

WSR 16-05-022
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed February 8, 2016, 9:23 a.m., effective April 1, 2016]

Effective Date of Rule: April 1, 2016.

Purpose: The department is adding new sections to chapter 388-71 WAC, Home and community services and programs, to transfer and amend the rules for residential client protection program found in chapter 388-76 WAC, Adult family home minimum licensing requirements; chapter 388-78A WAC, Assisted living facility licensing rules; chapter 388-97 WAC, Nursing homes; chapter 388-101 WAC, Certified community residential services and supports; and chapter 388-111 WAC, Residential habilitation centers—Compliance standards, to the adult protective services program.

Citation of Existing Rules Affected by this Order: Amending WAC 388-71-0100, 388-71-0105, 388-71-0110, 388-71-0115, 388-71-01201, 388-71-01205, 388-71-01210, 388-71-01220, 388-71-01225, 388-71-01230, 388-71-01235, 388-71-01240, 388-71-01245, 388-71-01250, 388-71-01255, 388-71-01260, 388-71-01265, 388-71-01270, 388-71-01275, and 388-71-01280.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520.

Adopted under notice filed as WSR 15-18-050 on August 27, 2015.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 3, Amended 20, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 3, Amended 20, Repealed 0.

Date Adopted: February 8, 2016.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 04-19-136, filed 9/21/04, effective 10/22/04)

WAC 388-71-0100 What are the statutory references for WAC 388-71-0100 through ~~((388-71-01280)) 388-71-01281?~~ The statutory references for WAC 388-71-0100 through WAC ~~((388-71-01280)) 388-71-01281~~ are:

- (1) Chapter 74.34 RCW;
- (2) ~~((Chapter 74.39A RCW; and Chapter 70.128 RCW;~~
- (3) ~~((Chapter 74.39 RCW)) Chapter 70.97 RCW;~~
- (4) Chapter 18.20 RCW;

- (5) Chapter 11.88 RCW;
- (6) Chapter 18.51 RCW;
- (7) Chapter 72.36 RCW;
- (8) Chapter 71A.20 RCW;
- (9) Chapter 71.05 RCW;
- (10) Chapter 34.05 RCW;
- (11) Chapter 11.94 RCW;
- (12) RCW 18.88A.020 RCW;
- (13) RCW 74.39.007;
- (14) RCW 4.28.080;
- (15) RCW 74.34.068
- (16) 42 U.S.C. § 1396r;
- (17) 42 U.S.C. § 1395i-3;
- (18) 42 C.F.R. Part 483, Subpart I; and
- (19) 42 C.F.R. § 488.335.

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

AMENDATORY SECTION (Amending WSR 04-19-136, filed 9/21/04, effective 10/22/04)

WAC 388-71-0105 What definitions apply to adult protective services? In addition to the definitions found in chapter 74.34 RCW, the following definitions apply:

"~~((ADSA))~~ ALTSA" means DSHS aging and ~~((disability))~~ long-term support ~~((services))~~ administration.

"Adult family home" means a home or building licensed under chapter 70.128 RCW.

"ALJ" means an administrative law judge, an impartial decision-maker who is an attorney and presides at an administrative hearing. The office of administrative hearings (OAH), which is a state agency, employs the ALJs. ALJs are not DSHS employees or DSHS representatives.

"APS" means adult protective services.

"Basic necessities of life" means food, water, shelter, clothing, and medically necessary health care, including but not limited to health-related treatment or activities, hygiene, oxygen, and medication.

"BOA" means the DSHS board of appeals. The board of appeals consists of lawyers who are members of the Washington State Bar Association. An ALJ's decision can be appealed to the board of appeals, allowing a level of review before an appeal to the court system may be considered.

"DSHS" means the department of social and health services.

~~((**"Entity"** means any agency, corporation, partnership, association, limited liability company, sole proprietorship, for-profit or not-for-profit business that provides care and/or services to vulnerable adults under a license, certification or contract issued by DSHS or DSHS' contractor. An entity does not include a boarding home licensed under chapter 18.20 RCW, an adult family home licensed under chapter 70.128 RCW, or a nursing home licensed under chapter 18.51 RCW, but does include such facilities if they are required to be licensed but are not currently licensed.))~~

"Enhanced service facility" means a home or building licensed under chapter 70.97 RCW.

"Facility" means a residence licensed as ~~((a boarding home under chapter 18.20 RCW, an adult family home under~~

~~chapter 70.128 RCW, a nursing home under chapter 18.51 RCW, a soldier's home under chapter 72.36 RCW, a residential habilitation center under chapter 71A.20 RCW, or any other facility licensed by DSHS)~~ an assisted living facility under chapter 18.20 RCW, an adult family home under chapter 70.128 RCW, a nursing home under chapter 18.51 RCW, a soldier's home under chapter 72.36 RCW, a residential habilitation center under chapter 71A.20 RCW, an enhanced services facility under chapter 71.05 RCW, or any other facility or residential program licensed or certified by DSHS's aging and long-term support administration.

"Final finding" means ~~((the department's))~~ a substantiated initial finding of abandonment, abuse, financial exploitation or neglect that:

(1) Has been ~~((is))~~ upheld through the administrative appeal ~~((process specified))~~ described in WAC 388-71-01205 through 388-71-01280, or

(2) Is not timely appealed to the office of administrative hearings. ~~((The alleged perpetrator can appeal a))~~ A final finding may be appealed to Superior Court and the Court of Appeals under the Administrative Procedure Act, chapter 34.05 RCW.

~~((**"Initial finding"** means a determination made by the department upon investigation of an allegation of abandonment, abuse, financial exploitation, neglect or self-neglect.~~

~~(1) If the department determines it is more likely than not the incident occurred, the department shall document the finding as "substantiated."~~

~~(2) If the department determines it is more likely than not the incident did not occur, the department shall document the finding as "unsubstantiated."~~

~~(3) If the department cannot make a determination about whether the incident occurred or did not occur on a more probable than not basis, the department shall document the finding as "inconclusive.")~~

"Intermediate care facility for individuals with intellectual disabilities (ICF/IID)" means a facility certified under 42 C.F.R. Part 483, Subpart I.

"Legal representative" means a guardian appointed under chapter 11.88 RCW or an attorney-in-fact under chapter 11.94 RCW.

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

"Nursing facility (NF)" or "medicaid-certified nursing facility" means a nursing home licensed under chapter 18.51 RCW, or any portion of a hospital, veterans' home, or residential habilitation center, that is certified to provide nursing services to medicaid recipients under section 1919(a) of the federal Social Security Act (42 U.S.C. § 1396r). All beds in a nursing facility are certified to provide medicaid services, even though one or more of the beds may also be certified to provide medicare skilled nursing facility services.

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

"Person ((or entity)) with a duty of care" includes, but is not limited to, the following:

(1) A guardian appointed under chapter 11.88 RCW; or

(2) A person named in a durable power of attorney as the attorney-in-fact as defined under chapter 11.94 RCW.

(3) A person ~~((or entity))~~ providing the basic necessities of life to a vulnerable adult ~~((adults))~~ where:

(a) The person ~~((or entity))~~ is employed by or on behalf of the vulnerable adult; or

(b) The person ~~((or entity))~~ voluntarily agrees to provide, or has been providing, the basic necessities of life to the vulnerable adult on a continuing basis.

"Personal aide" as found in RCW 74.39.007.

"Self-directed care" as found in RCW 74.39.007.

"Skilled nursing facility (SNF)" or "medicare-certified skilled nursing facility" means a nursing home, a portion of a nursing home, or a long-term care wing or unit of a hospital that has been certified to provide nursing services to medicare recipients under section 1819(a) of the federal Social Security Act (42 U.S.C. § 1395i-3).

"Substantiated initial finding" means a determination made by the department upon investigation of an allegation of abandonment, abuse, financial exploitation, neglect, or self-neglect that more likely than not occurred.

"Willful" means the nonaccidental action or inaction by an alleged perpetrator that he/she knew or reasonably should have known could cause harm, injury or a negative outcome.

AMENDATORY SECTION (Amending WSR 04-19-136, filed 9/21/04, effective 10/22/04)

WAC 388-71-0110 What is the purpose of an adult protective services investigation? The purpose of an adult protective services investigation is to:

(1) Investigate allegations of abandonment, abuse, financial exploitation, neglect, or self-neglect.

(2) Provide protective services with the consent of the vulnerable adult or his or her legal representative when the allegation is substantiated, or prior to substantiation when it appears abandonment, abuse, financial exploitation, neglect or self-neglect may be occurring and protective services could assist in ending or preventing harm to the vulnerable adult.

(3) When an allegation is substantiated, APS may investigate whether other vulnerable adults may be at current risk of abuse, neglect, abandonment or financial exploitation by the person ~~((or entity))~~.

AMENDATORY SECTION (Amending WSR 04-19-136, filed 9/21/04, effective 10/22/04)

WAC 388-71-0115 When is an investigation conducted? The department ~~((determines when an investigation is conducted [required]. The following criteria must be met))~~ will conduct an investigation when:

(1) The reported circumstances fit the definition of abandonment, abuse, financial exploitation, neglect, or self-neglect as defined in chapter 74.34 RCW; and

(2) The alleged victim is a vulnerable adult as defined in chapter 74.34 RCW.

AMENDATORY SECTION (Amending WSR 04-19-136, filed 9/21/04, effective 10/22/04)

WAC 388-71-01201 What state-only funded services may be offered to a vulnerable adult victim of abandon-

ment, abuse, financial exploitation, neglect or self-neglect? (1) Subject to available funding, state-only funded in-home personal care/household services and state-only funded placement in a department licensed and contracted adult family home, (~~boarding home~~) assisted living facility or nursing facility may be offered without regard to the vulnerable adult's functional status or income/resources, if:

(a) The vulnerable adult is the subject of an open APS case involving an allegation of abandonment, abuse, financial exploitation, neglect, and/or self-neglect;

(b) The services would help protect the vulnerable adult from harm;

(c) APS cannot verify alternative resources or options for payment for services available to the vulnerable adult at the time;

(d) Services are provided in the least restrictive and most cost effective setting available to appropriately meet the needs of the vulnerable adult;

(e) APS is actively pursuing other service alternatives and/or resolution of the issues that resulted in the need for protective services; and

(f) The state-only funded services are temporary and provided with the consent of the vulnerable adult or legal representative only until the situation has stabilized. State-only funded protective services are provided by DSHS on a discretionary basis and are not a benefit and not an entitlement. Termination of state-only funded temporary protective services is exempt from notification and appeal requirements.

(2) State-only funded services to an individual vulnerable adult shall be based on assessed need and limited to:

(a) Up to one hundred forty-three hours of in-home personal care/household services per month; and

(b) A cumulative maximum total of ninety days service in any twelve-month period of time, with nursing facility services not exceeding thirty days of the ninety-day total. An exception to rule cannot be used to grant an extension.

NEW SECTION

WAC 388-71-01202 When does the department make a substantiated initial finding of an individual used by a nursing facility or skilled nursing facility to provide services to vulnerable adults? If, after review of the results of the investigation, the department determines that an individual used by such nursing facility or skilled nursing facility to provide services to vulnerable adults, has abandoned, abused, neglected, or financially exploited a vulnerable adult, or has misappropriated a vulnerable adult's property, the department will make a substantiated initial finding to that effect. However, a substantiated initial finding of neglect will not be made if the individual demonstrates that the neglect was caused by factors beyond their control.

AMENDATORY SECTION (Amending WSR 04-19-136, filed 9/21/04, effective 10/22/04)

WAC 388-71-01205 When does APS notify the alleged perpetrator ((of the results)) of ((an APS investigation)) a substantiated initial finding? (1) APS will notify the alleged perpetrator in writing within ten working days of

making a substantiated initial finding of abandonment, abuse, financial exploitation or neglect of a vulnerable adult.

(2) The time frame for notification can be extended beyond ten working days to include the time needed to translate the notification letter or make provisions for the safety of the alleged victim.

AMENDATORY SECTION (Amending WSR 04-19-136, filed 9/21/04, effective 10/22/04)

WAC 388-71-01210 How may APS give the alleged perpetrator notice of the substantiated initial finding? ~~((1) APS shall notify the alleged perpetrator of a substantiated initial finding by sending a letter certified mail/return receipt requested and regular mail to the alleged perpetrator's last known place of residence. The duty of notification created by this section is subject to the ability of the department to ascertain the location of the alleged perpetrator. APS shall make a reasonable, good faith effort to determine the address of the last known place of residence of the alleged perpetrator; or~~

~~(2) APS shall have the written notice delivered or personally served upon the alleged perpetrator))~~ APS will notify the alleged perpetrator of the substantiated initial finding using one of the following methods:

(1) Personal service of the notice as provided in RCW 4.28.080; or

(2) Sending a copy of the notice by first-class mail and certified mail/return receipt requested, at the alleged perpetrator's last known mailing address or post office box.

(3) If the department knows the alleged perpetrator is not residing at the last known mailing address, then it will also attempt personal service.

AMENDATORY SECTION (Amending WSR 04-19-136, filed 9/21/04, effective 10/22/04)

WAC 388-71-01220 What proves that APS provided notice of the substantiated initial finding to the alleged perpetrator? APS may prove notice was provided to the alleged perpetrator by any of the following:

- (1) A sworn statement or declaration of personal service;
- (2) The certified mail receipt signed by the recipient;
- (3) An affidavit or certificate of mailing; or
- (4) A signed receipt from the person who accepted the commercial delivery (~~service~~) or legal messenger service (~~package~~).

AMENDATORY SECTION (Amending WSR 04-19-136, filed 9/21/04, effective 10/22/04)

WAC 388-71-01225 What information must not be in the APS finding notice to the alleged perpetrator? ~~((The))~~ APS may not use the identities of the alleged victim, reporter, ((and)) or witnesses ((must not be included)) in the ((APS)) substantiated initial finding notice to the alleged perpetrator.

AMENDATORY SECTION (Amending WSR 04-19-136, filed 9/21/04, effective 10/22/04)

WAC 388-71-01230 Will APS notify anyone other than the alleged perpetrator of the substantiated initial finding of abandonment, abuse, financial exploitation or neglect? (1) In a manner consistent with confidentiality requirements concerning the vulnerable adult, witnesses, and reporter, APS may provide notification of a substantiated initial finding to:

- (a) Other divisions within the department;
 - (b) The agency or program identified under RCW 74.34.068 with which the alleged perpetrator is associated as an employee, volunteer or contractor;
 - (c) Law enforcement;
 - (d) Other investigative authority consistent with chapter 74.34 RCW; ~~((and))~~
 - (e) The facility in which the incident occurred; and
 - (f) The appropriate licensing agency.
- (2) In the notification APS will identify the finding as ~~((an))~~ a substantiated initial finding.

AMENDATORY SECTION (Amending WSR 04-19-136, filed 9/21/04, effective 10/22/04)

WAC 388-71-01235 Can an alleged perpetrator challenge ~~((an APS))~~ a substantiated initial finding of abandonment, abuse, financial exploitation or neglect? An alleged perpetrator of abandonment, abuse, financial exploitation or neglect may request an administrative hearing to challenge a substantiated initial finding made by APS on or after the effective date of this rule.

AMENDATORY SECTION (Amending WSR 04-19-136, filed 9/21/04, effective 10/22/04)

WAC 388-71-01240 How does an alleged perpetrator request an administrative hearing to challenge ~~((an APS))~~ a substantiated initial finding of abandonment, abuse, financial exploitation or neglect? (1) To request an administrative hearing the alleged perpetrator must send, deliver, or fax a written request to the office of administrative hearings (OAH). OAH must receive the written request (~~((within thirty))~~ no later than 5:00 p.m. on the thirtieth calendar (~~((days of))~~ day from the mailing date on the department's letter of notice (~~((is mailed or personally served upon the alleged perpetrator, whichever occurs first))~~ or no later than 5:00 p.m. on the thirtieth calendar day from the date the department's letter of notice was personally served upon the alleged perpetrator, whichever occurs first, as required by WAC 388-02-0035(2). If the alleged perpetrator requests a hearing by fax, the alleged perpetrator must also mail a copy of the request to OAH on the same day.

(2) The alleged perpetrator must complete and submit the form to request an administrative hearing provided by APS or submit a written request for a hearing that includes:

- (a) The full legal name, current address and phone number of the alleged perpetrator;
- (b) A brief explanation of why the alleged perpetrator disagrees with the substantiated initial finding;

(c) A description of any assistance needed in the administrative appeal process by the alleged perpetrator, including a foreign or sign language interpreter or any accommodation for a disability;

(d) The alleged perpetrator should keep a copy of the request.

AMENDATORY SECTION (Amending WSR 04-19-136, filed 9/21/04, effective 10/22/04)

WAC 388-71-01245 What laws and rules will control the administrative hearings held regarding substantiated ~~((APS))~~ initial findings? Chapters 34.05 and 74.34 RCW, chapter 388-02 WAC, and the provisions of this chapter govern any administrative hearing regarding a substantiated ~~((APS))~~ initial finding. In the event of a conflict between the provisions of this chapter and chapter 388-02 WAC, the provisions of this chapter shall prevail.

NEW SECTION

WAC 388-71-01247 What additional rules apply to administrative hearings held regarding substantiated initial findings made against a nursing assistant employed in a nursing facility or skilled nursing facility? Upon receipt of a written request for a hearing from a nursing assistant employed in a nursing facility or skilled nursing facility, the office of administrative hearings will schedule a hearing, taking into account the following requirements:

(1) The hearing decision must be issued within one hundred twenty days of the date the office of administrative hearings receives a hearing request, except as provided in subsection (6);

(2) Neither the department nor the nursing assistant can waive the one hundred twenty day requirement;

(3) The hearing will be conducted at a reasonable time and at a place that is convenient for the nursing assistant;

(4) The hearing, and any subsequent appeals, will be governed by this chapter, chapter 34.05 RCW, and chapter 388-02 WAC, or its successor regulations;

(5) A continuance may be granted for good cause upon the request of any party, as long as the hearing decision can still be issued within one hundred twenty days of the date of the receipt of the appeal, except under the circumstances described in subsection (6);

(6) If the ALJ finds that extenuating circumstances exist that will make it impossible to render a decision within one hundred twenty days, the ALJ may extend the one hundred twenty-day requirement by a maximum of sixty days; and

(7) To comply with the time limits described in this section, the nursing assistant must be available for the hearing and other preliminary matters. If the hearing decision cannot be issued within the time limits described in this subsection due to the unavailability of the nursing assistant, then, after the time limits have expired, the nursing assistant's name will be placed on the registry pending the outcome of the hearing.

(8) If a substantiated initial finding made against a nursing assistant employed in a nursing facility or skilled nursing facility is upheld in an ALJ's initial decision, the nursing assistant's name will be placed on the registry.

AMENDATORY SECTION (Amending WSR 04-19-136, filed 9/21/04, effective 10/22/04)

WAC 388-71-01250 How is confidential information protected in the appeal process? (1) All information and documents provided by the department to the alleged perpetrator shall be used by the alleged perpetrator only to challenge the findings in the administrative hearing.

(2) Confidential information such as the name and other personal identifying information of the ~~((reporter))~~ person making a report to APS and the vulnerable adult shall be redacted from documents and ~~((the parties shall use means))~~ in testimony to protect the identify of such persons, unless otherwise ordered by the ALJ consistent with chapter 74.34 RCW and other applicable state and federal laws.

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

AMENDATORY SECTION (Amending WSR 04-19-136, filed 9/21/04, effective 10/22/04)

WAC 388-71-01255 How does the administrative law judge make a decision regarding the substantiated ((APS)) initial finding? (1) ~~((The))~~ If the ALJ ((shall decide if)) determines that a preponderance of the evidence in the hearing record supports ((a determination)) the substantiated initial finding that the alleged perpetrator ((committed an act of abandonment, abuse, financial exploitation or neglect of)) abandoned, abused, financially exploited or neglected a vulnerable adult, the ALJ shall uphold the substantiated initial finding.

(2) ~~((If the ALJ determines that a preponderance of the evidence in the hearing record supports the substantiated APS finding, the ALJ shall uphold the finding.~~

~~((3))~~ If the ALJ determines that the substantiated ((APS)) initial finding is not supported by a preponderance of the evidence in the hearing record, the ALJ shall remand the matter to the department to modify the finding consistent with the initial decision of the ALJ.

AMENDATORY SECTION (Amending WSR 04-19-136, filed 9/21/04, effective 10/22/04)

WAC 388-71-01260 ((How)) When is the alleged perpetrator notified of the administrative law judge's decision? ~~((After the administrative hearing, the))~~ The ALJ will send a written initial decision to the alleged perpetrator and the department within ninety calendar days after the administrative hearing record is closed.

AMENDATORY SECTION (Amending WSR 04-19-136, filed 9/21/04, effective 10/22/04)

WAC 388-71-01265 What if the alleged perpetrator or the department disagrees with the decision? If the alleged perpetrator or the department disagrees with the ALJ's initial decision, either party may challenge ~~((this))~~ the initial decision by filing a petition for review with the department's board of appeals ~~((consistent with the procedures contained))~~ in accordance with chapter 34.05 RCW and chapter

388-02 WAC. If the alleged perpetrator files a petition for review, the department will not change the substantiated finding in its records until a final decision is issued on the alleged perpetrator's petition for review.

AMENDATORY SECTION (Amending WSR 04-19-136, filed 9/21/04, effective 10/22/04)

WAC 388-71-01270 What happens if the administrative law judge rules against the department? If the department appeals the ALJ's decision, the department will not modify the substantiated initial finding in the department's records until a final ~~((hearing))~~ agency decision is issued. If the department does not appeal the ALJ's initial decision, the department will modify the substantiated initial finding in the department's records consistent with the ALJ's initial decision and document the ALJ's initial decision in the record.

AMENDATORY SECTION (Amending WSR 04-19-136, filed 9/21/04, effective 10/22/04)

WAC 388-71-01275 When does the APS substantiated initial finding become a final finding? (1) A substantiated initial finding becomes a final finding when:

~~((1))~~ (a) The department gives the alleged perpetrator notice of the substantiated initial finding pursuant to WAC 388-71-01210 and the alleged perpetrator does not request an administrative hearing as set forth in WAC 388-71-01240; or

~~((2))~~ (b) The ALJ dismisses the alleged perpetrator's request for hearing following default or withdrawal by the alleged perpetrator, or issues an initial order upholding the substantiated initial finding and the alleged perpetrator fails to file a ((request)) petition for review of the ALJ's initial decision with the department's board of appeals consistent with the procedures contained in chapter 34.05 RCW and chapter 388-02 WAC; or

~~((3))~~ The board of appeals issues a final order upholding ((c) A party requests review of the substantiated finding ((when a request for review to the department's board of appeals is made)) consistent with the procedures contained in chapter 34.05 RCW and chapter 388-02 WAC and the department's board of appeals issues a review decision upholding the substantiated finding.

(2) A final finding is permanent, except under the circumstances described in subsection (3) of this section.

(3) A final finding may be removed from the department's registry under the following circumstances:

(a) The department determines the finding was made in error;

(b) The finding is rescinded following judicial review;

(c) When the department is notified that a person with a final finding is deceased; or

(d) When a final finding is made against a nursing assistant, employed in a nursing facility or skilled nursing facility based upon a singular instance of neglect of a resident, the department may remove the finding of neglect from the department's registry in response to a petition. Any such removal shall be based upon a written petition by the nursing assistant at least one year after the finding of neglect has been finalized and in accordance with requirements of federal law, 42 U.S.C.1396r (g)(1)(D).

~~((4) The final finding will remain as substantiated in the department's records unless the final finding is reversed after judicial review.))~~

AMENDATORY SECTION (Amending WSR 04-19-136, filed 9/21/04, effective 10/22/04)

WAC 388-71-01280 Does the department disclose information about final findings of abuse, abandonment, neglect and financial exploitation? The department will maintain a registry of final findings of abuse, abandonment, neglect and financial exploitation and, upon request of any person, the department may disclose the identity of a person ~~((or entity))~~ with a final finding of abandonment, abuse, financial exploitation or neglect.

NEW SECTION

WAC 388-71-01281 To whom does the department report a final substantiated finding against a nursing assistant employed in a nursing facility or skilled nursing facility? The department will report a final finding of abandonment, abuse, neglect, financial exploitation of a resident within ten working days to the following:

- (1) The nursing assistant employed in a nursing facility or skilled nursing facility where the abuse, abandonment, neglect or financial exploitation occurred;
- (2) The current administrator of the facility in which the incident occurred;
- (3) The administrator of the facility that currently employs the nursing assistant, if known;
- (4) The department's registry;
- (5) The appropriate licensing authority; and
- (6) Any other lists maintained by a state or federal agency as appropriate.

**WSR 16-05-035
PERMANENT RULES
UTILITIES AND TRANSPORTATION
COMMISSION**

[Docket A-151884, General Order R-585—Filed February 9, 2016, 1:24 p.m., effective March 11, 2016]

In the matter of amending and adopting several rules in Title 480 WAC relating to adoption-by-reference date revisions.

1 STATUTORY OR OTHER AUTHORITY: The Washington utilities and transportation commission (commission) takes this action under Notice No. WSR 15-23-104 for an expedited rule making, filed with the code reviser on November 18, 2015. The commission has authority to take this action pursuant to RCW 80.01.040, 80.04.160, 81.04.160, and 34.05.353.

2 STATEMENT OF COMPLIANCE: This proceeding complies with the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

3 DATE OF ADOPTION: The commission adopts this rule on the date this order is entered.

4 CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE: RCW 34.05.325(6) requires the commission to prepare and publish a concise explanatory statement about an adopted rule. The statement must identify the commission's reasons for adopting the rule, describe the differences between the version of the proposed rules published in the register and the rules adopted (other than editing changes), summarize the comments received regarding the proposed rule changes, and state the commission's responses to the comments reflecting the commission's consideration of them.

5 The commission adopts these rules to incorporate by reference federal rules and national standards pertaining to motor carriers, household goods carriers, auto transportation companies, private and nonprofit transportation providers, railroad companies, solid waste and/or refuse collection companies, hazardous liquid pipeline companies, gas companies, and electric companies. There are no differences between the text of the proposed rules as published in the register and the text of the rules as adopted. The commission did not receive any comments on the proposed rules.

6 REFERENCE TO AFFECTED RULES: This order amends the following sections of the Washington Administrative Code:

Rule Changes			
Action	WAC No.	Rule Title	Changes
Chapter 480-14 WAC, Motor carriers excluding household goods carriers and common brokers.			
Amend	480-14-999	Adoption by reference	1. Adoption by reference dates changed as follows: <ul style="list-style-type: none"> • Title 49 Code of Federal Regulations (C.F.R.), amends the effective date of adoption to October 6, 2015, for the following: <ul style="list-style-type: none"> - Part 171 - General Information, Regulations and Definitions - see Note 1. - Part 172 - Hazardous Materials Table, etc. - see Note 2. - Part 173 - Shippers General Requirements for Shipping and Packages - see Note 3.

Rule Changes			
Action	WAC No.	Rule Title	Changes
Chapter 480-15 WAC, Household goods carriers.			
Amend	480-15-999	Adoption by reference	<p>1. Adoption by reference dates changed as follows:</p> <ul style="list-style-type: none"> • North American Standard Out-Of-Service Criteria, amends the effective date to April 1, 2015 - no significant changes - new edition of previously adopted reference. • Title 49 C.F.R., amends the effective date of adoption to October 6, 2015, for the following: <ul style="list-style-type: none"> - Part 40 - Procedures for Transportation Workplace Drug and Alcohol Testing Programs - see Note 4. - Part 375 - Transportation of Household Goods in Interstate Commerce; Consumer Protection Regulations - see Note 5. - Part 379 - Preservation of Records - no changes since last adoption. - Part 380 - Special Training Requirements - no changes since last adoption. - Part 382 - Controlled Substance and Alcohol Use and Testing - no changes since last adoption. - Part 383 - Commercial Driver's License Standards; Requirements and Penalties - see Note 6. - Part 385 - Safety Fitness Procedures - see Note 7. - Part 390 - Safety Regulations, General - see Note 8. - Part 391 - Qualification of Drivers - see Note 9. - Part 392 - Driving of Commercial Motor Vehicles - see Note 10. - Part 393 - Parts and Accessories Necessary for Safe Operation - see Note 11. - Part 395 - Hours of Service of Drivers - no changes since last adoption. - Part 396 - Inspection, Repair and Maintenance - no changes since last adoption. - Part 397 - Transportation of Hazardous Materials - see Note 12.
Chapter 480-30 WAC, Auto transportation companies.			
Amend	480-30-999	Adoption by reference	<p>1. Adoption by reference dates changed as follows:</p> <ul style="list-style-type: none"> • North American Standard Out-Of-Service Criteria, amends the effective date to April 1, 2015 - no significant changes - new edition of previously adopted reference. • Title 49 C.F.R., amends the effective date of adoption to October 6, 2015, for the following: <ul style="list-style-type: none"> - Part 40 - Procedures for Transportation Workplace Drug and Alcohol Testing Programs - see Note 4. - Part 375 - Transportation of Household Goods in Interstate Commerce; Consumer Protection Regulations - see Note 5. - Part 379 - Preservation of Records - no changes since last adoption. - Part 380 - Special Training Requirements - no changes since last adoption. - Part 382 - Controlled Substance and Alcohol Use and Testing - no changes since last adoption. - Part 383 - Commercial Driver's License Standards; Requirements and Penalties - see Note 6. - Part 385 - Safety Fitness Procedures - see Note 7. - Part 390 - Safety Regulations, General - see Note 8. - Part 391 - Qualification of Drivers - see Note 9. - Part 392 - Driving of Commercial Motor Vehicles - see Note 10. - Part 393 - Parts and Accessories Necessary for Safe Operation - see Note 11.

Rule Changes			
Action	WAC No.	Rule Title	Changes
			<ul style="list-style-type: none"> - Part 395 - Hours of Service of Drivers - no changes since last adoption. - Part 396 - Inspection, Repair and Maintenance - no changes since last adoption. - Part 397 - Transportation of Hazardous Materials - see Note 12.
Chapter 480-31 WAC, Private, nonprofit transportation providers.			
Amend	480-31-999	Adoption by reference	<p>1. Adoption by reference dates changed as follows:</p> <ul style="list-style-type: none"> • North American Standard Out-Of-Service Criteria, amends the effective date to April 1, 2015 - no significant changes - new edition of previously adopted reference. • Title 49 C.F.R., amends the effective date of adoption to October 6, 2015, for the following: <ul style="list-style-type: none"> - Part 40 - Procedures for Transportation Workplace Drug and Alcohol Testing Programs - see Note 4. - Part 375 - Transportation of Household Goods in Interstate Commerce; Consumer Protection Regulations - see Note 5. - Part 379 - Preservation of Records - no changes since last adoption. - Part 380 - Special Training Requirements - no changes since last adoption. - Part 382 - Controlled Substance and Alcohol Use and Testing - no changes since last adoption. - Part 383 - Commercial Driver's License Standards; Requirements and Penalties - see Note 6. - Part 385 - Safety Fitness Procedures - see Note 7. - Part 390 - Safety Regulations, General - see Note 8. - Part 391 - Qualification of Drivers - see Note 9. - Part 392 - Driving of Commercial Motor Vehicles - see Note 10. - Part 393 - Parts and Accessories Necessary for Safe Operation - see Note 11. - Part 395 - Hours of Service of Drivers - no changes since last adoption. - Part 396 - Inspection, Repair and Maintenance - no changes since last adoption. - Part 397 - Transportation of Hazardous Materials - see Note 12.
Chapter 480-62 WAC, Railroad companies—Operations.			
Amend	480-62-999	Adoption by reference	<p>1. Adoption by reference dates changed as follows:</p> <ul style="list-style-type: none"> • Title 49 C.F.R., amends the effective date of adoption to October 6, 2015, for the following: <ul style="list-style-type: none"> - Part 171 - General Information, Regulations, and Definitions - see Note 1. - Part 172 - Emergency Response Information, Training Requirements, and Security Plans - see Note 2. - Part 173 - Shippers General Requirements for Shipments and Packages - see Note 3. - Part 174 - Carriage by Rail - see Note 13. - Part 178 - Specifications for Packagings - no changes made since last adoption date. - Part 179 - Specifications for Tank Cars - no changes made since last adoption date. - Part 209 - Railroad Safety Enforcement Procedures - no changes since last adoption date. - Part 211 - Rules of Practice - no changes made since last adoption date.

Rule Changes			
Action	WAC No.	Rule Title	Changes
			<ul style="list-style-type: none"> - Part 212 - State Safety Participation Regulations - no changes made since last adoption date. - Part 213 - Track Safety Standards - no changes since last adoption date. - Part 214 - Railroad Workplace Safety - see Note 17. - Part 217 - Railroad Operating Rules - no changes made since last adoption date. - Part 218 - Railroad Operating Practices - no changes made since last adoption date. - Part 219 - Control of Alcohol and Drug Use - no changes made since last adoption date. - Part 220 - Railroad Communications - no changes made since last adoption date. - Part 221 - Rear-end Marking Device - no changes made since last adoption date. - Part 225 - Railroads Accidents/Incidents - no changes made since last adoption date. - Part 228 - Hours of Service of Railroad Employees - no changes made since last adoption date. - Part 234 - Grade Crossing Signal System Safety- see Note 18. - Part 239 - Passenger Train Emergency Preparedness - no changes made since last adoption date. - Part 240 - Qualification and Certification of Locomotive Engineers - no changes made since last adoption date. - Part 570 - Vehicle In Use Inspection Standards - no changes made since last adoption.
Chapter 480-70 WAC, Solid waste and/or refuse collection companies.			
Amend	480-70-999	Adoption by reference	<p>1. Adoption by reference dates changed as follows:</p> <ul style="list-style-type: none"> • North American Standard Out-Of-Service Criteria, amends the effective date to April 1, 2015 - no significant changes - new edition of previously adopted reference. • Title 40 C.F.R., amends the effective date of adoption to October 6, 2015, for the following: <ul style="list-style-type: none"> - Part 262 - Standards Applicable to Generators of Hazardous Waste - see Note 19. • Title 49 C.F.R., amends the effective date of adoption to October 6, 2015, for the following: <ul style="list-style-type: none"> - Part 40 - Procedures for Transportation Workplace Drug and Alcohol Testing Programs - no changes since last adoption. - Part 171 - General Information, Regulations and Definitions - see Note 1. - Part 172 - Hazardous Materials Table, etc. - see Note 2. - Part 173 - Shippers General Requirements for Shipping and Packages - see Note 3. - Part 174 - Carriage by Rail - see Note 13. - Part 175 - Carriage by Aircraft - see Note 14. - Part 176 - Carriage by Vessel - see Note 15. - Part 177 - Carriage by Public Highway - no changes from last adoption. - Part 178 - Specifications for Packagings - no changes from last adoption - Part 179 - Specifications for Tank Cars - see Note 16. - Part 180 - Continuing Qualification and Maintenance of Packagings - no changes from last adoption.

Rule Changes			
Action	WAC No.	Rule Title	Changes
			<ul style="list-style-type: none"> - Part 375 - Transportation of Household Goods in Interstate Commerce; Consumer Protection Regulations - see Note 5. - Part 379 - Preservation of Records - no changes since last adoption. - Part 380 - Special Training Requirements - no changes since last adoption. - Part 382 - Controlled Substance and Alcohol Use and Testing - no changes since last adoption. - Part 383 - Commercial Driver's License Standards; Requirements and Penalties - see Note 6. - Part 385 - Safety Fitness Procedures - see Note 7. - Part 390 - Safety Regulations, General - see Note 8. - Part 391 - Qualification of Drivers - see Note 9. - Part 392 - Driving of Commercial Motor Vehicles - see Note 10. - Part 393 - Parts and Accessories Necessary for Safe Operation - see Note 11. - Part 395 - Hours of Service of Drivers - no changes since last adoption. - Part 396 - Inspection, Repair and Maintenance - no changes since last adoption. - Part 397 - Transportation of Hazardous Materials - see Note 12.
Chapter 480-75 WAC, Hazardous liquid pipeline—Safety.			
Amend	480-75-999	Adoption by reference	1. Adoption by reference dates changed as follows: <ul style="list-style-type: none"> • Title 49 C.F.R., amends the effective date of adoption to March 6, 2015, for the following: <ul style="list-style-type: none"> - Part 195 - Transportation of Hazardous Liquids by Pipeline - no changes since last edition. - Part 199 - Drug and Alcohol Testing - no changes since last edition.
Chapter 480-90 WAC, Gas companies—Operations.			
Amend	480-90-999	Adoption by reference	1. Adoption by reference dates changed as follows: <ul style="list-style-type: none"> • Title 18 C.F.R., amends the effective date of adoption to April 1, 2015, for the entire chapter - see Note 20. 2. Adoption by reference text changed as follows: <ul style="list-style-type: none"> • Title 18 C.F.R., amends subsection (1)(d) to rephrase the availability of the resource at Government Printing Office and include "It is also available for inspection at the commission branch of the state library." - see Note 21. • Regulations to Govern the Preservation of Records of Electric, Gas, and Water Utilities, amends subsection (2)(c) to include the internet address for National Association of Regulatory Utility Commissioners (NARUC) publications store http://www.naruc.org/Store and add "It is also available for inspection at the commission branch of the state library." - see Note 22.
Chapter 480-93 WAC, Gas companies—Safety.			
Amend	480-93-999	Adoption by reference	1. Adoption by reference dates changed as follows: <ul style="list-style-type: none"> • Title 49 C.F.R., amends the effective date of adoption to March 11, 2015, for the following: <ul style="list-style-type: none"> - Part 191 - Report Forms - no change since last edition. - Part 193 - Liquefied Natural Gas and Facilities - no change since last edition - Part 192 - Transportation of Natural and Other Gas by Pipeline - see Note 23.

Rule Changes			
Action	WAC No.	Rule Title	Changes
Chapter 480-100 WAC, Electric companies—Operations.			
Amend	480-100-999	Adoption by reference	<p>1. Adoption by reference dates changed as follows:</p> <ul style="list-style-type: none"> • Title 18 C.F.R., amends the effective date of adoption to April 1, 2015, for the entire chapter - see Note 24. • The National Electrical Code (NEC), amends the effective date of adoption to September 3, 2014 - see Note 25. <p>2. Adoption by reference text changed as follows:</p> <ul style="list-style-type: none"> • Title 18 C.F.R., amends subsection (1)(d) to rephrase the availability of the resource at Government Printing Office - see Note 26. • Regulations to Govern the Preservation of Records of Electric, Gas, and Water Utilities, amends subsection (2)(c) to include the internet address for NARUC publications store http://www.naruc.org/Store and add "It is also available for inspection at the commission branch of the state library." - see Note 27. • NEC, amends subsection (3)(a) to include "errata 70-14-2 published December 3, 2013, 70-14-3 published April 21, 2014, and 70-14-4 published July 29, 2014." - see Note 28. • The American National Standard for Electric Meters: Code for Electricity Metering, amends subsection (4)(c) to provide the internet addresses to purchase ANSI C12.1: http://webstore.ansi.org/ (PDF) and https://global.ihc.com/ (PDF or print) - see Note 29.
Chapter 480-107 WAC, Electric companies—Purchases of electricity from qualifying facilities and independent power producers and purchases of electrical savings from conservation suppliers.			
Amend	480-107-999	Adoption by reference	<p>1. Adoption by reference text changed as follows - see Note 30.</p> <p>In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. The publication, effective date, reference within this chapter, and availability of the resources are as follows:</p> <ul style="list-style-type: none"> • Public Utilities Regulatory Policies Act of 1978 (PURPA), Title II, Sections 201 and 210, cited as 16 U.S.C. § 796 and 824a-3, including all amendments is published by the United States Government Printing Office. <ul style="list-style-type: none"> (a) The commission adopts the version in effect on August 8, 2005. (b) This publication is reference[d] in WAC 480-107-001 Purpose and scope. (c) Copies of U.S.C. are available from the United States Government Printing Office in Washington, D.C. or online at http://www.gpo.gov/. • Title 18 C.F.R. Part 292, cited as 18 C.F.R. § 292, including all appendices and amendments is published by the United States Government Printing Office. <ul style="list-style-type: none"> (a) The commission adopts the version in effect on April 1, 2015. (b) This publication is referenced in WAC 480-107-001 Purpose and scope. <p>Copies of Title 18 C.F.R. are available from the United States Government Printing Office in Washington, D.C. or online at http://www.gpo.gov/, and from various third-party vendors. It is also available for inspection at the commission branch of the state library.</p>
Chapter 480-108 WAC, Electric companies—Interconnection with electric generators.			
Amend	480-108-999	Adoption by reference	<p>1. Adoption by reference dates changed as follows:</p> <ul style="list-style-type: none"> • NEC, amends the effective date to April 7, 2015 - no significant changes - new edition of previously adopted reference. • Underwriters Laboratories (UL) UL Standard 1741, amends the effective date to January 7, 2015 - no significant changes - new edition of previously adopted reference.

Rule Changes			
Action	WAC No.	Rule Title	Changes
			<ul style="list-style-type: none"> Occupational Safety and Health Administration (OSHA) Standard at 29 C.F.R. 1910.269, amends the effective date to October 5, 2015 - no significant changes - new edition of previously adopted reference.
Chapter 480-109 WAC, Electric companies—Acquisitions.			
Amend	480-110-999	Adoption by reference	1. Adoption by reference dates changed as follows: <ul style="list-style-type: none"> Northwest Power and Conservation Council's Regional Technical Forum, amends the effective date of adoption to January 10, 2016, for the following: <ul style="list-style-type: none"> Unit energy savings with status of "Active" or "Under Review." Standard protocols with status of "Active" or "Under Review."

7 PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS THEREUNDER: A preproposal statement of inquiry is not required under RCW 34.05.353 for an expedited rule making.

8 NOTICE OF PROPOSED RULE MAKING: The commission filed a notice of proposed rule making (CR-105) on November 18, 2015, at WSR 15-23-104. The notice informed interested persons that the commission was proposing rules under an expedited rule-making process as required by RCW 34.05.353. The commission provided notice of its expedited rule making to all persons on the commission's list of persons requesting such information pursuant to RCW 34.05.353, and to all persons affected by the adoption-by-reference rule proposal. The notice provided interested persons the opportunity to submit written comments to the commission no later than February 1, 2016. The commission posted the relevant rule-making information on its internet web site at www.utc.wa.gov/151884.

9 COMMENTERS (WRITTEN COMMENTS): The commission did not receive any received comments on the proposed rules.

10 COMMISSION ACTION: After considering all of the information regarding this proposal, the commission finds and concludes that it should amend and adopt the rules as proposed in the CR-105 at WSR 15-23-104.

11 STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE: After reviewing the entire record, the commission determines that WAC 480-14-999, 480-15-999, 480-30-999, 480-31-999, 480-62-999, 480-70-999, 480-75-999, 480-90-999, 480-93-999, 480-100-999, 480-107-999, 480-108-999, and 480-109-999 should be amended to read as set forth in Appendix A, as the rules of the Washington utilities and transportation commission, to take effect pursuant to RCW 34.05.380(2), on the thirty-first day after filing with the code reviser.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 13, Repealed 0.

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

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

ORDER

12 THE COMMISSION ORDERS:

13 (1) WAC 480-14-999, 480-15-999, 480-30-999, 480-31-999, 480-62-999, 480-70-999, 480-75-999, 480-90-999, 480-93-999, 480-100-999, 480-107-999, 480-108-999, and 480-109-999 are amended to read as set forth in Appendix A, as rules of the Washington utilities and transportation commission, to take effect pursuant to RCW 34.05.380(2) on the thirty-first day after filing with the code reviser.

14 (2) This order and the rules set out in Appendix A, after being recorded in the order register of the Washington utilities and transportation commission, shall be forwarded to the code reviser for filing pursuant to chapters 80.01 and 34.05 RCW and 1-21 WAC.

DATED at Olympia, Washington, February 9, 2016.

Washington Utilities and Transportation Commission

David W. Danner, Chairman
 Philip B. Jones, Commissioner
 Ann E. Rendahl, Commissioner

Appendix A

AMENDATORY SECTION (Amending WSR 15-06-048, filed 3/2/15, effective 4/2/15)

WAC 480-14-999 Adoption by reference. In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. They are available for inspection at the commission branch of the Washington state library. The publication, effective dates, references within this chapter, and availability of the resource is within Title 49 Code of Federal Regulations (C.F.R.), including all appendices and amendments is published by the United States Government Printing Office.

(1) The commission adopts the version in effect on October (~~1, 2014~~) 6, 2015, for 49 C.F.R. Parts 171, 172 and 173.

(2) This publication is referenced in WAC 480-14-250 (Insurance requirements).

(3) Copies of Title 49 C.F.R. are available from the U.S. Government Online Bookstore, <http://bookstore.gpo.gov/>, and from various third-party vendors.

AMENDATORY SECTION (Amending WSR 15-06-048, filed 3/2/15, effective 4/2/15)

WAC 480-15-999 Adoption by reference. In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. They are available for inspection at the commission branch of the Washington state library. The publications, effective dates, references within this chapter, and availability of the resources are as follows:

(1) *North American Standard Out-of-Service Criteria* (OOSC) is published by the Commercial Vehicle Safety Alliance (CVSA).

(a) The commission adopts the version in effect on April 1, (~~2014~~) 2015.

(b) This publication is referenced in WAC 480-15-560 (Equipment safety requirements).

(c) The *North American Out-of-Service Criteria* is a copyrighted document. Copies are available from CVSA.

(2) **Title 49 Code of Federal Regulations**, cited as 49 C.F.R., including all appendices and amendments is published by the United States Government Printing Office.

(a) The commission adopts the version in effect on October (~~1, 2014~~) 6, 2015.

(b) This publication is referenced in WAC 480-15-560 (Equipment safety requirements) and WAC 480-15-570 (Driver safety requirements).

(c) Copies of Title 49 Code of Federal Regulations are available from the U.S. Government Online Bookstore, <http://bookstore.gpo.gov/>, and from various third-party vendors.

AMENDATORY SECTION (Amending WSR 15-06-048, filed 3/2/15, effective 4/2/15)

WAC 480-30-999 Adoption by reference. In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. They are available for inspection at the commission branch of the Washington state library. The publications, effective dates, references within this chapter, and availability of the resources are as follows:

(1) *North American Standard Out-of-Service Criteria* (OOSC) is published by the Commercial Vehicle Safety Alliance (CVSA).

(a) The commission adopts the version in effect on April 1, (~~2014~~) 2015.

(b) This publication is referenced in WAC 480-30-221 (Vehicle and driver safety requirements).

(c) The *North American Out-of-Service Criteria* is a copyrighted document. Copies are available from CVSA.

(2) **Title 49 Code of Federal Regulations**, cited as 49 C.F.R., including all appendices and amendments is published by the United States Government Printing Office.

(a) The commission adopts the version in effect on October (~~1, 2014~~) 6, 2015.

(b) This publication is referenced in WAC 480-30-221 (Vehicle and driver safety requirements) and WAC 480-30-226 (Intrastate medical waivers).

(c) Copies of Title 49 Code of Federal Regulations are available from the U.S. Government Online Bookstore, <http://bookstore.gpo.gov/>, and from various third-party vendors.

AMENDATORY SECTION (Amending WSR 15-06-048, filed 3/2/15, effective 4/2/15)

WAC 480-31-999 Adoption by reference. In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. They are available for inspection at the commission branch of the Washington state library. The publications, effective dates, references within this chapter, and availability of the resources are as follows:

(1) *North American Standard Out-of-Service Criteria* (OOSC) is published by the Commercial Vehicle Safety Alliance (CVSA).

(a) The commission adopts the version in effect on April 1, (~~2014~~) 2015.

(b) This publication is referenced in WAC 480-31-120 (Equipment—Inspection—Ordered for repairs).

(c) The *North American Out-of-Service Criteria* is a copyrighted document. Copies are available from CVSA.

(2) **Title 49 Code of Federal Regulations**, cited as 49 C.F.R., including all appendices and amendments is published by the United States Government Printing Office.

(a) The commission adopts the version in effect on October (~~1, 2014~~) 6, 2015.

(b) This publication is referenced in WAC 480-31-100 (Equipment—Safety), WAC 480-31-120 (Equipment—Inspection—Ordered for repairs), and WAC 480-31-130 (Operation of motor vehicles).

(c) Copies of Title 49 Code of Federal Regulations are available from the U.S. Government Online Bookstore, <http://bookstore.gpo.gov/>, and from various third-party vendors.

AMENDATORY SECTION (Amending WSR 15-06-048, filed 3/2/15, effective 4/2/15)

WAC 480-62-999 Adoption by reference. In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. They are available for inspection at the commission branch of the Washington state library. The publications, effective dates, references within this chapter, and availability of the resources are as follows:

(1) **Title 49 Code of Federal Regulations**, cited as 49 C.F.R., including all appendices and amendments is published by the United States Government Printing Office.

(a) The commission adopts the version in effect on October (~~1, 2014~~) 6, 2015.

(b) This publication is referenced in WAC 480-62-160 (Compliance policy), WAC 480-62-200 (Roadway worker safety and operating rules and statutes), WAC 480-62-205 (Track safety standards), WAC 480-62-210 (Crossing signal circuitry), WAC 480-62-215 (Hazardous materials regula-

tions), WAC 480-62-235 (Flaggers), and WAC 480-62-240 (Passenger carrying vehicles—Equipment).

(c) Copies of Title 49 Code of Federal Regulations are available from the U.S. Government Online Bookstore, <http://bookstore.gpo.gov/>, and from various third-party vendors.

(2) **Manual on Uniform Traffic Control Devices**, cited as Manual on Uniform Traffic Control Devices, or MUTCD, is published by the United States Government Printing Office.

(a) The commission adopts the version in effect on October ~~((1, 2014))~~ 6, 2015.

(b) This publication is referenced in WAC 480-62-230 (Traffic control devices) and WAC 480-62-235 (Flaggers).

(c) Copies of the MUTCD are available from the U.S. Government Online Bookstore, <http://bookstore.gpo.gov/>, and from various third-party vendors.

(3) **ANSI Z308.1 - ~~((2009))~~ 2015 American National Standard for Minimum Requirements for Workplace First Aid Kits** is published by the American National Standards Institute.

(a) The commission adopts the version in effect on October ~~((1, 2014))~~ 6, 2015.

(b) This publication is referenced in WAC 480-62-240 (Passenger carrying vehicles—Equipment).

(c) Copies of ANSI Z308.1 - ~~((2009))~~ 2015 American National Standard for Minimum Requirements for Workplace First Aid Kits and Supplies are available from IHS Global Engineering Documents in Englewood, Colorado.

(4) **ANSI/ISEA 207-2011 - American National Standard for High-Visibility Public Safety Vests** is published by the American National Standards Institute.

(a) The commission adopts the version in effect on October ~~((1, 2014))~~ 6, 2015.

(b) This publication is referenced in WAC 480-62-235 (Flaggers).

(c) Copies of ANSI/ISEA 207-2011 - American National Standard for High-Visibility Public Safety Vests are available from IHS Global Engineering Documents in Englewood, Colorado.

AMENDATORY SECTION (Amending WSR 15-06-048, filed 3/2/15, effective 4/2/15)

WAC 480-70-999 Adoption by reference. In this chapter, the commission adopts by reference all, or portions of, regulations and standards identified below. They are available for inspection at the commission branch of the Washington state library. The publications, effective dates, references within this chapter, and availability of the resources are as follows:

(1) **The North American Standard Out-of-Service Criteria** is published by the Commercial Vehicle Safety Alliance (CVSA).

(a) The commission adopts the version in effect on April 1, ~~((2014))~~ 2015.

(b) This publication is referenced in WAC 480-70-201 (Vehicle and driver safety requirements).

(c) The *North American Out-of-Service Criteria* is a copyrighted document. Copies are available from CVSA.

(2) **Title 40 Code of Federal Regulations**, cited as 40 C.F.R., including all appendices and amendments is published by the United States Government Printing Office.

(a) The commission adopts the version in effect on October ~~((1, 2014))~~ 6, 2015.

(b) This publication is referenced in WAC 480-70-041 (Definitions, general).

(c) Copies of Title 40 Code of Federal Regulations are available from the U.S. Government Online Bookstore, <http://bookstore.gpo.gov/>, and from various third-party vendors.

(3) **Title 49 Code of Federal Regulations**, cited as 49 C.F.R., including all appendices and amendments is published by the United States Government Printing Office.

(a) The commission adopts the version in effect on October ~~((1, 2014))~~ 6, 2015.

(b) This publication is referenced in WAC 480-70-201 (Vehicle and driver safety requirements), WAC 480-70-431 (Biomedical waste, adoption of federal regulations), and WAC 480-70-486 (Hazardous waste, adoption of federal regulations).

(c) Copies of Title 49 Code of Federal Regulations are available from the U.S. Government Online Bookstore, <http://bookstore.gpo.gov/>, and from various third-party vendors.

AMENDATORY SECTION (Amending WSR 14-05-001, filed 2/5/14, effective 3/8/14)

WAC 480-75-999 Adoption by reference. In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. They are available for inspection at the commission branch of the Washington state library. The publications, effective dates, references within this chapter, and availability of the resources are as follows:

(1) **Title 49 Code of Federal Regulations**, cited as 49 C.F.R., Parts 195 and 199 including all appendices and amendments except for 49 C.F.R. Sections 195.0 and 195.1, and 49 C.F.R. Sections 199.1 and 199.2, published by the United States Government Printing Office.

(a) The commission adopts the version in effect on ~~((October 1, 2012))~~ March 6, 2015.

(b) This publication is referenced in WAC 480-75-370 (Design factor (*F*) for steel pipe) and WAC 480-75-660 (Procedural manual for operations, maintenance, and emergencies).

(c) Copies of Title 49 Code of Federal Regulations are available from the U.S. Government Online Bookstore, <http://bookstore.gpo.gov/>.

(2) **The American Society of Mechanical Engineers (ASME) B31.4, 2006 edition, October 20, 2006.**

(a) This publication is referenced in WAC 480-75-350 (Design specifications for new pipeline projects), WAC 480-75-440 (Pipeline repairs), and WAC 480-75-450 (Construction specifications).

(b) Copies of ASME B31.4 are available from ASME, <http://www.asme.org/codes/>. It is also available for inspection at the commission.

(3) The 2007 edition, July 2007, of **Section IX of the ASME Boiler and Pressure Vessel Code**.

(a) This publication is referenced in WAC 480-75-430 (Welding procedures).

(b) Copies of the 2007 edition, of *Section IX of the ASME Boiler and Pressure Vessel Code* are available from ASME, <http://www.asme.org/codes/>. It is also available for inspection at the commission.

(4) The commission adopts **American Petroleum Institute (API) standard 1104** (20th edition 2005, including errata/addendum July 2007 and errata 2 (December 2008)).

(a) This publication is referenced in WAC 480-75-430 (Welding procedures) and WAC 480-75-460 (Welding inspection requirements).

(b) Copies of API standard 1104 (20th edition 2005, including errata/addendum July 2007 and errata December 2008) are available from the Office of API Publishing Services, <http://www.api.org/>. It is also available for inspection at the commission.

(5) The commission adopts **API RP standard 1117** Third Edition, July 2008, including errata December 2008 and errata 2 (August 2009).

(a) This publication is referenced in WAC 480-75-500 (Moving and lowering hazardous liquid pipelines).

(b) Copies of API standard 1117 Third Edition, July 2008, including errata December 2008 and errata 2 August 2009 are available from API, <http://www.api.org/>. It is also available for inspection at the commission.

AMENDATORY SECTION (Amending WSR 15-06-048, filed 3/2/15, effective 4/2/15)

WAC 480-90-999 Adoption by reference. In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. They are available for inspection at the commission branch of the Washington state library. The publications, effective date, references within this chapter, and availability of the resources are as follows:

(1) **Title 18 Code of Federal Regulations**, cited as 18 C.F.R., including all appendices and amendments is published by the United States Government Printing Office.

(a) The commission adopts the version in effect on April 1, ~~((2014))~~ 2015.

(b) The accounting and reporting for the types of transactions and events covered by the amendment should not be construed as indicative of their treatment by this commission for ratemaking purposes.

(c) This publication is referenced in WAC 480-90-203 (Accounting system requirements), WAC 480-90-244 (Transferring cash or assuming obligation), WAC 480-90-252 (Federal Energy Regulatory Commission (FERC) Form No. 2), and WAC 480-90-268 (Essential utilities services contracts report).

(d) Copies of Title 18 Code of Federal Regulations are available from the U.S. Government Printing Office in Washington, D.C., or online at <http://www.gpo.gov/>, and from various third-party vendors. It is also available for inspection at the commission branch of the state library.

(2) The **Regulations to Govern the Preservation of Records of Electric, Gas, and Water Utilities** is published by the National Association of Regulatory Utility Commissioners (NARUC).

(a) The commission adopts the version in effect in 2007.

(b) This publication is referenced in WAC 480-90-228 (Retention and preservation of records and reports).

(c) The *Regulations to Govern the Preservation of Records of Electric, Gas, and Water Companies* is a copyrighted document. Copies are available from NARUC, in Washington, D.C. or at NARUC publications store online: <http://www.naruc.org/store>. It is also available for inspection at the commission branch of the state library.

AMENDATORY SECTION (Amending WSR 15-06-048, filed 3/2/15, effective 4/2/15)

WAC 480-93-999 Adoption by reference. In this chapter, the commission adopts by reference each of the regulations and/or standards identified below. Each regulation or standard is listed by publication, publisher, scope of what the commission is adopting, effective date of the regulation or standard, the place within the commission's rules the regulation or standard is referenced, and where to obtain the regulation or standard.

(1) Parts 191, 192, 193, and 199 of Title 49 Code of Federal Regulations, including all appendices and amendments thereto as published by the United States Government Printing Office.

(a) The commission adopts the version of the above regulations that were in effect on ~~((October 1, 2012))~~ March 11, 2015, except the following sections are not adopted by reference: 191.1, 192.1(a), 193.2001(a), 199.1. In addition, please note that in WAC 480-93-013, the commission includes "new construction" in the definition of "covered task," as defined in 49 C.F.R. § 192.801 (b)(2).

(b) This publication is referenced in WAC 480-93-005 (Definitions), WAC 480-93-080 (Welder and plastic joiner identification and qualification), WAC 480-93-100 (Valves), WAC 480-93-110 (Corrosion control), WAC 480-93-124 (Pipeline markers), WAC 480-93-170 (Tests and reports for gas pipelines), WAC 480-93-180 (Plans and procedures), and WAC 480-93-18601 (Leak classification and action criteria—Grade—Definition—Priority of leak repair).

(c) Copies of Title 49 Code of Federal Regulations are available from the U.S. Government Online Bookstore, <http://bookstore.gpo.gov/>. It is also available for inspection at the commission.

(2) Section IX of the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code.

(a) The commission adopts the 2007 edition, July 1, 2007, of Section IX of the ASME Boiler and Pressure Vessel Code.

(b) This publication is referenced in WAC 480-93-080.

(c) Copies of Section IX of the ASME Boiler and Pressure Vessel Code (2007 edition, including addenda through July 1, 2005) are available from ASME, <http://www.asme.org/codes/>. It is also available for inspection at the commission.

(3) The American Petroleum Institute (API) standard 1104 (20th edition October 2005, including errata/addendum July 2007 and errata 2 (2008)).

(a) The commission adopts the 20th edition 2005, including errata/addendum July 2007 and errata 2 (2008) of this standard.

(b) This standard is referenced in WAC 480-93-080.

(c) Copies of API standard 1104 (20th edition 2005, including errata/addendum July 2007 and errata December 2008) are available from the Office of API Publishing Services, <http://www.api.org/>. It is also available for inspection at the commission.

AMENDATORY SECTION (Amending WSR 15-06-048, filed 3/2/15, effective 4/2/15)

WAC 480-100-999 Adoption by reference. In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. The publications, effective date, references within this chapter, and availability of the resources are as follows:

(1) **Title 18 Code of Federal Regulations**, cited as 18 C.F.R., including all appendices and amendments is published by the United States Government Printing Office.

(a) The commission adopts the version in effect on April 1, (~~2014~~) 2015.

(b) The accounting and reporting for the types of transactions and events covered by the amendment should not be construed as indicative of their treatment by this commission for ratemaking purposes.

(c) This publication is referenced in WAC 480-100-203 (Accounting system requirements), WAC 480-100-244 (Transferring cash or assuming obligation), WAC 480-100-252 (Federal Energy Regulatory Commission (FERC) Form No. 1), and WAC 480-100-268 (Essential utilities services contracts report).

(d) Copies of Title 18 Code of Federal Regulations are available from the U.S. Government Printing Office in Washington D.C., or online at <http://www.gpo.gov/>, and from various third-party vendors. It is also available for inspection at the commission branch of the state library.

(2) **The Regulations to Govern the Preservation of Records of Electric, Gas, and Water Utilities** is published by the National Association of Regulatory Utility Commissioners (NARUC).

(a) The commission adopts the version in effect in 2007.

(b) This publication is referenced in WAC 480-100-228 (Retention and preservation of records and reports).

(c) *The Regulations to Govern the Preservation of Records of Electric, Gas, and Water Companies* is a copyrighted document. Copies are available from NARUC in Washington, D.C. or at NARUC publications store online: <http://www.naruc.org/store>. It is also available for inspection at the commission branch of the state library.

(3) **The National Electrical Code** is published by the National Fire Protection Association (NFPA).

(a) The commission adopts the edition effective September 3, 2014, including errata 70-14-1 published September 16, 2013, errata 70-14-2 published December 3, 2013, 70-14-

3 published April 21, 2014, and 70-14-4 published July 29, 2014.

(b) This publication is referenced in WAC 480-100-163 (Service entrance facilities).

(c) The National Electrical Code is a copyrighted document. Copies are available from the NFPA at 1 Batterymarch Park, Quincy, Massachusetts 02169, or at internet address <http://www.nfpa.org/>.

(4) **The American National Standard for Electric Meters: Code for Electricity Metering**, ANSI C12.1 is published by the American National Standards Institute.

(a) The commission adopts the version published in 2008.

(b) This publication is referenced in WAC 480-100-318 (Meter readings, multipliers, and test constants), WAC 480-100-338 (Accuracy requirements for electric meters), and WAC 480-100-343 (Statement of meter test procedures).

(c) The ANSI C12.1 is a copyrighted document. ANSI C12.1 - 2008 is available at American National Standards Institute web site <http://webstore.ansi.org/> (PDF) or at IHS Standards Store web site <https://global.ih.com/> (PDF and print).

AMENDATORY SECTION (Amending WSR 15-06-048, filed 3/2/15, effective 4/2/15)

WAC 480-107-999 Adoption by reference. In this chapter, the commission adopts by reference all or portions of regulations and standards identified in subsections (1) and (2) of this section. The publication, effective date, reference within this chapter, and availability of the resources are as follows:

(1) **Public Utilities Regulatory Policies Act of 1978 (PURPA), Title II, Sections 201 and 210**, cited as 16 U.S.C. Sec. 796 and 824a-3, including all amendments is published by the United States Government Printing Office.

(a) The commission adopts the version in effect on August 8, 2005.

(b) This publication is reference in WAC 480-107-001 (Purpose and scope).

(c) Copies of U.S. Code are available from the U.S. Government Printing Office in Washington, D.C. or online at <http://www.gpo.gov/>.

(2) **Title 18 Code of Federal Regulations Part 292**, cited as 18 C.F.R. Sec. 292, including all appendices and amendments is published by the United States Government Printing Office.

(a) The commission adopts the version in effect on April 1, (~~2014~~) 2015.

(b) This publication is referenced in WAC 480-107-001 (Purpose and scope).

(c) Copies of Title 18 Code of Federal Regulations are available from the U.S. Government Printing Office in Washington D.C. or online at <http://www.gpo.gov/> and from various third-party vendors. It is also available for inspection at the commission branch of the state library.

AMENDATORY SECTION (Amending WSR 15-06-048, filed 3/2/15, effective 4/2/15)

WAC 480-108-999 Adoption by reference. In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. The publications, effective date, references within this chapter, and availability of the resources are as follows:

(1) The National Electrical Code is published by the National Fire Protection Association (NFPA).

(a) The commission adopts the edition effective (~~September 3, 2014~~) April 7, 2015, including errata 70-14-1 published September 16, 2013, errata 70-14-2 published December 3, 2013, errata 70-14-3 published April 21, 2014, and errata 70-14-4 published July 29, 2014.

(b) This publication is referenced in WAC 480-108-040 (General terms and conditions of interconnection).

(c) The National Electrical Code is a copyrighted document. Copies are available from the NFPA at 1 Batterymarch Park, Quincy, Massachusetts, 02169 or at internet address <http://www.nfpa.org/>.

(2) National Electrical Safety Code (NESC).

(a) The commission adopts the 2012 edition.

(b) This publication is referenced in WAC 480-108-040 (General terms and conditions of interconnection).

(c) Copies of the National Electrical Safety Code are available from the Institute of Electrical and Electronics Engineers at <http://standards.ieee.org/nesc>.

(3) Institute of Electrical and Electronics Engineers (IEEE) Standard 1547, Standard for Interconnecting Distributed Resources with Electric Power Systems.

(a) The commission adopts the version published in 2003 and reaffirmed in 2008, including amendment 1547a-2014, published May 21, 2014.

(b) This publication is referenced in WAC 480-108-040 (General terms and conditions of interconnection).

(c) Copies of IEEE Standard 1547 are available from the Institute of Electrical and Electronics Engineers at <http://www.ieee.org>.

(4) American National Standards Institute (ANSI) Standard C37.90, IEEE Standard for Relays and Relay Systems Associated with Electric Power Apparatus.

(a) The commission adopts the version published in 2005 and reaffirmed in 2011.

(b) This publication is referenced in WAC 480-108-040 (General terms and conditions of interconnection).

(c) Copies of IEEE Standard C37.90 are available from the Institute of Electrical and Electronics Engineers at <http://www.ieee.org>.

(5) Institute of Electrical and Electronics Engineers (IEEE) Standard 519, Recommended Practices and Requirements for Harmonic Control in Electrical Power Systems.

(a) The commission adopts the version published June 11, 2014.

(b) This publication is referenced in WAC 480-108-040 (General terms and conditions of interconnection).

(c) Copies of IEEE Standard 519 are available from the Institute of Electrical and Electronics Engineers at <http://www.ieee.org>.

(6) Institute of Electrical and Electronics Engineers (IEEE) Standard 141, Recommended Practice for Electric Power Distribution for Industrial Plants.

(a) The commission adopts the version published in 1994 and reaffirmed in 1999.

(b) This publication is referenced in WAC 480-108-040 (General terms and conditions of interconnection).

(c) Copies of IEEE Standard 141 are available from the Institute of Electrical and Electronics Engineers at <http://www.ieee.org>.

(7) Institute of Electrical and Electronics Engineers (IEEE) Standard 142, Recommended Practice for Grounding of Industrial and Commercial Power Systems.

(a) The commission adopts the version published in 2007.

(b) This publication is referenced in WAC 480-108-040 (General terms and conditions of interconnection).

(c) Copies of IEEE Standard 142 are available from the Institute of Electrical and Electronics Engineers at <http://www.ieee.org>.

(8) Underwriters Laboratories (UL), including UL Standard 1741, Inverters, Converters, Controllers and Interconnection Systems Equipment for Use with Distributed Energy Resources.

(a) The commission adopts the version published (~~2010~~) January 7, 2015.

(b) This publication is referenced in WAC 480-108-040 (General terms and conditions of interconnection).

(c) UL Standard 1741 is available from Underwriters Laboratory at <http://www.ul.com>.

(9) Occupational Safety and Health Administration (OSHA) Standard at 29 C.F.R. 1910.269.

(a) The commission adopts the version published on (~~April 11, 2014, and amended on September 24, 2014~~) October 5, 2015.

(b) This publication is referenced in WAC 480-108-040 (General terms and conditions of interconnection).

(c) Copies of Title 29 Code of Federal Regulations are available from the U.S. Government Online Bookstore, <http://bookstore.gpo.gov/>, and from various third-party vendors.

AMENDATORY SECTION (Amending WSR 15-07-043, filed 3/12/15, effective 4/12/15)

WAC 480-109-999 Adoption by reference. In this chapter, the commission adopts by reference all, or portions of, the publications identified below. They are available for inspection at the commission branch of the Washington state library. The publications, publication dates, references within this chapter, and availability of the resources are as follows:

(1) *Northwest Conservation and Electric Power Plan* as published by the Northwest Power and Conservation Council.

(a) The commission adopts the sixth version published in 2010.

(b) This publication is referenced in WAC 480-109-100.

(c) Copies of *Sixth Northwest Conservation and Electric Power Plan* are available from the Northwest Power and

Conservation Council at <http://www.nwcouncil.org/energy/powerplan/6/plan/>.

(2) *Weatherization Manual* as published by the Washington state department of commerce.

(a) The commission adopts the version published in April 2009, and revised July 2014.

(b) This publication is referenced in WAC 480-109-100.

(c) Copies of *Weatherization Manual* are available from the Washington state department of commerce at <http://www.commerce.wa.gov/Programs/services/weatherization/Pages/WeatherizationTechnicalDocuments.aspx>.

(3) The unit energy savings values as published by the Northwest Power and Conservation Council's Regional Technical Forum.

(a) The commission adopts the unit energy savings with status of "Active" or "Under Review" on ~~((August 1, 2014))~~ January 10, 2016.

(b) This information is referenced in WAC 480-109-100.

(c) The spreadsheets containing the unit energy savings values are available for download at <http://rtf.nwcouncil.org/measures/Default.asp>.

(4) The standard protocols as published by the Northwest Power and Conservation Council's Regional Technical Forum.

(a) The commission adopts the standard protocols with status of "Active" or "Under Review" on ~~((August 1, 2014))~~ January 10, 2016.

(b) This information is referenced in WAC 480-109-100.

(c) The spreadsheets containing the standard protocols are available for download at <http://rtf.nwcouncil.org/protocols/Default.asp>.

WSR 16-06-003

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed February 17, 2016, 1:55 p.m., effective March 19, 2016]

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

Purpose: The department of health is adopting WAC 246-247-035 National standards adopted by reference for sources of radionuclide emissions, to update the publication date of federal rules previously adopted by reference. This adoption does not change any requirements and is necessary only to meet United States Environmental Protection Agency requirements for the department of health to receive full delegation of the radioactive air emissions program.

Citation of Existing Rules Affected by this Order: Amending WAC 246-247-035.

Statutory Authority for Adoption: RCW 70.98.050 and 70.98.080.

Adopted under notice filed as WSR 15-24-010 on November 18, 2015.

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

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

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

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

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

Date Adopted: February 19, 2016.

Maryanne Guichard
Assistant Secretary

AMENDATORY SECTION (Amending WSR 12-01-071, filed 12/19/11, effective 1/19/12)

WAC 246-247-035 National standards adopted by reference for sources of radionuclide emissions. (1) The following federal standards, as in effect on July 1, ~~((2014))~~ 2015, are adopted by reference except as provided in subsections (2) and (3) of this section.

These standards apply in addition to other requirements of this chapter.

(a) For federal facilities:

(i) 40 C.F.R. Part 61, Subpart A - General Provisions.

(ii) 40 C.F.R. Part 61, Subpart H - National Emission Standards for Emissions of Radionuclides Other Than Radon From Department of Energy Facilities.

(iii) 40 C.F.R. Part 61, Subpart I - National Emission Standards for Radionuclide Emissions From Federal Facilities Other Than Nuclear Regulatory Commission Licensees and Not Covered by Subpart H.

(iv) 40 C.F.R. Part 61, Subpart Q - National Emission Standards for Radon Emissions From Department of Energy Facilities.

(b) For nonfederal facilities:

(i) 40 C.F.R. Part 61, Subpart A - General Provisions.

(ii) 40 C.F.R. Part 61, Subpart B - National Emission Standards for Radon Emissions From Underground Uranium Mines.

(iii) 40 C.F.R. Part 61, Subpart K - National Emission Standards for Radionuclide Emissions From Elemental Phosphorus Plants.

(iv) 40 C.F.R. Part 61, Subpart R - National Emissions Standards for Radon from Phosphogypsum Stacks.

(v) 40 C.F.R. Part 61, Subpart T - National Emission Standards for Radon Emissions From the Disposal of Uranium Mill Tailings.

(vi) 40 C.F.R. Part 61, Subpart W - National Emission Standards for Radon Emissions From Operating Mill Tailings.

(2) References to "Administrator" or "EPA" in 40 C.F.R. Part 61 include the department of health except in any section of 40 C.F.R. Part 61 for which a federal rule or delegation indicates that the authority will not be delegated to the state.

(3) Any change or alternative to standards, emission monitoring and test procedures, compliance and reporting requirements, or recordkeeping requirements must be approved by EPA.

WSR 16-06-004
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed February 17, 2016, 4:46 p.m., effective April 1, 2016]

Effective Date of Rule: April 1, 2016.

Purpose: Resident client protection program (RCPP) has been moved into adult protective services and the rules will be administered under chapters 388-71 and 388-106 WAC. References to RCPP would thus be incorrect and will be repealed from chapter 388-76 WAC. Residential care services is coordinating to eliminate these WAC sections at the same time home and community services is incorporating them into their WAC. Repealing the rules is beneficial to or supported by the regulated entities to prevent duplication of licensing rules.

Also, the department is amending rules to comply with Center for Medicare and Medicaid Services (CMS) new requirements for home and community-based services regulations (42 C.F.R. 441.302). As a part of the state's transition plan to comply with the new rules, CMS has requested WAC be changed to ensure resident rights are being addressed.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-76-11000, 388-76-11004, 388-76-11005, 388-76-11010, 388-76-11015, 388-76-11020, 388-76-11025, 388-76-11030, 388-76-11035 and 388-76-11040; and amending WAC 388-76-10000, 388-76-10655, 388-76-10660, and 388-76-10685.

Statutory Authority for Adoption: Chapter 70.128 RCW.

Other Authority: Chapter 70.128 RCW.

Adopted under notice filed as WSR 16-01-176 on December 22, 2015.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 4, Repealed 10.

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 4, Repealed 10.

Date Adopted: February 17, 2016.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 15-03-037, filed 1/12/15, effective 2/12/15)

WAC 388-76-10000 Definitions. "Abandonment" means action or inaction by a person or entity with a duty of care for a frail elder or vulnerable adult that leaves the vulner-

able person without the means or ability to obtain necessary food, clothing, shelter, or health care.

"Abuse" means the willful action or inaction that inflicts injury, unreasonable confinement, intimidation, or punishment on a vulnerable adult:

(1) In instances of abuse of a vulnerable adult who is unable to express or demonstrate physical harm, pain, or mental anguish, the abuse is presumed to cause physical harm, pain or mental anguish; and

(2) Abuse includes sexual abuse, mental abuse, physical abuse, and exploitation of a vulnerable adult, which have the following meanings:

(a) **"Sexual abuse"** means any form of nonconsensual sexual contact, including but not limited to unwanted or inappropriate touching, rape, sodomy, sexual coercion, sexually explicit photographing, and sexual harassment. Sexual contact may include interactions that do not involve touching, including but not limited to sending a resident sexually explicit messages, or cuing or encouraging a resident to perform sexual acts. Sexual abuse includes any sexual contact between a staff person, who is not also a resident or client, of a facility or a staff person of a program authorized under chapter 71A.12 RCW, and a vulnerable adult living in that facility or receiving service from a program authorized under chapter 71A.12 RCW, whether or not consensual.

(b) **"Physical abuse"** means a willful action of inflicting bodily injury or physical mistreatment. Physical abuse includes, but is not limited to, striking with or without an object, slapping, pinching, choking, kicking, shoving, prodding, or chemical or physical restraints unless the restraints are consistent with licensing requirements, and includes restraints that are otherwise being used inappropriately.

