

**WSR 06-18-067**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS**

[Filed September 5, 2006, 8:41 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-12-059.

Title of Rule and Other Identifying Information: Regulating mortgage brokers and loan originators licensed under chapter 19.146 RCW and implementing chapter 19, Laws of 2006.

Hearing Location(s): State of Washington, House of Representatives, John L. O'Brien Building, Hearing Room C, Olympia, Washington, 98504-0600, on October 26, 2006, at 1:00 - 3:00 p.m.

Date of Intended Adoption: November 21, 2006.

Submit Written Comments to: Jeannette Terry, P.O. Box 41200, 150 Israel Road, Olympia, WA 98504-1200, e-mail [jterry@dfi.wa.gov](mailto:jterry@dfi.wa.gov), fax (360) 586-5068, by October 25, 2006.

Assistance for Persons with Disabilities: Contact Jeannette Terry, P.O. Box 41200, 150 Israel Road, Olympia, WA 98504-1200, by October 9, 2006, TTY (360) 664-8126 or (360) 902-8786.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules repeal the old rules. The proposed rules implement the changes to the existing law by chapter 19, Laws of 2006. The new law goes into effect January 1, 2007. Some of the key changes include:

- Mortgage broker licenses will expire annually and must be renewed.
- Mortgage brokers must annually report the number and dollar volume of loans made in Washington each year.
- The responsibility of designated brokers to oversee company and loan originator activity is specifically established in the new law.
- Loan originators must have a license to originate loans; the license expires annually.
- Loan originators must complete continuing education courses annually.
- The department may examine mortgage brokers' books and records within the first five years of licensing, including branch offices.
- The director is authorized to investigate for violations or complaints.

These changes will assist licensees in operating their businesses in compliance with the new law. The changes will assist loan originators in receiving and maintaining their licenses. The annual expiration of mortgage broker and loan originator licenses will assist the department in tracking the licensees' annual requirements of continuing education, and the reporting of loan numbers and volumes. The new rules will assist mortgage brokers in understanding and preparing for an examination.

Reasons Supporting Proposal: Chapter 19, Laws of 2006, changed the existing law; the proposed rules implement the changes.

Statutory Authority for Adoption: RCW 43.320.040, 19.146.223, chapter 19, Laws of 2006.

Statute Being Implemented: Chapter 19, Laws of 2006.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The department intends to implement these rules prior to the effective date of the act to facilitate the timely licensing of loan originators.

Name of Proponent: Department of financial institutions, governmental.

Name of Agency Personnel Responsible for Drafting: Cindy Fazio, Catherine Mele-Hetter, Deb Bortner, 150 Israel Road, Olympia, WA, (360) 902-8800; Implementation and Enforcement: Chuck Cross, 150 Israel Road, Olympia, WA, (360) 902-8786.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

#### Small Business Economic Impact Statement

**Introduction:** This small business economic impact statement (SBEIS) is written in support of rules drafted by the department of financial institutions (the department) to address changes made in the 2006 legislative session to chapter 19.146 RCW, the Mortgage Broker Practices Act (MBPA). The department filed form CR-101 on June 3, 2006, to initiate this rule making.

**Background:** During the 2006 legislative session, the Washington legislature passed EHB 2340 amending the MBPA. Governor Gregoire signed the bill into law on March 9, 2006, as chapter 19, Laws of 2006.

Key changes to the MBPA include the following:

- Mortgage broker licenses must be renewed annually and will expire if not renewed.
- The department has the authority to examine mortgage brokers' books and records within the first five years of licensing, including branch office licensing.
- Mortgage brokers must annually report the number of loans and the dollar volume of loans made in Washington each year.
- Loan originators must have a license to originate loans; the license expires annually.
- Loan originators must complete continuing education courses annually.

On March 10, 2006, the day after the bill was signed by the governor, the department notified all 1,896 licensed mortgage brokers that it intended to begin the negotiated rule-making process immediately, and intended to hold a series of rule drafting meetings, open to the public, during which the department would provide an opportunity for public comment.

On June 26, 2006, the department sent a letter (see Exhibit A below) to all licensed mortgage brokers to request their assistance in determining the economic impact of the proposed MBPA rules on small businesses, as required by the Regulatory Fairness Act, chapter 19.85 RCW. In the letter

licensees were directed to a questionnaire (see Exhibit B below) on the department's web site and given instructions on completing the online questionnaire. An opportunity to receive and complete the questionnaire in paper form was also provided. Each question in the questionnaire relating to the proposed rules was accompanied with a background statement briefly explaining the new rule and how the department would implement the rule. Licensees were then asked to estimate the cost of implementing the proposed rule. The questionnaire remained available to licensees from June 27 to July 15, 2006. Two hundred eighteen licensees responded to the questionnaire online. Two additional licensees requested and were given paper copies of the questionnaire which they completed and returned.

A description of the results of the questionnaire is detailed below and spreadsheets with detailed responses are shown below as Exhibits C (mortgage brokers with fifty or fewer employees) and D (mortgage brokers with over fifty employees).

#### **Required Elements of SBEIS:**

**Element 1 - A brief description of the reporting, record keeping, and other compliance requirements of the proposed rules and of the kinds of professional services that a small business is likely to need in order to comply with the requirements.**

**Reporting and Record Keeping:** The new law and the proposed rules require mortgage broker licensees to file an annual report with the department. The annual report must contain the number of residential mortgage loans closed by the licensee during the year, and the dollar value of those loans.

The proposed rules also address the new examination requirement in the statute. Mortgage broker licensees will be required to provide the department certain requested pre-examination information about the mortgage business, including a list of all the loan originators working for the licensee. The request for information is sent when the licensee is notified of an upcoming examination. The department will examine the records of that licensee approximately thirty days after notification.

Although there are no new record-keeping requirements in the proposed rules, licensees may have to change their current record-keeping systems or hire professionals to set up systems to comply with the new reporting and examination requirements. Licensees already collect and maintain the information necessary to comply with these information requests but they have never had to manipulate their loan files to produce an annual report or prepare for an examination. The department examiners will accommodate many types of record-keeping systems when accessing records for an examination.

Licensees were surveyed to determine if the new reporting and examination requirement would add costs to their business, and if so, how much. That information is contained in Exhibits C and D shown below. (Any empty space on the questionnaire is a result of an unanswered question.)

**Professional Services:** The proposed rules do not require mortgage broker licensees to hire professional services to compile or prepare reports on the business records. Licensees and their staff can perform these functions. None-

theless, many licensees will likely choose to hire additional office staff or outside professional services to help prepare annual reports, to compile loan and loan value data, or to prepare for an examination. After they become familiar with the requirements of the new rules, more licensees may begin to produce the information on their own. Licensees may also choose to upgrade or change record-keeping systems so they can more easily keep real time records and provide reports to the department electronically.

In the questionnaire, mortgage broker licensees were asked to provide a cost estimate for hiring professional services to prepare the annual report and to assist in preparation for an examination. Licensees with fewer than fifty employees estimated the average annual costs of professional services associated with an examination to be \$1,698.00. Licensees with more than fifty employees estimated the costs associated with professional services associated with an examination to be \$20,523.00.

More detailed information is contained in Exhibits C and D shown below. (Any empty space on the questionnaire is a result of an unanswered question.)

**Element 2 - An analysis of the costs of compliance for identified industries, including costs of equipment, supplies, and increased administrative costs.**

The annual report and examination requirements discussed above may also have an economic impact on mortgage broker licensees in increased costs for equipment and supplies, and increased administrative costs. Specific questions in the questionnaire targeted the equipment, supplies and administrative costs of complying with the department's expanded examination authority (up to five years after initial licensure for the main office and each branch) and the costs to maintain and provide records for the annual report provided to the department.

The new law requires loan originators to be licensed beginning January 1, 2007. Mortgage broker licensees may have increased administrative costs if they choose to pay for their loan originators' licenses. Loan originator license fees are expected to be \$125 annually, per license. The questionnaire included a question asking if the mortgage broker licensee intended to pay for their loan originators' licensing fees. If the answer was affirmative, the number of loan originators was multiplied by \$125.00 to determine the cost.

Mortgage broker licensees with fifty or fewer employees estimated the costs to license their loan originators at an average of \$312 annually. About one-half (ninety-three out of one hundred eighty-five) of the respondents in this category said they would not pay their loan originators' licensing fees. Licensees with more than fifty employees estimated it would cost an average of \$2,411 to license their loan originators. The data shows that the majority of larger mortgage brokers plan to pay for their loan originators' licensing fees.

The proposed rules require loan originators to successfully complete at least two approved continuing education courses annually. Designated brokers must successfully complete at least three continuing education courses each year. In order to assess the added cost for continuing education, the questionnaire asked if the mortgage broker licensee intended to pay the cost for continuing education for its designated broker or loan originators. The small business licens-

ees estimated an average cost of \$480 to cover continuing education costs for their designated broker and loan originator, while the licensees with more than fifty employees estimated an average cost of \$5,450. Again, the data shows that the larger mortgage broker licensees will be paying for the continuing education for their designated broker and loan originators while many of the smaller licensees will not.

The department surveyed for one additional administrative cost. The proposed rules allow a company to advertise their business using only their doing-business-as (DBA) name as long as the licensee discloses their license number in the advertisement. The questionnaire asked the mortgage broker licensees to estimate any additional costs that would be incurred to use a DBA and disclose the license number (increased costs may include new stationery, business cards, signs, etc.).

More detailed information is contained in Exhibits C and D shown below. (Any empty space on the questionnaire is a result of an unanswered question.)

**Element 3 - Whether compliance with the proposed rule will cause businesses to lose sales or revenue.**

The proposed rules do not affect the demand for services or in any way restrict the licensees' business opportunities. Some loan originators may be unable to pass the license test, and others may be found unfit for licensure due to felony or financial misconduct convictions. While it may disrupt a mortgage broker licensee's business, this "fallout" is not viewed as a restriction on business or revenue but is rather a result of the legislature requiring a showing of competency before a loan originator can offer this important service to the public.

The SBEIS questionnaire asked mortgage broker licensees to estimate the costs to their company of department examinations of their books and records. The department estimates each mortgage broker licensee will be examined one time in the first five years of licensure. Licensees with compliance issues will be scheduled for follow-up examinations. During an examination, department staff will be at a licensee's company for a day or two reviewing loan files for compliance. The licensee may be asked to provide additional documents and information during that time. The time spent by a licensee preparing for the examination and the time examiners spend at the company could detract from sales or other revenue generating activity by requiring the mortgage broker or other person to help the examiner or answer questions. Licensees whose books and records are in good order and who operate in compliance with state and federal law will have a shorter examination which will cause less disruption to the business activities.

**Element 4 - A comparison of compliance costs for the small business segment and the large business segment of the affected industries, and whether the impact on small business is disproportionate.**

The total average estimated cost for a company with fifty employees or less to implement the proposed rules is \$12,993 while the total average estimated cost for a company with over fifty employees is \$33,705. The cost per employee to implement the rules for mortgage broker licensees with fewer than fifty employees averaged \$2,982 while the cost per employee for larger mortgage broker licensees averaged \$39

per employee. Although the total estimated costs for a smaller company (\$12,993) is only a third of the cost for a large company (\$33,705), the cost for the small company is disproportionate when viewed as a cost per employee.

Smaller mortgage brokers' estimates of costs associated with the rules varied widely. Some respondents indicated they expected to retool their business operation as a result of the proposed rules. Others appear to plan minimal changes in operation as indicated by expenditures expected to be in the hundreds of dollars. Exhibit C shows this variety in expectations.

**Element 5 - Steps taken by the department under RCW 19.85.030(2) to reduce the costs of the proposed rule on small businesses, or reasonable justification for not doing so, addressing the specified mitigation steps.**

**Reducing, modifying, or eliminating substantive regulatory requirements:** The department began the process of reducing the impact of the new regulatory requirements on the mortgage industry as the legislation was being drafted. While the original draft legislation had a provision that allowed the department to examine a mortgage broker licensee over the life of the company, the department compromised with the industry to limit the examination to the first five years of licensure of the main office and each of the branches. The original draft of the legislation gave the department very broad authority over the scope of an examination to determine compliance with the MBPA. The department compromised with the industry, limiting the scope of the examination to reviewing trust accounts, loan files, and general business books and records, and to conducting interviews. The original draft of the legislation provided that the licensee would have to pay an hourly fee for its examination. The department compromised with the industry and agreed not to charge the licensee for the examination. Instead, the department agreed to charge loan originators a licensing fee that would fund the cost of the examination program. Additionally, the department agreed to give licensees thirty days advance notice of an examination to give the company an opportunity to prepare for the examination. The rules also provide the licensee an opportunity to resolve examination findings prior to an enforcement action. Finally, the department agreed that any violation finding with reference to yield spread premiums will be delayed until a second examination is performed.

**Simplifying, reducing or eliminating record-keeping and reporting requirements:** The department originally proposed to have the mortgage industry report a substantial amount of information in their annual report. When significant opposition arose, the department agreed to an annual report containing only the total number of residential mortgage loans made by the mortgage broker and the total dollar value of those loans.

**Easing the burden of testing required for licensing:** The new law and proposed rules require that loan originators take and pass a test before being licensed. To help loan originator candidates (and designated broker candidates) prepare for the prelicense test, the department proposes to publish 1,000 questions and their answers on the department web site as a study guide. One hundred of the questions will comprise the designated broker and loan originator licensing test.

**The department will implement risk-based examinations and will help small businesses prepare for the examination:** The department intends to implement a priority system for the mortgage broker examinations. Whether multiple examinations will be necessary will be driven by factors such as the mortgage broker licensee's history of consumer complaints; responses to department directives; previous examination findings; maintenance of appropriate bond coverage; and the status of the designated broker (having passed the licensing test and completed required continuing education). Companies with positive examination findings and few if any issues will likely not be examined more than once in the first five years of licensure. This approach will focus the department resources on licensees needing regulatory attention. This increases consumer protection and reduces the impact of regulation on the well run mortgage broker companies.

To mitigate the impact of the new examination program on mortgage broker licensees, the department plans to conduct outreach and education programs for the licensees. The department will hold public meetings around the state to prepare licensees for their examinations by discussing the examination process, the records examiners will ask for during the examination, the common errors made by mortgage broker licensees, the contents of the examination report and what action licensees must take in response to an examination report.

The department is preparing and will publish its examination manual on the department's web site so licensees can see what examiners will expect of them before and during the examination. The manual contains many helpful forms for compiling information that licensees can incorporate into their record-keeping process. Mortgage brokers can also use the examination manual to guide outside certified professionals if they choose to hire a certified professional to conduct an examination of the business and then ask the department to accept that examination in lieu of conducting its own examination.

The department will provide licensees with advance notice of an examination and provide them with a list of documents needed for the examination. Many initial examinations will be in the form of technical assistance examinations, focused on educating the licensee about record keeping for compliance with state and federal law.

**Element 6 - How the department will involve small business in rule development:** On March 10, 2006, the day after the MBPA was signed by the governor, the department notified all 1,896 mortgage broker licensees that it intended to begin the negotiated rule-making process immediately. The notice informed the licensees that the department would be holding a series of open public meetings in order to provide an opportunity for comment on all aspects of the new rules. The department, and members of the mortgage broker commission, a statutorily mandated and appointed advisory body, met and outlined how they would cooperatively work to draft rules in a public and interactive manner.

Between March 30 and August 9, 2006, the department held eleven public rules drafting sessions. Meeting schedules were published on the department's web site, in industry publications, and mailed to licensees. All licensees were invited to attend these work sessions and provide comments. In

addition, the department published biweekly drafts of the rules as they were being drafted. Comments on the draft rules were solicited on line and at the public meetings. The SBEIS questionnaire itself, during its development, was made available and reviewed during two of the public meetings.

**Element 7 - List businesses affected:**

**Directly affected:** Mortgage brokers, loan originators.

**Potentially affected:** Loan processors, lenders, appraisers, escrow agents, real estate agents.

**Entities that may benefit via increased business associated with implementation of the rule:** Continuing education providers, test providers, accounting and bookkeeping firms, appraisers, certified professionals.

**Exhibit A**

June 26, 2006

Dear Mortgage Broker Company:

The Mortgage Broker Practices Act (MBPA), chapter 19.146 RCW, was modified in early 2006 by the Washington State Legislature. The Department of Financial Institutions (the department) has begun rule making to implement the new law.

Key changes to the MBPA go into effect January 1, 2007, and include the following:

- Loan originators must have a license to originate loans; the license expires annually
- Loan originators must complete continuing education courses annually
- Mortgage broker licenses will expire annually and must be renewed
- The department may examine mortgage brokers' books and records within the first five years of licensing, including branch office licensing
- Mortgage brokers must annually report the number of loans and the dollar volume of loans made in Washington each year

Under the Regulatory Fairness Act, chapter 19.85 RCW, the department must assess the proposed rules' impact on small businesses. In order to make this assessment, the department must understand how the new rules may affect your business. To this end, the department has prepared a survey to gather the necessary information. We would like the president, CEO or Designated Broker of your company to respond to the survey. One response per licensed mortgage company is all we will accept. You can review and fill out the survey on the department web page.

To complete the survey, use this link: <http://dfi.wa.gov/cs/mortgage.htm>.

Copies of the new MBPA and the draft proposed rules can be found on the department's web site, <http://dfi.wa.gov>, under "Mortgage Brokers."

Please complete the electronic survey by July 15, 2006. If you would like a paper copy of the survey, please contact Dawn Morris at the department, at 360-902-0519. Thank you for your assistance.

Sincerely,

Whittier Johnson  
Program Manager

**Exhibit B**

**Small Business Economic Impact - Mortgage Broker  
Questionnaire**

**1. Introduction**

In order to assist the department in determining the economic impact of the new Mortgage Broker Practices Act rules (MBPA rules) on licensed mortgage brokers, please complete and submit this questionnaire electronically by July 15, 2006. We will accept only one response from each licensed mortgage broker.

**\*1. Please provide the following information:**

Company Name \_\_\_\_\_  
Designated Broker \_\_\_\_\_  
Email Address or Telephone Number \_\_\_\_\_

**\*2. How many employees work for your mortgage broker company? \_\_\_\_\_**

**2. Loan Originator Licensing**

The changes to the Mortgage Broker Practices Act include a requirement that beginning January 1, 2007, loan originators must have a license to originate loans. After that date mortgage brokers must only employ or contract with licensed loan originators. While the new law does not require mortgage brokers to pay loan officer licensing fees, some mortgage brokers may choose to do so.

**3. How many loan originators do you employ either as independent contractors or W-2 employees (include all locations)?**

**4. Do you plan to pay your loan originators' license fees (loan originator annual license fees may be set at anywhere from \$100 to \$150)?**

- Yes
- No

**5. You will need to provide the Department of Financial Institutions with a list of your loan originators when we examine your company. Please estimate your annual recordkeeping costs to keep this information.**

\$ \_\_\_\_\_

**3. Loan Originator Continuing Education**

Loan originators will have to successfully complete two continuing education courses each year to maintain their license.

**6. Do you plan to pay for your loan originators' continuing education?**

- Yes
- No

**7. What are your estimated annual loan originator continuing education costs? (Assume the cost of continuing education to be similar to that of your designated broker.)**

\$ \_\_\_\_\_

**4. Examination Costs**

Amendments to the Mortgage Broker Practices Act allow the department to examine your books and records within the first five years you are licensed to check for compliance with state and federal laws. The department will not charge you for the cost of the examination. However, you will have to pay our travel expenses if you are located out of state.

The department may request that you provide some or all of the following information to us for a pre-examination review:

- A list of your loan originators
- The total number of loans made during a specified time period
- A list of all residential loan applications taken in the past two years
- Bank statements for the past two years and/or trust account information and statements
- An income statement and balance sheet for your company
- A list of all loans refinanced for the same borrower in the last twelve months
- A list of all states in which your mortgage broker company is licensed
- All complaints filed against your company in the last two years
- A copy of your advertising (broadcast scripts, print, etc.) from the last two years
- A list of rescinded loans in the last two years
- An organization chart for your company including ownership, management, affiliates, and subsidiaries

Most on-site examinations are expected to last two days or less. Prior to the examination the department will contact you to arrange the date and time of the examination. Generally, you will not be examined more than once in five years. At the conclusion of the examination, the examiner(s) will meet with you (the designated broker or owner) to review the examination findings and provide insight into what the department will include in the examination report. After the department completes the examination report, you must respond to items noted by the examiner by explaining what has

been done to correct any problems noted.

**8. Please estimate your costs for reporting, record-keeping, and other compliance requirements associated with your examination as described above:**

Reporting \$ \_\_\_\_\_  
Recordkeeping \$ \_\_\_\_\_  
Other Compliance Related to Examination \$ \_\_\_\_\_  
Total Annual Costs \$ \_\_\_\_\_

**9. Please estimate your costs of additional professional services you are likely to need in order to comply with the department's request for information as described above (accountants, consultants, bookkeeping, etc.).**

Annual Costs for Professional Services \$ \_\_\_\_\_

**10. Please estimate your costs for equipment, supplies, labor, and increased administrative costs associated with an examination.**

Equipment \$ \_\_\_\_\_

Supplies \$ \_\_\_\_\_

Labor \$ \_\_\_\_\_

Other Administrative Costs Related to Examination

\$ \_\_\_\_\_  
Total Annual Costs \$ \_\_\_\_\_

**5. Mortgage Loan Reporting**

The new law requires mortgage brokers to annually report to the department the number of residential mortgage loans made in Washington, including the dollar volume of those loans.

**11. How much will it cost your business to keep records of and report to the department annually the total number and dollar value of all of the residential mortgage loans you made during the year?**

Total Cost to Provide an Annual Report of Loans

\$ \_\_\_\_\_

**12. Please estimate your costs of additional professional services, equipment, supplies, and labor you are likely to need to keep records of and report to the department annually the total number and dollar value of all the loans you made during the year (professional services are things like accounting, computer specialist, administrative support, etc.).**

Professional Services \$ \_\_\_\_\_

Equipment \$ \_\_\_\_\_

Supplies (computer software, etc.) \$ \_\_\_\_\_

Labor (administrative support) \$ \_\_\_\_\_

Total Annual Costs \$ \_\_\_\_\_

**6. Providing Your License Number**

New rules require you to provide your license number on all materials (advertising, letterhead, business cards, etc.) when you are conducting business using your DBA name without also using the name on your license.

**13. If you intend to use only your DBA name on certain materials, please estimate your cost of including your license number on those materials.**

Estimated Cost of Including License Number \$ \_\_\_\_\_

**Thank You for Completing the Questionnaire!**

We appreciate the time you took to provide us with this information.

If you have any questions or concerns, please email [dmorris@dfi.wa.gov](mailto:dmorris@dfi.wa.gov).

Return to Mortgage Brokers.

**EXHIBIT C**

**COSTS FOR MORTGAGE BROKERS WITH 50 OR FEWER EMPLOYEES**

|    | Cost to MB to License LO | Cost to Produce LO List | Continuing Education Costs | Exams: Rpting Records Other Total | Exams Pro Svcs | Exams: Equip Supplies Labor Other Total | Cost to Provide Records for Annual Report | Costs for Annual Rpt: Professional Services, Equipment, Supplies, and Labor | Costs to use DBA Only | TOTAL    | Number Of Employees | Cost Per Employee |
|----|--------------------------|-------------------------|----------------------------|-----------------------------------|----------------|---|---|---|-----------------------|----------|---------------------|-------------------|
| 1  |                          | \$500                   | \$0                        | \$8,500                           | \$5,000        | \$3,750                                 | \$1,000                                   | \$7,750   | \$0                   | \$26,500 | 25                  | \$1,060           |
| 2  | \$250                    | \$100                   | \$0                        | \$1,400                           | \$2,000        | \$2,050                                 | \$1,000                                   | \$2,850   | \$50                  | \$9,700  | 2                   | \$4,850           |
| 3  | \$1,750                  | \$300                   | \$0                        | \$4,800                           | \$750          | \$3,200                                 | \$300                                     | \$75  | \$3,000               | \$14,175 | 28                  | \$506             |
| 4  | \$2,750                  | \$100                   | \$2,178                    | \$1,300                           | \$500          | \$2,300                                 | \$1,300                                   | \$800   | \$0                   | \$11,228 | 50                  | \$225             |
| 5  | \$0                      | \$1,000                 | \$0                        | \$1,500                           | \$500          | \$2,000                                 | \$350                                     | \$4,000   | \$2,500               | \$11,850 | 1                   | \$11,850          |
| 6  | \$0                      | \$150                   | \$0                        | \$500                             | \$200          | \$150                                   | \$500                                     |   | \$500                 | \$2,000  | 3                   | \$667             |
| 7  | \$0                      | \$0                     | \$0                        | \$0                               | \$0            | \$0                                     | \$10                                      | \$0   | \$0                   | \$10     | 1                   | \$10              |
| 8  | \$500                    | \$2,000                 | \$2,400                    | \$1,550                           | \$1,000        | \$1,400                                 | \$300                                     | \$700   | \$0                   | \$9,850  | 17                  | \$579             |
| 9  | \$0                      | \$0                     | \$0                        | \$7,600                           | \$2,500        | \$2,050                                 | \$0                                       | \$0   | \$0                   | \$12,150 | 1                   | \$12,150          |
| 10 | \$0                      | \$100                   | \$9,600                    | \$3,500                           | \$2,500        | \$3,500                                 | \$250                                     | \$250   | \$3,500               | \$23,200 | 32                  | \$725             |
| 11 | \$0                      | \$0                     | \$0                        | \$0                               | \$0            | \$0                                     | \$0                                       | \$0   |                       | \$0      | 1                   | \$-               |
| 12 | \$0                      | \$0                     | \$1,000                    | \$2,000                           | \$500          | \$450                                   | \$500                                     | \$400   | \$3,000               | \$7,850  | 6                   | \$1,308           |
| 13 | \$2,625                  | \$1,000                 | \$0                        | \$6,500                           | \$3,000        | \$15,750                                | \$250                                     | \$4,000   | \$500                 | \$33,625 | 26                  | \$1,293           |
| 14 | \$250                    | \$15,000                | \$2,500                    | \$14,000                          | \$12,000       | \$5,000                                 | \$5,000                                   | \$7,500   | \$0                   | \$61,250 | 4                   | \$15,313          |
| 15 | \$0                      | \$100                   | \$0                        | \$4,600                           | \$4,000        | \$1,000                                 | \$500                                     | \$1,900   | \$3,000               | \$15,100 | 2                   | \$7,550           |
| 16 | \$0                      | \$0                     | \$0                        | \$250                             | \$100          |   | \$0                                       |   | \$0                   | \$350    | 5                   | \$70              |
| 17 | \$500                    | \$10                    | \$500                      | \$2,000                           | \$1,000        | \$500                                   | \$250                                     | \$250   | \$0                   | \$5,010  | 5                   | \$1,002           |
| 18 | \$0                      | \$500                   | \$0                        | \$3,600                           | \$500          | \$1,400                                 | \$1,200                                   | \$0   | \$1,000               | \$8,200  | 50                  | \$164             |
| 29 | \$0                      | \$12,000                | \$250                      | \$20,000                          | \$10,000       | \$5,000                                 | \$10,000                                  | \$20,000  | \$5,000               | \$82,250 | 15                  | \$5,483           |
| 20 | \$0                      | \$100                   | \$3,000                    | \$5,000                           | \$2,000        | \$500                                   | \$200                                     | \$1,000   | \$2,000               | \$13,800 | 26                  | \$531             |
| 21 | \$375                    | \$200                   | \$600                      | \$1,500                           | \$500          | \$200                                   | \$200                                     | \$200   | \$0                   | \$3,775  | 4                   | \$944             |
| 22 | \$0                      | \$200                   | \$0                        | \$0                               | \$2,000        | \$800                                   | \$100                                     | \$100   | \$1,000               | \$4,200  | 14                  | \$300             |
| 23 | \$0                      | \$0                     | \$0                        | \$225                             | \$300          | \$150                                   | \$50                                      |   |                       | \$725    | 2                   | \$363             |
| 24 | \$0                      | \$150                   | \$0                        | \$1,000                           | \$400          | \$500                                   | \$100                                     | \$300   |                       | \$2,450  | 1                   | \$2,450           |
| 5  | \$0                      | \$0                     | \$165                      | \$5                               | \$450          | \$1                                     | \$1                                       | \$102   | \$0                   | \$724    | 1                   | \$724             |
| 26 | \$0                      | \$50                    | \$0                        | \$1,850                           |                | \$2,120                                 | \$150                                     | \$550   | \$500                 | \$5,220  | 2                   | \$2,610           |

|    | Cost to MB<br>to License<br>LO | Cost to<br>Produce<br>LO List | Continuing<br>Education<br>Costs | Exams:<br>Rptg<br>Records<br>Other Total | Exams<br>Pro Svcs | Exams:<br>Equip<br>Supplies<br>Labor Other<br>Total | Cost to<br>Provide<br>Records<br>for Annual<br>Report | Costs for<br>Annual Rpt:<br>Professional<br>Services,<br>Equipment,<br>Supplies,<br>and Labor | Costs to<br>use DBA<br>Only | TOTAL    | Number<br>Of<br>Employees | Cost Per<br>Employee |
|----|--------------------------------|-------------------------------|----------------------------------|--|-------------------|---|---|---|-----------------------------|----------|---------------------------|----------------------|
| 27 | \$0                            | \$1,000                       | \$0                              | \$3,000                                  | \$5,000           | \$10,000  | \$3,000   | \$47,000  | \$1,500                     | \$70,500 | 7                         | \$10,071             |
| 28 | \$250                          | \$500                         | \$0                              | \$1,500                                  | \$700             | \$1,100   | \$200   | \$450   | \$0                         | \$4,700  | 2                         | \$2,350              |
| 29 | \$0                            | \$0                           | \$0                              | \$0                                      | \$0               | \$0   | \$25  | \$25  | \$0                         | \$50     | 1                         | \$50                 |
| 30 | \$0                            | \$300                         | \$0                              | \$1,300                                  | \$500             | \$850   | \$1,200   | \$1,200   |                             | \$5,350  | 5                         | \$1,070              |
| 31 | \$750                          | \$1,000                       | \$0                              | \$15,000                                 | \$5,000           | \$2,500   | \$500   | \$3,500   | \$5,000                     | \$33,250 | 8                         | \$4,156              |
| 32 | \$0                            | \$100                         | \$0                              | \$8,500                                  | \$2,500           | \$9,000   | \$20,000  |   | \$10                        | \$40,110 | 2                         | \$20,055             |
| 33 | \$0                            | \$200                         | \$0                              | \$800                                    | \$1,000           | \$550   | \$100   | \$900   |                             | \$3,550  | 1                         | \$3,550              |
| 34 | \$0                            | \$500                         | \$0                              | \$2,500                                  | \$1,500           | \$1,600   | \$100   | \$1,650   | \$1,500                     | \$9,350  | 1                         | \$9,350              |
| 35 | \$0                            | \$50                          | \$0                              | \$2,200                                  | \$1,500           | \$700   | \$50  | \$200   | \$150                       | \$4,850  | 1                         | \$4,850              |
| 36 | \$0                            | \$1,000                       | \$0                              | \$3,000                                  | \$2,000           | \$2,020   | \$1,000   | \$2,000   | \$0                         | \$11,020 | 15                        | \$735                |
| 37 | \$250                          | \$0                           | \$0                              | \$3,000                                  | \$3,500           | \$1,500   | \$1,200   |   | \$5,000                     | \$14,450 | 2                         | \$7,225              |
| 38 | \$375                          | \$0                           | \$600                            | \$1,000                                  | \$1,000           | \$500   | \$25  | \$500   | \$100                       | \$4,100  | 6                         | \$683                |
| 39 | \$0                            | \$0                           | \$0                              | \$0                                      | \$0               | \$0   | \$0   | \$0   | \$0                         | \$0      | 2                         | \$-                  |
| 40 | \$1,375                        | \$250                         | \$750                            | \$6,740                                  | \$1,000           | \$1,200   | \$0   | \$1,300   | \$0                         | \$12,615 | 12                        | \$1,051              |
| 41 | \$0                            | \$0                           | \$0                              | \$1,000                                  | \$1,500           | \$125   | \$0   | \$0   | \$100                       | \$2,725  | 1                         | \$2,725              |
| 42 | \$250                          | \$1,500                       | \$250                            | \$1,950                                  | \$3,000           | \$1,250   | \$1,200   | \$1,700   | \$100                       | \$11,200 | 3                         | \$3,733              |
| 43 | \$0                            | \$50                          | \$0                              | \$300                                    | \$1,500           | \$2,000   | \$0   | \$3,000   | \$0                         | \$6,850  | 1                         | \$6,850              |
| 44 | \$0                            | \$20                          | \$125                            | \$300                                    | \$0               | \$300   |   | \$150   | \$100                       | \$995    | 1                         | \$995                |
| 45 | \$1,875                        | \$6,000                       | \$4,500                          | \$7,500                                  | \$1,500           | \$3,000   | \$500   |   | \$500                       | \$25,375 | 15                        | \$1,692              |
| 46 | \$0                            | \$50                          | \$750                            | \$1,000                                  | \$0               | \$500   | \$100   | \$500   | \$100                       | \$3,000  | 3                         | \$1,000              |
| 47 | \$125                          | \$60                          | \$150                            | \$180                                    | \$120             | \$190   | \$300   | \$360   |                             | \$1,485  | 2                         | \$743                |
| 48 | \$0                            | \$4,500                       | \$1,500                          | \$14,500                                 | \$2,500           | \$4,000   | \$400   | \$900   | \$2,500                     | \$30,800 | 2                         | \$15,400             |
| 49 | \$250                          |                               | \$1,000                          |  |                   |   | \$100   |   |                             | \$1,350  | 5                         | \$270                |
| 50 | \$125                          | \$0                           | \$0                              |  |                   |   |   |   |                             | \$125    | 1                         | \$125                |
| 51 | \$125                          | \$50                          | \$300                            | \$800                                    | \$200             | \$1,400   | \$50  | \$300   | \$500                       | \$3,725  | 3                         | \$1,242              |
| 52 | \$500                          | \$50                          | \$0                              | \$4,800                                  | \$2,000           | \$2,500   | \$500   | \$500   | \$1,500                     | \$12,350 | 9                         | \$1,372              |
| 53 | \$1,250                        | \$500                         | \$650                            | \$4,550                                  | \$3,000           | \$2,150   | \$1,000   |   |                             | \$13,100 | 13                        | \$1,008              |
| 54 | \$3,500                        |                               | \$250                            |  |                   |   | \$1,000   | \$4,000   | \$0                         | \$8,750  | 45                        | \$194                |
| 55 | \$250                          | \$500                         | \$250                            | \$1,700                                  | \$1,000           | \$1,100   | \$1,000   | \$1,100   | \$2,000                     | \$8,900  | 5                         | \$1,780              |
| 56 | \$125                          | \$100                         | \$250                            | \$550                                    | \$1,000           | \$400   | \$500   | \$400   | \$1,500                     | \$4,825  | 2                         | \$2,413              |
| 57 | \$250                          | \$0                           | \$250                            | \$5,000                                  | \$0               | \$0   | \$500   | \$600   | \$0                         | \$6,600  | 12                        | \$550                |
| 58 | \$1,250                        |                               | \$0                              | \$750                                    | \$750             | \$2,250   | \$150   | \$2,250   | \$500                       | \$7,900  | 2                         | \$3,950              |
| 59 | \$1,875                        | \$100                         | \$0                              | \$1,250                                  | \$1,000           | \$1,100   |   | \$1,600   | \$50                        | \$6,975  | 15                        | \$465                |
| 60 | \$0                            | \$25                          | \$0                              | \$500                                    | \$0               | \$500   | \$25  | \$0   | \$25                        | \$1,075  | 1                         | \$1,075              |
| 61 | \$0                            | \$5                           | \$0                              | \$600                                    | \$0               | \$1,350   | \$300   | \$610   | \$350                       | \$3,215  | 4                         | \$804                |
| 62 | \$375                          | \$100                         | \$825                            | \$300                                    | \$250             | \$300   | \$100   | \$200   | \$600                       | \$3,050  | 3                         | \$1,017              |
| 63 | \$500                          | \$200                         | \$600                            | \$1,500                                  | \$500             | \$600   | \$100   | \$500   | \$5,000                     | \$9,500  | 7                         | \$1,357              |
| 64 | \$0                            | \$500                         | \$0                              | \$300                                    | \$1,000           | \$625   | \$100   | \$400   |                             | \$2,925  | 3                         | \$975                |
| 65 | \$0                            | \$500                         | \$0                              | \$25,000                                 | \$0               | \$1,010   | \$200   | \$500   | \$1,500                     | \$28,710 | 34                        | \$844                |
| 66 | \$1,625                        | \$100                         | \$2,000                          | \$4,000                                  | \$2,500           | \$4,000   | \$100   | \$2,500   |                             | \$16,825 | 16                        | \$1,052              |
| 67 | \$0                            |                               | \$0                              | \$15,000                                 | \$10,000          | \$4,500   | \$1,000   | \$1,000   | \$0                         | \$31,500 | 7                         | \$4,500              |
| 68 | \$0                            | \$200                         | \$0                              | \$7,800                                  | \$1,600           | \$1,600   | \$1,600   |   |                             | \$12,800 | 6                         | \$2,133              |
| 69 | \$125                          | \$0                           | \$150                            | \$0                                      | \$0               | \$0   | \$0   | \$0   | \$300                       | \$575    | 1                         | \$575                |
| 70 | \$250                          | \$1,200                       | \$0                              | \$3,000                                  | \$5,000           | \$35,000  | \$350   | \$19,350  |                             | \$64,150 | 3                         | \$21,383             |
| 71 | \$0                            | \$3,000                       | \$0                              | \$6,000                                  |                   | \$1,100   | \$500   | \$850   | \$10,000                    | \$21,450 | 6                         | \$3,575              |
| 72 | \$0                            | \$0                           | \$0                              | \$350                                    | \$2,000           | \$500   | \$100   | \$850   | \$250                       | \$4,050  | 1                         | \$4,050              |
| 73 | \$0                            | \$0                           | \$0                              | \$0                                      | \$0               | \$30  | \$0   | \$0   | \$85                        | \$115    | 1                         | \$115                |
| 74 | \$0                            | \$300                         | \$0                              | \$600                                    | \$1,200           | \$700   | \$500   | \$1,000   | \$1,000                     | \$5,300  | 2                         | \$2,650              |
| 75 | \$0                            | \$1,000                       | \$1,200                          | \$20,000                                 | \$10,000          | \$13,000  | \$1,000   | \$9,000   | \$15,000                    | \$70,200 | 7                         | \$10,029             |
| 76 | \$0                            | \$100                         | \$0                              | \$4,500                                  | \$2,000           | \$2,300   | \$2,000   | \$2,000   | \$2,000                     | \$14,900 | 14                        | \$1,064              |
| 77 | \$0                            | \$0                           | \$0                              | \$10,000                                 | \$5,000           | \$400   | \$10,000  | \$15,000  | \$0                         | \$40,400 | 4                         | \$10,100             |

|     | Cost to MB<br>to License<br>LO | Cost to<br>Produce<br>LO List | Continuing<br>Education<br>Costs | Exams:<br>Rptg<br>Records<br>Other Total | Exams<br>Pro Svcs | Exams:<br>Equip<br>Supplies<br>Labor Other<br>Total | Cost to<br>Provide<br>Records<br>for Annual<br>Report | Costs for<br>Annual Rpt:<br>Professional<br>Services,<br>Equipment,<br>Supplies,<br>and Labor | Costs to<br>use DBA<br>Only | TOTAL    | Number<br>Of<br>Employees | Cost Per<br>Employee |
|-----|--------------------------------|-------------------------------|----------------------------------|--|-------------------|---|---|---|-----------------------------|----------|---------------------------|----------------------|
| 78  | \$0                            | \$1                           | \$0                              | \$650                                    | \$0               | 600,00  | \$100   | \$0   | \$0                         | \$751    | 6                         | \$125                |
| 79  | \$0                            | \$0                           | \$0                              | \$950                                    | \$750             | \$500   | \$500   | \$500   | \$1,500                     | \$4,700  | 1                         | \$4,700              |
| 81  | \$375                          | \$0                           | \$1,200                          |  | \$0               | \$250   | \$20  | \$0   | \$50                        | \$1,895  | 3                         | \$632                |
| 82  | \$250                          | \$1,000                       | \$0                              | \$7,500                                  | \$2,500           | \$2,200   | \$500   | \$1,000   | \$5,000                     | \$19,950 | 2                         | \$9,975              |
| 83  | \$250                          |                               | \$400                            | \$8,000                                  | \$4,800           | \$3,400   | \$14,000  | \$1,350   | \$0                         | \$32,200 | 3                         | \$10,733             |
| 84  | \$250                          | \$1,000                       | \$1,500                          | \$9,000                                  | \$1,000           | \$1,700   | \$1,500   | \$6,700   |                             | \$22,650 | 4                         | \$5,663              |
| 85  | \$0                            | \$500                         | \$0                              | \$1,000                                  | \$200             | \$300   | \$1,000   | \$500   | \$1,000                     | \$4,500  | 10                        | \$450                |
| 86  | \$0                            | \$500                         | \$0                              | \$3,100                                  | \$1,500           | \$1,400   | \$100   | \$3,100   | \$15,000                    | \$24,700 | 21                        | \$1,176              |
| 87  | \$0                            | \$100                         | \$0                              | \$2,000                                  | \$1,000           | \$1,200   | \$100   | \$900   | \$0                         | \$5,300  | 8                         | \$663                |
| 88  | \$0                            | \$0                           | \$0                              | \$500                                    | \$0               | \$500   | \$50  | \$0   |                             | \$1,050  | 5                         | \$210                |
| 89  | \$0                            | \$1,500                       | \$0                              | \$21,500                                 | \$2,500           | \$2,750   | \$1,500   | \$9,000   | \$1,500                     | \$40,250 | 3                         | \$13,417             |
| 90  | \$0                            | \$0                           | \$0                              | \$200                                    | \$500             | \$0   | \$0   | \$0   | \$0                         | \$700    | 5                         | \$140                |
| 91  | \$1,500                        | \$30                          | \$9,600                          | \$1,600                                  | \$350             | \$1,280   | \$500   | \$500   |                             | \$15,360 | 12                        | \$1,280              |
| 92  | \$0                            | \$100                         | \$0                              | \$1,500                                  | \$1,000           | \$600   | \$500   | \$1,100   | \$0                         | \$4,800  | 15                        | \$320                |
| 93  | \$0                            | \$2,700                       | \$0                              | \$5,700                                  | \$5,000           | \$5,800   | \$500   | \$2,800   | \$500                       | \$23,000 | 1                         | \$23,000             |
| 94  | \$0                            | \$50                          | \$0                              | \$6,000                                  | \$1,000           | \$1,100   | \$500   | \$2,000   |                             | \$10,650 | 14                        | \$761                |
| 95  | \$0                            | \$0                           | \$0                              | \$300                                    | \$350             | \$1,300   | \$500   | \$1,700   | \$1,000                     | \$5,150  | 1                         | \$5,150              |
| 96  | \$0                            | \$0                           | \$0                              | \$2,000                                  | \$0               | \$1,900   | \$0   | \$0   | \$0                         | \$3,900  | 8                         | \$488                |
| 97  | \$0                            | \$0                           | \$300                            | \$4,000                                  | \$1,200           | \$2,150   | \$350   | \$1,125   | \$1,250                     | \$10,375 | 1                         | \$10,375             |
| 98  | \$0                            | \$5,000                       | \$0                              | \$10,000                                 | \$15,000          | \$5,500   | \$5,000   | \$15,000  | \$2,500                     | \$58,000 | 12                        | \$4,833              |
| 99  | \$625                          | \$1,500                       | \$750                            | \$2,350                                  | \$500             | \$1,600   | \$100   | \$1,650   | \$0                         | \$9,075  | 8                         | \$1,134              |
| 100 | \$250                          | \$50                          | \$500                            | \$3,300                                  | \$500             | \$3,750   | \$750   | \$3,650   | \$200                       | \$12,950 | 3                         | \$4,317              |
| 101 | \$0                            | \$25                          | \$0                              | \$350                                    | \$100             | \$475   | \$25  | \$25  | \$200                       | \$1,200  | 2                         | \$600                |
| 102 | \$0                            | \$100                         | \$0                              | \$3,000                                  | \$2,500           | \$1,700   | \$1,000   | \$3,500   |                             | \$11,800 | 10                        | \$1,180              |
| 103 | \$0                            | \$5                           | \$0                              | \$600                                    | \$0               | \$200   | \$45  |   | \$300                       | \$1,150  | 4                         | \$288                |
| 104 | \$0                            | \$0                           | \$0                              | \$500                                    | \$0               | \$0   | \$0   | \$0   | \$0                         | \$500    | 2                         | \$250                |
| 105 | \$0                            | \$0                           | \$0                              | \$50                                     | \$0               | \$0   | \$0   | \$0   | \$0                         | \$50     | 1                         | \$50                 |
| 106 | \$2,000                        | \$500                         | \$0                              | \$2,500                                  | \$0               | \$2,000   | \$0   | \$0   | \$5,000                     | \$12,000 | 35                        | \$343                |
| 107 | \$0                            | \$25                          | \$0                              | \$9,200                                  | \$100             | \$225   | \$100   |   | \$0                         | \$9,650  | 12                        | \$804                |
| 108 | \$0                            | \$140                         | \$0                              | \$4,880                                  | \$1,400           | \$1,400   | \$1,680   | \$1,680   | \$0                         | \$11,180 | 5                         | \$2,236              |
| 109 | \$0                            | \$0                           | \$0                              |  | \$3,600           |   | \$2,000   | \$20,500  |                             | \$26,100 | 18                        | \$1,450              |
| 110 | \$0                            | \$300                         | \$0                              | \$5,000                                  | \$2,500           | \$3,600   | \$500   | \$500   | \$500                       | \$12,900 | 15                        | \$860                |
| 111 | \$0                            | \$600                         | \$0                              | \$1,200                                  | \$2,000           | \$2,500   | \$1,200   | \$2,600   | \$600                       | \$10,700 | 8                         | \$1,338              |
| 112 | \$625                          | \$0                           | \$375                            | \$3,470                                  | \$300             | \$6,670   | \$4,160   | \$1,310   | \$0                         | \$16,910 | 7                         | \$2,416              |
| 113 | \$0                            | \$0                           | \$0                              | \$1,500                                  | \$1,200           |   |   |   |                             | \$2,700  | 1                         | \$2,700              |
| 114 | \$1,500                        | \$1,500                       | \$0                              | \$3,000                                  | \$2,500           | \$1,200   | \$500   | \$2,700   | \$5,000                     | \$17,900 | 5                         | \$3,580              |
| 115 | \$875                          | \$100                         | \$500                            | \$500                                    | \$500             | \$700   | \$250   | \$500   |                             | \$3,925  | 9                         | \$436                |
| 116 | \$375                          | \$0                           | \$800                            | \$4,850                                  | \$3,600           | \$250   | \$400   | \$400   |                             | \$10,675 | 5                         | \$2,135              |
| 117 | \$0                            | \$0                           | \$0                              | \$0                                      | \$0               |   | \$0   | \$0   | \$0                         | \$0      | 3                         | \$-                  |
| 118 | \$0                            | \$30                          | \$2,400                          | \$300                                    | \$500             | \$300   | \$60  | \$60  |                             | \$3,650  | 18                        | \$203                |
| 119 | \$375                          | \$250                         | \$500                            | \$7,500                                  | \$2,500           | \$6,850   | \$1,200   | \$2,500   |                             | \$21,675 | 3                         | \$7,225              |
| 120 | \$0                            | \$0                           | \$0                              | \$250                                    | \$0               | \$0   | \$100   | \$100   | \$0                         | \$450    | 4                         | \$113                |
| 121 | \$135                          | \$10                          | \$165                            | \$1,650                                  | \$1,650           | \$3,400   | \$500   | \$1,300   | \$10,000                    | \$18,810 | 1                         | \$18,810             |
| 122 | \$2,750                        | \$100                         | \$100                            | \$300                                    | \$500             | \$1,200   | \$100   | \$800   | \$100                       | \$5,950  | 37                        | \$161                |
| 123 | \$125                          |                               |                                  |  |                   |   |   |   |                             | \$125    | 1                         | \$125                |
| 124 | \$375                          | \$500                         | \$125                            | \$1,000                                  | \$3,500           | \$250   | \$3,600   | \$1,500   |                             | \$10,850 | 3                         | \$3,617              |
| 125 | \$0                            | \$0                           | \$0                              | \$300                                    | \$0               | \$0   | \$100   | \$100   | \$100                       | \$600    | 1                         | \$600                |
| 126 | \$0                            | \$100                         | \$1,000                          | \$3,000                                  | \$3,000           | \$2,100   | \$1,200   | \$3,400   | \$0                         | \$13,800 | 10                        | \$1,380              |
| 127 | \$0                            | \$50                          | \$0                              | \$700                                    | \$400             | \$750   | \$50  | \$350   | \$700                       | \$3,000  | 9                         | \$333                |
| 128 | \$750                          | \$900                         | \$750                            | \$1,500                                  | \$500             | \$660   | \$2,500   | \$1,900   | \$1,200                     | \$10,660 | 3                         | \$3,553              |
| 129 | \$0                            | \$100                         | \$0                              | \$1,300                                  | \$1,500           | \$1,400   | \$900   | \$3,100   | \$0                         | \$8,300  | 4                         | \$2,075              |



|     | Cost to MB to License LO | Cost to Produce LO List | Continuing Education Costs | Exams: Rptng Records Other Total | Exams Pro Svcs | Exams: Equip Supplies Labor Other Total | Cost to Provide Records for Annual Report | Costs for Annual Rpt: Professional Services, Equipment, Supplies, and Labor | Costs to use DBA Only | TOTAL          | Number Of Employees | Cost Per Employee |
|-----|--------------------------|-------------------------|----------------------------|----------------------------------|----------------|---|---|---|-----------------------|----------------|---------------------|-------------------|
| 130 | \$125                    | \$50                    | \$0                        | \$850                            | \$400          | \$400                                   | \$250                                     | \$500   | \$200                 | \$2,775        | 1                   | \$2,775           |
| 131 | \$125                    | \$1,000                 | \$500                      | \$1,200                          | \$1,200        | \$2,400                                 | \$1,000                                   | \$2,400   |                       | \$9,825        | 1                   | \$9,825           |
| 137 | \$0                      | \$10,000                | \$0                        | \$137,000                        | \$15,000       | \$161,000                               |   |   |                       | \$323,000      | 19                  | \$17,000          |
| 138 | \$125                    | \$1,000                 | \$500                      | \$2,500                          | \$1,500        | \$1,700                                 | \$500                                     | \$1,200   |                       | \$9,025        | 4                   | \$2,256           |
| 148 | \$0                      | \$100                   | \$1,500                    | \$1,500                          | \$1,000        | \$1,500                                 |   |   |                       | \$5,600        | 13                  | \$431             |
| 149 | \$2,375                  | \$0                     | \$0                        |                                  |                |   |   |   |                       | \$2,375        | 26                  | \$91              |
| 153 | \$0                      | \$600                   | \$0                        | \$1,200                          |                | \$1,200                                 |   |   |                       | \$3,000        | 1                   | \$3,000           |
| 154 | \$0                      | \$1,500                 | \$0                        | \$4,650                          | \$1,450        | \$1,900                                 | \$2,500                                   |   |                       | \$12,000       | 6                   | \$2,000           |
| 155 | \$625                    | \$500                   | \$1,500                    | \$3,000                          | \$2,500        | \$5,500                                 |   |   |                       | \$13,625       | 4                   | \$3,406           |
| 158 | \$0                      | \$150                   | \$0                        | \$1,000                          | \$1,000        | \$650                                   | \$150                                     | \$550   |                       | \$3,500        | 2                   | \$1,750           |
| 160 | \$0                      | \$1,000                 | \$0                        | \$7,000                          | \$1,000        | \$3,600                                 |   |   |                       | \$12,600       | 4                   | \$3,150           |
| 161 | \$0                      | \$250                   | \$0                        |                                  |                |   |   |   |                       | \$250          | 15                  | \$17              |
| 162 | \$500                    | \$100                   | \$500                      | \$500                            | \$1,200        | \$1,700                                 | \$50                                      |   |                       | \$4,550        | 2                   | \$2,275           |
| 163 | \$125                    | \$200                   | \$600                      |                                  |                |   |   |   |                       | \$925          | 2                   | \$463             |
| 164 | \$625                    |                         | \$750                      |                                  |                |   |   |   |                       | \$1,375        | 8                   | \$172             |
| 166 | \$750                    | \$150                   | \$3,500                    |                                  |                |   |   |   |                       | \$4,400        | 7                   | \$629             |
| 167 | \$0                      | \$1,000                 | \$0                        |                                  |                |   |   |   |                       | \$1,000        | 1                   | \$1,000           |
| 168 | \$250                    | \$100                   | \$300                      |                                  |                |   |   |   |                       | \$650          | 6                   | \$108             |
| 172 | \$125                    | \$5,000                 | \$1,000                    |                                  |                |   |   |   |                       | \$6,125        | 1                   | \$6,125           |
| 173 | \$0                      | \$0                     | \$0                        | \$500                            | \$500          | \$0                                     | \$1,000                                   |   | \$1,000               | \$3,000        | 2                   | \$1,500           |
| 174 | \$0                      | \$500                   | \$0                        |                                  |                |   |   |   |                       | \$500          | 23                  | \$22              |
| 175 | \$0                      | \$500                   | \$0                        |                                  |                |   |   |   |                       | \$500          | 15                  | \$33              |
| 176 | \$750                    | \$100                   | \$0                        |                                  |                |   |   |   |                       | \$850          | 10                  | \$85              |
| 177 | \$250                    | \$0                     | \$400                      |                                  |                |   |   |   |                       | \$650          | 3                   | \$217             |
| 178 | \$875                    | \$2,000                 | \$2,000                    |                                  |                |   |   |   |                       | \$4,875        | 7                   | \$696             |
| 179 | \$500                    | \$100                   | \$250                      |                                  |                |   |   |   |                       | \$850          | 6                   | \$142             |
| 180 | \$0                      | \$5,100                 | \$0                        |                                  |                |   |   |   |                       | \$5,100        | 2                   | \$2,550           |
| 181 | \$625                    | \$5,000                 |                            |                                  |                |   |   |   |                       | \$5,625        | 6                   | \$938             |
| 182 | \$0                      | \$1,000                 | \$2,000                    | \$3,000                          | \$1,000        | \$1,050                                 |   |   |                       | \$8,050        | 12                  | \$671             |
| 183 | \$875                    | \$100                   | \$0                        |                                  |                |   |   |   |                       | \$975          | 10                  | \$98              |
| 184 | \$0                      | \$0                     | \$0                        | \$100                            | \$100          | \$1,000                                 | \$500                                     | \$0   |                       | \$1,700        | 1                   | \$1,700           |
| 185 | \$0                      | \$100                   | \$500                      | \$300                            | \$500          | \$500                                   | \$600                                     | \$900   | \$250                 | \$3,650        | 2                   | \$1,825           |
|     |                          |                         |                            |                                  |                |   |   |   |                       |                |                     |                   |
|     | <b>Average</b>           | <b>Average</b>          | <b>Average</b>             | <b>Average</b>                   | <b>Average</b> | <b>Average</b>                          | <b>Average</b>                            | <b>Average</b>  | <b>Average</b>        | <b>Average</b> |                     | <b>Average</b>    |
|     | \$312                    | \$763                   | \$480                      | \$4,388                          | \$1,698        | \$2,046                                 | \$12,614                                  | \$2,465   | \$1,324               | \$12,993       |                     | \$2,982           |

**EXHIBIT D  
COSTS FOR MORTGAGE BROKERS WITH MORE THAN 50 EMPLOYEES**

| Cost to MB to License Los | Cost to Produce LO List | Continuing Education Costs | Exam: Equip Supplies Labor Costs | Exam Prof Services | Cost to Provide Records for Annual Report | Costs for Annual Rpt: Professional Services, Equipment, Supplies, and Labor | Costs to use DBA only | Total Costs | # of Employ. | Cost/ Employ. |
|---------------------------|-------------------------|----------------------------|----------------------------------|--------------------|---|---|-----------------------|-------------|--------------|---------------|
| \$0                       | \$3,000                 | \$0                        | \$2,500                          | \$0                | \$500                                     | \$10,300  |                       | \$16,300    | 60           | \$40          |
| \$0                       | \$10,000                | \$0                        | \$1,500                          | \$5,000            | \$1,000                                   | \$0   | \$10,000              | \$27,500    | 857          | \$76          |
| \$1,250                   | \$100                   | \$2,500                    | \$4,000                          | \$2,500            | \$7,000                                   | \$12,500  | \$0                   | \$29,850    | 100          | \$50          |
| \$0                       | \$100                   | \$0                        | \$8,000                          | \$1,000            | \$2,000                                   | \$8,000   |                       | \$19,100    | 100          | \$0           |
| \$0                       | \$350                   | \$0                        | \$650                            | \$500              | \$50                                      | \$1,000   | \$25                  | \$2,575     | 96           | \$79          |
| \$0                       | \$2,000                 | \$0                        | \$3,200                          | \$1,500            | \$1,500                                   | \$800   | \$0                   | \$9,000     | 125          | \$0           |
| \$0                       | \$1,200                 | \$0                        | \$500                            | \$500              | \$0                                       | \$100   | \$5,000               | \$7,300     | 97           | \$25          |

| Cost to MB to License Los | Cost to Produce LO List | Continuing Education Costs | Exam: Equip Supplies Labor Costs | Exam Prof Services | Cost to Provide Records for Annual Report | Costs for Annual Rpt: Professional Services, Equipment, Supplies, and Labor | Costs to use DBA only | Total Costs | # of Employ. | Cost/ Employ. |
|---------------------------|-------------------------|----------------------------|----------------------------------|--------------------|---|---|-----------------------|-------------|--------------|---------------|
| \$0                       | \$50                    | \$0                        | \$880                            | \$2,000            | \$150                                     | \$1,100   | \$0                   | \$4,180     | 60           | \$40          |
| \$625                     | \$300                   | \$3,000                    | \$11,025                         | \$7,000            | \$1,500                                   |   | \$0                   | \$23,450    | 135          | \$95          |
| \$0                       | \$100                   | \$0                        | \$1,610                          | \$1,000            | \$120                                     | \$120   | \$50                  | \$3,000     | 120          | \$0           |
| \$0                       | \$300                   | \$0                        | \$1,250                          | \$250              | \$0                                       | \$0   | \$0                   | \$1,800     | 89           | \$20          |
| \$0                       | \$600                   | \$0                        | \$500                            | \$800              | \$50                                      | \$355   |                       | \$2,305     | 80           | \$65          |
| \$500                     | \$3,000                 | \$6,000                    | \$20,000                         | \$250,000          | \$3,000                                   | \$46,000  | \$500                 | \$329,000   | 150          | \$50          |
| \$7,750                   | \$2,000                 | \$0                        | \$0                              | \$0                | \$1,000                                   | \$0   |                       | \$10,750    | 102          | \$40          |
| \$17,500                  | \$1,000                 | \$10,000                   |                                  |                    |   |   |                       | \$28,500    | 150          | \$0           |
| \$0                       | \$50                    | \$0                        |                                  |                    |   |   |                       | \$50        | 56           | \$50          |
| \$0                       | \$0                     | \$0                        |                                  |                    |   |   |                       | \$0         | 170          | \$0           |
| \$4,250                   | \$200                   |                            |                                  |                    |   |   |                       | \$4,450     | 89           | \$0           |
| \$0                       | \$0                     | \$0                        |                                  |                    |   |   |                       | \$0         | 280          | \$0           |
| \$3,125                   |                         |                            |                                  |                    |   |   |                       | \$3,125     | 184          | \$181         |
| \$0                       | \$250                   | \$0                        |                                  |                    |   |   |                       | \$250       | 105          | \$40          |
| \$3,125                   | \$35,000                | \$10,000                   | \$37,000                         | \$35,000           | \$30,000                                  | \$77,000  | \$5,000               | \$232,125   | 57           | \$21          |
| \$12,500                  | \$1,000                 | \$1,200                    | \$1,600                          | \$800              | \$100                                     | \$1,900   | \$1,500               | \$20,600    | 115          | \$15          |
| Total                     | Total                   | Total                      | Total                            |                    | Total                                     | Total   | Total                 | Total       |              |               |
| \$50,625                  | \$47,600                | \$32,700                   | \$90,215                         | \$302,850          | \$46,470                                  | \$148,875   |                       | \$719,335   |              |               |
| Average                   | Average                 | Average                    | Average                          | Average            | Average                                   | Average   | Average               | Average     |              | Average       |
| \$2,411                   | \$3,189                 | \$5,450                    | \$6,448                          | \$20,523           | \$3,426                                   | \$14,264  | \$3,154               | \$33,705    |              | \$39          |

A copy of the statement may be obtained by contacting Jeannette Terry, P.O. Box 41200, 150 Israel Road, Olympia, WA 98504-1200, phone (360) 902-8786, fax (360) 586-5068, e-mail jterry@dfi.wa.gov.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable to the proposed rules.

September 1, 2006

Chuck Cross

Director, Consumer Services

**NEW SECTION**

**WAC 208-660-005 Purpose, scope and coverage. (1) What is the purpose of the Mortgage Broker Practices Act?** The purpose of the Mortgage Broker Practices Act is to establish a state system of licensure and rules of practice and conduct for mortgage brokers and loan originators, to promote honesty and fair dealing with citizens, and to preserve public confidence in the lending and real estate community.

**(2) What is the purpose of the Mortgage Broker Practices Act rules?** The purpose of these rules is to administer and interpret the Mortgage Broker Practices Act in order to govern the activities of licensed mortgage brokers, loan originators, and other persons subject to the act.

**(3) What is the scope and coverage of the Mortgage Broker Practices Act and these rules?** There are four criteria to determine the scope and coverage of the Mortgage Broker Practices Act and these rules. All of the criteria must be met in order for a person or entity to fall under the scope and coverage of the act and these rules. The criteria are:

- (a) The persons or entities conducting business;

- (b) The type of transactions performed when conducting the business;

- (c) The identification of residential real estate; and

- (d) The location of the mortgage broker, loan originator, potential borrower, and residential real estate.

**(4) What persons or entities are covered?** The Mortgage Broker Practices Act and these rules apply to all persons or entities defined as mortgage brokers under RCW 19.146.010(12), or loan originators under RCW 19.146.010(10). However, certain mortgage brokers and loan originators may be exempt from all or part of the act under RCW 19.146.020 as discussed in WAC 208-660-008.

**(5) What types of transactions are covered?** The Mortgage Broker Practices Act and these rules cover the making or assisting in obtaining of any "residential mortgage loan" defined in RCW 19.146.010(15) and WAC 208-660-006. The terms "making" and "assisting" are defined under "mortgage broker" in WAC 208-660-006. Violations of RCW 19.146.0201, however, are not limited to residential mortgage loan transactions.

**(6) What is residential real estate?** Residential real estate is real property upon which is constructed or intended to be constructed, a single family dwelling, or multiple family dwelling of four or less units. See examples in WAC 208-660-006, "residential real estate."

**(7) Does the location of the mortgage broker, loan originator, potential borrower, and residential real estate affect whether the transaction is covered under the Mortgage Broker Practices Act?** If the mortgage broker, loan originator, potential borrower, or residential real estate is located in Washington, the transaction is covered by the Mortgage Broker Practices Act and these rules. However, the

director may choose to defer to other jurisdictions where doing so would, in the director's sole discretion, achieve the purposes of the Mortgage Broker Practices Act.

**(8) What are some examples of transactions falling under the scope and coverage of the Mortgage Broker Practices Act and these rules?**

(a) A loan originator employed with Mortgage Broker, Inc. with a physical office in Redmond, Washington takes a loan application from a Kirkland, Washington resident for the purchase of a home located in Bellevue, Washington. Mortgage Broker, Inc. is not exempt from the Mortgage Broker Practices Act under RCW 19.146.020 (1)(a)(i). The home located in Bellevue meets the definition of residential real estate and the purchaser intends to reside in the home.

(b) A loan originator with a physical office in Spokane, Washington takes a loan application from a Yakima, Washington resident for the purchase of a home located in Oregon. The mortgage broker is not exempt from the Mortgage Broker Practices Act under RCW 19.146.020 (1)(a)(ii). The home located in Oregon meets the definition of residential real estate and the purchaser intends to reside in the home.

(c) A loan originator with a physical office in Reno, Nevada working for a Nevada mortgage broker takes a loan application from a Nevada resident for the purchase of a home located in Olympia, Washington. The mortgage broker is not exempt from the Mortgage Broker Practices Act under RCW 19.146.020 (1)(a)(ii). The home located in Washington meets the definition of residential real estate and the purchaser intends to reside in the home.

**NEW SECTION**

**WAC 208-660-006 Definitions. What definitions are applicable to these rules?** Unless the context clearly requires otherwise, the definitions in this section apply throughout these rules.

"Act" means the Mortgage Broker Practices Act, chapter 19.146 RCW.

"Advertising material" means any form of sales or promotional materials to be used in connection with the mortgage broker business.

"Affiliate" means any person who directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with another person.

"Application" means the same as in Regulation X, Real Estate Settlement Procedures, 24 C.F.R. Sec. 3500 as of the effective date of these rules, which is the submission, whether written or computer-generated, of a borrower's financial information in anticipation of a credit decision relating to a residential mortgage loan. If the submission does not state or identify a specific property, the submission is an application for a prequalification and not an application for a residential mortgage loan under this part. The subsequent addition of an identified property to the submission converts the submission to an application for a residential mortgage loan.

For a refinance or purchase application that is not a prequalification, the credit report may be enough to constitute an application. The credit report date determines when the mortgage broker, or loan originator on behalf of the mortgage

broker, has gathered sufficient information to make a credit decision. This may be a trigger for early disclosures when the property address is known.

"Appraisal" means the act or process of developing an opinion of value, the act pertaining to an appraisal-related function, or any verbal or written opinion of value offered by an appraiser. The opinion of value by the appraiser includes any communication that is offered as a single point, a value range, a possible value range, exclusion of a value, or a minimum value.

"Borrower" means any person who consults with or retains a mortgage broker or loan originator in an effort to obtain or seek advice or information on obtaining or applying to obtain a residential mortgage loan for himself, herself, or persons including himself or herself, regardless of whether the person actually obtains such a loan.

"Branch office" means a fixed physical location such as an office, separate from the principal place of business of the licensee, where the licensee holds itself out as a mortgage broker.

"Branch office license" means a branch office license issued by the director allowing the licensee to conduct a mortgage broker business at the location indicated on the license.

"Certificate of passing an approved examination" means a certificate signed by the testing administrator verifying that the individual performed with a satisfactory score or higher.

"Certificate of satisfactory completion of an approved continuing education course" means a certificate signed by the course provider verifying that the individual has attended an approved continuing education course.

"Compensation or gain" means remuneration, benefits, or an increase in something having monetary value, including, but not limited to, moneys, things, discounts, salaries, commissions, fees, duplicate payments of a charge, stock, dividends, distributions of partnership profits, franchise royalties, credits representing moneys that may be paid at a future date, the opportunity to participate in a money-making program, retained or increased earnings, increased equity in a parent or subsidiary entity, special or unusual bank or financing terms, services of all types at special or free rates, sales or rentals at special prices or rates, lease or rental payments based in whole or in part on the amount of business referred, trips and payments of another person's expenses, or reduction in credit against an existing obligation. "Compensation or gain" is not evaluated solely on a loan by loan basis.

For example, a realtor advertising that buyers using their services will receive free loan origination assistance is doing so in the anticipation of "compensation or gain" through increased real estate business.

"Computer loan information systems" or "CLI system" means a real estate mortgage financing information system that facilitates the provision of information to consumers by a mortgage broker, loan originator, lender, real estate agent, or other person regarding interest rates and other loan terms available from different lenders.

For purposes of this definition, the CLI system includes computer hardware or software, an internet-based system, or any combination of these, which provides information to con-

sumers about residential mortgage interest rates and other loan terms which are available from another person.

"Computer loan information system provider" or "CLI provider" is any person who provides a computer loan information service, either directly, or as an owner-operator of a CLI system, or both.

"Consumer Protection Act" means chapter 19.86 RCW.

"Control" including the terms "controls," "is controlled by," or "is under common control" means the power, directly or indirectly, to direct or cause the direction of the management or policies of a person, whether through ownership of the business, by contract, or otherwise. A person is presumed to control another person if such person is:

- A general partner, officer, director, or employer of another person;
- Directly or indirectly or acting in concert with others, or through one or more subsidiaries, owns, holds with power to vote, or holds proxies representing, more than twenty percent of the voting interests of another person; or
- Has similar status or function in the business as a person in this definition.

"Convicted of a crime," irrespective of the pronouncement or suspension of sentence, means a person:

- Has been convicted of the crime in any jurisdiction;
- Has been convicted of a crime which, if committed within this state would constitute such a crime under the laws of this state;
- Has plead guilty or no contest or nolo contendere or stipulated to facts that are sufficient to justify a finding of guilt to such a charge before a court or federal magistrate; or
- Has been found guilty of a crime by the decision or judgment of a state or federal judge or magistrate, or by the verdict of a jury.

"Department" means the department of financial institutions.

"Designated broker" means a natural person designated as the person responsible for activities of the licensed mortgage broker in conducting the business of a mortgage broker under this chapter and who meets the experience and examination requirements set forth in RCW 19.146.210 (1)(e).

"Director" means the director of financial institutions.

"Discount points" or "points" mean a fee paid by a borrower to a lender to reduce the interest rate of a residential mortgage loan. Pursuant to Regulation X, discount points are to be reflected on line 802 of the good faith estimate and settlement statement as a percentage of the loan amount.

"Division of consumer services" means the division of consumer services within the department of financial institutions, or such other division within the department delegated by the director to oversee implementation of the act and these rules.

"Employee" means an individual who has an employment relationship with a mortgage broker, and the individual is treated as an employee by the mortgage broker for purposes of compliance with federal income tax laws.

"Examination" or "compliance examination" means the examination performed by the division of consumer services, or such other division within the department delegated by the director to oversee implementation of the act and these rules

to determine whether the licensee is in compliance with applicable laws and regulations.

Federal statutes and regulations used in the act are:

- "Alternative Mortgage Transaction Parity Act" means the Alternative Mortgage Transaction Parity Act (AMTPA), 12 U.S.C. Sec. 3801 et seq.

- "Equal Credit Opportunity Act" means the Equal Credit Opportunity Act (ECOA), 15 U.S.C. Sec. 1691 et seq., Regulation B, 12 C.F.R. Part 202.

- "Fair Credit Reporting Act" means the Fair Credit Reporting Act (FCRA), 15 U.S.C. Sec. 1681 et seq.

- "Federal Trade Commission Act" means the Federal Trade Commission Act, 15 U.S.C. Sec. 45(a).

- "Gramm-Leach-Bliley Act" means the Gramm-Leach-Bliley Act (GLBA), at 15 U.S.C. Sec. 6801-6809, and the GLBA-mandated Federal Trade Commission (FTC) privacy rules, at 16 C.F.R. Parts 313-314.

- "Home Equity Loan Consumer Protection Act" means the Home Equity Loan Consumer Protection Act, 15 U.S.C. Sec. 1637 and 1647.

- "Home Mortgage Disclosure Act" means the Home Mortgage Disclosure Act (HMDA), 12 U.S.C. Sec. 2801-2810, Regulation C, 12 C.F.R. Part 203.

- "Home Ownership and Equity Protection Act" means the Home Ownership and Equity Protection Act (HOEPA), 15 U.S.C. Sec. 1639.

- "Real Estate Settlement Procedures Act" means the Real Estate Settlement Procedures Act (RESPA), 12 U.S.C. Sec. 2601 et seq., Regulation X, 24 C.F.R. Part 3500 et seq.

- "Telemarketing and Consumer Fraud and Abuse Prevention Act" means the Telemarketing and Consumer Fraud and Abuse Prevention Act, 15 U.S.C. Sec. 6101-6108, Telephone Sales Rule, 16 C.F.R. Part 310.

- "Truth in Lending Act" means the Truth in Lending Act (TILA), 15 U.S.C. Sec. 1601 et seq., Regulation Z, 12 C.F.R. Part 226 et seq.

"Federally insured financial institution" means a savings bank, savings and loan association, or credit union, whether state or federally chartered, or a federally insured bank, authorized to conduct business in this state.

"Financial misconduct," for the purposes of the act, means a criminal conviction for any of the following:

- Any conduct prohibited by the act;
- Any conduct prohibited by statutes governing mortgage brokers in other states, or the United States, if such conduct would constitute a violation of the act;
- Any conduct prohibited by statutes governing other segments of the financial services industry, including but not limited to the Consumer Protection Act, statutes governing the conduct of securities broker dealers, financial advisers, escrow officers, title insurance companies, limited practice officers, trust companies, and other licensed or chartered financial service providers; or
- Any conduct commonly known as white collar crime, including, but not limited to, embezzlement, identity theft, mail or wire fraud, insider trading, money laundering, check fraud, or similar crimes.

"Independent contractor" means any person that expressly or impliedly contracts to perform mortgage brokering services for another and that with respect to its manner or

means of performing the services is not subject to the other's right of control, and that is not treated as an employee by the other for purposes of compliance with federal income tax laws.

The following factors may be considered to determine if a person is an independent contractor:

Is the person instructed about when, where and how to work?

Is the person guaranteed a regular wage?

Is the person reimbursed for business expenses?

Does the person maintain a separate business?

Is the person exposed to potential profits and losses?

Is the person provided employee benefits such as insurance, a pension plan, or vacation or sick pay?

"Licensee" means:

- A mortgage broker licensed by the director; or
- The principal(s) or designated broker of a mortgage broker; or
- A loan originator licensed by the director; or
- Any person subject to licensing under RCW 19.146.200; or
- Any person acting as a mortgage broker or loan originator subject to any provisions of the act.

"License application fee" means immediately available funds paid to the department for each mortgage broker, loan originator, or mortgage broker branch office license application.

"Loan application" means the same as "application," in this section.

"Loan originator" means a natural person who:

- Takes a residential mortgage loan application for a mortgage broker; or
- Offers or negotiates terms of a mortgage loan, for direct or indirect compensation or gain, or in the expectation of direct or indirect compensation or gain. "Loan originator" also includes a person who holds themselves out to the public as able to perform any of these activities. "Loan originator" does not mean persons performing purely administrative or clerical tasks for a mortgage broker. For the purposes of this subsection, "administrative or clerical tasks" means the receipt, collection, and distribution of information common for the processing of a loan in the mortgage industry and communication with a borrower to obtain information necessary for the processing of a loan. A person who holds himself or herself out to the public as able to obtain a loan is not performing administrative or clerical tasks.

For purposes of further defining "loan originator," "taking a residential mortgage loan application" includes soliciting, accepting, or offering to accept an application for a residential mortgage loan or assisting a borrower or offering to assist a borrower in the preparation of a residential mortgage loan application.

For purposes of this definition, a person "holds themselves out" by advertising or otherwise informing the public that the person engages in any of the activities of a mortgage broker or loan originator, including the use of business cards, stationery, brochures, rate lists or other promotional items.

"Loan originator licensee" means a natural person who is licensed as a loan originator or is subject to licensing under

RCW 19.146.200 or who is acting as a loan originator subject to any provisions of the act.

"Loan processor" means a natural person who performs clerical or support duties at the direction of and subject to the supervision and instruction of a licensed or exempt mortgage broker. The job responsibilities may include the receipt, collection and distribution of information common for the processing of a loan. The loan processor may also communicate with a borrower to obtain the information necessary for the processing of a loan, provided that such communication does not include offering or negotiating loan rates or terms, or counseling borrowers about loan rates or terms.

"Lock-in agreement" means an agreement with a borrower made by a mortgage broker or loan originator, in which the mortgage broker or loan originator agrees that, for a period of time, a specific interest rate or other financing terms will be the rate or terms at which it will make a loan available to that borrower.

"Mortgage broker" means any person who for compensation or gain, or in the expectation of compensation or gain:

- Makes a residential mortgage loan or assists a person in obtaining or applying to obtain a residential mortgage loan; or
- Holds himself or herself out as being able to make a residential mortgage loan or assist a person in obtaining or applying to obtain a residential mortgage loan.

For purposes of this definition, a person "makes" a loan if: The loan is closed in their name, or they advance, offer to advance or make a commitment to advance funds to a borrower for a loan.

For purposes of this definition, a person "assists a person in obtaining or applying to obtain a residential mortgage loan" by, among other things, counseling on loan terms (rates, fees, other costs), preparing loan packages, or collecting enough information on behalf of the consumer to anticipate a credit decision under Regulation X, 24 C.F.R. Part 3500, Sec. 3500.2(b).

For purposes of this definition, a person "holds themselves out" by advertising or otherwise informing the public that they engage in any of the activities of a mortgage broker or loan originator, including the use of business cards, stationery, brochures, rate lists, or other promotional items.

"Mortgage broker licensee" means a person that is licensed as a mortgage broker or is subject to licensing under RCW 19.146.200 or is acting as a mortgage broker subject to any provisions of the act.

"Mortgage Broker Practices Act" means chapter 19.146 RCW.

"Out-of-state applicant or licensee" means a person subject to licensing that maintains an office outside of this state.

"Person" means a natural person, corporation, company, limited liability corporation, partnership, or association.

"Prepaid escrowed costs of ownership," as used in RCW 19.146.030(4), means any amounts prepaid by the borrower for the payment of taxes, property insurance, interim interest, and similar items in regard to the property used as security for the loan.

"Principal" means any person who controls, directly or indirectly through one or more intermediaries, or alone or in concert with others, a ten percent or greater interest in a part-

nership, company, association, or corporation, and the owner of a sole proprietorship.

"Registered agent" means a person located in Washington appointed to accept service of process for a licensee.

"Residential mortgage loan" means any loan primarily for personal, family, or household use secured by a mortgage or deed of trust on residential real estate upon which is constructed or intended to be constructed a single family dwelling or multiple family dwelling of four or less units.

For purposes of this definition, a loan "primarily for personal, family, or household use" includes loan applications for a finance or refinance of a primary residence for any purpose, loan applications on second homes, and loan applications on nonowner occupied residential real estate provided the licensee has knowledge that proceeds of the loan are intended to be used primarily for personal, family or household use.

"Residential real estate" is real property upon which is constructed or intended to be constructed, a single family dwelling or multiple family dwelling of four or less units.

- Residential real estate includes, but is not limited to:
  - A single family home;
  - A duplex;
  - A triplex;
  - A fourplex;
  - A single condominium in a condominium complex;
  - A single unit within a cooperative;
  - A manufactured home when the home and real property together will secure the residential mortgage loan; or
  - A fraction, fee simple interest in any of the above.
- Residential real estate does not include:
  - An apartment building or dwelling of five or more units;

- A single piece of real estate with five or more single family dwellings unless each dwelling is capable of being financed independently of the other dwellings; or

- Any dwelling on leased or rented land or space, such as dwellings in a manufactured home park unless the mortgage broker treats such property as residential real estate.

"Table-funding" means a settlement at which a mortgage loan is funded by a contemporaneous advance of loan funds and an assignment of the loan to the person advancing the funds. The mortgage broker originates the loan and closes the loan in its own name with funds provided contemporaneously by a lender to whom the closed loan is assigned.

"Third-party provider" means any person other than a mortgage broker or lender who provides goods or services to the mortgage broker in connection with the preparation of the borrower's loan and includes, but is not limited to, credit reporting agencies, title companies, appraisers, structural and pest inspectors, or escrow companies.

A lender is considered a third party only when the lender provides lock-in arrangements to the mortgage broker in connection with the preparation of a borrower's loan.

#### NEW SECTION

**WAC 208-660-007 Good standing.** (1) **What does good standing mean?** For the purposes of the act and these rules, good standing means that the applicant, licensee, or

other person subject to the act demonstrates financial responsibility, character, and general fitness sufficient to command the confidence of the community and to warrant a belief that the business will be operated honestly, fairly, and efficiently within the purposes of the act and these rules. In determining good standing the director will consider the following factors, and any other evidence relevant to good standing as defined in this rule:

(a) Whether the applicant or licensee has paid all fees due to the director.

(b) Whether the licensee has filed their mortgage broker annual report.

(c) Whether the licensee has filed and maintained the required surety bond or had its surety bond canceled or revoked for cause.

(d) Whether the licensee has maintained a designated broker in compliance with the act and these rules.

(e) Whether the applicant, licensee, or other person subject to the act has had any license, or any authorization or ability to do business under any similar statute of this or any other state, suspended, revoked, or restricted within the prior five years.

(f) Whether the applicant, licensee, or other person subject to the act has been convicted of a felony, or a gross misdemeanor involving dishonesty or financial misconduct, within the prior seven years.

(g) Whether the licensee or other person subject to the act, is, or has been subject to a cease and desist order or an injunction issued pursuant to the act, or the Consumer Protection Act, or has been found through an administrative, civil, or criminal proceeding to have violated the provisions of the act or rules, or the Consumer Protection Act, chapter 19.86 RCW.

(h) Whether the director has filed a statement of charges, or there is an outstanding order by the director to cease and desist against the licensee or other person subject to the act.

(i) Whether there is documented evidence of serious or significant complaints filed against the licensee, or other person subject to the act, and the licensee or other person subject to the act has been notified of the complaints and been given the opportunity to respond.

(j) Whether the licensee has allowed the licensed mortgage broker business to deteriorate into a condition that would result in denial of a new application for a license.

(k) Whether the licensee, or other person subject to the act has failed to comply with an order, directive, subpoena, or requirement of the director or director's designee, or with an assurance of discontinuance entered into with the director or director's designee.

(l) Whether the licensee or other person subject to the act has interfered with an investigation or disciplinary proceeding by willful misrepresentation of facts before the director or director's designee, or by the use of threats or harassment against a client, witness, employee of the licensee, or representative of the director for the purpose of preventing them from discovering evidence for, or providing evidence in, any disciplinary proceeding or other legal action.

(2) **Under what circumstances may the department conduct a good standing review of an applicant, mortgage broker licensee, designated broker, or exempt mortgage**

**broker?** The department may conduct a good standing review when:

(a) Processing an application for a new mortgage broker branch office license.

(b) Processing an application for appointment of a different designated broker (both the licensed mortgage broker, including those individuals to whom the license was granted, and the proposed designated broker must meet good standing).

(c) Processing a request for recognition as an exempt mortgage broker under RCW 19.146.020(4).

**(3) When will an applicant, licensee, or other person subject to the act receive notice from the department of their failure to meet a determination of good standing?** The department will notify the applicant, licensee, or other person subject to the act that they have failed to meet the department's good standing requirement within ten business days of the department's receipt of any application or request that requires a determination of good standing. See subsection (2) of this section.

**(4) What recourse does an applicant, licensee, or other person subject to the act have when the department has determined that they are not in good standing?** The applicant, licensee, or other person subject to the act may request a brief adjudicative proceeding under the Administrative Procedure Act, chapter 34.05 RCW, to challenge the department's determination.

**(5) What department determinations may be challenged through a brief adjudicative proceeding?** Subsection (1)(a) through (1) of this section may be challenged through a brief adjudicative process.

**(6) What specific sections of the Administrative Procedure Act are adopted by the director to administer brief adjudicative proceedings?** The director adopts RCW 34.05.482 through 34.05.494 to administer brief adjudicative proceedings requested by an applicant or licensee, or conducted at the director's discretion.

**(7) Who conducts the brief adjudicative proceeding?** Brief adjudicative proceedings are conducted by a presiding officer designated by the director. The presiding officer must have department expertise in the subject matter, but must not have personally participated in the department's determination of good standing, or work in the department's division of consumer services, or such other division within the department delegated by the director to oversee implementation of the act and these rules.

**(8) When and how will the presiding officer issue a decision?** Within ten business days of the final date for submission of materials, or oral argument, if any, the presiding officer must make a written initial order.

#### NEW SECTION

**WAC 208-660-008 Exemption from licensing.** (1) **If I am licensed as an insurance agent under RCW 48.17.060, must I have a separate license to act as a loan originator or mortgage broker?** Yes. You will need a separate license as a loan originator or mortgage broker if you are a licensed insurance agent and you do any of the following:

(a) Take a residential mortgage loan application for a mortgage broker;

(b) Offer or negotiate terms of a mortgage loan for direct or indirect compensation or gain, or in the expectation of direct or indirect compensation or gain;

(c) Make a residential mortgage loan, or assist a person in obtaining or applying to obtain a residential mortgage loan, for compensation or gain; or

(d) Hold yourself out as being able to perform any of the above services.

**(2) Are insurance companies exempt from the Mortgage Broker Practices Act?** Yes. Insurance companies authorized to transact the business of insurance in this state by the Washington state office of the insurance commissioner are exempt from the Mortgage Broker Practices Act.

**(3) If I make residential mortgage loans under the Consumer Loan Act, chapter 31.04 RCW, am I exempt from the Mortgage Broker Practices Act?** If you are licensed under the Consumer Loan Act, any loans covered by that act are exempt from the Mortgage Broker Practices Act. Complying with the Consumer Loan Act includes abiding by the requirements and restrictions of that act and counting all loans originated and made under that act for purposes of your annual assessment.

**(4) If I am an exempt mortgage broker because my business has been approved by and is subject to audit by Fannie Mae or Freddie Mac, am I subject to licensing or any other sections of the act?** You are not required to have a license, but you are subject to RCW 19.146.0201 through 19.146.080, and the rules associated with those sections of the act. Those sections include prohibited practices, certain required disclosures, the requirement of a writing for agreements, trust fund requirements, books and records requirements, limitations on fees or compensation, and the requirement to provide the consumer with certain information they have paid for. You are also subject to the investigation and enforcement authority of the director.

**(5) If I am an exempt mortgage broker because my business has been approved by and is subject to audit by Fannie Mae or Freddie Mac, are my loan originators subject to licensing or any other sections of the act?** Your loan originator employees are not required to have a license, but they are subject to RCW 19.146.0201 through 19.146.080, and the rules associated with those sections of the act. Those sections include prohibited practices, certain required disclosures, the requirement of a writing for agreements, trust fund requirements, books and records requirements, limitations on fees or compensation, and the requirement to provide the consumer with certain information they have paid for. Your loan originator employees are also subject to the investigation and enforcement authority of the director.

Your independent contractor loan originators are not exempt under this section.

**(6) Am I exempt from the Mortgage Broker Practices Act if I make or acquire residential mortgage loans solely with my own funds for my own investment without intending to resell the residential mortgage loans?** You are exempt from the licensing requirements, but you are subject to RCW 19.146.0201 through 19.146.080, and the rules associated with those sections of the act. Those sections

include prohibited practices, certain required disclosures, the requirement of a writing for agreements, trust fund requirements, books and records requirements, limitations on fees or compensation, and the requirement to provide the consumer with certain information they have paid for. You are also subject to the investigation and enforcement authority of the director.

For purposes of this section, intent to resell residential mortgage loans is determined by your ability and willingness to hold the residential mortgage loans, indicated by, but not limited to, such measures as whether you have sold loans in the past, whether the loans conform to established secondary market standards for the sale of loans, and whether your financial condition would reasonably allow you to hold the residential mortgage loans.

**(7) If I am an exempt mortgage broker because I am making or acquiring residential mortgage loans solely with my own funds for my own investment without intending to resell the residential mortgage loans, are my loan originators subject to licensing or any other sections of the act?** Your loan originator employees are not required to have a license, but they are subject to RCW 19.146.0201 through 19.146.080, and the rules associated with those sections of the act. Those sections include prohibited practices, certain required disclosures, the requirement of a writing for agreements, trust fund requirements, books and records requirements, limitations on fees or compensation, and the requirement to provide the consumer with certain information they have paid for. Your loan originator employees are also subject to the investigation and enforcement authority of the director.

Your independent contractor loan originators are not exempt under this section.

**(8) As an attorney, must I have a mortgage broker or loan originator license to assist a person in obtaining or applying to obtain a residential mortgage loan in the course of my practice?**

(a) If you are a licensed attorney and if the mortgage broker activities are incidental to your professional duties as an attorney, you are exempt from the Mortgage Broker Practices Act under RCW 19.146.020 (1)(c).

(b) Whether an exemption is available to you depends on the facts and circumstances of your particular situation. For example, if you hold yourself out publicly as being able to perform the services of a mortgage broker or loan originator, or if your fee structure for those services is different from the customary fee structure for your professional legal services, the department will consider you to be principally engaged in the mortgage broker business and you will need a mortgage broker or loan originator license before performing those services. A "customary" fee structure for the professional legal service does not include the receipt of compensation or gain associated with obtaining a residential mortgage loan on the property.

**(9) As a licensed real estate broker or salesperson, must I have a mortgage broker or loan originator license when I assist the purchaser in obtaining financing for a residential mortgage loan involving a bona fide sale of real estate?** You are exempt from the act under RCW 19.146.020 (1)(g) if you only receive the customary real

estate commission in connection with the transaction. A "customary" real estate commission does not include receipt of compensation or gain associated with the financing of the property. A "customary" real estate commission only includes the agreed upon commission designated in the listing or purchase and sale agreement for the bona fide sale of the subject property.

**(10) Under what circumstances will the director approve an exemption under RCW 19.146.020(4) for the exclusive agents working as loan originators of an affiliate of a bank that is wholly owned by the bank holding company that owns that bank?**

(a) The director will provide a written exemption from loan originator licensing for the exclusive agents of an affiliate of a bank that is wholly owned by the bank holding company that owns the bank if the director finds that the affiliate is licensed and is in "good standing" with the department and the affiliate has procedures in place, as evidenced by a written "plan of business," to reasonably assure the department that:

(i) The exclusive agents of the affiliate of a bank operate exclusively as loan originators for the affiliate and not for other mortgage brokers;

(ii) The affiliate of the bank requires continuing education for the exclusive agents that meets the same or similar requirements approved by the director for licensed loan originators;

(iii) The affiliate of the bank will notify the department if the affiliate terminates an exclusive agent because the exclusive agent:

(A) Has had any license, or any authorization to do business under any similar statute of this or any other state, suspended, revoked, or restricted within the prior five years; or

(B) Has been convicted of a felony, or a gross misdemeanor involving dishonesty or financial misconduct, within the prior seven years; or

(C) Has been subject to a cease and desist order or an injunction issued pursuant to the act, or the Consumer Protection Act, or has been found through an administrative, civil, or criminal proceeding to have violated the provisions of the act or rules, or the Consumer Protection Act, chapter 19.86 RCW.

(b) To qualify for this exemption, the affiliate must make a written request to the department and submit a "plan of business" with the request. After receipt of this request, the department will notify the affiliate in writing within ten business days whether the affiliate's exclusive agents qualify for the exemption, or if the department will conduct additional review of the affiliate and the "plan of business." The affiliates must receive the department's notice of qualification for exemption before the affiliate's exclusive agents take any action that would subject them to licensing under the act.

