791	0.883	0.850	0.628	0.771	0.717
33	0.790	0.882	0.849	0.625	0.769	0.714
34	0.789	0.882	0.848	0.622	0.767	0.712
35	0.788	0.881	0.848	0.620	0.765	0.710
36	0.787	0.881	0.847	0.617	0.763	0.708
37	0.786	0.880	0.846	0.615	0.762	0.706
38	0.785	0.880	0.846	0.613	0.760	0.704
39	0.785	0.879	0.845	0.611	0.758	0.702
40	0.784	0.879	0.845	0.609	0.757	0.700

~~((13))~~ **(12) Table - Member younger (LEOFF Plan 1)**

Survivor option factor(s) table: Member younger than beneficiary
 Age difference: Member's age minus beneficiary's age

Age Difference	Option 2 100%	Option 3 50%	Option 4 66 2/3 %
-20	0.958	0.978	0.971
-19	0.955	0.977	0.969
-18	0.952	0.975	0.967
-17	0.949	0.974	0.965
-16	0.946	0.972	0.963
-15	0.942	0.970	0.961
-14	0.939	0.969	0.959
-13	0.935	0.967	0.956
-12	0.932	0.965	0.953
-11	0.928	0.963	0.951
-10	0.924	0.960	0.948
-9	0.920	0.958	0.945
-8	0.916	0.956	0.942
-7	0.911	0.954	0.939
-6	0.907	0.951	0.936
-5	0.902	0.949	0.933
-4	0.898	0.946	0.929
-3	0.893	0.943	0.926
-2	0.888	0.941	0.922
-1	0.883	0.938	0.919

Age Difference	Option 2 100%	Option 3 50%	Option 4 66 2/3 %
16	0.805	0.892	0.861
17	0.801	0.889	0.858
18	0.797	0.887	0.855
19	0.793	0.885	0.852
20	0.790	0.882	0.849
21	0.786	0.880	0.847
22	0.783	0.878	0.844
23	0.780	0.876	0.841
24	0.777	0.874	0.839
25	0.774	0.872	0.837
26	0.771	0.871	0.834
27	0.768	0.869	0.832
28	0.765	0.867	0.830
29	0.763	0.865	0.828
30	0.760	0.864	0.826
31	0.758	0.862	0.824
32	0.756	0.861	0.823
33	0.753	0.859	0.821
34	0.751	0.858	0.819
35	0.749	0.857	0.818
36	0.747	0.855	0.816
37	0.745	0.854	0.815
38	0.744	0.853	0.813
39	0.742	0.852	0.812
40	0.740	0.851	0.810

~~((14))~~ **(13) Table - Member older (LEOFF Plan 1)**

Survivor option factor(s) table: Member older than beneficiary
 Age difference: Member's age minus beneficiary's age

Age Difference	Option 2 100%	Option 3 50%	Option 4 66 2/3 %
0	0.878	0.935	0.915
1	0.873	0.932	0.912
2	0.868	0.930	0.908
3	0.864	0.927	0.905
4	0.859	0.924	0.901
5	0.854	0.921	0.898
6	0.849	0.918	0.894
7	0.844	0.915	0.890
8	0.839	0.913	0.887
9	0.835	0.910	0.883
10	0.830	0.907	0.880
11	0.826	0.905	0.877
12	0.821	0.902	0.873
13	0.817	0.899	0.870
14	0.813	0.897	0.867
15	0.809	0.894	0.864

AMENDATORY SECTION (Amending WSR 02-23-037, filed 11/13/02, effective 1/1/03)

WAC 415-103-225 What are ~~((the))~~ my WSPRS Plan 2 retirement benefit options? ~~((This section only applies to members commissioned on or after January 1, 2003 (WSPRS Plan 2). RCW 43.43.271 enables the department to provide retiring WSPRS Plan 2 members with an irrevocable choice of four retirement benefit options for receipt of their retirement benefit. The retiring member must choose an option when applying for service retirement:~~

~~(1) Option One: Benefit option without survivor features (standard allowance). The department will pay a monthly retirement allowance based solely on the single life of the retiree, as provided by RCW 43.43.260 (Benefits). When the retiree dies, all benefits end. Any remaining balance of the retiree's accumulated contributions will be paid to:~~

~~(a) The person(s), trust, organization, or retiree's estate specified by the retiree on the appropriate department designated form, duly executed and properly on file with the department on or before the retiree's death; or~~

~~(b) To the retiree's legal representative, if no person or entity designated in (a) of this subsection is living or in existence at the time of the retiree's death.~~

~~(2) Benefit options with a survivor feature.~~

(a) At retirement, a member may select a survivor option in lieu of the standard allowance. With a survivor option, the retiree's monthly benefit payment is actuarially reduced from the standard allowance to offset the cost of the survivor features. The retiree designates a person to receive a monthly benefit payment after the retiree dies. The designated person or "survivor beneficiary" will receive this monthly allowance for the remainder of his or her life. If the retiree and survivor beneficiary both die before the retiree's accumulated contributions have been exhausted, all monthly payments end. Any remaining balance of the retiree's accumulated contributions will be paid to:

(i) The person(s), trust, organization, or retiree's estate specified by the retiree on the appropriate department designated form, duly executed and properly on file with the department on or before the retiree's death; or

(ii) To the retiree's legal representative, if no person or entity designated in (a)(i) of this subsection is living or in existence at the time of the retiree's death.

(b) Option Two (joint and whole allowance). When the retiree dies, the department pays the survivor beneficiary a monthly benefit equal to the gross monthly allowance then payable to the retiree.

(c) Option Three (joint and one-half allowance). When the retiree dies, the department pays the survivor beneficiary a monthly benefit equal to one-half of the amount of the retiree's gross monthly retirement allowance then payable to the retiree.

(d) Option Four (joint and two-thirds allowance). When the retiree dies, the department pays the survivor beneficiary a monthly benefit equal to two-thirds of the retiree's gross monthly retirement allowance then payable to the retiree.

(3) Pop-up provision.

(a) This subsection only applies to retiring members who select a benefit option with a survivor feature (Option Two, Three, or Four):

(b) If the survivor beneficiary dies before the retiree, the retiree's monthly retirement allowance increases, effective the first day of the following month, to:

(i) The amount that the retiree would have received had the retiree chosen Option One; plus

(ii) Any cost of living adjustments (COLA) the retiree received prior to the survivor beneficiary's death based on the original selection.

(c) If a retiree whose benefit increases under this section dies, all benefit payments end. Any remaining balance of the retiree's accumulated contributions will be paid to:

(i) The person(s), trust, organization, or retiree's estate specified by the retiree on the appropriate department designated form, duly executed and properly on file with the department on or before the retiree's death; or

(ii) To the retiree's legal representative, if no person or entity designated in (c)(i) of this subsection is living or in existence at the time of the retiree's death.

(4) Postretirement benefit options.

(a) Postretirement marriage option. A retiree who chose the standard allowance (Option One) at the time of retirement, and then marries has a one-time-only option to choose a survivor option. The retiree may choose a survivor option

that names his or her new spouse as the survivor beneficiary; provided:

(i) The retiree's monthly benefit is not subject to a property settlement agreement from a court decree of dissolution or legal separation;

(ii) The retiree makes the choice during the one-year window, on or after the date of the first anniversary and before the second anniversary of the postretirement marriage;

(iii) The retiree provides the department with a copy of a marriage certificate as proof of the postretirement marriage and proof of the birthdate of the new spouse; and

(iv) The retiree properly and timely completes and files the correct forms with the department.

(b) Postretirement survivor change. A retiree who chose a nonspouse as a survivor beneficiary at the time of retirement may remove that survivor designation one time only. The retiree may have the benefit adjusted to a standard allowance provided the retiree properly and timely completes and files the correct forms with the department.

(c) The change selected under (a) or (b) of this subsection will begin the first of the month following receipt of properly completed and filed paperwork with the department. The change becomes irrevocable on the date that the completed paperwork is received by the department.

(5) For more information, see chapter 415-02 WAC starting with WAC 415-02-300 for the tables, schedules, and factors the department uses for calculating retirement allowances.

(6) Terms used in this section:

"Pop-up" – see WAC 415-02-030.) This section applies to WSPRS Plan 2 members. Upon retirement for service under RCW 43.43.250, you must choose to have your monthly retirement allowance paid to you by one of the options described in this section.

(1) Which option will pay my beneficiary a monthly allowance after my death? Options described in subsection (2)(b) through (d) of this section include a survivor feature. The person you name at the time of retirement to receive a monthly allowance after your death is referred to as your "survivor beneficiary." Upon your death your survivor beneficiary will be entitled to receive a monthly allowance for the duration of his or her life. Your monthly retirement allowance will be actuarially reduced to offset the cost of the survivor feature. The factors used to determine the amount of the reduction are in WAC 415-02-380.

(2) What are my benefit options?

(a) Option one: Standard allowance (no survivor option). The department will pay you a monthly retirement allowance throughout your life. Your monthly allowance will cease upon your death.

(b) Option two: Joint and whole allowance. The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to the gross monthly retirement allowance you were receiving.

(c) Option three: Joint and one-half allowance. The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance

equal to one-half of the gross monthly retirement allowance you were receiving.

(d) Option four: Joint and two-thirds allowance. The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to two-thirds (66.667 percent) of the gross monthly retirement allowance you were receiving.

(3) Do I need my spouse's consent on the option I choose? If you are married, you must submit your spouse's notarized signature indicating consent to the retirement option you select. If you do not provide spousal consent, the department will pay you a monthly retirement allowance based on option three (joint and one-half allowance) and record your spouse as the survivor beneficiary as required by RCW 43.43.271(2). If your survivor beneficiary has been designated by a dissolution order according to subsection (4) of this section, which was filed with the department at least thirty days before your retirement date, spousal consent is not required.

(4) Can a dissolution order require that a former spouse be designated as a survivor beneficiary? Yes. A dissolution order may require that a former spouse be designated as a survivor beneficiary. The department is required to pay survivor benefits to a former spouse pursuant to a dissolution order that complies with RCW 41.50.790.

(5) What happens if I choose a benefit option with a survivor feature and my survivor beneficiary dies before I do? Your monthly retirement allowance will increase, provided you submit proof of your survivor beneficiary's death to the department. The increase will begin accruing the first day of the month following the death. Your increased monthly allowance will be:

(a) The amount you would have received had you chosen the standard allowance option at the time of retirement; plus

(b) Any cost-of-living adjustments (COLAs) you received prior to your survivor beneficiary's death, based on your original option selection.

Example:

John retires from WSPRS in 2008. John chooses a benefit option with a survivor feature and names Beatrice, his daughter, as his survivor beneficiary. As a result, John's monthly allowance is reduced from \$2,000 (standard allowance) to \$1,750. Beatrice dies in 2013. John's monthly allowance will increase to \$2,191.05, which equals the amount he would have received had he chosen the standard allowance option, plus the COLAs he has received (based on his prior monthly allowance).

Year	Standard Allowance	Survivor Option plus COLAs	COLA incr. (3% max)	\$ Increase
2008	2,000.00	1,750.00		0.00
2009		1,750.00	.02	35.00
2010		1,785.00	.03	53.55
2011		1,838.55	.025	45.96
2012		1,884.51	.03	56.54
2013	2,000.00	1,941.05	=	=
		Total		191.05
		COLA's		

Year	Standard Allowance	Survivor Option plus COLAs	COLA incr. (3% max)	\$ Increase
	Original Monthly Allowance	+ Total COLA's		= New Monthly Allowance
\$2000		+ \$191.05		= \$2,191.05*

* In the future, John's COLA will be based on his increased monthly allowance.

(6) May I change my benefit option after retirement? Your choice of a benefit option is irrevocable with the following three exceptions:

(a) **Return to membership.** If you retire and then return to membership, you may choose a different retirement option upon your subsequent retirement.

(b) **Postretirement marriage option.** If you select the standard allowance option at the time of retirement and marry after retirement, you may select a benefit option with a survivor feature and name your current spouse as survivor, provided that:

(i) Your benefit is not subject to a property division obligation pursuant to a dissolution order. See WAC 415-02-500;

(ii) The selection is made during a one-year window, on or after the date of the first anniversary and before the second anniversary of your postretirement marriage;

(iii) You provide a certified copy of your marriage certificate to the department;

(iv) You provide proof of your current spouse's birth date; and

(v) You exercise this option one time only.

(c) **Removal of a nonspouse survivor option.** If you select a benefit option with a survivor feature and name a nonspouse as survivor beneficiary at the time of retirement, you may remove that survivor beneficiary designation and have your benefit adjusted to a standard allowance. You may exercise this option one time only.

(7) Who will receive the balance of my accumulated contributions, if any, after my death?

(a) If you do not have a survivor beneficiary at the time of your death, and you die before the total of the retirement allowance paid equals the amount of your accumulated contributions at the time of retirement, the balance will be paid:

(i) To the person or entity (i.e., trust, organization, or estate) you have nominated by written designation, executed and filed with the department.

(ii) If you have not designated a beneficiary, or if your designated beneficiary is no longer living or in existence, then to your surviving spouse.

(iii) If not paid according to (a)(i) or (ii) of this subsection, then to your estate.

(b) If you have a survivor beneficiary at the time of your death, and your survivor beneficiary dies before the total of the retirement allowance paid equals the amount of your accumulated contributions at the time of retirement, the balance will be paid:

(i) To the person or entity (i.e., trust, organization, or estate) your survivor beneficiary has nominated by written designation, executed and filed with the department.

(ii) If your survivor beneficiary has not designated a beneficiary, or if the designated beneficiary is no longer living or in existence, then to your survivor beneficiary's spouse.

(iii) If not paid according to (b)(i) or (ii) of this subsection, then to your survivor beneficiary's estate.

(8) For more information, see RCW 43.43.271.

AMENDATORY SECTION (Amending WSR 03-12-014, filed 5/27/03, effective 7/1/03)

WAC 415-104-215 What are my retirement benefit options—LEOFF Plan 2(7)2 ((RCW 41.26.460 enables the department to provide retiring LEOFF Plan 2 members with four retirement benefit options. The member must choose an option when applying for service or disability retirement.

(1) ~~Option One: Benefit option without survivor features (standard allowance). The department pays the retiree a monthly retirement allowance actuarially based solely on the single life of the member, in accordance with RCW 41.26.430 (service) or 41.26.470 (disability). When the retiree dies, all benefits cease. Any remaining balance of the retiree's accumulated contributions will be paid to:~~

~~(a) Such person or persons, trust, or organization as the retiree shall have nominated by written designation duly executed and filed with the department; or~~

~~(b) If there is no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or~~

~~(c) The member's estate; or~~

~~(d) If there is neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.~~

~~(2) Benefit options with a survivor feature:~~

~~(a) A retiring member is allowed to select from several retirement options which create an actuarially equivalent benefit that includes a survivor feature. The survivor feature entitles the survivor to receive a monthly allowance after the retiree dies. If the member chooses one of the survivor options, the monthly benefit the member will receive is actuarially reduced to offset the cost of the survivor feature. After the retiree dies, the department pays the survivor an allowance for the duration of his or her life. If the retiree and the survivor both die before the retiree's accumulated contributions are exhausted, any remaining balance of the retiree's accumulated contributions will be paid to:~~

~~(i) Such person or persons, trust, or organization as the retiree shall have nominated by written designation duly executed and filed with the department; or~~

~~(ii) If there is no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or~~

~~(iii) The member's estate; or~~

~~(iv) If there is neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.~~

~~(b) Option Two (joint and whole allowance). When the retiree dies, the department pays the survivor a monthly retirement allowance equal to the gross monthly allowance received by the retiree.~~

~~(c) Option Three (joint and one-half allowance). When the retiree dies, the department pays the survivor one-half of the amount of the retiree's gross monthly retirement allowance.~~

~~(d) Option Four (joint and two-thirds allowance).~~

~~(i) Option Four is available to members retiring on or after January 1, 1996.~~

~~(ii) When the retiree dies, the department pays the survivor two-thirds (66.667%) of the retiree's gross monthly retirement allowance.~~

~~(3) If a member retires on or after June 6, 1996, the department is required to pay an ex-spouse survivor benefits pursuant to a marital dissolution order that complies with RCW 41.50.790.~~

~~(4) Benefit increases when survivor predeceases retiree (pop-up provision):~~

~~(a) This subsection applies to members retiring on or after January 1, 1996, who select a benefit option with a survivor feature (Option Two, Three, or Four):~~

~~(b) If the survivor dies before the retiree, the retiree's monthly retirement allowance increases, effective the first day of the following month, to:~~

~~(i) The amount that would have been received had the retiree chosen Option One; plus~~

~~(ii) Any cost of living adjustments the retiree received prior to the survivor's death based on the original option selection.~~

~~(c) Pop-up recalculation example:~~

~~Plan Two:~~

~~Agnes retires in 1996 (Year 0). She would like Beatrice, her daughter, to receive a monthly allowance after Agnes dies. Therefore, Agnes selects a retirement benefit option with a survivor feature. As a result her monthly allowance is reduced from \$2,000 (standard allowance) to \$1,750. Unfortunately, Beatrice dies in January 2001 (Year 5). Under the "pop up" provision, Agnes' monthly benefit will increase to \$2,191.05, the amount she would have received had she chosen Option One (standard allowance) plus her accumulated COLA's:~~

Year	Option One (Standard Allow.)	Survivor Option (2,3,4) plus COLAs	COLA incr. (3% max)	\$ Increase
0 (1996)	2,000.00	1,750.00	(inelig.)	0.00
1 (1997)		1,750.00	.02	35.00
2 (1998)		1,785.00	.03	53.55
3 (1999)		1,838.55	.025	45.96
4 (2000)		1,884.51	.03	56.54
5 (2001)	2,000.00	1,941.05	—	—
			Total COLA's	191.05
Original Option One Benefit Amount		+ Total COLA's	= New Benefit Amount	
\$2000		+ \$191.05	= \$2,191.05*	

~~* In the future (i.e., Year 5), Agnes' COLA will be based on the increased benefit amount (\$2,191.05).~~

~~(d) If the survivor dies and the retiree's benefit increases under this section, and thereafter the retiree also dies before all employee contributions are exhausted, any remaining balance of the retiree's accumulated contributions will be paid to:~~

(i) Such person or persons, trust, or organization as the retiree shall have nominated by written designation duly executed and filed with the department; or

(ii) If there is no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or

(iii) The member's estate; or

(iv) If there is neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(5) Any retiree who retired before January 1, 1996, and who elected to receive a benefit option with a survivor feature under subsection (2) of this section is entitled to receive a retirement allowance adjustment if the retiree meets the following conditions:

(a) The retiree's designated beneficiary predeceases or has predeceased the retiree; and

(b) The retiree provides the department proper proof of the designated beneficiary's death.

The retiree is not required to apply for the increased benefit provided in this subsection. The adjusted retirement allowance will be effective on July 1, 1998, or the first day of the month following the date of death of the designated beneficiary, whichever comes last. The adjustment is computed as described in RCW 41.26.460 (3)(c) for Plan 2 retirees.

(6) Postretirement benefit options:

(a) Postretirement marriage option. Members who select the standard allowance (Option One) at the time of retirement and marry after retirement may subsequently select a survivor option with their new spouse as survivor beneficiary, provided that:

(i) The retiree's monthly benefit is not subject to a property settlement agreement from a court decree of dissolution or legal separation;

(ii) The selection is made either:

(A) During a one year window, on or after the date of the first anniversary and before the second anniversary of the postretirement marriage; or

(B) Before June 1, 2002, if the postretirement marriage occurred before June 1, 2001;

(iii) The retiree provides a marriage certificate as proof of the postretirement marriage and provides proof of the birthdate of the new spouse; and

(iv) A member may exercise this option one time only.

(b) Removal of a nonspouse survivor option. Members who selected a nonspouse as survivor beneficiary at the time of retirement may remove that survivor designation and have the benefit adjusted to a standard allowance. A member may exercise this option one time only.

(c) Selection (a) or (b) of this subsection will become effective the first of the month following the department's receipt of the required paperwork.

(7) Survivor. For the purposes of this provision, "survivor" means a person nominated by the member to receive a monthly benefit allowance after the member dies. A member nominates the survivor at the time of retirement by filing a completed and notarized form provided by the department.)) If you retire for service under RCW 41.26.430 or nonduty disability under RCW 41.26.470, or if you choose to receive a monthly allowance for duty disability under RCW 41.26.-

470, you must choose to have your monthly retirement allowance paid to you by one of the options described in this section.

(1) Which option will pay my beneficiary a monthly allowance after my death? Options described in subsection (2)(b) through (d) of this section include a survivor feature. The person you name at the time of retirement to receive a monthly allowance after your death is referred to as your "survivor beneficiary." Upon your death your survivor beneficiary will be entitled to receive a monthly allowance for the duration of his or her life. Your monthly retirement allowance will be actuarially reduced to offset the cost of the survivor feature. The factors used to determine the amount of the reduction are in WAC 415-02-380.

(2) What are my benefit options?

(a) Option one: Standard allowance (no survivor feature). The department will pay you a monthly retirement allowance throughout your lifetime. Your monthly allowance will cease upon your death.

(b) Option two: Joint and whole allowance. The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to the gross monthly retirement allowance you were receiving.

(c) Option three: Joint and one-half allowance. The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to one-half of the gross monthly retirement allowance you were receiving.

(d) Option four: Joint and two-thirds allowance. The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to two-thirds (66.667%) of the gross monthly retirement allowance you were receiving.

(3) Do I need my spouse's consent on the option I choose? If you are married, you must provide your spouse's notarized signature indicating consent to the retirement option you select. If you do not provide spousal consent, the department will pay you a monthly retirement allowance based on option three (joint and one-half allowance) and record your spouse as the survivor beneficiary as required by RCW 41.26.460(2). If your survivor beneficiary has been designated by a dissolution order according to subsection (4) of this section, which was filed with the department at least thirty days before your retirement date, spousal consent is not required.

(4) Can a dissolution order require that a former spouse be designated as a survivor beneficiary? Yes. A dissolution order may require that a former spouse be designated as a survivor beneficiary. The department is required to pay survivor benefits to a former spouse pursuant to a dissolution order that complies with RCW 41.50.790.

(5) What happens if I choose a benefit option with a survivor feature and my survivor beneficiary dies before I do? Your monthly retirement allowance will increase, provided you submit proof of your survivor beneficiary's death

to the department. The increase will begin accruing the first day of the month following the death.

(a) Members who retire on or after January 1, 1996. Your increased monthly allowance will be:

(i) The amount you would have received had you chosen the standard allowance option at the time of retirement; plus

(ii) Any cost-of-living adjustments (COLAs) you received prior to your survivor beneficiary's death based on your original option selection.

Example:

Agnes retires in 1996. She chooses a benefit option with a survivor feature and names Beatrice, her daughter, as her survivor beneficiary. As a result, Agnes' monthly allowance is reduced from \$2,000 (standard allowance) to \$1,750. Beatrice dies in January 2001. Agnes' monthly allowance will increase to \$2,191.05, which equals the amount she would have received had she chosen the standard allowance option, plus the COLAs she has received (based on her prior monthly allowance).

Year	Standard Allowance	Survivor Option plus COLAs	COLA incr. (3% max)	\$ Increase
1996	2,000.00	1,750.00		0.00
1997		1,750.00	.02	35.00
1998		1,785.00	.03	53.55
1999		1,838.55	.025	45.96
2000		1,884.51	.03	56.54
2001	2,000.00	1,941.05	=	=
			Total COLA's	191.05
Original Option One Monthly Allowance		+ Total COLA's	=	New Monthly Allowance
\$2000		+ \$191.05	=	\$2,191.05*

* In the future, Agnes' COLA will be based on her increased monthly allowance.

(b) Members who retired before January 1, 1996. Your monthly retirement allowance will be adjusted according to the provisions of RCW 41.26.460(3).

(6) May I change my benefit option after retirement? Your choice of a benefit option is irrevocable with the following three exceptions:

(a) **Return to membership.** If you retire and then return to membership, you may choose a different retirement option upon your subsequent retirement.

(b) **Postretirement marriage option.** If you select the standard allowance option at the time of retirement and marry after retirement, you may select a benefit option with a survivor feature and name your current spouse as survivor beneficiary, provided that:

(i) Your benefit is not subject to a property division obligation pursuant to a dissolution order. See WAC 415-02-500;

(ii) The selection is made during a one-year window, on or after the date of the first anniversary and before the second anniversary of your postretirement marriage;

(iii) You provide a certified copy of your marriage certificate to the department;

(iv) You provide proof of your current spouse's birth date; and

(v) You exercise this option one time only.

(c) Removal of a nonspouse survivor option. If you select a benefit option with a survivor feature and name a nonspouse as survivor beneficiary at the time of retirement, you may remove that survivor beneficiary designation and have your benefit adjusted to a standard allowance. You may exercise this option one time only.

(7) Who will receive the balance of my accumulated contributions, if any, after my death?

(a) If you do not have a survivor beneficiary at the time of your death, and you die before the total of the retirement allowance paid equals the amount of your accumulated contributions at the time of retirement, the balance will be paid:

(i) To the person or entity (i.e., trust, organization, or estate) you have nominated by written designation, executed and filed with the department.

(ii) If you have not designated a beneficiary, or if the designated beneficiary is no longer living or in existence, then to your surviving spouse.

(iii) If not paid according to (a)(i) or (ii) of this subsection, then to your estate.

(b) If you have a survivor beneficiary at the time of your death, and your survivor beneficiary dies before the total of the retirement allowance paid equals the amount of your accumulated contributions at the time of retirement, the balance will be paid:

(i) To the person or entity (i.e., trust, organization, or estate) your survivor beneficiary has nominated by written designation, executed and filed with the department.

(ii) If your survivor beneficiary has not designated a beneficiary, or if the designated beneficiary is no longer living or in existence, then to your survivor beneficiary's spouse.

(iii) If not paid according to (b)(i) or (ii) of this subsection, then to your survivor beneficiary's estate.

(8) For more information, see RCW 41.26.460.

AMENDATORY SECTION (Amending WSR 01-10-045, filed 4/26/01, effective 6/1/01)

WAC 415-108-326 What are my retirement benefit options? ((RCW 41.40.188 (Plan 1), RCW 41.40.660 (Plan 2), and RCW 41.40.845 (Plan 3)) enable the department to provide retiring members with four retirement benefit options for receipt of the defined benefit portion of their retirement benefits. In addition, retiring Plan 1 members may select the COLA (cost-of-living adjustment) option. The retiring member must choose an option(s) when applying for service or disability retirement:

(1) **Option One:** Benefit option without survivor features (standard allowance). The department will pay a monthly retirement allowance based solely on the single life of the member, as provided by RCW 41.40.185, 41.40.190, 41.40.230, 41.40.235, 41.40.250, 41.40.670, 41.40.820, or 41.40.825. When the retiree dies all benefits cease. Any remaining balance of the retiree's accumulated contributions will be paid to:

(a) Such person or persons, trust, or organization as the retiree shall have nominated by written designation duly executed and filed with the department; or

(b) If there is no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or

(c) The member's estate; or

(d) If there is neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(2) Benefit options with a survivor feature.

(a) A retiring member is allowed to select from several retirement options which create an actuarially equivalent benefit that includes a survivor feature. The survivor feature entitles the survivor to receive a monthly allowance after the retiree dies. If the member chooses one of the survivor options, the monthly benefit the member will receive is actuarially reduced to offset the cost of the survivor feature. After the retiree dies, the department pays the survivor an allowance for the duration of his or her life. If the retiree and the survivor both die before the retiree's accumulated contributions are exhausted, all benefits cease. Any remaining balance of the retiree's accumulated contributions will be paid to:

(i) Such person or persons, trust, or organization as the retiree shall have nominated by written designation duly executed and filed with the department; or

(ii) If there is no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or

(iii) The member's estate; or

(iv) If there is neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(b) Option Two (joint and whole allowance). When the retiree dies, the department pays the survivor an allowance equal to the gross monthly allowance received by the retiree. **Plan One:**

Lucinda retires from PERS Plan 1 in 1996 (Year 0). She would like Garth, her husband, to receive a monthly allowance when she dies. Therefore, Lucinda chooses one of the benefit options with a survivor feature. As a result, her monthly allowance is actuarially reduced from \$2,000 (standard allowance) to \$1,750. Unfortunately, Garth dies in January 2001 (Year 5). Under the "pop-up" provision, Lucinda's monthly benefit will increase to \$2,000, the amount she would have received had she chosen the Option One (standard allowance) plus any COLA's Lucinda had received based on her prior benefit allowance:

Original Option 1 Benefit Amount	+	Total COLA's	=	New Benefit Amt.
\$2,000.00	+	0 (None accrued)	=	\$2,000.00*

Plan Two:

Agnes retires from PERS Plan 2 in 1996 (Year 0). Agnes would like Beatrice, her daughter, to receive a monthly allowance after Agnes dies. Therefore, Agnes selects a retirement benefit option with a survivor feature. As a result, her monthly allowance is reduced from \$2,000 (standard allowance) to \$1,750. Unfortunately, Beatrice dies in 2001 (Year 5). Under the "pop-up" provision, Agnes' monthly benefit will increase to \$2,191.05, the amount she would have received had she chosen Option One (standard allowance) plus her accumulated COLA's:

Year	Option One (Standard Allow.)	Survivor Option (2,3,4) plus COLA's	COLA incr. (3% max)	\$ Increase
0 (1996)	2,000.00	1,750.00	(ineligible)	0.00
1 (1997)		1,750.00	.02	35.00
2 (1998)		1,785.00	.03	53.55
3 (1999)		1,838.55	.025	45.96

(e) Option Three (joint and one-half allowance). When the retiree dies, the department pays the survivor an allowance equal to one-half of the retiree's gross monthly retirement allowance.

(d) Option Four (joint and two-thirds allowance).

(i) Option Four is available to members retiring on or after January 1, 1996.

(ii) When the retiree dies, the department pays the survivor an allowance equal to two-thirds (66.667%) of the retiree's gross monthly retirement allowance.

(3) If a member retires on or after June 6, 1996, the department is required to pay an ex-spouse survivor benefits pursuant to a marital dissolution order that complies with RCW 41.50.790.

(4) Supplemental COLA option for Plan 1 members. Retiring Plan 1 members may select an annual cost-of-living adjustment (COLA) option, in addition to their choice of retirement benefit options listed in subsections (1) and (2) of this section. Retiring members who choose this supplemental option will have their monthly retirement allowance actuarially reduced to offset the cost of annual adjustment.

(5) Benefit increases when survivor predeceases retiree (pop-up provision):

(a) This subsection applies to members retiring on or after January 1, 1996, who select a benefit option with a survivor feature (Option Two, Three, or Four).

(b) If the survivor dies before the retiree, the retiree's monthly retirement allowance increases, effective the first day of the following month, to:

(i) The amount that would have been received had the retiree chosen Option One; plus

(ii) Any cost-of-living adjustments the retiree received prior to the survivor's death based on the original option selection.

(c) Pop-up recalculation examples.

(d) Option four: Joint and two-thirds allowance (available to members retiring on or after January 1, 1996). The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to two-thirds (66.667%) of the gross monthly retirement allowance you were receiving.

(3) Do I need my spouse's consent on the option I choose? If you are married, you must provide your spouse's notarized signature indicating consent to the retirement option you select. If you do not provide spousal consent, the department will pay you a monthly retirement allowance based on option three (joint and one-half allowance) and record your spouse as the survivor beneficiary as required by RCW 41.40.188, 41.40.660 and 41.40.845. If your survivor beneficiary has been designated by a dissolution order according to subsection (4) of this section, which was filed with the department at least thirty days before your retirement date, spousal consent is not required.

(4) Can a dissolution order require that a former spouse be designated as a survivor beneficiary? Yes. A dissolution order may require that a former spouse be designated as a survivor beneficiary. The department is required to pay survivor benefits to a former spouse pursuant to a dissolution order that complies with RCW 41.50.790.

(5) What is the supplemental COLA option for Plan 1 members? If you are a Plan 1 member, in addition to choosing a retirement benefit option described in subsection (2) of this section, you may choose to receive a supplemental annual COLA. If you select this option, your monthly retirement allowance will be actuarially reduced to offset the cost of this benefit.

(6) What happens if I choose a benefit option with a survivor feature and my survivor beneficiary dies before I do? Your monthly retirement allowance will increase, provided you submit proof of your survivor beneficiary's death to the department. The increase will begin accruing the first day of the month following the death.

(a) Members who retired on or after January 1, 1996. Your increased benefit will be:

- (i) The amount you would have received had you chosen the standard allowance option at the time of retirement; plus
- (ii) Any COLAs you received prior to your survivor beneficiary's death, based on your original option selection.

Example:

Agnes retires from PERS Plan 2 in 1996. She chooses a benefit option with a survivor feature and names Beatrice, her daughter, as her survivor beneficiary. As a result, Agnes' monthly allowance is reduced from \$2,000 (standard allowance) to \$1,750. Beatrice dies in 2001. Agnes' monthly allowance will increase to \$2,191.05, which equals the amount she would have received had she chosen the standard allowance option, plus the COLAs she has received (based on her prior monthly allowance).

Year	Standard Allowance	Survivor Option plus COLAs	COLA incr. (3% max)	\$ Increase
1999		1,838.55	.025	45.96
2000		1,884.51	.03	56.54
2001	2,000.00	1,941.05	=	=
			Total COLA's	191.05
Original Monthly Allowance		+ Total COLA's	= New Monthly Allowance	
\$2000		+ \$191.05	= \$2,191.05*	

* In the future, Agnes' COLA will be based on her increased monthly allowance.

(b) Members who retire before January 1, 1996. Your monthly retirement allowance will be adjusted according to the provisions of RCW 41.40.188(3) (Plan 1) or RCW 41.40.660(3) (Plan 2).

(7) May I change my benefit option after retirement? Your choice of a benefit option is irrevocable with the following three exceptions:

(a) Return to membership. If you retire and then return to membership for at least two years of uninterrupted service, you may choose a different retirement option upon your subsequent retirement. See RCW 41.40.037.

(b) Postretirement marriage option. If you select the standard allowance option at the time of retirement and marry after retirement, you may select a benefit option with a survivor feature and name your current spouse as survivor beneficiary, provided that:

- (i) Your benefit is not subject to a property division obligation pursuant to a dissolution order. See WAC 415-02-500;
- (ii) The selection is made during a one-year window, on or after the date of the first anniversary and before the second anniversary of your postretirement marriage;
- (iii) You provide a certified copy of your marriage certificate to the department;
- (iv) You provide proof of your current spouse's birth date; and
- (v) You exercise this option one time only.

(c) Removal of a nonspouse survivor option. If you select a benefit option with a survivor feature and name a nonspouse as survivor beneficiary at the time of retirement, you may remove that survivor beneficiary designation and have your benefit adjusted to a standard allowance. You may exercise this option one time only.

(8) Who will receive the balance of my accumulated contributions, if any, after my death?

(a) Plan 1 and 2 members:

(i) If you do not have a survivor beneficiary at the time of your death, and you die before the total of the retirement allowance paid equals the amount of your accumulated contributions at the time of retirement, the balance will be paid:

(A) To the person or entity (i.e., trust, organization, or estate) you have nominated by written designation, executed and filed with the department.

(B) If you have not designated a beneficiary, or if your designated beneficiary is no longer living or in existence, then to your surviving spouse.

Year	Standard Allowance	Survivor Option plus COLAs	COLA incr. (3% max)	\$ Increase
1996	2,000.00	1,750.00		0.00
1997		1,750.00	.02	35.00
1998		1,785.00	.03	53.55

(C) If not paid according to (a)(i)(A) or (B) of this subsection, then to your estate.

(ii) If you have a survivor beneficiary at the time of your death, and your survivor beneficiary dies before the total of the retirement allowance paid equals the amount of your accumulated contributions at the time of retirement, the balance will be paid:

(A) To the person or entity (i.e., trust, organization, or estate) your survivor beneficiary has nominated by written designation, executed and filed with the department.

(B) If your survivor beneficiary has not designated a beneficiary, or if the designated beneficiary is no longer living or in existence, then to your survivor beneficiary's spouse.

(C) If not paid according to (a)(ii)(A) or (B) of this subsection, then to your survivor beneficiary's estate.

(b) **Plan 3 members:** The defined benefit stops upon your death or upon the death of your survivor beneficiary, if applicable. As a Plan 3 member, you do not contribute to the defined benefit portion of your retirement allowance. The defined contribution portion of your benefit will be distributed according to WAC 415-111-310.

(9) For more information, see RCW 41.40.188 (Plan 1), RCW 41.40.660 (Plan 2) and RCW 41.40.845 (Plan 3).

NEW SECTION

WAC 415-110-610 What are my retirement benefit options? Upon retirement for service under RCW 41.35.420 or 41.35.680, or for disability under RCW 41.35.440 or 41.35.690, you must choose to have the defined benefit portion of your retirement allowance paid to you by one of the options described in this section.

(1) Which option will pay my beneficiary a monthly allowance after my death? Options described in subsection (2)(b) through (d) of this section include a survivor feature. The person you name at the time of retirement to receive a monthly allowance after your death is referred to as your "survivor beneficiary." Upon your death your survivor beneficiary will be entitled to receive a monthly allowance for the duration of his or her life. Your monthly retirement allowance will be actuarially reduced to offset the cost of the survivor feature. The factors used to determine the amount of the reduction are in WAC 415-02-380.

(2) What are my benefit options?

(a) Option one: Standard allowance (no survivor feature). The department will pay you a monthly retirement allowance throughout your lifetime. Your monthly retirement allowance will cease upon your death.

(b) Option two: Joint and whole allowance. The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to the gross monthly retirement allowance you were receiving.

(c) Option three: Joint and one-half allowance. The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance

equal to one-half of the gross monthly retirement allowance you were receiving.

(d) Option four: Joint and two-thirds allowance. The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to two-thirds (66.667%) of the gross monthly retirement allowance you were receiving.

(3) Do I need my spouse's consent on the option I choose? If you are married, you must provide your spouse's notarized signature indicating consent to the retirement option you select. If you do not provide spousal consent, the department will pay you a monthly retirement allowance based on option three (joint and one-half allowance) and record your spouse as the survivor beneficiary as required by RCW 41.35.220. If your survivor beneficiary has been designated by a dissolution order according to subsection (4) of this section, which was filed with the department at least thirty days before your retirement date, spousal consent is not required.

(4) Can a dissolution order require that a former spouse be designated as a survivor beneficiary? Yes. A dissolution order may require that a former spouse be designated as a survivor beneficiary. The department is required to pay survivor benefits to a former spouse pursuant to a dissolution order that complies with RCW 41.50.790.

(5) What happens if I choose a benefit option with a survivor feature and my survivor beneficiary dies before I do? Your monthly retirement allowance will increase, provided you submit proof of your survivor beneficiary's death to the department. The increase will begin accruing the first day of the month following the death. Your increased monthly allowance will be:

(a) The amount you would have received had you chosen the standard allowance option at the time of retirement; plus

(b) Any cost-of-living adjustments (COLAs) you received prior to your survivor beneficiary's death, based on your original option selection.

Example:

Agnes retires from SERS Plan 2 in 2006. Agnes chooses a benefit option with a survivor feature and names Beatrice, her daughter, as her survivor beneficiary. As a result, Agnes' monthly allowance is reduced from \$2,000 (standard allowance) to \$1,750. Beatrice dies in 2011. Agnes' monthly allowance will increase to \$2,191.05, which equals the amount she would have received had she chosen the standard allowance option, plus the COLAs she has received (based on her prior monthly allowance).

Year	Standard Allowance	Survivor Option plus COLAs	COLA incr. (3% max)	\$ Increase
2006	2,000.00	1,750.00		0.00
2007		1,750.00	.02	35.00
2008		1,785.00	.03	53.55
2009		1,838.55	.025	45.96
2010		1,884.51	.03	56.54
2011	2,000.00	1,941.05	—	—
			Total COLA's	191.05

Year	Standard Allowance	Survivor Option plus COLAs	COLA incr. (3% max)	\$ Increase
Original Option One Monthly Allowance	\$2000	+ Total COLA's	= New Monthly Allowance	
		+ \$191.05		= \$2,191.05*

* In the future, Agnes' COLAs will be based on her increased monthly allowance.

(6) May I change my benefit option after retirement? Your choice of a benefit option is irrevocable with the following three exceptions:

(a) **Return to membership.** If you retire and then return to membership for at least two years of uninterrupted service, you may choose a different retirement option upon your subsequent retirement. See RCW 41.35.060.

(b) **Postretirement marriage option.** If you select the standard allowance option at the time of retirement and marry after retirement, you may select a benefit option with a survivor feature and name your current spouse as survivor beneficiary, provided that:

(i) Your benefit is not subject to a property division obligation pursuant to a dissolution order. See WAC 415-01-500;

(ii) The selection is made during a one-year window, on or after the date of the first anniversary and before the second anniversary of your postretirement marriage;

(iii) You provide a certified copy of your marriage certificate to the department;

(iv) You provide proof of your current spouse's birth date; and

(v) You exercise this option one time only.

(c) **Removal of a nonspouse survivor option.** If you select a benefit option with a survivor feature and name a nonspouse as survivor beneficiary at the time of retirement, you may remove that survivor beneficiary designation and have your benefit adjusted to a standard allowance. You may exercise this option one time only.

(7) Who will receive the balance of my accumulated contributions, if any, after my death?

(a) **Plan 2 members:**

(i) If you do not have a survivor beneficiary at the time of your death, and you die before the total of the retirement allowance paid equals the amount of your accumulated contributions at the time of retirement, the balance will be paid:

(A) To the person or entity (i.e., trust, organization, or estate) you have nominated by written designation, executed and filed with the department.

(B) If you have not designated a beneficiary, or if your designated beneficiary is no longer living or in existence, then to your surviving spouse.

(C) If not paid according to (a)(i)(A) or (B) of this subsection, then to your estate.

(ii) If you have a survivor beneficiary at the time of your death, and your survivor beneficiary dies before the total of the retirement allowance paid equals the amount of your accumulated contributions at the time of retirement, the balance will be paid:

(A) To the person or entity (i.e., trust, organization, or estate) your survivor beneficiary has nominated by written designation, executed and filed with the department.

(B) If your survivor beneficiary has not designated a beneficiary, or if the designated beneficiary is no longer living or in existence, then to your survivor beneficiary's spouse.

(C) If not paid according to (a)(ii)(A) or (B) of this subsection, then to your survivor beneficiary's estate.

(b) **Plan 3 members:** The defined benefit stops upon your death or upon the death of your survivor beneficiary, if applicable. As a Plan 3 member, you do not contribute to the defined benefit portion of your retirement allowance. The defined contribution portion of your benefit will be distributed according to WAC 415-111-310.

(8) For more information, see RCW 41.35.220.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 415-110-326 Retirement benefit options.

NEW SECTION

WAC 415-112-504 What are the benefit options for Plan 1 members? Upon retirement from Plan 1 for service under RCW 41.32.480 or disability under RCW 41.32.550 (1)(c), you must choose to have your retirement allowance paid to you by one of the options described in this section. You may also select an optional supplemental cost-of-living (COLA) adjustment.

(1) **May I withdraw any of my contributions?** You may withdraw some or all of your accumulated contributions as follows:

(a) If you retire according to the provisions of RCW 41.32.498, you may withdraw some or all of your accumulated contributions at the time of retirement. Your monthly retirement allowance will be actuarially reduced according to the amount you withdraw.

(b) If you terminate service due to a disability under the conditions of RCW 41.32.550 (1)(a), you may withdraw all your accumulated contributions in a lump sum payment. You will receive no monthly retirement allowance.

(2) **Which option will pay my beneficiary a monthly allowance after my death?** Options described in subsection (3)(c) through (e) of this section include a survivor feature. The person you name at the time of retirement to receive a monthly allowance after your death is referred to as your "survivor beneficiary." Upon your death your survivor beneficiary will be entitled to receive a monthly allowance for the duration of his or her life. Your monthly retirement allowance will be actuarially reduced to offset the cost of the survivor feature. The factors used to determine the amount of the reduction are in WAC 415-02-380.

(3) **What are my benefit options?**

(a) **Maximum benefit allowance (no survivor feature).** The department will pay you the maximum benefit allowed by statute. Under this option you will receive a monthly retirement allowance throughout your lifetime. Your monthly allowance will cease upon your death, and any remaining balance of accumulated contributions will be:

(i) Retained by the retirement fund if you retired for service under RCW 41.32.497 or 41.32.498; or

(ii) Paid according to subsection (9) of this section if you retired because of disability and were receiving a monthly retirement allowance under RCW 41.32.550 (1)(c).

(b) **Option one: Standard allowance for service retirement (no survivor feature).** The department will pay you a monthly retirement allowance throughout your lifetime. Your monthly allowance will cease upon your death, and any remaining balance of accumulated contributions will be paid according to subsection (9) of this section.

(i) This benefit option has a lower monthly allowance than the **maximum benefit allowance** in (a) of this subsection because, with this option, any remaining accumulated contributions will be paid to your beneficiaries upon your death.

(ii) If you are retiring because of disability under RCW 41.32.550 (1)(c), you will not benefit from this option because your beneficiaries will receive any remaining accumulated contributions under the maximum benefit allowance in (a) of this subsection.

(c) **Option two: Joint and whole allowance.** The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to the gross monthly retirement allowance you were receiving.

(d) **Option three: Joint and one-half allowance.** The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to one-half of the gross monthly retirement allowance you were receiving.

(e) **Option four: Joint and two-thirds allowance** (available to members retiring on or after January 1, 1996). The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to two-thirds (66.667%) of the gross monthly retirement allowance you were receiving.

(4) **Do I need my spouse's consent on the option I choose?** If you are married, you must provide your spouse's notarized signature indicating consent to the retirement option you select. If you do not provide spousal consent, the department will pay you a monthly retirement allowance based on option three (joint and one-half allowance) and record your spouse as the survivor beneficiary as required by RCW 41.32.530(2). If your survivor beneficiary has been designated by a dissolution order according to subsection (5) of this section, which was filed with the department at least thirty days before your retirement date, spousal consent is not required.

(5) **Can a dissolution order require that a former spouse be designated as a survivor beneficiary?** Yes. A dissolution order may require that a former spouse be designated as a survivor beneficiary. The department is required to pay survivor benefits to a former spouse pursuant to a dissolution order that complies with RCW 41.50.790.

(6) **What is the supplemental COLA option?** In addition to choosing a retirement benefit option described in sub-

section (3) of this section, you may choose a supplemental annual COLA. If you select this option, your monthly retirement allowance will be actuarially reduced to offset the cost of this benefit.

(7) **What happens if I choose a benefit option with a survivor feature and my survivor beneficiary dies before I do?** Your monthly retirement allowance will increase, provided you submit proof of your survivor beneficiary's death to the department. The increase will begin accruing the first day of the month following the death.

(a) **Members who retire on or after January 1, 1996:** Your increased monthly allowance will be:

(i) The amount you would have received had you chosen the maximum benefit at the time of retirement;

(ii) Minus any reduction in the maximum allowance resulting from a withdrawal of contributions;

(iii) Plus any COLAs you received prior to your survivor beneficiary's death, based on your original option selection.

Example:

Lucinda retires from TRS Plan 1 in 1996. Lucinda withdraws some of her contributions, which actuarially reduces her maximum monthly allowance from \$2,000 to \$1,963.86. She chooses a benefit option with a survivor feature, and names Garth, her husband, as her survivor beneficiary. As a result, Lucinda's monthly allowance is further reduced from \$1,963.86 to \$1,846.03. Garth dies in January 2001. Lucinda's monthly allowance will increase to \$1,963.86, the amount she would have received had she chosen the maximum benefit option (after reduction for her withdrawals). The total amount of the COLAs she received (based on her prior monthly allowance) will be added to the \$1,963.86.

(b) **Members who retired before January 1, 1996:** Your monthly retirement allowance will be adjusted according to the provisions of RCW 41.32.530(3).

(8) **May I change my benefit option after retirement?** Your choice of a benefit option is irrevocable with the following three exceptions:

(a) **Return to membership.** If you retire and then return to membership, you may choose a different retirement option upon your subsequent retirement. See RCW 41.32.044.

(b) **Postretirement marriage option.** If you select the maximum benefit option or the standard allowance option at the time of retirement and marry after retirement, you may select a benefit option with a survivor feature and name your current spouse as survivor beneficiary, provided that:

(i) Your benefit is not subject to a property division obligation pursuant to a dissolution order. See WAC 415-02-500;

(ii) The selection is made during a one-year window, on or after the date of the first anniversary and before the second anniversary of your postretirement marriage;

(iii) You provide a certified copy of your marriage certificate to the department;

(iv) You provide proof of your current spouse's birth date; and

(v) You exercise this option one time only.

(c) **Removal of a nonspouse survivor option.** If you select a benefit option with a survivor feature and name a nonspouse as survivor beneficiary at the time of retirement, you may remove that survivor beneficiary designation and

have your benefit adjusted to a standard allowance. You may exercise this option one time only.

(9) Who will receive the balance of my accumulated contributions, if any, after my death?

(a) If you do not have a survivor beneficiary at the time of your death, and you die before the total of the annuity payments paid equals the amount of your accumulated contributions at the time of retirement, the balance will be paid according to this subsection.

(i) Except as provided in (a)(ii) of this subsection, any remaining balance will be paid to the person or entity (i.e., trust, organization, or estate) you have nominated by written designation, executed and filed with the department.

(ii) If you retired for service and chose the maximum benefit option, any remaining balance will be retained by the retirement fund.

(b) If you have a survivor beneficiary at the time of your death, and your survivor beneficiary dies before the total of the retirement allowance paid equals the amount of your accumulated contributions at the time of retirement, the balance will be paid to the person or entity (i.e., trust, organization, or estate) your survivor beneficiary has nominated by written designation, executed and filed with the department.

(10) For more information, see RCW 41.32.530 and 41.32.550.

NEW SECTION

WAC 415-112-505 What are the benefit options for Plan 2 and 3 members? Upon retirement for service under RCW 41.32.765 or 41.32.875, or disability under RCW 415-112-790 or 415-112-880, you must choose to have the defined benefit portion of your retirement allowance paid to you by one of the options described in this section.

(1) Which option will pay my beneficiary a monthly allowance after my death? Options described in subsection (2)(c) through (e) of this section include a survivor feature. The person you name at the time of retirement to receive a monthly allowance after your death is referred to as your "survivor beneficiary." Upon your death your survivor beneficiary will be entitled to receive a monthly allowance for the duration of his or her life. Your monthly retirement allowance will be actuarially reduced to offset the cost of the survivor feature. The factors used to determine the amount of the reduction are in WAC 415-02-380.

(2) What are my benefit options?

(a) Option one: Standard allowance for service retirement (no survivor feature). The department will pay you a monthly retirement allowance throughout your lifetime. Your monthly allowance will cease upon your death.

(b) Option two: Joint and whole allowance. The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to the gross monthly retirement allowance you were receiving.

(c) Option three: Joint and one-half allowance. The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance

equal to one-half of the gross monthly retirement allowance you were receiving.

(d) Option four: Joint and two-thirds allowance (available to members retiring on or after January 1, 1996). The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to two-thirds (66.667%) of the gross monthly retirement allowance you were receiving.

(3) Do I need my spouse's consent on the option I choose? If you are married, you must submit your spouse's notarized signature indicating consent to the retirement option you selected. If you do not provide spousal consent, the department will pay you a monthly retirement allowance based on option three (joint and one-half allowance) and record your spouse as the survivor beneficiary as required by RCW 41.32.785(2) and 41.32.851(2). If your survivor beneficiary has been designated by a dissolution order under RCW 41.50.790, which was filed with the department at least thirty days before your retirement date, spousal consent is not required.

(4) Can a dissolution order require that a former spouse be designated as a survivor beneficiary? Yes. A dissolution order may require that a former spouse be designated as a survivor beneficiary. The department is required to pay survivor benefits to a former spouse pursuant to a dissolution order that complies with RCW 41.50.790.

(5) What happens if I choose a benefit option with a survivor feature and my survivor beneficiary dies before I do? Your monthly retirement allowance will increase, provided you submit proof of your survivor beneficiary's death to the department. The increase will begin accruing the first day of the month following the death.

(a) Members who retire on or after January 1, 1996: Your increased monthly allowance will be:

(i) The amount you would have received had you chosen the standard allowance option; plus

(ii) Any cost-of-living adjustments (COLAs) you received prior to your survivor beneficiary's death, based on your original option selection.

Example:

Agnes retires from TRS Plan 2 in 1996. She chooses a benefit option with a survivor feature and names Beatrice, her daughter, as her survivor beneficiary. As a result, Agnes' monthly allowance is reduced from \$2,000 (standard allowance) to \$1,750. Beatrice dies in 2001. Agnes' monthly allowance will increase to \$2,191.05, which equals the amount she would have received had she chosen the standard allowance option, plus the COLAs she has received (based on her prior monthly allowance).

Year	Standard Allowance	Survivor Option plus COLAs	COLA incr. (3% max)	\$ Increase
1996	2,000.00	1,750.00		0.00
1997		1,750.00	.02	35.00
1998		1,785.00	.03	53.55
1999		1,838.55	.025	45.96
2000		1,884.51	.03	56.54
2001	2,000.00	1,941.05	—	—

Year	Standard Allowance	Survivor Option plus COLAs	COLA incr. (3% max)	\$ Increase
			Total COLA's	191.05
Original Monthly Allowance		+ Total COLA's	= New Monthly Allowance	
\$2000		+ \$191.05		= \$2,191.05*

* In the future, Agnes' COLA will be based on her increased monthly allowance.

(b) **Members who retired before January 1, 1996:** Your monthly retirement allowance will be adjusted according to the provisions of RCW 41.32.785(3).

(6) **May I change my benefit option after retirement?** Your choice of a benefit option is irrevocable with the following three exceptions:

(a) **Return to membership.** If you retire and then return to membership, you may choose a different retirement option upon your subsequent retirement. See RCW 41.32.044.

(b) **Postretirement marriage option.** If you select the standard allowance option at the time of retirement and marry after retirement, you may select a benefit option with a survivor feature and name your current spouse as survivor beneficiary, provided that:

(i) Your benefit is not subject to a property division obligation pursuant to a dissolution order. See WAC 415-02-500;

(ii) The selection is made during a one-year window, on or after the date of the first anniversary and before the second anniversary of your postretirement marriage;

(iii) You provide a certified copy of your marriage certificate to the department;

(iv) You provide proof of your current spouse's birth date; and

(v) You exercise this option one time only.

(c) **Removal of a nonspouse survivor option.** If you select a benefit option with a survivor feature and name a nonspouse as survivor beneficiary at the time of retirement, you may remove that survivor beneficiary designation and have your benefit adjusted to a standard allowance. You may exercise this option one time only.

(7) **Who will receive the balance of my accumulated contributions, if any, after my death?**

(a) **Plan 2:**

(i) If you do not have a survivor beneficiary at the time of your death, and you die before the total of the retirement allowance paid equals the amount of your accumulated contributions at the time of retirement, the balance will be paid:

(A) To the person or entity (i.e., trust, organization, or estate) you have nominated by written designation, executed and filed with the department.

(B) If you have not designated a beneficiary, or if your designated beneficiary is no longer living, then to your surviving spouse.

(C) If not paid according to (a)(i)(A) or (B) of this subsection, then to your estate.

(ii) If you have a survivor beneficiary at the time of your death, and your survivor beneficiary dies before the total of the retirement allowance paid equals the amount of your accumulated contributions at the time of retirement, the balance will be paid:

(A) To the person or entity (i.e., trust, organization, or estate) your survivor beneficiary has nominated by written designation, executed and filed with the department.

(B) If your survivor beneficiary has not designated a beneficiary, or if the designated beneficiary is no longer living, then to your survivor beneficiary's spouse.

(C) If not paid according to (a)(ii)(A) or (B) of this subsection, then to your survivor beneficiary's estate.

(b) **Plan 3:** The defined benefit stops upon your death or upon the death of your survivor beneficiary, if applicable. As a Plan 3 member, you do not contribute to the defined benefit portion of your retirement allowance. The defined contribution portion of your benefit will be distributed according to WAC 415-111-310.

(8) For more information, see RCW 41.32.785 and 41.32.790 (Plan 2) and RCW 41.32.851 (Plan 3).

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 415-112-727 Retirement benefit options.

**WSR 05-20-062
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE**
[Filed October 3, 2005, 3:30 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-10-006.

Title of Rule and Other Identifying Information: Scientific collection permits.

Hearing Location(s): Heathman Lodge, 7801 N.E. Greenwood Drive, Vancouver, WA, on November 18-19, 2005, begins at 8:00 a.m. on November 18, 2005.

Date of Intended Adoption: November 18, 2005.

Submit Written Comments to: Evan Jacoby, Rules Coordinator, 600 Capitol Way, Olympia, WA 98501-1091, e-mail jacobesj@dfw.wa.gov, fax (360) 902-2155, by November 11, 2005.

Assistance for Persons with Disabilities: Contact Susan Yeager by November 4, 2005, TTY (360) 902-2207 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Consolidate WAC 220-20-045 and 232-12-276 and establish a single rule for issuing scientific collection permits. Provide definitions for clarity.

Reasons Supporting Proposal: The department currently has two different rules for the same activity. An automated issuing system has been established, and standardized practices are needed.

Statutory Authority for Adoption: RCW 77.12.047.

Statute Being Implemented: RCW 77.12.047.

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

Name of Proponent: Washington Department of Fish and Wildlife, governmental.

Name of Agency Personnel Responsible for Drafting: Evan Jacoby, 1111 Washington Street, Olympia, (360) 902-2930; Implementation: Lew Atkins, 1111 Washington Street, Olympia, (360) 902-2651; and Enforcement: Bruce Bjork, 1111 Washington Street, Olympia, (360) 902-2373.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

1. Description of the Reporting, Record-keeping, and Other Compliance Requirements of the Proposed Rule: A report will be required from each person obtaining a scientific collection permit.

2. Kinds of Professional Services That a Small Business is Likely to Need in Order to Comply with Such Requirements: None. The report is a list of species collected. Researchers are scientists who know what species they are collecting.

3. Costs of Compliance for Businesses, Including Costs of Equipment, Supplies, Labor, and Increased Administrative Costs: The cost of a permit is \$12, set by statute. The only businesses affected might be environmental consultants who do stream surveys. The majority of permit holders are researchers.

4. Will Compliance with the Rule Cause Businesses to Lose Sales or Revenue? No. There is no revenue from these permits, as the specimens collected may not be sold.

5. Cost of Compliance for the 10% of Businesses That are the Largest Businesses Required to Comply with the Proposed Rules Using One or More of the Following as a Basis for Comparing Costs:

- Cost per employee;
- Cost per hour of labor; or
- Cost per one hundred dollars of sales.

The cost is \$12. If the environmental consultant is a sole proprietorship, the cost is \$12 per employee.

6. Steps Taken by the Agency to Reduce the Costs of the Rule on Small Businesses or Reasonable Justification for Not Doing So: The cost is set by statute. The department has pre-printed the report form, and will accept electronic filing.

7. A Description of How the Agency Will Involve Small Businesses in the Development of the Rule: The department is having a copy of the proposal, as well as the proposed permit application form, sent to all persons who held a permit within the last twenty-four months.

8. A List of Industries That Will Be Required to Comply with the Rule: Any small business that does scientific collection.

A copy of the statement may be obtained by contacting Evan Jacoby, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2930, fax (360) 902-2155, e-mail jacobesj@dfw.wa.gov.

A cost-benefit analysis is not required under RCW 34.05.328. These rule proposals do not affect hydraulics.

October 3, 2005

Evan Jacoby
Rules Coordinator

AMENDATORY SECTION (Amending Order 76-96, filed 9/23/76)

WAC 220-20-045 Scientific collection permits. (1) The following definitions apply to this section:

(a) "Collect" means to take control or to attempt to take control of fish, shellfish, wildlife, or the nests of birds. Collect does not include transitory holding of reptiles, amphibians and invertebrates solely for identification purposes.

(b) "Display" means to place or locate fish, shellfish, wildlife, or the nests of birds, so that public viewing is allowed.

(c) "Encountered" means targeted or nontargeted specimens captured, handled or physically affected by the collecting activity.

(d) "Project" means a planned undertaking of common temporal or geographical activities to reach a common objective.

(e) "Research" means scientific investigation, and includes education. Electrofishing is a form of scientific investigation.

(2) It ~~((shall be))~~ is unlawful for any person~~((group, corporation, association, or governmental entity))~~ to ~~((conduct any scientific study involving the handling, collection, or release of food))~~ collect fish ~~((or))~~, shellfish, wildlife, or the nests of birds for research or display purposes on the ~~((beaches))~~ lands or in the waters of the state of Washington for species, by means, in amounts, or in such condition not authorized under personal use or commercial rules, or in violation of any rule prohibiting possession of unclassified wildlife, without first obtaining a permit from the department ~~((of fisheries, and))~~. It ~~((shall be))~~ is unlawful to fail to comply with any of the provisions of the permit and it is unlawful to buy or sell fish, shellfish, wildlife, or the nests of birds taken under the permit, and it is unlawful to consume or offer for human consumption any fish, shellfish, or wildlife taken under the permit.

(3) Application procedure:

(a) ~~((A request for such a permit must be received 30 days prior to the date such study, collection, release, or research is started.))~~ All applications for scientific collection must be submitted on a department application form and delivered to the department office in Olympia. Approval or denial of a scientific collection permit will be given within sixty days after receipt of a complete application.

(b) A separate permit application must be submitted for each project.

(c) Each request for a permit to collect for research purposes must be accompanied by the following information:

(i) A study title.

(ii) ~~((An introduction describing the management problems to be addressed and why resolution is necessary.))~~ A statement of the applicant's qualifications for conducting the project. A statement of the qualifications of anyone conducting activities under the permit, including experience with the methodology of the proposed collection, and the applicant's access to facilities and competence to care for the specimens to be collected, if the collected specimens will be retained in live form by the applicant.

(iii) ~~((An))~~ A study plan which includes: Specific objective(s) for the proposed project including defining an identi-

fiable end point or conclusion toward which efforts are to be directed; the justification for the project; methodology of collection; project start and end dates; project location including county name; names of participants in the collection; names and numbers of species expected to be collected or encountered; and proposed final disposition of specimens collected.

~~((iv))~~ A justification which identifies the user(s) of the information and indicates how the findings will be used.

~~(v))~~ A procedure which explains the approach or plan of action and which provides the organizational framework and logical sequence of events that will lead to the attainment of the study objectives.

~~(vi))~~ A location of the study area.

~~(vii))~~ An identification of supervisory and technical personnel responsible for the study.

~~(e))~~ (d) Each request for a permit to collect for display purposes must be accompanied by the following information:

(i) A statement of the qualifications of the applicant and all other persons conducting activities under the permit, including experience with the methodology of the proposed collection, and, if live fish, shellfish or wildlife are to be displayed, the name of the publically owned facility where the display will occur and the competence of the facility operators to care for the specimens.

(ii) A project description, which includes: Reason for display; project location including county name; methodology of collection; names of participants in the collection; names and numbers of species expected to be collected or encountered; display site; length of display; and proposed final disposition of specimens collected.

(e) Any application for a scientific collection permit using firearms must contain a statement that all persons who will use firearms are legally capable of possessing firearms.

(4) Permit periods: Permits are valid for the project period, but not to exceed one year from the date of issuance, except multiyear permits, at the discretion of the department, may be issued for public health purposes.

(5) Reporting: A final report as specified in the permit conditions must be submitted to the department upon completion of the ~~((study,))~~ research~~((, collection,))~~ or ~~((release))~~ display project, and must be received by the department no later than 60 days after the expiration of the permit. Renewable annual permit holders must submit a report each year, and the report must be received by the department within 60 days of the anniversary date of the initial issuance date of the permit. In addition to the final or annual report, interim reports ~~((with))~~ may be required. Issuance of additional permits or permit renewals are subject to prior submission of a project report.

~~((d))~~ (6) Permit granting and denial: Permits will normally be granted for requests which ~~((increase the data base))~~ contribute to the body of fish, shellfish, or wildlife knowledge, increase or maximize the ~~((fishery))~~ fish, shellfish, and wildlife resource, avoid damage to the various resources, and do not unnecessarily duplicate previous research. Permits will not be granted if the project conflicts with existing activities or conservation goals. Permits will not be granted if the applicant was a prior permit holder and failed to submit required reports. Permits may be denied if the applicant or

any other person involved in the collection has a history of fish or wildlife violations.

~~((e))~~ Continuing studies or research or other scientific projects may be extended annually by concurrence of the director.

~~(f))~~ An advisory committee of potentially affected groups will be established to provide technical input. (7) Miscellaneous permit provisions:

(a) A copy of the scientific collection permit must be in the physical possession of any person exercising the privileges authorized by the permit. Only collection participants named under subsection (3)(c)(iii) or (d)(iii) of this section may collect under the permit.

(b) A scientific collection permit does not authorize the release of specimens collected under the permit except for an immediate release to the exact site where the collection occurred unless release is specifically allowed as a condition of the permit. Release at any other site requires a transport, release, or planting permit. The conditions of the permit may specify that no release of certain specimens will be allowed.

(c) If the scientific collection allows retention of specimens, an interim, final, or annual report for the period documenting when the specimen was collected must be retained for the period of retention of the specimen.

(d) As a condition of receiving a scientific collection permit, the applicant agrees that fish and wildlife officers may, at reasonable times and in a reasonable manner, inspect the specimens collected, as well as the permits, records and facilities of a permit holder.

(8) Appeal procedure: A person who is denied a scientific collection permit or who disputes the conditions of a permit may appeal the department action. Appeals must be filed in writing, and delivered to Legal Services, Department of Fish and Wildlife, 600 Capitol Way N., Olympia, WA 98501-1091. Specific grounds for contesting the denial or permit conditions must be stated in the appeal. An appeal will be held under the provisions of chapter 34.05 RCW, the Administrative Procedure Act.

WSR 05-20-064

PROPOSED RULES

DEPARTMENT OF FISH AND WILDLIFE

[Filed October 3, 2005, 3:32 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-13-101.

Title of Rule and Other Identifying Information: Shellfish disease rules.

Hearing Location(s): Heathman Lodge, 7801 N.E. Greenwood Drive, Vancouver, WA, on November 18-19, 2005, begins at 8:00 a.m. on November 18, 2005.

Date of Intended Adoption: November 18, 2005.

Submit Written Comments to: Evan Jacoby, Rules Coordinator, 600 Capitol Way, Olympia, WA 98501-1091, e-mail jacobesj@dfw.wa.gov, fax (360) 902-2155, by November 11, 2005.

Assistance for Persons with Disabilities: Contact Susan Yeager by November 4, 2005, TTY (360) 902-2207 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Establish four new Denman Island Disease prohibited areas.

Reasons Supporting Proposal: Denman Island Disease has been detected in these areas.

Statutory Authority for Adoption: RCW 77.12.047, 77.115.010.

Statute Being Implemented: RCW 77.115.010.

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

Name of Proponent: Washington Department of Fish and Wildlife and Department of Agriculture, governmental.

Name of Agency Personnel Responsible for Drafting: Evan Jacoby, 1111 Washington Street, Olympia, (360) 902-2930; Implementation: Lew Atkins, 1111 Washington Street, Olympia, (360) 902-2651; and Enforcement: Bruce Bjork, 1111 Washington Street, Olympia, (360) 902-2373.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

1. Description of the Reporting, Record-keeping, and Other Compliance Requirements of the Proposed Rule: Oyster harvesters will not be allowed to transfer oysters from these four sites back into state waters.

2. Kinds of Professional Services That a Small Business is Likely to Need in Order to Comply with Such Requirements: None required.

3. Costs of Compliance for Businesses, Including Costs of Equipment, Supplies, Labor, and Increased Administrative Costs: None.

4. Will Compliance with the Rule Cause Businesses to Lose Sales or Revenue? No. Oysters from these sites are allowed for sale.

5. Cost of Compliance for the 10% of Businesses That are the Largest Businesses Required to Comply with the Proposed Rules Using One or More of the Following as a Basis for Comparing Costs:

- a. Cost per employee;
- b. Cost per hour of labor; or
- c. Cost per one hundred dollars of sales.

There is no cost of compliance.

6. Steps Taken by the Agency to Reduce the Costs of the Rule on Small Businesses or Reasonable Justification for Not Doing So: There are no costs.

7. A Description of How the Agency Will Involve Small Businesses in the Development of the Rule: The department has notified the industry that Denman Island Disease has been detected in these areas.

8. A List of Industries That Will Be Required to Comply with the Rule: Oyster growers in the affected waters.

A copy of the statement may be obtained by contacting Evan Jacoby, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2930, fax (360) 902-2155, e-mail jacobesj@dfw.wa.gov.

A cost-benefit analysis is not required under RCW 34.05.328. These rule proposals do not affect hydraulics.

October 3, 2005

Evan Jacoby

Rules Coordinator

AMENDATORY SECTION (Amending Order 04-318, filed 12/15/04, effective 1/15/05)

WAC 220-72-089 Denman Island Disease prohibited area. An area where *Mikrocytos mackini*, the causative agent of Denman Island Disease, has been confirmed with department approved histological methods by a department approved shellfish pathologist or reported in peer-reviewed scientific journal and accepted by the department. All waters, tidelands, shellfish handling facilities and equipment (including aquaculture vehicles and vessels) operated in conjunction with said waters and tidelands within the following areas are designated as Denman Island Disease prohibited areas:

(1) Strait of Juan de Fuca, Dungeness Bay—inside and westerly of a line projected from the tip of Dungeness Spit due south to the mainland.

(2) Orcas Island—

(a) Deer Harbor—inside and northerly of a line projected between Pole Pass Point and Steep Point.

(b) West Sound—inside and northerly of a line projected between Caldwell Point and the most southerly point of land west of the community of Orcas.

(c) East Sound—inside and northerly of a line projected between Diamond Point and the most southwesterly point on Orcas Island at Obstruction Pass.

(3) Westcott Bay—inside and westerly of a line projected between the most southerly point of White Point and the most northerly point of Delacombe Point.

(4) Bellingham and Samish Bays—southerly and inside of a line projected between Lummi Point and Gooseberry Point and easterly and inside of a line projected between Carter Point and William Point.

(5) Minter Creek—inside and westerly of a line projected from:

The mainland at 122°41'00" W. Long. due south to 47°21'00" N. Lat., 122°41'00" W. Long.; thence to 47°21'00" N. Lat. where it intersects the mainland.

(6) McMicken Island—inside and westerly of a line projected between the following two points on the east shore of Hartstene Island:

47°14.084' N. Lat., 122°51.316' W. Long. and
47°16.224' N. Lat., 122°51.746' W. Long.

(7) Oakland Bay—inside and northerly of a line projected across Oakland Bay at 47°14'30" N. Lat. and inside and southerly of a line projected from:

The mainland on the west side of Oakland Bay at 47°15'00" due east to
47°15'00" N. Lat., 123°04'00" W. Long.; thence to
123°04'00" N. Lat. where it intersects the mainland.

(8) Carr Inlet—northerly of a line projected from the northern tip of South Head on Key Peninsula to the most western point of Green Point.

(9) Eld Inlet—southerly of a line projected due north from the northern most point of Cooper Point to the mainland at Edgewater Beach.

(10) Port Orchard—southerly of a line projected from Battle Point projected due west to the mainland; westerly of a line projected from Point White due south to the mainland; and easterly of a line projected from the southern most point of Point Herron due south to the mainland.

(11) Kilisut Harbor—southerly of a line projected from the northeasterly most point on Indian Island north to the most northwesterly point of Marrowstone Island.

WSR 05-20-065

WITHDRAWAL OF PROPOSED RULES

DEPARTMENT OF FISH AND WILDLIFE

(By the Code Reviser's Office)

[Filed October 4, 2005, 8:46 a.m.]

WAC 220-56-312, proposed by the Department of Fish and Wildlife in WSR 05-07-042 appearing in issue 05-07 of the State Register, which was distributed on April 6, 2005, is withdrawn by the code reviser's office under RCW 34.05.335 (3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
Washington State Register

WSR 05-20-066

WITHDRAWAL OF PROPOSED RULES WASHINGTON STATE PATROL

(By the Code Reviser's Office)

[Filed October 4, 2005, 8:47 a.m.]

WAC 212-17-070, 212-17-125, 212-17-170, 212-17-342 and 212-17-352, proposed by the Washington State Patrol in WSR 05-07-102 appearing in issue 05-07 of the State Register, which was distributed on April 6, 2005, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
Washington State Register

WSR 05-20-067

PROPOSED RULES DEPARTMENT OF LABOR AND INDUSTRIES

[Filed October 4, 2005, 10:11 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-13-148.

Title of Rule and Other Identifying Information: Chapter 296-150M WAC, Manufactured homes.

Hearing Location(s): Department of Labor and Industries, 7273 Linderson Way S.W., S119, Tumwater, WA, on November 15, 2005, at 8:30 a.m.; and at the Department of Labor and Industries, 15 West Yakima Avenue, Suite 100, Yakima, WA, on November 16, 2005, at 11:00 a.m.

Date of Intended Adoption: November 29, 2005.

Submit Written Comments to: Sally Elliott, Department of Labor and Industries, P.O. Box 44400, Olympia, WA 98504-4400, e-mail yous235@lni.wa.gov, fax (360) 902-5292 by November 16, 2005.

Assistance for Persons with Disabilities: Contact Sally Elliott by November 1, 2005, (360) 902-6411 or yous235@lni.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule making is a result of chapter 399, Laws of 2005 (SHB 1393), which passed the 2005 legislature. This legislation requires the department to perform a fire safety inspection and issue a certificate on all pre-HUD (mobile) homes prior to them being moved from their current location.

The proposed changes will:

- Outline how to apply for a fire safety inspection with the department.
- Summarize the requirements the mobile home must meet in order to successfully pass the fire safety inspection.
- Incorporate current factory assembled structure policies, FAS 02-06 and FAS 03-01, into the rules. The new rules will provide statewide consistency in the enforcement of the national electrical code (NEC) for alterations to manufactured/mobile homes and clarify the requirement that water heaters and furnaces must meet the manufactured home construction safety standards for manufactured home installation.
- Make housekeeping changes for clarification. For example, references will be updated in the rule.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: Chapter 43.22 RCW and chapter 399, Laws of 2005 (SHB 1393).

Statute Being Implemented: Chapter 43.22 RCW and chapter 399, Laws of 2005 (SHB 1393).

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

Name of Proponent: Department of Labor and Industries, governmental.

Name of Agency Personnel Responsible for Drafting: Pete Schmidt, Tumwater, (360) 902-5571; Implementation and Enforcement: Patrick Woods, Tumwater, (360) 902-6348.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department determined the proposed rules do not require a small business economic impact statement because the costs associated with the proposed changes are exempted by law since the proposed changes are updating the rule based upon Washington state statutes and clarifying the rule for ease of use and understanding (see RCW 34.05.310 (4)(c) and (d)).

A cost-benefit analysis is not required under RCW 34.05.328. The department determined the proposed changes

do not require a cost-benefit analysis because the costs associated with the proposed changes are exempted by law since the proposed changes are updating the rule based upon Washington state statutes and clarifying the rule for ease of use and understanding (see RCW 19.85.025 referencing RCW 34.05.328 (5)(b)(iii) and (iv)).

October 4, 2005
 Gary Weeks
 Director

AMENDATORY SECTION (Amending WSR 05-01-102, filed 12/14/04, effective 2/1/05)

WAC 296-150M-0302 What are some examples of work to manufactured or mobile homes that either require or do not require a permit and inspection?

TYPE OF WORK	ALTERATION PERMIT AND INSPECTION REQUIRED?	
	Yes	No
(1) Air Conditioner/Heat Pump		
(a) New installation	X	
(b) Replacement	X	
(c) Reconnection after moving home	X	
(d) Repair		X
(e) Adjustment and/or maintenance		X
(2) Bottom Board - Repair		X
(3) Clothes Washer		
(a) New installation		X
(b) Replacement		X
(c) Repair with approved parts		X
(d) Adjustment and/or maintenance		X
(4) Clothes Dryer (Electric)		
(a) New installation (Prewired electrical)		X
(b) Replacement		X
(c) Repair with approved parts		X
(d) Adjustment and/or maintenance		X
(e) Replacement with gas clothes dryer when modifications to electrical or gas systems are performed	X	
(5) Clothes Dryer (Gas)		
(a) New installation (Preplumbed gas)		X
(b) Replacement		X
(c) Repair with approved parts		X
(d) Adjustment and/or maintenance		X
(e) Replacement with electric clothes dryer when modifications to electrical or gas systems are performed	X	
(6) Dishwasher		
(a) New installation	X	
(b) Replacement		
(i) Cord connected		X
(ii) Direct wired	X	

TYPE OF WORK	ALTERATION PERMIT AND INSPECTION REQUIRED?	
	Yes	No
(c) Repair		X
(d) Adjustment and/or maintenance		X
(7) Doors (Interior and Exterior)		
(a) Additional*	X	
(b) Replacement of door that fits into the same opening		X
(8) Electrical		
(a) Replacing main electrical panel*****	X	
(b) Adding circuits	X	
(c) Extending existing circuit(s)	X	
(d) Replacing lighting fixtures****		X
(e) Replacing circuit breakers/fuses		X
(f) Replacing switches, receptacles, light bulbs, fluorescent tubes and glass or plastic shades		X
(g) Repairing bath exhaust fans		X
(h) Repairing fans in kitchen range hoods		X
(9) Exterior Finish		
(a) Painting		X
(b) Replacement of siding	X	
(10) Furnace (Electric)		
(a) New installation	X	
(b) Replacement	X	
(c) Repair		X
(d) Adjustment and/or maintenance		X
(e) Replacement with gas furnace	X	
(11) Furnace (Gas)		
(a) New installation	X	
(b) Replacement	X	
(c) Repair		X
(d) Change from LP Gas to Natural Gas or from Natural Gas to LP gas per its listing		X
(e) Adjustment and/or maintenance		X
(f) Replacement with electric furnace	X	
(12) Gas Lines		
(a) New installation	X	
(b) Extend existing gas line	X	
(c) Repair	X	
(13) Interior		
(a) Painting, wall papering and similar finish work		X
(b) Replacement or addition of curtains, drapes, blinds, window shades and other window coverings		X
(c) Replacement of carpeting and other floor-covering materials with similar materials		X

TYPE OF WORK	ALTERATION PERMIT AND INSPECTION REQUIRED?	
	Yes	No
(14) Microwave Oven (Over range)		
(a) New installation when electrical system modifications are performed	X	
(b) Replacement		X
(c) Repair		X
(d) Adjustment and/or maintenance		X
(15) Microwave Oven (Countertop)		X
(16) Pellet Stove		
(a) New installation	X	
(b) Replacement	X	
(c) Repair		X
(d) Adjustment and/or maintenance		X
(17) Plumbing		
(a) Adding plumbing fixtures***	X	
(b) Repairing damage***	X	
(c) Replacing fixtures***		X
(d) Repairing fixtures***		X
(e) Replacement/repair of shower doors and curtains		X
(18) Range/Cook Top/Eye Level Oven (Electric)		
(a) Replacement		
(i) Cord connected		X
(ii) Direct wired	X	
(b) Repair with approved parts		X
(c) Adjustment and/or maintenance		X
(d) Replacement with gas appliance(s)	X	
(19) Range/Cook Top/Eye Level Oven (Gas)		
(a) New installation	X	
(b) Replacement		X
(c) Repair with approved parts		X
(d) Adjustment and/or maintenance		X
(e) Replacement with electric appliance(s)	X	
(20) Roofing		
(a) Reroofing	X	
(b) Applying liquid or mastic roof sealant to a metal roof		X
(c) Repair of damaged composition shingles		X
(21) Structural changes		
(a) Adding a dormer*	X	
(b) Truss repairs*	X	
(c) Add opening in wall**	X	
(d) Add gypsum board to walls or ceilings	X	
(e) Repair or replacing floor decking/joists	X	
(22) Water Heater (Electric)		
(a) Replacement w/electric water heater	X	
(b) Repair		X

TYPE OF WORK	ALTERATION PERMIT AND INSPECTION REQUIRED?	
	Yes	No
(c) Adjustment and/or maintenance		X
(d) Replacement with gas water heater	X	
(23) Water Heater (Gas)		
(a) Replacement w/gas water heater	X	
(b) Repair		X
(c) Change from LP gas to Natural Gas or from Natural Gas to LP gas per its listing		X
(d) Adjustment and/or maintenance		X
(e) Replacement with electric water heater	X	
(24) Windows		
(a) Replacement is same opening with no structural changes*****		X
(b) Replacement when structural changes are required	X	
(c) Replacement of glass		X
(25) Wood Stove/Fireplace		
(a) New installation	X	
(b) Replacement	X	
(c) Repair		X
(d) Adjustment and/or maintenance		X

* May also require a plan review. Please contact your local L&I representative.

** May also require a plan review. The department has detailed drawings you may use for openings in sidewalls. Please contact your local L&I representative.

*** Fixtures include: Faucets, sinks, lavatories, laundry tubs, water closets (toilets), tubs, showers and tub/shower combos.

**** Fixtures must be installed per its listing and intended use.

***** Windows in bedrooms must be of egress type.

***** Meter bases may only be installed by the manufacturer of the home unless repaired or replaced.

NOTE: Exemption from the permit and inspection requirements shall not be deemed to grant authorization for any work to be done in violation of the applicable code, Chapter 296-150M WAC.

AMENDATORY SECTION (Amending WSR 00-17-148, filed 8/22/00, effective 9/30/00)

WAC 296-150M-0306 What codes are used when altering a manufactured((f))/mobile((g)) home? Alterations to a manufactured((f))/mobile((g)) home must be in compliance with the Manufactured Home Construction and Safety Standards, 24 CFR Part 3280, as adopted by the Secretary for the Department of Housing and Urban Development (HUD) and the amendments to that federal standard adopted in this WAC chapter. The department will accept the following provisions, which supersede the applicable requirements in 24 CFR Part 3280.

(1) Tested equivalent air conditioning/heat pump components that have been tested and listed for use with a particular furnace by a nationally recognized testing laboratory.

(2) Water heaters that are listed by a nationally recognized testing laboratory and installed per the manufacturer's installation instructions.

(3) Pellet stoves for installation that have been listed by a department approved testing laboratory. For a current list of approved laboratories, contact any department field office or the department at the address shown in WAC 296-150M-0020.

(4) All electrical alterations and additions to the manufactured/mobile home shall comply with the current edition of the National Electrical Code.

(5) The International Residential Code for structural alterations.

Note: The replacement of exterior siding is an alteration and requires the approval of the department and an alteration insignia.

AMENDATORY SECTION (Amending WSR 99-13-010, filed 6/4/99, effective 7/5/99)

WAC 296-150M-0309 How do I apply for alteration approval and obtain an alteration insignia? (1) To apply for alteration approval and the alteration insignia, you must:

(a) Complete an alteration permit form and an application for alteration insignia. We will provide the forms upon request.

(b) Submit the completed forms to us, with the first hour of inspection fee and alteration insignia fee. Alterations requiring more than one inspection shall have the first hour inspection fee paid to the department prior to any inspection. (See WAC 296-150M-3000.)

(2) The request for inspection of your alteration should be at least five days before the date you want the inspection.

(3) Once we approve your alteration, we will attach the alteration insignia to your manufactured home.

Note: Specifications, engineering data, and test results should be available for our inspector. If applicable, your approved design plan must also be available during the inspection.

(4) The department will send written notification to the local jurisdiction in which the mobile home will be located, if the mobile home fails the fire safety inspection.

NEW SECTION

WAC 296-150M-0540 How do I obtain a fire safety certificate to site my pre-HUD home. In order to install a pre-HUD home in Washington, you will need to obtain and pass an inspection by the department. To apply for a fire safety certificate, you must:

(1) Complete an alteration permit form and a fire safety certificate application. We will provide you the forms on request.

(2) A fire safety preinspection checklist can be obtained at your local labor and industries office or on the web at <http://www.lni.wa.gov/tradeslicensing/fas>.

(3) Submit the completed forms to us, with the first hour of inspection fee and the site placement form. Alterations requiring more than one inspection shall have the first hour of inspection paid to the department prior to each additional inspection. The following fees will need to be paid: Electrical fire safety, structural fire safety, insignia fees for fire safety. (See WAC 296-150M-3000, Manufactured/mobile home fees.)

(4) Any other alterations to the home that have not been previously inspected and approved by the department will cause the approval of this inspection to be denied.

(5) Once we approve the inspection, we will provide you with a completed alteration permit and fire safety certificate.

Note: After the home has been sited, any subsequent move will require a separate fire safety certificate.

NEW SECTION

WAC 296-150M-0550 What is required to meet the fire safety certificate requirements? You will need to complete the following requirements for your pre-HUD home.

(1) **Wiring system.** Aluminum wiring is not permitted for use in fifteen and twenty amp branch circuits. You must do one of the following:

(a) Rewire the fifteen and twenty amp branch circuits in copper.

(b) Install receptacles and switches that are approved for the use of either aluminum or copper (i.e., they will be marked AL/CU); or

(c) Install copper "pig tail" connections using wiring nuts approved for aluminum wire between the aluminum wire and the receptacle/switch/light fixture/bath and fans/range hoods.

Additionally, if the circuit breakers in the electrical panel for fifteen and twenty amp circuits are not approved for aluminum wiring, the breakers either need to be replaced with those that are acceptable for aluminum wire or they need to be pit tailed with copper wire and wire nuts acceptable for aluminum wire.

(2) **Fire protection.**

(a) Walls, doors and ceilings in the water heater and furnace compartments shall be protected by materials with a flame spread rating not exceeding twenty-five. (This can be met with gypsum wallboard having a minimum thickness of 5/16 inch or ceramic tile.)

(b) The range hood must be at least as wide as the appliance and have a lower front edge or "eyebrow" which extends at least three inches past the cabinet above.

(c) The surfaces of the exposed walls adjacent to and within six inches of a range or cooktop appliance must be composed of gypsum wallboard, with a minimum thickness of 5/16 inch, or ceramic tile. Kitchen cabinets constructed of combustible material that is located above a range or cooktop must be a minimum of twenty-four inches above the cooking surface. The cabinets must be protected on the bottom and on the exposed sides within six inches of either side of the appliance, by covering the surface with gypsum wallboard, with a minimum thickness of 5/16 inch, and installing a metal hood above the cooking appliance. A minimum of 3/8 inch gap is required between the cabinet and the gypsum on top of the hood.

(d) No window may be within twelve inches of the edge of a burner or element of the cooking appliance.

(3) **Emergency egress.**

(a) Every bedroom or other room designed expressly for sleeping purposes must have a window that meets the minimum requirements of at least 5.0 square feet of opening for emergency egress.

(b) Rooms that have a door, with a minimum clear opening of twenty-eight inches wide by seventy-two inches high, which opens directly to the outside do not need to have an emergency egress window.

(c) Windows and devices must be installed in a manner which allows for proper operation.

(d) The bottom of the opening of an egress window shall be no more than thirty-six inches above the floor.

(e) The height of the bottom of the window can be increased to forty-four inches when the clear net area is increased to 5.7 square feet of opening.

(4) Smoke detectors.

(a) Smoke detectors are required at each hallway or area giving access to a bedroom or group of bedrooms. When a furnace is located in the hall giving access to the bedrooms, the detector is to be located between the living area and the return air grill of the furnace.

(b) Smoke detectors must be installed on a wall and must be permanently wired and installed on a J-box with splices terminating inside the box.

(c) A smoke alarm with a rated life of ten years and provided with a listed ten year battery can be used in lieu of wired smoke detector.

(d) The smoke detector may not be switched and if more than one smoke detector is installed, then each one is to be wired on a different branch circuit.

(e) Smoke detectors do not need to be wired together to sound simultaneous alarms.

AMENDATORY SECTION (Amending WSR 03-12-044, filed 5/30/03, effective 5/30/03)

WAC 296-150M-0805 How does the department ensure that a contractor, firm, partnership, or corporation complies with the requirements of chapter 43.22 RCW? The department of labor and industries ensures that contractors, firms, partnerships, and corporations comply with the requirements of chapter 43.22 RCW and this chapter which require a permit and inspection by the department of alterations to manufactured and mobile homes by:

(1) Inspecting manufactured and mobile home job sites by the department's compliance inspectors; or

(2) Auditing the records of contractors per WAC (~~296-150M-0720~~) 296-150M-0715.

AMENDATORY SECTION (Amending WSR 05-12-032, filed 5/24/05, effective 6/30/05)

WAC 296-150M-3000 Manufactured/mobile home fees.

INITIAL FILING FEE	\$31.40
DESIGN PLAN FEES:	
STRUCTURAL ALTERATION - MASTER DESIGN (CODE CYCLE)	\$126.60
STRUCTURAL ALTERATION - ONE YEAR DESIGN	\$84.90
RENEWAL FEE	\$37.80
RESUBMITTAL FEE	\$63.10
ADDENDUM (Approval expires on the same date as original plan.)	\$63.10
ELECTRONIC PLAN SUBMITTAL FEE \$4.80 per page for the first set of plans and \$0.30 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section.	
DEPARTMENT INSPECTION FEES:	
INSPECTION	
MECHANICAL	
Heat Pump	\$31.80
Combination Heat Pump (new) and Furnace (replacement)	\$42.40
Air Conditioning	\$31.80
Combination Air Conditioning (new) and Furnace (replacement)	\$42.40
Furnace Installation (gas*** or electric)	\$31.80
Gas*** Piping	\$31.80
Wood Stove	\$31.80
Pellet Stove	\$31.80
Gas*** Room Heater	\$31.80
Gas*** Decorative Appliance	\$31.80
Range: Changing from electric to gas***	\$31.80
Gas*** Water Heater Replacement	\$21.20
Water Heater: Changing from electric to gas***	\$21.20
Any combination of Furnace, Range, and Water Heater changing from electric to gas*** and includes Gas Piping charge	\$63.70

ELECTRICAL		
Heat Pump		\$42.40
Heat Pump (when home is prewired for a heat pump)		\$10.60
Combination Heat Pump (new) and Furnace (replacement)		\$53.10
Air Conditioner		\$42.40
Air Conditioner (when home is prewired for an air conditioner)		\$10.60
Combination Air Conditioner (new) and Furnace (replacement)		\$53.10
Furnace Installation (gas or electric)		\$42.40
Wood Stove (if applicable)		\$42.40
Pellet Stove (if applicable)		\$42.40
Gas*** Room Heater (if applicable)		\$42.40
Gas*** Decorative Appliance (if applicable)		\$42.40
Range: Changing from gas*** to electric		\$42.40
Electric Water Heater Replacement		\$42.40
Electric Water Heater replacing Gas*** Water Heater		\$42.40
Each added or modified 120 volt circuit (maximum charge is two circuits)		\$42.40
Each added 240 volt circuit (for other than Heat Pumps, Air Conditioners, Furnaces, Water Heaters, Ranges, Hot Tubs or Spas)		\$42.40
Hot Tub or Spa (power from home electrical panel)		\$42.40
Replace main electrical panel		\$42.40
Low voltage fire/intrusion alarm		\$42.40
Fire Safety		\$42.40
Any combination of Furnace, Range and Water Heater changing from electric to gas***		\$42.40
PLUMBING		
Fire sprinkler system (also requires a plan review)		\$21.20
Each added fixture		\$21.20
Replacement of water piping system (this includes two inspections)		\$95.60
STRUCTURAL		
Inspection as part of a mechanical/fire safety installation (cut truss/floor joist, sheet rocking)		\$42.40
Reroofs (may require a plan review)		\$74.30
Changes to home when additions bear loads on home per the design of a professional (also requires a plan review)		\$74.30
Other structural changes (may require a plan review)		\$74.30
Fire Safety (may also require an electrical fire safety inspection)		\$42.40
MISCELLANEOUS		
Other structural changes (may require a plan review)		\$74.30
Plan Review		\$84.90
OTHER REQUIRED INSPECTIONS (Per hour*)		\$58.40
ALL REINSPECTIONS (Per hour*)		\$58.40
Refund		\$10.60
INSIGNIA FEES:		
ALTERATION		\$10.60
<u>FIRE SAFETY CERTIFICATE</u>		\$10.60
REISSUED - LOST/DAMAGED		\$10.60
IPIA		
DEPARTMENT AUDIT FEES		
REGULARLY SCHEDULED IPIA AUDIT:		
First inspection on each section (one time only)		\$28.70
Second and succeeding inspections of unlabeled sections (Per hour*)		\$63.10
OTHER IPIA FEES:		
Red tag removal during a regularly scheduled IPIA audit (Per hour*separate from other fees)		\$63.10
Red tag removal at a time other than a regularly scheduled IPIA audit (Per hour* plus travel time* and mileage**)		\$63.10
Increased frequency surveillance (Per hour* plus travel time* and mileage**)		\$63.10

Attendance at manufacturers training classes (Per hour* only)	\$63.10
Subpart "I" investigations (Per hour* plus travel time* and mileage**)	\$63.10
Alterations to a labeled unit (Per hour* plus travel time* and mileage**)	\$63.10
IPIA Issues/Responses (Per hour* Plus travel time* and mileage**)	\$63.10
Monthly surveillance during a regularly scheduled IPIA audit (Per hour* plus travel time* and mileage**)	\$63.10
Monthly surveillance at a time other than a regularly scheduled IPIA audit (Per hour* plus travel time* and mileage**)	\$63.10
Plant certifications, recertifications and addenda updates (Per hour* plus travel time* and mileage** per each inspector)	\$63.10
Response to HBT Audit during a regularly scheduled IPIA audit (Per hour*)	\$63.10
Response to HBT Audit at a time other than a regularly scheduled IPIA audit (Per hour* plus travel time* and mileage**)	\$63.10
Alternative construction (AC) letter inspections at placement site (Per hour* plus travel time* and mileage**)	\$63.10
Replacement of HUD labels (Per hour* plus travel time* and mileage**)	\$63.10
State Administrative Agency (SAA) inspection fee (Per hour* plus travel time* and mileage**)	\$63.10
OTHER FEES:	
FIELD TECHNICAL SERVICE (Per hour plus travel time* and mileage**)	\$58.40
PUBLICATION PRINTING AND DISTRIBUTION OF RCWs AND WACs (One free copy per year upon request)	\$11.90
VARIANCE INSPECTION FEE	\$84.90
HOMEOWNER REQUESTED INSPECTION	\$84.90
DECERTIFICATION OF A MOBILE/MANUFACTURED HOME	\$84.90
DEMOLITION OF A MOBILE/MANUFACTURED HOME	\$84.90
NOTE: Local jurisdictions may have other fees that apply.	
* Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments.	
** Per state guidelines.	
*** Gas means all gases; natural, propane, etc.	

**WSR 05-20-069
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES**

[Filed October 4, 2005, 10:13 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-15-133.

Title of Rule and Other Identifying Information: General reporting rules, classifications, audit and recordkeeping, rates and rating system for Washington workers' compensation insurance, chapter 296-17 WAC.

Hearing Location(s): Department of Labor and Industries Building, Room S117, 7273 Linderson Way S.W., Tumwater, WA 98501, on November 8, 2005, at 1 p.m.; and at the Department of Labor and Industries, Yakima Service Location, 15 West Yakima Avenue, Yakima, WA 98902, on November 10, 2005, at 1 p.m.

Date of Intended Adoption: November 22, 2005.

Submit Written Comments to: Department of Labor and Industries, Kathy Kimbel, Program Manager, Employer Services, P.O. Box 44140, Olympia, WA 98504-4140 [98504-4140], e-mail Lanz235@lni.wa.gov, fax (360) 902-4729, by November 7, 2005.

Assistance for Persons with Disabilities: Contact Office of Information and Assistance by November 7, 2005, TTY (360) 602-5797.

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

- Clarify agriculture and farming rules in WAC 296-17-31014;
- Remove references to farm labor contractor rule in all agricultural classifications;
- Make housekeeping changes; and
- Pursuant to chapter 422, Laws of 2005 (SSB 6014) create new classification, 7205 - Life and rescue - emergency workers and add subsection to WAC 296-17-870 to define "life and rescue phase of emergencies."

Proposal establishes classification changes effective January 1, 2006; WAC 296-17-31014 Farming and agriculture; WAC 296-17-31021 Units of exposure; WAC 296-17-35203 Special reporting instruction, forest, range, or timber land services—Industry rule; WAC 296-17-870 Evaluation of actual losses; WAC 296-17-503, change 0506 to 0518; WAC 296-17-517, include artificial turf; WAC 296-17-52106, change reference to metal; WAC 296-17-53504, revise special note; WAC 296-17-614, clarify retail wording; WAC 296-17-643, remove special note regarding farm labor con-

tractor; WAC 296-17-644, remove references in special note to farm labor contractor; WAC 296-17-645, remove special note, farm labor contractor; WAC 296-17-646, revise special note, farm labor contractor; WAC 296-17-649, revise special note, farm labor contractor; WAC 296-17-64901, remove special note, farm labor contractor; WAC 296-17-64902, revise special note, farm labor contractor; WAC 296-17-64903, revise special note, farm labor contractor; WAC 296-17-64904, remove reference to classification 4808; WAC 296-17-64905, remove special note; WAC 296-17-650, revise special note; WAC 296-17-680, clarifies types of employees; WAC 296-17-681, clarifies types of employees; WAC 296-17-73111, revises activities; WAC 296-17-772, remove special note; WAC 296-17-773, remove special note; WAC 296-17-777, revise special note, farm labor contractor; WAC 296-17-778, revise special note, farm labor contractor; WAC 296-17-698, social worker remove "and assisting"; WAC 296-17-743, added word "logging"; WAC 296-17-76212, change "any lumbering mill" to "shake and shingle mills"; and WAC 296-17-76601, create new classification for emergency workers.

Reasons Supporting Proposal: Labor and industries is required by law to establish and maintain a workers' compensation classification plan that classifies all occupations or industries within the state and is permitted to review and make changes to the plan. (RCW 51.16.035 and 51.16.100). The department has conducted a review of these classifications and reporting rules and determined these rules are in need of revision.

Statutory Authority for Adoption: RCW 51.16.035 and 51.16.100.

Statute Being Implemented: RCW 51.16.035 and 51.16.100.

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

Name of Proponent: Department of Labor and Industries, governmental.

Name of Agency Personnel Responsible for Drafting: Bill Moomau/Tammy Turner, Tumwater, Washington, (360) 902-4774; Implementation: Kathy Kimbel, Tumwater, Washington, (360) 902-4739; and Enforcement: Robert Malooly, Tumwater, Washington, (360) 902-4209.

No small business economic impact statement has been prepared under chapter 19.85 RCW. In this case the agency is exempt from conducting a small business economic impact statement since the proposed rules set or adjust fees or rates pursuant to legislative standards described in RCW 34.05.-310 (4)(f) and because the content of the rules is specifically dictated by statute described in RCW 34.05.310 (4)(e).

A cost-benefit analysis is not required under RCW 34.05.328. In this case, the agency is exempt from conducting a cost-benefit analysis since the proposed rules set or adjust fees or rates pursuant to legislative standards described in RCW 34.05.328 (5)(b)(vi) and because the content of the rules is specifically dictated by statute described in RCW 34.05.328 (5)(b)(v).

October 4, 2005
Gary Weeks
Director

AMENDATORY SECTION (Amending WSR 04-20-023, filed 9/28/04, effective 11/1/04)

WAC 296-17-517 Classification 0502.

0502-04 Carpet, vinyl, tile and other floor or counter top covering: Installation or removal

Applies to contractors engaged in the installation or removal of floor or counter top coverings such as, but not limited to, wall to wall carpet, vinyl, laminate, ~~((or))~~ tile, or artificial turf in residential or commercial settings. Work contemplated by this classification includes, but is not limited to, the installation and/or removal of foam or rubber padding, floor coverings such as rugs or carpet, tack strips, door strips, subflooring (particle board or plywood), linoleum, vinyl, base board or door strips, and hauling existing floor covering debris away. This classification also includes the installation of clay or ceramic tiles on counter tops and backsplashes.