(c) **"Mental abuse"** means any willful action or inaction of mental or verbal abuse. Mental abuse includes, but is not limited to, coercion, harassment, inappropriately isolating a vulnerable adult from family, friends, or regular activity, and verbal assault that includes ridiculing, intimidating, yelling, or swearing.

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

"Adult family home" means:

(1) A residential home in which a person or an entity is licensed to provide personal care, special care, room, and board to more than one but not more than six adults who are not related by blood or marriage to a licensed operator, resident manager, or caregiver, who resides in the home.

(2) As used in this chapter, the term "entity" includes corporations, partnerships and limited liability companies, and the term "adult family home" includes the person or entity that is licensed to operate an adult family home.

"Affiliated with an applicant" means any person listed on the application as a partner, officer, director, resident manager, or majority owner of the applying entity, or is the spouse or domestic partner of the applicant.

"Applicant" means an individual, partnership, corporation, or other entity seeking a license to operate an adult family home.

"Capacity" means the maximum number of persons in need of personal or special care who are permitted to reside in an adult family home at a given time. The capacity includes:

- (1) The number of related children or adults in the home who receive personal or special care and services; plus
- (2) The number of residents the adult family home may admit and retain - The resident capacity. The capacity number listed on the license is the "resident capacity."

"Caregiver" means any person eighteen years of age or older responsible for providing direct personal or special care to a resident and who is not the provider, entity representative, a student or volunteer.

"Dementia" is defined as a condition documented through the assessment process required by WAC 388-76-10335.

"Department" means the Washington state department of social and health services.

"Department case manager" means the department authorized staff person or designee assigned to negotiate, monitor, and facilitate a care and services plan for residents receiving services paid for by the department.

"Developmental disability" means:

(1) A person who meets the eligibility criteria defined by the division of developmental disabilities under WAC 388-823-0040; or

(2) A person with a severe, chronic disability which is attributable to cerebral palsy or epilepsy, or any other condition, other than mental illness, found to be closely related to mental retardation which results in impairment of general intellectual functioning or adaptive behavior similar to that of a person with mental retardation, and requires treatment or services similar to those required for these persons (i.e., autism); and

(a) The condition was manifested before the person reached age eighteen;

(b) The condition is likely to continue indefinitely; and

(c) The condition results in substantial functional limitations in three or more of the following areas of major life activities:

- (i) Self-care;
- (ii) Understanding and use of language;
- (iii) Learning;
- (iv) Mobility;
- (v) Self-direction; and
- (vi) Capacity for independent living.

"Direct supervision" means oversight by a person who has demonstrated competency in the basic training and specialty training if required, or who has been exempted from the basic training requirements and is:

- (1) On the premises; and
- (2) Quickly and easily available to the caregiver.

"Domestic partners" means two adults who meet the requirements for a valid state registered domestic partnership as established by RCW 26.60.030 and who have been issued a certificate of state registered domestic partnership.

"Financial exploitation" means the illegal or improper use, control over, or withholding of the property, income, resources, or trust funds of the vulnerable adult by any person or entity for any person's or entity's profit or advantage other than for the vulnerable adult's profit or advantage. Some

examples of financial exploitation are given in RCW 74.34.020(6).

"Financial solvency" means that the applicant or provider is able to meet debts or financial obligations with some money to spare.

"Entity representative" means the individual designated by a provider who is or will be responsible for the daily operation of the adult family home and who meets the requirements of this chapter and chapter 388-112 WAC.

"Home" means adult family home.

"Imminent danger" or **"immediate threat"** means serious physical harm to or death of a resident has occurred, or there is a serious threat to the resident's life, health or safety.

"Indirect supervision" means oversight by a person who:

(1) Has demonstrated competency in the basic training and specialty training if required; or

(2) Has been exempted from the basic training requirements; and

(3) Is quickly and easily available to the care giver, but not necessarily on-site.

"Inspection" means a review by department personnel to determine the health, safety, and well-being of residents, and the adult family home's compliance with this chapter and chapters 70.128, 70.129, 74.34 RCW, and other applicable rules and regulations. The department's review may include an on-site visit.

"Management agreement" means a written, executed agreement between the adult family home and another individual or entity regarding the provision of certain services on behalf of the adult family home.

"Mandated reporter" means an employee of the department, law enforcement, officer, social worker, professional school personnel, individual provider, an employee of a facility, an employee of a social service, welfare, mental health, adult day health, adult day care, or hospice agency, county coroner or medical examiner, Christian Science practitioner, or health care provider subject to chapter 18.130 RCW. For the purpose of the definition of a mandated reporter, **"Facility"** means a residence licensed or required to be licensed under chapter 18.20 RCW (Assisted living facilities), chapter 18.51 RCW (Nursing homes), chapter 70.128 RCW (Adult family homes), chapter 72.36 RCW (Soldiers' homes), chapter 71A.20 RCW (Residential habilitation centers), or any other facility licensed by the department.

"Medical device" as used in this chapter, means any piece of medical equipment used to treat a resident's assessed need.

(1) A medical device is not always a restraint and should not be used as a restraint;

(2) Some medical devices have considerable safety risks associated with use; and

(3) Examples of medical devices with known safety risks when used are transfer poles, Posey or lap belts, and side rails.

"Medication administration" means giving resident medications by a person legally authorized to do so, such as a physician, pharmacist or nurse.

"Medication organizer" is a container with separate compartments for storing oral medications organized in daily doses.

"Mental illness" is defined as an Axis I or II diagnosed mental illness as outlined in volume IV of the Diagnostic and Statistical Manual of Mental Disorders (a copy is available for review through the aging and disability services administration).

"Minimal" means violations that result in little or no negative outcome and/or little or no potential harm for a resident.

"Moderate" means violations that result in negative outcome and actual or potential harm for a resident.

"Multiple facility provider" means a provider who is licensed to operate more than one adult family home.

"Neglect" means:

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

(2) An act or omission by a person or entity with duty of care that demonstrates a serious disregard of consequences of such a magnitude as to constitute a clear and present danger to the vulnerable adult's health, welfare, or safety, including but not limited to conduct prohibited under RCW 9A.42.100.

"Nurse delegation" means a registered nurse transfers the performance of selected nursing tasks to competent nursing assistants in selected situations. The registered nurse delegating the task retains the responsibility and accountability for the nursing care of the resident.

"Over-the-counter medication" is any medication that can be purchased without a prescriptive order, including but not limited to vitamin, mineral, or herbal preparations.

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

"Personal care services" means both physical assistance and/or prompting and supervising the performance of direct personal care tasks as determined by the resident's needs and does not include assistance with tasks performed by a licensed health professional.

"Physical restraint" means a manual method, obstacle, or physical or mechanical device, material, or equipment attached or adjacent to the resident's body that restricts freedom of movement or access to his or her body, is used for discipline or convenience, and is not required to treat the resident's medical symptoms.

"Placement agency" is an "elder or vulnerable adult referral agency" as defined in chapter 18.330 RCW and means a business or person who receives a fee from or on behalf of a vulnerable adult seeking a referral to care services or supportive housing or who receives a fee from a care services provider or supportive housing provider because of any referral provided to or on behalf of a vulnerable adult.

"Practitioner" includes a physician, osteopathic physician, podiatric physician, pharmacist, licensed practical nurse, registered nurse, advanced registered nurse practi-

tioner, dentist, and physician assistant licensed in the state of Washington.

"Prescribed medication" refers to any medication (legend drug, controlled substance, and over-the-counter) that is prescribed by an authorized practitioner.

"Provider" means:

(1) Any person who is licensed to operate an adult family home and meets the requirements of this chapter; or

(2) Any corporation, partnership, or limited liability company that is licensed under this chapter to operate an adult family home and meets the requirements of this chapter.

"Psychopharmacologic medications" means the class of prescription medications, which includes but is not limited to antipsychotics, antianxiety medications, and antidepressants, capable of affecting the mind, emotions, and behavior.

"Recurring" or "repeated" means that the department has cited the adult family home for a violation of applicable licensing laws or rules and the circumstances of (1) and (2) of this definition are present:

(1) The department previously imposed an enforcement remedy for a violation of the same section of law or rule for substantially the same problem following any type of inspection within the preceding thirty-six months; or

(2) The department previously cited a violation under the same section of law or rule for substantially the same problem following any type of inspection on two occasions within the preceding thirty-six months.

(3) If the previous violation in (1) or (2) of this definition was pursuant to a law or rule that has changed at the time of the new violation, a citation to the equivalent current law or rule section is sufficient.

"Resident" means any adult unrelated to the provider who lives in the adult family home and who is in need of care. Except as specified elsewhere in this chapter, for decision-making purposes, the term "resident" includes the resident's surrogate decision maker acting under state law.

"Resident manager" means a person employed or designated by the provider to manage the adult family home and who meets the requirements of this chapter.

"Serious" means violations that result in one or more negative outcomes and significant actual harm to residents that does not constitute imminent danger; and/or, there is reasonable predictability of recurring actions, practices, situations or incidents with potential for causing significant harm to a resident.

"Severity" means the seriousness of a violation as determined by actual or potential negative outcomes for residents and subsequent actual or potential for harm. Outcomes include any negative effect on the resident's physical, mental or psychosocial well being (i.e., safety, quality of life, quality of care).

"Significant change" means:

(1) A lasting change, decline or improvement in the resident's baseline physical, mental or psychosocial status;

(2) The change is significant enough so the current assessment and/or negotiated care plan do not reflect the resident's current status; and

(3) A new assessment may be needed when the resident's condition does not return to baseline within a two week period of time.

"Special care" means care beyond personal care services as defined in this section.

"Staff" means any person who:

(1) Is employed or used by an adult family home, directly or by contract, to provide care and services to any resident.

(2) Staff must meet all of the requirements in this chapter and chapter 388-112 WAC.

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

"Uncorrected" means the department has cited a violation of WAC or RCW following an inspection and the violation remains uncorrected at the time of a subsequent inspection for the specific purpose of verifying whether such violation has been corrected.

"Unsupervised" means not in the presence of:

(1) Another employee or volunteer from the same business or organization; or

(2) Any relative or guardian of any of the children or individuals with developmental disabilities or vulnerable adults to which the employee, student or volunteer has access during the course of his or her employment or involvement with the business or organization.

"Usable floor space" means resident bedroom floor space exclusive of:

(1) Toilet rooms;

(2) Closets;

(3) Lockers;

(4) Wardrobes;

(5) Vestibules; and

(6) The space required for the door to swing if the bedroom door opens into the resident bedroom.

"Water hazard" means any body of water over twenty-four inches in depth that can be accessed by a resident, and includes but not limited to:

(1) In-ground, above-ground, and on-ground pools;

(2) Hot tubs, spas;

(3) Fixed-in-place wading pools;

(4) Decorative water features;

(5) Ponds; or

(6) Natural bodies of water such as streams, lakes, rivers, and oceans.

"Willful" means the deliberate or nonaccidental action or inaction by an individual that he/she knew or reasonably should have known could cause a negative outcome, including harm, injury, pain or anguish.

"Vulnerable adult" includes a person:

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

(2) Found incapacitated under chapter 11.88 RCW;

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

(4) Admitted to any facility;

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

(6) Receiving services from an individual provider; or

(7) With a functional disability who lives in his or her own home, who is directing and supervising a paid personal aide to perform a health care task as authorized by RCW 74.39.050.

NEW SECTION

WAC 388-76-10463 Medication—Psychopharmacologic For residents who are given psychopharmacologic medications, the adult family home must ensure:

(1) The resident assessment indicates that a psychopharmacologic medication is necessary to treat the resident's medical symptoms; and

(2) The drug is prescribed by a physician or health care professional with prescriptive authority; and

(3) The resident's negotiated care plan includes strategies and modifications of the environment and staff behavior to address the symptoms for which the medication is prescribed; and

(4) Changes in medication only occur when the prescriber decides it is medically necessary; and

(5) The resident has given informed consent for its use.

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10655 Physical restraints. The adult family home must ensure:

(1) Each resident's right to be free from physical restraints used for discipline or convenience;

(2) ~~((Less))~~ Prior to the use of a physical restraint, less restrictive alternatives have been tried and are documented in the resident's negotiated care plan; and

(3) That physical restraints used have been assessed as necessary to treat the resident's medical symptoms and addressed on the resident's negotiated care plan; and

(4) That if physical restraints are used to treat a resident's medical symptoms that the restraints are applied and immediately supervised on-site by a:

(a) Licensed registered nurse;

(b) Licensed practical nurse; or

(c) Licensed physician; and

(d) For the purposes of this subsection, immediate supervised means that the licensed person is in the home and quickly and easily available.

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10660 Chemical restraints. (1) For the purposes of this section "chemical restraint" means a ~~((psychopharmacologic))~~ drug that is ~~((used))~~ given for discipline or convenience and not required to treat the resident's medical symptoms.

(2) The adult family home must ensure that each resident is free from chemical restraints(:

~~(a) Each resident is free from chemical restraints used for discipline or convenience;~~

~~(b) The resident assessment indicates that a chemical restraint is necessary to treat the resident's medical symptoms;~~

~~(c) In situations when a psychopharmacological drug is used for a resident, the home must ensure that the:~~

~~(i) Drug is prescribed by a physician or health care professional with prescriptive authority;~~

~~(ii) Resident's negotiated care plan includes strategies and modifications of the environment and staff behavior to address the symptoms for which the medication is prescribed;~~

~~(iii) Changes in medication only occur when the prescriber decides it is medically necessary; and~~

~~(iv) Resident has given informed consent for its use).~~

AMENDATORY SECTION (Amending WSR 10-03-064, filed 1/15/10, effective 2/15/10)

WAC 388-76-10685 Bedrooms. The adult family home must:

(1) Ensure each resident's bedroom is an outside room, which allows entrance of natural light;

(2) Ensure window and door screens:

(a) Do not hinder emergency escape; and

(b) Prevent entrance of flies and other insects.

(3) Ensure each resident, including those using mobility aids such as wheelchairs and walkers has direct, unrestricted, and free access from the bedroom through doors, hallways and corridors to common use areas and other rooms used for care and services including bathrooms;

(4) Make separate bedrooms available for each sex;

(5) Make reasonable efforts to accommodate residents wanting to share the room;

(6) Provide each bedroom with a minimum usable floor space as required in WAC 388-76-10690.

(7) Give each resident the opportunity to have a lock on their door if they chose to unless having a locked door would be unsafe for the resident and this is documented in the resident's negotiated care plan.

(8) Ensure each bedroom has a closet or a wardrobe, armoire or reasonable facsimile thereof. Neither the closet nor wardrobe/armoire floor space will be considered a part of the room's usable square footage. The home must not remove a closet in order to provide additional floor space.

~~((8))~~ (9) Ensure no more than two residents to a bedroom;

~~((9))~~ (10) Unless the resident chooses to provide their own furniture and bedding, the home must provide each resident a bed thirty-six inches or more wide with:

(a) A clean, comfortable mattress;

(b) A waterproof cover for use when needed or requested by the resident;

(c) Clean sheets and pillow cases;

(d) Adequate clean blankets to meet the needs of each resident; and

(e) Clean pillows.

~~((10))~~ (11) Not use the upper bunk of double-deck beds for a resident's bed;

~~((11))~~ (12) Provide a call bell or intercom system if the provider, entity representative, resident manager or caregiver bedroom is not within hearing distance of each resident bedroom and the system is required by the department;

~~((12))~~ (13) Ensure that members of the household, other than residents, do not share bedrooms with residents; and

~~((13))~~ (14) Ensure a resident does not share a bedroom with a person under eighteen years of age, unless the person is the resident's own child.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-76-11000 Resident protection program—Investigation of reports.

WAC 388-76-11004 Resident protection program—Individual defined.

WAC 388-76-11005 Resident protection program—Notice to individual of preliminary finding.

WAC 388-76-11010 Resident protection program—Notice to others of preliminary finding.

WAC 388-76-11015 Resident protection program—Disputing a preliminary finding.

WAC 388-76-11020 Resident protection program—Hearing procedures to dispute preliminary finding.

WAC 388-76-11025 Resident protection program—Finalizing a preliminary finding.

WAC 388-76-11030 Resident protection program—Appeal of the initial order or finding.

WAC 388-76-11035 Resident protection program—Reporting final findings.

WAC 388-76-11040 Resident protection program—Disclosure of investigative and finding information.

WSR 16-06-006

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed February 18, 2016, 9:32 a.m., effective April 1, 2016]

Effective Date of Rule: April 1, 2016.

Purpose: The department is creating WAC 388-110-222 Enhanced adult residential care physical requirements and 388-110-242 Adult residential care physical requirements, to comply with federal legislation around home and community-based service waivers (42 C.F.R. 441.302).

Statutory Authority for Adoption: Chapter 74.39A RCW.

Other Authority: 42 C.F.R. 441.302.

Adopted under notice filed as WSR 16-01-122 on December 18, 2015.

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

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

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

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

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

Date Adopted: February 17, 2016.

Katherine I. Vasquez
Rules Coordinator

NEW SECTION

WAC 388-110-222 Enhanced adult residential care physical requirements Effective July 1, 2015, the contractor must ensure that, at the resident's choice, each resident has the ability to lock his/her unit door, unless otherwise indicated in the resident's NSA.

NEW SECTION

WAC 388-110-242 Adult residential care physical requirements Effective July 1, 2015, the contractor must ensure that, at the resident's choice, each resident has the ability to lock his/her unit door, unless otherwise indicated in the resident's NSA.

WSR 16-06-008

PERMANENT RULES

DEPARTMENT OF HEALTH

(Board of Naturopathy)

[Filed February 18, 2016, 9:52 a.m., effective March 20, 2016]

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

Purpose: WAC 246-836-080 Continuing competency program for naturopathic physicians, the adopted rules implement provisions of RCW 43.70.442, amended in 2014 and 2015 by adding naturopathic physicians to the list of health care professions that must complete training in suicide assessment, treatment, and management. They also clarify completion frequency and deadlines.

Citation of Existing Rules Affected by this Order: Amending WAC 246-836-080.

Statutory Authority for Adoption: RCW 18.36A.160 and 43.70.442 as amended in 2014 and 2015.

Adopted under notice filed as WSR 15-22-074 on November 2, 2015.

A final cost-benefit analysis is available by contacting Susan Gragg, Program Manager, Department of Health, P.O.

Box 47852, Olympia, WA 98504-7852, phone (360) 236-4941, fax (360) 236-2901, e-mail susan.gragg@doh.wa.gov.

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

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

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

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

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

Date Adopted: December 18, 2015.

Chad Aschtgen, ND
Board Chair

AMENDATORY SECTION (Amending WSR 12-13-104, filed 6/20/12, effective 7/21/12)

WAC 246-836-080 Continuing competency program.

(1) Each licensed naturopathic physician(s) must ((demonstrate completion of)) complete twenty hours of continuing education per year, as provided in chapter 246-12 WAC, Part 7. ((Only courses in diagnosis and therapeutics as listed in RCW 18.36A.040 shall be eligible for credit.))

(2) A license holder's first twenty hour continuing education requirement is due on the second renewal date after the license is issued. After that, it is due annually on the renewal date.

(3) As part of continuing education, a licensed naturopathic physician must complete a board-approved one-time training that is at least six hours long in suicide assessment, treatment, and management. This training must be completed by the end of the first full continuing education reporting period after January 1, 2016, or the first full continuing education reporting period after initial licensure, whichever is later.

(a) Until July 1, 2017, a board-approved training must be an empirically supported training in suicide assessment, including screening and referral, suicide treatment, and suicide management, and meet any other requirement in RCW 43.70.442.

(b) Beginning July 1, 2017, training accepted by the board must be on the department's model list developed in accordance with rules adopted by the department that establish minimum standards for training programs. The establishment of the model list does not affect the validity of training completed prior to July 1, 2017.

(c) A board-approved training must be at least six hours in length and may be provided in one or more sessions.

(d) The hours spent completing the training in suicide assessment, treatment, and management under this subsection count toward meeting any applicable continuing education requirements.

(e) Nothing in this subsection is intended to expand or limit the naturopathic scope of practice.

(4) In emergency situations, such as personal or family illness, the board may in its discretion, for good cause shown, waive all or part of the continuing education requirement for a particular one year period for an individual licensee. The board may require such verification of the emergency as is necessary to prove its existence.

WSR 16-06-009

PERMANENT RULES

DEPARTMENT OF HEALTH

(Medical Quality Assurance Commission)

[Filed February 18, 2016, 10:39 a.m., effective March 20, 2016]

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

Purpose: WAC 246-918-410 Sexual misconduct, the medical quality assurance commission has modified the rule to clarify what forcible or nonconsensual acts are within the definition of sexual misconduct by an allopathic physician assistant.

Citation of Existing Rules Affected by this Order: Amending WAC 246-918-410.

Statutory Authority for Adoption: RCW 18.71.017 and 18.130.062.

Other Authority: Executive Order 06-03.

Adopted under notice filed as WSR 15-19-123 on September 21, 2015.

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

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

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

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

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

Date Adopted: November 4, 2015.

Melanie de Leon
Executive Director

AMENDATORY SECTION (Amending WSR 06-03-028, filed 1/9/06, effective 2/9/06)

WAC 246-918-410 Sexual misconduct. (1) ((Definitions:)) The following definitions apply throughout this section unless the context clearly requires otherwise.

(a) "Patient" means a person who is receiving health care or treatment, or has received health care or treatment without a termination of the physician assistant-patient relationship. The determination of when a person is a patient is made on a

case-by-case basis with consideration given to a number of factors, including the nature, extent and context of the professional relationship between the physician assistant and the person. The fact that a person is not actively receiving treatment or professional services is not the sole determining factor.

(b) "Physician assistant" means a person licensed to practice as a physician assistant under chapter 18.71A RCW.

(c) "Key third party" means a person in a close personal relationship with the patient and includes, but is not limited to, spouses, partners, parents, siblings, children, guardians and proxies.

(2) A physician assistant shall not engage in sexual misconduct with a current patient or a key third party. A physician assistant engages in sexual misconduct when he or she engages in the following behaviors with a patient or key third party:

(a) Sexual intercourse or genital to genital contact;

(b) Oral to genital contact;

(c) Genital to anal contact or oral to anal contact;

(d) Kissing in a romantic or sexual manner;

(e) Touching breasts, genitals or any sexualized body part for any purpose other than appropriate examination or treatment;

(f) Examination or touching of genitals without using gloves;

(g) Not allowing a patient the privacy to dress or undress;

(h) Encouraging the patient to masturbate in the presence of the physician assistant or masturbation by the physician assistant while the patient is present;

(i) Offering to provide practice-related services, such as medications, in exchange for sexual favors;

(j) Soliciting a date;

(k) Engaging in a conversation regarding the sexual history, preferences or fantasies of the physician assistant.

(3) A physician assistant shall not engage in any of the conduct described in subsection (2) of this section with a former patient or key third party if the physician assistant:

(a) Uses or exploits the trust, knowledge, influence, or emotions derived from the professional relationship; or

(b) Uses or exploits privileged information or access to privileged information to meet the physician assistant's personal or sexual needs.

(4) Sexual misconduct also includes sexual contact with any person involving force, intimidation, or lack of consent; or a conviction of a sex offense as defined in RCW 9.94A.-030.

(5) To determine whether a patient is a current patient or a former patient, the commission will analyze each case individually, and will consider a number of factors, including, but not limited to, the following:

(a) Documentation of formal termination;

(b) Transfer of the patient's care to another health care provider;

(c) The length of time that has passed;

(d) The length of time of the professional relationship;

(e) The extent to which the patient has confided personal or private information to the physician assistant;

(f) The nature of the patient's health problem;

(g) The degree of emotional dependence and vulnerability.

~~((5))~~ (6) This section does not prohibit conduct that is required for medically recognized diagnostic or treatment purposes if the conduct meets the standard of care appropriate to the diagnostic or treatment situation.

~~((6))~~ (7) It is not a defense that the patient, former patient, or key third party initiated or consented to the conduct, or that the conduct occurred outside the professional setting.

~~((7))~~ (8) A violation of any provision of this rule shall constitute grounds for disciplinary action.

WSR 16-06-010

PERMANENT RULES

DEPARTMENT OF HEALTH

(Medical Quality Assurance Commission)

[Filed February 18, 2016, 10:41 a.m., effective March 20, 2016]

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

Purpose: WAC 246-919-630 Sexual misconduct, the medical quality assurance commission has modified the rule to clarify what forcible or nonconsensual acts are within the definition of sexual misconduct by an allopathic physician. The amended rule clarifies and updates the definition of sexual misconduct to establish clearer standards of conduct for allopathic physicians.

Citation of Existing Rules Affected by this Order: Amending WAC 246-919-630.

Statutory Authority for Adoption: RCW 18.71.017 and 18.130.062.

Other Authority: Executive Order 06-03.

Adopted under notice filed as WSR 15-19-127 on September 21, 2015.

Changes Other than Editing from Proposed to Adopted Version: WAC 246-919-630(1) was revised to include clarifying language.

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

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

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

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

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

Date Adopted: November 4, 2015.

Melanie de Leon
Executive Director

AMENDATORY SECTION (Amending WSR 06-03-028, filed 1/9/06, effective 2/9/06)

WAC 246-919-630 Sexual misconduct. (1) ~~((Definitions:))~~ The following definitions apply throughout this section unless the context clearly requires otherwise.

(a) "Patient" means a person who is receiving health care or treatment, or has received health care or treatment without a termination of the physician-patient relationship. The determination of when a person is a patient is made on a case-by-case basis with consideration given to a number of factors, including the nature, extent and context of the professional relationship between the physician and the person. The fact that a person is not actively receiving treatment or professional services is not the sole determining factor.

(b) "Physician" means a person licensed to practice medicine and surgery under chapter 18.71 RCW.

(c) "Key third party" means a person in a close personal relationship with the patient and includes, but is not limited to, spouses, partners, parents, siblings, children, guardians and proxies.

(2) A physician shall not engage in sexual misconduct with a current patient or a key third party. A physician engages in sexual misconduct when he or she engages in the following behaviors with a patient or key third party:

(a) Sexual intercourse or genital to genital contact;

(b) Oral to genital contact;

(c) Genital to anal contact or oral to anal contact;

(d) Kissing in a romantic or sexual manner;

(e) Touching breasts, genitals or any sexualized body part for any purpose other than appropriate examination or treatment;

(f) Examination or touching of genitals without using gloves;

(g) Not allowing a patient the privacy to dress or undress;

(h) Encouraging the patient to masturbate in the presence of the physician or masturbation by the physician while the patient is present;

(i) Offering to provide practice-related services, such as medications, in exchange for sexual favors;

(j) Soliciting a date;

(k) Engaging in a conversation regarding the sexual history, preferences or fantasies of the physician.

(3) A physician shall not engage in any of the conduct described in subsection (2) of this section with a former patient or key third party if the physician:

(a) Uses or exploits the trust, knowledge, influence, or emotions derived from the professional relationship; or

(b) Uses or exploits privileged information or access to privileged information to meet the physician's personal or sexual needs.

(4) Sexual misconduct also includes sexual contact with any person involving force, intimidation, or lack of consent; or a conviction of a sex offense as defined in RCW 9.94A.030.

(5) To determine whether a patient is a current patient or a former patient, the commission will analyze each case individually, and will consider a number of factors, including, but not limited to, the following:

(a) Documentation of formal termination;

(b) Transfer of the patient's care to another health care provider;

(c) The length of time that has passed;

(d) The length of time of the professional relationship;

(e) The extent to which the patient has confided personal or private information to the physician;

(f) The nature of the patient's health problem;

(g) The degree of emotional dependence and vulnerability.

~~((5))~~ (6) This section does not prohibit conduct that is required for medically recognized diagnostic or treatment purposes if the conduct meets the standard of care appropriate to the diagnostic or treatment situation.

~~((6))~~ (7) It is not a defense that the patient, former patient, or key third party initiated or consented to the conduct, or that the conduct occurred outside the professional setting.

~~((7))~~ (8) A violation of any provision of this rule shall constitute grounds for disciplinary action.

WSR 16-06-013

PERMANENT RULES

DEPARTMENT OF REVENUE

[Filed February 18, 2016, 1:16 p.m., effective April 1, 2016]

Effective Date of Rule: April 1, 2016.

Purpose: WAC 458-20-100 Informal administrative reviews, this rule, previously titled "Appeals," explains the procedures for administrative review of actions of the department or of its officers and employees in the assessment or collection of taxes. The department is amending this rule to clarify that the department's administrative review is an informal review by the department, and not an independent review such as that conducted by the board of tax appeals or the Thurston County Superior Court. In addition, the amended rule describes a more streamlined and efficient administrative review process.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-100 Informal administrative reviews.

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

Adopted under notice filed as WSR 15-24-116 on December 1, 2015.

Changes Other than Editing from Proposed to Adopted Version: **Subsection (1)** - RCW 82.01.060(4) is now quoted in its entirety instead of the partial quotation included in the proposed rule. In addition, references to RCW 82.32.160 and 82.32.170 were also added.

Subsection (2) -

- References to RCW 82.32.160 and 82.32.170 were removed and the statutes are now recognized in subsection (1).
- The e-mail address to which written petitions may be sent has been changed from AdministrativeReviews@dor.wa.gov to DORARHDadmin@dor.wa.gov.
- The street address of "1025 Union Avenue S.E., Suite 101" has been added.

Subsection (2)(a)(iv) - Language was added to explain that if the amount of penalties and interest isn't known in the case of a denied refund request, the taxpayer need provide only the amount of tax in controversy.

Subsection (2)(a)(vii) - The phrase "all documents" was changed to "documents supporting the taxpayer's position."

Subsection (3)(a) - The language now clearly explains that a taxpayer may request a written extension of time for filing a petition by either e-mail or standard mail.

Subsection (3)(b) - The language now clearly explains that the subject is a petition for the review of a denied refund (as opposed to a petition for a refund).

Subsection (5) - The subsection title was changed from "How are reviews scheduled and decided?" to "The review process."

Subsection (5)(a) - The second sentence was changed from "... to determine *that* the appropriate departmental procedures ..." to read "... to determine *whether* the appropriate departmental procedures ..."

Subsection (5)(b) - The last sentence, "This may be scheduled as a status conference or direct discussions" was removed.

Subsection (5)(c) - The phrase in the third sentence, "... unless good cause is shown for additional time." was removed. In addition, the fourth sentence in this subsection was clarified to state that the tax review officer has discretion to allow additional time for submitting additional documents.

Subsection (5)(g) - A reference to the Thurston County Superior Court was added to recognize that a determination issued by the department may be appealed to either the board of tax appeals or the Thurston County Superior Court.

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

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

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

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

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

Date Adopted: February 18, 2016.

Kevin Dixon
Rules Coordinator

AMENDATORY SECTION (Amending WSR 05-20-036, filed 9/29/05, effective 11/1/05)

WAC 458-20-100 ((Appeals)) Informal administrative reviews. ((1) Introduction.

(a) This rule explains the procedures for administrative review of actions of the department or of its officers and employees in the assessment or collection of taxes, as provided in RCW 82.01.060(4), including, but not limited to:

(i) An assessment of tax, interest, or penalties;
 (ii) The denial of a refund, credit, or deferral request;
 (iii) The issuance of a balance due notice or a notice of delinquent taxes, including a notice of collection action; and
 (iv) The issuance of an adverse ruling on future liability from the taxpayer information and education section.

(b) Persons seeking administrative review of a business license revocation, a cigarette license revocation or suspension, a log export enforcement action, or orders to county officials under Title 84 RCW should refer to the following rules:

(i) WAC 458-20-10001 for information on the revocation of a certificate of registration or the revocation or suspension of a cigarette license; or

(ii) WAC 458-20-10002 for information on log export enforcement actions and orders to county officials issued under RCW 84.08.120 and 84.41.120.

(2) Preappeal supervisor's conference and preappeal rulings on future liability.

(a) ~~Supervisor's conferences.~~ Taxpayers are encouraged to request a supervisor's conference when they disagree with an action proposed by the department. Taxpayers should make their request for the conference with the division of the department that proposes to issue an assessment or take some other action in dispute. Supervisor's conferences provide an opportunity to resolve issues prior to the review provided in this rule.

(b) **Rulings.** Taxpayers may request an opinion on future reporting instructions and tax liability from the department's taxpayer information and education section of the taxpayer services division. The request must be in writing, contain all pertinent facts concerning the question presented, and may contain a statement of the taxpayer's views concerning the correct application of the law. The department will advise the taxpayer in writing of its opinion in a tax ruling. The tax ruling must state all pertinent facts upon which the opinion is based and, if the taxpayer's name has been disclosed, is binding upon both the taxpayer and the department under the facts stated. It will remain binding until the facts change, the applicable statute or rule changes, a published appellate court decision not subject to review changes a prior interpretation of law, the department publicly announces a change in the policy upon which this ruling is based, or the taxpayer is notified in writing that the ruling is no longer valid. Any change in the ruling will have prospective application only. Rulings on future tax liability are subject to review as provided in this rule.

(3) **How are appeals started?** A taxpayer starts a review of a departmental action by filing a written petition. Petitions should be addressed to:

Appeals Division
 Washington State Department of Revenue
 P.O. Box 47460
 Olympia, Washington 98504-7460

A form petition is available on the department's web site at <http://dor.wa.gov> or upon request from the appeals division. Taxpayers may use the form petition or prepare one of their own. The taxpayer or its authorized representative must sign the petition, which must contain the following information:

(a) The taxpayer's name, address, registration/UBI number, telephone number, fax number, e-mail address, and contact person;

(b) If represented, the representative's name, address, telephone number, fax number, and e-mail address;

(c) Identifying information from the assessment notice, balance due notice, or other document being appealed;

(d) The amount of tax, interest, or penalties in controversy, and the time period at issue;

(e) The type of appeal requested (see subsection (6) of this section);

(f) Whether an in-person hearing in Olympia or Seattle, a telephone hearing, or no hearing is requested; and

(g) A brief explanation of each issue or area of dispute and an explanation why each issue or area of dispute should be decided in the taxpayer's favor. To the extent known or available, taxpayers should cite applicable rules, statutes, or supporting case law and provide copies of records that support the taxpayer's position.

If a petition does not provide the required information, the department will notify the taxpayer in writing that the petition is not accepted for review. The notice will provide a period of time for the taxpayer to cure the defects in the petition. If a taxpayer is represented, the taxpayer should also have on file with the department a confidential tax information authorization.

~~(4) To be timely, when must a petition be filed or extensions requested?~~ A taxpayer must file a petition with the department within thirty days after the date the departmental action has occurred.

(a) The appeals division may grant an extension of time to file a petition if the taxpayer's request is made within the thirty-day filing period. Requests for extensions may be in writing or by telephone, and must be directed to the department's appeals division.

(b) A petition or request for extension is timely if it is postmarked or received within the thirty-day filing period.

(c) The appeals division may not grant an extension of time to file a petition for refund that would exceed the time limits in WAC 458-20-229 (Refunds). A request for a refund of taxes paid must be filed within four years after the close of the tax year in which the taxes were paid. See WAC 458-20-229 for procedures on seeking a refund.

(d) The appeals division will notify taxpayers in writing when a petition is rejected as not timely.

(5) How are appeals scheduled, heard, and decided?

The appeals division will acknowledge receipt of the petition and identify the administrative law judge (ALJ) assigned to the appeal. ALJs are attorneys trained in the interpretation of the Revenue Act and precedents established by prior rulings and court decisions. They are employed by the department to provide an informal, final review of agency actions.

(a) **Scheduling.** The ALJ will notify parties of the time when any additional documents or arguments must be submitted. If a party fails to comply with a scheduling letter or established timelines, the ALJ may decline to consider arguments or documents submitted after the scheduled timelines. A status conference in complex cases may be scheduled to provide for the orderly resolution of the case and to narrow issues and arguments for hearing.

(b) **Hearings.** Hearings may be by telephone or in person. The ALJ may decide the case without a hearing if legal or factual issues are not in dispute, the taxpayer does not request a hearing, or the taxpayer fails to appear at a scheduled hearing or otherwise fails to respond to inquiries from the department. The appeals division will notify the taxpayer by mail whether a hearing will be held, whether the hearing will be in person or by telephone, the location of any in person hearing, and the date and time for any hearing in the case. The date and time for a hearing may be continued at the ALJ's discretion. Other departmental employees may attend a hearing, and the ALJ will notify the taxpayer when other departmental employees are attending. The taxpayer may appear personally or may be represented by an attorney, accountant, or any other authorized person. All hearings before an ALJ are conducted informally and in a nonadversarial, uncontest manner.

(c) **Hearing and posthearing submissions.** If a taxpayer asks to submit additional records or documents at a hearing, the taxpayer must explain why they were not submitted under the deadlines established in the scheduling letter. The ALJ has the discretion to allow late submissions by the taxpayer or the department and, if allowed, will provide the other party with additional time to respond. If additional document production or additional briefing is allowed by the ALJ, posthearing, such briefing or documents usually must be submitted within thirty days after the hearing, unless good cause is shown for additional time. ALJs have the discretion to allow additional time for further fact finding, including scheduling an additional hearing, as necessary in a particular case.

(d) **Determinations.** Following the hearing, if any, and review of all submissions, the ALJ will issue a determination consistent with the applicable statutes, rules, case law, and department precedents. The appeals division will notify the taxpayer in writing of the decision. The determination of the ALJ is the final decision of the department and is binding upon the taxpayer unless a petition for reconsideration is timely filed by the taxpayer and accepted by the department.

(6) **Are all appeals the same?** No, in addition to regular appeals, called mainstream appeals, an appeal may also be assigned as a small claims or executive level appeal based on the amount at issue or the complexity of the issues. In addition, an appeal may be expedited under certain urgent circumstances:

(a) **Small claims appeals.** Except as set forth in (a)(i), (ii), or (iii) of this subsection, when the tax at issue in the appeal is twenty five thousand dollars or less and the total amount of the tax plus penalties and interest at issue in the appeal is fifty thousand dollars or less, the appeal will be heard as a small claims appeal:

(i) The department may decline to hear an appeal as a small claims appeal if the department finds the appeal is not suitable for small claims resolution. Appeals with multiple or complex issues, issues of first impression, issues of industry-wide application, or constitutional issues are generally not suitable for small claims resolution.

(ii) The appeals division will notify the taxpayer in writing when an appeal is to be heard as a small claims appeal. The taxpayer may request in writing that the matter not be

heard as a small claims appeal. Such requests will be granted if received or postmarked within fifteen days following the date of the notice.

(iii) In the petition the taxpayer may affirmatively request that the petition not be heard as a small claims appeal. Such requests will be granted.

Taxpayers should provide all evidence and supporting authority prior to or during the small claims hearing. Within ten working days of a small claims hearing, the department will issue an abbreviated written decision (determination) containing only the department's conclusions. The determination in a small claims appeal is the final action of the department.

(b) **Executive level appeals.** If an appeal involves an issue of first impression (one for which no agency precedent has been established) or an issue that has industry-wide significance or impact, a taxpayer may request that the petition be heard at the executive level. The request must specify the reasons why an executive level appeal is appropriate. The appeals division will grant or deny the request and will notify the taxpayer of that decision in writing. If granted, the director or the director's designee and an ALJ will hear the matter. The appeals division, on its own initiative, may also choose to hear an appeal at the executive level. The appeals division will notify the taxpayer if the department chooses to hear an appeal at the executive level.

Following the executive level hearing, the appeals division will issue a proposed determination, which becomes final thirty days from the date of issuance unless the taxpayer or another division of the department timely files an objection to the proposed determination. Objections must identify specific errors of law or fact. Unless an extension is granted, objections must be postmarked or received by the appeals division within thirty days from the date the proposed determination was issued. The taxpayer or operating division filing objections must also provide the other party with a copy of its objections. The ALJ will issue the final determination, which may or may not reflect changes based on the objections. Although rare, the ALJ and the director's designee, in consultation with the director, may grant a second hearing to hear argument on the objections. The determination in an executive level appeal is the final action of the department.

(c) **Expedited appeals.** On a very limited basis it may be necessary to expedite the review of a petition. Taxpayers or other divisions in the department requesting expedited review must make the request in writing to the appeals division, with a copy supplied to the other party. The appeals division will grant or deny such requests solely at its discretion. The appeals division will advise the taxpayer and the affected division of its decision pertaining to the expedited review request. This decision is not subject to appeal. Expedited review will be limited to appeals where it is clear that:

(i) There is a particular and extraordinary business necessity;

(ii) Document review is the only issue;

(iii) Only a legal issue remains in an appeal following a remand to an operating division;

(iv) A jeopardy warrant or bankruptcy is likely; or

(v) Urgent review is necessary within the department.

If expedited review is at the taxpayer's request, the determination in an expedited appeal is the final action of the department. If expedited review is requested by the department, the taxpayer may petition for reconsideration as provided in subsection (7) of this section.

(7) Request for reconsideration. If a taxpayer believes that an error has been made in a determination, the taxpayer may, within thirty days of the issuance of the determination, petition in writing for reconsideration of the decision. Small claim appeals, executive appeals, and appeals expedited at the request of the taxpayer are not subject to reconsideration. The request for reconsideration must specify mistakes in law or fact contained in the determination and should also provide legal authority as to why those mistakes necessitate the reconsideration of the determination. A taxpayer may request an executive level reconsideration when the determination decided an issue of first impression or an issue that has industry-wide impact or significance. The request for executive reconsideration must also specify the reasons why executive level review is appropriate.

The appeals division may, without a hearing, grant or deny the request for reconsideration. If the request is denied, the department will mail to the taxpayer written notice of the denial and the reason for the denial. The denial is then the final action of the department. If the request is granted, a hearing on reconsideration may be conducted or a determination may be issued without a hearing. A reconsideration determination is the final action of the department.

(8) Appeals to board of tax appeals. A taxpayer may appeal a denial of a petition for correction of an assessment under RCW 82.32.160 or a denial of a petition for refund under RCW 82.32.170 to the board of tax appeals. The board of tax appeals also has jurisdiction to hear appeals taken from department decisions rendered under RCW 82.34.110 (relating to pollution control facilities tax exemptions and credits) and 82.49.060 (relating to watercraft excise tax). The board of tax appeals does not have jurisdiction to hear appeals from determinations involving rulings of future tax liability issued by the taxpayer information and education section. See RCW 82.03.130 (1)(a) and 82.03.190. A taxpayer filing an appeal with the board of tax appeals must pay the tax by the due date, unless arrangements are made with the department for a stay of collection under RCW 82.32.200. See WAC 458-20-228 (Returns, remittances, penalties, extensions, interest, stay of collection).

(9) Thurston County superior court. A taxpayer may also pay the tax in dispute and petition for a refund in Thurston County superior court. The taxpayer must comply with the requirements of RCW 82.32.180.

(10) Settlements. At any time during the appeal process, the taxpayer or the department may propose to compromise the matter by settlement. Taxpayers interested in settling a dispute should submit a written offer to the ALJ. The offer should identify the amount in dispute, why the dispute should be settled, the amount offered in settlement, and why the amount being offered is reasonable.

(a) Settlement may be appropriate when:

(i) The issue is nonrecurring. An issue is nonrecurring when the law has changed so future periods are treated differently than the periods under appeal; or the taxpayer's position

or business activity has changed so that in future periods the issue under consideration is changed or does not exist; or the taxpayer agrees to a prospective change;

(ii) A conflict exists between precedents, such as statutes, rules, excise tax bulletins, or specific written instructions to the taxpayer;

(iii) A strict application of the law would have unduly harsh consequences which may be only relieved by an equitable doctrine; or

(iv) There is uncertainty of the outcome of the appeal if it were presented to a court. Factors to be considered include the relative degrees of certainty and the costs for both the taxpayer and the state. This category includes cases which involve factual issues that might require extensive expert testimony to resolve.

(b) Settlement is not appropriate when:

(i) The same issue in the taxpayer's appeal is being litigated by the department;

(ii) The taxpayer challenges a long-standing departmental policy or a rule that the department will not change unless the policy or rule is declared invalid by a court of record;

(iii) The taxpayer presents issues that have no basis upon which relief for the taxpayer can be granted or given. Settlement will not be considered if the taxpayer's offer of settlement is simply to eliminate the inconvenience or cost of further negotiation or litigation, and is not based upon the merits of the case;

(iv) The taxpayer's only argument is that a statute is unconstitutional; or

(v) The taxpayer's only argument is financial hardship. Financial hardship issues are properly discussed with the department's compliance division.

(c) Each settlement is concluded by a closing agreement signed by both the department and the taxpayer as provided by RCW 82.32.350 and is binding on both parties as provided in RCW 82.32.360. A closing agreement has no precedential value.)) **(1) Introduction.** RCW 82.01.060(4) requires that the department "provide by general regulations for an adequate system of departmental review of the actions of the department or of its officers and employees in the assessment or collection of taxes." RCW 82.32.160 allows taxpayers to petition for correction of taxes, interest, or penalties assessed by the department. RCW 82.32.170 allows taxpayers to petition for a determination as to whether a refund request was properly denied. Under authority of these statutes, the department provides an informal, nonadversarial administrative review of these actions. The department will make such determination and resolve matters as may appear to the department to be just and lawful under its statutory authority. The department's administrative review is designed to be an expeditious and less costly means of review as compared to the costs of an independent review by the board of tax appeals (BTA) or a refund action in superior court.

Before requesting review, taxpayers are encouraged to request a supervisor's conference when they disagree with an action proposed by the department. Taxpayers should make their request for the conference with the division of the department that proposes to issue an assessment or take some other action in dispute. Supervisor's conferences can fre-

quently resolve issues prior to the informal administrative review explained in this rule.

(a) Departmental actions subject to informal administrative review under this rule. Actions subject to the department's informal administrative review include, but are not limited to:

- (i) An assessment of tax, interest, or penalties;
- (ii) The denial of a refund, credit, or deferral request;
- (iii) The issuance of a balance due notice or a notice of delinquent taxes, including a notice of collection action; and
- (iv) The issuance of an adverse ruling on future liability from the taxpayer information and education (TI&E) section.

(b) Departmental actions subject to formal administrative appeal. The informal review provided under this rule should be distinguished from a formal administrative appeal subject to the Administrative Procedure Act (chapter 34.05 RCW). A person may submit a formal administrative appeal of certain actions by the department. Refer to the following rules for information regarding the actions for which the department conducts formal administrative appeal proceedings:

(i) WAC 458-20-10001 for information regarding an appeal of:

- A revocation of a certificate of registration (tax registration endorsement) under RCW 82.32.215;

(ii) WAC 458-20-10002 for information regarding an appeal of:

- Log export enforcement actions pursuant to chapter 240-15 WAC; or

- Orders to county officials issued under RCW 84.08.120 and 84.41.120;

(iii) WAC 458-20-10003 for information regarding an appeal of:

- A departmental request to the liquor and cannabis board to suspend, not renew, or not issue a spirits license as defined in RCW 66.24.010 (3)(c);

(iv) WAC 458-20-10004 for information regarding an appeal of the assessment of:

- The one-time business license application fee or annual renewal application fee in RCW 59.30.050 (3)(a);

- The annual registration assessment fee in RCW 59.30.-050 (3)(b); or

- The delinquency fee in RCW 59.30.050(4);

(v) WAC 458-20-10202 for information regarding an appeal of:

- Matters relating to the denial or revocation of reseller permits; or

(vi) WAC 458-20-273 for information regarding an appeal of:

- The denial or revocation of a renewable energy system certification; or

- The denial or revocation of a manufacturer's certification of a solar inverter, solar module, wind generator blade, or stirring converter qualifying as made in Washington state.

(2) How are informal reviews started? A taxpayer starts a review of a departmental action by filing a written petition. A petition must be sent to one of the following:

DORARHDadmin@dor.wa.gov

or

Administrative Review and Hearings Division
Washington State Department of Revenue
1025 Union Avenue S.E., Suite 101
P.O. Box 47460
Olympia, Washington 98504-7460

or

Fax: 360-534-1340

(a) Information required in a petition. A form petition is available on the department's web site at <http://dor.wa.gov> or upon request from the administrative review and hearings division. Taxpayers may use the form petition or prepare one of their own. The taxpayer or its authorized representative must sign the petition, which must contain the following information:

(i) The taxpayer's name, address, registration/UBI number, telephone number, fax number, e-mail address, and contact person;

(ii) If represented, the representative's name, address, telephone number, fax number, and e-mail address;

(iii) Identifying information from the assessment notice, balance due notice, or other document related to the action being reviewed;

(iv) The amount of tax, interest, or penalties in controversy, and the time period at issue, however, if, in the case of a denied refund request, the amount of interest or penalties is not known, the amount of the tax in controversy;

(v) The type of review requested (see subsection (4) of this rule);

(vi) Whether the taxpayer requests an in-person hearing in Olympia or Seattle, a telephone hearing, or no hearing; and

(vii) A description of each issue or area of dispute and an explanation why each issue or area of dispute should be resolved as the taxpayer requests. To the extent known or available, a taxpayer should cite applicable statutes, rules, other public guidance issued by the department, and case law that support the taxpayer's position. The taxpayer should also submit with the petition documents supporting the taxpayer's position, including:

- Contracts and invoices previously requested and not provided; or

- Documents not previously provided that the taxpayer believes substantiate the taxpayer's claims.

(b) Incomplete petition. If a petition does not provide the required information identified in subsection (2)(a) of this rule, the department will notify the taxpayer in writing that the petition is incomplete and not accepted for review. The notice will provide a period of time for the taxpayer to provide the required petition information. If the requested information is timely provided, the petition will be treated as timely filed and accepted for review.

(c) Authorization required for taxpayer's representative. If a taxpayer is represented, the taxpayer must have on file with the department a confidential tax information authorization (CTIA) for that representative. Without a CTIA on file, the department cannot share confidential taxpayer information with the representative.

(3) To be timely, when must a petition be filed or an extension requested? A taxpayer must file a petition with

the department within thirty days after the date the departmental action has occurred.

(a) The department may grant an extension of time to file a petition if the taxpayer's request is made within the thirty-day filing period. Requests for extensions must be in writing. A petition or request for extension is timely if it is post-marked or received within the thirty-day period.

Requests must be in writing to either the e-mail or mailing address noted in subsection (2) of this rule.

(b) The department will not grant an extension of time to file a petition for review of a denied refund that would exceed the time limits in WAC 458-20-229 (Refunds). As explained in WAC 458-20-229, a request for a refund of taxes paid must be filed within four years after the close of the calendar year in which the taxes were paid.

(c) The department will notify taxpayers in writing when a petition is rejected as not timely.

(4) What are the different types of informal reviews?
The agency conducts four different types of informal reviews.

(a) **Mainstream review.** This is the most common type of review. A review is treated as a mainstream review unless it fits within (b) through (d) of this subsection.

(b) **Small claims review.** When the tax at issue in the review is twenty-five thousand dollars or less and the total amount of the tax plus penalties and interest at issue is fifty thousand dollars or less, the review will normally be assigned as a small claims review, unless the complexity of the issues requires assignment to another category.

The department will issue an abbreviated written determination in a small claims review. This determination is the final action of the department.

(c) Executive level review.

(i) If a review involves an issue of first impression (one for which no agency precedent has been established) or an issue that has industry-wide significance or impact, a taxpayer may request that the review be considered at the executive level. The request must specify the reasons why an executive level review is appropriate. The department will grant or deny the request and will notify the taxpayer of that decision in writing. If granted, the director or the director's designee and a tax review officer will conduct an executive level hearing. The department, on its own initiative, may also choose to consider a review at the executive level.

(ii) Following the executive level hearing, the department will issue a proposed determination, which becomes final thirty days from the date of issuance unless the taxpayer files an objection to the proposed determination within that thirty-day period. Objections must specify mistakes in law or fact contained in the proposed determination, and should also provide legal authority as to why those mistakes necessitate a change to the proposed determination. Unless an extension is granted, objections must be postmarked or received by the department within thirty days from the date the proposed determination was issued. The department will issue the final determination, which may or may not reflect changes based on the objections. Although rare, the tax review officer and the director's designee, in consultation with the director, may grant a second executive level hearing on the objections. The

determination in an executive level review is the final action of the department.

(d) **Tax rulings issued by TI&E section.** Review of a tax ruling is limited to the documents and records reviewed by TI&E and any written statements included with the petition. This review is limited to correcting an error that occurred in the course of the tax ruling process. A written determination will be issued following review of all timely submissions without a hearing. The determination is the final decision of the department. It is not eligible for reconsideration and not appealable to the board of tax appeals under RCW 82.03.130 (1)(a) or 82.03.190.

(5) **The review process.** The department will acknowledge receipt of the petition and identify the tax review officer assigned to the review.

(a) **Role and responsibility of tax review officers.** Tax review officers are attorneys trained in the interpretation of the Revenue Act, public guidance issued by the department, and precedents established by prior rulings and court decisions. The department's tax review officers are employed by the department to determine whether the appropriate departmental procedures and interpretations of law have been correctly applied to the issue(s). They are responsible for providing a departmental (not independent) review. This responsibility includes additional research about the taxpayer's activities related to the tax issue under review when necessary.

(b) **Scheduling.** The department will notify the taxpayer or taxpayer's representative of the time and place for the review hearing, if any, and establish timelines for the submission of additional documents and written arguments. Before a submission date has passed, the taxpayer may request an extension, which the tax review officer may grant at the tax review officer's discretion. If a taxpayer fails to comply with a scheduling letter or any extension, the tax review officer may dismiss the petition or decline to consider arguments or documents submitted after the scheduled timelines. A tax review officer may also contact the taxpayer to clarify or narrow issues or request more information as needed for the orderly resolution of the case.

(c) **Taxpayer requests to provide additional materials.** If a taxpayer asks to submit additional documents or written arguments after the deadlines established in the scheduling letter, or any extension thereof, the taxpayer must explain why they could not have been submitted in a timely manner. The tax review officer has the discretion to allow late submissions by the taxpayer. If additional documents or written argument is allowed by the tax review officer after the hearing, they must be submitted within thirty days of the hearing. The tax review officer has the discretion to allow additional time for submitting additional documents or further fact-finding, including scheduling an additional hearing, as necessary in a particular case.

(d) **Informal review hearings.** The hearing is an opportunity to discuss the documents and arguments submitted and to clarify the reasons why the taxpayer believes it is entitled to receive the requested relief. No record is made of the hearing. The hearing is not open to the general public. Any person attending the hearing is not placed under oath. The tax review officer has the discretion to decide the case without a hearing

if legal or factual issues are not in dispute, or the taxpayer fails to appear at a scheduled hearing or otherwise fails to respond to inquiries from the department. The taxpayer may appear personally or may be represented by an attorney, accountant, or any other authorized person. All hearings before a tax review officer are conducted informally and in a nonadversarial manner.

(e) **Issuing a determination.** Following the hearing, if any, and review of all materials, the department will issue a determination consistent with the applicable statutes, rules, other public guidance issued by the department, case law, and department precedents. The tax review officer will notify the taxpayer of this decision in writing.

(f) **Additional information or research identified by the department.** The tax review officer may identify additional facts or novel legal arguments not previously communicated to the taxpayer. In this event, the tax review officer will provide the taxpayer with an opportunity to respond.

(g) **Determination is final decision by the department.** The determination is the final decision of the department and is binding upon the taxpayer unless a petition for reconsideration is timely filed by the taxpayer and accepted by the department. All determinations issued by the department, except those issued for a review of a TI&E tax ruling (subsection (4)(d) of this rule), are appealable to the board of tax appeals (BTA) or, alternatively, the Thurston County superior court. See subsections (8) and (9) of this rule for additional information.

(6) **Request for reconsideration.** If a taxpayer believes that an error has been made in a mainstream determination, the taxpayer may, within thirty days of the issuance of the determination, petition in writing for reconsideration of the decision. Only determinations issued from mainstream reviews are subject to reconsideration. The request for reconsideration must specify mistakes in law or fact contained in the determination and should also provide legal authority as to why those mistakes necessitate the reconsideration of the determination. Any new documents and explanations must be included with the petition.

The department may grant or deny the request for reconsideration. If the request is denied, the department will send to the taxpayer written notice of the denial and the reason for the denial. The denial is then the final action of the department. If the request is granted, although rare, the tax review officer may hold a reconsideration hearing or a determination may be issued without a hearing. A reconsideration determination is the final action of the department.

A taxpayer may request an executive level reconsideration when the determination decided an issue of first impression or an issue that has industry-wide impact or significance. The request for executive reconsideration must also specify the reasons why executive level review is appropriate. Any new documents and explanations must be included with the petition. The department will grant or deny the request and will notify the taxpayer of that decision in writing.

(7) **Settlements.** At any time during the department's review process, the taxpayer or the department may propose to compromise the matter by settlement. A taxpayer interested in proposing settlement of a dispute must submit a written offer to the department to the address noted in subsection

(2) of this rule. The taxpayer or its authorized representative must sign the offer. A settlement offer may be made with the review petition or at any time during the review process. All documents needed to evaluate the offer must be submitted with the offer.

(a) **When will the department consider an offer?** Settlement may be appropriate when:

(i) The issue is nonrecurring. An issue is nonrecurring when the law has changed so future periods are treated differently than the periods under appeal; or the taxpayer's position or business activity has changed so that in future periods the issue under consideration is changed or does not exist; or the taxpayer agrees to a prospective change;

(ii) A conflict exists between precedents, such as statutes, rules, other public guidance issued by the department, or specific written instructions to the taxpayer;

(iii) A strict application of the law would have unduly harsh consequences which may be only relieved by an equitable doctrine; or

(iv) There is uncertainty of the outcome if the matter were presented to a court.

(b) **When will the department not consider an offer?** Settlement is not appropriate when:

(i) The same issue raised by the taxpayer is being litigated by the department;

(ii) The taxpayer presents issues that have no basis upon which relief for the taxpayer can be granted or given. Settlement will not be considered if the taxpayer's offer of settlement is simply to eliminate the inconvenience or cost of further negotiation or litigation, and is not based upon the merits of the case;

(iii) The taxpayer's only argument is that a statute is unconstitutional; or

(iv) The taxpayer's only argument is financial hardship. If a taxpayer claims financial hardship, the tax review officer may refer the matter to the department's compliance division.

(c) **The closing agreement.** If the taxpayer and the department reach agreement, a settlement is concluded by a closing agreement signed by both the department and the taxpayer as provided by RCW 82.32.350. A closing agreement is binding on both parties as provided in RCW 82.32.360. A closing agreement has no precedential value.

(8) **Appeals to board of tax appeals.** A taxpayer may appeal a denial of a petition for correction of an assessment under RCW 82.32.160 or a denial of a petition for refund under RCW 82.32.170 to the board of tax appeals. The BTA also has jurisdiction to hear appeals taken from department decisions rendered under RCW 82.34.110 (relating to pollution control facilities tax exemptions and credits) and RCW 82.49.060 (relating to watercraft excise tax). The BTA does not have jurisdiction to hear appeals from determinations involving rulings of future tax liability issued by TI&E. See RCW 82.03.130 (1)(a) and 82.03.190. A taxpayer filing an appeal with the BTA must pay the tax by the due date, unless arrangements are made with the department for a stay of collection under RCW 82.32.200. See WAC 458-20-228 (Returns, remittances, penalties, extensions, interest, stay of collection).

(9) **Thurston County superior court.** A taxpayer may also pay the tax in dispute and petition for a refund in Thur-

ston County superior court. The taxpayer must comply with the requirements of RCW 82.32.180.

WSR 16-06-014

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed February 19, 2016, 8:22 a.m., effective March 21, 2016]

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

Purpose: This rule-making order amends chapter 16-149 WAC, Cottage food operations, by:

1. Increasing the annual gross sales maximum from \$15,000 to \$25,000;
2. Adding stovetop candies to the list of products approved for cottage food operations;
3. Expanding the allowable products to include most any nonpotentially hazardous "baked" type of products, no matter the device used to cook them;
4. Changing the permit expiration to one year from the last date of the month of permit issuance instead of January 31 of the following year;
5. Limiting cottage food operations to no more than fifty recipes, however a "base recipe" can include variations and still be counted as one recipe;
6. Clarifying that the label must also list the subcomponent ingredients;
7. Requiring permittees to cease operation if they do not submit a renewal application prior to the current permit expiration;
8. Adding language if the applicant fails two inspections, their application will be denied; and
9. Clarifying language.

Citation of Existing Rules Affected by this Order: Amending WAC 16-149-020, 16-149-030, 16-149-040, 16-149-050, 16-149-060, 16-149-070, 16-149-080, 16-149-090, 16-149-110, 16-149-120, and 16-149-130.

Statutory Authority for Adoption: RCW 69.22.020; chapters 196 and 203, Laws of 2015.

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 16-02-125 on January 6, 2016.

Changes Other than Editing from Proposed to Adopted Version: WAC 16-149-040(2), the department is not adopting the language requiring product labeling being available on the web site. The last sentence in this subsection now reads, "A cottage food operation may maintain an internet web site displaying available products provided any sales arising from the web site are completed as in-person transactions."

WAC 16-149-060(4), the department is adding clarifying language explaining what the documentation needs to contain. The first sentence in this subsection now reads, "If the applicant fails the on-site permitting inspection, the applicant may withdraw the application or request a second inspection by submitting: (a) Documentation to the department explaining how the applicant corrected the failure and (b) one hundred twenty-five dollars for the new inspection."

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

Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 2, Repealed 0.

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 9, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 9, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 9, Repealed 0.

Date Adopted: February 19, 2016.

Derek I. Sandison
Director

AMENDATORY SECTION (Amending WSR 12-12-016, filed 5/24/12, effective 6/24/12)

WAC 16-149-020 Definitions. (1) In addition to the definitions contained in this section and chapter 69.22 RCW, the definitions found in chapters 69.04, 69.06, and 69.07 RCW, chapters 16-165, 16-167, and 246-215 WAC, and Title 21 C.F.R. may apply.

(2) For the purposes of this chapter, the following definitions apply:

"Adequate" means that which is needed to accomplish the intended purpose in keeping with good public health practices.

"Approved source" means a food source that is routinely and regularly inspected by a regulatory authority.

"Authorized person" means a person or persons who work with the cottage food operator in the preparation of cottage food products under this chapter.

~~("Baked goods" means foods that are cooked in an oven.)~~

"C.F.R." means the Code of Federal Regulations.

"Consumer" means a person who is a member of the public, takes possession of food for personal and nonbusiness use; is not functioning as an operator of a food establishment, such as a restaurant, bed and breakfast, or other business operation, or food processing plant; and does not offer the food for resale.

"Cottage food operation" means a person who produces cottage food products only in the home kitchen of that person's primary domestic residence in Washington and only for sale directly to the consumer.

"Cottage food operation permit" means a permit to produce and sell cottage food products under chapter 69.22 RCW.

"Cottage food products" means nonpotentially hazardous baked goods, candies, jams, jellies, preserves, and fruit butters as defined in 21 C.F.R. 150 as it existed on July 22, 2011; and other nonpotentially hazardous foods identified in WAC 16-149-120.

"Department" means the department of agriculture.

"Director" means the director of the department of agriculture.

"Domestic residence" means a single-family dwelling or an area within a rental unit where a single person or family actually resides. A domestic residence does not include:

(a) A group or communal residential setting within any type of structure; or

(b) An outbuilding, shed, barn, or other similar structure.

"Food worker card" means a food and beverage service worker's permit as required under chapter 69.06 RCW.

"Home kitchen" means a kitchen primarily intended for use by the residents of a home. It may contain one or more stoves or ovens, which may be a double oven, designed for residential use.

"Labeling" means written, printed or graphic matter affixed to or used in connection with the sales of a cottage food product and intended to communicate the characteristics of the cottage food product including, but not limited to, the origin, ingredients, quality, quantity, or nutritional benefits of the product.

"Master or base recipe" means a standard mixture of ingredients from which variations may be created by adding small amounts of differing flavorings, dried fruits, nuts, candies, or the like. For example, variations of master or base muffin recipe may be created by adding walnuts to create a walnut muffin, adding cranberries and orange zest to create orange cranberry muffins, and so on.

"Permitted area" means the portion of a domestic residence housing a home kitchen where the preparation, packaging, storage, or handling of cottage food products occurs.

"Pet" means any domesticated animal, regardless of species or number of legs, kept in the domestic residence.

"Potable water" means water that is in compliance with the Washington state department of health's drinking water quality standards in chapters 246-290 and 246-291 WAC.

"Potentially hazardous food" means foods requiring temperature control for safety because they are capable of supporting the rapid growth of pathogenic or toxigenic microorganisms, or the growth and toxin production of *Clostridium botulinum*.

AMENDATORY SECTION (Amending WSR 12-12-016, filed 5/24/12, effective 6/24/12)

WAC 16-149-030 Prerequisites. (1) All cottage food operations must be permitted annually by the department. The permit will identify a specific listing of the food products allowed to be produced by the cottage food operation.

(2) Prior to permitting, the department will examine the recipes, labels, and the premises of the cottage food operation to determine it to be in substantial compliance with the requirements of chapter 69.22 RCW and this rule.

(3) All cottage food operations permitted under this section must include with their application for permit a signed document attesting, by opting to become permitted, that the permitted cottage food operation expressly grants to the regulatory authority the right to enter the domestic residence housing the cottage food operation during normal business hours, or at other reasonable times, for the purposes of inspection including the collection of food samples.

(4) A cottage food operation must comply with all applicable county and municipal laws and zoning ordinances that

apply to conducting a business from one's home residence prior to permitting as a cottage food operation, including obtaining a master business license.

(5) Any cottage food operation which has a private water supply must have the supply tested at least sixty days prior to permitting and at least annually thereafter and demonstrate through a written record of testing that the water supply is potable.

(6) Prior to permitting, the cottage food operator shall successfully complete a food safety training program and hold a valid food worker card.

AMENDATORY SECTION (Amending WSR 12-12-016, filed 5/24/12, effective 6/24/12)

WAC 16-149-040 Limitations. (1) If gross sales exceed the maximum annual gross sales allowance of (~~fifteen~~) twenty-five thousand dollars, the cottage food operation must either obtain a food processing plant license or cease operations for that calendar year. The department may request, in writing, documentation to verify the annual gross sales figure.

(2) Products produced by a cottage food operation must be sold (~~directly~~) by the cottage food operator directly to the consumer. Direct sales at venues such as farmers markets, craft fairs, and charitable organization functions are permitted. (~~Sales by internet or mail.~~) Cottage food operations are prohibited from shipping product, conducting mail order sales, selling products by consignment (~~or~~) or wholesale, (~~or retail sale~~) and selling product outside of the state (~~are prohibited~~). A cottage food operation may maintain an internet web site displaying available products provided any sales arising from the web site are completed as in-person transactions.

(3) A cottage food operation may only produce those specific food products listed on its permit. A copy of this permit shall be displayed at farmers markets, craft fairs, charitable organization functions and any other direct sale locations where cottage foods are sold.

(4) Each application is limited to no more than fifty recipes. A "master or base recipe" can include variations and still be counted as one recipe. The application must include labels corresponding to each product and each variation.

AMENDATORY SECTION (Amending WSR 12-12-016, filed 5/24/12, effective 6/24/12)

WAC 16-149-050 Applications. (1) To qualify for a new cottage food operator permit issued under chapter 69.22 RCW, the Washington Cottage Food Operator Act, a cottage food operator must first make application to the department. The new applicant may submit at anytime of the year.

(2) By applying for a cottage food operation permit, the applicant acknowledges the jurisdiction of the department and state of Washington in all matters related to the cottage food operation.

(3) By applying for a cottage food operation permit, the applicant recognizes the authority of the department under RCW 69.22.060 and expressly grants the department or other inspection agent approved by the department the right to

enter the applicant's premises during normal business hours or at other reasonable times to:

(a) Inspect the portion of the premises where the cottage food operation products, ingredients, or packaging materials are stored, produced, packaged, or labeled;

(b) Inspect records related to the sales, storage, production, packaging, or labeling of the cottage food operation products, ingredients, or packaging materials; and

(c) Obtain samples of cottage food operation products, ingredients, or packaging materials.

(4) Inspections may be conducted as a condition of ongoing permitting, after receiving an initial or a renewal application, upon notification of a change to an application, upon receipt of a complaint, or as required to enforce or administer chapter 69.22 RCW and this chapter. Inspections may be announced or unannounced.

(5) The department shall deny applications for permit where the applicant refuses to allow the inspection of the premises or records, fails to provide samples as provided in this section, or fails to provide the department with the consent described in subsection (3) of this section, or fails to provide the department with all required application information.

(6) To renew a permit, a cottage food operator must submit a renewal application and fees before the operator's current permit expires. If the department has received a renewal application and fees before the prior permit's expiration date, the time period of the prior permit extends until the department either issues the renewed permit or denies the renewal application. If an operator does not timely submit a renewal application or fees, the prior permit expires upon the expiration date. The operator must cease all cottage food production.

AMENDATORY SECTION (Amending WSR 12-12-016, filed 5/24/12, effective 6/24/12)

WAC 16-149-060 Application requirements. (1) Applications must be submitted on the form provided by the department, and must include:

(a) A completed application form.

(b) A diagram of the cottage food operation premises identifying what areas of the residence will be used for the cottage food activities.

(i) The diagram must clearly identify and show the location of all cottage food operation preparation equipment, contact work surfaces, equipment washing and sanitizing sinks or tubs, primary toilet room, handwashing areas, and storage areas.

(ii) Everything illustrated on the diagram must be clearly labeled.

(c) A copy of all recipes and a description of the processing steps and packaging step.

(d) Examples of all product labels.

(e) The proposed cottage food operational dates of processing for the current year.

(f) A description of the types of sales or a list of the proposed sale locations for the current year.

(g) Documentation verifying that the water used at the cottage food operation site complies with the requirements of

this chapter. For a well, spring or other private water supply, the water must have a passing bacterial test conducted within sixty days of submitting an application to the department. A copy of the test results must be attached to the permit application.

(h) A copy of the applicant's food worker card and that of any other persons who will be conducting cottage food operation food processing.

(i) If pets are present at the location, a pet control plan that precludes pet entry/access to all areas of the cottage food operation during operating hours and exclusion from storage areas must be submitted.

(j) If infants or children under six years of age are present at the location, a child control plan that precludes child entry/access to all areas of the cottage food operation during operating hours must be submitted.

(2) The department must receive the completed cottage food operation application packet along with check or money order for the permit fee at least six weeks before processing. In accordance with RCW 69.22.030(1) and 69.22.040(3), the fees for the permit are seventy-five dollars for the public health review, one hundred twenty-five dollars for inspection and thirty dollars for processing the application and permit for one year.

(3) ~~((One))~~ Upon receiving a new or renewal application, the department ~~((receives the cottage food operation application,))~~ will conduct a public health review of all recipes and proposed labels ~~((will occur))~~. ~~((Then))~~ If the public health review is satisfactory, the department will contact the applicant ~~((will be contacted for))~~ to schedule an on-site inspection ~~((before a cottage food operation permit can be further processed or issued))~~.

(4) If the ~~((result of the))~~ applicant fails the on-site permitting inspection ~~((is unsatisfactory))~~, the applicant ~~((will need to submit))~~ may withdraw the application or request a second inspection by submitting: (a) Documentation to the department ~~((as to how they corrected the issue(s)))~~ explaining how the applicant corrected the failures and ~~((submit))~~ (b) one hundred twenty-five dollars for the ~~((additional))~~ new inspection ~~((before the department will return to again inspect for permit approval))~~. If the applicant fails a second inspection, the application is denied.

(5) Once received, the cottage food operation permit must be prominently and conspicuously posted at all points of sale location where customers can see it.

(6) Applicants are prohibited from preparing and selling cottage food products regulated by this chapter until they receive their cottage food operation permit.

(7) Cottage food operation permits must be obtained annually and expire ~~((on January 31st following))~~ one year from the last date of the month of permit issuance. ~~((Cottage food operation permits obtained during 2012 will not expire until January 31, 2014.))~~

(8) The department will not refund application fees after receipt of a cottage food operation application.

(9) To obtain an application for a cottage food operation permit, contact the department at:

Washington State Department of Agriculture
Food Safety Consumer Services Division
P.O. Box 42560

Olympia, WA 98504-2560
 ((Phone: 360-902-1876
 Fax: 360-902-2087))
 E-mail: cottagefoods@agr.wa.gov
 Web site <http://agr.wa.gov>.

AMENDATORY SECTION (Amending WSR 12-12-016, filed 5/24/12, effective 6/24/12)

WAC 16-149-070 Amendment requirements to permit. (1) Amendments to an existing cottage food permit after issuance within a calendar year require a new application and application fee. ~~((Amendments requiring a new application include the addition of))~~ Operators must apply for an amendment if adding new products (provided the amendment does not exceed the limit on recipes), when changing recipes ((changes occur)), or ((when)) changing the premises areas ((change)).

~~((2))~~ ~~((At a minimum, the department must conduct the public health review of all new food products, process a new permit and conduct an inspection of the cottage food premises before any new additional cottage food products can be allowed.~~

~~((3))~~ ~~If a cottage food operator wishes to add new products to his or her permit, an application amendment must be submitted to the department.~~

~~((4))~~ ~~An application amendment will contain the same information as outlined in WAC 16-149-060 and on a form provided by the department.~~

~~((5))~~ (3) If there are no significant changes to the premises, the department will require the public health review of all new recipes submitted for review, and after approval, process an amended cottage food operation permit to the applicant. This application amendment will require the submission of seventy-five dollars for the public health review and thirty dollars for processing for the permit.

~~((6))~~ (4) If there are significant changes to the premises, the department will require the public health review of all new recipes submitted for review, reinspection of the premises, and after approval, process an amended cottage food operation permit to the applicant. This application amendment will require the submission of seventy-five dollars for the public health review, one hundred twenty-five dollars for inspection and thirty dollars for processing for the permit.

~~((7))~~ (5) Significant change under this section means any change in the premises previously submitted to and inspected by the department under this chapter which is substantial enough in the department's judgment to require reinspection and approval. This includes, but is not limited to:

(a) Structural changes within the cottage food operation's premises such as a remodel or addition to the home that affects the cottage food operation areas previously inspected.

(b) Additional locations within the premises that are now intended to be used for portions of the cottage food operations that were not previously inspected. For example: A basement storage area is now planned to be utilized for storage of finished products. This basement area was not originally part of the permitted area and not previously inspected by the department.

AMENDATORY SECTION (Amending WSR 12-12-016, filed 5/24/12, effective 6/24/12)

WAC 16-149-080 Production requirements. (1) A cottage food production operation shall:

(a) Ensure that each operator holds a valid food handler's permit.

(b) Provide for food contact surfaces that are smooth and easily cleanable.

(c) Maintain acceptable sanitary standards and practices.

(i) Carpeting and rugs are not approved flooring material in the cottage food operation home kitchen preparation area. Cleanable impermeable floor mats are allowed in the cottage food operation home kitchen area.

~~((A three-compartment))~~ Except as otherwise provided in this chapter, a sink used in combination with one or two large tubs placed next to it is ~~((not))~~ required for washing, rinsing, and sanitizing.

~~((three-compartment sink))~~ A domestic dishwasher may be used in lieu of a ~~((three-compartment sink))~~ sink/large tub(s) combination.

~~((Kitchen utensils that will not fit into a dish machine must be washed, rinsed, and sanitized using a three-compartment sink method. The third compartment may include a large tub placed next to a two-compartment domestic kitchen sink.~~

~~((+))~~ Pump hand soap and disposable paper towels must be available and used in the identified primary toilet room and home kitchen area by all persons working in the home kitchen.