(c) The exemption granted by the director remains valid as long as the affiliate complies in all material respects with its "plan of business" and the affiliate remains in good standing with the department.

**(11) What are the responsibilities of a mortgage broker that is exempt from the licensing provisions of the act?** The owners of companies exempt from licensing under RCW 19.146.020 (1)(e), (g), or (4), are responsible for:



(a) Complying with RCW 19.146.0201 through 19.146.-080, and 19.146.235;

(b) Ensuring compliance with the act by all entities representing the exempt mortgage broker; and

(c) Notifying the director of any change affecting the mortgage broker's exempt status under the act.

**(12) Are the independent contractors of a mortgage broker exempt under RCW 19.146.020 (1)(b), (c), (e), and (g) themselves exempt?** No. After January 1, 2007, an independent contractor working as a loan originator for a mortgage broker exempt under RCW 19.146.020 (1)(b), (c), (e), and (g) must hold a loan originator license.

**(13) What other persons or entities are exempt from the Mortgage Broker Practices Act?**

(a) Any person doing any act under order of any court except for a person subject to an injunction to comply with any provision of the act or any order of the director issued under the act.

(b) The United States of America, the state of Washington, any other state, and any Washington city, county, or other political subdivision, and any agency, division, or corporate instrumentality of any of the entities in this subsection (b).

**(14) When is a CLI provider exempt from the licensing requirements of the act?** A CLI provider is exempt from the licensing requirements of the act:

(a) When the CLI provider meets the general statutory requirements under RCW 19.146.020 (1)(a), (c), (d), (e), (g), or (h); or

(b) When a real estate broker or salesperson licensed in Washington, acting as a CLI provider and a real estate agent, obtains financing for a real estate transaction involving a bona fide sale of real estate and does not receive either:

(i) A separate fee for the CLI service; or

(ii) A sales commission greater than that which would be otherwise customary in connection with the sales transaction; or

(c) When a person, acting as a CLI provider:

(i) Provides only information regarding rates, terms, and lenders;

(ii) Complies with all requirements of subsection (16) of this section;

(iii) Does not represent or imply to a borrower that they are able to obtain a residential mortgage loan from a mortgage broker or lender;

(iv) Does not accept a loan application, assist in the completion of a loan application, or submit a loan application to a mortgage broker or lender on behalf of a borrower;

(v) Does not accept any deposit for third-party services or any loan fees from a borrower in connection with a loan, regardless of when the fees are paid;

(vi) Does not negotiate interest rates or terms of a loan with a mortgage broker or lender on behalf of a borrower; and

(vii) Does not provide to the borrower a good faith estimate or other disclosure(s) required of mortgage brokers or lender(s) by state or federal law.

(d) If the CLI provider is not exempt under (a), (b), or (c) of this subsection, the CLI provider is not required to have a mortgage broker license if the CLI provider does not receive

any fee or other compensation or gain, directly or indirectly, for performing or facilitating the CLI service.

**(15) When is a CLI provider required to have a mortgage broker license?**

(a) If a CLI provider, who is not otherwise exempt from the licensing requirements of the act, performs any act that would otherwise require that they be licensed, including accepting a loan application, or submitting a loan application to a mortgage broker or lender, the CLI provider must obtain a mortgage broker license.

(b) Example - License required: A CLI provider uses an internet-based CLI system in which an abbreviated application is available for online completion by borrower. Once the borrower presses "submit," the information collected in the abbreviated application is forwarded to lender. The information contains the borrower's name, Social Security number, contact information, purpose of the loan sought (e.g., purchase, refinance, home equity, second mortgage), size of loan requested, annual salary, and a self-declaration of total unsecured debt. The electronic entries made by the borrower are then used by lender to electronically populate "form fields" and to initiate lender's loan application. A loan originator for the lender then follows up with borrower to complete the loan application. On or after closing, CLI provider receives a CLI service fee.

(c) Example - License not required: A CLI provider uses an internet-based CLI system in which various interactive informational tools are present, including an online "prequalification" tool. Based upon borrower's self-declared data input, borrower receives an indication of borrower's "maximum affordable loan amount," based upon standard norms of debt-to-income ratio and loan-to-value ratio, and also subject to verification of information, availability and suitability of loan products, and independent underwriting by any lender. The borrower indicates a desire for follow-up from one or more lenders by inputting personal contact information and pressing "submit." A number of lenders receive only the personal identity information of borrower and not any financial information. However, the CLI system has been programmed (and may be continuously reprogrammed) to route personal contact information to certain lenders based upon borrower's "prequalification" data input and the lending criteria of each of the lenders for whom CLI provider has a relationship. None of borrower's self-declared financial information is actually submitted to any of the lenders whose criteria match borrower's profile. Loan originators from lender A and lender B initiate contact with borrower based solely on borrower's contact information. Lender A and lender B, through their assigned loan originators, contact borrower with the object of beginning and hopefully completing a loan application. In this example, CLI provider has not taken a loan application.

**(16) Must the CLI provider provide any disclosures?**

(a) Yes. If a borrower using or accessing the CLI services pays for the CLI service, either directly or indirectly, the CLI provider must give the following disclosure:

(i) The amount of the fee the CLI provider charges the borrower for the service;

(ii) That the use of the CLI system is not required to obtain a residential mortgage loan; and

(iii) That the full range of loans available may not be listed on the CLI system, and different terms and conditions, including lower rates, may be available from others not listed on the system.

(b) Each CLI provider must give the borrower a copy of the disclosure form when the first CLI service is provided to the borrower. The form must be signed and dated by the borrower and a copy maintained as part of the CLI provider's books and records for at least two years.

(17) **Are CLI system providers subject to enforcement under the act?** Yes. CLI system providers are responsible for any violations of the act and will be subject to any applicable fines or penalties.

## MORTGAGE BROKERS

### NEW SECTION

**WAC 208-660-155 Mortgage brokers—General (1) May I make residential mortgage loans in Washington without a license?** No. Mortgage brokers and loan originators must have a valid Washington license, or be exempt from licensing pursuant to RCW 19.146.020, in order to originate residential mortgage loans. There is no "one-time one loan" exception.

(2) **May I originate a Washington residential mortgage loan using the license of an already licensed or exempt Washington mortgage broker and then split the proceeds with that mortgage broker?** No. Mortgage broker licenses may only be used by the entity named on the license. Mortgage broker licenses may not be transferred, sold, traded, assigned, loaned, shared, or given to any other person.

(3) **As a licensed mortgage broker, am I responsible for the actions of my employees and independent contractors?** Yes. You are responsible for any conduct violating the act or these rules by any person you employ, or engage as an independent contractor, to work in the business covered by your license.

(4) **Who at the licensed mortgage broker company is responsible for the licensee's compliance with the act and these rules?** The designated broker, principals, and owners with supervisory authority are responsible for the licensee's compliance with the act and these rules.

(5) **Under what circumstances may a mortgage broker charge the borrower a fee, commission, or other compensation for services rendered by the mortgage broker in obtaining a loan for the borrower?** The mortgage broker may charge the borrower a fee, commission, or other compensation for the preparation, negotiation, and brokering of a residential mortgage loan when the loan is closed on the terms and conditions agreed upon by the borrower and the mortgage broker.

(6) **Under what circumstances may a mortgage broker charge the borrower a fee, commission, or other type of compensation for services rendered when the loan does not close at all, or does not close on the terms and conditions agreed upon by the borrower and the mortgage broker?** A mortgage broker may charge a fee, and may bring a suit for collection of the fee, not to exceed three hundred dollars, for services rendered, for the preparation of documents,

or for the transfer of documents in the borrower's file which were prepared for, or paid for by, the borrower if:

(a) The mortgage broker has obtained a written commitment from a lender on the same terms and conditions agreed upon by the borrower and the mortgage broker; and

(b) The borrower fails to close on a loan through no fault of the mortgage broker; and

(c) The fee is not otherwise prohibited by the Truth in Lending Act.

(7) **As a mortgage broker, may I solicit or accept fees from a borrower in advance to pay third-party providers?** Yes. However, prior to accepting the funds, you must provide the borrower in writing a notice identifying the specific third-party provider goods and services the funds are to be used for. Additionally, you must not charge the borrower more for the third-party provider goods and services than the actual costs of the goods and services charged by the provider. Once you have the funds you must then:

(a) Deposit the funds in a trust account pursuant to the act and these rules (see WAC 208-660-410 on Trust accounting);

(b) Refund any fees collected for goods or services not provided.

(8) **What is a "written commitment from a lender on the same terms and conditions agreed upon by the borrower and mortgage broker"?** The written commitment is a written agreement or contract between the mortgage broker and lender containing mutually acceptable loan provisions and terms. The lender must be one with whom the mortgage broker maintains a written correspondent or loan brokerage agreement as required by RCW 19.146.040(2). The mutually acceptable loan provisions and terms must be the same terms and conditions set forth in the most recent good faith estimate signed by both the borrower and the mortgage broker.

(9) **What action must a mortgage broker take to activate a loan originator license?** To activate a loan originator license, the licensed mortgage broker must confirm with the department that the loan originator will be working for the licensed mortgage broker.

(10) **What action must a mortgage broker take to terminate a working relationship with a loan originator?** The licensed mortgage broker must notify the department it is terminating the working relationship with the loan originator.

### NEW SECTION

#### **WAC 208-660-163 Mortgage brokers—Licensing.**

(1) **How do I apply for a mortgage broker license?**

(a) **Appoint a designated broker.** You must appoint a designated broker who meets the requirements of WAC 208-660-250.

(b) **Submit an application.** You must fill out an application in a form prescribed by the director. Submit the application with the appropriate attachments to the department for review.

(c) **Pay the application and license fees.** You will have to pay an application fee to cover the department's cost of processing and reviewing application. You must also pay a separate annual license fee. See WAC 208-660-550, Department fees and costs.

(d) **Prove your identity.** You must provide information about the identity of owners, principals, officers, and the designated broker, including fingerprints.

(e) **Provide a surety bond.** Mortgage brokers must have a surety bond of twenty to sixty thousand dollars depending on the average number of loan originators representing the mortgage broker. See WAC 208-660-175 (1)(e).

(2) **What information will the department consider when deciding whether to approve a mortgage broker license application?** The department considers the financial responsibility, character, and general fitness of the applicant, principals, and the designated broker.

(3) **Why does the department consider financial responsibility, character, and general fitness before issuing a mortgage broker license?** One of the purposes of the act is to ensure that mortgage brokers and loan originators deal honestly and fairly with the public. Applicants, principals, and designated brokers who have demonstrated their financial responsibility, character, and general fitness to operate their businesses honestly, fairly, and efficiently are more likely to deal honestly and fairly with the public.

(4) **What specific information will the department consider to determine if the mortgage broker business will be operated honestly, fairly, and in compliance with applicable law?**

(a) Whether the applicant, licensee, or other person subject to the act has had any license, or any authorization to do business under any similar statute of this or any other state, suspended, revoked, or restricted within the prior five years.

(b) Whether the applicant, licensee or other person subject to the act has been convicted of a felony, or a gross misdemeanor involving dishonesty or financial misconduct, within the prior seven years.

(c) Whether the licensee or other person subject to the act is, or has been, subject to a cease and desist order or an injunction issued pursuant to the act, or the Consumer Protection Act, or has been found through an administrative, civil, or criminal proceeding to have violated the provisions of the act or rules, or the Consumer Protection Act, chapter 19.86 RCW.

(d) Whether the director has filed a statement of charges, or there is an outstanding order by the director to cease and desist against the licensee or other person subject to the act.

(e) Whether there is documented evidence of serious or significant complaints filed against the licensee, or other person subject to the act, and the licensee or other person subject to the act has been notified of the complaints and been given the opportunity to respond.

(f) Whether the licensee has allowed the licensed mortgage broker business to deteriorate into a condition that would result in denial of a new application for a license.

(g) Whether the licensee or other person subject to the act has failed to comply with an order, directive, subpoena, or requirement of the director or director's designee, or with an assurance of discontinuance entered into with the director or director's designee.

(h) Whether the licensee or other person subject to the act has interfered with an investigation, or disciplinary proceeding by willful misrepresentation of facts before the director or director's designee, or by the use of threats or harass-

ment against a client, witness, employee of the licensee, or representative of the director for the purpose of preventing them from discovering evidence for, or providing evidence in, any disciplinary proceeding or other legal action.

(5) **What will happen if my mortgage broker license application is incomplete?** The department will reject and return the entire application package to you with a notice identifying the incomplete, missing, or inaccurate information. You must follow the department's directions to correct the problems. You can then resubmit the application package.

(6) **How do I withdraw my application for a mortgage broker license?** Send the department a written request, in a form prescribed by the department, to withdraw your mortgage broker license application.

(7) **When will the department consider my mortgage broker license application package abandoned?** If you do not respond to the department within ten business days from the date of the department's second request for information, your application is considered abandoned. You may reapply by submitting a new application per subsection (1) of this section.

(8) **What are my rights if the director denies my application for a mortgage broker license?** You have the right to request an administrative hearing pursuant to the Administrative Procedure Act, chapter 34.05 RCW. To request a hearing, you must notify the department within twenty days from the date of the director's notice to you that your license application has been denied, that you wish to have a hearing.

Upon denial of your mortgage broker license application, and provided the department finds no unlicensed activity, the department will return your surety bond, and refund the license fee and any unused portion of the application fee.

(9) **What Washington law protects my rights when my application for a mortgage broker license is denied, or my mortgage broker license is suspended or revoked?** The Administrative Procedure Act, chapter 34.05 RCW, governs the proceedings for license application denials, cease and desist orders, license suspension or revocation, the imposition of civil penalties or other remedies ordered by the department, and any appeals or reviews of those actions.

(10) **May I advertise my business while I am waiting for my mortgage broker license application to be processed?** No. It is a violation of the act for nonlicensed, non-exempt mortgage brokers or loan originators to hold themselves out as mortgage brokers or loan originators in Washington.

(11) **May I originate Washington residential mortgage loans while waiting for my mortgage broker license application to be processed?** No. You may not originate loans prior to receiving your mortgage broker license.

(12) **How do I change information on my mortgage broker license?** You must file a license amendment application with the department, in a form prescribed by the department. You must file the application thirty days before the effective date of the change.

(13) **When does a mortgage broker license expire?** The mortgage broker license expires annually. The expira-

tion date is shown on the license. If the license is an interim license, it may expire in less than one year.

**(14) When may the department issue interim mortgage broker licenses?** To prevent an undue delay, the director may issue interim mortgage broker licenses, including branch office licenses, with a fixed expiration date. The license applicant must have substantially met the initial licensing requirements, as determined by the director, to receive an interim license.

For purposes of this section, undue delay includes the adjustment of license expiration or renewal dates to coincide with the implementation of systems designed to assist in licensing uniformity and provide data repositories of licensing information.

One example of having substantially met the initial licensing requirements is: Submitting a complete application, paying all application fees, and the department having received and reviewed the result of the applicant's background check.

**(15) May the department issue replacement licenses with an expiration date?** Yes. In order to create and maintain a licensing system with expiration or renewal dates that are uniform, the department may issue new licenses with expiration dates to existing license holders. The new licenses will expire annually.

**(16) How do I renew my mortgage broker license?**

(a) Before the license expiration date you must:

(i) File the mortgage broker annual report, and any other required notices, with the director. See WAC 208-660-400, Reporting requirements.

(ii) Show evidence that your designated broker completed the required annual continuing education.

(iii) Verify the surety bond is adequate for the average number of loan originators, including all locations.

(iv) Pay the annual license assessment fee.

(b) The renewed license is valid for the term listed on the license or until surrendered, suspended, or revoked.

**(17) If I let my mortgage broker license expire must I apply to get a new license?** If you complete all the requirements for renewal within forty-five days of the expiration date, you may renew an expired license. However, if you renew your license during this forty-five day grace period, in addition to paying the annual assessment on your license, you must pay an additional fifty percent of your annual assessment. See subsection (15) of this section for the license renewal requirements.

During this forty-five day window, your license is expired and you must not conduct any business under the act that requires a license until your license has been renewed.

Any renewal requirements received by the department must be evidenced by either a United States Postal Service postmark or a department "date received" stamp within the forty-five days. If you fail to comply with the renewal request requirements within forty-five days, you must apply for a new license.

**(18) May I still conduct my mortgage broker business if my mortgage broker license has expired?** No. If your mortgage broker license expires, you must not conduct any business under the act that requires a license until you renew your license.

**(19) What should I do if I wish to close my mortgage broker business?** You may surrender the mortgage broker license by notifying the department, in a form prescribed by the department, of your intention to stop doing mortgage loan business in Washington. Surrendering your license does not change your civil or criminal liability, or your liability for any administrative actions arising from any acts or omissions occurring before you surrender your license. Contact the Washington department of revenue to find out how to handle any unclaimed funds in your trust account.

**(20) May I transfer, sell, trade, assign, loan, share, or give my mortgage broker license to another person or company?** No. A mortgage broker license authorizes only the person named on the license to conduct the business at the location listed on the license. See also WAC 208-660-155(2).

**(21) Must I display my mortgage broker license?** Yes. Your mortgage broker license must be prominently displayed in your place of business.

NEW SECTION

**WAC 208-660-175 Mortgage brokers—Surety bond.**

**(1) What are the surety bond requirements for licensed mortgage brokers?**

(a) Mortgage brokers must at all times have a valid surety bond on file with the director. The surety bond must be provided on a form prescribed by the department.

(b) The surety bond amount must be between twenty thousand dollars and sixty thousand dollars depending on the annual average number of loan originators representing the mortgage broker.

(c) When the mortgage broker initially applies for a license, the dollar amount of the surety bond must be sufficient to cover the number of licensed loan originators you intend to employ in your first year of business.

(d) The surety bond must list the full name and any trade or doing-business-as names used by the mortgage broker. The surety bond must list the licensee's main physical address including street number, street name and direction, suite number, city, county, and state.

(e) The surety bond must be signed by a principal of the mortgage broker as well as an authorized representative of the insurance company listed as surety. The power-of-attorney must identify the signing representative as authorized by the insurance company. The insurance company must include their surety bond number and seal on the surety bond form.

The following chart shows the surety bond amount required for the annual average number of loan originators:

| Average Number of Loan Originators | Minimum Required Bond Amount |
|------------------------------------|------------------------------|
| up to 3.0                          | \$20,000                     |
| more than 3.0, up to 6.0           | \$30,000                     |
| more than 6.0, up to 9.0           | \$40,000                     |
| more than 9.0, up to 15.0          | \$50,000                     |
| more than 15.0                     | \$60,000                     |

(2) **May I provide security in a form other than a surety bond?** No. Beginning January 1, 2007, the director will not accept an alternative to a surety bond.

(3) **Who provides mortgage broker surety bonds?** To purchase a surety bond, contact your insurance broker. A list of insurance companies that underwrite Washington surety bonds in Washington is available from the Washington state office of the insurance commissioner's web site.

(4) **What do I do with the surety bond once I receive it from my insurance company?** You must sign the original surety bond. Then include the surety bond and the attached power-of-attorney with your license application package.

(5) **What happens to my mortgage broker license if my surety bond is canceled?** Failure to maintain a surety bond is a violation of the act and may result in an enforcement action against you.

(6) **May I change surety bond companies?** Yes. You may change your insurance provider at any time. Your current insurance company will issue a cancellation notice for your existing surety bond. The cancellation notice may be effective no less than thirty days following the director's receipt of the cancellation notice.

Prior to the cancellation date of the existing surety bond, you must have on file with the department a replacement surety bond. The replacement surety bond must be in effect on or before the cancellation date of the prior surety bond.

(7) **Why must I carry a surety bond to have a mortgage broker license?** The surety bond protects the state and any persons who suffer loss by reason of violations of any provision of the act or these rules by the licensee, its employees, or independent contractors.

(8) **Who may make a claim against a licensed mortgage broker's surety bond?** Any person, including a third-party service provider, who has been injured by a violation of the act, may make a claim against a bond.

(9) **How may I make a claim against a licensed mortgage broker's surety bond?** The department can provide you with the name of a licensed mortgage broker's surety bond provider. Contact the surety bond company and follow its required procedures to make your claim.

(10) **How may I make a claim against a certificate of deposit, an irrevocable letter of credit, or other instrument that the director has permitted to be filed instead of a surety bond?** File your claim against a certificate of deposit, an irrevocable letter of credit, or other instrument directly with the department, in a form prescribed by the department. After January 1, 2007, the department will only accept surety bonds; any claims arising over violations occurring after January 1, 2007, will be against a bond.

(11) **How long does the bond claim procedure take?** The time to complete a bond claim may vary among bonding companies. If the claimant is not a borrower, final judgment will not be entered prior to one hundred eighty days after the claim is filed.

(12) **When must I file a bond claim?** A bond claim must be filed within one year of the date of the act that causes the claim.

## NEW SECTION

### **WAC 208-660-180 Mortgage brokers—Main office.**

(1) **Must a licensed mortgage broker have a designated broker?** Yes. Licensed mortgage broker companies must have a designated broker at all times.

(2) **How many designated brokers may a mortgage broker have?** The mortgage broker must have a qualified designated broker at all times. The mortgage broker may appoint only one individual to be the designated broker at any given time. The designated broker need not be a principal of the licensee.

It is a prudent business practice to have more than one qualified individual working for the licensee who could be appointed as the designated broker.

(3) **If my designated broker leaves, may I continue to operate my mortgage broker business?** Yes. You may continue to operate your mortgage broker business. However, you must notify the department within five business days of the loss of or change of your designated broker. You must then replace the designated broker within thirty days. If you need more than thirty days to replace the designated broker, you must seek approval from the department. Failure to replace your designated broker, or receive approval from the director for an extension, may result in an enforcement action against you.

(4) **What must I do to replace my designated broker?** You must apply, in a form prescribed by the department, for approval of the new designated broker. The new designated broker must meet the requirements of WAC 208-660-250(1) and the new designated broker and the licensee including those individuals to whom the license was granted, must meet the good standing requirements of WAC 208-660-007.

(5) **What must I do if I sell all or part of my mortgage broker company?** See WAC 208-660-400(13).

(6) **After my mortgage broker license is approved, may I change my business structure?** Yes. You must follow the notification requirements of WAC 208-660-400(12).

(7) **May a licensed mortgage broker share an office with a licensed real estate broker?** Yes. A licensed mortgage broker may share an office with a licensed real estate broker. The mortgage broker location must be licensed as a main or branch mortgage broker office.

(8) **If a licensed mortgage broker shares an office with a licensed real estate broker, what must the mortgage broker do to notify the public that the office is shared?** The licensed mortgage broker must clearly identify the mortgage broker business as separate from the real estate business to the public on any signage, advertising, or other material identifying the businesses.

(9) **May I add a trade name (or "DBA") to my mortgage broker license?** Yes. You may add a trade or "DBA" name to the mortgage broker license if you first apply to the department, in a form prescribed by the department, and receive department approval. When the department has approved the trade name, you must conduct business under that trade name in at least one of the two following ways:

(a) Use your license name together with the trade name;

or  
(b) Use your mortgage broker license number together with the trade name.

(10) **May I conduct my mortgage broker business from more than one location?** Yes. You may establish one or more branch offices under your license. See WAC 208-660-195 for information on licensing branch offices.

#### NEW SECTION

**WAC 208-660-195 Mortgage brokers—Branch offices.** (1) **May I open branch offices under my mortgage broker license?** Yes. A licensed mortgage broker may submit license application(s) to the department to establish branch office(s) under the existing mortgage broker license. Each branch office must be licensed and must pay an annual license fee. See WAC 208-660-550, Department fees and costs.

(2) **If my branch offices are under separate ownership, does that limit my liability for their activities?** No. Licensed mortgage brokers are responsible for the activity and violations at their branch offices regardless of the structure or label given the branch offices. Licensure of a branch office creates a direct line of responsibility from the main office to the branch.

(3) **How do I apply for a mortgage broker branch office license?** As the licensed mortgage broker, you must apply to the department for a branch office license and receive a branch office license before operating from any location other than your licensed location. The application for a mortgage broker branch office license must be in a form prescribed by the director. The licensed mortgage broker must be in good standing, and may need to increase the amount of the surety bond. You will have to pay application and annual assessment fees. See WAC 208-660-550, Department fees and costs.

(4) **What does the department consider when reviewing an application for a branch office license?** The department considers:

(a) Whether the mortgage broker is in good standing. See WAC 208-660-007.

(b) Whether the amount of the mortgage broker's surety bond is sufficient to cover the loan originators that will be working from the branch office.

(c) Whether the physical address listed in the application can be verified as a branch office location.

(5) **Must I display my branch office license?** Yes. Your mortgage broker branch office license must be prominently displayed in the branch office.

(6) **If I am an internet company, how do I display my license?** You must display your license information, as it appears on your license, including any or all business names, and the license number, on your web site. The information must also include a list of the states in which you are licensed.

(7) **How do I change information on my mortgage broker branch office license?** You must file a license amendment application with the department, in a form prescribed by the department. You must file the application within thirty days of the change occurring.

(8) **Does my branch office license expire?** The license expires annually. The expiration date is shown on the license. If the license is an interim license, it may expire in less than one year.

(9) **How do I renew my mortgage broker branch office license?**

(a) Before the expiration date, the licensed mortgage broker must:

(i) Verify the surety bond is adequate for the licensee's average number of loan originators.

(ii) Pay the branch office annual assessment fee.

(b) The renewed mortgage broker branch office license is valid for the term listed on the license or until surrendered, suspended, or revoked.

(10) **If my mortgage broker branch office license expires, must I apply for a new license?** If you complete all the requirements for renewal within forty-five days of the expiration date you may renew an existing license. However, if you renew your license during this forty-five day grace period, in addition to paying the annual assessment on your branch office license, you must pay an additional fifty percent of your annual assessment for that branch. See subsection (9) of this section for the license renewal requirements.

During this forty-five day window, your license is expired and you must not conduct any business under the act that requires a license until your license has been renewed.

Any renewal requirements received by the department must be evidenced by either a postmark or "date received" stamp within the forty-five days. If you fail to comply with the renewal request requirements within forty-five days, you must reapply for a new license.

(11) **If my mortgage broker branch office license has expired, may I still conduct my mortgage broker business from that location?** No. Once the mortgage broker branch office license has expired, you must not conduct any business under the act that requires a license until you renew your license.

(12) **If my mortgage broker main office license expires, may I still conduct my mortgage broker business from a branch office?** No. Once the mortgage broker main office license expires, you must not conduct any business under the act that requires a license from any location until you renew the main office license.

(13) **May I add a trade name (or "DBA") to my mortgage broker branch office license?** Yes. You may add a trade name, or "DBA" name, to the mortgage broker branch office license if you first apply to the department, in a form prescribed by the director, and receive department approval. The branch office trade name must at all times be identified as connected with the mortgage broker's license name as it appears on the mortgage broker license. When the department has approved the trade name, you must conduct business under that trade name in at least one of the two following ways:

(a) Use your license name together with the branch office trade name; or

(b) Use the branch office trade name and mortgage broker branch office license number together.

(14) **How must I identify my mortgage broker branch office(s)?** The branch office must be prominently identified as a branch or division of the licensed mortgage broker so as not to appear to be an independent enterprise.

(15) **Does my branch office have to be a physical location?** Yes. The physical location may be at a commercial or

residential address but does not have to be in Washington. See WAC 208-660-420, Out-of-state mortgage brokers and loan originators.

(16) **Must I have a branch manager?** No. Although you may appoint one, the act does not require a branch manager. The licensee and designated broker are responsible for the business conducted at all locations.

(17) **Must I have a designated broker at each branch?** No. The licensed mortgage broker may have only one designated broker who is responsible for the mortgage broker business at all locations.

## DESIGNATED BROKERS

### NEW SECTION

**WAC 208-660-250 Designated brokers—General. (1) How do I become a designated broker?**

(a) You must pass the designated broker test. See WAC 208-660-260, Designated brokers—Testing.

(b) You must be appointed to the designated broker position by the licensed mortgage broker through an application and approval process with the department.

(c) You must have a minimum of two years' experience lending or originating residential mortgage loans.

(i) The work experience must be in one or more of the following, within the last five years:

(A) As a mortgage broker or designated broker of a mortgage broker; or

(B) As a mortgage banker, responsible individual, or manager of a mortgage banking business; or

(C) As a loan originator with responsibility primarily for originating loans secured by a lien on residential real estate; or

(D) As a branch manager of a lender with responsibility primarily for loans secured by a lien on residential real estate; or

(E) As a manager or supervisor of mortgage loan originators; or

(F) As a mortgage processor, underwriter, or quality control professional; or

(G) As a regulator, examiner, investigator, compliance expert, or auditor, whose primary function is the review of mortgage companies and their compliance processes, and the department determines your background is sufficient.

(ii) The work experience must be evidenced by a detailed work history and:

(A) W-2 Federal Income Tax Reporting Forms in the designated broker appointee's name; or

(B) 1099 Federal Income Tax Reporting Forms in the designated broker appointee's name; or

(C) Corporate tax returns signed by the designated broker appointee for a licensed or exempt residential mortgage company.

(d) In addition to supplying the application information, both you and the licensed mortgage broker must be in good standing with the department.

(2) **May I work as the designated broker for more than one company?** Yes. You may be the designated broker for more than one licensee.

(3) **Must the designated broker also hold a loan originator's license?** A designated broker approved by the department will be given a loan originator license if they do not already have one. If the designated broker already has a loan originator license, that license will be added to the licensed mortgage broker's list of loan originators.

(4) **May I work as the designated broker for one licensee and a licensed loan originator for another licensee?** Yes. If you want to originate loans for a mortgage broker different from the mortgage broker for whom you are the designated broker, you must apply to the department for an additional loan originator license.

(5) **May a designated broker hire employees or independent contractors apart from the employees or independent contractors working for the mortgage broker licensee?** No. Only the mortgage broker licensee can have employees or independent contractors. This prohibition against a designated broker having employees or independent contractors includes clerical or administrative personnel whose work is related to the mortgage broker licensee's activities, and loan processors.

(6) **As a designated broker, what reporting requirements must I comply with?** See Section H, Reporting requirements.

### NEW SECTION

**WAC 208-660-260 Designated brokers—Testing. (1) Must I pass a test prior to becoming a designated broker?** Yes. You must take and pass a test prior to becoming a designated broker.

(2) **After passing the designated broker test, will I have to take it again?** You must retake the designated broker test if you have not been approved by the department and have not worked as a designated broker within the past five years.

(3) **After passing the designated broker test, will I have to take the loan originator test to get a loan originator license?** If you passed the designated broker test, and have worked as an approved designated broker in the past five years, you will be given a loan originator license without taking the loan originator test.

(4) **Where can I get information about the designated broker test?** The department will publish the names and contact information of approved testing providers on the department web site.

(5) **What topics may be covered in the designated broker test?** The department will publish a list of designated broker test topics on the department's web site.

(6) **How soon after failing the designated broker test may I take it again?** After failing the test three consecutive times you must wait at least fourteen days before taking the test again.

### NEW SECTION

**WAC 208-660-270 Designated brokers—Continuing education. (1) Where can I get information about continuing education?** The department will publish a list of course providers and professional organizations offering approved courses of education. The course providers and professional

organizations will have detailed information about the continuing education courses they offer.

(2) **As a designated broker, how many clock hours of continuing education must I have?** The continuing education requirement for designated brokers will be in the form of approved courses. While the individual clock hours may vary, you must complete three courses, of no less than three hours each, annually. You may receive credit for one course by attending three mortgage broker commission meetings.

(3) **As a designated broker, may I take the same approved course multiple times to meet my annual continuing education requirement?** No. You may not take the same approved course in the same or successive years to meet the annual requirements for continuing education.

(4) **If I teach an approved continuing education course may I use my course as credit toward my annual continuing education requirement?** Yes. As an instructor of an approved continuing education course, you may receive credit for your annually required designated broker continuing education courses from the course(s) you teach. You will receive credit at the rate of one course taught equaling two continuing education course credits.

(5) **How do I receive credit toward my continuing education requirement when I teach an approved continuing education course?** When you renew your license and seek to get credit for continuing education, submit your approved continuing education course material for the course(s) you taught during the year. The department will credit you with completing two continuing education courses for each one approved course you teach.

(6) **Is ethics a required continuing education course for designated brokers?** Yes. You must take an ethics continuing education course in your first year of acting as a designated broker. However, if you teach an approved continuing education course on ethics during your first year working as a designated broker, teaching that course will satisfy your ethics continuing education requirement.

(7) **As a designated broker, if I take a continuing education course approved for multiple jurisdictions, will the department accept it as part of my continuing education requirement?** If any state has continuing education requirements or standards at least as stringent as Washington's, that state's notification of satisfactory completion of continuing education may be approved by the department as meeting the continuing education requirements under the act and these rules.

(8) **If I accumulate more than the required designated broker continuing education course credits during a year, may I carry-over the excess credit to the next year?** No. Continuing education courses only apply to the year in which they are taken.

(9) **How do I provide the department with proof of the continuing education courses I have completed?** You must provide the department with proof of your satisfactory completion of the course, in a form prescribed by the department.

(10) **If I fail to complete the required continuing education, what happens to my license?** Your license will expire and you will not be able to continue conducting any

business under the act. See WAC 208-660-350(20) to renew your license within forty-five days of it expiring.

(11) **If the department reissues my license and the new expiration date does not coincide with the prior annual assessment period, will the department still give me credit for the continuing education courses I have taken in preparation for meeting the old annual assessment date?** Yes. The department will give you credit for the continuing education courses you have taken. You will not lose any credits due to the department's license expiration date adjustment.

## LOAN ORIGINATORS

### NEW SECTION

**WAC 208-660-300 Loan originators—General.** (1) **If I work as a loan originator for more than one mortgage broker, may I take an application from a borrower without identifying one specific mortgage broker?** No. You may take an application for only one mortgage broker at a time in any one transaction. Prior to presenting yourself to a specific borrower as licensed to originate mortgage loans, you must state who you represent. You must clearly identify the mortgage broker by name and address on the application, on all disclosures, authorization forms, and other material provided to the borrower. There must be no confusion by the borrower as to which mortgage broker you are representing at any given time.

(2) **May a loan originator transfer loan files to a mortgage broker other than the mortgage broker the loan originator is associated with?** No. Only the borrower may submit a written request for the release of information to the licensed mortgage broker to transmit the borrower's selected information to another mortgage broker or lender. Loan files are the property of the mortgage broker named on the loan application and the mortgage broker must keep the original files and documents. The licensed mortgage broker must transmit the information within five business days after receiving the borrower's written request.

(3) **May I act as a loan originator and a real estate agent in the same transaction or for the same borrower in different transactions?** Yes, you may be both the loan originator and real estate broker or salesperson in the same transaction, or for the same borrower in different transactions. When either of these occur, you must provide to the borrower the following written disclosure:

"THIS IS TO GIVE YOU NOTICE THAT I OR ONE OF MY ASSOCIATES HAVE/HAS ACTED AS A REAL ESTATE BROKER OR SALESPERSON REPRESENTING THE BUYER/SELLER IN THE SALE OF THIS PROPERTY TO YOU. I AM ALSO A LOAN ORIGINATOR AND WOULD LIKE TO PROVIDE MORTGAGE SERVICES TO YOU IN CONNECTION WITH YOUR LOAN TO PURCHASE THE PROPERTY.



YOU ARE NOT REQUIRED TO USE ME AS A LOAN ORIGINATOR IN CONNECTION WITH THIS TRANSACTION. YOU ARE FREE TO COMPARISON SHOP WITH OTHER MORTGAGE BROKERS, AND LENDERS, AND TO SELECT ANY MORTGAGE BROKER, OR LENDER OF YOUR CHOOSING."

(4) **As a loan originator, may I be paid directly by the borrower for my services?** No. As a loan originator, you may not be paid any compensation or fees directly by the borrower.

(5) **May a loan originator charge the borrower a fee, commission, or other compensation for preparing, negotiating, or brokering a loan for the borrower?** No. A loan originator may not charge the borrower a fee, commission, or compensation of any kind in connection with the preparation, negotiation, and brokering of a residential mortgage loan.

(6) **May a loan originator bring a lawsuit against a borrower for the collection of compensation?** No. Only licensed mortgage brokers, or exempt mortgage brokers, may bring collection actions against borrowers to collect compensation.

(7) **May I work as a licensed loan originator for a mortgage broker located out of the state?** Yes. You may originate loans for any mortgage broker you are affiliated with who is licensed under Washington law.

(8) **May a licensed loan originator hire employees or independent contractors to assist in the mortgage broker licensee's activities?** No. Only the mortgage broker licensee can have employees or independent contractors. This prohibition against loan originators hiring employees or independent contractors includes clerical or administrative personnel whose work is related to the mortgage broker licensee's activities, and loan processors.

(9) **Do loan processors have to be licensed as loan originators?** No. Loan processors are not required to have a loan originator license provided they work under the supervision and instruction of a licensed or exempt mortgage broker and do not hold themselves out as able to conduct the activities of a mortgage broker or loan originator. However, a loan processor may not work as an independent contractor unless licensed as a mortgage broker, mortgage broker branch office, or loan originator.

#### NEW SECTION

#### **WAC 208-660-350 Loan originators—Licensing. (1) How do I apply for a loan originator license?**

(a) **Pass a licensing test.** You must take and pass a test that assesses your knowledge of the mortgage business and related regulations. See WAC 208-660-360, Loan originators—Testing.

(b) **Submit an application.** The application form will be prescribed by the director.

(c) **Prove your identity.** You must provide information to prove your identity.

(d) **Pay the application and license fees.** You must pay an application fee to cover the department's cost of processing and reviewing applications. You must also pay a separate

annual assessment fee. See WAC 208-660-550, Department fees and costs.

(2) **In addition to reviewing my application, what else will the department consider to determine if I qualify for a loan originator license?**

(a) **General fitness and prior compliance actions.** The department will investigate your background to see that you demonstrate the experience, character, and general fitness that commands the confidence of the community and creates a belief that you will conduct business honestly and fairly within the purposes of the act. This investigation may include a review of the number and severity of complaints filed against you, or any person you were responsible for, and a review of any investigation or enforcement activity taken against you, or any person you were responsible for, in this state, or any jurisdiction.

(b) **License suspensions or revocations.** You are not eligible for a loan originator license if you have been found to be in violation of the act or the rules, or have had a license issued under the act or any similar state statute suspended or revoked within five years of the filing of the present application.

(c) **Criminal history.** You are not eligible for a loan originator license if you have been convicted of a gross misdemeanor involving dishonesty or financial misconduct, or a felony, within seven years of the filing of the present application.

(3) **May I originate residential mortgage loans in Washington without a loan originator license?** Persons conducting the business of a loan originator without an active loan originator license must fall under one of the following categories of exemption from loan originator licensing:

(a) Persons conducting residential mortgage loan business exclusively for any exempt person under RCW 19.146.020 (1)(a)(i); or

(b) The exclusive agents conducting residential mortgage loan business for any exempt person under RCW 19.146.020 (1)(a)(ii); or

(c) The bona fide employees conducting residential mortgage loan business exclusively for any exempt person under RCW 19.146.020 (1)(b), (e), (g) or (h); or

(d) Those persons exempt under RCW 19.146.020 (1)(c) or (d).

(4) **What will happen if my loan originator license application is incomplete?** The department will reject and return the entire application package to you with a notice identifying the incomplete, missing, or inaccurate information. You must follow the department's directions to correct the problems. You may then resubmit the application package.

(5) **How do I withdraw my application for a loan originator license?** Provide the department with a request to withdraw your application in a form prescribed by the director.

(6) **When will the department consider my loan originator license application to be abandoned?** If you do not respond within ten business days to the department's second request for information, your loan originator license application is considered abandoned. Failure to provide the requested information will not affect new applications filed

after the abandonment. You may reapply by submitting a new application package.

**(7) What happens if the department denies my application for a loan originator license, and what are my rights if the license is denied?** The department will notify you if your application is denied. You will receive a refund of any unused portion of the application fee.

If your license application lists any mortgage brokers, the department will also notify the mortgage brokers of the license denial.

Under the Administrative Procedure Act, chapter 34.05 RCW, you have the right to request an administrative hearing on the denial. To request a hearing, notify the department, in writing, within twenty days from the date of the director's notice to you notifying you your license application has been denied.

**(8) How will the department provide me with my loan originator license?** The department may use any of the following methods to provide you with your loan originator license:

- (a) A printed paper license sent to you by regular mail.
- (b) A license sent to you electronically that you may print.
- (c) A license verification available on the department's web site and accessible for viewing by the public.

**(9) May I transfer, sell, trade, assign, loan, share, or give my loan originator license to someone else?** No. A loan originator license authorizes only the person named on the license to conduct the business at the location listed on the license.

**(10) How do I change information on my loan originator license?** You must file a license amendment application with the department, in a form prescribed by the department within thirty days of the change occurring.

**(11) If I am employed by a bank or other exempt entity may I apply for and receive a loan originator license?** Yes, you may apply for a license at any time. However, if you are not working for a licensed mortgage broker, your license will be considered inactive.

**(12) What is an inactive loan originator's license?** If a person holds a loan originator license but is not working with a licensed mortgage broker, they hold an inactive license. A person holding an inactive license may not hold themselves out as a licensed loan originator.

**(13) When my loan originator's license is inactive, am I subject to the director's enforcement authority?** Yes. Your license is granted under specific authority of the director and under certain situations you may be subject to the director's authority even if you are not doing any activity covered by the act.

**(14) When my loan originator license is inactive, must I continue to pay annual fees, and complete continuing education for that year?** Yes. You must comply with all the annual licensing requirements or you will be unable to renew your inactive loan originator license.

**(15) May I originate loans from a web site when my license is inactive?** You may not originate loans, or engage in any activity that requires a license under the act, while your license is inactive.

**(16) How do I activate my loan originator license?**

When the department receives a notice, in a form prescribed by the department, from a licensed mortgage broker establishing a working relationship with you, your loan originator license will become active. The department will notify you and all mortgage brokers you are working with of the new working relationship established by the licensed mortgage broker.

**(17) When may the department issue interim loan originator licenses?** To prevent an undue delay, the director may issue interim loan originator licenses with a fixed expiration date. The license applicant must have substantially met the initial licensing requirements, as determined by the director, to receive an interim license.

For purposes of this section, undue delay includes the adjustment of license expiration or renewal dates to coincide with the implementation of systems designed to assist in uniformity and provide data repositories of licensing information.

One example of having substantially met the initial licensing requirements is: Submitting a complete application, paying all application fees, and the department having received and reviewed the results of the applicant's background check.

**(18) When does my loan originator license expire?** The loan originator license expires annually. The expiration date is shown on the license. If the license is an interim license, it may expire in less than one year.

**(19) How do I renew my loan originator license?**

- (a) Before the license expiration date you must:
  - (i) Pay the annual assessment fee; and
  - (ii) Meet the continuing education requirement.
- (b) The renewed license is valid until it expires, or is surrendered, suspended or revoked.

**(20) If I let my loan originator license expire, must I apply to get a new license?** If you complete all the requirements for renewal within forty-five days of the expiration date you may renew an existing license. However, if you renew your license during this forty-five day grace period, in addition to paying the annual assessment on your license, you must pay an additional fifty percent of your annual assessment. See subsection (18) of this section for the license renewal requirements.

During this forty-five day window, your license is expired and you must not conduct any business under the act that requires a license until you renew your license.

Any renewal requirements received by the department must be evidenced by either a United States Postal Service postmark or department "date received" stamp within the forty-five days. If you fail to comply with the renewal request requirements within forty-five days, you must reapply for a new license.

**(21) May I still originate loans if my loan originator license has expired?** No. Once your license has expired you may no longer conduct the business of a loan originator as defined in the act and these rules.

**(22) What happens to the loan applications I originated before my loan originator license expired?** Existing loan applications must be processed by the licensed mortgage

broker or another licensed loan originator working for the mortgage broker.

(23) **May I surrender my loan originator's license?** Yes. You may surrender your license before the license expires by notifying the department, in a form prescribed by the department.

Surrender of your loan originator license does not change your civil or criminal liability, or your liability for any administrative actions arising from acts or omission occurring before the license surrender.

(24) **Must I display my loan originator license where I work as a loan originator?** No. Neither you nor the mortgage broker company is required to display your loan originator license. However, evidence that you are licensed as a loan originator must be made available to anyone who requests it.

(25) **If I operate as a loan originator on the internet, must I display my license number on my web site?** Yes. You must display your license number, and the license number and name as it appears on the license of the licensed mortgage broker you represent, on the web site.

(26) **Must I include my loan originator license number on any documents?** You must include your license number immediately following your name on solicitations, including business cards, advertisements, and residential mortgage loan applications.

(27) **When must I disclose my loan originator license number?** In the following situations you must disclose your loan originator license number and the name and license number of the mortgage broker you are associated with:

(a) When asked by any party to a loan transaction, including third party providers;

(b) When asked by any person you have solicited for business, even if the solicitation is not directly related to a mortgage transaction;

(c) When asked by any person who contacts you about a residential mortgage loan;

(d) When taking a residential mortgage loan application.

#### NEW SECTION

**WAC 208-660-360 Loan originators—Testing.** (1) **Must I pass a test prior to becoming a loan originator?** Yes. You must take and pass a test prior to becoming a loan originator.

(2) **Where may I find information about the loan originator test?** The department will publish the names and contact information of approved testing providers on the department web site.

(3) **How much does the loan originator test cost?** Testing costs are set by contract between the test provider and the department and may be modified from time to time. The department will publish the current testing fee with the testing provider contact information.

(4) **How do I register to take the loan originator test?** The department will publish registration information with the testing provider contact information.

(5) **What topics may be covered in the loan originator test?** The department will publish a list of loan originator test topics on the department's web site.

(6) **After passing the loan originator test, will I have to take it again?** You must retake the loan originator test if you have not been a loan originator within the past five years.

(7) **How soon after failing the loan originator test may I take it again?** After failing the test three consecutive times, you must wait at least fourteen days before taking the test again.

#### NEW SECTION

**WAC 208-660-370 Loan originators—Continuing education.** (1) **Where may I get information about continuing education for loan originators?** The department will publish a list of the approved professional organizations that provide continuing education on the department's web site. The professional organizations will have detailed information about the continuing education courses they offer.

(2) **How many clock hours of loan originator continuing education must I have each year?** The continuing education requirement will be in the form of approved courses. While the individual clock hours may vary, you must complete two courses, of no less than three hours each, annually. Alternatively, you may attend three mortgage broker commission meetings instead of completing one continuing education course.

(3) **As a loan originator, may I take the same approved course multiple times to meet my annual continuing education requirement?** No. You may not take the same approved course in the same or successive years to meet the annual requirements for continuing education.

(4) **If I teach an approved continuing education course may I use my course as credit toward my annual loan originator continuing education requirement?** Yes. As an instructor of an approved continuing education course, you may receive credit for your annually required loan originator continuing education courses from the course(s) you teach. You will receive credit at the rate of one course taught equaling two continuing education course credits.

(5) **How do I receive credit toward my continuing education requirement when I teach an approved continuing education course?** When you renew your license and seek to get credit for continuing education, submit to the department documentation evidencing approval of the continuing course you taught. The department will credit you with completing two continuing education courses for each one approved course you teach.

(6) **Is ethics a required continuing education course for loan originators?** Yes. You must take an ethics continuing education course in your first year of holding a loan originator license. However, if you teach an approved continuing education course on ethics during your first year of holding a loan originator license, that will satisfy your ethics continuing education requirement for that year.

(7) **If I take a loan originator continuing education course approved for multiple jurisdictions, will the department accept it as part of my continuing education requirement?** If any state has continuing education requirements or standards at least as stringent as Washington's, their continuing education courses may be approved by the depart-

ment as meeting the continuing education requirements under the act and these rules.

(8) **If I accumulate more than the required loan originator continuing education course credits during a year, may I carry-over the excess credit to the next year?** No. Continuing education courses only apply to the year in which they are taken.

(9) **If I fail to complete the required continuing education, what happens to my loan originator license?** Your license will expire and you will not be able to continue conducting any business under the act. See WAC 208-660-350(20) to renew your license within forty-five days of it expiring.

(10) **How will I know which courses and providers satisfy the continuing education requirement?** The department will approve continuing education courses offered by course providers and will approve professional organizations offering courses. The providers, their courses and contact information will be listed on the department's web site.

(11) **How do I provide the department with proof of the continuing education courses I have completed?** You must provide the department with proof of your satisfactory completion of the course, in a form prescribed by the department.

(12) **If the department reissues my license and the new expiration date does not coincide with the prior annual assessment period, will the department still give me credit for the continuing education courses I have taken in preparation for meeting the old annual assessment date?** Yes. The department will give you credit for the continuing education courses you have taken. You will not lose any credits due to the department's license expiration date adjustment.

#### NEW SECTION

**WAC 208-660-400 Reporting requirements and notices to the department.** (1) **As a licensed mortgage broker, what annual report must I provide to the department?** You must file a mortgage broker annual report, in a form prescribed by the director. The report must include:

(a) The total number of residential mortgage loans secured by Washington real estate that you originated and closed in the prior calendar year; and

(b) The total dollar volume (principal loan amounts) of the residential mortgage loans secured by Washington real estate that you originated and closed in the prior calendar year.

(2) **When must I provide the mortgage broker annual report to the department?** You must provide the completed report to the department by May 1st of each year beginning in 2007.

(3) **What period of time must the mortgage broker annual report cover?** The mortgage broker annual report must cover the prior calendar year from January 1st to December 31st.

(4) **What action will the department take if I fail to file my mortgage broker annual report by May 1st of each year?**

(a) When the report is over thirty days late, the department may begin an enforcement action against you.

(b) When your license is due for renewal, the department will not renew it if you have not filed your annual report.

(5) **How do I notify the department when I want to change information on my mortgage broker or loan originator license?** You must file a license amendment application with the department, in a form prescribed by the department within thirty days of the change occurring.

(6) **As a designated broker or loan originator, must I notify the department if I change my residential address or telephone number?** Yes. Whether your license is active or inactive, you must notify the department in a form prescribed by the department within thirty days of a change in your residential address and telephone number.

(7) **As a designated broker or loan originator must I notify the department if I change my name?** Yes. Whether your license is active or inactive, you must notify the department in a form prescribed by the department within thirty days of a name change.

(8) **Must I notify the department of the physical address of my mortgage broker books and records?** Yes. You must provide the physical address of your mortgage broker books and records in your initial license application. If the location of your books and records changes, you must provide the department, in a form prescribed by the department, with the new physical address within five business days of the change.

(9) **Must I notify the department if my designated broker leaves, or is no longer my designated broker?** Yes. You must notify the department, in a form prescribed by the department, within five business days of the loss of or change of status of your designated broker. See WAC 208-660-180(3).

(10) **When and how do I change the information about my registered agent?** Within five business days of the change, you must file a statement of change with the department, in a form prescribed by the department.

(11) **If I am a registered agent under the act, must I notify the department if I resign?** Yes. You must provide the department with your statement of resignation letter at least thirty-one days prior to the intended effective date. You must also provide a copy of the resignation letter to the licensed mortgage broker. The department will terminate your appointment thirty-one days after receiving your resignation letter.

(12) **Must I notify the department if I change the business structure of my company? When must I notify the department?** If the change to your business adds officers, directors, or principal stockholders owning ten percent or more of the company, you must notify the department, in a form prescribed by the department, at least thirty days prior to the change. The department will consider the qualifications of the new people and notify you whether or not the proposed change is acceptable.

(13) **What are my responsibilities when I sell my business?**

(a) At least thirty days prior to the effective date of sale, you must notify the department of the pending sale, in a form prescribed by the director.

(b) You must surrender your license and complete the year's annual report.

(c) You must give written notice to borrowers, and to anyone who has applied for a loan, advising them of the change in ownership.

(d) You must give written notice to third party providers advising them of the change in ownership and bringing accounts payable current.

(e) You must maintain your records as required under the act and these rules.

(f) You must reconcile the trust account and return any funds to the borrowers or others to whom they belong, or transfer funds into a new trust account at the borrower's direction. If excess funds still remain and are unclaimed, follow the procedures provided by the department of revenue's unclaimed property division.

**(14) Must I notify the department if I cease doing business in this state?** You must notify the department within twenty days after you cease doing business in the state by filing a Mortgage Broker Closure Form and the annual report.

**(15) Must I notify the department of changes to my trust account?** Yes. You must notify the department within five business days of any change in the status, location, account number, or other particulars of your trust account, made by you or the federally insured financial institution where the trust account is maintained. A change in your trust account includes the addition of a trust account.

**(16) Must I notify the department of changes to my Washington master business license?** Yes. You must notify the department within five business days of any changes to your Washington master business license made by you or the agency issuing the license.

**(17) Must I notify the department of changes to my standing with the Washington secretary of state?** Yes. You must notify the department within five business days of any changes to your standing with the Washington secretary of state made by you or the secretary of state.

**(18) What must I do if my licensed mortgage broker company files for bankruptcy?**

(a) Chapter 7 bankruptcy. If you are a licensed mortgage broker that files for a Chapter 7 bankruptcy, you must:

(i) Notify the director and surrender your mortgage broker license within ten business days of filing the bankruptcy.

(ii) Provide the department with a mortgage broker annual report for the calendar year preceding the filing within ten business days of filing the bankruptcy.

(b) Chapter 11 bankruptcy. If your licensed mortgage broker company files for a Chapter 11 bankruptcy, you must notify the director within ten business days of filing the bankruptcy.

(c) Chapter 13 bankruptcy. If your licensed mortgage broker company files for a Chapter 13 bankruptcy, you must:

(i) Notify the director and surrender your mortgage broker license within ten business days of filing the bankruptcy.

(ii) Provide the department with a mortgage broker annual report for the calendar year preceding the filing within ten business days of filing the bankruptcy.

**(19) If I am a designated broker and file for personal bankruptcy, what are my reporting responsibilities?** A

designated broker must notify the department in writing within ten business days of filing for bankruptcy protection.

**(20) If I am a designated broker and file for personal bankruptcy, what action may the department take?** The director may require the licensed mortgage broker to replace you with another designated broker.

**(21) If I am a loan originator and file for personal bankruptcy, what are my reporting responsibilities?** A licensed loan originator must notify the director in writing within ten business days of filing for bankruptcy protection.

**(22) If I am a loan originator and file for personal bankruptcy, what action may the department take?** Depending on the circumstances, the director may revoke or condition your license.

**(23) When may I apply for a license after surrendering one due to my personal bankruptcy filing?** If you surrendered your license, you may apply for a license at any time. However, the department may deny your license application for three years after the bankruptcy has been discharged provided that no new bankruptcies have occurred or are in progress.

**(24) When may I apply for a license after the department has revoked my license due to my personal bankruptcy filing?** The director will not issue a license to any person who has had their license revoked within five years of applying. While you may apply at any time, the application will be denied until the five years have elapsed. For this reason it is important for you to consider a surrender of your license rather than allowing it to be revoked.

**(25) Who in the mortgage broker company must notify the department if they are charged with or convicted of a crime?** Licensees, whether on active or inactive license status, must notify the department in writing within ten business days of being:

(a) Charged by indictment or information with any felony, or a gross misdemeanor involving dishonesty or financial misconduct in any jurisdiction.

(b) Convicted of any felony, or any gross misdemeanor involving dishonesty or financial misconduct in any jurisdiction.

(c) Convicted outside of Washington for any crime that if charged in Washington would constitute a felony, or gross misdemeanor for dishonesty or financial misconduct.

**(26) Who in the mortgage broker company must notify the department if they are the subject of an administrative enforcement action?** Licensees, whether holding active or inactive licenses, must notify the department in writing within ten business days of the occurrence if:

(a) Charged with any violations by an administrative authority in any jurisdiction; or

(b) The subject of any administrative action, including a license revocation action, in any jurisdiction.

## NEW SECTION

**WAC 208-660-410 Trust accounting.** (1) **What are trust funds?** Trust funds are all funds received from borrowers, or on behalf of borrowers, for payments to third-party providers. The funds are considered to be held in trust immediately upon receipt. Trust funds include, but are not limited

to, borrower deposits for appraisal fees, credit report fees, title report fees, and similar fees to be paid for services rendered by third-party providers in the borrower's loan transaction.

(2) **Are lock-in agreement fees paid by a borrower to the mortgage broker considered trust funds?** Yes, these fees are considered trust funds and must be deposited in the mortgage broker's trust account, unless the check is made payable to the lender. If the check is made payable to the lender, the mortgage broker has a duty to exercise ordinary care to see that the check is not used for any unauthorized purpose. The mortgage broker must deliver the check to the lender pursuant to any agreement with the lender, or within three business days of receiving the funds.

(3) **Must I have a trust account if I receive funds from borrowers for the payment of third-party providers?** Yes. All funds received from borrowers, or on behalf of borrowers, for payments to third-party providers are trust funds and are considered held in trust immediately upon receipt. You must deposit those funds in a trust account in your name as it appears on your license, or if exempt in the name of the exempt broker, in a federally insured financial institution's branch located in this state within three business days of receiving the funds. The funds must remain on deposit until disbursed to the third party provider except as permitted by the act and these rules. The mortgage broker is responsible for depositing, holding, disbursing, accounting for and otherwise safeguarding the funds in accordance with the act and these rules.

(4) **Must I have a trust account if I do not receive any trust funds?** No. If you do not accept trust funds at any point before, during, or after a loan transaction, a trust account is not required.

(5) **Must I have a trust account if I am a mortgage broker exempt from licensing under the act?** Mortgage brokers exempt under RCW 19.146.020 (1)(a), (b), (c), (d), (f), (h) are not required to have a trust account even if they receive trust funds. Mortgage brokers exempt under RCW 19.146.020 (1)(e) and (g), and 19.146.020(4) are required to comply with RCW 19.146.050 and these rules.

(6) **What does it mean to receive trust funds "on behalf of borrowers"?** Trust funds are identified by purpose rather than source. Funds received by the mortgage broker from the borrower for the payment of third-party provider services are trust funds. Funds received from relatives of borrowers, the seller in a real estate transaction, or an escrow company or lender reimbursing a mortgage broker for payments advanced are trust funds. Funds deposited to a borrower's subaccount by the mortgage broker are funds received on behalf of the borrower and are trust funds.

(7) **What forms of payment must trust funds take?** Trust funds may be in any form that allows deposit into the trust account, including, but not limited to, cash, check, or any electronic transmission of funds, including, but not limited to bank wires, ACH authorization, credit card or debit transactions, or on-line payments through a web site.

(8) **How do I receive trust funds through electronic transmission?**

(a) The trust funds must be transmitted directly from the borrower, or other person on behalf of the borrower, into your

trust account, in a federally insured financial institution located in the state of Washington.

(b) Each electronic transmission must be evidenced by a record including a traceable identifying name or number supplied by the federally insured financial institution or transferring entity. Electronic transmissions must be included in the monthly trust account reconciliation.

(9) **When must I deposit trust funds?** You must deposit all funds you receive, that are required to be held in trust, before the end of the third business day following your receipt of the funds.

(10) **How must I document deposits?**

(a) You must document all deposits to the trust account(s) by having a bank deposit slip which has been validated by bank imprint, or an attached deposit receipt which bears the signature of an authorized representative of the mortgage broker indicating that the funds were actually deposited into the proper account(s).

(b) You must post the receipt of funds by wire transfer or any means other than cash, check, or money order in the same manner as other receipts. Any such transfer of funds must include a traceable identifying name or number supplied by the federally insured financial institution or transferring entity. You must also retain a receipt for the deposit of the funds which must contain the traceable identifying name or number supplied by the federally insured financial institution or transferring entity.

(11) **May I deposit funds other than trust funds into my trust account?** You may deposit your own funds into the trust account(s) to prevent a disbursement in excess of an individual borrower's subaccount, provided that the exact sum of deficiency is deposited and detailed records of the deposit and its purpose are maintained in the trust ledger and the trust account(s) check register. Any deposits of your own funds into the trust account(s) must be held in trust in the same manner as funds paid by borrowers for the payment of third-party providers and treated accordingly in compliance with the act and these rules.

(12) **May a loan originator accept trust funds?** A loan originator may not solicit or receive fees for a third-party provider of goods or services except that a loan originator may transfer funds from a borrower to a licensed mortgage broker, exempt mortgage broker, or third-party provider, if the loan originator does not deposit, hold, retain, or use the funds for any purpose other than the payment of bona fide fees to third-party providers. The funds must be in the form of a check made payable to a licensed mortgage broker, exempt mortgage broker, or third-party provider. The loan originator must transfer the borrower's funds to the licensed mortgage broker, exempt mortgage broker, or third-party provider within one business day of receiving the check from the borrower.

(13) **May a mortgage broker accept and hold a check from a borrower that is made payable to a third party and intended to be used to pay for third-party provider services without depositing the check into a trust account?** Yes. The check must be payable to a specific third-party provider. The payee line may not be left blank. The mortgage broker has a duty to exercise ordinary care to see that the check is not used for any unauthorized purpose.

The mortgage broker must deliver the check to the third-party provider within the time frames and requirements established in RCW 19.146.0201(12).

**(14) May a loan originator accept and hold a check from a borrower that is made payable to a third party and intended to be used to pay for third-party provider services?** A loan originator may only hold a borrower's check for the purpose of transferring the funds from the borrower to the licensed mortgage broker, exempt mortgage broker, or third-party provider. The loan originator must transfer the borrower's funds to the licensed mortgage broker, exempt mortgage broker, or third-party provider within one business day of receiving the check from the borrower.

**(15) Is a lender or mortgage broker, or agent or employee of a lender or mortgage broker, considered a third party?** A lender is considered a third party only when the lender provides lock-in arrangements to the mortgage broker in connection with the preparation of a borrower's loan.

**(16) If a mortgage broker receives funds from a third party, such as a closer, or a lender, as reimbursement for advancements for the payment of third-party services, are these funds considered trust funds?** Yes, all funds received by the mortgage broker on behalf of the borrower for the payment of third-party services are considered trust funds.

**(17) What books and records must I keep regarding my trust account?** You must maintain as part of your books and records:

(a) A trust account deposit register and copies of all validated deposit slips or signed deposit receipts for each deposit to the trust account;

(b) A record of all invoices for payments made on behalf of a borrower including but not limited to payments for appraisals, credit reports, title cancellations, and verification of deposit;

(c) A ledger for each trust account. Each ledger must contain a separate subaccount ledger sheet for each borrower from whom funds are received for payment of third-party providers. Each receipt and disbursement pertaining to such funds must be posted to the ledger sheet at the time the receipt or disbursement occurs. Entries to each ledger sheet must show the date of deposit, identifying check or instrument number, amount and name of remitter. Offsetting entries to each ledger sheet must show the date of check or electronic transmission, check number or identifying electronic transmission number, amount of check or electronic transmission, name of payee and invoice number if any. Canceled or closed ledger sheets must be identified by time period and borrower name or loan number;

(d) A trust account check register consisting of a record of all deposits to and disbursements from the trust account whether by check or electronic transmission;

(e) Reconciled trust account bank statements;

(f) A monthly trial balance of the ledger of trust accounts, and a reconciliation of the ledger of trust accounts with the related bank statement(s) and the related check register(s). The reconciled balance of the trust account(s) must at all times equal the sum of:

(i) The outstanding amount of funds received from or on behalf of borrowers for payment of third-party providers; and

(ii) The outstanding amount of any deposits into the trust fund of the mortgage broker's own funds in accordance with subsection (11) of this section; and

(g) A printed and dated source document file to support any changes to existing accounting records.

Any alternative records you propose for use must be approved in advance by the director.

**(18) What is a "subaccount"?** A "subaccount" is a recordkeeping segregation of each borrower's funds held in the mortgage broker's single deposit trust account that holds the aggregated funds for the mortgage broker's clients. Alternatively, the mortgage broker may establish a separate bank account for each borrower. When added together, individual subaccounts must exactly equal the total of funds held in trust.

**(19) May I transfer funds between a borrower's subaccounts?** If a borrower has more than one loan application pending with a mortgage broker, the mortgage broker must maintain a separate subaccount ledger for each loan application. The borrower must consent to any transfer of trust account funds between the individual subaccounts associated with these pending loan applications. The consent must be maintained in the borrower's loan file and referenced in the borrower's subaccount ledger sheets.

**(20) May I be reimbursed for funds that I have advanced into the trust account?**

(a) If you deposit your own funds into the trust account as provided in subsection (11) of this section, you may receive reimbursement for such deposit at closing into your general business bank account provided:

(i) All third-party provider's charges associated with your deposit have been paid;

(ii) The HUD-1 Settlement Statement provided to the borrower clearly reflects the line item, "deposit paid by broker," and the amount deposited;

(iii) The HUD-1 Settlement Statement provided to the borrower clearly reflects the line item, "reimbursement to broker for funds advances," and the amount reimbursed; and

(iv) Any funds disbursed by escrow at closing to you for payment of unpaid third-party providers' expenses charged or to be charged to you are deposited into the borrower's subaccount of the trust account.

(b) If you deposit your own funds into the trust account as provided in subsection (11) of this section, and the loan does not close, the funds remain the property of the borrower.

**(21) May I disburse trust funds through electronic transmission?** Yes. You may disburse trust funds from the trust account by electronic transmission. Each electronic transmission must be evidenced by a record including a traceable identifying name or number supplied by the federally insured financial institution or transferring entity.

Electronic transmission(s) must be included in the monthly trust account reconciliation.

**(22) How must I handle trust account disbursements?**

(a) Disbursements from trust accounts may be by electronic transmission or manual check. If a manual check is used, the check must on its face identify the specific third-party provider transaction or borrower refund, except as spec-

ified in this section. If an electronic transmission is used, each transmission must be evidenced by a record including a traceable identifying name or number supplied by the federally insured financial institution or transferring entity.

(b) Disbursements may be made from the trust account(s) for the payment of bona fide third-party providers' services rendered in the course of the borrower's loan origination, if the borrower has consented in writing to the payment. Such consent may be given at any time during the application process and in any written form, provided that it contains sufficient detail to verify the borrower's consent to the use of trust funds. No disbursement on behalf of the borrower may be made from the trust account until the borrower's or broker's deposit of sufficient funds into the trust account(s) is available for withdrawal.

(23) **What are the requirements concerning the checks I write from my trust account?** You must use checks that are prenumbered by the supplier (printer) unless you use an automated check writing system which numbers all checks in sequence. All trust account checks must have the words "trust account" on the front. If you use an automated program that writes checks, the check number must appear in the magnetic coding which also identifies the account number for readability by federally insured financial institution computers and the program may assign suffixes or subaccount codes before or after the check number for identification.

(24) **What disbursements are prohibited?** Among other prohibited disbursements, no disbursement may be made from a borrower's subaccount:

(a) In excess of the amount held in the borrower's subaccount (commonly referred to as a disbursement in excess);

(b) In payment of a fee owed to any employee of the mortgage broker or in payment of any business expense of the mortgage broker;

(c) For payment of any service charges related to the management or administration of the trust account(s);

(d) For payment of any fees owed to the mortgage broker by the borrower, or to transfer funds from the subaccount to any other account; and

(e) For the payment of fees owed to the broker under RCW 19.146.070 (2)(a).

(25) **When may a mortgage broker transfer excess funds from a borrower subaccount?**

(a) A mortgage broker may, in the case of a closed and funded transaction, transfer excess funds remaining in the individual borrower's subaccount into the mortgage broker's general business bank account in full or partial payment of fees owed to the mortgage broker upon determination that all third-party providers' expenses have been accurately reported in the loan closing documents and have been paid in full, and that the borrower has received credit in the loan closing documents for all funds deposited in the trust account.

(b) Each mortgage broker must maintain a detailed audit trail for any disbursements from the borrower's subaccount(s) into the mortgage broker's general business bank account, including documentation in the form of a final HUD-1 Settlement Statement form showing that credit has been received by the borrower in the closing and funding of the transaction. The disbursements must be made by a check drawn on the

trust account and deposited directly into the mortgage broker's general business bank account.

(26) **What if there are funds remaining in a borrower's subaccount after all third-party providers have been satisfied?** Any remaining funds in a borrower's subaccount must be returned to the borrower within five business days of the determination that all payments to third-party providers owed by the borrower have been satisfied.

(27) **What if the mortgage broker cannot locate a borrower in order to remit excess funds in the borrower's subaccount?** The mortgage broker must follow the procedures provided by the department of revenue's unclaimed property division to handle any trust funds held for a borrower who cannot be located.

(28) **Is a mortgage broker responsible for all disbursements out of its trust account?** Yes. A mortgage broker is responsible for all disbursements from the trust account whether disbursed by personal signature, signature plate, signature of another person authorized to act on its behalf, or any authorized electronic transfer.

(29) **If the mortgage broker receives a check from closing that includes both its fee and a payment or payments for third-party providers, how does it lawfully handle the funds?** The mortgage broker may either:

(a) Split the check at the teller window at the time of deposit and route any moneys due to third-party providers to an approved trust account, and moneys due it to its general account; or

(b) Deposit the entire check into the trust account. After paying any and all moneys due to third-party providers and insuring that the borrower has received credit for all funds deposited in the trust account, the mortgage broker may transfer excess funds remaining in the individual borrower's subaccount into the mortgage broker's general business bank account. This amount must be equal to the fee disclosed on the final HUD-1 Settlement Statement, less any amounts already received by the mortgage broker, and must be duly recorded in the trust subaccount ledger. The mortgage broker may not transfer moneys from the trust account to its general business bank account before the loan is closed.

(30) **Is the mortgage broker allowed to transfer funds out of its trust account for any reason other than for payment to a third-party provider?** The mortgage broker may transfer the borrower's funds out of the trust account by check back to the borrower or to any party so instructed in writing by the borrower. A mortgage broker, when complying with these rules, may transfer excess trust funds to itself; however, failure to comply with these rules is a serious violation punishable by imprisonment, other penalties, or both as authorized by the act.

(31) **How do I pay a third-party appraisal cost if escrow disburses the funds to me and I don't have a trust account?** You must return the funds to escrow for proper disbursement, or maintain a trust account for such incidental occurrences.

(32) **If I choose not to have a trust account, and a closing agent did not follow written instructions and issued a check to me after closing that has fees in it for third-party providers, may I deposit the check into my business account and pay those third-party providers immedi-**



ately? No. You must not deposit those fees into your business account under any circumstances.

(33) **After closing, if an escrow agent, title company, or lender wires funds into my general account that are intended for third-party services, will the department take action against me for a violation of the trust fund requirements?** Provided that the number of times funds are mistakenly wired to your general account is immaterial compared to the total number of loans you closed and you can provide proof that you took the following steps, the department will not take action against you for a violation of the trust account requirements under RCW 19.146.050:

(a) You gave the escrow agent, title company, or lender clear written instruction not to send funds intended for third-party providers to you; and you forwarded all funds mistakenly wired to your general account to the proper party on or before the end of the third business day after receipt; or

(b) You provided accurate wire instruction for the trust account and the funds transmitter caused the error by incidentally placing the funds into the general account, and within one day you transfer all trust funds to your trust account.

(34) **How does a mortgage broker disburse funds from a subaccount when there is more than one borrower due to receive those funds?** When disbursing funds back to the borrowers, a mortgage broker must make the trust account disbursement check payable to all borrowers with the term "and" written between each borrower's name. When disbursing funds to another party instructed by the borrowers, all borrowers must sign the written notice of instruction.

(35) **May mortgage brokers using an interest-bearing trust account keep the interest?** No. Mortgage brokers using an interest bearing account must refund or credit to the borrower the interest earned on the borrower's subaccount. The refund or credit to the borrower may be made either at closing or upon withdrawal or denial of the borrower's loan application.

(36) **Are there any separate requirements for a computerized accounting system?** Yes. The requirements are as follows:

(a) Your computer system must provide the capability to back up data files;

(b)(i) You must print the following documents at least once per month and retain them as part of your books and records:

(A) Trust account deposit register;

(B) Trust account check register;

(C) Trial balance ledger;

(ii) You must print each subaccount at closure and retain the closure document as part of your books and records;

(c) You must ensure that all written checks are included within your computer accounting system; and

(d) You must print your computer-generated reconciliations of the trust account at least once each month and retain the printouts as a part of your books and records.

(37) **Are there penalties for violating trust account requirements under RCW 19.146.050?** A violation of this section is a class C felony and may be punishable by imprisonment. In addition, a mortgage broker or other person violating this section may be subject to penalties as enumerated under RCW 19.146.220.

#### NEW SECTION

**WAC 208-660-420 Out-of-state mortgage brokers and loan originators.** (1) **May I be a licensed mortgage broker in Washington without a physical office in Washington?** Yes. You are not required by the act to have a physical location in Washington.

(2) **May I be a licensed mortgage broker in Washington and have branch offices both in Washington and outside of Washington?** Yes. However, each of your branch offices that offer Washington residential mortgage loans must hold a Washington license, even if the location is outside Washington.

(3) **May my mortgage broker business be conducted entirely on the internet?** Yes. But you must have a license for all locations including those that offer loans by mail or internet.

(4) **May I work as a loan originator in Washington if I do not have a physical location in Washington?** Yes. You may originate Washington loans from any location licensed under the act, inside or outside of Washington.

(5) **May I work as a licensed loan originator for a mortgage broker that is out of the state?** Yes, as long as the location from which you work is licensed under the act.

(6) **If my mortgage broker business is not located in Washington, where must I keep my records?** If your business is located outside of Washington, you may either maintain the books and records at a location in Washington, or pay the department's travel expenses to the out-of-state location to examine the books and records. Travel expenses may include, but are not limited to, transportation, meals, and lodging.

(7) **What additional requirements must I comply with if my business does not have a physical location in Washington?** You must continuously maintain a registered agent in Washington and provide the department with the registered agent's name, physical and mailing address, and written consent to be the registered agent.

(8) **How do I change the information about my registered agent?** You must file a statement of change with the department within five business days from the change. The statement of change must contain:

(a) Your name and license number.

(b) If the agent's office location has changed, the new physical address.

(c) If the registered agent has changed, the name and physical address of the new registered agent. The director will send a request directly to the new agent to obtain written consent to the appointment.

(9) **If I am a registered agent under the act, what must I do to resign as registered agent?**

(a) Provide the department with a statement of resignation at least thirty-one days prior to the intended effective date of your resignation.

(b) Provide a copy of the statement of resignation to the licensed mortgage broker.

(c) The department will terminate your appointment on the thirty-first day after the date on which the statement of resignation was delivered.

(10) **Where must the director initiate lawsuits arising under the act against out-of-state licensees?** Lawsuits ini-

tiated by the director under the act must be initiated in the superior court of Thurston county.

#### NEW SECTION

#### **WAC 208-660-430 Disclosure requirements. (1) What disclosures must I make to borrowers and when?**

Within three business days of receiving a borrower's loan application, or receiving money from a borrower for third-party provider services, you, as a mortgage broker or loan originator on behalf of a mortgage broker, must make all disclosures required by RCW 19.146.030 (1), (2), and (3). The disclosures must be in a form acceptable to the director.

(2) **What is the disclosure required under RCW 19.146.030(1)?** A full written disclosure containing an itemization and explanation of all fees and costs that the borrower is required to pay in connection with obtaining a residential mortgage loan, and specifying the fee or fees which inure to the benefit of the mortgage broker. A good faith estimate of a fee or cost must be provided if the exact amount of the fee or cost is not determinable. This subsection does not require disclosure of the distribution or breakdown of loan fees, discount, or points between the mortgage broker and any lender or investor.

The specific content of the disclosure required under RCW 19.146.030(1) is identified in RCW 19.146.030(2).

(3) **What is the disclosure required under RCW 19.146.030(2)?** Mortgage brokers must disclose the following content:

(a) The annual percentage rate, finance charge, amount financed, total amount of all payments, number of payments, amount of each payment, amount of points or prepaid interest and the conditions and terms under which any loan terms may change between the time of disclosure and closing of the loan; and if a variable rate, the circumstances under which the rate may increase, any limitation on the increase, the effect of an increase, and an example of the payment terms resulting from an increase.

Disclosure in compliance with the requirements of the Truth-in-Lending Act and Regulation Z, as now or hereafter amended, is considered compliance with the disclosure content requirements of this subsection; however, RCW 19.146.030(1) governs the delivery requirement of these disclosures;

(b) The itemized costs of any credit report, appraisal, title report, title insurance policy, mortgage insurance, escrow fee, property tax, insurance, structural or pest inspection, and any other third-party provider's costs associated with the residential mortgage loan. Disclosure through good faith estimates of settlement services and special information booklets in compliance with the requirements of the Real Estate Settlement Procedures Act, and Regulation X, as now or hereafter amended, is considered compliance with the disclosure content requirements of this subsection; however, RCW 19.146.030(1) governs the delivery requirement of these disclosures;

(c) If applicable, the cost, terms, duration, and conditions of a lock-in agreement and whether a lock-in agreement has been entered, and whether the lock-in agreement is guaranteed by the mortgage broker or lender, and if a lock-in agreement has not been entered, disclosure in a form acceptable to

the director that the disclosed interest rate and terms are subject to change;

(d) A statement that if the borrower is unable to obtain a loan for any reason, the mortgage broker must, within five days of a written request by the borrower, give copies of any appraisal, title report, or credit report paid for by the borrower, to the borrower, and transmit the appraisal, title report, or credit report to any other mortgage broker or lender to whom the borrower directs the documents to be sent;

(e) Whether and under what conditions any lock-in fees are refundable to the borrower; and

(f) A statement providing that moneys paid by the borrower to the mortgage broker for third-party provider services are held in a trust account and any moneys remaining after payment to third-party providers will be refunded.

(4) **How do I disclose my mortgage broker fees on the good faith estimate and settlement statement?** You must disclose or direct the disclosure of your fees on lines 808 through 811 of the good faith estimate and HUD-1/1A settlement statement or similar document.

(5) **Are there additional disclosure requirements related to interest rate lock-ins?** Yes. Pursuant to RCW 19.146.030(3), if subsequent to the written disclosure being provided under this section, a mortgage broker or loan originator enters into a lock-in agreement with a borrower or represents to the borrower that the borrower has entered into a lock-in agreement, then no less than three business days thereafter including Saturdays, the mortgage broker or loan originator must deliver or send by first-class mail to the borrower a written confirmation of the terms of the lock-in agreement, which must include a copy of the disclosure made under subsection (3)(c) of this section.

(6) **What must I disclose to the borrower if they do not choose to enter into a lock-in agreement?** If a lock-in agreement has not been entered into, you must disclose to the borrower that the disclosed interest rate and terms are subject to change.

(7) **Will a lock-in agreement always guarantee the interest rate and terms?** No. A lock-in agreement may or may not be guaranteed by the mortgage broker or lender. The lock-in agreement must clearly state whether the lock-in agreement is guaranteed by the mortgage broker or lender.

(8) **Must a mortgage broker enter into a lock-in agreement with a borrower?** No. The statute does not require a mortgage broker to enter into a lock-in agreement with a borrower.

(9) **Are there any model forms that suffice for the disclosure content under RCW 19.146.030(2)?** Yes. The following model forms are acceptable forms of disclosure:

(a) For RCW 19.146.030 (2)(a), mortgage brokers are encouraged to use the federal truth-in-lending disclosure form for mortgage loan transactions provided under the Truth-in-Lending Act and Regulation Z, as now or hereafter amended. However, the federal truth-in-lending disclosure only suffices for the content of disclosures under RCW 19.146.030 (2)(a). The delivery of disclosures is governed by RCW 19.146.030(1).

(b) For RCW 19.146.030 (2)(b), mortgage brokers are encouraged to use the federal good faith estimate disclosure form provided under the Real Estate Settlement Procedures

Act and Regulation X, as now or hereafter amended. However, the federal good faith estimate disclosure only suffices for the content of disclosures under RCW 19.146.030 (2)(b). The delivery of disclosures is governed by RCW 19.146.030 (1).

(c) For RCW 19.146.030 (2)(c), (d), (e), (f) and (3), the department encourages mortgage brokers to use the department published model disclosure forms that can be found on the department's web site.

**(10) May my mortgage broker fees increase following the disclosures required under RCW 19.146.030(1)?** Pursuant to RCW 19.146.030(4), a mortgage broker must not charge any fee that inures to the benefit of the mortgage if it exceeds the fee disclosed on the initial written "good faith estimate" disclosure required in RCW 19.146.030 (1) and (2)(b), unless:

(a) The need to charge the fee was not reasonably foreseeable at the time the written disclosure was provided; and

(b) The mortgage broker has provided to the borrower, no less than three business days prior to the signing of the loan closing documents, a clear written explanation of the fee and the reason for charging a fee exceeding that which was previously disclosed.

**(11) Are there any situations in which fees that benefit the mortgage broker can increase without additional disclosure?** Yes, there are two possible situations where an increase in the fees benefiting the mortgage broker may increase without the requirement to provide additional disclosures. These situations are:

(a) The additional disclosure is not required if the borrower's closing costs, excluding prepaid escrowed costs of ownership, on the final settlement statement do not exceed the total closing costs, excluding prepaid escrowed costs of ownership, in the most recent good faith estimate provided to the borrower. For purposes of this section "prepaid escrowed costs of ownership" mean any amounts prepaid by the borrower for the payment of taxes, property insurance, interim interest, and similar items in regard to the property used as security for the loan; or

(b) The fee or set of fees that benefit the mortgage broker are disclosed as a percentage of the loan amount and the increase in fees results from an increase in the loan amount, provided that:

(i) The increase in loan amount is requested by the borrower; and

(ii) The fee or set of fees that are calculated as a percentage of the loan amount have been disclosed on the initial written disclosure as both a percentage of the loan amount and as a dollar amount based upon the assumed loan amount used in the initial written disclosure; and

(iii) The total aggregate increase in the fee or set of fees that benefit the mortgage broker as a result of the increase in loan amount is less than seven hundred fifty dollars.

**(12) What action may the department take if I disclose my mortgage broker fees on the good faith estimate and HUD-1/1A statement on lines other than 808 through 811?** If you fail to disclose your mortgage broker fees as required, the department may request, direct, or order you to refund those fees to the borrower. For example, if you disclose your mortgage broker fees as loan origination fees or

discount points, the department may find that this is a deceptive practice and take action against you as indicated.

**(13) May the department take action against a mortgage broker when mortgage broker fees are disclosed incorrectly on the HUD-1/1A and the incorrect disclosure was made by an independent escrow agent, title company, or lender?** If the mortgage broker can show the department that they disclosed their fees correctly on the good faith estimate, and have instructed the independent escrow agent, title company, or lender to disclose the fees correctly on the HUD-1/1A, and the independent escrow agent, title company, or lender has not followed the instructions, the department may not take action against the mortgage broker.

**(14) What action may the department take if I fail to provide additional disclosures as required under RCW 19.146.030(4)?** Generally, the department will request, direct, or order you to pay restitution to borrowers that have paid fees to you in excess of the amounts initially disclosed.

**(15) How will the department determine whether borrowers have paid fees to me in excess of the amounts initially disclosed for which the department might request, direct or order restitution?** Generally, the department will make its determination by answering the following questions:

(a) Has an initial good faith estimate disclosure of costs been provided to the borrower in accordance with RCW 19.146.030 (1) and (2)(b)?

(b) Were any subsequent good faith estimate disclosures of costs provided to the borrower no less than three days prior to the signing of the loan closing documents?

(c) How were the costs disclosed in each good faith estimate (e.g., dollar amount, percentage, or both)?

(d) Did the total costs, excluding prepaid escrowed costs of ownership, on the final settlement statement exceed the total closing costs, excluding prepaid escrowed costs of ownership, in the most recent good faith estimate provided to the borrower no less than three days prior to the signing of the loan closing documents?

(e) If the costs at closing did exceed the most recent disclosure of costs was the need to charge the fee reasonably foreseeable at the time the written disclosure was provided?

(f) If the costs at closing did exceed the most recent disclosure of costs did the mortgage broker provide a clear written explanation of the fee and the reason for charging a fee exceeding that which was previously disclosed, no less than three business days prior to the signing of the loan closing documents?

**(16) If I failed to provide the initial good faith estimate disclosure under RCW 19.146.030 (1) and (2)(b) what action may the department take?** If you have not provided the initial good faith estimate disclosure as required, including both delivery and content requirements, the department may request, direct or order you to pay restitution to the borrower in the amount of all fees that inured to your benefit.

**(17) If I received trust funds from a borrower, but failed to provide the disclosures as required in RCW 19.146.030 (1) and (2), what action may the department take?** If you did not provide the disclosures as required, including both delivery and content requirements, the department may request, direct or order you to refund to the bor-

rower any trust funds they have paid regardless of whether you have already expended those trust funds on third-party service provider services.

**(18) Under what circumstances must I redisclose the initial disclosures required under the act?** Generally, any loan terms or conditions that change must be redisclosed, prior to closing, to the borrower. Some examples are:

- (a) Adjustable rate loan terms, including index, margin, and any changes to the fixed period.
- (b) The initial fixed period.
- (c) Any balloon payment requirements.
- (d) Interest only options and any changes to the options.
- (e) Lien position of the loan.
- (f) Terms and the number of months or years for amortization purposes.
- (g) Prepayment penalty terms and conditions.
- (h) Any other term or condition that may be specific to a certain loan product.

**(19) Must I provide the written disclosures required under RCW 19.146.030 if all I do is obtain a credit report on a consumer who has identified a specific property for a purchase and sales agreement or contract, or a refinance loan?** Yes. At that point, you have collected enough information on behalf of the consumer for you to anticipate a credit decision under RESPA's Regulation X, 24 CFR Sections 3500 et seq. and you must provide the consumer with all required disclosures. See the definition of "application" in these rules.

**(20) If a loan application is canceled within three days of application must I provide the disclosures required under RCW 19.146.030?** If you have not used any borrower trust funds and those funds have been returned to the borrower in conformance with these rules, the disclosures pursuant to RCW 19.146.030 are not required.

**(21) Is a mortgage broker that table funds a loan exempt from disclosures?** No. A mortgage broker must provide all disclosures required by the act, and disclose all fees as required by Regulation X, regardless of the funding mechanism used in the transaction.

**(22) What must I disclose to a potential borrower when I advertise my business or services to them using information about their current loan?** You must disclose the source from which you obtained the information about the borrower's current loan when the information was not obtained by soliciting, making a residential loan, or assisting that potential borrower in obtaining or applying to obtain a residential mortgage loan.

**(23) What must I provide to the borrower if I am unable to complete a loan for them and they have paid for services from third-party providers?** If you are unable to complete a loan for the borrower for any reason, and if the borrower has paid you for third-party services, and the borrower makes a written request to you, you must provide the borrower with copies of the product from any third-party service provider, including, but not limited to, an appraisal, title report, or credit report. You must provide the copies within five business days of the borrower's request.

The borrower may also request that you provide the originals of the documents to another mortgage broker or lender of the borrower's choice. By furnishing the originals to

another mortgage broker or lender, you are conveying the right to use the documents to the other broker or lender. You must, upon request by the other broker or lender, provide written evidence of the conveyance. You must provide the originals to the mortgage broker or lender within five business days of the borrower's request.

#### NEW SECTION

**WAC 208-660-440 Advertising. (1) Am I responsible for ensuring that my advertising material is accurate, reliable, and in compliance with the act?** Yes. Each mortgage broker is responsible for ensuring the accuracy and reliability of the advertising material.

**(2) A licensee is prohibited from advertising with envelopes or stationery that contain an official-looking emblem designed to resemble a government mailing or that suggest an affiliation that does not exist. What are some examples of emblems or government-like names, language, or nonexistent affiliations that will violate the state and federal advertising laws?** Some examples include, but are not limited to:

(a) An official-looking emblem such as an eagle, the Statue of Liberty, or a crest or seal that resembles one used by any state or federal government agency.

(b) Envelopes designed to resemble official government mailings, such as IRS or U.S. Treasury envelopes, or other government mailers.

(c) Warnings or notices citing government codes or form numbers not required by the U.S. Postmaster to be shown on the mailing.

(d) The use of the term "official business," or similar language implying official or government business, without also including the name of the sender.

(e) Any suggestion or representation that the solicitor is affiliated with any agency, bank, or other entity that it does not actually represent.

**(3) When I am advertising interest rates, the act requires me to conspicuously disclose the annual percentage rate (APR) implied by the rate of interest. What does it mean to "conspicuously" disclose the APR?** The type size of the APR must be the same size or larger than any other rates stated in the advertisement.

**(4) The act prohibits me from advertising an interest rate unless that rate is actually available at the time of the advertisement. How may I establish that an advertised interest rate was "actually available" at the time it was advertised?** Whenever a specific interest rate is advertised, the mortgage broker must retain a copy of the lender's "rate sheet," or other supporting rate information, and the APR calculation for the advertised interest rate.

**(5) Must I quote the annual percentage rate when discussing rates with a borrower?** Yes. You must quote the annual percentage rate and other terms of the loan if you give an oral quote of an interest rate to the borrower. TILA's Regulation Z, 12 CFR, part 226.26 provides guidance for using the annual percentage rate in oral disclosures.

**(6) May a mortgage broker or loan originator advertise rates or fees as the "lowest" or "best"?** No. Rates described as "lowest," "best," or other similar words cannot

be proven to be actually available at the time they are advertised. Therefore, they are a false or deceptive statement or representation prohibited by RCW 19.146.0201(7).

**(7) When I advertise, or present a business card to a potential borrower, must I make the disclosures required under the act and these rules?** No. You are not required to make disclosures until you accept a residential mortgage loan application, or until you assist a borrower in preparing an application.

**(8) May I solicit using advertising that suggests or represents that I am affiliated with a state or federal agency, municipality, federally insured financial institution, trust company, building and loan association, when I am not; or that I am an entity other than who I am?** No. It is an unfair and deceptive act or practice and a violation of the act for you to suggest or represent that you are affiliated with a state or federal agency, municipality, federally insured financial institution, trust company, building and loan association, or other entity you do not actually represent; or to suggest or represent that you are any entity other than who you are.

#### NEW SECTION

**WAC 208-660-450 Recordkeeping requirements. (1) What business books and records must I keep to comply with the act?** The following books and records for your business must be available to the department.

**(a) Mortgage transaction documents.**

(i) All forms of loan applications, written or electronic (the Fannie Mae 1003 is an example);

(ii) The initial rate sheet or other supporting rate information;

(iii) The last rate sheet, or other supporting rate information, if there was a change in rates, terms, or conditions prior to settlement;

(iv) All written disclosures required by the act and federal laws and regulations. Some examples of federal law disclosures are: The good faith estimate, truth in lending disclosures, Equal Credit Opportunity Act disclosures, affiliated business arrangement disclosures, and RESPA servicing disclosure statement;

(v) Documents and records of compensation paid to employees and independent contractors;

(vi) An accounting of all funds received in connection with loans, including a trust account statement with supporting data;

(vii) Rate lock agreements and the supporting rate sheets or other rate supporting document;

(viii) Settlement statements (the final HUD-1 or HUD-1A);

(ix) Broker loan document requests (may also be known as loan document request or demand statements) that include any prepayment penalties, terms, fees, rates, yield spread premium, loan type and terms;

(x) Records of any fees refunded to applicants for loans that did not close;

(xi) All file correspondence and logs; and

(xii) All mortgage broker contracts with lenders and all other correspondence with the lenders.