This classification excludes contractors engaged in the installation of counter tops as part of an interior finish carpentry or cabinetry contract which is to be reported separately in classification 0513; the installation of hardwood floors which is to be reported separately in classification 0513; the installation of decorative brick, slate, marble or granite which is to be reported separately in classification 0302; installation of roofing tiles which is to be reported separately in classification 0507; and floor covering stores which are to be reported separately in the applicable classification.

0502-99 Carpet, vinyl, tile and other floor or counter top covering: Installation or removal (only to be assigned by the floor covering specialist)

Applies to floor covering contractors who consider themselves to be independent contractors, have no employees, and have not elected owner coverage for themselves.

The purpose of assigning this classification is to allow the independent contractor the opportunity to be checked for "account in good standing" status for prime contractor liability.

Special note: Any contractor who hires employees or elects owner coverage is required to report in the applicable construction classification.

AMENDATORY SECTION (Amending WSR 03-23-025, filed 11/12/03, effective 1/1/04)

WAC 296-17-698 Classification 6303.

6303-00 Outside sales personnel, N.O.C.; messengers

Applies to those employees whose job duties and work environment meet *all* the conditions of the general reporting rules covering outside sales personnel, and who are not covered by another classification (N.O.C.) assigned to the employer's account. Duties of outside sales personnel contemplated by this classification are limited to soliciting new customers by telephone or in person, showing, selling, and explaining products or services, servicing existing accounts, completing correspondence, placing orders, performing public relations duties, and estimating. Duties of messengers are limited to delivering interoffice mail, making deposits, and similar duties that are exclusively for the administration of the employer's business.

This classification excludes the delivery of products or merchandise or the stocking of shelves which is to be reported separately as applicable; the demonstration or delivery of machinery or equipment which are to be reported separately as applicable, establishments engaged as collection agencies or public relations agencies which are to be reported separately in classification 5301; establishments engaged in providing inspection and valuations exclusively for insurance companies which are to be reported separately in classification 4903.

Special note: When considering this classification care must be taken to look beyond titles of employees. Employees with occupational titles such as, but not limited to, collectors, counselors, consultants, or appraisers may or may not qualify for this classification. This is a restrictive classification; the qualifying factor is that all the conditions of the general reporting rules covering standard exception employees have been met.

6303-03 Insurance sales personnel and claims adjusters

Applies to insurance sales personnel and claims adjusters with outside duties. Duties of employees subject to this classification are limited to selling insurance policies at their place of business or at the client's home, or going to the scene of an accident or catastrophe to assess damage. Work may be performed within an office or away from the employer's premises.

Special note: Individuals performing duties as an agent, broker, or solicitor (and hold a license as issued by the office of the insurance commissioner) are exempt from coverage as specified in RCW 51.12.020(11) and 48.17.010, 48.17.020, and 48.17.030. To elect voluntary coverage these individuals must submit a completed optional coverage form to the department.

6303-21 Home health care services: Social workers and dietitians

Applies to social workers and dietitians employed by home health care service establishments who provide care for handicapped individuals. Duties of these employees include teaching (~~and assisting~~) physically or developmentally disabled individuals in their own home to manage daily living skills such as caring for themselves, dressing, cooking, shopping, and going to the doctor. This classification also includes dietitians, sometimes called nutritionists, who usually are referred to patients by their physicians. The dietitian assesses the patient's current nutritional status, including current food intake, medical background, family history, currently prescribed medications, and social and psychological needs, then develops a food plan to meet the patient's needs. Employees subject to this classification do no cooking.

This classification excludes nursing and home health care services which are to be reported separately in classification 6110; therapy services which are to be reported separately in classification 6109; domestic servants who are to be reported separately in classification 6510; and chore workers who are to be reported separately in classification 6511.

Special note: This is a restrictive classification; the qualifying factor is that all the conditions of the general reporting rules covering standard exception employees have been met. *This classification is not to be assigned to any*

account that does not also have classification 6110 and/or 6511.

AMENDATORY SECTION (Amending WSR 00-14-052, filed 7/1/00, effective 7/1/00)

WAC 296-17-643 Classification 4802.

4802-02 Farms: Berry

Applies to establishments engaged in raising berries of all types. Work contemplated by this classification includes, but is not limited to, preparing soil for new plants, planting, fertilizing, weeding, pruning canes, cutting runners, installing posts and wire supports, tying vines, machine harvesting of berries, and installing or maintaining sprinkler or irrigation systems when performed by employees of an employer subject to this classification. This classification includes roadside fruit stands operated at or near the farm and farm store operations where a small stock of products not produced by the operation subject to this classification may also be offered for sale. Farms operating multiple retail locations, such as those found in parking lots of shopping centers or at farmer's markets, may qualify to have those activities reported separately in classification 6403 provided all the conditions of the general reporting rules covering the operation of a secondary business are met.

This classification excludes fresh fruit packing operations which are to be reported separately in classification 2104; fruit cannery or freezer operations which are to be reported separately in classification 3902; winery operations which are to be reported separately in classification 3702; hand harvesting of berries which is to be reported separately in classification 4806; and any contractors hired by a farm operator to install, repair or build any farm equipment or structures who are to be reported separately in the classification applicable to the work being performed.

~~((Special note: The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as, but not limited to, weeding, planting, irrigating, or fertilizing. Generally the work involves manual labor tasks as opposed to machine operations. These farm labor contractors are to be reported in the classification that applies to the farm they are contracting with. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm services" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to or the type of crop involved.))~~

4802-03 Farms: Bulb raising

Applies to establishments engaged in raising flowers and plants for bulbs. Work contemplated by this classification may take place in an open field or a greenhouse. Farming activities include, but are not limited to, preparing soil for new plants; planting, fertilizing, weeding, dead heading or cutting flowers, maintaining or installing sprinkler or irrigation systems, and machine digging and harvesting bulbs when performed by employees of an employer subject to this classification. Any subsequent grading, sorting, packing and shipping of bulbs is included within the scope of this classification as are roadside stands operated at or near the farm and

farm store operations where a small stock of products not produced by the operation subject to this classification may also be offered for sale. Farms operating multiple retail locations, such as those found in parking lots of shopping centers or at farmer's markets, may qualify to have those activities reported separately provided all the conditions of the general reporting rules covering the operation of a secondary business are met.

This classification excludes establishments engaged exclusively in the sale of fresh cut flowers and potted plants who are not involved in the cultivation of plants or flowers which are to be reported separately in classification 6404; hand picking of bulbs which is to be reported separately in classification 4806; and contractors hired by a farm operator to install, repair or build any farm equipment or structures who are to be reported separately in the classification applicable to the work being performed.

~~((**Special note:** The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as, but not limited to, weeding, planting, irrigating, or fertilizing. Generally the work involves manual labor tasks as opposed to machine operations. These farm labor contractors are to be reported in the classification that applies to the farm they are contracting with. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm services" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to or the type of crop involved.))~~

4802-06 Picking of forest products, N.O.C.

Applies to establishments engaged exclusively in picking forest products that are not covered by another classification (N.O.C.) such as, but not limited to, holly, ferns, cones, cedar boughs, mushrooms, wild flowers, wild berries, moss, and tree bark. Work contemplated by this classification is limited to hand picking operations and is often accomplished through the aid of hand held cutting devices such as pruning shears or saws. Properties from which products are harvested from may be owned or leased. Operations not described above are to be reported separately in the classification applicable to the work being performed.

~~((**Special note:** The farm labor contractor provision, as described in the general reporting rules, is not applicable to this classification as such establishments are not engaged in a farming operation.))~~

4802-11 Farms: Flower or vegetable seeds

Applies to establishments engaged in raising flowers, flowering plants or vegetable plants for seed. Work contemplated by this classification may take place in an open field or a greenhouse. Farming activities include, but are not limited to, preparing soil for new plants, planting, fertilizing, weeding, machine harvesting seeds, cutting fresh flowers, harvesting incidental fresh vegetables, maintaining or installing sprinkler or irrigation systems, and drying of the seed. Any subsequent grading, sorting, packing and shipping of seeds is included within the scope of this classification as is the incidental sale of fresh cut flowers or vegetables from roadside stands located at or near the farm and farm store operations where a small stock of products not produced by the operation

subject to this classification may also be offered for sale. Farms operating multiple retail locations, such as those found in parking lots of shopping centers or at farmer's markets, may qualify to have those activities reported separately provided all the conditions of the general reporting rules covering the operation of a secondary business are met.

This classification excludes fresh vegetable packing operations which are to be reported separately in classification 2104; cannery or freezer operations which are to be reported separately in classification 3902; establishments engaged exclusively in the sale of fresh cut flowers and potted plants who are not involved in the cultivation of plants or flowers which are to be reported separately in classification 6404; hand gathering of seeds where no hand held cutting device is used which is to be reported separately in classification 4806; establishments engaged exclusively in the sale of fresh vegetables but are not involved in the cultivation of plants which are to be reported separately in classification 6403; and any contractors hired by a farm operator to install, repair or build any farm equipment or structures who are to be reported separately in the classification applicable to the work being performed.

~~((**Special note:** The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as weeding, planting, irrigating and fertilizing. Generally the work involves manual labor tasks as opposed to machine operations. These farm labor contractors are to be reported in the classification that applies to the farm they are contracting with. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm services" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to or the type of crop involved.))~~

4802-12 Farms: Field vegetable crops - mechanically harvested

Applies to establishments engaged in raising field vegetable crops *which are mechanically harvested*. Work contemplated by this classification includes, but is not limited to, preparing soil for new plants, planting, fertilizing, weeding, pruning, machine harvest of vegetables, and maintaining or installing sprinkler or irrigation systems when performed by employees of an employer subject to this classification. This classification includes roadside stands operated at or near the farm and farm store operations where a small stock of products not produced by the operation subject to this classification may also be offered for sale. Farms operating multiple retail locations, such as those found in parking lots of shopping centers or at farmer's markets, may qualify to have those activities reported separately provided all the conditions of the general reporting rules covering the operation of a secondary business are met. Typical crops include the following:

Beans, Green	Parsnips	Squash
Beets, Table	Potatoes	Tomatoes
Carrots	Radishes	Turnips
Corn, Sweet	Rhubarb	
Cucumbers	Rutabagas	

This classification excludes fresh vegetable packing operations which are to be reported separately in classification 2104; cannery or freezer operations which are to be reported separately in classification 3902; and any contractors hired by a farm operator to install, repair or build any farm equipment or structures who are to be reported in the classification applicable to the work being performed.

Special note: This classification differs from classification 4808 "diversified field crops" in that vegetable crops grown subject to classification 4808 generally have a long growing season and are harvested upon reaching maturity at the end of the season. Vegetable crops grown in classification 4802 are generally planted so that harvesting will occur continuously over the season and in smaller quantities. Although corn is technically a grain crop, it is widely accepted as a vegetable crop when harvested for fresh market as opposed to being left in the field to dry and used as feed, flour, or cereal grain. Corn grown subject to classification 4802 is for a fresh market, cannery or frozen food while the corn grown in classification 4808 is for grain, flour and feed.

~~((The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as weeding, planting, irrigating and fertilizing. Generally the work involves manual labor tasks as opposed to machine operations. These farm labor contractors are to be reported in the classification that applies to the farm they are contracting with. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm services" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to or the type of crop involved.))~~

4802-13 Farms: Flowers - field growing Farms: Florists - cultivating or gardening

Applies to establishments engaged in raising flowers and flowering plants for sale. Work contemplated by this classification may take place in an open field or a greenhouse. Farming activities include, but are not limited to, preparing soil for new plants, planting, fertilizing, weeding, cutting fresh flowers, and maintaining or installing sprinkler or irrigation systems. Any subsequent grading, sorting, packing and shipping of flowers is included within the scope of this classification as is the incidental collection of flower seed for use in future crops. This classification includes roadside stands operated at or near the farm and farm store operations where a small stock of products not produced by the operation subject to this classification may also be offered for sale. Farms operating multiple retail locations, such as those found in parking lots of shopping centers or at farmer's markets, may qualify to have those activities reported separately provided all the conditions of the general reporting rules covering the operation of a secondary business are met.

This classification excludes establishments engaged exclusively in the sale of fresh cut flowers and potted plants who are not involved in the cultivation of plants or flowers which are to be reported separately in classification 6404 and any contractors hired by a farm operator to install, repair or build any farm equipment or structures who are to be reported separately in the classification applicable to the work being performed.

~~((**Special note:** The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as weeding, planting, irrigating and fertilizing. Generally the work involves manual labor tasks as opposed to machine operations. These farm labor contractors are to be reported in the classification that applies to the farm they are contracting with. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808-11 "custom farm services" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to or the type of crop involved.))~~

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-644 Classification 4803.

4803-02 Farms: Orchards - fruit tree crops

Applies to establishments engaged in operating fruit orchards of all types. Work contemplated by this classification includes, but is not limited to, preparing soil for new trees, planting trees, fertilizing, spraying, fumigating, weeding, pruning, harvesting tree fruit, and maintaining or installing sprinkler or irrigation systems when performed by employees of an employer subject to this classification. This classification includes roadside stands operated at or near the farm and farm store operations where a small stock of products not produced by the operation subject to this classification may also be offered for sale. Farms operating multiple retail locations, such as those found in parking lots of shopping centers or at farmer's markets, may qualify to have those activities reported separately provided all the conditions of the general reporting rules covering the operation of a secondary business are met.

This classification excludes fresh fruit packing operations which are to be reported separately in classification 2104; fruit cannery or freezer operations which are to be reported separately in classification 3902; winery operations which are to be reported separately in classification 3702; and contractors hired by a farm operator to install, repair or build any farm equipment or structures who are to be reported separately in the classification applicable to the work being performed.

Special note: Prune harvesting is often accomplished by a person laying a canvas cover around the base and surrounding area of the tree. The tree is then shaken by hand causing the fruit to dislodge and fall to the canvas cover where it is picked by hand. Harvesting done by this method is subject to classification 4806 provided that the conditions set forth in classification 4806 have been met. ~~((The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as weeding, planting, irrigating and fertilizing. Generally the work involves manual labor tasks as opposed to machine operations. These farm labor contractors are to be reported in the classification that applies to the farm they are contracting with. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm services" as the process involved in oper-~~

ating machinery is the same irrespective of the type of farm they are providing service to or the type of crop involved.))

4803-04 Farms: Orchards - nut tree crops

Applies to establishments engaged in operating nut producing orchards of all types. Work contemplated by this classification includes, but is not limited to, preparing soil for new trees, planting trees, fertilizing, spraying, fumigating, weeding, pruning, machine harvesting of nuts, and maintaining or installing sprinkler or irrigation systems when performed by employees of an employer subject to this classification. This classification includes the incidental sale of bulk or packaged nuts at roadside stands operated at or near the farm and farm store operations where a small stock of products not produced by the operation subject to this classification may also be offered for sale. Farms operating multiple retail locations, such as those found in parking lots of shopping centers or at farmer's markets, may qualify to have those activities reported separately provided all the conditions of the general reporting rules covering the operation of a secondary business are met.

This classification excludes nut shelling and packaging operations which are to be reported separately in classification 3902; ground hand picking of nuts which is to be reported separately in classification 4806; and contractors hired by a farm operator to install, repair or build any farm equipment or structures who are to be reported separately in the classification applicable to the work being performed.

Special note: Nut harvesting is often accomplished by a person laying a canvas cover around the base and surrounding area of the tree. The tree is then shaken by hand causing the nuts to dislodge and fall to the canvas cover where they are picked by hand. Harvesting done by this method is subject to classification 4806 provided that the conditions set forth in classification 4806 have been met. ~~((The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as weeding, planting, irrigating and fertilizing. Generally the work involves manual labor tasks as opposed to machine operations. These farm labor contractors are to be reported in the classification that applies to the farm they are contracting with. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm services" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to or the type of crop involved.))~~

4803-16 Farms, N.O.C.

Applies to establishments engaged in operating farms not covered by another classification (N.O.C.). Establishments in this classification include holly farms and the raising of sheep, goats, alpacas and llamas. Work contemplated by this classification is of a custodial nature that includes, but is not limited to, pruning and otherwise maintaining trees, tending and feeding animals, raising crops for feed, erecting or mending fences, breeding animals, transporting animals to market, and maintaining or installing sprinkler or irrigation systems when performed by employees of an employer subject to this classification. This classification also covers artificial insemination and veterinary care when performed by employees of an employer subject to this classification.

This classification excludes businesses primarily engaged in holly packing or wreath making who are to be reported separately in classification 6404 (florists), and contractors hired by a farm operator to install, repair or build any farm equipment or structures who are to be reported separately in the classification applicable to the work being performed.

~~((**Special note:** The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as weeding, planting, irrigating and fertilizing. Generally the work involves manual labor tasks as opposed to machine operations. These farm labor contractors are to be reported in the classification that applies to the farm they are contracting with. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm services" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to or the type of crop involved.))~~

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-645 Classification 4804.

4804-00 Farms: Poultry

Applies to establishments engaged in operating poultry farms of all types. Poultry farms covered by this classification may be engaged in breeding and raising birds for human consumption or for sale to research laboratories or egg production farms. Work contemplated by this classification is of a custodial nature that includes, but is not limited to, sheltering, tending, feeding and watering birds, raising crops for feed, erecting or mending fences, cages and pens, breeding birds, cleaning pens and cages, transporting animals to market, and maintaining or installing sprinkler or irrigation systems when performed by employees of an employer subject to this classification.

This classification excludes feed milling operations which are to be reported separately in classification 2101; the butchering and processing of poultry which is to be reported separately in classification 3304; and contractors hired by a farm operator to install, repair or build any farm equipment or structures who are to be reported separately in the classification applicable to the work being performed.

~~((**Special note:** The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as weeding, planting, irrigating and fertilizing. Generally the work involves manual labor tasks as opposed to machine operations. These farm labor contractors are to be reported in the classification that applies to the farm they are contracting with. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm services" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to or the type of crop involved.))~~

4804-03 Farms: Egg production

Applies to establishments engaged in operating egg production farms. Farms covered by this classification may also

be engaged in raising brood stock for future egg production or sale to other farms. Work contemplated by this classification is of a custodial nature that includes, but is not limited to, sheltering, tending, feeding and watering birds, raising crops for feed, erecting or mending fences, cages and pens, breeding birds, cleaning pens and cages, transporting eggs to market, and maintaining or installing sprinkler or irrigation systems when performed by employees of an employer subject to this classification. This classification also includes any related packing or grading of eggs by farm employees, farm stand operated at or near the farm and farm store operations where a small stock of products not produced by the operation subject to this classification may also be offered for sale. Farms operating multiple retail locations may qualify to have those activities reported separately if the conditions as a multiple business is met.

This classification excludes feed milling operations which are to be reported separately in classification 2101; the butchering and processing of poultry which is to be reported separately in classification 3304; and contractors hired to install, repair or build any farm equipment or structures who are to be reported separately in the classification applicable to the work being performed.

~~((**Special note:** The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as weeding, planting, irrigating and fertilizing. Generally the work involves manual labor tasks as opposed to machine operations. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm services" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to or the type of crop involved.))~~

4804-05 Farms: Fur bearing animals

Applies to establishments engaged in raising fur bearing animals such as mink, fox and chinchilla for pelts (skins) or for sale. Work contemplated by this classification is of a custodial nature that includes, but is not limited to, sheltering, tending and breeding, feeding and killing animals, fleshing and drying skins, erecting or mending fences, erecting or maintaining kennels or cages, cleaning cages and kennels, and veterinary care when performed by employees of an employer subject to this classification.

This classification excludes contractors hired by a farm operator to install, repair or build any farm equipment or structures who are to be reported separately in the classification applicable to the work being performed.

~~((**Special note:** The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as feeding animals, grooming, and cleaning kennels. Generally the work involves manual labor tasks as opposed to machine operations. These farm labor contractors are to be reported in the classification that applies to the farm they are contracting with. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm services" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to.))~~

4804-06 Farms: Worm

Applies to establishments engaged in raising worms. Work contemplated by this classification includes, but is not limited to, the preparation of soils and soil mixes, maintaining proper soil moisture to encourage worm growth and reproduction, digging worms, sorting and packaging.

This classification excludes contractors hired by a farm operator to install, repair or build any farm equipment or structures who are to be reported separately in the classification applicable to the work being performed.

~~((**Special note:** The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as weeding, preparing soils, irrigating and fertilizing. Generally the work involves manual labor tasks as opposed to machine operations. These farm labor contractors are to be reported in the classification that applies to the farm they are contracting with. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm services" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to.))~~

4804-07 Farms: Apiaries (bees)

Applies to establishments engaged in raising honey bees for making honey or for sale to growers or farmers who use them as pollinators or to laboratories or research centers. Work contemplated by this classification is of a custodial nature that includes, but is not limited to, sheltering, building structures to accommodate bee hives, collecting honey from hives, and growing vegetation and plants to support the production of honey or population of bees. This classification also includes the incidental processing and packaging of honey, honey comb and bees wax and the sale of honey at roadside stands located at or near the farm and farm store operations where a small stock of products not produced by the operation subject to this classification may also be offered for sale. Farms operating multiple retail locations may qualify to have those activities reported separately if the conditions in the multiple enterprise section of the general reporting rules are met. The raising of insects such as crickets has also been assigned to this classification as is the collection of bees and bee hives from unrelated properties.

This classification excludes contractors hired by a farm operator to install, repair or build any farm equipment or structures who are to be reported separately in the classification applicable to the work being performed.

~~((**Special note:** The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as collecting hives or bees, preparing soils for crops, irrigating and fertilizing. Generally the work involves manual labor tasks as opposed to machine operations. These farm labor contractors are to be reported in the classification that applies to the farm they are contracting with. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm services" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to.))~~

4804-08 Farms: Aviaries (birds)

Applies to establishments engaged in raising all varieties of birds including game birds and exotics such as, but not limited to, emu and ostrich for sale to pet dealers, other aviaries, retail customers, and laboratories or research centers. Work contemplated by this classification is of a custodial nature that includes, but is not limited to, sheltering, tending, feeding and watering, raising crops for feed or protective covering, erecting or mending fences, cages, coops and pens, breeding birds, cleaning pens, cages and coops, transporting birds to market, and maintaining or installing sprinkler or irrigation systems when performed by employees of an employer subject to this classification. This classification also includes any store operations.

This classification excludes feed milling operations which are to be reported separately in classification 2101 and contractors hired by a farm operator to install, repair or build any farm equipment or structures who are to be reported separately in the classification applicable to the work being performed.

~~((**Special note:** The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as collecting hives or bees, preparing soils for crops, irrigating and fertilizing. Generally the work involves manual labor tasks as opposed to machine operations. These farm labor contractors are to be reported in the classification that applies to the farm they are contracting with. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm services" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to.))~~

4804-09 Egg grading, candling and packing

Applies to establishments engaged in grading, candling, and packing eggs for either retail or wholesale markets. Work contemplated by this classification includes, but is not limited to, sorting, grading, washing, candling, packing eggs into cartons or crates, and transporting eggs to market. Establishments assigned to this classification are not engaged in raising poultry or operating egg production farms. This classification includes store operations located at or near the packaging facility.

This classification excludes establishments engaged in egg breaking which are to be reported separately in classification 3902.

~~((**Special note:** The farm labor contractor provision is not applicable to this classification as such establishments are not engaged in a farming operation.))~~

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-646 Classification 4805.**4805-00 Nurseries, N.O.C.**

Applies to establishments not covered by another classification (N.O.C.) that are engaged in the propagation and/or care of trees, shrubs, plants, and flowers pending sales to others. Nurseries can be categorized into two general groups in that some nurseries are actively engaged in the propagation

of trees, plants, and shrubs from seed, grafting or cuttings, while others simply buy stock from growers and resell to the public or to commercial customers. Work contemplated by this classification includes, but is not limited to, preparing soil for new trees, shrubs or plants, propagating trees, shrubs or plants, fertilizing, spraying, fumigating, watering and weeding plants, trees and shrubs, pruning trees and shrubs, and maintaining or installing sprinkler or irrigation systems when performed by employees of an employer subject to this classification. This classification includes incidental greenhouses which are typically maintained for the purpose of starting new plants, shrubs or trees and protecting plants from weather conditions. Greenhouses may also serve as holding areas for garden supplies, fertilizer, planting containers, and tools which are available for sale to the public. This classification also includes the incidental sale of bark, soils, decorative or crushed rock, and store operations. This classification does not apply to establishments engaged in propagating trees in connection with an orchard operation or Christmas tree farm which are to be reported separately in classification 4803 or classification 7307 as applicable, or to landscaping contractors who may raise plants, trees or shrubs to be used in connection with their own landscaping jobs who are to be reported separately in classification 0301 or 0308 as applicable.

This classification excludes establishments engaged in growing and harvesting flowers for sale to others which are to be reported separately in classification 4802 and contractors hired by a farm operator to install, repair or build any farm equipment or structures who are to be reported separately in the classification applicable to the work being performed.

~~((**Special note:** The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as weeding, planting, irrigating and fertilizing. Generally the work involves manual labor tasks as opposed to machine operations. These farm labor contractors are to be reported in the classification that applies to the farm they are contracting with. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm services" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to or the type of crop involved.))~~

4805-05 Nurseries: Tree

Applies to establishments engaged in the propagation and/or care of trees for sale. Nurseries can be categorized into two general groups in that some nurseries are actively engaged in the propagation of trees from seed and grafting while others simply buy stock from growers and resell to the public or commercial customers. Work contemplated by this classification includes, but is not limited to, preparing soil for new trees, propagating trees, fertilizing, spraying, fumigating, watering, weeding, and pruning trees, and maintaining or installing sprinkler or irrigation systems when performed by employees of an employer subject to this classification. This classification includes incidental greenhouses which are typically maintained for the purpose of starting new trees and protecting them from weather conditions. Greenhouses may also serve as holding areas for garden supplies, fertilizer, planting containers, and tools which are available for sale to

the public. This classification also includes the incidental sale of beauty bark, soils, decorative or crushed rock, and store operations.

This classification excludes establishments engaged in propagating trees in connection with an orchard operation or Christmas tree farm which are to be reported separately in classification 4803 or classification 7307 as applicable; landscaping contractors who may raise trees to be used in connection with their landscaping jobs who are to be reported separately in 0301 or 0308 as applicable; and contractors hired by a farm operator to install, repair or build any farm equipment or structures who are to be reported separately in the classification applicable to the work being performed.

~~((**Special note:** The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as weeding, planting, irrigating and fertilizing. Generally the work involves manual labor tasks as opposed to machine operations. These farm labor contractors are to be reported in the classification that applies to the farm they are contracting with. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm services" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to or the type of crop involved.))~~

4805-06 Farms: Sod growing

Applies to establishments engaged in raising lawn sod for sale. Work contemplated by this classification includes, but is not limited to, preparing soil for new grass, planting grass seed, fertilizing, spraying, fumigating, watering, weeding, mowing grass, and maintaining or installing sprinkler or irrigation systems when performed by employees of an employer subject to this classification. Sod farms may sell directly to the public from the farm or through landscape dealers and contractors.

This classification excludes the installation of sod at a customer's location; landscaping contractors who may raise sod to be used in connection with their landscaping jobs; and contractors hired by a farm operator to install, repair or build any farm equipment or structures who are to be reported in separately in the classification applicable to the work being performed.

~~((**Special note:** The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as weeding, planting, irrigating and fertilizing. Generally the work involves manual labor tasks as opposed to machine operations. These farm labor contractors are to be reported in the classification that applies to the farm they are contracting with. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm services" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to or the type of crop involved.))~~

4805-07 Farms: Aquatic plants

Applies to establishments engaged in the propagation of aquatic plants for sale. Work contemplated by this classification includes, but is not limited to, preparing aquatic tanks, fresh water ponds or salt water growing areas for new plants,

care of aquatic growing beds including chemical treatments of beds to eliminate undesirable vegetation, and harvesting and packaging plants when performed by employees of an employer subject to this classification. Aquatic farms may sell plants directly to the public from the farm or through dealers and unrelated stores. This classification includes farm store operations.

This classification excludes establishments engaged in the harvesting, processing, or packaging of aquatic plants obtained from natural areas, where the husbandry of the resource is not an integral part of the operation, which are to be reported separately in classification 3304 and contractors hired by a farm operator to install, repair or build any farm equipment or structures who are to be reported separately in the classification applicable to the work being performed.

~~((**Special note:** The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as weeding, planting, irrigating and fertilizing. Generally the work involves manual labor tasks as opposed to machine operations. These farm labor contractors are to be reported in the classification that applies to the farm they are contracting with. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm services" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to or the type of crop involved.))~~

4805-08 Farms: Shellfish - hand harvesting

Applies to establishments engaged in the propagation, and hand harvesting, of shellfish for sale. Work contemplated by this classification includes, but is not limited to, preparing aquatic tanks or salt water growing areas for shellfish; care of aquatic growing beds including chemical treatments of beds to eliminate undesirable vegetation; and harvesting, shucking and packaging shellfish when performed by employees of an employer subject to this classification. Shellfish farms may sell directly to the public from a farm stand or store, located at or near the farm, or to dealers and unrelated stores.

This classification excludes establishments engaged in the harvesting, processing or packaging of shellfish obtained from natural areas where the husbandry of the resource is not an integral part of the operation which are to be reported separately in classification 3304 and contractors hired by a farm operator to install, repair or build any farm equipment or structures who are to be reported separately in the classification applicable to the work being performed.

Special notes: The distinction between risks assigned to this classification (4805-08) and those which are to be reported separately in classification 4808 is in the harvesting process. Risks subject to classification 4805 are engaged in hand harvesting activities which includes the use of hand held tools while those assigned to classification 4808 are engaged in mechanical harvesting activities by way of dredging operations. ~~((The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as seeding of larvae to mother shells and planting shells to natural waters. Generally the work involves manual labor tasks as opposed to machine operations. These farm labor contractors are to be reported in the~~

~~classification that applies to the farm they are contracting with. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm services" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to.))~~

Alfalfa	Garlic	Rye
Barley	Grain	Sugar Beets
Beans, Dry	Grass Seed	Timothy
Clover	Hay	Wheat
Corn	Peas, Dry	

4805-09 Christmas tree sales from U-cut or retail sales lots

Applies to establishments engaged in retail sales of Christmas trees. Work contemplated by this classification is limited to placing trees in stands or on racks for display purposes, showing trees to retail customers, cashiering, monitoring and directing traffic in the sales lot area, and loading trees into customer vehicles. Tree sales may be conducted at a farm location as in the case of a U-cut tree operation or at a seasonal sales lot.

This classification excludes all farming operations such as, but not limited to, preparation of soil for new trees, propagating and planting trees, fertilizing, spraying, fumigating, watering, weeding, pruning, and harvesting of trees, maintaining or installing sprinkler or irrigation systems which are to be reported separately in classification 7307; Christmas tree wholesalers and Christmas tree baling and packing operations which are to be reported separately in classification 7307; and contractors hired to install, repair or build any farm equipment or structures who are to be reported separately in the classification applicable to the work being performed.

Special notes: Establishments assigned to this classification (4805-09) should report hours in this classification *only during the fourth quarter of each year* since these sales are confined to the Christmas season. ~~((The farm labor contractor provision is not applicable to this classification as such establishments are not engaged in a farming operation.))~~

AMENDATORY SECTION (Amending WSR 00-14-052, filed 7/1/00, effective 7/1/00)

WAC 296-17-649 Classification 4808.

4808-01 Farms: Diversified field crops

Applies to establishments engaged in growing a variety of grain, vegetable, or grass crops during a single season. Work contemplated by this classification includes, but is not limited to, preparing the soil for new crops, planting, fertilizing, weeding, harvesting, and maintaining or installing sprinkler or irrigation systems. Any subsequent grading, sorting, packing and shipping of farm products grown subject to this classification is included within the scope of this classification. This classification includes roadside stands operated at or near the farm and farm store operations where a small stock of products not produced by the operation subject to this classification may also be offered for sale. Farms operating multiple retail locations, such as those found in parking lots of shopping centers or at farmer's markets, may qualify to have those activities reported separately provided all the conditions of the general reporting rules covering the operation of a secondary business are met. Typical crops include the following:

This classification excludes fresh vegetable packing operations which are to be reported separately in classification 2104; cannery or freezer operations which are to be reported separately in classification 3902; establishments engaged exclusively in the sale of fresh vegetables who are not involved in the cultivation of plants which are to be reported separately in classification 6403; and contractors hired by a farm operator to install, repair or build any farm equipment or structures who are to be reported separately in the classification applicable to the work being performed.

Special note: This classification differs from classification 4802 "vegetable farm operations" in that vegetable crops grown subject to classification 4808 generally have a long growing season and are harvested upon reaching maturity at the end of the season. Vegetable crops grown in classification 4802 are generally planted so that harvesting will occur continuously over the season and in smaller quantities. See classification 4802-12 for additional information. ~~((The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as weeding, planting, irrigating and fertilizing. Generally the work involves manual labor tasks as opposed to machine operations. These farm labor contractors are to be reported in the classification that applies to the farm they are contracting with. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm services" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to or the type of crop involved.))~~

4808-02 Farms: Alfalfa, clover and grass seed

Applies to establishments engaged exclusively in raising alfalfa, clover, and grass crops for seed. Work contemplated by this classification includes, but is not limited to, preparing soil for crops, planting, fertilizing, machine harvesting, maintaining or installing sprinkler or irrigation systems, and drying of seed. Any subsequent grading, sorting, packing and shipping of seeds is included within the scope of this classification. Also included is the incidental sale of farm products from roadside stands operated at or near the farm and farm store operations where a small stock of products not produced by the operation subject to this classification may also be offered for sale.

This classification excludes establishments engaged in grading, sorting, and packaging seeds; or selling baled alfalfa or clover who are not engaged in growing operations which are to be reported separately in classification 2101; establishments engaged exclusively in grain or seed storage who are not engaged in growing operations which are to be reported separately in classification 2007; and contractors hired by a farm operator to install, repair or build any farm equipment or structures who are to be reported separately in the classification applicable to the work being performed.

~~((**Special note:** The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as weeding, planting, irrigating and fertilizing. Generally the work involves manual labor tasks as opposed to machine operations. These farm labor contractors are to be reported in the classification that applies to the farm they are contracting with. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm services" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to or the type of crop involved.))~~

4808-04 Farms: Hay

Applies to establishments engaged exclusively in raising hay or straw grass for sale, and includes the raising of such crops for seed. Work contemplated by this classification includes, but is not limited to, preparing soil for crops, planting, fertilizing, machine harvesting, maintaining or installing sprinkler or irrigation systems, and drying of seed. Any subsequent grading, sorting, packing and shipping of seeds is included within the scope of this classification. Also included is the incidental sale of farm products from roadside stands operated at or near the farm and farm store operations where a small stock of products not produced by the operation subject to this classification may also be offered for sale.

This classification excludes establishments engaged in grading, sorting, and packaging seeds, or selling baled hay who are not engaged in growing operations which are to be reported separately in classification 2101 and contractors hired by a farm operator to install, repair or build any farm equipment or structures who are to be reported separately in the classification applicable to the work being performed.

~~((**Special note:** The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as weeding, planting, irrigating and fertilizing. Generally the work involves manual labor tasks as opposed to machine operations. These farm labor contractors are to be reported in the classification that applies to the farm they are contracting with. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm services" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to or the type of crop involved.))~~

4808-06 Farms: Cereal grain

Applies to establishments engaged in growing cereal grain crops. Work contemplated by this classification includes, but is not limited to, preparing the soil for new crops, planting, fertilizing, weeding, harvesting, and maintaining or installing sprinkler or irrigation systems. Any subsequent grading, sorting, packing and shipping of farm products grown subject to this classification is included within the scope of this classification. Also included is the incidental sale of farm products from roadside stands or operated at or near the farm and farm store operations where a small stock of products not produced by the operation subject to this classification may also be offered for sale. Typical cereal grain crops include the following:

Barley
Corn

Rye
Wheat

This classification excludes contractors hired by a farm operator to install, repair or build any farm equipment or structures who are to be reported separately in the classification applicable to the work being performed.

~~**Special notes:** See classification 4802-12 for additional information relative to corn. ((The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as weeding, planting, irrigating and fertilizing. Generally the work involves manual labor tasks as opposed to machine operations. These farm labor contractors are to be reported in the classification that applies to the farm they are contracting with. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm services" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to or the type of crop involved.))~~

4808-07 Potato sorting and storage

Applies to establishments engaged in storing potatoes in storage warehouses or cellars. Work contemplated by this classification is limited to sorting the good potatoes from damaged ones or from debris such as vines or rocks, piling them into the storage area by size, and storing them until they are taken to processing or packing plants. Sorting may be done either in the field or at a storage warehouse. This classification also includes potato digging and piling when performed by employees of an employer engaged in storing potatoes but who is not engaged in growing potatoes.

This classification excludes fresh vegetable packing operations which are to be reported separately in classification 2104; cannery or freezer operations which are to be reported separately in classification 3902; potato chip manufacturing which is to be reported separately in classification 3906; establishments engaged exclusively in the sale of fresh vegetables who are not involved in the cultivation of plants which are to be reported separately in classification 6403; and contractors hired by a farm operator to install, repair or build any farm equipment or structures who are to be reported separately in the classification applicable to the work being performed.

~~((**Special note:** The farm labor contractor provision is not applicable to this classification as such establishments are not engaged in a farming operation.))~~

4808-08 Custom hay baling

Applies exclusively to a specialist farm labor contractor engaged in mowing, turning, and baling hay owned by others. This classification also includes the incidental loading of hay onto trucks and stacking of hay in a barn or warehouse when performed by employees of a specialist farm labor contractor engaged in mowing, turning, and baling hay for others.

~~((**Special note:** The farm labor contractor provision is not applicable to this classification as such establishments are not engaged in a farming operation.))~~

4808-10 Farms: Shellfish - mechanical harvesting

Applies to establishments engaged in the propagation of shellfish for sale and includes the subsequent harvest of shell-

fish by means of mechanical dredging operations. Work contemplated by this classification includes spawning of shellfish, seeding in controlled tanks, placement of shellfish into deep water growing beds, harvesting, and processing. Harvesting, processing, and packing of shellfish by a farm labor contractor is included in this classification provided that the shellfish being harvested were grown by an establishment subject to this classification. This classification includes the sale of shellfish at roadside stands operated at or near the business location and store operations where a small stock of products not produced by the operation subject to this classification may also be offered for sale. Businesses operating multiple retail locations may qualify to have those activities reported separately if all the conditions of the general reporting rule covering the operation of a secondary business have been met.

This classification excludes establishments engaged in the harvesting, processing or packaging of shellfish obtained from natural areas where the husbandry of the resource is not an integral part of the operation which are to be reported separately in classification 3304 and contractors hired by a shellfish grower to install, repair or build any farm equipment or structures who are to be reported separately in the classification applicable to the work being performed.

Special note: The distinction between establishments assigned to classification 4808 and those which are to be reported separately in classification 4805 is in the harvesting process. Establishments subject to classification 4805 are engaged in hand harvesting activities which includes the use of hand held tools while those assigned to classification 4808 are engaged in mechanical harvesting activities by way of dredging operations. ~~((The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as seeding of larvae to mother shells and planting shells to natural waters. Generally the work involves manual labor tasks as opposed to machine operations. These farm labor contractors are to be reported in the classification that applies to the farm they are contracting with. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm services" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to.))~~

4808-11 Custom farm services by contractor

Applies exclusively to contractors engaged in supplying and operating agricultural machinery and equipment at their customer's locations. Work contemplated by this classification involves preparing fields for crops, planting and cultivating crops, fertilizing, and harvesting operations using machinery and equipment such as, but not limited to, tractors, plows, fertilizer spreaders, combines, reapers, potato diggers, boom loaders and pickers. Contractors subject to this classification are generally not responsible for the overall care of the crops, but are merely hired to provide specified services, which involve the use of machinery and employee equipment operators. This classification also includes seasonal agricultural produce hauling from the field to a processing or storage plant when performed by employees of an employer not engaged in the related farming operations associated with the crop being hauled.

Special note: This classification excludes work that, except for the use of machinery or equipment, would be classified in 4802-06 (Picking of forest products, NOC), 4804-09 (Egg grading, candling and packing), 4805-09 (Christmas tree sales from U-cut or retail sales lots), 4808-07 (Potato sorting and storage), 4808-08 (Custom hay baling) and 4812-00 (Farms: Fin fish and shell fish hatcheries), which should be reported in those classifications.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-64901 Classification 4809.

4809-01 Greenhouses, N.O.C.

Applies to establishments engaged in raising plants exclusively within greenhouses not covered by another classification (N.O.C.). Such establishments may specialize in growing only indoor, outdoor, or vegetable plants, while others will grow all types. The primary distinction between classification 4809 and other classifications where similar plants are grown is the exclusive use of greenhouses for the growing operations. Establishments subject to this classification will not have outdoor growing fields. All growing areas are confined to greenhouse operations. Work contemplated by this classification includes, but is not limited to, preparation of soils, planting seeds or cuttings into pots and trays, and watering and fertilizing plants. This classification includes related sales of plants and store operations.

This classification excludes contractors hired by a farm operator to install, repair or build any farm equipment or structures who are to be reported separately in the classification applicable to the work being performed.

~~((**Special note:** The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as weeding, planting, irrigating and fertilizing. Generally the work involves manual labor tasks as opposed to machine operations. These farm labor contractors are to be reported in the classification that applies to the farm they are contracting with. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm services" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to or the type of crop involved.))~~

4809-04 Farms: Mushrooms

Applies to establishments engaged in the raising and harvesting of mushrooms for sale. Work contemplated by this classification includes, but is not limited to, preparation and sterilization of compost material, seeding composted trays, monitoring humidity and temperature controlled growing rooms, moving trays from growing rooms, harvesting mushrooms, and grading and sorting mushrooms. This classification also includes fresh packing of mushrooms for sale to others.

This classification excludes all cannery or freezer operations which are to be reported separately in classification 3902 and contractors hired by a farm operator to install, repair or build any farm equipment or structures who are to

be reported separately in the classification applicable to the work being performed.

~~((**Special note:** The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as weeding, planting, irrigating and fertilizing. Generally the work involves manual labor tasks as opposed to machine operations. These farm labor contractors are to be reported in the classification that applies to the farm they are contracting with. Contractors who provide both equipment or machinery and the machine operators are to be reported separately in classification 4808 "custom farm services" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to or the type of crop involved.))~~

4809-05 Farms: Sprouts

Applies to establishments engaged in the raising and harvesting of bean and alfalfa sprouts using hydroponic growing methods. Hydroponics growing is a method whereby vegetable crops are raised in trays and tanks within a temperature controlled building in a water solution containing inorganic nutrients. Work contemplated by this classification includes, but is not limited to, preparation and cleaning of tanks and trays, preparation of water solutions, planting of seed into water solution, harvesting, and packaging of crops.

This classification excludes contractors hired by a farm operator to install, repair or build any farm equipment or structures who are to be reported separately in the classification applicable to the work being performed.

~~((**Special note:** The term "farm labor contractor" applies to specialty contractors that supply laborers to a farm operation for specified services such as weeding, planting, irrigating and fertilizing. Generally the work involves manual labor tasks as opposed to machine operations. These farm labor contractors are to be reported in the classification that applies to the farm they are contracting with. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm services" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to or the type of crop involved.))~~

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-64902 Classification 4810.

4810-00 Farms: Field vegetables and herbs, N.O.C. - hand harvesting

Applies to establishments engaged in raising vegetables and herbs *which are harvested by hand* for sale and which are not covered by another classification (N.O.C.). Harvesting by hand could include the use of a hand-held cutting tool. Work contemplated by this classification includes, but is not limited to, preparing soil for new plants, planting, fertilizing, weeding, pruning, hand harvest of vegetables, and maintaining or installing sprinkler or irrigation systems when performed by employees of an employer subject to this classification. This classification includes the incidental sale of fresh vegetables from roadside stands operated at or near the farm and farm store operations where a small stock of prod-

ucts not produced by the operation subject to this classification may also be offered for sale. Farms operating multiple retail locations, such as those found in parking lots of shopping centers or at farmer's markets, may qualify to have those activities reported separately provided all the conditions of the general reporting rules covering the operation of a secondary business are met. Typical crops include the following:

Asparagus	Carrots	Lettuce	Rutabagas
Beans, Green	Cauliflower	Onions, Green	Spinach
Beets, Table	Celery	Parsnips	Squash
Broccoli	Corn, Sweet	Peppers	Tomatoes
Brussels Sprouts	Cucumbers	Radishes	Turnips
Cabbage	Kale	Rhubarb	

This classification excludes fresh vegetable packing operations which are to be reported separately in classification 2104; cannery or freezer operations which are to be reported separately in classification 3902; and contractors hired by a farm operator to install, repair or build any farm equipment or structures who are to be reported separately in the classification applicable to the work being performed.

Special notes: This classification differs from classification 4802 "field vegetable crops" in that vegetable crops grown subject to classification 4802 are machine harvested or harvested using a combination of machine and hand labor while vegetable crops covered in classification 4810 are harvested exclusively by hand. See classification 4802-12 for additional information. ~~((The term "farm labor contractor" applies to specialty contractors that supply laborers to a farm operation for specified services such as weeding, planting, irrigating and fertilizing. Generally the work involves manual labor tasks as opposed to machine operations. These farm labor contractors are to be reported in the classification that applies to the farm they are contracting with. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm services" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to or the type of crop involved.))~~

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-64903 Classification 4811.

4811-00 Farms: Hops

Applies to establishments engaged in raising hops for sale. Work contemplated by this classification includes, but is not limited to, preparing soil for new plants, planting, fertilizing, weeding, installing poles and wires, maintaining or installing sprinkler or irrigation systems, harvesting hops, the initial drying and baling, and all other operations incidental to the activity described above when done by employees of an employer subject to this classification. Any further processing of hops after the initial drying and baling is excluded.

This classification excludes establishments engaged in the production of hop pellets which are to be reported separately in classification 2101; establishments engaged in the manufacture of a liquid hop extract which are to be reported

separately in classification 3701; and contractors hired by a farm operator to install, repair or build any farm equipment or structures who are to be reported separately in the classification applicable to the work being performed.

Special notes: Hops is one of several ingredients used to flavor beer. Extra care should be taken when dealing with hop farms and processing plants to verify the operation and applicable classification. The term "and all other operations incidental to the activity described above" refers only to maintenance type work like mending fences, fixing or servicing kiln dryers, and working on tractors and equipment. ~~((The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as weeding, planting, irrigating and fertilizing. Generally the work involves manual labor tasks as opposed to machine operations. These farm labor contractors are to be reported in the classification that applies to the farm they are contracting with. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm services" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to or the type of crop involved.))~~

4811-01 Farms: Mint

Applies to establishments engaged in raising mint for sale. Work contemplated by this classification includes, but is not limited to, preparing soil for new plants, planting, fertilizing, weeding, maintaining or installing sprinkler or irrigation systems, harvesting mint, and mint distillation when performed by employees of an employer subject to this classification.

This classification excludes establishments engaged exclusively in the distillation of mint leaves to obtain a mint extract or mint oil who are not engaged in the raising of mint crops, which are to be reported separately in classification 3701, and contractors hired by a farm operator to install, repair or build any farm equipment or structures who are to be reported separately in the classification applicable to the work being performed.

~~((**Special note:** The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as weeding, planting, irrigating and fertilizing. Generally the work involves manual labor tasks as opposed to machine operations. These farm labor contractors are to be reported in the classification that applies to the farm they are contracting with. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm services" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to or the type of crop involved.))~~

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-64905 Classification 4813.

4813-00 Vineyards

Applies to establishments engaged in the planting, cultivating, pruning, and harvesting of grapes. Work contem-

plated by this classification includes, but is not limited to, preparing soil for new plants, planting, fertilizing, weeding, pruning vines, installing posts and wire supports, tying vines, machine or hand harvest of grapes, and maintaining or installing sprinkler or irrigation systems when performed by employees of an employer subject to this classification. This classification includes roadside fruit stands operated at or near the farm and farm store operations where a small stock of products not produced by the operation subject to this classification may also be offered for sale. Farms operating multiple retail locations, such as those found in parking lots of shopping centers or at farmer's markets, may qualify to have those activities reported separately in classification 6403 provided all the conditions of the general reporting rules covering the operation of a secondary business are met.

This classification excludes fresh fruit packing operations which are to be reported separately in classification 2104; fruit cannery or freezer operations and jam or syrup manufacturing which are to be reported separately in classification 3902; winery operations which are to be reported separately in classification 3702; and contractors hired by a farm operator to install, repair or build any farm equipment or structures who are to be reported separately in the classification applicable to the work being performed.

~~((**Special note:** The term "farm labor contractor" applies to specialty contractors that supply laborers to a farm operation for specified services such as weeding, planting, irrigating and fertilizing. Generally the work involves manual labor tasks as opposed to machine operations. These farm labor contractors are to be reported in the classification that applies to the farm they are contracting with. Contractors that provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm services" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to or the type of crop involved.))~~

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-772 Classification 7301.

7301-00 Farms: Dairy

Applies to establishments engaged in the raising of dairy cattle for the purpose of milk production. Work contemplated by this classification is of a custodial nature that includes, but is not limited to, tending and feeding animals, raising crops for feed, erecting or mending fences, breeding animals, milking animals, transporting animals to or from market, and maintaining or installing sprinkler or irrigation systems when performed by employees of an employer subject to this classification. This classification also covers artificial insemination and veterinary care when performed by employees of an employer subject to this classification.

This classification excludes contractors engaged exclusively in the installation of sprinkler or irrigation systems who are to be reported separately in classification 0301 and contractors hired by a farm operator to build or repair fences or structures who are to be reported separately in the appropriate construction classification applicable to the work being performed.

~~((**Special note:** The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as cleaning stalls or barns, weeding or planting crops, irrigating and fertilizing. Generally the work involves manual labor tasks as opposed to machine operations. Farm labor contractors will be reported in the classification applicable to the farm with which they are contracting. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm services" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to or the type of crop involved.))~~

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-773 Classification 7302.

7302-00 Farms: Livestock Animal stud service

Applies to establishments engaged in the raising of cattle, pigs, and horses for sale to others. Work contemplated by this classification is of a custodial nature that includes, but is not limited to, tending and feeding animals, raising crops for feed, erecting or mending fences, breeding animals, transporting animals to or from market, and maintaining or installing sprinkler or irrigation systems when performed by employees of an employer subject to this classification. This classification also covers artificial insemination and veterinary care when performed by employees of an employer subject to this classification. This classification also applies to establishments that provide animal stud services for others.

This classification excludes contractors engaged exclusively in the installation of sprinkler or irrigation systems who are to be reported separately in classification 0301 and contractors hired by a farm operator to build or repair fences or structures who are to be reported separately in the appropriate construction classification applicable to the work being performed.

~~((**Special note:** The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as cleaning stalls, grooming or earing for animals, weeding or planting crops, irrigating and fertilizing. Generally the work involves manual labor tasks as opposed to machine operations. Farm labor contractors will be reported in the classification applicable to the farm with which they are contracting. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm services" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to or the type of crop involved.))~~

7302-02 Riding academies

Applies to establishments engaged as riding academies which offer services such as, but not limited to, instruction on riding horses or on the care of animals and the rental of horses. Work contemplated by this classification is of a custodial nature that includes, but is not limited to, tending and feeding animals, training animals, cleaning stalls and barn

areas, raising crops for feed, erecting or mending fences, breeding animals, and maintaining or installing sprinkler or irrigation systems when performed by employees of an employer subject to this classification. This classification also covers artificial insemination and veterinary care when performed by employees of an employer subject to this classification.

This classification excludes contractors engaged exclusively in the installation of sprinkler or irrigation systems who are to be reported separately in classification 0301 and contractors hired by a farm operator to build or repair fences or structures who are to be reported separately in the appropriate construction classification applicable to the work being performed.

~~((**Special note:** The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as cleaning stalls, grooming or earing for animals, weeding or planting crops, irrigating and fertilizing. Generally the work involves manual labor tasks as opposed to machine operations. Farm labor contractors will be reported in the classification applicable to the farm with which they are contracting. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm services" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to or the type of crop involved.))~~

7302-03 Boarding and/or training stables for pleasure or show horses

Applies to establishments that board and/or train pleasure or show horses for others. Work contemplated by this classification is of a custodial nature that includes, but is not limited to, tending and feeding animals, cleaning stalls and barn areas, training animals, raising crops for feed, erecting or mending fences, and maintaining or installing sprinkler or irrigation systems when performed by employees of an employer subject to this classification.

This classification excludes contractors engaged exclusively in the installation of sprinkler or irrigation systems who are to be reported separately in classification 0301 and contractors hired by a farm operator to build or repair fences or structures who are to be reported separately in the appropriate construction classification applicable to the work being performed.

~~((**Special note:** The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as cleaning stalls, grooming or earing for animals, weeding or planting crops, irrigating and fertilizing. Generally the work involves manual labor tasks as opposed to machine operations. Farm labor contractors will be reported in the classification applicable to the farm with which they are contracting. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm services" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to or the type of crop involved.))~~

7302-04 Centers or trainers for race horses - unlicensed by WHRC

Applies to establishments or individuals who train race horses for others, but who are not licensed as trainers or training centers by the Washington horse racing commission. Work contemplated by this classification is of a custodial nature that includes, but is not limited to, tending and feeding animals, cleaning stalls and barn areas, training animals, raising crops for feed, erecting or mending fences, and maintaining or installing sprinkler or irrigation systems when performed by employees of an employer subject to this classification.

This classification excludes individuals or centers that train nonrace horses which are to be reported separately in classification 7302-03; contractors engaged exclusively in the installation of sprinkler or irrigation systems who are to be reported separately in classification 0301; and contractors hired by a farm operator to build or repair fences or structures who are to be reported separately in the appropriate construction classification applicable to the work being performed.

~~((**Special note:** The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as cleaning stalls, grooming or caring for animals, weeding or planting crops, irrigating and fertilizing. Generally the work involves manual labor tasks as opposed to machine operations. Farm labor contractors will be reported in the classification applicable to the farm with which they are contracting. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm services" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to or the type of crop involved.))~~

7302-05 Parimutuel horse racing: Licensed employments, N.O.C.

Applies to employments licensed by the Washington horse racing commission who are not mandatorily covered under Washington workers' compensation insurance laws and are not covered by another classification. This classification is *only* for individuals such as, but not limited to, horse owners, trainers, farriers, and veterinarians, who hold specialty licenses issued by the commission. These individuals are generally owners of a business such as that of a farrier or training services. The business entity could be a proprietorship, partnership, joint venture, or corporation and may or may not have employees. The qualifying factor for this classification is that these individuals are licensed by the horse racing commission, are *not* mandatorily covered under Washington workers' compensation insurance laws, and are *not* included or covered by another classification. For example, a veterinarian who operates a veterinary clinic away from a race track and treats various animals such as dogs, cats, cows, and horses would report owner coverage (*if elected*) in classification 6107, not in classification 7302.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-777 Classification 7307.**7307-00 Farms: Christmas tree**

Applies to establishments engaged in operating Christmas tree farms. Work contemplated by this classification includes, but is not limited to, preparing soil for new trees, planting trees, fertilizing, spraying, fumigating, weeding, pruning, harvesting, baling, packing, delivering trees, and maintaining or installing sprinkler or irrigation systems when performed by employees of an employer subject to this classification. This classification also applies to wholesale Christmas tree operations. Retail tree sales conducted at a farm location, as in the case of a U-cut tree operation, or at a seasonal sales lot away from the farm *may* be reported separately provided the conditions in classification 4805-09 have been met.

This classification excludes contractors engaged exclusively in the installation of sprinkler or irrigation systems who are to be reported separately in classification 0301 and contractors hired by a farm operator to build or repair fences or structures who are to be reported separately in the appropriate construction classification applicable to the work being performed.

Special notes: Establishments assigned to classification 4805-09 should report hours in this classification *only* during the fourth quarter of each year since these sales are confined to the Christmas season. Special care should be exercised when assigning this classification as work covered by classification 5004 is similar in nature.

~~((The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as planting trees, pruning, or harvesting. Generally the work involves manual labor tasks as opposed to machine operations. Farm labor contractors will be reported in the classification applicable to the farm with which they are contracting. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm services" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to or the type of crop involved.))~~

7307-01 Tree farms, N.O.C.**(to be assigned only by classification services staff)**

Applies to establishments engaged in operating tree farms not covered by another classification, (N.O.C.) such as, but not limited to, cottonwood tree farms. Operations contemplated by this classification include, but are not limited to, preparing soil for new trees, planting trees, fertilizing, spraying, fumigating, weeding, pruning trees, and maintaining or installing sprinkler systems when performed by employees of an employer subject to this classification.

This classification excludes harvesting of trees which is to be reported separately in the appropriated logging classification based on the method of harvest; contractors engaged in the installation of sprinkler or irrigation systems who are to be reported separately in classification 0301; and contractors hired by a tree farm operator to build or repair fences or structures who are to be reported separately in the appropriate con-

struction classification applicable to the work being performed.

~~((**Special note:** The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as planting trees, pruning, or harvesting. Generally the work involves manual labor tasks as opposed to machine operations. Farm labor contractors will be reported in the classification applicable to the farm with which they are contracting. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm services" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to or the type of crop involved.))~~

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-778 Classification 7308.

7308-02 Animal shelters or services, dog pounds and humane societies

Applies to establishments engaged in operating animal shelters/services, dog pounds, or humane societies which care for lost or unwanted animals or animals that have been placed for adoption. The title "animal services" has replaced the title "animal shelter" or "dog pound" in most establishments. While the activities are the same under all of these titles, the main difference is the funding. Animal services are tax-base funded; humane societies are privately funded. Activities include, but are not limited to, feeding, cleaning, or grooming animals, veterinary care, euthanasia, catching or controlling animals, and investigating incidents such as animal bites and animal abuse. This classification also applies to dog obedience classes that are not in connection with kennels or pet breeding establishments.

This classification excludes pet grooming parlors which are to be reported separately in classification 7308-03; pet stores which are to be reported separately in classification 7308-04; and pet breeding/boarding kennels which are to be reported separately in classification 7308-05.

Special note: Effective July 1, 1996, clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

7308-03 Pet grooming parlors

Applies to establishments engaged in providing pet grooming services either at the groomer's or the customer's location. Services may be provided in a shop or at the customer's location with the use of a vehicle equipped with the necessary supplies. Although most of the animals groomed are dogs, parlors may also groom cats. Activities include, but are not limited to, bathing, dipping to control fleas, cutting, brushing, combing and drying hair, clipping nails, and the incidental sale of pet products such as collars, shampoos and pet clothing. Depending on the length of their stay, animals may also be fed, watered, and placed in kennels until their owners pick them up.

This classification excludes animal shelters, dog pounds, and humane societies which are to be reported separately in

classification 7308-02; pet stores, N.O.C. which are to be reported separately in classification 7308-04; and pet breeding/boarding kennels which are to be reported separately in classification 7308-05.

Special note: Effective July 1, 1996, clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

7308-04 Pet stores, N.O.C.

Applies to establishments engaged as pet stores not covered by another classification (N.O.C.). Stores in this classification sell *cats and dogs*. In addition to cats and dogs, they may also sell other animals such as birds, snakes, fish, reptiles or turtles, and related items such as, but not limited to, pet food, cages, travel carriers, pet toys, collars, shampoos, flea, tick and worm treatments, vaccination equipment, aquariums, and supplies aquariums. This classification also includes any incidental pet grooming performed by employees of employers subject to this classification.

This classification excludes stores which sell pets such as tropical fish, birds or reptiles, *but do not sell cats and dogs*, which are to be reported separately in classification 6406; pet grooming parlors which are to be reported separately in classification 7308-03; animal shelters, dog pounds and humane societies which are to be reported separately in classification 7308-02; pet breeding/boarding kennels which are to be reported separately in classification 7308-05 and stores which sell pet food only, but do not sell pets, which are to be reported separately in classification 6403.

Special note: Effective July 1, 1996, clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

7308-05 Pet breeding and boarding kennels

Applies to establishments primarily engaged in boarding pets while their owners are away from home, or in boarding pets for others in connection with a breeding service. Work contemplated by this classification is of a custodial nature that includes, but is not limited to, sheltering, tending, breeding, grooming and feeding animals, erecting or mending fences, erecting or maintaining kennels, cleaning kennels, and veterinary services and the incidental sale of animals, animal grooming or care supplies when performed by employees of an employer subject to this classification.

This classification excludes pet grooming parlors which are to be reported separately in classification 7308-03 and contractors hired by a farm operator to build or repair fences or structures who are to be reported separately in the applicable construction classification.

~~((**Special notes:** The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as feeding animals, grooming, and cleaning kennels. Generally the work involves manual labor tasks as opposed to machine operations. Farm labor contractors will be reported in the classification applicable to the farm or business with which they are contracting.))~~

Effective July 1, 1996, clerical office and outside sales employees may be reported separately provided all the condi-

tions of the general reporting rules covering standard exception employees have been met.

AMENDATORY SECTION (Amending WSR 03-23-025, filed 11/12/03, effective 1/1/04)

WAC 296-17-680 Classification 6103.

6103-01 Schools: Academic, K-12 - clerical office, sales personnel, teachers, N.O.C. and administrative employees

Applies to clerical office, sales personnel and administrative employees such as principals, assistant principals, receptionists, secretaries, counselors, school nurses, payroll and bookkeeping personnel, and teachers or teachers' aides of establishments engaged in operating public or private academic school facilities, K-12 (kindergarten level through grade 12).

This classification excludes all other types of employees in connection with the school facilities such as, but not limited to, cooks, bus drivers, custodians, maintenance personnel and grounds keepers, and teachers or teachers' aides who are exposed to machinery hazards such as a wood shop, metal shop, print shop, auto shop, and driver training instructors who are to be reported separately in classification 6104.

6103-02 Schools: Trade or vocational - clerical office, sales personnel, teachers, N.O.C. and administrative employees

Applies to clerical office, sales personnel and administrative employees such as deans, directors, assistant directors, receptionists, secretaries, counselors, payroll and bookkeeping personnel, and professors or instructors of establishments engaged in operating trade or vocational school facilities. These types of schools provide specialized training and instruction to prepare students for occupations in the chosen fields. Often these facilities will coordinate on-the-job training with employers as well as assist students in finding employment.

This classification excludes all other types of employees in connection with the school facilities such as, but not limited to, cooks, drivers, custodians, maintenance personnel and grounds keepers, and professors or instructors who are exposed to machinery hazards such as a wood shop, metal shop, print shop and auto shop who are to be reported separately in classification 6104.

6103-03 Libraries, N.O.C. - clerical office, sales personnel, teachers, N.O.C. and administrative employees

Applies to clerical office, sales personnel and administrative employees such as librarians, assistant librarians, receptionists, secretaries, and payroll and bookkeeping personnel of establishments engaged in operating library facilities not covered by another classification (N.O.C.). These types of facilities maintain a wide selection of reading materials such as books, journals, articles, magazines, publications, newspapers, and audio-visual or micrographic materials.

This classification excludes all other types of employees such as, but not limited to, custodians, maintenance personnel and grounds keepers, drivers, and storage room workers who are to be reported separately in classification 6104.

**6103-04 Churches - clerical office, sales personnel, teachers, N.O.C. and administrative employees
Bell ringers**

Applies to clerical office, sales personnel and administrative employees such as pastors, priests, reverends, clergymen, ushers, receptionists, secretaries, counselors, payroll and bookkeeping personnel, and instructors of establishments engaged in operating church facilities for members of a religious congregation to meet and worship on a daily or weekly basis. Other services provided include, but are not limited to, sermons, rites, counseling, baptisms, weddings, funerals, bible school, and child care during church services and events. When a church is also operating a school facility, the church classifications are to be assigned for both operations. This classification also applies to bell ringers for charitable organizations.

This classification excludes all other types of employees in connection with the church facilities such as, but not limited to, custodians, maintenance personnel and grounds keepers, and drivers who are to be reported separately in classification 6104.

6103-05 Museums, N.O.C. - clerical office, sales personnel, teachers, N.O.C. and administrative employees

Applies to clerical office, sales personnel and administrative employees such as directors, assistant directors, buyers, coordinators, tour guides, receptionists, secretaries, and payroll and bookkeeping personnel of establishments engaged in operating museum facilities not covered by another classification (N.O.C.). Museums maintain a wide variety of artifacts, art, statues, sculptures, and other exhibit works.

This classification excludes all other types of employees such as, but not limited to, custodians, maintenance personnel and grounds keepers (including exhibit set-up), drivers, packers, and warehousemen who are to be reported separately in classification 6104.

6103-06 Day nurseries or child day care centers - clerical office, sales personnel, teachers, N.O.C. and administrative employees

Applies to clerical office, sales personnel, and administrative employees such as teachers, teachers' aides and nurses of establishments engaged in operating day nurseries or day care centers for infants, toddlers, and children, or in providing baby-sitting services. Employees will instruct children in activities designed to promote social, physical, and intellectual growth in preparation for primary school. Most day care centers provide breakfast and lunch.

This classification excludes all other types of employees such as, but not limited to, custodians, cooks, maintenance personnel and grounds keepers, and drivers who are to be reported separately in classification 6104.

6103-10 Flight instructors - clerical office, sales personnel, classroom teachers, N.O.C. and administrative employees

Applies to clerical office, sales personnel, classroom instructors, and administrative employees of establishments engaged in providing classroom instruction to student pilots in flight procedures and techniques. Flight instructors explain various aircraft components and instruments for controlling

aircraft during maneuvers, and, using flight simulators, demonstrate procedures such as, but not limited to, take-offs and landings.

This classification excludes all other types of employees such as, but not limited to, custodians, maintenance personnel and grounds keepers and drivers who are to be reported separately in classification 6104 and in-air flight instructors outside the classroom who are to be reported separately in the classification 6803.

Special note: Reporting rules are outlined in the division of worker hours provision in the general rules.

6103-11 Schools: N.O.C. - clerical office, sales personnel, classroom teachers, N.O.C. and administrative employees

Applies to classroom instructors, clerical office, sales personnel and administrative employees such as directors and assistant directors, coordinators, instructors, receptionists, secretaries, counselors, payroll and bookkeeping personnel of establishments engaged in providing specialized classroom instruction to students in schools which are not covered by another classification (N.O.C.). Schools include, but are not limited to, dance, modeling, music, driving, cooking, first aid, and schools for coaches. Modeling and dance schools emphasize poise, balance, facial gestures, self-confidence, and counseling in wardrobe and make-up. Music schools emphasize the disciplines of playing various instruments. Driving schools concentrate on the rules, principles, and coordination needed to drive safely, using textbooks, audio-visuals, and driving simulators.

This classification excludes all other types of employees in connection with the specialized school facilities such as, but not limited to, custodians, maintenance personnel ~~((and))~~, grounds keepers, and ballet dancers and instructors who perform activities not as part of a classroom environment who are to be reported separately in classification 6104 and driving instructors outside of the classroom who are to be reported separately in classification 6301.

6103-12 Officials for amateur athletic or cultural events, N.O.C. - clerical office, teachers, N.O.C. and administrative employees

Applies to clerical office employees, administrative employees, and event officials of establishments engaged in providing officials such as, but not limited to, umpires or referees for amateur athletic or cultural events sponsored by schools or communities. Events include, but are not limited to, sports, spelling bees, debates, and musical competitions.

AMENDATORY SECTION (Amending WSR 03-23-025, filed 11/12/03, effective 1/1/04)

WAC 296-17-681 Classification 6104.

6104-01 Schools: Academic, K-12 - all other employments, N.O.C.

Applies to all other employees of public or private academic schools K-12 (kindergarten level through grade 12). All other in this classification is defined as employees such as, but not limited to, cooks, bus drivers, custodians, maintenance personnel and grounds keepers, and teachers or teachers aides who are exposed to machinery hazards such as

wood shop, metal shop, print shop, auto shop, and driver instructors.

This classification excludes clerical office, sales personnel and administrative employees such as principals, assistant principals, receptionists, secretaries, counselors, payroll and bookkeeping personnel, and teachers or teachers' aides who have no exposure to machinery hazards who are to be reported separately in classification 6103.

6104-02 Schools: Trade or vocational - all other employments, N.O.C.

Applies to all other employees of trade or vocational schools. All other in this classification is defined as employees such as, but not limited to, cooks, drivers, driving instructors, custodians, maintenance personnel and grounds keepers, and teachers and teachers aides who are exposed to machinery hazards such as, but not limited to, those in wood shop, metal shop, automotive shops, and plumbing or electrical work. Vocational or trade schools provide specialized training and instruction to prepare students for occupations in their chosen field. Often these facilities will coordinate on-the-job training and assist students in finding employment.

This classification excludes clerical office, sales personnel and administrative employees such as deans, directors, assistant directors, receptionists, secretaries, counselors, payroll and bookkeeping personnel and teachers or teachers' aides who have no exposure to machinery hazards who are to be reported separately in classification 6103.

6104-03 Libraries, N.O.C. - all other employments, N.O.C.

Applies to all other employees of library facilities which are not covered by another classification (N.O.C.). All other in this classification is defined as employees such as, but not limited to, custodians, maintenance personnel and grounds keepers, drivers, and storage room workers. Libraries maintain a wide selection of reading materials such as books, journals, articles, magazines, publications, newspapers, and audio-visual or micrographic materials.

This classification excludes clerical office, sales personnel and administrative employees such as librarians, assistant librarians, receptionists, secretaries, and payroll and bookkeeping personnel who are to be reported separately in classification 6103.

6104-04 Churches - all other employments, N.O.C.

Applies to all other employees of churches. All other in this classification is defined as employees such as, but not limited to, custodians, maintenance personnel, grounds keepers, and drivers. Services offered by a church include, but are not limited to, providing a place for members of a religious congregation to meet and worship on a daily or weekly basis, sermons, rites, counseling, baptisms, weddings, funerals, bible school, child care during church services and events.

This classification excludes clerical office, sales personnel and administrative employees such as pastors, priests, reverends, clergymen, ushers, receptionists, secretaries, counselors, payroll and bookkeeping personnel, and instructors who are to be reported separately in classification 6103.

6104-05 Museums, N.O.C - all other employments, N.O.C.

Applies to all other employees of establishments engaged in operating museum facilities not covered by another classification (N.O.C.). All other in this classification is defined as employees such as, but not limited to, custodians, maintenance personnel and grounds keepers (including exhibit set-up), drivers, packagers, and warehousemen. Museums maintain a wide selection of artifacts, art, statues, sculptures, and other exhibit works.

This classification excludes clerical office, sales personnel and administrative employees such as museum directors, assistant museum directors, buyers, coordinators, tour guides, receptionists, secretaries, and payroll and bookkeeping personnel who are to be reported separately in classification 6103.

6104-06 Day nurseries or child day care centers - all other employments, N.O.C.

Applies to all other employees of establishments engaged in operating day nurseries or day care centers for infants, toddlers, and children, which provide activities to promote social, physical, and intellectual growth in preparation for primary school. All other in this classification is defined as employees such as, but not limited to, custodians, cooks, maintenance personnel and grounds keepers, and drivers.

This classification excludes clerical office, sales personnel and administrative employees such as principals, receptionists, secretaries, counselors, payroll and bookkeeping personnel, and teachers or teachers' aides who are to be reported separately in classification 6103.

6104-11 Schools: N.O.C - all other employments, N.O.C.

Applies to all other employees of establishments engaged in providing specialized classroom instruction to students in schools which are not covered by another classification (N.O.C.) such as, but not limited to, dance, modeling, music, cooking, first aid, and schools for coaches. All other in this classification is defined as employees such as, but not limited to, custodians, maintenance personnel and grounds keepers, and instructors or teachers or ballet dancers who perform activities not as part of a classroom environment or who are exposed to machinery hazards.

This classification excludes administrative employees such as directors and assistant directors, coordinators, receptionists, secretaries, counselors, payroll and bookkeeping personnel, and classroom instructors, who are to be reported separately in classification 6103 and driving instructors outside of the classroom who are to be reported separately in classification 6301.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-73111 Classification 6620.**6620-00 Entertainers, N.O.C.**

Applies to establishments or individuals providing entertainment of a strenuous nature for a fee, donation or free of charge. For classification purposes, strenuous entertainment

includes activities such as, but not limited to, (~~ballet~~) dancing, skating, gymnastics, or performing stunts.

This classification excludes actors, players, performers, entertainers, or musicians whose routines or performances are not of a physical or strenuous nature who are to be reported separately in classification 6605.

Special note: Classifications 6620 and 6605 may be assigned to a single establishment provided the establishment maintains accurate records which distinguishes entertainers whose routines are of a physical and strenuous nature, from the routines which are not physical or strenuous. Care should be exercised when assigning this classification as the entertainers may be exempt from coverage as specified in RCW 51.12.020(9).

AMENDATORY SECTION (Amending WSR 04-18-025, filed 8/24/04, effective 10/1/04)

WAC 296-17-31014 Farming and agriculture. (1) Does this same classification approach apply to farming or agricultural operations?

~~((Yes, but it may not appear so without further explanation. We classify farming and agricultural operations by type of crop or livestock raised. This is done because each type of grower will use different processes and grow or raise multiple crops and livestock which have different levels of hazards. It is common for farmers and ranchers to have several basic classifications assigned to their account covering various types of crops or livestock. If you fail to keep the records required in the auditing recordkeeping section of this manual, and we discover this, we will assign all worker hours for which records were not maintained to the highest rated))~~ The department classifies agricultural and farming work according to the crop or type of animal involved. If you have more than one crop or type of animal, you will be assigned risk classifications for each crop or type of animal, and will be required to keep records of how much work was done on each crop or type of animal. If you do not keep such records, we will assign all worker hours to the most expensive classification applicable to the work performed.

~~(2) ((I am involved in diversified farming and have several basic classifications assigned to my business.))~~ **Even if I have several crops or types of animals, can I have one classification assigned to my account to cover all the different types of farming I am involved in?**

Yes, your account manager can ~~((assist you in determining the))~~ determine a single classification that will apply to your business. You can find the name and phone number of your account manager ~~((can be found))~~ on your quarterly premium report or your annual rate notice. ~~((For your convenience))~~ Or you can call us at 360-902-4817 and we will put you in contact with your assigned account manager.

(3) How do you determine ~~((what))~~ a single farming classification ~~((will))~~ to be assigned to my business?

~~((The approach used to assign a single classification to a farming business is much the same as we use for construction or erection contractors. To do this, we will need a break down of exposure-))~~ You supply us with an estimate of hours to be worked by your ~~((employees))~~ workers by type of crop or ~~((livestock))~~ animals being cared for ~~((classification))~~. We

use this information ((will be used)) to estimate the premium which would be paid using multiple classifications. We then divide the total premium ((is then divided)) by the total estimated hours to produce an average rate per hour. We will select the classification assigned to your business which carries the hourly premium rate which is the closest to the average rate that we produced from the estimated hours. However, we will not assign Classification 4806 ((is not to be assigned)) to any grower as the single farming classification.

(4) How will I know what single farming classification you have assigned to my business?

We will send you a written notice of the basic classification that will apply to your business.

(5) If I requested a single classification for my farming operation can I change my mind and use multiple classifications?

Yes, but you will need to call your account manager to verify the applicable classifications.

The name and phone number of your account manager can be found on your quarterly premium report or your annual rate notice. For your convenience you can call us at 360-902-4817 and we will put you in contact with your assigned account manager.

(6) I am a farm labor contractor. How ((is)) do you classify my business ((classified))?

If you are a farm labor contractor we will assign the basic classifications that ((applies)) apply to the type of crop being grown, or ((livestock)) animals being cared for. However, except for work in the following classes, if you contract to supply both machine operators and machinery on a project, ((all operations are to be assigned)) we will assign all work on the project to classification ((4808)) 4808-11:

- 4802-06 (Picking of forest products, NOC).
- 4804-09 (Egg grading, candling and packing).
- 4805-09 (Christmas tree sales from U-cut or retail sales lots).
- 4812-00 (Farms: Fin fish and shell fish hatcheries).
- 4808-07 (Potato sorting and storage).
- 4808-08 (Custom hay baling).

AMENDATORY SECTION (Amending WSR 03-23-025, filed 11/12/03, effective 1/1/04)

WAC 296-17-31021 Units of exposure. (1) What is a "unit of exposure?"

A unit of exposure is the measure which is used to help determine the premium you will pay. For most businesses the unit of exposure is the *hours* worked by their employees. Because not all employees are compensated based on the hours they work, we have developed reporting alternatives to make reporting to us easier. Those alternatives are outlined in subsection (2) of this section. In other cases, the department *may* authorize some other method in assuming workers hours for premium calculation purposes.

(2) What are the alternatives to actual hours worked?

The exceptions are:

- **Apartment house managers, caretakers, domestic home care or similar employees:** To determine the number of hours you need to report to us, divide an employee's total compensation, including housing and

utility allowances, by the average hourly wage for the classification. The total number of work hours to be reported for each employee is not to exceed 520 hours per quarter. You will need to call us at (360) 902-4817 to obtain average hourly wage information.

- **Baseball, basketball, and soccer teams as defined in WAC 296-17-745 - including players, coaches, trainers, and officials:** Report each individual at 40 hours per week for each week in which they have duties.
- **Commission employees - outside (such as, but not limited to, real estate and insurance sales):** You must select one of the following methods to report your commission employees - outside:
 - Actual hours worked; or
 - Assumed hours of eight hours per day for part-time employees or one hundred-sixty hours per month for full-time employees.
- All outside commission employees of an employer must be reported by the same method. You cannot report some outside commission employees based on the actual hours they work and others using the eight hours per day for part-time employees or one hundred-sixty hours per month for full-time employees method.
- **Drywall - stocking, installation, scrapping, taping, and texturing:** Premiums are based on material installed/finished rather than the hours it took to install/finish the drywall.
- **Horse racing - excluding jockeys:** Employers in the horse racing industry pay premiums based on a type of license their employees hold rather than the hours the employees work. Premiums are collected by the Washington horse racing commission at the time of licensing.
- **Jockeys:** Report ten hours for each race/mount or for any day in which duties are reported.
- **Pilots and flight crew members.** Pilots and flight crew members having flight duties during a work shift including preflight time shall have premium calculated by utilizing daily readings logged per federal requirements of the aircraft tachometer time: Provided, That if the total tachometer time for any day includes a fraction of an hour, the reportable time will be increased to the next full hour: Provided further, That pilots and flight crew members who assume nonflying duties during a work shift will have premium calculated in accordance with the appropriate rules and classifications applicable to nonflight duties.
- **Race car drivers:** Report ten hours for each race/heat.
- **Salaried employees:** You must select one of the following methods to report your salaried employees:
 - Actual hours worked; or
 - Assumed hours of one hundred-sixty hours per month.

All salaried employees of an employer must be reported by the same method. You cannot report some salaried employees based on the actual hours they work and others using the one hundred sixty hours per month method. Provided further, as in the case of contract personnel employed by schools and/or school districts, the school or school district shall report actual hours worked for each employee, one

hundred sixty hours per month for each employee, or the department *may* authorize some other method in assuming workers hours for premium calculation purposes.

(3) Can I use assumed work hours for piece workers?

No, if you employ piece workers you must report the actual hours these individuals work for you unless another unit of exposure is required.

Example: If you have employees engaged in drywall work you would report and pay premiums on the basis of the square footage of the material they installed not the hours they worked.

AMENDATORY SECTION (Amending WSR 03-23-025, filed 11/12/03, effective 1/1/04)

WAC 296-17-35203 Special reporting instruction. (1) Professional and semiprofessional athletic teams. Athletes assigned to a Washington-domiciled sports team are mandatorily covered by Washington industrial insurance: Provided, That a professional athlete who is under contract with a parent team domiciled outside of the state of Washington while assigned to a team domiciled within Washington is subject to mandatory coverage by Washington industrial insurance unless the player and employer (parent team) have agreed in writing as to which state shall provide coverage in accordance with RCW 51.12.120(5).

The following rules shall apply to the written agreement:

(a) Agreement must be in writing and signed by the employer and the individual athlete.

(b) Agreement must specify the state that is to provide coverage. The state agreed upon to provide coverage must be a state in which the player's team, during the course of the season, will engage in an athletic event. For example, if the Washington-based team is a part of a league with teams in only Washington, Oregon, and Idaho, the player and the employer can agree to any of those three states to provide coverage. However, they could not agree to have California provide the coverage as this would not qualify as a state in which the player regularly performs assigned duties.

(c) The state agreed upon accepts responsibility for providing coverage and acknowledges such to the department by certified mail.

(d) Agreement and certification by the other state must be received by this department's underwriting section prior to any injury incurred by the athlete.

(e) Agreement will be for one season only commencing with the assigning of the player to a particular team. A separate agreement and certification must be on file for each additional season.

Failure to meet all of these requirements will result in the athlete being considered a Washington worker for premium and benefit purposes until such time as all requirements have been met.

Professional sports teams who are domiciled outside the state of Washington and who participate in sporting events with Washington-domiciled teams are not subject to Washington industrial insurance for their team members while in this state. These out-of-state teams are not considered employers subject to Title 51 on the basis that they are not conducting a business within this state.

(2) **Excluded employments.** Any employer having any person in their employ excluded from industrial insurance whose application for coverage under the elective adoption provisions of RCW 51.12.110 or authority of RCW 51.12.-095 or 51.32.030 has been accepted by the director shall report and pay premium on the actual hours worked for each such person who is paid on an hourly, salaried-part time, percentage of profit or piece basis; or one hundred sixty hours per month for any such person paid on a salary basis employed full time. In the event records disclosing actual hours worked are not maintained by the employer for any person paid on an hourly, salaried-part time, percentage of profits or piece basis the worker hours of such person shall be determined by dividing the gross wages of such person by the state minimum wage for the purpose of premium calculation. However, when applying the state minimum wage the maximum number of hours assessed for a month will be one hundred sixty.

(3) **Special trucking industry rules.** The following subsection shall apply to all trucking industry employers as applicable.

(a) **Insurance liability.** Every trucking industry employer operating as an intrastate carrier or a combined intrastate and interstate carrier must insure their workers' compensation insurance liability through the Washington state fund or be self-insured with the state of Washington.

Washington employers operating exclusively in interstate or foreign commerce or any combination of interstate and foreign commerce must insure their workers' compensation insurance liability for their Washington employees with the Washington state fund, be self-insured with the state of Washington, or provide workers' compensation insurance for their Washington employees under the laws of another state when such other state law provides for such coverage.

Interstate or foreign commerce trucking employers who insure their workers' compensation insurance liability under the laws of another state must provide the department with copies of their current policy and applicable endorsements upon request.

Employers who elect to insure their workers' compensation insurance liability under the laws of another state and who fail to provide updated policy information when requested to do so will be declared an unregistered employer and subject to all the penalties contained in Title 51 RCW.

(b) **Reporting.** Trucking industry employers insuring their workers' compensation insurance liability with the Washington state fund shall keep and preserve all original time records/books including supporting information from drivers' logs for a period of three calendar years plus three months.

Employers are to report actual hours worked, including time spent loading and unloading trucks, for each driver in their employ. For purposes of this section, actual hours worked does not include time spent during lunch or rest periods or overnight lodging.

Failure of employers to keep accurate records of actual hours worked by their employees will result in the department estimating work hours by dividing gross payroll wages by the state minimum wage for each worker for whom records were not kept. However, in no case will the estimated

or actual hours to be reported exceed five hundred twenty hours per calendar quarter for each worker.

(c) Exclusions. Trucking industry employers meeting all of the following conditions are exempted from mandatory coverage.

(i) Must be engaged exclusively in interstate or foreign commerce.

(ii) Must have elected to cover their Washington workers on a voluntary basis under the Washington state fund and must have elected such coverage in writing on forms provided by the department.

(iii) After having elected coverage, withdrew such coverage in writing to the department on or before January 2, 1987.

If all the conditions set forth in (i), (ii), and (iii) of this subsection have not been met, employers must insure their workers' compensation insurance liability with the Washington state fund or under the laws of another state.

(d) Definitions. For purposes of interpretation of RCW 51.12.095(1) and administration of this section, the following terms shall have the meanings given below:

(i) "Agents" means individuals hired to perform services for the interstate or foreign commerce carrier that are intended to be carried out by the individual and not contracted out to others but does not include owner operators as defined in RCW 51.12.095(1).

(ii) "Contacts" means locations at which freight, merchandise, or goods are picked up or dropped off within the boundaries of this state.

(iii) "Doing business" means having any terminals, agents or contacts within the boundaries of this state.

(iv) "Employees" means the same as the term "worker" as contained in RCW 51.08.180.

(v) "Terminals" means a physical location wherein the business activities (operations) of the trucking company are conducted on a routine basis. Terminals will generally include loading or shipping docks, warehouse space, dispatch offices and may also include administrative offices.

(vi) "Washington" shall be used to limit the scope of the term "employees." When used with the term "employees" it will require the following test for benefit purposes (all conditions must be met).

- The individual must be hired in Washington or must have been transferred to Washington; and
- The individual must perform some work in Washington (i.e., driving, loading, or unloading trucks).

(4) **Forest, range, or timber land services—Industry rule.** Washington law (RCW 51.48.030) requires every employer to make, keep, and preserve records which are adequate to facilitate the determination of premiums (taxes) due to the state for workers' compensation insurance coverage for their covered workers. In the administration of Title 51 RCW, and as it pertains to the forest, range, or timber land services industry, the department of labor and industries has deemed the records and information required in the various subsections of this section to be essential in the determination of premiums (taxes) due to the state fund. The records so specified and required, shall be provided at the time of audit to any representative of the department who has requested them.

Failure to produce these required records within thirty days of the request, or within an agreed upon time period, shall constitute noncompliance of this rule and RCW 51.48.030 and 51.48.040. Employers whose premium computations are made by the department in accordance with (d) of this subsection are barred from questioning, in an appeal before the board of industrial insurance appeals or the courts, the correctness of any assessment by the department on any period for which such records have not been kept, preserved, or produced for inspection as provided by law.

(a) General definitions. For purpose of interpretation of this section, the following terms shall have the meanings given below:

(i) "Actual hours worked" means each workers' composite work period beginning with the starting time of day that the employees' work day commenced, and includes the entire work period, excluding any nonpaid lunch period, and ending with the quitting time each day work was performed by the employee.

(ii) "Work day" shall mean any consecutive twenty-four-hour period.

(b) Employment records. Every employer shall with respect to each worker, make, keep, and preserve original records containing all of the following information for three full calendar years following the calendar year in which the employment occurred:

- (i) The name of each worker;
- (ii) The Social Security number of each worker;
- (iii) The beginning date of employment for each worker and, if applicable, the separation date of employment for each such worker;
- (iv) The basis upon which wages are paid to each worker;
- (v) The number of units earned or produced for each worker paid on a piece-work basis;
- (vi) The risk classification(s) applicable to each worker;
- (vii) The number of actual hours worked by each worker, unless another basis of computing hours worked is prescribed in WAC 296-17-31021. For purposes of chapter 296-17 WAC, this record must clearly show, by work day, the time of day the employee commenced work, and the time of day work ended;

(viii) A summary time record for each worker showing the calendar day or days of the week work was performed and the actual number of hours worked each work day;

(ix) In the event a single worker's time is divided between two or more risk classifications, the summary contained in (b)(viii) of this subsection shall be further broken down to show the actual hours worked in each risk classification for the worker;

- (x) The workers' total gross pay period earnings;
- (xi) The specific sums withheld from the earnings of each worker, and the purpose of each sum withheld;
- (xii) The net pay earned by each such worker.

(c) Business, financial records, and record retention. Every employer is required to keep and preserve all original time records completed by their employees for a three-year period. The three-year period is specified in WAC 296-17-352 as the composite period from the date any such premium became due.

Employers who pay their workers by check are required to keep and preserve a record of all check registers and cancelled checks; and employers who pay their workers by cash are required to keep and preserve records of these cash transactions which provide a detailed record of wages paid to each worker.

(d) Recordkeeping - estimated premium computation. Any employer required by this section to make, keep, and preserve records containing the information as specified in (b) and (c) of this subsection, who fails to make, keep, and preserve such records, shall have premiums calculated as follows:

(i) Estimated worker hours shall be computed by dividing the gross wages of each worker for whom records were not maintained and preserved, by the state's minimum wage, in effect at the time the wages were paid or would have been paid. However, the maximum number of hours to be assessed under this provision will not exceed five hundred twenty hours for each worker, per quarter for the first audited period. Estimated worker hours computed on all subsequent audits of the same employer that disclose a continued failure to make, keep, or preserve the required payroll and employment records shall be subject to a maximum of seven hundred eighty hours for each worker, per quarter.

(ii) In the event an employer also has failed to make, keep, and preserve the records containing payroll information and wages paid to each worker, estimated average wages for each worker for whom a payroll and wage record was not maintained will be determined as follows: The employer's total gross income for the audit period (earned, received, or anticipated) shall be reduced by thirty-five percent to arrive at "total estimated wages." Total estimated wages will then be divided by the number of employees for whom a record of actual hours worked was not made, kept, or preserved to arrive at an "estimated average wage" per worker. Estimated hours for each worker will then be computed by dividing the estimated average wage by the state's minimum wage in effect at the time the wages were paid or would have been paid as described in (d)(i) of this subsection.

(e) Reporting requirements and premium payments.

(i) Every employer who is awarded a forest, range, or timber land services contract must report the contract to the department promptly when it is awarded, and prior to any work being commenced, except as provided in (e)(iii) of this subsection. Employers reporting under the provisions of (e)(iii) of this subsection shall submit the informational report with their quarterly report of premium. The report shall include the following information:

(I) The employers' unified business identification account number (UBI).

(II) Identification of the landowner, firm, or primary contractor who awarded the contract, including the name, address, and phone number of a contact person.

(III) The total contract award.

(IV) Description of the forest, range, or timber land services work to be performed under terms of the contract.

(V) Physical location/site where the work will be performed including legal description.

(VI) Number of acres covered by the contract.

(VII) Dates during which the work will be performed.

(VIII) Estimated payroll and hours to be worked by employees in performance of the contract.

(ii) Upon completion of every contract issued by a landowner or firm that exceeds a total of ten thousand dollars, the contractor primarily responsible for the overall project shall submit in addition to the required informational report described in (e)(i) of this subsection, report the payroll and hours worked under the contract, and payment for required industrial insurance premiums. In the event that the contracted work is not completed within a calendar quarter, interim quarterly reports and premium payments are required for each contract for all work done during the calendar quarter. The first such report and payment is due at the end of the first calendar quarter in which the contract work is begun. Additional interim reports and payments will be submitted each quarter thereafter until the contract is completed. This will be consistent with the quarterly reporting cycle used by other employers. Premiums for a calendar quarter, whether reported or not, shall become due and delinquent on the day immediately following the last day of the month following the calendar quarter.

(iii) A contractor may group contracts issued by a landowner, firm, or other contractor that total less than ten thousand dollars together and submit a combined quarterly report of hours, payroll, and the required premium payment in the same manner and periods as nonforestation, range, or timber land services employers.

(f) Out-of-state employers. Forest, range, or timber land services contractors domiciled outside of Washington state must report on a contract basis regardless of contract size for all forest, range, or timber land services work done in Washington state. Out-of-state employers will not be permitted to have an active Washington state industrial insurance account for reporting forest, range, or timber land services work in the absence of an active Washington forest, range, or timber land services contract.

(g) Work done by subcontract. Any firm primarily responsible for work to be performed under the terms of a forest, range, or timber land services contract, that subcontracts out any work under a forest, range, or timber land services contract must send written notification to the department prior to any work being done by the subcontractor. This notification must include the name, address, Social Security number, farm labor contractor number, (UBI) of each subcontractor, and the amount and description of contract work to be done by subcontract.

(h) Forest, range, or timber land services contract release - verification of hours, payroll, and premium. The department may verify reporting of contractors by way of an on-site visit to an employers' work site. This on-site visit may include close monitoring of employees and employee work hours. Upon receipt of a premium report for a finished contract, the department may conduct an audit of the firm's payroll, employment, and financial records to validate reporting. ~~((The department will notify the contractor, and))~~ The entity that awarded the contract ~~((-of))~~ can verify the status of the contractors' account ~~((immediately after verification))~~ online at the department's web site (www.lni.wa.gov) or by calling the account manager. The landowner, firm, or contractor ~~((s' premium liability))~~ will not be released from premium liability.

ity until the final report for the contract from the primary contractor and any subcontractors has been received and verified by the department.

(i) Premium liability - work done by contract. Washington law (RCW 51.12.070) places the responsibility for industrial insurance premium payments primarily and directly upon the person, firm, or corporation who lets a contract for all covered employment involved in the fulfillment of the contract terms. Any such person, firm, or corporation letting a contract is authorized to collect from the contractor the full amount payable in premiums. The contractor is in turn authorized to collect premiums from any subcontractor they may employ his or her proportionate amount of the premium payment.

To eliminate premium liability for work done by contract permitted by Title 51 RCW, any person, firm, or corporation who lets a contract for forest, range, or timber land services work must submit a copy of the contract they have let to the department and verify that all premiums due under the contract have been paid.

Each contract submitted to the department must include within its body, or on a separate addendum, all of the following items:

- (I) The name of the contractor who has been engaged to perform the work;
 - (II) The contractor's UBI number;
 - (III) The contractor's farm labor contractor number;
 - (IV) The total contract award;
 - (V) The date the work is to be commenced; a description of the work to be performed including any pertinent acreage information;
 - (VI) Location where the work is to be performed;
 - (VII) A contact name and phone number of the person, firm, or corporation who let the contract;
 - (VIII) The total estimated wages to be paid by the contractor and any subcontractors;
 - (IX) The amount to be subcontracted out if such subcontracting is permitted under the terms of the contract;
 - (X) The total estimated number of worker hours anticipated by the contractor and his/her subcontractors in the fulfillment of the contract terms;
- (j) Reports to be mailed to the department. All contracts, reports, and information required by this section are to be sent to:

The Department of Labor and Industries
Reforestation Team 8
P.O. Box 44168
Tumwater, Washington 98504-4168

(k) Rule applicability. If any portion of this section is declared invalid, only that portion is repealed. The balance of the section shall remain in effect.

(5) Logging and/or tree thinning—Mechanized operations—Industry rule. The following subsection shall apply to all employers assigned to report worker hours in risk classification 5005, WAC 296-17-66003.

(a) Every employer having operations subject to risk classification 5005 "logging and/or tree thinning - mechanized operations" shall have their operations surveyed by labor and industries insurance services staff prior to the

assignment of risk classification 5005 to their account. Annual surveys may be required after the initial survey to retain the risk classification assignment.

~~(b) ((Every employer as a prerequisite of being assigned risk classification 5005 and having exposure (work hours) which is reportable under other risk classifications assigned to the employer shall be required to establish a separate sub-account for the purpose of reporting exposure (work hours) and paying premiums under this risk classification (5005). Except as otherwise provided for in this rule, only exposure (work hours) applicable to work covered by risk classification 5005 shall be reported in this subaccount. In the event that the employer's only other reportable exposure (work hours) is subject to one of the standard exception risk classifications, or the shop or yard risk classification then all exposure (work hours) will be reported under a single main account.~~

~~(e))~~ Every employer assigned to report exposure (work hours) in risk classification 5005 shall supply an addendum report with their quarterly premium report which lists the name of each employee reported under this classification during the quarter, the Social Security number of such worker, the piece or pieces of equipment the employee operated during the quarter, the number of hours worked by the employee during the quarter, and the wages earned by the employee during the quarter.

(6) Special drywall industry rule.

(a) What is the unit of exposure for drywall reporting? Your premiums for workers installing and finishing drywall (reportable in risk classifications 0540, 0541, 0550, and 0551) are based on the amount of material installed and finished, not the number of hours worked.

The amount of material installed equals the amount of material purchased or taken from inventory for a job. No deduction can be made for material scrapped (debris). A deduction is allowed for material returned to the supplier or inventory.

The amount of material finished for a job equals the amount of material installed. No deduction can be made for a portion of the job that is not finished (base layer of double-board application or unfinished rooms).

Example: Drywall installation firm purchases 96 4' x 8' sheets of material for a job which includes some double-wall installation. The firm hangs all or parts of 92 sheets, and returns 4 sheets to the supplier for credit. Drywall finishing firm tapes, primes and textures the same job. Both firms should report 2,944 square feet (4 x 8 x 92) for the job.

(b) I do some of the work myself. Can I deduct material I as an owner install or finish? Yes. Owners (sole proprietors, partners, and corporate officers) who have not elected coverage may deduct material they install or finish.

When you as an owner install (including scrap) or finish (including tape and prime or texture) only part of a job, you may deduct an amount of material proportional to the time you worked on the job, considering the total time you and your workers spent on the job.

To deduct material installed or finished by owners, you must report to the department by job, project, site or location the amount of material you are deducting for this reason. You

must file this report at the same time you file your quarterly report:

$$\text{Total owners hours} \div (\text{owners hours} + \text{workers hours}) = \text{\% of owner discount.}$$

$$\text{\% of owner discount} \times (\text{total footage of job} - \text{subcontracted footage, if any}) = \text{Total owner deduction of footage.}$$

(c) **Can I deduct material installed or finished by subcontractors?** You may deduct material installed or taped by subcontractors you are not required to report as your workers. You may not deduct for material only scrapped or primed and textured by subcontractors.

To deduct material installed or taped by subcontractors, you must report to the department by job, project, site or location the amount of material being deducted. You must file this report at the same time you file your quarterly report. You must have and maintain business records that support the number of square feet worked by the subcontractor.

(d) **I understand there are discounted rates available for the drywall industry. How do I qualify for them?** To qualify for discounted drywall installation and finishing rates, you must:

(i) Have an owner attend two workshops the department offers (one workshop covers claims and risk management, the other covers premium reporting and recordkeeping);

(ii) Provide the department with a voluntary release authorizing the department to contact material suppliers directly about the firm's purchases;

(iii) Have and keep all your industrial insurance accounts in good standing (including the accounts of other businesses in which you have an ownership interest), which includes fully and accurately reporting and paying premiums as they come due, including reporting material deducted as owner or subcontractor work;

(iv) Provide the department with a supplemental report (filed with the firm's quarterly report) showing by employee the employee's name, Social Security number, the wages paid them during the quarter, how they are paid (piece rate, hourly, etc.), their rate of pay, and what work they performed (installation, scrapping, taping, priming/texturing); and

(v) Maintain accurate records about work you subcontracted to others and materials provided to subcontractors (as required by WAC 296-17-31013), and about payroll and employment (as required by WAC 296-17-35201).

The discounted rates will be in effect beginning with the first quarter your business meets all the requirements for the discounted rates.

Note: If you are being audited by the department while your application for the discounted classifications is pending, the department will not make a final decision regarding your rates until the audit is completed.

(e) **Can I be disqualified from using the discounted rates?** Yes. You can be disqualified from using the discounted rates for three years if you:

(i) Do not file all reports, including supplemental reports, when due;

(ii) Do not pay premiums on time;

(iii) Underreport the amount of premium due; or

(iv) Fail to maintain the requirements for qualifying for the discounted rates.

Disqualification takes effect when a criterion for disqualification exists.

Example: A field audit in 2002 reveals that the drywall installation firm underreported the amount of premium due in the second quarter of 2001. The firm will be disqualified from the discounted rates beginning with the second quarter of 2001, and the premiums it owed for that quarter and subsequent quarters for three years will be calculated using the nondiscounted rates.

If the drywall underwriter learns that your business has failed to meet the conditions as required in this rule, your business will need to comply to retain using the discounted classifications. If your business does not comply promptly, the drywall underwriter may refer your business for an audit.

If, as a result of an audit, the department determines your business has not complied with the conditions in this rule, your business will be disqualified from using the discounted classifications for three years (thirty-six months) from the period of last noncompliance.

