

# Washington State Register

March 2, 2005

OLYMPIA, WASHINGTON

ISSUE 05-05



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## CITATION

Cite all material in the Washington State Register by its issue number and sequence within that issue, preceded by the acronym WSR. Example: the 37th item in the August 5, 1981, Register would be cited as WSR 81-15-037.

## PUBLIC INSPECTION OF DOCUMENTS

A copy of each document filed with the code reviser's office, pursuant to chapter 34.05 RCW, is available for public inspection during normal office hours. The code reviser's office is located in the basement of the Pritchard Building in Olympia. Office hours are from 8 a.m. to 5 p.m., Monday through Friday, except legal holidays. Telephone inquiries concerning material in the Register or the Washington Administrative Code (WAC) may be made by calling (360) 786-6697.

## REPUBLICATION OF OFFICIAL DOCUMENTS

All documents appearing in the Washington State Register are prepared and printed at public expense. There are no restrictions on the republication of official documents appearing in the Washington State Register. All news services are especially encouraged to give wide publicity to all documents printed in the Washington State Register.

## CERTIFICATE

Pursuant to RCW 34.08.040, the publication of rules or other information in this issue of the Washington State Register is hereby certified to be a true and correct copy of such rules or other information, except that headings of public meeting notices have been edited for uniformity of style.

DENNIS W. COOPER  
Code Reviser

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## STATE MAXIMUM INTEREST RATE

(Computed and filed by the State Treasurer under RCW 19.52.025)

The maximum allowable interest rate applicable for the month of March 2005 pursuant to RCW 19.52.020 is twelve point zero percent (12.00%) per annum.

The interest rate required by RCW 4.56.110(3) and 4.56.115 for the month of March 2005 is 4.786%.

**NOTICE: FEDERAL LAW PERMITS FEDERALLY INSURED FINANCIAL INSTITUTIONS IN THE STATE TO CHARGE THE HIGHEST RATE OF INTEREST THAT MAY BE CHARGED BY ANY FINANCIAL INSTITUTION IN THE STATE. THE MAXIMUM ALLOWABLE RATE OF INTEREST SET FORTH ABOVE MAY NOT APPLY TO A PARTICULAR TRANSACTION.**

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## WASHINGTON STATE REGISTER

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### WASHINGTON STATE REGISTER

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The Washington State Register is an official publication of the state of Washington. It contains proposed, emergency, and permanently adopted administrative rules, as well as other documents filed with the code reviser's office pursuant to RCW 34.08.020 and 42.30.075. Publication of any material in the Washington State Register is deemed to be official notice of such information.

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# STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

## 1. ARRANGEMENT OF THE REGISTER

The Register is arranged in the following eight sections:

- (a) **PREPROPOSAL**-includes the Preproposal Statement of Inquiry that will be used to solicit public comments on a general area of proposed rule making before the agency files a formal notice.
- (b) **PROPOSED**-includes the full text of formal proposals, continuances, supplemental notices, and withdrawals.
- (c) **EXPEDITED RULE MAKING**-includes the full text of the rule being proposed using the expedited rule-making process. Expedited rule makings are not consistently filed and may not appear in every issue of the register.
- (d) **PERMANENT**-includes the full text of permanently adopted rules.
- (e) **EMERGENCY**-includes the full text of emergency rules and rescissions.
- (f) **MISCELLANEOUS**-includes notice of public meetings of state agencies, rules coordinator notifications, summaries of attorney general opinions, executive orders and emergency declarations of the governor, rules of the state Supreme Court, and other miscellaneous documents filed with the code reviser's office under RCW 34.08.020 and 42.30.075.
- (g) **TABLE**-includes a cumulative table of the WAC sections that are affected in the current year.
- (h) **INDEX**-includes a cumulative index of Register Issues 01 through 24.

Documents are arranged within each section of the Register according to the order in which they are filed in the code reviser's office during the pertinent filing period. Each filing is listed under the agency name and then describes the subject matter, type of filing and the WSR number. The three part number in the heading distinctively identifies each document, and the last part of the number indicates the filing sequence with a section's material.

## 2. PRINTING STYLE—INDICATION OF NEW OR DELETED MATERIAL

RCW 34.05.395 requires the use of certain marks to indicate amendments to existing agency rules. This style quickly and graphically portrays the current changes to existing rules as follows:

- (a) In amendatory sections—
  - (i) underlined material is new material;
  - (ii) ~~deleted material is ((fined out between double parentheses))~~;
- (b) Complete new sections are prefaced by the heading NEW SECTION;
- (c) The repeal of an entire section is shown by listing its WAC section number and caption under the heading REPEALER.

## 3. MISCELLANEOUS MATERIAL NOT FILED UNDER THE ADMINISTRATIVE PROCEDURE ACT

Material contained in the Register other than rule-making actions taken under the APA (chapter 34.05 RCW) does not necessarily conform to the style and format conventions described above. The headings of these other types of material have been edited for uniformity of style; otherwise the items are shown as nearly as possible in the form submitted to the code reviser's office.

## 4. EFFECTIVE DATE OF RULES

- (a) Permanently adopted agency rules normally take effect thirty-one days after the rules and the agency order adopting them are filed with the code reviser's office. This effective date may be delayed or advanced and such an effective date will be noted in the promulgation statement preceding the text of the rule.
- (b) Emergency rules take effect upon filing with the code reviser's office unless a later date is provided by the agency. They remain effective for a maximum of one hundred twenty days from the date of filing.
- (c) Rules of the state Supreme Court generally contain an effective date clause in the order adopting the rules.

## 5. EDITORIAL CORRECTIONS

Material inserted by the code reviser's office for purposes of clarification or correction or to show the source or history of a document is enclosed in [brackets].

2004-2005

**DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION**

Issue Number	Closing Dates <sup>1</sup>			Distribution Date	First Agency Hearing Date <sup>3</sup>	Expedited Rule Making <sup>4</sup>
	Non-OTS and 30 p. or more	Non-OTS and 11 to 29 p.	OTS <sup>2</sup> or 10 p. max. Non-OTS	Count 20 days from -	For hearing on or after	First Agency Adoption Date
For Inclusion in -	File no later than 12:00 noon -					
04 - 15	Jun 23, 04	Jul 7, 04	Jul 21, 04	Aug 4, 04	Aug 24, 04	Sep 21, 04
04 - 16	Jul 7, 04	Jul 21, 04	Aug 4, 04	Aug 18, 04	Sep 7, 04	Oct 5, 04
04 - 17	Jul 21, 04	Aug 4, 04	Aug 18, 04	Sep 1, 04	Sep 21, 04	Oct 19, 04
04 - 18	Aug 4, 04	Aug 18, 04	Sep 1, 04	Sep 15, 04	Oct 5, 04	Nov 2, 04
04 - 19	Aug 25, 04	Sep 8, 04	Sep 22, 04	Oct 6, 04	Oct 26, 04	Nov 23, 04
04 - 20	Sep 8, 04	Sep 22, 04	Oct 6, 04	Oct 20, 04	Nov 9, 04	Dec 7, 04
04 - 21	Sep 22, 04	Oct 6, 04	Oct 20, 04	Nov 3, 04	Nov 23, 04	Dec 21, 04
04 - 22	Oct 6, 04	Oct 20, 04	Nov 3, 04	Nov 17, 04	Dec 7, 04	Jan 4, 05
04 - 23	Oct 20, 04	Nov 3, 04	Nov 17, 04	Dec 1, 04	Dec 21, 04	Jan 19, 05
04 - 24	Nov 3, 04	Nov 17, 04	Dec 1, 04	Dec 15, 04	Jan 4, 05	Feb 1, 05
05 - 01	Nov 24, 04	Dec 8, 04	Dec 22, 04	Jan 5, 05	Jan 25, 05	Feb 23, 05
05 - 02	Dec 8, 04	Dec 22, 04	Jan 5, 05	Jan 19, 05	Feb 8, 05	Mar 8, 05
05 - 03	Dec 22, 04	Jan 5, 05	Jan 19, 05	Feb 2, 05	Feb 22, 05	Mar 22, 05
05 - 04	Jan 5, 05	Jan 19, 05	Feb 2, 05	Feb 16, 05	Mar 8, 05	Apr 5, 05
05 - 05	Jan 19, 05	Feb 2, 05	Feb 16, 05	Mar 2, 05	Mar 22, 05	Apr 19, 05
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05 - 09	Mar 23, 05	Apr 6, 05	Apr 20, 05	May 4, 05	May 24, 05	Jun 21, 05
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05 - 13	May 25, 05	Jun 8, 05	Jun 22, 05	Jul 6, 05	Jul 26, 05	Aug 23, 05
05 - 14	Jun 8, 05	Jun 22, 05	Jul 6, 05	Jul 20, 05	Aug 9, 05	Sep 7, 05
05 - 15	Jun 22, 05	Jul 6, 05	Jul 20, 05	Aug 3, 05	Aug 23, 05	Sep 20, 05
05 - 16	Jul 6, 05	Jul 20, 05	Aug 3, 05	Aug 17, 05	Sep 6, 05	Oct 4, 05
05 - 17	Jul 27, 05	Aug 10, 05	Aug 24, 05	Sep 7, 05	Sep 27, 05	Oct 25, 05
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05 - 19	Aug 24, 05	Sep 7, 05	Sep 21, 05	Oct 5, 05	Oct 25, 05	Nov 22, 05
05 - 20	Sep 7, 05	Sep 21, 05	Oct 5, 05	Oct 19, 05	Nov 8, 05	Dec 6, 05
05 - 21	Sep 21, 05	Oct 5, 05	Oct 19, 05	Nov 2, 05	Nov 22, 05	Dec 20, 05
05 - 22	Oct 5, 05	Oct 19, 05	Nov 2, 05	Nov 16, 05	Dec 6, 05	Jan 3, 06
05 - 23	Oct 26, 05	Nov 9, 05	Nov 23, 05	Dec 7, 05	Dec 27, 05	Jan 24, 06
05 - 24	Nov 9, 05	Nov 23, 05	Dec 7, 05	Dec 21, 05	Jan 10, 06	Feb 7, 06

<sup>1</sup> All documents are due at the code reviser's office by 12:00 noon on or before the applicable closing date for inclusion in a particular issue of the Register; see WAC 1-21-040.

<sup>2</sup> A filing of any length will be accepted on the closing dates of this column if it has been prepared and completed by the order typing service (OTS) of the code reviser's office; see WAC 1-21-040. Agency-typed material is subject to a ten page limit for these dates; longer agency-typed material is subject to the earlier non-OTS dates.

<sup>3</sup> At least twenty days before the rule-making hearing, the agency shall cause notice of the hearing to be published in the Register; see RCW 34.05.320(1). These dates represent the twentieth day after the distribution date of the applicable Register.

<sup>4</sup> A minimum of forty-five days is required between the distribution date of the Register giving notice of the expedited rule making and the agency adoption date. No hearing is required, but the public may file written objections. See RCW 34.05.230 and 1.12.040.

## **REGULATORY FAIRNESS ACT**

The Regulatory Fairness Act, chapter 19.85 RCW, was enacted in 1982 to minimize the impact of state regulations on small business. Amended in 1994, the act requires a small business economic impact analysis of proposed rules that impose more than a minor cost on twenty percent of the businesses in all industries, or ten percent of the businesses in any one industry. The Regulatory Fairness Act defines industry as businesses within a four digit SIC classification, and for the purpose of this act, small business is defined by RCW 19.85.020 as "any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that is owned and operated independently from all other businesses, that has the purpose of making a profit, and that has fifty or fewer employees."

### **Small Business Economic Impact Statements (SBEIS)**

A small business economic impact statement (SBEIS) must be prepared by state agencies when a proposed rule meets the above criteria. Chapter 19.85 RCW requires the Washington State Business Assistance Center (BAC) to develop guidelines for agencies to use in determining whether the impact of a rule is more than minor and to provide technical assistance to agencies in developing a SBEIS. All permanent rules adopted under the Administrative Procedure Act, chapter 34.05 RCW, must be reviewed to determine if the requirements of the Regulatory Fairness Act apply; if an SBEIS is required it must be completed before permanent rules are filed with the Office of the Code Reviser.

### **Mitigation**

In addition to completing the economic impact analysis for proposed rules, state agencies must take reasonable, legal, and feasible steps to reduce or mitigate the impact of rules on small businesses when there is a disproportionate impact on small versus large business. State agencies are encouraged to reduce the economic impact of rules on small businesses when possible and when such steps are in keeping with the stated intent of the statute(s) being implemented by proposed rules. Since 1994, small business economic impact statements must contain a list of the mitigation steps taken, or reasonable justification for not taking steps to reduce the impact of rules on small businesses.

### **When is an SBEIS Required?**

**When:**

The proposed rule has more than a minor (as defined by the BAC) economic impact on businesses in more than twenty percent of all industries or more than ten percent of any one industry.

### **When is an SBEIS Not Required?**

**When:**

The rule is proposed only to comply or conform with a federal law or regulation, and the state has no discretion in how the rule is implemented;

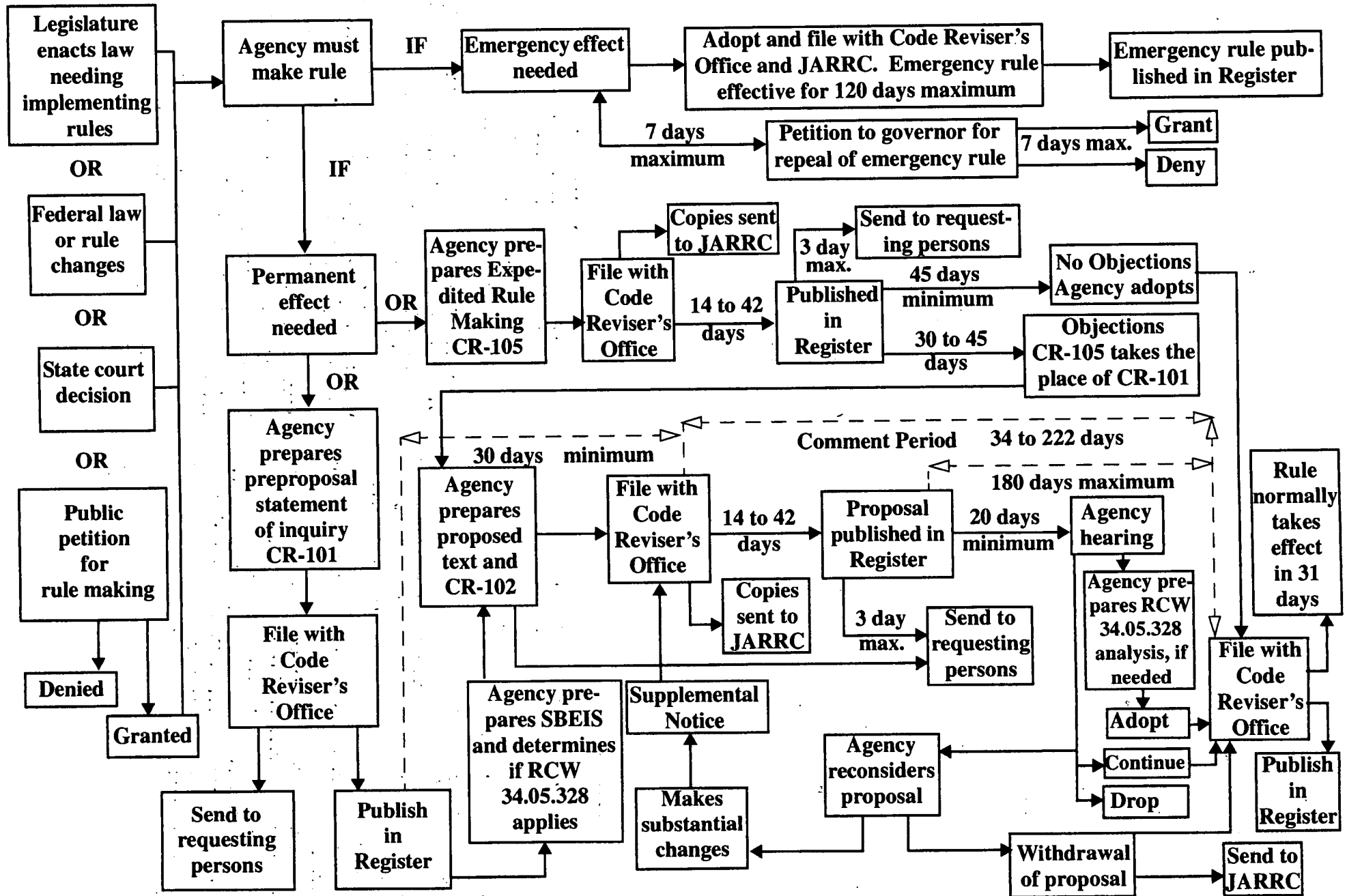
There is less than minor economic impact on business;

The rule **REDUCES** costs to business (although an SBEIS may be a useful tool for demonstrating this reduced impact);

The rule is adopted as an emergency rule, although an SBEIS may be required when an emergency rule is proposed for adoption as a permanent rule; or

The rule is pure restatement of state statute.

# RULE-MAKING PROCESS



**WSR 05-05-011****PREPROPOSAL STATEMENT OF INQUIRY  
HORSE RACING COMMISSION**

[Filed February 8, 2005, 10:09 a.m.]

Subject of Possible Rule Making: WAC 260-36-085 License and fingerprint fees.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 67.16.020 and 67.16.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To address the discrepancy between the \$101 license fee for vendors and veterinarians with the provision that license fees not exceed \$100 for persons obtaining more than one type of license in a calendar year.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Robert J. Lopez, Administrative Services Manager, Washington Horse Racing Commission, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, phone (360) 459-6462, fax (360) 459-6461, rlopez@whrc.state.wa.us.

February 7, 2005

R. M. Leichner  
Executive Secretary

**WSR 05-05-012****PREPROPOSAL STATEMENT OF INQUIRY  
CRIMINAL JUSTICE  
TRAINING COMMISSION**

[Filed February 8, 2005, 10:11 a.m.]

Subject of Possible Rule Making: WAC 139-05-200 through 139-05-250, law enforcement.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.101.080.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To improve effectiveness, clarity and intent in order to better serve clients, stakeholders, and citizens.

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Sonja Hirsch, Confidential Secretary, Criminal Justice Training Commission, 19010 1st Avenue South, Burien, WA 98148, phone (206) 835-7345, fax (206) 439-3860. Stakeholders were contacted by e-mail to advise them of the intended rule amendments. Proposal also listed on the agency website.

February 3, 2005

Sonja Hirsch  
Confidential Secretary

**WSR 05-05-013****PREPROPOSAL STATEMENT OF INQUIRY  
CRIMINAL JUSTICE  
TRAINING COMMISSION**

[Filed February 8, 2005, 10:13 a.m.]

Subject of Possible Rule Making: WAC 139-10-235 Basic misdemeanor probation/classification academy curriculum.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.101.080.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The Adult Services Academy was divided into three separate tracks: County probation, state DOC community corrections officers, and state institutional counselors. Changes in WAC 139-10-210 have reconfigured these academies. Now the specific curriculum for each of these academies shall be defined.

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Sonja Hirsch, Confidential Secretary, Criminal Justice Training Commission, 19010 1st Avenue South, Burien, WA 98148, phone (206) 835-7372, fax (206) 439-3860. Stakeholders were contacted by e-mail to advise them of the intended rule amendments. Proposal also listed on the agency website.

February 3, 2005

Sonja Hirsch  
Confidential Secretary

**WSR 05-05-014****PREPROPOSAL STATEMENT OF INQUIRY  
CRIMINAL JUSTICE  
TRAINING COMMISSION**

[Filed February 8, 2005, 10:15 a.m.]

Subject of Possible Rule Making: WAC 139-10-530 Basic community corrections officer academy curriculum.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.101.080.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The Adult Services Academy was divided into three separate tracks: County probation, state DOC community corrections officers, and state institutional counselors. Changes in WAC 139-10-210 have reconfigured these academies. Now the specific curriculum for each of these academies shall be defined.

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Sonja Hirsch, Confidential Secretary, Criminal Justice Training Commission, 19010 1st Avenue South, Burien, WA 98148, phone (206) 835-7372, fax (206) 439-3860. Stakeholders were contacted by e-mail to advise

them of the intended rule amendments. Proposal also listed on the agency website.

February 3, 2005  
Sonja Hirsch  
Confidential Secretary

**WSR 05-05-015**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**CRIMINAL JUSTICE**  
**TRAINING COMMISSION**  
[Filed February 8, 2005, 10:16 a.m.]

Subject of Possible Rule Making: WAC 139-10-540 Basic institutional corrections counselor academy curriculum.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.101.080.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The Adult Services Academy was divided into three separate tracks: County probation, state DOC community corrections officers, and state institutional counselors. Changes in WAC 139-10-210 have reconfigured these academies. Now the specific curriculum for each of these academies shall be defined.

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Sonja Hirsch, Confidential Secretary, Criminal Justice Training Commission, 19010 1st Avenue South, Burien, WA 98148, phone (206) 835-7372, fax (206) 439-3860. Stakeholders were contacted by e-mail to advise them of the intended rule amendments. Proposal also listed on the agency website.

February 3, 2005  
Sonja Hirsch  
Confidential Secretary

**WSR 05-05-018**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**STATE BOARD FOR**  
**COMMUNITY AND TECHNICAL COLLEGES**  
[Filed February 8, 2005, 2:01 p.m.]

Subject of Possible Rule Making: Title 131 WAC governing the Washington State Board for Community and Technical Colleges' retirement plan.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28B.10.400.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Update plan rules for clarification and provide access for plan participants to new retirement saving options made available by TIAA-CREF.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agen-

cies: The Internal Revenue Service will review the updates to plan documents to confirm tax status of contributions.

Process for Developing New Rule: Normal rule making. Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting John Boesenberg, P.O. Box 42495, Olympia, WA 98504-2495, (360) 704-4303.

February 8, 2005  
DelRae Oderman  
Executive Assistant  
Agency Rules Coordinator

**WSR 05-05-019**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**STATE BOARD FOR**  
**COMMUNITY AND TECHNICAL COLLEGES**  
[Filed February 8, 2005, 2:02 p.m.]

Subject of Possible Rule Making: Title 131 WAC governing Washington's community and technical college system.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 28B.50 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rules may need to be revised or changed in the area of tuition charges for certain ungraded courses.

Process for Developing New Rule: Normal rule-making process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting DelRae Oderman, State Board for Community and Technical Colleges, P.O. Box 42495, Olympia, WA 98504-2495.

February 8, 2005  
DelRae Oderman  
Executive Assistant  
Agency Rules Coordinator

**WSR 05-05-032**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**SECRETARY OF STATE**  
[Filed February 10, 2005, 3:14 p.m.]

Subject of Possible Rule Making: Reimbursement of development costs.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 29A.04.611.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Federal legislation (Help America Vote Act of 2002) requires states to implement a uniform, official statewide voter registration list. This rule sets forth the conditions required for vendors to receive reimbursement for costs related to developing an interface between the vendor's system and the state database.



Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Paul Miller, 520 East Union, Olympia, WA 98504, (360) 725-5783, pmiller@secstate.wa.gov.

February 10, 2005

Sam Reed

Secretary of State

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Fawad Shah, Program Manager, Washington State Department of Agriculture, Seed Program, 21 North 1st Avenue, Suite 203, Yakima, WA 98902, (509) 225-2636, e-mail Fshah@agr.wa.gov.

February 14, 2005

Robert W. Gore

Assistant Director

### WSR 05-05-050

#### PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF AGRICULTURE

[Filed February 14, 2005, 3:23 p.m.]

Subject of Possible Rule Making: WAC 16-303-020 Schedule of charges—Billing policies and procedures, 16-303-200 Seed program testing fees, 16-303-210 Fees for special seed tests, 16-303-250 Miscellaneous charges for seed services, 16-303-310 Organization for economic cooperation and development scheme for varietal certification (O.E.C.D.) fees, and 16-303-320 Certification fees for seed certified by the department.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Section 309(2), chapter 25, Laws of 2003 1st sp.s., RCW 15.49.310, 15.49.370(3), and chapter 34.05 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Amendments to chapter 16-303 WAC are necessary so the fees charged for certain program activities reflect current seed industry production practices and ensure that the program recovers its full cost of providing services to the industry. The proposed amendments will:

- Increases certain fees beyond the Office of Financial Management fiscal growth rate factor to cover the cost of providing seed certification services;
- Establish a new fee for services currently provided for free;
- Modify certification fee rates to create an equitable fee structure based upon crop yields; and
- Correct typographical, spelling and similar errors.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: In response to a suggestion from the Washington State Department of Agriculture (WSDA) Seed Program Advisory Committee, the department formed an ad hoc committee comprised of advisory committee members and other industry representatives to study and advise the department regarding seed program fees. The recommendation of the ad hoc committee was to increase certain fees. The Seed Program Advisory Committee concurred with this recommendation. WSDA staff will develop the specific rule proposal. In turn, seed industry representatives and the advisory committee will review and comment on the proposed rule amendments. Interested parties can participate in the public hearing/public comment process, the dates of which will be announced when the department files the rule proposal with the code reviser.

### WSR 05-05-061

#### PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF REVENUE

[Filed February 15, 2005, 11:13 a.m.]

Subject of Possible Rule Making: WAC 458-20-24001 Sales and use tax deferral—Manufacturing and research/development activities in ~~((distressed areas))~~ rural counties—Applications filed after ~~((July 31, 1999))~~ March 31, 2004 and 458-20-24001A Sales and use tax deferral—Manufacturing and research/development activities in ~~((distressed areas))~~ rural counties—Applications filed prior to ~~((August 1, 1999))~~ April 1, 2004.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 82.32.300 and 82.01.060(2).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Chapter 82.60 RCW establishes a sales and use tax deferral program. The purpose of the program is to promote economic stimulation, create employment opportunities, and reduce poverty in certain areas of the state. The legislature established this program to be effective solely in those areas and under circumstances where the deferral is for investments that result in the creation of a specified minimum number of jobs or investment for a qualifying project.

The department is considering a revision to this rule to incorporate provisions of chapter 25, Laws of 2004. These provisions extend the expiration date of the deferral program to July 1, 2010. Furthermore, they require a recipient of the deferral to complete an annual survey. The definitions of eligible area and eligible investment project are also revised.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Modified negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Written comments may be submitted by mail, fax, or at the public meeting. Oral comments will be accepted at the public meeting. A preliminary draft of the proposed changes is available upon request. Written comments on and/or requests for copies of the rule may be directed to Allan C. Lau, Interpretations and Technical Advice Unit, P.O. Box 47453, Olympia, WA 98504-47453 [98504-7453], e-mail Allanl@dor.wa.gov, phone (360) 570-6134, fax (360) 586-5543.

Public Meeting Location: Capital Plaza Building, 4th Floor, L&P Large Conference Room, 1025 Union Avenue S.E., Olympia, WA, on March 30, 2005, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Sandy Davis no later than ten days before the hearing date, TTY 1-800-451-7985 or (360) 725-7499.

February 15, 2005

Alan R. Lynn

Rules Coordinator

Assistance for Persons with Disabilities: Contact Sandy Davis no later than ten days before the hearing date, TTY 1-800-451-7985 or (360) 725-7499.

February 15, 2005

Alan R. Lynn

Rules Coordinator

### WSR 05-05-062

#### PREPROPOSAL STATEMENT OF INQUIRY

#### DEPARTMENT OF REVENUE

[Filed February 15, 2005, 11:14 a.m.]

Subject of Possible Rule Making: WAC 458-20-24003 Tax incentives for high technology businesses.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 82.32.300 and 82.01.060(2).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This rule explains the tax incentives, contained in chapter 82.63 RCW and RCW 82.04.4452, which apply to businesses engaged in research and development or pilot scale manufacturing in Washington in five high technology areas: Advanced computing, advanced materials, biotechnology, electronic device technology, and environmental technology.

The department is considering a revision to this rule to incorporate provisions of chapter 2, Laws of 2004. These provisions extend the expiration date of the credit and the deferral program to January 1, 2015. Furthermore, they require completion of an annual survey by a person claiming the credit and an applicant of the deferral program. The method of calculating the credit is revised. Finally, the definitions of eligible investment project, person, initiation of construction, and qualified research and development expenditures are either added or revised.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Modified negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Written comments may be submitted by mail, fax, or at the public meeting. Oral comments will be accepted at the public meeting. A preliminary draft of the proposed changes is available upon request. Written comments on and/or requests for copies of the rule may be directed to Allan C. Lau, Interpretations and Technical Advice Unit, P.O. Box 47453, Olympia, WA 98504-47453, e-mail Allanl@dor.wa.gov, phone (360) 570-6134, fax (360) 586-5543.

Public Meeting Location: Capital Plaza Building, 4th Floor, Executive Large Conference Room, 1025 Union Avenue S.E., Olympia, WA, on March 23, 2005, at 10:00 a.m.

### WSR 05-05-066

#### PREPROPOSAL STATEMENT OF INQUIRY

#### DEPARTMENT OF

#### LABOR AND INDUSTRIES

[Filed February 15, 2005, 11:27 a.m.]

Subject of Possible Rule Making: Review the current fees that exist in the rules for electrical (chapter 296-46B WAC), plumber certification (chapter 296-400A WAC), contractor registration (chapter 296-200A WAC), elevators (chapter 296-96 WAC) and factory-assembled structures (chapters 296-150C, 296-150F, 296-150M, 296-150P, 296-150R, 296-150T, and 296-150V WAC) for possible increases.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapters 18.27, 18.106, 19.28, 43.22, and 70.87 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: A 3.03% fee increase, which is the Office of Financial Management's maximum allowable fiscal growth rate factor for fiscal year 2005, may be necessary to help cover the cost of the ongoing services of the contractor registration, factory-assembled structures, plumber certification, electrical and elevator programs.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: The department will solicit input from the director's Factory Assembled Structures Advisory Board, the Elevator Safety Advisory Committee, the Plumber's Advisory Board, and the Electrical Board. Other interested parties and the public may also participate by providing written comments or giving oral testimony during the public hearing and comment process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Christine Swanson, Department of Labor and Industries, P.O. Box 44400, Olympia, WA 98504-4400, (360) 902-6411, fax (360) 902-5292, copc235@lni.wa.gov.

February 15, 2005

Paul Trause

Director

**WSR 05-05-067****PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF  
LABOR AND INDUSTRIES**

[Filed February 15, 2005, 11:28 a.m.]

Subject of Possible Rule Making: Chapter 296-24 WAC, General safety and Health standards and chapter 296-826 WAC, Anhydrous ammonia.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 49.17.010, 49.17.040, and 49.17.050.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: WISHA is proposing to rewrite and clarify requirements relating to anhydrous ammonia. This rule making is part of our long-term goal to rewrite our safety and health rules. The proposal will move all anhydrous ammonia requirements from chapter 296-24 WAC, General safety and health standards, and place them into new chapter 296-826 WAC.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: No other state or federal agencies (other than OSHA) are known to regulate this subject.

Process for Developing New Rule: Parties interested in the formulation of these rules for proposal may contact the individual listed below. The public may also participate by commenting after amendments are proposed by providing written comments or giving oral testimony during the public hearing process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Beverly Clark, Department of Labor and Industries, WISHA Services Division, P.O. Box 44620, Olympia, WA 98504-4620, e-mail clah235@lni.wa.gov, phone (360) 902-5516, fax (360) 902-5529.

February 15, 2005

Paul Trause  
Director**WSR 05-05-068****PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF  
LABOR AND INDUSTRIES**

(Board of Boiler Rules)

[Filed February 15, 2005, 11:36 a.m.]

Subject of Possible Rule Making: General fee increase of the Board of Boiler Rules, chapter 296-104 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 70.79.030, 70.79.040, 70.79.150, 70.79.290, 70.79.330, and 70.79.350.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The Board of Boiler Rules may identify changes that need to be made to these rules. Also, a 3.03% fee increase, which is the Office of Financial Management's maximum allowable fiscal growth rate factor for fiscal year 2004, may be necessary to help offset inflation and to maintain the operational effectiveness of the boiler program.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: The Board of Boiler Rules will review and approve all rule changes. Other interested parties and the public may also participate by providing written comments or giving oral testimony during the public hearing and comment process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Sally Elliott, Department of Labor and Industries, P.O. Box 44400, Olympia, WA 98504-4400, (360) 902-6411, fax (360) 902-5292, yous235@lni.wa.gov.

February 15, 2005

Craig Hopkins, Chair  
Board of Boiler Rules**WSR 05-05-069****PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF  
LABOR AND INDUSTRIES**

(Board of Boiler Rules)

[Filed February 15, 2005, 11:37 a.m.]

Subject of Possible Rule Making: Board of Boiler Rules—Substantive (chapter 296-104 WAC).

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 70.79 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The purpose of this rule making is to make clarification and technical changes to the Board of Boiler Rules—Substantive (chapter 296-104 WAC) based on actions and requests of the Board of Boiler Rules.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Not applicable.

Process for Developing New Rule: The Board of Boiler Rules will review and approve all rule changes. Other interested parties and the public may also participate by providing written comments or giving oral testimony during the public hearing process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Sally Elliott, Department of Labor and Industries, P.O. Box 44400, Olympia, WA 98504-4400, (360) 902-6411, fax (360) 902-5292, yous235@lni.wa.gov.

February 15, 2005

Craig Hopkins, Chair  
Board of Boiler Rules

**PREPROPOSAL**

**WSR 05-05-075**  
**WITHDRAWAL OF**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF ECOLOGY**

[Filed February 15, 2005, 2:13 p.m.]

The Department of Ecology withdraws the CR-101 filing WSR 04-06-027 (filed February 24, 2004), Samish River subbasin instream flow rule, proposed amendment to chapter 173-503 WAC, Instream resources protection program—Lower and Upper Skagit water resources inventory area (WRIAs 3 and 4).

The agency has decided to create a new chapter instead of amending an existing chapter. Immediately after filing this withdrawal, ecology is filing a new CR-101 that would create a new chapter for the Samish River subbasin instream flow rule, proposed chapter 173-503A WAC, Instream resources protection program—Lower and Upper Skagit water resources inventory area (WRIAs 3 and 4).

W. G. Bolender  
for Joe Stohr  
Program Manager  
Water Resources Program

representatives of the affected Indian tribes." We will also coordinate with the appropriate federal agencies.

Process for Developing New Rule: During rule making, draft language will be shared with the local watershed planning unit, if they convene; Washington Departments of Fish and Wildlife, Community, Trade and Economic Development, and Agriculture; tribes; and other interested parties. A focus sheet will be written and distributed to mailing lists and email lists. A public hearing will be held to solicit comments from interested parties.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Doug Rushton, Department of Ecology, Water Resources Program, P.O. Box 47600, Olympia, WA 98504-7600, (360) 407-6513, drus461@ecy.wa.gov, fax (360) 407-6574. For the latest updates on water resources issues, including the Samish Basin rule making, sign up for the Department of Ecology water resources e-mail list <http://listserv.wa.gov/archives/water-resources.html> or check the water resources website at <http://www.ecy.wa.gov/programs/wr/wrhome.html>.

February 15, 2005

W. G. Bolender  
for Joe Stohr

Water Resources Program Manager

**WSR 05-05-076**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF ECOLOGY**

[Order 05-02—Filed February 15, 2005, 2:14 p.m.]

Subject of Possible Rule Making: This rule making will establish chapter 173-503A WAC, Samish River subbasin instream resources protection program, Lower and Upper Skagit water resources inventory area (WRIAs 3 and 4), to include new rule language that will set instream flows and may include tools for managing water in the Samish subbasin.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 90.82 RCW, Watershed planning; chapter 90.54 RCW, Water Resources Act of 1971; chapter 90.22 RCW, Minimum water flows and levels; chapter 90.03 RCW, Water code; chapter 90.44 RCW, Regulation of public ground waters, and chapter 77.55 RCW, Construction projects in state waters (hydraulic code).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The possible adoption of this rule is needed to protect instream values within the Samish subbasin of water resources inventory area 3, including ESA listed fish (Chinook are threatened; Coho are candidate).

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Ecology has exclusive statutory authority under chapter 90.22 RCW to establish minimum instream water flows. Consultation will occur with the Washington Department of Fish and Wildlife, and tribes. In establishing instream flows, RCW 90.03.247 directs ecology to "consult with, and carefully consider the recommendations of, the department of fish and wildlife, the department of community, trade, and economic development, the department of agriculture, and repre-

**WSR 05-05-078**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)  
[Filed February 15, 2005, 3:39 p.m.]

Subject of Possible Rule Making: The Division of Child Support (DCS) is amending WAC 388-14A-3102 and 388-14A-3120 to correct a date reference to clarify when, under the Uniform Parentage Act (UPA), chapter 26.26 RCW, an affidavit acknowledging paternity was sufficient to establish a binding determination of paternity.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 26.26.315, 26.26.320, 26.26.330, 26.26.335, 34.05.220(1), 74.08.090, 74.20A.055, 74.20A.056, and 74.20A.310.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: In 1997, the Washington legislature enacted a statute providing that an affidavit acknowledging paternity was sufficient to establish a binding determination of paternity, effective July 1, 1997. However, the new paternity acknowledgment forms were not available until August of 1997, so DCS used August 15, 1997, as the effective date for such filings. The UPA makes it clear that any acknowledgment filed after July 1, 1997, is subject to the provisions of the UPA. DCS now seeks to bring its rules and policies in line with existing Washington law and clarify that the effective date is July 1, 1997.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: DCS engages in modified collaborative rule making. Those persons wishing to participate in developing the new rules are encouraged to contact Nancy Koptur at the DSHS Division of Child Support (DCS) headquarters as soon as possible. DCS will post information regarding this rule development project and others on its website, which can be found at [www.wa.gov/dshs/dcs](http://www.wa.gov/dshs/dcs), or on the DSHS Economic Services Administration's policy review website, which can be found at <http://www1.dshs.wa.gov/esa/extpolicy/>. DSHS/DCS encourages the public to take part in developing the rules. After the rules are drafted, DSHS will file a copy with the Office of the Code Reviser with a notice of proposed rule making, and will send a copy to everyone currently on the mailing list and to anyone else who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Nancy Koptur, DCS Rules Coordinator, Division of Child Support, P.O. Box 9162, Mailstop 45860, Olympia, WA 98507-9162, phone (360) 664-5065, e-mail [nkoptur@dshs.wa.gov](mailto:nkoptur@dshs.wa.gov), toll-free 1-800-457-6202, fax (360) 664-5055, TTY/TDD (360) 664-5011.

February 14, 2005  
Andy Fernando, Manager  
Rules and Policies Assistance Unit

#### WSR 05-05-079

**PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Medical Assistance Administration)**

[Filed February 15, 2005, 3:41 p.m.]

Subject of Possible Rule Making: WAC 388-416-0015 Certification periods for categorically needy medical and state children's health insurance program (SCHIP) and 388-418-0011 What is a six-month report?

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090 and 74.09.530.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The governor requested elimination of six-month reporting requirement for clients of children's and SCHIP (state children's health insurance program) medical programs and reinstatement of twelve-month eligibility reviews.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: The department invites the interested public to review and provide input on the draft language of this rule. Draft material and information about how to participate may be obtained from the department representative listed below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Mary Wood, Program Manager, P.O. Box 45534, Olympia, WA 98504-5534, phone (360) 725-

1329, fax (360) 664-0910, TTY 1-800-848-5429, e-mail [woodme@dshs.wa.gov](mailto:woodme@dshs.wa.gov).

February 14, 2005  
Andy Fernando, Manager  
Rules and Policies Assistance Unit

#### WSR 05-05-080

**PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Aging and Disability Services Administration)**

[Filed February 15, 2005, 3:43 p.m.]

Subject of Possible Rule Making: Adopt rules for the new freedom waiver program, within chapter 388-106 WAC and related sections.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090, 74.09.520, 74.39A.030.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The Aging and Disability Services Administration (ADSA) will be offering a new consumer-based program called the new freedom waiver. Rules on this program are needed to provide a description of the program, eligibility criteria, types of services, the enrollment/disenrollment process, and other information, as needed.

Process for Developing New Rule: DSHS welcomes the public to take part in developing the rules. Draft material and information about how to participate may be obtained from the department representative listed below. At a later date, DSHS will file the proposed rule with the Office of the Code Reviser with a notice of proposed rule making, and send the proposal to everyone currently on the mailing list and anyone else who requests a copy. In addition, ADSA has convened an advisory committee, which will participate in the development of this program and provide feedback on the rules.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Kristina Smock, Home and Community Services, P.O. Box 45600, Olympia, WA 98504-5600, phone (360) 725-2551, fax (360) 438-8633, e-mail [SmocKK@dshs.wa.gov](mailto:SmocKK@dshs.wa.gov).

February 11, 2005  
Andy Fernando, Manager  
Rules and Policies Assistance Unit

#### WSR 05-05-092

**PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF TRANSPORTATION**

[Filed February 16, 2005, 8:53 a.m.]

Subject of Possible Rule Making: Rules governing the treatment of specialized mobile equipment, to include: Adoption of federal rule on equipment designated as "specialized" for interstate travel and the treatment of department designated "specialized equipment" for intrastate travel.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 46.44.090 as well as the anticipated passage of HB 1180 during the 2005 legislation session.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The category of "specialized mobile equipment" recognizes the unique aspects of design and use of certain vehicles used in interstate and intrastate travel. The rules will provide consistent administrative and enforcement treatment to both federal and state designated "specialized mobile equipment."

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Federal Highway Administration; Washington State Patrol. Both agencies will be used as primary sources of information and feedback partners in the development of the rules.

Process for Developing New Rule: Adoption of existing federal rule for interstate vehicles, and incorporating office policy and some negotiated rule making for intrastate designated vehicles.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Barry Diseth, Commercial Vehicle Services, Department of Transportation, P.O. Box 47367, Olympia, WA 98504-7367, phone (360) 705-7805, fax (360) 705-6836, e-mail disethb@wsdot.wa.gov.

February 15, 2005  
John F. Conrad  
Assistant Secretary  
Engineering and  
Regional Operations

Interested persons may share their comments with Myra Van Vactor, Director of the Library Media Center.

February 15, 2005  
Debra P. Ross  
Rules Coordinator

**WSR 05-05-096**

**PREPROPOSAL STATEMENT OF INQUIRY  
BELLEVUE COMMUNITY COLLEGE**

[Filed February 16, 2005, 10:25 a.m.]

Subject of Possible Rule Making: Library media center policy.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 34.05 RCW and RCW 28B.50.140.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The existing chapter 132H-136 WAC, Library media center code of Community College District VIII goes into too much minor detail which has changed over time. The new rules will provide the information required to help people using the library find the most current information available for the library media center.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Discussions with impacted groups.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Myra Van Vactor, Bellevue Community College, 3000 Landerholm Circle S.E., Bellevue, WA 98007-6484, phone (425) 564-3056, fax (425) 564-6186.

**WSR 05-03-096**

**PROPOSED RULES**

**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Aging and Disability Services Administration)

[Filed January 18, 2005, 12:48 p.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 04-19-100.

Title of Rule and Other Identifying Information: New chapter 388-106 WAC, Long-term care services; chapter 388-71 WAC, Home and community services and programs; chapter 388-72A WAC, Comprehensive assessment reporting and evaluation (CARE) tool; and WAC 388-515-1540 through 388-515-1550, Medically needy residential waiver and medically needy in-home waiver. See below for a conversion chart of current long-term care rules and where same subject matter is located in the proposed rules.

This chart indicates the proposed WAC number which will replace those WACs currently adopted in chapters 388-71 and 388-72A WAC.

CURRENT WAC SECTIONS IN CHAPTER 388-71 WAC	PROPOSED WAC NUMBER
HOME AND COMMUNITY PROGRAMS	
388-71-0194 Home and community services—Nursing services.	388-106-0200, 388-106-0300, 388-106-0305, 388-106-0400, 388-106-0500
388-71-0202 Long-term care services—Definitions.	388-71-0215
388-71-0203 Long-term care services—Assessment of task self-performance and determination of required assistance.	388-71-0230
388-71-0205 Long-term care services—Service plan.	388-71-0235
388-71-0400 What is the intent of the department's home and community programs?	Repeal
388-71-0405 What are the home and community programs?	388-106-0015
388-71-0410 What services may I receive under HCP?	388-106-0300, 388-106-0305, 388-106-0400, 388-106-0500, and 388-106-0600
388-71-0415 What other services may I receive under the COPES program?	388-106-0300, 388-106-0305
388-71-0420 What services are not covered under HCP?	388-106-0020
388-71-0425 Who can provide HCP services?	388-106-0040

CURRENT WAC SECTIONS IN CHAPTER 388-71 WAC	PROPOSED WAC NUMBER
388-71-0430 Am I eligible for one of the HCP programs?	388-106-0210, 388-106-0310, 388-106-0410, 388-106-0510, and 388-106-0610
388-71-0435 Am I eligible for COPES-funded services?	388-106-0310
388-71-0440 Am I eligible for MPC-funded services?	388-106-0210
388-71-0442 Am I eligible for Medically Needy Residential waiver services?	388-106-0410
388-71-0445 Am I eligible for Chore-funded services?	388-106-0610
388-71-0450 How do I remain eligible for services?	388-106-0220, 388-106-0320, 388-106-0420, 388-106-0520, and 388-106-0620
388-71-0455 Can my services be terminated if eligibility requirements for HCP change?	388-106-0220, 388-106-0320, 388-106-0420, 388-106-0520, and 388-106-0620
388-71-0460 Are there limitations to HCP services I can receive?	388-106-0130
388-71-0465 Are there waiting lists for HCP services?	388-106-0235, 388-106-0335, 388-106-0435, and 388-106-0535
388-71-0470 Who pays for HCP services?	388-106-0225, 388-106-0325, 388-106-0425, 388-106-0525, and 388-106-0625
388-71-0480 If I am employed, can I still receive HCP services?	388-106-0230, 388-106-0330, 388-106-0430, 388-106-0530, and 388-106-0630
INDIVIDUAL PROVIDER AND HOME CARE AGENCY PROVIDER QUALIFICATIONS	Kept in chapter 388-71 WAC
RESIDENTIAL CARE SERVICES	
388-71-0600 What are residential services?	388-106-0010
388-71-0605 Am I eligible for residential services?	388-106-0905
388-71-0610 Who pays for residential care?	388-106-0225, 388-106-0325, 388-106-0425, and 388-106-0525
388-71-0613 For what days will the department pay the residential care facility?	388-106-0225, 388-106-0325, 388-106-0425, and 388-106-0525

PROPOSED

CURRENT WAC SECTIONS IN CHAPTER 388-71 WAC	PROPOSED WAC NUMBER
388-71-0615 If I leave a hospital, residential facility, or nursing facility, are there resources available to help me find a place to live?	388-106-0950
388-71-0620 Am I eligible for a residential discharge allowance?	388-106-0955
NURSING FACILITY CARE AND PAYMENT	
388-71-0700 What are the requirements for nursing facility eligibility, assessment, and payment?	388-106-0350, 388-106-0355, and 388-106-0360
ADULT DAY SERVICES (IN CHAPTER 388-71 WAC EXCEPT FOR THE FOLLOWING)	
388-71-0704 Adult day care—Services.	388-106-0800
388-71-0706 Adult day health—Services.	388-106-0805
388-71-0708 Adult day care—Eligibility.	388-106-0810
388-71-0710 Adult day health—Eligibility.	388-106-0815
PROGRAM OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE)	
388-71-0800 What is PACE?	388-106-0015
388-71-0805 What services does PACE cover?	388-106-0700
388-71-0810 Who provides these services?	Repeal
388-71-0815 Where are these services provided?	Repeal
388-71-0820 How do I qualify for Medicaid-funded PACE services?	388-106-0705
388-71-0825 What are my appeal rights?	388-106-1305
388-71-0830 Who pays the PACE provider?	388-106-0710
388-71-0835 How do I enroll into the PACE program?	388-106-0705
388-71-0840 How do I disenroll from the PACE program?	388-106-0715
388-71-0845 What are my rights as a PACE client?	388-106-1300
PRIVATE DUTY NURSING	
388-71-0900 What is the intent of WAC 388-71-0900 through 388-71-0960?	388-106-1000
388-71-0905 What is private duty nursing (PDN) for adults?	388-106-1005

CURRENT WAC SECTIONS IN CHAPTER 388-71 WAC	PROPOSED WAC NUMBER
388-71-0910 Am I financially eligible for Medicaid-funded private duty nursing services?	388-106-1010
388-71-0915 Am I medically eligible to receive private duty nursing services?	388-106-1010
388-71-0920 How is my eligibility determined?	388-106-1015
388-71-0925 Am I required to pay participation toward PDN services?	388-106-1020
388-71-0930 Are PDN costs subject to estate recovery?	388-106-1020
388-71-0935 Who can provide my PDN services?	388-106-1025
388-71-0940 Are there limitations or other requirements for PDN?	388-106-1030
388-71-0945 What requirements must a home health agency meet in order to provide and get paid for my PDN?	388-106-1035
388-71-0950 What requirements must a private RN or LPN meet in order to provide and get paid for my PDN services?	388-106-1040
388-71-0955 Can I receive PDN in a licensed adult family home (AFH)?	388-106-1045
388-71-0960 Can I receive services in addition to PDN?	388-106-1050
388-71-0965 Can I choose to self-direct my care if I receive PDN?	388-106-1055
SENIOR CITIZEN'S SERVICES	
388-71-1000 What is the Senior Citizens Services Act?	388-106-0015
388-71-1005 Who administers the Senior Citizens Services Act funds?	Repeal
388-71-1010 What services does the SCSA fund?	388-106-1100
388-71-1015 How do I apply for SCSA-funded services?	388-106-1105
388-71-1020 Am I eligible for SCSA-funded services at no cost?	388-106-1110
388-71-1025 What income and resources are exempt when determining eligibility?	388-106-1115
388-71-1030 What if I am not eligible to receive SCSA-funded services at no cost?	388-106-1120



PROPOSED

CURRENT WAC SECTIONS IN CHAPTER 388-71 WAC	PROPOSED WAC NUMBER
388-71-1035 What are my rights under SCSA?	388-106-1300
RESPITE CARE SERVICES	
388-71-1065 What is the purpose of the respite care program?	388-106-0015, 388-106-1205
388-71-1070 What definitions apply to respite care services?	388-106-1200
388-71-1075 Who is eligible to receive respite care services?	388-106-1210
388-71-1080 Who may provide respite care services?	388-106-1215
388-71-1085 How are respite care providers reimbursed for their services?	388-106-1220
388-71-1090 Are participants required to pay for the cost of their services?	388-106-1225
388-71-1095 Are respite care services always available?	388-106-1230
VOLUNTEER CHORE	
388-71-1100 What is volunteer chore services (VCS)?	388-106-0015, 388-106-0650
388-71-1105 Am I eligible to receive volunteer chore services?	388-106-0655
388-71-1110 How do I receive information on applying for volunteer chore services?	Repeal

CURRENT WAC SECTIONS IN CHAPTER 388-72A WAC	PROPOSED WAC NUMBER
APPLICATION	
388-72A-0005 When do the rules in chapter 388-72A WAC apply to me?	Repeal
388-72A-0010 Does chapter 388-71 WAC apply to me?	Repeal
388-72A-0015 If the department did not use the CARE tool for my last assessment, may I have my assessments done on the assessment form used for my last assessment?	Repeal
ASSESSMENT AND SERVICE PLANNING	
388-72A-0020 What is an assessment?	388-106-005
388-72A-0025 What is the process for conducting an assessment?	388-106-0065
388-72A-0030 What is the purpose of an assessment?	388-106-0055

CURRENT WAC SECTIONS IN CHAPTER 388-72A WAC	PROPOSED WAC NUMBER
388-72A-0035 What are personal care services?	388-106-0015
388-72A-0036 How are my needs for personal care services determined?	388-106-0075
388-72A-0037 How are self-performance and support provided for the activities of daily living (ADLs) scored?	388-106-0075
388-72A-0038 How are the ADLs bathing, body care, and medication management scored?	388-106-0075
388-72A-0039 How are self-performance and difficulty for the instrumental activities of daily living (IADLs) scored?	388-106-0075
388-72A-0042 How are ADLs and IADLs scored for children?	388-106-0213
388-72A-0043 How are other elements in CARE scored for children age seventeen and younger and foster care clients?	388-106-0213
388-72A-0045 How will the department plan to meet my care needs?	Repeal
388-72A-0050 What if I disagree with the result of the assessment or the decisions about what services I may receive?	388-106-1305
CARE ELIGIBILITY	
388-72A-0053 Am I eligible for one of the HCP programs?	388-106-0210, 388-106-0310, 388-106-0410, 388-106-0510, and 388-106-0610
388-72A-0055 Am I eligible for COPES-funded services?	388-106-0310
388-72A-0057 Am I eligible for medically needy residential waiver (MNRW)-funded services?	388-106-0410
388-72A-0058 Am I eligible for medically needy in-home wavier (MNIW)-funded services?	388-106-0510
388-72A-0060 Am I eligible for MPC-funded services?	388-106-0210
388-72A-0065 Am I eligible for Chore-funded services?	388-106-0610
388-72A-0069 How does CARE use the information the assessor gathers?	388-106-0055
CLASSIFICATION FOR IN-HOME AND RESIDENTIAL CARE	

PROPOSED

CURRENT WAC SECTIONS IN CHAPTER 388-72A WAC	PROPOSED WAC NUMBER
388-72A-0070 What are the in-home hours and residential rate based on?	388-106-0080
388-72A-0080 What are the elements that the CARE tool evaluates for each of the criteria in WAC 388-72A-0075?	388-106-0085
388-72A-0081 How is cognitive performance measured in the CARE tool?	388-106-0090
388-72A-0082 How is clinical complexity measured within the CARE tool?	388-106-0095
388-72A-0083 How are mood and behaviors measured within the CARE tool?	388-106-0100
388-72A-0084 How are ADL scores measured within the CARE tool?	388-106-0105
388-72A-0085 How does the CARE tool evaluate for the two exceptional care classifications of in-home care?	388-106-0110
388-72A-0086 How is the information in WAC 388-72A-0081 through 388-72A-0084 used to determine the client's classification payment group for residential settings?	388-106-0115
388-72A-0087 How is the information in WAC 388-72A-0081 through 388-72A-0085 used to determine the classification payment group for in-home clients?	388-106-0125
PAYMENT METHODOLOGY FOR IN-HOME SERVICES	
388-72A-0090 What are the maximum hours that I can receive for in-home services?	388-106-0135
388-72A-0092 How are my in-home hours determined?	388-106-0130
388-72A-0095 What additional criteria are considered to determine the number of hours I will receive for in-home services?	388-106-0130
388-72A-0100 Are there other in-home services I may be eligible to receive in addition to those described in WAC 388-72A-0095(3)?	388-106-0300

CURRENT WAC SECTIONS IN CHAPTER 388-72A WAC	PROPOSED WAC NUMBER
388-72A-0105 What would cause a change in the maximum hours authorized?	388-106-0140
HOME AND COMMUNITY PAYMENT RATES	
388-72A-0110 How much will the department pay for my care?	388-106-0120
388-72A-0115 When the department adjusts an algorithm, when does the adjustment become effective?	Repeal
388-72A-0120 When a client requests a fair hearing to have the client's CARE tool assessment results reviewed and there is (are) a more recent CARE assessment(s), which CARE tool assessment does the administrative law judge review in the fair hearing?	388-106-1310

Hearing Location(s): Blake Office Park East (behind Goodyear Courtesy Tire), Rose Room, 4500 10th Avenue S.E., Lacey, WA, on March 22, 2005, at 10:00 a.m.

Date of Intended Adoption: Not early than March 23, 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., March 22, 2005.

Assistance for Persons with Disabilities: Contact Fred Swenson, DSHS Rules Consultant, by March 18, 2005, TTY (360) 664-6178 or (360) 664-6097.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: New WAC chapters and rules are required to phase out rules that no longer apply, due to the implementation of the comprehensive assessment reporting and evaluation (CARE) tool. In addition, ADSA is reorganizing, amending and streamlining rules to ensure that all rules are current and clear.

This rule making includes the following significant changes:

- Clarifies requirements for how to conduct an assessment when other who are present impede the process.
- Adds a client rights section.
- Includes the right to contest "Other decisions by the department" in the fair hearing section.
- Includes a new program, community transition services, under the COPEs, MNIW, and MNRW waiver.
- Incorporates changes to the eligibility and number of hours you may receive under private duty nursing.
- Included CARE deductions (e.g., one meal is thirty minutes).
- Changes to how residential care discharge allowance can be authorized.
- Sets a minimum standards for determining eligibility under respite.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520.

Statute Being Implemented: RCW 74.08.090, 74.09.-520.

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: Brooke Buckingham, P.O. Box 45600, Olympia, WA 98504-5600, (425) 670-6458.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has analyzed the rules and determined that no new costs will be imposed on businesses.

A cost-benefit analysis is not required under RCW 34.05.328. The proposed new rules are exempt by RCW 34.05.328 (5)(b)(vii), rules relating to client medical eligibility. Amended rules are exempted by RCW 34.05.328 (5)(b)(iv), making address and name changes, and clarifying a rule without changing its effect.

January 12, 2005

Andy Fernando, Manager  
Rules and Policies Assistance Unit

## Chapter 388-106 WAC

### Long-Term Care Services

#### SCOPE AND DEFINITIONS

##### NEW SECTION

**WAC 388-106-0005 What is the purpose and scope of this chapter?** This chapter applies to applicants and recipients of long-term care services.

##### NEW SECTION

**WAC 388-106-0010 What definitions apply to this chapter?** "Ability to make self understood" means how you make yourself understood to those closest to you; express or communicate requests, needs, opinions, urgent problems and social conversations, whether in speech, writing, sign language, symbols, or a combination of these including use of a communication board or keyboard:

- (a) **Understood:** You express ideas clearly;
- (b) **Usually understood:** You have difficulty finding the right words or finishing thoughts, resulting in delayed responses; or requires some prompting to make self understood;
- (c) **Sometimes understood:** You have limited ability, but are able;
- (d) **Rarely/never understood.**

"Activities of daily living (ADL)" means the following:

- (a) **Bathing:** How you take a full-body bath/shower, sponge bath, and transfer in/out of tub/shower.

(b) **Bed mobility:** How you move to and from a lying position, turn side to side, and position your body while in bed.

(c) **Body care:** How you perform with passive range of motion, applications of dressings and ointments or lotions to the body and pedicure to trim toenails and apply lotion to feet. In adult family homes, contracted assisted living, enhanced adult residential care, and enhanced adult residential care-specialized dementia care facilities, dressing changes using clean technique and topical ointments must be performed by a licensed nurse or through nurse delegation in accordance with chapter 246-840 WAC. Body care excludes:

(i) Foot care if you are diabetic or have poor circulation; or

(ii) Changing bandages or dressings when sterile procedures are required.

(d) **Dressing:** How you put on, fasten, and take off all items of clothing, including donning/removing prosthesis.

(e) **Eating:** How you eat and drink, regardless of skill. Eating includes any method of receiving nutrition, e.g., by mouth, tube or through a vein.

(f) **Locomotion in room and immediate living environment:** How you move between locations in your room and immediate living environment. If you are in a wheelchair, locomotion includes how self-sufficient you are once in your wheelchair.

(g) **Locomotion outside of immediate living environment including outdoors:** How you move to and return from more distant areas. If you are living in a boarding home or nursing facility (NF), this includes areas set aside for dining, activities, etc. If you are living in your own home or in an adult family home, locomotion outside immediate living environment including outdoors, includes how you move to and return from a patio or porch, backyard, to the mailbox, to see the next-door neighbor, etc.

(h) **Walk in room, hallway and rest of immediate living environment:** How you walk between locations in your room and immediate living environment.

(i) **Medication management:** Describes the amount of assistance, if any, required to receive medications, over the counter preparations or herbal supplements.

(j) **Toilet use:** How you use the toilet room, commode, bedpan, or urinal, transfer on/off toilet, cleanse, change pad, manage ostomy or catheter, and adjust clothes.

(k) **Transfer:** How you move between surfaces, i.e., to/from bed, chair, wheelchair, standing position. Transfer does not include how you move to/from the bath, toilet, or vehicle.

(l) **Personal hygiene:** How you maintain personal hygiene, including combing hair, brushing teeth, shaving, applying makeup, washing/drying face, hands (including nail care), and perineum (menses care). Personal hygiene does not include hygiene in baths and showers.

"Aged person" means a person sixty-five years of age or older.

"Agency provider" means a licensed home care agency or a licensed home health agency having a contract to provide long-term care personal care services to you in your own home.

"Application" means a written request for medical assistance or long-term care services submitted to the department by the applicant, the applicant's authorized representative, or, if the applicant is incompetent or incapacitated, someone acting responsibly for the applicant. The applicant must submit the request on a form prescribed by the department.

"Assessment Details" means a summary of information that the department entered into the CARE Assessment describing your needs.

"Assessment or reassessment" means an inventory and evaluation of abilities and needs based on an in-person interview in your own home or your place of residence, using CARE.

"Assistance available" means the amount of informal support available if the need is partially met. The department determines the amount of the assistance available using one of four categories:

- (a) Less than one-fourth of the time;
- (b) One-fourth to one-half of the time;
- (c) Over one-half of the time to three-fourths of the time;
- or
- (d) Over three-fourths of the time.

"Assistance with body care" means you need assistance with:

- (a) Application of ointment or lotions;
- (b) Trimming of toenails;
- (c) Dry bandage changes; or
- (d) Passive range of motion treatment.

"Assistance with medication management" means you need assistance managing your medications. You are scored as:

(a) Independent if you remember to take medications as prescribed and manage your medications without assistance.

(b) Assistance required if you need assistance from a non-licensed provider to facilitate your self-administration of a prescribed, over the counter, or herbal medication. Assistance required includes reminding or coaching you, handing you the medication container, opening the container, using an enabler to assist you in getting the medication into your mouth, and placing the medication in your hand. This does not include assistance with intravenous or injectable medications. You must be aware that you are taking medications.

(c) Self-directed medication assistance/administration if you are a person with a functional disability who is capable of and who chooses to self-direct your medication assistance/administration. In licensed boarding homes, this may include situations in which you cannot physically self-administer medications but can accurately direct others, per WAC 388-78A-0300.

(d) Must be administered if you must have medications placed in your mouth or applied or instilled to your skin or mucus membrane. Administration must either be performed by a licensed professional or delegated by a registered nurse to a qualified caregiver (per chapter 246-840 WAC). Intravenous or injectable medications may never be delegated. Administration may also be performed by a family member or unpaid caregiver if facility licensing regulations allow.

"Authorization" means an official approval of a departmental action, for example, a determination of client eligibil-

ity for service or payment for a client's long-term care services.

"Blind person" means a person determined blind as described under WAC 388-511-1105 by the division of disability determination services of the medical assistance administration.

"Categorically needy" means the status of a person who is eligible for medical care under Title XIX of the Social Security Act.

"Client" means an applicant for service or a person currently receiving services from the department.

"Current" means a behavior occurred within seven days of the CARE assessment date, including the day of the assessment. Behaviors that the department designates as current must include information about:

- (a) Whether the behavior is easily altered or not easily altered; and
- (b) The frequency of the behavior.

"Decision-making" means your ability and actual performance in making everyday decisions about tasks or activities of daily living. The department determines whether you are:

(a) **Independent:** Decisions about your daily routine are consistent and organized; reflecting your lifestyle, choices, culture, and values.

(b) **Modified Independence/difficulty in new situations:** You have an organized daily routine, are able to make decisions in familiar situations, but experience some difficulty in decision-making when faced with new tasks or situations.

(c) **Moderately impaired/poor decisions;** unaware of consequences: Your decisions are poor and you require reminders, cues and supervision in planning, organizing and correcting daily routines. You attempt to make decisions, although poorly.

(d) **Severely impaired/no or few decisions or preferences regarding ADLs:** Decision-making is severely impaired; you never/rarely make decisions.

"Department" means the state department of social and health services, aging and disability services administration or its designee.

"Designee" means Area Agency on Aging.

"Difficulty" means how difficult it is or would be for you to perform an Instrumental Activity of Daily Living (IADL). This is assessed as:

- (a) No difficulty in performing the activity;
- (b) Some difficulty in performing the activity (e.g., you need some help, are very slow, or fatigue easily); or
- (c) Great difficulty in performing the activity (e.g., little or no involvement in the activity is possible).

"Disabling condition" means you have a medical condition which prevents you from self performance of personal care tasks without assistance.

"Estate recovery" means after the client's death, the department's activity in recouping funds that were expended for long-term care services provided to the client during the client's lifetime, per WAC 388-527-2742.

"Home health agency" means a licensed:

(1) Agency or organization certified under Medicare to provide comprehensive health care on a part-time or intermittent basis to a patient in the patient's place of residence and

reimbursed through the use of the client's medical identification card; or

(2) Home health agency, certified or not certified under Medicare, contracted and authorized to provide:

(a) Private duty nursing; or

(b) Skilled nursing services under an approved Medicaid waiver program.

"Income" means income as defined under WAC 388-500-0005.

"Individual provider" means a person employed by you to provide personal care services in your own home. See WAC 388-71-0500 through 388-71-05909.

"Disability" is described under WAC 388-511-1105.

"Informal support" means a person or resource that is available to provide assistance without home and community program funding.

"Institution" means medical facilities, nursing facilities, and institutions for the mentally retarded. It does not include correctional institutions.

"Instrumental activities of daily living (IADL)" means routine activities performed around the home or in the community and includes the following:

(a) **Meal preparation:** How meals are prepared (e.g., planning meals, cooking, assembling ingredients, setting out food, utensils, and cleaning up after meals). NOTE: The department will not authorize this IADL to plan meals or clean up after meals. You must need assistance with actual meal preparation.

(b) **Ordinary housework:** How ordinary work around the house is performed (e.g., doing dishes, dusting, making bed, tidying up, laundry).

(c) **Essential shopping:** How shopping is completed to meet your health and nutritional needs (e.g., selecting items). Shopping is limited to brief, occasional trips in the local area to shop for food, medical necessities and household items required specifically for your health, maintenance or well-being. This includes shopping with or for you.

(d) **Wood supply:** How wood is supplied (e.g., splitting, stacking, or carrying wood) when you use wood as the sole source of fuel for heating and/or cooking.

(e) **Travel to medical services:** How you travel by vehicle to a physician's office or clinic in the local area to obtain medical diagnosis or treatment-includes driving vehicle yourself, traveling as a passenger in a car, bus, or taxi.

(f) **Managing finances:** How bills are paid, checkbook is balanced, household expenses are managed. The department cannot pay for any assistance with managing finances.

(g) **Telephone use:** How telephone calls are made or received (with assistive devices such as large numbers on telephone, amplification as needed).

"Long-term care services" means the services administered directly or through contract by the aging and disability services administration and identified in WAC 388-106-0015.

"Medicaid" is defined under WAC 388-500-0005.

"Medically necessary" is defined under WAC 388-500-0005.

"Medically needy (MN)" means the status of a person who is eligible for a federally matched medical program under Title XIX of the Social Security Act, who, but for

income above the categorically needy level, would be eligible as categorically needy. Effective January 1, 1996, an AFDC-related adult is not eligible for MN.

"Own home" means your present or intended place of residence:

(1) In a building that you rent and the rental is not contingent upon the purchase of personal care services as defined in this section;

(2) In a building that you own;

(3) In a relative's established residence; or

(4) In the home of another where rent is not charged and residence is not contingent upon the purchase of personal care services as defined in this section.

"Past" means the behavior occurred from eight days to five years of the assessment date. For behaviors indicated as past, the department determines whether the behavior is addressed with current interventions or whether no interventions are in place.

"Personal aide" is defined in RCW 74.39.007.

"Personal care services" means physical or verbal assistance with activities of daily living (ADL) and instrumental activities of daily living (IADL) due to your functional limitations. Assistance is evaluated with the use of assistive devices.

"Physician" is defined under WAC 388-500-0005.

"Plan of care" means Assessment Details and Service Summary generated by CARE.

"Provider or provider of service" means an institution, agency, or person:

(a) Having a signed department contract to provide long-term care client services; and

(b) Qualified and eligible to receive department payment.

"Residential facility" means a licensed adult family home under department contract or licensed boarding home under department contract to provide assisted living, adult residential care or enhanced adult residential care.

"Self performance for ADLs" means what you actually did in the last seven days before the assessment, not what you might be capable of doing. Coding is based on the level of performance that occurred three or more times in the seven-day period. Your self performance is scored as:

(a) **Independent** if you received no help or oversight, or if you needed help or oversight only once or twice;

(b) **Supervision** if you received oversight (monitoring or standby), encouragement, or cueing three or more times;

(c) **Limited assistance** if you were highly involved in the activity and given physical help in guided maneuvering of limbs or other non-weight bearing assistance on three or more occasions. For bathing, limited assistance means physical help is limited to transfer only;

(d) **Extensive assistance** if you performed part of the activity, but on three or more occasions, you needed weight bearing support or you received full performance of the activity during part, but not all, of the activity. For bathing, extensive assistance means you needed physical help with part of the activity (other than transfer);

(e) **Total dependence** if you received full caregiver performance of the activity and all subtasks during the entire

seven-day period from others. Total dependence means complete nonparticipation by you in all aspects of the ADL; or

(f) **Activity did not occur** if you or others did not perform an ADL over the last seven days before your assessment. The activity may not have occurred because:

- (i) You were not able (e.g., walking, if paralyzed);
- (ii) No provider was available to assist; or
- (iii) You declined assistance with the task.

"Self performance for IADLs" means what you actually did in the last seven days before the assessment, not what you might be capable of doing. Coding is based on the level of performance that occurred three or more times in the seven-day period. Your self performance is scored as:

(a) **Independent** if you received no help, set-up help, or supervision;

(b) **Supervision** if you received set-up help or arrangements only;

(c) **Limited assistance** if you sometimes performed the activity yourself and other times needed assistance;

(d) **Extensive assistance** if you were involved in performing the activity, but required cueing/supervision or partial assistance at all times;

(e) **Total dependence** if you needed the activity fully performed by others; or

(f) **Activity did not occur** if you or others did not perform the activity in the last seven days before the assessment.

"Service Summary" is CARE information which includes: contacts (e.g. emergency contact), services the client is eligible for, number of hours or residential rates, personal care needs, formal and informal providers, provider schedule, and referral needs.

"SSI-related" is defined under WAC 388-500-0005.

"Status" means the amount of informal support available. The department determines whether the ADL or IADL is:

(a) **Met**, which means the ADL or IADL will be fully provided by an informal support;

(b) **Unmet**, which means an informal support will not be available to provide assistance with the identified ADL or IADL;

(c) **Partially met**, which means an informal support will be available to provide some assistance, but not all, with the identified ADL or IADL; or

(d) **Client declines**, which means you do not want assistance with the task.

"Supplemental Security Income (SSI)" means the federal program as described under WAC 388-500-0005.

"Support provided" means the highest level of support provided (to you) by others in the last seven days before the assessment, even if that level of support occurred only once.

(a) No set-up or physical help provided by others;

(b) Set-up help only provided, which is the type of help characterized by providing you with articles, devices, or preparation necessary for greater self performance of the activity (such as giving or holding out an item that you take from others);

(c) One-person physical assist provided;

(d) Two- or more person physical assist provided; or

(e) Activity did not occur during entire seven-day period.

"You/Your" means the client.

## APPLYING FOR SERVICES

### NEW SECTION

**WAC 388-106-0015 What long-term care services does the department provide?** The department provides long-term care services under the following programs:

(1) **Medical Personal Care (MPC)** is a Medicaid state plan program authorized under RCW 74.09.520. Clients eligible for this program may receive personal care in their own home or in a residential facility.

(2) **Community Options Program Entry System (COPEs)** is a Medicaid waiver program authorized under RCW 74.39A.030. Clients eligible for this program may receive personal care in their own home or in a residential facility.

(3) **Medically Needy Residential Waiver (MNRW)** is a Medicaid waiver program authorized under RCW 74.39.041. Clients eligible for this program may receive personal care in a residential facility.

(4) **Medically Needy In-Home Waiver (MNIW)** is a Medicaid waiver program authorized under RCW 74.09.700. Clients eligible for this program may receive personal care in their own home or in a residential facility.

(5) **Chore** is a state-only funded program authorized under RCW 74.39A.110. Grandfathered clients may receive assistance with personal care in their own home.

(6) **Volunteer Chore** is a state-funded program that provides volunteer assistance with household tasks to eligible clients.

(7) **Program of All-Inclusive Care for the Elderly (PACE)** is a Medicaid/Medicare managed care program authorized under 42 CFR 460.2. Clients eligible for this program may receive personal care and medical services in their own home, in residential facilities, and in adult day health centers.

(8) **Adult Day Health** is a supervised daytime program providing skilled nursing and rehabilitative therapy services in addition to core services outlined in WAC 388-106-0800.

(9) **Adult day care** is a supervised daytime program providing core services, as defined under WAC 388-106-0800.

(10) **GAU-funded residential care** is a state-funded program authorized under WAC 388-400-0025. Clients eligible for this program may receive personal care services in an adult family home or an adult residential care facility.

(11) **Residential Care Discharge Allowance** is a service that helps eligible clients to establish or resume living in their own home.

(12) **Private Duty Nursing** is a Medicaid service that provides an alternative to institutionalization in a hospital or nursing facility setting. Clients eligible for this program may receive at least four continuous hours of skilled nursing care on a day to day basis in their own home.

(13) **Senior Citizens Services Act (SCSA)** is a program authorized under chapter 74.38 RCW. Clients eligible for this program may receive community-based services as defined in RCW 74.38.040.

(14) **Respite Program** is a program authorized under RCW 74.41.040 and WAC 388-106-1200. This program

provides relief care for unpaid family or other caregivers of adults with a functional disability.

(15) Programs for persons with developmental disabilities are discussed in chapter 388-820 through 388-853 WAC.

#### NEW SECTION

**WAC 388-106-0020 Under the MPC, COPEs, MNRW, MNIW, and Chore programs, what services are not covered?** The following types of services are not covered under MPC, COPEs, MNRW, MNIW, and Chore:

- (1) Child Care.
- (2) Individual providers and agency providers must not provide sterile procedures, administration of medications, or other tasks requiring a licensed health professional unless these tasks are provided through nursing delegation, self-directed care or provided by a family member.
- (3) Services provided over the telephone.
- (4) Services to assist other household members not eligible for services.
- (5) Development of social, behavioral, recreational, communication, or other types of community living skills.
- (6) Nursing care.
- (7) Pet care.
- (8) Assistance with managing finances.
- (9) Respite.
- (10) Yard care.

#### NEW SECTION

**WAC 388-106-0025 How do I apply for long-term care services?** To apply for long-term care services, you must request an assessment from the department and submit a Medicaid application.

#### NEW SECTION

**WAC 388-106-0030 Where can I receive services?** You may receive services:

- (1) In your own home.
- (2) In a residential facility, which includes licensed:
  - (a) Adult family homes, as defined in RCW 70.128.010.
  - (b) Boarding homes. Types of licensed and contracted boarding homes include:
    - (i) Assisted living facilities, as defined in WAC 388-110-020;
    - (ii) Enhanced adult residential care facilities, as defined in WAC 388-110-020;
    - (iii) Enhanced adult residential care facilities-Specialized Dementia Care, as defined in WAC 388-110-020; and
    - (iv) Adult residential care facilities, as defined in WAC 388-110-020.
- (3) In a nursing home, as defined in WAC 388-97-005.

#### NEW SECTION

**WAC 388-106-0035 May I receive personal care services through any of the long-term care programs when I am out of the state of Washington?** (1) You may receive personal care assistance through any long-term care programs in WAC 388-106-0015 subsections (1) through (5)

when temporarily traveling out of state for less than thirty days, as long as your:

- (a) Individual provider is contracted with the state of Washington;
  - (b) Travel plans are coordinated with the department prior to departure;
  - (c) Services are authorized on your plan of care prior to departure; and
  - (d) Services are strictly for your personal care.
- (2) You may not receive personal care services outside of the United States.

#### NEW SECTION

**WAC 388-106-0040 Who can provide long-term care services?** The following types of providers can provide long-term care services:

- (1) Individual providers (IPs), who provide services to clients in their own home. IPs must meet the requirements outlined in WAC 388-71-0500 through WAC 388-71-05909.
- (2) Home care agencies, who provide services to clients in their own home. Home care agencies must be licensed under chapter 70.127 RCW and chapter 246-336 WAC and contracted with Area Agency on Aging.
- (3) Residential providers, which include licensed adult family homes and boarding homes, who contract with the department to provide assisted living, adult residential care, and enhanced adult residential care services (which may also include specialized dementia care).
- (4) Providers who have contracted with the department to perform other services.

#### NEW SECTION

**WAC 388-106-0045 When will the department authorize my long-term care services?** The department will authorize long-term care services when you:

- (1) Are assessed using CARE;
- (2) Are found financially and functionally eligible for services including, if applicable, the determination of the amount of participation toward the cost of your care and/or the amount of room and board that you must pay;
- (3) Have given consent for services and approved your plan of care; and
- (4) Have chosen a provider(s), qualified for payment.

### **COMPREHENSIVE ASSESSMENT REPORTING EVALUATION (CARE) ASSESSMENT**

#### NEW SECTION

**WAC 388-106-0050 What is an assessment?** An assessment is an inventory and evaluation of abilities and needs based on an in-person interview in your home or your place of residence.

#### NEW SECTION

**WAC 388-106-0055 What is the purpose of an assessment?** The purpose of an assessment is to:

- (1) Determine eligibility for long-term care programs;

PROPOSED

- (2) Identify your strengths, limitations, and preferences;
- (3) Evaluate your living situation and environment;
- (4) Evaluate your physical health, functional and cognitive abilities;
- (5) Determine availability of informal supports and other non-department paid resources;
- (6) Determine need for intervention;
- (7) Determine need for case management activities;
- (8) Determine your classification group that will set your payment rate for residential care or number of hours of in-home care;
- (9) Determine need for referrals; and
- (10) Develop a plan of care, as defined in WAC 388-106-0010.

NEW SECTION

**WAC 388-106-0060 Who must perform the assessment?** The assessment must be performed by the department.

NEW SECTION

**WAC 388-106-0065 What is the process for conducting an assessment?** The department:

- (1) Will assess you using a department-prescribed assessment tool, titled the comprehensive assessment reporting evaluation (CARE).
- (2) May request the assessment be conducted in private. However, you have the right to request that a third party be present (e.g. a friend, a family member, or a legal representative).
- (3) Has the right to end the assessment if behaviors by any party are impeding the assessment process. If an assessment is terminated, the department will reschedule.

NEW SECTION

**WAC 388-106-0070 Will I be assessed in CARE?** You will be assessed in CARE if you are applying for or receiving COPES, MNIW, MNRW, MPC, Chore, Respite, Adult Day Health, GAU-funded residential care, PACE, or Private Duty Nursing. You may not be assessed by forms previously used by the department once you have been assessed under CARE.

NEW SECTION

**WAC 388-106-0075 How is my need for personal care services assessed in CARE?** To assess your need for personal care services, the department gathers information from you, your caregivers, family members, and other sources. The department will assess your ability to perform:

- (1) Activities of Daily Living (ADL) using self performance, support provided, status and assistance available, as defined in WAC 388-106-0010. Also, the department determines your need for "assistance with body care" and "assistance with medication management", as defined in WAC 388-106-0010; and
- (2) Instrumental Activities of Daily Living (IADL) using self performance, difficulty, status and assistance available, as defined in WAC 388-106-0010.

**CARE CLASSIFICATION**

NEW SECTION

**WAC 388-106-0080 How is the amount of long-term care services I can receive in my own home or in a residential facility determined?** The amount of long-term care services you can receive in your own home or in a residential facility is determined through a classification system. Twelve classifications apply to clients served in residential and in-home settings. Two additional exceptional care groups apply to clients served in in-home settings. The department has assigned each classification a residential facility rate or a base number of hours you can receive in your own home.

NEW SECTION

**WAC 388-106-0085 What criteria does the CARE tool use to place me in one of the classification groups?** The department uses CARE to assess your characteristics. Based on this assessment, the CARE tool uses the following criteria to place you in one of the classification groups:

- (1) Cognitive performance.
- (2) Clinical complexity.
- (3) Mood/behaviors symptoms.
- (4) Activities of Daily Living (ADLs).

NEW SECTION

**WAC 388-106-0090 How does the CARE tool measure cognitive performance?** (1) The CARE tool uses a tool called the cognitive performance scale (CPS) to evaluate your cognitive impairment. The CPS results in a score that ranges from zero (intact) to six (very severe impairment). Your CPS score is based on:

- (a) Whether you are comatose.
  - (b) Your ability to make decisions, as defined in WAC 388-106-0010 "Decision making."
  - (c) Your ability to make yourself understood, as defined in WAC 388-106-0010 "Ability to make self understood."
  - (d) Whether you have short-term memory problem (e.g. can you remember recent events?) or whether you have delayed recall; and
  - (e) Whether you score as total dependence for self performance in eating, as defined in WAC 388-106-0010 "Self performance of ADLs."
- (2) You will receive a CPS score of:
- (a) **Zero** when you do not have problems with decision-making ability, making yourself understood, or recent memory.
  - (b) **One** when you meet one of the following:
    - (i) Your decision-making ability is scored as Modified Independence or Moderately Impaired;
    - (ii) Your ability to make yourself understood is usually, sometimes, or rarely/never understood; or
    - (iii) You have a recent memory problem.
  - (c) **Two** when you meet two of the following:
    - (i) Your decision-making ability is scored as Modified Independence or Moderately Impaired;



(ii) Your ability to make yourself understood is usually, sometimes, or rarely/never understood; and/or

(iii) You have a short-term memory problem or delayed recall.

(d) **Three** when you meet at least two of the criteria listed in sub-section (2)(b) of this section and one of the following applies:

(i) Your decision-making is Moderately Impaired; or

(ii) Your ability to make yourself understood is sometimes or rarely/never understood.

(e) **Four** when both of the following criteria applies:

(i) Your decision-making is Moderately Impaired; and

(ii) Your ability to make yourself understood is sometimes or rarely/never understood.

(f) **Five** when your ability to make decisions is scored as severely impaired.

(g) **Six** when one of the following applies:

(i) Your ability to make decisions is severely impaired and you require total dependence in eating; or

(ii) You are comatose.

**NEW SECTION**

**WAC 388-106-0095 How does the CARE tool measure clinical complexity?** The CARE tool places you in the Clinically Complex classification group only when you have one or more of the following criteria and corresponding ADL scores:

Condition	AND an ADL Score of
ALS (Lou Gehrig's disease)	>14
Aphasia (expressive and/or receptive)	>=2
Cerebral Palsy	>14
Diabetes Mellitus (insulin dependent)	>14
Diabetes Mellitus (noninsulin dependent)	>14
Emphysema & Shortness of Breath (at rest or exertion) or dizziness/vertigo	>10
COPD & Shortness of Breath (at rest or exertion) or dizziness/vertigo	>10
Explicit terminal prognosis	>14
Hemiplegia	>14
Multiple sclerosis	>14
Parkinson disease	>14
Pathological bone fracture	>14
Quadriplegia	>14
Rheumatoid Arthritis	>14
You have one or more of the following skin problems: <ul style="list-style-type: none"> <li>■ Pressure ulcers, with areas of persistent skin redness;</li> <li>■ Pressure ulcers with partial loss of skin layers;</li> <li>■ Pressure ulcers, with a full thickness lost;</li> </ul>	>=2

Condition	AND an ADL Score of
<ul style="list-style-type: none"> <li>■ Skin desensitized to pain/pressure;</li> <li>■ Open lesions; and/or</li> <li>■ Stasis ulcers.</li> </ul> <p>AND</p> <p>You require one of the following types of assistance:</p> <ul style="list-style-type: none"> <li>■ Ulcer care;</li> <li>■ Pressure relieving device;</li> <li>■ Turning/reposition program;</li> <li>■ Application of dressing; or</li> <li>■ Wound/skin care.</li> </ul>	
<p>You have a burn(s) and you need one of the following:</p> <ul style="list-style-type: none"> <li>■ Application of dressing; or</li> <li>■ Wound/skin care</li> </ul>	>=2
<p>You have one or more of the following problems:</p> <ul style="list-style-type: none"> <li>■ You are frequently incontinent (bladder);</li> <li>■ You are incontinent all or most of the time (bladder);</li> <li>■ You are frequently incontinent (bowel); or</li> <li>■ You are incontinent all or most of the time (bowel).</li> </ul> <p>AND</p> <p>One of the following applies:</p> <ul style="list-style-type: none"> <li>■ The status of your individual management of bowel bladder supplies is "Uses, has leakage, needs assistance";</li> <li>■ The status of your individual management of bowel bladder supplies is "Does not use, has leakage"; or</li> <li>■ You use any scheduled toileting plan.</li> </ul>	>10
<p>You have a current swallowing problem, and you are not independent in eating.</p>	>10
<p>You have Edema.</p>	>14
<p>You have Pain daily.</p>	>14
<p>You need and receive a Bowel program.</p>	>10
<p>You need Dialysis.</p>	>10
<p>You require IV nutritional support or tube feedings; and</p> <p>Your total calories received per IV or tube was at least 25%; and</p> <p>Your fluid intake is greater than 2 cups.</p>	>=2
<p>You need Hospice care.</p>	>14

PROPOSED

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Condition	AND an ADL Score of
You need Injections.	>14
You need Intravenous medications.	>10
You need management of IV lines.	>10
You need Ostomy care.	>=2
You need Oxygen therapy.	>10
You need Radiation.	>10
You need and receive Passive range of motion.	>10
You need and receive Walking training.	>10
You need Suction treatment.	>=2
You need Tracheostomy care.	>10
You need a Ventilator/respirator	>10
Key: > means greater than. >= means greater than or equal to.	

**NEW SECTION**

**WAC 388-106-0100 How does the CARE tool measure mood and behaviors?** (1) When you do not meet the criteria for the Clinically Complex classification group, or the criteria for exceptional care, or for in-home only have a cognitive performance scale score of five or six, the mood and behavior criteria listed in subsection (3) below determines your classification group.

(2) For each behavior that the CARE tool has documented, the department will determine a status as "Current" or "Past" as defined in WAC 388-106-0010.

(3) CARE places you in the Mood and Behavior classification group only if you have one or more of the behavior/moods that also meets the listed status, frequency, and alterability as identified in the following chart. No other moods or behaviors documented by CARE will qualify you for the Mood and Behavior classification.

Behavior/Mood	AND Status, Frequency & Alterability
Assaultive	Current
Combative during personal care	Current
Combative during personal care	In past and addressed with current interventions
Crying tearfulness	Current, frequency 4 or more days per week
Delusions	In past, addressed with current interventions
Depression score >=14	N/A
Disrobes in public	Current and not easily altered
Easily irritable/agitated	Current and not easily altered
Eats nonedible substances	Current

Behavior/Mood	AND Status, Frequency & Alterability
Eats nonedible substances	In past, addressed with current interventions
Hallucinations	Current
Hiding items	In past, addressed with current interventions
Hoarding/collecting	In past, addressed with current interventions
Mental health therapy/program	Need
Repetitive complaints/questions	Current, daily
Repetitive complaints/questions	In past, addressed with current interventions
Repetitive movement/pacing	Current, daily
Resistive to care	Current
Resistive to care	In past, addressed with current interventions
Sexual acting out	Current
Sexual acting out	In past, addressed with current interventions
Spitting	Current and not easily altered
Spitting	In past, addressed with current interventions
Breaks/throws items	Current
Unsafe smoking	Current and not easily altered
Up at night and requires intervention	Current
Wanders exit seeking	Current
Wanders exit seeking	In past, addressed with current interventions
Wanders not exit seeking	Current
Wanders not exit seeking	In past, addressed with current interventions
Yelling/screaming	Current, frequency 4 or more days per week
Key: > means greater than. >= means greater than or equal to.	

**NEW SECTION**

**WAC 388-106-0105 How does the CARE tool measure Activities of Daily Living (ADLs)?** (1) CARE determines an ADL score ranging from zero to twenty-eight for each of the following ADLs.

- (a) Personal hygiene;
- (b) Bed mobility;
- (c) Transfers;
- (d) Eating;
- (e) Toilet use;

- (f) Dressing;
- (g) Locomotion in room;
- (h) Locomotion outside room; and
- (i) Walk in room.

(2) The department through the CARE tool determines the ADL score by using the definitions in WAC 388-106-0010 under "Self-performance for ADLs". The CARE tool assigns the following points to the level of self performance for each of the ADLs listed in subsection (1) of this section. For the locomotion in room, locomotion outside of room and walk in room, the department uses the highest score of the three in determining the total ADL score.

ADL Scoring Chart	
If Self Performance is:	Score Equals
Independent	0
Supervision	1
Limited assistance	2
Extensive assistance	3
Total dependence	4
Did not occur/no provider	4
Did not occur/client not able	4
Did not occur/client declined	0

(3) Although assessed by CARE, the department does not score bathing and medication management to determine classification groups.

**NEW SECTION**

**WAC 388-106-0110 How does the CARE tool evaluate me for the exceptional care classification of in-home care?** CARE places you in the Exceptional care classifications for the in-home setting when the following criteria are met in either Diagram 1 or 2:

Diagram 1
You have one of the following diagnoses: <ul style="list-style-type: none"> <li>■ Quadriplegia;</li> <li>■ Paraplegia;</li> <li>■ ALS (Amyotrophic Lateral Sclerosis);</li> <li>■ Parkinson's Disease;</li> <li>■ Multiple Sclerosis;</li> <li>■ Comatose;</li> <li>■ Muscular Dystrophy;</li> <li>■ Cerebral Palsy;</li> <li>■ Post Polio Syndrome; or</li> <li>■ TBI (traumatic brain injury).</li> </ul>
AND
You have an ADL score of greater than or equal to 22.
AND
You need a Turning/repositioning program.
AND

You require at least one of the following: <ul style="list-style-type: none"> <li>■ External catheter;</li> <li>■ Intermittent catheter;</li> <li>■ Indwelling catheter care;</li> <li>■ Bowel program; or</li> <li>■ Ostomy care</li> </ul>
AND
You need one of the following services provided by an individual provider, agency provider, a private duty nurse, or through self-directed care: <ul style="list-style-type: none"> <li>■ Active range of motion (AROM); or</li> <li>■ Passive range of motion (PROM).</li> </ul>

Diagram 2
You have an ADL score of greater than or equal to 22.
AND
You need a Turning/repositioning program.
AND
You need one of the following services provided by an individual provider, agency provider, a private duty nurse, or through self-directed care: <ul style="list-style-type: none"> <li>■ Active Range of Motion (AROM); or</li> <li>■ Passive Range of Motion (PROM).</li> </ul>
AND
All of the following apply: <ul style="list-style-type: none"> <li>■ You require IV nutrition support or tube feeding;</li> <li>■ Your total calories received per IV or tube was greater than 50%; and</li> <li>■ Your fluid intake is greater than 2 cups.</li> </ul>
AND
You need assistance with one of the following, provided by an individual provider, agency provider, a private duty nurse, or through self-directed care: <ul style="list-style-type: none"> <li>■ Dialysis; or</li> <li>■ Ventilator/respirator.</li> </ul>

**NEW SECTION**

**WAC 388-106-0115 How does CARE use the criteria of cognitive performance as determined under WAC 388-106-0090, clinical complexity as determined under WAC 388-106-0095, mood/behaviors as determined under WAC 388-106-0100, and ADLs as determined under WAC 388-106-0105 to place me in a classification group for residential facilities?** The CARE tool uses the criteria of cognitive performance as determined under WAC 388-106-0090, clinical complexity as determined under WAC 388-106-0095, mood/behaviors as determined under WAC 388-106-0100, and ADLs as determined under WAC 388-106-0105 to place you into one of the following twelve residential classification groups:

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Classification	ADL Score	Group
<b>Group D</b> Cognitive performance score = 4-6 and Clinically complex = yes and Mood/behavior = yes or no	ADL Score 18-28	D High (12)
	ADL Score 13-17	D Med (11)
	ADL Score 2-12	D Low (10)
<b>Group C</b> Cognitive performance score = 0-3 and Clinically complex = yes and Mood/behavior = yes or no	ADL Score 18-28	C High (9)
	ADL Score 9-17	C Med (8)
	ADL Score 2-8	C Low (7)
<b>Group B</b> Mood & behavior = Yes and Clinically complex = no and Cognitive performance score = 0-6	ADL Score 15-28	B High (6)
	ADL Score 5-14	B Med (5)
	ADL Score 0-4	B Low (4)
<b>Group A</b> Mood & behavior = No and Clinically complex = No and Cognitive performance score = 0-6	ADL Score 10-28	A High (3)
	ADL Score 5-9	A Med (2)
	ADL Score 0-4	A Low (1)

**NEW SECTION**

**WAC 388-106-0120** What is the payment rate that the department will pay the provider if I receive personal care services in a residential facility? The department publishes rates and/or adopts rules to establish how much the department pays toward the cost of your care in a residential facility. The department assigns payment rates to the CARE classification groups. Payment for care in a residential facility corresponds to the payment rate assigned to the classification group in which the CARE tool has placed you.

**NEW SECTION**

**WAC 388-106-0125** How does CARE use the criteria of cognitive performance as determined under WAC 388-106-0090, clinical complexity as determined under WAC 388-106-0095, mood/behaviors as determined under WAC 388-106-0100, ADLs as determined under WAC 388-106-0105, and exceptional care as determined under WAC 388-106-0110, to place me in a classification group for in-home care? CARE uses the criteria of cognitive performance as determined under WAC 388-106-0090, clinical complexity as determined under WAC 388-106-0095, mood/behavior as determined under WAC 388-106-0105, and exceptional care as determined under WAC 388-106-0110 to place you into one of the following fourteen in-home groups.

Classification	ADL Score	Group	Base Hours of Group
<b>Group E</b> Exceptional care = yes and Mood and behavior = yes or no and Cognitive performance score = 0-6	ADL Score 26-28	E High (14)	420
	ADL Score 22-25	E Med (13)	350

PROPOSED

Classification	ADL Score	Group	Base Hours of Group
<b>Group D</b> Cognitive performance score = 4-6 and Clinically complex = yes and Mood and behavior = yes or no OR Cognitive performance score = 5-6 and Clinically complex = no and Mood and behavior = yes or no	ADL Score 18-28	D High (12)	240
	ADL Score 13-17	D Med (11)	190
	ADL Score 2-12	D Low (10)	145
<b>Group C</b> Cognitive performance score = 0-3 and Clinically complex = yes and Mood and behavior = yes or no	ADL Score 18-28	C High (9)	180
	ADL Score 9-17	C Med (8)	140
	ADL Score 2-8	C Low (7)	83
<b>Group B</b> Mood and behavior = yes and Clinically complex = no and Cognitive performance score = 0-4	ADL Score 15-28	B High (6)	155
	ADL Score 5-14	B Med (5)	90
	ADL Score 0-4	B Low (4)	52
<b>Group A</b> Mood and behavior = no and Clinically complex = no and Cognitive performance score = 0-4	ADL Score 10-28	A High (3)	78
	ADL Score 5-9	A Med (2)	62
	ADL Score 0-4	A Low (1)	29

Reviser's note: The spelling 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.

(2) The department will deduct from the base hours to account for your informal supports, as defined in WAC 388-106-0010, as follows:

(a) The CARE tool determines the adjustment for informal supports by determining the amount of assistance available to meet your needs, assigns it a numeric percentage, and reduces the base hours assigned to the classification group by the numeric percentage. The department has assigned the following numeric values for the amount of assistance available for each ADL and IADL:

**NEW SECTION**

**WAC 388-106-0130 How does the department determine the number of hours I may receive for in-home care?** (1) The department assigns a base number of hours to each classification group as described in WAC 388-106-0125.

Meds	Self Performance	Status	Assistance Available	Value Percentage
Self administration of medications	Rules for all codes apply except independent is not counted	Unmet	N/A	1
		Met	N/A	0
		Decline	N/A	0
		Partially met	<1/4 time	.9
			1/4 to 1/2 time	.7
1/2 to 3/4 time	.5			
		>3/4 time	.3	

PROPOSED

Unscheduled ADLs	Self Performance	Status	Assistance Available	Value Percentage
Bed mobility, transfer, walk in room, eating, toilet use	Rules apply for all codes except: Did not occur/client not able and Did not occur/no provider = 1; Did not occur/client declined and independent are not counted.	Unmet	N/A	1
		Met	N/A	0
		Decline	N/A	0
		Partially met	<1/4 time	.9
			1/4 to 1/2 time	.7
1/2 to 3/4 time	.5			
		>3/4 time	.3	
Scheduled ADLs	Self Performance	Status	Assistance Available	Value Percentage
Dressing, personal hygiene, bathing	Rules apply for all codes except: Did not occur/client not able and Did not occur/no provider = 1; Did not occur/client declined and independent are not counted.	Unmet	N/A	1
		Met	N/A	0
		Decline	N/A	0
		Partially met	<1/4 time	.75
			1/4 to 1/2 time	.55
1/2 to 3/4 time	.35			
>3/4 time	.15			
IADLs	Self Performance	Status	Assistance Available	Value Percentage
Meal preparation, Ordinary housework, Essential shopping	Rules for all codes apply except independent is not counted.	Unmet	N/A	1
		Met	N/A	0
		Decline	N/A	0
		Partially met	<1/4 time	.3
			1/4 to 1/2 time	.2
1/2 to 3/4 time	.1			
>3/4 time	.05			
IADLs	Self Performance	Status	Assistance Available	Value Percentage
Travel to medical	Rules for all codes apply except independent is not counted.	Unmet	N/A	1
		Met	N/A	0
		Decline	N/A	0
		Partially met	<1/4 time	.9
			1/4 to 1/2 time	.7
			1/2 to 3/4 time	.5
>3/4 time	.3			

Key:  
 > means greater than  
 < means less than

(b) To determine the amount of reduction for informal support, the value percentage is divided by the number of qualifying ADLs and IADLs needs. The result is value A. Value A is then subtracted from one. This is value B. Value B is divided by three. This is value C. Value A and Value C are summed. This is value D. Value D is multiplied by the "base hours" assigned to your classification group and the result is base in-home care hours reduced for informal supports.

(3) Also, the department will adjust in-home base hours for the following shared living circumstances:

(a) If there is more than one client living in the same household, the status under subsection (2)(a) of this section must be met or partially met for the following IADLs:

- (i) Meal preparation,
- (ii) Housekeeping,
- (iii) Shopping, and
- (iv) Wood supply.

(b) If you and your paid provider live in the same household, the status under subsection (2)(a) of this section must be met for the following IADLs:

- (i) Meal preparation,
- (ii) Housekeeping,

- (iii) Shopping, and
- (iv) Wood supply.
- (c) When there is more than one client living in the same household and your paid provider lives in your household, the status under subsection (2)(a) of this section must be met for the following IADLs:
  - (i) Meal preparation,

- (ii) Housekeeping,
- (iii) Shopping, and
- (iv) Wood supply.
- (4) After deductions are made to your base hours, as described in subsections (2) and (3), the department may add on hours based on your living environment:

Condition	Status	Assistance Available	Add On Hours
Offsite laundry facilities, which means the client does not have facilities in own home and the caregiver is not available to perform any other personal or household tasks while laundry is done.	Unmet	N/A	8
Client is >45 minutes from essential services (which means he/she lives more than 45 minutes one-way from a full-service market).	Unmet	N/A	5
	Met	N/A	0
	Partially met	<1/4 time	5
		between 1/4 to 1/2 time	4
		between 1/2 to 3/4 time	2
>3/4 time		2	
Wood supply used as sole source of heat.	Unmet	N/A	8
	Met	N/A	0
	Declines	N/A	0
	Partially met	<1/4 time	8
		between 1/4 to 1/2 time	6
		between 1/2 to 3/4 time	4
>3/4 time		2	

(5) The result of actions under subsections (2), (3), and (4) is the maximum number of hours that can be used to develop your plan of care. The department must take into account cost effectiveness, client health and safety, and program limits in determining how hours can be used to meet your identified needs.

(6) You and your case manager will work to determine what services you choose to receive if you are eligible. The hours may be used to authorize:

- (a) Personal care services from a home care agency provider and/or an individual provider.
- (b) Home delivered meals (i.e. a half hour from the available hours for each meal authorized).
- (c) Adult day care (i.e. a half hour from the available hours for each hour of day care authorized).
- (d) A home health aide.

**NEW SECTION**

**WAC 388-106-0135 What are the maximum hours that I can receive for in-home services?** The maximum hours that you may receive is the base hours assigned to your classification group and adjusted per WAC 388-106-0130. For Chore program clients, the maximum personal care hours per month the department will pay is one hundred sixteen.

**NEW SECTION**

**WAC 388-106-0140 What will change the maximum hours I can receive?** When you have a change in any of the

criteria listed in WAC 388-106-0125 and/or WAC 388-106-0130, the maximum hours you can receive will change.

**MEDICAID PERSONAL CARE (MPC)**

**NEW SECTION**

**WAC 388-106-0200 What services may I receive under Medicaid Personal Care (MPC)?** You may be eligible to receive only the following services under Medicaid Personal Care (MPC):

- (1) Personal care services, as defined in WAC 388-106-0010, in your own home and, as applicable, assistance with personal care tasks while you are out of the home accessing community resources or working.
- (2) Personal care services in one of the following residential care facilities:
  - (a) Adult family homes; or
  - (b) A licensed boarding home that has contracted with the department to provide adult residential care services.
- (3) Nursing services, if you are not already receiving this type of service from another resource. A registered nurse may visit you and perform any of the following activities:
  - (a) Nursing assessment/reassessment;
  - (b) Instruction to you and your providers;
  - (c) Care coordination and referral to other health care providers;
  - (d) Skilled treatment, only in the event of an emergency. A skilled treatment is care that would require authorization, prescription, and supervision by an authorized practitioner

PROPOSED

prior to its provision by a nurse, for example, medication administration or wound care such as debridement. In non-emergency situations, the nurse will refer the need for any skilled medical or nursing treatments to a health care provider, a home health agency or other appropriate resource;

(e) File review; and/or

(f) Evaluation of health-related care needs affecting service planning and delivery.

**NEW SECTION**

**WAC 388-106-0210 Am I eligible for MPC-funded services?** You are eligible for MPC-funded services when the department assesses your needs and determines that you meet all of the following criteria:

(1) You are certified as noninstitutional categorically needy, as defined in WAC 388-500-0005. Categorically needy medical institutional programs described in chapter 388-513 WAC do not meet this criteria.

(2) You are functionally eligible which means one of the following applies:

(a) You have an unmet or partially met need with at least three of the following Activities of Daily Living, as defined in WAC 388-106-0010:

For each Activity of Daily Living, the minimum level of assistance required in:		
	Self Performance is:	Support Provided is:
Eating	N/A	Setup
Toileting	Supervision	N/A
Bathing	Supervision	N/A
Dressing	Supervision	N/A
Transfer	Supervision	Setup
Bed Mobility	Supervision	Setup
Walk in Room OR Locomotion in Room OR Locomotion Outside Immediate Living Environment	Supervision	Setup
Medication Management	Assistance Required	N/A
Personal Hygiene	Supervision	N/A
Body care which includes: Application of ointment or lotions; Toenails trimmed; Dry bandage changes; or Passive range of motion treatment.	Need	N/A

Your need for assistance in any of the activities listed in subsection (a) of this section did not occur because you were unable or no provider was available to assist you will be counted for the purpose of determining your functional eligibility.

or:

(b) You have an unmet or partially met need or the activity did not occur (because you were unable or no provider was available) with at least one or more of the following:

For each Activity of Daily Living, the minimum level of assistance required in		
	Self Performance is:	Support Provided is:
Eating	Supervision	One person physical assist
Toileting	Extensive Assistance	One person physical assist
Bathing	Limited Assistance	One person physical assist
Dressing	Extensive Assistance	One person physical assist
Transfer	Extensive Assistance	One person physical assist
Bed Mobility and Turning and repositioning	Limited Assistance and Need	One person physical assist
Walk in Room OR Locomotion in Room OR Locomotion Outside Immediate Living Environment	Extensive Assistance	One person physical assist
Medication Management	Assistance Required Daily	N/A
Personal Hygiene	Extensive Assistance	One person physical assist
Body care which includes: Application of ointment or lotions; Toenails trimmed; Dry bandage changes; or Passive range of motion treatment.	Need	N/A

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Your need for assistance in any of the activities listed in subsection (b) of this section did not occur because you were unable or no provider was available to assist you will be counted for the purpose determining your functional eligibility.

NEW SECTION

**WAC 388-106-0213 How are my needs assessed if I am a child applying for MPC services?** If you are a child applying for MPC services, the department will complete a CARE assessment and:

- (1) Consider and document the role of your legally responsible natural/step/adoptive parent(s).
- (2) Code your needs as met based on the guidelines outlined in the following table:

**Activities of Daily Living (ADLs)**

Ages	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
■ = Code status as Met																	
<b>Medication Management</b>																	
Independent, supervision, limited, extensive, or Total	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
<b>Locomotion in Room<sup>Note</sup></b>																	
Independent, supervision, limited or extensive	■	■	■														
Total	■																
<b>Locomotion Outside Room<sup>Note</sup></b>																	
Independent or supervision	■	■	■	■	■												
Limited or extensive	■	■	■														
Total	■																
<b>Walk in Room<sup>Note</sup></b>																	
Independent, supervision, limited or extensive	■	■	■														
Total	■																
<b>Bed Mobility</b>																	
Independent, supervision, limited or extensive	■	■															
Total	■																
<b>Transfers</b>																	
Independent, supervision, limited, extensive or total & under 30 pounds (Total & over 30 pounds = no age limit)	■	■															
<b>Toilet Use</b>																	
Support provided for nighttime wetting only (Independent, supervision, limited, extensive, or total)	■	■	■	■	■	■	■										
Independent, supervision, limited, extensive	■	■	■	■	■												
Total	■	■	■														
<b>Eating</b>																	
Independent, supervision, limited, extensive, or total	■	■															
<b>Bathing</b>																	
Independent or supervision	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Physical assistance all/part	■	■	■	■	■	■	■										

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**Activities of Daily Living (ADLs)**

**Ages**

■ = Code status as Met

Total

**Dressing**

Independent or supervision

Limited or extensive

Total

**Personal Hygiene**

Independent or supervision

Limited or extensive

Total

**Instrumental Activities of Daily Living**

**Ages**

■ = Code status as Met

**Telephone**

Independent, supervision, limited, extensive, or Total

**Transportation**

Independent, supervision, limited, extensive, or Total

**Shopping**

Independent, supervision, limited, extensive, or Total

**Wood Supply**

Independent, supervision, limited, extensive, or Total

**Housework**

Independent, supervision, limited, extensive, or Total

**Finances**

Independent, supervision, limited, extensive, or Total

**Meal Preparation**

Independent, supervision, limited, extensive, or Total

NOTE: If the activity did not occur, the department codes self performance as total and status as met.

	Ages																
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
<b>Additional guidelines based on age</b>																	
<b>Any foot care needs</b>																	
Status Need met	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
<b>Any skin care (other than feet)</b>																	
Status Need met	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
<b>Speech/Hearing</b>																	
Score comprehension as understood	■	■															
<b>Memory</b>																	
Short term memory ok	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Long term memory ok	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■

PROPOSED

	Ages																
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
<b>Depression</b>																	
Select interview = unable to obtain	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
<b>Decision making</b>																	
Rate how client makes decisions = independent	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
<b>Bladder/Bowel</b>																	
Support provided for nighttime wetting only - Individual management = Does not need/use	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Support provided for daytime wetting - Individual Management = Does not need/use	■	■	■	■	■												

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(3) In addition, determine that the status and assistance available are met or partially met over three-fourths of the time, when you are living with your legally-responsible natural/step/adoptive parent(s).

(4) Will not code mental health therapy, behaviors, or depression if you are in foster care.

**NEW SECTION**

**WAC 388-106-0220 How do I remain eligible for MPC?** (1) In order to remain eligible for MPC, you must be in need of services in accordance with WAC 388-106-0210 as determined through a CARE assessment. The assessment in CARE must be at least annually or more often when there are significant changes in your functional or financial circumstances.

(2) When eligibility statutes, regulations, and/or rules for MPC change, irrespective of whether your functional or financial circumstances have changed, if you do not meet the changed eligibility requirements, the department will terminate your MPC services.

**NEW SECTION**

**WAC 388-106-0225 How do I pay for MPC?** (1) If you live in your own home, you do not participate toward the cost of your personal care services.

(2) If you live in a residential facility and are:

(a) An SSI beneficiary who receives only SSI income, you only pay for board and room. You are allowed to keep a personal needs allowance of at least thirty-eight dollars and eighty-four cents per month;

(b) An SSI beneficiary who receives SSI and SSA benefits, you only pay for board and room. You are allowed to keep a personal needs allowance of at least fifty-eight dollars and eighty-four cents per month;

(c) An SSI-related person under WAC 388-511-1105, you may be required to participate towards the cost of your personal care services in addition to your board and room if your financial eligibility is based on the facility's state contracted rate. You will receive a personal allowance of fifty-eight dollars and eighty-four cents; or

(d) A GA-X client in a residential care facility, you are allowed to keep a personal allowance of only thirty-eight dol-

lars and eighty-four cents per month. The remainder of your grant must be paid to the facility.

(3) The department pays the residential care facility from the first day of service through the:

(a) Last day of service when the Medicaid resident dies in the facility; or

(b) Day of service before the day the Medicaid resident is discharged.

**NEW SECTION**

**WAC 388-106-0230 Can I be employed and receive MPC?** You can be employed and receive MPC services if you remain medicaid eligible under the noninstitutional categorically needy program.

**NEW SECTION**

**WAC 388-106-0235 Are there waiting lists for MPC?** There are no waiting lists for MPC. Instead of waiting lists, the department may revise rules to reduce caseload size, hours, rates, or payments in order to stay within the legislative appropriation.

**COMMUNITY OPTIONS PROGRAM ENTRY SYSTEM (COPEs)**

**NEW SECTION**

**WAC 388-106-0300 What services may I receive under Community Options Program Entry System (COPEs) when I live in my own home?** When you live in your own home, you may be eligible to receive only the following services under COPEs:

(1) Personal care services as defined in WAC 388-106-0010 in your own home and, as applicable, while you are out of the home accessing community resources or working.

(2) Adult day care if you meet the eligibility requirements under WAC 388-106-0805.

(3) Environmental modifications, if the minor physical adaptations to your home:

(a) Are necessary to ensure your health, welfare and safety;

(b) Enable you to function with greater independence in the home;

- (c) Directly benefit you medically or remedially;
- (d) Meet applicable state or local codes; and
- (e) Are not adaptations or improvements, which are of general utility or add to the total square footage.
- (4) Home delivered meals, providing nutritional balanced meals, limited to one meal per day, if:
- (a) You are homebound and live in your own home;
- (b) You are unable to prepare the meal;
- (c) You don't have a caregiver (paid or unpaid) available to prepare this meal; and
- (d) Receiving this meal is more cost-effective than having a paid caregiver.
- (5) Home health aide service tasks in your own home, if the service tasks:
- (a) Include assistance with ambulation, exercise, self-administered medications and hands-on personal care;
- (b) Are beyond the amount, duration or scope of Medicaid reimbursed home health services as described in WAC 388-551-2120 and are in addition to those available services;
- (c) Are health-related. Note: Incidental services such as meal preparation may be performed in conjunction with a health-related task as long as it is not the sole purpose of the aide's visit; and
- (d) Do not replace Medicare home health services.
- (6) Personal emergency response system (PERS), if the service is necessary to enable you to secure help in the event of an emergency and if you:
- (a) Live alone in your own home; or
- (b) Are alone, in your own home, for significant parts of the day and have no regular provider for extended periods of time.
- (7) Skilled nursing, if the service is:
- (a) Provided by a registered nurse or licensed practical nurse under the supervision of a registered nurse; and
- (b) Beyond the amount, duration or scope of Medicaid-reimbursed home health services as provided under WAC 388-551-2100.
- (8) Specialized durable and non-durable medical equipment and supplies under WAC 388-543-1000, if the items are:
- (a) Medically necessary under WAC 388-500-0005;
- (b) Necessary for: life support; to increase your ability to perform activities of daily living; or to perceive, control, or communicate with the environment in which you live;
- (c) Directly medically or remedially beneficial to you; and
- (d) In addition to and do not replace any medical equipment and/or supplies otherwise provided under Medicaid and/or Medicare.
- (9) Training needs identified in CARE or in a professional evaluation, which meet a therapeutic goal such as:
- (a) Adjusting to a serious impairment;
- (b) Managing personal care needs; or
- (c) Developing necessary skills to deal with care providers.
- (10) Transportation services, if the service:
- (a) Provides you access to community services and resources to meet your therapeutic goal;
- (b) Is not diversional in nature; and

(c) Is in addition to and does not replace the Medicaid-brokered transportation or transportation services available in the community.

(11) Nurse delegation services, when:

(a) You are receiving personal care from a registered or certified nursing assistant who has completed nurse delegation core training;

(b) Your medical condition is considered stable and predictable by the delegating nurse; and

(c) Services are provided in compliance with WAC 246-840-930.

(12) Nursing services, when you are not already receiving this type of service from another resource. A registered nurse may visit you and perform any of the following activities:

(a) Nursing assessment/reassessment;

(b) Instruction to you and your providers;

(c) Care coordination and referral to other health care providers;

(d) Skilled treatment, only in the event of an emergency. A skilled treatment is care that would require authorization, prescription, and supervision by an authorized practitioner prior to its provision by a nurse, for example, medication administration or wound care such as debridement. In non-emergency situations, the nurse will refer the need for any skilled medical or nursing treatments to a health care provider, a home health agency or other appropriate resource.

(e) File review; and/or

(f) Evaluation of health-related care needs affecting service plan and delivery.

(13) Community transition services, if you are being discharged from the nursing facility or hospital and if services are necessary for you to set up your own home. Services:

(a) May include: safety deposits, utility set-up fees or deposits, health and safety assurances such as pest eradication, allergen control or one-time cleaning prior to occupancy, moving fees, furniture, essential furnishings, and basic items essential for basic living outside the institution; and

(b) Do not include rent, recreational or diversional items such as TV, cable or VCR's.

#### NEW SECTION

**WAC 388-106-0305 What services may I receive under COPES if I live in a residential facility?** If you live in one of the following residential facilities: a licensed boarding home contracted with the department to provide Assisted Living, Enhanced Adult Residential Care, Enhanced Adult Residential Care-Specialized Dementia Care or an Adult Family Home, you may be eligible to receive only the following services under COPES:

(1) Personal care services as defined under WAC 388-106-0010.

(2) Specialized durable and non-durable medical equipment and supplies under WAC 388-543-1000, when the items are:

(a) Medically necessary under WAC 388-500-0005; and

(b) Necessary: for life support; to increase your ability to perform activities of daily living; or to perceive, control, or communicate with the environment in which you live; and

(c) Directly medically or remedially beneficial to you; and

(d) In addition to and do not replace any medical equipment and/or supplies otherwise provided under Medicaid and/or Medicare; and

(e) In addition to and do not replace the services required by the department's contract with a residential facility.

(3) Training needs identified in CARE or in a professional evaluation, that are in addition to and do not replace the services required by the department's contract with the residential facility and that meet a therapeutic goal such as:

(a) Adjusting to a serious impairment;

(b) Managing personal care needs; or

(c) Developing necessary skills to deal with care providers.

(4) Transportation services, when the service:

(a) Provides you access to community services and resources to meet a therapeutic goal;

(b) Is not diversional in nature;

(c) Is in addition to and does not replace the Medicaid-brokered transportation or transportation services available in the community; and

(d) Does not replace the services required by DSHS contract in residential facilities.

(5) Skilled nursing, when the service is:

(a) Provided by a registered nurse or licensed practical nurse under the supervision of a registered nurse;

(b) Beyond the amount, duration or scope of Medicaid-reimbursed home health services as provided under WAC 388-551-2100; and

(c) In addition to and does not replace the services required by the department's contract with the residential facility (e.g. intermittent nursing services as defined in WAC 388-78A-2310).

(6) Nursing services, when you are not already receiving this type of service from another resource. A registered nurse may visit you and perform any of the following activities:

(a) Nursing assessment/reassessment;

(b) Instruction to you and your providers;

(c) Care coordination and referral to other health care providers;

(d) Skilled treatment, only in the event of an emergency. A skilled treatment is care that would require authorization, prescription, and supervision by an authorized practitioner prior to its provision by a nurse, for example, medication administration or wound care such as debridement. In non-emergency situations, the nurse will refer the need for any skilled medical or nursing treatments to a health care provider, a home health agency or other appropriate resource.