**(b) Advertisements.** All advertisements placed by or at the request of the mortgage broker that mention rates or fees, and the corresponding rate sheets for the advertised rates. The copies must include newspaper and print advertising, scripts of radio and television advertising, telemarketing scripts, all direct mail advertising, and any advertising distributed directly by delivery, facsimile, or computer network. The record of each advertisement must include the date or dates of publication, the name of the publisher if advertised by newsprint, radio, television or telephone information line, or in the case of a flyer, the dates, methods and areas of distribution.

**(c) Trust accounting records.** See WAC 208-660-410, Trust accounting.

**(d) Other.** All other books, accounts, records, papers, documents, files, and other information relating to the mortgage broker operation. Examples include, but are not limited to, personnel files, company policy and procedure documents, training materials, records evidencing compliance with applicable federal laws and regulations, and complaint correspondence and supporting documents. See also the department's *Mortgage Broker Examination Manual*, available on the department web site.

**(2) What books and records must I keep for my trust account?** See WAC 208-660-410, Trust accounting.

**(3) How long must I keep my books and records to comply with the act?**

(a) You must keep the books, accounts, records, papers, documents, files, and other information relating to the mortgage broker operation for a minimum of twenty-five months.

(b) It may be a prudent business practice to keep your books and records longer than twenty-five months. For example, if a consumer's loan becomes an adjustable rate mortgage after a two-year fixed mortgage rate term, the consumer may become unhappy that the terms of their mortgage have changed and file a complaint against you. The department must begin an investigation into the complaint. If you do not have the records to show proof of proper disclosures and all other compliance with state and federal laws, the department may rely solely on the consumer's records as evidence in the case.

**(4) Where must I keep my business records?**

(a) You must keep all books and records in a location that is on file with and readily available to the department during normal business hours. In the event of a department examination, the location must have the work space and resources that are conducive to business operations. A readily available location may include places of business, personal residences, computers, safes, or vaults. See WAC 208-660-400(8) for the reporting requirements if the address changes.

(b) If your usual business location is outside of Washington, you may either maintain the books and records at a readily available location in Washington, or pay the department's expenses to travel to the location to examine the books and records stored out-of-state. Travel costs may include, but are not limited to, transportation costs, meals, and lodging.

**(5) May I keep my books and records electronically?** Yes. You may keep the required records described in subsec-

tion (1) of this section by electronic display equipment if you can meet all of the following requirements:

(a) The equipment must be made available to the department for the purposes of an examination or investigation;

(b) The records must be stored exclusively in a nonrewriteable and nonerasable format;

(c) The hardware or software needed to display the records must be maintained during the required retention period under subsection (3) of this section.

If the department requests the books and records in hard copy, you must provide it in that form and within the time frame requested or directed by the department.

#### NEW SECTION

**WAC 208-660-500 Prohibited practices. (1) What may I request of an appraiser?** You may request an area or market survey. While there are no strict definitions of these terms, generally they refer to general information regarding a region, area, or plat. The information usually includes the high, low and average sales price, numbers of properties available for sale or that have been sold within a set period, marketing times, days on market, absorption rate or the mixture of different property types in the specified area, among other possible components. An area survey does not contain sufficient information or is not so defining as to allow an appraiser or reader to determine the value of a specified property or property type.

**(2) How may I discuss property values with an appraiser, prior to the appraisal, without the discussion constituting improperly influencing the appraiser?** You may inform the appraiser of your opinion of value, the borrower's opinion of value, or the list or sales price of the property. You are prohibited from telling the appraiser the value you need or that is required for your loan to be successful.

**(3) What business practices are prohibited?** The following business practices are prohibited:

(a) Directly or indirectly employing any scheme, device, or artifice to defraud or mislead borrowers or lenders or to defraud any person.

(b) Engaging in any unfair or deceptive practice toward any person.

(c) Obtaining property by fraud or misrepresentation.

(d) Soliciting or entering into a contract with a borrower that provides in substance that the mortgage broker may earn a fee or commission through the mortgage broker's "best efforts" to obtain a loan even though no loan is actually obtained for the borrower.

(e) Charging discount points on a loan which does not result in a reduction of the interest rate. Some examples of discount point misrepresentations are:

(i) A mortgage broker or lender charging discount points on the good faith estimate or settlement statement payable to the mortgage broker or any party that is not the actual lender on the resident mortgage loan.

(ii) Charging loan fees or mortgage broker fees that are represented to the borrower as discount points when such fees do not actually reduce the rate on the loan, or reflecting loan origination fees or mortgage broker fees as discount points.

(iii) Charging discount points that are not mathematically determinable as the same direct reduction of the rate available to any two borrowers with the same program and underwriting characteristics on the same date of disclosure.

(f) Failing to clearly disclose to a borrower whether the payment advertised or offered for a residential mortgage loan includes amounts for taxes, insurance, or other products sold to the borrower. This prohibition includes the practice of misrepresenting, either orally or in writing, a loan payment that includes only principal and interest as a loan payment that includes principal, interest, tax, and insurance.

(g) Failing to provide the exact pay-off amount of a loan you own or service as of a certain date five or fewer business days after being requested in writing to do so by a borrower of record or their authorized representative.

(h) Failing to record a borrower's payment, on a loan you own or service, as received on the day it is delivered to any of the licensee's locations during its regular working hours.

(i) Negligently making any false statement or willfully making any omission of material fact in connection with any application or any information filed by a licensee in connection with any application, examination or investigation conducted by the department.

(j) Purchasing insurance on an asset secured by a loan without first attempting to contact the borrower by mailing one or more notices to the last known address of the borrower in order to verify that the asset is not otherwise insured.

(k) Willfully filing a lien on property without a legal basis to do so.

(l) Coercing, intimidating, or threatening borrowers in any way with the intent of forcing them to complete a loan transaction.

(m) Failing to reconvey title to collateral, if any, within thirty days when the loan is paid in full unless conditions exist that make compliance unreasonable.

(n) Failing to make disclosures to loan applicants and noninstitutional investors as required by RCW 19.146.030 and any other applicable state or federal law.

(o) Making, in any manner, any false or deceptive statement or representation with regard to the rates, points, or other financing terms or conditions for a residential mortgage loan or engage in bait and switch advertising or other deceptive advertising practices.

Bait and switch means a deceptive practice of soliciting or promising a loan at favorable terms, but later "switching" or providing a loan at less favorable terms. While bait and switch will be determined by the facts of a case, the following examples, alone or in combination, may exhibit a bait and switch practice:

(i) A deceptive change of loan program from fixed to variable rate.

(ii) A deceptive increase in interest rate.

(iii) The misrepresentation of discount points. This may include discount points that have a different rate buydown effect than promised, or origination fees that a borrower has been led to believe are discount points affecting the rate.

(iv) A deceptive increase in fees or other costs.

(v) A deceptive disclosure of monthly payment amount. This practice may involve soliciting a loan with payments that do not include monthly amounts for taxes and insurance

or other reserved items, while leading the borrower to believe that such amounts are included.

(vi) Additional undisclosed terms such as prepayment penalties or balloon payments, or deceiving borrowers about the effect of disclosed terms.

(vii) Additional layers of financing not previously disclosed that serve to increase the overall cost to the borrower. This practice may involve the surprise combination of first and second mortgages to achieve the originally promised loan amount.

(viii) Leading borrowers to believe that subsequent events will be possible or practical when in fact it is known that the events will not be possible or practical.

(ix) Advertising or offering rates, programs, or terms that are not actually available at the time. See WAC 208-660-440(4).

(p) Negligently making any false statement or knowingly and willfully make any omission of material fact in connection with any reports filed by a mortgage broker or in connection with any investigation conducted by the department.

(q) Making any payment, directly or indirectly, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property.

(r) Advertising a rate of interest without conspicuously disclosing the annual percentage rate implied by the rate of interest.

(s) Failing to comply with the federal statutes and regulations in RCW 19.146.0201(11).

(t) Failing to pay third-party providers within the applicable time lines.

(u) Collecting or charging, or attempting to collect or charge, or use or propose any agreement purporting to collect or charge any fees prohibited by the act.

(v) Acting as a loan originator and real estate broker or salesperson, or acting as a loan originator in a manner that violates RCW 19.146.0201(14).

(w) Failing to comply with any provision of RCW 19.146.030 through 19.146.080 or any rule adopted under those sections.

**(4) May I charge a loan origination fee or discount points when I originate but do not make a loan?** No. You may not charge a loan origination fee or discount points as described in Regulation X, Part 3500, Appendix A.

**(5) What mortgage broker fees may I charge?** You may charge a mortgage broker fee that was agreed upon between you and the borrower as stated on a good faith estimate disclosure form or similar document provided that such fee is disclosed in compliance with the act and these rules.

**(6) How do I disclose my mortgage broker fees on the good faith estimate and settlement statement?** You must disclose or direct the disclosure of your fees on lines 808 through 811 of the HUD-1/1A Settlement Statement or similar document.

**(7) May I charge the borrower a fee that exceeds the fee I initially disclosed to the borrower?** Pursuant to RCW 19.146.030(4), you may not charge any fee that benefits you if it exceeds the fee you initially disclosed unless:

(a) The need to charge the fee was not reasonably foreseeable at the time the initial disclosure was provided; and

(b) You have provided to the borrower, no less than three business days prior to the signing of the loan closing documents, a clear written explanation of the fee and the reason for charging a fee exceeding that which was previously disclosed. See WAC 208-660-430 for specific details, disclosures, and exceptions implementing RCW 19.146.030(4).

## DIRECTOR AND DEPARTMENT POWERS

### NEW SECTION

**WAC 208-660-510 Director and department powers—Examination authority.** (1) **Why is the department authorized to examine my business?** The department is authorized to examine your business to determine your compliance with the act.

(2) **When may the department examine my business?** The department may examine your business if you have obtained a mortgage broker main or branch office license within the last five years.

(3) **How many times may the department examine my business in a five-year period?** Your business may be examined once during the first five years of licensing. This applies to the main office and each branch office. However, if violations are found during an examination, the department may conduct additional examinations to follow up with the correction of these violations. The time frame of any additional examination will depend, in part, on the department's assessment of the continuing risk associated with the violations found during the previous examination.

(4) **Will the department give me advance notice of an examination?**

(a) The department will give you advance notice of at least thirty days of a routine examination to allow you to compile the requested documents and prepare for the examiner's arrival. However, you and the department may agree on an earlier date for the examination. Extensions of time beyond that are at the director's discretion.

(b) The department will not give you advance notice of "for cause" examinations. "For cause" means the department may have reason to believe you have violated the act.

(5) **What are the protocols for an examination of my business?** The examination protocols are detailed in the department's *Mortgage Broker Examination Manual*. The manual is available on the department's web site.

The basic protocols include, but are not limited to:

(a) **Frequency of examinations.** The department's examination frequency will be determined using appropriate measurements of risk and random selection.

The primary purpose for measuring risk to determine the examination schedule and frequency cycle is to help the department identify those mortgage brokers whose compliance practices display potential weaknesses requiring examination attention. These same measurements of risk assist the department in determining the need for expanding the scope of an examination or expanding the initial examination time period. The protocols for measuring risk may include, but are not limited to:

(i) The history of licensing;

(ii) Known enforcement issues or problems;

- (iii) The number and severity of complaints;
- (iv) The licensee's responsiveness to department inquiries;
- (v) The licensee's volume of loan activity;
- (vi) The number of licensed locations and staff size;
- (vii) Prior examination or investigation results; and
- (viii) The existence of internal and external systems and controls to ensure compliance.

(b) **Advance notice.** You will receive a department notice listing the documents the department will examine at your business. Your preparation before the arrival of the department examiners will help the examination proceed more efficiently. The department will make every effort to minimize the impact of the examination on your business.

(c) **A preexamination meeting at your business.** The department examiner(s) will meet with you upon arrival at your business location.

(d) **The on-site review at your business.** The department examiner will conduct the examination of your business.

(e) **An exit meeting after you have provided all the requested information, and the examiner has completed the preliminary analysis.** The examiner(s) may request additional information from you. After receiving that information and completing the preliminary analysis, the examiner may discuss the preliminary analysis with you.

(f) **Post examination work and report.** The department examiner will prepare an examination report and submit the report and examination file to the review examiner. After making any necessary changes, the department will deliver the report to you.

(g) **Notification of violations and opportunity for response.** The department will document in the examination report any violations or deficiencies identified during the examination. You will have an opportunity to respond to the examination findings and any violations or deficiencies.

(h) **A possible referral to enforcement.** Any violation of the act or these rules may be referred to enforcement. An enforcement action may result in a suspension or revocation of your license, the imposition of fines, the payment of restitution, or a ban from the mortgage broker industry.

(6) **What is the scope of the examination of my business?** In general, the scope of the examination will include, but is not limited to:

- (a) Reviewing trust accounting compliance.
- (b) Reviewing loan files.
- (c) Conducting interviews to better understand the business, solicitation practices, transactional events, disclosure compliance, and complaint resolution.
- (d) Reviewing the business books and records, including employee records.

(7) **When would the department expand the scope of an examination of my business?** If, during an examination, the department finds a clear need to expand the scope of the examination, it may do so. Two examples of a clear need to expand the scope of an examination are:

- (a) When the department finds an apparent violation of trust accounting.

(b) When apparent violations of the prohibited practices section of the act are discovered. See RCW 19.146.0201 for prohibited practices.

(c) When there are clear systemic violations requiring greater review than is possible in a routine examination.

These examples are illustrative only and do not limit the circumstances under which the department may decide to expand the scope of an examination.

(8) **Will I receive notice if the department decides to expand the scope of the examination of my business?** Yes. The department will provide you with five business days' written notice if examination findings clearly identify the need to expand the scope of the examination. See subsection (7) of this section for examples of when the department may decide to expand the scope of the examination.

The expanded examination may include a different location and may go beyond the initial five-year time limit.

(9) **Will I have to pay for an examination of my business?**

(a) If you are located in Washington, you do not have to pay for the costs of the examination.

(b) If you are located outside of Washington, you will have to pay for the examiner's travel costs. Travel costs include, but are not limited to, transportation costs, meals, and lodging. Travel reimbursement rates are established by the Washington state office of financial management.

The department will send you an invoice and you will have thirty days to reimburse the department for the examination travel costs. See WAC 208-660-550, Department fees and costs.

(10) **May the department consider reports made by independent certified professionals instead of conducting their own examination of a mortgage broker business?** Yes. Instead of examining a mortgage broker's business, the department may consider the reports of independent certified professionals who have examined the mortgage broker using the same standards used by the department (see the standards in the department's *Mortgage Broker Examination Manual*). The department may then prepare a report of examination that incorporates all or part of the independent certified professional's reports, or the examiner may expand the scope of the examination.

(11) **What are the pros and cons of hiring my own independent certified professional versus waiting for a department examination?** The department's cost of examination will not be charged to you directly, although you may experience some minor business interruption. If you hire your own independent certified professional, you will incur the cost of that examination; however, you will control the time and manner in which the examination is conducted. The greatest benefits you may derive from hiring your own independent certified professional are:

(a) Early notice of problems you may encounter during an examination;

(b) The ability to correct deficiencies or problems at an early stage when the greatest benefit of correction may be derived;

(c) The early implementation of a sound compliance program; and



(d) The ability to control the timing for your convenience.

**(12) If I want the department to consider an independent certified professional's report instead of examining my business, how must I make that request, and who submits the report to the department?** When you receive notice from the department that your business is scheduled for an examination, you must notify the department that you wish the department to consider the report of an independent certified professional instead of the department examining your business. The independent certified professional must then submit their report directly to the department, in a form acceptable to the department.

**(13) How may the department determine if the independent certified professional's report meets the standards of examination established by the department?** The department will compare the sufficiency of the report submitted by the independent certified professional to the requirements in the department's examination manual. If the report is missing any of the requirements from the manual, the department may require the licensee to provide the missing information.

**(14) If the independent certified professional's report is missing information, how may the department obtain the missing information?** The department may interview, obtain records from, or otherwise contact the licensee, or with the licensee's permission contact the independent certified professional, if additional information is required for the department's review of the report.

**(15) What will the department do if the independent certified professional's report is not sufficient?** If the department determines the report is not sufficient, the department will notify the licensee and schedule an examination of the business.

**(16) What will the department do if the independent certified professional's report is sufficient?** If the department determines the report is sufficient, the department will prepare a report of examination that incorporates all or part of the independent certified professional's report.

**(17) May the department retain professionals or specialists to examine a licensee?** Yes. The department, at its own expense, may retain attorneys, accountants, or other professionals or specialists as examiners, auditors, or investigators to examine a licensee.

**(18) Do I receive any reports from the examination?** Yes.

(a) When you have provided all the requested information, and the examiner has completed the preliminary analysis, the examiner will issue an exit report of examination containing preliminary examination findings.

(b) After additional department review, including the consideration of new information, if any, the department will issue a final report of examination.

**(19) Must I do anything as a result of the examination?** Yes. You will receive instructions from the department on the actions you must take. For example, if adverse findings or deficiencies were cited in the report of examination, you must respond to those findings.

**(20) How do I respond to findings in a report of examination?** You must respond in writing within thirty days of

the date the department issues the report of examination. Your response must address any deficiencies noted in the report and describe the corrective actions you have taken.

**(21) What will happen if I do not respond to the report of examination?** If you fail to respond to the report of examination, you may be referred to enforcement where further administrative actions may be taken against you.

#### NEW SECTION

**WAC 208-660-520 Director and department powers—Investigation authority.** (1) **What is an investigation?** An investigation is an inquiry to determine compliance with the act and rules, to assess allegations of wrongdoing, or to evaluate the licensing qualifications of persons subject to the act. The inquiry may involve extensive research, fact gathering, the issuance of directives and subpoenas, witness interviews, and financial and legal analysis. Depending on the results of these efforts, an investigation may result in the pursuit of an enforcement action. An investigation may proceed at the same time as other matters and may continue during an enforcement action.

(2) **How often may the department investigate my mortgage broker or loan originator operations?** For the purpose of investigating violations or complaints, the department may investigate your business as often as necessary to carry out the purpose of the act.

(3) **Will the department give advance notice before requiring me to make my books and records available for its investigation?** The department is not required to give you advance notice before an investigation. However, the department may provide advance notice before an investigation if doing so would be in the best interests of all parties involved, including the department.

(4) **From whom may the department obtain information in an investigation?** The department may obtain information from any person whose testimony may be pertinent to the loans, business, or subject matter of an investigation.

(5) **How may the department obtain information during an investigation?** The department may direct, subpoena, or order a person to submit to a deposition, or produce written information.

(6) **What information may the department obtain during an investigation?** The department may obtain books, accounts, records, files, and any other documents the department deems relevant to the investigation.

(7) **What businesses may the department investigate?** The department may investigate the business of any person who is engaged in the business of mortgage brokering, whether the person is a licensee or whether the person acts or claims to act under, or without the authority of, the act.

(8) **May the director retain professionals or specialists to assist in an investigation, and if so, will I have to pay for those services?** Yes. The department may hire attorneys, accountants or other professionals as needed to conduct or assist in an investigation. The cost for these services will be assessed in accordance with WAC 208-660-550(5), Investigations.

(9) **When may the department charge a mortgage broker or loan originator an investigation fee?** The

department may charge an investigation fee when it investigates the books and records of any mortgage broker or loan originator subject to the act.

(10) **Are there circumstances in which the department will investigate a mortgage broker or loan originator but will not charge an investigation fee?** Yes. The department will not charge an investigation fee in a complaint investigation if it is determined that no violation occurred, or when the mortgage broker or loan originator implements a remedy satisfactory to the complainant and the department, and no department order has been issued.

(11) **How is the amount of the investigation fee determined?** The amount of the investigation fee is the number of hours expended by the department related to the investigation multiplied by an hourly rate established by the department. See WAC 208-660-550, Department fees and costs.

### NEW SECTION

**WAC 208-660-530 Director and department powers—Enforcement authority.** (1) **What is a directive?** A directive is a formal request for information from the director. A directive may request the recipient to appear in person to testify or present specific documents or items. A directive may be entitled "directive" or "subpoena."

(2) **What is an administrative enforcement action?** An administrative enforcement action is a formal action, generally initiated by a statement of charges filed by the department against persons who allegedly violated the act. Enforcement actions seek various sanctions, including, but not limited to, license revocation or suspension, business practice prohibition, or fines; and may include ordering restitution for consumers, recovery of the department's investigation costs, or all of the above.

(3) **What other types of enforcement action may the department pursue against me or my license?** The department may pursue criminal or civil referrals to the attorney general, prosecuting attorneys, or federal authorities, and may initiate civil actions in superior court.

(4) **What does it mean to be found in violation of the act and rules?** For the purposes of evaluating the licensing qualifications of an applicant, any of its principals, or the designated broker, "found in violation of the act and rules" means at least one of the following orders has been issued:

(a) A superior court order stating the applicant, any of its principals, or the designated broker violated any of the provisions of the act or rules; or

(b) A final administrative order after the completion of an administrative hearing and the filing of an initial decision of an administrative law judge stating the applicant, any of its principals, or the designated broker violated any of the provisions of the act or rules; or

(c) An administrative order stating the applicant, any of its principals, or the designated broker violated any of the provisions of the act or rules.

The order containing the finding described above must not have been entered within five years of the filing of the present application. However, if the violation resulted in a conviction of a gross misdemeanor involving dishonesty or financial misconduct, or a felony, the finding must not have

been entered within seven years of the filing of the present application.

(5) **May the department sanction me for committing violations in another jurisdiction?** The department may seek sanctions against you for committing a violation in another jurisdiction if the violation could be a basis for the department to seek sanctions under the act or rules. Possible sanctions include those found in RCW 19.146.220.

(6) **May I be subject to a daily fine for violating the act?** Yes. Each licensed mortgage broker and each of its principals, officers, designated brokers, loan originators, employees, independent contractors, and agents must comply with the applicable provisions of the act. Each violation of any applicable provision of the act, or of any order, directive, or requirement of the director may, at the discretion of the director, subject the violator to a fine of up to one hundred dollars for each offense. Each day's continuance of the violation is a separate and distinct offense. In addition, the director may exercise discretion and by order assess other penalties for a violation of the act.

(7) **Under what circumstances will the department hold a designated broker, principal, or owner who has supervisory authority responsible for the actions of others that violate the act?** A designated broker, principal, or owner with supervisory authority is responsible for any conduct violating the act by a licensee, employee, or independent contractor if they:

(a) Directed or instructed the conduct that was in violation of the act, or had knowledge of the specific conduct, and approved or allowed the conduct; or

(b) Knew, or by the exercise of reasonable care and inquiry should have known, of the conduct in time to prevent it, or minimize the consequences, and did not.

(8) **When conduct violating the act has occurred, what may the department consider when assessing the responsibility of the designated broker, principal, and owner with supervisory authority?** The department may consider the following in an effort to determine who is responsible when a violation of the act has occurred. The following list is not limiting or exhaustive of the factors the department may consider:

(a) The adequacy of any background and experience investigation conducted prior to hiring or contracting with any person;

(b) The adoption of policies and procedures for:

(i) Supervision and training;

(ii) Regularly reviewing work performed;

(iii) Training in the requirements of the act and rules;

(iv) Monitoring continuing education requirements and compliance under the act;

(v) Acting on reports of alleged misconduct;

(c) Adopting a system of review for implementation and compliance with the policies and procedures;

(d) Providing copies of the act and rules; and

(e) The frequency and completeness of review conducted on work performed by any person subject to the act.

(9) **Do I have the right to have an attorney represent me at an adjudicative hearing and in any superior court proceeding?** Yes. You may have an attorney represent you at your own expense, or you may represent yourself.

(10) **Are there any criminal penalties related to violations of the act?** Yes. Violations of RCW 19.146.050 are class C felonies with a maximum penalty of five years in prison or a fine of ten thousand dollars, or both. Violations of RCW 19.146.235(9) are class B felonies with a maximum penalty of ten years in prison or a fine of twenty thousand dollars, or both. All other violations of the act are misdemeanors with a maximum penalty of ninety days in jail or a fine of not more than one thousand dollars, or both.

(11) **Under the act, is it a crime for any person subject to examination or investigation to knowingly withhold, abstract, remove, mutilate, destroy, or secrete any books, records, computer records, or other information?** Yes. Knowingly withholding, abstracting, removing, mutilating, destroying, or secreting books, records, computer records, or other information is a class B felony punishable under RCW 9A.20.021 (1)(b).

(12) **Is a mortgage broker responsible for the payment of third-party services even if the borrower has agreed to pay the fee?** Yes. If a mortgage broker or loan originator orders the third-party service, then the mortgage broker is responsible for paying for the service. However, the mortgage broker or loan originator is not responsible for paying the fee if the third-party service provider agrees in writing to accept the fee from the borrower.

(13) **When must third-party services be paid?** Third-party service providers must be paid no later than thirty days after the related loan closing documents are filed, or within ninety days of the service, whichever is sooner, unless:

(a) The third-party service provider agrees in writing to a different payment arrangement; or

(b) The third-party provider has been notified in writing that a bona fide dispute exists regarding the performance or quality of the third-party service.

(14) **What is a "bona fide" dispute between a mortgage broker and third-party provider?** A dispute related to the performance or quality of the third-party service that has been reported in writing to the third-party service provider. The report must specify the disputed areas of performance or quality.

(15) **When must a dispute regarding the performance or quality of a third-party service be reported?** The report of a dispute regarding the performance or quality of the third-party service must be made in writing and provided to the third-party service provider before the payment for the services becomes due; that is, no later than thirty days after the related loan closing documents are filed, or within ninety days of the service, whichever is sooner.

(16) **What is a temporary cease and desist order issued by the department?** A temporary cease and desist order is an administrative enforcement action by the director, or designee, ordering a mortgage broker or loan originator to stop conducting business, or to stop doing some specific act.

(17) **When does the department use temporary cease and desist orders?** A temporary cease and desist order may be used when the department determines that a mortgage broker or loan originator is violating the act in a manner that is likely to cause substantial injury to the public.

(18) **What happens to my mortgage broker or loan originator license if the department of social and health**

**services (DSHS) certifies me as out of compliance with a support order under RCW 74.20A.320?**

(a) The director will immediately suspend your license without the opportunity for a hearing if the department receives notice from DSHS that you are out of compliance with their support order regulations.

(b) The director will send you a document entitled "Notice of Suspension for Noncompliance with Child Support Order." Your license is suspended from the date of the notice. The suspension of your license remains in effect until the director is notified by DSHS of your compliance with their order. You must not perform any services under the act that require licensing while your license is suspended.

(19) **If the director suspends my license after notice from DSHS that I am not in compliance with a support order, may my license be reinstated?**

(a) The director will reinstate your license when the department has received written notice from DSHS of your compliance, and verified that you meet all licensing requirements under the act.

(b) The department will send you a notice entitled "Notice of Cancellation of Suspension for Noncompliance with Child Support Order." Your license is reinstated from the date of the notice.

(20) **Who may I contact if I have questions about how DSHS determines I am out of compliance with a support order?** Contact DSHS if you have questions about a DSHS certification of your noncompliance with a support order. Reference their case number when you contact them.

#### NEW SECTION

**WAC 208-660-540 Director and department powers—General authority.** Reserved.

#### NEW SECTION

**WAC 208-660-550 Department fees and costs.** (1) The department intends to increase its fees and costs each year for several bienniums. The department intends to initiate rule making each biennium for this purpose. This rule provides for an automatic annual increase in the rate of fees and costs each fiscal year during the 2007-2009 biennium.

(a) On July 1, 2007, and July 1, 2008, these fees and costs, as increased in the prior fiscal year, will increase by a percentage rate equal to the fiscal growth factor for the then current fiscal year. As used in this section, "fiscal growth factor" has the same meaning as the term is defined in RCW 43.135.025.

(b) The director may round off a rate increase under subsection (1) of this section. However, no rate increase may exceed the applicable fiscal growth factor.

(c) By June 1 of each year, the director will make available a chart of the new rates that will take effect on the immediately following July 1.

**(2) Mortgage broker licenses.**

|  |          |
|--|----------|
| Mortgage broker - license application fee  | \$370.00 |
| Mortgage broker - annual assessment (due upon initial licensing, then an annual renewal fee, per location) | \$530.00 |
| Mortgage broker late renewal assessment (fifty percent of annual assessment)                               | \$265.00 |
| Mortgage broker branch office - license application fee  | \$185.00 |
| Mortgage broker branch office - annual assessment (renewal fee, per location)                              | \$530.00 |
| Mortgage broker - amendment  | No fee   |

**(3) Loan originator licenses.**

|  |          |
|--|----------|
| Loan originator - license application fee  | \$125.00 |
| Loan originator - annual assessment (not due until first renewal; then an annual renewal fee, per license) | \$125.00 |
| Loan originator late renewal assessment (fifty percent of annual assessment)                               | \$62.50  |
| Loan originator - additional licenses (associations with additional mortgage brokers)                      | \$75.00  |
| Loan originator - annual assessment (renewal fee of additional licenses)                                   | \$75.00  |
| Loan originator - cancel association with any mortgage broker  | No fee   |
| Loan originator - amendment  | No fee   |

When the realignment of license expiration or renewal dates results in a partial year of licensing, the department will impose a proportionate fee structure to accommodate that realignment.

**(4) Examinations.**

(a) In Washington. The department does not charge a licensee located in Washington for the costs of an examination.

(b) Outside of Washington. The department will charge the licensee for travel costs.

(c) If the department hires professionals, specialists, or both to examine an out-of-state licensee, the professional,

specialist, or both will be considered examiners for the purpose of billing the licensee for travel costs.

**(5) Investigations.**

(a) The department will charge forty-seven dollars and seventy-eight cents per hour for an examiner's time devoted to an investigation.

(b) The department will bill the licensee for the costs of services from attorneys, accountants, or other professionals or specialists retained by the director to aid in the investigation.

(6) **Travel costs.** If the mortgage business is out-of-state, the department will charge the business the travel costs associated with an examination or investigation. Travel costs include, but are not limited to, transportation costs (airfare, rental cars), meals, and lodging.

(7) **How is the annual assessment calculated?** The assessment is a flat rate per license.

(8) **How does the department use license application fees?** The fees collected by the department are used to pay the costs of administering the act.

NEW SECTION

**WAC 208-660-600 Administration and facilitation of continuing education. (1) Who may offer continuing education courses to principals, designated mortgage brokers, and loan originators?** Continuing education may be offered by:

(a) Course providers with courses of education approved by the director; or

(b) Course providers with courses of education approved by professional organizations approved by the director.

(2) **What does it mean to offer and administer a course of education?** Offering and administering a course of education is the creation of a curriculum and the administrative processes to operate and maintain the curriculum. See the department's approval standards in subsections (7) and (13) of this section.

(3) **What is a "course of education" under the act?** A course of education is formal training that satisfies all or part of the continuing education requirements of the act and these rules.

(4) **What is a "course provider" under the act?** A course provider is a person or organization that provides continuing education. Course providers may provide education that meets the requirements of the act and these rules by applying for and receiving approval from the department for a specific course of education.

(5) **What is a "professional organization" under the act?** A professional organization is an organization with at least ten members created for the primary purpose of furthering the professional interests of its members, protecting the public interest, or both. Education must be an essential element of the professional organization's purpose. A professional organization must have the director's approval to offer and administer courses of education.

(6) **If I am a course provider not affiliated with a professional organization, how do I obtain approval for my courses of education?** You must apply to the department for course approval. If the department approves the course, you

will be issued a certificate of approval that will be effective for two years from the date of issuance.

**(7) What standard is required and what will the department review when considering approval of continuing education provided by course providers not affiliated with professional organizations?** Continuing education courses must provide the course taker with a working knowledge of, and competency in, the subject matter. To ensure this standard, the department will review the following when considering approval of education courses:

- (a) The instructor's experience and qualifications;
- (b) Whether the instructor or proposed course of education has been approved, denied, or rescinded by the department in the past; and
- (c) The course materials and lesson plans for the proposed courses. Each course must run a minimum of three hours; the materials and lesson plans must have the content to support a presentation of this length.

**(8) If I am a course provider with courses of education approved by a professional organization, may I also offer courses of education unaffiliated with the professional organization?** Yes. However, your courses of education unaffiliated with the professional organization must be approved by the department.

**(9) May the department rescind approval of a course provider's course of education?** Yes. The department may rescind approval of a course of education upon a determination that the course of education does not meet the standards in subsections (7) and (13) of this section.

**(10) What action must a course provider take if notified by the department that its course of education has been rescinded?** The course provider must immediately:

- (a) Cease advertising or soliciting for the course of education;
- (b) Inform registered course takers of the department's rescission of course approval, and cancel the course of education; and
- (c) Refund any fees paid by course takers for the course.

**(11) May a course provider appeal the department's decision to deny or rescind course approval?** Yes. A course provider may appeal the department's decision to deny or rescind a course. The course provider must appeal the decision to the department within twenty days of being notified by the department of the decision.

**(12) If a course provider has appealed the department's denial or rescission of a course of education, must it still take the immediate action in subsection (10) of this section?** Yes. A course provider appealing a department decision about a course of education must comply with subsection (10) of this section.

**(13) What standards will the department review when considering approving professional organizations to offer and administer courses of education under the act and rules?** The department will review the following:

- (a) A description of the course of education curriculum that satisfies the content of continuing education under subsection (20) of this section;
- (b) Whether the professional organization has sufficient procedures and guidelines to:

- (i) Establish a course(s) of education and approve a course provider(s);
- (ii) Audit and evaluate an approved course(s) of education and course provider(s);
- (iii) Remove courses and providers from the professional organization's curriculum;
- (iv) Provide board reconsideration of denial or removal of a course of education or a course provider;
- (v) Ascertain the identity of course of education takers;
- (vi) Issue certificates of satisfactory completion, that include, at a minimum, the course taker's name, the course provider's name, the course title, and the date of course completion;
- (vii) Collect, hold, disburse and refund course of education fees;
- (c) Whether the professional organization requires members to adhere to an established code of conduct or ethics.

**(14) Is the department liable for a professional organization's decision to approve, deny, or revoke authorization for a course provider to offer courses of education?** No. The department is not liable for a professional organization's decision to approve, deny, or revoke a course provider's authorization to provide courses of education for the professional organization.

**(15) Is the department liable for a course provider's contractual relationship with a professional organization?** No. Course providers independently contract with professional organizations and the department is not liable for the consequences of that relationship.

**(16) May the department remove a professional organization's authorization to offer and administer courses of education?** Yes. The department may rescind a professional organization's authorization to offer and administer courses of education upon a determination that the professional organization fails to meet subsection (13) of this section.

**(17) What action must a professional organization take if notified by the department that its authorization has been rescinded?** The professional organization must immediately:

- (a) Cease advertising or soliciting for all courses of education;
- (b) Inform registered course takers of the department's rescission of approval, and cancel the courses of education; and
- (c) Refund any fees paid by course takers for the courses.

**(18) May a professional organization appeal the department's decision to deny or rescind authorization?** Yes. A professional organization may appeal the department's decision to deny or rescind the professional organization's authorization to approve course providers. The professional organization must appeal the decision to the department within twenty days of being notified by the department of the decision.

**(19) If a professional organization has appealed the department's denial or rescission of authorization, must it still take the immediate action in subsection (17) of this section?** Yes. A professional organization appealing a department decision about a course provider or course of education must comply with subsection (10) of this section.

(20) **What topics must be included as continuing education courses?** Continuing education courses must include some or all of the topics listed below. Courses may be designed to cover a range of topics or they may focus in detail on a single topic.

(a) **General.** Ethics in the mortgage industry.

The responsibilities and liabilities of the profession.

Arithmetical computations common to mortgage lending including without limitation, the computation of annual percentage rate, finance charge, amount financed, payment and amortization.

(b) **Compliance and internal audit standards.**

Proper use and application of the department's published standards and guidelines for examinations.

Internal audit and compliance practices, standards, methods and procedures.

Developing policies and procedures for regulatory compliance.

Responding to regulatory inquiries, directives, subpoenas and enforcement orders.

Training and supervision of mortgage professionals.

Establishing, managing, reconciling and reviewing a trust account (trust account compliance under the act and these rules).

(c) **Washington law and associated regulations.**

The Mortgage Broker Practices Act.

The Consumer Protection Act.

The Escrow Agent Registration Act.

The Usury Act.

Unfair practices with respect to real estate transactions (RCW 49.60.222).

Mortgage, deed of trust, and real estate contract statutes set forth in Title 61 RCW.

Real estate and appraisal law, including without limitation, the provisions of chapters 18.85 and 18.140 RCW.

Washington principal and agent law.

Any subsequent act or regulation applying to mortgage brokers.

(d) **Federal law and associated regulations.**

The Real Estate Settlement Procedures Act.

Truth in Lending Act.

Equal Credit Opportunity Act.

Fair Credit Reporting Act.

Fair Housing Act.

Home Mortgage Disclosure Act.

Community Reinvestment Act.

Gramm-Leach Bliley Act.

Home Ownership Protection Act.

Bank Secrecy Act.

Appraisal regulations.

Underwriting.

Any subsequent act or regulation applying to mortgage brokers.

(e) **Mortgage services and products.**

Conventional.

Reverse mortgages.

FHA mortgages.

VA mortgages.

Nonprime mortgages.

Other products or services deemed relevant to continuing education by the department.

(21) **May the department audit or review a course of education?** Yes. The department may audit or review any continuing education course by registering for the course or attending the course of education unannounced by presenting the course provider with official identification prior to the start of the course. The department will not be charged any fee for official audit or review of the course of education.

(22) **How long does department approval of continuing education courses last, and may the approval be renewed?** Approval of a continuing education course is valid for two years. Approval may be renewed by applying to the director forty-five days prior to expiration of a current approval and providing detailed information about the course(s) and instructor(s) if they are to be changed.

#### NEW SECTION

**WAC 208-660-700 Mortgage broker commission. (1) What is the role of the mortgage broker commission (commission)?** The commission acts in an advisory capacity to the director on mortgage broker issues. The commission advises the director on the characteristics and needs of the mortgage broker profession.

(2) **Who serves on the commission?**

(a) The director appoints the seven members of the commission for two-year terms. Commission members must have at least five years' experience in the business of residential mortgage lending. The experience must be within the past five years from the date of appointment. When appointing a commission member, the director will consider the recommendations from professional organizations that represent mortgage brokers and loan originators.

(b) Of the seven voting members of the commission, at least three members of the commission must be licensed mortgage brokers, at least two must be licensed loan originators who are not designated brokers, and at least one must be a mortgage broker who is exempt from licensure under RCW 19.146.020(1).

(c) The director or a designee serves as an ex officio, nonvoting member of the commission.

(3) **How do interested parties apply for a position on the commission?** In November of each year the department sends a notification to all mortgage brokers to advise them that the director is accepting applications for appointment to the commission. The director will accept applications in the form of a cover letter and resume until December 15th. The director will select the number of applicants needed to fill the vacancies by January 31st so the appointee(s) can attend the February meeting of the commission.

(4) **What are some of the actions the commission may take?** The commission may:

(a) Adopt and meet according to a regular schedule;

(b) Attend special meetings if called by the chairperson;

(c) Hear testimony, and advise the director on proposed changes to the act; and

(d) Advise the director on the licensing of mortgage brokers and loan originators.

NEW SECTION**WAC 208-660-800** Forms. Reserved.REPEALER

The following sections of the Washington Administrative Code are repealed:

|                   |   |                   |  |
|-------------------|---|-------------------|--|
| WAC 208-660-010   | Definitions.  | WAC 208-660-08040 | Automated check writing systems.   |
| WAC 208-660-020   | Statutory exemptions.   | WAC 208-660-085   | Alternatives to the surety bond.   |
| WAC 208-660-025   | Computer loan information services and systems.                                 | WAC 208-660-090   | License standards for applicants licensed in other jurisdictions.          |
| WAC 208-660-030   | Application procedure for mortgage broker license.                              | WAC 208-660-09005 | Registered agent and agent's office.                                       |
| WAC 208-660-035   | Interim licenses.   | WAC 208-660-09010 | Change of registered agent or agent's office.                              |
| WAC 208-660-040   | Experience requirements.  | WAC 208-660-09015 | Resignation of registered agent.   |
| WAC 208-660-042   | Continuing education requirement.   | WAC 208-660-09020 | Service on licensee.   |
| WAC 208-660-045   | Approval of courses and examinations.   | WAC 208-660-100   | License standards for associations.  |
| WAC 208-660-050   | Demand for criminal history information.  | WAC 208-660-110   | Transfers by, or changes in principal or designated broker of, a licensee. |
| WAC 208-660-060   | Department's fees and assessments.  | WAC 208-660-120   | Employees and independent contractors of licensees.                        |
| WAC 208-660-061   | Fee increase.   | WAC 208-660-125   | Recordkeeping and other requirements for advertising materials.            |
| WAC 208-660-062   | Waiver of fees.   | WAC 208-660-130   | Disclosure required to borrower.   |
| WAC 208-660-070   | Branch office application procedure.  | WAC 208-660-140   | General recordkeeping requirements.  |
| WAC 208-660-080   | Surety bond and approved alternatives—General requirements.                     | WAC 208-660-145   | Forwarding appraisal, title report and credit report.                      |
| WAC 208-660-08005 | Alternatives to the surety bond.  | WAC 208-660-150   | Disclosure of significant developments.                                    |
| WAC 208-660-08010 | Establishment of trust account for borrower funds to pay third-party providers. | WAC 208-660-160   | License application denial or condition; license suspension or revocation. |
| WAC 208-660-08015 | Designation of trust account(s).  | WAC 208-660-165   | Fines and penalties for violation of the Mortgage Broker Practices Act.    |
| WAC 208-660-08020 | Required trust account records and procedures.                                  | WAC 208-660-170   | Transitional rule.   |
| WAC 208-660-08025 | Trust account deposit requirements.   | WAC 208-660-190   | Prohibited practices—Improperly influencing appraisals.                    |
| WAC 208-660-08030 | Trust account disbursement requirements.  | WAC 208-660-200   | Mortgage broker fees allowed.  |
| WAC 208-660-08032 | Approved methods of disbursement to and from trust accounts.                    | WAC 208-660-210   | Mortgage brokerage commission.   |
| WAC 208-660-08035 | Computerized accounting system requirements.                                    |                   |  |

**WSR 06-19-021**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Filed September 11, 2006, 1:18 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-15-073.

Title of Rule and Other Identifying Information: WAC 220-52-046 Crab fishery—Seasons and areas, rules to provide protection to soft shell crab during the summer period.

Hearing Location(s): Red Lion at the Quay, 100 Columbia Street, Vancouver, WA, on November 3-4, 2006, at 8:00 a.m.

Date of Intended Adoption: December 8-9, 2006.

Submit Written Comments to: Rules Coordinator, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail barkemwb@dfw.wa.gov, fax (360) 902-2944, by November 1, 2006.

Assistance for Persons with Disabilities: Contact Nancy Burkhardt by October 19, 2006, TTY (360) 902-2207 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Purpose of the proposal is to reduce wastage from handling mortality by moving the fishery from deep water to inshore waters when the bulk of the crab begin their molt period and go into a soft shell condition. This condition occurs first in the deep water and moves gradually toward the shallow water. Proposal will close off-shore waters at a specific date and bring the fleet in closer to shore in shallower water where hard shell crab condition is still the circumstance.

Reasons Supporting Proposal: Crab mortality that is reduced from this change will provide more crab and higher quality crab to the fishers and the market place.

Statutory Authority for Adoption: RCW 77.12.047.

Statute Being Implemented: RCW 77.12.047.

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

Name of Proponent: Department of fish and wildlife, governmental.

Name of Agency Personnel Responsible for Drafting: Morris W. Barker, 1111 Washington Street S.E., Olympia, (360) 902-2826; Implementation: Lew Atkins, 1111 Washington Street S.E., Olympia, (360) 902-2651; and Enforcement: Bruce Bjork, 1111 Washington Street S.E., Olympia, (360) 902-2373.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

**Small Business Economic Impact Statement**

1. Description of the Reporting, Record-keeping, and Other Compliance Requirements of the Proposed Rule: No reporting or record keeping required. Proposal closes an off shore area to commercial crab fishers.

2. Kinds of Professional Services That a Small Business is Likely to Need in Order to Comply with Such Requirements: No professional services are required for complying.

3. Costs of Compliance for Businesses, Including Costs of Equipment, Supplies, Labor, and Increased Administrative Costs: No increased costs are expected to meet compliance.

4. Will Compliance with the Rule Cause Businesses to Lose Sales or Revenue? Initial revenue losses may occur from lost sales of poor quality crab but this should be recovered with increased revenue due to a better sales price on higher quality crab.

5. Cost of Compliance for the 10% of Businesses That are the Largest Businesses Required to Comply with the Proposed Rules Using One or More of the Following as a Basis for Comparing Costs:

1. Cost per employee;
2. Cost per hour of labor; or
3. Cost per one hundred dollars of sales.

As no permanent loss of revenue is expected there is no overall affect and those affected are less than 10% of this business category.

6. Steps Taken by the Agency to Reduce the Costs of the Rule on Small Businesses or Reasonable Justification for Not Doing So: The agency worked with the industry through a series of discussions on this subject and received support for this management change.

7. A Description of How the Agency Will Involve Small Businesses in the Development of the Rule: The rule proposals will be considered through the fish and wildlife commission public rule proposal process. The industry is familiar with the proposal as it has been previously discussed (see item #6) and implemented through the emergency rule process.

8. A List of Industries That Will Be Required to Comply with the Rule: Coastal commercial Dungeness crab fishers.

A copy of the statement may be obtained by contacting Morris W. Barker, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2826, fax (360) 902-2944, e-mail barkemwb@dfw.wa.gov.

A cost-benefit analysis is not required under RCW 34.05.328. These rule proposals do not affect hydraulic rules.

September 11, 2006

Morris W. Barker  
Rules Coordinator

**AMENDATORY SECTION** (Amending Order 06-58, filed 3/31/06, effective 5/1/06)

**WAC 220-52-046 Crab fishery—Seasons and areas.** "Commercial crab fishing" means any taking, fishing, use, or operation of gear to fish for crabs for commercial purposes, and shall include the possession of crab on the water for commercial purposes, and the landing or initial delivery of crab for commercial purposes.

The lawful open times and areas for commercial crab fishing are as follows:

(1) All Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas are open for commercial crab fishing beginning 8:00 a.m. October 1st through the following April 15th and, after 8:00 a.m. October 1st, from one-half hour before sunrise to one-half hour after sunset, except as provided by other subsections below.



(2) For purposes of crab harvest allocation, fishing season, and catch reporting, the Marine Fish-Shellfish Management and Catch Reporting Areas (Catch Areas) are modified as follows:

(a) Catch Area 26A-E shall include those waters of Puget Sound south of a line from Sandy Point (on Whidbey Island) to Camano Head and from Camano Head to the north tip of Gedney Island, and from the southern tip of Gedney Island east to the mainland, and north and east of a line that extends from Possession Point to the shipwreck located .8 nautical miles north of Picnic Point.

(b) Catch Area 26A-W shall include those waters of Puget Sound south and east of a line from Foulweather Bluff to Double Bluff, and northerly of a line from Apple Cove Point to Point Edwards, and south and west of a line that extends from Possession Point to the shipwreck located .8 nautical miles north of Picnic Point.

(3) The following areas are closed to commercial crab fishing except for treaty Indian commercial crab fishing where the treaty Indian crab fisher is following tribal openings that are in accordance with provisions of court orders in *United States v. Washington*:

(a) Areas 25C, 26B, 26C, 26D, 27A, 27B, 27C, 28A, 28B, 28C, and 28D.

(b) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 20A in Lummi Bay east of a line projected from the entrance buoy at Sandy Point to Gooseberry Point.

(c) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 21A in Bellingham Bay west of a line projected from the exposed boulder at Point Francis to the pilings at Stevie's Point.

(d) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 24A east of a line projected north from the most westerly tip of Skagit Island and extending south to the most westerly tip of Hope Island, thence southeast to Seal Rocks, thence southeast to the green can buoy at the mouth of Swinomish Channel, thence easterly to the west side of Goat Island.

(e) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 24B inside a line projected from Priest Point to the five-meter tower between Gedney Island and Priest Point, thence northwesterly on a line between the five-meter tower and Barnum Point to the intersection with a line projected true west from Kayak Point, thence east to shore.

(f) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 25A west of a line from the new Dungeness Light to the abandoned dock at the Three Crabs Restaurant.

(g) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 25D within a line projected from the Point Hudson Marina entrance to the northern tip of Indian Island, thence to Kala Point, and thence following the shoreline to the point of origin.

(4) The following areas are closed to commercial crab fishing during the periods indicated:

(a) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 20A between a line from the boat ramp at the western boundary of Birch Bay State Park to the

western point of the entrance of the Birch Bay Marina and a line from the same boat ramp to Birch Point are closed October 1 through October 31 and March 1 through April 15.

(b) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 24C inshore of the 400 foot depth contour within an area bounded by parallel lines projected northeasterly from Sandy Point and the entrance to the marina at Langley are closed October 1 through October 15.

(c) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 26A-W in Useless Bay north and east of a line from the south end of the Double Bluff State Park seawall (47°58.782'N, 122°30.840'W) projected 110 degrees true to the boulder on shore (47°57.690'N, 122°26.742'W) are closed from October 1 through October 15.

(d) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22B in Fidalgo Bay south of a line projected from the red number 4 entrance buoy at Cap Sante Marina to the northern end of the eastern most oil dock are closed October 1 through October 31, and March 1 through April 15 of each year.

(e) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22A in Deer Harbor north of a line projected from Steep Point to Pole Pass are closed October 1 through October 31 and March 1 through April 15.

(f) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 26A-E east of a line that extends true north from the green No. 1 buoy at Possession Point and west of a line from the green No. 1 buoy at Possession Point northward along the 200-foot depth contour to the Glendale Dock are closed October 1 through October 15.

(5) The following areas are closed to commercial crab fishing until further notice:

(a) Those waters of Area 25E south of a line from Contractors Point to Tukey Point.

(b) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 24A within a line projected from Rocky Point northeast to the red number 2 buoy north of Ustalady Point, thence to Brown Point on the northeast corner of Ustalady Bay.

(c) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 24D south of a line from the point at the southern end of Honeymoon Bay (48°03.047'N, 122°32.306'W) to the point just north of Beverly Beach.

(d) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 26A east of a line projected from the outermost tip of the ferry dock at Mukilteo to the green #3 buoy at the mouth of the Snohomish River and west of a line projected from the #3 buoy southward to the oil boom pier on the shoreline.

(e) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 21B in Samish Bay south of a line from Point Williams to Fish Point in waters shallower than 60 feet in depth.

(f) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22A in Westcott and Garrison Bays east of a line projected due south from Point White to San Juan Island.

(g) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 20A in Birch Bay east of a line projected from the boat ramp at the western boundary of Birch Bay State Park to the western point of the entrance to the Birch Bay Marina.

(h) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 21A inside of Chuckanut Bay east of a line projected north from Governor's Point to the east side of Chuckanut Island thence to Chuckanut Rock thence to the most southerly tip of Clark's Point.

(i) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22A in Blind Bay south of a line projected due west from Point Hudson to its intersection with Shaw Island.

(j) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22A in Fisherman Bay south of a line projected east-west through the red number 4 entrance buoy.

(k) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22A in Mud Bay south of a line projected through Crab and Fortress Islands intersecting Lopez Island at either end.

(l) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22B in Padilla Bay within a line projected easterly from the northern end of the eastern most oil dock at March Point to the red number 2 buoy, thence southeasterly to the red number 8 buoy, thence west to shore and following the shoreline to the point of origin.

(m) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 24A in Cornet Bay south of a line projected true east and west from the northernmost tip of Ben Ure Island.

(n) That portion of Marine Fish-Shellfish Management and Catch Reporting Area 20B which includes all waters of Prevost Harbor between Stuart Island and Satellite Island southwest of a line from Charles Point on Stuart Island to the northwest tip of Satellite Island and southwest of a line projected 120 degrees true from the southeast end of Satellite Island to Stuart Island.

(o) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22A in East Sound north of a line from the southern point of Judd Bay on the west to Giffin Rocks on the east.

(6) Coastal, Pacific Ocean, Grays Harbor, Willapa Bay and Columbia River waters are open to commercial crab fishing December 1 through September 15 except that it is lawful to set baited crab gear beginning at 8:00 a.m. November 28. However, the department may delay opening of the coastal crab fishery due to softshell crab conditions, in which case the following provisions will apply:

(a) After consultation with the Oregon Department of Fish and Wildlife, the director may, by emergency rule, establish a softshell crab demarcation line.

(b) For waters of the Pacific Ocean north of Point Arena, California, it is unlawful for a person to use a vessel to fish in any area for which the season opening has been delayed due to softshell crab for the first thirty days following the opening of such an area if the vessel was employed in the coastal crab fishery during the previous forty-five days.

(c) Fishers may not set crab gear in any area where the season opening has been delayed, except that gear may be set as allowed by emergency rule and shall allow setting sixty-four hours in advance of the delayed season opening time.

(d) It is unlawful to fish for or possess Dungeness crabs or to set crab gear in waters of the Pacific Ocean adjacent to the states of Oregon or California except during the lawful open seasons, areas and times specified by the individual states, except that it is unlawful for the holder of a Washington state Dungeness crab coastal fishery license to fish for or possess Dungeness crab taken in waters north of 41°59'47"N. Lat. and south of 46°15'00"N. Lat. unless the holder also holds the licenses or permits needed to commercially fish for Dungeness crab within the state waters of Oregon.

(7) In coastal and Pacific Ocean waters off Washington it is unlawful to place gear, fish for or possess Dungeness crab for commercial purposes in the following areas from July 16 through September 15, 2006: Those waters west of straight lines drawn in sequence from south to north between the following coordinates:

| <u>Land description</u>               | <u>Coordinate</u>   |
|---------------------------------------|---|
| <u>(a) Washington - Oregon border</u> | <u>46°15.00'N 124°10.00'W</u>   |
| <u>(b) Seaview</u>                    | <u>46°20.00'N 124°10.00'W</u>   |
| <u>(c) Willapa Bay entrance</u>       | <u>46°40.00'N 124°10.00'W</u>   |
| <u>(d) N. Willapa Bay Spits</u>       | <u>46°43.50'N 124°11.50'W</u>   |
| <u>(e) Grayland</u>                   | <u>46°50.00'N 124°12.30'W</u>   |
| <u>(f) Grays Harbor</u>               | <u>46°54.70'N 124°16.00'W</u>   |
| <u>(g) Ocean Shores</u>               | <u>47°00.00'N 124°16.00'W</u>   |
| <u>(h) Moclips</u>                    | <u>47°15.00'N 124°19.00'W</u>   |
| <u>(i) Cape Elizabeth</u>             | <u>47°20.00'N 124°25.00'W</u>   |
| <u>(j) Raft River</u>                 | <u>47°27.00'N 124°28.60'W</u><br><u>(follow TD 41880 to way-point # 11 N. Destruction Island)</u> |
| <u>(k) N. Destruction Island</u>      | <u>47°42.40'N 124°31.50'W</u>   |
| <u>(l) La Push</u>                    | <u>47°55.00'N 124°46.00'W</u>   |
| <u>(m) Carol Island</u>               | <u>48°00.00'N 124°49.50'W</u>   |
| <u>(n) N. Lake Ozette</u>             | <u>48°07.60'N 124°51.40'W</u>   |
| <u>(o) Makah Bay</u>                  | <u>48°20.00'N 124°50.00'W</u>   |
| <u>(p) Cape Flattery</u>              | <u>Point on land</u>  |

**WSR 06-19-022**

**PROPOSED RULES**

**DEPARTMENT OF FISH AND WILDLIFE**

[Filed September 11, 2006, 1:18 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-15-082.

Title of Rule and Other Identifying Information: Rules protecting green sturgeon, WAC 220-20-020 General provisions—Lawful and unlawful acts—Food fish other than salmon.

Hearing Location(s): Red Lion At The Quay, 100 Columbia Street, Vancouver, WA, on November 3-4, 2006, at 8:00 a.m.

Date of Intended Adoption: December 8-9, 2006.

Submit Written Comments to: Rules Coordinator, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail barkemwb@dfw.wa.gov, fax (360) 902-2944, by November 1, 2006.

Assistance for Persons with Disabilities: Contact Nancy Burkhart by October 19, 2006, TTY (360) 902-2207 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The federal government has listed green sturgeon under the Endangered Species Act (ESA) and these rule will provide increased protection to this listed species/stock of fish.

Reasons Supporting Proposal: Proposal acts to maintain existing commercial fishing opportunities while requiring immediate release of green sturgeon. Protections provided will be a consideration in the federal examination of risks/impacts to this species recovery and the continued allowance of existing fisheries.

Statutory Authority for Adoption: RCW 77.12.047.

Statute Being Implemented: RCW 77.12.047.

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

Name of Proponent: Department of fish and wildlife, governmental.

Name of Agency Personnel Responsible for Drafting: Morris W. Barker, 1111 Washington Street, Olympia, (360) 902-2826; Implementation: Lew Atkins, 1111 Washington Street, Olympia, (360) 902-2651; and Enforcement: Bruce Bjork, 1111 Washington Street, Olympia, (360) 902-2373.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

#### Small Business Economic Impact Statement

1. Description of the Reporting, Record-keeping, and Other Compliance Requirements of the Proposed Rule: No record keeping required. Fishers will be required to release green sturgeon immediately unharmed.

2. Kinds of Professional Services That a Small Business is Likely to Need in Order to Comply with Such Requirements: None.

3. Costs of Compliance for Businesses, Including Costs of Equipment, Supplies, Labor, and Increased Administrative Costs: None.

4. Will Compliance with the Rule Cause Businesses to Lose Sales or Revenue? Yes. Commercial sturgeon fishers will be required to release all green sturgeon caught. Green sturgeon represent 17% of the poundage, and only 2% of the value of sturgeon to Washington fishers. This has averaged 2,631 lbs. per year over the last six years for a value of \$1863/yr. for all commercial fishers. The projected loss of revenue will be minor, and should have no significant impact to the fishing industry.

5. Cost of Compliance for the 10% of Businesses That are the Largest Businesses Required to Comply with the Proposed Rules Using One or More of the Following as a Basis for Comparing Costs:

- Cost per employee;
- Cost per hour of labor; or
- Cost per one hundred dollars of sales.

There are no costs of compliance.

6. Steps Taken by the Agency to Reduce the Costs of the Rule on Small Businesses or Reasonable Justification for Not Doing So: The agency has implemented these rules in an attempt to comply with federal requirements while maintaining other fisheries where green sturgeon are impacted, thereby reducing the potential costs of losing all commercial fishing opportunity.

7. A Description of How the Agency Will Involve Small Businesses in the Development of the Rule: The fish and wildlife commission will conduct their public meeting process in proposing and considering these rules where testimony, both written and oral, is accepted for consideration.

8. A List of Industries That Will Be Required to Comply with the Rule: All commercial fishery gears that can impact this species of fish.

A copy of the statement may be obtained by contacting Morris W. Barker, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2826, fax (360) 902-2944, e-mail barkemwb@dfw.wa.gov.

A cost-benefit analysis is not required under RCW 34.05.328. These rule proposals do not affect hydraulics.

September 11, 2006

Morris W. Barker  
Rules Coordinator

AMENDATORY SECTION (Amending Order 06-134, filed 6/13/06, effective 7/14/06)

**WAC 220-20-020 General provisions—Lawful and unlawful acts—Food fish other than salmon.** (1) It is unlawful to fish for or possess for commercial purposes any round, undressed sturgeon less than 48 inches or greater than 60 inches in length.

(2) It is unlawful to fish for, possess, or retain green sturgeon taken with commercial gear. Any green sturgeon taken with any type of commercial gear incidental to a lawful fishery shall immediately be returned to the water unharmed.

(3) It is unlawful to fish for or possess for commercial purposes or possess aboard a commercial fishing vessel for any purpose any species of halibut (*Hippoglossus*) unless permitted by the current regulations of the International Pacific Halibut Commission.

~~((3))~~ (4) It is unlawful to fish for or possess for commercial purposes sturgeon taken from any of the waters of Puget Sound or tributaries, and any sturgeon taken with any type of commercial gear incidental to a lawful fishery shall immediately be returned to the water unharmed.

~~((4))~~ (5) It is unlawful to fish for food fish for commercial purposes in the waters of Shilshole Bay inland and inside a line projected in a southwesterly direction from Meadow Point to West Point.

~~((5))~~ (6) It is unlawful to fish for or possess for commercial purposes any starry flounder less than 14 inches in length taken by any commercial gear, in all Puget Sound Marine Fish-Shellfish Areas.

~~((6))~~ (7) It shall be unlawful to harvest herring eggs naturally deposited on marine vegetation or other substrate, unless a person has a permit issued by the director.

~~((7))~~ (8) It is unlawful to fish for or possess carp taken for commercial purposes except as authorized by written permit from the director, except that carp taken incidental to a commercial fishery for other species may be retained for commercial purposes. Failure to comply with the provisions of the carp permit constitutes unlawful use of the carp commercial fishery license

~~((8))~~ (9) It is unlawful to fin sharks in Washington state waters, and it is unlawful to possess shark fins in the field unless the carcass of the shark is retained, except that once a commercially taken shark carcass has been delivered to a licensed wholesale dealer or a person acting in that capacity, and the sale of the shark has been recorded on a fish receiving ticket, the shark fins need not be retained with the shark carcass.

**WSR 06-19-024**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Filed September 11, 2006, 4:05 p.m.]

Supplemental Notice to WSR 06-16-126.

Preproposal statement of inquiry was filed as WSR 06-12-035.

Title of Rule and Other Identifying Information: WAC 220-20-025 General provisions—Shellfish and 220-56-129 Unclassified freshwater invertebrates and fish.

Hearing Location(s): Natural Resources Building, Fish and Wildlife Commission Office, 6th Floor, 1111 Washington Street S.E., Olympia, WA, on October 20, 2006, begins 9:00 a.m.

Date of Intended Adoption: November 17, 2006.

Submit Written Comments to: Rules Coordinator, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail barkemwb@dfw.wa.gov, fax (360) 902-2944, by October 4, 2006.

Assistance for Persons with Disabilities: Contact Nancy Burkhart by September 22, 2006, TTY (360) 902-2207 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Changes date and location of hearing from October 6-7 to October 20 and from Room 172 in the Natural Resources Building to the fish and wildlife commission office on the 6th floor of the Natural Resources Building.

Reasons Supporting Proposal: Date and venue changed due to the housekeeping nature of the rule proposal. Public testimony will be accepted at the new time and location.

Statutory Authority for Adoption: RCW 77.12.047.

Statute Being Implemented: RCW 77.12.047.

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

Name of Proponent: Department of fish and wildlife, governmental.

Name of Agency Personnel Responsible for Drafting: Morris W. Barker, 1111 Washington Street S.E., Olympia, (360) 902-2826; Implementation: Lew Atkins, 1111 Washington Street S.E., Olympia, (360) 902-2651; and Enforcement: Bruce Bjork, 1111 Washington Street S.E., Olympia, (360) 902-2373.

No small business economic impact statement has been prepared under chapter 19.85 RCW. No businesses are affected by this proposal.

A cost-benefit analysis is not required under RCW 34.05.328. These rule proposals do not affect hydraulics.

Morris W. Barker  
Rules Coordinator

**WSR 06-19-025**

**WITHDRAWAL OF PROPOSED RULES**  
**GROWTH MANAGEMENT**  
**HEARINGS BOARDS**

(By the Code Reviser's Office)

[Filed September 12, 2006, 8:47 a.m.]

WAC 242-02-515, proposed by the growth management hearings boards in WSR 06-06-048 appearing in issue 06-06 of the State Register, which was distributed on March 15, 2006, 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 06-19-027**

**WITHDRAWAL OF PROPOSED RULES**  
**HEALTH CARE AUTHORITY**

(By the Code Reviser's Office)

[Filed September 12, 2006, 8:48 a.m.]

WAC 182-08-015, 182-08-190, 182-08-230, 182-12-109, 182-12-123, 182-12-128, 182-12-136, 182-12-205 and 182-12-265, proposed by the health care authority in WSR 06-06-079 appearing in issue 06-06 of the State Register, which was distributed on March 15, 2006, 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 06-19-029**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Filed September 12, 2006, 10:28 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-10-002.

Title of Rule and Other Identifying Information: WAC 220-20-010 General provisions—Lawful and unlawful acts—Salmon, other fish and shellfish, 220-20-021 Sale of commercially caught sturgeon, and bottomfish, 220-69-230 Description of Washington state nontreaty fish receiving tickets, 220-69-234 Description of treaty Indian fish receiving tickets, 220-69-240 Duties of commercial purchasers and receivers, 220-69-254 Required information on treaty Indian fish receiving tickets and 220-69-280 Fish receiving ticket accountability. Rule clarifications to ensure appropriate catch accountability occurs and to provide compatibility with federal rules governing Pacific Ocean fisheries.

Hearing Location(s): Red Lion Inn At The Quay, 100 Columbia Street, Vancouver, WA, on November 3-4, 2006, at 8:00 a.m.

Date of Intended Adoption: December 8-9, 2006.

Submit Written Comments to: Rules Coordinator, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail barkemwb@dfw.wa.gov, fax (360) 902-2944, by November 1, 2006.

Assistance for Persons with Disabilities: Contact Nancy Burkhart by October 19, 2006, TTY (360) 902-2207 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Provide compatibility with federal rules for Pacific Ocean fisheries and ensure that proper catch accounting occurs for all commercially landed species.

Reasons Supporting Proposal: Current rules are not compatible with federal rules. Confusion among fishers, processors and receivers on the interpretation of rules on catch accounting require clarification.

Statutory Authority for Adoption: RCW 77.12.047.

Statute Being Implemented: RCW 77.12.047.

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

Name of Proponent: Department of fish and wildlife, governmental.

Name of Agency Personnel Responsible for Drafting: Morris W. Barker, 1111 Washington Street, Olympia, (360) 902-2826; Implementation: Lew Atkins, 1111 Washington Street, Olympia, (360) 902-2651; and Enforcement: Bruce Bjork, 1111 Washington Street, Olympia, (360) 902-2373.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

1. Description of the Reporting, Record-keeping, and Other Compliance Requirements of the Proposed Rule: Original total weight of all fish or shellfish landed, value of such products and whether dressed or whole if such is allowed must be entered on the fish ticket. Information must

be recorded by species (or species groups if permitted). Requires original purchasers or receivers to immediately fill out a fish ticket in a legible and accurate manner for each purchase of such commodities. Clarifies that such information is required and mandatory for purchasers and receivers. Requires that copies of the fish tickets be maintained at the regular place of business for three years.

2. Kinds of Professional Services That a Small Business is Likely to Need in Order to Comply with Such Requirements: None, these are rules of clarification in which most purchasers and receivers are already in compliance.

3. Costs of Compliance for Businesses, Including Costs of Equipment, Supplies, Labor, and Increased Administrative Costs: None anticipated.

4. Will Compliance with the Rule Cause Businesses to Lose Sales or Revenue? No.

5. Cost of Compliance for the 10% of Businesses That are the Largest Businesses Required to Comply with the Proposed Rules Using One or More of the Following as a Basis for Comparing Costs:

1. Cost per employee;
2. Cost per hour of labor; or
3. Cost per one hundred dollars of sales.

There are no anticipated costs of compliance.

6. Steps Taken by the Agency to Reduce the Costs of the Rule on Small Businesses or Reasonable Justification for Not Doing So: Enforcement personnel have been making field contacts with purchasers and receivers to provide direction and determine where the confusion lies in the rules that are hindering compliance. No costs are anticipated from the clarifying proposals.

7. A Description of How the Agency Will Involve Small Businesses in the Development of the Rule: The department will hold a public hearing of the proposed rules at the WDFW commission meeting on November 3-4, 2006, where small business and the public can provide their additional comments on the rules.

8. A List of Industries That Will Be Required to Comply with the Rule: All original purchasers and receivers of fish and shellfish.

A copy of the statement may be obtained by contacting Morris W. Barker, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2826, fax (360) 902-2944, e-mail barkemwb@dfw.wa.gov.

A cost-benefit analysis is not required under RCW 34.05.328. These proposals do not affect hydraulics.

September 12, 2006

Morris W. Barker  
Rules Coordinator

AMENDATORY SECTION (Amending Order 06-135, filed 6/13/06, effective 7/14/06)

**WAC 220-20-010 General provisions—Lawful and unlawful acts—Salmon, other fish and shellfish.** (1) It shall be unlawful to take, fish for, possess or transport for any purpose fish, shellfish or parts thereof, in or from any of the waters or land over which the state of Washington has jurisdiction, or from the waters of the Pacific Ocean, except at the times, places and in the manners and for the species, quanti-

ties, sizes or sexes provided for in the regulations of the department.

(2) It shall be unlawful for any person to have in possession or under control or custody any food fish or shellfish within the land or water boundaries of the state of Washington, except in those areas which are open to commercial fishing or wherein the possession, control or custody of salmon or other food fish or shellfish for commercial purposes is made lawful under a statute of the state of Washington or the rules and regulations of the commission or director, unless otherwise provided.

(3) It shall be lawful to fish for, possess, process and otherwise deal in food fish and fish offal or scrap for any purpose, provided; that it shall be unlawful to use any of the following listed species for purposes other than human consumption or fishing bait:

|  |                                   |
|--|-----------------------------------|
| Pacific halibut  | <i>(Hippoglossus stenolepis)</i>  |
| Pacific herring<br>(except as prescribed<br>in WAC 220-49-020) | <i>(Clupea harengus pallasii)</i> |
| Salmon   |                                   |
| Chinook  | <i>(Oncorhynchus tshawytscha)</i> |
| Coho   | <i>(Oncorhynchus kisutch)</i>     |
| Chum   | <i>(Oncorhynchus keta)</i>        |
| Pink   | <i>(Oncorhynchus gorbuscha)</i>   |
| Sockeye  | <i>(Oncorhynchus nerka)</i>       |
| Masu   | <i>(Oncorhynchus masu)</i>        |
| Pilchard   | <i>(Sardinops sagax)</i>          |
| Except as provided for in WAC 220-88C-040                      |                                   |

(4) It shall be unlawful for any person to fish for fish or shellfish while in possession in the field of fish or shellfish that are in violation of the harvest regulations for the area being fished. This regulation does not apply to vessels in transit.

(5) It shall be unlawful for the owner or operator of any commercial food fish or shellfish gear to leave such gear unattended in waters of the state or offshore waters unless said gear is marked.

(a) Shellfish pot, bottom fish pot, set line and set net gear must be marked with a buoy to which shall be affixed in a visible and legible manner the department approved and registered buoy brand issued to the license, provided that:

(i) Buoys affixed to unattended gear must be visible on the surface of the water except during strong tidal flow or extreme weather conditions.

(ii) When two or more shellfish pots are attached to a common ground line the number of pots so attached must be clearly labeled on the required buoy.

(b) It is unlawful to operate any gill net, attended or unattended, unless there is affixed, within five feet of each end of the net, a buoy, float, or some other form of marker, visible on the corkline of the net, on which shall be marked in a visible, legible and permanent manner the name and gill net license number of the fisher.

(c) It shall be unlawful at any time to leave a gill net unattended in the commercial salmon fishery.

(6) It shall be unlawful to place any commercial food fish or shellfish gear in any waters closed to commercial fishing, provided; that this provision shall not apply to reef nets or brush weirs or to gear being tested under supervision of the department, provided further that it shall be unlawful to take, fish for or possess food fish with any type of commercial fishing gear in the waters of Carr Inlet north of north latitude 47°20' from August 15 through November 30 except as provided in chapter 220-47 WAC.

(7) It shall be unlawful for the owner or operator of any fishing gear to refuse to submit such gear to inspection in any manner specified by authorized representatives of the department.

(8) It shall be unlawful for any person taking or possessing fish or shellfish taken from any of the waters or beaches of the Columbia River, the state of Washington or the Pacific Ocean for any purpose to fail to submit such fish or shellfish for inspection by authorized representatives of the department.

(9) It shall be unlawful for any person licensed by the department to fail to make or return any report required by the department relative to the taking, selling, possessing, transporting, processing, freezing and storing of fish or shellfish whether taken within the jurisdiction of the state of Washington or beyond or on Indian reservations or usual and accustomed Indian fishing grounds.

(10) It shall be unlawful to take, fish for or possess or to injure, kill or molest fish in any fishway, fish ladder, fish screen, holding pond, rearing pond, or other fish protective device, or to interfere in any manner with the proper operation of such fish protective devices.

(11) It shall be unlawful to club, gaff, shoot with firearm, crossbow, bow and arrow or compressed air gun, snag, snare, dip net, harass, spear, stone or otherwise molest, injure, kill or destroy any fish or shellfish or parts thereof, or for any person to attempt to commit such acts, or to have any fish, shellfish or parts thereof so taken in possession, except as provided for in this subsection:

(a) It shall be lawful to use a dip net or club in the landing of fish taken by personal-use angling unless otherwise provided and it shall be lawful to use a gaff in the landing of tuna, halibut and dogfish in all catch record card areas.

(b) It shall be lawful to use a dip net, gaff, or club in the landing of food fish or shellfish taken for commercial purposes, except that it is unlawful to use a fish pew, pitchfork, or any other instrument that will penetrate the body of the food fish or shellfish while sorting commercial catches during the act of discarding those fish that are not going to be retained.

(c) It shall be lawful to use a spear in underwater spear fishing as provided for in WAC 220-56-160.

(d) It shall be lawful to use a bow and arrow or spear to take carp as provided for in WAC 220-56-280.

(e) It shall be lawful to snag herring, smelt, anchovies, pilchard, sand lance, and squid when using forage fish jigger gear or squid jigs.

(f) It shall be lawful to shoot halibut when landing them with a dip net or gaff.

(12) It shall be unlawful to take or possess for any purpose any fish or shellfish smaller than the lawful minimum

size limits. Any such fish either snagged, hooked, netted or gilled must be immediately returned to the water with the least possible injury to the fish or shellfish and it shall be unlawful to allow undersized salmon entangled in commercial nets to pass through a power block or onto a power reel or drum.

(13) It shall be unlawful to possess aboard any vessel engaged in commercial fishing or having commercially caught fish aboard, any food fish or shellfish in such condition that its species, length, weight or sex cannot be determined if a species, species group or category, length, weight, or sex limit is prescribed for said species and it is unlawful to possess food fish or shellfish mutilated in any manner such that the natural length or weight cannot be determined if a length or weight limit is prescribed for said species.

(14) It shall be lawful to possess, transport through the waters of the state, or land, dressed sablefish ("dressed" as defined by WAC 220-16-330).

(15) It shall be lawful to possess, transport through the waters of the Pacific Ocean, or land, dressed salmon caught during a lawful salmon troll fishery provided that frozen chinook salmon, dressed heads off, shall be 21 1/2 inches minimum and frozen coho salmon dressed heads off shall be 12 inches minimum, measured from the midpoint of the clavicle arch to the fork of the tail.

(16) It shall be lawful to possess, transport through the waters of the Pacific Ocean, or land, dressed halibut if allowed by IPHC rules and such fish meet any IPHC size requirements.

(17) It shall be unlawful in any area to use, operate or carry aboard a commercial fishing vessel a licensed net or combination of such nets, whether fished singly or separately, in excess of the maximum lawful size or length prescribed for a single net in that area, except as otherwise provided for in the rules and regulations of the department.

~~((15))~~ (18) It shall be unlawful for any permit holder to fail to comply with all provisions of any special permit or letter of approval issued to him under the authority of the director, or to perform any act not specifically authorized in said document or in the regulations of the commission or director.

~~((16))~~ (19) It shall be unlawful to use, place or cause to be placed in the waters or on the beaches or tidelands of the state any substance or chemical used for control of predators or pests affecting fish or shellfish or other aquatic marine organisms, without first having obtained a special permit to do so from the director.

~~((17))~~ (20) It shall be unlawful to test commercial fishing gear except as follows:

(a) Bellingham Bay - inside and northerly of a line from Governor's Point to the south tip of Eliza Island to Point Frances in waters 10 fathoms and deeper.

(b) Boundary Bay - north of a line from Birch Point to Point Roberts and south of the international boundary in waters 10 fathoms and deeper during times not under IPSFC control.

(c) San Juan Channel - within a 1 mile radius of Point Caution during times not under IPSFC control.

(d) Port Angeles - inside and westerly of a line projected from the east tip of Ediz Hook through buoy C "1" to the mainland.

(e) Port Gardner - within a 2 mile radius of the entrance to Everett breakwater in waters 10 fathoms and deeper.

(f) Central Puget Sound - between lines from Meadow Point to Point Monroe and Skiff Point to West Point in waters 50 fathoms and deeper.

(g) East Pass - between lines from Point Robinson true east to the mainland and from Dash Point to Point Piner in waters 50 fathoms and deeper.

(h) Port Townsend - westerly of a line from the Coast Guard station in Port Townsend to Walan Point to Kala Point in waters 10 fathoms and deeper.

(i) All tows or sets are limited to 20 minutes exclusive of setting and retrieving time.

(j) All testing is to be accomplished between 8:00 a.m. and 4:00 p.m.

(k) Codends of trawl nets must be left open, all hooks of set line gear must be unbaited, and no lures or baited hooks shall be used with jig or troll gear.

(l) Any and all incidentally caught fish and shellfish must be returned to the waters immediately, and no fish or shellfish are to be retained aboard the vessel at any time during a gear test operation.

(m) It shall be unlawful for any person conducting such gear testing operations to fail to notify the fish and wildlife enforcement office in Olympia prior to testing.

~~((18))~~ (21) It is unlawful for any person or corporation either licensed by the department or bringing fish or shellfish into the state to fail to comply with the directions of authorized department personnel related to the collection of sampling data or material from fish or shellfish. It is also unlawful for any such person or corporation to fail to relinquish to the department, upon request, any part of a salmon or other fish containing coded-wire tags, including but not limited to, the snouts of those salmon that are marked by having clipped adipose fins.

~~((19))~~ (22) It is unlawful for any person to possess live bottom fish taken under a commercial fishery license.

~~((20))~~ (23) It is unlawful for any person to use chemical irritants to harvest fish, shellfish or unclassified marine invertebrates except as authorized by permit issued by the department.

AMENDATORY SECTION (Amending Order 06-24, filed 2/14/06, effective 3/17/06)

**WAC 220-20-021 Sale of commercially caught sturgeon ~~(and)~~, bottomfish and halibut.** (1) It is unlawful for any person while engaged in commercial fishing for sturgeon ~~(or)~~, bottomfish or halibut to:

(a) Keep sturgeon smaller or greater than the size limits provided for in WAC 220-20-020, keep more than one sturgeon for personal use, or keep more than the equivalent of one daily limit of sport caught bottomfish for personal use. Any lingcod to be retained for personal use taken east of the mouth of the Sekiu River must be greater than 26 inches in length and may not exceed 40 inches in length. All commercially taken sturgeon ~~(and)~~, bottomfish, and halibut retained for personal use must be recorded on fish receiving tickets.

(b) Sell any sturgeon ~~(or)~~, bottomfish, or halibut taken under such license to anyone other than a licensed wholesale

dealer within or outside the state of Washington, except that a person who is licensed as a wholesale dealer under the provisions of RCW ((75-28-300)) 77.65.280 may sell to individuals or corporations other than licensed wholesale dealers.

(c) Sell, barter, or attempt to sell or barter sturgeon eggs that have been removed from the body cavity of any sturgeon taken under such license prior to the time that the sturgeon is sold under subsection (1)(b) of this section.

(2) It is unlawful for any wholesale dealer licensed under RCW 75.28.300 to purchase or attempt to purchase sturgeon eggs from sturgeon taken by any person licensed to take sturgeon for commercial purposes under chapter ((75-28)) 77.65 RCW if the sturgeon eggs have been removed from the body cavity of the sturgeon prior to the sale of the sturgeon.

(3) It is unlawful to purchase, sell, barter or attempt to purchase, sell, or barter any sturgeon eggs taken from sturgeon caught in the Columbia River below Bonneville Dam.

AMENDATORY SECTION (Amending Order 99-221, filed 12/20/99, effective 1/20/00)

**WAC 220-69-230 Description of Washington state nontreaty fish receiving tickets.** (1) There is hereby created the following nontreaty fish receiving ticket forms to be prepared, printed, and distributed upon request, by the department: Puget Sound salmon, troll, marine, utility, and shellfish. These forms shall contain space for the following information:

- (a) Fisherman: Name of licensed deliverer.
- (b) Address: Address of licensed deliverer.
- (c) Boat name: Name or Coast Guard number of landing vessel.
- (d) WDFW boat registration: Washington department of fish and wildlife boat registration number.
- (e) Gear: Code number or name of specific type of gear used.
- (f) Fisherman's signature: Signature of licensed deliverer.
- (g) Date: Date of landing.
- (h) Dealer: Name of dealer, and department number assigned to dealer.
- (i) Buyer: Name of buyer, and department number assigned to buyer.
- (j) Receiver's signature: Signature of original receiver.
- (k) Number of days fished: Days spent catching fish.
- (l) Fish or shellfish caught inside or outside 3-mile limit: Check one box.

(m) Catch area: Salmon catch area code if salmon are caught. Marine fish/shellfish catch area code if marine fish are caught or shellfish are caught or harvested.

(n) Tally space for dealer's use: Used at dealer's discretion.

(o) Species code: Department assigned species code.

(p) Number of fish or shellfish, species description, ((pounds, and value)) original total weight in pounds of all shellfish or fish landed, except for legally dressed fish that are landed in that condition. Dressed fish must be designated as dressed on the fish receiving ticket. Value of fish and shellfish sold or purchased: Summary information for species, or species groups landed. All species or categories of

bottomfish having a vessel trip limit must be listed separately (see WAC 220-44-050).

(q) Work area for dealer's use: Used at dealer's discretion.

(r) Total amount: Total value of landing.

(s) Take-home fish: Species, number, and pounds of fish or shellfish retained for personal use.

(t) Crew: Name and signature of crew members who take home fish.

(2) The Puget Sound salmon fish receiving ticket shall be used for:

(a) Deliveries of nontreaty salmon caught in inland waters.

(b) Any other delivery of nontreaty salmon where the catch may be easily recorded.

(c) Any imports of fresh salmon into the state of Washington.

(3) The troll fish receiving ticket shall be used for:

(a) Deliveries of nontreaty coastal salmon and incidental catch.

(b) Any other nontreaty deliveries where the species delivered may be easily recorded.

(c) Any imports of fresh salmon into the state of Washington.

(4) The marine fish receiving ticket shall be used for:

(a) Nontreaty deliveries of marine fish or bottomfish that do not include salmon.

(b) Any imports of fresh marine fish or bottomfish.

(5) The utility fish receiving ticket shall be used for:

(a) Any nontreaty deliveries that do not include salmon, where other fish receiving tickets are not appropriate.

(b) Any imports of fresh fish or shellfish that do not include salmon.

(6) The shellfish receiving ticket shall be used for:

(a) Any nontreaty deliveries of shellfish.

(b) Any imports of fresh shellfish.

(c) Any incidental catch of bottomfish made while fishing for shellfish. The species name, total pounds, and price per pounds must be entered for each species of bottomfish caught.

AMENDATORY SECTION (Amending Order 99-221, filed 12/20/99, effective 1/20/00)

**WAC 220-69-234 Description of treaty Indian fish receiving ticket.** (1) There is hereby created a treaty Indian fish receiving ticket form to be prepared, printed, and distributed upon request, by the department, which shall contain space for the following information:

(a) Tribal name: Name or identification number of tribe.

(b) Fisherman: Name or identification number of deliverer.

(c) Signature: Signature of deliverer on tribal copy of ticket.

(d) Date: Date of landing.

(e) Dealer: Name of dealer, and department number assigned to dealer.

(f) Buyer: Name of buyer, and department number assigned to buyer.



(g) Gear: Code name or number of specific gear type used.

(h) Receiver's signature: Signature of original receiver.

(i) Catch area: River name for river catch, salmon catch area for saltwater salmon catch, marine fish/shellfish catch area for nonsalmon saltwater catch.

(j) Tally space for dealer's use: Used at dealer's discretion.

~~(k) ((Species and description: Species name of fish landed.~~

~~(l) Number of fish, pounds, and value: Information for each species landed.~~

~~(m) Subtotal: Total price of catch landed.~~

~~(n)) Number of fish or shellfish, species description, original total weight for each species or species group landed in round pounds, except for legally dressed fish that are landed in that condition. Dressed fish must be designated as dressed. Value of fish and shellfish sold or purchased. Summary information for groundfish species or species groups landed.~~

~~(l) Tribal tax: Tribal tax collected.~~

~~((e) Total: Total price paid seller or deliverer.~~

~~(p)) (m) Take-home fish: Species, number, and pounds of fish retained for personal, ceremonial, or subsistence use.~~

(2) The treaty Indian fish receiving ticket shall be used for any deliveries of fish or shellfish caught by Washington treaty Indians.

AMENDATORY SECTION (Amending Order 06-59, filed 4/3/06, effective 5/4/06)

**WAC 220-69-240 Duties of commercial purchasers and receivers.** (1) It is unlawful for any person originally receiving fresh or iced fish or shellfish or frozen fish or shellfish that have not been previously delivered in another state, territory, or country, except purchases or receipts made by individuals or consumers at retail, to fail to be a licensed wholesale fish dealer or fish buyer, and to fail to immediately, completely, accurately, and legibly prepare the appropriate state of Washington fish receiving ticket regarding each and every purchase or receipt of such commodities. Each delivery must be recorded on a separate fish receiving ticket.

(2) It is unlawful for any person originally receiving fresh or iced fish or shellfish previously delivered in another state, territory, or country, to fail to be a licensed wholesale fish dealer or fish buyer, and to fail to immediately, completely, accurately, and legibly prepare the appropriate state of Washington fish receiving ticket regarding each and every purchase or receipt of such commodities.

(3) It is unlawful for any original receiver of crab or spot shrimp to fail to record all crab or spot shrimp aboard the vessel making the delivery to the original receiver. The poundage of any fish or shellfish deemed to be unmarketable, discards, or weighbacks must be shown on the fish receiving ticket and identified as such, but a zero dollar value may be entered for such fish or shellfish.

(a) Failure to be licensed under this subsection is punishable under RCW 77.15.620.

(b) Failure to prepare a fish receiving ticket under this subsection is punishable under RCW 77.15.630.

~~((2)) (4) Any employee of a licensed wholesale dealer who has authorization to receive or purchase fish or shellfish for that dealer on the premises of the primary business address or any of its branch plant locations shall be authorized to initiate and sign fish receiving tickets on behalf of his employer. The business or firm shall be responsible for the accuracy and legibility of all such documents initiated in its name.~~

~~((3)) (5) It is unlawful for the original receiver to fail to initiate the completion of the fish receiving ticket upon receipt of any portion of a commercial catch. Should the delivery of the catch take more than one day, the date that the delivery is completed is required to be entered on the fish receiving ticket as the date of delivery. If, for any reason, the delivery vessel leaves the delivery site, the original receiver must immediately enter the current date on the fish receiving ticket. Violation of this subsection is punishable under RCW 77.15.630.~~

~~((4)) (6) Forage fish: It is unlawful for any person receiving forage fish to fail to report the forage fish on fish receiving tickets that are initiated and completed on the day the forage fish are delivered. Herring are also required to be reported on herring harvest logs. The harvested amount of forage fish is to be entered upon the fish ticket when the forage fish are off-loaded from the catcher vessel. An estimate of herring, candlefish, anchovy, or pilchards caught but not sold due to mortality must be included on the fish ticket as "loss estimate." In the coastal pilchard fishery, the amount of pilchards, by weight, purchased for the purposes of conversion into fish flour, fish meal, fish scrap, fertilizer, fish oil, other fishery products or by-products for purposes other than human consumption or fishing bait must be included on the fish ticket as "reduction."~~

Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.640.

~~((5)) (7) Geoduck: It is unlawful for any person receiving geoducks, regardless of whether or not the receiver holds a license as required under Title 77 RCW, to fail to accurately and legibly complete the fish receiving ticket initiated on the harvest tract immediately upon the actual delivery of geoducks from the harvesting vessel onto the shore. This fish receiving ticket shall accompany the harvested geoducks from the department of natural resources harvest tract to the point of delivery. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.640.~~

~~((6)) (8) Pacific whiting: It is unlawful for the original receiver of Pacific whiting to fail to enter an estimated weight of Pacific whiting on the fish receiving ticket immediately upon completion of the delivery. The exact weights of whiting, by grade, and all incidental species in the delivery must be entered on the fish receiving ticket within twenty-four hours of the landing. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.640.~~

~~((7)) (9) Puget Sound shrimp - Pot gear: It is unlawful for the original receiver of shrimp other than ghost shrimp taken from Puget Sound by pot gear to fail to report to the department the previous week's purchases by 10:00 a.m. the following Monday. For harvest in Crustacean Management~~

Regions 1 or 2, reports must be made to the La Conner district office by voice 360-466-4345 extension 245, or facsimile 360-466-0515. For harvest in Crustacean Management Regions 3, 4, or 6, reports must be made to the Point Whitney Shellfish Laboratory by voice 1-866-859-8439, extension 800, or facsimile 360-586-8408. All reports must specify the serial numbers of the fish receiving tickets on which the previous week's shrimp were sold, and the total number of pounds caught by gear type, Marine Fish-Shellfish Management and Catch Reporting Area (Catch Area), and species listed on each ticket. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.560.

(a) It is unlawful for any person originally receiving or purchasing shrimp, other than ghost shrimp, harvested from Catch Area 23A, to fail to record either 23A-C, 23A-E, 23A-W or 23A-S on shellfish receiving tickets based on the location of harvest and the boundary definitions specified in WAC 220-52-051. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.640.

(b) It is unlawful for any person originally receiving or purchasing shrimp, other than ghost shrimp, harvested from Catch Area 26A, to fail to record either 26A-E or 26A-W on shellfish receiving tickets based on the location of harvest and the boundary definitions specified in WAC 220-52-051. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.640.

(c) It is unlawful for any person originally receiving or purchasing shrimp, other than ghost shrimp, harvested from Catch Area 26B, to fail to record either 26B-1 or 26B-2 on shellfish receiving tickets based on the location of harvest and the boundary definitions specified in WAC 220-52-051. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.640.