~~((+))~~ (v) When food must be left out uncovered on kitchen counters or table due to processing steps such as cooling, active controls must be in place to prevent inadvertent contamination by children or pets. Active controls can include presence of the permittee or an employee or use of child/pet barriers, etc.

~~((vii))~~ If the cottage food operator owns ~~((vi))~~ If pets are present in the household, a pet control plan that precludes pet entry/access to all areas of the cottage food operation during operating hours must be in place.

~~((+iii))~~ (vii) No infants or children under six years of age can be present in the cottage food operation home kitchen during processing. A child barrier may be used to prevent access to the cottage food processing area during operating hours.

(d) Provide separate storage from domestic storage, including separate refrigerated storage.

(e) Provide for annual bacterial test of water supplies if not connected to a public water system.

(2) The following is not required for a cottage food production operation ~~((is not required to))~~:

(a) ~~((Have))~~ Commercial surfaces such as stainless steel counters or cabinets;

(b) ~~((Have a))~~ Commercial grade sinks, dishwashers or ovens; or

(c) ~~((Have))~~ A separate kitchen for cottage food production.

(3) A cottage food production operation is prohibited from all of the following:

(a) Conducting domestic activities in the kitchen when producing cottage food products.

(b) Allowing pets (~~((including dogs, cats, birds, reptiles, etc.))~~) in the kitchen production and packaging areas.

(c) Washing out or cleaning pet cages, pans and similar items in the kitchen, even when the kitchen is not in use for cottage food production.

(d) Pet litter boxes cannot be stored, used or ~~((used))~~ cleaned at any time in any area of the cottage food operation. This includes food storage areas.

(e) Allowing entry of any person other than persons processing, preparing, packaging, or handling cottage food under the direct supervision of the permittee into the home kitchen area while producing cottage food products.

(4) A cottage food product must be prepared by following the exact recipe that was submitted for department approval. The recipe must be available on the premises for review by the department.

AMENDATORY SECTION (Amending WSR 12-12-016, filed 5/24/12, effective 6/24/12)

WAC 16-149-090 Inspections. (1) In addition to inspections required for permit applications or amendments, the department may inspect the permitted area of a cottage food operation whenever the department has reason to believe the cottage food operation is in violation of the requirements of chapter 69.22 RCW or this chapter. Inspections will be made at reasonable times and, when possible, during regular business hours.

(2) The department may also inspect the permitted area of a cottage food operation in response to a foodborne illness outbreak, consumer complaint, or other public health emergency.

(3) When conducting an inspection, the department shall, at a minimum, inspect for the following:

(a) That the permitted cottage food operator understands that only those specific foods identified on the permit for the cottage food operation may be produced;

(b) That the permitted cottage food operator understands that no person other than the permittee, or a person under the direct supervision of the permittee, may be engaged in the processing, preparation, packaging, or handling of any cottage food products or be in the home kitchen during the processing, preparation, packaging, or handling of any cottage food products;

(c) That no cottage food processing, preparation, packaging, or handling is occurring in the home kitchen concurrent with any other domestic activities such as family meal preparation, dishwashing, clothes washing or ironing, kitchen cleaning, or guest entertainment;

(d) That no infants or children under the age of six are in the home kitchen during the processing, preparation, packaging, or handling of any cottage food products;

(e) That no pets are in the home kitchen during the processing, preparation, packaging, or handling of any cottage food products;

(f) That only typical residential style of kitchen equipment and utensils are used to produce cottage foods;

(g) That all food contact surfaces, equipment, and utensils used for the preparation, packaging, or handling of any

cottage food products are washed, rinsed, and sanitized before each use(~~(=~~

~~(i) A three-compartment sink is not required for washing, rinsing, and sanitizing.~~

~~(ii) A domestic dishwasher may be used in lieu of a three-compartment sink.~~

~~(iii) Kitchen utensils that will not fit into a dish machine must be washed, rinsed, and sanitized using a three-compartment sink method. The third compartment may include a large tub placed next to a two-compartment domestic kitchen sink.);~~

(h) That all food preparation and food and equipment storage areas are maintained free of rodents and insects; and

(i) That all persons involved in the preparation and packaging of cottage food products:

(i) Have a valid food handler worker card;

(ii) Do not work in the home kitchen area when ill;

(iii) Wash their hands before any food preparation and food packaging activities;

(iv) Avoid bare hand contact with ready-to-eat foods through the use of single-service gloves, bakery papers, tongs, or other utensils; and

(v) Are under the direct supervision of the permittee.

AMENDATORY SECTION (Amending WSR 12-12-016, filed 5/24/12, effective 6/24/12)

WAC 16-149-110 Labeling. (1) A cottage food operation may only sell cottage food products which are prepackaged (except for certain products as outlined in subsection (2) of this section) with a label affixed that contains the following information (printed in English):

(a) The name and address of the business of the cottage food operation;

(b) The name of the cottage food product;

(c) The ingredients of the cottage food product, in descending order of predominance by weight. Ingredients made from subcomponents must also list the subcomponents. For example, "vanilla extract (water, sugar, caramel color, artificial flavor, citric acid, sodium benzoate (preservative))";

(d) The net weight or net volume of the cottage food product, metric weight is not required;

(e) Allergen information as specified by federal labeling requirements;

(f) If any nutritional claim is made, appropriate nutritional information as specified by federal labeling requirements; and

(g) The following statement printed in at least the equivalent 11-point type in a color that provides a clear contrast to the background label: "Made in a Home Kitchen that has not been subject to standard inspection criteria." A label sample is shown below.

~~((MADE IN A HOME KITCHEN THAT HAS NOT BEEN SUBJECT TO STANDARD INSPECTION CRITERIA~~

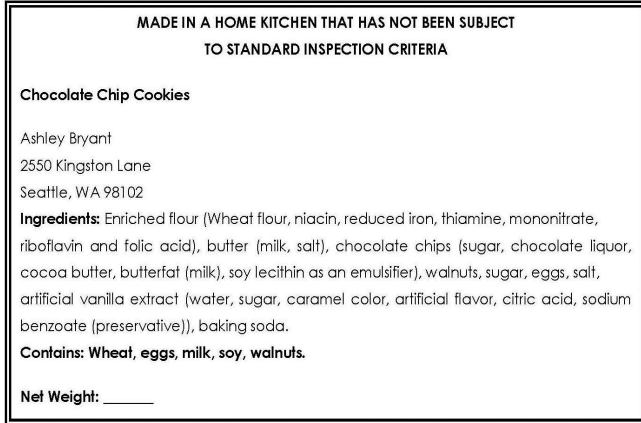
Chocolate Chip Cookies

Ashley Bryant

2550 Kingston Lane

Seattle, WA 98102

Ingredients: Enriched flour (Wheat flour, niacin, reduced iron, thiamine, mononitrate, riboflavin and folic acid), butter (milk, salt), chocolate chips (sugar, chocolate liquor, cocoa butter, butterfat (milk), soy lecithin as an emulsifier), walnuts, sugar, eggs, salt, artificial vanilla extract, baking soda.
Contains: Wheat, eggs, milk, soy, walnuts.)



(2) The department may allow large cakes or a container of bulk products to be handled and labeled in the following manner:

- (a) Be protected from contamination during transportation to the consumer.
- (b) Have a product label sheet with all the required information as listed in subsection (1) of this section provided to the consumer.

AMENDATORY SECTION (Amending WSR 12-12-016, filed 5/24/12, effective 6/24/12)

WAC 16-149-120 Allowable cottage food products. A cottage food operation is allowed to produce food items that are nonpotentially hazardous. Subsection (1) of this section lists acceptable cottage food products. Although this list is not all inclusive, it provides for most types of approved cottage food products. Only those products approved by the department and listed in the permit may be produced:

(1) Baked goods and fried products ~~((that are))~~ cooked in an oven, on a stove top, or in or on an electric device designed for cooking food including:

- (a) Loaf breads, rolls, biscuits, quick breads, and muffins;
- (b) Cakes including celebration cakes such as birthday, anniversary, and wedding cakes;
- (c) Pastries and scones;
- (d) Cookies and bars;
- (e) Crackers;
- (f) Cereals, trail mixes and granola;
- (g) ~~((Candies and confections that are cooked in an oven, (h)))~~ Pies, except that custard style pies, pies with fresh fruit that is unbaked or pies that require refrigeration after baking are not approved;
- ~~((i))~~ (h) Nuts and nut mixes; ~~((and (j)))~~ (i) Snack mixes; and

(j) Donuts, tortillas, pizzelles, krumkake, and similar products.

(2) Nonpotentially hazardous candies cooked on a stove top or in a microwave, provided the operator maintains proper temperature control through the use of a candy thermometer. Such products include:

- (a) Molded candies and chocolates;
 - (b) Products dipped or coated with candy or chocolate coatings;
 - (c) Fudge or fudge-like candies;
 - (d) Caramels;
 - (e) Nut brittles; and
 - (f) Taffy and marshmallow-like candies.
- (3) Standardized jams, jellies, preserves and fruit butters as identified under 21 C.F.R. 150.

(a) Fresh picked or harvested fruits from noncommercial sources are allowed to be used.

(b) Fresh fruits can be frozen in a home style freezer and used at a later time by the cottage food operation.

(c) All recipes must have a cook step included such as a hot fill or hot water bath. No freezer or refrigerator style products are allowed.

(d) All jams, jellies, preserves and fruit butters must be sealed in containers that are sterilized prior to filling.

(e) Wax paraffin is not allowed to be used for sealing.

~~((3))~~ (4) Recombining and packaging of dry herbs, seasoning and mixtures that are obtained from approved sources (e.g., dry bean soup mixes, dry teas and coffees, spice seasonings, etc.).

~~((4))~~ (5) Vinegars ~~((and flavored))~~ that are obtained from approved sources and are rebottled in the cottage food operation. Flavors such as fruits and herbs may be added to the vinegars.

~~((5))~~ (6) The recipe for each variation of a product must be submitted with the application, kept on file at the cottage food operation location and recipes are subject to public disclosure.

~~((6))~~ (7) Fresh picked or harvested fruits from noncommercial sources are allowed to be used. Fresh fruits can be frozen in a home style freezer and used at a later time by the cottage food operation as long as there is a cook step in the recipe.

~~((7))~~ (8) All frostings or glazes must have a cook step or be made with ingredients (such as a large amount of sugar) that when combined are stable at room temperature.

AMENDATORY SECTION (Amending WSR 12-12-016, filed 5/24/12, effective 6/24/12)

WAC 16-149-130 Prohibited products. This section lists unacceptable cottage food products. Although not inclusive, it lists most types of unapproved cottage food products:

- Fresh or dried meat or meat products including jerky;
- Fresh or dried poultry or poultry products;
- Canned fruits, vegetables, vegetable butters, salsas, etc.;
- Fish or shellfish products;
- Products made with meat, poultry, or fish products;
- Canned pickled products such as corn relish, pickles, sauerkraut;

- Raw seed sprouts;
- Bakery goods which require any type of refrigeration such as cream, custard or meringue pies and cakes or pastries with cream or cream cheese fillings, fresh fruit fillings or garnishes, glazes or frostings with low sugar content, cream, or uncooked eggs;

~~((~~Tempered or molded chocolate or chocolate type products;~~))~~

- Milk and dairy products including hard, soft and cottage cheeses and yogurt;
 - Cut fresh fruits or vegetables;
 - Food products made from cut fresh fruits or vegetables;
- ~~((~~Food products made with cooked vegetable products;~~))~~
- Garlic in oil mixtures;
 - Juices made from fresh fruits or vegetables;
 - Ice or ice products;
 - Barbeque sauces, ketchups, or mustards;
 - Focaccia-style breads with vegetables or cheeses;
 - Beverages.

WSR 16-06-019
PERMANENT RULES
PUBLIC EMPLOYMENT
RELATIONS COMMISSION

[Filed February 22, 2016, 7:35 a.m., effective March 24, 2016]

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

Purpose: The amendment to WAC 391-25-430 clarifies the posting period for a notice of election when the agency conducts a mail ballot, on-site, or electronic election.

The proposed WAC 391-25-480 consolidates the existing rules for mail ballot, 391-25-470, and on-site elections, 391-25-490, and also provides for the use of electronic voting processes.

The proposed WAC 391-25-486 consolidates two existing special election rules that apply only to state civil service employees, WAC 391-25-476 and 391-25-496, so that those rules are consistent with the agency's sequence and numbering rule, WAC 391-25-002.

WAC 391-25-470, 391-25-490, 391-25-476, and 391-25-496 are each be [being] repealed.

Citation of Existing Rules Affected by this Order: Repealing WAC 391-25-470, 391-25-476, 391-25-490 and 391-25-496; and amending WAC 391-25-430.

Statutory Authority for Adoption: For WAC 391-25-430 and 391-25-480 is RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 47.64.280(2), 49.39.060; and for WAC 391-25-486 is RCW 41.58.050, 41.80.080.

Adopted under notice filed as WSR 15-24-061 on November 24, 2015.

Changes Other than Editing from Proposed to Adopted Version: Proposed WAC 391-25-480 was amended to add a new subsection (5)(h) which clarifies that no electioneering is allowed at or about the polling place in the event the agency conducts an on-site election. This language was originally in WAC 391-25-490 (1)(h) and was not properly transferred to the consolidated election rule.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 2, Amended 1, Repealed 4.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, Amended 1, Repealed 4.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 2, Amended 1, Repealed 4.

Date Adopted: February 9, 2016.

Dario de la Rosa
Representation Case
Administrator

AMENDATORY SECTION (Amending WSR 08-04-059, filed 1/31/08, effective 4/1/08)

WAC 391-25-430 Notice of election. When an election is to be conducted, the agency shall furnish the employer with appropriate notices, and the employer shall post them in conspicuous places on its premises where notices to affected employees are usually posted. The notice shall contain:

(1) The description of the bargaining unit or voting group(s) in which the election is to be conducted.

(2) The deadline for return of mail ballots or the date(s), hours and polling place(s) for an on-site election, or the voting period for an electronic election.

(3) The cut-off date, if any, or other criteria to be applied in establishing eligibility to vote in the election, including that the eligible employees are limited to those who continue to be employed within the bargaining unit when they cast a ballot in an on-site election ~~((~~or~~))~~, at the deadline for return of mail ballots, or at the closing of polls in an electronic election.

(4) A statement of the purpose of the election and the question to be voted upon or a sample ballot.

Notices of the election shall be posted for at least ~~((~~seven days, and shall remain posted until a tally of ballots has been issued. The day of posting shall be counted, but the day on which the polls are opened for an on-site election shall not be counted~~))~~ five business days prior to the date on which the polls are opened for an on-site election or electronic election or five business days prior to the date on which ballots are mailed in a mail ballot election. Notices of the election shall remain posted until a tally of ballots has been issued.

NEW SECTION

WAC 391-25-480 Elections—Electioneering—Objectionable conduct. (1) The executive director shall have discretion to conduct elections electronically, by mail, or on-site. The procedures for each means of election shall be designed to preserve the secrecy of employee voting. Multi-

ple questions, including unit determination elections, may be submitted to employees at the same time on separate ballots.

(2) Following the close of an electronic or telephonic election, the agency shall transmit the results to the parties of record.

(3) Following the close of an election by mail, each party may be represented by observers of its own choosing at the tally of any ballots. Any lists of those who have voted or who have abstained from voting shall be surrendered to the agency at the conclusion of the tally.

(4) For an on-site election, each party may be represented by observers of its own choosing, subject to such limitations as the executive director may prescribe. During the hours of voting, no management official having authority over bargaining unit employees nor any officer or paid employee of an organization shall serve as observer. Any lists of those who have voted or who have abstained from voting shall be surrendered to the agency at the conclusion of the tally.

(5) The following prohibitions apply to assure appropriate conditions for employees to cast their ballots:

(a) The reproduction of any document purporting to suggest, either directly or indirectly, that the agency endorses a particular choice in an election is prohibited.

(b) The use of deceptive campaign practices improperly involving the commission and its processes is prohibited.

(c) The use of forged documents is prohibited.

(d) Coercion or intimidation of eligible voters, or any threat of reprisal or force or promise of benefit to eligible voters, is prohibited.

(e) Conduct in violation of WAC 391-25-140 is prohibited.

(f) Misrepresentations of fact or law are prohibited. To set aside an election, a misrepresentation must:

(i) Be a substantial misrepresentation of fact or law regarding a salient issue;

(ii) Be made by a person having intimate knowledge of the subject matter, so that employees may be expected to attach added significance to the assertion;

(iii) Occur at a time which prevents others from effectively responding; and

(iv) Be reasonably viewed as having had a significant impact on the election, whether a deliberate misrepresentation or not.

(g) Election speeches on the employer's time to massed assemblies of employees are prohibited during the period that the polls are open in an on-site or electronic election or during the period beginning on the scheduled date for a mail ballot election and continuing through the deadline for mail ballots. Other electioneering not prohibited by (a) through (f) of this subsection is permitted during that period.

(h) For on-site elections, there shall be no electioneering at or about the polling place during the hours of voting.

(6) Violations of this rule shall be grounds for setting aside an election upon objections properly filed.

NEW SECTION

WAC 391-25-486 Special provision—State civil service employees. (1) The requirement in WAC 391-25-480

(3) and (4) that lists of voters be surrendered shall not apply to elections concerning state civil service employees covered by chapter 41.06 RCW. Upon request, the agency shall provide the parties involved in the election with the names of employees who voted in a mail ballot election.

(2) If the executive director conducts an election involving state civil service employees by on-site balloting procedures, absentee ballots shall be allowed as prescribed in this subsection.

(a) Upon the request of an individual employee, the agency shall provide a notice and absentee ballot to the individual employee.

(b) To be counted, the absentee ballot must be received at the Olympia office of the commission:

(i) Directly from the employee or from the employee via the U.S. Postal Service; and

(ii) Prior to the close of business on the last day the polls are open for the on-site election.

(c) Whenever absentee ballots are issued, the tally of ballots shall be delayed for one or more days after the last day on which the polls are open for the on-site election and shall then be conducted in the commission's Olympia office in a manner which preserves the secrecy of the absentee ballots.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 391-25-470	Mail ballot election procedures—Electioneering—Objectionable conduct.
WAC 391-25-476	Special provision—State civil service employees.
WAC 391-25-490	On-site election procedures—Electioneering—Objectionable conduct.
WAC 391-25-496	Special provision—State civil service employees.

WSR 16-06-026

PERMANENT RULES

CLOVER PARK

TECHNICAL COLLEGE

[Filed February 22, 2016, 9:04 a.m., effective March 24, 2016]

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

Purpose: The purpose of this rule making is to bring college regulations into compliance with federal and state statutes and regulations governing nondiscrimination and sexual misconduct.

Citation of Existing Rules Affected by this Order: Repealing WAC 495C-300-020; and amending WAC 495C-121-020, 495C-121-040, 495C-121-050, 495C-121-060, 495C-300-010, 495C-300-030, and 495C-300-040.

Statutory Authority for Adoption: RCW 28B.50.140.

Adopted under notice filed as WSR 15-23-099 on November 17, 2015.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 7, Repealed 1; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 0, Repealed 0.

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

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

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

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

Date Adopted: February 21, 2016.

Lisa R. Beach
Director of Security
and Compliance

AMENDATORY SECTION (Amending WSR 14-11-070, filed 5/19/14, effective 6/19/14)

WAC 495C-121-020 Authority. The board of trustees, acting pursuant to RCW 28B.10.528 and 28B.50.140(14), delegates to the president the authority to administer student disciplinary actions and appeals. ~~((Through enactment of this chapter,))~~ The president ~~((subdelegates))~~ may delegate and/or further ~~((assigns))~~ assign responsibilities related to student discipline to other college officials and positions.

AMENDATORY SECTION (Amending WSR 14-11-070, filed 5/19/14, effective 6/19/14)

WAC 495C-121-040 Student rights. As members of the academic community, students are encouraged to develop the capacity for critical judgment and to engage in an independent search for truth. Freedom to teach and freedom to learn are inseparable facets of academic freedom. The freedom to learn depends upon appropriate opportunities and conditions in the classroom, on the campus, and in the larger community. Students should exercise their freedom with responsibility. The responsibility to secure and to respect general conditions conducive to the freedom to learn is shared by all members of the college community.

The following enumerated rights are guaranteed to each student within the limitations of statutory law ~~((, rules, and college policies))~~ and college policy which are deemed necessary to achieve the educational goals of the college:

(1) **Academic freedom.**

(a) Students are guaranteed the rights of free inquiry, expression, and assembly upon and within college facilities that are generally open and available to the public.

(b) Students are free to pursue appropriate educational objectives from among the college's curricula, programs, and services, subject to the limitations of RCW 28B.50.090 (3)(b).

(c) Students shall be protected from academic evaluation which is arbitrary, prejudiced, or capricious, but are responsi-

ble for meeting the standards of academic performance established by each of their instructors.

(d) Students have the right to a learning environment which is free from unlawful discrimination, inappropriate and disrespectful conduct, and any and all harassment, including sexual harassment.

(2) **Due process.**

(a) The rights of students to be secure in their persons, papers, and effects against unreasonable college searches and seizures are guaranteed.

(b) No disciplinary sanction may be imposed on any student without notice to the accused of the nature of the charges.

(c) A student accused of ~~((misconduct that is subject to discipline))~~ violating this code of conduct is entitled, upon request, to the procedural due process set forth in this chapter.

AMENDATORY SECTION (Amending WSR 14-11-070, filed 5/19/14, effective 6/19/14)

WAC 495C-121-050 Prohibited student conduct. The college may ~~((initiate))~~ impose disciplinary ~~((action))~~ sanc- tions against a student who commits, attempts to commit, or aids, abets, incites, encourages, or assists another person to commit ~~((, any of the following act(s) of misconduct))~~ any act of misconduct, which includes, but is not limited to, the following:

(1) **Academic dishonesty.** Any act of academic dishonesty, including cheating, plagiarism, and fabrication.

(a) Cheating includes any attempt to give or obtain unauthorized assistance relating to the completion of an academic assignment or requirement.

(b) Plagiarism includes taking and using as one's own, without proper attribution, the ideas, writings, or work of another person in completing an academic assignment or requirement.

(c) Fabrication includes falsifying data, information, or citations in completing an academic assignment or requirement, or providing false or deceptive information to an instructor concerning the completion of an assignment or requirement, including submitting for credit without authorization academic work also submitted for credit in another course.

(2) **Other dishonesty.** Any other act of dishonesty, including:

(a) Forgery, alteration, submission of falsified documents, or misuse of any college document, record, or instrument of identification;

(b) Tampering with an election conducted by or for college students; or

(c) Furnishing false information, or failing to furnish correct or complete information, in response to the request or requirement of a college official or employee.

(3) **Obstruction or disruption.** Conduct which significantly obstructs or disrupts any operation of the college, any college meeting, any college class or other activity, any activity authorized to occur at a college facility, or any college-sponsored activity, including obstructing the free flow of pedestrian or vehicular movement or blocking access to or from any college facility or college-sponsored event.

(4) **Assault, abuse, intimidation, etc.** Assault, physical abuse, verbal abuse, threat(s), intimidation, harassment, bullying, stalking, reckless conduct, or other conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of another person or another person's property or which unreasonably disrupts the educational environment. For purposes of this subsection:

(a) Bullying is severe or pervasive physical or verbal abuse involving an apparent power imbalance between the aggressor and victim.

(b) Stalking is intentional and repeated following of another person, which places that person in reasonable fear that the perpetrator intends to injure, intimidate, or harass that person. Stalking also includes instances where the perpetrator knows or reasonably should know that the person is frightened, intimidated, or harassed, even if the perpetrator lacks such an intent.

(c) Reckless conduct means acts performed with a heightened degree of carelessness or indifference so as to create a significant risk of physical, mental, or emotional harm to another person.

(5) **Cyber misconduct, Cyberstalking, cyberbullying or online harassment.** Use of electronic communications(=) including, but not limited to, electronic mail, instant messaging, texting, electronic bulletin boards, and social media sites, to harass, abuse, bully, or engage in other conduct which harms, threatens, or is reasonably perceived as threatening the health, safety, or well-being of another person. Prohibited activities include, but are not limited to, unauthorized monitoring of another's electronic communications directly or through spyware, sending threatening messages, disrupting electronic communications, sending a computer virus or malware, sending false messages to third parties using another's identity, nonconsensual recording of sexual activity, or nonconsensual distribution of a recording of sexual activity.

(6) **Property violation.** Damage to, or theft or misuse of, real or personal property or money of:

(a) The college or state, including college facilities;

(b) Any college student, official, employee, or organization; or

(c) Any other member of the college community or a college organization.

Property violation also includes possession of such property or money after it has been stolen.

(7) **Failure to comply with directive.** Failure to comply with the direction of a college official or employee who is acting in the legitimate performance of his or her duties, including failure to properly identify oneself to such a person when requested to do so.

(8) **Weapons.** Holding, wearing, transporting, storing, or otherwise possessing any firearm, dagger, sword, knife or other cutting or stabbing instrument, club, explosive device, or any other weapon or device which is apparently capable of producing bodily harm, on or in any college facility, subject to the following exceptions:

(a) Commissioned law enforcement personnel or legally authorized military personnel while in performance of their duties;

(b) College-owned knives, tools, etc., that are being used for a legitimate educational purpose as part of a college instructional program;

(c) A student with a valid concealed pistol license may store a pistol in his or her vehicle parked on campus in accordance with RCW 9.41.050 (2) or (3), provided the vehicle is locked and the pistol is concealed from view; (~~and~~)

(d) The president may grant permission to bring such a weapon or device on or into a college facility when he/she determines that it is reasonably related to a legitimate pedagogical purpose, provided that such permission shall be in writing and shall be subject to all terms and conditions incorporated in that writing; and

(e) This policy does not apply to the possession and/or use of disabling chemical sprays when possessed and/or used for self-defense.

(9) **Hazing.** Hazing includes, but is not limited to, any initiation into a student organization, or any pastime or amusement engaged in with respect to such an organization, that causes, or is likely to cause, bodily danger, physical harm, or serious mental or emotional harm to any student, regardless of whether the victim has consented.

(10) **Alcohol, drug, and tobacco violations.**

(a) **Alcohol.** Use, possession, delivery, sale, or being observably under the influence of any alcoholic beverage, except as permitted by law and applicable college policies.

(b) **Marijuana.** Use, possession, delivery, sale, or being observably under the influence of marijuana, the psychoactive compounds found in marijuana, or any product containing marijuana or such compounds that is intended for human consumption, regardless of form. While state law permits the recreational use of marijuana, federal law prohibits such use on college facilities or in connection with college activities.

(c) **Drugs.** The use, possession, delivery, sale, or being observably under the influence of any legend drug, including anabolic steroids, androgens, or human growth hormones as defined in chapter 69.41 RCW, or any other controlled substance under chapter 69.50 RCW, except as prescribed for a student's use by a licensed health care practitioner.

(d) **Tobacco, electronic cigarettes, and related products.** Use of tobacco, electronic cigarettes or smoking devices, and/or related products on or in any college facility is prohibited, except that such use in a (~~smoking shelter~~) designated (~~by the college~~) smoking area or in a closed private vehicle is permitted when consistent with applicable law and rules. "Related products" include cigarettes, pipes, bidi, clove cigarettes, water pipes, hookahs, chewing tobacco, and snuff.

(11) **Lewd conduct.** Conduct which is lewd or obscene.

(12) **Discriminatory conduct.** Discriminatory conduct which harms or adversely affects any member of the college community because of her/his race; color; national origin; sensory, mental or physical disability; use of a service animal; gender, including pregnancy; marital status; age (~~(40+)~~); religion; creed; genetic information; sexual orientation; gender identity; veteran's status; or any other legally protected classification.

(13) **Sexual misconduct.** Any act of sexual misconduct, including sexual harassment, sexual intimidation, and sexual violence.

(a) Sexual harassment means unwelcome conduct of a sexual nature, including unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature, that is sufficiently serious as to deny or limit, and that does deny or limit, based on sex, the ability of a student to participate in or benefit from the college's educational program or that creates an intimidating, hostile, or offensive environment for campus community members.

(b) Sexual intimidation ~~((is a type))~~. The term "sexual intimidation" ~~incorporates the definition of "sexual harassment" ((that involves))~~ and means threatening or emotionally distressing conduct based on sex ~~((;))~~ including, but not limited to, nonconsensual recording of sexual activity or distribution of such a recording.

(c) Sexual violence ~~((incorporates the definition of "sexual harassment" and means a physical sexual act perpetrated without clear, knowing, and voluntary consent, such as committing a sexual act against a person's will, exceeding the scope of consent, or where the person is incapable of giving consent including rape, sexual assault, sexual battery, sexual coercion, sexual exploitation, and gender or sex-based stalking. The term further includes acts of dating violence or domestic violence. A person may be incapable of giving consent by reason of age, threat or intimidation, lack of opportunity to object, disability, drug or alcohol consumption, or other cause))~~ is a type of sexual discrimination and harassment. Nonconsensual sexual intercourse, nonconsensual sexual contact, domestic violence, dating violence, and stalking are all types of sexual violence.

(i) Nonconsensual sexual intercourse is any sexual intercourse (anal, oral, or vaginal), however slight, with any object, by a person upon another person, that is without consent and/or by force. Sexual intercourse includes anal or vaginal penetration by a penis, tongue, finger or object, or oral copulation by mouth to genital contact or genital to mouth contact.

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

(iii) Domestic violence includes asserted violent misdemeanor and felony offenses committed by the victim's current or former spouse, current or former cohabitant, person similarly situated under domestic or family violence law, or anyone else protected under domestic or family violence law.

(iv) Dating violence means violence by a person who has been in a romantic or intimate relationship with the victim. Whether there was such relationship will be gauged by its length, type, and frequency of interaction.

(v) Stalking means intentional and repeated harassment or following of another person, which places that person in reasonable fear that the perpetrator intends to injure, intimidate, or harass that person. Stalking also includes instances where the perpetrator knows or reasonably should know that the person is frightened, intimidated, or harassed, even if the perpetrator lacks such intent.

(vi) Consent means knowing, voluntary and clear permission by word or action, to engage in mutually agreed upon sexual activity. Each party has the responsibility to make certain that the other has consented before engaging in the activity. For consent to be valid, there must be at the time of the act of sexual intercourse or sexual contact actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact.

A person cannot consent if he or she is unable to understand what is happening or is disoriented, helpless, asleep or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has engaged in nonconsensual conduct.

Intoxication is not a defense against allegations that an individual has engaged in nonconsensual sexual conduct.

(14) **Harassment.** Unwelcome and offensive conduct, including verbal, nonverbal, or physical conduct, that is directed at a person because of such person's protected status and that is sufficiently serious as to deny or limit, and that does deny or limit, the ability of a student to participate in or benefit from the college's educational program or that creates an intimidating, hostile, or offensive environment for other campus community members. Protected status includes a person's race; color; national origin; sensory, mental or physical disability; use of a service animal; gender, including pregnancy; marital status; age ~~((40+))~~; religion; creed; genetic information; sexual orientation; gender identity; veteran's status; or any other legally protected classification. See "Sexual misconduct" for the definition of "sexual harassment." Harassing conduct may include, but is not limited to, physical conduct, verbal, written, social media, and electronic.

(15) **Retaliation.** Taking adverse action against any individual for reporting, providing information, or otherwise participating in a process for addressing alleged violations of federal, state, or local law, or college policies, including allegations of discrimination or harassment.

(16) **Misuse of electronic resources.** Theft or other misuse of computer time or other electronic information resources of the college, which includes:

- (a) Unauthorized use of such resources or opening of a file, message, or other item;
- (b) Unauthorized duplication, transfer, or distribution of a computer program, file, message, or other item;
- (c) Unauthorized use or distribution of someone else's password or other identification;
- (d) Use of such time or resources to interfere with someone else's work;
- (e) Use of such time or resources to send, display, or print an obscene or abusive message, text, or image;
- (f) Use of such time or resources to interfere with normal operation of the college's computing system or other electronic information resources;
- (g) Use of such time or resources in violation of applicable copyright or other law;
- (h) Adding to or otherwise altering the infrastructure of the college's electronic information resources without authorization; or

(i) Failure to comply with the college's policies or procedures governing the use of such time or resources.

(17) **Unauthorized access.** Unauthorized possession, duplication, or other use of a key, keycard, or other restricted means of access to college ~~((facilities))~~ property, or unauthorized entry onto or into college ~~((facilities))~~ property.

(18) **Safety violations.** Any nonaccidental conduct that violates, interferes with, or otherwise compromises any law, rule, policy, procedure, or equipment relating to the safety and security of college facilities or the college community, including tampering with fire safety equipment or triggering false alarms or other emergency response systems.

(19) **Motor vehicle operation.** Operation of any motor vehicle in an unsafe manner or contrary to posted signs or college procedures.

(20) **Violation of laws or policies.** Violation of any federal, state, or local law or regulation, or college rule, policy, or procedure, which regulates the behavior of the college's students, including a parking rule.

(21) **Student procedures violations.** Misuse of or failure to follow any of the procedures relating to student complaints or misconduct, including:

(a) Falsification or misrepresentation of information;

(b) Failure to obey a subpoena;

(c) Disruption or interference with the orderly conduct of a proceeding;

(d) Destroying or altering potential evidence, or attempting to intimidate or otherwise improperly pressure a witness or potential witness;

(e) Attempting to influence the impartiality of, or harassing or intimidating, a student conduct committee member or other disciplinary official; or

(f) Failure to comply with any disciplinary action, term, or condition imposed under this chapter.

(22) **Ethical violation.** Ethical violations include, but are not limited to, breach of a generally recognized and published code of ethics or standard of professional practice that governs the conduct of a particular profession, which the student has been specifically informed about and is required to adhere to as a condition of enrolling in a course or participating in an educational program.

In addition to initiating discipline proceedings for violation of the student conduct code, the college may refer any violations of federal, state or local laws to civil and criminal authorities for disposition. The college shall proceed with student disciplinary proceedings regardless of whether the underlying conduct is subject to civil or criminal prosecution.

AMENDATORY SECTION (Amending WSR 14-11-070, filed 5/19/14, effective 6/19/14)

WAC 495C-121-060 Disciplinary sanctions and conditions. (1) **Disciplinary sanctions.** The following disciplinary sanctions may be imposed upon students found to have violated the student conduct code:

(a) **Disciplinary warning.** An oral statement to a student that there is a violation and that any further violation may be cause for further disciplinary action. Although verbal, the student conduct officer should make a record of the warning. The respondent cannot appeal a disciplinary warning.

(b) **Written disciplinary reprimand.** A written notice informing a student that he/she has violated one or more terms of the code of conduct and that future misconduct involving the same or similar behavior may result in the imposition of a more severe disciplinary sanction.

(c) **Disciplinary probation.** A written notice placing specific term(s) and condition(s) upon the student's continued attendance at the college. Disciplinary probation may be for a limited period of time or for the duration of the student's attendance at the college.

(d) **Disciplinary suspension.** Temporary revocation of enrollment and termination of student status, for a stated period of time. The student may be prohibited from coming onto any college facility and may be subject to law enforcement action for criminal trespass for violating that prohibition. There will be no refund of tuition or fees for the quarter in which the action is taken.

(e) **Dismissal.** Revocation of enrollment and of all rights and privileges of membership in the college community, and exclusion from college facilities, without any time limitation. There will be no refund of tuition or fees for the quarter in which the action is taken. The student may be subject to law enforcement action for criminal trespass for violating that exclusion. A dismissal may be ~~((subsequently ended))~~ rescinded only by a written decision of the president, for documented good cause.

(2) **Disciplinary conditions.** Disciplinary conditions that may be imposed alone or in conjunction with the imposition of a disciplinary sanction under subsection (1) of this section include:

(a) **Restitution.** Reimbursement for (i) damage to, or theft or misuse of, real or personal property or money, or (ii) injury to persons. This reimbursement may take the form of money, appropriate service, or other compensation.

(b) **Professional evaluation.** Referral for drug, alcohol, psychological, or medical evaluation, at the student's expense, by an appropriately certified or licensed professional. The student may choose the professional within the scope of practice and with the professional credentials as specified by the college. The student must sign all necessary releases to allow the college access to any such evaluation. The student's return to college may be conditioned upon compliance with recommendations set forth in the evaluation. If the student has been suspended, the student may remain suspended until the most recent evaluation finds that the student is capable of reentering the college and complying with the college's expectations for conduct.

(c) **Restrictions on activities.** A student may be subjected to the following restrictions:

(i) Ineligible to hold any college office or position or any office in any student organization;

(ii) Ineligible to participate in any college activity(ies); and/or

(iii) Ineligible to represent the college outside the college community, including at any event or in any form of competition.

(d) **Required activities.** Assignment of appropriate tasks or responsibilities, or required attendance at an appropriate program, instructional course, or other educational activity, which may be at the student's expense.

(e) Protective or no contact order. An order directing a student to have limited or no contact with any specified student(s), college employee(s), member(s) of the college community, or college facility.

(f) Loss of state funding. A student found to have committed hazing shall forfeit any entitlement to state-funded grants, scholarships, or awards, pursuant to RCW 28B.10.902.

Chapter 495C-300 WAC

GRIEVANCE RULES—(~~TITLE IX~~) DISCRIMINATION AND HARASSMENT

AMENDATORY SECTION (Amending WSR 92-19-091, filed 9/16/92, effective 10/17/92)

WAC 495C-300-010 Preamble. Clover Park Technical College ((is covered by Title IX of the Civil Rights Act of 1964 prohibiting sex discrimination in education. Applicants for admission, enrolled students, applicants for employment, or employees of Clover Park Technical College who believe they have been discriminated against on the basis of sex may lodge an institutional grievance by following the procedures below)) recognizes its responsibility for investigation, resolution, implementation of corrective measures, and monitoring the educational environment and workplace to stop, remediate, and prevent discrimination on the basis of race, color, national origin, age, perceived or actual physical or mental disability, pregnancy, genetic information, sex, sexual orientation, gender identity, marital status, creed, religion, honorably discharged veteran or military status, or use of a trained guide dog or service animal, as required by Title VI of the Civil Rights Act of 1964, Title VII of the Civil Rights Act of 1964, Title IX of the Educational Amendments of 1972, Sections 504 and 508 of the Rehabilitation Act of 1973, the Americans with Disabilities Act and ADA Amendment Act, the Age Discrimination Act of 1975, the Violence Against Women Reauthorization Act, and Washington state's law against discrimination, chapter 49.60 RCW and their implementing regulations. To this end, Clover Park Technical College has enacted policies prohibiting discrimination against and harassment of members of these protected classes.

Any employee, applicant, student or visitor of the college may file a complaint. Complaints may be submitted in writing or verbally. The college encourages the timely reporting of any incidents of discrimination or harassment to the college's Title IX coordinator or via the form provided on the college's web site.

AMENDATORY SECTION (Amending WSR 92-19-091, filed 9/16/92, effective 10/17/92)

WAC 495C-300-030 ((~~Formal~~) Investigation procedure. ((Step one: Employees and students must make a written complaint concerning discriminatory behavior to the affirmative action officer or designee.

(1) Complaints may be held in confidence. Formal action against the person accused may not be taken on behalf of the complainant unless the complainant consents to be identified to the one accused in connection with the investigation.

(2) The complainant may bring a person of his or her choice to the initial or subsequent complaint meetings.

(3) The affirmative action officer or designee shall give a copy of these regulations and any applicable board policy to the person making the formal complaint and to the accused.

(4) The result of that consultation and any investigation made may be communicated to the complainant before any further action is taken.

(5) An informal hearing may be substituted for investigation if the complainant and the accused agree. The affirmative action officer or designee will be responsible for investigating the complaint and discussing the complaint with the accused. The affirmative action officer will make a written recommendation to the president within a reasonable time following the close of the investigation or hearing.

(6) Appropriate corrective measures will be decided by the president of the college upon consultation with the affirmative action officer and the appropriate administrators or supervisors involved. If an accused employee or student disagrees with the determination or appropriateness of the corrective measures, that individual may contest those measures through the appropriate staff grievance procedures, if they are covered by an agreement, or the student disciplinary code.

(7) Information will be entered in the personnel or student file only to the extent that a formal reprimand or other disciplinary action has been taken. If no disciplinary action is taken, the affirmative action officer will keep a record of the investigation accessible to the president, the complainant and the accused for a period of three years and then that record will be destroyed. If a formal complaint is filed with an outside state or federal agency, files will be maintained until the complaint is resolved. When such files are used, written notice will be placed in the file indicating the person using the file and the date used.) Upon receiving a discrimination complaint, the college shall commence an impartial investigation. The Title IX/equal educational opportunity (EEO) coordinator shall be responsible for overseeing all investigations. Investigations may be conducted by the Title IX/EEO coordinator or his or her designee. If the investigation is assigned to someone other than the Title IX/EEO coordinator, the Title IX/EEO coordinator shall inform the complainant and respondent(s) shall be notified of the appointment of the investigator.

Interim measures. The Title IX/EEO coordinator may impose interim measures to protect the complainant and/or respondent pending the conclusion of the investigation. Interim measures may include, but are not limited to, imposition of no-contact orders, rescheduling classes, temporary work reassignments, referrals for counseling or medical assistance, and imposition of summary discipline on the respondent consistent with the college's student conduct code or the college's employment policies and collective bargaining agreements.

Investigation. Complaints shall be thoroughly and impartially investigated. The investigation shall include, but is not limited to, interviewing the complainant and the respondent, relevant witnesses, and reviewing relevant documents. The investigation shall be concluded within a reasonable time, normally sixty days barring exigent circumstances. At the conclusion of the investigation the investigator shall

set forth his or her findings and recommendations in writing. If the investigator is a designee, the investigator shall send a copy of the findings and recommendations to the Title IX/EEO coordinator. The Title IX/EEO coordinator shall consider the findings and recommendations and determine, based on a preponderance of the evidence, whether a violation of the discrimination and harassment policy occurred, and if so, what steps will be taken to resolve the complaint, remedy the effects on any victim(s), and prevent its recurrence. Possible remedial steps may include, but are not limited to, referral for voluntary training/counseling, development of a remediation plan, limited contact orders, and referral and recommendation for formal disciplinary action. Referrals for disciplinary action will be consistent with the student conduct code or college employment policies and collective bargaining agreements.

Written notice of decision. The Title IX/EEO coordinator will provide each party and the appropriate student services administrator or appointing authority with written notice of the investigative findings and of actions taken or recommended to resolve the complaint, subject to the following limitations. The complainant shall be informed in writing of the findings and of actions taken or recommended to resolve the complaint, if any, only to the extent that such findings, actions or recommendations directly relate to the complainant, such as a finding that the complaint is or is not meritorious or a recommendation that the accused not contact the complainant. The complainant may be notified generally that the matter has been referred for disciplinary action. The respondent shall be informed in writing of the findings and of actions taken or recommended to resolve the complaint and shall be notified of referrals for disciplinary action. Both the complainant and the respondent are entitled to review any final findings, conclusions, and recommendations, subject to any FERPA confidentiality requirements.

Informal dispute resolution. Informal dispute resolution processes, like mediation, may be used to resolve complaints, when appropriate. Informal dispute resolution shall not be used to resolve sexual discrimination complaints without written permission from both the complainant and the respondent. If the parties elect to mediate a dispute, either party shall be free to discontinue mediation at any time. In no event shall mediation be used to resolve complaints involving allegations of sexual violence.

Final decision/reconsideration. Either the complainant or the respondent may seek reconsideration of the decision by the Title IX/EEO coordinator. Requests for reconsideration shall be submitted in writing to the Title IX/EEO coordinator within seven days of receiving the decision. Requests must specify which portion of the decision should be reconsidered and the basis for reconsideration. If no request for reconsideration is received within seven days, the decision becomes final. If a request for reconsideration is received, the Title IX/EEO coordinator shall respond within fourteen days. The Title IX/EEO coordinator shall either deny the request or, if the Title IX/EEO coordinator determines that the request for reconsideration has merit, issue an amended decision. Any amended decision is final and no further reconsideration is available.

AMENDATORY SECTION (Amending WSR 92-19-091, filed 9/16/92, effective 10/17/92)

WAC 495C-300-040 Other remedies. ((These procedures outlined in WAC 495C-300-010 through 495C-300-030, are internal college procedures and, as such, serve to resolve complaints within the college's administrative framework. These procedures do not replace an individual's timely complaint with an external agency such as the Office of Civil Rights, Equal Employment Opportunity Commission, or the Washington state human rights commission.))

ADDITIONAL COMPLAINT OPTIONS

Discriminatory or harassing conduct may also be, or occur in conjunction with, criminal conduct. Criminal complaints may be filed with the following law enforcement authorities:

- Lakewood Police Department, 253-830-5000
- Pierce County Sheriff, 253-798-4721 (select option 1)

The college will proceed with an investigation of harassment and discrimination complaints regardless of whether the underlying conduct is subject to civil or criminal prosecution.

OTHER DISCRIMINATION COMPLAINT OPTIONS

Discrimination complaints may also be filed with the following federal and state agencies:

Washington State Human Rights Commission
<http://www.hum.wa.gov/index.html>
U.S. Department of Education Office for Civil Rights
<http://www2.ed.gov/about/offices/list/ocr/index.html>
Equal Employment Opportunity Commission
<http://www.eeoc.gov/>

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 495C-300-020 Informal procedure.

WSR 16-06-027

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed February 22, 2016, 9:18 a.m., effective April 1, 2016]

Effective Date of Rule: April 1, 2016.

Purpose: Resident client protection program (RCPP) has been moved into adult protective services and the rules will be administered under chapters 388-71 and 388-106 WAC. References to RCPP would thus be incorrect and are being repealed from chapter 388-107 WAC. Residential care services, is coordinating to eliminate these WAC sections at the same time home and community services is incorporating them into their WAC. The CR-103s for both divisions are being filed at the same time.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 388-107-1450, 388-107-1460, 388-107-1470, 388-107-1480, 388-107-1490, 388-107-1500, 388-

107-1510, 388-107-1520, 388-107-1530, 388-107-1540, and 388-107-1550.

Statutory Authority for Adoption: Chapter 71A.12 RCW.

Adopted under notice filed as WSR 16-02-046 on December 30, 2015.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 11.

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 11.

Date Adopted: February 22, 2016.

Katherine I. Vasquez
Rules Coordinator

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 388-107-1450 Resident protection program definition.
- WAC 388-107-1460 Investigation of mandated reports.
- WAC 388-107-1470 Preliminary finding.
- WAC 388-107-1480 Notice to individual of preliminary findings.
- WAC 388-107-1490 Notice to others of preliminary findings.
- WAC 388-107-1500 Disputing a preliminary finding.
- WAC 388-107-1510 Hearing procedures to dispute preliminary finding.
- WAC 388-107-1520 Finalizing the preliminary finding.
- WAC 388-107-1530 Reporting final findings.
- WAC 388-107-1540 Appeal of administrative law judge's initial order or finding.
- WAC 388-107-1550 Disclosure of investigative and finding information.

WSR 16-06-031

PERMANENT RULES

WESTERN WASHINGTON UNIVERSITY

[Filed February 23, 2016, 8:45 a.m., effective March 25, 2016]

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

Purpose: There is an error in subsection (3). The original version reads "Student conduct proceedings. The procedural rules in chapter 516-22 WAC apply to these proceedings." The section should read "Student conduct proceedings. The procedural rules in chapter 516-21 WAC apply to these proceedings." There is a scrivener's error that requires correcting 516-22 to 516-21. The anticipated effect is correcting an error and directing readers to the correct rule.

Citation of Existing Rules Affected by this Order: Amending WAC 516-108-050(3).

Statutory Authority for Adoption: RCW 28B.35.120(12) and 20 U.S.C. 1681-1688 (Title IX Education Amendments of 1972).

Adopted under notice filed as WSR 16-01-097 on December 16, 2015.

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

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

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

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

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

Date Adopted: February 23, 2016.

Jennifer L. Sloan
Rules Coordinator

AMENDATORY SECTION (Amending WSR 90-10-042, filed 4/27/90, effective 5/1/90)

WAC 516-108-050 Brief adjudicative procedures. This rule is adopted in accordance with RCW 34.05.482 through 34.05.494, the provisions of which are hereby adopted. Brief adjudicative procedures shall be used in all matters related to:

- (1) Residency determinations made pursuant to RCW 28B.15.013, conducted by the admissions office;
- (2) Challenges to contents of education records;
- (3) Student conduct proceedings. The procedural rules in chapter ((516-22)) 516-21 WAC apply to these proceedings;
- (4) Parking violations. The procedural rules in chapter 516-12 WAC apply to these proceedings;
- (5) Outstanding debts owed by students or employees;
- (6) Loss of eligibility for participation in institution-sponsored athletic events, pursuant to chapter 516-400 WAC.

WSR 16-06-035**PERMANENT RULES
DEPARTMENT OF****SOCIAL AND HEALTH SERVICES**

(Aging and Long-Term Support Administration)

[Filed February 23, 2016, 10:01 a.m., effective April 1, 2016]

Effective Date of Rule: April 1, 2016.

Purpose: Resident client protection program (RCPP) has been moved into adult protective services and the rules will be administered under chapters 388-71 and 388-106 WAC. References to RCPP would thus be incorrect and are being repealed from chapter 388-111 WAC. Residential care services is coordinating to eliminate these WAC sections at the same time home and community services is incorporating them into their WAC. The CR-103s for both divisions are being filed at the same time.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-111-0040, 388-111-0050, 388-111-0060, 388-111-0070, 388-111-0080, 388-111-0090, 388-111-0100, 388-111-0110, and 388-111-0120.

Statutory Authority for Adoption: Chapter 71A.12 RCW.

Adopted under notice filed as WSR 16-02-045 on December 30, 2015.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 9.

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 9.

Date Adopted: February 22, 2016.

Katherine I. Vasquez
Rules Coordinator

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-111-0040 Resident and client protection program—Investigation of reports of abandonment, abuse, neglect, or financial exploitation.

WAC 388-111-0050 Resident and client protection program—Notice to individual of preliminary findings.

WAC 388-111-0060 Resident and client protection program—Notice to others of preliminary findings.

WAC 388-111-0070 Resident and client protection program—Disputing a preliminary finding.

WAC 388-111-0080 Resident and client protection program—Disputing a preliminary finding—Hearing procedures.

WAC 388-111-0090 Resident and client protection program—Finalizing the preliminary finding.

WAC 388-111-0100 Resident and client protection program—Reporting final findings.

WAC 388-111-0110 Resident and client protection program—Appeal of administrative law judge's initial order or finding.

WAC 388-111-0120 Resident and client protection program—Disclosure of investigative and finding information.

WSR 16-06-036**PERMANENT RULES****SECRETARY OF STATE**

[Filed February 23, 2016, 12:26 p.m., effective March 25, 2016]

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

Purpose: Updates to implement new law from 2015.

Chapter 434-55 WAC, repealed due to SB 5387 of the 2015 legislative session, combining limited partnership filing provisions in one chapter with other entities.

Chapter 434-130 WAC, repealed due to SB 5387 of the 2015 legislative session, combining limited liability companies filing with other business entities.

Chapter 434-135 WAC, repealed due to SB 5387 of the 2015 legislative session, combining limited liability partnerships filing provisions with other business entities.

Chapter 434-112 WAC, has been updated to include limited liability companies, limited partnerships, and limited liability partnerships.

Citation of Existing Rules Affected by this Order: Repealing WAC 434-112-005, 434-112-020, 434-112-062 and 434-112-092; and amending chapter 434-112 WAC.

Statutory Authority for Adoption: Chapter 176 of Laws of 2015 (HUB) and chapters 11.110, 18.100, 19.77, 23.86, 23.90, 23B.01, 24.03, 24.06, 25.10, 25.15, 43.07, 46.64 RCW.

Adopted under notice filed as WSR 16-01-123 on December 18, 2015.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 4, Amended 16, Repealed 4.

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

Number of Sections Adopted on the Agency's Own Initiative: New 4, Amended 16, Repealed 4.

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

Number of Sections Adopted Using Negotiated Rule Making: New 4, Amended 16, Repealed 4; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: February 23, 2016.

Mark Neary
Assistant Secretary of State

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 434-55-010 Purpose and authority.
- WAC 434-55-016 Office hours.
- WAC 434-55-040 Document filing standards.
- WAC 434-55-050 Statement of name reservation.
- WAC 434-55-052 Transfer of name reservation.
- WAC 434-55-055 Pre-October 1, 1982, limited partnership filings.
- WAC 434-55-056 Filing a certificate of limited partnership—Designation as a limited liability limited partnership.
- WAC 434-55-057 Electronic filing.
- WAC 434-55-058 Filing an annual report.
- WAC 434-55-059 Filing a statement of change.
- WAC 434-55-060 Document filing fees—Limited partnerships.
- WAC 434-55-065 In-person or expedited service—Special fees.
- WAC 434-55-066 Miscellaneous charges—Special service fees.
- WAC 434-55-080 Registered office address—Requirements.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 434-130-010 Purpose and authority.
- WAC 434-130-055 Online services.
- WAC 434-130-060 Registered office address—Requirements.
- WAC 434-130-070 Annual reports—Due date.

- WAC 434-130-080 In-person or expedited counter service—Special fees.
- WAC 434-130-090 [Miscellaneous] fees.
- WAC 434-130-100 Miscellaneous fees.

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.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 434-135-010 Purpose and authority.
- WAC 434-135-090 Annual notice—Due date—Whom notified.
- WAC 434-135-150 Initial registration—Form of content.
- WAC 434-135-160 Annual notice—Form of content.
- WAC 434-135-170 Amended notice—Form of content.
- WAC 434-135-190 Fees.

**WSR 16-06-038
PERMANENT RULES
UTILITIES AND TRANSPORTATION
COMMISSION**

[Docket U-144155, General Order R-586, filed February 23, 2016, 1:24 p.m., effective March 25, 2016]

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 16-07 issue of the Register.

**WSR 16-06-040
PERMANENT RULES
DEPARTMENT OF REVENUE**

[Filed February 24, 2016, 8:22 a.m., effective March 26, 2016]

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

Purpose: Proposal incorporates the legislative changes from SSB 5275, 2015 regular session (chapter 86, Laws of 2015). Changes are made concerning:

- Section 309 defining the term "tax" for chapter 82.32 RCW;
- Section 310 concerning recordkeeping and examination requirements; and
- Section 401 concerning the taxability matrix.

Clarifying language added throughout, including changing "section" to "rule," updating legislative cites to statutory cites, and formatting updates.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-22802, 458-20-254, 458-20-267, 458-20-277, and 458-20-27701.

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

Adopted under notice filed as WSR 16-01-006 on December 3, 2015.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 5, Repealed 0.

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

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

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

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

Date Adopted: February 24, 2016.

Kevin Dixon
Rules Coordinator

AMENDATORY SECTION (Amending WSR 13-22-047, filed 11/1/13, effective 12/2/13)

WAC 458-20-22802 Electronic filing and payment.

(1) **Introduction.** The department of revenue makes electronic filing (also known as e-file) and electronic payment available to taxpayers. The law requires certain taxpayers to file and pay excise taxes electronically. RCW 82.32.080.

(a) Taxpayers who are required to electronically file and pay their excise taxes must register to use e-file. If they choose to pay using certain electronic payment methods they must also furnish the department with the necessary banking information. Taxpayers who are not specifically required to file or pay taxes electronically are encouraged to voluntarily take advantage of e-file and pay electronically.

(b) Electronic filing and electronic payment are available for taxes reported on the combined excise tax return, which includes those taxes administered by the department under chapter 82.32 RCW. For purposes of the taxes under chapter 82.32 RCW, unless the context clearly requires otherwise, the term "tax" is defined under RCW 82.32.020. Electronic filing and electronic payment are not available for city and town taxes on financial institutions (chapter 82.14A RCW), cigarette tax (chapter 82.24 RCW), leasehold excise tax (chapter 82.29A RCW), and forest tax (chapter 84.33 RCW).

(2) **Electronic filing and electronic payment.** E-file is an internet-based application that provides a secure and encrypted method for taxpayers to file and pay Washington state's business related excise taxes.

(a) All taxpayers are required to use e-file and pay electronically unless the department waives the requirement for good cause, or the taxpayer has an assigned reporting frequency that is less than quarterly.

(b) If good cause exists, the department may waive the e-file and/or electronic payment requirement for any taxpayer.

Waiver for "good cause" is generally temporary. Reasons for good cause include, but are not limited to:

(i) The taxpayer does not have the necessary equipment or software;

(ii) The equipment or software necessary is not functioning properly;

(iii) The taxpayer does not have access to the internet using the taxpayers own equipment;

(iv) The taxpayer does not have a bank account or credit card;

(v) The taxpayer's bank is unable to send or receive electronic funds transfer transactions; or

(vi) Some other circumstance or condition exists that, in the department's judgment, prevents the taxpayer from complying.

(3) **Electronic payments.** There are two electronic payment methods: Electronic funds transfer (EFT) and credit card.

Those taxpayers who are required to use e-file to submit their tax return must also pay the associated taxes electronically. For a taxpayer who is required to pay electronically, electronic funds transfer (EFT) must be used, unless the department authorizes some other type of electronic payment for that particular taxpayer.

(a) **Payment by electronic funds transfer (EFT).** EFT is a method of transferring funds from a taxpayer's bank account into the department's bank account.

(i) **Definitions.** For the purposes of this ~~(section)~~ rule, the following terms will apply:

(A) "Electronic funds transfer" or "EFT" means any transfer of funds, other than a transaction originated or accomplished by conventional check, drafts, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit a checking or other deposit account. Electronic funds transfer includes payments made by electronic check (e-check).

(B) "ACH" or "automated clearing house" means a central distribution and settlement system for the electronic clearing of debits and credits between financial institutions.

(C) "EFT debit" means the electronic transfer of funds cleared through the ACH system that is generated by the taxpayer instructing the department's bank to charge the taxpayer's account and deposit the funds to the department's account. E-check is a singular payment transaction that functions in the same manner as an EFT debit transaction.

(D) "EFT credit" means the electronic transfer of funds cleared through the ACH system that is generated by the taxpayer instructing the taxpayer's bank to charge the taxpayer's account and deposit the funds to the department's account.

(E) "Department's bank" means the bank with which the department of revenue has a contract to assist in the receipt of taxes and includes any agents of the bank.

(F) "Collectible funds" means funds that have completed the electronic funds transfer process and are available for immediate use by the state.

(G) "ACH CCD+addenda" and "ACH CCD+record" mean the information in a required ACH format that needs to be transmitted to properly identify the payment.

(ii) **EFT methods.** Taxpayers paying by EFT must use the EFT debit, EFT credit, or e-check methods. In an emergency, the taxpayer should contact the department for alternative methods of payment.

(iii) **Form and content of EFT.** The form and content of EFT will be as follows:

(A) If the taxpayer wishes to use EFT debit, the taxpayer must furnish the department with the information needed to complete the transaction by registering for electronic funds transfer on the department's web site.

(B) If the taxpayer wishes to use EFT credit, the taxpayer is responsible for ensuring that its bank has the information necessary in order to complete the payment. The payment must be submitted using the ACH CCD+addenda format. The EFT credit payment method requires the taxpayer to complete an EFT authorization form.

(C) If the taxpayer wishes to use e-check, they must enter their bank account and routing number for each payment transaction. The e-check transaction authorizes the department to withdraw the payment amount from the taxpayer's bank account.

(iv) **Due date of EFT payment.** The EFT payment is due on or before the next banking day following the tax return due date.

(A) An EFT payment made using the EFT debit or e-check method is timely if the payment is initiated on or before 11:59 p.m. Pacific Time on the tax return due date, and the effective date for that payment is on or before the next banking day following the tax return due date.

(B) An EFT payment made using the EFT credit method is timely when the state receives collectible U.S. funds on or before 5:00 p.m., Pacific Time, on the EFT payment due date.

(C) The ACH system, either EFT debit or EFT credit, requires that the necessary information be in the originating bank's possession on the banking day preceding the date for completion of the transaction. Each bank generally has its own transaction deadlines and it is the responsibility of the taxpayer to ensure timely payment.

(D) The tax return due date is the next business day after the statutory due date if the statutory due date falls on a Saturday, Sunday, or legal holiday. Legal holidays are determined under state of Washington law and banking holidays are those recognized by the Federal Reserve System.

Example. The tax return due date is December 25th, a legal and banking holiday, which, for the example, falls on a Friday. The next business day is Monday, December 28th, and this is the new tax return due date. This means EFT debit and e-check users must initiate their debit payment by 11:59 p.m., Pacific Time, on December 28th, with a payment effective date of Tuesday December 29th, in order for the payment to be considered timely. EFT credit users must contact their bank to ensure funds are deposited in the department's bank no later than 5:00 p.m., Pacific Time, on Tuesday, December 29th, in order for the payment to be considered timely.

(b) **Payment by credit card.** Payment by credit card is available using American Express, Discover, Visa, or MasterCard. Taxpayers who wish to make their payment with one of these credit cards are directed to the web site of a third-party, nonstate, vendor when they submit their electronic return. Taxpayers then provide their credit card number in the

same manner as with any other credit card payment transaction. A credit card payment is considered timely if the payment is completed, including the time it takes to enter the required information on the credit card vendor's web site, on or before 11:59 p.m., Pacific Time, on the tax return due date. Each credit card payment may be subject to a convenience fee charged by the third-party, nonstate, vendor.

(4) **Electronic refunds.** If the taxpayer pays taxes on the combined excise tax return by EFT debit, the taxpayer is entitled to a refund of those taxes by EFT. If the taxpayer wishes to have the refund made by EFT, the taxpayer must provide the department with the information necessary to make an appropriate EFT transaction or the refund will be issued as a paper check. No electronic adjustments or refunds are made directly to taxpayer credit card accounts or on e-check transactions. Overpayments of tax will either be retained to be credited to future tax liabilities or, at the taxpayer's request, will be refunded.

(5) **Coordinating a paper return and an electronic payment.** When a taxpayer voluntarily uses the EFT credit payment method but files a paper return, the department will match the payment with the return. A return will be considered timely filed only if it is received by the department on or before the tax return due date. The associated EFT credit payment must be received by the next banking day after the tax return due date. If the return is sent through the U.S. Postal Service, it will be considered received on the date shown by the post office cancellation mark stamped on the envelope. RCW 82.32.080. If both events occur, there is timely filing and payment and no penalties apply.

(6) **Crediting and proof of payment.** The department will credit the taxpayer with the amount paid as of the date the payment is received by the department's bank. The proof of payment by the taxpayer will depend on the means of transmission.

(a) EFT debit and e-check transactions may be proved by use of the confirmation number received from the department that the transaction was initiated and bank statements or other evidence from the bank that the transaction was settled.

(b) An EFT credit transaction is initiated by the taxpayer through the taxpayer's bank. The taxpayer is responsible for completion of the transaction. The taxpayer generally will be given a verification number by the taxpayer's bank. This verification number with proof of the ACH CCD+record showing the department's bank and account number, plus confirmation that the transaction has been settled will constitute proof of payment.

(c) A taxpayer(s) using any other electronic payment method (~~(are)~~) is responsible for completion of the transaction. Proof of payment will include transaction initiation date and any other evidence from a financial institution or credit card company that the transaction was settled.

(7) **Correcting errors.** Errors in the electronic payment process may result in either an underpayment or an overpayment of the tax. In either case, the taxpayer needs to contact the department to arrange for appropriate action. Overpayments may be used as a credit or the taxpayer may apply for a refund. The department will expedite a refund where it is caused by an error in transmission. Underpayments should be corrected by the taxpayer immediately to avoid any penalties.

(8) **Penalties.** There are no special provisions for penalties when payment is made by electronic means. To avoid the imposition of penalties, the taxpayer must provide correct bank account information to the department, and ensure their payment is timely.

(a) If the department finds that a taxpayer disregarded specific written instructions to file returns or remit payments electronically, as provided by RCW 82.32.080, the department will add a penalty of ten percent to the amount of the tax that should have been reported and/or paid electronically or the additional tax found due if there is a deficiency because of failure to follow written instructions.

(b) A taxpayer will be considered to have willfully disregarded the requirement to file returns or remit payment electronically if the department:

(i) Has mailed or otherwise delivered the specific written instructions to the taxpayer on at least two occasions; and

(ii) Has provided the taxpayer at least forty-five days after the second written notice to come into compliance with its electronic filing and/or payment obligations. WAC 458-20-228 discusses the various penalties that may apply and the limited circumstances under which they may be waived.

(c) In an EFT debit and e-check transaction, the department's bank is the originating bank and is responsible for the accuracy of transmission. If the taxpayer has timely initiated the EFT debit or e-check transaction, provided accurate bank account information, received a confirmation number, and shows adequate funds were available in the account, no late payment penalties will apply with respect to those funds authorized.

(d) In an EFT credit transaction, the taxpayer's bank is the originating bank and the taxpayer is primarily responsible for its accuracy. The taxpayer must have timely initiated the transaction, provided the correct information for the ACH CCD+record, and shown that there were sufficient funds in the account, in order to prove timely compliance. If the taxpayer can make this showing, then no late payment penalties will apply with respect to those funds authorized if the transaction is not completed.

(e) When a payment is made using an approved credit card, the credit card company acts as the taxpayer's agent and the taxpayer is primarily responsible for the accuracy of this transaction. If the taxpayer can prove the payment was initiated and submitted timely, no late payment penalties will apply to those funds authorized.

AMENDATORY SECTION (Amending WSR 07-04-100, filed 2/6/07, effective 3/9/07)

WAC 458-20-254 Recordkeeping. (1) Introduction. This (~~section~~) rule defines the requirements for the maintenance and retention of books, records, and other sources of information. It also addresses these requirements where all or a part of the taxpayer's books and records are received, created, maintained, or generated through various computer, electronic, and/or imaging processes and systems.

The general requirements imposed on taxpayers under RCW 82.32.070 are to retain and make available those records necessary to verify that the correct tax liability has been reported and paid by the taxpayer with respect to the

taxes administered by the department of revenue ("department"). The records provided to the department are confidential and privileged. Such records may not be disclosed by the department, except as provided by RCW 82.32.330.

(2) **Definitions.** For purposes of this (~~section~~) rule, the following definitions will apply:

(a) "Data base management system" means a software system that controls, relates, retrieves, and provides accessibility to data stored in a data base.

(b) "Electronic data interchange" or "EDI technology" means the computer-to-computer exchange of business transactions in a standardized structured electronic format.

(c) "Hard copy" means any documents, records, reports or other data printed on paper.

(d) "Machine-sensible record" means a collection of related information in any electronic format (e.g., data base management systems, EDI technology, automated data process systems, etc.). Machine-sensible records do not include hard-copy records that are created or recorded on paper or stored in or by an imaging system such as microfilm, microfiche, or storage-only imaging systems.

(e) "Records" means all books, data, documents, reports, or other information, including those received, created, maintained, or generated through various computer, electronic, and/or imaging processes and systems.

(f) "Storage-only imaging system" means a system of computer hardware and software that provides for the storage, retention and retrieval of documents originally created on paper. It does not include any system, or part of a system, that manipulates or processes any information or data contained on the document in any manner other than to reproduce the document in hard copy or as an optical image.

(3) Recordkeeping requirements—General.

(a) Every taxpayer liable for a tax or fee imposed by the laws of the state of Washington for which the department of revenue has primary or secondary administrative responsibility, e.g., Title 82 RCW, chapter 67.28 RCW (hotel/motel tax), chapter 70.95 RCW (fee on tires), and chapter 84.33 RCW (forest excise tax), must keep complete and adequate records from which the department may determine any tax liability for such taxpayer.

(b) It is the duty of each taxpayer to prepare and preserve all records in a systematic manner conforming to accepted accounting methods and procedures. Such records are to be kept(;) and preserved(~~(, and)~~). All of the taxpayer's records must be presented upon request (~~(of)~~) by the department or its authorized representatives (~~(which)~~) that will demonstrate:

(i) The amounts of gross receipts and sales from all sources, however derived, including barter or exchange transactions, whether or not such receipts or sales are taxable. These amounts must be supported by original source documents or records including but not limited to all purchase invoices, sales invoices, contracts, and such other records as may be necessary to substantiate gross receipts and sales.

(ii) The amounts of all deductions, exemptions, or credits claimed through supporting records or documentation required by statute or administrative rule, or other supporting records or documentation necessary to substantiate the deduction, exemption, or credit.

(iii) The payment of retail sales tax or use tax on capital assets, supplies, articles manufactured for your own use, and other items used by the taxpayer as a consumer.

(iv) The amounts of any refunds claimed. These amounts must be supported by records as may be necessary to substantiate the refunds claimed. Refer to WAC 458-20-229 for information on the refund process.

(c) The records kept, preserved, and presented must include the normal records maintained by an ordinary prudent business person. Such records may include general ledgers, sales journals, cash receipts journals, bank statements, check registers, and purchase journals, together with all bills, invoices, cash register tapes, and other records or documents of original entry supporting the books of account entries. The records must include all federal and state tax returns and reports and all schedules, work papers, instructions, and other data used in the preparation of the tax reports or returns.

(d) If a taxpayer retains records in both machine-sensible and hard-copy formats, the taxpayer must make the records available to the department in machine-sensible format upon request of the department. However, the taxpayer is not prohibited from demonstrating tax compliance with traditional hard-copy documents or reproductions thereof, although this does not eliminate the requirement that they provide access to machine-sensible records, if requested.

(e) Machine-sensible records used to establish tax compliance must contain sufficient transaction-level detail information so that the details underlying the machine-sensible records can be identified and made available to the department upon request.

(f) At the time of an examination, the retained records must be capable of being retrieved and converted to a readable record format, as required in subsection (6) of this ((~~section~~)) rule.

(g) Taxpayers are not required to construct machine-sensible records other than those created in the ordinary course of business. A taxpayer who does not create the electronic equivalent of a traditional paper document in the ordinary course of business is not required to construct such a record for tax purposes.

(4) **Record retention period.** All records must be open for inspection and examination at any time by the department, upon reasonable notice, and must be kept and preserved for a period of five years. RCW 82.32.070.

(5) **Failure to maintain or disclose records.** Any taxpayer who fails to comply with the requirements of RCW 82.32.070 or this ((~~section~~)) rule is forever barred from questioning, in any court action or proceedings, the correctness of any assessment of taxes made by the department based upon any period for which such books, records, and invoices have not been so kept, preserved, or disclosed. RCW 82.32.070.

(6) Electronic records.

(a) Electronic data interchange requirements.

(i) Where a taxpayer uses electronic data interchange (EDI) processes and technology, the level of record detail, in combination with other records related to the transactions, must be equivalent to that contained in an acceptable paper record. For example, the retained records should contain such information as vendor name, invoice date, product description, quantity purchased, price, amount of tax, indication of

tax status, shipping detail, etc. Codes may be used to identify some or all of the data elements, provided that the taxpayer provides a method which allows the department to interpret the coded information.

(ii) The taxpayer may capture the information at any level within the accounting system and need not retain the original EDI transaction records provided the audit trail, authenticity, and integrity of the retained records can be established. For example, a taxpayer using electronic data interchange technology receives electronic invoices from its suppliers. The taxpayer decides to retain the invoice data from completed and verified EDI transactions in its accounts payable system rather than to retain the EDI transactions themselves. Since neither the EDI transaction nor the accounts payable system captures information from the invoice pertaining to product description and vendor name (i.e., they contain only codes for that information), the taxpayer must also retain other records, such as its vendor master file and product code description lists and make them available to the department. In this example, the taxpayer need not retain its EDI transaction for tax purposes if the vendor master file contains the required information.

(b) Electronic data processing systems requirements.

The requirements for an electronic data processing accounting system should be similar to that of a manual accounting system, in that an adequately designed accounting system should incorporate methods and records that will satisfy the requirements of this ((~~section~~)) rule.

(c) Internal controls.

(i) Upon the request of the department, the taxpayer must provide a description of the business process that created the retained records. Such description must include the relationship between the records and the tax documents prepared by the taxpayer and the measures employed to ensure the integrity of the records.

(ii) The taxpayer must be capable of demonstrating:

(A) The functions being performed as they relate to the flow of data through the system;

(B) The internal controls used to ensure accurate and reliable processing; and

(C) The internal controls used to prevent unauthorized addition, alteration, or deletion of retained records.

(iii) The following specific documentation is required for machine-sensible records retained pursuant to this ((~~section~~)) rule:

(A) Record formats or layouts;

(B) Field definitions (including the meaning of all codes used to represent information);

(C) File descriptions (e.g., data set name); and

(D) Detailed charts of accounts and account descriptions.

(7) Access to machine-sensible records.

(a) The manner in which the department is provided access to machine-sensible records may be satisfied through a variety of means that shall take into account a taxpayer's facts and circumstances through consultation with the taxpayer.

(b) Such access will be provided in one or more of the following manners:

(i) The taxpayer may arrange to provide the department with the hardware, software and personnel resources to access the machine-sensible records.

(ii) The taxpayer may arrange for a third party to provide the hardware, software and personnel resources necessary to access the machine-sensible records.

(iii) The taxpayer may convert the machine-sensible records to a standard record format specified by the department, including copies of files, on a magnetic medium that is agreed to by the department.

(iv) The taxpayer and the department may agree on other means of providing access to the machine-sensible records.

(8) Storage-only imaging systems.

(a) For purposes of storage and retention, taxpayers may convert hard-copy documents received or produced in the normal course of business and required to be retained under this ((section)) rule to microfilm, microfiche or other storage-only imaging systems and may discard the original hard-copy documents, provided the conditions of this ((section)) rule are met. Documents which may be stored on these media include, but are not limited to, general books of account, journals, voucher registers, general and subsidiary ledgers, and supporting records of details, such as sales invoices, purchase invoices, exemption certificates, and credit memoranda.

(b) Microfilm, microfiche and other storage-only imaging systems must meet the following requirements:

(i) Documentation establishing the procedures for converting the hard-copy documents to microfilm, microfiche or other storage-only imaging system must be maintained and made available upon request. Such documentation must, at a minimum, contain a sufficient description to allow an original document to be followed through the conversion system as well as internal procedures established for inspection and quality assurance.

(ii) Procedures must be established for the effective identification, processing, storage, and preservation of the stored documents and for making them available for a period of five years.

(iii) Upon request by the department, a taxpayer must provide facilities and equipment for reading, locating, and reproducing any documents maintained on microfilm, microfiche or other storage-only imaging system.

(iv) When displayed on such equipment or reproduced on paper, the documents must exhibit a high degree of legibility and readability. For this purpose, legibility is defined as the quality of a letter or numeral that enables the observer to identify it positively and quickly to the exclusion of all other letters or numerals. Readability is defined as the quality of a group of letters or numerals being recognizable as words or complete numbers.

(v) All data stored on microfilm, microfiche or other storage-only imaging systems must be maintained and arranged in a manner that permits the location of any particular record.

(vi) There must be no substantial evidence that the microfilm, microfiche, or other storage-only imaging system lacks authenticity or integrity.

(9) Effect on hard-copy recordkeeping requirements.

(a) The provisions of this ((section)) rule do not relieve taxpayers of the responsibility to retain hard-copy records

that are created or received in the ordinary course of business as required by existing law and regulations, except as otherwise provided in this ((section)) rule. Hard-copy records may be retained on a recordkeeping medium as provided in subsection (8) of this ((section)) rule.

(b) If hard-copy records are not produced or received in the ordinary course of transacting business (e.g., when the taxpayer uses electronic data interchange technology), such hard-copy records need not be created.

(c) Hard-copy records generated at the time of a transaction using a credit or debit card must be retained unless all the details necessary to determine correct tax liability relating to the transaction are subsequently received and retained by the taxpayer in accordance with this ((section)) rule.

(d) Computer printouts that are created for validation, control, or other temporary purposes need not be retained.

(e) Nothing in this ((section)) rule prevents the department from requesting hard-copy printouts in lieu of retained machine-sensible records at the time of examination.