(e) File review; and/or

(f) Evaluation of health-related care needs affecting service plan and delivery.

(7) Community transition services, if you are being discharged from the nursing facility or hospital and if services are necessary for you to live in a residential facility. Services:

(a) May include: safety deposits, utility set up fees or deposits, health and safety assurances such as pest eradication, allergen control or one time cleaning prior to occupancy, moving fees, furniture, essential furnishings, and basic items essential for basic living outside the institution.

(b) Do not include rent, recreational or diversional items such as TV, cable or VCR's.

#### NEW SECTION

**WAC 388-106-0310 Am I eligible for COPES-funded services?** You are eligible for COPES-funded services if you meet all of the following criteria. The department must assess your needs in CARE and determine that:

(1) You are age:

(a) Eighteen or older and blind or have a disability, as defined in WAC 388-511-1105; or

(b) Sixty-five or older.

(2) You meet financial eligibility requirements. This means the department will assess your finances and determine if your income and resources fall within the limits set in WAC 388-515-1505, Community Options Program Entry System (COPES).

(3) You:

(a) Are not eligible for Medicaid personal care services (MPC); or

(b) Are eligible for MPC services, but the department determines that the amount, duration, or scope of your needs is beyond what MPC can provide.

(4) Your CARE assessment shows you need the level of care provided in a nursing facility (or will likely need the level of care within thirty days unless COPES services are provided) which is defined in WAC 388-106-0355(1).

#### NEW SECTION

**WAC 388-106-0315 When do COPES services start?** Your eligibility for COPES begins the date the department authorizes services.

#### NEW SECTION

**WAC 388-106-0320 How do I remain eligible for COPES?** (1) In order to remain eligible for COPES, you must be in need of services in accordance with WAC 388-106-0310 as determined through a CARE assessment. The assessment in CARE must be at least annually or more often when there are significant changes in your functional or financial circumstances.

(2) When eligibility statutes, regulations, and/or rules for COPES change, irrespective of whether your functional or financial circumstances have changed, if you do not meet the changed eligibility requirements, the department will terminate your COPES services.

#### NEW SECTION

**WAC 388-106-0325 How do I pay for COPES services?** Depending on your income and resources, you may be required to pay participation toward the cost of your care, as outlined in WAC 388-515-1505. If you have nonexempt

income that exceeds the cost of COPES services, you may retain the difference. If you are receiving services in:

- (1) Your own home, you are allowed to keep some of your income for a maintenance allowance.
- (2) In a residential facility, you must use your income to pay for your room and board and services. You are allowed to keep some of your income for personal needs allowance (PNA). The department determines the amount of PNA that you may keep. The department pays the facility for the difference between what you pay and the department-set rate for the facility. The department pays the residential care facility from the first day of service through the:

- (a) Last day of service when the Medicaid resident dies in the facility; or
- (b) Day of service before the day the Medicaid resident is discharged.

**NEW SECTION**

**WAC 388-106-0330 Can I be employed and receive COPES?** You can be employed and receive COPES, per WAC 388-515-1505.

**NEW SECTION**

**WAC 388-106-0335 Are there waiting lists for COPES?** The department will create a waiting list in accordance with caseload limits determined by legislative funding. Wait listed clients will gain access in the following manner:

- (1) Nursing home residents wanting COPES waiver services will be ranked first on the wait list by date of application for services;
- (2) Then clients living in the community with a higher level of need, as determined by the CARE assessment, will be ranked higher on the wait list over clients with a lower level of need; and
- (3) When two or more clients in the community have equal need levels, the client with the earlier application for services will have priority over later applications for services.

**NURSING FACILITY CARE SERVICES**

**NEW SECTION**

**WAC 388-106-0350 What are nursing facility care services?** You may receive care in a nursing facility, as outlined in chapter 388-97 WAC.

**NEW SECTION**

**WAC 388-106-0355 Am I eligible for nursing facility care services?** You are eligible for nursing facility care if the department:

- (1) Assesses you in CARE and determines that you meet the functional criteria for nursing facility level of care which means one of the following applies:
  - (a) You require care provided by or under the supervision of a registered nurse or a licensed practical nurse on a daily basis;

(b) You have an unmet or partially met need with at least three of the following Activities of Daily Living, as defined in WAC 388-106-0010:

For each Activity of Daily Living, the minimum level of assistance required in		
	Self Performance is:	Support Provided is:
Eating	N/A	Setup
Toileting	Supervision	N/A
Bathing	Supervision	N/A
Transfer	Supervision	Setup
Bed Mobility	Supervision	Setup
Walk in Room OR Locomotion in Room OR Locomotion Outside Immediate Living Environment	Supervision	Setup
Medication Management	Assistance Required	N/A
Your need for assistance in any activities listed in subsection (b) of this section did not occur because you were unable or no provider was available to assist you will be counted for the purpose in determining your functional eligibility.		

(c) You have an unmet or partially met need with at least two of the following Activities of Daily Living, as defined in WAC 388-106-0010:

For each Activity of Daily Living, the minimum level of assistance required in		
	Self Performance is:	Support Provided is:
Eating	Supervision	One person physical assist
Toileting	Extensive Assistance	One person physical assist
Bathing	Limited Assistance	One person physical assist
Transfer	Extensive Assistance	One person physical assist
Bed Mobility and Turning and repositioning	Limited Assistance and Need	One person physical assist
Walk in Room OR Locomotion in Room OR Locomotion Outside Immediate Living Environment	Extensive Assistance	One person physical assist
Medication Management	Assistance Required Daily	N/A
Your need for assistance in any of the activities listed in subsection (c) of this section did not occur because you were unable or no provider was available to assist you will be counted for the purpose of determining your functional eligibility.		

or:

(d) You have a cognitive impairment and require supervision due to one or more of the following: Disorientation, memory impairment, impaired decision-making, or wandering and have an unmet or partially met need with at least one or more of the following:

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For each Activity of Daily Living, the minimum level of assistance required in		
	Self Performance is:	Support Provided is:
Eating	Supervision	One person physical assist
Toileting	Extensive Assistance	One person physical assist
Bathing	Limited Assistance	One person physical assist
Transfer	Extensive Assistance	One person physical assist
Bed Mobility and Turning and repositioning	Limited Assistance and Need	One person physical assist
Walk in Room OR Locomotion in Room OR Locomotion Outside Immediate Living Environment	Extensive Assistance	One person physical assist
Medication Management	Assistance Required Daily	N/A
Your need for assistance in any of the activities listed in subsection (d) of this section did not occur because you were unable or no provider was available to assist you will be counted for the purpose of determining your functional eligibility.		

(2) Determines that you meet the financial eligibility requirements set through WAC 388-513-1315.

**NEW SECTION**

**WAC 388-106-0360 How do I pay for nursing facility care services?** (1) If you are Medicaid eligible and the nursing facility admits you without a request for assessment from the department, the nursing facility will not:

- (a) Be reimbursed by the department; or
- (b) Be allowed to collect payment, including a deposit or minimum stay fee, from you or your family/representative for any care provided before the date of request for assessment.

(2) If you are eligible for Medicaid-funding nursing facility care, the department pays for your services beginning on the date:

- (a) Of the request for a department assessment; or
- (b) Nursing facility care actually begins, whichever is later.

(3) If you become financially eligible for Medicaid after you have been admitted, the department pays for your nursing facility care beginning on the date of:

- (a) Request for assessment or financial application, whichever is earlier;
- (b) Nursing facility placement; or
- (c) When you are determined financially eligible, whichever is later.

(4) Exception: Payment back to the request date is limited to three months prior to the month that the financial application is received.

**MEDICALLY NEEDED RESIDENTIAL WAIVER**

**NEW SECTION**

**WAC 388-106-0400 What services may I receive under Medically Needed Residential Waiver (MNRW)?** You may be eligible to receive only the following MNRW services in one of the following residential facilities: a licensed boarding home contracted with the department to provide Assisted Living, Enhanced Residential Care, Enhanced Adult Residential Care-Specialized Dementia Care or an Adult Family Home:

- (1) Personal care services as defined in WAC 388-106-0010.
- (2) Specialized durable and nondurable medical equipment and supplies under WAC 388-543-1000, when the items are:
  - (a) Medically necessary under WAC 388-500-0005; and
  - (b) Necessary: for life support; to increase your ability to perform activities of daily living; or to perceive, control, or communicate with the environment in which you live;
  - (c) Directly medically or remedially beneficial to you;
  - (d) In addition to and do not replace any medical equipment and/or supplies otherwise provided under Medicaid and/or Medicare; and
  - (e) In addition to and do not replace the services required by the department's contract with the residential facility.
- (3) Training needs identified in CARE or in a professional evaluation that are in addition to and do not replace services required by the department's contract with the residential facility and that meet a therapeutic goal such as:
  - (a) Adjusting to a serious impairment;
  - (b) Managing personal care needs; or
  - (c) Developing necessary skills to deal with care providers.

- (4) Transportation services, when the service:
  - (a) Provides you access to community services and resources provided to meet a therapeutic goal;
  - (b) Is not diversional in nature;
  - (c) Is in addition to and does not replace the Medicaid-brokered transportation or transportation services available in the community; and
  - (d) Does not replace the services required by the department's contract with a residential facility.
- (5) Skilled nursing, when the service is:
  - (a) Provided by a registered nurse or licensed practical nurse under the supervision of a registered nurse;
  - (b) Beyond the amount, duration or scope of Medicaid-reimbursed home health services as provided under WAC 388-551-2120; and
  - (c) In addition to and does not replace the services required by the department's contract with the residential facility (e.g. intermittent nursing services as defined in WAC 388-78A-2310).
- (6) Nursing services, when you are not already receiving this type of service from another resource. A registered nurse may visit you and perform any of the following activities:
  - (a) Nursing assessment/reassessment;
  - (b) Instruction to care providers and clients;

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(c) Care coordination and referral to other health care providers;

(d) Skilled treatment, only in the event of an emergency. A skilled treatment is care that would require authorization, prescription, and supervision by an authorized practitioner prior to its provision by a nurse, for example, medication administration or wound care such as debridement. In non-emergency situations, the nurse will refer the need for any skilled medical or nursing treatments to a health care provider, a home health agency or other appropriate resource.

(e) File review; and/or

(f) Evaluation of health-related care needs affecting service plan and delivery.

(7) Community transition services, if you are being discharged from the nursing facility or hospital and if services are necessary for you to live in a residential facility. Services:

(a) May include: safety deposits, utility set up fees or deposits, health and safety assurances such as pest eradication, allergen control or one time cleaning prior to occupancy, moving fees, furniture, essential furnishings, and basic items essential for basic living outside the institution.

(b) Do not include rent, recreational or diversional items such as TV, cable or VCR's.

#### NEW SECTION

**WAC 388-106-0410 Am I eligible for MNRW-funded services?** You are eligible for MNRW-funded services if you choose to receive services in a residential facility and you meet all of the following criteria. The department must assess your needs, using CARE, and determine that:

(1) You are age:

(a) Eighteen or older and blind or have a disability, as defined in WAC 388-511-1105; or

(b) Sixty-five or older.

(2) You meet financial eligibility requirements. This means the department will assess your finances and determine if your income and resources fall within the limits set in WAC 388-515-1540.

(3) You are not eligible for Medicaid personal care services (MPC) or COPEs.

(4) Your CARE assessment shows you need the level of care provided in a nursing facility (or will likely need the level of care within thirty days unless MNRW services are provided) which is defined in WAC 388-106-0355(1).

#### NEW SECTION

**WAC 388-106-0415 When do MNRW services start?** Your eligibility for MNRW begins the date the department authorizes services.

#### NEW SECTION

**WAC 388-106-0420 How do I remain eligible for MNRW?** (1) In order to remain eligible for MNRW, you must be in need of services in accordance with WAC 388-106-0410 as determined through a CARE assessment. The assessment in CARE must be at least annually or more often

when there are significant changes in your functional or financial circumstances.

(2) When eligibility statutes, regulations, and/or rules for MNRW change, irrespective of whether your functional or financial circumstances have changed, if you do not meet the changed eligibility requirements, the department will terminate your MNRW services.

#### NEW SECTION

**WAC 388-106-0425 How do I pay for MNRW services?** (1) You must use your income to pay for your room and board and services. The amount you pay is determined in WAC 388-515-1540. You are allowed to keep some of your income for personal needs allowance (PNA). The department pays the facility for the difference between what you pay and the department-set rate for the facility. The department pays the residential care facility from the first day of service through the:

(a) Last day of service when the Medicaid resident dies in the facility; or

(b) Day of service before the day the Medicaid resident is discharged.

#### NEW SECTION

**WAC 388-106-0430 Can I be employed and receive MNRW?** You may be employed and receive MNRW per WAC 388-515-1540.

#### NEW SECTION

**WAC 388-106-0435 Are there waiting lists for MNRW?** The department will create a waiting list in accordance with caseload limits determined by legislative funding. Wait listed clients will gain access in the following manner:

(1) Nursing home residents wanting MN waiver services will be ranked first on the wait list by date of application for services;

(2) Then clients living in the community with a higher level of need, as determined by the department's CARE assessment, will be ranked higher on the wait list over clients with lower level of need; and

(3) When two or more clients in the community have equal need levels, the client with the earlier application for services will have priority over later applications for services.

### **MEDICALLY NEEDED IN-HOME WAIVER**

#### NEW SECTION

**WAC 388-106-0500 What services may I receive under Medically Needy In-Home Waiver (MNIW)?** You may be eligible to receive only the following Medically Needy In-Home Waiver (MNIW) services in your own home:

(1) Personal care services as defined in WAC 388-106-0010 in your own home and, as applicable, while you are out of the home accessing community resources or working.

(2) Adult day care if you meet the eligibility requirements under WAC 388-106-0805.



(3) Environmental modifications, if the minor physical adaptations to your home:

(a) Are necessary to ensure your health, welfare and safety;

(b) Enable you to function with greater independence in the home;

(c) Directly benefit you medically or remedially;

(d) Meet applicable state or local codes; and

(e) Are not adaptations or improvements, which are of general utility or add to the total square footage.

(4) Home delivered meals, providing nutritional balanced meals, limited to one meal per day, if:

(a) You are homebound and live in your own home;

(b) You are unable to prepare the meal;

(c) You don't have a caregiver (paid or unpaid) available to prepare this meal; and

(d) Receiving this meal is more cost-effective than having a paid caregiver.

(5) Home health aide service, if the service tasks:

(a) Include assistance with ambulation, exercise, self-administered medications and hands on personal care;

(b) Are beyond the amount, duration or scope of Medicaid reimbursed home health services (WAC 388-551-2120) and are in addition to those available services;

(c) Are health-related. Note: Incidental services such as meal preparation may be performed in conjunction with a health-related task as long as it is not the sole purpose of the aide's visit; and

(d) Do not replace Medicare home health services.

(6) Personal emergency response system (PERS), if the service is necessary to enable you to secure help in the event of an emergency and if you:

(a) Live alone in your own home; or

(b) Are alone, in your own home, for significant parts of the day and have no regular provider for extended periods of time.

(7) Skilled nursing, if the service is:

(a) Provided by a registered nurse or licensed practical nurse under the supervision of a registered nurse; and

(b) Beyond the amount, duration or scope of Medicaid-reimbursed home health services as provided under WAC 388-551-2120.

(8) Specialized durable and nondurable medical equipment and supplies under WAC 388-543-1000, if the items are:

(a) Medically necessary under WAC 388-500-0005;

(b) Necessary: for life support; to increase your ability to perform activities of daily living; or to perceive, control, or communicate with the environment in which you live;

(c) Directly medically or remedially beneficial to you; and

(d) In addition to and do not replace any medical equipment and/or supplies otherwise provided under Medicaid and/or Medicare.

(9) Training needs identified in CARE or in a professional evaluation, which meet a therapeutic goal such as:

(a) Adjusting to a serious impairment;

(b) Managing personal care needs; or

(c) Developing necessary skills to deal with care providers.

(10) Transportation services if you live in your own home, if the service:

(a) Provides you access to community services and resources to meet a therapeutic goal;

(b) Is not diversional in nature;

(c) Is in addition to and does not replace the Medicaid-brokered transportation or transportation services available in the community.

(11) Nurse delegation services when:

(a) You are receiving personal care from a registered or certified nursing assistant who has completed nurse delegation core training;

(b) Your medical condition is considered stable and predictable by the delegating nurse; and

(c) Services are provided in compliance with WAC 246-840-930.

(12) Nursing services, when you are not already receiving this type of service from another resource. A registered nurse may visit you and perform any of the following activities:

(a) Nursing assessment/reassessment;

(b) Instruction to you and your providers;

(c) Care coordination and referral to other health care providers;

(d) Skilled treatment, only in the event of an emergency. A skilled treatment is care that would require authorization, prescription, and supervision by an authorized practitioner prior to its provision by a nurse, for example, medication administration or wound care such as debridement. In non-emergency situations, the nurse will refer the need for any skilled medical or nursing treatments to a health care provider, a home health agency or other appropriate resource;

(e) File review; and/or

(f) Evaluation of health-related care needs affecting service planning and delivery.

(13) Community transition services, if you are being discharged from the nursing facility or hospital and if services are necessary for you to set up your own home. Services:

(a) May include: safety deposits, utility set up fees or deposits, health and safety assurances such as pest eradication, allergen control or one time cleaning prior to occupancy, moving fees, furniture, essential furnishings, and basic items essential for basic living outside the institution.

(b) Do not include rent, recreational or diversional items such as TV, cable or VCR's.

## NEW SECTION

**WAC 388-106-0510 Am I eligible for MNIW-funded services?** You are eligible for MNIW-funded services if you choose to receive services in your own home and you meet all of the following criteria. The department must assess your needs in CARE and determine that:

(1) You are age:

(a) Eighteen or older and blind or have a disability, as defined in WAC 388-511-1105; or

(b) Sixty-five or older.

(2) You meet financial eligibility requirements. This means the department will assess your finances and deter-

mine if your income and resources fall within the limits set in WAC 388-515-1505;

(3) You are not eligible for Medicaid personal care services (MPC) or COPES;

(4) Your CARE assessment shows you need the level of care provided in a nursing facility (or will likely need the level of care within thirty days unless MNIW services are provided) which is defined in WAC 388-106-0355(1).

**NEW SECTION**

**WAC 388-106-0515 When do MNIW services start?** Your eligibility for MNIW begins the date the department authorizes services.

**NEW SECTION**

**WAC 388-106-0520 How do I remain eligible for MNIW?** (1) In order to remain eligible for MNIW, you must be in need of services in accordance with WAC 388-106-0510 as determined through a CARE assessment. The assessment in CARE must be at least annually or more often when there are significant changes in your functional or financial circumstances.

(2) When eligibility statutes, regulations, and/or rules for MNIW change, irrespective of whether your functional or financial circumstances have changed, if you do not meet the changed eligibility requirements, the department will terminate your MNIW services.

**NEW SECTION**

**WAC 388-106-0525 How do I pay for MNIW?** The amount you pay is determined in WAC 388-515-1550.

**NEW SECTION**

**WAC 388-106-0530 Can I be employed and receive MNIW?** You can be employed and receive MNIW, per WAC 388-515-1550.

**NEW SECTION**

**WAC 388-106-0535 Are there waiting lists for MNIW?** The department will create a waiting list in accordance with caseload limits determined by legislative funding. Wait listed clients will gain access in the following manner:

(1) Nursing-home residents wanting MN waiver services will be ranked first on the wait list by date of application for services;

(2) Then clients living in the community with a higher level of need as determined by the department's CARE assessment will be ranked higher on the wait list over clients with lower level of need; and

(3) When two or more clients in the community have equal need levels, the client with the earlier application for services will have priority over later applications for services.

**CHORE**

**NEW SECTION**

**WAC 388-106-0600 What services may I receive under Chore?** You may receive personal care services in your own home and, as applicable, assistance with personal care tasks while you are out of the home accessing community resources or working.

**NEW SECTION**

**WAC 388-106-0610 Am I eligible for Chore-funded services?** To be eligible for Chore-funded services you must meet all of the following criteria:

(1) Be grandfathered on the Chore program before August 1, 2001 and have continued to receive Chore without a break in service.

(2) Not be eligible for MPC or COPES.

(3) Be eighteen years of age or older.

(4) Have an unmet or partially met need with at least one of the following Activities of Daily Living, as defined in WAC 388-106-0010.

For each Activity of Daily Living, the minimum level of assistance required in		
	Self Performance is:	Support Provided is:
Eating	N/A	Setup
Toileting	Supervision	N/A
Bathing	Supervision	N/A
Dressing	Supervision	N/A
Transfer	Supervision	Setup
Bed Mobility	Supervision	Setup
Walk in Room OR Locomotion in Room OR Locomotion Outside Immediate Living Environment	Supervision	Setup
Medication Management	Assistance Required	N/A
Personal Hygiene	Supervision	N/A
Body care which includes: Application of ointment or lotions; Toenails trimmed; Dry bandage changes; or Passive range of motion treatment.	Need	N/A
Your need for assistance in any of the activities listed in this section did not occur because you were unable or no provider was available to assist you will be counted for the purpose of determining your functional eligibility.		

(5) Have net household income (as described in WAC 388-450-0005 and 388-450-0040) not exceeding:

(a) The sum of the cost of your Chore services; and

(b) One-hundred percent of the Federal Poverty Level (FPL) adjusted for family size.

(6) Have resources, as described in chapter 388-470 WAC, which do not exceed ten thousand dollars for a one-person family or fifteen thousand dollars for a two-person

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family. (Note: One thousand dollars for each additional family member may be added to these limits.); and

(7) Not transfer assets on or after November 1, 1995 for less than fair market value, as described in WAC 388-513-1365.

**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.

#### NEW SECTION

**WAC 388-106-0615 When do Chore services start?** Your eligibility for Chore services begins the date the department authorizes services.

#### NEW SECTION

**WAC 388-106-0620 How do I remain eligible for Chore?** (1) In order to remain eligible for Chore, you must be in need of services in accordance with WAC 388-106-0610 as determined through a CARE assessment. The assessment in CARE must be at least annually or more often when there are significant changes in your functional or financial circumstances.

(2) When eligibility statutes, regulations, and/or rules for Chore change, irrespective of whether your functional or financial circumstances have changed, if you do not meet the changed eligibility requirements, the department will terminate your Chore services.

#### NEW SECTION

**WAC 388-106-0625 How do I pay for Chore?** You may retain an amount equal to one hundred percent of the federal poverty level, adjusted for family size, as the home maintenance allowance and pay the difference between the FPL and your nonexempt income. Exempt income includes:

- (1) Income listed in WAC 388-513-1340;
- (2) Spousal income allocated and actually paid as participation in the cost of the spouse's Community Options Program Entry System (COPES) services;
- (3) Amounts paid for medical expenses not subject to third party payment;
- (4) Health insurance premiums, coinsurance or deductible charges; and
- (5) If applicable, those work expense deductions listed in WAC 388-106-0630(2).

#### NEW SECTION

**WAC 388-106-0630 Can I be employed and receive Chore?** If you are not Medicaid eligible due to your earned income and resources and are receiving chore personal care services:

- (1) You may be required to pay participation, per WAC 388-106-0625, for any earned income above one hundred percent of the federal poverty level.
- (2) The department will exempt fifty percent of your earned income after work expense deductions. Work expense deductions are:

(a) Personal work expenses in the form of self-employment taxes (FICA); and income taxes when paid;

(b) Payroll deductions required by law or as a condition of employment in the amounts actually withheld;

(c) The necessary cost of transportation to and from the place of employment by the most economical means, except rental cars;

(d) Expenses necessary for continued employment such as tools, materials, union dues, transportation to service customers not furnished by the employer; and

(e) Uniforms needed on the job and not suitable for wear away from the job.

### **VOLUNTEER CHORE**

#### NEW SECTION

**WAC 388-106-0650 What services may I receive under volunteer chore?** Volunteer Chore is a state-funded program which provides volunteer assistance with household tasks and:

(1) Assists people who need but are not eligible for DSHS services.

(2) Complements DSHS services by using volunteer assistance to perform tasks which do not require specially-skilled personnel.

(3) Provides assistance with housework, laundry, shopping, cooking, moving, minor home repair, yard care, limited personal care, monitoring and transportation.

#### NEW SECTION

**WAC 388-106-0655 Am I eligible to receive volunteer chore services?** You may receive volunteer chore services if you are:

- (1) Eighteen years of age or older;
- (2) Living at home unless you are moving from a residential facility to home and need assistance moving;
- (3) Unable to perform certain personal care tasks due to functional or cognitive impairment;
- (4) Financially unable to purchase services from a private provider;
- (5) Not receiving services under COPES, MNIW, MPC, or Chore because you:
  - (a) Do not meet the eligibility requirements; or
  - (b) Decline these services.
- (6) In need of assistance from volunteer chore in addition to or in substitution of paid services under COPES, MNIW, MPC, or Chore.

### **PROGRAM OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE)**

#### NEW SECTION

**WAC 388-106-0700 What services may I receive under PACE?** Under their contract with the department, the PACE provider develops an individualized plan of care, as defined in 42 CFR 460.106, that integrates necessary long-term care, medical services, mental health services, and alcohol and substance abuse treatment services.

(1) The care plan includes, but is not limited to any of the following long-term care services:

- (a) Care coordination;
  - (b) Home and community-based services:
    - (i) Personal (in-home) care;
    - (ii) Residential care.
  - (c) And, if necessary, nursing facility care.
- (2) The care plan may also include, but is not limited to, the following medical services:
- (a) Primary medical care;
  - (b) Vision care;
  - (c) End of life care;
  - (d) Restorative therapies, including speech, occupational, and physical therapy;
  - (e) Oxygen therapy;
  - (f) Audiology (including hearing aids);
  - (g) Transportation;
  - (h) Podiatry;
  - (i) Durable medical equipment (e.g., wheelchair);
  - (j) Dental care;
  - (k) Pharmaceutical products;
  - (l) Immunizations and vaccinations;
  - (m) Emergency room visits and inpatient hospital stays.
- (3) The care plan may also include any other services determined necessary by the interdisciplinary team to improve and maintain your overall health status.

#### NEW SECTION

##### **WAC 388-106-0705 Am I eligible for PACE services?**

To qualify for Medicaid-funded PACE services, you must apply for an assessment by contacting your local home and community services office. The department will assess and determine whether you:

- (1) Are age:
  - (a) Fifty-five or older, and blind or have a disability, as defined in WAC 388-511-1105, SSI-related eligibility requirements; or
  - (b) Sixty-five or older.
- (2) Need nursing facility level of care as defined in WAC 388-106-0355. Note: If you are already enrolled, but no longer need nursing facility care, you may still be eligible for PACE services if the department reasonably expects you to need nursing facility care within the next six months in the absence of continued PACE coverage;
- (3) Live within the designated service area of the PACE provider;
- (4) Meet financial eligibility requirements. This means the department will assess your finances and determine if your income and resources fall within the limits set in WAC 388-515-1505;

(5) Not be enrolled in any other medical coverage plan that purchases services on a prepaid basis (e.g., prepaid health plan); and

(6) Agree to receive services exclusively through the PACE provider and the PACE provider's network of contracted providers.

#### NEW SECTION

**WAC 388-106-0710 How do I pay for PACE services?** Depending on your income and resources, you may be required to pay for part of the PACE services. The department's financial worker will determine what amount, if any, you must contribute if you decide to enroll. The department pays the PACE provider the remaining amount.

#### NEW SECTION

**WAC 388-106-0715 How do I disenroll from the PACE program?** (1) You may choose to voluntarily disenroll from the PACE program without cause at any time. To do so, you must give the PACE provider written notice. If you give notice:

- (a) Before the fifteenth of the month, disenrollment is effective at the end of the month; or
  - (b) After the fifteenth, disenrollment is not effective until the end of the following month.
- (2) You may also be involuntarily disenrolled from the program by the PACE provider, if you:
- (a) Move out of the designated service area or are out of the service area for more than thirty consecutive days, unless the PACE provider agrees to a longer absence due to extenuating circumstances;
  - (b) Engage in disruptive or threatening behavior such that the behavior jeopardizes your health or safety, or the safety of others;

(c) Fail to comply with your plan of care or the terms of the PACE enrollment agreement;

(d) Fail to pay or make arrangements to pay your part of the costs after the thirty-day grace period;

(e) Become financially ineligible for Medicaid services, unless you choose to pay privately;

(f) Are enrolled with a provider that loses its license and/or contract; or

(g) No longer meet the nursing facility level of care requirement as defined in WAC 388-106-0205 and are not deemed PACE eligible.

(3) For any of the above reasons, the PACE provider must give you written notice, explaining that they are terminating benefits. If the provider gives you notice:

(a) Before the fifteenth of the month, then you may be disenrolled at the end of the month; or

(b) After the fifteenth, then you may be disenrolled at the end of the following month.

(4) Before the PACE provider can involuntarily disenroll you from the PACE program, the department must review and approve all proposed involuntary disenrollments.

#### **ADULT DAY SERVICES**

#### NEW SECTION

**WAC 388-106-0800 What adult day care services may I receive?** You may receive the following services in an adult day care:

- (1) Core services, which include assistance with:
  - (a) Locomotion Outside of Room, Locomotion in Room, Walk in Room;

- (b) Body care;
- (c) Eating;
- (d) Repositioning;
- (e) Medication Management that does not require a licensed nurse;
- (f) Transfer;
- (g) Toileting;
- (h) Personal hygiene at a level that ensures your safety and comfort while in attendance at the program; and
- (i) Bathing at a level that ensures your safety and comfort while in attendance at the program.

(2) Social services on a consultation basis, which may include:

- (a) Referrals to other providers for services not within the scope of Medicaid reimbursed adult day care services;
  - (b) Caregiver support and education; or
  - (c) Assistance with coping skills.
- (3) Routine health monitoring with consultation from a registered nurse that a consulting nurse acting within the scope of practice can provide with or without a physician's order. Examples include:

- (a) Obtaining baseline and routine monitoring information on your health status, such as vital signs, weight, and dietary needs;
- (b) General health education such as providing information about nutrition, illnesses, and preventive care;
- (c) Communicating changes in your health status to your caregiver;
- (d) Annual and as needed updating of your medical record; or
- (e) Assistance as needed with coordination of health services provided outside of the adult day care program.

(4) General therapeutic activities that an unlicensed person can provide or that a licensed person can provide with or without a physician's order. These services are planned for and provided based on your abilities, interests, and goals. Examples include:

- (a) Recreational activities;
  - (b) Diversionary activities;
  - (c) Relaxation therapy;
  - (d) Cognitive stimulation; or
  - (e) Group range of motion or conditioning exercises.
- (5) General health education that an unlicensed person can provide or that a licensed person can provide with or without a physician's order, including but not limited to topics such as:

- (a) Nutrition;
  - (b) Stress management;
  - (c) Disease management skills; or
  - (d) Preventative care.
- (6) A nutritional meal and snacks are provided every four hours, including a modified diet if needed and within the scope of the program, as provided under WAC 388-71-0768;
- (7) Supervision and/or protection if needed for your safety;
- (8) Assistance with arranging transportation to and from the program; and

(9) First aid and provisions for obtaining or providing care in an emergency. NOTE: If you require the intervention or services of a registered nurse or licensed rehabilitative

therapist acting under the supervision of your physician, consider adult day health services.

#### NEW SECTION

##### **WAC 388-106-0805 Am I eligible for adult day care?**

(1) If you receive COPES or MNIW, you may be eligible for adult day care as a waiver service if you are assessed as having an unmet need for one or more of the following core services:

- (a) Personal care services;
- (b) Routine health monitoring with consultation from a registered nurse;
- (c) General therapeutic activities; or
- (d) Supervision and/or protection if required for your safety.

(2) You are not eligible for adult day care if you receive COPES or MNIW and you:

- (a) Can independently perform or obtain the services provided at an adult day care center;
- (b) Have unmet needs that can be met through the COPES or MNIW program more cost effectively without authorizing day care services;
- (c) Have referred care needs that:
  - (i) Exceed the scope of authorized services that the adult day care center is able to provide;
  - (ii) Can be met in a less structured care setting; or
  - (iii) Are being met by paid or unpaid caregivers.
- (d) Live in a nursing home, boarding home, adult family home, or other licensed institutional or residential facility; or
- (e) Are not capable of participating safely in a group care setting.

#### NEW SECTION

**WAC 388-106-0810 What adult day health services may I receive?** You may receive the following adult day health services:

- (1) All core services under WAC 388-106-0800;
- (2) Skilled nursing services other than routine health monitoring with nurse consultation;
- (3) At least one of the following skilled therapy services: physical therapy, occupational therapy, or speech-language pathology or audiology, as defined under chapter 18.74, 18.59, and 18.35 RCW, and
- (4) Psychological or counseling services, including assessing for psycho-social therapy need, dementia, abuse or neglect, and alcohol or drug abuse; making appropriate referrals; and providing brief, intermittent supportive counseling.

#### NEW SECTION

**WAC 388-106-0815 Am I eligible for adult day health?** (1) You are eligible for adult day health services if you meet all of the following criteria. You are:

- (a) Age eighteen years or older.
- (b) Enrolled in one of the following medical assistance programs:
  - (i) Categorically needy (CNP);
  - (ii) Categorically needy qualified Medicare beneficiaries (CNP-QMB);

(iii) General assistance—Expedited Medicaid Disability (GA-X); or

(iv) Alcohol and Drug Abuse Treatment and Support Act (ADATSA).

(c) Assessed as having an unmet need for skilled nursing under WAC 388-71-0712 or skilled rehabilitative therapy under WAC 388-71-0714; and

(i) There is a reasonable expectation that these services will improve, restore or maintain your health status, or in the case of a progressive disabling condition, will either restore or slow the decline of your health and functional status or ease related pain or suffering; and

(ii) You are at risk for deteriorating health, deteriorating functional ability, or institutionalization; and

(iii) You have a chronic or acute health condition that you are not able to safely manage due to a cognitive, physical, or other functional impairment.

(d) Assessed as having needs for personal care or other core services, whether or not those needs are otherwise met.

(2) You are not eligible for adult day health if you:

(a) Can independently perform or obtain the services provided at an adult day health center;

(b) Have referred care needs that:

(i) Exceed the scope of authorized services that the adult day health center is able to provide;

(ii) Do not need to be provided or supervised by a licensed nurse or therapist;

(iii) Can be met in a less structured care setting; or

(iv) In the case of skilled care needs, are being met by paid or unpaid caregivers.

(c) Live in a nursing home or other institutional facility; or

(d) Are not capable of participating safely in a group care setting.

#### GAU-FUNDED RESIDENTIAL CARE

##### NEW SECTION

**WAC 388-106-0900 What services may I receive under GAU-funded residential care?** You may receive personal care services in an adult family home or a licensed boarding home contracted with the department to provide adult residential care services. You may also receive nurse delegation services under this program.

##### NEW SECTION

**WAC 388-106-0905 Am I eligible to receive GAU-funded residential care services?** You are eligible to receive GAU-funded residential care services if:

(1) You meet financial eligibility requirements for general assistance unemployable (GAU), described in WAC 388-400-0025;

(2) You are not eligible for services under COPES, MNRW, or MPC; and

(3) You are assessed in CARE and meet the functional criteria outlined in WAC 388-106-0210(2).

#### RESIDENTIAL CARE DISCHARGE ALLOWANCE

##### NEW SECTION

**WAC 388-106-0950 What services may I receive under the residential care discharge allowance?** The residential care discharge allowance is a one-time payment used to help you establish or resume living in your own home. You may receive up to eight hundred and sixteen dollars to cover necessary equipment, remodeling, rent, and utilities.

##### NEW SECTION

**WAC 388-106-0955 Am I eligible for Residential Care Discharge Allowance?** You are eligible for a residential care discharge allowance if you:

(1) Receive long-term care services from Home and Community Services;

(2) Are being discharged from a hospital, nursing facility, a licensed boarding home, or adult family home to your own home;

(3) Do not have other programs, services, or resources to assist you with these costs; and

(4) Have needs beyond what is covered under the Community Transition Service (under COPES, MNRW, and MNIW).

#### PRIVATE DUTY NURSING (PDN)

##### NEW SECTION

**WAC 388-106-1000 What is the intent of WAC 388-106-1000 through WAC 388-106-1055?** The intent of 388-106-1000 through WAC 388-106-1055 is to:

(1) Describe the eligibility requirements under which you may receive private duty nursing (PDN) services;

(2) Provide a program which supports you in your own home; and

(3) Describe the requirements that you and your family, home health agencies, privately contracted registered nurses (RNs) and licensed practical nurses (LPNs), and adult family homes must meet in order for services to be authorized for PDN.

##### NEW SECTION

**WAC 388-106-1005 What services may I receive under private duty nursing (PDN)?** PDN is an optional program that provides skilled nursing care if you have complex medical needs that cannot be met through other services. An alternative to institutional care, this is a program of last resort. If you are eligible, you may receive at least four continuous hours of skilled nursing care on a day-to-day basis from private duty nursing (PDN).

##### NEW SECTION

**WAC 388-106-1010 Am I eligible for Medicaid-funded private duty nursing (PDN) services?** In order to be eligible for Medicaid-funded PDN, you must:

(1) Be financially eligible, which means you:

(a) Meet Medicaid requirements under the Categorically needy program or the Medically needy program.

(b) Use private insurance as first payer under Medicaid rules. Private insurance benefits, which cover hospitalization and in-home services must be ruled out as the first payment source to PDN.

(2) Be medically eligible, which means the community nurse consultant (CNC) or DDD nursing care consultant must assess you using the CARE assessment every six months and determine that you:

(a) Require care in a hospital or meet nursing facility level of care, as defined in 388-106-0355; and

(b) Are not able or willing to have your care tasks provided through nurse delegation, COPES Skilled Nursing, or self-directed care; and

(c) Have a complex medical need that requires four or more hours of continuous skilled nursing care which can be safely provided outside a hospital or nursing facility; and

(d) Are technology-dependent daily, which means you require at least one of the following:

(i) A mechanical ventilator or complex respiratory support that requires skilled nursing care;

(ii) Tracheostomy that requires sterile suctioning; or

(iii) Intravenous/parenteral administration of multiple medications that are occurring on a continuing or frequent basis such that skilled nursing care is required for a four-hour period or more.

(iv) Intravenous administration of nutritional substances.

(e) Require skilled nursing care that is medically necessary.

(3) Be able to supervise your care (provider) or have a guardian who is authorized to supervise your care; and

(4) Have family or other appropriate support who is responsible for assuming a portion of your care; and

(5) Do not have other resources or means for providing this service.

#### NEW SECTION

**WAC 388-106-1015 How is my eligibility determined?** In order to be eligible for Medicaid-funded PDN services:

(1) A community nurse consultant (CNC) or DDD nursing care consultant must use CARE to assess you in combination with the department-designated PDN Skilled Nursing Task Log and other documentation that is completed and provided by your health care provider(s).

(2) Your primary care physician must:

(a) Document your medical stability and appropriateness for PDN;

(b) Provide orders for medical services; and

(c) Document approval of the service provider's plan of care.

#### NEW SECTION

**WAC 388-106-1020 How do I pay for my PDN services?** You are not required to pay any participation toward PDN services, but the cost of services is subject to estate recovery, per chapter 388-527 WAC.

#### NEW SECTION

**WAC 388-106-1025 Who can provide my PDN services?** In addition to a family member(s) or a personal aide providing self-directed care under RCW 74.39.050:

(1) A Washington state licensed and contracted home health provider can provide your PDN services.

(2) A private (non-home health agency) registered nurse (RN) or licensed practical nurse (LPN) under the direction of the physician can provide your PDN services only when:

(a) The geographic location precludes a contracted home health agency from providing services to you; or

(b) No contracted home health agency is willing to provide PDN services to you.

#### NEW SECTION

**WAC 388-106-1030 Are there limitations or other requirements for PDN?** The limits to PDN services are:

(1) Your PDN cannot exceed sixteen hours a day. The hours are based on a combination of skilled nursing tasks identified in CARE, the department-designated PDN Skilled Nursing Task Log, and detailed information provided by a CNC or DDD nursing care consultant that computes the number of skilled nursing tasks into skilled nursing hours that you require. The department designated PDN Skilled Nursing Task Log will be used to document skilled nursing tasks performed for at least fourteen days;

(2) Trained family must provide for any hours above your assessment determination, or you or your family must pay for these additional hours;

(3) In instances where your family is temporarily absent due to vacations, PDN must be:

(a) Paid for by you or your family; or

(b) Provided by other trained family. If this is not possible, you may need placement in a long-term care setting during their absence.

(4) You may use respite care if you and your unpaid family caregiver meet the eligibility criteria defined in WAC 388-106-1210.

(5) You may receive additional hours, up to thirty days only, when:

(a) Your family is being trained in care and procedures;

(b) You have an acute episode that would otherwise require hospitalization;

(c) Your caregiver is ill or temporarily unable to provide care; or

(d) There is a family emergency.

#### NEW SECTION

**WAC 388-106-1035 What requirements must a home health agency meet in order to provide and get paid for my PDN?** A home health agency must:

(1) Be licensed and contracted by Washington State. A license is obtained through the department of health. A contract is obtained through aging and disability services administration;

(2) Have physician orders;

(3) Have a detailed plan of care, including time sheets, that is reviewed at least every six months by the physician

and CNC case manager or DDD nursing care consultant when you are reassessed;

(4) Complete the department-designated PDN Skilled Task Log and provide other documentation, as needed, for the determination of eligibility and the number of PDN hours to be authorized; and

(5) Submit timely and accurate invoices to the social services payment system (SSPS).

**NEW SECTION**

**WAC 388-106-1040 What requirements must a private RN or LPN under the supervision of an RN meet in order to provide and get paid for my PDN services?** In order to be paid by the department, a private RN or LPN under the supervision of an RN must:

(1) Have a license in good standing, per RCW 18.79.030 (1)(3);

(2) Complete a contract;

(3) Provide services according to the plan of care under the supervision/direction of a physician;

(4) Complete a background inquiry application. This will require fingerprinting if the RN or LPN has lived in the state of Washington less than three years;

(5) Have no conviction for a disqualifying crime, as stated in RCW 43.43.830 and 43.43.842;

(6) Have no stipulated finding of fact, conclusion of law, an agreed order, or finding of fact, conclusion of law, or final order issued by a disciplining authority, a court of law, or entered into a state registry with a finding of guilt for abuse, neglect, abandonment or exploitation;

(7) Meet provider requirements established in WAC 388-71-0510, WAC 388-71-0515, WAC 388-71-0540, WAC 388-71-0551, and WAC 388-71-0556;

(8) Complete time sheets monthly;

(9) Document notes regarding your services provided, per the plan of care and the department-designated PDN Skilled Nursing Task Log, and other documentation needed to determine eligibility and the number of PDN hours to be authorized. These notes are reviewed when the CNC or DDD nursing care consultant completes a CARE assessment every six months; and

(10) Submit timely and accurate invoices to SSPS.

**NEW SECTION**

**WAC 388-106-1045 Can I receive PDN in a licensed adult family home (AFH)?** You may be eligible to receive PDN in a licensed adult family home (AFH). In order for you to receive these services, the AFH provider must:

(1) Possess a WA state registered nurse license;

(2) Sign a contract amendment stating they will ensure twenty-four-hour personal care and nursing care services pursuant to the Nurse Practice Act;

(3) Provide your PDN services through an RN or LPN, under the supervision of an RN, based on the CARE assessment, the department-designated PDN Skilled Task Log, and other documentation needed to determine eligibility. The number of PDN hours to be authorized are based on the following chart:

If the number of clients receiving PDN services in an AFH is:	Then the department will authorize care provided by an RN or LPN (under the supervision of an RN) for up to:
1	16 hours of care per day
2-3	24 hours of care per day
4-6	48 hours of care per day

(5) Have a nursing service plan prescribed by your primary physician that allows you to reside in an AFH. The physician is responsible for:

(a) Overseeing your plan of care, which must be updated at least every six months;

(b) Monitoring your medical stability; and

(c) Supervising the safety of the AFH's nursing care services.

(6) Document notes regarding your services provided, per the plan of care and the department-designated PDN Skilled Task Log, and other documentation needed to determine eligibility and the number of PDN hours to be authorized. These notes are reviewed when the CNC or DDD nursing care consultant completes a CARE assessment every six months; and

(7) Keep records, per AFH licensing and contract requirements, for review when the CARE assessment is completed at least every six months.

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.

**NEW SECTION**

**WAC 388-106-1050 May I receive other long-term care services in addition to PDN?** In addition to PDN services, you may be eligible to receive care through COPES, medically needy residential waiver (MNRW), medically needy in-home waiver (MNIW), or Medicaid personal care (MPC), for unmet personal care needs not performed by your family/informal support system. Your PDN hours will deduct hour for hour from any personal care that you require.

**NEW SECTION**

**WAC 388-106-1055 Can I choose to self-direct my care if I receive PDN?** You may choose to self-direct part of your health-related tasks to an individual provider, as outlined in RCW 74.39.050. You may still receive PDN if you meet the PDN eligibility requirements.

**SENIOR CITIZENS' SERVICES**

**NEW SECTION**

**WAC 388-106-1100 What services can I receive under the Senior Citizens' Services Act (SCSA) fund?** You may receive community-based services, described in RCW 74.38.040.

PROPOSED



NEW SECTION

**WAC 388-106-1105 How do I apply for SCSA-funded services?** To receive SCSA-funded services, you or your representative must:

- (1) Complete and submit a department application form, providing complete and accurate information; and
- (2) Promptly submit a written report of any changes in income or resources. For the definition of income and resources, refer to WAC 388-500-0005.

NEW SECTION

**WAC 388-106-1110 Am I eligible for SCSA-funded services at no cost?** To be eligible for SCSA-funded services at no cost, you must:

- (1) Be age:
  - (a) Sixty-five or older; or
  - (b) Sixty or older, and:
    - (i) Either unemployed, or
    - (ii) Working twenty hours a week or less;
- (2) Have a physical, mental, or other type of impairment, which without services would prevent you from remaining in your home;
- (3) Have income at or below forty percent of the state median income (SMI) for a family of four adjusted for family size; and
- (4) Have nonexempt resources (including cash, marketable securities, and real or personal property) not exceeding ten thousand dollars for a single person or fifteen thousand for a family of two, increased by one thousand dollars for each additional family member of the household. Household means a person living alone or a group of people living together.
- (5) If you have income over forty percent of SMI, you may be eligible for services on a sliding fee basis.

NEW SECTION

**WAC 388-106-1115 What income and resources are exempt when determining eligibility?** The following income and resources, regardless of value, are exempt when determining whether you are eligible for SCSA-funded services:

- (1) Your home, and the lot it is upon;
- (2) Garden produce, livestock, and poultry used for home consumption;
- (3) Program benefits which are exempt from consideration in determining eligibility for needs based programs (e.g., uniform relocation assistance, Older Americans Act funds, foster grandparents' stipends or similar monies);
- (4) Used and useful household furnishings, personal clothing, and automobiles;
- (5) Personal property of great sentimental value;
- (6) Personal property used by the individual to earn income or for rehabilitation;
- (7) One cemetery plot for each member of the family unit;
- (8) Cash surrender value of life insurance;
- (9) Real property held in trust for an individual Indian or Indian tribe; and

- (10) Any payment received from a foster care agency for children in the home.

NEW SECTION

**WAC 388-106-1120 What if I am not eligible to receive SCSA-funded services at no cost?** (1) Even if your income is above the forty percent SMI limit to receive SCSA-funded services at no cost, you may receive SCSA-subsidized services. The department uses a sliding fee schedule to determine what percentage the department pays for the cost of your services. You pay the remaining amount, but not more than the usual rate paid for services, as negotiated by the AAA or the department. The formula for determining the department's share of the cost of the services is:

$$\frac{100\% \text{ State Median Income (SMI)} - \text{Household Income} \times 100}{100\% - 40\% \text{ SMI}}$$

- (2) Service providers must be responsible for collecting fees owed by eligible persons and reporting to area agencies all fees paid or owed by eligible persons.

(3) Some services are provided at no charge regardless of income or need requirements. These services include, but are not limited to, nutritional services, health screening, services under the long-term care ombudsman program, and access services. Note: Well adult clinic services may be provided in lieu of health screening services if such clinics use the fee schedule established by this section.

**RESPITE CARE SERVICES**NEW SECTION

**WAC 388-106-1200 What definitions apply to respite care services?** The following definitions apply to respite care services:

"Caregivers" means a spouse, relative, or friend who has primary responsibility for the daily care of an adult with a functional disability without receiving payment for services provided.

"Continuous care or supervision" means daily assistance or oversight of an adult with a functional disability.

"Functionally disability" means a condition requiring substantial assistance in completing activities of daily living and community living skills.

"Participant" means an adult with a functional disability who needs substantial daily continuous care or supervision.

"Service provider" means an individual, agency, or organization under contract to the area agency on aging (AAA) or its subcontractor.

NEW SECTION

**WAC 388-106-1205 What are respite care services?** Respite services relieve unpaid caregivers by providing temporary care or supervision to adults with a functional disability.

NEW SECTION

**WAC 388-106-1210 Who is eligible to receive respite care services?** (1) To be eligible to receive respite care services, the caregivers must:

- (a) Have primary responsibility for the daily continuous care or supervision of an adult with a functional disability;
  - (b) Provide a minimum of an average of twelve hours per day for care or supervision;
  - (c) Not be compensated for the care; and
  - (d) Be assessed as being at risk of placing the participant in a long-term care facility if home and community support services, including respite care, are not available.
- (2) An eligible participant is an adult who:
- (a) Has a functional disability;
  - (b) Needs daily substantial continuous care or supervision; and
  - (c) Is assessed as requiring placement in a long-term care facility if home and community support services, including respite care, are not available.
- (3) The Area Agency on Aging (AAA) determines how many hours of continuous care or supervision a day an unpaid caregiver must provide to a participant to become eligible for respite care services.

NEW SECTION

**WAC 388-106-1215 Who may provide respite care services?** Respite care providers include, but are not limited to the following:

- (1) Nursing homes (chapter 388-97 WAC).
- (2) Adult day services, which includes adult day care and adult day health.
- (3) Home health/care agencies.
- (4) Hospitals.
- (5) Licensed residential care facilities such as boarding homes, adult family homes, and assisted living facilities.
- (6) Providers such as volunteer chore workers, senior companions, and individual providers.

NEW SECTION

**WAC 388-106-1220 How are respite care providers reimbursed for their services?** The department reimburses:

- (1) Respite care providers for the number of hours or days of services authorized and used. The rate that is established for the services is negotiated between the respite care program of the local area agency on aging and the respite care service provider.
- (2) Medicaid-certified nursing homes and DDD-certified group homes providing respite services the Medicaid rate approved for that facility. Contracted nursing homes must not charge more than the Medicaid rate for any services covered from the date of eligibility, unless authorized by the department (see RCW 18.51.070). Participants must pay for services not included in the Medicaid rate.
- (3) Private nursing homes at their published daily rate.

NEW SECTION

**WAC 388-106-1225 Are participants required to pay for the cost of their services?** (1) There is no charge to the participant whose income is at or below forty percent of the state median income, based on a family of four.

(2) If the participant's gross income is above forty percent of the state median income, he or she is required to pay for part or all of the cost of the respite care services. The department will determine what amount the participant must contribute based on the state median income and family size.

(3) If the participant's gross income is one hundred percent or more of the state median income, the participant must pay the full cost of services.

NEW SECTION

**WAC 388-106-1230 Are there waiting lists for respite services?** (1) The department must first consider requests for emergency respite care. An example of an emergency is when the caregiver becomes ill or injured to the extent that the caregiver's ability to care for the participant is impaired.

(2) In non-emergency situations, respite care is allocated based upon available respite funds at the local level. Respite care must be provided on a first-come, first-served basis. If sufficient funds are not available when respite care is requested, services are made available using waiting lists and department-approved priority categories, developed by the AAA, including caregiver vulnerability and health condition, availability of other support systems, and whether other family members need care.

**CLIENT RIGHTS**NEW SECTION

**WAC 388-106-1300 What rights do I have as a client of the department?** As a client of the department, you have a right to:

- (1) Be treated with dignity, respect and without discrimination;
- (2) Not be abused, neglected, financially exploited, abandoned;
- (3) Have your property treated with respect;
- (4) Not answer questions, turn down services, and not accept case management services you do not want to receive. However, it may not be possible for the department to offer some services if you do not give enough information;
- (5) Be told about all services you can receive and make choices about services you want or don't want;
- (6) Have information about you kept private within the limits of the laws and DSHS regulations;
- (7) Be told in writing of agency decisions and receive a copy of your care plan;
- (8) Make a complaint without fear of harm;
- (9) Not be forced to answer questions or do something you don't want to;
- (10) Talk with your social service worker's supervisor if you and your social service worker do not agree;
- (11) Request a fair hearing;

- (12) Have interpreter services provided to you free of charge if you cannot speak or understand English well;
- (13) Take part in and have your wishes included in planning your care;
- (14) Choose, fire, or change a qualified provider you want; and
- (15) Receive results of the background check for any individual provider you choose.

**NEW SECTION**

**WAC 388-106-1305 What if I disagree with the result of the CARE assessment and/or other decisions made by the department?** You have a right to contest the result of your CARE assessment and/or other decisions made by the department. The department will notify you in writing of the right to contest a decision and provide you with information on how to request a hearing.

**NEW SECTION**

**WAC 388-106-1310 When I request a fair hearing on my CARE assessment and another CARE assessment(s) is done between my fair hearing request and the fair hearing, which CARE assessment must the administrative law judge review?** When you request a fair hearing on your CARE assessment and another CARE assessment(s) is done between your fair hearing request and the fair hearing, the administrative law judge must review the most recent CARE assessment.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 388-72A-0005 When do the rules in chapter 388-72A WAC apply to me?
- WAC 388-72A-0010 Do chapter 388-71 WAC and WAC 388-845-1300 apply to me?
- WAC 388-72A-0015 If the department did not use the CARE tool for my last assessment, may I have my assessments done on the assessment form used for my last assessment?
- WAC 388-72A-0020 What is an assessment?
- WAC 388-72A-0025 What is the process for conducting an assessment?
- WAC 388-72A-0030 What is the purpose of an assessment?
- WAC 388-72A-0035 What are personal care services?
- WAC 388-72A-0036 How are my needs for personal care services determined?

- WAC 388-72A-0037 How are self-performance and support provided for the activities of daily living (ADLs) scored?
- WAC 388-72A-0038 How are the ADLs bathing, body care, and medication management scored?
- WAC 388-72A-0039 How are self-performance and difficulty for the instrumental activities of daily living (IADLs) scored?
- WAC 388-72A-0041 How are status and assistance available scored for ADLs and IADLs?
- WAC 388-72A-0042 How are ADLs and IADLs scored for children?
- WAC 388-72A-0043 How are other elements in CARE scored for children age seventeen and younger and foster care clients?
- WAC 388-72A-0045 How will the department plan to meet my care needs?
- WAC 388-72A-0050 What if I disagree with the result of the assessment or the decisions about what services I may receive?
- WAC 388-72A-0053 Am I eligible for one of the HCP programs?
- WAC 388-72A-0055 Am I eligible for COPES-funded services?
- WAC 388-72A-0057 Am I eligible for medically needy residential waiver (MNRW)-funded services?
- WAC 388-72A-0058 Am I eligible for medically needy in-home wavier (MNTW)-funded services?
- WAC 388-72A-0060 Am I eligible for MPC-funded services?
- WAC 388-72A-0065 Am I eligible for Chore-funded services?
- WAC 388-72A-0069 How does CARE use the information the assessor gathers?
- WAC 388-72A-0070 What are the in-home hours and residential rate based on?
- WAC 388-72A-0080 What criteria does the CARE tool use to place a client in one of the classification groups?

PROPOSED

WAC 388-72A-0081	How is cognitive performance measured in the CARE tool?
WAC 388-72A-0082	How is clinical complexity measured within the CARE tool?
WAC 388-72A-0083	How are mood and behaviors measured within the CARE tool?
WAC 388-72A-0084	How are ADL scores measured within the CARE tool?
WAC 388-72A-0085	How does the CARE tool evaluate for the two exceptional care classifications of in-home care?
WAC 388-72A-0086	How is the information in WAC 388-72A-0081 through 388-72A-0084 used to determine the client's classification payment group for residential settings?
WAC 388-72A-0087	How is the information in WAC 388-72A-0081 through 388-72A-0085 used to determine the classification payment group for in-home clients?
WAC 388-72A-0090	What are the maximum hours that I can receive for in-home services?
WAC 388-72A-0092	How are my in-home hours determined?
WAC 388-72A-0095	What additional criteria are considered to determine the number of hours I will receive for in-home services?
WAC 388-72A-0100	Are there other in-home services I may be eligible to receive in addition to those described in WAC 388-72A-0095(3)?
WAC 388-72A-0105	What would cause a change in the maximum hours authorized?
WAC 388-72A-0110	How much will the department pay for my care?
WAC 388-72A-0115	When the department adjusts an algorithm, when does the adjustment become effective?
WAC 388-72A-0120	When a client requests a fair hearing to have the client's CARE tool assessment

results reviewed and there is (are) a more recent CARE assessment(s), which CARE tool assessment does the administrative law judge review in the fair hearing?

## COMPREHENSIVE ASSESSMENT (CA)

### NEW SECTION

**WAC 388-71-0210 What is the purpose of WAC 388-71-0210 through 388-71-0260?** The purpose of this section is to describe comprehensive assessment and service plan procedures and eligibility criteria for children age seventeen and younger, receiving Medicaid Personal Care (MPC). This section does not apply to you if you are assessed in the comprehensive assessment reporting evaluation (CARE).

### NEW SECTION

**WAC 388-71-0215 What definitions apply to WAC 388-71-0210 through 0260?** The following definitions apply to this chapter:

"Ambulation" means assisting the child to move around as a result of a disability. Ambulation includes age appropriate supervision of the child when walking alone or with the help of a mechanical device such as a walker if guided, assisting with difficult parts of walking such as climbing stairs, supervising the child if able to propel a wheelchair if guided, pushing of the wheelchair, and providing constant or standby physical assistance to the child if totally unable to walk alone or with a mechanical device.

"Assessment" means an inventory and evaluation of a child's abilities and needs based on an in-person interview in the child's own home.

"Bathing" means assisting the child to wash. Bathing includes age appropriate supervision of the child who is able to bathe when guided, assisting the child with difficult tasks such as getting in or out of the tub or washing back, and completely bathing the child if totally unable to wash self.

"Body care" means age appropriate assistance to the child, as a result of a disability, with exercises, skin care including the application of non-prescribed ointments or lotions, changing dry bandages or dressings when professional judgment is not required, and pedicure to trim toenails and apply lotion to feet. Body care excludes:

- Foot care for child who is diabetic or has poor circulation; or
- Changing bandages or dressings when sterile procedures are required.

"Child/Children" means a child age seventeen and younger.

"Department" means the state department of social and health services, aging and disability services administration.

"Dressing" means age appropriate assistance with dressing and undressing as a result of the child's disability. Dressing includes supervising and guiding the child when dressing and undressing, assisting with difficult tasks such as tying shoes and buttoning, and completely dressing or undressing when unable to participate in dressing or undressing self.

"Eating" means age appropriate assistance with eating as a result of the child's disability. Eating includes supervising children when able to feed self if guided, assisting with difficult tasks such as cutting food or buttering bread, and feeding the child when unable to feed self.

"Household assistance" means assistance with incidental household tasks provided as an integral, but subordinate part of personal care. Household assistance is considered an integral part of personal care when such assistance is directly related to the children's medical or mental health condition, is reflected in the children's service plan, and is provided only when children are assessed as needing personal care assistance with one or more direct personal care tasks. Household assistance tasks include a second adult to assist with travel to medical services, meal preparation, laundry, housework.

"Housework" means, as a result of the child's disability, extraordinary housekeeping measures are required. The following are examples: daily extensive cleaning due to a child's severe allergies or substantial cleanup is required due to destructive behaviors which are a result of the child's disability.

"Laundry" means extraordinary laundry needs are required due to excessive soiling related to the child's medical condition.

"Meal preparation" means unusual time or tasks are required such as ground food or special diet preparations due to the child's disability.

"Own Home" means any of the following places where the child resides:

- In the home of the natural, step, or adoptive parent;
- In a relative's established residence;
- In the home of any legally responsible adult; or
- In a Children's Administration licensed and paid child foster home.

"Personal care services" mean both physical assistance and/or prompting and supervising the performance of direct personal care tasks and household tasks. Such services may be provided for children who are functionally unable to perform all or part of such tasks or who are incapable of performing the tasks without specific instructions. Personal care services do not include assistance with tasks that are age appropriate for children or performed by a licensed health professional.

"Personal hygiene" means age appropriate assistance required as a result of the child's disability with care of hair, teeth, shaving, menses care, filing of nails, and other basic personal hygiene and grooming needs. Personal hygiene includes supervising the child when performing the tasks, assisting the child to care for own appearance, and performing grooming tasks when the child is unable to care for own appearance.

"Positioning" means age appropriate assistance required as a result of the child's disability to assume a desired position, assistance in turning and positioning to prevent secondary disabilities, such as contractures and balance deficits or exercises to maintain the highest level of functioning which has already been attained and/or to prevent the decline in physical functional level. (Range of motion ordered as part of a physical therapy treatment is not included.)

"Supervision" means being available to:

- Help the child with age appropriate personal care tasks that cannot be scheduled, such as toileting, ambulation, transfer, positioning, as a result of a disability; and
- Provide age appropriate protective supervision to a child age twelve or older who cannot be left alone due to the disability.

"Toileting" means age appropriate assistance with bladder or bowel functions as a result of the child's disability. Toileting includes guidance when the child is able to care for own toileting needs, helping to and from the bathroom, assisting with bedpan routines, using incontinent briefs on the child, and lifting the child on and off the toilet. Toileting may include performing routine perineal care, colostomy care, or catheter care for the child when he/she is able to supervise the activities.

"Transfer" means age appropriate assistance required, as a result of the child's disability, with getting in and out of a bed or wheelchair or on and off the toilet or in and out of the bathtub. Transfer includes supervising the child when able to transfer if guided, providing steadying, and helping the child when he/she can assist in own transfer.

"Travel to medical services" means transporting the child to a physician's office or clinic in the local area to obtain medical diagnosis or treatment when a child, as a result of a disability, requires a second adult to accompany the parent or guardian.

"You" means a child.

#### NEW SECTION

**WAC 388-71-0220 What is an assessment?** An assessment is an inventory and evaluation of abilities and needs based on an in-person interview in your own home or place of residence, using the department-prescribed form, comprehensive assessment (child).

#### NEW SECTION

**WAC 388-71-0225 What is the purpose of a Comprehensive Assessment?** The purpose of the Comprehensive Assessment is to:

- (1) Identify strengths to maximize current strengths and promote your independence;
- (2) Evaluate physical health, functional and cognitive abilities, social resources and emotional and social functioning for service planning for long-term care;
- (3) Identify your values and preferences for effective service planning; and
- (4) Determine your need for informal support, community support and services, and department paid services.
- (5) Account for your:
  - (a) Health status, psychological/social/cognitive functioning, income and resources, and functional abilities;
  - (b) Living situation; and
  - (c) Availability of alternative resources providing needed assistance, including family, neighbors, friends, community programs, and volunteers.

**NEW SECTION**

**WAC 388-71-0230 How are my needs for MPC services assessed?** (1) Using the comprehensive assessment, the department will determine your ability to self-perform each personal care task and household task using the following definitions of the assistance required:

- (a) Ambulation:
- (i) Independent. No special assistance is needed.
  - (ii) Minimal. You are age four or older and you need your hand held on stairs or uneven surfaces or use adaptive devices with minimal assistance.
  - (iii) Substantial. You are age four or older and mobile inside but need assistance of another person outside.
  - (iv) Total.
    - (A) You are age two or three and always require total physical assistance (e.g. you need to be carried or your caregiver must push your manual wheelchair).
    - (B) You are age four or older and only mobile with physical assistance of another person or need ongoing assistance with adaptive devices.
- (b) Bathing:
- (i) Independent. You can bathe self.
  - (ii) Minimal.
    - (A) You are age eight or older and require minor physical or verbal assistance such as adjusting water temperature; or
    - (B) You are age five or older and require the presence of an adult in the room due to your health condition.
  - (iii) Substantial. You are age five or older and require physical help in a large part of the bathing activity (i.e. to lather, wash and/or rinse own body or hair).
  - (iv) Total. You are age five or older and dependent on others to provide a complete bath.
- (c) Body care:
- (i) Independent. No specialized body care is needed.
  - (ii) Minimal. You are age ten or older and need reminding or occasional physical assistance to: Apply non-prescription ointments or lotion; perform non-sterile bandage or dressing change; or perform exercises.
  - (iii) Substantial. You are age ten or older and require limited physical help to: Apply ointment/lotion; perform non-sterile bandage or dressing change; or perform exercises on a daily basis.
  - (iv) Total. You are age ten or older and dependent on others to perform all required body care.
- (d) Dressing:
- (i) Independent. You can dress and undress without assistance or supervision.
  - (ii) Minimal. You are age eight or older and need some physical assistance, reminders, or supervision several times per week.
  - (iii) Substantial. You are age four or older and need daily physical assistance to do parts of dressing and undressing.
  - (iv) Total. You are age four or older and totally dependent on others to do all dressing and undressing or significant time and effort is required due to the nature of your disability or behavior.
- (e) Eating:

- (i) Independent. You can feed self, chew and swallow solid foods without difficulty, or can feed self by stomach tube or catheter.
- (ii) Minimal. You are age four or older and can feed self, chew and swallow, but need verbal prompting to maintain adequate intake; or you are age ten or older and also need assistance with such things as cutting up food, buttering bread and pouring liquids.
  - (iii) Substantial. You are age three or older and
    - (A) Can feed self but need stand-by assistance for occasional gagging, choking, or swallowing difficulty; or
    - (B) Need reminders/assistance with adaptive feeding equipment; or
    - (C) Must be fed some or all food by mouth by another person.
  - (iv) Total. You are a child of any age who needs extraordinary time and supervision due to behavior issues or because you frequently gag or choke due to swallowing difficulties.
- (f) Housework:
  - (i) Independent. No extraordinary housework needs.
  - (ii) Total. You are a child of any age who, as a result of your disability, requires extraordinary housekeeping measures such as daily extensive cleaning due to severe allergies or substantial clean up is required due to destructive behaviors.
- (g) Laundry:
  - (i) Independent. No additional needs for laundry.
  - (ii) Total. You are a child of any age who has extraordinary laundry needs or clothing repairs due to excessive soiling related to your medical condition.
- (h) Meal preparation:
  - (i) Independent. No unusual time or activities required or you are able to participate as expected in simple meal preparation.
  - (ii) Total. You are a child of any age and unusual time or tasks are required such as grinding food or special diet preparations; or you are age ten or older and totally dependent on others for meal preparation due to cognitive, physical or behavioral disability.
- (i) Personal hygiene:
  - (i) Independent. You can manage personal hygiene and grooming tasks on a regular basis.
  - (ii) Minimal. You are age twelve or older and must be reminded and supervised at least some of the time.
  - (iii) Substantial. You are age eight or older and always require direct physical assistance with such tasks as combing hair, brushing teeth, menses care and shaving.
  - (iv) Total. You are age five or older and all personal hygiene must be done by someone else.
- (j) Positioning:
  - (i) Independent. No positioning needed.
  - (ii) Minimal. You are age three or older and require assistance some of the time.
  - (iii) Substantial. You are age three or older and can move self, but assistance with positioning is required throughout the day such as specialized sleeping positions, sitting supports and/or minor adjustments to adaptive equipment.
  - (iv) Total.

(A) You are age two or older and cannot move self and require positioning by another person most or all of the time throughout the day; or

(B) You are a child of any age who requires scheduled positioning changes by another person throughout the night.

(k) Toileting:

(i) Independent. No additional help is needed.

(ii) Minimal. You are age four or older and:

(A) Require verbal cueing and/or have occasional infrequent daytime toileting accidents and/or have a toileting program that must be followed; or

(B) Need occasional physical assistance for one or more of the following: clothing adjustments, washing hands, wiping and cleansing.

(iii) Substantial. You are age four or older and cannot get to the toilet without assistance; or need substantial physical assistance at least daily with part of the task.

(iv) Total.

(A) You are age four or older and require total cleansing and are unable to use toilet or require incontinence supplies.

(B) You are a child of any age and have a medical condition requiring more frequent scheduled change of incontinence garments on a twenty-four hour basis.

(C) You are age eight or older, you are continent during the day but are incontinent at night and require incontinence garment changes during the night.

(l) Transfer:

(i) Independent. You can transfer without physical assistance.

(ii) Minimal. You are age four or older and need assistance on occasion.

(iii) Substantial. You are age four or older and need daily assistance and can bear some weight and assist with your transfer; or weigh less than thirty pounds.

(iv) Total. You are a child of any age who weighs thirty pounds or more and requires total physical support of the caregiver to transfer.

(m) Travel to medical services:

(i) Independent. No unusual transportation needs required.

(ii) Minimal. You are a child of any age and have a medical condition that requires a second adult to assist with transport to medical appointments less than monthly.

(iii) Substantial. You are a child of any age and have a medical condition that requires a second adult to assist with transport to medical appointments at least monthly.

(iv) Total. You are a child of any age and have a medical condition that requires a second adult to assist with transport to medical appointments at least weekly.

(2) The department will score functional abilities and supports.

(a) For each direct personal care service and household assistance task listed on the CA, the department must determine:

(i) Your ability to perform each activity;

(ii) Assistance available to you through alternative resources, including parents, families, friends, neighbors, community programs, and unpaid caregivers; and

(iii) Assistance needed from department programs after alternative resources have been taken into account.

(b) The department must award points for each task based on the level of unmet need. The number of points allowable for each task is listed below under columns identified as 0 = none, M = minimal, S = substantial, and T = total:

Task	0	M	S	T
Eating	0	5	12	16
Toileting	0	5	12	16
Ambulation	0	8	10	12
Transfer	0	4	8	11
Positioning	0	3	5	7
Body care	0	4	5	6
Personal hygiene	0	4	6	8
Dressing	0	5	8	12
Bathing	0	4	8	10
Travel to medical services	0	1	2	3
Meal preparation	0	0	0	6
Laundry	0	0	0	4
Housework	0	0	0	5

(c) The department must add together the points awarded for each task to obtain the total score for you.

(3) The department must determine if additional hours of supervision are needed:

(a) Due to cognitive protective supervision; and

(b) For standby assistance necessary for unscheduled tasks (NOTE: Supervision hours show a child's need and may not reflect department paid hours as determined by program standards.)

(4) The department must authorize services to correspond with your assessed need according to eligibility criteria and your service plan. The department must notify you of the right to contest the department's decision and/or the results of the assessment.

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

**NEW SECTION**

**WAC 388-71-0235 What is a service plan?** (1) The department must develop a service plan with you to identify ways to meet your needs with the most appropriate services, both formal and informal.

(2) The department must document:

(a) Your specific problems and needs;

(b) A plan for meeting each need;

(c) Responsible parties for carrying out each part of the plan;

(d) Anticipated outcomes;

(e) Dates and changes to the plan;

(f) Dates of referral, service initiation, follow-up reviews; and

(g) Your agreement to the service plan.

**NEW SECTION**

**WAC 388-71-0240 What services may I receive under MPC as a child?** You may receive personal care services in your own home as defined in WAC 388-71-0215,

Proposed

and as applicable, assistance with personal care tasks while you are out of the home accessing community resources.

#### NEW SECTION

**WAC 388-71-0245 What services are not covered under MPC for children?** MPC does not cover the following services:

- (1) Teaching, including teaching how to perform personal care tasks;
- (2) Development of social, behavioral, recreational, communication, or other types of community living skills;
- (3) Nursing care;
- (4) Personal care services provided outside of your residence, unless the services are authorized in your written service plan and meet the program criteria;
- (5) Child care;
- (6) Respite care;
- (7) Sterile procedures, administration of medications, or other tasks requiring a licensed health professional, unless provided by a family member;
- (8) Services provided over the telephone;
- (9) Services provided outside the state of Washington unless you are receiving personal care assistance while temporarily traveling out of state and:
  - (i) Your individual provider is contracted with the state of Washington; and
  - (ii) The travel plans are coordinated with your social service case manager prior to departure; and
  - (iii) Services are authorized on your service plan prior to departure; and
  - (iv) Services are strictly for your personal care, which does not include your provider's travel time, expenses, lodging or subsistence;
- (10) Services to assist other household members not eligible for services; and
- (11) Yard care.

#### NEW SECTION

**WAC 388-71-0250 Am I eligible for MPC services?** To be eligible for MPC-funded services you must:

- (1) Have unmet need for substantial assistance with at least one of the following direct personal care tasks or have unmet needs for minimal assistance with three of the following direct personal care tasks:
  - (a) Ambulation;
  - (b) Bathing;
  - (c) Body care;
  - (d) Dressing;
  - (e) Eating;
  - (f) Personal hygiene;
  - (g) Positioning;
  - (h) Self-medication;
  - (i) Toileting; or
  - (j) Transfer.
- (2) Be certified as Title 19 categorically needy, as defined in WAC 388-500-0005.
- (3) Be assessed by department staff or designee using a department approved comprehensive assessment and have a determination of unmet needs for services.

#### NEW SECTION

**WAC 388-71-0255 How do children remain eligible for MPC services?** In order to remain eligible for services, you must:

- (1) Be reassessed at least every twelve months; and
- (2) Meet eligibility requirements for MPC.

#### NEW SECTION

**WAC 388-71-0260 Are there limitations to MPC services for children?** The following are limitations to MPC services you can receive:

- (1) MPC services may not replace other available resources, both paid and unpaid.
- (2) ADSA published rates and program rules establish your total hours and how much the department pays toward the cost of your services.
- (3) The department will not pay for housework, laundry, or meal preparation, when you and your individual provider, agency provider, or personal aide live in the same household.
- (4) The department will adjust payments to an individual provider, agency provider, or personal aide who is doing household tasks for more than one client living in the same household.
- (5) MPC cannot pay for services already reimbursed with other state and federal funding.

**AMENDATORY SECTION** (Amending WSR 02-21-098, filed 10/21/02, effective 11/21/02)

**WAC 388-71-0500 What is the purpose of WAC 388-71-0500 through 388-71-05909?** A client/legal representative may choose an individual provider or a home care agency provider. The intent of WAC 388-71-0500 through 388-71-05909 is to describe the:

- (1) Qualifications of an individual provider, as defined in WAC ((388-71-202)) 388-106-0010;
- (2) Qualifications of a home care agency provider, as defined in WAC ((388-71-202)) 388-106-0010 and chapter 246-336 WAC;
- (3) Conditions under which the department or the area agency on aging (AAA) will pay for the services of an individual provider or a home care agency provider;
- (4) Training requirements for an individual provider and home care agency provider.

**Reviser's note:** RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

**AMENDATORY SECTION** (Amending WSR 02-21-098, filed 10/21/02, effective 11/21/02)

**WAC 388-71-0515 What are the responsibilities of an individual provider or home care agency provider when employed to provide care to a client?** An individual provider or home care agency provider must:

- (1) Understand the client's ((service)) plan of care that is signed by the client or legal representative and social worker/case manager, and translated or interpreted, as necessary, for the client and the provider;



(2) Provide the services as outlined on the client's (~~service plan, within the scope of practice in WAC 388-71-202 and 388-71-203~~) plan of care, as defined in WAC 388-106-0010;

(3) Accommodate client's individual preferences and differences in providing care (~~(, within the scope of the service plan)~~);

(4) Contact the client's representative and case manager when there are changes which affect the personal care and other tasks listed on the (~~service~~) plan of care;

(5) Observe the client for change(s) in health, take appropriate action, and respond to emergencies;

(6) Notify the case manager immediately when the client enters a hospital, or moves to another setting;

(7) Notify the case manager immediately if the client dies;

(8) Notify the department or AAA immediately when unable to staff/serve the client; and

(9) Notify the department/AAA when the individual provider or home care agency will no longer provide services. Notification to the client/legal guardian must:

(a) Give at least two weeks' notice, and

(b) Be in writing.

(10) Complete and keep accurate time sheets that are accessible to the social worker/case manager; and

(11) Comply with all applicable laws and regulations.

**AMENDATORY SECTION** (Amending WSR 04-02-001, filed 12/24/03, effective 1/24/04)

**WAC 388-71-0520 Are there training requirements for an individual provider or a home care agency provider of an adult client?** An individual provider or a home care agency provider for an adult client must meet the training requirements in WAC 388-71-05665 through ~~((388-71-05999))~~ 388-71-05865.

**AMENDATORY SECTION** (Amending WSR 02-10-117, filed 4/30/02, effective 5/31/02)

**WAC 388-71-0540 When will the department or AAA deny payment for services of an individual provider or home care agency provider?** The department or AAA will deny payment for the services of an individual provider or home care agency provider who:

(1) Is the client's spouse, per 42 C.F.R. 441.360(g), except in the case of an individual provider for a chore services client. Note: For chore (~~[[e]])~~spousal providers, the department pays a rate not to exceed the amount of a one-person standard for a continuing general assistance grant, per WAC 388-478-0030;

(2) Is the natural/step/adoptive parent of a minor client aged seventeen or younger receiving services under (~~this chapter~~) Medicaid Personal Care;

(3) Has been convicted of a disqualifying crime, under RCW 43.43.830 and 43.43.842 or of a crime relating to drugs as defined in RCW 43.43.830;

(4) Has abused, neglected, abandoned, or exploited a minor or vulnerable adult, as defined in chapter 74.34 RCW;

(5) Has had a license, certification, or a contract for the care of children or vulnerable adults denied, suspended,

revoked, or terminated for noncompliance with state and/or federal regulations;

(6) Does not successfully complete the training requirements within the time limits required in WAC ~~((388-71-05910 through 388-71-05952))~~ 388-71-05665 through 388-71-05865;

(7) Is already meeting the client's needs on an informal basis, and the client's assessment or reassessment does not identify any unmet need; and/or

(8) Is terminated by the client (in the case of an individual provider) or by the home care agency (in the case of an agency provider).

(9) In addition, the department or AAA may deny payment to or terminate the contract of an individual provider as provided under WAC 388-71-0546, 388-71-0551, and 388-71-0556.

#### NEW SECTION

**WAC 388-71-05832 What is safety training?** Safety training and applicable requirements are defined in WAC 257-05-020 through WAC 257-05-240.

**AMENDATORY SECTION** (Amending WSR 03-06-024, filed 2/24/03, effective 7/1/03)

**WAC 388-71-0704 Adult day care—Services.** ~~((1))~~ Adult day care is a supervised daytime program providing core services as defined (~~(under subsection (2) of this section))~~ in WAC 388-106-0800. Core services are appropriate for adults with medical or disabling conditions that do not require the intervention or services of a registered nurse or licensed rehabilitative therapist acting under the supervision of the client's physician.

~~((2)) The adult day care center must offer and provide on site the following core services:~~

~~(a) The following personal care services as defined in WAC 388-71-0202, "personal care services," or its successor:~~

~~(i) Ambulation;~~

~~(ii) Body care;~~

~~(iii) Eating;~~

~~(iv) Positioning;~~

~~(v) Self-medication;~~

~~(vi) Transfer;~~

~~(vii) Toileting;~~

~~(viii) Personal hygiene at a level that ensures client safety and comfort while in attendance at the program; and~~

~~(ix) Bathing at a level that ensures client safety and comfort while in attendance at the program.~~

~~(b) Social services on a consultation basis, which may include:~~

~~(i) Referrals to other providers for services not within the scope of Medicaid-reimbursed adult day care services;~~

~~(ii) Caregiver support and education; or~~

~~(iii) Assistance with coping skills.~~

~~(e) Routine health monitoring with consultation from a registered nurse that a consulting nurse acting within the scope of practice can provide with or without a physician's order. Examples include:~~

(i) Obtaining baseline and routine monitoring information on a client's health status, such as vital signs, weight, and dietary needs;

(ii) General health education such as providing information about nutrition, illnesses, and preventive care;

(iii) Communicating changes in the client's health status to the client's caregiver;

(iv) Annual and as needed updating of the client's medical record;

(v) Assistance as needed with coordination of health services provided outside of the adult day care program.

(d) General therapeutic activities that an unlicensed person can provide or that a licensed person can provide with or without a physician's order. These services are planned and provided as an integral part of the client's plan of care and are based on the client's abilities, interests and goals. Examples include:

(i) Recreational activities;

(ii) Diversionary activities;

(iii) Relaxation therapy;

(iv) Cognitive stimulation;

(v) Group range of motion or conditioning exercises.

(e) General health education that an unlicensed person can provide or that a licensed person can provide with or without a physician's order, including but not limited to topics such as:

(i) Nutrition;

(ii) Stress management;

(iii) Disease management skills;

(iv) Preventive care.

(f) A nutritional meal and snacks provided each four-hour period at regular times comparable to normal meal times, including modified diet if needed and within the scope of the program, as provided under WAC 388-71-0768;

(g) Supervision and/or protection for clients who require supervision or protection for their safety;

(h) Assistance with arranging transportation to and from the program; and

(i) First aid and provisions for obtaining or providing care in an emergency.)

**AMENDATORY SECTION** (Amending WSR 03-06-024, filed 2/24/03, effective 7/1/03)

**WAC 388-71-0706 Adult day health—Services.** ((+)) Adult day health is a supervised daytime program providing skilled nursing and rehabilitative therapy services in addition to core services ((outlined in WAC 388-71-0704)). Adult day health services are only appropriate for adults with medical or disabling conditions that require the intervention or services of a registered nurse or licensed rehabilitative therapist acting under the supervision of the client's physician.

((2)) The adult day health center must offer and provide on site the ((following)) services(:

(a) All core services under WAC 388-71-0704;

(b) Skilled nursing services other than routine health monitoring with nurse consultation;

(c) At least one of the following skilled therapy services: physical therapy, occupational therapy, or speech language

pathology or audiology, as those services are defined under chapter 18.74, 18.59, and 18.35 RCW, respectively; and

(d) Psychological or counseling services, including assessing for psycho-social therapy need, dementia, abuse or neglect, and alcohol or drug abuse; making appropriate referrals; and providing brief, intermittent supportive counseling)) listed in WAC 388-106-0810.

**AMENDATORY SECTION** (Amending WSR 04-16-029, filed 7/26/04, effective 8/26/04)

**WAC 388-71-0708 Adult day care—Eligibility.** ((+)) **COPEs or MNIW**) Clients ((may be)) are eligible for adult day care ((as a waiver service)) services if they ((are assessed as having an unmet need for one or more of the following core services identified in WAC 388-71-0704:

(a) Personal care services;

(b) Routine health monitoring with consultation from a registered nurse;

(c) General therapeutic activities; or

(d) Supervision and/or protection for clients who require supervision or protection for their safety.

(2) **COPEs or MNIW** clients are not eligible for adult day care if they:

(a) Can independently perform or obtain the services provided at an adult day care center;

(b) Have unmet needs that can be met through the **COPEs** program more cost effectively without authorizing day care services;

(c) Have referred care needs that:

(i) Exceed the scope of authorized services that the adult day care center is able to provide;

(ii) Can be met in a less structured care setting; or

(iii) Are being met by paid or unpaid caregivers.

(d) Live in a nursing home, boarding home, adult family home, or other licensed institutional or residential facility; or

(e) Are not capable of participating safely in a group care setting)) meet criteria outlined in WAC 388-106-0805.

**AMENDATORY SECTION** (Amending WSR 03-06-024, filed 2/24/03, effective 7/1/03)

**WAC 388-71-0710 Adult day health—Eligibility.** ((+)) Clients are eligible for adult day health services if they meet ((all of the following criteria:

(a) Age eighteen years or older; and

(b) Identified on their medical assistance identification (**MAID**) card, or through other methods of eligibility verification, as enrolled in one of the following medical assistance programs:

(i) Categorically needy (**CNP**);

(ii) Categorically needy qualified Medicare beneficiaries (**CNP-QMB**);

(iii) General assistance—Expedited Medicaid Disability (**GA-X**); or

(iv) Alcohol and Drug Abuse Treatment and Support Act (**ADATSA**).

~~(e) Assessed as having an unmet need for skilled nursing under WAC 388-71-0712 or skilled rehabilitative therapy under WAC 388-71-0714, and:~~

~~(i) There is a reasonable expectation that these services will improve, restore or maintain the client's health status, or in the case of a progressive disabling condition, will either restore or slow the decline of the client's health and functional status or ease related pain or suffering; and~~

~~(ii) The client is at risk for deteriorating health, deteriorating functional ability, or institutionalization; and~~

~~(iii) The client has a chronic or acute health condition that he or she is not able to safely manage due to a cognitive, physical, or other functional impairment.~~

~~(d) Assessed as having needs for personal care or other core services under WAC 388-71-0708, whether or not those needs are otherwise met.~~

~~(2) Clients are not eligible for adult day health if they:~~

~~(a) Can independently perform or obtain the services provided at an adult day health center;~~

~~(b) Have referred care needs that:~~

~~(i) Exceed the scope of authorized services that the adult day health center is able to provide;~~

~~(ii) Do not need to be provided or supervised by a licensed nurse or therapist;~~

~~(iii) Can be met in a less structured care setting; or~~

~~(iv) In the case of skilled care needs, are being met by paid or unpaid caregivers.~~

~~(c) Live in a nursing home or other institutional facility; or~~

~~(d) Are not capable of participating safely in a group care setting)) the criteria outlined in WAC 388-106-0815.~~

AMENDATORY SECTION (Amending WSR 03-06-024, filed 2/24/03, effective 7/1/03)

**WAC 388-71-0716 Adult day care—Assessment and service plan.** (1) The department or an authorized case manager must ~~((assess a client's need for adult day care in accordance with WAC 388-71-0203 and 388-71-0716))~~ perform a CARE assessment to determine a client's need for adult day care, per WAC 388-106-0065. Based on the assessment, the case manager determines whether the client should be referred for day care services or whether the client's needs can be met in other ways.

(2) If the case manager determines an unmet need for a core service that may be provided at a day care center, the case manager works with the client and/or the client's representative to develop a service plan that documents the needed services and the number of days per week that the services are to be provided. The case manager refers the client to a ~~((COPES))~~ waiver-contracted day care center that the client and the case manager agree can potentially meet the client's needs.

(3) Clients receiving adult day care services must be reassessed at least annually ~~((in accordance with WAC 388-71-0203 and 388-71-0716)).~~

AMENDATORY SECTION (Amending WSR 03-06-024, filed 2/24/03, effective 7/1/03)

**WAC 388-71-0720 Adult day health—Assessment and service plan.** (1) The department or an authorized case manager must ~~((assess a client's potential need for adult day health in accordance with WAC 388-71-0203 and 388-71-0720))~~ perform a CARE assessment to determine a client's need for adult day health, per WAC 388-106-0065. Based on the assessment, the case manager determines whether the client should be referred for day health services or whether the client's needs can be met in other ways.

(2) If the client has a department or area agency on aging case manager, the adult day health center or other referral source must notify the case manager of the client's potential adult day health service need. The case manager must assess the client's need for skilled nursing or skilled rehabilitative therapy within the department's normal time frames for client reassessments.

(3) If the client does not have a department or area agency on aging case manager, the adult day health center or other referral source must notify the department of the referral and the client's potential adult day health service need, or refer the client to the department for intake. The department's assigned case manager must assess the client's need for adult day health services within the department's normal time frames for initial client eligibility assessments.

(4) ~~((Based on the assessment, the department or area agency on aging case manager determines whether the client should be referred for a day health service evaluation or whether the client's needs can be met in other ways.))~~ The case manager may consult with the client's practitioner, department or area agency on aging nursing services staff, or other pertinent collateral contacts, concerning the client's need for skilled nursing or rehabilitative therapy.

(5) If the department or area agency on aging case manager determines and documents a potential unmet need for day health services, the case manager works with the client and/or the client's representative to develop a service plan that documents the potential unmet needs and the anticipated number of days per week that the services are needed. The case manager refers the client to a department contracted day health center for evaluation and the development of a preliminary negotiated plan of care.

(6) The department or area agency on aging case manager must reassess adult day health clients at least annually ~~((in accordance with WAC 388-71-0203 and 388-71-0720 or its successor)).~~ Clients must also be reassessed if they have a break in service of more than thirty days. The adult day center must inform the case manager of the break in service so payment authorization can be discontinued.

(7) ~~((Effective upon the adoption of these rules,))~~ Recipients of adult day health services must be assessed by the department or an authorized case manager for continued or initial eligibility ((in accordance with this section. The assessment from the department will occur in conjunction with the)) as follows:

(a) Annual reassessment for department clients;

(b) Adult day health quarterly review for current nondepartmental clients as resources allow; and

PROPOSED

(c) New referrals for adult day health services are to be forwarded to local department offices for intake and assessment for eligibility.

(8) The department or area agency on aging case manager must review a client's continued eligibility for adult day health services every ninety days, coinciding with the quarterly review completed by the adult day health program. At the case manager's discretion, additional information will be gathered through face to face, collateral or other contact methods to determine continued eligibility. Services will be continued, adjusted, or terminated based upon the case manager's determination during the eligibility review.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 388-71-0194 Home and community services—Nursing services.
- WAC 388-71-0202 Long-term care services—Definitions.
- WAC 388-71-0203 Long-term care services—Assessment of task self-performance and determination of required assistance.
- WAC 388-71-0205 Long-term care services—Service plan.
- WAC 388-71-0400 What is the intent of the department's home and community programs?
- WAC 388-71-0405 What are the home and community programs?
- WAC 388-71-0410 What services may I receive under HCP?
- WAC 388-71-0415 What other services may I receive under the waiver-funded programs?
- WAC 388-71-0420 What services are not covered under HCP?
- WAC 388-71-0425 Who can provide HCP services?
- WAC 388-71-0430 Am I eligible for one of the HCP programs?
- WAC 388-71-0435 Am I eligible for COPES-funded services?
- WAC 388-71-0440 Am I eligible for MPC-funded services?
- WAC 388-71-0442 Am I eligible for medically needy residential waiver services?
- WAC 388-71-0445 Am I eligible for chore-funded services?

- WAC 388-71-0450 How do I remain eligible for services?
- WAC 388-71-0455 Can my services be terminated if eligibility requirements for HCP change?
- WAC 388-71-0460 Are there limitations to HCP services I can receive?
- WAC 388-71-0465 Are there waiting lists for HCP services?
- WAC 388-71-0470 Who pays for HCP services?
- WAC 388-71-0480 If I am employed, can I still receive HCP services?
- WAC 388-71-0600 What are residential services?
- WAC 388-71-0605 Am I eligible for residential services?
- WAC 388-71-0610 Who pays for residential care?
- WAC 388-71-0613 For what days will the department pay the residential care facility?
- WAC 388-71-0615 If I leave a hospital, residential facility, or nursing facility, are there resources available to help me find a place to live?
- WAC 388-71-0620 Am I eligible for a residential discharge allowance?
- WAC 388-71-0700 What are the requirements for nursing facility eligibility, assessment, and payment?
- WAC 388-71-0800 What is PACE?
- WAC 388-71-0805 What services does PACE cover?
- WAC 388-71-0810 Who provides these services?
- WAC 388-71-0815 Where are these services provided?
- WAC 388-71-0820 How do I qualify for Medicaid-funded PACE services?
- WAC 388-71-0825 What are my appeal rights?
- WAC 388-71-0830 Who pays the PACE provider?
- WAC 388-71-0835 How do I enroll into the PACE program?
- WAC 388-71-0840 How do I disenroll from the PACE program?
- WAC 388-71-0845 What are my rights as a PACE client?

PROPOSED

WAC 388-71-0900	What is the intent of WAC 388-71-0900 through 388-71-0960?	WAC 388-71-1030	What if I am not eligible to receive SCSA-funded services at no cost?
WAC 388-71-0905	What is private duty nursing (PDN) for adults?	WAC 388-71-1035	What are my rights under SCSA?
WAC 388-71-0910	Am I financially eligible for Medicaid-funded private duty nursing services?	WAC 388-71-1065	What is the purpose of the respite care program?
WAC 388-71-0915	Am I medically eligible to receive private duty nursing services?	WAC 388-71-1070	What definitions apply to respite care services?
WAC 388-71-0920	How is my eligibility determined?	WAC 388-71-1075	Who is eligible to receive respite care services?
WAC 388-71-0925	Am I required to pay participation toward PDN services?	WAC 388-71-1080	Who may provide respite care services?
WAC 388-71-0930	Are PDN costs subject to estate recovery?	WAC 388-71-1085	How are respite care providers reimbursed for their services?
WAC 388-71-0935	Who can provide my PDN services?	WAC 388-71-1090	Are participants required to pay for the cost of their services?
WAC 388-71-0940	Are there limitations or other requirements for PDN?	WAC 388-71-1095	Are respite care services always available?
WAC 388-71-0945	What requirements must a home health agency meet in order to provide and get paid for my PDN?	WAC 388-71-1100	What is volunteer chore services (VCS)?
WAC 388-71-0950	What requirements must a private RN or LPN meet in order to provide and get paid for my PDN services?	WAC 388-71-1105	Am I eligible to receive volunteer chore services?
WAC 388-71-0955	Can I receive PDN in a licensed adult family home (AFH)?	WAC 388-71-1110	How do I receive information on applying for volunteer chore services?
WAC 388-71-0960	Can I receive services in addition to PDN?		
WAC 388-71-0965	Can I choose to self-direct my care if I receive PDN?		
WAC 388-71-1000	What is the Senior Citizens Services Act?		
WAC 388-71-1005	Who administers the Senior Citizens Services Act funds?		
WAC 388-71-1010	What services does the SCSA fund?		
WAC 388-71-1015	How do I apply for SCSA-funded services?		
WAC 388-71-1020	Am I eligible for SCSA-funded services at no cost?		
WAC 388-71-1025	What income and resources are exempt when determining eligibility?		

**AMENDATORY SECTION** (Amending WSR 03-13-052, filed 6/12/03, effective 7/13/03)

**WAC 388-515-1540 Medically needy residential waiver (MNRW) effective March 17, 2003.** This section describes the financial eligibility requirements for waiver services under the medically needy residential waiver (MNRW) and the rules used to determine a client's responsibility in the total cost of care.

(1) To be eligible for MNRW, a client must meet the following conditions:

(a) Does not meet financial eligibility for Medicaid personal care or the COPES program;

(b) Is eighteen years of age or older;

(c) Meets the SSI related criteria described in WAC 388-511-1105(1);

(d) Requires the level of care provided in a nursing facility as described in WAC ((388-71-0700)) 388-106-0355;

(e) In the absence of waiver services described in WAC ((388-71-0410 and 388-71-0415)) 388-106-0400, would continue to reside in a medical facility as defined in WAC 388-513-1301, or will likely be placed in one within the next thirty days;

(f) Has attained institutional status as described in WAC 388-513-1320;

(g) Has been determined to be in need of waiver services as described in WAC ((~~388-71-0442~~)) 388-106-0410;

(h) Lives in one of the following department-contracted residential facilities:

- (i) Licensed adult family home (AFH);
- (ii) Assisted living (AL) facility; or
- (iii) Enhanced adult residential care (EARC) facility.

(i) Is not subject to a penalty period of ineligibility for the transfer of an asset as described in WAC 388-513-1364, 388-513-1365 and 388-513-1366; and

(j) Meets the resource and income requirements described in subsections (2) through (6).

(2) The department determines a client's nonexcluded resources under MNRW as described in WAC 388-513-1350 (1) through (4)(a) and WAC 388-513-1360;

(3) Nonexcluded resources, after disregarding excess resources described in (4), must be at or below the resource standard described in WAC 388-513-1350 (1) and (2).

(4) In determining a client's resource eligibility, the department disregards excess resources above the standard described in subsection (3) of this section:

(a) In an amount equal to incurred medical expenses such as:

- (i) Premiums, deductibles, and co-insurance/co-payment charges for health insurance and Medicare premiums;
- (ii) Necessary medical care recognized under state law, but not covered under the state's Medicaid plan; or
- (iii) Necessary medical care covered under the state's Medicaid plan.

(b) As long as the incurred medical expenses:

- (i) Are not subject to third-party payment or reimbursement;
- (ii) Have not been used to satisfy a previous spend down liability;
- (iii) Have not previously been used to reduce excess resources;
- (iv) Have not been used to reduce client responsibility toward cost of care; and
- (v) Are amounts for which the client remains liable.

(5) The department determines a client's countable income under MNRW in the following way:

- (a) Considers income available described in WAC 388-513-1325 and 388-513-1330 (1), (2), and (3);
- (b) Excludes income described in WAC 388-513-1340;
- (c) Disregards income described in WAC 388-513-1345;
- (d) Deducts monthly health insurance premiums, except Medicare premiums.

(6) If the client's countable income is:

(a) Less than the residential facility's department-contracted rate, based on an average of 30.42 days in a month the client may qualify for MNRW subject to availability per WAC ((~~388-71-0465~~)) 388-106-0435;

(b) More than the residential facility's department-contracted rate, based on an average of 30.42 days in a month the client may qualify for MNRW when they meet the requirements described in subsections (7) through (9), subject to availability per WAC ((~~388-71-0465~~)) 388-106-0435.

(7) The portion of a client's countable income over the department-contracted rate is called "excess income."

(8) A client who meets the requirements for MNRW chooses a three or six month base period. The months must be consecutive calendar months.

(9) A client who has or will have "excess income" is not eligible for MNRW until the client has medical expenses which are equal in amount to that excess income. This is the process of meeting "spenddown." The excess income from each of the months in the base period is added together to determine the total "spenddown" amount.

(10) Medical expenses described in subsection (4) of this WAC may be used to meet spenddown if not already used in subsection (4) of this WAC to disregard excess resources or to reduce countable income as described in subsection (5)(d).

(11) In cases where spenddown has been met, medical coverage begins the day services are authorized.

(12) The client's income that remains after determining available income in WAC 388-513-1325 and 388-513-1330 (1), (2), (3) and excluded income in WAC 388-513-1340 is paid towards the cost of care after deducting the following amounts in the order listed:

- (a) An earned income deduction of the first sixty-five dollars plus one-half of the remaining earned income;
- (b) Personal needs allowance (PNA) described in WAC 388-515-1505 (7)(b);
- (c) Medicare and health insurance premiums not used to meet spenddown or reduce excess resources;
- (d) Incurred medical expenses described in (4) not used to meet spenddown or reduce excess resources.

**AMENDATORY SECTION** (Amending WSR 04-16-029, filed 7/26/04, effective 8/26/04)

**WAC 388-515-1550 Medically needy in-home waiver (MNIW) effective May 1, 2004.** This section describes the financial eligibility requirements for waiver services under the Medically Needy In-home Waiver (MNIW) and the rules used to determine a client's responsibility in the total cost of care.

(1) To be eligible for MNIW, a client must:

- (a) Not meet financial eligibility for Medicaid personal care or the COPES program;
- (b) Be eighteen years of age or older;
- (c) Meet the SSI-related criteria described in WAC 388-475-0050(1);

(d) Require the level of care provided in a nursing facility as described in WAC ((~~388-71-0700~~)) 388-106-0355;

(e) In the absence of waiver services described in WAC ((~~388-71-0410 and 388-71-0415~~)) 388-106-0500, continue to reside in a medical facility as defined in WAC 388-513-1301, or will likely be placed in one within the next thirty days;

(f) Have attained institutional status as described in WAC 388-513-1320;

(g) Have been determined to be in need of waiver services as described in WAC ((~~388-71-0442~~)) 388-106-0510;

(h) Be able to live at home with community support services and choose to remain at home;

(i) Not be subject to a penalty period of ineligibility for the transfer of an asset as described in WAC 388-513-1364, 388-513-1365 and 388-513-1366; and

(j) Meet the resource and income requirements described in subsections (2) through (6) of this section.

(2) The department determines a client's nonexcluded resources under MNIW as described in WAC 388-513-1350 (1) through (4)(a) and 388-513-1360;

(3) Nonexcluded resources, after disregarding excess resources described in subsection (4) of this section, must be at or below the resource standard described in WAC 388-513-1350 (1) and (2).

(4) In determining a client's resource eligibility, the department disregards excess resources above the standard described in subsection (3) of this section:

(a) In an amount equal to incurred medical expenses such as:

(i) Premiums, deductibles, and co-insurance/co-payment charges for health insurance and Medicare premiums;

(ii) Necessary medical care recognized under state law, but not covered under the state's Medicaid plan; or

(iii) Necessary medical care covered under the state's Medicaid plan.

(b) As long as the incurred medical expenses:

(i) Are not subject to third-party payment or reimbursement;

(ii) Have not been used to satisfy a previous spenddown liability;

(iii) Have not previously been used to reduce excess resources;

(iv) Have not been used to reduce client responsibility toward cost of care; and

(v) Are amounts for which the client remains liable.

(5) The department determines a client's countable income under MNIW in the following way:

(a) Considers income available described in WAC 388-513-1325 and 388-513-1330 (1), (2), and (3);

(b) Excludes income described in WAC 388-513-1340;

(c) Disregards income described in WAC 388-513-1345;

(d) Deducts monthly health insurance premiums, except Medicare premiums, not used to reduce excess resources in subsection (4) of this section;

(e) Allows an income deduction for a nonapplying spouse, equal to the one person medically needy income level (MNIL) less the nonapplying spouse's income, if the nonapplying spouse is living in the same home as the applying person.

(6) A client whose countable income exceeds the MNIL may become eligible for MNIW:

(a) When they have or expect to have medical expenses to offset their income which is over the MNIL; and

(b) Subject to availability in WAC ((388-71-0465)) 388-106-0535.

(7) The portion of a client's countable income over the MNIL is called "excess income."

(8) A client who has or will have "excess income" is not eligible for MNIW until the client has medical expenses which are equal in amount to that excess income. This is the process of meeting "spenddown." The excess income from each of the months in the base period is added together to determine the total "spenddown" amount.

(9) The following medical expenses may be used to meet spenddown if not already used in subsection (4) of this section to disregard excess resources or to reduce countable income as described in subsection (5)(d) of this section:

(a) An amount equal to incurred medical expenses such as:

(i) Premiums, deductibles, and co-insurance/co-payment charges for health insurance and Medicare premiums;

(ii) Necessary medical care recognized under state law, but not covered under the state's Medicaid plan; and

(iii) Necessary medical care covered under the state's Medicaid plan.

(b) The cost of waiver services authorized during the base period.

(c) As long as the incurred medical expenses:

(i) Are not subject to third-party payment or reimbursement;

(ii) Have not been used to satisfy a previous spenddown liability;

(iii) Have not been used to reduce client responsibility toward cost of care; and

(iv) Are amounts for which the client remains liable.

(10) Eligibility for MNIW is effective the first full month the client has met spenddown.

(11) In cases where spenddown has been met, medical coverage and MNIW begin the day services are authorized.

(12) A client who meets the requirements for MNIW chooses a three or six month base period. The months must be consecutive calendar months.

(13) The client's income that remains after determining available income in WAC 388-513-1325 and 388-513-1330 (1), (2), (3) and excluded income in WAC 388-513-1340 is paid towards the cost of care after deducting the following amounts in the order listed:

(a) An earned income deduction of the first sixty-five dollars plus one-half of the remaining earned income;

(b) Personal needs allowance (PNA) in an amount equal to the one-person MNIL described in WAC 388-478-0070 (1)(a);

(c) Medicare and health insurance premiums not used to meet spenddown or reduce excess resources;

(d) Incurred medical expenses described in subsection (4) of this section not used to meet spenddown or reduce excess resources.

**WSR 05-05-034**

**PROPOSED RULES**

**SECRETARY OF STATE**

[Filed February 10, 2005, 3:23 p.m.]

Original Notice.

Exempt from preproposal statement of inquiry under 04-10-066.

Title of Rule and Other Identifying Information: Certification and testing of voting systems, defines the process for certifying and decertifying voting systems in Washington state. Includes rules pertaining to tests of the voting systems prior to acceptance of a new voting system or modification of an existing system as well as the logic and accuracy tests required before every election.

Hearing Location(s): 520 East Union, Conference Room, Olympia, WA 98504, on March 25, 2004 [2005], at 2:00 p.m.

Date of Intended Adoption: April 19, 2005.

Submit Written Comments to: Paul Miller, P.O. Box 40237, Olympia, WA 98504, e-mail pmiller@sec-state.wa.gov, fax (360) 664-2671, by March 24, 2005.

Assistance for Persons with Disabilities: Contact Paul Miller by March 17, 2005, TTY (800) 422-8683.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Updates the process for certifying voting systems in Washington state, including:

- Clarifies that the Secretary of State makes the determination whether modifications to a previously certified voting system require a recertification or approval.
- References new federal guidelines and testing for voting systems.
- Adds rules for testing new types of voting equipment.
- Modifies rules governing current certification process.

Replaces chapter 434-333 WAC with chapter 434-335 WAC.

Reasons Supporting Proposal: New federal law (Help America Vote Act of 2002) requires the use of disability access devices at each poll site. As counties move to these electronic systems, new procedures for testing are needed in WAC.

Statutory Authority for Adoption: RCW 29A.04.611.

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

Name of Proponent: Office of the Secretary of State, governmental.

Name of Agency Personnel Responsible for Drafting: Paul Miller/Pam Floyd, 520 East Union, (360) 725-5783; Implementation and Enforcement: Paul Miller, 520 East Union, (360) 725-5783.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Changes to WAC do not have any cost impact on small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. Changes have no impact on costs.

February 10, 2005

Steven Excell

Assistant Secretary of State

**REPEALER**

The following chapter of the Washington Administrative Code is repealed:

- WAC 434-333-010 Certification of vote tallying equipment.
- WAC 434-333-015 Application for certification.
- WAC 434-333-020 Additional information and equipment required.
- WAC 434-333-025 Vendor deposit for examination expenses.

- WAC 434-333-030 Examination of equipment.
- WAC 434-333-035 Public hearing.
- WAC 434-333-040 Issuance of certification.
- WAC 434-333-045 Modification of certified equipment, guidelines for reexamination.
- WAC 434-333-050 Application for certification or examination of modified voting systems or devices.
- WAC 434-333-055 Acceptance testing of voting systems and equipment.
- WAC 434-333-060 Inclusion of the federal election commission standards for voting equipment.
- WAC 434-333-063 Definition of official logic and accuracy test.
- WAC 434-333-065 Logic and accuracy test conduct.
- WAC 434-333-070 Logic and accuracy test observers.
- WAC 434-333-075 Logic and accuracy testing of voting systems and equipment—State primary and general election.
- WAC 434-333-082 Procedure for conduct of delayed primary or general election emergency logic and accuracy test.
- WAC 434-333-085 Logic and accuracy test scheduling and preparation—State primary and general election.
- WAC 434-333-090 Logic and accuracy test certification—State primary and general election.
- WAC 434-333-095 Logic and accuracy testing of voting systems and equipment—Special elections.
- WAC 434-333-100 Logic and accuracy test deck preparation—Special elections.
- WAC 434-333-105 Logic and accuracy test scheduling and preparation—Special election.
- WAC 434-333-110 Logic and accuracy test certification—Special election.
- WAC 434-333-120 Logic and accuracy test preparation—State primary and general election—Punchcard systems.

PROPOSED



WAC 434-333-125	Punchcard test deck maintenance and storage.
WAC 434-333-127	Punchcard adjustment standards and tests.
WAC 434-333-130	Punchcard test precinct selection—State primary and general elections.
WAC 434-333-135	Punchcard testing requirements prior to official logic and accuracy test.
WAC 434-333-140	Definitions.
WAC 434-333-145	Logic and accuracy test deck preparation—State primary and general election—Optical scan systems.
WAC 434-333-150	Optical scan test ballot selection—State primary and general elections.
WAC 434-333-155	Optical scan read head adjustment standards and tests.
WAC 434-333-160	Optical scan read head and ballot scan area alignment tests.
WAC 434-333-165	Optical scan ballot marking code program test.
WAC 434-333-170	Precinct-based optical scan ballot counter preparation and testing.
WAC 434-333-175	Poll site-based optical scan ballot counter test notices, observers, and log of process.

### Chapter 434-335 WAC

#### ELECTRONIC VOTING REQUIREMENTS

##### NEW SECTION

**WAC 434-335-010 Certification of vote tallying equipment.** All voting systems, voting devices, and vote tallying systems must be certified and approved by the secretary of state before they can be used in Washington state. In order for a system to be certified in Washington state, it must meet the applicable federal standards, must comply with Washington state law, and must be certified and in use in at least one other state.

##### NEW SECTION

**WAC 434-335-020 Voting systems review board.** Certification reviews and recommendations may be made to the secretary of state by the voting systems review board. The voting systems review board will include independent expert(s) in computer science or information technology, rec-

ognized expert(s) in election administration, and representative(s) of the public at large. The members of the review board will be appointed to a two-year term by the secretary of state beginning in January 2005. The duties of the voting systems review board will include, but not be limited to: Reviewing the application (ref. WAC 434-335-090); chairing the public hearing (WAC 434-335-100); and making recommendations on the application to the secretary of state (WAC 434-335-110).

##### NEW SECTION

**WAC 434-335-030 Initial application for certification.** Any person or corporation (applicant) owning or representing a voting system or a vote tabulating system, part of a system, equipment, materials or procedure may apply in writing to the secretary of state for certification between December 1st and May 30th each year. Certification examinations and hearings will only be performed in the period between January 1st and July 15th of each year. The application shall include at least the following information:

- (1) Information about the vendor, business address, customer references, and list of election products.
- (2) Information about the product that is being reviewed, version numbers, release numbers, operating and maintenance manuals, training materials, technical and operational specifications.
- (3) Documentation of all other states that have tested, certified and used the equipment in a binding election. The information included should state how long the system has been used in the state and must include version numbers of the operating system, software, and firmware in use, date and jurisdiction of use in a binding election and must disclose any reports compiled by state or local government concerning the performance of the system.
- (4) A monetary deposit as described in WAC 434-335-080.
- (5) A copy of a letter from the applicant, to each independent testing authority (ITA), which:
  - (a) Directs the ITA to send a copy of the completed ITA qualification report to the secretary of state;
  - (b) Authorizes the ITA to discuss testing procedures and findings with the secretary of state; and
  - (c) Authorizes the ITA to allow the secretary of state to review all records of any qualification testing conducted on the voting system or its components.
- (6) A technical data package (TDP) conforming to the 2002 *FEC Federal Voting Systems Standards (FVSS)*, Vol. II, Sec. 2 standards that includes:
  - (a) Identification of all COTS hardware and software products and communications services used in the operation of the voting system (ref. FVSS, 2.2.1.e).
  - (b) System functionality description (ref. FVSS, 2.3).
  - (c) System security specification (ref. FVSS, 2.6).
  - (d) System operations procedures (ref. FVSS, 2.8).
  - (e) System maintenance procedures (ref. FVSS, 2.9).
  - (f) Personnel deployment and training requirements (ref. FVSS, 2.10).
  - (g) Configuration management plan (ref. FVSS, 2.11).
  - (h) System change notes (if applicable, ref. FVSS, 2.13).

PROPOSED

(i) System change list, if any, of modifications currently in development.

(j) System usability testing report.

(7) The source code of an electronic voting system must be placed in escrow in the state of Washington and be accessible by the secretary of state under prescribed conditions allowing source code review for system verification.

(8) Identification of all documents, or portions of documents, containing proprietary information not approved for public release. The secretary of state shall agree to use proprietary information solely for the purpose of analyzing and testing the system, and shall agree to refrain from otherwise using the proprietary information or disclosing it to any other person or agency without the prior written consent of the vendor, to the extent permitted by law unless disclosure is legally compelled.

#### NEW SECTION

**WAC 434-335-040 Voting system requirements.** No voting device or its component software may be certified by the secretary of state unless it:

(1) Secures to the voter secrecy in the act of voting;

(2) Permits the voter to vote for any person for any office and upon any measure that he or she has the right to vote for;

(3) Permits the voter to vote for all the candidates of one party or in part for the candidates of one or more other parties;

(4) Correctly registers all votes cast for any and all persons and for or against any and all measures;

(5) Provides that a vote for more than one candidate cannot be cast by one single operation of the voting device or vote tally system except when voting for president and vice-president of the United States;

(6) Beginning on January 1, 2006, a poll site-based electronic voting system, at the time of voting, produces a machine countable paper record for each vote that may be reviewed by any voter before finalizing his or her vote as a part of the voting process;

(7) The paper record of each electronic vote may not be removed by the voter, but may be accepted or rejected. If the device is programmed to display the ballot in multiple languages, the paper record produced must be printed in the language used by each voter;

(8) Except for functions or capabilities unique to this state, has been tested and approved by the appropriate independent testing authority approved by the federal election assistance commission or its statutory successor;

(9) Correctly counts votes on ballots on which the proper number of votes have been marked for any office or issue;

(10) Ignores votes marked for any office or issue where more than the allowable number of votes have been marked, but correctly counts the properly voted portions of the ballot;

(11) Accumulates a count of the specific number of ballots tallied for each precinct, total votes by candidate for each office, and total votes for and against each issue of the ballot in that precinct;

(12) Produces precinct and cumulative totals in printed form;

(13) Ballot counting systems must be secured physically and electronically against unauthorized access;

(14) Ballot counting systems must not be connected to, or operated on, any electronic network including, but not limited to, internal office networks, the internet, or the world wide web;

(15) A network may be used as an internal, integral part of the ballot counting system but that network must not be connected to any other network, the internet, or the world wide web;

(16) Wireless communications may not be used in any way in a ballot counting system;

(17) All elements of the ballot counting systems must be capable of being secured with lock and seal when not in use;

(18) Transfer of information from a remote ballot counting system may be made by telephonic transmission only after the creation of disk, paper tape, or other physical means of communication;

(19) All electronic voting systems must meet Washington state disability access standards;

(20) All electronic voting systems software in escrow must be the identical system software to the software tested and certified by the federal independent testing authority and installed in the county. The vendor must escrow both the human-readable source code and the working or compiled version. The software may be verified by matching the system's digital software signatures with the digital signatures the elections assistance commission has on file, when available.

#### NEW SECTION

**WAC 434-335-050 Closing an incomplete application.** Upon receipt of an application, the secretary of state shall examine the application for completeness. If the application is not complete, the secretary of state shall notify the applicant in writing within thirty days of the information required to complete the application. The secretary of state will deem the application to be closed, if thirty days after notifying the vendor in writing of an incomplete application, the secretary of state has not received all information requested from the vendor. Closure of an application shall not prevent the applicant from submitting a new application to the secretary of state.

#### NEW SECTION

**WAC 434-335-060 Examination of equipment.** Secretary of state staff will initiate an examination of the vendor's equipment after receiving a completed application and a working model of the equipment and software to be reviewed. The examination consists of a series of functional application tests designed to insure that the system or equipment meets all applicable federal guidelines, and state law and rules. The examination may include an additional independent testing authority test at the discretion of the secretary of state. The examination shall include the set-up and conduct of two mock elections. The vendor shall provide ballot materials and programming to create these elections. The independent testing authority will provide the voting system software they tested directly to the secretary of state.

(1) The first election shall replicate an even year general and include PCO contests.

(2) The second election shall replicate an odd year primary and include the use of split precincts.

Both elections shall feature at least ten precincts with at least ten ballots in each precinct. The tests must include ballots of various ballot codes, including multiple candidates, cumulative reports, precinct reports, and canvass reports, as detailed in the test plan provided by the secretary of state.

#### NEW SECTION

**WAC 434-335-070 Additional information and equipment required.** The vendor shall provide a working model of the equipment that is being reviewed to the secretary of state for the duration of the examination. The secretary of state may, at the expense of the vendor, contract with independent testing authorities or laboratories, experts in mechanical engineering, electrical engineering, or data processing while examining the equipment.

#### NEW SECTION

**WAC 434-335-080 Vendor deposit for examination expenses.** The vendor shall pay the secretary of state a deposit to reimburse the cost of any contract for consultation or any other unrecoverable costs associated with the examination of a voting system or component.