(f) **If I discover I have made an error in reporting or paying premium, what should I do?** If you discover you have made a mistake in reporting or paying premium, you should contact the department and correct the mistake. Firms not being audited by the department who find errors in their reporting and paying premiums, and who voluntarily report their errors and pay any required premiums, penalties and interest promptly, will not be disqualified from using the discounted rates unless the department determines they acted in bad faith.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-503 Classification 0103.

0103-09 Drilling or blasting: N.O.C.

Applies to contractors engaged in drilling operations for others not covered by another classification (N.O.C.). Work contemplated by this classification includes, but is not limited to, well drilling for oil, gas or water; exploratory well drilling; and drilling of holes in rock for shot holes. Such drilling generally contemplates the digging of a hole using a rotating or pounding type tool. Equipment used by drilling contractors includes earth auger drills, jackhammers, drilling rigs, and bits which will vary in size depending upon the terrain or material to be drilled and the depth and size of holes to be drilled. This classification also includes blasting operations not covered by another classification (such as the blasting of rock in connection with highway, street or road construction).

This classification excludes drilling operations performed in connection with concrete or building construction which is to be reported separately in the construction classification applicable for the work being performed; drilling done in connection with all types of underground or surface mining and quarry operations which is to be reported separately in the applicable mining classification; and blasting performed as part of building demolition which is to be reported separately in classification ((0506)) 0518.

0103-10 Geophysical exploration: Seismic detection of the mechanical properties of the earth

Applies to establishments engaged in geophysical exploration, by seismic detection, of the earth's subsurface. Work contemplated by this classification involves a seismograph work crew consisting of a party chief, a permit person, a surveyor, drillers, shooters, observers and a computer analyst. The seismic method utilizes a dynamite blast that simulates a miniature earthquake. The recorder of the vibrations is the sensitive earthquake detector which records the intense vibrations on a rapidly moving tape. The data collected from the tapes and photographic records are interpreted and a contour map of the rocks and their foundation to depths of several thousand feet is developed.

This classification excludes geophysical exploration without seismic detection which is to be reported separately in classification 1007.

AMENDATORY SECTION (Amending WSR 00-14-052, filed 7/1/00, effective 7/1/00)

WAC 296-17-52106 Classification 0514.**0514-00 Garage or overhead door: Installation, service or repair**

Applies to contractors engaged in the installation, service or repair of garage or overhead doors made of wood ~~(or metal)~~ or metal ~~(or aluminum)~~. As part of a new construction project, the installation usually occurs before the building or structure is painted. Garage or overhead door installation can also occur as a replacement to an existing door or as an alteration or addition to a building or structure. The process involves installing door tracks on both sides of the doorway, inserting the door, which usually consists of panels or sections, into the tracks, and attaching panels or sections to one another. This classification also includes the installation of automatic door openers when performed as a part of the garage or overhead door installation contract, and by the same contractor installing the doors.

This classification excludes the installation, service or repair of commercial automatic door openers when it is not performed as a part of the garage or overhead door installation contract which is to be reported separately in classification 0603; the installation, service or repair of residential automatic door openers when it is not performed as a part of the garage or overhead door installation contract which is to be reported separately in classification 0607; the installation of exterior glass doors and door frames such as nonautomatic and automatic opening doors at retail establishments or commercial buildings which are to be reported separately in classification 0511; the installation of interior or exterior doors and door frames when performed by a framing contractor as part of framing a wood frame building which is to be reported separately in classification 0510; the installation of interior doors and door frames which is to be reported separately in classification 0513; the installation of wood, fiberglass or metal exterior doors as part of a nonwood frame building when performed by employees of the general contractor which is to be reported separately in classification 0518; and the repair or replacement of wood, fiberglass or metal doors

on an existing building which is to be reported separately in classification 0516.

0514-01 Nonstructural additions to buildings or structures: Installation, removal, alteration, and/or repair

Applies to contractors engaged in the installation, removal, alteration, and/or repair of nonstructural additions to buildings or structures. Nonstructural ~~((iron, steel, brass or bronze))~~ metal additions include, but are not limited to, fire escapes, staircases, balconies, railings, roll down shutters, window or door lintels, protective window or door gratings, bank cages, decorative elevator entrances or doors, permanent stadium seating, and wall facades and facings. ~~((Shutters and similar decorative add-ons may be made of wood, vinyl or plastic.))~~ Generally, the process involves bolting, screwing, riveting, or welding these additions to the interior or exterior of buildings or structures. Contractors who operate a shop to prefabricate the additions are to be assigned the classification applicable for the shop manufacturing work being performed. When a contractor's business is assigned a manufacturing classification for shop operations, classification 5206, "Permanent yard or shop," is no longer applicable to the contractor's business for the storage of materials or repair of equipment.

This classification excludes sheet metal installation such as siding, gutters and downspouts, and nonstructural sheet metal patio covers/carports which are to be reported separately in classification 0519; the installation, repair or dismantling of portable bleachers or stages which is to be reported separately in classification 0603; and the erection of commercial metal carports, service station canopies, and structural iron or steel work as part of a building or structure which is to be reported separately in classification 0518.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-53504 Classification 1007.**1007-08 Geophysical exploration, N.O.C.**

Applies to contractors engaged in geophysical exploration, with no core drilling, and without seismic detection, who are not covered by another classification (N.O.C.). The more common methods of geophysical exploration are gravitational, electric and magnetic. In the gravitational method, delicate pendulums and torsion balances capable of detecting differences in the gravitational pull of the earth at various places enable the geologist to tell where oil is likely to be found. There are two electrical methods, resistivity and inductive. In the resistivity method, measurements are taken on an ohmmeter, which indicate the resistivity of the subsurface. The inductive method is somewhat comparable, but instead of determining the resistivity of the subsurface formations, the conductivity is measured enabling the geologist to determine the character of the subsurface being studied. The magnetic method is accomplished by means of a highly developed form of magnetic dipping needle with a telescope magnifier. The magnetic attraction exerted by magnetic rocks and formations causes the needle to deflect from its horizontal plane, thereby enabling a geologist to develop contour maps with lines of equal magnetic attraction. This clas-

sification includes prospectors who may specialize in particular instrumentation such as electrical, gravity, magnetic or seismic. The prospector studies structure of subsurface rock formations to locate petroleum deposits; conducts research using geophysical instruments such as seismograph, gravimeter, torsion balance, and magnetometer, pendulum devices, and electrical resistivity apparatus to measure characteristics of the earth; computes variations in physical forces existing at different locations and interprets data to reveal subsurface structures likely to contain petroleum deposits; and determines desirable locations for drilling operations. This classification includes prospecting for mineral ores and the testing of soil for percolation when performed by employees of an employer subject to this classification.

This classification excludes core drilling and seismic geophysical exploration which are to be reported separately in classification 0103, and geophysical crews employed by oil companies who are to be reported in the classification applicable to the business.

Special note: When assigning classifications 1007-08, 4901-16 - Geologists, and 0103-10 - Seismic geophysical exploration, care must be taken to look beyond the word "geologist" to determine the actual nature of the activities being performed.

1007-09 Testing and inspecting of pipelines using radiographic or X-ray analysis process by contractor at industrial plants or construction sites

Applies to establishments engaged in the testing or inspecting of pipelines or conduits for others, provided the testing or inspecting is not performed in conjunction with the construction of the pipeline. This classification includes testing or inspecting involving radiographic or X-ray analysis processes such as the X raying of containers, inspecting of utility lines, and the drawing of oil samples on-site when performed by employees of an employer subject to this classification. Classification 1007-09 is assigned primarily to field activities.

This classification excludes testing or inspecting done in conjunction with construction which is to be reported separately in the appropriate construction classification.

1007-15 Inspection and grading bureaus, N.O.C.; log scaling and grading bureaus; lumber inspection services; weigh scale attendants, N.O.C.; weather stations; rain-making - no aircraft

Applies to establishments operating as *inspection and grading bureaus*, not covered by another classification (N.O.C.), including, but not limited to, those involved in inspecting and grading commodities such as logs, lumber, shingles, shakes, poles, and railroad ties. The commodity is examined and stamped with a grademark which indicates the grade, species, producer's name or number and other pertinent data. A certificate of inspection may be issued in lieu of a grademark. The purpose of the inspection is to grade, tally, and stamp only those products which meet certain required specifications and to cull those products which do not meet the established standards. *Log scaling and grading bureaus* measure the logs, and by applying log rule formulas, determine the net yield, usually expressed in board feet. A scale ticket containing descriptive data is attached to the end of the

log. This classification also applies to *weigh scale attendants* not covered by another classification (N.O.C.), when the service is available to the general public, otherwise the weigh scale attendants are to be included in the basic classification of the business. This classification includes establishments engaged exclusively in such services as auto emission control testing, air flow balancing and testing, the balancing and testing of heating, ventilating and air conditioning systems, hydrostatic testing of such objects as boilers, tanks, pipes and fittings using compressed air or water pressure to detect leaks, the strength testing of building material such as, but not limited to, asphalt, concrete and steel; and the testing or inspecting of steel weldments. This classification also includes *weather stations* which observe and record weather conditions for use in forecasting, and which read weather instruments, including thermometers, barometers, and hygrometers to ascertain elements such as temperature, barometric pressure, humidity, wind velocity, and precipitation. Weather data is transmitted and received also from other stations. A fully automated (computerized) weather station can be reported under classification 4904. This classification also covers rainmaking without the use of aircraft.

Special note: Classification 1007, classification 5001, and classification 5004, shall not be assigned to the same business unless the operations described by these classifications are conducted as separate and distinct businesses and the conditions set forth in the general reporting rules covering the operation of a secondary business have been met.

1007-16 Foresters (to be assigned only by reforestation underwriter)

Applies to foresters engaged in forest management (~~for others~~). Foresters may plan and direct forestation or reforestation projects, map forest areas, estimate standing timber and future growth, or manage timber sales. Foresters also may plan cutting programs to assure continuous production of timber, and determine methods of cutting and removing timber with a minimum of waste and environmental damage. They may plan and design forest fire suppression and fire-prevention programs, plan and design construction of fire towers, trails, roads and fire breaks and may also plan and design projects for control of floods, soil erosion, tree diseases, and insect pests in forests. Foresters may specialize in one aspect of forest management.

This classification excludes manual labor or direct supervision of manual labor.

~~(**Special note:** Classification 1007, classification 5001, and classification 5004 shall not be assigned to the same business unless the operations described by these classifications are conducted as separate and distinct businesses and the conditions set forth in the general reporting rules covering the operation of a secondary business have been met.)~~)

1007-18 Foresters and timber cruisers - scientific tree, forestry, and watershed studies (to be assigned only by reforestation underwriter)

Applies to establishments engaged in scientific tree studies for others. Scientific tree studies are research oriented; random sample plots are measured and data such as the size of trees, species, disease and insect or animal damage, and seedling mortality, are recorded. Plots are maintained where

each tree is tagged, its genealogy recorded, and growth statistics entered. A scion (a detached living shoot or twig) may be grafted onto a root stock and detailed records maintained of its genealogy and growth. Other data, such as fertilizers used, also may be maintained. These test plots are sometimes referred to as progeny plots or progeny studies. This classification includes scientific studies of watersheds or watershed restoration which involves the evaluation of slopes, road systems, streams and the entire ecosystem (an ecological community with its physical environment, regarded as a unit). This classification also includes precommercial thinning layouts or pruning inspections to determine if an area is ready for thinning or pruning.

This classification excludes manual labor or direct supervision of manual labor.

Special note: Classification 1007, classification 5001, and classification 5004 shall not be assigned to the same business unless the operations described by these classifications are conducted as separate and distinct businesses and the conditions set forth in the general reporting rules covering the operation of a secondary business have been met.

1007-19 Timber cruisers (to be assigned only by reforestation underwriter)

Applies to timber cruisers engaged in cruising timber land to estimate the volume and quality of a timber stand through an on-site visual inspection ((for others)). A timber cruiser collects data concerning forest conditions for appraisal, sales, administration, logging, land use, and forest management planning. A forest area is traversed on foot in an established pattern and sampling techniques applied. The height and diameter of each tree in a test site is recorded as are defects such as rot and bends, to estimate the useable wood in each tree. From the data collected a summary report is prepared giving the timber types, sizes, condition and outstanding features of an area, such as existing roads, streams, and communication facilities. Trees may be marked with spray paint to denote trail, boundary, or for cutting.

This classification excludes manual labor or direct supervision of manual labor.

~~((**Special note:** Classification 1007, classification 5001, and classification 5004 shall not be assigned to the same business unless the operations described by these classifications are conducted as separate and distinct businesses and the conditions set forth in the general reporting rules covering the operation of a secondary business have been met.))~~

1007-20 Foresters and timber cruisers - tree auditing (to be assigned only by reforestation underwriter)

Applies to establishments engaged in tree auditing for others. This service is generally associated with new plantations and is the process of evaluating the quality and the rate of planting of new trees, as well as surveying newly planted sites on a periodic schedule to determine the survival rate.

This classification excludes tree auditing services when planting is in process, which is to be reported separately in classification 5004, and manual labor or direct supervision of manual labor.

Special note: Classification 1007, classification 5001, and classification 5004 shall not be assigned to the same business unless the operations described by these classifications

are conducted as separate and distinct businesses and the conditions set forth in the general reporting rules covering the operation of a secondary business have been met.

1007-21 Environmental and ecological surveyor services, N.O.C.

Applies to establishments engaged in providing environmental and ecological surveying services not covered by another classification (N.O.C.) for others. Environmental and ecological surveying firms typically serve as consultants to industrial or commercial enterprises, governmental agencies or private citizens. Environmental engineer is a term applied to engineering personnel who apply knowledge of chemical, civil, mechanical, or other engineering disciplines to preserve the quality of life by correcting and improving various areas of environmental concern, such as air, soil, or water pollution. Services include identifying and projecting potential environmental impact resulting from proposed projects, assessing the source, severity and extent of environmental damage resulting from human or natural causes, and recommending solutions to protect or regain the natural balance between organisms and their environment. Activities of environmental surveying/consulting establishments include, but are not limited to, locating archaeological sites for preservation, researching and collecting field data on birds and insects, preparing impact statement for landowners and developers, stream and fish monitoring, botanical surveys, wetland surveys, soil and ground water testing for contamination, air monitoring including industrial hygiene services, monitoring and testing at hazardous waste sites, providing advice on pollution control at its source, and developing a plan for cleaning up already recognized problems such as waste disposal sites, radon or asbestos contamination. Other services provided may include helping clients develop a system for complying with various governmental regulations. This classification includes employees of the environmental surveying service who conduct field work as well as those who are assigned to act as project managers or project superintendents to oversee the work of remediation contractors.

This classification excludes all types of remediation work which is to be reported separately in the classification applicable to the type of remediation work being performed, and surveyors employed by construction companies or other types of businesses who are to be reported separately in the applicable classifications.

Special note: When assigning classifications 1007 or 4901, care must be taken to look beyond the words "consulting" or "engineering" to determine the actual nature of the activities being performed. ~~((Classifications 1007 and 4901 shall not be assigned to the same business unless the operations described by these classifications are conducted as separate and distinct businesses, each business has separate and distinct employees, and the conditions set forth in the general reporting rules covering the operation of a secondary business have been met.))~~

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-614 Classification 3901.

3901-00 Bakeries - retail

Applies to establishments engaged in the baking of assorted goods such as, but not limited to, breads, cakes, pies, and pastries for retail sales (~~(to walk-in customers)~~). This classification includes "deli" sections in retail bakeries where bakery products, and items such as soups, salads, sandwiches and beverages, are available for on-premises consumption. (~~(This classification also contemplates the occasional delivery of bakery items such as wedding cakes.)~~)

This classification excludes commercial wholesale bakeries that bake products for sale to trade customers such as supermarkets, restaurants, and distributors which are to be reported separately in classification 3906, and specialty bake shops that produce single product lines such as cookies and donuts, which are to be reported separately in classification 3901-01.

3901-01 Bakeries - retail - specialty shops

Applies to establishments engaged in operating specialty bake shops where products are sold (~~(exclusively)~~) to (~~(walk-in)~~) retail customers. A specialty bake shop is an establishment that makes and sells a single product line such as cookies, donuts, pies, or bagels to customers for consumption on or away from the premises. This classification includes related sales of beverages (~~(, as well as the occasional delivery of baked goods)~~).

This classification excludes commercial wholesale bakeries that bake products for sale to trade customers such as supermarkets, restaurants, and distributors which are to be reported separately in classification 3906, and retail bakeries engaged in the baking of assorted goods such as breads, cakes, pies, and pastries, for retail sales (~~(to walk-in customers)~~) which are to be reported separately in classification 3901-00.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-646 Classification 4805.

4805-00 Nurseries, N.O.C.

Applies to establishments not covered by another classification (N.O.C.) that are engaged in the propagation and/or care of trees, shrubs, plants, and flowers pending sales to others. Nurseries can be categorized into two general groups in that some nurseries are actively engaged in the propagation of trees, plants, and shrubs from seed, grafting or cuttings, while others simply buy stock from growers and resell to the public or to commercial customers. Work contemplated by this classification includes, but is not limited to, preparing soil for new trees, shrubs or plants, propagating trees, shrubs or plants, fertilizing, spraying, fumigating, watering and weeding plants, trees and shrubs, pruning trees and shrubs, and maintaining or installing sprinkler or irrigation systems when performed by employees of an employer subject to this classification. This classification includes incidental greenhouses which are typically maintained for the purpose of

starting new plants, shrubs or trees and protecting plants from weather conditions. Greenhouses may also serve as holding areas for garden supplies, fertilizer, planting containers, and tools which are available for sale to the public. This classification also includes the incidental sale of bark, soils, decorative or crushed rock, and store operations. This classification does not apply to establishments engaged in propagating trees in connection with an orchard operation or Christmas tree farm which are to be reported separately in classification 4803 or classification 7307 as applicable, or to landscaping contractors who may raise plants, trees or shrubs to be used in connection with their own landscaping jobs who are to be reported separately in classification 0301 or 0308 as applicable.

This classification excludes establishments engaged in growing and harvesting flowers for sale to others which are to be reported separately in classification 4802 and contractors hired by a farm operator to install, repair or build any farm equipment or structures who are to be reported separately in the classification applicable to the work being performed.

Special note: The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as weeding, planting, irrigating and fertilizing. Generally the work involves manual labor tasks as opposed to machine operations. These farm labor contractors are to be reported in the classification that applies to the farm they are contracting with. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm services" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to or the type of crop involved.

4805-05 Nurseries: Tree

Applies to establishments engaged in the propagation and/or care of trees for sale. Nurseries can be categorized into two general groups in that some nurseries are actively engaged in the propagation of trees from seed and grafting while others simply buy stock from growers and resell to the public or commercial customers. Work contemplated by this classification includes, but is not limited to, preparing soil for new trees, propagating trees, fertilizing, spraying, fumigating, watering, weeding, and pruning trees, and maintaining or installing sprinkler or irrigation systems when performed by employees of an employer subject to this classification. This classification includes incidental greenhouses which are typically maintained for the purpose of starting new trees and protecting them from weather conditions. Greenhouses may also serve as holding areas for garden supplies, fertilizer, planting containers, and tools which are available for sale to the public. This classification also includes the incidental sale of beauty bark, soils, decorative or crushed rock, and store operations.

This classification excludes establishments engaged in propagating trees in connection with an orchard operation or Christmas tree farm which are to be reported separately in classification 4803 or classification 7307 as applicable; landscaping contractors who may raise trees to be used in connection with their landscaping jobs who are to be reported separately in 0301 or 0308 as applicable; and contractors hired by a farm operator to install, repair or build any farm equipment

or structures who are to be reported separately in the classification applicable to the work being performed.

Special note: The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as weeding, planting, irrigating and fertilizing. Generally the work involves manual labor tasks as opposed to machine operations. These farm labor contractors are to be reported in the classification that applies to the farm they are contracting with. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm services" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to or the type of crop involved.

4805-06 Farms: Sod growing

Applies to establishments engaged in raising lawn sod for sale. Work contemplated by this classification includes, but is not limited to, preparing soil for new grass, planting grass seed, fertilizing, spraying, fumigating, watering, weeding, mowing grass, and maintaining or installing sprinkler or irrigation systems when performed by employees of an employer subject to this classification. Sod farms may sell directly to the public from the farm or through landscape dealers and contractors.

This classification excludes the installation of sod at a customer's location; landscaping contractors who may raise sod to be used in connection with their landscaping jobs; and contractors hired by a farm operator to install, repair or build any farm equipment or structures who are to be reported in separately in the classification applicable to the work being performed.

Special note: The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as weeding, planting, irrigating and fertilizing. Generally the work involves manual labor tasks as opposed to machine operations. These farm labor contractors are to be reported in the classification that applies to the farm they are contracting with. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm services" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to or the type of crop involved.

4805-07 Farms: Aquatic plants

Applies to establishments engaged in the propagation of aquatic plants for sale. Work contemplated by this classification includes, but is not limited to, preparing aquatic tanks, fresh water ponds or salt water growing areas for new plants, care of aquatic growing beds including chemical treatments of beds to eliminate undesirable vegetation, and harvesting and packaging plants when performed by employees of an employer subject to this classification. Aquatic farms may sell plants directly to the public from the farm or through dealers and unrelated stores. This classification includes farm store operations.

This classification excludes establishments engaged in the harvesting, processing, or packaging of aquatic plants obtained from natural areas, where the husbandry of the resource is not an integral part of the operation, which are to

be reported separately in classification 3304 and contractors hired by a farm operator to install, repair or build any farm equipment or structures who are to be reported separately in the classification applicable to the work being performed.

Special note: The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as weeding, planting, irrigating and fertilizing. Generally the work involves manual labor tasks as opposed to machine operations. These farm labor contractors are to be reported in the classification that applies to the farm they are contracting with. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm services" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to or the type of crop involved.

4805-08 Farms: Shellfish(~~—hand harvesting~~)

Applies to establishments engaged in the propagation, and (~~hand~~) harvesting, of shellfish for sale. Work contemplated by this classification includes, but is not limited to, preparing aquatic tanks or salt water growing areas for shellfish; care of aquatic growing beds including chemical treatments of beds to eliminate undesirable vegetation; and harvesting, shucking and packaging shellfish when performed by employees of an employer subject to this classification. Shellfish farms may sell directly to the public from a farm stand or store, located at or near the farm, or to dealers and unrelated stores.

This classification excludes establishments engaged in the harvesting, processing or packaging of shellfish obtained from natural areas of nonnavigable waters where the husbandry of the resource is not an integral part of the operation which are to be reported separately in classification 3304, employees working on or from a vessel, as a captain or member of that vessel's crew, who are to be insured under the federal Jones Act according to the provisions of maritime law, and contractors hired by a farm operator to install, repair or build any farm equipment or structures who are to be reported separately in the classification applicable to the work being performed.

Special notes: The distinction between risks assigned to this classification (4805-08) and those which are (~~to be reported separately in classification 4808~~) subject to the federal Jones Act is in the (~~harvesting process~~) location of the work activity. Risks subject to classification 4805 are engaged in hand harvesting activities which includes the use of hand held tools or mechanical harvesting operations not on navigable waters, while those (~~assigned to classification 4808~~) subject to the Jones Act are engaged in (~~mechanical harvesting~~) activities (~~by way of dredging operations~~) on a vessel while on navigable waters. The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as seeding of larvae to mother shells and planting shells to natural waters. Generally the work involves manual labor tasks as opposed to machine operations. These farm labor contractors are to be reported in the classification that applies to the farm they are contracting with. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm services" as the process involved in oper-

ating machinery is the same irrespective of the type of farm they are providing service to.

4805-09 Christmas tree sales from U-cut or retail sales lots

Applies to establishments engaged in retail sales of Christmas trees. Work contemplated by this classification is limited to placing trees in stands or on racks for display purposes, showing trees to retail customers, cashiering, monitoring and directing traffic in the sales lot area, and loading trees into customer vehicles. Tree sales may be conducted at a farm location as in the case of a U-cut tree operation or at a seasonal sales lot.

This classification excludes all farming operations such as, but not limited to, preparation of soil for new trees, propagating and planting trees, fertilizing, spraying, fumigating, watering, weeding, pruning, and harvesting of trees, maintaining or installing sprinkler or irrigation systems which are to be reported separately in classification 7307; Christmas tree wholesalers and Christmas tree baling and packing operations which are to be reported separately in classification 7307; and contractors hired to install, repair or build any farm equipment or structures who are to be reported separately in the classification applicable to the work being performed.

Special notes: Establishments assigned to this classification (4805-09) should report hours in this classification *only during the fourth quarter of each year* since these sales are confined to the Christmas season. The farm labor contractor provision is not applicable to this classification as such establishments are not engaged in a farming operation.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-650 Classification 4901.

4901-00 Consulting engineering Architectural services, N.O.C.

Applies to establishments engaged in providing consulting engineering services, construction management or consulting services, or architectural services not covered by another classification (N.O.C.). Engineers consult with and give technical advice to clients through the use of plans, maps, charts, specifications or other media. They may specialize in particular fields of endeavor such as aeronautical, chemical, civil, electrical, industrial, marine, mechanical or structural engineering. Engineers may research, design and develop a plan, a part, a piece of equipment, or a structure and may also build prototypes and models. Architects research, plan and design building projects for clients, applying knowledge of design, construction procedures, zoning and building codes, and building materials. They may enlist the services of engineers to provide specialized technical services or to solve specific problems. Architects may specialize in certain types of facilities such as hotels, hospitals, or industrial plants, or in the restoration of older structures, or may confine their practice to residential work. They also may be involved in the design of transportation facilities, public assembly complexes, marine or public utility projects. This classification includes employees of engineering or architectural services who perform surveys or who act as project managers or

project superintendents for their employer's engineering or architectural projects. Businesses which specialize in offering construction management and/or consulting services, which are not involved in designing, engineering, or any of the actual construction activities, are also included in this classification.

This classification excludes draftsmen whose duties are limited to office work, who may be reported separately in classification 4904 provided the conditions set forth in the standard exception rule have been met, and the engineering and architectural staff of construction companies or other types of businesses who are to be reported in the classifications applicable for those businesses.

Special note: When assigning classifications 4901 or 1007, care must be taken to look beyond the words "consulting" or "engineering" to determine the actual nature of the activities being performed. ~~((Classifications 4901 and 1007 shall not be assigned to the same business unless all the conditions of the general reporting rules covering the operation of a secondary business have been met.))~~

4901-16 Geologists, N.O.C.

Applies to establishments engaged in providing geological services, including oil or gas geologists or scouts and lease buyers performing work similar to oil geologists, not covered by another classification. Geologists study the composition, structure, and history of the earth's crust to identify and determine the sequence of processes affecting the development of the earth. By applying knowledge of chemistry, physics, biology and mathematics to explain these phenomena, they help locate mineral, geothermal, petroleum, and underground water resources. They will consult with and give technical advice to clients based on their findings. Projects may include, but are not limited to, landslide analysis and correction, rock slope design, rock fall mitigation and control, and soil cut and embankment design. They also prepare geologic reports and maps, interpret research data, recommend further study or action, and may participate in environmental studies. Duties of oil or gas geologists or scouts and lease buyers include, but are not limited to, reviewing court records, interviewing lease holders, securing data for prospective oil or gas producing land, as well as procuring core or shale samples at drilling locations for analyzing. The oil or gas geologist also may explore and chart stratigraphic arrangement and structure of the earth to locate gas and oil deposits, evaluate results of geophysical prospecting, prepare maps and diagrams indicating probable deposits of gas and oil, as well as estimate oil reserves in proven or prospective fields and visit drilling sites. Scouts keep the client company informed of events in their region, attend local meetings, and report the findings on work.

This classification excludes geophysical exploration which is to be reported separately in classification 1007; seismic geophysical exploration which is to be reported separately in classification 0103; and geologists or scouts of a drilling or construction contractor who are to be reported separately in the classification applicable to the employer's business.

Special note: When assigning classifications 4901-16, geologists, 1007-08, geophysical exploration, and 0103, seismic geophysical exploration, care must be taken to look

beyond the word "geologist" to determine the actual nature of the activities being performed.

4901-17 Land surveying services, N.O.C.

Applies to establishments engaged in providing professional land surveying services not covered by another classification (N.O.C.). Land surveyors measure the size and physical characteristics of earth surfaces to determine precise location and measurements of points, elevations, lines, areas, contours and boundaries for private, public, and commercial applications. Some firms also perform marine, mine, forestry, geological and photogrammetric surveys which utilize sophisticated instruments and techniques, including aerial photography. The field data collected by surveyors may be used to produce maps and architectural and civil engineering plans and drawings. Maps and drawings may be produced by drafters who plot out the field data by hand or by using computer-aided drafting programs.

This classification excludes draftsmen whose duties are limited to office work, who may be reported separately in classification 4904 provided all the conditions of the general reporting rules covering standard exception employees have been met, and surveyors employed by construction companies or other types of businesses who are to be reported separately in the applicable classifications for those businesses.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-743 Classification 6803.

6803-01 Flight instruction

Applies to flight instructors employed by establishments who provide flight instruction services. This classification applies only to the pilot operating or overseeing the aircraft during the flight lesson.

This classification excludes classroom flight instruction which is to be reported separately in classification 6103 and ground crew operations which are to be reported separately in classification 6804.

6803-02 Private aircraft - transportation of personnel in connection with the employer's business

Applies to members of a flight crew who operate private aircraft owned by a business and used for the transportation of company personnel in connection with the company's business. Aircraft operation is subject to the general exclusion section of the general rules which allows all other hours worked by these same personnel to be reported separately in the applicable classification.

This classification excludes ground crew operations which are to be reported separately in classification 6804.

6803-04 Aircraft operations, N.O.C. and nonscheduled airlines - flight crews

Applies to members of the flight crew for aircraft operations not covered by another classification (N.O.C.) and flight crews employed by an employer operating a nonscheduled airline. Nonscheduled airlines, such as a charter service, do not have definite dates, routes, and times for departures and arrivals but make their services available to the public as needed. Operations not covered by another classification

could include, but not be limited to, an aircraft used for sky-writing/advertising, helicopter-assisted hoisting of large or heavy objects in connection with construction projects and helicopter-assisted removal of logs from a logging site.

This classification excludes ground crew operations which are to be reported separately in classification 6804; establishments engaged in aerial spraying, seeding, crop dusting, and fire fighting which are to be reported separately in classification 6903; logging ground crews of a helicopter logging operation which are to be reported separately in classification 5001; and clerical and ticket sellers with no other duties which may be reported separately in classification 4904.

AMENDATORY SECTION (Amending WSR 03-20-081, filed 9/30/03, effective 1/1/04)

WAC 296-17-76212 Classification 7121.

7121-00 Temporary staffing services: Logging; tree removal service; stump grinding services; shake or shingle mills; aircraft flight crew members

This classification applies to all employees of a temporary staffing company who are assigned on a temporary basis to a client customer and who are engaged in any phase of logging or aircraft operations or who are assigned to work in (~~any lumbering mill~~) shake or shingle mills, including equipment or machinery operators related to industries subject to this classification.

NEW SECTION

WAC 296-17-76601 Classification 7205.

Life and rescue - Emergency workers

Applies to employees of nongovernmental employers provided in response to a request for assistance by a state or local official in the "life and rescue phase" of a declared emergency. This classification is only applicable for reporting the exposures (worker hours and claims) of nongovernmental employees occurring during this phase of the declared emergency. The phrase "life and rescue phase" is defined in RCW 51.16.130(3) as being the first seventy-two hours after a natural or man-made disaster has occurred. To qualify for this special classification, a state or local official such as, but not limited to, the governor; a county executive; a mayor; a fire marshal; a sheriff or police chief must declare an emergency and must request help from private sector employers to assist in locating and rescuing disaster survivors.

AMENDATORY SECTION (Amending WSR 04-10-045, filed 4/30/04, effective 6/1/04)

WAC 296-17-870 Evaluation of actual losses. Except as provided in the following subsections of this paragraph, actual losses shall include all payments as of the "valuation date" for each claim arising from an accident occurring during the experience period. Losses for claims open as of the valuation date may also include a reserve for future payments. Actual losses on claims for accidents occurring outside of the experience period shall not be included.

(1) **Valuation date.** The valuation date shall be on and include December 31, one year and one day immediately preceding the effective date of premium rates as set forth in WAC 296-17-895. For experience modifications effective January 1, 1990, and thereafter, the valuation date shall be June 1, seven months immediately preceding the effective date of premium rates.

(2) **Retroactive adjustments - revision of losses between valuation dates.** No claim value shall be revised between valuation dates and no retroactive adjustment of an experience modification shall be made because of disputation concerning the judgment of the claims examiner or because of subsequent developments except as specifically provided in the following cases:

(a) In cases where loss values are included or excluded through mistake other than error of judgment.

(b) In cases where a third party recovery is made, subject to subsection (4)(a) of this section.

(c) In cases where the claim qualifies as a second injury claim under the provisions of RCW 51.16.120.

(d) In cases where a claim, which was previously evaluated as a compensable claim, is closed and is determined to be noncompensable (ineligible for benefits other than medical treatment).

(e) In cases where a claim is closed and is determined to be ineligible for any benefits.

In the above specified cases retroactive adjustment of the experience modification shall be made for each rating in which the claim was included. Retroactive adjustments will not be made for rating periods more than ten years prior to the date on which the claim status was changed.

(3) **Average death value.** Each fatality occurring to a worker included within the mandatory or elective coverage of Title 51 RCW shall be assigned the "average death value." The "average death value" shall be the average incurred cost for all such fatalities occurring during the experience period. The average death value is set forth in WAC 296-17-880 (Table II).

(4) **Third-party recovery - effect on experience modification.**

(a) For claims with injury dates prior to July 1, 1994, a potential claim cost recovery from action against a third party, either by the injured worker or by the department, shall not be considered in the evaluation of actual losses until such time as the third-party action has been completed. If a third-party recovery is made after a claim had previously been used in an experience modification calculation, the experience modification shall be retroactively adjusted. The department shall compute a percentage recovery by dividing the current valuation of the claim into the amount recovered or recoverable as of the recovery date, and shall reduce both primary and excess losses previously used in the experience modification calculation by that percentage.

(b) For claims with injury dates on or after July 1, 1994, if the department determines that there is a reasonable potential of recovery from an action against a third party, both primary and excess values of the claim shall be reduced by fifty percent for purposes of experience modification calculation, until such time as the third-party action has been completed. This calculation shall not be retroactively adjusted, regard-

less of the final outcome of the third-party action. After a third-party recovery is made, the actual percentage recovery shall be applied to future experience modification calculations.

(c) For third-party actions completed before July 1, 1996, the claim shall be credited with the department's net share of the recovery, after deducting attorney fees and costs. For third-party actions completed on or after July 1, 1996, the claim shall be credited with the department's gross share of the recovery, before deducting attorney fees and costs.

(d) Definitions:

(i) As used in this section, "recovery date" means the date the money is received at the department or the date the order confirming the distribution of the recovery becomes final, whichever comes first.

(ii) As used in this section, "recoverable" means any amount due as of the recovery date and/or any amount available to offset case reserved future benefits.

(5) **Second injury claims.** The primary and excess values of any claim which becomes eligible for second injury relief under the provisions of RCW 51.16.120, as now or hereafter amended, shall be reduced by the percentage of relief granted.

(6) **Occupational disease claims.** When a claim results from an employee's exposure to an occupational disease hazard, the "date of injury," for the purpose of experience rating, will be the date the disability was diagnosed and that gave rise to the filing of a claim for benefits. The cost of any occupational disease claim, paid from the accident fund and medical aid fund and arising from exposure to the disease hazard under two or more employers, shall be prorated to each period of employment involving exposure to the hazard. Each insured employer who had employed the claimant during the experience period, and for at least ten percent of the claimant's exposure to the hazard, shall be charged for his/her share of the claim based upon the prorated costs.

(7) **Maximum claim value.** No claim shall enter an employer's experience record at a value greater than the "maximum claim value." The maximum claim value is set forth in WAC 296-17-880 (Table II).

(8) **Catastrophic losses.** Whenever a single accident results in the deaths or total permanent disability of three or more workers employed by the same employer, costs charged to the employer's experience shall be limited as required by RCW 51.16.130.

(9) **Acts of terrorism.** Whenever any worker insured with the state fund sustains an injury or occupational disease as a result of an incident certified to be an act of terrorism under the U.S. Terrorism Risk Insurance Act of 2002, the costs of the resulting claim shall be excluded from the experience rating computation of the worker's employer.

(10) **Claims filed by preferred workers.** The costs of subsequent claims filed by certified preferred workers will not be included in experience calculations, as provided in WAC 296-16-010.

(11) Life and rescue phase of emergencies: This provision applies to "emergency workers" of nongovernmental employers assigned to report in classification 7205 (WAC 296-17-76601) who assist in a life and rescue phase of a state or local emergency (disaster). The life and rescue phase of an

emergency is defined in RCW 51.16.130(3) as being the first seventy-two hours after a natural or man-made disaster has occurred. For an employer to qualify for this special experience rating relief, a state or local official such as, but not limited to, the governor; a county executive; a mayor; a fire marshal; a sheriff or police chief must declare an emergency and must request help from private sector employers to assist in locating and rescuing survivors. This special relief is only applicable to nongovernmental employers during this initial seventy-two hour phase of the declared emergency unless the emergency has been extended by the official who declared the emergency. The cost of injuries or occupational disease claims filed by employees of nongovernmental employers assisting in the life and rescue phase of a declared emergency will not be charged to the experience record of the nongovernmental state fund employer.

WSR 05-20-070
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed October 4, 2005, 10:14 a.m.]

Supplemental Notice to WSR 05-13-150.

Preproposal statement of inquiry was filed as WSR 03-20-095.

Title of Rule and Other Identifying Information: Payroll deduction rules in chapter 296-126 WAC.

Hearing Location(s): Department of Labor and Industries, 7273 Linderson Way S.W., S117, Tumwater, WA, on November 8, 2005, at 8:30 a.m.

Date of Intended Adoption: November 22, 2005.

Submit Written Comments to: Sally Elliott, Department of Labor and Industries, P.O. Box 44400, Olympia, WA 98504-4400, e-mail yous235@lni.wa.gov, fax (360) 902-5292, by November 8, 2005.

Assistance for Persons with Disabilities: Contact Sally Elliott by October 20, 2005, (360) 902-6411 or yous235@lni.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department held three public hearings in July, in Tumwater, Spokane, and Yakima, to receive comments on the payroll deduction rule. Based upon the public hearing comments the department made changes to the payroll deduction rule and would like to hold one additional public hearing for comments on the revised rule.

The proposed rule will clarify when an employer can deduct an employee's wages from final paychecks, on-going employment, or overpayments. It also clarifies when the employee's paycheck cannot go below minimum wage. The proposed rules are consistent with RCW 49.46.090, 49.48.010, and 49.52.060.

Reasons Supporting Proposal: These rules are necessary in order to make sure employers understand and don't misapply the payroll deduction laws and rules.

Statutory Authority for Adoption: Chapters 49.12, 49.46, 49.48, 49.52 RCW and RCW 43.22.270.

Statute Being Implemented: Chapters 49.12, 49.46, 49.48, 49.52 RCW and RCW 43.22.270.

Rule is necessary because of state court decision, *Pope v. UW*, 121 Wn.2d 479, 852 P.2d 1055 (1994).

Name of Proponent: Department of Labor and Industries, governmental.

Name of Agency Personnel Responsible for Drafting: Rich Ervin, Tumwater, Washington, (360) 902-5310; Implementation and Enforcement: Patrick Woods, Tumwater, Washington, (360) 902-6348.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has considered whether these proposed rules are subject to the Regulatory Fairness Act and has determined that they do not require a small business economic impact statement because the costs associated with the proposed changes are exempted by law (see RCW 19.85.025 referencing RCW 34.05.310 (4)(c), (d), and (e)) from the small business economic impact requirements and/or do not impose a more than minor economic impact on business.

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rules are not to a cost-benefit analysis (see RCW 34.05.328 (5)(iii), (iv), and (v)). The department also concluded the proposed rule does not impose a more than minor cost on business.

October 4, 2005

Gary Weeks

Director

AMENDATORY SECTION (Amending Order 74-9, filed 3/13/74, effective 4/15/74)

WAC 296-126-025 Deductions from final wages.
 ((Except as otherwise provided by law, no employer shall make any deduction from the wage of an employee:

(1) For any cash shortage, walkout (failure of customer to pay), breakage, or loss of equipment, unless it can be shown that the shortage, walkout, breakage or loss was caused by a dishonest or willful act of the employee.

(2) For acceptance of a bad check, unless it can be shown that the employee accepted such a check in violation of procedures previously made known to him or her by the employer.

(3) For any cash shortage from a cash register, drawer or portable depository provided for that purpose, unless the employee has sole access to the cash and has participated in the cash accounting at the beginning of his or her shift and again at the end of said shift. Where a portable cash depository is in use the employer shall provide for periodic withdrawals of cash receipts during the shift to prevent large accumulations of cash.)) (1) An employer may deduct any portion of an employee's final wages and may reduce the employee's final gross wages below the state minimum wage that is in effect at the time the work is performed, if the deduction is for any of the following:

(a) Required by state or federal law; or

(b) For medical, surgical, or hospital care or service. No deductions may be made for these services if covered under RCW 51.48.050; or

Example. During the final pay period, the business paid a worker's medical costs for an injury not related to the employee's job duties and deducted the amount from final wages to repay those costs to the employer.

(c) To satisfy a court order, judgment, wage attachment, trustee process, bankruptcy proceeding, or payroll deduction notice for child support payments.

(2) The following deductions must be specifically agreed upon orally or in writing by the employee or employer and may reduce the employee's final gross wages below the state minimum wage that is in effect at the time the work is performed, if the deduction is for any of the following:

(a) For pension, medical, dental, or other benefit plans when such agreements have been specifically agreed upon orally or in writing in advance by the employee and employer.

Example 1. Insurance premium: An employee and employer may have entered into an oral or written agreement in advance for deductions for monthly medical premiums.

Example 2. Retirement plan: The employee chose a 401K pension plan and agreed orally or in writing to a payroll deduction for the specified amount to participate in that plan.

(b) For a payment to a creditor or third party if the employee authorizes it orally or in writing in advance to pay a sum for the benefit of the employee. The creditor or third party can be the employer of the employee.

Example 1. Assignment to third party: An employee may request orally or in writing for the employer to withhold four hundred dollars from the final paycheck for an automobile loan to be paid directly to the employee's financial institution by the employer.

Example 2. Employee loan: The employer loaned the employee three hundred dollars and charged reasonable interest. A written agreement with the terms of repaying the loan at fifty dollars per pay period through payroll deductions was made in writing and in advance between the employer and employee. The agreement also contained a provision that if the employee left the employer's employment for any reason, any balance due on the loan could be withheld from the final paycheck. Note: Employers are advised to check with the United States Department of Labor, Wage and Hour Division and the Internal Revenue Service regarding application of federal laws on charging interest.

(3) An employer can deduct wages from an employee's final paycheck for the reasons in (a), (b), (c), and (d) of this subsection, but only when these incidents have occurred in the final pay period. An employer may not deduct wages from the final paycheck for incidents that occurred in previous pay periods under (a) through (d) of this subsection. None of the deductions contained in this subsection may reduce the employee's final gross wages below the state minimum wage that is in effect at the time the work is performed.

(a) For acceptance of a bad check or credit card, if it can be shown that the employee accepted the check or credit card in violation of procedures previously made known to the employee by the employer; or

(b) For any cash shortage from a cash register, drawer or portable depository provided for that purpose, if it can be shown that the employee has sole access to the cash and has

participated in the cash accounting at the beginning of the employee's shift and again at the end of said shift; or

(c) For any cash shortage, walkout (failure of customer to pay), breakage, or loss of equipment, if it can be shown that the shortage, walkout, breakage or loss was caused by a dishonest or willful act of the employee; or

(d) Deductions taken due to alleged employee theft are permissible only if it can be shown that the employee's intent was to deprive and that the employer filed a police report.

(4) It is the employer's responsibility to prove the existence of any agreement. Therefore, the department recommends that all agreements, policies, and procedures be in writing and signed by the affected employees.

(5) The employer must identify and record all wage deductions openly and clearly in employee payroll records.

Helpful information:

The following are examples of situations when deductions are allowed from the employee's final paycheck:

Example 1. Employee purchase of employer's goods or services: An employee worked for a tire store. The employee purchased tires from the store and entered into a written agreement with the employer to deduct an agreed amount each pay period until the debt was paid in full, and the agreement further specified that any remaining balance due at the time of termination could be withheld from the final paycheck. This type of deduction may reduce the employee's wage below the state minimum wage.

Example 2. Advance or draw on wages. An employee may obtain an advance or draw on wages. The employer may deduct the advance or draw from the employee's final paycheck. The employer must record the advance or draw in the employee's payroll records. This type of deduction may reduce the employee's wage below the state minimum wage.

Example 3. Cost of uniforms: An employee and employer may agree orally or in writing that the employer may deduct the cost of uniforms provided by the employer if the uniforms are not returned by the employee at the time of termination. This type of deduction cannot reduce the employee's wage below the state minimum wage.

Example 4. Cash shortages: In a grocery store, the employees and employer agreed orally or in writing that the employer could deduct wages for cash shortages that occurred in the final pay period if the employees had sole access to their cash registers during their shifts and participated in the employer's cash accounting procedures before and after their shifts.

NEW SECTION

WAC 296-126-028 Wage deductions during on-going employment. (1) During an on-going employment relationship, an employer may deduct any portion of an employee's wages below the state minimum wage that is in effect at the time the work is performed if the deduction is for any of the following reasons:

- (a) Required by state or federal law; or
- (b) For medical, surgical, or hospital care or service; or

Example: The business paid a worker's medical costs for an injury not related to the employee's job duties and deducted the amount to repay those costs to the employer.

(c) To satisfy a court order, judgment, wage attachment, trustee process, bankruptcy proceeding, or payroll deduction notice for child support payments.

(2) During an on-going employment relationship, an employer may deduct wages when the employee expressly authorizes the deduction in writing and in advance for a lawful purpose for the benefit of the employee. These deductions may reduce the employee's gross wages below the state minimum wage.

Example 1. Employee purchase of employer's goods or services: An employee works for a tire store and wants to buy tires from the store. The employee can enter into a written agreement in advance with the employer to buy the tires through a payroll deduction. However, the employer must sell the tires to the employee for the same price or less than it would sell the tires to the customer.

Example 2. Employee loan: An employee worked for a hardware store and asked the employer for a loan. The employer loaned the employee money and charged reasonable interest. An agreement with the terms of repaying the loan and interest through payroll deductions was made in writing and in advance between the employer and employee.

Example 3. Employee benefits: Deductions have been specifically agreed upon orally or in writing in advance by the employee and employer for monthly pension, medical, dental, or other benefit plans.

Example 4. Creditor or third party: An agreement with a creditor or third party to withhold \$400 from the final paycheck for an automobile loan to be paid directly to the employee's financial institution by the employer. The creditor or third party can be the employer of the employee.

(3) Neither the employer nor any person acting in the interest of the employer can derive any financial profit or benefit from any of the deductions under this regulation.

(4) For the purposes of this regulation, reasonable interest charged by the employer for a loan or credit extended to the employee is not considered to be of financial benefit to the employer. Note: Employers are advised to check with the United States Department of Labor, Wage and Hour Division and the Internal Revenue Service regarding application of federal laws on charging interest.

(5) The employer must identify and record all wage deductions openly and clearly in employee payroll records.

Helpful information:

The following are examples of situations when deductions are not allowed from the employee's wages during an on-going employment relationship:

Example 1. Customer's bad check or credit card: The amount of a customer's check that is returned for nonsufficient funds when an employee accepts a check in violation of established policies, or if an employee accepts a customer's bad credit card in violation of established policies.

Example 2. Shortage from cash register: The amount of a till shortage even when an employee participates in cash accounting at the beginning and end of their shift, has sole access to the cash register, and is short at the end of the shift.

Example 3. Customer walks out without paying: An unpaid bill when a customer leaves the restaurant without paying even when an employee is not watching their custom-

ers at a restaurant and ignores the fact the customers are finished dining and are ready for their check.

Example 4. Damage or loss: The cost for replacing broken glasses when the employee drops a tray of glasses when unloading the dishwasher.

NEW SECTION

WAC 296-126-030 Adjustments for overpayments.

(1) An overpayment occurs when an employer pays an employee for:

- (a) More than the agreed-upon wage rate; or
- (b) More than the hours actually worked.

(2) Recouping the overpayment may reduce the employee's gross wages below the state minimum wage.

(3) An employer cannot recover an overpayment when the disputed amount concerns the quality of work.

(4) An employer can recover an overpayment from an employee's paycheck provided the overpayment was infrequent and inadvertent. Infrequent means rarely, not occurring regularly, or not showing a pattern. Inadvertent means an error that was accidental, unintentional, or not deliberately done. The burden of proving the inadvertent error rests with the employer who made the error. The employer has ninety days from the initial overpayment to detect and implement a plan with the employee to collect the overpayment. If the overpayment is not detected within the ninety-day period, the employer cannot adjust an employee's current or future wages to recoup the overpayment. Recouping of overpayments is limited to the ninety-day detection period.

(5) In the case of employees covered by an unexpired collective bargaining agreement that expires on or after January 1, 2006, in which overpayments are included in the terms of the collective bargaining agreement, the effective date of this rule shall be the later of:

- (a) The first day following expiration of the collective bargaining agreement; or
- (b) The effective date of the revised collective bargaining agreement.

Helpful information:

The following are examples of when overpayments may or may not be allowed:

Example 1. Allowed. Overpayment of agreed wage rate: An employee was paid an agreed rate of ten dollars per hour but received a paycheck at the rate of eleven dollars per hour. The employer provided documentation of the overpayment to the affected employee and adjusted the employee's next paycheck for the amount overpaid in the previous pay period.

Example 2. Allowed. Overpayment for hours worked: An employee worked seventy-two hours in the pay period, but the employee was paid for eighty hours for that period. The employer provided documentation of the overpayment to the affected employee and adjusted the employee's next paycheck for the eight hours overpaid in the previous pay period.

Example 3. Not allowed. Overpayment not detected within ninety days of first occurrence: An employer agreed to pay an employee ten dollars per hour, but when the first check was received, the amount paid was paid at eleven dollars per hour. The employee may or may not have brought it

to the attention of the employer. Six months later the employer detected the overpayments and adjusted the employee's wages in the next paycheck for the entire amount of the overpayment. This is not an allowable adjustment because it was not detected within ninety days from the first occurrence.

(6) The employer must provide advance written notice to the employee before any adjustment is made. The notice must include the terms under which the overpayment will be recouped. For example: One adjustment or a series of adjustments.

(7) The employer must provide documentation of the overpayment to the affected employee or employees.

(8) The employer must identify and record all wage deductions openly and clearly in employee payroll records.

(9) Regardless of the provisions of this section, if appropriate, employers retain the right of private legal action to recover an overpayment from an employee.

(10) This regulation does not apply to public employers. See chapter 49.48 RCW, Wages—Payment—Collection.

WSR 05-20-071
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Filed October 4, 2005, 11:57 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-10-103, filed 5/4/05, commercial crab pot size; WSR 05-13-102, filed 6/16/05, recording delivery of spot shrimp; WSR 05-16-014, filed 7/22/05, Puget Sound shrimp rules; WSR 05-16-052, filed 7/28/05, limitation on nonstate licensed fishers; and WSR 05-16-056, filed 7/28/05, Puget Sound crab rules.

Title of Rule and Other Identifying Information: Commercial crab and shrimp rules.

Hearing Location(s): Heathman Lodge, 7801 N.E. Greenwood Drive, Vancouver, WA, on November 18-19, 2005, begins 8:00 a.m. on November 18, 2005.

Date of Intended Adoption: November 18, 2005.

Submit Written Comments to: Evan Jacoby, Rules Coordinator, 600 Capitol Way, Olympia, WA 98501-1091, e-mail jacobesj@dfw.wa.gov, fax (360) 902-2155, by November 11, 2005.

Assistance for Persons with Disabilities: Contact Susan Yeager by November 4, 2005, TTY (360) 902-2207 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Crab: (1) Establish crab management regions; (2) standardize commercial crab maximum pot size; (3) establish crab seasons and closed areas; (4) establish closure of Oregon coastal waters to Washington licensed fishers who do not have an Oregon license; (5) the special management areas for crab are eliminated from the permanent rule; and (6) Puget Sound crab quick reporting rules are changed. Shrimp: (A) All spot shrimp aboard delivery vessels is the [to] be recorded on fish tickets;

(B) Puget Sound commercial shrimp fishery is closed at night; and (C) establish Puget Sound shrimp management areas.

Reasons Supporting Proposal: (1) Crab management regions have been instituted by emergency rule for several years, and are being adopted to more effectively manage the commercial crab harvest. (2) Standard pot size will reduce crab exploitation rate. (3) Crab seasons are proposed in order to allow for commercial harvest. Closures provide allocation among the user groups. (4) Reciprocal closures are proposed for crab fishers who are single licensed in either Washington or Oregon. This will increase the crab landings into coastal ports, benefiting coastal communities. (5) Special management areas are negotiated each year, and the boundaries are not static. (6) Reporting is now made to La Conner, and the phone number needs to be changed. (A) Catch accounting requires all shrimp taken to be accounted for, even if they are discards or weigh backs, as they are allocated among users. (B) Night closure to shrimp fishing reduces gear theft and shrimp poaching. (C) Shrimp management areas have been established by emergency rule for several seasons, and being adopted on a permanent basis to more effectively manage the shrimp resource.

Statutory Authority for Adoption: RCW 77.12.047.

Statute Being Implemented: RCW 77.12.047.

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

Name of Proponent: Washington Department of Fish and Wildlife, governmental.

Name of Agency Personnel Responsible for Drafting: Evan Jacoby, 1111 Washington Street, Olympia, (360) 902-2930; Implementation: Phil Anderson, (360) 902-2720 and Lew Atkins, (360) 902-2651, 1111 Washington Street, Olympia; and Enforcement: Bruce Bjork, 1111 Washington Street, Olympia, (360) 902-2373.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

1. Description of the Reporting, Record-keeping, and Other Compliance Requirements of the Proposed Rule: Crab and shrimp management regions: Wholesale dealers will be required to report using the new area designations. Coastal license limitation: Holders of Washington-only crab licenses will be unable to fish off of Oregon. Shrimp recording: Shrimp buyers will need to record all spot shrimp aboard at time of delivery. Quick reporting of Puget Sound crab: Buyers will report to La Conner.

2. Kinds of Professional Services That a Small Business is Likely to Need in Order to Comply with Such Requirements: None.

3. Costs of Compliance for Businesses, Including Costs of Equipment, Supplies, Labor, and Increased Administrative Costs: There should be no additional costs for any of these proposals. Wholesale dealers are already using the new areas and reporting to La Conner. Spot shrimp buyers are already weighing the product, so, while additional weighing is required, all equipment needs are already in place.

4. Will Compliance with the Rule Cause Businesses to Lose Sales or Revenue? A small number of Washington-

only licensed fishers who are fishing off Oregon will not be able to catch crab in these waters (approximately 250,000 pounds per year). However, this will be offset by the Oregon-only licensed fishers fishing off Washington and delivering into Oregon (approximately 1,000,000 pounds per year). The Washington fishers will have a net gain in fishing opportunity. The crab closures are currently managed by emergency rule, and allocation is unaffected.

5. Cost of Compliance for the 10% of Businesses That are the Largest Businesses Required to Comply with the Proposed Rules Using One or More of the Following as a Basis for Comparing Costs:

- a. Cost per employee;
- b. Cost per hour of labor; or
- c. Cost per one hundred dollars of sales.

There are no new compliance costs. Fishers are not currently using oversize pots, so there is no need to purchase new gear. All of the reporting requirements for crab and shrimp reporting are in place. Additional weighing of spot shrimp aboard the delivery vessel but not to be purchased is a minor cost, as less than 5% of the harvest is not usable, even for live prawn deliveries (secondary buyers purchase the dead prawns).

6. Steps Taken by the Agency to Reduce the Costs of the Rule on Small Businesses or Reasonable Justification for Not Doing So: The department provides fish receiving tickets at no cost to wholesale dealers in order to facilitate timely reporting. The department has established a toll-free quick reporting hot line for Puget Sound crab.

7. A Description of How the Agency Will Involve Small Businesses in the Development of the Rule: The department will involve the affected industries through the Fish and Wildlife Commission public rule-making process.

8. A List of Industries That Will Be Required to Comply with the Rule: Commercial crab and shrimp fishers and fish buyers.

A copy of the statement may be obtained by contacting Evan Jacoby, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2930, fax (360) 902-2155, e-mail jacobesj@dfw.wa.gov.

A cost-benefit analysis is not required under RCW 34.05.328. These rule proposals do not affect hydraulics.

October 4, 2005

Evan Jacoby

Rules Coordinator

AMENDATORY SECTION (Amending Order 00-271, filed 1/5/01, effective 2/5/01)

WAC 220-16-260 Puget Sound (~~Crustacean~~) Crab Management Regions. The following areas are defined as Puget Sound (~~Crustacean~~) Crab Management Regions:

(1) (~~Crustacean~~) Crab Management Region ((+A)) 1 - (~~Western San Juan Islands~~) North Puget Sound. ((The portion of Marine Fish-Shellfish Management and Catch Reporting Area 20B west of a line from Point Doughty on Orcas Island to the bell buoy at the international boundary due north of Waldron Island, and the portion of Marine Fish-Shellfish Management and Catch Reporting Area 22A west of the following line: Beginning at Steep Point on Orcas

Island to Neck Point on Shaw Island, then southerly following the west coast of Shaw Island to the southernmost point of Shaw Island, then to the western entrance to Fisherman's Bay on Lopez Island, then southerly and easterly following the west coast of Lopez Island to Point Colville.)) All waters of Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, 21A, 21B, 22A, and 22B.

(2) (~~Crustacean Management Region 1B~~) (~~Eastern San Juan Islands~~). The portions of Marine Fish-Shellfish Management and Catch Reporting Areas 20B and 22A to the east of Crustacean Management Region 1A and the portion of Marine Fish-Shellfish Management and Catch Reporting Area 21A north and west of a line from the southern tip of Sinclair Island to Carter Point on Lummi Island.

(3) ~~Crustacean Management Region 1C~~ (~~Gulf of Georgia/North Puget Sound Bays~~). All waters of Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 21B, and 22B, and the portion of Marine Fish-Shellfish Management and Catch Reporting Area 21A outside of Crustacean Management Region 1B.

(4) ~~Crustacean~~) Crab Management Region 2-East - (~~Eastern~~ Central Puget Sound). All waters of Marine Fish-Shellfish Management and Catch Reporting Areas 24A, 24B, 24C, 24D, (~~25B, 25D~~;) and (~~26A~~) 26A-E (see WAC 220-52-046).

(~~5~~) ~~Crustacean~~) (3) Crab Management Region ((3)) 2-West - (~~Strait of Juan de Fuca~~) Western Central Puget Sound). All waters of Marine Fish-Shellfish Management and Catch Reporting Areas ((23A, 23B, 23C, 23D, 25A, 25E, and 29)) 25B, 25D, and 26A-W (see WAC 220-52-046).

(4) Crab Management Region 3, subarea 3-1 - (~~Eastern Strait of Juan de Fuca~~). All waters of Marine Fish-Shellfish Management and Catch Reporting Areas 23A and 23B.

(5) Crab Management Region 3, subarea 3-2 - (~~Central Strait of Juan de Fuca~~). All waters of Marine Fish-Shellfish Management and Catch Reporting Areas 23D, 25A, and 25E.

(6) Crab Management Region 3, subarea 3-3 - (~~Western Strait of Juan de Fuca~~). All waters of Marine Fish-Shellfish Management and Catch Reporting Areas 23C and 29.

(~~6~~) ~~Crustacean~~) (7) Crab Management Region 4 - (~~Southern~~ Central Puget Sound). All waters of Marine Fish-Shellfish Management and Catch Reporting Areas 26B(~~;~~) and 26C.

(~~7~~) ~~Crustacean~~) (8) Crab Management Region 5 - (~~Hood~~ Canal). All waters of Marine Fish-Shellfish Management and Catch Reporting Areas 25C, 27A, 27B, and 27C.

(~~8~~) ~~Crustacean~~) (9) Crab Management Region 6 - (~~South~~ Puget Sound). All waters of Marine Fish-Shellfish Management and Catch Reporting Areas 26D, 28A, 28B, 28C, and 28D.

AMENDATORY SECTION (Amending Order 01-180, filed 8/22/01, effective 9/22/01)

WAC 220-52-043 Commercial crab fishery—Additional gear and license use requirements. (1) **Commercial gear limited to pots and ring nets.** It shall be unlawful to take or fish for crabs for commercial purposes except with shellfish pots and ring nets.

(2) Commercial gear escape rings and ports defined.

It shall be unlawful to use or operate any shellfish pot gear in the commercial Dungeness crab fishery unless such gear meets the following requirements:

(a) Pot gear must have not less than two escape rings or ports not less than 4-1/4 inches inside diameter.

(b) Escape rings or ports described above must be located in the upper half of the trap.

(3) Puget Sound commercial gear tagging requirements.

(a) In Puget Sound, all crab pots must have a durable, nonbiodegradable tag permanently and legibly marked with the license owner's name or license number, and telephone number securely attached to the pot. If the tag information is illegible, or if the tag is lost for any reason, the pot is not in compliance with law.

(b) In Puget Sound all crab buoys must have a buoy tag issued to the license owner by the department attached to the outermost end of the buoy line. If more than one buoy is attached to a pot, only one buoy tag is required.

(4) **Puget Sound - Description of lawful buoys.** All buoys attached to commercial crab gear in Puget Sound waters must consist of a durable material and remain floating on the water's surface when five pounds of weight is attached. It is unlawful to use bleach or antifreeze bottles or any other container as a float. All buoys fished under a single license must be marked in a uniform manner using one buoy brand number registered by the license holder with the department and be of identical color or color combinations. No buoys attached to commercial crab gear in Puget Sound may be both red and white in color unless a minimum of thirty percent of the surface of each buoy is also prominently marked with an additional color or colors other than red or white, as the red and white colors are reserved for personal use crab gear as described in WAC 220-56-320 (1)(c).

(5) **Commercial crab license requirements.** In addition to, and separate from, all requirements in this chapter that govern the time, area, gear, and method for crab fishing, landing, possession, or delivery of crabs, no commercial crab fishing is allowed except when properly licensed. A person may take, fish for, land, or deliver crabs for commercial purposes in Washington or coastal waters only when the person has the license required by statute, or when the person is a properly designated alternative operator to a valid license. For Puget Sound, a person must have a "Dungeness crab - Puget Sound" fishery license provided by RCW 77.65.130. For coastal waters, such person must have a "Dungeness crab - Coastal" fishery license provided by RCW 77.65.130. To use ring nets instead of or in addition to pots, then the licensee must also have the "Crab ring net - Puget Sound" or "Crab ring net - non-Puget Sound" license in RCW 77.65.-130. Qualifications for the limited entry licenses, requirements for designating vessels, and use of alternate operators is provided by and controlled by chapters 77.65 and 77.70 RCW.

(6) **Maximum size for ~~(coastal)~~ commercial crab pots.** ~~((The maximum volume of))~~ It is unlawful to commercially fish a crab pot greater than thirteen cubic feet in volume used to fish for or take Dungeness crab from ~~(the)~~ state

or offshore waters ~~((provided for in WAC 220-52-040(12) is thirteen cubic feet))~~.

(7) **Incidental catch may not be retained.** It is unlawful to retain salmon, food fish, or any shellfish other than octopus that is taken incidental to any crab fishing.

AMENDATORY SECTION (Amending Order 01-74, filed 5/3/01, effective 6/3/01)

WAC 220-52-046 Crab fishery—Seasons and areas.

"Commercial crab fishing" means any taking, fishing, use, or operation of gear to fish for crabs for commercial purposes, and shall include the possession of crab on the water for commercial purposes, and the landing or initial delivery of crab for commercial purposes.

The lawful open times and areas for commercial crab fishing are as follows:

(1) All Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas are open for commercial crab fishing beginning 8:00 a.m. October 1st through the following April 15th and, after 8:00 a.m. October 1st, from one-half hour before sunrise to one-half hour after sunset, except as provided by other subsections below.

(2) For purposes of crab harvest allocation, fishing season, and catch reporting, the Marine Fish-Shellfish Management and Catch Reporting Areas (Catch Areas) are modified as follows:

(a) Catch Area 26A-E shall include those waters of Puget Sound south of a line from Sandy Point (on Whidbey Island) to Camano Head and from Camano Head to the north tip of Gedney Island, and from the southern tip of Gedney Island east to the mainland, and north and east of a line that extends from Possession Point to the shipwreck located .8 nautical miles north of Picnic Point.

(b) Catch Area 26A-W shall include those waters of Puget Sound south and east of a line from Foulweather Bluff to Double Bluff, and northerly of a line from Apple Cove Point to Point Edwards, and south and west of a line that extends from Possession Point to the shipwreck located .8 nautical miles north of Picnic Point.

(3) The following areas are closed to commercial crab fishing except for treaty Indian commercial crab fishing where the treaty Indian crab fisher is following tribal openings that are in accordance with provisions of court orders in United States v. Washington:

(a) Areas 25C, 26B, 26C, 26D, 27A, 27B, 27C, 28A, 28B, 28C, and 28D.

(b) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 20A in Lummi Bay east of a line projected from the entrance buoy at Sandy Point to Gooseberry Point.

~~((b))~~ (c) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 21A in Bellingham Bay west of a line projected from the exposed boulder at Point Francis to the pilings at Stevie's Point.

~~((e))~~ (d) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 24A east of a line~~((s))~~ projected north from the most westerly tip of Skagit Island and extending south to the most westerly tip of Hope Island, thence southeast to Seal Rocks, thence southeast to the green

can buoy at the mouth of Swinomish Channel, thence easterly to the west side of Goat Island.

~~((e))~~ (e) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 24B inside a line projected from Priest Point to the five-meter tower between Gedney Island and Priest Point, thence northwesterly on a line between the five-meter tower and Barnum Point to the intersection with a line projected true west from Kayak Point, thence east to shore.

~~((e))~~ (f) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 25A west of a line from the new Dungeness Light to the ~~((outermost tip of the))~~ abandoned dock at the Three Crabs Restaurant.

~~((f))~~ (g) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 25D within a line projected from the Point Hudson Marina entrance to the northern tip of Indian Island, thence to Kala Point, and thence following the shoreline to the point of origin.

~~((3))~~ (4) The following areas are closed to commercial crab fishing during the periods indicated:

(a) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 20A between a line from the boat ramp at the western boundary of Birch Bay State Park to the western point of the entrance of the Birch Bay Marina and a line from the same boat ramp to Birch Point are closed October 1 through October 31 and March 1 through April 15.

(b) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 24C inshore of the 400 foot depth contour within an area bounded by parallel lines projected northeasterly from Sandy Point and the entrance to the marina at Langley are closed October 1 through October 15 ~~((and March 15 through April 15 of each year))~~.

(c) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 26A-W in Useless Bay north and east of a line from the south end of the Double Bluff State Park seawall (47°58.782'N, 122°30.840'W) projected 110 degrees true to the boulder on shore (47°57.690'N, 122°26.742'W) are closed from October 1 through October 15 ~~((through October 31, and March 15 through April 15 of each year))~~.

(d) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22B in Fidalgo Bay south of a line projected from the red number 4 entrance buoy at Cap Sante Marina to the northern end of the eastern most oil dock are closed October 1 through October 31, and March 1 through April 15 of each year.

(e) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22A in Deer Harbor north of a line projected from Steep Point to Pole Pass are closed October 1 through October 31 and March 1 through April 15 ~~((of each year))~~.

~~((4))~~ (f) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 26A-E east of a line that extends true north from the green No. 1 buoy at Possession Point to Possession Point and west of a line from the green No. 1 buoy at Possession Point northward along the 200-foot depth contour to the Glendale Dock are closed October 1 through October 15.

(5) The following areas are closed to commercial crab fishing until further notice:

~~((Areas 25C, 26B, 26C, 26D, 27A, 27B, 27C, 28A, 28B, 28C, 28D and))~~ Those waters of Area 25E south of a line from Contractors Point to Tukey Point.

(b) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 24A within a line projected from Rocky Point northeast to the red number 2 buoy north of Ustalady Point, thence to Brown Point on the northeast corner of Ustalady Bay.

(c) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 24D south of a line from the point at the southern end of Honeymoon Bay (48°03.047'N, 122°32.306'W) to the point just north of Beverly Beach.

(d) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 26A east of a line projected from the outermost tip of the ferry dock at Mukilteo to the green #3 buoy at the mouth of the Snohomish River and west of a line projected from the #3 buoy southward to the oil boom pier on the shoreline.

~~((Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 26A within a line from the green number 1 buoy at Seatchet Head to the green number 1 buoy at Possession Point thence following the 200 foot contour to a point due east from the Glendale Dock.~~

~~((f))~~ Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 21B in Samish Bay south of a line from Point Williams to Fish Point in waters shallower than 60 feet in depth.

~~((g))~~ (f) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22A in Westcott and Garrison Bays east of a line projected due south from Point White to San Juan Island.

~~((h))~~ (g) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 20A in Birch Bay east of a line projected from the boat ramp at the western boundary of Birch Bay State Park to the western point of the entrance to the Birch Bay Marina.

~~((i))~~ (h) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 21A inside of Chuckanut Bay east of a line projected north from Governor's Point to the east side of Chuckanut Island thence to Chuckanut Rock thence to the most southerly tip of Clark's Point.

~~((j))~~ (i) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22A in Blind Bay south of a line projected due west from Point Hudson to its intersection with Shaw Island.

~~((k))~~ (j) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22A in Fisherman Bay south of a line projected east-west through the red number 4 entrance buoy.

~~((l))~~ (k) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22A in Mud Bay south of a line projected ~~((from Lopez Island))~~ through Crab and Fortress Islands ~~((to))~~ intersecting Lopez Island at either end.

~~((m))~~ (l) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22B in Padilla Bay within a line projected easterly from the northern end of the eastern most oil dock at March Point to the red number 2 buoy, thence southeasterly to the red number 8 buoy, thence west to shore and following the shoreline to the point of origin.

~~((n))~~ (m) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 24A in Cornet Bay south of a line projected true east and west from the northernmost tip of Ben Ure Island.

~~((o))~~ (n) That portion of Marine Fish-Shellfish Management and Catch Reporting Area 20B which includes all waters of Prevost Harbor between Stuart Island and Satellite Island southwest of a line from Charles Point on Stuart Island to the northwest tip of Satellite Island and southwest of a line projected 120 degrees true from the southeast end of Satellite Island to Stuart Island.

~~((p))~~ (o) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22A in East Sound north of a line from the southern point of Judd Bay on the west to Giffin Rocks on the east.

~~((s))~~ (6) Coastal, Pacific Ocean, Grays Harbor, Willapa Bay and Columbia River waters are open to commercial crab fishing December 1 through September 15 except that it is lawful to set baited crab gear beginning at 8:00 a.m. November 28. However, the department may delay opening of the coastal crab fishery due to softshell crab conditions, in which case the following provisions will apply:

(a) After consultation with the Oregon Department of Fish and Wildlife, the director may, by emergency rule, establish a softshell crab demarcation line.

(b) For waters of the Pacific Ocean north of Point Arena, California, it is unlawful for a person to use a vessel to fish in any area for which the season opening has been delayed due to softshell crab for the first thirty days following the opening of such an area if the vessel was employed in the coastal crab fishery during the previous forty-five days.

(c) Fishers may not set crab gear in any area where the season opening has been delayed, except that gear may be set as allowed by emergency rule and shall allow setting sixty-four hours in advance of the delayed season opening time.

(d) It is unlawful to fish for or possess Dungeness crabs or to set crab gear in waters of the Pacific Ocean adjacent to the states of Oregon or California except during the lawful open seasons, areas and times specified by the individual states, except that it is unlawful for the holder of a Washington state Dungeness crab coastal fishery license to fish for or possess Dungeness crab taken in waters north of 41°59'47"N. Lat. and south of 46°15'00"N. Lat. unless the holder also holds the licenses or permits needed to commercially fish for Dungeness crab within the state waters of Oregon.

~~((6))~~ The following areas (Special Management Area; SMA's) are closed to commercial crab fishing during the periods indicated, except for treaty Indian commercial crab fishing where the treaty Indian crab fisher is following tribal openings that are in accordance with provisions of court orders in United States v. Washington:

(a) Those waters bounded by lines projected between the following coordinates:

Southern SMA Description:

NW corner: 47°09.00'N 124°23.80'W (LORAN 41885)
 NE corner: 47°09.00'N 124°16.30'W
 SW corner: 46°58.00'N 124°22.00'W (LORAN 41885)
 SE corner: 46°58.00'N 124°15.30'W

Northern SMA Description:

NW corner: 47°32.00'N 124°34.00'W (LORAN 41865)
 NE corner: 47°32.00'N 124°29.50'W (LORAN 41880)
 SW corner: 47°27.00'N 124°33.00'W (LORAN 41865)
 SE corner: 47°27.00'N 124°28.60'W (LORAN 41880)

~~The non-Indian fishery will be closed within these areas December 1, 1998, through January 4, 1999. The areas will open to the non-Indian fishery on January 5, 1999, and remain open through September 15, 1999, except as provided for in (d) of this subsection.~~

~~(b) Those waters between 47°40.50'N (Destruction Island) north to 48°02.25'N, east of a line (to the coastline) described by the following points:~~

~~Southern point: 47°40.50'N 124°37.50'W
 Central point: 48°00.00'N 124°49.50'W
 Northern point: 48°02.25'N 124°50.00'W~~

~~This area is closed to non-Indian fishing from December 1, 1998, through January 7, 1999. It will reopen to non-Indian fishing on January 8, 1999, and close on February 5, 1999. This area will reopen on March 28, 1999, and remain open through September 15, 1999, except as provided for in (d) of this subsection.~~

~~(e) Those waters east of a line approximating the 25 fathom curve, from 48°02.15'N 124°50'00"W to 48°07'36"N 124°51'24"W to 48°20'00"N 124°50'00"W to Cape Flattery. This area will close to non-Indian fishing December 29, 1997, (after 28 days of fishing) and remain closed through March 31, 1998. The area will reopen on April 1, 1998, and remain open through September 15, 1998.~~

~~(d) It is unlawful to place gear, fish for or take Dungeness crab for commercial purposes in the following area from July 1 through September 15:~~

~~Those waters west of straight lines drawn in sequence from south to north between the following coordinates:~~

	Land description	Coordinate
(i)	Washington-Oregon border	46°15.00'N 124°10.00'W
(ii)	Seaview	46°20.00'N 124°10.00'W
(iii)	Willapa Bay entrance	46°40.00'N 124°10.00'W
(iv)	N. Willapa Bay spits	46°43.50'N 124°11.50'W
(v)	Grayland	46°50.00'N 124°12.30'W
(vi)	Grays Harbor	46°54.70'N 124°16.00'W
(vii)	Ocean Shores	47°00.00'N 124°16.00'W
(viii)	Moelips	47°15.00'N 124°19.00'W
(ix)	Cape Elizabeth	47°20.00'N 124°25.00'W
(x)	Raft River	47°27.00'N 124°28.60'W (follow TD 41880 to way-point # 11 N. Destruction Island)
(xi)	N. Destruction Island	47°42.40'N 124°31.50'W

Land description	Coordinate
(xii) Lapush	47°55.00'N 124°46.00'W
(xiii) Carol Island	48°00.00'N 124°49.50'W
(xiv) N. Lake Ozette	48°07.60'N 124°51.40'W
(xv) Makah Bay	48°20.00'N 124°50.00'W
(xvi) Cape Flattery	Point on land))

AMENDATORY SECTION (Amending Order 03-28, filed 2/18/03, effective 3/21/03)

WAC 220-52-051 Shrimp fishery—Puget Sound. (1)

A Puget Sound shrimp pot license or a Puget Sound shrimp trawl license will only be issued to an individual who is a natural person, and this person shall be the primary operator. Holders of Puget Sound shrimp pot licenses and Puget Sound shrimp trawl licenses may designate a single alternate operator per license.

(2) It is unlawful to fish for shrimp for commercial purposes in Puget Sound using shellfish pot gear except during seasons opened by emergency rule:

(a) Gear restrictions -

(i) In all areas, maximum 100 pots per fisher except for dual licensees as provided for in RCW 77.70.410.

(ii) In all areas:

(A) Buoys must be orange in color and consist of durable material that will remain floating on the surface with five pounds attached; bleach or antifreeze bottles or other containers may not be used as floats.

(B) The line attaching the pot to the buoy must be weighted sufficiently to prevent the line from floating on the surface.

(C) The maximum perimeter of shrimp pots must not exceed ten feet and the maximum height must not exceed two feet.

(D) It is unlawful to set or pull shrimp pot gear from one hour after official sunset to one hour before official sunrise.

(b) Spot shrimp size restriction: It is unlawful to retain spot shrimp taken by shellfish pot gear that have a carapace length less than 1 and 3/16 inches. Carapace length is defined as the length between the posterior mid-dorsal margin to the posterior-most part of the eye-stalk orbit.

(c) Area restrictions:

(i) Pot gear closed in all Puget Sound Shrimp Districts except the Port Townsend Shrimp District.

(ii) Pot gear closed in Lopez Sound south of a line projected true east-west from the northern tip of Trump Island from the season opening through July 9th.

(3) It is unlawful to fish for shrimp for commercial purposes in Puget Sound using trawl gear except during seasons opened by emergency rule:

(a) Gear restrictions - Beam trawl gear only. Otter trawl gear may not be used.

(i) Maximum beam width in Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, 21A, and 22A is 25 feet.

(ii) Maximum beam width in Marine Fish-Shellfish Management and Catch Reporting Areas 23A, 23B, 23C, 25A, 25B, and 29 is 60 feet.

(b) It is unlawful to retain spot shrimp.

(c) Area restrictions:

(i) Shrimp trawl fishing closed in all Puget Sound Shrimp Districts.

(ii) Shrimp trawl fishing closed in Lopez Sound south of a line projected true east-west from the northern tip of Trump Island from the season opening through July 9th.

(d) It is unlawful to fish for shrimp in Puget Sound with beam trawl gear in waters shallower than 100 feet.

(e) It is lawful to fish for shrimp in Puget Sound with beam trawl gear in Marine Fish-Shellfish Management and Catch Reporting Area 21A only in those waters north and west of a line from the southern tip of Sinclair Island to Carter Point on Lummi Island.

(f) The following restrictions apply to shrimp beam trawl harvest in Marine Fish-Shellfish Management and Catch Reporting Area 20A:

(i) Closed in waters east of a line from the southwest corner of Point Roberts to Sandy Point.

(ii) Closed in waters shallower than 20 fathoms.

(g) It is unlawful to operate shrimp beam trawl gear in Puget Sound from one hour after official sunset to one hour before official sunrise.

(4) All shrimp taken in the Puget Sound commercial shrimp fishery must be landed and recorded on Washington state fish receiving tickets within 24 hours of harvest. No fisher may land shrimp without immediate delivery to a licensed wholesale dealer, or if transferred at sea, without transfer to a licensed wholesale dealer. A fisher who is a licensed wholesale dealer may complete and return a fish receiving ticket to satisfy the requirements of this subsection.

(5) For purposes of shrimp pot harvest allocation, fishing season, and catch reporting, the Marine Fish-Shellfish Management and Catch Reporting Areas (catch areas) are modified as follows:

(a) That portion of Catch Area 22A south of a line due east from the international boundary to Lime Kiln Point light on San Juan Island, then south of the shores of San Juan Island, then south of a line from Cattle Point on San Juan Island to Davis Point on Lopez Island, then south of the shores of Lopez Island to Point Colville shall be considered to be part of Catch Area 23A.

(b) Catch Area 23A is divided into ~~((three))~~ four subareas:

(i) 23A-E (east) is those waters of Catch Area 23A east of ((a line projected 122.59 N longitude)) 122°57'W. Long. and north of 48°22.5'N. Lat.

(ii) 23A-W (west) is those waters of Catch Area 23A ((east of a line projected 335 degrees true from the Dungeness lighthouse and)) west of ((a line projected 122.59 N longitude)) 122°57'W. Long. and north of 48°22.5'N. Lat.

(iii) 23A-C (central) is those waters of Catch Area 23 south of 48°22.5'N. Lat. and east of a line projected 335° true from the Dungeness lighthouse.

(iv) 23A-S (south) is those waters of Catch Area 23A west of a line projected 335° ((degrees)) true from the Dungeness lighthouse.

(c) Catch Area 26A is divided into two subareas:

(i) 26A-E (east)((:)) is those waters of Catch Area 26A north and east of a line projected 110 degrees true from the

southern tip of Possession Point on Whidbey Island to the shipwreck on the opposite shore.

(ii) 26A-W (west)(~~(s)~~) is those waters of Catch Area 26A south and west of a line projected 110 degrees true from the southern tip of Possession Point on Whidbey Island to the shipwreck on the opposite shore.

(d) Catch Area 26B is divided into two subareas:

(i) 26B-1(~~(s)~~) is those waters of Catch Area 26B westerly of a line projected from West Point to Alki Point.

(ii) 26B-2(~~(s)~~) is those waters easterly of a line projected from West Point to Alki Point.

(6) For purpose of shrimp trawl harvest allocation and catch reporting, 23A East is that portion of Catch Area 23A, east of a line projected true north from the Dungeness lighthouse. 23A West is that portion of Catch Area 23A, west of the line described herein.

(7) The following areas are defined as Puget Sound Shrimp Management Areas:

(a) Shrimp Management Area 1A: (~~(The portion of Crustacean Management Region 1 which includes all)~~) Waters of Catch Area 20B west of a line from Point Doughty on Orcas Island to the bell buoy at the international boundary, and all waters of Catch Area 22A west of a line projected true north and south from the western tip of Crane Island, west of a line projected from the number 2 buoy at the entrance to Fisherman Bay to the southern tip of Shaw Island.

(b) Shrimp Management Area 1B: (~~(That portion of Crustacean Management Region 1 which includes all)~~) Waters of Catch Area 20B east of a line from Point Doughty on Orcas Island to the bell buoy at the international boundary, and ((aH)) waters of Catch Area 22A east of a line projected true north and south from the western tip of Crane Island, east of a line projected from the number 2 buoy at the entrance to Fisherman Bay to the southern tip of Shaw Island, and east of a line projected true south from Point Colville, and all waters of Catch Area 21A north and west of a line from the southern tip of Sinclair Island to Carter Point on Lummi Island.

(c) Shrimp Management Area 1C: (~~(That portion of Crustacean Management Region 1 which includes all)~~) Waters of Catch Areas 20A, 21B, 22B, and ((aH)) waters of Catch Area 21A not included in Management Area 1B.

(d) Shrimp Management Area 2E: (~~(That portion of Crustacean Management Region 2 which includes all)~~) Waters of Catch Areas 24A, 24B, 24C, 24D, and 26A-E (east).

(e) Shrimp Management Area 2W: (~~(That portion of Crustacean Management Region 2 which includes all)~~) Waters of Catch Areas 25B, 25C, 25D, and 26A-W (west).

(f) Shrimp Management Area 3: Waters of Catch Areas 23A, 23B, 23C, 23D, 25A, 25E, and 29.

(g) Shrimp Management Area 4: Waters of Catch Areas 26B and 26C.

(h) Shrimp Management Area 5: Waters of Catch Areas 27A, 27B, and 27C.

(i) Shrimp Management Area 6: Waters of Catch Areas 26D, 28A, 28B, 28C, and 28D.

(8) In Shrimp Management Areas 1A, 1B and 1C, all catch (~~(with)~~) must be reported by Management Area and Catch Area combined, either 1A-20B, 1A-22A, 1B-20B, 1B-21A, 1B-22A, (~~(or)~~) 1C-20A, 1C-21A, 1C-21B, or 1C-22B.

AMENDATORY SECTION (Amending Order 04-210, filed 8/17/04, effective 9/17/04)

WAC 220-69-240 Duties of commercial purchasers and receivers. (1) It is unlawful for any person originally receiving fresh or iced fish or shellfish or frozen fish or shellfish that have not been previously delivered in another state, territory, or country, except purchases or receipts made by individuals or consumers at retail, to fail to be a licensed wholesale fish dealer or fish buyer, and to fail to immediately, completely, accurately, and legibly prepare the appropriate state of Washington fish receiving ticket regarding each and every purchase or receipt of such commodities. Each delivery must be recorded on a separate fish receiving ticket.

It is unlawful for any original receiver of crab or spot shrimp to fail to record all crab or spot shrimp aboard the vessel making the delivery to the original receiver. The poundage of any fish or shellfish deemed to be unmarketable, discards, or weighbacks must be shown on the fish receiving ticket and identified as such, but a zero dollar value may be entered for such fish or shellfish.

(a) Failure to be licensed under this subsection is punishable under RCW 77.15.620.

(b) Failure to prepare a fish receiving ticket under this subsection is punishable under RCW 77.15.630.

(2) Any employee of a licensed wholesale dealer who has authorization to receive or purchase fish or shellfish for that dealer on the premises of the primary business address or any of its branch plant locations shall be authorized to initiate and sign fish receiving tickets on behalf of his employer. The business or firm shall be responsible for the accuracy and legibility of all such documents initiated in its name.

(3) It is unlawful for the original receiver to fail to initiate the completion of the fish receiving ticket upon receipt of any portion of a commercial catch. Should the delivery of the catch take more than one day, the date that the delivery is completed is required to be entered on the fish receiving ticket as the date of delivery. If, for any reason, the delivery vessel leaves the delivery site, the original receiver must immediately enter the current date on the fish receiving ticket. Violation of this subsection is punishable under RCW 77.15.630.

(4) Forage fish: It is unlawful for any person receiving forage fish to fail to report the forage fish on fish receiving tickets that are initiated and completed on the day the forage fish are delivered. Herring are also required to be reported on herring harvest logs. The harvested amount of forage fish is to be entered upon the fish ticket when the forage fish are off-loaded from the catcher vessel. An estimate of herring, candlefish, anchovy, or pilchards caught but not sold due to mortality must be included on the fish ticket as "loss estimate."

Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.640.

(5) Geoduck: It is unlawful for any person receiving geoducks, regardless of whether or not the receiver holds a license as required under Title 77 RCW, to fail to accurately and legibly complete the fish receiving ticket initiated on the harvest tract immediately upon the actual delivery of geoducks from the harvesting vessel onto the shore. This fish receiving ticket shall accompany the harvested geoducks

from the department of natural resources harvest tract to the point of delivery. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.640.

(6) Pacific whiting: It is unlawful for the original receiver of Pacific whiting to fail to enter an estimated weight of Pacific whiting on the fish receiving ticket immediately upon completion of the delivery. The exact weights of whiting, by grade, and all incidental species in the delivery must be entered on the fish receiving ticket within twenty-four hours of the landing. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.640.

(7) Puget Sound shrimp - Pot gear: It is unlawful for the original receiver of shrimp other than ghost shrimp taken from Puget Sound by pot gear to fail to report to the department the previous week's purchases by 10:00 a.m. the following Monday. For harvest in Crustacean Management Regions 1 or 2, reports must be made to the La Conner district office by voice 360-466-4345 extension 245, or facsimile 360-466-0515. For harvest in Crustacean Management Regions 3, 4, or 6, reports must be made to the Point Whitney Shellfish Laboratory by voice 1-866-859-8439, extension ~~((600))~~ 800, or facsimile 360-586-8408. All reports must specify the serial numbers of the fish receiving tickets on which the previous week's shrimp were sold, and the total number of pounds caught by gear type, Marine Fish-Shellfish Management and Catch Reporting Area (Catch Area), and species listed on each ticket. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.560.

(a) It is unlawful for any person originally receiving or purchasing shrimp, other than ghost shrimp, harvested from Catch Area 23A, to fail to record either 23A-C, 23A-E, 23A-W or 23A-S on shellfish receiving tickets based on the location of harvest and the boundary definitions specified in WAC 220-52-051. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.640.

(b) It is unlawful for any person originally receiving or purchasing shrimp, other than ghost shrimp, harvested from Catch Area 26A, to fail to record either 26A-E or 26A-W on shellfish receiving tickets based on the location of harvest and the boundary definitions specified in WAC 220-52-051. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.640.

(c) It is unlawful for any person originally receiving or purchasing shrimp, other than ghost shrimp, harvested from Catch Area 26B, to fail to record either 26B-1 or 26B-2 on shellfish receiving tickets based on the location of harvest and the boundary definitions specified in WAC 220-52-051. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.640.

(d) It is unlawful for any person originally receiving or purchasing shrimp, other than ghost shrimp, harvested from Catch Areas 20B, 21A, and 22A, to fail to record either 1A-20B, 1A-22A, 1B-20B, 1B-21A, 1B-22A, or 1C-21A on shellfish receiving tickets based on the location of harvest and the boundary definitions specified in WAC 220-52-051. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.640.

(8) Puget Sound shrimp - Trawl gear: It is unlawful for the original receiver of shrimp other than ghost shrimp taken from Puget Sound by trawl gear to fail to report to the depart-

ment the previous day's purchases by 10:00 a.m. the following morning. For harvest in Crustacean Management Region 1, reports must be made to the La Conner district office by voice 360-466-4345 extension 245, or facsimile 360-466-0515. For harvest in Crustacean Management Region 3, reports must be made to the Point Whitney Shellfish Laboratory by voice 1-866-859-8439, extension 600, or facsimile 360-586-8408. All reports must specify the serial numbers of the fish receiving tickets on which the previous day's shrimp were sold, and the total number of pounds caught by gear type, Marine Fish-Shellfish Management and Catch Reporting Area, and species listed on each ticket. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.560.

(9) Puget Sound crab: It is unlawful for any wholesale dealer acting in the capacity of an original receiver of Dungeness crab taken by nontreaty fishers from Puget Sound to fail to report to the department the previous day's purchases by 10:00 a.m. the following ~~((morning))~~ business day. Reports must be made to the ~~((Point Whitney Shellfish Laboratory))~~ La Conner District Office by facsimile ~~((360-586-8408))~~ 360-466-0515 or by telephone number 1-866-859-8439 extension 500 and must specify the dealer name, dealer phone number, date of delivery of crab to the original receiver, and the total number of pounds of crab caught by nontreaty fishers by ~~((Crustacean))~~ Crab Management Region or by Marine Fish-Shellfish Management and Catch Reporting Area. The fish receiving ticket reporting requirement of WAC 220-69-240 remains in effect. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.560.

(10) Salmon and sturgeon: During any fishery opening designated by rule as "quick reporting required," it is unlawful for any wholesale dealer acting in the capacity of an original receiver to fail to report all purchases of salmon and sturgeon made on the previous calendar day, or for a direct retail endorsement holder to fail to report all salmon offered for retail sale on the previous calendar day. The report must include dealer or holder name and purchasing location, date of purchase, each fish ticket number used on the purchasing date, and the following catch data for each species purchased: Gear, catch area, species, number and total weight of fish. When quick reporting is required, it is unlawful to fail to comply with the following reporting requirements:

(a) Puget Sound reports must be reported by 10:00 a.m. on the day after the purchase date by either:

- (i) Fax transmission to 360-902-2949
- (ii) E-mail to psfishtickets@dfw.wa.gov or
- (iii) Telephone to 1-866-791-1279

(b) Coastal troll reports must be reported by 10:00 a.m. on the day after the purchase date by either:

- (i) Fax transmission to 360-902-2949
- (ii) E-mail to trollfishtickets@dfw.wa.gov or
- (iii) Telephone to 1-866-791-1279

(c) Grays Harbor and Willapa Bay reports must be reported by 10:00 a.m. on the day after the purchase date by either:

- (i) Fax transmission to 360-664-0689
- (ii) E-mail to harborfishtickets@dfw.wa.gov or
- (iii) Telephone to 1-866-791-1280

(d) Columbia River reports must be reported by 10:00 a.m. on the day after the purchase date by either:

- (i) Fax transmission to 360-906-6776 or 360-906-6777
- (ii) E-mail to crfishtickets@dfw.wa.gov or
- (iii) Telephone to 1-866-791-1281

(e) Faxing a copy of each fish receiving ticket used on the previous day satisfies the reporting requirement.

(f) Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.560.

(11) Sea urchins and sea cucumbers: It is unlawful for any wholesale dealer acting in the capacity of an original receiver and receiving sea urchins or sea cucumbers from nontreaty fishers to fail to report to the department each day's purchases by 10:00 a.m. the following day. For red sea urchins the report must specify the number of pounds received from each sea urchin district. For green sea urchins and sea cucumbers the report must specify the number of pounds received from each Marine Fish-Shellfish Management and Catch Reporting Area. For sea cucumbers the report must specify whether the landings were "whole-live" or "split-drained." The report must be made by facsimile (fax) transmission to 360-902-2943 or by toll-free telephone to 866-207-8223. Additionally, it is unlawful for the original receiver of red sea urchins to fail to record on the fish receiving ticket the sea urchin district where the red sea urchins were taken, and it is unlawful for the original receiver of any sea urchins to fail to record on the fish receiving ticket the name of the port of landing where the sea urchins were landed ashore. Additionally, it is unlawful for the original receiver of sea cucumbers to fail to record on the fish receiving ticket whether the sea cucumbers were delivered "whole-live" or "split-drained." Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.560.

(12) Coastal spot shrimp: It is unlawful for any original receiver of spot shrimp taken from Marine Fish Management and Catch Reporting Area 60A-1 to fail to record separately on the fish receiving ticket spot shrimp taken north or south of 47°04.00' north latitude. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.640.

WSR 05-20-072
PROPOSED RULES
PARKS AND RECREATION
COMMISSION

[Filed October 4, 2005, 1:37 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-13-044.

Title of Rule and Other Identifying Information: The state Parks and Recreation Commission has completed a review of chapters 352-20, 352-32, and 352-37 WAC to ensure the language and provisions reflect current or proposed changes to the agency's business practices and to help ensure that park visitors have easy access to and understanding of park rules. This proposed action will add definitions, and update public use rules at specific park sites and within the seashore conservation area.

Hearing Location(s): Washington State History Museum, 1911 Pacific Avenue, Tacoma, WA 98402, 1-888-238-4373, on November 17, 2005, at 9:00 a.m.

Date of Intended Adoption: November 17, 2005.

Submit Written Comments to: Pamela McConkey, P.O. Box 42650, Tumwater, WA 90850-2650 [98504-2650], e-mail Pamela.mcconkey@parks.wa.gov, phone (360) 902-8595, fax (360) 586-5875, by November 15, 2005.

Assistance for Persons with Disabilities: Contact Pauli Larson by November 4, 2005, TTY (360) 664-3133 or (360) 902-8505.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The Washington state Parks and Recreation Commission is responsible for protecting those natural resources under its jurisdiction while simultaneously facilitating and regulating appropriate public enjoyment of parks and parkways. This proposed rule-making action is intended to make necessary modifications to park rules and to accurately reflect changes to the agency's business practices. These proposed rules help to align current administrative rules governing public use of state park areas with other commission rules that apply to specific park sites and the seashore conservation area.

The proposed amendments to chapter 352-20 WAC, Use of motor driven vehicles in state parks—Parking restrictions—Violations, including the following:

- Creates a new definition section to define "motor vehicles" and "trails" and repeals the existing definitions.
- Updates the rules governing parking and specifies the requirement for proper display of the required permit.
- Explains that the registered owner of a vehicle is presumed to have parked the vehicle at the point and time of a violation.

The proposed amendments to chapter 352-32 WAC, Public use of state park areas, include the following:

- Creates a definition for "wood debris."
- Clarifies language related to the establishment of an advisory committee on remote controlled aircraft.
- Updates prohibitions and the penalty related to sanitation.
- Clarifies and updates the fees for an additional vehicle parked at the campsite of a limited income citizen, disability and disabled veteran pass holders.
- Clarifies the collection of wood debris at specified state parks and the requirements for a wood debris collection permit.

The proposed amendments to chapter 352-37 WAC, Ocean beaches, include the following:

- Creates a definition for "seashore conservation area."
- Created new regulations related to disrobing, firearms, fireworks, games or activities, intoxication in the seashore conservation area, peace and quiet, pets, rubbish, sanitation, solicitation, other weapons and penalties.

Reasons Supporting Proposal: The proposal clarifies, standardizes and simplifies the language contained in a num-

ber of rules in each chapter of WAC. The changes make park rules more understandable to the public, and also give additional tools to state parks' staff as they protect park resources and park visitors.

Statutory Authority for Adoption: RCW 79A.05.030, 79A.05.035, 79A.05.070, 79A.05.165, 79A.05.605, and 79A.05.610.

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

Name of Proponent: Parks and Recreation Commission, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Pamela McConkey, State Park Headquarters, P.O. Box 42650, Tumwater, WA 98504-2650, (360) 902-8595; and Enforcement: Phil Shave, State Park Headquarters, P.O. Box 42650, Tumwater, WA 98504-2650, (360) 902-8606.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These chapters of administrative rules do not regulate or have economic impact through regulations on small business. There are no compliance costs to small business as a result of the modifications to these rules.

A cost-benefit analysis is not required under RCW 34.05.328. Significant legislative rule-making requirements are not imposed on the state Parks and Recreation Commission, nor has the commission voluntarily applied those requirements.

October 4, 2005

Jim French, Administrator
Statewide Recreation Programs

NEW SECTION

WAC 352-20-005 Definitions. Whenever used in this chapter, the following terms shall be defined as indicated herein:

(1) "Motor vehicle" shall mean any self-propelled device capable of being moved upon a road, and in, upon, or by which any persons or property may be transported or drawn, and shall include, but not be limited to, automobiles, trucks, motorcycles, motorbikes, motor scooters, jeeps, or similar type 4-wheel drive vehicles, and snowmobiles, whether or not they can legally be operated upon the public highways.

(2) "Trail" shall mean any path or track designed for use of pedestrians or equestrians and which is not of sufficient width, nor graded or paved with concrete, asphalt, gravel, or similar substance, so as to permit its use by standard passenger automobiles; or any other right of way specifically designated and posted for nonvehicular use.

AMENDATORY SECTION (Amending WSR 96-22-018, filed 10/29/96, effective 1/1/97)

WAC 352-20-010 Stopping, standing or parking prohibited in specified areas. (1) No operator of any automobile, trailer, camper, boat trailer, or other vehicle, shall park such vehicle in any state park area, except where the operator ~~((is using the area for a designated recreational purpose or possesses a state park nonrecreation))~~ obtains and properly

displays the required state parks' permit and the vehicle is parked either in a designated parking area, or in another area with the permission of a ranger.

(2) No person shall park, leave standing, or abandon a vehicle in any state park area after closing time, except when camping in a designated area, or with permission from the ranger.

(3) No person shall park, leave standing, or abandon a vehicle being used for commercial purposes in any state park area without written permission from the ranger.

(4) Any vehicle found parked in violation of subsection (1), (2), or (3) of this section may be towed away at the owner's or operator's expense.

(5) In any infraction involving stopping, standing or parking of vehicles, proof that the particular vehicle described in the notice of infraction was stopping, standing or parking in violation of any such provision of this section together with proof that the person named in the notice of infraction was at the time of the violation the registered owner of the vehicle, shall constitute in evidence a prima facie presumption that the registered owner of the vehicle was the person who parked or placed the vehicle at the point where, and for the time during which the violation occurred.

(6) Except as provided in WAC 352-20-070, any violation of this section is an infraction under chapter 7.84 RCW.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 352-20-060

Definitions.

AMENDATORY SECTION (Amending WSR 05-01-069, filed 12/9/04, effective 1/9/05)

WAC 352-32-010 Definitions. Whenever used in this chapter the following terms shall be defined as herein indicated:

"Aircraft" shall mean any machine designed to travel through the air, whether heavier or lighter than air; airplane, dirigible, balloon, helicopter, etc. The term aircraft shall not include paraglider or remote controlled aircraft.