(10) Out-of-state businesses. An out-of-state business which does not keep the necessary records within this state may either produce within this state such records as are required for examination by the department or permit the examination of ~~((the))~~ all of the taxpayer's records by the department or its authorized representatives at the place where the records are kept. RCW 82.32.070.

AMENDATORY SECTION (Amending WSR 14-19-018, filed 9/5/14, effective 10/6/14)

WAC 458-20-267 Annual reports for certain tax adjustments. (1) **Introduction.** In order to take certain tax exemptions, credits, and rates ("tax adjustments"), taxpayers must file an annual report with the department of revenue (the "department") detailing employment, wages, and employer-provided health and retirement benefits.

(a) Reporting requirements for tax adjustments. This ((section)) rule explains the reporting requirements for tax adjustments provided to computer data centers, the aerospace industry, aluminum manufacturing, electrolytic processing, solar electric manufacturing, semiconductor manufacturing, newspaper industries, and government funded mental health services. Unless the context clearly requires otherwise, the term "tax" is defined under RCW 82.32.020. This ((section)) rule explains who is required to file annual reports, how to file reports, and what information must be included in the reports.

(b) Examples. This ~~((section contains))~~ rule includes a number of examples ~~((These examples))~~ that identify a ~~((number))~~ set of facts and then state a conclusion. These examples ~~((should be used))~~ are only ~~((as))~~ a general guide. ~~((The results of other situations must be determined after a review of all of the facts and circumstances.))~~ The department will evaluate each case on its particular facts and circumstances and apply both this rule and other statutory and common law authority.

(2) Who is required to file the report? A recipient of the benefit of the following tax adjustments must complete and file an annual report with the department:

(a) Tax adjustments for the aerospace industry:

(i) The business and occupation ("B&O") tax rate provided by RCW 82.04.260(11) for manufacturers and processors for hire of commercial airplanes, component parts, and tooling specially designed for use in manufacturing commercial airplanes or components of such airplanes;

(ii) The B&O tax credit provided by RCW 82.04.4461 for qualified ~~((development))~~ aerospace product development expenditures;

(iii) The B&O tax rate for FAR 145 Part certified repair stations under RCW 82.04.250(3);

(iv) The retail sales and use tax exemption provided by RCW 82.08.980 and 82.12.980 for constructing new buildings used for manufacturing super-efficient airplanes;

(v) The leasehold excise tax exemption provided by RCW 82.29A.137 for facilities used for manufacturing super-efficient airplanes;

(vi) The property tax exemption provided by RCW 84.36.655 for property used for manufacturing super-efficient airplanes; and

(vii) The B&O tax credit for property taxes and leasehold excise taxes paid on property used for manufacturing of commercial airplanes as provided by RCW 82.04.4463.

(viii) An annual report must be filed with the department for any person who takes any of the above tax adjustments of this subsection for employment positions in Washington; however, persons engaged in manufacturing commercial airplanes or components of such airplanes may report per manufacturing job site.

(b) Tax adjustments for the aluminum smelter industry:

(i) The B&O tax rate provided by RCW 82.04.2909 for aluminum smelters;

(ii) The B&O tax credit for property taxes provided by RCW 82.04.4481 for aluminum smelter property;

(iii) The retail sales and use tax exemption provided by RCW 82.08.805 and 82.12.805 for property used at aluminum smelters; and

(iv) The use tax exemption provided by RCW 82.12.022 (5) for the use of natural or manufactured gas at aluminum smelters;

(c) Tax adjustment for the electrolytic processing industry. The public utility tax exemption provided by RCW 82.16.0421 for sales of electricity to electrolytic processing businesses.

(d) Tax adjustment for the solar electric manufacturing industry. The B&O tax rate for manufacturers of solar energy systems using photovoltaic modules, or silicon components of such systems provided by RCW 82.04.294.

(e) Tax adjustments for the semiconductor manufacturing and processing industry.

(i) The B&O tax rate for manufacturers or processors for hire of semiconductor materials provided by RCW 82.04.-2404.

(ii) The sales and use tax exemptions for sales of gases and chemicals used by a manufacturer or processor for hire in the production of semiconductor materials provided by RCW 82.08.9651, 82.12.9651, and 82.12.970.

(f) Tax adjustments for various industries.

(i) The B&O tax rate for printing a newspaper, publishing a newspaper, or both provided by RCW 82.04.260(14).

(ii) The sales tax exemption for sales of eligible server equipment to be installed without intervening use in an eligible computer data center ~~((as provided by chapters 1 and 23, Laws of 2010 sp. sess))~~ under RCW 82.08.986.

(3) How to file annual reports.

(a) Electronic filing. Reports must be filed electronically unless the department waives this requirement upon a showing of good cause. A report is filed electronically when the department receives the report in an electronic format. A person accesses electronic filing through their department "My Account." To file and submit electronically, go to <http://dor.wa.gov/TaxIncentiveReporting>.

(b) Required paper form. If the department waives the electronic filing requirement for a person upon a showing of good cause, then that person must use the annual report developed by the department unless that person obtains prior written approval from the department to file an annual report in an alternative format.

(c) How to obtain the form. Persons who have received a waiver of the electronic filing requirement from the department or who otherwise would like a paper copy of the report may obtain the report from the department's web site (www.dor.wa.gov). It may also be obtained from the department's district offices, by telephoning the telephone information center (800-647-7706), or by contacting the department's taxpayer account administration division at:

~~((Attn: Local Finance Team))~~
Department of Revenue
Taxpayer Account Administration
Attn: Local Finance Team
Post Office Box 47476
Olympia, WA 98504-7476
Fax: 360-586-0527

(d) Special requirement for persons who did not file an annual report during the previous calendar year. If a person is a first-time filer or otherwise did not file an annual report with the department during the previous calendar year, the report must include information on employment, wages, and employer-provided health and retirement benefits for the two calendar years immediately preceding the due date of the report.

(e) Due date.

(i) For reports due in 2011 or later. For persons claiming any B&O tax credit, tax exemption, or tax rate listed under subsection (2) of this ~~((section))~~ rule, the report must be filed or postmarked by April 30th following any calendar year in which the person becomes eligible to claim the tax credit, tax exemption, or tax rate.

(ii) For reports due in 2010 or earlier. For persons claiming any B&O tax credit, tax exemption, or tax rate listed under subsection (2) of this ~~((section))~~ rule, with the exception of the tax rate provided by RCW 82.04.2404, the report must be filed or postmarked by March 31st following any calendar year in which the tax credit, tax exemption, or tax rate is claimed. For persons claiming the tax rate provided by RCW 82.04.2404 the report must be filed or postmarked by

April 30th following any calendar year in which the tax rate is claimed.

(iii) **Due date extensions.** The department may extend the due date for timely filing annual reports as provided in subsection (18) of this ~~(section)~~ rule.

(f) Examples.

(i) An aerospace firm begins taking the B&O tax rate provided by RCW 82.04.260(11) for manufacturers and processors for hire of commercial airplanes and component parts on October 1, 2010. By April 30, 2011, the aerospace firm must provide an annual report covering calendar years 2009 and 2010. If the aerospace firm continues to take the B&O tax rate provided by RCW 82.04.260(11) during calendar year 2011, a single annual report is due on April 30, 2012, covering calendar year 2011.

(ii) An aluminum smelter begins taking the B&O tax rate provided by RCW 82.04.2909 for aluminum smelters on July 31, 2010. By April 30, 2011, the aluminum smelter must provide an annual report covering calendar years 2009 and 2010. If the aluminum smelter continues to take the B&O tax rate provided by RCW 82.04.2909 during calendar year 2011, a single annual report is due on April 30, 2012, covering calendar year 2011.

(4) What employment positions are included in the annual report?

(a) **General rule.** Except as provided in (b) of this subsection, the report must include information detailing employment positions in the state of Washington.

(b) **Alternative method.** Persons engaged in manufacturing commercial airplanes or their components may report employment positions per job at the manufacturing site.

(i) **What is a "manufacturing site"?** For purposes of the annual report, a "manufacturing site" is one or more immediately adjacent parcels of real property located in Washington state on which manufacturing occurs that support activities qualifying for a tax adjustment. Adjacent parcels of real property separated only by a public road comprise a single site. A manufacturing site may include real property that supports nonqualifying activities such as administration offices, test facilities, warehouses, design facilities, and shipping and receiving facilities.

(ii)(A) **If the person files per job at the manufacturing site, which manufacturing site is included in the annual report for the aerospace manufacturing industry tax adjustments?** The location(s) where a person is manufacturing commercial airplanes or components of such airplanes within this state is the manufacturing site(s) included in the annual report. A "commercial airplane" has its ordinary meaning, which is an airplane certified by the Federal Aviation Administration ("FAA") for transporting persons or property, and any military derivative of such an airplane. A "component" means a part or system certified by the FAA for installation or assembly into a commercial airplane.

(B) **Are there alternative methods for reporting separately for each manufacturing site?** For purposes of completing the annual report, the department may agree to allow a person whose manufacturing sites are within close geographic proximity to consolidate its manufacturing sites onto a single annual report provided that the jobs located at the manufacturing sites have equivalent employment positions,

wages, and employer-provided health and retirement benefits. A person may request written approval to consolidate manufacturing sites by contacting the department's taxpayer account administration division at:

~~((Attn: Local Finance Team))~~
 Department of Revenue
 Taxpayer Account Administration
Attn: Local Finance Team
 Post Office Box 47476
 Olympia, WA 98504-7476
 Fax: 360-586-0527

(c) Examples.

(i) ABC Airplanes, a company manufacturing FAA certified airplane landing gear, conducts activities at three locations in Washington state. ABC Airplanes is reporting tax under the B&O tax rate provided by RCW 82.04.260(11) for manufacturers and processors for hire of commercial airplanes and component parts. In Seattle, WA, ABC Airplanes maintains its corporate headquarters and administrative offices. In Spokane, WA, ABC Airplanes manufactures the brake systems for the landing gear. In Vancouver, WA, ABC Airplanes assembles the landing gear using the components manufactured in Spokane, WA. If filing per manufacturing site, ABC Airplanes must file separate annual reports for employment positions at its manufacturing sites in Spokane and Vancouver because these are the Washington state locations in which manufacturing occurs that supports activities qualifying for a tax adjustment.

(ii) Acme Engines, a company manufacturing engine parts, conducts manufacturing in five locations in Washington state. Acme Engines is reporting tax under the B&O tax rate provided by RCW 82.04.260(10) for manufacturers and processors for hire of commercial airplanes and component parts. It manufactures FAA certified engine parts at its Puyallup, WA location. Acme Engines' four other locations manufacture non-FAA certified engine parts. If filing per manufacturing site, Acme Engines must file an annual report for employment positions at its manufacturing site in Puyallup because it is the only location in Washington state in which manufacturing occurs that supports activities qualifying for a tax adjustment.

(iii) Tacoma Rivets, with one in-state manufacturing site located in Tacoma, WA, manufactures rivets used in manufacturing airplanes. Half of the rivets Tacoma Rivets manufactures are FAA certified to be used on commercial airplanes. The remaining rivets Tacoma Rivets manufactures are not FAA certified and are used on military airplanes. Tacoma Rivets is reporting tax on its sales of FAA certified rivets under the B&O tax rate provided by RCW 82.04.260 (11) for manufacturers and processors for hire of commercial airplanes and component parts. If filing per manufacturing site, Tacoma Rivets must file an annual report for employment positions at its manufacturing site in Tacoma because it is the location in Washington state in which manufacturing occurs that supports activities qualifying for a tax adjustment.

(iv) Dynamic Aerospace Composites is a company that only manufactures FAA certified airplane fuselage materials. Dynamic Aerospace Composites conducts activities at three separate locations within Kent, WA. Dynamic Aerospace

Composites is reporting tax under the B&O tax rate provided by RCW 82.04.260(11) for manufacturers and processors for hire of commercial airplanes and component parts. If filing per manufacturing site, Dynamic Aerospace Composites must file separate annual reports for each of its three manufacturing sites.

(v) Worldwide Aerospace, an aerospace company, manufactures wing systems for commercial airplanes in twenty locations around the world, but none located in Washington state. Worldwide Aerospace manufactures wing surfaces in San Diego, CA. Worldwide Aerospace sells the wing systems to an airplane manufacturer located in Moses Lake, WA and is reporting tax on these sales under the B&O tax rate provided by RCW 82.04.260(11) for sales, at retail or wholesale, of commercial airplanes, or components of such airplanes, manufactured by that person. Worldwide Aerospace is required to complete the annual report for any employment positions in Washington that are directly related to the qualifying activity.

(5) What jobs are included in the annual report?

(a) The annual report covers all full-time, part-time, and temporary jobs in this state or, for persons filing as provided in subsection (4)(b) of this ((~~section~~)) rule, at the manufacturing site as of December 31st of the calendar year for which an applicable tax adjustment is claimed. Jobs that support non-qualifying activities or support both nonqualifying and qualifying activities for a tax adjustment are included in the report if the job is located in the state of Washington or, for persons filing as provided in subsection (4)(b) of this ((~~section~~)) rule, at the manufacturing site.

(b) Examples.

(i) XYZ Aluminum, an aluminum smelter company, manufactures aluminum in Tacoma, WA. The company is reporting tax under the B&O tax rate provided by RCW 82.04.2909 for aluminum smelters. XYZ Aluminum's annual report for its Tacoma, WA location will include all of its employment positions in this state, including its nonmanufacturing employment positions.

(ii) AAA Tire Company manufactures tires at one manufacturing site located in Centralia, WA. The company is reporting tax under the B&O tax rate provided by RCW 82.04.260(11) for manufacturers and processors for hire of commercial airplanes and component parts. FAA certified tires comprise only 20% of the products it manufactures and are manufactured in a separate building at the manufacturing site. If filing under the method described in subsection (4)(b) of this ((~~section~~)) rule, AAA Tire Company must report all jobs at the manufacturing site, including the jobs engaged in the nonqualifying activities of manufacturing non-FAA certified tires.

(6) How is employment detailed in the annual report?

The annual report is organized by employee occupational groups, consistent with the United States Department of Labor's Standard Occupation Codes (SOC) System. The SOC System is a universal occupational classification system used by government agencies and private industries to produce comparable occupational data. The SOC classifies occupations at four levels of aggregation:

- (a) Major group;
- (b) Minor group;

- (c) Broad occupation; and
- (d) Detailed occupation.

All occupations are clustered into one of twenty-three major groups. The annual report uses the SOC major groups to detail the levels of employment, wages, and employer-provided health and retirement benefits at the manufacturing site. A detailed description of the SOC System is available by ((~~contacting the department's special programs division or by~~)) consulting the United States Department of Labor, Bureau of Labor Statistics online at www.bls.gov/soc. The annual report does not require names of employees.

(7) What is total employment? The annual report must state the total number of employees for each SOC major group that are currently employed on December 31st of the calendar year for which an applicable tax adjustment is taken. Total employment includes employees who are on authorized leaves of absences such as sick leave, vacation, disability leave, jury duty, military leave, regardless of whether those employees are receiving wages. Leaves of absences do not include separations of employment such as layoffs or reductions in force. Vacant positions are not included in total employment.

(8) What are full-time, part-time and temporary employment positions? An employer must provide information on the number of employees, as a percentage of total employment in the SOC major group, that are employed in full-time, part-time or temporary employment positions on December 31st of the calendar year for which an applicable tax adjustment is claimed. Percentages should be rounded to the nearest 1/10th of 1% (XX.X%).

(a) Full-time and part-time employment positions. In order for a position to be treated as full time or part time, the employer must intend for the position to be filled for at least fifty-two consecutive weeks or twelve consecutive months. A full-time position is a position that satisfies any one of the following minimum thresholds:

- (i) Works thirty-five hours per week for fifty-two consecutive weeks;
- (ii) Works four hundred fifty-five hours, excluding overtime, each quarter for four consecutive quarters; or
- (iii) Works one thousand eight hundred twenty hours, excluding overtime, during a period of twelve consecutive months.

A part-time position is a position in which the employee works less than the hours required for a full-time position. In some instances, an employee may not be required to work the hours required for full-time employment because of paid rest and meal breaks, health and safety laws, disability laws, shift differentials, or collective bargaining agreements, but receives wages equivalent to a full-time job. If, in the absence of these factors, the employee would be required to work the number of hours for a full-time position to receive full-time wages, the position should be reported as a full-time employment position.

(b) Temporary positions. A temporary position is a position that is intended to be filled for period of less than twelve consecutive months. Positions in seasonal employment are temporary positions. Temporary positions include workers furnished by staffing companies regardless of the

duration of the placement with the person required to file the annual report.

(c) **Examples.** Assume these facts for the following examples. National Airplane Inc. manufactures FAA certified navigation systems at a manufacturing site located in Tacoma, WA. National Airplane Inc. is claiming all the tax adjustments available for manufacturers and processors for hire of commercial airplanes and component parts. National Airplane Inc. employs one hundred people. Seventy-five of the employees work directly in the manufacturing operation and are classified as SOC Production Occupations. Five employees work in the engineering and design division and are classified as SOC Architect and Engineering Occupations. Five employees are sales representatives and are classified as SOC Sales and Related Occupations. Five employees are service technicians and are classified as SOC Installation, Maintenance, and Repair Occupations. Five employees are administrative assistants and are classified as SOC Office and Administrative Support. Five executives are classified as SOC Management Occupations.

(i) Through a college work-study program, National Airplane Inc. employs six interns from September through June in its engineering department. The interns work twenty hours a week. The six interns are reported as temporary employees, and not as part-time employees, because the intern positions are intended to be filled for a period of less than twelve consecutive months. Assuming the five employees classified as SOC Architect and Engineering Occupations are full-time employees, National Airplane Inc. will report a total of eleven employment positions in SOC Architect and Engineering Occupations with 45% in full-time employment positions and 55% in temporary employment positions.

(ii) National Airplane Inc. manufactures navigation systems in two shifts of production. The first shift works eight hours from 8:00 a.m. to 5:00 p.m. Monday thru Friday. The second shift works six hours from 6:00 p.m. to midnight Monday thru Friday. The second shift works fewer hours per week (thirty hours) than the first shift (forty hours) as a pay differential for working in the evening. If a second shift employee transferred to the first shift, the employee would be required to work forty hours with no overall increase in wages. The second shift employees should be reported as full-time employment positions, rather than part-time employment positions.

(iii) On December 1st, ten National Airplane Inc. full-time employees classified as SOC Production Occupations take family and medical leave for twelve weeks. National Airplane Inc. hires five people to perform the work of the employees on leave. Because the ten employees classified as SOC Production Occupations are on authorized leave, National Airplane Inc. will include those employees in the annual report as full-time employment positions. The five people hired to replace the absent employees classified as SOC Production Occupations will be included in the report as temporary employees. National Airplane Inc. will report a total of eighty employment positions in SOC Production Occupations with 93.8% in full-time employment positions and 6.2% in temporary employment positions.

(iv) On December 1st, one full-time employee classified as SOC Sales and Related Occupations resigns from her posi-

tion. National Airplane Inc. contracts with Jane Smith d/b/a Creative Enterprises, Inc. to finish an advertising project assigned to the employee who resigned. Because Jane Smith is an independent contractor, National Airplane Inc. will not include her employment in the annual report. Because the resignation has resulted in a vacant position, the total number of employment positions National Airplane Inc. will report in SOC Sales and Related Occupations is reduced to four employment positions.

(v) All National Airplane Inc. employees classified as SOC Office and Administrative Support Occupations work forty hours a week, fifty-two weeks a year. On November 1st, one employee must limit the number of hours worked to thirty hours each week to accommodate a disability. The employee receives wages based on the actual hours worked each week. Because the employee works less than thirty-five hours a week and is not paid a wage equivalent to a full-time position, the employee's position is a part-time employment position. National Airplane Inc. will report a total of five employment positions in SOC Office and Administrative Support Occupations with 80% in full-time employment positions and 20% in part-time employment positions.

(9) **What are wages?** For the purposes of the annual report, "wages" means the base compensation paid to an individual for personal services rendered to an employer, whether denominated as wages, salary, commission, or otherwise. Compensation in the form of overtime, tips, bonuses, benefits (insurance, paid leave, meals, etc.), stock options, and severance pay are not "wages." For employees that earn an annual salary, hourly wages are determined by dividing annual salary by 2080. If an employee is paid by commission, hourly wages are determined by dividing the total amount of commissions paid during the calendar year by 2080.

(10) **How are wages detailed for the annual report?**

(a) An employer must provide information on the number of employees, as a percentage of the total employment in the SOC major group, paid a wage within the following five hourly wage bands:

Up to \$10.00 an hour;
 \$10.01 an hour to \$15.00 an hour;
 \$15.01 an hour to \$20.00 an hour;
 \$20.01 an hour to \$30.00 an hour; and
 \$30.01 an hour or more.

Percentages should be rounded to the nearest 1/10th of 1% (XX.X%). For purposes of the annual report, wages are measured on December 31st of the calendar year for which an applicable tax adjustment is claimed.

(b) **Examples.** Assume these facts for the following examples. Washington Airplane Inc. manufactures FAA certified navigation systems at a manufacturing site located in Tacoma, WA. Washington Airplane Inc. is claiming all the tax adjustments available for manufacturers and processors for hire of commercial airplanes and component parts. Washington Airplane Inc. employs five hundred people at the manufacturing site, which constitutes its entire work force in this state. Four hundred employees engage in activities that are classified as SOC Production Occupations. Fifty employees engage in activities that are classified as SOC Architect and Engineer Occupations. Twenty-five employees are engaged

in activities classified as SOC Management Occupations. Twenty employees are engaged in activities classified as SOC Office and Administrative Support Occupations. Five employees are engaged in activities classified as SOC Sales and Related Occupations.

(i) One hundred employees classified as SOC Production Occupations are paid \$12.00 an hour. Two hundred employees classified as SOC Production Occupations are paid \$17.00 an hour. One hundred employees classified as SOC Production Occupations are paid \$25.00 an hour. For SOC Production Occupations, Washington Airplane Inc. will report 25% of employment positions are paid \$10.01 an hour to \$15.00 an hour; 50% are paid \$15.01 an hour to \$20.00 an hour; and 25% are paid \$20.01 an hour to \$30.00 an hour.

(ii) Ten employees classified as SOC Architect and Engineering Occupations are paid an annual salary of \$42,000; another ten employees are paid \$50,000 annually; and the remaining employees are all paid over \$70,000 annually. In order to report wages, the annual salaries must be converted to hourly amounts by dividing the annual salary by 2080 hours. For SOC Architect and Engineering Occupations, Washington Airplane Inc. will report 40% of employment positions are paid \$20.01 an hour to \$30.00 an hour and 60% are paid \$30.00 an hour or more.

(iii) All the employees classified as SOC Sales and Related Occupations are sales representatives that are paid on commission. They receive \$10.00 commission for each navigation system sold. Three sales representatives sell 2,500 navigation systems during the calendar year. Two sales representatives sell 3,500 navigation systems during the calendar year and receive a \$10,000 bonus for exceeding company's sales goals. In order to report wages, the employee's commissions must be converted to hourly amounts by dividing the total commissions by 2080 hours. Washington Airplane Inc. will report that 60% of employment positions classified as SOC Sales and Related Occupations are paid \$10.01 an hour to \$15.00 an hour. Because bonuses are not included in wages, Washington Airplane Inc. will report 40% of employment positions classified as SOC Sales and Related Occupations are paid \$15.01 an hour to \$20.00 an hour.

(iv) Ten of the employees classified as SOC Office and Administrative Support Occupations earn \$9.50 an hour. The remaining ten employees classified as SOC Office and Administrative Support Occupations earn wages between \$10.01 an hour to \$15.00 an hour. On December 1st, Washington Airplane Inc. announces that effective December 15th, all employees classified as SOC Office and Administrative Support Occupations will earn wages of at least \$10.50 an hour, but no more than \$15.00 an hour. Because wages are measured on December 31st, Washington Airplane Inc. will report 100% of employment positions classified as SOC Office and Administrative Support Occupations Sales and Related Occupations are paid \$10.01 an hour to \$15.00 an hour.

(11) Reporting workers furnished by staffing companies. For temporary positions filled by workers that are furnished by staffing companies, the person filling out the annual report must provide the following information:

(a) Total number of staffing company employees furnished by staffing companies;

(b) Top three occupational codes of all staffing company employees; and

(c) Average duration of all staffing company employees.

(12) What are employer-provided health benefits?

For purposes of the annual report, "health benefits" means compensation, not paid as wages, in the form of a health plan offered by an employer to its employees. A health plan that is equally available to employees and the general public is not an "employer-provided" health benefit.

(a) "Dental care services" means services offered or provided by health care facilities and health care providers relating to the prevention, cure, or treatment of illness, injury, or disease of human teeth, alveolar process, gums, or jaw.

(b) "Dental care plan" means a health plan for the purpose of providing for its employees or their beneficiaries' dental care services.

(c) "Health plan" means any plan, fund, or program established, maintained, or funded by an employer for the purpose of providing for its employees or their beneficiaries, through the purchase of insurance or otherwise, medical care and dental care services. Health plans include any "employee welfare benefit plan" as defined by the Employee Retirement Income Security Act (ERISA), any "health plan" or "health benefit plan" as defined in RCW 48.43.005, any self-funded multiple employer welfare arrangement as defined in RCW 48.125.010, any "qualified health insurance" as defined in Section 35 of the Internal Revenue Code, an "Archer MSA" as defined in Section 220 of the Internal Revenue Code, a "health savings plan" as defined in Section 223 of the Internal Revenue Code, any "health plan" qualifying under Section 213 of the Internal Revenue Code, governmental plans, and church plans.

(d) "Medical care services" means services offered or provided by health care facilities and health care providers relating to the prevention, cure, or treatment of illness, injury, or disease.

(e) "Medical care plan" means a health plan for the purpose of providing for its employees or their beneficiaries' medical care services.

(13) How are employer-provided health benefits detailed in the annual report? The annual report is organized by SOC major group and by type of health plan offered to or with enrolled employees on December 31st of the calendar year for which an applicable tax adjustment is claimed.

(a) **Detail by SOC major group.** For each SOC major group, report the number of employees, as a percentage of total employment in the SOC major group, eligible to participate in an employer-provided medical care plan. An employee is "eligible" if the employee can currently participate in a medical care plan provided by the employer. Waiting periods, tenure requirements, minimum work hour requirements, preexisting conditions, and other limitations may prevent an employee from being eligible for coverage in an employer's medical care plan. If an employer provides multiple medical care plans, an employee is "eligible" if the employee can currently participate in one of the medical care plans. Percentages should be rounded to the nearest 1/10th of 1% (XX.X%).

(b) Examples.

(i) On December 31st, Acme Engines has one hundred employees classified as SOC Production Occupations. It offers these employees two medical care plans. Plan A is available to all employees at the time of hire. Plan B is available to employees after working ninety days. For SOC Production Occupations, Acme Engines will report 100% of its employees are eligible for employer-provided medical benefits because all of its employees are eligible for at least one medical care plan offered by Acme Engines.

(ii) Apex Aluminum has fifty employees classified as SOC Transportation and Material Moving Occupations, all of whom have worked for Apex Aluminum for over five years. Apex Aluminum offers one medical care plan to its employees. Employees must work for Apex Aluminum for six months to participate in the medical care plan. On October 1st, Apex Aluminum hires ten new employees classified as SOC Transportation and Material Moving Occupations. For SOC Transportation and Material Moving Occupations, Apex Aluminum will report 83.3% of its employees are eligible for employer-provided medical benefits.

(c) Detail by type of health plan. The report also requires detailed information about the types of health plans the employer provides. If an employer has more than one type of health plan, it must report each health plan separately. If a person offers more than one of the same type of health plan as described in (c)(i) of this subsection, the person may consolidate the detail required in (c) through (e) of this subsection by using ranges to describe the information. The details include:

(i) A description of the type of plan in general terms such as self-insured, fee for service, preferred provider organization, health maintenance organization, health savings account, or other general description. The report does not require a person to disclose the name(s) of their health insurance carrier(s).

(ii) The number of employees eligible to participate in the health plan, as a percentage of total employment at the manufacturing site or as otherwise reported. Percentages should be rounded to the nearest 1/10th of 1% (XX.X%).

(iii) The number of employees enrolled in the health plan, as a percentage of employees eligible to participate in the health plan at the manufacturing site or as otherwise reported. An employee is "enrolled" if the employee is currently covered by or participating in an employer-provided health plan. Percentages should be rounded to the nearest 1/10th of 1% (XX.X%).

(iv) The average percentage of premium paid by employees enrolled in the health plan. "Premium" means the cost incurred by the employer to provide a health plan or the continuance of a health plan, such as amounts paid to health carriers or costs incurred by employers to self-insure. Employers are generally legally responsible for payment of the entire cost of the premium for enrolled employees, but may require enrolled employees to share in the cost of the premium to obtain coverage. State the amount of premium, as a percentage, employees must pay to maintain enrollment under the health plan. Percentages should be rounded to the nearest 1/10th of 1% (XX.X%).

(v) If necessary, the average monthly contribution to enrolled employees. In some instances, employers may make contributions to an employee health plan, but may not be aware of the percentage of premium cost borne by the employee. For example, employers may contribute to a health plan sponsored by an employee organization, or may sponsor a medical savings account or health savings account. In those instances where the employee's contribution to the health plan is unknown, an employer must report its average monthly contribution to the health plan by dividing the employer's total monthly costs for the health plan by the total number of employees enrolled in the health plan.

(vi) Whether legal spouses, state registered domestic partners, and unmarried dependent children can obtain coverage under the health plan and if there is an additional premium for such coverage.

(vii) Whether part-time employees are eligible to participate in the health plan.

(d) Medical care plans. In addition to the detailed information required for each health plan, report the amount of enrolled employee point of service cost-sharing for hospital services, prescription drug benefits, and primary care physician services for each medical care plan. If differences exist within a medical care plan, the lowest cost option to the enrolled employee must be stated in the report. For example, if employee point of service cost-sharing is less if an enrolled employee uses a network of preferred providers, report the amount of point of service cost-sharing using a preferred provider. Employee point of service cost-sharing is generally stated as a percentage of cost, a specific dollar amount, or both.

(i) "Employee point of service cost-sharing" means amounts paid to health carriers directly providing medical care services, health care providers, or health care facilities by enrolled employees in the form of copayments, co-insurance, or deductibles. Copayments and co-insurance mean an amount specified in a medical care plan which is an obligation of enrolled employees for a specific medical care service which is not fully prepaid. A deductible means the amount an enrolled employee is responsible to pay before the medical care plan begins to pay the costs associated with treatment.

(ii) "Hospital services" means covered in-patient medical care services performed in a hospital licensed under chapter 70.41 RCW.

(iii) "Prescription drug benefit" means coverage to purchase a thirty-day or less supply of generic prescription drugs from a retail pharmacy.

(iv) "Primary care provider services" means non-emergency medical care services provided in an office setting by the employee's primary care provider.

(e) Dental care plans. In addition to the health plan information required for each dental care plan, the annual maximum benefit for each dental care plan must be stated in the report. Most dental care plans have an annual dollar maximum benefit. This is the maximum dollar amount a dental care plan will pay toward the cost of dental care services within a specific benefit period, generally one year. The enrolled employee is personally responsible for paying costs above the annual maximum.

(f) **Examples.**

(i) Assume the following facts for the following examples. Mosaic Aerospace employs one hundred employees and offers two medical care plans as health benefits to employees at the time of hire. Plan A is a managed care plan (HMO). Plan B is a fee for service medical care plan.

(A) Forty Mosaic Aerospace employees are enrolled in Plan A. It costs Mosaic Aerospace \$750 a month for each employee covered by Plan A. Enrolled employees must pay \$150 each month to participate in Plan A. If an enrolled employee uses its network of physicians, Plan A will cover 100% of the cost of primary care provider services with employees paying a \$10.00 copayment per visit. If an enrolled employee uses its network of hospitals, Plan A will cover 100% of the cost of hospital services with employees paying a \$200 deductible. If an enrolled employee does not use a network provider, Plan A will cover only 50% of the cost of any service with a \$500 employee deductible. An enrolled employee must use a network of retail pharmacies to receive any prescription drug benefit. Plan A will cover the cost of prescription drugs with enrolled employees paying a \$10.00 copayment. If an enrolled employee uses the mail-order pharmacy option offered by Plan A, copayment for prescription drug benefits is not required.

Mosaic Aerospace will report Plan A separately as a managed care plan. One hundred percent of its employees are eligible to participate in Plan A. The percentage of eligible employees enrolled in Plan A is 40%. The percentage of premium paid by an employee is 20%. Mosaic Aerospace will also report that employees have a \$10.00 copayment for primary care provider services and a \$200 deductible for hospital services because this is the lowest cost option within Plan A. Mosaic Aerospace will report that employees have a \$10.00 copayment for prescription drug benefit. Mosaic Aerospace cannot report that employees do not have a prescription drug benefit copayment because "prescription drug benefit" is defined as coverage to purchase a thirty-day or less supply of generic prescription drugs from a retail pharmacy, not a mail-order pharmacy.

(B) Fifty Mosaic Aerospace employees are enrolled in Plan B. It costs Mosaic Aerospace \$1,000 a month for each employee covered by Plan B. Enrolled employees must pay \$300 a month to participate in Plan B. Plan B covers 100% of the cost of primary care provider services and 100% of the cost of prescription drugs with employees paying a \$200 annual deductible for each covered service. Plan B covers 80% of the cost of hospital services with employees paying a \$250 annual deductible.

Mosaic Aerospace will report Plan B separately as a fee for service medical care plan. One hundred percent of its employees are eligible to participate in Plan B. The percentage of eligible employees enrolled in Plan B is 50%. The percentage of premium paid by an employee is 30%. Mosaic Aerospace will also report that employees have a \$200 annual deductible for both primary care provider services and prescription drug benefits. Hospital services have a \$250 annual deductible and 20% co-insurance obligation.

(C) On December 1st, Mosaic Aerospace acquires General Aircraft Inc., a company claiming all the tax adjustments available for manufacturers and processors for hire of com-

mercial airplanes and component parts. General Aircraft Inc. had fifty employees, all of whom were retained by Mosaic Aerospace. At General Aircraft Inc., employees were offered one managed care plan (HMO) as a benefit. The former General Aircraft Inc. employees will retain their current managed care plan until the following June when employees would be offered Mosaic Aerospace benefits. On December 31st, Mosaic Aerospace is offering employees two managed care plans. Mosaic Aerospace may report each managed care plan separately or may consolidate the detail required in (c) through (e) of this subsection for this type of medical care plan by using ranges to report the information.

(ii) Aero Turbines employs one hundred employees. It offers employees health savings accounts as a benefit to employees who have worked for the company for six months. Aero Turbines established the employee health savings accounts with a local bank and makes available to employees a high deductible medical care plan to be used in conjunction with the account. Aero Turbines deposits \$500 a month into each employee's health savings account. Employees deposit a portion of their pretax earnings into a health savings account to cover the cost of primary care provider services, prescription drug purchases, and the high deductible medical care plan for hospital services. The high deductible medical care plan has an annual deductible of \$2,000 and covers 75% of the cost of hospital services. Sixty-six employees open health savings accounts. Four employees have not worked for Aero Turbines for six months.

Aero Turbines will report the medical care plan as a health savings account. Ninety-six percent of employees are eligible to participate in health savings accounts. The percentage of eligible employees enrolled in health savings accounts is 68.8%. Because the amount of employee deposits into their health savings accounts will vary, Aero Turbines will report the average monthly contribution of \$500 rather than the percentage of premium paid by enrolled employees. Because employees are responsible for covering their primary care provider services and prescription drugs costs, Aero Turbines will report that this health plan does not include these services. Because the high deductible medical care plan covers the costs of hospital services, Aero Turbines will report that the medical care plan has an annual deductible of \$2,000 and employees have 25% co-insurance obligation.

(14) What are employer-provided retirement benefits? For purposes of the annual report, "retirement benefits" mean compensation, not paid as wages, in the form of a retirement plan offered by an employer to its employees. A "retirement plan" means any plan, account, deposit, annuity, or benefit, other than a life insurance policy, that provides for retirement income or deferred income to employees for periods extending to the termination of employment or beyond. Retirement plans include pensions, annuities, stock bonus plans, employee stock ownership plans, profit sharing plans, self-employed retirement plans, individual retirement accounts, individual retirement annuities, and retirement bonds, as well as any other plan or program, without regard to its source of funding, and without regard to whether the retirement plan is a qualified plan meeting the guidelines established in the Employee Retirement Income Security Act of 1974 (ERISA) and the Internal Revenue Code. A retire-

ment plan that is equally available to employees and the general public is not an "employer-provided" retirement benefit.

(15) How are employer-provided retirement benefits detailed in the annual report? The annual report is organized by SOC major group and by type of retirement plans offered to employees or with enrolled employees on December 31st of the calendar year for which an applicable tax adjustment is claimed. Inactive or terminated retirement plans are excluded from the annual report. An inactive retirement plan is a plan that is not offered to new employees, but has enrolled employees, and neither enrolled employees nor the employer are making contributions to the retirement plan.

(a) Detail by SOC major group. For each SOC major group, report the number of employees, as a percentage of total employment in the SOC major group, eligible to participate in an employer-provided retirement plan. An employee is "eligible" if the employee can currently participate in a retirement plan provided by the employer. Waiting periods, tenure requirements, minimum work hour requirements, and other limitations may prevent an employee from being eligible for coverage in an employer's retirement plan. If an employer provides multiple retirement plans, an employee is "eligible" if the employee can currently participate in one of the retirement plans. Percentages should be rounded to the nearest 1/10th of 1% (XX.X%).

(b) Examples.

(i) Lincoln Airplane has one hundred employees classified as SOC Production Occupations. Fifty employees were enrolled in defined benefit pension at the time of hire. All employees are eligible to participate in a 401(k) Plan. For SOC Production Occupations, Lincoln Airplane will report 100% of its employees are eligible for employer-provided retirement benefits because all of its employees are eligible for at least one retirement plan offered by Lincoln Airplane.

(ii) Fly-Rite Airplanes has fifty employees classified in SOC Computer and Mathematical Occupations. Fly-Rite Airplane offers a SIMPLE IRA to its employees after working for the company one year. Forty-five employees classified in SOC Computer and Mathematical Occupations have worked for the company more than one year. For SOC Computer and Mathematical Occupations, Fly-Rite Airplanes will report 90% of its employees are eligible for retirement benefits.

(c) Detail by retirement plan. The report also requires detailed information about the types of retirement plans an employer offers employees. If an employer offers multiple retirement plans, it must report each type of retirement plan separately. If an employer offers more than one of the same type of retirement plan, but with different levels of employer contributions, it may consolidate the detail required in (i) through (iv) of this subsection by using ranges to describe the information. The report includes:

(i) The type of plan in general terms such as 401(k) Plan, SEP IRA, SIMPLE IRA, cash balance pension, or defined benefit plan.

(ii) The number of employees eligible to participate in the retirement plan, as a percentage of total employment at the manufacturing site, or as otherwise reported. Percentages should be rounded to the nearest 1/10th of 1% (XX.X%).

(iii) The number of employees enrolled in the retirement plan, as a percentage of employees eligible to participate in

the retirement plan at the manufacturing site. An employee is "enrolled" if the employee currently participates in an employer-provided retirement plan, regardless of whether the employee has a vested benefit. Percentages should be rounded to the nearest 1/10th of 1% (XX.X%).

(iv) The maximum benefit the employer will contribute into the retirement plan for enrolled employees. The maximum benefit an employer will contribute is generally stated as a percentage of salary, specific dollar amount, or both. This information is not required for a defined benefit plan meeting the qualification requirements of Employee Retirement Income Security Act (ERISA) that provides benefits according to a flat benefit, career-average, or final pay formula.

(d) Examples.

(i) General Airspace is a manufacturer of airplane components located in Centralia, WA. General Airspace employs one hundred employees. Fifty employees are eligible for and enrolled in a defined benefit pension with a flat benefit at the time of retirement. Twenty-five employees are eligible for and enrolled in a cash balance pension with General Airspace contributing 7% of an employee's annual compensation with a maximum annual contribution of \$10,000. All General Airspace employees can participate in a 401(k) Plan. Sixty-five employees are participating in the 401(k) Plan. General Airspace does not make any contributions into the 401(k) Plan. Five employees are former employees of United Skyways, a company General Airspace acquired. United Skyways employees were enrolled in a cash balance pension at the time of hire. When General Airspace acquired United Skyways, it did not terminate or liquidate the United Skyways cash balance plan. Rather, General Airspace maintains cash balance plan only for former United Skyways employees, allowing only interest to accrue to the plan.

(A) General Airspace will report that it offers three retirement plans - A defined benefit pension, a cash-balance pension, and a 401(k) Plan. General Airspace will not report the inactive cash balance pension it maintains for former United Skyways employees.

(B) For the defined benefit pension, General Airspace will report 50% of its total employment positions are eligible to participate. Of the employment positions eligible to participate, 100% are enrolled.

(C) For the cash-balance pension, General Airspace will report 25% of its total employment positions are eligible to participate. Of the employment positions eligible to participate, 100% are enrolled. General Airspace will report a maximum contribution of \$10,000 or 7% of an employee's annual compensation.

(D) For the 401(k) Plan, General Airspace will report 100% of its total employment positions are eligible to participate in the retirement plan. Of the employment positions eligible to participate, 65% are enrolled. General Airspace will report that it does not make any contributions into the 401(k) Plan.

(ii) Washington Alloys is an aluminum smelter located in Grandview, WA. Washington Alloys employs two hundred employees. Washington Alloys offers a 401(k) Plan to its employees after one year of hire. One hundred seventy-five employees have worked for Washington Alloys for one

year or more. Of that amount, seventy-five have worked more than five years. Washington Alloys will match employee contributions up to a maximum 3% of annual compensation. If an employee has worked for Washington Alloys for more than five years, Washington Alloys will contribute 5% of annual compensation regardless of the employee's contribution. One hundred employees receive a 3% matching contribution from Washington Alloys. Fifty employees receive a contribution of 5% of annual compensation.

(A) Washington Alloys can report each 401(k) Plan separately - A 401(k) Plan with a maximum employer contribution of 3% of annual compensation and a 401(k) Plan with a maximum employer contribution to 5% of annual compensation. Alternatively, Washington Alloys can report that it offers a 401(k) Plan with a maximum employer contribution ranging from 3% to 5% of annual compensation.

(B)(I) If Washington Alloys reports each 401(k) Plan separately, for the 401(k) Plan with a maximum employer contribution of 3% of annual compensation, Washington Alloys will report 50% of its total employment positions are eligible to participate. Of the employment positions eligible to participate, 100% are enrolled.

For the 401(k) Plan with a maximum employer contribution of 5% of annual compensation, Washington Alloys will report 37.5% of its total employment positions are eligible to participate. Of the employment positions eligible to participate, 66.6% are enrolled.

(II) If Washington Alloys consolidates its detailed information about its 401(k) Plans, it will report that 87.5% of its total employment positions are eligible to participate in 401(k) Plans. Of the employment positions eligible to participate in the 401(k) Plans, 85.7% are enrolled.

(16) Additional reporting for aluminum smelters and electrolytic processing businesses. For an aluminum smelter or electrolytic processing business, the annual report must indicate the quantity of product produced in this state during the time period covered by the report.

(17) Are annual reports confidential? Except for the additional information that the department may request which it deems necessary to measure the results of, or to determine eligibility for the tax preference, annual reports are not subject to the confidentiality provisions of RCW 82.32.330 and may be disclosed to the public upon request.

(18) What are the consequences for failing to file a complete annual report?

(a) If a person claims a tax adjustment that requires an annual report under this ~~((section))~~ rule but fails to submit a complete report by the due date or any extension under RCW 82.32.590 the amount of the tax adjustment claimed for the previous calendar year becomes immediately due and payable. Interest, but not penalties, will be assessed on these amounts due. The interest will be assessed at the rate provided for delinquent taxes provided for in RCW 82.32.050, retroactively to the date the tax preference was claimed, and accrues until the taxes for which the tax preference was claimed are repaid.

(b) **Complete annual report.** An annual report is complete if:

(i) The annual report is filed on the form required by this ~~((section))~~ rule; and

(ii) The person makes a good faith effort to substantially respond to all report questions required by this ~~((section))~~ rule.

The answer "varied," "various," or "please contact for information" is not a good faith response to a question.

(c) **Extension for circumstances beyond the control of the taxpayer.** If the department finds that the failure of a taxpayer to file an annual report by the due date was the result of circumstances beyond the control of the taxpayer, the department will extend the time for filing the report. The extension will be for a period of thirty days from the date the department issues its written notification to the taxpayer that it qualifies for an extension under this ~~((section))~~ rule. The department may grant additional extensions as it deems proper.

In making a determination whether the failure of a taxpayer to file an annual report by the due date was the result of circumstances beyond the control of the taxpayer, the department will apply the provisions adopted by the department in WAC 458-20-228 for the waiver or cancellation of penalties when the underpayment of untimely payment of any tax was due to circumstances beyond the control of the taxpayer.

(d) **One-time only extension.** A taxpayer who fails to file an annual report required under this ~~((section))~~ rule by the due date of the report is entitled to an extension of the due date. A request for an extension under this subsection must be made in writing to the department.

(i) To qualify for an extension, a taxpayer must have filed all annual reports and surveys, if any, due in prior years by their respective due dates, beginning with annual reports and surveys due in the calendar year 2010.

(ii) An extension is for ninety days from the original due date of the annual report.

(iii) No taxpayer may be granted more than one ninety-day extension.

AMENDATORY SECTION (Amending WSR 08-01-017, filed 12/7/07, effective 1/7/08)

WAC 458-20-277 Certified service providers—Compensation. (1) **Introduction.** This ~~((section))~~ rule explains compensation paid to certified service providers (CSPs) as defined in ~~((Substitute Senate Bill No. 5089 (SSB 5089), chapter 6, Laws of 2007 and))~~ RCW 82.58.080. The ~~((section))~~ rule also lists rights and responsibilities applicable to these CSPs when collecting and remitting retail sales and use taxes in Washington. ~~((On March 22, 2007, Washington enacted SSB 5089, a legislative package that brings Washington's sales and use tax laws into conformity with the streamlined sales and use tax agreement (SSUTA). For more information concerning the SSUTA, visit <http://www.streamlinedsalestax.org>.)~~ Washington became a full member state on July 1, 2008. See SSB 5089 (chapter 6, Laws of 2007). The web sites referenced in this ~~((section))~~ rule are not maintained by Washington or the department of revenue (department). These referenced web sites may contain recommendations that require a change to Washington law prior to becoming effective in Washington.

(2) **CSP compensation for volunteer sellers.**

(a) **What is a CSP?** A CSP is an agent of the seller certified under the SSUTA to perform all of a seller's retail sales

and use tax functions, other than the seller's obligation to remit retail sales and use tax on its own purchases. For more information concerning CSP certification or a list of current CSPs, visit the SSUTA web site located at: <http://www.streamlinedsalestax.org>.

(b) **What is a volunteer seller?** A volunteer seller is any seller that has selected a CSP, as agent, to perform all of that seller's retail sales and use tax functions, other than the obligation to remit retail sales and use tax on the seller's own purchases and who has voluntarily registered through the SSUTA central registration system (CRS) in accordance with the terms of the CSP contract (CSP contract). The CSP contract is the agreement executed between each CSP and the streamlined sales tax governing board under which CSPs perform services in SSUTA associate and member states.

(c) **What are member states and associate member states?** Member states are those states that have petitioned and been granted full membership under the SSUTA. Associate member states are those states that have petitioned and been designated associate member status under the SSUTA. Washington became an associate member state on July 1, 2007. Washington has been granted full membership status as of July 1, 2008. For a list of the current member and associate member states, visit the SSUTA web site at: <http://www.streamlinedsalestax.org>.

(d) **What are monetary allowances?** As a condition of becoming an associate member and member state, Washington has agreed to permit CSPs to act as agents for sellers in collecting and remitting sales and use taxes in Washington. Washington has agreed to provide monetary allowances to CSPs acting as agents for volunteer sellers. A CSP will obtain these monetary allowances by retaining a portion of the Washington retail sales and use tax they collect. However, monetary allowances will not reduce the retail sales and use taxes collected for and remitted to local taxing jurisdictions. The calculation of these monetary allowances is discussed in subsection (3) of this ((section)) rule.

(e) **What is a certified automated system (CAS)?** A certified automated system is software certified by Washington under the SSUTA: To calculate the sales and use tax imposed by each taxing jurisdiction on a transaction; to determine the amount of tax to remit; and to maintain a record of the transaction.

(3) **How are monetary allowances calculated?** The formula for determining monetary allowances is set forth in the CSP contract. This monetary allowance is the CSP's sole form of compensation with respect to volunteer sellers during the term of the CSP contract and is the same with respect to all CSPs.

This monetary allowance is calculated by using the following formula: (The combined volume of taxes due to all member and associate member states from a volunteer seller in such capacity) multiplied by (the applicable base rate). Simply stated, the formula is (combined collected taxes) x (base rate). Affiliated volunteer sellers will be treated as a single volunteer seller if they are related persons under 267(b) or 707(b) of the United States Internal Revenue Code. The base rate resets annually. Table A below sets forth the schedule for "combined collected taxes" and the applicable "base rate":

Table A

Combined Collected Taxes:			Base Rate:
\$0.00	-	\$250,000	8%
\$250,000.01	-	\$1,000,000	7%
\$1,000,000.01	-	\$2,500,000	6%
\$2,500,000.01	-	\$5,000,000	5%
\$5,000,000.01	-	\$10,000,000	4%
\$10,000,000.01	-	\$25,000,000	3%
Over \$25,000,000.01			2%

(a) **Can volunteer sellers lose volunteer seller status?** Volunteer seller status ceases when the seller conducts activities in Washington that would require the seller to legally register in Washington as described in the CSP contract.

(b) **Seller statements.** Each volunteer seller must periodically send written statements (statement) to the CSP verifying that the seller continues to qualify as a volunteer seller in Washington. The volunteer seller must send the first statement twenty-four consecutive months from the date on which the CSP began remitting sales and use taxes for the volunteer seller in Washington. Subsequently, volunteer sellers will send a statement every twelve consecutive months thereafter. A CSP may request a statement verifying a seller's volunteer seller status at any time. The CSP must notify the department when a seller loses volunteer seller status and this notification must be sent no later than ten business days after receipt of a seller's statement indicating the seller is no longer a volunteer seller. Notice to the department must be provided consistent with the notice provisions contained in the CSP contract. Entitlement to monetary allowances will be terminated after a seller sends a statement that the seller is no longer a volunteer seller.

(c) **When will monetary allowances terminate?** A CSP is entitled to retain monetary allowances granted prior to receiving a statement indicating that the seller has lost volunteer seller status. However, entitlement to monetary allowances will end on the first day of the month following receipt of such statement. Regardless, a CSP will be entitled to monetary allowances for services performed under this ((section)) rule with respect to a volunteer seller for a period of twenty-four months (beginning on the date the CSP commenced remitting sales and use taxes for the volunteer seller in Washington and ending twenty-four consecutive months later).

(4) **CSP rights and responsibilities.**

(a) **Responsibility for retail sales and use taxes.** A CSP is liable to the member states and associate member states for the retail sales and use taxes on the sales transactions that it processes.

If the CSP does not remit the collected retail sales and use taxes when due, those taxes are delinquent. Washington may send a notice of delinquency to a CSP for these delinquent taxes. The CSP must then remit the delinquent taxes within ten business days of that notification. If the CSP does not remit the delinquent taxes within those ten business days, the CSP is not entitled to monetary allowances with respect to the delinquent taxes and is liable for the payment of the taxes

along with penalties and interest. However, if the taxes are delinquent because a seller has not remitted part or all of the delinquent taxes to the CSP, the CSP will be given relief if it properly notifies the department. In order to obtain this relief, the CSP must notify the department of the seller's failure to remit the retail sales and use taxes to the CSP within ten business days of the date on which those delinquent taxes should have been remitted to the department. Notice by the CSP under this subsection must be provided consistent with the notice provisions contained in the CSP contract.

(b) CSP liability relief. The department is responsible for maintaining the state's taxability matrix.

(i) A CSP is not liable for charging or collecting the incorrect amount of sales or use tax where that error results from reliance on incorrect data provided in the department's taxability matrix, or from tax rates, boundaries, and taxing jurisdiction assignments listed in Washington's rates and boundaries data bases.

(ii) Beginning July 1, 2015, if the taxability matrix is amended, sellers and certified service providers are relieved from liability to the state and to local jurisdictions to the extent that the seller or certified service provider relied on the immediately preceding version of the state's taxability matrix. Relief under this subsection (4)(b) of this rule is available until the first day of the calendar month that is at least thirty days after the department submits notice of a change to the state's taxability matrix to the streamlined sales tax governing board.

(iii) To obtain a copy of the taxability matrix, visit the SSUTA web site located at: (~~http://www.streamlinedsales tax.org~~) streamlinedsalestax.org. Additionally, CSPs will be held harmless and not liable for sales and use taxes, interest, and penalties on those taxes not collected due to reliance on Washington's certification of the CSP's CAS. Pursuant to RCW 82.58.080, sellers that contract with a CSP are not liable to Washington for sales or use tax due on transactions processed by the certified service provider unless the seller misrepresents the type of items it sells or commits fraud.

(c) Seller's contract with the CSP. A CSP must provide the department with a copy of its agreement with contracting sellers if requested.

(d) Credits or refunds with respect to bad debt. A CSP may, on the behalf of a seller, claim credits or refunds for sales taxes paid on bad debts. Bad debts have the same meaning provided in 26 U.S.C. Section 166, as amended in 2003. Bad debts do not include expenses incurred in collecting bad debts; repossessed property; and amounts due on property in the possession of the seller until the full purchase price has been paid. See (~~section 103, SSB 5089~~) RCW 82.08.037, 82.12.037, and WAC 458-20-196 for more information regarding bad debts.

(e) Retention of personally identifiable consumer information. With limited exceptions, CSPs must perform their services without retaining personally identifiable consumer information. A CSP may retain personally identifiable consumer information only as long as it is needed to ensure the validity of tax exemptions or to show the intended use of the goods or services purchased. See (~~section 601, SSB 5089~~) RCW 82.32.735 for more information regarding personally identifiable consumer information.

(f) Filing of tax returns and remittance of retail sales and use taxes. CSP will file retail sales and use excise tax returns using Washington's electronic filing system (E-file). CSPs will remit retail sales and use taxes due with respect to these returns using ACH Debit, ACH Credit, or the Fedwire Funds Transfer System.

AMENDATORY SECTION (Amending WSR 08-22-048, filed 10/31/08, effective 12/1/08)

WAC 458-20-27701 Model 2 volunteer sellers— Compensation. (1) **Introduction.** As a requirement of membership in the Streamlined Sales and Use Tax Agreement (SSUTA), Washington has agreed to provide compensation to model 2 volunteer sellers collecting and remitting retail sales and use taxes in Washington. For more information concerning the SSUTA, visit (~~http://www.streamlinedsales tax.org~~) streamlinedsalestax.org. This (~~section~~) rule explains who qualifies as a model 2 volunteer seller and the compensation available to such sellers as authorized under RCW 82.32.715.

The web site referenced in this (~~section~~) rule is not maintained by Washington or the department of revenue (department). This referenced web site may contain recommendations that require a change to Washington law before becoming effective in Washington. The web site is current as of the date of adoption of this (~~section~~) rule, but may change in future periods by action of the owner of the web site without notice.

(2) **Model 2 volunteer sellers.** This subsection discusses the qualifications for status as a model 2 seller and a model 2 volunteer seller. Only those model 2 sellers qualifying as model 2 volunteer sellers are eligible to receive compensation for remitting sales and use taxes to Washington under subsection (3) of this (~~section~~) rule. A taxpayer that qualifies as a model 2 volunteer seller under this subsection will be referred to as a "qualified seller."

(a) What is a model 2 seller? You will qualify as a model 2 seller if you meet all of the following conditions:

(i) You use a certified automated system to perform part of your sales and use tax functions. (See (f) of this subsection for a definition of certified automated system); and

(ii) You retain the responsibility for remitting your sales and use taxes to Washington.

(b) What is a model 2 volunteer seller? If you are a model 2 seller under (a) of this subsection, you will be a model 2 volunteer seller if you are registered through the SSUTA central registration system (CRS) as a model 2 seller and you meet the following additional conditions:

(i) You have represented that you do not have a legal requirement to register and do not in fact have a legal requirement to register in Washington at the time you register with the CRS, regardless of any previous registration you may have made in Washington; or

(ii) You register with Washington through the CRS after November 12, 2002, and you meet all of the following requirements immediately before the date of your registration with Washington through the CRS (and you do not cease to meet these requirements thereafter pursuant to subsection (3)(d) of this (~~section~~) rule):

(A) You have no fixed place of business in Washington for more than thirty days;

(B) You have less than fifty thousand dollars of property in Washington;

(C) You have less than fifty thousand dollars of payroll in Washington; and

(D) You have less than twenty-five percent of your total property or payroll in Washington.

If you have registered in Washington because you had a legal requirement to register resulting from an administrative, legislative, or judicial action before October 1, 2005, you cannot be a model 2 volunteer seller under this subsection.

(c) If I am a qualified seller, do I still need to register with the department for Washington state tax purposes under RCW 82.32.030(1)? Your status as a qualified seller does not impact your requirement to register with the department. If you meet the conditions for registration with the department under RCW 82.32.030, you must register with the department.

(d) What is property for purposes of (b) of this subsection and how is it valued? Property refers to the "average value" of the real property and tangible personal property that you own and rent. You will value owned property at its original cost basis. Rented property will be valued at eight times the net annual rental rate of that property. The net annual rental rate is the annual rental rate paid by you less any annual rental rates you receive from subrentals.

You must determine the "average value" of this property by averaging the value of property at the beginning of the twelve-month period immediately before the date you register with Washington with the value of property at the end of the twelve-month period immediately before you register with Washington.

(e) What is payroll for purposes of (b) of this subsection? Payroll is the total amount paid by you for compensation during the twelve-month period immediately (~~preceding~~) preceding the date you register with Washington. Compensation means wages, salaries, commissions, and any other form of payment to employees or similar persons that meet the definition of gross income under section 61 of the Internal Revenue Code in effect on the effective date of this ((~~section~~)) rule.

Compensation is deemed to be payroll in Washington if:

(i) The employee's service is performed entirely within Washington;

(ii) The employee's service is performed both within and outside Washington, and the performance of services outside Washington is merely incidental to the services performed within Washington;

(iii) The employee performs some services within Washington, and the base of operations or the place from which the services are directed or controlled is within Washington; or

(iv) The employee performs some services within Washington, and the base of operations or place from which the services are directed or controlled is not within any state (where some part of the services are performed), but the employee's residence is within Washington.

(f) What is a certified automated system for purposes of this ((~~section~~)) rule? A certified automated system is software certified by Washington under the SSUTA: To calculate the sales and use tax imposed by each taxing jurisdiction on a transaction; to determine the amount of tax to remit; and to maintain a record of the transaction.

(3) Qualified seller compensation. This subsection explains compensation available to qualified sellers.

(a) What type of compensation is available to qualified sellers? If you are a qualified seller, you are eligible to receive monetary allowances from Washington under this subsection and this is in addition to any existing discount afforded by each member state. (~~For~~) You may view a list of SSUTA member and associate member states (~~visit~~ <http://www.streamlinedsalestax.org>) at streamlinedsales tax.org. You obtain these monetary allowances from Washington by retaining a portion of the Washington state retail sales and use taxes you collect and report to Washington. You are not entitled to monetary allowances unless you are a qualified seller and have filed and paid a timely return.

(b) How long are qualified sellers permitted to receive monetary allowances? If you install a certified automated system on or after July 1, 2007, you are eligible to receive monetary allowances under this subsection for a period up to twenty-four months from the date that you install your certified automated system.

(c) How do qualified sellers calculate their monetary allowances? You will calculate your monetary allowance under the following formula:

(Applicable rate) multiplied by (Washington retail sales and use taxes you collect and report).

The applicable rate for this formula is one and one-half percent. Your total monetary allowance for the first twelve months of the twenty-four month period described in (b) of this subsection cannot exceed ten thousand dollars. Your total monetary allowance for the second twelve months of the twenty-four month period described in (b) of this subsection cannot exceed ten thousand dollars. For purposes of determining when each ten thousand dollar limit is reached, affiliated qualified sellers must be treated as a single qualified seller if they would qualify as "related persons" under sections 267(b) or 707(b) of the Internal Revenue Code in effect on the effective date of this ((~~section~~)) rule.

You may not retain monetary allowances under this subsection based on any sales taxes determined or calculated without the use of a certified automated system. Moreover, you may not retain monetary allowances under this subsection based on any sales taxes determined or calculated with a certified automated system that you have failed to update or modify in accordance with your agreement with your certified automated system provider. It is your duty to make sure all updates and modifications to your certified automated system are properly implemented.

(d) Can a qualified seller continue to receive monetary allowances if it ceases to be a qualified seller? No. If you cease to be a qualified seller, you are not entitled to monetary allowances. If you cease to be a qualified seller during any part of a calendar month, you will not be entitled to monetary allowances for that entire month. You will cease to be a

qualified seller if you conduct activities in Washington that would require you to register in Washington and as a result of these activities fail to meet one or more of the requirements of subsection (2)(b)(ii)(A) through (D) of this ((section)) rule. The meanings given to property and payroll in subsection (2)(d) and (e) of this ((section)) rule apply for purposes of this subsection (3)(d). However, you must determine the "average value" of property and the amount of payroll under this subsection (3)(d) as follows:

(i) You must determine the "average value" of property by averaging the values at the beginning and end of your last fiscal year that terminates at least thirty days before the date the determination is made.

(ii) You must determine payroll, by calculating the total amount of compensation paid to employees during your last fiscal year that terminates at least thirty days before the date the determination is made.

(e) **Are monetary allowances funded from both Washington state and local retail sales and use taxes?** No, monetary allowances will only be funded from the Washington state portion of the retail sales and use taxes that you collect and must remit.

(4) **Do qualified sellers have any liability protections when operating in Washington?** You are not liable for charging or collecting the incorrect amount of sales or use tax when that error results from reliance on incorrect data provided in the ((department's)) state's taxability matrix.

(a) Beginning July 1, 2015, if the taxability matrix is amended, sellers and certified service providers are relieved from liability to the state and to local jurisdictions to the extent that the seller or certified service provider relied on the immediately preceding version of the state's taxability matrix. Relief under this subsection (4)(a) of this rule is available until the first day of the calendar month that is at least thirty days after the department submits notice of a change to the state's taxability matrix to the streamlined sales tax governing board. To obtain a copy of the taxability matrix, visit the SSUTA web site located at: ((<http://www.streamlinedsalestax.org>)) [streamlinedsalestax.org](http://www.streamlinedsalestax.org).

(b) Additionally, you will be held harmless and not liable for sales and use taxes, including interest and penalties on those taxes, not collected due to reliance on Washington's certification of the certified automated system you use. However, you will not be held harmless for the incorrect classification of an item or transaction into a product based exemption certified by the department unless that item or transaction is listed within a product definition approved by the SSUTA's governing board or the department. See also RCW 82.32.745.

(5) **Filing returns and remitting taxes.** Qualified sellers must electronically file retail sales and use excise tax returns and must remit retail sales and use taxes due with respect to these returns using ACH Debit, ACH Credit, or the Fed Wire Funds Transfer System.

WSR 16-06-041
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Children's Administration)

[Filed February 24, 2016, 8:53 a.m., effective March 26, 2016]

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

Purpose: Chapter 388-06 WAC, Background check requirements for children's administration, was changed on February 15, 2015, to chapter 388-06A WAC. This change needs to be reflected in the division of licensed resources (DLR) WAC. The following DLR WAC will replace references to chapter 388-06 WAC with references to chapter 388-06A WAC: WAC 388-145-1325(2) What is required to apply for a group care facility license?, WAC 388-145-1400(1) Can employees, volunteers and subcontractors be disqualified from having access to the children in my facility?, 388-147-1325(2) What is required to apply for a child placing agency license?, 388-147-1420(1) Can employees, volunteers and subcontractors be disqualified from having access to the children in my agency?, and 388-148-1635(1) Can people living in my home be disqualified from having access to the children in my care?

Citation of Existing Rules Affected by this Order: Amending WAC 388-145-1325(2), 388-145-1400(1), 388-147-1325(2), 388-147-1420(1), and 388-148-1635(1).

Statutory Authority for Adoption: RCW 74.15.010, 74.15.030, 74.15.040, 74.15.090, 74.13.031.

Adopted under notice filed as WSR 16-01-084 on December 15, 2015.

A final cost-benefit analysis is available by contacting Kristina Wright, 1115 Washington Street S.E., Olympia, WA 98504-5710, phone (360) 902-8349, fax (360) 902-7903, e-mail wrightks@dshs.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 5, Repealed 0.

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 5, Repealed 0.

Date Adopted: February 23, 2016.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 15-01-069, filed 12/11/14, effective 1/11/15)

WAC 388-145-1325 What is required to apply for a group care facility license? (1) You, the person responsible

for the license, must submit a completed application which is available from the division of licensed resources, children's administration.

(2) You must submit the following for your executive director, agency staff, consultants, interns, volunteers, and anyone who may have unsupervised access to children per chapter 388-06A WAC:

- (a) Completed background authorization form; and
- (b) FBI fingerprint check if the individual over eighteen years of age has lived out of state during any portion of the previous three years.

(3) You must ensure that no employee, volunteer or subcontractor has unsupervised access to children until a full and satisfactory background check is completed and returned to you, qualifying the individual for unsupervised access. If your employee requires FBI fingerprints, they are allowed to work while awaiting fingerprint results, under the provisions of WAC 388-06-0500 through 388-06-0540.

AMENDATORY SECTION (Amending WSR 15-01-069, filed 12/11/14, effective 1/11/15)

WAC 388-145-1400 Can employees, volunteers and subcontractors be disqualified from having access to the children in my facility? (1) The department must disqualify employees, volunteers or subcontractors if they do not meet the regulations of chapter 388-145 WAC, or cannot have unsupervised access to children because of their background check as outlined in chapter 388-06A WAC.

(2) We will notify you if a person in your facility is disqualified from having unsupervised access to children. This could also lead to denial, suspension or revocation of your license.

AMENDATORY SECTION (Amending WSR 15-01-069, filed 12/11/14, effective 1/11/15)

WAC 388-147-1325 What is required to apply for a child placing agency license? (1) You must submit a completed application which is available from the division of licensed resources; and

(2) You, your executive director, agency staff, consultants, interns, volunteers, and anyone who may have unsupervised access to children per chapter 388-06A WAC are required to:

- (a) Submit a completed background authorization form;
- (b) Complete an FBI fingerprint check if the individual over eighteen years of age has lived out of state during any portion of the previous three years; and

(c) Ensure that no employee, volunteer or subcontractor has unsupervised access to children until a full and satisfactory background check is completed and documentation qualifying the individual for unsupervised access, has been returned to you. Your employees are allowed to work while awaiting fingerprint results, under the provisions of WAC 388-06-0500 through 388-06-0540.

AMENDATORY SECTION (Amending WSR 15-01-069, filed 12/11/14, effective 1/11/15)

WAC 388-147-1420 Can employees, volunteers and subcontractors be disqualified from having access to the children in my agency? (1) The department must disqualify employees, volunteers or subcontractors if they do not meet the regulations of chapter 388-147 WAC or cannot have unsupervised access to children because of their background check as outlined in chapter 388-06A WAC.

(2) We will notify you if a person in your agency is disqualified from having unsupervised access to children. This could also lead to denial, suspension or revocation of your license.

AMENDATORY SECTION (Amending WSR 15-01-069, filed 12/11/14, effective 1/11/15)

WAC 388-148-1635 Can people living in my home be disqualified from having access to the children in my care? (1) The department must disqualify people living in your home if they do not meet the requirements of chapter 388-148 WAC, or cannot have unsupervised access to children because of their background check (chapter 388-06A WAC).

(2) We will notify you if a person in your home is disqualified from having unsupervised access to children. This could also lead to denial, suspension or revocation of your license.

WSR 16-06-042

PERMANENT RULES

DEPARTMENT OF REVENUE

[Filed February 24, 2016, 9:07 a.m., effective March 26, 2016]

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

Purpose: Updates WAC 458-14-026 and 458-16A-140 to incorporate legislative changes from SSB 5275, 2015 regular session (chapter 86, Laws of 2015).

Citation of Existing Rules Affected by this Order: Amending WAC 458-14-026 and 458-16A-140.

Statutory Authority for Adoption: RCW 84.08.010, 84.08.070, 84.52.0502, and 84.55.010.

Adopted under notice filed as WSR 16-01-012 on December 4, 2015.

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

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making:

New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: February 24, 2016.

Kevin Dixon
Rules Coordinator

AMENDATORY SECTION (Amending WSR 06-13-034, filed 6/14/06, effective 7/15/06)

WAC 458-14-026 Assessment roll corrections agreed to by taxpayer. (1) The assessor must make a correction to the assessment roll for the current assessment year when the correction involves an error in the determination of the valuation of property and the following conditions are met:

(a) The assessment roll has previously been certified in accordance with RCW 84.40.320;

(b) The taxpayer has timely filed a completed petition with the board for the current assessment year;

(c) The board has not yet held a hearing on the merits of the taxpayer's petition; and

(d) The assessor and taxpayer have signed an agreement as to the true and fair value of the taxpayer's property in which agreement the parties set forth the valuation information which was used to establish the true and fair value. The true and fair value must be the value as of January 1 of the year in which the property was last revalued by the assessor (~~according to a revaluation cycle approved by the department. For example, if the county is on a four-year revaluation cycle, and the taxpayer's property was last revalued in 2005, any agreement between the taxpayer and the assessor based on an appeal by the taxpayer in 2007, must use the true and fair value of the taxpayer's property in 2005 as the basis of the agreement. The value thus agreed to will, in this example, only apply to the 2007 assessment year (the assessment year for which the taxpayer timely filed his or her appeal) and thereafter until the taxpayer's property is again revalued in accordance with an approved revaluation cycle).~~).

(2) The assessor must immediately notify the board of any corrections to the assessment roll made in accordance with subsection (1) of this (~~section~~) rule, with a copy of the notification provided to the taxpayer, and the taxpayer's petition shall be deemed withdrawn as of the date of notification to the board.

AMENDATORY SECTION (Amending WSR 13-08-028, filed 3/27/13, effective 4/27/13)

WAC 458-16A-140 Senior citizen, disabled person, and one hundred percent disabled veteran exemption—Exemption described—Exemption granted—Exemption denied—Freezing property values. (1) **Introduction.** This rule explains how county assessors process a claimant's application form for the senior citizen, disabled person, or one hundred percent disabled veteran property tax exemption. The rule describes the exemption and what happens when the exemption is granted or denied by the assessor.

(2) **The exemption described.** This property tax exemption reduces or eliminates property taxes on a senior citizen's, disabled person's, or one hundred percent disabled veteran's principal residence. Except for benefit charges made by a fire

protection district, this exemption does not reduce or exempt an owner's payments for special assessments against the property. Local governments impose special assessments on real property because the real property is specially benefitted by improvements made in that area (e.g., local improvement district assessments for roads or curbs, surface water management fees, diking/drainage fees, weed control fees, etc.). All the property owners in that area share in paying for these improvements. The only exceptions related to this program is for benefit charges made by a fire protection district, a regional fire protection service authority, or by a city or town for enhancement of fire protection services. Fire protection benefit charges are reduced twenty-five, fifty, or seventy-five percent depending upon the combined disposable income of the claimant. RCW 52.18.090, 52.26.270, and 35.13.256.

(a) **Excess levies.** A qualifying claimant receives an exemption from excess levies on his or her principal residence.

(b) **Regular levies.** Depending upon the claimant's combined disposable income, the exemption may also apply to all or a portion of the regular levies on the claimant's principal residence. Both the level of the claimant's combined disposable income and the assessed value of the home determine the amount of the regular levy exempted from property taxes. The exemption applies to all the regular and excess levies when the assessed value of the claimant's principal residence falls below the amount of exempt assessed value identified in RCW 84.36.381 (5)(b) and the claimant's combined disposable income is also below the levels set in that section.

(c) **Property taxes due.** Generally the owner pays the property taxes on the principal residence and obtains directly the benefit of this exemption. If the claimant is not the property's owner, or is not otherwise obligated to pay the property taxes on the principal residence, but "owned" the principal residence for purposes of this exemption, the property owner that owes the tax must reduce any amounts owed to them by the claimant up to the amount of the tax exemption. If the amounts owed by the claimant to this property owner are less than the tax exemption, the owner must pay to the claimant in cash any amount of the tax exemption remaining after this offsetting reduction. RCW 84.36.387(6).

(3) **Processing exemption applications.** County assessors process applications for the senior citizen, disabled person, or one hundred percent disabled veteran exemption. The assessors grant or deny the exemption based upon these completed applications.

(a) **Application review.** The county assessor reviews a completed application and its supporting documents.

The assessor:

(i) Notes on a checklist for the claimant's file the supporting documents received;

(ii) Reviews the supporting documents;

(iii) Records relevant information from the supporting documents into the claimant's file. In particular, the assessor records into the file the claimant's age and a summary of the income information received; and

(iv) After reviewing the supporting documents, must either destroy or return the supporting documents used to verify the claimant's age and income.

(b) **Incomplete applications.** A county assessor may return an incomplete application or a duplicate application. An incomplete application may be missing:

- (i) Signatures;
- (ii) Information upon the form; or
- (iii) Supporting documents.

Upon returning an incomplete application, the assessor should provide the claimant with a dated denial form listing the signatures, information, or documents needed to complete the application. The denial of an incomplete application may be appealed in the same manner as a denial of the exemption.

(c) The assessor may accept any late filings for the exemption even after the taxes have been levied, paid, or become delinquent. An application filed for the exemption in previous years constitutes a claim for a refund under WAC 458-18-210.

(4) **Exemption timing if approved.** Property taxes are reduced or eliminated on the claimant's principal residence for the year following the year the claimant became eligible for the program. When a late application is filed, the exemption may only result in:

- (a) A refund for any paid property taxes that were due within the previous three years; and
- (b) Relief from unpaid property taxes for any previous years.

(5) **Exemption procedure when claim granted.** When the exemption is granted, the county assessor:

- (a) Freezes the assessed value of the principal residence upon the assessment roll;
- (b) Determines the level of exemption the claimant qualifies for;
- (c) Notifies the claimant that the exemption has been granted;
- (d) Notifies the claimant of his or her duty to file timely renewal applications;
- (e) Notifies the claimant of his or her duty to file change of status forms when necessary;
- (f) Notifies the claimant of the need to reapply for the exemption if the claimant moves to a replacement residence;
- (g) Notifies the claimant that has supplied estimated income information whether or not follow-up income information is needed;
- (h) Places the claimant on a notification list for renewal of the exemption;
- (i) Places the claimant on a notification list if supporting documents are needed to confirm estimated income information prior to May 31st of the following year;
- (j) Exempts the residence from all or part of its property taxes; and
- (k) Provides the department with a recomputation of the assessed values for the immediately preceding year as a part of the annual recomputation process.

(6) **Exemption procedure when claim denied.** The assessor denies the exemption when the claimant does not qualify. The assessor provides a dated denial form listing his or her reasons for this denial. A claimant may appeal the exemption's denial to the county board of equalization as provided for in WAC 458-14-056.