#### NEW SECTION

**WAC 434-335-090 Elements to be considered in the review of an application.** Upon completion of the examination by the secretary of state staff, the voting systems review board shall evaluate the application. This evaluation shall include, but is not limited to:

(1) A review of *Revised Code of Washington* sections which address the application (chapter 29A.40 RCW);

(2) A review of applicable federal standards which address the application;

(3) A copy of the approved qualification test results released directly to the secretary of state by the federally approved independent testing authority (ITA);

(4) A review, if applicable, of reports or other materials from prior hearings on the proposed system, procedure, or modification either in whole or in part;

(5) A review of the report produced by the secretary of state staff subsequent to the examination of the voting system;

(6) A review, if applicable, of any procedures manuals, guidelines or other materials adopted for use with the system addressed by the application;

(7) A review of any effect the application will have on the security of the voting system;

(8) A review of any effect the application will have on the accuracy of the voting system;

(9) A review of any effect the application will have on the ease and convenience with which voters use the system;

(10) A review of any effect the application will have on the timeliness of vote reporting; and

(11) A review of any effect the application will have on the overall efficiency of the voting system.

#### NEW SECTION

**WAC 434-335-100 Public hearing.** The public hearing will be scheduled at the convenience of the secretary of state. At the hearing the vendor will be expected to demonstrate the equipment and explain its function. The vendor will be available to answer questions from the voting systems review board as well as any other persons in attendance. The vendor may be asked to submit answers in writing if the voting systems review board is not satisfied with the completeness of answers given at the hearing.

#### NEW SECTION

**WAC 434-335-110 Voting systems review board report.** In its report to the secretary of state subsequent to its review of the voting system and public hearing, the voting systems review board may recommend for or against certification of the voting system being examined. The board may also recommend conditions or any procedures to be required with the purchase and deployment of the voting system in this state.

#### NEW SECTION

**WAC 434-335-120 Certification may be conditioned.** Any certification may contain additional requirements of one or more actions or procedures, as determined by the review of the application and equipment.

#### NEW SECTION

**WAC 434-335-130 Issuance of certification.** After reviewing the voting systems review board report and the recommendations of the secretary of state staff, the secretary of state will issue a certification of the system provided that he/she determines that the system meets all of the state requirements for certification. The certification will include any conditions and procedures that the secretary of state deems necessary for the system to comply with Washington state law and practice. Notification of certification will be sent by the secretary of state to all counties within thirty days of the issuance of certification.

#### NEW SECTION

**WAC 434-335-140 Failure to meet certification requirements.** If the secretary of state determines that the system fails to meet any of the requirements for certification, the vendor will be notified and given thirty days to submit an improved version of the system. The improved version will be tested as if it had not been seen by the office of the secretary of state before.

#### NEW SECTION

**WAC 434-335-150 Modification of certified equipment.** After a voting system is certified, any improvements

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or changes to the system must be submitted to the secretary of state for approval. The secretary of state will determine if the modifications require a recertification of the system or may be approved administratively.

#### NEW SECTION

**WAC 434-335-160 Modification of certified equipment, guidelines for administrative approval.** The secretary of state may approve an application for modification of certified equipment administratively where he or she determines that the application does not:

- (1) Materially affect the lawful conduct, accuracy, efficiency, capacity or security of elections;
- (2) Materially affect the convenience to the voter of the elections process; or
- (3) Otherwise result in significant modification to existing procedures as used in Washington in extending the equipment's functionality.

An application approved administratively will not require examination or review by the voting systems review board.

#### NEW SECTION

**WAC 434-335-170 Application for administrative approval of modified voting systems or devices.** The application for review of a modification of an existing certified system shall include at least the following information:

- (1) Information about the vendor.
- (2) Information about the product that is being reviewed, version numbers, and release numbers. The application must also highlight all changes to the operating and maintenance manuals, training materials, and technical and operational specifications required by the modifications being reviewed to completely update them to the current version.
- (3) The vendor shall include certification documents for all other states that have certified the equipment with the modifications.
- (4) The vendor shall provide reports for all tests conducted, on the product modification(s) being reviewed for certification, by any independent testing authority or laboratory. The independent authority must meet the criteria established by the election assistance commission for such agents.
- (5) The vendor shall provide documentation proving that the product with the modification(s) meets the applicable federal voting equipment guidelines.
- (6) A document prepared by the vendor that describes in complete operational and technical detail all differences between the previously certified equipment or system and the modified equipment or system.
- (7) A monetary deposit as described in WAC 434-335-080.

#### NEW SECTION

**WAC 434-335-180 Recertification of modified voting systems or devices.** If the system, or its components, is found to be sufficiently modified under the guidelines of WAC 434-335-160 that it requires an examination of the equipment by the voting systems review board and a public hearing, the

secretary of state will notify the applicant in writing that the applicant must initiate the certification process outlined in WAC 434-335-030 through 434-335-130.

#### NEW SECTION

**WAC 434-335-190 Restricted period.** No modification, change, or other alteration to voting or vote tabulating material, equipment, or component shall receive administrative approval or certification from July 15th until December 31st.

#### NEW SECTION

**WAC 434-335-200 Emergency approval.** Emergency approval for modifications of an existing voting or vote tabulating system, or equipment may be obtained from the secretary of state during the restricted period if failure to modify the system will materially affect the lawful conduct, efficiency, accuracy, or security of the upcoming election.

#### NEW SECTION

**WAC 434-335-210 Application information for emergency approval.** During the restricted period, an applicant may apply in writing to the secretary of state for emergency approval of a modification of an existing certified system. The application must include a complete description of all modifications to the system that are required. The application must also include a description of how failure to modify the system will materially affect the lawful conduct, efficiency, accuracy, or security of the upcoming election. If the secretary of state determines that an emergency situation exists after a review of the application, the examination, and testing of proposed modifications will be expedited by the secretary of state to meet the needs of the upcoming election. The emergency approval will waive the requirement that the modifications be certified by the national ITA pending final approval.

#### NEW SECTION

**WAC 434-335-220 Final approval.** The applicant must submit an application that incorporates a permanent fix to the problem covered by the emergency approval in time to be approved under the normal application guidelines (ref. WAC 434-335-150) the following year. This application will be reviewed under the application guidelines (ref. WAC 434-335-160).

#### NEW SECTION

**WAC 434-335-230 Judicial review of agency action.** Any of the following decisions entered pursuant to this chapter are final decisions of the secretary of state as to which no further review by the agency is available, subject to judicial review pursuant to chapter 34.05 RCW:

- (1) The issuance or denial of certification pursuant to WAC 434-335-130;
- (2) The issuance or denial of administrative approval of a modification pursuant to WAC 434-335-160;

- (3) The issuance or denial of recertification of a modified system or component pursuant to WAC 434-335-180; and  
 (4) A final order entered pursuant to WAC 434-335-220.

#### NEW SECTION

**WAC 434-335-240 Acceptance testing of voting systems and equipment.** Whenever a county acquires a new system or an upgrade to an existing system that has been certified by the secretary of state, the county must perform acceptance tests of the equipment before it may be used to count votes at any election. The equipment must be operating correctly, pass all tests and must be substantially the same as the equipment certified by the secretary of state. The minimum testing standards are described as follows:

- (1) The model number, version number, release number, and any other number, name or description that identifies the product must be the same as the identifying numbers for the product that has been certified by the secretary of state.  
 (2) The county must receive all manuals, and training necessary for the proper operation of the system.  
 (3) The county shall perform a series of functional and programming tests that will test all functions of the ballot counting system. This must include processing a substantial number of test ballots of various ballot codes, including split precincts, rotated races, multiple candidates, precinct committee officer races, cumulative reports, precinct reports, canvass reports, and any other tests the county elections authority finds necessary.  
 (4) The county auditor shall certify the results of acceptance testing to the secretary of state, including version numbers of hardware, software, and firmware installed and tested.

#### NEW SECTION

**WAC 434-335-250 Inclusion of the Federal Election Commission standards for voting equipment.** The 2002 election assistance commission standards concerning voting systems and software escrow are hereby included by reference except where otherwise modified by these rules and the *Revised Code of Washington*. After January 1, 2006, in order to get administrative approval of modifications to systems currently certified under 1990 standards, the entire voting system must be tested and approved under the 2002 standards.

#### NEW SECTION

**WAC 434-335-260 Decertification of voting systems and vote tabulating systems.** (1) The secretary of state may decertify a voting system or vote tabulating system or any component thereof and withdraw authority for its future use or sale in Washington if, at any time after certification:

- (a) He or she determines that the system or component fails to meet the standards set forth in applicable federal guidelines, and state law and rule, including, but not limited to, this chapter; or  
 (b) He or she determines that the system or component was materially misrepresented in the certification application; or

(c) He or she determines that the vendor has installed unauthorized modifications to the certified software or hardware.

(2) The secretary of state shall provide notice of intent to decertify in writing to the original applicant for certification of the system or component or successor (if known), and to all county auditors, and shall also post it to the secretary's website. The notice shall specify the reasons why the certification of the system may be rescinded. The applicant or successor or any county auditor may, within thirty days after the issuance of the notice, file with the secretary a written explanation as to why the system or component should not be decertified. After reviewing the explanation the secretary may either discontinue the decertification process (in which case the system or component remains certified) or schedule the matter for hearing pursuant to subsection (3) of this section. If no explanation is timely filed, the secretary may either discontinue the decertification process or issue a final order pursuant to subsection (4) of this section. The secretary may extend or shorten the time of filing of a written explanation under this paragraph for good cause.

(3) A decertification proceeding shall constitute an adjudicative proceeding pursuant to chapter 34.05 RCW.

(a) The secretary of state adopts the model rules of procedure as set forth in chapter 10-08 WAC, except as they may be inconsistent with this chapter. The proceeding may be conducted as an emergency adjudicative proceeding pursuant to RCW 34.05.479 if the secretary of state finds that immediate action is required to preserve the integrity of the electoral process.

(b) The secretary of state shall designate the presiding officer.

(c) The certification remains valid pending resolution of the administrative proceeding, unless the secretary of state finds, following notice and opportunity for written or oral input (which may be expedited), that the public interest requires that the decertification should take effect on a temporary basis pending hearing.

(d) The argument in favor of decertification may be presented by an employee of the secretary of state or by an assistant attorney general. Other parties may be represented by a certified election administrator or by any person permitted to appear by WAC 434-180-560.

(4) The presiding officer or secretary shall enter an order specifying the system or component at issue, whether or not it is decertified, the effective date of any decertification, and explain the basis for the decision. The effective date of decertification shall not be less than five days after the entry of the order, but may be delayed to any reasonable date. An order issued by the secretary pursuant to subsection (2) of this section is a final order. An order issued by the presiding officer shall be regarded as an initial order unless the secretary of state assistant, secretary of state deputy, secretary of state, or director of elections presides, in which case the decision of the presiding officer shall be final and no further review is available within the agency.

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NEW SECTION

**WAC 434-335-270 Definition of official logic and accuracy test.** As used in this chapter, "official logic and accuracy test" means the test performed in accordance with RCW 29A.12.130.

NEW SECTION

**WAC 434-335-280 Logic and accuracy test conduct.** The county shall provide adequate personnel to properly operate the ballot counting equipment. Whenever possible, the equipment should be operated during the test by the same person(s) who will be responsible for the ballot count on election day. If any error in programming or mechanical function is detected, the cause shall be determined and corrected, and an errorless test completed before the primary or election.

NEW SECTION

**WAC 434-335-290 Logic and accuracy test observers.** The official logic and accuracy test shall be observed by at least one representative of each major political party, if representatives have been appointed by the parties and are present at the test. The party observers shall be instructed as election observers by the county auditor. The official logic and accuracy test shall be open to candidates, the press, and the public. If any observer hinders or disturbs the logic and accuracy test process, the county auditor or representative may remove that observer from the test area. An observer who has been removed from a logic and accuracy test may also be barred from future tests. The absence of observers shall not delay or stop the test from being conducted.

NEW SECTION

**WAC 434-335-300 Logic and accuracy testing of voting systems and equipment—State primary and general election.** At least three days before each state primary or general election the office of the secretary of state shall provide for a test of the programming for the vote tallying system to be used at that primary or election. The test should verify that the system will correctly count the votes cast for all candidates and all measures appearing on the ballot. The test shall also verify that the machine(s) is/are functioning to specifications.

NEW SECTION

**WAC 434-335-310 Procedure for conduct of delayed primary or general election emergency logic and accuracy test.** If the official logic and accuracy test cannot be completed at the scheduled time and place, an emergency test shall be scheduled by the county auditor. The emergency test must be conducted and properly completed prior to the processing of any official ballots through the tabulating system. If no representative of the office of the secretary of state is able to attend the emergency test, the county auditor and another member of the county canvassing board or their designated representative shall observe the test and certify the

results. Observers and notification shall be provided for pursuant to WAC 434-335-290 and 434-335-320.

NEW SECTION

**WAC 434-335-320 Logic and accuracy test scheduling and preparation—State primary and general election.** Prior to each state primary and general election, the office of the secretary of state will prepare a schedule of logic and accuracy tests. The office of the secretary of state will notify each county of the date and time of their test at least thirty days before the primary or election. The county is responsible for preparing the counting system and testing it before the actual logic and accuracy test. The ballot counting system shall be fully programmed, cleaned, maintained, tested, and functional before the official logic and accuracy test. The county shall notify the parties, the press, the public, and the candidates of the date and time of the test.

NEW SECTION

**WAC 434-335-330 Logic and accuracy test certification—State primary and general election.** The county auditor or deputy, the office of the secretary of state representative, and any political party observers shall certify that the test has been conducted in accordance with RCW 29A.12.-130. This certification shall include verification of the version number of all software, firmware, and hardware of the voting system used. Copies of this certification shall be retained by the secretary of state and the county auditor and may be posted by electronic media. All programming materials, test results, and test ballots shall be securely sealed until the day of the primary or election. These items may be sealed and stored separately.

If, for any reason, any changes are made to the ballot counting programming after the official logic and accuracy test, an emergency logic and accuracy test must be conducted pursuant to WAC 434-335-310.

NEW SECTION

**WAC 434-335-340 Logic and accuracy testing of voting systems and equipment—Special elections.** At least three days before each special election, the programming for the vote tallying system to be used at that election shall be tested for logic and accuracy. The test should verify that the system will correctly count the votes cast for all candidates and all measures appearing on the ballot. The test shall be conducted by processing a preaudited group of ballots, marked with a predetermined number of votes, for each candidate and for or against each measure. For each office where there are two or more candidates and for each measure there will be an undervote and overvote.

NEW SECTION

**WAC 434-335-350 Logic and accuracy test deck preparation—Special elections.** When a new test deck is required under WAC 434-335-480, the test deck or decks used for the official logic and accuracy test will be prepared by the county auditor.

NEW SECTION

**WAC 434-335-360 Logic and accuracy test scheduling and preparation—Special election.** The county auditor is responsible for preparing the counting system and testing it before the official logic and accuracy test. The ballot counting system shall be fully programmed, cleaned and maintained, tested, and functional before the official logic and accuracy test. The county shall notify the parties, the press, the public, and the candidates of the date and time of the official logic and accuracy test.

NEW SECTION

**WAC 434-335-370 Logic and accuracy test certification—Special election.** The county auditor or deputy, and any political party observers present shall certify that the test has been conducted in accordance with RCW 29A.12.130. Copies of this certification shall be retained by the county auditor. All programming materials, official test results, and test ballots shall be securely sealed until the day of the primary or election. These items may be sealed and stored separately.

If, for any reason, any changes are made to the ballot counting programming after the official logic and accuracy test, an emergency logic and accuracy test must be conducted pursuant to WAC 434-335-310.

**PUNCHCARD SYSTEMS**NEW SECTION

**WAC 434-335-380 Logic and accuracy test preparation—State primary and general election—Punchcard systems.** The test deck or decks used for the official logic and accuracy test are maintained by the county auditor. Information describing the candidates, offices, ballot formats, ballot positions, pages applicable or planning matrix, accurate list of prepunches, list of the number of appearances of each office, and all other information required to select the test precincts and predict the results must be available to the office of the secretary of state at the very latest by the 20th day prior to the primary or election. If a county is delayed, the county should advise the office of the secretary of state before the 20th day prior to the primary or election.

NEW SECTION

**WAC 434-335-390 Punchcard test deck maintenance and storage.** Each county employing a punchcard balloting system shall maintain a permanent deck of logic and accuracy test ballots. The test ballots shall contain a distinct pattern of votes. The deck may be used for all official logic and accuracy tests and for programming tests conducted in preparation for official logic and accuracy tests. The permanent test deck shall be maintained in secure storage except when being used for actual testing.

NEW SECTION

**WAC 434-335-400 Punchcard adjustment standards and tests.** Prior to all official logic and accuracy tests, a test must be conducted by each county employing a punchcard balloting system to confirm the ballot stock to be used in the election meets system specifications for card weight, thickness and length. The test should also confirm that the prepunches and voting response areas are being read properly by the ballot counter.

NEW SECTION

**WAC 434-335-410 Punchcard test precinct selection—State primary and general elections.** Prior to the official logic and accuracy test the office of the secretary of state shall review the election materials provided by the county and select a representative sample of precincts and ballot styles sufficient to cover all offices and issues contained in the election. The representative sample shall constitute the official logic and accuracy test. This provision does not limit the ability of the office of the secretary of state to conduct a complete test of every precinct if conditions warrant.

NEW SECTION

**WAC 434-335-420 Punchcard testing requirements prior to official logic and accuracy test.** Prior to the official logic and accuracy test, each county employing a punchcard balloting system shall thoroughly test all programming and system components. The test must at least verify the office programming by thoroughly testing each individual office, test the ballot style logic to insure that all offices are included in the intended precincts and combinations, and verify that the program is accumulating all offices. The county auditor or deputy shall certify that these tests have been completed prior to the official logic and accuracy test.

**OPTICAL SCAN SYSTEMS**NEW SECTION

**WAC 434-335-430 Definitions.** For optical scan voting systems:

(1) "Voting response area" means the area defined by ballot instructions on which the voter places their mark to indicate their vote.

(2) "Scanning area" means the portions of each ballot that the system scans in order to read the vote marks made by voters.

(3) "Ballot marking code" means the coded patterns printed on ballots intended to identify ballot styles to the ballot counting system.

NEW SECTION

**WAC 434-335-440 Logic and accuracy test deck preparation—State primary and general election—Optical scan systems.** The test deck or decks used for the official logic and accuracy test for optical scan systems may, at the

discretion of the secretary of state, be prepared by either the office of the secretary of state, the county, or the vendor. Information describing the candidates, offices, ballot formats, ballot positions, ballot styles, list of the number of appearances of each office, and all other information required to create the test decks must be available to the office of the secretary of state by the 20th day prior to the primary or election. If a county is delayed, the county should advise the office of the secretary of state before the 20th day prior to the primary or election.

#### NEW SECTION

**WAC 434-335-450 Optical scan test ballot selection—State primary and general elections.** Prior to the official logic and accuracy test the office of the secretary of state shall review the provided election materials with the county and select a representative sample of ballot styles sufficient to cover all offices and issues contained in the election. This representative sample shall constitute the official logic and accuracy test. This provision does not limit the ability of the office of the secretary of state to conduct a complete test of every precinct if conditions warrant. If the office of the secretary of state is preparing the test deck, the county auditor shall send blank ballots of the selected ballot styles to the office of the secretary of state as soon as the ballots are available.

#### NEW SECTION

**WAC 434-335-460 Optical scan read head adjustment standards and tests.** Prior to all primaries and elections, read heads of optical scan central counting systems shall be cleaned and tested to insure that the reader is functioning within system standards.

#### NEW SECTION

**WAC 434-335-470 Optical scan read head and ballot scan area alignment tests.** Prior to all official logic and accuracy tests, a test shall be conducted by each county employing an optical scan balloting system to confirm that the voting response areas printed on all ballot faces are aligned properly with the scanning area of the ballot counter. This test should also confirm that all ballot marking codes are being properly interpreted by the ballot counter.

#### NEW SECTION

**WAC 434-335-480 Optical scan ballot marking code program test.** Prior to the official logic and accuracy test each county employing an optical scan balloting system shall thoroughly test all programming and system components. The test must at least verify the office programming by thoroughly testing each individual office, testing the ballot style logic to insure that all offices are included on the intended ballot faces, and verify that the program is accumulating all offices. The county auditor or deputy shall certify that these tests have been completed prior to the official logic and accuracy test.

## POLL SITE-BASED OPTICAL SCAN DEVICES

### NEW SECTION

**WAC 434-335-490 Poll site-based optical scan ballot counter preparation and testing.** All logic and accuracy testing of poll site-based systems shall be performed by the county during the preparation of the poll site ballot counters prior to system distribution. As each ballot counter is programmed and set up for distribution a test of the ballot counter and ballot styles shall be performed. It shall be established by these tests that the ballot counter(s) are functioning within system standards. All ballot styles programmed for each machine shall be processed by each machine in order to insure that the machine is correctly counting and accumulating every office. The tests shall also establish that the printed ballot voter response areas are correctly aligned with the scanning area. After all tests are performed and the machine is ready for distribution, the machine shall be sealed and the seal number recorded. This will serve as the official logic and accuracy test of these poll site ballot counters.

### NEW SECTION

**WAC 434-335-500 Poll site-based optical scan ballot counter test notices, observers, and log of process.** A log shall be created during the testing of the poll site-based ballot counters. The log shall record the time and place of each test, the precinct number(s), seal number and machine number of each ballot counter and the initials of each person testing and observing the test for each machine. This log shall be included in the official logic and accuracy test materials. The processes described in WAC 434-335-490 shall be open to observation and subject to all notices and observers pursuant to WAC 434-335-290 and 434-335-320.

## DIRECT RECORDING ELECTRONIC VOTING SYSTEMS

### NEW SECTION

**WAC 434-335-510 Definitions.** For direct recording electronic voting systems:

"Access device" is the device that is used by the voter to access the ballot at a direct recording electronic voting device. It may be a card or other media.

"Calibration" is the touch screen setting on direct recording electronic voting systems that controls the voter response area.

"Controller" is a component of a direct recording electronic voting system that allows the poll worker to add information to an access device so that a voter can access the correct ballot style.

"Parallel monitoring" is a process designed to detect potential presence of malicious code in the software of a voting machine. It requires a specific number of voting machines to be removed from random poll sites before voting begins. These machines are then test-voted throughout election day.

"Response area" is the area on the ballot face that records the voter's choice.



"Touch screen" is a type of computer interface on a voting device that allows the voter to touch the screen to make a choice.

"Voter verified paper record" is a paper record of a voter's choices to be verified before vote is cast.

#### NEW SECTION

**WAC 434-335-520 Logic and accuracy test plan preparation—State primary and general election—Direct recording electronic systems.** The test plan used for the official preelection logic and accuracy test for direct recording electronic systems may be prepared by either the office of the secretary of state or the county. Information describing the candidates, offices, ballot formats, ballot styles, list of the number of appearances of each office, and all other information required to create the test plan must be available to the office of the secretary of state by the 20th day prior to the primary or election. If a county is delayed, the county auditor should advise the office of the secretary of state before the 20th day prior to the primary or election.

#### NEW SECTION

**WAC 434-335-530 Direct recording electronic test ballot selection—State primary and general election.** Prior to the official logic and accuracy test the office of the secretary of state shall review the provided election materials with the county and select a representative sample of ballot styles sufficient to cover all offices and issues contained in the election. This representative sample shall constitute the official preelection logic and accuracy test. This provision does not limit the ability of the office of the secretary of state to conduct a complete test of every precinct if conditions warrant.

#### NEW SECTION

**WAC 434-335-540 Direct recording electronic calibration adjustment standards and tests.** Prior to all primaries and elections, calibration settings of all direct recording electronic devices using touch screen technology shall be tested to insure that the response areas are functioning within system standards.

#### NEW SECTION

**WAC 434-335-550 Direct recording electronic voting response area tests.** Prior to all official logic and accuracy tests, and prior to programming the poll-site direct recording electronic devices, a test shall be conducted by each county employing a direct recording electronic balloting system to confirm that the voting response areas indicated on all ballot faces are programmed correctly. The county shall test all ballot styles on at least one device to insure that the programming is correctly counting and accumulating every office and candidate.

#### NEW SECTION

**WAC 434-335-560 Direct recording electronic ballot marking code program test.** Prior to all official logic and

accuracy tests each county employing a direct recording electronic balloting system shall thoroughly test all programming and system components. The test must verify the office programming by thoroughly testing each individual office, testing the ballot style logic to insure that all offices are included on the intended ballot faces, and verify that the program is accumulating all offices. The county auditor or deputy shall certify that these tests have been completed prior to the official logic and accuracy test.

#### NEW SECTION

**WAC 434-335-570 Direct recording electronic system logic and accuracy test notices, and observers.** At the discretion of the secretary of state, a county may conduct its official preelection logic and accuracy test of the county's direct recording electronic system at a date and time prior to the logic and accuracy test of the county's optical scan system. The official preelection logic and accuracy test of the county's direct recording electronic system shall be open to observation and subject to all notices and observers pursuant to WAC 434-335-290 and 434-335-320. The results of the test shall be included in the official logic and accuracy test materials and combined with the results of all other voting systems used by the county to confirm an adequate integration of the systems.

### **POLL SITE-BASED DIRECT RECORDING ELECTRONIC DEVICES**

#### NEW SECTION

**WAC 434-335-580 Poll site-based direct recording electronic voting device preparation and testing.** All logic and accuracy testing of poll site-based direct recording electronic systems shall be performed by the county prior to system distribution. A representative from the secretary of state's office may attend these tests in whole or in part. As each voting device is programmed and set up for distribution a test of the response area, the ballot styles, and ballot counter shall be performed. It shall be established by these tests that the device and the tabulation software is functioning within system standards. The tests shall also establish that the voter response areas of each touch screen, if used, are correctly calibrated. This test shall also confirm that all ballot styles appropriate to the poll site to which the device will be deployed are properly issued by the controller. After all functionality tests are performed and the machine is ready for distribution, each machine shall be sealed and the seal number recorded. This will serve as the official logic and accuracy test of these poll site direct recording electronic devices.

#### NEW SECTION

**WAC 434-335-590 Poll site-based direct recording electronic device test notices, observers, and log of process.** A log shall be created during the testing of the poll site-based direct recording electronic machines. The log shall record the time and place of each test, the precinct number(s), seal number and machine number of each voting device and the initials of each person testing and observing the test for

each machine. This log shall be included in the official logic and accuracy test materials. The processes described in WAC 434-335-580 shall be open to observation and subject to all notices and observers pursuant to WAC 434-335-290 and 434-335-320.

#### NEW SECTION

**WAC 434-335-600 Parallel monitoring test.** On election day, in each county using direct recording electronic voting devices without a voter verified paper record at the poll sites, parallel monitoring will be conducted in the following manner: One machine shall be removed from one percent (rounded up) of poll sites, chosen by lot, before voting begins. These machines will be attended by secretary of state personnel throughout the day and test votes will be cast by individuals selected by the county auditor, in a predetermined manner for results comparison at the end of the day. A record of votes cast may be kept by videotape for verification. All results of this test will be made public.

#### NEW SECTION

**WAC 434-335-610 Parallel monitoring test decks.** The test deck or decks used for the parallel monitoring test will be prepared by the office of the secretary of state. Paper ballots sufficient so that all ballot formats are represented must be available to the office of the secretary of state by the 20th day prior to the primary or election. If a county is delayed, the county should advise the office of the secretary of state before the 20th day prior to the primary or election.

#### NEW SECTION

**WAC 434-335-620 Parallel monitoring test observers.** The parallel monitoring test shall be observed by at least one representative of each major political party, if representatives have been appointed by the parties and are present at the test. The party observers shall be instructed as election observers by the county auditor. The test shall be open to candidates, the press, and the public. If any observer hinders or disturbs the logic and accuracy test process, the county auditor or representative may remove that observer from the test area. An observer who has been removed from a logic and accuracy test may also be barred from future tests. The absence of observers shall not delay or stop the test from being conducted.

#### NEW SECTION

**WAC 434-335-630 Parallel monitoring test certification.** The county auditor or deputy, the office of the secretary of state representative, and any political party observers shall certify that the test has been conducted in accordance with WAC 434-335-600. This certification shall include verification of the version number of all software, firmware, and hardware of the voting system used. Copies of this certification shall be retained by the secretary of state and the county auditor and may be posted by electronic media. All videos, test results, and test ballots shall be securely sealed with the

records of the election. These items may be sealed and stored separately.

#### NEW SECTION

**WAC 434-335-640 Post election test.** Following election day, in each county using direct recording electronic voting devices at the poll sites, without a voter-verifiable paper audit trail, a post election logic and accuracy test will be conducted on the devices selected for the parallel monitoring test (ref. WAC 434-335-600). This test will be substantially the same as the preelection logic and accuracy test, pursuant to WAC 434-335-580 through 434-335-590. The county will certify to the state that the test has been performed.

**WSR 05-05-048  
PROPOSED RULES  
HORSE RACING COMMISSION**

[Filed February 14, 2005, 3:15 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-01-154.

Title of Rule and Other Identifying Information: WAC 260-36-200 Provisional owner's license.

Hearing Location(s): Auburn City Council Chambers, 25 West Main, Auburn, WA 98001, on April 14, 2005, at 9:30 a.m.

Date of Intended Adoption: April 14, 2005.

Submit Written Comments to: Robert J. Lopez, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, e-mail rlopez@whrc.state.wa.us, fax (360) 459-6461, by April 12, 2005.

Assistance for Persons with Disabilities: Contact Patty Sorby by April 12, 2005, TTY (360) 459-6462.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of amending WAC 260-36-200 Provisional owner is (1) to define, in rule, a provisional owner; (2) to designate who is authorized to issue a provisional owner's license; (3) to designate the minimum information required for a provisional owner's license; and (4) to require a provisional owner to complete the application process. The changes to this section are intended to clarify who is a provisional owner, how a provisional owner's license is obtained and establish a requirement that the provisional owner, once issued a license is required to complete the application process.

Statutory Authority for Adoption: RCW 67.16.020 and 67.16.040.

Statute Being Implemented: None.

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

Name of Proponent: Washington Horse Racing Commission, governmental.

Name of Agency Personnel Responsible for Drafting: Robert J. Lopez, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, (360) 459-6462; Implementation and Enforcement: Robert M. Lechner, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, (360) 459-6462.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

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

February 14, 2005  
R. M. Leichner  
Executive Secretary

**AMENDATORY SECTION** (Amending WSR 91-03-033, filed 1/9/91, effective 1/22/91)

**WAC 260-36-200 Provisional owner's license.** A provisional owner's license is intended to allow an individual to enter a horse in Washington races for a period of time not to exceed fourteen days. The ((stewards)) commission or its designee may issue a provisional owner's license for a period of fourteen days based on an application completed by ((the)) a trainer representing the owner and payment of all license ((fees)), fingerprint and labor and industries fees ((due, provided that the trainer signs a statement that he or she is authorized on behalf of the owner to execute the application and that the trainer is familiar with the truth of the contents of the application)). The trainer shall provide the commission, at a minimum, the name, address, telephone number and date of birth of the owner. The provisional owner shall have fourteen calendar days from the date the license is issued to send to the commission a completed application, signed by the owner, and if directed, a set of fingerprints.

**WSR 05-05-058  
PROPOSED RULES  
DEPARTMENT OF TRANSPORTATION**

[Filed February 15, 2005, 9:04 a.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 05-01-105.

Title of Rule and Other Identifying Information: State ferries and toll bridges, WAC 468-300-010, 468-300-020, 468-300-040, and 468-300-220. The proposed rules revise the subject WACs by increasing the passenger and vehicle tolls specified in the WACs.

Hearing Location(s): Puget Sound Regional Council, 1011 Western Avenue, 5th Floor, Seattle, WA, on March 23, 2005, at 10:00 a.m. - 12 noon.

**AMENDATORY SECTION** (Amending WSR 03-08-072, filed 4/1/03, effective 5/2/03)

**WAC 468-300-010 Ferry passenger tolls.**

~~((EFFECTIVE 03:00 A.M. MAY 4, 2003~~

ROUTES	Full Fare	Senior/ Disabled	Youth Fare 18 and under	Frequent User Coupon-Book 20 Rides†	Monthly Pass‡	Quarterly Pass‡	Annual Pass‡	Bicycle Surcharge‡,6
Via Passenger-Only Ferry *Seattle-Vashon	7.40	3.70	6.40	63.20	101.20	303.60	1,214.40	1.00
Via Passenger-Only Ferry Seattle-to-Bremerton	6.40	3.20	5.40	43.20‡	101.20	303.60	1,214.40	1.00

PROPOSED

Date of Intended Adoption: March 23, 2005.

Submit Written Comments to: Raymond G. Deardorf, Washington State Ferries (WSF) Planning Director, 2911 Second Avenue, Seattle, WA 98121-1012, e-mail Deardorf@wsdot.wa.gov, fax (206) 515-3499, by March 23, 2005.

Assistance for Persons with Disabilities: Contact Transportation Commission Office by March 23, 2005, TTY (360) 705-7070 or (206) 515-3460.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule is to raise the ferry tolls within the specified WACs. The revisions follow the annual review of WSF's farebox revenue needs.

No major effects are anticipated.

Reasons Supporting Proposal: WSF's need for additional farebox revenue.

Statutory Authority for Adoption: RCW 47.56.030 and 47.60.326.

Statute Being Implemented: RCW 47.56.030 and 47.60.326.

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

Name of Proponent: Washington State Department of Transportation, Washington State Ferries, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Raymond G. Deardorf, 2911 Second Avenue, Seattle, WA 98121-1012, (206) 515-3491.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has considered this rule and determined that it does not affect more than 10% of one industry or 20% of all industry.

A cost-benefit analysis is not required under RCW 34.05.328. WSF is anticipated to take in more farebox revenue from the proposed fare increase at the rate of approximately \$5,000,000 a year. Ridership dropoff stemming from the fare increase will not cause a net reduction in farebox revenues. Previous experience with fare hikes has shown that WSF gains more money in fare increases that it loses from reduced ridership, if any.

February 15, 2005  
Jennifer Ziegler  
Administration  
Transportation Commission

PROPOSED

ROUTES	Full Fare	Senior/ Disabled	Youth Fare 18 and under	Frequent User Coupon-Book 20 Rides <sup>1</sup>	Monthly Pass <sup>5</sup>	Quarterly- Pass <sup>5</sup>	Annual Pass <sup>5</sup>	Bicycle- Surcharge <sup>2,6</sup>
Via Passenger Only Ferry Bremerton to Seattle	1.00	0.50	1.00	N/A	101.20	303.60	1,214.40	N/C
Via Auto Ferry *Fauntleroy-Southworth	4.20	2.10	3.40	33.60	53.80	161.40	645.60	1.00
*Seattle-Bremerton *Seattle-Bainbridge Island- *Edmonds-Kingston	5.40	2.70	4.40	43.20	69.20	207.60	830.40	1.00
Port-Townsend-Keystone	2.10	1.05	1.70	33.60	53.80	161.40	645.60	0.50
*Fauntleroy-Vashon *Southworth-Vashon *Pt. Defiance-Tahlequah	3.50	1.70	2.80	28.00	44.80	134.40	537.60	1.00
*Mukilteo-Clinton	3.20	1.60	2.60	25.60	41.00	123.00	492.00	1.00
*Anacortes to Lopez, Shaw, Oreas or Friday Harbor—Sun- day-Tuesday	8.00	4.00	6.40	57.20	N/A	N/A	N/A	2.00 <sup>8</sup>
*Anacortes to Lopez, Shaw, Oreas or Friday Harbor— Wednesday-Saturday	8.80	4.40	7.10	57.20	N/A	N/A	N/A	2.00 <sup>8</sup>
Between Lopez, Shaw, Oreas- and Friday Harbor <sup>4</sup>	N/C	N/C	N/C	N/C	N/A	N/A	N/A	N/C
International Travel Anacortes to Sidney and Sidney- to all destinations	13.10	6.50	10.50	N/A	N/A	N/A	N/A	4.00 <sup>9</sup>
From Lopez, Shaw <sup>1</sup> , Oreas and Friday Harbor to Sidney <sup>@</sup>	4.75	2.25	4.00	N/A	N/A	N/A	N/A	1.00 <sup>10</sup>
Lopez, Shaw, Oreas and Friday- Harbor to Sidney (round-trip) <sup>3</sup>	17.85	8.75	14.50	N/A	N/A	N/A	N/A	5.00 <sup>11</sup>

**EFFECTIVE 03:00 A.M. MAY 2, 2004**

ROUTES	Full Fare	Senior/ Disabled	Youth Fare 18 and under	Frequent User Coupon-Book 20 Rides <sup>1</sup>	Monthly Pass <sup>5</sup>	Quarterly- Pass <sup>5</sup>	Annual Pass <sup>5</sup>	Bicycle- Surcharge <sup>2,6</sup>
Via Passenger Only Ferry *Seattle-Vashon	7.70	3.80	6.60	65.60	105.00	315.00	1,260.00	1.00
Via Passenger Only Ferry Seattle to Bremerton	6.70	3.30	5.60	45.60 <sup>7</sup>	105.00	315.00	1,260.00	1.00
Via Passenger Only Ferry Bremerton to Seattle	1.00	0.50	1.00	N/A	105.00	315.00	1,260.00	N/C
Via Auto Ferry *Fauntleroy-Southworth	4.40	2.20	3.60	35.20	56.40	169.20	676.80	1.00
*Seattle-Bremerton *Seattle-Bainbridge Island- *Edmonds-Kingston	5.70	2.80	4.60	45.60	73.00	219.00	876.00	1.00
Port-Townsend-Keystone	2.20	1.10	1.80	35.20	56.40	169.20	676.80	0.50
*Fauntleroy-Vashon *Southworth-Vashon *Pt. Defiance-Tahlequah	3.70	1.80	3.00	29.60	47.40	142.20	568.80	1.00
*Mukilteo-Clinton	3.40	1.70	2.80	27.20	43.60	130.80	522.20	1.00
*Anacortes to Lopez, Shaw, Oreas or Friday Harbor—Sun- day-Tuesday	8.60	4.30	6.90	61.80	N/A	N/A	N/A	2.00 <sup>8</sup>
*Anacortes to Lopez, Shaw, Oreas or Friday Harbor— Wednesday-Saturday	9.50	4.70	7.60	61.80	N/A	N/A	N/A	2.00 <sup>8</sup>
Between Lopez, Shaw, Oreas- and Friday Harbor <sup>4</sup>	N/C	N/C	N/C	N/C	N/A	N/A	N/A	N/C
International Travel Anacortes to Sidney and Sidney- to all destinations	13.80	6.90	11.10	N/A	N/A	N/A	N/A	4.00 <sup>9</sup>

PROPOSED

ROUTES	Full Fare	Senior/ Disabled	Youth Fare 18 and under	Frequent User Coupon-Book 20 Rides <sup>1</sup>	Monthly Pass <sup>5</sup>	Quarterly- Pass <sup>5</sup>	Annual Pass <sup>5</sup>	Bicycle- Surcharge <sup>2,6</sup>
From Lopez, Shaw, Orcas and Friday Harbor to Sidney <sup>3</sup>	5.00	2.50	4.00	N/A	N/A	N/A	N/A	1.00 <sup>10</sup>
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round-trip) <sup>3</sup>	18.80	9.40	15.10	N/A	N/A	N/A	N/A	5.00 <sup>11</sup> )

**EFFECTIVE 03:00 A.M. MAY 1, 2005**

ROUTES	Full Fare	Senior/ Disabled	Youth Fare 18 and under	Frequent User Commuter 20 Rides <sup>1</sup>	Frequent User Convenience 10 Rides <sup>2</sup>	Monthly Pass <sup>5</sup>	Bicycle Surcharge <sup>2,6</sup>
<b>Via Passenger-Only Ferry</b>							
*Seattle-Vashon	8.00	4.00	6.80	68.00	35.50	108.80	1.00
<b>Via Auto Ferry</b>							
*Fauntleroy-Southworth	4.70	2.30	3.80	37.60	20.00	60.20	1.00
<b>*Seattle-Bremerton</b>							
<b>*Seattle-Bainbridge Island</b>							
*Edmonds-Kingston	6.00	3.00	4.80	48.00	25.50	76.80	1.00
Port Townsend-Keystone	2.35	1.15	1.90	37.60	20.00	60.20	0.50
<b>*Fauntleroy-Vashon</b>							
<b>*Southworth-Vashon</b>							
*Pt. Defiance-Tablequah	3.90	1.90	3.20	31.20	16.60	50.00	1.00
*Mukilteo-Clinton	3.60	1.80	2.90	28.80	15.30	46.10	1.00
<b>*Anacortes to Lopez, Shaw, Orcas or Friday Harbor - Sunday-Tuesday</b>							
	9.00	4.50	7.20	65.00	35.00	N/A	2.00 <sup>8</sup>
<b>*Anacortes to Lopez, Shaw, Orcas or Friday Harbor - Wednesday-Saturday</b>							
	10.00	5.00	8.00	65.00	35.00	N/A	2.00 <sup>8</sup>
<b>Between Lopez, Shaw, Orcas and Friday Harbor<sup>4</sup></b>							
	N/C	N/C	N/C	N/C		N/A	N/C
<b>International Travel</b>							
Anacortes to Sidney and Sidney to all destinations	14.50	7.20	11.60	N/A		N/A	4.00 <sup>2</sup>
From Lopez, Shaw, Orcas and Friday Harbor to Sidney <sup>3</sup>	5.25	2.50	4.25	N/A		N/A	1.00 <sup>10</sup>
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) <sup>1</sup>	19.75	9.70	15.85	N/A		N/A	5.00 <sup>11</sup>

**EFFECTIVE 03:00 A.M. MAY 1, 2006**

ROUTES	Full Fare	Senior/ Disabled	Youth Fare 18 and under	Frequent User Commuter 20 Rides <sup>1</sup>	Frequent User Con- venience 10 Rides <sup>2</sup>	Monthly Pass <sup>5</sup>	Bicycle Surcharge <sup>2,6</sup>
<b>Via Passenger-Only Ferry</b>							
*Seattle-Vashon	8.00	4.00	6.80	68.00	37.00	108.80	1.00
<b>Via Auto Ferry</b>							
*Fauntleroy-Southworth	4.70	2.30	3.80	37.60	21.20	60.20	1.00
<b>*Seattle-Bremerton *Seattle-Bainbridge Island *Edmonds-Kingston</b>							
	6.00	3.00	4.80	48.00	27.00	76.80	1.00
Port Townsend-Keystone	2.35	1.15	1.90	37.60	21.20	60.20	0.50
<b>*Fauntleroy-Vashon *Southworth-Vashon</b>							
*Pt. Defiance-Tablequah	3.90	1.90	3.20	31.20	17.60	50.00	1.00
*Mukilteo-Clinton	3.60	1.80	2.90	28.80	16.20	47.10	1.00
<b>*Anacortes to Lopez, Shaw, Orcas or Friday Harbor - Sunday-Tuesday</b>							
	9.00	4.50	7.20	65.00	35.00	N/A	2.00 <sup>8</sup>

PROPOSED

ROUTES	Full Fare	Senior/ Disabled	Youth Fare 18 and under	Frequent User Commuter 20 Rides <sup>1</sup>	Frequent User Con- venience 10 Rides <sup>2</sup>	Monthly Pass <sup>3</sup>	Bicycle Surcharge <sup>4,6</sup>
<u>*Anacortes to Lopez, Shaw, Orcas or Friday Harbor - Wednesday-Saturday</u>	10.00	5.00	8.00	65.00	35.00	N/A	2.00 <sup>8</sup>
<u>Between Lopez, Shaw, Orcas and Friday Harbor<sup>4</sup></u>	N/C	N/C	N/C	N/C		N/A	N/C
<u>International Travel</u>							
<u>Anacortes to Sidney and Sidney to all destinations</u>	14.50	7.20	11.60	N/A		N/A	4.00 <sup>9</sup>
<u>From Lopez, Shaw, Orcas and Friday Harbor to Sidney@</u>	5.25	2.50	4.25	N/A		N/A	1.00 <sup>10</sup>
<u>Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip)<sup>1</sup></u>	19.75	9.70	15.85	N/A		N/A	5.00 <sup>11</sup>

@ These fares rounded to the next multiple of \$.25. All other fares rounded to the next multiple of \$0.10.

\* These routes operate as a one-point toll collection system.

<sup>1</sup>FREQUENT USER COUPONS - Shall be valid only for 90-days from date of purchase after which time the tickets shall not be accepted for passage. Unused coupons will not be eligible for refund or exchange. Subsequent to the implementation of the Electronic Fare System (EFS) in the fall of 2005, this will be replaced by a 20 ride card valid for 30 days from the date of purchase. For mail order deliveries, WSF may add additional days to allow for delivery times. Starting May 1, 2006, purchase of this product at a toll booth will be 5% higher at terminals where kiosks are available.

<sup>2</sup>BICYCLE SURCHARGE - Is an addition to the appropriate passenger fare.

<sup>3</sup>ROUND TRIP - Round trip tickets for international travel available for trips beginning or ending on one of the Islands served.

<sup>4</sup>INTER-ISLAND FARES - Passenger fares included in Anacortes tolls.

<sup>5</sup>PASSES - Passenger passes are available for all routes except Anacortes/San Juan Island/Sidney. It is valid for the period printed on the pass and will be presented to Washington state ferries staff whenever a passenger fare is collected. This pass is based on 16 days of passenger travel with a 20% discount. ~~((The quarterly pass is based on 48 days of travel with a 20% discount and the annual pass is based on 192 days with a 20% discount.))~~ A \$1.00 retail/shipping and handling fee will be added to the price of the pass. A combination ferry-transit pass may be available for a particular route when determined by Washington state ferries and a local public transit agency to be a viable fare instrument. The WSF portion of the fare is based on 16 days of passenger travel per month at a 20% discount. Passes may be available in monthly, quarterly or annual denominations.

<sup>6</sup>BICYCLE PASS - A bicycle pass is available on all routes except: Anacortes/San Juan Island/Sidney for a \$20.00 annual fee subject to meeting WSF specified conditions. The pass is valid for one year. A cyclist with a valid pass shall have the bicycle surcharge waived.

<sup>7</sup>~~((SEATTLE TO BREMERTON PASSENGER ONLY - Riders on Seattle to Bremerton passenger only need to supplement frequent user coupon with an additional surcharge fare of \$1.00 (\$0.50 for Senior/Disabled.))~~ CONVENIENCE CARD - Subsequent to the implementation of the Electronic Fare System (EFS) in the fall of 2005, this 10-ride card will be valid for 60 days from the date of purchase. For mail order deliveries, WSF may add additional days to allow for delivery times. Starting May 1, 2006, purchase of this product at a toll booth will be 5% higher at terminals where kiosks are available.

<sup>8</sup>BICYCLE SURCHARGE - This becomes \$4.00 during peak season (first Sunday in May until second Sunday in October).

<sup>9</sup>BICYCLE SURCHARGE - This becomes \$6.00 during peak season.

<sup>10</sup>BICYCLE SURCHARGE - This becomes \$2.00 during peak season.

<sup>11</sup>BICYCLE SURCHARGE - This becomes \$8.00 during peak season.

CHILDREN/YOUTH - Children under ~~((five))~~ six years of age will be carried free when accompanied by parent or guardian. Children/youths ~~((five))~~ six through eighteen years of age will be charged the youth fare, which will be 80% of full fare rounded to the next multiple of \$0.10.

SENIOR CITIZENS - Passengers age 65 and over, with proper identification establishing proof of age, may travel at half-fare passenger tolls on any route where passenger fares are collected.

PERSONS OF DISABILITY - Any individual who, by reason of illness, injury, congenital malfunction, or other incapacity or disability is unable without special facilities or special planning or design to utilize ferry system services, upon presentation of a WSF Disability Travel Permit, Regional Reduced Fare Permit, or other identification which establishes a disability may travel at half-fare passenger tolls on any route. In addition, those persons with disabilities who require attendant care while traveling on the ferries, and are so certified by their physician, may obtain an endorsement on their WSF Disability Travel Permit and such endorsement shall allow the attendant to travel free as a passenger.

BUS PASSENGERS - Passengers traveling on public transit buses pay the applicable fare. Passengers traveling in private or commercial buses will be charged the half-fare rate.

MEDICARE CARD HOLDERS - Any person holding a Medicare card duly issued to that person pursuant to Title II or Title XVIII of the Social Security Act may travel at half-fare passenger tolls on any route upon presentation of a WSF Disability Travel Permit or a Regional Reduced Fare Permit at time of travel.

PROMOTIONAL TOLLS - A promotional rate may be established at the discretion of the WSF ~~((CEO))~~ Assistant Secretary, Executive Director for a specific discount in order to enhance total revenue and effective only at designated times on designated routes.

Special passenger fare rate(s) may be established for a pilot program in conjunction with the Central Puget Sound Regional Fare Integration project on ferry route(s) serving King, Pierce, Snohomish and Kitsap counties. The rate(s) may be established at the discretion of the WSF ~~((CEO))~~ Assistant Secretary, Executive Director for a specific discount not to exceed fifty percent of full fare.

SCHOOL GROUPS - Passengers traveling in authorized school groups for institution-sponsored activities will be charged a flat rate of \$1 per walk-on group or per vehicle of students and/or advisors

and staff. Starting September 1, 1999, all school groups require a letter of authorization. Vehicles and drivers will be charged the fare applicable to vehicle size. The special school rate is \$2 on routes where one-point toll systems are in effect. Due to space limitations, authorized school groups will not be permitted to use one of the passenger-only routes without prior WSF approval.

**BUNDLED SINGLE FARE BOOKS** - WSF may bundle single fare types into multiple trip books as a customer convenience. These books shall be valid only until the first ((Sunday)) of May following the date of purchase, after which time the coupons shall not be accepted for passage. Unused coupons are not refundable. Anacortes to San Juan Islands senior/disabled fares will be bundled at the applicable early week price.

**PEAK SEASON SURCHARGE** - A 20% surcharge shall be applied to passengers from the first Sunday in May to the second Sunday in

October, except those using frequent user ((tickets)) fare media, on the Anacortes to Lopez, Shaw, Orcas and Friday Harbor routes.

**GROUP OR VOLUME SALES** - In order to increase total revenues, WSF may develop full fare or discounted customer packages or bundle single fare types into multiple trip books or offer passes for high volume or group users. In pricing these packages, WSF will have discretion to set appropriate volume discounts based on a case-by-case basis.

**SPECIAL EVENTS** - In order to increase total revenues, WSF may develop, create or participate in special events that may include, but not be limited to, contributing or packaging discounted fares in exchange for the opportunity to participate in the income generated by the event.

**AMENDATORY SECTION** (Amending WSR 03-08-072, filed 4/1/03, effective 5/2/03)

**WAC 468-300-020 Vehicle under 20', motorcycle, and stowage ferry tolls.**

**((EFFECTIVE 03:00 A.M. MAY 4, 2003))**

ROUTES	Vehicle Under-20' Incl. Driver One-Way	Vehicle Under-20' w/Sr Citizen or Disabled Driver <sup>4</sup>	Vehicle Under-20' Over-Height Charge <sup>1</sup>	Frequent-User Coupon-book 20 Rides <sup>2</sup>	Motorecycles <sup>5</sup> Incl. Driver Stowage-1 One-Way <sup>@</sup>	Motorecycle w/Sr Citizen or Disabled Driver Stowage-1 One-Way <sup>@</sup>	Motorecycle- Oversize- Charge <sup>1</sup>	Motorecycle Frequent-User Ticket-book 20 Rides <sup>2@</sup>
Fauntleroy-Southworth Port-Townsend/Keystone	7.50	6.45	7.50	120.00	3.20	2.15	1.10	51.20
Seattle-Bainbridge-Island Seattle-Bremerton-Edmonds- Kingston	9.50	8.15	9.50	152.00	4.10	2.75	1.40	65.60
*Fauntleroy-Vashon *Southworth-Vashon *Pt. Defiance-Tahlequah	12.25	10.45	12.25	98.00	5.30	3.50	1.80	42.40
Mukilteo-Clinton	5.75	4.95	5.75	92.00	2.50	1.70	0.90	40.00
<b>10 Rides - 5 Round Trips</b>								
*Anacortes to Lopez - Sunday- Tuesday	20.00	16.00	20.00	82.50	10.60	6.60	2.60	87.80
*Lopez - Wednesday-Saturday	22.00	17.60	22.00	82.50	11.70	7.30	2.90	87.80
*Shaw, Orcas - Sunday-Tuesday	23.50	19.50	23.50	97.50	11.30	7.30	3.30	93.80
*Shaw, Orcas - Wednesday-Saturday	26.00	21.60	26.00	97.50	12.50	8.10	3.70	93.80
*Friday Harbor - Sunday-Tuesday	26.50	22.50	26.50	109.75	11.90	7.90	3.90	99.00
*Friday Harbor - Wednesday-Saturday	29.25	24.85	29.25	109.75	13.20	8.80	4.40	99.00
Between Lopez, Shaw, Orcas and Friday Harbor <sup>3</sup>	11.25	11.25	11.25	45.00	3.50	3.50	3.50	N/A
<b>International Travel</b>								
Anacortes to Sidney and Sid- ney to all destinations	35.25	28.65	35.25	N/A	17.60	11.00	4.50	N/A
Travelers with advanced reser- vations (\$15 fee) Anacortes to Sidney and Sidney to all destinations <sup>6</sup>	20.25	13.65	35.25	N/A	N/A	N/A	N/A	N/A
Lopez, Shaw, Orcas and Fri- day Harbor to Sidney	10.25	7.75	10.25	N/A	6.25	3.75	1.50	N/A

PROPOSED

PROPOSED

ROUTES	Vehicle Under 20' Incl. Driver One-Way	Vehicle Under 20' w/Sr Citizen or Disabled Driver <sup>4</sup>	Vehicle Under 20' Over-Height Charge <sup>1</sup>	Frequent User Coupon-book 20-Rides <sup>2</sup>	Motoreycles Incl. Driver Stowage <sup>1</sup> One-Way <sup>@</sup>	Motoreycle w/Sr Citizen or Disabled Driver Stowage <sup>1</sup> One-Way <sup>@</sup>	Motoreycle Oversize-Charge <sup>1</sup>	Motoreycle Frequent User Ticket-book 20-Rides <sup>2</sup> <sup>@</sup>
Travelers with advanced reservations (\$7 fee) from Lopez, Shaw, Orcas and Friday Harbor to Sidney <sup>7</sup>	3.25	0.75	10.25	N/A	N/A	N/A	N/A	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round-trip) <sup>5</sup>	45.50	36.40	45.50	N/A	23.85	14.75	6.00	N/A

**EFFECTIVE 03:00 A.M. MAY 2, 2004**

ROUTES	Vehicle Under 20' Incl. Driver One-Way	Vehicle Under 20' w/Sr Citizen or Disabled Driver <sup>4</sup>	Vehicle Under 20' Over-Height Charge <sup>1</sup>	Frequent User Coupon-book 20-Rides <sup>2</sup>	Motoreycles Incl. Driver Stowage <sup>1</sup> One-Way <sup>@</sup>	Motoreycle w/Sr Citizen or Disabled Driver Stowage <sup>1</sup> One-Way <sup>@</sup>	Motoreycle Oversize-Charge <sup>1</sup>	Motoreycle Frequent User Ticket-book 20-Rides <sup>2</sup> <sup>@</sup>
Fauntleroy-Southworth								
Port Townsend/Keystone	7.75	6.65	7.75	124.00	3.40	2.30	1.20	54.40
Seattle-Bainbridge Island								
Seattle-Bremerton-Edmonds-Kingston	10.00	8.55	10.00	160.00	4.30	2.85	1.45	68.80
*Fauntleroy-Vashon								
*Southworth-Vashon								
*Pt. Defiance-Tahlequah	13.00	11.10	13.00	104.00	5.60	3.70	1.90	44.80
Mukilteo-Clinton	6.00	5.15	6.00	96.00	2.60	1.75	0.90	41.60
10-Rides-5 Round-Trips								
*Anacortes to Lopez-Sunday-Tuesday	20.75	16.45	20.75	86.25	11.10	6.80	2.50	92.30
*Lopez-Wednesday-Saturday	23.00	18.20	23.00	86.25	12.30	7.50	2.80	92.30
*Shaw, Orcas-Sunday-Tuesday	25.00	20.70	25.00	104.25	12.00	7.70	3.40	99.80
*Shaw, Orcas-Wednesday-Saturday	27.75	22.95	27.75	104.25	13.30	8.50	3.80	99.80
*Friday Harbor-Sunday-Tuesday	29.25	24.95	29.25	121.00	12.80	8.50	4.20	106.50
*Friday Harbor-Wednesday-Saturday	32.25	27.45	32.25	121.00	14.20	9.40	4.70	106.50
Between Lopez, Shaw, Orcas and Friday Harbor <sup>3</sup>	12.50	12.50	12.50	50.00	3.75	3.75	3.75	N/A
International Travel								
Anacortes to Sidney and Sidney to all destinations	37.25	30.35	37.25	N/A	18.50	11.60	4.70	N/A
Travelers with advanced reservations (\$15 fee) Anacortes to Sidney and Sidney to all destinations <sup>6</sup>	22.25	15.35	37.25	N/A	N/A	N/A	N/A	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney	11.00	8.50	11.00	N/A	6.75	4.25	1.75	N/A
Travelers with advanced reservations (\$7 fee) from Lopez, Shaw, Orcas and Friday Harbor to Sidney <sup>7</sup>	4.00	1.50	11.00	N/A	N/A	N/A	N/A	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round-trip) <sup>5</sup>	48.25	38.85	48.25	N/A	25.25	15.85	6.45	N/A))



**EFFECTIVE 03:00 A.M. MAY 1, 2005**

<u>ROUTES</u>	<u>Vehicle Under 20' Incl. Driver One Way</u>	<u>Vehicle Under 20' w/Sr Citizen or Disabled Driver<sup>4</sup></u>	<u>Vehicle Under 20' Over Height Charge<sup>1</sup></u>	<u>Frequent User Commuter 20 Rides<sup>2</sup></u>	<u>Frequent User Convenience 10 Rides<sup>3</sup></u>
<u>Fauntleroy-Southworth Port</u>					
<u>Townsend/Keystone</u>	<u>8.25</u>	<u>7.05</u>	<u>8.25</u>	<u>132.00</u>	<u>70.25</u>
<u>Seattle-Bainbridge Island</u>					
<u>Seattle-Bremerton</u>					
<u>Edmonds-Kingston</u>	<u>10.50</u>	<u>9.00</u>	<u>10.50</u>	<u>168.00</u>	<u>89.25</u>
<u>*Fauntleroy-Vashon *Southworth-Vashon</u>					
<u>*Pt. Defiance-Tahlequah</u>	<u>13.50</u>	<u>11.50</u>	<u>13.50</u>	<u>108.00</u>	<u>57.50</u>
<u>Mukilteo-Clinton</u>	<u>6.25</u>	<u>5.35</u>	<u>6.25</u>	<u>100.00</u>	<u>53.25</u>
<u>10 Rides - 5 Round Trips</u>					
<u>*Anacortes to Lopez - Sunday-Tuesday</u>	<u>22.00</u>	<u>17.50</u>	<u>22.00</u>	<u>91.00</u>	<u>103.25</u>
<u>*Lopez - Wednesday-Saturday</u>	<u>24.25</u>	<u>19.25</u>	<u>24.25</u>	<u>91.00</u>	<u>103.25</u>
<u>*Shaw, Orcas - Sunday-Tuesday</u>	<u>26.25</u>	<u>21.75</u>	<u>26.25</u>	<u>108.75</u>	<u>123.25</u>
<u>*Shaw, Orcas - Wednesday-Saturday</u>	<u>29.00</u>	<u>24.00</u>	<u>29.00</u>	<u>108.75</u>	<u>123.25</u>
<u>*Friday Harbor - Sunday-Tuesday</u>	<u>31.25</u>	<u>26.75</u>	<u>31.25</u>	<u>129.50</u>	<u>146.75</u>
<u>*Friday Harbor - Wednesday-Saturday</u>	<u>34.50</u>	<u>29.50</u>	<u>34.50</u>	<u>129.50</u>	<u>146.75</u>
<u>Between Lopez, Shaw, Orcas and Friday Harbor<sup>3</sup></u>	<u>13.75</u>	<u>13.75</u>	<u>13.75</u>	<u>55.00</u>	<u>62.00</u>
<u>International Travel</u>					
<u>Anacortes to Sidney and Sidney to all destinations</u>	<u>39.25</u>	<u>31.95</u>	<u>39.25</u>	<u>N/A</u>	<u>N/A</u>
<u>Travelers with advanced reservations (\$15 fee) Anacortes to Sidney and Sidney to all destinations<sup>4</sup></u>	<u>24.25</u>	<u>16.95</u>	<u>39.25</u>	<u>N/A</u>	<u>N/A</u>
<u>Lopez, Shaw, Orcas and Friday Harbor to Sidney</u>	<u>11.75</u>	<u>9.00</u>	<u>11.75</u>	<u>N/A</u>	<u>N/A</u>
<u>Travelers with advanced reservations (\$7 fee) from Lopez, Shaw, Orcas and Friday Harbor to Sidney<sup>2</sup></u>	<u>4.75</u>	<u>2.00</u>	<u>11.75</u>	<u>N/A</u>	<u>N/A</u>
<u>Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip)<sup>2</sup></u>	<u>51.00</u>	<u>40.95</u>	<u>51.00</u>	<u>N/A</u>	<u>N/A</u>

**EFFECTIVE 03:00 A.M. MAY 1, 2006**

<u>ROUTES</u>	<u>Vehicle Under 20' Incl. Driver One Way</u>	<u>Vehicle Under 20' w/Sr Citizen or Disabled Driver<sup>4</sup></u>	<u>Vehicle Under 20' Over Height Charge<sup>1</sup></u>	<u>Frequent User Coupon book 20 Rides<sup>2</sup></u>	<u>Frequent User Convenience 10 Rides<sup>3</sup></u>
<u>Fauntleroy-Southworth Port</u>					
<u>Townsend/Keystone</u>	<u>8.25</u>	<u>7.05</u>	<u>8.25</u>	<u>132.00</u>	<u>74.25</u>

**PROPOSED**

PROPOSED

<u>ROUTES</u>	<u>Vehicle Under 20' Incl. Driver One Way</u>	<u>Vehicle Under 20' w/Sr Citizen or Disabled Driver<sup>4</sup></u>	<u>Vehicle Under 20' Over Height Charge<sup>1</sup></u>	<u>Frequent User Coupon book 20 Rides<sup>2</sup></u>	<u>Frequent User Convenience 10 Rides<sup>3</sup></u>
<u>Seattle-Bainbridge Island</u>					
<u>Seattle-Bremerton</u>					
<u>Edmonds-Kingston</u>	<u>10.50</u>	<u>9.00</u>	<u>10.50</u>	<u>168.00</u>	<u>94.50</u>
<u>*Fauntleroy-Vashon *Southworth-Vashon</u>					
<u>*Pt. Defiance-Tahlequah</u>	<u>13.50</u>	<u>11.50</u>	<u>13.50</u>	<u>108.00</u>	<u>60.75</u>
<u>Mukilteo-Clinton</u>	<u>6.25</u>	<u>5.35</u>	<u>6.25</u>	<u>100.00</u>	<u>56.25</u>
	<u>10 Rides - 5 Round Trips</u>				
<u>*Anacortes to Lopez - Sunday-Tuesday</u>	<u>22.00</u>	<u>17.50</u>	<u>22.00</u>	<u>91.00</u>	<u>103.25</u>
<u>*Lopez - Wednesday-Saturday</u>	<u>24.25</u>	<u>19.25</u>	<u>24.25</u>	<u>91.00</u>	<u>103.25</u>
<u>*Shaw, Orcas - Sunday-Tuesday</u>	<u>26.25</u>	<u>21.75</u>	<u>26.25</u>	<u>108.75</u>	<u>123.25</u>
<u>*Shaw, Orcas - Wednesday-Saturday</u>	<u>29.00</u>	<u>24.00</u>	<u>29.00</u>	<u>108.75</u>	<u>123.25</u>
<u>*Friday Harbor - Sunday-Tuesday</u>	<u>31.25</u>	<u>26.75</u>	<u>31.25</u>	<u>129.50</u>	<u>146.75</u>
<u>*Friday Harbor - Wednesday-Saturday</u>	<u>34.50</u>	<u>29.50</u>	<u>34.50</u>	<u>125.50</u>	<u>146.75</u>
<u>Between Lopez, Shaw, Orcas and Friday Harbor<sup>2</sup></u>	<u>13.75</u>	<u>13.75</u>	<u>13.75</u>	<u>55.00</u>	<u>62.00</u>
<u>International Travel</u>					
<u>Anacortes to Sidney and Sidney to all destinations</u>	<u>39.25</u>	<u>31.95</u>	<u>39.25</u>	<u>N/A</u>	<u>N/A</u>
<u>Travelers with advanced reservations (\$15 fee) Anacortes to Sidney and Sidney to all destinations<sup>6</sup></u>	<u>24.25</u>	<u>16.95</u>	<u>39.25</u>	<u>N/A</u>	<u>N/A</u>
<u>Lopez, Shaw, Orcas and Friday Harbor to Sidney</u>	<u>11.75</u>	<u>9.00</u>	<u>11.75</u>	<u>N/A</u>	
<u>Travelers with advanced reservations (\$7 fee) from Lopez, Shaw, Orcas and Friday Harbor to Sidney<sup>2</sup></u>	<u>4.75</u>	<u>2.00</u>	<u>11.75</u>	<u>N/A</u>	
<u>Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip)<sup>1</sup></u>	<u>51.00</u>	<u>40.95</u>	<u>51.00</u>	<u>N/A</u>	<u>N/A</u>

**EFFECTIVE 03:00 A.M. MAY 1, 2005**

<u>ROUTES</u>	<u>Motorcycle<sup>4</sup> Incl. Driver Stowage<sup>1</sup> One Way@</u>	<u>Motorcycle w/Sr Citizen or Disabled Driver Stowage<sup>1</sup> One Way@</u>	<u>Motorcycle Oversize Charge<sup>1</sup></u>	<u>Motorcycle Frequent User Commuter 20 Rides<sup>2</sup>@</u>	<u>Motorcycle Frequent User Convenience 10 Rides</u>
<u>Fauntleroy-Southworth Port</u>					
<u>Townsend/Keystone</u>	<u>3.60</u>	<u>2.40</u>	<u>1.25</u>	<u>57.60</u>	<u>30.60</u>

PROPOSED

<u>ROUTES</u>	<u>Motorcycle<sup>5</sup> Incl. Driver Stowage<sup>1</sup> One Way@</u>	<u>Motorcycle w/Sr Citizen or Disabled Driver Stowage<sup>1</sup> One Way@</u>	<u>Motorcycle Oversize Charge<sup>1</sup></u>	<u>Motorcycle Frequent User Commuter 20 Rides<sup>2</sup>@</u>	<u>Motorcycle Frequent User Convenience 10 Rides</u>
<u>Seattle-Bainbridge Island</u>					
<u>Seattle-Bremerton</u>					
<u>Edmonds-Kingston</u>	<u>4.50</u>	<u>3.00</u>	<u>1.50</u>	<u>72.00</u>	<u>38.30</u>
<u>*Fautleroy-Vashon *Southworth-Vashon</u>					
<u>*Pt. Defiance-Tahlequah</u>	<u>5.90</u>	<u>3.90</u>	<u>2.00</u>	<u>47.20</u>	<u>25.10</u>
<u>Mukilteo-Clinton</u>	<u>2.70</u>	<u>1.80</u>	<u>0.90</u>	<u>43.20</u>	<u>23.00</u>
<u>10 Rides - 5 Round Trips</u>					
<u>*Anacortes to Lopez - Sunday-Tuesday</u>	<u>11.70</u>	<u>7.20</u>	<u>2.70</u>	<u>97.50</u>	<u>61.50</u>
<u>*Lopez - Wednesday-Saturday</u>	<u>13.00</u>	<u>8.00</u>	<u>3.00</u>	<u>97.50</u>	<u>61.50</u>
<u>*Shaw, Orcas - Sunday-Tuesday</u>	<u>12.60</u>	<u>8.10</u>	<u>3.60</u>	<u>104.30</u>	<u>69.00</u>
<u>*Shaw, Orcas - Wednesday-Saturday</u>	<u>13.90</u>	<u>8.90</u>	<u>3.90</u>	<u>104.30</u>	<u>69.00</u>
<u>*Friday Harbor - Sunday-Tuesday</u>	<u>13.50</u>	<u>9.00</u>	<u>4.50</u>	<u>112.50</u>	<u>76.50</u>
<u>*Friday Harbor - Wednesday-Saturday</u>	<u>15.00</u>	<u>10.00</u>	<u>5.00</u>	<u>112.50</u>	<u>76.50</u>
<u>Between Lopez, Shaw, Orcas and Friday Harbor<sup>3</sup></u>	<u>4.00</u>	<u>4.00</u>	<u>4.00</u>	<u>N/A</u>	<u>N/A</u>
<u>International Travel</u>					
<u>Anacortes to Sidney and Sidney to all destinations</u>	<u>19.50</u>	<u>12.20</u>	<u>5.00</u>	<u>N/A</u>	<u>N/A</u>
<u>Travelers with advanced reservations (\$15 fee) Anacortes to Sidney and Sidney to all destinations<sup>6</sup></u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
<u>Lopez, Shaw, Orcas and Friday Harbor to Sidney</u>	<u>7.25</u>	<u>4.50</u>	<u>2.00</u>	<u>N/A</u>	<u>N/A</u>
<u>Travelers with advanced reservations (\$7 fee) from Lopez, Shaw, Orcas and Friday Harbor to Sidney<sup>7</sup></u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
<u>Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip)<sup>4</sup></u>	<u>26.75</u>	<u>16.70</u>	<u>7.00</u>	<u>N/A</u>	<u>N/A</u>

**EFFECTIVE 03:00 A.M. MAY 1, 2006**

<u>ROUTES</u>	<u>Motorcycle<sup>5</sup> Incl. Driver Stowage<sup>1</sup> One Way@</u>	<u>Motorcycle w/Sr Citizen or Disabled Driver Stowage<sup>1</sup> One Way@</u>	<u>Motorcycle Oversize Charge<sup>1</sup></u>	<u>Motorcycle Frequent User Commuter 20 Rides<sup>2</sup>@</u>	<u>Motorcycle Frequent User Convenience 10 Rides</u>
<u>Fautleroy-Southworth Port Townsend/Keystone</u>	<u>3.60</u>	<u>2.40</u>	<u>1.25</u>	<u>57.60</u>	<u>32.40</u>

PROPOSED

<u>ROUTES</u>	<u>Motorcycle<sup>2</sup> Incl. Driver Stowage<sup>1</sup> One Way@</u>	<u>Motorcycle w/Sr Citizen or Disabled Driver Stowage<sup>1</sup> One Way@</u>	<u>Motorcycle Oversize Charge<sup>1</sup></u>	<u>Motorcycle Frequent User Commuter 20 Rides<sup>2</sup>@</u>	<u>Motorcycle Frequent User Convenience 10 Rides</u>
<u>Seattle-Bainbridge Island</u>					
<u>Seattle-Bremerton</u>					
<u>Edmonds-Kingston</u>	<u>4.50</u>	<u>3.00</u>	<u>1.50</u>	<u>72.00</u>	<u>40.50</u>
<u>*Fauntleroy-Vashon</u>					
<u>*Southworth-Vashon</u>					
<u>*Pt. Defiance-Tahlequah</u>	<u>5.90</u>	<u>3.90</u>	<u>2.00</u>	<u>47.20</u>	<u>26.60</u>
<u>Mukilteo-Clinton</u>	<u>2.70</u>	<u>1.80</u>	<u>0.90</u>	<u>43.20</u>	<u>24.30</u>
	<u>10 Rides - 5 Round Trips</u>				
<u>*Anacortes to Lopez - Sun- day-Tuesday</u>	<u>11.70</u>	<u>7.20</u>	<u>2.70</u>	<u>97.50</u>	<u>60.00</u>
<u>*Lopez - Wednesday-Satur- day</u>	<u>13.00</u>	<u>8.00</u>	<u>3.00</u>	<u>97.50</u>	<u>60.00</u>
<u>*Shaw, Orcas - Sunday- Tuesday</u>	<u>12.60</u>	<u>8.10</u>	<u>3.60</u>	<u>104.30</u>	<u>66.80</u>
<u>*Shaw, Orcas - Wednesday- Saturday</u>	<u>13.90</u>	<u>8.90</u>	<u>3.90</u>	<u>104.30</u>	<u>66.80</u>
<u>*Friday Harbor - Sunday- Tuesday</u>	<u>13.50</u>	<u>9.00</u>	<u>4.50</u>	<u>112.50</u>	<u>75.00</u>
<u>*Friday Harbor - Wednes- day-Saturday</u>	<u>15.00</u>	<u>10.00</u>	<u>5.00</u>	<u>112.50</u>	<u>75.00</u>
<u>Between Lopez, Shaw, Orcas and Friday Harbor<sup>3</sup></u>	<u>4.00</u>	<u>4.00</u>	<u>4.00</u>	<u>N/A</u>	<u>N/A</u>
<u>International Travel</u>					
<u>Anacortes to Sidney and Sidney to all destinations</u>	<u>19.50</u>	<u>12.20</u>	<u>5.00</u>	<u>N/A</u>	<u>N/A</u>
<u>Travelers with advanced res- ervations (\$15 fee) Ana- cortes to Sidney and Sidney to all destinations<sup>4</sup></u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
<u>Lopez, Shaw, Orcas and Fri- day Harbor to Sidney</u>	<u>7.25</u>	<u>4.50</u>	<u>2.00</u>	<u>N/A</u>	<u>N/A</u>
<u>Travelers with advanced res- ervations (\$7 fee) from Lopez, Shaw, Orcas and Fri- day Harbor to Sidney<sup>1</sup></u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
<u>Lopez, Shaw, Orcas and Fri- day Harbor to Sidney (round trip)<sup>2</sup></u>	<u>26.75</u>	<u>16.70</u>	<u>7.00</u>	<u>N/A</u>	

@ These fares rounded to the next multiple of \$0.10. All other fares rounded to the next multiple of \$.25.

\* These routes operate as a one-point toll collection system.

<sup>1</sup>SIZE - All vehicles up to 20' in length and under 7'6" shall pay the vehicle under 20' toll. Vehicles up to 20' but over 7'6" in height shall pay an overweight charge of 100% of the vehicle full fare. Motorcycles with trailers, sidecars, or any vehicle licensed as a motorcycle with three or more wheels will pay an oversize motorcycle charge of 100% of the motorcycle full fare. Upon presentation by either the driver or passenger of a WSF Disability Travel Permit, Regional Reduced Fare Permit, or other identification which establishes disability, the height charge will be waived for vehicles equipped with wheel chair lift or other mechanism designed to accommodate the person with disability.

<sup>2</sup>FREQUENT USER COUPONS - Shall be valid only for 90 days from date of purchase after which time the ticket shall not be accepted for passage. Unused coupons will not be eligible for refund. Subsequent to the implementation of the Electronic Fare System (EFS) in the fall of 2005, this will be replaced by a 20 ride (10 ride in the San Juan Islands) card valid for 30 days from the date of purchase. From mail order deliveries, WSF may add additional days to allow for delivery time. Starting on May 1, 2006, purchase of this product at a toll booth will be 5% higher at terminals where kiosks are available.

<sup>3</sup>INTER-ISLAND FARES - Tolls collected westbound only. Vehicles traveling between islands may request a single transfer ticket good for one transfer at an intermediate island. The transfer may

only be obtained when purchasing the appropriate vehicle fare for inter-island travel (westbound at Lopez, Shaw, or Orcas) and is free of charge. Transfers shall be valid for 24 hours from time of purchase.

<sup>4</sup>SENIOR CITIZEN, DISABLED DRIVER OR DISABLED ATTENDANT DRIVER - Half fare discount applies to driver portion of the vehicle-driver fare and only when the driver is eligible. Those persons with disabilities who require attendant care while traveling on the ferries, and are so certified by their physician, may obtain an endorsement on their WSF Disability Travel Permit and such endorsement shall allow the attendant, when driving, to have the driver portion of the vehicle fare waived.

<sup>5</sup>ROUND TRIP - Round trip tickets for international travel available for trips beginning or ending on one of the islands served.

<sup>6</sup>RESERVATION FARES - These fares apply only to travelers that have made advanced reservations and paid the \$15 nonrefundable reservation fee. The reservation fee shall be a \$30 nonrefundable fee when the peak season surcharge is in effect.

<sup>7</sup>RESERVATION FARES - These fares apply only to travelers that have made advanced reservations and paid the \$7 nonrefundable reservation fee. The reservation fee shall be a \$15 nonrefundable fee when the peak season surcharge is in effect.

<sup>8</sup>CONVENIENCE CARD - Subsequent to the implementation of the Electronic Fare System (EFS) in the fall of 2005, this 10-ride card will be valid from (90 days in the San Juan Islands) the date of purchase. For mail order deliveries, WSF may add additional days to allow for delivery time. Starting May 1, 2006, purchase of this product at a toll booth will be 5% higher at terminals where kiosks are available.

RIDE SHARE VEHICLES - A commuter ride share vehicle which carries five or more persons on a regular and expense-sharing basis for the purpose of travel to and from work or school and which is certified as such by a local organization approved by the Washington state ferry system, may purchase for a \$20 fee, a permit valid for one year valid only during the hours shown on the permit. The \$20.00 fee shall include the driver. Remaining passengers shall pay the applicable passenger fare. Except that the minimum total paid for all passengers in the van shall not be less than

four times the applicable passenger fare. Carpools of three or more registered in WSF's preferential loading program must also pay a \$20.00 yearly permit fee.

STOWAGE - Stowage carry-on items including kayaks, canoes and other items of comparable size which are typically stowed on the vehicle deck of the vessel shall be charged at the motorcycle rate. This rate includes the walk-on passenger carrying on the item to be stowed.

PEAK SEASON SURCHARGE - A 25% surcharge shall be applied to vehicles from the first Sunday in May to the second Sunday in October except those using frequent user coupons. A 35% surcharge shall be applied on vehicle fares from Anacortes to Lopez, Shaw, Orcas and Friday Harbor, except those using frequent user coupons.

PENALTY CHARGES - Owner of vehicle without driver will be assessed a \$100.00 penalty charge.

PROMOTIONAL TOLLS - A promotional rate may be established at the discretion of the WSF ((~~CEO~~)) Assistant Secretary, Executive Director for a specified discount in order to enhance total revenue and effective only at designated times on designated routes.

GROUP OR VOLUME SALES - In order to increase total revenues, WSF may develop full fare or discounted customer packages or bundle single fare types into multiple trip books or offer passes for high volume or group users. In pricing these packages, WSF will have discretion to set appropriate volume discounts based on a case-by-case basis.

SPECIAL EVENTS - In order to increase total revenues, WSF may develop, create or participate in special events that may include, but not be limited to, contributing or packaging discounted fares in exchange for the opportunity to participate in the income generated by the event.

BUNDLED SINGLE FARE BOOKS - WSF may bundle single fare types into multiple trip books as a customer convenience. These books shall be valid only until the first ((~~Sunday~~)) of May following the date of purchase after which time the coupons shall not be accepted for passage. Unused coupons are not refundable. Anacortes to San Juan Islands senior/disabled fares will be bundled at the applicable early week price.

**AMENDATORY SECTION (Amending WSR 03-08-072, filed 4/1/03, effective 5/2/03)**

**WAC 468-300-040 Oversize vehicle ferry tolls.**

**EFFECTIVE 03:00 A.M. MAY ((4)) 1, ((2003)) 2005**

ROUTES	Oversize Vehicle Ferry Tolls <sup>1</sup>							
	Overall Unit Length - Including Driver							
	20' To Under	20' To Under	30' To Under	40' To Under	50' To Under	60' To Under	70' To and include	Cost Per Ft. Over 80' @
Fauntleroy-Southworth	((14.25))	((22.50))	((30.00))	((37.50))	((45.00))	((52.50))	((60.00))	((0.80))
Port Townsend/Keystone	12.50	24.50	33.00	41.23	49.80	57.75	66.00	0.90
Seattle-Bainbridge Island								
Seattle/Bremerton	((14.25))	((28.50))	((38.00))	((47.50))	((57.00))	((66.50))	((76.00))	((1.00))
Edmonds-Kingston	15.75	31.50	42.00	52.50	63.00	73.50	84.00	1.10
*Fauntleroy-Vashon								
*Southworth-Vashon	((18.50))	((36.75))	((49.00))	((61.25))	((73.50))	((85.75))	((98.00))	((1.30))
*Pt. Defiance-Tahlequah	20.25	40.50	54.00	67.50	81.00	94.50	108.00	1.40
	((8.75))	((17.25))	((23.00))	((28.75))	((34.50))	((40.25))	((46.00))	
Mukilteo-Clinton	9.50	18.75	25.00	31.25	37.50	43.70	50.00	0.60

Oversize Vehicle Ferry Tolls<sup>1</sup>

Overall Unit Length - Including Driver

ROUTES	20'	20'	30'	40'	50'	60'	70'	70'	Cost Per Ft.
	To Under 30'	To Under 30'							
	Under 7'6" High	Over 7'6" High	To Under 40'	To Under 50'	To Under 60'	To under 70'	To and include 80'	Over 80' @	
*Anacortes to Lopez - Sunday-Tuesday <sup>2</sup>	<del>((30.00))</del> 33.00	<del>((60.00))</del> 66.00	<del>((80.00))</del> 88.00	<del>((100.00))</del> 110.00	<del>((120.00))</del> 132.00	<del>((140.00))</del> 154.00	<del>((160.00))</del> 176.00	<del>((2.00))</del> 2.20	
*Anacortes to Shaw, Orcas - Sunday-Tuesday <sup>2</sup>	<del>((35.25))</del> 39.50	<del>((70.50))</del> 78.75	<del>((94.00))</del> 105.00	<del>((117.50))</del> 131.25	<del>((141.00))</del> 157.50	<del>((164.50))</del> 183.75	<del>((188.00))</del> 210.00	<del>((2.40))</del> 2.70	
*Anacortes to Friday Harbor - Sunday-Tuesday	<del>((35.25))</del> 43.25	<del>((70.50))</del> 86.25	<del>((94.00))</del> 115.00	<del>((117.50))</del> 143.75	<del>((141.00))</del> 172.50	<del>((164.50))</del> 201.25	<del>((188.00))</del> 230.00	<del>((2.40))</del> 2.90	
*Anacortes to Lopez - Wednesday-Saturday <sup>2</sup>	<del>((33.00))</del> 36.50	<del>((66.00))</del> 72.75	<del>((88.00))</del> 97.00	<del>((110.00))</del> 121.25	<del>((132.00))</del> 145.50	<del>((154.00))</del> 169.75	<del>((176.00))</del> 194.00	<del>((2.20))</del> 2.50	
*Anacortes to Shaw, Orcas - Wednesday-Saturday <sup>2</sup>	<del>((39.00))</del> 43.50	<del>((78.00))</del> 87.00	<del>((104.00))</del> 116.00	<del>((130.00))</del> 145.00	<del>((156.00))</del> 174.00	<del>((182.00))</del> 203.00	<del>((208.00))</del> 232.00	<del>((2.60))</del> 2.90	
*Anacortes to Friday Harbor - Wednesday-Saturday	<del>((39.00))</del> 47.75	<del>((78.00))</del> 95.25	<del>((104.00))</del> 127.00	<del>((130.00))</del> 158.75	<del>((156.00))</del> 190.50	<del>((182.00))</del> 228.25	<del>((208.00))</del> 254.00	<del>((2.60))</del> 3.20	
Between Lopez, Shaw, Orcas and Friday Harbor <sup>3</sup>	<del>((17.00))</del> 20.75	<del>((33.75))</del> 41.25	<del>((45.00))</del> 55.00	<del>((56.25))</del> 68.75	<del>((67.50))</del> 82.50	<del>((78.75))</del> 96.25	<del>((90.00))</del> 110.00	N/A	
<i>International Travel</i>									
Anacortes to Sidney to all destinations - Recreational Vehicles and Buses	59.00	59.00	78.50	98.25	117.95	137.50	157.00	2.00	
Anacortes to Sidney and Sidney to all destinations - Commercial Vehicles	<del>((53.00))</del> 59.00	<del>((105.75))</del> 117.75	<del>((141.00))</del> 157.00	<del>((176.25))</del> 196.25	<del>((211.50))</del> 235.50	<del>((246.75))</del> 274.75	<del>((282.00))</del> 314.00	<del>((3.60))</del> 4.00	
<i>Travelers with advanced reservations (\$15 fee)</i>									
Anacortes to Sidney and Sidney to all destinations - Recreational Vehicles and Buses	44.00	44.00	63.50	83.25	102.75	122.50	142.00	2.00	
<i>Travelers with advanced reservations (\$15 fee)</i>									
Anacortes to Sidney and Sidney to all destinations <sup>5</sup> - Commercial Vehicles	<del>((38.00))</del> 44.00	<del>((90.75))</del> 102.75	<del>((126.00))</del> 142.00	<del>((161.25))</del> 181.25	<del>((196.50))</del> 220.50	<del>((231.75))</del> 259.75	<del>((267.00))</del> 299.00	<del>((3.60))</del> 4.00	
<i>Lopez, Shaw, Orcas and Friday Harbor to Sidney - Recreational Vehicles and Buses</i>									
- Commercial Vehicles	17.75	17.75	23.50	29.50	35.25	41.25	47.00	0.75	
- Commercial Vehicles	17.75	35.25	47.00	58.75	70.50	82.25	94.00	1.20	
<i>Travelers with advanced reservations (\$7 fee) from Lopez, Shaw, Orcas and Friday Harbor to Sidney<sup>6</sup> - Recreational Vehicles and Buses</i>									
- Commercial Vehicles	<del>((8.50))</del> 10.75	<del>((23.75))</del> 10.75	<del>((34.00))</del> 16.50	<del>((44.25))</del> 22.50	<del>((54.50))</del> 28.25	<del>((64.75))</del> 34.25	<del>((75.00))</del> 40.00	<del>((1.10))</del> 0.60	
- Commercial Vehicles	10.75	28.25	40.00	51.75	63.50	75.25	87.00	0.60	
<i>Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip)<sup>4</sup> - Recreational Vehicles and Buses</i>									
- Commercial Vehicles	<del>((68.50))</del> 76.75	<del>((136.50))</del> 76.75	<del>((182.00))</del> 102.00	<del>((227.50))</del> 127.75	<del>((273.00))</del> 153.00	<del>((318.50))</del> 178.75	<del>((364.00))</del> 204.00	<del>((4.70))</del> 2.75	
- Commercial Vehicles	76.75	153.00	204.00	255.00	306.00	357.00	408.00	5.20	

PROPOSED

((EFFECTIVE 03:00 A.M. MAY 2, 2004

Oversize Vehicle Ferry Tolls  
Overall Unit Length—Including Driver

ROUTES	20'	20'	30'	40'	50'	60'	70'	70'	Cost Per Ft. Over 80' @
	To Under 30' 7'6" High	To Under 30' 7'6" High							
Fauntleroy-Southworth									
Port Townsend/Keystone	11.75	23.25	31.00	38.75	46.50	54.25	62.00	0.80	
Seattle-Bainbridge Island									
Seattle/Bremerton									
Edmonds-Kingston	15.00	30.00	40.00	50.00	60.00	70.00	80.00	1.00	
*Fauntleroy-Vashon									
*Southworth-Vashon									
*Pt. Defiance-Tablquah	19.50	39.00	52.00	65.00	78.00	91.00	104.00	1.30	
Mukilteo-Clinton	9.00	18.00	24.00	30.00	36.00	42.00	48.00	0.60	
*Anacortes to Lopez—									
Sunday-Tuesday <sup>2</sup>	31.25	62.25	83.00	103.75	124.50	145.25	166.00	2.10	
*Anacortes to Shaw, Orcas—									
Sunday-Tuesday <sup>2</sup>	37.50	75.00	100.00	125.00	150.00	175.00	200.00	2.50	
*Anacortes to Friday Harbor—									
Sunday-Tuesday	39.00	78.00	104.00	130.00	156.00	182.00	208.00	2.60	
*Anacortes to Lopez—									
Wednesday-Saturday <sup>2</sup>	34.50	69.00	92.00	115.00	138.00	161.00	184.00	2.30	
*Anacortes to Shaw, Orcas—									
Wednesday-Saturday <sup>2</sup>	41.75	83.25	111.00	138.75	166.50	194.25	222.00	2.80	
*Anacortes to Friday Harbor—									
Wednesday-Saturday	43.25	86.25	115.00	143.75	172.50	201.25	230.00	2.90	
Between Lopez, Shaw, Orcas and									
Friday Harbor <sup>3</sup>	18.75	37.50	50.00	62.50	75.00	87.50	100.00	N/A	
International Travel									
Anacortes to Sidney									
and Sidney to all destinations	56.00	111.75	149.00	186.25	223.50	260.75	298.00	3.80	
Travelers with advanced reservations (\$15 fee)									
Anacortes to Sidney and									
Sidney to all destinations <sup>5</sup>	41.00	96.75	134.00	171.25	208.50	245.75	283.00	3.80	
Lopez, Shaw, Orcas									
and Friday Harbor to Sidney	16.50	33.00	44.00	55.00	66.00	77.00	88.00	1.10	
Travelers with advanced									
reservations (\$7 fee) from									
Lopez, Shaw, Orcas and Friday									
Harbor to Sidney <sup>6</sup>	9.50	26.00	37.00	48.00	59.00	70.00	81.00	1.10	
Lopez, Shaw, Orcas and Friday									
Harbor to Sidney (round trip) <sup>4</sup>	72.50	144.75	193.00	241.25	289.50	337.75	386.00	4.90	

@ These fares rounded to the next multiple of \$0.05. All other fares rounded to the next multiple of \$.25.

\* These routes operate as a one point toll collection system.)

<sup>1</sup>OVERSIZE VEHICLES - Includes all vehicles 20 feet in length and longer regardless of type: Commercial trucks, recreational vehicles, vehicles under 20' pulling trailers, etc. Length shall include vehicle and load to its furthest extension. Overheight charge is included in oversize vehicle toll. Vehicles 11 feet in width or wider pay double the fare applicable to their length. Private and commercial passenger buses or other passenger vehicles pay the applicable oversize vehicle tolls. Public transit buses and drivers shall travel free upon display of an annual permit which may be purchased for \$10.

<sup>2</sup>TRANSFERS - Tolls collected westbound only. Oversize vehicles traveling westbound from Anacortes may purchase a single intermediate transfer when first purchasing the appropriate fare. The

transfer is valid for a 24-hour period and is priced as follows: ((May 4, 2003 - May 1, 2004, \$20.00)) May 1, 2005 - April 30, 2007, \$37.50 base season, \$((27-50)) 50.00 peak season((=May 2, 2004 - April 30, 2005, \$28.75 base season, \$38.75 peak season)).

<sup>3</sup>INTER-ISLAND - Tolls collected westbound only. Vehicles traveling between islands may request a single transfer ticket good for one transfer at an intermediate island. The transfer may only be obtained when purchasing the appropriate vehicle fare for inter-island travel (westbound at Lopez, Shaw, or Orcas) and is free of charge. Transfers shall be valid for 24 hours from time of purchase.

<sup>4</sup>ROUND TRIP - Round trip tickets for international travel available for trips beginning or ending on one of the islands served.

<sup>5</sup>RESERVATION FARES - These fares apply only to travelers that have made advanced reservations and paid the \$15 nonrefundable

reservation fee. The reservation fee shall be a \$30 nonrefundable fee when the peak season surcharge is in effect.

<sup>6</sup>RESERVATION FARES - These fares apply only to travelers that have made advanced reservations and paid the \$7 nonrefundable reservation fee. The reservation fee shall be a \$15 nonrefundable fee when the peak season surcharge is in effect.

COMMERCIAL VEHICLE RESERVATION FEES - For commercial vehicles traveling with reservations a participation fee (\$200 for summer schedule season, \$100 for each of the other schedule seasons) will be charged. Fees will be collected when reservations are confirmed.

PEAK SEASON SURCHARGE - A peak season surcharge of 25% shall apply to all oversize vehicles, except for Anacortes to Lopez, Shaw, Orcas, and Friday Harbor. The senior citizen discount shall apply to the driver of an oversize vehicle. A 35% surcharge will apply to oversized vehicles traveling from Anacortes to Lopez, Shaw, Orcas and Friday Harbor.

SENIOR CITIZEN DISCOUNTS - Discounts of 50% for the driver of the above vehicles shall apply. Senior citizen discount is determined by subtracting full-fare passenger rate and adding half-fare passenger rate.

PENALTY CHARGES - Owner of vehicle without driver will be assessed a \$100.00 penalty charge.

DISCOUNT FROM REGULAR TOLL - Effective May ((4, 2003, through May 4, 2004)) 1, 2005, through fall of 2005, oversize vehicles making 12 or more, one-way crossings per week (Sunday through Saturday) will qualify for a 10% discount from the regular ferry tolls. ((This discount is discontinued effective May 5, 2004.)) With the implementation of EFS in fall 2005, WSF will provide a commercial account program that will be prepaid and offer access to volume discounts based on travel, revenue or other criteria in accordance with WSF business rules.

GROUP OR VOLUME SALES - In order to increase total revenues, WSF may develop full fare or discounted customer packages or bundle single fare types into multiple trip books or offer passes for high volume or group users. In pricing these packages, WSF will have discretion to set appropriate volume discounts based on a case-by-case basis.

SPECIAL EVENTS - In order to increase total revenues, WSF may develop, create or participate in special events that may include, but not be limited to, contributing or packaging discounted fares in exchange for the opportunity to participate in the income generated by the event.

EMERGENCY TRIPS DURING NONSERVICE HOURS - While at locations where crew is on duty charge shall be equal to the cost of fuel consumed to make emergency trip. Such trips shall only be offered as a result of official requests from an emergency services agency and only in the case of no reasonable alternative.

BULK NEWSPAPERS - Per 100 lbs. \$2.20

(Shipments exceeding 60,000 lbs. in any month shall be assessed \$1.10 per 100 lbs.)

Daily Newspapers, in bundles, and medical supplies, to be received and delivered without receipt and subject to owner's risk, will be transported between ferry terminals on regular scheduled sailings.

EXPRESS SHIPMENTS - A flat handling charge of \$25.00 per parcel is charged.

(Shipments exceeding 100 lbs. assessed \$8.30 for each 25 lbs. or fraction thereof.)

Express shipments will be handled on scheduled sailings when no other means of shipment is available to shipper. Shipments must be of a size and weight that can easily be handled by carrier's employees.

Carrier reserves the right to refuse shipment of any item. Carrier assumes no liability for loss or damage to any shipment. Minimum rate for any shipment shall be the rate for 100 pounds.

San Juan inter-island express shipments will be handled at \$5.00 per parcel.

MEDICAL SUPPLIES - A flat handling charge of \$5.00 per shipment is charged.

DISCLAIMER - Under no circumstances does Washington state ferries warrant the availability of ferry service at a given date or time; nor does it warrant the availability of space on board a vessel on a given sailing.

AMENDATORY SECTION (Amending WSR 03-08-072, filed 4/1/03, effective 5/2/03)

**WAC 468-300-220 Calculation of charter rates for vessels owned by the Washington state ferry system.** Pursuant to chapter 323, Laws of 1997, vessels owned by the Washington state ferry system may be made available for charter subject to operational availability. Execution of a charter agreement as set forth in the statute must precede a commitment to charter. The following actual hourly vessel operating costs have been calculated for establishing the rates to be charged for vessel charters from July 1, ((2002)) 2004, through June 30, ((2003)) 2005:

Vessel Class	Deck Crew On Overtime	Deck Crew On Straight Time
Jumbo Mark II	\$ ((1,077.29)) <u>1,191.00</u>	\$ ((895.07)) <u>1,019.00</u>
Jumbo	((1,037.39)) <u>1,151.00</u>	((868.24)) <u>991.00</u>
Super	((999.22)) <u>1,102.00</u>	((835.96)) <u>949.00</u>
Evergreen	((775.62)) <u>822.00</u>	((640.56)) <u>695.00</u>
Issaquah	((810.73)) <u>871.00</u>	((675.67)) <u>743.00</u>
Steel	((649.13)) <u>687.00</u>	((542.27)) <u>586.00</u>
Rhododendron	((622.13)) <u>646.00</u>	((515.27)) <u>545.00</u>
Hiyu	((439.40)) <u>455.00</u>	((380.09)) <u>398.00</u>
Passenger Only	521.78	445.57
Passenger Only	595.00	516.34
Fast Ferry		

The rate for an individual charter will be calculated by:

- (1) Multiplying the actual operating cost set forth above for the vessel that is chartered by the number of hours, or fraction thereof, for which the vessel is chartered;
- (2) Adding labor costs, mileage and per diem expenses to determine the total actual costs if the particular charter requires a crew callout; and
- (3) Increasing the total actual costs calculated pursuant to subsections (1) and (2) of this section by an appropriate

PROPOSED



profit margin based on market conditions, and rounding to the nearest fifty dollars.

In the case of charters for the transport of hazardous materials, the transporter is required to pay for all legs necessary to complete the charter, even if the vessel is simultaneously engaged in an operational voyage on behalf of the Washington state ferry system.

**WSR 05-05-063**  
**PROPOSED RULES**  
**DEPARTMENT OF REVENUE**  
[Filed February 15, 2005, 11:15 a.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 04-16-055.

**Title of Rule and Other Identifying Information:** WAC 458-16-1000 Property belonging to federally recognized Indian tribes—Definitions—Exemption—Declaration process—Appeal rights.

**Hearing Location(s):** Capital Plaza Building, 4th Floor, Executive Large Conference Room, 1025 Union Avenue S.E., Olympia, WA, on March 31, 2005, at 10:00 a.m.

**Date of Intended Adoption:** April 7, 2005.

**Submit Written Comments to:** Kim Qually or Nathan Schreiner, P.O. Box 47453, Olympia, WA 98504-7453, e-mail KimQ@dor.wa.gov or NathanS@dor.wa.gov, fax (360) 586-5543, by March 31, 2005.

**Assistance for Persons with Disabilities:** Contact Sandy Davis no later than ten days before the hearing date, TTY 1-800-451-7985 or (360) 725-7499.

**Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules:** This rule describes the property tax exemption that may be claimed by a federally recognized Indian tribe for property exclusively used for essential government services in accordance with the 2004 changes to RCW 84.36.010 (chapter 236, Laws of 2004). The rule explains when property is used for "essential government services," how the exemption may be obtained, the Department of Revenue's role in granting or denying an exemption declaration, and how a tribe or an assessor may appeal an exemption determination by the Department of Revenue.

An emergency rule with the same topic is currently in effect. As compared to the emergency rule, the proposed rule adds additional examples and additional explanation of when property is "used" for essential government services.

**Reasons Supporting Proposal:** To provide guidance and examples for Indian tribes, local government officials, and Department of Revenue personnel to clarify the application and administration of the new property tax exemption.

**Statutory Authority for Adoption:** RCW 84.36.865.

**Statute Being Implemented:** RCW 84.36.010.

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:** Kim Qually and Nathan Schreiner, 1025 Union Avenue S.E.,

Suite #544, Olympia, WA, (360) 570-6113 or (360) 570-6136; Implementation and Enforcement: Peri Maxey, 1025 Union Avenue S.E., Suite #200, Olympia, WA, (360) 570-5860.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule does not impose any burden upon a small business.

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.

February 15, 2005  
Alan R. Lynn  
Rules Coordinator

PROPOSED

**NEW SECTION**

**WAC 458-16-1000 Property belonging to federally recognized Indian tribes—Definitions—Exemption—Declaration process—Appeal rights. (1) Introduction.** This section implements Substitute House Bill No. 1322 (SHB 1322) as passed by the 2004 legislature and published in the 2004 regular session laws as chapter 236. SHB 1322 amends RCW 84.36.010 to exempt "all property belonging exclusively to any federally recognized Indian tribe located in the state, if that property is used exclusively for essential government services." This section explains the exemption, how the exemption may be obtained, how essential government services is defined, and how a tribe or an assessor may appeal an exemption determination.

(2) **Definitions.** For purposes of this section, the following definitions apply:

(a) "Assessor" means a county assessor or any person authorized to act on behalf of the assessor.

(b) "Board" or "BTA" means the state board of tax appeals described in chapter 82.03 RCW and chapters 456-09 and 456-10 WAC.

(c) "Declaration" means the exemption declaration filed by an Indian tribe with the department to claim the property tax exemption authorized in RCW 84.36.010.

(d) "Department" means the department of revenue, property tax division.

(e) "Essential government services" means services such as tribal administration, public facilities, fire, police, public health, education, sewer, water, environmental and land use, transportation, and utility services. See subsections (4) and (5) below that outline more complete and detailed examples of "essential government services" for the purposes of this section.

(f) "Federally recognized Indian tribe," "Indian tribe," or "tribe" means any Indian nation, tribe, band, community, or other entity that is recognized as an "Indian tribe" by the United States Department of the Interior. The phrase "federally recognized Indian tribe" and the term "tribe" have the same meaning as "Indian tribe." See WAC 458-20-192 for more explicit information regarding these defined terms.

(g) "State" means the state of Washington.

(3) **Exemption.** To qualify for the exemption set forth in SHB 1322, real and personal property located in the state must:

(a) Belong exclusively to a federally recognized Indian tribe; and

(b) Be used exclusively for essential government services.

Property owned by the United States government and held in trust for a federally recognized Indian tribe is exempt from property tax.

(i) **When do the amendments to RCW 84.36.010 take effect?** The effective date of the amendments is June 10, 2004. After that date an Indian tribe may file an exemption declaration for the property granted exemption under RCW 84.36.010 as amended by chapter 236. Such a declaration must be filed with the department. This exemption is first applicable to taxes due in 2005.

(ii) **How a tribe may claim this exemption - exemption declaration required.**

(A) **Declaration form - how it may be obtained.** An Indian tribe claiming the property tax exemption described in this section must submit an exemption declaration and supporting documentation regarding the ownership and use of the property to the department. The declaration must be on a form prescribed by the department and signed by an authorized agent of the tribe. This information will be used to determine whether the property qualifies for exemption. An exemption declaration may be obtained from the department or downloaded from the state's internet site under the agency index for revenue at <http://dor.wa.gov/>.

(B) **Exemption declaration.** Declarations must be filed with the department to exempt property for taxes due the following year. A tribe may submit one exemption declaration for all real and personal property that it owns exclusively if the property is used exclusively for an essential government service. If real property is owned in part and/or used in part by another individual or entity, a separate exemption declaration must be submitted for each parcel.

(C) **Other documentation a tribe may be required to submit with exemption declaration to determine eligibility.** In addition to the exemption declaration, a tribe may be asked to submit the following information regarding the real or personal property for which exemption is sought to determine the amount of and eligibility for the exemption:

(I) An accurate description of the real and personal property including the county tax parcel number(s), and a copy of the current deed(s);

(II) An accurate map identifying by dimension the use of all real property that shows buildings, building sites, parking areas, landscaping, vacant areas, and floor plans of the buildings. This map or floor plan will be used to determine whether the property is entitled to a total or partial exemption based upon the use of the area;

(III) If the property is rented or loaned to another party, a copy of the rental agreement or other document explaining the terms of the lease or loan. This documentation must describe:

- What property is rented or loaned;
- The name of the party to whom the property is rented or loaned; and
- How the property is being used.

(D) **Department's review of exemption declaration and notice of exemption determination.** Upon receipt of

the exemption declaration the department will review the declaration and all supporting documentation. The department may physically inspect the property in order to verify exempt use. Additional information may be requested about the ownership and use of the property, if the department needs this information to determine whether the property qualifies for exemption. An exemption declaration is not considered complete until the department receives all required information. The department shall then determine the taxable status of the property. The burden is upon the tribe to demonstrate exempt use and ownership. The department may deny the exemption declaration, in whole or in part, if it believes the property does not qualify for exemption. If the exemption declaration is denied for any portion of the property, the department must clearly state the reason(s) for denial in the written determination. A denial may be appealed, as explained in subsection (12) of this rule.

(E) **When will the property be exempt from payment of taxes?** If an exemption declaration is approved, the property is exempt from property taxes due the year immediately following the year in which the declaration is submitted and for all subsequent years unless the property is sold or transferred or the tribe ceases to use the property exclusively for essential government services (see subsection (10) of this rule).

(4) **Essential government services as defined in RCW 84.36.010.** For the purposes of this section, "essential government services" mean services such as tribal administration, public facilities, fire, police, public health, education, sewer, water, environmental and land use, transportation, and utility services. Property used for essential government services includes property:

(a) Providing access to water or land as reasonably necessary to the exercise of treaty rights by a tribe or tribal members;

(b) Used for the protection and stewardship of forest land, shoreline, watershed, or other environmentally sensitive areas;

(c) Used for the preservation of historically or culturally significant sites; and

(d) Used by a utility company providing services to residents of Indian country, as defined in WAC 458-20-192. The property of a utility company that provides services to an area extending outside of Indian country does not qualify for exemption.

In order for property to be used for essential governmental services there must be significant governmental action with respect to the property. Property does not qualify for the exemption under this rule because it has cultural or historical significance, for example. Property qualifies as the result of ongoing governmental action with respect to the property, such as being designated as a cultural site and used for public purposes related to such designation.

(5) **Examples regarding essential government services.** The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide and are not to be used to determine eligibility for exemption. All examples assume exclusive ownership of property located in the state by a federally recognized tribe.

(a) A tribe uses property for a courthouse, police station, fire station, hospital, library, and public schoolhouse. Each of these uses is a use for essential government services.

(b) A tribe acquires off-reservation land along the headwaters of a stream flowing into the reservation. The land is maintained as a conservation zone, limiting pollution and protecting water quality. The property is used for essential government services.

(c) A tribe operates a fish hatchery as part of its fisheries program. The property is used for essential government services.

(d) A tribe operates a fish cannery and processing center. The property is used for a commercial activity and is not used for essential government services.

(e) A tribe maintains and operates a parking lot or garage that is adjacent to its tribal administration building and courthouse. The parking lot or garage is integrally related to the essential government services provided in close proximity to its location. The property is used for essential government services. However, if the parking lot or garage is also used for ineligible purposes, it is taxable.

(f) A tribe operates a sawmill and log yard used to process and store timber or logs removed from its forest lands. Both the sawmill and log yard are commercial activities. The property is not used for essential government services.

(g) A tribe purchases land for the purpose of preserving historically significant sites. The tribe establishes a covenant prohibiting development, adopts a resolution designating the land as a historically significant site, and budgets money for historical research and field trips by local schools. The property is used for essential government services.

(h) A tribe's members are unable to reach a stretch of river in order to exercise fishing rights without crossing private property. The tribe purchases a parcel in order to allow access and establishes a footpath to the river. The property is used for essential government services.

**(6) Property jointly owned by an Indian tribe and another individual or entity used exclusively for essential government services - eligibility for exemption.** The percentage of the property owned exclusively by a tribe and used exclusively for essential government services is eligible for exemption.

**(7) Property used for qualifying and nonqualifying purposes - mixed use of property - eligibility for exemption.** If property belongs exclusively to an Indian tribe and is used for qualifying and nonqualifying purposes and if the two uses are physically separate on the real property, the department shall administratively segregate the portion of the property that is used exclusively for essential government services and exempt that portion of the property from property tax. The portion of the property that is used for nonqualifying uses is subject to taxation.

(a) An administrative segregation occurs when the department separates the exempt value from the taxable value. The assessor may create a new tax parcel number that exists solely for property tax purposes.

(b) Example: A tribal administrative office may be located in the same building as a convenience store run as a commercial enterprise. The portion of the building used for

tribal administration offices is exempt and the portion of the building used as a convenience store is taxable.

(c) If the property is used at times for exempt or qualifying services and at other times for nonexempt purposes, the "exclusively used" standard is not met and the property is taxable.

**(8) Property owned by an Indian tribe that is leased - eligibility for exemption.** If property belonging exclusively to an Indian tribe is leased to an individual, a for-profit or nonprofit entity, a tribal member, or another governmental entity, the tenant's or lessee's activities will determine whether the property qualifies for exemption.

**(9) Property used for commercial or enterprise activities - ineligible for exemption.** Property used for commercial or enterprise activities does not qualify for exemption. For purposes of this section, a "commercial or enterprise activity" means an activity financed and operated in a manner similar to a private business enterprise. The burden is upon the tribe to prove that the property is not used for commercial or enterprise activities. The collection of a fee, such as a fee for the use of the picnic area in a park, does not make an activity a commercial or enterprise activity. Property used for a commercial or enterprise activity will not qualify for the exemption when funds received from the activity are used to provide essential government services. For example, if a tribe owns exclusively property on which it operates a gas station and the profits from the gas station are used to pay for essential government services, the property does not qualify for the exemption.

**(10) Sale, transfer, or cessation of use of exempt property.** If a tribe sells or transfers property or ceases to use real property for an essential government service as required under RCW 84.36.010, the exemption will be canceled as of the date the property was sold or transferred or the exempt use of the property ceased. Real property that no longer retains its exempt status will be assessed a pro rata portion of the taxes allocable to the property for the remaining portion of the tax year after the date the property lost its exempt status. If only a portion of the property has lost its exempt status, only that portion of the property is subject to tax. See RCW 84.40.350 through 84.40.390 for a more complete explanation of what occurs when the status of real property changes from exempt to taxable.

**(a) Duty to notify department.** A tribe must notify the department of any change in the ownership or use of the property that might affect its exempt status within a reasonable amount of time. If any portion of the exempt property is loaned or rented, the tribe is required to report this change to the department because the loan or rental may affect the taxable status of the property. Any other person who knows or has information regarding a change in ownership or use of exempt property may notify the department of any such change. Upon receipt of change notice, the department will determine whether the property retains its exempt status.

**(b) Notice to tribe.** The department must notify the tribal owner of the exempt property if the exemption is being removed, in whole or in part. The tribe may appeal the removal of the exemption to the BTA. At the same time, the tribe may provide additional information to the department for reconsideration of the determination.

(11) **Can the exemption be claimed for prior years - refunds?** A tribe may submit an exemption declaration for previous years, up to a maximum of three years from the date taxes were paid on the property, if the taxpayer provides the department with acceptable proof that the property qualified for exemption during the pertinent assessment years. If the exemption is granted, the tribe must submit a refund claim to the county treasurer. RCW 84.69.020(2) and 84.69.030. However, no exemption can be claimed for any time period prior to 2004, the first assessment year affected by RCW 84.36.010 as amended by chapter 236.

(12) **Administrative appeal rights - board of tax appeals.** The tribe or assessor may appeal an exemption determination made by the department to the BTA under RCW 82.03.130 (1)(c). A notice of appeal can be obtained from the department or the BTA, or downloaded from the BTA internet site, <http://bta.state.wa.us/>.

**WSR 05-05-064**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
 [Filed February 15, 2005, 11:24 a.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 05-01-167.

Title of Rule and Other Identifying Information: Medical aid rules—Conversion factors and maximum daily fees: WAC 296-20-135, 296-23-220, and 296-23-230.

Hearing Location(s): Department of Labor and Industries, 7273 Linderson Way S.W., Tumwater, WA 98501, on March 22, 2005, at 1:00 p.m.

Date of Intended Adoption: April 19, 2005.

Submit Written Comments to: Tom Davis, P.O. Box 44322, Olympia, WA 98504-4322, e-mail [dato235@LNI.wa.gov](mailto:dato235@LNI.wa.gov), fax (360) 902-4249, by March 29, 2005.

Assistance for Persons with Disabilities: Contact Tom Davis by March 17, 2005, TTY (360) 902-5797 or fax (360) 902-4249.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the rule is to update the department's payment rates for health care services by (1) changing the conversion factor used to calculate payment levels for services payable through the resource based relative value scale (RBRVS) fee schedule; (2) changing the conversion factor used to calculate payment for anesthesia services; and (3) increasing the maximum daily payment for physical and occupational therapy.

WAC 296-20-135(2), increase the RBRVS conversion factor from \$50.63 to \$52.23.

WAC 296-20-135(3), increase the anesthesia conversion factor from \$2.81 to \$2.90.

WAC 296-23-220 and 296-23-230, increase the maximum daily rate for physical and occupational therapy services from \$104.12 to \$107.45.

Statutory Authority for Adoption: RCW 51.04.020(1) and 51.04.030.

Statute Being Implemented: RCW 51.36.080.

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: (1) Increasing the conversion factors used to calculate maximum payment for services paid with the resource based relative value scale (RBRVS) fee schedule; (2) increasing the conversion factor used to calculate maximum payment for anesthesia services; and (3) increasing the maximum daily payment for physical and occupational therapy services. The conversion factor updates are made in accordance with WAC 296-20-132 Determination of conversion factor adjustments. The anticipated effect of this rule change is to allow injured workers continued access to health care services.

Name of Proponent: Department of Labor and Industries.

Name of Agency Personnel Responsible for Drafting: Tom Davis, Tumwater, Washington, (360) 902-6687; Implementation and Enforcement: Robert Malooly, Assistant Director, Tumwater, Washington, (360) 902-4209.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule adoption is exempt under RCW 34.05.328 (5)(b)(vi) and 19.85.025(3).

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply because the content of this rule is explicitly dictated by statute and fits within the exceptions listed in RCW 34.05.328 (5)(b)(vi).

February 15, 2005

Paul Trause  
 Director

AMENDATORY SECTION (Amending WSR 04-09-100, filed 4/20/04, effective 7/1/04)

**WAC 296-20-135 Conversion factors.** (1) Conversion factors are used to calculate payment levels for services reimbursed under the Washington resource based relative value scale (RBRVS), and for anesthesia services payable with base and time units.

(2) **Washington RBRVS** services have a conversion factor of ~~((\$50.63))~~ \$52.23. The fee schedules list the reimbursement levels for these services.

(3) **Anesthesia services** that are paid with base and time units have a conversion factor of ~~((\$2.81))~~ \$2.90 per minute, which is equivalent to ~~((\$42.15))~~ \$43.50 per 15 minutes. The base units and payment policies can be found in the fee schedules.

AMENDATORY SECTION (Amending WSR 04-09-100, filed 4/20/04, effective 7/1/04)

**WAC 296-23-220 Physical therapy rules.** Practitioners should refer to WAC 296-20-010 through 296-20-125 for general information and rules pertaining to the care of workers.

Refer to WAC 296-20-132 and 296-20-135 regarding the use of conversion factors.

All supplies and materials must be billed using HCPCS Level II codes. Refer to chapter 296-21 WAC for additional information. HCPCS codes are listed in the fee schedules.

Refer to chapter 296-20 WAC (WAC 296-20-125) and to the department's billing instructions for additional information.

Physical therapy treatment will be reimbursed only when ordered by the worker's attending doctor and rendered by a licensed physical therapist or a physical therapist assistant serving under the direction of a licensed physical therapist. Doctors rendering physical therapy should refer to WAC 296-21-290.

The department or self-insurer will review the quality and medical necessity of physical therapy services provided to workers. Practitioners should refer to WAC 296-20-01002 for the department's rules regarding medical necessity and to WAC 296-20-024 for the department's rules regarding utilization review and quality assurance.

The department or self-insurer will pay for a maximum of one physical therapy visit per day. When multiple treatments (different billing codes) are performed on one day, the department or self-insurer will pay either the sum of the individual fee maximums, the provider's usual and customary charge, or ((~~\$104.12~~)) \$107.45 whichever is less. These limits will not apply to physical therapy that is rendered as part of a physical capacities evaluation, work hardening program, or pain management program, provided a qualified representative of the department or self-insurer has authorized the service.

The department will publish specific billing instructions, utilization review guidelines, and reporting requirements for physical therapists who render care to workers.

Use of diaphuse or similar machines on workers is not authorized. See WAC 296-20-03002 for further information.

A physical therapy progress report must be submitted to the attending doctor and the department or the self-insurer following twelve treatment visits or one month, whichever occurs first. Physical therapy treatment beyond initial twelve treatments will be authorized only upon substantiation of improvement in the worker's condition. An outline of the proposed treatment program, the expected restoration goals, and the expected length of treatment will be required.

Physical therapy services rendered in the home and/or places other than the practitioner's usual and customary office, clinic, or business facilities will be allowed only upon prior authorization by the department or self-insurer.

No inpatient physical therapy treatment will be allowed when such treatment constitutes the only or major treatment received by the worker. See WAC 296-20-030 for further information.

The department may discount maximum fees for treatment performed on a group basis in cases where the treatment provided consists of a nonindividualized course of therapy (e.g., pool therapy; group aerobics; and back classes).

Biofeedback treatment may be rendered on doctor's orders only. The extent of biofeedback treatment is limited to those procedures allowed within the scope of practice of a licensed physical therapist. See chapter 296-21 WAC for rules pertaining to conditions authorized and report requirements.