"Aquatic facility" shall mean any structure or area within a state park designated by the director or designee for aquatic activities, including, but not limited to, swimming pools, wading pools, swimming beaches, floats, docks, ramps, piers or underwater parks.

"Bivouac" shall mean to camp overnight on a vertical rock climbing route on a ledge or in a hammock sling.

"Campfires" shall mean any open flame from a wood source.

"Camping" shall mean erecting a tent or shelter or arranging bedding, or both, or parking a recreation vehicle or other vehicle for the purpose of remaining overnight.

"Camping party" shall mean an individual or a group of people (two or more persons not to exceed eight) that is organized, equipped and capable of sustaining its own camping activity. A "camping party" is a "camping unit" for purposes of RCW 79A.05.065.

"Commercial recreation use" is a recreational activity in a state park that is packaged and sold as a service by an organization or individual, other than state parks or a state park concessionaire.

"Commercial recreation provider" is any individual or organization that packages and sells a service that meets the definition of a commercial recreation use.

"Commission" shall mean the Washington state parks and recreation commission.

"Conference center" shall mean a state park facility designated as such by the director or designee that provides specialized services, day-use and overnight accommodations available by reservation for organized group activities.

"Day area parking space" shall mean any designated parking space within any state park area designated for day-time vehicle parking.

"Director" shall mean the director of the Washington state parks and recreation commission or the director's designee.

"Disrobe" shall mean to undress so as to appear nude.

"Emergency area" is an area in the park separate from the designated overnight camping area, which the park manager decides may be used for camping when no alternative camping facilities are available within reasonable driving distances.

"Environmental interpretation" shall mean the provision of services, materials, publications and/or facilities, including environmental learning centers (ELC), for other than basic access to parks and individual camping, picnicking, and boating in parks, that enhance public understanding, appreciation and enjoyment of the state's natural and cultural heritage through agency directed or self-learning activities.

"Environmental learning centers (ELC)" shall mean those specialized facilities, designated by the director, designed to promote outdoor recreation experiences and environmental education in a range of state park settings.

"Extra vehicle" shall mean each additional unhitched vehicle in excess of the one recreational vehicle that will be parked in a designated campsite or parking area for overnight.

"Fire" shall mean any open flame from any source or device including, but not limited to, campfires, stoves, candles, torches, barbecues and charcoal.

"Fish" shall mean all marine and freshwater fish and shellfish species including all species of aquatic invertebrates.

"Group" shall mean twenty or more people engaged together in an activity.

"Group camping areas" are designated areas usually primitive with minimal utilities and site amenities and are for the use of organized groups. Facilities and extent of development vary from park to park.

"Hiker/biker campsite" shall mean a campsite that is to be used solely by visitors arriving at the park on foot or bicycle.

"Motorcycle" means every motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a farm tractor and a moped.

"Multiple campsite" shall mean a designated and posted camping facility encompassing two or more individual standard, utility or primitive campsites.

"Overflow area" shall mean an area in a park separate from designated overnight and emergency camping areas, designated by the park manager, for camping to accommodate peak camping demands in the geographic region.

"Overnight accommodations" shall mean any facility or site designated for overnight occupancy within a state park area.

"Paraglider" shall mean an unpowered ultralight vehicle capable of flight, consisting of a fabric, rectangular or elliptical canopy or wing connected to the pilot by suspension lines and straps, made entirely of nonrigid materials except for the pilot's harness and fasteners. The term "paraglider" shall not include hang gliders or parachutes.

"Person" shall mean all natural persons, firms, partnerships, corporations, clubs, and all associations or combinations of persons whenever acting for themselves or by an agent, servant, or employee.

"Personal watercraft" means a vessel of less than sixteen feet that uses a motor powering a water jet pump, as its primary source of motive power and that is designed to be operated by a person sitting, standing, or kneeling on, or being towed behind the vessel, rather than in the conventional manner of sitting or standing inside the vessel.

"Popular destination park" shall mean any state park designated by the director as a popular destination park because, it is typically occupied to capacity on Friday or Saturday night during the high use season.

"Primitive campsite" shall mean a campsite not provided with flush comfort station nearby and which may not have any of the amenities of a standard campsite.

"Public assembly" shall mean a meeting, rally, gathering, demonstration, vigil, picketing, speechmaking, march, parade, religious service, or other congregation of persons for the purpose of public expression of views of a political or religious nature for which there is a reasonable expectation that more than one hundred persons will attend based on information provided by the applicant. Public assemblies must be open to all members of the public, and are generally the subject of attendance solicitations circulated prior to the event, such as media advertising, flyers, brochures, word-of-mouth notification, or other form of prior encouragement to attend.

Alternatively, the agency director may declare an event to be a public assembly in the following cases: Where evidentiary circumstances and supporting material suggest that more than one hundred persons will attend, even where the applicant does not indicate such an expectation; or where there is reason to expect a need for special preparations by the agency or the applicant, due to the nature or location of the event.

"Ranger" shall mean a duly appointed Washington state parks ranger who is vested with police powers under RCW 79A.05.160, and shall include the park manager in charge of any state park area.

"Recreation vehicle" shall mean a vehicle/trailer unit, van, pickup truck with camper, motor home, converted bus,

or any similar type vehicle which contains sleeping and/or housekeeping accommodations.

"Remote controlled aircraft" shall mean nonpeopled model aircraft that are flown by using internal combustion, electric motors, elastic tubing, or gravity/wind for propulsion. The flight is controlled by a person on the ground using a hand held radio control transmitter.

"Residence" shall mean the long-term habitation of facilities at a given state park for purposes whose primary character is not recreational. "Residence" is characterized by one or both of the following patterns:

(1) Camping at a given park for more than thirty days within a forty-day time period April 1 through September 30; or forty days within a sixty-day time period October 1 through March 31. As provided in WAC 352-32-030(7), continuous occupancy of facilities by the same camping party shall be limited to ten consecutive nights April 1 through September 30. Provided that at the discretion of the park ranger the maximum stay may be extended to fourteen consecutive nights if the campground is not fully occupied. Campers may stay twenty consecutive nights October 1 through March 31 in one park, after which the camping unit must vacate the overnight park facilities for three consecutive nights. The time period shall begin on the date for which the first night's fee is paid.

(2) The designation of the park facility as a permanent or temporary address on official documents or applications submitted to public or private agencies or institutions.

"Seaweed" shall mean all species of marine algae and flowering sea grasses.

"Sno-park" shall mean any designated winter recreational parking area.

"Special groomed trail area" shall mean those sno-park areas designated by the director as requiring a special groomed trail permit.

"Special recreation event" shall mean a group recreation activity in a state park sponsored or organized by an individual or organization that requires reserving park areas, planning, facilities, staffing, or other services beyond the level normally provided at the state park to ensure public welfare and safety and facility and/or environmental protection.

"Standard campsite" shall mean a designated camping site which is served by nearby domestic water, sink waste, garbage disposal, and flush comfort station.

"State park area" shall mean any area under the ownership, management, or control of the commission, including trust lands which have been withdrawn from sale or lease by order of the commissioner of public lands and the management of which has been transferred to the commission, and specifically including all those areas defined in WAC 352-16-020. State park areas do not include the seashore conservation area as defined in RCW 79A.05.605 and as regulated under chapter 352-37 WAC.

"Trailer dump station" shall mean any state park sewage disposal facility designated for the disposal of sewage waste from any recreation vehicle, other than as may be provided in a utility campsite.

"Upland" shall mean all lands lying above mean high water.

"Utility campsite" shall mean a standard campsite with the addition of electricity and which may have domestic water and/or sewer.

"Vehicle" shall include every device capable of being moved upon a public highway and in, upon, or by which any persons or property is or may be transported or drawn upon a public highway. For the purposes of this chapter, this definition excludes bicycles, wheelchairs, motorized foot scooters, electric personal assistive mobility devices (EPAMDs), snowmobiles and other nonlicensed vehicles.

"Vehicle parking permit" means the permit issued on a daily, multiple day or annual basis for parking a vehicle in any state park area designated for daytime vehicle parking, excluding designated sno-park parking areas.

"Walk-in campsite" shall mean a campsite that is accessed only by walking to the site and which may or may not have vehicle parking available near by.

"Watercraft launch site" shall mean any facility located in a state park area designated for the purpose of placing or retrieving any vehicle-borne or trailer-borne watercraft into or out of the water.

"Water trail advisory committee" shall mean the twelve-member committee constituted by RCW 79A.05.420.

"Water trail camping sites" shall mean those specially designated group camp areas identified with signs, that are near water ways, and that have varying facilities and extent of development.

"Wood debris" shall mean down and dead tree material.

AMENDATORY SECTION (Amending WSR 00-13-070, filed 6/16/00, effective 7/17/00)

WAC 352-32-130 Aircraft. (1) No aircraft shall land on or take off from any body of water or land area in a state park area not specifically designated for landing aircraft. This provision does not apply to official aircraft used in the performance of search and rescue missions, medical emergencies, law enforcement activities, emergency evacuations or fire fighting activities. It also does not apply in cases where the director or designee specifically authorizes such landings or take offs, in writing, associated with the operational, or administrative needs of the agency or state.

(2) Individuals who have complied with the registration process provided or who have obtained a special recreation event permit pursuant to WAC 352-32-047 may launch and land paragliders in state park areas specifically designated by the director or designee as available for paragliding. Prior to any such designation, the director or designee shall advertise and conduct a public meeting in the region where the park is located. The director or designee shall consider the potential impacts of paragliding in the proposed area, including but not limited to the following factors: The degree of conflict paragliding may have with other park uses, public safety issues, and any potential damage to park resources/facilities. Any park designated for paragliding shall be conspicuously posted as such by the agency.

(3) Individuals paragliding in state parks must:

(a) Comply with the registration process provided for such purposes;

(b) Observe all applicable laws and regulations;

(c) Never destroy or disturb park facilities, natural features, or historical or archeological resources;

(d) Conduct themselves with thoughtfulness, courtesy and consideration for others, and not interfere with other recreational activities;

(e) Conduct themselves in compliance with the following basic safety regulations:

(i) Comply with specific site operational rules that are posted;

(ii) Fly in a manner consistent with the pilot rating held;

(iii) Preplanned landings should be made in areas no smaller than forty feet wide by one hundred feet long;

(iv) Make preflight checks of weather, equipment and site conditions;

(v) Observe all published traffic and right of way flight guidelines, including yielding right of way to all aircraft;

(vi) Wear protective clothing, headgear, Coast Guard approved flotation gear, reserve parachute, supplemental oxygen and communication equipment as appropriate for conditions;

(vii) Fly in a manner that does not create a hazard for other persons or property;

(viii) Fly only during daylight hours, or hours otherwise specified by posting at the site;

(ix) Do not fly over congested areas of parks or open air assembly of persons;

(x) Fly only in designated areas of parks;

(xi) Fly with visual reference to the ground surface at all times.

(xii) Do not tether paraglider to the ground or other stable nonmovable object.

(f) Not fly while under the influence of alcohol or drugs.

(4) Individuals flying remote controlled aircraft must do so only within flying areas designated by the director or designee and only when following the remote controlled aircraft management plan approved by the director or designee and posted for that designated area.

(a) Prior to any such designation, the director or designee shall advise and conduct a public meeting in the region where the park is located. The director shall consider the potential impacts of remote controlled aircraft flying in the proposed area, including, but not limited to, the following factors: The degree of conflict remote controlled aircraft flying may have with other park uses, public safety issues, and any potential damage to park resources/facilities. Any park area designated for remote controlled aircraft flying shall be conspicuously posted as such by the director or designee.

(b) The director or designee shall establish a committee (~~(of remote controlled aircraft flying)~~) to advise park staff on park management issues related to remote controlled aircraft flying for each state park area designated as a remote controlled aircraft flying site.

(c) Each state park area with an established advisory committee (~~(of)~~), which includes remote controlled aircraft flyers will have an approved management plan which will specify remote controlled aircraft flying rules concerning types of aircraft, flying hours, identified approved flying zones, identified runways for take-offs and landings, engine muffler requirements, use of and posting of radio frequency, fuel spills and cleanup. The director or designee shall ensure

that any remote controlled aircraft flying rules contained in the remote controlled aircraft flying management plan are conspicuously posted at the entrance of the affected park area.

(d) The director or designee may permanently, or for a specified period or periods of time, close any designated flying area to remote controlled aircraft flying if the director or designee concludes that a remote controlled aircraft flying closure is necessary for the protection of the health, safety, and welfare of the public, park visitors or staff, or park resources. Prior to closing any designated flying area to remote controlled aircraft flying, the director or designee shall hold a public meeting near the state park area to be closed to remote controlled aircraft flying. Prior notice of the meeting shall be published in a newspaper of general circulation in the area and at the park at least thirty days prior to the meeting. In the event that the director or designee or park manager determines that it is necessary to close a designated flying area immediately to protect against an imminent and substantial threat to the health, safety, and welfare of the public, park visitors or staff, or park resources, the director or designee or park manager may take emergency action to close a state park area to remote controlled aircraft flying without first complying with the publication and meeting requirements of this subsection. Such emergency closure may be effective for only so long as is necessary for the director or designee to comply with the publication and meeting requirements of this subsection. The director or designee shall ensure that any designated flying area closed to remote controlled aircraft flying is conspicuously posted as such at the entrance of the affected park area.

(e) Except as provided in WAC 352-32-310, any violation of this section or failure to abide by a conspicuously posted remote controlled aircraft flying rule is an infraction under chapter 7.84 RCW.

AMENDATORY SECTION (Amending WSR 03-01-079, filed 12/13/02, effective 1/13/03)

WAC 352-32-180 Sanitation. No person shall, in any state park area:

(1) Drain or dump refuse or waste from any trailer, camper, automobile, or other vehicle, or vessel, except in designated disposal areas or receptacles.

(2) Clean fish or other food, or wash any clothing or other article for personal or household use, or any dog or other animal, except at designated areas.

(3) Clean or wash any automobile or other vehicle except in areas specifically for that use.

(4) Pollute, or in any way contaminate by dumping or otherwise depositing therein any waste or refuse of any nature, kind, or description, including human or animal bodily waste, any stream, river, lake, or other body of water running in, through, or adjacent to, any state park area.

(5) Urinate or defecate except in designated facilities.

(6) Any violation of this section is an infraction under chapter 7.84 RCW.

AMENDATORY SECTION (Amending WSR 05-01-069, filed 12/9/04, effective 1/9/05)

WAC 352-32-251 Limited income senior citizen, disability, and disabled veteran passes. (1)(a) Persons who are senior citizens, meet the eligibility requirements of RCW 79A.05.065, and have been residents of Washington state for at least the past twelve consecutive months shall, upon application to the commission accompanied by either a copy of a federal income tax return filed for the previous calendar year, or a senior citizen property tax exemption pursuant to RCW 84.36.381, or a notarized affidavit of income on a form provided by the commission, receive a limited income senior citizen pass at no charge, which entitles the holder's camping party to free parking at any state park, free use of trailer dump stations, watercraft launch sites, and to a 50 percent reduction in any campsite fees, or moorage fees levied by the commission. Limited income senior citizen passes shall remain valid so long as the pass holder meets eligibility requirements.

(b) Proof submitted to the commission for the return of a senior citizen pass surrendered upon request to a commission employee who has reason to believe the user does not meet the eligibility criteria shall be the same as listed in subsections (1) and (5) of this section for original pass issuance.

(2) Persons who are permanently disabled, legally blind, or profoundly deaf, meet the eligibility requirements of RCW 79A.05.065, and have been residents of Washington state for at least the past twelve consecutive months shall, upon application to the commission, receive a five year disability pass at no charge and temporarily disabled persons who meet the eligibility requirements of RCW 79A.05.065 and have been residents of Washington state for at least the past twelve consecutive months shall, upon application to the commission, receive a one year disability pass at no charge which entitles the holder's camping party to free parking at any state park, free use of trailer dump stations, watercraft launch sites, and to a 50 percent reduction in any campsite fees, or moorage fees levied by the commission.

(3) Persons who are veterans, meet the eligibility requirements of RCW 79A.05.065, and have been residents of Washington state for at least the past twelve consecutive months shall, upon application to the commission, receive a lifetime disabled veteran pass at no charge. Pass holders must provide proof of continued residency as determined by the director or designee. The pass entitles the holder's camping party to free parking at any state park and to free use of any state park campsite, trailer dump station, watercraft launch site, moorage facility, and reservation service.

(4) Applications for limited income senior citizen, disability, and disabled veteran passes shall be made on forms prescribed by the commission.

(5) Verification of age shall be by original or copy of a birth certificate, notarized affidavit of age, witnessed statement of age, baptismal certificate, or driver's license. Verification of residency shall be by original or copy of a Washington state driver's license, voter's registration card, or senior citizen property tax exemption.

(6) For pass holders who travel by vehicle or recreational vehicle, camping party shall include the pass holder and up to seven guests of the holder who travel with the holder and use one campsite or portion of a designated group camping or

emergency area. ~~((One additional))~~ There is no additional fee for one extra vehicle without built-in sleeping accommodations ~~((may be))~~ that is part of the camping party of a pass holder at one campsite or portion of a designated group camping or emergency area, when in the judgment of a ranger, the constructed facilities so warrant, and the total number of guests of the holder do not exceed seven.

(7) For pass holders who travel by a mode of transportation other than vehicle or recreational vehicle, camping party shall include the pass holder and up to seven guests who travel with the pass holder and use one campsite or portion of a designated group camping or emergency area.

(8) If the conditions of a pass holder change or the pass holder changes residency to a place outside Washington state during the time period when a pass is valid such that a pass holder no longer meets the eligibility requirements of RCW 79A.05.065 and WAC 352-32-251, the pass becomes invalid, and the pass holder shall return the pass to the commission or surrender the pass to a state park representative.

AMENDATORY SECTION (Amending WSR 00-13-070, filed 6/16/00, effective 7/17/00)

WAC 352-32-290 Wood debris collection ~~((permit— Fee))~~. (1) ~~((As used in this section "wood debris" means down and dead tree material))~~ Wood debris that may be removed without significantly adversely impacting the environment of the park at which it is located and that is surplus to the needs of such park, may be collected after obtaining a state parks' wood debris collection permit.

(2) A person may collect and remove wood debris from a designated state park area only when ~~((a park ranger has issued the person a))~~ the person obtains the required wood debris collection permit.

(3) A wood debris collection permit is valid only at the state park at which the permit is issued.

(4) Subject to availability, for each wood debris collection permit issued, a person may collect and remove from a state park area not more than five cords of wood debris. Wood debris may be collected only for personal firewood use and only from sites and during time periods designated by a park ranger.

(5) The nonrefundable fee for a wood debris collection permit shall be established by the director consistent with limitations identified in RCW 4.24.210, 79A.05.035 and 43.52.065.

(6) This section shall be implemented in compliance with chapter 352-28 WAC.

(7) All other collection of wood debris in state park areas is prohibited.

(8) Any violation of this section is an infraction under chapter 7.84 RCW.

AMENDATORY SECTION (Amending WSR 05-01-068, filed 12/9/04, effective 1/9/05)

WAC 352-37-020 Definitions. Whenever used in this chapter the following terms shall have the meanings herein defined unless the context clearly indicates otherwise:

"Aircraft" shall mean any machine designed to travel through the air, whether heavier or lighter than air; airplane,

dirigible, balloon, helicopter, etc. The term aircraft shall not include paraglider or remote controlled aircraft.

"Campfires" shall mean any open flame from a wood source.

"Camping" shall mean erecting a tent or shelter or arranging bedding, or both, or parking a recreation vehicle or other vehicle for the purpose of remaining overnight.

"Commission" shall mean the Washington state parks and recreation commission.

"Director" shall mean the director of the Washington state parks and recreation commission or the director's designee.

"Driveable beach" shall mean that area of the ocean beaches lying between the upper or landward limit of the hard sand area and the clam beds.

"Dry sand area" shall mean that area lying above and to the landward side of the hard sand area as defined in this section.

"Fire" shall mean any open flame from any source or device including, but not limited to, campfires, stoves, candles, torches, barbeques and charcoal.

"Hard sand area" shall mean that area over which the tide ebbs and flows on a daily basis; and which is sufficiently hard or firm to support the weight of, and to provide unhindered traction for, an ordinary passenger vehicle.

"Hovercraft" shall mean a powered vehicle supported by a cushion of air capable of transporting persons.

"Long Beach Peninsula" shall mean that area of the ocean beaches as defined in this section lying between Cape Disappointment on the south and Leadbetter Point on the north.

"Motor vehicle" shall mean every vehicle that is self-propelled. For the purposes of this chapter, a motor vehicle must be approved for highway use in accordance with Title 46 RCW.

"North Beach" shall mean that area of the ocean beaches as defined in this section lying between Damon Point on the south and Cape Flattery on the north.

"Ocean beaches" shall mean all lands fronting on the Pacific Ocean between Cape Disappointment and Leadbetter Point; between Toke Point and the south jetty on Point Chehalis; and between Damon Point and the Makah Indian Reservation, and occupying the area between the line of ordinary high tide and the line of extreme low tide, as these lines now are or may hereafter be located, and, where applicable, between the Seashore Conservation Line, as established by survey of the Washington state parks and recreation commission and the line of extreme low tide, as these lines now are or may hereafter be located, or as defined in RCW 79A.05.605, provided, that the ocean beaches shall not include any lands within the established boundaries of any Indian reservation.

"Parasail" shall mean a parachute-type device attached to a rope pulled by a motor vehicle, resulting in the participant being lifted from the ground by the force of the wind.

"Person" shall mean all natural persons, firms, partnerships, corporations, clubs, and all associations or combinations of persons whenever acting for themselves or by an agent, servant, or employee.

"Seashore conservation area" shall mean all lands now or hereafter under state ownership or control as defined in RCW 79A.05.605.

"South Beach" shall mean that area of the ocean beaches as defined in this section lying between Toke Point on the south and the south jetty on Point Chehalis on the north.

"Wind/sand sailer" shall mean a wheeled, wind-driven recreational conveyance.

AMENDATORY SECTION (Amending WSR 92-19-098, filed 9/17/92, effective 10/18/92)

WAC 352-37-220 ((Penalties)) Disrobing. ~~((Any violation designated in this chapter as a civil infraction shall constitute a misdemeanor until the violation is included in a civil infraction monetary schedule adopted by rule by the state supreme court pursuant to chapter 7.84 RCW.))~~ (1) No person shall disrobe in public in the seashore conservation area.

(2) Clothing sufficient to conform to common standards shall be worn at all times.

(3) Any violation of this section is an infraction under chapter 7.84 RCW.

NEW SECTION

WAC 352-37-230 Firearms. (1) No person shall discharge or propel across, in, or into the seashore conservation area a firearm, except where the commission for good cause has authorized a special recreational activity upon finding that it is not inconsistent with state park use. Any violation of this section is a gross misdemeanor.

(2) The possession, display, carrying, discharge or use of a firearm is further regulated under chapter 9.41 RCW.

NEW SECTION

WAC 352-37-240 Fireworks. The possession or discharge of fireworks on or into those areas of the seashore conservation area adjacent to state park areas is prohibited, except where designated by the director or designee; provided however, that the director or designee may issue permits for fireworks displays subject to conditions established by the agency and as provided in chapter 70.77 RCW.

NEW SECTION

WAC 352-37-250 Games or activities. Playing games and/or engaging in activities in a manner and/or location which subjects people or personal property, resources or facilities in the seashore conservation area to risk of injury or damage shall be prohibited. Any violation of this section is an infraction under chapter 7.84 RCW.

NEW SECTION

WAC 352-37-260 Intoxication in the seashore conservation area. Being or remaining in, or loitering about in the seashore conservation area while in a state of intoxication shall be prohibited. Any violation of this section is an infraction under chapter 7.84 RCW.

NEW SECTION

WAC 352-37-270 Peace and quiet. To ensure peace and quiet for visitors:

(1) No person shall, at any time, use amplified sound-emitting electronic equipment that emits sound beyond the person's vehicle or immediate area of use which is at a volume that may disturb other users of the seashore conservation area, without specific permission of the park ranger.

(2) Any violation of this section is an infraction under chapter 7.84 RCW.

NEW SECTION

WAC 352-37-280 Pets. (1) In the seashore conservation area, pets or domestic animals, except for assistance dogs for persons with disabilities, may be prohibited for the protection of wildlife, sensitive natural systems, special cultural areas, or for other purposes, if approved by the director or designee and so posted.

(2) No person shall allow his/her pet or domestic animal to bite or in any way molest or annoy wildlife or visitors to the seashore conservation area. No person shall permit his/her pet or domestic animal to bark or otherwise disturb peace and quiet.

(3) Any violation of this section is an infraction under chapter 7.84 RCW.

NEW SECTION

WAC 352-37-290 Rubbish. (1) No person shall leave, deposit, drop, or scatter bottles, broken glass, ashes (except human crematory ashes), waste paper, cans, or other rubbish, in the seashore conservation area, except in a garbage can or other receptacle designated for such purposes.

(2) No person shall deposit any household or commercial garbage, refuse, waste, or rubbish, which is brought as such from any private property, in any seashore conservation area garbage can or other receptacle designed for such purpose.

NEW SECTION

WAC 352-37-300 Sanitation. No person shall, in the seashore conservation area:

(1) Drain or dump refuse or waste from any trailer, camper, automobile, or other vehicle, or vessel, except in designated disposal areas or receptacles.

(2) Urinate or defecate except in designated facilities.

(3) Pollute, or in any way contaminate by dumping or otherwise depositing therein any waste or refuse of any nature, kind, or description, including human or animal bodily waste, any stream, river, lake, or other body of water running in, through, or adjacent to, the seashore conservation area.

Any violation of this section is an infraction under chapter 7.84 RCW.

NEW SECTION

WAC 352-37-310 Solicitation. Except as may be otherwise allowed in connection with a permit issued under WAC

352-32-165 or 352-32-047, or a cooperative agreement pursuant to RCW 79A.05.070(2), no person shall engage in solicitation, or sell or peddle any services, goods, wares, merchandise, liquids, or edibles for human consumption in the seashore conservation area, except by concession or permit granted by the commission. Any violation of this section is an infraction under chapter 7.84 RCW.

NEW SECTION

WAC 352-37-320 Other weapons. No person shall display, discharge or propel across, in, or into the seashore conservation area, a bow and arrow, spear, spear gun, harpoon, or air or gas weapon, or any device capable of injuring or killing any person or animal, or damaging or destroying any public or private property, except where the commission for good cause has authorized a special recreational activity upon finding that it is not inconsistent with state park use.

NEW SECTION

WAC 352-37-330 Penalties. Any violation designated in this chapter as a civil infraction shall constitute a misdemeanor until the violation is included in a civil infraction monetary schedule adopted by rule by the state supreme court pursuant to chapter 7.84 RCW.

WSR 05-20-073
PROPOSED RULES
PARKS AND RECREATION
COMMISSION

[Filed October 4, 2005, 1:41 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-16-087.

Title of Rule and Other Identifying Information: The state Parks and Recreation Commission intends to adopt a new chapter of administrative rules, chapter 352-78 WAC, Boating safety education program.

Hearing Location(s): Washington State History Museum, 1911 Pacific Avenue, Tacoma, WA 98402, 1-888-238-4373, on November 17, 2005, at 9:00 a.m.

Date of Intended Adoption: November 17, 2005.

Submit Written Comments to: James Horan, P.O. Box 42650, Tumwater, WA 9850-2650 [98504-2650], e-mail James.Horan@parks.wa.gov, phone (360) 586-6600, fax (360) 586-6603, by November 10, 2005.

Assistance for Persons with Disabilities: Contact Pauli Larson by November 4, 2005, TTY (360) 664-3133 or (360) 902-8505.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Chapter 392, Laws of 2005, requires the state Parks and Recreation Commission to establish and implement by rule a program to provide required boating safety education. The commission's proposed rules will enable boat operators to take and pass an accredited boating safety education course, or pass an equivalency exam, or provide proof of completion of a course that

meets the standard adopted by the commission and provide a means by which boaters can obtain a boater education card. The proposed rules also specify the requirements for rental operators and liveries, exemptions for vessel operators from carrying the boater education, fees for a boater education card and penalties for violations of these new rules.

Reasons Supporting Proposal: These proposed administrative rules are necessary for the implementation of a boating safety education program as established by the enactment of SSB 5145 (chapter 392, Laws of 2005) during [the] 2005 session of the Washington state legislature.

Statutory Authority for Adoption: RCW 79A.05.310 and chapter 79A.60 RCW.

Statute Being Implemented: Sections 1 through 5, chapter 392, Laws of 2005, codified in chapter 79A.60 RCW.

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

Name of Proponent: Washington State Parks and Recreation Commission, governmental.

Name of Agency Personnel Responsible for Drafting: James Horan, State Park Headquarters, P.O. Box 42650, Tumwater, WA 98504-2650, (360) 586-6600; **Implementation:** Jim French, State Park Headquarters, P.O. Box 42650, Tumwater, WA 98504-2650, (360) 586-6616; and **Enforcement:** Mark Kenney, State Park Headquarters, P.O. Box 42650, Tumwater, WA 98504-2650, (360) 586-6593.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These chapters of administrative rule do not regulate or have economic impact through regulations on small business. There are no compliance costs to small business as a result of the modifications to these rules.

A cost-benefit analysis is not required under RCW 34.05.328. Significant legislative rule-making requirements are not imposed on the state Parks and Recreation Commission, nor has the commission voluntarily applied those requirements.

October 4, 2005

Jim French, Administrator
Statewide Recreation Programs

Chapter 352-78 WAC

BOATING SAFETY EDUCATION PROGRAM

NEW SECTION

WAC 352-78-010 What is the purpose of the mandatory boating safety education program? The purpose of this program is to inform boaters of the requirements of sections 1 through 5, chapter 392, Laws of 2005, directing the commission to implement a program of mandatory boat operator education.

NEW SECTION

WAC 352-78-020 What do the words and phrases in this chapter mean? When used in this chapter, the following words and phrases shall have the meanings designated in this

section unless a different meaning is expressly provided or unless the context clearly indicates otherwise.

(1) "Accredited boating safety course" means a National Association of State Boating Law Administrators (NASBLA) and commission-approved course of instruction that concludes with an examination containing at least fifty questions plus a minimum of ten questions specific about Washington boating laws.

(2) "Accredited boating safety course provider" is a person or organization that provides a NASBLA-approved boating safety course or equivalency exam and has been accredited by the commission.

(3) "Aquatic invasive species" means a nonnative species that threatens the diversity or abundance of native species or the ecological stability of infested waters, or commercial, agricultural, aquacultural, or recreational activities dependent on such waters.

(4) "Bill of sale" is a document showing date of vessel purchase.

(5) "Boater" is any person on a vessel on the waters of the state of Washington;

(6) "Boater education card" means a card issued to a person who has successfully completed a boating safety education test and has paid the registration fee for a serial number record to be maintained in the commission's data base.

(7) "Boating educator" means a person providing an accredited course.

(8) "Certificate of accomplishment" means a form provided by the commission and issued by a boating educator to a person who has successfully completed an accredited boating safety course. An official card or certificate issued by the United States Coast Guard Auxiliary or United States Power Squadrons to a person for successful completion of their boating safety education course is also recognized by the commission as a certificate of accomplishment.

(9) "Correspondence course and self-test" means a boating safety course and examination approved by the commission that allows individuals who are unable to participate in a boating safety class or equivalency exam a means of providing proof of competency.

(10) "Commission" means the Washington state parks and recreation commission.

(11) "Direct supervision" occurs when a person possessing or exempt from having to possess a boater education card maintains close visual and verbal contact with, provides adequate direction to, and can immediately assume control of a motor vessel from an operator of a motor vessel who is allowed to operate a motor vessel without a boater education card.

(12) "Equivalency exam" is an exam created by the commission containing at least fifty questions plus a minimum of ten specific questions that cover laws and other issues pertaining to boating in Washington. The equivalency exam is intended to provide experienced boat operators with the opportunity to meet the minimum standard of boating safety education without having to take a boating safety course.

(13) "Motor vessel" means all boats and vessels which are propelled by machinery.

(14) "Motor vessel safety operating and equipment checklist" means a printed list of the safety requirements for

the operator of a vessel with a motor installed or attached to the vessel being rented, chartered, or leased and meeting minimum requirements adopted by the commission.

(15) "Minimum standard of boating safety accomplishment" means a standard of proficiency established by the commission based on the standards set by the NASBLA that determines whether an applicant for a boater education card has met or exceeded the requirements of a boating safety course, equivalency exam or correspondence course and self-test.

(16) "NASBLA" means National Association of State Boating Law Administrators.

(17) "Operator" means an individual who steers, directs, or otherwise has physical control of a vessel that is underway or exercises actual authority to control the person at the helm.

(18) "Owner" means a person who has a lawful right to possession of a vessel by purchase, exchange, gift, lease, inheritance, or legal action whether or not the vessel is subject to a security interest.

(19) "Proctor" is a member of the United States Coast Guard Auxiliary, United States Power Squadrons, public official including county sheriff's deputy, city police officer, and/or other individual authorized by the commission to provide an accredited boating safety course or equivalency exam.

(20) "Proof of accomplishment" means evidence of having met the minimum standard for boating safety education accomplishment as determined by the commission.

(21) "Person" means any individual, sole proprietorship, partnership, corporation, nonprofit corporation or organization, limited liability company, firm, association, or other legal entity located within or outside this state.

(22) "Rental agent" means any person who is authorized to act for the owner or employer of a recreational motor vessel rental or leasing agency.

(23) "Rental motor vessel" means a motor vessel that is legally owned by a person that is registered as a rental and leasing agency for recreational motor vessels, and for which there is a written and signed rental, charter, or lease agreement between the owner, or owner's agent, of the vessel and the operator of the vessel.

(24) "Replacement boater education card" means a boater education card provided to a person who has already been issued a boater education card and has applied for a replacement of the card that has been lost, damaged, stolen, or otherwise is in need of replacement.

(25) "Vessel" means every description of watercraft used or capable of being used as a means of transportation on the water, other than a seaplane.

(26) "Vessel registration" means a document issued by the department of licensing showing that all taxes and fees have been paid and acts as a permit for the vessel to be used on the waters of the state.

(27) "Waters of the state" means any waters within the territorial limits of Washington state.

NEW SECTION

WAC 352-78-030 What is the process the commission will use to accredit a course provider? (1) The com-

mission will delegate to the director of the Washington state parks and recreation commission or designee the authority to establish minimum standards for a boating safety education program that are consistent with the education standards set by NASBLA and which shall include training on preventing the spread of aquatic invasive species. The commission shall approve and provide accreditation to boating safety education courses operated by volunteers, or commercial or nonprofit organizations, including, but not limited to, courses given by the United States Coast Guard Auxiliary and the United States Power Squadrons. The commission shall strive to make its boating education course materials and testing opportunities available to culturally and linguistically diverse people who are English learners, and to facilitate making the boating education card available to such persons. The boating safety education program shall provide for the accreditation of a boating safety course or courses by boating educators. The commission shall:

(a) Follow the NASBLA process for course review and approval and shall review any course that is proposed by any private or public entity that desires to teach a course to the public for the purposes of obtaining a boater education card. The commission will make available to any interested prospective accredited boating safety course provider, forms in paper and electronic form, to be used to apply to the commission to become an accredited boating safety course provider. In order to be accredited by the commission, an accredited boating safety course provider that wants to issue a boater education card must issue only the commission's boater education card.

(b) Follow the NASBLA process for courses to be reviewed and reapproved if the provider wishes to continue the use of the course.

(c) Use the NASBLA testing standards for exam questions.

(d) Create a question pool that meets the NASBLA examination question standards to cover Washington state boating laws and regulations and make this part of any course to enable accredited boating safety course providers to meet NASBLA standards.

(e) Consider and evaluate public agency and commercial opportunities to assist in program administration with the intent to keep administrative costs to a minimum.

(2) Any boater twelve years of age or older who completes a boating safety course that has met commission standards will be eligible to receive a boater education card upon application for such card and payment of appropriate fees. The commission will accept as proof of accomplishment or course completion:

(a) A copy of an original certificate from any course taken prior to July 1, 2005, provided that such course meets the NASBLA standards for Washington in effect at the time the course was taken.

(b) A letter from an accredited course provider that certifies that the named individual has taken and passed a boating safety course from this provider that met the acceptable course standards as of the date the course was given.

NEW SECTION

WAC 352-78-040 What are alternative methods of obtaining a boating education card? (1) Provide an opportunity for any person who so wishes, to demonstrate their boating safety knowledge by taking a commission-approved equivalency exam developed from the NASBLA and state question pools.

(2) Provide an opportunity for any person who so wishes, to take a commission-approved correspondence course and self-test.

(3) Provide an opportunity for any person who so wishes, to take a commission-approved internet course.

NEW SECTION

WAC 352-78-050 How do I become eligible to obtain a commission-issued boater education card? (1) A person required to possess a commission-issued boater education card in order to operate a motor vessel in Washington must meet the minimum standard for boating safety education accomplishment as set by the commission. The minimum standards for boating safety education accomplishment required by the commission are:

(a) Successful completion of a course or exam offered by an accredited boating safety course provider or proctor. Such courses or exams may include, but not be limited to, classroom, internet, correspondence, and proctored and unproctored exams.

(b) Possession of a certificate, card, or other official document issued by another state or country that is equivalent to the commission's boating safety course or equivalency exam.

(c) Suitable evidence of achieving the minimum standards for boating safety education accomplishment consists of:

(i) A certificate issued by the United States Power Squadrons, United States Coast Guard Auxiliary, the commission or other accredited boating safety course provider.

(ii) A certificate, card, or other official document issued by another state or country that is equivalent to the rules adopted by the commission.

(iii) Proof of accomplishment documentation must contain the name of the individual applying for the boater education card and be signed or otherwise certified by the issuing organization or agency.

(d) Boater education cards issued by the commission shall contain a unique number that corresponds to the individual named on the card. Commission-issued boater education cards are not transferable from one individual to another.

NEW SECTION

WAC 352-78-060 How can I obtain a boater education card? To obtain a commission-issued boater education card, a person must provide to the commission:

(1) A completed application on a form provided by the commission. The application form will require the name, address, date of birth and other identifying characteristics of the applicant as determined by the commission. Incomplete applications will be returned to the applicant.

(2) Provide proof of accomplishment consisting of a document verifying the applicant has successfully completed a boating safety course or equivalency exam.

(a) A copy of the original certificate issued by the United States Power Squadrons, United States Coast Guard Auxiliary, the commission or other accredited boating safety course provider, or a Canadian Pleasure Craft Operator's Card are acceptable proof of accomplishment; or

(b) A copy of the original certificate, card, or other official documents issued by another state or country whose boating safety course meets NASBLA minimum standards is acceptable proof of accomplishment; or

(c) A copy of the original Coast Guard motorboat operator's license, either valid or expired, is acceptable proof of accomplishment. A valid license to operate a vessel issued for maritime personnel by the United States Coast Guard pursuant to 46 CFR Part 10 or a maritime certificate issued by the Canadian government; or

(d) A copy of the original valid commercial fishing license issued by the department of fish and wildlife.

(3) Proof of accomplishment documents must contain the name of the individual applying for the commission-issued boater education card.

(4) In the event the original document establishing proof of accomplishment is not available, a signed statement from an accredited boating safety course provider of a boating safety course stating that the individual has successfully completed a boating safety course or equivalency exam must be submitted to the commission.

(5) The commission may require the applicant to provide the original document establishing proof of accomplishment if the copy accompanying the application is illegible or the authenticity of the copy is not certain.

NEW SECTION

WAC 352-78-070 What document can be used temporarily in lieu of a boater education card? (1) The owner of a newly purchased motor vessel who is otherwise required to possess a commission-issued boater education card may use a copy of the bill of sale or vessel registration temporarily in lieu of a boater education card for no more than sixty consecutive days from the vessel date of purchase.

(2) A person, while waiting to obtain a commission-issued boater education card, may use a certificate of accomplishment for up to sixty days from date of issue to operate a motor vessel provided the original certificate of accomplishment is on board the vessel while it is being operated.

(3) A person residing in Washington who is otherwise required to possess a commission-issued boater education card and has received a certificate, card, or other official document issued by another state or country that is equivalent to Washington's boater education card may use the original of that document as a temporary education card and may operate a motor vessel in Washington for no more than sixty days from the date of residency provided the document is on board.

(4) A person who legally rents a motor vessel and is otherwise required to possess a commission-issued boater education card may use the required motor vessel safety operat-

ing and equipment checklist as a temporary education card and may operate the rental motor vessel in Washington for the term of the rental agreement but not longer than sixty consecutive days.

NEW SECTION

WAC 352-78-080 How do I get a replacement for my commission-issued boater education card? (1) A person may apply for a replacement boater education card from the commission if:

- (a) They legally change their name; or
 - (b) The card is lost, stolen or destroyed.
- (2) To obtain a replacement boater education card, an applicant must provide the commission with:
- (a) A completed application on a form provided by the commission; and
 - (b) An affidavit signed by the applicant stating the circumstances that led to the loss or destruction of the original commission-issued boater education card; and
 - (c) A five-dollar fee for a replacement card paid in full in a manner determined by the commission and stated on the application form.

NEW SECTION

WAC 352-78-090 How do the boater safety education program requirements affect rental operators and liveries? (1) Beginning January 1, 2008, any person who provides a motor vessel for rent in Washington must require that the person who rents the motor vessel and all operators of the rental motor vessel who are required to have the commission-issued boater education card as provided by the phase-in schedule in WAC 352-78-100, show proof of possession of a boater education card before renting the person a motor vessel; or

- (2) When the person who rents the motor vessel and all operators of the rented motor vessel do not possess a commission-issued boater education card, the rental agent must ensure that the person who rents the motor vessel and all operators of the craft:
 - (a) Reviews, initials, and signs the motor vessel safety operating and equipment checklist in the presence of the rental agent before they may operate the rental motor vessel; and
 - (b) Retains the issued copy of the motor vessel safety operating and equipment checklist on board when operating the motor vessel.

NEW SECTION

WAC 352-78-100 What is the phase-in schedule for the mandatory boater safety education program? (1) After January 1, 2006, the commission may issue boater education cards to anyone age twelve and older who submits a completed application, provides proof of accomplishment, and pays the fee required in this chapter. Possession of a commission-issued boater education card is not required until January 1, 2008.

(2) Beginning January 1, 2008, all individuals age twelve through twenty are required to possess a boater education card when operating a vessel of fifteen horsepower or greater.

(3) By January 1, 2009, all individuals age twelve through twenty-five are required to possess a boater education card when operating a vessel of fifteen horsepower or greater.

(4) By January 1, 2010, all individuals age twelve through thirty are required to possess a boater education card when operating a vessel of fifteen horsepower or greater.

(5) By January 1, 2011, all individuals age twelve through thirty-five are required to possess a boater education card when operating a vessel of fifteen horsepower or greater.

(6) By January 1, 2012, all individuals age twelve through forty are required to possess a boater education card when operating a vessel of fifteen horsepower or greater.

(7) By January 1, 2013, all individuals age twelve through fifty are required to possess a boater education card when operating a vessel of fifteen horsepower or greater.

(8) By January 1, 2014, all individuals age twelve through sixty are required to possess a boater education card when operating a vessel of fifteen horsepower or greater.

(9) By January 1, 2015, all individuals age twelve through seventy are required to possess a boater education card when operating a vessel of fifteen horsepower or greater.

(10) After January 1, 2016, all individuals age twelve and older must possess a boater education card to operate a vessel of fifteen horsepower or greater.

NEW SECTION

WAC 352-78-110 Who is exempt from having to carry a commission-issued boater education card when operating a motor vessel? A commission-issued boater education card is not required by the following persons:

(1) The operator of a vessel engaged in a lawful commercial fishery operation as licensed by the department of fish and wildlife under Title 77 RCW. However, the person when operating a vessel for recreational purposes must carry either a valid commercial fishing license issued by the department of fish and wildlife or a boater education card;

(2) Any person who possesses a valid marine operator license issued by the United States Coast Guard when operating a vessel authorized by such coast guard license. However, the person when operating a vessel for recreational purposes must carry a valid marine operator license issued by the United States Coast Guard or a boater education card;

(3) Any person who is legally engaged in the operation of a vessel that is exempt from vessel registration requirements under chapter 88.02 RCW and applicable rules and is used for purposes of law enforcement or official government work. However, the person when operating a vessel for recreational purposes must carry a boater education card;

(4) Any person at least twelve years old renting, chartering, or leasing a motor driven boat or vessel with an engine power of fifteen horsepower or greater who completes a commission-approved motor vessel safety operating and equipment checklist each time before operating the motor driven boat or vessel, except that an operator of a personal water-

craft shall comply with the age requirements under RCW 79A.60.190;

(5) Any person who is not a resident of Washington state and who does not operate a motor driven boat or vessel with an engine power of fifteen horsepower or greater in waters of the state for more than sixty consecutive days;

(6) Any person who is not a resident of Washington state and who holds a current out-of-state or out-of-country certificate or card that is equivalent to the rules adopted by the commission;

(7) Any person who has purchased the boat or vessel within the last sixty days, and has a bill of sale in his or her possession to document the date of purchase;

(8) Any person, including those less than twelve years of age, who are involved in practicing for, or engaging in, a permitted racing event where a valid document has been issued by the appropriate local, state, or federal government agency for the event, and is available for inspection on-site during the racing event;

(9) Any person who is accompanied by and is under the direct supervision of a person sixteen years of age or older who is in possession of a commission-issued boater education card, or who is not yet required to possess the card.

(10) Any person who is not yet required to have a commission-issued boater education card under the phased schedule in WAC 352-78-090; and

(11) Any person born before January 1, 1955.

NEW SECTION

WAC 352-78-120 What is the fee for a commission-issued boater education card? (1) The commission-issued boater education card fee is ten dollars.

(2) Duplicate fee for replacement cards is five dollars. The fee is waived if replacement is necessary because of an error by the commission. The same number will be assigned on any duplicate card as was assigned on the original.

(3) Fees paid to the commission for a commission-issued boater education card or replacement card are not refundable.

(4) An accredited course provider may charge a reasonable fee to recover costs associated with providing a boating safety course or equivalency exam.

(5) All receipts from fees collected for the issuance of the commission-issued boater education card shall be used solely for the administration of this chapter including the initial costs of developing the program. Any surplus funds resulting from the fees received shall be distributed by the commission as grants to local marine law enforcement programs approved by the commission as provided in RCW 88.02.040.

NEW SECTION

WAC 352-78-130 What constitutes a violation of this chapter? A person is considered in violation of the provisions contained in this chapter and subject to the penalties prescribed by law when they:

(1) Provide a false statement or information or assist another person in giving a false statement or information on any application, affidavit, document or statement used to

obtain a commission-issued boater education card or replacement boater education card; or

(2) Exhibit an altered boater education card or any boating education card other than the one issued to them, to a peace officer; or

(3) Alter a commission-issued boater education card or replacement boater education card issued by the commission or its authorized agent; or

(4) Produce or possess an unauthorized replica of a commission-issued boater education card or replacement boater education card.

NEW SECTION

WAC 352-78-140 What is the penalty for violation of this chapter? Any violation of this chapter is an infraction under RCW 79A.60.110 and chapter 7.84 RCW.

NEW SECTION

WAC 352-78-150 Can the penalty for failure to possess a commission-issued boater education card be waived? In any proceeding for failure to possess a commission-issued boater education card, the court shall waive the penalty if the boater provides proof to the court within sixty days that he or she has received a boater education card.

WSR 05-20-077

PROPOSED RULES

DEPARTMENT OF ARCHAEOLOGY AND HISTORIC PRESERVATION

[Filed October 4, 2005, 3:13 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-14-161.

Title of Rule and Other Identifying Information: State Environmental Policy Act rules, chapter 25-42 WAC, to implement chapter 197-11 WAC, SEPA rules, as applicable to the department; Advisory Council on Historic Preservation, chapter 25-12 WAC, procedures for nomination of properties to the national register of historic places to the advisory council on historic preservation; Archaeological excavation and removal permit, chapter 25-48 WAC, establish application and review procedures for the issuance of archaeological excavation and removal permits and for the issuance of civil penalties as provided for in chapter 27.53 RCW; and Registration of historic archaeological resources on state-owned aquatic lands, chapter 25-46 WAC, registration procedures for previously unreported historic archaeological resources discovered on, in, or under state-owned aquatic lands.

Hearing Location(s): Northwest Museum of Arts and Culture, Eric A. Johnston Memorial Auditorium, 2316 West First Avenue, Spokane, WA 99204, on November 8, 2005, at 1-3 p.m.; at the PSC Building, 1300 Franklin Street, Room 680, Vancouver, WA 98666, on November 16, 2005, at 2-4 p.m.; and at the Burke Museum, University of Washington

Campus, 17th Avenue N.E. and N.E. 45th Street, Seattle, WA, on November 17, 2005, at 2:30-4:30 p.m.

Date of Intended Adoption: December 6, 2005.

Submit Written Comments to: Stephenie Kramer, P.O. Box 48343, Olympia, WA 98504-8343, e-mail Stephenie.Kramer@dahp.wa.gov, fax (360) 586-3067, by November 23, 2005.

Assistance for Persons with Disabilities: Contact Zee Hill by October 31, 2005, (360) 586-3077.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Chapter 25-48 WAC will implement changes made to chapter 27.53 RCW by HB 1189 (chapter 211, Laws of 2002). The rules will create guidelines under which the DAHP may issue penalties for violations of chapter 27.53 RCW and set standards and procedures for notification and hearings on those penalties. The rules would update materials needed for an excavation permit application and an emergency permit application. The rules propose an option for a comment period extension and an option to collect samples for radiocarbon dating without a permit.

Chapter 25-42 WAC will implement SEPA rules for the new department. Chapter 25-12 WAC will reflect current department procedures for nominating historic properties for listing in the national register of historic places. Chapter 25-46 WAC will update procedures for registering a submerged historic resource with the department. The proposed rule requests detailed locational information be submitted as well as the registration forms be submitted via a delivery service which records time and date of delivery. This rule also sets procedures for appeals related to registration.

Reasons Supporting Proposal: Rules are needed for the entirety of the department's functions, to implement its authority and serve its constituents and to function as a separate state agency pursuant to SB 5056 (chapter 333, Laws of 2005). All rules contain housekeeping changes, such as updated department contact information.

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

Statute Being Implemented: Chapters 27.53, 27.34 RCW.

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

Name of Proponent: Department of Archaeology and Historic Preservation, Allyson Brooks, Ph.D., Director, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Stephenie Kramer, 1063 South Capitol Way, Olympia, WA 98501, (360) 586-3083.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule will not impose more than minor costs on businesses in an industry. The rule will only impose monetary penalties on parties who violate chapter 27.53 RCW.

A cost-benefit analysis is not required under RCW 34.05.328. The department is not identified in the statute,

RCW 34.05.328 and the rules will not be subject to the statute.

October 4, 2005
Allyson Brooks, Ph.D.
Director

AMENDATORY SECTION (Amending Order 10, filed 6/5/86)

WAC 25-42-010 Definitions. The definitions of the words and terms of WAC 197-11-700 through 197-11-799 are made a part of this chapter along with the following additions:

(1) "~~((office))~~ Department" means the Washington state ~~((office))~~ department of archaeology and historic preservation.

(2) "Director" means the state historic preservation ~~((office))~~ department as provided for in chapter 27.34 RCW.

AMENDATORY SECTION (Amending Order 10, filed 6/5/86)

WAC 25-42-020 Impact of SEPA on ~~((office))~~ department. The ~~((office))~~ department fully endorses the intent and purpose of SEPA and will make every effort to implement and fulfill the intent and requirements of SEPA and the SEPA rules. The capacity of the ~~((office))~~ department to provide full service to the public and other agencies is limited by funds and ~~((manpower))~~ staffing. The ~~((office))~~ department will make every effort to implement SEPA in the best manner possible with the resources available.

AMENDATORY SECTION (Amending Order 10, filed 6/5/86)

WAC 25-42-030 Purpose. (1) The purpose of this chapter is to implement chapter 197-11 WAC, SEPA rules, as applicable to the ~~((office))~~ department.

(2) These policies and procedures are developed to implement SEPA in a manner which reduces duplication, establishes effective and uniform guidelines, encourages public involvement, and promotes certainty with respect to the requirements of the act.

(3) These policies and procedures are not intended to cover compliance by the ~~((office))~~ department with respect to the National Environmental Policy Act of 1969 (NEPA). In those situations where the ~~((office))~~ department is required by federal law or regulations to perform some element of compliance with NEPA, compliance will be governed by the applicable federal statute and regulations.

AMENDATORY SECTION (Amending Order 10, filed 6/5/86)

WAC 25-42-040 Scope and coverage of this chapter.

(1) It is the intent of the ~~((office))~~ department that compliance with this chapter shall constitute complete procedural compliance with SEPA for all actions as defined in WAC 197-11-704.

(2) This chapter applies to all actions as defined in WAC 197-11-704 and applies to all activities of the ~~((office))~~

department. Furthermore, although these guidelines normally do not apply to actions of the ~~((office))~~ department exempted under WAC 197-11-800, the ~~((office))~~ department accepts the responsibility of attempting to follow the intent of SEPA and its decision making process for exempt actions.

(3) To the fullest extent possible, the ~~((office))~~ department shall integrate procedures required by this chapter with existing planning and permitting procedures. These procedures should be initiated early, and undertaken in conjunction with other governmental operations to avoid lengthy time delays and unnecessary duplication of effort.

AMENDATORY SECTION (Amending Order 10, filed 6/5/86)

WAC 25-42-050 Agency policy—Substantive authority and mitigation. (1) ~~((The overriding))~~ It is the policy of the ~~((office is))~~ department to avoid or mitigate adverse environmental impacts which may result from its decisions. ~~((This policy results from:~~

~~(a) The legislated duty of the office to preserve and protect the heritage of the state in a manner that does not impair the resourcee (RCW 27.34.200); and~~

~~(b) Recognition of the fact that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment (RCW 43.21C.020(31)).~~

(2) If an action is subject to SEPA, including an activity or activities requiring a permit from the ~~((office))~~ department, and is reasonably likely to have an adverse environmental impact as identified in an environmental document, the ~~((office))~~ department will:

(a) Require reasonable alternatives to the action and/or proven measures which will mitigate or eliminate the identified potential adverse impact, and make such alternatives and/or proven mitigation measures conditions of the ~~((office's))~~ department's approval; or

(b) Deny the proposal if significant adverse impacts as identified in a final or supplemental environmental impact statement prepared under chapter 197-11 WAC are not satisfactorily avoided or mitigated by proven techniques.

AMENDATORY SECTION (Amending Order 10, filed 6/5/86)

WAC 25-42-060 Timing of the SEPA process. (1) The environmental review process will normally begin upon receipt of a determination of nonsignificance (DNS), determination of significance (DS), scoping notice, or draft environmental impact statement (DEIS) when another agency is the lead agency. When the ~~((office))~~ department is the lead agency for nonagency actions, review will begin upon receipt of a complete permit application and a complete environmental checklist. The department typically requests plans, a location map, and a project description, pursuant to WAC 197-11-100, but may request additional information of the applicant as needed to make a threshold determination. The applicant should submit this information with the checklist so that review may proceed expeditiously. For agency actions, environmental review will normally begin when the proposed

action is sufficiently developed to allow preliminary decisions.

(2) Upon written request of an applicant, preliminary environmental review will be conducted prior to receipt of detailed project plans and specifications. In such instances, the applicant shall submit information judged by the ~~((office))~~ department to be sufficient to make a preliminary review.

(3) The preliminary review will be advisory only and not binding upon the ~~((office))~~ department. Final review and determination will be made only upon receipt of detailed project plans and specifications.

AMENDATORY SECTION (Amending Order 10, filed 6/5/86)

WAC 25-42-070 Summary of information which may be required of an applicant. (1) The applicant for each project for which the ~~((office))~~ department is the lead agency shall submit a complete environmental checklist along with a complete application for the required approval.

(2) After review of the environmental checklist, the ~~((office))~~ department may require the applicant to submit additional information necessary to properly evaluate the potential environmental impacts of the project. Field investigation or research may be required of the applicant or conducted by the ~~((office))~~ department at the applicant's cost.

(3) A draft and final EIS is required for each project for which a determination is made that the proposal will have a probable significant adverse impact on the environment. Preparation of the EIS~~((s))~~ is the responsibility of the ~~((office))~~ department, by or under the direction of its responsible official, as specified by ~~((office))~~ department procedures. No matter who participates in the preparation of the EIS, it is the EIS of the ~~((agency))~~ department. The responsible official, prior to distributing an EIS, shall be satisfied that it complies with this chapter and chapter 197-11 WAC.

(4) The ~~((office))~~ department may have an EIS prepared by ~~((office))~~ department staff, an applicant or its agent, or by an outside consultant retained by either an applicant or the ~~((office))~~ department. The ~~((office))~~ department shall assure that the EIS is prepared in a professional manner and with appropriate interdisciplinary methodology. The responsible official shall direct the areas of research and examination to be undertaken as a result of the scoping process, as well as the organization of the resulting document.

(5) If a person other than the ~~((office))~~ department is preparing the EIS, the ~~((office))~~ department shall:

(a) Coordinate any scoping procedures so that the individual preparing the EIS receives all substantive information submitted by any agency and the public;

(b) Assist in obtaining any information on file with other agencies that is needed by the person preparing the EIS;

(c) Allow any party preparing an EIS access to all public records of the ~~((office))~~ department that relate to the subject of the EIS, under RCW 42.17.250 through 42.17.340.

(6) Normally, the ~~((office))~~ department will prepare an EIS~~((s))~~ for its own proposals.

(7) For applicant proposals, the ~~((office))~~ department normally will require the applicant to prepare or help prepare

the EIS at the applicant's expense, under provisions of this chapter and chapter 197-11 WAC. Expenses shall include fees of any consultants, if required, the ~~((office's))~~ department's consultation time and cost of any required materials. A performance bond in an amount specified by the ~~((office))~~ department may be required of the applicant to ensure payment of the ~~((office's))~~ department's expenses.

(8) The ~~((office))~~ department may require an applicant to provide information that the ~~((office))~~ department does not possess, including specific investigations. ~~((The applicant is not required to supply information that is not required under this chapter and chapter 197-11 WAC.))~~

(9) A supplemental EIS shall be prepared as an addition to either the draft or final EIS if the ~~((office decides))~~ department determines that:

(a) There are substantial changes to a proposal which will have a probable significant adverse environmental impact; or

(b) There is significant new information relative to the probable significant environmental impact of a proposal; or

(c) ~~((Its))~~ Written comments on the DEIS warrant additional ~~((discussion for the purposes of its action than that found in the lead agency's FEIS))~~ environmental review.

The provisions of subsections (3), (4), (5), (6), (7), and (8) of this section except for the first sentence of subsection (3) of this section, also pertain to a supplemental EIS or addendum.

(10) Upon the written request of an applicant for a project for which the ~~((office))~~ department is the lead agency, the ~~((office))~~ department will consider initiating environmental review and preparation of an EIS at the conceptual stage as opposed to the final detailed design state.

AMENDATORY SECTION (Amending Order 10, filed 6/5/86)

WAC 25-42-080 Assumption of lead agency status.

(1) Whenever the ~~((office feels))~~ department determines that a DNS issued by another lead agency is inappropriate and that the proposal in question could cause significant harm to the resources under ~~((its))~~ the department's jurisdiction, the ~~((office))~~ department will assume lead agency status per WAC 197-11-948.

(2) Within ten days of assuming lead agency status, the ~~((office))~~ department will notify the proponent of the proposal in writing as to the reasons for its assumption of lead agency status.

(3) Prior to preparation of an EIS for the proposal, the ~~((office))~~ department will consult with the proponent and give the proponent an opportunity to modify or change the proposal in such a way that an EIS may not be necessary as outlined in WAC 197-11-360(4).

AMENDATORY SECTION (Amending Order 10, filed 6/5/86)

WAC 25-42-090 Designation of responsible official.

Under normal circumstances, the responsible official is the director or ~~((his))~~ the director's designee. The responsible official shall carry out duties and functions for the purpose of assuring the ~~((office's))~~ department's compliance with SEPA

and SEPA guidelines. The responsible official may delegate duties and functions assigned under this chapter and chapter 197-11 WAC; the responsible official alone, however, is wholly responsible for proper accomplishment of such duties and functions.

AMENDATORY SECTION (Amending Order 10, filed 6/5/86)

WAC 25-42-100 Mitigated DNS. (1) An applicant may ask the ~~((office))~~ department whether issuance of a DS is likely for a proposal. This request for early notice must:

(a) Be written;

(b) Follow submission of a permit application and environmental checklist for a nonexempt proposal for which the ~~((office))~~ department is lead agency; and

(c) Precede the ~~((office's))~~ department's actual threshold determination for the proposal.

(2) The responsible official shall respond in writing to the request within ten working days of receipt of the letter~~(s)~~. The response shall:

(a) ~~((Be written;~~

~~)))~~ State whether the ~~((office))~~ department is considering issuance of a DS;

~~((e))~~ and, if so, indicate the general or specific area(s) of concern that led the ~~((office))~~ department to consider a DS; and

~~((d))~~ (b) State that the applicant may change or clarify the proposal to mitigate the impacts indicated in the letter, revising the environmental checklist as necessary to reflect the changes or clarifications.

(3) The ~~((office))~~ department shall not continue with the threshold determination until receiving a written response from the applicant changing or clarifying the proposal or asking that the threshold determination be based on the original proposal.

(4) If the applicant submits a changed or clarified proposal, along with a revised environmental checklist, the ~~((office))~~ department will make its threshold determination based on the changed or clarified proposal~~(s)~~.

(a) If the ~~((office's))~~ department's response to the request for early notice indicated specific mitigation measures that would remove all probable significant adverse environmental impacts, and the applicant changes or clarifies the proposal to include all of those specific mitigation measures, the ~~((office shall))~~ department will issue a DNS and circulate the DNS for review and comments ~~((as in))~~ per WAC 197-11-340(2).

(b) If the ~~((office))~~ department indicated general or specific areas of concern but did not indicate specific mitigation measures that would allow it to issue a DNS, the ~~((office))~~ department shall determine if the changed or clarified proposal may have a probable significant environmental impact, issuing a DNS or DS as appropriate.

(5) The ~~((office))~~ department may specify mitigation measures that would allow it to issue a DNS without a request for early notice from an applicant. If it does so, and the applicant changes or clarifies the proposal to include those measures, the ~~((office))~~ department shall issue a DNS and circulate it for review and comment under WAC 197-11-340(2).

(6) When an applicant changes or clarifies the proposal, the clarification or changes may be included in written attachments to the documents already submitted. If the environmental checklist and supporting documents would be difficult to read and/or understand because of the need to read them in conjunction with the attachment(s) the ~~((office))~~ department may require the applicant to submit a new checklist.

(7) The ~~((office))~~ department may change or clarify features of its own proposals before making the threshold determination.

(8) The ~~((office's))~~ department's written response under subsection (2) of this section shall not be constructed as a determination of significance. In addition, preliminary discussion of clarification of or changes to a proposal, as opposed to a written request for early notice, shall not bind the ~~((office))~~ department to consider the clarification or changes in the threshold determination.

(9) When an applicant submits a changed or clarified proposal pursuant to this section, it shall be considered part of the applicant's application for a permit or other approval for all purposes. Unless the ~~((office's))~~ department's decision expressly states otherwise, when a mitigated DNS is issued for a proposal, any decision approving the proposal shall be based on the proposal as changed or clarified pursuant to this section.

AMENDATORY SECTION (Amending Order 10, filed 6/5/86)

WAC 25-42-110 SEPA public information center. The ~~((office))~~ department designates its main ~~((office))~~ department as its SEPA public information center. The mailing address is ~~((111 West 21st Ave.,))~~ P.O. Box 48343, Olympia, Washington 98504-8343; telephone ~~((206) 753-5010)~~ 360-586-3065.

AMENDATORY SECTION (Amending Order 10, filed 6/5/86)

WAC 25-42-120 Public notice. (1) When required under chapter 197-11 WAC, the ~~((office))~~ department will give public notice by one or more of the following methods as appropriate for the specific circumstances:

(a) Notifying public and private groups and agencies and tribes with known interest in a certain proposal or in the type of proposals being considered;

(b) Notifying individuals with known interest in a certain proposal or in the type of proposal being considered;

(c) Publication in a newspaper of general circulation in the area in which the proposal will be implemented; and/or

(d) ~~((Notifying the news media; and/or~~

~~))~~ Posting on the property site in question.

(2) The ~~((office))~~ department may require an applicant to perform the public notice requirements at the applicant's expense.

AMENDATORY SECTION (Amending Order 6, filed 5/30/80)

WAC 25-12-020 Definitions. (1) Public records. "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used or retained by any state or local agency, regardless of physical form or characteristics.

(2) Writing. Writing means handwriting, typewriting, printing, photostating, and every other means of recording, any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents.

(3) Advisory council on historic preservation. The advisory council on historic preservation is the council established pursuant to RCW ~~((43-51A-110))~~ 27.34.250 through 27.34.280, and is hereinafter referred to as the "council."

(4) ~~((Office))~~ Department of archaeology and historic preservation. The ~~((office))~~ department of archaeology and historic preservation is that agency established pursuant to RCW ~~((43-51A-030))~~ 27.34.210, and is hereinafter referred to as the ~~((office))~~ department. The ~~((office))~~ department provides staff for the council.

(5) State historic preservation officer. The state historic preservation officer is that person appointed pursuant to RCW ~~((43-51A-060))~~ 27.34.210 to implement the purposes of that chapter, and hereinafter referred to as "SHPO."

~~((6))~~ ~~((Professional public. The professional public includes individuals, government agencies, or private businesses which, as a means of providing livelihood or fulfilling legal obligations, are available to prepare nominations to the state and national registers of historic places. The professional public is further identified in WAC 25-12-050(2).))~~

~~((7))~~ ~~((Nonprofessional public. The nonprofessional public includes individuals, organizations, government agencies, or private businesses not identified as provided in WAC 25-12-050(2).))~~ State register. These are buildings, sites, structures, objects or districts which are listed on the Washington Heritage Register of Historic Places, and is hereinafter referred to as the "state register."

AMENDATORY SECTION (Amending Order 6, filed 5/30/80)

WAC 25-12-030 Description of purpose and staff. The council is of an advisory nature for the governor and the office. Financial and administrative services including those related to budgeting, accounting, financial reporting, personnel and procurement shall be provided to the council by the ~~((office))~~ department. The administrative location of the council and that of its staff is at the ~~((Office))~~ Department of Archaeology and Historic Preservation, ~~((111 West 21st Avenue))~~ P.O. Box 48343, Olympia, Washington 98504-8343. The council meets on the last Friday of every ~~((third))~~ fourth month unless otherwise agreed by a majority of the members of the council.

AMENDATORY SECTION (Amending Order 6, filed 5/30/80)

WAC 25-12-050 Procedures—Nominations ~~((proposed by the professional public))~~ **to state and/or National Register.** (1) Any member(s) of the ~~((professional))~~ public may submit ~~((completed))~~ nominations directly to the SHPO for review and evaluation. The opportunity to review drafts of the nomination is ~~((encouraged))~~ required to promote the rapid handling of the complete document.

(2) The SHPO shall prepare and maintain a list of ~~((the))~~ qualified professional ~~((public to identify those who can submit nominations under this section and for referrals as provided in WAC 25-12-040(3)))~~ consultants who meet and/or exceed the Secretary of the Interior's Historic Preservation Professional Qualification Standards (48 FR 44716). Inclusion on the list shall be limited to those individuals ~~((governmental agencies, or private businesses that))~~ who have demonstrated an ability to prepare nominations consistent with WAC 25-12-060(3) and 36 CFR Part 60.

(3) Any nomination developed under this section shall be treated as outlined in WAC 25-12-060.

AMENDATORY SECTION (Amending Order 6, filed 5/30/80)

WAC 25-12-060 ((Procedures.)) Nomination—Process. The following is a statement of the general course and method followed in the nomination and designation of historic properties to the state or National Register.

(1) The SHPO shall not schedule any nomination for review by the council if the nomination is poorly prepared, incomplete in any manner, or ~~((treats))~~ for a property that does not appear to be eligible for the state or national registers of historic places. The agenda shall be established by the SHPO in cooperation and consultation with the chairperson of the council.

(2) The SHPO may return any nomination to the originator for correction, or for additional information of any kind required for completion and accuracy.

(3) The SHPO shall prepare and distribute standards of acceptability for nominations, ~~((such standards to be not more restrictive than those promulgated by the Heritage Conservation and Recreation Service for the conduct of the))~~ for both the state and National Register programs.

(4) The SHPO will notify the owner of the property and the most appropriate local jurisdiction or government of the date, time, and location of the review of the nomination by the council, such notification to occur not more than ~~((45))~~ 75 days nor less than 30 days prior to the scheduled meeting date.

(5) In the nomination of an historic district to the state or National Register where more than 50 property owners are involved, notification shall occur through a notice in a local newspaper of general circulation. The general notice shall be published at least 30 days, but no more than 75 days before the scheduled meeting date. In addition to formal legal notice, proponents of historic districts shall follow an additional notification process to be outlined by the council. For districts of less than 50 property owners, individual notification of the pending nomination will be sent.

~~((6))~~ ~~((Federally affected properties which have been determined under federal regulations to be ineligible for the National Register will be referred to the SHPO to be evaluated for inclusion on the State Register without referring the nomination to the council for further consideration.~~

~~((7))~~ Following council review, the council will transmit its recommendations to the SHPO. When the council has reviewed and approved a procedurally correct nomination and has forwarded it to the SHPO, the SHPO will submit the nomination to the National Register, unless, in his opinion, the SHPO considers the property one which does not meet the National Register criteria. A decision to submit a nomination to the National Register is within the discretion of the SHPO. All council determinations regarding nominations are advisory only. In each instance that the SHPO determines a nomination to be ineligible for inclusion in the National Register, he/she shall notify the council of this action at its next regularly scheduled meeting.

~~((8))~~ (7) The SHPO shall act upon all nominations reviewed by the council prior to its next regularly scheduled meeting, and shall report those actions to the council at that meeting.

(8) The council alone will determine if properties are eligible for listing on the state register at its regularly scheduled meetings.

AMENDATORY SECTION (Amending Order 6, filed 5/30/80)

WAC 25-12-070 Public records available. All public records of the council, as defined in WAC 25-18-020, are available for public inspection ~~((any and))~~ and copying at the ~~((office))~~ department location described in WAC 25-12-030, pursuant to WAC 25-18-040 through 25-18-130, except as otherwise provided by RCW 42.17.310.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 25-12-040	Procedures—Nominations proposed by nonprofessional public.
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AMENDATORY SECTION (Amending Order 88-06, filed 11/4/88)

WAC 25-48-010 Purpose. The purpose of this chapter is to establish application and review procedures for the issuance of archaeological excavation and removal permits and for the issuance of civil penalties as provided for in chapter ~~((27.44 and))~~ 27.53 RCW.

AMENDATORY SECTION (Amending WSR 90-01-091, filed 12/19/89, effective 1/19/90)

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

(1) "Archaeology" means systematic, scientific study of ~~((man's))~~ the human past through ~~((his))~~ material remains.

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

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

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

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

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

(5) "Public lands" means lands owned by or under the possession, custody, or control of the state of Washington or any county, city, or political subdivision of the state; including the state's submerged lands under the Submerged Lands Act, 43 U.S.C. Sec. 1301 et seq.

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

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

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

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

(10) "Archaeological resource" means any material remains of human life or activities which are of archaeological interest~~((This shall include))~~, including all sites, objects, structures, artifacts, implements, and locations of prehistorical or archaeological interest, whether previously recorded or still unrecognized, including, but not limited to, those pertaining to prehistoric and historic American Indian or aborig-

inal burials, campsites, dwellings, and their habitation sites, including rock shelters and caves, their artifacts and implements of culture such as projectile points, arrowheads, skeletal remains, grave goods, basketry, pestles, mauls, and grinding stones, knives, scrapers, rock carvings and paintings, and other implements and artifacts of any material.

(11) "Historic archaeological resources" means those properties which are listed in or eligible for listing in the Washington State Register of Historic Places (RCW 27.34.220) or the National Register of Historic Places as defined in the National Historic Preservation Act of 1966 (Title 1, Sec. 101, Public Law 89-665; 80 Stat. 915; 16 U.S.C. Sec. 470) as now or hereafter amended.

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

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

~~(14) ((Office)) means the Washington state office of archaeology and historic preservation, department of community development.~~

~~(15)) "Department" means the department of ((community development))~~ archaeology and historic preservation.

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

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

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

(18) "Mitigation" means:

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

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

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

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

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

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

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

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

(21) "Permittee" means any person who holds an active archaeological excavation permit issued under RCW 27.53.-060 and this chapter.

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

AMENDATORY SECTION (Amending WSR 90-01-091, filed 12/19/89, effective 1/19/90)

WAC 25-48-030 Scope and coverage of this chapter.

(1) This chapter ~~((is applicable))~~ applies to any person, ~~((corporation, partnership, trust, institution, association, or any other private entity, or any officer, employee, agent, department, or instrumentality of the state, county, or city, or a political subdivision of the state))~~ as defined in WAC 25-48-020.

(2) This chapter ~~((is applicable))~~ applies to the alteration, digging, excavating, or removal of archaeological objects or sites or historic archaeological resources which have been abandoned thirty years or more, and to the removal of glyptic or painted records or archaeological resources from native Indian cairns or graves.

(3) This chapter does not apply to the removal of artifacts found exposed on the surface of the ground which are not historic archaeological resources or sites except when there will be removal of glyptic or painted records, or archaeological resources from native Indian cairns or graves.

(4) ~~((This chapter is applicable as follows))~~ The following sections of this chapter apply to the removal of sample artifacts as provided under WAC 25-46-060 (1)(d):

WAC 25-48-010.

WAC 25-48-020.

WAC 25-48-030.

WAC 25-48-050.

WAC 25-48-060 (1)(a)(~~(;)~~) except for the requirements of a completed inventory form, (1)(d), (f), (g), (h), (m), (n), and (5).

WAC 25-48-090.

WAC 25-48-100.

WAC 25-48-105.

WAC 25-48-120.

NEW SECTION

WAC 25-48-035 Delegation to state archaeologist and assistant state archaeologist. (1) The director's authority to determine violations of chapter 27.53 RCW and to impose civil penalties under RCW 27.53.095 and this chapter is delegated to the state archaeologist and the assistant state archaeologist, subject to review by the director as provided in WAC 25-48-120. This delegation of authority to the state archaeologist and the assistant state archaeologist is in addition to any other delegation granted in statute, by rule, or otherwise in writing by the director.

(2) The director retains authority to review determinations made by the state archaeologist or the assistant state

archaeologist under this chapter and to hear appeals of those determinations.

(3) The state historic preservation officer may delegate to subordinate staff in the office the functions and duties assigned in this chapter to the state historic preservation officer.

AMENDATORY SECTION (Amending Order 11, filed 6/5/86)

WAC 25-48-040 Agency policy. The overriding policy of the ~~((office))~~ department is to assure the protection of the archaeological resources of the state. This policy results from:

(1) The legislated duty of the ~~((office))~~ department to preserve and protect the heritage of the state in a manner that does not impair the resources (RCW 27.34.220); and

(2) ~~((Recognition of the fact that the public has an interest in the knowledge of the state's heritage and a responsibility to contribute to the preservation and enhancement of that heritage))~~ The public interest in the conservation, preservation, and protection of the state's archaeological resources, and the knowledge to be derived and gained from the scientific study of these resources (RCW 27.53.010).

NEW SECTION

WAC 25-48-041 Notice of violation—Penalties. (1)(a) It is unlawful for any person to knowingly and willfully remove, alter, dig into, excavate or remove an archeological object or site or archeological resource without a permit required by RCW 27.53.060.

(b) It is unlawful for any person to knowingly and willfully fail to comply with the provisions of a permit issued by the state historic preservation officer under RCW 27.53.060.

(2) Pursuant to RCW 27.53.095, the state archaeologist or the assistant state archaeologist may issue a notice of violation to any person who knowingly and willfully violates RCW 27.53.060 or the provisions of a permit issued under RCW 27.53.060 and this chapter.

(3) The notice of violation shall impose a monetary penalty of five thousand dollars; provided, however, that the state archaeologist or the assistant state archaeologist may decrease the penalty for the first or second violation upon a determination, supported by specific findings, that the circumstances of the violation warrant a lesser penalty than the statutory maximum. This determination shall be based on the factors set out in WAC 25-48-044. The monetary penalty for any subsequent violation will be five thousand dollars.

(4) In addition to any civil penalty imposed under this section, the notice of violation also shall require the respondent to pay the following costs, as determined under WAC 25-48-043:

(a) Reasonable investigative costs incurred by a mutually agreed upon independent professional archaeologist investigating the alleged violation; and

(b) Reasonable site restoration costs.

(5) The notice of violation shall set forth the conduct determined to violate RCW 27.53.060 or a permit issued thereunder, the damage for which restoration is required, the amount of civil penalty assessed, and, if appropriate, the find-

ings warranting a lesser penalty than the statutory maximum. If the reasonable investigative costs incurred by a mutually agreed upon independent professional archaeologist investigating the alleged violation and the reasonable site restoration costs have been determined, they shall be set forth in the notice of violation; if those costs are determined after the notice of violation has been issued, those costs may be levied against the respondent by a later addendum to the notice of violation or in a final order following an adjudicative proceeding.

(6) The notice of violation shall inform the respondent of its right to request a hearing to contest the notice of violation.

(7) In addition to any civil penalty imposed under this section, the state archaeologist or the assistant state archaeologist may refer any alleged violation to any federal, state, or county authority with jurisdiction over the act or acts alleged to constitute the violation.

NEW SECTION

WAC 25-48-043 Procedure for selecting a mutually agreed upon independent professional archaeologist investigator and for determining site restoration costs. (1) Pursuant to RCW 27.53.095, a person found to have violated chapter 27.53 RCW or a permit issued under RCW 27.53.060 shall pay the reasonable investigative costs incurred by an independent professional archaeologist investigating the alleged violation who has been mutually agreed to by the state archaeologist or the assistant state archaeologist and the respondent. The state archaeologist or the assistant state archaeologist and the respondent may agree to investigation by a qualified employee of the department.

(2) If the state archaeologist or the assistant state archaeologist determines an agreement cannot be reached with the respondent under subsection (1) of this section, the independent professional archaeologist investigator shall be selected as follows:

(a) The state archaeologist or the assistant state archaeologist shall notify the respondent that an agreement cannot be reached and instruct the respondent to provide to the department, within five working days, the name, address, and telephone number of a professional archaeologist together with a summary of the professional archaeologist's professional qualifications. The respondent is responsible for all fees and costs billed by the professional archaeologist the respondent selects.

(b) The state archaeologist or the assistant state archaeologist shall select a professional archaeologist who is not employed or contractually bound to the office. The department is responsible for all fees and costs billed by the professional archaeologist the state archaeologist or the assistant state archaeologist selects.

(c) The professional archaeologists selected by the respondent and by the state archaeologist or the assistant state archaeologist shall jointly select a third professional archaeologist to investigate the alleged violation. Their selection must be communicated to the state archaeologist or the assistant state archaeologist and the respondent within ten working days. The state archaeologist or the assistant state archaeologist

shall provide the professional archaeologist investigator with written authorization to conduct the investigation.

(d) The respondent is responsible for all fees and costs billed by the professional archaeologist investigator.

(3) The professional archaeologist investigator agreed to under subsection (1) or (2) of this section shall assess damage and disturbance to the archaeological resource or site caused by the conduct alleged in the notice of violation and prepare a written report containing the following information:

(a) A map and description of the site, indicating the location and extent of damage or disturbance;

(b) An estimate of the volume of soil disturbed;

(c) An inventory of artifacts and archaeological context and data damaged or disturbed;

(d) An estimate of the archaeological value of artifacts and samples damaged or disturbed;

(e) A summary of the site restoration actions required because of damage or disturbance;

(f) An estimate of site restoration costs, supported by a narrative or numerical explanation; and

(g) Any other information the state historical preservation officer reasonably may require.

(4) The written report required under subsection (3) of this section must be provided to the department, the respondent, the affected tribes, local government, and the property owner, within sixty calendar days of the date the professional archaeologist investigator is authorized by the state archaeologist or the assistant state archaeologist to conduct the investigation.

(5) In determining the site restoration actions required because of damage or disturbance, the professional archaeologist investigator shall include the following, as necessary and appropriate:

(a) Landscaping to return the site to its original geography and configuration;

(b) Recovering, analyzing, and reporting on all archaeological materials damaged or disturbed by the alleged conduct;

(c) Preparing the archaeological materials for curation and the cost of curation or, if appropriate, reburial.

NEW SECTION

WAC 25-48-044 Penalties—Adjustments. (1) The state archaeologist or the assistant state archaeologist may decrease the penalty imposed under WAC 25-48-041(3) for the first or second violation upon a determination, supported by specific findings based on the following factors, that the circumstances of the violation warrant a lesser penalty:

(a) Whether the respondent's act or acts resulted in actual or potential harm to an archeological site, resource, or object, or to human remains;

(b) Whether the respondent's act or acts involve more than one human remains, the damage or disintegration of human remains, or the use of human remains for profit or other financial gain;

(c) Whether the notice of violation encompasses multiple acts that constitute separate violations of this chapter or chapter 27.53 RCW;

(d) Whether the respondent's act or acts reasonably appear to be part of a pattern of the same or similar conduct, whether or not that conduct previously resulted in any state or federal sanction;

(e) Whether the respondent voluntarily disclosed or reported an act or acts constituting a violation of this chapter or chapter 27.53 RCW;

(f) Whether the respondent voluntarily takes remedial measures to provide increased protection for an archeological site, resource, or object or for human remains;

(g) Whether the respondent voluntarily takes measures to reduce the likelihood the violation will be repeated.

(2) The state archaeologist or the assistant state archaeologist may negotiate an agreed settlement of the penalty with the respondent, on such terms and for such reasons as the state archaeologist or the assistant state archaeologist deems appropriate. Any prior negotiated settlement may be considered by the state archaeologist or the assistant state archaeologist in determining the appropriate penalty for a subsequent violation.

AMENDATORY SECTION (Amending WSR 90-01-091, filed 12/19/89, effective 1/19/90)

WAC 25-48-050 Application requirements and forms. (1) Any person or entity covered by this chapter (~~and described in WAC 25-48-030~~) proposing to dig, alter, excavate, and/or remove archaeological objects and sites or historic archaeological resources, or proposing to remove glyphic or painted records of tribes or peoples, or archaeological resources from native Indian cairns or graves shall apply to the ~~(office)~~ department for a permit for the proposed work, and shall not begin the proposed work until a permit has been issued.

(2) Each application for a permit from the department shall be submitted on the archaeological excavation and removal permit application form approved by the ~~(director. These)~~ state historic preservation officer. An application form ~~(s)~~ may be obtained from the ~~(Office)~~ Department of Archaeology and Historic Preservation, (Department of Community Development, 111 West 21st Avenue KL 11, Olympia, WA 98504; telephone (206) 753-5010) P.O. Box 48343, Olympia, WA 98504-8343; telephone 360-586-3065.

AMENDATORY SECTION (Amending WSR 90-01-091, filed 12/19/89, effective 1/19/90)

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

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

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

~~((b))~~ (c) Summary of the environmental setting with an emphasis on vegetation, past and present available natural resources, geomorphology and formation processes, and their relationship to the archaeological deposits.

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

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

~~((e))~~ (f) A professional, scientific research design, including research questions, demonstrating that the work and reporting will be performed in a scientific and technically acceptable manner taking into account current scientific research issues and cultural resource management plans.

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

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

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

~~((g))~~ (j) A plan for site restoration following excavation activities and evidence of plans to secure bonding to cover the cost of site restoration.

~~((h))~~ (k) Evidence of an agreement for the proposed work from the owner, agency, or political subdivision with management responsibility over the land.

~~((i) Evidence of filing of the proposed work with the Washington archaeological research center.~~

~~(j) For amateur society application, evidence of review and recommendations from the Washington archaeological research center.~~

~~((k))~~ (l) A site security plan to assure the protection of the site and its contents during the public permit review and excavation process.

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

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

~~((n))~~ (o) Evidence of abandonment: Abandonment will be presumed where the applicant presents information that

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

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

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

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

(4) An applicant may temporarily curate a collection identified in subsection (2) or (3) of this section in a repository that meets the Secretary of the Interior's standards for archaeological curation in 36 CFR Part 79 until the appropriate Indian tribe has available facilities meeting the Secretary of the Interior's standards for archaeological curation in 36 CFR Part 79 into which the collection may be curated.

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

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

AMENDATORY SECTION (Amending WSR 90-01-091, filed 12/19/89, effective 1/19/90)

WAC 25-48-070 Notification to Indian tribes. (1) Upon receipt of a completed application form for archaeological excavation of a native American archaeological site, native Indian cairn or grave, or the removal of glyptic or painted records, the ~~((office))~~ department, at least thirty days before issuing such a permit under this chapter, shall notify ~~((the))~~ any affected Indian tribe which may consider the site to be of historic or cultural significance.

(2) Notice by the ~~((office))~~ department shall be sent to the chief executive officer or other designated official of the native Indian tribe. Any native Indian tribe or other native American group may supply the ~~((office))~~ department in advance with sites or locations for which such tribe or group wishes to receive notice under this section.

(3) Upon request during the thirty-day period, the ~~((office))~~ department may meet with official representatives of any native Indian tribe or group to discuss ~~((their))~~ its interests, including, but not limited to, the proposed excavation methods. Comments received from tribal representatives shall be considered by the department in the issuance or denial of the permit and the issuance of terms and conditions. Mitigation measures requested by the tribal representatives, including stipulations pertaining to the disposition of human remains, may be incorporated into the terms and conditions of the permit.

(4) When the ~~((office))~~ department determines that ~~((a))~~ an emergency permit applied for under this chapter must be issued immediately under WAC 25-48-095 because of an imminent threat of loss or destruction of an archaeological resource, the ~~((office))~~ department shall so notify the appropriate tribe.

(5) The tribes with whom the ~~((office))~~ department has consulted shall be promptly notified in writing of the issuance of the permit.

AMENDATORY SECTION (Amending Order 11, filed 6/5/86)

WAC 25-48-080 Public notice. (1) The ~~((office))~~ department will give public notice of a pending permit application by one or more of the following methods as appropriate for the specific circumstances in order to solicit public and scientific comment:

(a) Notifying public~~((:))~~ and private groups, tribes, and agencies with ~~((a))~~ known interest in a certain application or type of application being considered;

(b) Notifying individuals with known interest in a certain application or in the type of application being considered;

(c) Publication in a newspaper of general circulation in the area in which the application will be implemented;

(d) Notifying the news media; and/or

(e) Posting on the property site in question.

(2) Comments ~~((from such notified agencies, groups, entities or individuals))~~ on a pending application must be received by the department within thirty days of the notice. Comments may be mailed or faxed to the following address: Department of Archaeology and Historic Preservation, P.O. Box 48343, Olympia, WA 98504-8343. Arrangements for alternative delivery of comments may be made by calling 360-586-3065.

(3) Comments timely received shall be considered by the department in the issuance or denial of the permit application and the imposition of terms and conditions in the permit.

(4) In the discretion of the state archeologist or the assistant state archaeologist, a fifteen-day extension may be granted for additional comments. The party requesting the extension must make the request in writing within the original thirty-day comment period.

AMENDATORY SECTION (Amending Order 88-06, filed 11/4/88)

WAC 25-48-085 Applications for excavation and removal of previously registered shipwrecks and historic aircraft. Where the completed application is for the excavation and/or removal of an historic archaeological resource that is a shipwreck or historic aircraft that has been registered with the department by ~~((an entity))~~ a person other than the applicant, the ~~((office))~~ department will:

(1) Notify the ~~((entity))~~ person by certified mail, return receipt requested, that registered the historic archaeological resource with the department that it shall have sixty days from receipt of notice to submit its own permit application and exercise its first refusal right, or the right shall be extinguished.

(2) Notify the applicant that its permit application will not be acted upon until the ~~((entity))~~ person that has registered the historic archaeological resource has exercised its right of first refusal by submitting a permit application or has allowed its right to be extinguished.

AMENDATORY SECTION (Amending WSR 90-01-091, filed 12/19/89, effective 1/19/90)

WAC 25-48-090 Issuance of permit. The ~~((office))~~ department will normally act upon a permit application

within sixty days of receipt of a complete permit application, except in the case of an historic archaeological resource where the applicant is not the holder of the right of first refusal. Such applications shall be subject to the provisions of WAC 25-48-085. ~~((The director may issue a temporary permit immediately where delay could cause damage to an archaeological or historic archaeological resource or site. Said permit shall be valid only for thirty days.))~~ The ~~((office))~~ department may issue a permit~~((:))~~ for a specified period of time appropriate to the work to be conducted~~((:))~~ upon determining that:

(1) The applicant, or in the case of an amateur society~~((:))~~ or other group or organization~~((:))~~ the individual proposed to be responsible for conducting the archaeological work ~~((is appropriately qualified, as evidenced by training, education, and/or experience, and possesses demonstrable competence in archaeological methods and theory, and in collecting, handling, analyzing, evaluating, and reporting archaeological data, relative to the type and scope of the work proposed, and also))~~:

(a) Meets the minimum qualifications as a professional archaeologist specified in WAC 25-48-020(4);

(b) Possesses demonstrable competence in archaeological methods and theory, and in collecting, handling, analyzing, evaluating, and reporting archaeological data, relative to the type and scope of the work proposed; and

(c) Has complied with current and past permits issued under RCW 27.53.060.

(2) The proposed archaeological work is to be undertaken for the purpose of furthering archaeological knowledge in the public interest, which may include but need not be limited to, scientific or scholarly research, and preservation of archaeological data.

(3) The proposed archaeological work, including time, scope, location, and purpose, is not inconsistent with any management plan or established policy, objectives, or requirements applicable to the management of public lands concerned.

(4) Any Washington university, museum, repository, or other scientific or educational institution proposed as the repository possesses adequate curatorial capability for safeguarding and preserving the archaeological resources and all associated records.

(5) Where the application is for a state-owned historic archaeological resource, a contract between the applicant and the department has been executed. Such a contract shall include but not be limited to the following terms and conditions:

(a) Historic shipwrecks:

(i) The contract shall provide for fair compensation to a salvor. Fair compensation means an amount not less than ninety percent of the appraised value of the objects recovered following successful completion of the contract.

(ii) The salvor may retain objects with a value of up to ninety percent of the appraised value of the total objects recovered, or cash, or a combination of objects and cash. In no event may the total of objects and cash exceed ninety percent of the total appraised value of the objects recovered. A salvor shall not be entitled to further compensation from any state sources.

(iii) The contract shall provide that the state will be given first choice of which objects it may wish to retain for display purposes for the people of the state from among all the objects recovered. The state may retain objects with a value of up to ten percent of the appraised value of the total objects recovered. If the state chooses not to retain recovered objects with a value of up to ten percent of the appraised value, the state shall be entitled to receive its share in cash or a combination of recovered objects and cash so long as the state's total share does not exceed ten percent of the appraised value of the objects recovered.

(iv) The contract shall provide that both the state and the salvor shall have the right to select a single appraiser or joint appraisers.

~~(v) ((The contract shall provide that the applicant agrees to allow the department access to all artifacts and data recovered from the historic shipwreck for purposes of scholarly research and photographic documentation for the period specified by the department.~~

~~(vi))~~ The contract shall ~~((also))~~ provide that title to the objects shall pass to the salvor when the permit is issued. However, should the salvor fail to fully perform under the terms of the contract, title to all objects recovered shall revert to the state. If the salvor should fail to perform the contract terms specified in (a)~~((+))~~ (vi) of this subsection and has disposed of the objects to which title has passed, the salvor shall be liable to the state for liquidated damages in the amount of the appraised value of the objects disposed of.

(vi) The contract shall provide that the applicant agrees to allow the department access to all artifacts and data recovered from the historic shipwreck for purposes of scholarly research and photographic documentation for the period specified by the department.

(b) Historic aircraft:

(i) The contract shall provide that historic aircraft belonging to the state of Washington may only be recovered if the purposes of the salvage operation is to recover the aircraft for a Washington museum, historical society, nonprofit organization, or governmental entity.

(ii) Title to the aircraft may only be passed by the state to one of the entities listed in (b)(i) of this subsection.

(iii) Compensation to the salvor shall only be derived from the sale or exchange of the aircraft to one of the entities listed in (b)(i) of this subsection or such other compensation as one of the entities and the salvor may arrange. The salvor shall not have a claim to compensation from state funds.

(c) Other historic archaeological resources:

The director, in his or her discretion, may negotiate the terms of such contracts.

(6) Evidence that the applicant agrees to mitigate any archaeological damage which occurs during the excavations and recovery operations.

(7) Evidence that the applicant agrees to allow the department access to all artifacts and data recovered from historic archaeological sites for purposes of scholarly research and photographic documentation for a period to be agreed upon by the parties.

(8) Evidence that the applicant agrees to allow the department to have the right to publish scientific papers con-

cerning the results of all research conducted as project mitigation.

~~(9) ((After the granting of a permit and, when))~~ If information filed with the ((office)) department becomes inaccurate in any way((-)) or additions or deletions are necessary, the applicant or permittee shall ((submit)) provide the department with full details of any such changes and/or correct any inaccuracy, together with copies of any new required documents, ((with the office)) within fifteen days ((following the)) after the applicant or permittee becomes aware of the inaccuracy or need for change. The ((office)) department reserves the right to suspend or revoke a permit under the terms of WAC 25-48-110 or to amend a permit under WAC 25-48-100 if the new or corrected information warrants.

NEW SECTION

WAC 25-48-095 Emergency permits. (1) The department may issue an emergency permit immediately where delay could cause damage to an archaeological or historic resource or site, or to burial(s) or human remains.

(2) Before issuing an emergency permit, the department shall require the applicant to provide the information required in WAC 25-48-060. The department, in its discretion, may allow the applicant to provide the required information in abbreviated form.

(3) The emergency permit shall include the terms and conditions specified in WAC 25-48-100.

(4) The department may issue an emergency permit without complying with the notification requirements in WAC 25-48-070 and 25-48-080, except as provided in WAC 25-48-070(4).

(5) An emergency permit shall be valid for not more than thirty days. The department, in its discretion, may extend the emergency permit for an additional thirty days.

AMENDATORY SECTION (Amending WSR 90-01-091, filed 12/19/89, effective 1/19/90)

WAC 25-48-100 Terms and conditions of permits. (1) In all permits issued, the ~~((office))~~ department shall specify:

(a) The nature and extent of work allowed and required under the permit, including the time, duration, scope, location, and purpose of the work;

(b) The name of the individual(s) responsible for conducting the work and, if different, the name of the individual(s) responsible for carrying out the terms and conditions of the permit.

(c) The name of any university, museum, repository, or other scientific or educational institutions in which any collected materials and data shall be deposited.

(d) Reporting documentation requirements and site restoration and mitigation requirements.

(2) The ~~((director))~~ department may specify such terms and conditions as deemed necessary, consistent with this chapter, to:

(a) Protect the public interest in the conservation, preservation, and protection of the state's archaeological resources, and the knowledge to be derived and gained from the scientific study of these resources;

(b) Protect the public safety and other values and/or resources~~((, - &))~~;

(c) Secure work areas, ~~((&))~~ safeguard other legitimate land uses, and ~~((&))~~ limit activities incidental to work authorized under the permit.

~~((This may include))~~ (3) The department may require evidence of sufficient bonding to cover cost of site restoration.

~~((3))~~ (4) The department may specify such terms and conditions as deemed necessary that are recommended by persons commenting within the comment period provided in WAC 25-48-080.

(5) The ~~((office))~~ department may include in permits issued for archaeological work on native Indian cairns and graves or glyptic or painted records such terms and conditions as may be requested by the concerned native Indian tribe and approved by the department.

~~((4))~~ (6) Initiation of work or other activities under the authority of a permit signifies the permittee's acceptance of the terms and conditions of the permit.

~~((5))~~ (7) The permittee shall not be released from requirements of a permit until all outstanding obligations have been satisfied, whether or not the term of the permit has expired.

~~((6))~~ (8) The permittee may request that the ~~((office))~~ department extend or modify a permit. Such a request will require compliance with all the provisions of this chapter.

~~((7))~~ (9) The permittee's performance under any permit issued for a period greater than one year shall be subject to review by the ~~((office))~~ department, at least annually.

(10) If at any time the department determines the terms and conditions of the permit are inadequate to provide the protections addressed under subsections (2) and (3) of this section, the department may add, amend, or delete the terms and conditions of the permit.

AMENDATORY SECTION (Amending WSR 90-01-091, filed 12/19/89, effective 1/19/90)

WAC 25-48-105 Permit denial. If a permit is denied, a written statement of the reasons for the denial will accompany the notice of permit denial to the applicant as well as notice of the right to request a hearing. A permit may be denied ~~((for failure to adequately meet the requirements of an applicant under WAC 25-48-060 and/or the standards set forth in WAC 25-48-090))~~ if:

(1) The application does not meet the requirements and standards in WAC 25-48-060 and 25-48-090;

(2) The applicant or any individual proposed to be responsible for conducting the work or carrying out the terms and conditions of the permit has failed to meet the terms and conditions of a permit previously issued under this chapter;
or

(3) The applicant or any individual proposed to be responsible for conducting the work or carrying out the terms and conditions of the permit has been found to have violated this chapter or any federal or state law regulating archaeological objects or sites, historic archaeological resources, glyptic or painted records, or native Indian cairns or graves.

AMENDATORY SECTION (Amending Order 88-06, filed 11/4/88)

WAC 25-48-108 Right of first refusal—Discovery of new technology. (1) Any ~~((agency, institution,))~~ person ~~((, firm, or corporation which))~~ that has been denied a permit because the historic archaeological resource would be destroyed beyond mitigation by ~~((their))~~ its method of salvage shall have the right of first refusal for a permit at a future date should technology be found which would make salvage possible without destroying the historic archaeological resource.

(2) Such rights may be assigned, but it is the responsibility of the parties to the assignment to provide written evidence of the assignment to the department, including the correct name and mailing address of the assignee.

(3) Upon receipt of a complete permit application and determination that a new technology can salvage the resource, the ~~((director))~~ department shall notify by certified mail, return receipt requested, the holder of the right of first refusal of a permit application that a new technology exists and the holder has sixty days from the receipt of the ~~((director's))~~ department's determination to submit its own permit application and thereby exercise its first refusal right, or the right shall be extinguished.

(4) If the person ~~((, firm, corporation, institution, or agency))~~ that possesses the first refusal right for a permit does not exercise its first refusal right within the sixty-day time period, the department shall send to that ~~((entity))~~ person a notice by certified mail, return receipt requested, that the ~~((entity's))~~ person's right of first refusal has been extinguished.

AMENDATORY SECTION (Amending WSR 90-01-091, filed 12/19/89, effective 1/19/90)

WAC 25-48-110 Suspension and revocation of permits. (1) The ~~((office))~~ state archaeologist or the assistant state archaeologist may suspend or revoke a permit issued pursuant to this chapter upon determining that the permittee has failed to meet any of the terms and conditions of the permit and upon at least twenty days written notice. In the case of emergencies which imminently threaten health, safety, or welfare including property, the ~~((office))~~ state archaeologist or the assistant state archaeologist may summarily suspend a permit by immediately issuing a written order which incorporates a finding to that effect.

(2) The ~~((office))~~ state archaeologist or the assistant state archaeologist shall provide the permittee with written notice ~~((and the notice of right to request a public hearing to the permittee))~~ of the suspension or revocation, the cause thereof, and in the case of a suspension, the length of the suspension and the requirements which must be met before the suspension will be removed. The notice shall inform the respondent of its right to request a hearing to contest the revocation or suspension. In addition, a notice of summary suspension shall inform the respondent of its right to request an emergency adjudicative proceeding.