(d) It is unlawful for any person originally receiving or purchasing shrimp, other than ghost shrimp, harvested from Catch Areas 20B, 21A, and 22A, to fail to record either 1A-20B, 1A-22A, 1B-20B, 1B-21A, 1B-22A, or 1C-21A on shellfish receiving tickets based on the location of harvest and the boundary definitions specified in WAC 220-52-051. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.640.

~~((8))~~ (10) Puget Sound shrimp - Trawl gear: It is unlawful for the original receiver of shrimp other than ghost shrimp taken from Puget Sound by trawl gear to fail to report to the department the previous day's purchases by 10:00 a.m. the following morning. For harvest in Crustacean Management Region 1, reports must be made to the La Conner district office by voice 360-466-4345 extension 245, or facsimile 360-466-0515. For harvest in Crustacean Management Region 3, reports must be made to the Point Whitney Shellfish Laboratory by voice 1-866-859-8439, extension 600, or facsimile 360-586-8408. All reports must specify the serial numbers of the fish receiving tickets on which the previous day's shrimp were sold, and the total number of pounds caught by gear type, Marine Fish-Shellfish Management and Catch Reporting Area, and species listed on each ticket. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.560.

~~((9))~~ (11) Puget Sound crab: It is unlawful for any wholesale dealer acting in the capacity of an original receiver

of Dungeness crab taken by nontreaty fishers from Puget Sound to fail to report to the department the previous day's purchases by 10:00 a.m. the following business day. Reports must be made to the La Conner District Office by facsimile 360-466-0515 or by telephone number 1-866-859-8439 extension 500 and must specify the dealer name, dealer phone number, date of delivery of crab to the original receiver, and the total number of pounds of crab caught by nontreaty fishers by Crab Management Region or by Marine Fish-Shellfish Management and Catch Reporting Area. The fish receiving ticket reporting requirement of WAC 220-69-240 remains in effect. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.560.

~~((10))~~ (12) Salmon and sturgeon: During any fishery opening designated by rule as "quick reporting required," it is unlawful for any wholesale dealer acting in the capacity of an original receiver to fail to report all purchases of salmon and sturgeon made on the previous calendar day, or for a direct retail endorsement holder to fail to report all salmon offered for retail sale on the previous calendar day. The report must include dealer or holder name and purchasing location, date of purchase, each fish ticket number used on the purchasing date, and the following catch data for each species purchased: Gear, catch area, species, number and total weight of fish. When quick reporting is required, it is unlawful to fail to comply with the following reporting requirements:

(a) Puget Sound reports must be reported by 10:00 a.m. on the day after the purchase date by either:

- (i) Fax transmission to 360-902-2949
- (ii) E-mail to [psfishtickets@dfw.wa.gov](mailto:psfishtickets@dfw.wa.gov) or
- (iii) Telephone to 1-866-791-1279

(b) Coastal troll reports must be reported by 10:00 a.m. on the day after the purchase date by either:

- (i) Fax transmission to 360-902-2949
- (ii) E-mail to [trollfishtickets@dfw.wa.gov](mailto:trollfishtickets@dfw.wa.gov) or
- (iii) Telephone to 1-866-791-1279

(c) Grays Harbor and Willapa Bay reports must be reported by 10:00 a.m. on the day after the purchase date by either:

- (i) Fax transmission to 360-664-0689
- (ii) E-mail to [harborfishtickets@dfw.wa.gov](mailto:harborfishtickets@dfw.wa.gov) or
- (iii) Telephone to 1-866-791-1280

(d) Columbia River reports must be reported by 10:00 a.m. on the day after the purchase date by either:

- (i) Fax transmission to 360-906-6776 or 360-906-6777
- (ii) E-mail to [crfishtickets@dfw.wa.gov](mailto:crfishtickets@dfw.wa.gov) or
- (iii) Telephone to 1-866-791-1281

(e) Faxing a copy of each fish receiving ticket used on the previous day satisfies the reporting requirement.

(f) Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.560.

~~((11))~~ (13) Sea urchins and sea cucumbers: It is unlawful for any wholesale dealer acting in the capacity of an original receiver and receiving sea urchins or sea cucumbers from nontreaty fishers to fail to report to the department each day's purchases by 10:00 a.m. the following day. For red sea urchins the report must specify the number of pounds received from each sea urchin district. For green sea urchins and sea cucumbers the report must specify the number of pounds received from each Marine Fish-Shellfish Manage-

ment and Catch Reporting Area. For sea cucumbers the report must specify whether the landings were "whole-live" or "split-drained." The report must be made by facsimile (fax) transmission to 360-902-2943 or by toll-free telephone to 866-207-8223. Additionally, it is unlawful for the original receiver of red sea urchins to fail to record on the fish receiving ticket the sea urchin district where the red sea urchins were taken, and it is unlawful for the original receiver of any sea urchins to fail to record on the fish receiving ticket the name of the port of landing where the sea urchins were landed ashore. Additionally, it is unlawful for the original receiver of sea cucumbers to fail to record on the fish receiving ticket whether the sea cucumbers were delivered "whole-live" or "split-drained." Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.560.

~~((12))~~ (14) Coastal spot shrimp: It is unlawful for any original receiver of spot shrimp taken from Marine Fish Management and Catch Reporting Area 60A-1 to fail to record separately on the fish receiving ticket spot shrimp taken north or south of 47°04.00' north latitude. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.-640.

AMENDATORY SECTION (Amending Order 04-210, filed 8/17/04, effective 9/17/04)

**WAC 220-69-250 Required information on nontreaty fish receiving tickets.** (1) It is unlawful for a person required to complete a nontreaty fish receiving ticket to fail to enter the mandatory information (~~(required)~~ referenced in WAC 220-69-230 (1)(a) through (m), (p), (s), and (t) on each nontreaty fish receiving ticket.

(2) A valid license card or duplicate license card issued by the department shall be used in conjunction with an approved mechanical imprinter in lieu of WAC 220-69-230 (1)(a) through (e) except as provided in WAC 220-69-273.

(3) A valid dealer or buyer card issued by the department shall be used in conjunction with an approved mechanical imprinter in lieu of WAC 220-69-230 (1)(h) and (i).

(4) During the period December 1 through December 30, the crab inspection certificate number is a required entry on all shellfish receiving tickets documenting landings and sale of Dungeness crab from Pacific Ocean, Coastal Washington, Grays Harbor, Willapa Harbor, and Columbia River waters. The crab inspection certificate number must be entered legibly on the left hand side of the ticket in the space indicated for dealer's use.

(5) Violation of this section is a gross misdemeanor, punishable under RCW 77.15.640.

AMENDATORY SECTION (Amending Order 04-210, filed 8/17/04, effective 9/17/04)

**WAC 220-69-254 Required information on treaty Indian fish receiving tickets.** (1) It is unlawful for a person required to complete a treaty Indian fish receiving ticket to fail to enter the mandatory information (~~(required)~~ referenced in WAC 220-69-234 (1)(a) through (l) and (p) on each treaty Indian fish receiving ticket.

(2) A valid treaty Indian identification card may be used in lieu of WAC 220-69-234 (1)(a) and (b).

(3) A valid dealer or buyer card issued by the department shall be used in lieu of WAC 220-69-234 (1)(e) and (f).

(4) Violation of this section is a gross misdemeanor, punishable under RCW 77.15.640.

AMENDATORY SECTION (Amending Order 04-210, filed 8/17/04, effective 9/17/04)

**WAC 220-69-280 Fish receiving ticket accountability.** Only current state of Washington fish receiving tickets shall be used, and shall be subject to the following orders:

(1) Official state of Washington fish receiving tickets may be ordered free of charge from the department.

(2) It is unlawful to fail to use fish receiving ticket books and fish receiving tickets in numerical sequence, starting with the lowest numbered ticket issued to the original receiver.

(3) It is unlawful to transfer fish receiving tickets or ticket books from one original receiver to another original receiver without written permission from the department.

(4) It is unlawful for any purchaser or receiver terminating business to fail to notify the department in writing and to fail to return all unused fish receiving tickets and ticket books to the department within thirty days after termination of business.

(5) It is unlawful to fail to return the state copy of all fish receiving tickets to the state. All fish receiving tickets that are incorrectly made out, voided, or otherwise unused, are required to be submitted to the department accompanying, and in sequence with, other fish receiving tickets.

(6) It is unlawful to fail to account for all fish receiving tickets that are lost, destroyed, or otherwise missing in writing to the department.

(7) It is unlawful to transfer fish receiving tickets to anyone who is not a licensed wholesale fish dealer, licensed fish buyer, or holder of a direct retail sale license endorsement, and it is unlawful for any person not so licensed to have fish receiving tickets in possession.

(8) It is unlawful for a wholesale dealer or holder of a direct retail sale endorsement to fail to maintain the dealer copy or copies at the dealer's or holder's regular place of business for ~~((one))~~ three years after the date of use of the fish ticket.

(9) Violation of this section is a gross misdemeanor, punishable under RCW 77.15.640.

## WSR 06-19-032

### PROPOSED RULES

### DEPARTMENT OF

### FISH AND WILDLIFE

[Filed September 13, 2006, 2:18 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-15-054.

Title of Rule and Other Identifying Information: New section WAC 220-20-005 Oregon-Washington commercial license reciprocity, provides recognition of Oregon commer-

cial licenses in the common border area of the Columbia River when Oregon recognizes Washington commercial licenses.

Hearing Location(s): Red Lion At The Quay, 100 Columbia Street, Vancouver, WA, on November 3-4, 2006, at 8:00 a.m.

Date of Intended Adoption: December 8-9, 2006.

Submit Written Comments to: Rules Coordinator, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail barkemwb@dfw.wa.gov, fax (360) 902-2944, by November 1, 2006.

Assistance for Persons with Disabilities: Contact Nancy Burkhart by October 19, 2006, TTY (360) 902-2207 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Purpose of the proposal is to recognize the validity of Oregon commercial license when fishing the Washington side of the border where the Columbia River forms a common border between the two states. This allows both Washington and Oregon commercial license holders (charter and gillnet vessels) to fish the other states portion of the Columbia River.

Reasons Supporting Proposal: Reduces the need for each states' commercial fishers to be licensed in both states in order to fish this area.

Statutory Authority for Adoption: RCW 77.65.010.

Statute Being Implemented: RCW 77.65.010.

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

Name of Proponent: Department of fish and wildlife, governmental.

Name of Agency Personnel Responsible for Drafting: Morris W. Barker, 1111 Washington Street S.E., Olympia, (360) 902-2826; Implementation: Phil Anderson, 1111 Washington Street S.E., Olympia, (360) 902-2720; and Enforcement: Bruce Bjork, 1111 Washington Street S.E., Olympia, (360) 902-2373.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This saves fishers money by not having to be licensed in both states.

A cost-benefit analysis is not required under RCW 34.05.328. These rule proposals do not affect hydraulic rules.

September 13, 2006

Morris W. Barker  
Rules Coordinator

## NEW SECTION

**WAC 220-20-005 Oregon-Washington commercial license reciprocity.** The following Oregon licenses are equivalent to Washington licenses and are valid in the concurrent waters of the Columbia River:

(1) An Oregon Columbia River gill net salmon vessel permit issued under ORS 508.775 - ORS 508.796 is equivalent to a Washington salmon gill net fishery license issued under RCW 77.65.160 (1)(a) or (c) in the concurrent waters of the Columbia River. A person who holds an Oregon Columbia River gill net salmon vessel permit may land

salmon in Washington that were taken in the Columbia River salmon gill net salmon fishery.

(2) An Oregon ocean charter vessel license issued under ORS 830.435 is equivalent to a Washington charter license issued under RCW 77.65.150 in the concurrent waters of the Columbia River downstream of the bridge at Longview.

## WSR 06-19-046

### PROPOSED RULES

### SUPERINTENDENT OF PUBLIC INSTRUCTION

[Filed September 15, 2006, 11:55 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-16-006.

Title of Rule and Other Identifying Information: Chapter 180-57 WAC, Secondary education—Standardized high school transcripts.

Hearing Location(s): Wanamaker Conference Room, 600 Washington Street, Olympia, WA 98504, on October 25, 2006, at 9:00 a.m.

Date of Intended Adoption: October 26, 2006.

Submit Written Comments to: Joe Wilhoft, Assistant Superintendent for Assessment and Research, P.O. Box 47200, Olympia, WA 98504-7200, e-mail jwilhoft@ospi.wednet.edu, fax (360) 664-0494, by October 10, 2006.

Assistance for Persons with Disabilities: Contact Clarice Nnanabu by October 24, 2006, TTY (360) 664-3631 or (360) 725-6271.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule is proposed to conform to changes made by the legislature in 2006 to transfer authority from the state board of education to the superintendent of public instruction. The rules are also changed to conform to the statutory requirement that the transcript continue to require a notation of whether the student has earned a certificate of academic or individual achievement for students entering the ninth grade in the 2004-05 school year and beyond. The rules follow the statute and eliminate the requirement that the transcript include the scale scores, the scholar designation and whether or not an alternative assessment was used.

Statutory Authority for Adoption: RCW 28A.230.125 formerly RCW 28A.305.220 as amended by chapter 263, Laws of 2006.

Statute Being Implemented: RCW 28A.230.125 (formerly RCW 28A.305.220).

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

Name of Proponent: Office of the superintendent of public instruction, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Joe Wilhoft, Office of Superintendent of Public Instruction, Old Capitol Building, Olympia, (360) 725-6336.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.030,

this rule does not impose an impact on business or industry. This rule only places a duty on public school districts.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply and under RCW 34.05.328 (5)(b)(v) the content of the rules are dictated by statute.

September 7, 2006  
Joseph L. Willhoft  
Assistant Superintendent

AMENDATORY SECTION (Amending WSR 90-17-009, filed 8/6/90, effective 9/6/90)

**WAC 180-57-005 Authority.** The authority for this chapter is RCW 28A.305.220 as recodified as a new section in chapter 28A.230 RCW by section 418, chapter 263, Laws of 2006 which authorizes the ((state board of education)) superintendent of public instruction in consultation with the higher education coordinating board, the state board for community and technical colleges, and the work force training and education coordinating board to develop a standardized high school transcript and to establish definitions for credits and hours for use by all common school districts.

AMENDATORY SECTION (Amending Order 18-84, filed 12/10/84)

**WAC 180-57-030 Definition—Standardized high school transcript.** As used in this chapter, "standardized high school transcript" shall mean the standardized content specified in WAC ((180-57-070)) 392-415-070. Such transcript usually is completed by the student's graduation from the twelfth grade but may extend for some students through the school year in which the student becomes twenty-one years of age.

AMENDATORY SECTION (Amending WSR 03-04-055, filed 1/29/03, effective 3/1/03)

**WAC 180-57-050 Grade reporting and calculation system.** (1) The standardized high school transcript shall report the marks/grades earned by students in courses as follows. It is not required to adopt a marking/grading system that uses pluses or minuses or, if adopted, to report pluses or minuses on standardized transcripts.

- (a) A = 4.0
- (b) A- = 3.7
- (c) B+ = 3.3
- (d) B = 3.0
- (e) B- = 2.7
- (f) C+ = 2.3
- (g) C = 2.0
- (h) C- = 1.7
- (i) D+ = 1.3
- (j) D = 1.0
- (k) E or F = 0.0

(2) The minimal passing mark/grade is D = 1.0. Nonnumerical marks/grades such as pass/fail, pass/no pass, credit/no credit, and satisfactory/unsatisfactory marks also may be used. A mark/grade of "W" shall be used to indicate a withdrawal from a course.

(3) If high school credit is awarded on a competency basis as authorized under state board of education policy WAC 180-51-050(2), the district may use either of the following options for noting the students' performance on the state standardized transcript under ((state board of education policy)) WAC ((180-57-070)) 392-415-070:

(a) Determine locally the equivalent passing mark/grade as listed under subsection (1) of this section; or

(b) Designate "pass" or "fail" or "no pass" in the appropriate manner on the transcript.

AMENDATORY SECTION (Amending WSR 03-04-055, filed 1/29/03, effective 3/1/03)

**WAC 180-57-055 Definition—Grade point average.**

(1) Each student's "grade point average" shall be the sum of the point values, as defined in WAC ((180-57-050)) 392-415-050, of all the marks/grades received for all courses attempted, divided by the sum of the credits for all courses attempted.

(2) The grade point value shall be rounded by multiplying the numerical value of the mark/grade earned by the number of credits assigned to the course.

(3) Grade point averages shall be rounded to the third decimal place and reported for each trimester/semester or other term and for the cumulative credits earned for all courses attempted in high school.

(4) All marks/grades for all courses taken shall be included in the calculation of grade point averages except for:

(a) Nonnumerical marks/grades shall be excluded from the calculation of grade point averages; and

(b) Only the highest mark/grade earned for a class/course taken more than once to improve a mark/grade shall be included in the calculation of grade point averages.

This exception shall not apply to recurring courses. Recurring courses are not considered repeated courses taken for the purpose of improving a mark/grade. Recurring courses are those taken by a student to further develop their understanding and skills in the subject (e.g., journalism, advanced art or drama, concert band, etc.), or is taken by the student more than once to satisfy different credit requirements (e.g., advanced drama taken three times to meet an elective requirement, an art requirement, and the occupational education requirement).

(c) Credits attempted for courses taken more than once to improve a grade/mark may count only once toward the number of credits required for graduation.

(d) Credits attempted for courses taken more than once to improve a grade may count toward the number of credits required for graduation on the condition that the letter grades earned for all attempts are included in the calculation of the student's grade point average. Districts and schools shall not convert letter grades to nonnumerical grades/marks for the purpose of this subsection.

AMENDATORY SECTION (Amending Order 18-84, filed 12/10/84)

**WAC 180-57-065 School of record.** The school of record shall be that school in which the student was most recently enrolled or is currently enrolled whichever is applicable. The school of record shall be responsible for incorporating into the student's standardized transcript the information specified in WAC ~~((180-57-070(8)))~~ 392-415-070 from all previous high schools in which the student was enrolled.

AMENDATORY SECTION (Amending WSR 05-19-106, filed 9/20/05, effective 10/21/05)

**WAC 180-57-070 Mandatory high school transcript contents—Items—Timelines.** (1)(a) The standardized high school transcript shall contain only the information listed in subsection (2) of this section in order to meet the statutory requirements under RCW 28A.305.220 as recodified as a new section in chapter 28A.230 RCW by section 418, chapter 263, Laws of 2006 for a statewide standardized transcript.

(b) Any other information the district or school may desire to include may be stapled to the transcript or otherwise provided with the transcript. Information that is not listed below shall not be included on the state standardized transcript:

(2)(a) Authorized and required transcript information effective now:

(i) The student's legal name (last name, first name, and middle name(s) or middle initial(s)), and other or former names used;

(ii) The name(s) of parent(s) or guardian(s);

(iii) The student's birthdate (mm/dd/yyyy);

(iv) The student's school district identification number (if applicable);

(v) The school name, address, phone number, and name of the school district issuing the transcript;

(vi) A list of previous schools attended where credit was attempted (school name, city, state, and month and year of entrance and exit);

(vii) The student's academic history for all high school level courses attempted, including courses taken under RCW 28A.230.090(4) and including those courses where a student has withdrawn, and listed by report period for the grade level (month and year), course code and description, marks/grades earned as defined in WAC ~~((180-57-050))~~ 392-415-050 (a mark/grade of "W" will be used to indicate a withdrawal from a course), credits attempted and earned as defined in WAC ~~((180-57-040))~~ 392-415-040, grade point average as defined in WAC ~~((180-57-055))~~ 392-415-055, and a report period and cumulative summary of the student's high school level academic history.

(viii) Credits attempted for courses taken more than once to improve a grade/mark may count only once toward the number of credits required for graduation, except that credits attempted for courses taken more than once to improve a grade may count toward the number of credits required for graduation on the condition that the letter grades earned for all attempts are included in the calculation of the student's grade point average. For the purpose of this subsection, dis-

tricts and schools shall not convert letter grades to grades/marks not used in the grade point average calculation.

(b) Authorized and required additional transcript information ~~((effective beginning with the graduating class of 2006-~~

~~(i)))~~ in effect for students who first entered ninth grade in the 2002-03 school year. The following courses, for which college credit can be earned, shall be designated on the transcript with the designation coding indicated. Courses completed and credits earned through running start shall be noted with an "R" designation. Courses completed and credits earned through advanced placement shall be noted with an "A" designation. Courses completed and credits earned through college in the high school shall be noted with a "C" designation. Courses completed and credits earned through an international baccalaureate program shall be noted with an "I" designation. Courses completed which earn college credit through techprep and/or the corresponding credits or certification earned shall be noted with a "T" designation. Courses that meet or satisfy higher education coordinating board core course requirements shall be noted with a "B" designation. Courses completed and credits earned through an honors option shall be noted with an "H" designation(~~(;~~

~~(ii)(A) Notation of the student's actual highest scale score and level achieved for each content area on the Washington assessment of student learning (noting month and year);~~

~~(B) Notation of "no score" if the Washington assessment of student learning was not taken;~~

~~(C) Notation of the student's actual highest level achieved on the Washington alternate assessment system (WAAS) that has been taken by a student eligible to take the WAAS (noting month and year);).~~

(c) Authorized and required additional transcript information ~~((effective beginning with the graduating class of 2008))~~ in effect beginning with students who first entered ninth grade in the 2004-05 school year:

(i) Notation that the high school and beyond plan graduation requirement was met ~~((noting month and year)))~~ or not met by the student;

(ii) Notation that the culminating project graduation requirement was met ~~((noting month and year)))~~ or not met by the student; and

(iii) If applicable, notation that the certificate of academic achievement graduation requirement was met ~~((noting month and year)))~~ or not met by the student ~~((in one of the following ways:~~

~~(A) Based on the student's actual highest scale score and level achieved for each content area of the Washington assessment of student learning.~~

~~A "scholar designation" shall be noted on the transcript when a student achieves level four on each content area on the Washington assessment of student learning on the first attempt at taking each content area assessment.~~

~~(B) Based in whole or in part on the student's results on an alternative assessment approved by the legislature under section 101(7), chapter 19, Laws of 2004, including the student's actual highest earned performance rating on the alternate assessment (noting month and year);~~

~~(C)); and~~

(iv) ~~If applicable, notation that the certificate of individual achievement graduation requirement was met ((noting month and year)) or not met by the student ((based on the student's results on an assessment of the objectives in the student's individual education plan using the Washington alternate assessment system (WAAS)))~~.

(3) Each issuance of the transcript shall include a report date (mm/dd/yyyy), graduation date (noting month and year), end of transcript record (signifying no more authorized data), office of superintendent of public instruction (OSPI) transcript form version number, and page number ('x' of 'y').

(4) The signature of the authorized school official (name, title, and date) and seal of the district, if available. The signature of the authorized school official may be affixed electronically, subject to a written district policy that addresses signature security and assures that the authorized school official acknowledges, in writing, that affixing their signature electronically to the transcript is a legal and binding action.

AMENDATORY SECTION (Amending Order 18-84, filed 12/10/84)

**WAC 180-57-110 Standardized transcript forms.**

The superintendent of public instruction shall make available to school districts standardized transcript forms that include the content specified in WAC ((480-57-070)) 392-415-070.

NEW SECTION

The following chapter of the Washington Administrative Code is decodified as follows:

| Old WAC Number | New WAC Number |
|----------------|----------------|
| 180-57-005     | 392-415-005    |
| 180-57-010     | 392-415-010    |
| 180-57-020     | 392-415-020    |
| 180-57-030     | 392-415-030    |
| 180-57-040     | 392-415-040    |
| 180-57-050     | 392-415-050    |
| 180-57-055     | 392-415-055    |
| 180-57-060     | 392-415-060    |
| 180-57-065     | 392-415-065    |
| 180-57-070     | 392-415-070    |
| 180-57-080     | 392-415-080    |
| 180-57-090     | 392-415-090    |
| 180-57-100     | 392-415-100    |
| 180-57-110     | 392-415-110    |

**WSR 06-19-049  
PROPOSED RULES  
PUGET SOUND  
CLEAN AIR AGENCY**

[Filed September 15, 2006, 2:53 p.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 70.94.141(1).

Title of Rule and Other Identifying Information: Amend Regulation I, Section 3.11 (Civil Penalties) and Section 3.25 (Federal Regulation Reference Date).

Hearing Location(s): Puget Sound Clean Air Agency, 110 Union Street, Suite 500, Seattle, WA 98101, on October 26, 2006, at 9:15 a.m.

Date of Intended Adoption: October 26, 2006.

Submit Written Comments to: Lynn Sykes, Puget Sound Clean Air Agency, 110 Union Street, #500, Seattle, WA 98101, e-mail lynns@pscleanair.org, fax (206) 343-7522, by October 25, 2006.

Assistance for Persons with Disabilities: Contact Agency Receptionist, (206) 689-4010, by October 19, 2006, TTY (800) 833-6388 or (800) 833-6385 (Braille).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To adjust the maximum civil penalty amount for inflation and to update the federal regulation reference date in order to remain current.

Reasons Supporting Proposal: Without the adjustment for inflation, the maximum civil penalty amount would effectively decrease each year. The federal regulation reference date needs to be kept current.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Statute Being Implemented: RCW 70.94.141.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The state implementation plan will be updated to reflect these amendments.

Name of Proponent: Puget Sound clean air agency, governmental.

Name of Agency Personnel Responsible for Drafting: Lynn Sykes, 110 Union Street, #500, Seattle, WA 98101, (206) 689-4067; Implementation and Enforcement: Jim Nolan, 110 Union Street, #500, Seattle, WA 98101, (206) 689-4053.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This agency is not subject to the small business economic impact provision of the Administrative Procedure Act.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to local air agencies, per RCW 70.94.141.

September 15, 2006

Jim Nolan

Director - Compliance

AMENDATORY SECTION

**REGULATION I SECTION 3.11 CIVIL PENALTIES**

(a) Any person who violates any of the provisions of chapter 70.94 RCW or any of the rules or regulations in force pursuant thereto, may incur a civil penalty in an amount not to exceed ((~~\$14,686.00~~)) \$15,127.00 per day for each violation.

(b) Any person who fails to take action as specified by an order issued pursuant to chapter 70.94 RCW or Regulations I,

II, and III of the Puget Sound Clean Air Agency shall be liable for a civil penalty of not more than (~~(\$14,686.00)~~) \$15,127.00 for each day of continued noncompliance.

(c) Within 30 days of the date of receipt of a Notice and Order of Civil Penalty, the person incurring the penalty may apply in writing to the Control Officer for the remission or mitigation of the penalty. To be considered timely, a mitigation request must be actually received by the Agency, during regular office hours, within 30 days of the date of receipt of a Notice and Order of Civil Penalty. This time period shall be calculated by excluding the first day and including the last, unless the last day is a Saturday, Sunday, or legal holiday, and then it is excluded and the next succeeding day that is not a Saturday, Sunday, or legal holiday is included. The date stamped by the Agency on the mitigation request is prima facie evidence of the date the Agency received the request.

(d) A mitigation request must contain the following:

(1) The name, mailing address, telephone number, and telefacsimile number (if available) of the party requesting mitigation;

(2) A copy of the Notice and Order of Civil Penalty involved;

(3) A short and plain statement showing the grounds upon which the party requesting mitigation considers such order to be unjust or unlawful;

(4) A clear and concise statement of facts upon which the party requesting mitigation relies to sustain his or her grounds for mitigation;

(5) The relief sought, including the specific nature and extent; and

(6) A statement that the party requesting mitigation has read the mitigation request and believes the contents to be true, followed by the party's signature.

The Control Officer shall remit or mitigate the penalty only upon a demonstration by the requestor of extraordinary circumstances such as the presence of information or factors not considered in setting the original penalty.

(e) Any civil penalty may also be appealed to the Pollution Control Hearings Board pursuant to chapter 43.21B RCW and chapter 371-08 WAC. An appeal must be filed with the Hearings Board and served on the Agency within 30 days of the date of receipt of the Notice and Order of Civil Penalty or the notice of disposition on the application for relief from penalty.

(f) A civil penalty shall become due and payable on the later of:

(1) 30 days after receipt of the notice imposing the penalty;

(2) 30 days after receipt of the notice of disposition on application for relief from penalty, if such application is made; or

(3) 30 days after receipt of the notice of decision of the Hearings Board if the penalty is appealed.

(g) If the amount of the civil penalty is not paid to the Agency within 30 days after it becomes due and payable, the Agency may bring action to recover the penalty in King County Superior Court or in the superior court of any county in which the violator does business. In these actions, the procedures and rules of evidence shall be the same as in an ordinary civil action.

(h) Civil penalties incurred but not paid shall accrue interest beginning on the 91st day following the date that the penalty becomes due and payable, at the highest rate allowed by RCW 19.52.020 on the date that the penalty becomes due and payable. If violations or penalties are appealed, interest shall not begin to accrue until the 31st day following final resolution of the appeal.

(i) To secure the penalty incurred under this section, the Agency shall have a lien on any vessel used or operated in violation of Regulations I, II, and III which shall be enforced as provided in RCW 60.36.050.

## **AMENDATORY SECTION**

### **REGULATION I SECTION 3.25 FEDERAL REGULATION REFERENCE DATE**

Whenever federal regulations are referenced in Regulation I, II, or III, the effective date shall be July 1, (~~(2005)~~) 2006.

## **WSR 06-19-052**

### **PROPOSED RULES**

### **PUGET SOUND**

### **CLEAN AIR AGENCY**

[Filed September 18, 2006, 9:42 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 70.94.141(1).

Title of Rule and Other Identifying Information: Amend Regulation I, Section 5.03 (Applicability of Registration Program) and Section 6.03 (Notice of Construction).

Hearing Location(s): Puget Sound Clean Air Agency, 110 Union Street, Suite 500, Seattle, WA 98101, on October 26, 2006, at 9:15 a.m.

Date of Intended Adoption: October 26, 2006.

Submit Written Comments to: Lynn Sykes, Puget Sound Clean Air Agency, 110 Union Street, #500, Seattle, WA 98101, e-mail [lynns@psccleanair.org](mailto:lynns@psccleanair.org), fax (206) 343-7522, by October 25, 2006.

Assistance for Persons with Disabilities: Contact Agency Receptionist, (206) 689-4010, by October 19, 2006, TTY (800) 833-6388 or (800) 833-6385 (braille).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To clarify that emergency generators remain exempted in applicability sections of agency regulations.

Reasons Supporting Proposal: Reduction of administrative costs that do not result in environmental gain.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Statute Being Implemented: RCW 70.94.141.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The state implementation plan will be updated to reflect these amendments.



Name of Proponent: Puget Sound clean air agency, governmental.

Name of Agency Personnel Responsible for Drafting: Steve Van Slyke, 110 Union Street, #500, Seattle, WA 98101, (206) 689-4052; Implementation and Enforcement: Jim Nolan, 110 Union Street, #500, Seattle, WA 98101, (206) 689-4053.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This agency is not subject to the small business economic impact provision of the Administrative Procedure Act.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to local air agencies, per RCW 70.94.141.

September 15, 2006

Steve Van Slyke  
Supervisory Engineer

## **AMENDATORY SECTION**

### **REGULATION I: SECTION 5.03 APPLICABILITY OF REGISTRATION PROGRAM**

(a) The requirements of this article shall apply only to:

(1) Sources subject to a federal emission standard under:

(A) 40 CFR Part 60 (except Subparts B, S, BB, and AAA, and Subpart III pertaining to owners and operators of emergency stationary compression ignition internal combustion engines);

(B) 40 CFR Part 61 (except Subparts B, H, I, K, Q, R, T, W, and the provisions of Subpart M pertaining to asbestos on roadways, asbestos demolition and renovation activities, and asbestos spraying);

(C) 40 CFR Part 62; or

(D) 40 CFR Part 63 (except Subpart LL and the provisions of Subparts S and MM pertaining to kraft and sulfite pulp mills, and Subpart ZZZZ pertaining to emergency and limited-use stationary reciprocating internal combustion engines);

(2) Sources with a federally enforceable emission limitation established in order to avoid operating permit program applicability under Article 7 of this regulation;

(3) Sources with annual emissions:

(A) Greater than or equal to 2.50 tons of any single hazardous air pollutant (HAP);

(B) Greater than or equal to 6.25 tons of total hazardous air pollutants (HAP); or

(C) Greater than or equal to 25.0 tons of carbon monoxide (CO), nitrogen oxides (NO<sub>x</sub>), particulate matter (PM<sub>2.5</sub> or PM<sub>10</sub>), sulfur oxides (SO<sub>x</sub>), or volatile organic compounds (VOC);

(4) Sources subject to the following sections of Regulation I, II, or III:

(A) Refuse burning equipment subject to Section 9.05 of Regulation I (including crematories);

(B) Fuel burning equipment or refuse burning equipment burning oil that exceeds any limit in Section 9.08 of Regulation I and sources marketing oil to such sources;

(C) Fuel burning equipment subject to Section 9.09 of Regulation I with a rated heat input greater than or equal to 1 MMBtu/hr of any fuel other than natural gas, propane,

butane, or distillate oil, or greater than or equal to 10 MMBtu/hr of any fuel;

(D) Sources with spray-coating operations subject to Section 9.16 of Regulation I;

(E) Petroleum refineries subject to Section 2.03 of Regulation II;

(F) Gasoline loading terminals subject to Section 2.05 of Regulation II;

(G) Gasoline dispensing facilities subject to Section 2.07 of Regulation II;

(H) Volatile organic compound storage tanks subject to Section 3.02 of Regulation II;

(I) Can and paper coating facilities subject to Section 3.03 of Regulation II;

(J) Motor vehicle and mobile equipment coating operations subject to Section 3.04 of Regulation II;

(K) Flexographic and rotogravure printing facilities subject to Section 3.05 of Regulation II;

(L) Polyester, vinyl ester, gelcoat, and resin operations subject to Section 3.08 of Regulation II;

(M) Aerospace component coating operations subject to Section 3.09 of Regulation II;

(N) Dry cleaners subject to Section 3.03 of Regulation III; or

(O) Ethylene oxide sterilizers subject to Section 3.07 of Regulation III;

(5) Sources with any of the following gas or odor control equipment having a rated capacity of greater than or equal to 200 cfm ( $\geq 4$ " diameter inlet):

(A) Activated carbon adsorption;

(B) Afterburner;

(C) Barometric condenser;

(D) Biofilter;

(E) Catalytic afterburner;

(F) Catalytic oxidizer;

(G) Chemical oxidation;

(H) Condenser;

(I) Dry sorbent injection;

(J) Flaring;

(K) Non-selective catalytic reduction;

(L) Refrigerated condenser;

(M) Selective catalytic reduction; or

(N) Wet scrubber;

(6) Sources with any of the following particulate control equipment having a rated capacity of greater than or equal to 2,000 cfm ( $\geq 10$ " diameter inlet):

(A) Baghouse;

(B) Demister;

(C) Electrostatic precipitator;

(D) HEPA (high efficiency particulate air) filter;

(E) HVAF (high velocity air filter);

(F) Mat or panel filter;

(G) Mist eliminator;

(H) Multiple cyclones;

(I) Rotoclone;

(J) Screen;

(K) Venturi scrubber;

(L) Water curtain; or

(M) Wet electrostatic precipitator;

(7) Sources with a single cyclone having a rated capacity of greater than or equal to 20,000 cfm ( $\geq 27$ " diameter inlet);

(8) Sources with any of the following equipment:

- (A) Asphalt batch plants;
- (B) Burn-off ovens;
- (C) Coffee roasters;
- (D) Commercial composting with raw materials from off-site;
- (E) Commercial smokehouses with odor control equipment;
- (F) Concrete batch plants (ready-mix concrete);
- (G) Galvanizing;
- (H) Iron or steel foundries;
- (I) Microchip or printed circuit board manufacturing;
- (J) Rendering plants;
- (K) Rock crushers or concrete crushers;
- (L) Sewage treatment plants with odor control equipment;
- (M) Shipyards;
- (N) Steel mills; or
- (O) Wood preserving lines or retorts; and

(9) Sources with equipment (or control equipment) that has been determined by the Control Officer to warrant registration through review of a Notice of Construction application under Section 6.03(a) or a Notification under Section 6.03(b) of this regulation, due to the amount and nature of air contaminants produced, or the potential to contribute to air pollution, and with special reference to effects on health, economic and social factors, and physical effects on property.

(b) The requirements of this article shall not apply to:

- (1) Motor vehicles;
- (2) Nonroad engines or nonroad vehicles as defined in Section 216 of the federal Clean Air Act;
- (3) Sources that require an operating permit under Article 7 of this regulation;
- (4) Solid fuel burning devices subject to Article 13 of this regulation; or

(5) Any source, including any listed in Sections 5.03 (a)(4) through 5.03 (a)(9) of this regulation, that has been determined through review by the Control Officer not to warrant registration, due to the amount and nature of air contaminants produced or the potential to contribute to air pollution, and with special reference to effects on health, economic and social factors, and physical effects on property.

(c) It shall be unlawful for any person to cause or allow the operation of any source subject to registration under this section, unless it meets all the requirements of Article 5 of this regulation.

(d) An exemption from new source review under Article 6 of this regulation shall not be construed as an exemption from registration under this article. In addition, an exemption from registration under this article shall not be construed as an exemption from any other provision of Regulation I, II, or III.

## AMENDATORY SECTION

### **REGULATION I: SECTION 6.03 NOTICE OF CONSTRUCTION**

(a) It shall be unlawful for any person to cause or allow the establishment of a new source, or the replacement or substantial alteration of control equipment installed on an existing source, unless a "Notice of Construction application" has been filed and an "Order of Approval" has been issued by the Agency. The exemptions in Sections 6.03 (b) and (c) of this regulation shall not apply to:

(1) Any project that qualifies as construction, reconstruction, or modification of an affected facility within the meaning of 40 CFR Part 60 (New Source Performance Standards), except for Subpart AAA (New Residential Wood Heaters), Subpart BB (Kraft Pulp Mills), ~~((and))~~ Subpart S (Primary Aluminum Reduction Plants), and Subpart IIII pertaining to owners and operators of emergency stationary compression ignition internal combustion engines; and for relocation of affected facilities under Subpart I (Hot Mix Asphalt Facilities) and Subpart OOO (Nonmetallic Mineral Processing Plants) for which an Order of Approval has been previously issued by the Agency;

(2) Any project that qualifies as a new or modified source within the meaning of 40 CFR 61.02 (National Emission Standards for Hazardous Air Pollutants), except for Subpart B (Radon from Underground Uranium Mines), Subpart H (Emissions of Radionuclides other than Radon from Department of Energy Facilities), Subpart I (Radionuclides from Federal Facilities other than Nuclear Regulatory Commission Licensees and not covered by Subpart H), Subpart K (Radionuclides from Elemental Phosphorus Plants), Subpart Q (Radon from Department of Energy Facilities), Subpart R (Radon from Phosphogypsum Stacks), Subpart T (Radon from Disposal of Uranium Mill Tailings), Subpart W (Radon from Operating Mill Tailings), and for demolition and renovation projects subject to Subpart M (Asbestos);

(3) Any project that qualifies as a new source as defined under 40 CFR 63.2 (National Emission Standards for Hazardous Air Pollutants for Source Categories), except for the provisions of Subpart M (Dry Cleaning Facilities) pertaining to area source perchloroethylene dry cleaners, Subpart LL (Primary Aluminum Reduction Plants), and the provisions of Subpart S (Pulp and Paper Industry) and Subpart MM (Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills) pertaining to kraft and sulfite pulp mills, and Subpart ZZZZ pertaining to emergency and limited-use stationary reciprocating internal combustion engines;

(4) Any new major stationary source or major modification as defined under WAC 173-400-030; and

(5) Any stationary source previously exempted from review that is cited by the Agency for causing air pollution under Section 9.11 of this regulation.

(b) **Notifications.** A Notice of Construction application and Order of Approval are not required for the following new sources, provided that a complete notification is filed with the Agency prior to initial startup:

#### **Liquid Storage and Transfer**

- (1) Storage tanks used exclusively for:

(A) Gasoline and having a rated capacity of 1,001-19,999 gallons, PROVIDED THAT they are installed in accordance with the current California Air Resources Board Executive Orders;

(B) Organic liquids with a true vapor pressure of 2.2-4.0 psia and having a rated capacity of 20,000-39,999 gallons; or

(C) Organic liquids with a true vapor pressure of 0.5-0.75 psia and having a rated capacity  $\geq$ 40,000 gallons.

(2) Loading and unloading equipment used exclusively for the storage tanks exempted above, including gasoline dispensers at gasoline stations.

#### **Relocation of Portable Batch Plants**

(3) Relocation of the following portable facilities: asphalt batch plants, nonmetallic mineral processing plants, rock (or concrete) crushers, and concrete batch plants for which an Order of Approval has been previously issued by the Agency. *All the conditions in the previously issued Order of Approval remain in effect.*

#### **Dry Cleaning**

(4) Unvented, dry-to-dry, dry-cleaning equipment that is equipped with refrigerated condensers to recover the cleaning solvent.

#### **Printing**

(5) Non-heatset, web offset presses and wholesale, sheet-fed offset presses (lithographic or letterpress) using exclusively soy-based or kerosene-like oil-based inks, fountain solutions with  $\leq$ 6% VOC by volume or  $\leq$ 8.5% if refrigerated to  $<60^{\circ}\text{F}$ , and cleaning solvents with a vapor pressure  $\leq$ 25mm Hg or a VOC content  $\leq$ 30% by volume.

#### **Water Treatment**

(6) Industrial and commercial wastewater evaporators (except flame impingement) used exclusively for wastewater generated on-site that meets all discharge limits for disposal into the local municipal sewer system (including metals, cyanide, fats/oils/grease, pH, flammable or explosive materials, organic compounds, hydrogen sulfide, solids, and food waste). *A letter from the local sewer district documenting compliance is required in order to use this exemption.*

#### **Sanding Equipment**

(7) Sanding equipment controlled by a fabric filter with an airflow of 2,000-5,000 cfm and an air-to-cloth ratio of  $<3.5:1$  (for reverse-air or manual cleaning) or  $<12:1$  (for pulse-jet cleaning).

#### **Ventilation and Control Equipment**

(8) Vacuum-cleaning systems used exclusively for industrial, commercial, or residential housekeeping purposes controlled by a fabric filter with an airflow of 2,000-5,000 cfm and an air-to-cloth ratio of  $<3.5:1$  (for mechanical or manual cleaning) or  $<12:1$  (for pulse-jet cleaning).

(9) Replacement of existing paint spray booths. *All the conditions in the previously issued Order of Approval remain in effect.*

#### **Miscellaneous**

(10) Any source not otherwise exempt under Section 6.03(c) of this regulation that has been determined through review of a Notice of Construction application by the Control Officer not to warrant an Order of Approval because it has a de minimis impact on air quality and does not pose a threat to human health or the environment.

#### **Coffee Roasters**

(11) Batch coffee roasters with a maximum rated capacity of 10 lbs per batch or less.

(c) **Exemptions.** A Notice of Construction application and Order of Approval are not required for the following new sources, provided that sufficient records are kept to document the exemption:

#### **Combustion**

(1) Fuel-burning equipment (except when combusting pollutants generated by a non-exempt source) having a rated capacity:

(A)  $<10$  million Btu per hour heat input burning exclusively distillate fuel oil, natural gas, propane, butane (or any combination thereof);

(B)  $<0.5$  million Btu per hour heat output burning waste-derived fuel (including fuel oil not meeting the specifications in Section 9.08 of this regulation); or

(C)  $<1$  million Btu per hour heat input burning any other fuel.

(2) All stationary gas turbines with a rated heat input  $<10$  million Btu per hour.

(3) Stationary internal combustion engines having a rated capacity:

(A)  $<50$  horsepower output;

(B) Used solely for instructional purposes at research, teaching, or educational facilities; or

(C) Portable or standby units operated  $<500$  hours per year, PROVIDED THAT they are not operated at a facility with a power supply contract that offers a lower rate in exchange for the power supplier's ability to curtail energy consumption with prior notice.

(4) Relocation of portable, stationary internal combustion engines or gas turbines for which an Order of Approval has been previously issued by the Agency.

(5) All nonroad compression ignition engines subject to 40 CFR Part 89.

#### **Metallurgy**

(6) Crucible furnaces, pot furnaces, or induction furnaces with a capacity  $\leq$ 1,000 pounds, PROVIDED THAT no sweating or distilling is conducted, and PROVIDED THAT only precious metals, or an alloy containing  $>50\%$  aluminum, magnesium, tin, zinc, or copper is melted.

(7) Crucible furnaces or pot furnaces with a capacity  $\leq$ 450 cubic inches of any molten metal.

(8) Ladles used in pouring molten metals.

(9) Foundry sand-mold forming equipment.

(10) Shell core and shell-mold manufacturing machines.

(11) Molds used for the casting of metals.

(12) Die casting machines with a rated capacity  $\leq$ 1,000 pounds that are not used for copper alloys.

(13) Equipment used for heating metals immediately prior to forging, pressing, rolling, or drawing, if any combustion equipment is also exempt.

(14) Forming equipment used exclusively for forging, rolling, or drawing of metals, if any combustion equipment is also exempt.

(15) Heat treatment equipment used exclusively for metals, if any combustion equipment is also exempt.

(16) Equipment used exclusively for case hardening, carburizing, cyaniding, nitriding, carbonitriding, siliconizing, or

diffusion treating of metals, if any combustion equipment is also exempt.

(17) Atmosphere generators used in connection with metal heat-treating processes.

(18) Sintering equipment used exclusively for metals other than lead, PROVIDED THAT no coke or limestone is used, if any combustion equipment is also exempt.

(19) Welding equipment and oxygen/gaseous fuel cutting equipment.

(20) Soldering or brazing, or equipment, including brazing ovens.

(21) Equipment used exclusively for surface preparation, passivation, deoxidation, and/or stripping that meets all of the following tank content criteria:

(A)  $\leq 50$  grams of VOC per liter;

(B) No acids other than boric, formic, acetic, phosphoric, sulfuric, or  $\leq 12\%$  hydrochloric; and

(C) May contain alkaline oxidizing agents, hydrogen peroxide, salt solutions, sodium hydroxide, and water in any concentration.

Associated rinse tanks and waste storage tanks used exclusively to store the solutions drained from this equipment are also exempt. (This exemption does not include anodizing, hard anodizing, chemical milling, circuit board etching using ammonia-based etchant, electrocleaning, or the stripping of chromium, except sulfuric acid and/or boric acid anodizing with a total bath concentration of  $\leq 20\%$  by weight and using  $\leq 10,000$  amp-hours per day, or phosphoric acid anodizing with a bath concentration of  $\leq 15\%$  by weight of phosphoric acid and using  $\leq 20,000$  amp-hours per day.)

(22) Equipment used exclusively for electrolytic plating (except the use of chromic and/or hydrochloric acid) or electrolytic stripping (except the use of chromic, hydrochloric, nitric, or sulfuric acid) of brass, bronze, copper, iron, tin, zinc, precious metals, and associated rinse tanks and waste storage tanks used exclusively to store the solutions drained from this equipment. Also, equipment used to electrolytically recover metals from spent or pretreated plating solutions that qualify for this exemption.

#### **Ceramics and Glass**

(23) Kilns used for firing ceramic-ware or artwork, if any combustion equipment is also exempt.

(24) Porcelain enameling furnaces, porcelain enameling drying ovens, vitreous enameling furnaces, or vitreous enameling drying ovens, if any combustion equipment is also exempt.

(25) Hand glass melting furnaces, electric furnaces, and pot furnaces with a capacity  $\leq 1,000$  pounds of glass.

(26) Heat-treatment equipment used exclusively for glass, if any combustion equipment is also exempt.

(27) Sintering equipment used exclusively for glass PROVIDED THAT no coke or limestone is used, if any combustion equipment is also exempt.

#### **Plastics and Rubber and Composites**

(28) Equipment used exclusively for conveying and storing plastic pellets.

(29) Extrusion equipment used exclusively for extruding rubber or plastics where no organic plasticizer is present, or for pelletizing polystyrene foam scrap.

(30) Equipment used for extrusion, compression molding, and injection molding of plastics, PROVIDED THAT the VOC content of all mold release products or lubricants is  $\leq 1\%$  by weight.

(31) Injection or blow-molding equipment for rubber or plastics, PROVIDED THAT no blowing agent other than compressed air, water, or carbon dioxide is used.

(32) Presses or molds used for curing, post-curing, or forming composite products and plastic products, PROVIDED THAT the blowing agent contains no VOC or chlorinated compounds.

(33) Presses or molds used for curing or forming rubber products and composite rubber products with a ram diameter  $\leq 26$  inches, PROVIDED THAT it is operated at  $\leq 400^\circ\text{F}$ .

(34) Ovens used exclusively for the curing or forming of plastics or composite products, where no foam-forming or expanding process is involved, if any combustion equipment is also exempt.

(35) Ovens used exclusively for the curing of vinyl plastisols by the closed-mold curing process, if any combustion equipment is also exempt.

(36) Equipment used exclusively for softening or annealing plastics, if any combustion equipment is also exempt.

(37) Hot wire cutting of expanded polystyrene foam and woven polyester film.

(38) Mixers, roll mills, and calenders for rubber or plastics where no material in powder form is added and no organic solvents, diluents, or thinners are used.

#### **Material Working and Handling**

(39) Equipment used for mechanical buffing (except tire buffers), polishing, carving, cutting, drilling, grinding, machining, planing, pressing, routing, sawing, stamping, or turning of wood, ceramic artwork, ceramic precision parts, leather, metals, plastics, rubber, fiberboard, masonry, glass, silicon, semiconductor wafers, carbon, graphite, or composites. This exemption also applies to laser cutting, drilling, and machining of metals.

(40) Hand-held sanding equipment.

(41) Sanding equipment controlled by a fabric filter with an airflow of  $< 2,000$  cfm.

(42) Equipment used exclusively for shredding of wood (e.g., tub grinders, hammermills, hoppers), or for extruding, pressing, handling, or storage of wood chips, sawdust, or wood shavings.

(43) Paper shredding and associated conveying systems and baling equipment.

(44) Hammermills used exclusively to process aluminum and/or tin cans.

(45) Tumblers used for the cleaning or deburring of metal products without abrasive blasting.

#### **Abrasive Blasting**

(46) Portable abrasive blasting equipment used at a temporary location to clean bridges, water towers, buildings, or similar structures, PROVIDED THAT any blasting with sand (or silica) is performed with  $\geq 66\%$  by volume water.

(47) Portable vacuum blasting equipment using steel shot and vented to a fabric filter.

(48) Hydroblasting equipment using exclusively water as the abrasive.

(49) Abrasive blasting cabinets vented to a fabric filter, PROVIDED THAT the total internal volume of the cabinet is  $\leq 100$  cubic feet.

(50) Shot peening operations, PROVIDED THAT no surface material is removed.

#### **Cleaning**

(51) Solvent cleaning:

(A) Non-refillable, hand-held aerosol spray cans of solvent; or

(B) Closed-loop solvent recovery systems with refrigerated or water-cooled condensers used for recovery of waste solvent generated on-site.

(52) Steam-cleaning equipment.

(53) Unheated liquid solvent tanks used for cleaning or drying parts:

(A) With a solvent capacity  $\leq 10$  gallons and containing  $\leq 5\%$  by weight perchloroethylene, methylene chloride, carbon tetra-chloride, chloroform, 1,1,1-trichloroethane, trichloroethylene, or any combination thereof;

(B) Using a solvent with a true vapor pressure  $\leq 0.6$  psi containing  $\leq 5\%$  by weight perchloroethylene, methylene chloride, carbon tetrachloride, chloroform, 1,1,1-trichloroethane, trichloro-ethylene, or any combination thereof;

(C) With a remote reservoir and using a solvent containing  $\leq 5\%$  by weight perchloroethylene, methylene chloride, carbon tetra-chloride, chloroform, 1,1,1-trichloroethane, trichloroethylene, or any combination thereof; or

(D) With a solvent capacity  $\leq 2$  gallons.

(54) Hand-wipe cleaning.

#### **Coating, Resin, and Adhesive Application**

(55) Powder-coating equipment.

(56) Portable coating equipment and pavement stripers used exclusively for the field application of architectural coatings and industrial maintenance coatings to stationary structures and their appurtenances or to pavements and curbs.

(57) High-volume low-pressure (HVLP) spray-coating equipment having a cup capacity  $\leq 8$  fluid ounces, PROVIDED THAT it is not used to coat  $> 9$  square feet per day and is not used to coat motor vehicles or aerospace components.

(58) Airbrushes having a cup capacity  $\leq 2$  fluid ounces and an airflow of 0.5-2.0 cfm.

(59) Hand-held aerosol spray cans having a capacity of  $\leq 1$  quart of coating.

(60) Spray-coating equipment used exclusively for application of automotive undercoating materials with a flash point  $> 100^\circ\text{F}$ .

(61) Ovens associated with an exempt coating operation, if any combustion equipment is also exempt.

(62) Ovens associated with a coating operation that are used exclusively to accelerate evaporation, if any combustion equipment is also exempt. (Note: The coating operation is not necessarily exempt.)

(63) Radiation-curing equipment using ultraviolet or electron beam energy to initiate a chemical reaction forming a polymer network in a coating.

(64) Hand lay, brush, and roll-up resins equipment and operations.

(65) Equipment used exclusively for melting or applying of waxes or natural and synthetic resins.

(66) Hot-melt adhesive equipment.

(67) Any adhesive application equipment that exclusively uses materials containing  $< 1\%$  VOC by weight and  $< 0.1\%$  HAP.

(68) Equipment used exclusively for bonding of linings to brake shoes, where no organic solvents are used.

#### **Printing**

(69) Retail, sheet-fed, non-heatset offset presses (lithographic or letter-press).

(70) Presses using exclusively UV-curable inks.

(71) Presses using exclusively plastisols.

(72) Presses using exclusively water-based inks ( $< 1.5$  lbs VOC per gallon, excluding water, or  $< 10\%$  VOC by volume) and cleaning solvents without VOC.

(73) Presses used exclusively for making proofs.

(74) Electrostatic, ink jet, laser jet, and thermal printing equipment.

(75) Ovens used exclusively for exempt printing presses, if any combustion equipment is also exempt.

#### **Photography**

(76) Photographic process equipment by which an image is reproduced upon material sensitized by radiant energy, excluding equipment using perchloroethylene.

#### **Liquid Storage and Transfer**

(77) Storage tanks permanently attached to a motor vehicle.

(78) Storage tanks used exclusively for:

(A) Liquefied gases, including any tanks designed to operate in excess of 29.7 psia without emissions;

(B) Asphalt at a facility other than an asphalt roofing plant, asphalt processing plant, or petroleum refinery;

(C) Any liquids (other than asphalt) that also have a rated capacity  $\leq 1,000$  gallons;

(D) Organic liquids (other than gasoline or asphalt) that also have a rated capacity  $< 20,000$  gallons;

(E) Organic liquids (other than asphalt) with a true vapor pressure  $< 2.2$  psia (e.g., ASTM spec. fuel oils and lubricating oils) that also have a rated capacity  $< 40,000$  gallons;

(F) Organic liquids (other than asphalt) with a true vapor pressure  $< 0.5$  psia that also have a rated capacity  $\geq 40,000$  gallons;

(G) Sulfuric acid or phosphoric acid with an acid strength  $\leq 99\%$  by weight;

(H) Nitric acid with an acid strength  $\leq 70\%$  by weight;

(I) Hydrochloric acid or hydrofluoric acid tanks with an acid strength  $\leq 30\%$  by weight;

(J) Aqueous solutions of sodium hydroxide, sodium hypochlorite, or salts, PROVIDED THAT the surface of the solution contains  $\leq 1\%$  VOC by weight;

(K) Liquid soaps, liquid detergents, vegetable oils, fatty acids, fatty esters, fatty alcohols, waxes, and wax emulsions;

(L) Tallow or edible animal fats intended for human consumption and of sufficient quality to be certifiable for United States markets;

(M) Water emulsion intermediates and products, including latex, with a VOC content  $\leq 5\%$  by volume or a VOC composite partial pressure of  $\leq 0.1$  psi at  $68^\circ\text{F}$ ; or

(N) Wine, beer, or other alcoholic beverages.

(79) Loading and unloading equipment used exclusively for the storage tanks exempted above.

(80) Loading and unloading equipment used exclusively for transferring liquids or compressed gases into containers having a rated capacity <60 gallons, except equipment transferring >1,000 gallons per day of liquid with a true vapor pressure >0.5 psia.

(81) Equipment used exclusively for the packaging of sodium hypochlorite-based household cleaning or pool products.

#### **Mixing**

(82) Mixing equipment, PROVIDED THAT no material in powder form is added and the mixture contains <1% VOC by weight.

(83) Equipment used exclusively for the mixing and blending of materials at ambient temperature to make water-based adhesives.

(84) Equipment used exclusively for the manufacture of water emulsions of waxes, greases, or oils.

(85) Equipment used exclusively for the mixing and packaging of lubricants or greases.

(86) Equipment used exclusively for manufacturing soap or detergent bars, including mixing tanks, roll mills, plodders, cutters, wrappers, where no heating, drying, or chemical reactions occur.

(87) Equipment used exclusively to mill or grind coatings and molding compounds in a paste form, PROVIDED THAT the solution contains <1% VOC by weight.

(88) Batch mixers with a rated working capacity ≤55 gallons.

(89) Batch mixers used exclusively for paints, varnishes, lacquers, enamels, shellacs, printing inks, or sealers, PROVIDED THAT the mixer is equipped with a lid that contacts ≥90% of the rim.

#### **Water Treatment**

(90) Oil/water separators, except those at petroleum refineries.

(91) Water cooling towers and water cooling ponds not used for evaporative cooling of process water, or not used for evaporative cooling of water from barometric jets or from barometric condensers, and in which no chromium compounds are contained.

(92) Equipment used exclusively to generate ozone and associated ozone destruction equipment for the treatment of cooling tower water or for water treatment processes.

(93) Municipal sewer systems, including wastewater treatment plants and lagoons, PROVIDED THAT they do not use anaerobic digesters or chlorine sterilization. This exemption does not include sewage sludge incinerators.

(94) Soil and groundwater remediation projects involving <15 pounds per year of benzene or vinyl chloride, <500 pounds per year of perchloroethylene, and <1,000 pounds per year of toxic air contaminants.

#### **Landfills and Composting**

(95) Passive aeration of soil, PROVIDED THAT the soil is not being used as a cover material at a landfill.

(96) Closed landfills that do not have an operating, active landfill gas collection system.

(97) Non-commercial composting.

#### **Agriculture, Food, and Drugs**

(98) Equipment used in agricultural operations, in the growing of crops, or the raising of fowl or animals.

(99) Insecticide, pesticide, or fertilizer spray equipment.

(100) Equipment used in retail establishments to dry, cook, fry, bake, or grill food for human consumption, including charbroilers, smokehouses, barbecue units, deep fat fryers, cocoa and nut roasters, but not including coffee roasters.

(101) Cooking kettles (other than deep frying equipment) and confection cookers where all the product in the kettle is edible and intended for human consumption.

(102) Bakery ovens with a total production of yeast leavened bread products <10,000 pounds per operating day, if any combustion equipment is also exempt.

(103) Equipment used to dry, mill, grind, blend, or package <1,000 tons per year of dry food products such as seeds, grains, corn, meal, flour, sugar, and starch.

(104) Equipment used to convey, transfer, clean, or separate <1,000 tons per year of dry food products or waste from food production operations.

(105) Storage equipment or facilities containing dry food products that are not vented to the outside atmosphere, or that handle <1,000 tons per year.

(106) Equipment used exclusively to grind, blend, package, or store tea, cocoa, spices, coffee, flavor, fragrance extraction, dried flowers, or spices, PROVIDED THAT no organic solvents are used in the process.

(107) Equipment used to convey or process materials in bakeries or used to produce noodles, macaroni, pasta, food mixes, and drink mixes where products are edible and intended for human consumption, PROVIDED THAT no organic solvents are used in the process. This exemption does not include storage bins located outside buildings.

(108) Brewing operations at facilities producing <3 million gallons per year of beer.

(109) Fermentation tanks for wine (excluding tanks used for the commercial production of yeast for sale).

(110) Equipment used exclusively for tableting, or coating vitamins, herbs, or dietary supplements, PROVIDED THAT no organic solvents are used in the process.

(111) Equipment used exclusively for tableting or packaging pharmaceuticals and cosmetics, or coating pharmaceutical tablets, PROVIDED THAT no organic solvents are used.

#### **Quarries, Nonmetallic Mineral Processing Plants, and Concrete and Asphalt Batch Plants**

(112) Portable sand and gravel plants and crushed stone plants with a cumulative rated capacity of all initial crushers ≤150 tons per hour.

(113) Fixed sand and gravel plants and crushed stone plants with a cumulative rated capacity of all initial crushers ≤25 tons per hour.

(114) Common clay plants and pumice plants with a cumulative rated capacity of all initial crushers of ≤10 tons per hour.

(115) Mixers and other ancillary equipment at concrete batch plants (or aggregate product production facilities) with a rated capacity <15 cubic yards per hour.

(116) Concrete mixers with a rated working capacity of ≤1 cubic yard.

(117) Drilling or blasting (explosives detonation).



A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to local air agencies, per RCW 70.94.141.

September 15, 2006

Jim Nolan

Director - Compliance

## **AMENDATORY SECTION**

### **REGULATION I: SECTION 9.16 SPRAY-COATING OPERATIONS**

(a) Applicability. This section applies to indoor and outdoor spray-coating operations ~~((at facilities subject to Article 5 (Registration) or Article 7 (Operating Permits) of this regulation, where))~~ when a coating that protects or beautifies a surface is applied with spray-coating equipment, except as exempted in Section 9.16(b) of this regulation. Mobile spray-coating operations for motor vehicles or motor vehicle components are subject to Section 9.16(e) of this regulation.

(b) Exemptions. The following activities are exempt from the provisions of Sections 9.16 (c) and (d) of this regulation. Persons claiming any of the following ~~((spray-coating))~~ exemptions shall have the burden of demonstrating compliance with the claimed exemption.

(1) Application of architectural or maintenance coatings to stationary structures (e.g., bridges, water towers, buildings, stationary machinery, or similar structures);

(2) Aerospace coating operations subject to 40 CFR Part 63, Subpart GG. This includes all activities and materials listed in 40 CFR 63.741(f);

(3) Use of high-volume, low-pressure (HVLP) spray guns when:

(A) spray-coating operations do not involve motor vehicles or motor vehicle components;

(B) the gun cup capacity is 8 fluid ounces or less;

(C) the spray gun is used to spray-coat less than 9 square feet per day per facility;

(D) coatings are purchased in containers of 1 quart or less; and

(E) spray-coating is allowed by fire department, fire marshal, or other government agency requirements;~~((-))~~

(4) Use of air-brush spray equipment with 0.5 to 2.0 CFM airflow and a maximum cup capacity of 2 fluid ounces;

(5) Use of hand-held aerosol spray cans with a capacity of 1 quart or less; or

(6) Indoor application of automotive undercoating materials using organic solvents having a flash point in excess of 100°F.

(c) General Requirements for Indoor Spray-Coating Operations. It shall be unlawful for any person subject to the provisions of this section to cause or allow spray-coating inside a structure, or spray-coating of any motor vehicles or motor vehicle components, unless all the following requirements are met:

~~((the s))~~ (1) Spray-coating is conducted inside an enclosed spray area;~~((-))~~

(2) The enclosed spray area ~~((shall))~~ employs either properly seated paint arresters, or water-wash curtains with a continuous water curtain to control the overspray; ~~and((-))~~

(3) All emissions from the spray-coating operation ~~((shall be))~~ are vented to the atmosphere through an unobstructed vertical exhaust vent.

(d) General Requirements for Outdoor Spray-Coating Operations. It shall be unlawful for any person subject to the provisions of this section to cause or allow spray-coating outside an enclosed structure unless reasonable precautions are employed to minimize the overspray. Reasonable precautions include, but are not limited to, the use of:

(1) Enclosures and curtailment during high winds; and

(2) High-volume low-pressure (HVLP), low-volume low-pressure (LVLP), electrostatic, or air-assisted airless spray equipment. Airless spray equipment may be used where low viscosity and high solid coatings preclude the use of higher-transfer efficiency spray equipment.

(e) General Requirements for Mobile Spray-Coating Operations. It shall be unlawful for any person to cause or allow the spray-coating of any motor vehicle or motor vehicle component outside of a structure required by Section 9.16(c) of this regulation, unless all the following requirements are met:

(1) Conduct all spray-coating in a portable frame-and-fabric shelter consisting of a fabric roof and three fabric sides or similar portable shelter consisting of a roof and three sides.

(A) Disassemble and remove the portable shelter from the site at the end of each day.

(B) Do not conduct mobile spray-coating operations for more than 3 consecutive calendar days at any site and not more than 14 days during any calendar month at the same site.

(2) Do not apply more than 8 ounces or 9 square feet of clear coat to any single vehicle.

(3) Do not apply more than 20 ounces of coatings (base coat and clear coat combined) at one site during any calendar day.

(4) Do not repair any dent larger than 1 1/2 inches, as measured across the smallest dimension at the vehicle surface.

(5) Do not repair any dent that results in a total coated area of dent repair larger than 1 square foot.

(6) Do not repair more than 1 dent per single vehicle panel.

(7) Use only HVLP or spray equipment approved in writing as equivalent by the South Coast Air Quality Management District.

(8) Minimize evaporative emissions by collecting all organic solvents used for cleanup of equipment in a closed-loop or contained system; keeping all containers of paints and organic solvents closed except when materials are being added, mixed, or removed; and storing solvent rags in closed containers.

(9) Post a sign that is visible to the public and shows the name of the company and current telephone contact information for complaints. Record information regarding complaints received and investigate complaints regarding odor, overspray, or nuisance as soon as possible, but no later than 1 hour after receipt of a complaint. As part of the investigation, determine the wind direction during the time of the complaint. If the cause of a valid complaint can not be corrected



within 2 hours of the time the complaint was received, shut down the operation until corrective action is completed.

(10) Maintain the following records for each day of spray-coating:

(A) Location, date, time, and the name of the person completing the record;

(B) Identification of each vehicle or vehicle component repaired;

(C) Quantity of each VOC-containing material used on each vehicle or vehicle component, in terms of ounces or square feet; and

(D) Complaints received.

All records must be kept current and made available to Agency representatives upon request.

(11) Notify the Agency by e-mail on Agency-supplied electronic forms, no later than 7:00 a.m. on the day mobile spray-coating will be conducted, or 1 hour prior to any unscheduled spray-coating activity.

~~((e))~~ (f) Compliance with Other Regulations. Compliance with this regulation does not exempt any person from compliance with Regulation I, Section 9.11 and all other applicable regulations including those of other agencies.

**WSR 06-19-054**  
**PROPOSED RULES**  
**HORSE RACING COMMISSION**

[Filed September 18, 2006, 10:06 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-16-014.

Title of Rule and Other Identifying Information: Three new sections in chapter 260-36 WAC, Licensing, are being adopted to meet anticipated changes to the collection of industrial insurance premiums. The new sections address (1) the new requirement to collect premiums for exercise riders, the number based upon the number of stalls or papers in the race office; (2) short-duration industrial insurance coverage; and (3) reciprocal agreements with other states regarding industrial insurance.

Hearing Location(s): Auburn City Council Chambers, 25 West Main, Auburn, WA 98001, on November 9, 2006, at 9:30 a.m.

Date of Intended Adoption: November 9, 2006.

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 November 6, 2006.

Assistance for Persons with Disabilities: Contact Patty Sorby by November 6, 2006, TTY (360) 459-6462.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: None.

Reasons Supporting Proposal: Allows for changes in industrial insurance coverage recommended by an industry workgroup and support by the Washington horse racing commission. These new sections will be necessary if labor and industries adopts the changes requested by the commission.

Statutory Authority for Adoption: RCW 67.16.020.

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. Leichner, 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.

September 15, 2006

R. M. Leichner

Executive Secretary

NEW SECTION

**WAC 260-36-220 Industrial insurance premiums. (1)**

At the time of licensing, a trainer must pay industrial insurance premiums established by labor and industries, unless exempted under WAC 260-36-240.

(2) A trainer must pay an industrial insurance premium for exercise riders based upon the number of stalls the trainer has on the grounds of a racing association, or upon the registration papers in the race office, whichever is greater. In the event the number of stalls a trainer has on the grounds or the registration papers in the race office are unavailable, the number of industrial insurance premiums for exercise riders will be based upon the number of stalls or papers in the race office from the previous year. The number of exercise riders for which a trainer is required to pay industrial insurance premiums will be determined as follows:

(a) For zero to twelve stalls on the grounds or papers in the race office, a trainer must pay an industrial insurance premium for one exercise rider;

(b) For thirteen to twenty-four stalls on the grounds or papers in the race office, a trainer must pay an industrial insurance premium for two exercise riders;

(c) For twenty-five to thirty-six stalls on the grounds or papers in the race office, a trainer must pay an industrial insurance premium for three exercise riders; and

(d) For thirty-seven or more stalls on the grounds or papers in the race office, a trainer must pay an industrial insurance premium for four exercise riders.

NEW SECTION

**WAC 260-36-230 Short duration industrial insurance coverage. (1)** Trainers entering horses to run in Washington races will be allowed to obtain short duration industrial insurance coverage under the following conditions:

(a) Trainers who ship in to Class A or B race meets may purchase short duration industrial insurance coverage for seven consecutive calendar days. The trainer must pay twenty percent of the trainer base premium, twenty percent for each groom slot obtained, and assistant trainer hired, and twenty percent of each exercise rider as required in WAC 260-36-220 (all rounded to the next whole dollar). The base

premium used for this calculation will be the industrial insurance premiums for Class A or B race meets. A trainer may only purchase Class A or B race meet short duration coverage for three seven-day periods per calendar year.

(b) Trainers who ship in to Class C race meets may purchase short duration industrial insurance coverage for seven consecutive calendar days. The trainer must pay twenty percent of the trainer base premium, twenty percent of each groom slot obtained, and assistant trainer hired, and twenty percent of each exercise rider as required in WAC 260-36-220 (all rounded to the next whole dollar). The base premium used for this calculation will be the industrial insurance premiums for Class C race meets. A trainer may only purchase Class C race meet short duration coverage for three seven-day periods per calendar year. Class C race meet short duration industrial insurance coverage is not transferable to a Class A or B race meet.

(2) Before short duration coverage will be allowed, a trainer must obtain a license and pay all applicable license and fingerprint fees required in WAC 260-36-085. The trainer is also required to ensure that each groom, assistant trainer, pony person, and exercise rider hired by the trainer has a proper license. A trainer may only employ persons on the grounds of the racing association who are properly licensed by the commission.

#### NEW SECTION

**WAC 260-36-240 Industrial insurance coverage—Reciprocal agreements.** The state of Washington has reciprocal agreements with other states. Trainers shipping in from these jurisdictions who have industrial insurance from a reciprocal state need not obtain industrial insurance coverage so long as they comply with the conditions of RCW 51.12-.120 and WAC 296-17-31009.

**WSR 06-19-061  
PROPOSED RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Filed September 18, 2006, 2:09 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-15-094.

Title of Rule and Other Identifying Information: WAC 220-16-270 Puget Sound shrimp districts, 220-16-790 Zee's Reef Marine Preserve, 220-20-010 General provisions—Lawful and unlawful acts—Salmon, other fish and shellfish, 220-20-100 General provisions—Marine protected areas, 220-55-070 Valid catch record card, 220-56-105 River mouth definitions, 220-56-185 Marine area codes, 220-56-210 Fly fishing, 220-56-282 Sturgeon—Areas, seasons, limits and unlawful acts, 220-56-315 Crabs, shrimp, crayfish—Unlawful acts, 220-56-325 Shrimp—Areas and seasons, 220-56-350 Clams other than razor clams, mussels—Areas and seasons, 220-56-380 Oysters—Areas and seasons, and 232-28-619 Washington food fish and game fish—Freshwater exceptions to statewide rules. Sport rule proposals.

Hearing Location(s): Red Lion At The Quay, 100 Columbia Street, Vancouver, WA, on November 3-4, 2006, at 8:00 a.m.

Date of Intended Adoption: December 8-9, 2006.

Submit Written Comments to: Rules Coordinator, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail barkemwb@dfw.wa.gov, fax (360) 902-2944, by November 1, 2006.

Assistance for Persons with Disabilities: Contact Nancy Burkhart by October 19, 2006, TTY (360) 902-2207 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 220-16-270, this eliminates four shrimp districts no longer necessary for management purposes in specifically designated areas.

WAC 220-16-790, housekeeping change on name of marine preserve.

WAC 220-20-010, allows the use of harpoons to aid anglers in the landing of halibut.

WAC 220-20-100, housekeeping change on name of a marine preserve.

WAC 220-55-070, requires catch record card to be in physical possession of the fisher while in the field for ease of enforcement.

WAC 220-56-105, changes river mouth definition to facilitate identification of the geographic boundary.

WAC 220-56-185, housekeeping change to remove conflicting language in definition.

WAC 220-56-210, require knotless nets as a conservation action to reduce injury to fish in fly fishing only waters.

WAC 220-56-282, prohibits retention of green sturgeon as a conservation action to provide protection for this species.

WAC 220-56-315, housekeeping change to provide clarity of intent on what "use" means for shellfish gear.

WAC 220-56-325, eliminates reference to shrimp districts under proposal of WAC 220-16-270 and changes seasons in Marine Area 7 to provide for longer season duration.

WAC 220-56-350, provides clam season changes to reflect changing population status on recreational beaches.

WAC 220-56-380, provides oyster season changes to reflect changing population status on recreational beaches.

WAC 232-28-619, modify exceptions to statewide rules. Change seasonal dates, modify closed areas, modify night closures, add selective gear rules, and modify rules on sinkers in four lakes (Ferry, Bonaparte, Pierre, and Swan). Allows use of electric motors on fly fishing only lakes (Aeneas, Bayley, Brown's, Cady, Chopaka, Ebey, Leech, Long, McDowell, Merrill, Pass, Quail, Squalicum, and Vogler).

American River, create seasonal closed waters for bull trout and chinook protection.

Beaver Lake and Green Lake, housekeeping to remove redundant language.

Blue Creek, housekeeping to clarify hatchery steelhead definition.

Columbia River, add bottomfish rules to the lower estuary. Create a special confluence zone at the juncture of the Snake River to protect Snake River salmon and steelhead while in that portion of the Columbia River. Closing sturgeon fishing in an area below John Day Dam, modifying fishing rules for bank anglers near Bonneville Dam, and modify-

ing sturgeon retention season between Bonneville and McNary dams.

Deer Lake, modifying seasons, size limit for trout, and rules for small mouth bass retention.

Lewis River, allows fishing within the power canal.

Medical Lake, prohibits fishing from a floating device with a motor.

Methow River, modifies the lower boundary of the whitefish fishery.

Morse Creek, season modification for chinook protection.

Murray Creek, closing for kokanee and cutthroat protection.

Nemah River, housekeeping changes to clarify night closures and nonbuoyant lure restrictions.

Nisqually River, season change for steelhead protection.

Okanogan River, changing boundary on closed water for steelhead protection.

Skagit River, adding a catch and release fishery to current seasons.

Skokomish River, season change to protect wild steelhead.

Tieton River, adding selective gear rules to meet agency management intent.

Wapato Lake, season change for trout retention.

Washougal River, season change to protect wild steelhead.

West Twin River, season change to protect wild steelhead.

Willapa River, changing stationary gear area to allow for sturgeon fishing.

Wishkah River, housekeeping change to clarify geographical boundaries for salmon fishing.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 77.12.047.

Statute Being Implemented: RCW 77.12.047.

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

Name of Proponent: Department of fish and wildlife, governmental.

Name of Agency Personnel Responsible for Drafting: Morris W. Barker, 1111 Washington Street S.E., Olympia, (360) 902-2826; Implementation: Lew Atkins, 1111 Washington Street S.E., Olympia, (360) 902-2651; and Enforcement: Bruce Bjork, 1111 Washington Street S.E., Olympia, (360) 902-2373.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not required for recreational fishery rules.

A cost-benefit analysis is not required under RCW 34.05.328. These rule proposals do not affect hydraulics rules.

September 15, 2006  
Morris W. Barker  
Rules Coordinator

AMENDATORY SECTION (Amending Order 04-39, filed 3/4/04, effective 5/1/04)

**WAC 220-16-270 Puget Sound Shrimp Districts.** The following areas shall be defined as Puget Sound Shrimp Districts:

(1) Discovery Bay Shrimp District - All waters south of a line from McCurdy Point on the Quimper Peninsula to the northern tip of Protection Island, then to Rocky Point on the Miller Peninsula, and including all waters of Discovery Bay.

~~(2) ((Port Angeles Shrimp District—All waters of Port Angeles Harbor west of a line from the eastern tip of Ediz Hook to the ITT Rayonier dock.~~

~~(3) Sequim Bay Shrimp District—All waters of Sequim Bay south of a line projected west from Travis Spit on the Miller Peninsula.~~

(4)) Hood Canal Shrimp District - All waters of Hood Canal south of the Hood Canal Floating Bridge.

~~((5) Carr Inlet Shrimp District—All waters of Carr Inlet north of a line from Penrose Point to Green Point.~~

~~(6) Port Townsend Shrimp District—All waters of Port Townsend Bay south and west of a line from Marrowstone Point to Point Hudson, and north of the Port Townsend ship canal including Kilisut Harbor.))~~

AMENDATORY SECTION (Amending Order 02-187, filed 8/9/02, effective 9/9/02)

**WAC 220-16-790 ((Zee's) Z's Reef Marine Preserve.** "((Zee's) Z's Reef Marine Preserve" is defined as waters and bedlands inside a line beginning at the extreme low water line on the northeast side of Fox Island at 47°14.56'N, 122°35.98'W, then extending 0.5 nautical mile northwesterly along the extreme low water line to 47°14.96'N, 122°36.37'W, then northeast to the minus eighty-five foot depth contour (MLLW = 0 feet) at 47°15.00'N, 122°36.30'W, then southeasterly along the eighty-five foot depth contour to 47°14.67'N, 122°35.81'W, then southwest to the point of origin.

AMENDATORY SECTION (Amending Order 06-135, filed 6/13/06, effective 7/14/06)

**WAC 220-20-010 General provisions—Lawful and unlawful acts—Salmon, other fish and shellfish.** (1) It shall be unlawful to take, fish for, possess or transport for any purpose fish, shellfish or parts thereof, in or from any of the waters or land over which the state of Washington has jurisdiction, or from the waters of the Pacific Ocean, except at the times, places and in the manners and for the species, quantities, sizes or sexes provided for in the regulations of the department.

(2) It shall be unlawful for any person to have in possession or under control or custody any food fish or shellfish within the land or water boundaries of the state of Washington, except in those areas which are open to commercial fishing or wherein the possession, control or custody of salmon or other food fish or shellfish for commercial purposes is made lawful under a statute of the state of Washington or the

rules and regulations of the commission or director, unless otherwise provided.

(3) It shall be lawful to fish for, possess, process and otherwise deal in food fish and fish offal or scrap for any purpose, provided; that it shall be unlawful to use any of the following listed species for purposes other than human consumption or fishing bait:

|  |                                     |
|--|-------------------------------------|
| Pacific halibut  | ( <i>Hippoglossus stenolepis</i> )  |
| Pacific herring<br>(except as prescribed<br>in WAC 220-49-020) | ( <i>Clupea harengus pallasii</i> ) |
| Salmon   |                                     |
| Chinook  | ( <i>Oncorhynchus tshawytscha</i> ) |
| Coho   | ( <i>Oncorhynchus kisutch</i> )     |
| Chum   | ( <i>Oncorhynchus keta</i> )        |
| Pink   | ( <i>Oncorhynchus gorbuscha</i> )   |
| Sockeye  | ( <i>Oncorhynchus nerka</i> )       |
| Masu   | ( <i>Oncorhynchus masu</i> )        |
| Pilchard   | ( <i>Sardinops sagax</i> )          |

Except as provided for in WAC 220-88C-040

(4) It shall be unlawful for any person to fish for fish or shellfish while in possession in the field of fish or shellfish that are in violation of the harvest regulations for the area being fished. This regulation does not apply to vessels in transit.

(5) It shall be unlawful for the owner or operator of any commercial food fish or shellfish gear to leave such gear unattended in waters of the state or offshore waters unless said gear is marked.

(a) Shellfish pot, bottom fish pot, set line and set net gear must be marked with a buoy to which shall be affixed in a visible and legible manner the department approved and registered buoy brand issued to the license, provided that:

(i) Buoys affixed to unattended gear must be visible on the surface of the water except during strong tidal flow or extreme weather conditions.

(ii) When two or more shellfish pots are attached to a common ground line the number of pots so attached must be clearly labeled on the required buoy.

(b) It is unlawful to operate any gill net, attended or unattended, unless there is affixed, within five feet of each end of the net, a buoy, float, or some other form of marker, visible on the corkline of the net, on which shall be marked in a visible, legible and permanent manner the name and gill net license number of the fisher.

(c) It shall be unlawful at any time to leave a gill net unattended in the commercial salmon fishery.

(6) It shall be unlawful to place any commercial food fish or shellfish gear in any waters closed to commercial fishing, provided; that this provision shall not apply to reef nets or brush weirs or to gear being tested under supervision of the department, provided further that it shall be unlawful to take, fish for or possess food fish with any type of commercial fishing gear in the waters of Carr Inlet north of north latitude 47°20' from August 15 through November 30 except as provided in chapter 220-47 WAC.

(7) It shall be unlawful for the owner or operator of any fishing gear to refuse to submit such gear to inspection in any manner specified by authorized representatives of the department.

(8) It shall be unlawful for any person taking or possessing fish or shellfish taken from any of the waters or beaches of the Columbia River, the state of Washington or the Pacific Ocean for any purpose to fail to submit such fish or shellfish for inspection by authorized representatives of the department.

(9) It shall be unlawful for any person licensed by the department to fail to make or return any report required by the department relative to the taking, selling, possessing, transporting, processing, freezing and storing of fish or shellfish whether taken within the jurisdiction of the state of Washington or beyond or on Indian reservations or usual and accustomed Indian fishing grounds.

(10) It shall be unlawful to take, fish for or possess or to injure, kill or molest fish in any fishway, fish ladder, fish screen, holding pond, rearing pond, or other fish protective device, or to interfere in any manner with the proper operation of such fish protective devices.

(11) It shall be unlawful to club, gaff, shoot with firearm, crossbow, bow and arrow or compressed air gun, snag, snare, dip net, harass, spear, stone or otherwise molest, injure, kill or destroy any fish or shellfish or parts thereof, or for any person to attempt to commit such acts, or to have any fish, shellfish or parts thereof so taken in possession, except as provided for in this subsection:

(a) It shall be lawful to use a dip net or club in the landing of fish taken by personal-use angling unless otherwise provided and it shall be lawful to use a gaff in the landing of tuna, halibut and dogfish and a harpoon in the landing of halibut in all catch record card areas.

(b) It shall be lawful to use a dip net, gaff, or club in the landing of food fish or shellfish taken for commercial purposes, except that it is unlawful to use a fish pew, pitchfork, or any other instrument that will penetrate the body of the food fish or shellfish while sorting commercial catches during the act of discarding those fish that are not going to be retained.

(c) It shall be lawful to use a spear in underwater spear fishing as provided for in WAC 220-56-160.

(d) It shall be lawful to use a bow and arrow or spear to take carp as provided for in WAC 220-56-280.

(e) It shall be lawful to snag herring, smelt, anchovies, pilchard, sand lance, and squid when using forage fish jigger gear or squid jigs.

(f) It shall be lawful to shoot halibut when landing them with a dip net or gaff.

(12) It shall be unlawful to take or possess for any purpose any fish or shellfish smaller than the lawful minimum size limits. Any such fish either snagged, hooked, netted or gilled must be immediately returned to the water with the least possible injury to the fish or shellfish and it shall be unlawful to allow undersized salmon entangled in commercial nets to pass through a power block or onto a power reel or drum.

(13) It shall be unlawful to possess aboard any vessel engaged in commercial fishing or having commercially

caught fish aboard, any food fish or shellfish in such condition that its species, length, weight or sex cannot be determined if a species, length, weight, or sex limit is prescribed for said species and it is unlawful to possess food fish or shellfish mutilated in any manner such that the natural length or weight cannot be determined if a length or weight limit is prescribed for said species.

(14) It shall be unlawful in any area to use, operate or carry aboard a commercial fishing vessel a licensed net or combination of such nets, whether fished singly or separately, in excess of the maximum lawful size or length prescribed for a single net in that area, except as otherwise provided for in the rules and regulations of the department.

(15) It shall be unlawful for any permit holder to fail to comply with all provisions of any special permit or letter of approval issued to him under the authority of the director, or to perform any act not specifically authorized in said document or in the regulations of the commission or director.

(16) It shall be unlawful to use, place or cause to be placed in the waters or on the beaches or tidelands of the state any substance or chemical used for control of predators or pests affecting fish or shellfish or other aquatic marine organisms, without first having obtained a special permit to do so from the director.

(17) It shall be unlawful to test commercial fishing gear except as follows:

(a) Bellingham Bay - inside and northerly of a line from Governor's Point to the south tip of Eliza Island to Point Frances in waters 10 fathoms and deeper.

(b) Boundary Bay - north of a line from Birch Point to Point Roberts and south of the international boundary in waters 10 fathoms and deeper during times not under IPSFC control.

(c) San Juan Channel - within a 1 mile radius of Point Cauldron during times not under IPSFC control.

(d) Port Angeles - inside and westerly of a line projected from the east tip of Ediz Hook through buoy C "1" to the mainland.

(e) Port Gardner - within a 2 mile radius of the entrance to Everett breakwater in waters 10 fathoms and deeper.

(f) Central Puget Sound - between lines from Meadow Point to Point Monroe and Skiff Point to West Point in waters 50 fathoms and deeper.

(g) East Pass - between lines from Point Robinson true east to the mainland and from Dash Point to Point Piner in waters 50 fathoms and deeper.

(h) Port Townsend - westerly of a line from the Coast Guard station in Port Townsend to Kala Point in waters 10 fathoms and deeper.

(i) All tows or sets are limited to 20 minutes exclusive of setting and retrieving time.

(j) All testing is to be accomplished between 8:00 a.m. and 4:00 p.m.

(k) Codends of trawl nets must be left open, all hooks of set line gear must be unbaited, and no lures or baited hooks shall be used with jig or troll gear.

(l) Any and all incidentally caught fish and shellfish must be returned to the waters immediately, and no fish or shellfish are to be retained aboard the vessel at any time during a gear test operation.

(m) It shall be unlawful for any person conducting such gear testing operations to fail to notify the fish and wildlife enforcement office in Olympia prior to testing.

(18) It is unlawful for any person or corporation either licensed by the department or bringing fish or shellfish into the state to fail to comply with the directions of authorized department personnel related to the collection of sampling data or material from fish or shellfish. It is also unlawful for any such person or corporation to fail to relinquish to the department, upon request, any part of a salmon or other fish containing coded-wire tags, including but not limited to, the snouts of those salmon that are marked by having clipped adipose fins.

(19) It is unlawful for any person to possess live bottom fish taken under a commercial fishery license.

(20) It is unlawful for any person to use chemical irritants to harvest fish, shellfish or unclassified marine invertebrates except as authorized by permit issued by the department.

**AMENDATORY SECTION** (Amending Order 05-52, filed 4/7/05, effective 5/8/05)

**WAC 220-20-100 General provisions—Marine protected areas.** (1) It is unlawful to fish for or possess fish, shellfish, or wildlife taken from any conservation area defined in chapter 220-16 WAC.

(2) The following marine preserves are closed to the taking of fish, shellfish, and wildlife as indicated:

(a) The Admiralty Head Marine Preserve is closed to the taking of fish and wildlife, and closed to the taking of shellfish except sea cucumbers and sea urchins.

(b) The Colvos Passage Marine Preserve is closed to the taking of shellfish and wildlife, closed to all commercial harvest of fish, and closed to recreational harvest of fish except it is lawful to take salmon for personal use by trolling, defined as fishing from a vessel under power and in gear making forward progress.

(c) The San Juan Island Marine Preserve is closed to the taking of shellfish except it is lawful to take crab from Parks Bay, and closed to the taking of food fish other than salmon except it is lawful to take herring.

(d) The Titlow Beach Marine Preserve is closed to the taking of shellfish and wildlife, closed to the commercial harvest of all fish, and closed to the recreational harvest of all fish except that it is lawful to take salmon if taken with artificial lures from shore or from a nonmotorized vessel.

(e) The ((Zee's)) Z's Reef Marine Preserve is closed to the taking of shellfish and wildlife, closed to the commercial harvest of all fish, and closed to the recreational harvest of all fish except that it is lawful to take salmon with fly fishing gear as defined in WAC 220-56-210.

(f) The Seattle city park Marine Preserves (Golden Gardens, Carkeek, Lincoln, Discovery, Emma Schmitz, and Richey Viewpoint) are closed to removal of organisms from the intertidal areas, except that finfish may be harvested using hook and line gear, provided it is lawful under other WDFW fishing regulations. Any organism except finfish taken by hook and line in the intertidal area must be placed unharmed in the location it was found. Removal of organisms of unclas-

sified marine invertebrates in numbers less than the daily limits is an infraction. All other penalties for larger numbers removed apply.

**AMENDATORY SECTION** (Amending Order 00-80, filed 5/24/00, effective 6/24/00)

**WAC 220-55-070 Valid catch record card.** A catch record card shall be invalid unless:

(1) The angler (~~((possesses))~~) has in physical possession the appropriate recreational license and catch record card for the area in which the angler is participating, if a license and/or a catch record card is required.

(2) The catch record card number is written in ink in the appropriate space on the back of the recreational license, if a license is required, and the personal information has been entered on the catch record card as required under WAC 220-56-175, or, if an automated license is issued, the catch record card has attached to it a validation sticker containing the name and license number.

(3) The license issuance date is legible and not altered, and the license has not been mutilated.

**AMENDATORY SECTION** (Amending Order 03-24, filed 2/14/03, effective 5/1/03)

**WAC 220-56-105 River mouth definitions.** When pertaining to food fish angling, unless otherwise defined, any reference to the mouths of rivers or streams shall be construed to include those waters of any river or stream including sloughs and tributaries upstream and inside of a line projected between the outermost uplands at the mouth. The term "outermost upland" shall be construed to mean those lands not covered by water during an ordinary high tide. The following river mouths are hereby otherwise defined:

Abernathy Creek - Highway 4 Bridge.

Bear River - Highway 101 Bridge.

Bone River - Highway 101 Bridge.

Chambers Creek - Burlington Northern Railroad Bridge.

Chehalis River - Highway 101 Bridge in Aberdeen.

Chelan River - Railroad Bridge.

Cispus River - Posted markers at the Lewis County P.U.D. kayak launch, approximately 1.5 miles upstream from the confluence of the Cowlitz and Cispus rivers.