Billing codes and reimbursement levels are listed in the fee schedules.

**AMENDATORY SECTION** (Amending WSR 04-09-100, filed 4/20/04, effective 7/1/04)

**WAC 296-23-230 Occupational therapy rules.** Practitioners should refer to WAC 296-20-010 through 296-20-125 for general information and rules pertaining to the care of workers.

Refer to WAC 296-20-132 and 296-20-135 for information regarding the conversion factors.

All supplies and materials must be billed using HCPCS Level II codes, refer to the department's billing instructions for additional information.

Occupational therapy treatment will be reimbursed only when ordered by the worker's attending doctor and rendered by a licensed occupational therapist or an occupational therapist assistant serving under the direction of a licensed occupational therapist. Vocational counselors assigned to injured workers by the department or self-insurer may request an occupational therapy evaluation. However, occupational therapy treatment must be ordered by the worker's attending doctor.

An occupational therapy progress report must be submitted to the attending doctor and the department or self-insurer following twelve treatment visits or one month, whichever occurs first. Occupational therapy treatment beyond the initial twelve treatments will be authorized only upon substantiation of improvement in the worker's condition. An outline of the proposed treatment program, the expected restoration goals, and the expected length of treatment will be required.

The department or self-insurer will review the quality and medical necessity of occupational therapy services. Practitioners should refer to WAC 296-20-01002 for the department's definition of medically necessary and to WAC 296-20-024 for the department's rules regarding utilization review and quality assurance.

The department will pay for a maximum of one occupational therapy visit per day. When multiple treatments (different billing codes) are performed on one day, the department or self-insurer will pay either the sum of the individual fee maximums, the provider's usual and customary charge, or ((~~\$104.12~~)) \$107.45 whichever is less. These limits will not apply to occupational therapy which is rendered as part of a physical capacities evaluation, work hardening program, or pain management program, provided a qualified representative of the department or self-insurer has authorized the service.

The department will publish specific billing instructions, utilization review guidelines, and reporting requirements for occupational therapists who render care to workers.

Occupational therapy services rendered in the worker's home and/or places other than the practitioner's usual and customary office, clinic, or business facility will be allowed only upon prior authorization by the department or self-insurer.

No inpatient occupational therapy treatment will be allowed when such treatment constitutes the only or major

treatment received by the worker. See WAC 296-20-030 for further information.

The department may discount maximum fees for treatment performed on a group basis in cases where the treatment provided consists of a nonindividualized course of therapy (e.g., pool therapy; group aerobics; and back classes).

Billing codes, reimbursement levels, and supporting policies for occupational therapy services are listed in the fee schedules.

**WSR 05-05-065**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed February 15, 2005, 11:26 a.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 05-01-168.

Title of Rule and Other Identifying Information: Medical aid rules—General information, WAC 296-20-010.

Hearing Location(s): Department of Labor and Industries, 7273 Linderson Way S.W., Tumwater, WA 98501, on March 22, 2005, at 1:00 p.m.

Date of Intended Adoption: April 19, 2005.

Submit Written Comments to: Tom Davis, P.O. Box 44322, Olympia, WA 98504-4322, e-mail dato235@LNI.wa.gov, fax (360) 902-4249, by March 29, 2005.

Assistance for Persons with Disabilities: Contact Tom Davis by March 17, 2005, TTY (360) 902-5797 or fax (360) 902-4249.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the rule change is to:

(1) Eliminate the reference to a "grace period" for deleted healthcare common procedure codes (HCPCS) and current procedural terminology (CPT™) codes. The effect of this change is that providers will have to begin using new codes that replace the deleted codes when they become effective.

(2) Redefine the state fund and self-insurer claim numbering system. The effect of this change is to correctly define the claim numbers as they are currently being used.

Statutory Authority for Adoption: RCW 54.04.020 [51.04.020].

Statute Being Implemented: RCW 51.04.030.

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: Tom Davis, Tumwater, Washington, (360) 902-6687; Implementation and Enforcement: Robert Malooly, Assistant Director, Tumwater, Washington, (360) 902-4209.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule adoption is exempt under RCW 34.05.328 (5)(b)(v) and 19.85.025(3).

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply because the content of this rule is explicitly dictated by statute and fits within the exceptions listed in RCW 34.05.328 (5)(b)(v).

February 15, 2005

Paul Trause

Director

AMENDATORY SECTION (Amending WSR 03-21-069, filed 10/14/03, effective 12/1/03)

**WAC 296-20-010 General information.** (1) The following rules are promulgated pursuant to RCW 51.04.020 and 51.04.030. The department or self-insurer may purchase necessary physician and other provider services according to the fee schedules. The fee schedules shall be established in consultation with interested persons and updated at times determined by the department in consultation with those interested persons. Prior to the establishment or amendment of the fee schedules, the department will give at least thirty calendar days notice by mail to interested persons who have made timely request for advance notice of the establishment or amendment of the fee schedules. To request advance notice of the establishment or amendment of the fee schedules, interested persons must contact the department at the following address:

Department of Labor and Industries  
Health Services Analysis  
Interested Person's Mailing List for the Fee Schedules  
P.O. Box 44322  
Olympia, WA 98504-4322

The department or self-insurer will require the current version of the federal Health Care Common Procedure Coding System (HCPCS) Level I (or CPT) and II codes on January 1, of each new year. CPT refers to the American Medical Association's Physicians' Current Procedural Terminology codes.

~~((The department and self-insurer will allow a "grace period" in which codes deleted each year may be submitted for payment. This grace period will start on January 1 of each year and the length of time will be determined by department policy.))~~

The adoption of these codes on an annual basis is designed to reduce the administrative burden on providers and lead to more accurate reporting of services. However, the inclusion of a service, product or supply within these new codes does not necessarily imply coverage, reimbursement or endorsement, by the department or self-insurer. The department will make coverage and reimbursement decisions for these new codes on an individual basis.

If there are any services, procedures or narrative text contained in the new HCPCS Level I and II codes that conflict with the medical aid rules or fee schedules, the department's rules and policies take precedence.

Copies of the HCPCS Level I and II codes are available for public inspection. These documents are available in each of the department's service locations.

Copies of the HCPCS Level II codes may be purchased from:

The Superintendent of Documents  
United States Government Printing Office  
Washington, DC 20402  
(202) 783-3238

Copies of the Level I (or CPT) codes may be purchased from:

The American Medical Association  
Chicago, Illinois 60601  
(800) 621-8335

In addition to the sources listed above, both the Level I and II codes may be purchased from a variety of private sources.

(2) The fee schedules are intended to cover all services for accepted industrial insurance claims. All fees listed are the maximum fees allowable. Practitioners shall bill their usual and customary fee for services. **If a usual and customary fee for any particular service is lower to the general public than listed in the fee schedules, the practitioner shall bill the department or self-insurer at the lower rate.** The department or self-insurer will pay the lesser of the billed charge or the fee schedules' maximum allowable.

(3) The rules contained in the introductory section pertain to *all* practitioners regardless of specialty area or limitation of practice. Additional rules pertaining to specialty areas will be found in the appropriate section of the medical aid rules.

(4) The methodology for making conversion factor cost of living adjustments is listed in WAC 296-20-132. The conversion factors are listed in WAC 296-20-135.

(5) No fee is payable for missed appointments unless the appointment is for an examination arranged by the department or self-insurer.

(6) When a claim has been accepted by the department or self-insurer, no provider or his/her representative may bill the worker for the difference between the allowable fee and the usual and customary charge. Nor can the worker be charged a fee, either for interest or completion of forms, related to services rendered for the industrial injury or condition. Refer to chapter 51.04 RCW.

(7) Practitioners must maintain documentation in claimant medical or health care service records adequate to verify the level, type, and extent of services provided to claimants. A health care practitioner's bill for services, appointment book, accounting records, or other similar methodology do not qualify as appropriate documentation for services rendered. Refer to chapter 296-20 WAC and department policy for reporting requirements.

(8) Except as provided in WAC 296-20-055 (Limitation of treatment and temporary treatment of unrelated conditions when retarding recovery), practitioners shall bill, and the department or self-insurer shall pay, only for proper and necessary medical care required for the diagnosis and curative or rehabilitative treatment of the accepted condition.

(9) When a worker is being treated concurrently for an unrelated condition the fee allowable for the service(s) rendered must be shared proportionally between the payors.

(10) Correspondence: Correspondence pertaining to state fund and department of energy claims should be sent to:

Department of Labor and Industries, Claims Administration,  
P.O. Box 44291, Olympia, Washington 98504-4291.

Accident reports should be sent to: Department of Labor and Industries, P.O. Box 44299, Olympia, Washington 98504-4299.

Send provider bills by type (UB-92) to: Department of Labor and Industries, P.O. Box 44266, Olympia, Washington 98504-4266.

Adjustments, Home Nursing, Retraining, Job Modification, and Miscellaneous to: Department of Labor and Industries, P.O. Box 44267, Olympia, Washington 98504-4267.

Pharmacy to: Department of Labor and Industries, P.O. Box 44268, Olympia, Washington 98504-4268.

HCFA-1500 to: Department of Labor and Industries, P.O. Box 44269, Olympia, Washington 98504-4269.

State fund claims have six digit numbers or a letter and five digits preceded by a letter other than "S," "T," or "W."

All correspondence and billings pertaining to *crime victims* claims should be sent to Crime Victims Division, Department of Labor and Industries, P.O. Box 44520, Olympia, Washington 98504-4520.

Crime victim claims have six digit numbers preceded by a "V" or five digit numbers preceded by "VA," "VB," "VC," "VH," "VJ," or "VK."

All correspondence and billings pertaining to self-insured claims should be sent directly to the employer or the service representative as the case may be.

Self-insured claims are six digit numbers or a letter and five digits preceded by an "S," "T," or "W."

Communications to the department or self-insurer must show the patient's full name and claim number. If the claim number is unavailable, providers should contact the department or self-insurer for the number, indicating the patient's name, Social Security number, the date and the nature of the injury, and the employer's name. A communication should refer to one claim only. Correspondence must be legible and reproducible, as department records are microfilmed. Correspondence regarding specific claim matters should be sent directly to the department in Olympia or self-insurer in order to avoid rehandling by the service location.

(11) The department's various local service locations should be utilized by providers to obtain information, supplies, or assistance in dealing with matters pertaining to industrial injuries.

#### WSR 05-05-070

#### WITHDRAWAL OF PROPOSED RULES

#### DEPARTMENT OF

#### LABOR AND INDUSTRIES

(By the Code Reviser's Office)

[Filed February 15, 2005, 12:10 p.m.]

WAC 296-307-688, 296-307-68805, 296-307-68810, 296-307-690, 296-307-69005, 296-307-69010, 296-307-69015, 296-307-692, 296-307-69205, 296-307-69210, 296-307-694, 296-307-69405, 296-307-69410, 296-307-69415, 296-307-69420, 296-307-69425, 296-307-69430, 296-307-69435, 296-307-69440, 296-307-696, 296-307-69605, 296-307-

69610, 296-307-69615, 296-307-69620, 296-307-69625, 296-307-69630, 296-307-698, 296-307-69805, 296-307-69810, 296-307-69815, 296-307-69820, 296-307-69825, 296-307-69830, 296-307-700, 296-307-70005 and 296-307-702, proposed by the Department of Labor and Industries in WSR 04-15-107 appearing in issue 04-16 of the State Register, which was distributed on August 18, 2004, 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 05-05-071

#### WITHDRAWAL OF PROPOSED RULES DEPARTMENT OF CORRECTIONS

(By the Code Reviser's Office)

[Filed February 15, 2005, 12:10 p.m.]

WAC 137-59-010, 137-59-020, 137-59-030, 137-59-040, 137-59-050, 137-59-060, 137-59-070 and 137-59-080, proposed by the Department of Corrections in WSR 04-16-103 appearing in issue 04-16 of the State Register, which was distributed on August 18, 2004, 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 05-05-073

#### PROPOSED RULES HIGHER EDUCATION COORDINATING BOARD

[Filed February 15, 2005, 12:57 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-01-145.

Title of Rule and Other Identifying Information: Higher Education Coordinating Board minimum requirements for freshman admission.

Hearing Location(s): At WSU Riverpoint Campus, 535 East Trent Avenue, Phase One Building, Auditorium (SCLS 122), Spokane, WA 99202, on April 7, 2005, at 4 p.m.; at Highline Community College, 2400 South 240th Street, Library Board Room, Des Moines, WA 98000, on April 12, 2005, at 3 p.m.; at Central Washington University, 400 East University Way, Student Union Building, Yakama Room, Ellensburg, WA 98926, on April 19, 2005, at 4 p.m.; at Tacoma Community College, 6501 South 19th Street, Baker Room, Tacoma, WA 98466, on April 25, 2005, at 4 p.m.; and at Washington State University, Vancouver, 14204 N.E. Salmon Creek Avenue, Rooms SS 129-130, Vancouver, WA 98686, on May 3, 2005, at 4 p.m.

Date of Intended Adoption: July 28, 2005.

Submit Written Comments to: Holly Zanville, Chief Academic Officer, 917 Lakeridge Way, P.O. Box 43430, Olympia, WA 98504, e-mail admissionstandards@hecb.wa.gov, fax (360) 704-6222, by 5 p.m., May 20, 2005.

Assistance for Persons with Disabilities: Contact Patricia Shorb by April 1, 2005, Patricias@hecb.wa.gov or (360) 753-7824.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: No current rules exist. The Higher Education Coordinating Board governs freshman admission policies by a series of board resolutions and agency guidelines. These rules would bring four changes to the current admission policy requirements and for the first time make the admission requirements part of the Washington Administrative Code. The four changes are:

1. Increasing the high school math requirement from three credits to four;
2. Revising the science requirement to include two credits of laboratory based science, one of which must be algebra based;
3. Requiring admission applicants in each year of high school to earn at least three credits in courses required for college admission; and
4. Eliminating the statewide admission index, a formula for evaluating admission applicants that is based on standardized test scores and high school grades.

Reasons Supporting Proposal: Research and the recent experiences of freshman students entering Washington public baccalaureate institutions has shown that the current minimum standards for admission, first adopted in 1988, no longer adequately prepare students for college-level study.

Establishing the admission standards in the Washington Administrative Code.

Statutory Authority for Adoption: RCW 28B.76.290(1).

Statute Being Implemented: RCW 28B.76.290(1).

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

Name of Proponent: Higher Education Coordinating Board, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: John McLain, 917 Lakeridge Way, Olympia, WA 98504-3430, (360) 753-7833.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The small business impact statement is not required according to chapter 19.85 RCW and RCW 34.05.310(4).

A cost-benefit analysis is not required under RCW 34.05.328. The cost-benefit analysis is not required according to RCW 34.05.328(5).

February 15, 2005

Holly Zanville

Senior Administrator  
Chief Academic Officer



## Chapter 250-83 WAC

## REQUIREMENTS FOR FRESHMAN ADMISSION

NEW SECTION

**WAC 250-83-010 Definitions.** "Public baccalaureate institution" or "institution" means any college or university which is operated by the state of Washington and awards bachelor's degrees: The University of Washington, Washington State University, Central Washington University, Eastern Washington University, The Evergreen State College, Western Washington University, and any baccalaureate institution created or acquired by the state of Washington subsequent to the adoption of these rules and operated by the state of Washington to award bachelor's degrees.

"Freshman" means a student who has not enrolled in college course work after leaving high school, and who may or may not have earned college credits while in high school.

"Applicant" means a person seeking admission as a freshman to a public baccalaureate institution.

"Core courses" are those courses that are designed to prepare students for college and that applicants must complete to be considered for admission as freshmen to a public baccalaureate institution. The higher education coordinating board determines the academic subject areas in which applicants must complete core courses. Each local school district, in consultation with the higher education coordinating board, determines which of its individual course offerings meet the definition of a core course.

"High school credit" or "credit" shall be as defined by the state board of education in WAC 180-51-050.

"Algebra-based science course" means a science course that requires students to use the knowledge and skills generally obtained in the first year of high school algebra. An algebra-based science course requires concurrent enrollment in or successful completion of first year high school algebra.

"ACT assessment" or "ACT" means the college entrance examination published by ACT, Inc., Iowa City, Iowa.

"SAT reasoning test" or "SAT" means the college entrance examination published by the College Board, New York, New York.

NEW SECTION

**WAC 250-83-020 Effective date.** These rules take effect for all freshmen seeking admission to the state's public baccalaureate institutions during and after the summer 2008 academic term.

NEW SECTION

**WAC 250-83-030 Replacement of previous admission guidance and policies.** These rules supersede previously established higher education coordinating board guidance and policies governing minimum basic admission requirements and alternative admission requirements for freshmen.

NEW SECTION

**WAC 250-83-040 Purpose.** The purpose of the minimum admission requirements for freshmen is to ensure that:

- Freshmen selected to enroll at the state's public baccalaureate institutions are academically prepared for college;
- The amount of remedial instruction required for recent high school graduates is minimized; and
- Students and families understand that completion of a rigorous high school curriculum in high school is critically important for success in college.

NEW SECTION

**WAC 250-83-050 Minimum requirements for freshman admission.** Applicants seeking admission as freshmen to a public baccalaureate institution must:

- (1) Successfully complete the following core courses:
  - Four credits of English, including three credits of literature and composition; may include one credit of elective English, such as creative writing, journalistic writing, and English as a second language; and
  - Four credits of mathematics, with at least one credit completed in the senior year of high school, including:
    - One credit each of algebra, geometry, and intermediate algebra or three credits of integrated mathematics through integrated mathematics III; and
    - One credit that may include courses such as statistics, precalculus, an algebra-based science course, or an additional mathematics course beyond algebra; and
    - Three credits of social science; and
    - Two credits of laboratory science, including one credit of algebra-based biology, chemistry, or physics; and
    - Two credits of the same foreign language, the same native American language, or American sign language; and
    - One credit of fine, visual, or performing arts, or one additional credit in mathematics, English, social science, laboratory science, foreign language, native American language, or American sign language.

Students who successfully complete precalculus or mathematics analysis before high school graduation will be considered to have met the mathematics requirement.

Applicants who achieve proficiency on the mathematics section of the tenth-grade Washington assessment of student learning will be determined to have completed the first year of high school algebra and geometry, or integrated mathematics I and II.

Applicants who achieve proficiency on the reading and writing sections of the tenth-grade Washington assessment of student learning will be determined to have completed the first two years of high school core course requirements in English.

Applicants are encouraged to take additional core courses in high school when available.

- (2) A minimum of three credits of core courses each year of high school including the senior year.
- (3) Earn a minimum unweighted cumulative grade point average of 2.00 on a 4.00 scale.
- (4) Take the SAT reasoning test or the ACT assessment and submit examination scores to each institution where the applicant is applying for admission.

(5) Colleges and universities recognize that experiences and activities in addition to academic achievement can contribute to a successful college application, and that students with diverse experiences and backgrounds contribute to a healthy and vibrant higher education learning community. Therefore, institutions may consider factors such as students' grade point averages, test scores, the overall strength of their high school curricula, and nonacademic characteristics such as their personal essays, community activities, personal circumstances or special talents. No more than fifteen percent of the freshmen enrolled annually at each institution may be deficient in their completion of core courses.

#### NEW SECTION

**WAC 250-83-060 Exceptions to the minimum freshman admission requirements.** International applicants are not required to provide SAT or ACT test scores. Other applicants unable to provide SAT or ACT test scores may petition the institution for a waiver. No more than five percent of freshmen enrolled annually at each institution may receive waivers from this requirement.

#### NEW SECTION

**WAC 250-83-070 Authority and responsibilities of institutions.** Each institution may establish additional requirements that exceed these minimum requirements for admission at that institution.

Each institution establishes the procedures applicants must follow and the deadlines that applicants must meet to be considered for admission at that institution.

Each institution establishes the processes by which applicants are selected for admission at that institution.

Institutions reserve the right to request additional information about the academic credentials presented by applicants for admission from high schools and other education providers.

**WSR 05-05-081**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Economic Services Administration)  
 [Filed February 15, 2005, 3:45 p.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 04-21-074.

Title of Rule and Other Identifying Information: WAC 388-410-0001 What is a cash/medical assistance overpayment? and 388-416-0005 How long can I get Basic Food?

Hearing Location(s): Blake Office Park East (behind Goodyear Courtesy Tire), Rose Room, 4500 10th Avenue S.E., Lacey, WA, on March 22, 2005, at 10:00 a.m.

Date of Intended Adoption: No earlier than March 23, 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., March 22, 2005.

Assistance for Persons with Disabilities: Contact Fred Swenson, DSHS Rules Consultant, by March 18, 2005, TTY (360) 664-6178 or (360) 664-6097.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposal amends rules to reflect department policy regarding establishing certification periods for Basic Food as well as overpayments for cash and medical programs.

Reasons Supporting Proposal: The changes are necessary to reflect department criteria for establishing certification periods for Basic Food and to reference new reporting time frames that impact whether or not a client has a cash or medical assistance overpayment based on a change in circumstances that was not reported to the department.

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, Title 7 C.F.R. 273.10(f) and 273.12.

Rule is necessary because of federal law, Title 7 C.F.R. 273.10(f) and 273.12.

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

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: John Camp, 1009 College S.E., Lacey, WA 98504, (360) 725-4616.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules do not have an economic impact on small businesses, they only affect DSHS clients by establishing how often clients must have their eligibility reviewed for Basic Food benefits and describes how a client's failure to report a change timely as required by the department may cause a cash or medical assistance overpayment.

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." This rule filing adopts federal [rules] on certification periods for the food stamp program as set in 7 C.F.R. § 273.10(f) and incorporates references new reporting timeframes under simplified reporting for the purposes of establishing overpayments for cash and medical assistance.

February 8, 2005

Andy Fernando, Manager  
 Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 04-05-010, filed 2/6/04, effective 3/8/04)

**WAC 388-410-0001 What is a cash/medical assistance overpayment?** (1) An overpayment is any cash or medical assistance paid that is more than the assistance unit was eligible to receive.

(2) There are two types of cash/medical overpayments:

(a) Intentional overpayments, presumed to exist (~~when the client~~) if you willfully or knowingly:

(i) (~~Fails to report within twenty days a change in circumstances that affects eligibility~~) Fail to report a change you must tell us about under WAC 388-418-0005 within the timeframes under WAC 388-418-0007; or

(ii) (~~Misstates or fails~~) Misstate or fail to reveal a fact affecting eligibility as specified in WAC 388-446-0001.

(b) Unintentional overpayments, which includes all other client-caused and all department-caused overpayments.

(3) If you request a fair hearing and the fair hearing decision is in favor of the department, then:

(a) Some or all of the continued assistance you get before the fair hearing decision must be paid back to the department (see WAC 388-418-0020); and

(b) The amount of assistance you must pay back will be limited to sixty days of assistance, starting with the day after the department receives your hearing request.

(4) If you receive child support payments directly from the noncustodial parent, you must turn these payments over to the division of child support (DCS). These payments are not cash assistance overpayments.

**AMENDATORY SECTION** (Amending WSR 04-19-134, filed 9/21/04, effective 10/1/04)

**WAC 388-416-0005 How long can I get Basic Food?**

(1) The length of time the department determines your assistance unit (AU) is eligible to get Basic Food is called a certification period. The department may certify your AU for up to:

(a) **Six months** if your AU:

(i) Includes an able-bodied adult without dependents (ABAWD) who receives Basic Food in your AU and your AU does not live in an exempt area as described in WAC 388-444-0030;

(ii) Includes a person who receives ADATSA benefits as described in chapter 388-800 WAC;

(iii) Is considered homeless under WAC 388-408-0050; or

(iv) Includes a migrant or seasonal farmworker as described under WAC 388-406-0021.

(b) **Twenty-four months** if (~~everyone~~) all adults in your AU (~~is~~) are elderly persons or individuals with disabilities and no one in your AU has earned income (~~or cash assistance~~).

(c) **Twelve months** if your AU does not meet any of the conditions for six or twenty-four months.

(2) If your AU is homeless or includes an ABAWD when you live in a nonexempt area, we may shorten your certification period.

(3) We terminate your Basic Food benefits when:

(a) We get proof of a change that makes your AU ineligible; or

(b) We get information that your AU is ineligible; and

(c) You do not provide needed information to verify your AU's circumstances.

**WSR 05-05-082**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)  
(Division of Child Support)  
[Filed February 15, 2005, 3:47 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-19-129.

Title of Rule and Other Identifying Information: New sections WAC 388-14A-4119 How soon after a noncustodial parent is listed in the state directory of new hires must the division of child support send a national medical support notice to the employer? and 388-14A-4180 When must the division of child support communicate with the DSHS medical assistance administration?

Hearing Location(s): Blake Office Park East (behind Goodyear Courtesy Tire), Rose Room, 4500 10th Avenue S.E., Lacey, WA, on March 22, 2005, at 10:00 a.m.

Date of Intended Adoption: Not earlier than March 23, 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., March 22, 2005.

Assistance for Persons with Disabilities: Contact Fred Swenson, DSHS Rules Consultant, by March 18, 2005, TTY (360) 664-6178 or (360) 664-6097.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: 45 C.F.R. 303.32 (a) lists the required state laws for a valid state plan under Title IV-D of the Social Security Act; 45 C.F.R. 303.32 (c)(2) provides that the state must have a law requiring the IV-D agency to send a National Medical Support Notice to an employer within two days of entry of the noncustodial parent into the state directory of new hires. 45 C.F.R. 303.30 lists the requirements for DCS to provide information regarding child support orders with medical support obligations, and health insurance coverage information, to the Title XIX agency, which is the DSHS Medical Assistance Administration. Additionally, 45 C.F.R. 303.31 requires the IV-D agency to communicate with the Title XIX agency. The department is authorized under RCW 74.20A.310 to adopt child support rules as may become necessary to entitle the state to participate in federal funds, unless such rules would be expressly prohibited by law.

Statutory Authority for Adoption: RCW 74.20A.310.

Statute Being Implemented: 45 C.F.R. 303.32, 45 C.F.R. 303.30, 45 C.F.R. 303.31.

Rule is necessary because of federal law, 45 C.F.R. 303.32, 45 C.F.R. 303.30, 45 C.F.R. 303.31.

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

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Nancy Koptur, DCS HQ, P.O. Box 9162, Olympia, WA 98507-9162, (360) 664-5065.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule does not have an economic impact on small businesses. It only affects indi-

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viduals who have support obligations or individuals who are owed child support.

A cost-benefit analysis is not required under RCW 34.05.328. The rule does meet the definition of a significant legislative rule but DSHS/DCS is exempt from preparing further analysis under RCW 34.05.328 (5)(b)(vii).

February 8, 2005

Andy Fernando, Manager  
Rules and Policies Assistance Unit

#### NEW SECTION

**WAC 388-14A-4119 How soon after a noncustodial parent is listed in the state directory of new hires must the division of child support send a national medical support notice to the employer?** The division of child support (DCS) must send a national medical support notice (NMSN) to the employer of a noncustodial parent (NCP) within two business days of the date the NCP's information is entered into the state directory of new hires (SDNH).

#### NEW SECTION

**WAC 388-14A-4180 When must the division of child support communicate with the DSHS medical assistance administration?** (1) The division of child support (DCS) must inform the DSHS medical assistance administration (MAA) of the existence of a new or modified court or administrative order for child support when the order includes a requirement for medical support. MAA is the part of DSHS which provides services for the state of Washington under Title XIX of the federal Social Security Act.

(2) DCS must provide MAA with the following information:

- (a) Title IV-A case number, Title IV-E foster care case number, Medicaid number or the individual's Social Security Number;
- (b) Name of the noncustodial parent (NCP);
- (c) Social Security Number of the NCP;
- (d) Name and Social Security Number of the child(ren) named in the order;
- (e) Home address of the NCP;
- (f) Name and address of the NCP's employer;
- (g) Information regarding the NCP's health insurance policy; and
- (h) Whether the child(ren) named in the order are covered by the policy.

(3) DCS must periodically communicate with MAA regarding any lapses (stops and starts) in the NCP's health insurance coverage for Medicaid applicants.

**WSR 05-05-083**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Medical Assistance Administration)  
[Filed February 15, 2005, 3:49 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-23-064.

Title of Rule and Other Identifying Information: WAC 388-519-0110 Spenddown of excess income for the medically needy program.

Hearing Location(s): Blake Office Park East (behind Goodyear Courtesy Tire), Rose Room, 4500 10th Avenue S.E., Lacey, WA, on March 22, 2005, at 10:00 a.m.

Date of Intended Adoption: Not sooner than March 23, 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 fernaa@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., March 22, 2005.

Assistance for Persons with Disabilities: Contact Fred Swenson, DSHS Rules Consultant, by March 18, 2005, TTY (360) 664-6178 or (360) 664-6097.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The change is needed in order to comply with federal regulations. Under 42 C.F.R. § 435.831 (f)(1), medical expenses either paid or unpaid during the base period can be used to reduce spenddown.

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

Statute Being Implemented: 42 C.F.R. § 435.831 (f)(1). Rule is necessary because of federal law, 42 C.F.R. § 435.831 (f)(1).

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

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Wendy Forslin, P.O. Box 45534, Olympia, WA 98504-5534, (360) 725-1343.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This change does not affect small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. This client financial eligibility rule revision is exempt from the provisions of RCW 34.05.328 per RCW 34.05.328 (5)(b)(vii).

February 8, 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 388-519-0110 Spenddown of excess income for the medically needy program.** (1) The person applying for MN medical coverage chooses a three month or a six month base period for spenddown calculation. The months must be consecutive calendar months unless one of the conditions in subsection (4) of this section apply.

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(2) A person's base period begins on the first day of the month of application, subject to the exceptions in subsection (4) of this section.

(3) A separate base period may be made for a retroactive period. The retroactive base period is made up of the three calendar months immediately prior to the month of application.

(4) A base period may vary from the terms in subsections (1), (2), or (3) of this section if:

(a) A three month base period would overlap a previous eligibility period; or

(b) A client is not or will not be resource eligible for the required base period; or

(c) The client is not or will not be able to meet the TANF-related or SSI-related requirement for the required base period; or

(d) The client is or will be eligible for categorically needy (CN) coverage for part of the required base period; or

(e) The client was not otherwise eligible for MN coverage for each of the months of the retroactive base period.

(5) The amount of a person's "spenddown" is calculated by the department. The MN countable income from each month of the base period is compared to the MNIL. The excess income from each of the months in the base period is added together to determine the "spenddown" for the base period.

(6) If income varies and a person's MN countable income falls below the MNIL for one or more months, the difference is used to offset the excess income in other months of the base period. If this results in a spenddown amount of zero dollars and cents, see WAC 388-519-0100(5).

(7) Once a person's spenddown amount is known, their qualifying medical expenses are subtracted from that spenddown amount to determine the date of eligibility. The following medical expenses are used to meet spenddown:

(a) First, Medicare and other health insurance deductibles, coinsurance charges, enrollment fees, or copayments;

(b) Second, medical expenses which would not be covered by the MN program;

(c) Third, hospital expenses paid by the person during the base period;

(d) Fourth, hospital expenses, regardless of age, owed by the applying person;

(e) Fifth, other medical expenses, potentially payable by the MN program, which have been paid by the applying person during the base period; and

(f) Sixth, other medical expenses, potentially payable by the MN program which are owed by the applying person.

(8) If a person meets the spenddown obligation at the time of application, they are eligible for MN medical coverage for the remainder of the base period. The beginning date of eligibility would be determined as described in WAC 388-416-0020.

(9) If a person's spenddown amount is not met at the time of application, they are not eligible until they present evidence of additional expenses which meets the spenddown amount.

(10) To be counted toward spenddown, medical expenses must:

(a) Not have been used to meet a previous spenddown; and

(b) Not be the confirmed responsibility of a third party. The entire expense will be counted unless the third party confirms its coverage within:

(i) Forty-five days of the date of the service; or

(ii) Thirty days after the base period ends; and

(c) Meet one of the following conditions:

(i) Be an unpaid liability at the beginning of the base period and be for services for:

(A) The applying person; or

(B) A family member legally or blood-related and living in the same household as the applying person.

(ii) Be for medical services (~~received and~~) either paid (~~for~~) or unpaid and incurred during the base period; or

(iii) Be for medical services (~~received and~~) paid (~~for~~) and incurred during a previous base period if that client payment was made necessary due to delays in the certification for that base period.

(11) An exception to the provisions in subsection (10) of this section exists. Medical expenses the person owes are applied to spenddown even if they were paid by or are subject to payment by a publicly administered program during the base period. To qualify, the program cannot be federally funded or make the payments of a person's medical expenses from federally matched funds. The expenses do not qualify if they were paid by the program before the first day of the base period.

(12) The following medical expenses which the person owes are applied to spenddown. Each dollar of an expense or obligation may count once against a spenddown cycle that leads to eligibility for MN coverage:

(a) Charges for services which would have been covered by the department's medical programs as described in chapter 388-529 WAC, less any confirmed third party payments which apply to the charges; and

(b) Charges for some items or services not typically covered by the department's medical programs, less any third party payments which apply to the charges. The allowable items or services must have been provided or prescribed by a licensed health care provider; and

(c) Medical insurance and Medicare copayments or coinsurance (premiums are income deductions under WAC 388-519-0100(4)); and

(d) Medical insurance deductibles including those Medicare deductibles for a first hospitalization in sixty days.

(13) Medical expenses may be used more than once if:

(a) The person did not meet their total spenddown amount and did not become eligible in that previous base period; and

(b) The medical expense was applied to that unsuccessful spenddown and remains an unpaid bill.

(14) To be considered toward spenddown, written proof of medical expenses must be presented to the department. The deadline for presenting medical expense information is thirty days after the base period ends unless good cause for delay can be documented.

(15) Once a person meets their spenddown and they are issued a medical identification card for MN coverage, newly identified expenses cannot be considered toward that spend-

down. Once the application is approved and coverage begins the beginning date of the certification period cannot be changed due to a clients failure to identify or list medical expenses.

**WSR 05-05-084**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Aging and Disability Services Administration)  
 [Filed February 15, 2005, 3:51 p.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 04-24-046.

Title of Rule and Other Identifying Information: Chapter 388-825 WAC, Division of Developmental Disabilities services rules and chapter 388-850 WAC, County plan for developmental disabilities.

Hearing Location(s): Blake Office Park East (behind Goodyear Courtesy Tire), Rose Room, 4500 10th Avenue S.E., Lacey, WA, on March 22, 2005, at 10:00 a.m.

Date of Intended Adoption: Not earlier than March 23, 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., March 22, 2005.

Assistance for Persons with Disabilities: Contact Fred Swenson, DSHS Rules Consultant, by March 18, 2005, TTY (360) 664-6178 or (360) 664-6097.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of these rules is to eliminate the direct payment to recipients for employment/day program services and return the funding for administering these programs to the counties.

Reasons Supporting Proposal: These rules are necessary to increase federal funding under Title XIX of the Social Security Act. 42 C.F.R. 447.10(d) and Section 1902 (a)(32) of the Social Security Act prohibit the state from claiming federal financial participation (FFP) for payments directly to a recipient of Title XIX Medicaid. By returning this funding to the counties, who will pay the provider rather than the recipient directly, the state is able to claim FFP for these expenditures.

Statutory Authority for Adoption: RCW 71A.12.030, 71A.12.120 [71A.12.120], 71A.14.040.

Statute Being Implemented: Chapters 71A.12 and 71A.14 RCW.

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: Steve Brink, P.O. Box 45310, Olympia, WA 98504-5310, (360) 725-3416; Implementation: Linda Lunsford, P.O. Box 45310, Olympia, WA 98504-5310, (360) 725-3440; and

Enforcement: Colleen Erskine, P.O. Box 45310, Olympia, WA 98504-5310, (360) 725-3452.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules do not impact small businesses.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Steve Brink, P.O. Box 45310, Olympia, WA 98504-5310, phone (360) 725-3416, fax (360) 407-0955, e-mail brinksc@dshs.wa.gov.

February 11, 2005  
 Andy Fernando, Manager  
 Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 04-02-014, filed 12/29/03, effective 1/29/04)

**WAC 388-825-055 Authorization of services.** (1) The division's field services section shall be responsible for authorizing services agreed to by the person/family including, but not limited to:

- (a) Placement to and from residential habilitation centers;
- (b) Community residential services;
- (c) Family support services;
- (d) Nonresidential programs; and
- (e) Employment/day programs ~~((when the person receives the funding directly from DDD to pay for the services, subject to the eligibility requirements in WAC 388-825-060 and the restrictions in WAC 388-825-065. Allowable employment/day program services are listed in WAC 388-850-035)).~~

(2) The division's authorization of state funded services shall be based on the services and funding available.

- (a) Persons must meet the programmatic and financial eligibility requirements for the specific services;
  - (b) Funding for state paid services is available in the state operating budget; and
  - (c) SSP funding is not available to the client.
- (3) The division will include the following persons when determining authorized services:

- (a) The person;
- (b) The person's parent or guardian and may include:
  - (i) The person's advocate; or
  - (ii) Other responsible parties.
- (4) Per RCW 71A.16.010 the division shall offer adults the choice of admittance to a residential habilitation center if all of the following conditions exist:
  - (a) An RHC vacancy is available;
  - (b) Funding, specifically designated for this purpose in the state operating budget, is available for alternative community support services;
  - (c) The person or their family is requesting residential services;
  - (d) The person meets ICF/MR or nursing facility eligibility for the available RHC vacancy;
  - (e) The person is the most in need of residential services as determined by DDD after reviewing all persons determined eligible for ICF/MR or nursing facility level of care. DDD will make this selection based on the following criteria:

PROPOSED

PROPOSED

- (i) The person is age eighteen or older;
- (ii) The person's/family's health and safety is in jeopardy due to the lack of necessary residential support and supervision:

(A) Priority is given to eligible persons/families currently without necessary residential supports;

(B) Other eligible persons will be considered based on their risk of losing residential supports due to unstable or deteriorating circumstances.

(f) The person's alternative DDD funded community support services would cost seventy percent or more of the average RHC rate, assuming a minimum household size of three persons.

(5) If RHC capacity is not being used for permanent residents, the division will make these vacancies available for respite care or any other services the department determines are needed and allowable within the rules governing the use of federal funds.

(a) Admission of a child or adolescent to an RHC for respite care requires the written approval of the division director or designee.

(b) Respite care exceeding thirty days in a calendar year is subject to subsection (6) of this section.

(6) The division shall not make an emergency or temporary admission of a person to a residential habilitation center for thirty-one days or more without the written approval of the division director or the director's designee if the admission is not a choice provided under subsection (4) of this section.

(a) Children twelve years of age and younger shall not be admitted to an RHC.

(b) Admission of an adolescent to an RHC can only occur if:

(i) DDD determines that foster placement services cannot meet the emergency needs of the child/family; and

(ii) A voluntary placement plan is in place with DDD with the goal of community placement or family reunification; and

(iii) Progress towards placement planning is reported to the division director at least every ninety days.

(7) The division shall authorize county-funded services only when the service is included in a department contract ~~((and the person is not receiving funding directly from DDD for employment/day program services))~~ and:

(a) The person is at least twenty-one years of age and is no longer attending school; or

(b) The person is age twenty and graduates prior to his/her July or August twenty-first birthday; or

(c) The child is two years of age or younger and eligible for early intervention services.

(8) The department shall require a person to participate in defraying the cost of services provided when mandated by state or federal regulation or statute.

**AMENDATORY SECTION** (Amending WSR 04-15-093, filed 7/16/04, effective 8/16/04)

**WAC 388-825-103** When will I receive written notice of decisions made by DDD? You will receive written notice from DDD of the following decisions:

- (1) The denial or termination of eligibility under WAC 388-825-030 and 388-825-035;
- (2) The authorization, denial, reduction, or termination of services ~~((or funds paid directly to you set forth in WAC 388-825-055))~~ or the payment of SSP set forth in chapter 388-827 WAC that are authorized by DDD;
- (3) The admission or readmission to, or discharge from a residential habilitation center.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

WAC 388-825-060	What are the eligibility requirements for persons who receive funds directly for employment/day programs?
WAC 388-825-064	What are the restrictions on the use of the funds paid directly to persons for employment/day programs?
WAC 388-825-070	What happens if I do not spend the funds paid directly to me for employment/day programs as specified in WAC 388-825-064?
WAC 388-825-075	How much money will I receive?
WAC 388-825-076	How often will I receive a direct payment check for my employment/day program services?
WAC 388-825-077	Who will the warrant/check be sent to?
WAC 388-825-078	How will the warrant/check be sent?
WAC 388-825-085	What is a representative payee?
WAC 388-825-086	Who can be a representative payee for my DDD direct payment funds for employment/day program services?
WAC 388-825-087	What are the responsibilities of a representative payee?
WAC 388-825-090	When will DDD recover direct payment funds sent to me for employment/day program services?
WAC 388-825-095	Who is liable for repayment of an overpayment?

**AMENDATORY SECTION** (Amending WSR 04-02-014, filed 12/29/03, effective 1/29/04)

**WAC 388-850-035 Services—Developmental disabilities.** (1) A county may purchase and provide services listed under chapter 71A.14 RCW.

~~((a))~~ (2) The department shall pay a county for department authorized services provided to an eligible developmentally disabled person.

~~((b) DD eligible persons who receive funding from DDD directly for employment or day program services shall pay the county or a county contracted provider for services.~~

(2)) (3) A county may purchase or provide authorized services. Authorized services may include, but are not limited to:

- (a) Early childhood intervention services;
- (b) Employment services;
- (c) Community access services;
- (d) Residential services;
- (e) Individual evaluation;
- (f) Program evaluation;
- (g) County planning and administration; and
- (h) Consultation and staff development ~~((; and~~
- (i) ~~Oversight of the DDD money sent directly to the DDD eligible person)).~~

**AMENDATORY SECTION** (Amending WSR 04-02-014, filed 12/29/03, effective 1/29/04)

**WAC 388-850-045 Funding formula—Developmental disabilities.** (1) For the purposes of this section, "county" shall mean the legal subdivision of the state, regardless of any agreement with another county to provide developmental disabilities services jointly.

(2) The allocation of funds to counties shall be based on the following criteria:

(a) Each county shall receive a base amount of funds. The amount shall be based on the prior biennial allocation, including any funds from budget provisos from the prior biennium, and subject to the availability of state and federal funds;

(b) The distribution of any additional funds provided by the legislature or other sources shall be based on a distribution formula which best meets the needs of the population to be served as follows:

(i) On a basis which takes into consideration minimum grant amounts, requirements of clients residing in an ICF/MR or clients on one of the division's Title XIX home and community-based waivers, and the general population of the county, and special education enrollment as well as the population eligible for county-funded developmental disabilities services;

(ii) On a basis that takes into consideration the population numbers of minority groups residing within the county;

(iii) A biennial adjustment shall be made after these factors are considered; and

(iv) Counties not receiving any portion of additional funds pursuant to this formula shall not have their base allocation reduced due to application of this formula.

(c) Funding appropriated through legislative proviso, including vendor rate increases, shall be distributed to the

population directed by the legislature utilizing a formula as directed by the legislature or using a formula specific to that population or distributed to identified people;

(d) The ability of the community to provide funds for the developmental disability program provided in chapter 71A.14 RCW may be considered with any or all of the above.

(3)~~((a))~~ A county may utilize seven or less percent of the county's allocated funds for county administrative expenses. A county may utilize more than seven percent for county administration with approval of the division director. A county electing to provide all services directly, in addition to county administration, is exempt from this requirement.

~~((b) A county may receive funds for oversight of employment/day program services purchased by DDD clients with money sent directly to the client based on the following conditions:~~

~~(i) The oversight funds for the recipients described below will be allocated at the same rate that the county received in their original 2001-2003 DDD county program agreement for administrative expenses for these same individuals. These funds will be calculated by using the date the recipient began receiving funds directly if the recipient:~~

~~(A) Was born between September 1, 1979 and August 31, 1981; and~~

~~(B) Received a county or county contracted service between July 1, 2001 and June 30, 2002; and~~

~~(C) Continues to receive a county or county contracted service.~~

~~(ii) Oversight funds for the recipients described below will be allocated at the same rate that the county received in their original 2001-2003 DDD county program agreement for administrative expenses for these same individuals. These funds will be calculated by using the date the recipient began receiving funds directly if the recipient:~~

~~(A) Was born prior to September 1, 1979; and~~

~~(B) Was authorized by DDD and the county for employment/day program services for December, 2002; and~~

~~(C) Continues to receive a county or county contracted service.~~

~~(iii) The oversight funds for recipients described below shall equal up to seven percent of the amount of the funds received directly by the recipient, if the recipient:~~

~~(A) Was born between September 1, 1979 and August 31, 1981; and~~

~~(B) Received no county or county contracted service prior to July 1, 2002; and~~

~~(C) Received or will receive a county or county contracted service between July 1, 2002 and June 30, 2003; and~~

~~(D) Continues to receive a county or county contracted service.)~~

(4) The department may withhold five or less percent of allocated funds for new programs, for statewide priority programs, and for emergency needs.



## WSR 05-05-085

## PROPOSED RULES

DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration)

[Filed February 15, 2005, 3:53 p.m.]

## Original Notice.

Preproposal statement of inquiry was filed as WSR 04-22-066.

Title of Rule and Other Identifying Information: Chemical using pregnant (CUP) women program; WAC 388-533-0710 CUP client eligibility, 388-533-0720 CUP provider requirements, and 388-533-0730 CUP covered services.

Hearing Location(s): Blake Office Park East (behind Goodyear Courtesy Tire), Rose Room, 4500 10th Avenue S.E., Lacey, WA, on March 22, 2005, at 10:00 a.m.

Date of Intended Adoption: Not sooner than March 23, 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., March 22, 2005.

Assistance for Persons with Disabilities: Contact Fred Swenson, DSHS Rules Consultant, by March 18, 2005, TTY (360) 664-6178 or (360) 664-6097.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To remove unnecessary barriers for clients to access services from CUP providers.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 74.08.090 and 74.09.800.

Statute Being Implemented: RCW 74.08.090 and 74.09.800.

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: Kevin Sullivan, P.O. Box 45533, Olympia, WA 98504-5533, (360) 725-1344; Implementation and Enforcement: Todd Slettvet, P.O. Box 45530, Olympia, WA 98504-5530, (360) 725-1626.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule change does not impact small businesses.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Kevin Sullivan, Department of Social and Health Services, Medical Assistance Administration, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1344, fax (360) 586-9727, e-mail sullikm@dshs.wa.gov.

February 11, 2005

Andy Fernando, Manager  
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 04-11-008, filed 5/5/04, effective 6/5/04)

**WAC 388-533-0710 Chemical-using pregnant (CUP) women program—Client eligibility.** (1) To be eligible for the chemical-using pregnant (CUP) women program, a woman must meet all of the following conditions:

(a) Be pregnant; and

(b) ~~((Be referred and/or approved by an Alcohol and Drug Addiction Treatment and Support Act (ADATSA) assessment agency; and~~

~~(e)))~~ Be eligible for Medicaid.

(2) Clients meeting the eligibility criteria in WAC ~~((388-533-710(1)))~~ 388-533-0710(1) who are enrolled in an MAA managed care plan are eligible for CUP services outside their plan, except Washington Medicaid Integration Partnership clients. CUP services delivered outside the managed care plan are reimbursed and subject to the same program rules as apply to nonmanaged care clients.

(3) Clients receiving three-day or five-day detoxification services through the department are not eligible for the CUP women program.

AMENDATORY SECTION (Amending WSR 04-11-008, filed 5/5/04, effective 6/5/04)

**WAC 388-533-0720 Chemical-using pregnant (CUP) women program—Provider requirements.** (1) The medical assistance administration (MAA) pays only those providers who:

(a) Have been approved by MAA to provide chemical-using pregnant (CUP) women program services;

(b) Have been certified as chemical dependency service providers by the division of alcohol and substance abuse (DASA) as prescribed in chapter 388-805 WAC;

(c) Meet the hospital standards prescribed by the Joint Commission on Accreditation of Healthcare Organizations (JCACHO);

(d) Meet the general provider requirements in chapter 388-502 WAC; and

(e) Are not licensed as an institution for mental disease (IMD) under Centers for Medicare and Medicaid (CMS) criteria.

(2) CUP women program service providers are required to:

(a) Report any changes in their certification, level of care, or program operations to the MAA CUP women program manager;

(b) Have written policies and procedures that include a working statement describing the purpose and methods of treatment for chemical-using/abusing pregnant women;

(c) Provide guidelines and resources for current medical treatment methods by specific drug and/or alcohol type;

(d) Have linkages with state and community providers to ensure a working knowledge exists of current medical and substance abuse resources; and

(e) Ensure that ~~((an Alcohol and Drug Addiction Treatment and Support Act (ADATSA) or))~~ a chemical dependency assessment of the client has been completed:

PROPOSED

(i) By ~~((an ADATSA assessment agency))~~ a chemical dependency professional as defined in chapter 246-811 WAC;

(ii) Using the latest criteria of the American Society of Addiction Medicine (ASAM); and

(iii) No earlier than six months before, and no later than five days after, the client's admission to the CUP women program.

AMENDATORY SECTION (Amending WSR 04-11-008, filed 5/5/04, effective 6/5/04)

**WAC 388-533-0730 Chemical-using pregnant (CUP) women program—Covered services.** (1) The medical assistance administration (MAA) pays for the following covered services for a pregnant client and her fetus under the chemical-using pregnant (CUP) women program:

(a) Primary acute detoxification/medical stabilization;  
(b) Secondary subacute detoxification/medical stabilization; and

(c) Rehabilitation treatment and services as determined by the provider.

(2) The maximum length of treatment per inpatient stay that MAA will pay for is twenty-six days, unless additional days have been preauthorized by the MAA CUP women program manager.

(3) ~~((If a client leaves or is discharged from an inpatient treatment program and then returns, the provider must obtain authorization from the MAA CUP women program manager to allow the client to either:~~

~~(a) Complete the original twenty-six day treatment plan;~~

~~or~~  
~~(b) Begin a new twenty-six day treatment plan.~~

(4) If a client's pregnancy ends before inpatient treatment is completed, a provider may continue the client's treatment through the twenty-sixth day.

**WSR 05-05-086**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)  
[Filed February 15, 2005, 3:55 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-02-012.

Title of Rule and Other Identifying Information: WAC 388-492-0070 How are my Washington state combined application program (WASHCAP) benefits calculated?

Hearing Location(s): Blake Office Park East (behind Goodyear Courtesy Tire), Rose Room, 4500 10th Avenue S.E., Lacey, WA, on March 22, 2005, at 10:00 a.m.

Date of Intended Adoption: Not earlier than March 23, 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., March 22, 2005.

Assistance for Persons with Disabilities: Contact Fred Swenson, DSHS Rules Consultant, by March 18, 2005, TTY (360) 664-6178 or (360) 664-6097.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To amend WAC 388-492-0070 How are my Washington state combined application program (WASHCAP) benefits calculated?, effective January 1, 2005, in order to be consistent with a federal waive amendment regarding how WASHCAP benefits are calculated. Specifically, the department is amending the utility allowance methodology used to calculate WASHCAP benefit amounts.

Reasons Supporting Proposal: The change will bring the department into compliance with the demonstration project cost-neutrality provisions stipulated in the federal waiver. This rule is currently in place by emergency filing; this step is necessary to ensure permanent rule adoption.

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."

February 11, 2005

Andy Fernando, Manager  
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 04-23-026, filed 11/8/04, effective 12/9/04)

**WAC 388-492-0070 How are my WASHCAP food benefits calculated?** We calculate your food benefits as follows:

(1) We begin with your gross income.

(2) We subtract one hundred thirty-four dollars from your gross income to get your countable income.

(3) We figure your shelter cost as follows:

(a) If SSA tells us you pay three hundred nineteen dollars or more a month for shelter, we use three hundred twenty-nine dollars as your shelter cost; or

(b) If SSA tells us you pay less than three hundred nineteen dollars for shelter, we use one hundred fifty-nine dollars as your shelter cost; and

(c) We add the current ((standard)) limited utility allowance under WAC 388-450-0195 to determine your total shelter cost.

(4) We figure your shelter deduction by subtracting one half of your countable income from your shelter cost.

(5) We figure your net income by subtracting your shelter deduction from your countable income.

(6) We figure your WASHCAP food benefits (allotment) by:

(a) Multiplying your net income by thirty percent and rounding up to the next whole dollar; and

(b) Subtracting the result from the maximum allotment under WAC 388-478-0060.

(c) If you are eligible for WASHCAP, you will get at least ten dollars in food benefits each month.

**WSR 05-05-087**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)  
[Filed February 15, 2005, 3:57 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-02-041.

Title of Rule and Other Identifying Information: WAC 388-492-0040 Can I choose whether I get WASHCAP food benefits or Basic Food benefits?

Hearing Location(s): Blake Office Park East (behind Goodyear Courtesy Tire), Rose Room, 4500 10th Avenue S.E., Lacey, WA, on March 22, 2005, at 10:00 a.m.

Date of Intended Adoption: Not earlier than March 23, 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., March 22, 2005.

Assistance for Persons with Disabilities: Contact Fred Swenson, DSHS Rules Consultant, by March 18, 2005, TTY (360) 664-6178 or (360) 664-6097.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule is amended to be consistent with the latest federal waiver amendment effective January 1, 2005, pertaining to the WASHCAP project. The proposed changes are necessary to modify the criteria for which a WASHCAP eligible or WASHCAP participant may opt in or out of the demonstration project. The waiver amendment and rule change are necessary to support federal requests for action regarding the WASHCAP cost-neutrality variance.

Reasons Supporting Proposal: The rule is currently in place by emergency filing effective January 1, 2005, this step is necessary to ensure permanent rule adoption.

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."

February 11, 2005

Andy Fernando, Manager

Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 04-23-026, filed 11/8/04, effective 12/9/04)

**WAC 388-492-0040 Can I choose whether I get WASHCAP food benefits or Basic Food benefits?** You can choose to have Basic Food benefits instead of WASHCAP food benefits when:

(1) ~~((You would get more benefits from the Basic Food program-~~

~~(2) You may get more benefits in the Basic Food program when:~~

~~(a)) Your non-utility shelter costs as defined in WAC 388-450-0190 (a) through (d) are more than five hundred twenty-seven dollars a month((~~-We count the following items as a shelter cost:~~~~

~~(i) Rent or mortgage;~~

~~(ii) Property taxes;~~

~~(iii) Homeowner's insurance (for the building only); or~~

~~(iv) Mandatory homeowner's association or condo fees-~~

~~(b));~~

(2) Your out-of-pocket medical expenses are more than thirty-five dollars a month; or

(3) You chose to have Basic Food benefits instead of WASHCAP benefits prior to January 1, 2005.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

**WSR 05-05-094**

**PROPOSED RULES**

**DEPARTMENT OF ECOLOGY**

[Order 02-17—Filed February 16, 2005, 9:57 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-23-065.

Title of Rule and Other Identifying Information: Chapter 173-505 WAC, Instream resources protection and water resources program.

Hearing Location(s): Mount Vernon Police and Court Campus, Multipurpose Room, 1805 Continental Place, Mt. Vernon, WA 98273, (360) 336-6271 on March 24, 2005, at 1:30 p.m.; and at the Stillaguamish Valley Pioneer Museum, Pioneer Hall, 20722 67th Avenue N.E., Arlington, WA 98223, (360) 435-7289, on March 24, 2005, at 7:00 p.m.

Date of Intended Adoption: August 1, 2005.

Submit Written Comments to: Stephen Hirschey, 3190 160 Avenue S.E., Bellevue, WA 98008, e-mail shir461@ecy.wa.gov, fax (425) 649-7098, by April 25, 2005.

Assistance for Persons with Disabilities: Contact Ms. Judy Beitel by March 17, 2005, TTY (800) 833-6388 or (360) 407-6878.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule would establish instream flows for thirty-two rivers or streams in the basin, reserve a limited amount of ground water for future domestic use, reserve a limited amount of water for stockwatering; establish maximum limits for withdrawals from nine water sources, close lakes and ponds to new diversions, except for domestic use, and close or partially close numerous rivers and streams to new uses unless the use qualifies under identified exceptions.

Reasons Supporting Proposal: A rule adoption is necessary to support the goals and implement the policies of chapter 90.54 and 90.22 RCW wherein those statutes direct that perennial rivers and streams of the state shall be retained with base flows necessary to provide for preservation of wildlife, fish, scenic, aesthetic and other environmental values, and navigational values. Lakes and ponds shall be retained substantially in their natural condition. Adequate and safe supplies of water shall be preserved and protected in potable condition to satisfy human domestic needs. In addition, the statute provides that the Department of Ecology shall be so guided in the implementation of chapter 90.22 RCW to retain sufficient minimum flows or levels in streams, lakes or other public waters to provide adequate waters in such water sources to satisfy stockwatering requirements for stock on riparian grazing lands.

Statutory Authority for Adoption: RCW 43.21A.064(9), 43.27A.090(11); chapter 90.54 and 90.22 RCW.

Statute Being Implemented: Chapters 90.03, 90.44, 90.22 and 90.54 RCW.

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

Name of Proponent: Department of Ecology, governmental.

Name of Agency Personnel Responsible for Drafting: Stephen Hirschey, 3190 160 Avenue S.E., Bellevue, WA 98008, (425) 649-7066; Implementation and Enforcement: Dan Swenson, 3190 160 Avenue S.E., Bellevue, WA 98008, (425) 649-7270.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

## Small Business Economic Impact Statement

**BACKGROUND:** The Washington State Department of Ecology's (ecology) water resources program is proposing to develop an instream resources protection and water resources program for the Stillaguamish River basin to:

- Retain perennial rivers, streams, and lakes in the Stillaguamish River basin with instream flows and levels necessary to protect and preserve instream values, and instream flows. Closures are proposed along with numeric instream flows at specific points in the basin.
- Provide for an adequate and safe supply of potable water to satisfy the domestic needs of households and small businesses and for stockwatering via the establishment of two reservations of water.
- State ecology's policies to guide the protection, utilization and management of Stillaguamish River basin surface water and interrelated groundwater resources for use in future water allocation decisions.

The Stillaguamish River basin is designated as water resource inventory area 5 (WRIA 5) in chapter 173-500 WAC. The proposed rule is chapter 173-505 WAC. Ecology is developing and issuing this small business economic impact statement (SBEIS) as part of its rule adoption process and pursuant to chapter 19.85 RCW. Ecology intends to use the information developed in the SBEIS to ensure that the proposed rule is consistent with legislative policy.

**DESCRIPTION AND PURPOSE OF THE SBEIS:** The objective of this SBEIS is to identify and evaluate the various requirements and costs that the proposed rule might impose on business. In particular, the SBEIS examines whether the costs on businesses that might be imposed by the proposed rule 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.<sup>1</sup>

### 1. COMPLIANCE COSTS FOR WRIA 5 BUSINESSES.

**INTRODUCTION:** The evaluation of the impacts of the proposed rule is based on analysis and comparison of water right management without the rule and after the effective date of the rule if the rule is adopted. The current water right administration is based on an extensive and complex legal and administrative framework. The framework includes administrative procedures for applications for both new water rights and changes to exiting [existing] water rights, and the use of water by permit-exempt wells (RCW 90.44.050). Implementation of chapters 90.22 and 90.54 RCW are also part of this legal baseline. In proposing reservations of water, and closing streams and rivers, the rule creates new conditions that must be considered when making future water right decisions. A brief description of compliance requirements is provided below. A detailed description of water management under the existing and proposed rules can be found in Appendix B.

**WATER RIGHT ADMINISTRATION UNDER THE RULE:** The proposed future water right management program will close rivers and streams and reserve specific quantities of groundwater in specific rivers and streams, for year-round future domestic uses of households and businesses. The rule

also creates a reservation for future stockwatering and establishes eligibility conditions for use of the reservations. Expected impacts to water management include the following:

**Surface Water:** For streams with flows available at least part of the year, the decision process will be much the same as prior to the rule. Currently, ecology will condition a water right in such a way that flows are protected and a permit can be approved granting an interruptible right. Under the proposed rule, all new surface water rights will be required to stop withdrawing during the closed periods or when minimum instream flows are not met in the surface water source. In general, this may represent a significant change for future proposed surface water withdrawals since currently they would only be required to stop withdrawing water during low flow periods. Those proposing withdrawals from lakes or ponds will only be allowed to withdraw up to one hundred fifty gallons per day for in-house use only which will likely be a reduction from what would be obtained absent the rule.

Applications for new consumptive surface water rights during the closure periods would be denied, unless the applicant proposes, and ecology accepts, mitigation of the water use or an interruptible right is acceptable to the applicant. An uninterruptible right may be approved on a case-by-case basis. For areas currently included in ecology's surface water source limitations (SWSL) list, about 30% of the basin, the proposed rule would represent little change from the current situation except for those obtaining water from the reservation. Proposed appropriation from a stream listed in the SWSL are currently either denied or conditioned on low flow requirements. However, for areas that are not currently included in SWSL, this may represent a change because potential water right holders would have to cease use of water every year instead of just during the low-flow closure periods as would be the case for a conditioned right. In accordance with the requirements of RCW 90.22.040, ecology is retaining a minimum flow not to exceed 1 CFS for future stockwatering from surface water sources.

**Groundwater:** The decision process is much the same as prior to the rule. Groundwater applications in hydraulic continuity with the rivers and streams in the Stillaguamish basin would still be subject to the instream flows unless they are eligible for the domestic reservation. Applications for new consumptive ground water rights from sources that are closed part of the time would be approved as interruptible rights or denied, unless the applicant proposes, and ecology accepts, mitigation of the water use or the applicant shows that the withdrawals will not affect surface water. An uninterruptible right may be approved on a case-by-case basis. For areas currently listed under ecology's SWSL list, this would represent no change from the current situation except for those obtaining water from the reservation. However, for those areas that are not currently listed on the SWSL this may represent a change because they would not be able to use water in areas with year-around closures and will likely be required to curtail use more frequently in those cases where closures are only part of the year.

Based on the hydrogeology of the basin, and the location and depth where groundwater withdrawals generally occur, future groundwater withdrawals have a high likelihood of

capturing water that would result in impacts to surface water flows and levels in the Stillaguamish River basin. Therefore, groundwater sources are presumed to be connected with surface waters in the proposed rule. The rule does not create the need for, and does not change the standards for, the analysis regarding whether these impacts cause impairment.

**Permit Exempt Groundwater:** A reservation of ground water for future domestic uses provides a management framework for these types of withdrawals. One significant factor influencing the impacts of the rule is whether the local governments implement an administrative action or ordinance regarding the reservation. If an administrative action or an ordinance is not put in place, the reservation will not be available to new uses until such time as these actions are taken. The analysis below assumes the local governments act to make the reservations available within their jurisdictions. Appendix C discusses the case where action is not taken.

For businesses interested in using an exempt well, there would be several alternatives. Applicants could solicit a hydrogeologist to certify that a well would not cause impairment of a water right in areas where hydraulic continuity between the surface water and groundwater is not likely. Ecology would have to approve this certification. This would allow an applicant to develop a well as though the rule was not in place, but at the additional cost of the analysis. For some wells in basins that drain groundwater to saltwater bodies, this cost would likely be very small. For wells that would be drilled in areas where they are likely to be in hydraulic continuity with closed basins or streams with instream flows, and impairment would result, options include obtaining water from the reservation or accepting an interruptible water right in partially closed basins with corresponding curtailment or required storage, or agreeing to mitigate the impacts.

The reservation is available only to an applicant located more than five hundred feet from an existing water system. If applicants are closer to the water system than this and within the service area, they will be required to connect to the system when connection can be made in a timely and reasonable manner. This may result in increased costs, including connection charges, construction charges and monthly water rates. Those that access the reservation via exempt wells near an expanding water system will be required to connect to the system if connection becomes timely and reasonable. For stockwater, ecology is reserving two acre-feet of groundwater, limited to 5,000 GPD per user.

**Changes or Transfers of Water Rights:** Existing water rights can continue to be changed or transferred as permitted by chapters 90.03 and 90.44 RCW and the process is the same as before the proposed rule. However, under the current system, changes for surface water rights cannot consider impairment of instream flows since there is no instream flow right. The proposed rule will change this and make it a consideration in a proposed transfer. Requirements related to changes in the point of diversion from a surface point to a ground water source or transfers that are restricted within the same source could also be impacted as above.

**Reservations of Water:** The reservations of water, use of water under the reservations, and associated conditions for that use, are all part of the rule proposal. In large measure, the domestic reservation will allow residential and some

business development to continue as before with the benefit of having a continuous, reliable source of water during low flow periods, with few restrictions. These restrictions include a limit on outside watering, a requirement to connect to public water systems under certain circumstances, and the finite quantity of the reservation. Domestic water use must also meet efficiency standards but this is not a change from existing requirements. The stockwatering reservation will provide uninterrupted water supplies for those types of businesses.

**Closures of Water Sources in WRIA 5:** The rule would include the current limitations for surface water sources, and add several other streams and rivers. For applicants who cannot access the reservations, applications for consumptive uses from sources closed during certain portions of the year will be denied unless the applicant can acceptably mitigate for the impacts during the closure periods or demonstrate to the satisfaction of the department that the proposed withdrawal will not affect instream flows set by rule. In partially open areas, interruptible water rights may be issued.

**IMPACTS TO BUSINESSES IN WRIA 5:** Several potentially significant impacts to businesses in WRIA 5 are likely and are described below:

**1. Lake and Pond Consumptive Withdrawal Restrictions:** Surface withdrawals from all lakes and ponds will be limited to single in-house domestic uses not to exceed one hundred fifty gallons per day per home under the proposed rule. Currently, applicants would likely get a right to a larger quantity of water but be required to reduce use to in-house domestic during low flow conditions in the distributary. The in-house use only limitation under the rule may impact some businesses desiring access to these sources or develop residential lots. However, businesses might be able to get a slightly greater quantity of groundwater from the proposed reservations. The exact impact of these restrictions on use from lakes and ponds will depend on the number of permit requests that would have been submitted absent the rule, and the required water needs.

**2. Stream Closures:** All rivers and streams and the groundwater in continuity with them that are currently open to new withdrawals (or currently listed in SWSL) will be closed. For other than domestic uses (human needs of a household or business) and stockwatering authorized under the reservations, this requirement will generally eliminate new water withdrawals during the year (in fully closed areas) or part of the year (in partially closed basins).

Domestic uses will be allowed in these closed areas through the proposed reservation but only for domestic needs.<sup>2</sup> New withdrawals may still be available when non-consumptive, fully mitigated during closure periods, or from groundwater shown to not affect surface water. In some areas, water uses not eligible for the reservation will be required to obtain water during closure periods from an existing water purveyor, through leases or transfers or through other methods. For those businesses that require water for irrigation or for agricultural/industrial processes, this might be an impact on future withdrawals since the closure will require some mitigation or storage. However, it is reasonable to conclude that these water uses would have been conditioned on low flows absent the rule. As such, the impact

would likely be a longer period of nonuse that will occur every year instead of just low flow years. This could require water leasing or transfers of existing water rights or could lead to a change in the proposed location of a commercial industry or agricultural use. The magnitude of the impact will be determined by the proposed location and use of future water permit applicants.

**3. Creation of the Reservations:** Currently, groundwater withdrawals via exempt wells in the Stillaguamish River or its tributaries are subject to the requirements in RCW 90.44.050. Under the proposed rule, water from permit-exempt wells for domestic, small businesses and stockwatering will still be available via the reservations, but comes with some restrictions. Under the reservation, only domestic uses will be allowed year around. For businesses that would typically use a relatively small amount of process water (up to 5,000 GPD), domestic needs of the business could be met from the reservation and if the business is located in areas with partial closures an interruptible right would still be available during open periods. For businesses developing land for residential construction or requiring domestic water only, the reservation should meet that need although outdoor use will be restricted to irrigation of 1/12th of an acre per residence.

The creation of the stockwatering reservation will likely provide year-around access to groundwater for new stockwatering uses. Currently, water that would be accessed via permitted wells in continuity with the river or its tributaries is likely to be conditioned on instream flows, so this is likely to be a benefit to this industry.

**4. Connection Requirements:** Applicants within a public water system service area who desire water from the reservation will be required to connect to a public water system if connection is timely and reasonable. In general, this will impact those desiring to use water for domestic needs or process water. This may be an impact to some businesses in the area.<sup>3</sup> An exception might be a business that doesn't require water during low flow periods, but this is likely to be a small subset of future businesses in the watershed. The proposed rule also requires those that get water from the reservation to connect to a public water system if connection becomes timely and reasonable. This may impact some businesses if they install a well and must connect later.

**5. Transfers:** Water right transfers that would have occurred before the rule even though they may have impaired instream flows will no longer be allowed. This may be a cost for those that would have transferred water. However, only two transfers of any kind for small quantities have been recorded previously. Therefore, it seems reasonable to conclude that this impact will be small. Transfers of water rights may become part of mitigation strategies used by businesses to offset the impacts of their new water needs.

**6. Impacts to Businesses Depending on Instream Flows:** Creation of the reservation, stream closures, and restrictions on withdrawals from lakes and ponds should all serve to reduce the amount of water that would have been withdrawn without the rule. This could potentially be a beneficial impact to ecosystem services and recreation, and could impact property values. For businesses that provide guide services such as rafting, fishing and bird watching, or those

dependent on dilution for waste removal, there could be a very minor beneficial impact. However, it is anticipated that the business benefits of a reduced depletion in flows will be very small due to the small quantities of water involved.

**7. Impacts to Existing Permitted Water Rights:** Increasing requirements for future water rights may increase the value of existing permitted water rights to some businesses.

**COST ANALYSIS:** The following cost analysis (as required in chapter 19.85 RCW) is provided:

**Reporting and Record Keeping:** No additional reporting or record keeping is likely to be required.

**Additional Professional Services:** Additional professional services including hydrogeological expertise and engineering design and surveying may be required if technical services are required to provide technical documentation of a water transfer or a water line extension must be designed. Closures in basins may lead some to transfer water rights or lease from others. This will likely require increased use of professionals including hydrogeologists, biologists, engineers, and attorneys. The exact requirements would depend on the river or stream, proposed change, etc. Mitigation options might involve construction of storage tanks and associated piping requiring engineering design services. Anyone required to connect to a public water system would likely require additional engineering design and surveying.

**Costs of Equipment, Supplies, Labor, and Increased Administrative Costs:** Increased equipment associated with pipeline and tank construction may be required for mitigation options but is included in the descriptions below.

**Other Compliance Requirements:** Restrictions on water use from lakes and ponds may require some businesses to obtain groundwater rights through the reservation or potentially install storage or mitigate another way. The exact impact will depend on the number of proposed water rights, and the volume and time period in which water is required. A review of past surface water rights issued to business entities indicates that none have been issued since 1985.<sup>4</sup>

Basin closures will impact those that would have applied for an interruptible water right since they will now not be issued a water right in fully closed basins unless they can mitigate, or demonstrate no impacts on instream flow. In general, it is difficult to determine the cost impact of this requirement since it depends on the number of surface water withdrawals or wells proposed to be installed in the future, the required quantity of water, and cost of other options such as purchases or leases of existing rights. For businesses that require water for location specific activities, this might change the highest-valued use of the land. Evaluation of past permitted uses by businesses indicates that the predominant uses are for domestic and irrigation.<sup>5</sup> In these areas, domestic uses can still be served by individual wells through the reservation. Future irrigation uses would likely not be impacted too much under the proposed rule since permits would already likely be interruptible.

Costs associated with the reservation include the reduced ability to use water for outdoor use. This is considered in section 2. The cost to connect to an existing water system will range from \$8,000-\$35,000 for those businesses required to connect. However, some of that cost (all, in some cases) will likely be returned via latecomer agreements and the applicant

will avoid the cost of constructing a well which is approximately \$7,000 depending on the depth, geology, etc.<sup>6</sup> After the rule is effective, those businesses that operate on a well that will be required to connect to an expanding water system, costs are likely to vary between \$8,000 and \$35,000 for connection, but there will be an increased cost to abandon the existing well. In general, it would seem likely that businesses would find it in their interest to connect to an existing water system under the requirement.<sup>7</sup>

The cost associated with reducing any transfers will be the difference in value the proposed user and seller placed on the water. This will vary with the applicants, water uses, transfer conditions, value of water in the business product and the businesses.

## 2. REVENUE IMPACTS AND DISTRIBUTION OF COSTS.

**INTRODUCTION:** RCW 19.85.040 requires that additional analysis of impacts be provided. Specifically, the analysis should include whether compliance with this rule will cause businesses to lose sales or revenue and whether the proposed rule will have a disproportionate impact on small business. This section evaluates the proposed rule in light of these requirements.

**REVENUE IMPACTS:** Increased compliance costs for businesses will likely impact those that require water for their processes or that will rely on permit-exempt wells for land development. Some additional costs may also be imposed for those businesses that are required to connect to public water systems. The rule will only affect future water rights and transfers and in most cases the impact will be borne by those businesses that own property with the potential to be developed. Firms that develop land for their own use or for sale as residential land may experience a reduction in land value associated with the reduced availability of water. The estimated cost of outdoor use restrictions to users of permit exempt wells is likely to be between \$3 and \$35 per year per well. Capitalizing this over time yields a reduction in value of between \$44 and \$545 per well.<sup>8</sup> This is the lost revenue that would be experienced by any firm that owns developable property likely to be served by an exempt well. For those business [businesses] using conditioned water right permits, the restrictions on use during low flows will impose a cost varying with the volume and use forgone. Other impacts (e.g. connection requirements, restriction on transfers, etc.) will also tend to raise costs. To the extent that increased costs yield increased prices, gross revenues will likely be reduced.

**DISTRIBUTION OF COMPLIANCE COSTS:** The impacts of the proposed rule related to the reservation and closures will likely be experienced by existing property owners without existing water rights. Assessing the impact of the rule and proportionality for small and large business involves evaluation of the ownership structure of existing parcels in the watershed.<sup>9</sup> To determine proportionality, all existing properties within the watershed were analyzed. The number of business-owned developable properties was determined, and this was evaluated to determine those likely to be served by exempt wells in the future. The result was a record of existing business owners, parcel size and current land use and zoning that allowed for projection of the number of wells that could be developed. The ownership data was then matched with Washington State Employment Security (ESD) records

to determine the size (i.e., number of employees) of firms. This allowed for an analysis that evaluated alternative development scenarios. It is possible that no land would be developed, that all is developed or any of a multitude of combinations in between. The results assuming full-development by all business-owned parcels is provided in Table 2.1.

**Table 2.1. Compliance Costs for Business-Owned Exempt Well Development**

	Number of Firms <sup>10</sup>	Average Employment (No. of Employees)	Average Cost per Employee <sup>11</sup> (\$)	Median Cost per Employee (\$)
Small Firms	55	6-15	\$580-\$7,183	\$70-\$863
Large Firms	17	475-795	\$2-\$19	\$2-\$19

As can be seen from above the impacts appear to be greater on a cost per employee basis for smaller firms than for larger firms with a cost/employee ratio for small to large firms of 1:35 using the median cost per employee. This result is conditional on all parcels developing the maximum number of exempt wells. If firms develop the same number of wells or if small firms are the only firms to develop, then the costs would also be disproportionate. If large firms were the only [ones] to develop, then this may not be the case.<sup>12</sup>

An analysis was also carried out to determine the proportionality of impacts on permitted surface and groundwater users. It determined that all businesses that previously applied for permits for surface or groundwater use (since 1985) were small firms. Other cost impacts such as professional services, etc. are likely to be higher cost (on a per employee basis) for small firms than for large.

**CONCLUSIONS:** As described above, there will likely be an impact to some businesses in the watershed from the proposed rule. It is likely that some firms will experience increased compliance costs associated with restrictions on water use, increased metering requirements, and water line extension costs. In general, the impacts are likely to be disproportionately borne by smaller firms as measured on a cost per employee basis.

**3. ACTIONS TAKEN TO REDUCE THE IMPACT ON SMALL BUSINESS.**

As described above, the proposed rule could lead to impacts that could affect some of the businesses in the watershed. It appears this may disproportionately impact small businesses. In crafting the proposed instream flow rule, ecology has actively attempted to reduce, modify or eliminate substantive regulatory requirements to all entities in the watershed. For example, in a previous draft of the rule, ecology considered prohibiting all outdoor uses of water during low flow periods. The proposed rule allows some outdoor watering which will reduce the impacts to small businesses proportionately more than large businesses. There are no record-keeping or reporting requirements or inspections and compliance timetables and fine schedules were not altered.

**4. HOW WAS SMALL BUSINESS INVOLVED IN THE DEVELOPMENT OF THIS RULE?**

This rule has been developed over a long period with substantial public involvement. Several public meetings

were held to discuss the language and the proposed rule was posted on ecology's website. The filing of the CR-102 will provide for official public hearings to consider the rule and an opportunity for the business community to provide input.

**5. LIST OF INDUSTRIES REQUIRED TO COMPLY.**

No industries are required to comply with the proposed rule unless they seek to obtain new water rights in the covered area. However, requirements affecting water use are likely to translate into changes in property values based on impacts to the highest valued uses in the watershed. As such, existing business owners of undeveloped property are likely to be the industries that will be required to "comply" either directly in terms of attempting to acquire water or indirectly in terms of changes in asset values. Therefore, the following list is provided indicating standard industrial codes (SIC) codes for existing developable properties in the Stillaguamish watershed<sup>13</sup> and based on previous water right permit data.

**Table 5.1. Industries Likely Required to Comply with the Rule**

SIC Code	Description	SIC Code	Description
1442	Construction sand & gravel	5154	Livestock
1521	Single-family housing construction	5193	Flowers & florists' supplies
1794	Excavation work	5261	Retail nurseries and garden stores
2011	Meat packing plants	5261	Retail nurseries and garden stores
2038	Frozen specialties, nec	6021	National commercial banks
2411	Logging	6211	Security brokers and dealers
2421	Sawmills and planing mills, general	6531	Real estate agents and managers
2621	Paper mills	6552	Subdividers and developers, nec
2653	Corrugated and solid fiber boxes	7032	Sporting and recreational camps
2676	Sanitary paper products	7999	Amusement and recreation, nec
4011	Railroads, line-haul operating	8051	Skilled nursing care facilities
4612	Crude petroleum pipelines	8121	Unassigned
4911	Electric services	8322	Individual and family services
4941	Water supply	8399	Social services, nec
4952	Sewerage systems	8611	Business associations
5031	Lumber, plywood, and millwork	8641	Civic and social organizations
5032	Brick, stone and related materials	8661	Religious organizations
5099	Durable goods, nec	8731	Commercial physical research
5114	Unassigned	8733	Noncommercial research organizations

PROPOSED



<sup>1</sup> Due to size limitations relating to the filing of documents with the code reviser, the SBEIS does not contain the appendices that further explain ecology's analysis. Additionally, it does not contain the raw data used in this analysis, or all of ecology's analysis of this data. However, this information is being placed in the rule-making file, and is available upon request.

<sup>2</sup> Currently, permit-exempt well users can use up to 5,000 GPD during all periods assuming they meet the other requirements of chapter 90.44 RCW.

<sup>3</sup> Other entities may already require connection. For example, the Skagit County critical areas ordinance requires connection to public water systems to protect low flows under specific conditions.

<sup>4</sup> This would not include water rights issued to individuals for business purposes.

<sup>5</sup> Since 1985, ecology annually issues approximately one permit to business entities with the majority of those issued prior to 1996.

<sup>6</sup> Cost estimate assumes sixty foot deep well through sand and gravel.

<sup>7</sup> The existing rule also negates this requirement if costs are more than double the cost of constructing a well.

<sup>8</sup> Calculation assumes a 2.7% real discount rate. Discussion of this calculation can be found in the benefit-cost analysis.

<sup>9</sup> Business-owned developable parcels make up approximately 22% (Skagit County) and 21% (Snohomish County) of the total area in the counties located in the watershed.

<sup>10</sup> The total number of firms represents all businesses located in the county listed as owner of the parcel and where ESD data could be located.

<sup>11</sup> Cost comparisons use the largest 10% of firms required to comply.

<sup>12</sup> For Skagit County, the firm size and cost structure is such that all possible development scenarios involving at least one small parcel developing for the parcels considered result in disproportionate impacts.

<sup>13</sup> The table was constructed based on data provided by the Skagit and Snohomish County Assessors and by the Washington State Employment Security Department.

A copy of the statement may be obtained by contacting Stephen Hirschey, 3190 160 Avenue S.E., Bellevue, WA 98008, phone (425) 649-7066, fax (425) 649-7098, e-mail shir461@ecy.wa.gov, or by visiting [www.ecy.wa.gov/laws-rules/activity/wac173505.html](http://www.ecy.wa.gov/laws-rules/activity/wac173505.html).

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Stephen Hirschey, 3190 160 Avenue S.E., Bellevue, WA 98008, phone (425) 649-7066, fax (425) 649-7098, e-mail shir461@ecy.wa.gov, or by visiting [www.ecy.wa.gov/laws-rules/activity/wac173505.html](http://www.ecy.wa.gov/laws-rules/activity/wac173505.html).

February 16, 2005

Polly Zehm  
Deputy Director

## Chapter 173-505 WAC

### INSTREAM RESOURCES PROTECTION AND WATER RESOURCES PROGRAM

#### Stillaguamish River Basin

#### Water Resources Inventory Area (WRIA) 5

#### NEW SECTION

**WAC 173-505-010 General provisions—Authority and applicability.** (1) This chapter is adopted under the authority of the Water Resources Act of 1971 (chapter 90.54 RCW), Minimum Water Flows and Levels Act (chapter 90.22 RCW), Water Well Construction Act (chapter 18.104 RCW), Water resource management (chapter 90.42 RCW), Regulation of public ground waters (chapter 90.44 RCW),

and Water resources management program (chapter 173-500 WAC).

(2) This chapter applies to the use and appropriation of:

(a) All surface waters that drain within the Stillaguamish River basin, also known as water resources inventory area (WRIA) 5, including its tributaries and areas adjacent to the mouth of the Stillaguamish River that drain to salt water; and

(b) All ground water hydraulically connected with surface waters of the Stillaguamish River basin. Existing studies indicate a substantial likelihood that all waters within WRIA 5 are in hydraulic continuity with the surface waters covered herein, and therefore all such waters are presumed for the purposes of this chapter to be in hydraulic continuity with such surface waters.

(3) This chapter shall not affect existing water rights, including perfected riparian rights or other appropriative rights existing on the effective date of this chapter, unless otherwise provided for in the conditions of the water right in question.

(4) This chapter shall also not affect federal Indian and non-Indian reserved rights. The Stillaguamish Tribe of Indians and the Tulalip Tribes reserve the right to a claim for a treaty-derived off-reservation instream flow right with senior priority. The extent of such rights can only be adjudicated in federal or state court.

(5) This chapter does not limit the department's authority to establish instream flow requirements or conditions under other laws, including hydropower licensing under RCW 90.48.260.

(6) In accordance with RCW 90.54.090, all agencies of state and local government, including counties and municipal and public corporations, shall, whenever possible, carry out powers vested in them in manners which are consistent with this chapter.

(7) In administering and enforcing this chapter, the department's actions shall be consistent with the provisions of chapter 90.54 RCW.

#### NEW SECTION

**WAC 173-505-020 Purpose.** (1) The purpose of this chapter is to retain perennial rivers, streams, and lakes in the Stillaguamish River basin with instream flows and levels necessary to protect and preserve wildlife, fish, scenic, aesthetic, recreation, water quality and other environmental values, navigational values, and stock water requirements.

(2) The chapter creates a reservation of adequate and safe supplies of potable water to satisfy human domestic needs, and a reservation for stock watering.

(3) This chapter sets forth the department's policies to guide the protection, utilization and management of Stillaguamish River basin surface water and interrelated ground water resources. It establishes instream flows and closures, and sets forth a program for administration of future water allocation and use.

#### NEW SECTION

**WAC 173-505-030 Definitions.** For the purposes of this chapter, the following definitions shall be used:

PROPOSED

(1) **"Allocation"** means the designating of specific amounts of water for specific beneficial uses.

(2) **"Appropriation"** means the process of legally acquiring the right to specific amounts of water for beneficial uses, as consistent with the requirements of the ground and surface water codes and other applicable water resource statutes. This term refers to both surface and ground water right permits and to ground water withdrawals otherwise exempted from permit requirements under RCW 90.44.050.

(3) **"Consumptive use"** means a use of water that diminishes the amount or quality of water in the water source.

(4) **"Department"** means the Washington state department of ecology.

(5) **"Domestic water use"** means, for the purposes of administering WAC 173-505-090, potable water to satisfy the human domestic needs of a household or business, including water used for drinking, bathing, sanitary purposes, cooking, laundering, and other incidental uses. Outdoor watering shall be limited to an area not to exceed a total of 1/12th of an acre, or three thousand six hundred thirty square feet, for all outdoor uses for each individual domestic water use. Under all circumstances, total outdoor watering for multiple residences under the permit exemption (RCW 90.44.050) shall not exceed one-half acre.

(6) **"Instream flow"** means a stream flow level set in rule that is required to protect and preserve fish, wildlife, scenic, aesthetic and other environmental values, and navigational values. The term "instream flow" means a base flow under chapter 90.54 RCW, a minimum flow under chapter 90.03 or 90.22 RCW, or a minimum instream flow under chapter 90.82 RCW.

(7) **"Mitigation plan"** means a scientifically sound plan voluntarily submitted by a project proponent to offset the impacts of a proposed water use and approved by the department. A mitigation plan can be submitted to the department for a stream, basin, reach, or other area. A mitigation plan must show that the withdrawal with mitigation in place will not impair existing water rights, including instream flow rights, or diminish water quality. The plan must provide mitigation for the duration of the water use.

(8) **"Nonconsumptive use"** means a use of water that does not diminish the amount or quality of water in the water source.

(9) **"Permit-exempt withdrawals"** or **"permit exemption"** means a ground water withdrawal exempted from permit requirements under RCW 90.44.050, but which is otherwise subject to the ground water code.

(10) **"Public water system"** means any system established under RCW 43.20.260 which provides water for human consumption through pipes or other constructed conveyances, excluding a system serving only one single-family residence and a system with four or fewer connections all of which serve residences on the same farm. This term includes group domestic systems.

(11) **"Reservation"** means an allocation of water for future beneficial uses. The priority date of a given allocation is the same as the effective date of the reservation.

(12) **"Stream management unit"** means a stream segment, reach, or tributary used to describe the part of the relevant stream to which a particular instream flow level applies.

(13) **"Timely and reasonable manner"** means potable water service can be provided by a purveyor within one hundred twenty days of a purveyor's written approval of the request for service, to a property located within the public water system and within five hundred feet of the purveyor's water pipe line. The department may determine that water service is unreasonable if the applicant for service provides sufficient information to show that the capital cost of connection would be more than twice the cost of an individual alternative source.

(14) **"Withdrawal"** means the appropriation or use of ground water, or the diversion or use of surface water.

NEW SECTION

**WAC 173-505-040 Establishment of stream management units.** The department hereby establishes the following stream management units.

**Table 1**  
**Stream Management Unit Information**  
(N.F. is North Fork; S.F. is South Fork)

Stream Management Unit Name	Control Point by River Mile (RM) or Latitude North (Lat.) and Longitude West (Long.)	Stream Management Reach
Stillaguamish Mainstem	Stillaguamish River nr Silvana Ecology Station #05A070 RM 11.2 Lat. 48 11 49.5, Long. 122 12 32	From the mouth at Port Susan to the confluence of the N.F. of the Stillaguamish River and the S.F. of the Stillaguamish River.
<b>North Fork (N.F.) Stillaguamish River:</b>		
N.F. Stillaguamish River at Arlington, WA	USGS Station #12167000 RM 6.5 Lat. 48 15 42, Long. 122 02 47	From confluence with the S.F. Stillaguamish to river mile 17.6.
N.F. Stillaguamish River at Oso	Ecology Station #05B090 RM 17.6 Lat. 48 16 21, Long. 122 53 17	From river mile 17.6 to headwaters.
<b>South Fork (S.F.) Stillaguamish River:</b>		
S.F. Stillaguamish River	RM 24.4	From confluence with the N.F. Stillaguamish River to RM 34.9.

Stream Management Unit Name	Control Point by River Mile (RM) or Latitude North (Lat.) and Longitude West (Long.)	Stream Management Reach
S.F. Stillaguamish River at Granite Falls, WA	USGS Station #12161000 RM 34.9 Lat. 48 06 12, Long. 121 57 07	From S.F. Stillaguamish River at RM 34.9 to headwaters.
<b>Stillaguamish River Tributaries:</b>		
Church Creek nr Stanwood	Ecology Station #05L070 RM 3 Lat. 48 14 54, Long. 122 18 48	From mouth to headwaters, including tributaries.
Glade Bekken Creek - stream 0030	At the Sylvania Terrace Rd. crossing RM 0.5	From mouth to headwaters, including tributaries.
Portage Creek	At 208th St. NE & 66th Ave. crossing RM 7.0	From mouth to headwaters, including tributaries.
Fish Creek	At Sill Rd. crossing RM 2.0	From mouth to headwaters, including tributaries.
Pilchuck at Bridge 626	Ecology Station #05D070 RM 0.5 Lat. 48 12 49, Long. 122 13 03	From mouth to the Campground Bridge, including tributaries.
Pilchuck Creek above Lake Creek	Ecology Station #05D150 RM 17 Lat. 48 20 35, Long. 122 03 23	From Campground Bridge to headwaters, except Lake Cavanaugh.
<b>Pilchuck Creek Tributaries:</b>		
Lake Creek nr mouth	Ecology Station #05K060 RM 0.2 Lat. 48 20 29, Long. 122 03 18	From mouth to headwaters, including tributaries, except Lake Cavanaugh.
<b>North Fork (N. F.) Stillaguamish River Tributaries:</b>		
Squire Creek at Squire Creek Park	Ecology Station #05H070 RM 1.2 Lat. 48 16 13, Long. 121 40 17	From mouth to headwaters, including tributaries.

Stream Management Unit Name	Control Point by River Mile (RM) or Latitude North (Lat.) and Longitude West (Long.)	Stream Management Reach
Deer Creek nr Oso	Ecology Station #05C090 RM 1.3 Lat. 48 17 03, Long. 121 55 35	From mouth to headwaters, including tributaries.
Brooks Creek	At Brooks Creek Rd. Bridge RM 0.3	From mouth to headwaters, including tributaries.
Montague Creek	At Hwy 530 bridge RM 0.3	From mouth to headwaters, including tributaries.
Rollins Creek	Off C Post off Hwy 530 about RM 1.0	From mouth to headwaters, including tributaries.
Boulder River nr mouth	Ecology Station #05J060 RM 0.5 Lat. 48 16 40, Long. 121 46 52	From mouth to headwaters, including tributaries.
French Creek	At Hwy 530 bridge RM 0.4	From mouth to headwaters, including tributaries.
Segelson Creek	At Swede Haven Rd. bridge off Hwy 530 RM 0.3	From mouth to headwaters, including tributaries.
Furland Creek	At Hwy 530 bridge RM 0.2	From mouth to headwaters, including tributaries.
Ashton Creek	At Hwy 530 bridge RM 0.2	From mouth to headwaters, including tributaries.
Grant Creek	At Hillis Rd. bridge off Hwy 530 RM 0.1	From mouth to headwaters, including tributaries.
Rock Creek	At RM 1.1	From mouth to headwaters, including tributaries.

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Stream Management Unit Name	Control Point by River Mile (RM) or Latitude North (Lat.) and Longitude West (Long.)	Stream Management Reach
Koonz Creek - Stream 0138	At WDFW bridge RM 1.5	From mouth to headwaters, including tributaries.
Harvey Creek	At side road crossing of Grandview Rd. RM 1.5	From mouth to headwaters, including tributaries.
<b>South Fork (S. F.) Stillaguamish River Tributaries:</b>		
Jim Creek at Whites Road	Ecology Station #05G070 RM 3.3 Lat. 48 10 41, Long. 122 03 07	From mouth to headwaters, including tributaries.
Siberia Creek, tributary to Jim Creek	At mouth near 131st Ave. NE, RM 0.0	From mouth to headwaters, including tributaries.
Canyon Creek nr Masonic Park	Ecology Station #05F080 RM 5.0 Lat. 48 07 17, Long. 121 54 17	From mouth to headwaters, including tributaries.
Armstrong Creek	At Harvey Creek Rd. crossing RM 1.0	From mouth to headwaters, including tributaries.
Jordan Creek	At Jordan Rd. crossing RM 0.1	From mouth to headwaters, including tributaries.
Tiger Creek - stream 0363	Near Masonic Park, RM 1.6	From mouth to headwaters, including tributaries.

NEW SECTION

**WAC 173-505-050 Establishment of instream flows.**

(1) Instream flows established in this section protect stream flows from future withdrawals, and preserve flow levels that are necessary to protect wildlife, fish, water quality, scenic, aesthetic and other environmental values, navigational values, and stock watering requirements.

(2) Instream flows established in this section are water rights with a priority date the same as the effective date of this chapter.

(3) Instream flows are expressed in cubic feet per second (cfs). These flows are measured at the control points identified in WAC 173-505-040 and apply to the stream management reach. The instream flow provisions for any water right located in a stream management unit shall specifically describe the instream flow levels for the control station in that unit and shall refer generally to other downstream instream flow requirements that may also become controlling and critical to the use of water under such right.

(4) Instream flows are to be protected from impairment by junior water rights. Except as provided in WAC 173-505-080, 173-505-090, and 173-505-110, junior water rights shall be exercised only when flow conditions provide enough water to satisfy senior rights, including the instream flows set in this chapter. Withdrawals of water that would conflict with the established instream flows shall be authorized only in those situations where it is clear that overriding considerations of the public interest will be served.

(5) Stream flow requirements on existing water rights are not modified by this chapter. Existing water rights that include a provision that water use will be subject to future instream flows are now subject to the instream flows established in WAC 173-505-050.

(6) Instream flows are established for the stream management units in WAC 173-505-040, as follows:

**Table 2**  
**Instream Flows for the Mainstem and North and South Forks, Stillaguamish River**  
 (in cubic feet per second) (RM=River Mile)

Month	Day	Ecology Station #05A070 Stillaguamish RM 11.2	USGS Station #12167000 North Fork Stillaguamish RM 6.5	Ecology Station #05B090 North Fork Stillaguamish RM 17.6	USGS Station #12161000 South Fork Stillaguamish RM 24.4	USGS Station #12161000 South Fork Stillaguamish RM 34.9
Jan.	1-31	2200	1200	915	1800	1200
Feb.	1-29	2000	1200	850	1600	1200

Month	Day	Ecology Station #05A070	USGS Station #12167000	Ecology Station #05B090	USGS Station #12161000	
		Stillaguamish RM 11.2	North Fork Still- aguamish RM 6.5	North Fork Still- aguamish RM 17.6	South Fork Still- aguamish RM 24.4	South Fork Still- aguamish RM 34.9
Mar.	1-15	2000	1300	850	2250	1600
	16-31	2000	1300	915	2250	1600
Apr.	1-30	2000	1300	915	2000	1600
May	1-31	2000	1300	915	2000	1600
Jun.	1-15	2000	1300	915	1200	1060
	16-30	2000	1400	650	1200	1060
Jul.	1-15	2000	1100	600	1150	1060
	16-31	2000	800	500	750	700
Aug.	1-15	1700	800	425	750	700
	16-31	1700	800	500	750	700
Sep.	1-15	1700	800	700	775	700
	16-30	1700	800	850	775	700
Oct.	1-15	1700	800	870	1250	1200
	16-31	1700	800	870	1900	1700
Nov.	1-15	2200	950	915	2300	1800
	16-30	2200	950	915	2300	1800
Dec.	1-31	2200	1300	915	2500	1800

**Table 3**  
**Instream Flows for Tributaries of**  
**the Mainstem and North and South Forks Stillaguamish River Basin**  
 (in cubic feet per second) (RM=River Mile)

Month	Day	RM 0.5	RM 17	RM 1.2	RM 3.3	RM 5.0	RM 0.3	RM 1.3	RM 0.3
		Pilchuck Creek	Pilchuck Creek	Squire Creek	Jim Creek	Canyon Creek	Lake Creek	Deer Creek	Brooks Creek
Jan.	1-31	170	98	200	250	525	21	411	39
Feb.	1-29	170	98	200	250	450	21	411	39
Mar.	1-15	170	98	280	250	450	21	474	68
	16-31	170	98	280	250	450	21	474	68
Apr.	1-30	170	98	280	250	450	21	474	68
May	1-31	170	98	280	250	450	21	474	68
Jun.	1-15	170	98	280	250	450	21	313	45
	16-30	170	98	280	250	350	21	313	45
Jul.	1-31	170	98	200	250	350	21	195	45
Aug.	1-31	140	98	200	250	350	21	88	17
Sep.	1-30	170	98	200	250	400	21	353	17
Oct.	1-31	170	98	200	250	525	21	617	39
Nov.	1-15	170	98	160	250	525	21	411	39
Nov.	16-30	170	98	160	250	525	21	411	39
Dec.	1-31	170	98	160	250	525	21	411	39

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**Table 4**  
**Instream Flows for Tributaries of**  
**the Mainstem and North and South Forks Stillaguamish River Basin**  
 (in cubic feet per second) (RM=River Mile)

Month	Day	RM 0.3 Montague Creek	RM 1.0 Rollins Creek	RM 0.5 Boulder Creek	RM 0.4 French Creek	RM 0.3 Segelson Creek	RM 0.2 Furland Creek	RM 0.2 Ashton Creek	RM 0.1 Grant Creek
Jan.	1-31	29	47	167	56	47	33	34	67
Feb.	1-29	29	47	167	56	47	33	34	67
Mar.	1-15	53	80	203	73	79	44	46	87
Mar.	16-31	53	80	203	73	79	44	46	87
Apr.	1-30	53	80	203	73	79	44	46	87
May	1-31	53	80	203	73	79	44	46	87
Jun.	1-15	35	53	134	48	52	29	30	57
Jun.	16-30	35	53	134	48	52	29	30	57
Jul.	1-31	35	53	134	48	52	29	30	57
Aug.	1-31	12	20	154	18	20	10	10	23
Sep.	1-30	12	47	250	84	47	49	51	101
Oct.	1-31	29	47	167	84	47	49	51	101
Nov.	1-15	29	47	167	56	47	33	34	67
Nov.	16-30	29	47	167	56	47	33	34	67
Dec.	1-31	29	47	167	56	47	33	34	67

**Table 5**  
**Instream**  
**Flows for Tributaries of**  
**the Mainstem and North and South Forks Stillaguamish River Basin**  
 (in cubic feet per second) (RM=River Mile)

Month	Day	RM 3.0 Church Creek	RM 0.5 Glade Bekken Creek	RM 7.0 Portage Creek	RM 2.0 Fish Creek	RM 1.1 Rock Creek	RM 1.5 Koonz Creek
Jan.	1-31	24	10	11	16	29	19
Feb.	1-29	24	10	11	16	29	19
Mar.	1-15	43	21	22	30	53	36
Mar.	16-31	43	21	22	30	53	36
Apr.	1-30	43	21	22	30	53	36
May	1-31	43	21	22	30	53	36
Jun.	1-15	28	14	14	20	35	24
Jun.	16-30	28	14	14	20	35	24
Jul.	1-31	28	14	14	20	35	24
Aug.	1-31	10	4	4	6	12	8
Sep.	1-30	10	4	4	6	29	19
Oct.	1-31	24	10	11	16	29	19
Nov.	1-15	24	10	11	16	29	19
Nov.	16-30	24	10	11	16	29	19
Dec.	1-31	24	10	11	16	29	19

PROPOSED

**Table 6**  
**Instream Flows for Tributaries of**  
**the Mainstem and North and South Forks Stillaguamish River Basin**  
 (in cubic feet per second) (RM=River Mile)

Month	Day	RM 1.5 Harvey Creek	RM 1.0 Armstrong Creek	RM 0.1 Jordan Creek	RM 1.6 Tiger Creek	RM 0.0 Siberia Creek
Jan.	1-31	9	34	18	27	37
Feb.	1-29	9	34	18	27	37
Mar.	1-15	6	46	34	48	49
Mar.	16-31	6	46	34	48	49
Apr.	1-30	6	46	34	48	49
May	1-31	4	46	34	48	49
Jun.	1-15	4	30	22	32	32
Jun.	16-30	4	30	22	32	32
Jul.	1-31	4	30	22	32	32
Aug.	1-31	4	10	7	11	11
Sep.	1-30	4	51	18	11	27
Oct.	1-31	4	51	18	11	55
Nov.	1-15	9	34	18	27	37
Nov.	16-30	9	34	18	27	37
Dec.	1-31	9	34	18	27	37

PROPOSED

**NEW SECTION**

**WAC 173-505-060 Lakes and ponds.** RCW 90.54.-020(3) provides, in part, that the quality of the natural environment shall be protected, and where possible, enhanced, and lakes and ponds shall be retained substantially in their natural condition. The department has determined that further consumptive withdrawals would impact the lakes and ponds of the Stillaguamish River basin. Therefore, surface withdrawals from all lakes and ponds shall be limited to single in-house domestic uses not to exceed one hundred fifty gallons per day per residence.

**NEW SECTION**

**WAC 173-505-070 Stream closures.** (1) The department determines that, based on historical and current low flows and uses, no water is available for additional year-round appropriation from the streams and tributaries in the Stillaguamish River basin. All unappropriated water from the streams and rivers is hereby appropriated for purposes of protecting and preserving fish and wildlife and other instream values, as of the date of this chapter. Therefore, the department closes all the rivers and streams in the Stillaguamish River basin, including ground water hydraulically connected to those surface waters, to any further appropriations.

(2) Exceptions to the closures and instream flow requirements are provided in WAC 173-505-070(3), 173-505-080, 173-505-090 and 173-505-110.

(3) The department finds that there is some water above the instream flows at specific locations and times of year that could be captured for storage or other projects that do not require year-round, noninterruptible water supplies. Therefore, the water sources described in the table below have

water available for the time periods specified. These withdrawals are subject to the instream flows established in WAC 173-505-050 and the maximum allocations defined in WAC 173-505-100(2).

**Table 7**  
**Water Source and Open Periods\***

Water Source	Open Period
Stillaguamish River from its multiple mouths at Port Susan to the confluence of N.F. Stillaguamish River and S.F. Stillaguamish River (RM 0 to 17.8).	October 16-June 30
N.F. Stillaguamish, from RM 0 (its confluence with the S.F. Stillaguamish) to river mile 17.6.	October 16-June 30
N.F. Stillaguamish River, from RM 17.6 to its headwaters.	November 1-June 30
S.F. Stillaguamish River from its confluence with the N.F. Stillaguamish River (RM 17.8) to RM 34.9.	November 1-June 15
Pilchuck Creek from mouth to RM 16.4 (confluence of Bear Creek).	October 16-May 31
Squire Creek from mouth to its headwaters.	November 1-February 15, and May 1-June 30

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Water Source	Open Period
Canyon Creek from mouth to RM 11.8 (confluence of N.F. Canyon Creek and S.F. Canyon Creek).	December 1-May 31
N.F. is North Fork	S.F. is South Fork
	RM is river mile
*Tributaries to the water sources are excluded from the open period unless specifically listed.	

**NEW SECTION**

**WAC 173-505-080 Future stock watering.** (1) Consistent with RCW 90.22.040, the department retains one cubic foot per second of surface water for future stock watering pursuant to the following requirements:

(a) This surface water flow is available to satisfy stock watering requirements for stock on riparian grazing lands which drink directly from streams, lakes or other public waters. Appropriation or use of water from the reservation for stock watering shall be limited to the land base and carrying capacity of the grazing lands next to the stream or water course. The reservation shall not be available for feedlots and other activities which are not related to normal grazing land uses.

(b) The department encourages existing riparian stock water right holders to remove livestock from streams for the purpose of protecting water quality and stream habitat. Under these circumstances, no water right change application is required, as long as all of the following conditions are met:

(i) Small amounts of water are diverted (screened and piped) to nearby stock water tanks for consumption by livestock;

(ii) Stock water tanks shall be located close to the surface water source, and have as short a bypass reach as possible, while providing protection to the water body, stream bank and associated vegetative zone;

(iii) If a float or demand type valve is not used, the tank overflow must return to the same source, at or near the point of diversion;

(iv) The stock tank must serve stock, which normally range that parcel of property; and

(v) The quantity of water consumed from the stock tank should not exceed the quantity consumed if the stock drank directly from the stream.

(c) The decision by a person to divert stock water from the stream and into a tank does not constitute an adjudication of any claim to the right to the use of the water, as between the claimant and the state, or as between one or more water use claimants and another or others.

(2) The department reserves two acre-feet per year of ground water for future stock watering of up to five thousand gallons per day for individual users.

(3) The department will maintain an estimate of the amount of water used from the reservation, and reserves the right to require metering and reporting of water use to ensure compliance with the conditions of use for stock watering under this section.

**NEW SECTION**

**WAC 173-505-090 Reservation of permit-exempt ground water for future domestic uses.** (1) The department has weighed the public interest supported by providing a limited amount of water for domestic uses with the potential for negative impact to instream flow resources. The department finds that the public interest advanced by this limited reservation clearly overrides the small potential for negative impacts on instream resources (RCW 90.54.020 (3)(a)).

Based on this finding, the department hereby allocates a total amount of water not to exceed five cubic feet per second (5 cfs) to provide adequate and safe supplies of water for year-round future domestic uses. Of that 5 cfs, the reservation is further defined by limits on the amount of reserved water that can be withdrawn from the North and South Forks of the Stillaguamish River, as identified in the following table.

This reservation of ground water is not subject to the instream flows established in WAC 173-505-050 or the stream closures established in WAC 173-505-070.

**Table 8  
Allocation of Reservation as Measured  
at Specified River Miles**

Water Source (RM - River Mile)	Amount of Water Available, Measured in Cubic Feet per Second (cfs) and Gallons per Day (gpd)
Stillaguamish River at RM 11.2	5 cfs or 3.23 million gpd
<b>Of that 5 cfs, the following maximums may be taken from the specified locations:</b>	
North Fork Stillaguamish River at RM 6.5	2 cfs or 1,292,544 gpd
South Fork Stillaguamish River at RM 24.4	1.5 cfs or 969,408 gpd

(2) Use of water under the reservation is available only if all the conditions set forth in this section are fully complied with. Conditions for use of the reservation water are:

(a) The water reserved shall be for ground water uses exempt from a water right permit application. This reservation can provide water for either single or small group domestic uses, as defined in WAC 173-505-030(5).

(b) This reservation of ground water shall not exceed 3.23 million gallons of water per day (5 cfs).

(c) Domestic water use shall meet the water use efficiency standards of the uniform plumbing code as well as any applicable local or state requirements for conservation standards.

(d) This reservation shall only be applicable in areas where all of the following conditions exist:

(i) An ordinance or other administrative action is established by the appropriate city or county that provides that the same requirements as (a), (b), (c), (e), (f), (g) and (h) of this subsection shall be conditions within a building permit or



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subdivision approval if the water adequacy finding for such permit or approval is based upon the reservation contained herein;

(ii) It shall be the responsibility of an applicant for a building permit or subdivision approval seeking water under the reservation to comply with the conditions in (a), (b), (c), (e), (f), (g) and (h) of this subsection and all other conditions of this chapter.

(e) A new water withdrawal under this reservation is not allowed in those areas where a public water system has been established, and where the connection can be provided in a timely and reasonable manner.

(f) If a public water system becomes available after the effective date of this chapter to persons using water under the reservation, and the connection can be provided in a timely and reasonable manner, those persons must connect to the public water system. Any such persons must take affirmative action to connect to the public water system no later than one hundred twenty days after receiving the department's written order to cease and desist use of the well.

(g) Outdoor water use is limited to the watering of an outdoor area not to exceed a total of 1/12th of an acre for all outdoor uses under each individual domestic water use. Under all circumstances, total outdoor watering for multiple residences under the permit exemption (RCW 90.44.050) shall not exceed one-half acre.

(h) The department reserves the right to require metering and reporting of water use for single domestic users, if more accurate water use data is needed for management of the reservation and water resources in the area of the reservation. All other ground water users under the permit-exemption shall be required to install and maintain measuring devices, in accordance with specifications provided by the department, and report the data to the department.

(3) Once this chapter is adopted, the department will promptly notify the appropriate county or counties, water well contractors and the public of the restrictions on future permitted and permit-exempt water withdrawals, availability of water from the reservation and the specific requirements that an applicant obtaining a building permit or subdivision approval must comply with.

(4) The reservation is a one-time, finite amount of water. Once the reservation is fully allocated, it is no longer available. Other water sources may be available only under the provisions in WAC 173-505-110, 173-505-120, 173-505-130 and 173-505-140.

(a) The department shall notify the appropriate county, in writing, when it determines that fifty percent, seventy-five percent, and one hundred percent of the reservation has been allocated. The department shall also issue a public notice annually in a newspaper of general circulation for the region that shows the amounts of reserved water that have been allocated and what remains unallocated, as well as identifying any water source that has been fully allocated and from which water is no longer available under this reservation.

(b) The county or city shall provide ecology with an annual report on the number of building permits and subdivision approvals that will use water from the reservation. This report must also identify the type of use associated with each approval.

(5) If a water use is not in compliance with any condition of this reservation, the department may take action consistent with WAC 173-505-150.

(6) If existing county and city land use decisions, including zoning changes and building permit and subdivision approvals, allow for uses inconsistent with this chapter or for increased densities that adversely affect small tributaries and other flow-sensitive areas, the department may limit or restrict the further use of the reservation. The department will promptly notify the appropriate county or counties, water well contractors and the public of any changes to use of the reservation.

(7)(a) A record of all ground water withdrawals from the reservation shall be maintained by the department. The record will readily show both the allocated and unallocated quantities of ground water that are in reserved status. For accounting purposes, the department may use three hundred fifty gallons per day (gpd) per residence or business as the average water use value. This figure may be adjusted down to one hundred seventy-five gpd if the residence or business is served by an on-site septic system, to take recharge into account.

(b) If an entity using water under this reservation subsequently abandons the withdrawal and notifies the department, the water use may be credited back to the reservation.

NEW SECTION

**WAC 173-505-100 Maximum allocations.** (1) High flows provide critical ecological functions such as channel and riparian zone maintenance, flushing of sediments, and in and out migration of fish. The protection of the frequency and duration of higher ecological flows can be accomplished by establishing a maximum amount of water/flow that can be withdrawn from the stream above the instream flow levels.

(2) Therefore, the department determines that the total consumptive withdrawals from existing and future water rights in the Stillaguamish River basin during open periods shall not exceed a total of 300 cubic feet per second (cfs) as measured at USGS gauge #12167700, river mile 11.2. Of that 300 cfs, the maximum allocation is further defined by limits on the amount of water that can be withdrawn from specified stream reaches, at specific times. Refer to the table and map, below.

**Table 9  
Maximum Allocation**

Water Source*	Open Period
Stillaguamish River from its multiple mouths at Port Susan to the confluence of N.F. Stillaguamish River and S.F. Stillaguamish River (RM 0 to 17.8).	October 16-June 30
	Maximum Allocation 300 cfs
<b>Of that 300 cfs, the following maximums may be taken from the specified stream reaches at the specified times:</b>	

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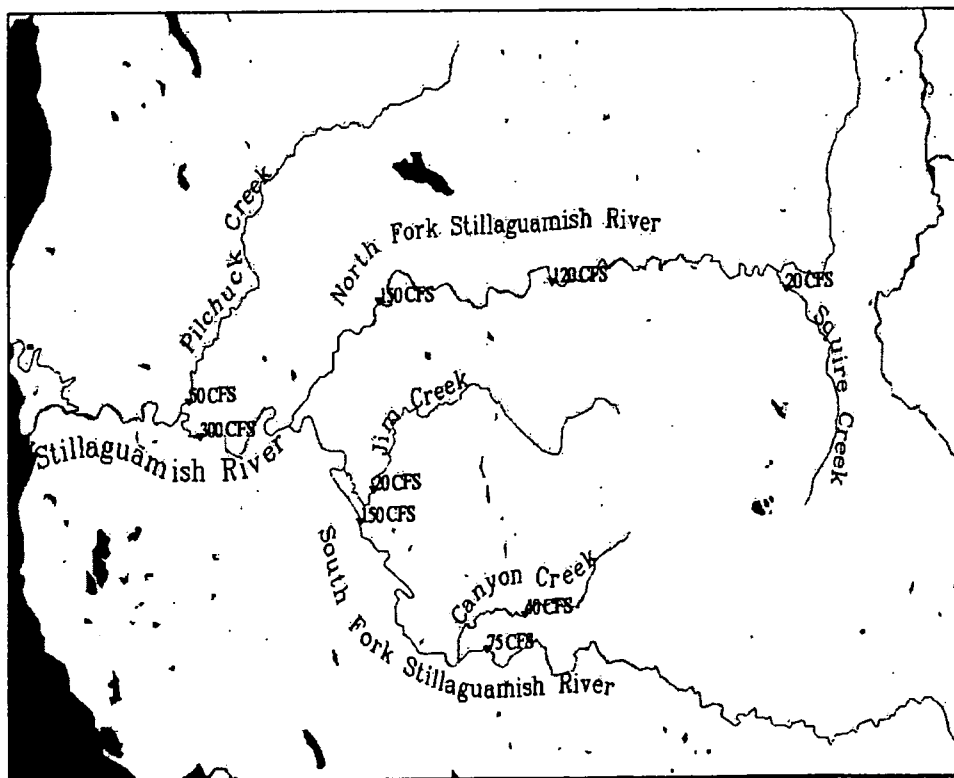
Water Source*	Open Period
N.F. Stillaguamish, from RM 0 (its confluence with the S.F. Stillaguamish) to river mile 17.6.	October 16-June 30
	Maximum Allocation 150 cfs
N.F. Stillaguamish River, from RM 17.6 to its headwaters.	November 1-June 30
	Maximum Allocation 120 cfs
S.F. Stillaguamish River from its confluence with the N.F. Stillaguamish River (RM 17.9) to RM 34.9.	November 1-June 15
	Maximum Allocation 150 cfs
Pilchuck Creek from mouth to RM 16.4 (confluence of Bear Creek).	October 16-May 31
	Maximum Allocation 50 cfs
Squire Creek from mouth to its headwaters.	November 1-February 15, and May 1-June 30
	Maximum Allocation 20 cfs

Water Source*	Open Period	
Canyon Creek from mouth to RM 11.8 (confluence of N.F. Canyon Creek and S.F. Canyon Creek).	December 1-May 31	
	Maximum Allocation 40 cfs	
N.F. is North Fork	S.F. is South Fork	RM is river mile

\* Tributaries to the water sources are excluded from the open period unless specifically listed.

N.F. is North Fork; S.F. is South Fork; cfs is cubic feet per second; confluence = the juncture of two or more flowing streams

**Figure 1**  
Maximum allocations for specific stream reaches (listed above) in the Stillaguamish River basin, measured at designated control points



(3) All water rights from the maximum allocation are subject to the instream flows established in WAC 173-505-050 and other applicable provisions in this chapter. Use of the water must be consistent with the requirements of the surface water code (chapter 90.03 RCW) and other applicable statutory, administrative and case laws.

(4) The department will maintain a record of the amount of water allocated from all water rights in the Stillaguamish River basin, including those existing prior to the effective date of this chapter. When the maximum allocation is fully appropriated for any river, river reach, or stream, the department shall notify the appropriate county, in writing. The department shall also issue a public notice in a newspaper of general circulation for the region stating the maximum allocation is fully allocated.

#### NEW SECTION

**WAC 173-505-110 Future permitting actions.** (1) Surface and ground water permits not subject to the instream flows and closures established in WAC 173-505-050 and 173-505-070 may be issued if any of the following situations apply:

(a) The proposed use is nonconsumptive, and compatible with the intent of this chapter.

(b) The applicant elects to submit a scientifically sound mitigation plan, as defined in WAC 173-505-030(7), and it is approved by the department. If monitoring of a mitigation plan shows the mitigation is not effective, use of water under the permit shall then be subject to the instream flows. In the case of a closed stream, the use shall cease until a more effective mitigation plan is put in place.

(c) The proposed ground water use will not impair senior water rights. Based on the hydrogeology of the basin, and the location and depth where ground water withdrawals generally occur, future ground water withdrawals have a high likelihood of capturing water that would result in impacts to surface water flows and levels in the Stillaguamish River basin. Therefore, a ground water permit that is not subject to the instream flows or closures may only be approved if an applicant can demonstrate, through additional studies and technical analysis, and to the satisfaction of the department, that the proposed use will not cause impairment to existing water rights, including the instream flows set in this chapter.