AMENDATORY SECTION (Amending Order 88-06, filed 11/4/88)

WAC 25-48-120 ~~((Appeals relating to permits.))~~

Administrative appeals. ~~((Any affected person may request a hearing to appeal a denial, suspension, or revocation of a permit or extinguishment of a right of first refusal under WAC 25-48-108 to the director. Said request must be in writing and filed with the director within twenty-one calendar days of receipt of notice of the denial, suspension, revocation, or extinguishment.))~~ (1) An applicant for or holder of a permit issued under this chapter may request a hearing to contest a penalty imposed under WAC 25-48-041, the terms and conditions imposed on a permit under WAC 25-48-100, a denial of a permit application under WAC 25-48-105, a suspension or revocation of a permit under WAC 25-48-110, or the extinguishing of a right of first refusal under WAC 25-48-108.

(2) A request for a hearing shall be made by filing a written application for adjudicative proceeding with the department at the following address: Department of Archaeology and Historic Preservation, P.O. Box 48343, Olympia, WA 98504-8343. The application must be received by the department within twenty-one calendar days of the date of service of the notice of the penalty, denial, suspension, revocation, or extinguishing. An application contesting the terms and conditions imposed on a permit under WAC 25-48-100 must be received by the department within twenty-one days of the date the permit was issued. The application shall specify the issue or issues to be decided and indicate whether the requester desires a full adjudicative proceeding, a brief adjudicative proceeding, or an emergency adjudicative proceeding.

(3) When the department receives an application for adjudicative proceeding, it will immediately notify the director of its receipt and provide the director and the state archaeologist or the assistant state archaeologist with a copy of the application and the notice or document being appealed. The director thereupon will designate a presiding officer as follows:

(a) Where an application requests a full adjudicative proceeding, or where the director determines a full adjudicative proceeding is required, the director will designate as presiding officer an administrative law judge assigned by the office of administrative hearings under chapter 34.12 RCW.

(b) Where an application requests a brief adjudicative proceeding or emergency adjudicative proceeding, or where the director determines a brief adjudicative proceeding or emergency adjudicative proceeding is appropriate, the director will designate a senior staff person in the department as presiding officer. The person designated shall not have participated in the matter and shall not be subject to the authority or direction of any person who has participated in the matter.

(4) Upon being designated, the presiding officer shall notify the requestor, the state archaeologist, and the assistant state archaeologist of his or her name and business address and provide any other information required by chapter 34.05 RCW, 10-08 WAC, or this chapter.

(5) Upon receiving the notice required in subsection (4) of this section, the state archaeologist or the assistant state archaeologist shall immediately transmit to the presiding

officer the application, together with any accompanying documents provided by the requester, and a copy of the notice or other document being appealed.

NEW SECTION

WAC 25-48-121 Adjudicative proceedings. (1) The department hereby adopts the model rules of procedure, chapter 10-08 WAC, adopted by the chief administrative law judge pursuant to RCW 34.05.250, as now or hereafter amended, for use in adjudicative proceedings of agency action under this chapter.

(2) "Service" and "filing" of documents in adjudicative proceedings, brief adjudicative proceedings, and emergency adjudicative proceedings are defined as in RCW 34.05.010 and WAC 10-08-110.

(3) In the case of a conflict between the model rules of procedure and this chapter, the rules in this chapter shall take precedence.

(4) All factual determinations shall be based on the kind of evidence upon which reasonably prudent persons are accustomed to rely in the conduct of their affairs. The burden in all proceedings is a preponderance of the evidence.

(a) In all proceedings contesting the denial of a permit application under WAC 25-48-108, the burden shall be on the applicant to establish that the application meets all applicable requirements and standards.

(b) In all proceedings contesting the extinguishing of a right of first refusal under WAC 25-48-108, the burden shall be on the person challenging the extinguishing to establish the timely exercise of its right of first refusal.

(c) In all other proceedings, the burden is on the state historic preservation officer to prove the alleged factual basis set forth in the notice.

NEW SECTION

WAC 25-48-122 Brief adjudicative proceedings. (1) Pursuant to RCW 34.05.482, the department will use brief adjudicative proceedings where permitted by law and where protection of the public interest does not require the department to give notice and an opportunity to participate to persons other than the parties. A brief adjudicative proceeding is intended to serve as an inexpensive and efficient alternative where the issues can be decided by reference to writings and other documents without a full, formal hearing.

(2) A brief adjudicative proceeding may be used to review the following actions taken under this chapter:

(a) A notice of violation of the terms and conditions of a permit under WAC 25-48-041 (1)(b);

(b) A denial of a permit application under WAC 25-48-105;

(c) Extinguishing a right of first refusal under WAC 25-48-108.

(3) An application for brief adjudicative proceeding shall include a written explanation of the applicant's view of the matter and a copy of any other documents the applicant wishes to have the presiding officer consider. Any response by the department shall be filed with the presiding officer and served on the applicant within fourteen days of receiving an application for a brief adjudicative proceeding.

(4) If the applicant desires an opportunity to make an oral statement to the presiding officer, a request to make an oral statement must be included in the application for a brief adjudicative proceeding. The presiding officer may grant a request to make an oral statement if the presiding officer believes the statement would benefit him or her in reaching a decision. The presiding officer shall notify the parties within a reasonable time of his or her decision to grant or deny a request to make an oral statement. If the presiding officer grants any request to make an oral statement, all parties shall be entitled to make oral statements, and the presiding officer shall notify all parties of the time and place for hearing oral statements.

(5) At the time any unfavorable action is taken, the presiding officer shall serve upon each party a brief statement of the reasons for the decision. Within ten days of the decision, the presiding officer shall serve upon each party a brief written statement of the reasons for the decision and information about any internal administrative review available.

(6) The presiding officer's brief written statement is an initial order. The initial order shall be the final order without further action unless within twenty-one days of the date of service a party requests administrative review of the initial order or the director initiates review of the initial order.

(7) If the presiding officer determines a more comprehensive hearing is warranted, or on the motion of any party, he or she may convert the proceeding to a full adjudicative proceeding by requesting in writing, with findings supporting the request, that the proceeding be so converted and that the director designate as presiding officer an administrative law judge assigned by the office of administrative hearings under chapter 34.12 RCW. The director will act as soon as possible on the request.

(8)(a) A party may request review of the initial order by filing a written request with the director at the following address: Director, Department of Archaeology and Historic Preservation, P.O. Box 48343, Olympia, WA 98504-8343. A request for review of an initial order shall contain an explanation of the requester's view of the matter and a statement of reasons why the initial order is incorrect. The request must be received by the director and served on all other parties within twenty-one days of the date the initial order was served on the parties. A copy of the request must be served on the state archaeologist or the assistant state archaeologist.

(b) Any response to the request for review of an initial order shall be filed with the director and served on the requester within ten days after receiving the request.

(c) In response to a request for review of an initial order, the director shall immediately obtain the record compiled by the presiding officer. The director, at his or her sole discretion, may act as the reviewing officer or designate a reviewing officer who is authorized to grant appropriate relief upon review.

(d) The reviewing officer may issue an order on review, which shall include a brief statement of the reasons for the decision and include a notice that judicial review may be available.

(e) A request for review of an initial order is deemed to have been denied if the reviewing officer does not issue an

order on review within twenty days of the date the request for review of the initial order was filed with the director.

(9)(a) The director may initiate review of the initial order on his or her own motion, without notifying the parties. The director, at his or her sole discretion, may act as the reviewing officer or designate a reviewing officer who is authorized to grant appropriate relief upon review.

(b) The reviewing officer shall obtain and review the record compiled by the presiding officer before taking action.

(c) The reviewing officer may not take any action on review less favorable to any party than in the initial order without giving that party notice and an opportunity to provide a written explanation of its view of the matter. The notice shall specify the deadline for that party to submit its written explanation.

(d) Any order on review shall be issued and served on the parties within twenty days of the date the initial order was served on the parties or within twenty days of the date a request for review of the initial order was filed with the director, whichever occurs later. If an order on review is not issued and served by the applicable deadline in this paragraph, the initial order becomes the final order.

NEW SECTION

WAC 25-48-123 Emergency adjudicative proceedings. (1) A respondent who receives a notice of summary suspension of a permit under WAC 25-48-110 may request an emergency hearing under RCW 34.05.422 and 34.05.479 to contest the findings included in the notice of summary suspension by filing an application for emergency adjudicative proceeding. A respondent who does not file an application for emergency adjudicative proceeding may contest the findings included in the notice of summary suspension in a regularly scheduled adjudicative hearing.

(2) An application for emergency adjudicative proceeding must be received by the department within seven calendar days of the date of service of the notice of summary suspension. An application for emergency adjudicative proceeding received by the department more than seven calendar days after the date of service of the notice of summary suspension shall be deemed an application for full adjudicative proceeding and will be scheduled accordingly.

(3) An application for emergency adjudicative proceeding shall include a written explanation of the applicant's view of the summary suspension and a copy of any other documents the applicant wishes to have the presiding officer consider.

(4) The presiding officer, in his or her discretion, may provide for telefacsimile or electronic service and filing of documents, using means that are similarly available to all parties, in the notice required in WAC 25-48-120(4).

(5) Upon receiving the notice required in WAC 25-48-120(4), the state archaeologist or the assistant state archaeologist shall immediately transmit to the presiding officer copies of any documents that were considered or relied upon in issuing the notice of summary suspension, in addition to the documents listed in WAC 25-48-120(5).

(6) Within seven business days after receiving an application for emergency adjudicative proceeding, the presiding officer shall issue an order that either:

(a) Affirms that the summary suspension is necessary to prevent or avoid immediate danger to the public health, safety or welfare including property; or

(b) Sets aside the summary suspension as unnecessary to prevent or avoid immediate danger to the public health, safety or welfare including property.

No other issue shall be decided in the emergency adjudicative proceeding. The order shall include a brief statement of findings of fact, conclusions of law, and policy reasons for the decision.

(7) The order is effective when signed by the presiding officer. The presiding officer shall promptly notify each party of the decision and serve each party with a copy of the order.

(8) If other issues remain to be decided, or if the respondent requests review of the order, the presiding officer may request that a full adjudicative proceeding be scheduled and that the director designate as presiding officer an administrative law judge assigned by the office of administrative hearings under chapter 34.12 RCW. The request shall summarize the issues that remain to be decided. The director will act as soon as possible on the request. The order issued under this section becomes final unless within seven days of the date of issuance a full adjudicative proceeding is scheduled.

AMENDATORY SECTION (Amending Order 88-06, filed 11/4/88)

WAC 25-48-125 Listing of areas where permits are required to protect historic archaeological sites on aquatic lands. The following is a list of those areas where permits are required under RCW 27.53.060 to protect historic archaeological sites on aquatic lands:

Lake Washington.
Elliott Bay.
Columbia River Bar.

AMENDATORY SECTION (Amending Order 11, filed 6/5/86)

WAC 25-48-130 Display of permit. (1) The permit granted by the ~~((office))~~ department shall be either prominently displayed at all times upon the archaeological site being excavated during the permitted period, or carried on the person of the individual responsible for the field work, as specified in the permit.

(2) If more than one archaeological site is being excavated under a single permit, the permittee may obtain from the ~~((office))~~ department such copy or copies of his or her permit as may be necessary to display at each archaeological site being excavated.

(3) The director or his designee, including the state archaeologist and the assistant state archaeologist, may examine at any time the permit, work, and site at which such permitted work is being undertaken.

NEW SECTION

WAC 25-48-135 Procedure for collecting radiometric data without a permit. A professional archaeologist, as defined in WAC 25-48-020(4), may collect radiocarbon samples without first obtaining a permit under this chapter if the following conditions are met:

(1) The sample or samples must consist of charcoal or shell; no human or mammal bone may be sampled without a permit;

(2) At least ten working days following the sampling, the professional archaeologist must notify the department of the radiocarbon sampling; and

(3) Within thirty days of receiving copies of the results worksheets or their equivalent from the radiocarbon laboratory, the professional archaeologist must submit to the department copies of the results worksheets or their equivalent together with a brief written report documenting sampling and results.

AMENDATORY SECTION (Amending Order 88-07, filed 11/4/88)

WAC 25-46-020 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Historic archaeological resources" means those properties, including, but not limited to all ships, or aircraft, and any part or the contents thereof and all treasure trove which are listed or, in the professional judgment of the department, eligible for listing in the Washington State Register of Historic Places (RCW 27.34.220) or the National Register of Historic Places as defined in the National Historic Preservation Act of 1966 (Title 1, Sec. 101, Public Law 89-665; 80 Stat. 915; 16 U.S.C. Sec. 470) as now or hereafter amended.

(2) "State-owned aquatic lands" means all state-owned tidelands, shorelands, harbor areas, and the beds of navigable waters.

(3) "Department" means the department of ~~((community development.~~

~~((4))~~ "Office" means the office of ~~((archaeology and historic preservation((, department of community development. ~~((5))~~ established in chapter 43... RCW.~~

~~((4))~~ "Director" means the director of the department of ~~((community development))~~ archaeology and historic preservation or the director's designee.

~~((6))~~ (5) "Entity" means any person, firm, corporation, institution, or agency.

~~((7))~~ (6) "Previously unreported" means the historic archaeological resource and its location are not known to the ~~((office))~~ department and are not available from public records including but not limited to government records, historic records, or insurance claims.

AMENDATORY SECTION (Amending Order 88-07, filed 11/4/88)

WAC 25-46-040 Registration forms. (1) Any person or entity who discovers a previously unreported historic archaeological resource abandoned for thirty years or more

on, in, or under state-owned aquatic lands may register it with the department.

(2) Each registration of a previously unreported historic archaeological resource shall be submitted on the Submerged Historic Archaeological Resource Registration Form approved by the director. These registration forms may be obtained from the ~~((Office))~~ Department of Archaeology and Historic Preservation, ((Department of Community Development, 111 West 21st Avenue KL 11)) P.O. Box 48343, Olympia, Washington 98504-8343; telephone ((360) 753-5010) 360-586-3065.

AMENDATORY SECTION (Amending Order 88-07, filed 11/4/88)

WAC 25-46-060 Summary of information required for registration. (1) In order to be considered complete, each registration form shall include:

(a) A description of the historic archaeological resource sufficient to identify its historic association, identity, and integrity of its physical remains. Any historic information you have on the resource and the circumstances of its loss.

(b) Locational information including latitude, longitude, and depth, township, range, section and quarter section, and UTM.

(c) A copy of the relevant United States Coast and Geodetic Survey chart indicating the resource's location. The location of the resource plotted on a USGS topography map.

(d) A copy of a photograph or videotape documenting the existence of identifiable physical remains of the resource sufficient to establish its historic identity and integrity. If a photograph or videotape will not establish the existence of identifiable physical remains of the resource sufficient to establish its historic identity and integrity, the applicant may apply to the ~~((office))~~ department for permission to obtain a sample artifact for this purpose. In the event the applicant wishes to apply for such permission, the applicant shall be subject to some portions of WAC 25-48-030.

(2) Failure to supply this information to the satisfaction of the ~~((office))~~ department may result in the application being deemed incomplete or inadequate under WAC 25-46-100 and 25-46-120.

AMENDATORY SECTION (Amending Order 88-07, filed 11/4/88)

WAC 25-46-080 Competing applications for the same resource. (1) When registration forms are submitted for the same resource by two or more entities, the applications shall be evaluated, accepted, or denied in sequence based upon the unique log number assigned by the department. The registration forms must be submitted via Fedex or other delivery service which records time and date of delivery.

(2) Notice will be sent by the department to each of the entities submitting the registration application for the same resource notifying them of the competing application and the sequence in which they will be evaluated. No competing application will be evaluated until such time as the first pending application has been denied and all appeal rights of that applicant have been exhausted.

(3) When an historic archaeological resource has been registered with the department all subsequent registration applications for that resource within the five-year time period for right of first refusal will be issued a notice that the resource has already been registered and the applications are denied.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order 88-07, filed 11/4/88)

WAC 25-46-100 Issuance of registration acceptance.

(1) Each registration form shall be assigned a unique sequential log number upon date and time of receipt by the department and shall be evaluated in sequence.

(2) Upon receipt of the registration form, the office shall inform the applicant by registered mail within fourteen calendar days of any incomplete or inadequate information and afford the applicant twenty-one calendar days from the receipt of the notice to provide the missing or inadequate information, plus such time as may be authorized by the department for a sample artifact permit granted under WAC 25-46-060 (1)(d) and chapter 25-48 WAC.

(3) If the applicant does not supply the missing or inadequate information within the specified time period the application shall be considered void and a notice of denial sent to the applicant.

(4) The department will act upon a complete registration application within thirty-five calendar days of receipt and shall so notify the applicant. In all notifications of registration acceptance, the department shall specify:

(a) The name, address, and telephone number of the entity submitting the registration application~~((:));~~

(b) A description of the historic archaeological resource sufficient to identify its historic association and identity~~((:));~~

(c) The location of the resource including its latitude and longitude and depth~~((:));~~

(d) A statement of the director's opinion on the resource's eligibility to the Washington state register of historic places or the National Register of Historic Places~~((:));~~

(e) The date of the acceptance of the registration~~((:));~~

(f) The date of the expiration of the right for first refusal~~((:));~~ and

(g) That excavation or removal of any artifacts from the historic archaeological resource will require an archaeological excavation and removal permit and that granting of such a permit is not guaranteed.

AMENDATORY SECTION (Amending Order 88-07, filed 11/4/88)

WAC 25-46-120 Registration denial. (1) If a registration application is denied, a written statement of the reasons for the denial will accompany the notice of registration denial to the applicant.

(2) Registration may be denied for the following reasons:

(a) The application is incomplete or inadequate and has not been completed or corrected pursuant to WAC 25-46-100;

(b) The resource does not qualify as an historic archaeological resource under WAC 25-46-020(1);

(c) The resource has already been registered;

(d) The resource and its location are already known to the ~~((office))~~ department or are part of the public record.

AMENDATORY SECTION (Amending Order 88-07, filed 11/4/88)

WAC 25-46-140 Appeals relating to registration. (1)

Any affected person may request a hearing to appeal a denial of registration or extinguishment of a right of first refusal under WAC 25-46-160 to the director. ~~((Said request must be in writing and filed with the director within twenty-one calendar days of receipt of notice of registration denial or extinguishment.))~~ A request for a hearing shall be made by filing a written application for adjudicative proceeding with the department at the following address: Department of Archaeology and Historic Preservation, P.O. Box 48343, Olympia, WA 98504-8343. The application must be received by the department within twenty-one calendar days of the date of service of the notice of the denial or extinguishing. The application shall specify the issue or issues to be decided and indicate whether the requester desires a full adjudicative proceeding, a brief adjudicative proceeding, or an emergency adjudicative proceeding.

(2) When the department receives an application for adjudicative proceeding, it will immediately notify the director of its receipt and provide the director and the state archaeologist or the assistant state archaeologist with a copy of the application and the notice or document being appealed. The director thereupon will designate a presiding officer as follows:

(a) Where an application requests a full adjudicative proceeding, or where the director determines a full adjudicative proceeding is required, the director will designate as presiding officer an administrative law judge assigned by the office of administrative hearings under chapter 34.12 RCW.

(b) Where an application requests a brief adjudicative proceeding or emergency adjudicative proceeding, or where the director determines a brief adjudicative proceeding or emergency adjudicative proceeding is appropriate, the director will designate a senior staff person in the department as presiding officer. The person designated shall not have participated in the matter and shall not be subject to the authority or direction of any person who has participated in the matter.

(3) Upon being designated, the presiding officer shall notify the requester, the state archaeologist, and the assistant state archaeologist of his or her name and business address and provide any other information required by chapter 34.05 RCW or 10-08 WAC, or this chapter.

(4) Upon receiving the notice required in subsection (3) of this section, the state archaeologist or the assistant state archaeologist shall immediately transmit to the presiding officer the application, together with any accompanying documents provided by the requester, and a copy of the notice or other document being appealed.

NEW SECTION

WAC 25-46-142 Adjudicative proceedings. (1) The department hereby adopts the model rules of procedure, chapter 10-08 WAC, adopted by the chief administrative law judge pursuant to RCW 34.05.250, as now or hereafter amended, for use in adjudicative proceedings of agency action under this chapter.

(2) "Service" and "filing" of documents in adjudicative proceedings, brief adjudicative proceedings, and emergency adjudicative proceedings are defined as in RCW 34.05.010 and WAC 10-08-110.

(3) In the case of a conflict between the model rules of procedure and this chapter, the rules in this chapter shall take precedence.

(4) All factual determinations shall be based on the kind of evidence upon which reasonably prudent persons are accustomed to rely in the conduct of their affairs. The burden in all proceedings is a preponderance of the evidence.

(a) In all proceedings contesting the denial of registration under WAC 25-46-120, the burden shall be on the applicant to establish that the application meets all applicable requirements and standards.

(b) In all proceedings contesting the extinguishing of a right of first refusal under WAC 25-46-160, the burden shall be on the person challenging the extinguishing to establish the timely exercise of its right of first refusal.

(c) In all other proceedings, the burden is on the state historic preservation officer to prove the alleged factual basis set forth in the notice.

NEW SECTION

WAC 25-46-144 Brief adjudicative proceedings. (1) Pursuant to RCW 34.05.482, the department will use brief adjudicative proceedings where permitted by law and where protection of the public interest does not require the department to give notice and an opportunity to participate to persons other than the parties. A brief adjudicative proceeding is intended to serve as an inexpensive and efficient alternative where the issues can be decided by reference to writings and other documents without a full, formal hearing.

(2) A brief adjudicative proceeding may be used to review the following actions taken under this chapter:

(a) Denying an application for registration under WAC 25-46-120;

(b) Extinguishing a right of first refusal under WAC 25-46-160.

(3) An application for brief adjudicative proceeding shall include a written explanation of the applicant's view of the matter and a copy of any other documents the applicant wishes to have the presiding officer consider. Any response by the department shall be filed with the presiding officer and served on the applicant within fourteen days of receiving an application for a brief adjudicative proceeding.

(4) If the applicant desires an opportunity to make an oral statement to the presiding officer, a request to make an oral statement must be included in the application for a brief adjudicative proceeding. The presiding officer may grant a request to make an oral statement if the presiding officer believes the statement would benefit him or her in reaching a

decision. The presiding officer shall notify the parties within a reasonable time of his or her decision to grant or deny a request to make an oral statement. If the presiding officer grants any request to make an oral statement, all parties shall be entitled to make oral statements, and the presiding officer shall notify all parties of the time and place for hearing oral statements.

(5) At the time any unfavorable action is taken, the presiding officer shall serve upon each party a brief statement of the reasons for the decision. Within ten days of the decision, the presiding officer shall serve upon each party a brief written statement of the reasons for the decision and information about any internal administrative review available.

(6) The presiding officer's brief written statement is an initial order. The initial order shall be the final order without further action unless within twenty-one days of the date of service a party requests administrative review of the initial order or the director initiates review of the initial order.

(7) If the presiding officer determines a more comprehensive hearing is warranted, or on the motion of any party, he or she may convert the proceeding to a full adjudicative proceeding by requesting in writing, with findings supporting the request, that the proceeding be so converted and that the director designate as presiding officer an administrative law judge assigned by the office of administrative hearings under chapter 34.12 RCW. The director will act as soon as possible on the request.

(8)(a) A party may request review of the initial order by filing a written request with the director at the following address: Director, Department of Archaeology and Historic Preservation, P.O. Box 48343, Olympia, WA 98504-8343. A request for review of an initial order shall contain an explanation of the requester's view of the matter and a statement of reasons why the initial order is incorrect. The request must be received by the director and served on all other parties within twenty-one days of the date the initial order was served on the parties. A copy of the request must be served on the state archaeologist or the assistant state archaeologist.

(b) Any response to the request for review of an initial order shall be filed with the director and served on the requester within ten days after receiving the request.

(c) In response to a request for review of an initial order, the director shall immediately obtain the record compiled by the presiding officer. The director, at his or her sole discretion, may act as the reviewing officer or designate a reviewing officer who is authorized to grant appropriate relief upon review.

(d) The reviewing officer may issue an order on review, which shall include a brief statement of the reasons for the decision and include a notice that judicial review may be available.

(e) A request for review of an initial order is deemed to have been denied if the reviewing officer does not issue an order on review within twenty days of the date the request for review of the initial order was filed with the director.

(9)(a) The director may initiate review of the initial order on his or her own motion, without notifying the parties. The director, at his or her sole discretion, may act as the reviewing officer or designate a reviewing officer who is authorized to grant appropriate relief upon review.

(b) The reviewing officer shall obtain and review the record compiled by the presiding officer before taking action.

(c) The reviewing officer may not take any action on review less favorable to any party than in the initial order without giving that party notice and an opportunity to provide a written explanation of its view of the matter. The notice shall specify the deadline for that party to submit its written explanation.

(d) Any order on review shall be issued and served on the parties within twenty days of the date the initial order was served on the parties or within twenty days of the date a request for review of the initial order was filed with the director, whichever occurs later. If an order on review is not issued and served by the applicable deadline in this paragraph, the initial order becomes the final order.

NEW SECTION

WAC 25-46-146 Emergency adjudicative proceedings. (1) A respondent who receives a notice of registration denial under WAC 25-46-120 may request an emergency hearing under RCW 34.05.422 and 34.05.479 to contest the findings included in the notice of registration denial by filing an application for emergency adjudicative proceeding. A respondent who does not file an application for emergency adjudicative proceeding may contest the findings included in the notice of registration denial in a regularly scheduled adjudicative hearing.

(2) An application for emergency adjudicative proceeding must be received by the department within seven calendar days of the date of service of the notice of summary suspension. An application for emergency adjudicative proceeding received by the department more than seven calendar days after the date of service of the notice of registration denial shall be deemed an application for full adjudicative proceeding and will be scheduled accordingly.

(3) An application for emergency adjudicative proceeding shall include a written explanation of the applicant's view of registration denial and a copy of any other documents the applicant wishes to have the presiding officer consider.

(4) The presiding officer, in his or her discretion, may provide for telefacsimile or electronic service and filing of documents, using means that are similarly available to all parties, in the notice required in WAC 25-46-140(3).

(5) Upon receiving the notice required in WAC 25-46-140(3), the state archaeologist or the assistant state archaeologist shall immediately transmit to the presiding officer copies of any documents that were considered or relied upon in issuing the notice of summary suspension, in addition to the documents listed in WAC 25-46-140(4).

(6) Within seven business days after receiving an application for emergency adjudicative proceeding, the presiding office shall issue an order that either:

(a) Affirms that the registration denial is necessary to prevent or avoid immediate danger to the public health, safety or welfare including property; or

(b) Sets aside the summary suspension as unnecessary to prevent or avoid immediate danger to the public health, safety or welfare including property.

No other issue shall be decided in the emergency adjudicative proceeding. The order shall include a brief statement of findings of fact, conclusions of law, and policy reasons for the decision.

(7) The order is effective when signed by the presiding officer. The presiding officer shall promptly notify each party of the decision and serve each party with a copy of the order.

(8) If other issues remain to be decided, or if the respondent requests review of the order, the presiding officer may request that a full adjudicative proceeding be scheduled and that the director designate as presiding officer an administrative law judge assigned by the office of administrative hearings under chapter 34.12 RCW. The request shall summarize the issues that remain to be decided. The director will act as soon as possible on the request. The order issued under this section becomes final unless within seven days of the date of issuance a full adjudicative proceeding is scheduled.

WSR 05-20-078
PROPOSED RULES
DEPARTMENT OF REVENUE

[Filed October 4, 2005, 3:46 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-06-124.

Title of Rule and Other Identifying Information: WAC 458-20-194 Doing business inside and outside the state.

Hearing Location(s): Capital Plaza Building, 4th Floor, Executive Large Conference Room, 1025 Union Avenue S.E., Olympia, WA 98504, on November 9, 2005, at 9:30 a.m.

Date of Intended Adoption: November 18, 2005.

Submit Written Comments to: Nathan Schreiner and Chris Coffman, P.O. Box 47453, Olympia, WA 98504-7453, e-mail NathanS@dor.wa.gov and ChrisC@dor.wa.gov, fax (360) 586-5543, by November 9, 2005.

Assistance for Persons with Disabilities: Contact Sandy Davis at (360) 725-7499 no later than ten days before the hearing date. Deaf and hard of hearing individuals may call 1-800-451-7985 (TTY users).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 458-20-194 (Rule 194) explains the taxability of persons doing business both within and outside Washington. Because the apportionment principles for persons engaging in activities subject to the service and other activities B&O tax (RCW 82.04.460(1)) are discussed in very general terms only, most of the department's specific guidance on apportionment has been by Washington tax decision (WTD).

The department is proposing to amend this rule to provide more detailed and specific guidance on cost apportionment for businesses engaged in activities taxable under RCW 82.04.290 Service and other activities B&O tax and 82.04.-2908 Boarding homes B&O tax. The amended rule will provide clearer guidance on when a business should use separate accounting or the cost apportionment method for determining the business' Washington B&O tax liability. The department

has also added examples explaining when a business is subject to Washington B&O tax because it has nexus with Washington and the standards the department will use to determine if the business has nexus with another state.

The proposed rule provides clearer guidance on apportionment principles that is consistent with statute (RCW 82.04.460(1)) and, to the extent possible, based on records that businesses generally retain for other purposes and fairly measures the Washington activity of businesses.

The department anticipates canceling excise tax advisories (ETAs) 019.04.194, 269.04.194, 270.04.194, and 324.04.194/224 when amended Rule 194 becomes effective.

Reasons Supporting Proposal: Historically, the department has issued specific guidance concerning cost apportionment and separate accounting through published determinations (Washington tax decisions) as authorized by RCW 82.32.410. This has proved to be less than satisfactory for both the businesses and the department, because the determinations address only the facts before the department in a particular appeal. The proposed rule will provide specific guidance to all businesses that apportion their income pursuant to RCW 82.04.460(1).

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

Statute Being Implemented: RCW 82.04.460(1).

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

Name of Proponent: Department of Revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Nathan Schreiner, (360) 570-6136 and Chris Coffman, (360) 570-6150, 1025 Union Avenue S.E., Suite #544, Olympia, WA; Implementation: Alan R. Lynn, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6125; and Enforcement: Janis P. Bianchi, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6147.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These changes do not impose more than minor costs on any small business.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Chris Coffman, 1025 Union Avenue S.E., Suite #544, Olympia, WA 98405 [98504], phone (360) 570-6150, fax (360) 586-5543, e-mail ChrisC@dor.wa.gov. Additionally, the cost-benefit analysis is available under WAC 458-20-194 on the Department of Revenue's web page at http://dor.wa.gov/content/laws/draft/excise_tax.htm#102.

October 4, 2005

Alan R. Lynn

Rules Coordinator

AMENDATORY SECTION (Amending Order ET 83-1, filed 3/30/83)

WAC 458-20-194 Doing business inside and outside the state. (~~Persons domiciled outside this state who (1) sell or lease personal property to buyers or lessees in this state, or (2) perform construction or installation contracts in this state, or (3) render services to others herein, are doing business in this state, irrespective of the domicile of such persons and~~

irrespective of whether or not such persons maintain a permanent place of business in this state.

Persons domiciled in and having a place of business in this state, who (1) sell or lease personal property to buyers or lessees outside this state, or (2) perform construction or installation contracts outside this state, or (3) render services to others outside this state, are doing business both inside and outside this state. Whether or not such persons are subject to business tax under the law depends upon the kind of business and the manner in which it is transacted. The following general principles govern in determining tax liability or tax immunity.

Business and Occupation Tax

When the business involves a transaction in or related to interstate or foreign commerce, see WAC 458-20-193.

When the business involves a construction or installation contract in this state, no deduction from the measure of the tax is permitted, even though the contractor is domiciled outside this state and maintains a place of business outside this state which may contribute to the contract performed in this state. See WAC 458-20-137, 458-20-170, 458-20-171 and 458-20-172.

When the business involves a construction or installation contract outside this state, the tax does not apply to any part of the income derived therefrom (except such part of the income as may be applicable to the manufacture in this state by the contractor of articles used or incorporated in such construction or installation), even though the contractor is domiciled in this state and maintains a place of business herein which may contribute to the contract performed outside this state. See WAC 458-20-136.

When the business involves a transaction taxable under the classification service and other business activities, the tax does not apply upon any part of the gross income received for services incidentally rendered to persons in this state by a person who does not maintain a place of business in this state and who is not domiciled herein. However, the tax applies upon the income received for services incidentally rendered to persons outside this state by a person domiciled herein who does not maintain a place of business within the jurisdiction of the place of domicile of the person to whom the service is rendered.

For example, persons domiciled herein, but having no place of business outside this state, are taxable upon the following types of income:

- (1) An insurance agency upon commissions received for insurance placed without the state.
- (2) An attorney upon fees received from persons without the state, even though a portion of his services were necessarily performed without the state.
- (3) A collection agency upon income received from clients without the state or with respect to collections made from persons without the state.
- (4) An accountant upon income received from persons for services performed without the state.
- (5) A financial business upon income received from loans placed without the state.
- (6) A commodity broker upon commissions received from persons without the state.

(7) An advertising agency upon income received from advertising solicited and secured from firms without the state.

(8) An employment agency upon income received for securing employees for firms without the state.

(9) A physician upon income received from the treatment of patients without the state.

(10) A purchasing agency upon commissions received from clients without the state or with respect to purchases made without the state.

Persons engaged in a business taxable under the service and other business activities classification and who maintain places of business both inside and outside this state which contribute to the performance of a service, shall apportion to this state that portion of gross income derived from services rendered by them in this state. Where it is not practical to determine such apportionment by separate accounting methods, the taxpayer shall apportion to this state that proportion of total income which the cost of doing business within this state bears to the total cost of doing business both within and without this state.

For purposes of apportionment under RCW 82.04.460 and this rule the term "place of business" generally means a location at which regular business of the taxpayer is conducted and which is either owned by the taxpayer or over which the taxpayer exercises legal dominion and control. The term does not include locations or facilities at which the taxpayer acquires merely transient lodging nor does it include mere telephone number listings or telephone answering services.

Public Utility Tax

Persons engaged in a public service business in this state are not taxable with respect to gross income derived from conducting business outside this state, nor in respect to conducting business in interstate or foreign commerce.)) (1)

Introduction.

(a) This rule applies to persons entitled to apportion income under RCW 82.04.460(1). Specifically the rule applies to taxpayers who maintain places of business both within and without the state that contribute to the rendition of services and who are taxable under RCW 82.04.290, 82.04.-2908, or any other statute that provides for apportionment under RCW 82.04.460(1). Persons subject to the service and other activities, international investment income, licensed boarding home, and low-level radioactive waste disposal business and occupation (B&O) tax classifications, and who are not required to apportion their income under another statute or rule, should use this rule. In addition, this rule describes Washington nexus standards for business activities subject to apportionment under RCW 82.04.460(1). Nexus is described in subsection (2) of this section; separate accounting in subsection (4) of this section; and cost apportionment in subsection (5) of this section.

(b) Readers may also find helpful information in the following rules:

(i) WAC 458-20-14601 (Financial institutions—Income apportionment).

(ii) WAC 458-20-170 (Constructing and repairing of new or existing buildings or other structures upon real property).

(iii) WAC 458-20-179 (Public utility tax).

(iv) WAC 458-20-193 (Inbound and outbound interstate sales of tangible personal property).

(c) The examples included in this section identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of all situations must be determined after a review of all the facts and circumstances.

(2) Nexus.

(a) Place of business - minimum presence necessary for tax. The following discussion of nexus applies only to gross income from activities subject to apportionment under this rule. A place of business exists in a state when a taxpayer engages in activities in the state that are sufficient to create nexus. Nexus is that minimum level of business activity or connection with the state of Washington which subjects the business to the taxing jurisdiction of this state. Nexus is created when a taxpayer is engaged in activities in the state, either directly or through a representative, for the purpose of performing a business activity. It is not necessary that a taxpayer have a permanent place of business within a state to create nexus.

(b) Examples. The following examples demonstrate Washington's nexus principles.

(i) Assume an attorney licensed to practice only in Washington performs services for clients located in both Washington and Florida. All of the services are performed within Washington. The attorney does not have nexus with any state other than Washington.

(ii) Assume the same facts as the example in (b)(i) of this subsection, plus the attorney attends continuing education classes in Florida related to the subject matter for which his Florida clients hired him. The attorney's presence in Florida for the continuing education classes does not create nexus because he is not engaging in business in Florida.

(iii) Assume the same facts as the example in (b)(ii) of this subsection, plus the attorney is licensed to practice law in Florida and frequently travels to Florida for the purpose of conducting discovery and trial work. Even though the attorney does not maintain an office in Florida, the attorney has nexus with both Washington and Florida.

(iv) Assume an architectural firm maintains physical offices in both Washington and Idaho. The architectural firm has nexus with both Washington and Idaho.

(v) Assume an architectural firm maintains its only physical office in Washington, and when the firm needs a presence in Idaho, it contracts with nonemployee architects in Idaho instead of maintaining a physical office in Idaho. Employees of the Washington firm do not travel to Idaho. Instead, the contract architects interact directly with the clients in Idaho, and perform the services the firm contracted to perform in Idaho. The architectural firm has nexus with both Washington and Idaho.

(vi) Assume the same facts as the example in (b)(v) of this subsection except the contracted architects never meet with the firm's clients and instead forward all work products to the firm's Washington office, which then submits that work product to the client. In this case, the architectural firm does not have nexus with Idaho. The mere purchase of services from a subcontractor located in another state that does not act

as the business' representative to customers does not create nexus.

(vii) Assume that an accounting firm maintains its only office in Washington. The accounting firm enters into contracts with individual accountants to perform services for the firm in Oregon and Idaho. The contracted accountants represent the firm when they perform services for the firm's clients. The firm has nexus with Washington, Oregon, and Idaho.

(viii) Assume that an accounting firm maintains its only office in Washington and has clients located in Washington, Oregon, and Idaho. The accounting firm's employees frequently travel to Oregon to meet with clients, review client's records, and present their findings, but do not travel to Idaho. The accounting firm has nexus with Washington and Oregon, but does not have nexus with Idaho.

(ix) Assume that a sales representative earns commissions from the sale of tangible personal property. The sales representative is located in Oregon and does not enter Washington for any business purpose. The sales representative contacts Washington customers only by telephone and earns commissions on sales of tangible personal property to Washington customers. The sales representative does not have nexus with Washington and the commissions earned on sales to Washington customers are not subject to Washington's business and occupation tax.

(x) These above examples apply equally to situations where the Washington activities and out-of-state activities are reversed. For example, in example (b)(ix) of this subsection, if the locations were reversed, the sales representative would have nexus with Washington.

(3) Multiple lines of business.

(a) In general. If a taxpayer engages in two or more business activities, each of which is separately managed, uses separate employees, uses separate support services, and provides services unrelated to the other business activities, then the taxpayer is engaged in multiple lines of business. A taxpayer engaged in multiple lines of business must apportion the income for each line of business separately. Activities taxed under different B&O tax classifications are considered different lines of business for the purposes of this rule.

(b) Examples.

(i) Assume that a taxpayer engages in a stock brokerage business and separates the execution of trades from its investment advice and investment management activities into separate divisions. The taxpayer would not be considered to be engaged in distinct business activities because the execution of trades and investment management activities are related functions. The taxpayer will be required to apportion its entire income using either separate accounting or cost apportionment. It may not separately account for some of its income and use cost apportionment for the rest of its income.

(ii) Assume that a taxpayer maintains two separate divisions. One division is engaged in the business of providing janitorial services and the second division is engaged in the business of income tax preparation. Each division has separate management, there is no crossover of employees, and each maintains its own personnel, billing, accounting, and other support services. This taxpayer is engaged in multiple lines of business and each activity will be evaluated for

apportionment purposes separately. Thus, the taxpayer may use separate accounting to apportion its income from the provision of janitorial services and use cost apportionment for its income tax preparation services.

(4) Separate accounting.

(a) In general. "Separate accounting" refers to a method of accounting that segregates and identifies sources or transactions which account for the generation of income within the state of Washington. Separate accounting is distinct from cost apportionment, which assigns a formulary portion of total worldwide income to Washington. A separate accounting method must be used by a business entitled to apportion its income under RCW 82.04.460(1) if this use results in an accurate description of gross income attributable to its Washington activities.

(b) Accuracy. Separate accounting is accurate only when the activities that significantly contribute, directly or indirectly, to the production of income can be identified and segregated geographically. Separate accounting thus links taxable income to activities occurring in a discrete jurisdiction. The result is inaccurate when services supporting these activities occur in different jurisdictions.

(c) Approved methods of separate accounting. The following methods of separate accounting are acceptable to the department, if accurate:

(i) Billable hours of employees or representative third parties performing services in Washington. If a business charges clients an hourly rate for the performance of services, and the place of performance of the employee, contractor, or other individual whose time is billed is reasonably ascertainable, then the billable hours may be used as a basis for separate accounting. The gross amount received from hours billed for services performed in Washington should be reported.

(ii) Specific projects or contracts. A business may assign the revenue from specific projects or contracts in or out of Washington by the primary place of performance. For example, a consulting business with no other presence in Washington that agrees to provide on-site management consulting services for a Washington business and receives five hundred thousand dollars in payment for the project must report five hundred thousand dollars in gross income to Washington. If the same business gets another Washington client for on-site management consulting, and receives another payment of five hundred thousand dollars, the business must report an additional five hundred thousand dollars in gross income to Washington. If a business contracts to distribute advertisements within the state of Washington, the gross amount received for this action should be reported as Washington income.

(iii) Other reasonable and accurate methods—Notice to the department.

(A) A taxpayer may report with, or the department may require, the use of one of the alternative methods of separate accounting.

(B) A taxpayer reporting under this subsection must notify the department at the time of filing that it is using an alternative method and provide a brief description of the method employed. If a taxpayer reports using an alternate method, the same method must be used for all subsequent tax

reporting periods unless it is demonstrated another method is necessary under the standard in (c)(iii)(D) of this subsection.

(C) If on review of a taxpayer's return(s) the department determines another method is necessary to fairly represent the extent of a taxpayer's business activity in Washington, then the department may impose the method for all returns within the statute of limitations. Statutory interest applies to both balances due and refund or credit claims arising under this section. Further, applicable penalties will be imposed on balances due arising under this section. However, if the taxpayer reported using the separate accounting method in (c) of this subsection or cost apportionment under subsection (5) of this section, the department may impose the alternate method for future periods only.

(D) A taxpayer may request that the department approve an alternative method of separate accounting by submitting a request for prior ruling pursuant to WAC 458-20-100. Such letter ruling may be subject to audit verification before issuance.

(E) The taxpayer or the department, in imposing or requesting an alternate method, must demonstrate by clear and convincing evidence that the separate accounting methods in (c) of this subsection do not fairly represent the extent of the taxpayer's business activity in Washington.

(5) Cost apportionment.

(a) Apportionment ratio. The apportionment ratio is the cost of doing business in Washington divided by the total cost of doing business as described in RCW 82.04.460(1). A different ratio must be used for each line of business described in subsection (3) of this section. Cost may not be included in more than one ratio. An apportionment ratio is calculated under this rule as follows. The denominator of the apportionment ratio is the worldwide costs of the apportionable activity and the numerator is all costs specifically assigned to Washington plus all costs assigned to Washington by formula, as described below. Costs are calculated on a worldwide basis for the tax reporting period in question. The tax due to Washington is calculated by multiplying total income times the apportionment ratio times the tax rate. Available tax credits may be applied against the result. Statutory interest and penalties apply to underreported income. For the purposes of this rule, "total income" means gross income under the tax classification in question, less deductions, calculated as if the B&O tax classification applied on a worldwide basis.

(b) Place of business requirement. A taxpayer must maintain places of business within and without Washington that contribute to the rendition of its services in order to apportion its income. This "place of business" requirement, however, does not mean that the taxpayer must maintain a physical location as a place of business in another taxing jurisdiction in order to apportion its income. If a taxpayer has activities in a jurisdiction sufficient to create nexus under Washington standards, then the taxpayer is deemed to have a "place of business" in that jurisdiction for apportionment purposes. See subsection (2) of this section.

(c) Noncost expenditures. The following is a list of expenditures that are not costs of doing business within the meaning of RCW 82.04.460 and are therefore excluded from both the numerator and the denominator of the apportionment

ratio. Expenditures that are not costs of doing business include expenditures that exchange one business asset for another; that reflect a revaluation of an asset not consumed in the course of business; or federal, state, or local taxes measured by gross or net business income. This list is not exclusive. Costs of another line of business under subsection (3) of this section are also excluded from an individual apportionment ratio. Similarly, the costs of acquiring a business by merger or otherwise, including the financing costs, are not the costs of doing the apportioned business activity and must be excluded from the cost apportionment calculation.

(i) The cost of acquiring assets that are not depreciated, amortized, or otherwise expensed on the taxpayer's books and records on the basis of generally accepted accounting principles (GAAP), or a loss incurred on the sale of such assets. For example, expenditures for land and investments are excluded from the cost apportionment formula.

(ii) Taxes (other than taxes specifically related to items of property such as retail sales or use taxes and real and personal property taxes).

(iii) Asset revaluations such as stock impairment or goodwill impairment.

(d) **Specifically assigned costs.** Real or tangible personal property costs, employee costs, and certain payments to third parties are specifically assigned under (e) through (g) of this subsection.

(e) Property costs.

(i) **Definitions.** Real or tangible personal property costs are defined to include:

(A) Depreciation as reported on the taxpayer's books and records according to GAAP;

(B) Maintenance costs for specific property;

(C) Insurance costs for specific property;

(D) Utility costs for specific property;

(E) Lease or rental payments for specific property;

(F) Interest costs for specific property; and

(G) Taxes for specific property.

(ii) **Assignment of costs.** Real or tangible personal property costs are assigned to the location of the property. Property in transit between locations of the taxpayer to which it belongs is assigned to the destination state. Property in transit between a buyer and seller and included by a taxpayer in the denominator of the apportionment ratio in accordance with its regular accounting practices is assigned to the destination state. Mobile or movable property located both within and without Washington during the measuring period is assigned in proportion to the total time within Washington during the measuring period. An automobile assigned to a traveling employee is assigned to the state to which the employee's compensation is assigned below or to the state in which the automobile is licensed. Where a business contracts for the maintenance or insurance of multiple properties, the rental or depreciation expense may be used to assign these costs.

(f) Employee costs.

(i) **Definitions.** For the purposes of this subsection:

(A) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid to or accrued to employees for personal services. Employer contributions under a qualified cash plan, deferred arrangement plan, and

nonqualified deferred compensation plan are considered compensation. Stock based compensation is considered compensation under this rule to the extent included in gross income for federal income tax purposes.

(B) "Employee" means any individual who, under the usual common-law rules applicable in determining the employer-employee relationship, has the status of an employee, but does not include corporate officers.

(ii) **Allocation method.** Employee costs include all compensation paid to employees. An employee's compensation is assigned to Washington if the taxpayer reports the employee's wages to Washington for unemployment compensation purposes. Employee wages reported for federal income tax purposes may be used to assign the remaining compensation costs.

(g) Representative third-party costs.

(i) **Definitions.** For the purposes of this section:

"Representative third party" includes an agent, independent contractor, or other representative of the taxpayer who provides services on behalf of the taxpayer directly to customers. The term includes leased employees who meet the standards under this subsection (5)(g) of this section.

(ii) **Allocation method.** Payments to a representative third party are assigned to the third party's place of performance. For example, if a business subcontracts with a representative third party who provides services on behalf of the taxpayer from a California location, the cost of compensating the representative third party is assigned to California. This is true even if the third party provides services to Washington customers. Conversely, the cost of compensating a representative third party providing services to California customers from a Washington location is assigned to Washington.

(iii) Examples.

(A) X, a Washington business, hires Taxpayer to design and write custom software for a document management system. Taxpayer subcontracts with Z, whose employees determine the needs of X, negotiate a statement of work, write the custom software, and install the software. Z's employees perform all of these services on-site at the X business location. Taxpayer's payments to Z are representative third-party costs and specifically assigned to Washington.

(B) Taxpayer, a service provider, subcontracts with X, who agrees to maintain a customer service center where staff will answer telephone inquiries about Taxpayer's services. X in turn subcontracts with Z, whose employees actually respond to questions from a phone center located in California. The payments by taxpayer to X are representative third-party costs with respect to Taxpayer because X is responsible for providing the staff of the service center. The payments to X are specifically assigned to California.

(C) Taxpayer sells various manufacturers' products at wholesale on a commission basis. Taxpayer subcontracts with X, who agrees to act as Taxpayer's sales representative on the West Coast. Taxpayer has various other sales representatives working on as independent contractors, who are assigned territories, but may make sales from an office or through in-person visits, or a combination of both. Taxpayer does not maintain records sufficient to show the representatives' places of performance. Taxpayer may use sales records

and the standards under (h) of this subsection to assign commissions by each subcontractor.

(h) Costs assigned by formula.

(i) Costs not specifically assigned under (e) through (g) of this subsection and not excluded from consideration by (a) or (c) of this subsection are assigned to Washington by formula. These costs are multiplied by the ratio of sales in Washington over sales everywhere. For example, travel costs are not specifically assigned. If a business has one thousand dollars in travel costs and sales of ten thousand dollars in each of the four states in which it has nexus under Washington standards (including Washington), twenty-five percent, or two hundred fifty dollars of the travel costs are assigned to Washington.

(ii) Sales are assigned to where the customer receives the benefit of the service. If the location where the services are received is not readily determinable, the services are attributed to the location of the office of the customer from which the services were ordered in the regular course of the customer's trade or business. If the ordering office cannot be determined, the services are attributed to the office of the customer to which the services are billed.

(iii) If under the method described above a sale is attributed to a location where the taxpayer does not have nexus under Washington standards, the sale must be excluded from both the numerator and denominator of the sales ratio. For the purposes of this calculation only, the department will presume a taxpayer has nexus anywhere the taxpayer has employees or real property, or where the taxpayer reports income or business activity taxes in the state. The burden is on the taxpayer to demonstrate nexus exists in other states.

(i) Alternative methods.

(i) A taxpayer may report with, or the department may require, the use of one of the alternative methods of cost apportionment described below:

(A) The exclusion of one or more categories of costs from consideration;

(B) The specific allocation of one or more categories of costs which will fairly represent the taxpayer's business activity in Washington; or

(C) The employment of another method of cost apportionment that will effectuate an equitable apportionment of the taxpayer's gross income.

(ii) A taxpayer reporting under (5)(i) of this section must notify the department at the time of filing that it is using an alternative method and provide a brief description of the method employed. If a taxpayer reports using an alternate method, the same method must be used for all subsequent tax reporting periods unless it is demonstrated another method is necessary under the standard in (i)(iv) of this subsection.

(iii) If on review of a taxpayer's return(s) the department determines another method is necessary to fairly represent the extent of a taxpayer's business activity in Washington, the department may impose the method for all returns within the statute of limitations. Statutory interest applies to both balances due and refund or credit claims arising under this section. Further, applicable penalties will be imposed on balances due arising under this section. However, if the taxpayer reported using the cost apportionment method in (a) through (h) of this subsection and separate accounting is

unavailable, the department may impose the alternate method for future periods only.

(iv) A taxpayer may request that the department approve an alternative method of cost apportionment by submitting a request for prior ruling pursuant to WAC 458-20-100. Such letter ruling may be subject to audit verification before issuance.

(v) The taxpayer or the department, in imposing or requesting an alternate method, must demonstrate by clear and convincing evidence that the cost apportionment method in (a) through (h) of this subsection does not fairly represent the extent of the taxpayer's business activity in Washington.

(6) Effective date. This amended rule shall be effective for tax reporting periods beginning on January 1, 2006, and thereafter.

WSR 05-20-079

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed October 4, 2005, 4:18 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-10-085.

Title of Rule and Other Identifying Information: The department is proposing to amend chapter 388-78A WAC, Boarding home licensing rules, WAC 388-78A-2020 Definitions, 388-78A-2050 Resident characteristics, 388-78A-2100 On-going assessments, 388-78A-2120 Monitoring residents' well-being, 388-78A-2270 Resident controlled medications, 388-78A-2280 Medication organizers, 388-78A-2300 Food and nutrition services, 388-78A-2360 Adult day care, 388-78A-2380 Restricted egress, 388-78A-2470 Criminal history background checks, 388-78A-2480 TB tests, 388-78A-2490 Specialized training for developmental disabilities, 388-78A-2500 Specialized training for mental illness, 388-78A-2510 Specialized training for dementia, 388-78A-2520 Administrator qualifications, 388-78A-2660 Resident rights, 388-78A-2700 Safety measures and disaster preparedness, 388-78A-2910 Applicable building codes, 388-78A-2920 Area for nursing supplies and equipment, 388-78A-2930 Communication system, 388-78A-2940 Two-way intercom systems, 388-78A-2960 Sewage and liquid waste disposal, 388-78A-2990 Heating-cooling—Temperature, 388-78A-3010 Resident room—Room furnishings-storage, 388-78A-3030 Toilet rooms and bathrooms, 388-78A-3040 Laundry, 388-78A-3090 Maintenance and housekeeping, 388-78A-3190 Denial, suspension, revocation, or nonrenewal of license statutorily required, and 388-78A-3220 Appeal rights. The department is proposing to add new WAC 388-78A-2305 Food sanitation.

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane, behind Goodyear Tire. A map or directions are avail-

able at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6097, on December 6, 2005, at 10:00 a.m.

Date of Intended Adoption: Not earlier than December 7, 2005.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail fernaax@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., December 6, 2005.

Assistance for Persons with Disabilities: Contact Stephanie Schiller, DSHS Rules Consultant, by December 2, 2005, TTY (360) 664-6178 or (360) 664-6097 or by e-mail at schilse@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The amendments to chapter 388-78A WAC:

- Make the rule clearer;
- Eliminate redundancies and inconsistencies with other rules and statutes;
- Expand options for boarding homes to provide adult day services and thereby create more options for consumers;
- Respond in part to chapter 505, Laws of 2005; and
- Create more training options for boarding home administrators.

Reasons Supporting Proposal: If the proposed rule is not adopted:

- Sections of chapter 388-78A WAC would not be consistent with other statutes and administrative rules;
- Certain sections would be unclear or ambiguous;
- Elements of some sections would duplicate other sections;
- Boarding home licensees would have fewer options for providing adult day services;
- The department would not be as responsive to the issues that were the basis for chapter 505, Laws of 2005; and
- Boarding home administrators would have their training options narrowed.

Statutory Authority for Adoption: RCW 18.20.090.

Statute Being Implemented: Chapter 18.20 RCW, chapter 505, Laws of 2005.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Portions of this proposed amendment address issues that were brought to the 2005 legislature by the boarding home industry and addressed in chapter 505, Laws of 2005.

Name of Proponent: Department of Social and Health Services, governmental.

Name of Agency Personnel Responsible for Drafting: Denny McKee, 4500 10th Avenue S.E., Lacey, WA 98503, (360) 725-2590; Implementation and Enforcement: Joyce Stockwell, 4500 10th Avenue S.E., Lacey, WA 98503, (360) 725-2401.

No small business economic impact statement has been prepared under chapter 19.85 RCW. There are no required costs to boarding homes associated with implementing these proposed amendments. Per RCW 19.85.030(1), the proposed rule will not impose more than minor costs on the industry and therefore a small business economic impact statement is not required.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Denny McKee, 4500 10th Avenue S.E., Lacey, WA 98503, phone (360) 725-2590, fax (360) 438-7903, e-mail mckeedd@dshs.wa.gov.

September 29, 2005

Andy Fernando, Manager
Rules and Policies Assistance Unit

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 05-22 issue of the Register.

WSR 05-20-080

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed October 4, 2005, 4:21 p.m.]

Supplemental Notice to WSR 05-15-146.

Preproposal statement of inquiry was filed as WSR 05-01-128.

Title of Rule and Other Identifying Information: New WAC 388-106-0047 When can the department terminate or deny long-term care services to me?

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane, behind Goodyear Tire. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6097, on November 8, 2005, at 10:00 a.m.

Date of Intended Adoption: Not earlier than November 9, 2005.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail fernaax@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., November 8, 2005.

Assistance for Persons with Disabilities: Contact Stephanie Schiller, DSHS Rules Consultant, by November 4, 2005, TTY (360) 664-6178 or (360) 664-6097 or by e-mail at schilse@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: New rules are needed to clarify long-term care services eligibility, including denial and termination.

This rule was originally proposed as WSR 05-15-146. A public hearing was held on August 23, 2005, and comments were received. The department has revised and is repropounding the rule for additional public comment.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520, 42 C.F.R. 441.302(a) 1915 c waiver rules, 42 C.F.R. 440.180.

Statute Being Implemented: RCW 74.08.090, 74.09.-520, 42 C.F.R. 441.302(a) 1915 c waiver rules, 42 C.F.R. 440.180.

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

Name of Proponent: Department of Social and Health Services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Carol Sloan, P.O. Box 45600, Olympia, WA 98504-5600, (360) 725-2345.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has analyzed the proposed rules and determined that no new costs will be imposed on small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. Exempt, per RCW 34.05.328 (5)(b)(vii), rules of the Department of Social and Health Services relating only to client medical or financial eligibility.

September 29, 2005

Andy Fernando, Manager
Rules and Policies Assistance Unit

NEW SECTION

WAC 388-106-0047 When can the department terminate or deny long-term care services to me? The department may deny or terminate long-term care services to you if any of the following conditions exist:

- (1) You are not eligible for long-term care services;
- (2) Following attempts to reasonably accommodate you, you refused to accept the long-term care services identified in your plan of care that are vital to your health, welfare and safety;
- (3) You choose to receive services in your own home where hazardous conditions jeopardize the health, safety, and welfare of you or your provider. Hazardous conditions include but are not limited to the following:
 - (a) Threatening, uncontrolled animals (e.g. dogs);
 - (b) Illegal drug use;
 - (c) Evidence of a methamphetamine lab;
 - (d) Presence of hazardous materials (e.g. exposed sewage); or
 - (e) You or others in your place of residence demonstrate behaviors that may cause harm.

WSR 05-20-094

PROPOSED RULES

UTILITIES AND TRANSPORTATION COMMISSION

[Docket No. UE-030423—Filed October 5, 2005, 9:05 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-09-070.

Title of Rule and Other Identifying Information: Chapter 480-107 WAC, Electric companies—Purchases of electricity from qualifying facilities and independent power producers and purchases of electrical savings from conservation suppliers. These rules state requirements that electric companies must follow when acquiring new resources.

Hearing Location(s): Commission Hearing Room, Second Floor, Chandler Plaza, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504-7250, on November 9, 2005, at 9:30 a.m.

Date of Intended Adoption: November 9, 2005.

Submit Written Comments to: Carole Washburn, Washington Utilities and Transportation Commission, P.O. Box 47250, Olympia, WA 98504-7250, e-mail records@wutc.wa.gov, fax (360) 586-1150, by October 26, 2005. Please include "Docket No. UE-030423" in your comments.

Assistance for Persons with Disabilities: Contact Mary DeYoung by November 7, 2005, TTY (360) 586-8203 or (360) 664-1133.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposal incorporates changes to the existing rules. The chapter has been reorganized and rewritten to improve language clarity.

Affected WACs are chapter 480-107 WAC.

Reasons Supporting Proposal: The proposed rule revisions reflect current and foreseeable needs of utilities, customers, and the broader public, and support the rules' intended purpose to serve the public and to promote the well-being of the citizens of the state.

Statutory Authority for Adoption: RCW 80.01.040 and 80.04.160.

Statute Being Implemented: Not applicable.

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

Name of Proponent: Washington Utilities and Transportation Commission, governmental.

Name of Agency Personnel Responsible for Drafting: Graciela Etchart, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, (360) 664-1310; Implementation and Enforcement: Carole Washburn, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, (360) 664-1174.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed corrections and changes to rules will not result in or impose an increase in costs. Because there will not be any increase in costs resulting from the proposed rule changes, a small business economic impact statement is not required under RCW 19.85.030(1).

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rules are not significant legislative rules of the sort referenced in RCW 34.05.328(5).

October 5, 2005

Carole J. Washburn
Executive Secretary

AMENDATORY SECTION (Amending Docket No. A-030832, General Order No. R-509, filed 10/29/03, effective 11/29/03)

~~**WAC 480-107-001 Purpose and scope.** (1) ((The purpose of this chapter is to establish rules for determining rates, terms, and conditions governing the following purchases by electric utilities: Electricity from qualifying facilities; the electrical savings associated with eligible conservation measures pursuant to these rules; electricity from independent power producers; and, at the utility's election, utility subsidiaries, and other electric utilities. These rules are intended to provide an opportunity for conservation and generating resources to compete on a fair and reasonable basis to fulfill a utility's new resource needs. It is the commission's intent that bids under these rules shall include the costs of compliance by the project with environmental laws, rules, and regulations in effect at the time of the bid and those reasonably anticipated to be in effect during the term of the project.~~

~~These)) The rules in this chapter require utilities to solicit bids, rank project proposals, and identify any bidders that meet the minimum selection criteria. The rules in this chapter do not establish the sole procedures utilities must use to acquire new resources. Utilities may construct electric resources, operate conservation programs, purchase power through negotiated contracts, or take other action to satisfy their public service obligations.~~

~~(2) The rules in this chapter do not apply to utilities whose integrated resource plan, prepared pursuant to WAC 480-100-238, demonstrates that the utility does not need additional capacity within three years.~~

~~(3) The commission will consider the information obtained through these bidding procedures when it evaluates the performance of the utility in rate and other proceedings.~~

~~(4) The rules in this chapter are consistent with the provisions of the Public Utility Regulatory Policies Act of 1978 (PURPA), Title II, sections 201 and 210, and related regulations promulgated by the Federal Energy Regulatory Commission (FERC) in 18 C.F.R. Part 292. To the extent of any conflict between these rules and PURPA, or the related rules promulgated by FERC in 18 C.F.R. Part 292, PURPA and those related rules control. Purchase of electric power under these rules ((shall satisfy an electric)) satisfies a utility's obligation to purchase power from qualifying facilities under section 210 of PURPA.~~

~~((These rules do not preclude electric utilities from constructing electric resources, operating conservation programs, purchasing power through negotiated purchase contracts, or otherwise taking action to satisfy their public service obligations. Information about the price and availability of electric power obtained through the bidding procedures described in these rules may be used, in conjunction with other evidence, in general rate cases and other cost recovery proceedings pertaining to resources not acquired through these bidding procedures.~~

~~(2) The provisions of this chapter shall apply to any electric utility which has submitted to the commission a least-cost plan as provided in WAC 480-100-238 (Least-cost planning).~~

NEW SECTION

WAC 480-107-002 Application of rules. (1) The rules in this chapter apply to any utility that is subject to the commission's jurisdiction under RCW 80.04.010 and chapter 80.28 RCW.

(2) Any affected person may ask the commission to review the interpretation of these rules by a utility or customer by making an informal complaint under WAC 480-07-910, Informal complaints, or by filing a formal complaint under WAC 480-07-370, Pleading—General.

(3) No exception from the provisions of any rule in this chapter is permitted without prior written authorization by the commission. Such exceptions may be granted only if consistent with the public interest, the purposes underlying regulation, and applicable statutes. Any deviation from the provisions of any rule in this chapter without prior commission authorization will be subject to penalties as provided by law.

NEW SECTION

WAC 480-107-004 Additional requirements. (1) These rules do not relieve any utility from any of its duties and obligations under the laws of the state of Washington.

(2) The commission retains its authority to impose additional or different requirements on any utility in appropriate circumstances, consistent with the requirements of law.

NEW SECTION

WAC 480-107-006 Severability. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances is not affected.

NEW SECTION

WAC 480-107-007 Definitions. "Affiliated interest" means a person or corporation as defined in RCW 80.16.010.

"Avoided costs" means the incremental costs to a utility of electric energy, electric capacity, or both, that the utility would generate itself or purchase from another source, but for purchases to be made under these rules. Avoided cost is identified as the minimum project proposal that meets the criteria specified in the request for proposal, or is estimated from data in the utility's most recent integrated resource plan.

"Back-up power" means electric energy or capacity supplied by a utility to replace energy ordinarily supplied by utility-owned generation or purchased through contracts that is unavailable due to an unscheduled outage.

"Commission" means the Washington utilities and transportation commission.

"Conservation" means any reduction in electric power consumption that results from increases in the efficiency of energy use, production, or distribution.

"Conservation supplier" means a third party supplier or utility affiliate that provides equipment or services that save capacity or energy.

"Demand side management" (DSM) means the same as "conservation."

"Economic dispatch" means, within contractually specified limits, modifying the scheduling of power purchases from a generating facility to minimize the costs of delivering electricity.

"Electrical savings contract" means the same as "conservation contract."

"Generating facilities" means plant and other equipment used to generate electricity purchased through contracts entered into under these rules.

"Independent power producers" means generating facilities or portions thereof that are not recognized in the retail rates of any electric utility and that are not qualifying facilities as defined in this section.

"Integrated resource plan" or **"IRP"** means the filing made every two years by a utility in accordance with WAC 480-100-238, Integrated resource planning.

"Interruptible power" means electric energy or capacity supplied to a utility by a generating facility, the availability of which may be interrupted under certain conditions.

"Long-term avoided costs" means the fixed and variable costs of electricity available from the marketplace for long-term firm electricity or from a utility acquiring its own resource, which ever is least cost.

"Maintenance power" means electric energy or capacity supplied by a utility during scheduled outages of a generating facility.

"Project developer" means an individual, association, corporation, or other legal entity that can enter into a power or conservation contract with the utility.

"Project proposal" means a project developer's document containing a description of a project and other information responsive to the requirements set forth in a request for proposal, also known as a bid.

"Qualifying facilities" means generating facilities that meet the criteria specified by the FERC in 18 C.F.R. Part 292 Subpart B.

"Request for proposals" or **"RFPs"** means the documents describing a utility's solicitation of bids for delivering electric capacity, energy, or capacity and energy, or conservation.

"Resource block" means the deficit of capacity and associated energy that the IRP shows for the near term.

"Short-term avoided cost" means the cost of energy available in forward markets for near-term electricity.

"Subsidiary" means any company in which the utility owns directly or indirectly five percent or more of the voting securities, and that may enter a power or conservation contract with that electric utility. A company is not a subsidiary if the utility can demonstrate that it does not control that company.

"Supplementary power" means electric energy or capacity supplied by a utility that is regularly used by a generating facility in addition to that which the facility generates itself.

"Utility" means an electric utility as defined by RCW 80.04.010. Any public service company engaged in the generation, distribution, sale, or furnishing of electricity, and that is subject to the jurisdiction of the commission.

NEW SECTION

WAC 480-107-015 The solicitation process. (1) Participants in the solicitation process may include:

(a) Any owner of a generating facility, developer of a potential generating facility, or provider of energy savings may participate in the RFP process. Bidders may propose a variety of energy resources: Electrical savings associated with conservation; electricity from qualifying facilities; electricity from independent power producers; and, at the utility's election, electricity from utility subsidiaries, and other electric utilities, whether or not such electricity includes ownership of property. Qualifying facility producers with a generation capacity of one megawatt or less may choose to participate in the utilities' standard tariffs without filing a bid.

(b) A utility may allow an affiliated generating subsidiary to participate in the bidding process as a power supplier, on conditions described in WAC 480-107-135, Conditions for purchase of electrical power or savings from a utility's subsidiary or affiliated interest. Such a decision must be explained in the utility's RFP submittal.

(2) Timing of the solicitation process.

(a) A utility must submit to the commission a proposed request for proposals and accompanying documentation no later than ninety days after the utility's integrated resource plan is due to be filed with the commission. Interested persons will have sixty days from the RFP's filing date with the commission to submit written comments to the commission on the RFP. The commission will approve or suspend the RFP within thirty days after the close of the comment period.

(b) A utility must solicit bids for electric power and electrical savings within thirty days of a commission order approving the RFP.

(c) All bids will remain sealed until expiration of the solicitation period specified in the RFP.

(3) In addition to the solicitation process required by these rules, a utility may, at its own discretion, issue an RFP that limits project proposals to resources with specific characteristics. In addition, a utility, at its own discretion, may issue RFPs more frequently than required by this rule.

(4) Persons interested in receiving commission notice of a specific utility's RFP filings can request the commission to place their names on a mailing list for notification of future RFP filings by that utility.

NEW SECTION

WAC 480-107-025 Contents of the solicitation. (1) The RFP must specify the resource block, the initial estimate of long-term avoided cost schedule as calculated in WAC 480-107-055, Avoided cost schedule, and any additional information necessary for potential bidders to make a complete bid.

(2) The RFP must identify a resource block consisting of the overall amount and duration of power the utility is soliciting through the bidding process. The RFP must document that the size of the resource block is consistent with the range of estimated new resource needs identified in the utility's integrated resource plan.

(3) The RFP must explain general evaluation and ranking procedures the utility will use in accordance with WAC

480-107-035, Project ranking procedure. The RFP must also specify any minimum criteria that bidders must satisfy to be eligible for consideration in the ranking procedure.

(4) The RFP must specify the timing of process including the solicitation period, the ranking period, and the expected selection period.

(5) The RFP must identify all security requirements and the rationale for them.

(6) Utilities are encouraged to consult with commission staff during the development of the RFP. Utilities may, at their own discretion, submit draft RFPs for staff review prior to formally submitting an RFP to the commission.

NEW SECTION

WAC 480-107-035 Project ranking procedure. (1) The procedures and criteria the utility will use in its RFP to evaluate and rank project proposals are subject to commission approval.

(2) At a minimum, the ranking criteria must recognize resource cost, market-volatility risks, demand-side resource uncertainties, resource dispatchability, resource effect on system operation, credit and financial risks to the utility, the risks imposed on ratepayers, public policies regarding resource preference adopted by Washington state or the federal government and environmental effects including those associated with resources that emit carbon dioxide. The ranking criteria must recognize differences in relative amounts of risk inherent among different technologies, fuel sources, financing arrangements, and contract provisions. The ranking process must complement power acquisition goals identified in the utility's integrated resource plan.

(3) After the project proposals have been opened for ranking, the utility must make available for public inspection at the utility's designated place of business a summary of each project proposal and a final ranking of all proposed projects.

(4) The utility may reject any project proposal that does not specify, as part of the price bid, the costs of complying with environmental laws, rules, and regulations in effect at the time of the bid.

(5) The utility may reject all project proposals if it finds that no proposal adequately serves ratepayers' interests. The commission will review, as appropriate, such a finding together with evidence filed in support of any acquisition in the utility's next general rate case.

(6) When the utility, the utility's subsidiary or an affiliated interest submits a bid in response to an RFP, a competing bidder may request the commission to appoint an independent third party to assist commission staff in its review of the bid. Should the commission grant such a request, the fees charged by the independent third party will be paid by the party requesting the independent review.

NEW SECTION

WAC 480-107-045 Pricing and contracting procedures. (1) Once project proposals have been ranked in accordance with WAC 480-107-035, Project ranking procedure, the utility must identify the bidders that best meet the selection criteria and that are expected to produce the energy,

capacity, and electrical savings as defined by that portion of the resource block to which the project proposal is directed.

(2) The project proposal's price, pricing structure, and terms are subject to negotiation. If a qualifying facility or other generating facility agrees to be operated under economic dispatch, then the utility will adjust the price by operating performance adjustments, such as the project's equivalent availability factor. The methodology for such performance adjustments must be explained in the utility's RFP.

NEW SECTION

WAC 480-107-055 Avoided cost schedules. (1) On an annual basis, a utility must file an avoided cost schedule for the energy and capacity associated with the resource block the utility solicited in its most recent RFP filed pursuant to WAC 480-07-025, Contents of the solicitation.

(2) Avoided cost schedules required within twelve months after an RFP is filed will be based directly on the project proposals received pursuant to that RFP.

(3) Avoided cost schedules required more than twelve months after an RFP is filed will be based on estimates included in the utility's current integrated resource plan filed pursuant to WAC 480-100-238 and the results of the most recent bidding process. The utility must file documentation supporting its estimated avoided cost schedule.

(4) Utilities may revise an avoided cost schedule at any time. Such revisions must be filed with the commission and are subject to commission approval.

(5) The avoided cost schedule provides only general information to potential bidders about the costs of new power supplies. It does not provide a guaranteed contract price for electricity.

(6) For projects rated at one megawatt capacity or less, the avoided costs specified in the current approved tariff will be the basis for prices offered.

(7) For projects in excess of one megawatt, the avoided cost will be the lowest bid among the project proposals with an acceptable evaluation.

NEW SECTION

WAC 480-107-065 Eligibility for long-run conservation purchase rates. (1) Any conservation supplier may participate in the bidding process. A utility may allow a utility subsidiary to participate as a conservation supplier, on conditions described in WAC 480-107-135, Conditions for purchase of electrical power or savings from a utility's subsidiary or affiliated interest. A decision to allow a utility subsidiary to participate must be explained in the utility's RFP submittal.

(2) All conservation measures included in a project proposal must:

(a) Produce electrical savings over a time period greater than five years, or a longer period if specified in the utility's RFP. A measure with an expected life that is shorter than the contract term must include replacements through the contract term;

(b) Be consistent with the utility's integrated resource plan; and

(c) Produce savings that can be reliably measured or estimated with accepted engineering methods.

NEW SECTION

WAC 480-107-075 Contract finalization. (1) Unless otherwise prohibited by law, a utility has discretion to decide whether to enter into a final contract with any project bidder that meets the selection criteria of the RFP. Any such bidder may petition the commission to review a utility's decision not to enter into a final contract.

(2) Any project bidder and utility may negotiate changes to the selected project proposal for the purpose of finalizing a particular contract consistent with the provisions of this chapter.

(3) The utility may sign contracts for any appropriate time period specified in a selected project proposal for up to a twenty-year term. The utility may sign longer-term contracts if such provisions are specified in the utility's RFP.

(4) If material changes are made to the project proposal after project ranking, including material price changes, the utility must suspend contract finalization with that party and rerank projects according to the revised project proposal. If the material changes cause the revised project proposal to rank lower than projects not originally selected, the utility must dismiss the project proposal from further consideration and replace it with next ranked project.

(5) A project developer must provide evidence that the developer has obtained or will obtain a generation site (e.g., letter of intent) before signing a contract with the purchasing utility.

NEW SECTION

WAC 480-107-085 Obligations of generating facilities to the utility. (1) The owner or operator of a generating facility purchasing or selling electricity under this chapter must execute with the utility a written agreement stating that:

(a) The owner or operator will construct and operate all interconnected generating facilities in accordance with all applicable federal, state, and local laws and regulations to ensure system safety and reliability of interconnected operations;

(b) The generating facility will furnish, install, operate, and maintain in good order and repair, and without cost to the utility, such relays, locks and seals, breakers, automatic synchronizers, and other control and protective apparatus as shown by the utility to be reasonably necessary for the operation of the generating facility in parallel with the utility's system; and

(c) At all times, the utility will be able to gain access to all switching equipment capable of isolating the generating facility from the utility's system.

(2) The utility may choose to operate the switching equipment described in subsection (1)(c) of this section if, in the sole opinion of the utility, continued operation of the customer's generating facility in connection with the utility's system may create or contribute to a system emergency. Such a decision by the utility is subject to commission verification in accordance with WAC 480-107-115, System emergencies. The utility must endeavor to minimize any adverse effects of such operation on the customer.

(3) Any agreement between a generating facility and a utility must state the extent to which the generating facility

will assume responsibility for the safe operation of the interconnection facilities. The generating facility may not be required to assume responsibility for negligent acts of the utility.

NEW SECTION

WAC 480-107-095 Obligations of the utility to qualifying facilities. (1) Any owner of a generating facility or developer of a potential generating facility may participate in the bidding process. Qualifying facility developers proposing projects with a design capacity of one megawatt or less may choose to receive a purchase price for power based on avoided energy and capacity costs as identified pursuant to WAC 480-107-055, Avoided cost schedules.

(2) A utility must sell to any qualifying facilities, in accordance with WAC 480-107-105, Rates for sales to qualifying facilities, any energy and capacity requested by the qualifying facilities on the same basis as available to other customers of the utility in the same class.

(3) Any utility must make all the necessary interconnections with any qualifying facilities to accomplish purchases or sales under this section. The obligation to pay for any interconnection costs will be determined in accordance with WAC 480-107-125, Interconnection costs.

(4) At the request of a qualifying facility, a utility that would otherwise be obligated to purchase energy or capacity from such qualifying facility may transmit energy or capacity to any other utility at the option of the utilities involved. Nothing in this section obligates the utility connected with the qualifying facility to transmit to other utilities. Nothing in this section obligates other utilities to purchase from the qualifying facility.

(5) Each utility may offer to operate in parallel with a qualifying facility if the qualifying facility complies with all applicable standards established in WAC 480-107-095, Obligations of generating facilities to electric utilities.

NEW SECTION

WAC 480-107-105 Rates for sales to qualifying facilities. (1) General rules:

(a) Rates must be just and reasonable, and in the public interest; and

(b) Rates must not discriminate between qualifying facilities and other customers served by the utility.

(2) Rates for sales that are based on accurate data and consistent system-wide costing principles will not be considered to discriminate against any qualifying facilities if those rates apply to the utility's other customers with similar load or other cost-related characteristics.

(3) Additional services to be provided to qualifying facilities:

(a) Upon request by a qualifying facility, each utility will provide:

(i) Supplementary power;

(ii) Back-up power;

(iii) Maintenance power; and

(iv) Interruptible power.

(b) The commission may waive any requirement of (a) of this subsection if the utility demonstrates and the commission

finds, after notice in the area served by the utility and after opportunity for public comment, that compliance with such requirement will:

(i) Impair the utility's ability to render adequate service to its customers; or

(ii) Place an undue burden on the utility.

(4) The rate for sale of back-up power or maintenance power:

(a) Unless otherwise supported by factual data, may not be based on an assumption that forced outages or other reductions in electric output by all qualifying facilities on a utility's system will occur simultaneously, or during the system peak, or both; and

(b) Must take into account the extent to which scheduled outages of the qualifying facilities can be coordinated with scheduled outages of the utility's facilities.

NEW SECTION

WAC 480-107-115 System emergencies. (1) A generating facility entering into a power contract under these rules is required to provide energy or capacity to a utility during a system emergency only to the extent:

(a) Provided by agreement between such generating facility and utility; or

(b) Ordered under section 202(c) of the Federal Power Act.

(2) During any system emergency, a utility may discontinue or curtail:

(a) Purchases from a generating facility if such purchases would contribute to such emergency; and

(b) Sales to a generating facility, if such discontinuance or curtailment:

(i) Does not discriminate against a generating facility; and (ii) Takes into account the degree to which purchases from the generating facility would offset the need to discontinue or curtail sales to the generating facility.

(3) System emergencies resulting in utility action under this chapter are subject to verification by the commission upon request by either party.

NEW SECTION

WAC 480-107-125 Interconnection costs. (1) Obligation to pay. Any costs of interconnection are the responsibility of the owner or operator of the generating facility entering into a power contract under this chapter. The utility must assess all reasonable interconnection costs it incurs against a generating facility on a nondiscriminatory basis.

(2) Reimbursement of interconnection costs. The generating facility must reimburse the utility for any reasonable interconnection costs the utility may incur. Such reimbursement may be over an agreed period of time, but not greater than the length of any contract between the utility and the generating facility.

NEW SECTION

WAC 480-107-135 Conditions for purchase of electrical power or savings from a utility subsidiary or affiliated interest. (1) The utility's subsidiaries and affiliated

interests may participate in the utility's bidding process. In these circumstances, the solicitation and bidding process will be subject to additional scrutiny by the commission to ensure that no unfair advantage is given to the utility's subsidiary or affiliated interest. Commission scrutiny will ensure that ratepayer interests are protected.

(2) As part of its RFP, a utility must include specific notice that the utility intends to allow its subsidiaries and affiliated interests to participate in its bidding process. The utility must indicate in its RFP submittal how it will ensure that its subsidiary or affiliated interests will not gain an unfair advantage through association with the utility over potential nonaffiliated competitors. Specifically, disclosure by a utility to its subsidiary or affiliated interests of the contents of an RFP or competing project proposals prior to any public availability of such information will be construed to constitute an unfair advantage.

(3) The commission may deny in full or in part rate recovery of costs associated with the subsidiary's or affiliated interest's project(s), upon a showing that any unfair advantage was given to the subsidiary or any other bidder.

NEW SECTION

WAC 480-107-145 Filings—Investigations. (1) The commission retains the right to examine project proposals as originally submitted by potential developers. The utility must keep all documents supplied by project bidders or on their behalf, and all documents created by the utility relating to each bid, for at least seven years from the close of the bidding process, or the conclusion of the utility's next general rate case, whichever is later.

(2) The utility must file with the commission and maintain on file for inspection at its place of business the current rates, prices, and charges established in accordance with this chapter.

(3) If a project developer is damaged by an action of a utility acting in accordance with these rules, the developer may petition the commission to investigate such action. The commission, at its discretion, may open an investigation and hold public hearings regarding any such petition.

NEW SECTION

WAC 480-107-999 Adoption by reference. In WAC 480-107-001, Purpose and scope, the commission refers to the provisions of the Public Utilities Regulatory Policies Act of 1978 (PURPA), Title II, sections 201 and 210, and related regulations promulgated by the Federal Energy Regulatory Commission (FERC) in 18 C.F.R. Part 292. The versions referenced are those current on the day the commission adopted the rule that includes the reference, consistent with the requirements of WAC 480-07-180.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 480-107-005

Definitions.

WAC 480-107-010	Filing requirements for prototype contracts.
WAC 480-107-020	Eligibility for long-run generating facility purchase rates.
WAC 480-107-030	Eligibility for long-run conservation purchase rates.
WAC 480-107-040	Size of resource block.
WAC 480-107-050	Avoided cost schedules.
WAC 480-107-060	The solicitation process.
WAC 480-107-070	Project ranking procedure.
WAC 480-107-080	Pricing and contracting procedures.
WAC 480-107-090	Security considerations.
WAC 480-107-100	Contract finalization.
WAC 480-107-110	Obligations of generating facilities to electric utility.
WAC 480-107-120	Obligations of electric utility to qualifying facilities.
WAC 480-107-130	Rates for sales to qualifying facilities.
WAC 480-107-140	System emergencies.
WAC 480-107-150	Interconnection costs.
WAC 480-107-160	Special conditions for purchase of electrical power or savings from a utility subsidiary.
WAC 480-107-170	Filings—Investigations—Exceptions.

WSR 05-20-095
PROPOSED RULES
UTILITIES AND TRANSPORTATION
COMMISSION

[Docket No. PG-050933—Filed October 5, 2005, 9:07 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-16-118.

Title of Rule and Other Identifying Information: Amendments to the following rules in chapter 480-93 WAC, Gas companies—Safety, specifically, WAC 480-93-005(18), 480-93-017, 480-93-178(5), 480-93-200 (1)(e) and (6)(b) and (c).

Hearing Location(s): Commission Hearing Room 206, 2nd Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504-7250, on November 9, 2005, at 9:30 a.m.

Date of Intended Adoption: November 9, 2005.

Submit Written Comments to: Carole J. Washburn, Secretary, P.O. Box 47250, Olympia, WA 98504, e-mail records@wutc.wa.gov, fax (360) 586-1150, by October 26, 2005. Please include Docket PG-050933 in your communication.

Assistance for Persons with Disabilities: Contact Mary DeYoung by Monday, November 7, 2005, TTY (360) 586-8203 or (360) 664-1133.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed amendments are intended to correct errors and clarify rules in chapter 480-93 WAC that the commission adopted effective June 2, 2005. The proposed amendments clarify the definition of "prompt" in WAC 480-93-005(18); change the language from "operating" to "intending to operate" a gas pipeline facility in WAC 480-93-017; add "such as inserting the plastic pipeline in conduit" in WAC 480-93-178(5), which was included in subsection (4) but inadvertently left out of subsection (5); and modify subsection (1)(e) of WAC 480-93-200 to change the number of customers from twenty to twenty-five, modify subsection (6)(b) to remove the language "with the corresponding PHMSA fiscal year," and add language to subsection (6)(c) to clarify reporting requirements.

Reasons Supporting Proposal: After working with the recent comprehensive revision of the gas safety rules, the commission staff and stakeholders have discovered areas of the rules that call for minor correction, updates, deletion, and revision. This proposal would address those areas.

Statutory Authority for Adoption: RCW 80.01.040(4), 80.04.160, and 80.28.210(1).

Statute Being Implemented: Not applicable.

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

Name of Proponent: Washington Utilities and Transportation Commission, governmental.

Name of Agency Personnel Responsible for Drafting: Sondra Walsh, Senior Policy Strategist, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, (360) 664-1286; Implementation and Enforcement: Carole J. Washburn, Executive Secretary, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, (360) 664-1174.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed corrections and changes to rules will not result in or impose an increase in costs. Because there will not be any increase in costs resulting from the proposed rule changes, a small business economic impact statement is not required under RCW 19.85.030(1).

A cost-benefit analysis is not required under RCW 34.05.328. The commission is not an agency to which RCW 34.05.328 applies. The proposed rules are not significant legislative rules of the sort referenced in RCW 34.05.328(5).

October 5, 2005
 Carole J. Washburn
 Executive Secretary

AMENDATORY SECTION (Amending Docket No. UG-011073, General Order No. R-520, filed 5/2/05, effective 6/2/05)

WAC 480-93-005 Definitions. (1) "**Bar hole**" means a hole made in the soil or paving for the specific purpose of testing the subsurface atmosphere with a combustible gas indicator.

(2) "**Building**" means any structure that is normally or occasionally entered by humans for business, residential, or other purposes and where gas could accumulate.

(3) "**Business district**" means an area where the public regularly congregates or where the majority of the buildings on either side of the street are regularly utilized, for financial, commercial, industrial, religious, educational, health, or recreational purposes.

(4) "**CFR**" means the Code of Federal Regulations.

(5) "**Combustible gas indicator**" (**CGI**) means a device capable of detecting and measuring gas concentrations in air.

(6) "**Commission**" means the Washington utilities and transportation commission.

(7) "**Enclosed space**" means any subsurface structure of sufficient size that could accommodate a person and within which gas could accumulate, e.g., vaults, catch basins, and manholes.

(8) "**Follow-up inspection**" means an inspection performed after a repair has been completed in order to determine the effectiveness of the repair.

(9) "**Gas**" means natural gas, flammable gas, or gas that is toxic or corrosive.

(10) "**Gas associated substructures**" means those devices or facilities utilized by an operator which are not intended for storing, transporting, or distributing gas, such as valve boxes, vaults, test boxes, and vented casing pipe.

(11) "**Gas company**" means, as defined in RCW 80.04.-010, every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receiver appointed by any court whatsoever, and every city or town, owning, controlling, operating or managing any gas plant within this state.

(12) "**High occupancy structure or area**" means a building or an outside area (such as a playground, recreation area, outdoor theater, or other place of public assembly) that is occupied by twenty or more persons on at least five days a week for ten weeks in any twelve-month period. (The days and weeks need not be consecutive.)

(13) "**Indication**" means a response indicated by a gas detection instrument that has not been verified as a reading.

(14) "**LEL**" means the lower explosive limit of the gas being transported.

(15) "**MAOP**" means maximum allowable operating pressure.

(16) "**Master meters system**" is defined as set forth in 49 CFR § 191.3.

(17) "**Operator**":

(a) For purposes of chapter 480-93 WAC, the term "operator" means:

(i) Every gas distribution company that has tariffs on file with the commission;

(ii) Every city or town that owns, controls, operates, or manages any gas plant in this state; and

(iii) Every other person or corporation transporting natural gas by pipeline, or having for one or more of its principal purposes the construction, maintenance, or operation of pipelines for transporting natural gas in this state; even though such person or corporation does not deliver, sell, or furnish any such gas to any person or corporation within this state. The terms "person" and "corporation" are defined in RCW 80.04.010. "Transporting natural gas by pipeline" means transmission or distribution of natural gas through a pipe.

(b) A single entity may qualify as an operator under one or more of the provisions of this subsection.

(c) The term "operator" includes operators of master meter systems, as that term is defined in WAC 480-93-005.

(18) "**Prompt action**" means to dispatch qualified personnel without undue delay ~~((for the purpose of evaluating and, where necessary, abating an existing or probable hazard))~~.

(19) "**Psig**" means pounds per square inch gauge.

(20) "**Public service company**" is defined in RCW 80.04.010.

(21) "**Reading**" means a repeatable representation on a combustible gas indicator or equivalent instrument expressed in percent LEL or gas-air ratio.

(22) "**Sniff test**" means a qualitative test utilizing both threshold and readily detectable methods for determining proper concentrations of odorant.

(23) "**Transmission line**" means a gas pipeline as defined in 49 CFR § 192.3 on the date specified in WAC 480-93-999.

(24) "**Weak link**" means a device or method used when pulling polyethylene pipe to ensure that damage will not occur to the pipeline by exceeding the maximum tensile stresses allowed.

(25) Other terms that correspond to those used in 49 CFR Parts 191, 192 and 199 (Minimum Federal Safety Standards for Gas Pipelines) must be construed as used therein on the date specified in WAC 480-93-999.

AMENDATORY SECTION (Amending Docket No. UG-011073, General Order No. R-520, filed 5/2/05, effective 6/2/05)

WAC 480-93-017 Filing requirements for design, specification, and construction procedures. (1) Any operator ~~((operating))~~ **intending to operate** a gas pipeline facility in this state must file with the commission all applicable construction procedures, designs, and specifications used for each pipeline facility prior to operating the pipeline. All procedures must detail the acceptable types of materials, fittings, and components for the different types of facilities in the operator's system.

(2) With the exception of emergency situations, any construction plans that do not conform with a gas company's existing and accepted construction procedures, designs, and specifications on file with the commission, must be submitted to the commission for review at least forty-five days prior to the initiation of construction activity.

AMENDATORY SECTION (Amending Docket No. UG-011073, General Order No. R-520, filed 5/2/05, effective 6/2/05)

WAC 480-93-178 Protection of plastic pipe. (1) Every operator must have detailed written procedures for the storage, handling, and installation of plastic pipelines. Except for joining procedures, and unless the operator has more stringent procedures, the storage, handling, and installation of all plastic pipe must be in accordance with the latest applicable manufacturer's recommended practices.

(2) The maximum cumulative ultraviolet light exposure limit for plastic pipe is two years, or the manufacturer's recommended limit. The acceptable time limit must be detailed in the operator's procedures manual.

(3) Plastic pipe that is pulled through the ground by mechanical means must have a weak link installed that will ensure the pipe will not be damaged by excessive tensile forces.

(4) When installing plastic pipelines parallel to other underground utilities, operators must ensure there is a minimum of twelve inches of separation from the other utilities. Where a minimum twelve inches of separation is not possible, operators must take adequate precautions, such as inserting the plastic pipeline in conduit, to minimize any potential hazards resulting from the close proximity to the other utilities.

(5) When installing plastic pipelines perpendicular to other underground utilities, operators must ensure there is a minimum of six inches of separation from the other utilities. Where a minimum six inches of separation is not possible, an operator must take adequate precautions, such as inserting the plastic pipeline in conduit, to minimize any potential hazards resulting from the close proximity to the other utilities.

(6) Except for approved steel encased plastic pipe, and except where allowed by (b) of this subsection, the maximum time limit that plastic pipe may be temporarily installed above ground is thirty days.

(a) During temporary installations, operators must monitor and protect above ground plastic pipe from potential damage.

(b) Operators may install above ground plastic pipe for periods longer than thirty days if they have a written monitoring program and notify the commission by telephone prior to exceeding the thirty-day time limit.

(7) Plastic pipe must be bedded in a suitable material as recommended by the pipe manufacturer. Unless otherwise permitted by the manufacturer, plastic pipe must be bedded in an essentially rock-free material.

(8) Plastic pipe may not be squeezed more than one time in the same location.

(9) Plastic pipe must not be squeezed within twelve inches or three pipe diameters, whichever is greater, from any joint or fitting.

AMENDATORY SECTION (Amending Docket No. UG-011073, General Order No. R-520, filed 5/2/05, effective 6/2/05)

WAC 480-93-200 Reporting requirements for operators of gas facilities. (1) Every operator must give notice to

the commission by telephone within two hours of discovering an incident or hazardous condition arising out of its operations that:

(a) Results in a fatality or personal injury requiring hospitalization;

(b) Results in damage to the property of the operator and others of a combined total exceeding fifty thousand dollars;

(c) Results in the evacuation of a building, or high occupancy structures or areas;

(d) Results in the unintentional ignition of gas;

(e) Results in the unscheduled interruption of service furnished by any operator to ~~((twenty))~~ twenty-five or more distribution customers;

(f) Results in a pipeline or system pressure exceeding the MAOP plus ten percent or the maximum pressure allowed by proximity considerations outlined in WAC 480-93-020;

(g) Is significant, in the judgment of the operator, even though it does not meet the criteria of (a) through (e) of this subsection; or

(h) Results in the news media reporting the occurrence, even though it does not meet the criteria of (a) through (e) of this subsection.

(2) Operators must give notice to the commission by telephone within twenty-four hours of occurrence of every incident or hazardous condition arising out of its operations that results in:

(a) The uncontrolled release of gas for more than two hours;

(b) The taking of a high pressure supply or transmission pipeline or a major distribution supply pipeline out of service;

(c) A pipeline or system operating at low pressure dropping below the safe operating conditions of attached appliances and gas equipment; or

(d) A pipeline or system pressure exceeding the MAOP.

(3) Routine or planned maintenance and operational activities of the operator that result in operator-controlled plant and equipment shut downs, reduction in system pressures, flaring or venting of gas, and normal leak repairs are not reportable items under this section.

(4) Operators must provide to the commission a written report within thirty days of the initial telephonic report required under subsection (1) of this section. At a minimum, written reports must include the following:

(a) Name(s) and address(es) of any person or persons injured or killed, or whose property was damaged;

(b) The extent of such injuries and damage;

(c) A description of the incident or hazardous condition including the date, time, and place;

(d) A description of the gas facilities involved in the incident or hazardous condition, the system operating pressure at that time, and the MAOP of the facilities involved;

(e) The date and time the gas facility was made safe;

(f) The date, time, and type of any temporary or permanent repair made; and

(g) The cost of the incident to the operator.

(5) Operators must provide to the commission a written report within forty-five days of receiving the failure analysis of any incident or hazardous condition that was due to construction defects or material failure.

(6) Operators must file with the commission the following annual reports no later than March 15 for the preceding calendar year:

(a) A copy of every Pipeline and Hazardous Materials Safety Administration (PHMSA) F-7100.1-1 and F-7100.2-1 annual report required by U.S. Department of Transportation, Office of Pipeline Safety.

(b) A report titled, "Damage Prevention Statistics(-)" ~~((with the corresponding PHMSA fiscal year.))~~ The Damage Prevention Statistics report must include in detail the following information:

(i) Number of gas-related one-call locate requests completed in the field;

(ii) Number of third-party damages incurred; and

(iii) Cause of damage, where cause of damage is classified as either:

(A) Inaccurate locate;

(B) Failure to use reasonable care; or

(C) Excavated prior to a locate being conducted.

(c) A report detailing ~~((the results from construction defects or))~~ all construction defects and material failures resulting in leakage. Operators must categorize the different types of construction defects and material failures anticipated for their system. The report must include the following:

(i) Types and numbers of construction defects; and

(ii) Types and numbers of material failures.

(7) Operators must file with the commission, and with appropriate officials of all municipalities where operators have facilities, the names, addresses, and telephone numbers of the responsible officials of the operator who may be contacted in the event of an emergency. In the event of any changes in operator personnel, the operator must notify immediately the commission and municipalities.

(8) Operators must send daily reports of construction and repair activities electronically to the commission. Operators may send reports either by facsimile or e-mail to the commission. The reports must be received no later than 10:00 a.m. each day of the scheduled work, and must include both operator and contractor construction and repair activities.

(9) When an operator is required to file a copy of a DOT Drug and Alcohol Testing Management Information System (MIS) Data Collection Form with the U.S. Department of Transportation, Office of Pipeline Safety, the operator must simultaneously submit a copy of the form to the commission.

WSR 05-20-098

PROPOSED RULES

FOREST PRACTICES BOARD

[Filed October 5, 2005, 9:13 a.m.]

Supplemental Notice to WSR 05-17-173.

Preproposal statement of inquiry was filed as WSR 03-11-061.

Title of Rule and Other Identifying Information: Forest road construction and maintenance (Title 222 WAC). The rule making consists of forest road maintenance and abandonment planning for small forest landowners and clarifications of the definitions, "road construction" and "road maintenance."

Hearing Location(s): Sun Valley Restaurant, Omak, on November 17, 2005, at 6 p.m.; at the Community College of Spokane, Colville, on November 29, 2005, at 6 p.m.; at the Kelso Red Lion, Kelso, on December 1, 2005, at 6 p.m.; at the Walla Walla Community College of Spokane, Walla Walla, on December 13, 2005, at 6 p.m.; and at the Inn at Port Gardner, Everett, on December 15, 2005, at 6 p.m.

Date of Intended Adoption: May 10, 2006.

Submit Written Comments to: Patricia Anderson, Department of Natural Resources, Forest Practices Division, P.O. Box 47012, Olympia, WA 98504-7012, e-mail forest.practicesboard@wadnr.gov, fax (360) 902-1428, by 5 p.m., on December 16, 2005.

Assistance for Persons with Disabilities: Contact Forest Practices Division at (360) 902-1400 or TTY (360) 902-1125 by November 1, 2005.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The hearing at the Walla Walla Community College of Spokane is changed from December 14, 2005, to December 13, 2005.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The permanent rules will replace emergency rules effective October 31, 2003 [2005].

Name of Proponent: Forest Practices Board, public.

Name of Agency Personnel Responsible for Drafting: Kathy Murray, 1111 Washington Street S.E., Olympia, (360) 902-1414; Implementation: Jed Herman, 1111 Washington Street S.E., Olympia, (360) 902-1684; and Enforcement: Lenny Young, 1111 Washington Street S.E., Olympia, (360) 902-1744.

October 5, 2005

Leonard Young, Acting
for Pat McElroy
Chair

WSR 05-20-099

PROPOSED RULES

DEPARTMENT OF ECOLOGY

[Order 05-10—Filed October 5, 2005, 9:43 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-12-129.

Title of Rule and Other Identifying Information: Chapter 173-423 WAC, Low emission vehicles, this rule implements ESHB 1397 in which the 2005 legislature adopted the California vehicle emission standards for certain vehicles and directed ecology to develop this rule. ESHB 1397 makes it illegal to register, lease, rent, or sell for use in the state any passenger car, light duty truck and medium duty passenger vehicle with less than 7,500 miles that does not meet California vehicle emission standards.

Hearing Location(s): Department of Ecology, Eastern Regional Office, 4601 North Monroe Street, Spokane, WA 99205, on November 9, 2005, at 7:00 p.m.; at the Department of Ecology, Northwest Regional Office, 3190 160th Avenue S.E., Bellevue, WA 98008, on November 14, 2005, at 7:00

p.m.; and at the Southwest Clean Air Agency, 11815 N.E. 99th Street, Suite 1294, Vancouver, WA, on November 15, 2005, at 7:00 p.m.

Date of Intended Adoption: November 28, 2005.

Submit Written Comments to: Brett Rude, Department of Ecology, P.O. Box 47600, Olympia, WA 98504, e-mail brud461@ecy.wa.gov, fax (360) 407-7534, by November 18, 2005.

Assistance for Persons with Disabilities: Contact Tami Dahlgren at (360) 407-6800, by November 2, 2005, TTY 1-800-833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This new chapter of the Washington Administrative Code adopts specific California emission standards by reference, establishes that the requirements will apply to 2009 and subsequent model year vehicles, establishes certain exemptions, provides for a phase-in of the requirements, and establishes reporting, compliance and enforcement procedures that affect automobile manufacturers and dealers.