Cowlitz River - A line projected across the river between two fishing boundary markers set on each bank of the river approximately one-half mile downstream from the lowermost railroad bridge crossing the Cowlitz River.

Dakota Creek - A line from the outermost headland of the south bank to a house at 1285 Runge Avenue, Blaine, Washington, approximately one-quarter mile downstream from the Blaine Road Bridge.

Deschutes River - A line projected across the river 400 feet below the lower Tumwater Falls fish ladder.

Drano Lake - Highway 14 Bridge.

Duwamish River - First Avenue South Bridge.

Elk River - Highway 105 Bridge.

Entiat River - Highway 97 Bridge.

Hawk Creek (Lincoln County) - Falls at the Hawk Creek campground.

Hoquiam River - Highway 101 Bridge.

Humtulsips River - Mouth of Jessie Slough.

Johns River - Highway 105 Bridge.

Kennedy Creek - An arc 500 yards east of the midpoint of the northbound Highway 101 Bridge.

Kettle River - Barstow Bridge.

Lake Washington Ship Canal - A line 400 feet west of the fish ladder at the Chittenden Locks.

Lewis River - A straight line running from a fishing boundary marker (~~((on a piling at Austin Point))~~) or from the outermost upland at the north shore of the Lewis River mouth, southerly across the Lewis River to a fishing boundary marker (~~((on))~~) near the (~~((opposite))~~) south shore.

Methow River - Highway 97 Bridge.

Naselle River - Highway 101 Bridge.

North Nemah River - Highway 101 Bridge.

Niawiakum River - Highway 101 Bridge.

North River - Highway 105 Bridge.

Palix River - Highway 101 Bridge.

Puyallup River - 11th Street Bridge.

Samish River - The Samish Island Bridge (Bayview-Edison Road).

Sammamish River - 68th Avenue NE Bridge.

Skagit River - A line projected from the terminus of the jetty with McGlenn Island to the white monument on the easterly end of Ika Island, then to a white monument on the westerly end of Craft Island, then to a white monument near the corner of the levee on the westerly side of Dry Slough, and then to a white monument on the easterly side of Tom Moore Slough.

Skamokawa Creek - Highway 4 Bridge.

Skookum Creek - A line 400 yards below the old railroad bridge.

Snohomish River - Burlington Northern Railway Bridges crossing main river and sloughs.

South Nemah River - Lynn Point 117 degrees true to the opposite shore.

Spokane River - State Route 25 Bridge.

Wallace River - The furthest downstream railroad bridge.

Washougal River - A straight line from the Crown Zellerbach pumphouse southeasterly across the Washougal River to the east end of the Highway 14 Bridge near the upper end of Lady Island.

Whatcom Creek - A line projected approximately 14 degrees true from the flashing light at the south-westerly end of the Port of Bellingham North Terminal to the southernmost point of the dike surrounding the Georgia Pacific treatment pond.

White Salmon River - Between markers on the east and west shores downstream of the Burlington Northern Railroad Bridge except when buoys are in place southerly from the shore to the buoys and east and west between the buoys.

Little White Salmon River - At boundary markers on river bank downstream from the Little White Salmon National Fish Hatchery.

Willapa River - South Bend boat launch.

Wind River - Boundary line markers at mouth.

Yakima River - Highway 240 Bridge.

**AMENDATORY SECTION** (Amending Order 00-29, filed 3/29/00, effective 5/1/00)

**WAC 220-56-185 Marine area codes.** The term "marine area code numbers" is defined as the catch area for the catch record card. The following is a list of the catch areas:

(1) Area 1 (Ilwaco): (~~West of the Megler Astoria Bridge north to Leadbetter Point.~~) Waters west of the Buoy 10 Line and north to Leadbetter Point.

(2)(a) Area 2 (Westport-Ocean Shores): From Leadbetter Point north to the Queets River. Area 2 excludes waters of Willapa Bay and Grays Harbor.

(b) Area 2-1: Willapa Bay east of a line from Leadbetter Point to Willapa Channel Marker 8 (Buoy 8) then to the westerly most landfall on Cape Shoalwater.

(c) Area 2-2: Grays Harbor east of a line from the outermost end of the north jetty to the outermost exposed end of the south jetty.

(3) Area 3 (La Push): From the Queets River north to Cape Alava.

(4) Area 4 (Neah Bay): From Cape Alava north and inside Juan de Fuca Strait to the Sekiu River.

(5) Area 5 (Sekiu and Pillar Point): From mouth of Sekiu River east to Low Point, mouth of the Lyre River.

(6) Area 6 (East Juan de Fuca Strait): From Low Point east to the Partridge Point-Point Wilson line north to the line from Trial Island (near Victoria, B.C.) - Rosario Strait Traffic Lane Entrance Lighted Buoy R (USCG Light List No. 16340, referenced as Y "R" on National Ocean Service Chart No. 18400-1 dated 1997-08-30) - Smith Island - the most northeasterly of the Lawson Reef lighted buoys (RB1 QK Fl Bell) - Northwest Island - the Initiative 77 marker on Fidalgo Island.

(7) Area 7 (San Juan Islands): All marine waters north of the line described under Area 6 to the United States-Canadian boundary.

(8)(a) Area 8 (Deception Pass, Hope and Camano Islands): Line projected from West Point on Whidbey Island to Reservation Head on Fidalgo Island east through Deception Pass, including all waters east of Whidbey Island to the Possession Point - Shipwreck Line.

(b) Area 8-1 (Deception Pass and Hope Island): East of a line projected from West Point on Whidbey Island to Reservation Head on Fidalgo Island, south of the Burlington Northern Railroad Bridge at the north end of Swinomish Slough, north of the Highway 532 Bridge between Camano Island and the mainland, and westerly of a line from the East Point Light on Whidbey Island to the Saratoga Pass Light #4 on Camano Island (Fl red 4 sec.).

(c) Area 8-2 (Port Susan and Port Gardner): East of a line from the East Point Light on Whidbey Island to the Saratoga Pass Light #2 on Camano Island (Fl red 4 sec.) and north of a line from the south tip of Possession Point 110 degrees true to a shipwreck on the opposite shore.

(9) Area 9 (Admiralty Inlet): All waters inside and south of the Partridge Point-Point Wilson Line and a line projected from the southerly tip of Possession Point 110 degrees true to a shipwreck on the opposite shore and northerly of the Hood Canal Bridge and the Apple Cove Point-Edwards Point Line.

(10) Area 10 (Seattle-Bremerton): From the Apple Cove Point-Edwards Point Line to a line projected true east-west through the northern tip of Vashon Island.

(11) Area 11 (Tacoma-Vashon Island): From the northern tip of Vashon Island to the Tacoma Narrows Bridge.

(12) Area 12 (Hood Canal): All contiguous waters south of the Hood Canal Bridge and adjacent waters north of the Hood Canal Bridge when fishing from the pontoon beneath the bridge.

(13) Area 13 (South Puget Sound): All contiguous waters south of the Tacoma Narrows Bridge.

**AMENDATORY SECTION** (Amending Order 06-67, filed 4/11/06, effective 5/12/06)

**WAC 220-56-210 Fly fishing.** (1) It is unlawful to fish in waters restricted to "fly fishing only" with the use of:

(a) A fixed spool reel.

(b) Fishing line other than conventional fly line, except that other line may be used for backing and leader if it is attached to not less than 25 feet of conventional fly line.

(c) Hooks that exceed 1/2 inch when measured from point to shank.

(d) Not more than two flies each with a barbless single hook.

(e) Bait.

(f) Weight attached to the leader or line.

~~((g))~~ (2) Only knotless nets may be used to land fish in waters restricted to "fly fishing only."

(3) Violation of this subsection is an infraction, punishable under RCW 77.15.160.

~~((h))~~ It is unlawful to possess fish taken with gear in violation of the provisions of this section. Possession of fish while using gear in violation of the provisions of this section is a rebuttable presumption that the fish were taken with such gear. Possession of such fish is punishable under RCW 77.15.380 Unlawful recreational fishing in the second degree—Penalty, unless the fish are taken in the amounts or manner to constitute a violation of RCW 77.15.370 Unlawful recreational fishing in the first degree—Penalty.

~~((i))~~ (4) "Fly" means a lure on which thread, feathers, hackle, or yarn cover a minimum of half the shank of the

hook. Metallic colored tape, tinsel, mylar, or beadeyes may be used as an integral part of the design of the fly pattern.

~~((3))~~ (5) Notwithstanding the provisions of this section, persons who have a permanent disability that significantly limits the use of one or both upper extremities may use spinning gear in fly fishing only waters as provided for in this section.

(a) A fisher with a disability must apply for a fly fishing special use permit by presenting a letter from a physician stating that the fisher's disability is permanent and that, because of the inability to use one or both upper extremities, the fisher is physically incapable of using conventional fly fishing gear.

(b) The fisher will be issued a fly fishing special use permit in the form of a wearable tag. The fisher must have the special use permit in his or her possession at all times while using spin casting gear in fly fishing only waters, and may display the permit on outer clothing.

(c) It is lawful for persons in possession of a fly fishing special use permit to use the following gear:

(i) Fishers may use spin casting gear with a casting bubble.

(ii) Monofilament line is permitted with no limit on the breaking strength of the line.

(iii) Hook size and barb restrictions, fishing fly requirements, and bait and weight prohibitions as provided for in this section apply to both conventional fly fishing and spin-bubble fly fishing.

AMENDATORY SECTION (Amending Order 06-67, filed 4/11/06, effective 5/12/06)

**WAC 220-56-282 Sturgeon—Areas, seasons, limits and unlawful acts.** (1) It is unlawful to retain green sturgeon.

(2) It is lawful to fish for white sturgeon the entire year in saltwater, but open in freshwater only concurrent with a salmon or gamefish opening unless otherwise provided.

~~((2))~~ (3) The daily limit is one white 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))~~ (4) The possession limit is two daily limits of fresh, frozen or processed white sturgeon.

~~((4))~~ (5) There is an annual personal-use limit of five white 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 white 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))~~ (6) It is unlawful to fish for sturgeon with terminal gear other than bait and one single barbless hook. It is lawful

to use artificial scent with bait when fishing for white sturgeon. Violation of this subsection is an infraction, punishable under RCW 77.15.160. It is unlawful to possess sturgeon taken with gear in violation of the provisions of this section. Possession of sturgeon while using gear in violation of the provisions of this section is a rebuttable presumption that the sturgeon were taken with such gear. Possession of such sturgeon is punishable under RCW 77.15.380 Unlawful recreational fishing in the second degree—Penalty, unless the sturgeon are taken in the amounts or manner to constitute a violation of RCW 77.15.370 Unlawful recreational fishing in the first degree—Penalty.

~~((6))~~ (7) 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))~~ (8) 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))~~ (9) It is unlawful to use a gaff or other fish landing aid that penetrates the fish while restraining, handling or landing a sturgeon.

~~((9))~~ (10) It is unlawful to fail to immediately return to the water any undersize sturgeon.

AMENDATORY SECTION (Amending Order 05-102, filed 5/19/05, effective 6/19/05)

**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))~~ set, fish, or pull more than two units of gear at any one time except:

(a) In Puget Sound waters it is unlawful to ~~((use))~~ set, fish, or pull at any one time more than two units of crab gear and two additional units of shrimp gear.

(b) It is unlawful for the operator of any boat from which shrimp pots are set, fished, or pulled in Catch Record Card Areas 4 through 13 to have on board or to fish more than four shrimp pots.

(c) In the Columbia River it is unlawful to ~~((use))~~ set, fish, or pull 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 Bur-



lington 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. It is unlawful to have more than one unit of unattended gear attached to a buoy line or to fail to have a separate buoy for each unit of gear.

(9) In waters open only on certain days or certain hours during the day, except for the night closure set out in subsection (10) of this section, it is unlawful to fail to remove gear from the water when fishing for shellfish is not allowed, and it is unlawful to fail to remove gear from the water by one hour after sunset if fishing is not allowed on the next calendar day. In waters that are open continuously except for the night closure set out in subsection (10) of this section, gear may be left in the water during the night closure.

(10) It is unlawful to 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 06-23, filed 2/14/06, effective 5/1/06)

**WAC 220-56-325 Shrimp—Areas and seasons.** It is unlawful to fish for or possess shrimp taken for personal use from the following areas, except as otherwise provided in this section:

(1) Discovery Bay(~~(, Port Angeles, and Port Townsend))~~ Shrimp District(~~(s,))~~ and Marine Areas 8, 9, 10 and 11 - Open 7:00 a.m. through 3:00 p.m., beginning the first Saturday in May through May 31 and open only on Wednesday and Saturday of each week except it is lawful for divers to take shrimp by hand or hand-held device from 7:00 p.m. until midnight on any open day in May in Marine Area 8-2;

(2) Hood Canal Shrimp District - Open 9:00 a.m. through 1:00 p.m., the first Saturday in May through May 31 and open only on Wednesday and Saturday of each week;

(3) Marine Area 4 east of the Bonilla-Tatoosh line and Marine Areas 5, 6, 7 and 13, except for Shrimp Districts - Open 7:00 a.m. the first Saturday in May through May 31 and open daily except ~~((closed in Sequim Bay Shrimp District and Carr Inlet Shrimp District))~~ open only Wednesday through Saturday in Marine Area 7.

(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.

AMENDATORY SECTION (Amending Order 06-23, filed 2/14/06, effective 5/1/06)

**WAC 220-56-350 Clams other than razor clams, mussels—Areas and seasons.** (1) It is lawful to take, dig for and possess clams and mussels taken for personal use on Puget Sound the entire year except that public tidelands at the following beaches are closed unless otherwise provided:

(a) Ala Spit: Open May 1 through May 31.

(b) Belfair State Park: Closed the entire year.

(c) Cama Beach State Park: Closed the entire year.

(d) Camano Island State Park: Closed the entire year.

(e) Dosewallips State Park: Open May 15 through July 31 only in area defined by boundary markers and signs posted on the beach.

(f) Dungeness Spit and Dungeness National Wildlife Refuge Tidelands - Open May 15 through September 30.

(g) Eagle Creek: Closed the entire year.

(h) Fort Flagler State Park including that portion of the spit west of the park boundary (Rat Island): Open April 1 through July 15.

(i) Freeland County Park - Open January 1 through May 15.

(j) Frye Cove County Park - Open January 1 through June 15.

(k) 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.

(l) Gertrude Island - All tidelands at Gertrude Island closed the entire year.

(m) Hoodspout: Tidelands at Hoodspout Salmon Hatchery are closed the entire year.

(n) Hope Island State Park (South Puget Sound): Open April 1 through May 31.

(o) Illahee State Park: April 1 through July 31.

(p) Kayak Point County Park: Closed the entire year.

(q) Kitsap Memorial State Park: Open May 15 through June 15.

(r) Kopachuck State Park: Open June 1 through July 31.

(s) 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.

(t) McNeil Island - All tidelands on McNeil Island are closed the entire year.

(u) Mukilteo State Park - Closed the entire year.

(v) Mystery Bay State Park: Open October 1 through April 30.

(w) ~~((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.~~

~~(x))~~ Oak Bay County Park: Open July 1 through July 31.

~~((y))~~ (x) Oyster Reserves: Puget Sound and Willapa Bay state oyster reserves are closed the entire year except as follows:

~~((i))~~ ~~((Case Inlet))~~ Tidlands 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))~~ ~~((ii))~~ Oakland Bay: Tidlands at the north end of Oakland Bay and on the channel of the northwest shore of the Bayshore Peninsula between department markers open the entire year.

~~((iv))~~ ~~((iii))~~ 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.

~~((v))~~ ~~((y))~~ Penrose Point State Park: Open March 1 through May 31.

~~((aa))~~ ~~((z))~~ Picnic Point County Park: Closed the entire year.

~~((bb))~~ ~~((aa))~~ Pitship Point: Closed the entire year.

~~((cc))~~ ~~((bb))~~ Pitt Island - All tidlands on Pitt Island are closed the entire year.

~~((dd))~~ ~~((cc))~~ Point Whitney (excluding Point Whitney Lagoon): March 1 through July 31.

~~((ee))~~ ~~((dd))~~ Point Whitney Lagoon: Open August 1 through August 31.

~~((ff))~~ ~~((ee))~~ Port Townsend Ship Canal/Portage Canal: Open January 1 through May 31.

~~((gg))~~ ~~((ff))~~ Potlatch DNR tidlands: April 1 through August 31.

~~((hh))~~ ~~((gg))~~ Potlatch East: April 1 through August 31.

~~((ii))~~ ~~((hh))~~ Potlatch State Park: April 1 through August 31.

~~((jj))~~ ~~((ii))~~ Purdy Spit County Park: The southern shore of the spit from the boat ramp to the bridge is closed the entire year.

~~((kk))~~ ~~((jj))~~ Quilcene Bay Tidlands - All state-owned tidlands 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 tidlands 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.

~~((ll))~~ ~~((kk))~~ Rendsland Creek: Open January 1 through May 31.

~~((mm))~~ ~~((ll))~~ Saltwater State Park: Closed the entire year.

~~((nn))~~ ~~((mm))~~ Scenic Beach State Park - April 15 through May 15.

~~((oo))~~ ~~((nn))~~ Seahurst County Park: Closed the entire year.

~~((pp))~~ ~~((oo))~~ Sequim Bay State Park - Open May 1 through June 15.

~~((qq))~~ ~~((pp))~~ Shine Tidlands State Park: Open January 1 through May 15.

~~((rr))~~ ~~((qq))~~ South Indian Island County Park: April 1 through August 31.

~~((ss))~~ ~~((rr))~~ Spencer Spit State Park: Open March 1 through July 31.

~~((tt))~~ ~~((ss))~~ Triton Cove Tidlands: Open July 1 through August 15.

~~((uu))~~ ~~((tt))~~ Twanoh State Park: Closed the entire year.

~~((vv))~~ ~~((uu))~~ West Dewatto: DNR Beach 44A open January 1 through May 31.

~~((ww))~~ ~~((vv))~~ Willapa Bay: State-owned tidlands east of the department Willapa Bay Field Station and Nahcotta Tidlands Interpretive Site are closed year-round.

~~((xx))~~ ~~((ww))~~ 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 06-23, filed 2/14/06, effective 5/1/06)

**WAC 220-56-380 Oysters—Areas and seasons.** It is lawful to take and possess oysters taken for personal use from public tidlands the entire year, except that public tidlands at the following beaches are closed unless otherwise provided:

(1) Brown Point (DNR 57-B): Closed the entire year.

(2) Cushman Park - Open May 1 through May 31.

(3) Fort Flagler State Park including that portion of the spit west of the park boundary (Rat Island): Open April 1 through July 15.

(4) Frye Cove County Park: Open January 1 through June 15.

(5) Hoodspout: Tidlands at the Hoodspout Salmon Hatchery are closed the entire year.

(6) Hope Island State Park (South Puget Sound): Open April 1 through May 31.

(7) Illahee State Park: Open April 1 through July 31.

(8) Kitsap Memorial State Park: Open May 15 through July 15.

(9) Kopachuck State Park: Open March 1 through July 31.

(10) Liberty Bay - All state-owned tidlands in Liberty Bay north and west of the Keyport Naval Supply Center are closed to the harvest of oysters the entire year.

(11) Mystery Bay State Park: Open October 1 through April 30.

~~((12))~~ ~~((North Bay))~~ All state-owned tidlands 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 tidlands on the east side of North Bay north of the power transmission lines and south of the power transmission lines for 1,600 feet.

~~((13))~~ Oak Bay County Park: Open July 1 through July 31.

~~((14))~~ ~~((13))~~ Oyster Reserves: Puget Sound and Willapa Bay oyster reserves are closed the entire year except the following are open the entire year:

(a) Oakland Bay - Tidlands 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)~~) open the entire year.

(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.

~~((14))~~ (14) Penrose Point State Park: Open March 1 through May 31.

~~((16))~~ (15) Port Townsend Ship Canal/Portage Canal: Open January 1 through May 31.

~~((17))~~ (16) Potlatch DNR Tidelands: April 1 through August 31.

~~((18))~~ (17) Potlatch East: Open April 1 through August 31.

~~((19))~~ (18) Potlatch State Park: Open April 1 through August 31.

~~((20))~~ (19) Quilcene Bay Tidelands - All state-owned tidelands in Quilcene Bay north of a line drawn from the Quilcene Boat Haven to Fisherman's Point are closed except those state-owned tidelands on the west side of the bay north of the Quilcene Boat Haven are open April 1 through December 31, daily from official sunrise to official sunset, only.

~~((21))~~ (20) Scenic Beach State Park: Open April 15 through May 15.

~~((22))~~ (21) Shine Tidelands State Park: Open January 1 through May 15.

~~((23))~~ (22) South Indian Island County Park: April 1 through August 31.

~~((24))~~ (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.

~~((25))~~ (24) Wolfe Property State Park: Open January 1 through May 15.

AMENDATORY SECTION (Amending Order 06-174, filed 7/31/06, effective 8/31/06)

**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) Freshwater terminal gear restrictions: In all waters with freshwater terminal gear restrictions, including, but not limited to, selective gear rules, whitefish gear rules, single point barbless hooks required, fly-fishing only, and nonbuoyant lure restrictions, violation of the gear rules is an infraction, punishable under RCW 77.15.160. It is unlawful to possess fish taken with gear in violation of the freshwater terminal gear restrictions. Possession of fish while using gear in violation of the freshwater terminal gear restrictions is a rebuttable presumption that the fish were taken with such gear. Possession of such fish is punishable under RCW 77.15.380 Unlawful recreational fishing in the second degree, unless the fish are taken in the amounts or manner to constitute a violation of RCW 77.15.370 Unlawful recreational fishing in the first degree.

(3) 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.

(4) 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))~~ an internal combustion 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 an internal combustion motor permitted. Trout: Daily limit two, minimum length twelve inches.

Alexander Lake (Kitsap County): Closed waters.

Alkali Lake (Grant County): Crappie: Not more than five greater than eight inches in length. Bluegill: Not more than five greater than six inches in length.

Alta Lake (Okanogan County): Last Saturday in April through September 30 season.

Amber Lake (Spokane County): Last Saturday in April through September 30 season. Selective gear rules. Trout:

Daily limit two, minimum length fourteen inches; release rainbow trout with a clipped adipose fin and a healed scar at the site of the clipped fin. Additional season October 1 through November 30 and March 1 through Friday before last Saturday in April. Selective gear rules. All species: Release all fish.

American Lake (Pierce County): Chumming permitted.

American River (Yakima County): Closed waters: From Highway 410 Bridge at river mile 4.5 to the Mesatchee Creek Trail crossing at river mile 15.8 July 16 through September 15. 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 trout: Release trout.

Armstrong Lake (Snohomish County): Last Saturday in April through October 31 season.

Asotin Creek, mainstem and forks (Asotin County): Closed to fishing for steelhead.

From SR 129 Bridge upstream to the forks: Lawful to fish up to base of Headgate Dam.

North Fork from mouth upstream to USFS boundary: Selective gear rules.

North Fork from USFS boundary upstream and all other tributaries: Closed waters.

South Fork and tributaries: Closed waters.

B.C. Mill Pond (Stevens County): Last Saturday in April through October 31 season.

Bachelor Creek (Yakima County): Year around season. Trout: Daily limit five, no minimum length.

Badger Lake (Spokane County): Last Saturday in April through September 30 season.

Baker Lake (Whatcom County): Last Saturday in April through October 31 season, except closed waters in an area two hundred feet in radius around the pump discharge at the south end of the lake. Chumming permitted. Trout: Minimum length six inches and maximum length eighteen inches.

Baker River (Skagit County): Mouth to Highway 20 Bridge: September 1 through October 31 season. Nonbuoyant lure restriction and night closure. Trout: Minimum length fourteen inches, except Dolly Varden/Bull Trout. Legal to retain Dolly Varden/Bull Trout as part of the trout daily limit, minimum length twenty inches. Salmon: Open only July 1 through July 31 except closed 12:01 a.m. July 6 through 2:00 p.m. July 7 and 12:01 a.m. July 10 through 2:00 p.m. July 11. Nonbuoyant lure restriction and night closure. Daily limit 2 sockeye salmon.

Highway 20 Bridge to Baker River fish barrier dam: Closed waters.

Banks Lake (Grant County): Chumming allowed. Perch: Daily limit twenty-five. Small mouth bass: Small mouth bass do not count as part of bass daily limit. Small mouth bass 12 to 17 inches in length may be retained. No minimum size.

Daily limit 10 small mouth bass not more than one of which may be greater than 14 inches in length.

Barnaby Slough (Skagit County): Closed waters.

Battle Ground Lake (Clark County): Fishing from a floating device equipped with an internal combustion motor prohibited. 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))~~ an internal combustion motor prohibited. Trout: Daily limit one, minimum length fourteen inches. Additional season, July 5 through October 31. Fly fishing only. Fishing from a floating device equipped with a motor prohibited. All species: Release all fish. Inlet stream: Closed waters.

Bear Creek (Yakima County), tributary to South Fork Tieton River: From the mouth to the falls (approximately 3/4 mile): Closed waters.

Bear Lake (Spokane County): Juveniles, holders of disability licenses, and licensed adults accompanied by a juvenile only.

Bear River (Pacific County): June 1 through March 31 season. Nonbuoyant lure restriction and night closure August 16 through November 30. Single point barbless hooks required August 16 through November 30 downstream from the Lime Quarry Road. All species: Release all fish except salmon and except up to two hatchery steelhead may be retained each day. Upstream from the Lime Quarry Road: Selective gear rules June 1 through March 31. All species: Release all fish except up to two hatchery steelhead may be retained each day. Salmon: Open only September 1 through November 30 from mouth to Lime Quarry Road. Daily limit 6 fish of which no more than 2 may be adult fish and of these two fish no more than one may be a wild adult coho. Release adult chinook.

Beaver Creek (tributary to Elochoman River) (Wahkiakum County): Closed waters.

Beaver Lake (Clallam County): Selective gear rules (~~except electric motors allowed~~). Trout: Maximum size 12 inches in length.

Beaver Lake (Columbia County): March 1 through October 31 season. Fishing from any floating device prohibited.

Beda Lake (Grant County): Selective gear rules. Trout: Daily limit one fish.

Beehive (Lake) Reservoir (Chelan County): Last Saturday in April through October 31 season. July 5 through October 31, selective gear rules, and all species: Release all fish.

Bennington Lake (Mill Creek Reservoir) (Walla Walla County): Fishing from a floating device equipped with an internal combustion motor prohibited. Trout: No more than 2 trout over 13 inches in length may be retained.

Benson Lake (Mason County): Last Saturday in April through October 31 season.

Berry Creek (tributary to Nisqually River) (Lewis County): Selective gear rules.

Big Bear Creek (tributary of Sammamish River) (Snohomish/King counties): June 1 through August 31 season. Juveniles only.

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 August 15, one single point barbless hook August 16 through October 31, and selective gear rules November 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. Only coho salmon hooked inside the mouth may be retained.

From Highway 101 Bridge upstream to the electric weir at the Quilcene National Fish Hatchery: Closed waters.

Big River (Clallam County): June 1 through last day in February season. Selective gear rules. Trout: Minimum length fourteen inches.

Big Twin Lake (Okanogan County): Last Saturday in April through October 31 season. Selective gear rules. 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~~) clipped right ventral fin.

Blue Lake (Columbia County): March 1 through October 31 season. Fishing from any floating device prohibited. Trout: No more than 2 trout over 13 inches in length may be retained.

Blue Lake (Cowlitz County): Last Saturday in April through October 31 season. Selective gear rules. All species: Release all fish.

Blue Lake (Grant County): Last Saturday in April through September 30 season.

Blue Lake (near Sinlahekin) (Okanogan County): Last Saturday in April through October 31 season. Selective gear rules. Trout: Daily limit one.

Blue Lake (near Wannacut Lake) (Okanogan County): Last Saturday in April through October 31 season. Selective gear rules. Trout: Daily limit one.

Bobcat Creek and Ponds (Adams County): April 1 through September 30 season.

Bogachiel River (Clallam County), from mouth to Olympic National Park boundary: June 1 through April 30 season. December 1 through April 30, selective gear rules from Highway 101 to Olympic National Park boundary. Trout: Minimum length fourteen inches. November 1 through last day in February, daily limit three steelhead downstream from Highway 101 Bridge. December 1 through April 30, mouth to Highway 101, one wild steelhead per day may be retained. Salmon: Open only July 1 through November 30 from mouth

to Highway 101 Bridge. Daily limit 6 fish of which no more than 2 may be adult salmon July 1 through August 31 and of which no more than 3 may be adult salmon September 1 through November 30. July 1 through August 31 release wild adult coho and wild 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): Unlawful to use lead fishing sinkers one-half ounce or less in weight. 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 ((#)) an internal combustion 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. November 1 through last day in February, daily limit three steelhead from mouth to Highway 101 Bridge. December 1 through April 30, mouth to Highway 101, one wild steelhead per day may be retained. Salmon: Open only July 1 through November 30 from mouth to Highway 101 Bridge. Daily limit 6 fish of which no more than 2 may be adult salmon July 1 through August 31 and of which no more than 3 may be adult salmon September 1 through November 30. July 1 through August 31 release wild adult coho and wild 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.

Calispell Creek and tributaries: Trout: Eastern brook trout not counted in daily trout limit. Eastern brook trout daily limit ten. Once the daily limit of trout other than eastern brook trout has been achieved, the entire daily limit for trout other than eastern brook trout and eastern brook trout has been taken.

Calligan Lake (King County): June 1 through October 31 season. All tributary streams, and the upper third of the outlet are closed waters.

Camas Slough: Waters of the Columbia River downstream from the mouth of the Washougal River, north of Lady Island, and downstream of the Highway 14 Bridge at the upstream end of Lady Island. Season: Same rules as adjacent waters of the Columbia River.

Campbell Creek (Mason County): Closed waters.

Campbell Lake (Okanogan County): April 1 through August 31: Selective gear rules and all species: Release all fish.

Campbell Lake (Skagit County): Crappie: Daily limit ten, minimum length nine inches.

Canyon Creek (Clark County): Trout: Daily limit five.

Canyon River (Mason County and Grays Harbor County): Closed waters.

Canyon Creek (S.F. Stillaguamish River) (Snohomish County), mouth to forks: June 1 through last day in February season. Trout: Minimum length fourteen inches.

Canyon Creek (Whatcom County): Closed waters: Mouth to Canyon Creek Road Bridge.

Capitol Lake (Thurston County), from its outlet to a point four hundred feet below the lowest Tumwater Falls (Deschutes River) fish ladder: Closed waters: Percival Cove, west of a set of markers on the western shoreline of the south basin of Capitol Lake. June 1 through March 31 season. Nonbuoyant 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: July 1 through last day in February season. Nonbuoyant lure restriction, night closure and single point barbless hooks August 1 through November 30. Trout: Minimum length fourteen inches. Voight Creek to Highway 162 Bridge: July 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 inter-

nal combustion motor prohibited. Salmon: Landlocked salmon rules apply.

Carson Lake (Mason County): Last Saturday in April through October 31 season.

Cascade Lake (Grant County): March 1 through July 31 season.

Cascade Lake (San Juan County): Last Saturday in April through October 31 season.

Cascade River (Skagit County):

From the mouth to the Rockport-Cascade Road Bridge: October 1 through last day in February season. Nonbuoyant lure restriction and night closure September 16 through November 30. Trout: Trout except Dolly Varden/Bull Trout, minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of the trout daily limit, minimum length twenty inches. Salmon: Open June 1 through July 9. Nonbuoyant lure restriction and night closure. Daily limit 2 hatchery chinook. Open September 16 through November 30. Daily limit 4 coho salmon.

From the Rockport-Cascade Road Bridge upstream: June 1 through last day in February season. Trout: Trout except Dolly Varden/Bull Trout, minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of the trout daily limit, minimum length twenty inches.

Cases Pond (Pacific County): Last Saturday in April through November 30 season. Juveniles only. Salmon: Landlocked salmon rules apply.

Cassidy Lake (Snohomish County): Crappie: Daily limit ten, minimum length nine inches.

Castle Lake (Cowlitz County): Selective gear rules. Trout: Daily limit one, minimum length sixteen inches.

Cattail Lake (Grant County): April 1 through September 30 season.

Cavanaugh Lake (Skagit County): Chumming permitted.

Cedar Creek (tributary of N.F. Lewis) (Clark County), from mouth to 100 feet upstream of the falls: From the Grist Mill Bridge to 100 feet upstream of the falls: Closed waters. June 1 through March 15 season. Trout: Release all fish except up to two hatchery steelhead may be retained per day.

Cedar Creek (Jefferson County): June 1 through last day in February season. Selective gear rules. Trout: Minimum length fourteen inches.

Cedar Creek (Okanogan County), from mouth to Cedar Falls: Closed waters.

Cedar Creek and tributaries (Pend Oreille County): Trout: Eastern brook trout not counted in daily trout limit. Eastern brook trout daily limit ten. Once the daily limit of trout other than eastern brook trout has been achieved, the entire daily limit for trout other than eastern brook trout and eastern brook trout has been taken.

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.

Cedar River (Pacific County): Selective gear rules. All species: Release all fish except up to two hatchery steelhead per day may be retained.

Chain Lake (Pend Oreille County): Last Saturday in April through October 31 season. Release kokanee.

Chambers Creek (Pierce County): July 1 through November 15 season. Night closure and nonbuoyant lure restriction.

Chambers Creek Estuary (downstream from markers 400 feet below the Boise-Cascade Dam to the Burlington Northern Railroad Bridge) (Pierce County): July 1 through November 15 season. Night closure and nonbuoyant lure restriction. Trout: Minimum length fourteen inches. Salmon: Open only July 1 through November 15. Daily limit 6 fish of which no more than 2 may be adult salmon. Release wild coho.

Chambers Lake (within Ft. Lewis Military Reservation) (Pierce County): Selective gear rules. 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, release adult chinook. October 16 through November 30, Porter Bridge to High Bridge, release adult chinook. December 1 through January 31, mouth to Porter Bridge, the daily limit may contain no more than one wild adult coho, and release adult chinook. December 1 through last day in February, Porter Bridge to High Bridge, release adult chinook and wild adult coho. Sturgeon: Open year-round and no night closure from mouth to high bridge on Weyerhaeuser 1000 line.

Chehalis River, South Fork (Lewis County), from mouth to Highway Bridge at Boistfort School: June 1 through April 15 season. Trout: Minimum length fourteen inches.

Chehalis River Potholes (adjacent to the Chehalis River south of Highway 12 in Grays Harbor County, this does not include sloughs or beaver ponds): Last Saturday in April through October 31 season.

Chelan Hatchery Creek (Chelan County): Closed waters.

Chelan Lake (Chelan County): Closed waters: Within 400 feet of all tributaries south of a line from Purple Point at Stehekin and Painted Rocks. Trout except kokanee and lake trout: Daily limit 5. Release wild cutthroat. Lake trout not counted in daily trout limit. Lake trout no minimum size, no daily limit. Kokanee not counted in daily trout limit. Kokanee daily limit 10, no minimum length. 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 August 15 season. Selective gear rules. All species: Release all fish.

Upstream from Eight Mile Creek to Pasayten Wilderness boundary: Closed waters June 1 through October 31.

From mouth to Pasayten Wilderness boundary: Additional December 1 through March 31 season. Whitefish gear rules apply.

Chikamin Creek (Chelan County): Selective gear rules.

Chimacum Creek (Jefferson County):

From mouth to Ness's Corner Road: June 1 through August 31 season. Trout: Minimum length fourteen inches.

From Ness's Corner Road to headwaters: Trout: Minimum length fourteen inches.

Chiwaukum Creek (Chelan County): Mouth to Fool Hen Creek: Closed waters.

Chiwawa River (Chelan County): Mouth to Buck Creek: Closed waters.

Chopaka Lake (Okanogan County): Last Saturday in April through October 31 season. Fly fishing only. Fishing from a floating device equipped with ((⊕)) an internal combustion motor prohibited. Trout: Daily limit one.

Cispus River (Lewis County), from mouth to North Fork: Trout: Release all cutthroat. Additional season November 1 through May 31, release all game fish other than steelhead. Salmon: Open year around. Daily limit 6 fish, of which no more than 2 fish may be adult salmon. Salmon minimum size 8 inches. Release wild coho at all times and release wild chinook January 1 through July 31.

Cispus River, North Fork (Lewis County): Selective gear rules. Trout: No more than one over twelve inches in length. Release cutthroat.

Clallam River (Clallam County): June 1 through last day in February season. Trout: Minimum length fourteen inches.



Clara Lake (Mason County): Last Saturday in April through October 31 season.

Clear Creek (Chelan County): Closed waters.

Clear Lake (Chelan County): Last Saturday in April through October 31 season. From July 5 through October 31, selective gear rules and all species: Release all fish.

Clear Lake (Pierce County): Last Saturday in April through October 31 season. Chumming permitted. Salmon: 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.

Clearwater River (Pierce County): July 1 through October 31 season. Selective gear rules. Trout: Minimum length fourteen inches.

Cle Elum Lake (Reservoir) (Kittitas County): Trout except kokanee: Daily limit two, minimum length twelve inches. Kokanee not counted in daily trout limit. Kokanee daily limit sixteen, no minimum size.

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.

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): June 1 through August 31 season. Juveniles only.

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 30 season. Selective gear rules except internal combustion motors allowed. Trout: Daily limit one, minimum length eighteen inches. Crappie: Daily limit ten, minimum length nine inches.

Coldwater Lake (Cowlitz County): Selective gear rules. Trout: Daily limit one, minimum length sixteen inches.

Coldwater Lake inlet and outlet streams (Cowlitz County): Closed waters.

Collins Lake (Mason County): Last Saturday in April through October 31 season.

Columbia Basin Hatchery Creek (Grant County): Hatchery outflow to confluence with mainstem Hatchery Creek: April 1 through September 30 season. Juveniles and holders of reduced fee disability licenses only. Mainstem Hatchery Creek: April 1 through September 30 season. Juveniles and holders of reduced fee disability licenses only.

Columbia Park Pond (Benton County): Juveniles and holders of reduced fee disability licenses only. All species: Daily limit of five fish combined.

Columbia River, including impoundments and all connecting sloughs, except Wells Ponds: Year-round season unless otherwise provided. General species provisions (unless otherwise provided for in this section): Bass: Below Priest Rapids Dam: Daily limit five fish, bass 12 to 17 inches in length may be retained. Up to but not more than three of the daily limit may be over 15 inches. Trout: Daily limit two fish, minimum length 12 inches, except release all Dolly Varden/Bull Trout. Walleye: Daily limit five fish of which not more than one may be over 24 inches, minimum length 18 inches. Whitefish: Daily limit 15 fish. All other game fish: No daily limit, except release all grass carp.

In the Columbia River between Washington and Oregon, the license of either state is valid. Anglers must comply with the fishing regulations of the state in which they are fishing. This provision does not allow an angler licensed in Oregon to fish on the Washington shore, or in the sloughs or tributaries in Washington except Camas Slough, where the license of either state is valid when fishing from a floating device.

Anglers fishing the Columbia River are restricted to one daily limit, as defined by the laws of the state in which they are fishing, even if they are licensed by both states.

From a true north-south line through Buoy 10 to a line between Rocky Point in Washington to Tongue Point in Oregon: Trout: Release wild cutthroat. Release all trout April 1 through July 31. Walleye: No minimum size. Daily limit ten, of which no more than five may be greater than eighteen inches in length and one greater than twenty-four inches in length. Fishing from the north jetty is allowed during salmon season openings. Salmon: Open only August 1 through March 31. August 1 through September 30, daily limit 2 salmon of which not more than one may be a chinook salmon. Release chum, sockeye, wild coho, chinook less than 24

inches in length, and coho less than 16 inches in length. October 1 through December 31, daily limit 6 fish of which no more than 2 may be adult salmon and not more than one of which may be an adult chinook salmon. Release chum, 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 12 and July 5 through December 31. Minimum size when open to retain sturgeon is 42 inches January 1 through April 30 and 45 inches May 13 through July 4. Bottomfish: Daily limits, seasons, size restrictions and gear restrictions are the same as those in the adjacent portion of Marine Area 1.

From the Rocky Point - Tongue Point line to the I-5 Bridge: Trout: Release wild cutthroat. Release all trout April 1 through May 15. Walleye: No minimum size. Daily limit ten, of which no more than five may be greater than eighteen inches in length and one greater than twenty-four inches in length. Salmon: Open only May 16 through March 31. May 16 through June 15 daily limit 6 hatchery jack chinook. June 16 through July 31, daily limit 6 fish of which no more than 2 may be adult salmon. Release sockeye. August 1 through March 31, daily limit 6 fish of which no more than 2 may be adult salmon. Release chum, sockeye, and wild coho. August 1 through December 31 the daily limit may contain not more than 1 adult chinook. Release wild chinook January 1 through March 31. Sturgeon: (1) Release sturgeon May 1 through May 12 and July 5 through December 31 downstream from the Wauna powerlines. Minimum size when open to retain sturgeon is 42 inches January 1 through April 30 and 45 inches May 13 through July 4; (2) I-5 Bridge downstream to Wauna powerlines, lawful to retain sturgeon only on Thursdays, Fridays, and Saturdays from January 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. Snake River Confluence Protection Area: From the first powerline crossing the Columbia upstream of Sacajawea State Park to the railroad bridge between Burbank and Kennewick: All species: Daily limits, seasons, size restrictions and gear restrictions are the same as those in the adjacent portion of the Snake River. 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 a line from navigation marker 85 on the Washington shore at a right angle to the thread of the river to the Oregon shore ~~(and)~~, from 400 feet below McNary Dam to the Highway 82 Bridge and from John Day Dam downstream to a line crossing the Columbia at a right angle to the thread of the river from the west end of the grain silo at Rufus, Oregon. (3) Cascade Island - Bradford Island line downstream to I-5 Bridge, lawful to retain sturgeon only on Thursdays, Fridays, and Saturdays from January 1 through July 31 and October 1 through December 31, except for May 1 - July 31 closure to the navigation marker 85 line and the closure to the Highway 82 Bridge. Release sturgeon on other days and during other time periods. (4) Release sturgeon ~~(September)~~ August 1 through December 31 from the upstream line of Bonneville Dam and 400 feet below McNary Dam. (5) From the Hamilton Island boat launch (USACE boat restricted zone boundary) to Bonneville Dam, anglers must stop fishing for sturgeon once a daily limit has been retained. Salmon: Open only June 16 through December 31 except closed November 1 through December 31 from Beacon Rock to Bonneville Dam. June 16 through July 31, daily limit 6 fish of which no more than 2 may be adult salmon. Release sockeye. Release wild coho from Bonneville Dam to Hood River Bridge. 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 Hood River Bridge. August 1 through December 31, daily limit may contain not more than 1 adult chinook downstream from Bonneville Dam.

From the Highway 395 Bridge at Pasco to the old Hanford townsite (wooden towers) powerline crossing, in Sec. 30, T13N, R28E except Ringold Hatchery waters: Closed waters: Ringold Springs Creek (Hatchery Creek). Trout: Release all trout except hatchery steelhead having both adipose and ventral fin clips October 1 through October 31. Release all trout except hatchery steelhead November 1 through March 31. Salmon: Open only June 16 through July 31 and August 16 through December 31. Daily limit 6 fish of which no more than 2 may be adult salmon. Release sockeye June 16 through July 31. Walleye: Daily limit 10 fish. No minimum size, no more than 5 fish over 18 inches in length. No more than 1 fish over 24 inches in length. Ringold Springs Rearing Facility waters (from WDFW markers 1/4 mile downstream from the Ringold wasteway outlet to WDFW markers 1/2 mile upstream from Spring Creek): Open only

April 1 through April 15 to fishing from the bank on the hatchery side of the river. Trout: Release all fish except hatchery steelhead.

From the old Hanford townsite (wooden towers) power-line crossing in Sec. 30, T13N, R28E, to Vernita Bridge, (Highway 24): All species: February 1 through October 22 season. Trout: Release all trout. Walleye: Daily limit 10 fish. No minimum size, no more than 5 fish over 18 inches in length. No more than 1 fish over 24 inches in length. Salmon: Open only June 16 through July 31 and August 16 through October 22. Daily limit 6 fish of which no more than 2 fish may be adult salmon. Release sockeye June 16 through July 31.

From Vernita Bridge (Highway 24) to Priest Rapids Dam: Closed waters: (1) Priest Rapids Dam - waters between the upstream line of Priest Rapids Dam downstream to the boundary markers six hundred fifty feet below the fish ladders. (2) Jackson (Moran Creek or Priest Rapids Hatchery outlet) Creek - all waters of the Priest Rapids Hatchery system to the outlet on the Columbia River, extending to mid-stream Columbia between boundary markers located one hundred feet upstream and four hundred feet downstream of the mouth. Trout: Release all trout. Walleye: Daily limit 10 fish. No minimum size, no more than 5 fish over 18 inches in length. No more than 1 fish over 24 inches in length. Salmon: Open only June 16 through July 31 and August 16 through October 22. Daily limit 6 fish of which no more than 2 may be adult salmon. Release sockeye June 16 through July 31.

From Priest Rapids Dam to Chief Joseph Dam, including up to base of Washburn Pond outlet structure: Closed waters: (1) Wanapum Dam - waters between the upstream line of Wanapum Dam to the boundary markers seven hundred fifty feet downstream of the east fish ladder and five hundred feet downstream of the west fish ladder. (2) Rock Island Dam to boundary markers four hundred feet downstream of the fish ladders. (3) Rocky Reach Dam - waters between the upstream line of Rocky Reach Dam to boundary markers four hundred feet downstream of the fish ladders. (4) Wells Dam - waters between the upstream line of Wells Dam to boundary markers four hundred feet downstream of the spawning channel discharge (Chelan County) and fish ladder (Douglas County). (5) Chief Joseph Dam - closed to fishing from the Okanogan County shore between the dam and the Highway 17 Bridge. Closed to fishing from a floating device from the boundary marker to the Corps of Engineers safety zone marker. Trout: Release all trout. Salmon: Open only July 1 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: Daily limit 8 fish. No minimum size. Not more than one walleye greater than 22 inches may be retained. Sturgeon: Unlawful to fish for or retain sturgeon. Small

mouth bass: Small mouth bass do not count as part of the bass daily limit. Small mouth bass 12 to 17 inches in length may be retained. No minimum size. Daily limit 10 bass of which not more than 1 may be greater than 14 inches in length.

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. Release rainbow trout except rain-

bow trout with a clipped adipose fin and a healed scar at the site of the clipped fin. Salmon: Daily limit 6 fish, of which not more than 2 may be adult salmon. Release wild coho. Release wild chinook June 1 through July 31.

**Cowlitz River (Lewis County):**

From mouth to Mayfield Dam: Closed waters: From 400 feet or posted markers below Cowlitz salmon hatchery barrier dam to boundary markers near the Cowlitz salmon hatchery water intake approximately 1,700 feet upstream of the Cowlitz salmon hatchery barrier dam, and from 400 feet below the Mayfield powerhouse upstream to Mayfield Dam. Year-round season except closed to fishing from south bank May 1 through June 15 from Mill Creek to the Cowlitz salmon hatchery barrier dam. Lawful to fish up to four hundred feet or the posted deadline at the Cowlitz salmon hatchery barrier dam. Lawful to fish up to Tacoma Power safety signs at Onion Rock below Mossyrock Dam. Lawful to fish up to Lewis County P.U.D. safety signs below Cowlitz Falls Dam. From the Cowlitz salmon hatchery barrier dam downstream to a line from the mouth of Mill Creek to a boundary marker on the opposite shore, it is unlawful to fish from any floating device. Nonbuoyant lure restriction and night closure April 1 through October 31 from mouth of Mill Creek to the Cowlitz salmon hatchery barrier dam. All game fish: Release all fish except steelhead April 1 through May 31. Trout: Daily limit five, minimum length twelve inches, no more than two over twenty inches. Release wild cutthroat. Release all steelhead missing right ventral fin. Salmon: Open year-round. Daily limit 6 fish of which no more than 2 may be adult salmon. Release chum and wild coho. Release wild chinook January 1 through July 31. Mill Creek to Blue Creek - release all chinook October 1 through December 31. Sturgeon: Seasons, days of the week, daily limits, and size limits same as in adjacent waters of mainstem Columbia River.

From posted PUD sign on Peters Road to mouth of Ohanepecosh River and mouth of Muddy Fork: Trout: Release cutthroat. Additional November 1 through May 31 season. Trout: Release all fish except up to two hatchery steelhead may be retained per day. Salmon: Open year-round from upstream boundary of Lake Scanewa. Daily limit 6 fish of which no more than 2 may be adult salmon. Salmon minimum size 12 inches. Release wild coho. Release wild chinook January 1 through July 31.

**Cowlitz River, Clear and Muddy Forks (Lewis County):** Selective gear rules. Trout: Release cutthroat.

**Coyote Creek and Ponds (Adams County):** April 1 through September 30 season.

**Crab Creek (Adams/Grant counties):**

From Highway 26 to Morgan Lake Road in Section 36: ~~(March)~~ April 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. In those waters from Grant County Road 7 to the fountain buoy and shoreline markers or 150 feet downstream of the Alder Street fill March 1 through May 31 termi-

nal gear restricted to one single hook measuring 3/4 inch or less point to shank. Year-round: Daily limits and size limits same as Moses Lake. From Moses Lake downstream to the confluence of the outlet streams March 1 through May 31 terminal gear restricted to one single-point hook measuring 3/4 inch or less point to shank. Year-round: Daily limits and size limits same as Potholes Reservoir.

**Crabapple Lake (Snohomish County):** Last Saturday in April through October 31 season.

**Cranberry Creek (Mason County), mouth to Lake Limerick:** Closed waters.

**Crawfish Lake (Okanogan County):** Last Saturday in April through October 31 season. Fishing from a floating device equipped with an internal combustion engine prohibited.

**Crescent Lake (Pend Oreille County):** Last Saturday in April through October 31 season.

**Crescent Lake (Pierce County):** Last Saturday in April through October 31 season.

**Crocker Lake (Jefferson County):** Closed waters.

**Crystal Lake (Grant County):** March 1 through July 31 season.

**Cup Lake (Grant County):** March 1 through July 31 season.

**Curl Lake (Columbia County):** Last Saturday in April through October 31 season. Fishing from any floating device prohibited. Trout: No more than 2 trout over 13 inches in length may be retained.

**Curley Creek (Kitsap County):** June 1 through last day in February season. Trout: Minimum length fourteen inches.

**Cushman Reservoir (Mason County):** Salmon: Landlocked salmon rules apply.

**Dakota Creek (Whatcom County):** Salmon: Open only October 1 through December 31 from mouth to Giles Road Bridge. Daily limit 2 salmon.

**Damon Lake (Grays Harbor County):** June 1 through October 31 season.

**Davis Lake (Ferry County):** Last Saturday in April through October 31 season.

**Davis Lake (Lewis County):** Last Saturday in April to last day in February season.

**Davis Lake (Okanogan County):** April 1 through August 31: Selective gear rules. All species: Release all fish.

**Davis Lake (Pend Oreille County):** Last Saturday in April through October 31 season.

**Dayton Pond (Columbia County):** Juveniles only. Trout: No more than 2 trout over 13 inches in length may be retained.

**Deadman Lake (Adams County):** April 1 through September 30 season.

De Coursey Pond (Pierce County): Last Saturday in April through November 30 season. Juveniles only. Salmon: Land-locked 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: Seasons, days of the week, daily limits, and size limits same as in adjacent waters of mainstem Columbia River.

Deer Creek (Mason County): Closed waters.

Deer Creek and Little Deer Creek (tributaries to North Fork Stillaguamish) (Skagit County): Closed waters.

Deer Lake (Columbia County): March 1 through October 31 season. Fishing from any floating device prohibited. Trout: No more than 2 trout over 13 inches in length may be retained.

Deer Lake (Island County): Last Saturday in April through October 31 season.

Deer (Deer Springs) Lake (Lincoln County): Last Saturday in April through September 30 season.

Deer Lake (Mason County): Last Saturday in April through October 31 season.

Deer Lake (Stevens County): (~~Last Saturday in April~~) March 1 through October 31 season. Trout: No more than two over (~~twenty~~) thirty inches in length may be retained. Small mouth bass: Small mouth bass are not included as part of the bass daily limit. No minimum size. Small mouth bass 12 to 17 inches in length may be retained. Daily limit 10 small mouth bass, not more than one of which may be greater than 14 inches in length.

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 (Clallam County): June 1 through April 30 season in mainstem Dickey and East Fork Dickey upstream to D5200 road and June 1 through March 15 in East Fork Dickey upstream from D5200 road and West Fork Dickey. Trout: Minimum length fourteen inches. December 1 through April 30, one wild steelhead per day may be retained. Salmon: Open only July 1 through November 30 from mouth to East Fork Dickey including Olympic National Park. Daily limit 6 fish of which no more than 2 may be adult salmon July 1 through August 31 and of which no more than 3 may be adult salmon September 1 through November 30. July 1 through August 31 release wild adult coho and wild 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 August 31 season mouth to park boundary and November 1 through December 15 season mouth to Highway 101 Bridge. Selective gear rules June 1 through August 31. All species: Release all fish except salmon may be retained November 1 through December 15. Salmon: Open only November 1 through December 15 from mouth to Highway 101 Bridge. Daily limit 2 chum salmon.

Dot Lake (Grant County): March 1 through July 31 season.

Downs Lake (Lincoln/Spokane counties): Last Saturday in April through September 30 season. Crappie: Daily limit ten, minimum length nine inches.

Dry Falls Lake (Grant County): April 1 through November 30 season. Selective gear rules. Trout: Daily limit one.

Duck Lake (Grays Harbor County): Crappie: Daily limit ten, minimum length nine inches.

Duckabush River (Jefferson County), from mouth to the Olympic National Park Boundary: June 1 through August 31 season mouth to park boundary and November 1 through December 15 season mouth to Mason County P.U.D. No. 1 overhead electrical distribution line. Selective gear rules June 1 through August 31. All species: Release all fish except salmon may be retained November 1 through December 15. Salmon: Open only November 1 through December 15 from mouth to Mason County P.U.D. No. 1 overhead electrical distribution line. Daily limit 2 chum salmon.

Dungeness River (Clallam County):

From mouth to junction of Gray Wolf and Dungeness rivers: October 16 through last day in February season. Trout: Minimum length fourteen inches. Salmon: Open only October 16 through December 31 from mouth to the hatchery intake pipe at river mile 11.3. Daily limit 4 coho salmon.

From junction of Gray Wolf River upstream to Gold Creek - Closed waters.

From junction of Gold Creek upstream to headwaters: Trout: Minimum length fourteen inches.

Dusty Lake (Grant County): March 1 through November 30 season. Selective gear rules. Trout: Daily limit one fish.

Early Winters Creek (Okanogan County): Closed waters.

East Twin River (Clallam County): Trout: Minimum length fourteen inches.

Easton Lake (Kittitas County): Saturday before Memorial Day through October 31 season. Trout: Daily limit five fish of which no more than 2 may be trout other than Eastern brook trout. Minimum length 8 inches.

Ebey Lake (Little Lake) (Snohomish County): Fly fishing only. Fishing from a floating device equipped with ((a)) an internal combustion 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 Dam downstream two hundred feet.

From mouth to two hundred feet below the south spillway on the Aldwell Dam: October 1 through last day in February season. Fishing from any floating device prohibited. Trout: Minimum length fourteen inches. Salmon: Open only October 1 through November 15. Daily limit 6 coho salmon of which no more than 4 may be adult coho salmon.

From Lake Aldwell upstream to Olympic National Park boundary, including all tributaries except Indian Creek: Selective gear rules. Trout: Minimum length twelve inches.

Empire Lake (Ferry County): Last Saturday in April through October 31 season.

Enchantment Park Ponds (Chelan County): Juveniles only.

Entiat River (Chelan County), from mouth to Entiat Falls: December 1 through March 31 season. Whitefish gear rules apply. Above Entiat Falls: Selective gear rules. Trout: Daily limit 5 trout, not more than one of which may be greater than 12 inches in length. Eastern brook trout not included in trout daily limit. Eastern brook trout daily limit ten. Once the daily limit of trout other than eastern brook trout has been achieved, the entire daily limit for trout other than eastern brook trout and eastern brook trout has been taken.

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.

Ferry Lake (Ferry County): Unlawful to use lead fishing sinkers one-half ounce or less in weight.

Fio Rito Lakes (Kittitas County): Fishing from a floating device equipped with an internal combustion motor prohibited.

Fish Lake (Chelan County): Trout: No more than two over fifteen inches in length may be retained.

Fish Lake (Ferry County): Last Saturday in April through October 31 season.

Fish Lake (Okanogan County): Last Saturday in April through October 31 season.

Fish Lake (Spokane County): Last Saturday in April through September 30 season. Fishing from a floating device equipped with an internal combustion motor prohibited.

Fisher Slough (Snohomish County):

From mouth to Highway 530 Bridge: Year-round season. Trout: Minimum length fourteen inches.

Upstream from Highway 530 Bridge: Trout: Minimum length fourteen inches.

Fishhook Pond (Walla Walla County): March 1 through October 31 season. Fishing from any floating device prohibited. Trout: No more than 2 trout over 13 inches in length may be retained.

Fishtrap Creek (Whatcom County): From Koh Road to Bender Road: June 1 through October 31 season. Juveniles only.

Fishtrap Lake (Lincoln/Spokane counties): Last Saturday in April through September 30 season.

Forde Lake (Okanogan County): Last Saturday in April through October 31 season.

Fort Borst Park Pond (Lewis County): Last Saturday in April through last day in February season. Juveniles only.

Fortson Mill Pond # 2 (Snohomish County): Last Saturday in April through October 31 season. Juveniles only.

Fourth of July Lake (Adams/Lincoln counties): December 1 through March 31 season. Fishing from a floating device equipped with an internal combustion motor prohibited. Trout: No more than two over fourteen inches in length may be retained.

Franz Lake (Skamania County): Closed waters.

Frater Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Frenchman Hills Lake (Grant County): February 1 through September 30 season.

Gadwall Lake (Grant County): April 1 through September 30 season.

Garfield Juvenile Pond (Whitman County): Juveniles only.

George Lake (Grant County): March 1 through July 31 season.

Geneva Lake (King County): Last Saturday in April through October 31 season.

Germany Creek (Cowlitz County), from mouth to end of Germany Creek Road (approximately five miles): June 1 through August 31 and November 1 through March 15 season. Trout: Release all fish except up to two hatchery steelhead may be retained per day.

Gibbs Lake (Jefferson County): Selective gear rules. 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 31 season. Selective gear rules. All species: Release all fish.

Gold Creek, Gold Creek Pond and Outlet Channel (tributary to Keechelus Lake) (Kittitas County): Closed waters.

Gold Creek (Okanogan County): From mouth to confluence north fork Gold Creek: Closed waters.

Goldsborough Creek (Mason County): Trout: Minimum length fourteen inches.

Golf Course Pond (Asotin County): Trout: No more than 2 trout over 13 inches in length may be retained.

Goodman Creek (Jefferson County) outside Olympic National Park: June 1 through last day in February season. Trout, minimum length fourteen inches. December 1 through last day in February, one wild steelhead per day may be retained.

Goodwin Lake (Snohomish County): Chumming permitted.

Goose Creek (Lincoln County), within the city limits of Wilbur: Year around season. Juveniles and holders of disability licenses only.

Goose Lake, Lower (Adams County): Crappie: Daily limit ten, minimum length nine inches. Bluegill: Not more than five over six inches in length.

Gorst Creek (Kitsap County): Closed waters: From lower bridge on the old Belfair Highway upstream to source (including tributaries). From mouth upstream to lower bridge: Trout: Minimum length fourteen inches.

Gosnell Creek and tributaries (tributary to Lake Isabella) (Mason County): Trout: Minimum length fourteen inches.

Goss Lake (Island County): Last Saturday in April through October 31 season.

**Grande Ronde River (Asotin County):**

From mouth to County Road Bridge about two and one-half miles upstream: Year-round season. Selective gear rules September 1 through May 31. Trout: Minimum length ten inches, maximum length twenty inches.

From County Road Bridge upstream to Oregon state line and all tributaries: June 1 through October 31 season. Selective gear rules, June 1 through August 31 and barbless hooks required September 1 through October 31. Additional season November 1 through April 15: Barbless hooks required. All tributaries: Closed waters. All species: Release all fish except whitefish and hatchery steelhead. Trout: Daily limit three hatchery steelhead.

**Granite Creek and tributaries (Pend Oreille County):** Closed waters.

**Granite Lakes (near Marblemount) (Skagit County):** Grayling: Release all grayling.

**Grass Lake (Mason County):** Last Saturday in April through October 31 season.

**Gray Wolf River (Clallam County):** From junction with Dungeness River to bridge at river mile 1.0 - Closed waters.

From bridge at river mile 1.0 upstream - selective gear rules. Trout: Minimum length fourteen inches.

**Grays River (Wahkiakum County), from mouth to Highway 4 Bridge:** September 1 through October 15 and November 15 through March 15 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. Salmon: Additional September 1 through October 15 season. Stationary gear restriction. Daily limit 6 fish of which not more than two may be adult salmon. Release chinook, chum and wild coho.

**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: June 1 through November 30 season except closed from 400 feet above to 400 feet

below the water intake at the upper end of the hatchery grounds during the period September 1 through November 30 and from 400 feet or posted signs above and below the salmon hatchery rack when the rack is installed in the river. Nonbuoyant lure restriction and night closure September 1 through October 31 from mouth to 400 feet below salmon hatchery rack. All species: When nonbuoyant lure restriction in effect, only fish hooked inside the mouth may be retained. Trout: Release all trout except hatchery steelhead. Salmon: Open August 1 through November 30. Daily limit 6 fish of which not more than two may be adult salmon. Release chum and wild coho. Release chinook October 1 through November 30.

From 2800 Bridge to source: Closed waters.

**Green (Duwamish) River (King County):**

From the First Avenue South Bridge to Tukwila International Boulevard/Pacific Highway South: June 1 through July 31 and September 1 through February 15 season. Nonbuoyant lure restriction and night closure September 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 September 1 through November 30, one wild steelhead per day may be retained. Salmon: Open only September 1 through December 31. Daily limit 6 fish of which no more than 3 may be adult salmon. Release chinook.

From the Tukwila International Boulevard/Pacific Highway South to SW 43rd Street/South 180th Street Bridge: June 1 through July 31 and September 16 through February 15 season. Nonbuoyant lure restriction and night closure September 16 through November 30. Fishing from any floating device prohibited November 1 through February 15. Trout: Minimum length fourteen inches. July 1 through July 31 and September 16 through November 30, one wild steelhead per day may be retained. Salmon: Open only September 16 through December 31. Daily limit 6 fish of which no more than 3 may be adult salmon. Release chinook.

From the SW 43rd Street/South 180th Street Bridge to South 277th Street Bridge in Auburn: Open only June 1 through July 31 and October 1 through February 15. Nonbuoyant lure restriction and night closure October 1 through November 30. Fishing from any floating device prohibited November 1 through February 15. Trout: Minimum length fourteen inches. July 1 through July 31 and October 1 through November 30, one wild steelhead per day may be retained. Salmon: Open only October 1 through December 31. Daily limit 6 fish of which not more than 3 may be adult salmon. Release chinook.

From the 277th Street Bridge to Auburn-Black Diamond Road Bridge: Open only June 1 through August 15 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 August 15 and October 16 through November 30, one wild steelhead per day may be retained. Salmon: Open only October 16 through December 31. Daily limit 6 fish of which no more than 3 may be adult salmon. Release chinook.



From the Auburn-Black Diamond Road Bridge to the Tacoma Headworks Dam: June 1 through last day in February season. Nonbuoyant lure restriction and night closure August 1 through November 30. Closed waters: Within 150 feet of the Palmer Pond outlet rack and within 150 feet of the mouth of Keta Creek. Trout: Minimum length 14 inches. July 1 through November 30, one wild steelhead per day may be retained. Salmon: Open only November 1 through December 31. Daily limit 2 chum.

Greenwater River (King County), from mouth to Greenwater Lakes: July 1 through October 31 season. Selective gear rules. Trout: Minimum length 14 inches.

Grimes Lake (Douglas County): June 1 through August 31 season. Selective gear rules. 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 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): Last Saturday in April through October 31 season. All tributary streams and the upper third of the outlet are closed waters.

Harvey Creek (tributary to Sullivan Lake) (Pend Oreille County):

From mouth to Bridge 4830 on county road (about one and one-half miles): Closed waters.

From Bridge 4830 upstream: Selective gear rules.

Harvey Creek (tributary to Stillaguamish River) (Snohomish County): Closed waters.

Hatch Lake (Stevens County): December 1 through March 31 season.

Hatchery Lake (Mason County): Last Saturday in April through October 31 season.

Haven Lake (Mason County): Last Saturday in April through October 31 season.

Hawk Creek and tributaries (Lincoln County): Year-round season.

Hays Creek and Ponds (Adams County): April 1 through September 30 season.

Headgate Pond (Asotin County): Last Saturday in April through October 31 season. Juveniles, seniors and holders of disability licenses only.

Heart Lake (near Anacortes) (Skagit County): Last Saturday in April through October 31 season.

Heins Lake (Kitsap County): Closed waters.

Hemlock Lake (Trout Creek Reservoir) (Skamania County): Closed waters.

Hen Lake (Grant County): April 1 through September 30 season.

Heritage Lake (Stevens County): Last Saturday in April through October 31 season.

Herman Lake (Adams County): April 1 through September 30 season.

Hicks Lake (Thurston County): Last Saturday in April through October 31 season.

Hog Canyon Creek (Spokane County): Hog Canyon Dam to Scroggie Road: Year-round season.

Hog Canyon Lake (Spokane County): December 1 through March 31 season. Trout: No more than two over fourteen inches in length may be retained.

Hoh River (Jefferson County), from mouth to Olympic National Park boundary below mouth of South Fork: May 15 through April 15 season. May 15 through May 31, open Wednesday through Sunday only from mouth to Willoughby Creek only. Willoughby Creek to park boundary closed through May 31. Selective gear rules June 1 through October 15 from Willoughby Creek to Morgan's Crossing Boat Launch, June 1 through November 30 from Morgan's Crossing Boat Launch to the mouth of south fork, and December 1 through April 15 from DNR Oxbow Campground Boat Launch to mouth of south fork. Trout: Minimum length fourteen inches. Catch and release during May, except up to two hatchery steelhead may be retained on open days. November 1 through February 15, daily limit three steelhead downstream from the Oxbow Campground Boat Launch. December 1 through April 15, from mouth to DNR Oxbow Campground Boat Launch, one wild steelhead per day may be retained. Salmon: Open only May 16 through November 30 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 15 through August 31 from mouth to Willoughby Creek open Wednesday through Sunday only of each week and daily limit may contain no more than one adult salmon.

Hoh River South Fork (Jefferson County), outside Olympic National Park: June 1 through April 15 season. Selective gear rules. Trout: Minimum length fourteen inches.

Hoko River (Clallam County): From mouth to upper Hoko Bridge: Fly fishing only September 1 through October 31.

Additional November 1 through March 15 season. Trout: Minimum length fourteen inches. December 1 through March 15, one wild steelhead per day may be retained.

From upper Hoko Bridge to Ellis Creek Bridge (river mile 18.5): June 1 through March 31 season. Fly fishing only. All species: Release all fish except that up to two hatchery steelhead per day may be retained.

Homestead Lake (Grant County): Selective gear rules. Trout: Daily limit one fish.

Hoquiam River, including all forks (Grays Harbor County): June 1 through March 31 season. Single point barbless hooks required August 16 through November 30. Selective gear rules and all species: Release all fish except up to two hatchery steelhead may be retained per day, from March 1 through March 31. Trout: Minimum length fourteen inches. Salmon: Open only October 1 through November 30 from mouth to bridge on Dekay Road on mainstem and East Fork mouth to mouth of Berryman Creek. Daily limit 6 fish of which no more than 2 may be adult salmon, except release adult chinook.

Horseshoe Lake (Clark/Cowlitz counties): Trout: No more than 2 trout 20 inches or greater in length may be retained. Salmon: Landlocked salmon rules apply.

Horseshoe Lake (Jefferson County): Last Saturday in April through October 31 season. Selective gear rules. Trout: Daily limit 1.

Horseshoe Lake (Kitsap County): Last Saturday in April through October 31 season. Salmon: Landlocked salmon rules apply.

Horseshoe Lake (Pend Oreille County): Last Saturday in April through October 31 season. Trout except kokanee: Daily limit five. Kokanee not counted in daily trout limit. Kokanee daily limit ten.

Horsethief Lake (Klickitat County): Last Saturday in April through October 31 season.

Hourglass Lake (Grant County): April 1 through September 30 season.

Howard Lake (Snohomish County): Last Saturday in April through October 31 season.

Howell Lake (Mason County): Last Saturday in April through October 31 season.

Hozomeen Lake (Whatcom County): July 1 through October 31 season.

Huff Lake (Pend Oreille County): Closed waters.

Humptulips River (Grays Harbor County), from mouth to Highway 101 Bridge: June 1 through March 31 season except closed September 1 through October 15 mouth to Ocean Beach Road and September 1 through September 30 Ocean Beach Road to Highway 101 Bridge. Night closure and single point barbless hooks required August 16 through November 30. Bait prohibited October 1 through October 15. Trout: Minimum length fourteen inches. Salmon: Open October 1 through October 15 from Ocean Beach Road to

Highway 101 Bridge. Daily limit 6 fish of which no more than 2 may be adult salmon, and of the adult salmon only one may be a wild adult coho. Release adult chinook. Open October 16 through January 31. Daily limit of 6 salmon, not more than two of which may be adult salmon. October 16 through October 31 the daily limit may contain no more than one adult chinook and one wild adult coho. November 1 through November 30 the daily limit may contain no more than one wild adult coho and release adult chinook. December 1 through January 31 release adult chinook and wild adult coho. From Highway 101 Bridge to forks: June 1 through last day in February season. Night closure and single point barbless hooks required August 16 through November 30. Trout: Minimum length fourteen inches.

Humptulips River, East Fork (Grays Harbor County), from mouth to concrete bridge on Forest Service Road between Humptulips Guard Station and Grisdale: Nonbuoyant lure restriction and night closure August 16 through November 30. Trout: Minimum length fourteen inches.

Humptulips River, West Fork (Grays Harbor County), from mouth to Donkey Creek: June 1 through last day in February season. Nonbuoyant lure restriction and night closure August 16 through November 30. Trout: Minimum length fourteen inches.

Hutchinson Lake (Adams County): April 1 through September 30 season. Fishing from a floating device equipped with an internal combustion engine prohibited.

I-82 Ponds, 1 through 7 (Yakima County): Fishing from vessels equipped with internal combustion motors prohibited.

Icehouse Lake (Skamania County): Trout: No more than 2 trout 20 inches or greater in length may be retained.

Icicle River (Creek) (Chelan County):

From mouth to four hundred feet below Leavenworth National Fish Hatchery rack: Closed waters. From Leavenworth National Fish Hatchery rack upstream to Leland Creek: Selective gear rules.

Indian Creek (tributary to Elwha River) (Clallam County), from mouth upstream to first Highway 101 crossing: Selective gear rules. Trout: Minimum length twelve inches.

Indian Creek and tributaries (Pend Oreille County): Trout: Eastern brook trout not counted in daily trout limit. Eastern brook trout daily limit ten. Once the daily limit of trout other than eastern brook trout has been achieved, the entire daily limit for trout other than eastern brook trout and eastern brook trout has been taken.

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): June 1 through August 31 season. Juveniles only.

Jackson Lake (Pierce County): Last Saturday in April through October 31 season.

Jameson Lake (Douglas County): Last Saturday in April through July 4 and October 1 through October 31 seasons.

Jasmine Creek (Okanogan County): Year-round season. Juveniles only.

Jefferson Park Pond (Walla Walla County): Juveniles only. Trout: No more than 2 trout over 13 inches in length may be retained.

Jennings Park Pond (Snohomish County): Last Saturday in April through October 31 season. Juveniles only.

Jewitt Creek (Klickitat County): Juveniles only. Trout: Daily limit five, no minimum length.

Jimmy-Come-Lately Creek (Clallam County): June 1 through August 31 season. Trout: Minimum length fourteen inches.

Joe Creek (Grays Harbor County): Upstream from State Highway 109 Bridge to Ocean Beach Road Bridge: June 1 through November 30 season. Single point barbless hooks required August 16 through November 30. Trout: Minimum length fourteen inches. Salmon: Open only September 1 through November 30. Daily limit 6 fish of which no more than 2 may be adult salmon. Release adult chinook.

Johns Creek (Mason County): Closed waters.

Johns River (Grays Harbor County): Mouth to Ballon Creek: June 1 through last day in February season. Single point barbless hooks required August 16 through November 30. Trout: Minimum length fourteen inches. Salmon: Open only October 1 through November 30. Daily limit 6 fish of which no more than 2 may be adult salmon. Release adult chinook.

Ballon Creek upstream, including North and South Forks: June 1 through September 30 and December 1 through last day in February season. Trout: Minimum length 14 inches.

Johnson Creek (tributary to Cowlitz River) (Lewis County): Selective gear rules. Trout: Minimum length ten inches.

Johnson Creek (Whatcom County), from Northern Pacific Railroad tracks to the Lawson Street footbridge in Sumas: Juveniles only.

Jump-Off Joe Lake (Stevens County): Last Saturday in April through October 31 season.

Kachess Lake (Reservoir) (Kittitas County): Chumming permitted. Trout except kokanee: Daily limit two, minimum length twelve inches. Kokanee not counted in daily trout limit. Kokanee daily limit sixteen.

Kachess River (Kittitas County): Lawful to fish to base of Kachess Dam. Selective gear rules. From Kachess Lake (Reservoir) upstream to waterfall approximately one-half mile above Mineral Creek: Closed waters.

Kalaloch Creek (Jefferson County), outside Olympic National Park: Closed waters: Those waters within the section posted as the Olympic National Park water supply June 1 through last day in February season. Selective gear rules. Trout: Minimum length fourteen inches.

Kalama River (Cowlitz County): Release wild cutthroat.

From mouth upstream to one thousand feet below fishway at upper salmon hatchery: Year-round season except during the period the temporary fish rack is installed. Waters from Modrow Bridge downstream to one thousand five hundred feet below the rack are closed waters when the rack is installed. Nonbuoyant lure restriction, night closure, and stationary gear restriction September 1 through October 31 from mouth to the rack. All species: When nonbuoyant lure restriction in effect only fish hooked inside the mouth may be retained. Fishing from a floating device equipped with a motor prohibited upstream of Modrow Bridge. September 1 through October 31: Fly fishing only from the pipeline crossing to the posted deadline at the intake to the lower salmon hatchery. Trout: Release all trout except up to two hatchery steelhead may be retained per day. Salmon: Open year-round. Daily limit 6 fish of which no more than 2 may be adult salmon. Release chum and wild coho. Release wild chinook January 1 through July 31. 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. All species: Release all fish.

From Summers Creek upstream to the 6420 Road at about one mile above the gate at the end of the county road: June 1 through March 31 season. Fishing from a floating device equipped with a motor prohibited. Fly fishing only. All species: Release all fish.

From 6420 Road to Kalama Falls: Closed waters.

Kalispell Creek and tributaries (Pend Oreille County): Last Saturday in April through October 31 season. Selective gear rules.

Keechelus Lake (Reservoir) (Kittitas County): Chumming permitted. Trout except kokanee: Daily limit two, minimum length twelve inches, additionally up to sixteen kokanee may be retained.

Kelsey Creek (tributary of Lake Washington) (King County): June 1 through August 31 season. Juveniles only.

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 1 hatchery steelhead or 1 salmon. Salmon: June 1 through January 31 daily limit 6 fish of which no more than 2 may be adult salmon.

From Fisher Hill Bridge to four hundred feet above # 5 fishway: Closed waters.

From four hundred feet above # 5 fishway to the Yakama Indian Reservation boundary: June 1 through November 30 season, except waters from boundary markers above Klickitat salmon hatchery to boundary markers below hatchery are closed waters. Trout: Minimum length twelve inches. Salmon: Open only June 1 through November 30 from 400 feet above No. 5 Fishway to boundary markers below Klickitat Salmon Hatchery. June 1 through July 31: Daily limit 6 salmon. Release adult salmon. August 1 through November 30: Daily limit 6 fish of which no more than 2 may be adult salmon. Release chinook November 1 through November 30. Additional December 1 through March 31 season. Whitefish gear rules apply.

From the Yakama Indian Reservation boundary upstream to source, including all tributaries: Closed waters.

**Klineline Ponds (Clark County):** Trout: No more than 2 trout 20 inches in length or greater may be retained.

**Koeneman Lake (Fern Lake) (Kitsap County):** Last Saturday in April through October 31 season. Selective gear rules. All species: Release all fish.

**Kress Lake (Cowlitz County):** Fishing from a floating device equipped with an internal combustion motor prohibited. Trout: No more than 2 trout 20 inches in length or greater may be retained. Salmon: Landlocked salmon rules apply.

**Lacamas Creek (Clark County):** Lawful to fish upstream to the base of Lacamas Lake Dam.

**Lacamas Creek, tributary of Cowlitz River (Lewis County):** June 1 through last day in February season. Trout: Release all fish except up to two hatchery steelhead may be retained per day.

**Lake Creek (Okanogan County):** Mouth to Black Lake: Closed waters. Black Lake to Three Prong Creek: Selective gear rules.

**Langlois Lake (King County):** Last Saturday in April through October 31 season.

**Latah (Hangman) Creek (Spokane County):** Year-round season.

**Leader Lake (Okanogan County):** Last Saturday in April through September 30 season.

**Le Clerc Creek and tributaries (Pend Oreille County):** Trout: Eastern brook trout not counted in daily trout limit. Eastern brook trout daily limit ten. Once the daily limit of trout other than eastern brook trout has been achieved, the entire daily limit for trout other than eastern brook trout and eastern brook trout has been taken.

**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 a floating device(~~s~~) equipped with an internal combustion motor(~~s~~) prohibited. 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. All species: Release all fish. Additional season June 1 through November 30: Selective gear rules. 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: Seasons, days of the week, daily limits, and size limits same as in adjacent waters of mainstem Columbia River.

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. When nonbuoyant lure restriction is in effect, only fish hooked inside the mouth may be retained. Trout: Release all fish except up to two hatchery steelhead may be retained per day. Salmon: Open year-round. Daily limit six fish of which not more than 2 may be adult salmon. Release chum and wild coho. Release wild chinook January 1 through July 31. Sturgeon: Seasons, days of the week, daily limits, and size limits same as in waters of mainstem Columbia River adjacent to mouth of Lewis River.

From mouth of Colvin Creek to overhead powerlines at Merwin Dam: May 1 through September 30 and December 16 through April 30 season. Nonbuoyant lure restriction and night closure April 1 through September 30. When nonbuoyant lure restriction is in effect, only fish hooked inside the mouth may be retained. Trout: Release all fish except up to two hatchery steelhead may be retained per day. Salmon: Open only January 1 through September 30. Daily limit 6 fish of which no more than 2 may be adult salmon. Release chum and wild coho. Release wild chinook January 1 through July 31. Sturgeon: Seasons, days of the week, daily limits, and size limits same as in waters of mainstem Columbia River adjacent to mouth of Lewis River.

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 the fishing pier to the access road at Swift Dam: Last Saturday in April through October 31 season. Fishing from a floating device prohibited. Trout: No minimum size, daily limit 5.

From Eagle Cliff Bridge to lower falls including all tributaries: Selective gear rules. All species: Release all fish.

Liberty Lake (Spokane County): Last Saturday in April through September 30 season.

Lilliwaup River (Mason County): Mouth to 200 feet below falls: June 1 through August 31 season. Selective gear rules. All species: Release all fish.

Lilly Lake (Chelan County): Last Saturday in April through October 31 season. July 5 through October 31, selective gear rules, and all species: Release all fish.

Limerick Lake (Mason County): Last Saturday in April through October 31 season.

Lincoln Pond (Clallam County): Juveniles only.

Lions Park Pond (Walla Walla County): Juveniles only. Trout: No more than 2 trout over 13 inches in length may be retained.

Little Ash Lake (Skamania County): Trout: No more than 2 trout 20 inches in length or greater may be retained.

Little Bear Creek (tributary of Sammamish River) (Snohomish/King counties): June 1 through August 31 season. Juveniles only.

Little Hoko River (Clallam County): Selective gear rules. All species: Release all fish.

Little Klickitat River (Klickitat County), within Goldendale city limits: Last Saturday in April through October 31 season. Juveniles only. Trout: Daily limit five, no minimum length.

Little Lost Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Little Naches River (Yakima County): Selective gear rules.

Little Nisqually River (Lewis County): Selective gear rules. Trout: Minimum length ten inches.

Little Pend Oreille River (Stevens County) from the Little Pend Oreille wildlife refuge boundary about 1 mile downstream from the refuge headquarters office to Crystal Falls: Selective gear rules, and all species: Release all fish except up to five Eastern brook trout may be retained.

Little Quilcene River (Jefferson County), from mouth to the Little Quilcene River Bridge on Penny Creek Road, June 1 through last day in February season. Closed waters: Mouth to Highway 101 Bridge September 1 through October 31. Trout: Minimum length fourteen inches.

Little Spokane River (Spokane County):

From mouth to SR 291 Bridge: Year-round season.

From SR 291 Bridge upstream to the West Branch: Last Saturday in April through October 31 season. Additional December 1 through March 31 season. Whitefish gear rules apply.

Upstream from bridge at Frideger Road: Closed waters: From the inlet to Chain Lake upstream one-quarter mile to the railroad crossing culvert. Trout: Release kokanee taken upstream from bridge.

Little Twin Lake (Okanogan County): April 1 through November 30: Selective gear rules and all species: Release all fish.

Little Twin Lake (Stevens County): Last Saturday in April through October 31.

Little Wenatchee River (Chelan County): From Lake Wenatchee to the falls below U.S. Forest Service Road 6700 Bridge at Riverside Campground: Closed waters.

Little White Salmon River (Skamania County): Closed waters: From the orange fishing boundary markers at Drano Lake upstream to the intake near the Little White Salmon National Fish Hatchery north boundary. Trout: Daily limit five. Drano Lake (waters downstream of markers on point of land downstream and across from Little White Salmon National Fish Hatchery): May 1 through March 31 season, except for hatchery steelhead and chinook season in April, and except closed Wednesdays beginning the second Wednesday in April through May 31 and October 1 through October 31. Night closure and nonbuoyant lure restriction May 1 through June 30. Nonbuoyant lure restriction August 1 through December 31. Night closure October 1 through October 31. March 16 through June 30 daily limit of two fish, of which one or both may be hatchery steelhead or one or both may be chinook salmon. Release wild chinook. 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. Release wild coho.

Lone Lake (Island County): Selective gear rules. 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~~ Fishing from a floating device(s) equipped with an internal combustion motor(s) prohibited.

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.

Lucky Duck Pond (Stevens County): Juveniles only.

Ludlow Lake (Jefferson County): Last Saturday in April through October 31 season.

Lyle Lake (Adams County): April 1 through September 30 season.

Lyre River (Clallam County):

From mouth to falls near river mile 3: June 1 through last day in February season. Trout: Minimum length fourteen inches.

From falls to source: Selective gear rules. All species: Release all fish.

Mad River (Chelan County), from mouth upstream to Jimmy Creek: Closed waters.

Maggie Lake (Mason County): Last Saturday in April through November 30 season. Salmon: Landlocked salmon rules apply.

Margaret Lake (King County): Last Saturday in April through October 31 season.

Marshal Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Martha Lake (Grant County): March 1 through July 31 season.

Martha Lake (Snohomish County): Last Saturday in April through October 31 season.

Mashel River (Pierce County): July 1 through October 31 season. Selective gear rules. Trout: Minimum length fourteen inches.

Mattoon Lake (Kittitas County): Fishing from a floating device equipped with an internal combustion engine prohibited.

May Creek (tributary of Lake Washington) (King County): June 1 through August 31 season. Juveniles only.

Mayfield Lake (Reservoir) (Lewis County): Mayfield Dam to 400 feet below Mossyrock Dam: Closed waters: Tacoma Power safety signs at Onion Rock Bridge to Mossyrock Dam. Trout and salmon: Minimum length eight inches. Trout: Release cutthroat. Release rainbow trout except rainbow trout with a clipped adipose fin and a healed scar at the site of the clipped fin. Salmon: Open only September 1 through December 31. Daily limit 6 fish of which no more than 2 may be adult salmon. Release wild coho.

McAllister Creek (Thurston County): Nonbuoyant lure restriction and night closure August 1 through November 30. Trout: Minimum length fourteen inches. Salmon: Open only July 1 through November 30 from mouth to Olympia - Steilacoom Road Bridge. Daily limit 6 fish of which no more than 4 may be adult salmon.

McCabe Pond (Kittitas County): Fishing from any floating device prohibited. All species: Five fish daily limit for all species combined.

McDonald Creek (Clallam County): Trout: Minimum length fourteen inches.

McDowell Lake (Stevens County): Last Saturday in April through October 31 season. Fly fishing only. Fishing from a floating device equipped with ((Ⓢ)) an internal combustion 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 except fishing from a floating device equipped with a motor prohibited. 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): June 1 through August 31 season. Juveniles only.

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 County Road 1535 (Burma Road) Bridge: Closed waters June 1 through October 31. County Road 1535 (Burma Road) Bridge to Foghorn Dam: June 1 through September 30 season: Selective gear rules. All species: Release all fish. Foghorn Dam to Weeman Bridge: June 1 through August 15 season. Selective gear rules. All species: Release all fish. Upstream from Weeman Bridge to the falls above Brush Creek: Closed waters June 1 through October 31. Additional season ((~~mouth~~)) Gold Creek to falls above Brush Creek: December 1 through March 31. Whitefish gear rules apply.

Methow River tributaries not otherwise provided for: Selective gear rules. Trout: Maximum length twenty inches.

Middle Nemah Pond (Pacific County): June 1 through October 31 season.

Mill Creek (Chelan County): Closed waters.

Mill Creek (Cowlitz County): June 1 through August 31 and November 1 through March 15 seasons. Trout: Release all fish except up to two hatchery steelhead may be retained per day.

Mill Creek (Lewis County): Additional season December 1 through December 31, mouth to hatchery road crossing culvert. Nonbuoyant lure restriction and night closure. All species: Release all fish except that up to two hatchery steelhead with intact ventral fins may be retained per day.

Mill Creek (Mason County): Trout: Minimum length fourteen inches.

Mill Creek and tributaries (Pend Oreille County): Trout: Eastern brook trout not counted in daily trout limit. Eastern brook trout daily limit ten. Once the daily limit of trout other than eastern brook trout has been achieved, the entire daily limit for trout other than eastern brook trout and eastern brook trout has been taken.

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~~) December 1 through last day in February season. Trout: Minimum length fourteen inches.

Moses Lake (Grant County): Crappie: Daily limit ten, only crappie more than nine inches in length may be retained. Bluegill: Daily limit five, only bluegill more than eight inches in length may be retained. Small mouth bass: Small mouth bass are not included as part of the bass daily limit. No minimum size. Small mouth bass 12 to 17 inches in length may be retained. Daily limit 10 small mouth bass, not more than one of which may be greater than 14 inches in length.

Walleye: Daily limit 8 walleye. Minimum length twelve inches. No more than one walleye over 22 inches in length may be retained. Yellow perch: Daily limit 25 yellow perch.

Mosquito Creek (Jefferson County), outside Olympic National Park: June 1 through last day in February season. Selective gear rules. Trout: Minimum length fourteen inches.

Mountain Lake (San Juan County): Trout: Daily limit may not contain more than one trout over 18 inches in length.

Muck Creek and tributaries (within Ft. Lewis Military Reservation) (Pierce County): Selective gear rules. Trout: Release all trout.

Mud Lake (Mason County): Last Saturday in April through October 31 season.

Mud Lake (Yakima County): Selective gear rules. Trout: Daily limit one.

Mudget Lake (Stevens County): Last Saturday in April through October 31 season.

Munn Lake (Thurston County): Last Saturday in April through October 31 season.

Muskegon Lake (Pend Oreille County): Last Saturday in April through October 31 season. Selective gear rules. Trout: Daily limit two.

Murray Creek (Pierce County): Closed waters.

Myron Lake (Yakima County): Selective gear rules. Trout: Daily limit one.

Mystic Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Naches River (Yakima/Kittitas counties):

From the mouth to Little Naches River: Selective gear rules. Trout: Minimum length twelve inches, maximum length twenty inches. Release trout June 1 through October 31 from confluence with Tieton River to mouth of Rattle Snake Creek. Additional December 1 through March 31 season. Whitefish gear rules apply.

Naneum Creek (Kittitas County): Selective gear rules.

Naneum Pond (Kittitas County): Juveniles only.

Napeequa River (Chelan County): Mouth to Twin Lakes Creek: Closed waters.

Naselle River (Pacific/Wahkiakum counties), from Highway 101 Bridge upstream including all forks: Closed waters: Area from four hundred feet below falls in Sec. 6, T10N, R8W (Wahkiakum County) to falls. Waters from the North Valley Road Bridge (Big Hill Bridge) to Highway 4 closed August 16 through October 15.

Mainstem: June 1 through April 15 season, except sturgeon. Single point barbless hooks required August 16 through November 30 upstream from Highway 4 Bridge to Crown Main Line (Salme) Bridge. Nonbuoyant lure restriction and night closure August 16 through November 30 downstream from North Fork. Stationary gear restrictions above mouth of South Fork August 16 through November 30.



Selective gear rules March 1 through April 15 above mouth of South Fork. All game fish: Release all fish except up to two hatchery steelhead per day may be retained. Salmon: Open only August 1 through January 31 from Highway 101 Bridge to Highway 4 Bridge and October 16 through January 31 from the Highway 4 Bridge to the Crown Main Line Bridge. Daily limit 6 fish of which no more than 3 may be adult salmon and of these 3 adult fish no more than 1 may be a wild adult coho and not more than 2 may be adult chinook. No more than 2 chum may be retained.

Sturgeon: Open year-round from mouth to Highway 4 Bridge.

From mouth of North Fork to source: Selective gear rules. All species: Release all fish except up to two hatchery steelhead per day may be retained.

South Fork, from mouth to Bean Creek: June 1 through last day in February season, except sturgeon. Nonbuoyant lure restriction and night closure August 16 through November 30. Game fish: Release game fish except up to two hatchery steelhead per day may be retained. Sturgeon: Open year-round.

Nason Creek (Chelan County): From the mouth upstream to Smith Brook: Closed waters.

From Smith Brook to Stevens Creek: Selective gear rules.

Negro Creek (Lincoln County): Year-round season from mouth at Sprague Lake to the fish barrier dam at Fishtrap Lake.

Negro Creek (Whitman County): Last Saturday in April through July 15 season.