(d) Before the department can approve a water right application for a new public water system under (b) and (c) of this subsection, the applicant must also demonstrate that there are no other public water systems in the same proposed retail service area that can provide water in a timely and reasonable manner. If domestic potable water can be provided in a timely and reasonable manner by another public water system, the department shall reject the water right application.

(e) The proposed use is for a salmon recovery project recommended for approval by the department of fish and wildlife.

(2) All water right permits approved by the department for a consumptive use from a water source with instream flows established by this chapter and during open periods are subject to those instream flows, as established in WAC 173-505-050. In addition, the total appropriation cannot exceed

the maximum allocation limits described in WAC 173-505-100.

(3) No right to withdraw, divert or store the public surface or ground waters of the Stillaguamish River basin that conflicts with the provisions of this chapter will hereafter be granted, except in cases where such rights will clearly serve overriding considerations of the public interest, as stated in RCW 90.54.020 (3)(a).

(4) All future surface and ground water permit holders shall be required to install and maintain measuring devices, in accordance with specifications provided by the department, and report the data to the department in accordance with the permit requirements. In addition, the department may require the permit holder to monitor stream flows and ground water levels.

#### NEW SECTION

**WAC 173-505-120 Alternative sources of water.** (1) The legislature has long acknowledged that water supply and availability around the state are becoming increasingly limited, particularly during summer and fall months and dry years when demand is greatest. Growth and prosperity have significantly increased the competition for this limited resource (RCW 90.54.090 (1)(a)). This chapter provides limited exceptions for new uses in the Stillaguamish River basin. However, there is a continuing need for ongoing and reliable sources for new water uses. This need dictates the continued development and use of alternative sources of water, such as:

- Reuse of reclaimed water;
- Artificial recharge and recovery;
- Multipurpose water storage facilities;
- Conservation and efficiency measures applied to existing uses and the transfer of saved water;
- Acquisition of existing water rights; and
- Establishment of a trust water rights program.

(2) Alternative sources of water of equal or better quality than the proposed source can be used to improve stream flows for fish, offset impacts of withdrawals on stream flows and provide sources of water for future out-of-stream uses.

#### NEW SECTION

**WAC 173-505-130 Establishment of trust water rights program.** (1) The department will establish a trust water right program to facilitate the acquisition of existing water rights through purchases, long-term leases, donations and conserved water saved through state and federally funded conservation projects.

(2) The determination of how much water should be allocated between future out-of-stream uses and the restoration and enhancement of instream flows will be made at the time the water is acquired and deposited into the trust water rights program.

#### NEW SECTION

**WAC 173-505-140 Future changes and transfers.** No changes or transfers to existing surface or ground water rights in the Stillaguamish River basin shall hereafter be granted that conflict with the purposes or provisions of this chapter.

Any change or transfer proposals can be approved only if there is a finding that existing rights, including instream flows hereby established, will not be impaired.

**NEW SECTION**

**WAC 173-505-150 Compliance and enforcement.** (1) In accordance with RCW 90.03.605, in order to obtain compliance with this chapter, the department shall prepare and distribute technical and educational information regarding the scope and requirements of this chapter to the public. This is intended to assist the public in complying with the requirements of their water rights and applicable water laws.

(2) When the department determines that a violation has occurred, it shall:

(a) First attempt to achieve voluntary compliance. An approach to achieving this is to offer information and technical assistance to the person, in writing, identifying one or more means to accomplish the person's purposes within the framework of the law.

(b) If education and technical assistance do not achieve compliance, the department shall issue a notice of violation, a formal administrative order under RCW 43.27A.190, or assess penalties under RCW 43.83B.336, 90.03.400, 90.03.-410, 90.03.600, 90.44.120 and 90.44.130.

**NEW SECTION**

**WAC 173-505-160 Appeals.** All final written decisions of the department of ecology pertaining to water right applications, permits, certificates, regulatory orders and related decisions made pursuant to this chapter can be appealed to the pollution control hearings board in accordance with chapter 43.21B RCW.

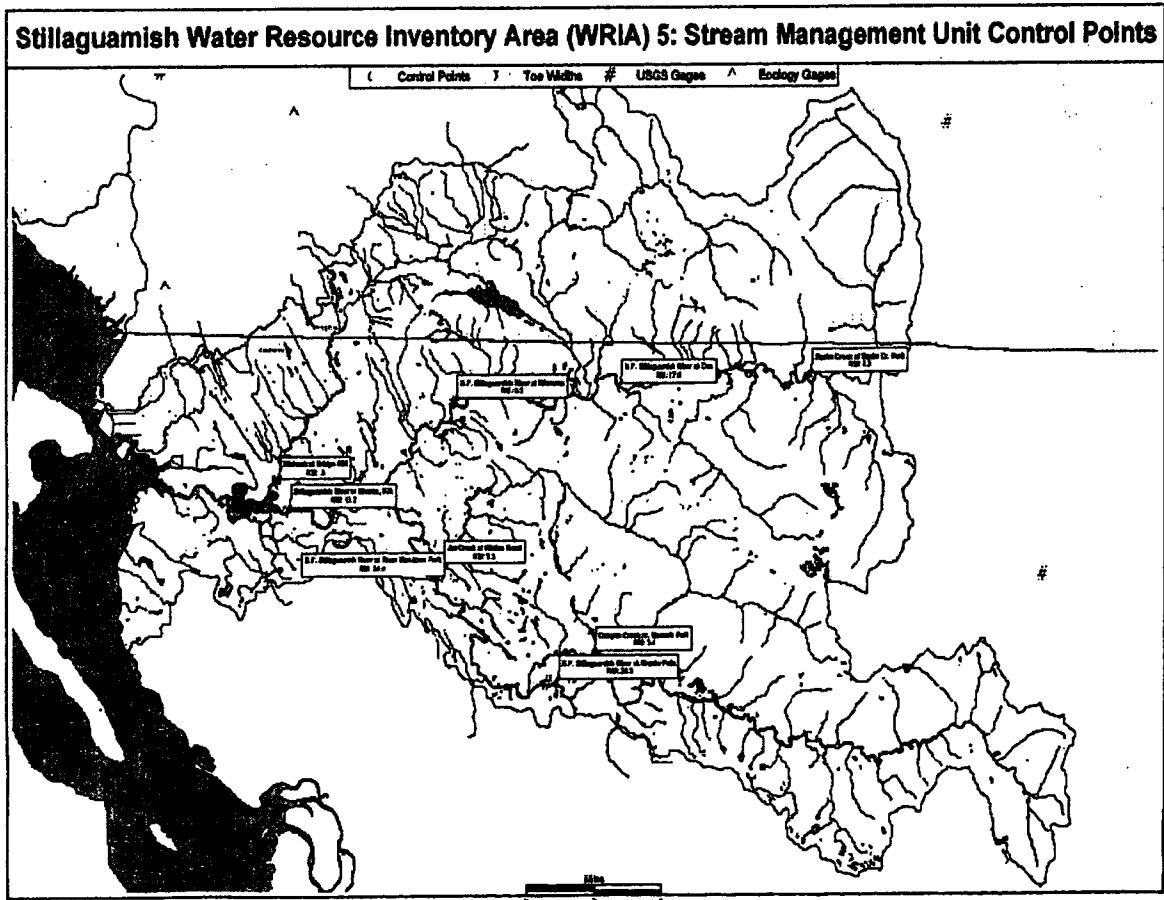
**NEW SECTION**

**WAC 173-505-170 Regulation review.** Review of this chapter may be initiated by the department whenever significant new information is available, a significant change in conditions occurs, or statutory changes are enacted that are determined by the department to require review of the chapter.

**NEW SECTION**

**WAC 173-505-180 Map.** For the purposes of administering this chapter, the boundaries of the Stillaguamish River basin contained in the figure below are presumed to accurately reflect the basin hydrology unless demonstrated otherwise.

Figure 2



PROPOSED

**WSR 05-05-098**  
**PROPOSED RULES**  
**DEPARTMENT OF AGRICULTURE**

[Filed February 16, 2005, 11:18 a.m.]

**Original Notice.**

**Title of Rule and Other Identifying Information:** The Department of Agriculture is responsible for administering elections for advisory votes, marketing order referenda, and board member selection. The proposed rule will address the issue of how the Department of Agriculture will respond and process unsigned ballot envelopes, which is part of the certification process to vote.

**Hearing Location(s):** Washington State Department of Agriculture, Natural Resources Building, Second Floor, Conference Room 259, 1111 Washington Street S.E., Olympia, WA 98504-2560, on March 23, 2005, at 10:00 a.m.

**Date of Intended Adoption:** April 1, 2005.

**Submit Written Comments to:** George Huffman, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, e-mail ghuffman@agr.wa.gov, fax (360) 902-2092, by March 24, 2005, 5:00 p.m.

**Assistance for Persons with Disabilities:** Contact Rochelle Painter at (360) 902-2060, by March 16, 2005, TTY (360) 902-1996.

**Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules:** The proposed rule is new and does not affect existing permanent rules. It proposes to make permanent the emergency rule adopted December 20, 2004. The proposed new rule sections establish department procedures for conducting commodity commission elections for advisory votes, marketing order referenda, and board member selection and specifically address how the department will handle unsigned ballot envelopes submitted by voters.

**Statutory Authority for Adoption:** RCW 15.65.047 and 15.66.055.

**Statute Being Implemented:** Chapters 15.65 and 15.66 RCW.

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

**Name of Proponent:** Washington State Department of Agriculture, governmental.

**Name of Agency Personnel Responsible for Drafting and Implementation:** Lynn Briscoe, Olympia, (360) 902-2043; and **Enforcement:** William E. Brookreson, Olympia, (360) 902-1810.

No small business economic impact statement has been prepared under chapter 19.85 RCW. There is no requirement for an economic impact statement as the proposed rule relates primarily to internal processes on how unsigned ballots will be handled by the department. The only cost to an affected producer may be a first class postage stamp to return the certification. This cost falls far below the guidelines for an economic impact statement.

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

February 16, 2005  
 Valoria H. Loveland  
 Director

**Procedural Rules for Administrative Function  
 for Commodity Commissions Elections**

**NEW SECTION**

**WAC 16-501-525 Unsigned ballot envelopes: Advisory votes, referenda, and board member elections.** The director of the department of agriculture is responsible for administering elections for advisory votes, marketing order referenda and board member selection as required in chapters 15.65 and 15.66 RCW.

(1) The Department will mail ballots to those eligible to vote in each election according to the terms of the applicable statute and marketing order. Each voter will be provided an official ballot, instructions for voting, a security envelope and a return ballot-mailing envelope with a "Certificate of Eligibility" (certification) printed on the reverse side of the envelope.

(2) After casting its vote in the election, an eligible voter must place the ballot in the security envelope. The security envelope is then to be placed in the ballot-mailing return envelope with the certification on the reverse side. To validate its ballot, the voter is required to complete, sign and date the certification.

(3) In the event a ballot is submitted to the Department and the certification is not signed and dated in accordance with the instructions contained on the outside of the ballot-mailing return envelope or the ballot is returned in a different envelope without a certification, the Department shall process the ballot and the ballot-mailing return envelope as follows, if the Department is able to ascertain the identity of the eligible voter from the envelope:

(a) The Department will not open the ballot-mailing return envelope, but will make a copy of the reverse side of the ballot-mailing return envelope with the printed certification. The original ballot-mailing return envelope will be held by the Department.

(b) The Department will provide the eligible voter with a copy of the ballot-mailing return envelope with the certification and require the voter to sign the copy of the certification and mail it back to the Department so that it is received not later than the date specified in the correspondence accompanying the certification.

(c) The Department shall advise the voter about the correct procedures for completing the unsigned certification and that, in order for the ballot to be counted, the voter must sign and date the copy of the certification, and mail it back to the Department so that it does not arrive later than the specified date.

(d) The signed certification must be received by the Department within fourteen (14) calendar days from the date the copy of the certification was mailed to the voter as evidenced by the United States mail date stamp, for the voter's ballot to be validated.

(e) If the Department does not receive the signed certification with the requested information within the specified timeframe, the original ballot-mailing envelope will not be opened nor will the ballot it contains be counted. The unopened ballot-mailing envelope will be set aside and

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retained in accordance with the appropriate records retention schedule.

(4) A record shall be kept of the date on which the Department mailed the copy of the certification to the eligible voter, the date on which the voter signed the certification and the date that the Department received the certification. That record will be retained in accordance with applicable records retention schedules for ballots.

(5) Only validated ballots will be included in a ballot count.

(6) This rule applies to elections and run-offs required by statute that are conducted after the effective date of this rule. However, subsections (3) and (4) do not apply in an election once any election ballots have been counted or in a run-off election once any run-off election ballots have been counted.

(7) This rule does not apply if the recount period specified in the applicable statute has expired.

### WSR 05-05-099

#### PROPOSED RULES

### DEPARTMENT OF AGRICULTURE

[Filed February 16, 2005, 11:26 a.m.]

#### Original Notice.

Preproposal statement of inquiry was filed as WSR 05-01-179.

Title of Rule and Other Identifying Information: WAC 16-470-103 Definitions and 16-470-105 Area under order for apple maggot—Pest free area—Quarantine areas. This proposal amends the current apple maggot and plum curculio quarantine by changing the boundaries of the existing area under quarantine to add a portion of Yakima County and remove a portion of the existing area under quarantine in Kittitas County. An effective date of August 15, 2005, is proposed.

Hearing Location(s): Washington State Department of Agriculture, 21 North 1st Avenue, Conference Room 238, Yakima, WA 98902, on March 24, 2005, at 1:00 p.m.

Date of Intended Adoption: April 7, 2005.

Submit Written Comments to: Henri Gonzales, P.O. Box 42560, Olympia, WA 98504-2560, e-mail hgonzales@agr.wa.gov, fax (360) 902-2094, by March 24, 2005.

Assistance for Persons with Disabilities: Contact Henri Gonzales by March 17, 2005, TTY (360) 902-1996.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The apple maggot is an insect native to eastern North America. Its hosts include apples, crabapple, and native hawthorn. In its larval development stage it can cause extensive damage to fruit. Since 1980, the Washington State Department of Agriculture (WSDA) has conducted annual surveys for apple maggot. During this past summer (2004), WSDA identified several apple maggots originating from multiple sites in the Nile Valley area in Yakima County. Consistent with the recommendations of the Apple Maggot Working Group, this proposal amends WAC 16-470-105 by adding a portion of Yakima County to the existing apple maggot quarantine area. Survey data from 2004 also allows further refinement of the boundaries of the existing area under quarantine in Kittitas County.

This proposal reduces the existing apple maggot quarantine area in Kittitas County. In addition, this proposal amends WAC 16-470-103 by eliminating the requirement that once an orchard is designated as "threatened with infestation" from apple maggot or plum curculio it must remain that way for two harvest seasons.

Reasons Supporting Proposal: Amending the current apple maggot quarantine is necessary to protect the environmental quality and agricultural crops of the state. Failure to adopt the proposed amendments would jeopardize foreign and domestic markets for Washington apples.

Statutory Authority for Adoption: Chapter 17.24 and 34.05 RCW.

Statute Being Implemented: Chapter 17.24 RCW.

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

Name of Proponent: Washington State Department of Agriculture with the support of the Apple Maggot Working Group, governmental.

Name of Agency Personnel Responsible for Drafting: Mary Toohey, 1111 Washington Street, Olympia, WA 98504-2560, (360) 902-1907; Implementation and Enforcement: Dr. Brad White, 1111 Washington Street, Olympia, WA 98504-2560, (360) 902-2071.

No small business economic impact statement has been prepared under chapter 19.85 RCW. RCW 19.85.030 (1)(a) requires that an agency must prepare a small business economic impact statement (SBEIS) for proposed rules that impose a more than minor cost on businesses in an industry. Analysis of the economic impact of the proposed rule amendments indicates that the amendments will not have a more than minor impact on the regulated industry; therefore, an SBEIS has not been prepared. However, neglecting to amend the current rule as proposed may result in loss of markets and potential exports, which would have a more than minor economic impact on the Washington state commercial tree fruit industry.

A cost-benefit analysis is not required under RCW 34.05.328. The Washington State Department of Agriculture is not a listed agency under RCW 34.05.328 (5)(a)(i).

February 16, 2005

Mary A. Martin Toohey  
Assistant Director

**AMENDATORY SECTION** (Amending WSR 01-14-075, filed 7/3/01, effective 8/3/01)

**WAC 16-470-103 Definitions.** The following definitions shall apply to WAC 16-470-101 through 16-470-130:

(1) "Established" means present in a country, state, county or other area, multiplying and expected to continue.

(2) "Threatened with infestation" means that any life stage of apple maggot or plum curculio has been found within one-half mile of an orchard or other production site, including any portion of an orchard outside or beyond the one-half mile area. Orchards or production sites in a quarantined area, which are not surveyed by a plant protection organization, are considered to be threatened with infestation. An orchard or other production site will be removed from threatened with infestation status, if control measures are performed at the

detection site, and survey by the department shows no further detection(s) within the one-half mile area around the orchard or other production site throughout the subsequent full growing season. ~~((Once an orchard or other production site meets the criteria for threatened with infestation status, it must remain in that status through at least two harvest seasons.))~~

**AMENDATORY SECTION** (Amending WSR 04-09-027, filed 4/13/04, effective 8/16/04)

**WAC 16-470-105 Area under order for apple maggot—Pest free area—Quarantine areas.** (1) A pest free area for apple maggot is declared for the following portions of Washington state:

(a) Counties of Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Lincoln, Okanogan, Pend Oreille, Stevens, Walla Walla, and Whitman ~~(and Yakima)~~.

(b) The portion of Kittitas County designated as follows: Beginning at the ~~((northwest corner of Wanapum Dam and Huntzinger Road; south along Huntzinger Road to the Yakima County line; east to the Columbia River; north along the Columbia River to the Wanapum Dam; and west))~~ point where Interstate Highway No. 90 crosses longitude 120°31' minutes W; thence southerly to the Kittitas - Yakima County line; thence easterly along said county line to the Columbia River; thence northerly along said Columbia River to Interstate Highway No. 90; thence westerly along Interstate Highway No. 90 to the point of beginning.

(c) The portions of Yakima County east of longitude 120°48' minutes W.

(2) A quarantine for apple maggot is declared for the following portions of Washington state:

(a) Counties of Clallam, Clark, Cowlitz, Grays Harbor, Island, Jefferson, King, Kitsap, Klickitat, Lewis, Mason, Pacific, Pierce, Snohomish, Spokane, Skagit, Skamania, Thurston, Wahkiakum, and Whatcom.

(b) The counties of Kittitas ~~((County))~~ and Yakima, except for the areas designated in subsection (1)(b) and (c) of this section.

(3) A quarantine for apple maggot is declared for all states or foreign countries where apple maggot is established. The area under quarantine includes, but is not limited to, the states of Idaho, Oregon, Utah, and California, and, in the eastern United States, all states and districts east of and including North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas, and any other areas where apple maggot is established.

**WSR 05-05-100**

**PROPOSED RULES**

**ACADEMIC ACHIEVEMENT AND  
ACCOUNTABILITY COMMISSION**

[Filed February 16, 2005, 11:58 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule and Other Identifying Information: Performance improvement goals.

Hearing Location(s): Tacoma School District Central Office Auditorium, 601 South Eighth Avenue, Tacoma, WA, on April 4, 2005, at 9:00 a.m.

Date of Intended Adoption: April 4, 2005.

Submit Written Comments to: Christopher M. Thompson, Executive Director, Academic Achievement and Accountability Commission, P.O. Box 47220, Olympia, WA 98504-7220, fax (360) 586-9438, by March 31, 2005.

Assistance for Persons with Disabilities: Contact Debra Crawford by March 28, 2005, TDD (360) 664-3631 or (360) 725-6034.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: As provided by RCW 28A.655.030 (1)(a), the Academic Achievement and Accountability Commission is authorized to adopt and revise performance improvement goals. School districts and schools are required to set high school graduation rate improvement goals and to align these goals with requirements of the federal No Child Left Behind Act.

Summary: The rule will provide school districts and high schools with specific goals for how much graduation rates should improve each year.

Explanation of Rule, its Purpose, and Anticipated Effects: RCW 28A.655.030 (1)(a) authorizes the Academic Achievement and Accountability Commission to adopt and revise performance improvement goals. The commission directs each school district board of directors to revise district-wide graduation rate goals for 2006 and each year thereafter and to direct each high school in the district to revise graduation rate goals for 2006 and each year thereafter, subject to approval by the board by December 15, 2005. The minimum graduation rate goals through 2013 shall apply to each of the nine groups of students listed in WAC 3-20-200(2). The minimum goals shall be the lesser of either (a) 66% in 2005, one percentage point above the previous year's goal from 2006 through 2009, and three percentage points above the previous year's goal in 2010 through 2013; or (b) for any student group whose graduation rate falls below 66% in 2005, the minimum goal for 2005 is two percentage points above that group's graduation rate in 2004, an additional two percentage points per year above the previous year's goal in 2006 through 2009, and an additional four percentage points per year above the previous year's goal in 2010 through 2013, until the rate for that group meets or exceeds the goal for districts and schools described in (a) above. Graduation rate goals in 2014 and each year thereafter for each group of students listed in WAC 3-20-200(2) shall be not less than 85 five %.

Proposal Changes the Following Existing Rules: The proposal repeals existing graduation rate improvement goals (in the Washington Administrative Code - WAC 3-20-300) in accordance with RCW 28A.655.030 (1)(a), which authorizes the commission to revise improvement goals. The proposal would change current rules which require no improvement in the graduation rate until 2014 if the school or district is at or above the 2003 state average graduation rate. Under current rules, if a school or district is below the 2003 state average graduation rate then that school or district would be required

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to improve its graduation rate by one percentage point over the previous year's target rate until the school or district met or exceeded the target 2003 state average graduation rate. The purpose of the revised rule is to encourage incremental improvement in graduation rates before 2014 and accelerate graduation rates for groups of students whose current rates are well below average.

**Reasons Supporting Proposal:** Performance improvement goals will help focus and encourage school and school district efforts to improve high school graduation rates. School districts and high schools are required by the federal No Child Left Behind Act to have graduation rate goals.

**Statutory Authority for Adoption:** RCW 28A.655.030 (1)(a).

**Statute Being Implemented:** RCW 28A.655.030 (1)(a).  
Rule is not necessitated by federal law, federal or state court decision.

**Name of Proponent:** Academic Achievement and Accountability Commission, governmental.

**Name of Agency Personnel Responsible for Drafting:** Christopher M. Thompson, Old Capitol Building, 7th and Washington Street, (360) 725-6032; **Implementation:** Mary Alice Heuschel, Office of Superintendent of Public Instruction, (360) 725-6115; and **Enforcement:** None.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rule does not apply to any small businesses nor to any other nongovernmental entity.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. RCW 34.05.328 does not apply to this rule adoption because the rule relates only to internal governmental operations that are not subject to violation by a non-government party.

February 16, 2005

Christopher M. Thompson  
Executive Director

#### Proposed Performance Improvement Goals

#### [NEW SECTION]

**WAC 3-20-390 Definitions.** As used in Title 3 WAC:

(1) "High school" means a public school in the state enrolling students in any of grades nine through 12.

(2) "Graduation rate" means the percentage of students who receive a regular high school diploma within four academic years of having enrolled for the first time as ninth grade students. Students who transfer to another school less than four academic years after initial enrollment in the ninth grade shall not be included in the calculation of the graduation rate for the school from which the student transfers. Students who become deceased shall not be included in the calculation of the graduation rate for the school last attended. Students who earn a regular high school diploma after their four academic years will be included in additional calculations and reports for the year a regular high school diploma is completed.

(3) "Graduation rate goal" means the expected minimum graduation rate reported in a particular year for the prior year's graduating class. For example, the graduation rate goal for 2006 relates to students in the class of 2005.

(4) "Graduating class" or "class of" or "cohort" of any particular year means the group of students who are scheduled to graduate in that particular year after having completed grades nine through 12 in four or fewer academic years.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

#### [NEW SECTION]

**WAC 3-20-400 High school graduation.** (1) Each school district board of directors shall by December 15, 2005 revise district-wide graduation rate goals for 2006 and each year thereafter and shall direct each high school in the district to revise graduation rate goals for 2006 and each year thereafter, subject to approval by the board.

(2) The minimum graduation rate goals through 2013 shall be as follows for each of the nine groups of students listed in WAC 3-20-200(2):

(a) Sixty-six percent in 2005, one percentage point above the previous year's goal from 2006 through 2009, and three percentage points above the previous year's goal in 2010 through 2013; or

(b) For any student group whose graduation rate falls below 66 percent in 2005, the minimum goal for 2005 is two percentage points above that group's graduation rate in 2004, an additional two percentage points per year above the previous year's goal in 2006 through 2009, and an additional four percentage points per year above the previous year's goal in 2010 through 2013, until the rate for that group meets or exceeds the goal described in subsection (a) of this section.

(3) Graduation rate goals in 2014 and each year thereafter for each group of students listed in WAC 3-20-200(2) shall be not less than eighty-five percent.

(4) School district boards of directors are authorized to adopt district-wide graduation rate goals and to approve high school graduation rate goals that exceed the minimum level required under this section. However, district-wide and high school graduation rate goals that exceed the minimum level required under this section shall not be used for federal or state accountability purposes.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

#### [NEW SECTION]

**WAC 3-20-410 Incentive plan.** (1) The office of superintendent of public instruction shall develop, in partnership with the academic achievement and accountability commission and other educational associations, an implementation plan to provide incentives, not limited to awards or grants, to schools and school districts that demonstrate improved graduation rates and lower dropout rates.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

#### [REPEALER]

WAC 3-20-300 is repealed.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.



**WSR 05-05-059**  
**EXPEDITED RULES**  
**WASHINGTON STATE LOTTERY**

[Filed February 15, 2005, 9:53 a.m.]

Title of Rule and Other Identifying Information: Repeal chapter 315-36 WAC, Lucky for life.

**NOTICE**

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Ceil Buddeke, Rules Coordinator, Washington's Lottery, 814 East 4th Avenue, Olympia, WA 98506, AND RECEIVED BY April 18, 2005.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The lottery is repealing chapter 315-36 WAC, Lucky for Life, because the draw game will no longer be conducted after April 23, 2005.

Reasons Supporting Proposal: The lottery game *Lucky for Life* is not profitable, therefore it is not conducive to continue to conduct the game. The game expires on April 23, 2005. Consequently, the rules will be ineffective after that date.

Statutory Authority for Adoption: RCE [RCW] 67.70.040.

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

Name of Proponent: [Washington State Lottery], governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Ceil Buddeke, 814 East 4th Avenue, Olympia, WA 98506, (360) 664-4833.

February 11, 2005  
Candace Martin  
for Ceil Buddeke  
Rules Coordinator

EXPEDITED



## WSR 05-05-004

## PERMANENT RULES

## TRANSPORTATION IMPROVEMENT BOARD

[Filed February 4, 2005, 12:44 p.m., effective March 7, 2005]

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

Purpose: RCW 47.26.260 requires the board to consider the financial resources available to counties and cities when determining matching fund requirements. Currently, two different approaches are used to determine match requirements for the Transportation Improvement Board's (TIB's) two urban programs. The transportation partnership program requires a minimum local match of 20% of the total project cost. The minimum match for the AIP is determined by population and ranges between 10 and 20%. These requirements extend to all incorporated cities with a population of 5,000 or greater and all counties that contain a federal urban area. Population by itself is not a good indicator of a local agency's ability to provide local match to a transportation project. Under this proposal, smaller to mid-sized agencies will be required to provide a smaller amount of local match. Larger agencies are already required to provide the maximum amount of local match and will not be impacted.

Citation of Existing Rules Affected by this Order: Amending 2 [WAC 479-14-180 and 479-12-150].

Statutory Authority for Adoption: Chapter 47.26 RCW.

Adopted under notice filed as WSR 04-24-006 on November 19, 2004.

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

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

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

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

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

Date Adopted: January 28, 2005.

Stevan Gorcester  
Executive Director

**AMENDATORY SECTION** (Amending WSR 99-24-038, filed 11/23/99, effective 12/24/99)

**WAC 479-14-180 Local/private matching funds on transportation partnership program projects.** Transportation partnership program funds for urban program projects authorized by the board shall be matched by an amount not less than twenty percent of the total cost of the ~~((transportation))~~ project for cities with a valuation greater than \$2.5 billion and counties with road levy valuations greater than \$10 billion, an amount not less than fifteen percent of the total cost of the project for cities with valuations between \$2.5 billion and \$1.0 billion and counties with road levy valuations

between \$10.0 billion and \$3.0 billion, and not less than ten percent of the total cost of the project for cities with a valuation of less than \$1.0 billion and counties with road levy valuation of less than \$3.0 billion. The board shall use the valuations as last determined by the department of revenue. Matching funds will be considered to be all contributions other than those provided by the board.

**AMENDATORY SECTION** (Amending WSR 99-24-038, filed 11/23/99, effective 12/24/99)

**WAC 479-12-150 Matching ratios for arterial improvement program projects.** Urban arterial trust account funds for local agency arterial projects shall be matched ~~((in accordance with the following scheduled percentage of the total project cost:~~

~~City with a population less than 10,000 or a county with a population less than 70,000—10% match.~~

~~City with a population from 10,000 to 14,999 or a county with a population from 70,000 to 210,000—15% match.~~

~~City with a population from 15,000 and up or a county with a population over 210,000—20% match))~~ by an amount not less than twenty percent of the total cost of the project for cities with a valuation greater than \$2.5 billion and counties with road levy valuations greater than \$10 billion, an amount not less than fifteen percent of the total cost of the project for cities with valuations between \$2.5 billion and \$1.0 billion and counties with road levy valuations between \$10.0 billion and \$3.0 billion, and not less than ten percent of the total cost of the project for cities with a valuation of less than \$1.0 billion and counties with road levy valuation of less than \$3.0 billion. The board shall use the valuations as last determined by the department of revenue.

## WSR 05-05-006

## PERMANENT RULES

## WASHINGTON STATE PATROL

[Filed February 4, 2005, 3:31 p.m., effective March 7, 2005]

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

Purpose: To clarify and amend rules for definitions. To clarify and add rules for issuing fines and citations.

Citation of Existing Rules Affected by this Order: Amending chapter 212-80 WAC, Fire sprinkler system contractors.

Statutory Authority for Adoption: Chapters 43.43 and 18.160 RCW.

Adopted under notice filed as WSR 04-24-009 on November 22, 2004.

Changes Other than Editing from Proposed to Adopted Version: WAC 212-80-010, deleted all of subsections (33) and (34); WAC 212-80-065, deleted all of subsections (3) and (4); and deleted "FIRE PROTECTION SYSTEMS INSPECTION AND TESTING CONTRACTOR" title before WAC 212-80-135.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 15, Amended 27, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 15, Amended 27, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 15, Amended 27, Repealed 0.

Date Adopted: February 4, 2005.

Lowell M. Porter  
Chief

## GENERAL PROVISIONS

AMENDATORY SECTION (Amending Order 91-06, filed 7/1/91, effective 8/1/91)

**WAC 212-80-001 Purpose.** The purpose of this regulation is to adopt rules for the licensing of fire protection sprinkler system contractors ~~((and for))~~, the issuance of certificates of competency, and for the issuance of civil fines and citations as defined in chapter 18.160 RCW.

AMENDATORY SECTION (Amending Order 91-06, filed 7/1/91, effective 8/1/91)

**WAC 212-80-005 Applicability.** This regulation applies to any and all persons or organizations performing as a fire protection sprinkler contractor((s)) and/or certificate of competency holder((s)), with or without the required state licensing and/or certification as defined in chapter 18.160 RCW.

AMENDATORY SECTION (Amending Order 92-08, filed 10/5/92, effective 11/5/92)

**WAC 212-80-010 Definitions.** The following definitions shall apply to this regulation:

(1) "Authority having jurisdiction (AHJ)" means the organization, office, or individual responsible for approving layout drawings, equipment, an installation or a procedure. Usually the AHJ is the building and/or fire official of the city or county in which the job site is located. In certain cases, such as health care facilities, transient accommodations and day care facilities, the AHJ is the city or county building and/or fire official and the chief of the Washington state patrol, through the director of fire protection.

(2) "Citation" means written notification issued by the chief of the Washington state patrol, through the director of fire protection, pursuant to RCW 18.160.040 to issue a civil penalty for a violation of any provision of chapter 18.160 RCW. A citation may include, but is not limited to, a description of the violation(s) and a notice of civil penalty assessment.

(3) "Director of fire protection" means the state fire marshal and/or his((f)) or her authorized representative.

~~((3))~~ (4) "Dry Pipe Sprinkler System" means a system employing automatic sprinklers attached to a piping system

containing air or nitrogen under pressure, the release of which (as from the opening of a sprinkler) allows the water pressure to open a valve known as a dry pipe valve. The water then flows into the piping system and out to the open sprinkler(s).

~~(5)~~ "Fire protection sprinkler system" means an assembly of underground and/or overhead piping beginning at the connection to the primary water supply, whether public or private, that conveys water with or without other agents to dispersal openings or devices to extinguish, control, or contain fire or other products of combustion. The fire protection sprinkler system ~~((should))~~ (with the exception of residential combination systems) starts at the point where the last non-fire water use is taken from the supply mains. This ((should be)) is the point just down stream of the last tap for domestic or process water, the last water control valve that is required by a city or other authority, or the point where the water can be considered nonflowing. ((The water source such as a fire pump and suction tank that is dedicated to supplying water for the fire protection sprinkler system shall be under the control of the fire protection sprinkler system contractor. This would also be the case where the water supply is entirely dedicated to the fire protection sprinkler system.

~~(4))~~ (6) "Fire pump" means a listed pump supplying water at the flow and pressure required by water based fire protection systems.

(7) "For design only" means a certificate of competency holder only allowed to perform the design of a fire protection sprinkler system consistent with the level of certification he or she holds. In the case of a "State Level U certification," "for design only" just allows the individual to maintain their certification.

(8) "Formal hearing" means a hearing before a hearings officer where laws, rules, and evidence are presented, considered, and a decision is rendered.

(9) "Hazard" means a condition which could result in injury or death to a person and/or damage to property.

(10) "Hearings request" means the written request for a formal hearing to contest a civil penalty.

(11) "Inspection" means a visual examination of a fire protection sprinkler system, or portion of the system, to verify that the system appears to be in operating condition, is free from physical damage, and complies with the applicable statutes and regulations adopted by the state.

(12) "Instance" means the number of times a person has been cited for a violation of chapter 18.160 RCW or this chapter. These will be identified as 1st, 2nd, and 3rd instances.

(13) "Maintenance" means work performed on a fire suppression sprinkler system to keep the equipment operable, or to make repairs.

(14) "NFPA" means the National Fire Protection Association.

~~((5))~~ (15) "NFPA 13D" means, in addition to the definition contained in chapter 18.160 RCW, the inclusion of minor accessory uses such as garages normally found in residential occupancies.

~~((6))~~ (16) "NFPA 13R" means whatever standard that is used by the National Fire Protection Association for the installation and design of fire suppression sprinkler systems

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in residential occupancies up to and including four stories in height.

(17) "NFPA 13" means whatever standard that is used by the National Fire Protection Association for the installation and design of fire suppression sprinkler systems in commercial or high occupancy facilities.

(18) "NFPA 20" means whatever standard that is used by the National Fire Protection Association for the selection and installation of pumps, both centrifugal and positive displacement, that supply liquid for a private fire protection system.

(19) "NFPA 24" means whatever standard that is used by the National Fire Protection Association for the installation of the dedicated underground fire service main of a water based fire protection system.

(20) "NFPA 25" means whatever standard that is used by the National Fire Protection Association for the inspection, testing, and maintenance of water based fire protection systems.

(21) "NICET" means the National Institute for Certification in Engineering Technologies.

((7)) (22) "Person" means one or more individuals, legal representatives, partnerships, joint ventures, associations, corporations (whether or not organized for profit), business trusts, or any organized group of individuals and includes the state, state agencies, counties, municipal corporations, school districts, and other public corporations.

(23) "Preaction system" means a sprinkler system employing automatic sprinklers attached to a piping system containing air, which may or may not be under pressure, with a supplemental detection system installed in the same areas as the sprinklers.

(24) "Qualified" shall mean an individual who has demonstrated through education, training, examination, and/or national certifications the competency, skill, and ability necessary to perform any work covered and/or defined by this chapter and chapter 18.160 RCW to the satisfaction of a relevant jurisdiction. In matters of compliance with the licensing and certification requirements of this chapter and chapter 18.160 RCW, the relevant jurisdiction shall be the chief of the Washington state patrol, through the director of fire protection.

(25) "Revoke" means the chief of the Washington state patrol, through the director of fire protection, shall rescind a company's license or an individual's certification from them. Such action causes said company or individual to cease any and all work in the sprinkler field in Washington state until such time as the chief of the Washington state patrol, through the director of fire protection, is satisfied with the resolution of the issue which caused the license or certificate to be revoked.

(26) "State fire marshal" means the director of fire protection or his/her authorized representative.

((8)) (27) "State Level I certification" means a certificate of competency holder who is qualified to prepare layout drawings, install, inspect, maintain, or service an NFPA 13D fire protection sprinkler system or any part of such a system.

((9)) (28) "State Level I licensing" means a sprinkler contracting company licensed by the chief of the Washington state patrol, through the director of fire protection, to contract and/or offer to bid on the design, installation, service, main-

tenance, and/or inspection of a NFPA 13D fire protection sprinkler system or any part of such a system.

(29) "State Level II certification" means a certificate of competency holder who is qualified to prepare layout drawings, install, inspect, maintain, or service an NFPA 13D and/or NFPA 13R fire protection sprinkler system or any part of such a system.

((40)) (30) "State Level II licensing" means a sprinkler contracting company licensed by the chief of the Washington state patrol, through the director of fire protection, to contract and/or offer to bid on the design, installation, service, maintenance, and/or inspection of a NFPA 13D and/or a NFPA 13R fire protection sprinkler system or any part of such a system.

(31) "State Level III certification" means a certificate of competency holder who is qualified to prepare layout drawings, install, inspect, maintain, or service an NFPA 13D, NFPA 13R, NFPA 13, or all other systems per the definition of fire protection sprinkler system in chapter 18.160 RCW.

((44)) (32) "State Level III licensing" means a sprinkler contracting company licensed by the chief of the Washington state patrol, through the director of fire protection, to contract and/or offer to bid on the design, installation, service, maintenance, and/or inspection of a NFPA 13D, NFPA 13R, NFPA 13, or all other systems per the definition of a fire protection sprinkler system in chapter 18.160 RCW.

(33) "State Level U certification" means a certificate of competency holder who is qualified to certify the installation of the underground portions of fire protection sprinkler systems in conformance with recognized standards adopted by the director of fire protection.

(34) "State Level U licensing" means a sprinkler contracting company licensed by the chief of the Washington state patrol, through the director of fire protection, to contract and/or offer to bid on the installation of the underground portions of fire protection sprinkler systems in conformance with the recognized standards adopted by the director of fire protection.

(35) "Suspend" means the chief of the Washington state patrol, through the director of fire protection, holds a license or certificate inactive until such time as the chief of the Washington state patrol, through the director of fire protection, feels confident that the company or individual is in compliance with the requirements of this chapter and chapter 18.160 RCW.

(36) "Testing" means a procedure used to determine the status of a system as intended by conducting periodic physical checks on water-based fire protection systems such as waterflow tests, fire pump tests, alarm tests, and trip tests of dry pipe, deluge, or preaction valves. These tests follow up on the original acceptance test at intervals specified in the appropriate chapter of NFPA 25.

(37) "Type" means the classification of violation as minimal, moderate, and severe. These are identified as Types I, II, and III respectively.

(38) "Violation" means a specific or general action inconsistent with the intent and letter of chapter 18.160 RCW and this chapter and shall be further defined as:

(a) "Minimal violation" means a Type I violation which poses a minor hazard or threat to life and property in the event of a fire.

(b) "Moderate violation" means a Type II violation which poses a significant hazard or threat to life or property in the event of a fire.

(c) "Severe violation" means a Type III violation which poses a substantial hazard or threat to life or property in the event of a fire.

(39) "Wet pipe sprinkler system" means a sprinkler system employing automatic sprinklers attached to a piping system containing water and connected to a water supply so that water discharges immediately when any sprinkler is opened by heat from a fire.

**AMENDATORY SECTION** (Amending WSR 94-24-032, filed 12/1/94, effective 1/1/95)

**WAC 212-80-015 Compliance.** All fire sprinkler system contractors, certificate of competency holders, and persons installing, inspecting, maintaining, or servicing fire protection sprinkler systems or any part of such a system shall comply with the provisions of this regulation.

**EXCEPTIONS:**

(1) Federal, state, and local government employees, or insurance inspectors when acting in their official capacities.

(2) A person or organization acting under court order.

(3) A person or organization that sells or supplies products or materials to a licensed fire protection sprinkler system contractor.

(4) A registered professional ((fire protection)) engineer acting solely in a professional capacity.

(5) ((An)) A properly qualified and/or trained employee of a licensed fire protection sprinkler system contractor performing duties for the contractor. Said qualifications and/or training to be consistent with the level of work performed by the licensed fire protection sprinkler system contractor.

(6) An owner/occupier of a single-family residence performing his or her own installation in that residence. It is the intent of this subsection that builders or contractors will not install their own sprinkler systems in single-family residences under their ownership which they plan to sell, lease, or rent.

(7) An employee of a facility or owner who is qualified to the satisfaction of the local authority having jurisdiction to perform inspection and testing of fire protection sprinkler systems in said facility.

(8) An employee of a licensed electrical contractor installing or testing only the electronic signaling devices of a fire sprinkler system.

**NEW SECTION**

**WAC 212-80-018 License and certification requirements.** Only a company or individual licensed as a fire protection sprinkler systems contractor, who has at least one designer on staff certified by the chief of the Washington state patrol, through the director of fire protection, can bid, offer to bid, contract, or perform the designing, installation, inspection, testing, maintenance, and/or servicing of a fire protection sprinkler system.

**AMENDATORY SECTION** (Amending Order 91-06, filed 7/1/91, effective 8/1/91)

**WAC 212-80-025 Authority having jurisdiction.** (1) Fire protection sprinkler systems shall meet the approval of the authority having jurisdiction. This includes plans, specifications, calculations, contractor's materials and test certificates, and final approval.

(2) In certain types of occupancies the authority having jurisdiction may be the chief of the Washington state patrol, through the director of fire protection and the building and/or fire official of the city or county in which the installation is located. Generally these dual responsibilities occur in health care facilities, transient accommodations, and day care facilities.

(3) It is the responsibility of the certificate of competency holder to ascertain which agency or agencies have jurisdiction. If there is a question, the certificate of competency holder should contact the chief of the Washington state patrol, through the director of fire protection.

**AMENDATORY SECTION** (Amending WSR 94-24-032, filed 12/1/94, effective 1/1/95)

**WAC 212-80-030 Qualifications for preparation of layout drawings, installations, inspections, testing, maintenance, or servicing.** (1) Only licensed fire protection sprinkler system contractors shall execute contracts for the installation, inspection, testing, maintenance, or servicing of fire protection sprinkler systems or any part of such a system in the state of Washington.

~~((Subcontracting of such work to persons or firms not currently licensed as a fire protection sprinkler system contractor is prohibited.))~~

(2) Only licensed contractors who have achieved at least State Level U licensure shall ~~((install, inspect, maintain or service))~~ execute contracts for the installation, inspection, maintenance and/or servicing of the underground portions of fire protection sprinkler systems in the state of Washington. ~~((Subcontracting of such work to persons or firms not currently licensed as a fire protection sprinkler system contractor is prohibited.))~~

(3) Only licensed fire protection sprinkler contractors who have achieved at least State Level I licensure shall ~~((install, inspect, maintain, or service))~~ execute contracts for the installation, inspection, testing, maintenance and/or servicing of NFPA 13D fire protection sprinkler systems or any part of such a system in the state of Washington.

~~((Subcontracting of such work to persons or firms not currently licensed as a fire protection sprinkler system contractor is prohibited.))~~

(4) Only licensed fire protection sprinkler contractors who have achieved at least State Level II licensure shall ~~((install, inspect, maintain, or service))~~ execute contracts for the installation, inspection, testing, maintenance and/or servicing of NFPA 13D or NFPA 13R fire protection sprinkler systems or any part of such a system in the state of Washington.

~~((Subcontracting of such work to persons or firms not currently licensed as a fire protection sprinkler system contractor is prohibited.))~~

(5) Only licensed fire protection sprinkler contractors who have achieved at least State Level III licensure shall ~~((install, inspect, maintain, or service))~~ execute contracts for the installation, inspection, testing, maintenance and/or servicing of NFPA 13D, NFPA 13R, NFPA 13, and all other systems per the definition of fire protection sprinkler system in chapter 18.160 RCW or any part of such a system in the state of Washington.

~~((Subcontracting of such work to persons or firms not currently licensed as a fire protection sprinkler system contractor is prohibited.))~~

(6) Only those certificate of competency holders who have achieved State Level U certification shall supervise and/or certify the installation of underground supplies to fire protection sprinkler systems. To achieve State Level U certification, persons shall satisfactorily complete an examination administered by the chief of the Washington state patrol, through the director of fire protection.

(7) Only those certificate of competency holders who have achieved at least State Level I certification shall supervise and/or certify the preparation of layout drawings, installation, inspection, testing, maintenance, servicing, or the installation ~~((of underground supplies))~~ of NFPA 13D fire protection sprinkler systems or any part thereof. To achieve State Level I certification, persons shall hold a current NICET Level 2 classification or satisfactorily complete an examination administered by the chief of the Washington state patrol, through the director of fire protection.

(8) Only those certificate of competency holders who have achieved at least State Level II certification shall supervise and/or certify the preparation of layout drawings, installation, inspection, testing, maintenance, servicing, or the installation ~~((of underground supplies))~~ of NFPA 13D and NFPA 13R fire protection sprinkler systems or any part thereof. To achieve State Level II certification, persons shall hold a current NICET Level 2 classification ~~((or satisfactorily complete an examination administered by the director of fire protection)).~~

(9) Only those certificate of competency holders who have achieved at least State Level III certification shall supervise and/or certify the preparation of layout drawings, installation, inspection, testing, maintenance, servicing, or the installation of ~~((underground supplies))~~ NFPA 13D, NFPA 13R, NFPA 13, and all other systems per the definition of fire protection sprinkler system in chapter 18.160 RCW or any part thereof. To achieve State Level III certification, persons shall hold a current NICET Level 3 or 4 ~~((or satisfactorily complete an examination administered by the director of fire protection)).~~

### FIRE SPRINKLER CERTIFICATE OF COMPETENCY HOLDER

AMENDATORY SECTION (Amending WSR 94-24-032, filed 12/1/94, effective 1/1/95)

**WAC 212-80-035 ((Seals)) Stamps for NFPA 13D, 13R, and 13 systems.** (1) Sprinkler system plans, calculations, and contractors' materials and test certificates submit-

ted to the authority having jurisdiction shall be stamped ~~((sealed))~~ pursuant to subsection (3) of this section.

(2) At least one set of approved plans, containing information as specified in subsection (3) of this section, and calculations shall be maintained on the job site while the work is being performed.

(3) ~~((Effective January 1, 1995, seals))~~ Stamps shall be issued by the chief of the Washington state patrol, through the director of fire protection and shall contain the name and ~~((certificate))~~ certification number of the certificate of competency holder, name and license number of the holder's employer, the expiration date of the current certificate, a place for the signature of the certificate of competency holder and the date of the signature. On all plans the ~~((seal))~~ stamp shall be easily recognizable and visible.

(4) An original stamp and signature shall appear on each page of plans, on the cover sheet of hydraulic calculations and on all test certificates for fire protection sprinkler systems submitted to the authority having jurisdiction.

(5) Plans and calculations for "underground only" portions of fire protection sprinkler systems submitted to the authority having jurisdiction by a State Level U licensed fire protection sprinkler contractor shall be stamped ~~((sealed))~~ by either a licensed professional engineer registered in the state of Washington or the appropriate level certificate of competency holder and the State Level U certificate of competency holder employed by the submitting contractor.

AMENDATORY SECTION (Amending WSR 94-24-032, filed 12/1/94, effective 1/1/95)

**WAC 212-80-040 Contractor's materials and test certificates.** (1) The certificate of competency holder shall complete the contractor's material and test certificate(s), affix his/her certificate of competency ~~((seal))~~ stamp, and forward the certificate(s) to the authority having jurisdiction.

(2) Contractor's material and test certificate forms shall be of such form as accepted or approved by the chief of the Washington state patrol, through the director of fire protection.

(3) The authority having jurisdiction ~~((may))~~ shall require ~~((e))~~ an approved flow test of heads as part of the approval of NFPA 13R and NFPA 13D fire protection sprinkler systems.

(4) The authority having jurisdiction and the building owner shall retain copies of the contractor's materials and test certificate for a minimum of five years.

AMENDATORY SECTION (Amending WSR 94-24-032, filed 12/1/94, effective 1/1/95)

**WAC 212-80-045 Certificate of competency ((test-ing)) certification.** To become a certificate of competency holder under this regulation, an applicant must either:

(1) For State Level I certification, have satisfactorily passed with a final score of eighty percent or better an examination administered by the chief of the Washington state patrol, through the director of fire protection((:)) or show evidence of passing the National Institute for Certification in Engineering Technologies element requirements for Level 2 certification in fire protection system layout design.

(2) For State Level U certification, have satisfactorily passed with a final score of eighty percent or better an examination administered by the chief of the Washington state patrol, through the director of fire protection.

(3) Be a registered professional (~~(fire protection)~~) engineer acting solely in a professional capacity. Such engineer shall comply with all other requirements of this regulation including payment of fees, completion of the application process, and supplying the director of fire protection with proof that the applicant holds a current, valid state of Washington registration as a professional (~~(fire protection)~~) engineer. Upon completion of the above requirements, the engineer will be granted an equivalency certificate to that of State Level III; or

~~((3) By presenting))~~ (4) Present a copy of a current certificate from the National Institute for Certification in Engineering Technologies showing that the applicant has achieved the classification ((of Engineering Technician, Level 3 or Senior Engineering Technician, Level 4 in the field of fire protection automatic sprinkler system layout; or)). State Level 2 certification requires a minimum certification from the National Institute for Certification in Engineering Technologies of Level 2 in the field of fire protection automatic sprinkler system layout or better. State Level 3 certification requires either Engineering Technician, Level 3 or Senior Engineering Technician, Level 4 in the field of fire protection automatic sprinkler system layout.

~~((4) Provided the application for the certificate of competency is made prior to ninety days after May 1, 1991, the director of fire protection, in lieu of the examination requirements of the applicant for a certificate of competency, may accept as satisfactory evidence of competency and qualification, affidavits attesting that the applicant has had a minimum of three years' experience. In addition to the affidavits and application form, the applicant shall provide the following information:~~

~~(a) Copies of approved plans and calculations, if applicable, for systems installed in the last three years.~~

~~(b) Evidence of installation of sprinkler systems.~~

~~(c) Evidence of acceptance of the systems by the authority having jurisdiction.~~

~~(d) References from an authority having jurisdiction.~~

~~(e) The number of fire protection sprinkler system installations completed within the last three years.~~

~~(f) Other information as directed and accepted by the director of fire protection.)~~

(5) The chief of the Washington state patrol, through the director of fire protection may accept equivalent proof of qualification in lieu of the examination ((as recommended by the fire sprinkler advisory committee)) requirements.

(6) ((Examination requirements)) Proof of competency to the satisfaction of the chief of the Washington state patrol, through the director of fire protection are mandatory ((except as otherwise provided in this regulation)).

(7) Every applicant for a certificate of competency shall fulfill the requirements established by the chief of the Washington state patrol, through the director of fire protection under chapter 18.160 RCW.

## NEW SECTION

**WAC 212-80-048 Subcontracting.** Subcontracting of any work under the purview of chapter 18.160 RCW involving unlicensed contractors is strictly prohibited and a violation of chapter 18.160 RCW.

AMENDATORY SECTION (Amending Order 91-06, filed 7/1/91, effective 8/1/91)

**WAC 212-80-050 Applications/fees for certificate of competency.** Every applicant for a certificate of competency shall apply to the chief of the Washington state patrol, through the director of fire protection on application forms provided and pay the fees required.

AMENDATORY SECTION (Amending Order 92-08, filed 10/5/92, effective 11/5/92)

**WAC 212-80-055 Temporary certificate of competency.** (1) The chief of the Washington state patrol, through the director of fire protection may issue a temporary certificate of competency to an applicant who, in his or her judgment, will satisfactorily perform as a certificate of competency holder under the provisions of this regulation.

(2) The temporary certificate of competency shall remain in effect for a period of one year ~~((and))~~. If the temporary certificate of competency holder provides evidence to the chief of the Washington state patrol, through the director of fire protection, of testing with NICET in the previous year, the temporary certificate of competency may be renewed two times.

(3) In no case shall a person hold a temporary certificate of competency for more than three years, either cumulative or consecutive.

(4) To convert from a temporary certificate of competency to a regular certificate of competency, a person shall:

(a) Within three years from the initial issuance of the temporary certificate of competency, apply for a regular certificate of competency; and

(b) Complete the requirements specified in this regulation and chapter 18.160 RCW.

(5) An individual having a temporary certificate of competency shall not be exempt from taking an examination to acquire a regular certificate of competency.

(6) Prior to the expiration of the temporary certificate of competency at the end of the three-year period, the temporary certificate of competency holder shall make application for a regular certificate of competency. Upon expiration of the temporary certificate of competency at the end of the three-year period, if the holder has not met the requirements of subsection (4) of this section, the holder shall cease all activities associated with the holding of a certificate of competency.

AMENDATORY SECTION (Amending WSR 94-24-032, filed 12/1/94, effective 1/1/95)

**WAC 212-80-060 Certificate of competency not transferable.** A certificate of competency issued under this regulation is not transferable ~~((either between individuals or between contractors))~~. This certification can, however, fol-



low a person to another employer provided that employer is currently licensed at the appropriate level.

**AMENDATORY SECTION** (Amending WSR 94-24-032, filed 12/1/94, effective 1/1/95)

**WAC 212-80-065 Suspension or revocation of certificates.** (1) The chief of the Washington state patrol, through the director of fire protection may refuse to issue or renew or may suspend or revoke the privilege of a certificate of competency holder (~~(or an applicant)~~) as defined in RCW 18.160.101(1) to engage in the fire protection sprinkler system business or may establish penalties as prescribed by Washington state law for any of the following reasons:

(a) Gross incompetency or gross negligence in the preparation of layout drawings, installation, repair, alteration, maintenance, inspection, service, or addition to fire protection sprinkler systems.

(b) Conviction of a felony.

(c) Fraudulent or dishonest practices while engaging in the fire protection sprinkler systems business.

(d) Use of false evidence or misrepresentation in an application for a certificate of competency.

(e) Permitting his or her certificate to be used in connection with the preparation of any layout drawings, installation, maintenance, inspection, service or certification of any system when such activity is not under his or her supervision, or in violation of this regulation.

(f) Knowingly violating any provisions of this regulation or chapter 18.160 RCW.

(2) The chief of the Washington state patrol, through the director of fire protection shall revoke the certificate of a certificate of competency holder who engages in the fire protection sprinkler system business while the certificate of competency is suspended.

**AMENDATORY SECTION** (Amending Order 91-06, filed 7/1/91, effective 8/1/91)

**WAC 212-80-070 Certificate of competency employment.** (1) In no case shall a certificate of competency holder be employed full time by more than one fire protection sprinkler system contractor at the same time.

(2) If the certificate of competency holder should leave the employment of the fire protection sprinkler system contractor, he or she shall notify the chief of the Washington state patrol, through the director of fire protection within thirty days of the last day of employment.

(3) Should any individual who meets the criteria to be a certificate of competency holder as defined by this chapter and chapter 18.160 RCW wish to be certified to perform design work only, he or she may request to work as a "FOR DESIGN ONLY" certificate of competency holder. This certification can also be utilized to maintain state certification, as in the case of the State Level U certification.

**AMENDATORY SECTION** (Amending Order 91-06, filed 7/1/91, effective 8/1/91)

**WAC 212-80-075 Certificate of competency renewals ((certificates)).** (1) All certificate of competency holders

who desire to maintain a current certificate shall, prior to January 1 of each year, apply for renewal to the chief of the Washington state patrol, through the director of fire protection on the appropriate form along with the required fee as prescribed by the chief of the Washington state patrol, through the director of fire protection.

(2) Application for renewal forms shall be provided by the chief of the Washington state patrol, through the director of fire protection, upon request, and the certificate holder shall furnish the information required by the chief of the Washington state patrol, through the director of fire protection.

(3) The chief of the Washington state patrol, through the director of fire protection may suspend the certificate of competency for failure to apply for a renewal certificate of competency within sixty days after the expiration date.

(4) The chief of the Washington state patrol, through the director of fire protection may, upon the receipt of payment of all delinquent fees and a late charge, restore a certificate of competency that had been suspended.

**AMENDATORY SECTION** (Amending Order 91-06, filed 7/1/91, effective 8/1/91)

**WAC 212-80-080 Voluntary relinquishment of certificates of competency.** (1) A certificate of competency holder may voluntarily relinquish his or her certificate of competency to the chief of the Washington state patrol, through the director of fire protection. This includes temporary certificate of competencies that have not been in effect for more than three consecutive and/or accumulative years.

(2) The relinquishment is effective when the certificate is received by the chief of the Washington state patrol, through the director of fire protection.

(3) After relinquishing the certificate of competency, he or she shall not be known as a certificate of competency holder and shall desist from the practice thereof.

(4) Within two years from the time of relinquishment of the certificate of competency, he or she may again qualify for a certificate of competency, with the approval of the chief of the Washington state patrol, through the director of fire protection, by the payment of the required fee.

(5) If two or more years have elapsed, he or she shall return to the status of a new applicant.

**AMENDATORY SECTION** (Amending Order 91-06, filed 7/1/91, effective 8/1/91)

**WAC 212-80-085 Certificate of competency prorated fees.** The initial certificate of competency fee shall be prorated based upon the portion of the year such certificate of competency is in effect, prior to renewal on January 1.

**EXCEPTION:** Any individual who attempts to certify with the chief of the Washington state patrol, through the director of fire protection, after performing work covered by this chapter and chapter 18.160 RCW shall be required to pay the full annual certification fees, in addition to any penalties assessed by the chief of the Washington

state patrol, through the director of fire protection, for uncertified operation(s).

## FIRE PROTECTION SPRINKLER CONTRACTOR

AMENDATORY SECTION (Amending Order 91-06, filed 7/1/91, effective 8/1/91)

**WAC 212-80-090 Licensed fire protection sprinkler system contractor.** To become a licensed fire protection sprinkler system contractor under this regulation, a person or firm must comply with the following:

(1) Must be or have in his or her full-time employ a holder of a valid certificate of competency whose level is consistent with the license level.

(2) Make application to the director of fire protection on forms provided and pay the fees required.

(3) Meet the bonding requirements of WAC 212-80-125.

(4) Be licensed as a contracting company in the state of Washington by the department of labor and industries and possess the twelve digit alphanumeric business license number assigned by that agency.

AMENDATORY SECTION (Amending Order 91-06, filed 7/1/91, effective 8/1/91)

**WAC 212-80-095 License and certificate posting.** Each license and ~~((certificate of competency))~~ certification issued under this regulation must be posted in a conspicuous place in the fire protection sprinkler system contractor's place of business. The wallet card issued to a certificate of competency under this chapter will be maintained with the certified individual it was issued to and available for review at any time.

AMENDATORY SECTION (Amending Order 91-06, filed 7/1/91, effective 8/1/91)

**WAC 212-80-105 Fire protection sprinkler contractor license not transferable.** A license issued under this regulation is not transferable.

### EXCEPTION:

Should a currently licensed fire protection sprinkler contractor merge or form another company, that license can be reissued to the newly formed/incorporated company provided:

(1) The principal officers of the licensed company remain the same;

(2) Continues, takes over, or otherwise reestablishes the bond required by chapter 18.160 RCW for licensing;

(3) Continues to perform fire protection sprinkler contractor work as defined by chapter 18.160 RCW;

(4) Employs a certificate of competency holder of the appropriate level; and

(5) Meets the criteria necessary for licensing as a fire protection sprinkler contracting company as defined by chapter 18.160 RCW.

AMENDATORY SECTION (Amending WSR 94-24-032, filed 12/1/94, effective 1/1/95)

**WAC 212-80-110 Contractor responsibilities, certificate of competency holder employment.** (1) A fire protection sprinkler system contractor shall have at least one full time certificate of competency holder, consistent with the license level, employed to conduct business.

(2) If a certificate of competency holder should leave the employment of the fire protection sprinkler system contractor, and the contractor has no other certificate of competency holder on staff, the contractor shall have six months or until the expiration of the current license, whichever occurs last, to submit a new application. In order to be issued a new license, the contractor shall identify a new certificate of competency holder who, at the time of application, shall be either an owner or full-time employee of ~~((the))~~ that fire protection sprinkler business.

(3) If such application is not received by the chief of the Washington state patrol, through the director of fire protection and a new license issued within the allotted time, the chief of the Washington state patrol, through the director of fire protection shall revoke the license of the fire protection sprinkler system contractor.

(4) The fire protection sprinkler system contractor may only complete the active phase of existing work in progress which has been approved by the authority having jurisdiction, ~~((but))~~ and may not receive new approvals from the authority having jurisdiction without a certificate holder's number on the documents. Installation can continue on approved design plans, however, the contractor's material and test certificate for the system must be stamped ~~((sealed))~~ by a certificate of competency holder in the full-time employ of the installing contractor.

AMENDATORY SECTION (Amending WSR 94-24-032, filed 12/1/94, effective 1/1/95)

**WAC 212-80-115 License renewals.** (1) All licensed fire protection sprinkler system contractors desiring to continue to be licensed shall secure from the chief of the Washington state patrol, through the director of fire protection prior to January 1 of each year a renewal license upon payment of the fee as prescribed by the chief of the Washington state patrol, through the director of fire protection.

(2) Application for renewal shall be upon a form prescribed by the chief of the Washington state patrol, through the director of fire protection, and the license holder shall furnish the information required by the chief of the Washington state patrol, through the director of fire protection.

(3) Failure of any license holder to secure his or her renewal license within sixty days after the expiration date shall constitute sufficient cause for the chief of the Washington state patrol, through the director of fire protection to suspend the license.

(4) The chief of the Washington state patrol, through the director of fire protection may restore a license that has been suspended. In addition to other provisions of this regulation, any of the following will constitute cause for the chief of the Washington state patrol, through the director of fire protection not to restore a license that has been suspended:

- (a) Nonreceipt of payment of all delinquent fees;  
 (b) Nonreceipt of a late charge and/or application fee;  
 ((and))  
 (c) Failure to comply with the bonding requirements of chapter 18.160 RCW; and  
 (d) Failure to obtain or show evidence of having a full time employee certified as a certificate of competency holder of the appropriate level as defined by chapter 18.160 RCW.

AMENDATORY SECTION (Amending Order 91-06, filed 7/1/91, effective 8/1/91)

**WAC 212-80-120 Prorated license fees.** The initial license fee shall be prorated based upon the portion of the year such license is in effect ~~((, prior to renewal on January 1)).~~ This is allowed only once in the history of the company.

**EXCEPTION:** Any contracting company who attempts to license as a fire sprinkler contracting company after performing work covered by this chapter and chapter 18.160 RCW shall be required to pay the full annual licensing fees, in addition to any penalties assessed by the chief of the Washington state patrol, through the director of fire protection, for unlicensed operation(s).

AMENDATORY SECTION (Amending Order 92-08, filed 10/5/92, effective 11/5/92)

**WAC 212-80-125 Contractor surety bonds.** (1) The chief of the Washington state patrol, through the director of fire protection shall not issue a license under this regulation unless:

(a) The fire protection sprinkler system contractor, to be licensed as a Level III or Level "U" fire protection sprinkler system contractor, files with the chief of the Washington state patrol, through the director of fire protection a surety bond executed by a surety company authorized to do business in the state of Washington, in the sum of ten thousand dollars, conditioned to compensate third-party losses caused by the acts of the principal or the principal's servant, officer, agent, or employee in conducting the business registered or licensed under this regulation; or

(b) The fire protection sprinkler system contractor, to be licensed for Level I or Level II systems files with the chief of the Washington state patrol, through the director of fire protection a surety bond executed by a surety company authorized to do business in the state of Washington, in the sum of six thousand dollars, conditioned to compensate third-party losses caused by the acts of the principal or the principal's servant, officer, agent, or employee in conducting the business registered or licensed under this regulation.

~~(2) ((Bonds required by other state agencies are separate from the bonding requirements of chapter 18.160 RCW. Bonds filed with the department of labor and industries cannot be used to satisfy the bonding requirements for a fire protection sprinkler system contractor.~~

~~(3)) Upon approval by the chief of the Washington state patrol, through the~~ director of fire protection, property or cash may substitute for a surety bond provided the value ~~((is at least ten thousand dollars and the property or cash is not~~

~~otherwise encumbered for Level III systems))~~ matches the appropriate level of bonding required for the level of work to be performed. The value of property shall be determined by an appraiser selected by the chief of the Washington state patrol, through the director of fire protection. All appraisal fees shall be paid by the fire protection sprinkler system contractor.

AMENDATORY SECTION (Amending Order 91-06, filed 7/1/91, effective 8/1/91)

**WAC 212-80-130 Municipality, county, or state regulations.** (1) Nothing in this regulation limits the power of a municipality, county, or state to regulate the quality and character of work performed by contractors through a system of permits, fees, and inspections which are designed to assure compliance with and aid in the implementation of state and local building laws or to enforce other local laws for the protection of the public health and safety.

(2) Nothing in this regulation limits the power of the municipality, county, or the state to adopt any system of permits requiring submission to and approval by the municipality, county, or the state of layout drawings and specifications for work to be performed by contractors before commencement of the work.

(3) The official authorized to issue building or other related permits shall ascertain that the fire protection sprinkler system contractor is duly licensed by requiring evidence of a valid fire protection sprinkler system contractor's license and a valid certificate of competency stamp consistent with the contractor's license.

(4) This regulation applies to any fire protection sprinkler system contractor performing work for any municipality, county, or the state.

(5) Officials of any municipality, county, or the state are required to determine compliance with this regulation before awarding any contracts for the installation, repair, service, alteration, fabrication, addition, or inspection of a fire protection sprinkler system.

## REVOCACTION OF LICENSE/CERTIFICATE

AMENDATORY SECTION (Amending WSR 94-24-032, filed 12/1/94, effective 1/1/95)

**WAC 212-80-135 Suspension or revocation of licenses.** (1) The chief of the Washington state patrol, through the director of fire protection may refuse to issue or renew or may suspend or revoke the privilege of a licensed fire protection sprinkler system contractor to engage in the fire protection sprinkler system business or may establish penalties as prescribed by Washington state law for any of the following reasons:

(a) Gross incompetency or gross negligence in the preparation of layout drawings, installation, repair, alteration, maintenance, inspection, service, or addition to fire protection sprinkler systems.

(b) Conviction of a felony.

(c) Fraudulent or dishonest practices while engaging in the fire protection sprinkler systems business.

(d) Use of false evidence or misrepresentation in an application for a license.

(e) Permitting his or her license to be used in connection with the installation of any system when such installation is not under his or her supervision, or in violation of this regulation.

(f) Knowingly violating any provisions of this regulation or chapter 18.160 RCW.

(2) The chief of the Washington state patrol, through the director of fire protection shall revoke the license of a licensed fire protection sprinkler system contractor who engages in the fire protection sprinkler system business while the license is suspended.

### CIVIL PENALTIES AND FINES

#### NEW SECTION

**WAC 212-80-210 Imposing citations and civil penalties.** The chief of the Washington state patrol, through the director of fire protection, may impose civil penalties and/or fines to any licensed company or certified individual who violates any provision of chapter 18.160 RCW or this chapter. Moreover, the chief of the Washington state patrol, through the director of fire protection, may impose the civil penalties and/or fines listed herein to any unlicensed company or uncertified individual who operates in the state of Washington as a licensed company and/or certified individual.

#### NEW SECTION

**WAC 212-80-215 Citations and penalties.** (1) These rules establish the basis and process by which the citations and penalties will be determined and issued for violations of chapter 18.160 RCW and/or chapter 212-80 WAC.

(2) Each violation is classified and penalties assessed according to the violation type and instance as defined by this chapter.

#### NEW SECTION

**WAC 212-80-220 General rules of citations and penalties.** (1) These rules establish civil penalty criteria for violation Types I, II, and III and the instances for each type of violation.

(2) These rules apply to persons who violate the intent, chapter, and requirements of chapter 18.160 RCW and/or chapter 212-80 WAC.

(3) Each separate instance of noncompliance with chapter 18.160 RCW and/or chapter 212-80 WAC shall be considered a separate violation.

(4) Each day the violation continues may be considered a separate violation.

(5) In addition to the issuance of citations and/or penalties, the chief of the Washington state patrol, through the director of fire protection, may also revoke, suspend, and/or deny the renewal of any license or certificate issued under chapter 18.160 RCW to person(s) and/or company(ies) who fails to pay any penalties assessed under these rules. Such action does not preclude the chief of the Washington state

patrol, through the director of fire protection, from assessing further violations for unlicensed and/or uncertified operations.

(6) The penalty for each violation shall range from \$0.00 to \$5,000.00 per day per violation per occurrence.

#### NEW SECTION

**WAC 212-80-225 Violation types, instances, and penalty assessments.** (1) Penalties shall be assessed according to the violation type.

(2) The violation types are as follows:

(a) Minimal - Type I;

(b) Moderate - Type II; and

(c) Severe - Type III.

(3) The instances are as follows:

(a) 1st - The first time the individual, person, and/or company is in violation of chapter 18.160 RCW and/or chapter 212-80 WAC in any one calendar year, regardless of the number of individual violations or the duration of them;

(b) 2nd - The second time the individual, person, and/or company is in violation of chapter 18.160 RCW and/or chapter 212-80 WAC in any one calendar year, regardless of the number of individual violations or the duration of them; and

(c) 3rd - The third time the individual, person and/or company is in violation of chapter 18.160 RCW and/or chapter 212-80 WAC in any one calendar year, regardless of the number of individual violations or the duration of them.

(4) In the event of a fourth instance in any one calendar year, that company and/or individual will no longer be allowed to work in the sprinkler field in the state of Washington. This decision may be appealed, pursuant to RCW 74.20A.320.

#### NEW SECTION

**WAC 212-80-230 Hearings.** (1) Any person may request a hearing regarding the assessment of a civil penalty.

(2) Hearings requests shall be filed with the chief of the Washington state patrol, through the director of fire protection, within thirty days of the date of the service of a civil penalty.

(3) Any person who requests a hearing shall be entitled to a hearing.

#### NEW SECTION

**WAC 212-80-235 Informal conference.** (1) The chief of the Washington state patrol, through the director of fire protection, will provide an opportunity for a person to informally discuss a civil penalty that has been assessed against them.

(2) An informal conference may be requested prior to a request for a formal hearing. However, it shall not exceed nor extend their thirty-day timeline allotted for the request of a formal hearing - regardless of the outcome.

(3) The request for an informal hearing may be in any form and:

(a) Shall be addressed to the chief of the Washington state patrol, through the director of fire protection; and

(b) Clearly state the subject to be discussed.

(4) As a result of an informal conference, the chief of the Washington state patrol, through the director of fire protection, may for good cause choose to amend, withdraw, or reduce the civil penalty.

#### NEW SECTION

**WAC 212-80-240 Formal hearing.** (1) A person may request a formal hearing at any time before or after the request of an informal conference, as long as the thirty day period allotted has not elapsed.

(2) The chief of the Washington state patrol, through the director of fire protection, will arrange for a hearings officer to conduct the formal hearing.

(3) The chief of the Washington state patrol, through the director of fire protection, will set a date, time, and location for the formal hearing.

(4) The chief of the Washington state patrol, through the director of fire protection, will notify by letter the person requesting the hearing (or their designated representative) of the date, time, location, and hearings officer conducting the formal hearing.

(5) The hearings officer will hear the case and, within ninety days of the hearing, render a proposed opinion and order including recommended findings of fact and conclusions of law, according to chapter 34.05 RCW.

(6) The formal hearing shall be conducted as follows:

(a) The hearings officer will act as an impartial third party.

(b) It is not necessary for the person who requested the hearing to be represented by legal council.

(c) An official record shall be made through a scribe.

(d) Testimony shall be taken under oath.

(e) All evidence of a type commonly relied upon by a reasonably prudent person in the conduct of their serious affairs is admissible.

(f) Hearsay evidence is admissible if it meets the statutory standards for being reliable and trustworthy.

(g) A proposed opinion and order will be provided.

(7) The proposed opinion and order shall be reviewed by the chief of the Washington state patrol, through the director of fire protection, and if accepted be finalized and issued as a final order.

#### NEW SECTION

**WAC 212-80-245 Penalty adjustments.** (1) The assessment of adjustment of penalties for amounts other than those set by chapter 18.160 RCW shall be done only by the chief of the Washington state patrol, through the director of fire protection, through a hearings process either formally or informally.

(2) The assessment of penalties for not being in conformance with chapter 18.160 RCW and/or chapter 212-80 WAC may be made only after considering:

(a) The gravity and magnitude of the violation.

(b) The person's previous record.

(c) Such other considerations as the chief of the Washington state patrol, through the director of fire protection, may consider appropriate.

(3) During a formal hearing or informal conference, the chief of the Washington state patrol, through the director of fire protection, may modify or adjust the citation, cited violations, and/or penalties assessed in order to meet the requirements of these rules and to ensure uniformity and consistency in their application statewide.

#### NEW SECTION

**WAC 212-80-250 Payment of civil penalty.** (1) The penalty shall be paid to the chief of the Washington state patrol, through the director of fire protection, within twenty-eight days after an order assessing a civil penalty becomes final by operation of law or on an appeal.

(2) The attorney general may bring an action in the name of the chief of the Washington state patrol, through the director of fire protection, in the superior court of Thurston County or of any county in which the violator may do business to collect any penalty imposed under chapter 18.160 RCW.

#### NEW SECTION

**WAC 212-80-255 Type I (minimal) violations.** (1) Type I violations are subject to penalties ranging from a warning to two hundred dollars a day depending upon the instance and in accordance with chapter 212-80 WAC.

(2) Examples of Type I violations include, but are not limited to:

(a) Failing to inform the chief of the Washington state patrol, through the director of fire protection, of the loss of their primary certificate of competency holder, as required by RCW 18.160.40.

(b) Failing to have the certificate of competency holder stamp plans, calculations, and/or test certificates.

(c) Allowing an employee to certify, install, inspect, maintain, and/or service water based fire sprinkler systems or equipment contrary to NFPA codes, standards, or manufacturers' specifications without specific written permission from the local authority having jurisdiction.

(d) Working without a permit, or permission to do so, by the local authority having jurisdiction.

#### NEW SECTION

**WAC 212-80-260 Type II (moderate) violations.** (1) Type II violations are subject to penalties ranging from two hundred dollars to five hundred dollars a day depending upon instance and in accordance with chapter 212-80 WAC.

(2) Examples of Type II violations include, but are not limited to:

(a) Performing work on a sprinkler system where the employee's certificate of competency holder under RCW 18.160.40 does not have a current or valid license.

(b) Working without the appropriate level of license or certificate of competency.

(c) Permitting his or her license to be used in connection with the preparation of any technical drawings that have not been prepared by him or her personally, or under their direct supervision.

(d) Working with an expired license or permit (more than ninety days).

**NEW SECTION**

**WAC 212-80-265 Type III (serious) violations.** (1) Type III violations are subject to penalties ranging from five hundred dollars to five thousand dollars a day depending on instance and in accordance with chapter 212-80 WAC.

(2) Examples of Type III violations include, but are not limited to:

(a) Demonstrating gross incompetency or gross negligence in the preparation of technical drawings, the installation, repair, alteration, maintenance, inspection, service, and/or addition to a fire sprinkler system.

(b) Allowing an employee to demonstrate gross incompetency or gross negligence in the installation, repair, alteration, maintenance, inspection, service and/or addition to a fire sprinkler system.

(c) Charging a customer for fire sprinkler work not performed.

(d) Offering to contract for fire sprinkler work without a certificate of competency holder, as described in RCW 18.160.040.

(e) Allowing an employee to falsify any fire sprinkler tags, labels, or inspection reports.

(f) Working without a certified full-time certificate of competency holder on staff.

(g) Falsifying an application or document submitted to the chief of the Washington state patrol, through the director of fire protection, to obtain a sprinkler contractor license or certificate of competency.

(h) Committing three or more Level II offenses within a three year period either as a company, through an employee of the company, through an employee acting as a certificate of competency holder for the company, and/or any combination thereof.

(i) Permitting his or her license to be used in connection with the stamping of any test certificates for work performed by someone other than his or her full-time employees.

**NEW SECTION**

The following sections of the Washington Administrative Code are recodified as follows:

Old WAC Number	New WAC Number
212-80-025	212-80-023
212-80-095	212-80-028
212-80-100	212-80-033
212-80-130	212-80-038
212-80-030	212-80-043
212-80-090	212-80-053
212-80-105	212-80-058
212-80-110	212-80-063
212-80-115	212-80-068
212-80-120	212-80-073
212-80-125	212-80-078

212-80-035	212-80-083
212-80-040	212-80-088
212-80-045	212-80-093
212-80-050	212-80-098
212-80-055	212-80-103
212-80-060	212-80-108
212-80-070	212-80-113
212-80-075	212-80-118
212-80-080	212-80-123
212-80-085	212-80-128
212-80-135	212-80-200
212-80-065	212-80-205

**WSR 05-05-008**

**PERMANENT RULES**

**DEPARTMENT OF FISH AND WILDLIFE**

[Order 05-10—Filed February 7, 2005, 3:46 p.m., effective March 10, 2005]

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

Purpose: Amend WAC 232-12-129 Captive propagation of raptors—Sale, records, reports and inspection.

Citation of Existing Rules Affected by this Order: Amending WAC 232-12-129.

Statutory Authority for Adoption: RCW 77.12.047.

Adopted under notice filed as WSR 04-21-096 on October 20, 2004.

Changes Other than Editing from Proposed to Adopted Version: The Fish and Wildlife Commission adopted Option A; subsection (5) was changed to read: "Wild caught raptors taken in Washington may be used for propagation purposes, progeny shall not be offered for sale or trade." This change was made so that falconers would be allowed to use wild caught raptors for propagation purposes, but not for sale or trade.

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

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

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

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

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

PERMANENT

Date Adopted: January 14, 2005.

February 2, 2005  
Susan Yeager  
for Ron Ozment, Chair  
Fish and Wildlife Commission

**AMENDATORY SECTION** (Amending Order 245, filed 4/5/85)

**WAC 232-12-129 Captive propagation of raptors—Sale, records, reports and inspection.** (1) Anyone holding a valid raptor propagation permit may offer for sale, sell, or trade any captive bred raptor, wearing a seamless U.S. Fish and Wildlife Service band, to anyone holding a permit authorizing possession of said raptor.

(2) Anyone holding a valid raptor propagation permit, falconry permit, or other permit authorizing possession may purchase said captive bred raptor.

(3) Sale of a captive bred raptor is unlawful if it is not accompanied by an invoice. The raptor propagator must retain a copy of the invoice for two years and must send to the department a copy or a listing of the transfers in an annual report.

(4) Anyone holding a valid raptor propagation permit must keep record of the date each clutch is initiated, the onset of incubation and the date of hatching of each chick. The initiation of each clutch of eggs must be reported to the department within 72 hours. These records must be up to date and the breeding facilities and records open for inspection by a wildlife agent at reasonable times.

(5) Wild caught raptors taken in Washington may be used for propagation purposes, progeny shall not be offered for sale or trade.

(6) Anyone holding a valid raptor propagation permit must submit to the department before January 31 of each year a report summarizing the year's activities.

**WSR 05-05-025**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)

[Filed February 8, 2005, 4:07 p.m., effective March 11, 2005]

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

Purpose: This amendment to WAC 388-450-0200 Will the medical expenses of an elderly or disabled person in my assistance unit be used as an income deduction for Basic Food?, will complete the permanent adoption of rule changes currently in place by emergency filing to meet the federal criteria regarding Medicare-approved prescription drug cards and related issues. Additional amendments were made to comply with the requirements of HB 2663 regarding respectful language.

Citation of Existing Rules Affected by this Order: Amending WAC 388-450-0200.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090.

Other Authority: United States Food and Nutrition Service Administrative Notices 04-39 and 04-45; HB 2663 (chapter 175, Laws of 2004).

Adopted under notice filed as WSR 05-01-073 on December 9, 2004.

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

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

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

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

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

Date Adopted: February 2, 2005.

Andy Fernando, Manager  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 04-02-025, filed 12/30/03, effective 2/1/04)

**WAC 388-450-0200 Will the medical expenses of ~~(an elderly or disabled person)~~ elderly persons or individuals with disabilities in my assistance unit be used as an income deduction for basic food?** (1) If your basic food assistance unit (AU) includes an elderly ~~(or disabled)~~ person or individual with a disability as defined in WAC 388-400-0040, your AU may be eligible for an income deduction for ~~(the elderly or disabled)~~ that person's out-of-pocket medical expenses, and certain expenses allowable for Medicare prescription drug card holders. We allow the deduction for medical expenses over thirty-five dollars each month.

(2) You can use ~~(a)~~ an out-of-pocket medical expense toward this deduction if the expense covers services, supplies, medication, or other medically needed items prescribed by a state-licensed practitioner or other state-certified, qualified, health professional. Examples of expenses you can use for this deduction include those for:

- (a) Medical, psychiatric, naturopathic physician, dental, or chiropractic care;
- (b) Prescribed alternative therapy such as massage or acupuncture;
- (c) Prescription drugs;
- (d) Over the counter drugs;
- (e) Eye glasses;
- (f) Medical supplies other than special diets;
- (g) Medical equipment or medically needed changes to your home;
- (h) Shipping and handling charges for an allowable medical item. This includes shipping and handling charges for items purchased through mail order or the internet;
- (i) Long distance calls to a medical provider;
- (j) Hospital and outpatient treatment including:

(i) Nursing care; or  
 (ii) Nursing home care including payments made for a person who was an assistance unit member at the time of placement.

(k) Health insurance premiums paid by the ~~((client))~~ person including:

- (i) Medicare premiums; and
- (ii) Insurance deductibles and co-payments.

(l) Out-of-pocket expenses used to meet a spenddown as defined in WAC 388-519-0010. We do not allow your entire spenddown obligation as a deduction. We allow the expense as a deduction as it is estimated to occur or as the expense becomes due;

(m) Dentures, hearing aids, and prosthetics;

(n) Cost to obtain and care for a seeing eye, hearing, or other specially trained service animal. This includes the cost of food and veterinarian bills. We do not allow the expense of food for a service animal as a deduction if you receive ongoing additional requirements under WAC 388-473-0040 to pay for this need;

(o) Reasonable costs of transportation and lodging to obtain medical treatment or services; and

(p) Attendant care necessary due to age, infirmity, or illness. If your AU provides most of the attendant's meals, we allow an additional deduction equal to a one-person allotment.

(3) There are two types of deductions for out-of-pocket expenses:

(a) One-time expenses are expenses that cannot be estimated to occur on a regular basis. You can choose to have us:

(i) Allow the one-time expense as a deduction when it is billed or due;

(ii) Average the expense through the remainder of your certification period; or

(iii) If your AU has a twenty-four-month certification period, you can choose to use the expense as a one-time deduction, average the expense for the first twelve months of your certification period, or average it for the remainder of our certification period.

(b) Recurring expenses are expenses that happen on a regular basis. We estimate your monthly expenses for the certification period.

(4) If the elderly person or individual with a disability in your AU has a Medicare prescription drug card:

(a) Allow any out-of-pocket expenses that meet the criteria in subsections (2) and (3) above;

(b) Add a standard twenty-three dollars to these expenses; and

(c) Allow an additional fifty dollar monthly deduction to account for the 2004 and 2005 prescription subsidies:

(i) For twenty-four consecutive months if the client applied before January 2005; or

(ii) For the average number of months resulting from dividing the total subsidy amount by fifty dollars if the client applies in January 2005 or later.

(d) Allow the deductions in (b) and (c) of this subsection even if the AU has no out-of-pocket expenses.

(5) AU members with a Medicare prescription drug card have the option of using their verified pre-card out-of-pocket

expenses when this amount is greater than using the standards in subsection (4).

(6) We do not allow a medical expense as an income deduction if:

(a) The expense was paid before you applied for benefits or in a previous certification period;

(b) The expense was paid or will be paid by someone else;

(c) The expense was paid or will be paid by the department or another agency;

(d) The expense is covered by medical insurance;

(e) We previously allowed the expense, and you did not pay it. We do not allow the expense again even if it is part of a repayment agreement;

(f) You included the expense in a repayment agreement after failing to meet a previous agreement for the same expense; or

(g) You claim the expense after you have been denied for presumptive SSI; and you are not considered disabled by any other criteria ~~(or~~

~~(h) The provider considers the expense overdue).~~

#### WSR 05-05-026

#### PERMANENT RULES

#### DEPARTMENT OF

#### FISH AND WILDLIFE

[Order 05-16—Filed February 10, 2005, 10:10 a.m., effective March 13, 2005]

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

Purpose: Amend distribution of geoduck fish tickets.

Citation of Existing Rules Affected by this Order:  
Amending WAC 220-69-26401.

Statutory Authority for Adoption: RCW 77.12.047.

Adopted under notice filed as WSR 05-01-157 on December 20, 2004.

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

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

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

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

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

Date Adopted: February 4, 2005.

Susan Yeager  
for Ron Ozment, Chair  
Fish and Wildlife Commission



**AMENDATORY SECTION** (Amending Order 04-210, filed 8/17/04, effective 9/17/04)

**WAC 220-69-26401 Distribution of copies of shellfish receiving ticket.** State of Washington shellfish receiving tickets shall be made out in quintuplicate (five copies) at the time of delivery. Upon completion of the shellfish receiving ticket, it is unlawful for the person completing the fish receiving ticket to fail to distribute the copies as follows:

(1) The dealer copies (white and yellow) shall be retained by receiver ((e)f) for their use.

(2)(a) For shellfish other than geoduck clams from department of natural resources geoduck tracts, the state copies (green and pink) shall be mailed to the department. It is required that the state copies be received by the department no later than the sixth working day after the day the ticket was completed by the original receiver.

(b) For geoduck clams from department of natural resources geoduck tracts, the green state copy shall be mailed to the department no later than the sixth working day after the ticket was completed by the original receiver. The pink state copy shall be mailed to the department of natural resources no later than the sixth working day after the ticket was completed by the original receiver, or delivered earlier to the department of natural resources as directed by that department.

(3) The fisherman copy (gold) shall be retained by the deliverer for their use.

(4) Violation of this section is a gross misdemeanor, punishable under RCW 77.15.640.

**WSR 05-05-027**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 05-17—Filed February 10, 2005, 10:11 a.m., effective March 13, 2005]

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

Purpose: Amend commercial razor clam rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-52-030.

Statutory Authority for Adoption: RCW 77.12.047.

Adopted under notice filed as WSR 05-01-156 on December 20, 2004.

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

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Mak-

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: February 4, 2005.

Susan Yeager  
for Ron Ozment, Chair  
Fish and Wildlife Commission

**AMENDATORY SECTION** (Amending Order 94-23, filed 5/19/94, effective 6/19/94)

**WAC 220-52-030 Clams—Coastal—Seasons and areas.** (1)(a) It shall be lawful to take, dig for or possess clams, cockles, borers and mussels taken for commercial purposes, not including razor clams, from the tidelands of registered aquaculture farms in Grays Harbor and Willapa Harbor the entire year.

(b) Licensing: No fishery license is required to retain clams taken from registered aquaculture farms but registration is required prior to commercial harvest.

(2)(a) It shall be unlawful to take, dig for or possess razor clams taken for commercial purposes from Washington waters except during commercial razor clam seasons opened by emergency rule.

(b) Licensing: A razor clam fishery license is the license required to take, dig for or possess razor clams for commercial purposes.

**WSR 05-05-029**

**PERMANENT RULES**

**DEPARTMENT OF LICENSING**

[Filed February 10, 2005, 2:22 p.m., effective March 13, 2005]

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

Purpose: Modify the text format of WAC 308-300-110 to comply with RCW 34.05.395, use of the proper format and marks to indicate amendments to existing rules.

Statutory Authority for Adoption: RCW 19.02.030(3).

Adopted under notice filed as WSR 04-24-093 on December 1, 2004.

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

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

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

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

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

Date Adopted: February 1, 2005.

Nancy Skewis  
Administrator  
Master License Service

**AMENDATORY SECTION** (Amending Order 524-DOL, filed 1/3/79)

**WAC 308-300-110 Issuance of master license.** (1) Upon compliance with WAC 308-300-160 on payment of fees, the department will issue and mail the applicant a master license incorporating all individual licenses approved at that time. Initial coverage under this chapter will be acknowledged by issuance of a master license with individual stickers affixed for each individual license issued.

An applicant may request that no master license be issued pending approval of liquor licenses and other licenses within subsection (4) in which event the department will withhold processing of all licenses until determination of liquor licenses has been made.

(2) In those instances where a license is granted by an agency upon receipt of the application and fee payment, the department, upon approval of the appropriate agency, shall issue the license upon proper receipt of those items. This subsection applies to:

(a) Department of revenue; registration, cigarette dealer license, cigarette dealer vending machine license.

(b) Secretary of state, corporate license (renewal only), corporate annual report.

(c) Department of labor and industries; registration for industrial insurance.

(d) Department of employment security; registration for unemployment insurance.

(e) Department of agriculture; nursery license, egg dealer license, seed dealer license.

(f) Department of social and health services; furniture and bedding certificate.

(g) Board of pharmacy; shopkeepers license.

(3) For each of the supplemental licenses specified below, each agency shall, within 21 days of its notification of license application by the department, inform the department of its approval or denial of the licenses sought. This subsection applies to:

(a) Department of agriculture; refrigerated locker license, pesticide dealer license, bakery and bakery distributors license.

(b) Department of labor and industries; minor work permit.

(4) Due to special investigative procedures, liquor licenses and other licenses, permits, certificates, and registrations which require lengthy investigative procedures will be handled as supplemental licenses in accordance with subsection (5). Upon approval by the appropriate agency, the license will be mailed to the licensee by the department to be affixed to the master license.

(5) The department shall be notified of reasons for delay if approval or denial of those licenses in subsection (3) has not been given in 21 days, and of reasons for delay if approval or denial of those licenses in subsection (4) has not been given within 60 days.

(6) This section shall not apply to the renewal of a license to the original licensee. In such a case individual licenses shall be issued pending approval or denial by the agencies in accordance with RCW 34.04.170 and WAC 308-300-140(1).

(7) It shall remain the responsibility of the appropriate agencies to provide the applicant with materials, information, and instructions pertinent to their periodic reports and other (~~operation~~ {operational}) requirements.

**WSR 05-05-035**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 05-15—Filed February 10, 2005, 4:35 p.m., effective May 1, 2005]

Effective Date of Rule: May 1, 2005.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order:  
Amending WAC 220-56-115, 220-56-118, 220-56-128, 220-56-129, 220-56-130, 220-56-282, 220-56-310, 220-56-315, 220-56-320, 220-56-325, 220-56-326, 220-56-330, 220-56-350, 220-56-380, 220-69-236, 232-12-619, and 232-28-619.

Statutory Authority for Adoption: RCW 77.12.047.

Adopted under notice filed as WSR 04-19-117 on September 21, 2004.

Changes Other than Editing from Proposed to Adopted Version: WAC 220-56-115:

(1)(e), change "more than" to "other than."

Add new subsection (5), it is unlawful to use lamprey as fishing bait, regardless of the source or species of lamprey.

WAC 220-56-118(3):

Amend language after "bull trout" to read, "from the water if it is unlawful to retain those salmon, steelhead, Dolly Varden or bull trout."

WAC 220-56-128:

Note: Base was adjusted to reflect earlier filings. The following changes are changes from the proposal filed in WSR 04-19-117 as reflected on the new base.

(26), after "April 30" add "and closed to rockfish year round."

WAC 220-56-310(9):

Amend subsection to read, "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 inches from the base of the eyestalk to the top rear edge of the carapace."

WAC 220-56-320:

(2), begin section with "It is unlawful for"; delete "shall not" and replace with "to."

(3), after "waters except" delete "the Columbia River"; after "in the Columbia River" delete "east of the Buoy 10 line"; in the last sentence, delete "The minimum" and replace with "It is unlawful to use" and after "crab pots" delete "is" and replace with "less than."

(4), amend beginning of subsection to read, "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:"

(4)(b), delete "without changing the shape of the mesh."

(7), amend subsection to read, "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."

WAC 220-56-325:

(2), change opening to "9:00 a.m. through 1:00 p.m. the first Saturday in May."

(3), change opening to "the first Saturday in May."

(4), change subsection to read, "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."

WAC 220-56-326(2):

Change subsection to read, "It is lawful to head shrimp, but all shrimp parts must be retained in the field year-round in the Pacific Ocean, and after May 31 of each year in Puget Sound until the fisher is ashore and finished fishing for the day."

WAC 220-56-330 (1)(b):

After "Lummi Rocks to Lummi Island" insert "(south-east Hale Pass, Bellingham Bay, Samish Bay, Padilla Bay, eastern waters of Bellingham Channel, Guemes Channel and Fidalgo Bay)."

WAC 220-56-350(1):

(a), delete "Closed the entire year." and replace with "Open May 1 through May 31."

(b), change "June 30" to "July 15."

(g), delete this section (Duckabush) and reletter.

New (h) (Eagle Creek), delete "Open May 1 through May 31" and replace with "Closed the entire year."

New (i) (Fort Flagler), change "June 15" to "June 30."

New (k) (Frye Cove), change "May 31" to "June 15."

New (y) (Oak Bay), change "July 1" to "July 15" and change "July 15" to "July 31."

New (ee) (Point Whitney), change "March 31" to "April 15."

New (ff) (Point Whitney Lagoon), change "April 1" to "April 15" and "May 31" to "May 15."

New (gg) (Port Townsend Ship Canal), change "May 31" to "June 30."

New (mm) (Rensland Creek), delete "Open January 1 through May 31" and replace with "Closed the entire year."

New (oo) (Scenic Beach), delete "Open April 15 through June 30" and replace with "Closed the entire year."

New (ss) (South Indian Island), change "June 30" to "August 31."

New (uu) (Triton Cove), change "July 15" to "July 1" and "September 15" to "September 30."

New (xx) (West Dewatto), deleted "closed the entire year" and replace with "open January 1 through April 15."

WAC 220-56-380(1):

(2), delete Dosewallips and Duckabush and renumber.

New (2) (Frye Cove), change "May 31" to "June 15."

New (5) (Illahee), change "June 30" to "June 15."

New (6) (Kitsap Memorial), delete "Closed the entire year" and replace with "Open May 15 through June 15."

New (12) (Penrose Point), change "April 30" to "May 15."

New (13) (Potlatch DNR), change "May 31" to "June 30."

New (18) (Scenic Beach), delete "Open April 15 through June 30" and replace with "Closed the entire year."

New (21) (South Indian Island), change "June 30" to "August 31."

WAC 232-12-619:

Note: Base was adjusted to reflect earlier filings. There were no changes from the proposal filed in WSR 04-19-117 as reflected on the new base.

WAC 232-28-619:

Note: Base was adjusted to reflect earlier filings. The following changes are changes from the proposal filed in WSR 04-19-117 as reflected on the new base.

Big River, delete "All species: Release all fish" and replace with "Trout: minimum length fourteen inches."

Cowlitz River, after "and from 400 feet below the Mayfield" delete "barrier dam" and replace with "power house."

Oasis Park Pond, after "five fish" insert "in the aggregate."

Wenatchee River, after "Wenatchee River" insert ", including Lake Jolanda."

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 17, Repealed 0.

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

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

Date Adopted: February 5, 2005.

Susan Yeager  
for Ron Ozment, Chair  
Fish and Wildlife Commission

**AMENDATORY SECTION** (Amending Order 04-39, filed 3/4/04, effective 5/1/04)

**WAC 220-56-115 Angling—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 shellfish 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 04-39, filed 3/4/04, effective 5/1/04)

**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 ((ø)), steel-

head, Dolly Varden or bull trout from the water if it is unlawful to retain those salmon ((ø)), 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.

**AMENDATORY SECTION** (Amending Order 04-306, filed 11/23/04, effective 12/24/04)

**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.

(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 03-24, filed 2/14/03, effective 5/1/03)

**WAC 220-56-129 Unclassified freshwater invertebrates and fish.** (1) Definitions. For purposes of this section, "freshwater clams and mussels" means all freshwater

bivalves existing in Washington in a wild state, except prohibited aquatic animal species classified under WAC 232-12-090.

(2) It is unlawful for any person to take or possess freshwater clams and mussels taken for personal use.

(3) It is unlawful for any person to take, fish for or possess Pacific lamprey, western brook lamprey, or river lamprey taken for personal use.

(4) Violation of this rule is punishable under RCW 77.15.140.

**AMENDATORY SECTION** (Amending Order 00-29, filed 3/29/00, effective 5/1/00)

**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.

(3) Each person possessing unclassified marine invertebrates or unclassified marine fish must retain their take in a separate container.

**AMENDATORY SECTION** (Amending Order 04-39, filed 3/4/04, effective 5/1/04)

**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 inches in length in the Columbia River and tributaries upstream from The Dalles Dam.

(b) Minimum size 42 inches in length in all other state waters.

(c) Maximum size 60 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(s). 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 03-24, filed 2/14/03, effective 5/1/03)

**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 (pot) gear weighted sufficiently to prevent the line from floating on the water's surface. ((The following additional requirements apply to buoys attached to unattended shellfish pots:~~

~~(a))) (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.~~

~~((b))) (c) All buoys attached to shrimp gear must be yellow or fluorescent yellow in color. Flags and staff, if attached, may be any color.~~

~~((e))) (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 (shall net) 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 ~~((the Columbia River-))~~ in the Columbia River ~~((east of the Buoy 10 line))~~ the escape ring minimum size is 4 inches inside diameter. ~~((The minimum))~~ It is unlawful to use mesh size for crab pots ((is)) 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 ~~((in the waters of Hood Canal southerly of the site of the Hood Canal Floating Bridge))~~ 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 ~~((Hood Canal))~~ shrimp pots is defined as a mesh that a 7/8-inch square peg will pass through each mesh ~~((without changing the shape of the mesh))~~ opening.

(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) ~~((Shellfish pots must be))~~ 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.

AMENDATORY SECTION (Amending Order 04-39, filed 3/4/04, effective 5/1/04)

**WAC 220-56-325 Shrimp—Areas and seasons.** ~~((1))~~ It ~~((shall be))~~ is unlawful to fish for or possess shrimp taken for personal use from the following areas, except as otherwise provided in this section:

~~((a))~~ (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 ~~((June))~~ May through May 31 and open only on ~~((days set by emergency rule))~~ Wednesday and Saturday of each week;

~~((b))~~ Port Angeles Shrimp District - Open 7:00 a.m. through 3:00 p.m., beginning the first Saturday in June and open only on days set by emergency rule;

~~((c))~~ (2) Hood Canal Shrimp District - Open 9:00 a.m. through 1:00 p.m., ~~((beginning on))~~ the ~~((third))~~ first Saturday in May through May 31 and open only on ~~((days set by emergency rule))~~ Wednesday and Saturday of each week;

~~((d))~~ Port Townsend Shrimp District and Marine Area 10 - Open 7:00 a.m. through 3:00 p.m., beginning the third Saturday in April and open only on days set by emergency rule;

~~((e))~~ (3) Marine Area 4 east of the Bonilla-Tatoosh line and Marine Areas 5 ~~((through))~~ 6, 7 and 13, except for Shrimp Districts - Open 7:00 a.m. the ~~((third))~~ first Saturday in ~~((April))~~ May through ~~((October 15))~~ May 31 and open daily except~~((~~

~~((i))~~ closed in Sequim Bay Shrimp District and Carr Inlet Shrimp District.

~~((ii))~~ Marine Areas 8-1, 8-2, and 9 closed Monday through Wednesday of each week during the open period;

~~((f))~~ (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.

~~((2))~~ During the general shrimp seasons described above, it is unlawful to retain spot shrimp except as provided below:

~~((a))~~ Discovery Bay Shrimp District - Spot shrimp may be retained on Saturdays only.

~~((b))~~ Port Angeles Shrimp District - Spot shrimp may be retained on Saturdays and Sundays only.

~~((c))~~ Marine Areas 8-1, 8-2, and 9 - Spot shrimp may be retained only as set by emergency rule.

~~((d))~~ All other areas - Spot shrimp may be retained each open day.)

AMENDATORY SECTION (Amending Order 96-13, filed 2/9/96, effective 5/1/96)

**WAC 220-56-326 Shrimp—Unlawful acts.** It is unlawful to violate the following provisions for personal use shrimp:

(1) In the field each person harvesting shrimp must use a separate container to hold his or her catch and the container must be in the harvester's presence or identified with the harvester's name.

(2) It is lawful to head shrimp, but all shrimp parts must be retained in the field year-round in the Pacific Ocean, and after May 31 of each year in Puget Sound until the fisher is ashore and finished fishing for the day.

AMENDATORY SECTION (Amending Order 04-39, filed 3/4/04, effective 5/1/04)

**WAC 220-56-330 Crab—Areas and seasons.** (1) It is unlawful to fish for or possess crab taken for personal use from Puget Sound except during the following seasons:

(a) Marine Areas 4 east of the Bonilla-Tatoosh line, 5, 9, 10, 11, 12 and 13 - Open 7:00 a.m., June 1 through the last day in February.

(b) Those contiguous waters of Marine Area 7 north, south and east of a line that extends from Point Francis on Portage Island, through the marker just north of Inati Bay on Lummi Island to Lummi Island, and ~~((east of))~~ a line that extends from the Anacortes ferry dock at Shannon Point, northward to the southeastern tip of Sinclair Island, thence from the northernmost tip of Sinclair Island through Lummi Rocks to Lummi Island (southeast Hale Pass, Bellingham Bay, Samish Bay, Padilla Bay, eastern waters of Bellingham Channel, Guemes Channel and Fidaldo Bay) - Open 7:00 a.m. ~~((June))~~ July 16 through March 15.

(c) Those waters of Marine Area 7 north and east of a line projected from Village Point, Lummi Island through the navigation buoy just east of Matia Island thence to the buoy at Clements Reef thence to the easternmost point of Patos Island, running along the northern shoreline of Patos Island and from the westernmost point of Patos Island due west to the international boundary and north of a line that extends from Point Francis on Portage Island, through the marker just north of Inati Bay on Lummi Island to Lummi Island - Open 7:00 a.m. August 16 through April 15.

(d) Waters of Marine Area 6 and those waters of Marine Area 7 south and west of a line projected from Village Point, Lummi Island through the navigation buoy just east of Matia Island thence to the buoy at Clements Reef thence to the easternmost point of Patos Island, running along the northern shoreline of Patos Island and from the westernmost point of Patos Island due west to the international boundary; and westerly of a straight line from the northernmost tip of Sinclair Island through Lummi Rocks to Lummi Island; and west of a line projected from the southeast point of Sinclair Island to the ferry dock at Shannon Point - Open 7:00 a.m. June 16 through last day in February.

(e) Marine Areas 8-1 and 8-2 - Open 7:00 a.m., the first Friday in June through September 30.

(2) It is unlawful to fish for or possess crab taken for personal use with shellfish pot gear from Marine Areas 1, 2, 3, and Area 4 west of the Bonilla-Tatoosh line except during the period December 1 through September 15. Open to gear other than shellfish pot gear year-round.

(3) The Columbia River upstream from a line projected from the outermost end of the north jetty to the exposed end of the south jetty is open to crab fishing for personal use year-round.

**AMENDATORY SECTION** (Amending Order 04-39, filed 3/4/04, effective 5/1/04)

**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: ~~((Closed the entire year.))~~ Open May 1 through May 31.

(b) Brown Point (DNR 57-B): Open January 1 through ~~((June 30))~~ July 15.

(c) Cama Beach State Park: Closed the entire year.

(d) Camano Island State Park: Closed the entire year.

(e) Cutts Island State Park: Open January 1 through June 15.

(f) ~~((Dabob Bay—All state-owned tidelands in Dabob Bay north of a line drawn from Camp Harmony to Lindsays Beach are closed to the harvest of clams the entire year except as follows:~~

(i) ~~State-owned tidelands from a row of tires at Camp Discovery south approximately 2,000 feet to a second row of tires.~~

(ii) ~~State-owned tidelands beginning approximately 3/4 mile north of Camp Harmony extending approximately 1,200 feet north.~~

(iii) ~~State-owned tidelands from markers and signs posted immediately north of the community of Lindsays Beach north to a line immediately north of Broad Spit identified by markers and signs.~~

(g)) Dosewallips State Park: Open ~~((March))~~ April 1 through July 15 only in area defined by boundary markers and signs posted on the beach.

~~((h)) Duckabush—All state-owned tidelands on the west shore of Hood Canal from Quatsap Point to the south end of the Duckabush flats are open March 1 through December 31.~~

(i)) (g) Dungeness Spit and Dungeness National Wildlife Refuge Tidelands - Open May 15 through September 30.

((j)) (h) Eagle Creek: ~~((Open May 1 through May 31.))~~ Closed the entire year.

((k)) (i) Fort Flagler State Park including that portion of the spit west of the park boundary (Rat Island): Open April 15 through June ~~((15))~~ 30.

((l)) (j) Freeland County Park - Open January 1 through March 31.

((m)) (k) Frye Cove County Park - Open January 1 through ~~((May 31))~~ June 15.

((n)) (l) 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.

((o)) (m) Gertrude Island - All tidelands at Gertrude Island closed the entire year.

((p)) (n) Hoodspout: Tidelands at Hoodspout Salmon Hatchery are closed the entire year.

((q)) (o) Hope Island State Park (South Puget Sound): Open April 1 through May 31.

((r)) (p) Illahee State Park: May 1 through May 31.

((s)) (q) Kayak Point County Park: Closed the entire year.

((t)) (r) Kitsap Memorial State Park: Open May 15 through June 30.

((u)) (s) Kopachuck State Park: Open June 1 through July 31.

((v)) (t) 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.

((w)) (u) McNeil Island - All tidelands on McNeil Island are closed the entire year.

((x)) (v) Mukilteo State Park - Closed the entire year.

((y)) (w) Mystery Bay State Park: Open October 1 through April 30.

((z)) (x) 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.

((aa)) (y) Oak Bay County Park: Open July ~~((15))~~ 15 through July ~~((15))~~ 31.

((bb)) (z) 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.

((ee)) (aa) Penrose Point State Park: Open April 1 through ~~((April 30))~~ May 15.

((dd)) (bb) Picnic Point County Park: Closed the entire year.

((ee)) (cc) Pitship Point: Closed the entire year.

((ff)) (dd) Pitt Island - All tidelands on Pitt Island are closed the entire year.

((gg)) (ee) Point Whitney (excluding Point Whitney Lagoon): March 1 through ~~((March 31))~~ April 15.

((hh)) (ff) Point Whitney Lagoon: Open April ~~((15))~~ 15 through May ~~((31))~~ 15.

((ii)) (gg) Port Townsend Ship Canal/Portage Canal: Open January 1 through ~~((May 31))~~ June 30.

((jj)) (hh) Potlatch DNR tidelands: April 1 through June 15.

((kk)) (ii) Potlatch East: April 1 through June 15.

((ll)) (jj) Potlatch State Park: April 1 through June 15.

((mm)) (kk) Purdy Spit County Park: The southern shore of the spit from the boat ramp to the bridge is closed the entire year.

((nn)) (ll) 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.

~~((oo))~~ (mm) Rendsland Creek: ~~((Open January 1 through May 31.))~~ Closed the entire year.

~~((pp))~~ (nn) Saltwater State Park: Closed the entire year.

~~((qq))~~ (oo) Scenic Beach State Park - ~~((Open April 15 through June 30.))~~ Closed the entire year.

~~((rr))~~ (pp) Seahurst County Park: Closed the entire year.

~~((ss))~~ (qq) Sequim Bay State Park - Open May 1 through June 15.

~~((tt))~~ (rr) Shine Tidelands State Park: Open January 1 through May 15.

~~((uu))~~ (ss) South Indian Island County Park: April 1 through ~~((June 30))~~ August 31.

~~((vv))~~ (tt) Spencer Spit State Park: Open March 1 through July 31.

~~((ww))~~ (uu) Triton Cove Tidelands: Open July ~~((15))~~ 1 through September ~~((15))~~ 30.

~~((xx))~~ (vv) Triton Cove State Park: Open April 1 through June 30.

~~((yy))~~ (ww) Twanoh State Park: Closed the entire year.

~~((zz))~~ (xx) West Dewatto: DNR Beach 44A ~~((closed the entire year))~~ open January 1 through April 15.

~~((aaa))~~ (yy) Willapa Bay: State-owned tidelands east of the department Willapa Bay Field Station and Nahcotta Tidelands Interpretive Site are closed year-round.

~~((bbb))~~ (zz) 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 04-39, filed 3/4/04, effective 5/1/04)

**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) Brown Point (DNR 57-B): Closed the entire year.

~~((Dabob Bay—All state-owned tidelands in Dabob Bay north of a line drawn from Camp Harmony to Lindsays Beach are closed to the harvest of oysters the entire year, except as follows:~~

~~((a) State-owned tidelands from a row of tires at Camp Discovery south approximately 2,000 feet to a second row of tires.~~

~~((b) State-owned tidelands beginning approximately 3/4 mile north of Camp Harmony extending approximately 1,200 feet north.~~

~~((c) State-owned tidelands from markers and signs posted immediately north of the community of Lindsays Beach north to a line immediately north of Broad Spit identified by markers and signs.~~

~~((3) Dosewallips State Park: Open March 1 through December 31 only in areas defined by boundary markers and signs posted on the beach.~~

~~((4) Duckabush—All state-owned tidelands on the west shore of Hood Canal from Quatsap Point to the south end of the Duckabush flats are open to the harvest of oysters March 1 through December 31.~~

~~((5))~~ (3) Frye Cove County Park: Open January 1 through ~~((May 31))~~ June 15.

~~((6))~~ (3) Hoodspout: Tidelands at the Hoodspout Salmon Hatchery are closed the entire year.

~~((7))~~ (4) Hope Island State Park (South Puget Sound): Open April 1 through May 31.

~~((8))~~ (5) Illahee State Park: Open May 1 through June ~~((30))~~ 15.

~~((9))~~ (6) Kitsap Memorial State Park: ~~((Closed the entire year.))~~ Open May 15 through June 15.

~~((10))~~ (7) Kopachuck State Park: Open March 1 through July 31.

~~((11))~~ (8) 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.

~~((12))~~ (9) Mystery Bay State Park: Open October 1 through April 30.

~~((13))~~ (10) 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.

~~((14))~~ (11) 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.

~~((15))~~ (12) Penrose Point State Park: Open April 1 through ~~((April 30))~~ May 15.

~~((16))~~ (13) Port Townsend Ship Canal/Portage Canal: Open January 1 through ~~((May 31))~~ June 30.

~~((17))~~ (14) Potlatch DNR Tidelands: April 1 through June 15.

~~((18))~~ (15) Potlatch East: Open April 1 through June 15.

~~((19))~~ (16) Potlatch State Park: Open April 1 through June 15.

~~((20))~~ (17) 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.

~~((21))~~ (18) Scenic Beach State Park: ~~((Open April 15 through June 30.))~~ Closed the entire year.

~~((22))~~ (19) Sequim Bay State Park: Open May 1 through June 15.

~~((23))~~ (20) Shine Tidelands State Park: Open January 1 through May 15.

~~((24))~~ (21) South Indian Island County Park: April 1 through ~~((June 30))~~ August 31.

~~((25))~~ (22) Triton Cove State Park: Open April 1 through June 30.

~~((26))~~ (23) 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.

~~((27))~~ (24) Wolfe Property State Park: Open January 1 through May 15.

AMENDATORY SECTION (Amending Order 04-217, filed 8/16/04, effective 9/16/04)

**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: ~~((a))~~ In all waters - First Saturday in May through May 31, daily limit 80 shrimp. During all other open periods total weight 10 pounds ((and fishers must retain the heads of all shrimp taken while in the field except in the Hood Canal and Port Angeles Shrimp Districts. Spot shrimp:), 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 ((except in the Hood Canal and Port Angeles Shrimp Districts)).

~~((b))~~ In the Port Angeles Shrimp District—Spot shrimp: No minimum size.

~~((c))~~ In the Hood Canal Shrimp District—80 shrimp regardless of weight. No minimum size for spot shrimp. Fishers are not required to retain the heads of shrimp.)

(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: 10 pounds or 5 quarts.

(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 all waters except the Columbia River and when fishing from the north jetty of the Columbia River - 6 male crabs.

(b) 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 04-39, filed 3/4/04, effective 5/1/04)

**WAC 220-56-315 Crabs, shrimp, crawfish—Unlawful acts.** (1) It is unlawful to take and possess crabs, shrimp, and crawfish taken for personal use except by hand or with hand dip nets, ring nets, shellfish pots, and any hand-operated instrument that will not penetrate the shell.

(2) It is unlawful to use more than two units of gear at any one time except:

(a) In Puget Sound waters ~~((other than Hood Canal Shrimp District))~~ it is unlawful to use at any one time more than two units of crab gear and two additional units of shrimp gear.

(b) ~~((In Hood Canal Shrimp District it is unlawful to use more than one shrimp pot and a total of two star traps or ring nets during the Hood Canal shrimp season.~~

(e)) It is unlawful for the operator of any boat from which shrimp pots are set or pulled in Catch Record Card Areas 4 through 13 to have on board or to fish more than four shrimp pots.

~~((d))~~ (c) In the Columbia River it is unlawful to use more than three units of crab gear.

(3) It is unlawful for any person to operate a shellfish pot not attached to a buoy bearing that person's name, except that a second person may assist the pot owner in operation of the gear.

(4) It is unlawful to salvage or attempt to salvage shellfish pot gear from Hood Canal that has been lost without first obtaining a permit authorizing such activity issued by the director, and it is unlawful to fail to comply with all provisions of such permit.

(5) It is unlawful to fish for or possess crab taken for personal use from the waters of Fidalgo Bay within 25 yards of the Burlington Northern Railroad trestle connecting March Point and Anacortes.

(6) It is unlawful to fish for or possess crab taken for personal use with shellfish pot or ring net gear from the waters of Padilla Bay or Swinomish Slough within 25 yards of the Burlington Northern Railroad crossing the northern end of Swinomish Slough except from one hour before official sunrise to one hour after official sunset.

(7) It is unlawful to dig for or possess ghost or mud shrimp taken for personal use by any method except hand operated suction devices or dug by hand.

(8) One unit of gear is equivalent to one ring net or one shellfish pot.

(9) Each unit of gear must be attached to its own buoy line and have a separate buoy for each unit of gear.

(10) No fisher may set or pull shellfish pots, ring nets or star traps from a vessel in Catch Record Card Areas 1-13 from one hour after official sunset to one hour before official sunrise.

(11) It is unlawful to possess soft-shelled crab for any personal use purpose. Violation of this subsection shall be an infraction, punishable under RCW 77.15.160.

**AMENDATORY SECTION** (Amending Order 04-210, filed 8/17/04, effective 9/17/04)

**WAC 220-69-236 Description of catch record cards and required information.** (1) The department shall prepare and distribute a catch record card for the following:

- (a) Anadromous salmon (salmon);
- (b) Dungeness crab;
- (c) Halibut taken from catch record card areas 5 through 13;
- (d) Steelhead; and
- (e) Sturgeon ~~((taken from the Columbia River, Grays Harbor, and Willapa Bay (including sturgeon taken from any tributary)))~~.

(2) Each catch record card shall contain space for the following information, which must be recorded prior to the catch record card being separated from the underlying copy of the catch record card:

- (a) Name of fisher;
- (b) Home address;
- (c) City, state, and zip code;
- (d) Date of issuance;
- (e) Or, for automated licenses, the catch record card shall contain space for the appropriate validation sticker.