The effect of this rule is it will be illegal to register, sell, lease or rent for use in the state 2009 and later model year vehicles that are not certified to California standards. These vehicles will have lower emissions of ozone forming pollutants, cancer causing air toxics and greenhouse gases than would otherwise be the case. Reporting and registration requirements are established to help ensure compliance with these requirements. A penalty of up to \$5,000 per vehicle is established for violations of these requirements.

Reasons Supporting Proposal: The reduced emissions of ozone forming pollutants will reduce the risk of violating the national ozone standards and the possibility that some areas in Washington could be designated nonattainment for ozone by the Environmental Protection Agency. A designation of nonattainment would impose substantial costs on the start-up or expansion of industries with air emissions in such areas. The reduction of cancer causing air toxics will reduce health impacts and medical costs to citizens of Washington, especially those with impaired cardio-pulmonary health. Reduction of greenhouse gases will help Washington avoid the potentially serious impacts of global warming such as reduced snow pack, reduced summer water supplies, further impaired salmon runs, and reduced agricultural water supplies.

Statutory Authority for Adoption: ESHB 1397 codified as RCW 70.120A.010.

Statute Being Implemented: RCW 70.120A.010, 46.16-017, and 46.37.540.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Department of Licensing may amend its rules to further implement requirements pertaining to the registration and titling of vehicles pursuant to chapter 46.16 RCW as amended by ESHB 1397. The California regulations being adopted by reference are available for inspection on ecology's web site, <http://www.ecy.wa.gov/ecyhome.html>.

Name of Proponent: Department of Ecology, Air Quality Program, governmental.

Name of Agency Personnel Responsible for Drafting: Bob Saunders, Olympia, (360) 407-6888; Implementation and Enforcement: Brett Rude, Olympia, (360) 407-6847.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

BACKGROUND: The proposed rule adopts California motor vehicle emission standards for use in Washington which will result in lower emitting vehicles being produced for, and sold in, Washington. This low emissions vehicle rule adopts emission standards more stringent than federal vehicle emission standards.

DESCRIPTION AND PURPOSE OF THE SMALL BUSINESS ECONOMIC IMPACT STATEMENT (SBEIS): The objective of this SBEIS is to identify and evaluate the various requirements and costs that the rule might impose on business. In particular, the SBEIS examines whether the costs impose a disproportionate impact on the state's small businesses. The specific purpose/required contents of the SBEIS can be found in RCW 19.85.040.

IMPACT STATEMENT: This rule will affect franchise auto dealers (new cars) and independent auto dealers (used cars) in Washington. The rule also affects vehicle manufacturers. However, they have no facilities in Washington that must be analyzed under the small business impact provisions. There are 435 franchise auto dealers, operating at 651 locations, and 2,225 independent auto dealers. Franchise dealers are almost always larger than independent auto dealers because they are required to have repair facilities to do warranty work and must meet other manufacturer requirements. New vehicles never before titled and registered, which are over 90% of the vehicles affected by this rule, can be sold only by franchise auto dealers. Independent auto dealers only rarely have service and repair facilities. Under the rule, all 2009 and later model year vehicles with less than 7,500 miles sold for use in Washington have to be certified to California standards. The auto dealers estimate that roughly 95% of low mileage used vehicles with under 7,500 miles will be sold by franchise dealers, most of the rest will be sold by independent dealers, and a small number will be sold by individuals.

The normal day to day cost of selling vehicles and acquiring vehicles to sell is not affected by these rules. Regarding the acquisition of inventory after the rules are effective, dealers must only buy California certified vehicles for their inventory. Franchise dealers must order new California certified vehicles from manufacturers and all dealers will need to only buy used inventory from individuals, auctions, or other dealers that are also California certified. The Department of Ecology (ecology) determines there is no substantial cost to this; it is simply one more specification they need to have. The cost of this inventory may be higher in that new California certified vehicles are expected to cost on average about \$1,000 more per vehicle than federally certified vehicles. That increase is expected to increase the price of used vehicles in the future. Ecology believes this increased cost will be passed on to consumers and will not substantially affect dealer margins.

Regarding the sale of vehicles, the primary costs of advertising and selling the vehicles remains the same. Deal-

ers are also required to register vehicles for their customers. No additional record keeping or data handling affecting registration is required by these rules. Licensing agents will be required to use the information supplied in a slightly different way than without the rule. No new information or records are being required of dealers.

The rule does affect auto dealers in the following ways:

- Staff time needed to accommodate possible inspections by ecology staff.
- Staff time needed to respond to possible information requests or possible fines if a dealer is violating the law.

These effects are responses to "possible" inspection or compliance actions by ecology. Ecology does not expect compliance actions will be more heavily directed at smaller auto dealers. Ecology is planning to analyze reports from manufacturers and from Department of Licensing (DOL). The DOL database will help guide where inspections, information requests or other compliance actions will be targeted. Inspections and compliance actions will not be based on the size of the dealership. Because of this, small businesses would not be disproportionately impacted by ecology's choice of compliance activities. Dealers at the ecology advisory committee estimated that an inspection might take two or three hours of staff time. That is consistent with ecology's expectation of the time we might spend in on-site inspections, especially after we have gained experience. There are approximately 2,600 dealers in Washington state. A relatively small number of dealership inspections will be completed each year. The small cost of an inspection, the relatively small number of dealers affected each year, and the fact that targeting of these inspections is independent of dealer size demonstrates there is no expectation that smaller dealers will be affected disproportionately from larger dealers.

Licensing subagents are also affected by these rules. In Washington vehicles can be licensed either by county auditors or by private businesses called subagents. County auditors are "agents" for DOL and the private businesses are licensed by the auditors as "subagents." The private subagents all have less than fifty employees and licensing counters are often staffed by one person.

The main effect of the legislation and rule is that licensing agents will have to document that new vehicles and used vehicles with less than 7,500 miles are California certified. For new vehicles the manufacturer's statement of origin (MSO) provides readily available documentation of California certification. For used vehicles with less than 7,500 miles subagents will have to examine an extra form submitted by the dealers. If an individual is registering such a low mileage used vehicle, they will need to also supply extra documentation to prove that the vehicle is California certified. If the vehicle qualifies for an exemption, there will also be extra documentation required. Explaining the requirements to individuals registering vehicles with less than 7,500 miles or needing an exemption is expected to take the most time. DOL estimates that 11,000 vehicles, or about 4% of Washington registrations are purchases from out of state and will be registered by the individual purchaser rather than a dealer. This is a small fraction of the overall registrations, but addi-

tional time may be needed to handle some of these transactions. The effect of handling these requirements is not expected to increase staffing needs or otherwise substantially increase the costs of the subagents, especially in the longer run. There will, however, be a "learning curve" regarding application of the new requirements.

It is likely to take some time for licensing agents' staff to learn the new requirements. There is an ongoing system operated by DOL for training licensing agents. DOL maintains a licensing subagent "mailbox" where e-mails that update procedures and provide solutions to problems are distributed. Training materials will be developed by DOL and ecology, so the subagent cost is primarily the time needed to learn the new requirements. With two years before these requirements go into effect, some of the training can be accomplished through existing training mechanisms. Subagents may need to spend extra time on training since there are a number of different requirements that will now apply to licensing and titling. Most of these requirements are directly from the legislation. The proposed rule did not include some exemptions provided for in other states, so costs associated with exemptions are minimized in this rule.

Licensing subagents meet the regulatory definition of a small business but there is no demonstrated disproportionate impact under the Regulatory Fairness Act. The costs for licensing agents to learn the new rules and to register and title vehicles should be minimal given the long lead time available.

Ecology could not determine any disproportional impacts from this rule on franchise dealers, independent dealers or licensing subagents.

A copy of the statement may be obtained by contacting Bob Saunders, P.O. Box 47600, Olympia, WA 98504, phone (360) 407-6888, fax (360) 407-7534, e-mail rsau461@ecy.wa.gov.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Bob Saunders, P.O. Box 47600, Olympia, WA 98504, phone (360) 407-6888, fax (360) 407-7534, e-mail rsau461@ecy.wa.gov.

September 30, 2005

Polly L. Zehm

Deputy Director

Chapter 173-423 WAC

LOW EMISSION VEHICLES

NEW SECTION

WAC 173-423-010 Purpose. The purpose of this chapter is to establish rules implementing the California motor vehicle emission standards adopted by the 2005 legislature and codified in chapters 70.120A and 46.16 RCW.

NEW SECTION

WAC 173-423-020 Applicability. This chapter applies to all 2009 and subsequent model year passenger cars, light duty trucks and medium duty passenger vehicles registered,

leased, rented or sold for use in the state of Washington, except as provided in WAC 173-423-060, Exemptions.

NEW SECTION

WAC 173-423-025 Effective date. This chapter is effective on January 1, 2006, provided the state of Oregon has adopted the California motor vehicle emission standards as provided in RCW 70.120A.010.

NEW SECTION

WAC 173-423-030 Incorporation by reference. (1) This chapter incorporates by reference certain sections of the California Code of Regulations, Title 13, relating to implementing the California motor vehicle emission standards in the state of Washington. Table 070(1) found in WAC 173-423-070 lists the sections of the California Code of Regulations, Title 13 incorporated by reference and the California effective date for each section.

(2) Copies of the relevant sections of the California Code of Regulations, Title 13 incorporated by reference in this chapter are available on ecology's web site or by contacting:

Washington State Department of Ecology
Air Quality Program
300 Desmond Drive
Lacey, Washington 98503
360-407-6800

(3) For purposes of applying the incorporated sections of the California Code of Regulations, Title 13 in Washington, "California" means "Washington" unless otherwise specified in this chapter or clearly inappropriate.

NEW SECTION

WAC 173-423-040 Definitions and abbreviations. The following definitions apply to the administration of this chapter. Any term that is not defined in this section shall be as defined or described in the California Code of Regulations, Title 13, section 1900. Definitions in the California Code of Regulations, Title 13, section 1900 will prevail if any discrepancy arises between them and those set forth in this section.

(1) "Emission credits" are earned when a manufacturer's reported fleet average is less than the required fleet average. Credits are calculated according to formulas contained in the California Code of Regulations, Title 13, section 1961(c) and 1961.1(b).

(2) "Emission debits" are earned when a manufacturer's reported fleet average exceeds the required fleet average. Debits are calculated according to formulas contained in the California Code of Regulations, Title 13, section 1961(c) and 1961.1(b).

(3) "Fleet average greenhouse gas emission requirements" are generally referred to as limitations on greenhouse gas exhaust mass emission values from passenger cars, light-duty trucks and medium-duty passenger vehicles. The fleet average greenhouse gas emission requirements are set forth in CCR, Title 13, section 1961.1, and incorporated herein by reference.

(4) "Gross vehicle weight rating" or "GVWR" is the value specified by the manufacturer as the loaded weight of a single vehicle.

(5) "Independent low volume manufacturer" is defined in the California Code of Regulations, Title 13, section 1900 and incorporated herein by reference.

(6) "Intermediate volume manufacturer" is defined in the California Code of Regulations, Title 13, section 1900 and incorporated herein by reference.

(7) "Large volume manufacturer" is defined in the California Code of Regulations, Title 13, section 1900 and incorporated herein by reference.

(8) "Light duty truck" is any 2000 and subsequent model motor vehicle certified to the standards in Title 13, CCR, section 1961 (a)(1) rated at 8,500 pounds gross vehicle weight or less, and any other motor vehicle rated at 6,000 pounds gross vehicle weight or less, which is designed primarily for the purposes of transportation of property or is a derivative of such vehicle, or is available with special features enabling off-street or off-highway operation and use.

(9) "Medium duty passenger vehicle" (MDPV) is any medium-duty vehicle with a gross vehicle weight rating of less than 10,000 pounds that is designed primarily for the transportation of persons. The medium-duty passenger vehicle definition does not include any vehicle which:

(a) Is an "incomplete truck," i.e., is a truck that does not have the primary load carrying device or container attached; or

(b) Has a seating capacity of more than twelve persons; or

(c) Is designed for more than nine persons in seating rearward of the driver's seat; or

(d) Is equipped with an open cargo area of 72.0 inches in interior length or more. A covered box not readily accessible from the passenger compartment will be considered an open cargo area for the purpose of this definition.

(10) "Model year" is the manufacturer's annual production period which includes January 1 of a calendar year. If the manufacturer has no annual production period, "model year" is the calendar year. In the case of any vehicle manufactured in two or more stages, the time of manufacture shall be the date of completion of the chassis.

(11) "Nonmethane organic gas" or "NMOG" is the sum of nonoxygenated and oxygenated hydrocarbons contained in a gas sample as measured in accordance with the "*California Non-Methane Organic Gas Test Procedures*," and incorporated herein by reference.

(12) "NMOG fleet average emissions" is a motor vehicle manufacturer's average vehicle emissions of all nonmethane organic gases from passenger cars and light duty trucks in any model year delivered in Washington that are subject to this regulation.

(13) "Passenger car" is any motor vehicle designed primarily for transportation of persons and having a design capacity of twelve persons or less.

(14) "Small volume manufacturer" is defined as set forth in the California Code of Regulations, Title 13, section 1900 and incorporated herein by reference.

NEW SECTION

WAC 173-423-050 Requirement to meet California vehicle emission standards. (1) Starting with the 2009 model year, no vehicle shall be registered, leased, rented, licensed or sold for use in the state of Washington unless such vehicle is certified to California emission standards, except as provided in WAC 173-423-060, Exemptions.

(2) The state of Washington will use the vehicle emission standards used by California including:

(a) The exhaust emission standards set forth in the California Code of Regulations, Title 13, section 1961;

(b) The emission control label or smog index label requirements set forth in the California Code of Regulations, Title 13, section 1965;

(c) The evaporative emission standards set forth in the California Code of Regulations, Title 13, section 1976;

(d) The refueling emissions standards set forth in the California Code of Regulations, Title 13, section 1978;

(e) The malfunction and diagnostic system requirements set forth in the California Code of Regulations, Title 13, 1968.2;

(f) The specifications for fill pipes and openings of motor vehicle fuel tanks set forth in the California Code of Regulations, Title 13, section 2235; and

(g) The greenhouse gas emission standards as set forth in the California Code of Regulations, Title 13, section 1961.1.

(3) All vehicle manufacturers shall comply with the fleet average emission requirement, and the warranty, recall and other applicable requirements set forth in this chapter.

NEW SECTION

WAC 173-423-060 Exemptions. The following vehicles are not subject to this chapter:

(1) Military tactical vehicles;

(2) Vehicles sold for registration and use out-of-state;

(3) Previously registered vehicles where the mileage at the time of sale exceeds seven thousand five hundred miles, provided that for vehicle dealers, the mileage at the time of sales is determined by the odometer statement at the time the vehicle dealer acquired the vehicle;

(4) Vehicles which are only available for rent to a final destination outside of Washington;

(5) Vehicles purchased by a nonresident prior to establishing residency in the state of Washington, regardless of the mileage on the vehicle;

(6) Vehicles transferred by inheritance or as a result of divorce, dissolution or legal separation; and

(7) An emergency vehicle when a public safety agency has demonstrated to the department of ecology's satisfaction that a vehicle that will meet said agency's needs is not otherwise reasonably available.

NEW SECTION

WAC 173-423-070 Emission standards, warranty, recall and other California provisions adopted by reference. Each manufacturer and each new 2009 and subsequent model year passenger car, light duty truck and medium duty passenger vehicle subject to this chapter shall comply with

each applicable standard set forth in Table 070(1) and incorporated by reference:

**Table 070(1)
California Code of Regulations (CCR)
Title 13
Provisions Incorporated by Reference
Effective in Washington January 1, 2006**

Title 13 CCR	Title	California Effective Date
Chapter 1 Motor Vehicle Pollution Control Devices		
Article 1 General Provisions		
Section 1900	Definitions	10/22/05
Article 2 Approval of Motor Vehicle Pollution Control Devices (New Vehicles)		
Section 1956.8 (g) and (h)	Exhaust Emission Standards and Test Procedures - 1985 and Subsequent Model Heavy Duty Engines and Vehicles	12/14/03
Section 1960.1	Exhaust Emission Standards and Test Procedures - 1981 and through 2006 Model Passenger Cars, Light-Duty and Medium-Duty Vehicles	10/16/02
Section 1961	Exhaust Emission Standards and Test Procedures - 2004 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	12/04/03
Section 1961.1	Greenhouse Gas Exhaust Emission Standards and Test Procedures - 2009 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	1/01/06
Section 1965	Emission Control and Smog Index Labels - 1979 and Subsequent Model Year Vehicles	12/04/03
Section 1968.2	Malfunction and Diagnostic System Requirements - 2004 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	4/21/03

Table 070(1)
California Code of Regulations (CCR)
Title 13
Provisions Incorporated by Reference
Effective in Washington January 1, 2006

Title 13 CCR	Title	California Effective Date
Section 1968.5	Enforcement of Malfunction and Diagnostic System Requirements for 2004 and Subsequent Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles and Engines	4/21/03
Section 1976	Standards and Test Procedures for Motor Vehicle Fuel Evaporative Emissions	11/27/99
Section 1978	Standards and Test Procedures for Vehicle Refueling Emissions	11/27/99
Article 6 Emission Control System Warranty		
Section 2035	Purpose, Applicability and Definitions	12/26/90
Section 2037	Defects Warranty Requirements for 1990 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles and Motor Vehicle Engines Used in Such Vehicles	11/27/99
Section 2038	Performance Warranty Requirements for 1990 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles and Motor Vehicle Engines Used in Such Vehicles	11/27/99
Section 2039	Emission Control System Warranty Statement	12/26/90
Section 2040	Vehicle Owner Obligations	12/26/90
Section 2046	Defective Catalyst	1/16/79
Chapter 2 Enforcement of Vehicle Emission Standards and Enforcement Testing		

Table 070(1)
California Code of Regulations (CCR)
Title 13
Provisions Incorporated by Reference
Effective in Washington January 1, 2006

Title 13 CCR	Title	California Effective Date
Article 2 Enforcement of New and In-Use Vehicle Standards		
Section 2109	New Vehicle Recall Provisions	11/27/99
Article 2.1 Procedures for In-Use Vehicle Voluntary and Influenced Recalls		
Section 2111	Applicability	8/21/02
Section 2112	Definitions	11/15/03
	Appendix A to Article 2.1	11/15/03
Section 2113	Initiation and Approval of Voluntary and Influenced Recalls	1/26/95
Section 2114	Voluntary and Influenced Recall Plans	11/27/99
Section 2115	Eligibility for Repair	1/26/95
Section 2116	Repair Label	1/26/95
Section 2117	Proof of Correction Certificate	1/26/95
Section 2118	Notification	1/26/95
Section 2119	Recordkeeping and Reporting Requirements	11/27/99
Section 2120	Other Requirements Not Waived	1/26/95
Article 2.2 Procedures for In-Use Vehicle Ordered Recalls		
Section 2122	General Provisions	1/26/95
Section 2123	Initiation and Notification of Ordered Emission-Related Recalls	1/26/95
Section 2124	Availability of Public Hearing	1/26/95
Section 2125	Ordered Recall Plan	1/26/95
Section 2126	Approval and Implementation of Recall Plan	1/26/95
Section 2127	Notification of Owners	1/26/95
Section 2128	Repair Label	1/26/95
Section 2129	Proof of Correction Certificate	1/26/95
Section 2130	Capture Rates and Alternative Measures	11/27/99
Section 2131	Preliminary Tests	1/26/95

Table 070(1)
California Code of Regulations (CCR)
Title 13
Provisions Incorporated by Reference
Effective in Washington January 1, 2006

Title 13 CCR	Title	California Effective Date
Section 2132	Communication with Repair Personnel	1/26/95
Section 2133	Recordkeeping and Reporting Requirements	1/26/95
Section 2135	Extension of Time	1/26/95
Article 2.4 Procedures for Reporting Failure of Emission-Related Components		
Section 2141	General Provisions	12/28/00
Section 2142	Alternative Procedures	2/23/90
Section 2143	Failure Levels Triggering Recall	11/27/99
Section 2144	Emission Warranty Information Report	11/27/99
Section 2145	Field Information Report	11/27/99
Section 2146	Emissions Information Report	11/27/99
Section 2147	Demonstration of Compliance with Emission Standards	8/21/02
Section 2148	Evaluation of Need for Recall	11/27/99
Section 2149	Notification of Subsequent Action	2/23/90
Chapter 4.4 Specifications for Fill Pipes and Openings of Motor Vehicle Fuel Tanks		
Section 2235	Requirements	9/17/91

NEW SECTION

WAC 173-423-080 Fleet average nonmethane organic gas (NMOG) exhaust emission requirements, reporting and compliance. (1) Fleet average requirement. Effective model year 2009, each motor vehicle manufacturer's NMOG fleet average emissions from passenger cars and light duty trucks delivered for sale in Washington shall not exceed the Fleet Average NMOG Exhaust Emission Requirement set forth in the California Code of Regulations, Title 13, section 1961. Compliance shall be based on the number of vehicles, subject to this regulation, delivered for sale in the state of Washington.

(2) Fleet average NMOG exhaust emission credits and debits. Effective model year 2009, each vehicle manufacturer can accrue NMOG emission credits and debits and use credits in accordance with the procedures in the California Code of Regulations, Title 13, section 1961. Debits and credits accrued and used shall be based on the number of vehicles,

subject to this chapter, produced and delivered for sale by each manufacturer, in the state of Washington.

(3) Reporting. Commencing with the 2009 model year, each manufacturer shall submit by March 1 a report to the department of ecology that shall include:

(a) Premodel year data which projects the fleet average NMOG exhaust emissions for vehicles expected to be delivered for sale in Washington.

(b) End-of-model year data which calculates the fleet average NMOG exhaust emissions for the model year just ended.

The report shall follow the procedures in the California Code of Regulations, Title 13, section 1961 and shall be in the same format used to report such information to the California Air Resources Board.

(4) Compliance with fleet average NMOG requirement. Beginning in model year 2013, if a report submitted by the manufacturer under subsection (3) of this section demonstrates that the manufacturer is not in compliance with the fleet average emission standard, the manufacturer must submit to the department of ecology within sixty days a Fleet Average Enforcement Report. The Fleet Average Enforcement Report shall:

(a) Describe how the manufacturer intends to equalize any accrued debits, as required in the California Code of Regulations, Title 13, section 1961, and in accordance with subsection (2) of this section.

(b) Identify all vehicle models delivered for sale in Washington, their corresponding certification standards, and the percentage of each model delivered for sale in Washington and California in relation to total fleet sales in the respective state.

(c) Describe how the manufacturer plans to achieve compliance with the fleet average in future model years.

For model years 2009 through 2012 the Fleet Average Enforcement Report, if needed, must be submitted to the department of ecology by March 1, 2013. Any debits accrued in model years 2009 through 2012 must be equalized by the end of the 2013 model year.

NEW SECTION

WAC 173-423-090 Fleet average greenhouse gas exhaust emission requirements, reporting and compliance. (1) Each manufacturer subject to the greenhouse gas provisions of this regulation shall comply with emissions standards, fleet average greenhouse gas exhaust mass emission requirements for passenger car, light duty truck, medium duty passenger vehicle weight classes, and other requirements of the California Code of Regulations, Title 13, section 1961.1.

(2) Large volume manufacturer. The fleet average greenhouse gas exhaust emission levels for passenger cars, light-duty trucks, and medium-duty passenger vehicles produced and delivered for sale in the state of Washington by a large volume manufacturer for each 2009 and subsequent model year are established in the California Code of Regulations, Title 13, section 1961.1.

(3) Small, intermediate and independent manufacturers. The fleet average greenhouse gas exhaust emission require-

ments for passenger cars, light-duty trucks, and medium-duty passenger vehicles delivered for sale in the state of Washington by small volume, intermediate volume and independent low volume manufacturers are set forth in the California Code of Regulations, Title 13, section 1961.1, which specifies that requirements for these manufacturers are waived prior to the 2016 model year.

(4) Greenhouse gas credits and debits. Greenhouse gas credits and debits may be accrued and used based on each manufacturer's sale of vehicles in Washington in accordance with the California Code of Regulations, Title 13, section 1961.1.

(5) Optional alternative compliance with greenhouse gas emission standards. Greenhouse gas vehicle test groups that are certified pursuant to the California Code of Regulations, Title 13, section 1961.1 (e)(2)(a) in the state of California may receive equivalent credit if delivered for sale and use in the state of Washington.

(6) Alternative compliance credit. A manufacturer shall submit to the department of ecology the data set forth in the California Code of Regulations, Title 13, section 1961.1 (e)(2)(a)(i) for Washington specific sale and use in order to receive the credit identified in subsection (5) of this section.

(7) Reporting on greenhouse gas requirements. Beginning with the 2009 model year, each manufacturer shall submit by March 1 a report to the department of ecology that shall include:

(a) Premodel year data which projects the fleet average greenhouse gas emissions for vehicles expected to be delivered for sale in Washington.

(b) End-of-model year data which calculates the fleet average greenhouse gas emissions for the model year just ended. The report shall include the number of greenhouse gas vehicle test groups, delineated by model type, certified pursuant to the California Code of Regulations, Title 13, section 1961.1.

The report shall follow the procedures in the California Code of Regulations, Title 13, section 1961.1 and shall be in the same format used to report such information to the California Air Resources Board.

(8) Compliance with fleet average greenhouse gas requirements. Beginning in model year 2009, if the report submitted by the manufacturer under subsection (7) of this section demonstrates that the manufacturer is not in compliance with the fleet average emission standards, the manufacturer must submit to the department of ecology within sixty days a Fleet Average Enforcement Report. The Fleet Average Enforcement Report shall:

(a) Describe how the manufacturer intends to equalize any accrued debits, as required in the California Code of Regulations, Title 13, section 1961.1.

(b) Identify all vehicle models delivered for sale in Washington, their corresponding certification standards, and the percentage of each model delivered for sale in Washington and California in relation to total fleet sales in the respective state.

(c) Describe how the manufacturer plans to achieve compliance with the fleet average in future model years.

NEW SECTION

WAC 173-423-100 Manufacturer delivery reporting requirements. (1) The manufacturer shall submit to the department of ecology one copy of the California Executive Order and Certificate of Conformity for certification of new motor vehicles for each engine family to be sold in the state of Washington within thirty days of receiving the Executive Order from the California Air Resources Board. If such reports are available electronically, the manufacturer shall send the record in an electronic format acceptable to the department of ecology. Manufacturers may discontinue submitting these reports if so notified by the department of ecology.

(2) Commencing with the 2009 model year, prior to the beginning of each model year, each manufacturer shall submit to the department of ecology a list of all models of medium duty vehicles and medium duty passenger vehicles that will be delivered to Washington dealers. Medium duty vehicles are those with a GVWR of 8,501 to 14,000 pounds.

(3) Upon request, each manufacturer shall report to the department of ecology the vehicle identification numbers (VIN) of each passenger car, light duty truck and medium duty passenger vehicle delivered to each Washington dealer that is not certified to California emission standards.

(4) For the purposes of determining compliance with this chapter, the department of ecology may require any vehicle manufacturer to submit any documentation the department of ecology deems necessary to the effective administration and enforcement of this chapter, including all certification materials submitted to the California Air Resources Board.

NEW SECTION

WAC 173-423-110 Warranty requirements. (1) For all 2009 and subsequent model year vehicles subject to the provisions of this chapter, each manufacturer shall provide, to the ultimate purchaser and each subsequent purchaser, a warranty that complies with the requirements set forth in the California Code of Regulations, Title 13, sections 2035 through 2038, 2040, and 2046.

(2) For all 2009 and subsequent model year vehicles subject to the provisions of this chapter, each manufacturer shall include the emission control system warranty statement that complies with the requirements in the California Code of Regulations, Title 13, section 2039. Manufacturers may modify this statement as necessary to inform Washington vehicle owners of the applicability of the warranty. The manufacturer shall provide a telephone number appropriate for Washington residents.

(3) All manufacturers shall submit to the department of ecology Failure of Emission-Related Components reports as defined in the California Code of Regulations, Title 13, section 2144 for vehicles subject to this regulation. For purposes of compliance with this requirement, manufacturers may submit copies of the Failure of Emission-Related Components reports that are submitted to the California Air Resources Board, in lieu of submitting reports for vehicles subject to this chapter. Manufacturers may discontinue submitting these reports if so notified by the department of ecology.

NEW SECTION

WAC 173-423-120 Recalls. (1) Any order or enforcement action taken by the California Air Resources Board to correct noncompliance with any section of Title 13, which results in the recall of any vehicle pursuant to the California Code of Regulations, Title 13, sections 2109 through 2135, shall be applicable to vehicles registered in the state of Washington. If the manufacturer can demonstrate to the department of ecology's satisfaction that the action is not applicable to vehicles registered in Washington, the action shall not apply in Washington.

(2) Any voluntary or influenced emission-related recall campaign initiated by any manufacturer pursuant to the California Code of Regulations, Title 13, sections 2113 through 2121 shall extend to all applicable vehicles registered in Washington. If the manufacturer can demonstrate to the department of ecology's satisfaction that said campaign is not applicable to vehicles registered in Washington, the campaign shall not apply in Washington.

(3) For vehicles subject to an action pursuant to subsection (1) of this section, each manufacturer shall send to owners of vehicles registered in the state of Washington a notice that complies with the requirements in the California Code of Regulations, Title 13, sections 2118 or 2127. Such notice shall contain a telephone number appropriate for Washington residents.

NEW SECTION

WAC 173-423-130 Surveillance. (1) The department of ecology may inspect new and used motor vehicles and related records for the purposes of determining compliance with the requirements of this chapter. Department of ecology inspections shall occur during regular business hours and on any premises owned, operated or used by any dealer or rental car agency.

(2) For the purposes of determining compliance with this chapter, the department of ecology may require any vehicle dealer or rental car agency to submit any documentation the department of ecology deems necessary to the effective administration and enforcement of this chapter. This provision does not require creation of new records.

NEW SECTION

WAC 173-423-140 Enforcement. Any person who violates any provision of this chapter shall be liable for a civil penalty not to exceed five thousand dollars per vehicle. Penalties provided in this section shall be imposed pursuant to RCW 43.21B.300.

NEW SECTION

WAC 173-423-150 Severability. Each section of this regulation shall be deemed severable, and in the event that any section of this regulation is held invalid, the remainder shall continue in full force and effect.

WSR 05-20-101**PROPOSED RULES****DEPARTMENT OF HEALTH**

(Chiropractic Quality Assurance Commission)

[Filed October 5, 2005, 10:04 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-01-198.

Title of Rule and Other Identifying Information: WAC 246-808-150 Commission approved continuing education, 246-808-165 Exemptions, and 246-808-170 Licensees residing and practicing out-of-state—Continuing education requirements.

Hearing Location(s): Department of Health, Point Plaza East, 310 Israel Road S.E., Tumwater, WA 98501, on November 17, 2005, at 9:30 a.m.

Date of Intended Adoption: November 17, 2005.

Submit Written Comments to: Karen Kelley, P.O. Box 47869, Olympia, WA 98504-7869, e-mail www.doh.wa.gov/Rules/default.htm, fax (360) 236-4918, by November 8, 2005.

Assistance for Persons with Disabilities: Contact Karen Kelley by November 1, 2005, TTY 711 or (800) 833-6388.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule amendments will update the approved continuing education (CE) subject matter by adding nutrition and business management, add limits on hours that can be earned for some subject material, allow for CE credit to be earned by attending various multimedia CE programs, streamline the exemption rule, and will require chiropractors practicing out of state to comply with the same requirements of those chiropractors who reside and practice in Washington.

Reasons Supporting Proposal: The current CE rule is outdated, the proposal clarifies existing requirements, and expands the types of CE that the commission will accept. In addition, the proposal ensures that all chiropractors licensed in Washington are subject to the same CE requirements.

Statutory Authority for Adoption: RCW 18.25.0171.

Statute Being Implemented: RCW 18.25.070.

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

Name of Proponent: Chiropractic Quality Assurance Commission, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Karen Kelley, P.O. Box 47869, Olympia, WA 98504-7869, (360) 236-4856.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not necessary under chapter 19.85 RCW. This rule does not impose more than minor costs on the affected industry. The rule changes clarify existing requirements, and do not impose any major changes or requirements that change the rule's effect. There are no significant costs and additional burdens. The rule imposes no costs to 98% of chiropractors. The remaining 2% may incur nominal costs for the additional required continuing education.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be

obtained by contacting Karen Kelley, Chiropractic Quality Assurance Commission, P.O. Box 47869, Olympia, WA 98504-7869, phone (360) 236-4856, fax (360) 236-4918, e-mail karen.kelley@doh.wa.gov.

September 14, 2005

Karen Kelley
Program Manager

AMENDATORY SECTION (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

WAC 246-808-150 Commission approved continuing education. (1) ~~((Licensed))~~ Chiropractors must complete twenty-five hours of continuing education ~~((as required in))~~ per year under RCW 18.25.070 and chapter 246-12 WAC, Part 7.

(2) The commission approves the following subject material for continuing chiropractic education credit:

- (a) Diagnosis and treatment of the spine or immediate articulations within the scope of practice;
- (b) X-ray/diagnostic imaging;
- (c) Adjustive technique;
- (d) Detection of a subluxation;
- (e) Physical examination;
- (f) Hygiene;
- (g) Symptomatology;
- (h) Neurology;
- (i) ~~((Spinal))~~ Pathology;
- (j) ~~((Spinal))~~ Orthopedics;
- (k) Patient/case management;
- (l) Impairment within the scope of practice;
- (m) CPR~~((—once every three years))~~;
- (n) Dietary and nutrition advice; and
- (o) Chiropractic philosophy and business management (not to exceed a total of eight hours).

(3) Subject matter not approved for continuing education credit:

- (a) ~~((Business management; (b)))~~ Subject matter not directly relating to the chiropractic clinical scope of practice; and
- ~~((c) Practice building; and (d)))~~ (b) Conduct prohibited by Washington state statutes or rules governing chiropractic practice.

(4) ~~((A formal video continuing education program that meets the requirements of this section is acceptable provided that the video viewing is accompanied by a moderator and/or a panel knowledgeable in the video contents to comment thereon and answer questions or conduct discussions.))~~ A chiropractor may earn a maximum of twelve hours for:

(a) Completing a multimedia chiropractic education program, which includes, but is not limited to, the internet, and video presentations.

(b) Serving as teachers or lecturers in continuing education programs. A chiropractor may receive credit on the same basis as the doctors attending the program.

(5) The individual or organization responsible for a continuing education presentation must provide documentation of attendance to ~~((the))~~ participants, including course content and number of hours.

~~((Licensed chiropractors serving as teachers or lecturers in commission approved continuing education programs receive credit on the same basis as the doctors attending the program.))~~ Chiropractors in active status who reside and practice outside Washington must meet all the requirements of this section.

AMENDATORY SECTION (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

WAC 246-808-165 Exemptions. ~~((In the event a licensee fails to meet requirements because of illness or retirement (with no further provision of chiropractic services to consumers) or failure to renew, or other extenuating circumstances, each case shall be considered by the commission on an individual basis. When circumstances justify it, the commission may grant a time extension. In the case of permanent retirement or illness, the commission may grant indefinite waiver of continuing chiropractic education as a requirement for relicensure, provided an affidavit is received indicating the chiropractor is not providing chiropractic services to consumers. If such permanent illness or retirement status is changed or consumer chiropractic services resumed, it is incumbent upon the licensed chiropractor to immediately notify the commission and meet continuing chiropractor education requirements for relicensure. Continuing chiropractic education hours shall be prorated for the portion of the period involving resumption of such services.))~~ The commission may grant exemptions or time extensions on an individual basis, if a licensee fails to meet continuing education requirements due to illness, retirement, or other extenuating circumstances.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-808-170	Licensees residing and practicing out-of-state—Continuing education requirements.
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WSR 05-20-102

PROPOSED RULES

DEPARTMENT OF HEALTH

(Chiropractic Quality Assurance Commission)

[Filed October 5, 2005, 10:05 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-02-064.

Title of Rule and Other Identifying Information: WAC 246-808-190 Preceptor or direct supervisory doctor and 246-808-535 Delegation of services to auxiliary staff and graduate doctors of chiropractic.

Hearing Location(s): Department of Health, 310 Israel Road S.E., Tumwater, WA 98501, on November 17, 2005, at 10:00 a.m.

Date of Intended Adoption: November 17, 2005.

Submit Written Comments to: Karen Kelley, P.O. Box 47869, Olympia, WA 98504-7869, e-mail <http://www3.doh.wa.gov/policyreview>, fax (360) 236-4918, by November 1, 2005.

Assistance for Persons with Disabilities: Contact Karen Kelley by November 1, 2005, TTY 711 or (800) 833-6388.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule amendments will add text that conveys more accurately the language in the statute, clarify what tasks regular senior students, clinical postgraduate trainees, and auxiliary staff may perform, and add text that will allow auxiliary staff, regular senior students, and clinical postgraduate trainees to oversee patients during approved therapeutic procedures, rehabilitation exercises or use of therapeutic or rehabilitation equipment as incident to chiropractic services.

Reasons Supporting Proposal: The amendments add clarity, remove redundant language, and add approved tasks for unlicensed personnel.

Statutory Authority for Adoption: RCW 18.25.0171 and 18.25.190.

Statute Being Implemented: Chapter 18.25 RCW.

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

Name of Proponent: Chiropractic Quality Assurance Commission, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Karen Kelley, 310 Israel Road S.E., Olympia, WA 98504-7869, (360) 236-4856.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not necessary under chapter 19.85 RCW. These rules do not impose additional costs on licensed chiropractors.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Karen Kelley, Chiropractic Quality Assurance Commission, P.O. Box 47869, Olympia, WA 98504-7869, phone (360) 236-4856, fax (360) 236-4918, e-mail karen.kelley@doh.wa.gov.

August 29, 2005

Karen Kelley
Program Manager

AMENDATORY SECTION (Amending WSR 96-16-074, filed 8/6/96, effective 9/6/96)

WAC 246-808-190 Preceptor or direct supervisory doctor. A preceptor is a doctor of chiropractic who is approved by the commission to provide direct supervision to ~~((an unlicensed chiropractic doctor)),~~ clinical postgraduate trainee, or regular senior student, as set forth in RCW 18.25-190. The commission ~~((shall))~~ maintains a list of approved preceptors.

(1) An approved preceptor shall:

(a) Provide direct supervision and control;

(b) Be on the premises any time the ~~((unlicensed chiropractic doctor))~~ clinical postgraduate trainee, or regular senior student, treats patients in accordance with WAC 246-808-535; and

(c) Meet with the patient prior to commencement of chiropractic care, and inform the patient in writing of the unlicensed status of the person from whom care is being received.

(2) To apply for commission approval to function as a preceptor, a doctor of chiropractic shall submit to the commission:

(a) Proof of licensure as a Washington chiropractic doctor for the preceding five years, during which time the license has not been suspended, revoked, or otherwise conditioned or restricted;

(b) A completed official application;

(c) Verification of approval to participate in the program by an approved chiropractic college;

(d) Evidence of malpractice insurance for the ~~((unlicensed chiropractic doctor and))~~ clinical postgraduate trainee, the preceptor applicant, the regular senior student; and

(e) A fee as specified in WAC 246-808-990.

AMENDATORY SECTION (Amending WSR 96-16-074, filed 8/6/96, effective 9/6/96)

WAC 246-808-535 Delegation of services to auxiliary staff, regular senior students, and ~~((graduate doctors of chiropractic))~~ clinical postgraduate trainees. (1) A licensed chiropractor may ~~((within the confines of this section,))~~ delegate certain services to auxiliary staff, regular senior students, and ~~((graduate doctors of chiropractic, provided that))~~ clinical postgraduate trainees, if these services are performed under the licensed chiropractor's direct supervision and control. The supervising chiropractor shall be responsible for determining that auxiliary staff, regular senior students, and ~~((graduate doctors of chiropractic))~~ clinical postgraduate trainees are competent to perform the delegated services. The licensed supervising chiropractor must render adequate supervision so that the patient's health and safety is not at risk.

(2) Auxiliary staff ~~((and graduate doctors of chiropractic))~~ shall not perform the following services:

(a) Detection of subluxation;

(b) Adjustment or manipulation of the articulations of the ~~((spinal column or its immediate articulations))~~ body;

(c) Interpretation or analysis of radiographs;

(d) Determining the necessity for chiropractic care;

(e) Orthopedic or neurological examinations ~~((provided, graduate doctors of chiropractic may perform preliminary orthopedic or neurological examinations under the direct supervision of a licensed chiropractor)).~~

(3) Regular senior students may perform the following under the direct supervision and control of an approved preceptor:

(a) Detection of subluxation;

(b) Expose, interpret or analyze radiographs;

(c) Determine the necessity for chiropractic care;

(d) Orthopedic or neurological examinations.

(4) Clinical postgraduate trainees may perform the following under the direct supervision and control of an approved preceptor:

(a) Detection of subluxation;

(b) Adjustment or manipulation of the articulations of the body;
(c) Expose, interpret or analyze radiographs;
(d) Determine the necessity for chiropractic care;
(e) Orthopedic or neurological examinations.
(5) Auxiliary staff, regular senior students, and (~~graduate doctors of chiropractic~~) clinical postgraduate trainees may perform the following auxiliary services: Preliminary patient history, height, weight, temperature, blood pressure, pulse rate, ~~((and))~~ gross postural observation, ~~((f))~~ active spinal range of motion utilizing a generally accepted measuring device~~((g))~~, and oversight of patients during approved therapeutic procedures, rehabilitation exercises or use of therapeutic or rehabilitation equipment as incident to chiropractic services.

small business economic impact statement do not apply to rules described under RCW 19.85.025(3) because they adopt fees according to legislative standards.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to rules that set or adjust fees or rates pursuant to legislative standards.

September 30, 2005

Mary C. Selecky
 Secretary

NEW SECTION

WAC 246-305-990 Maximum fee schedule. This section sets the maximum fee schedule for independent reviews, and the process of review and determination of a case referred to an independent review organization (IRO).

(1) IROs may not charge more than the following amount for each review:

Category	Amount
Contract review, interpretation of health plan coverage provisions	\$500
Standard medical review, straightforward review of medical necessity or adverse determination	\$700
Highly specialized medical review of complex conditions or experimental treatment	\$1000
Medical review with multiple reviewers	\$1100
Surcharge for expedited review	\$200

The fees in this section include all costs for time and materials associated with the review including, but not limited to:

- (a) Record transmission expenses such as postage and facsimile costs; and
 - (b) Medical record handling and duplication.
- (2) If the referral includes a contract review and a medical review, the IRO may charge both fees.
- (3) If an IRO charges more than the maximum fees allowed under this section, the department may take action described in WAC 246-305-110.

WSR 05-20-103

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed October 5, 2005, 10:07 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule and Other Identifying Information: WAC 246-305-990 Maximum fee schedule for independent review organizations certified in Washington.

Hearing Location(s): Room 152, 310 Israel Road S.E., Tumwater, WA 98501, on November 10, 2005, at 9:00 a.m.

Date of Intended Adoption: November 11, 2005.

Submit Written Comments to: Pamela Lovinger, P.O. Box 47850, Olympia, WA 98504-7850, e-mail <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-4626, by November 10, 2005.

Assistance for Persons with Disabilities: Contact Sherry Thomas by November 1, 2005, TTY 711 or (360) 236-4612.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposal sets a maximum fee schedule to implement HB 1140, chapter 54, Laws of 2005. The department is required to create and adopt a maximum fee schedule to cap the amount independent review organizations can charge health plans for conducting independent reviews.

Reasons Supporting Proposal: This proposal sets fees that compensate independent review organizations for the reviews they complete. Insurance plans are protected from excessive charges by independent review organizations.

Statutory Authority for Adoption: Chapter 54, Laws of 2005.

Statute Being Implemented: RCW 43.70.235.

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

Name of Proponent: Department of Health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: P. Lovinger, 310 Israel Road, Olympia, WA, (360) 236-4621.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The requirements for a

WSR 05-20-113

PROPOSED RULES

DEPARTMENT OF FISH AND WILDLIFE

[Filed October 5, 2005, 10:53 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-11-057.

Title of Rule and Other Identifying Information: Commercial crawfish rules.

Hearing Location(s): Heathman Lodge, 7801 N.E. Greenwood Drive, Vancouver, WA, on November 18-19, 2005, begins at 8:00 a.m. on November 18, 2005.

Date of Intended Adoption: November 18, 2005.

Submit Written Comments to: Evan Jacoby, Rules Coordinator, 600 Capitol Way, Olympia, WA 98501-1091, e-mail jacobesj@dfw.wa.gov, fax (360) 902-2155, by November 11, 2005.

Assistance for Persons with Disabilities: Contact Susan Yeager by November 4, 2005, TTY (360) 902-2207 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Require escape mechanism in crawfish pots.

Reasons Supporting Proposal: Allows escape of entrapped crawfish if the gear is lost.

Statutory Authority for Adoption: RCW 77.12.047.

Statute Being Implemented: RCW 77.12.047.

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

Name of Proponent: Washington Department of Fish and Wildlife, governmental.

Name of Agency Personnel Responsible for Drafting: Evan Jacoby, 1111 Washington Street, Olympia, (360) 902-2930; Implementation: Lew Atkins, 1111 Washington Street, Olympia, (360) 902-2651; and Enforcement: Bruce Bjork, 1111 Washington Street, Olympia, (360) 902-2373.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

1. Description of the Reporting, Record-keeping, and Other Compliance Requirements of the Proposed Rule: There are no reporting requirements. Commercial crawfish fishers will be required to attach an escape mechanism to crawfish pots.

2. Kinds of Professional Services That a Small Business is Likely to Need in Order to Comply with Such Requirements: None.

3. Costs of Compliance for Businesses, Including Costs of Equipment, Supplies, Labor, and Increased Administrative Costs: Most shellfish pots already have escape mechanisms. If the unit of gear does not have such a mechanism, compliance can be achieved by use of a 3-inch piece of cotton twine.

4. Will Compliance with the Rule Cause Businesses to Lose Sales or Revenue? No.

5. Cost of Compliance for the 10% of Businesses That are the Largest Businesses Required to Comply with the Proposed Rules Using One or More of the Following as a Basis for Comparing Costs:

- a. Cost per employee;
- b. Cost per hour of labor; or
- c. Cost per one hundred dollars of sales.

If the gear is not equipped with an escape mechanism, the cost of the twine is less than one cent per pot, and the installation time is ten seconds. For one hundred pots, the cost per fisher is \$1, and the installation time is less than one-half hour. It takes longer to bait the pots than to install an escape mechanism.

6. Steps Taken by the Agency to Reduce the Costs of the Rule on Small Businesses or Reasonable Justification for Not Doing So: The cost is de minimis, and so the agency cannot reduce the costs.

7. A Description of How the Agency Will Involve Small Businesses in the Development of the Rule: The department will involve the affected industries through the Fish and Wildlife Commission public rule-making process.

8. A List of Industries That Will Be Required to Comply with the Rule: Commercial crawfish fishers.

A copy of the statement may be obtained by contacting Evan Jacoby, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2930, fax (360) 902-2155, e-mail jacobesj@dfw.wa.gov.

A cost-benefit analysis is not required under RCW 34.05.328. These rule proposals do not affect hydraulics.

October 5, 2005

Evan Jacoby

Rules Coordinator

AMENDATORY SECTION (Amending Order 03-180, filed 8/6/03, effective 9/6/03)

WAC 220-52-035 ((~~Crab and shrimp~~)) Commercial shellfish pot gear—Escape mechanism required. It is unlawful to fish for or possess crab ((~~or~~)), shrimp, or crawfish taken for commercial purposes with shellfish pot gear unless the gear allows for escapement using at least one of the following methods:

(1) Attachment of pot lid hooks or tiedown straps with a single strand or loop of untreated cotton twine or other natural fiber no larger than thread size 120 so that the pot lid will open freely if the twine or fiber is broken.

(2) An opening in the pot mesh no less than three inches by five inches which is laced or sewn closed with untreated cotton twine or other natural fiber no larger than thread size 120. The opening must be located within the top half of the pot and be unimpeded by the entry tunnels, bait boxes, or any other structures or materials.

WSR 05-20-114

PROPOSED RULES

DEPARTMENT OF FISH AND WILDLIFE

[Filed October 5, 2005, 10:54 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-13-159.

Title of Rule and Other Identifying Information: Sport fishing rules.

Hearing Location(s): Heathman Lodge, 7801 N.E. Greenwood Drive, Vancouver, WA, on November 18-19, 2005, begins 8:00 a.m. on November 18, 2005.

Date of Intended Adoption: November 18, 2005.

Submit Written Comments to: Evan Jacoby, Rules Coordinator, 600 Capitol Way, Olympia, WA 98501-1091, e-mail jacobesj@dfw.wa.gov, fax (360) 902-2155, by November 11, 2005.

Assistance for Persons with Disabilities: Contact Susan Yeager by November 4, 2005, TTY (360) 902-2207 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 220-16-320, sturgeon length will be from snout to fork of tail. Sturgeon have a unique tail configuration that does not lend itself to conventional measurement. This rule change is contingent on Oregon adopting the same rule. If the rule is adopted, adjustments will be made to WAC 220-56-282 and 232-28-619 Columbia River to convert overall length to snout to fork length.

WAC 220-56-100(11), a "hatchery" fish is defined as a fish with a clipped fin and a healed scar at the site. The prior definition of a "missing" fin lead [led] to confusion with fish that had imperfectly clipped fins and healed scars.

WAC 220-56-100(22), selective gear rules will allow use of electric motors to accommodate disabled persons. Change the eighteen lakes with "selective gear rules except electric motors allowed" to "selective gear rules." Require knotless nets to land fish from selective gear waters, thus reducing injury to fish to be released.

WAC 220-56-115, this rule is converted from a combination lines and terminal gear rule to a rule identifying how many [many] lines may be used.

WAC 220-56-116, this rule becomes the saltwater hook rule. All of the saltwater hook rules are collected in one place. Clarification of the barbless hook rule in Puget Sound was requested by a county deputy prosecutor.

WAC 220-56-118, salmon, steelhead, Dolly Varden and bull trout that are going to be released may not be totally removed from the water. This will reduce the handling of such fish for photographs, and injury during such handling.

WAC 220-56-122, bait rules are collected in a single section.

WAC 220-56-123, this rule becomes the freshwater hook rule. The statewide rules are collected here, with the exceptions appearing in WAC 232-28-619.

WAC 220-56-128(13), fly fishing gear will be allowed in the Pacific cod closed zone at Agate Pass, except lead core fly line is prohibited. This will allow for a winter blackmouth fishery with little if any impact on Pacific cod.

WAC 220-56-130, Potlatch DNR tidelands are closed to the taking of unclassified species. Both sides of the DNR tidelands are park tidelands where no harvest is permitted. This will provide additional protection for the park tidelands.

WAC 220-56-156, fishing while in possession in the field of Canadian origin halibut and salmon will be allowed, with certain restrictions. This will allow anglers to go to a destination fishery and not have to bring Canadian fish to their permanent residences in order to continue fishing. Yelloweye and canary rockfish from Canada may not be landed in Washington ports. These two rockfish species are threatened in United States waters, and Canadian fish are a broodstock resource.

WAC 220-56-175, all halibut will be required to be recorded on catch record cards. This will provide for a better catch accounting of halibut.

WAC 220-56-265, five-eighths inch mesh in forage fish dip nets in the industry standard, and replaces the current maximum mesh size of one-half inch.

WAC 220-56-310, warm waters on the coast have brought Humboldt squid, which are a separate resource. A

bonus limit of Humboldt squid is established to allow coastal fishers to take these squid.

WAC 220-56-320 (4) and (7), flexible mesh webbing in shrimp pots is provided for, as it has a different measurement size than traditional mesh.

WAC 220-56-320(8), a maximum volume of thirteen cubic feet is established for recreational crab pots. This is consistent with commercial gear proposals, and will standardize the maximum pot size.

WAC 220-56-325, a dive fishery for shrimp in Area 8-2 is proposed for open days in May. This allows a night harvest by hand or hand-held device.

WAC 220-56-350, Belfair State Park is added to the closed list, but, because of better water conditions, is expected to be reopened shortly.

WAC 220-56-380, Belfair State Park is added to the closed list, but, because of better water conditions, is expected to be reopened shortly. Fort Flagler State Park and Oak Bay County Park are opened to oyster harvest concurrent with the clam harvest.

WAC 232-12-019, grass pickerel are added as a game fish. These are an invasive species, and fishing under game-fish rules should be encouraged.

WAC 232-12-168, the prize limit for fishing contests for species other than bass and walleye is increased from \$1,000 to \$5,000. The number of contestants on larger lakes is increased by one-third. Livewell mandatory minimum dimensions for walleye are eliminated, as it is the responsibility of the contest coordinator to ensure 90% of the fish are released alive.

WAC 232-12-619, the seasonal restriction on hatchery steelhead is eliminated, but the one wild steelhead per angler per year is retained. This should encourage harvest of hatchery steelhead. Burbot setline gear is eliminated, and in the five lakes with burbot (Cle Elum, Chelan, Kachess, Kechelus [Keechelus], and Palmer) this gear will no longer be allowed.

WAC 232-28-619, modify exceptions to statewide rules. Change seasonal dates, modify closed areas, modify night closures, add selective gear rules.

Increase smallmouth bass limit on four lakes (Banks, Moses, Potholes, Roosevelt).

Increase steelhead opportunity in fifteen rivers (Bear, Bogachiel, Calawah, Cedar, Chehalis, Hoh, Humptulips, Naselle, North, Palix, Quillayute, Salmon, Sol Duc, Willapa, Wynochee).

Open Lake Washington tributaries to juvenile fishing only.

Increase brook trout retention in ten rivers.

Limit trout retention to fin clipped trout in five lakes.

Establish a no more than two trout over thirteen inches rule in fifteen bodies of water, primarily in eastern Washington.

Amber Lake, clarify season dates.

Anderson Lake, change to fall trout release, allow for retention of other species.

Blackman Lake, reduce trout limit to three fish.

Canyon Creek, close to protect ESA listed fish.

Carbon River, release game fish in fall.

Crab Creek, modify terminal gear rules to match adjoining waters.

Mountain Lake, reduce trout limit to two fish. Establishes a quality fishing water.

Nisqually River, release steelhead in lower river. Protects reduced run.

Palouse River, comport lower river with Snake River fish retention rules.

Roosevelt Lake, prohibit bow and arrow carp fishing; prohibit chumming. Federal rules prohibit these activities.

Rufus Woods Lake, increase kokanee limit to reduce kokanee population.

Silver Lake, reduce crappie daily limit to protect crappie.

Skagit River, adjust areas.

Spokane River, adjust areas.

Sullivan Lake, increase kokanee daily limit to reduce kokanee population.

Tokuk [Tokul] Creek, adjust season above Fish Hatchery Bridge.

Vancouver Lake, comport sturgeon with lower Columbia River.

Yakima River, increase bass retention to protect salmonids.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 77.12.047.

Statute Being Implemented: RCW 77.12.047.

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

Name of Proponent: Washington Department of Fish and Wildlife, governmental.

Name of Agency Personnel Responsible for Drafting: Evan Jacoby, 1111 Washington Street, Olympia, (360) 902-2930; Implementation: Lew Atkins, 1111 Washington Street, Olympia, (360) 902-2651; and Enforcement: Bruce Bjork, 1111 Washington Street, Olympia, (360) 902-2373.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules affect recreational fishers. There is no direct regulation of small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. These rule proposals do not affect hydraulics.

October 5, 2005

Evan Jacoby

Rules Coordinator

AMENDATORY SECTION (Amending Order 817, filed 5/29/69)

WAC 220-16-320 General definitions—Fish length measurement. The length of a fish, unless otherwise provided, is defined as the shortest distance between the extreme tip of the tail and extreme tip of the snout or jaw, whichever extends the farthest, measured while the fish is lying in a prone and normal position. The length of a sturgeon is defined as the shortest distance between the extreme tip of the snout and fork of the tail.

AMENDATORY SECTION (Amending Order 05-168, filed 8/3/05, effective 9/3/05)

WAC 220-56-100 Definitions—Personal-use fishing. The following definitions apply to personal use fishing in Titles 220 and 232 WAC:

(1) "Bait" means any substance which attracts fish by scent or flavors. Bait includes any lure which uses scent or flavoring to attract fish.

(2) "Barbless hook" means a hook on which all barbs have been deleted when manufactured or filed off or pinched down.

(3) "Bow and arrow fishing" means any method of taking, or attempting to take, fish by the use of an arrow equipped with a barbed head and a line attached, and propelled by a bow, as in the sport of archery, while the fisher is above the surface of the water.

(4) "Buoy 10 line" means a true north-south line projected through Buoy 10 at the mouth of the Columbia River. "Buoy 10 fishery" means a fishery between a line in the Columbia River from Tongue Point in Oregon to Rocky Point in Washington and the Buoy 10 line.

(5) "Channel Marker 13 line" means a true north-south line through Grays Harbor Channel Marker 13.

(6) "Daily limit" means the maximum number or pounds of fish, shellfish, or seaweed of the required size of a given species or aggregate of species which a person may retain in a single day.

(7) "Fresh" means fish or shellfish that are refrigerated, iced, salted, or surface glazed.

(8) "Freshwater area" means:

(a) Within any freshwater river, lake, stream or pond.

(b) On the bank or within 10 yards of any freshwater river, lake, stream or pond.

(c) On or within any boat launch, ramp, or parking facility associated with any freshwater river, lake, stream or pond.

(9) "Frozen" means fish or shellfish that are hard frozen throughout.

(10) "Gaffing" means an effort to take fish by impaling the fish with a hook attached directly to a pole or other device.

(11) "Hatchery" when used to describe the difference between a hatchery fish and a nonhatchery fish, except salmon, means a fish (~~((missing))~~) having a clipped adipose fin or a clipped ventral fin with a healed scar at the location of the ((missing)) clipped fin. A hatchery salmon is a salmon having a clipped adipose fin and a healed scar at the location of the clipped fin, regardless of whether the fish is missing a ventral fin.

(12) "Hook" means one single point, double or treble hook. A "single point hook" means a hook having only one point. A "double hook" means a hook having two points on a common shank. A "treble hook" means a hook having three points on a common shank.

(13) "Hook and line" or "angling" shall be identical in meaning and, except as provided in WAC 220-56-115, shall be defined as the use of not more than one line with three hooks attached to a pole held in hand while landing fish, or the use of a hand operated line without rod or reel, to which may be attached not more than three hooks. When fishing for

bottom fish, "angling" and "jigging" shall be identical in meaning.

(14) "In the field or in transit" means at any place other than at the ordinary residence of the harvester. An ordinary residence is a residential dwelling where a person normally lives, with associated features such as address, telephone number, utility account, etc. A motor home or camper parked at a campsite or a vessel are not considered to be an ordinary residence.

(15) "Juvenile" means a person under fifteen year of age.

(16) "Lure" means a manufactured article constructed of feathers, hair, fiber, wood, metal, glass, cork, leather, rubber or plastic which does not use scent or flavoring to attract fish. "Nonbuoyant lure" means a lure complete with hooks, swivels or other attachments, which does not float in freshwater.

(17) "Night closure" means closed to fishing from one hour after official sunset to one hour before official sunrise.

(18) "Nonbuoyant lure restriction" means nonbuoyant lures, defined as lures with hooks and attachments (eyes, swivels, etc.), that do not have enough buoyancy to float in freshwater, may have only one single hook measuring not more than 3/4 inch point to shank. No weights may be attached below or less than twelve inches above a buoyant lure defined as a lure with hooks and attachments that has enough buoyancy to float in freshwater, and all hooks must be attached to or no more than three inches below a buoyant lure or within three inches of bait or a nonbuoyant lure. No hook may be attached to the line above a buoyant lure.

(19) "Possession limit" means the number of daily limits allowed to be retained in the field or in transit.

(20) "Processed" means fish or shellfish which have been processed by heat for human consumption as kippered, smoked, boiled, or canned.

(21) "Seasonal wild steelhead limit" means the maximum number of wild steelhead trout any one angler may retain from April 1st through the following March 31st.

(22) "Selective gear rules" means terminal fishing gear is limited to artificial flies with barbless single hooks or lures with barbless single hooks, bait is prohibited, and fishing from a floating device equipped with ((#)) an internal combustion motor is prohibited unless otherwise provided. Up to three hooks may be used. Only knotless nets may be used to land fish. In waters under selective gear rules, fish may be released until the daily limit is retained.

(23) "Slough" means any swamp, marsh, bog, pond, side-channel, or backwater connected to a river by water. Waters called sloughs that are not connected to a river are considered lakes.

(24) "Snagging" means an effort to take fish with a hook and line in a manner that the fish does not take the hook or hooks voluntarily in its mouth.

(25) "Spearing" or "spear fishing" means an effort to take fish or shellfish by impaling the fish or shellfish on a shaft, arrow or other device.

(26) "Stationary gear restriction" means the line and weight and lure or bait must be moving while in the water. The line and weight and lure or bait may not be stationary.

(27) "Unmarked salmon" means a salmon with intact adipose and ventral fins.

(28) "Whitefish gear rules" means terminal fishing gear is restricted to one single hook, maximum hook size three-sixteenths inch point to shank (hook size 14), and bait is allowed. All species: Release all fish except whitefish.

(29) "Wild" when used to describe the difference between a hatchery fish and a nonhatchery fish, except salmon, means a fish with all fins intact.

(30) "Wild" when used to describe a salmon (chinook, coho, chum, pink or sockeye), means a salmon with an unclipped adipose fin, regardless of whether the fish is ventral fin-clipped. A salmon with a clipped adipose fin and a healed scar at the site of the clipped fin is not a wild salmon.

AMENDATORY SECTION (Amending Order 05-168, filed 8/3/05, effective 9/3/05)

WAC 220-56-118 Fish handling rules—Removal from water. In order to protect fish that are required to be released:

(1) It is unlawful to totally or partially remove oversize sturgeon from the water.

(2) It is unlawful to totally or partially remove six-gill shark from the water.

(3) In all freshwater areas, except the Columbia River downstream from a line between Rocky Point and Tongue Point, it is unlawful to totally remove salmon, steelhead, Dolly Varden or bull trout from the water if it is unlawful to retain those salmon, steelhead, Dolly Varden or bull trout or if the angler subsequently releases the salmon, steelhead, Dolly Varden or bull trout.

(4) In Marine Areas 5 through 13, it is unlawful to bring wild salmon or a species of salmon aboard a vessel if it is unlawful to retain that salmon. For purposes of this subsection, "aboard" means inside the gunnel of a vessel.

(5) In Marine Area 2-2 east of the Buoy 13 line, salmon required to be released may not be totally removed from the water, except anglers fishing from vessels thirty feet or longer as shown on their state registration or Coast Guard documentation are exempt from this subsection.

AMENDATORY SECTION (Amending Order 05-168, filed 8/3/05, effective 9/3/05)

WAC 220-56-123 ((Unlawful provisions—Westport and Ocean Shores boat basins:)) Statewide freshwater hook rules. ((During the period August 16 through January 31, in the waters of the Westport and Ocean Shores Boat Basins:

~~(1) It is unlawful to fish for or possess salmon taken for personal use using any gear other than the gear provided for in this section:~~

~~(a) Nonbuoyant lures other than natural bait lures must have no more than one single point hook and that hook may not exceed 3/4 inch from point to shank. Nonbuoyant natural bait lures may have no more than two single point hooks each of which may not exceed 3/4 inch from point to shank.~~

~~(b) Buoyant lures are defined as lures that have enough buoyancy to float in freshwater and may have any number of hooks.~~

~~(c) Barbed hooks allowed.~~

(d) No leads, weights, or sinkers may be attached below or less than 12 inches above a lure.

(e) All hooks must be attached within 3 inches of the bait or lure.

(2) It is unlawful to fish for or possess food fish or shellfish from one hour after official sunset to one hour before official sunrise.

(3) ~~It is unlawful to use forage fish jigger gear.)~~ (1) It is unlawful to use more than three hooks to fish in freshwater, except it is lawful to use forage fish jigger gear in the waters of the Columbia River downstream from a line between Rocky Point and Tongue Point.

(2) It is unlawful to use other than one single barbless hook to fish for sturgeon.

AMENDATORY SECTION (Amending Order 05-15, filed 2/10/05, effective 5/1/05)

WAC 220-56-115 Angling gear—Lawful and unlawful acts. (1) It is unlawful for any person to use more than one line (~~with three hooks~~) while angling for personal use except(=

(a) ~~It is unlawful to use more than 2 hooks while fishing in Marine Areas 1-4, except for forage fish jigger gear.~~

(b) ~~It is unlawful to use more than two barbless hooks while fishing in Marine Areas 5-13, except for forage fish jigger gear.~~

(c) ~~It is lawful to use forage fish jigger gear as provided for in WAC 220-56-265 in Marine Areas 1-13 and the Columbia River downstream from a line between Rocky Point and Tongue Point, and squid jig gear as provided for in WAC 220-56-390 in Marine Areas 1-13.~~

(d)) a second line using forage fish jigger gear is lawful while fishing in Catch Record Card Areas 5, 6, 7, 8-1, 8-2, 9, 10, 11, 12, and 13.

(~~(e) It is unlawful to use other than one single barbless hook while fishing for sturgeon.~~)

(2) It shall be unlawful for any person to take, fish for or possess fish taken for personal use by any means other than angling with a line attached to a pole held in hand while landing the fish or with a hand-operated line without rod or reel except as follows:

(a) It is lawful to leave the pole in a pole holder while playing or landing the fish if the pole is capable of being readily removed from the pole holder.

(b) It is lawful to use an electric power-operated reel designed for sport fishing attached to a pole.

(c) It is lawful to fish for or possess salmon taken for personal use with hand lines (lines not attached to a handheld pole) except use of hand lines is unlawful in those waters west of the mouth of the Sekiu River, the Pacific Ocean, Washington waters at the mouth of the Columbia River west of a line projected true north and south through Buoy 10, Grays Harbor, and Willapa Bay.

(3) It shall be unlawful for any person while angling to fail to keep his angling gear under his direct and immediate physical control.

(4) In areas where a saltwater license is valid, each fisher aboard a vessel may continue to deploy angling gear or shell-

fish gear until the daily limit of food fish or shellfish for all licensed and juvenile anglers aboard has been retained.

(~~(5) It is unlawful to use lamprey as fishing bait, regardless of the source or species of lamprey.~~)

AMENDATORY SECTION (Amending Order 02-53, filed 3/29/02, effective 5/1/02)

WAC 220-56-116 ((Salmon—Coastal waters)) State-wide saltwater hook rules. (~~It is unlawful to fish for salmon in Catch Record Card Areas 1 through 4 except with single point barbless hooks other than in the Westport and Ocean Shores boat basins, which have special terminal gear restrictions as provided for in WAC 220-56-123.~~) (1) It is unlawful to use more than two hooks to fish in saltwater, except for forage fish jigger gear and squid jig gear, and when fishing from the north jetty of the Columbia River.

(2) It is unlawful to use barbed hooks in Marine Areas 5-13, except for forage fish jigger gear.

(3) It is unlawful to use other than one single barbless hook to fish for sturgeon.

(4) It is unlawful to use other than single barbless hooks to fish for salmon in Marine Areas 1-4, except in the Ocean Shores and Westport Boat Basins, as provided for in this section.

(5) It is unlawful to fish for or possess salmon taken with terminal gear hooks in violation of nonbuoyant lure restrictions in the following saltwater areas during the periods indicated:

(a) Budd Inlet waters south of a line projected true west from the KGY radio station to the mainland and north of the closed zone provided for in WAC 220-56-128 - July 16 through October 31.

(b) Duwamish waterway downstream from the First Avenue South Bridge to an east-west line through Southwest Hanford Street on Harbor Island parallel to Southwest Spokane Street where it crosses Harbor Island - July 1 through October 31.

(c) Ocean Shores Boat Basin - August 16 through January 31.

(d) Westport Boat Basin - August 16 through January 31.

(6) It is unlawful to fish for or possess gamefish taken with terminal gear hooks in violation of nonbuoyant lure restrictions in the Duwamish waterway downstream from the First Avenue South Bridge to an east-west line through Southwest Hanford Street on Harbor Island parallel to Southwest Spokane Street where it crosses Harbor Island during the period July 1 through October 31.

AMENDATORY SECTION (Amending Order 05-15, filed 2/10/05, effective 5/1/05)

WAC 220-56-128 Food fish fishing—Closed areas. It is unlawful to fish for or possess food fish taken from the following areas during the times indicated.

(1) It is unlawful at all times to fish for or possess food fish taken for personal use in waters lying within 400 feet below any fish rack, fishway, dam or other artificial or natural obstruction, either temporary or permanent, unless otherwise provided.

(2) Waters of Budd Inlet at Olympia south of the Fourth Avenue Bridge are closed at all times, and all contiguous waters lying between the Fourth Avenue Bridge and a line from the northwesterly corner of the Thriftway Market Building to a point 100 yards north of the railroad bridge located on the western side of the inlet opposite the Thriftway Market Building are closed during the period July 16 through October 31.

(3) The waters of Percival Cove are closed at all times.

(4) Those waters of Hood Canal inshore from yellow marker buoys to the mouth of Finch Creek and waters within the channel created when tidelands are exposed are closed the entire year.

(5) Waters within a radius of 100 yards from the Enetai Hatchery Outfall Creek where it enters saltwater are closed at all times.

(6) Those waters of Sinclair Inlet inside a line fifty yards from the pierhead line of the Puget Sound Naval Shipyard at Bremerton are closed at all times.

(7) Those waters of Hood Canal within 100 feet of the Seabeck Highway Bridge over Big Beef Creek are closed August 1 through November 30.

(8) In Shilshole Bay waters east of a line 175 feet west of the Burlington Northern Railroad Bridge are closed to fishing.

(9) Those waters of the Chinook River upstream from tide gate at the Highway 101 Bridge are closed at all times.

(10) Those waters of the Columbia River between the Vernita Bridge and the Hanford power line crossing (wooden towers at S24, T13N, R27E) are closed October 23 through June 15.

(11) Those waters of the Columbia River between the upstream line of Bonneville Dam to a point 600 feet below the fish ladder at the new Bonneville Dam Powerhouse are closed at all times.

(12) Waters of the Lake Washington Ship Canal west of a north-south line 400 feet east of the eastern end of the north wing wall of Chittenden Locks to the mouth of the Lake Washington Ship Canal are closed to food fish angling at all times.

(13) Waters of Catch Record Card Area 10 west of a line from Point Monroe to Indianola and east of a line from Point Bolin to Battle Point are closed to food fish angling from January 1 through March 31 except it is lawful to fish with gear meeting the fly fishing only requirements of WAC 220-56-210 except it is unlawful to use lead core fly line. It is unlawful to retain any fish taken during the period January 1 through March 31.

(14) Chief Joseph Dam - closed to fishing from the Okanogan County shore between the dam and the Highway 17 Bridge. Closed to fishing from a floating device downstream of Chief Joseph Dam to the Corps of Engineers Safety Zone Marker.

(15) Wells Dam - waters between the upstream line of Wells Dam to boundary markers 400 feet below the spawning channel discharge on the Chelan County side and the fish ladder on the Douglas County side.

(16) Rocky Reach, Rock Island and Wanapum Dams - waters between the upstream lines of these dams and boundary markers 400 feet downstream of the fish ladders at Rocky

Reach and Rock Island Dams and boundary markers at Wanapum Dam 750 feet below the east fish ladder and 500 feet below the west fish ladder.

(17) Priest Rapids Dam - waters between the upstream line of Priest Rapids Dam and boundary markers 650 feet below the fish ladders.

(18) Jackson (Moran) Creek - all waters of the Priest Rapids hatchery system including Columbia River waters out to midstream between markers located 100 feet upstream and 400 feet downstream of the mouth of the hatchery outlet.

(19) McNary Dam - waters between the upstream line of McNary Dam and a line across the river from the red and white marker on the Oregon shore to the downstream end of the wingwall of the boat lock near the Washington shore.

(20) John Day Dam - waters between the upstream line of John Day Dam and markers approximately 3,000 feet downstream, except that fishing is permitted from the Washington shore to within 400 feet of the fishway entrance.

(21) The Dalles Dam - waters between the upstream line of the Dalles Dam and the upstream side of the Interstate 197 Bridge, except that fishing is permitted from the Washington shore to within 400 feet of the fishway entrance.

(22) Spring Creek - waters within 1/4 mile of the U.S. Fish and Wildlife Service Hatchery grounds between posted boundary markers located 1/4 mile on either side of the fish ladder entrance.

(23) The waters of Catch Area 12 are closed at all times to the taking of food fish other than salmon.

(24) Freshwater Bay - waters south of a line from Angeles Point to Observatory Point (Bachelor Rock) are closed July 1 through August 31.

(25) Tulalip Bay - waters east of line from Mission Point to Hermosa Point are closed at all times.

(26) Waters of Catch Record Card Area 13 within 500 yards of the Toliva Shoal buoy are closed to fishing for food fish June 16 through April 30 and closed to rockfish year-round.

AMENDATORY SECTION (Amending Order 05-15, filed 2/10/05, effective 5/1/05)

WAC 220-56-130 Unclassified marine invertebrates and fish. (1) Definitions. For purposes of this section:

(a) "Daily limit" means individual animals retained, alive or dead.

(b) "Sculpins" means individual sculpins of species that are not defined as bottomfish.

(c) "Nudibranch" means individual nudibranchs of any species.

(d) "Unclassified marine invertebrates" and "unclassified marine fish" mean species existing in Washington state marine waters in a wild state that have not been classified as food fish, shellfish, game fish, protected wildlife, or endangered species.

(2) The following limits apply to the taking of unclassified marine invertebrates in Catch Record Card Areas 1 through 13, and the taking of unclassified marine fish in Catch Record Card Areas 5 through 13:

(a) Daily limit of ten unclassified marine invertebrates, except moon snails and nudibranchs.

- (b) Daily limit of five moon snails.
 - (c) Daily limit of two nudibranchs.
 - (d) Daily limit of two unclassified marine fish per species of fish, except that the daily limit may not contain more than two sculpins and it is unlawful to take, fish for or possess Pacific lamprey or river lamprey.
 - (e) The possession limit and the daily limit are the same.
 - (f) Potlatch DNR tidelands are closed to the taking of unclassified marine invertebrates and unclassified marine fish.
- (3) Each person possessing unclassified marine invertebrates or unclassified marine fish must retain their take in a separate container.

AMENDATORY SECTION (Amending Order 05-22, filed 2/14/05, effective 3/17/05)

WAC 220-56-156 Possession and delivery of Canadian origin food fish and shellfish. It is unlawful to possess in marine waters or deliver into a Washington state port, moorage, anchorage, or vessel launching facility, shellfish or food fish taken for personal use from Canadian waters unless the person that possesses or delivers the shellfish or food fish possesses a valid Canadian sport fishing license and catch record card, if one is required, for the shellfish and food fish taken except it is unlawful to possess in marine waters or deliver into a Washington state port yelloweye or canary rockfish taken in Canadian waters. It is unlawful to fish for or possess bottomfish or halibut while in possession in the field of more than two Canadian halibut, but it is lawful to fish for salmon. It is unlawful to possess in marine waters or deliver to a Washington port, moorage, anchorage, or vessel launching facility any fresh salmon taken for personal use from Canadian waters unless such salmon meet current salmon regulations for the waters of the applicable department of fish and wildlife catch record card area or ports, moorages, anchorages, or vessel launching facilities within the applicable catch record card area, or unless the vessel operator has a valid Canadian customs clearance number obtained while the vessel was moored at a Canadian government dock in Ucluelet, Victoria, Sydney, White Rock, or Bedwell Harbour, British Columbia. It is unlawful to fish for food fish while in possession in the field of Canadian salmon that do not meet the possession requirements for the area being fished unless the salmon are possessed at a shoreside facility. For the purposes of this section, "delivery" means transportation by a private or commercial recreational fishing vessel and delivery is complete when the vessel anchors, moors, ties to a float or pier, or is placed or attempted to be placed on a boat trailer.

AMENDATORY SECTION (Amending Order 04-91, filed 4/29/04, effective 5/30/04)

WAC 220-56-175 Catch record cards. It is unlawful for any person to fail to comply with the catch record requirements as provided for in this section:

- (1) In order to fish for or possess for personal use any crab, anadromous salmon, sturgeon, halibut (~~taken from Catch Record Card Areas 5 through 13~~), or steelhead, an angler must obtain and have in personal possession a valid

appropriate catch record card as described in WAC 220-69-236 except for commercially caught salmon retained for personal use as provided for in WAC 220-20-016 and commercially caught sturgeon retained for personal use as provided for in WAC 220-20-021.

(2) Any angler, after obtaining a catch record card shall validate the catch record card by completely, accurately, and legibly completing all personal identification information in ink on the catch record card prior to detaching the catch record card from the underlying copy of the catch record card or, for automated licenses, affixing the appropriate validation sticker to the catch record card. A catch record card remains valid so long as there are one or more unfilled spaces available for the species being fished for, except:

(a) In the mainstem Columbia River downstream from where the river forms the common boundary between Oregon and Washington for sturgeon a catch record card remains valid when the sturgeon portion of the catch record card is filled. A person may not retain sturgeon after the sturgeon portion of the catch record card is filled.

(b) A second or subsequent catch record card is invalid for retention of sturgeon.

(3) Immediately upon catching and possessing a salmon, steelhead, sturgeon or halibut, the angler shall enter in ink in the appropriate space the place, date of catch, species (catch type), for sturgeon, length, for halibut, vessel type and for salmon, whether or not the fish was marked.

(4) Immediately upon retaining a Dungeness crab aboard a vessel or on the shore, the fisher must enter in ink in the appropriate space the place and date of catch, fishery type and enter a tally mark for each Dungeness crab retained from each catch record card area fished. At the end of the fishing day, the fisher shall enter the total number of crab tally marks for each fishery type.

(5) Every person possessing a catch record card shall by April 30 of the year following the year printed on the card return such card to the department of fish and wildlife.

(6) Any person possessing a catch record card shall, upon demand of any law enforcement officer or authorized department employee, exhibit said card to such officer or employee for inspection.

(7) A catch record card shall not be transferred, borrowed, altered, or loaned to another person.

AMENDATORY SECTION (Amending Order 03-24, filed 2/14/03, effective 5/1/03)

WAC 220-56-265 Forage fish—Lawful gear. It shall be unlawful to take, fish for and possess herring, candlefish, pilchards, anchovies and smelt taken for personal use except with hand dip net gear not exceeding 36 inches across the bag frame having a maximum mesh size of ~~((one-half))~~ five-eighths inch stretched mesh size, and forage fish jigger gear having not more than three treble or nine single hooks. It is unlawful to use a dip bag net to take forage fish unless the operator of the net holds the handle at all times the netting is in the water. It is unlawful to operate a dip bag net to harvest forage fish from a vessel under power, or to use more than one forage fish dip net at a time. Only persons with a disability license may use a hand-operated gate on a dip net while

fishing for forage fish. Forage fish jigger gear hooks may not have a gap between the shank and the point exceeding 3/8 inch.

AMENDATORY SECTION (Amending Order 05-102, filed 5/19/05, effective 6/19/05)

WAC 220-56-310 Shellfish—Daily limits. It is unlawful for any one person to take in any one day for personal use more than the following quantities and sizes of shellfish:

(1) Cockles, borers and clams in the shell, other than razor clams, geoduck clams and horse clams, 40 clams in the aggregate, or 10 pounds, whichever is achieved first except:

(a) In Skagit Bay, east of a line projected from Browns Point to Swinomish Slough entrance - diggers may additionally retain up to 20 pounds of eastern softshell clams in the shell.

(b) Willapa Bay - diggers may additionally retain up to twenty-four cockles.

(2) Razor clams: 15 clams.

(3) Geoduck clams: 3 clams.

(4) Horse clams: 7 clams.

(5) Oysters: 18 oysters, shucked and the shells left on the beach. Minimum size before shucking two and one-half inches along the longest dimension of the shell.

(6) Rock scallops: 12 scallops.

(7) Weathervane scallops: 12 scallops (over 4 inches).

(8) Spiny and pink scallops: 10 pounds or 5 quarts in the shell, in the aggregate.

(9) Shrimp: In all waters - First Saturday in May through May 31, daily limit 80 shrimp. During all other open periods total weight 10 pounds, maximum 80 spot shrimp as part of the 10 pound limit. Spot shrimp: First Saturday in May through May 31 in all waters and in Areas 1 through 3 and Area 4 west of the Bonilla-Tatoosh line during the remainder of the year, no minimum size; June 1 through October 15 in Area 4 east of the Bonilla-Tatoosh line and Areas 5 through 13, minimum size one and three-sixteenths inch from the base of the eyestalk to the top rear edge of the carapace.

(10) Octopus: 1 octopus.

(11) Pinto abalone: Closed statewide.

(12) Crawfish: 10 pounds in the shell. Minimum size 3 1/4 inches from tip of rostrum to tip of tail. Female crawfish with eggs or young attached to the abdomen must be released immediately.

(13) Squid other than Humboldt squid: 10 pounds or 5 quarts. In addition a person may retain up to 5 Humboldt squid per day.

(14) Sea cucumbers: 25 sea cucumbers.

(15) Red sea urchins: 18 sea urchins.

(16) Purple sea urchins: 18 sea urchins.

(17) Green sea urchins: 36 sea urchins.

(18) Dungeness crabs:

(a) In Area 1 except when fishing from the north jetty of the Columbia River and Areas 2, 3, and 4 west of the Bonilla-Tatoosh line - 6 male crabs.

(b) In Area 4 east of the Bonilla-Tatoosh line, and Areas 5, 6, 7, 8-1, 8-2, 9, 10, 11, 12 and 13 - 5 male crabs.

(c) In the Columbia River upstream of a line from the outermost end of the north jetty to the exposed end of the

south jetty, or when fishing from the north jetty of the Columbia River - 12 male crabs.

(19) Red rock crabs: 6 crabs.

(20) Mussels: 10 pounds in the shell, in the aggregate.

(21) Goose barnacles: 10 pounds of whole barnacles or 5 pounds of barnacle stalks.

(22) Ghost and mud shrimp: 10 dozen.

(23) King and box crab: Closed statewide.

(24) Tanner crabs: 6 crabs.

AMENDATORY SECTION (Amending Order 05-15, filed 2/10/05, effective 5/1/05)

WAC 220-56-320 Shellfish gear—Unlawful acts. (1)

It is unlawful for the owner or operator of any personal use shellfish gear to leave such gear unattended in the waters of the state unless said gear is marked with a buoy to which shall be affixed in a permanent visible and legible manner the first and last name and permanent mailing address of the operator. It is unlawful for more than one person's name and address to appear on the same marker buoy. It is unlawful to violate the following provisions regarding unattended shellfish gear:

(a) Unattended shellfish gear must have the line attaching the buoy to the gear weighted sufficiently to prevent the line from floating on the water's surface.

(b) All buoys must consist of durable material and remain visible on the surface at all times except during extreme tidal conditions. It is unlawful to use bleach, anti-freeze or detergent bottles, paint cans or any other container.

(c) All buoys attached to shrimp gear must be yellow or fluorescent yellow in color. Flags and staff, if attached, may be any color.

(d) All buoys attached to crab gear must be half red or half fluorescent red in color and half white in color. Flags and staff, if attached, may be any color.

(2) It is unlawful for the maximum perimeter of any shrimp pot to exceed 10 feet, and the pot shall not exceed 1-1/2 feet in height.

(3) It is unlawful to fish for or possess crab taken with shellfish pot gear that are equipped with tunnel triggers or other devices which prevent free exit of crabs under the legal limit unless such gear is equipped with not less than two escape rings located in the upper half of the pot which are not less than 4-1/4 inches inside diameter in all waters except in the Columbia River the escape ring minimum size is 4 inches inside diameter. It is unlawful to use mesh size for crab pots less than 1-1/2 inches.

(4) It is unlawful to take, fish for or possess shrimp taken for personal use with shellfish pot gear during the month of May in Area 4 east of the Bonilla-Tatoosh line and in Areas 5 through 13, and year-round in Area 4 west of the Bonilla-Tatoosh line and Areas 1 through 3 unless such gear meets the following requirements:

(a) The entire top, bottom, and sides of the shellfish pots must be constructed of mesh material and except for the entrance tunnels have the minimum mesh opening size defined below.

(b) The minimum mesh opening size for shrimp pots is defined as a mesh that a 7/8-inch square peg will pass through each mesh opening except for flexible (web) mesh pots where

the opening must be a minimum of one and three-quarters inch stretch measure.

(c) All entrance tunnels must open into the pot from the side.

(d) The sum of the maximum widths of all entrance tunnels must not exceed 1/2 the perimeter of the bottom of the pot.

(5) It is unlawful to fish for or possess shellfish taken for personal use with shellfish pot gear unless the gear allows for escapement using at least one of the following methods:

(a) Attachment of pot lid hooks or tiedown straps with a single strand or loop of untreated, 100 percent cotton twine no larger than thread size 120 so that the pot lid will open freely if the twine or fiber is broken.

(b) An opening in the pot mesh no less than three inches by five inches which is laced or sewn closed with untreated, 100 percent cotton twine no larger than thread size 120. The opening must be located within the top half of the pot and be unimpeded by the entry tunnels, bait boxes, or any other structures or materials.

(c) Attachment of pot lid or one pot side serving as a pot lid with no more than three single loops of untreated 100 percent cotton or other natural fiber twine no larger than thread size 120 so that the pot lid or side will open freely if the twine or fiber is broken.

(6) It is unlawful to set shellfish pots in a manner that they are not covered by water at all times.

(7) June 1 through October 15 in Area 4 east of the Bonilla-Tatoosh line and Areas 5 through 13, it is unlawful to use mesh size for shrimp pots less than one-half inch except in entrance tunnels except for flexible (web) mesh pots where the opening must be a minimum of one and one-eighths inch stretch measure.

(8) It is unlawful to fish for crab using shellfish pot gear greater in volume than thirteen cubic feet.

AMENDATORY SECTION (Amending Order 05-15, filed 2/10/05, effective 5/1/05)

WAC 220-56-325 Shrimp—Areas and seasons. It is unlawful to fish for or possess shrimp taken for personal use from the following areas, except as otherwise provided in this section:

(1) Discovery Bay, Port Angeles, and Port Townsend Shrimp Districts, and Marine Areas 8, 9, 10 and 11 - Open 7:00 a.m. through 3:00 p.m., beginning the first Saturday in May through May 31 and open only on Wednesday and Saturday of each week except it is lawful for divers to take shrimp by hand or hand-held device from 7:00 p.m. until midnight on any open day in May in Marine Area 8-2;

(2) Hood Canal Shrimp District - Open 9:00 a.m. through 1:00 p.m., the first Saturday in May through May 31 and open only on Wednesday and Saturday of each week;

(3) Marine Area 4 east of the Bonilla-Tatoosh line and Marine Areas 5, 6, 7 and 13, except for Shrimp Districts - Open 7:00 a.m. the first Saturday in May through May 31 and open daily except closed in Sequim Bay Shrimp District and Carr Inlet Shrimp District.

(4) Beginning June 1 through October 15 in Marine Area 4 east of the Bonilla-Tatoosh line and Areas 5 through 13,

shrimp fishing is open daily except closed in Area 10 and the shrimp districts at all times. Unlawful to retain spot shrimp.

(5) Marine Areas 1 through 3 and Marine Area 4 west of the Bonilla-Tatoosh line - Open year-round.

NEW SECTION

WAC 220-56-122 Statewide bait rules. (1) It is unlawful to fish for sturgeon except with bait.

(2) It is unlawful to use lamprey as fishing bait, regardless of the source or species of lamprey.

(3) It is lawful to use bait in saltwater, and it is unlawful to use terminal gear other than bait suspended above the bottom by a float in the East Duwamish waterway between a line projected east along the path of southwest Hanford Street and a line projected east from the south tip of Harbor Island.

(4) It is unlawful to chum, broadcast, feed, or distribute into freshwater any bait or other substance capable of attracting fish unless specifically authorized in exceptions to statewide rules.

(5) When fishing for trout with bait, all trout that are lawful to possess and are equal to or greater than the minimum size are counted as part of the daily limit, whether kept or released, and it is unlawful to continue to fish once the daily limit has been achieved, except that steelhead trout may be caught and released until the daily limit is taken.

AMENDATORY SECTION (Amending Order 05-15, filed 2/10/05, effective 5/1/05)

WAC 220-56-282 Sturgeon—Areas, seasons, limits and unlawful acts. (1) It is lawful to fish for sturgeon the entire year in saltwater, but open in freshwater only concurrent with a salmon or gamefish opening unless otherwise provided.

(2) The daily limit is one sturgeon, with the following size restrictions:

(a) Minimum size (~~(48)~~) 43 inches in length in the Columbia River and tributaries upstream from The Dalles Dam.

(b) Minimum size (~~(42)~~) 38 inches in length in all other state waters.

(c) Maximum size (~~(60)~~) 54 inches in length.

Once the daily limit has been retained, it is lawful to continue to fish for sturgeon in the mainstem of the Columbia River downstream from where the river forms the boundary between Oregon and Washington, provided that all subsequent sturgeon are released immediately.

(3) The possession limit is two daily limits of fresh, frozen or processed sturgeon.

(4) There is an annual personal-use limit of five sturgeon from April 1 through March 31, regardless of where the sturgeon were taken. After the annual limit of sturgeon has been taken, it is lawful to continue to fish for sturgeon in the mainstem Columbia River downstream from where the river forms the common boundary between Oregon and Washington, provided that all subsequent sturgeon are released immediately.

(5) It is unlawful to fish for sturgeon with terminal gear other than bait and one single barbless hook. It is lawful to use artificial scent with bait when fishing for sturgeon.

(6) It is unlawful to fish for or possess sturgeon taken for personal use from freshwater, except the Chehalis River, from one hour after official sunset to one hour before official sunrise.

(7) It is unlawful to possess in the field sturgeon eggs without having retained the intact carcass of the fish from which the eggs have been removed.

(8) It is unlawful to use a gaff or other fish landing aid that penetrates the fish while restraining, handling or landing a sturgeon.

(9) It is unlawful to fail to immediately return to the water any undersize sturgeon.

AMENDATORY SECTION (Amending Order 05-15, filed 2/10/05, effective 5/1/05)

WAC 220-56-350 Clams other than razor clams, mussels—Areas and seasons. (1) It is lawful to take, dig for and possess clams and mussels taken for personal use on Puget Sound the entire year except that public tidelands at the following beaches are closed unless otherwise provided:

(a) Ala Spit: Open May 1 through May 31.

(b) Belfair State Park: Closed the entire year.

(c) Brown Point (DNR 57-B): Open January 1 through July 15.

~~((+))~~ (d) Cama Beach State Park: Closed the entire year.

~~((+))~~ (e) Camano Island State Park: Closed the entire year.

~~((+))~~ (f) Cutts Island State Park: Open January 1 through June 15.

~~((+))~~ (g) Dosewallips State Park: Open April 1 through July 15 only in area defined by boundary markers and signs posted on the beach.

~~((+))~~ (h) Dungeness Spit and Dungeness National Wildlife Refuge Tidelands - Open May 15 through September 30.

~~((+))~~ (i) Eagle Creek: Closed the entire year.

~~((+))~~ (j) Fort Flagler State Park including that portion of the spit west of the park boundary (Rat Island): Open April 15 through June 30.

~~((+))~~ (k) Freeland County Park - Open January 1 through March 31.

~~((+))~~ (l) Frye Cove County Park - Open January 1 through June 15.

~~((+))~~ (m) Garrison Bay: Tidelands at Guss Island and those tidelands at British camp between the National Park Service dinghy dock at the north end and the park boundary at the south end are closed the entire year.

~~((+))~~ (n) Gertrude Island - All tidelands at Gertrude Island closed the entire year.

~~((+))~~ (o) Hoodspout: Tidelands at Hoodspout Salmon Hatchery are closed the entire year.

~~((+))~~ (p) Hope Island State Park (South Puget Sound): Open April 1 through May 31.

~~((+))~~ (q) Illahee State Park: May 1 through May 31.

~~((+))~~ (r) Kayak Point County Park: Closed the entire year.

~~((+))~~ (s) Kitsap Memorial State Park: Open May 15 through June 30.

~~((+))~~ (t) Kopachuck State Park: Open June 1 through July 31.

~~((+))~~ (u) Liberty Bay - All state-owned tidelands in Liberty Bay north and west of the Keyport Naval Supply Center are closed to the harvest of clams the entire year.

~~((+))~~ (v) McNeil Island - All tidelands on McNeil Island are closed the entire year.

~~((+))~~ (w) Mukilteo State Park - Closed the entire year.

~~((+))~~ (x) Mystery Bay State Park: Open October 1 through April 30.

~~((+))~~ (y) North Bay - All state-owned tidelands in North Bay (Case Inlet) north of a line drawn southwest from Rocky Point to the north end of Reach Island thence due west to the mainland are closed to the harvest of clams the entire year except state-owned Tidelands on the east side of North Bay north of the power transmission lines and south of the power transmission lines for 1,600 feet.

~~((+))~~ (z) Oak Bay County Park: Open July 15 through July 31.

~~((+))~~ (aa) Oyster Reserves: Puget Sound and Willapa Bay state oyster reserves are closed the entire year except as follows:

(i) Case Inlet: Tidelands on the east side of North Bay at the north end of the inlet open the entire year.

(ii) North Bay: State-owned oyster reserves on the east side of North Bay north of the power transmission lines which cross the bay at the north end of Case Inlet open the entire year.

(iii) Oakland Bay: Tidelands at the north end of Oakland Bay and on the channel of the northwest shore of the Bay-shore Peninsula between department markers open the entire year.

(iv) Willapa Bay - Long Island oyster reserve: Northwest side of Long Island between reserve monuments 39 and 41 and southwest side of Long Island between reserve monuments 58 and 59.

~~((+))~~ (bb) Penrose Point State Park: Open April 1 through May 15.

~~((+))~~ (cc) Picnic Point County Park: Closed the entire year.

~~((+))~~ (dd) Pitship Point: Closed the entire year.

~~((+))~~ (ee) Pitt Island - All tidelands on Pitt Island are closed the entire year.

~~((+))~~ (ff) Point Whitney (excluding Point Whitney Lagoon): March 1 through April 15.

~~((+))~~ (gg) Point Whitney Lagoon: Open April 15 through May 15.

~~((+))~~ (hh) Port Townsend Ship Canal/Portage Canal: Open January 1 through June 30.

~~((+))~~ (ii) Potlatch DNR tidelands: April 1 through June 15.

~~((+))~~ (jj) Potlatch East: April 1 through June 15.

~~((+))~~ (kk) Potlatch State Park: April 1 through June 15.

~~((+))~~ (ll) Purdy Spit County Park: The southern shore of the spit from the boat ramp to the bridge is closed the entire year.

~~((+))~~ (mm) Quilcene Bay Tidelands - All state-owned tidelands in Quilcene Bay north of a line drawn from the Quilcene Boat Haven to Fisherman's Point are closed to the harvest of clams the entire year, except those state-owned

tidelands on the west side of the bay north of the Quilcene Boat Haven are open April 1 through December 31, daily from official sunrise to official sunset only.

~~((mm))~~ (nn) Rendsland Creek: Closed the entire year.

~~((mm))~~ (oo) Saltwater State Park: Closed the entire year.

~~((oo))~~ (pp) Scenic Beach State Park - Closed the entire year.

~~((pp))~~ (qq) Seahurst County Park: Closed the entire year.

~~((qq))~~ (rr) Sequim Bay State Park - Open May 1 through June 15.

~~((rr))~~ (ss) Shine Tidelands State Park: Open January 1 through May 15.

~~((ss))~~ (tt) South Indian Island County Park: April 1 through August 31.

~~((tt))~~ (uu) Spencer Spit State Park: Open March 1 through July 31.

~~((uu))~~ (vv) Triton Cove Tidelands: Open July 1 through September 30.

~~((vv))~~ (ww) Triton Cove State Park: Open April 1 through June 30.

~~((ww))~~ (xx) Twanoh State Park: Closed the entire year.

~~((xx))~~ (yy) West Dewatto: DNR Beach 44A open January 1 through April 15.

~~((yy))~~ (zz) Willapa Bay: State-owned tidelands east of the department Willapa Bay Field Station and Nahcotta Tidelands Interpretive Site are closed year-round.

~~((zz))~~ (aaa) Wolfe Property State Park: Open January 1 through May 15.

(2) It is lawful to take, dig for and possess clams, cockles, borers, and mussels, not including razor clams, taken for personal use in Grays Harbor and Willapa Harbor the entire year, except from state oyster reserves, which are closed to clam digging the entire year.

(3) It is lawful to take, dig for and possess clams, cockles, borers, and mussels, not including razor clams taken for personal use from the Pacific Ocean beaches from November 1 through March 31.

AMENDATORY SECTION (Amending Order 05-15, filed 2/10/05, effective 5/1/05)

WAC 220-56-380 Oysters—Areas and seasons. It is lawful to take and possess oysters taken for personal use from public tidelands the entire year, except that public tidelands at the following beaches are closed unless otherwise provided:

(1) Belfair State Park: Closed the entire year.

(2) Fort Flagler State Park including that portion of the spit west of the park boundary (Rat Island): Open April 15 through June 30. Brown Point (DNR 57-B): Closed the entire year.

~~((2))~~ (3) Frye Cove County Park: Open January 1 through June 15.

~~((3))~~ (4) Hoodspout: Tidelands at the Hoodspout Salmon Hatchery are closed the entire year.

~~((4))~~ (5) Hope Island State Park (South Puget Sound): Open April 1 through May 31.

~~((5))~~ (6) Illahee State Park: Open May 1 through June 15.

~~((6))~~ (7) Kitsap Memorial State Park: Open May 15 through June 15.

~~((7))~~ (8) Kopachuck State Park: Open March 1 through July 31.

~~((8))~~ (9) Liberty Bay - All state-owned tidelands in Liberty Bay north and west of the Keyport Naval Supply Center are closed to the harvest of oysters the entire year.

~~((9))~~ (10) Mystery Bay State Park: Open October 1 through April 30.

~~((10))~~ (11) North Bay - All state-owned tidelands in North Bay (Case Inlet) north of a line drawn southwest from Rocky Point to the north end of Reach Island thence due west to the mainland are closed to the harvest of oysters the entire year except for state-owned tidelands on the east side of North Bay north of the power transmission lines and south of the power transmission lines for 1,600 feet.

~~((11))~~ (12) Oak Bay County Park: Open July 15 through July 31.

(13) Oyster Reserves: Puget Sound and Willapa Bay oyster reserves are closed the entire year except the following are open the entire year:

(a) Oakland Bay - Tidelands at the north end of Oakland Bay and on the channel of the northwest shore of the Bay-shore Peninsula between department markers - open the entire year.

(b) North Bay - State-owned reserves on the east side of North Bay north of the power transmission lines.

(c) Willapa Bay - Long Island oyster reserve: Northwest side of Long Island between reserve monuments 39 and 41 and southwest side of Long Island between reserve monuments 58 and 59.

~~((12))~~ (14) Penrose Point State Park: Open April 1 through May 15.

~~((13))~~ (15) Port Townsend Ship Canal/Portage Canal: Open January 1 through June 30.

~~((14))~~ (16) Potlatch DNR Tidelands: April 1 through June 15.

~~((15))~~ (17) Potlatch East: Open April 1 through June 15.

~~((16))~~ (18) Potlatch State Park: Open April 1 through June 15.

~~((17))~~ (19) Quilcene Bay Tidelands - All state-owned tidelands in Quilcene Bay north of a line drawn from the Quilcene Boat Haven to Fisherman's Point are closed except those state-owned tidelands on the west side of the bay north of the Quilcene Boat Haven are open April 1 through December 31, daily from official sunrise to official sunset, only.

~~((18))~~ (20) Scenic Beach State Park: Closed the entire year.

~~((19))~~ (21) Sequim Bay State Park: Open May 1 through June 15.

~~((20))~~ (22) Shine Tidelands State Park: Open January 1 through May 15.