(7) **Freezing the property value.** The assessor freezes the assessed value of the principal residence either on the lat-

ter of January 1, 1995, or January 1st of the year when a claimant first qualifies for the exemption. The assessor then tracks both the market value of the principal residence and its frozen value. The assessor provides both the principal residence's market value and its frozen value in the valuation notices sent to the owner.

~~(a) ((Frozen values in counties using a cyclical revaluation plan. In counties using a cyclical revaluation plan, the assessor:~~

~~(i) Revalues the principal residence, for property revalued in that assessment year, before the assessed value is frozen; or~~

~~(ii) Freezes the principal residence's value at the most recent assessed value for property that is not revalued in that assessment year.~~

~~The assessor continues to revalue the principal residence during the regular revaluation cycles to track the market value for the property.~~

~~(b))) Adding on improvement costs.~~ The assessor adds onto the frozen assessed value the cost of any improvements made to the principal residence.

~~((e))) (b) One-year gaps in qualification.~~ If a claimant receiving the exemption fails to qualify for only one year because of high income, the previous frozen property value must be reinstated on January 1st of the following year when the claimant again qualifies for the program.

~~((e))) (c) Moving to a new residence.~~ If an eligible claimant moves, the county assessor freezes the assessed value of the new principal residence on January 1st of the assessment year in which the claimant transfers the exemption to the replacement residence.

WSR 16-06-043

PERMANENT RULES

DEPARTMENT OF REVENUE

[Filed February 24, 2016, 9:18 a.m., effective March 26, 2016]

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

Purpose: Updates WAC 458-18-020 to incorporate legislative changes enacted in the 3rd sp. sess. of 2015, specifically: SSB 5186 (section 3, chapter 30, Laws of 2015).

Citation of Existing Rules Affected by this Order: Amending WAC 458-18-020 Deferral of special assessments and/or property taxes—Qualifications for deferral.

Statutory Authority for Adoption: RCW 84.08.010, 84.08.070, 84.52.0502, and 84.55.010.

Adopted under notice filed as WSR 16-01-142 on December 21, 2015.

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

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

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

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

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

Date Adopted: February 24, 2016.

Kevin Dixon
Rules Coordinator

AMENDATORY SECTION (Amending WSR 08-16-077, filed 7/31/08, effective 8/31/08)

WAC 458-18-020 Deferral of special assessments and/or property taxes—Qualifications for deferral. A person may defer payment of special assessments and/or real property taxes on up to eighty percent of the amount of his equity value in said property if the following conditions are met:

(1) The claimant must have owned, at the time of filing, the residence on which the special assessment and/or real property taxes have been imposed. For purposes of this subsection a residence owned by a marital community, a state registered domestic partnership, or cotenants shall be deemed to be owned by each spouse, each domestic partner, and each cotenant. A claimant who has only a share ownership in cooperative housing, a life estate, a lease for life or a revocable trust does not satisfy the ownership requirement.

(2) If the amount deferred is to exceed one hundred percent of the claimant's equity value in the land or lot only, the claimant must have and keep in force fire and casualty insurance in sufficient amount to protect the interest of the state of Washington and shall designate the state as a loss payee upon said policy. In no case shall the deferred amount exceed the amount of the insured value of the improvement plus the land value.

(3) In the case of special assessment deferral, the claimant must have opted for payment of such special assessments on the installment method if such method was available.

(4) The claimant must meet all requirements for an exemption for the residence under RCW 84.36.381, other than the income requirements, and to the extent eligible, must have first applied for the exemptions under RCW 84.36.381 through 84.36.389 prior to filing a declaration to defer.

(5) The claimant must have a combined disposable income, as defined in RCW 84.36.383, ((of forty thousand dollars or less)) at or below the statutory limit amount provided in RCW 84.38.030.

WSR 16-06-044
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Children's Administration)

[Filed February 24, 2016, 9:18 a.m., effective March 26, 2016]

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

Purpose: In March 2015, fostering connections legislation added a fourth eligibility criterion to the extended foster care WAC allowing youth to be employed more than eighty hours or more per month. The following WAC are being amended to align with federal legislation: WAC 388-25-0502 What is the purpose of the extended foster care program?, 388-25-0504 What is extended foster care?, 388-25-0506 Who is eligible for extended foster care?, 388-25-0516 What if an eligible youth does not want to participate in the extended foster care program?, 388-25-0528 How does a youth agree to participate in the extended foster care program?, 388-25-0540 How does CA determine a youth's continuing eligibility for the extended foster care program?, 388-25-0546 What must the youth do to remain in the extended foster care program?, and 388-25-0548 When is a youth no longer eligible for the extended foster care program?

Citation of Existing Rules Affected by this Order: Amending WAC 388-25-0502, 388-25-0504, 388-25-0506, 388-25-0516, 388-25-0528, 388-25-0540, 388-25-0546, and 388-25-0548.

Statutory Authority for Adoption: RCW 13.34.145, 13.34.267, 74.13.020, 74.13.031, 43.88C.010, 74.13.107, 43.131.416, 13.34.030.

Other Authority: Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351).

Adopted under notice filed as WSR 16-02-105 on January 5, 2016.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 8, Repealed 0.

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 8, Repealed 0.

Date Adopted: February 23, 2016.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 14-13-051, filed 6/12/14, effective 7/13/14)

WAC 388-25-0502 What is the purpose of the extended foster care program? The extended foster care program provides an opportunity for young adults in foster care at age eighteen to voluntarily agree to continue receiving foster care services, including placement services, while the youth completes a secondary or post-secondary academic or vocational program(;;); or participates in a program or activity designed to promote employment or remove barriers to employment; or is engaged in employment for eighty hours or more per month.

AMENDATORY SECTION (Amending WSR 14-13-051, filed 6/12/14, effective 7/13/14)

WAC 388-25-0504 What is extended foster care?

Extended foster care is a program offered to young adults, age eighteen up to twenty-one, who turn eighteen while in foster care, to enable them to:

- (1) ~~((f))~~ Complete a ~~a~~(~~h~~) high school diploma or high school equivalency certificate;
- (2) Complete a post-secondary academic or vocational program;
- (3) Participate in a program or activity designed to promote employment or remove barriers to employment; or
- (4) Be employed for eighty hours or more per month.

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

AMENDATORY SECTION (Amending WSR 14-13-051, filed 6/12/14, effective 7/13/14)

WAC 388-25-0506 Who is eligible for extended foster care? To be eligible for the extended foster care program a youth, on his or her eighteenth birthday, must:

- (1) Be dependent under chapter 13.34 RCW, be placed in foster care (as defined in WAC 388-25-0508) by children's administration, and:
 - (a) Be enrolled (as described in WAC 388-25-0512) in a high school or high school equivalency program; or
 - (b) Be enrolled (as described in WAC 388-25-0512) in a post-secondary academic or vocational education program; or
 - (c) Have applied for and can demonstrate intent to timely enroll in a post-secondary academic or vocational education program (as described in WAC 388-25-0514); or
 - (d) Be participating in a program or activity designed to promote employment or remove barriers to employment; or
 - (e) Be engaged in employment for eighty hours or more per month.
- (2) Have had their dependency dismissed on their eighteenth birthday as the youth did not meet any of the criteria found in subsections (1)(a) through ~~((f))~~ (e) of this section, or did not agree to participate in the program and the youth is requesting to participate in the extended foster care program prior to reaching the age of nineteen. Youth must meet one of the criteria in subsections (1)(a) through ~~((f))~~ (e) when requesting to participate in the extended foster care program.

AMENDATORY SECTION (Amending WSR 14-13-051, filed 6/12/14, effective 7/13/14)

WAC 388-25-0516 What if an eligible youth does not want to participate in the extended foster care program? Participation in extended foster care is voluntary. A youth who does not agree to participate in extended foster may request the court to dismiss his or her dependency case.

Reviser's note: The section above was filed as an amendatory section; however, there were no amendments made. Pursuant to the requirements of RCW 34.08.040 it is published in the same form as filed by the agency.

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

AMENDATORY SECTION (Amending WSR 14-13-051, filed 6/12/14, effective 7/13/14)

WAC 388-25-0528 How does a youth agree to participate in the extended foster care program? (1) An eligible dependent youth can agree to participate by:

- (a) Signing an extended foster care agreement; or
- (b) For developmentally disabled youth, remaining in the foster care placement and continuing in an appropriate educational program.

(2) An eligible nondependent youth can agree to participate by:

- (a) Signing a voluntary placement agreement (VPA) before reaching age nineteen; or
- (b) Establishing a nonminor dependency before reaching age nineteen.

(3) In order to continue receiving extended foster care services after entering into a voluntary placement agreement with the department, the youth must agree to the entry of an order of dependency within one hundred eighty days of the date that the youth is placed in foster care pursuant to a voluntary placement agreement.

AMENDATORY SECTION (Amending WSR 14-13-051, filed 6/12/14, effective 7/13/14)

WAC 388-25-0540 How does CA determine a youth's continuing eligibility for the extended foster care program? At least every six months, children's administration will determine if youth continues to:

- (1) Agree to participate in the extended foster care program.
- (2) Be enrolled in an education program, vocational program, or participating in a program or activity designed to promote employment or remove barriers to employment, employed for eighty hours or more per month, or is transitioning from one status to another.
- (3) Continue to reside in an approved placement.
- (4) Comply with youth's responsibilities in WAC 388-25-0546.

AMENDATORY SECTION (Amending WSR 14-13-051, filed 6/12/14, effective 7/13/14)

WAC 388-25-0546 What must the youth do to remain in the extended foster care program? Unless otherwise authorized by court order the youth must:

- (1) Agree to participate in the program as expressed in the written extended foster care agreement;
- (2) Maintain the standard of eligibility as set by the youth's academic program or employment related program, or employment status;
- (3) Participate in the case plan, including monthly health and safety visits;
- (4) Acknowledge that children's administration (CA) has responsibility for the youth's care and placement by authorizing CA to have access to records related to court-ordered

medical, mental health, drug/alcohol treatment services, educational records needed to determine continuing eligibility for the program, and for additional necessary services; and

(5) Remain in the approved foster care placement and follow placement rules. This means the youth will:

(a) Stay in the placement identified by CA or approved by the court;

(b) Obtain approval from case worker and notify caregiver for extended absences from the placement of more than three days; and

(c) Comply with court orders and any specific rules developed in collaboration by the youth, caregiver and social worker.

AMENDATORY SECTION (Amending WSR 14-13-051, filed 6/12/14, effective 7/13/14)

WAC 388-25-0548 When is a youth no longer eligible for the extended foster care program? A youth is no longer eligible for the extended foster care program and the department will ask the court to dismiss the dependency when the youth:

(1) Graduates from high school or equivalency program, and has not enrolled in, or applied for and demonstrated an intent to timely enroll in a post-secondary academic or vocational program;

(2) Graduates from a post-secondary education or vocational program;

(3) Reaches their twenty-first birthday;

(4) Is no longer participating or enrolled in high school or equivalency program, post-secondary or vocational program, or in a program promoting employment or removing barriers to employment;

(5) No longer employed for eighty hours or more per month;

(6) No longer agrees to participate in foster care services;

~~((6))~~ (7) Fails or refuses to comply with youth responsibilities outlined in WAC 388-25-0546; or

~~((7))~~ (8) Is incarcerated in an adult detention facility on a criminal conviction.

WSR 16-06-046

PERMANENT RULES

DEPARTMENT OF REVENUE

[Filed February 24, 2016, 9:44 a.m., effective March 26, 2016]

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

Purpose: Proposal incorporates the legislative changes from ESSB 6138 (section 401, chapter 5, Laws of 2015) that increases the penalties for late payments as follows:

- Five percent to nine percent;
- Fifteen percent to nineteen percent; and
- Twenty-five percent to twenty-nine percent.

Clarifying language was also added throughout, including changing "section" to "rule," updating legislative cites to statutory cites, and updating formatting.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-228 Returns, payments, penalties, extensions, interest, stays of collection.

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

Adopted under notice filed as WSR 16-01-008 on December 3, 2015.

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

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

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

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

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

Date Adopted: February 24, 2016.

Kevin Dixon
Rules Coordinator

AMENDATORY SECTION (Amending WSR 13-22-049, filed 11/1/13, effective 12/2/13)

WAC 458-20-228 Returns, payments, penalties, extensions, interest, stays of collection. (1) **Introduction.** This ~~((section))~~ rule discusses the responsibility of taxpayers to pay their tax by the appropriate due date, and the acceptable methods of payment. It discusses the interest and penalties that are imposed by law when a taxpayer fails to pay the correct amount of tax by the due date. It also discusses the circumstances under which the law allows the department of revenue (department) to waive interest or penalties.

(a) **Where can I get my questions answered, or learn more about what I owe and how to report it?** Washington's tax system is based largely on voluntary compliance. Taxpayers have a legal responsibility to become informed about applicable tax laws, to register with the department, to seek instruction from the department, to file accurate returns, and to pay their tax liability in a timely manner (chapter 82.32A RCW, Taxpayer rights and responsibilities). The department has a taxpayer services program to provide taxpayers with accurate tax-reporting assistance and instructions. The department staffs local district offices, maintains a toll-free question and information phone line (1-800-647-7706), provides information and electronic forms on the internet (<http://dor.wa.gov>), and conducts free public workshops on tax reporting. The department also publishes notices, interpretive statements, and ~~((sections))~~ rules discussing important tax issues and changes.

(b) **What is electronic filing (or e-file), and how can it help me?** E-file is an internet-based application that provides a secure and encrypted way for taxpayers to file and pay many of Washington state's business related excise taxes

online. The e-file system automatically performs math calculations and checks for other types of reporting errors. **Using e-file to file electronically will help taxpayers avoid penalties and interest related to unintentional underpayments and delinquencies.** E-file can be accessed on the department's internet site <http://dor.wa.gov>. Open the page for electronic filing. The page contains additional links to pages answering frequently asked questions, and explains the registration process for e-file. Taxpayers may also call the department's toll-free electronic filing help desk for more information, during regular business hours.

All taxpayers are required to electronically file and electronically pay their taxes unless the department waives the requirement for good cause, or the taxpayer has an assigned reporting frequency that is less than quarterly. The requirement for electronic filing and payment also includes taxpayers who once met the criteria for being assigned to a monthly reporting frequency, but (~~who~~) whom since have been authorized by the department to file and remit taxes on a less frequent basis. For more detailed information on the requirement and exceptions for electronic filing (e-file) and electronic payment (e-pay), see WAC 458-20-22802 (Electronic filing and payment).

(c) **Index of subjects addressed in this ((~~section~~)) rule:**

Topic—Description	See subsection
Where can I get my questions answered, or learn more about what I owe and how to report it? - By phone or online, the department provides a number of free and easy resources to help you find answers.	(1)(a) of this ((section)) <u>rule</u> , (see above)
What is electronic filing (or e-file), and how can it help me? - E-filing guides you through the return and helps you avoid many common mistakes.	(1)(b) of this ((section)) <u>rule</u> , (see above)
Do I need to file a return? - How do I access returns and file them?	(2) of this ((section)) <u>rule</u>
What methods of payment can I use? - What can I use to pay my taxes?	(3) of this ((section)) <u>rule</u>
When is my tax payment due? - Different reporting frequencies can have different due dates. What if the due date is a week-end or a holiday? If my payment is in the mail on the due date, am I late or on time?	(4) of this ((section)) <u>rule</u>
Penalties - What types of penalty exist? How big are they? When do they apply?	(5) of this ((section)) <u>rule</u>
Statutory restrictions on imposing penalties - More than one penalty can apply at the same time, but there are restrictions. Which penalties can be combined?	(6) of this ((section)) <u>rule</u>

Topic—Description	See subsection
Interest - In most cases interest is required. What interest rates apply? How is interest applied?	(7) of this ((section)) <u>rule</u>
Application of payment towards liability - Interest, penalties, and taxes are paid in a particular order. If my payment doesn't pay the entire liability, how can I determine what parts have been paid?	(8) of this ((section)) <u>rule</u>
Waiver or cancellation of penalties - I think I was on time, or I had a good reason for not paying the tax when I should have. What reasons qualify me for a waiver of penalty? How can I get a penalty removed?	(9) of this ((section)) <u>rule</u>
Waiver or cancellation of interest - Interest will only be waived in two limited situations. What are they?	(10) of this ((section)) <u>rule</u>
Interest and penalty waiver for active duty military personnel - Is a majority owner of the business on active duty with the military? BOTH interest and penalty can be waived if all the statutory requirements are met. What are the requirements?	(11) of this ((section)) <u>rule</u>
Stay of collection - Revenue will sometimes temporarily delay collection action on unpaid taxes. When can this happen? Can I request that revenue delay collection?	(12) of this ((section)) <u>rule</u>
Extensions - Can I get an extension of my due date? How long does an extension last? A special extension may be available if the governor proclaims a state of emergency in your area.	(13) of this ((section)) <u>rule</u>

(2) **Do I need to file a return?** A "return" is defined as any paper or electronic document a person is required to file by the state of Washington in order to satisfy or establish a tax or fee obligation which is administered or collected by the department, and that has a statutorily defined due date. RCW 82.32.045.

(a) Electronic returns and payments are to be filed with the department by every person liable for any tax which the department administers and/or collects, except for the taxes imposed under chapter 82.24 RCW (Tax on cigarettes), which are collected through sales of revenue stamps. Returns must be filed through the electronic filing (e-file) system (see subsection (1)(b) of this ((~~section~~)) rule), or by other means if approved by the department.

E-file taxpayers do not receive paper returns. However, if an e-file taxpayer specifically requests it, the department will send an electronic reminder for each upcoming return as the time to file approaches.

(b) Taxpayers whose accounts are placed on an "active nonreporting" status do not automatically receive a tax return and must request a return, or register to file by e-file, if they

no longer qualify for this reporting status. (See WAC 458-20-101, Tax registration, for an explanation of the active nonreporting status.)

(c) Some consumers may not be required to register with the department and obtain a tax registration endorsement. (Refer to WAC 458-20-101 for detailed information about tax registration and when it is required.) But even if they do not have to be registered, consumers may be required to pay use tax directly to the department if they have purchased items without paying Washington's sales tax. An unregistered consumer must report and pay their use tax liability directly to the department. Use tax can be reported and paid on a "Consumer Use Tax Return" or the consumer can create an online account at the department's web site to conveniently report and pay use tax electronically. Consumer use tax returns are available from the department at any of the local district offices. A consumer may also call the department's toll free number 1-800-647-7706 to request a consumer use tax return by fax or mail. Finally, the consumer use tax return is available for download from the department's internet site at <http://dor.wa.gov>, along with a number of other returns and forms which are available there.

The interest and penalty provisions of this rule may apply if use tax is not paid on time. Unregistered consumers should refer to WAC 458-20-178 (Use tax) for an explanation of their tax reporting responsibilities.

(3) **What methods of payment can I use?** The law requires taxpayers to file and pay their taxes electronically. There are two electronic payment methods: Electronic funds transfer (EFT) and credit card. The department may waive the electronic payment requirement for any taxpayer or class of taxpayers, for good cause or for whom the department has assigned a reporting frequency that is less than quarterly. Waivers may be temporary or permanent, and may be made on the department's own motion. (See WAC 458-20-22802 for more information on electronic filing and payment.)

(a) For taxpayers not required to pay electronically, payment may be made by cash, check, cashier's check, or money order.

(b) Payment by cash should only be made at an office of the department to ensure that the payment is safely received and properly credited.

(c) Payment may be made by uncertified bank check, but if the check is not honored by the financial institution on which it is drawn, the taxpayer remains liable for the payment of the tax, as well as any applicable interest and penalties. RCW 82.32.080. The department may refuse to accept any check which, in its opinion, would not be honored by the financial institution on which that check is drawn. If the department refuses a check for this reason the taxpayer remains liable for the tax due, as well as any applicable interest and penalties.

(4) **When is my tax payment due?** RCW 82.32.045 provides that payment of the taxes due with the excise tax return must be made monthly and within twenty-five days after the end of the month in which taxable activities occur, unless the department assigns the taxpayer a longer reporting frequency. Payment of taxes due with returns covering a longer reporting frequency is due on or before the last day of the month following the period covered by the return. (For exam-

ple, payment of the tax liability for a first quarter tax return is due on April 30th.) WAC 458-20-22801 (Tax reporting frequency—Forms) explains the department's procedure for assigning a quarterly or annual reporting frequency.

(a) If the date for payment of the tax due on a tax return falls upon a Saturday, Sunday, or legal holiday, the filing will be considered timely if performed on the next business day. RCW 1.12.070 and 1.16.050.

(b) When a taxpayer is not required to electronically file and pay taxes and chooses to file or pay taxes through the U.S. Postal Service, the postmark date as shown by the post office cancellation mark stamped on the envelope will be considered conclusive evidence by the department in determining if a tax return or payment was timely filed or received. RCW 1.12.070. It is the responsibility of the taxpayer to mail the tax return or payment sufficiently in advance of the due date to assure that the postmark date is timely.

(c) Taxpayers required to file and pay taxes electronically should refer to WAC 458-20-22802 (Electronic filing and payment) for more information regarding electronic filing (e-file), electronic payment (e-pay) due dates, and when electronic payments are considered received.

(d) If a taxpayer suspects that it will not be able to file and pay by the coming due date, it may be able to obtain an extension of the due date to temporarily avoid additional penalties. Refer to subsection (12) of this ((~~section~~)) rule for details on requesting an extension.

(5) **Penalties.** Various penalties may apply as a result of the failure to correctly or accurately compute the proper tax liability, or to timely pay the tax. Separate penalties may apply and be cumulative for the same tax. Interest may also apply if any tax has not been paid when it is due, as explained in subsection (7) of this ((~~section~~)) rule. (The department's electronic filing system (e-file) can help taxpayers avoid additional penalties and interest. See subsection (1)(b) of this ((~~section~~)) rule for more information.)

The penalty types and rates addressed in this subsection are:

Penalty Type—Description	Penalty Rate	See subsection
Late payment of a return - ((Five)) <u>Nine</u> percent added when payment is not received by the due date, and increases if the tax due remains unpaid.	((5/15/25%)) <u>9/19/29%</u>	(5)(a) of this ((section)) <u>rule</u>
Unregistered taxpayer - Five percent added against unpaid tax when revenue discovers a taxpayer who has taxable activity but is not registered.	5%	(5)(b) of this ((section)) <u>rule</u>
Assessment - Five percent added when a tax assessment is issued if the tax was "substantially underpaid," and increases if the tax due remains unpaid.	5/15/25% or 0/15/25%	(5)(c) of this ((section)) <u>rule</u>

Penalty Type—Description	Penalty Rate	See subsection
Issuance of a warrant - Ten percent added when a warrant is issued to collect unpaid tax, and does not require actual filing of a lien.	10%	(5)(d) of this ((section)) <u>rule</u>
Disregard of specific written instructions - Ten percent added when the department has provided specific, written reporting instructions and tax is underpaid because the instructions are not followed.	10%	(5)(e) of this ((section)) <u>rule</u>
Evasion - Fifty percent added when tax is underpaid and there is an intentional effort to hide that fact.	50%	(5)(f) of this ((section)) <u>rule</u>
Misuse of resale certificates or a reseller permit - Fifty percent added against unpaid sales tax when a buyer uses a resale certificate or reseller permit, but should not have.	50%	(5)(g) of this ((section)) <u>rule</u>
Failure to remit sales tax to seller - Ten percent added against sales tax when the department proceeds directly against a buyer who fails to pay sales tax to the seller as part of a sales taxable retail purchase.	10%	(5)(h) of this ((section)) <u>rule</u>
Failure to obtain the contractor's unified business identifier (UBI) number - A two hundred fifty dollar maximum penalty (does not require any tax liability) when specified businesses hire certain contractors but do not obtain and keep the contractor's UBI number.	\$250 (max)	(5)(i) of this ((section)) <u>rule</u>
Disregarded transaction - A thirty-five percent penalty of the additional tax found to be due as a result of engaging in a disregarded transaction.	35%	(5)(j) of this ((section)) <u>rule</u>

(a) **Late payment of a return.** RCW 82.32.090(1) imposes a ~~((five))~~ nine percent penalty if the tax due on a taxpayer's return is not paid by the due date. A total penalty of ~~((fifteen))~~ nineteen percent is imposed if the tax due is not paid on or before the last day of the month following the due date, and a total penalty of ~~((twenty-five))~~ twenty-nine percent is imposed if the tax due is still not paid on or before the last day of the second month following the due date. The minimum penalty for late payment is five dollars.

Various sets of circumstances can affect how the late payment of a return penalty is applied. See (a)(i) through (iii) of this subsection for some of the most common circumstances.

(i) **Will I avoid the penalty if I file my return without the payment?** The department may refuse to accept any return ~~((which))~~ that is not accompanied by payment of the tax shown to be due on the return. If the return is not accepted, the taxpayer is considered to have failed or refused to file the return. RCW 82.32.080. Failure to file the return can result in the issuance of an assessment for the actual, or an estimated, amount of unpaid tax. Any assessment issued may include an assessment penalty. (See RCW 82.32.100 and (c) of this subsection for details of when and how the assessment penalty applies.) If the tax return is accepted without payment and payment is not made by the due date, the late payment of return penalty will apply.

(ii) **What if my account is given an active nonreporting status, but I later have taxes I need to report and pay?** WAC 458-20-101 provides information about the active nonreporting status available for tax reporting accounts. In general, the active nonreporting status allows persons, under certain circumstances, to engage in business activities subject to the Revenue Act without filing excise tax returns. Persons placed on an active nonreporting status by the department are required to timely notify the department if their business activities no longer meet the conditions to be in active nonreporting status. One of the conditions is that the person is not required to collect or pay a tax the department is authorized to collect. The late payment of return penalty will be imposed if a person on active nonreporting status incurs a tax liability that is not paid by the due date for taxpayers that are on an annual reporting basis (i.e., the last day of January next succeeding the year in which the tax liability accrued).

(iii) **I didn't register my business with the department when I started it, and now I think I was supposed to be paying taxes! What should I do?** You should fill out and send in a business license application to get your business registered. It is important for you to register before the department identifies you as an unregistered taxpayer and contacts you about your business activities. (WAC 458-20-101 provides information about registering your business.) Except as noted below, if a person engages in taxable activities while unregistered, but then registers prior to being contacted by the department, the registration is considered voluntary. When a person voluntarily registers, the late payment of return penalty does not apply to those specific tax-reporting periods representing the time during which the person was unregistered.

(A) However, even if the person has voluntarily registered as explained above, the late payment of return penalty will apply if the person:

(I) Collected retail sales tax from customers and failed to remit it to the department; or

(II) Engaged in evasion or misrepresentation with respect to reporting tax liabilities or other tax requirements; or

(III) Engaged in taxable business activities during a period of time in which the person's previously open tax reporting account had been closed.

(B) Even though other circumstances may warrant retention of the late payment of return penalty, if a person has voluntarily registered, the unregistered taxpayer penalty (see (b) of this subsection) will not be due.

(b) **Unregistered taxpayer.** RCW 82.32.090(4) imposes a five percent penalty on the tax due for any period of time where a person engages in a taxable activity and does not voluntarily register prior to being contacted by the department. "Voluntarily register" means to properly complete and submit a master application to any agency or entity participating in the unified business identifier (UBI) program for the purpose of obtaining a UBI number, all of which is done before any contact from the department. For example, if a person properly completes and submits a business license application to the department of labor and industries for the purpose of obtaining a UBI number, and this is done prior to any contact from the department of revenue, the department considers that person to have voluntarily registered. A person has not voluntarily registered if a UBI number is obtained by any means other than submitting a properly completed business license application. WAC 458-20-101 (Tax registration and tax reporting) provides additional information regarding the UBI program.

(c) **Assessment.** If the department issues an assessment for substantially underpaid tax, a five percent penalty will be added to the assessment when it is issued. If any tax included in the assessment is not paid by the due date, or by any extended due date, the penalty will increase to a total of fifteen percent against the amount of tax that remains unpaid. If any tax included in the assessment is not paid within thirty days of the original or extended due date, the penalty will further increase to a total of twenty-five percent against the amount of tax that remains unpaid. The minimum for this penalty is five dollars. RCW 82.32.090(2).

(i) As used in this ((~~section~~)) rule, "substantially underpaid" means that:

(A) The taxpayer has paid less than eighty percent of the amount of tax determined by the department to be due for all of the types of taxes included in, and for the entire period of time covered by, the department's examination; and

(B) The amount of underpayment is at least one thousand dollars. If both of these conditions are true when an assessment is issued, it will include the initial five percent assessment penalty. If factual adjustments are made after issuance of an assessment, and those adjustments change whether a taxpayer paid less than eighty percent of the tax due, the department will reevaluate imposition of the original five percent penalty.

(ii) If the initial five percent assessment penalty is included with an assessment when it is issued, the penalty is calculated against the total amount of tax that was not paid when originally due and payable (see RCW 82.32.045). Audit payments made prior to issuance of an assessment will be applied to the assessment after calculation of the initial five percent assessment penalty. At the discretion of the department, preexisting credits or amendments paid prior to an audit or unrelated to the scope of the assessment may be applied before the five percent assessment penalty is calculated, reducing the amount of the penalty. Additional assessment penalty is assessed against the amount of tax that

remains unpaid at that particular time, after payments are applied to the assessment.

(d) **Issuance of a warrant.** If the department issues a tax warrant for the collection of any fee, tax, increase, or penalty, an additional penalty will immediately be added in the amount of ten percent of the amount of the tax due, but not less than ten dollars. RCW 82.32.090(3). Refer to WAC 458-20-217 for additional information on the application of warrants and tax liens.

(e) **Disregard of specific written instructions.** If the department finds that all or any part of a deficiency resulted from the disregard of specific written instructions as to reporting of tax liabilities, an additional penalty of ten percent of the additional tax found due will be imposed because of the failure to follow the instructions. RCW 82.32.090(5).

(i) **What is "disregard of specific written instructions"?** A taxpayer is considered to have received specific written instructions when the department has informed the taxpayer in writing of its tax obligations and specifically advised the taxpayer that failure to act in accordance with those instructions may result in this penalty being imposed. The specific written instructions may be given as a part of a tax assessment, audit, determination, or closing agreement. The penalty applies when a taxpayer does not follow the specific written instructions, resulting in underpayment of the tax due. The penalty may be applied only against the taxpayer given the specific written instructions. However, the taxpayer will not be considered to have disregarded the instructions if the taxpayer has appealed the subject matter of the instructions and the department has not issued its final instructions or decision.

(ii) **What if I try to follow the written instructions, but I still don't get it quite right?** The penalty will not be applied if the taxpayer has made a good faith effort to comply with specific written instructions.

(f) **Evasion.** If the department finds that all or any part of the deficiency resulted from an intent to evade the tax due, a penalty of fifty percent of the additional tax found to be due will be added. RCW 82.32.090(7). The evasion penalty is imposed when a taxpayer knows a tax liability is due but attempts to escape detection or payment of the tax liability through deceit, fraud, or other intentional wrongdoing. An intent to evade does not exist where a deficiency is the result of an honest mistake, miscommunication, or the lack of knowledge regarding proper accounting methods. The department has the burden of showing the existence of an intent to evade a tax liability through clear, cogent and convincing evidence.

(i) **Evasion penalty only applies to the specific taxes that a taxpayer intended to evade.** To the extent that the evasion involved only specific taxes, the evasion penalty will be added only to those taxes. The evasion penalty will not be applied to those taxes which were inadvertently underpaid. For example, if the department finds that the taxpayer intentionally understated the purchase price of equipment in reporting use tax and also inadvertently failed to collect or remit the sales tax at the correct rate on retail sales of merchandise, the evasion penalty will be added only to the use tax deficiency and not the sales tax.

(ii) What actions may establish an intent to evade?

The following is a nonexclusive list of actions that are generally considered to establish an intent to evade a tax liability. This list should only be used as a general guide. A determination of whether an intent to evade exists may be ascertained only after a review of all the facts and circumstances.

(A) The use of an out-of-state address by a Washington resident to register property to avoid a Washington excise or use tax, when at the time of registration the taxpayer does not reside at the out-of-state address on a more than temporary basis. Examples of such an address include, but are not limited to, the residence of a relative, mail forwarding or post office box location, motel, campground, or vacation property;

(B) The willful failure of a seller to remit retail sales taxes collected from customers to the department; and

(C) The alteration of a purchase invoice or misrepresentation of the price paid for property (e.g., a used vehicle) to reduce the amount of tax owing.

(g) Misuse of resale certificates, reseller permits, and other documents. Any buyer who uses a resale certificate, a reseller permit, or other documentation authorized under RCW 82.04.470, to purchase items or retail services without payment of sales tax, and who is not entitled to use the certificate, permit, or other documentation for the purchase, will be assessed a penalty of fifty percent of the tax due. RCW 82.32.291. The penalty can apply even if there was no intent to evade the payment of the tax. For more information concerning this penalty or the proper use of resale certificates, reseller permits, and other documentation, refer to WAC 458-20-102 (Resale certificates).

(h) Failure to remit sales tax to seller. The department may assert an additional ten percent penalty against a buyer who has failed to pay the seller the retail sales tax on taxable purchases, if the department proceeds directly against the buyer for the payment of the tax. This penalty is in addition to any other penalties or interest prescribed by law. RCW 82.08.050.

(i) Failure to obtain the contractor's unified business identifier (UBI) number. If a person who is liable for any fee or tax imposed by chapters 82.04 through 82.27 RCW contracts with another person or entity for work subject to chapter 18.27 RCW (Registration of contractors) or chapter 19.28 RCW (Electricians and electrical installations), that person must obtain and preserve a record of the UBI number of the person or entity performing the work. A person failing to do so is subject to the public works contracting restrictions in RCW 39.06.010 (Contracts with unregistered or unlicensed contractors prohibited), and a penalty determined by the director, but not to exceed two hundred and fifty dollars. RCW 82.32.070(2).

(j) Engaging in disregarded transactions. ~~(Chapter 23 (2ESSB 6143), Laws of 2010 1st sp. s.)~~ RCW 82.32.090 imposes a thirty-five percent penalty for engaging in a disregarded transaction as defined in RCW 82.32.655(3). See RCW 82.32.090(6), 82.32.655, and 82.32.660.

(6) Statutory restrictions on imposing penalties. Depending on the circumstances, the law may impose more than one type of penalty on the same tax liability. However, those penalties are subject to the following restrictions:

(a) The penalties imposed for the late payment of a return, unregistered taxpayer, assessment, and issuance of a warrant (see subsection (5)(a) through (d) of this ~~(section)~~ rule) may be applied against the same tax concurrently, each unaffected by the others, up to their combined maximum rates. Application of one or any combination of these penalties does not prohibit or restrict full application of other penalties authorized by law, even when they are applied against the same tax. RCW 82.32.090(8).

(b) The department may impose either the evasion penalty (subsection (5)(f) of this ~~(section)~~ rule) or the penalty for disregarding specific written instructions (subsection (5)(e) of this ~~(section)~~ rule), but may not impose both penalties on the same tax. RCW 82.32.090(9). The department also will not impose the penalty for the misuse of a resale certificate (subsection (5)(g) of this ~~(section)~~ rule) in combination with either the evasion penalty or the penalty for disregarding specific written instructions on the same tax.

(c) The penalty provided in subsection (5)(j) of this ~~(section)~~ rule may be assessed together with any other applicable penalties provided in this ~~(section)~~ rule on the same tax found to be due, except for the evasion penalty provided in subsection (5)(f) of this ~~(section)~~ rule.

(7) Interest. The department is required by law to add interest to assessments for tax deficiencies and overpayments. RCW 82.32.050 and 82.32.060. Interest accrued against an underpayment only applies to underpaid tax. (Refer to WAC 458-20-229 for a discussion of interest as it relates to refunds and WAC 458-20-230 for a discussion of the statute of limitations as applied to interest.)

(a) For interest imposed after December 31, 1998, interest will be added from the last day of the month following each calendar year included in a notice, or the last day of the month following the final month included in a notice if not the end of the calendar year, until the due date of the notice. However, for 1998 taxes only, interest may not begin to accrue any earlier than February 1, 1999, even if the last period included in the notice is not at the end of calendar year 1998. If payment in full is not made by the due date of the notice, additional interest will be due until the date of payment. The rate of interest continues at the annual variable interest rates described below in (e) of this subsection. ~~(For information on interest imposed before December 31, 1998, see RCW 82.32.050.)~~

(b) How is interest applied to an assessment that includes underpaid tax from multiple years? The following is an example of how the interest provisions apply. Assume that a tax assessment is issued with a due date of June 30, 2010. The assessment includes periods from January 1, 2008, through September 30, 2009.

(i) For calendar year 2008 tax, interest begins February 1, 2009, (from the last day of the month following the end of the calendar year). When the assessment is issued interest is computed through June 30, 2010, (the due date).

(ii) For the 2009 tax period ending with September 30, 2009, interest begins November 1, 2009, (from the last day of the month following the last month included in the assessment period). When the assessment is issued interest is computed through June 30, 2010, (the due date).

(iii) Interest will continue to accrue on any portion of the assessed taxes which remain unpaid after the due date, until the date those taxes are paid.

(c) **How is each year's interest rate determined?** The annual variable interest rate will be an average of the federal short-term rate as defined in 26 U.S.C. Sec. 1274(d) plus two percentage points. The rate for each new year will be computed by taking an arithmetical average to the nearest percentage point of the federal short-term rate, compounded annually. The average is calculated using the federal short-term rates from January, April, July of the calendar year immediately preceding the new year, and October of the previous preceding year, as published by the United States Secretary of the Treasury. The interest rate will be adjusted on the first day of January of each year.

(d) **How is the interest applied if an assessment includes some years that are underpaid and some that are overpaid?** If the assessment contains tax deficiencies in some years and overpayments in other years with the net difference being a tax deficiency, the interest rate for tax deficiencies will also be applied to the overpayments. (Refer to WAC 458-20-229 for interest on refunds.)

(8) **Application of payment towards liability.** The department will apply taxpayer payments in the following order:

- Interest,
- penalties,
- fees,
- other nontax amounts,
- tax, except spirits tax,
- spirits tax,

without regard to any direction of the taxpayer. RCW 82.32.080.

In applying a partial payment to a tax assessment, the payment will first be applied against the oldest tax liability. For purposes of RCW 82.32.145 (Limited liability business entity - Terminated, dissolved, abandoned, insolvent - Collection of unpaid trust fund taxes), it will be assumed that any payments applied to the tax liability will be first applied against any retail sales tax liability, and then to other trust fund tax liabilities. For example, an audit assessment is issued covering a period of two years, which will be referred to as "YEAR 1" (the earlier year) and "YEAR 2" (the most recent year). The tax assessment includes total interest and penalties for YEAR 1 and YEAR 2 of five hundred dollars, retail sales tax of four hundred dollars for YEAR 1, six hundred dollars retail sales tax for YEAR 2, two thousand dollars of other taxes for YEAR 1, and seven thousand dollars of other taxes for YEAR 2. The order of application of any payments will be first against the five hundred dollars of total interest and penalties, second against the four hundred dollars retail sales tax in YEAR 1, third against the two thousand dollars of other taxes in YEAR 1, fourth against the six hundred dollars retail sales tax of YEAR 2, and finally against the seven thousand dollars of other taxes in YEAR 2.

(9) **Waiver or cancellation of penalties.** RCW 82.32.-105 authorizes the department to waive or cancel penalties under limited circumstances.

(a) **Circumstances beyond the control of the taxpayer.** The department will waive or cancel the penalties imposed

under chapter 82.32 RCW upon finding that the underpayment of the tax, or the failure to pay any tax by the due date, was the result of circumstances beyond the control of the taxpayer. It is possible that a taxpayer will qualify for a waiver of one type of penalty, without obtaining a waiver for all penalties associated with a particular tax liability. Circumstances determined to be beyond the control of the taxpayer when considering a waiver of one type of penalty are not necessarily pertinent when considering a waiver of a different penalty type. For example, circumstances that qualify for waiver of a late payment of return penalty do not necessarily also justify waiver of the substantial underpayment assessment penalty. Refer to WAC 458-20-102 (~~((Resale certificates))~~) Reseller permits) for examples of circumstances which are beyond the control of the taxpayer specifically regarding the penalty for misuse of a (~~(resale certificate or)~~) reseller permit found in RCW 82.32.291.

(i) A request for a waiver or cancellation of penalties should contain all pertinent facts and be accompanied by such proof as may be available. The taxpayer bears the burden of establishing that the circumstances were beyond its control and directly caused the late payment. The request should be made in the form of a letter; however, verbal requests may be accepted and considered at the discretion of the department. Any petition for correction of assessment submitted to the department's appeals division for waiver of penalties must be made within the period for filing under RCW 82.32.160 (within thirty days after the issuance of the original notice of the amount owed or within the period covered by any extension of the due date granted by the department), and must be in writing, as explained in WAC 458-20-100 (Appeals(~~(-small claims and settlements))~~)). Refund requests must be made within the statutory limitation period.

(ii) The circumstances beyond the control of the taxpayer must actually cause the late payment. Circumstances beyond the control of the taxpayer are generally those which are immediate, unexpected, or in the nature of an emergency. Such circumstances result in the taxpayer not having reasonable time or opportunity to obtain an extension of the due date or otherwise timely file and pay. Circumstances beyond the control of the taxpayer include, but are not necessarily limited to, the following.

(A) The return payment was mailed on time but inadvertently sent to another agency.

(B) Erroneous written information given to the taxpayer by a department officer or employee caused the delinquency. A penalty generally will not be waived when it is claimed that erroneous oral information was given by a department employee. The reason for not canceling the penalty in cases of oral information is because of the uncertainty of the facts presented, the uncertainty of the instructions or information imparted by the department employee, and the uncertainty that the taxpayer fully understood the information given. Reliance by the taxpayer on incorrect advice received from the taxpayer's legal or accounting representative is not a basis for cancellation of a penalty.

(C) The delinquency was directly caused by death or serious illness of the taxpayer, or a member of the taxpayer's immediate family. The same circumstances apply to the taxpayer's accountant or other tax preparer, or their immediate

family. This situation is not intended to have an indefinite application. A death or serious illness which denies a taxpayer reasonable time or opportunity to obtain an extension or to otherwise arrange timely filing and payment is a circumstance eligible for penalty waiver.

(D) The delinquency was caused by the unavoidable absence of the taxpayer or key employee, prior to the filing date. "Unavoidable absence of the taxpayer" does not include absences because of business trips, vacations, personnel turnover, or terminations.

(E) The delinquency was caused by the destruction by fire or other casualty of the taxpayer's place of business or business records.

(F) The delinquency was caused by an act of fraud, embezzlement, theft, or conversion on the part of the taxpayer's employee or other persons contracted with the taxpayer, which the taxpayer could not immediately detect or prevent, provided that reasonable safeguards or internal controls were in place. See (a)(iii)(E) of this subsection.

(G) The department does not respond to the taxpayer's request for a tax return (or other forms necessary to compute the tax) within a reasonable period of time, which directly causes delinquent filing and payment on the part of the taxpayer. This assumes that, given the same situation, if the department had provided the requested form(s) within a reasonable period of time, the taxpayer would have been able to meet its obligation for timely payment of the tax. In any case, the taxpayer has responsibility to insure that its return is filed in a timely manner (e.g., by keeping track of pending due dates) and must anticipatively request a return for that purpose, if one is not received. (Note: Tax returns and other forms are ~~(immediately)~~ available ~~((to download))~~ at no cost from the department's ~~((internet))~~ web site, ~~((http://dor.wa.gov))~~ dor.wa.gov. When good cause exists, taxpayers are advised to contact the department and request an extension of the due date for filing, before the due date of concern has passed. See subsection (12) of this ~~((section))~~ rule. Taxpayers who have registered to file electronically with e-file will avoid potential penalties relating to paper returns not received. See subsection (1)(b) of this ~~((section))~~ rule.)

(iii) The following are examples of circumstances that are generally not considered to be beyond the control of the taxpayer and will not qualify for a waiver or cancellation of penalty:

(A) Financial hardship;

(B) A misunderstanding or lack of knowledge of a tax liability;

(C) The failure of the taxpayer to receive a tax return form, EXCEPT where the taxpayer timely requested the form and it was still not furnished in reasonable time to mail the return and payment by the due date, as described in (a)(ii)(G) of this subsection;

(D) Registration of an account that is not considered a voluntary registration, as described in subsection (5)(a)(iii) and (b) of this ~~((section))~~ rule;

(E) Mistakes or misconduct on the part of employees or other persons contracted with the taxpayer (not including conduct covered in (a)(ii)(F) of this subsection); and

(F) Reliance upon unpublished, written information from the department that was issued to and specifically addresses the circumstances of some other taxpayer.

(b) **Waiver of the late payment of return penalty.** The late payment of return penalty (see subsection (5)(a) of this ~~((section))~~ rule) may be waived either as a result of circumstances beyond the control of the taxpayer (RCW 82.32.105 (1) and (a) of this subsection) or after a twenty-four month review of the taxpayer's reporting history, as described below.

(i) If the late payment of return penalty is assessed on a return but is not the result of circumstances beyond the control of the taxpayer, the penalty will still be waived or canceled if the following two circumstances are satisfied:

(A) The taxpayer requests the penalty waiver for a tax return which was required to be filed under RCW 82.32.045 (taxes reported on the combined excise tax return), RCW 82.23B.020 (oil spill response tax), RCW 82.27.060 (tax on enhanced food fish), RCW 82.29A.050 (leasehold excise tax), RCW 84.33.086 (timber and forest lands), RCW 82.14B.030 (tax on telephone access line use); and

(B) The taxpayer has timely filed and paid all tax returns due for that specific tax program for a period of twenty-four months immediately preceding the period covered by the return for which the waiver is being requested. RCW 82.32.105(2).

If a taxpayer has obtained a tax registration endorsement with the department prior to engaging in business within the state and has engaged in business activities for a period less than twenty-four months, the taxpayer is eligible for the waiver if the taxpayer had no delinquent tax returns for periods prior to the period covered by the return for which the waiver is being requested. As a result, the taxpayer's very first return due can qualify for a waiver under the twenty-four month review provision. (See also WAC 458-20-101 for more information regarding the tax registration and tax reporting requirements.) This is the only situation under which the department will consider a waiver when the taxpayer has not timely filed and paid tax returns covering an immediately preceding twenty-four month period.

(ii) A return will be considered timely for purpose of the waiver if there is no tax liability on it when it is filed. Also, a return will be considered timely if any late payment penalties assessed on it were waived or canceled due to circumstances beyond the control of the taxpayer (see (a) of this subsection). The number of times penalty has been waived due to circumstances beyond the control of the taxpayer does not influence whether the waiver in this subsection will be granted. A taxpayer may receive more than one of the waivers in this subsection within a twenty-four month period if returns for more than one of the listed tax programs are filed, but no more than one waiver can be applied to any one tax program in a twenty-four month period.

For example, a taxpayer files combined excise tax returns as required under RCW 82.32.045, and timber tax returns as required under RCW 84.33.086. This taxpayer may qualify for two waivers of the late payment of return penalty during the same twenty-four month period, one for each tax program. If this taxpayer had an unwaived late payment of return penalty for the combined excise tax return during the

previous twenty-four month period, the taxpayer may still qualify for a penalty waiver for the timber tax program.

(iii) The twenty-four month period reviewed for this waiver is not affected by the due date of the return for which the penalty waiver is requested, even if that due date has been extended beyond the original due date.

For example, assume a taxpayer's September 2012 return has had the original due date of October twenty-fifth extended to November twenty-fifth. The return and payment are received after the November twenty-fifth extended due date. A penalty waiver is requested. Since the delinquent return represented the month of September 2012, the twenty-four months which will be reviewed begin on September 1, 2010, and end with August 31, 2012, (the twenty-four months prior to September 2012). All of the returns representing that period of time will be included in the review. The extension of the original due date has no effect on the twenty-four month period under review.

(iv) A twenty-four month review is only valid when considering waiver of the late payment of return penalty described in subsection (5)(a) of this ~~(section)~~ rule. The twenty-four month review process cannot be used as justification for a waiver of interest, assessment penalty, or any penalty other than the late payment of return penalty.

(10) Waiver or cancellation of interest. The department will waive or cancel interest imposed under chapter 82.32 RCW only in the following situations:

(a) The failure to pay the tax prior to issuance of the assessment was the direct result of written instructions given the taxpayer by the department; or

(b) The extension of the due date for payment of an assessment was not at the request of the taxpayer and was for the sole convenience of the department. RCW 82.32.105(3).

(11) Interest and penalty waiver for active duty military personnel. RCW 82.32.055 provides a waiver of BOTH interest and penalty imposed under chapter 82.32 RCW when:

(a) The majority owner of the business is:

(i) On active duty in the military;

(ii) Participating in an armed conflict;

(iii) Assigned to a location outside the territorial boundaries of the United States; and

(b) The gross income of the business is one million dollars or less for the calendar year immediately prior to the year in which the majority owner is initially deployed outside the United States for the armed conflict.

Interest and penalty may not be waived or canceled for a period longer than twenty-four months. The waiver applies to interest or penalty based on the date they are imposed, which must be within the twenty-four month waiver period.

To receive a waiver or cancellation of interest and penalty under this subsection, the taxpayer must submit a copy of the majority owner's deployment orders for deployment outside the territorial boundaries of the United States.

(12) Stay of collection. RCW 82.32.190 allows the department to initiate a stay of collection, without the request of the taxpayer and without requiring any bond, for certain tax liabilities when they may be affected by the outcome of a question pending before the courts (see (a) of this subsection). RCW 82.32.200 provides conditions under which the

department, at its discretion, may allow a taxpayer to file a bond in order to obtain a stay of collection on a tax assessment (see (b) of this subsection). The department will grant a taxpayer's stay of collection request, as described in RCW 82.32.200, only when the department determines that a stay is in the best interests of the state.

(a) Circumstances under which the department may consider initiating a stay of collection without requiring a bond (RCW 82.32.190) include, but are not necessarily limited to, the existence of the following:

(i) A constitutional issue to be litigated by the taxpayer, the resolution of which is uncertain;

(ii) A matter of first impression for which the department has little precedent in administrative practice; or

(iii) An issue affecting other similarly situated taxpayers for whom the department would be willing to stay collection of the tax.

(b) The department will give consideration to a request for a stay of collection of an assessment (RCW 82.32.200) if:

(i) A written request for the stay is made prior to the due date for payment of the assessment; and

(ii) Payment of any unprotested portion of the assessment and other taxes due is made timely; and

(iii) The request is accompanied by an offer of a cash bond, or a security bond that is guaranteed by a specified authorized surety insurer. The amount of the bond will generally be equal to the total amount of the assessment, including any penalties and interest. However, where appropriate, the department may require a bond in an increased amount not to exceed twice the amount for which the stay is requested.

(c) Claims of financial hardship or threat of litigation are not grounds that justify the granting of a stay of collection. However, the department will consider a claim of significant financial hardship as grounds for staying collection procedures, but this will be done only if a partial payment agreement is executed and kept in accordance with the department's procedures and with such security as the department deems necessary.

(d) If the department grants a stay of collection, the stay will be for a period of no longer than two calendar years from the date of acceptance of the taxpayer request, or thirty days following a decision not appealed from by a tribunal or court of competent jurisdiction upholding the validity of the tax assessed, whichever date occurs first. The department may extend the period of a stay originally granted, but only for good cause shown.

(e) Interest will continue to accrue against the unpaid tax portion of a liability under stay of collection. ~~((Effective January 1, 1997, the interest rates prescribed by RCW 82.32.190 and 82.32.200 changed from nine percent and twelve percent per annum, respectively, to the same predetermined annual variable rates as are described in subsection (7)(c) of this rule.))~~

(13) Extensions. The department, for good cause, may extend the due date for filing any return.

(a) Any permanent extension more than ten days beyond the due date, and any temporary extension in excess of thirty days, must be conditional upon deposit by the taxpayer with the department of an amount equal to the estimated tax liability for the reporting period or periods for which the extension

is granted. This deposit is credited to the taxpayer's account and may be applied to the taxpayer's liability upon cancellation of the permanent extension or upon reporting of the tax liability where a temporary extension of more than thirty days has been granted.

The amount of the deposit is subject to departmental approval. The amount will be reviewed from time to time, and a change may be required at any time that the department concludes that such amount does not approximate the tax liability for the reporting period or periods for which the extension was granted.

(b) (~~Chapter 181, Laws of 2008 (Senate Bill No. 6950),~~) RCW 82.32.080 allows department of revenue to grant extensions of the due date for any taxes due to department of revenue when the governor has proclaimed a state of emergency under RCW 43.06.040. In general, the bill gives department of revenue the authority to provide extensions on its own initiative, or at the specific request of any taxpayers affected by the emergency. The specific details of how, where, and to whom any extensions are granted will depend on the type and scope of each unique emergency and will be determined when an emergency is declared.

WSR 16-06-049

PERMANENT RULES

DEPARTMENT OF REVENUE

[Filed February 24, 2016, 10:35 a.m., effective March 26, 2016]

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

Purpose: WAC 458-20-167 (Rule 167) provides guidance on the business and occupation (B&O) tax and retail sales and use tax reporting responsibilities of educational institutions, school districts, student organizations, private schools, and persons operating nursery schools, preschools, or providing child care.

Rule 167 has been revised to incorporate legislative changes from:

- HB 1550 (chapter 169, Laws of 2015) that simplifies the taxation of amusement, recreation, and physical fitness services;
- ESHB 2075 (chapter 535, Laws of 2009) relating to the taxation of certain products and services provided or furnished electronically.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-167 Educational institutions, school districts, student organizations, and private schools.

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

Adopted under notice filed as WSR 16-01-013 on December 4, 2015.

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

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

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

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

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

Date Adopted: February 24, 2016.

Kevin Dixon
Rules Coordinator

AMENDATORY SECTION (Amending WSR 07-10-056, filed 4/27/07, effective 5/28/07)

WAC 458-20-167 Educational institutions, school districts, student organizations, and private schools. (1) **Introduction.** This ~~((section))~~ rule explains the application of Washington's business and occupation (B&O), retail sales, and use taxes to educational institutions, school districts, student organizations, and private schools. It also gives tax reporting information to persons operating nursery schools, preschools, or providing child care. ~~((Educational institutions which are institutions of the state of Washington should also refer to WAC 458-20-189 (Sales to and by the state of Washington, etc.). Nonprofit organizations should also refer to WAC 458-20-169 (Religious, charitable, benevolent, nonprofit service organizations, and sheltered workshops).))~~

(a) Other rules that may apply. Readers may also want to refer to other rules for additional information, including those in the following list:

(i) WAC 458-20-169 Nonprofit organizations.

(ii) WAC 458-20-189 Sales to and by the state of Washington, counties, cities, towns, school districts, and fire districts.

(iii) WAC 458-20-244 Food and food ingredients.

(b) Examples. Examples found in this rule identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all facts and circumstances.

(2) **Definitions.** For the purposes of this ~~((section))~~ rule, the following definitions apply:

(a) **Tuition fees.** The term "tuition fees" includes fees for instruction, library, laboratory, and health services. The term also includes special fees and amounts charged for room and board when the property or service for which such charges are made is furnished exclusively to the students, teachers, or other staff of the institution. RCW 82.04.170.

(b) **Educational institutions.** "Educational institutions" means the following:

(i) Institutions which are established, operated, and governed by this state or its political subdivisions under Title 28A (Common school provisions), 28B (Higher education), or 28C (Vocational education) RCW.

(ii) Nonpublic schools, including parochial or independent schools or school districts, carrying out a program for any or all of ~~((the))~~ grades one through twelve, which have

been approved by the Washington state board of education. (See also chapter 180-90 WAC, Private schools.)

(iii) Degree-granting institutions offering educational credentials, instruction, or services prerequisite to or indicative of an academic or professional degree or certificate beyond the secondary level, provided the institution is accredited by an accrediting association recognized by the United States Secretary of Education and offers to students an educational program of a general academic nature. Degree-granting institutions should refer to chapter 28B.85 RCW for information about the requirement for authorization by the Washington higher education coordinating board.

(iv) Institutions which are not operated for profit, and which are privately endowed under a deed of trust to offer instruction in trade, industry, and agriculture.

(v) Programs that an educational institution cosponsors with a nonprofit organization, as defined by the Internal Revenue Code Sec. 501 (c)(3), provided that educational institution grants college credit for course work successfully completed through the educational program.

(vi) Certain branch campuses of foreign degree-granting institutions, provided the following requirements, among others, are satisfied:

(A) The branch campus must be owned and operated directly by a foreign degree-granting institution or indirectly through a Washington profit or nonprofit corporation in which the foreign degree-granting institution is the sole or controlling shareholder or member;

(B) Courses must be provided solely and exclusively to students enrolled in a degree-granting program offered by the institution;

(C) The branch campus must be approved by the Washington higher education coordinating board to operate in this state; and

(D) The branch campus must be recognized to be exempt from income taxes pursuant to 26 U.S.C. Sec. 501(c).

(vii) "Educational institutions" does not include any entity defined as a "private vocational school" under RCW 28C.10.020 and/or any entity defined as a "degree-granting private vocational school" under chapters 28C.10 and 28B.85 RCW (other than those described in (b)(iv) of this subsection).

(c) **Private schools.** "Private schools" means all schools and institutions which are excluded from the above definition of "educational institutions." For example, an elementary school operated by a church organization is a "private school" if the school is not approved. It will be given the tax treatment of an "educational institution" for purposes of this ~~(section)~~ rule only if it has obtained approval from the Washington state board of education.

(3) **Business and occupation tax.** Departments and institutions of the state of Washington are not subject to the B&O tax. ~~((See WAC 458-20-189.))~~ School districts are also not subject to the B&O tax, except as to income derived from a public utility or enterprise activity. RCW 82.04.419. Private schools, student organizations, and school districts engaging in utility or enterprise activities, and educational institutions which are not departments or institutions of the state of Washington are subject to the B&O tax as follows:

(a) **Service and other business activities.** The service and other business activities B&O tax applies to the following nonexclusive list of activities or sources of income:

(i) Tuition fees received by private schools. However, educational institutions, as defined above, may deduct amounts derived from tuition fees. RCW 82.04.4282.

(ii) Rental of conference facilities to various organizations or groups.

(iii) Rental by private schools of dormitories or other student lodging facilities which are not generally available to the public and where the student does not have an absolute right of control and occupancy. ~~((See WAC 458-20-118.))~~ However, educational institutions may deduct the income from charges for lodging made to students. These amounts are defined by law as being tuition. For additional information on the rental of real estate and the license to use real estate, see WAC 458-20-118.

(iv) Amounts received by private schools for providing meals to students where the meals are provided exclusively for students, teachers, staff, and their guests. However, refer to the comments under retailing for the taxability of meals sold to guests of students. Income from providing meals to students by educational institutions is deductible.

(v) Amounts received from owners of ~~((coin-operated))~~ vending machines ~~((or amusement devices))~~ that operate after accepting payment, for allowing the placement of those machines on the premises of the school. ~~((Refer also to WAC 458-20-187.))~~ For additional information on sales through vending machines, see WAC 458-20-187.

(b) **Retailing.** Activities and sources of income subject to the retailing B&O tax include, but are not limited to, the following:

(i) Sales of tangible personal property or services classified as retail sales. This includes sales of books and supplies to students where these materials are not supplied as part of the tuition charge. Sales of academic transcripts are exempt from B&O tax. RCW 82.04.399.

(ii) Sales of meals to guests of students.

(iii) Sales of meals or prepared foods in facilities which are generally open to the public, including those sold to students. ~~((See also WAC 458-20-119.))~~ For additional information on sales by caterers and food service contractors, see WAC 458-20-119.

(iv) Amounts derived from charges made by an educational institution to its alumni or other members of the public for the use of any of the educational institution's athletic or fitness facilities, or charges for the recreational activities defined as retail sales under RCW 82.04.050.

(4) **Retail sales tax.** The retail sales tax applies to all retail sales including, but not limited to, those identified in subsection (3)(b) of this ~~(section)~~ rule, unless a specific statutory exemption applies.

(a) **Tangible personal property and retail services.** Educational institutions, school districts, student organizations, and private schools, including departments or institutions of the state of Washington, are required to collect the retail sales tax on sales of tangible personal property and retail services to consumers, even though such sales may be exempt from the retailing B&O tax. Retail sales tax exemptions are provided for sales of academic transcripts (RCW

82.08.02537) and certain food products (RCW 82.08.0293 and 82.08.0297(~~and WAC 458-20-244~~)).

(b) **Interdepartmental charges.** Amounts derived from charges between departments or institutions of the state of Washington, or between departments of the same entity, constitute interdepartmental charges and are not subject to the retailing B&O tax or retail sales tax. (~~See WAC 458-20-201 and 458-20-189.~~) For additional information on interdepartmental charges, see WAC 458-20-201.

(c) **Sales through vending machines.** Persons selling (~~merchandise~~) through vending machines should refer to WAC 458-20-187.

(d) **Charges to alumni and members of the public.** Amounts derived from charges made by an educational institution to its alumni or other members of the public for the use of any of the educational institution's athletic or fitness facilities, or charges for the recreational activities defined as retail sales under RCW 82.04.050.

(5) **Deferred sales or use tax.** Educational institutions, school districts, student organizations, and private schools are required to report the deferred sales or use tax upon the use of all tangible personal property purchased or acquired under conditions whereby the Washington retail sales tax has not been paid, unless a specific statutory exemption applies. If items are purchased for dual purposes (i.e., for both consumption and resale), a tax paid at source deduction may be claimed for the cost of the articles resold upon which retail sales tax was previously paid. (~~See WAC 458-20-102.~~) For additional information on reseller permits, see WAC 458-20-102. For additional information on use tax and the use of tangible personal property, see WAC 458-20-178.

(a) **Meals for students and faculty.** These organizations are the consumers of food or beverage products which are ingredients of meals that are furnished to students and faculty. However, certain food products are exempt from the retail sales and/or use tax. RCW 82.12.0293 and 82.12.-0297(~~and WAC 458-20-244~~)).

(b) **Exemptions.** Use tax exemptions are also provided for the following:

(i) Academic transcripts. RCW 82.12.0347.

(ii) Computers, computer components, computer accessories, (~~or~~) computer software, **digital goods, or digital codes**, irrevocably donated to any public or private nonprofit school or college in this state, as defined by chapter 84.36 RCW. For the purposes of this exemption, RCW 82.04.215 defines "computer" as an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions. RCW 82.12.0284. This exemption is available to both the donor and the **public or private nonprofit school or college** receiving the donation.

(iii) Tangible personal property donated to a nonprofit charitable organization or state or local governmental entity including the subsequent use of the property by a person to whom the property is donated or bailed by the nonprofit charitable organization, or state or local governmental entity, if used to further the purpose of that organization. RCW 82.12.-02595.

(iv) The donation of tangible personal property without intervening use to a nonprofit charitable organization, or the incorporation of tangible personal property without interven-

ing use into real or personal property of or for a nonprofit charitable organization in the course of installing, repairing, cleaning, altering, imprinting, improving, constructing, or decorating the real or personal property for no charge. RCW 82.12.02595.

(v) Motor vehicles equipped with dual controls loaned to and exclusively used by a school in connection with the school's driver training program. This exemption is available to both the donor and the school receiving the donation. For the purposes of this exemption, RCW 82.12.0264 limits the term "school" to:

(A) The University of Washington, Washington State University, the regional universities, The Evergreen State College, and the state community colleges;

(B) Any public, private, or parochial school accredited by either the state board of education or by the University of Washington (the state accrediting station); or

(C) Any public vocational school meeting the standards, courses, and requirements established and prescribed or approved in accordance with the Community College Act of 1967.

(6) **Nursery schools, preschools, child care providers, privately operated kindergartens, and persons monitoring home child care facilities.** Income received by nursery schools, preschools, child care providers, and privately operated kindergartens for the care or education of children who are under eight years of age and not enrolled in or above the first grade is exempt from the B&O tax. RCW 82.04.4282. Such persons are, however, subject to B&O tax upon the gross proceeds derived from providing child care to children who are eight years of age or older or enrolled in or above the first grade.

Persons providing child care for periods of less than twenty-four hours are subject to tax under the child care B&O tax classification. RCW 82.04.2905. The service and other **business** activities B&O tax classification applies to child care services provided for periods in excess of twenty-four hours. Nursery schools, preschools, and child care providers receiving both taxable and exempt income must properly segregate such income in their books of account.

(a) The B&O tax does not apply to income derived by a church for the care of children of any age for periods of less than twenty-four hours, provided the church is exempt from property tax under RCW 84.36.020. RCW 82.04.339.

(b) Persons who monitor home child care facilities under one or more federal nutrition programs are required to register with the department and are taxable on their gross income under the service and other **business activities** classification of the B&O tax. These monitors contract with, and are accountable to the **office of** superintendent of public instruction which receives funds from the United States Department of Agriculture and disburses funds to each monitor. Commonly, a portion of the funds received by the monitor is required by law to be passed directly to the home child care facilities for the provision of qualifying meals. That portion of the funds received by the monitor may be taken as a "reimbursement" deduction on the monitor's excise tax return, so that the monitor is subject to B&O tax only on the portion of funds retained for the rendering of services.

(7) **Examples.** ((The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all of the facts and circumstances.))

(a) **Example 1.** MN University is an educational institution created by the state of Washington. MN University operates a book store at which it sells text books, school supplies, and apparel to students and nonstudents. As an institution of the state of Washington, MN University is exempt from the B&O tax with respect to all sales, irrespective that sales are made to nonstudents. However, MN is required to collect and remit retail sales tax on its gross proceeds of sales made through its book store.

(b) **Example 2.** DMG College is a degree-granting institution accredited by an accrediting association recognized by the United States Secretary of Education. DMG College is an educational institution operated by a church. DMG makes charges to its students for tuition, meals, and lodging. It also receives income for occasionally providing lodging and meals to guests of its students during the year. DMG also rents its conference and dormitory facilities to various groups during the summer, providing cafeteria services when needed. The income from tuition, meals, and lodging received from the students is exempt ~~((of))~~ from B&O tax and retail sales tax because this entity ~~((comes within))~~ meets the definition of an educational institution. However, DMG must report the retailing B&O tax and collect and remit retail sales tax upon the gross proceeds derived from the sales of meals and prepared foods to the conference attendees and guests. The income derived from the rental of the conference and dormitory facilities to various groups and student guests is subject to the service and other business activities B&O tax. The college is not considered as holding itself out for the sale of lodging to the general public.

(c) **Example 3.** JB College is an educational institution which is not a department or institution of the state of Washington. JB College has converted five housing units from student use ~~((for))~~ to use by nonstudents. Guests of the administration use these units for stays of two or three days, and are charged a specific amount per night. The college provides linen, towels, etc., to the users. These units are always rented for periods under thirty days. JB College must report this rental income under the retailing B&O tax and collect and remit retail sales tax. This income is not derived from the occasional rental of student lodging facilities, but is derived from the rental of accommodations specifically maintained for public use.

(d) **Example 4.** Jane Doe operates a private preschool and kindergarten, providing care and elementary education for children. She also provides after hours child care. Jane Doe may claim a deduction for the income received for the care and education of children under eight years old and not enrolled in or above the first grade, provided this income is properly segregated in her books of account. The income attributable to the care of children at or above the first grade level~~((:))~~ (i.e., eight years old or enrolled in or above the first grade), is subject to the child care B&O tax classification. Jane Doe may be able to reduce or eliminate any child care

B&O tax liability if she qualifies for the small business B&O tax credit. RCW 82.04.4451 and WAC 458-20-104.

WSR 16-06-053
PERMANENT RULES
HEALTH CARE AUTHORITY
(Washington Apple Health)

[Filed February 24, 2016, 3:40 p.m., effective April 1, 2016]

Effective Date of Rule: April 1, 2016.

Purpose: Amendments to these rules comply with 2SSB 6312, chapter 225, Laws of 2014, by updating the name "regional support network (RSN)" to "behavioral health organization (BHO)."

Citation of Existing Rules Affected by this Order: Amending WAC 182-500-0015, 182-500-0095, 182-531-1400, 182-546-5500, 182-550-1050, 182-550-1100, and 182-550-2650.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160, 2SSB 6312.

Adopted under notice filed as WSR 16-03-038 on January 13, 2016.

Changes Other than Editing from Proposed to Adopted Version: Subsection (4) in WAC 182-550-2650 was removed because the department of social and health services no longer requires form DSHS 13-628 as described in the subsection.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 7, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 7, Repealed 0.

Date Adopted: February 24, 2016.

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 15-21-063, filed 10/19/15, effective 11/19/15)

WAC 182-500-0015 Medical assistance definitions—
B. "Behavioral health organization" means a single- or multiple-county authority or other entity operating as a pre-paid health plan with which the medicaid agency or the agency's designee contracts for the delivery of community outpatient and inpatient mental health and substance use disorder services in a defined geographic area.

"Benefit package" means the set of health care service categories included in a client's health care program. See WAC 182-501-0060.

"Benefit period" means the time period used to determine whether medicare can pay for covered Part A services. A benefit period begins the first day a beneficiary receives inpatient hospital or extended care services from a qualified provider. The benefit period ends when the beneficiary has not been an inpatient of a hospital or other facility primarily providing skilled nursing or rehabilitation services for sixty consecutive days. There is no limit to the number of benefit periods a beneficiary may receive. Benefit period also means a "spell of illness" for medicare payments.

"Billing instructions" means provider guides. See WAC 182-500-0085.

"Blind" is a category of medical program eligibility that requires:

(a) A central visual acuity of 20/200 or less in the better eye with the use of a correcting lens; or

(b) A field of vision limitation so the widest diameter of the visual field subtends an angle no greater than twenty degrees from central.

"By report (BR)" means a method of payment in which the agency or the agency's designee determines the amount it will pay for a service when the rate for that service is not included in the agency's published fee schedules. The provider must submit a report which describes the nature, extent, time, effort and equipment necessary to deliver the service.

AMENDATORY SECTION (Amending WSR 14-01-021, filed 12/9/13, effective 1/9/14)

WAC 182-500-0095 Medical assistance definitions—

R. "Reasonably compatible" means the amount of a person's self-attested income (as defined in WAC 182-500-0100) and the amount of a person's income verified via electronic data sources are either both above or both below the applicable income standard for Washington apple health (WAH). When self-attested income is less than the standard for WAH, but income from available data sources is more than the WAH standard, or when the self-attested income cannot be verified via electronic data sources, the self-attested income is considered not reasonably compatible.

~~("Regional support network (RSN)" means a single or multiple county authority or other entity operating as a prepaid health plan through which the agency or the agency's designee contracts for the delivery of community outpatient and inpatient mental health services system in a defined geographic area.)~~

"Retroactive period" means approval of medical coverage for any or all of the retroactive period. A client may be eligible only in the retroactive period or may have both current eligibility and a separate retroactive period of eligibility approved.

AMENDATORY SECTION (Amending WSR 15-03-041, filed 1/12/15, effective 2/12/15)

WAC 182-531-1400 Psychiatric physician-related services and other professional mental health services. (1) The mental health services covered in this section are differ-

ent from the mental health services covered under chapter 388-865 WAC, Community mental health and involuntary treatment programs, administered by the division of behavioral health and recovery within the department of social and health services.

(2) Inpatient and outpatient mental health services not covered under chapter 388-865 WAC, may be covered by the agency ~~((according to))~~ under this section.

Inpatient mental health services

(3) For hospital inpatient psychiatric admissions, providers must comply with ~~((the rules of the department of social and health services in))~~ chapter 388-865 WAC~~((Community mental health and involuntary treatment programs))~~.

(4) The agency covers professional inpatient mental health services as follows:

(a) When provided by a psychiatrist, psychiatric advanced registered nurse practitioner (ARNP), or psychiatric mental health nurse practitioner-board certified (PMHNP-BC);

(b) The agency pays only for the total time spent on direct psychiatric client care during each visit, including services ~~((rendered))~~ provided when making rounds. The agency considers services ~~((rendered))~~ provided during rounds to be direct client care services and may include, but are not limited to:

(i) Individual psychotherapy up to one hour;

(ii) Family/group therapy; or

(iii) Electroconvulsive therapy.

(c) One electroconvulsive therapy or narcosis per client, per day, and only when performed by a psychiatrist.

Outpatient mental health services

(5) The agency covers outpatient mental health services when provided by the following licensed health care professionals who are ~~((in good standing with the agency and who are without restriction by the department of health under their appropriate licensure))~~ eligible providers under chapter 182-502 WAC:

(a) Psychiatrists;

(b) Psychologists;

(c) Psychiatric advanced registered nurse practitioners (ARNP) ~~((or))~~;

~~((d))~~ (d) Psychiatric mental health nurse practitioners-board certified (PMHNP-BC);

~~((e))~~ (e) Mental health counselors;

~~((f))~~ (f) Independent clinical social workers;

~~((g))~~ (g) Advanced social workers; or

~~((h))~~ (h) Marriage and family therapists.

(6) With the exception of licensed psychiatrists and psychologists, qualified health care professionals who treat clients age eighteen ~~((years of age))~~ and younger must have a minimum of two years' experience in the diagnosis and treatment of clients age eighteen ~~((years of age))~~ and younger, including one year of supervision by a mental health professional trained in child and family mental health.

(7) The agency does not limit the total number of outpatient mental health visits a licensed health care professional can provide.

(8) ~~((The agency covers outpatient mental health services with the following limitations:))~~ The agency evaluates a request for covered outpatient mental health services ~~((that is))~~ in excess of the limitations or restrictions ~~((according to WAC 182-501-0169))~~ in this section under WAC 182-501-0169. The agency covers outpatient mental health services with the following limitations:

(a) One psychiatric diagnostic evaluation, per provider, per client, per calendar year, unless significant change in the client's circumstances renders an additional evaluation medically necessary and is authorized by the agency.

(b) One individual or family/group psychotherapy visit, with or without the client, per day, per client.

(c) One psychiatric medication management service, per client, per day, in an outpatient setting when performed by one of the following:

- (i) Psychiatrist;
- (ii) Psychiatric advanced registered nurse practitioner (ARNP); or
- (iii) Psychiatric mental health nurse practitioner-board certified (PMHNP-BC).

(9) Clients enrolled in the alternative benefits plan (defined in WAC 182-500-0010) are eligible for outpatient mental health services when used as a habilitative service to treat a qualifying condition in accordance with WAC 182-545-400.

(10) ~~((The agency requires))~~ Mental health services must be provided in the appropriate place of service. The provider is responsible for referring the client to the ~~((regional support network (RSN)))~~ behavioral health organization (BHO) to assess whether the client meets the ~~((RSN))~~ BHO access to care standards.

(11) If anytime during treatment the provider suspects the client meets the ~~((RSN))~~ BHO access to care standards, an assessment must be conducted. This assessment may be completed by either a health care professional listed in subsection (5) of this section or a representative of the ~~((RSN))~~ BHO.

(12) After the client completes fifteen outpatient mental health visits under this benefit, the agency may request a written attestation that the client has been assessed for meeting access to care standards. This written attestation ~~((assures))~~ verifies the mental health services are being provided in the appropriate place of service. ~~((This))~~ The treating provider must respond to this request.

(13) To support continuity of care, the client may continue under the care of the provider until ~~((an RSN))~~ a BHO can receive the client.

(14) To be paid for providing mental health services, providers must bill the agency using the agency's published billing instructions.

(15) The agency considers a provider's acceptance of multiple payments for the same client for the same service on the same date to be a duplication of payment. Duplicative payments may be recouped by the agency under WAC 182-502-0230. Providers must keep documentation identifying the type of service provided and the contract or agreement under which it is provided.