Nemah River, North, Middle, and South: June 1 through March 31 season, except closed August 1 through September 30 on North Nemah from Highway 101 Bridge upstream to ~~((lower bridge on dead end lower))~~ Nemah ~~((Road))~~ Hatchery. Single point barbless hooks required on North Nemah upstream to the lower bridge on dead end lower Nemah Road October 1 through November 30, on Middle Nemah upstream to the Department of Natural Resources Bridge on Middle Nemah A-line Road August 16 through November 30, and on South Nemah upstream to confluence with Middle Nemah August 16 through November 30. Selective gear rules on Middle Nemah above DNR Bridge and South Nemah above confluence with Middle Nemah. Night closure August 16 through November 30 on South Nemah to the confluence with Middle Nemah 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 and the Middle Nemah from the DNR Bridge on A-line Road upstream August 16 through November 30. On the North Nemah from the mouth to the lower bridge on dead end lower Nemah Road, stationary gear restriction during the period August 16 through November 30. All game fish: Release all fish except up to two hatchery steelhead per day may be retained. 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 Military Tank Crossing Bridge: ~~((June))~~ July 1 through January 31 season. Nonbuoyant lure restriction and night closure August 1 through November 30. Trout: Minimum length fourteen inches. All species: Release all species except salmon December 1 through January 31. Salmon: Open only July 1 through January 31 from mouth to Military Tank Crossing Bridge. Daily limit 6 fish of which no more than 2 may be adult salmon. Release wild adult chinook.

From Military Tank Crossing Bridge to four hundred feet below LaGrande Falls: July 1 through October 31 season. Selective gear rules. Nonbuoyant lure restriction and night closure August 1 through October 31. Trout: Minimum length fourteen inches.

Nooksack River (Whatcom County), from mouth to forks, Middle Fork to Dam and North Fork to Nooksack Falls: June

1 through last day in February season except closed June 1 through September 30 in mainstem from yellow marker at the FFA High School barn at Deming to confluence of the North and South Forks. Fishing from floating devices equipped with motors prohibited on the North and Middle Forks November 1 through last day in February. Nonbuoyant lure restriction and night closure August 1 through November 30 on mainstem and North Fork to Maple Creek. Trout: Minimum length fourteen inches. Salmon: Open only September 1 through December 31 in mainstem from Lummi Indian Reservation boundary to yellow marker at the FFA High School barn in Deming. Open only October 16 through December 31 in mainstem from the FFA barn to the confluence of the North and South Forks, and October 1 through October 31 on the North Fork from confluence to Maple Creek. Daily limit 2 salmon, except release 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 except closed July 1 through October 15 from Saxon Road Bridge to mouth of Skookum Creek. 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): June 1 through August 31 season. Juveniles only.

North Elton Ponds (Yakima County): December 1 through March 31 season. Fishing from a floating device equipped with an internal combustion engine prohibited. Trout: Daily limit two.

North Lake (King County): Last Saturday in April through October 31 season.

North Potholes Reserve Ponds (Grant County): February 1 through the day before opening of waterfowl season. Fishing from any floating device prohibited, except float tubes permitted.

North River (Grays Harbor/Pacific counties), from Highway 105 Bridge upstream to Falls River: June 1 through last day in February season, except sturgeon. Night closure August 16 through November 30. Single point barbless hooks required August 16 through November 30 upstream to Salmon Creek. Nonbuoyant lure restriction from Salmon Creek to Falls River August 16 through November 30. All game fish: Release all fish except that up to two hatchery steelhead per day may be retained. Salmon: Open only September 1 through November 30 from Highway 105 Bridge to Salmon Creek. Daily limit 6 fish of which no more than 2 may be adult salmon and of the adult fish not more than one may be

a wild adult coho. Release adult chinook. Sturgeon: Open year-round from Highway 105 Bridge to Salmon Creek.

Upstream from Falls River: Selective gear rules. All species: Release all fish except up to two hatchery steelhead per day may be retained.

Northern State Hospital Pond (Skagit County): Last Saturday in April through October 31 season. Juveniles only.

Northwestern Reservoir (Klickitat/Skamania counties): Last Saturday in April through last day in February season.

Nunnally Lake (Grant County): March 1 through November 30 season. Closed waters: Outlet stream of Nunnally Lake. Selective gear rules. Trout: Daily limit one.

Oakland Bay freshwater tributaries (Mason County), except Goldsborough Creek (including Shelton Creek, Canyon Creek, Uncle John Creek, Campbell Creek, Melaney Creek, Deer Creek, John's Creek, and Cranberry Creek to Lake Limerick): Closed waters.

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 1 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))~~ first Highway 97 Bridge.

Old Fishing Hole Pond (Kent) (King County): Last Saturday in April through October 31 season. Juveniles only.

Old Mill Stream (Chelan County): Closed waters.

Olequa Creek (Lewis County): June 1 through last day in February season. Trout: Release all fish except up to two hatchery steelhead may be retained per day.

Osborne Lake (Mason County): Last Saturday in April through October 31 season.

Outlet Creek (Klickitat County): Trout: Daily limit five.

Owens Pond (Pacific County): June 1 through October 31 season.

Packwood Lake (Lewis County): Closed waters: All inlet streams and outlet from log boom to dam. Last Saturday in April through October 31 season. Selective gear rules. Trout: Daily limit five, minimum length ten inches.

Padden Lake (Whatcom County): Last Saturday in April through October 31 season. Fishing from a floating device equipped with an internal combustion motor prohibited.

Palix River, including all forks (Pacific County): June 1 through March 31 season, except sturgeon. Single point barbless hooks and night closure August 16 through November 30 upstream to the confluence of the South and Middle Forks. All game fish: Release all fish except up to two hatchery steelhead per day may be retained. Above the confluence of the South and Middle Forks: Selective gear rules. Nonbuoyant lure restriction and night closure August 16 through November 30. All game fish: Release all fish except up to two hatchery steelhead per day may be retained. Salmon: Open only September 1 through November 30 from the Highway 101 Bridge to the confluence of the South and Middle Forks. Daily limit 6 fish of which no more than 2 may be adult salmon and of the adult salmon not more than one may be a wild adult coho. Release adult chinook. Sturgeon: Open year-round from the Highway 101 Bridge to the confluence of the South and Middle Forks.

Palouse River and tributaries, except Rock Creek (Whitman County): Year-round season. Mainstem from mouth to base of Palouse Falls. Trout: Daily limit 6 fish, minimum length 10 inches, no more than 3 trout over 20 inches may be retained, except release all trout April 1 through June 15 and release steelhead June 16 through August 31. Barbless hooks required when fishing for steelhead. Bass: Fish 12 to 15 inches in length may be retained, but not more than 3 bass over 15 inches in length may be retained. Walleye: Daily limit 10 fish, no minimum size. No more than 5 walleye over 18 inches in length may be retained, and no more than 1 walleye over 24 inches in length may be retained. Channel catfish: No daily limit.

Palouse River mainstem above Palouse Falls and tributaries except Rock Creek: Year-round season.

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 ((#)) an internal combustion 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.

Pierre Lake (Stevens County): Unlawful to use lead fishing sinkers one-half ounce or less in weight.

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.

Ping 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.

Pioneer Ponds (tributary to Stillaguamish River) (Snohomish County): Closed waters.

Pipers (Carkeek) Creek (King County), from its mouth to its source, including tributaries: Closed waters.

Pit Lake (Douglas County): Juveniles only.

Pleasant Lake (Clallam County): Trout: Kokanee minimum length eight inches, maximum length twenty inches.

Plummer Lake (Lewis County): Last Saturday in April through last day in February season.

Poacher Lake (Grant County): April 1 through September 30 season.

Portage Creek (tributary to Stillaguamish River) (Snohomish County): Closed waters.

Potholes Reservoir (Grant County): Crappie: Minimum length nine inches. Crappie and bluegill: Combined daily limit twenty-five fish. Perch: Daily limit twenty-five fish. Small mouth bass: Small mouth bass are not included as part of the bass daily limit. No minimum size. Small mouth bass 12 to 17 inches in length may be retained. Daily limit 10 small mouth bass, not more than 1 of which may be greater than 14 inches in length. Walleye: Minimum size 12 inches in length. Daily limit 8 walleye, not more than 1 of which may be greater than 22 inches in length.

Potter's Pond (Stevens County): Last Saturday in April through October 31 season.

Pratt River (tributary to Middle Fork Snoqualmie) (King County): Selective gear rules. All species: Release all fish.

Prices Lake (Mason County): Last Saturday in April through October 31 season. Selective gear rules. All species: Release all fish.

Promised Land Pond (Grays Harbor County): June 1 through October 31 season.

Purdy Creek (Mason County): June 1 through August 15 season. Selective gear rules. All species: Release all fish.

Puyallup River (Pierce County):

From mouth to the Electron power plant outlet: July 1 through last day in February season. Single point barbless hooks, nonbuoyant lure restriction and night closure August 1 through November 30 from the mouth to the Carbon River. Trout: Minimum length fourteen inches. Salmon: Open only 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 Electron power plant outlet upstream: July 1 through October 31 season. Selective gear rules. All species: Release all fish.

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)) an internal combustion motor prohibited. All species: Release all fish.

Quarry Pond (Walla Walla County): Fishing from any floating device prohibited. Trout: No more than 2 trout over 13 inches in length may be retained.

Quigg Lake (Grays Harbor County): June 1 through April 15 season. Trout: Daily limit 2. Minimum length fourteen inches. Salmon: Open only October 1 through January 31. Daily limit 6 hatchery coho salmon of which no more than 4 may be adult hatchery coho.

Quillayute River (Clallam County): Open year-round. May 1 through May 31 release all fish except up to two hatchery steelhead per day may be retained. Trout: Minimum length fourteen inches. November 1 through last day in February, daily limit three steelhead. December 1 through April 30, one wild steelhead per day may be retained. Salmon: Open only February 1 through November 30. Daily limit 6 fish of which no more than 2 may be adult salmon February 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. February 1 through August 31 release wild adult coho and wild 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. Trout: No more than 2 trout over 13 inches in length may be retained.

Rapjohn Lake (Pierce County): Last Saturday in April through October 31 season.

Rat Lake (Okanogan County): April 1 through November 30: Selective gear rules. 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.

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): All species: Closed January 1 through May 31 in San Poil arm upstream from outlet of French Johns Lake, and April 1 through May 31 in Kettle arm upstream to Barstow Bridge. Trout except kokanee: Daily limit five. No more than two over twenty inches in length. Kokanee daily limit two. Walleye: No minimum size. Daily limit 8 fish not more than one of which may be longer than 22 inches. Salmon: Landlocked salmon rules apply. Sturgeon: Unlawful to fish for or retain sturgeon from Roosevelt Lake and tributaries. Carp: Unlawful to fish for carp with bow and arrow. Small mouth bass: Small mouth bass do not count as part of the bass daily limit. Fish between 12 and 17 inches in length may be retained. No minimum size. Daily limit 10 bass, no more than one bass over 14 inches in length may be retained.

Rose Lake (Mason County): Last Saturday in April through October 31 season.

Ross Lake (Reservoir) (Whatcom County): July 1 through October 31 season. Selective gear rules, except fishing from a floating device equipped with an internal combustion motor allowed. Trout: Daily limit three, possession limit six, minimum length thirteen inches.

Ross Lake tributary streams (Whatcom County), except Big Beaver Creek and Ruby Creek: Closed waters: From closed water markers near mouth upstream for one mile. Above closed water marker in tributaries not listed as closed: July 1 through October 31 season.

Round Lake (Okanogan County): Last Saturday in April through September 30 season.

Rowland Lakes (Klickitat County): Last Saturday in April through last day in February season.

Royal Lake (Adams County): Closed waters.

Royal Slough (including Marsh Unit IV impoundments) (Adams County): Closed waters.

Ruby Creek (tributary to Ross Lake) (Whatcom County): Closed waters.

Ruby Creek and tributaries (Pend Oreille County): Trout: Eastern brook trout not counted in daily trout limit. Eastern brook trout daily limit ten. Once the daily limit of trout other than eastern brook trout has been achieved, the entire daily limit for trout other than eastern brook trout and eastern brook trout has been taken.

Rufus Woods Lake (Douglas County): Chumming allowed. Trout: Daily limit two. Kokanee not included in daily trout limit. Kokanee daily limit 2. Sturgeon: Unlawful to fish for or retain sturgeon from Rufus Woods Lake and tributaries.

Sacheen Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Saddle Mountain Lake (Grant County): Closed waters.

Sago Lake (Grant County): April 1 through September 30 season.

Salmon Creek (Clark County), from mouth to 72nd Avenue N.E.: June 1 through March 15 season. Trout: Release all fish except up to two hatchery steelhead may be retained per day.

Salmon Creek, including all forks (Jefferson County): Closed waters.

Salmon Creek, mainstem (Okanogan County): Closed waters.

Salmon Creek, North Fork and West Fork from mouth to South Fork (Okanogan County): Selective gear rules.

Salmon Creek (tributary of Naselle River) (Pacific County): June 1 through last day in February season. Selective gear rules. All species: Release all fish except up to two hatchery steelhead per day may be retained.

Salmon River (Jefferson County) outside of Olympic National Park and Quinault Indian Reservation: June 1 through last day in February season. Trout: Minimum length fourteen inches. Hatchery steelhead in this river are steelhead with a dorsal fin height of less than 2-1/8 inches or with an adipose or ventral fin clip. Salmon: Open only September 1 through November 30. Daily limit 6 fish of which no more than 3 may be adult salmon and of the adult salmon not more than 2 may be adult chinook salmon.

Salt Creek (Clallam County): Trout: Minimum length fourteen inches.

From mouth to bridge on Highway 112: Additional November 1 through last day in February season. Trout: Minimum length fourteen inches.

Samish Lake (Whatcom County): Trout: Cutthroat trout daily limit two, minimum length fourteen inches.

Samish River (Whatcom County):

From its mouth to the Hickson Bridge: June 1 through March 15 season. From Highway 99 Bridge to department salmon rack: Closed waters. Nonbuoyant lure restriction and night closure August 1 through December 31.

Trout: Minimum length fourteen inches. Salmon: Open only July 1 through December 31 from mouth to Thomas Road Bridge and October 1 through December 31 from Thomas Road Bridge to I-5 Bridge. Daily limit two salmon.

Sammamish Lake (King County): Trout: Release all kokanee. Kokanee/sockeye under fifteen inches are kokanee while those fifteen inches and over are sockeye salmon. December 1 through June 30: Release all steelhead and rainbow trout over twenty inches in length. Salmon: Closed to salmon fishing within 100 yards of the mouth of Issaquah Creek. Open only August 16 through November 30. Daily limit two salmon. Release sockeye.

Sammamish River (Slough) (King County), from the 68th Avenue N.E. Bridge to Lake Sammamish: January 1 through August 31 season. Selective gear rules. Trout: Release all trout.

Sandyshore Lake (Jefferson County): Last Saturday in April to October 31 season.

San Poil River (Ferry County): Unlawful to fish for or retain sturgeon.

Sarge Hubbard Park Pond (Yakima County): Juveniles and holders of disability licenses only.

Satsop Lakes (Grays Harbor County): Last Saturday in April through October 31 season.

Satsop River, (Grays Harbor County): Trout: Minimum length 14 inches in mainstem and all forks. Mainstem and East Fork, single point barbless hooks and night closure August 16 through November 30 except only August 16 through October 31 on East Fork upstream from bridge at Schafer State Park. Middle and West forks downstream from Cougar Smith Road nonbuoyant lure restriction and night closure August 16 through November 30. Middle and West Forks upstream from Cougar Smith Road night closure and nonbuoyant lure restriction August 16 through October 31.

From mouth to bridge at Schafer Park: Additional November 1 through March 31 season. Salmon: Open only October 1 through January 31. Daily limit 6 fish of which no more than 2 may be adult salmon, except release adult chinook.

Middle Fork (Turnow Branch), from mouth to Cougar Smith Road: Additional November 1 through last day in February season.

West Fork, from mouth to Cougar Smith Road: Additional November 1 through last day in February season.

Sauk River (Skagit/Snohomish counties):

From mouth to the mouth of the White Chuck River: June 1 through last day in February season. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches.

From the mouth of the White Chuck River to headwaters, including North Fork and South Fork upstream to Elliot Creek: Selective gear rules. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches.

South Fork upstream from Elliot Creek: June 1 through August 31 season. Selective gear rules.

From mouth to the Darrington Bridge: Additional March 1 through April 30 season. Selective gear rules. All species: Release all fish.

Sawyer, Lake (King County): Chumming permitted. Crappie: Daily limit ten, minimum length nine inches.

Schaefer Lake (Chelan County): Trout: Daily limit sixteen.

Sekiu River (Clallam County): All open periods: Trout: Minimum length fourteen inches.

From mouth to forks: Additional November 1 through last day in February season.

Serene Lake (Snohomish County): Last Saturday in April through October 31 season.

Shady Lake (King County): June 1 through October 31 season. Trout: No more than one over fourteen inches in length.

Shannon, Lake (Skagit County): Last Saturday in April through October 31 season. Chumming permitted. Trout: Minimum length six inches and maximum length eighteen inches.

Shellneck Creek (Yakima County): Closed waters.

Shelton Creek (Mason County): Closed waters.

Sherman Creek (Ferry County):

From the mouth at Lake Roosevelt upstream to four hundred feet above the water diversion dam for the hatchery: Closed waters, except December 1 through August 31 season from the mouth upstream to the hatchery boat dock.

Sherry Lake (Stevens County): Last Saturday in April through October 31 season.

Sherwood Creek (Mason County): Trout: Minimum length fourteen inches.

Sherwood Creek Mill Pond (Mason County): June 1 through October 31 season. Trout: Minimum length 14 inches, daily limit 2 fish.

Shiner Lake (Adams County): April 1 through September 30 season. Fishing from a floating device equipped with an internal combustion motor prohibited.

Shoe Lake (Mason County): Last Saturday in April through October 31 season.

Shoveler Lake (Grant County): April 1 through September 30 season.

Shye Lake (Grays Harbor County): June 1 through October 31 season.

Sidley Lake (Okanogan County): Trout: Daily limit two.

Siebert Creek (Clallam County): Trout: Minimum length fourteen inches.

Silent Lake (Jefferson County): Last Saturday in April through October 31 season. Fishing from a floating device equipped with an internal combustion engine prohibited.

Silvas Creek (Klickitat County): Trout: Release all trout.

Silver Creek (tributary to Cowlitz River) (Lewis County), mouth to USFS Road 4778: Selective gear rules. Trout: Minimum length twelve inches.

Silver Lake (Cowlitz County): Crappie: Daily limit ten crappie. Minimum size nine inches in length.

Silver Lake (Pierce County): Last Saturday in April through October 31 season.

Silver Lake (Spokane County): Crappie: Daily limit ten, minimum length nine inches.

Silver Lake, North (Spokane County): March 1 through September 30 and November 1 through December 31 season. Selective gear rules. March 1 through September 30: Trout: Daily limit 2 fish, minimum length 14 inches, except release fish with clipped adipose fin. November 1 through December 31: All species: Release all fish.

Silver Lake (Whatcom County): Last Saturday in April through October 31 season.

Silvernail Lake (Okanogan County): Juveniles only.

Similkameen River (Okanogan County):

From mouth to Enloe Dam: December 1 through March 31 season. Whitefish gear rules apply.

From Enloe Dam to Canadian border: Additional December 1 through March 31 season. Whitefish gear rules apply.

Sinlahekin Creek (Okanogan County), from Palmer Lake to Cecile Creek bridge: June 1 through August 31 season. Selective gear rules. Additional December 1 through March 31 season. Whitefish gear rules apply.

Sixteen Lake (Skagit County): Last Saturday in April through October 31 season.

Skagit River (Skagit/Whatcom counties):

From mouth to the Memorial Highway Bridge (Highway 536 at Mt. Vernon): Year-round season. Selective gear rules March 1 through May 31 except lawful to fish from a floating device equipped with an internal combustion motor. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches. Salmon: Open only September 1 through December 31. Daily limit three salmon except release chinook.

From Memorial Highway Bridge (Highway 536 at Mt. Vernon) upstream to Gilligan Creek: June 1 through March 15 season. Night closure and nonbuoyant lure restriction July 1 through November 30. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches. Salmon: Open only September 1 through December 31. Daily limit three salmon except release chinook.

From Gilligan Creek to Cascade River: June 1 through March 15 season except closed June 1 through June 30 and August 1 through August 31 between a line 200 feet above the east bank of the Baker River to a line 200 feet below the west bank of the Baker River. Nonbuoyant lure restriction and night closure July 1 through November 30. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of the trout daily limit, minimum length twenty inches. Salmon: Open only September 16 through December 31 Gilligan Creek to the Dalles Bridge at Concrete. Daily limit three salmon except release chinook.

From the Dalles Bridge at Concrete to the Highway 530 Bridge at Rockport - Salmon open July 1 through July 31 except closed 12:01 a.m. July 6 until 2:00 p.m. July 7 and 12:01 a.m. July 10 until 2:00 p.m. July 11, and, except closed from 200 feet above the mouth of the Baker River to the Cascade River. Daily limit two sockeye salmon. Release all salmon except sockeye salmon. Salmon open September 16 through December 31. Daily limit three salmon except release chinook. Additional season from the Dalles Bridge to the Birdsvie Boat Ramp near the mouth of Finney Creek: March 16 through April 30. Selective gear rules except law-

ful to fish from a floating device equipped with an internal combustion motor. Unlawful to fish from a floating device while under power. All species: Release all fish.

From the Highway 530 Bridge at Rockport to the Cascade River - Salmon open June 1 through July 9. Nonbuoyant lure restriction and night closure June 1 through November 30. Daily limit two salmon. Release all salmon except hatchery chinook. Salmon open September 16 through December 31. Daily limit three salmon. Release chinook. Additional season: March 16 through April 30. Selective gear rules except lawful to fish from a floating device equipped with an internal combustion motor. Unlawful to fish from a floating device while under power. All species: Release all fish.

From Cascade River to Gorge Powerhouse: June 1 through March 15 season. Nonbuoyant lure restriction and night closure July 1 through November 30. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of the trout daily limit, minimum length twenty inches.

From the Gorge Powerhouse to Gorge Dam: Closed waters.

Skamokawa Creek (Wahkiakum County), mouth to forks just below Oatfield and Middle Valley Road: November 1 through March 15 season. All species: Release all fish other than steelhead. Trout: Minimum length twenty inches.

Skate Creek (tributary to Cowlitz River) (Lewis County): Trout: Daily limit five, no more than one over twelve inches in length. Release cutthroat. Release rainbow trout except rainbow trout having a clipped adipose fin and a healed scar at the site of the clipped fin.

Skokomish River (Mason County), mouth to forks: Night closure, nonbuoyant lure restriction and single point barbless hooks required August 1 through November 30 mouth to Highway 101. June 1 through ~~((last day in February))~~ October 31 season except closed September 14 through September 30 mouth to Highway 101 Bridge. All game fish: Release all fish ~~((except that up to two hatchery steelhead per day may be retained))~~. Selective gear rules from Highway 101 Bridge to forks. Salmon: Open only August 1 through September 13 and October 1 through December 15 mouth to Highway 101 Bridge. Terminal gear restricted to no closer than 25 feet of a tribal gill net. Daily limit 1 salmon August 1 through September 13. Release chum salmon. Daily limit 6 salmon September 14 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))~~ October 31 season. All species: Release all fish ~~((except up to two hatchery steelhead per day may be retained))~~. Selective gear rules.

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))~~ October 31 season. All species: Release all fish ~~((except up to two hatchery steelhead per day may be retained))~~. Selective gear rules.

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. Salmon: Open September 1 through December 31 mouth to Lewis Street Bridge in Monroe. Daily limit 2 salmon. Release chinook and pink. Open June 1 through July 31 Lewis Street Bridge in Monroe to Wallace River. Daily limit 2 hatchery chinook. Open September 1 through December 31 Lewis Street Bridge to Wallace River. Daily limit 2 salmon. Release chinook and pink.

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.

Skykomish River, North Fork (Snohomish County):

From mouth to one thousand feet downstream from Bear Creek Falls: June 1 through last day in February season. Nonbuoyant lure restriction and night closure August 1 through November 30. Trout: Minimum length fourteen inches.

From one thousand feet below Bear Creek Falls to Deer Falls: Closed waters.

Skykomish River, South Fork (King/Snohomish counties):

From mouth to six hundred feet downstream from the Sunset Falls Fishway: June 1 through last day in February season. Nonbuoyant lure restriction and night closure August 1 through November 30. Trout: Minimum length fourteen inches.

From a point six hundred feet downstream of the Sunset Falls Fishway to the Sunset Falls Fishway: Closed waters.

From Sunset Falls to source: June 1 through November 30 season. Selective gear rules. Trout: Minimum length fourteen inches. Whitefish: Additional December 1 through last day in February season. Release all fish other than whitefish.

Slate Creek and tributaries (Pend Oreille County): Trout: Eastern brook trout not counted in daily trout limit. Eastern brook trout daily limit ten. Once the daily limit of trout other than eastern brook trout has been achieved, the entire daily limit for trout other than eastern brook trout and eastern brook trout has been taken.

Smith Creek (near North River) (Pacific County): June 1 through last day in February season, except sturgeon. Single point barbless hooks, and night closure August 16 through November 30 upstream to the Highway 101 Bridge. All game fish: Release all fish except up to two hatchery steelhead per day may be retained. Salmon: Open only September 1 through November 30 from mouth to Highway 101 Bridge. Daily limit 6 fish of which no more than 2 may be adult salmon and of the adult salmon not more than one may be an adult wild coho. Release adult chinook. Sturgeon: Open year-round from mouth to Highway 101 Bridge.

Snake River: Year-round season. Closed to the taking of all trout April 1 through June 15. Trout: Daily limit six, minimum length ten inches, no more than three over twenty inches. Release all steelhead June 16 through August 31. Barbless hooks required when fishing for steelhead. Sturgeon: Unlawful to retain sturgeon in mainstem and tributaries upstream from Lower Granite Dam. Bass: Fish twelve to seventeen inches in length may be retained. Up to but not more than 3 bass over fifteen inches in length may be retained. Walleye: Daily limit 10 fish. No minimum size. No more than 5 fish over 18 inches in length. No more than 1 fish over 24 inches in length. Channel catfish: No daily limit.

Closed waters: Within four hundred feet of the base of any dam and within a four hundred foot radius around the fish ladder entrance at Lyons Ferry Hatchery, within a two hundred foot radius upstream of the fish ladder exit above Lower Granite Dam, and within an area one thousand two hundred feet downstream from the base of the west lock gate at Little Goose Dam on the south bank of the Snake River and one hundred feet out into the river from said river bank.

Snipe Lake (Grant County): April 1 through September 30 season.

Snohomish River (Snohomish County), including all channels, sloughs, and interconnected waterways, but excluding all tributaries: June 1 through last day in February season, except sturgeon. Nonbuoyant lure restriction and night closure August 1 through November 30. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches. Salmon: Open only September 1 through December 31. Daily limit 2 salmon. Release chinook and pink. Sturgeon: Open year-round from mouth to Highway 2 Bridge.

Snoqualmie River (King County):

From mouth to the falls: June 1 through last day in February season, except waters within the Puget Power tunnel at the falls and within fifty feet of any point on Puget Power's lower Plant # 2 building (north bank) are closed waters. June 1 through November 30 selective gear rules, except fishing from a floating device equipped with an internal combustion motor allowed. Fishing from any floating device prohibited November 1 through last day in February from the mouth of Tokul Creek downstream to the boat ramp at Plumb access, about one-quarter mile. Night closure September 1 through November 30. Trout: Minimum length fourteen inches. Salmon: Open only September 1 through December 31. Daily limit 2 fish. Release chinook and pink.

From Snoqualmie Falls upstream, including the North and South Forks: Selective gear rules. Trout: Minimum length ten inches. Additional November 1 through May 31 season. Selective gear rules. All species: Release all fish.

Snoqualmie Middle Fork from mouth to source including all tributaries except Pratt and Taylor rivers: Year-round season. Selective gear rules. All species: Release all fish.

Snow Creek (Jefferson County), including all tributaries: Closed waters.

Snyder Creek (Klickitat County): Trout: Release all trout.

Sol Duc River (Clallam County): Open year-round. May 1 through May 31 release all fish except up to two hatchery steelhead per day may be retained. Selective gear rules from the concrete pump station at the Sol Duc Hatchery to the Highway 101 Bridge downstream of Snider Creek November 1 through April 30, and from the Highway 101 Bridge to Olympic National Park June 1 through October 31. Trout: Minimum length fourteen inches. November 1 through last day in February, daily limit three steelhead from mouth to concrete pump station at Sol Duc Hatchery. December 1 through April 30, from mouth to the concrete pump station at the Sol Duc Hatchery, one wild steelhead per day may be

retained. Salmon: Open only February 1 through November 30 from mouth to concrete pump station. Daily limit 6 fish of which no more than 2 may be adult salmon February 1 through August 31 and of which no more than 3 may be adult salmon September 1 through November 30. February 1 through August 31 release wild adult coho and wild 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 7 through October 29 to fishing by juveniles only. Night closure October 8 through October 30. Terminal gear restricted to one single point hook. Daily limit two coho salmon.

Bridge near hatchery residence to Salmon hatchery rack: June 1 through August 31 season. Trout: Minimum length fourteen inches.

South Bend Mill Pond (Pacific County): Juveniles only.

South Prairie Creek (Pierce County), mouth to Page Creek: Closed waters.

Spada Lake (Reservoir) (Snohomish County): Last Saturday in April through October 31 season. Selective gear rules. 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.

Spearfish Lake (Klickitat County): Last Saturday in April through last day in February season.

Spectacle Lake (Okanogan County): April 1 through September 30 season.

Spirit Lake (Skamania County): Closed waters.

Spokane River (Spokane County):

From SR 25 Bridge upstream to the upstream boundary at Plese Flats Day Use Area (Riverside State Park), except Long Lake, formed by Long Lake Dam (see also Long Lake): Year-round season except walleye. Trout: Daily limit five, no more than two over twenty inches in length. Walleye: Daily limit eight, no minimum length, no more than one over twenty-two inches in length. April 1 through May 31 release all walleye. Salmon: Landlocked salmon rules apply. Sturgeon: Unlawful to fish for or retain sturgeon. Small mouth bass: Small mouth bass do not count as part of the bass daily limit. Small mouth bass 12 to 17 inches in length may be retained. No minimum size. Daily limit 10 bass, no more than one bass greater than 14 inches in length may be retained.

From the upstream boundary at Plese Flats Day Use Area (Riverside State Park) upstream to the Monroe Street

Dam: Year-round season. Selective gear rules. Trout: Daily limit one. Release wild trout. Salmon: Landlocked salmon rules apply. Sturgeon: Unlawful to fish for or retain sturgeon.

From Monroe Street Dam upstream to Upriver Dam: Year-round season. Salmon: Landlocked salmon rules apply.

From Upriver Dam upstream to the Idaho/Washington state line: June 1 through March 15 season. Selective gear rules, except fishing from a floating device equipped with an internal combustion motor permitted. All species: Release all fish.

Sprague Lake (Adams/Lincoln counties):

Waters south of the lakeside edge of the reeds and waters of Cow Creek south to Danekas Road: July 1 through September 15 season. Crappie: Daily limit ten, minimum length nine inches. Walleye: Minimum size 12 inches in length. Daily limit 8 walleye, not more than 1 of which may be greater than 22 inches in length.

Spring Creek (Klickitat County): Trout: Daily limit five.

Spring Lake (Columbia County): March 1 through October 31 season. Fishing from any floating device prohibited. Trout: No more than 2 trout over 13 inches in length may be retained.

Spring Lakes (Grant County): March 1 through July 31 season.

Squalicum Lake (Whatcom County): Fly fishing only. Fishing from a floating device equipped with ((Ⓢ)) an internal combustion 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 cutthroat. 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 September 30 and December 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 an internal combustion motor allowed. Game fish: June 1 through November 30 release all fish except up to two hatchery steelhead per day may be retained. Trout: Minimum length fourteen inches December 1 through last day in February. Salmon: Open only September 1 through December 31. Daily limit 2 salmon. Release chinook and pink salmon.

Stillaguamish River, North Fork (Snohomish County), from mouth to Swede Heaven Bridge: June 1 through last day in February season. Nonbuoyant lure restriction and night closure August 1 through November 30. Fishing from any floating device prohibited upstream of the Highway 530 Bridge at mile post 28.8 (Cicero Bridge). Fishing from any floating device equipped with a motor prohibited downstream from the Highway 530 Bridge. June 1 through November 30: All species: Release all fish except hatchery steelhead. June 1 through November 30 fly fishing only. December 1 through last day in February: Trout: Minimum length fourteen inches.

Stillaguamish River, South Fork (Snohomish County):

From mouth to four hundred feet downstream of the outlet to fishway at Granite Falls: June 1 through last day in February season. Nonbuoyant lure restriction and night closure August 1 through November 30. Trout: Minimum length fourteen inches.

From four hundred feet below the outlet of the end of the fishway to Mt. Loop Highway bridge above Granite Falls: Closed waters.

From Mt. Loop Highway Bridge above Granite Falls to source: June 1 through November 30 season. Nonbuoyant lure restriction and night closure August 1 through November 30.

Storm Lake (Snohomish County): Last Saturday in April through October 31 season.

Stratford/Brook Lake (Grant County): February 1 through September 30 season.

Stump Lake (Mason County): Last Saturday in April through October 31 season. Fishing from a floating device equipped with an internal combustion engine prohibited.

Suiattle River (Skagit County): Trout: Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches.

Sullivan Creek (Pend Oreille County), from Mill Pond upstream and tributaries: Selective gear rules. Trout: Eastern

brook trout not counted in daily trout limit. Eastern brook trout daily limit ten. Once the daily limit of trout other than eastern brook trout has been achieved, the entire daily limit for trout other than eastern brook trout and eastern brook trout has been taken.

Sullivan Lake (Pend Oreille County): Trout: Daily limit 2 trout, except kokanee not counted in daily trout limit. Kokanee daily limit ten.

Sultan River (Snohomish County), from its mouth to a point four hundred feet downstream from the diversion dam at river mile 9.7: June 1 through last day in February season. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches.

Sultan River, North and South Forks (Snohomish County): Closed waters.

Summit Lake (Stevens County): Last Saturday in April through October 31 season.

Summit Lake (Thurston County): Last Saturday in April through October 31 season.

Sunday Creek (tributary to N.F. Snoqualmie River) (King County): Closed waters.

Sutherland Lake (Clallam County): Chumming permitted.

Swale Creek (Klickitat County): Trout: Release all trout.

Swamp Creek (tributary to Sammamish River) (Snohomish/King counties): June 1 through August 31 season. Juveniles only.

Swan Lake (Ferry County): Last Saturday in April through October 31 season. Unlawful to use lead fishing sinkers one-half ounce or less in weight.

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 an internal combustion motor allowed. Salmon: Landlocked salmon rules apply.

Swofford Pond (Lewis County): Fishing from a floating device equipped with an internal combustion motor prohibited.

Tacoma Creek and tributaries (Pend Oreille County): Trout: Eastern brook trout not counted in daily trout limit. Eastern brook trout daily limit ten. Once the daily limit of trout other than eastern brook trout has been achieved, the entire daily limit for trout other than eastern brook trout and eastern brook trout has been taken.

Tahuya River (Mason County): Selective gear rules and release all fish except salmon. Salmon: Open only Septem-

ber 16 through October 31 mouth to marker one mile above North Shore Road Bridge. Daily limit 2 coho salmon.

Taneum Creek (Kittitas County): Selective gear rules.

Tanwax Lake (Pierce County): Last Saturday in April through October 31 season. Crappie: Daily limit ten, minimum length nine inches.

Tapps Lake (Reservoir) and Tapps Lake (Reservoir) intake canal (Pierce County), to within four hundred feet of the screen at Dingle Basin: Year-round season.

Tarboo Lake (Jefferson County): Last Saturday in April through November 30 season. Fishing from a floating device equipped with an internal combustion engine prohibited. Salmon: Landlocked salmon rules apply.

Tate Creek (tributary to N.F. Snoqualmie River) (King County): Closed waters.

Taylor River (tributary to the Middle Fork Snoqualmie) (King County): Selective gear rules. All species: Release all fish.

Teal Lakes (North and South) (Grant County): April 1 through September 30 season.

Teal Lake (Jefferson County): Last Saturday in April to August 31 season. Fishing from a floating device equipped with an internal combustion engine prohibited. Additional September 1 through March 30 season. Selective gear rules. All species: Release all fish.

Teanaway River, including North Fork (Kittitas County): Selective gear rules.

Tenas Lake (Mason County): Last Saturday in April through October 31 season.

Tennant Lake (Whatcom County): Fishing from any floating device prohibited from first Friday in October through January 15.

Terrell, Lake (Whatcom County): Fishing from any floating device prohibited the first Saturday after Labor Day through the following Friday and from October 1 through January 31 except fishing from floating dock permitted.

Thomas Lake (Stevens County): Last Saturday in April through October 31 season.

Thornton Creek (tributary to Lake Washington) (King County): June 1 through August 31 season. Juveniles only.

Thread Lake (Adams County): April 1 through September 30 season.

Tibbetts Creek (tributary to Lake Sammamish) (King County): June 1 through August 31 season. Juveniles only.

Tieton River (Yakima County): Lawful to fish to base of Tieton (Rimrock) Dam. Selective gear rules June 1 through October 31. Additional December 1 through March 31 season: Whitefish gear rules apply.

Tieton River, North Fork (Yakima County), upstream from Rimrock Lake: Closed waters: Spillway channel. June 1 through August 15 season.

Tieton River, South Fork (Yakima County): From mouth to bridge on USFS Rd. 1070 (approximately 12.5 miles): Closed waters.

Tiger Lake (Kitsap/Mason counties): Last Saturday in April through October 31 season.

Tilton River (Lewis County), from mouth to West Fork: June 1 through March 31 season. Trout: Daily limit five, no more than one over twelve inches in length. Release cutthroat. Release rainbow trout except rainbow trout having a clipped adipose fin and a healed scar at the site of the clipped fin. Salmon: Open only June 1 through December 31. Daily limit 6 fish of which no more than 2 may be adult fish. Release wild coho.

Tilton River, East, North, South and West Forks (Lewis County): Selective gear rules. Trout: Minimum length twelve inches.

Toad Lake (Whatcom County): Last Saturday in April through October 31 season.

Tokul Creek (King County):

From mouth to the Fish Hatchery Road Bridge: December 1 through last day in February season, closed 5:00 p.m. to 7:00 a.m. daily. Nonbuoyant lure restriction. Trout: Minimum length fourteen inches.

From Fish Hatchery Road Bridge to posted cable boundary marker located approximately four hundred feet downstream of the hatchery intake: January 15 through last day in February season, closed 5:00 p.m. to 7:00 a.m. daily. Nonbuoyant lure restriction. Trout: Minimum length 14 inches.

From the posted cable boundary marker located approximately four hundred feet downstream of the hatchery intake to the railroad trestle: Closed waters.

Tolt River (King County):

From mouth to the USGS trolley cable near the confluence of the North and South Forks: June 1 through last day in February season. June 1 through November 30, selective gear rules. Trout: Minimum length fourteen inches.

From the USGS trolley cable to the falls in Sec. 21, Twp 26N., R 8 E. on the North Fork, and to the dam on the South Fork: Closed waters.

From falls upstream on North Fork: Selective gear rules. All species: Release all fish.

From dam upstream on South Fork: Selective gear rules. Trout: Minimum length ten inches.

Touchet River (Columbia/Walla Walla counties):

Bass: Bass 12 to 17 inches in length may be retained. Up to but not more than 3 greater than 15 inches may be retained as part of the daily limit.

From confluence of north and south forks upstream, including Robinson and Wolf Forks: Selective gear rules. Bass: Statewide rules apply. Trout: Release all steelhead. Tributaries other than North Fork, South Fork, Robinson Fork, and Wolf Fork: Closed waters.

North Fork: Upstream of Spangler Creek June 1 through August 31 season.

South Fork: Upstream from Griffin Creek June 1 through August 31 season.

Wolf Fork: Upstream from Coates Creek June 1 through August 31 season.

From mouth to confluence of north and south forks: Additional season: November 1 through April 15. Barbless hooks required. All species: Release all fish except hatchery steelhead and brown trout. Trout: Daily limit three fish.

Toutle River (Cowlitz County):

From mouth to forks, and North Fork from the mouth to the posted deadline below the fish collection facility: June 1 through November 30 season. Nonbuoyant lure restriction and night closure September 1 through October 15 on North Fork from confluence with South Fork to mouth of Green River. All game fish: Release all fish except up to two hatchery steelhead per day may be retained. Salmon: Open only August 1 through November 30. Daily limit 6 fish of which no more than 2 may be adult salmon. Release chum and wild coho. Release all chinook October 1 through November 30 in North Fork upstream from Kidd Valley Bridge.

From the posted deadline below the fish collection facility upstream to the headwaters, including all tributaries, but excepting Castle and Coldwater Lakes: Closed waters.

Toutle River, South Fork (Cowlitz County), mouth to source: Closed waters: All tributaries. June 1 through November 30 season. All species: Release all fish except hatchery steelhead. Trout: Minimum length twenty inches. Mouth to 4100 Road Bridge: Additional December 1 through March 31 season. Selective gear rules. All species: Release all fish except hatchery steelhead.

Trapper Lake (Chelan County): Trout: Daily limit two.

Trout Creek (tributary to Wind River) (Skamania County): Closed waters.

Trout Lake (Ferry County): Last Saturday in April through October 31 season.

Trout Lake (tributary to Big White Salmon River) (Klickitat County): June 1 through October 31 season.

Tucannon River (Columbia/Walla Walla counties): Closed waters: All tributaries.

From the mouth upstream to Turner Road Bridge: Additional November 1 through April 15 season. Barbless hooks required. All species: Release all fish except hatchery steelhead and whitefish. Trout: Daily limit three hatchery steelhead.

From the Turner Road Bridge upstream to the Tucannon Hatchery Bridge: Selective gear rules June 1 through October 31. Additional season November 1 through April 15. Barbless hooks required. All species: Release all fish except hatchery steelhead and whitefish. Trout: Daily limit three hatchery steelhead.

From the Tucannon Hatchery Bridge upstream to 500 feet above the Rainbow Lake intake: Closed waters.

From 500 feet above the Rainbow Lake intake to the Cow Camp Bridge: Selective gear rules. Release steelhead.

From Cow Camp Bridge upstream: Closed waters.

Tucquala Lake (Kittitas County): June 1 through October 31 season.

Tunnel Lake (Skamania County): Trout: No more than 2 trout 20 inches in length or greater may be retained.

Twin Lake (Jefferson County): Last Saturday in April through October 31 season.

Twin Lakes (Chelan County) and tributaries and outlet stream to junction with the Napeequa River: Closed waters.

Twisp River (Okanogan County), from mouth to War Creek: June 1 through August 15 season. Selective gear rules. All species: Release all fish. War Creek to South Fork Twisp River: Closed waters.

Tye River (King County): Foss River to Alpine Falls June 1 through October 31 season: Selective gear rules. Trout: Minimum length fourteen inches. Whitefish: Additional November 1 through last day in February season. Release all fish other than whitefish. From Alpine falls upstream: Trout: Minimum size ten inches.

U Lake (Mason County): Last Saturday in April through October 31 season.

Umtanum Creek (Kittitas County): Selective gear rules.

Uncle John Creek (Mason County): Closed waters.

Union Creek (Yakima County): From mouth upstream to falls (approximately 1/4 mile): Closed waters.

Union River (Mason County): Mouth to North Shore Road Bridge. All species: Release all fish except sturgeon.

From North Shore Road Bridge to lower bridge on Old Belfair Highway: June 1 through August 15 season. Selective gear rules. All species: Release all fish except sturgeon.

From lower bridge on Old Belfair Highway upstream to watershed boundary: Selective gear rules. All species: Release all fish except sturgeon.

From watershed boundary to source, including all tributaries: Closed waters.

Upper Wheeler Reservoir (Chelan County): Closed waters.

Valley Creek (Clallam County): Juveniles only.

Vance Creek (Mason County): Trout: Minimum length fourteen inches.

Vance Creek/Elma Ponds (Grays Harbor County): Pond One: Last Saturday in April through November 30 season. Juveniles, holders of a senior license and holders of a department disability license only. Salmon: Landlocked salmon rules apply. Pond Two: Last Saturday in April through November 30 season. Salmon: Landlocked salmon rules apply.

Vancouver Lake and all other waters west of Burlington-Northern Railroad from Columbia River drawbridge near Vancouver downstream to Lewis River (Clark County): Closed waters: April 1 through May 30 the Vancouver Lake flushing channel is closed and it is closed to fishing from the

lake shoreline within 400 feet east and west of the channel exit. Chumming permitted. Trout: Daily limit two, minimum length twelve inches. Sturgeon: Seasons, days of the week, daily limits, and size limits same as in adjacent waters of mainstem Columbia River.

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 a floating device equipped with an internal combustion motor allowed. 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 motor permitted. Trout: Release all trout.

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): Night closure year-round.

From mouth to bridge at Salmon Falls: June 1 through March 15 season. Nonbuoyant lure restriction and stationary gear restriction July 1 through October 31. When nonbuoyant lure restriction is in effect, only fish hooked inside the mouth may be retained. Trout: Release all trout except up to 2 hatchery steelhead per day may be retained. Salmon: Open only August 1 through March 15. Daily limit 6 fish of which no more than 2 may be adult salmon. Release chum and wild coho. Upstream of Little Washougal River, release chinook October 1 through November 30.

From mouth to Mt. Norway Bridge: Additional ((~~March~~) 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.

From intake at department hatchery to source: June 1 through March 15 season. Trout: Release all trout except up to 2 hatchery steelhead per day may be retained.

Watson Lake (Columbia County): March 1 through October 31 season. Fishing from any floating device prohibited. Trout: No more than 2 trout over 13 inches in length may be retained.

Waghop 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 an internal combustion motor allowed. Trout except kokanee: Daily limit two, minimum length twelve inches. Release kokanee. Kokanee/sockeye under sixteen inches will be considered kokanee while those sixteen inches and over will be considered sockeye salmon.

Wenatchee River, including Lake Jolanda (Chelan County):

December 1 through March 31 season, from mouth to Highway 2 Bridge at Leavenworth only. Whitefish gear rules apply.

West Evans Pond (Asotin County): Trout: No more than 2 trout over 13 inches in length may be retained.

West Twin River (Clallam County): June 1 through (~~last day in February~~) October 31 season. Trout: Minimum length fourteen inches.

Whatcom Creek (Whatcom County):

From mouth to stone bridge at Whatcom Falls Park: June 1 through last day in February season. Nonbuoyant lure restriction and night closure August 1 through December 31. Closed waters: Woburn Street Bridge upstream to the stone bridge. Trout: Minimum length fourteen inches. Salmon: Open only August 1 through December 31 from mouth to markers below Dupont Street. Daily limit 6 fish of which not more than 2 may be adult salmon.

From stone bridge at Whatcom Falls Park upstream to Lake Whatcom: Last Saturday in April through October 31 season. Juveniles only. Nonbuoyant lure restriction and night closure August 1 through October 31. Trout: No minimum length.

Whatcom, Lake (Whatcom County): Last Saturday in April through October 31 season, except those waters between the Electric Avenue Bridge and the outlet dam are closed waters: Trout: Release cutthroat trout.

Whatcom, Lake, tributaries (Whatcom County): Closed waters.

Wheeler Creek (Klickitat County): Trout: Release all trout.

White River (Chelan County), from mouth upstream to White River Falls: Closed waters.

White (Stuck) River (Pierce County):

From mouth to R Street Bridge in Auburn: October 1 through last day in February season: Nonbuoyant lure restriction and night closure October 1 through November 30. Trout: Minimum length fourteen inches.

From R Street Bridge to Highway 410 Bridge at Buckley: October 1 through October 31 season. Closed waters: Puget Power canal, including the screen bypass channel, above the screen at Dingle Basin. Nonbuoyant lure restriction and night closure. Trout: 14 inch minimum size.

From the Weyerhaeuser 6000 Road Bridge (Bridge Camp) to its source: July 1 through October 31 season. Nonbuoyant lure restriction and night closure October 1 through October 31. Selective gear rules July 1 through October 31. Trout: Minimum length fourteen inches. Whitefish: Additional November 1 through January 31 season. Whitefish gear rules apply.

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. Release wild coho and wild chinook. Salmon: Open July 1 through March 31. Daily limit 6 fish of which no more than 2 may be adult salmon. Release wild coho. October 1 through December 31 release chinook upstream from posted markers upstream of Highway 14 Bridge.

From powerhouse to within four hundred feet of North-western 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. Release wild coho. November 16 through December 31 release chinook. 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. Release wild coho and wild chinook.

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 Highway 6 Bridge: June 1 through March 31 season. All game fish: Release all game fish except that up to two hatchery steelhead may be retained per day. All species: August 16 through November 30 night closure(=) and single point barbless hooks (~~(and stationary gear restriction)~~) required. August 16 through November 30 above the WDFW access at the mouth of Ward/Wilson Creek stationary gear restriction. Fishing from a floating device prohibited November 1 through March 31 from the bridge on Willapa Road to Fork Creek. Highway 6 Bridge to Fork Creek: June 1 through July 15 and October 16 through March 31 season. Night closure, single point barbless hooks, and stationary gear restriction October 16 through November 30. 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 except up to two hatchery steelhead per day may be retained.

South Fork: June 1 through last day in February season. Selective gear rules June 1 through October 31. Nonbuoyant lure restriction and night closure August 16 through November 30. All species: Release all fish except up to two hatchery steelhead may be retained.

Williams Creek (Pacific County): June 1 through last day in February season. Selective gear rules. All species: Release all fish except up to two hatchery steelhead per day may be retained.

Williams Lake (Spokane County): Last Saturday in April through September 30 season.

Williams Lake (Stevens County): December 1 through March 31 season.

Wilson Creek (two branches within Ellensburg city limits) (Kittitas County): Open year-round. Juveniles only. Trout: Daily limit five, no minimum length.

Winchester Wasteway (Grant County): Within Winchester Game Reserve: February 1 through September 30 season.

Wind River (Skamania County):

Mouth to four hundred feet below Shipherd Falls: July 1 through March 15 season, except salmon and steelhead. May 1 through June 30: Nonbuoyant lure restriction and night closure. August 1 through October 31: Nonbuoyant lure restriction. When nonbuoyant lure restriction is in effect, only fish hooked inside the mouth may be retained. Salmon and steelhead: Open March 16 through June 30 daily limit 2 fish, one or both of which may be a salmon or hatchery steelhead. Release all fish except salmon and hatchery steelhead. Release wild coho and wild chinook. 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 wild coho. Release chinook from Burlington-Northern Railroad Bridge upstream.

From four hundred feet below to one hundred feet above Shipherd Falls fish ladder: Closed waters.

From one hundred feet above Shipherd Falls to source, including all tributaries: May 1 through June 30 season. Closed waters: From 400 feet below to 100 feet above the Coffey Dam and from a boundary marker approximately 800 yards downstream from Carson National Fish Hatchery upstream, including all tributaries. Night closure and nonbuoyant lure restriction. When nonbuoyant lure restriction is in effect, only fish hooked inside the mouth may be retained. Salmon and steelhead: Daily limit 2 fish, one or both of



which may be a salmon or hatchery steelhead. Release all fish except salmon and hatchery steelhead. Additional season September 16 through November 30. Selective gear rules. All species: Release all fish.

Winston Creek (tributary to Cowlitz River) (Lewis County): Selective gear rules. Trout: Minimum length ten inches.

Wishkah River (Grays Harbor County), including all forks: Closed waters: ~~((Mainstem)) From ((four hundred feet below outlet of)) dam at Wishkah Rearing Ponds (formerly Mayr Bros.) ((to)) downstream to 400 feet below outlet channel, except open during salmon season to within 200 feet of dam.~~ Trout: Minimum length fourteen inches. Release wild cut-throat. 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 December 31 ~~((from mouth to 200 feet below the weir at the Long Live the Kings/Mayr Brothers facility)).~~ Daily limit 6 fish of which no more than 2 may be adult salmon. Release adult chinook.

From the West Fork to four hundred feet below outlet: June 1 through March 31 season. ~~((Trout: Minimum length fourteen inches.))~~ Selective gear rules. 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 December 31 to 200 feet below the weir at the Long Live the Kings/Mayr Brothers facility. Daily limit 6 fish of which no more than 2 may be adult salmon. Release adult chinook.

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: Additional December 1 through March 31 season. Selective gear rules. Fishing from a floating device prohibited. All species: Release all fish except up to two hatchery steelhead may be retained.

Wynoochee Reservoir (Grays Harbor County): June 1 through October 31 season. Trout: Daily limit two, minimum

length twelve inches. Salmon: Landlocked salmon rules apply.

Yakima River (Yakima County): Release all steelhead in mainstem and tributaries. Channel catfish: No daily limit.

From mouth to 400 feet below Prosser Dam: Chumming permitted. Salmon: Open only September 1 through October 22. Daily limit 6 fish of which not more than 2 may be adult salmon. Nonbuoyant lure restriction and night closure.

From mouth to Highway 223 Bridge: Bass: Bass 12 to 17 inches in length may be retained. No daily limit for bass, but not more than 3 bass greater than 15 inches in length may be retained.

From Highway 223 Bridge to 400 feet below Sunnyside Dam: Salmon: Open only September 1 through October 22. Daily limit 6 fish of which not more than 2 may be adult salmon. Nonbuoyant lure restriction and night closure.

From mouth to thirty-five hundred feet below Roza Dam: Year-round season. Closed waters: From Yakima Avenue-Terrace Heights Bridge upstream 400 feet. March 1 through November 30, closed from thirty-five hundred feet below Roza Dam to Roza Dam. Trout: Minimum length twelve inches and maximum length twenty inches. Release all trout April 1 through May 31. Thirty-five hundred feet below Roza Dam to four hundred feet below Roza Dam: December 1 through last day in February season. Whitefish gear rules apply.

From Roza Dam to four hundred feet below Easton Dam and from Lake Easton to the base of Keechelus Dam: Year-round season. Fishing from floating devices equipped with motors allowed only from the U.S. Bureau of Reclamation restricted area signs at Roza Dam upstream to the boat launch ramp on the Roza Access Area (approximately one-half mile). Selective gear rules except bait and one single point barbed hook three-sixteenths or smaller point to shank may be used December 1 through last day in February. Trout: From Roza Dam to 400 feet below Easton Dam: Release all trout. Lake Easton to the base of Keechelus Dam. Release all trout except eastern brook trout. Eastern brook trout: No daily limit and no minimum size.

Yakima Sportsmen's Park Ponds (Yakima County): Juveniles only.

Yale Reservoir (Cowlitz County): Trout: Kokanee not counted in daily trout limit. Kokanee daily limit sixteen.

Yellowjacket Creek (tributary to Cispus River) (Lewis County): Selective gear rules. Trout: Minimum length twelve inches.

Yellowjacket Ponds (Lewis County): Last Saturday in April through last day in February season. Trout: No more than one over twelve inches in length.

Yokum Lake (Pend Oreille County): Last Saturday in April through October 31 season.

**WSR 06-19-066**  
**WITHDRAWAL OF PROPOSED RULES**  
**DEPARTMENT OF PERSONNEL**

[Filed September 19, 2006, 8:14 a.m.]

The director of the department of personnel hereby withdraws the proposed amendments to WAC 357-31-265 originally filed under WSR 06-16-102 on August 1, 2006.

If you have any questions, please contact Connie Goff at 664-6325.

Eva Santos  
 Director

**WSR 06-19-070**  
**PROPOSED RULES**  
**DEPARTMENT OF TRANSPORTATION**

[Filed September 19, 2006, 9:26 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-15-141.

Title of Rule and Other Identifying Information: WAC 468-510-010 High occupancy vehicles, the WAC section describes the types of motor vehicles authorized to travel on portions of interstate highways, state highways, and associated ramps, reserved as high-occupancy vehicle (HOV) lanes.

Hearing Location(s): Washington State Department of Transportation, Commission Board Room 1D2, 310 Maple Park Avenue S.E., Olympia, WA 98504, on November 2, 2006, at 10:00 a.m.

Date of Intended Adoption: November 2, 2006.

Submit Written Comments to: Michael J. Dornfeld, Washington State Department of Transportation, P.O. Box 47344, Olympia, WA 98504-7344, e-mail dornfem@wsdot.wa.gov, fax (360) 705-7288, by November 2, 2006.

Assistance for Persons with Disabilities: Contact Michael J. Dornfeld by October 30, 2006, TTY (800) 833-6388 or (360) 705-7288.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposal will amend existing rules to incorporate single-occupant fire department vehicles as types of vehicles authorized to travel in HOV lanes on interstate highways, state highways, and associated ramps.

Reasons Supporting Proposal: The Washington State Association of Fire Chiefs requests this rule making to support time-critical nonemergency operations of single occupant fire department vehicles.

Statutory Authority for Adoption: RCW 47.52.025.

Statute Being Implemented: RCW 47.52.025.

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

Name of Proponent: Washington state department of transportation, governmental.

Name of Agency Personnel Responsible for Drafting: Michael J. Dornfeld, Olympia, Washington, (360) 705-7288.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule does not impact small business.

A cost-benefit analysis is not required under RCW 34.05.328. A cost-benefit analysis is exempt under RCW 34.05.328 (5)(b)(iii).

September 15, 2006  
 John F. Conrad  
 Assistant Secretary  
 Engineering and  
 Regional Operations

AMENDATORY SECTION (Amending WSR 03-20-083, filed 9/30/03, effective 10/31/03)

**WAC 468-510-010 High occupancy vehicles (HOVs).**

Pursuant to RCW 46.61.165 and 47.52.025, the department has reserved portions of interstate highways, state highways, and ramps, as HOV lanes for the exclusive use of public transportation vehicles or private motor vehicles with the number of occupants specified on signs. Motor vehicles authorized to use HOV lanes are:

(1) Rubber tired municipal transit vehicles conforming to RCW 46.04.355.

(2) Buses with a carrying capacity of sixteen or more persons, including the operator.

(3) Motorcycles conforming to RCW 46.04.330.

(4) Recreational vehicles with the number of occupants specified on signs.

(5) Official marked law enforcement and fire department vehicles equipped with emergency lights and siren, (~~issued by a state, local or county law enforcement agency and~~) operated by an on-duty state patrol, local, or county law enforcement personnel, or on-duty local, county, or special district fire department personnel.

(6) All other vehicles with the number of occupants specified on signs, except that trucks in excess of 10,000 lb. G.V.W. are prohibited from the use of HOV lanes regardless of the number of occupants. Tow trucks that would be otherwise prohibited because of weight or number of occupants may use HOV lanes when en route to an emergency on a specific roadway or roadside.

**WSR 06-19-076**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed September 19, 2006, 9:34 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-16-098.

Title of Rule and Other Identifying Information: Chapter 296-17 WAC, General reporting rules, classifications, audit and recordkeeping, rates and rating system for workers compensation insurance, WAC 296-17-580, 296-17-58105, 296-17-66901, 296-17-676001, and 296-17-676002.

Hearing Location(s): Department of Labor and Industries, Room S119, 7273 Linderson Way S.W., Tumwater, WA 98501, on November 6, 2006, at 1:00 p.m.

Date of Intended Adoption: November 21, 2006.

Submit Written Comments to: Ronald Moore, Acting Program Manager, Employer Services, P.O. Box 44140, Olympia, WA 98504-4140, e-mail MOOA235@lni.wa.gov, fax (360) 902-4729, by 5 p.m., November 6, 2006.

Assistance for Persons with Disabilities: Contact Office of Information and Assistance by October 31, 2006, TTY (360) 902-5797.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: In April 2006, the department filed a proposal to consolidate five metal goods classifications into one classification with three sub codes. Four existing metal goods classifications would have been repealed.

Following hearings in May, two firms petitioned the department to withdraw the proposal because of the economic effect on their classification. The department agreed to reconsider the proposal.

Since the department had adopted the proposal to take effect January 1, 2007, this rule making is necessary to restore the classifications as they existed January 1, 2006.

Reasons Supporting Proposal: The department agreed to reconsider and restore the five metal goods classifications as they existed during 2006 based on a petition by firms affected by the proposed changes.

Statutory Authority for Adoption: RCW 51.16.035 and 51.16.100.

Statute Being Implemented: RCW 51.16.035 and 51.16.100.

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

Name of Proponent: Department of labor and industries, governmental.

Name of Agency Personnel Responsible for Drafting: Bill Moomau, Tumwater, Washington, (360) 902-4774; Implementation: Ronald Moore, Tumwater, Washington, (360) 902-4748; and Enforcement: Robert Malooly, Tumwater, Washington, (360) 902-4209.

No small business economic impact statement has been prepared under chapter 19.85 RCW. In this rule making, the agency is exempt from preparing a small business economic impact statement since the proposed rules set or adjust fees or rates pursuant to legislative standards. This exemption is described in RCW 34.05.410 (4)(f).

A cost-benefit analysis is not required under RCW 34.05.328. In this rule making, the agency is exempt from conducting a cost-benefit analysis since the proposed rules set or adjust fees or rates pursuant to legislative standards described in RCW 34.05.328 (5)(b)(vi).

September 19, 2006

Gary Weeks  
Director

AMENDATORY SECTION (Amending WSR 06-12-075, filed 6/6/06, effective 1/1/07)

**WAC 296-17-580 Classification 3402.**

~~**(3402-84 Metal goods manufacturing, N.O.C.**~~

~~This classification applies to all establishments engaged in the manufacture of metal products not covered by another classification (N.O.C.), the manufacturing of metal products by die casting, and battery manufacturing. Types of metals used include, but are not limited to, aluminum, stainless, iron, steel, copper and brass. Metal materials used vary in size, shape and dimension. Some of the more common types are sheet, flat bar, plate, angle, solid, channel, I-beams, and hollow stock. Typical types of machinery used would include, but not be limited to, drills, mills, lathes, saws, welders, brake presses, iron workers, boring mills, paint booths, sandblasting booths, hoists, shears, grinders, baking ovens and some computer numeric controlled machinery. This classification includes the repair of items being manufactured when done by employees of the employer having operations subject to this classification when the repair is done as part of, and in connection with, manufacturing operations.~~

~~This classification excludes repairs to buildings and structures which are to be reported separately in the appropriate construction classification, firms which machine or manufacture metal products primarily with computer numeric controlled machinery which are to be reported in 3405, and the installation of machinery which is to be reported in the applicable risk classification.~~

~~**3402-89 Metal products assembly, N.O.C.**~~

~~This classification applies to establishments engaged in the assembly of machinery, or metal products or equipment that are not engaged in the manufacture or fabrication of the composite parts. Establishments assigned to this classification will purchase all of the parts used in the assembly of goods from other nonrelated businesses. This classification includes the repair of the product that they are assembling provided the repair activities are limited to replacement of parts purchased from others and does not involve the manufacture, fabrication or machining of parts.~~

~~**3402-90 Machine shop services, N.O.C.**~~

~~This classification applies to establishments that are involved in activities such as but not limited to, welding services, multimedia blasting in shop, small engine repair, saw and knife sharpening, heat treating and gear grinding. This classification also includes "mobile shops" which are used exclusively to repair machinery or equipment. A "mobile shop" in this classification usually means a van or pickup pulling a utility trailer equipped with hand tools, air tools, a compressor, and a portable welding unit. The machinery or equipment is usually repaired at the customer's location; however, sometimes the broken part is removed and taken back to the shop for repair. If a firm is involved in any fabrication or manufacturing operations then the applicable manufacturing classification shall be assigned.~~

~~This classification excludes repairs to buildings and structures which are to be reported separately in the appropriate construction classification, mechanical repairs of industrial machinery and construction equipment which are to be~~

reported separately in 6409, and mechanical repairs to passenger vehicles which are to be reported separately in 3411.)

**3402-00 Air compressor: Manufacturing or assembly**

Applies to establishments engaged in the manufacture or assembly of air compressors. This includes air or gas compressors used for paint sprayers, air tools, tire inflation, and general industrial purposes. Operations contemplated include, but are not limited to, welding, machining, general mechanical and electrical work. Machinery and equipment includes, but is not limited to, hand and air tools, welders, punches, shears, and compression equipment. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant.

**3402-01 Printing or bookbinding machinery: Manufacturing or assembly**

Applies to establishments engaged in the manufacture or assembly of printing or bookbinding machinery. The outside casings of the machines may be made of plate metal that varies between 1" to 2 1/2" in thickness. The machines used to make the presses and binding machinery may include both Computer Numeric Controlled (CNC) and manual mills and lathes. Other machinery used in the manufacturing process includes, but is not limited to, welders or cutters, grinders, and drill presses. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant; and the set up, installation and repair of printing or bookbinding machinery which is to be reported separately in classification 0603.

**3402-02 Pump, safe, scale, auto jack, and water meter: Manufacturing or assembly**

Applies to establishments engaged in the manufacture or assembly of pumps, safes, scales, auto jacks, and water meters. Materials range from brass screws and rubber washers used to rebuild water meters to plate metal and steel castings used for safe and pump manufacturing. Machinery includes, but is not limited to, hand tools used for repairs, lathes, welders, and pressure testers. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when

operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant; the installation and repair of safes which is to be reported separately in classification 0607; and the installation of pumps which is to be reported separately in the applicable classification.

**3402-03 Shoe or textile machinery: Manufacturing or assembly**

Applies to establishments engaged in the manufacture or assembly of shoe machinery or textile machinery. Metal materials used vary in size, shape and dimension. Machinery includes, but is not limited to, drills, mills, lathes, saws, and welders. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant and the installation and repair of shoe or textile machinery which is to be reported separately in classification 0603.

**3402-04 Confectioners or food processing machinery: Manufacturing or assembly**

Applies to establishments engaged in the manufacture or assembly of food processing or confectioners machinery. Metal materials used vary in size, shape and weight. These establishments often have an assembly line operation and a separate electronic assembly area. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant and the installation and repair of confectioners and food processing machinery which is to be reported separately in classification 0603.

**3402-05 Machine shops, N.O.C.**

Applies to establishments engaged in general machine shop operations not covered by another classification (N.O.C.), tool sharpening, and mobile welding shops. Many of the establishments in this classification are "job shops." Size and shape of materials vary with steel and aluminum being the most common. Plastics, light weight aluminum, and alloyed metals are becoming increasingly popular in the manufacture of equipment for some industries. These establishments often have welding shops along with machine shops. Machinery and equipment includes, but is not limited to, mills, lathes, grinders, saws, welding equipment, inspection equipment, and material handling equipment. Machinery is both manual and Computer Numeric Controlled (CNC). This classification also includes "mobile shops"

which are used *exclusively* to repair machinery or equipment. A "mobile shop" in this classification usually means a van or pick up pulling a utility trailer equipped with hand tools, specialty tools, air tools, a compressor, and a portable welding unit. The machinery or equipment is usually repaired at the customer's location, however, sometimes the broken part is removed and taken back to the shop for repair.

This classification excludes repairs to buildings and structures which are to be reported separately in the appropriate construction classification, and mechanical repairs which are to be reported separately in the classification applicable to the work being performed.

**Special note:** The term "job shop" is an industry term that means the shop will produce products to customer specifications.

#### **3402-06 Power saw, lawn and garden equipment, small motor, N.O.C.: Repair**

Applies to establishments engaged in repairing small power tools, small motors powered by gas or diesel, outboard marine engines, and lawn and garden equipment not covered by another classification (N.O.C.). The largest piece of equipment repaired in this classification is generally a riding lawn mower. Classification 3402-06 is assigned in conjunction with a store classification for establishments that have a store operation and also repair the type of items they sell. Classification 3402-06 may also be assigned to a manufacturer representative who performs warranty repairs. Tools used in this type of repair are mainly hand and air tools. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant and the repair of electrical motors which is to be reported separately in classification 5201.

#### **3402-07 Gear: Manufacturing or grinding**

Applies to establishments engaged in the manufacture or grinding of gears. Establishments in this classification may also cut key slots and broaches. Establishments that cut stock to manufacture the gear are often not the same ones that perform the final grinding process. Gears may go through two, three, or four different grinding, slotting, and/or keying establishments and then go to another establishment for electroplating or galvanizing before they are ready for sale or use. Precision machine shops may grind gears to the ten thousandths of an inch. Materials used are usually stainless steel, aluminum, or plastic. Machinery includes, but is not limited to, gear shapers, drill presses, mill, hobbers, grinders, some of which might be Computer Numeric Controlled (CNC). This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant.

#### **3402-08 Elevator: Manufacturing**

Applies to establishments engaged in the manufacture of elevators and associated electronic components. Machinery includes, but is not limited to, mills, drills, lathes, saws, and grinders. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant and the installation, service, and repair of elevators which is to be reported separately in classification 0602.

#### **3402-11 Metal goods: Manufacturing and shop services (temporary classification)**

Applies temporarily to all establishments assigned any classification within WAC 296-17-580. When the metal goods study is complete, the establishments within this classification will be assigned to the appropriate classifications. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation.

This classification excludes all activities away from the shop or plant.

#### **3402-12 Multimedia blasting**

Applies to establishments engaged in multimedia (such as, but not limited to, glass, plastic and sand) blasting operations which strip paint or other coatings from metal or fiberglass. Most of the blasting operations in this classification are done on automobiles, but it also applies to establishments that perform blasting on items such as, but not limited to, barbecue grills, and cast iron pieces. Multimedia blasting processes in this classification are performed in a shop, use less air pressure and media with softer finishes than other blasting operations. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant and sandblasting of buildings or structures which is to be reported separately in classification 0504.

#### **3402-14 Furnace, heater, radiator, wood, propane, or pellet stoves: Manufacturing**

Applies to establishments engaged in the manufacture of furnaces, radiators, wood, propane, or pellet burning stoves or similar heating fixtures. Materials include, but are not limited to, metal cast parts, sheet metal, plate metal, aluminum, or stainless steel. Machinery includes, but is not limited to, hand tools, solder guns, punches, lathes, and saws. Establishments in this classification may have separate areas for electronic assembly and/or painting. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation.

This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant; establishments engaged in the manufacture of radiators for automobiles or trucks which are to be reported separately in classification 3402-48; and establishments engaged in the manufacture of baseboard heaters which are to be reported separately in classification 3404.

### **3402-16 Die casting**

Applies to establishments engaged in the manufacture of products by die casting. Die casting is a manufacturing process for producing accurately-dimensioned, sharply-defined metal products which are referred to as "die castings." "Dies" are the steel molds used to mass produce the product. The process begins when ingots of various metal alloys are melted in die casting machines. The machine forces the metal into the die under hydraulic or pneumatic pressure. The casting quickly solidifies in the die, and is automatically ejected by the machine, and the cycle starts again. The castings are cleaned by grinding or sanding, which also removes any excess metal "flash." Many die casting manufacturers maintain their own machine shop for making the dies. Die making, when done as a part of die casting operations, is included within the scope of this classification. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant; and establishments engaged in making dies for others which are to be reported separately in classification 3402-74.

### **3402-26 Saw blade: Manufacturing, assembly, or sharpening**

Applies to establishments engaged in the manufacture, assembly, or sharpening of saw blades such as, but not limited to, those used in circular saws, band saws, ripsaws, key-hole saws, and handsaws such as hacksaws or meat saws. This classification also includes sharpening services for items such as, but not limited to, tools, scissors, and knives. Materials include, but are not limited to, high tensile steel and carbide tipped blades. Machinery includes, but is not limited to, saws, mills, drills, and hand tools. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant; establishments engaged in the repair or sharpening of chain saws which are to be reported separately in

classification 3402-06; and establishments engaged in the manufacture or repair of electrical saws which are to be reported separately in classification 5201.

### **3402-28 Heat treating metal**

Applies to establishments engaged in heat treating metal. The heat treating process may use computer numeric controlled ovens or furnaces. The oven may heat up to 1200 degrees Fahrenheit and a furnace may heat up to 2000 degrees Fahrenheit. The metal(s) is placed on a platform; the platform is hydraulically moved into the first chamber and the door is automatically closed. At this time, the oxygen is burned from the chamber. Then the second chamber door is opened and the metal enters the oven/furnace. Depending upon the specifications, the heat treating process usually takes six to sixteen hours. When the metal is finished in the heating chamber it returns automatically to the first chamber. Then the platform lowers and the metals are dipped into a cooling agent. Once the metals are cooled to room temperature the platform rises, the door opens, and the materials are removed. The process is essentially the same using noncomputer numeric controlled heat treating equipment except that, rather than being hydraulically operated, the machine operators move the metals through the system. Many establishments do not produce a product, but heat treat a variety of products to customer specifications. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant.

### **3402-29 Nut, bolt, screw, nail, tack, rivet, eyelet spike, needle, N.O.C.: Manufacturing**

#### **Sprinkler head, speedometer, carburetor: Manufacturing or assembly**

Applies to establishments engaged in the manufacture of nuts, bolts, screws, nails, tacks, rivets, eyelets, spikes, and needles not covered by another classification (N.O.C.). This classification also applies to establishments engaged in the manufacture or assembly of sprinkler heads, speedometers, or carburetors. Materials include, but are not limited to, steel or iron rods which may be pressed or formed, and small component parts. Machinery includes, but is not limited to, saws, shears, presses, chucks, threading and tapping machines, some of which may be Computer Numeric Controlled (CNC). Establishments may have separate areas for deburring, inspecting, packing and shipping. The carburetor rebuilding may be performed on vehicles that are driven or towed into the shop, or on carburetors that have been already removed from the vehicles. In either case the repairs are made exclusively with hand and air tools and sometimes a diagnostic scope and a drill press. A speedometer is usually embodied with a mileage recording mechanism. The central feature of the device is a permanent magnet. There are gears, spindles, and a drive shaft present in most speedometers. There is also a unit counting disc and a spiral spring calibrator. Hand tools are used almost exclusively in the repair of this kind of speedometer. Today many speedometers are computer controlled. Basically, if this kind of speedometer is in need of repair, a computer chip(s) is replaced, using hand

tools. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant and establishments engaged in the manufacture of hardware that is not covered under another classification, such as handles, latches, and hinges which are to be reported separately in classification 3404, and the repair of speedometers or carburetors in a vehicle which is to be reported separately in the appropriate vehicle repair classification.

### **3402-32 Abrasive wheel: Manufacturing**

Applies to establishments engaged in the manufacture of abrasive wheels. Manufacturing operations often include a laboratory where carbon and other materials are mixed together to form the abrasive edge of the mainly high tensile steel wheels. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant.

### **3402-40 Welding or cutting, N.O.C. (mobile operations limited to repair of equipment and machinery)**

Applies to establishments engaged in welding or cutting operations not covered by another classification (N.O.C.) either in the shop or at the customer's site. Steel is the predominant material along with some aluminum alloys. Machinery is predominantly welding equipment, but may include tools such as, but not limited to, grinders, saws, drills, and material handling equipment. This classification also includes "mobile shops" which are used *exclusively* to repair machinery or equipment. A "mobile shop" in this classification usually means a van or pick up pulling a utility trailer equipped with hand tools, specialty tools, air tools, a compressor, and a portable welding unit. The machinery or equipment is usually repaired at the customer's location, sometimes with the use of the customer's equipment; however, broken parts may be removed and taken back to the shop for repair.

This classification excludes repairs to buildings or structures which are to be reported separately in the appropriate construction classification and mechanical repairs which are to be reported separately in the classification applicable to the work being performed.

### **3402-48 Automobile or truck, radiator and heater core: Manufacturing and repair shops**

Applies to establishments engaged in the manufacture and/or repair of automobile or truck radiator and heater cores. Manufacturers in this classification may have a die casting area and a separate electronic assembly area. Tools and

equipment include, but are not limited to, hand tools, solder guns, and punches. Shops that repair radiators may work on the radiators in the vehicles, but usually the radiators have been removed from the vehicle. The radiator is examined and the core may be removed. Next the radiator is cleaned, air pressurized, and dipped in a water tank to check it for leaks. Once the leaks are found they can generally be repaired by welding the holes shut. The radiator is dipped again to ensure the repair has been made properly. Cleaning the radiator may be done by sandblasting, ultra sound baths or by "rodding" the radiator to remove corrosion. Repair equipment includes, but is not limited to, welders, air and hand tools, dipping tanks, hoists, and forklifts. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant.

### **3402-60 Office machinery, N.O.C.: Manufacturing or assembly; Cash register or sewing machines: Manufacturing or assembly**

Applies to establishments engaged in the manufacture or assembly of cash registers, sewing machines and office machinery not covered by another classification (N.O.C.) such as, but not limited to, copiers, collators, mail/postage machines, calculators and automatic letter openers. Component parts may be metal, plastic, or wood. Operations include, but are not limited to, cutting, shaping, forming, drilling, riveting, clamping, and bolting; there may be a separate electronic assembly area. Machinery and tools vary within this classification; some establishments use hand and air tools only, others use additional equipment such as, but not limited to, saws, lathes, mills, drills, or water jets, some of which may be Computer Numeric Controlled (CNC). This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant.

### **3402-61 Small arms: Manufacturing, assembly, or rebuild**

Applies to establishments engaged in the manufacture, assembly, or rebuild of small arms. For the purpose of this classification, small arms means .50 caliber or less, such as pistols, rifles, shotguns, and light machine guns. Operations include, but are not limited to, metal stamping of casings, machining, assembling, and a high proportion of inspecting. This classification includes the repair of items being manufactured or assembled when done by employees of an

employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant; establishments engaged in the manufacture of ammunition which is to be reported separately in classification 4601; the manufacture or repair of heavy arms which is to be reported separately in classification 5109; and gun stores which are to be reported separately in classification 6309.

**3402-74 Tool: Manufacturing, not hot forming or stamping; Die: Manufacturing - ferrous**

Applies to establishments engaged in tool manufacturing or die manufacturing, for others, from ferrous materials. Tools manufactured in this classification are usually cutting tools used in lathes, mills, rotors, and saws. Machinery includes, but is not limited to, sharpeners, grinders, lathes and mills, which are both manual or Computer Numeric Controlled (CNC). The die manufacturing included in this classification includes those made exclusively of ferrous materials including, but not limited to, jigs, fixtures, and dies for metal work in general. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant and establishments engaged in the manufacture of machine-finished tools which are to be reported separately in classification 3402-83.

**3402-77 Auto, truck, semi-trailer and bus body: Manufacturing;**

**Travel trailer body: Manufacturing or repair**

Applies to establishments engaged in the manufacture of auto, truck, and bus bodies, and in the manufacture or repair of travel trailer bodies or cargo containers. Repairs are usually made with the use of welders or cutting torches and air or hand tools. These establishments will also repair or replace hydraulic units. Material used in the manufacture of goods in this classification is usually steel and aluminum, varying in thickness from 16 gauge to plate metal up to one inch thick. Shapes include, but are not limited to, sheet metal, tubes, solid rod or I-beams. Equipment includes, but is not limited to, shears, breaks, hydraulic presses, iron workers, drill presses, grinders, welders, hoist, cranes, and forklifts. Shops may have a finish sanding area as well as a paint area where the vehicle bodies are sprayed with primer, a body bonding material, or a finish coat of paint. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work

being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant.

**3402-83 Tool: Manufacturing and machine finishing**

Applies to establishments engaged in manufacturing and machine finishing tools. Tools manufactured in this classification are usually hand held instruments such as, but not limited to, wrenches, screw drivers, hammers, torque wrenches, pliers, and sockets. Machinery includes, but is not limited to, air and hand tools, polishers, grinders, inspection equipment, mills, lathes, shapers, and drill presses, some of which may be Computer Numeric Control (CNC). Establishments may have a galvanizing and/or electroplating area for the finish work which is included when performed by employees of employers subject to this classification. Other establishments in this classification send the finish work out. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant; establishments engaged in the manufacture of tools from ferrous materials which are to be reported separately in classification 3402-74; and establishments engaged in tool forging which are to be reported separately in classification 5106.

**3402-85 Auto or truck parts: Machining or rebuild not in vehicle**

Applies to establishments engaged in machining or rebuilding auto or truck parts such as, but not limited to, water pumps, fuel pumps, transmissions, heads, brake drums, ball joints, and rear ends, which are not in the vehicle. Work contemplated in this classification may also include manufacturing sockets, pulleys, shafts, fittings, flywheels, and/or bearings. Machinery includes, but is not limited to, mills, lathes, grinders, sanders, presses, welders, and balancing equipment. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant and establishments engaged in manufacturing or rebuilding auto, truck, or aircraft engines which are to be reported separately in classification 3402-86.

**3402-86 Auto, truck or aircraft engine, N.O.C.: Manufacturing or rebuilding**

Applies to establishments engaged in manufacturing or rebuilding auto, truck, or aircraft engines not covered by another classification (N.O.C.), including manufacturing the component parts. Establishments in this classification often specialize in the type of engines they make or rebuild. The basic difference between automobile, truck, and aircraft engines is the size and weight of the parts being worked on. Engine rebuild shops use many specialized machines and air



tools to tear the core down to an engine block; then rebuild the engine. After the engine is stripped down to the engine block, it is placed in a machine called a baker which heats to approximately 600 degrees and bakes away the grease. After baking, the engine block is placed in a sand blaster where the surface is cleaned with very fine steel shot. The engine block is then placed in a large pressure washer which removes the steel shot. Next, the crank and cam shafts are ground and turned on machinery similar to lathes. There is usually a separate room or area which is called the "head shop" where the heads and valves are machined on valve grinders, valve facers, and head grinders. Engine rebuild shops that do not have the equipment to grind the crank and cam shafts will contract work out to other shops, or buy new crank shafts and cam shafts. Other machinery includes, but is not limited to, boring bars and hones to polish cylinder walls, small pressure washers for oil pans and other smaller parts, solvent tanks, and hoists or forklifts for lifting the engines or engine parts. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant and establishments engaged in machining or rebuilding auto or truck parts, other than engines, which are to be reported separately in classification 3402-85.

#### **3402-91 Bed spring or wire mattress: Manufacturing**

Applies to establishments engaged in the manufacture of bed springs or wire mattresses. The wire stock is coiled and cut to length on a coiling machine, then tempered in an oven to produce the spring. The coils are fastened to the frame either by hand or by machine. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant and establishments engaged in the manufacture of stuffed mattresses which are to be reported separately in classification 3708.

#### **3402-93 Valve: Manufacturing**

Applies to establishments engaged in the manufacture of valves. Valves regulate the flow of air, gases, liquids, or loose material through structures by opening, closing, or obstructing passageways. They are operated manually, electrically, with compressed air, or hydraulic pressure. Valves are usually cut from aluminum, steel, or stainless steel either by a Computer Numeric Controlled machine (CNC) or water jet machine. Depending upon the complexity of the valve, they are assembled in one or several stages. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having

operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant and establishments engaged in the manufacture of valves made in a die mold which are to be reported separately in classification 3402-74.

#### **3402-94 Precision machined parts, N.O.C.: Manufacturing**

Applies to establishments engaged in manufacturing precision machined parts not covered by another classification (N.O.C.). Most of these establishments are "job shops." Job shops make component parts for other businesses according to customer specifications, rather than manufacturing a specific product. Many establishments in this classification manufacture precision parts for the aerospace industry. Machining usually begins with solid blocks of material such as, but not limited to, steel, aluminum, titanium, inconel, or plastic, although some hollow tube, flat bar, and angle stock may also be used. The "rough cuts" are often made on manual machines, and the finish cuts on Computer Numeric Controlled (CNC) machines. Depending on the establishment and the job specifications, a specific part may be sent to one or more additional shops to be tempered, milled, or inspected before the original establishment is through with the manufacturing process. Some parts are so sensitive that climate controlled conditions are necessary. Both manual and CNC mills and lathes are the most common types of machines used. Others include, but are not limited to, saws, drills, and grinding machines. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant.

#### **3402-95 Storage battery: Manufacturing, assembly or repair**

Applies to establishments engaged in the manufacture, assembly, or repair of storage batteries. Lead ingots, weighing 20-25 pounds, are melted and poured into a mold or casting machine. After the grids are cooled lead oxide is then pumped onto each side of a grid and cured by baking in an oven of about 300 - 400 degrees F. The plates are then assembled by placing a negative separator (zinc) between a positive separator (copper), and so forth until there are enough of these cells to form the battery. Next, they are sent to a burning machine that cures the paste and plates. After the burning process, the plates are placed into a plastic or hard rubber box-like container and cured for two or three days. The plates are welded together and the top is attached to the body of the battery case with an epoxy glue. Diluted sulfuric acid is added to the battery and then it is put on a

charger. The battery is then cleaned and packed for shipping. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant; establishments engaged in the manufacture of dry cell (flashlight type) batteries which are to be reported separately in classification 3602; and establishments engaged in battery sales and installation which are to be reported separately in the applicable automotive services classification.

#### **3402-96 Automobile or motorcycle: Manufacturing or assembly**

Applies to establishments engaged in the manufacture or assembly of automobiles or motorcycles. Most of the manufacturing operations, such as cutting, milling, and turning, are performed with Computer Numerically Controlled (CNC) machinery. Most of the assembly operations are performed with air and hand tools. Other machinery includes but is not limited to saws, grinders, and drill presses. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant and establishments engaged only in the manufacture of auto bodies which are to be reported separately in classification 3402-77.

#### **3402-98 Machinery, N.O.C.: Manufacturing or assembly**

Applies to establishments engaged in the manufacture or assembly of machinery not covered by another classification (N.O.C.). For purposes of this classification, machinery means any combination of mechanical parts constructed primarily with metal. Finished products vary widely and range from hand held machines to those weighing thousands of pounds; products include, but are not limited to, grinding machines, boring machines, conveyer systems, and wood chippers. Machinery used to manufacture these items includes, but is not limited to, lathes, mills, press, breaks, shears, and welders, some of which may be Computer Numerically Controlled (CNC). This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant.

#### **3402-99 Photo processing machinery: Manufacturing or assembly**

Applies to establishments engaged in the manufacture or assembly of photo processing machinery such as, but not limited to, photo processors or film enlargers. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant.

#### **NEW SECTION**

#### **WAC 296-17-58105 Classification 3404.**

#### **3404-01 Can: Manufacturing - aluminum or galvanized**

Applies to establishments engaged in the manufacture of cans from aluminum or galvanized metals lighter than 9 gauge. Products include, but are not limited to, soda cans, food cans, and garbage cans. The galvanizing process includes dipping the tin/metal into liquid zinc. The manufacturing process involves cutting, forming, stamping, and soldering/welding. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification and when the repair work is done as a part of, and in connection with, the manufacturing or assembly operations. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant.

#### **3404-02 Galvanized iron works: Manufacturing - non-structural**

Applies to establishments engaged in the manufacture of nonstructural galvanized iron from sheet metal lighter than 9 gauge. Processes include cutting, forming, welding, riveting, punching, and drilling. The equipment used includes, but is not limited to, drills, presses, punches, shears, and press breaks. Establishments in this classification may paint, powder coat, or silk screen their products; which is included when performed by employees of employers subject to this classification. This classification includes the repair of items being manufactured or assembled when done by employees of employers subject to this classification and when the repair work is done as a part of, and in connection with, the manufacturing or assembly operations. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant.

#### **3404-03 Hardware, N.O.C.: Manufacturing**

Applies to establishments engaged in the manufacture of hardware that is not covered by another classification

(N.O.C.), such as, but not limited to, handles, latches, hinges, and buckles. Operations include, but are not limited to, stamping and assembly, electroplating and/or other types of finishing. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification and when the repair work is done as a part of, and in connection with, the manufacturing or assembly operations. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant and establishments engaged in the manufacture of nuts, bolts, screws, nails, tacks, rivets, eyelets, spikes, and needles which are to be reported separately in classification 3402.

#### **3404-04 Metal stamping**

Applies to establishments engaged in the mass production of products by metal stamping techniques which impress, cut out, or shape something to a desired size. Products produced by this technique include, but are not limited to, license plates, pie plates, pots, and waste baskets. This classification includes any finish work when performed by employees of employers subject to this classification. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification and when the repair work is done as a part of, and in connection with, the manufacturing or assembly operations. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant.

#### **3404-06 Metal sign: Manufacturing**

Applies to establishments engaged in the manufacture of signs from metals lighter than 9 gauge. Materials may be cut, punched, drilled, riveted, and welded. Machinery includes, but is not limited to, punches, presses, drills, shears, brake presses, water jets and welders. All operations necessary to make a sign operative, such as, but not limited to, adding electrical wiring or circuitry, painting, powder coating, or silk screening are included within the scope of this classification. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification and when the repair work is done as a part of, and in connection with, the manufacturing or assembly operations. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant; the installation or removal of signs outside of buildings which is to be reported separately in classification 0403; the installation or removal of signs inside of buildings which is to be reported separately in classification 0513; sign painting or lettering on the inside of buildings, or establishments that paint on or apply lettering to sign "backings" that are manufactured by others, which is to be reported separately

in classification 4109; and establishments engaged in the manufacture of wood or plastic signs which are to be reported separately in the classification applicable to the manufacturing process and materials.

#### **3404-07 Metal goods, N.O.C.: Manufacturing or assembly from materials lighter than 9 gauge**

Applies to establishments engaged in the manufacture or assembly of metal goods from materials lighter than 9 gauge which are not covered by another classification (N.O.C.) including water heaters, electric baseboard heaters, electric furnaces and bicycles. Materials may be cut, punched, drilled, riveted, and welded. Machinery includes, but is not limited to, punches, presses, drills, shears, brake presses, and welders. This classification includes the repair of items being manufactured or assembled when done by employees of an employer subject to this classification and when the repair work is done as a part of, and in connection with, the manufacturing or assembly operations. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant.

#### **3404-12 Aluminum ware: Manufacturing from sheet aluminum**

Applies to establishments engaged in the manufacture of aluminum ware such as, but not limited to, mail boxes, buckets, gutters, and down spouts, from sheet aluminum. Materials may be cut, bent, punched, drilled, riveted, and welded. Machinery includes, but is not limited to, punches, presses, drills, shears, brake presses, and welders. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification and when the repair work is done as a part of, and in connection with, the manufacturing or assembly operations. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant.

#### **3404-18 Metal coffin/casket: Manufacturing or assembly**

Applies to establishments engaged in the manufacture of coffins or caskets out of metal. Materials may be cut, bent, punched, drilled, riveted, and welded. Machinery includes, but is not limited to, punches, presses, drills, shears, break presses, and welders. This classification includes the repair of items being manufactured or assembled when done by employees of an employer subject to this classification and when the repair work is done as a part of, and in connection with, the manufacturing or assembly operations. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification. Physically separated upholstery departments of establishments engaged in furniture, coffin, casket manufacturing, assembly, or finishing may be reported separately in classification 3808 provided all the conditions in the general reporting rule covering the division of an employees hours have been met.