~~((21))~~ (23) South Indian Island County Park: April 1 through August 31.

~~((22))~~ (24) Triton Cove State Park: Open April 1 through June 30.

~~((23))~~ (25) Willapa Bay: State-owned tidelands east of the department Willapa Bay Field Station and the Nahcotta

Tidelands Interpretive Site are open only between boundary markers and posted signs.

((24)) (26) Wolfe Property State Park: Open January 1 through May 15.

AMENDATORY SECTION (Amending Order 04-39, filed 3/4/04, effective 5/1/04)

WAC 232-12-019 Classification of game fish. As provided in RCW 77.12.020 and in addition to those species identified in RCW 77.08.020 the following species of the class *Osteichthyes* are classified as game fish:

Scientific Name	Common Name
<i>Salvelinus confluentus</i>	Bull Trout
<i>Catostomus columbianus</i>	Bridgelip Sucker
<i>Catostomus macrocheilus</i>	Largescale Sucker
<i>Catostomus catostomus</i>	Longnose Sucker
<i>Catostomus platyrhynchus</i>	Mountain Sucker
<i>Ctenopharyngodon idella</i>	Grass Carp
<i>Esox lucius</i>	Northern Pike
<i>and hybrids involving genus Esox</i>	Tiger Muskellunge
<u><i>Esox americanus vermiculatus</i></u>	<u>Grass pickerel</u>
<i>Meilocheilus caurinus</i>	Peamouth Chub
<i>Oncorhynchus tshawytscha</i> (in its landlocked form as defined in WAC 232-12-018)	Chinook salmon
<i>Oncorhynchus kisutch</i> (in its landlocked form as defined in WAC 232-12-018)	Coho salmon
<i>Pylodictus olivaris</i>	Flathead Catfish
<i>Ptychocheilus oregonensis</i>	Northern Pikeminnow
<i>Salmo trutta</i> <i>and Salvelinus fontinalis hybrid</i>	Tiger Trout

Northern pikeminnow lawfully taken may be offered for sale, sold, purchased or traded.

AMENDATORY SECTION (Amending Order 04-39, filed 3/4/04, effective 5/1/04)

WAC 232-12-168 Fishing contests. (1) Contest defined: By definition, a fishing contest exists when 6 or more licensed persons fish competitively and determine winners, regardless of prize value.

(2) Application:

(a) Fishing contest permit applications should be submitted to the department by November 1 of each year for contests that are to take place the following calendar year. After November 1, applications must be submitted not less than 30 days prior to the date for which the contest is proposed.

(b) Applications must include the permit fee required by RCW 77.32.211. The fee will be returned if the permit is denied. No more than seven permits will be issued to any one permittee during a calendar year. The fee is \$24 per permit.

(c) For purposes of application for a fishing contest permit, "permittee" means a "person" as defined in RCW 77.08.-010. All applications from a permittee must be in a single name.

(3) Approval:

(a) Fishing contests which adversely affect fish or wild-life resources or other recreational opportunity may be denied.

(b) Contests will not be allowed on sea-run cutthroat trout, Dolly Varden or bull trout.

(4) Prize value: Total prize value per contest will not exceed ((~~\$1,000~~) \$5,000) when trout, steelhead, char, whitefish, grayling, or kokanee are included as target species; provided that contests wherein other species not listed above are targeted, or where bass or walleye are the targeted species and at least 90 percent of bass or walleye are released alive and in good condition after the contest, may qualify for no limitation on amount of prize.

(5) Legal requirements, all contests:

(a) Fishing contest permits must be in the possession of the contest sponsor or official at the contest site.

(b) Contests are restricted to the species and waters approved on the permit. Only those species listed as a target of the contest may be retained by contest participants during bass or walleye contests where all contestants fish at the same time and place.

(c) Sponsors must report contest information requested by the department within 30 days after the contest has ended. Subsequent contest permits will not be issued for one year after the date of the contest for which the report was not returned if this requirement is not fulfilled.

(d) Contest participants may not restrict public access at boat launches.

(e) Contests for bass and walleye where participants expect to fish at the same time from boats on lakes or reservoirs will not last longer than three consecutive days and have the following limits per water:

ACRES	BOATS PER	
	CONTESTS PER DAY	CONTEST DAY
Less than 300	1	15
301 - 3,000	1	35
3,001 - 6,000	2	((50) <u>75</u>)
6,001 - 10,000	2	((100) <u>150</u>)
More than 10,000	3	250

* No more than four weekend days per month nor more than two weekends per month may be scheduled on any water when contestants fish at the same time, and are allowed to fish from boats.

(f) It is unlawful for the fishing contest permittee or any of the contest participants to fail to comply with the conditions of the fishing contest permit, or of general fishing rules not specifically exempted by this permit. Failure of the permittee or any of the contestants to comply with all provisions of the contest permit or of other fishing regulations during a

contest may lead to revocation of the permit and result in denial of fishing contest permits to the permittee and related organizations or individuals sponsoring contests for two years.

(6) Special regulations, bass and walleye contests:

(a) In any contest targeting either bass or walleye, all live bass or walleye must be released alive into the water from which they were caught after being weighed and/or measured. At the end of each day's competition, if the mortality of target fish caught that day exceeds 10%, the contest will be suspended. Suspended contests may be continued (within assigned permit dates) only if the cause of the high mortality can be positively identified, and the cause of the mortality (high waves, equipment deficiency, etc.) ceases or is corrected by contest officials.

(b) During bass and walleye contests only, participants may continue to fish while holding up to five fish in possession, as long as one fish is released immediately upon catching a fish which would make the angler in excess of five fish if kept. The fish released may come either from the one just caught, or from the livewell, but at no time may the angler have more than five fish in the livewell.

(c) During bass contests, contestants may not use live bait.

(d) During bass and walleye contests participants may retain up to five bass and walleye of any size to be weighed in. A tournament angler may not be in possession of more than five bass or walleye from the water being fished, except as authorized under (6)(e) below.

(e) The contest director or director designee may exceed possession limits for bass or walleye for the purpose of transporting fish from a weigh-in site to an open-water area. During transportation, the transport boat must not leave the water the fish were caught from and a copy of the contest permit must be on board during actual fish transport.

(f) ~~(Livewell dimensions: During walleye tournaments, all livewells used to hold walleye must be at least 34 inches in length and have a water capacity of at least 20 gallons. Not more than 6 walleye may be placed in a single livewell. All livewells must have both a functional freshwater pump and backup aeration capability.~~

~~(g))~~ Boat identification: All boats used for fishing in bass and walleye contests must be clearly identified according to criteria established by the department.

(7) Zebra mussel decontamination. Prior to participating in a Washington state fishing contest:

(a) All contest participants are required to sign a zebra mussel decontamination statement that their boats and/or boat trailers have or have not been in physical contact with any waters east of the Continental Divide for thirty days immediately preceding the contest and, if the boat and/or trailer has been in contact with such waters the participant must complete a decontamination report indicating that the following actions have been taken:

(i) A physical inspection has been made of the hull, motor, trailer, livewell and bilge by the contest director or designee, and any zebra mussels, if found, have been disposed of in a garbage container; and

(ii) The vessel has been decontaminated by the hull having been:

(A) Pressurized washed with hot soapy water; or

(B) Washed with a household bleach solution of one part bleach to 19 parts water, or the equivalent;

(iii) The motor has been run in a household bleach solution of one part bleach to 19 parts water, or the equivalent, for a minimum of one minute; and

(iv) The bilge and any livewells have been flushed, and the flush water disposed in such a manner that the wastewater will not directly enter state waters, either ground or surface.

(b) The zebra mussel decontamination statement and decontamination report shall be submitted to the department as part of the fishing contest report.

AMENDATORY SECTION (Amending Order 05-168, filed 8/3/05, effective 9/3/05)

WAC 232-12-619 Permanent Washington statewide game fish rules. The following statewide rules apply to all waters unless modified under regional regulation exceptions.

(1) Fishing seasons open at 12:01 a.m. on the first day and close at 11:59 p.m. on the last day and fishing is allowed 24 hours per day.

(2) It is unlawful to:

(a) Use a gaff hook to land game fish.

(b) Take bullfrogs except by angling, hand dip netting, spearing (gigging) or with bow and arrow.

(c) Feed or use any substance to attract game fish unless specifically authorized by special regulations.

(d) Fish for game fish with a bow and arrow or spear.

(e) Possess fish which are under the minimum size or over the maximum size as shown in general or exceptions to state-wide rules.

(3) Seasonal wild steelhead limit: Each angler who possesses a valid steelhead catch record card may not retain more than ~~((thirty))~~ one wild steelhead April 1st through the following March 31st ~~((of which no more than one may be a wild steelhead))~~ from waters in which wild steelhead retention is allowed.

(4) Military personnel, regardless of the length of time in the state of Washington, who are permanently stationed at a military installation within the state, are entitled to purchase a resident license. Military personnel must have a license to fish for game fish anywhere in the state. Dependents must establish a ninety-day residency.

(5) Wild cutthroat release: In waters requiring a wild cutthroat release, it is unlawful to possess any cutthroat that does not have a ~~((missing))~~ clipped adipose fin and a healed scar in the location of the ~~((missing))~~ clipped fin.

(6) Wild steelhead release: In waters requiring wild steelhead release, it is unlawful to possess any steelhead trout that does not have a ~~((missing))~~ clipped adipose or ventral fin and a healed scar at the location of the ~~((missing))~~ clipped fin.

(7) Free fishing weekend: The Saturday and Sunday following the first Monday in June is declared as free fishing weekend in Washington. On this weekend a fishing license is not required for any person, regardless of residency or age, to fish for or possess game fish and a fish and wildlife lands vehicle use permit is not required to utilize department parking facilities, except that it is unlawful to fish for or possess steelhead trout without the required catch record card. During

free fishing weekend only the licensing requirement is affected, and all other rules remain in effect.

~~((8))~~ ~~((Trout taken with bait: When fishing with bait, all trout equal to or greater than the minimum size are counted as part of the daily limit, whether kept or released, except steelhead trout may be caught and released while using bait until the daily limit is retained.~~

~~((9))~~ Fish taken with artificial flies and lures: Where use of bait is prohibited, or where artificial flies or lures are used voluntarily, fish may be released until the daily limit is retained. If any fish has swallowed the hook or is hooked in the gill, eye or tongue, it should be kept if legal to do so.

~~((10))~~ ~~Burbot taken with set line: Where use of a set line is allowed for burbot, a single set line identified with the fisher's name and address and a maximum of five hooks may be used.~~

~~((11))~~ (9) Rainbow trout taken from landlocked lakes: Rainbow trout taken from landlocked lakes shall not be considered steelhead and no catch record card is required.

~~((12))~~ (10) OPEN SEASONS:

LAKES, PONDS, AND RESERVOIRS:	YEAR AROUND, unless specified otherwise under exceptions to state-wide rules.
RIVERS, STREAMS AND BEAVER PONDS:	JUNE 1 THROUGH OCTOBER 31, unless specified otherwise under exceptions to state-wide rules.

Note: The date set for "traditional" April openers for Lakes, Ponds, and Reservoirs for this year and future years is the last Saturday in April.

~~((13))~~ (11) Daily limits and minimum sizes:

GAME FISH SPECIES	DAILY LIMIT	MINIMUM SIZE LIMIT
BASS	Five - release bass greater than twelve but less than seventeen inches in length, only one over seventeen inches may be retained Bass may be caught, retained, and released alive from a livewell until a daily limit is in possession.	None
GRASS CARP....	It is unlawful to fish for or retain grass carp.	
TROUT (except Eastern Brook trout)	A total of five trout, of which no more than two may be from Rivers, Streams, and Beaver Ponds. No more than two of the trout daily catch limit of 5 may be Steelhead.	None in Lakes, Ponds, and Reservoirs. Eight inches in Rivers, Streams, and Beaver Ponds.

GAME FISH SPECIES	DAILY LIMIT	MINIMUM SIZE LIMIT
EASTERN BROOK TROUT (Salvelinus fontinalis)	Five - to be considered part of the trout daily catch limit. Counts as a bonus limit in rivers, streams and beaver ponds. Total of five fish, including brook trout, in these waters.	None
BURBOT	Five	None
CHANNEL CATFISH	Five.	None.

(a) The following game fish species are managed as trout:

- Eastern brook trout
- Brown trout
- Cutthroat trout
- Dolly Varden/Bull trout
- Golden trout
- Grayling
- Kokanee/Silver trout
- Lake trout
- Landlocked Atlantic salmon
- Rainbow trout/Steelhead
- Landlocked chinook and coho
- Tiger trout

(b) Wild steelhead release is required year-round, except as provided in exceptions to statewide rules.

(c) All waters, statewide, are CLOSED YEAR AROUND to fishing for or retaining Dolly Varden/Bull Trout.

Where exceptions to the above closure for Dolly Varden/Bull Trout occur under individual listings in the exceptions to statewide rules, Dolly Varden/Bull Trout count as part of the combined trout daily limit of five.

WALLEYE	Five, not more than one over twenty-two inches Walleye may be caught, retained, and released alive from a livewell until a daily limit is in possession.	Sixteen inches
WHITEFISH	Fifteen	None
ALL OTHER GAME FISH	No Limit	None
BULLFROGS	No Limit	None

~~((14))~~ (12) Daily wild steelhead limit: It is unlawful for any person to retain more than one wild steelhead per day from those waters in which wild steelhead retention is allowed.

~~((15))~~ (13) Possession limit. Except as otherwise provided, the possession limit is two daily limits in fresh, frozen or processed form.

~~((16))~~ (14) Marine waters rules: These rules apply to all marine waters contained within the boundaries of Washington state, within Puget Sound, Hood Canal, the Strait of Juan de Fuca, the San Juan Islands, the Strait of Georgia, and the Pacific Ocean, including estuaries (river mouths) from salt water upstream to a line between the outermost headlands measured at the highest high tide (usually the debris line furthest inshore on surrounding beaches), unless otherwise described under area regulations (see individual areas, below):

(a) Fishing hours: Twenty-four hours per day year around except:

(i) Lake Washington Ship Canal - Those waters of Area 10 west of the Lake Washington Ship Canal to a north-south line 175 feet west of the Burlington-Northern Railroad Bridge are closed waters.

(ii) Toliva Shoal - Waters within 500 yards of the Toliva Shoal buoy are closed waters from June 16 through April 30.

(iii) Freshwater Bay - Waters south of a line from Angeles Point westerly to Observatory Point are closed July 1 through August 31.

(iv) Tulalip Bay - Waters of Tulalip Bay east of a line from Hermosa Point to Mission Point are closed waters.

(b) License requirements: A valid current Washington state department of fish and wildlife saltwater license, and, if appropriate, a sport catch record card, is required to fish for game fish including steelhead in marine waters. All steelhead taken from marine areas shall be entered on the catch record card using the words Marine Area and followed by the appropriate marine area code number.

(c) Gear restrictions: Angling gear only ~~((, and in those waters of Area 10 downstream of the First Avenue South Bridge to an east-west line through southwest Hanford Street on Harbor Island and parallel to southwest Spokane Street where it crosses Harbor Island, nonbuoyant lure restriction July 1 through November 30)).~~ In all areas, underwater spearfishing, spearing, gaffing, clubbing, netting, or trapping game fish is unlawful.

(d) All species: Release all fish except up to two hatchery steelhead may be retained per day.

AMENDATORY SECTION (Amending Order 05-168, filed 8/3/05, effective 9/3/05)

WAC 232-28-619 Washington food fish and game fish—Freshwater exceptions to statewide rules. (1) All freshwater streams and lakes not listed as open for salmon fishing are closed.

(2) County freshwater exceptions to statewide rules:

(a) Adams and Grant counties: All seasons in specific freshwater exceptions to statewide rules apply to inlet and outlet streams of named lakes in Grant and Adams counties.

(b) Adams, Douglas, Franklin, Grant, and Okanogan counties, except Zosel Dam (Okanogan River): Lawful to fish to base of all dams.

(c) Benton County: Rivers, streams and beaver ponds open year around.

(d) Ferry and Lincoln counties: Except those tributaries listed under specific water exceptions to statewide rules, all tributaries to Lake Roosevelt between Grand Coulee Dam and the State Highway 25 Bridge at Northport except Barnaby and Nancy creeks: Trout: Daily limit 5, no minimum size.

(e) Kitsap County and Mason County on Tahuya Peninsula west of Belfair-Bremerton Highway (S.R. 3): Beaver ponds: Last Saturday in April through October 31 season. Trout: No minimum length.

(3) Specific freshwater exceptions to statewide rules:

Aberdeen Lake (Grays Harbor County): Last Saturday in April through October 31 season.

Abernathy Creek (Cowlitz County):

From mouth to a point five hundred feet downstream from salmon hatchery: June 1 through August 31 and November 1 through March 15 season. Trout: Release all fish except up to two hatchery steelhead may be retained per day.

From Abernathy Falls to posted markers five hundred feet downstream from salmon hatchery: Closed waters.

Aeneas Lake (Okanogan County): Last Saturday in April through October 31 season. Fly fishing only. Fishing from a floating device equipped with a motor prohibited. Trout: Daily limit one.

Ahtanum Creek, including North and Middle Forks (Yakima County): Selective gear rules. North Fork from Grey Rock Trailhead Bridge crossing to Shellneck Creek: Closed waters.

Alder Creek (Cowlitz County): Closed waters.

Aldrich Lake (Mason County): Last Saturday in April through October 31 season.

Aldwell Lake (Clallam County): Last Saturday in April through October 31 season. Selective gear rules except fishing from a floating device equipped with ~~((a))~~ an internal combustion motor permitted. Trout: Daily limit two, minimum length twelve inches.

Alexander Lake (Kitsap County): Closed waters.

Alkali Lake (Grant County): Crappie: Not more than five greater than eight inches in length. Bluegill: Not more than five greater than six inches in length.

Alta Lake (Okanogan County): Last Saturday in April through September 30 season.

Amber Lake (Spokane County): Last Saturday in April through September 30 season. Selective gear rules ~~((, except electric motors allowed)).~~ Trout: Daily limit two, minimum length fourteen inches; release rainbow trout ~~((missing))~~ with a clipped adipose fin and a healed scar at the site of the clipped fin. Additional season October 1 through November

30 and March 1 through Friday before last Saturday in April. Selective gear rules (~~((except electric motors allowed))~~). All species: Release all fish.

American Lake (Pierce County): Chumming permitted.

American River (Yakima County): Selective gear rules.

Anderson Lake (Jefferson County): Last Saturday in April through October 31 season. Fishing from a floating device equipped with an internal combustion motor prohibited. From September 1 through October 31, selective gear rules and ~~((all species))~~ trout: Release ~~((all fish))~~ trout.

Armstrong Lake (Snohomish County): Last Saturday in April through October 31 season.

Asotin Creek, mainstem and forks (Asotin County): Closed to fishing for steelhead.

From SR 129 Bridge upstream to the forks: Lawful to fish up to base of Headgate Dam.

North Fork from mouth upstream to USFS boundary: Selective gear rules.

North Fork from USFS boundary upstream and all other tributaries: Closed waters.

South Fork and tributaries: Closed waters.

B.C. Mill Pond (Stevens County): Last Saturday in April through October 31 season.

Bachelor Creek (Yakima County): Year around season. Trout: Daily limit five, no minimum length.

Badger Lake (Spokane County): Last Saturday in April through September 30 season.

Baker Lake (Whatcom County): Last Saturday in April through October 31 season, except closed waters in an area two hundred feet in radius around the pump discharge at the south end of the lake. Chumming permitted. Trout: Minimum length six inches and maximum length eighteen inches.

Baker River (Skagit County): Mouth to Highway 20 Bridge: September 1 through October 31 season. Nonbuoyant lure restriction and night closure. Trout: Minimum length fourteen inches, except Dolly Varden/Bull Trout. Legal to retain Dolly Varden/Bull Trout as part of the trout daily limit, minimum length twenty inches. Salmon: Open only July 1 through July 31 except closed 12:01 a.m. July 5 through 2:00 p.m. July 6 and 12:01 a.m. July 11 through 2:00 p.m. July 12. Nonbuoyant lure restriction and night closure. Daily limit 2 sockeye salmon.

Highway 20 Bridge to Baker River fish barrier dam: Closed waters.

Banks Lake (Grant County): Chumming allowed. Perch: Daily limit twenty-five. Small mouth bass do not count as part of bass daily limit. Small mouth bass 12 to 17 inches in length may be retained. Daily limit 10 small mouth bass not more than one of which may be greater than 14 inches in length.

Barnaby Slough (Skagit County): Closed waters.

Battle Ground Lake (Clark County): Fishing from a floating device equipped with an internal combustion motor prohib-

ited. Trout: No more than 2 trout 20 inches or greater in length may be retained.

Bay Lake (Pierce County): Last Saturday in April through October 31 season.

Bayley Lake (Stevens County): Last Saturday in April through July 4 season. Fly fishing only. Fishing from a floating device equipped with a motor prohibited. Trout: Daily limit one, minimum length fourteen inches. Additional season, July 5 through October 31. Fly fishing only. Fishing from a floating device equipped with a motor prohibited. All species: Release all fish. Inlet stream: Closed waters.

Bear Creek (Yakima County), tributary to South Fork Tieton River: From the mouth to the falls (approximately 3/4 mile): Closed waters.

Bear Lake (Spokane County): Juveniles, holders of disability licenses, and licensed adults accompanied by a juvenile only.

Bear River (Pacific County): June 1 through March 31 season. Nonbuoyant lure restriction and night closure August 16 through November 30. Single point barbless hooks required August 16 through November 30 downstream from the Lime Quarry Road. All species: Release all fish except salmon and except up to two hatchery steelhead may be retained each day. Upstream from the Lime Quarry Road: Selective gear rules June 1 through March 31. All ~~((game fish))~~ species: Release all fish except up to two hatchery steelhead may be retained each day. Salmon: Open only September 1 through November 30 from mouth to Lime Quarry Road. Daily limit 6 fish of which no more than 2 may be adult fish and of these two fish no more than one may be a wild adult coho. Release adult chinook.

Beaver Creek (tributary to Elochoman River) (Wahkiakum County): Closed waters.

Beaver Lake (Clallam County): Selective gear rules except electric motors allowed. Trout: Maximum size 12 inches in length.

Beaver Lake (Columbia County): March 1 through October 31 season. Fishing from any floating device prohibited.

Beda Lake (Grant County): Selective gear rules. Trout: Daily limit one fish.

Beehive (Lake) Reservoir (Chelan County): Last Saturday in April through October 31 season. July 5 through October 31, selective gear rules, and all species: Release all fish.

Bennington Lake (Mill Creek Reservoir) (Walla Walla County): Fishing from a floating device equipped with an internal combustion motor prohibited. Trout: No more than 2 trout over 13 inches in length may be retained.

Benson Lake (Mason County): Last Saturday in April through October 31 season.

Berry Creek (tributary to Nisqually River) (Lewis County): Selective gear rules.

Big Bear Creek (tributary of Sammamish River) (Snohomish/King counties): ~~((Closed waters.))~~ See Lake Washington tributaries.

Big Beaver Creek (Whatcom County):

From closed water markers on Ross Lake upstream one-quarter mile: Closed waters.

From one-quarter mile markers upstream, including tributary streams, and beaver ponds that are tributary to Big Beaver Creek: July 1 through October 31 season. Selective gear rules. All species: Release all fish.

Big Beef Creek (Kitsap County): June 1 through August 31 season. Selective gear rules. All species: Release all fish.

Big Four Lake (Columbia County): March 1 through October 31 season. Fly fishing only. Fishing from any floating device prohibited. Trout: Daily limit two.

Big Lake (Skagit County): Crappie: Daily limit ten, minimum length nine inches. Salmon: Landlocked salmon rules apply.

Big Meadow Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Big Quilcene River (Jefferson County):

From mouth to upper boundary of Falls View Campground: June 1 through last day in February season. Closed waters: August 16 through October 31 from mouth to Rodgers Street. Rodgers Street to the Highway 101 Bridge: Selective gear rules June 1 through last day in February and night closure August 16 through December 31. From electric weir to upper boundary of Falls View Campground: Selective gear rules June 1 through last day in February. All game fish: Release all fish from mouth to campground. Salmon: Open only August 16 through October 31 from Rodgers Street to the Highway 101 Bridge. Daily limit 4 coho salmon.

From Highway 101 Bridge upstream to the electric weir at the Quilcene National Fish Hatchery: Closed waters.

Big River (Clallam County): June 1 through last day in February season. Selective gear rules. Trout: Minimum length fourteen inches.

Big Twin Lake (Okanogan County): Last Saturday in April through October 31 season. Selective gear rules except electric motors permitted. Trout: Daily limit one.

Bird Creek (Klickitat County): Trout: Daily limit five.

Black Lake (Lower Wheeler Reservoir) (Chelan County): Last Saturday in April through October 31 season. July 5 through October 31, selective gear rules, and all species: Release all fish.

Black Lake (Okanogan County): Selective gear rules.

Black Lake (Pacific County): Last Saturday in April through October 31 season.

Black Lake (Stevens County): Last Saturday in April through October 31 season.

Black Lake (Thurston County): Crappie: Daily limit ten, minimum length nine inches.

Black River (Thurston County), from mouth to Black Lake and including all tributaries west of Interstate Highway 5, including Waddell Creek, Mima Creek, Dempsey Creek,

Beaver Creek, Salmon Creek and Blooms Ditch: Selective gear rules. Trout: Minimum length fourteen inches.

Blackman Lake (Snohomish County): Trout: Daily limit 3 trout.

Blockhouse Creek (Klickitat County): Trout: Daily limit five.

Bloodgood Creek (Klickitat County): Trout: Daily limit five.

Blue Creek (Lewis County), from mouth to Spencer Road: Closed waters except December 1 through December 31 season from mouth to posted sign at rearing pond outlet. Closed waters: Upstream from cable crossing to posted signs at fence. Nonbuoyant lure restriction and night closure. Only wheelchair-bound anglers may fish from posted signs above rearing pond to posted signs approximately 40 feet downstream at fence including the rearing pond outlet. Trout: Daily limit five. Minimum size 12 inches no more than two fish over 20 inches. Release wild cutthroat, wild steelhead and hatchery steelhead with missing right ventral fin.

Blue Lake (Columbia County): March 1 through October 31 season. Fishing from any floating device prohibited. Trout: No more than 2 trout over 13 inches in length may be retained.

Blue Lake (Cowlitz County): Last Saturday in April through October 31 season. Selective gear rules. All species: Release all fish.

Blue Lake (Grant County): Last Saturday in April through September 30 season.

Blue Lake (near Sinlahekin) (Okanogan County): Last Saturday in April through October 31 season. Selective gear rules(~~(, except electric motors allowed)~~). Trout: Daily limit one.

Blue Lake (near Wannacut Lake) (Okanogan County): Last Saturday in April through October 31 season. Selective gear rules(~~(, except electric motors allowed)~~). Trout: Daily limit one.

Bobcat Creek and Ponds (Adams County): April 1 through September 30 season.

Bogachiel River (Clallam County), from mouth to Olympic National Park boundary: June 1 through April 30 season. December 1 through April 30, selective gear rules from Highway 101 to Olympic National Park boundary. Trout: Minimum length fourteen inches. November 1 through last day in February, daily limit three steelhead downstream from Highway 101 Bridge. December 1 through April 30, mouth to Highway 101, one wild steelhead per day may be retained. Salmon: Open only July 1 through November 30 from mouth to Highway 101 Bridge. Daily limit 6 fish of which no more than 2 may be adult salmon July 1 through August 31 and of which no more than 3 may be adult salmon September 1 through November 30. July 1 through August 31 release wild adult coho and unmarked adult chinook. Unmarked chinook are chinook with unclipped adipose and ventral fins. September 1 through November 30 the daily limit may contain no

more than 2 adult chinook or 2 adult wild coho or a combination of adult chinook and adult wild coho.

Bonaparte Lake (Okanogan County): Trout: No more than one over twenty inches in length may be retained.

Bosworth Lake (Snohomish County): Last Saturday in April through October 31 season.

Boundary Creek (Clallam County): Closed waters.

Bowman Creek (Klickitat County): Trout: Daily limit five.

Box Canyon Creek (Kittitas County), from mouth to waterfall approximately 2 miles upstream: Closed waters. From waterfall approximately 2 miles upstream of mouth to USFS Road #4930 Bridge: Selective gear rules.

Boxley Creek (North Bend) (King County), from its mouth to the falls located at approximately river mile 0.9: Closed waters.

Boyle Lake (King County): Last Saturday in April through October 31 season. The inlet and outlet streams to Boyle Lake are closed waters.

Bradley Lake (Pierce County): Salmon: Landlocked salmon rules apply.

Bridges Lake (King County): Last Saturday in April through October 31 season. The inlet and outlet streams to Bridges Lake are closed waters.

Brookies Lake (Grant County): Selective gear rules. Trout: Daily limit one fish.

Browns Creek (Pend Oreille County): Fly fishing only.

Browns Lake (Pend Oreille County): Last Saturday in April through October 31 season. Fly fishing only. Fishing from a floating device equipped with a motor prohibited. Trout: No more than one fish greater than 11 inches in length may be retained.

Buck Lake (Kitsap County): Last Saturday in April through October 31 season.

Buckskin Creek and tributaries (Yakima County), from mouth to the west boundary of Suntides Golf Course: Closed waters.

Bumping Lake (Reservoir) (Yakima County): Chumming permitted. Trout: Kokanee not counted in daily trout limit. Kokanee daily limit sixteen.

Bumping River (Yakima County):

From mouth to Bumping Reservoir: Lawful to fish to base of Bumping Dam. Selective gear rules June 1 through October 31. Whitefish: Additional December 1 through March 31 season. Whitefish gear rules apply.

Burbank Slough (Walla Walla County): Fishing from any floating device prohibited.

Burke Lake (Grant County): March 1 through July 31 season.

Burley Creek (Kitsap County): June 1 through last day in February season. Trout: Minimum length fourteen inches.

Butter Creek (Lewis County): Selective gear rules. Trout: Minimum length ten inches.

Buttermilk Creek, mouth to confluence of East and West Forks (Okanogan County): Closed waters.

Cady Lake (Mason County): Fly fishing only. Fishing from a floating device equipped with an internal combustion motor prohibited. All species: Release all fish.

Cain Lake (Whatcom County): Last Saturday in April through October 31 season.

Calawah River (Clallam County), from mouth to forks: June 1 through April 30 season. December 1 through April 30, selective gear rules from Highway 101 to forks. Trout: Minimum length fourteen inches. December 1 through April 30, mouth to Highway 101, one wild steelhead per day may be retained. Salmon: Open only July 1 through November 30 from mouth to Highway 101 Bridge. Daily limit 6 fish of which no more than 2 may be adult salmon July 1 through August 31 and of which no more than 3 may be adult salmon September 1 through November 30. July 1 through August 31 release wild adult coho and unmarked adult chinook. Unmarked chinook are chinook with unclipped adipose and ventral fins. September 1 through November 30 the daily limit may contain no more than 2 adult chinook or 2 adult wild coho or a combination of adult chinook and adult wild coho.

Calawah River, South Fork (Clallam County) from mouth to Olympic National Park boundary: June 1 through last day in February season. December 1 through last day in February, selective gear rules. November 1 through last day in February, daily limit three steelhead from mouth to Highway 101 Bridge. Trout: Minimum length fourteen inches.

Caldwell Lake (Pend Oreille County): Last Saturday in April through October 31 season. Fishing from a floating device equipped with an internal combustion motor prohibited. Trout: Daily limit two, minimum length twelve inches.

Caliche Lakes, Lower, Upper and West (Grant County): March 1 through July 31 season.

Calispell Creek (Calispell River) (Pend Oreille County):

From mouth to Calispell Lake: Year around season.

From Calispell Lake upstream to source: Selective gear rules.

Calispell Lake, Calispell Creek and tributaries (Pend Oreille County): Trout: Eastern brook trout not counted in daily trout limit. Eastern brook trout daily limit ten.

Calligan Lake (King County): June 1 through October 31 season. All tributary streams, and the upper third of the outlet are closed waters.

Camas Slough: Waters of the Columbia River downstream from the mouth of the Washougal River, north of Lady Island, and downstream of the Highway 14 Bridge at the upstream end of Lady Island. Season: Same rules as adjacent waters of the Columbia River.

Campbell Creek (Mason County): Closed waters.

Campbell Lake (Okanogan County): April 1 through August 31: Selective gear rules and all species: Release all fish.

Campbell Lake (Skagit County): Crappie: Daily limit ten, minimum length nine inches.

Canyon Creek (Clark County): Trout: Daily limit five.

Canyon River (Mason County and Grays Harbor County): Closed waters.

Canyon Creek (S.F. Stillaguamish River) (Snohomish County), mouth to forks: June 1 through last day in February season. Trout: Minimum length fourteen inches.

Canyon Creek (Whatcom County): Closed waters: Mouth to Canyon Creek Road Bridge.

Capitol Lake (Thurston County), from its outlet to a point four hundred feet below the lowest Tumwater Falls (Deschutes River) fish ladder: Closed waters: Percival Cove, west of a set of markers on the western shoreline of the south basin of Capitol Lake. June 1 through March 31 season. Non-buoyant lure restriction and night closure August 1 through November 30. Trout: June 1 through July 31 daily limit five, minimum length eight inches. August 1 through March 31 daily limit two, minimum length fourteen inches. Salmon: Open only July 1 through November 30. Daily limit 6 fish of which no more than 2 may be adult salmon. Release coho.

Carbon River (Pierce County), from its mouth to Voight Creek: (~~June~~) July 1 through last day in February season. Nonbuoyant lure restriction, night closure and single point barbless hooks August 1 through November 30. Trout: Minimum length fourteen inches. Voight Creek to Highway 162 Bridge: (~~June~~) July 1 through August 15 and (~~December~~) September 1 through last day in February season: Trout: Minimum length 14 inches. All species: Release all fish except salmon September 1 through November 30. Salmon: Open only September 1 through November 30 mouth to Voight Creek. Daily limit 6 fish of which no more than 4 may be adult salmon and of these 4 fish no more than 2 may be adult hatchery chinook. Release chum and wild adult chinook salmon.

Carlisle Lake (Lewis County): Last Saturday in April through last day in February season. Fishing from a floating device equipped with an internal combustion motor prohibited. Salmon: Landlocked salmon rules apply.

Carl's Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Carney Lake (Pierce County): Last Saturday in April through June 30 and September 1 through November 30 seasons. Fishing from a floating device equipped with an internal combustion motor prohibited. Salmon: Landlocked salmon rules apply.

Carson Lake (Mason County): Last Saturday in April through October 31 season.

Cascade Lake (Grant County): March 1 through July 31 season.

Cascade Lake (San Juan County): Last Saturday in April through October 31 season.

Cascade River (Skagit County):

From the mouth to the Rockport-Cascade Road Bridge: October 1 through last day in February season. Nonbuoyant lure restriction and night closure September 16 through November 30. Trout: Trout except Dolly Varden/Bull Trout, minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of the trout daily limit, minimum length twenty inches. Salmon: Open only September 16 through November 30. Daily limit 4 coho salmon.

From the Rockport-Cascade Road Bridge upstream: June 1 through last day in February season. Trout: Trout except Dolly Varden/Bull Trout, minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of the trout daily limit, minimum length twenty inches.

Cases Pond (Pacific County): Last Saturday in April through November 30 season. Juveniles only. Salmon: Landlocked salmon rules apply.

Cassidy Lake (Snohomish County): Crappie: Daily limit ten, minimum length nine inches.

Castle Lake (Cowlitz County): Selective gear rules. Trout: Daily limit one, minimum length sixteen inches.

Cattail Lake (Grant County): April 1 through September 30 season.

Cavanaugh Lake (Skagit County): Chumming permitted.

Cedar Creek (tributary of N.F. Lewis) (Clark County), from mouth to 100 feet upstream of the falls: From the Grist Mill Bridge to 100 feet upstream of the falls: Closed waters. June 1 through March 15 season. Trout: Release all fish except up to two hatchery steelhead may be retained per day.

Cedar Creek (Jefferson County): June 1 through last day in February season. Selective gear rules. Trout: Minimum length fourteen inches.

Cedar Creek (Okanogan County), from mouth to Cedar Falls: Closed waters.

Cedar Creek and tributaries (Pend Oreille County): Trout: Eastern brook trout not counted in daily trout limit. Eastern brook trout daily limit ten.

Cedar Lake (Stevens County): Last Saturday in April through October 31 season.

Cedar River (King County), from mouth to Landsburg Road: June 1 through August 31 season. Selective gear rules and night closure. All species: Release all fish except up to two trout per day between ten and sixteen inches in length may be retained from mouth to Highway 18 Bridge. Landsburg Road to Cedar Falls: Closed waters.

Cedar River (Pacific County): Selective gear rules. All species: Release all fish except up to two hatchery steelhead per day may be retained.

Chain Lake (Pend Oreille County): Last Saturday in April through October 31 season. Release kokanee.

Chambers Creek (Pierce County): July 1 through November 15 season. Night closure and nonbuoyant lure restriction.

Chambers Creek Estuary (downstream from markers 400 feet below the Boise-Cascade Dam to the Burlington Northern Railroad Bridge) (Pierce County): July 1 through November 15 season. Night closure and nonbuoyant lure restriction. Trout: Minimum length fourteen inches. Salmon: Open only July 1 through November 15. Daily limit 6 fish of which no more than 2 may be adult salmon. Release wild coho.

Chambers Lake (within Ft. Lewis Military Reservation) (Pierce County): Selective gear rules (~~(except electric motors allowed)~~). Trout: Release all trout.

Chaplain Lake (Snohomish County): Closed waters.

Chapman Lake (Spokane County): Last Saturday in April through October 31 season. Chumming permitted. Trout: Kokanee not counted in daily trout limit. Kokanee daily limit ten.

Chehalis River (Grays Harbor County), from Highway 101 Bridge in Aberdeen to high bridge on Weyerhaeuser 1000 line (approximately 400 yards downstream from Roger Creek): June 1 through April 15 season. Single point barbless hooks required August 16 through November 30. Trout: Minimum length fourteen inches. March 25 through March 31, one wild steelhead may be retained from mouth to Fuller Bridge. Salmon: Open only April 16 through July 31 from mouth to high bridge, October 1 through January 31 from mouth to Porter Bridge, and October 16 through last day in February from Porter Bridge to high bridge. Daily limit 6 fish of which no more than 2 may be adult salmon. October 1 through November 30, mouth to Porter Bridge, release adult chinook. October 16 through November 30, Porter Bridge to High Bridge, release adult chinook. December 1 through January 31, mouth to Porter Bridge, the daily limit may contain no more than one wild adult coho, and release adult chinook. December 1 through last day in February, Porter Bridge to High Bridge, release adult chinook and wild adult coho. Sturgeon: Open year-round and no night closure from mouth to high bridge on Weyerhaeuser 1000 line.

Chehalis River, South Fork (Lewis County), from mouth to Highway Bridge at Boistfort School: June 1 through April 15 season. Trout: Minimum length fourteen inches.

Chehalis River Potholes (adjacent to the Chehalis River south of Highway 12 in Grays Harbor County, this does not include sloughs or beaver ponds): Last Saturday in April through October 31 season.

Chelan Hatchery Creek (Chelan County): Closed waters.

Chelan Lake (Chelan County): Closed waters: Within 400 feet of all tributaries south of a line from Purple Point at Stehekin and Painted Rocks. Trout except kokanee and lake trout: Daily limit 5. Release wild cutthroat. Lake trout not counted in daily trout limit. Lake trout no minimum size, no daily limit. Kokanee not counted in daily trout limit. Kokanee daily limit ~~((five))~~ 10, no minimum length. ~~((Burbot. Set line gear allowed.))~~ North of a line between Purple Point at Stehekin and Painted Rocks: April 1 through July 31: All spe-

cies: Release all fish. Salmon: Open only May 1 through May 31 south of a line from Purple Point to Painted Rocks: Daily limit 1, minimum length 15 inches.

Chelan Lake Tributaries (Chelan County), from mouths upstream one mile except Stehekin River: August 1 through September 30 season. Selective gear rules. Trout: Release wild cutthroat.

Chelan River (Chelan County): From the railroad bridge to the Chelan P.U.D. safety barrier below the power house: May 15 through August 31 season. Nonbuoyant lure restriction. Trout: Release all trout.

Chewuch River (Chewack River) (Okanogan County), from mouth to Eight Mile Creek: June 1 through ~~((September 30))~~ August 15 season. Selective gear rules. All species: Release all fish.

Upstream from Eight Mile Creek to Pasayten Wilderness boundary: Closed waters June 1 through October 31.

From mouth to Pasayten Wilderness boundary: Additional December 1 through March 31 season. Whitefish gear rules apply.

Chikamin Creek (Chelan County): Selective gear rules.

Chimacum Creek (Jefferson County):

From mouth to Ness's Corner Road: June 1 through August 31 season. Trout: Minimum length fourteen inches.

From Ness's Corner Road to headwaters: Trout: Minimum length fourteen inches.

Chiwaukum Creek (Chelan County): Mouth to Fool Hen Creek: Closed waters.

Chiwawa River (Chelan County): Mouth to Buck Creek: Closed waters.

Chopaka Lake (Okanogan County): Last Saturday in April through October 31 season. Fly fishing only. Fishing from a floating device equipped with a motor prohibited. Trout: Daily limit one.

Cispus River (Lewis County), from mouth to North Fork: Trout: Release all cutthroat. Additional season November 1 through May 31, release all game fish other than steelhead. Salmon: Open year around. Daily limit 6 fish, of which no more than 2 fish may be adult salmon. Salmon minimum size 8 inches. Release wild coho at all times and release wild chinook January 1 through July 31.

Cispus River, North Fork (Lewis County): Selective gear rules. Trout: No more than one over twelve inches in length. Release cutthroat.

Clallam River (Clallam County): June 1 through last day in February season. Trout: Minimum length fourteen inches.

Clara Lake (Mason County): Last Saturday in April through October 31 season.

Clear Creek (Chelan County): Closed waters.

Clear Lake (Chelan County): Last Saturday in April through October 31 season. From July 5 through October 31, selective gear rules and all species: Release all fish.

Clear Lake (Pierce County): Last Saturday in April through October 31 season. Chumming permitted. Salmon: Land-locked salmon rules apply.

Clear Lake (Spokane County): Last Saturday in April through October 31 season.

Clear Lake (Thurston County): Last Saturday in April through October 31 season.

Clearwater River (Jefferson County):

From mouth to Snahapish River: June 1 through April 15 season. Trout: Minimum length fourteen inches. December 1 through April 15, one wild steelhead per day may be retained. Salmon: Open only September 1 through November 30. Daily limit 6 fish of which no more than 2 may be adult salmon.

From Snahapish River upstream: Trout, minimum length fourteen inches.

Clearwater River (Pierce County): July 1 through October 31 season. Selective gear rules. Trout: Minimum length fourteen inches.

Cle Elum Lake (Reservoir) (Kittitas County): Trout except kokanee: Daily limit two, minimum length twelve inches. Kokanee not counted in daily trout limit. Kokanee daily limit sixteen, no minimum size. (~~Burbot: Set line gear allowed.~~)

Cle Elum River (Kittitas County), from mouth to Cle Elum Dam: Lawful to fish to base of Cle Elum Dam. Year-round season. Selective gear rules, except December 1 through March 31 bait and one single point barbed hook three-sixteenths or smaller point to shank may be used. Trout: Release all trout. Above Cle Elum Lake to outlet of Hyas Lake except Tucquala Lake: Selective gear rules.

Cliff Lake (Grant County): March 1 through July 31 season.

Cloquallum Creek (Grays Harbor County):

From mouth to second bridge on Cloquallum Road: June 1 through last day in February season. Trout: Minimum length fourteen inches.

From mouth to Highway 8 Bridge: Additional March 1 through March 31 season. Trout: Minimum length fourteen inches.

Clough Creek (North Bend) (King County): Closed waters.

Clover Creek (Pierce County), within the boundaries of McChord Air Force Base: Selective gear rules. Trout: Daily limit two, minimum length twelve inches.

Coal Creek (Cowlitz County), from mouth to four hundred feet below falls: June 1 through August 31 and November 1 through last day in February season. Trout: Release all fish except up to two hatchery steelhead may be retained per day.

Coal Creek (tributary of Lake Washington) (King County): (~~Closed waters.~~) See Lake Washington tributaries.

Coal Creek (near Snoqualmie) (King County), from mouth to Highway I-90: Last Saturday in April through October 31 season. Juveniles only. Trout: No minimum length.

Coffee Pot Lake (Lincoln County): March 1 through September (~~15~~) 30 season. Selective gear rules except internal

combustion motors allowed. Trout: Daily limit (~~two~~) one, minimum length eighteen inches. (~~Bass: Daily limit two, maximum length fourteen inches.~~) Crappie: Daily limit ten, minimum length nine inches.

Coldwater Lake (Cowlitz County): Selective gear rules (~~except use of electric motors allowed~~). Trout: Daily limit one, minimum length sixteen inches.

Coldwater Lake inlet and outlet streams (Cowlitz County): Closed waters.

Collins Lake (Mason County): Last Saturday in April through October 31 season.

Columbia Basin Hatchery Creek (Grant County): Hatchery outflow to confluence with mainstem Hatchery Creek: April 1 through September 30 season. Juveniles and holders of reduced fee disability licenses only. Mainstem Hatchery Creek: April 1 through September 30 season. Juveniles and holders of reduced fee disability licenses only.

Columbia Park Pond (Benton County): Juveniles and holders of reduced fee disability licenses only. All species: Daily limit of five fish combined.

Columbia River, including impoundments and all connecting sloughs, except Wells Ponds: Year-round season unless otherwise provided. General species provisions (unless otherwise provided for in this section): Bass: Below Priest Rapids Dam: Daily limit five fish, bass 12 to 17 inches in length may be retained. Up to but not more than three of the daily limit may be over 15 inches. Trout: Daily limit two fish, minimum length 12 inches, except release all Dolly Varden/Bull Trout. Walleye: Daily limit five fish of which not more than one may be over 24 inches, minimum length 18 inches. Whitefish: Daily limit 15 fish. All other game fish: No daily limit, except release all grass carp.

In the Columbia River between Washington and Oregon, the license of either state is valid. Anglers must comply with the fishing regulations of the state in which they are fishing. This provision does not allow an angler licensed in Oregon to fish on the Washington shore, or in the sloughs or tributaries in Washington except Camas Slough, where the license of either state is valid when fishing from a floating device.

Anglers fishing the Columbia River are restricted to one daily limit, as defined by the laws of the state in which they are fishing, even if they are licensed by both states.

From a true north-south line through Buoy 10 to a line between Rocky Point in Washington to Tongue Point in Oregon: Trout: Release wild cutthroat. Release all trout April 1 through July 31. Walleye: No minimum size. Daily limit ten, of which no more than five may be greater than eighteen inches in length and one greater than twenty-four inches in length. Fishing from the north jetty is allowed during salmon season openings. Salmon: Open only August 1 through March 31. August 1 through September 30, daily limit 2 salmon of which not more than one may be a chinook salmon. Release chum, sockeye, wild coho, chinook less than 24 inches in length, and coho less than 16 inches in length. October 1 through December 31, daily limit 6 fish of which no more than 2 may be adult salmon and not more than one of which may be an adult chinook salmon. Release chum, sock-

eye, and wild coho. January 1 through March 31, daily limit 6 fish of which no more than 2 may be adult salmon. Release chum, sockeye, wild coho and wild chinook. Fishing from the north jetty for salmon open during both Area 1 and Buoy 10 fishery openings with barbed hooks allowed and the daily limit is the more liberal if both areas are open. Sturgeon: Release sturgeon May 1 through May 14 and July 24 through December 31. Minimum size when open to retain sturgeon is ((45)) 40 inches.

From the Rocky Point - Tongue Point line to the I-5 Bridge: Trout: Release wild cutthroat. Release all trout April 1 through May 15. Walleye: No minimum size. Daily limit ten, of which no more than five may be greater than eighteen inches in length and one greater than twenty-four inches in length. Salmon: Open only May 16 through March 31. May 16 through June 15 daily limit 6 hatchery jack chinook. June 16 through July 31, daily limit 6 fish of which no more than 2 may be adult salmon. Release sockeye. August 1 through March 31, daily limit 6 fish of which no more than 2 may be adult salmon. Release chum, sockeye, and wild coho. August 1 through December 31 the daily limit may contain not more than 1 adult chinook. Release wild chinook January 1 through March 31. Sturgeon: (1) Release sturgeon May 1 through May 14 and July 24 through December 31 downstream from the Wauna powerlines. Minimum size when open to retain sturgeon is ((45)) 40 inches; (2) I-5 Bridge downstream to Wauna powerlines, lawful to retain sturgeon only on Thursdays, Fridays, and Saturdays from February 1 through July 31, and October 1 through December 31. Release sturgeon on other days and during other time periods.

From the I-5 Bridge to the Highway 395 Bridge at Pasco: Closed waters: (1) From the upstream line of Bonneville Dam to boundary markers located six hundred feet below the fish ladder, and closed to fishing from a floating device or fishing by any method except hand-casted gear from shore from Bonneville Dam downstream to a line from the Hamilton Island boat ramp to an Oregon boundary marker on Robins Island. (2) Waters from the upstream side of the Interstate Bridge at The Dalles to upper line of The Dalles Dam except that bank fishing is permitted up to the downstream navigation lock wall on the Washington shore. (3) From John Day Dam downstream about three thousand feet except that bank fishing is permitted up to four hundred feet below the fishway entrance on the Washington shore. (4) From McNary Dam downstream to a line across the river from the red and white marker on the Oregon shore on a line that intersects the downstream end of the wing wall of the boat lock near the Washington shore. August 1 through October 15: Nonbuoyant lure restriction and night closure from Bonneville Dam to The Dalles Dam. Trout: Release wild cutthroat from I-5 Bridge to Bonneville Dam and release all cutthroat in the waters of Drano Lake. Release all trout April 1 through June 15. Walleye: No minimum size. Daily limit ten, of which no more than five may be greater than eighteen inches in length and one greater than twenty-four inches in length. Sturgeon: (1) Sturgeon fishing is closed from Bonneville Dam to a line from a boundary marker on the Washington shore approximately 4,000 feet below the fish ladder to the downstream end of Cascade Island to an Oregon angling boundary on Bradford Island (the Cascade Island - Bradford Island line).

(2) It is unlawful to fish for sturgeon from May 1 through July 31 from Cascade Island - Bradford Island line downstream to markers on the Washington and Oregon shores at Beacon Rock. (3) Cascade Island - Bradford Island line downstream to I-5 Bridge, lawful to retain sturgeon only on Thursdays, Fridays, and Saturdays from February 1 through July 31 and October 1 through December 31, except for May 1 - July 31 closure to Beacon Rock. Release sturgeon on other days and during other time periods. (4) Release sturgeon September 1 through December 31 from the upstream line of Bonneville Dam and 400 feet below McNary Dam. Salmon: Open only June 16 through December 31 except closed November 1 through December 31 from Beacon Rock to Bonneville Dam. June 16 through July 31, daily limit 6 fish of which no more than 2 may be adult salmon. Release sockeye. August 1 through December 31, daily limit 6 fish of which no more than 2 may be adult salmon. Release chum and sockeye. Release wild coho downstream of Bonneville Dam. August 1 through December 31, daily limit may contain not more than 1 adult chinook downstream from Bonneville Dam.

From the Highway 395 Bridge at Pasco to the old Hanford townsite (wooden towers) powerline crossing, in Sec. 30, T13N, R28E except Ringold Hatchery waters: Closed waters: Ringold Springs Creek (Hatchery Creek). Trout: Release all trout except hatchery steelhead having both adipose and ventral fin clips October 1 through October 31. Release all trout except hatchery steelhead November 1 through March 31. Salmon: Open only June 16 through July 31 and August 16 through December 31. Daily limit 6 fish of which no more than 2 may be adult salmon. Release sockeye June 16 through July 31. Walleye: Daily limit 10 fish. No minimum size, no more than 5 fish over 18 inches in length. No more than 1 fish over 24 inches in length. Ringold Springs Rearing Facility waters (from WDFW markers 1/4 mile downstream from the Ringold wasteway outlet to WDFW markers 1/2 mile upstream from Spring Creek): Open only April 1 through April 15 to fishing from the bank on the hatchery side of the river. Trout: Release all fish except hatchery steelhead.

From the old Hanford townsite (wooden towers) powerline crossing in Sec. 30, T13N, R28E, to Vernita Bridge, (Highway 24): All species: February 1 through October 22 season. Trout: Release all trout. Walleye: Daily limit 10 fish. No minimum size, no more than 5 fish over 18 inches in length. No more than 1 fish over 24 inches in length. Salmon: Open only June 16 through July 31 and August 16 through October 22. Daily limit 6 fish of which no more than 2 fish may be adult salmon. Release sockeye June 16 through July 31.

From Vernita Bridge (Highway 24) to Priest Rapids Dam: Closed waters: (1) Priest Rapids Dam - waters between the upstream line of Priest Rapids Dam downstream to the boundary markers six hundred fifty feet below the fish ladders. (2) Jackson (Moran Creek or Priest Rapids Hatchery outlet) Creek - all waters of the Priest Rapids Hatchery system to the outlet on the Columbia River, extending to mid-stream Columbia between boundary markers located one hundred feet upstream and four hundred feet downstream of the mouth. Trout: Release all trout. Walleye: Daily limit 10 fish. No minimum size, no more than 5 fish over 18 inches in

length. No more than 1 fish over 24 inches in length. Salmon: Open only June 16 through July 31 and August 16 through October 22. Daily limit 6 fish of which no more than 2 may be adult salmon. Release sockeye June 16 through July 31.

From Priest Rapids Dam to Chief Joseph Dam, including up to base of Washburn Pond outlet structure: Closed waters: (1) Wanapum Dam - waters between the upstream line of Wanapum Dam to the boundary markers seven hundred fifty feet downstream of the east fish ladder and five hundred feet downstream of the west fish ladder. (2) Rock Island Dam to boundary markers four hundred feet downstream of the fish ladders. (3) Rocky Reach Dam - waters between the upstream line of Rocky Reach Dam to boundary markers four hundred feet downstream of the fish ladders. (4) Wells Dam - waters between the upstream line of Wells Dam to boundary markers four hundred feet downstream of the spawning channel discharge (Chelan County) and fish ladder (Douglas County). (5) Chief Joseph Dam - closed to fishing from the Okanogan County shore between the dam and the Highway 17 Bridge. Closed to fishing from a floating device from the boundary marker to the Corps of Engineers safety zone marker. Trout: Release all trout. Salmon: Open only July 16 through October 15. Daily limit 6 fish of which no more than 2 may be adult salmon. Release coho and sockeye. From Wells Dam to Chief Joseph Dam, open only from Highway 173 Bridge at Brewster to Highway 17 Bridge at Bridgeport. Sturgeon: Release all sturgeon.

Above Chief Joseph Dam: See Lake Roosevelt and Rufus Woods Lake.

Colville River (Stevens County):

From mouth to bridge at Town of Valley: Year-round season. Trout: Daily limit five fish, not more than two of which may be brown trout October 1 through November 30. Walleye: No minimum size. Daily limit five fish not more than one of which may be longer than 18 inches. Sturgeon: Unlawful to fish for or retain sturgeon.

From bridge at Valley upstream and tributaries: Selective gear rules.

Conconully Lake (Okanogan County): Last Saturday in April through October 31 season.

Conconully Reservoir (Okanogan County): Last Saturday in April through October 31 season.

Conger Pond (Pend Oreille County): Last Saturday in April through October 31 season.

Connelly Creek and tributaries (Lewis County), from four hundred feet below the city of Morton Dam to its source: Closed waters.

Conner Lake (Okanogan County): Last Saturday in April through October 31 season.

Cooper River (Kittitas County): Mouth to Cooper Lake: Selective gear rules.

Coot Lake (Grant County): April 1 through September 30 season.

Copalis River (Grays Harbor County): June 1 through last day in February season. Trout: Minimum length fourteen

inches. Salmon: Open only September 1 through January 31 from mouth to Carlisle Bridge. Daily limit 6 fish of which no more than 2 may be adult salmon. Release adult chinook.

Cottage Lake (King County): Last Saturday in April through October 31 season.

Cottonwood Creek (Lincoln County): Year-round season.

Cougar Creek (tributary to Yale Reservoir) (Cowlitz County): June 1 through August 31 season.

Cougar Lake (near Winthrop) (Okanogan County): September 1 through March 31 season.

Coulter Creek (Kitsap/Mason counties): Trout: Minimum length fourteen inches.

County Line Ponds (Skagit County): Closed waters.

Coweeman River (Cowlitz County), from mouth to Mulholland Creek: June 1 through ~~(March)~~ April 15 season. March 16 through April 15: Selective gear rules. Trout: Release all fish except up to two hatchery steelhead may be retained per day.

Cowiche Creek (Yakima County): Selective gear rules.

Cowlitz Falls Reservoir (Lake Scanewa) (Lewis County): June 1 through last day in February season. The upstream boundary of the reservoir in the Cowlitz arm is the posted PUD sign on Peters Road. The upstream boundary of the reservoir in the Cispus arm is the posted markers at the Lewis County PUD kayak launch, approximately 1.5 miles upstream from the confluence of the Cowlitz and Cispus arms. Trout and salmon: Minimum length eight inches. Trout: Release cutthroat. Release rainbow trout except rainbow trout with a clipped adipose fin and a healed scar at the site of the clipped fin. Salmon: Daily limit 6 fish, of which not more than 2 may be adult salmon. Release wild coho. Release wild chinook June 1 through July 31.

Cowlitz River (Lewis County):

From mouth to Mayfield Dam: Closed waters: From 400 feet or posted markers below Cowlitz salmon hatchery barrier dam to boundary markers near the Cowlitz salmon hatchery water intake approximately 1,700 feet upstream of the Cowlitz salmon hatchery barrier dam, and from 400 feet below the Mayfield powerhouse upstream to Mayfield Dam. Year-round season except closed to fishing from south bank May 1 through June 15 from Mill Creek to the Cowlitz salmon hatchery barrier dam. Lawful to fish up to four hundred feet or the posted deadline at the Cowlitz salmon hatchery barrier dam. Lawful to fish up to Tacoma Power safety signs at Onion Rock below Mossyrock Dam. Lawful to fish up to Lewis County P.U.D. safety signs below Cowlitz Falls Dam. From the Cowlitz salmon hatchery barrier dam downstream to a line from the mouth of Mill Creek to a boundary marker on the opposite shore, it is unlawful to fish from any floating device. Nonbuoyant lure restriction and night closure April 1 through October 31 from mouth of Mill Creek to the Cowlitz salmon hatchery barrier dam. All game fish: Release all fish except steelhead April 1 through May 31. Trout: Daily limit five, minimum length twelve inches, no more than two over twenty inches. Release wild cutthroat. Release

all steelhead missing right ventral fin. Salmon: Open year-round. Daily limit 6 fish of which no more than 2 may be adult salmon. Release chum and wild coho. Release wild chinook January 1 through July 31. Mill Creek to Blue Creek - release all chinook October 1 through December 31. Sturgeon: Lawful to retain sturgeon on Thursdays, Fridays and Saturdays, February 1 through July 31 and October 1 through December 31. Release sturgeon on other days and during other time periods.

From posted PUD sign on Peters Road to mouth of Ohanepecosh River and mouth of Muddy Fork: Trout: Release cutthroat. Additional November 1 through May 31 season. Trout: Release all fish except up to two hatchery steelhead may be retained per day. Salmon: Open year-round from upstream boundary of Lake Scanewa. Daily limit 6 fish of which no more than 2 may be adult salmon. Salmon minimum size 12 inches. Release wild coho. Release wild chinook January 1 through July 31.

Cowlitz River, Clear and Muddy Forks (Lewis County): Selective gear rules. Trout: Release cutthroat.

Coyote Creek and Ponds (Adams County): April 1 through September 30 season.

Crab Creek (Adams/Grant counties):

From Highway 26 to Morgan Lake Road in Section 36: March 1 through September 30 season.

From Morgan Lake Road in Section 36 to O'Sullivan Dam (including Marsh Unit I and II impoundments): Closed waters.

Crab Creek (Lincoln/Grant counties) and tributaries: Year-round season. ~~((March 1 through May 31 terminal gear restricted to one single hook measuring 3/4 inch or less point to shank))~~ In those waters from Grant County Road 7 to the fountain buoy and shoreline markers or 150 feet downstream of the Alder Street fill ~~(-and)~~ March 1 through May 31 terminal gear restricted to one single hook measuring 3/4 inch or less point to shank. Year-round: Daily limits and size limits same as Moses Lake. From Moses Lake downstream to the confluence of the outlet streams March 1 through May 31 terminal gear restricted to one single-point hook measuring 3/4 inch or less point to shank. Year-round: Daily limits and size limits same as Potholes Reservoir.

Crabapple Lake (Snohomish County): Last Saturday in April through October 31 season.

Cranberry Creek (Mason County), mouth to Lake Limerick: Closed waters.

Crawfish Lake (Okanogan County): Last Saturday in April through October 31 season. Fishing from a floating device equipped with an internal combustion engine prohibited.

Crescent Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Crescent Lake (Pierce County): Last Saturday in April through October 31 season.

Crocker Lake (Jefferson County): Closed waters.

Crystal Lake (Grant County): March 1 through July 31 season.

Cup Lake (Grant County): March 1 through July 31 season.

Curl Lake (Columbia County): Last Saturday in April through October 31 season. Fishing from any floating device prohibited. Trout: No more than 2 trout over 13 inches in length may be retained.

Curley Creek (Kitsap County): June 1 through last day in February season. Trout: Minimum length fourteen inches.

Cushman Reservoir (Mason County): Salmon: Landlocked salmon rules apply.

Dakota Creek (Whatcom County): Salmon: Open only October 1 through December 31 from mouth to Giles Road Bridge. Daily limit 2 salmon.

Damon Lake (Grays Harbor County): June 1 through October 31 season.

Davis Lake (Ferry County): Last Saturday in April through October 31 season.

Davis Lake (Lewis County): Last Saturday in April to last day in February season.

Davis Lake (Okanogan County): April 1 through August 31: Selective gear rules ((~~except electric motors allowed, and~~)). All species: Release all fish.

Davis Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Dayton Pond (Columbia County): Juveniles only. Trout: No more than 2 trout over 13 inches in length may be retained.

Deadman Lake (Adams County): April 1 through September 30 season.

De Coursey Pond (Pierce County): Last Saturday in April through November 30 season. Juveniles only. Salmon: Landlocked salmon rules apply.

Deep Creek (Clallam County): December 1 through last day in February season. All species: Release all fish except up to two hatchery steelhead may be retained.

Deep Creek (tributary to Bumping Lake) (Yakima County): Mouth to second bridge crossing on USFS Rd. 1808 (approximately 3.7 miles from junction of USFS Rds. 1800 and 1808): Closed waters.

Deep Lake (Grant County): Last Saturday in April through September 30 season.

Deep Lake (Stevens County): Last Saturday in April through October 31 season.

Deep Lake (Thurston County): Last Saturday in April through October 31 season.

Deep River (Wahkiakum County): Year-round season. Trout: Release all fish except up to two hatchery steelhead may be retained per day. Salmon: Open year-round only from mouth to town bridge. Daily limit 6 fish of which no more than 2 may be adult salmon. Release chum and wild

coho. Release wild chinook January 1 through July 31. Sturgeon: Release sturgeon May 1 through May 14 and July 24 through December 31. Minimum size when open is 45 inches.

Deer Creek (Mason County): Closed waters.

Deer Creek and Little Deer Creek (tributaries to North Fork Stillaguamish) (Skagit County): Closed waters.

Deer Lake (Columbia County): March 1 through October 31 season. Fishing from any floating device prohibited. Trout: No more than 2 trout over 13 inches in length may be retained.

Deer Lake (Island County): Last Saturday in April through October 31 season.

Deer (Deer Springs) Lake (Lincoln County): Last Saturday in April through September 30 season.

Deer Lake (Mason County): Last Saturday in April through October 31 season.

Deer Lake (Stevens County): Last Saturday in April through October 31 season. Trout: No more than two over twenty inches in length may be retained.

De Roux Creek (Yakima County): Selective gear rules.

Deschutes River (Thurston County): Closed waters: From 400 feet below lowest Tumwater Falls fish ladder to Old Highway 99 Bridge. From old U.S. Highway 99 Bridge near Tumwater to Henderson Boulevard Bridge near Pioneer Park: June 1 through March 31 season. Nonbuoyant lure restriction and night closure August 1 through November 30. Trout: Minimum length fourteen inches. Salmon: Open only July 1 through November 30. Daily limit 6 fish of which no more than 2 may be adult salmon. Release coho.

From Henderson Boulevard Bridge upstream: Year-round season. Selective gear rules. All game fish: Release all fish except hatchery steelhead. Salmon: Open only July 1 through November 30. Daily limit 6 fish of which no more than 2 may be adult salmon. Release coho.

Devereaux Lake (Mason County): Last Saturday in April through October 31 season.

Devil's Lake (Jefferson County): Last Saturday in April through October 31 season.

Dewatto River (Mason County): Selective gear rules. Game fish: Release all fish. Salmon: Open only September 16 through October 31 mouth to Dewatto-Holly Road Bridge. Daily limit two coho. Release all salmon other than coho.

Diamond Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Dickey River (~~((includes all forks))~~) (Clallam County): June 1 through April 30 season in mainstem Dickey and June 1 through March 15 in East Fork Dickey and West Fork Dickey. Trout: Minimum length fourteen inches. December 1 through April 30, one wild steelhead per day may be retained. Salmon: Open only July 1 through November 30 from mouth to East Fork Dickey including Olympic National Park. Daily limit 6 fish of which no more than 2 may be adult

salmon July 1 through August 31 and of which no more than 3 may be adult salmon September 1 through November 30. July 1 through August 31 release wild adult coho and unmarked adult chinook. Unmarked chinook are chinook with unclipped adipose and ventral fins. September 1 through November 30 the daily limit may contain no more than 2 adult chinook or 2 adult wild coho or a combination of adult chinook and adult wild coho.

Dillacort Creek (Klickitat County): Trout: Release all trout.

Dog Lake (Yakima County): Trout: Daily limit may contain not more than 1 fish over 14 inches in length.

Dosewallips River (Jefferson County), from mouth to Olympic National Park boundary about three-quarters mile downstream of falls: June 1 through ~~((last day in February season except closed September 1 through October 31 from mouth to Mason County P.U.D. No. 1 overhead electrical distribution line))~~ August 31 season mouth to park boundary and November 1 through December 15 season mouth to Highway 101 Bridge. Selective gear rules June 1 through August 31. All ~~((game fish))~~ species: Release all fish except that up to two hatchery steelhead per day may be retained. June 1 through August 31 and salmon may be retained November 1 through December 15. Salmon: Open only November 1 through December 15 from mouth to Highway 101 Bridge. Daily limit 2 chum salmon.

Dot Lake (Grant County): March 1 through July 31 season.

Downs Lake (Lincoln/Spokane counties): Last Saturday in April through September 30 season. Crappie: Daily limit ten, minimum length nine inches.

Dry Falls Lake (Grant County): April 1 through November 30 season. Selective gear rules. Trout: Daily limit one.

Duck Lake (Grays Harbor County): Crappie: Daily limit ten, minimum length nine inches.

Duckabush River (Jefferson County), from mouth to the Olympic National Park Boundary: June 1 through ~~((last day in February season except closed September 1 through October 31 from mouth to Mason County P.U.D. No. 1 overhead electrical distribution line))~~ August 31 season mouth to park boundary and November 1 through December 15 season mouth to Mason County P.U.D. No. 1 overhead electrical distribution line. Selective gear rules June 1 through August 31. All ~~((game fish))~~ species: Release all fish except that up to two hatchery steelhead per day may be retained June 1 through August 31 and salmon may be retained November 1 through December 15. Salmon: Open only November 1 through December 15 from mouth to Mason County P.U.D. No. 1 overhead electrical distribution line. Daily limit 2 chum salmon.

Dungeness River (Clallam County):

From mouth to junction of Gray Wolf and Dungeness rivers: October 16 through last day in February season. Trout: Minimum length fourteen inches. Salmon: Open only October 16 through December 31 from mouth to the hatchery intake pipe at river mile 11.3. Daily limit 4 coho salmon.

From junction of Gray Wolf River upstream to Gold Creek - Closed waters.

From junction of Gold Creek upstream to headwaters: Trout: Minimum length fourteen inches.

Dusty Lake (Grant County): March 1 through November 30 season. Selective gear rules. Trout: Daily limit one fish.

Early Winters Creek (Okanogan County): Closed waters.

East Twin River (Clallam County): Trout: Minimum length fourteen inches.

Easton Lake (Kittitas County): Saturday before Memorial Day through October 31 season. Trout: Daily limit five fish of which no more than 2 may be trout other than Eastern brook trout. Minimum length 8 inches.

Ebey Lake (Little Lake) (Snohomish County): Fly fishing only. Fishing from a floating device equipped with a motor prohibited. Trout: Daily limit one, minimum length eighteen inches.

Echo Lake (Snohomish County): Last Saturday in April through October 31 season.

Eightmile Lake (Chelan County): Trout: Daily limit five, not more than two mackinaw may be retained.

Elbow Lake (Stevens County): Last Saturday in April through October 31 season.

Elk River (Grays Harbor County), from the Highway 105 Bridge upstream: June 1 through last day in February season. Single point barbless hooks required August 16 through November 30 downstream of the confluence of the east and middle branches. Trout: Minimum length fourteen inches. Salmon: Open only October 1 through November 30 from Highway 105 Bridge to the confluence of the East and Middle Branches. Daily limit 6 fish of which no more than 2 may be adult salmon. Release adult chinook.

Ell Lake (Okanogan County): Last Saturday in April through October 31 season. Selective gear rules. Trout: Daily limit one.

Ellen Lake (Ferry County): Last Saturday in April through October 31 season.

Elochoman River (Wahkiakum County): Closed waters: Waters from 100 feet above the upper hatchery rack downstream to the Elochoman Hatchery Bridge located 400 feet below the upper hatchery rack; waters from a point 50 feet above to 100 feet below the outlet pipes from the most downstream Elochoman Hatchery rearing pond and extending 30 feet out from the south bank of the river; waters between the department of fish and wildlife temporary rack downstream to Foster (Risk) Road Bridge while rack is installed in the river; mainstem waters from the confluence of the west fork to source.

From mouth to West Fork: June 1 through March 15 season. Nonbuoyant lure restriction and night closure September 1 through October 31. Stationary gear restriction September 1 through October 31. Additional season March 16 through April 16, mouth to Elochoman Hatchery Bridge. Selective gear rules. Trout: Release all fish except up to two

hatchery steelhead may be retained per day. Salmon: Open May 16 through July 31. Daily limit 6 salmon, not more than 2 of which may be adult salmon. Release wild chinook. Open (~~only~~) September 1 through December 31. Daily limit 6 fish of which no more than 2 may be adult chinook. Release chum and wild coho. October 1 through December 31 release chinook upstream of Highway 4 Bridge.

Eloika Lake (Spokane County): Crappie: Daily limit ten, minimum length nine inches.

Elwha River (Clallam County): Closed waters: From south spillway on Aldwell Lake Dam downstream two hundred feet and from approximately fifty yards upstream to fifty yards downstream of Elwha Tribal Hatchery outfall as posted.

From mouth to two hundred feet below the south spillway on the Aldwell Lake Dam: June 1 through last day in February season, except closed June 1 through September 30 mouth to marker at outfall of rearing channel at about river mile 3.2. Fishing from any floating device prohibited. Trout: Minimum length fourteen inches. Salmon: Open only October 1 through November 15. Daily limit 6 coho salmon of which no more than 4 may be adult coho salmon.

From Lake Aldwell upstream to Olympic National Park boundary, including all tributaries except Indian Creek: Selective gear rules. Trout: Minimum length twelve inches.

Empire Lake (Ferry County): Last Saturday in April through October 31 season.

Enchantment Park Ponds (Chelan County): Juveniles only.

Entiat River (Chelan County), from mouth to Entiat Falls: December 1 through March 31 season. Whitefish gear rules apply. Above Entiat Falls: Trout: Daily limit 5 trout, not more than one of which may be greater than 12 inches in length. Eastern brook trout not included in trout daily limit. Eastern brook trout daily limit ten.

Ephrata Lake (Grant County): Closed waters.

Erie Lake (Skagit County): Last Saturday in April through October 31 season.

Failor Lake (Grays Harbor County): Last Saturday in April through October 31 season.

Fan Lake (Pend Oreille County): Last Saturday in April through September 30 season. Fishing from a floating device equipped with an internal combustion motor prohibited.

Fazon Lake (Whatcom County): Fishing from any floating device prohibited from first Friday in October through January 15. Channel catfish: Daily and possession limit two.

Fio Rito Lakes (Kittitas County): Fishing from a floating device equipped with an internal combustion (~~engine~~) motor prohibited.

Fish Lake (Chelan County): Trout: No more than two over fifteen inches in length may be retained.

Fish Lake (Ferry County): Last Saturday in April through October 31 season.

Fish Lake (Okanogan County): Last Saturday in April through October 31 season.

Fish Lake (Spokane County): Last Saturday in April through September 30 season. Fishing from a floating device equipped with an internal combustion motor prohibited.

Fisher Slough (Snohomish County):

From mouth to Highway 530 Bridge: Year-round season. Trout: Minimum length fourteen inches.

Upstream from Highway 530 Bridge: Trout: Minimum length fourteen inches.

Fishhook Pond (Walla Walla County): March 1 through October 31 season. Fishing from any floating device prohibited. Trout: No more than 2 trout over 13 inches in length may be retained.

Fishtrap Creek (Whatcom County): From Koh Road to Bender Road: June 1 through October 31 season. Juveniles only.

Fishtrap Lake (Lincoln/Spokane counties): Last Saturday in April through September 30 season.

Forde Lake (Okanogan County): Last Saturday in April through October 31 season.

Fort Borst Park Pond (Lewis County): Last Saturday in April through last day in February season. Juveniles only.

Fortson Mill Pond # 2 (Snohomish County): Last Saturday in April through October 31 season. Juveniles only.

Fourth of July Lake (Adams/Lincoln counties): December 1 through March 31 season. Fishing from a floating device equipped with an internal combustion motor prohibited. Trout: No more than two over fourteen inches in length may be retained.

Franz Lake (Skamania County): Closed waters.

Frater Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Frenchman Hills Lake (Grant County): February 1 through September 30 season.

Gadwall Lake (Grant County): April 1 through September 30 season.

Garfield Juvenile Pond (Whitman County): Juveniles only.

George Lake (Grant County): March 1 through July 31 season.

Geneva Lake (King County): Last Saturday in April through October 31 season.

Germany Creek (Cowlitz County), from mouth to end of Germany Creek Road (approximately five miles): June 1 through August 31 and November 1 through March 15 season. Trout: Release all fish except up to two hatchery steelhead may be retained per day.

Gibbs Lake (Jefferson County): Selective gear rules (~~except electric motors allowed~~). Trout: Release all trout.

Gillette Lake (Stevens County): Last Saturday in April through October 31 season.

Gissberg Pond, North (Snohomish County): Juveniles only.

Gissberg Ponds (Snohomish County): Channel catfish: Daily limit 2, no minimum size.

Goat Creek (Okanogan County): Closed waters.

Gobar Creek (tributary to Kalama River) (Cowlitz County): June 1 through March ~~((+5))~~ 31 season. ~~((Trout: Minimum length 14 inches. Release steelhead and wild cutthroat.))~~ Selective gear rules. All species: Release all fish.

Gold Creek, Gold Creek Pond and Outlet Channel (tributary to Keechelus Lake) (Kittitas County): Closed waters.

Gold Creek (Okanogan County): From mouth to confluence north fork Gold Creek: Closed waters.

Goldsborough Creek (Mason County): Trout: Minimum length fourteen inches.

Golf Course Pond (Asotin County): Trout: No more than 2 trout over 13 inches in length may be retained.

Goodman Creek (Jefferson County) outside Olympic National Park: June 1 through last day in February season. Trout, minimum length fourteen inches. December 1 through last day in February, one wild steelhead per day may be retained.

Goodwin Lake (Snohomish County): Chumming permitted.

Goose Creek (Lincoln County), within the city limits of Wilbur: Year around season. Juveniles and holders of disability licenses only.

Goose Lake, Lower (Adams County): Crappie: Daily limit ten, minimum length nine inches. Bluegill: Not more than five over six inches in length.

Gorst Creek (Kitsap County): Closed waters: From lower bridge on the old Belfair Highway upstream to source (including tributaries). From mouth upstream to lower bridge: Trout: Minimum length fourteen inches.

Gosnell Creek and tributaries (tributary to Lake Isabella) (Mason County): Trout: Minimum length fourteen inches.

Goss Lake (Island County): Last Saturday in April through October 31 season.

Grande Ronde River (Asotin County):

From mouth to County Road Bridge about two and one-half miles upstream: Year-round season. Selective gear rules September 1 through May 31. Trout: Minimum length ten inches, maximum length twenty inches.

From County Road Bridge upstream to Oregon state line and all tributaries: June 1 through October 31 season. Selective gear rules, June 1 through August 31 and barbless hooks required September 1 through October 31. Additional season November 1 through April 15: Barbless hooks required. All tributaries: Closed waters. All species: Release all fish except whitefish and hatchery steelhead. Trout: Daily limit three hatchery steelhead.

Granite Creek and tributaries (Pend Oreille County): Closed waters.

Granite Lakes (near Marblemount) (Skagit County): Grayling: Release all grayling.

Grass Lake (Mason County): Last Saturday in April through October 31 season.

Gray Wolf River (Clallam County): From junction with Dungeness River to bridge at river mile 1.0 - Closed waters.

From bridge at river mile 1.0 upstream - selective gear rules. Trout: Minimum length fourteen inches.

Grays River (Wahkiakum County), from mouth to Highway 4 Bridge: September 1 through October 15 and November 15 through ~~((March 15))~~ July 31 season; and from Highway 4 Bridge to mouth of South Fork: September 1 through October 15 and December 15 through ~~((March))~~ April 15 season. Nonbuoyant lure restriction, night closure and stationary gear restriction September 1 through October 15. Selective gear rules March 16 through April 15. All game fish: Release all fish except hatchery steelhead. Release hatchery steelhead April 16 through July 31. Salmon: Open May 16 through July 31 mouth to Highway 4 Bridge. Daily limit 6 salmon, not more than two of which may be adult salmon. Release wild chinook. Open ~~((only))~~ September 1 through October 15 from mouth to South Fork. Daily limit 6 fish of which no more than two may be adult salmon. Release chinook, chum, and wild coho.

Grays River, East Fork (Wahkiakum County): Selective gear rules. Trout: Release all fish except up to two hatchery steelhead may be retained per day.

Grays River, West Fork (Wahkiakum County), downstream from hatchery intake footbridge: June 1 - August 31 season. Trout: Additional December 15 through March 15 season downstream from hatchery intake footbridge. Release all fish other than hatchery steelhead.

Green Lake (Okanogan County): April 1 through November 30: Selective gear rules except electric motors allowed, and all species: Release all fish.

Green Lake (Lower) (Okanogan County): April 1 through November 30: Selective gear rules, and all species: Release all fish.

Green River (Cowlitz County): Closed waters: All tributaries.

From mouth to 2800 Bridge: ~~((April))~~ June 1 through November 30 season except closed from 400 feet above to 400 feet below the water intake at the upper end of the hatchery grounds during the period September 1 through November 30 and from 400 feet or posted signs above and below the salmon hatchery rack when the rack is installed in the river. Nonbuoyant lure restriction and night closure September 1 through October 31 from mouth to 400 feet below salmon hatchery rack. All species: When nonbuoyant lure restriction in effect, only fish hooked inside the mouth may be retained. All ~~((game fish))~~ species: Release all fish except hatchery steelhead. ~~((Salmon: Open only April 1 through May 31 from mouth to 400 feet below the water intake at the upper end of the hatchery grounds and June 1 through November 30 from mouth to 2800 Bridge. April 1 through July 31: Daily limit 6 fish of which no more than 2 may be adult salmon.~~

~~Release wild chinook. August 1 through November 30: Daily limit 6 salmon not more than 2 of which may be adult salmon. Release chum and wild coho. October 1 through November 30 release chinook.)~~ Additional season: December 1 through April 15, mouth to 1000 Bridge. Selective gear rules. All species: Release all fish except hatchery steelhead.

From 2800 Bridge to source: Closed waters.

Green (Duwamish) River (King County):

From the First Avenue South Bridge to Interstate 5 Bridge: June 1 through July 31 and September 1 through February 15 season. Nonbuoyant lure restriction and night closure September 1 through November 30 First Avenue South Bridge to Interstate 5 Bridge. Fishing from any floating device prohibited November 1 through February 15. Trout: Minimum length fourteen inches. July 1 through July 31 and September 1 through November 30, one wild steelhead per day may be retained. Salmon: Open only September 1 through December 31. Daily limit 6 fish of which no more than 3 may be adult salmon and of the adult salmon not more than 1 may be a chinook.

From the Interstate 5 Bridge to SW 43rd Street/South 180th Street Bridge: June 1 through July 31 and September 16 through February 15 season. Nonbuoyant lure restriction and night closure September 16 through November 30. Fishing from any floating device prohibited November 1 through February 15. Trout: Minimum length fourteen inches. July 1 through July 31 and September 16 through November 30, one wild steelhead per day may be retained. Salmon: Open only September 16 through December 31. Daily limit 6 fish of which no more than 3 may be adult salmon. Release chinook.

From the SW 43rd Street/South 180th Street Bridge to South 277th Street Bridge in Auburn: Open only June 1 through July 31 and October 1 through February 15. Nonbuoyant lure restriction and night closure October 1 through November 30. Fishing from any floating device prohibited November 1 through February 15. Trout: Minimum length fourteen inches. July 1 through July 31 and October 1 through November 30, one wild steelhead per day may be retained. Salmon: Open only October 1 through December 31. Daily limit 6 fish of which not more than 3 may be adult salmon. Release chinook.

From the 277th Street Bridge to Auburn-Black Diamond Road Bridge: Open only June 1 through July 31 and October 16 through last day in February. Nonbuoyant lure restriction and night closure October 16 through November 30. Fishing from a floating device prohibited November 1 through last day in February. Trout, minimum length fourteen inches. July 1 through July 31 and October 16 through November 30, one wild steelhead per day may be retained. Salmon: Open only October 16 through December 31. Daily limit 6 fish of which no more than 3 may be adult salmon. Release chinook.

From the Auburn-Black Diamond Road Bridge to the Tacoma Headworks Dam: June 1 through last day in February season. Nonbuoyant lure restriction and night closure August 1 through November 30. Closed waters: Within 150 feet of the Palmer Pond outlet rack and within 150 feet of the mouth of Keta Creek. Trout: Minimum length 14 inches. July 1 through November 30, one wild steelhead per day may be retained. Salmon: Open only November 1 through December 31. Daily limit 2 chum.

Greenwater River (King County), from mouth to Greenwater Lakes: July 1 through October 31 season. Selective gear rules. Trout: Minimum length (~~(twelve)~~) 14 inches.

Grimes Lake (Douglas County): June 1 through August 31 season. Selective gear rules(~~(, except fishing from a floating device equipped with an electric motor allowed)~~). Trout: Daily limit one.

Grizzly Lake (Skamania County): Closed waters.

Halfmoon Lake (Adams County): April 1 through September 30 season.

Halfmoon Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Hamilton Creek (Skamania County): Trout: Release all fish except up to two hatchery steelhead may be retained per day. All tributaries downstream from the Highway 14 Bridge: Closed waters.

Hamma Hamma River (Mason County):

From mouth to four hundred feet below falls: June 1 through August 31 (~~(and November 1 through last day in February)~~) season. Selective gear rules. All species: Release all fish.

Hammersley Inlet Freshwater Tributaries (Mason County), except Mill Creek: Closed waters.

Hampton Lakes, Lower and Upper (Grant County): April 1 through September 30 season. Fishing from a floating device equipped with an internal combustion motor prohibited.

Hancock Lake (King County): (~~(June 1)~~) Last Saturday in April through October 31 season. All tributary streams and the upper third of the outlet are closed waters.

(~~(Harrison Pond (Skagit County): Closed waters.)~~)

Harvey Creek (tributary to Sullivan Lake) (Pend Oreille County):

From mouth to Bridge 4830 on county road (about one and one-half miles): Closed waters.

From Bridge 4830 upstream: Selective gear rules.

Harvey Creek (tributary to Stillaguamish River) (Snohomish County): Closed waters.

Hatch Lake (Stevens County): December 1 through March 31 season.

Hatchery Lake (Mason County): Last Saturday in April through October 31 season.

Haven Lake (Mason County): Last Saturday in April through October 31 season.

Hawk Creek and tributaries (Lincoln County): Year-round season.

Hays Creek and Ponds (Adams County): April 1 through September 30 season.

Headgate Pond (Asotin County): Last Saturday in April through October 31 season. Juveniles, seniors and holders of disability licenses only.

Heart Lake (near Anacortes) (Skagit County): Last Saturday in April through October 31 season.

Heins Lake (Kitsap County): Closed waters.

Hemlock Lake (Trout Creek Reservoir) (Skamania County): Closed waters.

Hen Lake (Grant County): April 1 through September 30 season.

Heritage Lake (Stevens County): Last Saturday in April through October 31 season.

Herman Lake (Adams County): April 1 through September 30 season.

Hicks Lake (Thurston County): Last Saturday in April through October 31 season.

Hog Canyon Creek (Spokane County): Hog Canyon Dam to Scroggie Road: Year-round season.

Hog Canyon Lake (Spokane County): December 1 through March 31 season. Trout: No more than two over fourteen inches in length may be retained.

Hoh River (Jefferson County), from mouth to Olympic National Park boundary below mouth of South Fork: May 18 through April 15 season. May 18 through May 31, open Wednesday through Sunday only from mouth to Willoughby Creek only. Willoughby Creek to park boundary closed through May 31. Selective gear rules June 1 through October 15 from Willoughby Creek to Morgan's Crossing Boat Launch, June 1 through November 30 from Morgan's Crossing Boat Launch to the mouth of south fork, and December 1 through April 15 from DNR Oxbow Campground Boat Launch to mouth of south fork. Trout: Minimum length fourteen inches. Catch and release during May, except up to two hatchery steelhead may be retained on open days. November 1 through February 15, daily limit three steelhead downstream from the Oxbow Campground Boat Launch. December 1 through April 15, from mouth to DNR Oxbow Campground Boat Launch, one wild steelhead per day may be retained. Salmon: Open only May 16 through November 30 Willoughby Creek to Morgan's Crossing Boat Launch. Daily limit 6 fish of which no more than 2 may be adult salmon except May 18 through August 31 from mouth to Willoughby Creek open Wednesday through Sunday only of each week and daily limit may contain no more than one adult salmon.

Hoh River South Fork (Jefferson County), outside Olympic National Park: June 1 through April 15 season. Selective gear rules. Trout: Minimum length fourteen inches.

Hoko River (Clallam County): From mouth to upper Hoko Bridge: Fly fishing only September 1 through October 31. Additional November 1 through March 15 season. Trout: Minimum length fourteen inches. December 1 through March 15, one wild steelhead per day may be retained.

From upper Hoko Bridge to Ellis Creek Bridge (river mile 18.5): June 1 through March 31 season. Fly fishing

only. All species: Release all fish except that up to two hatchery steelhead per day may be retained.

Homestead Lake (Grant County): Selective gear rules. Trout: Daily limit one fish.

Hoquiam River, including all forks (Grays Harbor County): June 1 through March 31 season. Single point barbless hooks required August 16 through November 30. Selective gear rules and all species: Release all fish except up to two hatchery steelhead may be retained per day, from March 1 through March 31. Trout: Minimum length fourteen inches. Salmon: Open only October 1 through November 30 from mouth to bridge on Dekay Road on mainstem and East Fork mouth to mouth of Berryman Creek. Daily limit 6 fish of which no more than 2 may be adult salmon, except release adult chinook.

Horseshoe Lake (Clark/Cowlitz counties): Trout: No more than 2 trout 20 inches or greater in length may be retained. Salmon: Landlocked salmon rules apply.

Horseshoe Lake (Jefferson County): Last Saturday in April through October 31 season. Selective gear rules. Trout: Daily limit 1.

Horseshoe Lake (Kitsap County): Last Saturday in April through October 31 season. Salmon: Landlocked salmon rules apply.

Horseshoe Lake (Pend Oreille County): Last Saturday in April through October 31 season. Trout except kokanee: Daily limit five. Kokanee not counted in daily trout limit. Kokanee daily limit ~~((five))~~ ten.

Horsethief Lake (Klickitat County): Last Saturday in April through October 31 season.

Hourglass Lake (Grant County): April 1 through September 30 season.

Howard Lake (Snohomish County): Last Saturday in April through October 31 season.

Howell Lake (Mason County): Last Saturday in April through October 31 season.

Hozomeen Lake (Whatcom County): July 1 through October 31 season.

Huff Lake (Pend Oreille County): Closed waters.

Humptulips River (Grays Harbor County), from mouth to forks: June 1 through March 31 season except closed March 1 through March 31 from Highway 101 Bridge to forks. Night closure and single point barbless hooks required August 16 through November 30. Trout: Minimum length fourteen inches. March 29 through March 31, one wild steelhead may be retained from mouth to Highway 101 Bridge. Salmon: Open only October 16 through January 31 from mouth to Highway 101 Bridge. Daily limit 6 fish of which no more than 2 may be adult salmon. Release adult chinook. October 16 through November 30 the daily limit may contain no more than 1 wild adult coho. December 1 through January 31 release wild adult coho.

Humptulips River, East Fork (Grays Harbor County), from mouth to concrete bridge on Forest Service Road between Humptulips Guard Station and Grisdale: Nonbuoyant lure restriction and night closure August 16 through November 30. Trout: Minimum length fourteen inches.

Humptulips River, West Fork (Grays Harbor County), from mouth to Donkey Creek: June 1 through last day in February season. Nonbuoyant lure restriction and night closure August 16 through November 30. Trout: Minimum length fourteen inches.

Hutchinson Lake (Adams County): April 1 through September 30 season. Fishing from a floating device equipped with an internal combustion engine prohibited.

I-82 Ponds, 1 through 7 (Yakima County): Fishing from vessels equipped with internal combustion ~~((engines))~~ motors prohibited.

Icehouse Lake (Skamania County): Trout: No more than 2 trout 20 inches or greater in length may be retained.

Icicle River (Creek) (Chelan County):

From mouth to four hundred feet below Leavenworth National Fish Hatchery rack: Closed waters. From Leavenworth National Fish Hatchery rack upstream to Leland Creek: Selective gear rules.

Indian Creek (tributary to Elwha River) (Clallam County), from mouth upstream to first Highway 101 crossing: Selective gear rules. Trout: Minimum length twelve inches.

Indian Creek and tributaries (Pend Oreille County): Trout: Eastern brook trout not counted in daily trout limit. Eastern brook trout daily limit ten.

Indian Creek (Yakima County): From mouth to waterfall approximately 5 and three-quarters miles upstream: Closed waters. Upstream of waterfall: Eastern brook trout do not count as part of trout daily limit. Eastern brook trout: No minimum size and no daily limit.

Indian Heaven Wilderness Lakes (Skamania County): Trout: Daily limit three.

Ingall's Creek (Chelan County): Mouth to Wilderness boundary: Closed waters.

Issaquah Creek (King County): ~~((Closed waters))~~ See Lake Washington tributaries.

Jackson Lake (Pierce County): Last Saturday in April through October 31 season.

Jameson Lake (Douglas County): Last Saturday in April through July 4 and October 1 through October 31 seasons.

Jasmine Creek (Okanogan County): Year-round season. Juveniles only.

Jefferson Park Pond (Walla Walla County): Juveniles only. Trout: No more than 2 trout over 13 inches in length may be retained.

Jennings Park Pond (Snohomish County): Last Saturday in April through October 31 season. Juveniles only.

Jewitt Creek (Klickitat County): Juveniles only. Trout: Daily limit five, no minimum length.

Jimmy-Come-Lately Creek (Clallam County): June 1 through August 31 season. Trout: Minimum length fourteen inches.

Joe Creek (Grays Harbor County): Upstream from State Highway 109 Bridge to Ocean Beach Road Bridge: June 1 through November 30 season. Single point barbless hooks required August 16 through November 30. Trout: Minimum length fourteen inches. Salmon: Open only September 1 through November 30. Daily limit 6 fish of which no more than 2 may be adult salmon. Release adult chinook.

Johns Creek (Mason County): Closed waters.

Johns River (Grays Harbor County): Mouth to Ballon Creek: June 1 through last day in February season. Single point barbless hooks required August 16 through November 30. Trout: Minimum length fourteen inches. Salmon: Open only October 1 through November 30. Daily limit 6 fish of which no more than 2 may be adult salmon. Release adult chinook.

Ballon Creek upstream, including North and South Forks: June 1 through September 30 and December 1 through last day in February season. Trout: Minimum length 14 inches.

Johnson Creek (tributary to Cowlitz River) (Lewis County): Selective gear rules. Trout: Minimum length ten inches.

Johnson Creek (Whatcom County), from Northern Pacific Railroad tracks to the Lawson Street footbridge in Sumas: Juveniles only.

Jump-Off Joe Lake (Stevens County): Last Saturday in April through October 31 season.

Kachess Lake (Reservoir) (Kittitas County): Chumming permitted. Trout except kokanee: Daily limit two, minimum length twelve inches. Kokanee not counted in daily trout limit. Kokanee daily limit sixteen. ~~((Burbot: Set line gear allowed-))~~

Kachess River (Kittitas County): Lawful to fish to base of Kachess Dam. Selective gear rules. From Kachess Lake (Reservoir) upstream to waterfall approximately one-half mile above Mineral Creek: Closed waters.

Kalaloch Creek (Jefferson County), outside Olympic National Park: Closed waters: Those waters within the section posted as the Olympic National Park water supply June 1 through last day in February season. Selective gear rules. Trout: Minimum length fourteen inches.

Kalama River (Cowlitz County): Release wild cutthroat.

From mouth upstream to one thousand feet below fishway at upper salmon hatchery: Year-round season except during the period the temporary fish rack is installed. Waters from Modrow Bridge downstream to one thousand five hundred feet below the rack are closed waters when the rack is installed. Nonbuoyant lure restriction, night closure, and stationary gear restriction September 1 through October 31 from mouth to the rack. All species: When nonbuoyant lure restriction in effect only fish hooked inside the mouth may be

retained. Fishing from a floating device equipped with a motor prohibited upstream of Modrow Bridge. September 1 through October 31: Fly fishing only from the pipeline crossing to the posted deadline at the intake to the lower salmon hatchery. Trout: Release all trout except up to two hatchery steelhead may be retained per day. Salmon: Open year-round. Daily limit 6 fish of which no more than 2 may be adult salmon. Release chum and wild coho. Release wild chinook January 1 through July 31. Release hatchery coho October 16 through December 31. October 1 through December 31 release chinook upstream from natural gas pipeline crossing.

From one thousand feet below to one thousand feet above the fishway at upper salmon hatchery: Closed waters.

From one thousand feet above the fishway at the upper salmon hatchery to Summers Creek: Year-round season. Fishing from a floating device equipped with a motor prohibited. Selective gear rules. ~~((Trout: Minimum length 14 inches. Release steelhead in mainstem and tributaries-))~~ All species: Release all fish.

From Summers Creek upstream to the 6420 Road at about one mile above the gate at the end of the county road: June 1 through March 31 season. Fishing from a floating device equipped with a motor prohibited. Fly fishing only. ~~((Trout: Minimum length 14 inches. Release steelhead in mainstem and tributaries-))~~ All species: Release all fish.

From 6420 Road to Kalama Falls: Closed waters.

Kalispell Creek and tributaries (Pend Oreille County): Last Saturday in April through October 31 season. Selective gear rules.

Keechelus Lake (Reservoir) (Kittitas County): Chumming permitted. Trout except kokanee: Daily limit two, minimum length twelve inches, additionally up to sixteen kokanee may be retained. ~~((Burbot: Set line gear allowed-))~~

Kelsey Creek (tributary of Lake Washington) (King County): ~~((Closed waters-))~~ See Lake Washington tributaries.

Kennedy Creek (Thurston County), from mouth to four hundred feet below falls: June 1 through last day in February season. Nonbuoyant lure restriction and night closure October 1 through December 31. Trout: Minimum length fourteen inches. Salmon: Open only October 1 through November 30 from mouth to northbound Highway 101 Bridge. Barbless hooks required. Daily limit 6 fish of which no more than 2 may be adult salmon. Release coho.

Kennedy Creek Pond (Thurston County): Last Saturday in April through October 31 season.

Kettle River (Stevens County):

June 1 through October 31 season. All species: Selective gear rules. Trout: Minimum length 12 inches. Sturgeon: Unlawful to fish for or retain sturgeon.

Additional season: November 1 through May 31. Whitefish gear rules apply.

Ki Lake (Snohomish County): Last Saturday in April through October 31 season.

Kidney Lake (Skamania County): Last Saturday in April through last day in February season.

Kimball Creek (near Snoqualmie) (King County): Last Saturday in April through October 31 season. Juveniles only. Trout: No minimum length.

Kings Lake and tributaries (Pend Oreille County): Closed waters.

Kings Lake Bog (King County): Closed waters.

Kiwanis Pond (Kittitas County): Juveniles and holders of disability licenses only.

Klaus Lake (King County): Last Saturday in April through October 31 season. Closed waters: The inlet and outlet to first Weyerhaeuser spur.

Klickitat River (Klickitat County):

From mouth to Fisher Hill Bridge: April 1 through January 31 season. Nonbuoyant lure restriction and night closure May 1 through May 31. Nonbuoyant lure restriction August 1 through January 31. Game fish: Closed December 1 through January 31. Release game fish other than steelhead April 1 through May 31. Trout: Minimum length twelve inches. Steelhead and salmon: April 1 through May 31 Mondays, Wednesdays and Saturdays only, daily limit 2 hatchery steelhead or 2 salmon or one of each. Salmon: June 1 through January 31 daily limit 6 fish of which no more than 2 may be adult salmon.

From Fisher Hill Bridge to four hundred feet above #5 fishway: Closed waters.

From four hundred feet above # 5 fishway to the Yakama Indian Reservation boundary: June 1 through November 30 season, except waters from boundary markers above Klickitat salmon hatchery to boundary markers below hatchery are closed waters. Trout: Minimum length twelve inches. Salmon: Open only June 1 through November 30 from 400 feet above No. 5 Fishway to boundary markers below Klickitat Salmon Hatchery. June 1 through July 31: Daily limit 6 salmon. Release adult salmon. August 1 through November 30: Daily limit 6 fish of which no more than 2 may be adult salmon. Release chinook November 1 through November 30. Additional December 1 through March 31 season. Whitefish gear rules apply.

From the Yakama Indian Reservation boundary upstream to source, including all tributaries: Closed waters.

Klineline Ponds (Clark County): Trout: No more than 2 trout 20 inches in length or greater may be retained.

Koeneman Lake (Fern Lake) (Kitsap County): Last Saturday in April through October 31 season. Selective gear rules. All species: Release all fish.

Kress Lake (Cowlitz County): Fishing from a floating device equipped with an internal combustion motor prohibited. Trout: No more than 2 trout 20 inches in length or greater may be retained. Salmon: Landlocked salmon rules apply.

Lacamas Creek (Clark County): Lawful to fish upstream to the base of Lacamas Lake Dam.

Lacamas Creek, tributary of Cowlitz River (Lewis County): June 1 through last day in February season. Trout: Release all fish except up to two hatchery steelhead may be retained per day.

Lake Creek (Okanogan County): Mouth to Black Lake: Closed waters. Black Lake to Three Prong Creek: Selective gear rules.

Langlois Lake (King County): Last Saturday in April through October 31 season.