AMENDATORY SECTION (Amending WSR 15-03-050, filed 1/14/15, effective 2/14/15)

WAC 182-546-5500 Nonemergency transportation—Covered trips. (1) The medicaid agency covers nonemergency transportation for ~~((medical assistance clients))~~ a Washington apple health client to and from health care services ~~((when))~~ if all of the following apply:

(a) The health care services are:

- (i) Within the scope of coverage of the eligible client's benefit services package;

- (ii) Covered as defined in WAC 182-501-0050 through 182-501-0065 and the specific program rules; and

- (iii) Authorized, ~~((when))~~ as required ~~((within))~~ under specific program rules.

(b) The health care service is medically necessary as defined in WAC 182-500-0070;

(c) The health care service is being provided ~~((as follows (see subsection (3) of this section for exceptions)))~~:

- (i) Under fee-for-service, by an agency-contracted provider;

- (ii) Through an agency-contracted managed care organization (MCO), by an MCO provider;

- (iii) Through a ~~((regional support network (RSN), by an RSN))~~ behavioral health organization (BHO), by a BHO contractor; or

- (iv) Through one of the following providers, as long as the provider is eligible for enrollment as a medicaid provider (see WAC 182-502-0012):

- (A) A medicare enrolled provider;

- (B) A provider in the network covered by the client's primary insurance where there is third-party insurance;

- (C) A provider performing services paid for by the Veteran's Administration, charitable program, or other voluntary program (Shriners, etc.).

- (d) The trip is to a local provider as defined in WAC 182-546-5100 (see WAC 182-546-5700(3) for local provider exceptions);

- (e) The transportation is the lowest cost available mode or alternative that is both accessible to the client and appropriate to the client's medical condition and personal capabilities;

- (f) The trip is authorized by the broker before a client's travel; and

- (g) The trip is a minimum of three-quarters of a mile from pick-up point to the drop-off point (see WAC 182-546-6200(7) for exceptions to the minimum distance requirement).

(2) Coverage for nonemergency medical transportation is limited to one roundtrip per day, with the exception of multiple medical appointments which cannot be accessed in one roundtrip.

AMENDATORY SECTION (Amending WSR 14-12-047, filed 5/29/14, effective 7/1/14)

WAC 182-550-1050 Hospital services definitions. The following definitions and abbreviations, those found in chapter 182-500 WAC, Medical definitions, and definitions and abbreviations found in other sections of this chapter apply to this chapter. When a term is not defined in this chap-

ter, other agency or agency's designee WAC, or state or federal law, the medical definitions found in *Taber's Cyclopedic Medical Dictionary* apply.

"Accommodation costs" - The expenses incurred by a hospital to provide its patients services for which a separate charge is not customarily made. These expenses include, but are not limited to, room and board, medical social services, psychiatric social services, and the use of certain hospital equipment and facilities.

"Accredited" or **"accreditation"** - A term used by nationally recognized health organizations, such as the commission on accreditation of rehabilitation facilities (CARF), to indicate a facility meets both professional and community standards of medical care.

"Acute" - A medical condition of severe intensity with sudden onset. For the purposes of the acute physical medicine and rehabilitation (Acute PM&R) program, acute means an intense medical episode, not longer than three months.

"Acute care" - Care provided for patients who are not medically stable or have not attained a satisfactory level of rehabilitation. These patients require frequent monitoring by a health care professional (~~in order~~) to maintain their health status.

"Acute physical medicine and rehabilitation (acute PM&R)" - A comprehensive inpatient rehabilitative program coordinated by an interdisciplinary team at an agency-approved rehabilitation facility. The program provides twenty-four-hour specialized nursing services and an intense level of therapy for specific medical conditions for which the client shows significant potential for functional improvement. Acute PM&R is a twenty-four hour inpatient comprehensive program of integrated medical and rehabilitative services provided during the acute phase of a client's rehabilitation.

"Administrative day" or **"administrative days"** - One or more days of a hospital stay in which an acute inpatient or observation level of care is not medically necessary, and a lower level of care is appropriate.

"Administrative day rate" - The agency's statewide medicaid average daily nursing facility rate.

"Aggregate cost" - The total cost or the sum of all constituent costs.

"Aggregate operating cost" - The total cost or the sum of all operating costs.

"All-patient DRG grouper (AP-DRG)" - A computer software program that determines the medical and surgical diagnosis-related group (DRG) assignments used by the agency for inpatient admissions between August 1, 2007, and June 30, 2014.

"All-patient refined DRG grouper (APR-DRG)" - A computer software program that determines the medical and surgical diagnosis-related group (DRG) assignments used by the agency for inpatient admissions on and after July 1, 2014.

"Allowable" - The calculated amount for payment, after exclusion of any "nonallowed service or charge," based on the applicable payment method before final adjustments, deductions, and add-ons.

"Allowed amount" - The initial calculated amount for any procedure or service, after exclusion of any "nonallowed service or charge," that the agency allows as the basis for

payment computation before final adjustments, deductions, and add-ons.

"Allowed charges" - The total billed charges for allowable services.

"Allowed covered charges" - The total billed charges for services minus the billed charges for noncovered (~~and/or~~) services, denied services, or both.

"Ambulatory payment classification (APC)" - A grouping that categorizes outpatient visits according to the clinical characteristics, the typical resource use, and the costs associated with the diagnoses and the procedures performed.

"Ambulatory surgery" - A surgical procedure that is not expected to require an inpatient hospital admission.

"Ancillary services" - Additional or supporting services provided by a hospital to a client during the client's hospital stay. These services include, but are not limited to: Laboratory, radiology, drugs, delivery room, operating room, postoperative recovery rooms, and other special items and services.

"Appropriate level of care" - The level of care required to best manage a client's illness or injury based on:

(1) The severity of illness and the intensity of services required to treat the illness or injury; or

(2) A condition-specific episode of care.

"Audit" - An assessment, evaluation, examination, or investigation of a health care provider's accounts, books, and records, including:

(1) Health, financial, and billing records pertaining to billed services paid by the agency through Washington apple health, by a person not employed or affiliated with the provider, (~~for the purpose of verifying~~) to verify the service was provided as billed and was allowable under program regulations; and

(2) Financial, statistical, and health records, including mathematical computations and special studies conducted supporting the medicare cost report (Form 2552-96 and 2552-10 or successor form), submitted to the agency (~~for the purpose of establishing~~) to establish program rates for payment to hospital providers.

"Authorization" - See **"prior authorization"** and **"expedited prior authorization (EPA)."**

"Bad debt" - An operating expense or loss incurred by a hospital because of uncollectible accounts receivables.

"Bedside nursing services" - Services included under the room and board services paid to the facility and provided by nursing service personnel. These services include, but are not limited to: Medication administration, IV hydration and IV medication administration, vaccine administration, dressing applications, therapies, glucometry testing and other point of care testing, catheterizations, tube feedings and irrigations, and equipment monitoring services.

"Billed charge" - The charge submitted to the agency by the provider.

"Bordering city hospital" - A hospital located in one of the cities listed in WAC 182-501-0175.

"Budget neutral" - A condition in which a claims model produces aggregate payments to hospitals that are the same under two separate payment systems. See also **"budget neutrality factor."**

"Budget neutrality factor" - A multiplier used by the agency to ensure that modifications to the payment method and rates are budget neutral. See also **"budget neutral."**

"Budget target" - Funds appropriated by the legislature or through the agency's budget process to pay for a specific group of services, including anticipated caseload changes or vendor rate increases.

"Budget target adjuster" - A multiplier applied to the outpatient prospective payment system (OPPS) payment to ensure aggregate payments do not exceed the established budget target.

"Bundled services" - Interventions integral to or related to the major procedure. The agency does not pay separately for these services.

"Case mix" - A relative value assigned to a DRG or classification of patients in a medical care environment representing the resource intensity demands placed on an institution.

"Case mix index (CMI)" - The average relative weight of all cases treated in a hospital during a defined period.

"Centers for Medicare and Medicaid Services (CMS)" - See WAC 182-500-0020.

"Charity care" - See chapter 70.170 RCW.

"Chemical dependency" - An addiction or dependence on alcohol or drugs, or both.

"Children's health insurance program (CHIP)" - The federal Title XXI program under which medical care is provided to uninsured children younger than age nineteen. Part of Washington apple health.

"Children's hospital" - A hospital primarily serving children.

"Client" - A person who receives or is eligible to receive services through agency programs.

"Commission on accreditation of rehabilitation facilities (CARF)" - See <http://www.carf.org/home/>.

"CMS PPS input price index" - A measure, expressed as a percentage, of the annual inflationary costs for hospital services.

"Comprehensive hospital abstract reporting system (CHARS)" - The department of health's (DOH's) inpatient hospital data collection, tracking, and reporting system.

"Condition-specific episode of care" - Care provided to a client based on the client's primary condition, complications, comorbidities, standard treatments, and response to treatments.

"Contract hospital" - A hospital contracted by the agency to provide specific services.

"Conversion factor" - A hospital-specific dollar amount that is used in calculating inpatient payments.

"Core provider agreement (CPA)" - The basic contract the agency holds with providers serving Washington apple health clients.

"Cost report" - See **"medicare cost report."**

"Costs" - Agency-approved operating, medical education, and capital-related costs (capital costs) as reported and identified on the "cost report."

"Covered charges" - Billed charges submitted to the agency on a claim by the provider, less the noncovered charges indicated on the claim.

"Covered services" - See **"hospital covered service"** and WAC 182-501-0050.

"Critical border hospital" - An acute care hospital located in a bordering city (see WAC 182-501-0175 for list) that the agency has, through analysis of admissions and hospital days, designated as critical to provide health care for Washington apple health clients.

"Current procedural terminology (CPT)" - A systematic listing of descriptive terms and identifying codes for reporting medical services, procedures, and interventions performed by physicians. CPT is copyrighted and published annually by the American Medical Association (AMA).

"Deductible" - The dollar amount a client is responsible for before an insurer, such as medicare, starts paying or the initial specific dollar amount for which the client is responsible.

"Department of social and health services (DSHS)" - The Washington state agency that provides food assistance, financial aid, medical and behavioral health care, and other services to eligible children, families, and vulnerable adults and seniors of Washington state.

"Diabetes education program" - A comprehensive, multidisciplinary program of instruction offered by a DOH-approved diabetes education provider to diabetic clients for managing diabetes. This includes instruction on nutrition, foot care, medication and insulin administration, skin care, glucose monitoring, and recognition of signs/symptoms of diabetes with appropriate treatment of problems or complications.

"Diagnosis code" - A set of numeric or alphanumeric characters assigned by the current published ICD-CM coding guidelines used by the agency as a shorthand symbol to represent the nature of a disease or condition.

"Diagnosis-related group (DRG)" - A classification system that categorizes hospital patients into clinically coherent and homogenous groups with respect to resource use. Classification of patients is based on the current published ICD-CM coding guidelines used by the agency, the presence of a surgical procedure, patient age, presence or absence of significant comorbidities or complications, and other relevant criteria.

"Direct medical education costs" - The direct costs of providing an approved medical residency program as recognized by medicare.

"Discharging hospital" - The institution releasing a client from the acute care hospital setting.

"Discount factor" - The percentage applied to additional significant procedures when a claim has multiple significant procedures or when the same procedure is performed multiple times on the same day. Not all significant procedures are subject to a discount factor.

"Disproportionate share hospital (DSH) payment" - A supplemental payment made by the agency to a hospital that qualifies for one or more of the disproportionate share hospital programs identified in the state plan. See WAC 182-550-4900.

"Disproportionate share hospital (DSH) program" - A program through which the agency makes payment adjustments to eligible hospitals that serve a disproportionate number of low-income clients in accordance with legislative

direction and established payment methods. See 1902 (a)(13)(A)(iv) of the Social Security Act. See also WAC 182-550-4900 through 182-550-5400.

"Dispute conference" - See **"hospital dispute conference."**

"Distinct unit" - A distinct area for psychiatric, rehabilitation, or detox services which has been certified by medicare within an acute care hospital or approved by the agency within a children's hospital.

"Division of behavioral health and recovery services (DBHR)" - The division within DSHS that administers mental health, problem gambling, and substance abuse programs authorized by chapters 43.20A, 71.05, 71.24, 71.34, and 70.96A RCW.

"DRG" - See **"diagnosis-related group."**

"DRG allowed amount" - The DRG relative weight multiplied by the conversion factor.

"DRG average length-of-stay" - The agency's average length-of-stay for a DRG classification established during an agency DRG rebasing and recalibration project.

"DRG-exempt services" - Services paid through methods other than DRG, such as per diem rate, per case rate, or ratio of costs-to-charges (RCC).

"DRG payment" - The total payment made by the agency for a client's inpatient hospital stay. The DRG payment is the DRG allowed amount plus the high outlier minus any third-party liability, client participation, medicare payment, and any other adjustments applied by the agency.

"DRG relative weight" - A factor used in the calculation of DRG payments. As of July 1, 2014, the medicaid agency uses the 3M™ Corporation's national weights developed for the all-patient refined-diagnosis-related group (APR-DRG) software.

"Enhanced ambulatory patient groupings (EAPG)" - The payment system used by the agency to calculate reimbursement to hospitals for the facility component of outpatient services on and after July 1, 2014. This system uses 3M's EAPGs as the primary basis for payment.

"Emergency medical condition" - See WAC 182-500-0030.

"Emergency room" or **"emergency facility"** or **"emergency department"** - A distinct hospital-based facility which provides unscheduled services to clients who require immediate medical attention. An emergency department must be capable of providing emergency medical, surgical, and trauma care services twenty-four hours a day, seven days a week. A physically separate extension of an existing hospital emergency department may be considered a freestanding emergency department as long as the extension provides comprehensive emergency medical, surgical, and trauma care services twenty-four hours a day, seven days a week.

"Emergency services" - Health care services required by and provided to a client after the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity that the absence of immediate medical attention could reasonably be expected to result in placing the client's health in serious jeopardy; serious impairment to bodily functions; or serious dysfunction of any bodily organ or part.

Inpatient maternity services are considered emergency services by the agency.

"Equivalency factor (EF)" - A factor that may be used by the agency in conjunction with other factors to determine the level of a state-administered program payment. See WAC 182-550-4800.

"Exempt hospital - DRG payment method" - A hospital that for a certain client category is reimbursed for services to Washington apple health clients through methodologies other than those using DRG conversion factors.

"Expedited prior authorization (EPA)" - See WAC 182-500-0030.

"Experimental service" - A procedure, course of treatment, drug, or piece of medical equipment, which lacks scientific evidence of safety and effectiveness. See WAC 182-531-0050. A service is not "experimental" if the service:

(1) Is generally accepted by the medical profession as effective and appropriate; and

(2) Has been approved by the federal Food and Drug Administration (FDA) or other requisite government body if ((such)) approval is required.

"Fee-for-service" - See WAC 182-500-0035.

"Fiscal intermediary" - Medicare's designated fiscal intermediary for a region or category of service, or both.

"Fixed per diem rate" - A daily amount used to determine payment for specific services provided in long-term acute care (LTAC) hospitals.

"Formal release" - When a client:

(1) Discharges from a hospital or distinct unit;

(2) Dies in a hospital or distinct unit;

(3) Transfers from a hospital or distinct unit as an acute care transfer; or

(4) Transfers from the hospital or distinct unit to a designated psychiatric unit or facility, or a designated acute rehabilitation unit or facility.

"Global surgery days" - The number of preoperative and follow-up days that are included in the payment to the physician for the major surgical procedure.

"Graduate medical education costs" - The direct and indirect costs of providing medical education in teaching hospitals. See "direct medical education costs" and "indirect medical education costs."

"Grouper" - See **"all-patient DRG grouper (AP-DRG)"** and **"all-patient refined DRG grouper (APR-DRG)."**

"Health care authority (medicaid agency)" - The Washington state agency that administers Washington apple health.

"High outlier" - A DRG claim classified by the agency as being allowed a high outlier payment that is paid under the DRG payment method, does not meet the definition of "administrative day," and has extraordinarily high costs as determined by the agency. See WAC 182-550-3700.

"Hospice" - A medically directed, interdisciplinary program of palliative services for terminally ill clients and the clients' families. Hospice is provided under arrangement with a Washington state-licensed and Title XVIII-certified Washington state hospice.

"Hospital" - An entity that is licensed as an acute care hospital in accordance with applicable state laws and regula-

tions, or the applicable state laws and regulations of the state in which the entity is located when the entity is out-of-state, and is certified under Title XVIII of the federal Social Security Act. The term "hospital" includes a medicare or state-certified distinct rehabilitation unit, a "psychiatric hospital" as defined in this section, or any other distinct unit of the hospital.

"Hospital covered service" - Any service, treatment, equipment, procedure, or supply provided by a hospital, covered under a Washington apple health program, and within the scope of an eligible client's Washington apple health program.

"Hospital cost report" - See **"cost report."**

"Hospital readmission" - A situation in which a client who was admitted as an inpatient and discharged from the hospital has returned to inpatient status to the same or a different hospital.

"Indirect medical education costs" - The indirect costs of providing an approved medical residency program as recognized by medicare.

"Inflation adjustment" - For cost inflation, this is the hospital inflation adjustment. This adjustment is determined by using the inflation factor method approved by the legislature. For charge inflation, this is the inflation factor determined by comparing average discharge charges for the industry from one year to the next, as found in the comprehensive hospital abstract reporting system (CHARS) Hospital Census and Charges by Payer report.

"Inpatient hospital admission" - A formal admission to a hospital based on an evaluation of the client using objective clinical indicators ~~(for the purpose of providing)~~ to provide medically necessary, acute inpatient care. These indicators include assessment, monitoring, and therapeutic services as required to best manage the client's illness or injury. All applicable indicators must be documented in the client's health record. The decision to admit a client to inpatient status should be based on the condition-specific episode of care, severity of illness presented, and the intensity of services rendered. The agency does not deem inpatient hospital admissions as covered or noncovered solely on the basis of the length of time the client actually spends in the hospital. Generally, a client remains overnight and occupies a bed. Inpatient status can apply even if the client is discharged or transferred to another acute hospital and does not actually use a hospital bed overnight. For the agency to recognize a stay as inpatient there must be a physician admission order in the client's medical record indicating the status as inpatient.

"Inpatient medicaid DRG conversion factor" - A dollar amount that represents selected hospitals' average costs of treating medicaid and CHIP clients. The conversion factor is a rate that is multiplied by a DRG relative weight to pay medicaid and CHIP claims under the DRG payment method. See WAC 182-550-3800 for how this conversion factor is calculated.

"Inpatient services" - Health care services provided to a client during hospitalization whose condition warrants formal admission and treatment in a hospital.

"Inpatient state-administered program conversion factor" - A DRG conversion factor reduced from the inpatient medicaid DRG conversion factor to pay a hospital for

inpatient services provided to a client eligible under a state-administered program. The conversion factor is multiplied by a DRG relative weight to pay claims under the DRG payment method.

"Intermediary" - See **"fiscal intermediary."**

"International Classification of Diseases (ICD-9-CM and ICD-10-CM)" - The systematic listing of diseases, injuries, conditions, and procedures as numerical or alpha numerical designations (coding).

"Length of stay (LOS)" - The number of days of inpatient hospitalization, calculated by adding the total number of days from the admission date to the discharge date, and subtracting one day.

"Long-term acute care (LTAC) services" - Inpatient intensive long-term care services provided in agency-approved LTAC hospitals to eligible Washington apple health clients who meet criteria for level 1 or level 2 services. See WAC 182-550-2565 through 182-550-2596.

"LTAC level 1 services" - LTAC services provided to a client who requires eight or more hours of direct skilled nursing care per day and the client's medical needs cannot be met at a lower level of care due to clinical complexity. Level 1 services include one of the following:

(1) Ventilator weaning care; or

(2) Care for a client who has:

(a) Chronic open wounds that require on-site wound care specialty services and daily assessments and/or interventions; and

(b) At least one comorbid condition (such as chronic renal failure requiring hemodialysis).

"LTAC level 2 services" - LTAC services provided to a client who requires four or more hours of direct skilled nursing care per day, and the clients' medical needs cannot be met at a lower level of care due to clinical complexity. Level 2 services include at least one of the following:

(1) Ventilator care for a client who is ventilator-dependent and is not weanable and has complex medical needs; or

(2) Care for a client who:

(a) Has a tracheostomy;

(b) Requires frequent respiratory therapy services for complex airway management and has the potential for decanulation; and

(c) Has at least one comorbid condition (such as quadriplegia).

"Major diagnostic category (MDC)" - One of the mutually exclusive groupings of principal diagnosis areas in the AP-DRG and APR-DRG classification systems.

"Medical care services (MCS)" - See WAC 182-500-0070.

"Medical education costs" - The expenses incurred by a hospital to operate and maintain a formally organized graduate medical education program.

"Medical visit" - Diagnostic, therapeutic, or consultative services provided to a client by a health care professional in an outpatient setting.

"Medicare cost report" - The medicare cost report (Form 2552-96 or Form 2552-10), or successor document, completed and submitted annually by a hospital provider.

"Medicare crossover" - A claim involving a client who is eligible for both medicare benefits and medicaid.

"Medicare physician fee schedule (MPFS)" - The official CMS publication of relative value units and medicare payment policy indicators for the resource-based relative value scale (RBRVS) payment program.

"Medicare Part A" - See WAC 182-500-0070.

"Medicare Part B" - See WAC 182-500-0070.

"Medicare payment principles" - The rules published in the federal register regarding payment for services provided to medicare clients.

"Mental health designee" - A professional contact person authorized by the division of behavioral health and recovery (DBHR) of DSHS, who operates under the direction of a (~~regional support network (RSN)~~) behavioral health organization (BHO) or a prepaid inpatient health plan (PIHP). See WAC 182-550-2600.

"Military hospital" - A hospital reserved for the use of military personnel, their dependents, and other authorized users.

"Modifier" - A two-digit alphabetic and/or numeric identifier added to the procedure code to indicate the type of service performed. The modifier provides the means by which the reporting hospital can describe or indicate that a performed service or procedure has been altered by some specific circumstance but not changed in its definition or code. The modifier can affect payment or be used for information only. Modifiers are listed in fee schedules.

"National Correct Coding Initiative (NCCI)" - A national standard for the accurate and consistent description of medical goods and services using procedural codes. The standard is based on coding conventions defined in the *American Medical Associations' Current Procedural Terminology (CPT®)* manual, current standards of medical and surgical coding practice, input from specialty societies, and analysis of current coding practices. The Centers for Medicare and Medicaid Services (CMS) maintain NCCI policy. Information can be found at <http://www.cms.hhs.gov/NationalCorrectCodInitEd/>.

"National Drug Code (NDC)" - The eleven-digit number the manufacturer or labeler assigns to a pharmaceutical product and attaches to the product container at the time of packaging. The eleven-digit NDC is composed of a five-four-two grouping. The first five digits comprise the labeler code assigned to the manufacturer by the FDA. The second grouping of four digits is assigned by the manufacturer to describe the ingredients, dose form, and strength. The last grouping of two digits describes the package size.

"National payment rate (NPR)" - A rate for a given procedure code, published by CMS, that does not include a state- or location-specific adjustment.

"National Provider Identifier (NPI)" - A standard, unique identifier for health care providers assigned by CMS. The agency's ProviderOne system pays for inpatient and outpatient services using only one NPI per provider. The agency may make an exception for inpatient claims billed with medicare-certified, distinct unit NPIs.

"Nationwide rate" - See **"national payment rate (NPR)."**

"NCCI edit" - A software step used to determine if a claim is billing for a service that is not in accordance with federal and state statutes, federal and state regulations,

agency fee schedules, billing instructions, and other publications. The agency has the final decision whether the NCCI edits allow automated payment for services that were not billed in accordance with governing law, NCCI standards, or agency policy.

"Newborn" or "neonate" or "neonatal" - A person younger than twenty-nine days old.

"Nonallowed service or charge" - A service or charge billed by the provider as noncovered or denied by the agency. This service or charge cannot be billed to the client except under the conditions identified in WAC 182-502-0160.

"Noncovered charges" - Billed charges a provider submits to the agency on a claim and indicates them on the claim as noncovered.

"Noncovered service or charge" - A service or charge the agency does not consider or pay for as a "hospital covered service." This service or charge may not be billed to the client, except under the conditions identified in WAC 182-502-0160.

"Nursing service personnel" - A group of health care professionals that includes, but is not limited to: Registered nurse (RN), licensed practical nurse (LPN), certified nursing assistant/nursing assistant certified (CNA/NAC).

"Observation services" - A well-defined set of clinically appropriate services furnished while determining whether a client will require formal inpatient admission or be discharged from the hospital. Services include ongoing short-term treatment, monitoring, assessment, and reassessment. Rarely do reasonable and necessary observation services exceed forty-eight hours. The agency or its designee may determine through the retrospective utilization review process that an inpatient hospital service should have been billed as an observation service.

"Operating costs" - All expenses incurred providing accommodation and ancillary services, excluding capital and medical education costs.

"Orthotic device" or "orthotic" - A corrective or supportive device that:

- (1) Prevents or corrects physical deformity or malfunction; or
- (2) Supports a weak or deformed portion of the body.

"Out-of-state hospital" - Any hospital located outside the state of Washington and the bordering cities designated in WAC 182-501-0175. For Washington apple health clients requiring psychiatric services, an "out-of-state hospital" is any hospital located outside the state of Washington.

"Outliers" - Cases with extraordinarily high costs when compared to other cases in the same DRG.

"Outpatient" - A client who is receiving health care services, other than inpatient services, in a hospital setting.

"Outpatient care" - See **"outpatient hospital services."**

"Outpatient code editor (OCE)" - A software program the agency uses for classifying and editing in ambulatory payment classification (APC)-based OPPS.

"Outpatient hospital" - A hospital authorized by DOH to provide outpatient services.

"Outpatient hospital services" - Those health care services that are within a hospital's licensure and provided to a client who is designated as an outpatient.

"Outpatient observation" - See **"observation services."**

"Outpatient prospective payment system (OPPS)" - The payment system used by the agency to calculate reimbursement to hospitals for the facility component of outpatient services.

"Outpatient prospective payment system (OPPS) conversion factor" - See **"outpatient prospective payment system (OPPS) rate."**

"Outpatient prospective payment system (OPPS) rate" - A hospital-specific multiplier assigned by the agency that is one of the components of the APC payment calculation.

"Outpatient surgery" - A surgical procedure that is not expected to require an inpatient hospital admission.

"Pass-throughs" - Certain drugs, devices, and biologics, as identified by CMS, for which providers are entitled to additional separate payment until the drugs, devices, or biologics are assigned their own APC.

"Per diem" - A method which uses a daily rate to calculate payment for services provided as a "hospital covered service."

"PM&R" - See **"Acute PM&R."**

"Point of care testing (POCT)" - A test designed to be used at or near the site where the patient is located, that does not require permanent dedicated space, and that is performed outside the physical facilities of the clinical laboratory.

"Primary care case management (PCCM)" - The coordination of health care services under the agency's Indian health center or tribal clinic managed care program. See WAC 182-538-068.

"Principal diagnosis" - The condition chiefly responsible for the admission of the patient to the hospital.

"Prior authorization" - See WAC 182-500-0085.

"Private room rate" - The rate customarily charged by a hospital for a one-bed room.

"Prospective payment system (PPS)" - A payment system in which what is needed to calculate payments (methods, types of variables, and other factors) is set in advance and is knowable by all parties before care is provided. In a retrospective payment system, what is needed (actual costs or charges) is not available until after care is provided.

"Prosthetic device" or **"prosthetic"** - A replacement, corrective, or supportive device prescribed by a physician or other licensed practitioner, within the scope of his or her practice as defined by state law, to:

- (1) Artificially replace a missing portion of the body;
- (2) Prevent or correct physical deformity or malfunction;

or

- (3) Support a weak or deformed portion of the body.

"Psychiatric hospital" - A medicare-certified distinct psychiatric unit, a medicare-certified psychiatric hospital, or a state-designated pediatric distinct psychiatric unit in a medicare-certified acute care hospital. Eastern state hospital and western state hospital are excluded from this definition.

"Public hospital district" - A hospital district established under chapter 70.44 RCW.

"Ratable" - A factor used to calculate inpatient payments for state-administered programs.

"Ratio of costs-to-charges (RCC)" - A method used to pay hospitals for some services exempt from the DRG payment method. It also refers to the percentage applied to a hospital's allowed covered charges for medically necessary services to determine estimated costs, as determined by the agency, and payment to the hospital for some DRG-exempt services.

"Rebasing" - The process used by the agency to update hospital payment policies, related variables (rates, factors, thresholds, multipliers, and caps), and system processes (edits, adjudication, grouping, etc.).

"Recalibration" - The process of recalculating DRG relative weights using historical data.

~~(**"Regional support network (RSN)"** - See WAC 182-500-0095.)~~

"Rehabilitation units" - Specifically identified rehabilitation hospitals and designated rehabilitation units of hospitals that meet agency and medicare criteria for distinct rehabilitation units.

"Relative weights" - See **"DRG relative weights."**

"Reserve days" - The days beyond the ninetieth day of hospitalization of a medicare patient for a benefit period or incidence of illness. See also **"lifetime hospitalization reserve."**

"Revenue code" - A nationally assigned coding system for billing inpatient and outpatient hospital services, home health services, and hospice services.

"Room and board" - Routine supplies and services provided to a client during the client's hospital stay. This includes, but is not limited to, a regular or special care hospital room and related furnishings, room supplies, dietary and bedside nursing services, and the use of certain hospital equipment and facilities.

"Rural health clinic" - See WAC 182-549-1100.

"Rural hospital" - An acute care health care facility capable of providing or assuring availability of inpatient and outpatient hospital health services in a rural area.

"Semi-private room rate" - A rate customarily charged for a hospital room with two to four beds; this charge is generally lower than a private room rate and higher than a ward room. See also **"multiple occupancy rate."**

"Significant procedure" - A procedure, therapy, or service provided to a client that constitutes one of the primary reasons for the visit to the health care professional, and represents a substantial portion of the resources associated with the visit.

"Specialty hospitals" - Children's hospitals, psychiatric hospitals, cancer research centers or other hospitals which specialize in treating a particular group of patients or diseases.

"Spendedown" - See chapter 182-519 WAC.

"State plan" - The plan filed by the agency with CMS, Department of Health and Human Services (DHHS), outlining how the state will administer medicaid and CHIP services, including the hospital program.

"Status indicator (SI)" - A code assigned to each medical procedure or service by the agency that contributes to the selection of a payment method.

"Subacute care" - Care provided to a client which is less intensive than that given at an acute care hospital. Skilled

nursing, nursing care facilities and other facilities provide subacute care services.

"Survey" - An inspection or review conducted by a federal, state, or private agency to evaluate and monitor a facility's compliance with program requirements.

"Swing bed" - An inpatient hospital bed certified by CMS for either acute inpatient hospital or skilled nursing services.

"Swing-bed day" - A day in which a client is receiving skilled nursing services in a hospital-designated swing bed at the hospital's census hour.

"Total patient days" - All patient days in a hospital for a given reporting period, excluding days for skilled nursing, nursing care, and observation days.

"Transfer" - To move a client from one acute care setting to a higher level acute care setting for emergency care or to a post-acute, lower level care setting for ongoing care.

"Transferring hospital" - The hospital or distinct unit that transfers a client to another acute care or subacute facility or distinct unit, or to a nonhospital setting.

"UB-04" - The uniform billing document required for use nationally by hospitals, nursing facilities, hospital-based skilled nursing facilities, home health agencies, and hospice agencies in billing for services provided to patients. This document includes the current national uniform billing data element specifications developed by the National Uniform Billing Committee and approved and modified by the Washington state payer group or the agency.

"Vendor rate increase" - An adjustment determined by the legislature, that may be used to periodically increase rates for payment to vendors, including health care providers, that do business with the state.

"Washington apple health program" - Any health care program administered through the medicaid agency.

AMENDATORY SECTION (Amending WSR 15-18-065, filed 8/27/15, effective 9/27/15)

WAC 182-550-1100 Hospital care—General. (1) The medicaid agency:

(a) Pays for ~~((the admission of))~~ an eligible Washington apple health (WAH) ~~((client))~~ client's admission to a hospital only when the client's attending physician orders admission and when the admission and treatment provided:

(i) Are covered ~~((according to))~~ under WAC 182-501-0050, 182-501-0060 and 182-501-0065;

(ii) Are medically necessary as defined in WAC 182-500-0070;

(iii) Are determined according to WAC 182-501-0165 when prior authorization is required;

(iv) Are authorized when required under this chapter; and

(v) Meet applicable state and federal requirements.

(b) For hospital admissions, defines "attending physician" as the client's primary care provider, or the primary provider of care to the client at the time of admission.

(2) Medical record documentation of hospital services must meet the requirements in WAC 182-502-0020.

(3) The agency:

(a) Pays for a hospital covered service provided to an eligible WAH client enrolled in an agency-contracted managed care organization (MCO) plan, under the fee-for-service program if the service is excluded from the MCO's capitation contract with the agency and meets prior authorization requirements. (See WAC 182-550-2600 for inpatient psychiatric services.)

(b) Does not pay for nonemergency services provided to a WAH client from a nonparticipating hospital in a selective contracting area (SCA) unless exclusions in WAC 182-550-4700 apply. The agency's selective contracting program and selective contracting payment limitations end for hospital claims with dates of admission before July 1, 2007.

(4) The agency pays up to twenty-six days of inpatient hospital care for hospital-based detoxification, medical stabilization, and drug treatment for chemical dependent pregnant clients eligible under the chemical-using pregnant (CUP) women program.

See WAC 182-533-0701 through 182-533-0730.

(5) The agency pays for inpatient hospital detoxification of acute alcohol or other drug intoxication when the services are provided to an eligible client:

(a) In a detoxification unit in a hospital that has a detoxification provider agreement with the agency to perform these services and the services are approved by the division of ~~((alcohol and substance abuse (DASA)))~~ behavioral health and recovery (DBHR) within the department of social and health services (DSHS); or

(b) In an acute hospital and all the following criteria are met:

(i) The hospital does not have a detoxification specific provider agreement with ~~((DASA))~~ DBHR;

(ii) The hospital provides the care in a medical unit;

(iii) Nonhospital based detoxification is not medically appropriate for the client;

(iv) The client does not require medically necessary inpatient psychiatric care and it is determined that an approval from a ~~((regional support network (RSN) or a mental health division (MHD)))~~ behavioral health organization (BHO) or a DBHR designee as an inpatient stay is not indicated;

(v) The client's stay qualifies as an inpatient stay;

(vi) The client is not participating in the agency's chemical-using pregnant (CUP) women program; and

(vii) The client's principal diagnosis meets the agency's medical inpatient detoxification criteria listed in the agency's published billing instructions.

(6) The agency covers medically necessary dental-related services provided to an eligible client in a hospital-based dental clinic when the services:

(a) Are provided under chapter 182-535 WAC; and

(b) Are billed on the American Dental Association (ADA) or health care financing administration (HCFA) claim form.

(7) The agency pays a hospital for covered dental-related services, including oral and maxillofacial surgeries, that are provided in the hospital's operating room, when:

(a) The covered dental-related services are medically necessary and provided under chapter 182-535 WAC;

(b) The covered dental-related services are billed on a UB claim form; and

(c) At least one of the following is true:

(i) The dental-related service(s) is provided to an eligible WAH client on an emergency basis;

(ii) The client is eligible under the division of developmental disability program;

(iii) The client is age eight or younger; or

(iv) The dental service is prior authorized by the agency.

(8) For inpatient voluntary or involuntary psychiatric admissions, see WAC 182-550-2600.

AMENDATORY SECTION (Amending WSR 14-16-019, filed 7/24/14, effective 8/24/14)

WAC 182-550-2650 Base community psychiatric hospitalization payment method for medicaid and CHIP clients and nonmedicaid and non-CHIP clients. (1) Effective for dates of admission from July 1, 2005, through June 30, 2007, and in accordance with legislative directive, the agency implemented two separate base community psychiatric hospitalization payment rates, one for medicaid and children's health insurance program (CHIP) clients and one for nonmedicaid and non-CHIP clients. Effective for dates of admission on and after July 1, 2007, the base community psychiatric hospitalization payment method for medicaid and CHIP clients and nonmedicaid and non-CHIP clients is no longer used. (For the purpose of this section, a "nonmedicaid or non-CHIP client" is defined as a client eligible under the medical care services (MCS) program, as determined by the agency.)

(a) The medicaid base community psychiatric hospital payment rate is a minimum per diem for claims for psychiatric services provided to medicaid and CHIP covered patients, paid to hospitals that accept commitments under the Involuntary Treatment Act (ITA).

(b) The nonmedicaid base community psychiatric hospital payment rate is a minimum allowable per diem for claims for psychiatric services provided to indigent patients paid to hospitals that accept commitments under the ITA.

(2) For the purposes of this section, "allowable" means the calculated allowed amount for payment based on the payment method before adjustments, deductions, or add-ons.

(3) To be eligible for payment under the base community psychiatric hospitalization payment method:

(a) A client's inpatient psychiatric voluntary hospitalization must:

(i) Be medically necessary as defined in WAC 182-500-0070. In addition, the agency considers medical necessity to be met when:

(A) Ambulatory care resources available in the community do not meet the treatment needs of the client;

(B) Proper treatment of the client's psychiatric condition requires services on an inpatient basis under the direction of a physician;

(C) The inpatient services can be reasonably expected to improve the client's condition or prevent further regression so that the services will no longer be needed; and

(D) The client, at the time of admission, is diagnosed as having an emotional/behavioral disturbance as a result of a

mental disorder as defined in the current published Diagnostic and Statistical Manual of the American Psychiatric Association. The agency does not consider detoxification to be psychiatric in nature.

(ii) Be approved by the professional in charge of the hospital or hospital unit.

(iii) Be authorized by the appropriate division of behavioral health and recovery (DBHR) designee prior to admission for covered diagnoses.

(iv) Meet the criteria in WAC 182-550-2600.

(b) A client's inpatient psychiatric involuntary hospitalization must:

(i) Be in accordance with the admission criteria in chapters 71.05 and 71.34 RCW.

(ii) Be certified by a DBHR designee.

(iii) Be approved by the professional in charge of the hospital or hospital unit.

(iv) Be prior authorized by the ~~((regional support network (RSN)))~~ behavioral health organization (BHO) or its designee.

(v) Meet the criteria in WAC 182-550-2600.

~~(4) ((The provider requesting payment must complete the appropriate sections of the Involuntary Treatment Act patient claim information (form DSHS-13-628) in triplicate and route both the form and each claim form submitted for payment, to the county involuntary treatment office.~~

~~(5))~~ Payment for all claims is based on covered days within a client's approved length of stay (LOS), subject to client eligibility and agency-covered services.

~~((6))~~ (5) The medicaid base community psychiatric hospitalization payment rate applies only to a medicaid or CHIP client admitted to a nonstate-owned free-standing psychiatric hospital located in Washington state.

~~((7))~~ (6) The nonmedicaid base community psychiatric hospitalization payment rate applies only to a nonmedicaid or CHIP client admitted to a hospital:

(a) Designated by the agency as an ITA-certified hospital; or

(b) That has an agency-certified ITA bed that was used to provide ITA services at the time of the nonmedicaid or non-CHIP admission.

~~((8))~~ (7) For inpatient hospital psychiatric services provided to eligible clients for dates of admission on and after July 1, 2005, through June 30, 2007, the agency pays:

(a) A hospital's department of health (DOH)-certified distinct psychiatric unit as follows:

(i) For medicaid and CHIP clients, inpatient hospital psychiatric services are paid using the agency-specific nondiagnosis related group (DRG) payment method.

(ii) For nonmedicaid and non-CHIP clients, the allowable for inpatient hospital psychiatric services is the greater of:

(A) The state-administered program DRG allowable (including the high cost outlier allowable, if applicable), or the agency-specified non-DRG payment method if no relative weight exists for the DRG in the agency's payment system; or

(B) The nonmedicaid base community psychiatric hospitalization payment rate multiplied by the covered days.

(b) A hospital without a DOH-certified distinct psychiatric unit as follows:

(i) For medicaid and CHIP clients, inpatient hospital psychiatric services are paid using:

(A) The DRG payment method; or

(B) The agency-specified non-DRG payment method if no relative weight exists for the DRG in the agency's payment system.

(ii) For nonmedicaid and CHIP clients, the allowable for inpatient hospital psychiatric services is the greater of:

(A) The state-administered program DRG allowable (including the high cost outlier allowable, if applicable), or the agency-specified non-DRG payment method if no relative weight exists for the DRG in the agency's payment system; or

(B) The nonmedicaid base community psychiatric hospitalization payment rate multiplied by the covered days.

(c) A nonstate-owned free-standing psychiatric hospital as follows:

(i) For medicaid and CHIP clients, inpatient hospital psychiatric services are paid using as the allowable, the greater of:

(A) The ratio of costs-to-charges (RCC) allowable; or

(B) The medicaid base community psychiatric hospitalization payment rate multiplied by covered days.

(ii) For nonmedicaid and non-CHIP clients, inpatient hospital psychiatric services are paid the same as for medicaid and CHIP clients, except the base community inpatient psychiatric hospital payment rate is the nonmedicaid rate, and the RCC allowable is the state-administered program RCC allowable.

(d) A hospital, or a distinct psychiatric unit of a hospital, that is participating in the certified public expenditure (CPE) payment program, as follows:

(i) For medicaid and CHIP clients, inpatient hospital psychiatric services are paid using the methods identified in WAC 182-550-4650.

(ii) For nonmedicaid and non-CHIP clients, inpatient hospital psychiatric services are paid using the methods identified in WAC 182-550-4650 in conjunction with the non-medicaid base community psychiatric hospitalization payment rate multiplied by covered days.

(e) A hospital, or a distinct psychiatric unit of a hospital, that is participating in the critical access hospital (CAH) program, as follows:

(i) For medicaid and CHIP clients, inpatient hospital psychiatric services are paid using the agency-specified non-DRG payment method.

(ii) For nonmedicaid and non-CHIP clients, inpatient hospital psychiatric services are paid using the agency-specified non-DRG payment method.

Purpose: WAC 458-20-102 (Rule 102) Reseller permits, this rule provides information pertaining to reseller permits issued by the department.

The department has revised Rule 102 to remove outdated information and terminology. In addition, a reference to WAC 458-20-192 Indians—Indian country, and an example explaining that services performed on foreclosed properties are retail sales, has been added.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-102 Reseller permits.

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

Adopted under notice filed as WSR 16-01-067 on December 14, 2015.

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

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

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

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

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

Date Adopted: February 25, 2016.

Kevin Dixon
Rules Coordinator

AMENDATORY SECTION (Amending WSR 11-12-021, filed 5/24/11, effective 6/24/11)

WAC 458-20-102 Reseller permits. (1) Introduction.

This ~~((section))~~ rule provides information about reseller permits issued by the department of revenue (department). ~~((Effective January 1, 2010, reseller permits replaced resale certificates as the documentation necessary to substantiate the wholesale nature of a sales transaction.))~~ The department issues reseller permits ((are issued)) to businesses that make wholesale purchases, such as retailers, wholesalers, manufacturers, and qualified contractors. The permits allow the businesses to purchase certain items or services ((at wholesale)) without paying retail sales tax. ((Additional information can be found on the department's internet site: <http://dor.wa.gov>.

~~(a) What other sections provide related information?~~

The following sections may contain additional relevant information:

~~(a) Other rules that may apply.~~ Readers may want to refer to other rules for additional information, including those in the following list:

(i) WAC 458-20-101 (Tax registration and tax reporting) for information on who is required to register and file returns;

(ii) WAC 458-20-10201 (Application process and eligibility requirements for reseller permits) for ((more)) informa-

WSR 16-06-058

PERMANENT RULES

DEPARTMENT OF REVENUE

[Filed February 25, 2016, 9:30 a.m., effective March 27, 2016]

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

tion about the application process and eligibility requirements for obtaining a reseller permit;

(~~(*)~~) ~~(iii)~~ WAC 458-20-10202 (Brief adjudicative proceedings for matters related to reseller permits) for ~~((more))~~ information about the procedures for appealing the denial of an application for a reseller permit; ~~((and~~

~~*)~~ ~~(iv)~~ WAC 458-20-102A (Resale certificates)~~((which explains the))~~ for information about resale certificate documentation requirements for wholesale sales occurring before January 1, 2010; and

~~(v)~~ WAC 458-20-192 (Indian-Indian country) for information on the extent of the state's authority to regulate and impose tax in Indian country.

(b) **Examples.** ~~((This section contains examples which))~~ Examples found in this rule identify a number of facts and then state a conclusion. ~~((The))~~ These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all ~~((of))~~ the facts and circumstances.

(2) **What is a reseller permit?** A reseller permit is a document issued to a business by the department that the business provides to a seller to substantiate a wholesale purchase. Each reseller permit contains a unique identifying number. Businesses should keep the original permit and make and distribute copies of the permit to sellers from whom they make wholesale purchases as described in subsection (6) of this ~~((section))~~ rule. Sellers ~~((can))~~ may store copies of reseller permits in either paper or electronic format.

The reseller permit document issued by the department contains an optional, blank "Notes" section in which the permit holder ~~((can))~~ may provide additional information, such as a description of the items or services the permit holder wishes to purchase at wholesale.

(3) **Who may use a reseller permit?** The buyer may authorize any person in its employ to use a copy of the buyer's reseller permit on the buyer's behalf. However, misuse of the reseller permit subjects the buyer to:

- Revocation of the reseller permit;
- Penalties as provided in RCW 82.32.290 and 82.32.291; and
- Tax, interest, and any other penalties imposed by law.

The buyer is responsible for educating all persons authorized to use the reseller permit on the proper use of the buyer's reseller permit.

(4) **How long is a reseller permit effective?** Except as otherwise provided in this subsection, a reseller ~~((permits are))~~ permit is generally valid for a period of forty-eight months from the date of issuance, renewal, or reinstatement.

(a) **Conditions when permit is effective for twenty-four months.** A reseller permit is valid for ~~((*)~~) an initial period of twenty-four months and may be renewed for a period of forty-eight months, ~~((effective July 1, 2010,))~~ if the permit is issued to a taxpayer who:

(i) Is not required to be registered with the department under RCW 82.32.030;

(ii) Has been registered with the department under RCW 82.32.030 for a continuous period of less than one year as of the date that the department received the taxpayer's application for a reseller permit;

(iii) Was on nonreporting status as authorized under RCW 82.32.045~~((4))~~ at the time ~~((that))~~ the department received the taxpayer's application for a reseller permit or to renew or reinstate a reseller permit;

(iv) Has filed excise tax returns reporting no business activity for purposes of retail sales and business and occupation (B&O) taxes for the twelve-month period immediately preceding the date that the department received the taxpayer's application for a reseller permit or to renew or reinstate a reseller permit; or

(v) Has failed to file excise tax returns covering any part of the twelve-month period immediately preceding the department's receipt of the taxpayer's application for a reseller permit or to renew or reinstate a reseller permit.

(b) **Federally recognized Indian tribe.** The provisions of (a) of this subsection do not apply to reseller permits issued to any business owned by a federally recognized Indian tribe or by an enrolled member of a federally recognized Indian tribe, if the business does not engage in any business activity that subjects the business to the B&O tax (chapter 82.04 RCW). ~~((Permits))~~ A permit issued to such ~~((businesses are))~~ business is valid for forty-eight months from the date of issuance, renewal, or reinstatement.

(c) **Contractors.** ~~((Except as otherwise provided in this subsection (e), until June 20, 2013,))~~ A reseller permit issued, renewed, or reinstated to a "contractor" as defined in WAC 458-20-10201~~((302) will be))~~ (101) is valid for a period of ~~((twelve))~~ twenty-four months from the date of issuance, renewal, or reinstatement.

~~((i) Beginning July 1, 2013, reseller permits issued, renewed, or reinstated to a contractor will be valid for a period of twenty-four months from the date of issuance, renewal, or reinstatement.~~

~~((ii) However, the department may issue, renew, or reinstate permits for a period of twenty-four months beginning July 1, 2011, if the department is satisfied that the contractor is entitled to make purchases at wholesale and that issuing or renewing the reseller permit in this manner is unlikely to jeopardize collection of sales taxes due based on the criteria discussed in WAC 458-20-10201(305).))~~

(d) **Renewal of reseller permit.** An application~~((s))~~ to renew a reseller permit cannot be made more than ninety days before the expiration of the reseller permit.

(e) **Business ownership change.** A new reseller permit is required whenever a change in the ownership of the buyer's business requires a new tax registration. ~~((See WAC 458-20-101 Tax registration and tax reporting.))~~ The new business may not make purchases under the authority of the reseller permit issued to the business before the change in ownership.

(f) **Revoked or invalid reseller permit.** Purchases may not be made under the authority of a reseller permit that has been revoked by the department or is otherwise invalid. For more information about reseller permit revocation or other invalidation of reseller permits, see subsection (14) of this ~~((section))~~ rule.

(5) **Sales at wholesale.** All sales are treated as retail sales unless the seller takes from the buyer a copy of a reseller permit, a uniform exemption certificate authorized by RCW 82.04.470, or obtains the data elements ~~((as))~~ described in subsection (7) of this ~~((section))~~ rule. Reseller permits may

only be used for sales at wholesale and generally may not be used as proof of entitlement to retail sales tax exemptions otherwise provided by law.

(6) **When may a buyer use a reseller permit?** The buyer may use a reseller permit only when making wholesale purchases. (See RCW 82.04.060 for additional information.) The reseller permit may not be used when making tax-exempt retail purchases.

(7) **Seller's responsibilities.** The seller has the burden of proving that the buyer had a reseller permit at the time of sale. A seller may meet ~~((it's))~~ that burden by taking from the buyer, at the time of sale or within one hundred twenty days after the sale, a copy of ~~((a))~~ the reseller permit issued to the buyer by the department under RCW 82.32.780 or 82.32.783.

(a) **Registered buyer.** In lieu of a copy of a reseller permit issued by the department, pursuant to RCW 82.04.470 a seller may accept from a buyer that is **required** to be registered with the department under RCW 82.32.030:

(i) A properly completed uniform exemption certificate approved by the streamlined sales and use tax agreement governing board; or

(ii) Any other exemption certificate ~~((as may be))~~ authorized by the department and properly completed by the buyer.

(b) **Inclusion of reseller permit number.** Certificates authorized in ~~((i) and (ii))~~ of this subsection must include the reseller permit number issued by the department to the buyer.

(c) **Seller not required to verify buyer's registration.** A seller ~~((who))~~ that accepts exemption certificates authorized in (a) of this subsection is not required to verify with the department whether the buyer is required to be registered with the department under RCW 82.32.030. ~~((It must be noted, however, that))~~ Nothing in (c) of this subsection ((e)) may be construed to modify any of the provisions of RCW 82.08.050.

(d) **Buyer not required to be registered.** In lieu of a copy of a reseller permit issued by the department, pursuant to RCW 82.04.470 a seller may accept from a buyer that is **not required** to be registered with the department under RCW 82.32.030:

(i) A properly completed uniform sales and use tax exemption certificate developed by the multistate tax commission;

(ii) A properly completed uniform exemption certificate approved by the streamlined sales and use tax agreement governing board; or

(iii) Any other exemption certificate ~~((as may be))~~ authorized by the department and properly completed by the buyer.

The Streamlined Sales and Use Tax Agreement Certificate of Exemption and the Multistate Tax Commission Uniform Sales and Use Tax Exemption Certificate ~~((can))~~ may each be obtained on the department's ~~((internet))~~ web site at ~~((http://dor.wa.gov))~~ dor.wa.gov.

(e) **Seller not required to verify buyer's requirement to be registered.** A seller ~~((who))~~ that accepts a uniform exemption certificate authorized in (d) of this subsection is not required to verify with the department whether the buyer is required to be registered with the department under RCW 82.32.030. ~~((It must be noted, however, that))~~ Nothing in this

subsection ~~((7))~~(e) may be construed to modify any of the provisions of RCW 82.08.050.

(f) **Data elements.** In lieu of obtaining a reseller permit or the documentation in (a) or (d) of this subsection, RCW 82.08.050~~((7))~~ authorizes a seller to capture the relevant data elements as allowed under the streamlined sales and use tax agreement. "Data elements" are the information required to be supplied on the actual Streamlined Sales and Use Tax Agreement Certificate of Exemption including: Name, address, type of business, reason for exemption, reseller permit number as applicable in this rule, identification number required by the state to which the sale is sourced, state and country issuing identification number, and if a paper form is used, ~~((a))~~ the signature of the purchaser. See Streamlined Sales Tax Governing Board, Inc. Rule 317.1~~((A))~~ for more information.

(g) **The term "reseller permit."** For purposes of this ~~((section))~~ rule, unless otherwise specified, the term "reseller permit" hereinafter contemplates all of the following: A copy of a reseller permit, a uniform exemption certificate authorized by RCW 82.04.470 as described in (a) and (d) of this subsection, or data elements as described in (f) of this subsection.

(h) **Seller must provide documentation or information.** If the seller has not obtained a reseller permit or the documentation described in (a), (b), (d), or (f) of this subsection, the seller is liable for the tax due unless it ~~((can sustain the burden of proving that a sale is a wholesale sale by demonstrating))~~ proves by establishing facts and circumstances that show the sale was properly made at wholesale. The department will consider all evidence presented by the seller, including the circumstances of the sales transaction itself, when determining whether the seller has met its burden ~~((of proof))~~. It is the seller's responsibility to provide the information necessary to evaluate the facts and circumstances of all sales transactions for which reseller permits ~~((are))~~ were not obtained. Facts and circumstances that should be considered include, but are not necessarily limited to, the following:

- The nature of the buyer's business. The items being purchased at wholesale must be consistent with the buyer's business. For example, a buyer having a business name of "Ace Used Cars" would generally not be expected to be in the business of selling furniture;

- The nature of the items sold. The items sold must be of a type that would normally be purchased at wholesale by the buyer; and

- Additional documentation. Other available documents, such as purchase orders and shipping instructions, should be considered in determining whether they support a finding that the sales are sales at wholesale.

(i) **Annual electronic verification.** ~~((Notwithstanding anything in))~~ Per RCW 82.04.470 ~~((to the contrary,))~~ a seller ~~((who))~~ that maintains records establishing that it uses electronic means to verify, at least once per calendar year, the validity of its customers' reseller permits need not take a copy of a reseller permit or other documentation or the data elements as authorized in (a), (d), or (f) of this subsection for wholesale sales to those customers with valid reseller permits as confirmed by the department for all sales occurring within twelve months following the date that the seller last electron-

ically verified the validity of its customers' reseller permits, using the department's reseller permit verification system. A seller that meets the requirements of this subsection will be deemed to have met its burden of proving a sale is a wholesale sale rather than a retail sale.

(j) ~~(Can)~~ **May a seller request a refund for sales tax paid out-of-pocket after obtaining appropriate documentation?** If the seller is required to make payment to the department, and later is able to ~~(present the department with)~~ prove through proper documentation or ~~(prove)~~ by facts and circumstances that the sales in question ~~(are)~~ were wholesale sales, the seller may in writing request a refund of the taxes paid along with the applicable interest. Both the request and the documentation or proof that the sales in question ~~(are)~~ were wholesale sales must be submitted to the department within the statutory time limitations provided by RCW 82.32.060. ~~((See WAC 458-20-229 Refunds.) However,))~~ For information on requesting refunds see WAC 458-20-229. In the event of an audit, refer to (m) of this subsection ~~((in the event of an audit situation)).~~

(k) **Timing requirements for single orders with multiple billings.** If a single order or contract will result in multiple billings to the buyer, and a reseller permit was not obtained by the seller or on file with the seller at the time the order was placed or the contract entered, the seller may obtain a reseller permit ~~((must be received by the seller))~~ within one hundred twenty days after the first billing. For example, a subcontractor entering into a construction contract for which it has not received a reseller permit must obtain it within one hundred twenty days of the initial construction draw request, even though the construction project may not be completed at that time and additional draw requests will follow.

(l) **Proof of wholesale sales obtained, from a buyer not required to be registered, after one hundred twenty days have passed from sale date.** If proof that a sale was a wholesale sale is obtained more than one hundred twenty days after the sale or sales in question, the nonregistered buyer must specifically identify the sale or sales to which it applies. Certificates, such as a uniform exemption certificate, ~~((used))~~ must be accompanied by other documentation signed by the buyer specifically identifying the sales in question and stating that the provisions of the accompanying certificate apply. A nonspecific certificate that is not obtained within one hundred twenty days is generally not, in and of itself, acceptable proof of the wholesale nature of the sales in question. The certificate and/or required documentation must be obtained within the statutory time limitations provided by RCW 82.32.050.

(m) **Additional time to secure documentation in an audit ~~((situation))~~.** If ~~((in event of))~~ during an audit the department discovers that the seller has not secured, as described in this subsection, the necessary certificates and/or documentation, the seller will generally be allowed one hundred twenty days in which to obtain and present appropriate certificates and/or documentation, or prove by facts and circumstances the sales in question ~~((are))~~ were wholesale sales. The time allotted to the seller will commence from the date the auditor initially provides the seller with the results of the auditor's wholesale sales review. The department will not

delay processing ~~((of))~~ the audit report ~~((will not be delayed))~~ as a result of the seller's failure within the allotted time to secure and present appropriate documentation, or its inability to prove by facts and circumstances that the sales in question were wholesale sales.

(8) **Department's reseller permit verification system.** Pursuant to RCW 82.32.785, the department has developed a system available on its ~~((internet))~~ web site that allows sellers to voluntarily verify whether their customers' reseller permits are valid. Sellers are ~~((under no obligation))~~ not obligated to use the verification system. The system is accessible at the ~~((department's internet site: http://dor.wa.gov))~~ department's web site at dor.wa.gov. Information available on the system includes the name of the permit holder, the status of the reseller permit, and the expiration date of the permit.

(9) **Penalty for improper use of reseller permit.** If any buyer improperly uses a reseller permit number, reseller permit, or other documentation authorized under RCW 82.04.470 to purchase items or services at retail without payment of sales tax that ~~((was))~~ is legally due on the purchase, the department must assess against that buyer a penalty of fifty percent of the tax due on the improperly purchased item or service. See RCW 82.32.291. This penalty is in addition to all other taxes, penalties, and interest due, and ~~((can be imposed))~~ applies even if there was no intent to evade the payment of retail sales tax. The penalty will be assessed by the department and applies only to the buyer. However, see subsection (13) of this ~~((section))~~ rule for situations in which the department must waive the penalty.

(a) **Improper use of reseller permit.** A buyer that purchases items or services at retail without payment of sales tax legally due on the purchase is deemed to have improperly used a reseller permit number, reseller permit, or other documentation authorized under RCW 82.04.470 to purchase the items or services without payment of sales tax and is subject to the penalty described above in this subsection if the buyer:

(i) Furnished to the seller a reseller permit number, a reseller permit or copy of a reseller permit, or other documentation authorized under RCW 82.04.470 to avoid payment of sales tax legally due on the purchase; or

(ii) ~~((Made the purchase))~~ Purchased from a seller that had previously used electronic means to verify the validity of the buyer's reseller permit with the department and, as a result, did not require the buyer to provide a copy of its reseller permit or furnish other documentation authorized under RCW 82.04.470 to document the wholesale nature of the purchase. In such cases, the buyer bears the burden of proving that the purchases made without payment of sales tax were qualified purchases or the buyer remitted deferred sales tax directly to the department. The buyer not realizing that sales tax was not paid at the time of purchase is not reason for waiving the penalty.

Persons ~~((who purchase))~~ purchasing articles or services for dual purposes (i.e., some for their own consumption and some for resale) should refer to subsection (12) of this ~~((section))~~ rule to determine whether they may furnish a reseller permit to the seller.

(b) **Examples.**

(i) **Example 1.** During a routine audit examination of a jewelry store, the department discovers that a dentist has fur-

nished a reseller permit for the purchase of a necklace. The "Notes" section of the reseller permit indicates that in addition to operating a dentistry practice, the dentist also sells jewelry. The jewelry store correctly accepted the reseller permit as appropriate documentation.

Upon further investigation, the department finds that the dentist is not engaged in selling jewelry. The department will impose the retail sales tax, interest, and the fifty percent penalty for improper use of the reseller permit against the dentist.

(ii) **Example 2.** M&M Plumbing Supply (M&M) has several regular customers (~~who~~) that make purchases at wholesale. M&M uses the department's reseller permit verification system to find all regular customers that have a reseller permit. M&M keeps the required data elements in its system and begins to make wholesale sales to all customers the system shows have a reseller permit. While it is best for sellers to ensure customers intend to purchase at wholesale, in this case, M&M has satisfied its requirement to ensure that customers making wholesale purchases have reseller permits. It is the customer's responsibility to review purchase invoices to ensure that deferred sales tax is paid if the purchase is not a valid wholesale purchase. If the customer does not pay the tax due on the next tax return, the misuse penalty will be assessed.

(iii) **Example 3.** ABC Bank hired Sam's Clean-Up Services (Sam's) to provide a variety of services at properties they had foreclosed on and owned. Sam's has provided services such as securing the sites, winterizing, and making safety repairs. Other services provided included lawn and yard services, debris removal, cleaning fixtures, repairing walls and painting. These types of services on foreclosed properties are generally retail sales and the use of a reseller permit by ABC Bank is a misuse of it. The department will impose the retail sales tax, interest, and the fifty percent penalty for improper use of the reseller permit.

(10) **Sales to nonresident buyers.** If the buyer is a non-resident (~~who is~~), not engaged in business in this state and is not required to be registered with the department under RCW 82.32.030 but buys articles here for the purpose of resale in the regular course of business outside this state, the seller may accept the following from the buyer in lieu of a reseller permit:

(a) A properly completed uniform sales and use tax exemption certificate developed by the multistate tax commission; or

(b) A properly completed uniform exemption certificate approved by the streamlined sales and use tax agreement governing board. Nonresident buyers who are not required to be registered with the department under RCW 82.32.030 (~~are nonetheless eligible to~~) also may apply for and receive a reseller permit. For more information about the application process and eligibility requirements for reseller permits, see WAC 458-20-10201 (~~Application process and eligibility requirements for reseller permits~~)).

(11) **Sales to farmers.** Farmers selling agricultural products only at wholesale are generally not required to register with the department. (See WAC 458-20-101 Tax registration and tax reporting.)

(a) **Registered farmers.** Farmers who are required to be registered with the department must obtain a reseller permit

to substantiate wholesale purchases. In lieu of a copy of a reseller permit issued by the department, a seller may accept from a registered farmer (~~that is registered with the department~~) a properly completed Farmers' Certificate for Wholesale Purchases and Sales Tax Exemptions as long as that certificate includes the reseller permit number issued by the department to the farmer. See RCW 82.04.470.

(b) **Unregistered farmers.** Farmers not required to be registered with the department may provide, and the seller may accept, any of the following documents to substantiate the wholesale nature of a purchase in lieu of a reseller permit:

(i) A Farmers' Certificate for Wholesale Purchases and Sales Tax Exemptions;

(ii) A properly completed uniform sales and use tax exemption certificate developed by the multistate tax commission; or

(iii) A properly completed uniform exemption certificate approved by the streamlined sales and use tax agreement governing board.

Farmers who are not required to be registered with the department (~~are nonetheless eligible to~~) may apply for and receive a reseller permit. For more information about the application process and eligibility requirements for reseller permits, see WAC 458-20-10201 (~~Application process and eligibility requirements for reseller permits~~)).

(12) **Purchases for dual purposes.** A buyer normally engaged in both consuming and reselling certain types of tangible personal property, and not able to determine at the time of purchase whether the particular property purchased will be consumed or resold, must purchase according to the general nature of the buyer's business. RCW 82.08.130. If the buyer principally consumes the articles in question, the buyer should not give a reseller permit for any part of the purchase. If the buyer principally resells the articles, the buyer may furnish a reseller permit for the entire purchase. For the purposes of this subsection, the term "principally" means greater than fifty percent.

(a) **Deferred sales tax liability.** If the buyer gives a reseller permit for all purchases and thereafter consumes some of the articles purchased, the buyer must remit the deferred sales tax on the value of the article used to the department. The deferred sales tax liability should be reported under the use tax classification on the buyer's excise tax return.

(i) Buyers making purchases for dual purposes under the provisions of a reseller permit must remit deferred sales tax on all products or services they consume. If the buyer fails to make a good faith effort to remit this tax liability, the penalty for the misuse of a reseller permit will be assessed (~~This penalty will apply to~~) on the unremitted portion of the deferred sales tax liability.

A buyer will generally be considered to be making a good faith effort to report its deferred sales tax liability if the buyer discovers a minimum of eighty percent of (~~the~~) its deferred sales tax liability within one hundred twenty days of purchase, and remits the full amount of the discovered tax liability (~~upon~~) on the next excise tax return. However, the penalty will not be assessed if the buyer does not satisfy (~~this~~) the eighty percent threshold (~~and~~) but can show by other facts and circumstances that it made a good faith effort

to report ~~((the))~~ its tax liability ~~((, the penalty will not be assessed))~~. Likewise, if the department can show by other facts and circumstances that the buyer did not make a good faith effort in remitting its tax liability the penalty will be assessed, even if the eighty percent threshold is satisfied.

(ii) ~~((The following))~~ **Example 4.** This example illustrates the use of a reseller permit for dual-use purchases.

BC Contracting operates ~~((both))~~ as both a prime contractor and speculative builder of residential homes. BC Contracting purchases building materials from seller that are principally incorporated into projects upon which BC acts as a prime contractor. BC provides seller with a reseller permit and purchases all building materials at wholesale. BC must remit deferred sales tax ~~((upon))~~ for all building materials incorporated into the speculative projects to be considered to be properly using its reseller permit.

(b) **Tax paid at source deduction.** If the buyer ~~((has))~~ does not ~~((provided))~~ provide a reseller permit to the seller but ~~((has paid))~~ pays retail sales tax on all articles of tangible personal property, and subsequently resells a portion of the articles, the buyer must collect ~~((the))~~ retail sales tax from its retail customers as provided by law. When reporting these sales on the excise tax return, the buyer may then claim a deduction to recover the sales tax paid for the property resold.

(i) This deduction may be claimed under the retail sales tax classification only. It must be identified as a "taxable amount for tax paid at source" deduction on the deduction detail worksheet, which must be filed with the excise tax return. Failure to properly identify the deduction may result in the disallowance of the deduction. When completing the local sales tax portion of the tax return, the deduction must be computed at the local sales tax rate paid to the seller, and credited to the seller's tax location code.

(ii) ~~((The following))~~ **Example 5.** This example illustrates the tax paid at source deduction ~~((on or after July 1, 2008))~~.

A seller is located in Spokane ~~((, Washington,))~~ and purchases equipment parts for dual purposes from a supplier located in Seattle ~~((, Washington))~~. The supplier ships the parts to Spokane. The seller does not furnish a reseller permit for the purchase, and remits retail sales tax to the supplier at the Spokane tax rate. A portion of these parts are sold and shipped to a customer in Kennewick, with retail sales tax collected at the Kennewick tax rate. The seller must report the amount of the sale to the customer on its excise tax return and compute the local sales tax liability using the Kennewick location code (0302) and rate. The seller ~~((would))~~ then should claim the tax paid at source deduction for the cost of the parts resold to the customer ~~((and compute))~~, computing the local sales tax credit using the Spokane location code (3210) and rate.

(iii) The department will allow the claim for deduction ~~((will be allowed))~~ only if the taxpayer keeps and preserves records in support of the deduction that include the names of the persons from whom it purchased such articles ~~((were purchased))~~, the dates of the purchases, the types of articles, the amounts of the purchases and the amounts of tax ~~((that was))~~ it paid.

(iv) Should the buyer resell the articles at wholesale, or under other situations where retail sales tax is not to be col-

lected, the claim for the tax paid at source deduction on a particular excise tax return may result in a credit. In such cases, the department will issue a credit notice that may be used against future tax liabilities. ~~((However))~~ Alternatively, a taxpayer may request in writing a refund from the department.

(13) **Waiver of penalty for misuse of reseller permits.** The department will waive the penalty imposed for misuse of reseller permits ~~((upon finding))~~ if it finds that the use of the reseller permit number, reseller permit, or other documentation authorized under RCW 82.04.470 to purchase items or services by a person not entitled to use the reseller permit for that purpose was due to circumstances beyond the control of the buyer or if the reseller permit number, reseller permit, or other documentation authorized under RCW 82.04.470 was properly used for purchases for dual purposes and the buyer made a good faith effort to report deferred sales tax. ~~((However))~~ The use of a reseller permit to purchase items or services for personal use outside of the business does not qualify for the waiver or cancellation of the penalty. The penalty also will not be waived merely because the buyer was not aware of either the proper use of the reseller permit or the penalty. In all cases the burden of proving the facts is ~~((upon))~~ on the buyer.

Example 6. During a routine audit examination of a computer dealer, ~~((it is discovered))~~ the department discovers that a reseller permit was obtained from a bookkeeping service. ~~((Upon))~~ On further investigation it is discovered that the bookkeeping service had no knowledge of the use of the reseller permit, and had made no payment to the computer dealer. The employee who furnished the reseller permit had purchased the computer for personal use, and had personally ~~((made payment to))~~ paid the computer dealer.

The fifty percent penalty for the misuse of the reseller permit will be waived for the bookkeeping service. The bookkeeping service had no knowledge of the purchase ~~((or))~~ and unauthorized use of the reseller permit. However, the department will impose the taxes, interest, and the fifty percent penalty for the misuse of the reseller permit against the employee.

(14) **Reseller permit revocation or other invalidation.** A reseller permit is no longer valid if the permit holder's certificate of registration is revoked, the department closes the permit holder's tax reporting account ~~((is closed by the department))~~, or the permit holder otherwise ceases to engage in business.

(a) **Closing of an account.** A taxpayer who ceases to engage in business will have its tax reporting account closed by the department. The account can be closed per the request of the taxpayer or administratively by the department. The department will administratively close a tax reporting account if a taxpayer has not reported any gross income or filed a return within the last two years. For more information about administrative closure and reopening of taxpayer accounts, see WAC 458-20-101.

(b) **Reseller permit revocation.** The department may revoke a reseller permit of a taxpayer for any of the following reasons:

(i) The taxpayer used or allowed or caused its reseller permit to be used to purchase any item or service without payment of sales tax, ~~((but))~~ and the taxpayer or other pur-

chaser was not entitled to use the reseller permit for the purchase;

(ii) The department issued the reseller permit to the taxpayer in error;

(iii) The department determines that the taxpayer is no longer entitled to make purchases at wholesale; or

(iv) The department determines that revocation of the reseller permit would be in the best interest of collecting taxes due under Title 82 RCW.

(c) **Use of invalidated or revoked reseller permit.** The department will provide written notice to a taxpayer whose reseller permit has been revoked or whose tax reporting account has been administratively closed by the department as discussed in (a) of this subsection ((will receive notice of the revocation or invalidation in writing)). The revocation or invalidation is effective on the date specified in the revocation or invalidation notice. Use of a revoked or invalidated permit will result in the fifty percent penalty for improper use of a reseller permit as discussed in subsection (9) of this ~~(section)~~ rule.

(d) **Reinstatement of reseller permit.** A taxpayer ~~((who wishes))~~ wishing to have its reseller permit reinstated after invalidation or revocation must apply to the department. For more information about the application process for reseller permits, see WAC 458-20-10201 ~~((Application process and eligibility requirements for reseller permits))~~.

(e) **Requests for reinstatement.** The department may refuse to reinstate a reseller permit revoked under (b)(i) of this subsection until all taxes, penalties, and interest due on any improperly purchased item or service have been paid in full. In the event a taxpayer whose reseller permit has been revoked under (b)(i) of this subsection reorganizes, the new business resulting from the reorganization is not entitled to receive a reseller permit from the department until all taxes, penalties, and interest due on any improperly purchased item or service have been paid in full.

(f) **Business reorganization.** For purposes of this subsection, "reorganize" or "reorganization" means:

(i) The transfer~~((, however affected,))~~ of a majority of the assets of one business to another business, however affected, where any of the persons having an interest in the ownership or management in the former business maintain an ownership or management interest in the new business, either directly or indirectly;

(ii) A mere change in identity or form of ownership, however affected; or

(iii) The new business is a mere continuation of the former business based on significant shared features such as owners, personnel, assets, or general business activity.

(15) **Request for copies.** A person must, upon request of the department, provide ~~((the department with))~~ paper or electronic copies of all reseller permits, or other documentation as authorized in RCW 82.04.470, accepted by that person during the period specified by the department to substantiate wholesale sales. If, instead of the documentation specified in this subsection, the seller has retained the relevant data elements from such permits or other documentation authorized in RCW 82.04.470, as allowed under the streamlined sales and use tax agreement, the seller must provide such data elements to the department.

WSR 16-06-064
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 16-30—Filed February 25, 2016, 1:33 p.m., effective March 27, 2016]

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

Purpose: The purpose of this proposal [adoption] is to designate and provide regulations for a trial emerging commercial fishery for the commercial harvest of Pacific mackerel with purse seine gear. This proposal [adoption] also anticipates advancement of the trial emerging fishery to an experimental emerging fishery. The effect of this rule is to establish a commercial fishery in federal waters for the harvest of Pacific mackerel with purse seine gear.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.013 [77.04.013], 77.04.055, 77.12.045, 77.12.047, 77.65.400, 77.70.160, 77.70.170, 77.70.180.

Adopted under notice filed as WSR 16-02-116 on January 6, 2016.

Changes Other than Editing from Proposed to Adopted Version: New language was added to proposed new WAC 220-88F-030 (1)(c). Specifically, the phrase "prior to landing" was inserted into this section. The effect of this change is to more clearly specify when the department-issued logbook is to be completed.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 3, Amended 0, Repealed 0.

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

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

Date Adopted: February 25, 2016.

J. W. Unsworth
Director

Chapter 220-88F WAC

**COASTAL DIRECTED MACKEREL PURSE SEINE
FISHERY**

NEW SECTION

WAC 220-88F-010 Designation of the coastal Pacific mackerel purse seine fishery as an emerging commercial fishery. (1) The director designates the coastal Pacific mackerel purse seine fishery as an emerging commercial fishery for which use of a vessel is required. It is unlawful to fish for, possess, or deliver Pacific mackerel taken for commercial purposes from Washington territorial waters west of the

Bonilla-Tatoosh line or from waters of the Exclusive Economic Zone unless the fisher has a valid emerging commercial fishery license and a valid coastal Pacific mackerel purse seine trial or experimental fishery permit.

(2) The following licenses may not be used to fish for, possess, or deliver Pacific mackerel taken in Washington territorial waters west of the Bonilla-Tatoosh line or waters of the Exclusive Economic Zone: Shrimp trawl - Non-Puget Sound fishery license, ocean pink shrimp delivery license, coastal spot shrimp pot fishery license, nonlimited entry delivery license, salmon troll delivery license, salmon delivery license, crab pot fishery license, Dungeness crab - Coastal fishery license.

NEW SECTION

WAC 220-88F-020 Emerging commercial fishery—Eligibility for coastal Pacific mackerel purse seine fishery permits—Terms and conditions of use—Renewal—Vessel restriction. (1) No individual may hold more than one Washington coastal Pacific mackerel purse seine trial or experimental fishery permit.

(2) Coastal Pacific mackerel fishery permits are not transferable. Only the vessel designated on the emerging commercial fishery license and Pacific mackerel fishery permit may be used to fish for or deliver Pacific mackerel in the directed Pacific mackerel fishery.

(3) Coastal Pacific mackerel fishery permits may be revoked by the director, and future permits denied by the director, for failure to comply with conditions specified in the permits or violations of other fishing regulations. A coastal Pacific mackerel fishery permit will not be renewed if the emerging commercial fishery license is revoked or future fishing privileges of the licensee are suspended.

(4) Coastal Pacific mackerel fishery permits are only valid for the year issued and expire on December 31st of the year issued.