This classification excludes all activities away from the shop or plant, and establishments engaged in the manufacture of caskets from wood or plastic which are to be reported separately in the classification applicable to the manufacturing process and materials.

**3404-19 Metal awnings: Manufacturing or assembly**

Applies to establishments engaged in the manufacture or assembly of awnings from metals lighter than 9 gauge. Materials may be cut, punched, drilled, riveted, and bent. Machinery includes, but is not limited to, punches, presses, drills, shears, brake presses, and welders. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification and when the repair work is done as a part of, and in connection with, the manufacturing or assembly operations. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant, and establishments engaged in the manufacture of awnings from canvas or other textiles which is to be reported separately in classification 3802.

**3404-20 Metal furniture, shower door, showcases: Manufacturing or assembly**

Applies to establishments engaged in the manufacture or assembly of furniture, shower doors, or showcases made with metals lighter than 9 gauge. Other items manufactured in this classification include, but are not limited to, file cabinets, desks, and stands. Material may be cut, punched, drilled, riveted, and bent. Machinery includes, but is not limited to, punches, presses, drills, shears, brake presses, and welders. This classification includes the repair of items being manufactured or assembled when done by employees of an employer subject to this classification and when the repair work is done as a part of, and in connection with, the manufacturing or assembly operations. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification. Physically separated upholstery departments of establishments engaged in furniture, coffin, casket manufacturing, assembly, or finishing may be reported separately in classification 3808, provided all the conditions of the general reporting rule covering the division of an employee's hours have been met.

This classification excludes all activities away from the shop or plant and establishments engaged in the manufacture of wood furniture which are to be reported separately in classification 2905.

**3404-21 Stove: Manufacturing from metals lighter than 9 gauge**

Applies to establishments engaged in the manufacture of stoves from metals *lighter than 9 gauge*. Types of stoves include, but are not limited to, electric or gas cook stoves. Accessory materials such as, but not limited to, electrical assembly units, glass, plastic, or wood may be used in the manufacture of stoves. Materials may be cut, punched, drilled, riveted, and bent. Establishments in this classification may paint or powder coat their products which is

included when performed by employees of employers subject to this classification. Machinery includes, but is not limited to, punches, presses, drills, shears, brake presses, grinders and welders. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification and when the repair work is done as a part of, and in connection with, the manufacturing or assembly operations. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant, and establishments engaged in the manufacture of wood stoves or other stoves made of metals 9 gauge or heavier which are to be reported separately in classification 3402.

**3404-24 Metal electric or gas lighting fixtures, lampshades or lantern: Manufacturing or assembly**

Applies to establishments engaged in the manufacture or assembly of metal fixtures, lampshades, or lanterns from materials lighter than 9 gauge. The metal fixtures may be equipped with electrical or gas lighting and used as signs or other display mediums. Metal may be cut, punched, drilled, riveted, and bent. Depending on the item being made, electrical or gas-filled tubes or bulbs may be attached. Machinery includes, but is not limited to, punches, presses, drills, shears, break presses, grinders, welders, and solders. Establishments in this classification may make a finished product or only component pieces. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification and when the repair work is done as a part of, and in connection with, the manufacturing or assembly operations. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes establishments engaged in the manufacture of neon tube signs or displays that are not attached to metal backings which are to be reported separately in classification 3602, and all activities away from the shop or plant.

**3404-25 Brass or copper goods: Manufacturing**

Applies to establishments engaged in the manufacture of brass or copper goods such as, but not limited to, belt buckles, lamp stands, cooking utensils, and flower pots. Materials may be cut, punched, drilled, riveted, and bent. Machinery includes, but is not limited to, punches, presses, drills, shears, break presses, water jets, grinders, welders/solders and brazing guns. Establishments in this classification may make a finished product or a component part. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification and when the repair work is done as a part of, and in connection with, the manufacturing or assembly operations. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant.

**3404-26 Aluminum window, sash or door: Manufacturing or assembly**

Applies to establishments engaged in the manufacture or assembly of windows, sashes or doors from aluminum. Accessory materials such as, but not limited to, glass, wood or plastic may also be used in the assembly process. Materials may be cut, punched, drilled, riveted, and bent. Machinery includes, but is not limited to, punches, presses, drills, shears, break presses, grinders, and welders/solders. Establishments in this classification may make a finished product or only component parts. Manufacturers may paint, enamel, or bake a finish onto products, which is included when performed by employees of employers subject to this classification. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification and when the repair work is done as a part of, and in connection with, the manufacturing or assembly operations. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant; establishments engaged in manufacturing vinyl window sashes which are to be reported separately in classification 3512; and establishments engaged in manufacturing wooden window sashes and doors which are to be reported separately in classification 2903.

**3404-27 Auto or truck parts, N.O.C.: Manufacturing or assembly; miscellaneous stamped parts**

Applies to establishments engaged in the manufacture or assembly of auto or truck parts not covered by another classification (N.O.C.), and of miscellaneous stamped parts, such as, but not limited to, hub caps, fenders, and trim. Galvanizing or electroplating is included in this classification when performed by employees of employers subject to this classification. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification and when the repair work is done as a part of, and in connection with, the manufacturing or assembly operations. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant.

**3404-29 Metal ski and toboggan: Manufacturing**

Applies to establishments engaged in the manufacture of skies or toboggans primarily from metal although wood or plastic component parts may also be used. Materials may be cut, punched, drilled, riveted, and bent. Machinery includes, but is not limited to, punches, presses, drills, water jets, shears, break presses, grinders, and welders/solders. Establishments in this classification may make a finished product or only a component part. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification and when the repair work is done as a part

of, and in connection with, the manufacturing or assembly operations. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant.

NEW SECTION

**WAC 296-17-66901 Classification 5109.**

**5109-46 Heavy machinery & equipment including locomotive engines: Manufacture or repair; Press roller recoating/resurfacing**

Applies to establishments engaged in the manufacture, assembly, and repair of heavy equipment. Machinery and equipment subject to this classification are usually made of steel and steel/iron castings and include, but are not limited to, bulldozers, dump trucks, graders, skidders, forklifts and logging towers. The component parts may weigh several hundred to thousands of pounds. Overhead cranes are commonly used in the assembly process. Machinery used in the manufacturing, assembly, and repair includes, but is not limited to, boring mills, lathes, iron workers, welders/cutters, cut saws, and drills. Some establishments use CNC (computer numeric controlled) machinery; however, most establishments in this classification primarily use manual machinery and conventional welders/cutters. Other common operations covered by this classification include paint, welding, and electronic assembly areas. This classification also includes establishments that repair, recoat or resurface press rollers such as, but not limited to, the type rollers used by printing and paper making mills. Operations include repairing the interior shafts of the rollers, then grinding fiberglass or ceramic finishes until they are smooth. For rubber-coated surfaces, they remove the old rubber from the metal surface, sandblast the roller, then recoat it with new rubber. Most establishments that recoat the surface with rubber will mix and extrude their own rubber which is included in this classification when performed by employees of employers subject to this classification.

*Special note:* Field work as well as shop work is contemplated as an integral part of this classification. A vehicle may be equipped with welding equipment and other tools used for field repair. The broken part may be replaced in the field or returned to the shop, repaired if feasible, or a new part is ordered. The part is then loaded onto the field vehicle taken to the job site and reconnected. Some establishments perform this type of field work almost exclusively.

**5109-47 Heavy arms: Manufacture or repair**

Applies to establishments engaged in the manufacture or repair of heavy arms including large munitions. This classification applies to all types of guns 20 MM and larger including, but not limited to, aircraft guns, tank guns, naval guns, torpedoes and aircraft gun turrets.

*Special note:* Field work as well as shop work is contemplated as an integral part of this classification. A vehicle may be equipped with welding equipment and other tools used for field repair. The broken part may be replaced in the

field or returned to the shop, repaired if feasible, or a new part is ordered. The part is then loaded onto the field vehicle taken to the job site and reconnected. Some establishments perform this type of field work almost exclusively.

#### NEW SECTION

##### **WAC 296-17-676001 Classification 5208.**

##### **5208-00 Iron or steel works: Fabrication or assembly - structural iron or steel**

Applies to establishments engaged in the fabrication or assembly of structural iron or steel. Structural in this classification will mean when fabricated for and used in the frame or grid work of a building, tower, bridge, or similar construction. Fabrication means the laying out of the pieces, the marking, cutting, sawing, drilling, punching, bolting, welding, assembling and finishing of the structural steel products. Raw materials include, but are not limited to, steel I-beams, tube steel, angle steel, and flat steel. Machinery includes overhead cranes, horizontal and vertical band saws, shears, punches, drill press, brake presses, and welding equipment. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes the erection of structural iron or steel in connection with towers, refineries, elevated railways, and buildings which is to be reported separately in the applicable iron or steel construction classification; contractors engaged in building construction who are to be reported separately in the applicable iron or steel construction class; bridge construction, including structural iron or steel erection, which is to be reported separately in the classification applicable to the work being performed; and manufacturing of rebar for construction which is to be reported separately in classification 5209.

##### **5208-01 Brass, bronze, iron - ornamental: Shop fabrication, assembly or manufacture**

Applies to establishments engaged in the manufacture, fabrication, or assembly of ornamental items from brass, bronze and/or iron. Products include, but are not limited to, railings, guards, staircases, fire escapes, and art items. Products are often light and do not require cranes or hoists to move them. The processes vary depending on the product being produced. The equipment includes, but is not limited to, iron workers, shears, drill presses, band saws, forklifts, welders, and grinders. The painting of products manufactured is included in this classification when performed by employees of employers subject to this classification. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes installation which is to be reported separately in the classification applicable to the work being performed.

##### **5208-02 Iron works: Fabrication, assembly, or manufacture; nonstructural iron or steel**

Applies to establishments engaged in the manufacture, fabrication or assembly of nonstructural iron or steel. Fabrication means the laying out of the pieces, the marking, cut-

ting, sawing, drilling, punching, bolting, welding, assembling and finishing operations including painting. Products include, but are not limited to, cattle crossing grates, window gratings, grill pieces, and storage racks used by warehouses. Equipment includes, but is not limited to, cut saws, welders, drill presses, grinders, band saws, and hoists. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes installation which is to be reported separately in the classification applicable to the work being performed.

#### NEW SECTION

##### **WAC 296-17-676002 Classification 5209.**

##### **5209-00 Boiler or tank construction**

Applies to establishments engaged in the construction of boilers or steel tanks. Boilers are tanks used to either store hot water or make steam. Tanks may be used to hold products such as, but not limited to, sand and gravel, water, solid waste or fuels. The product is constructed from steel plate and may use I-beams for structural support. The materials may be purchased in bulk, if the business has the brake presses and rollers to cut and shape the metals to the appropriate dimensions, or as fabricated components. These establishments may also use cutting torches and other welding equipment in the manufacture of their products. They usually have a large shop area in one or more buildings that is equipped with overhead cranes. There is usually a yard to store raw materials, work-in-process, and finished goods. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes installation of boilers or tanks which is to be reported separately in the classification applicable to the work being performed.

##### **5209-01 Metal goods, N.O.C. from 9 gauge or heavier metals**

Applies to establishments engaged in the manufacture of goods using ferrous and nonferrous metal of 9 gauge or heavier. 9 gauge metals are approximately 1/8" thick. Items manufactured include, but are not limited to, crab pots, gaff hooks, firewood boxes, rims for basketball hoops, and rebar. Raw material is cut to desired size with saws, shears, brake presses, punches, and flame cutters. Parts may be joined by welding, riveting, screwing, or bolting. The parts may be handled by overhead cranes, hoists, and forklifts. The products may be finished in a variety of ways including, but not limited to, sanding, grinding, cleaning with solvents and applying paint or lacquer. Finish work is included in this classification when performed by employees of employers subject to this classification. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes establishments primarily engaged in structural iron or steel manufacturing which are to be reported separately in classification 5208; establishments

primarily engaged in welding and machine shop activities which are to be reported separately in classification 3402; and establishments primarily engaged in manufacturing products from metal lighter than 9 gauge which are to be reported separately in classification 3404.

**5209-02 Wood or pellet burning stove: Manufacturing**  
(to be assigned only by classification services staff)

Applies to establishments engaged in the manufacture of wood or pellet burning stoves. Sheet steel or plate metal is sheared, formed, punched, baked and decreased. Parts are assembled by spot welding, then enameled or painted. Grey iron parts are foundry cast, chipped, and ground. Heating elements, insulation, wiring and control assemblies, glass panels and grey iron parts are assembled into stove shells on the production assembly line. The stoves are then packed for shipment. Materials include, but are not limited to, sheet steel, grey iron or ferrous castings, insulation materials, glass, aluminum and brass tubing control assemblies, chrome trim and hardware, and paints and enamels. Equipment includes, but is not limited to, power presses, shears, brake presses, welding equipment, spray painting equipment, baking oven, pneumatic and electric grinders and chippers, and pneumatic tools. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

**WSR 06-19-087**  
**PROPOSED RULES**  
**STATE BOARD OF EDUCATION**  
[Filed September 19, 2006, 2:38 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-14-075.

Title of Rule and Other Identifying Information: Chapter 180-08 WAC, Access to records.

Hearing Location(s): Puget Sound Educational Service District 121, 800 Oakesdale Avenue S.W., Renton, WA 98055, on October 26, 2006, at 9:00 a.m.

Date of Intended Adoption: October 27, 2006.

Submit Written Comments to: Edith W. Harding, Executive Director, P.O. Box 47206, Olympia, WA 98504-7206, e-mail eharding@ospi.wednet.edu, fax (360) 586-2357, by October 12, 2006.

Assistance for Persons with Disabilities: Contact Laura Moore, Executive Assistant, by October 12, 2006, TTY (360) 664-3631 or (360) 725-6025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These are technical amendments to bring chapter 180-08 WAC in line with the requirements of E2SHB 3098, incorporating the new responsibilities of the state board of education.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 28A.305.130, 34.05.220, and 42.17.250 through 42.17.348.

Statute Being Implemented: E2SHB 3098 (chapter 263, Laws of 2006).

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

Name of Proponent: State board of education, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Edith Harding, State Board of Education, Olympia, Washington, (360) 725-6025.

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.

September 19, 2006  
Edith Harding  
Executive Director

AMENDATORY SECTION (Amending WSR 02-18-054, filed 8/28/02, effective 9/28/02)

**WAC 180-08-002 General description of organization.** (1) The state board of education is created by law in chapter 28A.305 RCW.

(2) The purpose of the state board of education is to provide advocacy and strategic oversight of public education; implement a standards-based accountability system to improve student academic achievement; provide leadership in the creation of a system that personalizes education for each student and respects diverse cultures, abilities, and learning styles; and promote achievement of the goals of RCW 28A.150.210. In addition to any other powers and duties as provided by law, the state board shall:

(a) Hold regularly scheduled meetings at such time and place within the state as the board shall determine and may hold such special meetings as may be deemed necessary for the transaction of public business;

(b) Form committees as necessary to effectively and efficiently conduct the work of the board;

(c) Seek advice from the public and interested parties regarding the work of the board;

(d) For the purposes of statewide accountability:

(i) Adopt and revise performance improvement goals in reading, writing, science, and mathematics, by subject and grade level, once assessments in these subjects are required statewide; academic and technical skills, as appropriate, in secondary career and technical education programs; and student attendance, as the board deems necessary to improve student learning;

(ii) Identify the scores students must achieve in order to meet the standard on the Washington assessment of student learning and, for high school students, to obtain a certificate of academic achievement. The board shall also determine student scores that identify levels of student performance below and beyond the standard. The board shall consider the incorporation of the standard error of measurement into the decision regarding the award of certificates;

(iii) Adopt objective, systematic criteria to identify successful schools and school districts and recommend to the superintendent of public instruction schools and districts to be recognized for two types of accomplishments, student achievement and improvements in student achievement. Recognition for improvements in student achievement shall

include consideration of one or more of the following accomplishments:

(A) An increase in the percent of students meeting standards;

(B) Positive progress on an improvement index that measures improvement in all levels of the assessment; and

(C) Improvements despite challenges such as high levels of mobility, poverty, English as a second language learners, and large numbers of students in special populations as measured by either the percent of students meeting standard, or the improvement index.

(iv) Adopt objective, systematic criteria to identify schools and school districts in need of assistance and those in which significant numbers of students persistently fail to meet state standards;

(v) Identify schools and school districts in which state intervention measures will be needed and a range of appropriate intervention strategies after the legislature has authorized a set of intervention strategies. After the legislature has authorized a set of intervention strategies, at the request of the board, the superintendent shall intervene in the school or school district and take corrective actions;

(vi) Identify performance incentive systems that have improved or have the potential to improve student achievement;

(vii) Annually review the assessment reporting system to ensure fairness, accuracy, timeliness, and equity of opportunity, especially with regard to schools with special circumstances and unique populations of students, and a recommendation to the superintendent of public instruction for any improvements needed to the system; and

(viii) Include in the biennial report required under RCW 28A.305.035, information on the progress that has been made in achieving goals adopted by the board.

(e) Accredit, subject to such accreditation standards and procedures as may be established by the state board of education, all private schools that apply for accreditation and approve, subject to the provisions of RCW 28A.195.010, private schools carrying out a program for any or all of the grades kindergarten through twelve; provide that no private school may be approved that operates a kindergarten program only; provided further that no private schools shall be placed upon the list of accredited schools so long as secret societies are knowingly allowed to exist among its students by school officials;

(f) Articulate with the institutions of higher education, work force representatives, and early learning policymakers and providers to coordinate and unify the work of the public school system;

(g) Hire an executive director and an assistant to reside in the office of the superintendent of public instruction for administrative purposes. Any other personnel of the board shall be appointed as provided by RCW 28A.300.020.

(3) The board consists of ~~((one voting member from each congressional district in the state, elected by the members of school district boards of directors in the congressional district, who serve staggered four-year terms; the superintendent of public instruction, who serves as an ex-officio member and chief executive officer of the board and votes only to break ties; and one member elected at large by members of the~~

~~boards of directors of approved private schools, who serves a four-year term. A secretary (executive director) is appointed by the board.))~~;

(a) Five members, three from Western Washington and two from Eastern Washington elected by members of school district boards of directors in those respective regions;

(b) Seven members appointed by the governor;

(c) The superintendent of public instruction;

(d) One member elected at large by members of the boards of directors of approved private schools; and

(e) Two high school students, selected by a process determined by the state board, who are nonvoting members.

~~((2))~~ (4) The governor appointed and school director elected members serve staggered terms of office of no more than two consecutive four-year terms.

(5) The board determines its own officers.

(6) General policy powers of the board relate to ~~((educator preparation and certification requirements, school construction))~~ the school accountability system, high school graduation requirements, school district approval for basic education funding purposes, waivers from basic education requirements, private school approval and accreditation, ~~((school))~~ educational service district boundaries, ~~((approval))~~ immunization of private school~~((s))~~ students, and ~~((other matters))~~ home-based testing.

~~((3))~~ (7) The state board ~~((typically meets six times a year and))~~ publishes a schedule of its meetings and notices of proposed rule-making actions in the *Washington State Register*. ~~((The meetings may be scheduled in various locations across the state.))~~ The secretary (executive director) to the state board of education maintains a complete record of all board proceedings and supporting materials.

**AMENDATORY SECTION** (Amending WSR 02-18-054, filed 8/28/02, effective 9/28/02)

**WAC 180-08-006 Public records officer—Access to public records—Requests for public records—Determination regarding exempt records—Review of denials of public record requests—Protection of public records—Copying—Office hours.** (1) The state board's public records officer shall be the board's secretary (executive director) located in the administrative office of the board located in the Old Capitol Building, 600 South Washington, Olympia, Washington 98504-7206. The secretary (executive director) shall be responsible for implementation of the board's rules and regulations regarding release of public records and generally ensuring compliance by staff with the public records disclosure requirements in chapter 42.17 RCW.

(2) Access to public records in the state board of education shall be provided in compliance with the provisions of RCW 42.17.260.

(3) Requests for public records must comply with the following procedures:

(a) A request shall be made in writing to the secretary (executive director) or designee of the ~~((board))~~ director. The request may be brought to the administrative office of the board during customary office hours or may be mailed, delivered by facsimile, or by electronic mail. The request shall include the following information:



- (i) The name of the person requesting the record;
- (ii) The time of day and calendar date on which the request was made;
- (iii) The nature of the request;
- (iv) If the matter requested is referenced within the current index maintained by the secretary (executive director), a reference to the requested information as it is described in such current index;
- (v) If the requested matter is not identifiable by reference to the current index, an appropriate description of the record requested shall be provided.

(b) In all cases in which a member of the public is making a request, it shall be the obligation of the secretary (executive director), or person to whom the request is made, to assist the member of the public in succinctly identifying the public record requested.

(4)(a) The board reserves the right to determine that a public record requested in accordance with subsection (3) of this section is exempt under the provisions of RCW 42.17.310 and 42.17.315. Such determination may be made in consultation with the secretary (executive director) or an assistant attorney general assigned to the board.

(b) Pursuant to RCW 42.17.260, the board reserves the right to delete identifying details when it makes available or publishes any public record when there is reason to believe that disclosure of such details would be an unreasonable invasion of personal privacy: Provided, however, In each case, the justification for the deletion shall be explained fully in writing.

(c) Response to requests for a public record must be made promptly. Within five business days of receiving a public record request, the ~~((board))~~ executive director shall respond by either:

- (i) Providing the record;
- (ii) Acknowledging that the board has received the request and providing a reasonable estimate of the time ~~((the board will require))~~ required to respond to the request; or
- (iii) Denying the public record request.

(d) Additional time required to respond to a request may be based upon the need to clarify the intent of the request, to locate and assemble the information requested, to notify third persons or agencies affected by the request, or to determine whether any of the information requested is exempt and that a denial should be made as to all or part of the request. In acknowledging receipt of a public record request that is unclear, the ~~((agency))~~ executive director may ask the requester to clarify what information the requester is seeking. If the requester fails to clarify the request within five working days of being asked for said clarification, the ~~((board))~~ executive director need not respond to it.

(5) All denials of request for public records must be accompanied by a written statement, signed by the secretary (executive director) or designee, specifying the reason for the denial, a statement of the specific exemption authorizing the withholding of the record, and a brief explanation of how the exemption applies to the public record withheld.

(6)(a) Any person who objects to the denial of a request for a public record may petition for prompt review of such decision by tendering a written request for review. The writ-

ten request shall specifically refer to the written statement which constituted or accompanied the denial.

(b) The written request by a person petitioning for prompt review of a decision denying a public record shall be submitted to the board's secretary (executive director) or designee.

(c) Within two business days after receiving a written request by a person petitioning for a prompt review of a decision denying a public record, the secretary (executive director) or designee shall complete such review.

(d) During the course of the review the secretary (executive director) or designee shall consider the obligations of the board to comply fully with the intent of chapter 42.17 RCW insofar as it requires providing full public access to official records, but shall also consider both the exemptions provided in RCW 42.17.310 through 42.17.315, and the provisions of the statute which require the ~~((agency))~~ board to protect public records from damage or disorganization, prevent excessive interference with essential functions of the ~~((agency))~~ board, and prevent any unreasonable invasion of personal privacy by deleting identifying details.

(7) Public records and a facility for their inspection will be provided by the secretary (executive director) or designee. Such records shall not be removed from the place designated for their inspection. Copies of such records may be arranged for according to the provisions of subsection (8) of this section.

(8) No fee shall be charged for the inspection of public records. The board may impose a charge for providing copies of public records and for the use by any person of agency equipment to copy public records. Copying charges shall be reasonable and conform with RCW 42.17.300. No person shall be released a record so copied until and unless the person requesting the copied public record has tendered payment for such copying to the appropriate official. All charges must be paid by money order, check, or cash in advance.

(9) Public records shall be available for inspection and copying during the customary office hours of the administrative office of the board. For the purposes of this chapter, the customary office hours shall be from 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding legal holidays and dates of official state board of education business requiring all board staff to be away from the office.

## WSR 06-19-088

### PROPOSED RULES

### STATE BOARD OF EDUCATION

[Filed September 19, 2006, 2:40 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-14-080.

Title of Rule and Other Identifying Information: WAC 180-16-227 Implementation timeline for WAC 180-16-220 (2).

Hearing Location(s): Puget Sound Educational Service District 121, 800 Oakesdale Avenue S.W., Renton, WA 98055, on October 26, 2006, at 9:00 a.m.

Date of Intended Adoption: October 27, 2006.

Submit Written Comments to: Edith Harding, Executive Director, P.O. Box 47206, Olympia, WA 98504-7206, e-mail eharding@ospi.wednet.edu, fax (360) 586-2357, by October 12, 2006.

Assistance for Persons with Disabilities: Contact Laura Moore, Executive Assistant, by October 12, 2006, TTY (360) 664-3631 or (360) 725-6025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This is the repeal of an outdated section of chapter 180-16 WAC, WAC 180-16-227.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 28A.150.220, 28A.305.140, and 28A.305.130(6).

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

Name of Proponent: State board of education, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Edith Harding, State Board of Education, Olympia, Washington, (360) 725-6025.

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.

September 19, 2006  
Edith W. Harding  
Executive Director

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 180-16-227 Implementation timeline for WAC 180-16-220(2).

**WSR 06-19-089  
PROPOSED RULES  
STATE BOARD OF EDUCATION**

[Filed September 19, 2006, 2:41 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-14-079.

Title of Rule and Other Identifying Information: Chapter 180-34 WAC, Real property sales contracts.

Hearing Location(s): Puget Sound Educational Service District 121, 800 Oakesdale Avenue S.W., Renton, WA 98055, on October 26, 2006, at 9:00 a.m.

Date of Intended Adoption: October 27, 2006.

Submit Written Comments to: Edith Harding, Executive Director, P.O. Box 47206, Olympia, WA 98504-7206, e-mail eharding@ospi.wednet.edu, fax (360) 586-2357, by October 12, 2006.

Assistance for Persons with Disabilities: Contact Laura Moore, Executive Assistant, by October 12, 2006, TTY (360) 664-3631 or (360) 725-6025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This is a repeal of the entire chapter as the underlying authority has been repealed in E2SHB 3098.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 28A.335.120.

Statute Being Implemented: E2SHB 3098, (chapter 263, Laws of 2006).

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

Name of Proponent: State board of education, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Edith Harding, State Board of Education, Olympia, Washington, (360) 725-6025.

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.

September 19, 2006  
Edith W. Harding  
Executive Director

**REPEALER**

The following chapter of the Washington Administrative Code is repealed:

WAC 180-34-005 Authority and purpose.

WAC 180-34-010 General conditions.

**WSR 06-19-090  
PROPOSED RULES  
STATE BOARD OF EDUCATION**

[Filed September 19, 2006, 2:42 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-14-082.

Title of Rule and Other Identifying Information: Chapter 180-36 WAC, Central purchasing.

Hearing Location(s): Puget Sound Educational Service District 121, 800 Oakesdale Avenue S.W., Renton, WA 98055, on October 26, 2006, at 9:00 a.m.

Date of Intended Adoption: October 27, 2006.

Submit Written Comments to: Edith Harding, Executive Director, P.O. Box 47206, Olympia, WA 98504-7206, e-mail eharding@ospi.wednet.edu, fax (360) 586-2357, by October 12, 2006.

Assistance for Persons with Disabilities: Contact Laura Moore, Executive Assistant, by October 12, 2006, TTY (360) 664-3631 or (360) 725-6025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This is a repeal of the entire chapter as the underlying authority has been repealed in E2SHB 3098.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 28A.355.100.

Statute Being Implemented: E2SHB 3098 (chapter 263, Laws of 2006).

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

Name of Proponent: State board of education, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Edith Harding, State Board of Education, Olympia, Washington, (360) 725-6025.

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.

September 19, 2006  
Edith W. Harding  
Executive Director

authority given to the board in E2SHB 3098 is for private schools only. The title of the chapter is also being changed.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 28A.210.160.

Statute Being Implemented: E2SHB 3098 (chapter 263, Laws of 2006).

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

Name of Proponent: State board of education, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Edith Harding, State Board of Education, Olympia, Washington, (360) 725-6025.

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.

September 19, 2006  
Edith W. Harding  
Executive Director

**REPEALER**

The following chapter of the Washington Administrative Code is repealed:

- WAC 180-36-005 Authority and purpose.
- WAC 180-36-007 Central purchasing by school districts.
- WAC 180-36-010 Definitions.
- WAC 180-36-015 Conditions to purchases of property and conveyances of a purchase money security interest therein.

**WSR 06-19-091**  
**PROPOSED RULES**  
**STATE BOARD OF EDUCATION**  
[Filed September 19, 2006, 2:43 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-14-076.

Title of Rule and Other Identifying Information: Chapter 180-38 WAC, Pupils—Immunization requirement and life-threatening health condition.

Hearing Location(s): Puget Sound Educational Service District 121, 800 Oakesdale Avenue S.W., Renton, WA 98055, on October 26, 2006, at 9:00 a.m.

Date of Intended Adoption: October 27, 2006.

Submit Written Comments to: Edith Harding, Executive Director, P.O. Box 47206, Olympia, WA 98504-7206, e-mail eharding@ospi.wednet.edu, fax (360) 586-2357, by October 12, 2006.

Assistance for Persons with Disabilities: Contact Laura Moore, Executive Assistant, by October 12, 2006, TTY (360) 664-3631 or (360) 725-6025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Technical edits to remove references to public schools/school districts. The

**Chapter 180-38 WAC**

**~~((PUPILS)) PRIVATE SCHOOL PUPIL IMMUNIZATION REQUIREMENT ((AND LIFE-THREATENING HEALTH CONDITION))~~**

AMENDATORY SECTION (Amending WSR 05-23-044, filed 11/9/05, effective 12/10/05)

**WAC 180-38-005 Purpose and authority.** (1) The purpose of this chapter is to establish the procedural and substantive due process requirements governing the exclusion of students from ~~((public and))~~ private schools for failure to comply with the immunization requirement of the state of Washington ~~((or, in the case of public schools only, failure to present a medication or treatment order for a life-threatening health condition))~~.

(2) The authority for this chapter is RCW 28A.210.160.

AMENDATORY SECTION (Amending WSR 02-24-019, filed 11/26/02, effective 12/27/02)

**WAC 180-38-020 Definitions.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise:

(1) "Student" shall mean the same as defined for "child" in RCW 28A.210.070(6).

(2) "Chief administrator" shall mean the same as defined in RCW 28A.210.070(1).

(3) "Full immunization" shall mean the same as defined in RCW 28A.210.070(2).

(4) "Schedule of immunization" shall mean the beginning or continuing of a course of immunization, including the conditions for private school attendance when a child is not fully immunized, as prescribed by the state board of health (WAC 246-100-166(5)).

(5) "Certificate of exemption" shall mean the filing of a statement exempting the child from immunizations with the chief administrator of the private school, on a form pre-

scribed by the department of health, which complies with RCW 28A.210.090.

(6) ("Life-threatening condition" shall mean a health condition that will put the child in danger of death during the school day if a medication or treatment order and a nursing plan are not in place.

(7) "Medication or treatment order" shall mean the authority a registered nurse obtains under RCW 18.79.260(2). The order shall be signed by a licensed health care practitioner listed under RCW 18.79.260(2).

(8) "Nursing plan" shall mean a plan of care developed for the student consistent with the standards of nursing conduct or practice set out in department of health regulations, WAC 246-840-700 et seq. The nursing plan implements the medication or treatment order.

(9)) "Exclusion" shall mean the case or instance when the student is denied initial or continued attendance((:

(a)) due to failure to submit a schedule of immunization, or a certificate of exemption((; or

(b) In the case of a life-threatening health condition, due to failure to submit a medication or treatment order and any medication or equipment identified in the order, unless the school district is required to provide the medication or equipment as a related service under federal law)) in accordance with RCW 28A.210.120.

((10)) (7) "School day" shall mean ((the same as in RCW 28A.150.030 and shall be inclusive of school or district sponsored field trip experiences and extracurricular activities and summer school)) each day of the school year on which students enrolled in the private school are engaged in educational activity planned by and under the direction of the staff, as directed by the chief administrator and applicable governing board of the private school.

((11)) (8) "Parent" shall mean parent, legal guardian, or other adult *in loco parentis*.

**AMENDATORY SECTION** (Amending WSR 02-24-019, filed 11/26/02, effective 12/27/02)

**WAC 180-38-045 Private school attendance conditioned upon presentation of proofs.** (1) The initial attendance of every student at every ((public and)) private school in the state is conditioned upon proof of immunization as set forth in RCW 28A.210.080.

(2) The chief administrator of each ((public or)) private school shall prohibit the further presence at school of each student already in attendance and who has failed to provide proof of immunization in accordance with RCW 28A.210.080(1). Such exclusion shall be preceded by written notice as set forth in WAC 180-38-050. If written notice has not been provided, any exclusion shall be stayed until notice is received by a parent, guardian or other adult *in loco parentis*.

((3) The initial attendance of every student at every public school who has a life-threatening health condition is conditioned upon:

(a) Presentation by the parent of a medication or treatment order addressing any life-threatening health condition the child has that may require medical services to be performed at the school; and

(b) Formulation of a nursing plan to implement the order.

The parent shall also provide any medication or equipment identified in the medication or treatment order necessary to carry out the order, unless the school district is required to provide the medication or equipment as a related service under federal law.

(4) The chief administrator of each public school shall prohibit the further attendance of each student already in attendance for whom a medication or treatment order has not been provided if the child has a life-threatening health condition that may require medical services to be performed at the school. Any such exclusion shall be preceded by written notice as set forth in WAC 180-38-050. If written notice has not been provided, any exclusion shall be stayed until notice is received by a parent. The school shall continue to prohibit the child's presence until the school:

(a) Receives a medication or treatment order and any medication or equipment identified in the order necessary to carry out the order, unless the school district is required to provide such medication or equipment as a related service under federal law; and

(b) Has a nursing plan in place.

A new medication or treatment order must be submitted whenever there are changes in the medication or treatment needs of the child. The nursing plan shall be amended accordingly.

(5) Upon receipt of a medication or treatment order, the school shall develop a nursing plan.

(6) The requirements of this chapter shall be applied consistent with the requirements of section 504 of the Rehabilitation Act of 1973 and the Individuals with Disabilities Education Act (IDEA).))

**AMENDATORY SECTION** (Amending WSR 02-24-019, filed 11/26/02, effective 12/27/02)

**WAC 180-38-050 Written notice prior to exclusions from private school.** (1) Private schools must provide written notice to parents prior to excluding students from school for failure to comply with WAC 180-38-045.

(2) ((The written notice for public school students shall:

(a) Be delivered in person or by certified mail and provided to parents in their native language if feasible.

(b) Inform the appropriate parents of the applicable laws and implementing rules. In addition to notification of the applicable laws and regulations, a copy of the laws and regulations shall be included with the notice.

(c) In cases of exclusion due to lack of proof of immunization, provide information regarding immunization services that are available from or through the local health department and other public agencies.

(d) Order the student excluded from school and state that such order is effective immediately upon receipt of the notice.

(e) Describe the rights of the parents and student to a hearing, describe the hearing process, and explain that the exclusion continues until either the necessary proof of immunization, or medication or treatment plan is received, or until a hearing officer determines that the student is no longer excluded from school.

(3)) The written notice for private school students shall:

(a) Inform the appropriate party of the applicable laws and provide copies of such law and implementing rules.

(b) Provide information regarding immunization services that are available from or through the local health department or other public agencies.

(c) Order the exclusion of the student from school and state that such order is effective upon receipt of the notice.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 180-38-080 Prehearing and hearing process.

**WSR 06-19-092  
PROPOSED RULES  
STATE BOARD OF EDUCATION**

[Filed September 19, 2006, 2:44 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-14-083.

Title of Rule and Other Identifying Information: Chapter 180-43 WAC, Interscholastic activities.

Hearing Location(s): Puget Sound Educational Service District 121, 800 Oakesdale Avenue S.W., Renton, WA 98055, on October 26, 2006, at 9:00 a.m.

Date of Intended Adoption: October 27, 2006.

Submit Written Comments to: Edith Harding, Executive Director, P.O. Box 47206, Olympia, WA 98504-7206, e-mail eharding@ospi.wednet.edu, fax (360) 586-2357, by October 12, 2006.

Assistance for Persons with Disabilities: Contact Laura Moore, Executive Assistant, by October 12, 2006, TTY (360) 664-3631 or (360) 725-6025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This is a repeal of the entire chapter as the underlying authority has been repealed in E2SHB 3098.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 28A.600.200.

Statute Being Implemented: E2SHB 3098 (chapter 263, Laws of 2006).

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

Name of Proponent: State board of education, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Edith Harding, State Board of Education, Olympia, Washington, (360) 725-6025.

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.

September 19, 2006  
Edith W. Harding  
Executive Director

**REPEALER**

The following chapter of the Washington Administrative Code is repealed:

WAC 180-43-005 Purpose and authority.

WAC 180-43-010 Annual report.

WAC 180-43-015 Rules and policies.

**WSR 06-19-093  
PROPOSED RULES  
STATE BOARD OF EDUCATION**

[Filed September 19, 2006, 2:45 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-14-081.

Title of Rule and Other Identifying Information: Chapter 180-55 WAC, School accreditation.

Hearing Location(s): Puget Sound Educational Service District 121, 800 Oakesdale Avenue S.W., Renton, WA 98055, on October 26, 2006, at 9:00 a.m.

Date of Intended Adoption: October 27, 2006.

Submit Written Comments to: Edith Harding, Executive Director, P.O. Box 47206, Olympia, WA 98504-7206, e-mail eharding@ospi.wednet.edu, fax (360) 586-2357, by October 12, 2006.

Assistance for Persons with Disabilities: Contact Laura Moore, Executive Assistant, by October 12, 2006, TTY (360) 664-3631 or (360) 725-6025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Technical edits to remove all reference to public schools/school districts as the only authority, under E2SHB 3098, is for private schools.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 28A.305.130 (6), 28A.150.220(4) and 28A.305.140.

Statute Being Implemented: E2SHB 3098 (chapter 263, Laws of 2006).

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

Name of Proponent: State board of education, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Edith Harding, State Board of Education, Olympia, Washington, (360) 725-6025.

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.

September 19, 2006  
Edith W. Harding  
Executive Director

## Chapter 180-55 WAC

PRIVATE SCHOOL ACCREDITATION

AMENDATORY SECTION (Amending WSR 05-08-015, filed 3/28/05, effective 4/28/05)

**WAC 180-55-005 Purpose((s)) and authority.** (1) **Purpose((s)).** The provision of school accreditation procedures for approved private schools by the state board of education is designed to ~~((serve the following purposes:~~

~~((a) Support the state board's long-term vision of a performance-based education system under WAC 180-51-001 by aligning school accreditation requirements to continuous improvement of student learning, achievement, and growth;~~

~~((b) Promote educational excellence and equity for every student through enhancement of the quality and effectiveness of the school's educational program in safe and supportive learning environments;~~

~~((c) Promote staff growth and commitment to the learning of every student;~~

~~((d) Build stronger links with families, parents, and the community by reaching consensus about educational expectations through family, parent, and community involvement;~~

~~((e)) provide a statement of accountability to the public((;~~

~~((f) Assure that school districts, under the district policy on recognizing earned credits under WAC 180-51-050, shall accept credits earned from schools or programs, accredited by the state board of education or other accrediting body as may be recognized by the state board of education pursuant to WAC 180-55-017; and~~

~~((g) Facilitate the sharing of)) and validate effective ((schools)) practices ((and positive impacts on student learning)) in private schools through an external appraisal process.~~

(2) **Authority.** The authority for this chapter is RCW 28A.305.130(~~((6))~~) (5).

AMENDATORY SECTION (Amending WSR 05-08-015, filed 3/28/05, effective 4/28/05)

**WAC 180-55-015 Definitions.** (1) An "accredited school" is a ~~((public or))~~ state board of education approved private school that meets statutory requirements and rules established by the state board of education, and one that has satisfactorily completed the accreditation procedures described by the state board of education pursuant to RCW 28A.305.130(~~((6))~~) (5) and WAC 180-55-005 through 180-55-020.

(2) "Approved private school" shall mean a school approved by the state board of education pursuant to chapter 28A.195 RCW and chapter 180-90 WAC.

(3) "Accredited" status shall be assigned to ~~((public or))~~ state board of education approved private schools that:

(a) Complete and meet fully state board of education requirements for accreditation as described in WAC 180-55-020(~~((7))~~) or((7))

(b) Participate and qualify in accordance with standards and procedures established by accrediting bodies or processes recognized by the state board of education.

(4) "School improvement plan" shall mean the same as described under WAC 180-16-220 (2)(b) and (d).

(5) "Continuous improvement process" shall mean the ongoing process used by a school to monitor, adjust, and update its school improvement plan.

(6) "Self-review" shall mean the same as described under WAC 180-16-220 (2)(c).

(7) "Appraisal" shall mean an objective, external appraisal of a school's self-review activities and school improvement plan pursuant to WAC 180-55-020(5).

(8) "Recognized accrediting body" shall mean an organization recognized by the state board of education and listed on the state board web site.

(9) "Recognized accrediting process" shall mean the state board of education process managed through the educational service districts for approved private schools.

AMENDATORY SECTION (Amending WSR 05-08-015, filed 3/28/05, effective 4/28/05)

**WAC 180-55-017 Criteria for state board of education recognition of accrediting bodies.** (1)(a) A recognized accrediting body shall meet the definition of such pursuant to WAC 180-55-015(8).

(b) Accrediting bodies recognized by the state board of education shall verify that standards for approved private schools seeking accreditation through them meet or exceed the school accreditation standards pursuant to WAC 180-16-220.

(c) Accrediting bodies recognized by the state board of education for the specific purpose of accrediting state board approved private schools, prior to being considered by the state board for recognition, shall have their accreditation standards verified for compliance under (b) of this subsection by a private school advisory committee established by the superintendent of public instruction. If verified, the committee may recommend the accrediting body to the state board for recognition.

(d) A list of recognized accrediting bodies will be maintained on the web site of the state board of education.

~~((a)) Public school districts must be approved by the state board of education prior to a school in the district being recommended by a state board of education recognized accrediting body for state accreditation consideration.~~

~~((b)) Public schools may not seek accreditation through a sectarian affiliated accrediting body. Public schools may seek accreditation through a state board of education recognized accrediting body or process and be recommended for state accreditation consideration.~~

~~((c)) Private schools must be approved by the state board of education prior to being recommended by a state board of education recognized accrediting body or process for state accreditation consideration.~~

AMENDATORY SECTION (Amending WSR 04-04-093, filed 2/3/04, effective 3/5/04)

**WAC 180-55-020 Prerequisite to application for accreditation by ~~((public schools))~~ approved private schools—Types of accreditation—Conditions—Effective periods—Administration of accreditation procedures.**

~~(1)((a) Certification by the state board of education of compliance by a school district with basic education program approval requirements under WAC 180-16-220, or receipt of a waiver from WAC 180-16-225 or 180-18-030, shall be prerequisite to a public school's application to the state board of education for accreditation under WAC 180-55-015 (3)(b).~~

~~(b)) Certification by the state board of education of compliance with private school approval requirements under chapter 28A.190 RCW and chapter 180-90 WAC shall be prerequisite to a private school's application to the state board of education for accreditation under WAC 180-55-015 (3)(b).~~

(2) **Standard accreditation - six years**, shall be granted to ~~((a))~~ an approved private school after a satisfactory external appraisal of the school's self-review activities and school improvement plan, and approval by the state board of education of the appraisal findings and recommendations by the external site appraisal team.

(3) **Conditional accreditation - one year**, for ~~((a))~~ an approved private school where the external appraisal identifies omissions, inaccuracies or weaknesses in the building's self-review activities, or school improvement plan or continuous improvement process.

(4) **Application.** Application for school accreditation shall be made to the state board of education or other body or entity designated by the state board of education. Such application shall be submitted jointly by the appropriate officials of the ~~((school and school district, or))~~ private school and governing board, in accordance with procedures and timelines established by the state board of education.

(5)(a) **External appraisal.** The state board of education, or other body or entity designated by the state board of education, shall direct an external appraisal process for approved private school accreditation purposes. The state board may place yearly limits on the number of schools that may participate in the external appraisal process using the state board accreditation option. The external appraisal shall be conducted by persons external to the approved private school ~~((and district))~~. The external site appraisal team shall include, but is not limited to, certificated teachers and administrators who may earn continuing education clock hours pursuant to WAC 180-85-033(2).

(b) The external appraisal shall focus on the provisions of WAC 180-16-220 (2)(b), (c) and (d), and 180-55-005(1). The appraisal shall focus on an analysis of the school's self-review activities, the school's improvement plan and its progress and impact, in particular relating to WAC 180-55-005 (1)(c), and the school's continuous improvement process.

## WSR 06-19-098

### PROPOSED RULES

### DEPARTMENT OF

### SOCIAL AND HEALTH SERVICES

(Health and Recovery Services Administration)

[Filed September 19, 2006, 4:02 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-17-140.

Title of Rule and Other Identifying Information: Sections in Title 388 WAC regarding covered and noncovered services - Part 1 of 3.

**WAC Sections Proposed in Part 1:** Amending WAC 388-501-0050 Health care—General coverage, 388-501-0160 Exception to rule—Request for a noncovered health-care service and 388-531-0100 Scope of coverage for physician-related services—General and administrative; and new WAC 388-501-0060 Healthcare coverage—Scope of covered categories of service, 388-501-0065 Healthcare coverage—Description of covered categories of service, 388-501-0070 Healthcare coverage—Noncovered services, and 388-501-0169 Healthcare coverage—Limitation extension.

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6097), on November 7, 2006, at 10:00 a.m.

Date of Intended Adoption: Not earlier than November 8, 2006.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail [fernaax@dshs.wa.gov](mailto:fernaax@dshs.wa.gov), fax (360) 664-6185, by 5:00 p.m. on November 7, 2006.

Assistance for Persons with Disabilities: Contact Stephanie Schiller, DSHS Rules Consultant, by November 3, 2006, TTY (360) 664-6178 or (360) 664-6097 or by e-mail at [schilse@dshs.wa.gov](mailto:schilse@dshs.wa.gov).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposal is to:

- Improve the quality of care received by DSHS clients by using a consistent, evidence-based approach to making benefit coverage decisions.
- Make HRSA benefit coverage rules clearer, more transparent, and consistent.
- Establish a clear, transparent process by which HRSA determines what services are included under its benefit coverage.
- Maximize program resources through prudent use of cost-effective practices.

**Changes to Rule in Parts 1, 2, and 3:** In this proposal, the department has:

- Replaced "medical assistance administration" and "MAA" with "the department" or "HRSA."
- Substituted WAC 388-501-0160 cross reference in place of WAC 388-501-0165 where noncovered services are addressed.
- Replaced all references to chapter 388-529 WAC with new WAC 388-501-0060 and 388-501-0065.
- Added reference to new WAC 388-501-0169 in rules where limitations on covered services are addressed.
- Repealed chapter 388-529 WAC which is being replaced with WAC 388-501-0060 and 388-501-0065.

- Repealed WAC 388-501-0300 because it was incorporated into WAC 388-501-0050 and 388-501-0070.
- Removed gender reassignment surgery from covered service status.
- More clearly defined what is covered and not covered in the way of cosmetic and reconstructive surgery, treatment, and procedures in WAC 388-531-0100 and new WAC 388-501-0070.
- Added more detail to WAC 388-501-0160 regarding the criteria and steps in the exception to rule (ETR) process.
- In new WAC 388-501-0065, added brief descriptions of services available under each category of service listed in the table in new WAC 388-501-0060.
- Included cross references (in new WAC 388-501-0065 and 388-501-0070) to other program WACs where the reader can find more specific detail of the covered or noncovered service.
- Codified the evaluation criteria HRSA will use when evaluating requests for covered services beyond the maximum allowed.

Reasons Supporting Proposal: It will make HRSA's rules regarding covered and noncovered medical services clearer and easier to understand for our clients and medical providers.

Statutory Authority for Adoption: RCW 74.04.050, 74.08.090, 74.09.530, and 74.09.700.

Statute Being Implemented: RCW 74.04.050, 74.08.-090, 74.09.530, and 74.09.700.

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, 626 8th Avenue, Olympia, WA 98504-5504, (360) 725-1344; Implementation and Enforcement: Gail Kreiger, 626 8th Avenue, Olympia, WA 98504-5504, (360) 725-1681.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This amendment does not create more than minor costs to 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, HRSA Rules Coordinator, P.O. Box 45504, Olympia, WA 98504-4405, phone (360) 725-1344, fax (360) 586-9727, e-mail [sullikm@dshs.wa.gov](mailto:sullikm@dshs.wa.gov), TYY/TDD 1-800-848-5429.

September 15, 2006

Andy Fernando, Manager

Rules and Policies Assistance Unit

**Reviser's note:** The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 06-20 issue of the Register.

## WSR 06-19-099

### PROPOSED RULES

#### DEPARTMENT OF

#### SOCIAL AND HEALTH SERVICES

(Health and Recovery Services Administration)

[Filed September 19, 2006, 4:04 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-17-140.

Title of Rule and Other Identifying Information: Sections in Title 388 WAC regarding covered and noncovered services - Part 2 of 3.

**WAC Sections Proposed in Part 2:** Amending WAC 388-416-0015 Certification periods for CN and SCHIP medical programs, 388-475-1000 Healthcare for workers with disabilities (HWD)—Program description, 388-501-0180 Out-of-state medical care, 388-519-0110 Spenddown of excess income for the medically needy program, 388-530-1000 Drug program, 388-530-1150 Noncovered drugs and pharmaceutical supplies and reimbursement limitations, 388-531-1600 Bariatric surgery, 388-533-0340 Maternity support services—Noncovered services, 388-533-0385 Infant case management—Noncovered services, 388-535-1265 Dental-related services not covered—Adults, 388-535A-0040 Covered and noncovered orthodontic services and limitations to coverage, 388-538-063 Mandatory enrollment in managed care for GAU clients, 388-538-095 Scope of care for managed care enrollees, 388-540-130 Covered services, 388-540-140 Noncovered services and 388-540-150 Reimbursement—General; and repealing WAC 388-501-0300 Limits on scope of medical program services, 388-529-0100 Scope of covered medical services by program, and 388-529-0200 Medical services available to eligible clients.

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6097), on November 7, 2006, at 10:00 a.m.

Date of Intended Adoption: Not earlier than November 8, 2006.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail [fernaax@dshs.wa.gov](mailto:fernaax@dshs.wa.gov), fax (360) 664-6185, by 5:00 p.m. on November 7, 2006.

Assistance for Persons with Disabilities: Contact Stephanie Schiller, DSHS Rules Consultant, by November 3, 2006, TTY (360) 664-6178 or (360) 664-6097 or by e-mail at [schilse@dshs.wa.gov](mailto:schilse@dshs.wa.gov).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposal is to:

- Improve the quality of care received by DSHS clients by using a consistent, evidence-based approach to making benefit coverage decisions.
- Make HRSA benefit coverage rules clearer, more transparent, and consistent.



- Establish a clear, transparent process by which HRSA determines what services are included under its benefit coverage.
- Maximize program resources through prudent use of cost-effective practices.

**Changes to Rule in Parts 1, 2, and 3:** In this proposal, the department has:

- Replaced "medical assistance administration" and "MAA" with "the department" or "HRSA."
- Substituted WAC 388-501-0160 cross reference in place of WAC 388-501-0165 where noncovered services are addressed.
- Replaced all references to chapter 388-529 WAC with new WAC 388-501-0060 and 388-501-0065.
- Added reference to new WAC 388-501-0169 in rules where limitations on covered services are addressed.
- Repealed chapter 388-529 WAC which is being replaced with WAC 388-501-0060 and 388-501-0065.
- Repealed WAC 388-501-0300 because it was incorporated into WAC 388-501-0050 and 388-501-0070.
- Removed gender reassignment surgery from covered service status.
- More clearly defined what is covered and not covered in the way of cosmetic and reconstructive surgery, treatment, and procedures in WAC 388-531-0100 and new WAC 388-501-0070.
- Added more detail to WAC 388-501-0160 regarding the criteria and steps in the exception to rule (ETR) process.
- In new WAC 388-501-0065, added brief descriptions of services available under each category of service listed in the table in new WAC 388-501-0060.
- Included cross references (in new WAC 388-501-0065 and 388-501-0070) to other program WACs where the reader can find more specific detail of the covered or noncovered service.
- Codified the evaluation criteria HRSA will use when evaluating requests for covered services beyond the maximum allowed.

Reasons Supporting Proposal: It will make HRSA's rules regarding covered and noncovered medical services clearer and easier to understand for our clients and medical providers.

Statutory Authority for Adoption: RCW 74.04.050, 74.08.090, 74.09.530, and 74.09.700.

Statute Being Implemented: RCW 74.04.050, 74.08.-090, 74.09.530, and 74.09.700.

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, 626 8th Avenue, Olympia, WA 98504-5504, (360) 725-1344; Implementation and Enforcement: Gail Kreiger, 626 8th Avenue, Olympia, WA 98504-5504, (360) 725-1681.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This amendment does not create more than minor costs to 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, HRSA Rules Coordinator, P.O. Box 45504, Olympia, WA 98504-4405, phone (360) 725-1344, fax (360) 586-9727, e-mail [sullikm@dshs.wa.gov](mailto:sullikm@dshs.wa.gov), TYY/TDD 1-800-848-5429.

September 15, 2006

Andy Fernando, Manager  
Rules and Policies Assistance Unit

**Reviser's note:** The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 06-20 issue of the Register.

**WSR 06-19-100**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Health and Recovery Services Administration)  
[Filed September 19, 2006, 4:05 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-17-140.

Title of Rule and Other Identifying Information: Sections in Title 388 WAC regarding covered and noncovered services - Part 3 of 3.

**WAC Sections Proposed in Part 3:** WAC 388-543-1100 Scope of coverage and limitations for DME, 388-543-1150 Limits and limitation extensions, 388-543-1300 Equipment, related supplies, or other nonmedical supplies, and devices not covered, 388-544-0010 Vision care—General, 388-544-0450 Vision care—Prior authorization, 388-544-1100 Hearing aid services—General, 388-544-1400 Hearing aid services—noncovered services, 388-545-900 Neurodevelopmental centers, 388-546-0200 Scope of coverage for ambulance transportation, 388-546-0250 Ambulance services the department does not cover, 388-550-2596 Services and equipment covered by the department but not included in LTAC fixed per diem rate, 388-551-2130 Noncovered home health services, 388-551-3000 Private duty nursing services for clients seventeen and younger, 388-553-500 Home infusion therapy/parenteral nutrition program—Coverage, 388-554-500 Orally administered enteral nutrition products—Coverage, 388-554-600 Tube-delivered enteral nutrition products and related equipment and supplies—Coverage, 388-556-0500 Medical care services under state-administered cash programs, and 388-800-0045 What services are offered by ADATSA?

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6097), on November 7, 2006, at 10:00 a.m.

Date of Intended Adoption: Not earlier than November 8, 2006.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail fernaax@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m. on November 7, 2006.

Assistance for Persons with Disabilities: Contact Stephanie Schiller, DSHS Rules Consultant, by November 3, 2006, TTY (360) 664-6178 or (360) 664-6097 or by e-mail at schilse@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposal is to:

- Improve the quality of care received by DSHS clients by using a consistent, evidence-based approach to making benefit coverage decisions.
- Make HRSA benefit coverage rules clearer, more transparent, and consistent.
- Establish a clear, transparent process by which HRSA determines what services are included under its benefit coverage.
- Maximize program resources through prudent use of cost-effective practices.

**Changes to Rule in Parts 1, 2, and 3:** In this proposal, the department has:

- Replaced "medical assistance administration" and "MAA" with "the department" or "HRSA."
- Substituted WAC 388-501-0160 cross reference in place of WAC 388-501-0165 where noncovered services are addressed.
- Replaced all references to chapter 388-529 WAC with new WAC 388-501-0060 and 388-501-0065.
- Added reference to new WAC 388-501-0169 in rules where limitations on covered services are addressed.
- Repealed chapter 388-529 WAC which is being replaced with WAC 388-501-0060 and 388-501-0065.
- Repealed WAC 388-501-0300 because it was incorporated into WAC 388-501-0050 and 388-501-0070.
- Removed gender reassignment surgery from covered service status.
- More clearly defined what is covered and not covered in the way of cosmetic and reconstructive surgery, treatment, and procedures in WAC 388-531-0100 and new WAC 388-501-0070.
- Added more detail to WAC 388-501-0160 regarding the criteria and steps in the exception to rule (ETR) process.
- In new WAC 388-501-0065, added brief descriptions of services available under each category of service listed in the table in new WAC 388-501-0060.
- Included cross references (in new WAC 388-501-0065 and 388-501-0070) to other program WACs where the reader can find more specific detail of the covered or noncovered service.
- Codified the evaluation criteria HRSA will use when evaluating requests for covered services beyond the maximum allowed.

Reasons Supporting Proposal: It will make HRSA's rules regarding covered and noncovered medical services clearer and easier to understand for our clients and medical providers.

Statutory Authority for Adoption: RCW 74.04.050, 74.08.090, 74.09.530, and 74.09.700.

Statute Being Implemented: RCW 74.04.050, 74.08.-090, 74.09.530, and 74.09.700.

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, 626 8th Avenue, Olympia, WA 98504-5504, (360) 725-1344; Implementation and Enforcement: Gail Kreiger, 626 8th Avenue, Olympia, WA 98504-5504, (360) 725-1681.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This amendment does not create more than minor costs to 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, HRSA Rules Coordinator, P.O. Box 45504, Olympia, WA 98504-4405, phone (360) 725-1344, fax (360) 586-9727, e-mail sullikm@dshs.wa.gov, TTY/TDD 1-800-848-5429.

September 15, 2006

Andy Fernando, Manager

Rules and Policies Assistance Unit

**Reviser's note:** The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 06-20 issue of the Register.

## WSR 06-19-101

### PROPOSED RULES

### DEPARTMENT OF LICENSING

[Filed September 19, 2006, 4:22 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-10-078.

Title of Rule and Other Identifying Information: WAC 308-61-135 and 308-61-175.

Hearing Location(s): Department of Licensing, Dealer and Manufacturer Services, 2424 Bristol Court S.W., Room 346, Olympia, WA 98502, on October 24, 2006, at 1:30 p.m.

Date of Intended Adoption: November 21, 2006.

Submit Written Comments to: Kim Johnson, P.O. Box 9039, Olympia, WA 98507, e-mail kijohnson@dol.wa.gov, fax (360) 586-6703, by October 17, 2006.

Assistance for Persons with Disabilities: Contact Nicole Cope by October 17, 2006, TTY (360) 664-8885 or (360) 664-6455.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The amendment to WAC 308-61-135(3) is simply to added language dictated by amendments to chapter 9.45 RCW, RCW 46.12.101(6), and 46.12.102 enacted in 2006 by SSB 6676. The amendment to WAC 308-61-175(2) is dictated by amendments to

RCW 46.55.130(1) in 2006 by SHB 1504. The amendment in WAC 308-61-175, new subsection (10) is a Washington state patrol request (probably to check for stolens).

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 46.55.190.

Statute Being Implemented: Chapter 46.55 RCW.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The amendments to WAC 308-61-135(3) and 308-61-175(2) are simply to accommodate new legislation. The amendment in WAC 308-61-175, new subsection (10) is to accommodate the WSP in law enforcement.

Name of Proponent: [Department of licensing], governmental.

Name of Agency Personnel Responsible for Drafting: Cal Sanders, 2424 Bristol Court, Olympia, WA 98502, (360) 664-6459; Implementation: Chuck Coach, 2424 Bristol Court, Olympia, WA 98502, (360) 664-6453; and Enforcement: Daniel Devoe, 2424 Bristol Court, Olympia, WA 98502, (360) 664-6451.

No small business economic impact statement has been prepared under chapter 19.85 RCW. There is no small business impact.

A cost-benefit analysis is not required under RCW 34.05.328. There is no impact for the department of licensing or small business.

September 11, 2006

Daniel Devoe

Administrator

AMENDATORY SECTION (Amending WSR 02-20-035, filed 9/24/02, effective 10/25/02)

**WAC 308-61-135 Miscellaneous provisions.** (1) The properly executed written authority to tow or other evidence of lawful possession shall suffice in lieu of current license plates or trip permits for unauthorized or abandoned vehicles.

(2) Billing invoices must indicate the time of day when an unauthorized or abandoned vehicle arrived at the secure storage area.

(3) A seller's report of sale properly filed with the department on a form prescribed by the department shall relieve a registered owner from liability for costs incurred in the removal and storage of an unauthorized/abandoned vehicle, in addition to relieving that person from other liability pursuant to RCW 46.12.101, unless the transferee on the seller's report had no knowledge of the filing.

(4) The junk vehicle affidavit of sale as described in RCW 46.55.230 may be used to sell a vehicle to a licensed hulk hauler, scrap processor, vehicle wrecking yard or it may be used as a supporting document for issuance of a title.

(5) A stored vehicle may be redeemed any time before the start of auctioning of that particular vehicle.

(6) The notification to be sent by first-class mail within twenty-four hours after the impound must be sent to any lessor or lessee, as well as to the last known registered and legal owner (lien holder) of the vehicle.

(7) The written notice of the right of redemption and opportunity for a hearing to contest the validity of an impoundment, to be sent with the twenty-four hour impoundment notice on an unauthorized vehicle impoundment, must be separate and in addition to the notice of opportunity for a hearing given to those who redeem vehicles.

(8) As the record required in RCW 46.05.150(2) the registered tow truck operator must keep a copy of its twenty-four-hour impound notice to law enforcement.

(9) Information contained in the master log must include:

(a) The dates of impound and release of vehicles;

(b) Storage lot used if multiple lots;

(c) If impound was from public or from private property and the location where the vehicle was impounded;

(d) Identity of vehicle by year, make, model, license number, and vehicle identification number;

(e) Dates of all required notices to law enforcement and to vehicle owners;

(f) Date of auction advertisement and of auction;

(g) Amount of towing and storage lien;

(h) Amount of auction proceeds;

(i) Amount of surplus funds.

Entries on the master log must be made within seventy-two hours following the activity being logged.

AMENDATORY SECTION (Amending WSR 02-20-035, filed 9/24/02, effective 10/25/02)

**WAC 308-61-175 Procedures for selling vehicles.**

How should a registered tow truck operator properly identify a vehicle in its custody and prepare for a vehicle auction?

(1) For purposes of advertising the sale of abandoned vehicles the vehicle identification number must be used if no license plates are on the vehicle.

~~(2) ((A newspaper of general circulation in the county shall mean a newspaper which is one of three with the largest circulation in the county where the sale will be conducted. The publisher need not reside in that same county.~~

~~(3))~~ (3) If a vehicle in the custody of an operator is not identifiable, including no license plates or registration, the operator must conduct an examination of the vehicle only to determine its make, model, year and vehicle identification number which must be included on the abandoned vehicle report to the department.

~~((4))~~ (4) If the department cannot provide owner information on a vehicle after the operator submits an abandoned vehicle report, the operator may then inspect the vehicle as permitted in RCW 46.55.100(5) to determine whether owner information is within the vehicle.

~~((5))~~ (5) Upon inspection of the vehicle as provided in subsection ~~((4))~~ (3) of this section the operator may return the original abandoned vehicle report with additional information from the inspection of the vehicle to assist the department in providing owner information.

~~((6))~~ (6) The department may require an inspection by the appropriate law enforcement agency to verify the vehicle identification number of an unidentified vehicle. All such information must be reported to the department, which will communicate with such other states as may be necessary to

determine whether the registered and legal owner information is available for the vehicle.

~~((7))~~ (6) After all reasonable efforts to obtain the owner information have proved unsuccessful, the vehicle may be disposed of in accordance with all procedures except that the notification to the registered and legal owners by certified or registered mail may be omitted. A record of all steps taken to locate the owner(s) of the vehicle must be kept by the operator for a period of three years.

~~((8))~~ (7) If the operator elects to bid at auction, that bid must be disclosed as such, and must not merely be an effort to set a minimum for other bids. If an operator is the successful bidder and the bid exceeds the lien for towing and storage, the surplus funds must be remitted to the department just as in any other sale. The operator cannot elect to retain a vehicle at auction because the operator feels that the bidding is insufficient.

~~((9))~~ (8) The ~~((three-hour))~~ public viewing period required in RCW 46.55.130(1) must be held at all times during daylight hours.

~~((10))~~ (9) Auctions may be held on Saturdays or Sundays which are not legal holidays.

(10) Three days prior to any vehicle auction, tow companies must fax a listing of all vehicles, including year, make, model, and vehicle identification number, to their Washington state patrol business inspector. If there are any changes to the list, an updated/amended list must also be faxed to the Washington state patrol inspector.

**WSR 06-19-106**

**PROPOSED RULES**

**DEPARTMENT OF HEALTH**

[Filed September 20, 2006, 9:51 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule and Other Identifying Information: WAC 246-851-990 Optometry fees and renewal cycle, this proposal adds a fee for an inactive status for licensed optometrists. SSB 5535 enacted by the 2006 legislature authorized the board of optometry to adopt rules authorizing an inactive license status. This proposal establishes the inactive renewal fee.

Hearing Location(s): Washington State Department of Health, Point Plaza East, 310 Israel Road S.E., Room 153, Tumwater, WA 98501, on October 25, 2006, at 10:00 a.m.

Date of Intended Adoption: October 31, 2006.

Submit Written Comments to: Judy Haenke, Program Manager, P.O. Box 47870, Olympia, WA 98504-7870, (360) 236-4947, web site <http://www3.doh.wa.gov/policyreview/>, fax (360) 586-4359, by October 20, 2006.

Assistance for Persons with Disabilities: Contact Judy Haenke, Program Manager, by October 17, 2006, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the rule is to establish a renewal fee for an inactive optometry license. SSB 5535 enacted by the 2006 legislature authorized

the board of optometry to adopt rules to implement an inactive license status. Optometrists who do not wish to place their license on a delinquent or expired status, will have the option for an inactive license.

Reasons Supporting Proposal: This proposal adds a fee for an inactive status for licensed optometrists. SSB 5535 enacted by the 2006 legislature authorized the board of optometry to adopt rules authorizing an inactive license status.

Statutory Authority for Adoption: RCW 43.70.250.

Statute Being Implemented: RCW 18.53.010.

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

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Judy Haenke, P.O. Box 47870, Olympia, WA 98504-7870, (360) 236-4947.

No small business economic impact statement has been prepared under chapter 19.85 RCW. No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.025(3) agencies are not required to prepare a small business economic impact statement if the rule change adjusts fees according to legislative standards per RCW 34.05.310 (4)(f).

A cost-benefit analysis is not required under RCW 34.05.328. A preliminary cost-benefit analysis is not required for rules that adjust fees pursuant to legislative standards according to RCW 34.05.328 (5)(b)(vi).

September 19, 2006

Mary C. Selecky

Secretary

AMENDATORY SECTION (Amending WSR 05-12-012, filed 5/20/05, effective 7/1/05)

**WAC 246-851-990 Optometry fees and renewal cycle.** (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following nonrefundable fees will be charged:

| <b>Title of Fee</b>             | <b>Fee</b>   |
|---------------------------------|--------------|
| Application                     | \$125.00     |
| Out-of-state seminar            | 100.00       |
| License renewal                 | 100.00       |
| Late renewal penalty            | 50.00        |
| Expired license reissuance      | 50.00        |
| <u>Inactive license renewal</u> | <u>40.00</u> |

| Title of Fee             | Fee   |
|--------------------------|-------|
| Duplicate license        | 15.00 |
| Certification of license | 25.00 |

**WSR 06-19-107**  
**PROPOSED RULES**  
**DEPARTMENT OF HEALTH**  
 (Board of Osteopathic Medicine and Surgery)  
 [Filed September 20, 2006, 9:52 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-13-020.

Title of Rule and Other Identifying Information: The proposed rule adds a new section to chapter 246-853 WAC. The new section is titled, WAC 246-853-085 Approved colleges and schools of osteopathic medicine and surgery.

Hearing Location(s): St. Francis Hospital, 34515 9th Avenue S., Federal Way, WA 98003, on November 17, 2006, at 9:30 a.m.

Date of Intended Adoption: November 17, 2006.

Submit Written Comments to: Arlene Robertson, P.O. Box 47866, Olympia, WA 98504-7866, web site <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-2406, by November 10, 2006.

Assistance for Persons with Disabilities: Contact Arlene Robertson by November 10, 2006, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The board of osteopathic medicine and surgery (board) has the authority to approve schools for licensure requirements. Currently, there are no enforceable standards that identify criteria for approving these schools. However, the board does have a list of schools accredited by the American Osteopathic Association Commission on Osteopathic College Accreditation that was approved by the board in April 1978. The proposed rule will establish enforceable standards and identify schools considered approved by the board.

Reasons Supporting Proposal: Currently, there are no enforceable standards for approving schools of osteopathic medicine. The proposed rule will clearly define that all schools accredited by the American Osteopathic Association Commission on Osteopathic College Accreditation are approved by the board. The American Osteopathic Association Commission on Osteopathic College Accreditation is the only accrediting agency for schools of osteopathic medicine.

Statutory Authority for Adoption: RCW 18.57.005, 18.57.020.

Statute Being Implemented: Chapter 18.57 RCW.

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

Name of Proponent: Board of osteopathic medicine and surgery, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Arlene Robertson, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-4945.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules apply to applicants for licensure only. The department did not complete a small business economic impact statement under RCW 19.85.030(1) because the rule does not impose costs to businesses within an industry.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Arlene Robertson, P.O. Box 47866, Olympia, WA 98504-7866, phone (360) 236-4945, fax (360) 236-2406, e-mail [arlene.robertson@doh.wa.gov](mailto:arlene.robertson@doh.wa.gov). The rule is not significant because it relates to application requirements for osteopathic physicians.

September 18, 2006

Blake T. Maresh

Executive Director

NEW SECTION

**WAC 246-853-085 Approved colleges and schools of osteopathic medicine and surgery.** For the purposes of meeting the qualifications under RCW 18.57.020, the board approves those colleges or schools of osteopathic medicine accredited by the American Osteopathic Association Commission on Osteopathic College Accreditation.

**WSR 06-19-108**  
**PROPOSED RULES**  
**DEPARTMENT OF HEALTH**  
 [Filed September 20, 2006, 9:53 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-15-150.

Title of Rule and Other Identifying Information: WAC 246-310-010 and 246-310-280, Certificate of need definitions and kidney dialysis treatment centers.

Hearing Location(s): Department of Health, Point Plaza East, Room 326, 310 Israel Road S.E., Tumwater, WA 98501, on October 26, 2006, at 1:30 p.m.

Date of Intended Adoption: October 31, 2006.

Submit Written Comments to: Yvette Fox, P.O. Box 47852, Olympia, WA 98504-7852, web site <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-2928, by October 26, 2006.

Assistance for Persons with Disabilities: Contact Yvette Fox by October 3, 2006, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule amends WAC 246-310-280 and prescribes the methodology for predicting the future need for kidney dialysis services, and the processes and practices by which the certificate of need program awards certificates to applicants who propose to provide these services. The proposed rules ensure clear, timely and consistent decisions.

Reasons Supporting Proposal: The program is authorized in chapter 70.38 RCW, Health planning and development, and is responsible for reviewing proposals to provide

specific types of health services. Rule making assures applicants and affected parties that decision-making is clearly delineated in advance to the applicants.

Statutory Authority for Adoption: RCW 70.38.135.

Statute Being Implemented: RCW 70.38.135.

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

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Bart Eggen, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-2960; and Enforcement: Steve Saxe, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-2902.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required under RCW 19.85-030 (1)(a). The rule does not impose more than a minor costs on businesses in an industry.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Yvette Fox, P.O. Box 47852, Olympia, WA 98504-7852, phone (360) 236-2928, fax (360) 236-2901, e-mail yvette.fox@doh.wa.gov.

September 19, 2006

M. C. Selecky

Secretary

AMENDATORY SECTION (Amending WSR 04-17-054, filed 8/10/04, effective 9/10/04)

**WAC 246-310-010 Definitions.** For the purposes of chapter 246-310 WAC, the following words and phrases (~~shall~~) have the following meanings unless the context clearly indicates otherwise.

(1) "Acute care facilities" means hospitals and ambulatory surgical facilities.

(2) "Affected person" means an interested person (~~meeting the following criteria~~) who:

(\*) (a) Is located or resides in the applicant's health service area;

(\*) (b) Testified at a public hearing or submitted written evidence; and

(\*) (c) Requested in writing to be informed of the department's decision.

(3) "Alterations," see "construction, renovation, or alteration."

(4) "Ambulatory care facility" means any place, building, institution, or distinct part thereof not a health care facility as defined in this section and operated for the purpose of providing health services to individuals without providing such services with board and room on a continuous twenty-four-hour basis. The term "ambulatory care facility" includes the offices of private physicians, whether for individual or group practice.

(5) "Ambulatory surgical facility" means any free-standing entity, including an ambulatory surgery center(;) that operates primarily for the purpose of performing surgical procedures to treat patients not requiring hospitalization. This term does not include a facility in the offices of private phy-

sicians or dentists, whether for individual or group practice, if the privilege of using (~~such~~) the facility is not extended to physicians or dentists outside the individual or group practice.

(6) "Applicant," means:

(\*) (a) Any person proposing to engage in any undertaking subject to review under (~~the provisions of~~) chapter 70.38 RCW(;-); or

(\*) (b) Any person or individual with a ten percent or greater financial interest in a partnership or corporation or other comparable legal entity engaging in any undertaking subject to review under (~~the provisions of~~) chapter 70.38 RCW.

(~~"Base year" as used in the kidney dialysis station methodology means the last full calendar year preceding the first year of dialysis station need projections.~~)

(7) "Bed banking" means the process of retaining the rights to nursing home bed allocations which are not licensed as outlined in WAC 246-310-395.

(8) "Bed supply" means within a geographic area the total number of:

(\*) (a) Nursing home beds which are licensed or certificate of need approved but not yet licensed or beds banked under (~~the provisions of~~) RCW 70.38.111 (8)(a) or where the need is deemed met under (~~the provisions of~~) RCW 70.38.115 (13)(b), excluding:

(\*) (i) Those nursing home beds certified as intermediate care facility for the mentally retarded (ICF-MR) the operators of which have not signed an agreement on or before July 1, 1990, with the department of social and health services department of social and health services to give appropriate notice prior to termination of the ICF-MR service;

(\*) (ii) New or existing nursing home beds within a CCRC which are approved under (~~the provisions of~~) WAC 246-310-380(5); or

(\*) (iii) Nursing home beds within a CCRC which is excluded from the definition of a health care facility per RCW 70.38.025(6); and

(\*) (iv) Beds banked under (~~the provisions of~~) RCW 70.38.115 (13)(b) where the need is not deemed met.

(\*) (b) Licensed hospital beds used for long-term care or certificate of need approved hospital beds to be used for long-term care not yet in use, excluding swing-beds.

(9) "Bed-to-population ratio" means the nursing home bed supply per one thousand persons of the estimated or forecasted resident population age sixty-five and older.

(10) "Capital expenditure": Except for WAC 246-310-280, capital expenditure means an expenditure, including a force account expenditure (i.e., an expenditure for a construction project undertaken by a nursing home facility as its own contractor), which, under generally accepted accounting principles, is not properly chargeable as an expense of operation or maintenance. The costs of any studies, surveys, designs, plans, working drawings, specifications, and other activities (including staff effort, consulting and other services which, under generally accepted accounting principles, are not properly chargeable as an expense of operation and maintenance) shall be considered capital expenditures. Where a person makes an acquisition under lease or comparable arrangement, or through donation, which would have

required certificate of need review if the acquisition had been made by purchase, ~~((such))~~ this acquisition shall be deemed a capital expenditure. Capital expenditures include donations of equipment or facilities to a nursing home facility, which if acquired directly by ~~((such))~~ the facility, would be subject to review under ~~((the provisions of))~~ this chapter and transfer of equipment or facilities for less than fair market value if a transfer of the equipment or facilities at fair market value would be subject to ~~((such))~~ the review.

(11) "Certificate of need" means a written authorization by the secretary's designee for a person to implement a proposal for one or more undertakings.

(12) "Certificate of need program" means that organizational program of the department responsible for the management of the certificate of need program.

(13) "Commencement of the project" means whichever of the following occurs first: In the case of a construction project, giving notice to proceed with construction to a contractor for a construction project provided applicable permits have been applied for or obtained within sixty days of ~~((such))~~ the notice; beginning site preparation or development; excavating or starting the foundation for a construction project; or beginning alterations, modification, improvement, extension, or expansion of an existing building. In the case of other projects, initiating a health service.

(14) "Construction, renovation, or alteration" means the erection, building, remodeling, modernization, improvement, extension, or expansion of a physical plant of a health care facility, or the conversion of a building or portion thereof to a health care facility.

(15) "Continuing care contract" means a contract providing a person, for the duration of that person's life or for a term in excess of one year, shelter along with nursing, medical, health-related, or personal care services. The contract is conditioned on the transfer of property, the payment of an entrance fee to the provider of ~~((such))~~ the services, or the payment of periodic charges for the care and services involved. A continuing care contract is not excluded from this definition because the contract is mutually terminable or because shelter and services are not provided at the same location.

(16) "Continuing care retirement community (CCRC)" means any of a variety of entities, unless excluded from the definition of health care facility under RCW 70.38.025(6), which provides shelter and services based on continuing care contracts with its residents which:

(\*) Maintains for a period in excess of one year a CCRC contract with a resident which provides or arranges for at least the following specific services:

- (\*) (a) Independent living units;
- (\*) (b) Nursing home care with no limit on the number of medically needed days;
- (\*) (c) Assistance with activities of daily living;
- (\*) (d) Services equivalent in scope to either state chore services or Medicaid home health services;
- (\*) (e) Continues a contract, if a resident is no longer able to pay for services;
- (\*) (f) Offers services only to contractual residents with limited exception during a transition period; and

(\*) (g) Holds the Medicaid program harmless from liability for costs of care, even if the resident depletes his or her personal resources.

(17) "Days" means calendar days. Days are counted starting the day after the date of the event from which the designated period of time begins to run. If the last day of the period falls on a Saturday, Sunday, or legal holiday observed by the state of Washington, a designated period runs until the end of the first working day following the Saturday, Sunday, or legal holiday.

(18) "Department" means the Washington state department of health.

(19) "Effective date of facility closure" means:

(\*) (a) The date on which the facility's license was relinquished, revoked or expired; or

(\*) (b) The date the last resident leaves the facility, whichever comes first.

~~("End-of-the-year incenter patients" means the number of patients receiving incenter kidney dialysis at the end of the calendar year.~~

~~"End-stage renal dialysis (ESRD) service areas" means each individual county, designated by the department as the smallest geographic area for which kidney dialysis station need projections are calculated, or other service area documented by patient origin.)~~

(20) "Enhance the quality of life for residents" means, for the purposes of voluntary bed banking, those services or facility modifications which have a direct and immediate benefit to the residents. These ~~((shall))~~ include, but are not ~~((be))~~ limited to: Resident activity and therapy facilities; family visiting rooms; spiritual rooms and dining areas. These services or facility modifications shall not include those that do not have direct and immediate benefit to the residents, such as: Modifications to staff offices; meeting rooms; and other staff facilities.

(21) "Established ratio" means a bed-to-population ratio of forty beds per one thousand persons of the estimated or forecast resident population age sixty-five and older established for planning and policy-making purposes. The department may revise this established ratio using the process outlined in WAC 246-310-370.

(22) "Estimated bed need" means the number of nursing home beds calculated by multiplying the planning area's forecasted resident population by the established ratio for the projection year.

(23) "Estimated bed projection" means the number of nursing home beds calculated by the department statewide or within a planning area, by the end of the projection period.

(24) "Ex parte contact" means any oral or written communication between any person in the certificate of need program or any other person involved in the decision regarding an application for, or the withdrawal of, a certificate of need and the applicant for, or holder of, a certificate of need, any person acting on behalf of the applicant or holder, or any person with an interest regarding issuance or withdrawal of a certificate of need.

(25) "Expenditure minimum" means one million dollars for the twelve-month period beginning with July 24, 1983, adjusted annually by the department according to ~~((the provisions of))~~ WAC 246-310-900.

(26) "Health care facility" means hospitals, psychiatric hospitals, nursing homes, kidney disease treatment centers including freestanding dialysis units, ambulatory surgical facilities, continuing care retirement communities, hospices and home health agencies, and includes ~~((such))~~ the facilities when owned and operated by a political subdivision or instrumentality of the state and ~~((such))~~ other facilities as required by federal law and ~~((implementing regulations))~~ rules, but does not include any health facility or institution conducted by and for those who rely exclusively upon treatment by prayer or spiritual means in accordance with the creed or tenets of any well-recognized church or religious denomination, or any health facility or institution operated for the exclusive care of members of a convent as defined in RCW 84.36.800 or rectory, monastery, or other institution operated for the care of members of the clergy.

(a) In addition, the term "health care facility" does not include any nonprofit hospital:

(\*) (i) Operated exclusively to provide health care services for children;

(\*) (ii) Which does not charge fees for ~~((such))~~ the services; and

(\*) (iii) If not contrary to federal law as necessary to the receipt of federal funds by the state.

(\*) (b) In addition, the term "health care facility" does not include a continuing care retirement community which:

(\*) (i) Offers services only to contractual residents;

(\*) (ii) Provides its residents a contractually guaranteed range of services from independent living through skilled nursing, including some form of assistance with activities of daily living;

(\*) (iii) Contractually assumes responsibility for costs of services exceeding the resident's financial responsibility as stated in contract, so that, with the exception of insurance purchased by the retirement community or its residents, no third party, including the Medicaid program, is liable for costs of care even if the resident depletes personal resources;

(\*) (iv) Offers continuing care contracts and operates a nursing home continuously since January 1, 1988, or obtained a certificate of need to establish a nursing home;

(\*) (v) Maintains a binding agreement with the department of social and health services assuring financial liability for services to residents, including nursing home services, shall not fall upon the department of social and health services;

(\*) (vi) Does not operate, and has not undertaken, a project resulting in a number of nursing home beds in excess of one for every four living units operated by the continuing care retirement community, exclusive of nursing home beds; and

(\*) (vii) Has undertaken no increase in the total number of nursing home beds after January 1, 1988, unless a professional review of pricing and long-term solvency was obtained by the retirement community within the prior five years and fully disclosed to residents.

(27) "Health maintenance organization" means a public or private organization, organized under the laws of the state, which:

(\*) (a) Is a qualified health maintenance organization under Title XIII, Section 1310(d) of the Public Health Service Act; or

(\*) (b) Provides or otherwise makes available to enrolled participants health care services, including at least the following basic health care services: Usual physician services, hospitalization, laboratory, X ray, emergency and preventive services, and out-of-area coverage;

(\*) (c) Is compensated (except for copayments) for the provision of the basic health care services listed in this subsection to enrolled participants by a payment made on a periodic basis without regard to the date the health care services are provided and fixed without regard to the frequency, extent, or kind of health service actually provided; and

(\*) (d) Provides physicians' services primarily:

(\*) (i) Directly through physicians who are either employees or partners of ~~((such))~~ the organization~~((;))~~; or

(\*) (ii) Through arrangements with individual physicians or one or more groups of physicians (organized on a group practice or individual practice basis).

(28) "Health service area" means a geographic region appropriate for effective health planning including a broad range of health services.

(29) "Health services" means clinically related (i.e., preventive, diagnostic, curative, rehabilitative, or palliative) services and includes alcoholism, drug abuse, and mental health services.

(30) "Home health agency" means an entity which is, or has declared ~~((an))~~ its intent to become, certified as a provider of home health services in the Medicaid or Medicare program.

(31) "Hospice" means an entity which is, or has declared ~~((an))~~ its intent to become, certified as a provider of hospice services in the Medicaid or Medicare program.

(32) "Hospital" means any institution, place, building or agency or distinct part thereof which qualifies or is required to qualify for a license under chapter 70.41 RCW, or as a psychiatric hospital licensed under chapter 71.12 RCW.

(33) "Inpatient" means a person receiving health care services with board and room in a health care facility on a continuous twenty-four-hour-a-day basis.

(34) "Interested persons" means:

(\*) (a) The applicant;

(\*) (b) Health care facilities and health maintenance organizations providing services similar to the services under review and located in the health service area;

(\*) (c) Third-party payers reimbursing health care facilities in the health service area;

(\*) (d) Any agency establishing rates for health care facilities and health maintenance organizations in the health service area where the proposed project is to be located;

(\*) (e) Health care facilities and health maintenance organizations which, in the twelve months prior to receipt of the application, have submitted a letter of intent to provide similar services in the same planning area;

(\*) (f) Any person residing within the geographic area to be served by the applicant; and

(\*) (g) Any person regularly using health care facilities within the geographic area to be served by the applicant.



~~("Justified home training station" means a kidney dialysis station designated for home hemodialysis and/or peritoneal dialysis training. When no dialysis stations have been designated for home training at a given dialysis treatment center, one station for every six patients trained for home hemodialysis, and one station for every twenty patients for peritoneal dialysis, will be considered a justified home training station. In no case shall all stations at a given dialysis treatment center be designated as justified home training stations. To request justified home training stations at a new dialysis treatment center, the applicant must document that at least six patients are projected to be trained for home hemodialysis or twenty patients for peritoneal dialysis for each such station requested for each of the first five years of projected operations.~~

~~"Kidney disease treatment center" means any place, institution, building or agency or a distinct part thereof equipped and operated to provide services, including outpatient dialysis and/or kidney transplantation, to persons who have end-stage renal disease (ESRD).)~~

(35) "Licensee" means an entity or individual licensed by the department of health or the department of social and health services. For the purposes of nursing home projects, licensee refers to the operating entity and those persons specifically named in the license application as defined under chapter 388-97 WAC.

(36) "Net estimated bed need" means estimated bed need of a planning area changed by any redistribution as follows:

- (\*) (a) Adding nursing home beds being redistributed from another nursing home planning area or areas; or
- (\*) (b) Subtracting nursing home beds being redistributed to another nursing home planning area or areas.

(37) "New nursing home bed" means a nursing home bed never licensed by the state or beds banked under ~~((the provisions of))~~ RCW 70.38.115(13), where the applicant must demonstrate need for the previously licensed nursing home beds. This term does not include beds banked under ~~((the provisions of))~~ RCW 70.38.111(8).

(38) "Nursing home" means any entity licensed or required to be licensed under ~~((the provisions of))~~ chapter 18.51 RCW or distinct part long-term care units located in a hospital and licensed under chapter 70.41 RCW.

(39) "Obligation," when used in relation to a capital expenditure, means the following has been incurred by or on behalf of a health care facility:

- (\*) (a) An enforceable contract has been entered into by a health care facility or by a person on behalf of the health care facility for the construction, acquisition, lease, or financing of a capital asset; or
- (\*) (b) A formal internal commitment of funds by a health care facility for a force account expenditure constituting a capital expenditure; or
- (\*) (c) In the case of donated property, the date on which the gift is completed in accordance with state law.

(40) "Offer," when used in connection with health services, means the health facility provides one or more specific health services.

(41) "Over the established ratio" means the bed-to-population ratio is greater than the statewide current established ratio.

(42) "Person" means an individual, a trust or estate, a partnership, a corporation (including associations, joint stock companies, and insurance companies), the state, or a political subdivision or instrumentality of the state, including a municipal corporation or a hospital district.

(43) "Planning area" means each individual county designated by the department as the smallest geographic area for which nursing home bed need projections are developed, except as follows:

- (\*) (a) Clark and Skamania counties shall be one planning area.
- (\*) (b) Chelan and Douglas counties shall be one planning area.

(44) "Predevelopment expenditures" means capital expenditures, the total of which exceeds the expenditure minimum, made for architectural designs, plans, drawings, or specifications in preparation for the acquisition or construction of physical plant facilities. "Predevelopment expenditures" exclude any obligation of a capital expenditure for the acquisition or construction of physical plant facilities and any activity which the department may consider the "commencement of the project" as this term is defined in this section.

(45) "Professional review of continuing care retirement community pricing and long-term solvency" means prospective financial statements, supported by professional analysis and documentation, which:

- (\*) (a) Conform to Principles and Practices Board Statement Number 9 of the Healthcare Financial Management Association, "Accounting and Reporting Issues Related to Continuing Care Retirement Communities"; and
- (\*) (b) Project the financial operations of the continuing care retirement community over a period of ten years or more into the future; and

(\*) (c) Are prepared and signed by a qualified actuary as defined under WAC 284-05-060 or an independent certified public accountant, or are prepared by management of the continuing care retirement community and reviewed by a qualified actuary or independent certified public accountant who issues a signed examination or compilation report on the prospective financial statements; and

(\*) (d) Include a finding by management that the intended expansion project of the continuing care retirement project is financially feasible.

(46) "Project" means all undertakings proposed in a single certificate of need application or for which a single certificate of need is issued.

(47) "Project completion" for projects requiring construction, means the date the facility is licensed. For projects not requiring construction, project completion means initiating the health service.

(48) "Projection period" means the three-year time interval following the projection year.

(49) "Projection year" for nursing home purposes, means the one-year time interval preceding the projection period. ~~((For kidney dialysis station projection purposes, means the base year plus three years.))~~

(50) "Public comment period" means the time interval during which the department shall accept comments regarding a certificate of need application.

(51) "Redistribution" means the shift of nursing home bed allocations between two or more planning areas or the shift of nursing home beds between two or more nursing homes.

(52) "Replacement authorization" means a written authorization by the secretary's designee for a person to implement a proposal to replace existing nursing home beds in accordance with the eligibility requirements in WAC 246-310-044 and notice requirements in WAC 246-310-396.

(53) "Resident population" for purposes of nursing home projects, means the number of residents sixty-five years of age and older living within the same geographic area which:

(\*) (a) Excludes contract holders living within a recognized CCRC:

(\*) (i) With approval for new nursing home beds under ~~(the provisions of)~~ WAC 246-310-380~~((5))~~ (4); or

(\*) (ii) Excluded from the definition of a health care facility per RCW 70.38.025(6);

(\*) (b) Is calculated using demographic data obtained from:

(\*) (i) The office of financial management; and

(\*) (ii) Certificate of need applications and exemption requests previously submitted by a CCRC.

(54) "Secretary" means the secretary of the Washington state department of health or the secretary's designee.

(55) "State Health Planning and Resources Development Act" means chapter 70.38 RCW.

(56) "Statewide current ratio" means a bed-to-population ratio computed from the most recent statewide nursing home bed supply and the most recent estimate of the statewide resident population.

(57) "Swing beds" means up to the first five hospital beds designated by an eligible rural hospital which are available to provide either acute care or nursing home services.

(58) "Tertiary health service" means a specialized service meeting complicated medical needs of people and requires sufficient patient volume to optimize provider effectiveness, quality of service, and improved outcomes of care.