(3) Each catch record card shall contain space for the following information:

- (a) Month of catch;
- (b) Day of catch;
- (c) Catch record card area, river code, or stream: Location of catch;
- (d) A species code for salmon and sturgeon and a marked or unmarked space for salmon;
- (e) A space for designating the type of vessel from which halibut was taken, either charter (c) or personal/kicker (k) boat;
- (f) A space for the length of sturgeon;
- (g) For Dungeness crab:
- (i) The type of crab fishery as described on the Dungeness crab catch record card;
- (ii) The total crab retained by fishery type;
- (iii) A tally mark for each crab retained.

**AMENDATORY SECTION** (Amending Order 04-242, filed 9/2/04, effective 10/3/04)

**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 steelhead limit: Each angler who possesses a valid steelhead catch record card may not retain more than thirty 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 adipose fin and a healed scar in the location of the missing 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 adipose or ventral fin and a healed scar at the location of the missing 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 park-

ing 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) 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) 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) 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	None
	Bass may be caught, retained, and released alive from a livewell until a daily limit is in possession.	

GRASS CARP.... It is unlawful to fish for or retain grass carp.

GAME FISH SPECIES	DAILY LIMIT	MINIMUM SIZE LIMIT
TROUT (except Eastern Brook trout)	A total of five trout, of which no more than two may be from Rivers, Streams, and Beaver Ponds.	None in Lakes, Ponds, and Reservoirs.
	No more than two of the trout daily catch limit of 5 may be Steelhead.	Eight inches in Rivers, Streams, and Beaver Ponds.
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.

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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) 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) Possession limit. Except as otherwise provided, the possession limit is two daily limits in fresh, frozen or processed form.

(16) 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 Straight 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 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, and waters within 500 yards of the Toliva Shoal buoy are closed waters from June 16 through April 30.

(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 05-03, filed 1/5/05, effective 2/5/05)

**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 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.

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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 adipose fin. Additional season October 1 through November 30 and March 1 through 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: Release all fish.

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 6 through 2:00 p.m. July 7 and 12:01 a.m. July 12 through 2:00 p.m. July 13. 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.

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. Upstream from the Lime Quarry Road: Selective gear rules June 1 through March 31. All game fish: Release all fish. 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.

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.

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. (~~All species: Release all fish.~~) 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.

**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.

**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. 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. 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. 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. 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.

Calligan Lake (King County): June 1 through October 31 season. All tributary streams, and the upper third of the outlet are closed waters.

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.

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 1 through last day in February season. Nonbuoyant lure restriction, night closure and single barbless hooks August 1 through November 30. Trout: Minimum length fourteen inches. Voight Creek to Highway 162 Bridge: June 1 through August 15 and December 1 through last day in February season: Trout: Minimum length 14 inches. 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. 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 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. Landsburg Road to Cedar Falls: Closed waters.

Chain Lake (Pend Oreille County): Last Saturday in April through October 31 season. Release kokanee.

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. 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. 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, the daily limit may contain not more than 1 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.

PERMANENT

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, 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 species: 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 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): 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: Landlocked 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.

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.

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 season. Selective gear rules except motors allowed. Trout: Daily limit two. 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 ((which)) 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.

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 a chinook salmon. Release chum, sockeye, 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 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 wild chinook and 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 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 wild chinook and 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 (~~(may be retained)~~) October 1 through ~~(March)~~ October 31. Release all trout except hatchery steelhead (~~(having only adipose fin clips)~~) 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 wild chinook and 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 (~~(having both adipose and ventral fin clips. Release hatchery steelhead having only adipose fin clips)~~).

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 wild chinook and 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 wild chinook and 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 15 season. 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. 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: ~~((Barrier Dam to boundary))~~ From 400 feet or posted markers ((at)) below Cowlitz salmon hatchery barrier dam to boundary markers near the Cowlitz salmon hatchery water intake approximately 1,700 feet upstream ((from)) of the Cowlitz salmon hatchery barrier dam, and from 400 feet below the Mayfield power house 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): 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 from Moses Lake downstream to the confluence of the outlet streams.

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.

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.

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.

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. 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. 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. All game fish: Release all fish except that up to two hatchery steelhead per day may be retained. 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. All game fish: Release all fish except that up to two hatchery steelhead per day may be retained. 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. Trout: Release all fish except up to two hatchery steelhead may be retained per day. Salmon: 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.

PERMANENT

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.

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 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.

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 15 season. Trout: ~~((Release all fish except up to two hatchery steelhead may be retained per day-))~~ Minimum length 14 inches. Release steelhead and wild cutthroat.

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.



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 season; and from Highway 4 Bridge to mouth of South Fork: September 1 through October 15 and December 15 through March 15 season. Nonbuoyant lure restriction, night closure and stationary gear restriction September 1 through October 15. All game fish: Release all fish except hatchery steelhead. Salmon: 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 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: Release all fish except 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.

From 2800 Bridge to source: Closed waters.

Green (Duwamish) River (King County):

From the First Avenue South 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 1 through November 30 First Avenue South Bridge to Pacific Highway South Bridge and September 16 through November 30 from Pacific Highway South Bridge to SW 43rd Street/180th Street Bridge. Fishing from any floating device prohibited November 1 through last day in February. 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 1 through December 31 First Avenue Bridge to Pacific Highway South Bridge. Daily limit 6 fish of which no more than 3 may be adult salmon. Release chinook. Open only September 16 through December 31 Pacific Highway South Bridge to SE 43rd Street/South 180th Street Bridge. Daily limit 6 fish of which not more than 3 may be adult salmon. Release chinook salmon.

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 salmon.

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 salmon.

Greenwater River (King County), from mouth to Greenwater Lakes: Selective gear rules. Trout: Minimum length twelve 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 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: June 1 through April 15 season. 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. 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 mouth to Willoughby Creek and October 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 16 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 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.

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.

Humtulpis 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. 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 wild adult coho. October 16 through November 30 the daily limit may contain no more than 1 adult chinook. December 1 through January 31 release adult chinook.

Humtulpis River, East Fork (Grays Harbor County), from mouth to concrete bridge on Forest Service Road between Humtulpis Guard Station and Grisdale: Nonbuoyant lure restriction and night closure August 16 through November 30. Trout: Minimum length fourteen inches.

Humtulpis 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 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 (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.

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.

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 from mouth to Ballon Creek. 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. Nonbuoyant lure restriction, night closure, and stationary gear restriction September 1 through October 31 from mouth to one thousand five hundred feet below 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. 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.

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.

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.

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.

**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 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. 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. 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. (~~Salmon-Landlocked salmon rules apply~~)

Lions Park Pond (Walla Walla County): Juveniles only.

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 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.

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.

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. 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 to Weeman Bridge: June 1 through September 30 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: 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 (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, only crappie more than ten 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 bass over fifteen inches in length may be retained. Walleye: Minimum length eighteen 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 inches in length may be retained.

Mosquito Creek (Jefferson County), outside Olympic National Park: June 1 through last day in February season. Selective gear rules. Trout: Minimum length fourteen inches.

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, and waters from two hundred feet upstream of the Naselle Salmon Hatchery water supply intake barrier to four hundred feet downstream of the entrance to the Naselle Salmon Hatchery attraction channel.

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 August 16 through November 30. Selective gear rules March 1 through April 15 from mouth to North 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.

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. Release game fish. 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. 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, fishers may not allow their line, lures or bait to remain stationary in the water 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: 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. 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.

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 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 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.

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.

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.

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. 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. 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 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.
- 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 1 through January 31 season. 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 September 1 through December 31 from mouth to Carbon River. Daily limit 6 fish of which no more than 2 may be adult salmon. 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.
- Pysht 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.
- Pysht 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.

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. 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.

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.

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 (~~February~~) 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 fish no more than one of which may be longer than 18 inches. Salmon: Landlocked salmon rules apply. Sturgeon:

Unlawful to fish for or retain sturgeon from Roosevelt Lake and tributaries.

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 a 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.

Rufus Woods Lake (Douglas County): Chumming allowed. Trout: Daily limit two. 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.

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 (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 a motor. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, mini-

imum length twenty inches. Salmon: Open only September 1 through December 31. Daily limit three salmon except release chum and release chinook.

From Memorial Highway Bridge (Highway 536 at Mt. Vernon) upstream to Gilligan Creek: June 1 through March 31 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. Salmon: Open only September 1 through December 31. Daily limit three salmon except release chum and release chinook.

From Gilligan Creek to Bacon Creek: 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 three salmon except release chum and release chinook.

From the Dalles Bridge at Concrete to the Cascade River - Salmon open July 1 through July 31, 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 three salmon except release chum and release chinook.

From Bacon Creek to Gorge Powerhouse: June 1 through last day in February 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.

Skokomish River (Mason County), mouth to forks: Night closure, nonbuoyant lure restriction and single point barbless hooks required September 1 through November 30 mouth to Highway 101. June 1 through July 31 and September 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 September 1 through December 15 mouth to Highway 101 Bridge. Daily limit 1 salmon September 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 September 1 through December 31



mouth to Lewis Street Bridge in Monroe. Daily limit 2 salmon. Release chinook and pink salmon. Open June 16 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 2 salmon. Release chinook and pink salmon.

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 2 salmon. Release chinook and pink salmon.

**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.

**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 (~~as part of the daily limit~~). ~~((No))~~ 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. Selective gear rules August 1 through August 31. 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 1 through December 31. Daily limit 2 salmon. August 1 through August 31 release all salmon except pink salmon. September 1 through December 31 release chinook and pink salmon. 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 a 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. 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. 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 9 through October 31 to fishing by juveniles only. Night closure October 9 through October 31. Terminal gear restricted to one single 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 1 through July 31 season.

Spirit Lake (Skamania County): Closed waters.

Spokane River (Spokane County):

From SR 25 Bridge upstream to the Seven Mile Bridge, 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 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: Selective gear rules, except fishing from a floating device equipped with a 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.

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 hatchery steelhead. 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 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 1 through November 30: All species: Release all fish except hatchery steelhead. April 16 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: Selective gear rules.

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.

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.

Teaway 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. 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:

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 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. Trout: Release all steelhead. (~~Bass: No minimum or maximum size. No more than three bass over fifteen inches in length may be retained.~~) 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 hatchery steelhead. 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 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.

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 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.

**Washougal River (Clark County):**

From mouth to bridge at Salmon Falls: June 1 through March 15 season. Nonbuoyant lure restriction, night closure and stationary gear restriction September 1 through October 31. 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. Upstream of Little Washougal River, release chinook October 1 through November 30.

From mouth to Mt. Norway Bridge: Additional April 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.

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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.

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 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 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: Nonbuoyant lure restriction and night closure October 1 through November 30. 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 March 31 season, except sturgeon. Night closure, single point barbless hooks, and stationary gear restriction August 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 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.

South Fork: June 1 through last day in February season. 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.

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. 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. 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.

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 from mouth to West Fork. 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. 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 Prosser Dam: Chumming permitted. Salmon: Open only September 1 through October 22. Daily limit 6 fish of which no 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.



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.

### WSR 05-05-036

#### PERMANENT RULES

#### DEPARTMENT OF AGRICULTURE

[Filed February 11, 2005, 11:10 a.m., effective March 14, 2005]

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

Purpose: This rule-making order is in response to a petition received from the Washington State Horticultural Association, requesting that the department amend WAC 16-229-010 Definitions, to exempt pesticides containing Kaolin clay from the definition of "pesticide." With this exemption, pesticides containing Kaolin clay will no longer affect permanent mixing/loading site threshold values and, therefore, substantially reducing operating costs for pears producers while promoting the use of pesticide products that have proven effective and environmentally safe.

Citation of Existing Rules Affected by this Order:  
Amending WAC 16-229-010.

Statutory Authority for Adoption: RCW 17.21.030  
(1)(a).

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 05-01-147 on  
December 20, 2004.

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

Number of Sections Adopted at Request of a Nongov-  
ernmental Entity: New 0, Amended 1, Repealed 0.

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

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

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

Date Adopted: February 11, 2005.

Valoria H. Loveland  
Director

AMENDATORY SECTION (Amending WSR 03-09-034,  
filed 4/8/03, effective 5/9/03)

**WAC 16-229-010 Definitions.** The definitions set forth  
in this section shall apply throughout this chapter unless the  
context otherwise requires:

(1) "**Approved air gap**" means a physical separation  
between the free-flowing end of a water supply pipeline and  
the overflow rim of an open or nonpressurized receiving ves-  
sel. To be an approved air gap, the separation must be at least:

(a) Twice the diameter of the supply piping measured  
vertically from the overflow rim of the receiving vessel, and  
in no case be less than one inch, when unaffected by vertical  
surfaces (sidewalls); or

(b) Three times the diameter of the supply piping, if the  
horizontal distance between the supply pipe and a vertical  
surface (sidewall) is less than or equal to three times the  
diameter of the supply pipe, or if the horizontal distance  
between the supply pipe and intersecting vertical surfaces  
(sidewalls) is less than or equal to four times the diameter of  
the supply pipe and in no case less than one and one-half  
inches.

(2) "**Approved reduced pressure principle backflow  
prevention assembly (RPBA)**" means an RPBA of a make,  
model and size that is approved by the Washington state  
department of health.

(3) "**Appurtenances**" means all valves, pumps, fittings,  
pipes, hoses, metering devices, and mechanical devices  
which are connected to a storage container, or which are used  
to transfer a material into or out of such container.

(4) "**Bulk pesticide**" means any registered pesticide  
which is transported or held in an individual container in

undivided quantities of greater than fifty-five U.S. gallons liquid measure or one hundred pounds net dry weight.

(5) "**Certified engineer**" means a licensed professional engineer, registered in the state of Washington in the discipline in which he/she is practicing.

(6) "**Department**" means the Washington state department of agriculture.

(7) "**Discharge**" means a spill, leak, or release, accidental or otherwise, from a storage container, container or appurtenance. It does not include a fully contained transfer of pesticide which is made pursuant to sale, storage, distribution or use.

(8) "**Dry pesticide**" means pesticide which is in solid form prior to any application or mixing for application, and includes formulations such as dusts, wettable powders, dry flowable powders, granules, and water dispersible granules.

(9) "**Liquid pesticide**" means pesticide in liquid form, and includes solutions, emulsions, suspensions, slurries, and pesticide rinsates.

(10) "**Mini bulk pesticide**" means an amount of liquid pesticide greater than fifty-five gallons but not exceeding five hundred gallons which is held in a single container designed for ready handling and transport, which has been filled by the original pesticide manufacturer or repackager, and to which no substance has been added by any person.

(11) "**Not technically feasible**" means compliance is not physically or technically possible or feasible, and/or compliance cannot be achieved without compromising operational safety, and/or significantly compromising operational access. Monetary cost of compliance alone shall not be sufficient for the department to determine that compliance is not technically feasible.

(12) "**Operational area**" means an area or areas where pesticides are transferred, loaded, unloaded, mixed, repackaged, refilled or where pesticides are cleaned, or rinsed from containers or application, handling, storage or transportation equipment.

(13) "**Operational area containment**" means any structure or system designed and constructed to intercept and contain discharges, including storage container or equipment wash water, rinsates, and rainwater from the operational area(s).

(14) "**Permanent mixing/loading site**" means a site (location) at which more than three hundred gallons of liquid pesticide (formulated product) or three thousand pounds of dry pesticide or at which a total of fifteen hundred pounds of pesticides as active ingredients are being mixed, repackaged or transferred from one container to another within a calendar year: Provided, That wood preservative application systems already regulated by 40 CFR, Parts 264.570-575 and Parts 265.440-445 shall be exempt.

(15) "**Permanent storage facility**" means a location at which liquid bulk pesticide in a single container or aggregate quantities in excess of five hundred U.S. gallons or dry bulk pesticide in undivided quantities in excess of two thousand pounds is held in storage: Provided, That mini-bulk pesticide containers are exempt from this chapter.

(16) "**Pesticide**" means, but is not limited to:

(a) Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any insect, rodent,

snail, slug, fungus, weed, and any other form of plant or animal life or virus, except virus on or in a living person or other animal which is normally considered to be a pest or which the director may declare to be a pest;

(b) Any substance or mixture of substances intended to be used as a plant regulator, defoliant or desiccant; and

(c) Any spray adjuvant.

(d) For the purpose of establishing permanent mixing/loading site threshold values petroleum oils and products containing only Kaolin clay as the active ingredient are exempt from this chapter.

(17) "**Primary containment**" means the storage of liquid or dry bulk pesticide in storage containers at a permanent storage facility.

(18) "**Rinsate**" means the liquid generated from the rinsing of any equipment or container that has come in direct contact with any pesticide, including: Recovered sedimentation, washwater, contaminated precipitation, or other contaminated debris.

(19) "**Secondary containment**" means a device or structure designed, constructed, and maintained to hold or confine a discharge of a liquid pesticide from a permanent storage facility.

(20) "**Storage container**" means a container, including a rail car, nurse tank or other mobile container, that is used or intended for the storage of bulk liquid or dry pesticide. It does not include a mobile container at a storage facility for less than fifteen days if this storage is incidental to the loading or unloading of a storage container at the bulk pesticide storage facility. Storage container does not include underground storage containers or surface impoundments such as lined ponds or pits.

(21) "**Substantially similar protection**" means alternative containment and management practices that prevent or control releases to the environment to the same or similar degree as the protections afforded by full compliance with this chapter.

(22) "**Temporary field storage**" means a storage container with the capacity to store two thousand five hundred gallons or less of bulk liquid pesticide that remains in the same location for no more than fourteen consecutive days in any six-month period. Provided, That temporary field storage containers used to store soil fumigants shall be allowed a maximum capacity of ten thousand gallons or less. Containers must be chemically compatible with the material, which is being stored. Such containers can remain in the same location for no more than fourteen consecutive days in any six-month period. Liquid bulk pesticide application tanks directly attached to an apparatus for the purpose of chemigation are exempt from this chapter.

(23) "**Washwater**" means the liquid generated from the rinsing of the exterior of any equipment, containers or secondary containment or operational areas which have or may have come in direct contact with any pesticide.

## WSR 05-05-042

## PERMANENT RULES

## HORSE RACING COMMISSION

[Filed February 14, 2005, 10:18 a.m., effective March 17, 2005]

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

Purpose: Amend WAC 260-75-030 to eliminate the need for a class 1 racing association to produce internal control policies and procedures for its satellite locations and specify the location manager responsible for compliance with WAC 260-12-050. To establish a new section, WAC 260-75-040, to establish the commission as the sole authority over violations of chapter 260-75 WAC and to provide penalties for violations and an adjudicative process for a class 1 racing association.

Citation of Existing Rules Affected by this Order: Amending WAC 260-75-030 Satellite locations.

Statutory Authority for Adoption: RCW 67.16.020 and 67.16.040.

Adopted under notice filed as WSR 05-01-212 on December 21, 2004.

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

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

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

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

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

Date Adopted: February 10, 2005.

R. M. Leichner  
Executive Secretary

**AMENDATORY SECTION** (Amending WSR 04-19-045, filed 9/13/04, effective 10/14/04)

**WAC 260-75-030 Satellite location** (~~(policies and procedures)~~). (1) ~~((Each class 1 association shall develop internal control policies and procedures for its satellite locations. These procedures shall include controls for satellite location assets including maintaining a log of daily cash balances. The policies and procedures shall be filed with the commission.~~

~~(2))~~ Each satellite location shall have a location manager designated by the host racing association.

(2) All location managers and mutuel clerks shall be licensed by the commission. The host association shall not activate any terminal for any person that is not currently licensed or approved by the commission.

(3) The location managers shall be responsible to ensure the satellite location is in compliance with WAC 260-12-250.

(4) All satellite locations shall be periodically inspected by the commission ~~((to ensure that the internal control policies and procedures are followed))~~.

NEW SECTION

**WAC 260-75-040 Enforcement and penalties.** (1) Any violations of this chapter shall be referred to the commission. The commission shall have sole authority to ensure compliance with these rules, conduct hearings on violations, and determine penalties for violations.

(2) The approval to operate a satellite location and/or the license of location managers and mutuel clerks may be suspended or revoked and/or fines may be imposed, if the commission finds violations of any of the requirements of chapter 67.16 RCW or Title 260 WAC or failure to comply with any conditions on the operation of the satellite location imposed by the commission.

(3) The commission shall provide an opportunity for an adjudicative proceeding prior to denial, suspension or revocation of approval of a satellite location or of a license, or the imposition of fines, and shall provide a class 1 racing association a hearing on refusal of approval or withdrawal of approval of the agreement between the association and the satellite location.

## WSR 05-05-043

## PERMANENT RULES

## HORSE RACING COMMISSION

[Filed February 14, 2005, 10:19 a.m., effective March 17, 2005]

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

Purpose: To clarify the commission's authority to search all areas within the grounds of a licensed racing association and to seize any medication, drugs, paraphernalia, or device prohibited by the rules of racing or other evidence of a violation of the rules of racing.

Citation of Existing Rules Affected by this Order: Amending WAC 260-36-180 Authority to search.

Statutory Authority for Adoption: RCW 67.16.020 and 67.16.040.

Adopted under notice filed as WSR 05-02-078 on January 5, 2005.

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

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

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

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

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

PERMANENT

Date Adopted: February 10, 2005.

R. M. Leichner  
Executive Secretary**AMENDATORY SECTION** (Amending Order 81-03, filed 4/22/81)

**WAC 260-36-180 ((Consent)) Authority to search.** In order to protect the integrity of horse racing and to protect the interests and safety of the public, ~~any person who accepts a license or occupational permit from the commission and enters upon the grounds of a racing association is deemed to have given consent, subject to the provisions of this section, to a search of his person, effects, and/or any premises which that person may occupy or have the right to occupy upon the grounds. The commission and its stewards shall have the right to authorize personnel to conduct such searches. A licensee's or permit holder's person, effects, or premises may be searched upon the grounds when a person authorized to conduct such searches has reasonable grounds to believe that the licensee or permit holder has in his possession prohibited material or illicit devices, including, but not limited to, prohibited drugs or medication, controlled substances, nonauthorized hypodermic instruments, illicit mechanical or electric devices, and weapons. When possible such searches shall be conducted in a manner to avoid undue intrusion of privacy, but a dispute as to the appropriate conditions for a search shall not be grounds for failing to permit an otherwise appropriate search. Failure to permit a search as authorized herein shall result in revocation of the person's license or permit upon receipt by the commission of a sworn statement that a search was so refused. All persons to be searched shall be advised that failure to permit a search will result in revocation of their license or permit. Upon receipt of a sworn statement that a search has been refused, the commission or board of stewards shall inform the licensee or permit holder in writing that their license or permit has been revoked)) and participants, the commission and its employees shall have the right to enter into or upon the buildings, stables, rooms, motor vehicles or other places within the grounds of a racing association to examine the same and to inspect and examine the personal property and effects of any licensee within such places. Any person who has been granted a license by the commission, by accepting a license, authorizes the commission or its employees to search his/her person and the areas indicated herein and to seize any medication, drugs, paraphernalia or device prohibited by the rules of racing, or other evidence of a violation of the rules of racing. If a licensee refuses to allow a search, the stewards shall revoke his/her license and refer the matter to the commission.~~

WSR 05-05-044

PERMANENT RULES

**HORSE RACING COMMISSION**

[Filed February 14, 2005, 10:20 a.m., effective March 17, 2005]

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

Purpose: To repeal WAC 260-56-020 [260-56-030].

Citation of Existing Rules Affected by this Order:  
Repealing WAC 260-56-020 [260-56-030] Costs and expenses.

Statutory Authority for Adoption: RCW 67.16.020 and 67.16.040.

Adopted under notice filed as WSR 05-01-213 on December 21, 2004.

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

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

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

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

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

Date Adopted: February 10, 2005.

R. M. Leichner  
Executive Secretary**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 260-56-030 Costs and expenses.

WSR 05-05-045

PERMANENT RULES

**HORSE RACING COMMISSION**

[Filed February 14, 2005, 10:21 a.m., effective March 17, 2005]

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

Purpose: Establish a new section in chapter 260-72 WAC to address (1) the use of personal communications devices in the jockey's quarters, and while on horseback on the racing surface during live racing, and (2) the use of audible personal communication devices in the saddling enclosure of the paddock, the receiving barn and the test barn when horses are present.

Statutory Authority for Adoption: RCW 67.16.020 and 67.16.040.

Adopted under notice filed as WSR 05-02-077 on January 5, 2005.

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

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

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

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

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

Date Adopted: February 10, 2005.

R. M. Leichner  
Executive Secretary

## NEW SECTION

**WAC 260-72-050 Use of personal communication devices on the grounds.** (1) The use of personal communication devices is not allowed by any licensee, except with prior approval or in the case of an emergency, in the jockey's quarters thirty minutes prior to the first live race and until the final live race on the card is official.

(2) No licensee shall use a personal communication device while on horseback on the racing surface, during live racing, except with permission of the board of stewards.

(3) The use of audible personal communication devices shall be prohibited in the saddling enclosure of the paddock, the receiving barn, and test barn when horses are present. These devices are permitted, but when carried in these areas these devices shall be turned off or set to a silent mode.

**WSR 05-05-046  
PERMANENT RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 05-22—Filed February 14, 2005, 2:27 p.m., effective March 17, 2005]

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

Purpose: Amend rule on landing sport caught Canadian origin fish.

Citation of Existing Rules Affected by this Order: Amending WAC 220-56-156.

Statutory Authority for Adoption: RCW 77.12.047.

Adopted under notice filed as WSR 04-19-064 on September 15, 2004.

Changes Other than Editing from Proposed to Adopted Version: In title, delete "delivering" and replace with "Possession and deliver of"; after struck language "in any" insert "possess in marine waters or"; strike "delivering" and replace with "that possesses or delivers"; after "catch record" insert "card"; strike "valid"; strike "period when the"; after "shellfish" strike "or" and insert "and"; after "food fish" strike "were"; strike the new language beginning with "For purposes..." through "boat trailer" and replace with "It is unlawful to possess in marine waters or deliver to a Washington port, moorage, anchorage, or vessel launching facility any"; strike "and"; strike new language "delivered to"; strike "a Washington port"; strike new language ", moorage, anchorage, or vessel launching facility"; strike "must"; insert

"unless such salmon"; strike new language "the waters of or adjacent to that"; strike "port" strike remainder of new language and replace with "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. For 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."

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

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

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

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

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

Date Adopted: February 4, 2005.

Susan Yeager  
for Ron Ozment, Chair  
Fish and Wildlife Commission

**AMENDATORY SECTION** (Amending Order 92-19, filed 5/12/92, effective 6/12/92)

**WAC 220-56-156 ((Landing)) Possession and delivery of Canadian origin food fish and shellfish.** It is unlawful to ~~((land in any)) 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 ~~((landing)) that possesses or delivers~~ the shellfish or food fish possesses a valid Canadian sport fishing license and catch record card, if one is required, ~~((valid))~~ for the ~~((period when the))~~ shellfish ~~((or)) and food fish ((were))~~ taken. 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 ((and landed at a Washington port must)) unless such salmon meet current salmon regulations for ((that port)) 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. 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.

### WSR 05-05-047

#### PERMANENT RULES

#### HORSE RACING COMMISSION

[Filed February 14, 2005, 3:13 p.m., effective March 17, 2005]

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

Purpose: To amend WAC 260-36-120 to add felony drug convictions to the criteria the commission will use to deny an application for license or suspend an existing license.

Citation of Existing Rules Affected by this Order: Amending WAC 260-36-120 Denial, suspension, and revocation—Grounds.

Statutory Authority for Adoption: RCW 67.16.020 and 67.16.040.

Adopted under notice filed as WSR 05-01-214 on December 21, 2004.

Changes Other than Editing from Proposed to Adopted Version: The period of time a person convicted on felony drug crimes for possession or use would be ineligible for a license was reduced from ten years to three years.

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

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

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

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

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

Date Adopted: February 10, 2005.

R. M. Leichner  
Executive Secretary

AMENDATORY SECTION (Amending WSR 04-07-075, filed 3/15/04, effective 4/15/04)

**WAC 260-36-120 Denial, suspension, and revocation—Grounds.** (1) The commission or its designee may refuse to issue or may deny a license to an applicant, or may suspend or revoke a license issued, or may order disciplinary measures, if the applicant or licensee:

- (a) Has been convicted of a felony;
- (b) Has been convicted of violating any law regarding gambling or a controlled substance;
- (c) Has pending misdemeanor or gross misdemeanor criminal charges;

(d) Has failed to meet the minimum qualifications required for the license for which they are applying;

(e) Has failed to disclose or states falsely any information required in the application;

(f) Has been found in violation of statutes or rules governing racing in this state or other jurisdictions;

(g) Has disciplinary charges pending in this state or other racing jurisdiction;

(h) Has been or is currently excluded from association grounds by a recognized racing jurisdiction;

(i) Has had a license denied, by any racing jurisdiction;

(j) Is a person whose conduct or reputation may adversely reflect on the honesty and integrity of horse racing or interfere with the orderly conduct of a race meeting;

(k) Demonstrates financial irresponsibility by accumulating unpaid obligations, defaulting in obligations or issuing drafts or checks that are dishonored or payment refused;

(l) Has violated any of the alcohol or substance abuse provisions outlined in chapter 260-34 WAC;

(m) Has violated any of the provisions of chapter 67.16 RCW; or

(n) Has violated any provisions of Title 260 WAC.

(2) The commission or its designee shall deny the application for license or suspend or revoke an existing license if the applicant or licensee:

(a) Has been convicted of any felony crimes against a person;

(b) Has been convicted of any felony property crime within the past ten years;

(c) Has been convicted of any felony drug crime involving the possession or use of any drug as defined in chapter 69.41 RCW or any controlled substance as defined in chapter 69.50 RCW within the past three years.

(d) Has been convicted of any other felony drug crime as defined in chapter 69.41 RCW or felony crime involving a controlled substance as defined in chapter 69.50 RCW.

(e) Has five or more convictions for gross misdemeanors within the last three years;

~~((d))~~ (f) Is subject to current prosecution or pending charges for any felony crime;

~~((e))~~ (g) Has a felony conviction under appeal;

~~((f))~~ (h) Is currently suspended or revoked in Washington or by another recognized racing jurisdiction;

~~((g))~~ (i) Is certified under RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order; or

~~((h))~~ (j) Has any outstanding arrest warrants.

(3) An appeal of a license denial based on this policy shall be filed as outlined in WAC 260-88-010. In considering an appeal from a decision by the board of stewards denying a license pursuant to subsection (2) of this section, the commission may only reverse the denial on a showing by the appellant of mitigating information and that the best interests of horse racing would not be compromised by granting or reinstating a license.

(4) A license suspension or revocation shall be reported in writing to the applicant and the Association of Racing Commissioners International, Inc. whereby other member racing jurisdictions shall be advised.

(5) A recognized racing jurisdiction shall include members of the Association of Racing Commissioners International (RCI) and the North American Pari-Mutuel Regulators Association (NAPRA), and any other racing authority with which the commission has a written reciprocity agreement.

**WSR 05-05-049**  
**PERMANENT RULES**  
**HORSE RACING COMMISSION**

[Filed February 14, 2005, 3:16 p.m., effective March 17, 2005]

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

Purpose: To amend chapter 260-08 WAC as part of the agency regulatory reform in compliance with the Governor's Executive Order 97-02 and to adopt in Title 260 WAC to model rules of procedure in chapter 10-08 WAC. In addition, to move the language in WAC 260-88-010 to chapter 260-08 WAC and repeal chapter 260-88 WAC.

Citation of Existing Rules Affected by this Order: Repealing WAC 260-08-670, 260-08-680, 260-08-690, 260-08-700, 260-08-710, 260-08-720, 260-08-730, 260-08-740, 260-08-750, 260-08-760, 260-08-770, 260-08-780, 260-08-790, 260-08-800, 260-08-810, 260-08-820, 260-08-830 and 260-88-010; and amending WAC 260-08-005.

Statutory Authority for Adoption: RCW 67.16.020 and 67.16.040.

Adopted under notice filed as WSR 05-01-211 on December 21, 2004.

Changes Other than Editing from Proposed to Adopted Version: Language clarifying who the presiding officer would be in the absence of the chair of the commission and the role of the commission and an administrative law judge during a hearing were added to WAC 260-08-673.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 4, Amended 1, Repealed 18.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 4, Amended 1, Repealed 18.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 4, Amended 1, Repealed 18.

Date Adopted: February 10, 2005.

R. M. Leichner  
Executive Secretary

**AMENDATORY SECTION** (Amending WSR 93-24-019, filed 11/19/93, effective 12/20/93)

**WAC 260-08-005 Horse racing commission—Composition—Duties.** The horse racing commission, composed of ~~((three))~~ five members appointed by the governor, is

responsible for licensing, regulating and supervising all horse racing meets in the state where the parimutuel system is used. The commission also approves and regulates satellite locations and simulcasting, and licenses and regulates advance deposit wagering. The commission functions through periodic public meetings ~~((held throughout the state))~~ and where required, conducts hearings in accordance with this chapter. Various commission employees, where required, assist the commission with the statutory duties and the enforcement of chapters 260-12 through 260-84 WAC. ~~((The public may obtain information and make submissions at the main commission office as well as the temporary field offices at each of the several licensed tracks when operating.))~~

**NEW SECTION**

**WAC 260-08-671 Adoption of rules of procedure—Model rules.** The commission adopts the model rules of procedure as set forth in chapter 10-08 WAC. If there is a conflict between the model rules and this chapter, the rules in this chapter shall govern. Whenever the term "agency" appears in the model rules it means the Washington horse racing commission.

**NEW SECTION**

**WAC 260-08-673 Presiding officer—Who may preside.** Pursuant to RCW 34.05.425, the presiding officer in a commission hearing shall be the chair of the commission, or other commission member designated by the chair. In proceedings in which the chair or other designee is the presiding officer, the commission shall make the final decision and enter the final order.

In the alternative, the commission may designate that the presiding officer shall be one or more administrative law judges assigned by the office of administrative hearings in accordance with chapter 34.12 RCW.

The administrative law judge shall conduct the proceeding and enter an initial order. The initial order shall be subject to review by the commission as provided in RCW 34.05.464.

**NEW SECTION**

**WAC 260-08-675 Hearing before the commission.** Any person against whom a ruling is made by the stewards may request a hearing before the commission to challenge the ruling. However, a decision concerning the disqualification or nondisqualification of a horse due to a foul or riding infraction during the running of a race is final and will not be reviewed by the commission.

(1) Requests for a hearing before the commission must be filed with an office of the commission within seven days of service of the stewards' ruling.

(2) The request must include: The name, address, telephone number and the signature of the person making the request and a statement of the basis for the challenge to the ruling.

(3) The commission will conduct an adjudicative proceeding according to the provisions of chapter 34.05 RCW,

Administrative Procedure Act, and chapter 260-08 WAC, Practice and procedure.

(4) On notification by the commission that a request for a hearing has been filed, the stewards shall forward to the commission the record of the ruling conference.

(5) Any person requesting a hearing before the commission will be heard in person or by counsel. A person appearing before the commission may submit his or her case entirely in writing, provided this is specified at the time of the filing of the request for hearing with the commission and this procedure is given written approval by the commission.

(6) All communications to the commission with respect to a stewards' ruling must be in writing, and all papers filed with the commission shall be the property of the commission.

**NEW SECTION**

**WAC 260-08-677 Exhaustion of administrative remedies.** A person may file a petition for judicial review only after exhausting all administrative remedies available within the commission, pursuant to RCW 34.05.534. Administrative remedies at the WHRC consist of commission hearings.

The court may relieve a petitioner of the requirements to exhaust any or all administrative remedies upon a showing that:

- (1) The remedies would be patently inadequate;
- (2) The exhaustion would be futile; or
- (3) The grave irreparable harm that would result from having to exhaust administrative remedies would clearly outweigh the public policy requiring exhaustion of administrative remedies.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

WAC 260-08-670	Proceedings before the commission—Application.
WAC 260-08-680	Proceedings—Notice.
WAC 260-08-690	Proceedings—Notice to limited English speaking parties.
WAC 260-08-700	Computation of time.
WAC 260-08-710	Continuances.
WAC 260-08-720	Filing and service of papers.
WAC 260-08-730	Subpoenas.
WAC 260-08-740	Prehearing conference.
WAC 260-08-750	Evidence.
WAC 260-08-760	Testimony under oath or affirmation.
WAC 260-08-770	Reporting-recording.
WAC 260-08-780	Teleconference hearings.
WAC 260-08-790	Cameras—Recording devices.

WAC 260-08-800	Presiding officer.
WAC 260-08-810	Initial or final order.
WAC 260-08-820	Petition for rule making—Form, content and filing.
WAC 260-08-830	Consideration and disposition.

**WSR 05-05-051**

**PERMANENT RULES**

**DEPARTMENT OF AGRICULTURE**

[Filed February 14, 2005, 3:24 p.m., effective March 17, 2005]

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

Purpose: This rule-making order increases the certification fees for forest reproductive material certified by the Washington State Crop Improvement Association by the Office of Financial Management fiscal growth factor of 3.03% for the fiscal year 2005 assuring fees for seed certification services are adequate to cover increases in operating costs.

Citation of Existing Rules Affected by this Order: Repealing WAC 16-319-001, 16-319-002, 16-319-003, 16-319-004, 16-319-006 and 16-319-007; and amending WAC 16-319-041.

Statutory Authority for Adoption: RCW 15.49.310, 15.49.370(3).

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 05-01-232 on December 22, 2004.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 6.

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 6.

Date Adopted: February 14, 2005.

Valoria H. Loveland  
Director

**AMENDATORY SECTION** (Amending WSR 04-06-028, filed 2/24/04, effective 3/26/04)

**WAC 16-319-041 Application for certification of forest reproductive material.** (1) The conditions of applicant's submittal and of certifying agency's acceptance of application are:

PERMANENT



(a) The application should show all classes for which certification services are requested.

(b) All reproductive material acquired or distributed by applicant of a type for which certification is requested is subject to audit.

(c) Applicant shall be responsible for payment of fees for certification services.

(d) Applicant is responsible for developing a record keeping system and labels available and satisfactory to the certifying agency.

(e) Certifying agency reserves the right to refuse certification service to applicant.

(f) Application for audit certification reproductive material shall be filed with certifying agency of the state in which warehouse, nursery, etc., is located with a copy to the certifying agency in the state where the reproductive material is collected.

(2) Timing of application requests for certification services:

(a) Application requests for source identified subclass B and lower classes for the current year's production of reproductive material shall be received by certifying agency from applicant not later than three days prior to initiation of collection, production, or propagation of forest reproductive material.

(b) For source identified subclass A and higher certification class, the applicant shall make application for service, and present a written plan to the certifying agency two weeks prior to the beginning of the collection season. The written plan will include the following:

(i) For subzone collection, areas shall be defined by legal description.

(ii) Details of the collection organization including names of buyers and field supervisors, estimated harvest volume, receiving station location(s), and other pertinent information.

(c) Application requests for all other services shall be received by certifying agency from applicant not later than seven days before need.

(3) The certifying agency establishes the fee schedule for certification services. These may be adjusted at the beginning of a crop year if certifying agency determines that costs are significantly more or less than anticipated: Provided, That increases shall not exceed twenty-five percent.

(a) Cones and seed:

(i) Tested and selected - the service includes review of test plans, audit of pertinent records and field inspection at the hourly job time rate shown in current fee schedule.

(ii) Source identified classes - the fee includes field inspection at the per bushel rate shown in the current fee schedule and audit of conditioning at the hourly rate also shown in the current fee schedule.

The fee for each lot containing less than sixty bushels shall be a maximum of thirty-six dollars: Provided, That the certifying agency, due to specific circumstances, may waive this maximum fee or a part thereof.

(iii) Audit class - the fee includes audit of applicant's field and conditioning records at the hourly rate shown in the current fee schedule.

(b) Trees: The fee includes the verification of the source of the trees from the seed source, stratification, sowing, bed identification, lifting, sorting, package identification, storing and/or transplanting.

(c) Not entered for certification: The fee for audit of reproductive material not entered for certification service is performed as required by and satisfactory to certifying agency to exercise said audit simultaneously with audit of reproductive material which applicant has requested certification service.

(d) The fee for certification classes applied for shall be charged whether or not offered material qualifies.

(e) The certifying agency may provide other services, such as training to comply with these standards, advising on the development of recordkeeping systems directly connected with certification needs if requested by the applicant.

(4) Fee schedule:

(a) Tree cones and seed -

Certification Classes	Field Inspection	Audit	Fee Due
Tested and Selected	\$ <del>((26.44))</del> 27.00/hr.	\$ <del>((26.44))</del> 27.00/hr.	When billed
Source Identified Classes:			
Lots 11 bu. and more	\$ <del>((0.86))</del> 0.88/bu.	\$ <del>((26.44))</del> 27.00/hr.	
Lots 6-10 bu.	\$ <del>((21.25))</del> 21.89/lot	\$ <del>((26.44))</del> 27.00/hr.	
Lots 0-5 bu.	\$ <del>((12.85))</del> 13.00/lot	\$ <del>((26.44))</del> 27.00/hr.	
Audit	None	\$ <del>((26.44))</del> 27.00/hr.	When billed

(b) Tree certification - \$ ~~((26.44))~~ 27.00/hr.

Seedling certification - experience has shown that seedling certification normally requires a minimum of five nursery visits (~~((totalling))~~ totaling approximately thirty-two hours. Plantation certification procedures shall be billed at the hourly rate.

(c) Other services including education to comply with the standards, development of record system, verification of source of pollen, cuttings, audit of forest reproductive material not offered for certification by applicant or other services requested, etc. at \$ ~~((26.44))~~ 27.00/hr. payable when billed.

(d) OECD certification (certificates of provenance) - \$ 0.60 per certificate plus the hourly audit rate. (Auditors shall issue certificates.)

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

WAC 16-319-001	Promulgation.
WAC 16-319-002	Promulgation.
WAC 16-319-003	Promulgation.
WAC 16-319-004	Promulgation.
WAC 16-319-006	Promulgation.
WAC 16-319-007	Promulgation.

PERMANENT

WSR 05-05-052

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed February 14, 2005, 3:26 p.m., effective March 17, 2005]

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

Purpose: This rule-making order increases the certification fees for field crops certified by the Washington State Crop Improvement Association by the Office of Financial Management fiscal growth factor of 3.03% for the fiscal year 2005 assuring fees for seed certification services are adequate to cover increases in operating costs.

Citation of Existing Rules Affected by this Order: Amending WAC 16-303-340.

Statutory Authority for Adoption: RCW 15.49.310, 15.49.370(3).

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 05-01-230 on December 22, 2004.

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

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

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

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

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

Date Adopted: February 14, 2005.

Valoria H. Loveland
Director

AMENDATORY SECTION (Amending WSR 04-06-029, filed 2/24/04, effective 3/26/04)

WAC 16-303-340 Seed certification fees for buckwheat, chickpea, field pea, lentil, millet, soybean, sorghum and small grains. (1) Seed certification fees for buckwheat, chickpea, field pea, lentil, millet, soybean, sorghum and small grains are as follows:

Table with 2 columns: Description and Fee. Includes rows for application fee per variety per grower, field inspection fee per acre except millet and hybrid sorghum, millet - first acre, each additional acre, and hybrid sorghum - first acre.

Table with 2 columns: Description and Fee. Includes rows for each additional acre, special field inspection fee per acre, late application fee, and reinspection fee.

minimum for each field which did not pass field inspection plus \$((0.42)) 0.43 for each acre over twenty-five. The reinspection fee for isolation requirements only for a field of any size is \$((38.76)) 39.93.

Table with 2 columns: Description and Fee. Includes row for final certification fee.

per cwt. of clean seed sampled, which is charged to conditioning plant, or production fee \$0.105

per cwt. of production from fields inspected which is utilized for seed, which is charged to the grower or the final seller prior to brokerage, retail sale, sale to plant not approved for conditioning certified seed, or transshipment out-of-state.

Table with 2 columns: Description and Fee. Includes row for sampling fee.

per cwt. of clean seed sampled, with minimum charge of ((ten dollars)) \$10.30 per sample, which is charged to conditioning plant in lieu of mechanical sampling.

(2) A field may be withdrawn upon notification by the applicant to the certifying agency's office before field inspection. In such case, the field inspection fee is refunded upon request until June 30 of the year following harvest.

(3) Harvest before field inspection causes forfeitures of both the application and field inspection fees, and completion of certification.

WSR 05-05-057

PERMANENT RULES

CENTRAL WASHINGTON UNIVERSITY

[Filed February 14, 2005, 4:00 p.m., effective March 17, 2005]

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

Purpose: Modify nondiscrimination language and repeal redundant sections.

Citation of Existing Rules Affected by this Order: Repealing WAC 106-72-150, 106-72-200, 106-72-220, 106-72-410, 106-72-420, 106-72-430, 106-72-440, 106-72-450, 106-72-460, 106-72-470, 106-72-480, 106-72-490, 106-72-500, 106-72-510, 106-72-520, 106-72-530, 106-72-540, 106-72-550, 106-72-560, 106-72-570, 106-72-580, 106-72-590, 106-72-600 and 106-72-610; and amending WAC 106-72-005, 106-72-015, 106-72-025, 106-72-130, and 106-72-400.

PERMANENT

Statutory Authority for Adoption: RCW 28B.10.528 and 28B.35.120(12).

Adopted under notice filed as WSR 05-01-155 on January 5, 2005 [December 20, 2004].

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 5, Repealed 24.

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

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

Date Adopted: February 8, 2005.

Jerilyn S. McIntyre  
President

## Chapter 106-72 WAC

### EQUAL OPPORTUNITY/AFFIRMATIVE ACTION (~~(POLICY/GRIEVANCE PROCEDURE)~~)

AMENDATORY SECTION (Amending WSR 96-02-013, filed 12/21/95, effective 1/21/96)

**WAC 106-72-005 Equal opportunity/affirmative action in employment.** Central Washington University is an equal opportunity employer. The university will:

(1) Recruit, hire, train, and promote persons in all job titles, without regard to race, color, creed, religion, national origin, ~~((age;))~~ sex, sexual orientation, gender identity and expression, age, marital status, disability, or status as a disabled ~~((veteran))~~ or Vietnam-era veteran.

(2) Ensure that all personnel actions such as compensation, benefits, transfers, terminations, layoffs, return from layoff, reductions in force (RIF), university-sponsored training, education, tuition assistance, and social and recreation programs, will be administered without regard to race, color, creed, religion, national origin, ~~((age;))~~ sex, sexual orientation, gender identity and expression, age, marital status, disability, or status as a disabled ~~((veteran))~~ or Vietnam-era veteran.

Central Washington University is committed to affirmative action for Asians, Blacks, Hispanics, Native Americans, women, persons forty years of age or older, persons of disability, disabled veterans and Vietnam-era veterans. This commitment is expressed through the university's efforts to eliminate barriers to equal employment opportunity and improve employment opportunities encountered by these protected groups.

AMENDATORY SECTION (Amending Order CWU AO 73, filed 9/30/94, effective 10/31/94)

**WAC 106-72-015 Annual workforce analysis.** (1) The affirmative action office will conduct an annual workforce analysis for each academic department and a separate utilization analysis for protected group members (i.e., minorities, women, Vietnam-era and disabled veterans, persons of disability, and persons ~~((over the))~~ age ~~((of))~~ forty and above) in each major job group. The university will set forth specific goals and timetables where underutilization is identified. Underutilization is defined as having fewer protected group members in a particular job than would reasonably be expected by their availability. (Higher Education Guidelines, Executive Order 11246.)

(2) The university and each organizational unit will make every possible effort to recruit and employ qualified minorities and women to fill vacancies in order to achieve its goals, searching for personnel in areas and channels previously unexplored to the extent necessary to overcome underutilization. Before each vacancy can be officially filled, a designee of the ~~((affirmative action))~~ office for equal opportunity or ~~((the personnel services office))~~ human resources must certify that the appropriate recruitment and hiring procedures have been followed.

AMENDATORY SECTION (Amending WSR 96-02-013, filed 12/21/95, effective 1/21/96)

**WAC 106-72-025 Equal opportunity for students.** Central Washington University will provide students equal access to all programs and services on the basis of merit without regard to race, color, creed, religion, national origin, ~~((age;))~~ sex, sexual orientation, gender identity and expression, age, marital status, disability, or status as a disabled ~~((veteran))~~ or Vietnam-era veteran.

No person will be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity sponsored by the university including, but not limited to, admissions, academic programs, student employment, counseling and guidance services, financial aid, recreational activities, and intercollegiate athletics.

Programs may be developed by the university, however, for special student populations as affirmative action measures to overcome the effects of past discrimination.

No member of the university community shall treat students differently because of their race, color, creed, religion, national origin, ~~((age;))~~ sex, sexual orientation, gender identity and expression, age, marital status, disability (except to provide reasonable accommodation), or status as a disabled ~~((veteran))~~ or Vietnam-era veteran. The university has established mechanisms to address complaints to discriminatory treatment, including harassing behaviors (e.g., physical, verbal, graphic, or written) which might lead to the creation of a hostile environment.

AMENDATORY SECTION (Amending WSR 92-02-006, filed 12/20/91, effective 1/20/92)

**WAC 106-72-130 Procedures, rules, and regulations—Contracts and contractors.** The ~~((business man-~~

~~age)~~ associate vice-president for business and financial affairs, through the ~~((director of auxiliary services,))~~ director of facilities management~~((;))~~ and the director of business services and contracts~~((, and the director of facilities planning and construction))~~ shall comply with federal, state, and local nondiscrimination policies and procedures when soliciting bids on all contracts for construction, goods, and services. Bids will be solicited by women and minority group vendors and contractors. Agencies engaged in business with the university will be notified in writing of the university's affirmative action program and asked to provide a statement of non-discrimination.

~~((In the case of federal contracts for research grants and awards, the office of graduate studies will be charged with development and inclusion in any contract a statement of nondiscrimination in the fulfillment of such contract.))~~

**AMENDATORY SECTION** (Amending Order CWU AO 73, filed 9/30/94, effective 10/31/94)

**WAC 106-72-400** ~~((Affirmative action))~~ **Equal opportunity grievance procedures.** (1) A person who believes he or she has been discriminated against by Central Washington University because of race, color, creed, religion, national origin, ~~((age,))~~ sex, sexual orientation, gender identity and expression, age, marital status, disability, or status as a disabled ~~((veteran))~~ or Vietnam-era veteran ~~((status))~~ is encouraged to utilize the grievance procedures provided by Central Washington University. There are informal and formal means of addressing complaints through the ~~((affirmative action))~~ office for equal opportunity. Both informal and formal grievance procedures are available on-line at [http://www.cwu.edu/~oeo/complaint\\_procedures.html](http://www.cwu.edu/~oeo/complaint_procedures.html). These procedures should be used as soon as possible after the alleged act of discrimination. No individual shall be penalized or retaliated against in any way by the university community for his or her participation in ~~((this))~~ these complaint procedures.

(2) All persons who seek the advice and assistance of the ~~((affirmative action))~~ equal opportunity office shall have explained to them the informal and the formal grievance procedures available to them through the university as well as the existence of external complaint procedures available through state and federal agencies. They shall also receive a copy of the ~~((affirmative action))~~ equal opportunity grievance procedure.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 106-72-150 Procedures, rules, and regulations—Student employment.
- WAC 106-72-200 Procedures, rules, and regulations—Student services.
- WAC 106-72-220 Procedures, rules, and regulations—Academic program.

- WAC 106-72-410 Informal grievance procedure.
- WAC 106-72-420 Formal grievance procedure.
- WAC 106-72-430 Formal grievance procedure—Acknowledgement of written complaint.
- WAC 106-72-440 Formal grievance procedure—Grievance committee.
- WAC 106-72-450 Formal grievance procedure—Distribution of copies of complaint.
- WAC 106-72-460 Formal grievance procedure—Appointment of investigating officer.
- WAC 106-72-470 Formal grievance procedure—Responsibilities of investigating officer.
- WAC 106-72-480 Formal grievance procedure—Separate meetings with complainant and respondent/filing investigative report.
- WAC 106-72-490 Formal grievance procedure—Committee recommendation.
- WAC 106-72-500 Formal grievance procedure—Written committee report.
- WAC 106-72-510 Formal grievance procedure—Proceeding notice.
- WAC 106-72-520 Adjudicative proceeding—Challenges.
- WAC 106-72-530 Adjudicative proceeding—Expeditious conduct.
- WAC 106-72-540 Adjudicative proceeding—Availability of necessary parties.
- WAC 106-72-550 Adjudicative proceeding—Counsel.
- WAC 106-72-560 Adjudicative proceeding—Confidentiality.
- WAC 106-72-570 Adjudicative proceeding—Responsibilities of parties.
- WAC 106-72-580 Adjudicative proceeding—Rights of parties.
- WAC 106-72-590 Adjudicative proceeding—Powers of proceeding panel.
- WAC 106-72-600 Findings of grievance committee.
- WAC 106-72-610 Appeal procedure.

PERMANENT

**WSR 05-05-072**  
**PERMANENT RULES**  
**DEPARTMENT OF HEALTH**

[Filed February 15, 2005, 12:45 p.m., effective March 18, 2005]

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

Purpose: The rule implements RCW 70.62.260, which was revised in the 2004 legislative session. It eliminates the requirement that renewal fees are due to the department thirty days prior to the license renewal expiration date. Fees are now due on the expiration date of the license. The renewal fee amount is not affected by this rule proposal.

Citation of Existing Rules Affected by this Order: Amending WAC 246-360-990.

Statutory Authority for Adoption: RCW 70.62.260.

Adopted under notice filed as WSR 04-23-090 on November 17, 2004.

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

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

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

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

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

Date Adopted: February 10, 2005.

M. C. Selecky  
Secretary

**AMENDATORY SECTION** (Amending WSR 04-19-141, filed 9/22/04, effective 10/23/04)

**WAC 246-360-990 Fees.** (1) The licensee or applicant must submit:

(a) An annual fee according to the following schedule:

NUMBER OF LODGING UNITS	FEE
3 - 10	\$ 154.50
11 - 49	\$ 307.10
50 - over	\$ 618.20

(b) A late fee of fifty-one dollars and fifty cents, in addition to the full license renewal fee, if the full license renewal fee is not ~~((delivered or mailed to the department at least thirty days prior to the license))~~ received by the department on the expiration date (see RCW 70.62.260);

(c) An additional fee of fifty-one dollars and fifty cents for an amended license due to changing the number of lodging units or the name of the transient accommodation.

(2) The department shall refund fees only when all the following conditions are met:

(a) A prospective new owner applies for initial licensure prior to taking ownership as required by WAC 246-360-020 ~~((4)(b))~~;

(b) Transfer of ownership is not finalized;

(c) The applicant requests a refund in writing; and

(d) The department receives the fee and the request for refund in the same biennium.

**WSR 05-05-097**  
**PERMANENT RULES**  
**DEPARTMENT OF LICENSING**

[Filed February 16, 2005, 11:02 a.m., effective March 19, 2005]

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

Purpose: Incorporation by reference of the 2005 edition of the uniform standards of professional appraisal practice, the generally recognized national organized standards of real estate appraisal. Incorporation by reference is required because to incorporate the whole text would be unduly cumbersome and expensive.

Citation of Existing Rules Affected by this Order: Amending WAC 308-125-200.

Statutory Authority for Adoption: RCW 18.140.030 (1) and (13).

Adopted under notice filed as WSR 05-02-095 on January 5, 2005.

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

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

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

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

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

Date Adopted: February 15, 2005.

Andrea C. Archer  
Assistant Director  
Business and Professions Division

**AMENDATORY SECTION** (Amending WSR 04-04-052, filed 1/30/04, effective 3/1/04)

**WAC 308-125-200 Standards of practice.** (1) The standard of practice governing real estate appraisal activities will be the ~~((2004))~~ 2005 edition of the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation. A copy of the Uniform Standards of Professional Appraisal Practice is available for review and inspection at the office of the Real Estate Appraiser Unit Office, Olympia, Washington. The Uniform Standards of Professional Appraisal Practice is

PERMANENT

a copyright document. Copy of the full text may be obtained from the Appraisal Foundation at The Appraisal Foundation, P.O. Box 96734, Washington, DC 20090-6734.

(2) Expert review appraisers as defined by RCW 18.140.010(11) while performing expert reviews pursuant to chapter 18.140 RCW are exempt from the Uniform Standards of Professional Appraisal Practice, Standard 3 review provisions while performing expert reviews for the director.

PERMANENT

**WSR 05-05-002**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 05-14—Filed February 3, 2005, 3:50 p.m., effective February 3, 2005]

Effective Date of Rule: Immediately.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900D; and amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Rat Lake is scheduled for rehabilitation in April 2005 requiring an extension of a previous rule change to continue liberalized size/daily limit and to designate post-rehabilitation closure period. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Date Adopted: February 3, 2005.

J. P. Koenings  
 Director  
 by Larry Peck

**NEW SECTION**

**WAC 232-28-61900D Exceptions to statewide rules—Rat Lake (Okanogan Co.)** Notwithstanding the provisions of WAC 232-28-619:

(a) Effective immediately through March 31, 2005, in those waters of Rat Lake, size and daily limit for game fish: none.

(b) Effective April 1, 2005 through May 31, 2005, it is unlawful to fish in those waters of Rat Lake.

**REPEALER**

The following section of the Washington Administrative Code is repealed effective June 1, 2005:

WAC 232-28-61900D Exceptions to statewide rules—Rat Lake (Okanogan Co.)

**WSR 05-05-005**  
**EMERGENCY RULES**

**ENVIRONMENTAL HEARINGS OFFICE**

[Filed February 4, 2005, 12:50 p.m., effective February 4, 2005]

Effective Date of Rule: Immediately.

Purpose: The 2004 legislature passed SSB 5590, amending chapter 43.21B RCW (chapter 204, Laws of 2004), modifying the basis for calculating the time period for appeals to the Pollution Control Hearings Board (PCHB). Rule making is necessary so the PCHB's procedural rules, chapter 371-08 WAC, are consistent with the 2004 legislation. A previously adopted emergency rule expired, this emergency rule adoption is consistent with RCW 34.05.350(2) in that conditions have changed and the Environmental Hearings Office (EHO) is actively undertaking appropriate procedures to adopt a permanent rule. The EHO has sought and received stakeholder input on a number of other changes to the PCHB's procedural rules, and is developing a rule revision that will adopt this emergency rule as a permanent rule, along with other rule changes.

Citation of Existing Rules Affected by this Order: Amending WAC 371-08-305, 371-08-335, and 371-08-345.

Statutory Authority for Adoption: RCW 43.21B.170 (PCHB rule-making authority), chapter 34.05 RCW.

Other Authority: RCW 43.21B.001, [43.21B].190, [43.21B].230, [43.21B].300, [43.21B].310 (sections amended by SSB 5590).

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The effective date of SSB 5590 was June 10, 2004. A previous emergency rule on this subject matter expired, and the EHO is preparing a permanent rule. Immediate rule amendment ensures that the PCHB's procedural rules are consistent with this legislation.

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

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

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

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

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

Date Adopted: January 31, 2005.

W. W. Clarke  
for William H. Lynch  
Director

**AMENDATORY SECTION** (Amending WSR 96-15-003, filed 7/3/96, effective 8/3/96)

**WAC 371-08-305 Definitions.** As used in this chapter the following terms shall have the following meaning:

(1) "Adjudicative proceeding" means a proceeding involving an opportunity for hearing before the board as defined in RCW 34.05.010. The term "adjudicative proceeding" is used interchangeably with the terms "case" and "appeal" in this chapter.

(2) "Agency" means any state governmental entity, air pollution control authority, local health department or other agency whose decisions are subject to the board's jurisdiction.

(3) "Board" means the pollution control hearings board, a quasi-judicial board created pursuant to chapter 43.21B RCW and described in WAC 371-08-315. Where appropriate, the term "board" also refers to the designated agents of the pollution control hearings board.

(4) "Business days" means Monday through Friday exclusive of any state or federal holidays.

(5) "Date of receipt" means:

(a) Five business days after the date of mailing; or

(b) The date of actual receipt, when the actual receipt date can be proven by a preponderance of the evidence. The recipient's sworn affidavit or declaration indicating the date of receipt, which is unchallenged by the agency, shall constitute sufficient evidence of actual receipt. The date of actual receipt, however, may not exceed forty-five days from the date of mailing.

(6) "Department" refers to and means the department of ecology.

~~((5))~~ (7) "Filing" of a document means actual receipt by the board during regular office hours. Any document filed with the board shall contain an affirmation that copies were served on the appropriate agency and parties. Filing by facsimile is permitted of documents ten pages or less if the original document is concurrently mailed or submitted to a commercial delivery service.

~~((6))~~ (8) "Party" means:

(a) A person to whom any agency decision is specifically directed; or

(b) A person named as a party to the adjudicative proceeding, allowed to intervene or joined as a party by the board.

~~((7))~~ (9) "Person" means any individual, partnership, corporation, association, organization, governmental subdivision, agency or entity of any character.

~~((8))~~ (10) "Presiding officer" means a member of the board or an administrative appeals judge who is assigned to conduct a conference or hearing by the chairperson or vice-chairperson.

~~((9))~~ (11) "Service" of a document means delivery of the document to the other parties to the appeal. Service may be made in any of the following ways:

(a) Personally, in accordance with the laws of the state, with a return of service or affidavit of service completed.

(b) First-class, registered or certified mail. Service is complete upon deposit in the United States mail properly stamped and addressed.

(c) Facsimile transmission with mailing or submission to commercial delivery service of copies on the same day. Service by facsimile is regarded as complete by production of the confirmation of transmission and evidence of mailing or submission to delivery service of the copies.

(d) Commercial parcel delivery service. Service by commercial parcel delivery service is regarded as complete upon delivery to the parcel delivery company with charges prepaid.

**AMENDATORY SECTION** (Amending WSR 97-19-064, filed 9/15/97, effective 10/16/97)

**WAC 371-08-335 Filing a timely appeal with the board.** (1) An appeal before the board shall be begun by filing a notice of appeal with the board at the environmental hearings office and by serving a copy of the appeal notice on the agency whose decision is being appealed. For the board to acquire jurisdiction both such filing and such service must be timely accomplished.

(2) The notice of appeal shall be filed with the board within thirty days of the date ~~((that a copy))~~ of receipt of the order or decision ~~((is posted in the United States mail, properly addressed, postage prepaid, to the appealing party))~~. The board's definitions of "business days" and "date of receipt" (WAC 371-08-305) shall determine when the thirty-day appeal period begins, and the board's rule governing the computation of time (WAC 371-08-310) shall determine how the thirty-day appeal period is calculated.

(3) An appeal is filed with the board on the date the board actually receives the notice of the appeal, not the date that the notice is mailed. Upon receiving the notice of appeal, the board will acknowledge receipt. The date stamped on the appeal notice shall be prima facie evidence of the filing date. The board may thereafter require that additional copies be filed.

**AMENDATORY SECTION** (Amending WSR 96-17-016, filed 8/12/96, effective 9/12/96)

**WAC 371-08-345 Service of the notice of appeal on the agency and other interested parties.** (1) Within thirty days of ~~((the date that a copy))~~ receipt of the agency's order or decision ~~((is mailed to the appellant))~~, the appellant shall also serve a copy of the notice of appeal on the agency whose order or decision is being appealed. Proof of service may be made by certificate or affidavit filed with the board.

(2) A copy of the notice of appeal shall also be served on all other persons named as parties to the appeal. There is no time limit on when such service must be made.



**WSR 05-05-023**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

(Aging and Disability Services Administration)  
 [Filed February 8, 2005, 4:05 p.m., effective February 8, 2005]

Effective Date of Rule: Immediately.

Purpose: To expand the population eligible to receive the state supplementary payment (SSP) administered by the Division of Developmental Disabilities to include supplemental security income (SSI) recipients who are under age eighteen at the time of their initial comprehensive assessment and reporting evaluation (CARE) assessment, and who received Medicaid personal care (MPC) between September 2003 and August 2004.

Citation of Existing Rules Affected by this Order: Amending WAC 388-827-0115 and 388-827-0145.

Statutory Authority for Adoption: RCW 71A.12.030, 71A.12.120.

Other Authority: Chapter 71A.12 RCW.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: These rules are necessary to prevent a substantial decrease in the funds available to meet individual's need for respite care resulting from the CARE assessment. These rules correct the amount in WAC 388-827-0145(3) contained in WSR 05-01-124, and replace WSR 05-01-124.

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

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

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

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

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

Date Adopted: February 2, 2005.

Andy Fernando, Manager  
 Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 04-15-094, filed 7/16/04, effective 8/16/04)

**WAC 388-827-0115 What are the programmatic eligibility requirements for DDD/SSP?** (1) You received one or more of the following services from DDD with state-only funding between March 1, 2001 and June 30, 2003 and con-

tinue to demonstrate a need for and meet the DDD program eligibility requirements for these services.

(a) Certain voluntary placement program services, which include:

- (i) Foster care basic maintenance,
- (ii) Foster care specialized support,
- (iii) Agency specialized support,
- (iv) Staffed residential home,
- (v) Out-of-home respite care,
- (vi) Agency in-home specialized support,
- (vii) Group care basic maintenance,
- (viii) Group care specialized support,
- (ix) Transportation,
- (x) Agency attendant care,
- (xi) Child care,
- (xii) Professional services,
- (xiii) Nursing services,
- (xiv) Interpreter services,
- (b) Family support;
- (c) One or more of the following residential services:
  - (i) Adult family home,
  - (ii) Adult residential care facility,
  - (iii) Alternative living,
  - (iv) Group home,
  - (v) Supported living,
  - (vi) Agency attendant care,
  - (vii) Supported living or other residential service allow-

ance,  
 (viii) Intensive individual supported living support (companion homes).

(2) For individuals with community protection issues as defined in WAC 388-820-020, the department will determine eligibility for SSP on a case-by-case basis.

(3) For new authorizations of family support opportunity:

(a) You were on the family support opportunity waiting list prior to January 1, 2003; and

(b) You are on the home and community based services (HCBS) waiver administered by DDD; and

(c) You continue to meet the eligibility requirements for the family support opportunity program contained in WAC 388-825-200 through 388-825-242.

(4) For individuals on one of the HCBS waivers administered by DDD (Basic, Basic Plus, Core or Community Protection):

(a) You must have been eligible for or received SSI prior to April 1, 2004; and

(b) You were determined eligible for SSP prior to April 1, 2004.

(5) You received medicaid personal care (MPC) between September 2003 and August 2004; and

(a) You are under age eighteen at the time of your initial comprehensive assessment and reporting evaluation (CARE) assessment;

(b) You received or were eligible to receive SSI at the time of your initial CARE assessment;

(c) You are not on a home and community based services waiver administered by DDD; and

(d) You live with your family, as defined in WAC 388-825-020.

(6) If you meet all of the requirements listed in (5) above, your SSP will continue.

**AMENDATORY SECTION** (Amending WSR 04-02-015, filed 12/29/03, effective 1/29/04)

**WAC 388-827-0145 How much money will I receive?**

The purpose of the SSP is to increase the amount of income to meet your needs. The department will determine your payment amount based on your living arrangement and your assessed needs.

(1) For residential and voluntary placement program services, the amount of your SSP will be based on the amount of state-only dollars spent on certain services at the time the funding source was converted to SSP. If the type of your residential living arrangement changes, your need will be reassessed and your payment adjusted based on your new living arrangement and assessed need.

(2) For family support services, refer to WAC 388-825-200 through 388-825-284.

(a) If you are on the home and community based services (HCBS) waiver administered by DDD:

(i) You will receive nine hundred dollars DDD/SSP money per year to use as you determine.

(ii) The remainder up to the maximum allowed may be authorized by DDD to purchase HCBS waiver services and will be paid directly to the provider.

(b) If you are not on the HCBS waiver administered by DDD, you will receive the yearly maximum allowed in the form of DDD/SSP money to use as you determine.

(c) The yearly amount of DDD/SSP money will be prorated into monthly amounts. You will receive one twelfth of the yearly amount each month.

(3) If you are eligible for SSP because you meet the criteria in WAC 388-827-0115(5), you will receive one hundred dollars per month.

(a) For individuals whose initial CARE assessment was completed prior to February 1, 2005, January 2005 is the first month for which payment is made.

(b) For individuals whose initial CARE assessment is completed after January 31, 2005, the first month for which payment is made is the month in which the initial CARE assessment is completed.

**WSR 05-05-024**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Economic Services Administration)

[Filed February 8, 2005, 4:06 p.m., effective February 8, 2005]

Effective Date of Rule: Immediately.

Purpose: This filing continues emergency rules filed as WSR 04-21-024, 04-14-014 and 04-01-024. A notice of intent was filed as WSR 04-19-102, and the department is circulating draft rules for public review before filing the formal proposed rule. These emergency rules are needed to implement section 9, chapter 276, Laws of 2004, that directed the department to pay a subsidy increase for working connec-

tions child care providers in Region 1 during fiscal year 2005 (July 1, 2004, through June 30, 2005).

Citation of Existing Rules Affected by this Order: Amending WAC 388-290-0200 and 388-290-0205.

Statutory Authority for Adoption: RCW 74.04.050, 74.13.085, 74.12.340.

Other Authority: Chapter 276, Laws of 2004.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: Emergency rules are needed to adopt the legislative intent of chapter 276, Laws of 2004 - the 2003-2005 Omnibus Operating Budget (2004). In budget detail documents, the legislature stated its intent that "funding is provided for a working connections child care subsidy rate increase for child care providers in urban areas of Region One."

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

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

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

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

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

Date Adopted: February 2, 2005.

Andy Fernando, Manager  
 Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 04-08-021 [and 04-08-134], filed 3/29/04, effective 5/28/04)

**WAC 388-290-0200 What daily rates does DSHS pay for child care in a licensed or certified child care center or DSHS contracted seasonal day camps?** (1) We pay the lesser of the following to a licensed or certified child care center or DSHS contracted seasonal day camp:

(a) The provider's usual daily rate for that child; or

(b) The DSHS maximum child care subsidy daily rate for that child as listed in the following table:

		Infants (One month - 11 mos.)	Toddlers (12 - 29 mos.)	Preschool (30 mos. - 5 yrs)	School-age (5 - 12 yrs)
Region 1	Full-Day	\$24.32	\$20.45	\$19.32	\$18.18
	Half-Day	\$12.16	\$10.23	\$9.66	\$9.09
Spokane County	Full-Day	<u>\$24.98</u>	<u>\$21.00</u>	<u>\$19.84</u>	<u>\$18.67</u>
	Half-Day	<u>\$12.49</u>	<u>\$10.51</u>	<u>\$9.92</u>	<u>\$9.34</u>
Region 2	Full-Day	\$24.55	\$20.50	\$19.00	\$16.82
	Half-Day	\$12.27	\$10.25	\$9.50	\$8.41
Region 3	Full-Day	\$32.50	\$27.09	\$23.41	\$22.73
	Half-Day	\$16.25	\$13.55	\$11.70	\$11.36

EMERGENCY

		Infants (One month - 11 mos.)	Toddlers (12 - 29 mos.)	Preschool (30 mos. - 5 yrs)	School-age (5 - 12 yrs)
Region 4	Full-Day	\$37.82	\$31.59	\$26.50	\$23.86
	Half-Day	\$18.91	\$15.80	\$13.25	\$11.93
Region 5	Full-Day	\$27.73	\$23.86	\$21.00	\$18.64
	Half-Day	\$13.86	\$11.93	\$10.50	\$9.32
Region 6	Full-Day	\$27.27	\$23.41	\$20.45	\$20.00
	Half-Day	\$13.64	\$11.70	\$10.23	\$10.00

(2) The child care center WAC 388-295-0010 allows providers to care for children from one month up to and including the day before their thirteenth birthday. The provider must obtain a child-specific and time-limited waiver from their child care licensor in order for a child care center to provide care for a thirteen-year-old or older child.

(3) If the center provider cares for a child who is thirteen or older, the provider must have a child-specific and time-limited waiver and the child must meet the special needs requirement according to WAC 388-290-0220.

(4) Rates for Spokane County are in effect from July 1, 2004 through June 30, 2005 only. After June 30, 2005, Region 1 daily rates in WAC 388-290-0200 will include Spokane County.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

**AMENDATORY SECTION** (Amending WSR 04-08-021 [and 04-08-134], filed 3/29/04, effective 5/28/04)

**WAC 388-290-0205 What daily rates does DSHS pay for child care in a licensed or certified family home child care?** (1) We pay the lesser of the following to a licensed or certified family home child care:

- (a) The provider's usual daily rate for that child; or
- (b) The DSHS maximum child care subsidy daily rate for that child as listed in the following table.

		Infants (Birth - 11 mos.)	Toddlers (12 - 29 mos.)	Preschool (30 mos. - 5 yrs)	School-age (5 - 11 yrs)
Region 1	Full-Day	\$20.00	\$18.00	\$18.00	\$16.00
	Half-Day	\$10.00	\$9.00	\$9.00	\$8.00
<u>Spokane County</u>	<u>Full-Day</u>	<u>\$20.54</u>	<u>\$18.49</u>	<u>\$18.49</u>	<u>\$16.43</u>
	<u>Half-Day</u>	<u>\$10.27</u>	<u>\$9.24</u>	<u>\$9.24</u>	<u>\$8.22</u>
Region 2	Full-Day	\$20.00	\$19.00	\$17.00	\$17.00
	Half-Day	\$10.00	\$9.50	\$8.50	\$8.50
Region 3	Full-Day	\$29.00	\$25.00	\$22.00	\$20.00
	Half-Day	\$14.50	\$12.50	\$11.00	\$10.00
Region 4	Full-Day	\$30.00	\$29.67	\$25.00	\$24.00
	Half-Day	\$15.00	\$14.83	\$12.50	\$12.00
Region 5	Full-Day	\$22.00	\$20.00	\$19.00	\$17.00
	Half-Day	\$11.00	\$10.00	\$9.50	\$8.50
Region 6	Full-Day	\$22.00	\$20.00	\$20.00	\$19.00
	Half-Day	\$11.00	\$10.00	\$10.00	\$9.50

(2) The family home child care WAC 388-155-010 allows providers to care for children from birth up to and including the day before their twelfth birthday. In order for a family home provider to care for a twelve-year-old or older child, the provider must obtain a child-specific and time-limited waiver from their child care licensor. If the provider has a waiver to care for a child who has reached their twelfth

birthday, the payment rate is the same as subsection (1) and the five to eleven year age range column is used for comparison.

(3) If the family home provider cares for a child who is thirteen or older, the provider must have a child-specific and time-limited waiver and the child must meet the special needs requirement according to WAC 388-290-0220.

(4) We pay family home child care providers at the licensed home rate regardless of their relation to the children (with the exception listed in subsection (5) of this section). Refer to subsection (1) and the five to eleven year age range column for comparisons.

(5) We cannot pay family home child care providers to provide care for children in their care if the provider is:

- (a) The child's biological, adoptive or step-parent;
- (b) The child's nonneedy or needy relative or that relative's spouse or partner;
- (c) The child's legal guardian or the guardian's spouse or partner; or
- (d) Another adult acting in loco parentis or that adult's spouse or partner.

(6) Rates for Spokane County are in effect from July 1, 2004 through June 30, 2005 only. After June 30, 2005, Region 1 daily rates in WAC 388-290-0205 will include Spokane County.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

**WSR 05-05-033  
EMERGENCY RULES  
SECRETARY OF STATE**

[Filed February 10, 2005, 3:18 p.m., effective February 10, 2005]

Effective Date of Rule: Immediately.

Purpose: To clarify and define the purpose by which the Secretary of State certifies voting systems and to add testing procedures for new electronic voting equipment required by new federal law.

Citation of Existing Rules Affected by this Order: Amending WAC 434-333-010 through 434-333-175; and new sections WAC 434-230-175, 434-230-177, 434-253-085, 434-261-045, 434-333-013, 434-333-080, 434-333-107, 434-333-115, 434-333-180, 434-333-185, 434-333-190, 434-333-195, 434-333-200, 434-333-205, 434-333-210, 434-333-215, 434-333-220, 434-333-225, 434-333-230, 434-333-235, 434-333-240, 434-333-245, 434-333-250, 434-333-255, 434-333-260, 434-333-265, 434-333-270, 434-333-275, 434-333-280, 434-333-285, 434-333-290, 434-333-295, and 434-333-300.

Statutory Authority for Adoption: RCW 29A.04.611.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest; and that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

EMERGENCY

Reasons for this Finding: New federal law requires electronic voting equipment and as counties implement this, new testing procedures are necessary to ensure the security and integrity of elections in the state.

Number of Sections Adopted in Order to Comply with Federal Statute: New 14, Amended 3, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 2, Amended 3, Repealed 0.

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 17, Amended 21, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 33, Amended 27, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: February 16 [10], 2005.

Sam Reed

Secretary of State

#### NEW SECTION

**WAC 434-230-175 Direct recording electronic ballots.** The electronic record produced and counted by poll-site direct recording electronic voting devices is the official record of each vote for election purposes. The paper record produced as a requirement in WAC 434-333-020(6) must be stored and maintained for use only in the following specified circumstances:

- (1) In the event of a mandatory hand recount of votes under RCW 29A.64.020;
- (2) In the event of a requested recount under RCW 29A.64.010;
- (3) By order of the county canvassing board; and
- (4) By order of a court of competent jurisdiction.

#### NEW SECTION

**WAC 434-230-177 Preservation of paper records of poll-site based electronic voting devices.** The paper records produced by poll-site direct recording electronic voting devices are subject to all of the requirements of chapter 29A.60 RCW for ballot handling, preservation, reconciliation, transit to the counting center, and storage. The paper records must be preserved in the same manner and for the same period of time as ballots.

#### NEW SECTION

**WAC 434-253-085 Voter leaving an electronic voting device during voting process.** A voter voting on a poll-site based electronic voting system may not leave the device during the voting process except to verify his or her ballot, or to request assistance from the precinct election officers, until the voting process is completed.

#### NEW SECTION

**WAC 434-261-045 Procedures before counting sessions begin.** Before the first ballot counting session in each election, a report must be produced demonstrating that the system contains no vote data before commencement of counting ballots. At the completion of each ballot counting session, the ballot counting system must produce a report of the results compiled that includes date and time information. Before commencing any additional ballot counting session, a report of the results contained in the system must be produced that includes date and time information. This report must be compared with the report produced at the end of the previous ballot counting session to ensure that no changes have been made to the vote data in the interim period. This comparison must be performed in the presence of political party observers if representatives have been appointed by their respective political parties and are present at the time of comparison. This procedure must be employed for subsequent counting sessions. Nothing in this section precludes the county auditor from zeroing individual devices in subsequent counting sessions if a report is created after each session and before the next, with the results being merged into the total.

AMENDATORY SECTION (Amending WSR02-09-007, filed 4/4/02, effective 4/4/02)

**WAC 434-333-010 Certification of vote tallying equipment.** All voting systems, voting devices, and vote tallying systems must be certified and approved by the secretary of state before they can be used ~~((or sold))~~ in Washington state. In order for a system to be certified in Washington state, it must meet the applicable federal ~~((Elections Commission))~~ standards, must comply with Washington state law, and must be certified and in use in at least one other state.

#### NEW SECTION

**WAC 434-333-013 Voting systems review board.** Certification reviews and recommendations may be made to the secretary by the voting systems review board. The voting systems review board will include independent expert(s) in computer science or information technology, recognized expert(s) in election administration, and representative(s) of the public at large. The members of the review board will be appointed to a two-year term by the secretary of state beginning in January 2005. Traveling expenses and any necessary lodging will be provided to the local election official by the secretary. The duties of the voting systems review board will include, but not be limited to: Conducting a review of initial system applications as outlined in WAC 434-333-035; reviewing and examining the equipment (ref. WAC 434-333-045 to 434-333-055); and chairing the public hearing (WAC 434-333-060).

AMENDATORY SECTION (Amending WSR 02-09-007, filed 4/4/02, effective 4/4/02)

**WAC 434-333-015 Initial application for certification.** ~~((A vendor may apply to the secretary of state at any time during the year. However,))~~ Any person or corporation

(applicant) owning or representing a voting system or a vote tabulating system, part of a system, equipment, materials or procedure may apply in writing to the secretary of state for certification between December 1st and May 30th each year. Certification examinations and hearings will only be performed in the period between ((the end of the legislative session)) January 1st and ((August)) July 15th of each year. The application shall include at least the following information:

(1) Information about the vendor, ~~((location, customer lists, and product lists))~~ business address, customer references, and list of election products.

(2) Information about the product that is being reviewed, version numbers, release numbers, operating and maintenance manuals, training materials, technical and operational specifications ~~((, installed customer lists, etc)).~~

(3) ~~((The vendor shall include certification documents for all other states that have certified the equipment.~~

~~(4) The vendor shall provide reports for all tests conducted, on the product being reviewed for certification, by any independent testing authority or laboratory. The independent authority must meet the criteria established by the Federal Elections Commission for such agents.~~

(5) The vendor shall provide documentation proving that the product meets the Federal Elections Commission Voting Equipment guidelines.

~~(6) The vendor shall identify what portion of the software remains proprietary.~~

(7) ~~A monetary deposit as described in WAC 434-34-025 [434-333-025].~~) Documentation of all other states that have tested, certified and used the equipment in a binding election. The information included should state how long the system has been used in the state and must include version numbers of the operating system, software, and firmware in use, date and jurisdiction of use in a binding election and must disclose any reports compiled by state or local government concerning the performance of the system.

(4) A monetary deposit as described in WAC 434-333-050.

(5) A copy of a letter from the applicant, to each independent testing authority (ITA), which:

(a) Directs the ITA to send a copy of the completed ITA qualification report to the secretary of state;

(b) Authorizes the ITA to discuss testing procedures and findings with the secretary of state; and

(c) Authorizes the ITA to allow the secretary of state to review all records of any qualification testing conducted on the voting system or its components.

(6) A technical data package (TDP) conforming to the 2002 FEC Federal Voting Systems Standards (FVSS), Vol. II, Sec. 2 standards that includes:

(a) Identification of all COTS hardware and software products and communications services used in the operation of the voting system (ref. FVSS, 2.2.1.e).

(b) System functionality description (ref. FVSS, 2.3).

(c) System security specification (ref. FVSS, 2.6).

(d) System operations procedures (ref. FVSS, 2.8).

(e) System maintenance procedures (ref. FVSS, 2.9).

(f) Personnel deployment and training requirements (ref. FVSS, 2.10).

(g) Configuration management plan (ref. FVSS, 2.11).

(h) System change notes (if applicable, ref. FVSS, 2.13).

(i) System change list, if any, of modifications currently in development.

(j) System usability testing report.

(7) The source code of an electronic voting system must be placed in escrow in the state of Washington and be accessible by the secretary of state under prescribed conditions allowing source code review for system verification.

(8) Identification of all documents, or portions of documents, containing proprietary information not approved for public release. The secretary of state shall agree to use proprietary information solely for the purpose of analyzing and testing the system, and shall agree to refrain from otherwise using the proprietary information or disclosing it to any other person or agency without the prior written consent of the vendor, to the extent permitted by law unless disclosure is legally compelled.

AMENDATORY SECTION (Amending WSR 02-09-007, filed 4/4/02, effective 4/4/02)

WAC 434-333-020 ((Additional information and equipment required.)) **Voting system requirements.** ((The vendor shall provide a working model of the equipment that is being reviewed to the secretary of state for the duration of the review. The secretary of state may, at the expense of the vendor, contract with independent testing authorities or laboratories, experts in mechanical engineering, electrical engineering, or data processing while examining the equipment.)) No voting device or its component software may be certified by the secretary of state unless it:

(1) Secures to the voter secrecy in the act of voting;

(2) Permits the voter to vote for any person for any office and upon any measure that he or she has the right to vote for;

(3) Permits the voter to vote for all the candidates of one party or in part for the candidates of one or more other parties;

(4) Correctly registers all votes cast for any and all persons and for or against any and all measures;

(5) Provides that a vote for more than one candidate cannot be cast by one single operation of the voting device or vote tally system except when voting for president and vice-president of the United States;

(6) Beginning on January 1, 2006, a poll site-based electronic voting system, at the time of voting, produces a machine countable paper record for each vote that may be reviewed by any voter before finalizing his or her vote, as a part of the voting process;

(7) The paper record of each electronic vote may not be removed by the voter, but may be accepted or rejected. If the device is programmed to display the ballot in multiple languages, the paper record produced must be printed in the language used by each voter;

(8) Except for functions or capabilities unique to this state, has been tested and approved by the appropriate independent testing authority approved by the federal election assistance commission or its statutory successor;

(9) Correctly counts votes on ballots on which the proper number of votes have been marked for any office or issue;

(10) Ignores votes marked for any office or issue where more than the allowable number of votes have been marked, but correctly counts the properly voted portions of the ballot;

(11) Accumulates a count of the specific number of ballots tallied for each precinct, total votes by candidate for each office, and total votes for and against each issue of the ballot in that precinct;

(12) Produces precinct and cumulative totals in printed form;

(13) Ballot counting systems must be secured physically and electronically against unauthorized access;

(14) Ballot counting systems must not be connected to, or operated on, any electronic network including, but not limited to, internal office networks, the internet, or the world wide web;

(15) A network may be used as an internal, integral part of the ballot counting system but that network must not be connected to any other network, the internet, or the world wide web;

(16) Wireless communications may not be used in any way in a ballot counting system;

(17) All elements of the ballot counting systems must be capable of being secured with lock and seal when not in use;

(18) Transfer of information from the ballot counting system may be made by telephonic transmission only after the creation of disk, tape, or other physical means of communication;

(19) All electronic voting systems must meet Washington state disability access standards;

(20) All electronic voting systems software in escrow must be the exact same as that tested and certified by the federal independent testing authority and may be verified by matching the system's digital software signature, when available.

AMENDATORY SECTION (Amending WSR 02-09-007, filed 4/4/02, effective 4/4/02)

WAC 434-333-025 (~~Vendor deposit for examination expenses.~~) Closing an incomplete application. ((The vendor shall pay the secretary of state a deposit to reimburse the cost of any contract for consultation or any other unrecoverable costs associated with the examination of a voting system or component.)) Upon receipt of an application, the secretary of state shall examine the application for completeness. If the application is not complete, the secretary of state shall notify the applicant in writing within thirty days of the information required to complete the application. The secretary of state will deem the application to be closed, if thirty days after notifying the vendor in writing of an incomplete application, the secretary of state has not received all information requested from the vendor. Closure of an application shall not prevent the applicant from submitting a new application to the secretary of state.

AMENDATORY SECTION (Amending WSR 02-09-007, filed 4/4/02, effective 4/4/02)

WAC 434-333-035 (~~Public hearing.~~) Elements to be considered in the review of an application. ((Only after the secretary of state is satisfied that the equipment being exam-

~~ined meets all of the guidelines for certification shall a public hearing be scheduled. The public hearing will be scheduled at the convenience of the secretary of state. At the hearing the vendor will be expected to demonstrate the equipment and explain its function. The vendor will be expected to answer questions from the secretary of state staff as well as any other persons in attendance. The vendor may be asked to submit answers in writing if the secretary of state is not satisfied with the completeness of answers given at the hearing.)) Upon receipt of a completed application, the voting systems review board shall evaluate the application. This evaluation shall include, but is not limited to:~~

(1) A review of Revised Code of Washington sections which address the application (chapter 29A.40 RCW);

(2) A review of applicable federal standards which address the application;

(3) A copy of the approved qualification test results released directly to the secretary of state by the federally approved independent testing authority (ITA);

(4) A review, if applicable, of reports or other materials from prior hearings on the proposed system, procedure, or modification either in whole or in part;

(5) A review, if applicable, of any procedures manuals, guidelines or other materials adopted for use with the system addressed by the application;

(6) A review of any effect the application will have on the security of the voting system;

(7) A review of any effect the application will have on the accuracy of the voting system;

(8) A review of any effect the application will have on the ease and convenience with which voters use the system;

(9) A review of any effect the application will have on the timeliness of vote reporting; and

(10) A review of any effect the application will have on the overall efficiency of the voting system.

AMENDATORY SECTION (Amending WSR 02-09-007, filed 4/4/02, effective 4/4/02)

WAC 434-333-045 (~~Modification of certified equipment, guidelines for reexamination.~~) Additional information and equipment required. ((Any modification, change, or improvement to a voting system or component that impairs its accuracy, efficiency, or capacity or extends its function may require examination or certification before it may be used or sold in Washington state.)) The vendor shall provide a working model of the equipment that is being reviewed to the voting systems review board for the duration of the review. The board may, at the expense of the vendor, contract with independent testing authorities or laboratories, experts in mechanical engineering, electrical engineering, or data processing while examining the equipment.

AMENDATORY SECTION (Amending WSR 02-09-007, filed 4/4/02, effective 4/4/02)

WAC 434-333-050 (~~Application for certification or examination of modified voting systems or devices.~~) Vendor deposit for examination expenses. ((A vendor may apply to the secretary of state for the review of a modification of an existing certified system at any time during the year-

Evaluation of the need for recertification or examination will occur at the convenience of the secretary of state. If possible the secretary of state will focus review and examination on the modified component of the equipment or system. If the system, or its component, is found to be sufficiently modified that it requires examination or recertification, the process for original certification shall be followed. Certification examinations and hearings will only be performed in the period between the end of the legislative session and August 15th of each year. The application for examination of a modification shall include at least the following information:

(1) Information about the vendor, location, customer lists, and product lists.

(2) Information about the product that is being reviewed, version numbers, release numbers, operating and maintenance manuals, training materials, technical and operational specifications, installed customer lists, etc.

(3) The vendor shall include certification documents for all other states that have certified the equipment.

(4) The vendor shall provide reports for all tests conducted, on the product being reviewed for certification, by any independent testing authority or laboratory. The independent authority must meet the criteria established by the Federal Elections Commission for such agents.

(5) The vendor shall provide documentation proving that the product meets the Federal Elections Commission voting equipment guidelines.

(6) A document prepared by the vendor that describes in complete operational and technical detail all differences between the originally certified equipment or system and the modified equipment or system.

(7) The vendor shall identify what portion of the software remains proprietary.

(8) A monetary deposit as described in WAC 434-34-025 [434-333-025].) The vendor shall pay the secretary of state a deposit to reimburse the cost of any contract for consultation or any other unrecoverable costs associated with the examination of a voting system or component.

**AMENDATORY SECTION** (Amending WSR 02-09-007, filed 4/4/02, effective 4/4/02)

**WAC 434-333-055** (~~(Acceptance testing of voting systems and)~~ **Examination of equipment.** ((Whenever a county acquires a new system or an upgrade to an existing system that has been certified by the secretary of state, the county must perform acceptance tests of the equipment before it may be used to count votes at any election. The equipment must be operating correctly, pass all tests and must be substantially the same as the equipment certified by the secretary of state. The minimum testing standards are described as follows:

(1) The model number, version number, release number, and any other number, name or description that identifies the product must be the same as the identifying numbers for the product that has been certified by the secretary of state.

(2) The county must receive all manuals, and training necessary for the proper operation of the system.

(3) The county shall perform a series of functional and programming tests that will test all functions of the ballot

counting system. This must include processing a substantial number of test ballots of various prepunch or ballot codes, including split precincts, rotated races, multiple candidates, precinct committee officer local races, cumulative reports, precinct reports, canvass reports, and any other tests the county elections authority finds necessary.) The examination consists of a series of functional application tests designed to insure that the system or equipment meets all guidelines and laws. The examination may include an additional independent testing authority test if the voting systems review board is not satisfied with the documentation made available by the vendor. The examination shall include the set-up and conduct of two mock elections. The vendor shall provide ballot materials and programming to create these elections.

(1) The first election shall replicate an even-year primary, using consolidated ballots for the major political parties and including PCO contests.

(2) The second election shall replicate an odd-year general election, to test the use of split precincts.

All test elections shall feature at least ten precincts with at least ten ballots in each precinct. The tests must include ballots of various ballot codes, including multiple candidates, cumulative reports, precinct reports, and canvass reports, as detailed in the test plan provided by the secretary of state.

**AMENDATORY SECTION** (Amending WSR 02-09-007, filed 4/4/02, effective 4/4/02)

**WAC 434-333-060** (~~(Inclusion of the federal election commission standards for voting equipment.)~~ **Public hearing.** ((The Federal Election Commission standards concerning voting systems and software eserow are hereby included by reference except where otherwise modified by these rules and the Revised Code of Washington.)) The public hearing will be scheduled at the convenience of the secretary of state. At the hearing the vendor will be expected to demonstrate the equipment and explain its function. The vendor will be available to answer questions from the voting systems review board as well as any other persons in attendance. The vendor may be asked to submit answers in writing if the voting systems review board is not satisfied with the completeness of answers given at the hearing.

**AMENDATORY SECTION** (Amending WSR 02-09-007, filed 4/4/02, effective 4/4/02)

**WAC 434-333-065** (~~(Logic and accuracy test conduct.)~~ **Issuance of certification.** ((The county shall provide adequate personnel to properly operate the ballot counting equipment. Whenever possible, the equipment should be operated during the test by the same persons who will be responsible for the ballot count on election day. If any error in programming or mechanical function is detected, the cause shall be determined and corrected, and an errorless test completed before the primary or election.)) After the secretary of state is satisfied that the system meets all requirements, a report or certification will be issued. Notification of certification will be sent by the secretary of state to all counties within thirty days of the issuance of certification. If the system fails to meet any of the requirements, the vendor will be

notified and given thirty days to submit an improved version of the system. The improved version will be tested as if it had not been seen by the office of the secretary of state.

**AMENDATORY SECTION** (Amending WSR 02-09-007, filed 4/4/02, effective 4/4/02)

**WAC 434-333-070** (~~(Logic and accuracy test observers.)~~) Certification may be conditioned. (~~(The official logic and accuracy test shall be observed by at least one representative of each major political party, if representatives have been appointed by the parties and are present at the test. The party observers shall be instructed as election observers, by the county auditor. The official logic and accuracy test shall be open to candidates, the press, and the public. If any observer hinders or disturbs the logic and accuracy test process, the county auditor or representative may remove that observer from the test area. An observer who has been removed from a logic and accuracy test may also be barred from future tests. The absence of observers shall not delay or stop the test from being conducted.)~~) Any certification may contain additional requirements of one or more actions or procedures, as determined by the review of the application and equipment.

**AMENDATORY SECTION** (Amending WSR 02-09-007, filed 4/4/02, effective 4/4/02)

**WAC 434-333-075** (~~(Logic and accuracy testing of voting systems and equipment—State primary and general election.)~~) Modification of certified equipment, guidelines for administrative approval. (~~(At least three days before each state primary or general election the office of the secretary of state shall provide for a test of the programming for the vote tallying system to be used at that primary or election. The test should verify that the system will correctly count the votes cast for all candidates and all measures appearing on the ballot. The test shall also verify that the machine(s) is/are functioning to specifications.)~~) The secretary of state may approve an application for modification of certified equipment administratively where he or she determines that the application does not:

(1) Materially affect the lawful conduct, accuracy, efficiency, capacity or security of elections;

(2) Materially affect the convenience to the voter of the elections process; or

(3) Otherwise result in significant modification to existing procedures in extending the equipment's functionality.

An application approved administratively will not require examination by the voting systems review board.

## **NEW SECTION**

**WAC 434-333-080** Application for administrative approval of modified voting systems or devices. The application for review of a modification of an existing certified system shall include at least the following information:

(1) Information about the vendor.

(2) Information about the product that is being reviewed, version numbers, and release numbers. The application must also highlight all changes to the operating and maintenance

manuals, training materials, and technical and operational specifications required by the modifications being reviewed to completely update them to the current version.

(3) The vendor shall include certification documents for all other states that have certified the equipment with the modifications.

(4) The vendor shall provide reports for all tests conducted, on the product modification(s) being reviewed for certification, by any independent testing authority or laboratory. The independent authority must meet the criteria established by the election assistance commission for such agents.

(5) The vendor shall provide documentation proving that the product with the modification(s) meets the applicable federal voting equipment guidelines.

(6) A document prepared by the vendor that describes in complete operational and technical detail all differences between the originally certified equipment or system and the modified equipment or system.

(7) A monetary deposit as described in WAC 434-333-050.

**AMENDATORY SECTION** (Amending WSR 02-09-007, filed 4/4/02, effective 4/4/02)

**WAC 434-333-085** (~~(Logic and accuracy test scheduling and preparation—State primary and general election.)~~) Recertification of modified voting systems or devices. (~~(Prior to each state primary and general election the office of the secretary of state will prepare a schedule of logic and accuracy tests. The office of the secretary of state will notify each county of the date and time of their test at least thirty days before the primary or election. The county is responsible for preparing the counting system and testing it before the actual logic and accuracy test. The ballot counting system shall be fully programmed, cleaned, maintained, tested and functional before the official logic and accuracy test. The county shall notify the parties, the press, the public, and candidates of the date and time of the test.)~~) If the system, or its component, is found to be sufficiently modified under the guidelines of WAC 434-333-075 that it requires an examination of the equipment by the voting systems review board and a public hearing, the secretary of state will notify the applicant in writing that the applicant must initiate the certification process outlined in WAC 434-333-015 through 434-333-065.

**AMENDATORY SECTION** (Amending WSR 02-09-007 [04-15-089], filed 4/4/02 [7/16/04], effective 4/4/02 [8/16/04])

**WAC 434-333-090** (~~(Logic and accuracy test certification—State primary and general election.)~~) Restricted period. (~~(The county auditor or deputy, and, if present, the office of the secretary of state representative and any political party observers shall certify that the test has been conducted in accordance with RCW 29.33.350. Copies of this certification shall be retained by the secretary of state and the county auditor. All programming materials, test results, and test ballots shall be securely sealed until the day of the primary or election. These items may be sealed and stored separately.~~)



~~If, for any reason, any changes are made to the ballot counting programming after the official logic and accuracy test, an emergency logic and accuracy test must be conducted pursuant to WAC 434-334-082 [434-333-082].) No modification, change, or other alteration to a voting or vote tabulating material, equipment, or component shall receive administrative approval or certification from July 15th until November 30th.~~

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending WSR 02-09-007, filed 4/4/02, effective 4/4/02)

~~WAC 434-333-095 ((Logic and accuracy testing of voting systems and equipment—Special elections.)) Emergency approval. ((At least three days before each special election the programming for the vote tallying system to be used at that election shall be tested for logic and accuracy. The test should verify that the system will correctly count the votes cast for all candidates and all measures appearing on the ballot. The test shall be conducted by processing a preaudited group of ballots, marked with a predetermined number of votes, for each candidate and for or against each measure. For each office where there are two or more candidates and for each measure there will be an undervote and overvote.)) Emergency approval for modifications of an existing voting or vote tabulating system, or equipment may be obtained from the secretary of state during the restricted period if failure to modify the system will materially affect the lawful conduct, efficiency, accuracy, or security of the upcoming election.~~

AMENDATORY SECTION (Amending WSR 02-09-007, filed 4/4/02, effective 4/4/02)

~~WAC 434-333-100 ((Logic and accuracy test deck preparation—Special elections.)) Application information for emergency approval. ((When a new test deck is required under WAC 434-334-095 [434-333-095], the test deck or decks used for the official logic and accuracy test will be prepared by the county elections office.)) During the restricted period, an applicant may apply in writing to the secretary of state for emergency approval of a modification of an existing certified system. The application must include a complete description of all modifications to the system that are required. The application must also include a description of how failure to modify the system will materially affect the lawful conduct, efficiency, accuracy, or security of the upcoming election. If the secretary of state determines that an emergency situation exists after a review of the application, the examination, and testing of proposed modifications will be expedited by the secretary of state to meet the needs of the upcoming election. The emergency approval will waive the requirement that the modifications be certified by the national ITA pending final approval.~~

AMENDATORY SECTION (Amending WSR 02-09-007, filed 4/4/02, effective 4/4/02)

~~WAC 434-333-105 ((Logic and accuracy test scheduling and preparation—Special election.)) Final approval. ((The county is responsible for preparing the counting system and testing it before the official logic and accuracy test. The ballot counting system shall be fully programmed, cleaned and maintained, tested, and functional before the official logic and accuracy test. The county shall notify the parties, the press, the public, and candidates of the date and time of the official logic and accuracy test.)) The applicant must submit an application that incorporates a permanent fix to the problem covered by the emergency approval in time to be approved under the normal application guidelines (ref. WAC 434-333-075) the following year. This application will be reviewed under the application guidelines.~~

#### NEW SECTION

**WAC 434-333-107 Provisional approval of modifications required for the 2004 Washington partisan primary.** The secretary of state has been informed by the counties and the vendors that some or all of the voting systems currently certified and in use must be modified prior to use in the upcoming partisan primary in order to use those voting systems to meet the requirements of the partisan primary passed in the 2004 legislative session. In order to insure the lawful conduct, efficiency, accuracy, and security of the upcoming partisan primary and general election, the secretary of state will adopt the following procedures:

(1) The requirement that the modifications be certified by national ITA will be waived (ref. WAC 434-333-020(8)).

(2) The state shall perform a series of functional and programming tests on the modified software that will test all functions of the ballot counting system. Tests will simulate both the partisan primary and general election. The tests will include all possible combinations of choices that a voter may make to select a party choice on the consolidated ballot. The tests will include processing a substantial number of test ballots of various ballot codes covering all precincts, including split precincts, multiple candidates, precinct committee officer local races, cumulative reports, precinct reports, and canvass reports.

(3) Counties using provisionally certified software will conduct a post-election logic and accuracy test of their system.

(4) Where a county is using DRE equipment as a component of the voting system, they must follow the provisions of WAC 434-333-250 through 434-333-280.

(5) The approval for use of the modified system will be valid only for the 2004 primary and general election.

(6) If applicable, the vendor will incorporate the modifications into the next release of their system to be certified by the national ITA and reviewed under the initial application guidelines (ref. WAC 434-333-015) as early as possible in 2005 but no later than July 15, 2005.

AMENDATORY SECTION (Amending WSR 02-09-007 [04-15-089], filed 4/4/02 [7/16/04], effective 4/4/02 [8/16/04])

WAC 434-333-110 (~~Logic and accuracy test certification—Special election.~~) Judicial review of agency action. ((The county auditor or deputy and any political party observers, if present, shall certify that the test has been conducted in accordance with RCW 29.33.350. Copies of this certification shall be retained by the county auditor. All programming materials, official test results, and test ballots shall be securely sealed until the day of the primary or election. These items may be sealed and stored separately.

If, for any reason, any changes are made to the ballot counting programming after the official logic and accuracy test, an emergency logic and accuracy test must be conducted pursuant to WAC 434-334-082 [434-333-082].) Any of the following decisions entered pursuant to this chapter are final decisions of the secretary as to which no further review by the agency is available, subject to judicial review pursuant to chapter 34.05 RCW:

(1) The issuance or denial of certification pursuant to WAC 434-333-065;

(2) The issuance or denial of administrative approval of a modification pursuant to WAC 434-333-075;

(3) The issuance or denial of recertification of a modified system or component pursuant to WAC 434-333-085; and

(4) A final order entered pursuant to WAC 434-333-105.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

**Reviser's note:** RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

## NEW SECTION

WAC 434-333-115 Acceptance testing of voting systems and equipment. Whenever a county acquires a new system or an upgrade to an existing system that has been certified by the secretary of state, the county must perform acceptance tests of the equipment before it may be used to count votes at any election. The equipment must be operating correctly, pass all tests and must be the same as the equipment certified by the secretary of state. The minimum testing standards are described as follows:

(1) The model number, version number, release number, and any other number, name or description that identifies the product must be the same as the identifying numbers for the product that has been certified by the secretary of state.

(2) The county must receive all manuals, and training necessary for the proper operation of the system.

(3) The county shall perform a series of functional and programming tests that will test all functions of the ballot counting system. This must include processing a substantial number of test ballots of various ballot codes, including split precincts, multiple candidates, precinct committee officer local races, cumulative reports, precinct reports, canvass reports, and any other tests the county elections authority finds necessary.

(4) The county auditor shall certify the results of acceptance testing to the secretary of state, including version numbers of hardware, software, and firmware installed and tested.

AMENDATORY SECTION (Amending WSR 02-09-007, filed 4/4/02, effective 4/4/02)

WAC 434-333-120 (~~Logic and accuracy test preparation—State primary and general election—Punchcard systems.~~) Inclusion of the federal standards for voting equipment. ((The test deck or decks used for the official logic and accuracy test are maintained by the county auditor. Information describing the candidates, offices, ballot formats, ballot positions, pages applicable or planning matrix, accurate list of prepunches, list of the number of appearances of each office and each rotation, and all other information required to select the test precincts and predict the results must be available to the office of the secretary of state at the very latest by the 30th day prior to the primary or election. If a county is delayed due to complications related to lawsuits or late filing periods, the county should advise the office of the secretary of state before the 30th day prior to the primary or election.) The 2002 election assistance commission standards concerning voting systems and software escrow are hereby included by reference except where otherwise modified by these rules and the Revised Code of Washington. After January 1, 2005, in order to get administrative approval of modifications to systems currently certified under 1990 standards, the entire voting system must be tested and approved under the 2002 standards.

AMENDATORY SECTION (Amending WSR 02-09-007, filed 4/4/02, effective 4/4/02)

WAC 434-333-125 (~~Punchcard test deck maintenance and storage.~~) Decertification of voting systems and vote tabulating systems. ((Each county employing a punchcard balloting system shall maintain a permanent deck of logic and accuracy test ballots. The test ballots shall contain a distinct pattern of votes. The deck may be used for all official logic and accuracy tests and for programming tests conducted in preparation for official logic and accuracy tests. The permanent test deck shall be maintained in secure storage except when being used for actual testing.) (1) The secretary of state may decertify a voting system or vote tabulating system or any component thereof and withdraw authority for its future use or sale in Washington if, at any time after certification:

(a) He or she determines that the system or component fails to meet the standards set forth in state or federal law, including, but not limited to, this chapter; or

(b) He or she determines that the system or component was materially misrepresented in the certification application; or

(c) He or she determines that the vendor has installed unauthorized modifications to the certified software or hardware.

(2) The secretary shall provide notice of the decertification in writing to the original applicant for certification of the system or component or successor (if known), and to all county auditors, and shall also post it to the secretary's web-

site. The notice shall specify the reasons why the certification of the system is being rescinded and the date on which the decertification is to become effective. The effective date shall not be less than five days after issuance of the notice, but may be delayed to any date the secretary finds reasonable.

(3) The original applicant or its successor or any county auditor may request in writing that the secretary reconsider the decision to decertify within thirty days after the issuance of the notice or at least ninety days prior to the effective date of the decertification, whichever is later.

(4) Reconsideration of the decision to decertify shall proceed as an adjudicative proceeding pursuant to chapter 34.05 RCW.

(a) The secretary adopts the model rules of procedure as set forth in chapter 10-08 WAC, except as they may be inconsistent with this chapter. The proceeding may be conducted as an emergency adjudicative proceeding pursuant to RCW 34.05.479 if the secretary finds that immediate action is required to preserve the integrity of the electoral process.

(b) The secretary shall designate the presiding officer.

(c) The decertification is suspended pending resolution of the administrative proceeding, unless the secretary finds, following notice and opportunity for written or oral input (which may be expedited), that the public interest requires that the decertification not be suspended.

(d) The argument in favor of decertification may be presented by an employee of the secretary or by an assistant attorney general. Other parties may be represented by a certified election administrator or by any person permitted to appear by WAC 434-180-560.

(e) An order issued by the presiding officer shall be regarded as an initial order unless the secretary, assistant secretary, deputy secretary, or director of elections presides, in which case the decision of the presiding officer shall be final and no further review is available within the agency.

AMENDATORY SECTION (Amending WSR 02-09-007, filed 4/4/02, effective 4/4/02)

WAC 434-333-130 ((~~Punchcard test precinct selection—State primary and general elections~~)) **Definition of official logic and accuracy test.** ((Prior to the official logic and accuracy test the office of the secretary of state shall review the election materials provided by the county and select a representative sample of precincts and ballot styles sufficient to cover all offices and issues contained in the election. The representative sample shall constitute the official logic and accuracy test. This provision does not limit the ability of the office of the secretary of state to conduct a complete test of every precinct if conditions warrant.)) As used in this chapter, "official logic and accuracy test" means the test performed in accordance with RCW 29.33.350 (29A.12.130).

AMENDATORY SECTION (Amending WSR 02-09-007, filed 4/4/02, effective 4/4/02)

WAC 434-333-135 ((~~Punchcard testing requirements prior to official logic and accuracy test~~)) **Logic and accuracy test conduct.** ((Prior to the official logic and accuracy test, each county employing a punchcard balloting system shall thoroughly test all programming and system compo-

ments. The test must at least verify the office programming by thoroughly testing each individual office, test the ballot style logic to insure that all offices are included in the intended precincts and combinations, and verify that the program is accumulating all offices. The county auditor or deputy shall certify that these tests have been completed prior to the official logic and accuracy test.)) The county shall provide adequate personnel to properly operate the ballot counting equipment. Whenever possible, the equipment should be operated during the test by the same persons who will be responsible for the ballot count on election day. If any error in programming or mechanical function is detected, the cause shall be determined and corrected, and an errorless test completed before the primary or election.

AMENDATORY SECTION (Amending WSR 02-09-007, filed 4/4/02, effective 4/4/02)

WAC 434-333-140 ((~~Definitions~~)) **Logic and accuracy test observers.** ((For optical scan voting systems:

(1) "Voting response area" means the area defined by ballot instructions which the voter places their mark to indicate their vote.

(2) "Scanning area" means the portions of each ballot that the system scans in order to read the vote marks made by voters.

(3) "Ballot marking code" means the coded patterns printed on ballots intended to identify ballot styles to the ballot counting system.)) **The official logic and accuracy test shall be observed by at least one representative of each major political party if representatives have been appointed by the parties and are present at the test. The party observers shall be instructed as election observers, by the county auditor. The official logic and accuracy test shall be open to candidates, the media, and the public. If any observer hinders or disturbs the logic and accuracy test process, the county auditor or representative may remove that observer from the test area. An observer who has been removed from a logic and accuracy test may also be barred from future tests. The absence of observers shall not delay or stop the test from being conducted.**

AMENDATORY SECTION (Amending WSR 02-09-007, filed 4/4/02, effective 4/4/02)

WAC 434-333-145 ((~~Logic and accuracy test deck preparation—State primary and general election—Optical scan systems~~)) **Logic and accuracy testing of voting systems and equipment—State primary and general election.** ((The test deck or decks used for the official logic and accuracy test for optical scan systems may, at the discretion of the secretary of state, be prepared by either the office of the secretary of state, the county, or the vendor. Information describing the candidates, offices, ballot formats, ballot positions, ballot styles, list of the number of appearances of each office and each rotation, and all other information required to create the test decks must be available to the office of the secretary of state by the 20th day prior to the primary or election. If a county is delayed due to complications related to lawsuits or late filing periods, the county should advise the office of the secretary of state before the 20th day prior to the primary

~~or election-))~~ At least three days before each state primary or general election the office of the secretary of state shall provide for a test of the programming for the vote tallying system to be used at that primary or election. The test should verify that the system will correctly count the votes cast for all candidates and all measures appearing on the ballot. The test shall also verify that the machine(s) is/are functioning to specifications.

AMENDATORY SECTION (Amending WSR 02-09-007, filed 4/4/02, effective 4/4/02)

~~WAC 434-333-150 ((Optical scan test ballot selection—State primary and general elections.))~~ **Procedure for conduct of delayed primary or general election emergency logic and accuracy test.** ((Prior to the official logic and accuracy test the office of the secretary of state shall review the provided election materials with the county and select a representative sample of ballot styles sufficient to cover all offices and issues contained in the election. This representative sample shall constitute the official logic and accuracy test. This provision does not limit the ability of the office of the secretary of state to conduct a complete test of every precinct if conditions warrant. If the office of the secretary of state is preparing the test deck, the county auditor shall send blank ballots of the selected ballot styles to the office of the secretary of state as soon as the ballots are available.)) If the official logic and accuracy test cannot be completed at the scheduled time and place, an emergency test shall be scheduled by the county auditor. The emergency test must be conducted and properly completed prior to the processing of any official ballots through the tabulating system. If no representative of the office of the secretary of state is able to attend the emergency test, the county auditor and another member of the county canvassing board or their designated representative shall observe the test and certify the results. Observers and notification shall be provided for pursuant to WAC 434-333-140 and 434-333-155.

AMENDATORY SECTION (Amending WSR 02-09-007, filed 4/4/02, effective 4/4/02)

~~WAC 434-333-155 ((Optical scan read head adjustment standards and tests.))~~ **Logic and accuracy test scheduling and preparation—State primary and general election.** ((Prior to all state primaries, read heads of optical scan central counting systems shall be cleaned and tested to insure that the reader is functioning within system standards.)) Prior to each state primary and general election, the office of the secretary of state will prepare a schedule of logic and accuracy tests. The office of the secretary of state will notify each county of the date and time of their test at least thirty days before the primary or election. The county is responsible for preparing the counting system and testing it before the actual logic and accuracy test. The ballot counting system shall be fully programmed, cleaned, maintained, tested, and functional before the official logic and accuracy test. The county shall notify the parties and media of the date and time of the test.

AMENDATORY SECTION (Amending WSR 02-09-007, filed 4/4/02, effective 4/4/02)

~~WAC 434-333-160 ((Optical scan read head and ballot scan area alignment tests.))~~ **Logic and accuracy test certification—State primary and general election.** ((Prior to all official logic and accuracy tests, a test shall be conducted by each county employing an optical scan balloting system to confirm that the voting response areas printed on all ballot faces are aligned properly with the scanning area of the ballot counter. This test should also confirm that all ballot marking codes are being properly interpreted by the ballot counter.)) The county auditor or deputy, and, if present, the office of the secretary of state representative and any political party observers shall certify that the test has been conducted in accordance with RCW 29.33.350. This certification shall include verification of the version number of all software, firmware, and hardware of the voting system used. Copies of this certification shall be retained by the secretary of state and the county auditor and may be posted by electronic media. Programming materials, test results, and test ballots shall be securely sealed until the day of the primary or election. These items may be sealed and stored separately.

If, for any reason, any changes are made to the ballot counting programming after the official logic and accuracy test, an emergency logic and accuracy test must be conducted pursuant to WAC 434-333-150.

AMENDATORY SECTION (Amending WSR 02-09-007, filed 4/4/02, effective 4/4/02)

~~WAC 434-333-165 ((Optical scan ballot marking code program test.))~~ **Logic and accuracy testing of voting systems and equipment—Special elections.** ((Prior to the official logic and accuracy test each county employing an optical scan balloting system shall thoroughly test all programming and system components. The test must at least verify the office programming by thoroughly testing each individual office, testing the ballot style logic to insure that all offices are included on the intended ballot faces, and verify that the program is accumulating all offices. The county auditor or deputy shall certify that these tests have been completed prior to the official logic and accuracy test.)) At least three days before each special election, the programming for the vote tallying system to be used at that election shall be tested for logic and accuracy. The test should verify that the system will correctly count the votes cast for all candidates and all measures appearing on the ballot. The test shall be conducted by processing a preaudited group of ballots, marked with a predetermined number of votes, for each candidate and for or against each measure. For each office where there are two or more candidates and for each measure there will be an undervote and overvote.

AMENDATORY SECTION (Amending WSR 02-09-007, filed 4/4/02, effective 4/4/02)

~~WAC 434-333-170 ((Precinct-based optical scan ballot counter preparation and testing.))~~ **Logic and accuracy test deck preparation—Special elections.** ((All logic and accuracy testing of precinct-based systems shall be per-

formed by the county during the preparation of the precinct ballot counters prior to system distribution. As each ballot counter is programmed and set up for distribution a test of the ballot counter and ballot styles shall be performed. It shall be established by these tests that the ballot counter(s) are functioning within system standards. All ballot styles programmed for each machine shall be processed by each machine in order to insure that the machine is correctly counting and accumulating every office. The tests shall also establish that the printed ballot voter response areas are correctly aligned with the scanning area. After all tests are performed and the machine is ready for distribution, the machine shall be sealed and the seal number recorded. This will serve as the official logic and accuracy test of these poll site ballot counters.) When a new test deck is required under WAC 434-333-165, the test deck or decks used for the official logic and accuracy test will be prepared by the county elections office.