NEW SECTION

WAC 220-88F-030 Coastal Pacific mackerel purse seine fishery—Harvest, landing, and reporting requirements—Gear. (1) Licensing, harvest, and reporting requirements. It is unlawful for persons fishing under a Washington trial or experimental Pacific mackerel purse seine fishery permit to fail to:

(a) Carry an observer onboard for any Pacific mackerel fishing trip if requested by the department;

(b) Surrender up to five hundred Pacific mackerel per vessel per trip if requested by department samplers for biological information; and

(c) Complete a department-issued logbook prior to landing, for each month in which fishing activity occurs, and submit it to the department by the 15th day of the following month.

(2) Possession, transport, and seasons.

(a) It is unlawful to possess, transport through the waters of the state, or deliver into any Washington port, Pacific mackerel or other coastal pelagic species taken in violation of rules published in Title 50, Part 660, Subpart I of the Code of Federal Regulations (C.F.R.) including, but not limited to:

Annual specifications, closure of directed fishery, catch restrictions, gear requirements. These federal regulations govern commercial fishing for coastal pelagic species in the Exclusive Economic Zone off the coasts of Washington, Oregon, and California. Where the federal regulations refer to the fishery management area, that area is interpreted to include Washington state waters coterminous with the Exclusive Economic Zone. Updates to the federal regulations are published in the Federal Register. Discrepancies or errors between the C.F.R. and Federal Register will be resolved in favor of the Federal Register. This chapter incorporates the C.F.R. by reference and is based, in part, on the C.F.R. State regulations that are more restrictive than the federal regulations will prevail.

(b) It is unlawful to fish for or possess Pacific mackerel taken with any gear other than purse seine gear, except Pacific mackerel taken incidentally in fisheries authorized by federal rule, from offshore waters except during the directed sardine fishery season or the directed Pacific mackerel fishery season open each year from April 1st through December 31st.

(c) It is unlawful to take Pacific mackerel in state waters except for the incidental take as authorized by the coastal baitfish regulations.

(d) It is unlawful to retain any species that is taken incidental to Pacific mackerel, except for other mackerel species, jack mackerel, sardine, anchovy, and market squid (*Logligo opalescens*). It is unlawful to retain, possess or deliver, anchovy in excess of 5 metric tons in one day, and in excess of 10 metric tons during any calendar week beginning 12:01 a.m. Sunday through 11:59 p.m. Saturday.

(e) It is unlawful to fail to release any salmon encircled in the purse seine prior to completion of the set or to land or retain salmon on the fishing vessel.

(f) It is unlawful to transfer Pacific mackerel catch from one fishing vessel to another.

(3) Landing and delivery.

(a) It is unlawful to fail to have legal purse seine gear as defined by department rule aboard a vessel making a Pacific mackerel landing.

(b) It is unlawful to fail to deliver Pacific mackerel landings to a processing facility located on shore.

(c) It is unlawful to land fish at more than one processing facility and to fail to offload all fish onboard the vessel once the delivery commences at the time of landing.

(d) It is unlawful to deliver in total more than fifteen percent cumulative weight of Pacific mackerel for the purposes of conversion into fish flour, fish meal, fish scrap, fertilizer, fish oil, other fishery products, or by-products, or for purposes other than human consumption, or fishing bait taken during the directed Pacific mackerel and/or directed sardine fishery season(s).

(4) A violation of the reporting requirements provided in this section is punishable under RCW 77.15.630 Unlawful fish and shellfish catch accounting—Penalty.

(5) A violation of the gear requirements provided in this section is punishable under RCW 77.15.520 Commercial fishing—Unlawful gear or methods—Penalty.

(6) A violation of the harvest or landing requirements provided in this section is punishable under RCW 77.15.550 Violation of a commercial fishing area or time—Penalty.

WSR 16-06-069
PERMANENT RULES
DEPARTMENT OF
RETIREMENT SYSTEMS

[Filed February 25, 2016, 2:41 p.m., effective March 27, 2016]

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

Purpose: This revision clarifies how the agency administers adjustments to a catastrophic disability allowance for the law enforcement officers' and firefighters' (LEOFF) retirement system Plan 2. Other changes are to ensure consistency with the LEOFF Plan 2 duty disability rule and document existing practices.

Citation of Existing Rules Affected by this Order: Amending WAC 415-104-482 What is the LEOFF Plan 2 catastrophic disability allowance?

Statutory Authority for Adoption: RCW 41.50.050(5).

Adopted under notice filed as WSR 16-03-074 on January 19, 2016.

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

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

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

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

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

Date Adopted: February 25, 2016.

Marcie Frost
Director

AMENDATORY SECTION (Amending WSR 09-17-035, filed 8/10/09, effective 9/10/09)

WAC 415-104-482 What is the LEOFF Plan 2 catastrophic disability allowance? Under RCW 41.26.470, two types of disability retirement are available to members of LEOFF Plan 2 who become disabled in the line of duty: Duty disability retirement benefits as described in WAC 415-104-480 and catastrophic disability retirement benefits as described in this section. If you are not eligible for a catastrophic disability allowance under this section, you may still be eligible for duty disability benefits.

(1) Am I eligible for a catastrophic disability allowance? You are eligible for a catastrophic disability allowance if the department determines all of the following are true:

(a) You incurred a physical or mental disability in the line of duty, as defined in ~~((subsection (13) of this section))~~ WAC 415-104-480;

(b) You separated from LEOFF-eligible employment due to your disability;

(c) Your disability is so severe that you are unable to do your previous LEOFF eligible work, and considering your education, transferable skills, and work experience, you cannot engage in any other kind of substantial gainful activity in the labor market;

(d) Your condition has lasted or is expected to last at least twelve months, or your condition is expected to result in death; and

(e) Your disability is not the result of your criminal conduct committed after April 21, 1997. See RCW 41.26.061.

(2) If I am receiving a retirement allowance for service, can I qualify for a catastrophic disability allowance? You are eligible for a catastrophic disability allowance in lieu of your service retirement allowance if the department determines you ~~((separated from LEOFF-eligible service due to a duty disability and you otherwise))~~ meet the eligibility requirements in subsection (1) of this section.

(3) How do I request a catastrophic disability allowance? To request a catastrophic disability allowance, please contact the ~~((LEOFF unit at the))~~ department of retirement systems. You, your physician, and your employer will be required to provide information regarding your catastrophic disability.

(4) What information will the department use to determine whether I am entitled to an allowance under this section? The department will consider information submitted by you, your physician, and your employer, and information otherwise available to the department, including:

(a) Medical and vocational information;

(b) Information from and determinations made by the department of labor and industries, the Social Security Administration, or ~~((a self-insurer))~~ an employer;

(c) Your job description at the time you separated from LEOFF Plan 2 service;

(d) Financial records;

(e) Your membership records, maintained by the department; and

(f) Any other relevant information.

(5) Who determines my eligibility? The LEOFF plan administrator determines your eligibility for a catastrophic disability benefit. The plan administrator will rely substantially on determinations that have been made by the Social Security Administration unless there is information available that would produce a different determination.

(6) What are my options if my request is denied? If your request is denied, you have the following options:

(a) You may apply for duty disability benefits under WAC 415-104-480; and/or

(b) You may petition for review under chapter 415-04 WAC.

(7) If my request is approved, when will my monthly allowance begin to be paid? If your request is approved, you will begin to receive a catastrophic disability allowance in the month following the approval. Your first payment will include a retroactive payment of benefits that have accrued,

but not yet been paid. The date your allowance for catastrophic disability accrues is determined as follows:

(a) If you separated from LEOFF Plan 2 employment due to a catastrophic disability, your allowance will accrue from the first of the month following your separation date.

(b) If you are receiving a duty disability allowance or a service retirement allowance, and you are subsequently approved for a catastrophic disability, your allowance will accrue from:

(i) The first of the month following the month in which a specific, one-time event, verified by medical records, occurred that clearly caused your duty disability to become a catastrophic disability; or

(ii) If the department determines there is not a one-time event that caused your disability to become catastrophic, the first of the month following the month in which the department receives your request for a catastrophic disability allowance.

Example: John has been receiving a duty-disability allowance under WAC 415-104-480 since June 1, 2005, when he separated service as a firefighter due to a back injury he incurred in the line of duty.

Example of (b)(i) of this subsection: A one-time event.

On January 15, 2007, John accidentally twisted his back causing a catastrophic disability. Because John's catastrophic disability was clearly the result of a specific one-time event, his catastrophic disability allowance will accrue from February 1, 2007, the first of the month following the month in which the event occurred.

Example of (b)(ii) of this subsection: No specific event. John's back gradually worsened until his disability qualified as a catastrophic disability. On May 15, 2007, John applied for a catastrophic disability allowance. His allowance will accrue from June 1, 2007, the first of the month following the month the department received his application.

(8) How much is a catastrophic disability allowance?

The base catastrophic disability allowance is equal to seventy percent of your final average salary (FAS).

(a) Your allowance combined with other disability benefits, such as Title 51 RCW benefits or Social Security disability benefits, may not exceed one hundred percent of your FAS. If necessary, your catastrophic disability allowance will be reduced so that your combined allowance does not exceed one hundred percent of your FAS. Any such adjustment will be applied prospectively. Your catastrophic disability allowance will not be reduced below your accrued retirement allowance as defined in subsection (13) of this section.

(b) If you choose a benefit option with a survivor feature as described in WAC 415-104-215, the allowance calculated in (a) of this subsection will be actuarially reduced to cover the cost of providing benefits over two lifetimes.

(c) If you have been retired for at least one year by July 1st of each year, you will receive a cost-of-living adjustment each July (+) based on the percentage change, if any, in the consumer price index.

Example: Michael separates from service on June 1, 2005, and is approved for a catastrophic disability allowance. Since his FAS is \$5,800, Michael's catastrophic disability allowance from the department is \$4,060 per month ($\$5,800 \times 70\% = \$4,060$). Michael is also approved for a Social Security benefit in the amount of \$1,800 per month. Michael's combined benefit equals \$5,860 ($\$4,060 + \$1,800$). This is \$60 over 100% of his FAS ($\$5,860 - \$5,800$), so Michael's catastrophic disability benefit will be reduced by that amount; his new monthly benefit from the department is \$4,000 ($\$4,060 - \60). In January 2006, Michael received a 4.1% COLA for his Social Security benefit. The department will recalculate his benefit as follows:

January 2006 Social Security benefit, with COLA	$\$1,800 \times 4.1\% = \$73.80 + \$1,800$	= \$1,873.80
Total combined benefit	$\$4,060 + \$1,873.80$	= \$5,933.80
Amount over 100% of FAS	$\$5,933.80 - \$5,800$	= \$133.80

Since Michael's combined benefit is \$133.80 over 100% of his FAS, his catastrophic disability benefit will be reduced by that amount. His new monthly benefit from the department is \$3,926.20 ($\$4,060 - \133.80). Michael's benefit cannot be reduced more than the amount of his accrued retirement allowance. To determine his accrued retirement allowance, the department multiplies Michael's FAS, \$5,800, by his years of service credit, 30, by 2% ($\$5,800 \times 30 \times 2\%$). Michael's accrued retirement allowance is \$3,480. Since his benefit does not fall below his retirement allowance, Michael will receive \$3,926.20 from the department per month. In July 2006, Michael received a 3% COLA for his catastrophic disability benefit. The department will recalculate his benefit as follows:

July 2006 catastrophic disability benefit, with COLA	$\$5,800 \times 3\% = \$174 + \$5,800 = \$5,974 \times 70\%$	= \$4,181.80
Total combined benefits	$\$4,181.80 + \$1,873.80$	= \$6,055.60

Amount over 100% of FAS	\$6,055.60 - \$5,974	= \$81.60
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Since Michael's combined benefit is \$81.60 over 100% of his FAS, his catastrophic disability benefit will be reduced by that amount. His new monthly benefit from the department is \$4,100.20 (\$4,181.80 - \$81.60). This is compared to his accrued retirement allowance, \$3,584.40 (\$5,974 x 30 x 2%); since his benefit does not fall below his retirement allowance, Michael will receive \$4,100.20 from the department per month.

(9) Is my catastrophic disability allowance taxable?

You should consult with your tax advisor regarding all payments you receive from the department. The department does not:

- (a) Guarantee that payments are exempt from federal income tax;
- (b) Guarantee that it was correct in withholding or not withholding taxes from disability payments;
- (c) Represent or guarantee that any particular federal or state income, payroll, personal property or other tax consequence will occur because of its determination; or
- (d) Assume any liability for your compliance with the Internal Revenue Code.

(10) If I withdrew my contributions prior to December 2, 2004, and am approved for a catastrophic disability allowance, what will I receive? You may apply for a catastrophic disability allowance even if you withdrew your accumulated contributions prior to December 2, 2004. If you are approved for a catastrophic disability allowance, your monthly allowance will be calculated as follows:

- (a) If you repay the entire amount you withdrew plus interest, in a lump sum payment, you will receive a monthly allowance calculated according to subsection (8) of this section.
- (b) If you do not repay the entire amount you withdrew, your monthly allowance will be actuarially reduced to offset the amount of your previous withdrawal.

(11) Can my catastrophic disability allowance be discontinued? Your catastrophic disability allowance will be discontinued if:

- (a) Medical/vocational examination, or other information commonly available or provided to the department by an employer, reveals that your disability no longer prevents you from performing substantial gainful activity; or
- (b) Your earnings exceed the threshold for substantial gainful activity.

The department may require or offer to provide comprehensive medical/vocational examinations and/or submission of earnings information to evaluate your eligibility for continued benefits (~~(according to the provisions of RCW 41.26.470)~~). You are required to contact the department if your medical/vocational or financial situation changes.

(12) If my catastrophic disability allowance terminates, may I qualify for duty disability benefits? If you are no longer eligible for a catastrophic disability allowance, but

have a disability that prevents you from returning to a LEOFF-eligible position, the department will determine if you qualify for duty disability benefits under WAC 415-104-480.

(a) The department may request additional information from you, your physician, or others upon which to base the determination.

(b) If the department determines you are eligible, you will begin receiving a duty disability allowance under WAC 415-104-480 in lieu of your catastrophic disability allowance.

(13) **Definitions.** As used in this section:

(a) **Accrued retirement allowance** means a duty disability monthly allowance under WAC 415-104-480.

(b) **Earnings** are any income or wages received, which are reportable as wages or self-employment income on IRS form 1040.

(c) **Labor market** is the geographic area within reasonable commuting distance of where you were last gainfully employed or where you currently live, whichever provides the greatest opportunity for gainful employment.

(d) ~~(Line of duty means any action or activity performed in the service of your employer that is required or authorized by law, rule, regulations, or condition of employment or service.~~

(e)) **Substantial gainful activity** means any activity that produces average earnings, as defined in (b) of this subsection, in excess of eight hundred sixty dollars a month in 2006, adjusted annually as determined by the department based on federal Social Security disability standards. Wages count toward earnings when they are earned, not when you receive them. Self-employment income counts when you receive it, not when you earn it.

((f)) (e) **Transferable skills** are any combination of learned or demonstrated behavior, education, training, work traits, and skills that you can readily apply. They are skills that are interchangeable among different jobs and workplaces.

WSR 16-06-073

PERMANENT RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 16-30—Filed February 26, 2016, 10:20 a.m., effective July 1, 2016]

Effective Date of Rule: July 1, 2016.

Purpose: Amends the following sportfishing rules, to provide maximum recreational fishing opportunity while addressing conservation concerns: WAC 220-55-220 Two-pole endorsement, 220-56-210 Fly fishing, 220-56-282 Sturgeon—Areas, seasons, limits and unlawful acts, 220-56-510 Game fish possession limits and size limits, 220-310-175 Freshwater exceptions to statewide rules—General rules, 220-310-180 Freshwater exceptions to statewide rules—Coast, 220-310-185 Freshwater exceptions to statewide rules—Southwest, 220-310-190 Freshwater exceptions to statewide rules—Puget Sound, 220-310-195 Freshwater

exceptions to statewide rules—Eastside, and 220-310-200 Freshwater exceptions to statewide rules—Columbia River.

Citation of Existing Rules Affected by this Order: Amending WAC 220-55-220, 220-56-210, 220-56-282, 220-56-510, 220-310-175, 220-310-180, 220-310-185, 220-310-190, 220-310-195, and 220-310-200.

Statutory Authority for Adoption: RCW 77.04.012 and 77.12.047.

Adopted under notice filed as WSR 15-20-073 on October 2, 2015.

Changes Other than Editing from Proposed to Adopted Version: **These changes clarified and followed commission intent based [on] the explanation of rule proposal changes as described in the concise explanatory document and modifications they made to the proposals at adoption.**

WAC 220-56-210: Changed "lead" to "metal" as identified in modification.

WAC 220-55-220: Removed Ebey Lake as identified in modification.

WAC 220-56-282 Sturgeon—Areas, seasons, limits and unlawful acts: Clarified Skokomish River wording to reflect adopted proposal.

WAC 220-56-510: Clarified Grass Carp wording to reflect adopted proposal.

WAC 220-310-180 Coast:

1. Changed selective gear rules to one barbless hook, specified that bait is unlawful, and required the release of wild rainbow trout for rivers identified for north coast proposals.

2. Specified that it is unlawful to fish from a floating device equipped with an internal combustion motor as identified in north coast proposals.

3. Specified that anglers may retain on [one] 15 inch or longer cutthroat trout as identified in proposal for North Nemah River (Pacific County).

4. Removed a redundant "it" from Anderson Lake (Jefferson County) to clarify WAC language.

5. Added mandatory hatchery steelhead retention rules, as adopted by the commission, for the following water bodies: Big River (Clallam County), outside of Olympic National Park; Black River (Grays Harbor/Thurston counties); Elk River (Grays Harbor County); Hoko River (Clallam County); Palix River, including all forks (Pacific County).

6. Added that "it is unlawful to use bait" for the Calawah River, North Fork (Clallam County).

7. Clarified mandatory hatchery steelhead retention rules for the following water bodies: Deep Creek (Clallam County) (Humptulips River tributary); Lyre River (Clallam County); Middle Nemah River (Pacific County); Naselle River (Pacific/Wahkiakum counties); North Nemah River (Pacific County); North River (Grays Harbor/Pacific counties); Salt Creek (Clallam County); Sekiu River (Clallam County).

8. Removed Leland Lake (Jefferson County) because this lake now follows statewide rules.

9. Adjusted the opening date for the Little Quilcene River (Jefferson County).

a. From the mouth to Highway 101 Bridge from November 1 to the first Saturday in June;

b. From Little Quilcene River Bridge on Penny Creek Road upstream from the first Saturday in June to the first Saturday before Memorial Day.

10. Removed "it is unlawful to retain more than two trout over 14 inches in length" from the following Jefferson County lakes: Leland; Ludlow; Sandysore; Silent; Tarboo.

11. Added selective gear rules from February 1 through April 15 for the Naselle River (Pacific/Wahkiakum counties).

12. Reverted back to the closure August 1 through October 15 for the area downstream of the full spanning concrete diversion structure at the Naselle Hatchery on the Naselle River (Pacific/Wahkiakum counties).

WAC 220-310-185 Southwest:

1. Clarified barbless hook area, mandatory hatchery steelhead retention, and seasons for Cowlitz River (Lewis County).

2. Ensured that warm water language as adopted by the commission is accurately listed and simplified to remove redundant language.

WAC 220-310-190 Puget Sound:

1. Removed redundant listings for Big Lake (Skagit County), Cadet Creek (Snohomish County), Little Nisqually River (Lewis County), Mineral Creek and Mineral Creek, North Fork (both Lewis County), and Sloan Creek (Snohomish County) to simplify and clarify WAC.

2. Removed duplicate Thornton Creek entry; this creek was listed twice with different counties. The correct county is Whatcom County.

3. Removed Flett Creek (Pierce County) and Leach Creek (Pierce County) rules.

4. Revised Black Lake Ditch (Thurston County) language for clarification of selective gear rule requirement.

5. Revised Chaplain Creek (Snohomish County) language to more clearly describe fishing area, as modified.

6. Removed selective gear rules and law that all fish must be released except anglers may retain up to 2 hatchery steelhead for Hilt Creek (Skagit County) to match the adopted proposal.

7. Removed selective gear rules for Kendall Creek (Whatcom County), Maple Creek (Whatcom County), and Racehorse Creek (Whatcom County) to match the adopted proposal.

8. Specified the fishing area for Maple Creek to be above Maple Falls.

9. Specified the fishing area for Racehorse Creek to be above the falls located 0.2 miles above the North Fork Road.

10. Specified mandatory hatchery steelhead retention language for Samish River (Skagit County).

11. Changed section (Highway 530 Bridge at Rockport to the Cascade River Road) of Skagit River (Skagit/Whatcom counties) trout fishery to catch and release only, except mandatory hatchery steelhead retention.

12. Clarified sturgeon season in the Snohomish River (Snohomish County).

13. Corrected Washington Lake Ship Canal (King County) language to reflect proposal adoption that allows anglers to fish from a floating device.

14. Added anti-snagging language to Whatcom Creek (Whatcom County), removed a night closure, and revised the season to reflect adopted proposal.

15. Per commission decision, added Summit Lake (Thurston County) back into WAC with the same rules that had been present prior to the proposal for converting this to a year-round lake.

16. Per commission decision, removed the closed waters section proposed this year.

17. Added "night closure in effect" back to McLane Creek (Thurston County). This was incorrectly removed when the trout minimum length language was removed.

18. Clarified geographic locations for mandatory hatchery steelhead retention in the Skagit River (Skagit/Whatcom counties).

19. Changed closing day for Snoqualmie River (King County) tributaries upstream of the falls, and the tributaries of the North and South forks (except Tate, Sunday and Philapa creeks) from the Friday before Labor Day to the Friday before Memorial Day.

20. Corrected the water body name from Twenty-two Lake to Twenty-two Lake Creek (Snohomish County).

21. Added mandatory hatchery steelhead retention rules, as adopted by the commission, for Lake Washington (King County).

WAC 220-310-175 General, 220-310-195 Eastside, 220-310-200 Columbia: No changes.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 10, Repealed 0.

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

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

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

Date Adopted: December 12, 2015.

Brad Smith, Chair
Fish and Wildlife Commission

AMENDATORY SECTION (Amending WSR 15-13-081, filed 6/12/15, effective 7/13/15)

WAC 220-55-220 Two-pole endorsement. Anglers who possess a valid two-pole endorsement may fish with two lines in all lakes and ponds open to fishing, with the following exceptions:

Water Body	County
Para-juvenile Lake	Adams
Headgate Pond	Asotin
Columbia Park Pond	Benton
Blackbird Island Pond	Chelan
Aldwell Lake	Clallam
Beaver Lake	Clallam

Water Body	County	
Carrie Blake Pond	Clallam	
Dickey Lake	Clallam	
Lake Pleasant	Clallam	
Lincoln Pond	Clallam	
Sutherland Lake	Clallam	
Vancouver Lake	Clark	Includes all other waters west of Burlington-Northern Railroad from Columbia River drawbridge near Vancouver downstream to Lewis River.
Big Four Lake	Columbia	
Dayton Pond	Columbia	
Blue Lake	Cowlitz	
Castle Lake	Cowlitz	
Coldwater Lake	Cowlitz	
Lewis River Power Canal	Cowlitz	Includes old Lewis River streambed between Swift No. 1 powerhouse and Swift No. 2 powerhouse.
Merrill Lake	Cowlitz	
Silver Lake	Cowlitz	
Pit Lake	Douglas	
Ping Pond	Grant	
Mill Creek Pond	Grays Harbor	
Quigg Lake	Grays Harbor	Located at Friends Landing near Montesano.
Vance Creek Pond #1	Grays Harbor	
Gibbs Lake	Jefferson	
Horseshoe Lake	Jefferson	
Teal Lake	Jefferson	
Lake Sammamish	King	
Lake Union	King	
Lake Washington	King	Including that portion of Sammamish River from 68th Ave. NE bridge downstream.
Lake Washington Ship Canal	King	(Including Lake Union, Portage Bay, and Salmon Bay) Waters east of a north-south line 400' west of the Chittenden Locks to the Montlake Bridge.
Mill Pond	King	Auburn.
Old Fishing Hole Pond	King	Kent.
Portage Bay	King	
Salmon Bay	King	
Swans Mill Pond	King	
Koeneman Lake	Kitsap	Formerly Fern Lake.
Kachess Lake	Kittitas	
Keechelus Lake	Kittitas	
Kiwanis Pond	Kittitas	
Naneum Pond	Kittitas	
Cowlitz Falls Reservoir	Lewis	
Mayfield Lake	Lewis	Mayfield Dam to Mossyrock Dam.

Water Body	County	
Packwood Lake	Lewis	
Scanewa Lake	Lewis	Cowlitz Falls Reservoir.
Walupt Lake	Lewis	
Willame Lake	Lewis	
Cady Lake	Mason	
Cushman Reservoir	Mason	
Prices Lake	Mason	
Stump Lake	Mason	
Silvernail Lake	Okanogan	
Cases Pond	Pacific	
South Bend Mill Pond	Pacific	
Bradley Lake	Pierce	
De Coursey Pond	Pierce	
Ohop Lake	Pierce	
Tanwax Lake	Pierce	
Wapato Lake	Pierce	
Granite Lakes	Skagit	Near Marblemount.
Northern State Hospital Pond	Skagit	
((Pass Lake	Skagit))	
Vogler Lake	Skagit	
Drano Lake	Skamania	January 1 through April 30 and July 1 through September 30.
Swift Reservoir	Skamania	From dam to Eagle Cliff Bridge.
((Ebey Lake	Snohomish	Little Lake.))
Fortson Mill Pond #2	Snohomish	
Jennings Park Pond	Snohomish	
Monte Cristo Lake	Snohomish	
North Gissburg Pond	Snohomish	
Spada Lake	Snohomish	
Bear Lake	Spokane	
North Silver Lake	Spokane	
Lucky Duck Pond	Stevens	
Long's Pond	Thurston	
Munn Lake	Thurston	
Jefferson Park Pond	Walla Walla	
Lions Park Pond	Walla Walla	College Place.
Diablo Lake	Whatcom	
Gorge Lake	Whatcom	
Lake Whatcom	Whatcom	
Ross Lake	Whatcom	
Squalicum Lake	Whatcom	
Garfield Juvenile Pond	Whitman	
Clear Lake	Yakima	
Leech Lake	Yakima	White Pass area.
Mud Lake	Yakima	
Myron Lake	Yakima	
Sarge Hubbard Park Pond	Yakima	

Water Body	County
Yakima Sportsmen's Park Ponds	Yakima

Anglers who possess a valid two-pole endorsement may fish with two lines in the following river sections:

River	County	Section
Chehalis	Grays Harbor	From Highway 101 Bridge in Aberdeen to South Elma Bridge (Wakefield Road): July 1 through November 30.
Columbia		Camas Slough: August 1 through December 31. From Highway 395 Bridge at Pasco to Old Hanford townsite wooden power-line towers: Year-round, except for sturgeon. From wooden powerline towers to Vernita Bridge: February 1 through October 22, except for sturgeon. From Vernita Bridge to Priest Rapids Dam: Year-round, except for sturgeon. From Priest Rapids Dam to Wanapum Dam: July 1 through August 31. From Wanapum Dam to Wells Dam: July 1 through August 31. From Wells Dam to Highway 173 Bridge at Brewster: July 16 through August 31. From Highway 173 Bridge at Brewster to Chief Joseph Dam: July 1 through August 31.
Cowlitz	Lewis	Lexington Bridge Drive in Kelso upstream to the barrier dam.
Lewis	Clark	From railroad bridge near Kuhn's Road to mouth of East Fork Lewis.
North Fork Lewis	Clark/Cowlitz	Mouth to Johnson Creek.
Naselle	Pacific/Wahkiakum	From Highway 101 Bridge to Highway 401: August 1 through January 31.
Okanogan	Okanogan	July 1 through October 15.
Pend Oreille	Pend Oreille	
Palouse	Whitman	Mouth to base of Palouse Falls: June 16 through August 31.
Spokane	Spokane and Stevens	Lower Spokane River from mouth (SR 25 bridge) to 400' below Little Falls Dam.

River	County	Section
Willapa	Pacific	From the city of South Bend boat launch to the 2nd bridge on Camp One Road: August 1 through January 31.
Wind	Skamania	Salmon and steelhead: Mouth (boundary line/markers) to the Highway 14 Bridge: May 1 through June 30.
Yakima	Yakima	From Highway 240 Bridge to 400' below Prosser Dam: March 1 through August 31.

Anglers who possess a valid two-pole endorsement may fish for salmon with two lines in the following marine areas:

Description	Marine Area
Willapa	2-1. East of a line from Cape Shoalwater to Leadbetter Point.
Port Susan and Port Gardner	Tulalip Terminal Area: May 1 through September 30.
Seattle/Bremerton Area	Sinclair Inlet: July 1 through September 30.
South Puget Sound	13.

AMENDATORY SECTION (Amending WSR 15-06-065 and 15-06-006, filed 3/4/15 and 2/20/15, effective 7/1/15)

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 or conventional "Tenkara" 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.
- (2) Only knotless nets may be used to land fish in waters restricted to "fly fishing only."

(3) ~~(a) A violation of ((this subsection)) gear restrictions in subsection (1) or (2) of this section is an infraction, punishable under RCW 77.15.160, unless the person possesses fish taken with prohibited gear.~~

(b) 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.

(4) "Fly" means a lure on which thread, feathers, hackle, foam, rubber, or yarn cover a minimum of half the shank of the hook. Metallic colored tape, metal wire, metal tape, tinsel,

mylar, or beadeyes may be used as an integral part of the design of the fly pattern.

(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 and may fish from a floating device equipped with an electric motor in lakes where fishing from a floating device is allowed 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))~~ permissible 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 WSR 15-13-081, filed 6/12/15, effective 7/13/15)

WAC 220-56-282 Sturgeon—Areas, seasons, limits and unlawful acts. (1) It is unlawful to retain green sturgeon.

(2) The following limits and requirements apply in areas where it is permissible to catch sturgeon for release or retention:

- (a) It is unlawful to fish for sturgeon with terminal gear other than bait and one single-point barbless hook.
- (b) It is unlawful to fail to release undersize or oversize sturgeon immediately.
- (c) It is permissible to use artificial scent with bait when fishing for white sturgeon.
- (d) It is unlawful to use a gaff or other body-penetrating device while restraining, handling, or landing a sturgeon.
- (e) It is unlawful to fish for or possess sturgeon from freshwater, except the Chehalis River, from one hour after official sunset to one hour before official sunrise.

(3) It is permissible to catch and release white sturgeon in saltwater waterways year-round. However, for freshwater waterways, including freshwater Puget Sound tributaries, it is permissible to catch and release white sturgeon only when the season is open for salmon or game fish ~~((, unless otherwise provided))~~, except in the Snohomish River from mouth to Highway 9 Bridge it is permissible to catch and release sturgeon year-round.

(4) It is permissible to catch and release, but unlawful to retain, white sturgeon in the following areas:

- (a) Coastal waters and tributaries of coastal waters;

- (b) Puget Sound waters and tributaries of Puget Sound;
 - (c) Vancouver Lake and all other waters west of Burlington Northern Railroad from the Columbia River drawbridge near Vancouver downstream to Lewis River (Clark County);
 - (d) Columbia River and tributaries from a true north-south line through Buoy 10 (the mouth) upstream to Chief Joseph Dam, unless otherwise provided; and
 - (e) Snake River and tributaries from the mouth upstream to the border with Oregon, unless otherwise provided.
- (5) White sturgeon retention is allowed in the areas open to fishing and following rules as specified in WAC 220-310-200:
- (a) Columbia River:
 - (i) Columbia River and tributaries from Bonneville Dam upstream to McNary Dam: January 1 through July 31.
 - (ii) Columbia River and tributaries from McNary Dam upstream to Priest Rapids Dam: February 1 through July 31.
 - (b) Snake River: From the Snake River mouth (also called the Snake River Confluence Protection Area) upstream to Ice Harbor Dam: February 1 through July 31.
 - (6) The following waters are closed to fishing for sturgeon:
 - (a) Columbia River:
 - (i) Mouth to Bonneville Dam:
 - (A) Year-round from Bonneville Dam downstream to a boundary marker on the Washington shore approximately 4,000 feet below the fish ladder at the powerhouse, south to the downstream end of Cascade Island, and across to the Oregon angling boundary on Bradford Island (the Cascade Island-Bradford Island line).
 - (B) May 1 through August 31 from Bonneville Dam downstream 9 miles to a line crossing the Columbia River from navigation marker 82 on the Oregon shore, westerly to the boundary marker on the Washington shore upstream of Fir Point (navigational marker 82 line).
 - (ii) Bonneville Dam to McNary Dam:
 - (A) May 1 through July 31 from The Dalles Dam downstream 1.8 miles to a line from the east (upstream) dock at the Port of The Dalles boat ramp straight across to a marker on the Washington shore.
 - (B) May 1 through July 31 from John Day Dam downstream 2.4 miles 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.
 - (C) May 1 through July 31 from McNary Dam downstream to the Highway 82 (395) Bridge.
 - (iii) McNary Dam to Priest Rapids Dam:
 - (A) May 1 through July 31 from Priest Rapids Dam downstream 2.5 miles to the boundary marker on the river bank 400 feet downstream from Priest Rapids Hatchery outlet channel (Jackson Creek).
 - (B) October 23 through January 31 from the Old Hanford townsite wooden power line towers to Vernita Bridge.
 - (iv) Chief Joseph Dam upstream:
 - (A) Columbia River and its tributaries.
 - (B) Roosevelt Lake and its tributaries.
 - (b) Snake River Mouth to Ice Harbor Dam: May 1 through July 31 from the downstream end of Goose Island upstream 1.5 miles to Ice Harbor Dam.

(7) The following limits and requirements apply in areas where it is permissible to retain sturgeon:

- (a) The daily limit is one white sturgeon.
- (b) The possession limit is two daily limits of fresh, frozen, or processed white sturgeon.
- (c) The annual personal-use limit for white sturgeon from April 1 through March 31 is two fish, regardless of where the angler takes the sturgeon.
- (d) The maximum fork-length is 54 inches.
- (e) The minimum fork-length is 38 inches, except the minimum fork-length is 43 inches in:
 - (i) The mainstem Columbia and its tributaries from The Dalles Dam to Priest Rapids Dam; and
 - (ii) The Snake River from the Snake River Confluence Protection Area to Ice Harbor Dam.
- (f) Once an angler reaches his or her annual limit of white sturgeon, he or she may continue to fish for white sturgeon in the mainstem Columbia River downstream from where the river forms the common boundary between Oregon and Washington, unless otherwise provided by department rule, so long as the angler releases all subsequent sturgeon immediately.

(g) It is unlawful to possess sturgeon eggs in the field without retaining the intact carcass of the fish from which the eggs have been removed.

(8) A violation of this section is an infraction, punishable under RCW 77.15.160, unless the person has harvested sturgeon. If the person has harvested sturgeon, the violation is punishable under RCW 77.15.380((c)) 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((c)) Unlawful recreational fishing in the first degree—Penalty.

(9) 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((c)) 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((c)) Unlawful recreational fishing in the first degree—Penalty.

AMENDATORY SECTION (Amending WSR 15-06-065 and 15-06-006, filed 3/4/15 and 2/20/15, effective 7/1/15)

WAC 220-56-510 Game fish possession limits and size limits. It is unlawful to retain or possess game fish taken in excess of the daily, possession, or license year possession limits, or game fish that do not conform to the size limits provided for in this section, unless otherwise provided for in WAC 220-310-175 through 220-310-200.

(1) Daily game fish possession and size limits:

((Species)) Species	((Daily limit)) Daily limit	((Size limits)) Size limits	((Species)) Species	((Daily limit)) Daily limit	((Size limits)) Size limits
Largemouth Bass	5	Release bass 12 to 17 inches in length. Not more than 1 largemouth bass 17 inches in length or greater may be retained.		2 from rivers, streams, and beaver ponds. The daily trout limit is 5 trout, regardless of origin, of which not more than 2 may be steelhead.	8-inch minimum size.
Smallmouth Bass	10	No minimum size. Not more than one smallmouth bass over 14 inches in length or greater may be retained.	Walleye	8	12-inch minimum size. Not more than 1 walleye greater than 22 inches in length may be retained.
Burbot	5	No size restriction.	Whitefish	15	No size restriction.
Channel catfish	5	No size restriction.	All other game fish	No limit.	No size restriction.
Eastern brook trout	Count as part of the 5 trout daily limit in lakes, ponds and reservoirs. Bonus limit in rivers, streams and beaver ponds. Up to 5 trout including Eastern brook trout may be retained, but not more than 2 of which may be trout other than Eastern brook trout. <u>No daily limit for streams listed in WAC 220-310-180 and 220-310-190, unless otherwise provided in those rules.</u>	No size restriction.			
Grass carp	Unlawful to retain unless otherwise provided in WAC 220-310-180 and 220-310-190.	Not applicable.			
Tiger Muskellunge	1	Minimum size 50 inches in length.			
Trout (except Eastern brook trout)	5 from lakes, ponds and reservoirs.	No size restriction.			

(2) Possession limit: The game fish possession limit in the field is two daily limits in fresh, frozen or processed form.

(3) Wild steelhead, Dolly Varden, and bull trout: Except as provided for in this section and WAC 220-310-175 through 220-310-200, it is unlawful to retain wild steelhead, Dolly Varden, or bull trout.

~~(4) ((Wild steelhead license year limit: From waters in which wild steelhead may be taken as provided for in WAC 220-310-175 through 220-310-200, the license year limit is one wild steelhead.~~

~~(5))~~ Saltwater game fish retention: Game fish taken in saltwater may not be retained, except that up to two hatchery steelhead per day may be retained.

AMENDATORY SECTION (Amending WSR 15-13-081, filed 6/12/15, effective 7/13/15)

WAC 220-310-175 Freshwater exceptions to statewide rules—General rules. The following provisions and definitions apply to this section through WAC 220-310-200.

(1) It is unlawful to fish for, take, or possess salmon from freshwater streams and lakes that are not specifically listed as open for salmon fishing.

(2) Waters listed as open during a specific date range that do not reference a particular species are open during the date range for game fish only.

(3) Rivers, streams, and beaver ponds are closed to fishing unless specifically listed as open.

(4) All limits are daily limits, unless otherwise provided.

(5) Within Puget Sound, beaver ponds located within or adjoining streams that are listed as open to trout and other game fish follow the same rules as the stream, except as otherwise provided.

(6) It is permissible to retain up to two hatchery steelhead in waters where the season is open for game fish or salmon in WAC 220-310-180 and 220-310-190, unless

explicitly listed as closed to hatchery steelhead in WAC 220-310-180 and 220-310-190.

~~(7)~~ (7) A "float" or "bobber" means a hookless, floating device that is attached to or slides along the mainline or leader above the hook(s) for the purpose of suspending hook(s) (which are not part of the bait, lure, or fly) off the bottom of the stream or lake and visually signal (from the surface of the water) a fish's strike at the hook(s).

~~((7))~~ (8) "Lead jig" means a lure consisting of a hook permanently or temporarily attached directly to a lead weight by any method.

~~((8))~~ (9) "Lead weight" means material constructed of lead and applied to a fishing line or lure and designed to help keep the hook, bait, or lure underwater.

~~((9))~~ (10) "Unmarked salmon" means salmon without either a clipped ventral fin or a clipped adipose fin as evidenced by a healed scar.

~~((10))~~ (11) Kokanee/sockeye definition for Lake Washington and the Lake Washington Ship Canal in King County: Kokanee and sockeye less than fifteen inches in length are considered kokanee and kokanee and sockeye fifteen inches and over in length are considered sockeye salmon.

~~((11))~~ (12)(a) A violation of this section through WAC 220-310-200 is an infraction, punishable under RCW 77.15.-160, unless the person has harvested fish. If the person has harvested fish, the violation is punishable under RCW 77.15.-380(~~(2)~~) 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(~~(2)~~) Unlawful recreational fishing in the first degree—Penalty.

(b) Freshwater terminal gear restrictions:

(i) Terminal gear restrictions apply to all species, including salmon, unless otherwise provided.

(ii) In all waters with freshwater terminal gear restrictions including, but not limited to, night closures, selective gear rules, whitefish gear rules, single-point barbless hooks required, fly-fishing only, and anti-snagging rules, violation of the gear rules is an infraction, punishable under RCW 77.15.160.

(iii) 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(~~(2)~~) 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(~~(2)~~) Unlawful recreational fishing in the first degree—Penalty.

~~((12))~~ (13) For sturgeon fishing rules, see WAC 220-56-282(~~(2)~~) Sturgeon—Areas, seasons, limits and unlawful acts.

AMENDATORY SECTION (Amending WSR 15-17-010, filed 8/6/15, effective 9/6/15)

WAC 220-310-180 Freshwater exceptions to state-wide rules—Coast. (1) **Aberdeen Lake (Grays Harbor County):**

(a) Open the fourth Saturday in April through October 31.

(b) Trout: No more than 2 trout over 15 inches in length may be retained.

(2) **Alder Creek (Pacific County) (Naselle River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(3) **Anderson Lake (Jefferson County):**

~~(a) ((Open the fourth Saturday in April through October 31; fishing))~~ It is unlawful to fish from a floating device equipped with an internal combustion motor (~~(prohibited)~~).

(b) Open September 1 through October 31:

(i) Selective gear rules apply.

(ii) Trout: Catch and release only.

(4) **Bear Creek (Clallam County) (Bogachiel River tributary):**

(a) Open the first Saturday in June through October 31.

~~(b) ((Selective gear rules apply))~~ It is unlawful to use anything other than one barbless hook.

~~(c) It is unlawful to use bait.~~

~~((e))~~ (d) Trout:

(i) Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(ii) Release wild (unclipped) rainbow trout.

(5) **Bear Creek (Clallam County) (Sol Duc River tributary):**

(a) Open the first Saturday in June through October 31.

~~(b) ((Selective gear rules apply:~~

~~(e)))~~ It is unlawful to use anything other than one barbless hook.

~~(c) It is unlawful to use bait.~~

~~(d) Trout:~~

(i) Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(ii) Release wild (unclipped) rainbow trout.

(6) **Bear River (Pacific County):**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

~~(b) Open the first Saturday in June through March 31.~~

~~((b))~~ (c) August 16 through November 30: Night closure in effect.

(i) From the mouth (Highway 101 Bridge) to Lime Quarry Road (approximately two river miles):

(A) August 16 through November 30:

(I) Barbless hooks required.

(II) Anti-snagging rule applies.

(B) Release all fish, except anglers may retain up to 2 hatchery steelhead.

(C) Salmon:

(I) Open September 1 through January 31.

(II) Limit 6 fish; only 4 may be adults.

(III) Release wild Chinook.

(ii) From the Lime Quarry Road upstream to the Longview Fiber Bridge:

(A) Selective gear rules apply.

(B) Release all fish, except anglers may retain up to 2 hatchery steelhead.

(7) Beaver Creek (Clallam County) (Sol Duc River tributary):

(a) From the mouth upstream to Beaver Falls:

(i) Open the first Saturday in June through October 31.

(ii) ~~((Selective gear rules apply))~~ It is unlawful to use anything other than one barbless hook.(iii) It is unlawful to use bait.

(iv) Trout:

(A) Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(B) Release wild (unclipped) rainbow trout.

(b) From Beaver Falls upstream to Beaver Lake: Open the first Saturday in June through October 31.

(8) Beaver Lake (Clallam County):

(a) Selective gear rules apply.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Trout: Maximum length 12 inches.

(9) Big Creek (Grays Harbor County):

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(10) ~~((Big Quileene River (Jefferson County):~~~~(a) From the mouth to Rodgers Street:~~~~(i) Open the first Saturday in June through August 15.~~~~(ii) Selective gear rules apply.~~~~(iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.~~~~(iv) Catch and release only.~~~~(b) From Rodgers Street to the Highway 101 Bridge:~~~~(i) Open the first Saturday in June through October 31.~~~~(ii) Catch and release only.~~~~(iii) From the first Saturday in June through August 15:~~~~(A) Selective gear rules apply.~~~~(B) It is unlawful to fish from a floating device equipped with an internal combustion motor.~~~~(iv) August 16 through October 31:~~~~(A) Night closure in effect.~~~~(B) Single point barbless hooks are required.~~~~(v) Salmon:~~~~(A) Open August 16 through October 31.~~~~(B) Limit 4 coho only; only coho hooked inside the mouth may be retained.~~~~(e) From the electric weir at Quileene National Fish Hatchery to the upper boundary of Falls View campground:~~~~(i) Open the first Saturday in June through October 31.~~~~(ii) Selective gear rules apply.~~~~(iii) Catch and release only.~~~~(d) From the upper boundary of Falls View campground upstream: Open the Saturday before Memorial Day through October 31.~~**~~((11)) Big River (Clallam County), outside of Olympic National Park:~~**~~(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.~~~~(b) Open the first Saturday in June through October 15, and January 1 through the last day of February.~~~~((b)) (c) Selective gear rules apply.~~~~((e)) (d) It is unlawful to fish from a floating device equipped with an internal combustion motor.~~~~((e)) (e) Trout:~~~~(i) Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.~~~~(ii) Release kokanee.~~**~~((12)) (11) Black Creek (Grays Harbor County) (Wynoochee River tributary):~~**~~(a) Open the first Saturday in June through October 31.~~~~(b) Selective gear rules apply.~~~~((13)) (12) Black Lake (Pacific County): Open the fourth Saturday in April through October 31.~~**~~((14)) (13) Black River (Grays Harbor/Thurston counties):~~**~~(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.~~~~(b) From the mouth to State Highway 12:~~~~(i) Open the first Saturday in June through October 31.~~~~(ii) Selective gear rules apply.~~~~(iii) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.~~~~((b)) (c) From Highway 12 to bridge on 128th Ave. S.W.:~~~~(i) Anti-snagging rule applies.~~~~(ii) Night closure in effect.~~~~(iii) Barbless hooks are required.~~~~(iv) Open for game fish the first Saturday in June through October 31; trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.~~~~(v) Salmon open October 1 through January 31:~~~~(A) From October 1 through November 30:~~~~(I) Limit 6; only 2 adults may be retained.~~~~(II) Release Chinook and chum.~~~~(B) From December 1 through January 31:~~~~(I) Limit 6; only 2 adults may be retained and only one may be a wild adult coho.~~~~(II) Release Chinook and chum.~~~~((e)) (d) From bridge on 128th Avenue S.W. (west of Littlerock) to Black Lake:~~~~(i) Open the first Saturday in June through October 31.~~~~(ii) Selective gear rules apply.~~**~~((15)) (14) Bogachiel River (Clallam County):~~**~~(a) It is unlawful to fish from a floating device equipped with an internal combustion motor.~~~~(b) Release wild (unclipped) rainbow trout.~~~~(c) It is unlawful to use anything other than one barbless hook.~~~~(d) From the mouth to Highway 101 Bridge:~~~~(i) Open the first Saturday in June through April 30.~~~~(ii) It is unlawful to use bait the first Saturday in June through September 30 and February 16 through April 30.~~~~(iii) Trout:~~~~(A) From the first Saturday in June through March 31: Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.~~~~(B) From April 1 through April 30: Trout minimum length 14 inches.~~

(C) November 1 through last day in February: The limit may include one additional hatchery steelhead.

~~((D)) February 16 through April 30: It is permissible to retain wild steelhead.~~

~~((iii))~~ (iv) Salmon open July 1 through November 30:

(A) From July 1 through August 31:

(I) Limit 6; no more than 2 adults may be retained.

(II) Release wild adult Chinook and wild adult coho.

(B) From September 1 through November 30: Limit 6; only one adult may be retained.

~~((b))~~ (e) From Highway 101 Bridge to Olympic National Park boundary:

(i) Open the first Saturday in June through April 30.

(ii) It is unlawful to ~~((fish from a floating device equipped with an internal combustion motor))~~ use bait.

~~((iii))~~ ~~((Selective gear rules apply.~~

~~((iv))~~ Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length, as part of the limit.

~~((16))~~ (15) **Bone River (Pacific County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

~~((17))~~ (16) **Bunker Creek (Lewis County) (Chehalis River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

~~((18))~~ (17) **Butte Creek (Pacific County) (Smith River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

~~((19))~~ (18) **Calawah River (Clallam County):**

(a) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(b) Release wild (unclipped) rainbow trout.

(c) It is unlawful to use anything other than one barbless hook.

(d) From the mouth to the Highway 101 Bridge:

(i) Open the first Saturday in June through April 30.

(ii) It is unlawful to use bait the first Saturday in June through September 30 and February 16 through April 30.

(iii) Trout:

(A) From the first Saturday in June through March 31: Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(B) From April 1 through April 30: Trout minimum length 14 inches.

(C) From November 1 through the last day in February: The limit may include one additional hatchery steelhead.

~~((D)) February 16 through April 30: It is permissible to retain wild steelhead.~~

~~((iii))~~ (iv) Salmon open July 1 through November 30:

(A) From July 1 through August 31:

(I) Limit 6; only 2 adults may be retained.

(II) Release wild adult Chinook and wild adult coho.

(B) From September 1 through November 30: Limit 6; only one adult may be retained.

~~((b))~~ (e) From the Highway 101 Bridge to the forks:

(i) Open the first Saturday in June through April 30.

(ii) It is unlawful to ~~((fish from a floating device equipped with an internal combustion motor))~~ use bait.

~~((iii))~~ ~~((Selective gear rules apply.~~

~~((iv))~~ Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length, as part of the limit.

~~((20))~~ (19) **Calawah River, North Fork (Clallam County):**

(a) Open the first Saturday in June through October 31.

~~((Selective gear rules apply.))~~ It is unlawful to use anything other than one barbless hook.

(c) It is unlawful to use bait.

(d) Trout:

(i) Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(ii) Release wild (unclipped) rainbow trout.

~~((21))~~ (20) **Calawah River, South Fork (Clallam County):**

(a) Open the first Saturday in June through the last day in February from the mouth to the Olympic National Park boundary.

~~((Selective gear rules apply.~~

~~((e))~~ It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) It is unlawful to use anything other than one barbless hook.

(d) It is unlawful to use bait.

(e) Trout:

(i) Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(ii) Release wild (unclipped) rainbow trout.

~~((22))~~ (21) **Cases Pond (Pacific County):**

(a) Open the fourth Saturday in April through November 30 to juvenile anglers only.

(b) Landlocked salmon rules apply.

~~((23))~~ (22) **Cedar Creek (Clallam County), outside of Olympic National Park:**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) Open the first Saturday in June through October 31.

~~((b))~~ (c) Selective gear rules apply.

~~((e))~~ (d) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

~~((24))~~ (23) **Cedar Creek (Grays Harbor/Thurston counties) (Chehalis River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

~~((25))~~ (24) **Cedar Creek (Jefferson County), outside Olympic National Park:**

(a) Open the first Saturday in June through the last day in February.

(b) Selective gear rules apply.

(c) Trout: Minimum length 14 inches except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

~~((26))~~ (25) **Cedar River (Pacific County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Catch and release only.

~~((27))~~ **(26) Chehalis River (Grays Harbor County), including all channels, sloughs, and interconnected waterways:**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) From the mouth (Highway 101 Bridge in Aberdeen) to South Elma Bridge (Wakefield Road) including all channels, sloughs, and interconnected waterways:

(i) All species July 1 through November 30:

(A) Single-point barbless hooks are required.

(B) Anglers may fish with two poles from the mouth to the South Elma Bridge (Wakefield Road), provided they possess a valid two-pole endorsement.

(ii) Game fish:

(A) Open the first Saturday in June through April 15:

(B) Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(iii) Salmon:

(A) Open May 1 through June 30: Limit one salmon.

(B) Open July 1 through November 30:

(I) Limit 6; only 3 adults may be retained.

(II) Release adult Chinook.

(C) December 1 through January 31:

(I) Limit 6; only 2 adults may be retained and only one may be a wild adult coho.

(II) Release Chinook.

~~((b))~~ **(c)** From South Elma Bridge (Wakefield Road) to the Black River:

(i) All species: Single-point barbless hooks are required August 16 through November 30.

(ii) Game fish:

(A) Open the first Saturday in June through April 15.

(B) Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(iii) Salmon:

(A) Open May 1 through June 30: Limit one salmon.

(B) Open September 16 through November 30:

(I) Limit 6; only 3 adults may be retained.

(II) Release adult Chinook.

(C) Open December 1 through January 31:

(I) Limit 6; only 2 adults may be retained, and only one may be a wild adult coho.

(II) Release Chinook.

~~((e))~~ **(d)** From Black River to the Highway 6 Bridge in the town of Adna:

(i) All species August 16 through November 30: Single-point barbless hooks are required.

(ii) Game fish:

(A) Open the first Saturday in June through April 15:

(B) Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(iii) Salmon:

(A) Open May 1 through June 30: Limit one salmon.

(B) Open September 16 through November 30:

(I) Limit 6; only 3 adults may be retained.

(II) Release adult Chinook and chum.

(C) Open December 1 through January 31:

(I) Limit 6; only 2 adults may be retained and only one may be a wild adult coho.

(II) Release Chinook and chum.

~~((f))~~ **(e)** From the Highway 6 Bridge in the town of Adna to the high bridge on Weyerhaeuser 1000 line approximately 400 yards downstream of Roger Creek (south of Pe Ell):

(i) All species August 16 through November 30: Single-point barbless hooks are required.

(ii) Game fish:

(A) Open the first Saturday in June through April 15.

(B) Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(iii) Salmon:

(A) Open October 1 through November 30:

(I) Limit 6; only 3 adults may be retained.

(II) Release Chinook and chum.

(B) Open December 1 through January 31:

(I) Limit 6; only 2 adults may be retained and only one may be a wild adult coho.

(II) Release Chinook and chum.

~~((g))~~ **(f)** From high bridge on Weyerhaeuser 1000 line (approximately 400 yards downstream from Roger Creek, south of Pe Ell, including all forks) upstream:

(i) Open the first Saturday in June through April 15.

(ii) Selective gear rules apply.

(iii) Release all fish, except anglers may retain up to 2 hatchery steelhead.

~~((28))~~ **(27) Chehalis River, South Fork (Lewis County):**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) From the mouth to County Highway Bridge near Boistfort School:

(i) Open the first Saturday in June through April 15.

(ii) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

~~((h))~~ **(c)** From the County Highway Bridge near Boistfort School, upstream:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply.

~~((29) Chehalis River Potholes (adjacent to the Chehalis River south of Highway 12 in Grays Harbor County, not including sloughs or beaver ponds):~~ Open the fourth Saturday in April through October 31.

~~((30))~~ **(28) Chenois Creek (Grays Harbor County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

~~((31))~~ **(29) Chester Creek (Grays Harbor County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

~~((32))~~ **(30) Chimacum Creek (Jefferson County):**

(a) From the mouth to Ness's Corner Road:

(i) Open the first Saturday in June through August 31.

(ii) Selective gear rules apply.

(iii) Catch and release only.

- (b) From Ness's Corner Road to headwaters:
- (i) Open the first Saturday in June through October 31.
- (ii) Selective gear rules apply.
- (iii) Catch and release only.
- ~~((33))~~ **(31) Clallam River (Clallam County):**
- (a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.
- (b) Open the first Saturday in June through January 31.
- ~~((b))~~ (c) Selective gear rules apply from the first Saturday in June through October 31.
- ~~((e))~~ (d) From the first Saturday in June through October 31: Catch and release only.
- ~~((f))~~ (e) Trout: Minimum length 14 inches.
- ~~((34))~~ **(32) Clearwater River (Jefferson County):**
- (a) It is unlawful to fish from a floating device equipped with an internal combustion motor.
- (b) It is unlawful to use anything other than one barbless hook.
- (c) Release wild (unclipped) rainbow trout.
- (d) From the mouth to Snahapish River:
- (i) Open the first Saturday in June through April 15:
- ~~((A))~~ From February 16 through April 15: It is permissible to retain wild steelhead.
- ~~((B))~~ (ii) It is unlawful to use bait the first Saturday in June through September 30 and February 16 through April 15.
- (iii) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.
- ~~((i))~~ (iv) Salmon:
- (A) Open September 1 through November 30.
- (B) Limit 6; only one may be an adult.
- (C) Release wild adult coho.
- ~~((b))~~ (e) From Snahapish River upstream:
- (i) Open the first Saturday in June through October 31.
- (ii) ~~((Selective gear rules apply))~~ It is unlawful to use bait.
- (iii) ~~((It is unlawful to fish from a floating device equipped with an internal combustion motor.~~
- ~~((v))~~ Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length, as part of the limit.
- ~~((35))~~ **(33) Cloquallum Creek (Grays Harbor County):**
- (a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.
- (b) From the mouth to the outlet at Stump Lake:
- (i) Open the first Saturday in June through the last day in February.
- (ii) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length, as part of the limit.
- ~~((b))~~ (c) From the outlet at Stump Lake upstream:
- (i) Open the first Saturday in June through October 31.
- (ii) Selective gear rules apply.
- ~~((36))~~ **(34) Coal Creek (Clallam County) tributary to Ozette River, outside the Olympic National Park boundary:**
- (a) Open the first Saturday in June through October 31.
- (b) Selective gear rules apply.

- (c) Trout:
- (i) Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length, as part of the limit.
- (ii) Release kokanee.
- ~~((37))~~ **(35) Connor Creek (Grays Harbor County):**
- (a) Open the first Saturday in June through October 31.
- (b) Selective gear rules apply.
- (c) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.
- ~~((38))~~ **(36) Cook Creek (Grays Harbor County), from the Quinault Indian Reservation boundary upstream:**
- (a) Open the first Saturday in June through October 31.
- (b) Selective gear rules apply.
- (c) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.
- ~~((39))~~ **(37) Copalis River (Grays Harbor County):**
- (a) General river rules:
- (i) From the first Saturday in June through last day in February: Open for game fish.
- (ii) It is permissible to retain hatchery steelhead with a dorsal fin height of less than 2 1/8 inches or with an adipose or ventral fin clip.
- (b) Rules by river section:
- (i) From the mouth to Carlisle Bridge:
- (A) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.
- (B) Salmon:
- (I) Open September 1 through January 31.
- (II) Limit 6; only 2 adult salmon may be retained.
- (III) Release adult Chinook and chum.
- (ii) From Carlisle Bridge upstream: Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.
- ~~((40))~~ **(38) Crim Creek (Lewis County) (Chehalis River tributary):**
- (a) Open the first Saturday in June through October 31.
- (b) Selective gear rules apply.
- ~~((41))~~ **(39) Crocker Lake (Jefferson County):**
- Closed.
- ~~((42))~~ **(40) Crooked Creek (Clallam County) and tributaries that are outside of Olympic National Park:**
- (a) Open the first Saturday in June through October 15.
- (b) Selective gear rules apply.
- (c) Trout:
- (i) Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.
- (ii) Release kokanee.
- ~~((43))~~ **(41) Damon Lake (Grays Harbor County):**
- Open the first Saturday in June through October 31.
- ~~((44))~~ **(42) Deep Creek (Clallam County) (Humptulips River tributary):**
- (a) Open December 1 through January 31.
- (b) Selective gear rules apply.

(c) Release all fish (~~except anglers may retain up to two hatchery steelhead.~~

~~(45))~~, except mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(43) Deep Creek (Grays Harbor County):

- (a) Open the first Saturday in June through October 31.
- (b) Selective gear rules apply.

~~((46))~~ **(44) Delezene Creek (Grays Harbor County) (Chehalis River tributary):**

- (a) Open the first Saturday in June through October 31.
- (b) Selective gear rules apply.

~~((47))~~ **(45) Dickey River (Clallam County):**
(a) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(b) Release wild (unclipped) rainbow trout.

(c) It is unlawful to use anything other than one barbless hook.

(d) From Olympic National Park boundary upstream to the confluence of the East and West forks:

(i) Open the first Saturday in June through April 30.

(ii) It is unlawful to use bait the first Saturday in June through September 30 and February 16 through April 15.

(iii) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

~~((iii) February 16 through April 30: It is permissible to retain wild steelhead.))~~

(iv) Salmon open July 1 through November 30:

(A) From July 1 through August 31:

(I) Limit 6; only 2 adult salmon may be retained.

(II) Release wild adult Chinook and wild adult coho.

(B) From September 1 through November 30: Limit 6; only one adult may be retained.

~~((b))~~ (e) From the confluence of the East and West forks upstream (for both forks):

(i) Open the first Saturday in June through April 30.

(ii) ~~((Selective gear rules apply.))~~ It is unlawful to use bait.

(iii) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

~~((48))~~ **(46) Donkey Creek (Grays Harbor County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

~~((49))~~ **(47) Duck Lake (Grays Harbor County):**

~~(a) Crappie ((limit 10; minimum length 9 inches.~~

~~(50))): No limit and no minimum length.~~

~~(b) Grass carp: No limit for anglers and bow and arrow fishing.~~

(48) Dungeness River (Clallam County):

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) From the mouth to the forks at Dungeness Forks Campground:

(i) Open October 6 through January 31.

(ii) Trout: Minimum length 14 inches.

(iii) Salmon:

(A) Open only from the mouth to the hatchery intake pipe at river mile 11.3 from October 16 through December 31.

(B) Limit 4 coho only.

~~((b))~~ (c) From Gold Creek upstream: Open the Saturday before Memorial Day through October 31.

~~((51))~~ **(49) East Twin River (Clallam County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Catch and release only.

~~((52))~~ **(50) Eight Creek (Lewis County) (tributary to Elk Creek, which is a Chehalis River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

~~((53))~~ **(51) Elk Creek (Clallam County), outside of Olympic National Park:**

(a) Open the first Saturday in June through October 15.

(b) Selective gear rules apply.

(c) Trout:

(i) Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(ii) Release kokanee.

~~((54))~~ **(52) Elk Creek (Lewis County) (Chehalis River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

~~((55))~~ **(53) Elk Lake (Clallam County):**

(a) Open the first Saturday in June through October 15.

(b) Selective gear rules apply.

(c) Trout:

(i) Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(ii) Release ~~((a))~~ kokanee.

~~((56))~~ **(54) Elk River (Grays Harbor County):**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) From the mouth (Highway 105 Bridge) to the confluence of east and middle branches:

(i) Open the first Saturday in June through the last day in February.

(ii) From August 16 through November 30: Single-point barbless hooks are required.

(iii) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(iv) Salmon open October 1 through November 30:

(A) Limit 6; only one adult may be retained.

(B) Release Chinook.

~~((b))~~ (c) From confluence of east and middle branches upstream:

(i) Open the first Saturday in June through the last day in February.

(ii) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

~~((57))~~ **(55) Elkhorn Creek (Pacific County) (Smith Creek tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

~~((58))~~ **(56) Ellis Creek (Pacific County) (Willapa River tributary):**

- (a) Open the first Saturday in June through October 15.
- (b) Selective gear rules apply.

~~((59))~~ **(57) Ellsworth Creek (Pacific County) (Naselle River tributary):**

- (a) Open the first Saturday in June through September 30.
- (b) Selective gear rules apply.

~~((60) Elwha River (Clallam County): Closed.~~~~((61))~~ **(58) Failor Lake (Grays Harbor County):**

- (a) Open the fourth Saturday in April through October 31.
- (b) Trout: It is unlawful to retain more than two trout over 15 inches in length per day.

~~((62))~~ **(59) Fairchild Creek (Pacific County) (Wilson Creek tributary, which is a Willapa River tributary):**

- (a) Open the first Saturday in June through October 31.
- (b) Selective gear rules apply.

~~((63))~~ **(60) Fall River and all forks (Pacific County) (North River tributary):**

- (a) Open the first Saturday in June through October 31.
- (b) Selective gear rules apply.

~~((64))~~ **(61) Falls Creek (Pacific County) (Willapa River tributary):**

- (a) Open the first Saturday in June through October 15.
- (b) Selective gear rules apply.

~~((65))~~ **(62) Fern Creek (Pacific County) (Willapa River tributary):**

- (a) Open the first Saturday in June through October 15.
- (b) Selective gear rules apply.

~~((66))~~ **(63) Finn Creek (Pacific County) (North Nemah River tributary):** Open the first Saturday in June through October 31.~~((67))~~ **(64) Fork Creek (Pacific County) (Willapa River tributary):**

(a) From Forks Creek Hatchery rack upstream 500 feet at fishing boundary sign:

(i) Open only for anglers with ~~((disabilities who permanently use a wheelchair))~~ lower extremity disabilities who must permanently use a medically prescribed assistive device every time for mobility as defined in WAC 232-12-825(1) and possess a designated harvester companion card.

(ii) Night closure in effect.

(iii) From October 1 through November 30:

(A) Single-point barbless hooks are required.

(B) Stationary gear restriction applies.

(iv) Open the first Saturday in June through July 15 and October 1 through March 31: Release all fish, except anglers may retain up to 2 hatchery steelhead.

(v) Salmon open October 1 through January 31.

(A) From October 1 through November 30:

(I) Limit 6; only 3 adults may be retained, and only 2 may be wild adult coho.

(II) Release wild Chinook.

(B) From December 1 through January 31:

(I) Limit 6; only 2 adults may be retained, and only one may be a wild adult coho.

(II) Release wild Chinook.

(b) From the fishing boundary sign 500 feet above Forks Creek Hatchery rack upstream to the source:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply.

~~((68))~~ **(65) Garrard Creek (Grays Harbor County) (Chehalis River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

~~((69))~~ **(66) Gibbs Lake (Jefferson County):**

(a) Selective gear rules apply.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Trout: Catch and release only.

~~((70))~~ **(67) Goodman Creek (Jefferson County), outside Olympic National Park:**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

~~((b))~~ (b) Open the first Saturday in June through the last day in February.

~~((c))~~ (c) Selective gear rules apply.

~~((e))~~ (d) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

~~((71))~~ **(68) Grass Creek (Grays Harbor County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

~~((72))~~ **(69) Gray Wolf River (Clallam County):** From the bridge at river mile 1.0, upstream:

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Catch and release only.

~~((73))~~ **(70) Halfmoon Creek (Pacific County) (Willapa River tributary):**

(a) Open the first Saturday in June through October 15.

(b) Selective gear rules apply.

~~((74))~~ **(71) Halfway Creek (Lewis County) (tributary of Stillman Creek, which is a Chehalis River tributary):**

(a) Open the first Saturday in June through October 31 from the mouth to the second bridge crossing on Pe Ell McDonald Road.

(b) Selective gear rules apply.

~~((75))~~ **(72) Hanaford Creek (Lewis County) (Skookumchuck River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

~~((76))~~ **(73) Harris Creek (Grays Harbor County) (Chehalis River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Trout: Selective gear rules apply.

~~((77))~~ **(74) Hoh River (Jefferson County):**

(a) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(b) Release wild (unclipped) rainbow trout.

(c) It is unlawful to use anything other than one barbless hook.

(d) From the Olympic National Park boundary upstream to the DNR Oxbow Campground Boat Launch:

(i) Open August 1 through April 15.

~~(A) (From February 16 through April 15: It is permissible to retain wild steelhead.~~

~~(B) From August 1 through August 31: Selective gear rules apply.~~

~~(C)) From August 1 through March 31: Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.~~

~~((D)) (B) From April 1 through April 15: Trout minimum length 14 inches.~~

~~((E)) (C) From November 1 through February 15: The trout limit may include one additional hatchery steelhead.~~

~~(ii) It is unlawful to use bait the first Saturday in June through September 30 and February 16 through April 15.~~

~~(iii) Salmon open September 1 through November 30: Limit 6; only one adult may be retained.~~

~~((F)) (e) From the DNR Oxbow Campground Boat Launch to Morgans Crossing Boat Launch site:~~

~~(i) Open August 1 through April 15.~~

~~((A) It is unlawful to fish from a floating device equipped with an internal combustion motor.~~

~~(B) Selective gear rules apply August 1 through October 15 and December 1 through April 15.)~~

~~(ii) It is unlawful to use bait.~~

~~(iii) From August 1 through April 15: Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.~~

~~((iii)) (iv) Salmon open October 16 through November 30: Limit 6; only one adult may be retained.~~

~~((E)) (f) From Morgan's Crossing Boat Launch upstream to the Olympic National Park boundary below mouth of South Fork Hoh River:~~

~~(i) ((Selective gear rules apply.) It is unlawful to use bait.~~

~~(ii) It is unlawful to fish from a floating device ((equipped with an internal combustion motor)).~~

~~(iii) ((Open August 1 through April 15:)) Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.~~

~~((78)) (75) Hoh River, South Fork (Jefferson County), outside the Olympic National Park boundary:~~

~~(a) It is unlawful to fish from a floating device equipped with an internal combustion motor.~~

~~(b) Open August 1 through April 15.~~

~~((b) Selective gear rules apply.)~~

~~(c) It is unlawful to use anything other than one barbless hook.~~

~~(d) It is unlawful to use bait.~~

~~(e) Trout:~~

~~(i) Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.~~

~~(ii) Release wild (unclipped) rainbow trout.~~

~~((79)) (76) Hoko River (Clallam County):~~

~~(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.~~

~~(b) From the mouth to the upper Hoko Bridge:~~

~~(i) Closed to fishing from the hatchery ladder downstream 100 feet.~~

~~(ii) Open the first Saturday in June through March 15. Open to fly fishing only September 1 through October 31, except mandatory retention of hatchery steelhead.~~

~~(ii) Trout: Minimum length fourteen inches.~~

~~((b)) (c) From the upper Hoko Bridge to Ellis Creek Bridge (river mile 18.5):~~

~~(i) Open the first Saturday in June through March 31 to fly fishing only, except mandatory retention of hatchery steelhead.~~

~~(ii) Release all fish except anglers may retain up to two hatchery steelhead, except mandatory retention of hatchery steelhead.~~

~~((80)) (77) Hoquiam River, including West Fork (Grays Harbor County):~~

~~(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.~~

~~(b) From the mouth (Highway 101 Bridge on Simpson) to Dekay Road Bridge (West Fork):~~

~~(i) August 16 through November 30: Single-point barbless hooks are required.~~

~~(ii) Open the first Saturday in June through the last day of February: Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.~~

~~(iii) Salmon open October 1 through December 31:~~

~~(A) From October 1 through November 30:~~

~~(I) Limit 6; only 2 adults may be retained.~~

~~(II) Release Chinook.~~

~~(B) From December 1 through December 31:~~

~~(I) Limit 6; only one adult may be retained.~~

~~(II) Release Chinook.~~

~~((b)) (c) From Dekay Road Bridge upstream:~~

~~(i) Open the first Saturday in June through the last day of February.~~

~~(ii) Selective gear rules apply.~~

~~(iii) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.~~

~~((81)) (78) Hoquiam River, East Fork (Grays Harbor County):~~

~~(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.~~

~~(b) From the mouth to the confluence of Berryman Creek:~~

~~(i) August 16 through November 30: Single-point barbless hooks are required.~~

~~(ii) Open the first Saturday in June through the last day of February: Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.~~

~~(iii) Salmon open October 1 through December 31.~~

~~(A) From October 1 through November 30:~~

~~(I) Limit 6; only 2 adults may be retained.~~

~~(II) Release Chinook.~~

~~(B) From December 1 through December 31:~~

~~(I) Limit 6; only 1 adult may be retained.~~

~~(II) Release Chinook.~~

~~((b))~~ (c) From the confluence of Berryman Creek upstream to Youman's Road Bridge:

(i) Open the first Saturday in June through the last day of February.

(ii) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

~~((82))~~ (79) **Hoquiam River, Middle Fork (Grays Harbor County):** From the mouth upstream:

(a) Open the first Saturday in June through last day of October.

(b) Selective gear rules apply.

~~((83))~~ (80) **Horseshoe Lake (Jefferson County):**

(a) Open the fourth Saturday in April through October 31.

(b) Selective gear rules apply.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Trout: Limit one.

~~((84))~~ (81) **Howe Creek (Jefferson County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Catch and release only.

~~((85))~~ (82) **Humptulips River (Grays Harbor County):**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) From the mouth (Jessie Slough) to the Highway 101 Bridge, including all channels, sloughs, and interconnected waterways:

(i) From August 16 through November 30:

(A) Night closure in effect.

(B) Single-point barbless hooks are required.

(ii) Open the first Saturday in June through March 31: Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(iii) Salmon open September 1 through January 31:

(A) From September 1 through September 30:

(I) Limit 6; only 2 adults may be retained, and only one may be a wild adult Chinook.

(II) Release wild coho.

(B) From October 1 through November 15:

(I) Limit 6; only 2 adults may be retained, and only one may be an adult Chinook.

(II) Release wild coho.

(C) From November 16 through January 31:

(I) Limit 6: Only 2 adults may be retained.

(II) Release Chinook and wild coho.

~~((b))~~ (c) From the Highway 101 Bridge to the confluence of the East and West forks:

(i) From December 1 through March 31: It is unlawful to fish from a floating device equipped with an internal combustion motor.

(ii) From August 16 through November 30:

(A) Night closure in effect.

(B) Single-point barbless hooks are required.

(iii) Open the first Saturday in June through March 31:

(A) From the first Saturday in June through the last day in February: Trout minimum length 14 inches, except it is

permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(B) From March 1 through March 31:

(I) Release all fish, except anglers may retain up to 2 hatchery steelhead.

(II) Selective gear rules apply.

(iv) Salmon open September 1 through January 31:

(A) From September 1 through September 30:

(I) Limit 6; only 2 adults may be retained, and only one may be a wild adult Chinook.

(II) Release wild coho.

(B) From October 1 through November 15:

(I) Limit 6; only 2 adults may be retained, and only one may be an adult Chinook.

(II) Release wild coho.

(C) From November 16 through January 31:

(I) Limit 6; only 2 adults may be retained.

(II) Release Chinook and wild coho.

~~((86))~~ (83) **Humptulips River, East Fork (Grays Harbor County):**

(a) From the mouth to the concrete bridge on Forest Service Road 220:

(i) August 16 through October 31: Anti-snagging rule applies and night closure in effect.

(ii) Open the first Saturday in June through October 31: Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(b) From the concrete bridge on Forest Service Road 220 upstream:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply.

~~((87))~~ (84) **Humptulips River, West Fork (Grays Harbor County):**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) From the mouth to Donkey Creek:

(i) August 16 through November 30: Anti-snagging rule applies and night closure in effect.

(ii) Open the first Saturday in June through March 31:

(A) From the first Saturday in June through the last day in February: Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(B) From March 1 through March 31:

(I) Selective gear rules apply.

(II) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(III) Release all fish, except anglers may retain up to 2 hatchery steelhead.

~~((b))~~ (c) From Donkey Creek upstream:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply.

~~((88))~~ (85) **Independence Creek (Grays Harbor County) (Chehalis River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

~~((89))~~ (86) **Jimmy-Come-Lately Creek (Clallam County):**

(a) From the mouth to confluence with East Fork:

- (i) Open the first Saturday in June through August 31.
- (ii) Selective gear rules apply.
- (iii) Catch and release only.
- (b) From confluence with East Fork upstream, including East Fork: Open the first Saturday in June through October 31.