(59) "Transition period" means the period of time, not exceeding five years, between the date a CCRC is inhabited by a member, and the date it fully meets the requirements of a CCRC.

(60) "Under the established ratio" means the bed-to-population ratio is less than the statewide current established ratio.

(61) "Undertaking" means any action subject to the provisions of chapter 246-310 WAC.

(62) "Working days" excludes Saturdays, Sundays, and legal holidays observed by the state of Washington. Working days are counted in the same way as calendar days.

**AMENDATORY SECTION** (Amending WSR 96-24-052, filed 11/27/96, effective 12/28/96)

**WAC 246-310-280 Kidney disease treatment centers—Definitions.** ~~((1) To receive approval, a kidney disease treatment center providing hemo or peritoneal dialysis, training, or backup must meet the following standards in addition to applicable review criteria in WAC 246-310-210, 246-310-220, 246-310-230, and 246-310-240.~~

(2) The number of dialysis stations needed in an ESRD service area shall be determined using the following data of the Northwest Renal Network:

(a) The ESRD service area's total number of in-center dialyses provided for the previous five years.

(b) The number of end of year incenter patients for the ESRD service area for the previous five years.

(c) The number of patients trained for home hemo and peritoneal dialysis for the ESRD service area for the previous five years.

(3) The number of dialysis stations projected as needed in an ESRD service area shall be determined using the following methodology:

(a) Project the number of incenter dialyses needed in the ESRD service area through a three-year future regression analysis of the previous five years' data.

(b) Project the number of incenter dialyses needed to serve residents of the ESRD service area by projecting the number of end of year incenter patients through a three-year future regression analysis of patient origin adjusted data for the previous five years. Multiply this result by one hundred fifty-six dialyses per year.

(c) Project the number of patients to be trained for home hemo and peritoneal dialysis in the service area through a three-year regression analysis of the previous five years' data.

(d) Determine the number of dialysis stations needed for incenter dialysis by dividing the result of (a) of this subsection by 748.8 (equivalent to eighty percent of a three patient shift schedule).

(e) Determine the number of dialysis stations needed for incenter dialysis to serve residents of the service area by dividing the result of (b) of this subsection by 748.8 (equivalent to eighty percent of a three patient shift schedule).

(f) Determine the number of stations needed for home hemo and peritoneal training in the service area by dividing the projected number of home hemo patients to be trained by six and peritoneal patients to be trained by twenty.

(g) Determine the number of dialysis stations needed in a service area by the projection year as the total of:

(i) The result of (e) of this subsection, designated as the number of resident stations;

(ii) The result of (d) of this subsection, minus the result of (e) of this subsection, designated as visitor stations;

(iii) The result of (f) of this subsection, designated as the number of training stations.

(h) To determine the net station need for an ESRD service area, subtract the number calculated in (g) of this subsection from the total number of certificate of need approved stations.

(4) All kidney disease treatment centers that would stand to lose market share by approval of the applicant's facility, must be operating at 748.8 dialyses per nontraining station per year before additional nontraining stations are approved.

(5) New incenter kidney disease treatment stations must reasonably project to be operating at 748.8 dialyses per nontraining station per year by the third year of operation.

(6) The department shall not issue certificates of need approving more than the number of stations identified as being needed in a given ESRD service area unless:

(a) ~~The department finds such additional stations are needed to be located reasonably close to the people they serve; or~~

~~(b) Existing nontraining dialysis stations in the treatment facility are operating at nine hundred thirty-six dialyses per year (three-patient shifts); or~~

~~(c) The applicant can document a significant change in ESRD treatment practice has occurred, affecting dialysis station utilization in the service area; and~~

~~The department finds that an exceptional need exists and explains such approval in writing.)) The following definitions apply to WAC 246-310-280, 246-310-282, 246-310-284, 246-310-286, 246-310-287, 246-310-288, and 246-310-289:~~

~~(1) "Base year" means the most recent calendar year for which December 31 data is available from the Northwest Renal Network's Modality Report.~~

~~(2) "Capital expenditures," as defined by Generally Accepted Accounting Principles (GAAP), are expenditures made to acquire tangible long-lived assets. Long-lived assets represent property and equipment used in a company's operations that have an estimated useful life greater than one year. Acquired long-lived assets are recorded at acquisition cost and include all costs incurred necessary to bring the asset to working order. The definition of a capital expenditure includes the following types of expenditures or acquisitions:~~

~~(a) A force account expenditure or acquisition (i.e., an expenditure for a construction project undertaken by a facility as its own contractor).~~

~~(b) The costs of any site planning services (architect or other site planning consultant) including but not limited to studies, surveys, designs, plans, working drawings, specifications, and other activities (including applicant staff payroll and employee benefit costs, consulting and other services which, under GAAP or Financial Accounting Standards Board (FASB) may be chargeable as an operating or nonoperating expense).~~

~~(c) Capital expenditure or acquisition under an operating or financing lease or comparable arrangement, or through donation, which would have required certificate of need review if the capital expenditure or acquisition had been made by purchase.~~

~~(d) Building owner tenant improvements including but not limited to: Asbestos removal, paving, concrete, contractor's general conditions, contractor's overhead and profit, electrical, heating, ventilation and air conditioning systems (HVAC), plumbing, flooring, rough and finish carpentry and millwork and associated labor and materials, and utility fees.~~

~~(e) Capital expenditures include donations of equipment or facilities to a facility.~~

~~(f) Capital expenditures do not include routine repairs and maintenance costs that do not add to the utility of useful life of the asset.~~

~~(3) "Concurrent review" means the process by which applications competing to provide services in the same planning area are reviewed simultaneously by the department. The department compares the applications to one another and these rules.~~

~~(4) "End-of-year data" means data contained in the fourth quarter modality report from the Northwest Renal Net-~~

work. For these rules, end-of-year and year-end have the same meaning.

(5) "End-of-year in-center patients" means the number of resident in-center hemodialysis (HD) patients receiving in-center kidney dialysis at the end of the calendar year based on end-of-year data.

(6) "Kidney disease treatment center" means any place, institution, building or agency or a distinct part thereof equipped and operated to provide services, including outpatient dialysis, to persons who have end-stage renal disease (ESRD). In no case shall all stations at a given kidney disease treatment center be designated as home training stations. For purposes of these rules, kidney disease treatment center and kidney dialysis facility have the same meaning.

(7) "Kidney dialysis facility" means any place, institution, building or agency or a distinct part thereof equipped and operated to provide services, including outpatient dialysis, to persons who have end-stage renal disease (ESRD). In no case shall all stations at a given kidney dialysis facility be designated as home training stations. For purposes of these rules, kidney dialysis facility and kidney disease treatment center have the same meaning.

(8) "Planning area" means an individual geographic area designated by the department for which kidney dialysis station need projections are calculated. For purposes of kidney dialysis projects, planning area and service area have the same meaning.

(9) "Planning area boundaries": Each county is a separate planning area, except for the planning subareas identified for King, Snohomish, Pierce, and Spokane counties. If the United States Postal Service (USPS) changes zip codes in the defined planning areas, the department will update areas to reflect the revisions to the zip codes to be included in the certificate of need definitions, analyses and decisions.

(a) King County is divided by zip code into twelve planning areas as follows:

| <u>KING ONE</u>                  | <u>KING TWO</u>                | <u>KING THREE</u>               |
|----------------------------------|--------------------------------|---------------------------------|
| 98028 Kenmore                    | 98101 Business District        | 98013 Vashon                    |
| 98103 Green Lake                 | 98102 Eastlake                 | 98070 Vashon                    |
| 98105 Laurelhurst                | 98104 Business District        | 98106 White Center/West Seattle |
| 98107 Ballard                    | 98108 Georgetown               | 98116 Alki/West Seattle         |
| 98115 View Ridge/Wedgwood        | 98109 Queen Anne               | 98126 West Seattle              |
| 98117 Crown Hill                 | 98111 Rainier Beach            | 98136 West Seattle              |
| 98125 Lake City                  | 98112 Madison/Capitol Hill     | 98146 West Seattle              |
| 98133 Northgate                  | 98118 Columbia City            | 98168 Riverton                  |
| 98145 University of Washington   | 98119 Queen Anne               |                                 |
| 98155 Shoreline/Lake Forest Park | 98121 Denny Regrade            |                                 |
| 98177 Richmond Beach             | 98122 Madrona                  |                                 |
| 98195 University of Washington   | 98134 Harbour Island           |                                 |
|                                  | 98144 Mt. Baker/Rainier Valley |                                 |
|                                  | 98199 Magnolia                 |                                 |

| <u>KING FOUR</u>               | <u>KING FIVE</u>  | <u>KING SIX</u>   |
|--------------------------------|-------------------|-------------------|
| 98054 Redondo                  | 98003 Federal Way | 98011 Bothell     |
| 98062 Seahurst                 | 98023 Federal Way | 98012 Mill Creek  |
| 98148 SeaTac                   | 98063 Federal Way | 98021 Bothell     |
| 98158 SeaTac                   |                   | 98033 Kirkland    |
| 98166 Burien/<br>Normandy Park |                   | 98034 Kirkland    |
| 98188 Tukwila/<br>SeaTac       |                   | 98052 Redmond     |
| 98198 Des Moines               |                   | 98053 Redmond     |
|                                |                   | 98072 Woodinville |
|                                |                   | 98077 Woodinville |

| <u>KING SEVEN</u>   | <u>KING EIGHT</u>              | <u>KING NINE</u> |
|---------------------|--------------------------------|------------------|
| 98004 Bellevue      | 98014 Carnation                | 98055 Renton     |
| 98005 Bellevue      | 98019 Duvall                   | 98056 Renton     |
| 98006 Bellevue      | 98024 Fall City                | 98057 Renton     |
| 98007 Bellevue      | 98025 Hobart                   | 98058 Renton     |
| 98008 Bellevue      | 98045 North Bend               | 98059 Renton     |
| 98009 Bellevue      | 98050 Preston                  | 98178 Skyway     |
| 98015 Bellevue      |                                |                  |
| 98027 Issaquah      | 98068 Hyak/<br>Snoqualmie Pass |                  |
| 98029 Issaquah      | 98065 Snoqualmie               |                  |
| 98039 Medina        |                                |                  |
| 98040 Mercer Island |                                |                  |
| 98074 Sammamish     |                                |                  |
| 98075 Sammamish     |                                |                  |

| <u>KING TEN</u>    | <u>KING ELEVEN</u>  | <u>KING TWELVE</u> |
|--------------------|---------------------|--------------------|
| 98030 Kent         | 98001 Auburn        | 98022 Enumclaw     |
| 98031 Kent         | 98002 Auburn        | 98035 Lester       |
| 98032 Kent         | 98010 Black Diamond |                    |
| 98038 Maple Valley | 98047 Pacific       |                    |
| 98042 Kent         | 98071 Auburn        |                    |
| 98051 Ravensdale   | 98091 Auburn        |                    |
| 98064 Kent         | 98092 Auburn        |                    |

(b) Pierce County is divided into five planning areas as follows:

| <u>PIERCE ONE</u>   | <u>PIERCE TWO</u> | <u>PIERCE THREE</u> |
|---------------------|-------------------|---------------------|
| 98348 La Grande     | 98304 Ashford     | 98329 Gig Harbor    |
| 98352 Sumner        | 98323 Carbonade   | 98332 Gig Harbor    |
| 98354 Milton        | 98328 Eatonville  | 98333 Fox Island    |
| 98371 Puyallup      | 98330 Elbe        | 98335 Gig Harbor    |
| 98372 Puyallup      | 98360 Orting      | 98349 Lakebay       |
| 98373 Puyallup      | 98338 Graham      | 98351 Longbranch    |
| 98374 Puyallup      | 98321 Buckley     | 98394 Vaughn        |
| 98375 Puyallup      |                   | 98395 Wauna         |
| 98385 South Prairie |                   |                     |
| 98390 Sumner        |                   |                     |
| 98396 Wilkeson      |                   |                     |
| 98397 Longmire      |                   |                     |

| <u>PIERCE FOUR</u> | <u>PIERCE FIVE</u>    |
|--------------------|-----------------------|
| 98402 Tacoma       | 98303 Anderson Island |
| 98403 Tacoma       | 98327 DuPont          |
| 98404 Tacoma       | 98387 Spanaway        |

| <u>PIERCE FOUR</u>     | <u>PIERCE FIVE</u>     |
|------------------------|------------------------|
| 98405 Tacoma           | 98388 Steilacoom       |
| 98406 Tacoma           | 98430 Tacoma           |
| 98407 Ruston           | 98431 Tacoma           |
| 98408 Tacoma           | 98433 Tacoma           |
| 98409 Lakewood         | 98438 Tacoma           |
| 98411 Tacoma           | 98439 Lakewood         |
| 98413 Tacoma           | 98442 Tacoma           |
| 98416 Tacoma           | 98444 Parkland         |
| 98418 Tacoma           | 98445 Parkland         |
| 98421 Tacoma           | 98446 Parkland         |
| 98422 Tacoma           | 98447 Tacoma           |
| 98424 Fife             | 98467 University Place |
| 98443 Tacoma           | 98492 Lakewood         |
| 98450 Tacoma           | 98493 Tacoma           |
| 98455 Tacoma           | 98497 Lakewood         |
| 98460 Tacoma           | 98498 Lakewood         |
| 98464 University Place | 98499 Lakewood         |
| 98465 Tacoma           | 98558 McKenna          |
| 98466 Fircrest         | 98580 Roy              |

(c) Snohomish County is divided into three planning areas as follows:

| <u>SNOHOMISH ONE</u>                          | <u>SNOHOMISH TWO</u> | <u>SNOHOMISH THREE</u>       |
|---|----------------------|------------------------------|
| 98223 Arlington                               | 98201 Everett        | 98012 Mill Creek/<br>Bothell |
| 98241 Darrington                              | 98203 Everett        | 98020 Edmonds/<br>Woodway    |
| 98252 Granite Falls                           | 98204 Everett        | 98021 Bothell                |
| 98259 North Lake-<br>wood                     | 98205 Everett        | 98026 Edmonds                |
| 98271 Tulalip Reser-<br>vation/<br>Marysville | 98208 Everett        | 98036 Lyn-<br>nwood/Brier    |
| 98282 Camano Island                           | 98251 Gold Bar       | 98037 Lynnwood               |
| 98287 Silvana                                 | 98256 Index          | 98043 Mountlake<br>Terrace   |
|   | 98224 Baring         |                              |
| 98292 Stanwood                                | 98258 Lake Stevens   | 98087 Lynnwood               |
|   | 98270 Marysville     | 98296 Snohomish              |
|   | 98272 Monroe         |                              |
|   | 98275 Mukilteo       |                              |
|   | 98288 Skykomish      |                              |
|   | 98290 Snohomish      |                              |
|   | 98293 Startup        |                              |
|   | 98294 Sultan         |                              |

(d) Spokane County is divided into two planning areas as follows:

| <u>SPOKANE ONE</u>             | <u>SPOKANE TWO</u>  |
|--------------------------------|---------------------|
| 99001 Airway Heights           | 99003 Chattaroy     |
| 99004 Cheney                   | 99005 Colbert       |
| 99011 Fairchild Air Force Base | 99006 Deer Park     |
| 99012 Fairfield                | 99009 Elk           |
| 99014 Four Lakes               | 99021 Mead          |
| 99016 Greenacres               | 99025 Newman Lake   |
| 99018 Latah                    | 99027 Otis Orchards |

| <u>SPOKANE ONE</u>           | <u>SPOKANE TWO</u> |
|------------------------------|--------------------|
| 99019 Liberty Lake           | 99205 Spokane      |
| 99020 Marshall               | 99207 Spokane      |
| 99022 Medical Lake           | 99208 Spokane      |
| 99023 Mica                   | 99209 Spokane      |
| 99030 Rockford               | 99217 Spokane      |
| 99031 Spangle                | 99218 Spokane      |
| 99036 Valleyford             | 99228 Spokane      |
| 99037 Veradale               | 99251 Spokane      |
| 99039 Waverly                | 99252 Spokane      |
| 99201 Spokane                |                    |
| 99202 Spokane                |                    |
| 99203 Spokane                |                    |
| 99204 Spokane                |                    |
| 99206 Spokane Valley         |                    |
| 99210 Spokane                |                    |
| 99211 Spokane Valley         |                    |
| 99212 Spokane Valley         |                    |
| 99213 Spokane Valley         |                    |
| 99214 Spokane Valley         |                    |
| 99215 Spokane/Spokane Valley |                    |
| 99216 Spokane/Spokane Valley |                    |
| 99219 Spokane/Sunset Hill    |                    |
| 99220 Spokane                |                    |
| 99223 Spokane                |                    |
| 99224 Spokane                |                    |
| 99256 Spokane                |                    |
| 99258 Spokane                |                    |
| 99260 Spokane                |                    |
| 99299 Spokane                |                    |

(10) "Projection year" means the fourth year after the base year. For example, reviews using 2005 year-end data as the base year will use 2009 as the projection year.

(11) "Resident in-center patients" means hemodialysis (HD) patients that reside within the planning area. If more than fifty percent of a facility's patients reside outside Washington state, the facility may include these out-of-state patients in the resident count for the planning area.

(12) "Service area" means an individual geographic area designated by the department for which kidney dialysis station need projections are calculated. For purposes of kidney dialysis projects, service area and planning area have the same meaning.

(13) "Training services" means services provided by a kidney dialysis facility to train patients for home dialysis. Types of home dialysis include at least, but are not limited to, the following:

- (a) Home peritoneal dialysis; and
- (b) Home hemodialysis (HHD).

**NEW SECTION**

**WAC 246-310-282 Kidney disease treatment centers—Concurrent review cycle.** The department will review kidney dialysis facility applications using the concurrent review cycle described in this section. There are four concurrent review cycles each year; a cycle begins in January, April, July and October.

(1) Applicants must submit applications for review according to the following table:

| Concurrent Review Cycle          | Letters of Intent Due  | Application Submission Period   |  |  | Department Action                 | Application Review Period  |   |   |
|----------------------------------|--|---|--|--|-----------------------------------|--|---|---|
|                                  |  | Receipt of Initial Application  | End of Screening Period                        | Applicant Response                             | Beginning of Review Preparation   | Public Comment Period (includes public hearing if requested)   | Rebuttal Period   | Exparte Period  |
| Kidney Dialysis Facility Cycle 1 | First working day and last working day of <b>January</b> of each year. | First working day and last working day of <b>February</b> of each year. | Last working day of <b>March</b> of each year. | Last working day of <b>April</b> of each year. | <b>May 1 through May 15</b>       | <b>60-Day</b> Public comment period<br><br>Begins May 16 of each year or the first working day after May 16.       | <b>30-Day</b> Rebuttal period<br><br>Applicant and affected party response to public comment. | <b>45-Day</b> Exparte period<br><br>Department evaluation and decision. |
| Kidney Dialysis Facility Cycle 2 | First working day and last working day of <b>April</b> of each year.   | First working day and last working day of <b>May</b> of each year.      | Last working day of <b>June</b> of each year.  | Last working day of <b>July</b> of each year.  | <b>August 1 through August 15</b> | <b>60-Day</b> Public comment period<br><br>Begins August 16 of each year or the first working day after August 16. | <b>30-Day</b> Rebuttal period<br><br>Applicant and affected party response to public comment. | <b>45-Day</b> Exparte period<br><br>Department evaluation and decision. |

| Concurrent Review Cycle          | Letters of Intent Due  | Application Submission Period   |  |  | Department Action                     | Application Review Period  |   |   |
|----------------------------------|--|---|--|--|---------------------------------------|--|---|---|
|                                  |  | Receipt of Initial Application  | End of Screening Period                            | Applicant Response                               |                                       | Public Comment Period (includes public hearing if requested)   | Rebuttal Period   | Exparte Period  |
| Kidney Dialysis Facility Cycle 3 | First working day and last working day of <b>July</b> of each year.    | First working day and last working day of <b>August</b> of each year.   | Last working day of <b>September</b> of each year. | Last working day of <b>October</b> of each year. | <b>November 1 through November 15</b> | <b>60-Day</b> Public comment period<br><br>Begins November 16 of each year or the first working day after November 16. | <b>30-Day</b> Rebuttal period<br><br>Applicant and affected party response to public comment. | <b>45-Day</b> Exparte period<br><br>Department evaluation and decision. |
| Kidney Dialysis Facility Cycle 4 | First working day and last working day of <b>October</b> of each year. | First working day and last working day of <b>November</b> of each year. | Last working day of <b>December</b> of each year.  | Last working day of <b>January</b> of each year. | <b>February 1 through February 15</b> | <b>60-Day</b> Public comment period<br><br>Begins February 16 of each year or the first working day after February 16. | <b>30-Day</b> Rebuttal period<br><br>Applicant and affected party response to public comment. | <b>45-Day</b> Exparte period<br><br>Department evaluation and decision. |

(2) The department should complete a concurrent review cycle within nine months. The department should complete the regular review process within six months.

(3) The department will notify applicants fifteen days prior to the scheduled decision date if it is unable to meet the deadline for making a decision on the application. In that event, the department will establish and commit to a new decision date.

(4) The department will not accept new applications for a planning area if there are any pending applications in that planning area filed under a previous concurrent review cycle, unless the department has not made a decision on the pending applications within the review timelines of nine months for a concurrent review and six months for a regular review.

(5) The department may convert the review of an application that was initially submitted under the concurrent review cycle to a regular review process if the department determines that the application does not compete with another application.

**NEW SECTION**

**WAC 246-310-284 Kidney disease treatment centers—Methodology.** A kidney dialysis facility that provides hemodialysis or peritoneal dialysis, training, or backup must meet the following standards in addition to applicable review criteria in WAC 246-310-210, 246-310-220, 246-310-230, and 246-310-240.

(1) Applications for new stations may only address projected station need in the planning area in which the facility is to be located.

(a) If there is no existing facility in an adjacent planning area, the application may also address the projected station need in that planning area.

(b) Station need projections must be calculated separately for each planning area within the application.

(2) Data used to project station need must be the most recent five-year resident in-center year-end patient data available from the Northwest Renal Network as of the first day of the application submission period, concluding with the base year at the time of application.

(3) Projected station need must be based on 4.8 resident in-center patients per station for all planning areas except Adams, Columbia, Douglas, Ferry, Garfield, Jefferson, Kittitas, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, San Juan, Skamania, Stevens, and Wahkiakum counties. The projected station need for these exception planning areas must be based on 3.2 resident in-center patients per station.

(4) The number of dialysis stations projected as needed in a planning area shall be determined by using the following methodology:

(a) Determine the type of regression analysis to be used to project resident in-center station need by calculating the annual growth rate in the planning area using the year-end number of resident in-center patients for each of the previous six consecutive years, concluding with the base year.

(i) If the planning area has experienced less than six percent growth in any of the previous five annual changes calculations, use linear regression to project station need; or

(ii) If the planning area has experienced six percent or greater growth in each of the previous five annual changes, use nonlinear (exponential) regression to project station need.

(b) Project the number of resident in-center patients in the projection year using the regression type determined in (a) of this subsection. When performing the regression analysis use the previous five consecutive years of year-end data concluding with the base year. For example, if the base year is 2005, use year-end data for 2001 through 2005 to perform the regression analysis.

(c) Determine the number of dialysis stations needed to serve resident in-center patients in the planning area in the projection year by dividing the result of (b) of this subsection by the appropriate resident in-center patient per station number from subsection (3) of this section. In order to assure access, fractional numbers are rounded up. For example, 5.1 would be rounded to 6. Rounding is only allowed for determining the number of stations needed.

(d) To determine the net station need for a planning area, subtract the number calculated in (c) of this subsection from the total number of certificate of need approved stations located in the planning area.

(5) Before the department approves new in-center kidney dialysis stations, all certificate of need approved stations in the planning area must be operating at 4.8 patients per dialysis station for all areas except Adams, Columbia, Douglas, Ferry, Garfield, Jefferson, Kittitas, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, San Juan, Skamania, Stevens, and Wahkiakum counties. For these exception planning areas all certificate of need approved stations in the planning area must be operating at 3.2 in-center patients per station. Both resident and nonresident patients using the dialysis facility are included in this calculation. Data used to make this calculation must be from the most recent quarterly modality report from the Northwest Renal Network as of the first day of the application submission period.

(6) By the third full year of operation, new in-center kidney dialysis stations must reasonably project to be operating at:

(a) 4.8 patients per station for those facilities required to operate at 4.8 patients as identified in subsection (5) of this section; or

(b) 3.2 patients per station for those facilities required to operate at 3.2 patients as identified in subsection (5) of this section.

#### NEW SECTION

**WAC 246-310-286 Kidney disease treatment centers—Standards for planning areas without an existing facility.** Adams, Columbia, Douglas, Ferry, Garfield, Jefferson, Kittitas, Klickitat, Lincoln, Pacific, Pend Oreille, San Juan, Skamania, Stevens, and Wahkiakum planning areas do not have an existing kidney dialysis facility as of the effective date of these rules. The department will award the first approvable project proposing to establish a facility in one of these planning areas a minimum of four stations. The facility must be projected to operate at 3.2 resident in-center patients per station by the third full year of operation.

#### NEW SECTION

**WAC 246-310-287 Kidney disease treatment centers—Exceptions.** The department shall not approve new stations in a planning area if the projections in WAC 246-310-284(4) show no net need, and shall not approve more than the number of stations projected as needed unless:

- (1) All other standards have been met; and
- (2) One or more of the following have been met:

(a) The department finds the additional stations are needed to be located reasonably close to the people they serve; or

(b) Existing dialysis stations in the dialysis facility are operating at six patients per station; or

(c) The applicant can document a significant change in ESRD treatment practice has occurred, affecting dialysis station use in the planning area; and

(3) The department finds that exceptional circumstances exist within the planning area and explains the approval of additional stations in writing.

#### NEW SECTION

**WAC 246-310-288 Kidney disease treatment centers—Tie-breakers.** If two or more applications meet all applicable review criteria and there is not enough station need projected for all applications to be approved, the department will use tie-breakers to determine which application or applications will be approved. The department will approve the application accumulating the largest number of points. If sufficient additional stations remain after approval of the first application, the department will approve the application accumulating the next largest number of points, not to exceed the total number of stations projected for a planning area. If the applications remain tied after applying all the tie-breakers, the department will award stations as equally as possible among those applications, without exceeding the total number of stations projected for a planning area.

(1) The department will award one point per tie-breaker to any applicant that meets a tie-breaker in this subsection.

(a) **Training services (1 point):**

(i) The applicant is an existing provider in the planning area and either offers training services at the facility proposed to be expanded or offers training services in any of its existing facilities within a thirty-five mile radius of the existing facility; or

(ii) The applicant is an existing provider in the planning area proposing to establish a new facility either that offers training services at the new facility or offers training services within a thirty-five mile radius of the proposed new facility; or

(iii) The applicant, not currently located in the planning area, proposes to establish a new facility with training services and demonstrates a historical and current provision of training services at its other facilities; and

(iv) Northwest Renal Network's most recent quarterly modality reports must document the provision of these training services by the applicant.

(b) **Private room(s) for isolating patients needing dialysis (1 point).**

(c) **Permanent bed stations at the facility (1 point).**

(d) **Evening shift (1 point):** The applicant currently offers, or as part of its application proposes to offer at the facility a dialysis shift that begins after 5:00 p.m.

(e) **Meeting the projected need (1 point):** The applications that propose the number of stations that most closely approximates the projected need.

(2) Only one applicant may be awarded a point for each of the following four tie-breakers:

(a) **Economies of scale (1 point):** Compared to the other applications, an applicant demonstrates its proposal has the lowest capital expenditure per new station.

(b) **Historical provider (1 point):**

(i) The applicant was the first to establish a facility within a planning area; and

(ii) The application to expand the existing facility is being submitted within five years of the opening of its facility; or

(iii) The application is to build an additional new facility within five years of the opening of its first facility.

(c) **Patient geographical access (1 point):** The application proposing to establish a new facility within a planning area that will result in services being offered closer to people in need of them. The department will award the point for the facility located farthest away from existing facilities within the planning area provided:

(i) The facility is at least three miles away from the next closest existing facility in planning areas that qualify for 4.8 patients per station; or

(ii) The facility is at least eight miles from the next closest existing facility in planning areas that qualify for 3.2 patients per station.

(d) **Provider choice (1 point):**

(i) The applicant does not currently have a facility located within the planning area;

(ii) The department will consider a planning area as having one provider when a single provider has multiple facilities in the same planning area;

(iii) If there are already two unrelated providers located in the same planning area, no point will be awarded.

#### NEW SECTION

**WAC 246-310-289 Kidney disease treatment centers—Relocation of facilities.** (1) When an entire facility proposes to relocate to another planning area, a new health care facility is considered to be established under WAC 246-310-020(1).

(2) When an entire facility proposes to relocate within the same planning area, a new health care facility is not considered to be established under WAC 246-310-020(1) if:

(a) The existing facility ceases operation;

(b) No new stations are added to the replacement facility;

(c) There is no break in service between the closure of the existing facility and the operation of the replacement facility;

(d) The existing facility has been in operation for at least five years at its present location; and

(e) The existing facility has not been purchased, sold or leased within the past five years.

(3) When an existing facility proposes to relocate a portion of its stations to either another planning area or within the same planning area, a new health care facility is considered to be established under WAC 246-310-020(1).

#### WSR 06-19-112

#### PROPOSED RULES

#### CENTRAL WASHINGTON UNIVERSITY

[Filed September 20, 2006, 9:58 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-14-0878.

Title of Rule and Other Identifying Information: WAC 106-72-005 Equal opportunity/affirmative action and 106-72-025 Equal opportunity for students, proposed changes will update list of protected groups.

Hearing Location(s): Barge 304, on October 24, 2006, at 2:00 p.m.

Date of Intended Adoption: October 25, 2006.

Submit Written Comments to: Judy B. Miller, President's Office, 400 East University Way, Ellensburg, WA 98926-7501, e-mail miller@cwu.edu, fax (509) 963-3206, by October 23, 2006.

Assistance for Persons with Disabilities: Contact Disability Support Services by October 17, 2006, TTY (509) 963-2143.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Modify existing protected groups as required by federal legislation.

Reasons Supporting Proposal: Consistent with federal law.

Statutory Authority for Adoption: RCW 28B.10.528 and 28B.35.120(12).

Rule is necessary because of federal law, 41 C.F.R. 60-50.

Name of Proponent: Judy B. Miller, public.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Nancy E. Howard, Office for Equal Opportunity, 400 East University Way, Ellensburg 98926-7497, (509) 963-2205.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Changes are in response to federal law.

A cost-benefit analysis is not required under RCW 34.05.328. Specifically dictated by federal law (RCW 34.05.328 (5)(b)(iii)), rules incorporating federal statutes or regulations without material change.

September 15, 2006

Jerilyn S. McIntyre

President

AMENDATORY SECTION (Amending WSR 05-05-057, filed 2/14/05, effective 3/17/05)

**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, sex, sexual orientation, gender identity and expression, age, marital status, disability, or status as a ~~((disabled or Vietnam era))~~ protected veteran.

(2) Ensure that all personnel actions such as compensation, benefits, transfers, terminations, layoffs, return from layoff, reductions in force (RIF), university-sponsored train-



ing, education, tuition assistance, and social and recreation programs, will be administered without regard to race, color, creed, religion, national origin, sex, sexual orientation, gender identity and expression, age, marital status, disability, or status as a ~~((disabled or Vietnam-era))~~ protected 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))~~ and all protected 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 WSR 05-05-057, filed 2/14/05, effective 3/17/05)

**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, sex, sexual orientation, gender identity and expression, age, marital status, disability, or status as a ~~((disabled or Vietnam-era))~~ protected 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, sex, sexual orientation, gender identity and expression, age, marital status, disability (except to provide reasonable accommodation), or status as a ~~((disabled or Vietnam-era))~~ protected 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.

**WSR 06-19-114  
PROPOSED RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Filed September 20, 2006, 10:19 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-16-131.

Title of Rule and Other Identifying Information: WAC 232-28-337 Deer and elk areas.

Hearing Location(s): Red Lion Hotel at the Quay, 100 Columbia Street, Vancouver, WA 98660, on November 3-4, 2006, at 8:00 a.m.

Date of Intended Adoption: December 8-9, 2006.

Submit Written Comments to: Attn: Wildlife Program Commission Meeting Public Comments, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail Wildthing@dfw.wa.gov, fax (360) 902-2162, by October 9, 2006.

Assistance for Persons with Disabilities: Contact Nancy Burkhart by October 30, 2006, TTY (800) 833-6388 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed language adjusts some existing deer and elk area boundaries to allow staff to be more effective in dealing with damage concerns. New deer and elk areas are also proposed to facilitate hunting seasons on a smaller scale than the game management unit (GMU). Creation of new areas also defines areas for future hunts to deal with wildlife damage to population control. The proposed language eliminates one elk area that is no longer needed.

Reasons Supporting Proposal: The proposed language allows the department to better deal with wildlife damage issues and/or population regulation to meet management objectives by using recreational hunting as a management tool. One new elk area and one new deer area will help facilitate new hunts.

Statutory Authority for Adoption: RCW 77.12.047.

Statute Being Implemented: RCW 77.12.047.

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

Name of Proponent: Washington fish and wildlife commission, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Dave Brittell, Natural Resources Building, Olympia, (360) 902-2504; and Enforcement: Bruce Bjork, Natural Resources Building, Olympia, (360) 902-2932.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules regulate recreational hunters and do not directly regulate small business.

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

September 20, 2006

Morris W. Barker

Rules Coordinator

AMENDATORY SECTION (Amending Order 06-196, filed 8/15/06, effective 9/15/06)

**WAC 232-28-337 Deer and elk area descriptions.**

**ELK AREAS**

**Elk Area No. 1010 (Columbia County):** GMU 162 excluding National Forest land and the Rainwater Wildlife Area.

**Elk Area No. 1011 (Columbia County):** That part of GMU 162 east of the North Touchet Road, excluding National Forest land.

**Elk Area No. 1012 (Columbia County):** That part of GMU 162 west of the North Touchet Road, excluding National Forest land and the Rainwater Wildlife Area.

**Elk Area No. 1013 (Asotin County):** GMU 172, excluding National Forest lands.

**Elk Area No. 1014 (Columbia-Garfield counties):** That part of GMU 166 Tucannon west of the Tucannon River and USFS Trail No. 3110 (Jelly Spr.-Diamond Pk. Trail).

**Elk Area No. 2032 Malaga (Kittitas and Chelan counties):** Beginning at the mouth of Davies Canyon on the Columbia River; west along Davies Canyon to the cliffs above (north of) the North Fork Tarpiscan Creek; west and north along the cliffs to the Bonneville Power Line; southwest along the power line to the North Fork Tarpiscan Road in Section 9, Township 20N, Range 21E; north and west along North Fork Tarpiscan Road to Colockum Pass Road (Section 9, Township 20N, Range 21E); south and west on Colockum Pass Road to section line between Sections 8 & 9; north along the section line between Sections 8 and 9 as well as Sections 4 & 5 (T20N, R21E) & Sections 32 & 33 (T21N, R21E) to Moses Carr Road; west and north on Moses Carr Road to Jump Off Road; south and west on Jump Off Road to Shaller Road; north and west on Shaller Road to Upper Basin Loop Road; north and west on Upper Basin Loop Road to Wheeler Ridge Road; north on Wheeler Ridge Road to the Basin Loop Road (pavement) in Section 10 (T21N, R20E); north on Basin Loop Road to Wenatchee Heights Road; west on Wenatchee Heights Road to Squilchuck Road; south on Squilchuck Road to Beehive Road (USFS Rd 9712); northwest on Beehive Road to USFS Rd 7100 near Beehive Reservoir; north and west on USFS Rd 7100 to Peavine Canyon Road (USFS Rd 7101); north and east on Peavine Canyon Road to Number Two Canyon Road; north on Number Two Canyon Road to Crawford Street in Wenatchee; east on Crawford Street to the Columbia River; south and east along the Columbia River to Davies Canyon and point of beginning. (Naneum Green Dot, Washington Gazetteer, Wenatchee National Forest)

**Elk Area No. 2033 Peshastin (Chelan County):** Beginning at Crawford Street and the Columbia River in Wenatchee; west on Crawford Street and Number Two Canyon Road to USFS 7101 Road (Peavine Canyon); west on USFS 7101 Road to Mission Creek Road; north on Mission Creek Road to USFS 7104 Road (Sand Creek Road); west on USFS 7104 Road (Sand Creek Road) to Camas Creek; west up Camas Creek to where Camas Creek crosses USFS 7200 Road, T22N, R18E, Section 4; north along USFS 7200 Road to U.S. Highway 97; north on U.S. Highway 97 to USFS 7300 Road (Mountain Home Road); north on the USFS 7300 Road to the Wenatchee River at Leavenworth; down the Wenatchee River and Columbia River to the point of beginning.

**Elk Area No. 2051 Tronsen (Chelan County):** All of GMU 251 except that portion described as follows: Beginning at the junction of Naneum Ridge Road (WDFW Rd 9) and Ingersol Road (WDFW Rd 1); north and east on Ingersol Road to Colockum Road (WDFW Rd 10); east on Colockum Road and Colockum Creek to the intersection of Colockum Creek and the Columbia River; south on the Columbia River to mouth of Tarpiscan Creek; west up Tarpiscan Creek and Tarpiscan Road (WDFW Rd 14) and North Fork Road (WDFW Rd 10.10) to the intersection of North Fork Road and Colockum Road; southwest on Colockum Road to

Naneum Ridge Road; west on Naneum Ridge Road to Ingersol Road and the point of beginning.

~~((Elk Area No. 3028 Cooke Creek (Kittitas County): Beginning at the junction of the Naneum Ridge and Swift Creek Road in T20N, R20E, Section 16, east on the Naneum Ridge Road to the Colockum Road; south on the Colockum and Brewton roads to the power lines in T20N, R21E, Section 29; south and west on the power lines to the Coleman Creek Road; north on the Coleman Creek Road to the Swift Creek Road and point of beginning, excluding Arthur Coffin Game Reserve.))~~

**Elk Area No. 3068 Klickitat Meadows (Yakima County):** Beginning at Darland Mountain, southeast along the main divide between the Diamond Fork drainage and the Ahtanum Creek drainage to the point due west of the headwaters of Reservation Creek (Section 18, T12N, R14E); then along a line due west to Spencer Point (as represented in the DNR 100k map); northeast from Spencer Point to US Forest Service (USFS) Trail 1136; north along USFS Trail 1136 to USFS Trail 615; east on USFS Trail 615 to Darland Mountain and the point of beginning.

**Elk Area No. 3721 Corral Canyon (Benton and Yakima counties):** That part of GMU 372 beginning at the Yakima River Bridge on SR 241 just north of Mabton; north along SR 241 to the Rattlesnake Ridge Road (mile post #19); east on Rattlesnake Ridge Road to the Hanford Reach National Monument's (HRNM) southwest corner boundary; east and south along the HRNM boundary to SR 225; south on SR 225 to the Yakima River Bridge in Benton City; west (upstream) along Yakima River to point of beginning (SR 241 Bridge).

**Elk Area No. 3722 Blackrock (Benton and Yakima counties):** That part of GMU 372 beginning at southern corner of the Yakima Training Center border on Columbia River, northwest of Priest Rapids Dam; southeast on southern shore of Columbia River (Priest Rapids Lake) to Priest Rapids Dam; east along Columbia River to the Hanford Reach National Monument's (HRNM) western boundary; south along the HRNM boundary to the Rattlesnake Ridge Road; west on Rattlesnake Ridge Road to SR 241; south on SR 241 to the Yakima River Bridge just north of Mabton; west along Yakima River to SR 823 (Harrison Road) south of town of Pomona; east along SR 823 (Harrison Road) to SR 821; southeast on SR 821 to Firing Center Road at I-82; east on Firing Center Road to main gate of Yakima Training Center; south and east along Yakima Training Center boundary to southern corner of Yakima Training Center boundary on Columbia River and point of beginning.

**Elk Area No. 3911 Fairview (Kittitas County):** Beginning at the intersection of the BPA Power Lines in T20N, R14E, Section 36 and Interstate 90; east along the power lines to Highway 903 (Salmon La Sac Road); northwest along Highway 903 to USFS Road 4305 (Bear Creek Road); east on USFS Road 4305 to Corral Creek, east along Corral Creek to West Fork Teanaway River; east along West Fork Teanaway River to North Fork Teanaway River; north along North Fork Teanaway River to Teanaway Road; southeast on Teanaway Road to Ballard Hill Road; east on Ballard Hill Rd and

Swauk Prairie Road to Hwy 970; northeast on Hwy 970 to Hwy 97; south on Hwy 97 to the power lines in T20N, R17E, Section 34; east on the power lines to Naneum Creek; south on Naneum Creek approximately 1/2 mile to power lines in T19N, R19E, Section 20; east along BPA power lines to Colockum Pass Road in T19N, R20E, Section 16; south on Colockum Pass Road to BPA power lines in T18N, R20E, Section 6; east and south along power lines to Parke Creek; north on Parke Creek to Whiskey Jim Creek; east on Whiskey Jim Creek to Beacon Ridge Road; south on Beacon Ridge Road to the Vantage Highway; east along the Vantage Highway to I-90; west along I-90 to the Yakima Training Center boundary; south and west along the Yakima Training Center boundary to I-82; north on I-82 to Thrall Road; west on Thrall Road to Wilson Creek; south on Wilson Creek to Yakima River; north on Yakima River to gas pipeline crossing in T17N, R18E, Section 25; south and west on the gas pipeline to Umtanum Creek; west on Umtanum Creek to the Durr Road; north on the Durr Road to Umtanum Road; north on Umtanum Road to South Branch Canal; west on South Branch Canal to Bradshaw Road; west on Bradshaw Road to the elk fence; north and west along the elk fence to power line crossing in T19N, R16E, Section 10; west along the power line (south branch) to the Cabin Creek Road; east and north on Cabin Creek Road to Easton and I-90; east on I-90 to point of beginning.

**Elk Area No. 3912 Old Naches (Yakima County):** Starting at the elk fence and Roza Canal along the south boundary T14N, R19E, Section 8; following the elk fence to the sheep feeding site in T15N, R16E, Section 36; south on the feeding site Access Road to the Old Naches Highway; west and south on the Old Naches Highway to State Route 12 and the Naches River; down the Naches River to the Tieton River; up the Tieton River approximately 2 miles to the elk fence in T14N, R16E, Section 3; due south from the start of the elk fence to the top of the cliff; southwest along the cliff/rimrock to the irrigation canal in T14N, R16E, Section 9; southwest along the irrigation canal to the elk fence in T14N, R16E, Section 8; the elk fence to the township line between T12N, R15E and T12N, R16E; south along the township line to the South Fork Ahtanum Creek; South Fork Ahtanum Creek to Ahtanum Creek to Yakima River; up the Yakima River to Roza Canal and point of beginning.

**Elk Area No. 3944 Clemen (Yakima County):** That portion of GMU 342 beginning at the junction of Highway 410 and USFS Road 1701 (Big Bald Mountain Road); north to USFS Road 1712; east on USFS Road 1712 (Clemen Ridge Road) to the elk fence gate (T15N; R17E; Section 23 NE 1/4) at the top of Austin Spur Road; south and west along the elk fence to Highway 410 to the point of beginning.

**Elk Area No. 4041 Grandy Creek (Skagit County):** Begin at the intersection of CP 190 Road and CP 132 Road (Section 28, T36N, R5E); east along the CP 132 Road to the CP 130 Road; east and south along CP 130 Road to CP 110 Road, west, south and east along CP 110 Road to Childs Creek; south down Childs Creek to State Route 20; east on State Route 20 to Grandy Creek; south down Grandy Creek to the Skagit River; south on a line to South Skagit Hwy; west on South Skagit Hwy to State Route 9; north on State Route 9 to

State Route 20; east on State Route 20 to Helmick Road; north on Helmick Road to CP 190 Road to CP 132 Road and the point of beginning. (WA Atlas & Gazetteer & Mt. Baker-Snoqualmie National Forest Map)

**Elk Area No. 4941 Skagit River (Skagit County):** Beginning at the intersection of State Route 9 and State Route 20; east on State Route 20 to Grandy Creek; south down Grandy Creek to the Skagit River; south on a line to South Skagit Highway; west on South Skagit Highway to State Route 9; north on State Route 9 to point of beginning.

**Elk Area No. 5029 Toledo (Lewis and Cowlitz counties):** Beginning at the Cowlitz River and State Highway 505 junction; east along the Cowlitz River to the Weyerhaeuser 1800 Road; south along Weyerhaeuser 1800 Road to Cedar Creek Road; east along Cedar Creek Road to Due Road; south on Due Road to Weyerhaeuser 1823 Road; south along Weyerhaeuser 1823 Road to the Weyerhaeuser 1945 Road; south along the Weyerhaeuser 1945 Road to the Weyerhaeuser 1900 Road; south along the Weyerhaeuser 1900 Road to the North Fork Toutle River; west along the North Fork Toutle River to the Toutle River; west on the Toutle River to the Cowlitz River; North along the Cowlitz River to the junction of State Highway 505 and the point of beginning.

**Elk Area No. 5051 Green Mountain (Cowlitz County):** Beginning at the junction of the Cowlitz River and the Toutle River; east along the Toutle River to the North Fork Toutle River; east along the North Fork Toutle River to the Weyerhaeuser 1900 Road; south along the Weyerhaeuser 1900 Road to the Weyerhaeuser 1910 Road; south along the Weyerhaeuser 1910 Road to the Weyerhaeuser 2410 Road; south along the Weyerhaeuser 2410 Road to the Weyerhaeuser 4553 Road; south along the Weyerhaeuser 4553 Road to the Weyerhaeuser 4500 Road; south along the Weyerhaeuser 4500 Road to the Weyerhaeuser 4400 Road; south along the Weyerhaeuser 4400 Road to the Weyerhaeuser 4100 Road; east along the Weyerhaeuser 4100 Road to the Weyerhaeuser 4700 Road; south along the Weyerhaeuser 4700 Road to the Weyerhaeuser 4720 Road; west along the Weyerhaeuser 4720 Road to the Weyerhaeuser 4730 Road; west along the Weyerhaeuser 4730 Road to the Weyerhaeuser 4732 Road; west along the Weyerhaeuser 4732 Road to the Weyerhaeuser 4790 Road; west along the Weyerhaeuser 4790 Road to the Weyerhaeuser 1390 Road; south along the Weyerhaeuser 1390 Road to the Weyerhaeuser 1600 Road; west along the Weyerhaeuser 1600 Road to the Weyerhaeuser Logging Railroad Tracks at Headquarters; west along the Weyerhaeuser Logging Railroad Track to Ostrander Creek; west along Ostrander Creek to the Cowlitz River; north along the Cowlitz River to the Toutle River and point of beginning.

**Elk Area No. 5052 Mossyrock (Lewis County):** Beginning at the intersection of Winston Creek Road and State Highway 12; east on State Highway 12 to the Cowlitz River; east on the Cowlitz River to Riffe Lake; southeast along the south shore of Riffe Lake to Swofford Pond outlet creek; south on Swofford Pond outlet creek to Green Mountain Road; west on Green Mountain Road to Perkins Road; west on Perkins Road to Longbell Road; south on Longbell Road to Winston Creek Road; north on Winston Creek Road to State Highway

12 and the point of beginning. (All lands owned and managed by the Cowlitz Wildlife Area are excluded from this Elk Area.)

**Elk Area No. 5053 Randle (Lewis County):** Beginning at the town of Randle and the intersection of U.S. Highway 12 and State Route 131 (Forest Service 23 and 25 roads); south on State Route 131 to Forest Service 25 Road; south on Forest Service 25 Road to the Cispus River; west along the Cispus River to the Champion 300 line bridge; south and west on the Champion 300 line to the Champion Haul Road; north along the Champion Haul Road to Kosmos Road; north on Kosmos Road to U.S. Highway 12; east on U.S. Highway 12 to Randle and point of beginning. (All lands owned and managed by the Cowlitz Wildlife Area are excluded from this Elk Area.)

**Elk Area No. 5054 Boistfort (Lewis County):** Beginning at the town of Vader; west along State Highway 506 to the Wildwood Road; north along the Wildwood Road to the Abernathy 500 line gate (Section 20, T11N, R3W, Wilamette Meridian); northwest along the 500, 540, and 560 lines to the Weyerhaeuser 813 line; northwest along the 813, 812, 5000J, 5000 and 4000 lines to the Pe Ell/McDonald Road (Section 15, T12N, R4W); west along the Pe Ell/McDonald Road to the Lost Valley Road; northeast along the Lost Valley Road to the Boistfort Road; north along the Boistfort Road to the King Road; east along the King Road to the town of Winlock and State Highway 603; south along Highway 505 to Interstate 5; south along Interstate 5 to State Hwy 506; west along State Hwy 506 to the town of Vader and the point of beginning.

**Elk Area No. 5056 Grays River Valley (Wahkiakum County):** On or within 3/4 mile of agricultural land in the Grays River Valley within the following sections: T10N, R7W, Sections 8, 9, 17, 18 and T10N, R8W, Sections 13, 23, 24, 26.

**Elk Area No. 5057 Carlton (Lewis County):** That part of 513 (South Rainier) lying east of Highway 123 and north of Highway 12.

**Elk Area No. 5058 West Goat Rocks (Lewis County):** Goat Rocks Wilderness west of the Pacific Crest Trail.

**Elk Area No. 5059 Mt. Adams Wilderness (Skamania and Yakima counties):** The Mt. Adams Wilderness.

**Elk Area No. 5060 Merwin (Cowlitz County):** Begin at the State Route 503 and the Longview Fibre Road WS-8000 junction; north and west on the Longview Fibre Road WS-8000 to Day Place Road; west on Day Place Road to Dubois Road; south on Dubois Road to State Route 503; east on State Route 503 to the State Route 503 and the Longview Fibre Road WS-8000 junction and point of beginning.

**Elk Area No. 5061 Wildwood (Lewis County):** Beginning at the junction of the Pacific West Timber (PWT) 600 Road and the Wildwood Road (SE1/4 S29 T11N R3W); southwest on the 600 Road to the 800 Road (NW1/4 S36 T11N R4W); southwest on the 800 Road to the 850 Road (SW1/4 S3 T10N R4W); northwest on the 850 Road to the Weyerhaeuser 4720 Road (S20 T11N R4W); north on the Weyerhaeuser 4720

Road to the Weyerhaeuser 4700 Road (S17 T11N R4W); east on the Weyerhaeuser 4700 Road to the Weyerhaeuser 5822 Road (NW1/4 S16 T11N R4W); east on the Weyerhaeuser 5822 Road to the Weyerhaeuser 5820 Road (NW1/4 S10 T11N R4W); southeast on the Weyerhaeuser 5820 Road to the PWT 574 Road (SE1/4 S10 T11N R4W); south on the PWT 574 Road to the 570 Road (NW1/4 S14 T11N R4W); south on the 570 Road to the 500 Road (NW1/4 S14 T11N R4W); northeast on the 500 Road to the 560 Road (SW1/4 S12 T11N R4W); east on the 560 Road to the 540 Road (SE1/4 S12 T11N R4W); east and south on the 540 Road to the 500 Road (SE1/4 S18 T11N R3W); east on the PWT 500 Road to the Wildwood Road (N1/2 S20 T11N R3W); south on the Wildwood Road to the point of beginning, the PWT 600 Road junction (SE1/4 S29 T11N R3W).

**Elk Area No. 5062 Trout Lake (Klickitat County):** Those portions of GMUs 560 (Lewis River) and 578 (West Klickitat) beginning at the intersection of SR 141 and Sunnyside Road; north on Sunnyside Road to Mount Adams Recreational Area Road; north on Mount Adams Recreational Area Road to USFS Road 23; north on USFS Road 23 to DNR T-4300 Road; west on DNR T-4300 Road to Trout Lake Creek Road; south on Trout Lake Creek Road to SR 141; east and south on SR 141 to the intersection of SR 141 and Sunnyside Road to the point of beginning.

**Elk Area 5063 Pumice Plain (Cowlitz and Skamania Counties):** Beginning at the confluence of the N. Fork Toutle River and Castle Creek; East along the N. Fork Toutle River to USFS trail 207; south along USFS trail 207 to USFS trail 216E; southwest along USFS trail 216E to USFS trail 216; west along USGS trail 216 to USGS 216G; northwest along USFS trail 216G to USGS trail 221; north along USFS 221 to Castle Creek; northwest along Castle Creek to N. Fork Toutle River and point of beginning.

**Elk Area No. 5090 JBH (Wahkiakum County):** The mainland portion of the Julia Butler Hansen National Wildlife Refuge, as administered by the U.S. Fish and Wildlife Service as described: Beginning at the junction of State Route 4 and Steamboat Island Slough Road, northwest on Steamboat Island Slough Road to Brooks Slough Road, east on Brooks Slough Road to State Route 4, south on State Route 4 to Steamboat Slough Road and point of beginning.

**Elk Area No. 5099 Mudflow (Cowlitz County):** That part of GMU 522 (Loo-wit) that is within the boundary of the St. Helens Wildlife Area.

**Elk Area No. 6010 Mallis (Pacific County):** That part of GMUs 506, 672, and 673 within one mile either side of State Road 6 between the east end of Elk Prairie Road and the Mallis Landing Road.

**Elk Area No. 6011 Centralia Mine (Lewis County):** That portion of GMU 667 within Centralia Mine property boundary.

**Elk Area No. 6012 Tri Valley (Grays Harbor and Mason counties):** Those portions of GMUs 648 (Wynoochee) and 651 (Satsop) within one mile of Brady-Matlock Road from State Highway 12 north to the junction with Schaefer State

Park Road (east Satsop Road) and all lands within one mile of Wynoochee Valley Road from State Highway 12 north to the junction with Cougar Smith Road, and all lands within one mile of Wishkah Valley Road from north Aberdeen city limit to the junction with Wishkah-East Hoquiam Road and all lands within 2 miles north of SR 12 between the Satsop River and Schouweiler and Hurd roads and then a line north from the end of Hurd Road to a point 2 miles north of SR 12.

**Elk Area No. 6054 Puyallup River (Pierce County):** ~~((That part of GMU 654 south of the Puyallup River.))~~ Beginning at the intersection of the Mount Rainier National Park western boundary and the Nisqually River, west down Nisqually River to mouth of Mashel River; north up Mashel River to SR 161 bridge (Eatonville-LaGrande Rd); north on SR 161 through Eatonville to Orville Rd E (Kapowsin-Eatonville Rd); north on Orville Rd E to Hancock's Kapowsin Tree Farm ownership boundary at the north end of Ohop Lake (Kapowsin and Buckley Tree Farms map); east along Kapowsin Tree Farm boundary to Mount Rainier National Park boundary; south long Mount Rainier National Park boundary to Nisqually River and point of beginning.

**Elk Area No. 6061 Twin Satsop Farms (Mason County):** That portion of GMU 651 starting at the junction of the Deckerville Road and the Brady-Matlock Road; southwest to the junction with the West Boundary Road; north on West Boundary Road to the Deckerville Road; east on the Deckerville Road to the junction of Brady-Matlock Road and point of beginning. In addition, the area within a circle with a radius of two miles centered on the junction of State Route 108 and the Eich Road.

**Elk Area No. 6062 South Bank (Grays Harbor County):** That portion of GMU 660 (Minot Peak) described as follows: Beginning at Highway 12 and Wakefield Road Junction (South Elma); south on Wakefield Road, across the Chehalis River to the South Bank Road; southeast on the South Bank Road to Delezene Road; south on the Delezene Road to a point one mile from the South Bank Road; southeast along a line one mile southwest of the South Bank Road to the Oakville-Brooklyn Road; east on the Oakville-Brooklyn Road to Oakville and Highway 12; northwest on Highway 12 to Wakefield Road to Elma and the point of beginning.

**Elk Area No. 6063 (Grays Harbor and Jefferson counties):** Private lands within Elk Area 6064 east of Highway 101.

**Elk Area No. 6064 Quinault Valley (Grays Harbor and Jefferson counties):** That portion of GMU 638 (Quinault) within the Quinault River watershed.

**Elk Area No. 6066 Chehalis Valley (Grays Harbor County):** That portion of GMU 660 (Minot Peak) beginning at Highway 12 and Highway 107 junction near Montesano; east and south on Highway 12 to Oakville; south on Oakville-Brooklyn Road to a point one mile west of South Bank Road; northwest along a line one mile southwest of South Bank Road to Delezene Road; north along Delezene Road to South Bank Road; northwest along South Bank Road to Wakefield Road; north on Wakefield Road to Chehalis River; west on

Chehalis River to Highway 107 bridge; north on Highway 107 to Highway 12 and the point of beginning.

**Elk Area No. 6067 North Minot (Grays Harbor County):** The portion of GMU 660 (Minot Peak) beginning at the junction on State Route 107 and the Melbourne A-line, on the Melbourne A-line to the Vesta F-line; south on Vesta F-line to Vesta H-line (Vesta Creek Road); south on Vesta Creek Road to the North River Road; south and east on North River Road to the Brooklyn Road; east on Brooklyn Road to the Garrard Creek Road; east and north on Garrard Creek Road to the South Bank Road; east on South Bank to South State Street (Oakville); north on South State Street to U.S. 12; northwest and west on U.S. 12 to State Route 107; south and southwest on SR 107 to the Melbourne A-line and the point of beginning.

**Elk Area No. 6068 Willapa (Grays Harbor County):** That part of GMU 658 south of SR 105 between the intersection of SR 105 and Hammond Road and the SR 105 bridge over Smith Creek; and within one mile north of SR 105 west from Hammond Road and east of the SR 105 bridge over Smith Creek.

**Elk Area No. 6069 Hanaford (Lewis and Thurston counties):** That part of GMU 667 (Skookumchuck) beginning at the intersection of Salzer Valley Road and Centralia-Alpha Road; east and north on Salzer Valley Road to Little Hanaford Road; west on Little Hanaford Road to Teitzel Road; north on Teitzel Road to Big Hanaford Road; west on Big Hanaford Road to State Route 507; north on State Route 507 to Skookumchuck Road; east on Skookumchuck Road to the first bridge over the Skookumchuck River; east along the Skookumchuck River to the Skookumchuck Road bridge; east on Skookumchuck Road to the steel tower power line; southwest along the power line to Big Hanaford Road; east and south along Big Hanaford Road to Weyerhaeuser Road E150; east on Weyerhaeuser Road E150 to Weyerhaeuser Road E247; south and west on Weyerhaeuser Road E247 to Weyerhaeuser Road E240; south on Weyerhaeuser Road E240 to North Fork Road; south on North Fork Road to Centralia-Alpha Road; west on Centralia-Alpha Road to Salzer Valley Road and the point of beginning.

**Elk Area No. 6071 Dungeness (Clallam County):** Portions of GMUs 621 (Olympic) and 624 (Coyle) beginning at the mouth of the Dungeness River; east and south along the coast of the Strait of Juan De Fuca to the mouth of Jimmycome-lately Creek on Sequim Bay; south and west up Jimmycome-lately Creek to Don Schmith Road; north on Don Schmith Road to Palo Alto Road; west and southwest on Palo Alto Road to US Forest Service Road 2880; southwest on US Forest Service Road 2880 to the Dungeness River; north down the Dungeness River to its mouth and the point of beginning.

**Elk Area No. 6072 Sol Duck Valley (Clallam County):** That portion of GMU 607 (Sol Duck [Duc]) between the Sol Duck [Duc] River and Hwy 101 from a point at the Sol Duck River bridge over Hwy 101 approximately 2 miles north of Forks to the westernmost Sol Duck [Duc] River bridge over Hwy 101 at a point approximately 1 mile east of Lake Pleasant.

**Elk Area No. 6073 Clearwater Valley (Jefferson County):** That portion of GMU 615 (Clearwater) within one mile of the Clearwater Road from the Quinault Indian Reservation boundary to a point 4 miles to the north.

#### DEER AREAS

**Deer Area No. 1010 (Columbia County):** GMU 162 excluding National Forest land and the Rainwater Wildlife Area.

**Deer Area No. 1020 Prescott (Columbia and Garfield counties):** That portion of GMU 149 between Hwy 261 and Hwy 127.

**Deer Area No. 1021 Clarkston (Asotin County):** That portion of GMU 178 beginning at the junction of the Highway 12 bridge and Alpowa Creek; east on Highway 12 to Silcott Road; south and east on Silcott Road to Highway 128; southwest on Highway 128 to McGuire Gulch Road; southeast along the bottom of McGuire Gulch to Asotin Creek; east on Asotin Creek to the Snake River; north and west on the Snake River to Alpowa Creek; southwest of Alpowa Creek to the Highway 12 bridge and the point of beginning.

**Deer Area No. 1030 Flat Creek (Stevens County):** That portion of GMU 105, beginning at the junction of Northport-Flat Creek Rd (Co. 4005) and Bull Hill Rd; north on Bull Hill Rd to USFS Rd 240; north on USFS Rd 240 to USFS Rd 230 (Belshazzar Mtn Rd); east and north on USFS Rd 230 to East Boundary of Colville National Forest at Section 24; north on Forest Boundary to Sheep Creek Rd (USFS 15, Co. 4220); west on Sheep Creek Rd to USFS Rd 170 at Kiel Springs; south on USFS Rd 170 to Lael-Flat Creek Rd (USFS 1520); south on Lael-Flat Creek Rd (USFS 1520, Co. 4181) to Northport-Flat Creek Rd; north on Northport-Flat Creek Rd to Bull Hill Rd junction and point of beginning.

**Deer Area No. 1040 Summit Lake (Stevens County):** That portion of GMU 105, beginning at the intersection of Sand Creek Rd (Co. 4017) and the Kettle River at the Rock Cut Bridge; north and east on Sand Cr Rd to Lael-Flat Cr Rd (Co. 4181, USFS Churchill Mine Rd, 1520); east on Lael-Flat Cr Rd (Churchill Mine Rd) to intersection with USFS Rd 15 near Fisher Cr; north and east on USFS Rd 15 to USFS Rd 180; north and west on USFS Rd 180 and continue west on Box Canyon-Deep Creek Rd (USFS Rd 030, Co. 4212) to the intersection of Box Canyon-Deep Creek Rd and the Kettle River; south on the Kettle River to the intersection of Sand Creek Rd and the Kettle River at the Rock Cut Bridge and the point of beginning.

**Deer Area No. 2010 Benge (Adams County):** That part of GMU 284 beginning at the town of Washtucna; north on SR 261 to Weber Road; east on Weber Road to Bengel Road; north on Bengel Road to Wellsandt Road; east on Wellsandt Road to McCall Road; east on McCall Road to Gering Road; east on Gering Road to Lakin Road; east on Lakin Road to Revere Road; south on Revere Road to Rock Creek; south along Rock Creek to the Palouse River; south and west along the Palouse River to SR 26; west on SR 26 to Washtucna and the point of beginning.

**Deer Area No. 2011 Lakeview (Grant County):** That part of GMU 272 beginning at the junction of SR 28 and First Avenue in Ephrata; west on First Avenue to Sagebrush Flats Road; west on Sagebrush Flats Road to Davis Canyon Road; north on Davis Canyon Road to E Road NW; north on E Road NW to the Grant-Douglas county line; east along the county line to the point where the county line turns north; from this point continue due east to SR 17; south on SR 17 to SR 28 at Soap Lake; south on SR 28 to the junction with First Avenue in Ephrata and the point of beginning.

**Deer Area 2012 Methow Valley (Okanogan County):** All private land in the Methow Watershed located outside the external boundary of the Okanogan National Forest and north of the following boundary: starting where the Libby Creek Road (County road 1049) intersects the Okanogan National Forest boundary; west on road 1049 to State Hwy 153; north on Hwy 153 to the Old Carlton Road; east on the Old Carlton Road to the Texas Creek Road (County road 1543); east on the Texas Creek Road to the Vintin Road (County road 1552); northeast on the Vintin Road to the Okanogan National Forest boundary.

**Deer Area No. 3071 Whitcomb (Benton County):** That part of GMU 373 made up by the Whitcomb Unit of the Umatilla National Wildlife Refuge.

**Deer Area No. 3072 Paterson (Benton County):** That part of GMU 373 made up by the Paterson Unit of the Umatilla National Wildlife Refuge.

**Deer Area No. 4004 (San Juan County):** That part of GMU 410 made up of Shaw Island.

**Deer Area No. 4005 (San Juan County):** That part of GMU 410 made up of Lopez Island.

**Deer Area No. 4006 (San Juan County):** That part of GMU 410 made up of Orcas Island.

**Deer Area No. 4007 (San Juan County):** That part of GMU 410 made up of Decatur Island.

**Deer Area No. 4008 (San Juan County):** That part of GMU 410 made up of Blakely Island.

**Deer Area No. 4009 (Skagit County):** That part of GMU 410 made up of Cypress Island.

**Deer Area No. 4010 (San Juan County):** That part of GMU 410 made up of San Juan Island.

**Deer Area No. 4011 (Island County):** That part of GMU 410 made up of Camano Island.

**Deer Area No. 4012 (Island County):** That part of GMU 410 made up of Whidbey Island.

**Deer Area No. 4013 (King County):** That part of GMU 454 made up of Vashon and Maury islands.

**Deer Area No. 6014 (Pierce County):** That part of GMU 652 made up of Anderson Island.

**Deer Area No. 4926 Guemes (Skagit County):** That part of GMU 407 (North Sound) on Guemes Island.

**Deer Area No. 3088 High Prairie (Klickitat County):** That portion of GMU 388 (Grayback) that is south of SR 142.

**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.

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

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

September 20, 2006  
Morris W. Barker  
Rules Coordinator

AMENDATORY SECTION (Amending Order 06-92, filed 5/8/06, effective 6/8/06)

**WAC 232-28-282 Big game and wild turkey auction, raffle, and special incentive permits.**

**BIG GAME AUCTION PERMITS**

The director will select a conservation organization(s) to conduct annual auction(s). Selection of the conservation organizations will be based on criteria adopted by the Washington department of fish and wildlife. Big game and wild turkey auctions shall be conducted consistent with WAC 232-28-292.

**SPECIES - ONE WESTSIDE DEER PERMIT**

Hunting season dates: September 1 - December 31  
Hunt Area: Western Washington EXCEPT GMU 485 and those GMUs closed to deer hunting by the fish and wildlife commission.

Weapon: Any legal weapon.  
Bag limit: One additional any buck deer

**SPECIES - ONE EASTSIDE DEER PERMIT**

Hunting season dates: September 1 - December 31  
Hunt Area: Eastern Washington EXCEPT those GMUs closed to deer hunting by the fish and wildlife commission.

Weapon: Any legal weapon.  
Bag limit: One additional any buck deer

**SPECIES - ONE WESTSIDE ELK PERMIT**

Hunting season dates: September 1 - December 31  
Hunt Area: Western Washington EXCEPT GMU 485, those GMUs closed to elk hunting, and those GMUs not opened to branch antlered bull elk hunting by the fish and wildlife commission.

Weapon: Any legal weapon.  
Bag limit: One additional any bull elk

**SPECIES - ONE EASTSIDE ELK PERMIT**

Hunting season dates: September 1 - December 31  
Hunt Area: Eastern Washington EXCEPT GMU 157, those GMUs closed to elk hunting, and those GMUs not opened to branch antlered bull elk hunting by the fish and wildlife commission.

Weapon: Any legal weapon.  
Bag limit: One additional any bull elk

**SPECIES - ONE CALIFORNIA BIGHORN SHEEP PERMIT**

Hunting season dates: September 1 - December 31  
Hunt Area: Any open sheep unit with two (2) or more permits during the respective license year, except sheep units in Walla Walla, Columbia, Garfield, Asotin, or Pend Oreille counties are not open.

Weapon: Any legal weapon.

**WSR 06-19-115  
PROPOSED RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Filed September 20, 2006, 10:20 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-16-131.

Title of Rule and Other Identifying Information: WAC 232-28-282 Big game and wild turkey auction, raffle, and special incentive permits.

Hearing Location(s): Red Lion Hotel at the Quay, 100 Columbia Street, Vancouver, WA 98660, on November 3-4, 2006, at 8:00 a.m.

Date of Intended Adoption: December 8-9, 2006.

Submit Written Comments to: Attn: Wildlife Program Commission Meeting Public Comments, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail Wildth-ing@dfw.wa.gov, fax (360) 902-2162, by October 9, 2006.

Assistance for Persons with Disabilities: Contact Nancy Burkhart by October 30, 2006, TTY (800) 833-6388 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is recommending increasing the number of moose raffle permits from 1 to 2. The increase in permits will not impact moose populations.

Reasons Supporting Proposal: To generate revenue for species-specific management consistent with the long-term sustainability of wildlife populations.

Statutory Authority for Adoption: RCW 77.12.047.

Statute Being Implemented: RCW 77.12.047.

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

Name of Proponent: Washington fish and wildlife commission, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Dave Brittell, Natural Resources Building, Olympia, (360) 902-2504; and Enforcement: Bruce Bjork, Natural Resources Building, Olympia, (360) 902-2932.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules regulate recreational hunters and do not directly regulate small business.

Bag limit: One bighorn ram

SPECIES - ONE MOOSE PERMIT

Hunting season dates: September 1 - December 31

Hunt Area: Any open moose unit.

Weapon: Any legal weapon.

Bag limit: One moose of either sex

SPECIES - ONE MOUNTAIN GOAT PERMIT

Hunting season dates: September 1 - December 31

Hunt Area: Any open goat unit with two (2) or more permits during the respective license year.

Weapon: Any legal weapon.

Bag limit: One mountain goat of either sex

#### RAFFLE PERMITS

Raffle permits will be issued to individuals selected through a Washington department of fish and wildlife drawing or the director may select a conservation organization(s) to conduct annual raffles. Selection of a conservation organization will be based on criteria adopted by the Washington department of fish and wildlife. Big game and wild turkey raffles shall be conducted consistent with WAC 232-28-290.

RAFFLE PERMIT HUNT(S)

WESTSIDE DEER RAFFLE PERMIT HUNT

Bag limit: One additional any buck deer

Open area: Western Washington EXCEPT GMU 485 and those GMUs closed to deer hunting by the fish and wildlife commission.

Open season: September 1 - December 31

Weapon: Any legal weapon.

Number of permits: 1

EASTSIDE DEER RAFFLE PERMIT HUNT

Bag limit: One additional any buck deer

Open area: Eastern Washington EXCEPT those GMUs closed to deer hunting by the fish and wildlife commission.

Open season: September 1 - December 31

Weapon: Any legal weapon.

Number of permits: 1

WESTSIDE ELK RAFFLE PERMIT HUNT

Bag limit: One additional any bull elk

Open area: Western Washington EXCEPT GMU 485, those GMUs closed to elk hunting, and those GMUs not open to branch antlered bull elk hunting by the fish and wildlife commission.

Open season: September 1 - December 31

Weapon: Any legal weapon.

Number of permits: 1

EASTSIDE ELK RAFFLE PERMIT HUNT

Bag limit: One additional any bull elk

Open area: Eastern Washington EXCEPT GMU 157, those GMUs closed to elk hunting, and those GMUs not opened to branch antlered bull elk hunting by the fish and wildlife commission.

Open season: September 1 - December 31.

Weapon: Any legal weapon.

Number of permits: 1

CALIFORNIA BIGHORN SHEEP RAFFLE PERMIT HUNT

Bag limit: One bighorn ram

Open area: Any open bighorn sheep unit with two (2) or more permits during the respective license year, except sheep units in Walla Walla, Columbia, Garfield, Asotin, or Pend Oreille counties are not open.

Open season: September 1 - December 31.

Weapon: Any legal weapon.

Number of permits: 1

MOOSE RAFFLE PERMIT HUNT

Bag limit: One moose of either sex

Open area: Any open moose unit.

Open season: September 1 - December 31.

Weapon: Any legal weapon.

Number of permits: ((+)) 2

MOUNTAIN GOAT RAFFLE PERMIT HUNT

Bag limit: One mountain goat of either sex

Open area: Any open goat unit with two (2) or more permits during the respective license year.

Open season: September 1 - December 31.

Weapon: Any legal weapon.

Number of permits: 2

TURKEY RAFFLE PERMIT HUNTS

Bag limit: Three (3) additional wild turkeys, but not to exceed more than one turkey in Western Washington or two turkeys in Eastern Washington.

Open area: Statewide.

Open season: April 1 - May 31.

Weapon: Archery or shotgun only.

Number of permits: 2

DIRECTOR AUTHORIZED BIG GAME AUCTION OR RAFFLE PERMITS

The director shall determine which method of permit opportunity, auction or raffle, taking into consideration impacts to the wildlife resource, opportunity to the hunting community, other resource management issues, and expected revenue. The director may select a conservation organization(s) to conduct annual auction(s) or raffle(s). Selection of the conservation organization will be based on criteria adopted by the Washington department of fish and wildlife. Big game auctions and raffles shall be conducted consistent with WAC 232-28-292.

ROCKY MOUNTAIN BIGHORN SHEEP AUCTION OR RAFFLE PERMIT

Hunting season dates: September 1 - December 31

Hunt Area: GMUs 169, 172, 181, 186.

Weapon: Any legal weapon.

Bag limit: One bighorn ram



## SPECIAL INCENTIVE PERMITS

Hunters will be entered into a drawing for special deer and elk incentive permits for prompt reporting of hunting activity in compliance with WAC 232-28-299.

(a) There will be two (2) any elk special incentive permits for Western Washington.

Open area: Western Washington EXCEPT GMUs 418, 485, 522, and those GMUs closed to elk hunting or closed to branch antlered bull elk hunting by the fish and wildlife commission.

Open season: September 1 - December 31.

Weapon: Any legal weapon, EXCEPT must use archery equipment during archery seasons and muzzleloader equipment during muzzleloader seasons.

Bag limit: One additional elk.

There will be two (2) any elk special incentive permits for Eastern Washington.

Open area: Eastern Washington EXCEPT GMU 157 and those GMUs closed to elk hunting or closed to branch antlered bull elk hunting by the fish and wildlife commission.

Open season: September 1 - December 31.

Weapon: Any legal weapon, EXCEPT must use archery equipment during archery seasons and muzzleloader equipment during muzzleloader seasons.

Bag limit: One additional elk.

(b) There will be five (5) statewide any deer special incentive permits, for use in any area open to general or permit hunting seasons EXCEPT GMUs 157, 418, 485, 522, and those GMUs closed to deer hunting by the fish and wildlife commission.

Open season: September 1 - December 31.

Weapon: Any legal weapon, EXCEPT must use archery equipment during archery seasons and muzzleloader equipment during muzzleloader seasons and any legal weapon at other times if there are no firearm restrictions.

Bag limit: One additional any deer.

Auction, raffle, and special incentive hunt permittee rules

(1) Permittee shall contact the appropriate regional office of the department of fish and wildlife when entering the designated hunt area or entering the region to hunt outside the general season.

(2) The permittee may be accompanied by others; however, only the permittee is allowed to carry a legal weapon or harvest an animal.

(3) Any attempt by members of the permittee's party to herd or drive wildlife is prohibited.

(4) If requested by the department, the permittee is required to direct department officials to the site of the kill.

(5) The permit is valid during the hunting season dates for the year issued.

(6) The permittee will present the head and carcass of the bighorn sheep killed to any department office within 72 hours of date of kill.

(7) The permittee must abide by all local, state, and federal regulations including firearm restriction areas and area closures.

(8) Hunters awarded the special incentive permit will be required to send the appropriate license fee to the department of fish and wildlife headquarters in Olympia. The department will issue the license and transport tag and send it to the special incentive permit winner.

**WSR 06-19-116****PROPOSED RULES****DEPARTMENT OF  
FISH AND WILDLIFE**

[Filed September 20, 2006, 10:20 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-16-131.

Title of Rule and Other Identifying Information: WAC 232-12-027 Game farm license provisions, 232-28-275 2003 Spring black bear seasons and regulations, 232-28-286 2007, 2008, and 2009 Spring black bear seasons and regulations, and 232-28-295 Landowner hunting permits.

Hearing Location(s): Red Lion Hotel at the Quay, 100 Columbia Street, Vancouver, WA 98660, on November 3-4, 2006, at 8:00 a.m.

Date of Intended Adoption: December 8-9, 2006.

Submit Written Comments to: Attn: Wildlife Program Commission Meeting Public Comments, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail Wildthing@dfw.wa.gov, fax (360) 902-2162, by October 9, 2006.

Assistance for Persons with Disabilities: Contact Nancy Burkhart by October 30, 2006, TTY (800) 833-6388 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: **WAC 232-12-027 Game farm license provisions**, the proposal establishes an annual avian influenza (AI) testing requirement and an "as needed" disease-testing requirement for licensed game farms. The proposal will affect one rule (WAC 232-12-027) as it is integrated into other game license requirements.

**WAC 232-28-275 2003 Spring black bear seasons and regulations**, the department is recommending repealing WAC 232-28-275.

**WAC 232-28-286 2007, 2008, and 2009 Spring black bear seasons and regulations**, spring black bear seasons are used for three major purposes in Washington: To reduce damage to trees, to focus harvest pressure, and to reduce female harvest. The recommended change is to reduce permits for the spring bear damage hunt in Capitol Forest from 100 to 50. The anticipated effect is a lower harvest level and less impact to the bear population.

**WAC 232-28-295 Landowner hunting permits**, the proposal identifies permit levels and season dates for the landowner hunting permit (LHP) program participants for the 2007 hunting seasons. Proposed permit levels are not different than those approved for the 2006 season and season dates are only changed to accommodate calendar date shifts.

Reasons Supporting Proposal: **WAC 232-12-027 Game farm license provisions**, several changes are taking place in Washington as the agricultural and wildlife communities

address the ever-increasing concern about avian influenza (AI). Currently the Washington department of fish and wildlife (WDFW) is sampling wild shorebirds and waterfowl for AI in an effort to document any introduction of the highly pathogenic form of the virus. WDFW licensed game farms should be part of the overall AI monitoring program as a matter of responsible management and as a matter of wildlife and potential human health.

**WAC 232-28-275 2003 Spring black bear seasons and regulations**, the rule authorized spring bear season during 2003 only and is no longer in effect.

**WAC 232-28-286 2007, 2008, and 2009 Spring black bear seasons and regulations**, the fish and wildlife commission authorized a damage black bear hunt in two areas (Capitol Forest and Kapowsin Tree Farm) of western Washington during the last two spring seasons. Harvest has been notably higher in Capitol Forest compared to Kapowsin Tree Farm; it's not certain if this is related to bear densities, road access, or other factors. The department started a bear-monitoring project concurrent with the spring hunt. However, no bears have been captured despite a sizable trapping effort. Given the relatively high harvest during the first year of the hunt and the low capture success; the department is concerned that the current permit level may be reducing the bear population beyond the moderate level intended.

**WAC 232-28-295 Landowner hunting permits:** These permits are consistent with the commission's policy on private lands hunter access program. They will result in hunter access on private property and will help mitigate deer and elk foraging on private pasturelands.

Statutory Authority for Adoption: RCW 77.12.047.

Statute Being Implemented: RCW 77.12.047.

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

Name of Proponent: Washington fish and wildlife commission, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Dave Brittell, Natural Resources Building, Olympia, (360) 902-2504; and Enforcement: Bruce Bjork, Natural Resources Building, Olympia, (360) 902-2932.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules regulate recreational hunters and do not directly regulate small business.

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

September 20, 2006  
Morris W. Barker  
Rules Coordinator

AMENDATORY SECTION (Amending Order 06-67, filed 4/11/06, effective 5/12/06)

**WAC 232-12-027 Game farm license provisions.** It is unlawful to operate a game farm without a current, valid Washington state game farm license.

(1) Game farms licensed prior to January 1, 1992, may continue to possess, propagate, sell and transfer wildlife they lawfully possessed on January 1, 1992, under their license

issued by the department. Transfers of wildlife other than those species listed under subsection (2) are restricted to licensed game farms authorized by written license to possess said wildlife.

(2) Game farms licensed on or after January 1, 1992, may purchase, possess, propagate, sell or transfer the following wildlife:

(a) Game birds - pheasant, of the genus *Phasianus*; gray partridge of the genus *Perdix*; chukar of the genus *Alectoris*; quail of the genus *Colinus*, *Callipepla*, and *Oreortyx*; waterfowl of the family *Anatidae*.

(3) Application for a game farm license shall be made on a form provided by the department.

(4) The director or designee of the director may issue, with conditions or restrictions, a game farm license, if the applicant meets the requirements of subsection (1) or (2) above and complies with the following criteria:

(a) The applicant is the owner or tenant of or has a possessory interest in the lands, waters, and riparian rights shown in the application.

(b) The rearing and holding facilities are adequate and structurally sound to prevent the egress of game farm wildlife.

(c) Operating conditions are clean and humane.

(d) No hazards to state wildlife exist from the operation.

(e) The license covers only the immediate premises and areas described on the application where wildlife will be held.

(5) Holders of a game farm license must make annual reports no later than the 15th of January to the director on forms to be furnished by the department. Violation of this subsection is an infraction, punishable under RCW 77.15.-160.

(6) A licensed game farm must be inspected annually. All inspection costs will be paid by the licensee. The inspection must occur during the months of June, July, or August. An inspection form will be provided by the department and must be completed and signed by a licensed veterinarian or an agent authorized by the department. The inspection form must accompany the annual report and be submitted to the director no later than the 15th day of January.

(7) During June, July, or August, a licensed game farm must conduct annual avian influenza disease testing of 10% of the game birds on site. They must also conduct disease testing of 10% of the game birds on site for Mycoplasma gallisepticum and Mycoplasma synoviae, pullorum, salmonella, histomoniasis, and exotic Newcastle disease if birds being held on the game farm exhibit symptoms of one or more of these infections or if there is a flock die-off. The licensee will pay all testing costs unless the department identifies other funding.

(8) A game farm license is not required for captive-bred mink, *Mustela vison*, and captive-bred silver fox, *Vulpes fulva*, lawfully acquired from a licensed breeder or fur farm and held for fur farming purposes.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 232-28-275 2003 Black bear special permit season and quotas

**AMENDATORY SECTION** (Amending Order 06-90, filed 5/8/06, effective 6/16/06)

**WAC 232-28-286 2007, 2008, and 2009 Spring black bear seasons and regulations.**

**Who may apply:** Anyone with a valid Washington big game license, which includes black bear as a species option.

**Hunt areas, permit levels, and season dates for each license year:**

| Hunt name                   | Hunt area  | Permits                      | Season dates <sup>b</sup> |
|-----------------------------|--|------------------------------|---------------------------|
| Sherman                     | GMU 101  | 15                           | April 15 – May 31         |
| Kelly Hill                  | GMU 105  | 10                           | April 15 – May 31         |
| Douglas                     | GMU 108  | 5                            | April 15 – May 31         |
| Aladdin                     | GMU 111  | 10                           | April 15 – May 31         |
| 49 Degrees North            | GMU 117  | 15                           | April 15 – May 31         |
| Huckleberry                 | GMU 121  | 15                           | April 15 – May 31         |
| Blue Creek                  | GMU 154  | 30                           | April 15 – May 31         |
| Dayton                      | GMU 162  | 22                           | April 15 – May 31         |
| Tucannon                    | GMU 166  | 7                            | April 15 – May 31         |
| Wenaha                      | GMU 169  | 45                           | April 15 – May 31         |
| Mt. View                    | GMU 172  | 22                           | April 15 – May 31         |
| Lick Creek                  | GMU 175  | 22                           | April 15 – May 31         |
| Grande Ronde                | GMU 186  | 7                            | April 15 – May 31         |
| Copalis <sup>a</sup>        | <u>That portion of GMU 642 that is designated as the hunt area by Rainier Timber Company.</u>        | 100                          | April 15 – June 15        |
| Kapowsin <sup>a</sup>       | That portion of GMUs 653 and/or 654 that is designated as the hunt area by Hancock Forest Management | 100                          | April 15 – June 15        |
| Capitol Forest <sup>a</sup> | That portion of Capitol Forest within GMU 663  | <del>((100))</del> <u>50</u> | April 15 – June 15        |

<sup>a</sup>Spring black bear hunting seasons under this area constitute a pilot program to reduce black bear damage to trees.  
<sup>b</sup>Permits are valid for the license year they are issued.

**Bag limit:** One black bear per black bear special permit season.

**License required:** A valid big game hunting license, which includes black bear as a species option, is required to hunt black bear. One black bear transport tag is included with a big game hunting license that has black bear as a species option.

**Hunting method:** Hunters may use any lawful big game modern firearm, archery, or muzzleloader equipment for hunting black bear. The use of dogs or bait to hunt black bear is prohibited statewide.

**Submitting bear teeth:** Successful bear hunters must submit the black bear premolar located behind the canine tooth of the upper jaw.

**AMENDATORY SECTION** (Amending Order 06-92, filed 5/8/06, effective 6/8/06)

**WAC 232-28-295 Landowner hunting permits.** A landowner may enter into a contract with the department and establish boundaries and other requirements for hunter access consistent with commission policy.

Hunters must possess both an access permit from the landowner and a hunting permit from the department when hunting on lands and for species covered under contract.

**(1) Buckrun**

Buckrun is located in Grant County, near the town of Wilson Creek. A legal description of the property has been filed with the county and is in the contract between Buckrun and the department.

Hunting on Buckrun is managed for a quality experience by scheduling hunt dates and keeping the number of hunters in the field low. Hunters with limited flexibility for hunt dates may experience scheduling problems. Hunters can generally expect one day hunts during the permit seasons with written authorization from the Buckrun manager. All hunters must check in and out on hunt day. Schedule hunts in advance by calling 509-345-2577.

**Mule and Whitetail Deer**

**2006 Buckrun Landowner Hunting Permits**

The manager of Buckrun will distribute these hunting permits. An access fee may be charged in order to utilize these permits. No access fee will be charged for the raffle permit winners. Only hunters possessing a modern firearm deer tag are eligible for permits on Buckrun properties. Contact the manager at 509-345-2577 for additional information.

| Hunt Name      | Quota | Access Season                                | Special Restrictions           | Boundary Description |
|----------------|-------|--|--------------------------------|----------------------|
| Buckrun        | 10    | Sept. 1 - Oct. ( <del>(13)</del> ) <u>12</u> | Antlerless only                | Buckrun              |
| Buckrun        | 15    | Oct. ( <del>(23)</del> ) <u>22</u> - Dec. 31 | Antlerless only                | Buckrun              |
| Buckrun        | 13    | Sept. 1 - Oct. ( <del>(13)</del> ) <u>12</u> | 3 pt. max. buck* or antlerless | Buckrun              |
| Buckrun        | 13    | Oct. ( <del>(23)</del> ) <u>22</u> - Dec. 31 | 3 pt. max. buck* or antlerless | Buckrun              |
| Buckrun        | 4     | Sept. 1 - Dec. 31                            | Any deer                       | Buckrun              |
| Buckrun Raffle | 2     | Sept. 1 - Dec. 31                            | Any deer (3 day guided hunt)   | Buckrun              |

### Mule and Whitetail Deer

#### 2006 Buckrun Special Hunting Permits

Hunters apply to Washington department of fish and wildlife for these permits. Only hunters possessing a modern firearm deer tag are eligible for Buckrun special permits. Hunters can generally expect one day hunts during the permit season with written authorization from the Buckrun manager. All hunters must check in and out on hunt day. Schedule hunts in advance by calling 509-345-2577.

| Hunt Name | Permit Number | Permit Season                                | Special Restrictions                 | Boundary Description |
|-----------|---------------|--|--------------------------------------|----------------------|
| Buckrun A | 10            | Sept. 1 - Oct. ( <del>(13)</del> ) <u>12</u> | Antlerless only youth hunters        | Buckrun              |
| Buckrun B | 10            | Sept. 1 - Oct. ( <del>(13)</del> ) <u>12</u> | Antlerless only disabled hunters     | Buckrun              |
| Buckrun C | 5             | Oct. ( <del>(23)</del> ) <u>22</u> - Dec. 31 | Antlerless only senior hunters (65+) | Buckrun              |
| Buckrun D | 4             | Sept. 1 - Oct. ( <del>(13)</del> ) <u>12</u> | 3 pt. max. buck* or antlerless       | Buckrun              |
| Buckrun E | 4             | Oct. ( <del>(23)</del> ) <u>22</u> - Dec. 31 | 3 pt. max. buck* or antlerless       | Buckrun              |

\*3 Pt. maximum - A legal buck must have no more than 3 antler points on either antler (i.e., 1x1, 1x2, 1x3, 2x2, 2x3, 3x3 are legal). All antler points must be at least one inch long. Antler points EXCLUDE eye guards.

#### (2) 4-O Cattle Company

#### 2006 4-O Cattle Company Landowner Hunting Permits

The manager of the 4-O Cattle Company will distribute these hunting permits. An access fee may be charged in order to utilize these permits.

#### Elk

| Hunt Name          | Quota | Access Season                                      | Special Restrictions | Boundary Description |
|--------------------|-------|--|----------------------|----------------------|
| 4-O Cattle Company | 1     | ( <del>(Sept. 15-25)</del> )<br><u>Sept. 14-24</u> | Any Bull             | 4-O Cattle Company   |

#### Whitetail Deer

| Hunt Name          | Quota | Access Season                                    | Special Restrictions | Boundary Description |
|--------------------|-------|--|----------------------|----------------------|
| 4-O Cattle Company | 1     | ( <del>(Nov. 15-25)</del> )<br><u>Nov. 14-24</u> | Any Whitetail Buck   | 4-O Cattle Company   |

#### 2006 4-O Cattle Company Special Hunting Permits

Hunters apply to the Washington department of fish and wildlife for these permits.

#### Elk

| Hunt Name            | Permit Number | Permit Season  | Special Restrictions | Boundary Description |
|----------------------|---------------|--|----------------------|----------------------|
| 4-O Bull Elk         | 1             | Oct. ( <del>(23)</del> ) <u>22</u> - Nov.<br>( <del>(5)</del> ) <u>4</u> | Any Bull             | 4-O Ranch            |
| 4-O Antlerless Elk A | 33            | ( <del>(Aug. 18-24)</del> )<br><u>Aug. 17-23</u>                         | Antlerless Only      | 4-O Grouse Flats     |

| Hunt Name             | Permit Number | Permit Season                                  | Special Restrictions  | Boundary Description |
|-----------------------|---------------|--|-----------------------|----------------------|
| 4-O Antlerless Elk B  | 8             | <del>((Aug. 18-24))</del><br><u>Aug. 17-23</u> | Antlerless Only       | 4-O Mountain View    |
| <b>Whitetail Deer</b> |               |  |                       |                      |
| Hunt Name             | Permit Number | Permit Season                                  | Special Restrictions  | Boundary Description |
| 4-O White-tailed Buck | 1             | <del>((Nov. 15-25))</del><br><u>Nov. 14-24</u> | Any White-tailed Buck | 4-O Ranch            |