AMENDATORY SECTION (Amending WSR 02-09-007, filed 4/4/02, effective 4/4/02)

~~WAC 434-333-175 ((Poll site based optical scan ballot counter test notices, observers, and log of process.))~~  
Logic and accuracy test scheduling and preparation—Special election. ((A log shall be created during the testing of the poll site based ballot counters. The log shall record the time and place of each test, the precinct number(s), seal number and machine number of each ballot counter and the initials of each person testing and observing the test for each machine. This log shall be included in the official logic and accuracy test materials. The processes described in WAC 434-334-170 [434-333-170] shall be open to observation and subject to all notices and observers pursuant to WAC 434-334-070 [434-333-070] and 434-334-085 [434-333-085].))  
The county is responsible for preparing the counting system and testing it before the official logic and accuracy test. The ballot counting system shall be fully programmed, cleaned and maintained, tested, and functional before the official logic and accuracy test. The county shall notify the parties and media of the date and time of the official logic and accuracy test.

NEW SECTION

**WAC 434-333-180 Logic and accuracy test certification—Special election.** The county auditor or deputy and any political party observers, if present, shall certify that the test has been conducted in accordance with RCW 29.33.350. Copies of this certification shall be retained by the county auditor. This certification shall include verification of the version number of all software, firmware, and hardware of the voting system used and may be published on electronic media. All programming materials, official test results, and test ballots shall be securely sealed until the day of the primary or election. These items may be sealed and stored separately.

If, for any reason, any changes are made to the ballot counting programming after the official logic and accuracy test, an emergency logic and accuracy test must be conducted pursuant to WAC 434-333-150.

**PUNCHCARD SYSTEMS**

NEW SECTION

**WAC 434-333-185 Logic and accuracy test preparation—State primary and general election—Punchcard systems.** The test deck or decks used for the official logic and accuracy test are maintained by the county auditor. Information describing the candidates, offices, ballot formats, ballot positions, pages applicable or planning matrix, accurate list of prepunches, list of the number of appearances of each office, and all other information required to select the test precincts and predict the results must be available to the office of the secretary of state at the very latest by the 30th day prior to the primary or election. If a county is delayed due to complications related to lawsuits or late filing periods, the county should advise the office of the secretary of state before the 30th day prior to the primary or election.

NEW SECTION

**WAC 434-333-190 Punchcard test deck maintenance and storage.** Each county employing a punchcard balloting system shall maintain a permanent deck of logic and accuracy test ballots. The test ballots shall contain a distinct pattern of votes. The deck may be used for all official logic and accuracy tests and for programming tests conducted in preparation for official logic and accuracy tests. The permanent test deck shall be maintained in secure storage except when being used for actual testing.

NEW SECTION

**WAC 434-333-195 Punchcard adjustment standards and tests.** Prior to all official logic and accuracy tests, a test must be conducted by each county employing a punchcard balloting system to confirm the ballot stock to be used in the election meets system specifications for card weight, thickness and length. The test should also confirm that the prepunches and voting response areas are being read properly by the ballot counter.

NEW SECTION

**WAC 434-333-200 Punchcard test precinct selection—State primary and general elections.** Prior to the official logic and accuracy test the office of the secretary of state shall review the election materials provided by the county and select a representative sample of precincts and ballot styles sufficient to cover all offices and issues contained in the election. The representative sample shall constitute the official logic and accuracy test. This provision does not limit the ability of the office of the secretary of state to conduct a complete test of every precinct if conditions warrant.

NEW SECTION

**WAC 434-333-205 Punchcard testing requirements prior to official logic and accuracy test.** Prior to the official logic and accuracy test, each county employing a punchcard

balloting system shall thoroughly test all programming and system components. The test must at least verify the office programming by thoroughly testing each individual office, test the ballot style logic to insure that all offices are included in the intended precincts and combinations, and verify that the program is accumulating all offices. The county auditor or deputy shall certify that these tests have been completed prior to the official logic and accuracy test.

### OPTICAL SCAN SYSTEMS

#### NEW SECTION

**WAC 434-333-210 Definitions.** For optical scan voting systems:

(1) "Voting response area" means the area defined by ballot instructions on which the voter places their mark to indicate their vote.

(2) "Scanning area" means the portions of each ballot that the system scans in order to read the vote marks made by voters.

(3) "Ballot marking code" means the coded patterns printed on ballots intended to identify ballot styles to the ballot counting system.

#### NEW SECTION

**WAC 434-333-215 Logic and accuracy test deck preparation—State primary and general election—Optical scan systems.** The test deck or decks used for the official logic and accuracy test for optical scan systems may, at the discretion of the secretary of state, be prepared by either the office of the secretary of state, the county, or the vendor. Information describing the candidates, offices, ballot formats, ballot positions, ballot styles, list of the number of appearances of each office, and all other information required to create the test decks must be available to the office of the secretary of state by the 20th day prior to the primary or election. If a county is delayed due to complications related to lawsuits or late filing periods, the county should advise the office of the secretary of state before the 20th day prior to the primary or election.

#### NEW SECTION

**WAC 434-333-220 Optical scan test ballot selection—State primary and general election.** Prior to the official logic and accuracy test the office of the secretary of state shall review the provided election materials with the county and select a representative sample of ballot styles sufficient to cover all offices and issues contained in the election. This representative sample shall constitute the official logic and accuracy test. This provision does not limit the ability of the office of the secretary of state to conduct a complete test of every precinct if conditions warrant. If the office of the secretary of state is preparing the test deck, the county auditor shall send blank ballots of the selected ballot styles to the office of the secretary of state as soon as the ballots are available.

#### NEW SECTION

**WAC 434-333-225 Optical scan read head adjustment standards and tests.** Prior to all state primaries, read heads of optical scan central counting systems shall be cleaned and tested to insure that the reader is functioning within system standards.

#### NEW SECTION

**WAC 434-333-230 Optical scan read head and ballot scan area alignment tests.** Prior to all official logic and accuracy tests, a test shall be conducted by each county employing an optical scan balloting system to confirm that the voting response areas printed on all ballot faces are aligned properly with the scanning area of the ballot counter. This test should also confirm that all ballot marking codes are being properly interpreted by the ballot counter.

#### NEW SECTION

**WAC 434-333-235 Optical scan ballot marking code program test.** Prior to the official logic and accuracy test each county employing an optical scan balloting system shall thoroughly test all programming and system components. The test must at least verify the office programming by thoroughly testing each individual office, testing the ballot style logic to insure that all offices are included on the intended ballot faces, and verify that the program is accumulating all offices. The county auditor or deputy shall certify that these tests have been completed prior to the official logic and accuracy test.

### POLL SITE-BASED OPTICAL SCAN DEVICES

#### NEW SECTION

**WAC 434-333-240 Poll site-based optical scan ballot counter preparation and testing.** All logic and accuracy testing of poll site-based systems shall be performed by the county during the preparation of the precinct ballot counters prior to system distribution. As each ballot counter is programmed and set up for distribution a test of the ballot counter and ballot styles shall be performed. It shall be established by these tests that the ballot counter(s) are functioning within system standards. All ballot styles programmed for each machine shall be processed by each machine in order to insure that the machine is correctly counting and accumulating every office. The tests shall also establish that the printed ballot voter response areas are correctly aligned with the scanning area. After all tests are performed and the machine is ready for distribution, the machine shall be sealed and the seal number recorded. This will serve as the official logic and accuracy test of these poll site ballot counters.

#### NEW SECTION

**WAC 434-333-245 Poll site-based optical scan ballot counter test notices, observers, and log of process.** A log shall be created during the testing of the poll site-based ballot counters. The log shall record the time and place of each test,

the precinct number(s), seal number and machine number of each ballot counter and the initials of each person testing and observing the test for each machine. This log shall be included in the official logic and accuracy test materials. The processes described in WAC 434-333-240 shall be open to observation and subject to all notices and observers pursuant to WAC 434-333-140 and 434-333-155.

## DIRECT RECORDING ELECTRONIC VOTING SYSTEMS

### NEW SECTION

**WAC 434-333-250 Definitions.** For direct recording electronic voting systems:

"Access device" is the device that is used by the voter to access the ballot at a direct recording electronic voting device. It may be a card or other media.

"Calibration" is the touch screen setting on direct recording electronic voting systems that controls the voter response area.

"Controller" is a component of a direct recording electronic voting system that allows the poll worker to add information to an access device so that a voter can access the correct ballot style.

"Parallel monitoring" is a process designed to detect potential presence of malicious code in the software of a voting machine. It requires a specific number of voting machines to be removed from random poll sites before voting begins. These machines are then test-voted throughout election day.

"Response area" is the area on the ballot face that records the voter's choice.

"Touch screen" is a type of computer interface on a voting device that allows the voter to touch the screen to make a choice.

"Voter verified paper record" is a paper record of a voter's choices to be verified before vote is cast.

### NEW SECTION

**WAC 434-333-255 Logic and accuracy test plan preparation—State primary and general election—Direct recording electronic systems.** The test plan used for the official preelection logic and accuracy test for direct recording electronic systems may be prepared by either the office of the secretary of state or the county. Information describing the candidates, offices, ballot formats, ballot styles, list of the number of appearances of each office, and all other information required to create the test plan must be available to the office of the secretary of state by the 20th day prior to the primary or election. If a county is delayed due to complications related to lawsuits or late filing periods, the county should advise the office of the secretary of state before the 20th day prior to the primary or election.

### NEW SECTION

**WAC 434-333-260 Direct recording electronic test ballot selection—State primary and general election.** Prior to the official logic and accuracy test the office of the secre-

tary of state shall review the provided election materials with the county and select a representative sample of ballot styles sufficient to cover all offices and issues contained in the election. This representative sample shall constitute the official preelection logic and accuracy test. This provision does not limit the ability of the office of the secretary of state to conduct a complete test of every precinct if conditions warrant.

### NEW SECTION

**WAC 434-333-265 Direct recording electronic calibration adjustment standards and tests.** Prior to all state primaries and elections, calibration settings of all direct recording electronic devices using touch screen technology shall be tested to insure that the response areas are functioning within system standards.

### NEW SECTION

**WAC 434-333-270 Direct recording electronic voting response area tests.** Prior to all official logic and accuracy tests, and prior to programming the poll-site direct recording electronic devices, a test shall be conducted by each county employing a direct recording electronic balloting system to confirm that the voting response areas indicated on all ballot faces are programmed correctly. The county shall test all ballot styles on at least one device to insure that the programming is correctly counting and accumulating every office and candidate.

### NEW SECTION

**WAC 434-333-275 Direct recording electronic ballot marking code program test.** Prior to all official logic and accuracy tests each county employing a direct recording electronic balloting system shall thoroughly test all programming and system components. The test must verify the office programming by thoroughly testing each individual office, testing the ballot style logic to insure that all offices are included on the intended ballot faces, and verify that the program is accumulating all offices. The county auditor or deputy shall certify that these tests have been completed prior to the official logic and accuracy test.

### NEW SECTION

**WAC 434-333-280 Direct recording electronic system logic and accuracy test notices, and observers.** At the discretion of the secretary of state, a county may conduct its official preelection logic and accuracy test of the county's direct recording electronic system at a date and time prior to the logic and accuracy test of the county's optical scan system. The official preelection logic and accuracy test of the county's direct recording electronic system shall be open to observation and subject to all notices and observers pursuant to WAC 434-333-140 and 434-333-155. The results of the test shall be included in the official logic and accuracy test materials and combined with the results of all other voting systems used by the county to confirm an adequate integration of the systems.

**POLL SITE-BASED DIRECT  
RECORDING ELECTRONIC DEVICES**

**NEW SECTION**

**WAC 434-333-285 Poll site-based direct recording electronic voting device preparation and testing.** All logic and accuracy testing of poll site-based direct recording electronic systems shall be performed by the county prior to system distribution. A representative from the secretary of state's office may attend these tests in whole or in part. As each voting device is programmed and set up for distribution a test of the response area, the ballot styles, and ballot counter shall be performed. It shall be established by these tests that the device and the tabulation software is functioning within system standards. A minimum of one ballot of each ballot style cast at a poll site shall be tested on the machines deployed at that poll site. The tests shall also establish that the voter response areas of each touch screen, if used, are correctly calibrated. This test shall also confirm that all ballot styles appropriate to the poll site to which the device will be deployed are properly issued by the controller. After all functionality tests are performed and the machine is ready for distribution, each machine shall be sealed and the seal number recorded. This will serve as the official logic and accuracy test of these poll site direct recording electronic devices.

**NEW SECTION**

**WAC 434-333-290 Poll site-based direct recording electronic device test notices, observers, and log of process.** A log shall be created during the testing of the poll site-based direct recording electronic machines. The log shall record the time and place of each test, the precinct number(s), seal number and machine number of each voting device and the initials of each person testing and observing the test for each machine. This log shall be included in the official logic and accuracy test materials. The processes described in WAC 434-333-170 shall be open to observation and subject to all notices and observers pursuant to WAC 434-333-140 and 434-333-155.

**NEW SECTION**

**WAC 434-333-295 Parallel monitoring test.** On election day, in each county using direct recording electronic voting devices without a voter verified paper record at the poll sites, parallel monitoring will be conducted in the following manner: One machine shall be removed from one percent (rounded up) of poll sites, chosen by lot, before voting begins. These machines will be attended by secretary of state personnel throughout the day and test votes will be cast by individuals selected by the county auditor, in a predetermined manner for results comparison at the end of the day. A record of votes cast may be kept by videotape for verification. All results of this test will be made public.

**NEW SECTION**

**WAC 434-333-300 Post election test.** Following election day, in each county using direct recording electronic vot-

ing devices at the poll sites, a post election logic and accuracy test will be conducted on the devices selected for the parallel monitoring test (ref. WAC 434-333-295). This test will be substantially the same as the preelection logic and accuracy test, pursuant to WAC 434-333-285 through 434-333-290.

**WSR 05-05-038  
EMERGENCY RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Medical Assistance Administration)**

[Filed February 11, 2005, 2:26 p.m., effective February 11, 2005]

Effective Date of Rule: Immediately.

Purpose: Codify the existing expedited fair hearings process for managed care clients as required by federal regulations.

Citation of Existing Rules Affected by this Order:  
Amending WAC 388-538-112.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520.

Other Authority: 42 C.F.R. 431.244 (f)(2).

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: This emergency rule adoption is necessary while the permanent rule-making process is being completed because current WAC does not reflect existing policy for an expedited fair hearing process for managed care clients as required by 42 C.F.R. 431-244 (f)(2).

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

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

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

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

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

Date Adopted: February 8, 2005.

Andy Fernando, Manager  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 05-01-066, filed 12/8/04, effective 1/8/05)

**WAC 388-538-112 The department of social and health services' (DSHS) fair hearing process for enrollee appeals of managed care organization (MCO) actions.** (1) The fair hearing process described in chapter 388-02 WAC



applies to the fair hearing process described in this chapter. Where a conflict exists, the requirements in this chapter take precedence.

(2) An MCO enrollee must exhaust all levels of resolution and appeal within the MCO's grievance system prior to filing an appeal (a request for a department fair hearing) with MAA. See WAC 388-538-110 for the MCO grievance system.

(3) If an MCO enrollee does not agree with the MCO's resolution of the enrollee's appeal, the enrollee may file a request for a department fair hearing within the following time frames:

(a) For appeals regarding a standard service, within ninety calendar days of the date of the MCO's notice of the resolution of the appeal.

(b) For appeals regarding termination, suspension, or reduction of a previously authorized service, ~~((€))~~ and the enrollee is requesting continuation of services, within ten calendar days of the date on the MCO's notice of the resolution of the appeal.

(4) The entire appeal process, including the MCO appeal process, must be completed within ninety calendar days of the date the MCO enrollee filed the appeal with the MCO, not including the number of days the enrollee took to subsequently file for a department fair hearing.

(5) Expedited fair hearing process:

(a) If the enrollee or the enrollee's representative indicates in their request for a fair hearing that taking the time for a standard resolution could seriously jeopardize the enrollee's life or health and ability to attain, maintain, or regain maximum function.

(b) The office of administrative hearings (OAH) must make a decision on the enrollee's request for expedited appeal and provide notice, as expeditiously as the enrollee's health condition requires, within three business days after OAH receives the fair hearing request.

(c) If OAH denies a request for expedited resolution of an appeal, it must:

(i) Transfer the appeal to the time frame for standard resolution; and

(ii) Make reasonable efforts to give the enrollee prompt oral notice of the denial, and follow up within two calendar days with a written notice.

(6) Parties to the fair hearing include the department, the MCO, the enrollee, and the enrollee's representative or the representative of a deceased enrollee's estate.

~~((€))~~ (7) If an enrollee disagrees with the fair hearing decision, then the enrollee may request an independent review (IR) in accordance with RCW 48.43.535.

~~((€))~~ (8) If there is disagreement with the IR decision, the department of social and health services (DSHS) board of appeals (BOA) issues the final administrative decision.

**WSR 05-05-039  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 05-18—Filed February 11, 2005, 4:49 p.m., effective February 12, 2005]

Effective Date of Rule: February 12, 2005.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-07300R; and amending WAC 220-52-073.

Statutory Authority for Adoption: RCW 77.12.240.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable amounts of green sea urchins exist in the areas described. Prohibition of all diving from licensed sea urchin and sea cucumber harvest vessels within two days of scheduled sea urchin openings discourages the practice of fishing on closed days and hiding the unlawful catch underwater until the legal opening. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Date Adopted: February 11, 2005.

J. P. Koenings

Director

by Larry Peck

**NEW SECTION**

**WAC 220-52-07300S Sea urchins.** Notwithstanding the provisions of WAC 220-52-073, effective February 12, 2005 until further notice, it is unlawful to take or possess sea urchins taken for commercial purposes except as provided for in this section:

(1) Green sea urchins: Sea Urchin Districts 3, 4, 6 and 7 are open only on Monday through Wednesday of each week. The minimum size for green sea urchins is 2.25 inches (size in largest test diameter exclusive of spines).

(2) It is unlawful to dive for any purpose from a commercially licensed sea urchin or sea cucumber fishing vessel on Saturday and Sunday of each week, except by written permis-

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sion from the Director. Such written permission must be on the harvest vessel and available to authorized Department staff upon request.

### REPEALER

The following section of the Washington Administrative Code is repealed effective February 12, 2005:

WAC 220-52-07300R Sea urchins. (05-08)

**WSR 05-05-040**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 05-19—Filed February 11, 2005, 4:50 p.m., effective February 14, 2005, 6:00 a.m.]

Effective Date of Rule: February 14, 2005, 6:00 a.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:  
Amending WAC 220-52-071.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable amounts of sea cucumbers are available in sea cucumber districts listed. Prohibition of all diving within two days of scheduled sea cucumber openings discourages the practice of fishing on closed days and hiding the unlawful catch underwater until the legal opening. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Date Adopted: February 11, 2005.

J. P. Koenings  
Director  
by Larry Peck

### NEW SECTION

**WAC 220-52-07100L Sea cucumbers.** Notwithstanding the provisions of WAC 220-52-071, effective 6:00 a.m. February 14, 2005 until further notice, it is unlawful to take or possess sea cucumbers taken for commercial purposes except as provided for in this section:

(1) Sea cucumber harvest using shellfish diver gear is allowed in Sea Cucumber Districts 1, 2 and 5 on Monday, Tuesday and Wednesday of each week. Sea cucumber harvest using shellfish diver gear is allowed in Sea Cucumber District 3 on February 14 and 15, 2005 only.

(2) It is unlawful to dive for any purpose from a commercially licensed sea cucumber or sea urchin fishing vessel on Saturday and Sunday of each week, except by permission from the Director. Such written permission must be on the harvest vessel and available to authorized Department staff upon request.

**WSR 05-05-041**

**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 05-20—Filed February 11, 2005, 4:51 p.m., effective February 15, 2005, 6:00 p.m.]

Effective Date of Rule: February 15, 2005, 6:00 p.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:  
Repealing WAC 220-52-04600X; and amending WAC 220-52-046.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The state may not authorize commercial shellfish harvests absent agreed planning or compliance with a process. The provisions of this rule are in conformity with agreed plans with applicable tribes that have been entered as required by court order. The closures in Catch Areas 24A, 24B, 24C, 24D and 26A-East are to protect high numbers of soft crab. Catch Areas 23D, 25A, and 25E are closing because the harvest share in those areas is projected to be reached by the closure date. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Date Adopted: February 11, 2005.

Evan Jacoby  
for Jeff Koenings  
Director

**NEW SECTION**

**WAC 220-52-04600Z Crab fishery—Seasons and areas.** Notwithstanding the provisions of WAC 220-52-046, effective immediately until further notice:

1) It will be lawful to fish for Dungeness Crab for commercial purposes in the following areas:

(a) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 26A within a line that extends due north from the green number 1 buoy at Scatchet Head to Scatchet Head, thence from the green number 1 buoy at Scatchet Head to the green number 1 buoy at Possession Point, thence due north from the green number 1 buoy at Possession Point to Possession Point.

(b) That portion of Marine Fish-Shellfish Catch Area 21B in Samish Bay south of a line from Fish Point and Point Williams in water deeper than 60 feet.

(c) Those waters of Marine Fish-Shellfish Catch Area 26A 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° 30.84'W) projected 110° true to the boulder on shore (47° 57.690'N, 122° 26.742'W).

2) Marine Fish-Shellfish Management and Catch Reporting Area 26A shall be further defined by the following boundaries:

(a) Area 26A-W shall include those waters of Catch Area 26A south of 25B 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.

(b) Area 26A-E shall include those waters of Catch Area 26A south of Areas 24B and 24C and north and east of a line that extends from Possession Point to the Shipwreck located .8 nautical miles north of Picnic Point.

3) Those waters of Marine Fish-Shellfish Management and Catch Reporting Areas 23D, 25A and 25E will close to the taking or possession of Dungeness crab at 6:00 p.m. on February 15, 2005.

4) Those waters of Marine Fish-Shellfish Management and Catch Reporting Areas 26A-East, 24B, 24D and that portion of 24C south of a line drawn from Snatelum Point to Rocky Point will close to the taking or possession of Dungeness crab at 6:00 p.m. on February 15, 2005.

5) Those waters of Marine Fish-Shellfish Management and Catch Reporting Areas 24A and 24C north of a line drawn from Snatelum Point to Rocky Point will close to the taking or possession of Dungeness crab at 6:00 p.m. on February 25, 2005.

**REPEALER**

The following section of the Washington Administrative Code is repealed effective 6:00 p.m. February 15, 2005:

WAC 220-52-04600X Crab fishery—Seasons and areas. (05-07)

**WSR 05-05-074**

**EMERGENCY RULES**

**DEPARTMENT OF CORRECTIONS**

[Filed February 15, 2005, 1:53 p.m., effective February 15, 2005]

Effective Date of Rule: Immediately.

Purpose: Increase the rates for reimbursement of criminal justice costs of local jurisdictions impacted by DOC institutions.

Citation of Existing Rules Affected by this Order: Amending WAC 137-70-040.

Statutory Authority for Adoption: RCW 72.72.040.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The reimbursement rates need immediate adjustment to provide additional resources to local governments performing law enforcement and criminal justice activities related to criminal behavior of offenders in institutions located in their jurisdictions.

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

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

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

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

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

Date Adopted: February 15, 2005.

Eldon Vail  
Acting Secretary

**AMENDATORY SECTION** (Amending Order 89-04, filed 5/25/89)

**WAC 137-70-040 Reimbursable impacts/rates—Criminal justice costs.** Reimbursement shall be restricted to fully documented law enforcement, prosecutorial, judicial and jail facility costs, as defined herein, at the actual costs of the submitting jurisdiction, not to exceed the following rates:

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(1) Law enforcement costs are costs incurred by any political subdivision in apprehending escapees, in investigating crimes committed by state institutional inmates including pretrial investigations within or outside the institution, or in providing security for inmates outside the jail facility. These costs are reimbursable at the following rates:

((a) ~~\$19.03 per hour for the period July 1, 1985, through June 30, 1986.~~

(b) ~~\$19.81 per hour for the period July 1, 1986, through June 30, 1989.)~~ \$23.96 per hour.

(2) If an escape or investigation results in the filing of a criminal complaint, the impacted political subdivision shall be entitled to attorney costs associated with the prosecution and/or defense of the filed action. These costs are reimbursable at the following maximum rates:

((a) ~~\$45.50 per hour from July 1, 1985, through June 30, 1986.~~

(b) ~~\$47.37 per hour from July 1, 1986, through June 30, 1989.)~~ \$57.32 per hour.

(3) Reimbursement for judicial costs incurred as a result of the filing of a criminal complaint shall be limited to judges, court reporters, transcript typing or preparation, witness fees and jury fees. These costs are reimbursable at the following maximum rates:

(a) Judges - ((~~\$42.41 per hour from July 1, 1985, through June 30, 1986, and \$44.15 per hour for the period July 1, 1986, through June 30, 1989.)~~) \$57.32 per hour. These costs shall include the services of court clerks and bailiffs.

(b) Court reporters - ((~~\$19.08 per hour from July 1, 1985, through June 30, 1986, and \$19.86 per hour for the period July 1, 1986, through June 30, 1989.)~~) \$24.71 per hour.

(c) Transcript typing services - ((~~\$3.80 per page from July 1, 1985, through June 30, 1986, and \$3.96 per page for the period July 1, 1986, through June 30, 1989.)~~) \$4.79 per page.

(d) Expert witnesses - ((~~\$63.86 per hour from July 1, 1985, through June 30, 1986, and \$66.48 per hour for the period July 1, 1986, through June 30, 1989.)~~) \$80.43 per hour.

(e) Witness fees/nonexpert - jury fees - reimbursable at the rate established by the local governmental legislative authority up to a maximum of ((~~\$28.67 per day for the period July 1, 1985, through June 30, 1986, and \$29.85 for the period July 1, 1986, through June 30, 1989.)~~) \$36.11 per day.

(4) Jail facility costs resulting from the escape or criminal complaint shall be reimbursed at the ((~~following maximum rate: \$15.00 per inmate day from July 1, 1985, through June 30, 1987, \$18.00 for the period July 1, 1987, through July 31, 1988, and \$30.00 for the period August 1, 1988, through June 30, 1989.)~~) rates established by OFM.

(5) Coroner - Where an inmate dies as a result of criminal activity of another inmate, coroner costs incurred by a local jurisdiction may be reimbursed up to a maximum amount established by the department as reasonable.

(6) Medical costs - Where an inmate is in the custody of a local jurisdiction as a result of a crime committed while incarcerated in a state institution, extraordinary medical costs, beyond the routine medical services of the jail, may be reimbursed at the discretion of the department. Counties, cities, and towns shall notify the department prior to incurring

expenses for extraordinary medical expenses, where practicable, to allow the department an opportunity to provide the necessary medical care directly.

## WSR 05-05-088

### EMERGENCY RULES

### DEPARTMENT OF

### SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration)

[Filed February 15, 2005, 3:57 p.m., effective February 15, 2005]

Effective Date of Rule: Immediately.

Purpose: To reconcile SSI-related medical program resource eligibility rules with federal law.

Citation of Existing Rules Affected by this Order: Amending WAC 388-475-0550, 388-475-0700, 388-475-0800, 388-475-0820, and 388-475-0860.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, 74.08.090, and 74.09.500.

Other Authority: Social Security Act as amended by P.L. 108-203.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: The state must adopt rules to comply with federal Medicaid law in Public Law 108-203, Subtitle D. Sections 430, 431, and 435 in order to continue receiving federal funding.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 5, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 5, Repealed 0.

Date Adopted: February 11, 2005.

Andy Fernando, Manager

Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 04-09-004, filed 4/7/04, effective 6/1/04)

**WAC 388-475-0550 SSI-related medical—All other excluded resources.** All resources described in this section are excluded resources for SSI-related medical programs. Unless otherwise stated, interest earned on the resource amount is counted as unearned income.

(1) Resources necessary for a client who is blind or disabled to fulfill a department approved self-sufficiency plan.

(2) Retroactive payments from SSI or RSDI, including benefits a client receives under the interim assistance reimbursement agreement with the Social Security Administration, are excluded for ~~((six\*))~~ nine months following the month of receipt. This exclusion applies to:

(a) Payments received by the client, spouse, or any other person financially responsible for the client;

(b) SSI payments for benefits due for the month(s) before the month of continuing payment;

(c) RSDI payments for benefits due for a month that is two or more months before the month of continuing payment; and

(d) Proceeds from these payments as long as they are held as cash, or in a checking or savings account. The funds may be commingled with other funds, but must remain identifiable from the other funds for this exclusion to apply. This exclusion does not apply once the payments have been converted to any other type of resource.

(3) All resources specifically excluded by federal law, such as those described in subsections (4) through (11) as long as such funds are identifiable.

(4) Payments made under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

(5) Payments made to Native Americans as listed in 20 CFR 416.1182, Appendix to subpart K, section IV, paragraphs (b) and (c), and in 20 CFR 416.1236.

(6) The following Native American/Alaska Native funds are excluded resources:

(a) Resources received from a Native Corporation under the Alaska Native Claims Settlement Act, including:

(i) Shares of stock held in a regional or village corporation;

(ii) Cash or dividends on stock received from the Native Corporation up to two thousand dollars per person per year;

(iii) Stock issued by a native corporation as a dividend or distribution on stock;

(iv) A partnership interest;

(v) Land or an interest in land; and

(vi) An interest in a settlement trust.

(b) All funds contained in a restricted Individual Indian Money (IIM) account.

(7) Restitution payment and any interest earned from this payment to persons of Japanese or Aleut ancestry who were relocated and interned during war time under the Civil Liberties Act of 1988 and the Aleutian and Pribilof Islands Restitution Act.

(8) Funds received from the Agent Orange Settlement Fund or any other funds established to settle Agent Orange liability claims.

(9) Payments or interest accrued on payments received under the Radiation Exposure Compensation Act received by the injured person, the surviving spouse, children, grandchildren, or grandparents.

(10) Payments from:

(a) The Dutch government under the Netherlands' Act on Benefits for Victims of Persecution (WUV).

(b) The Victims of Nazi Persecution Act of 1994 to survivors of the Holocaust.

(c) Susan Walker vs. Bayer Corporation, et al., 96-C-5024 (N.D. Ill.) (May 8, 1997) settlement funds.

(d) Ricky Rey Hemophilia Relief Fund Act of 1998 P.L. 105-369.

(11) The unspent social insurance payments received due to wage credits granted under sections 500 through 506 of the Austrian General Social Insurance Act.

(12) Earned income tax credit refunds and payments are excluded as resources ~~((during the month of receipt and the following month))~~ for nine months after the month of receipt.

(13) Payments from a state administered victim's compensation program for a period of nine calendar months after the month of receipt.

(14) Cash or in-kind items received as a settlement for the purpose of repairing or replacing a specific excluded resource are excluded:

(a) For nine months. This includes relocation assistance provided by state or local government.

(b) Up to a maximum of thirty months, when:

(i) The client intends to repair or replace the excluded resource; and

(ii) Circumstances beyond the control of the settlement recipient prevented the repair or replacement of the excluded resource within the first or second nine months of receipt of the settlement.

(c) For an indefinite period, if the settlement is from federal relocation assistance.

(d) Permanently, if the settlement is assistance received under the Disaster Relief and Emergency Assistance Act or other assistance provided under a federal statute because of a catastrophe which is declared to be a major disaster by the President of the United States, or is comparable assistance received from a State or local government or from a disaster assistance organization. Interest earned on this assistance is also excluded from resources. Any cash or in-kind items received as a settlement and excluded under this subsection are considered as available resources when not used within the allowable time periods.

(15) Insurance proceeds or other assets recovered by a Holocaust survivor as defined in WAC 388-470-0026(4).

(16) Pension funds owned by an ineligible spouse. Pension funds are defined as funds held in a(n):

(a) Individual retirement account (IRA) as described by the IRS code; or

(b) Work-related pension plan (including plans for self-employed individuals, known as Keogh plans).

(17) Cash payments received from a medical or social service agency to pay for medical or social services are excluded for one calendar month following the month of receipt.

(18) SSA- or DVR-approved plans for achieving self-support (PASS) accounts, allowing blind or disabled individuals to set aside resources necessary for the achievement of the plan's goals, are excluded.

(19) Food and nutrition programs with federal involvement. This includes Washington Basic Food, school reduced and free meals and milk programs and WIC.

(20) Gifts to, or for the benefit of, a person under eighteen years old who has a life-threatening condition, from an organization described in section 501 (c)(3) of the Internal Revenue Code of 1986 which is exempt from taxation under section 501(a) of that Code, as follows:

(a) In-kind gifts that are not converted to cash; or

(b) Cash gifts up to a total of two thousand dollars in a calendar year.

~~((22))~~ (21) Veteran's payments made to, or on behalf of, natural children of Vietnam veterans regardless of their age or marital status, for any disability resulting from spina bifida suffered by these children.

~~((23))~~ (22) The following are among assets that are not considered resources and as such are neither excluded nor counted:

(a) Home energy assistance/support and maintenance assistance;

(b) Retroactive in-home supportive services payments to ineligible spouses and parents; and

(c) Gifts of domestic travel tickets. For a more complete list please see POMS @ <http://policy.ssa.gov/poms.nsf/lnx/0501130050>.

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

**AMENDATORY SECTION** (Amending WSR 04-09-004, filed 4/7/04, effective 6/1/04)

**WAC 388-475-0700 SSI-related medical—Income eligibility.** (1) In order to be eligible, a client is required to do everything necessary to obtain any income to which they are entitled including (but not limited to):

(a) Annuities,

(b) Pensions,

(c) Unemployment compensation,

(d) Retirement, and

(e) Disability benefits; even if their receipt makes the client ineligible for department services, unless the client can provide evidence showing good reason for not obtaining the benefits.

The department does not count this income until the client begins to receive it.

(2) Income is budgeted prospectively for all medical programs.

(3) Anticipated nonrecurring lump sum payments other than retroactive SSI/SSDI payments are considered income in the month received, subject to reporting requirements in WAC 388-418-0007(4). Any unspent portion is considered a resource the first of the following month.

(4) The department follows income and resource methodologies of the Supplemental Security Income (SSI) program defined in federal law when determining eligibility for SSI-related medical or Medicare Savings programs unless the department adopts rules that are less restrictive than those of the SSI program.

(5) Exceptions to the SSI income methodology:

(a) Lump sum payments from a retroactive SSDI benefit, when reduced by the amount of SSI received during the period covered by the payment, are not counted as income;

(b) Unspent retroactive lump sum money from SSI or SSDI is excluded as a resource for ~~((six))~~ nine months following receipt of the lump sum; and

(c) Both the principal and interest portions of payments from a sales contract, that meet the definition in WAC 388-475-0350(10), are unearned income.

(6) To be eligible for categorically needy (CN) SSI-related medical coverage, a client's countable income cannot exceed the CN program standard described in:

(a) WAC 388-478-0065 through 388-478-0085 for non-institutional medical unless living in an alternate living facility; or

(b) WAC 388-513-1305(2) for noninstitutional CN benefits while living in an alternate living facility; or

(c) WAC 388-513-1315 for institutional and waiver services medical benefits.

(7) To be eligible for SSI-related medical coverage provided under the medically needy (MN) program, a client must:

(a) Have countable income at or below the MN program standard as described in WAC 388-478-0070; or

(b) Satisfy spenddown requirements described in WAC 388-519-0110~~((-01))~~;

(c) Meet the requirements for noninstitutional MN benefits while living in an alternate living facility (ALF). See WAC 388-513-1305(3) ~~((and 388-515-1540))~~; or

(d) Meet eligibility for the MN residential waiver program. See WAC 388-515-1540.

**AMENDATORY SECTION** (Amending WSR 04-09-005, filed 4/7/04, effective 6/1/04)

**WAC 388-475-0800 SSI-related medical—General income exclusions.** The department excludes, or does not consider, the following when determining a client's eligibility for SSI-related medical programs:

(1) The first twenty dollars per month of unearned income. If there is less than twenty dollars of unearned income in a month, the remainder is excluded from earned income in that month.

(a) The twenty-dollar limit is the same, whether applying it for a couple or for a single person.

(b) The disregard does not apply to income paid totally or partially by the federal government or a nongovernmental agency on the basis of an eligible person's needs.

(c) The twenty dollars disregard is applied after all exclusions have been taken from income.

(2) Income that is not reasonably anticipated or is received infrequently or irregularly, whether for a single person or each person in a couple when it is:

(a) Earned and does not exceed a total of ~~((ten))~~ thirty dollars per ~~((month))~~ calendar quarter; or

(b) Unearned and does not exceed a total of ~~((twenty))~~ sixty dollars per ~~((month))~~ calendar quarter;

(c) Increases in a client's burial funds that were established on or after November 1, 1982 if the increases are the result of:

(i) Interest earned on excluded burial funds; or

(ii) Appreciation in the value of an excluded burial arrangement that was left to accumulate and become part of separately identified burial funds.

(3) Essential expenses necessary for a client to receive compensation (e.g., necessary legal fees in order to get a settlement);

(4) Receipts, which are not considered income, when they are for:

(a) Replacement or repair of an exempt resource;

(b) Prepayment or repayment of medical care paid by a health insurance policy or medical service program; or

(c) Payments made under a credit life or credit disability policy.

(5) The fee a guardian or representative payee charges as reimbursement for providing services, when such services are a requirement for the client to receive payment of the income.

(6) Funds representing shared household costs.

(7) Crime victim's compensation.

(8) The value of a common transportation ticket, given as a gift, that is used for transportation and not converted to cash.

(9) Gifts that are not for food, clothing or shelter, and gifts of home produce used for personal consumption.

(10) The department does not consider in-kind income received from someone other than a person legally responsible for the individual unless it is earned. Therefore, the following in-kind payments are not counted when determining eligibility for SSI-related medical programs.

(a) In-kind payments for services paid by a client's employer if:

(i) The service is not provided in the course of an employer's trade or business; or

(ii) It is in the form of food and/or shelter that is:

(A) On the employer's business premises;

(B) For the employer's convenience; and

(C) If shelter, acceptance by the employee is a condition of employment.

(b) In-kind payments made to people in the following categories:

(i) Agricultural employees;

(ii) Domestic employees;

(iii) Members of the Uniformed Services;

(iv) Persons who work from home to produce specific products for the employer from materials supplied by the employer.

**AMENDATORY SECTION** (Amending WSR 04-09-005, filed 4/7/04, effective 6/1/04)

**WAC 388-475-0820 SSI-related medical—Child-related income exclusions.** (1) The department excludes an allowance from a person's earned and/or unearned income for a child living in the home when:

(a) The minor child lives with an SSI-related parent; and

(b) The minor child is not receiving a needs-based cash payment such as TANF or SSI; and

(c) The SSI-related parent is single; or

(d) The SSI-related parent lives with a spouse who has no income; and

(e) The individual applying for or receiving SSI-related medical benefits is the adult parent. The maximum allowance is one-half the Federal Benefit Rate (FBR) for each child. The child's countable income, if any, is subtracted from the maximum child's allowance (~~(-One third of the child support received for the child is excluded from the child's income)~~) before determining this allowance.

(2) Foster care payments received for a child who is not SSI-eligible and who is living in the household, placed there by a licensed, nonprofit or public child placement or child-care agency are excluded from income regardless of whether the person requesting or receiving SSI-related medical is the adult foster parent or the child who was placed.

(3) Adoption support payments, received by an adult for a child in the household that are designated for the child's needs, are excluded as income. Adoption support payments that are not specifically designated for the child's needs are not excluded and are considered unearned income to the adult.

(4) (~~(Up to one thousand three hundred seventy dollars per month of a child's))~~ Earned income (~~(, but not more than five thousand five hundred twenty dollars per year,))~~ of a person under age twenty-two is excluded if (~~(the child))~~ that person is a student.

(5) Child support payments received from an absent parent for a child living in the home are considered the income of the child.

(6) One-third of child support payments received for a child are excluded from the child's income.

(7) Any portion of a grant, scholarship, (~~(or))~~ fellowship, or gift used (~~(to pay))~~ for tuition, fees and/or other necessary educational expenses at any educational institution is excluded from income for nine months after the month of receipt.

(~~(7))~~ (8) Gifts to, or for the benefit of, a person under eighteen years old who has a life-threatening condition, from an organization described in section 501 (c)(3) of the Internal Revenue Code of 1986 which is exempt from taxation under section 501(a) of that Code, is excluded as follows:

(a) In-kind gifts that are not converted to cash; or

(b) Cash gifts up to a total of two thousand dollars in a calendar year.

(~~(8))~~ (9) Veteran's payments made to, or on behalf of, natural children of Vietnam veterans regardless of their age or marital status, for any disability resulting from spina bifida suffered by these children are excluded from income.

(~~(9))~~ (10) Unless it is specifically contributed to the client, all earned income of an ineligible or nonapplying person under the age of twenty-one who is a student:

(a) Attending a school, college, or university; or

(b) Pursuing a vocational or technical training program designed to prepare the student for gainful employment.

**AMENDATORY SECTION** (Amending WSR 04-09-005, filed 4/7/04, effective 6/1/04)

**WAC 388-475-0860 SSI-related medical—Income exclusions under federal statute or other state laws.** The Social Security Act and other federal statutes or state laws list income that the department excludes when determining eligi-

bility for SSI-related medical programs. These exclusions include, but are not limited to:

- (1) Income tax refunds;
- (2) Federal earned income tax credit (EITC) payments for nine months after the month of receipt;
- (3) Compensation provided to volunteers in the Corporation for National and Community Service (CNCS), formerly known as ACTION programs established by the Domestic Volunteer Service Act of 1973. P.L. 93-113;
- (4) Assistance to a person (other than wages or salaries) under the Older Americans Act of 1965, as amended by section 102 (h)(1) of Pub. L. 95-478 (92 Stat. 1515, 42 U.S.C. 3020a);
- (5) Federal, state and local government payments including assistance provided in cash or in-kind under any government program that provides medical or social services;
- (6) Certain cash or in-kind payments a client receives from a governmental or nongovernmental medical or social service agency to pay for medical or social services;
- (7) Value of food provided through a federal or nonprofit food program such as WIC, donated food program, school lunch program;
- (8) Assistance based on need, including:
  - (a) Any federal SSI income or state supplement payment (SSP) based on financial need;
  - (b) Food stamps;
  - (c) GA-U;
  - (d) CEAP;
  - (e) TANF; and
  - (f) Bureau of Indian Affairs (BIA) general assistance.
- (9) Housing assistance from a federal program such as HUD if paid under:
  - (a) United States Housing Act of 1937 (section 1437 et seq. of 42 U.S.C.);
  - (b) National Housing Act (section 1701 et seq. of 12 U.S.C.);
  - (c) Section 101 of the Housing and Urban Development Act of 1965 (section 1701s of 12 U.S.C., section 1451 of 42 U.S.C.);
  - (d) Title V of the Housing Act of 1949 (section 1471 et seq. of 42 U.S.C.); or
  - (e) Section 202(h) of the Housing Act of 1959;
  - (f) Weatherization provided to low-income homeowners by programs that consider income in the eligibility determinations;
- (10) Energy assistance payments including:
  - (a) Those to prevent fuel cutoffs, and
  - (b) To promote energy efficiency.
- (11) Income from employment and training programs as specified in WAC 388-450-0045.
- (12) Foster Grandparents program;
- (13) Title IV-E and state foster care maintenance payments if the foster child is not included in the assistance unit;
- (14) The value of any childcare provided or arranged (or any payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act, as amended by section 8(b) of P.L. 102-586 (106 Stat. 5035).
- (15) Educational assistance as specified in WAC 388-450-0035.

(16) Up to two thousand dollars per year derived from an individual's interest in Indian trust or restricted land.

(17) Native American benefits and payments as specified in WAC 388-450-0040 and other Native American payments excluded by federal statute. For a complete list of these payments, see 20 CFR 416, Subpart K, Appendix, IV.

(18) Payments from Susan Walker v. Bayer Corporation, et al., 96-c-5024 (N.D. Ill) (May 8, 1997) settlement funds;

(19) Payments from Ricky Ray Hemophilia Relief Fund Act of 1998, P.L. 105-369;

(20) Disaster assistance paid under Federal Disaster Relief P.L. 100-387 and Emergency Assistance Act, P.L. 93-288 amended by P.L. 100-707 and for farmers P.L. 100-387;

(21) Payments to certain survivors of the Holocaust as victims of Nazi persecution; payments excluded pursuant to section 1(a) of the Victims of Nazi Persecution Act of 1994, P.L. 103-286 (108 Stat. 1450);

(22) Payments made under section 500 through 506 of the Austrian General Social Insurance Act;

(23) Payments made under the Netherlands' Act on Benefits for Victims of Persecution (WUV);

(24) Restitution payments and interest earned to Japanese Americans or their survivors, and Aleuts interned during World War II, established by P.L. 100-383;

(25) Payments made from the Agent Orange Settlement Funds or any other funds to settle Agent Orange liability claims established by P.L. 101-201;

(26) Payments made under section six of the Radiation Exposure Compensation Act established by P.L. 101-426;

(27) Any interest earned from payments described in subsections (1) through (26) is counted as unearned income, unless otherwise excluded by law.

#### WSR 05-05-089

#### EMERGENCY RULES

#### DEPARTMENT OF

#### FISH AND WILDLIFE

[Order 05-21—Filed February 15, 2005, 4:19 p.m., effective March 1, 2005]

Effective Date of Rule: March 1, 2005.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900E; and amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.240.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The 2004/2005 wild winter steelhead runs for the Snohomish and Stillaguamish River systems are forecasted to be below escapement needs. Predicted wild steelhead run sizes for the river systems are anticipated to be approximately 44% of wild steelhead escapement requirements. There are no harvestable fish (surplus) on the two river systems. Closures will eliminate potential



hooking mortality and disturbance of spawning fish. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Date Adopted: February 15, 2005.

J. P. Koenings  
Director

**NEW SECTION**

**WAC 232-28-61900E Exceptions to statewide rules—Skykomish River and North Fork Stillaguamish River.** Notwithstanding the provisions of WAC 232-28-619, effective March 1, 2005:

Skykomish River (Mainstem) From mouth to the mouth of the Sultan River: Closed to fishing March 1, 2005 through April 30, 2005.

Stillaguamish River (North Fork) From mouth to Swede Heaven Bridge: Closed to fishing March 1, 2005 through May 31, 2005.

**REPEALER**

The following section of the Washington Administrative Code is repealed effective June 1, 2005:

WAC 232-28-61900E Exceptions to statewide rules—Skykomish River and North Fork Stillaguamish River.

**WSR 05-05-090  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 05-24—Filed February 15, 2005, 4:20 p.m., effective February 15, 2005]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-48-015.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This regulation improves safety by allowing more open days enabling fishers to avoid fishing during periods of adverse weather. Permanent rules prohibit fishing on Wednesdays, allowing fishing on Wednesdays would facilitate delivery of product to the processing plants on Fridays. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Date Adopted: February 15, 2005.

J. P. Koenings  
Director

**NEW SECTION**

**WAC 220-48-01500V Beam trawl and bottom trawl seasons.** Notwithstanding the provisions of WAC 220-48-015, effective immediately until further notice, it is lawful to fish for or possess bottomfish with beam trawl and bottom trawl gear in Marine Fish-Shellfish Management and Catch Reporting Area 23C Mondays through Fridays.

**WSR 05-05-091  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 05-25—Filed February 15, 2005, 4:21 p.m., effective February 16, 2005, 7:00 p.m.]

Effective Date of Rule: February 16, 2005, 7:00 p.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-33-010.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of

EMERGENCY

notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The select area fisheries in Deep River and Blind Slough/Knappa Slough are part of an on-going BPA funded study to design fisheries in areas outside of the mainstem Columbia River. Several stocks of salmon have been released from net pens in these select areas to provide for fisheries. All salmon returning to these net pens are harvestable. Impacts to ESA-listed stocks in these fisheries are covered under the biological opinion for the interim management agreement. This rule is consistent with actions of the Columbia River compact hearings of January 28, 2005, and conforms Washington and Oregon state rules. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Date Adopted: February 15, 2005.

J. P. Koenings  
Director

NEW SECTION

**WAC 220-33-01000S Columbia River gillnet seasons below Bonneville.** Notwithstanding the provisions of WAC 220-33-010, WAC 220-33-020, and WAC 220-33-030, it is unlawful for a person to take or possess salmon, sturgeon, and shad, taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, and 1E except during the times and conditions listed:

1) Blind Slough/Knappa Slough Select Area

Area: Open waters of Blind Slough extend from markers at the mouth of Gnat Creek located approximately 1/2 mile upstream of the county road bridge, downstream to markers at the mouth of Blind Slough. Concurrent Washington/Oregon waters extend downstream of the railroad bridge.

Knappa Slough is open to fishing in all waters bounded by a line from the northerly most marker at the mouth of Blind Slough westerly to a marker on Karlson Island downstream to a north-south line defined by a marker on the eastern end of Minaker Island to markers on Karlson Island and the Oregon shore.

a) Gear: 7-inch minimum mesh through March 10 and 8-inch maximum mesh thereafter. Mono-filament gill nets are allowed. Nets restricted to 100 fathoms in length with no

weight restriction on leadline. Use of additional weights or anchors attached directly to the leadline is allowed.

b) Dates: Winter Season

7:00 p.m. Wednesdays to 7:00 a.m. Thursdays and 7:00 p.m. Saturdays to 7:00 a.m. Sundays from February 16 through March 10, 2005

Spring Season

7:00 p.m. Mondays to 7:00 a.m. Tuesdays and 7:00 p.m. Thursdays to 7:00 a.m. Fridays from April 21 until further notice.

Only Blind Slough is open through March 10. After March 10, both Blind Slough and Knappa Slough are open.

c) Allowable Sale: Salmon, sturgeon, shad. A maximum of three white sturgeon may be possessed or sold by each participating vessel during each open period.

d) Other: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

2) Deep River Select Area

a) Area: From the markers at USCG navigation marker #16 upstream to the Highway 4 Bridge.

b) Dates:

7:00 p.m. Mondays to 7:00 a.m. Tuesdays and 7:00 p.m. Thursdays to 7:00 a.m. Fridays April 21 until further notice.

c) Gear: 8-inch maximum mesh size. Nets restricted to a maximum length of 100 fathoms and no weight restriction on leadline. Use of additional weights or anchors attached directly to the leadline is allowed. Nets cannot be tied off of any stationary structures. Nets may not fully cross the navigation channel.

d) Allowable sale: salmon, sturgeon and shad. A maximum of three white sturgeon may be possessed or sold by each participating vessel during each open period.

e) Miscellaneous: Transportation or possession of fish outside the fishing area is unlawful. An exception to the rule would allow fishers to transport their catch out of the fishing area with a permit issued by an authorized agency employee after examining the catch.

f) Other: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

EMERGENCY

**WSR 05-03-043**  
**AGENDA**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 [Filed January 11, 2005, 2:40 p.m.]

**DSHS SEMI-ANNUAL RULE-MAKING AGENDA**

Following is the Department of Social and Health Services' (DSHS) semi-annual rule-making agenda for January 1, 2005, through June 30, 2005. This agenda will be published in the State Register under RCW 34.05.314 and distributed to interested parties, and is available online at <http://www1.dshs.wa.gov/msa/rpau/>.

This report represents DSHS rules under development at this time. There may be additional rule-making activity as DSHS responds to legislative actions, to comply with federal mandates, or to meet unforeseen circumstances.

**Semi-Annual Rule-Making Agenda**  
**January 1, 2005, through June 30, 2005**

This report describes rules under development by DSHS administrations and divisions from January 1, 2005, through

June 30, 2005. DSHS publishes this rule-making agenda in the Washington State Register in January and July of each year to comply with RCW 34.05.314. There may be additional DSHS rule-making activity not included in this report as the department responds to new state laws, to meet federal requirements, or to meet unforeseen circumstances. This document is available online and will be updated in April 2005 at the DSHS public website, <http://www1.dshs.wa.gov/msa/rpau/>.

If you have questions about this rule-making agenda or the DSHS rule-making process, please contact Andy Fernando, Manager, DSHS Rules and Policies Assistance Unit, at P.O. Box 45850, Olympia, WA 98504-5850, by phone at (360) 664-6094, or by e-mail [FernaAX@dshs.wa.gov](mailto:FernaAX@dshs.wa.gov). If you are interested in receiving DSHS rule-making notices, please contact Fred Swenson, Rules Consultant, at the DSHS Rules and Policies Assistance Unit by phone at (360) 664-6097 or by e-mail at [SwensFH@dshs.wa.gov](mailto:SwensFH@dshs.wa.gov).

Following the tables are explanations of the terms "pre-proposal notice," "proposed rule," "expedited rule," "permanent rule," "emergency rule," and other selected terms used in this agenda.

WAC Chapter or WAC #	Chapter or Subpart Caption	Subject Matter or WAC Section Caption	Description and Program Contact Person	Current and Pending Activity			
				Emergency Rules	Preproposal Notice	Proposed Rule	Permanent (Final) Rule
<b>Aging and Disability Services Administration (ADSA)</b>							
<b>Division of Developmental Disabilities (DDD)</b>							
Chapter 388-824 WAC (new)	Chapter name not determined	Developmental disabilities assessment process	Adopting rules to develop an assessment process; defining requirements for administering a newly developed mini-assessment to DDD-eligible clients; and for providing information and referral services to those clients. Contact John Gaskell, ADSA-DDD.		WSR 04-23-103  Filed 11/16/2004		
Chapter 388-825 WAC	DDD services rules	New home and community based services waivers	Amending rules to implement new Home and Community Based Services (HCBS) waivers from the federal Centers for Medicare and Medicaid Services to provide services for eligible persons with developmental disabilities. See also new chapter 388-845 WAC. Contact Steve Brink, ADSA-DDD.	WSR 04-23-084  Filed 11/16/2004	WSR 03-20-103  Filed 9/30/2004		

MISC.

WAC Chapter or WAC #	Chapter or Subpart Caption	Subject Matter or WAC Section Caption	Description and Program Contact Person	Current and Pending Activity			
				Emergency Rules	Preproposal Notice	Proposed Rule	Permanent (Final) Rule
WAC 388-825-030, 388-825-035, 388-825-040, 388-825-045, 388-825-055, and 388-825-200 through 388-825-256	DDD services rules	Eligibility criteria	Revising rules to change eligibility criteria for conditions such as epilepsy, autism, and other neurological conditions; and to align rules with Part C of the Individual with Disabilities Education Act (IDEA). Contact Sue Poltt, ADSA-DDD. (These eligibility rules will be in a new chapter 388-823 WAC with a planned effective date of July 1, 2005. In the interim, emergency rules were filed for WAC 388-825-030 (6)(b) to change ICAP review criteria to protect adults in paid services and to incorporate draft rules for ICAP scoring for persons deemed ineligible upon review under current rules.)	WSR 04-23-086  Filed 11/16/2004 (WAC 388-825-030 only)	WSR 02-07-107  Filed 3/20/2002		
WAC 388-825-055, 388-825-060, 388-825-064, 388-825-070, 388-825-075, 388-825-076, 388-825-077, 388-825-078, 388-825-085, 388-825-086, 388-825-087, 388-825-090, 388-825-095, 388-825-103, and 388-850-035, 388-850-045	DDD services rules  County plan for developmental disabilities	Same	Eliminating direct payment for employment/day program services and returning the funding to the county contracts. Contact Steve Brink, ADSA-DDD.	WSR 05-01-123  Filed 12/15/2004	WSR 04-24-046  Filed 11/29/2004		
Chapter 388-826 WAC	Voluntary placement program (VPP)	Foster care rate assessment and structure	Adding a new section to chapter 388-826 WAC to include the DDD-VPP foster care rate assessment and structure. Contact Linda Gil, ADSA-DDD.		WSR 04-17-104  Filed 8/17/2004		

MISC.

WAC Chapter or WAC #	Chapter or Subpart Caption	Subject Matter or WAC Section Caption	Description and Program Contact Person	Current and Pending Activity			
				Emergency Rules	Preproposal Notice	Proposed Rule	Permanent (Final) Rule
WAC 388-827-0115, 388-827-0145	State supplementary payment program (SSP)	Same	Expanding the SSP population to include SSI recipients who are under age eighteen at the time of their initial comprehensive assessment between September 2003 and August 2004; to limit SSP to certain individuals who received SSI before June 30, 2003; and to limit the amount of SSP to former family support recipients to the rate in effect when the funding source was changed to SSP. Contact Steve Brink, ADSA-DDD. Note: New CR-101 filed to replace notice filed as WSR 04-24-047.	WSR 05-01-124  Filed 12/15/2004	WSR 05-02-067  Filed 1/4/2005  Replaces withdrawn notice WSR 04-24-047, See WSR 05-02-066		
Chapter 388-835 WAC	ICF/MR program and reimbursement system	Same	Amending language to reflect new rates.		Planned for future action		
Chapter 388-845 WAC (new)	DD home and community based waiver services	Same	Adopting rules to implement new home and community-based services (HCBS) waivers from the federal Centers for Medicare and Medicaid necessary to provide services for eligible persons with developmental disabilities. New waivers replace the department's current community alternatives program (CAP) waiver. Contact Steve Brink, ADSA-DDD.	WSR 04-20-018  Filed 9/27/2004	WSR 03-20-103  Filed 9/30/2003		
Chapter 388-850 WAC	County plan for developmental disabilities	Same	Rewriting rules in clear rule format and clarifying language.		Planned for future action		
<b>Home and Community Services (HCS)</b>							
Chapter 388-71 WAC; Chapter 388-72 WAC; Chapter 388-106 WAC (new)	Home and community services; CARE (Comprehensive assessment reporting and evaluation) tool; Long-term care services	Reorganizing current long-term care rules into a new chapter 388-106 WAC	Phasing out rules that no longer apply due to full implementation of CARE, and adopting a new chapter 388-106 WAC. Reorganizing, streamlining and clarifying rules as appropriate. Contact Brooke Buckingham, ADSA-HCS.		WSR 04-19-100  Filed 9/20/2004		

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WAC Chapter or WAC #	Chapter or Subpart Caption	Subject Matter or WAC Section Caption	Description and Program Contact Person	Current and Pending Activity			
				Emergency Rules	Preproposal Notice	Proposed Rule	Permanent (Final) Rule
WAC 388-71-0734	Home and community services and programs	Limiting expenditures	Removing the moratorium on new contracts with adult day health centers. Contact Tiffany Sevruck, ADSA-HCS.		WSR 04-19-100 Filed 9/20/2004	WSR 04-23-068 Hearing 12/22/2004	WSR 05-02-063 Effective 02/4/2005
WAC 388-71-0900 through 388-71-0965	Home and community services and programs	Private-duty nursing	Amending rules to clarify the intent of WAC 388-71-0900 through 388-71-0965. Contact Sue McDonough, ADSA-HCS.		WSR 04-07-061 Filed 3/11/2004		
Chapter 388-106 WAC (new); other related chapters	Long-term care services	Same	Adopting new rules to clarify services eligibility, including denial and termination; amending current rules to ensure clarity; incorporating other policy changes as appropriate. Contact Tiffany Sevruck, ADSA-HCS.		WSR 05-01-128 Filed 12/15/2004		
<b>Office of Rates Management</b>							
Chapter 388-105 WAC	Medicaid rates for contracted home and community residential care services	Additional payments from clients, friends or family	Adopting rules on when a contracted facility may accept an additional payment from the client, the client's friend or family for an amenity, or an item or service that is not covered by Medicaid rates. Contact Patricia Hague, ADSA-Rates Management.		WSR 04-10-089 Filed 5/4/2004		
Chapter 388-105 WAC	Medicaid rates for contracted home and community residential care services	Vendor rate increase; bed-hold rules	Codifying the vendor rates increase for certain contracted facilities; and amending the bed-hold rules for contracted facilities seeking a third-party payment to hold a bed or unit for twenty-one days or longer. Contact Patricia Hague, ADSA-Rates Management.		WSR 04-20-100 Filed 10/5/2004 Replaces WSR 04-06-088		
<b>Residential Care Services (RCS)</b>							
WAC 388-97-125	Nursing homes	Physician services	Amending the rule to be consistent with recent federal clarification on the regulatory differences concerning physician delegation of tasks in skilled nursing facilities and nursing facilities. Contact Lisa Yanagida, ADSA-RCS.		WSR 04-06-055 Filed 3/1/2004	WSR 04-20-042 Hearing 11/9/2004	WSR 04-23-085 Effective 12/17/2004

MISC.

WAC Chapter or WAC #	Chapter or Subpart Caption	Subject Matter or WAC Section Caption	Description and Program Contact Person	Current and Pending Activity			
				Emergency Rules	Preproposal Notice	Proposed Rule	Permanent (Final) Rule
Chapter 388-820 WAC	Community residential services and support	Home and community based services	Amending rules in this chapter to be consistent with other rules implementing the Home and Community Based Services waiver. Contact Jill Young, ADSA.		WSR 04-13-106 Filed 6/21/2004	WSR 04-19-022 Hearing 10/26/2004	WSR 04-23-070 Effective 12/16/2004
Chapter 388-820 WAC	Community residential services and support	Same	Adding new language and/or sections concerning: Health and safety, community protection program, assessments, restrictive procedures, inspections, enforcement remedies, appeals, agency finances, client rights, abuse and neglect reporting, individual financial plans, and to comply with federal requirements. Contact Jill Young, ADSA-RCS.		WSR 05-01-127 Filed 12/15/2004		
<b>Children's Administration</b>							
Chapter 388-25 WAC	Child welfare services—Foster care	State supplemental payment program	Development of new rules.			Planned for future action	
WAC 388-25-0225, 388-25-0226, 388-25-0227, 388-25-0228, and 388-25-0230	Child welfare services—Foster care	Exemptions to referral to division of child support	Revising rules to extend the exemption of good cause to instances where the best interest of the child is a determining factor when a referral to the Division of Child Support (DCS) is being considered for children in foster care placements and when the foster child is an adopted child receiving adoption assistance payments. Contact Jean Croisant, Children's Administration.	WSR 04-23-038 Filed 11/9/2004	WSR 04-08-068 Filed 4/5/2004	Proposed rule to be filed in January 2005	
WAC 388-25-1000, 388-25-1010, 388-25-1020, 388-25-1030, 388-25-1040, and 388-25-1050	Child welfare services—Foster care	State supplemental payments	Adopting new rules to allow state supplemental payments to eligible children in foster care who receive federal supplemental security income (SSI). Contact Cindy Beckman, Children's Administration.	WSR 04-23-024 Filed 11/8/2004	WSR 04-07-059 Filed 3/11/2004		
Chapter 388-39A WAC	Child welfare services—Complaint resolution	Same	Revise rules related to Children's Administration constituent relations.			Planned for future action	

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WAC Chapter or WAC #	Chapter or Subpart Caption	Subject Matter or WAC Section Caption	Description and Program Contact Person	Current and Pending Activity			
				Emergency Rules	Preproposal Notice	Proposed Rule	Permanent (Final) Rule
Chapter 388-61A WAC	Shelters for victims of family violence	Same	Revising the chapter to clarify confidentiality requirements, fire safety requirements for shelter homes and appeal rights. Contact Susan Hannibal, Children's Administration.		WSR 03-22-087 Filed 11/5/2003		
WAC 388-145-0100 and 388-145-0230	Licensing requirements for emergency respite centers	Emergency respite centers	Clarifying language in emergency respite center sections to be consistent with licensing rules for other facilities. Contact Jean Croisant, Children's Administration.		WSR 04-18-069 Filed 8/30/2004		
Chapter 388-147 WAC (new)	Licensing requirements for teen parent programs	Same	Creating new standards for programs assisting pregnant or new teen parents. Contact Jean Croisant, Children's Administration.		WSR 00-22-061 Filed 10/27/2004	WSR 04-18-048 Hearing 10/26/2004	WSR 05-01-075 Effective 1/9/2005
Chapter 388-149 WAC	Licensing standards for special model foster homes	Same	Developing consistent standards and providing regular monitoring. Contact Jean Croisant, Children's Administration.		WSR 01-15-080 Filed 7/17/2001		
WAC 388-160-0075 and 388-160-0195	Licensing requirements for overnight youth shelters	Same	Clarifying language in emergency respite center sections to be consistent with licensing rules for other facilities. Contact Jean Croisant, Children's Administration.		WSR 04-18-067 Filed 8/30/2004		
<b>Economic Services Administration (ESA)</b>							
<b>Community Services Division (CSD)</b>							
No current rule-making activity							
<b>Division of Child Care and Early Learning (DCCEL)</b>							
Chapter 388-151 WAC, repeal all sections and moving subject matter to chapter 388-297 WAC	Minimum requirements for child care centers	Moving entire chapter to new location	Repealing all sections of chapter 388-151 WAC and adopting new chapter 388-297 WAC to reorganize and clarify minimum requirements for child care centers caring exclusively for school age children. Contact Liz Egge, ESA-DCCEL.		WSR 03-20-025 Filed 9/23/2003		
Chapter 388-290 WAC	Working connections child care (WCCC)	Correcting errors	Amending rules to add clarity and correct typographical errors and other inadvertent errors made during previous revisions. Contact Lisa Lind, ESA-DCCEL.		WSR 04-13-046 Filed 6/10/2004		

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WAC Chapter or WAC #	Chapter or Subpart Caption	Subject Matter or WAC Section Caption	Description and Program Contact Person	Current and Pending Activity			
				Emergency Rules	Preproposal Notice	Proposed Rule	Permanent (Final) Rule
WAC 388-290-0200 and 388-290-0205	Working connections child care (WCCC)	Child care reimbursement rates	Increasing the maximum rates DSHS will pay licensed centers and family home providers in Spokane County legislative directive through June 30, 2005. Contact Lisa Lind, ESA-DCCEL.	WSR 04-21-024  Filed 10/13/2004	WSR 04-19-102  Filed 9/20/2004		
Chapter 388-295 WAC	Minimum licensing requirements for child care centers	Correcting errors and clarifying rules	Amending rules to add clarity and correct typographical errors and other inadvertent errors made during previous revisions.		Planned for future action		
Chapter 388-296 WAC	Minimum licensing requirements for family home child care	Correcting errors and clarifying rules, and revising regulations related to fire safety	Amending rules to add clarity and correct typographical errors and other inadvertent errors made during previous revisions. Also, revising the regulations related to fire safety, taking into consideration new recommendation of the state Fire Marshal.		Planned for future action		
<b>Division of Child Support (DCS)</b>							
Chapter 388-14A WAC	Division of Child Support rules	Collecting interest on interstate support orders	Adopting rules required by federal law to enforce interest on unpaid support arrears at the request of another state. Contact Nancy Koptur, ESA-DCS.		WSR 04-07-113  Filed 3/18/2004		
WAC 388-14A-1020 and 388-14A-2810	Division of Child Support rules	Dependent children	Revising the definition of "dependent child" to make rules consistent with rules on eligibility for temporary assistance to needy families (TANF) for children older than age eighteen. Contact Nancy Koptur, ESA-DCS.		WSR 04-06-053  Filed 3/1/2004		
WAC 388-14A-1020, 388-14A-3140, 388-14A-3370, 388-14A-3600, 388-14A-3810, 388-14A-6300, and other related rules	Division of Child Support rules	Court ordered parenting plan	Establish rules to deal with situations when a court-ordered parenting plan sets a child's residential schedule so that the child spends an equal amount of time with each parent (a "50-50 custody split"). Contact Nancy Koptur, ESA-DCS.		WSR 04-09-036  Filed 4/13/2004		

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WAC Chapter or WAC #	Chapter or Subpart Caption	Subject Matter or WAC Section Caption	Description and Program Contact Person	Current and Pending Activity			
				Emergency Rules	Preproposal Notice	Proposed Rule	Permanent (Final) Rule
WAC 388-14A-2000, 388-14A-2025, 388-14A-2080, 388-14A-3800, 388-14A-3810, 388-14A-4000, 388-14A-4300, and 388-14A-4304	Division of Child Support rules	Modifying support obligations	Amending the rules to allow the Division of Child Support (DCS) to modify support obligations when both parties make informal arrangements and are unable to return to court to officially change the support order. Contact Nancy Koptur, ESA-DCS.		WSR 02-03-010  Filed 1/4/2002		
WAC 388-14A-3300 through 388-14A-3320	Division of Child Support rules	Support debt and notice of support owed	Reviewing for clarification the rules regarding the notice of support debt and the notice of support owed. Contact Nancy Koptur, ESA-DCS.		WSR 03-23-107  Filed 11/18/2003		
WAC 388-14A-3350	Division of Child Support rules	Nonassistance claims for child support	Revising the rule to start a nonassistance claim as of the date the custodial parent applies for services, rather than when the department receives an application from another agency. Contact Nancy Koptur, ESA-DCS.		WSR 04-19-130  Filed 9/21/2004		
WAC 388-14A-3900 to 388-14A-3925	Division of Child Support rules	Modification of a support order	Revising rules on review and modification of support orders; and rules and procedures regarding prospective modification of administrative support orders. Contact Nancy Koptur, ESA-DCS.		WSR 03-22-054  Filed 10/31/2003		
WAC 388-14A-3900 to 388-14A-3925	Division of Child Support rules	Modification of a support order	Allowing for modification of a support order when it will not change by more than the current standard. Contact Nancy Koptur, ESA-DCS.		WSR 01-13-020  Filed 6/11/2001		
WAC 388-14A-4000 and 388-14A-6300	Division of Child Support rules	Payments on child support arrearages	Amending or adopting new rules as necessary, dealing with payments on child support arrearages. Contact Nancy Koptur, ESA-DCS.		WSR 03-23-106  Filed 11/18/2003		

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WAC Chapter or WAC #	Chapter or Subpart Caption	Subject Matter or WAC Section Caption	Description and Program Contact Person	Current and Pending Activity			
				Emergency Rules	Preproposal Notice	Proposed Rule	Permanent (Final) Rule
WAC 388-14A-4119, 388-14A-4180 (new)	Division of Child Support rules	National medical support notice	Adopting new rules conforming to federal law concerning deadlines for DCS to sending an employer a national medical support notice; and for informing the DSHS Medical Assistance Administration of a child support order. Contact Nancy Koptur, ESA-DCS.	WSR 04-20-001 Filed 9/22/2004	WSR 04-19-129 Filed 9/21/2004		
WAC 388-14A-4304	Division of Child Support rules	Typographical correction	<b>Expedited rule-making.</b> Correcting the word "lay" to "law" in subsection (1) of the rule. Contact Nancy Koptur, ESA-DCS.			Expedited Rule Notice WSR 05-02-019 Filed 12/27/2004	Objection deadline 3/7/2005
WAC 388-14A-5000, 388-14A-5005, 388-14A-5008, 388-14A-5009, and 388-14A-5010	Division of Child Support rules	Distribution of child support payments	Clarifying DCS' ability to delay distribution of collections via the IRS offset period for no more than six months. Contact Nancy Koptur, ESA-DCS.		WSR 04-07-166 Filed 3/23/2004	WSR 05-02-063 Hearing 2/8/2005	
WAC 388-14A-5001	Division of Child Support rules	Support collection	Clarify existing rules regarding distribution to make it clear that the date of collection is the date of receipt of payment. Contact Nancy Koptur, ESA-DCS.		WSR 04-08-069 Filed 4/5/2004	WSR 05-02-063 Hearing 2/8/2005	
WAC 388-14A-6300	Division of Child Support rules	Administrative child support orders	Clarifying the rule concerning the content of administrative child support orders; reenacting a prior requirement that a noncustodial parent's monthly support obligation amount be covered in the order. Contact Nancy Koptur, ESA-DCS.		WSR 04-19-099 Filed 9/20/2004		
WAC 388-14A-8100	Division of Child Support rules	Support for children in foster care	Amending the rule to remove subsection (2), dealing with the enforcement of support obligations for children with developmental disabilities who are in foster care, to comply with chapter 183, Laws of 2004. Contact Nancy Koptur, ESA-DCS.	WSR 04-23-055 Filed 11/12/2004	WSR 04-23-037 Filed 11/9/2004		

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WAC Chapter or WAC #	Chapter or Subpart Caption	Subject Matter or WAC Section Caption	Description and Program Contact Person	Current and Pending Activity			
				Emergency Rules	Preproposal Notice	Proposed Rule	Permanent (Final) Rule
<b>Division of Employment and Assistance Programs (DEAP)</b>							
WAC 388-61-001	Family violence	Family violence—Temporary assistance to needy families (TANF)	Amending rules to align their intent with current practice. Contact Ian Horlor, ESA-DEAP.		WSR 02-24-068 Filed 12/3/2002	WSR 04-16-105 Hearing 9/7/2004	WSR 04-21-028 Effective 12/1/2004
WAC 388-310-0800	WorkFirst	Transportation allotment	Increasing the limits for the transportation allotments to help reduce the financial burden on clients participating in job search. Contact Ian Horlor, ESA-DEAP.	WSR 04-22-023 Filed 10/25/2004	WSR 04-15-129 Filed 7/20/04	WSR 04-22-115 Hearing 12/7/2004	WSR 05-02-014 Effective 1/27/2005
WAC 388-310-1400	WorkFirst	Job search	Amending the rule allowing activities to enhance the individual's ability to do a job search. Contact Aurea Figueroa, ESA-DEAP.		WSR 04-22-065 Filed 10/29/2004		
WAC 388-400-0005	Program summary	Assistance units	Amending the rule to clarify that every TANF assistance unit must contain either an eligible child or a pregnant woman. Contact Tom Berry, ESA-DEAP.		WSR 04-12-096 Filed 6/2/2004		
WAC 388-400-0005 and 388-400-0025	Program summary	Reporting requirements	Updating references to reporting requirements for cash assistance under the department's simplified reporting initiative to comply with chapter 54, Laws of 2004. Contact John Camp, ESA-DEAP.	WSR 04-20-043 Filed 9/29/2004	WSR 03-17-085 Filed 8/19/2003	WSR 04-19-131 Hearing 10/26/2004	WSR 04-23-027 Effective 12/8/2004
WAC 388-408-0005	Assistance units	Who must be in my assistance unit?	Clarifying the rule to make clear that every TANF (temporary assistance to needy families) assistance unit must contain either an "eligible child" or a pregnant woman, although such a rule informally governs current practice. Contact Tom Berry, ESA-DEAP.		WSR 04-07-164 Filed 3/23/2004		
WAC 388-408-0025	Assistance units	When can I choose who is in my TANF or SFA assistance unit?	Amending the rule to clarify that the child's caretaker relative may choose to include no one in the grant but the child in this circumstance. Contact Patti Clark, ESA-DEAP.		WSR 03-19-032 Filed 9/9/2003	WSR 04-17-115 Hearing 9/21/2004	WSR 05-02-017 Effective 1/27/2005

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WAC Chapter or WAC #	Chapter or Subpart Caption	Subject Matter or WAC Section Caption	Description and Program Contact Person	Current and Pending Activity			
				Emergency Rules	Preproposal Notice	Proposed Rule	Permanent (Final) Rule
WAC 388-410-0001, 388-416-0010, 388-418-0005, and 388-418-0011	Benefit error; Certification periods; Change of circumstances	Reporting and certification for benefits	Amending rules to clarify How often clients must recertify, what changes they must report, the impact of reporting changes late; and when late reporting may result in an overpayment to the client. Contact John Camp, ESA-DEAP.		WSR 04-21-074  Filed 10/19/2004		
WAC 388-412-0005	Benefit issuances	General information about your basic food allotments	Amending the rule to clarify the rule regarding receiving duplicate assistance in two assistance units or two states in the same month. Contact Patti Clark, ESA-DEAP.		WSR 03-23-108  Filed 11/18/2003	WSR 04-17-116  Hearing 9/21/2004	WSR 05-02-015  Effective 1/27/2005
WAC 388-412-0015	Benefit issuances		Amending the rule to clarify the rule regarding receiving duplicate assistance in two assistance units or two states in the same month. Contact Patti Clark, ESA-DEAP.		WSR 04-13-100  Filed 6/21/2004	WSR 04-13-098  Hearing 7/27/2004	WSR 05-02-016  Effective 1/27/2005
WAC 388-434-0005	Eligibility review and recertification	Correction	Correcting an incorrect cross-reference without changing the effect of the rule. Contact Patti Clark, ESA-DEAP.		WSR 03-19-031  Filed 9/9/2003		
WAC 388-434-0005 - 388-434-0010 and 388-452-0005	Eligibility review and recertification; Interview requirements	Same	Amending rules to clarify language and program requirements for the eligibility review process for cash and medical benefits, recertification process for basic food, and interview requirements for department programs. Contact John Camp, ESA-DEAP.		WSR 03-23-061  Filed 11/17/2003		
Chapter 388-444 WAC	Food stamp employment and training	Same	Simplifying and updating language so that the rules are easier to read and use.		Planned for future action		
Chapters 388-446 and 388-464 WAC	Fraud; Quality assurance	Fraudulent actions; failure to cooperate with process	Adopting rules to be consistent with federal requirements; updating program language and clarify the impact of fraudulent actions or failure to cooperate with the quality assurance process. Contact Amber Gillum, ESA-DEAP.		WSR 03-24-100  Filed 12/3/2003		

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WAC Chapter or WAC #	Chapter or Subpart Caption	Subject Matter or WAC Section Caption	Description and Program Contact Person	Current and Pending Activity			
				Emergency Rules	Preproposal Notice	Proposed Rule	Permanent (Final) Rule
Chapter 388-448 WAC	Incapacity	Individual responsibility plan requirements—General assistance	Developing new individual responsibility plan requirements for general assistance recipients enrolled in WorkPlus. Contact Steve Ebben, ESA-DEAP.		WSR 01-23-065 Filed 11/20/2001		
WAC 388-448-0180	Incapacity	How and when we redetermine your eligibility if we decide you are eligible for GAX	Amending the rule to make reference to the correct type of hearing. "Administrative hearing" needs to be replaced by "appeals court review." Contact Glenda Lee, ESA-DEAP.		WSR 02-11-125 Filed 5/21/2002		
WAC 388-450-0015	Income	Excluding income	Amending the rule to include exclusions for payments specified by a court order or legal agreement. Contact Rebecca Henrie, ESA-DEAP.		WSR 04-13-107 Filed 6/21/2004	WSR 04-22-067 Hearing 12/7/2004	
WAC 388-450-0015	Income	Eligibility - counting veteran's benefits	Amending the rule per federal regulations requiring that veteran's benefits paid to Vietnam veterans who have children with birth defects not be counted when the department determines eligibility for temporary assistance for needy families (TANF). Contact Patti Clark, ESA-DEAP.		WSR 03-18-098 Filed 9/2/2003	WSR 04-22-067 Hearing 12/7/2004	Permanent rule to be filed in January 2005
WAC 388-450-0100	Income	Allocating income	Amending the rule regarding definitions. Contact Patti Clark, ESA-DEAP.		WSR 04-05-034 Filed 2/11/2004		
WAC 388-450-0135	Income	Allocating income of an ineligible spouse to a GAU client	Simplifying how the department allocates income from an ineligible spouse to a general assistance recipient. Contact Veronica Barnes, ESA-DEAP.		WSR 02-08-054 Filed 4/1/2002		

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WAC Chapter or WAC #	Chapter or Subpart Caption	Subject Matter or WAC Section Caption	Description and Program Contact Person	Current and Pending Activity			
				Emergency Rules	Preproposal Notice	Proposed Rule	Permanent (Final) Rule
WAC 388-450-0185, 388-450-0190, 388-450-0195, and 388-478-0060	Income; Standards for payments	Annual standards adjustment	Amending all necessary sections in Title 388 WAC to implement annual adjustments to standards for WASH-CAP (Washington combined application program) and the Washington Basic Food program. Contact John Camp, ESA-DEAP.	WSR 04-19-114  Filed 9/21/2004	WSR 04-12-092  Filed 6/2/2004	WSR 04-19-111  Hearing 10/26/2004	WSR 04-23-025  Effective 12/9/2004
WAC 388-450-0200	Income	Medical expenses of elderly or persons with disabilities	Updating the rule to meet federal requirements regarding medical expense deductions for clients who have a Medicare prescription drug card. Contact Rebecca Henrie, ESA-DEAP.	WSR 04-19-132  Filed 9/21/2004	WSR 04-17-103  Filed 08/17/04	WSR 05-01-073  Hearing 1/25/2004	
WAC 388-450-0500	Income	Counting community jobs income	Clarifying the rule on how the department uses income from community jobs to determine TANF and Basic Food assistance benefits. Contact Ian Horlor, ESA-DEAP.		WSR 04-07-085  Filed 3/16/2004		
Chapter 388-450A WAC	Income—Subsidized	New chapter and section	Adopting new rules to prevent garnishment of subsidized wages paid under the temporary assistance of needy families program, except garnishment for child support. Contact Ian Horlor, ESA-DEAP.		WSR 04-19-101  Filed 9/20/2004		
WAC 388-454-0006 and 388-454-0025	Living with a relative	Background checks	Revising rules on background checks on adults who are acting in loco parentis (in place of another) without court ordered custody. Contact Stephanie Del Camp, ESA-DEAP.		WSR 02-11-061  Filed 5/10/2002		
Chapter 388-460 WAC	Payees on benefit issuances	Protective payee policies	Proposing changes to protective payee policies. Contact Brent Low, ESA-DEAP.		WSR 01-23-067  Filed 11/20/2001		
WAC 388-468-0005	Residency	Same	Amending rules to prohibit the receipt of benefits from Washington state while receiving comparable benefits from another state. Contact Ken Adney, ESA-DEAP.		WSR 03-14-080  Filed 6/27/2003		

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WAC Chapter or WAC #	Chapter or Subpart Caption	Subject Matter or WAC Section Caption	Description and Program Contact Person	Current and Pending Activity			
				Emergency Rules	Preproposal Notice	Proposed Rule	Permanent (Final) Rule
WAC 388-470-0040	Resources	Correction	Correcting incorrect WAC or RCW cross-references. Contact Patti Clark, ESA-DEAP.		WSR 03-20-033 Filed 9/23/2003		
WAC 388-472-0005	Rights and responsibilities	What are my rights and responsibilities?	Amending this rule to clarify information regarding requirements for receiving children's family medical, pregnancy medical, and SSI-related medical. Contact Patti Clark, ESA-DEAP.		WSR 03-19-035 Filed 9/9/2003		
WAC 388-473-0010	Ongoing additional requirements	Eligibility	Amending the rule to extend the eligibility period for ongoing additional requirements for recipients receiving supplemental security income (SSI) for up to twenty-four months. Contact Lorri Gagnon, ESA-DEAP.		WSR 04-12-097 Filed 6/2/2004		
WAC 388-474-0012	State supplemental payment	What is a state supplemental payment and who can get it?	Amending the rule to update program language and clarify who is eligible for state supplemental payment. Contact Lorri Gagnon, ESA-DEAP.		WSR 04-17-075 Filed 8/13/2004	WSR 04-23-076 Hearing 1/4/2004	
WAC 388-478-0015	Standards	Need standards for cash assistance	Amending need standards in rule based on actual living costs for basic requirements, as required annually by law. Contact Amber Gillum, ESA-DEAP.		WSR 04-17-102 Filed 8/17/2004	WSR 04-20-103 Hearing 11/9/2004	WSR 05-01-074 Effective 1/9/2005
Chapter 388-490 WAC	Verification	Proof of eligibility	Streamlining the application process by standardizing how the department requests proof of eligibility. Contact Veronica Barnes, ESA-DEAP.		WSR 02-14-159 Filed 7/2/2002		
Chapter 388-492 WAC	Washington combined application program (WASH-CAP)	Same	Changing rules to comply with a revised federal waiver. The new rules will further define WASHCAP eligibility. Contact Rebecca Henrie, ESA-DEAP.	WSR 04-19/116 Filed 9/21/2004	WSR 04-04-097 Filed 2/3/2004	WSR 04-19-112 Hearing 10/26/2004	WSR 04-23-026 Effective 12/9/2004

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WAC Chapter or WAC #	Chapter or Subpart Caption	Subject Matter or WAC Section Caption	Description and Program Contact Person	Current and Pending Activity			
				Emergency Rules	Preproposal Notice	Proposed Rule	Permanent (Final) Rule
WAC 388-492-0040	Washington combined application project	Participation options	Amending the rule to be consistent with a federal waiver regarding the criteria for WASHCAP participants to opt-in or -out of the demonstration project. Contact Rebecca Henrie, ESA-DEAP.	WSR 05-02-042 Filed 12/30/2004	WSR 05-02-041 Filed 12/30/2004		
WAC 388-292-0070	Washington combined application project (WASH-CAP)	Benefit calculation	Amending the rule to be consistent with a federal waiver regarding how WASHCAP benefits are calculated, specifically the utility allowance methodology. Contact Rebecca Henrie, ESA-DEAP.	WSR 05-02-013 Filed 12/27/2004	WSR 05-02-012 Filed 12/27/2004		
WAC chapter not yet specified		Overpayments to clients	Eliminating overpayments caused by agency error and amending all related rules. Contact Veronica Barnes, ESA-DEAP.		WSR 00-09-036 Filed 4/14/2000		
<b>Health and Rehabilitative Services Administration (HRSA)</b>							
<b>Division of Alcohol and Substance Abuse (DASA)</b>							
Chapter 388-800 WAC	Chemical dependency assistance programs	Same	Changes to this chapter include: - Clarification of specific language without changing effect of rule. - Updating cross references to other DSHS WACs on patient eligibility standards. - Clarify definitions and process of secondary ADATSA clients. Contact Emilio Vela, HRSA-DASA.		WSR 05-02-065 Filed 1/4/2005		
Chapter 388-805 WAC	Certification requirements for chemical dependence service providers		Implementing changes in chapter 70.96A RCW required by SSB 6358. Contact Deb Cummins, HRSA-DASA.		Planned for future action		
<b>Division of Vocational Rehabilitation (DVR)</b>							
Chapter not specified	Background checks for DVR service providers	Background checks for DVR service providers	Adopting rules on background checks for Division of Vocational Rehabilitation (DVR) service providers who have unsupervised access to DVR clients. Contact Susan Hartman, HRSA-DVR.		WSR 03-24-101 Filed 12/3/2003		

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WAC Chapter or WAC #	Chapter or Subpart Caption	Subject Matter or WAC Section Caption	Description and Program Contact Person	Current and Pending Activity			
				Emergency Rules	Preproposal Notice	Proposed Rule	Permanent (Final) Rule
<b>Mental Health Division (MHD)</b>							
Chapter 388-865 WAC	Community mental health and involuntary treatment programs	Consumer peer support counseling	Adopting amended and new rules for consumer peer support services to be consistent with the state's 1915(b) waiver from the federal Center for Medicare and Medicaid Services. Contact Kathy Burns Peterson, HRSA-MHD.		WSR 04-08-122  Filed 4/7/2004		
WAC 388-865-0100 through 388-865-0484	Community mental health and involuntary treatment programs	Community support service providers	Revising rules to be consistent with the federal Balanced Budget Act, and for quality improvement. Contact Karie Castleberry, HRSA-MHD.		WSR 03-08-077  Filed 4/1/2003		
WAC 388-865-0335 and 388-865-0340	Community mental health and involuntary treatment programs	Enrollment and disenrollment	Amending and repealing rules to be consistent with the provisions of the waiver (Section 1915 (b) of the Social Security Act) from the federal funding source for Medicaid recipients. Contact Hank Balderrama, HRSA-MHD.		WSR 04-05-075  Filed 2/17/2004		
WAC 388-865-0400	Community mental health and involuntary treatment programs	Confidentiality of consumer mental health information	Implementing changes on state law regarding new requirements for mental health providers' communication with the Department of Corrections and county designated mental health professionals; and regarding the confidentiality of consumers receiving mental health services. Contact Robin Roberts, HRSA-MHD.		WSR 04-24-044  Filed 11/29/2004		
<b>Special Commitment Center</b>							
Chapter 388-885 WAC	Civil commitment cost	Reimbursing attorney and others' fees	Revising rules to update reimbursement fee schedules for allowable activities under chapter 71.09 RCW. Contact Lee Mosley, HRSA-Special Commitment Center.		WSR 04-10-092  Filed 5/4/2004		
<b>Office of Deaf and Hard of Hearing Services (ODHHS)</b>							
No current rule-making activity.							

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WAC Chapter or WAC #	Chapter or Subpart Caption	Subject Matter or WAC Section Caption	Description and Program Contact Person	Current and Pending Activity			
				Emergency Rules	Preproposal Notice	Proposed Rule	Permanent (Final) Rule
<b>Juvenile Rehabilitation Administration (JRA)</b>							
Chapter 388-700 WAC	Juvenile rehabilitation administration—Practices and procedures	Background checks	Potential revisions due to changes in background check procedures. Contact David Griffith, JRA.		Planned for future action		
Chapter 388-740 WAC	Juvenile parole revocation	Juvenile parole revocation requirements	Potential revision to update confidentiality requirements. Contact Cheryl-Sullivan Colglazier, JRA.		Planned for future action		
Chapter 388-745 WAC	Transfer of juvenile offenders to the Department of Corrections (DOC)	Transfers to DOC	Potential revisions due to changes in transfer procedures. Contact David Griffith, JRA.		Planned for future action		
<b>Management Services Administration (MSA)</b>							
WAC 388-02-0215	DSHS hearing rules	What is the authority of the administrative law judge (ALJ)?	Revising rules permitting review by the DSHS Board of Appeals of initial orders entered by Office of Administrative Hearings in adult protective services cases; and to update WAC and/or RCW references. Contact Brian Lindgren, MSA Board of Appeals.	WSR 04-15-056 Filed 7/13/2004	WSR 03-21-149 Filed 10/22/2003	WSR 04-20-042 Hearing 11/9/2004	WSR 05-02-018 Effective 1/27/2005
Chapter 388-03 WAC	Certification of DSHS spoken language interpreters and translators	Same	Updating the chapter's references to units of DSHS (such as language interpreter services and translations, or LIST) that have been reorganized and renamed, to change timeframes for DSHS mailing of letters notifying applicants of their test dates, and other needed changes. Contact Brian Lindgren, MSA Language Testing and Certification.		WSR 04-01-142 Filed 12/19/2003		
Chapter 388-06 WAC	Background checks	Same	Revising background check rules to incorporate additional DSHS programs. Contact Jackie Beery, MSA Background Check Central Unit.		Planned for future filing		

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WAC Chapter or WAC #	Chapter or Subpart Caption	Subject Matter or WAC Section Caption	Description and Program Contact Person	Current and Pending Activity			
				Emergency Rules	Preproposal Notice	Proposed Rule	Permanent (Final) Rule
<b>Medical Assistance Administration (MAA)</b>							
WAC 388-408-0055	Assistance units	SSI-related eligibility	Amending the rule to clarify that a supplemental security income (SSI)-related individual who is not determined eligible under this chapter may be eligible under the SSI-related chapter. Contact Joanie Scotson, MAA.		WSR 04-18-068 Filed 8/30/2004		
WAC 388-416-0020, 388-519-0100, and 388-519-0110	Certification periods; Spenddown		Changing some of the wording to make the meaning of the rules - who is eligible and when eligibility starts - clearer and easier to understand. Contact Mary Beth Ingram, MAA.		WSR 04-13-102 Filed 6/21/2004		
WAC 388-416-0035	Certification periods	Medicare savings program	Amending the rule to reflect a name change for the Expanded Specified Low-Income Medicare Beneficiary (ESLMB to Qualified Individual (QI-1) to clarify certification periods. Contact Carole McRae, MAA.		WSR 04-12-098 Filed 6/2/2004	WSR 04-21-059 Hearing 11/23/2004	WSR 05-01-126 Filed 12/15/2004
WAC 388-434-0005	Eligibility reviews and recertifications	Same	Amending the rule to eliminate the requirement for one parent in a household to sign the medical eligibility review, allowing for review received electronically or by phone interview. Contact Mary Wood, MAA.		WSR 04-07-086 Filed 3/16/2004		
WAC 388-462-0015	Pregnancy	Medical programs for pregnant women	Revising the rule to describe what is considered acceptable verification for pregnancy and also rewriting the WAC for clarity. Contact Wendy Forslin, MAA.		WSR 04-14-097 Filed 7/6/2004		
WAC 388-475-0550, 388-475-0700, 388-475-0800, 388-475-0820, and 388-475-0860	SSI-related medical and healthcare for workers with disabilities program	SSI-related medical	Amending the rules to comply with federal Public Law 108-203. Contact Mary Beth Ingram, MAA.		WSR 04-23-101 Filed 11/17/2004		

MISC.

WAC Chapter or WAC #	Chapter or Subpart Caption	Subject Matter or WAC Section Caption	Description and Program Contact Person	Current and Pending Activity			
				Emergency Rules	Preproposal Notice	Proposed Rule	Permanent (Final) Rule
WAC 388-478-0065	Standards for payments	Family income and resources	Clarifying that an unborn child is counted as a household member when determining medical (categorically needy or medically needy) program eligibility for families, pregnant women and children. Contact Joanie Scotson, MAA.		WSR 04-21-073 Filed 10/19/2004		
WAC 388-478-0070 and 388-478-0080	Standards for payments	Federal SSI standards	Increasing categorically needy income, SSI-related, and the medically needy 1-person standards effective January 1, 2005, to comply with federal regulations. Contact Wendy Forslin, MAA.	WSR 05-01-125 Filed 12/15/2004	WSR 04-23-065 Filed 11/15/2004		
WAC 388-500-0005	Medical definitions	Same	Rewriting some definitions for clarity; adding definitions that are currently in other WAC chapters, and deleting obsolete definitions. Contact Kevin Sullivan, MAA. (Note: Original proposed rule, WSR 02-23-082 expired.)		WSR 00-22-015 Filed 10/20/2000	See note at left.	
WAC 388-502-0150	Administration of medical programs	Time limits for providers to bill MAA	Extending the time limit from six to twelve months for providers to submit a claim after Medicare has processed the claim. Contact Diane McMasters, MAA.		WSR 04-23-100 Filed 11/17/2004		
WAC 388-502-0160	Administration of medical programs	Billing a client	Amending the rule to update and clarify policy, and to better describe the scope of the rule. Contact Wendy Boedigheimer, MAA.		WSR 04-16-087 Filed 8/2/2004		
WAC 388-502-0160	Administration of medical programs	Billing a client	Amending the rule to implement budget reductions directed by the state legislature. Contact Wendy Boedigheimer, MAA.		WSR 04-07-088 Filed 3/16/2004		
WAC 388-502-0220, 388-502-0230, and 388-502-0260	Administration of medical programs—Providers	Vendor dispute resolution	Updating the vendor dispute resolution process. Contact Kevin Sullivan, MAA.		WSR 01-16-135 Filed 7/31/2001		

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WAC Chapter or WAC #	Chapter or Subpart Caption	Subject Matter or WAC Section Caption	Description and Program Contact Person	Current and Pending Activity			
				Emergency Rules	Preproposal Notice	Proposed Rule	Permanent (Final) Rule
WAC 388-503-0510	Persons eligible for medical assistance	How a client is determined to be "related to" a categorical program	Correcting a WAC cross reference and adding wording that was inadvertently omitted during the last rule amendment. Contact Joanie Scotson, MAA.		WSR 04-18-065 Filed 8/30/2004	WSR 04-23-066 Hearing 1/4/2005	
WAC 388-505-0220	Family medical	Eligibility	Amending the rule to add language clarifying that an adult meeting all Medicaid criteria cannot be determined eligible for a family Medicaid program unless the household includes a child eligible for and receiving Medicaid. Contact Joanie Scotson, MAA.		WSR 04-17-106 Filed 8/17/2004		
WAC 388-513-1325	Client not in own home—Institutional medical	Income of a single client for long-term care services	Adding income requirements currently found in other rules; correcting incorrect WAC cross-references. Contact Mary Beth Ingram, MAA.		WSR 02-24-070 Withdrawn, see WSR 05-02-068		
WAC 388-513-1340 and 388-450-0020	Client not in own home—Institutional medical; Income	Income exclusions	Clarifying that veterans' aid and attendance and unusual medical expense can be considered third-party resources. Contact Wendy Forslin, MAA.		WSR 03-08-083 Withdrawn, see WSR 05-02-068		
WAC 388-513-1350 and 388-513-1380	Client not in own home—Institutional medical	Monthly maintenance amount; standards	Correcting an error in the income standard for calculating the allowed monthly maintenance amount; and to adopt federal standards taking effect January 1, 2005. Contact Wendy Forslin, MAA.	WSR 05-02-043 Filed 12/30/2004	WSR 04-16-027 Filed 7/26/2004		
WAC 388-515-1505	Community options program entry system (COPES)	Homecare	Clarifying income and resource allocations for the COPES waiver program to include court-ordered guardianship and attorney fees in the allocations. Contact Mary Beth Ingram, MAA.	WSR 05-01/219 Filed 12/22/2004	WSR 04-19-085 Filed 9/2/2004	WSR 04-24-077 Hearing 1/4/2005	Permanent rule to be filed in January 2005
WAC 388-517-0300	Medicare-related medical	Medicare saving programs	Amending the rule or adopting new rules to reflect federal law and rules on co-payments and program eligibility. Contact Carole McRae, MAA.		WSR 04-10-090 Filed 5/4/2004		

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WAC Chapter or WAC #	Chapter or Subpart Caption	Subject Matter or WAC Section Caption	Description and Program Contact Person	Current and Pending Activity			
				Emergency Rules	Preproposal Notice	Proposed Rule	Permanent (Final) Rule
WAC 388-519-0110	Spend-down	Medical expenses to reduce spend-down	Amending the rule to add that unpaid as well as paid medical expenses can be used to reduce spend-down due to excess income during the base period. Contact Wendy Forslin, MAA.	WSR 04-23-069 Filed 11/15/2004	WSR 04-23-064 Filed 11/15/2004		
Chapter 388-526 WAC	MAA administrative hearings	Same	Amending this WAC chapter to better define the scope of this rule and to add procedural requirements to MAA's client hearing process. Contact Kevin Sullivan, MAA.		WSR 04-04-096 Filed 02/3/2004		
Chapter 388-529 WAC	Scope of medical services	Covered services	Updating the scope of medical services chart that shows what medical services are covered under the department's medical assistance programs. Contact Kevin Sullivan, MAA.		WSR 04-06-054 Filed 3/1/2004		
Chapter 388-530 WAC	Prescription drugs	Preferred drugs	Implementing chapter 29, Laws of 2003, establishing an evidence-based prescription drug program that identifies preferred drugs; to provide prescription drugs at a reasonable price, and increase public awareness of safe and effective use. Contact Ann Myers, MAA.		WSR 04-09-035 Filed 4/13/2004	WSR 04-19-109 Hearing 11/9/2004	WSR 05-02-044 Effective 3/2/2005
WAC 388-531-0150, 388-531-0200, 388-531-0650, 388-531-1600, and 388-550-2301	Physician-related services; Hospital services	Bariatric surgery	Adopting rules to establish criteria and pre- and post-operative requirements for clients that would further prevent the likelihood of complications from bariatric surgery. Contact Wendy Boedigheimer, MAA.	WSR 04-23-054 Filed 11/12/2004	WSR 04-12-093 Filed 6/2/2004		
WAC 388-531-0275	Physician-related services	Medical teaching and residency	Revising rules to remain current with medical teaching and residency programs. Contact Wendy Boedigheimer, MAA.		WSR 03-08-084 Filed 4/1/2003		

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WAC Chapter or WAC #	Chapter or Subpart Caption	Subject Matter or WAC Section Caption	Description and Program Contact Person	Current and Pending Activity			
				Emergency Rules	Preproposal Notice	Proposed Rule	Permanent (Final) Rule
Chapter 388-532 WAC	Family planning services	Same	Revising rules to clarify the language regarding reproductive health and to clarify the differences between family planning, family planning only, and the TAKECHARGE program. Contact Wendy Boedigheimer, MAA.		WSR 04-12-094  Filed 6/2/2004		
WAC 388-533-0400, 388-533-0500, and 388-533-0600	Maternity-related services	Same	Amending rules to remove references to the medically indigent program and "pilot project" for the planned home birth rules; combining language on births in birthing centers and homes births; elimination reimbursement for prenatal assessment care; and clarifying antepartum care language. Contact Wendy Boedigheimer, MAA.		WSR 04-14-098  Filed 7/6/2004	WSR 04-21-060  Hearing 11/23/2004	WSR 05-01-065  Effective 1/8/2005
WAC 388-533-0710, 388-533-0720, and 388-533-0730	Maternity-related services	Chemical using pregnant (CUP) women	Revising the rules to remove unnecessary barriers for clients to access services from CUP providers. Contact Kevin Sullivan, MAA.		WSR 04-22-066  Filed 10/29/2004		
Chapter 388-535 WAC	Dental related services	Children's dental	Updating and clarifying current policy regarding the children's dental program; updating and clarifying other sections in this chapter. Contact Kathy Sayre, MAA.		WSR 04-07-115  Filed 3/18/2004		
WAC 388-535-1070	Dental related services	Authorized providers	Revising the rule to provide that only a dentist entitled to a specialty designation under WAC 246-817-420 and certified by MAA may bill for performing clients' oral or maxillofacial surgery. Contact Kathy Sayre, MAA.		WSR 04-20-101  Filed 10/5/2004		

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WAC Chapter or WAC #	Chapter or Subpart Caption	Subject Matter or WAC Section Caption	Description and Program Contact Person	Current and Pending Activity			
				Emergency Rules	Preproposal Notice	Proposed Rule	Permanent (Final) Rule
Chapter 388-535A WAC	Orthodontic services	Definitions, provider requirements, prior authorization, provider reimbursement, federal privacy requirements (HIPAA)	Revising rules to update and clarify existing policy regarding orthodontic services, including program definitions, provider requirements, expedited prior authorization, and reimbursement; and to incorporate federal HIPAA requirements into permanent rule. Contact Kathy Sayre, MAA.	WSR 04-19-115 Filed 9/21/2004	WSR 03-20-103 Filed 9/30/2003	WSR-04-19-110 Hearing 10/26/2004	WSR 05-01-064 Effective 1/8/2005
New chapter 388-536 WAC and chapter 388-550 WAC	Federally qualified health centers and rural health centers; Hospital services	Same	Adopting a new WAC chapter will comply with federal financial changes, section 702 of BIPA 2000, and legislative directive to implement a prospective payment system. Contact Wendy Boedigheimer, MAA.		WSR 02-06-088 Filed 3/1/2002		
Chapter 388-538 WAC	Managed care	Healthy Options program	Adopting rules for health plans for new populations; and to modify the assignment process and time-frames. Contact Wendy Boedigheimer, MAA.		WSR 04-16-086 Filed 8/2/2004	WSR 04-21-057 Hearing 11/23/2004	WSR 05-01-066 Effective 1/8/2005
WAC 388-543-1000, 388-543-1100, 388-543-1150, 388-543-1400, 388-543-1500, 388-543-2100, 388-543-2500, and 388-543-2900	Durable medical equipment (DME)	DME provider reimbursement	Updating reimbursement methodologies, adding definitions, adding "washable protective underwear" to covered supplies and clarifying specifications for related items, and other amendments. Contact Wendy Boedigheimer, MAA.		WSR 04-23-102 Filed 11/17/2004		
Chapter 388-544 WAC	Vision and hearing aids	Vision care	Reorganizing vision care rules to ensure consistency with other MAA program rules, to clarify current program policy, to add coverage for disposable contact lenses, and to discontinue or limit coverage for glass lenses. Contact Wendy Boedigheimer, MAA.		WSR 04-07-087 Filed 3/16/2004		
Chapter 388-546 WAC	Nonemergency medical transportation	Same	Clarifying language and current policy for nonemergent medical transportation services. Contact Allen Richards, MAA.		WSR 03-08-023 Withdrawn, see WSR 05-02-068		

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WAC Chapter or WAC #	Chapter or Subpart Caption	Subject Matter or WAC Section Caption	Description and Program Contact Person	Current and Pending Activity			
				Emergency Rules	Preproposal Notice	Proposed Rule	Permanent (Final) Rule
WAC 388-550-1900	Hospital services	Interns, residents, teaching physicians and physician preceptorships	Amending rules to be consistent with industry standards; establishing MAA standards for supervising interns and residents in nonhospital settings; and expanding definition of "under primary care" exception. Contact Wendy Boedigheimer, MAA.		WSR 02-06-084 Filed 3/1/2002		
WAC 388-550-2598	Hospital services	Critical access hospitals	Revising the method for cost settlement for services provided to clients eligible under the department's managed care programs to ensure that critical access hospitals receive the correct level of reimbursement. Contact Kathy Sayre, MAA.		WSR 04-01-141 Filed 12/19/2003	WSR 04-21-061 Hearing 11/23/2004	WSR 05-01-026 Effective 1/3/2005
WAC 388-550-2800 and 388-550-2900	Hospital services	Newborn infant screening	Incorporating into rule certain newborn screening tests to the newborn metabolic screening panel and lists the specific disorders the screening tests can detect. Tests were approved through legislative direction and are to be performed for medical assistance clients in conjunction with the Department of Health. Contact Kathy Sayre, MAA.		WSR 04-03-091 Filed 1/20/2004		
WAC 388-550-3000	Hospital services	Diagnostic-related group (DRG) classification	Updating and clarifying policy related to diagnostic group classification for inpatient hospital services provided to medical assistance clients. Contact Kathy Sayre, MAA.		WSR 05-01-129 Filed 12/15/2004		
WAC 388-550-3700	Hospital services	Diagnostic-related group (DRG) high-cost and low-cost outliers	Updating the high-cost outlier policy to provide better control and predictability of hospital costs. More hospital costs will be in the basic payment and fewer costs will go into outlier calculation. Contact Kathy Sayre, MAA.		WSR 04-15-130 Filed 7/20/2004		

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WAC Chapter or WAC #	Chapter or Subpart Caption	Subject Matter or WAC Section Caption	Description and Program Contact Person	Current and Pending Activity			
				Emergency Rules	Preproposal Notice	Proposed Rule	Permanent (Final) Rule
WAC 388-550-3800	Hospital services	Rebasing and recalibration	Recalibrating relative weights in the diagnostic related group (DRG) reimbursement system without rebasing. Contact Kathy Sayre, MAA.		WSR 04-13-105 Filed 6/21/2004	WSR 04-17-114 Hearing 9/21/2004	
WAC 388-550-4800	Hospital services	Diagnosis-related group (DRG) high-cost outliers; medically indigent program; general assistance-unemployable program	Clarifying how MAA determines payments for state-administered program claims that qualify as diagnosis-related group (DRG) high-cost outliers; removing language regarding enhanced payments for trauma care provided to a client eligible under the medically indigent (MI) program or general assistance-unemployable (GAU) program; adding a table that shows high-cost outlier calculations for qualifying claims for state-administered programs. Contact Kathy Sayre, MAA.		WSR 03-13-089 Filed 6/16/2003		
Chapter 388-551 WAC	Alternatives to hospital services	Hospice care services; pediatric palliative care	Incorporating language from current agreements with hospice care centers into the hospice services WAC; the pediatric palliative care program is being incorporated into rule; and clarifying and updating hospice services rules. Contact Kathy Sayre, MAA.		WSR 04-07-114 Filed 3/18/2004		
Chapter 388-551 WAC	Alternatives to hospital services	Home health services	Updating and clarifying current program policy and to establish a tiered health care plan that includes a continuum of home health care. Contact Kathy Sayre, MAA.		WSR 04-02-061 Filed 1/7/2004		
WAC 388-551-1000 through 388-551-1530	Alternatives to hospital services	Hospice care program	Incorporating language from current agreements with hospice care centers into rule, and to update and clarify language. Contact Kathy Sayre, MAA.		WSR 01-03-095 Filed 1/18/2001		

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WAC Chapter or WAC #	Chapter or Subpart Caption	Subject Matter or WAC Section Caption	Description and Program Contact Person	Current and Pending Activity			
				Emergency Rules	Preproposal Notice	Proposed Rule	Permanent (Final) Rule
Chapter 388-554 WAC (new)	Enteral nutrition	Same	Establishing the enteral nutrition program in rule; setting requirements, limitations and restrictions for the program. Contact Kathy Sayre, MAA.		WSR 03-18-102 Filed 9/2/2003	WSR 04-23-067 Hearing 12/22/2004	
Chapter 388-555 WAC	Interpreter services	Purchase and service delivery	Changing how interpreter services are purchased and delivered. Implements 2002 legislative directives in SB 6832. Contact Myra Davis, MAA.		WSR 02-11-027 Filed 5/21/2002		
<b>Office of the Secretary</b>							
Chapter 388-01 WAC	DSHS organization/disclosure of public records	Public disclosure	Updating and clarifying current rules to reflect changes and improvements in procedures for responding to public requests for disclosure of records. Contact Kristal Wiitala Knudson, Office of the Secretary.		WSR 02-01-007 Filed 12/7/2001		

**Explanation of selected terms used in these tables:**

A **"Preproposal Notice"** is a **CR-101 Preproposal Statement of Inquiry** filed under RCW 34.05.310. This is a preliminary notice to the public that the agency is in the planning stages to adopt, amend or repeal rules on a particular subject, and notes the laws authorizing the agency's action. The notice also lets the public know how to participate in the development of the agency rule, and identifies the agency's contact person. "CR" stands for Code Reviser.

A **"Proposed Rule"** is a **CR-102 Proposed Rule-Making** notice filed under RCW 34.05.320. The proposed rule-making notice includes: (1) A general description of the rules that the agency proposes to adopt, amend or repeal; (2) the laws authorizing the agency action; (3) the complete text of proposed rules; (4) if applicable, a small business economic impact statement; (5) information on how to obtain a copy of the preliminary cost benefit analysis, if applicable; and (6) agency staff that the public may contact about the proposed rules. The CR-102 notice also includes the date and location of a **public hearing** to take formal comments about the proposed rules, the deadline for written comments, and how written comments may be sent.

An **"Expedited Rule"** is a **CR-105 Expedited Rule-Making** notice, filed under RCW 34.05.353. An agency may use this process to notify the public that it intends to adopt, amend or repeal very limited types of rules without accepting public comments or holding a public hearing. Within forty-five days after the expedited rule-making notice is published in the State Register, anyone may submit a written objection to the agency using the expedited rule-making process to adopt the rule. If a written objection is received, the agency must file a CR-102 proposed rule-making notice, invite pub-

lic comments and hold a public hearing on the proposed rule before adopting it as permanent. If no objection is received, the agency may adopt the rule as permanent by filing a CR-103 permanent rule-making order.

A **"Permanent Rule"** is a **CR-103 Rule-Making Order**, filed under RCW 34.05.360 and 34.05.380. A permanent rule is the official notice that an agency is adopting as final new, amended or repealed rules, completing the rule-making process. A CR-103 rule-making order includes the purpose of the rule-making order, the laws authorizing the agency's action, and when the permanent rules will take effect. The permanent rule includes the complete text of the new or amended rules, or the citation and caption of rules being repealed. Agencies also may use a CR-103 notice form to adopt temporary *emergency* rules (see below).

An **"Emergency Rule"** is also a **CR-103 Rule-Making Order**, filed under RCW 34.05.350 and 34.05.380. An emergency rule may be used to meet an urgent public health, safety or welfare need, or to meet a requirement of a federal or state law, or a deadline for receiving federal funds. Emergency rules take effect as soon as they are filed with the state Code Reviser, or a later date if noted on the CR-103 notice, and are effective for 120 days after the filing date. Emergency rules may be extended in certain circumstances. Emergency rules may not become permanent rules unless the agency files a preproposal notice and/or a proposed rule notice as applicable, invites public comment on the proposed rules, conducts a public hearing, and complies with other applicable rule-making statutes. **NOTE:** Emergency rules listed in these tables are those in effect at the time this agenda is filed for publication in the State Register.

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"Rules" as used generally in this document are the Washington Administrative Code, also known as WAC or regulations, which are adopted by state agencies according to the Administrative Procedure Act, chapter 34.05 RCW. References to "federal rules" are U.S. government regulations, also known as the Code of Federal Regulations, or C.F.R.

State "Statutes" are laws adopted by the legislature and signed by the governor, or may be initiatives adopted by the state's voters, and are codified as the Revised Code of Washington (RCW). Recent state statutes may also be identified as session laws, such as "chapter 140, Laws of 2003," or by a legislative bill number, such as "ESSB 6387."

All DSHS rule-making notices and adoption orders are filed with the state Office of the Code Reviser for legal publication in the Washington State Register, and are available to the public. Interested persons, businesses, organizations, local governments and agencies may receive copies of DSHS rule-making notices by postal mail or e-mail by contacting Fred Swenson at the DSHS Rules and Policies Assistance Unit, 360-664-6097, or at SwensFH@dshs.wa.gov. This document is also available from the DSHS public website, at <http://www1.dshs.wa.gov/msa/rpau/>.

Andy Fernando, Manager  
Rules and Policies Assistance Unit

**WSR 05-04-062**  
**AGENDA**  
**DEPARTMENT OF AGRICULTURE**

[Filed January 31, 2005, 10:20 a.m.]

Following is the Department of Agriculture's semi-annual rules development agenda for the period January 31, 2005, through June 30, 2005, which is being sent in compliance with RCW 34.05.314.

If you have any questions, please call George Huffman at (360) 902-1802 or e-mail at [ghuffman@agr.wa.gov](mailto:ghuffman@agr.wa.gov).

**Semi-Annual Rules Agenda, January 1, 2005 - June 30, 2005**  
**P.O. Box 42560, Olympia, WA 98504-2560**

WAC Number	Rule Title	Agency Contact	CR-101	Tentative Timeline CR-102	CR-103	Subject of Rule Making
<b>Commodity Inspection Division</b>						
Chapter 16-239 WAC	WSDA grain inspection program—Definitions, standards, fees and charges.	Randy Deike Grain Inspection Program Manager phone (360) 902-1921	2-2-05	3-23-05	5-18-05	The department proposes to repeal chapter 16-239 WAC and replace it with chapter 16-240 WAC, which will be written in a clear and readable style and format. The proposed new chapter will: <ul style="list-style-type: none"> <li>• Simplify grain inspection fees by deleting many minor fee categories.</li> <li>• Change the calculation of inspection fees assessed by the ton from a short-ton fee basis (2000 pounds) to a metric-ton fee basis (2204.6 pounds).</li> <li>• Increase some line item fees in excess of the fiscal growth factor.</li> </ul>
Chapter 16-390 WAC	WSDA fruit and vegetable inspection districts, inspection fees and other charges.	Jim Quigley Fruit and Vegetable Inspection Program Manager phone (360) 902-1883	2-2-05	3-23-05	5-18-05	The WSDA's fruit and vegetable inspection program is proposing to amend chapter 16-390 WAC. The proposed amendments will increase the following fees in excess of the Office of Financial Management fiscal growth rate factor: <ul style="list-style-type: none"> <li>• All cwt. fees.</li> <li>• The minimum charge for a certificate of compliance (WAC 16-390-150 (4)(a)).</li> <li>• The field or orchard per acre inspection fee (WAC 16-390-220(1)).</li> </ul> The department is also proposing a volume discount for apples and pears that are inspected and certified on-line for domestic shipment, controlled atmosphere certification, etc.

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WAC Number	Rule Title	Agency Contact	CR-101	Tentative Timeline CR-102	CR-103	Subject of Rule Making
						The department's current hourly rates (regular and overtime), phytosanitary certification, minimum certification rates and customer assisted inspection program (CAIP) fees will not change.
Chapter 16-403 WAC	Standards for apples marketed within the state of Washington.	Jim Quigley Fruit and Vegetable Inspection Program Manager phone (360) 902-1883	TBD	TBD	TBD	Rewrite in a clear and readable format and possibly amend to mimic United States grades.
Chapter 16-404 WAC	Standards for summer apples marketed within Washington.	Jim Quigley Fruit and Vegetable Inspection Program Manager phone (360) 902-1883	TBD	TBD	TBD	Since this chapter is now obsolete, the department will use the expedited rule making process to repeal it.
Chapter 16-406 WAC	Standards for apricots.	Jim Quigley Fruit and Vegetable Inspection Program Manager phone (360) 902-1883	TBD	TBD	TBD	Rewrite in a clear and readable format.
Chapter 16-409 WAC	Standards for asparagus.	Jim Quigley Fruit and Vegetable Inspection Program Manager phone (360) 902-1883	TBD	TBD	TBD	Rewrite in a clear and readable format.
Chapter 16-414 WAC	Cherries.	Jim Quigley Fruit and Vegetable Inspection Program Manager phone (360) 902-1883	TBD	TBD	TBD	Rewrite in a clear and readable format.
Chapter 16-436 WAC	Washington standards for peaches.	Jim Quigley Fruit and Vegetable Inspection Program Manager phone (360) 902-1883	TBD	TBD	TBD	Rewrite in a clear and readable format.
Chapter 16-439 WAC	Pears, summer and fall.	Jim Quigley Fruit and Vegetable Inspection Program Manager phone (360) 902-1883	TBD	TBD	TBD	Rewrite in a clear and readable format.
Chapter 16-442 WAC	Winter pears.	Jim Quigley Fruit and Vegetable Inspection Program Manager phone (360) 902-1883	TBD	TBD	TBD	Rewrite in a clear and readable format.
Chapter 16-445 WAC	Standards for Italian prunes.	Jim Quigley Fruit and Vegetable Inspection Program Manager phone (360) 902-1883	TBD	TBD	TBD	Rewrite in a clear and readable format.
Chapter 16-448 WAC	Standards for potatoes.	Jim Quigley Fruit and Vegetable Inspection Program Manager phone (360) 902-1883	TBD	TBD	TBD	Since this chapter is no longer necessary due to United States grades and standards, the department will use the expedited rule-making process to repeal it.
Chapter 16-301 WAC	General seed regulations.	Fawad Shah Seed Program Program Manager phone (509) 225-2682	9-15-04	TBD	TBD	In response to a petition from the Puget Sound Seed Growers Association, the department has formed a work group to develop amendments to chapter 16-301 WAC that satisfy petitioner concerns.