Latah (Hangman) Creek (Spokane County): Year-round season.

Leader Lake (Okanogan County): Last Saturday in April through September 30 season.

Le Clerc Creek and tributaries (Pend Oreille County): Trout: Eastern brook trout not counted in daily trout limit. Eastern brook trout daily limit ten.

Ledbetter Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Ledking Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Leech Lake (White Pass area) (Yakima County): Fly fishing only. Fishing prohibited from floating devices equipped with motors. Trout: No more than one over 14 inches in length.

Lemna Lake (Grant County): April 1 through September 30 season.

Lenice Lake (Grant County): March 1 through November 30 season. Selective gear rules. Trout: Daily limit one.

Lena Lake, Lower (Jefferson County): Closed waters: Inlet stream from mouth upstream to footbridge (about one hundred feet).

Lenore Lake (Grant County): Closed waters: Area within two hundred yard radius of trash rack leading to the irrigation pumping station (south end of lake) and area approximately one hundred yards beyond the mouth of inlet stream to State Highway 17. March 1 through May 31 season: Selective gear rules (~~(, except fishing from a floating device equipped with an electric motor permitted)~~). All species: Release all fish. Additional season June 1 through November 30: Selective gear rules, except fishing from a floating device equipped with an electric motor permitted. Trout: Daily limit one.

Leo Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Lewis River (Clark County), from mouth to forks: Year-round season. Trout: Release all fish except up to two hatchery steelhead may be retained per day. Salmon: Open year-round. Daily limit six fish of which not more than 2 may be adult salmon. Release chum and wild coho. Release wild chinook January 1 through July 31. Sturgeon: Lawful to retain sturgeon on Thursdays, Fridays and Saturdays, February 1 through July 31 and October 1 through December 31. Release sturgeon on other days and during other time periods.

Lewis River, East Fork (Clark/Skamania counties): Closed waters: From the posted markers at the lower end of Big Eddy to one hundred feet above Lucia Falls; from four hundred feet below to four hundred feet above Molton Falls; from four hundred feet below Horseshoe Falls upstream including all tributaries above Horseshoe Falls.

Mouth to 400 feet below Horseshoe Falls: June 1 through March 15 season. Trout: Release all trout except up to two hatchery steelhead per day may be retained. Mouth to top boat ramp at Lewisville Park: Additional (~~April~~) March 16 through May 31 season. Selective gear rules. Release all fish except up to two hatchery steelhead may be retained per day.

Lewis River, North Fork (Clark/Skamania counties):

From mouth to Colvin Creek: Year-round season except those waters shoreward of the cable buoy and corkline at the mouth of the Lewis River Salmon Hatchery fish ladder are closed waters. Nonbuoyant lure restriction and night closure April 1 through November 30 from Johnson Creek to Colvin Creek. When nonbuoyant lure restriction is in effect, only fish hooked inside the mouth may be retained. Trout: Release all fish except up to two hatchery steelhead may be retained per day. Salmon: Open year-round. Daily limit six fish of which not more than 2 may be adult salmon. Release chum and wild coho. Release wild chinook January 1 through July 31.

From mouth of Colvin Creek to overhead powerlines at Merwin Dam: May 1 through September 30 and December 16 through April 30 season. Nonbuoyant lure restriction and night closure April 1 through September 30. When nonbuoyant lure restriction is in effect, only fish hooked inside the mouth may be retained. Trout: Release all fish except up to two hatchery steelhead may be retained per day. Salmon: Open only January 1 through September 30. Daily limit 6 fish of which no more than 2 may be adult salmon. Release chum and wild coho. Release wild chinook January 1 through July 31.

From overhead powerlines at Merwin Dam to Merwin Dam: Closed waters.

From the cable crossing 1,300 feet below Yale Dam to Yale Dam: Closed waters.

Within Lewis River Power Canal: Closed waters.

From Eagle Cliff Bridge to lower falls including all tributaries: Selective gear rules. All species: Release all fish.

Liberty Lake (Spokane County): Last Saturday in April through September 30 season.

Lilliwaup River (Mason County): Mouth to 200 feet below falls: June 1 through August 31 season. Selective gear rules. All species: Release all fish.

Lilly Lake (Chelan County): Last Saturday in April through October 31 season. July 5 through October 31, selective gear rules, and all species: Release all fish.

Limerick Lake (Mason County): Last Saturday in April through October 31 season.

Lincoln Pond (Clallam County): Juveniles only.

Lions Park Pond (Walla Walla County): Juveniles only. Trout: No more than 2 trout over 13 inches in length may be retained.

Little Ash Lake (Skamania County): Trout: No more than 2 trout 20 inches in length or greater may be retained.

Little Bear Creek (tributary of Sammamish River) (Snohomish/King counties): Closed waters.

Little Hoko River (Clallam County): Selective gear rules. All species: Release all fish.

Little Klickitat River (Klickitat County), within Goldendale city limits: Last Saturday in April through October 31 season. Juveniles only. Trout: Daily limit five, no minimum length.

Little Lost Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Little Naches River (Yakima County): Selective gear rules.

Little Nisqually River (Lewis County): Selective gear rules. Trout: Minimum length ten inches.

Little Pend Oreille River (Stevens County) from the Little Pend Oreille wildlife refuge boundary about 1 mile downstream from the refuge headquarters office to Crystal Falls: Selective gear rules, and all species: Release all fish except up to five Eastern brook trout may be retained.

Little Quilcene River (Jefferson County), from mouth to the Little Quilcene River Bridge on Penny Creek Road, June 1 through last day in February season. Closed waters: Mouth to Highway 101 Bridge September 1 through October 31. Trout: Minimum length fourteen inches.

Little Spokane River (Spokane County):

From mouth to SR 291 Bridge: Year-round season.

From SR 291 Bridge upstream to the West Branch: Last Saturday in April through October 31 season. Additional December 1 through March 31 season. Whitefish gear rules apply.

Upstream from bridge at Frideger Road: Closed waters: From the inlet to Chain Lake upstream one-quarter mile to the railroad crossing culvert. Trout: Release kokanee taken upstream from bridge.

Little Twin Lake (Okanogan County): April 1 through November 30: Selective gear rules and all species: Release all fish.

Little Twin Lake (Stevens County): Last Saturday in April through October 31.

Little Wenatchee River (Chelan County): From Lake Wenatchee to the falls below U.S. Forest Service Road 6700 Bridge at Riverside Campground: Closed waters.

Little White Salmon River (Skamania County): Closed waters: From the orange fishing boundary markers at Drano Lake upstream to the intake near the Little White Salmon National Fish Hatchery north boundary. Trout: Daily limit five. Drano Lake (waters downstream of markers on point of land downstream and across from Little White Salmon National Fish Hatchery): May 1 through March 31 season, except for hatchery steelhead and chinook season in April, and except closed Wednesdays beginning the second Wednesday in April through May 31 and October 1 through October 31. Night closure and nonbuoyant lure restriction May 1 through June 30. Nonbuoyant lure restriction August 1 through December 31. March 16 through June 30 daily limit

of two fish, of which two fish one or both may be hatchery steelhead or one or both may be chinook salmon. Trout and salmon: May 1 through June 30 release all fish except hatchery steelhead and chinook salmon. Trout: July 1 through March 15 release all fish except up to two hatchery steelhead may be retained per day. Salmon: Open only August 1 through December 31. Daily limit six fish of which no more than two may be adult salmon.

Lone Lake (Island County): Selective gear rules(~~(, except electric motors allowed)~~). Trout: Daily limit one, minimum length 18 inches.

Long Lake (Ferry County): Last Saturday in April through October 31 season. Fly fishing only. Unlawful to fish from floating devices equipped with motors.

Long Lake (Okanogan County): Last Saturday in April through September 30 season.

Long Lake (Spokane River Reservoir) (Spokane County): Bass: Release all bass May 1 through June 30.

Long Lake (Thurston County): Last Saturday in April through October 31 season.

Long's Pond (Thurston County): Juveniles only.

Loomis Lake (Pacific County): Last Saturday in April through October 31 season.

Loomis Pond (Grays Harbor County): Closed waters.

Loon Lake (Stevens County): Last Saturday in April through October 31 season. Trout except kokanee: Daily limit five, except no more than two over twenty inches in length may be retained. Kokanee not counted in daily trout limit. Kokanee daily limit ten.

Lost Lake (Kittitas County): Trout: Not more than 1 fish over 14 inches in length.

Lost Lake (Okanogan County): Unlawful to fish from a floating device equipped with an internal combustion engine.

Lost River (Okanogan County):

From mouth to mouth of Monument Creek: Closed waters.

From mouth of Monument Creek to outlet of Cougar Lake: Selective gear rules. Trout: Legal to retain Dolly Varden/Bull Trout as part of trout daily limit. Dolly Varden/Bull Trout daily limit two, minimum length fourteen inches.

Love Lake (Clark County): Closed waters.

~~((Lucas Slough (Skagit County): Closed waters.))~~

Lucky Duck Pond (Stevens County): Juveniles only.

Ludlow Lake (Jefferson County): Last Saturday in April through October 31 season.

Lyle Lake (Adams County): April 1 through September 30 season.

Lyre River (Clallam County):

From mouth to falls near river mile 3: June 1 through last day in February season. Trout: Minimum length fourteen inches.

From falls to source: Selective gear rules. All species: Release all fish.

Mad River (Chelan County), from mouth upstream to Jimmy Creek: Closed waters.

Maggie Lake (Mason County): Last Saturday in April through November 30 season. Salmon: Landlocked salmon rules apply.

Margaret Lake (King County): Last Saturday in April through October 31 season.

Marshal Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Martha Lake (Grant County): March 1 through July 31 season.

Martha Lake (Snohomish County): Last Saturday in April through October 31 season.

Mashel River (Pierce County): July 1 through October 31 season. Selective gear rules. Trout: Minimum length fourteen inches.

Mattoon Lake (Kittitas County): Fishing from a floating device equipped with an internal combustion engine prohibited.

May Creek (tributary of Lake Washington) (King County): ~~((Closed waters.))~~ See Lake Washington tributaries.

Mayfield Lake (Reservoir) (Lewis County): Mayfield Dam to 400 feet below Mossyrock Dam: Closed waters: Tacoma Power safety signs at Onion Rock Bridge to Mossyrock Dam. Trout and salmon: Minimum length eight inches. Trout: Release cutthroat. Release rainbow trout except rainbow trout with a clipped adipose fin and a healed scar at the site of the clipped fin. Salmon: Open only September 1 through December 31. Daily limit 6 fish of which no more than 2 may be adult salmon. Release wild coho.

McAllister Creek (Thurston County): Nonbuoyant lure restriction and night closure August 1 through November 30. Trout: Minimum length fourteen inches. Salmon: Open only July 1 through November 30 from mouth to Olympia - Steilacoom Road Bridge. Daily limit 6 fish of which no more than 4 may be adult salmon.

McCabe Pond (Kittitas County): Fishing from any floating device prohibited. All species: Five fish daily limit for all species combined.

McDonald Creek (Clallam County): Trout: Minimum length fourteen inches.

McDowell Lake (Stevens County): Last Saturday in April through October 31 season. Fly fishing only. Fishing from a floating device equipped with a motor prohibited. All species: Release all fish.

McIntosh Lake (Thurston County): Last Saturday in April through October 31 season.

McLane Creek (Thurston County), from a line 50 feet north of and parallel to the Mud Bay Road Bridge to a line 100 feet upstream and parallel to the south bridge on Highway 101: June 1 through November 30 season. Nonbuoyant lure restriction and night closure August 1 through November 30. Game fish: Release game fish November 1 through November 30. Trout: Minimum length fourteen inches upstream from the south bridge. Salmon: Open only July 1 through November 30. Closed to salmon fishing: Waters within 400 feet of Allison Springs Pond outfall. Daily limit 6 fish of which no more than 2 may be adult salmon. Release coho.

From a line 100 feet upstream and parallel to the south bridge on Highway 101 upstream: Nonbuoyant lure restrictions and night closure August 1 through October 31. Trout: Minimum length fourteen inches.

McLane Creek Ponds (Thurston County): Last Saturday in April through October 31 season.

McManaman Lake (Adams County): April 1 through September 30 season.

McMurray Lake (Skagit County): Last Saturday in April through October 31. Salmon: Landlocked salmon rules apply.

Medical Lake (Spokane County): Last Saturday in April through September 30 season. Selective gear rules. Trout: Daily limit two, minimum length fourteen inches.

Medical Lake, West (Spokane County): Last Saturday in April through September 30 season.

Melaney Creek (Mason County): Closed waters.

Melbourne Lake (Mason County): Last Saturday in April through October 31 season.

Mercer Creek (Kittitas County), that portion within Ellensburg city limits: Juveniles only. Trout: Daily limit five, no minimum length.

Mercer Slough (tributary of Lake Washington) (King County): Closed waters.

Merrill Lake (Cowlitz County): Fly fishing only. Unlawful to fish from a floating device equipped with an internal combustion engine. Trout: Daily limit two, maximum length twelve inches.

Merritt Lake (Chelan County): Trout: Daily limit sixteen.

Merry Lake (Grant County): March 1 through November 30 season. Selective gear rules. Trout: Daily limit one.

Merwin Lake (Reservoir) (Clark/Cowlitz County): Salmon: Landlocked salmon rules apply.

Methow River (Okanogan County):

Mouth to Gold Creek: Closed waters June 1 through October 31. (~~Gold Creek~~) County Road 1535 (Burma Road) Bridge to (~~Weeman Bridge~~) Foghorn Dam: June 1 through September 30 season: Selective gear rules. All species: Release all fish. Foghorn Dam to Weeman Bridge: June 1 through August 15 season. Selective gear rules. All species: Release all fish. Upstream from Weeman Bridge to the falls above Brush Creek: Closed waters June 1 through October

31 (~~From mouth upstream to the falls above Brush Creek~~). Additional season mouth to falls above Brush Creek: December 1 through March 31. Whitefish gear rules apply.

Methow River tributaries not otherwise provided for: Selective gear rules. Trout: Maximum length twenty inches.

Middle Nemah Pond (Pacific County): June 1 through October 31 season.

Mill Creek (Chelan County): Closed waters.

Mill Creek (Cowlitz County): June 1 through August 31 and November 1 through March 15 seasons. Trout: Release all fish except up to two hatchery steelhead may be retained per day.

Mill Creek (Lewis County): Additional season December 1 through December 31, mouth to hatchery road crossing culvert. Nonbuoyant lure restriction and night closure. All species: Release all fish except that up to two hatchery steelhead with intact ventral fins may be retained per day.

Mill Creek (Mason County): Trout: Minimum length fourteen inches.

Mill Creek and tributaries (Pend Oreille County): Trout: Eastern brook trout not counted in daily trout limit. Eastern brook trout daily limit ten.

Mill Creek (Walla Walla County):

From mouth to Gose St. Bridge: June 1 through April 15 season. All species: Barbless hooks required and release all fish except hatchery steelhead September 1 through April 15. Trout: Daily limit three hatchery steelhead.

From Gose St. Bridge to Roosevelt St. Bridge, within city limits of Walla Walla: Closed waters.

From Roosevelt St. Bridge upstream, including all tributaries: All tributaries: Closed waters. Selective gear rules. Trout: Maximum length twenty inches.

Mill Creek Pond (Grays Harbor County): Juveniles only.

Mill Pond (Auburn) (King County): Last Saturday in April through October 31 season. Juveniles only.

Mill Pond (Pend Oreille County): Last Saturday in April through October 31 season.

Mineral Creek (tributary to upper Kachess River) (Kittitas County), from mouth to Wilderness Boundary: Closed waters.

Mineral Creek (tributary to Nisqually River), and Mineral Creek, North Fork (Lewis County): Selective gear rules. Trout: Minimum length twelve inches.

Mineral Lake (Lewis County): Last Saturday in April through September 30 season.

Minter Creek (Pierce/Kitsap counties): Closed waters: Area from department intake dam downstream to mouth June 1 through October 31. Trout: Minimum length fourteen inches. Salmon: Open only November 1 through December 31 from mouth to 50 feet downstream of the hatchery rack. Daily limit 4 chum.

Mirror Lake (Grant County): Last Saturday in April through September 30 season.

Mission Lake (Kitsap County): Last Saturday in April through October 31 season.

Moclips River (Grays Harbor County), from mouth to the Quinault Indian Reservation: June 1 through last day in February season. Trout: Minimum length fourteen inches.

Molson Lake (Okanogan County): Fishing from a floating device equipped with an internal combustion engine prohibited.

Monte Christo Lake (Snohomish County): June 1 through October 31 season. Selective gear rules.

Mooses Pond (Pacific County): June 1 through October 31 season.

Moran Slough (including inlet and outlet streams) (Grant County): Closed waters.

Morgan Lake (Adams County): April 1 through September 30 season.

Morse Creek (Clallam County), from mouth to Port Angeles Dam: June 1 through last day in February season. Trout: Minimum length fourteen inches.

Moses Lake (Grant County): Crappie: Daily limit ~~((five))~~ ten, only crappie more than ~~((ten))~~ nine inches in length may be retained. Bluegill: Daily limit five, only bluegill more than eight inches in length may be retained. Bass: Fish twelve to seventeen inches in length may be retained as part of the daily limit. No more than 3 large mouth bass over fifteen inches in length may be retained. Small mouth bass: Daily limit 10 small mouth bass, not more than one of which may be greater than 14 inches in length. Walleye: Daily limit 8 walleye. Minimum length ~~((eighteen))~~ twelve inches. ~~((Up to five fish eighteen to twenty-four inches in length may be retained in the daily limit.))~~ No more than one walleye over ~~((24))~~ 22 inches in length may be retained. Yellow perch: Daily limit 25 yellow perch.

Mosquito Creek (Jefferson County), outside Olympic National Park: June 1 through last day in February season. Selective gear rules. Trout: Minimum length fourteen inches.

Mountain Lake (San Juan County): Trout: Daily limit may not contain more than two trout over 18 inches in length.

Muck Creek and tributaries (within Ft. Lewis Military Reservation) (Pierce County): Selective gear rules. Trout: Release all trout.

Mud Lake (Mason County): Last Saturday in April through October 31 season.

Mud Lake (Yakima County): Selective gear rules. Trout: Daily limit one.

Mudget Lake (Stevens County): Last Saturday in April through October 31 season.

Munn Lake (Thurston County): Last Saturday in April through October 31 season.

Muskegon Lake (Pend Oreille County): Last Saturday in April through October 31 season. Selective gear rules. Trout: Daily limit two.

Myron Lake (Yakima County): Selective gear rules. Trout: Daily limit one.

Mystic Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Naches River (Yakima/Kittitas counties):

From the mouth to Little Naches River: Selective gear rules. Trout: Minimum length twelve inches, maximum length twenty inches. Release trout June 1 through October 31 from confluence with Tieton River to mouth of Rattle Snake Creek. Additional December 1 through March 31 season. Whitefish gear rules apply.

Naneum Creek (Kittitas County): Selective gear rules.

Naneum Pond (Kittitas County): Juveniles only.

Napeequa River (Chelan County): Mouth to Twin Lakes Creek: Closed waters.

Naselle River (Pacific/Wahkiakum counties), from Highway 101 Bridge upstream including all forks: Closed waters: Area from four hundred feet below falls in Sec. 6, T10N, R8W (Wahkiakum County) to falls. Waters from ~~((two hundred feet upstream of the Naselle Salmon Hatchery water supply intake barrier))~~ the North Valley Road Bridge (Big Hill Bridge) to ~~((four hundred feet downstream of the entrance to the Naselle Salmon Hatchery attraction channel))~~ Highway 4 closed July 16 through October 15.

Mainstem: June 1 through April 15 season, except sturgeon. Single point barbless hooks required August 16 through November 30 upstream from Highway 4 Bridge to Crown Main Line (Salme) Bridge. Nonbuoyant lure restriction and night closure August 16 through November 30 downstream from North Fork. Stationary gear restrictions ~~((downstream from the Crown Main Line Bridge))~~ above mouth of South Fork August 16 through November 30. Selective gear rules March 1 through April 15 ~~((from mouth to North))~~ above mouth of South Fork. All game fish: Release all fish except up to two hatchery steelhead per day may be retained. Salmon: Open only August 1 through January 31 from Highway 101 Bridge to Highway 4 Bridge and October 16 through January 31 from the Highway 4 Bridge to the Crown Main Line Bridge. Daily limit 6 fish of which no more than 3 may be adult salmon and of these 3 adult fish no more than 1 may be a wild adult coho and not more than 2 may be adult chinook. No more than 2 chum may be retained.

Sturgeon: Open year-round from mouth to Highway 4 Bridge.

From mouth of North Fork to source: Selective gear rules. All species: Release all fish except up to two hatchery steelhead per day may be retained.

South Fork, from mouth to Bean Creek: June 1 through last day in February season, except sturgeon. ~~((Game fish: Selective gear rules except))~~ Nonbuoyant lure restriction and night closure August 16 through November 30. Game fish:

Release game fish except up to two hatchery steelhead per day may be retained. Sturgeon: Open year-round.

Nason Creek (Chelan County): From the mouth upstream to Smith Brook: Closed waters.

From Smith Brook to Stevens Creek: Selective gear rules.

Negro Creek (Lincoln County): Year-round season from mouth at Sprague Lake to the fish barrier dam at Fishtrap Lake.

Negro Creek (Whitman County): Last Saturday in April through July 15 season.

Nemah River, North, Middle, and South: June 1 through March 31 season. Single point barbless hooks required on North Nemah upstream to the lower bridge on dead end lower Nemah Road October 1 through November 30, on Middle Nemah upstream to the Department of Natural Resources Bridge on Middle Nemah A-line Road August 16 through November 30, and on South Nemah upstream to confluence with Middle Nemah August 16 through November 30. Selective gear rules on Middle Nemah above DNR Bridge and South Newah above confluence with Middle Nemah. Night closure August 16 through November 30 on South and Middle Nemah and October 1 through November 30 on North Nemah. Nonbuoyant lure restriction on North Nemah upstream from bridge on dead end lower Nemah Road August 16 through November 30. On the North Nemah from the mouth to the lower bridge on dead end lower Nemah Road, stationary gear restriction during the period August 16 through November 30. All game fish: Release all fish except up to two hatchery steelhead per day may be retained (~~in the North Nemah~~). Salmon: Open only August 1 through January 31 on Middle Nemah from mouth to DNR Bridge and South Nemah from mouth to confluence with Middle Nemah and October 1 through January 31 on North Nemah from mouth to the lower bridge on dead end Lower Nemah Road. Middle and South Nemah: Daily limit 6 fish of which no more than 2 may be adult salmon and of the two adult fish no more than one may be a wild adult coho. North Nemah: Daily limit 6 salmon of which not more than 3 may be adult salmon and of the adult fish no more than one may be a wild adult coho and no more than two may be adult chinook. No more than two chum may be retained.

Newhalem Ponds (Whatcom County): Closed waters.

Newaukum River, main river and South Fork upstream to Highway 508 Bridge near Kearny Creek (Lewis County): June 1 through March 31 season. Night closure and single point barbless hooks required August 16 through November 30 from mouth to Leonard Road. Trout: Minimum length fourteen inches mouth to Highway 508 Bridge near Kearny Creek. Salmon: Open only October 16 through last day in February from mouth to Leonard Road. Daily limit 6 fish of which no more than 2 may be adult salmon. Release adult chinook. Release wild adult coho December 1 through last day in February.

Newaukum River, Middle Fork, mouth to Taucher Road Bridge (Lewis County): June 1 to March 31 season. Trout: Minimum length fourteen inches.

Newaukum River, North Fork (Lewis County):

From mouth to four hundred feet below Chehalis city water intake: June 1 through March 31 season. Trout: Minimum length fourteen inches.

From 400 feet below Chehalis city water intake upstream: Closed waters.

Niawiakum River (Pacific County): From Highway 101 Bridge to the South Bend/Palix Road Bridge: Night closure and single point barbless hooks required August 16 through November 30. All game fish: Release all fish. Salmon: Open only September 1 through November 30 from Highway 101 Bridge to South Bend/Palix Road Bridge. Daily limit 6 fish of which no more than 2 may be adult salmon and of the adult fish not more than one may be a wild adult coho. Release adult chinook.

Nile Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Nisqually River (Pierce County), from mouth to (~~four hundred feet below LaGrande Powerhouse~~) Military Tank Crossing Bridge: June 1 through January 31 season. Nonbuoyant lure restriction and night closure August 1 through November 30. (~~Game fish: Closed December 1 through January 31.~~) Trout: Minimum length fourteen inches. All species: Release all species except salmon December 1 through January 31. Salmon: Open only July 1 through January 31 from mouth to Military Tank Crossing Bridge. Daily limit 6 fish of which no more than 2 may be adult salmon.

From Military Tank Crossing Bridge to four hundred feet below LaGrande Falls: July 1 through November 30 season. Selective gear rules. Trout: Minimum length fourteen inches.

Nooksack River (Whatcom County), from mouth to forks, Middle Fork to Dam and North Fork to Nooksack Falls: June 1 through last day in February season except closed June 1 through September 30 in mainstem from yellow marker at the FFA High School barn at Deming to confluence of the North and South Forks. Fishing from floating devices equipped with motors prohibited on the North and Middle Forks November 1 through last day in February. Nonbuoyant lure restriction and night closure August 1 through November 30 on mainstem and North Fork to Maple Creek. Trout: Minimum length fourteen inches. Salmon: Open only September 1 through December 31 in mainstem from Lummi Indian Reservation boundary to yellow marker at the FFA High School barn in Deming. Open only October 16 through December 31 in mainstem from the FFA barn to the confluence of the North and South Forks, and October 1 through October 31 on the North Fork from confluence to Maple Creek. Daily limit 2 salmon, except release pink and wild coho, release wild chinook from mouth to FFA barn, and release chinook from FFA barn to forks and in North Fork.

Nooksack River, South Fork (Skagit/Whatcom counties): From mouth to Skookum Creek: June 1 through last day in

February season. Selective gear rules. Night closure August 1 through October 31. Trout: Minimum length fourteen inches. Salmon: Open only October 16 through December 31. Daily limit 2 salmon, except release pink, chinook and wild coho.

From Skookum Creek upstream: Closed waters.

No Name Lake (Pend Oreille County): Last Saturday in April through October 31 season.

North Creek (Okanogan County): From mouth to falls at river mile 0.8: Selective gear rules.

North Creek (tributary of Sammamish River) (Snohomish/King counties): (~~Closed waters.~~) See Lake Washington tributaries.

North Elton Ponds (Yakima County): December 1 through March 31 season. Fishing from a floating device equipped with an internal combustion engine prohibited. Trout: Daily limit two.

North Lake (King County): Last Saturday in April through October 31 season.

North Potholes Reserve Ponds (Grant County): February 1 through the day before opening of waterfowl season. Fishing from any floating device prohibited, except float tubes permitted.

North River (Grays Harbor/Pacific counties), from Highway 105 Bridge upstream to Falls River: June 1 through last day in February season, except sturgeon. Night closure August 16 through November 30. Single point barbless hooks required August 16 through November 30 upstream to Salmon Creek. Nonbuoyant lure restriction from Salmon Creek to Falls River August 16 through November 30. All game fish: Release all fish except that up to two hatchery steelhead per day may be retained. Salmon: Open only September 1 through November 30 from Highway 105 Bridge to Salmon Creek. Daily limit 6 fish of which no more than 2 may be adult salmon and of the adult fish not more than one may be a wild adult coho. Release adult chinook. Sturgeon: Open year-round from Highway 105 Bridge to Salmon Creek.

Upstream from Falls River: Selective gear rules. All species: Release all fish except up to two hatchery steelhead per day may be retained.

Northern State Hospital Pond (Skagit County): Last Saturday in April through October 31 season. Juveniles only.

Northwestern Reservoir (Klickitat/Skamania counties): Last Saturday in April through last day in February season.

Nunnally Lake (Grant County): March 1 through November 30 season. Closed waters: Outlet stream of Nunnally Lake. Selective gear rules. Trout: Daily limit one.

Oakland Bay freshwater tributaries (Mason County), except Goldsborough Creek (including Shelton Creek, Canyon Creek, Uncle John Creek, Campbell Creek, Melaney Creek, Deer Creek, John's Creek, and Cranberry Creek to Lake Limerick): Closed waters.

Oasis Park Pond (Grant County): Third Saturday in April through Labor Day season. Juveniles and holders of reduced

fee disability licenses only. Game fish: Daily limit of five fish in the aggregate. No minimum or maximum size for any species.

Ohanapecosh Creek (tributary to Cowlitz River) (Lewis/Pierce counties): Selective gear rules. Trout: Minimum length twelve inches.

Ohop Lake (Pierce County): Last Saturday in April through October 31 season.

Okanogan River (Okanogan County):

From the mouth to the highway bridge at Malott: Year-round season. Trout: Release all trout. Upstream from the highway bridge at Malott: June 1 through August 31 season. Trout: Release all trout. Salmon: Open only July 16 through October 15 from mouth to Highway 97 Bridge immediately upstream of mouth. Daily limit 6 fish of which no more than 2 may be adult salmon. Release coho and sockeye.

Closed waters: From Zosel Dam downstream to one-quarter mile below the railroad trestle.

Old Fishing Hole Pond (Kent) (King County): Last Saturday in April through October 31 season. Juveniles only.

Old Mill Stream (Chelan County): Closed waters.

Olequa Creek (Lewis County): June 1 through last day in February season. Trout: Release all fish except up to two hatchery steelhead may be retained per day.

Osborne Lake (Mason County): Last Saturday in April through October 31 season.

Outlet Creek (Klickitat County): Trout: Daily limit five.

Owens Pond (Pacific County): June 1 through October 31 season.

Packwood Lake (Lewis County): Closed waters: All inlet streams and outlet from log boom to dam. Last Saturday in April through October 31 season. Selective gear rules. Trout: Daily limit five, minimum length ten inches.

Padden Lake (Whatcom County): Last Saturday in April through October 31 season. Fishing from a floating device equipped with an internal combustion motor prohibited.

Palix River, including all forks (Pacific County): June 1 through March 31 season, except sturgeon. Single point barbless hooks and night closure August 16 through November 30 upstream to the confluence of the South and Middle Forks. All game fish: Release all fish except up to two hatchery steelhead per day may be retained. Above the confluence of the South and Middle Forks: Selective gear rules. Nonbuoyant lure restriction and night closure August 16 through November 30. All game fish: Release all fish except up to two hatchery steelhead per day may be retained. Salmon: Open only September 1 through November 30 from the Highway 101 Bridge to the confluence of the South and Middle Forks. Daily limit 6 fish of which no more than 2 may be adult salmon and of the adult salmon not more than one may be a wild adult coho. Release adult chinook. Sturgeon: Open year-round from the Highway 101 Bridge to the confluence of the South and Middle Forks.

Palouse River and tributaries, except Rock Creek (Whitman County): ~~((Year-around))~~ Year-round season. Mainstem from mouth to base of Palouse Falls. Trout: Daily limit 6 fish, minimum length 10 inches, no more than 3 trout over 20 inches may be retained, except release all trout April 1 through June 15 and release steelhead June 16 through August 31. Barbless hooks required when fishing for steelhead. Bass: Fish 12 to 15 inches in length may be retained, but not more than 3 bass over 15 inches in length may be retained. Walleye: Daily limit 10 fish, no minimum size. No more than 5 walleye over 18 inches in length may be retained, and no more than 1 walleye over 24 inches in length may be retained. Channel catfish: No daily limit.

Palouse River mainstem above Palouse Falls and tributaries except Rock Creek: Year-round season.

~~((Palmer Lake (Okanogan County): Burbot: Set line gear allowed:))~~

Pampa Pond (Whitman County): March 1 through September 30 season. Fishing from any floating device prohibited.

Panhandle Lake (Mason County): Last Saturday in April through October 31 season.

Panther Creek (Chelan County): Closed waters.

Panther Creek (tributary to Wind River) (Skamania County): Closed waters.

Panther Lake (Kitsap/Mason counties): Last Saturday in April through October 31 season.

Para-Juvenile Lake (Adams/Grant counties): April 1 through September 30 season. Juveniles only.

Park Lake (Grant County): Last Saturday in April through September 30 season.

Parker Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Pass Lake (Skagit County): Fly fishing only. Fishing from a floating device equipped with a motor prohibited. All species: Release all fish.

Pataha Creek (Garfield County):

 Within the city limits of Pomeroy: Juveniles only.

 From city limits of Pomeroy upstream: Selective gear rules.

Patterson Lake (Okanogan County): Last Saturday in April through October 31 season.

Pattison Lake (Thurston County): Last Saturday in April through October 31 season.

Peabody Creek (Clallam County): Juveniles only.

Pearrygin Lake (Okanogan County): Last Saturday in April through September 30 season.

Pend Oreille River (Pend Oreille County): Year-round season. All sloughs within the boundaries of the Kalispell Reservation except Calispell Slough: Closed waters.

Perch Lake (Grant County): Last Saturday in April through September 30 season.

Percival Creek (Thurston County): Trout: Minimum length fourteen inches.

Peshastin Creek (Chelan County): Mouth to Ruby Creek: Closed waters.

Petit Lake (Pend Oreille County): Last Saturday in April through October 31 season. Fishing from a floating device equipped with an internal combustion motor prohibited.

Phalon Lake (Stevens County): Closed waters.

Pheasant Lake (Jefferson County): Last Saturday in April to October 31 season.

Phelps Creek (Chelan County): From mouth to falls at river mile 1: Selective gear rules.

Philippa Creek (tributary to N.F. Snoqualmie River) (King County): Closed waters.

Phillips Lake (Mason County): Last Saturday in April through October 31 season.

Phillips Lake (Stevens County): Last Saturday in April through October 31 season.

Pilchuck Creek (Snohomish County), mouth to Highway 9 Bridge: June 1 through November 30 season. Selective gear rules. Trout: Minimum length fourteen inches. Additional December 1 through last day in February season. Trout: Minimum length fourteen inches.

Pilchuck River (Snohomish County)

 From its mouth to five hundred feet downstream from the Snohomish City diversion dam: December 1 through last day in February season. Fishing from any floating device prohibited. Trout: Minimum length fourteen inches.

 From 500 feet below diversion dam upstream: Closed waters.

Pillar Lake (Grant County): April 1 through September 30 season.

Pine Lake (King County): Last Saturday in April through October 31 season.

Pine Lake (Mason County): Last Saturday in April through October 31 season.

Pioneer Ponds (tributary to Stillaguamish River) (Snohomish County): Closed waters.

Pipers (Carkeek) Creek (King County), from its mouth to its source, including tributaries: Closed waters.

Pit Lake (Douglas County): Juveniles only.

Pleasant Lake (Clallam County): Trout: Kokanee minimum length eight inches, maximum length twenty inches.

Plummer Lake (Lewis County): Last Saturday in April through last day in February season.

Poacher Lake (Grant County): April 1 through September 30 season.

Portage Creek (tributary to Stillaguamish River) (Snohomish County): Closed waters.

Potholes Reservoir (Grant County): Crappie: Minimum length nine inches. Crappie and bluegill: Combined daily limit twenty-five fish. Perch: Daily limit twenty-five fish. Small mouth bass: Small mouth bass are not included as part of the bass daily limit. Small mouth bass 12 to 17 inches in length may be retained. Daily limit 10 small mouth bass, not more than 1 of which may be greater than 14 inches in length. Walleye: Minimum size 12 inches in length. Daily limit 8 walleye, not more than 1 of which may be greater than 22 inches in length.

Potter's Pond (Stevens County): Last Saturday in April through October 31 season.

Pratt River (tributary to Middle Fork Snoqualmie) (King County): Selective gear rules. All species: Release all fish.

Prices Lake (Mason County): Last Saturday in April through October 31 season. Selective gear rules. All species: Release all fish.

Promised Land Pond (Grays Harbor County): June 1 through October 31 season.

Purdy Creek (Mason County): June 1 through August 15 season. Selective gear rules. All species: Release all fish.

Puyallup River (Pierce County):

From mouth to the Electron power plant outlet: ~~((June))~~ July 1 through ((January 31)) last day in February season. Single point barbless hooks, nonbuoyant lure restriction and night closure August 1 through November 30 from the mouth to the Carbon River. Trout: Minimum length fourteen inches. Salmon: Open only August 1 through December 31 from mouth to Carbon River. Daily limit 6 fish of which no more than 4 may be adult salmon and of the adult salmon no more than two may be chinook, coho or chum or a combination of chinook, coho and chum. Release wild adult chinook.

~~((From mouth to the Soldier's Home Bridge in Orting: Additional February 1 through last day in February season. Trout: Minimum length fourteen inches.))~~ From Electron power plant outlet upstream: July 1 through October 31 season. Selective gear rules. All species: Release all fish.

Pysh River (Clallam County): June 1 through last day in February season. Trout: Minimum length fourteen inches. December 1 through last day in February, one wild steelhead per day may be retained.

Pysh River South Fork (Clallam County): Trout: Minimum length fourteen inches.

Quail Lake (Adams County): Fly fishing only. Fishing from any floating device equipped with a motor prohibited. All species: Release all fish.

Quarry Pond (Walla Walla County): Fishing from any floating device prohibited. Trout: No more than 2 trout over 13 inches in length may be retained.

Quigg Lake (Grays Harbor County): June 1 through April 15 season. Trout: Daily limit 2. Minimum length fourteen inches. Salmon: Open only October 1 through January 31.

Daily limit 6 hatchery coho salmon of which no more than 4 may be adult hatchery coho.

Quillayute River (Clallam County): Open year-round. May 1 through May 31 release all fish except up to two hatchery steelhead per day may be retained. Trout: Minimum length fourteen inches. November 1 through last day in February, daily limit three steelhead. December 1 through April 30, one wild steelhead per day may be retained. Salmon: Open only March 1 through November 30. Daily limit 6 fish of which no more than 2 may be adult salmon March 1 through August 31 and 3 may be adult salmon September 1 through November 30. September 1 through November 30 the 3 adult salmon may contain no more than 2 adult chinook or 2 adult wild coho or 1 adult chinook and 1 adult wild coho. March 1 through August 31 release wild adult coho and unmarked adult chinook. Unmarked chinook are chinook with unclipped adipose and ventral fins.

Quinault River, Upper (Jefferson County), from mouth at upper end of Quinault Lake to the National Park boundary: June 1 through April 15 season. Trout: Minimum length fourteen inches. December 1 through April 15, one wild steelhead per day may be retained. Salmon: Open only July 1 through October 31. Daily limit 6 fish except release adult salmon.

Quincy Lake (Grant County): March 1 through July 31 season.

Radar Ponds (Pacific County): Salmon: Landlocked salmon rules apply.

Raging River (King County), from its mouth to the Highway 18 Bridge: June 1 through last day in February season. Trout: Minimum length fourteen inches.

Railroad Pond (Franklin County): Selective gear rules. Trout: Daily limit two.

Rainbow Lake (Columbia County): March 1 through October 31 season. Fishing from any floating device prohibited. Trout: No more than 2 trout over 13 inches in length may be retained.

Rapjohn Lake (Pierce County): Last Saturday in April through October 31 season.

Rat Lake (Okanogan County): April 1 through November 30: Selective gear rules ~~((except electric motors allowed, and))~~. All species: Release all fish.

Rattlesnake Creek (Yakima County): Selective gear rules. All species: Release all fish.

Rattlesnake Lake (King County): Last Saturday in April through October 31 season. Selective gear rules ~~((except fishing from a floating device equipped with an electric motor allowed))~~.

Ravensdale Lake (King County): Last Saturday in April through October 31 season. Selective gear rules. Trout: Daily limit two, minimum length twelve inches.

Reflection Pond (Okanogan County): Last Saturday in April through October 31 season.

Renner Lake (Ferry County): Last Saturday in April through October 31 season.

Riffe Lake (Reservoir) (Lewis County): Mossyrock Dam to 400 feet below Cowlitz Falls Dam. Closed waters: Lewis County PUD safety signs approximately 800 feet below Cowlitz Falls Dam to Dam. Lawful to fish up to the base of Swofford Pond Dam. Salmon: Landlocked salmon rules apply.

Rigley Lake (Stevens County): Last Saturday in April through October 31 season. Selective gear rules. Trout: Daily limit two, minimum length twelve inches.

Riley Lake (Snohomish County): Last Saturday in April through October 31 season.

Rimrock Lake (Reservoir) (Yakima County): Chumming permitted. Trout except kokanee: Daily limit five. Kokanee not counted in daily trout limit. Kokanee daily limit sixteen.

Ringold Springs Creek (Hatchery Creek) (Franklin County): Closed waters.

Robbins Lake (Mason County): Last Saturday in April through October 31 season.

Rock Creek (Adams/Whitman counties): Mouth to Endicott Road year-round season.

Endicott Road to bridge on George Knott Road at Revere: Selective gear rules. All species: Release all fish.

Upstream from bridge on George Knott Road: Year-round season.

Rock Creek (Chelan County): Selective gear rules.

Rock Creek (Cedar River tributary below Landsburg Dam) (King County): Closed waters.

Rock Creek (Skamania County): Mouth to falls: June 1 through March 15 season. Trout: Release all fish except up to two hatchery steelhead may be retained per day. Above falls, additional November 1 through March 15 season.

Rocky Ford Creek and Ponds (Grant County): Fly fishing only. Fishing from bank only (no wading). All species: Release all fish.

Rocky Lake (Stevens County): Last Saturday in April through October 31 season. June 1 through October 31 selective gear rules and all species: Release all fish.

Roesiger Lake (Snohomish County): Crappie: Daily limit ten, minimum length nine inches.

Roosevelt Lake (Ferry/Lincoln/Stevens counties): (~~Chumming allowed~~) All species: Closed January 1 through May 31 in San Poil arm upstream from outlet of French Johns Lake, and April 1 through May 31 in Kettle arm upstream to Barstow Bridge. Trout except kokanee: Daily limit five. No more than two over twenty inches in length. Kokanee daily limit two. Walleye: No minimum size. Daily limit ((5)) 8 fish not more than one of which may be longer than ((48)) 22 inches. Salmon: Landlocked salmon rules apply. Sturgeon: Unlawful to fish for or retain sturgeon from Roosevelt Lake and tributaries. Carp: Unlawful to fish for carp with bow and arrow. Small mouth bass: Fish between 12 and 17 inches in

length may be retained. No minimum size. Daily limit 10 bass, no more than one bass over 14 inches in length may be retained.

Rose Lake (Mason County): Last Saturday in April through October 31 season.

Ross Lake (Reservoir) (Whatcom County): July 1 through October 31 season. Selective gear rules, except fishing from a floating device equipped with ((#)) an internal combustion motor allowed. Trout: Daily limit three, possession limit six, minimum length thirteen inches.

Ross Lake tributary streams (Whatcom County), except Big Beaver Creek and Ruby Creek: Closed waters: From closed water markers near mouth upstream for one mile. Above closed water marker in tributaries not listed as closed: July 1 through October 31 season.

Round Lake (Okanogan County): Last Saturday in April through September 30 season.

Rowland Lakes (Klickitat County): Last Saturday in April through last day in February season.

Royal Lake (Adams County): Closed waters.

Royal Slough (including Marsh Unit IV impoundments) (Adams County): Closed waters.

Ruby Creek (tributary to Ross Lake) (Whatcom County): Closed waters.

Ruby Creek and tributaries (Pend Oreille County): Trout: Eastern brook trout not counted in daily trout limit. Eastern brook trout daily limit ten.

Rufus Woods Lake (Douglas County): Chumming allowed. Trout: Daily limit two. Kokanee not included in daily trout limit. Kokanee daily limit 2. Sturgeon: Unlawful to fish for or retain sturgeon from Rufus Woods Lake and tributaries.

Sacheen Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Saddle Mountain Lake (Grant County): Closed waters.

Sago Lake (Grant County): April 1 through September 30 season.

Salmon Creek (Clark County), from mouth to 72nd Avenue N.E.: June 1 through March 15 season. Trout: Release all fish except up to two hatchery steelhead may be retained per day.

Salmon Creek, including all forks (Jefferson County): Closed waters.

Salmon Creek, mainstem (Okanogan County): Closed waters.

Salmon Creek, North Fork and West Fork from mouth to South Fork (Okanogan County): Selective gear rules.

Salmon Creek (tributary of Naselle River) (Pacific County): June 1 through last day in February season. Selective gear rules. All species: Release all fish except up to two hatchery steelhead per day may be retained.

Salmon River (Jefferson County) outside of Olympic National Park and Quinault Indian Reservation: June 1 through last day in February season. Trout: Minimum length fourteen inches. Hatchery steelhead in this river are steelhead with a dorsal fin height of less than 2-1/8 inches or with an adipose or ventral fin clip. Salmon: Open only September 1 through November 30. Daily limit 6 fish of which no more than 3 may be adult salmon and of the adult salmon not more than 2 may be adult chinook salmon.

Salt Creek (Clallam County): Trout: Minimum length fourteen inches.

From mouth to bridge on Highway 112: Additional November 1 through last day in February season. Trout: Minimum length fourteen inches.

Samish Lake (Whatcom County): Trout: Cutthroat trout daily limit two, minimum length fourteen inches.

Samish River (Whatcom County):

From its mouth to the Hickson Bridge: June 1 through March 15 season. From Highway 99 Bridge to department salmon rack: Closed waters. Nonbuoyant lure restriction and night closure August 1 through December 31.

Trout: Minimum length fourteen inches. Salmon: Open only July 1 through December 31 from mouth to Thomas Road Bridge and October 1 through December 31 from Thomas Road Bridge to I-5 Bridge. Daily limit two salmon.

Sammamish Lake (King County): Trout: Release all kokanee. Kokanee/sockeye under fifteen inches are kokanee while those fifteen inches and over are sockeye salmon. December 1 through June 30: Release all steelhead and rainbow trout over twenty inches in length. Salmon: Closed to salmon fishing within 100 yards of the mouth of Issaquah Creek. Open only August 16 through November 30. Daily limit two salmon. Release sockeye.

Sammamish River (Slough) (King County), from the 68th Avenue N.E. Bridge to Lake Sammamish: Closed waters: All tributaries. January 1 through August 31 season. Selective gear rules. Trout: Release all trout.

Sandyshore Lake (Jefferson County): Last Saturday in April to October 31 season.

San Poil River (Ferry County): Unlawful to fish for or retain sturgeon.

Sarge Hubbard Park Pond (Yakima County): Juveniles and holders of disability licenses only.

Satsop Lakes (Grays Harbor County): Last Saturday in April through October 31 season.

Satsop River, (Grays Harbor County): Trout: Minimum length 14 inches in mainstem and all forks. Mainstem and East Fork, single point barbless hooks and night closure August 16 through November 30 except only August 16 through October 31 on East Fork upstream from bridge at Schafer State Park. Middle and West forks downstream from Cougar Smith Road nonbuoyant lure restriction and night closure August 16 through November 30. Middle and West Forks upstream from Cougar Smith Road night closure and nonbuoyant lure restriction August 16 through October 31.

From mouth to bridge at Schafer Park: Additional November 1 through March 31 season. Salmon: Open only October 1 through January 31. Daily limit 6 fish of which no more than 2 may be adult salmon, except release adult chinook.

Middle Fork (Turnow Branch), from mouth to Cougar Smith Road: Additional November 1 through last day in February season.

West Fork, from mouth to Cougar Smith Road: Additional November 1 through last day in February season.

Sauk River (Skagit/Snohomish counties):

From mouth to the mouth of the White Chuck River: June 1 through last day in February season. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches.

From the mouth of the White Chuck River to headwaters, including North Fork and South Fork upstream to Elliot Creek: Selective gear rules. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches.

South Fork upstream from Elliot Creek: June 1 through August 31 season. Selective gear rules.

From mouth to the Darrington Bridge: Additional March 1 through April 30 season. Selective gear rules. All species: Release all fish.

Sawyer, Lake (King County): Chumming permitted. Crappie: Daily limit ten, minimum length nine inches.

Schaefer Lake (Chelan County): Trout: Daily limit sixteen.

Sekiu River (Clallam County): All open periods: Trout: Minimum length fourteen inches.

From mouth to forks: Additional November 1 through last day in February season.

Serene Lake (Snohomish County): Last Saturday in April through October 31 season.

Shady Lake (King County): June 1 through October 31 season. Trout: No more than one over fourteen inches in length.

Shannon, Lake (Skagit County): Last Saturday in April through October 31 season. Chumming permitted. Trout: Minimum length six inches and maximum length eighteen inches.

Shellneck Creek (Yakima County): Closed waters.

Shelton Creek (Mason County): Closed waters.

Sherman Creek (Ferry County):

From the mouth at Lake Roosevelt upstream to four hundred feet above the water diversion dam for the hatchery: Closed waters, except December 1 through August 31 season from the mouth upstream to the hatchery boat dock.

Sherry Lake (Stevens County): Last Saturday in April through October 31 season.

Sherwood Creek (Mason County): Trout: Minimum length fourteen inches.

Sherwood Creek Mill Pond (Mason County): June 1 through October 31 season. Trout: Minimum length 14 inches, daily limit 2 fish.

Shiner Lake (Adams County): April 1 through September 30 season. Fishing from a floating device equipped with an internal combustion motor prohibited.

Shoe Lake (Mason County): Last Saturday in April through October 31 season.

Shoveler Lake (Grant County): April 1 through September 30 season.

Shye Lake (Grays Harbor County): June 1 through October 31 season.

Sidley Lake (Okanogan County): Trout: Daily limit two.

Siebert Creek (Clallam County): Trout: Minimum length fourteen inches.

Silent Lake (Jefferson County): Last Saturday in April through October 31 season. Fishing from a floating device equipped with an internal combustion engine prohibited.

Silvas Creek (Klickitat County): Trout: Release all trout.

Silver Creek (tributary to Cowlitz River) (Lewis County), mouth to USFS Road 4778: Selective gear rules. Trout: Minimum length twelve inches.

Silver Lake (Cowlitz County): Crappie: Daily limit ten crappie. Minimum size nine inches in length.

Silver Lake (Pierce County): Last Saturday in April through October 31 season.

Silver Lake (Spokane County): Crappie: Daily limit ten, minimum length nine inches.

Silver Lake, North (Spokane County): March 1 through September 30 and November 1 through December 31 season. Selective gear rules. March 1 through September 30: Trout: Daily limit 2 fish, minimum length 14 inches, except release fish with clipped adipose fin. November 1 through December 31: All species: Release all fish.

Silver Lake (Whatcom County): Last Saturday in April through October 31 season.

Silvernail Lake (Okanogan County): Juveniles only.

Similkameen River (Okanogan County):

From mouth to Enloe Dam: December 1 through March 31 season. Whitefish gear rules apply.

From Enloe Dam to Canadian border: Additional December 1 through March 31 season. Whitefish gear rules apply.

Sinlahekin Creek (Okanogan County), from Palmer Lake to Cecile Creek bridge: June 1 through August 31 season. Selective gear rules. Additional December 1 through March 31 season. Whitefish gear rules apply.

Sixteen Lake (Skagit County): Last Saturday in April through October 31 season.

Skagit River (Skagit/Whatcom counties):

From mouth to the Memorial Highway Bridge (Highway 536 at Mt. Vernon): Year-round season. Selective gear rules March 1 through May 31 except lawful to fish from a floating device equipped with ((~~an~~)) an internal combustion motor. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches. Salmon: Open only August 16 through December 31. Daily limit two salmon except release chinook.

From Memorial Highway Bridge (Highway 536 at Mt. Vernon) upstream to Gilligan Creek: June 1 through March ((~~31~~)) 15 season. Night closure and nonbuoyant lure restriction July 1 through November 30. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches. Salmon: Open only August 16 through December 31. Daily limit two salmon except release chinook.

From Gilligan Creek to ((~~Bacon Creek~~)) Cascade River: June 1 through March 15 season except closed June 1 through June 30 and August 1 through August 31 between a line 200 feet above the east bank of the Baker River to a line 200 feet below the west bank of the Baker River. Nonbuoyant lure restriction and night closure July 1 through November 30. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of the trout daily limit, minimum length twenty inches. Salmon: Open only September 16 through December 31 Gilligan Creek to the Dalles Bridge at Concrete. Daily limit two salmon except release chinook.

From the Dalles Bridge at Concrete to the Highway 530 Bridge at Rockport - Additional season: March 16 through April 30. Selective gear rules except lawful to fish from a floating device equipped with an internal combustion motor. Unlawful to fish from a floating device while under power. All species: Release all fish. Salmon open July 1 through July 31 except closed 12:01 a.m. July 5 until 2:00 p.m. July 6 and 12:01 a.m. July 11 until 2:00 p.m. July 12, and, except closed from 200 feet above the mouth of the Baker River to the Cascade River. Daily limit two sockeye salmon. Release all salmon except sockeye salmon. Salmon open September 16 through December 31. Daily limit two salmon except release chinook.

From the Highway 530 Bridge at Rockport to the Cascade River - Additional season: March 16 through April 30. Selective gear rules except lawful to fish from a floating device equipped with an internal combustion motor. Unlawful to fish from a floating device while under power. All species: Release all fish. Salmon open June 1 through July 8. Daily limit two salmon. Release all salmon except hatchery chinook. Salmon open September 16 through December 31. Daily limit two salmon. Release chinook.

From ((~~Bacon Creek~~)) Cascade River to Gorge Powerhouse: June 1 through ((~~last day in February~~)) March 15 season. Nonbuoyant lure restriction and night closure July 1 through November 30. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of the trout daily limit, minimum length twenty inches.

From the Gorge Powerhouse to Gorge Dam: Closed waters.

From the Dalles Bridge at Concrete to the mouth of Bacon Creek: Additional March 16 through April 30 season. Selective gear rules, except lawful to fish from a floating device equipped with a motor but not while under power. All species: Release all fish.

Skamokawa Creek (Wahkiakum County), mouth to forks just below Oatfield and Middle Valley Road: November 1 through March 15 season. All species: Release all fish other than steelhead. Trout: Minimum length twenty inches.

Skate Creek (tributary to Cowlitz River) (Lewis County): Trout: Daily limit five, no more than one over twelve inches in length. Release cutthroat. Release rainbow trout except rainbow trout having a clipped adipose fin and a healed scar at the site of the clipped fin.

Skokomish River (Mason County), mouth to forks: Night closure, nonbuoyant lure restriction and single point barbless hooks required August 1 through November 30 mouth to Highway 101. June 1 through last day in February season. All game fish: Release all fish except that up to two hatchery steelhead per day may be retained. Salmon: Open only August 1 through December 15 mouth to Highway 101 Bridge. Daily limit 1 salmon August 1 through September 30. Release chum salmon. Daily limit 6 salmon October 1 through December 15, except daily limit may contain no more than 4 adult fish and of these adults not more than one may be an adult chinook. October 1 through October 15 release chum salmon.

Skokomish River, North Fork (Mason County):

From mouth to lower dam: June 1 through last day in February season. All species: Release all fish except up to two hatchery steelhead per day may be retained.

Above Lake Cushman, mouth to Olympic National Park boundary: June 1 through August 31 season. Selective gear rules. Trout: Release all fish.

Skokomish River, South Fork (Mason County):

From mouth to mouth of Church Creek: June 1 through last day in February season. All species: Release all fish except up to two hatchery steelhead per day may be retained.

From mouth of Church Creek to mouth of Rule Creek: Closed waters.

From mouth of Rule Creek to headwaters: Selective gear rules. Trout: Minimum length twelve inches.

Skookum Creek (Mason County): Trout: Minimum length fourteen inches.

Skookum Lakes, North and South (Pend Oreille County): Last Saturday in April through October 31 season.

Skookumchuck Creek (Klickitat County): Trout: Release all trout.

Skookumchuck Reservoir (Thurston County): June 1 through October 31 season. Trout: Daily limit two, minimum length twelve inches.

Skookumchuck River (Thurston County):

From mouth to four hundred feet below the outlet of the PP&L/WDFW steelhead rearing pond located at the base of the Skookumchuck Dam: June 1 through April 30 season. Single point barbless hooks and night closure August 16 through November 30. Trout: Minimum length fourteen inches. Salmon: Open only October 16 through last day in February. Daily limit 6 fish of which no more than 2 may be adult salmon, except December 1 through the last day in February release adult wild coho. Release adult chinook.

From Skookumchuck Reservoir upstream and all tributaries: Selective gear rules. Trout: Minimum length twelve inches.

Skykomish River (Snohomish County):

From mouth to mouth of Wallace River: June 1 through last day in February season. Nonbuoyant lure restriction and night closure August 1 through November 30 mouth to Lewis Street Bridge in Monroe and June 1 through November 30 from Lewis Street Bridge in Monroe to Wallace River. Fishing from any floating device prohibited November 1 through last day in February from the boat ramp below Lewis Street Bridge at Monroe downstream two thousand five hundred feet. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches. ~~((Additional season March 1 through April 30 mouth to Sultan River. Selective gear rules and all species. Release all fish.))~~ Salmon: Open August 16 through December 31 mouth to Lewis Street Bridge in Monroe. Daily limit 4 salmon of which no more than 2 may be coho or chum or a combination of coho and chum. Release chinook. Open June 1 through July 31 Lewis Street Bridge in Monroe to Wallace River. Daily limit 2 hatchery chinook. Open September 1 through December 31 Lewis Street Bridge to Wallace River. Daily limit 4 salmon of which no more than 2 may be coho or chum or a combination of coho and chum. Release chinook.

From the mouth of the Wallace River to the forks: June 1 through last day in February season, except closed June 1 to 8:00 a.m. August 1 in those waters one thousand five hundred feet upstream and one thousand feet downstream of the outlet at Skykomish Rearing Ponds. Nonbuoyant lure restriction and night closure August 1 through November 30. Fishing from any floating device prohibited in the area one thousand five hundred feet upstream and one thousand feet downstream of the outlet at Skykomish Rearing Ponds August 1 through last day in February. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches. Salmon: Open only September 1 through December 31. Daily limit 4 salmon of which no more than 2 may be coho or chum or a combination of coho and chum. Release chinook.

Skykomish River, North Fork (Snohomish County):

From mouth to one thousand feet downstream from Bear Creek Falls: June 1 through last day in February season. Nonbuoyant lure restriction and night closure August 1 through November 30. Trout: Minimum length fourteen inches.

From one thousand feet below Bear Creek Falls to Deer Falls: Closed waters.

Skykomish River, South Fork (King/Snohomish counties):

From mouth to six hundred feet downstream from the Sunset Falls Fishway: June 1 through last day in February season. Nonbuoyant lure restriction and night closure August 1 through November 30. Trout: Minimum length fourteen inches.

From a point six hundred feet downstream of the Sunset Falls Fishway to the Sunset Falls Fishway: Closed waters.

From Sunset Falls to source: June 1 through November 30 season. Selective gear rules. Trout: Minimum length fourteen inches. Whitefish: Additional December 1 through last day in February season. Release all fish other than whitefish.

Slate Creek and tributaries (Pend Oreille County): Trout: Eastern brook trout not counted in daily trout limit. Eastern brook trout daily limit ten.

Smith Creek (near North River) (Pacific County): June 1 through last day in February season, except sturgeon. Single point barbless hooks, and night closure August 16 through November 30 upstream to the Highway 101 Bridge. All game fish: Release all fish except up to two hatchery steelhead per day may be retained. Salmon: Open only September 1 through November 30 from mouth to Highway 101 Bridge. Daily limit 6 fish of which no more than 2 may be adult salmon and of the adult salmon not more than one may be an adult wild coho. Release adult chinook. Sturgeon: Open year-round from mouth to Highway 101 Bridge.

Snake River: Year-round season. Closed to the taking of all trout April 1 through June 15. Trout: Daily limit six, minimum length ten inches, no more than three over twenty inches. Release all steelhead June 16 through August 31. Barbless hooks required when fishing for steelhead. Sturgeon: Unlawful to retain sturgeon in mainstem and tributaries upstream from Lower Granite Dam. Bass: Fish twelve to seventeen inches in length may be retained. Up to but not more than 3 bass over fifteen inches in length may be retained. Walleye: Daily limit 10 fish. No minimum size. No more than 5 fish over 18 inches in length. No more than 1 fish over 24 inches in length. Channel catfish: No daily limit.

Closed waters: Within four hundred feet of the base of any dam and within a four hundred foot radius around the fish ladder entrance at Lyons Ferry Hatchery, within a two hundred foot radius upstream of the fish ladder exit above Lower Granite Dam, and within an area one thousand two hundred feet downstream from the base of the west lock gate at Little Goose Dam on the south bank of the Snake River and one hundred feet out into the river from said river bank.

Snipe Lake (Grant County): April 1 through September 30 season.

Snohomish River (Snohomish County), including all channels, sloughs, and interconnected waterways, but excluding all tributaries: June 1 through last day in February season, except sturgeon. Nonbuoyant lure restriction and night closure August 1 through November 30. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit,

minimum length twenty inches. Salmon: Open only August 16 through December 31. Daily limit 4 salmon of which no more than 2 may be coho or chum or a combination of coho and chum. Release chinook. Sturgeon: Open year-round from mouth to Highway 2 Bridge.

Snoqualmie River (King County):

From mouth to the falls: June 1 through last day in February season, except waters within the Puget Power tunnel at the falls and within fifty feet of any point on Puget Power's lower Plant # 2 building (north bank) are closed waters. June 1 through November 30 selective gear rules, except fishing from a floating device equipped with ((Ⓢ)) an internal combustion motor allowed. Fishing from any floating device prohibited November 1 through last day in February from the mouth of Tokul Creek downstream to the boat ramp at Plumb access, about one-quarter mile. Night closure September 1 through November 30. Trout: Minimum length fourteen inches. Salmon: Open only September 1 through December 31. Daily limit 2 fish. Release chinook and pink.

From Snoqualmie Falls upstream, including the North and South Forks: Selective gear rules. Trout: Minimum length ten inches. Additional November 1 through May 31 season. Selective gear rules. All species: Release all fish.

Snoqualmie Middle Fork from mouth to source including all tributaries except Pratt and Taylor rivers: Year-round season. Selective gear rules. All species: Release all fish.

Snow Creek (Jefferson County), including all tributaries: Closed waters.

Snyder Creek (Klickitat County): Trout: Release all trout.

Sol Duc River (Clallam County): Open year-round. May 1 through May 31 release all fish except up to two hatchery steelhead per day may be retained. Selective gear rules from the concrete pump station at the Sol Duc Hatchery to the Highway 101 Bridge downstream of Snider Creek November 1 through April 30, and from the Highway 101 Bridge to Olympic National Park June 1 through October 31. Trout: Minimum length fourteen inches. November 1 through last day in February, daily limit three steelhead from mouth to concrete pump station at Sol Duc Hatchery. December 1 through April 30, from mouth to the concrete pump station at the Sol Duc Hatchery, one wild steelhead per day may be retained. Salmon: Open only March 1 through November 30 from mouth to concrete pump station. Daily limit 6 fish of which no more than 2 may be adult salmon March 1 through August 31 and of which no more than 3 may be adult salmon September 1 through November 30. March 1 through August 31 release wild adult coho and unmarked adult chinook. Unmarked chinook are chinook with unclipped adipose and ventral fins. September 1 through November 30 the daily limit may contain no more than 2 adult chinook or 2 adult wild coho or 1 adult chinook and 1 adult wild coho.

Sooes River (Suez River) (Clallam County): June 1 through last day in February season. Trout: Minimum length fourteen inches.

Soos Creek (King County), from mouth to bridge near hatchery residence: June 1 through August 31 season except salmon. Trout: Minimum length fourteen inches. Salmon:

Open only October 8 through October 30 to fishing by juveniles only. Night closure October 8 through October 30. Terminal gear restricted to one single point hook. Daily limit two coho salmon.

Bridge near hatchery residence to Salmon hatchery rack: June 1 through August 31 season. Trout: Minimum length fourteen inches.

South Bend Mill Pond (Pacific County): Juveniles only.

South Prairie Creek (Pierce County), mouth to Page Creek: Closed waters.

Spada Lake (Reservoir) (Snohomish County): Last Saturday in April through October 31 season. Selective gear rules (~~((except fishing from a floating device equipped with an electric motor permitted))~~). Trout: Maximum length twelve inches.

Spada Lake (Reservoir) tributaries (Snohomish County): Closed waters.

Spanaway Lake and Spanaway Lake outlet downstream to the dam (approximately 800 feet) (Pierce County): Year-round season. (~~((Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.))~~)

Spearfish Lake (Klickitat County): Last Saturday in April through last day in February season.

Spectacle Lake (Okanogan County): (~~((March))~~) April 1 through ((July 31)) September 30 season.

Spirit Lake (Skamania County): Closed waters.

Spring Lake (Columbia County): Trout: No more than 2 trout over 13 inches in length may be retained.

Spokane River (Spokane County):

From SR 25 Bridge upstream to (~~((the Seven Mile Bridge))~~) the upstream boundary at Plese Flats Day Use Area (Riverside State Park), except Long Lake, formed by Long Lake Dam (see also Long Lake): Year-round season except walleye. Trout: Daily limit five, no more than two over twenty inches in length. Walleye: Daily limit five, no minimum length, no more than one over eighteen inches in length. April 1 through May 31 release all walleye. Salmon: Landlocked salmon rules apply. Sturgeon: Unlawful to fish for or retain sturgeon.

From (~~((Seven Mile Bridge))~~) the upstream boundary at Plese Flats Day Use Area (Riverside State Park) upstream to the Monroe Street Dam: Year-round season. Selective gear rules. Trout: Daily limit one. Release wild trout. Salmon: Landlocked salmon rules apply. Sturgeon: Unlawful to fish for or retain sturgeon.

From Monroe Street Dam upstream to Upriver Dam: Year-round season. Salmon: Landlocked salmon rules apply.

From Upriver Dam upstream to the Idaho/Washington state line: June 1 through March 15 season. Selective gear rules, except fishing from a floating device equipped with (~~((a))~~) an internal combustion motor permitted. All species: Release all fish.

Sprague Lake (Adams/Lincoln counties):

Waters south of the lakeside edge of the reeds and waters of Cow Creek south to Danekas Road: July 1 through September 15 season. Crappie: Daily limit ten, minimum length nine inches. Walleye: Minimum size 12 inches in length. Daily limit 8 walleye, not more than 1 of which may be greater than 22 inches in length.

Spring Creek (Klickitat County): Trout: Daily limit five.

Spring Lake (Columbia County): March 1 through October 31 season. Fishing from any floating device prohibited.

Spring Lakes (Grant County): March 1 through July 31 season.

Squalicum Lake (Whatcom County): Fly fishing only. Fishing from a floating device equipped with a motor prohibited. Trout: Daily limit two.

Stan Coffin Lake (Grant County): Bass: Release all bass.

Starvation Lake (Stevens County): Last Saturday in April through May 31 season. Additional June 1 through October 31 season. Selective gear rules. All species: Release all fish.

Steel Lake (King County): Last Saturday in April through October 31 season.

Stehekin River (Chelan County), from the mouth to Agnes Creek: July 1 through October 31 season. Selective gear rules. Trout: Minimum length fifteen inches. Release cut-throat. Additional March 1 through June 30 season. Selective gear rules. All species: Release all fish.

Stetattle Creek (Whatcom County), from its mouth to mouth of Bucket Creek (one and one-half miles upstream): Closed waters.

Stevens Creek (Grays Harbor County), mouth to Highway 101 Bridge: June 1 through last day in February season. Trout: Minimum length fourteen inches.

Stevens, Lake (Snohomish County): Chumming permitted. Kokanee: Kokanee not included in trout daily limit. Kokanee daily limit ten fish.

Steves Lake (Mason County): Last Saturday in April through October 31 season.

Stickney Lake (Snohomish County): Last Saturday in April through October 31 season.

Stillaguamish River (Snohomish County):

From mouth to Marine Drive, including all sloughs: Year-round season. Nonbuoyant lure restriction and night closure August 1 through November 30. Trout: Minimum length fourteen inches. Salmon: Open only September 1 through December 31. Daily limit 2 salmon. Release chinook and pink salmon.

From Marine Drive to the forks, except from the barrier dam (downstream of I-5) downstream two hundred feet which is closed waters: June 1 through last day in February season. Night closure August 1 through November 30. Selective gear rules June 1 through November 30 except fishing from a floating device equipped with a motor allowed. Game fish: June 1 through November 30 release all fish except up

to two hatchery steelhead per day may be retained. Trout: Minimum length fourteen inches December 1 through last day in February. Salmon: Open only September 1 through December 31. Daily limit 2 salmon. Release chinook and pink salmon.

Stillaguamish River, North Fork (Snohomish County), from mouth to Swede Heaven Bridge: ~~((Year-round))~~ June 1 through last day in February season. Nonbuoyant lure restriction and night closure August 1 through November 30. Fishing from any floating device prohibited upstream of the Highway 530 Bridge at mile post 28.8 (Cicero Bridge). Fishing from any floating device equipped with a motor prohibited downstream from the Highway 530 Bridge. ~~((March))~~ June 1 through November 30: All species: Release all fish except hatchery steelhead. ~~((April-16))~~ June 1 through November 30 fly fishing only. December 1 through last day in February: Trout: Minimum length fourteen inches.

Stillaguamish River, South Fork (Snohomish County):

From mouth to four hundred feet downstream of the outlet to fishway at Granite Falls: June 1 through last day in February season. Nonbuoyant lure restriction and night closure August 1 through November 30. Trout: Minimum length fourteen inches.

From four hundred feet below the outlet of the end of the fishway to Mt. Loop Highway bridge above Granite Falls: Closed waters.

From Mt. Loop Highway Bridge above Granite Falls to source: June 1 through November 30 season. Nonbuoyant lure restriction and night closure August 1 through November 30.

Storm Lake (Snohomish County): Last Saturday in April through October 31 season.

Stratford/Brook Lake (Grant County): February 1 through September 30 season.

Stump Lake (Mason County): Last Saturday in April through October 31 season. Fishing from a floating device equipped with an internal combustion engine prohibited.

Suiattle River (Skagit County): Trout: Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches.

Sullivan Creek (Pend Oreille County), from Mill Pond upstream and tributaries: Selective gear rules. Trout: Eastern brook trout not counted in daily trout limit. Eastern brook trout daily limit ten.

Sullivan Lake (Pend Oreille County): Trout: Daily limit 2 trout, except kokanee not counted in daily trout limit. Kokanee daily limit ten.

Sultan River (Snohomish County), from its mouth to a point four hundred feet downstream from the diversion dam at river mile 9.7: June 1 through last day in February season. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches.

Sultan River, North and South Forks (Snohomish County): Closed waters.

Summit Lake (Stevens County): Last Saturday in April through October 31 season.

Summit Lake (Thurston County): Last Saturday in April through October 31 season.

Sunday Creek (tributary to N.F. Snoqualmie River) (King County): Closed waters.

Sutherland Lake (Clallam County): Chumming permitted.

Swale Creek (Klickitat County): Trout: Release all trout.

Swamp Creek (tributary to Sammamish River) (Snohomish/King counties): Closed waters.

Swan Lake (Ferry County): Last Saturday in April through October 31 season.

Swan's Mill Pond (Stossel Creek) (King County): June 1 through October 31 season.

Swauk Creek (Kittitas County): Selective gear rules.

Swift Reservoir (Skamania County): Last Saturday in April through October 31 season. From posted markers below Eagle Cliff Bridge to Bridge: Selective gear rules ~~((except fishing from a floating device equipped with a motor is allowed))~~. Salmon: Landlocked salmon rules apply.

Swofford Pond (Lewis County): Fishing from a floating device equipped with an internal combustion motor prohibited.

Tacoma Creek and tributaries (Pend Oreille County): Trout: Eastern brook trout not counted in daily trout limit. Eastern brook trout daily limit ten.

Tahuya River (Mason County): Selective gear rules and release all fish except salmon. Salmon: Open only September 16 through October 31 mouth to marker one mile above North Shore Road Bridge. Daily limit 2 coho salmon.

Taneum Creek (Kittitas County): Selective gear rules.

Tanwax Lake (Pierce County): Last Saturday in April through October 31 season. Crappie: Daily limit ten, minimum length nine inches.

Tapps Lake (Reservoir) and Tapps Lake (Reservoir) intake canal (Pierce County), to within four hundred feet of the screen at Dingle Basin: Year-round season.

Tarboo Lake (Jefferson County): Last Saturday in April through November 30 season. Fishing from a floating device equipped with an internal combustion engine prohibited. Salmon: Landlocked salmon rules apply.

Tate Creek (tributary to N.F. Snoqualmie River) (King County): Closed waters.

Taylor River (tributary to the Middle Fork Snoqualmie) (King County): Selective gear rules. All species: Release all fish.

Teal Lakes (North and South) (Grant County): April 1 through September 30 season.

Teal Lake (Jefferson County): Last Saturday in April to August 31 season. Fishing from a floating device equipped with an internal combustion engine prohibited. Additional September 1 through March 30 season. Selective gear rules. All species: Release all fish.

Teanaway River, including North Fork (Kittitas County): Selective gear rules.

Tenas Lake (Mason County): Last Saturday in April through October 31 season.

Tennant Lake (Whatcom County): Fishing from any floating device prohibited from first Friday in October through January 15.

Terrell, Lake (Whatcom County): Fishing from any floating device prohibited the first Saturday after Labor Day through the following Friday and from October 1 through January 31 except fishing from floating dock permitted.

Thomas Lake (Stevens County): Last Saturday in April through October 31 season.

Thornton Creek (tributary to Lake Washington) (King County): Closed waters.

Thread Lake (Adams County): April 1 through September 30 season.

Tibbetts Creek (tributary to Lake Sammamish) (King County): Closed waters.

Tieton River (Yakima County): Lawful to fish to base of Tieton (Rimrock) Dam. Additional December 1 through March 31 season: Whitefish gear rules apply.

Tieton River, North Fork (Yakima County), upstream from Rimrock Lake: Closed waters: Spillway channel. June 1 through August 15 season.

Tieton River, South Fork (Yakima County): From mouth to bridge on USFS Rd. 1070 (approximately 12.5 miles): Closed waters.

Tiger Lake (Kitsap/Mason counties): Last Saturday in April through October 31 season.

Tilton River (Lewis County), from mouth to West Fork: June 1 through March 31 season. Trout: Daily limit five, no more than one over twelve inches in length. Release cutthroat. Release rainbow trout except rainbow trout having a clipped adipose fin and a healed scar at the site of the clipped fin. Salmon: Open only June 1 through December 31. Daily limit 6 fish of which no more than 2 may be adult fish. Release wild coho.

Tilton River, East, North, South and West Forks (Lewis County): Selective gear rules. Trout: Minimum length twelve inches.

Toad Lake (Whatcom County): Last Saturday in April through October 31 season.

Tokul Creek (King County):

From mouth to the ~~((posted cable boundary marker located approximately seven hundred feet upstream of the~~

~~mouth)) Fish Hatchery Road Bridge: December 1 through last day in February season, closed 5:00 p.m. to 7:00 a.m. daily. Nonbuoyant lure restriction. Trout: Minimum length fourteen inches.~~

~~From Fish Hatchery Road Bridge to posted cable boundary marker located approximately seven hundred feet upstream of the mouth: January 15 through last day in February season, closed 5:00 p.m. to 7:00 a.m. daily. Nonbuoyant lure restriction. Trout: Minimum length 14 inches.~~

From the posted cable boundary marker located approximately seven hundred feet upstream of the mouth to the railroad trestle: Closed waters.

Tolt River (King County):

From mouth to the USGS trolley cable near the confluence of the North and South Forks: June 1 through last day in February season. June 1 through November 30, selective gear rules. Trout: Minimum length fourteen inches.

From the USGS trolley cable to the falls in Sec. 21, Twp 26N., R 8 E. on the North Fork, and to the dam on the South Fork: Closed waters.

From falls upstream on North Fork: Selective gear rules. All species: Release all fish.

From dam upstream on South Fork: Selective gear rules. Trout: Minimum length ten inches.

Touchet River (Columbia/Walla Walla counties):

Bass: Bass 12 to 17 inches in length may be retained. Up to but not more than 3 greater than 15 inches may be retained as part of the daily limit.

From confluence of north and south forks upstream, including Robinson and Wolf Forks: Selective gear rules. Bass: Statewide rules apply. Trout: Release all steelhead. Tributaries other than North Fork, South Fork, Robinson Fork, and Wolf Fork: Closed waters.

North Fork: Upstream of Spangler Creek June 1 through August 31 season.

South Fork: Upstream from Griffin Creek June 1 through August 31 season.

Wolf Fork: Upstream from Coates Creek June 1 through August 31 season.

From mouth to confluence of north and south forks: Additional season: November 1 through April 15. Barbless hooks required. All species: Release all fish except hatchery steelhead and brown trout. Trout: Daily limit three fish.

Toutle River (Cowlitz County):

From mouth to forks, and North Fork from the mouth to the posted deadline below the fish collection facility: June 1 through November 30 season. Nonbuoyant lure restriction and night closure September 1 through October 15 on North Fork from confluence with South Fork to mouth of Green River. All game fish: Release all fish except up to two hatchery steelhead per day may be retained. Salmon: Open only August 1 through November 30. Daily limit 6 fish of which no more than 2 may be adult salmon. Release chum and wild coho. Release all chinook October 1 through November 30 in North Fork upstream from Kidd Valley Bridge.

From the posted deadline below the fish collection facility upstream to the headwaters, including all tributaries, but excepting Castle and Coldwater Lakes: Closed waters.

Toutle River, South Fork (Cowlitz County), mouth to source: Closed waters: All tributaries. June 1 through November 30 season. All species: Release all fish except hatchery steelhead. Trout: Minimum length twenty inches. Mouth to 4100 Road Bridge: Additional December 1 through March 31 season. Selective gear rules. All species: Release all fish except hatchery steelhead.

Trapper Lake (Chelan County): Trout: Daily limit two.

Trout Creek (tributary to Wind River) (Skamania County): Closed waters.

Trout Lake (Ferry County): Last Saturday in April through October 31 season.

Trout Lake (tributary to Big White Salmon River) (Klickitat County): June 1 through October 31 season.

Tucannon River (Columbia/Walla Walla counties): Closed waters: All tributaries.

From the mouth upstream to Turner Road Bridge: Additional November 1 through April 15 season. Barbless hooks required. All species: Release all fish except hatchery steelhead and whitefish. Trout: Daily limit three hatchery steelhead.

From the Turner Road Bridge upstream to the Tucannon Hatchery Bridge: Selective gear rules June 1 through October 31. Additional season November 1 through April 15. Barbless hooks required. All species: Release all fish except hatchery steelhead and whitefish. Trout: Daily limit three hatchery steelhead.

From the Tucannon Hatchery Bridge upstream to 500 feet above the Rainbow Lake intake: Closed waters.

From 500 feet above the Rainbow Lake intake to the Cow Camp Bridge: Selective gear rules. Release steelhead.

From Cow Camp Bridge upstream: Closed waters.

Tucquala Lake (Kittitas County): June 1 through October 31 season.

Tunnel Lake (Skamania County): Trout: No more than 2 trout 20 inches in length or greater may be retained.

Twin Lake (Jefferson County): Last Saturday in April through October 31 season.

Twin Lakes (Chelan County) and tributaries and outlet stream to junction with the Napeequa River: Closed waters.

Twisp River (Okanogan County), from mouth to War Creek: June 1 through (~~September 30~~) August 15 season. Selective gear rules. All species: Release all fish. War Creek to South Fork Twisp River: Closed waters.

Tye River (King County): Foss River to Alpine Falls June 1 through October 31 season: Selective gear rules. Trout: Minimum length fourteen inches. Whitefish: Additional November 1 through last day in February season. Release all fish other than whitefish. From Alpine falls upstream: Trout: Minimum size ten inches.

U Lake (Mason County): Last Saturday in April through October 31 season.

Umtanum Creek (Kittitas County): Selective gear rules.

Uncle John Creek (Mason County): Closed waters.

Union Creek (Yakima County): From mouth upstream to falls (approximately 1/4 mile): Closed waters.

Union River (Mason County): Mouth to North Shore Road Bridge. All species: Release all fish except sturgeon.

From North Shore Road Bridge to lower bridge on Old Belfair Highway: June 1 through August 15 season. Selective gear rules. All species: Release all fish except sturgeon.

From lower bridge on Old Belfair Highway upstream to watershed boundary: Selective gear rules. All species: Release all fish except sturgeon.

From watershed boundary to source, including all tributaries: Closed waters.

Upper Wheeler Reservoir (Chelan County): Closed waters.

Valley Creek (Clallam County): Juveniles only.

Vance Creek (Mason County): Trout: Minimum length fourteen inches.

Vance Creek/Elma Ponds (Grays Harbor County): Pond One: Last Saturday in April through November 30 season. Juveniles, holders of a senior license and holders of a department disability license only. Salmon: Landlocked salmon rules apply. Pond Two: Last Saturday in April through November 30 season. Salmon: Landlocked salmon rules apply.

Vancouver Lake and all other waters west of Burlington-Northern Railroad from Columbia River drawbridge near Vancouver downstream to Lewis River (Clark County): Closed waters: April 1 through May 30 the Vancouver Lake flushing channel is closed and it is closed to fishing from the lake shoreline within 400 feet east and west of the channel exit. Chumming permitted. Trout: Daily limit two, minimum length twelve inches. Sturgeon: Seasons, daily limits and size limits same as Columbia River from I-5 Bridge to Bonneville Dam.

Vanes Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Van Winkle Creek (Grays Harbor County): Mouth to 400 feet below outlet of Lake Aberdeen Hatchery: Game fish: Minimum length 14 inches. Salmon: Open only September 1 through January 31. Daily limit 6 fish of which not more than 2 may be adult fish. Release chum, adult chinook and wild adult coho.

Vic Meyers (Rainbow) Lake (Grant County): Last Saturday in April through September 30 season.

Vogler Lake (Skagit County): Last Saturday in April through October 31 season. Fly fishing only. All species: Release all fish.

Voight Creek (Pierce County): From mouth to Highway 162 Bridge: Closed waters.

Wagners Lake (Snohomish County): Last Saturday in April through October 31 season.

Wahkiacus Creek (Klickitat County): Trout: Release all trout.

Waitts Lake (Stevens County): Last Saturday in April through last day in February season.

Walker Lake (King County): Last Saturday in April through October 31 season.

Wallace River (Snohomish County):

From its mouth to 200 feet upstream of the water intake of the salmon hatchery: June 1 through last day in February season. Closed waters: From the first Burlington-Northern Railroad bridge (below Highway 2) to a point two hundred feet upstream of the water intake of the salmon hatchery during the period June 1 through August 31. Fishing from any floating device prohibited November 1 through last day in February. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches. Salmon: Open only September 1 through November 30. Daily limit 2 coho.

From 200 feet upstream of the water intake of the salmon hatchery to mouth of Olney Creek: November 1 through last day in February season. Fishing from any floating device prohibited. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches.

Walla Walla River (Walla Walla County):

From mouth to the Touchet River: Year-round season. Trout: Barbless hooks required when fishing for steelhead. Trout: Release trout April 1 through May 31. Daily limit three hatchery steelhead. Bass: No minimum or maximum size. No more than three fish over fifteen inches in length may be retained.

From the Touchet River upstream to state line: Trout: All tributaries except Mill Creek, maximum length twenty inches. Bass: No minimum or maximum size. No more than three fish over fifteen inches in length may be retained. Additional season November 1 through April 15. All species: Barbless hooks required and release all fish except hatchery steelhead. Trout: Daily limit three hatchery steelhead.

Walupt Lake (Lewis County): Closed waters: All inlet streams. Last Saturday in April through October 31 season. Selective gear rules (~~((except fishing from devices equipped with motors permitted))~~). Trout: Minimum length ten inches.

Wannacut Lake (Okanogan County): Last Saturday in April through October 31 season.

Wapato Lake (Chelan County): Last Saturday in April through October 31 season. Trout: Release all trout. From August 1 through October 31: Selective gear rules except fishing from a device equipped with an internal combustion (~~(engine))~~ motor permitted.

Wapato Lake (Pierce County): Juveniles only.

Ward Lake (Ferry County): Last Saturday in April through October 31 season.

Ward Lake (Thurston County): Last Saturday in April through October 31 season.

Warden Lake and Warden Lake, South (Grant County): Last Saturday in April through September 30 season.

Washburn Island Pond (Okanogan County): April 1 through September 30 season. Fishing from a floating device equipped with an internal combustion motor prohibited.

Washburn Lake (Okanogan County): Last Saturday in April through October 31 season. Trout: Daily limit two.

Washington, Lake, including that portion of the Sammamish River from the 68th Avenue N.E. Bridge downstream (King County): Fishing from floating device prohibited one hundred yards either side of the floating bridges. Chumming permitted. Trout: December 1 through last day in February, daily limit 5, no minimum length. Release steelhead and rainbow trout over twenty inches in length. March 1 through June 30, daily limit 5, minimum length twelve inches. Release steelhead and rainbow trout over twenty inches in length. Kokanee/sockeye under fifteen inches are kokanee while those fifteen inches and over are sockeye salmon. Salmon: Open only September 16 through October 31 north of Highway 520 Bridge and east of Montlake Bridge. Daily limit two coho salmon.

Washington, Lake, Ship Canal (King County) (waters east of a north-south line 400 feet west of the fish ladder at the Chittenden Locks and west of a north-south line at the eastern ends of the concrete abutments east of the Montlake Bridge): West of Fremont Bridge: Fishing from floating device prohibited. East of Fremont Bridge: Chumming permitted.

From west boundary to a north-south line 400 feet east of the eastern end of the northern wing wall of Chittenden Locks: Closed waters.

From 400 feet east of the eastern end of the northern wing wall of Chittenden Locks to the east boundary: Open year-round. Trout: December 1 through last day in February daily limit five, no minimum length. Release steelhead and rainbow trout over twenty inches in length. March 1 through June 30, daily limit five, minimum length twelve inches. Release steelhead and rainbow trout over twenty inches in length. July 1 through November 30, daily limit five, no minimum length. Kokanee/sockeye less than fifteen inches in length are kokanee and fifteen inches and over in length are sockeye salmon.

Washington Lake, tributaries (King County) except the Cedar River and that portion of the Sammamish River downstream from the 68th Street Bridge: June 1 through August 31 season. Juveniles only.

Washougal River (Clark County): Night closure year-round.

From mouth to bridge at Salmon Falls: June 1 through March 15 season. Nonbuoyant lure restriction (~~(-night closure))~~ and stationary gear restriction (~~(September))~~ July 1 through October 31. When nonbuoyant lure restriction is in effect, only fish hooked inside the mouth may be retained. Trout: Release all trout except up to 2 hatchery steelhead per day may be retained. Salmon: Open only August 1 through March 15. Daily limit 6 fish of which no more than 2 may be adult salmon. Release chum and wild coho. Release hatchery coho October 16 through December 31. Upstream of Little

Washougal River, release chinook October 1 through November 30.

From mouth to Mt. Norway Bridge: Additional (~~April~~) March 16 through May 31 season. Selective gear rules. Trout: Release all trout except up to 2 hatchery steelhead per day may be retained.

From bridge at Salmon Falls to its source, including tributaries: Closed waters.

Washougal River, West (North) Fork (Clark/Skamania counties):

From mouth to the water intake at the department hatchery: Closed waters.

From intake at department hatchery to source: June 1 through March 15 season. Trout: Release all trout except up to 2 hatchery steelhead per day may be retained.

Watson Lake (Columbia County): March 1 through October 31 season. Fishing from any floating device prohibited. Trout: No more than 2 trout over 13 inches in length may be retained.

Waughop Lake (Pierce County): Salmon: Landlocked salmon rules apply.

Wenas Lake (Yakima County): Trout: Daily limit five, of which not more than two may be brown trout.

Wenaha River tributaries within Washington: June 1 through August 31 season.

Wenatchee Lake (Chelan County): Selective gear rules except fishing from a floating device equipped with ~~(a)~~ an internal combustion motor allowed. Trout except kokanee: Daily limit two, minimum length twelve inches. Release kokanee. Kokanee/sockeye under sixteen inches will be considered kokanee while those sixteen inches and over will be considered sockeye salmon.

Wenatchee River, including Lake Jolanda (Chelan County):

December 1 through March 31 season, from mouth to Highway 2 Bridge at Leavenworth only. Whitefish gear rules apply.

West Evans Pond (Asotin County): Trout: No more than 2 trout over 13 inches in length may be retained.

West Twin River (Clallam County): June 1 through last day in February season. Trout: Minimum length fourteen inches.

Whatcom Creek (Whatcom County):

From mouth to stone bridge at Whatcom Falls Park: June 1 through last day in February season. Nonbuoyant lure restriction and night closure August 1 through December 31. Closed waters: Woburn Street Bridge upstream to the stone bridge. Trout: Minimum length fourteen inches. Salmon: Open only August 1 through December 31 from mouth to markers below Dupont Street. Daily limit 6 fish of which not more than 2 may be adult salmon.

From stone bridge at Whatcom Falls Park upstream to Lake Whatcom: Last Saturday in April through October 31 season. Juveniles only. Nonbuoyant lure restriction and night closure August 1 through October 31. Trout: No minimum length.

Whatcom, Lake (Whatcom County): Last Saturday in April through October 31 season, except those waters between the Electric Avenue Bridge and the outlet dam are closed waters. Trout: Release cutthroat trout.

Whatcom, Lake, tributaries (Whatcom County): Closed waters.

Wheeler Creek (Klickitat County): Trout: Release all trout.

White River (Chelan County), from mouth upstream to White River Falls: Closed waters.

White (Stuck) River (Pierce County):

From mouth to R Street Bridge in Auburn: October 1 through last day in February season: Nonbuoyant lure restriction and night closure October 1 through November 30. Trout: Minimum length fourteen inches.

From R Street Bridge to Highway 410 Bridge at Buckley: October 1 through October 31 season. Closed waters: Puget Power canal, including the screen bypass channel, above the screen at Dingle Basin. Nonbuoyant lure restriction and night closure. Trout: 14 inch minimum size.

From the Weyerhaeuser 6000 Road Bridge (Bridge Camp) to its source: July 1 through October 31 season. Nonbuoyant lure restriction and night closure October 1 through November 30. Selective gear rules July 1 through October 31. Trout: Minimum length fourteen inches. Whitefish: Additional November 1 through January 31 season. Release all fish except whitefish.

Whitechuck River (Snohomish County): Trout: Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches.

White Salmon River (Klickitat/Skamania counties):

From mouth to powerhouse: Open year-round. Bank fishing only downstream from the Highway 14 Bridge. August 1 through December 31: Nonbuoyant lure restriction. Trout: Minimum length fourteen inches. Salmon and steelhead: Open April 1 through June 30, daily limit two fish, one or both of which may be salmon or hatchery steelhead. Release all fish except salmon or hatchery steelhead. Salmon: Open July 1 through March 31. Daily limit 6 fish of which no more than 2 may be adult salmon. October 1 through December 31 release chinook upstream from posted markers upstream of Highway 14 Bridge.

From powerhouse to within four hundred feet of Northwestern Dam: November 16 to April 30 season except salmon and steelhead. Trout: Minimum length fourteen inches. Release trout April 1 through April 30. Salmon: Open November 16 through March 31. Daily limit 6 fish of which no more than 2 may be adult salmon. November 16 through December 31 release chinook. Salmon and steelhead: Open April 1 through June 15, daily limit two fish, one or both of which may be salmon or hatchery steelhead. Release all fish except salmon or hatchery steelhead.

From gas pipeline crossing above Northwestern Lake to Gilmer Creek: Selective gear rules. Trout: Minimum length twelve inches.

Wide Hollow Creek (Yakima County): Trout: Daily limit five, no minimum length.

Widgeon Lake (Grant County): April 1 through September 30 season.

Wildberry Lake (Mason County): Last Saturday in April through October 31 season.

Wildcat Lake (Kitsap County): Last Saturday in April through October 31 season.

Wilderness Lake (King County): Last Saturday in April through October 31 season. Salmon: Landlocked salmon rules apply.

Willame Lake (Lewis County): Last Saturday in April through October 31 season. Selective gear rules. Trout: Daily limit two, minimum length fifteen inches.

Willapa River (Pacific County): Mouth to Fork Creek: June 1 through July 15 and October 16 through March 31 season (~~(; except sturgeon)~~). Night closure, single point barbless hooks, and stationary gear restriction (~~(August)~~) October 16 through November 30 mouth to Fork Creek. November 1 through March 31 fishing from any floating device prohibited from the bridge on Willapa Road to Fork Creek.

All game fish: Release all fish except that up to two hatchery steelhead may be retained. Salmon: Open only August 1 through January 31 from mouth to Highway 6 Bridge approximately 2 miles below mouth of Trap Creek and open October 16 through January 31 from Highway 6 Bridge to Fork Creek. Daily limit 6 fish of which no more than 3 may be adult salmon and of the adult salmon not more than one may be a wild adult coho and not more than two may be adult chinook and not more than two may be chum.

Sturgeon: Open (~~(year-round)~~) October 16 through July 15 from mouth to Highway 6 Bridge.

Upstream from Fork Creek: Selective gear rules. August 16 through October 31, nonbuoyant lure restriction and night closure. All species: Release all fish except up to two hatchery steelhead per day may be retained.

South Fork: June 1 through last day in February season. Selective gear rules June 1 through October 31. Nonbuoyant lure restriction and night closure August 16 through November 30. All species: Release all fish except up to two hatchery steelhead may be retained.

Williams Creek (Pacific County): June 1 through last day in February season. Selective gear rules. All species: Release all fish except up to two hatchery steelhead per day may be retained.

Williams Lake (Spokane County): Last Saturday in April through September 30 season.

Williams Lake (Stevens County): December 1 through March 31 season.

Wilson Creek (two branches within Ellensburg city limits) (Kittitas County): Open year-round. Juveniles only. Trout: Daily limit five, no minimum length.

Winchester Wasteway (Grant County): Within Winchester Game Reserve: February 1 through September 30 season.

Wind River (Skamania County):

Mouth to four hundred feet below Shipherd Falls: July 1 through March 15 season, except salmon and steelhead. May 1 through June 30: Nonbuoyant lure restriction and night closure. August 1 through October 31: Nonbuoyant lure restriction. When nonbuoyant lure restriction is in effect, only fish hooked inside the mouth may be retained. Salmon and steelhead: Open March 16 through June 30 daily limit 2 fish, one or both of which may be a salmon or hatchery steelhead. Release all fish except salmon and hatchery steelhead. Trout: Minimum length fourteen inches. Salmon: Open August 1 through October 31. Daily limit 6 fish of which no more than 2 may be adult salmon. Release chinook from Burlington-Northern Railroad Bridge upstream.

From four hundred feet below to one hundred feet above Shipherd Falls fish ladder: Closed waters.

From one hundred feet above Shipherd Falls to source, including all tributaries: May 1 through June 30 season. Closed waters: From 400 feet below to 100 feet above the Coffey Dam and from a boundary marker approximately 800 yards downstream from Carson National Fish Hatchery upstream, including all tributaries. Night closure and nonbuoyant lure restriction. When nonbuoyant lure restriction is in effect, only fish hooked inside the mouth may be retained. Salmon and steelhead: Daily limit 2 fish, one or both of which may be a salmon or hatchery steelhead. Release all fish except salmon and hatchery steelhead. Additional season September 1 through November 30. Selective gear rules. All species: Release all fish.

Winston Creek (tributary to Cowlitz River) (Lewis County): Selective gear rules. Trout: Minimum length ten inches.

Wishkah River (Grays Harbor County), including all forks: Closed waters: Mainstem from four hundred feet below outlet of dam at Wishkah Rearing Ponds (formerly Mayr Bros.) to dam. Trout: Minimum length fourteen inches. Release wild cutthroat. Mouth to West Fork: June 1 through March 31 season. Single point barbless hooks required August 16 through November 30. Selective gear and all species: Release all fish except up to two hatchery steelhead may be retained per day, March 1 through March 31. Salmon: Open only October 1 through (~~(November 30)~~) December 31 from mouth to (~~(West Fork)~~) 200 feet below the weir at the Long Live the Kings/Mayr Brothers facility. Daily limit 6 fish of which no more than 2 may be adult salmon. Release adult chinook.

From the West Fork to four hundred feet below outlet: June 1 through March 31 season. Trout: Minimum length fourteen inches.

Wolf Creek, mouth to mouth of south fork (Okanogan County): Closed waters.

Wood Lake (Mason County): Last Saturday in April through October 31 season.

Woodland Creek (Thurston County): Trout: Minimum length fourteen inches.

Wooten Lake (Mason County): Last Saturday in April through October 31 season.

Wye Lake (Kitsap County): Last Saturday in April through October 31 season.

Wynoochee River (Grays Harbor County): Trout: Minimum length fourteen inches. Mouth to 7400 line bridge above mouth of Schafer Creek: June 1 through March 31 season. Single point barbless hooks required August 16 through November 30. One wild steelhead may be retained March 25 through March 31 from mouth to White Bridge WDFW boat launch. Salmon: Open only October 1 through January 31. Daily limit 6 fish of which no more than 2 may be adult salmon, except daily limit may contain no more than 1 wild adult coho December 1 through January 31. Release adult chinook.

7400 line bridge upstream: ~~((Selective gear rules.))~~ Additional December 1 through March 31 season. Fishing from a floating device prohibited. All species: Release all fish except up to two hatchery steelhead may be retained.

Wynoochee Reservoir (Grays Harbor County): June 1 through October 31 season. Trout: Daily limit two, minimum length twelve inches. Salmon: Landlocked salmon rules apply.

Yakima River (Yakima County): Release all steelhead in mainstem and tributaries. Channel catfish: No daily limit.

From mouth to 400 feet below Prosser Dam: Chumming permitted. Salmon: Open only September 1 through October 22. Daily limit 6 fish of which not more than 2 may be adult salmon. Nonbuoyant lure restriction and night closure.

From mouth to Highway 223 Bridge: Bass: ~~((No daily limit of bass under 12 inches in length. Release bass 12 to 17 inches in length. Unlawful to retain more than one bass per day greater than 17 inches in length.))~~ Bass 12 to 17 inches in length may be retained. No daily limit for bass, but not more than 3 bass greater than 15 inches in length may be retained.

From Highway 223 Bridge to 400 feet below Sunnyside Dam: Salmon: Open only September 1 through October 22. Daily limit 6 fish of which not more than 2 may be adult salmon. Nonbuoyant lure restriction and night closure.

From mouth to thirty-five hundred feet below Roza Dam: Year-round season. Closed waters: From Yakima Avenue-Terrace Heights Bridge upstream 400 feet. March 1 through November 30, closed from thirty-five hundred feet below Roza Dam to Roza Dam. Trout: Minimum length twelve inches and maximum length twenty inches. Release all trout April 1 through May 31. Thirty-five hundred feet below Roza Dam to four hundred feet below Roza Dam: December 1 through last day in February season. Whitefish gear rules apply.

From Roza Dam to four hundred feet below Easton Dam and from Lake Easton to the base of Keechelus Dam: Year-round season. Fishing from floating devices equipped with motors allowed only from the U.S. Bureau of Reclamation restricted area signs at Roza Dam upstream to the boat launch ramp on the Roza Access Area (approximately one-half mile). Selective gear rules except bait and one single point barbed hook three-sixteenths or smaller point to shank may be used December 1 through last day in February. Trout: From Roza Dam to 400 feet below Easton Dam: Release all trout. Lake Easton to the base of Keechelus Dam. Release all

trout except eastern brook trout. Eastern brook trout: No daily limit and no minimum size.

Yakima Sportsmen's Park Ponds (Yakima County): Juveniles only.

Yale Reservoir (Cowlitz County): Trout: Kokanee not counted in daily trout limit. Kokanee daily limit sixteen.

Yellowjacket Creek (tributary to Cispus River) (Lewis County): Selective gear rules. Trout: Minimum length twelve inches.

Yellowjacket Ponds (Lewis County): Last Saturday in April through last day in February season. Trout: No more than one over twelve inches in length.

Yokum Lake (Pend Oreille County): Last Saturday in April through October 31 season.