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WAC Number	Rule Title	Agency Contact	CR-101	Tentative Timeline CR-102	CR-103	Subject of Rule Making
WAC 16-303-340	Seed certification fees for buckwheat, chickpea, field pea, lentil, millet, soybean, sorghum and small grains.	Fawad Shah Seed Program Program Manager phone (509) 225-2682	11-2-04	12-22-04	2-14-04	The department is proposing to increase fees in this section by the fiscal growth rate factor for fiscal year 2005 (3.03%).
WAC 16-319-001, 16-319-002, 16-319-003, 16-319-004, 16-319-006 and 16-319-007 WAC 16-319-041	Promulgation.  Application for certification of forest reproductive material.	Fawad Shah Seed Program Program Manager phone (509) 225-2682	11-2-04	12-22-04	2-14-04	The department is proposing to repeal "Promulgation" sections and increase fees in WAC 16-319-041 by the fiscal growth rate factor for fiscal year 2005 (3.03%).
Chapter 16-303 WAC	Fees for seed certification or other services.	Fawad Shah Seed Program Program Manager phone (509) 225-2682	TBD	TBD	TBD	The department is proposing to increase the fees in this chapter beyond the fiscal growth rate factor. It will also correct several typographical errors.
WAC 16-237-195	Fees for warehouse audit and related services	Don Michelbook Warehouse Audit Program Program Manager phone (509) 533-2488	11-2-04	12-22-04	3-15-05	The department is proposing a fee for services performed when conducting special year-end inventories requested by licensed warehouse operators and is proposing fee increases beyond the fiscal growth rate factor for the services performed by the warehouse audit program.
<b>Pesticide Management Division</b>						
WAC 16-228-1220	What are the restrictions applying to any person holding, handling, using, or disposing of pesticides and their containers?	Ann Wick Program Development Program Manager phone (360) 902-2051	1-8-04	TBD	TBD	Based upon public comments received in year 2003 when chapter 16-228 WAC, General pesticide rules, was revised, the department will consider rule making to clarify the restrictions in WAC 16-228-1220(4) that apply to any person applying pesticides near schools, hospitals or similar establishments by airblast sprayers or aircraft. The department will solicit additional comments from stakeholders and other interested parties before considering possible rule amendments.
WAC 16-228-1231	State restricted use pesticides for distribution by licensed pesticide dealers and for use by certified applicators only.	Ann Wick Program Development Program Manager phone (360) 902-2051	1-8-04	TBD	TBD	Amend subsections (1) and (4) to define herbicides and related container sizes that should be considered restricted use or have restrictions due to product volatility causing phytotoxicity.
WAC 16-228-1250 WAC 16-230-400 through 16-230-470 WAC 16-230-600 through 16-230-675	Phenoxy herbicide restrictions. Restricted use herbicides—Spokane County. High volatile ester and dust formulations, area under order and specific rules for Eastern Washington.	Ann Wick Program Development Program Manager phone (360) 902-2051	1-8-04	TBD	TBD	Amend sections to define herbicides and related container sizes that should be considered restricted use or have restrictions due to product volatility causing phytotoxicity.

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WAC Number	Rule Title	Agency Contact	CR-101	Tentative Timeline CR-102	CR-103	Subject of Rule Making
WAC 16-230-800 through 16-230-868 WAC 16-231-100 through 16-231-183 WAC 16-231-200 through 16-231-235	Application of pesticides in Benton County. Restricted use herbicides—Franklin County. Restricted use herbicides—Yakima County.					
WAC 16-231-300 through 16-231-335 WAC 16-231-400 through 16-231-425 WAC 16-231-500 through 16-231-530 WAC 16-231-600 through 16-231-620 WAC 16-231-700 through 16-231-725 WAC 16-231-800 through 16-231-840	Restricted use herbicides—Adams County. Restricted use herbicides—Columbia County. Restricted use herbicides—Whitman County. Restricted use herbicides—Klickitat County. Restricted use herbicides—Okanogan County. Restricted use herbicides—Douglas and Chelan counties.	Ann Wick Program Development Program Manager phone (360) 902-2051	1-8-04	TBD	TBD	Amend sections to define herbicides and related container sizes that should be considered restricted use or have restrictions due to product volatility causing phytotoxicity.
WAC 16-231-900 through 16-231-935 WAC 16-232-001 through 16-232-077 WAC 16-232-100 through 16-232-120 WAC 16-232-200 through 16-232-225 WAC 16-232-300 through 16-232-315	Restricted use herbicides—Grant County. Restricted use herbicides and application of pesticides—Walla Walla County. Restricted use herbicides—Lincoln County. Restricted use herbicides—Garfield County. Restricted use herbicides—Kittitas County.	Ann Wick Program Development Program Manager phone (360) 902-2051	1-8-04	TBD	TBD	Amend sections to define herbicides and related container sizes that should be considered restricted use or have restrictions due to product volatility causing phytotoxicity.
WAC 16-229-010	Definitions.	Cliff Weed Program Manager Pesticide Compliance phone (360) 902-2036	7-7-04	12-20-04	2-11-05	In response to a petition received from the Washington State Horticultural Association, the department is considering amending WAC 16-229-010 Definitions, to exempt pesticides containing only Kaolin clay as the active ingredient from the definition of "pesticide." If exempt, pesticides containing only Kaolin clay as the active ingredient would no longer be counted for the purpose of establishing permanent mixing/loading site threshold.

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WAC Number	Rule Title	Agency Contact	CR-101	Tentative Timeline CR-102	CR-103	Subject of Rule Making
<b>Plant Protection Division</b>						
NEW WAC	Planting stock certification.	Tom Wessels Plant Services Program Manager phone (360) 902-1984	3-3-04	TBD	TBD	The department is considering developing and adopting permanent rules to establish standards, fees and other provisions for a planting stock certification program for some types of nursery stock such as rhododendrons.
Chapter 16-218 WAC	Hops—Certification analyses—Fees.	Mary Toohey Assistant Director Plant Protection Divisions phone (360) 902-1907	9-21-04	TBD	TBD	The department will propose increases in the fees in chapter 16-218 WAC and rewrite the chapter in a clear and readable format.
WAC 16-470-101 through 16-470-130	Apple maggot and plum curculio.	Brad White Pest Program Manager phone (360) 902-2071	12-21-04	TBD	TBD	The department is reviewing its regulation relating to apple maggot and plum curculio, nonnative insect pests potentially affecting tree fruit industries and related crops in all parts of the state. The department may amend WAC 16-470-101 through 16-470-130 so the requirements: <ul style="list-style-type: none"> <li>• Reflect the most recent scientific data about these insects;</li> <li>• Are easier to read and understand;</li> <li>• Reflect current industry practices and needs;</li> <li>• Incorporate current national and international regulatory standards as appropriate; and</li> <li>• Facilitate compliance.</li> </ul>
Chapter 16-623 WAC	Commission Merchants Act.	Jerry Buendel Weights and Measures Program Manager phone (360) 902-1856	11-17-04	TBD	TBD	The department will propose to increase the licensing fees in chapter 16-623 WAC beyond the fiscal growth rate factor and also plans to rewrite the chapter in a clear and readable format.
Chapter 16-662 WAC	Weights and measures—National handbook.	Jerry Buendel Weights and Measures Program Manager phone (360) 902-1856	N/A	TBD	TBD	The department will use the expedited rule-making process to adopt annual handbook updates.
<b>Agency Operations</b>						
WAC 16-07-001	Unsigned ballot envelopes: Elections for advisory votes, referenda, and board selection.	Lynn Briscoe WSDA Commodity Commission Coordinator phone (360) 902-2043	12-20-04	TBD	TBD	The department is developing rules that establish department procedures for conducting commodity commission elections. Specifically, the procedures that the department will follow when it receives unsigned ballot envelopes.
Chapter 16-730 WAC	Asparagus equipment leasing program.	Greg Wright Program Coordinator phone (360) 902-1918	12-22-04	TBD	TBD	Permanent rules are needed to implement recent budget legislation that is intended to help maintain a viable asparagus industry in Washington state.

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George Huffman  
Rules Coordinator

**WSR 05-05-001**  
**NOTICE OF PUBLIC MEETINGS**  
**BATES TECHNICAL COLLEGE**  
 [Memorandum—February 1, 2005]

**Special Board Meeting**

The board of trustees of Bates Technical College will meet in special session on February 4, 2005, from 8:00 a.m. to approximately 3:00 p.m. in the Auditorium, 1101 South Yakima Avenue, Tacoma, for the purpose of the strategic planning goal retreat.

**WSR 05-05-003**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF FISH AND WILDLIFE**  
 [Memorandum—January 31, 2005]

**REVISED 2005 PUBLIC MEETING SCHEDULE**

Below is the REVISED 2005 meeting schedule of the Washington Fish and Wildlife Commission:

DATE	FUNCTION	LOCATION
January 6	Conference call	Olympia
January 14-15	<del>Workshop Meeting</del>	Olympia
January 20	Conference call	Olympia
February 3	<del>Conference call</del>	<u>Canceled</u>
February 4-5	Meeting	Olympia
February 17	Conference call	Olympia
March 3	Conference call	Olympia
March 4-5	<del>Workshop Meeting</del>	Olympia
March 17	Conference call	Olympia
April 7	Conference call	Olympia
April 8-9	Meeting	Moses Lake
April 21	Conference call	Olympia
May 5	Conference call	Olympia
May 19	Conference call	Olympia
June 2	Conference call	Olympia
June 16	Conference call	Olympia
June 17-18	<del>Workshop Meeting</del>	<del>Spokane</del> <u>Yakima</u>
July 7	Conference call	Olympia
July 21	Conference call	Olympia
August 4	Conference call	Olympia
August 5-6	Meeting	<del>Yakima</del> <u>Spokane</u>
August 18	Conference call	Olympia
September 1	Conference call	Olympia
September 15	Conference call	Olympia
October 6	Conference call	Olympia
October 7-8	<del>Workshop Meeting</del>	Olympia

DATE	FUNCTION	LOCATION
October 20	Conference call	Olympia
November 3	Conference call	Olympia
November 17	Conference call	Olympia
November 18-19	<del>Workshop Meeting</del>	Vancouver (or Stevenson)
December 1	Conference call	Olympia
December 2-3	Meeting	Olympia
December 15	Conference call	Olympia

Additional meetings, workshops, and conference calls may be scheduled. Changes to this schedule, meeting agendas, and additional commission information can be found on the internet at the following website: <http://www.wdfw.wa.gov/com/meetings.htm>.

The Washington Fish and Wildlife Commission meetings are open to the public and are held at barrier free sites. Persons who need special assistance may contact Susan Yeager, executive assistant to the commission, at (360) 902-2267, TDD (360) 902-2207. For more information, please contact the commission office at (360) 902-2267 or via e-mail at [commission@dfw.wa.gov](mailto:commission@dfw.wa.gov).

**WSR 05-05-007**  
**INTERPRETIVE STATEMENT**  
**DEPARTMENT OF REVENUE**  
 [Filed February 7, 2005, 2:01 p.m.]

**CANCELLATION OF INTERPRETIVE STATEMENT**

This announcement of the cancellation of these interpretive statements is being published in the Washington State Register pursuant to the requirements of RCW 34.05.230(4).

The Department of Revenue has cancelled the following excise tax advisories (ETAs) because the information is sufficiently addressed in WAC 458-20-190 Sales to and by the United States—Doing business on federal reservations—Sales to foreign governments, as adopted on January 5, 2005 (WSR 05-03-002):

**ETA 258.08.190 National Guard Post Exchange Sales.** This advisory explains that the National Guard is not an instrumentality of the federal government, and therefore is responsible for collecting Washington's retail sales tax when selling to guard members. This advisory is no longer needed as WAC 458-20-190, in defining "United States," explains that the term "does not include entities associated with but not a part of the United States, such as the National Guard."

**ETA 350.04.190 Business and Occupation Tax—Medical Service Associations.** This advisory explains that a medical association contracting with the federal government is subject to Washington's business and occupation (B&O) tax. WAC 458-20-190 explains that persons selling goods or services to the United States are subject to taxes imposed on the seller, such as the business and occupation (B&O) and public utility taxes, unless a specific tax exemption applies.

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**ETA 2007.04.190 Taxability of federal instrumentalities and federally created corporate entities.** This advisory explains that federal law must be reviewed to determine whether or to what extent a federal instrumentality or federally created corporate entity is subject to tax by Washington. WAC 458-20-190 explains that the taxability of a federal entity depends on the benefits and immunities conferred upon it by congress and that the relevant portion of federal law should be examined to determine the current taxable status.

Copies of these documents are available via the internet at <http://www.dor.wa.gov/content/laws/eta/eta.aspx>, or a request for copies may be directed to Roseanna Hodson, Interpretations and Technical Advice Unit, P.O. Box 47453, Olympia, WA 98504-7453, phone (360) 570-6119, fax (360) 586-5543.

Alan R. Lynn  
Rules Coordinator

**WSR 05-05-009**

**NOTICE OF PUBLIC MEETINGS  
UNIVERSITY OF WASHINGTON**

[Memorandum—February 3, 2005]

Medical History and Ethics Faculty Meeting  
Seattle

Meeting Date	Location (Building and Room #)	Time
February 9	HSB A204B	1:30-3:00 p.m.
March 7	HSB A204B	2:30-4:00 p.m.
April 4	HSB A204B	2:30-4:00 p.m.
May 2	HSB A204B	2:30-4:00 p.m.
June 6	HSB A204B	2:30-4:00 p.m.
September 5	HSB A204B	2:30-4:00 p.m.
October 3	HSB A204B	2:30-4:00 p.m.
November 7	HSB A204B	2:30-4:00 p.m.
December 5	HSB A204B	2:30-4:00 p.m.

Bioengineering Faculty Meeting

Meeting Date	Location (Building and Room #)	Time
January 11, 2005	Harris Conference Room 322	8:30 a.m.-11:30 a.m.
February 15, 2005	Harris Conference Room 322	8:30 a.m.-11:30 a.m.
March 8, 2005	Harris Conference Room 322	8:30 a.m.-11:30 a.m.
April 12, 2005	Harris Conference Room 322	8:30 a.m.-11:30 a.m.
May 10, 2005	Harris Conference Room 322	8:30 a.m.-11:30 a.m.
June 14, 2005	Harris Conference Room 322	8:30 a.m.-11:30 a.m.
September 23, 2005	Talaris Conference Center	8:00 a.m.-4:00 p.m.
October 11, 2005	Harris Conference Room 322	8:30 a.m.-11:30 a.m.

Meeting Date	Location (Building and Room #)	Time
November 8, 2005	Harris Conference Room 322	8:30 a.m.-11:30 a.m.
December 13, 2005	Harris Conference Room 322	8:30 a.m.-11:30 a.m.

**WSR 05-05-010**

**NOTICE OF PUBLIC MEETINGS  
BELLINGHAM TECHNICAL COLLEGE**

[Memorandum—February 7, 2005]

The regularly scheduled meeting of the board of trustees of Bellingham Technical College will be held on Thursday, February 17, 2005, 9:00 - 11:00 a.m., in the College Services Board Room on the Bellingham Technical College campus. Call 752-8334 for information.

**WSR 05-05-010A**

**NOTICE OF PUBLIC MEETINGS  
DEPARTMENT OF AGRICULTURE**

(Blueberry Commission)

[Memorandum—February 4, 2005]

At our January 19th meeting of the Washington Blueberry Commission, the following meeting dates were set for the year:

April 11, 2005	Chicona Room, WSU Puyallup, Washington	10:00 a.m.
June 6, 2005	Chicona Room, WSU Puyallup, Washington	10:00 a.m.
October 10, 2005	Chicona Room, WSU Puyallup, Washington	10:00 a.m.
January 9, 2006	Chicona Room, WSU Puyallup, Washington	10:00 a.m.

**WSR 05-05-016**

**NOTICE OF PUBLIC MEETINGS  
FOREST PRACTICES BOARD**

[Memorandum—February 8, 2005]

**CANCELLATION**

The state of Washington Forest Practices Board has canceled its special spotted owl workshop scheduled for February 9, 2005, at the Natural Resources Building in Olympia, Washington. No new date for this workshop has been scheduled at this time.

For more information, please contact Board Coordinator, Forest Practices Board, Department of Natural Resources, Forest Practices Division, P.O. Box 47012, Olympia, WA 98504-7012, phone (360) 902-1758, fax (360) 902-1428, e-mail [forest.practicesboard@wadnr.gov](mailto:forest.practicesboard@wadnr.gov).

**WSR 05-05-017**

**NOTICE OF PUBLIC MEETINGS  
BIG BEND  
COMMUNITY COLLEGE**

[Memorandum—February 7, 2005]

In accordance with RCW 42.30.075 please be advised that the board of trustees for Big Bend Community College, District No. 18, has revised its regular meeting schedule as follows: March 1, 2005 cancelled.

**A special board meeting is scheduled on March 8, 2005, at 1:30 p.m. in the Hardin Community Room in the ATEC Building on the campus of Big Bend Community College, 7662 Chanute Street, Moses Lake, WA.**

**WSR 05-05-020**

**NOTICE OF PUBLIC MEETINGS  
GRAYS HARBOR COLLEGE**

[Memorandum—February 7, 2005]

The Grays Harbor College board of trustees meeting scheduled for February 15, 2005, has been cancelled.

**WSR 05-05-021**

**INTERPRETIVE OR POLICY STATEMENT  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES**

[Filed February 8, 2005, 4:03 p.m.]

**DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT**

Document Title: Numbered Memorandum 05-04 MAA.  
Subject: Prescription drug program: Maximum allowable cost update.

Effective Date: As indicated in Memo 05-04.

Document Description: **Effective for dates of service listed in this memorandum**, the Medical Assistance Administration (MAA) will implement the following changes to the prescription drug program: 1. New additions to the maximum allowable cost (MAC) list; 2. adjustments to existing MACs; and 3. deletions from the MAC list.

To receive a copy of the interpretive or policy statement, contact Barbara Salmon, Rules and Publications Section, Department of Social and Health Services, Medical Assistance Administration, Division of Policy and Analysis, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1349 or go to website <http://maa.dshs.wa.gov/download/publicationsfees.htm> (click on "Numbered Memos," "Year 2005"), TDD 1-800-848-5429, fax (360) 586-9727, e-mail [salmobl@dshs.wa.gov](mailto:salmobl@dshs.wa.gov).

February 8, 2005

Ann Myers, Manager  
Rules and Publications Section

**WSR 05-05-022**

**INTERPRETIVE OR POLICY STATEMENT  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES**

[Filed February 8, 2005, 4:03 p.m.]

**DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT**

Document Title: Numbered Memorandum 05-03 MAA.

Subject: New billing requirements regarding provider numbers and new website for accessing provider numbers.

Effective Date: April 1, 2005.

Document Description: **Effective for dates of service on and after April 1, 2005**, billers must list the assigned 7-digit DSHS provider number(s) for all performing/attending/referring providers on the claim form. Claims that do not have the appropriate provider number(s) listed will be denied. This memorandum provides billing guidance for compliance with this new requirement as well as information on a new website for accessing provider numbers. Pharmacies billing for prescription drugs or through point-of-sale (POS) are exempt from this requirement.

To receive a copy of the interpretive or policy statement, contact Barbara Salmon, Rules and Publications Section, Department of Social and Health Services, Medical Assistance Administration, Division of Policy and Analysis, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1349 or go to website <http://maa.dshs.wa.gov/download/publicationsfees.htm> (click on "Numbered Memos," "Year 2005"), TDD 1-800-848-5429, fax (360) 586-9727, e-mail [salmobl@dshs.wa.gov](mailto:salmobl@dshs.wa.gov).

February 8, 2005

Ann Myers, Manager  
Rules and Publications Section

**WSR 05-05-028**

**NOTICE OF PUBLIC MEETINGS  
SKAGIT VALLEY COLLEGE**

[Memorandum—February 10, 2005]

**NOTICE OF SPECIAL MEETING**

**BOARD OF TRUSTEES  
COMMUNITY COLLEGE DISTRICT NO. 4  
SKAGIT VALLEY COLLEGE  
2405 East College Way  
Mount Vernon, WA 98273**

Tuesday, February 8, 2005

2:00 p.m.

Board Room

Chair, Tom Moser, has called a special meeting of the board of trustees for **Tuesday, February 8, 2005, 2:00 p.m.**, in the board room of the Mount Vernon campus. This meeting is being held as a study session for the board of trustees. Study topics will include: A mid-year update on college progress toward the 2004-05 annual initiatives, a review of proposed strategic priorities for 2005-06, discussion of pro-

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posed changes to the planning cycle and strategic plan revision, and an update on facilities and the facilities master plan.

**WSR 05-05-030**  
**NOTICE OF PUBLIC MEETINGS**  
**PUBLIC WORKS BOARD**  
 [Memorandum—February 10, 2005]

**Meeting Dates for 2005**

Date/Time	Time	Event	Location
January 4, 2005	8:30 a.m.	Regular Meeting	SeaTac, Washington
February 1, 2005	8:30 a.m.	Regular Meeting	SeaTac, Washington
March 1, 2005	8:30 a.m.	Regular Meeting	SeaTac, Washington
April 12, 2005	8:30 a.m.	Regular Meeting	SeaTac, Washington
May 3, 2005	8:30 a.m.	BOARD TOUR	Spokane, Washington
June 7, 2005	8:30 a.m.	Regular Meeting	SeaTac, Washington
July 2005		NO MEETING	
August 2, 2005	8:30 a.m.	Regular Meeting	SeaTac, Washington
August 16, 2005	8:30 a.m.	Regular Meeting	SeaTac, Washington
September 6, 2005	8:30 a.m.	Conference Call	PWB—Olympia, Washington
October 4, 2005	8:30 a.m.	Regular Meeting	SeaTac, Washington
November 1, 2005	8:30 a.m.	Regular Meeting	SeaTac, Washington
December 2005		NO MEETING	

The Public Works Board adopted the 2005 meeting schedule at the November 2, 2004, regular meeting. Conference calls will be hosted at the Public Works Board's staff office, 711 Capitol Way, Suite 102, Olympia, WA, (360) 586-4120.

Changes to the schedule, if any, will be published by the Washington State Code Reviser's Office.

Changes to the schedule, if any, will also be posted one week prior to the board meetings at the board website [www.pwb.wa.gov](http://www.pwb.wa.gov).

**WSR 05-05-031**  
**NOTICE OF PUBLIC MEETINGS**  
**LAW ENFORCEMENT OFFICERS' AND**  
**FIRE FIGHTERS' PLAN 2 RETIREMENT BOARD**  
 [Memorandum—February 9, 2005]

February 23, 2005  
 Meeting Cancellation

This is to notify you that the Law Enforcement Officers' and Fire Fighters' Plan 2 Retirement Board has cancelled the February 23 board meeting.

The next regularly scheduled meeting is **Wednesday, March 23, 2005**, at 9:30 located in the Washington State Investment Board Room.

Please feel free to contact Jessica Burkhart at (360) 586-2322 or by e-mail at [jessica.burkhart@leoff.wa.gov](mailto:jessica.burkhart@leoff.wa.gov) should you have any questions.

**WSR 05-05-037**  
**DEPARTMENT OF ECOLOGY**  
 [Filed February 11, 2005, 1:40 p.m.]

**NOTICE OF PUBLIC HEARING**  
**Proposed State Implementation Plan Revision**  
**Wallula PM<sub>10</sub> Nonattainment Area**

**Background Information:** The Washington State Department of Ecology (ecology) is conducting a public hearing on a proposed revision to the state implementation plan (SIP) for the Wallula PM<sub>10</sub> nonattainment area. The SIP is a statewide plan for meeting federal air quality standards. The purpose of this scheduled hearing is to receive public comment on a SIP revision that consists of a request for EPA to redesignate Wallula to attainment, and a plan to maintain the PM<sub>10</sub> standard after redesignation.

The United States Environmental Protection Agency (EPA) has set an air quality standard for particulate matter ten micrometers or less in size (PM<sub>10</sub>) to protect public health. When an area in Washington does not meet this air quality standard, EPA formally designates the area "nonattainment." Ecology is required by the Clean Air Act to develop a plan to meet the standard.

The Clean Air Act allows EPA to redesignate a nonattainment area to attainment once certain conditions have been met. These conditions include the following:

- Monitoring data that shows attainment of the PM<sub>10</sub> standard.
- Full EPA approval of the plan to meet the standard.
- Fulfillment of any additional SIP requirements.
- Permanent and enforceable reductions in PM<sub>10</sub> emissions.
- An EPA-approved maintenance plan that provides for continued attainment of the PM<sub>10</sub> standard for ten years after redesignation to attainment.

**The SIP Revision:** The SIP revision shows how Wallula meets redesignation requirements. EPA determined that Wallula met the PM<sub>10</sub> standard in 2001. The only exceedance that occurred after 2001 was an uncontrollable natural event

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caused by windblown dust. This exceedance is not considered in assessing attainment.

EPA proposed approval of the attainment plan in the February 1, 2005, Federal Register. Controls on emissions in place in the nonattainment area include a new permit for the beef cattle processing facility, paving of a haul road at the pulp and paper mill, a fugitive dust control plan for the associated compost facility, and a fugitive dust control plan for the beef cattle feedlot.

The SIP revision also includes the maintenance plan. This plan includes the following major elements:

- A 2002 inventory of PM<sub>10</sub> emissions that shows the level of emissions compatible with attainment of the PM<sub>10</sub> standard (over 50% of the emissions come from agricultural tilling, and almost 40% come from large and small industrial sources).
- A demonstration that the PM<sub>10</sub> standard will be maintained through 2015.
- A contingency plan that provides for: (1) Improved monitoring; (2) use of continuous monitoring to evaluate maintenance of the standard; and (3) continued implementation of Best Available Control Measures to deal with windblown dust from agricultural fields (with a single exception, exceedances in the Wallula area the result of windblown dust).

The plan exempts the Wallula maintenance area from regional transportation conformity requirements for PM<sub>10</sub>, because mobile sources do not have a significant impact on continued attainment of the standard.

Copies of the new plan are available for review at the following locations: Benton Clean Air Authority, 114 Columbia Point Drive, Suite C, Richland, WA 99352-4387; and Burbank Library, 875 Lake Road, Burbank, WA 99323; Kennewick Branch, Mid-Columbia Library, 1620 South Union, Kennewick, WA 99338; or Pasco Branch, Mid-Columbia Library, 320 West Hopkins, Pasco, WA 99301.

**Hearing Schedule:** On Thursday, March 17, 2005, at 7:00 p.m., at the Burbank-Wallula Fire Station 51, 460 West Humorist Road, Burbank, WA.

Comments may be provided at the hearing or mailed, e-mailed, or faxed to Doug Schneider, Department of Ecology, P.O. Box 4700, Olympia, WA 98504-7600, fax (360) 407-7534, e-mail dsch461@ecy.wa.gov. Comments must be postmarked by 5:00 p.m., March 18, 2005.

**For More Information:** Contact Doug Schneider, Department of Ecology, Air Quality Program, (360) 407-6874, dsch461@ecy.wa.gov.

*If you need special accommodations, please contact Tami Dahlgren at (360) 407-6800. If you are a person with a speech or hearing impairment, call 711, or 1-800-833-6388 for TTY.*

**WSR 05-05-053**

**NOTICE OF PUBLIC MEETINGS  
BATES TECHNICAL COLLEGE**  
[Memorandum—February 10, 2005]

**Change of Public Meeting Date/Time**

The board of trustees of Bates Technical College has rescheduled its regularly scheduled meeting of February 16, 2005, to February 18, 2005. The regular meeting will begin at 3:30 p.m. in the Clyde Hupp Board Room at Bates Technical College, 1101 South Yakima Avenue, Tacoma, WA 98405.

**WSR 05-05-054**

**NOTICE OF PUBLIC MEETINGS  
BATES TECHNICAL COLLEGE**  
[Memorandum—February 10, 2005]

**Special Board Meeting Change of Time**

The board of trustees of Bates Technical College will meet in special session on February 18, 2004 [2005], from 12:00 p.m. to approximately 3:30 p.m. in the Clyde Hupp Board Room, 1101 South Yakima Avenue, Tacoma. The trustees will go immediately into executive session for the purpose of considering award, denial or extension of tenure. The board will reconvene the regular public meeting prior to taking any action.

**WSR 05-05-055**

**NOTICE OF PUBLIC MEETINGS  
UNIVERSITY OF WASHINGTON**  
[Memorandum—February 10, 2005]

**ARCHITECTURE FACULTY  
SEATTLE**

Meeting Date	Location (Building and Room #)	Time
Each Wednesday (as needed) during winter, spring and autumn quarters.	208J Gould Hall	12:00 noon to 1:30 p.m.

**NeuroSurgery Faculty Meetings  
Seattle**

Meeting Date	Location (Building and Room #)	Time
February 7, 2005	401 Broadway S022 Conference Room	6:30
March 14, 2005	401 Broadway S022 Conference Room	
April 11, 2005	401 Broadway S022 Conference Room	

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Meeting Date	Location (Building and Room #)	Time
May 9, 2005	401 Broadway S022 Conference Room	
June 13, 2005	401 Broadway S022 Conference Room	
July 11, 2005	401 Broadway S022 Conference Room	
August 15, 2005	401 Broadway S022 Conference Room	
September 12, 2005	401 Broadway S022 Conference Room	
October 17, 2005	401 Broadway S022 Conference Room	
November 21, 2005	401 Broadway S022 Conference Room	
December 12, 2005	401 Broadway S022 Conference Room	

The Department of Revenue has cancelled the following excise tax advisory (ETA):

**2013.57.015 QTIP Elections and Washington's Estate Tax.** This document addresses whether a personal representative can make a different election for qualified terminable interest property (QTIP) on the Washington state estate tax return than on the federal estate tax return. It also addresses whether a personal representative may make a QTIP election on the Washington state estate tax return when no federal return is required.

On February 3, 2005, the Washington supreme court rendered its decision in the estate tax class action lawsuit *Hemp-hill et al. v State of Washington, Department of Revenue* (<http://www.courts.wa.gov/opinions/?fa=opinions.opin-disp&docid=749744MAJ>). The Supreme Court ruled that chapter 83.100 RCW automatically conforms to the changes made by congress in 2001 (Public Law 107-16 (H.R. 1836)), therefore, the information in the ETA is no longer valid.

A copy of this document is available via the internet at <http://www.dor.wa.gov/content/laws/eta/eta.aspx>, or a request for a copy may be directed to Roseanna Hodson, Interpretations and Technical Advice Unit, P.O. Box 47453, Olympia, WA 98504-7453, phone (360) 570-6119, fax (360) 586-5543.

Alan R. Lynn  
Rules Coordinator

**WSR 05-05-056**

**NOTICE OF PUBLIC MEETINGS  
DEPARTMENT OF AGRICULTURE  
(Barley Commission)**

[Memorandum—February 10, 2005]

To keep in compliance with the Open Public Meetings Act the Washington Barley Commission is filing the following schedule of the times, dates, and locations of our 2004 [2005] scheduled meetings:

Meeting Type	Date	Time
Regular Meeting	March 24, 2005	9:00 a.m.
Annual Meeting	June 30, 2005	9:00 a.m.
Regular Meeting	September 30, 2005	9:00 a.m.
Regular Meeting	Coincide with Tri State Convention	9:00 a.m.

All of the meetings will be held in the Washington Wheat Commission's Conference Room, West 907 Riverside Avenue, Spokane, WA.

If you have any questions, please call our office at (509) 456-4400.

**WSR 05-05-060**

**INTERPRETIVE STATEMENT  
DEPARTMENT OF REVENUE**

[Filed February 15, 2005, 11:13 a.m.]

**CANCELLATION OF INTERPRETIVE STATEMENT**

This announcement of the cancellation of this interpretive statement is being published in the Washington State Register pursuant to the requirements of RCW 34.05.230(4).

**WSR 05-05-077**

**DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Aging and Disability Services Administration)**

[Filed February 15, 2005, 3:37 p.m.]

The DSHS Aging and Disability Services Administration is requesting that sections of chapter 388-820 WAC be recodified into new chapter 388-101 WAC. The complete list of the old and new WAC numbers, and corresponding subchapter captions, follows.

The following sections of the Washington Administrative Code are recodified as follows:

<u>Old WAC Number</u>	<u>New WAC Number</u>
Purpose 388-820-010	Purpose 388-101-1010
Definitions 388-820-020	Definitions 388-101-1020
Abuse Reporting and Neglect 388-820-440	Abuse Reporting and Neglect 388-101-1100
Residential Services— General Requirements 388-820-030 388-820-040 388-820-050	Residential Services— General Requirements 388-101-1180 388-101-1190 388-101-1200

MISC.

<u>Old WAC Number</u>	<u>New WAC Number</u>	<u>Old WAC Number</u>	<u>New WAC Number</u>
388-820-060	388-101-1210	Emergencies	Emergencies
388-820-070	388-101-1220	388-820-430	388-101-1790
388-820-076	388-101-1230	Client Services	Client Services
388-820-080	388-101-1240	388-820-450	388-101-1800
388-820-086	388-101-1250	388-820-460	388-101-1810
388-820-090	388-101-1260	388-820-470	388-101-1820
388-820-100	388-101-1400	388-820-480	388-101-1830
388-820-110	388-101-1410	388-820-490	388-101-1840
388-820-120	388-101-1420	388-820-500	388-101-1850
388-820-130	388-101-1430	388-820-510	388-101-1860
Certification	Certification	Client Service Plans	Client Service Plans
388-820-140	388-101-1440	388-820-520	388-101-1870
388-820-150	388-101-1460	388-820-530	388-101-1880
388-820-160	388-101-1470	388-820-540	388-101-1890
388-820-170	388-101-1480	388-820-550	388-101-1900
388-820-180	388-101-1490	388-820-555	388-101-2000
388-820-190	388-101-1500	388-820-560	388-101-2010
388-820-200	388-101-1510	388-820-570	388-101-2020
388-820-210	388-101-1520	388-820-580	388-101-2030
388-820-220	388-101-1530	Client Funds	Client Funds
388-820-230	388-101-1540	388-820-590	388-101-2040
388-820-240	388-101-1550	388-820-600	388-101-2050
Administrative Require- ments: General	Administrative Require- ments: General	388-820-610	388-101-2060
388-820-250	388-101-1600	388-820-620	388-101-2070
388-820-260	388-101-1610	388-820-630	388-101-2080
388-820-270	388-101-1620	388-820-640	388-101-2090
388-820-280	388-101-1630	388-820-650	388-101-2100
388-820-290	388-101-1640	388-820-660	388-101-2110
388-820-300	388-101-1650	388-820-670	388-101-2120
388-820-310	388-101-1660	388-820-680	388-101-2130
388-820-320	388-101-1670	Client Health Services	Client Health Services
388-820-330	388-101-1680	388-820-690	388-101-2140
388-820-340	388-101-1690	388-820-700	388-101-2150
388-820-350	388-101-1700	388-820-710	388-101-2160
388-820-360	388-101-1710	Client Transportation	Client Transportation
388-820-370	388-101-1720	388-820-720	388-101-2300
Administrative Require- ments: Client Records	Administrative Require- ments: Client Records	Nurse Delegation	Nurse Delegation
388-820-380	388-101-1730	388-820-740	388-101-2310
388-820-390	388-101-1740	388-820-750	388-101-2320
388-820-400	388-101-1750	Dispute Rights	Dispute Rights
388-820-405	388-101-1760	388-820-880	388-101-2330
388-820-410	388-101-1770	388-820-890	388-101-2340
388-820-420	388-101-1780	388-820-900	388-101-2350

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<u>Old WAC Number</u>	<u>New WAC Number</u>
388-820-910	388-101-2360
388-820-920	388-101-2370
Requests for Exceptions	Requests for Exceptions
388-820-930	388-101-2380
	Andy Fernando, Manager
	Rules and Policies Assistance Unit

WSR 05-05-093

## DEPARTMENT OF ECOLOGY

[Filed February 16, 2005, 9:56 a.m.]

## NOTICE OF A PROPOSAL FOR A NEW STATEWIDE GENERAL PERMIT FOR BIOSOLIDS MANAGEMENT

Notice is hereby given that the Washington State Department of Ecology is proposing to issue a new statewide general permit for biosolids management (general permit) to replace the existing general permit. Mailing address and the main reception phone number for the Department of Ecology are P.O. Box 47600, Olympia, WA 98504-7600, phone (360) 407-6000. The physical address is 300 Desmond Drive S.E., Lacey, WA 98503.

The department was granted the authority to develop and implement a state biosolids program under chapter 70.95J RCW. The program is required to at least meet the requirements of applicable federal rules and the Federal Clean Water Act as it existed on February 4, 1987. The regulatory structure for the state biosolids program is contained in chapter 173-308 WAC, Biosolids management. The process described in chapter 173-226 WAC will be used for issuing this general permit. The standards for biosolids management in chapter 173-308 WAC along with appropriate best management practices will be used to establish the conditions in the general permit which are intended to protect public health and the environment.

This permit will be the primary regulatory mechanism for approving the final use or disposal of biosolids in areas under the jurisdiction of the state of Washington. This permit will apply to all *treatment works treating domestic sewage* that prepare biosolids for beneficial use, apply biosolids to the land, transfer biosolids to or from another facility, or dispose of biosolids in a municipal solid waste landfill. The majority of affected facilities are publicly owned wastewater treatment plants, privately owned wastewater treatment plants that treat only domestic sewage, and similar state and federal facilities (military bases, prisons, parks, etc.). Other types of facilities include but may not be limited to private composting facilities that treat biosolids as a feedstock, beneficial use facilities as defined by the state biosolids rule, and central septage management facilities (some public and private facilities which accept mostly septage from more than one pumper source). In some cases facilities in this latter group may secure permits from local jurisdictional health departments and, consequently, may not need to obtain coverage under the state permit program.

This permit has statewide applicability, including federal facilities, but does not apply to activities which occur on or to facilities which are located on tribal lands. If biosolids are generated or treated on tribal lands and subsequently transported to state or federal lands, then this permit may be applicable for activities that occur outside of tribal lands.

Three hundred twenty-four facilities have indicated that they will apply for coverage under the new general permit after it becomes effective. A list of these facilities can be found at <http://www.ecy.wa.gov/programs/swfa/biosolids/pdf/noifacilities.pdf>. In addition, it is estimated that up to seventy-five additional facilities will either need to apply for coverage under a new general permit or seek to be covered under an individual permit.

Each facility seeking coverage under a new general permit will need to submit (or provide evidence the document/information has previously been submitted) a permit application package that includes at least the following: A completed *Application for Coverage*, basic facility information including name, contacts, location, and relevant jurisdictions, information on any other environmental permits, a vicinity map of the facility, a vicinity map of any associated treatment or storage facilities, a treatment facility schematic, information on the mass of biosolids produced and managed, confirmation that State Environmental Policy Act requirements have been met, confirmation that public notice requirements have been met, land application plans if required, biosolids monitoring data if required, a biosolids sampling plan if required, a contingency plan for "exceptional quality" biosolids if required, a temporary disposal plan if required, a spill response/prevention plan if required, any other information the applicant deems helpful or that is required by the department, and a signature by an appropriate official.

Coverage under the general permit will be provided in two phases: (1) Provisional approval, and (2) final approval. "Provisional" approval is obtained for any facility submitting a Notice of Intent and a complete application for coverage as provided for in the rules. "Final" approval may be granted after department review of the original permit application and operating practices. Coverage will be approved for those facilities that submit complete and correct applications for coverage and that propose and implement practices in compliance with the conditions of the permit, state rules, and consistent with good management practices. The permit (and rule) provides for the possibility of imposing additional or more stringent standards as a condition of final approval of coverage, on a case-by-case basis.

As required by WAC 173-226-120, an economic impact analysis (EIA) was conducted to assess whether or not the draft general permit might have a disproportionate economic impact on small businesses relative to large businesses. An EIA was conducted on the existing general permit in 1997. The current EIA focused strictly on the potential economic impact of the nine proposed amendments in the draft general permit, not on other conditions in the general permit which were addressed in the 1997 EIA. To summarize, the EIA concluded that the costs of the amendments to the draft general permit may have a disproportionate economic impact on small businesses relative to large businesses. However, the EIA lists a large number of cost-saving features which were

not evaluated in the EIA but that are expected to reduce the impacts on small businesses. The EIA can be accessed at the following website <http://www.ecy.wa.gov/programs/swfa/biosolids/draftgenpermit.html>.

Two public hearings will be held on the permit. One will be held on April 6, 2005, from 6-8 p.m. in the Auditorium at the Department of Ecology headquarters building at 300 Desmond Drive S.E., Lacey, WA 98503. The other public hearing will be held on April 7, 2005, from 6-8 p.m. in the Oreana Room at the Department of Ecology's Central Regional Office building at 15 West Yakima Avenue, Yakima, WA 98902.

If you wish to be included on an interested parties list to receive notification of activities relating to the development of a final general permit, please notify Daniel Thompson (contact information listed below).

There will be a thirty-day comment period for this draft permit. All comments received on this draft permit by the Department of Ecology by 5 p.m. on April 8, 2005, will be considered during the development of a final general permit. Anyone may express their comments, concerns, or recommendations regarding the draft permit by submitting comments in writing or at a public hearing. Comments will be accepted by e-mail or by other means, including U.S. mail, delivered to the Department of Ecology headquarters office by the close of the comment period. Appropriate changes, if any, will be made before issuing the final permit. A summary of responses to comments received will be prepared and available for review by April 30, 2005.

Comments or requests for additional information should be addressed to Daniel Thompson via the contact information listed below. You may obtain documents at the mailing address listed above.

In addition to the above described opportunities to participate in formulation of a final general permit or to obtain additional information, the department also has created a web page for the draft general permit. The page contains information and documents specific to the draft permit. You may use this page for tracking activities related to the draft permit, to make comments on the draft permit during the public comment period, or to subscribe to the general permit mailing list. This page is located at <http://www.ecy.wa.gov/programs/swfa/biosolids/draftgenpermit.html>.

The department anticipates issuing a final general permit by May 4, 2005.

For additional information or to comment on the draft general permit, please contact Daniel Thompson, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, phone (360) 407-6108, e-mail [dtho461@ecy.wa.gov](mailto:dtho461@ecy.wa.gov).

February	No meeting scheduled
March 14	Seattle
April 8	Seattle
May 6	Eastern Washington (Yakima Community College)
June 3	Eastern Washington (Spokane)
July 8	Seattle
August 5	Eastern Washington (Yakima)
September 9	Eastern Washington (WSU Tri-Cities)
October	No meeting scheduled
November 4	Eastern Washington (Yakima)
December 2	Seattle

Seattle Location: Top of the Market, 93 Pike Street, Seattle, WA 98101.

Eastern Washington Locations: WSU Tri-Cities, Consolidated Information Center, 2770 University Drive, Richland, WA 99354; or Yakima Valley Community College, 1004 South 12th Avenue, Yakima, WA 98902.

All meetings are scheduled from 10 a.m. - 1 p.m.

If you need any additional information, please feel free to call Kim Abello at (206) 667-9463 ext. 200 or via e-mail [kabello@washingtonwine.org](mailto:kabello@washingtonwine.org).

MISC.

**WSR 05-05-095**

**NOTICE OF PUBLIC MEETINGS  
DEPARTMENT OF AGRICULTURE**

(Wine Commission)

[Memorandum—February 14, 2005]

Below are the Washington Wine Commission 2005 meeting dates, times, and locations:

**Table of WAC Sections Affected**

**KEY TO TABLE**

This table covers the current calendar year through this issue of the Register and should be used to locate rules amended, adopted, or repealed subsequent to the publication date of the latest WAC or Supplement.

**Symbols:**

- AMD = Amendment of existing section
- A/R = Amending and recodifying a section
- DECOD = Decodification of an existing section
- NEW = New section not previously codified
- OBJECT = Notice of objection by Joint Administrative Rules Review Committee
- PREP = Preproposal comments
- RE-AD = Readoption of existing section
- RECOD = Recodification of previously codified section
- REP = Repeal of existing section
- RESCIND = Rescind of existing section
- REVIEW = Review of previously adopted rule
- SUSP = Suspending an existing section

**Suffixes:**

- C = Continuance of previous proposal
- E = Emergency action
- P = Proposed action
- S = Supplemental notice
- W = Withdrawal of proposed action
- X = Expedited rule making
- XA = Expedited adoption
- XR = Expedited repeal
- No suffix means permanent action

**WAC #** Shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.

**WSR #** Shows the issue of the Washington State Register where the document may be found; the last three digits identify the document within the issue.

**TABLE**

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
3- 20-300	REP-P	05-05-100	16-730-020	NEW-E	05-03-032	67- 25-384	AMD-P	05-03-116
3- 20-390	NEW-P	05-05-100	16-730-025	NEW-E	05-03-032	67- 25-388	AMD-P	05-03-116
3- 20-400	NEW-P	05-05-100	16-730-030	NEW-E	05-03-032	67- 25-390	AMD-P	05-03-116
3- 20-410	NEW-P	05-05-100	16-730-035	NEW-E	05-03-032	67- 25-394	AMD-P	05-03-116
4- 25-530	PREP	05-02-051	16-730-040	NEW-E	05-03-032	67- 25-395	REP-P	05-03-116
10- 20-010	NEW	05-03-003	16-730-045	NEW-E	05-03-032	67- 25-396	AMD-P	05-03-116
10- 20-020	NEW	05-03-003	16-730-050	NEW-E	05-03-032	67- 25-398	AMD-P	05-03-116
10- 20-030	NEW	05-03-003	67- 25-005	AMD-P	05-03-116	67- 25-399	AMD-P	05-03-116
16-218-010	REP-P	05-04-111	67- 25-010	AMD-P	05-03-116	67- 25-400	AMD-P	05-03-116
16-218-015	NEW-P	05-04-111	67- 25-015	AMD-P	05-03-116	67- 25-404	AMD-P	05-03-116
16-218-02001	REP-P	05-04-111	67- 25-020	AMD-P	05-03-116	67- 25-408	AMD-P	05-03-116
16-218-025	NEW-P	05-04-111	67- 25-025	AMD-P	05-03-116	67- 25-412	AMD-P	05-03-116
16-218-030	REP-P	05-04-111	67- 25-030	AMD-P	05-03-116	67- 25-416	AMD-P	05-03-116
16-218-035	NEW-P	05-04-111	67- 25-050	AMD-P	05-03-116	67- 25-418	AMD-P	05-03-116
16-218-040	NEW-P	05-04-111	67- 25-055	AMD-P	05-03-116	67- 25-432	AMD-P	05-03-116
16-229-010	AMD	05-05-036	67- 25-056	AMD-P	05-03-116	67- 25-436	AMD-P	05-03-116
16-239	PREP	05-04-078	67- 25-060	AMD-P	05-03-116	67- 25-440	AMD-P	05-03-116
16-240	PREP	05-04-078	67- 25-065	NEW-P	05-03-116	67- 25-444	AMD-P	05-03-116
16-303-020	PREP	05-05-050	67- 25-070	AMD-P	05-03-116	67- 25-446	AMD-P	05-03-116
16-303-200	PREP	05-05-050	67- 25-075	REP-P	05-03-116	67- 25-448	AMD-P	05-03-116
16-303-210	PREP	05-05-050	67- 25-077	AMD-P	05-03-116	67- 25-452	AMD-P	05-03-116
16-303-250	PREP	05-05-050	67- 25-080	REP-P	05-03-116	67- 25-460	AMD-P	05-03-116
16-303-310	PREP	05-05-050	67- 25-085	REP-P	05-03-116	67- 25-470	REP-P	05-03-116
16-303-320	PREP	05-05-050	67- 25-090	REP-P	05-03-116	67- 25-480	REP-P	05-03-116
16-303-340	AMD	05-05-052	67- 25-095	REP-P	05-03-116	67- 25-540	AMD-P	05-03-116
16-319-001	REP	05-05-051	67- 25-100	REP-P	05-03-116	67- 25-545	AMD-P	05-03-116
16-319-002	REP	05-05-051	67- 25-110	REP-P	05-03-116	67- 25-550	AMD-P	05-03-116
16-319-003	REP	05-05-051	67- 25-255	AMD-P	05-03-116	67- 25-560	REP-P	05-03-116
16-319-004	REP	05-05-051	67- 25-257	AMD-P	05-03-116	67- 25-570	AMD-P	05-03-116
16-319-006	REP	05-05-051	67- 25-260	AMD-P	05-03-116	67- 25-590	AMD-P	05-03-116
16-319-007	REP	05-05-051	67- 25-270	AMD-P	05-03-116	82- 60-010	RECOD	05-04-072
16-319-041	AMD	05-05-051	67- 25-275	AMD-P	05-03-116	82- 60-020	RECOD	05-04-072
16-350-035	AMD	05-03-042	67- 25-280	AMD-P	05-03-116	82- 60-030	RECOD	05-04-072
16-390	PREP	05-04-077	67- 25-284	AMD-P	05-03-116	82- 60-031	RECOD	05-04-072
16-470-103	AMD-P	05-05-099	67- 25-288	REP-P	05-03-116	82- 60-032	RECOD	05-04-072
16-470-105	AMD-P	05-05-099	67- 25-300	REP-P	05-03-116	82- 60-033	RECOD	05-04-072
16-501-525	NEW-P	05-05-098	67- 25-325	AMD-P	05-03-116	82- 60-034	RECOD	05-04-072
16-532	PREP	05-04-073	67- 25-326	REP-P	05-03-116	82- 60-035	RECOD	05-04-072
16-730-005	NEW-E	05-03-032	67- 25-350	AMD-P	05-03-116	82- 60-036	RECOD	05-04-072
16-730-010	NEW-E	05-03-032	67- 25-360	AMD-P	05-03-116	82- 60-037	RECOD	05-04-072
16-730-015	NEW-E	05-03-032	67- 25-380	AMD-P	05-03-116	82- 60-038	RECOD	05-04-072

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
82- 60-039	NEW	05-04-072	137- 59-030	NEW-W	05-05-071	173-400-200	AMD	05-03-033
82- 60-040	RECOD	05-04-072	137- 59-040	NEW-W	05-05-071	173-400-560	NEW	05-03-033
82- 60-050	RECOD	05-04-072	137- 59-050	NEW-W	05-05-071	173-400-700	NEW	05-03-033
82- 60-060	RECOD	05-04-072	137- 59-060	NEW-W	05-05-071	173-400-710	NEW	05-03-033
82- 60-070	RECOD	05-04-072	137- 59-070	NEW-W	05-05-071	173-400-720	NEW	05-03-033
82- 60-080	RECOD	05-04-072	137- 59-080	NEW-W	05-05-071	173-400-730	NEW	05-03-033
82- 60-100	RECOD	05-04-072	137- 70-040	AMD-E	05-05-074	173-400-740	NEW	05-03-033
82- 60-200	RECOD	05-04-072	139- 02-020	AMD-P	05-03-025	173-400-750	NEW	05-03-033
82- 60-210	RECOD	05-04-072	139- 02-030	AMD-P	05-03-025	173-503	PREP-W	05-05-075
98	PREP	05-04-107	139- 02-050	AMD-P	05-03-025	173-503-020	AMD-P	05-04-108
106- 72	AMD	05-05-057	139- 02-060	REP-P	05-03-025	173-503-025	NEW-P	05-04-108
106- 72-005	AMD	05-05-057	139- 02-070	AMD-P	05-03-025	173-503-051	NEW-P	05-04-108
106- 72-015	AMD	05-05-057	139- 02-080	AMD-P	05-03-025	173-503-060	AMD-P	05-04-108
106- 72-025	AMD	05-05-057	139- 02-090	AMD-P	05-03-025	173-503-071	NEW-P	05-04-108
106- 72-130	AMD	05-05-057	139- 02-100	REP-P	05-03-025	173-503-073	NEW-P	05-04-108
106- 72-150	REP	05-05-057	139- 02-110	AMD-P	05-03-025	173-503-074	NEW-P	05-04-108
106- 72-200	REP	05-05-057	139- 02-120	NEW-P	05-03-025	173-503-075	NEW-P	05-04-108
106- 72-220	REP	05-05-057	139- 02-130	NEW-P	05-03-025	173-503-080	REP-P	05-04-108
106- 72-400	AMD	05-05-057	139- 03-010	AMD-P	05-03-024	173-503-081	NEW-P	05-04-108
106- 72-410	REP	05-05-057	139- 03-020	AMD-P	05-03-024	173-503-090	AMD-P	05-04-108
106- 72-420	REP	05-05-057	139- 03-040	REP-P	05-03-024	173-503-100	AMD-P	05-04-108
106- 72-430	REP	05-05-057	139- 03-045	NEW-P	05-03-024	173-503-110	NEW-P	05-04-108
106- 72-440	REP	05-05-057	139- 03-050	REP-P	05-03-024	173-503-120	NEW-P	05-04-108
106- 72-450	REP	05-05-057	139- 03-060	REP-P	05-03-024	173-503-130	NEW-P	05-04-108
106- 72-460	REP	05-05-057	139- 03-075	NEW-P	05-03-024	173-503-140	NEW-P	05-04-108
106- 72-470	REP	05-05-057	139- 05-200	PREP	05-05-012	173-503-150	NEW-P	05-04-108
106- 72-480	REP	05-05-057	139- 05-210	PREP	05-05-012	173-503A	PREP	05-05-076
106- 72-490	REP	05-05-057	139- 05-220	PREP	05-05-012	173-505-010	NEW-P	05-05-094
106- 72-500	REP	05-05-057	139- 05-230	PREP	05-05-012	173-505-020	NEW-P	05-05-094
106- 72-510	REP	05-05-057	139- 05-240	PREP	05-05-012	173-505-030	NEW-P	05-05-094
106- 72-520	REP	05-05-057	139- 05-242	PREP	05-05-012	173-505-040	NEW-P	05-05-094
106- 72-530	REP	05-05-057	139- 05-250	PREP	05-05-012	173-505-050	NEW-P	05-05-094
106- 72-540	REP	05-05-057	139- 10-235	PREP	05-05-013	173-505-060	NEW-P	05-05-094
106- 72-550	REP	05-05-057	139- 10-530	PREP	05-05-014	173-505-070	NEW-P	05-05-094
106- 72-560	REP	05-05-057	139- 10-540	PREP	05-05-015	173-505-080	NEW-P	05-05-094
106- 72-570	REP	05-05-057	143- 06	PREP	05-02-053	173-505-090	NEW-P	05-05-094
106- 72-580	REP	05-05-057	173-350-100	AMD-S	05-03-018	173-505-100	NEW-P	05-05-094
106- 72-590	REP	05-05-057	173-400-030	AMD	05-03-033	173-505-110	NEW-P	05-05-094
106- 72-600	REP	05-05-057	173-400-040	AMD	05-03-033	173-505-120	NEW-P	05-05-094
106- 72-610	REP	05-05-057	173-400-050	AMD	05-03-033	173-505-130	NEW-P	05-05-094
131	PREP	05-05-018	173-400-060	AMD	05-03-033	173-505-140	NEW-P	05-05-094
131	PREP	05-05-019	173-400-070	AMD	05-03-033	173-505-150	NEW-P	05-05-094
132H-136	PREP	05-05-096	173-400-075	AMD	05-03-033	173-505-160	NEW-P	05-05-094
132H-140-010	AMD-P	05-04-061	173-400-099	AMD	05-03-033	173-505-170	NEW-P	05-05-094
132H-140-020	AMD-P	05-04-061	173-400-100	AMD	05-03-033	173-505-180	NEW-P	05-05-094
132H-140-025	NEW-P	05-04-061	173-400-102	AMD	05-03-033	180- 20-101	AMD-E	05-04-014
132H-140-030	AMD-P	05-04-061	173-400-104	AMD	05-03-033	180- 20-101	AMD-P	05-04-018
132H-140-050	AMD-P	05-04-061	173-400-105	AMD	05-03-033	180- 46-005	AMD-P	05-04-017
132H-140-065	AMD-P	05-04-061	173-400-110	AMD	05-03-033	180- 46-009	NEW-P	05-04-017
132H-142-010	NEW-P	05-04-061	173-400-112	AMD	05-03-033	180- 46-010	REP-P	05-04-017
132H-142-015	NEW-P	05-04-061	173-400-113	AMD	05-03-033	180- 46-015	REP-P	05-04-017
132H-142-020	NEW-P	05-04-061	173-400-115	AMD	05-03-033	180- 46-020	AMD-P	05-04-017
132H-142-030	NEW-P	05-04-061	173-400-116	AMD	05-03-033	180- 46-025	AMD-P	05-04-017
132H-142-040	NEW-P	05-04-061	173-400-117	AMD	05-03-033	180- 46-030	REP-P	05-04-017
132H-142-050	NEW-P	05-04-061	173-400-118	AMD	05-03-033	180- 46-035	REP-P	05-04-017
132H-142-060	NEW-P	05-04-061	173-400-120	AMD	05-03-033	180- 46-040	REP-P	05-04-017
132H-142-070	NEW-P	05-04-061	173-400-131	AMD	05-03-033	180- 46-045	REP-P	05-04-017
132H-142-080	NEW-P	05-04-061	173-400-136	AMD	05-03-033	180- 46-050	REP-P	05-04-017
136- 01-030	AMD-P	05-04-052	173-400-141	REP	05-03-033	180- 46-055	AMD-P	05-04-017
136-167-040	AMD-E	05-04-051	173-400-151	AMD	05-03-033	180- 46-065	REP-P	05-04-017
137- 59-010	NEW-W	05-05-071	173-400-171	AMD	05-03-033	180- 55-005	AMD-P	05-04-075
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180- 55-034	REP	05-04-016	212- 80-060	DECOD	05-05-006	220- 32-05100G	REP-E	05-04-068
180- 78A-100	AMD	05-04-056	212- 80-063	RECOD	05-05-006	220- 32-05100H	NEW-E	05-03-061
180- 79A-030	AMD	05-04-055	212- 80-065	AMD	05-05-006	220- 32-05100H	REP-E	05-03-061
180- 79A-257	AMD	05-04-054	212- 80-065	DECOD	05-05-006	220- 32-05100H	REP-E	05-04-068
180- 82-105	AMD-P	05-04-015	212- 80-068	RECOD	05-05-006	220- 32-05100I	NEW-E	05-04-068
181- 01-004	NEW	05-04-024	212- 80-070	AMD	05-05-006	220- 32-05100I	REP-E	05-04-068
182- 08-120	AMD-W	05-02-060	212- 80-070	DECOD	05-05-006	220- 33-01000S	NEW-E	05-05-091
182- 16-040	AMD-W	05-02-060	212- 80-073	RECOD	05-05-006	220- 48-01500V	NEW-E	05-05-090
182- 16-050	AMD-W	05-02-060	212- 80-075	AMD	05-05-006	220- 52-030	AMD	05-05-027
192- 35-010	NEW	05-02-094	212- 80-075	DECOD	05-05-006	220- 52-04000F	REP-E	05-03-039
192- 35-020	NEW	05-02-094	212- 80-078	RECOD	05-05-006	220- 52-04000H	NEW-E	05-03-039
192- 35-030	NEW	05-02-094	212- 80-080	AMD	05-05-006	220- 52-04000I	NEW-E	05-04-065
192- 35-040	NEW	05-02-094	212- 80-080	DECOD	05-05-006	220- 52-04000I	REP-E	05-04-065
192- 35-050	NEW	05-02-094	212- 80-083	RECOD	05-05-006	220- 52-04600R	REP-E	05-03-063
192- 35-060	NEW	05-02-094	212- 80-085	AMD	05-05-006	220- 52-04600T	REP-E	05-04-065
192- 35-070	NEW	05-02-094	212- 80-085	DECOD	05-05-006	220- 52-04600W	REP-E	05-02-048
192- 35-080	NEW	05-02-094	212- 80-088	RECOD	05-05-006	220- 52-04600X	NEW-E	05-03-063
192- 35-090	NEW	05-02-094	212- 80-090	AMD	05-05-006	220- 52-04600X	REP-E	05-05-041
192- 35-100	NEW	05-02-094	212- 80-090	DECOD	05-05-006	220- 52-04600Y	NEW-E	05-04-065
192- 35-110	NEW	05-02-094	212- 80-093	RECOD	05-05-006	220- 52-04600Z	NEW-E	05-05-041
192- 35-120	NEW	05-02-094	212- 80-095	AMD	05-05-006	220- 52-07100L	NEW-E	05-05-040
192-110-015	AMD-E	05-03-011	212- 80-095	DECOD	05-05-006	220- 52-07300Q	REP-E	05-03-068
192-110-017	NEW-E	05-03-011	212- 80-098	RECOD	05-05-006	220- 52-07300R	NEW-E	05-03-068
192-170-060	NEW-E	05-03-011	212- 80-100	DECOD	05-05-006	220- 52-07300R	REP-E	05-05-039
192-180-013	NEW-E	05-03-011	212- 80-103	RECOD	05-05-006	220- 52-07300S	NEW-E	05-05-039
192-300-050	AMD-E	05-03-011	212- 80-105	AMD	05-05-006	220- 56-115	AMD	05-05-035
192-310-030	AMD-E	05-03-011	212- 80-105	DECOD	05-05-006	220- 56-118	AMD	05-05-035
192-320-005	NEW-E	05-03-011	212- 80-108	RECOD	05-05-006	220- 56-128	AMD	05-05-035
192-320-010	NEW-E	05-03-011	212- 80-110	AMD	05-05-006	220- 56-129	AMD	05-05-035
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208-680A-040	AMD	05-03-038	212- 80-113	RECOD	05-05-006	220- 56-156	AMD	05-05-046
208-680E-025	NEW	05-03-038	212- 80-115	AMD	05-05-006	220- 56-282	AMD	05-05-035
208-680F-020	AMD	05-03-038	212- 80-115	DECOD	05-05-006	220- 56-310	AMD	05-05-035
208-680G-050	AMD	05-03-037	212- 80-118	RECOD	05-05-006	220- 56-315	AMD	05-05-035
212- 80-001	AMD	05-05-006	212- 80-120	AMD	05-05-006	220- 56-320	AMD	05-05-035
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212- 80-018	NEW	05-05-006	212- 80-125	DECOD	05-05-006	220- 56-350	AMD	05-05-035
212- 80-023	RECOD	05-05-006	212- 80-128	RECOD	05-05-006	220- 56-36000E	NEW-E	05-02-047
212- 80-025	AMD	05-05-006	212- 80-130	AMD	05-05-006	220- 56-36000E	REP-E	05-02-047
212- 80-025	DECOD	05-05-006	212- 80-130	DECOD	05-05-006	220- 56-36000F	NEW-E	05-04-064
212- 80-028	RECOD	05-05-006	212- 80-135	AMD	05-05-006	220- 56-36000F	REP-E	05-04-064
212- 80-030	AMD	05-05-006	212- 80-135	DECOD	05-05-006	220- 56-380	AMD	05-05-035
212- 80-030	DECOD	05-05-006	212- 80-200	RECOD	05-05-006	220- 69-236	AMD	05-05-035
212- 80-033	RECOD	05-05-006	212- 80-205	RECOD	05-05-006	220- 69-26401	AMD	05-05-026
212- 80-035	AMD	05-05-006	212- 80-210	NEW	05-05-006	220- 88C-030	AMD-P	05-03-117
212- 80-035	DECOD	05-05-006	212- 80-215	NEW	05-05-006	220- 88C-040	AMD-P	05-03-117
212- 80-038	RECOD	05-05-006	212- 80-220	NEW	05-05-006	220- 88C-050	AMD-P	05-03-117
212- 80-040	AMD	05-05-006	212- 80-225	NEW	05-05-006	222	AMD-S	05-04-007
212- 80-040	DECOD	05-05-006	212- 80-230	NEW	05-05-006	230- 20-115	AMD-P	05-03-115
212- 80-043	RECOD	05-05-006	212- 80-235	NEW	05-05-006	230- 20-335	AMD-P	05-03-114
212- 80-045	AMD	05-05-006	212- 80-240	NEW	05-05-006	232- 12-021	AMD	05-02-046
212- 80-045	DECOD	05-05-006	212- 80-245	NEW	05-05-006	232- 12-129	AMD	05-05-008
212- 80-048	NEW	05-05-006	212- 80-250	NEW	05-05-006	232- 12-619	AMD	05-05-035
212- 80-050	AMD	05-05-006	212- 80-255	NEW	05-05-006	232- 28-248	AMD	05-02-046
212- 80-050	DECOD	05-05-006	212- 80-260	NEW	05-05-006	232- 28-271	AMD	05-02-046
212- 80-053	RECOD	05-05-006	212- 80-265	NEW	05-05-006	232- 28-284	NEW	05-02-046
212- 80-055	AMD	05-05-006	220- 20-010	AMD-P	05-03-117	232- 28-291	AMD	05-02-046
212- 80-055	DECOD	05-05-006	220- 20-05100A	REP-E	05-03-013	232- 28-333	AMD	05-02-046
212- 80-058	RECOD	05-05-006	220- 20-05100B	NEW-E	05-03-013	232- 28-619	AMD	05-03-005

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232-28-61900B	NEW-E	05-03-062	246-272-05001	REP-P	05-02-082	246-272A-0425	NEW-P	05-02-082
232-28-61900C	NEW-E	05-04-003	246-272-07001	REP-P	05-02-082	246-272A-0430	NEW-P	05-02-082
232-28-61900D	NEW-E	05-05-002	246-272-08001	REP-P	05-02-082	246-272A-0440	NEW-P	05-02-082
232-28-61900D	REP-E	05-05-002	246-272-09001	REP-P	05-02-082	246-272A-0450	NEW-P	05-02-082
232-28-61900Y	REP-E	05-03-062	246-272-09501	REP-P	05-02-082	246-272A-990	NEW-P	05-02-082
232-288-61900E	NEW-E	05-05-089	246-272-11001	REP-P	05-02-082	246-338-010	AMD	05-04-040
232-288-61900E	REP-E	05-05-089	246-272-12501	REP-P	05-02-082	246-338-028	AMD	05-04-040
236-22-010	AMD	05-04-072	246-272-13501	REP-P	05-02-082	246-338-040	AMD	05-04-040
236-22-010	DECOD	05-04-072	246-272-14501	REP-P	05-02-082	246-338-050	AMD	05-04-040
236-22-020	AMD	05-04-072	246-272-15501	REP-P	05-02-082	246-338-060	AMD	05-04-040
236-22-020	DECOD	05-04-072	246-272-16501	REP-P	05-02-082	246-338-070	AMD	05-04-040
236-22-030	AMD	05-04-072	246-272-17501	REP-P	05-02-082	246-338-080	AMD	05-04-040
236-22-030	DECOD	05-04-072	246-272-18501	REP-P	05-02-082	246-338-090	AMD	05-04-040
236-22-031	AMD	05-04-072	246-272-19501	REP-P	05-02-082	246-360-990	AMD	05-05-072
236-22-031	DECOD	05-04-072	246-272-20501	REP-P	05-02-082	246-562	PREP	05-03-010
236-22-032	DECOD	05-04-072	246-272-21501	REP-P	05-02-082	246-564-001	NEW-P	05-03-007
236-22-033	DECOD	05-04-072	246-272-22501	REP-P	05-02-082	246-564-010	NEW-P	05-03-007
236-22-034	AMD	05-04-072	246-272-23501	REP-P	05-02-082	246-790	PREP	05-03-056
236-22-034	DECOD	05-04-072	246-272-24001	REP-P	05-02-082	246-915-050	AMD	05-03-009
236-22-035	DECOD	05-04-072	246-272-25001	REP-P	05-02-082	246-915-350	NEW-P	05-03-008
236-22-036	AMD	05-04-072	246-272-26001	REP-P	05-02-082	246-915-990	AMD-P	05-03-008
236-22-036	DECOD	05-04-072	246-272-27001	REP-P	05-02-082	250-83-010	NEW-P	05-05-073
236-22-037	AMD	05-04-072	246-272-28001	REP-P	05-02-082	250-83-020	NEW-P	05-05-073
236-22-037	DECOD	05-04-072	246-272A-0001	NEW-P	05-02-082	250-83-030	NEW-P	05-05-073
236-22-038	AMD	05-04-072	246-272A-0005	NEW-P	05-02-082	250-83-040	NEW-P	05-05-073
236-22-038	DECOD	05-04-072	246-272A-0010	NEW-P	05-02-082	250-83-050	NEW-P	05-05-073
236-22-040	DECOD	05-04-072	246-272A-0015	NEW-P	05-02-082	250-83-060	NEW-P	05-05-073
236-22-050	AMD	05-04-072	246-272A-0020	NEW-P	05-02-082	250-83-070	NEW-P	05-05-073
236-22-050	DECOD	05-04-072	246-272A-0025	NEW-P	05-02-082	251-06-070	AMD	05-04-042
236-22-060	AMD	05-04-072	246-272A-0100	NEW-P	05-02-082	251-06-072	NEW	05-04-042
236-22-060	DECOD	05-04-072	246-272A-0110	NEW-P	05-02-082	260-08-005	AMD	05-05-049
236-22-070	AMD	05-04-072	246-272A-0120	NEW-P	05-02-082	260-08-670	REP	05-05-049
236-22-070	DECOD	05-04-072	246-272A-0125	NEW-P	05-02-082	260-08-671	NEW	05-05-049
236-22-080	AMD	05-04-072	246-272A-0130	NEW-P	05-02-082	260-08-673	NEW	05-05-049
236-22-080	DECOD	05-04-072	246-272A-0135	NEW-P	05-02-082	260-08-675	NEW	05-05-049
236-22-100	AMD	05-04-072	246-272A-0140	NEW-P	05-02-082	260-08-677	NEW	05-05-049
236-22-100	DECOD	05-04-072	246-272A-0145	NEW-P	05-02-082	260-08-680	REP	05-05-049
236-22-200	AMD	05-04-072	246-272A-0150	NEW-P	05-02-082	260-08-690	REP	05-05-049
236-22-200	DECOD	05-04-072	246-272A-0170	NEW-P	05-02-082	260-08-700	REP	05-05-049
236-22-210	AMD	05-04-072	246-272A-0175	NEW-P	05-02-082	260-08-710	REP	05-05-049
236-22-210	DECOD	05-04-072	246-272A-0200	NEW-P	05-02-082	260-08-720	REP	05-05-049
246-100-166	PREP	05-03-054	246-272A-0210	NEW-P	05-02-082	260-08-730	REP	05-05-049
246-100-166	AMD-P	05-04-113	246-272A-0220	NEW-P	05-02-082	260-08-740	REP	05-05-049
246-101-015	AMD	05-03-055	246-272A-0230	NEW-P	05-02-082	260-08-750	REP	05-05-049
246-101-101	AMD	05-03-055	246-272A-0232	NEW-P	05-02-082	260-08-760	REP	05-05-049
246-101-201	AMD	05-03-055	246-272A-0234	NEW-P	05-02-082	260-08-770	REP	05-05-049
246-101-301	AMD	05-03-055	246-272A-0238	NEW-P	05-02-082	260-08-780	REP	05-05-049
246-140-001	NEW	05-04-112	246-272A-0240	NEW-P	05-02-082	260-08-790	REP	05-05-049
246-140-010	NEW	05-04-112	246-272A-0250	NEW-P	05-02-082	260-08-800	REP	05-05-049
246-140-020	NEW	05-04-112	246-272A-0260	NEW-P	05-02-082	260-08-810	REP	05-05-049
246-260-031	AMD-X	05-03-057	246-272A-0265	NEW-P	05-02-082	260-08-820	REP	05-05-049
246-260-041	AMD-X	05-03-057	246-272A-0270	NEW-P	05-02-082	260-08-830	REP	05-05-049
246-260-061	AMD-X	05-03-057	246-272A-0275	NEW-P	05-02-082	260-24-500	AMD-P	05-04-084
246-260-091	AMD-X	05-03-057	246-272A-0280	NEW-P	05-02-082	260-24-510	AMD-P	05-04-084
246-260-131	AMD-X	05-03-057	246-272A-0290	NEW-P	05-02-082	260-34	AMD-P	05-04-085
246-260-171	AMD-X	05-03-057	246-272A-0300	NEW-P	05-02-082	260-34-010	AMD-P	05-04-085
246-272-00101	REP-P	05-02-082	246-272A-0310	NEW-P	05-02-082	260-34-020	AMD-P	05-04-085
246-272-00501	REP-P	05-02-082	246-272A-0320	NEW-P	05-02-082	260-34-030	AMD-P	05-04-085
246-272-01001	REP-P	05-02-082	246-272A-0340	NEW-P	05-02-082	260-34-035	NEW-P	05-04-085
246-272-02001	REP-P	05-02-082	246-272A-0400	NEW-P	05-02-082	260-34-040	REP-P	05-04-085
246-272-03001	REP-P	05-02-082	246-272A-0410	NEW-P	05-02-082	260-34-045	NEW-P	05-04-085

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260- 34-060	AMD-P	05-04-085	284- 13-580	AMD	05-02-075	284- 34-140	NEW	05-02-076
260- 34-070	AMD-P	05-04-085	284- 17-200	AMD-P	05-03-110	284- 34-150	NEW	05-02-076
260- 34-080	AMD-P	05-04-085	284- 17-210	AMD-P	05-03-110	284- 34-160	NEW	05-02-076
260- 34-090	AMD-P	05-04-085	284- 17-220	AMD-P	05-03-110	284- 34-170	NEW	05-02-076
260- 34-100	AMD-P	05-04-085	284- 17-222	NEW-P	05-03-110	284- 34-180	NEW	05-02-076
260- 34-110	REP-P	05-04-085	284- 17-224	NEW-P	05-03-110	284- 34-190	NEW	05-02-076
260- 34-120	REP-P	05-04-085	284- 17-226	NEW-P	05-03-110	284- 34-200	NEW	05-02-076
260- 34-130	REP-P	05-04-085	284- 17-228	NEW-P	05-03-110	284- 34-210	NEW	05-02-076
260- 34-140	REP-P	05-04-085	284- 17-230	AMD-P	05-03-110	284- 34-220	NEW	05-02-076
260- 34-150	REP-P	05-04-085	284- 17-232	NEW-P	05-03-110	284- 34-230	NEW	05-02-076
260- 34-160	REP-P	05-04-085	284- 17-234	NEW-P	05-03-110	284- 34-240	NEW	05-02-076
260- 34-170	REP-P	05-04-085	284- 17-235	REP-P	05-03-110	284- 34-250	NEW	05-02-076
260- 34-180	AMD-P	05-04-085	284- 17-236	NEW-P	05-03-110	284- 34-260	NEW	05-02-076
260- 34-190	REP-P	05-04-085	284- 17-238	NEW-P	05-03-110	284- 49-010	AMD	05-02-074
260- 36-085	AMD-W	05-02-052	284- 17-240	AMD-P	05-03-110	284- 49-020	REP	05-02-074
260- 36-085	PREP	05-05-011	284- 17-242	NEW-P	05-03-110	284- 49-050	REP	05-02-074
260- 36-120	AMD	05-05-047	284- 17-244	NEW-P	05-03-110	284- 49-100	REP	05-02-074
260- 36-180	AMD-P	05-02-078	284- 17-246	NEW-P	05-03-110	284- 49-115	REP	05-02-074
260- 36-180	AMD	05-05-043	284- 17-248	NEW-P	05-03-110	284- 49-300	REP	05-02-074
260- 36-200	AMD-P	05-05-048	284- 17-250	AMD-P	05-03-110	284- 49-330	REP	05-02-074
260- 56-030	REP	05-05-044	284- 17-252	NEW-P	05-03-110	284- 49-500	REP	05-02-074
260- 60-300	AMD-P	05-03-028	284- 17-254	NEW-P	05-03-110	284- 49-510	REP	05-02-074
260- 60-320	REP-P	05-03-028	284- 17-256	NEW-P	05-03-110	284- 49-520	REP	05-02-074
260- 70-520	AMD-P	05-04-086	284- 17-258	NEW-P	05-03-110	284- 49-900	REP	05-02-074
260- 70-530	AMD-P	05-04-086	284- 17-260	AMD-P	05-03-110	284- 49-999	REP	05-02-074
260- 70-540	AMD-P	05-04-086	284- 17-262	NEW-P	05-03-110	284- 54-750	AMD-X	05-03-111
260- 70-545	AMD-P	05-04-086	284- 17-264	NEW-P	05-03-110	296- 05-303	AMD	05-04-093
260- 70-550	AMD-P	05-04-086	284- 17-266	AMD-P	05-03-110	296- 05-316	AMD-P	05-04-092
260- 70-560	AMD-P	05-04-086	284- 17-270	NEW-P	05-03-110	296- 17	PREP	05-03-090
260- 70-570	AMD-P	05-04-086	284- 17-272	NEW-P	05-03-110	296- 17-310041	NEW-W	05-03-088
260- 70-580	AMD-P	05-04-086	284- 17-274	NEW-P	05-03-110	296- 17-310042	NEW-W	05-03-088
260- 70-600	AMD-P	05-04-086	284- 17-275	REP-P	05-03-110	296- 17-310043	NEW-W	05-03-088
260- 70-610	AMD-P	05-04-086	284- 17-276	NEW-P	05-03-110	296- 17-310044	NEW-W	05-03-088
260- 70-620	AMD-P	05-04-086	284- 17-278	NEW-P	05-03-110	296- 17-310045	NEW-W	05-03-088
260- 70-620	AMD-P	05-04-086	284- 17-280	AMD-P	05-03-110	296- 17-310046	NEW-W	05-03-088
260- 70-630	AMD-P	05-04-086	284- 17-282	NEW-P	05-03-110	296- 17-310047	NEW-W	05-03-088
260- 70-640	AMD-P	05-04-086	284- 17-284	NEW-P	05-03-110	296- 17-31031	NEW-W	05-03-088
260- 70-645	NEW-P	05-04-086	284- 17-286	NEW-P	05-03-110	296- 17-31032	NEW-W	05-03-088
260- 70-650	AMD-P	05-04-086	284- 17-288	NEW-P	05-03-110	296- 17-31033	NEW-W	05-03-088
260- 70-660	AMD-P	05-04-086	284- 17-290	AMD-P	05-03-110	296- 20-010	AMD-P	05-05-065
260- 70-670	REP-P	05-04-086	284- 17-292	NEW-P	05-03-110	296- 20-135	AMD-P	05-05-064
260- 70-680	AMD-P	05-04-086	284- 17-294	NEW-P	05-03-110	296- 23-220	AMD-P	05-05-064
260- 70-690	REP-P	05-04-086	284- 17-296	NEW-P	05-03-110	296- 23-230	AMD-P	05-05-064
260- 70-700	REP-P	05-04-086	284- 17-298	NEW-P	05-03-110	296- 24	PREP	05-05-067
260- 70-720	AMD-P	05-04-086	284- 17-301	NEW-P	05-03-110	296- 24-58513	AMD	05-03-093
260- 70-730	AMD-P	05-04-086	284- 17-302	NEW-P	05-03-110	296- 24-58515	AMD	05-03-093
260- 72-050	NEW-P	05-02-077	284- 17-304	NEW-P	05-03-110	296- 24-58517	AMD	05-03-093
260- 72-050	NEW	05-05-045	284- 17-306	NEW-P	05-03-110	296- 24-67515	AMD	05-03-093
260- 75-030	AMD	05-05-042	284- 17-308	NEW-P	05-03-110	296- 24-67517	AMD	05-03-093
260- 75-040	NEW	05-05-042	284- 17-310	AMD-P	05-03-110	296- 24-71515	AMD	05-03-093
260- 84	AMD-P	05-04-083	284- 17-312	NEW-P	05-03-110	296- 24-71519	AMD	05-03-093
260- 84-010	REP-P	05-04-083	284- 17-320	AMD-P	05-03-110	296- 45	PREP	05-03-092
260- 84-020	REP-P	05-04-083	284- 34-010	REP	05-02-076	296- 54-51150	AMD	05-03-093
260- 84-030	REP-P	05-04-083	284- 34-020	REP	05-02-076	296- 56-60001	AMD	05-03-093
260- 84-050	AMD-P	05-04-083	284- 34-030	REP	05-02-076	296- 56-60005	AMD	05-03-093
260- 84-060	AMD-P	05-04-083	284- 34-040	REP	05-02-076	296- 56-60053	AMD	05-03-093
260- 84-070	AMD-P	05-04-083	284- 34-050	REP	05-02-076	296- 56-60057	AMD	05-03-093
260- 84-090	NEW-P	05-04-083	284- 34-060	REP	05-02-076	296- 56-60107	AMD	05-03-093
260- 84-100	NEW-P	05-04-083	284- 34-070	REP	05-02-076	296- 56-60110	AMD	05-03-093
260- 84-110	NEW-P	05-04-083	284- 34-100	NEW	05-02-076	296- 56-60235	AMD	05-03-093
260- 84-120	NEW-P	05-04-083	284- 34-110	NEW	05-02-076	296- 62	PREP	05-03-091
260- 84-130	NEW-P	05-04-083	284- 34-120	NEW	05-02-076			

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296-62-07329	AMD	05-03-093	296-307-692	NEW-W	05-05-070	308-19-250	AMD-P	05-04-105
296-62-07336	AMD	05-03-093	296-307-69205	NEW-W	05-05-070	308-19-300	AMD-P	05-04-105
296-62-07342	AMD	05-03-093	296-307-69210	NEW-W	05-05-070	308-19-305	NEW-P	05-04-105
296-62-07367	AMD	05-03-093	296-307-694	NEW-W	05-05-070	308-19-310	NEW-P	05-04-105
296-62-07413	AMD	05-03-093	296-307-69405	NEW-W	05-05-070	308-19-315	NEW-P	05-04-105
296-62-07460	AMD	05-03-093	296-307-69410	NEW-W	05-05-070	308-19-320	NEW-P	05-04-105
296-62-07521	AMD	05-03-093	296-307-69415	NEW-W	05-05-070	308-19-400	AMD-P	05-04-105
296-62-07540	AMD	05-03-093	296-307-69420	NEW-W	05-05-070	308-19-410	AMD-P	05-04-105
296-62-07615	AMD	05-03-093	296-307-69425	NEW-W	05-05-070	308-19-420	AMD-P	05-04-105
296-62-07722	AMD	05-03-093	296-307-69430	NEW-W	05-05-070	308-19-430	AMD-P	05-04-105
296-62-14533	AMD	05-03-093	296-307-69435	NEW-W	05-05-070	308-19-445	NEW-P	05-04-105
296-62-20011	AMD	05-03-093	296-307-69440	NEW-W	05-05-070	308-19-450	NEW-P	05-04-105
296-62-20019	AMD	05-03-093	296-307-696	NEW-W	05-05-070	308-19-455	NEW-P	05-04-105
296-62-3060	AMD	05-03-093	296-307-69605	NEW-W	05-05-070	308-19-460	NEW-P	05-04-105
296-62-3195	AMD	05-03-093	296-307-69610	NEW-W	05-05-070	308-20-123	NEW	05-04-012
296-62-40001	AMD	05-03-093	296-307-69615	NEW-W	05-05-070	308-48-810	PREP	05-04-106
296-62-40007	AMD	05-03-093	296-307-69620	NEW-W	05-05-070	308-48-820	PREP	05-04-106
296-78-665	AMD	05-03-093	296-307-69625	NEW-W	05-05-070	308-48-830	PREP	05-04-106
296-78-71015	AMD	05-03-093	296-307-69630	NEW-W	05-05-070	308-56A-500	AMD-W	05-02-069A
296-78-71019	AMD	05-03-093	296-307-698	NEW-W	05-05-070	308-56A-500	AMD-P	05-03-106
296-78-84005	AMD	05-03-093	296-307-69805	NEW-W	05-05-070	308-56A-530	AMD-W	05-02-069A
296-79-29007	AMD	05-03-093	296-307-69810	NEW-W	05-05-070	308-56A-530	AMD-P	05-03-106
296-96	PREP	05-05-066	296-307-69815	NEW-W	05-05-070	308-96A-307	PREP-W	05-03-059
296-104	PREP	05-05-068	296-307-69820	NEW-W	05-05-070	308-96A-311	AMD-P	05-03-105
296-104	PREP	05-05-069	296-307-69825	NEW-W	05-05-070	308-96A-314	AMD-P	05-03-105
296-150C	PREP	05-05-066	296-307-69830	NEW-W	05-05-070	308-124A-460	PREP	05-03-041
296-150F	PREP	05-05-066	296-307-700	NEW-W	05-05-070	308-125-200	AMD-P	05-02-095
296-150M	PREP	05-05-066	296-307-70005	NEW-W	05-05-070	308-125-200	AMD	05-05-097
296-150P	PREP	05-05-066	296-307-702	NEW-W	05-05-070	308-300-110	AMD	05-05-029
296-150R	PREP	05-05-066	296-400A	PREP	05-05-066	315-10-010	AMD-P	05-04-079
296-150T	PREP	05-05-066	296-46B	PREP	05-05-066	315-10-020	AMD-P	05-04-079
296-150V	PREP	05-05-066	296-800-160	AMD	05-03-093	315-10-022	AMD-P	05-04-079
296-155-160	AMD	05-03-093	296-824-20005	AMD	05-03-093	315-10-023	AMD-P	05-04-079
296-155-17317	AMD	05-03-093	296-824-40005	AMD	05-03-093	315-10-024	AMD-P	05-04-079
296-155-174	AMD	05-03-093	296-824-60005	AMD	05-03-093	315-10-030	AMD-P	05-04-079
296-155-17613	AMD	05-03-093	296-824-70005	AMD	05-03-093	315-10-035	AMD-P	05-04-079
296-155-17625	AMD	05-03-093	296-824-800	AMD	05-03-093	315-10-040	AMD-P	05-04-079
296-155-17652	AMD	05-03-093	296-826	PREP	05-05-067	315-10-055	AMD-P	05-04-079
296-155-20301	AMD	05-03-093	296-835-11045	AMD	05-03-093	315-10-070	AMD-P	05-04-079
296-155-220	AMD	05-03-093	296-839-30005	AMD	05-03-093	315-10-075	AMD-P	05-04-079
296-155-367	AMD	05-03-093	296-839-500	AMD	05-03-093	315-33A-010	AMD-E	05-04-019
296-155-525	AMD	05-03-093	296-855	PREP	05-03-091	315-33A-010	AMD-P	05-04-080
296-155-655	AMD	05-03-093	308-13-150	AMD	05-04-050	315-33A-020	AMD-E	05-04-019
296-155-730	AMD	05-03-093	308-19-010	AMD-P	05-04-105	315-33A-020	AMD-P	05-04-080
296-200A	PREP	05-05-066	308-19-020	AMD-P	05-04-105	315-33A-030	AMD-E	05-04-019
296-301-220	AMD	05-03-093	308-19-030	AMD-P	05-04-105	315-33A-030	AMD-P	05-04-080
296-304-02003	AMD	05-03-093	308-19-100	AMD-P	05-04-105	315-33A-040	AMD-E	05-04-019
296-304-03001	AMD	05-03-093	308-19-101	NEW-P	05-04-105	315-33A-040	AMD-P	05-04-080
296-304-03005	AMD	05-03-093	308-19-102	NEW-P	05-04-105	315-33A-050	AMD-E	05-04-019
296-304-03007	AMD	05-03-093	308-19-105	AMD-P	05-04-105	315-33A-050	AMD-P	05-04-080
296-304-04001	AMD	05-03-093	308-19-107	AMD-P	05-04-105	315-33A-060	AMD-E	05-04-019
296-304-09007	AMD	05-03-093	308-19-110	AMD-P	05-04-105	315-33A-060	AMD-P	05-04-080
296-305-02501	AMD	05-03-093	308-19-120	AMD-P	05-04-105	315-33A-070	REP-E	05-04-019
296-305-04001	AMD	05-03-093	308-19-130	AMD-P	05-04-105	315-33A-070	REP-P	05-04-080
296-305-05503	AMD	05-03-093	308-19-140	AMD-P	05-04-105	315-34-010	AMD-E	05-04-010
296-307-688	NEW-W	05-05-070	308-19-150	AMD-P	05-04-105	315-34-010	AMD-P	05-04-081
296-307-68805	NEW-W	05-05-070	308-19-160	AMD-P	05-04-105	315-34-020	AMD-E	05-04-010
296-307-68810	NEW-W	05-05-070	308-19-200	AMD-P	05-04-105	315-34-020	AMD-P	05-04-081
296-307-690	NEW-W	05-05-070	308-19-210	AMD-P	05-04-105	315-34-030	AMD-E	05-04-010
296-307-69005	NEW-W	05-05-070	308-19-220	AMD-P	05-04-105	315-34-030	AMD-P	05-04-081
296-307-69010	NEW-W	05-05-070	308-19-230	AMD-P	05-04-105	315-34-040	AMD-E	05-04-010



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315-34-040	AMD-P	05-04-081	357-58-075	NEW-P	05-04-087	357-58-385	NEW-P	05-04-089
315-34-050	AMD-E	05-04-010	357-58-080	NEW-P	05-04-087	357-58-390	NEW-P	05-04-089
315-34-050	AMD-P	05-04-081	357-58-085	NEW-P	05-04-087	357-58-395	NEW-P	05-04-089
315-34-057	AMD-E	05-04-010	357-58-090	NEW-P	05-04-087	357-58-400	NEW-P	05-04-089
315-34-057	AMD-P	05-04-081	357-58-095	NEW-P	05-04-087	357-58-405	NEW-P	05-04-091
315-34-060	AMD-E	05-04-010	357-58-100	NEW-P	05-04-087	357-58-410	NEW-P	05-04-091
315-34-060	AMD-P	05-04-081	357-58-105	NEW-P	05-04-087	357-58-415	NEW-P	05-04-091
315-34-070	REP-E	05-04-010	357-58-110	NEW-P	05-04-087	357-58-420	NEW-P	05-04-091
315-34-070	REP-P	05-04-081	357-58-115	NEW-P	05-04-087	357-58-425	NEW-P	05-04-091
315-34-080	REP-E	05-04-010	357-58-120	NEW-P	05-04-088	357-58-430	NEW-P	05-04-091
315-34-080	REP-P	05-04-081	357-58-125	NEW-P	05-04-088	357-58-435	NEW-P	05-04-091
315-34-090	REP-E	05-04-010	357-58-130	NEW-P	05-04-088	357-58-440	NEW-P	05-04-091
315-34-090	REP-P	05-04-081	357-58-135	NEW-P	05-04-088	357-58-445	NEW-P	05-04-091
315-34-100	REP-E	05-04-010	357-58-140	NEW-P	05-04-088	357-58-450	NEW-P	05-04-091
315-34-100	REP-P	05-04-081	357-58-145	NEW-P	05-04-088	357-58-455	NEW-P	05-04-091
315-36-010	REP-X	05-05-059	357-58-150	NEW-P	05-04-088	357-58-460	NEW-P	05-04-091
315-36-020	REP-X	05-05-059	357-58-155	NEW-P	05-04-088	357-58-465	NEW-P	05-04-091
315-36-030	REP-X	05-05-059	357-58-160	NEW-P	05-04-088	357-58-470	NEW-P	05-04-091
315-36-040	REP-X	05-05-059	357-58-165	NEW-P	05-04-088	357-58-475	NEW-P	05-04-091
315-36-050	REP-X	05-05-059	357-58-170	NEW-P	05-04-088	357-58-480	NEW-P	05-04-091
315-36-060	REP-X	05-05-059	357-58-175	NEW-P	05-04-088	357-58-485	NEW-P	05-04-091
315-36-070	REP-X	05-05-059	357-58-180	NEW-P	05-04-088	357-58-490	NEW-P	05-04-091
315-36-080	REP-X	05-05-059	357-58-185	NEW-P	05-04-088	357-58-495	NEW-P	05-04-091
315-36-090	REP-X	05-05-059	357-58-190	NEW-P	05-04-088	357-58-500	NEW-P	05-04-090
315-36-100	REP-X	05-05-059	357-58-195	NEW-P	05-04-088	357-58-505	NEW-P	05-04-090
315-36-110	REP-X	05-05-059	357-58-200	NEW-P	05-04-088	357-58-510	NEW-P	05-04-090
315-36-120	REP-X	05-05-059	357-58-205	NEW-P	05-04-088	357-58-515	NEW-P	05-04-090
315-36-130	REP-X	05-05-059	357-58-210	NEW-P	05-04-088	357-58-520	NEW-P	05-04-090
315-36-140	REP-X	05-05-059	357-58-215	NEW-P	05-04-088	357-58-525	NEW-P	05-04-090
315-36-150	REP-X	05-05-059	357-58-220	NEW-P	05-04-088	357-58-530	NEW-P	05-04-090
315-37-010	REP-X	05-03-060	357-58-225	NEW-P	05-04-088	357-58-535	NEW-P	05-04-090
315-37-020	REP-X	05-03-060	357-58-230	NEW-P	05-04-088	357-58-540	NEW-P	05-04-090
315-37-030	REP-X	05-03-060	357-58-235	NEW-P	05-04-088	357-58-545	NEW-P	05-04-090
315-37-040	REP-X	05-03-060	357-58-240	NEW-P	05-04-089	363-116	PREP	05-04-094
315-37-050	REP-X	05-03-060	357-58-245	NEW-P	05-04-089	363-116-082	AMD	05-04-028
315-37-060	REP-X	05-03-060	357-58-250	NEW-P	05-04-089	371-08-305	AMD-E	05-05-005
315-37-070	REP-X	05-03-060	357-58-255	NEW-P	05-04-089	371-08-335	AMD-E	05-05-005
315-37-080	REP-X	05-03-060	357-58-260	NEW-P	05-04-089	371-08-345	AMD-E	05-05-005
315-37-090	REP-X	05-03-060	357-58-265	NEW-P	05-04-089	388-14A-3304	AMD-P	05-03-095
315-37-100	REP-X	05-03-060	357-58-270	NEW-P	05-04-089	388-14A-3310	AMD-P	05-03-095
315-37-110	REP-X	05-03-060	357-58-275	NEW-P	05-04-089	388-14A-3317	NEW-P	05-03-095
315-37-120	REP-X	05-03-060	357-58-280	NEW-P	05-04-089	388-14A-3320	AMD-P	05-03-095
332-120	PREP	05-02-073	357-58-285	NEW-P	05-04-089	388-14A-3321	NEW-E	05-03-095
332-130	PREP	05-02-073	357-58-290	NEW-P	05-04-089	388-14A-4119	NEW-E	05-03-094
356-10-060	AMD	05-04-043	357-58-295	NEW-P	05-04-089	388-14A-4180	NEW-E	05-03-094
356-10-065	NEW	05-04-043	357-58-300	NEW-P	05-04-089	388-14A-5000	AMD-P	05-02-063
357-01-255	NEW-W	05-02-061	357-58-305	NEW-P	05-04-089	388-14A-5001	AMD-P	05-02-063
357-43-045	NEW-W	05-02-062	357-58-310	NEW-P	05-04-089	388-14A-5005	AMD-P	05-02-063
357-58-005	NEW-P	05-04-087	357-58-315	NEW-P	05-04-089	388-14A-5008	AMD-P	05-02-063
357-58-010	NEW-P	05-04-087	357-58-320	NEW-P	05-04-089	388-14A-5009	NEW-P	05-02-063
357-58-015	NEW-P	05-04-087	357-58-325	NEW-P	05-04-089	388-14A-5010	NEW-P	05-02-063
357-58-020	NEW-P	05-04-087	357-58-330	NEW-P	05-04-089	388-14A-7100	AMD-P	05-03-095
357-58-025	NEW-P	05-04-087	357-58-335	NEW-P	05-04-089	388-14A-7110	NEW-E	05-03-095
357-58-030	NEW-P	05-04-087	357-58-340	NEW-P	05-04-089	388-14A-7115	NEW-E	05-03-095
357-58-035	NEW-P	05-04-087	357-58-345	NEW-P	05-04-089	388-14A-7117	NEW-E	05-03-095
357-58-040	NEW-P	05-04-087	357-58-350	NEW-P	05-04-089	388-14A-7120	NEW-E	05-03-095
357-58-045	NEW-P	05-04-087	357-58-355	NEW-P	05-04-089	388-14A-8600	NEW-E	05-03-095
357-58-050	NEW-P	05-04-087	357-58-360	NEW-P	05-04-089	388-25-0225	AMD-P	05-03-082
357-58-055	NEW-P	05-04-087	357-58-365	NEW-P	05-04-089	388-25-0226	NEW-P	05-03-082
357-58-060	NEW-P	05-04-087	357-58-370	NEW-P	05-04-089	388-25-0227	NEW-P	05-03-082
357-58-065	NEW-P	05-04-087	357-58-375	NEW-P	05-04-089	388-25-0228	NEW-P	05-03-082
357-58-070	NEW-P	05-04-087	357-58-380	NEW-P	05-04-089	388-25-0229	NEW-P	05-03-082

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Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-101-1830	RECOD	05-05-077	388-106-0140	NEW-P	05-03-096	388-106-1045	NEW-P	05-03-096
388-101-1840	RECOD	05-05-077	388-106-0200	NEW-P	05-03-096	388-106-1050	NEW-P	05-03-096
388-101-1850	RECOD	05-05-077	388-106-0210	NEW-P	05-03-096	388-106-1055	NEW-P	05-03-096
388-101-1860	RECOD	05-05-077	388-106-0213	NEW-P	05-03-096	388-106-1100	NEW-P	05-03-096
388-101-1870	RECOD	05-05-077	388-106-0220	NEW-P	05-03-096	388-106-1105	NEW-P	05-03-096
388-101-1880	RECOD	05-05-077	388-106-0225	NEW-P	05-03-096	388-106-1110	NEW-P	05-03-096
388-101-1890	RECOD	05-05-077	388-106-0230	NEW-P	05-03-096	388-106-1115	NEW-P	05-03-096
388-101-1900	RECOD	05-05-077	388-106-0235	NEW-P	05-03-096	388-106-1120	NEW-P	05-03-096
388-101-2000	RECOD	05-05-077	388-106-0300	NEW-P	05-03-096	388-106-1200	NEW-P	05-03-096
388-101-2010	RECOD	05-05-077	388-106-0305	NEW-P	05-03-096	388-106-1205	NEW-P	05-03-096
388-101-2020	RECOD	05-05-077	388-106-0310	NEW-P	05-03-096	388-106-1210	NEW-P	05-03-096
388-101-2030	RECOD	05-05-077	388-106-0315	NEW-P	05-03-096	388-106-1215	NEW-P	05-03-096
388-101-2040	RECOD	05-05-077	388-106-0320	NEW-P	05-03-096	388-106-1220	NEW-P	05-03-096
388-101-2050	RECOD	05-05-077	388-106-0325	NEW-P	05-03-096	388-106-1225	NEW-P	05-03-096
388-101-2060	RECOD	05-05-077	388-106-0330	NEW-P	05-03-096	388-106-1230	NEW-P	05-03-096
388-101-2070	RECOD	05-05-077	388-106-0335	NEW-P	05-03-096	388-106-1300	NEW-P	05-03-096
388-101-2080	RECOD	05-05-077	388-106-0350	NEW-P	05-03-096	388-106-1305	NEW-P	05-03-096
388-101-2090	RECOD	05-05-077	388-106-0355	NEW-P	05-03-096	388-106-1310	NEW-P	05-03-096
388-101-2100	RECOD	05-05-077	388-106-0360	NEW-P	05-03-096	388-14A-3102	PREP	05-05-078
388-101-2110	RECOD	05-05-077	388-106-0400	NEW-P	05-03-096	388-14A-3120	PREP	05-05-078
388-101-2120	RECOD	05-05-077	388-106-0410	NEW-P	05-03-096	388-14A-4119	NEW-P	05-05-082
388-101-2130	RECOD	05-05-077	388-106-0415	NEW-P	05-03-096	388-14A-4180	NEW-P	05-05-082
388-101-2140	RECOD	05-05-077	388-106-0420	NEW-P	05-03-096	388-290-0200	AMD-E	05-05-024
388-101-2150	RECOD	05-05-077	388-106-0425	NEW-P	05-03-096	388-290-0205	AMD-E	05-05-024
388-101-2160	RECOD	05-05-077	388-106-0430	NEW-P	05-03-096	388-410-0001	AMD-P	05-05-081
388-101-2300	RECOD	05-05-077	388-106-0435	NEW-P	05-03-096	388-416-0005	AMD-P	05-05-081
388-101-2310	RECOD	05-05-077	388-106-0500	NEW-P	05-03-096	388-416-0015	PREP	05-05-079
388-101-2320	RECOD	05-05-077	388-106-0510	NEW-P	05-03-096	388-418-0011	PREP	05-05-079
388-101-2330	RECOD	05-05-077	388-106-0515	NEW-P	05-03-096	388-450-0015	AMD	05-03-078
388-101-2340	RECOD	05-05-077	388-106-0520	NEW-P	05-03-096	388-450-0020	PREP-W	05-02-068
388-101-2350	RECOD	05-05-077	388-106-0525	NEW-P	05-03-096	388-450-0200	AMD-E	05-03-079
388-101-2360	RECOD	05-05-077	388-106-0530	NEW-P	05-03-096	388-450-0200	AMD	05-05-025
388-101-2370	RECOD	05-05-077	388-106-0535	NEW-P	05-03-096	388-462-0015	AMD-P	05-03-081
388-101-2380	RECOD	05-05-077	388-106-0600	NEW-P	05-03-096	388-475-0550	AMD-E	05-05-088
388-106	PREP	05-05-080	388-106-0610	NEW-P	05-03-096	388-475-0700	AMD-E	05-05-088
388-106-0005	NEW-P	05-03-096	388-106-0615	NEW-P	05-03-096	388-475-0800	AMD-E	05-05-088
388-106-0010	NEW-P	05-03-096	388-106-0620	NEW-P	05-03-096	388-475-0820	AMD-E	05-05-088
388-106-0015	NEW-P	05-03-096	388-106-0625	NEW-P	05-03-096	388-475-0860	AMD-E	05-05-088
388-106-0020	NEW-P	05-03-096	388-106-0630	NEW-P	05-03-096	388-478-0070	AMD-P	05-02-091
388-106-0025	NEW-P	05-03-096	388-106-0650	NEW-P	05-03-096	388-478-0080	AMD-P	05-02-091
388-106-0030	NEW-P	05-03-096	388-106-0655	NEW-P	05-03-096	388-492-0040	AMD-P	05-05-087
388-106-0035	NEW-P	05-03-096	388-106-0700	NEW-P	05-03-096	388-492-0070	AMD-P	05-05-086
388-106-0040	NEW-P	05-03-096	388-106-0705	NEW-P	05-03-096	388-501-0200	PREP-W	05-02-068
388-106-0045	NEW-P	05-03-096	388-106-0710	NEW-P	05-03-096	388-513-1325	PREP-W	05-02-068
388-106-0050	NEW-P	05-03-096	388-106-0715	NEW-P	05-03-096	388-513-1340	PREP-W	05-02-068
388-106-0055	NEW-P	05-03-096	388-106-0800	NEW-P	05-03-096	388-513-1350	AMD-P	05-03-109
388-106-0060	NEW-P	05-03-096	388-106-0805	NEW-P	05-03-096	388-513-1380	AMD-P	05-03-109
388-106-0065	NEW-P	05-03-096	388-106-0810	NEW-P	05-03-096	388-515-1505	AMD	05-03-077
388-106-0070	NEW-P	05-03-096	388-106-0815	NEW-P	05-03-096	388-515-1540	AMD-P	05-03-096
388-106-0075	NEW-P	05-03-096	388-106-0900	NEW-P	05-03-096	388-515-1550	AMD-P	05-03-096
388-106-0080	NEW-P	05-03-096	388-106-0905	NEW-P	05-03-096	388-519-0110	AMD-P	05-05-083
388-106-0085	NEW-P	05-03-096	388-106-0950	NEW-P	05-03-096	388-533-0710	AMD-P	05-05-085
388-106-0090	NEW-P	05-03-096	388-106-0955	NEW-P	05-03-096	388-533-0720	AMD-P	05-05-085
388-106-0095	NEW-P	05-03-096	388-106-1000	NEW-P	05-03-096	388-533-0730	AMD-P	05-05-085
388-106-0100	NEW-P	05-03-096	388-106-1005	NEW-P	05-03-096	388-535-1070	AMD-P	05-03-080
388-106-0105	NEW-P	05-03-096	388-106-1010	NEW-P	05-03-096	388-538	PREP	05-04-082
388-106-0110	NEW-P	05-03-096	388-106-1015	NEW-P	05-03-096	388-538-112	AMD-E	05-05-038
388-106-0115	NEW-P	05-03-096	388-106-1020	NEW-P	05-03-096	388-546	PREP-W	05-02-068
388-106-0120	NEW-P	05-03-096	388-106-1025	NEW-P	05-03-096	388-554-100	NEW	05-04-059
388-106-0125	NEW-P	05-03-096	388-106-1030	NEW-P	05-03-096	388-554-200	NEW	05-04-059
388-106-0130	NEW-P	05-03-096	388-106-1035	NEW-P	05-03-096	388-554-300	NEW	05-04-059
388-106-0135	NEW-P	05-03-096	388-106-1040	NEW-P	05-03-096	388-554-400	NEW	05-04-059

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-845-0050	NEW-E	05-04-020	388-845-1410	NEW-E	05-04-020	415-108-728	AMD	05-03-001
388-845-0051	NEW-E	05-04-020	388-845-1500	NEW-E	05-04-020	415-111-310	PREP	05-04-011
388-845-0055	NEW-E	05-04-020	388-845-1505	NEW-E	05-04-020	415-112-155	AMD	05-03-001
388-845-0056	NEW-E	05-04-020	388-845-1510	NEW-E	05-04-020	415-112-541	AMD	05-03-006
388-845-0060	NEW-E	05-04-020	388-845-1515	NEW-E	05-04-020	434-230-175	NEW-E	05-05-033
388-845-0065	NEW-E	05-04-020	388-845-1600	NEW-E	05-04-020	434-230-177	NEW-E	05-05-033
388-845-0070	NEW-E	05-04-020	388-845-1605	NEW-E	05-04-020	434-253-085	NEW-E	05-05-033
388-845-0075	NEW-E	05-04-020	388-845-1606	NEW-E	05-04-020	434-261-045	NEW-E	05-05-033
388-845-0080	NEW-E	05-04-020	388-845-1610	NEW-E	05-04-020	434-333-010	AMD-E	05-05-033
388-845-0085	NEW-E	05-04-020	388-845-1615	NEW-E	05-04-020	434-333-010	REP-P	05-05-034
388-845-0090	NEW-E	05-04-020	388-845-1620	NEW-E	05-04-020	434-333-013	NEW-E	05-05-033
388-845-0095	NEW-E	05-04-020	388-845-1700	NEW-E	05-04-020	434-333-015	AMD-E	05-05-033
388-845-0096	NEW-E	05-04-020	388-845-1705	NEW-E	05-04-020	434-333-015	REP-P	05-05-034
388-845-0100	NEW-E	05-04-020	388-845-1710	NEW-E	05-04-020	434-333-020	AMD-E	05-05-033
388-845-0105	NEW-E	05-04-020	388-845-1800	NEW-E	05-04-020	434-333-020	REP-P	05-05-034
388-845-0110	NEW-E	05-04-020	388-845-1805	NEW-E	05-04-020	434-333-025	AMD-E	05-05-033
388-845-0115	NEW-E	05-04-020	388-845-1810	NEW-E	05-04-020	434-333-025	REP-P	05-05-034
388-845-0120	NEW-E	05-04-020	388-845-1900	NEW-E	05-04-020	434-333-030	REP-P	05-05-034
388-845-0200	NEW-E	05-04-020	388-845-1905	NEW-E	05-04-020	434-333-035	AMD-E	05-05-033
388-845-0205	NEW-E	05-04-020	388-845-1910	NEW-E	05-04-020	434-333-035	REP-P	05-05-034
388-845-0210	NEW-E	05-04-020	388-845-2000	NEW-E	05-04-020	434-333-040	REP-P	05-05-034
388-845-0215	NEW-E	05-04-020	388-845-2005	NEW-E	05-04-020	434-333-045	AMD-E	05-05-033
388-845-0220	NEW-E	05-04-020	388-845-2010	NEW-E	05-04-020	434-333-045	REP-P	05-05-034
388-845-0300	NEW-E	05-04-020	388-845-2100	NEW-E	05-04-020	434-333-050	AMD-E	05-05-033
388-845-0305	NEW-E	05-04-020	388-845-2105	NEW-E	05-04-020	434-333-050	REP-P	05-05-034
388-845-0310	NEW-E	05-04-020	388-845-2110	NEW-E	05-04-020	434-333-055	AMD-E	05-05-033
388-845-0400	NEW-E	05-04-020	388-845-2200	NEW-E	05-04-020	434-333-055	REP-P	05-05-034
388-845-0405	NEW-E	05-04-020	388-845-2205	NEW-E	05-04-020	434-333-060	AMD-E	05-05-033
388-845-0410	NEW-E	05-04-020	388-845-2210	NEW-E	05-04-020	434-333-060	REP-P	05-05-034
388-845-0500	NEW-E	05-04-020	388-845-3000	NEW-E	05-04-020	434-333-063	REP-P	05-05-034
388-845-0505	NEW-E	05-04-020	388-845-3005	NEW-E	05-04-020	434-333-065	AMD-E	05-05-033
388-845-0510	NEW-E	05-04-020	388-845-3010	NEW-E	05-04-020	434-333-065	REP-P	05-05-034
388-845-0600	NEW-E	05-04-020	388-845-3015	NEW-E	05-04-020	434-333-070	AMD-E	05-05-033
388-845-0605	NEW-E	05-04-020	388-845-3020	NEW-E	05-04-020	434-333-070	REP-P	05-05-034
388-845-0610	NEW-E	05-04-020	388-845-3025	NEW-E	05-04-020	434-333-075	AMD-E	05-05-033
388-845-0700	NEW-E	05-04-020	388-845-3030	NEW-E	05-04-020	434-333-075	REP-P	05-05-034
388-845-0705	NEW-E	05-04-020	388-845-3035	NEW-E	05-04-020	434-333-080	NEW-E	05-05-033
388-845-0710	NEW-E	05-04-020	388-845-3040	NEW-E	05-04-020	434-333-082	REP-P	05-05-034
388-845-0800	NEW-E	05-04-020	388-845-3045	NEW-E	05-04-020	434-333-085	AMD-E	05-05-033
388-845-0805	NEW-E	05-04-020	388-845-3050	NEW-E	05-04-020	434-333-085	REP-P	05-05-034
388-845-0810	NEW-E	05-04-020	388-845-3055	NEW-E	05-04-020	434-333-090	AMD-E	05-05-033
388-845-0820	NEW-E	05-04-020	388-845-3060	NEW-E	05-04-020	434-333-090	REP-P	05-05-034
388-845-0900	NEW-E	05-04-020	388-845-3065	NEW-E	05-04-020	434-333-095	AMD-E	05-05-033
388-845-0905	NEW-E	05-04-020	388-845-3070	NEW-E	05-04-020	434-333-095	REP-P	05-05-034
388-845-0910	NEW-E	05-04-020	388-845-3075	NEW-E	05-04-020	434-333-100	AMD-E	05-05-033
388-845-1000	NEW-E	05-04-020	388-845-3080	NEW-E	05-04-020	434-333-100	REP-P	05-05-034
388-845-1010	NEW-E	05-04-020	388-845-3085	NEW-E	05-04-020	434-333-105	AMD-E	05-05-033
388-845-1015	NEW-E	05-04-020	388-845-3090	NEW-E	05-04-020	434-333-105	REP-P	05-05-034
388-845-1100	NEW-E	05-04-020	388-845-3095	NEW-E	05-04-020	434-333-107	NEW-E	05-05-033
388-845-1105	NEW-E	05-04-020	388-845-4000	NEW-E	05-04-020	434-333-110	AMD-E	05-05-033
388-845-1110	NEW-E	05-04-020	388-845-4005	NEW-E	05-04-020	434-333-110	REP-P	05-05-034
388-845-1150	NEW-E	05-04-020	388-845-4010	NEW-E	05-04-020	434-333-115	NEW-E	05-05-033
388-845-1155	NEW-E	05-04-020	388-845-4015	NEW-E	05-04-020	434-333-120	AMD-E	05-05-033
388-845-1160	NEW-E	05-04-020	388-850-035	AMD-P	05-05-084	434-333-120	REP-P	05-05-034
388-845-1200	NEW-E	05-04-020	388-850-045	AMD-P	05-05-084	434-333-125	AMD-E	05-05-033
388-845-1205	NEW-E	05-04-020	390	PREP	05-04-037	434-333-125	REP-P	05-05-034
388-845-1210	NEW-E	05-04-020	390-17-310	AMD	05-04-039	434-333-127	REP-P	05-05-034
388-845-1300	NEW-E	05-04-020	390-37-160	AMD	05-04-038	434-333-130	AMD-E	05-05-033
388-845-1305	NEW-E	05-04-020	390-37-165	AMD	05-04-038	434-333-130	REP-P	05-05-034
388-845-1310	NEW-E	05-04-020	390-37-170	AMD	05-04-038	434-333-135	AMD-E	05-05-033
388-845-1400	NEW-E	05-04-020	390-37-175	AMD	05-04-038	434-333-135	REP-P	05-05-034
388-845-1405	NEW-E	05-04-020	392-139	PREP	05-04-044	434-333-140	AMD-E	05-05-033

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
434-333-140	REP-P	05-05-034	434-335-230	NEW-P	05-05-034	463- 60-382	RECOD-W	05-03-087
434-333-145	AMD-E	05-05-033	434-335-240	NEW-P	05-05-034	463- 60-385	RECOD-W	05-03-087
434-333-145	REP-P	05-05-034	434-335-250	NEW-P	05-05-034	463- 60-435	RECOD-W	05-03-087
434-333-150	AMD-E	05-05-033	434-335-260	NEW-P	05-05-034	463- 60-525	RECOD-W	05-03-087
434-333-150	REP-P	05-05-034	434-335-270	NEW-P	05-05-034	463- 60-625	RECOD-W	05-03-087
434-333-155	AMD-E	05-05-033	434-335-280	NEW-P	05-05-034	463- 60-645	RECOD-W	05-03-087
434-333-155	REP-P	05-05-034	434-335-290	NEW-P	05-05-034	463- 60-655	RECOD-W	05-03-087
434-333-160	AMD-E	05-05-033	434-335-300	NEW-P	05-05-034	463- 60-665	RECOD-W	05-03-087
434-333-160	REP-P	05-05-034	434-335-310	NEW-P	05-05-034	463- 60-675	RECOD-W	05-03-087
434-333-165	AMD-E	05-05-033	434-335-320	NEW-P	05-05-034	463- 60-680	RECOD-W	05-03-087
434-333-165	REP-P	05-05-034	434-335-330	NEW-P	05-05-034	463- 60-685	RECOD-W	05-03-087
434-333-170	AMD-E	05-05-033	434-335-340	NEW-P	05-05-034	463- 60-690	RECOD-W	05-03-087
434-333-170	REP-P	05-05-034	434-335-350	NEW-P	05-05-034	463- 64-060	NEW-W	05-03-087
434-333-175	AMD-E	05-05-033	434-335-360	NEW-P	05-05-034	463- 66-010	RECOD-W	05-03-087
434-333-175	REP-P	05-05-034	434-335-370	NEW-P	05-05-034	463- 70-080	RECOD-W	05-03-087
434-333-180	NEW-E	05-05-033	434-335-380	NEW-P	05-05-034	463- 76-020	RECOD-W	05-03-087
434-333-185	NEW-E	05-05-033	434-335-390	NEW-P	05-05-034	463- 76-030	RECOD-W	05-03-087
434-333-190	NEW-E	05-05-033	434-335-400	NEW-P	05-05-034	463- 76-040	RECOD-W	05-03-087
434-333-195	NEW-E	05-05-033	434-335-410	NEW-P	05-05-034	463- 76-050	RECOD-W	05-03-087
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