~~((90))~~ **(87) Joe Creek (Grays Harbor County):**

- (a) From the mouth to Ocean Beach Road Bridge:
 - (i) August 16 through November 30: Single-point barbless hooks are required.
 - (ii) Open the first Saturday in June through November 30: Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.
 - (iii) Salmon open September 1 through November 30:
 - (A) Limit 6; only 2 adults may be retained.
 - (B) Release adult Chinook and chum.
- (b) From Ocean Beach Road Bridge upstream:
 - (i) Open the first Saturday in June through October 31.
 - (ii) Selective gear rules apply.
 - (iii) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

~~((91))~~ **(88) Johns River (Grays Harbor County):**

- (a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.
 - (b) From the mouth (Highway 105 Bridge) to Ballon Creek:
 - (i) August 16 through November 30: Single-point barbless hooks are required.
 - (ii) Open the first Saturday in June through the last day in February: Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.
 - (iii) Salmon open October 1 through November 30:
 - (A) Limit 6; only one adult may be retained.
 - (B) Release Chinook.
 - ~~((92))~~ (c) From Ballon Creek upstream, including North and South Forks:
 - (i) Open the first Saturday in June through September 30 and December 1 through the last day in February.
 - (ii) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

~~((93))~~ **(89) Jones Creek (Lewis County) (Chehalis River tributary):**

- (a) Open the first Saturday in June through October 31.
- (b) Selective gear rules apply.
- ~~((93))~~ **(90) Kalaloch Creek (Jefferson County), outside Olympic National Park:**
 - (a) Closed within the section posted as the Olympic National Park water supply.
 - (b) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.
 - (c) Open the first Saturday in June through the last day in February:
 - (i) Selective gear rules apply.
 - (ii) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

~~((94))~~ **(91) Leland Creek (Jefferson County):**

- (a) Open the first Saturday in June through October 31.
- (b) Selective gear rules apply.
- (c) Catch and release only.

~~((95) Leland Lake (Jefferson County): No more than two trout over 14 inches in length may be retained.~~

~~((96))~~ **(92) Lena Lake, Lower (Jefferson County):** The inlet stream is closed from the mouth upstream to the foot-bridge (about 100 feet).

~~((97))~~ **(93) Lincoln Creek, including South Fork (Lewis County) (Chehalis River tributary):**

- (a) Open the first Saturday in June through October 31.
- (b) Selective gear rules apply.

~~((98))~~ **(94) Lincoln Pond (Clallam County):** Open to juvenile anglers only.

~~((99))~~ **(95) Little Hoko River (Clallam County):**

- (a) Open the first Saturday in June through October 31.
- (b) Selective gear rules apply.
- (c) Catch and release only.

~~((100))~~ **(96) Little Hoquiam River (Grays Harbor County):**

- (a) Open the first Saturday in June through October 31.
- (b) Selective gear rules apply.

~~((101))~~ **(97) Little North River and all forks (Grays Harbor County) (North River tributary):**

- (a) Open the first Saturday in June through October 31.
- (b) Selective gear rules apply.

~~((102))~~ **(98) Little Quilcene River (Jefferson County):**

(a) From the mouth to the Little Quilcene River Bridge on Penny Creek Road:

- (i) Open the first Saturday in June through October 31.
- (ii) From the mouth to Highway 101 Bridge: ~~((Closed September 1 through October 31))~~ Open first Saturday in June through August 31.

(iii) Selective gear rules apply.

(iv) It is unlawful to fish from a floating device equipped with an internal combustion motor.

- (v) Catch and release only.

(b) From Little Quilcene River Bridge on Penny Creek Road upstream: Open the first Saturday ~~((in June))~~ before Memorial Day through October 31.

~~((103))~~ **(99) Long Beach Peninsula waterways and lakes (Pacific County):** Open the fourth Saturday in April through October 31.

~~((104))~~ **(100) Loomis Lake (Pacific County):** Open the fourth Saturday in April through October 31.

~~((105))~~ **(101) Loomis Pond (Grays Harbor County):** Closed.

~~((106))~~ **(102) Lower Salmon Creek and all forks (Grays Harbor/Pacific counties) (North River tributary):**

- (a) Open the first Saturday in June through October 31.
- (b) Selective gear rules apply.

~~((107))~~ **(103) Lucas Creek (Lewis County) (tributary to the Newaukum River North Fork):**

- (a) Open the first Saturday in June through October 31.
- (b) Selective gear rules apply.
- (c) Trout: Catch and release only.

~~((108))~~ **(104) Ludlow Creek (Jefferson County):**

- (a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Catch and release only.

~~((109))~~ (105) Ludlow Lake (Jefferson County):

~~((a))~~ Open the fourth Saturday in April through October 31.

~~((b))~~ Trout: It is unlawful to retain more than two trout over 14 inches in length.

~~((110))~~ (106) Lyre River (Clallam County):

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) From the mouth to falls near river mile 3:

(i) Open the first Saturday in June through January 31.

(ii) Trout: Minimum length 14 inches.

~~((b))~~ (c) From the falls to the Olympic National Park boundary:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply.

(iii) Catch and release only, except mandatory hatchery steelhead retention applies.

~~((111))~~ (107) Matheny Creek (Jefferson County) (Queets River tributary), outside Olympic National Park:

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

~~((112))~~ (108) McDonald Creek (Clallam County):

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Catch and release only.

~~((113))~~ (109) Middle Nemah River (Pacific County):

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) From the mouth upstream to the department of natural resources bridge on the Middle Nemah A-Line Road:

(i) Open the first Saturday in June through March 31: Release all fish except anglers may retain up to 2 hatchery steelhead.

(ii) August 1 through November 30:

(A) Night closure in effect.

(B) Single-point barbless hooks are required.

(iii) Salmon:

(A) Open September 1 through January 31.

(B) Limit 6; no more than 4 adults may be retained.

(C) Release wild Chinook.

~~((b))~~ (c) From the department of natural resources bridge on the Middle Nemah A-Line Road upstream:

(i) Open the first Saturday in June through March 31:

(A) Selective gear rules apply.

(B) Release all fish ~~((except anglers may retain up to 2)),~~ except mandatory retention of hatchery steelhead.

(ii) August 16 through November 30: Anti-snagging rule applies and night closure in effect.

~~((114))~~ (110) Mill Creek (Pacific County) (Willapa River tributary):

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

~~((115))~~ (111) Mill Creek Pond (Grays Harbor County): Open to juvenile anglers only.

~~((116))~~ (112) Mitchell Creek (Lewis County) (tributary to the Newaukum River North Fork):

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Trout: Catch and release only.

~~((117))~~ (113) Moclips River (Grays Harbor County):

(a) Open from the mouth to the Quinault Indian Reservation boundary from the first Saturday in June through the last day in February.

(b) Trout:

(i) Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(ii) It is permissible to retain steelhead with a dorsal fin height of less than 2 1/8 inches or with an adipose or ventral fin clip.

(c) Salmon is open September 1 through January 31:

(i) Limit 6; only 2 adults may be retained.

(ii) Release chum and adult Chinook.

~~((118))~~ (114) Morse Creek (Clallam County):

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) From the mouth to Port Angeles Dam:

(i) Open from December 1 through January 31.

(ii) Trout: Minimum length 14 inches.

~~((b))~~ (c) From Port Angeles Dam upstream: Open the first Saturday in June through October 31.

~~((119))~~ (115) Mosquito Creek (Jefferson County):

(a) Open outside Olympic National Park upstream to the Goodman 3000 Mainline Bridge from the first Saturday in June through the last day in February.

(b) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(c) Selective gear rules apply.

~~((e))~~ (d) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length, as part of the limit.

~~((120))~~ (116) Mox Chehalis Creek (Grays Harbor County) (Chehalis River tributary): Open the first Saturday in June through October 31: Selective gear rules apply.

~~((121))~~ (117) Naselle River (Pacific/Wahkiakum counties):

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) Selective gear rules apply February 1 through April 15.

(c) From the Highway 101 Bridge to the Highway 4 Bridge:

(i) From August 1 through November 15:

(A) Night closure in effect.

(B) Anti-snagging rule applies.

(C) Barbless hooks are required.

(D) From the South Fork upstream to the Highway 4 Bridge: Stationary gear restriction applies.

(ii) From Highway 101 Bridge upstream to Highway 401: Anglers may fish with two poles August 1 through January 31, provided they possess a valid two-pole endorsement.

(iii) Open the first Saturday in June through April 15: Release all fish except anglers may retain up to 2 hatchery steelhead.

(iv) Salmon open August 1 through January 31:

(A) From August 1 through October 31:

(I) Limit 6; only 4 adults may be retained.

(II) Release wild Chinook.

(B) From November 1 through January 31:

(I) Limit 6; only 4 adults may be retained and only two adults may be wild coho.

(II) Release wild Chinook.

~~((b))~~ **(d)** From the Highway 4 Bridge to the upstream entrance of the Naselle Hatchery Attraction Channel:

(i) Closed waters from the upstream entrance of the hatchery attraction channel downstream 400 feet.

(ii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iii) From September 16 through November 15:

(A) Night closure in effect.

(B) Anti-snagging rule applies.

(C) Barbless hooks are required.

(D) Stationary gear rules in effect.

(iv) Open the first Saturday in June through July 31 and September 16 through April 15: Release all fish (~~except anglers may retain up to 2~~), except mandatory retention of hatchery steelhead.

(v) Salmon open September 16 through January 31:

(A) From September 16 through October 31:

(I) Limit 6; only 4 adults may be retained.

(II) Release wild Chinook.

(B) From November 1 through January 31:

(I) Limit 6; only 4 adults may be retained and only two may be wild adult coho.

(II) Release wild Chinook.

~~((e))~~ **(e)** From the upstream entrance of the Naselle Hatchery Attraction Channel to the Crown Mainline (Salme) Bridge:

(i) The following areas are closed:

(A) From the falls in Sec. 6, T10N, R8W (Wahkiakum Co.) downstream 400 feet.

(B) Downstream of the full spanning concrete diversion structure at the Naselle Hatchery: Closed August 1 through October 15.

(ii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iii) From August 1 through November 15:

(A) Night closure in effect.

(B) Anti-snagging rule applies.

(C) Barbless hooks are required.

(D) Stationary gear rules in effect.

(iv) Open the first Saturday in June through April 15: Release all fish, except (~~anglers may retain up to 2~~) mandatory retention of hatchery steelhead.

(v) Salmon open October 16 through January 31:

(A) From October 16 through October 31:

(I) Limit 6; only 4 adults may be retained.

(II) Release wild Chinook.

(B) From November 1 through January 31:

(I) Limit 6; only 4 adults may be retained and only two may be wild adult coho.

(II) Release wild Chinook.

~~((f))~~ **(f)** From the Crown Mainline (Salme) Bridge to the mouth of the North Fork:

(i) Open the first Saturday in June through April 15: Release all fish except anglers may retain up to 2 hatchery steelhead.

(ii) From August 16 through November 30:

(A) Night closure in effect.

(B) Anti-snagging rule applies.

~~((g))~~ **(g)** Upstream from the mouth of the North Fork:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply.

(iii) Release all fish (~~except anglers may retain up to 2~~), except mandatory retention of hatchery steelhead.

~~((122))~~ **(118) North Naselle River (Pacific County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

~~((123))~~ **(119) South Naselle River (Pacific County):**

(a) From the mouth to Bean Creek: Open the first Saturday in June through the last day in February.

(b) From the first Saturday in June through August 15: Selective gear rules apply.

(c) August 16 through November 30: Anti-snagging rule applies and night closure in effect.

(d) Release all fish except anglers may retain up to 2 hatchery steelhead.

~~((124))~~ **(120) Neil Creek (Grays Harbor County) (Wynoochee River tributary):**

(a) Open from the mouth to USFS 22 Road from the first Saturday in June through October 31.

(b) Selective gear rules apply.

~~((125))~~ **(121) Newaukum River, including South Fork (Lewis County):**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) From the mouth to Leonard Road near Onalaska:

(i) Open the first Saturday in June through March 31: Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(ii) August 16 through November 30:

(A) Night closure in effect.

(B) Single-point barbless hooks are required.

(iii) Salmon open October 1 through the last day in February:

(A) From October 1 through November 30:

(I) Limit 6; only 3 adults may be retained.

(II) Release Chinook and chum.

(B) From December 1 through the last day in February:

(I) Limit 6; only 2 adults may be retained, and only one may be a wild adult coho.

(II) Release Chinook and chum.

~~((b))~~ **(c)** From Leonard Road near Onalaska to Highway 508 Bridge near Kearny Creek:

(i) Open the first Saturday in June through March 31: Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(ii) August 16 through November 30:

(A) Night closure in effect.

(B) Single-point barbless hooks are required.

~~((f))~~ (d) From Highway 508 Bridge upstream:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply.

(iii) Trout: Catch and release only.

(iv) August 16 through October 31: Night closure in effect.

~~((126))~~ (122) **Newaukum River, Middle Fork (Lewis County), from the mouth to Tauscher Road Bridge:**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) Open the first Saturday in June to March 31.

~~((b))~~ (c) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length.

~~((127))~~ (123) **Newaukum River, North Fork (Lewis County), from the mouth to 400 feet below the Chehalis city water intake:**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) Open the first Saturday in June through March 31.

~~((b))~~ (c) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length.

~~((128))~~ (124) **Newman Creek (Grays Harbor County) (Chehalis River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

~~((129))~~ (125) **Newkah Creek (Grays Harbor County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

~~((130))~~ (126) **Niawiakum River (Pacific County):** From Highway 101 Bridge to the South Bend/Palix Road Bridge:

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) August 16 through November 30:

(i) Night closure in effect.

(ii) Single-point barbless hooks are required.

~~((b))~~ (c) Open the first Saturday in June through November 30.

~~((e))~~ (d) Salmon open September 1 through November 30.

(i) Limit 6; only 2 adults may be retained.

(ii) Release wild Chinook and wild coho.

~~((131))~~ (127) **North Nemah River (Pacific County):**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) From Highway 101 Bridge upstream to the bridge on Nemah Valley Road:

(i) Open the first Saturday in June through March 31.

(ii) Release all fish (~~except anglers may retain up to 2~~), except mandatory retention of hatchery steelhead and may retain one 15 inch or longer cutthroat trout.

(iii) From August 1 through November 30:

(A) Night closure in effect.

(B) Stationary gear restriction applies.

(C) Single-point barbless hooks are required.

(iv) Salmon open August 1 through January 31.

(A) Limit 6; only 4 adults may be retained.

(B) Release wild Chinook.

~~((b))~~ (c) From the bridge on Nemah Valley Road upstream to Nemah Hatchery barrier dam:

(i) The Nemah Hatchery Bridge upstream to Nemah Hatchery barrier dam: Closed.

(ii) Open the first Saturday in June through July 31 and November 16 through March 31.

(iii) Release all fish (~~except anglers may retain up to 2~~), except mandatory retention of hatchery steelhead and may retain one 15 inch or longer cutthroat trout.

(iv) From August 16 through November 30:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(v) Selective gear rules apply December 1 through March 31.

~~((e))~~ (d) From the Nemah Hatchery barrier dam upstream to N-700 Road:

(i) Open the first Saturday in June through March 31.

(ii) Release all game fish (~~except anglers may retain up to 2~~), except mandatory retention of hatchery steelhead and may retain one 15 inch or longer cutthroat trout.

(iii) From August 16 through November 30:

(A) Night closure in effect.

(B) Anti-snagging rule applies.

(iv) Selective gear rules apply from December 1 through March 31:

(v) Salmon open October 1 through January 31:

(A) Limit 6; only 4 adults may be retained.

(B) Release wild Chinook.

~~((d))~~ (e) From the N-700 Road upstream to Cruiser Creek:

(i) Open the first Saturday in June through March 31.

(ii) Release all fish (~~except anglers may retain up to 2~~), except mandatory retention of hatchery steelhead and may retain one 15 inch or longer cutthroat trout.

(iii) From August 16 through November 30:

(A) Night closure in effect.

(B) Anti-snagging rule applies.

(iv) Selective gear rules apply from December 1 through March 31.

~~((132))~~ (128) **North River (Grays Harbor/Pacific counties):**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) From the Highway 105 Bridge to Salmon Creek (located approximately 2 miles upstream from Highway 101):

(i) August 16 through November 30:

(A) Night closure in effect.

(B) Single-point barbless hooks are required.

(ii) Open the first Saturday in June through the last day in February: Release all fish (~~except anglers may retain up to 2~~), except mandatory retention of hatchery steelhead.

(iii) Salmon open October 1 through January 31:

(A) Limit 6; only 4 adults may be retained.

(B) Release wild Chinook.

~~((b))~~ (c) From Salmon Creek (located approximately 2 miles upstream from Highway 101) to Fall River:

(i) August 16 through November 30:

(A) Night closure in effect.
 (B) Anti-snagging rule applies.
 (C) Single-point barbless hooks are required.
 (ii) Open the first Saturday in June through the last day in February: Release all fish (~~(except anglers may retain up to 2)~~), except mandatory retention of hatchery steelhead.
 (iii) Salmon open October 1 through January 31:
 (A) Limit 6; only 4 adults may be retained.
 (B) Release wild Chinook.
 (~~(e)~~) (d) From Fall River to Raimie Creek:
 (i) Open the first Saturday in June through October 31.
 (ii) Selective gear rules apply.
 (iii) Release all fish (~~(except anglers may retain up to 2)~~), except mandatory retention of hatchery steelhead.
 (~~(133)~~) (129) **Owens Pond (Pacific County):** The first Saturday in June through October 31 season.
 (~~(134)~~) (130) **Palix River, including all forks (Pacific County):**
 (a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.
 (b) From the Highway 101 Bridge to the mouth of the Middle Fork:
 (i) August 16 through November 30:
 (A) Night closure in effect.
 (B) Single-point barbless hooks are required.
 (ii) Open the first Saturday in June through March 31: Release all fish except (~~(except anglers may retain up to 2)~~), except mandatory retention of hatchery steelhead.
 (iii) Salmon:
 (A) Open September 1 through January 31.
 (B) Limit 6; only 4 adults may be retained.
 (C) Release wild Chinook.
 (~~(b)~~) (c) From the confluence with the Middle Fork upstream and all forks, including South Fork Palix and Canon rivers:
 (i) August 16 through October 15:
 (A) Anti-snagging rule applies.
 (B) Night closure in effect.
 (ii) From the first Saturday in June through August 15, and from December 16 through March 31: Selective gear rules apply.
 (iii) Open the first Saturday in June through October 15, and from December 16 through March 31.
 (iv) Release all fish (~~(except anglers may retain up to 2)~~), except mandatory retention of hatchery steelhead.
 (~~(135)~~) (131) **Palmquist Creek (Clallam County), outside of Olympic National Park:**
 (a) Open the first Saturday in June through October 15.
 (b) Selective gear rules apply.
 (c) Trout:
 (i) Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.
 (ii) Release kokanee.
 (~~(136)~~) (132) **Peabody Creek (Clallam County):** Open the first Saturday in June through October 31 to juvenile anglers only.
 (~~(137)~~) (133) **Penny Creek (Jefferson County):** Open the first Saturday in June through October 31.

(~~(138)~~) (134) **Petroleum Creek (Clallam County):**
 From the Olympic National Park boundary upstream:
 (a) Open the first Saturday in June through October 31.
 (b) Selective gear rules apply.
 (c) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.
 (~~(139)~~) (135) **Pheasant Lake (Jefferson County):**
 Open the fourth Saturday in April through October 31.
 (~~(140)~~) (136) **Pilchuck Creek (Clallam County) (Sooes River tributary):**
 (a) Open the first Saturday in June through October 31.
 (b) Selective gear rules apply.
 (c) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.
 (~~(141)~~) (137) **Pioneer Creek (Grays Harbor County) (North River tributary):**
 (a) Open the first Saturday in June through October 31.
 (b) Selective gear rules apply.
 (~~(142)~~) (138) **Pleasant Lake (Clallam County):**
 Trout: Kokanee minimum length 6 inches, maximum length 18 inches.
 (~~(143)~~) (139) **Porter Creek (Grays Harbor County) (Chehalis River tributary):**
 (a) Open the first Saturday in June through October 31.
 (b) Selective gear rules apply.
 (~~(144)~~) (140) **Promised Land Pond (Grays Harbor County):** Open the first Saturday in June through October 31.
 (~~(145)~~) (141) **Pysht River (Clallam County):**
 (a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.
 (b) Open the first Saturday in June through January 31.
 (~~(b)~~) (c) Selective gear rules apply.
 (~~(e)~~) (d) From the first Saturday in June through October 31: Catch and release only.
 (~~(f)~~) (e) From November 1 through January 31: Trout minimum length 14 inches.
 (~~(146)~~) (142) **Rock Creek (Lewis County) (Chehalis River tributary):**
 (a) Open the first Saturday in June through October 31.
 (b) Selective gear rules apply.
 (~~(147)~~) (143) **Stearns Creek (Lewis County) (Chehalis River tributary):**
 (a) Open the first Saturday in June through October 31.
 (b) Selective gear rules apply.
 (~~(148)~~) (144) **Stillman Creek (Lewis County) (Chehalis River tributary):**
 (a) Open the first Saturday in June through October 31 from the mouth to water supply pipeline at Mill Creek.
 (b) Selective gear rules apply.
 (~~(149)~~) (145) **Stowe Creek (Lewis County) (Chehalis River tributary):**
 (a) Open the first Saturday in June through October 31.
 (b) Selective gear rules apply.
 (~~(150)~~) (146) **Quigg Lake (Grays Harbor County):**
 (a) Open the first Saturday in June through April 15.
 (b) Trout: Minimum length 14 inches.
 (c) Salmon:

(i) Open October 1 through January 31.

(ii) Limit 6 hatchery coho salmon; only 4 may be adult hatchery coho.

~~((151))~~ **(147) Quillayute River (Clallam County), outside of Olympic National Park:**

(a) Open year-round.

~~((a))~~ (b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Release wild (unclipped) rainbow trout.

(d) It is unlawful to use anything other than one barbless hook.

(e) From May 1 through the Friday before the first Saturday in June: Release all fish except anglers may retain up to 2 hatchery steelhead.

~~((b))~~ (f) From the first Saturday in June through March 31: Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

~~((c))~~ (g) From April 1 through April 30: Trout minimum length 14 inches.

~~((d))~~ (h) From November 1 through the last day in February: Anglers may retain one additional hatchery steelhead as part of the limit.

~~((e) From February 16 through April 30: It is permissible to retain wild steelhead.~~

~~((f))~~ (i) Salmon: Open February 1 through November 30:

(i) From February 1 through August 31:

(A) Limit 6; only 2 adults may be retained.

(B) Release wild adult Chinook and wild adult coho.

(ii) From September 1 through November 30: Limit 6; only 3 adults may be retained and only one may be a wild adult.

~~((152))~~ **(148) Quinault River (Grays Harbor County):** From the mouth at the upper end of Quinault Lake upstream to the Olympic National Park boundary:

(a) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(b) Open the first Saturday in June through April 15(~~(=~~

~~(i) February 16 through April 15: It is permissible to retain one wild steelhead per day.~~

~~((ii))~~.)

(c) Release wild (unclipped) rainbow trout.

(d) It is unlawful to use anything other than one barbless hook.

(e) It is unlawful to use bait the first Saturday in June through September 30 and February 16 through April 15.

(f) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

~~((b))~~ (g) Salmon open July 1 through November 30:

(i) From July 1 through September 30(~~(=~~

~~(A))~~ limit 6 jack salmon only.

~~((B) Single point barbless hooks are required.))~~

(ii) From October 1 through November 30:

(A) Limit 6; only 2 adults may be retained.

(B) Release sockeye and chum.

~~((153))~~ **(149) Quinn Creek (Clallam County), outside of Olympic National Park:**

(a) Open the first Saturday in June through October 15.

(b) Selective gear rules apply.

(c) Trout:

(i) Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(ii) Release kokanee.

~~((154))~~ **(150) Radar Ponds (Pacific County):** Salmon: Landlocked salmon rules apply.

~~((155))~~ **(151) Raimie Creek and all forks (Pacific County) (North River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

~~((156))~~ **(152) Ripley Creek (Jefferson County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Catch and release only.

~~((157))~~ **(153) Rock Creek (Grays Harbor County) (Chehalis River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

~~((158))~~ **(154) Rocky Brook (Jefferson County) (Dosewallips River tributary):** From the falls 1000 feet

upstream of the mouth: Open the first Saturday in June through October 31.

~~((159))~~ **(155) Rue Creek, including West Fork (Pacific County) (South Fork Willapa tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

~~((160))~~ **(156) Salmon Creek and all forks (Grays Harbor County) (North River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

~~((161))~~ (c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(157) Salmon Creek (Pacific County) (tributary of Naselle River):

(a) Open the first Saturday in June through the last day in February.

(b) Selective gear rules apply.

(c) Release all fish except anglers may retain up to 2 hatchery steelhead.

~~((162))~~ **(158) Salmon River (Jefferson County), outside Olympic National Park and the Quinault Indian Reservation:**

(a) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(b) It is unlawful to use anything other than one barbless hook.

(c) Open the first Saturday in June through the last day in February:

(i) It is unlawful to use bait the first Saturday in June through August 31.

(ii) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

~~((ii))~~ (iii) It is permissible to retain steelhead with a dorsal fin height of less than 2 1/8 inches or with an adipose or ventral fin clip.

~~((b))~~ (d) Salmon season open September 1 through November 30:

(i) Limit 6; only 3 adults may be retained, no more than 2 adults may be Chinook, and only one Chinook may be wild.

(ii) Release wild adult coho salmon.

~~((163))~~ **(159) Salt Creek (Clallam County):** From the mouth to the bridge on Highway 112:

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) Open the first Saturday in June through January 31.

~~((b))~~ (c) Selective gear rules apply.

~~((e))~~ (d) First Saturday in June through October 31: Catch and release only, except mandatory retention of hatchery steelhead.

~~((d))~~ (e) November 1 through January 31: Anglers may retain up to 2 hatchery steelhead.

~~((164))~~ **(160) Sand Creek (Grays Harbor County) (Chehalis River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

~~((165))~~ **(161) Sandyshore Lake (Jefferson County):**
~~((a))~~ Open the fourth Saturday in April through October 31.

~~((b))~~ Trout: No more than two over 14 inches in length may be retained.

~~(166))~~ **(162) Satsop Lakes (Grays Harbor County):** Open the fourth Saturday in April through October 31.

~~((167))~~ **(163) Satsop River and East Fork (Grays Harbor County):**

(a) From the mouth to the bridge at Schafer State Park:

(i) August 16 through November 30:

(A) Night closure in effect.

(B) Single-point barbless hooks are required.

(ii) Open the first Saturday in June through March 31: Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(iii) Salmon open September 16 through January 31:

(A) From September 16 through November 30:

(I) Limit 6; only 3 adults may be retained.

(II) Release wild adult Chinook.

(B) From December 1 through January 31:

(I) Limit 6; only 2 adults may be retained, and only one may be a wild adult coho.

(II) Release Chinook.

(b) From the bridge at Schafer State Park upstream to 400 feet below Bingham Creek Hatchery barrier dam:

(i) Open the first Saturday in June through October 31: Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(ii) Open August 16 through October 31:

(A) Night closure in effect.

(B) Single-point barbless hooks are required.

(c) From 400 feet downstream of the Bingham Creek Hatchery barrier dam upstream to the dam:

(i) ~~((Closed, except))~~ Open within posted markers to anglers with disabilities who permanently use a wheelchair and possess a designated harvester companion card.

(ii) Night closure in effect.

(iii) From August 16 through October 31: Single-point barbless hooks are required.

(iv) Open the first Saturday in June through March 31: Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(v) Salmon open September 16 through January 31:

(A) From September 16 through November 30:

(I) Limit 6; only 3 adults may be retained.

(II) Release wild adult Chinook.

(B) From December 1 through January 31:

(I) Limit 6; only 2 adults may be retained, and only one may be a wild adult coho.

(II) Release Chinook.

(d) From the Bingham Creek Hatchery dam upstream:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply.

(iii) August 16 through October 31: Night closure in effect.

~~((168))~~ **(164) Satsop River, Middle Fork (Turnow Branch):**

(a) From the mouth to Cougar Smith Road:

(i) From August 16 through November 30:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(ii) Open the first Saturday in June through the last day in February: Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(b) From Cougar Smith Road upstream:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply.

(iii) August 16 through October 31:

(A) Night closure in effect.

(B) Anti-snagging rule applies.

~~((169))~~ **(165) Satsop River, West Fork:**

(a) From the mouth to Cougar Smith Road:

(i) August 16 through November 30:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(ii) Open the first Saturday in June through the last day in February: Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(b) From Cougar Smith Road to USFS 2260 Road Bridge at Spoon Creek:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply.

(iii) August 16 through October 31: Night closure in effect.

(c) From USFS 2260 Road Bridge at Spoon Creek upstream:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply.

(iii) Eastern brook trout: ~~((Limit 5))~~ No limit; no minimum size. Eastern brook trout do not count toward the trout limit. However, once the limit of trout other than eastern brook trout is reached, the limit for all species of trout is reached and the angler must cease fishing.

~~((170))~~ **(166) Schafer Creek (Grays Harbor County) (Wynoochee River tributary):**

(a) From the mouth to USFS 22 Road:

- (b) Open the first Saturday in June through October 31.
 (c) Selective gear rules apply.
 ((171)) **(167) Sekiu River (Clallam County):**
 (a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.
 (b) From the mouth to the forks:
 (i) Open the first Saturday in June through January 31.
 (ii) From the first Saturday in June through October 31: Selective gear rules apply.
 (iii) November 1 through January 31: Catch and release only, except mandatory retention of hatchery steelhead.
 (iv) Trout: Minimum length 14 inches.
 ((171)) (c) From the forks upstream:
 (i) Open the first Saturday in June through October 31.
 (ii) Selective gear rules apply.
 (iii) Catch and release only, except mandatory hatchery steelhead retention applies.
 ((172)) **(168) Shine Creek (Jefferson County):**
 (a) Open the first Saturday in June through October 31.
 (b) Selective gear rules apply.
 (c) Catch and release only.
 ((173)) **(169) Shye Lake (Grays Harbor County):**
 Open the first Saturday in June through October 31.
 ((174)) **(170) Siebert Creek (Clallam County):**
 (a) Open the first Saturday in June through October 31.
 (b) Selective gear rules apply.
 (c) Catch and release only.
 ((175)) **(171) Silent Lake (Jefferson County):**
 (a) Open the fourth Saturday in April through October 31.
 (b) It is unlawful to fish from a floating device equipped with an internal combustion motor.
 ((175)) (e) Trout: It is unlawful to retain more than two over 14 inches in length.
 ((176)) **(172) Sitkum River (Clallam County) (Cala-wah River tributary):**
 (a) Open the first Saturday in June through October 31.
 (b) ((Selective gear rules apply-)) It is unlawful to fish from a floating device equipped with an internal combustion motor.
 (c) It is unlawful to use anything other than one barbless hook.
 (d) Trout:
 (i) Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.
 ((177)) (ii) Release wild (unclipped) rainbow trout.
 (173) **Siwash Creek (Clallam County), outside of Olympic National Park:**
 (a) Open the first Saturday in June through October 15.
 (b) Selective gear rules apply.
 (c) Trout:
 (i) Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.
 (ii) Release ((174)) kokanee.
 ((178)) **(174) Skookumchuck River (Thurston County):**
 (a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

- (b) From the mouth to 100 feet below the outlet of the PP&L/WDFW steelhead rearing pond located at the base of the Skookumchuck Dam:
 (i) August 16 through November 30:
 (A) Night closure in effect.
 (B) Single-point barbless hooks are required.
 (ii) Open the first Saturday in June through April 30:
 (A) From the first Saturday in June through March 31, trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.
 (B) From April 1 through April 30: Trout minimum length 14 inches.
 (iii) Salmon open October 1 through the last day in February:
 (A) From October 1 through November 30:
 (I) Limit 6; only 3 adults may be retained.
 (II) Release Chinook and chum.
 (B) From December 1 through the last day in February:
 (I) Limit 6; only 2 adults may be retained and only one may be a wild adult coho.
 (II) Release Chinook and chum.
 ((179)) (c) From Skookumchuck Reservoir upstream, selective gear rules apply.
 ((179)) **(175) Smith Creek (near North River) (Pacific County):**
 (a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.
 (b) From the mouth to the Highway 101 Bridge:
 (i) August 16 through November 30:
 (A) Night closure in effect.
 (B) Single-point barbless hooks are required.
 (ii) Open the first Saturday in June through the last day in February: Release all fish except anglers may retain up to 2 hatchery steelhead.
 (iii) Salmon open October 1 through December 31:
 (A) From October 1 through November 30:
 (I) Limit 6; only 3 adults may be retained, and only 2 may be wild adult coho.
 (II) Release wild Chinook.
 (B) From December 1 through December 31:
 (I) Limit 6; only 2 adults may be retained, and only one may be a wild adult coho.
 (II) Release wild Chinook.
 ((180)) (c) From the Highway 101 Bridge upstream:
 (i) Selective gear rules apply.
 (ii) Open the first Saturday in June through the last day in February: Release all fish except anglers may retain up to 2 hatchery steelhead.
 ((180)) **(176) Smith Creek (Pacific County) (Chehalis River tributary):**
 (a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.
 (b) Open the first Saturday in June through October 31.
 ((181)) (c) Selective gear rules apply.
 ((181)) **(177) Snahapish River (Jefferson County) (Clearwater River tributary):**
 (a) Open the first Saturday in June through October 31.
 (b) ((Selective gear rules apply-))

~~(e))~~ It is unlawful to fish from a floating device equipped with an internal combustion motor.

~~(c)~~ It is unlawful to use anything other than one barbless hook.

~~(d)~~ It is unlawful to use bait.

~~(e)~~ Trout:

~~(i)~~ Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

~~(ii)~~ Release wild (unclipped) rainbow trout.

~~((182))~~ **(178) Sol Duc River (Clallam County):**

~~(a)~~ It is unlawful to fish from a floating device equipped with an internal combustion motor.

~~(b)~~ It is unlawful to use anything other than one barbless hook.

~~(c)~~ Release wild (unclipped) rainbow trout.

~~(d)~~ Open year-round from the mouth to the concrete pump station at the Sol Duc Hatchery:

~~(i)~~ It is unlawful to use bait the first Saturday in June through September 30 and February 16 through April 15.

~~(ii)~~ May 1 through the Friday before the first Saturday in June: Release all fish except anglers may retain up to 2 hatchery steelhead.

~~((11))~~ ~~(iii)~~ From the first Saturday in June through April 30:

(A) The first Saturday in June through March 31: Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(B) April 1 through April 30: Trout minimum length 14 inches.

(C) November 1 through the last day in February: Anglers may retain one additional hatchery steelhead as part of the trout limit.

~~((1))~~ ~~February 16 through April 30: It is permissible to retain wild steelhead.~~

~~((11))~~ ~~(iv)~~ Salmon open February 1 through November 30:

(A) From February 1 through August 31:

(I) Limit 6; only 2 adults may be retained.

(II) Release wild adult Chinook and wild adult coho.

(III) May 1 through August 31: Closed from the Sol Duc Hatchery outlet creek upstream to the old trestle pilings.

(B) From September 1 through November 30: Limit 6; only 3 adult salmon may be retained, and only one may be a wild adult.

~~((11))~~ ~~(e)~~ From the concrete pump station at Sol Duc Hatchery to the Highway 101 Bridge upstream of Klahowya Campground:

(i) Open the first Saturday in June through April 30.

~~((11))~~ ~~(e)~~ ~~(i)~~ ~~(Selective gear rules apply.)~~ It is unlawful to use bait.

~~((11))~~ ~~(e)~~ ~~(ii)~~ Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

~~((11))~~ ~~(f)~~ From the Highway 101 Bridge upstream of Klahowya Campground to the Olympic National Park boundary:

(i) Open the first Saturday in June through October 31.

(ii) Release all fish, except anglers may retain up to 2 hatchery steelhead.

~~(iii)~~ ~~(Selective gear rules apply.)~~

~~(iv)~~ ~~It is unlawful to fish from a floating device equipped with an internal combustion motor.)~~ It is unlawful to use bait.

~~((183))~~ **(179) Solberg Creek (Clallam County) (Big River tributary):**

~~(a)~~ Open the first Saturday in June through October 15.

~~(b)~~ Selective gear rules apply.

~~(c)~~ Trout:

~~(i)~~ Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

~~(ii)~~ Release kokanee.

~~((184))~~ **(180) Solleks River (Jefferson County)**

(Clearwater River tributary):

~~(a)~~ Open the first Saturday in June through October 31.

~~(b)~~ ~~(Selective gear rules apply.)~~

~~(e))~~ It is unlawful to fish from a floating device equipped with an internal combustion motor.

~~(c)~~ It is unlawful to use anything other than one barbless hook.

~~(d)~~ It is unlawful to use bait.

~~(e)~~ Trout:

~~(i)~~ Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

~~(ii)~~ Release wild (unclipped) rainbow trout.

~~((185))~~ **(181) Sooes River (Tsoo-Yess River) (Clallam County), outside of Makah Indian Reservation:**

~~(a)~~ Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

~~(b)~~ Open the first Saturday in June through the last day in February.

~~((11))~~ ~~(c)~~ From the first Saturday in June through October 31:

(i) Selective gear rules apply.

(ii) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

~~((11))~~ ~~(d)~~ Open November 1 through the last day in February: Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

~~((186))~~ **(182) South Bend Mill Pond (Pacific County):** Open to juvenile anglers only.

~~((187))~~ **(183) South Creek (Clallam County), outside of Olympic National Park:**

~~(a)~~ Open the first Saturday in June through October 15.

~~(b)~~ Selective gear rules apply.

~~(c)~~ Trout:

~~(i)~~ Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

~~(ii)~~ Release ~~((11))~~ kokanee.

~~((188))~~ **(184) South Nemah River (Pacific County):**

~~(a)~~ From the mouth (Lynn Point, 117 degrees true to opposite shore) to the confluence with Middle Nemah River:

~~(i)~~ September 1 through November 30:

~~(A)~~ Night closure in effect.

(B) Single-point barbless hooks are required.

(ii) Open the first Saturday in June through March 31:
Release all fish except anglers may retain up to 2 hatchery steelhead.

(iii) Salmon:

(A) Open September 1 through January 31.

(B) Limit 6; only 4 adults may be retained.

(C) Release wild Chinook.

(b) From the confluence with the Middle Nemah River upstream to the second Highway 101 Bridge crossing:

(i) Open the first Saturday in June through March 31.

(ii) Selective gear rules apply.

(iii) Release all fish except anglers may retain up to 2 hatchery steelhead.

~~((189))~~ (185) **Stevens Creek (Grays Harbor County):**

(a) From the mouth to the Highway 101 Bridge:

(i) Closed from the WDFW hatchery outlet downstream 400 feet.

(ii) Open the first Saturday in June through September 30 and December 1 through the last day in February.

(iii) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(b) From the Highway 101 Bridge upstream to the Newbury Creek Road Bridge:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply.

~~((190))~~ (186) **Sutherland Lake (Clallam County):**

(a) Open the fourth Saturday in April through October 31.

(b) Trout: Minimum length 6 inches and maximum length 18 inches.

~~((191))~~ (187) **Sylvia Creek (Grays Harbor County) (Wynoochee River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

~~((192))~~ (188) **Sylvia Lake (Grays Harbor County):** It is unlawful to retain more than 2 trout over 15 inches in length.

~~((193))~~ (189) **Tarboo Creek (Jefferson County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Catch and release only.

~~((194))~~ (190) **Tarboo Lake (Jefferson County):**

(a) Open the fourth Saturday in April through October 31.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

~~((c) Trout: It is unlawful to retain more than two over 14 inches in length.~~

~~((195))~~ (191) **Teal Lake (Jefferson County):**

(a) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(b) Selective gear rules apply.

(c) Trout: Limit one.

~~((196))~~ (192) **Thorndyke Creek (Jefferson County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Catch and release only.

~~((197))~~ (193) **Thunder Creek (Clallam County) (Tributary to East Fork Dickey River):**

~~(a) (Open the first Saturday in June through April 30.~~

~~(b) From D2400 Road upstream: Closed from November 1 through April 30.~~

~~(c) Selective gear rules apply.~~

~~(d) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.) It is unlawful to fish from a floating device equipped with an internal combustion motor.~~

~~(b) It is unlawful to use anything other than one barbless hook.~~

~~(c) It is unlawful to use bait.~~

~~(d) Trout:~~

~~(i) Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.~~

~~(ii) Release wild (unclipped) rainbow trout.~~

~~(e) From mouth to D2400 Road: Game fish season open the first Saturday in June through April 30.~~

~~(f) From D2400 Road upstream: Open the first Saturday in June through October 31.~~

~~((198))~~ (194) **Trap Creek (Pacific County) (Willapa River tributary):**

(a) Open the first Saturday in June through October 15.

(b) Selective gear rules apply.

~~((199))~~ (195) **Trout Creek (Clallam County) (Big River tributary):**

(a) Open the first Saturday in June through October 15.

(b) Selective gear rules apply.

(c) Trout:

(i) Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(ii) Release ~~((#H))~~ kokanee.

~~((200))~~ (196) **Twin Lake (Jefferson County):** Open the fourth Saturday in April through October 31.

~~((201))~~ (197) **Umbrella Creek (Clallam County), outside Olympic National Park, including tributaries:**

(a) Open the first Saturday in June through October 15.

(b) Selective gear rules apply.

(c) Trout:

(i) Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(ii) Release ~~((#H))~~ kokanee.

~~((202))~~ (198) **Valley Creek (Clallam County):** Open the first Saturday in June through October 31 to juvenile anglers only.

~~((203))~~ (199) **Vance Creek (Grays Harbor County) (Chehalis River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

~~((204))~~ (200) **Vance Creek/Elma Ponds (Grays Harbor County), Pond One (Bowers Lake) and Pond Two (Lake Ines):**

(a) Pond One/Bowers Lake is open only to juvenile anglers, seniors, and anglers with a disability who possess a designated harvester companion card.

(b) Open the fourth Saturday in April through November 30:

(i) Anglers may not retain more than 2 trout over 15 inches in length.

(ii) Landlocked salmon rules apply.

~~((205))~~ **(201) Van Winkle Creek (Grays Harbor County):**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) August 16 through November 30:

(i) Night closure in effect.

(ii) Anti-snagging rule applies.

~~((b))~~ (c) From the mouth to 400 feet below the outlet of Lake Aberdeen Hatchery:

(i) Open the first Saturday in June through January 31: Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(ii) Salmon open September 1 through January 31:

(A) Limit 6; only 3 adults may be retained.

(B) Release Chinook.

~~((e))~~ (d) From Lake Aberdeen upstream:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply.

~~((206))~~ **(202) Vesta Creek and all forks (Grays Harbor County) (North River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

~~((207))~~ **(203) Ward Creek (Pacific County) (Willapa River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

~~((208))~~ **(204) Wentworth Lake (Clallam County):** It is unlawful to fish from a floating device equipped with an internal combustion motor.

~~((209))~~ **(205) West Twin River (Clallam County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Catch and release only.

~~((210))~~ **(206) Wildcat Creek (Grays Harbor County) (Cloquallum Creek tributary):**

(a) Open from the mouth to the confluence of the Middle and East Forks from the first Saturday in June through October 31.

(b) Selective gear rules apply.

~~((211))~~ **(207) Wildcat Creek, East Fork (Grays Harbor County) (Cloquallum Creek tributary):**

(a) Open from the mouth to the Highway 108 Bridge (Simpson Avenue, in the town of McCleary) from the first Saturday in June through October 31.

(b) Selective gear rules apply.

~~((212))~~ **(208) Willapa River (Pacific County):**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) From the mouth (city of South Bend boat launch) to the Highway 6 Bridge approximately 2 miles below the mouth of Trap Creek:

(i) From August 1 through November 30:

(A) It is unlawful to fish from a floating device from the second bridge on Camp One Road upstream to the mouth of Mill Creek (approximately 0.5 miles).

(B) Night closure in effect.

(C) Single-point barbless hooks are required.

(D) Stationary gear restriction applies, except from the mouth of the Willapa River to the WDFW access site at the mouth of Ward/Wilson creeks.

(ii) From the City of South Bend boat launch upstream to the second bridge on Camp One Road: Anglers may fish with two poles August 1 through January 31, provided they possess a valid two-pole endorsement.

(iii) Open the first Saturday in June through March 31; release all fish except anglers may retain up to 2 hatchery steelhead.

(iv) Salmon open August 1 through January 31:

(A) Limit 6; only 4 adults may be retained.

(B) Release wild Chinook.

~~((b))~~ (c) From Highway 6 Bridge to Fork Creek:

(i) From September 16 through November 30:

(A) Night closure in effect.

(B) Single-point barbless hooks are required.

(C) Stationary gear restriction applies.

(ii) Open the first Saturday in June through July 15 and from September 16 through March 31: Release all fish, except anglers may retain up to 2 hatchery steelhead.

(iii) Salmon open September 16 through January 31:

(A) Limit 6; only 4 adults may be retained.

(B) Release wild Chinook.

~~((e))~~ (d) From Fork Creek upstream to the Highway 6 Bridge near the town of Lebam:

(i) From August 16 through October 31:

(A) Night closure in effect.

(B) Single-point barbless hooks are required.

(ii) Open the first Saturday in June through October 31: Release all fish except anglers may retain up to 2 hatchery steelhead.

(iii) Salmon open October 1 through January 31:

(A) Limit 6; only 4 adults may be retained and only two may be wild adult coho.

(B) Release wild Chinook.

~~((f))~~ (e) From the Highway 6 Bridge near the town of Lebam upstream:

(i) From August 16 through October 31:

(A) Night closure in effect.

(B) Single-point barbless hooks are required.

(ii) Open the first Saturday in June through October 31: Release all fish except anglers may retain up to 2 hatchery steelhead.

~~((213))~~ **(209) Willapa River, South Fork (Pacific County):** From the mouth to the bridge on Pehl Road:

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) From the falls/fish ladder downstream 400 feet in Section 6, Township 13 North, and Range 8 West: Closed.

~~((b))~~ (c) Selective gear rules apply from the first Saturday in June through July 31.

~~((e))~~ (d) From August 1 through November 30:

(i) Night closure in effect.

(ii) Anti-snagging rule applies.

- (iii) Barbless hooks are required.
- ~~((f))~~ (e) Open the first Saturday in June through the last day in February: Release all fish except anglers may retain up to 2 hatchery steelhead.
- ~~((e))~~ (f) Salmon open August 1 through January 31:
 - (i) Limit 6; only 3 adults may be retained, and only one may be wild adult coho.
 - (ii) Release wild Chinook.
- ~~((f))~~ (g) From Pehl Road upstream:
 - (i) Open the first Saturday in June through the last day in February.
 - (ii) Release all fish except anglers may retain up to 2 hatchery steelhead.
- ~~((214))~~ (210) **Williams Creek (Pacific County) (North Nemah River tributary):**
 - (a) Open the first Saturday in June through October 15.
 - (b) Release all fish except anglers may retain up to two hatchery steelhead.
- ~~((215))~~ (211) **Wilson Creek (Pacific County) (Wilapa River tributary):**
 - (a) Open the first Saturday in June through October 31.
 - (b) Selective gear rules apply.
- ~~((216))~~ (212) **Wilson Creek, North Fork (Pacific County):**
 - (a) Open the first Saturday in June through October 31.
 - (b) Selective gear rules apply.
- ~~((217))~~ (213) **Wishkah River (Grays Harbor County):**
 - (a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.
 - (b) From August 16 through November 30: Single-point barbless hooks are required.
 - ~~((b))~~ (c) From the mouth to West Fork:
 - (i) Open the first Saturday in June through the last day in February.
 - (ii) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.
 - (iii) Salmon open September 16 through January 31:
 - (A) From September 16 through November 30:
 - (I) Limit 6; only 3 adults may be retained, and only 2 may be wild adult coho.
 - (II) Release Chinook.
 - (B) From December 1 through January 31:
 - (I) Limit 6; only 2 adults may be retained, and only one may be a wild adult coho.
 - (II) Release Chinook.
 - ~~((e))~~ (d) From the mouth of West Fork to 200 feet below the weir at the Wishkah Rearing Ponds:
 - (i) From 150 feet upstream to 150 feet downstream of the Wishkah adult attraction channel/outfall structure (within the posted fishing boundary): Open only to anglers with disabilities who permanently use a wheelchair and have a designated harvester companion card.
 - (ii) Open the first Saturday in June through the last day in February.
 - (iii) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.
 - (iv) Salmon open September 16 through January 31:

- (A) From September 16 through November 30:
 - (I) Limit 6; only 3 adults may be retained, and only 2 may be wild adult coho.
 - (II) Release Chinook.
- (B) From December 1 through January 31:
 - (I) Limit 6; only 2 adults may be retained and only one may be a wild adult coho.
 - (II) Release Chinook.
- ~~((f))~~ (e) From the weir upstream:
 - (i) Open the first Saturday in June through October 31.
 - (ii) Selective gear rules apply.
- ~~((218))~~ (214) **Wishkah River, East and West forks (Grays Harbor County):**
 - (a) Open the first Saturday in June through October 31.
 - (b) Selective gear rules apply.
- ~~((219))~~ (215) **Wynoochee River (Grays Harbor County):**
 - (a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.
 - (b) From the mouth to the WDFW White Bridge Access Site:
 - (i) From August 16 through November 30: Single-point barbless hooks are required.
 - (ii) Open the first Saturday in June through March 31: Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.
 - (iii) Salmon open September 16 through January 31.
 - (A) Limit 6; only 2 adults may be retained.
 - (B) Release Chinook.
 - ~~((b))~~ (c) From the WDFW White Bridge Access Site to the 7400 line bridge:
 - (i) From August 16 through November 30: Single-point barbless hooks are required.
 - (ii) From September 16 through November 30: It is unlawful to use bait.
 - (iii) Open the first Saturday in June through March 31: Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.
 - ~~((e))~~ (d) From the 7400 line bridge to 400 feet below Wynoochee Dam, including the confluence of the reservoir upstream to Wynoochee Falls:
 - (i) Closed from 400 feet downstream of Wynoochee Dam and from the barrier dam near Gridale.
 - (ii) Open the first Saturday in June through October 31 and from December 1 through March 31:
 - (A) From the first Saturday in June through October 31: Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.
 - (B) From December 1 through March 31:
 - (I) Selective gear rules apply.
 - (II) Release all fish, except anglers may retain up to 2 hatchery steelhead.
 - ~~((f))~~ (e) From Wynoochee Falls upstream:
 - (i) Open the first Saturday in June through October 31.
 - (ii) Selective gear rules apply.
 - (iii) Eastern brook trout: No limit ~~((f))~~. Eastern brook trout do not count toward the trout limit. However, once the

limit of trout other than eastern brook trout is reached, the limit for all species of trout is reached and the angler must cease fishing.

~~((220))~~ **(216) Wynoochee Reservoir (Grays Harbor County):**

- (a) Open the first Saturday in June through October 31.
- (b) Trout: Minimum length 12 inches.
- (c) Landlocked salmon rules apply.

AMENDATORY SECTION (Amending WSR 15-13-081, filed 6/12/15, effective 7/13/15)

WAC 220-310-185 Freshwater exceptions to state-wide rules—Southwest. (1) Abernathy Creek and all tributaries including Cameron, Slide, and Wiest creeks (Cowlitz County):

(a) From the mouth to a point 500 feet downstream from the Abernathy Technology Center:

- (i) Barbless hooks are required for steelhead.
- (ii) Bass: No limit and no size restriction.
- (iii) Channel catfish: No limit.
- (iv) Walleye: No limit and no size restriction.

(v) Open the first Saturday in June through August 31 and November 1 through March 15.

~~((iii))~~ (vi) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(A) First Saturday in June through August 31:

(I) No minimum size for trout.

(II) Release all fish except adipose clipped trout as evidenced by a healed scar at the location of the adipose fin.

(III) Three hatchery trout limit.

(B) November 1 through March 15: Catch and release except up to 3 hatchery steelhead may be retained.

(b) From 200 feet above Abernathy Falls to posted markers 500 feet downstream from the Abernathy Fish Technology Center: Closed.

(c) From 200 feet above Abernathy Falls upstream to source and all tributaries including Erick and Ordways creeks:

(i) Open the first Saturday in June through August 31.

(ii) Release all fish except adipose clipped trout as evidenced by a healed scar at the location of the adipose fin.

(iii) Trout: No minimum size.

(iv) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead. Three hatchery trout limit.

(v) Selective gear rules apply.

(2) Battle Ground Lake (Clark County):

(a) Closed the Monday before Thanksgiving Day through Thanksgiving Day.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Trout: It is unlawful to retain more than 2 fish twenty inches or greater in length.

(3) Blue Creek (Lewis County), from the mouth to Spencer Road:

(a) Closed from posted sign above rearing pond outlet to Spencer Road.

(b) Anti-snagging rule applies.

(c) Night closure in effect.

(d) Open June 1 through April 14 for trout only:

(i) Limit 5; minimum length 12 inches; it is unlawful to retain more than 3 hatchery steelhead.

(ii) Release wild cutthroat.

(iii) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(iv) Barbless hooks are required for steelhead.

(4) Blue Lake (Cowlitz County):

(a) Open the fourth Saturday in April through October 31.

(b) Selective gear rules apply.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Catch and release only.

(5) **Blue Lake Creek (Lewis County):** Selective gear rules apply.

(6) Butter Creek (Lewis County):

(a) Selective gear rules apply.

(b) Trout: Minimum length 10 inches.

(7) Canyon Creek (Clark County):

(a) Open the Saturday before Memorial Day through October 31.

(b) Trout: Limit 5.

(8) **Canyon Creek tributaries including Fly, Little Fly, Big Rock, Sorehead, Jakes, and Pelvey creeks (Clark/Skamaniam counties):** Open.

(9) Carlisle Lake (Lewis County):

(a) Open the fourth Saturday in April through last day in February.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Landlocked salmon rules apply.

(10) **Carson Creek (Skamania County):** Selective gear rules apply.

(11) Castle Lake (Cowlitz County):

(a) Selective gear rules apply.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Trout: Limit one; minimum length 16 inches.

(12) Cedar Creek (tributary of N.F. Lewis) (Clark County):

(a) From the mouth to Grist Mill Bridge:

(i) Open the first Saturday in June through August 31 and November 1 through March 15.

(ii) Selective gear rules apply.

(iii) Release all trout except anglers may retain up to 3 hatchery steelhead.

(iv) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) From the Grist Mill Bridge to 100 feet upstream of the falls: Closed.

(c) From 100 feet upstream of the falls upstream:

(i) Open the first Saturday in June through August 31.

(ii) Selective gear rules apply.

(iii) Release all fish except anglers may retain up to 3 hatchery steelhead.

(iv) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(13) Cedar Creek tributaries including Bitter, Brush, Chelatchie, John, and Pup creeks (Clark County): Selective gear rules apply.

(14) **Chinook River (Pacific County):** From the Highway 101 Bridge upstream to source((:));

(a) Selective gear rules apply.

(b) Bass: No limit and no size restriction.

(c) Channel catfish: No limit.

(d) Walleye: No limit and no size restriction.

(15) **Cispus River (Lewis County):**

(a) Barbless hooks are required for salmon and steelhead.

(b) From the mouth to the North Fork:

(i) Open the first Saturday in June through October 31; release cutthroat.

(ii) Open from November 1 through the Friday before the first Saturday in June. Release all trout except anglers may retain up to 2 hatchery steelhead.

(iii) Salmon:

(A) Open year-round.

(B) Limit 6; minimum size 8 inches.

(C) Release wild coho and wild Chinook.

(D) From January 1 through July 31, anglers may retain up to 2 adults as part of the limit.

(E) From August 1 through December 31, up to 2 of the limit may be adult Chinook.

(16) **Cispus River, North Fork (Lewis County):**

(a) Selective gear rules apply.

(b) Trout: Release cutthroat.

(17) **Coal Creek (Cowlitz County):**

(a) From the mouth to 400 feet below the falls:

(i) Open the first Saturday in June through August 31 and November 1 through last day in February.

(ii) Selective gear rules apply.

(iii) Bass: No limit and no size restriction.

(iv) Channel catfish: No limit.

(v) Trout:

(A) Release all fish except anglers may retain up to 3 hatchery steelhead.

((iv)) (B) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(vi) Walleye: No limit and no size restriction.

(b) From the falls to 400 feet downstream: Closed.

(c) From the falls upstream to source including all tributaries: Release all fish except trout.

(18) **Coldwater Lake (Cowlitz County):**

(a) The Coldwater Lake inlet and outlet streams are closed.

(b) Selective gear rules apply.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Trout: Limit one; minimum length 16 inches.

(19) **Cougar Creek (tributary to Yale Reservoir) (Cowlitz County):** Open the first Saturday in June through August 31.

(20) **Coweeman River (Cowlitz County):**

(a) From the mouth to Baird Creek:

(i) Open the first Saturday in June through August 31 and November 1 through March 15.

(ii) Release all trout, except anglers may retain up to 3 hatchery steelhead.

(iii) Barbless hooks are required for steelhead.

(iv) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) From Baird Creek upstream to the source:

(i) Open the first Saturday in June through August 31.

(ii) Release all trout, except anglers may retain up to 3 hatchery steelhead.

(iii) Barbless hooks are required for steelhead.

(iv) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(21) **Cowlitz Falls Reservoir (Lake Scanewa) (Lewis County):**

(a) The upstream boundary of the reservoir in the Cowlitz arm is at the posted Lewis County PUD sign on Peters Road.

(b) The upstream boundary of the reservoir in the Cispus arm is at the posted markers at the Lewis County PUD kayak launch, approximately 1.5 miles upstream from the confluence of the Cowlitz and Cispus arms.

(c) Barbless hooks are required for salmon and steelhead.

(d) Open year-round.

(e) Trout:

(i) Release cutthroat.

(ii) Release rainbow trout, except those with a clipped adipose fin with a healed scar at the site of the clipped fin.

(iii) From September 1 through the last day in February: Limit 10.

(f) Salmon open year-round:

(i) Limit 6; minimum length 8 inches.

(ii) Release wild Chinook and wild coho.

(iii) From January 1 through July 31: No more than 2 adult salmon may be retained.

(iv) From August 1 through December 31: No more than 2 adult hatchery Chinook may be retained.

(22) **Cowlitz River (Lewis County):**

(a) From the boundary markers at the mouth to Mayfield Dam:

(i) The following areas are closed:

(A) 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.

(B) From 400 feet below the Mayfield powerhouse upstream to Mayfield Dam.

(C) Within a 100 foot radius of the new Cowlitz Trout Hatchery outfall structure, except open to anglers with disabilities who permanently use a wheelchair and possess a designated harvester companion card within posted markers when adjacent waters are open.

(ii) Barbless hooks are required for salmon, steelhead, and cutthroat trout, except from the Lexington Drive Bridge (Sparks Road Bridge) at Lexington upstream to the barrier dam from June 1 through July 31.

((Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.)) Game fish other than trout: Open first Saturday in June through March 31.

(A) Bass: No limit and no size restriction.

(B) Channel catfish: No limit.

(C) Walleye: No limit and no size restriction.

(iv) From Lexington Bridge to the barrier dam, fishing 2 poles is permissible so long as the angler possesses a valid two-pole endorsement.

(v) From the mouth of Mill Creek to the Cowlitz Salmon Hatchery barrier dam:

(A) April 1 through November 30:

(I) Anti-snagging rule applies. Anglers may only retain fish hooked in the mouth when the anti-snagging rule applies.

(II) Night closure in effect.

(B) It is unlawful to fish from a floating device.

(C) May 1 through June 15: It is unlawful to fish from the south side of the river.

(vi) Trout: Open year-round.

(A) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(B) First Saturday in June through March 31:

(I) Limit 5; minimum length 12 inches.

(II) Up to 3 hatchery steelhead may be retained.

(III) Release wild cutthroat.

~~((B))~~ (C) April 1 through the Friday before the first Saturday in June: Release all fish, except anglers may retain up to 3 hatchery steelhead.

(vii) Salmon:

(A) Open January 1 through July 31:

(I) Limit 6; up to 2 hatchery adults may be retained.

(II) Only hatchery Chinook and hatchery coho may be retained.

(B) Open August 1 through December 31:

(I) Limit 6; up to 2 adult hatchery Chinook may be retained.

(II) Only hatchery Chinook and hatchery coho may be retained.

(b) From the posted PUD sign on Peters Road to the mouth of Ohanapecosh River and the mouth of Muddy Fork:

(i) Barbless hooks are required for salmon and steelhead.

(ii) September 1 through October 31: Anti-snagging rule applies and night closure in effect. When the anti-snagging rule is in effect, only fish hooked inside the mouth may be retained.

(iii) Open the first Saturday in June through October 31: Release cutthroat.

(iv) Open November 1 through the Friday before the first Saturday in June: Release trout except anglers may retain up to 2 hatchery steelhead.

(v) Salmon:

(A) Open January 1 through July 31:

(I) Limit 6; up to 2 adult salmon may be retained.

(II) Release wild coho and wild Chinook.

(B) Open August 1 through December 31:

(I) Limit 6; up to 2 adult hatchery Chinook may be retained.

(II) Release wild coho and wild Chinook.

(23) Cowlitz River, Clear and Muddy Forks (Lewis County):

(a) Selective gear rules apply.

(b) Release cutthroat.

(24) Davis Lake (Lewis County): Open the fourth Saturday in April to last day in February.

(25) Deep River (Wahkiakum County):

(a) Game fish:

(i) Open year-round.

(ii) Trout: Release all trout except anglers may retain up to 2 hatchery steelhead.

(b) From mouth to town bridge:

(i) Channel catfish: No limit.

(ii) Walleye and bass: No limit and no size restriction.

~~(iii) Salmon: Open year-round ((from the mouth to town bridge)):~~

~~((+)) (A) From March 1 through June 15, on days when the mainstem Columbia River recreational fishery below Bonneville Dam is open to the retention of Chinook salmon, the salmonid daily limit in Deep River is the same as in the adjacent mainstem Columbia. Otherwise:~~

~~((+)) (B) From January 1 through July 31:~~

~~((A)) (I) Limit 6, of which no more than 2 may be adult salmon.~~

~~((B)) (II) Release wild Chinook and wild coho.~~

~~((+)) (C) From August 1 through December 31:~~

~~((A)) (I) Limit 6, of which no more than 2 may be adult Chinook.~~

~~((B)) (II) Release chum and wild coho.~~

(26) Delemeter Creek (Cowlitz County):

(a) Closed from 400 feet below to 200 feet above the temporary weir while the weir is installed in the creek.

(b) Release all fish except mandatory hatchery steelhead retention. Three hatchery trout limit. No catch and release of hatchery steelhead.

(c) Release all trout except hatchery steelhead and hatchery cutthroat.

(d) Selective gear rules apply.

(27) Dog Creek (Skamania County): From the falls upstream to the source, release all fish except trout.

(28) Drano Lake: In the waters downstream of markers on point of land downstream and across from Little White Salmon National Fish Hatchery and upstream of the Highway 14 Bridge:

(a) Barbless hooks are required for salmon and steelhead except from March 16 through June 30 and from October 1 through December 31.

(b) Closed on Wednesdays beginning the second Wednesday in April through June 30.

(c) Closed from 6 p.m. Tuesdays through 6 p.m. Wednesdays during the month of October.

(d) March 16 through June 30: Night closure in effect.

(e) August 1 through December 31: Anti-snagging rule applies.

(f) May 1 through June 30 and October 1 through December 31:

(i) Each angler aboard a vessel may deploy salmon/steelhead angling gear until the salmon/steelhead limit for all anglers aboard has been achieved.

(ii) Two-pole fishing for salmon/steelhead is permissible so long as the angler possesses a two-pole endorsement.

(g) The area west of a line projected from the easternmost pillar of the Highway 14 Bridge to a posted marker on the north shore is open only to bank fishing from April 16 through June 30.

(h) Open year-round.

(i) Bass: No limit and no size restriction.

(j) Channel catfish: No limit.

(k) Trout: Open January 1 through March 15; release trout, except anglers may retain up to 2 hatchery steelhead.

~~((j))~~ (l) Walleye: No limit and no size restriction.

(m) Salmon and steelhead: Open March 16 through December 31:

(i) From March 16 through July 31: Limit 2 hatchery steelhead or 2 hatchery Chinook, or one of each.

(ii) From August 1 through December 31: Limit 6; no more than 3 adults, of which only 2 hatchery steelhead may be retained.

(29) **Elochoman River (Wahkiakum County):**

(a) The following areas are closed:

(i) The waters from 100 feet above the upper hatchery rack downstream to the Elochoman Hatchery Bridge located 400 feet below the upper hatchery rack.

(ii) The 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.

(iii) From 200 feet above the department of fish and wildlife temporary weir downstream to Foster (Risk) Road Bridge while the weir is installed in the river.

(b) From the mouth to West Fork:

(i) Open the first Saturday in June through March 15.

(ii) August 1 through October 31: Anti-snagging rule, night closure, and stationary gear restriction apply.

(iii) August 1 through March 15: Barbless hooks are required for salmon and steelhead.

(iv) Trout: Release all fish except anglers may retain up to 3 hatchery steelhead.

(v) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(c) From the mouth to the Elochoman Hatchery Bridge located 400 feet below the upper hatchery rack:

(i) Open the last Saturday in May through the Friday before the first Saturday in June for bass, channel catfish, salmon (~~and~~), steelhead, and walleye.

(ii) Selective gear rules apply.

(iii) Bass: No limit and no size restriction.

(iv) Channel catfish: No limit.

(v) Salmon and steelhead: Daily limit 6 fish; up to 3 may be hatchery adult Chinook or hatchery steelhead, and no more than 2 may be salmon.

~~((iii))~~ (A) Release wild Chinook salmon.

~~((iv))~~ (B) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

~~((v) Selective gear rules apply.)~~

(vi) Walleye: No limit and no size restriction.

(vii) Salmon:

(A) Open the first Saturday in June through December 31.

(B) From the first Saturday in June through July 31: Limit 6 hatchery Chinook, of which no more than 2 may be adults.

(C) From August 1 through December 31:

(I) Limit 6 fish, of which no more than 2 may be adult Chinook.

(II) Release chum, wild coho, and wild Chinook.

(d) From West Fork upstream to the source:

(i) Release all fish except anglers may retain up to 3 hatchery steelhead.

(ii) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(30) **Falls Creek (Cowlitz County):**

(a) Selective gear rules apply.

(b) Bass: No limit and no size restriction.

(c) Channel catfish: No limit.

(d) Walleye: No limit and no size restriction.

(31) **Fort Borst Park Pond (Lewis County):** Open the fourth Saturday in April through the last day in February, except closed the Monday before Thanksgiving Day through Thanksgiving Day.

(32) **Franz Lake (Skamania County):** Closed.

(33) **Germany Creek (Cowlitz County)** and all tributaries including John and Loper creeks:

(a) Open the first Saturday in June through August 31 and November 1 through March 15.

(b) Selective gear rules apply.

(c) Bass: No limit and no size restriction.

(d) Channel catfish: No limit.

(e) Trout:

(i) Release all trout except anglers may retain up to 3 hatchery steelhead.

~~((f))~~ (ii) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(f) Walleye: No limit and no size restriction.

(34) **Gobar Creek (tributary to Kalama River) (Cowlitz County):**

(a) Open the first Saturday in June through March 31.

(b) Selective gear rules apply.

(c) Release all fish except adipose clipped trout as evidenced by a healed scar at the location of the adipose fin.

(d) Trout: No minimum size. Three hatchery fish limit.

(e) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(35) **Goble Creek (Cowlitz County):**

(a) Release all fish except anglers may retain up to 3 hatchery steelhead.

(b) Selective gear rules apply.

(36) **Grays River (Wahkiakum County):** From the mouth to South Fork:

(a) Barbless hooks are required for salmon and steelhead.

(b) Open the first Saturday in June through March 15, except closed from Highway 4 Bridge to mouth of South Fork from October 16 through November 30.

(c) Closed from 400 feet below to 200 feet above the temporary weir while the weir is installed in the river.

(d) Anti-snagging rule, night closure and stationary gear restriction apply:

(i) From the mouth to the Highway 4 Bridge August 1 through November 15.

(ii) From the Highway 4 Bridge to the mouth of South Fork August 1 through October 15.

(e) Game fish:

(i) Release all fish except anglers may retain up to 3 hatchery steelhead.

~~((f))~~ (ii) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

- ~~((g))~~ (iii) From the mouth to Highway 4 Bridge:
 (A) Bass: No limit and no size restriction.
 (B) Channel catfish: No limit.
 (C) Walleye: No limit and no size restriction.
 (f) Salmon:
 (i) From the mouth to the Highway 4 Bridge:
 (A) Open the first Saturday in June through December 31.
 (B) From the first Saturday in June through July 31: Limit 6 hatchery Chinook, of which no more than 2 may be adults.
 (C) From August 1 through December 31:
 (I) Limit 6, of which no more than 2 may be adult Chinook.
 (II) Release chum, wild coho, and unmarked Chinook.
 (ii) From the Highway 4 Bridge to the South Fork:
 (A) Open the first Saturday in June through October 15 and December 1 through December 31.
 (B) From the first Saturday in June through July 31: Limit 6 hatchery Chinook, of which no more than 2 may be adults.
 (C) From August 1 through October 15 and December 1 through December 31:
 (I) Limit 6 fish, of which no more than 2 may be adult Chinook.
 (II) Release chum, wild coho, and unmarked Chinook.
~~((h))~~ (g) From South Fork upstream to source: Selective gear rules apply.
 (37) **Grays River, East Fork (Wahkiakum County):**
 (a) Selective gear rules apply.
 (b) Release all fish except anglers may retain up to 3 hatchery steelhead.
 (c) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.
 (38) **Grays River, South Fork (Wahkiakum County):**
 (a) Release all fish except anglers may retain up to 3 hatchery steelhead.
 (b) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.
 (c) Selective gear rules apply.
 (39) **Grays River, West Fork (Wahkiakum County):**
 (a) Downstream from the hatchery intake/footbridge:
 (i) Barbless hooks are required for salmon and steelhead.
 (ii) Open the first Saturday in June through March 15, except closed October 16 through November 30 from the posted markers approximately 300 yards below the hatchery road bridge downstream to the mouth.
 (iii) August 1 through November 15: Anti-snagging rule, night closure and stationary gear restriction apply.
 (iv) From the first Sunday in June through March 15: Release all fish except anglers may retain up to 3 hatchery steelhead.
 (v) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.
 (vi) Salmon: Open from first Saturday in June through December 31.
 (A) From the first Saturday in June through July 31: Limit 6 hatchery Chinook, of which no more than 2 may be adults.
 (B) From August 1 through December 31:
 (I) Limit 6, of which not more than 2 may be adult Chinook.
 (II) Release chum, wild coho, and unmarked Chinook.
 (b) From the hatchery intake/footbridge upstream to source:
 (i) Open the first Saturday in June through March 15.
 (ii) Release all fish except anglers may retain up to 3 hatchery steelhead.
 (iii) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.
 (iv) Selective gear rules apply.
 (40) **Green River (Cowlitz County):**
 (a) From the mouth to Miner's Creek:
 (i) Catch and release except up to 3 hatchery steelhead may be retained.
 (ii) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.
 (iii) From August 1 through November 30, barbless hooks are required for salmon and steelhead.
 (iv) The following areas are closed:
 (A) From 400 feet above and 400 feet below the salmon hatchery rack (or from the posted signs above and below the salmon hatchery rack) when the rack is installed in the river.
 (B) From 400 feet below to 400 feet above the water intake at the upper end of the hatchery grounds from September 1 through November 30.
 (C) From the 2800 Bridge to Miner's Creek.
 (v) September 1 through October 31: Anti-snagging rule applies and night closure in effect from the mouth to 400 feet below the salmon hatchery rack. When the anti-snagging rule is in effect, only fish hooked inside the mouth may be retained.
 (vi) Open the last Saturday in May through November 30.
 From the last Saturday in May through the Friday before the first Saturday in June in the waters from the mouth to 400 feet below the Toutle Hatchery water intake: Selective gear rules apply.
 (vii) Salmon:
 (A) Open August 1 through November 30.
 (B) Limit 6, no more than 2 adult Chinook may be retained.
 (C) Release chum, wild coho, and wild Chinook.
 (b) From Miner's Creek upstream to the source:
 (i) Open from the first Saturday in June through October 31.
 (ii) Selective gear rules apply.
 (iii) Catch and release only.
 (41) **Grizzly Lake (Skamania County):** Closed.
 (42) **Hamilton Creek (Skamania County):**
 (a) Selective gear rules apply.
 (b) Bass: No limit and no size restriction.
 (c) Channel catfish: No limit.
 (d) Trout:
 (i) Release all trout except anglers may retain up to 3 hatchery steelhead.
~~((e))~~ (ii) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.
~~((f))~~ (e) Walleye: No limit and no size restriction.

(f) All tributaries downstream from the Highway 14 Bridge: Closed.

(43) **Hemlock Lake (Trout Creek Reservoir) (Skamania County):** Closed.

(44) **Horseshoe Lake (Clark/Cowlitz counties):**

(a) Trout: It is unlawful to retain more than 2 trout 20 inches or more in length.

(b) Landlocked salmon rules apply.

(45) **Icehouse Lake (Skamania County):** It is unlawful to retain more than 2 trout 20 inches or greater in length.

(46) **Indian Heaven Wilderness Lakes (Skamania County):** Trout limit 3.

(47) **Johnson Creek (Lewis County) (Cowlitz River tributary):**

(a) Selective gear rules apply.

(b) Trout: Minimum length 10 inches.

(48) **Kalama River (Cowlitz County):**

(a) From boundary markers at the mouth upstream to 1,000 feet above the fishway at the upper salmon hatchery:

(i) Open year-round, except the following areas are closed:

(A) From 1,000 feet below to 1,000 feet above the fishway at upper salmon hatchery.

(B) From Modrow Bridge downstream to the markers 1,500 feet below the temporary rack when the rack is installed below Modrow Bridge.

(ii) Barbless hooks are required for salmon and steelhead.

(iii) ~~((Release all fish other than trout.~~

~~(+)) Game fish:~~

(A) Release all fish except bass, channel catfish, trout, hatchery steelhead, and walleye.

(B) Bass: No limit and no size restriction.

(C) Channel catfish: No limit.

(D) Trout:

(I) Mandatory hatchery steelhead retention.

(II) No catch and release of hatchery steelhead.

(E) Walleye: No limit and no size restriction.

~~((+)) (iv) April 1 through October 31: Anti-snagging rule applies and night closure in effect from the railroad bridge below I-5 to the intake at the lower salmon hatchery. When the anti-snagging rule is in effect, only fish hooked inside the mouth may be retained.~~

~~((+)) (v) It is unlawful to fish from a floating device equipped with an internal combustion motor upstream of Modrow Bridge.~~

~~((+)) (vi) Open September 1 through October 31 for fly fishing only from the natural gas pipeline crossing to the posted deadline at the intake to the lower salmon hatchery.~~

~~((+)) (vii) From March 16 through the Friday before the first Saturday in June: Release all fish except anglers may retain up to 3 hatchery steelhead.~~

~~((+)) (viii) From the first Saturday in June through March 15: Release all fish except anglers may retain up to 3 adipose clipped trout as evidenced by a healed scar at the location of the adipose fin. No minimum size.~~

~~((+)) (ix) Salmon:~~

(A) Open January 1 through April 30:

(I) Limit 6 hatchery Chinook.

(II) No more than one adult hatchery Chinook may be retained.

(B) Open August 1 through December 31:

(I) Limit 6; no more than 2 adult hatchery Chinook may be retained.

(II) Release all salmon other than hatchery Chinook and hatchery coho.

(b) From 1,000 feet above the fishway at the upper salmon hatchery, upstream to Summers Creek:

(i) Open year-round.

(ii) It is unlawful to fish from a floating device equipped with a motor.

(iii) Selective gear rules apply.

(iv) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(v) From March 16 through the Friday before the first Saturday in June: Release all fish except anglers may retain up to 3 hatchery steelhead.

(vi) From the first Saturday in June through March 15: Release all fish except anglers may retain up to 3 adipose clipped trout as evidenced by a healed scar at the location of the adipose fin. No minimum size.

(c) From Summers Creek upstream to Kalama Falls:

(i) Closed from the 6420 Road (approximately one mile above the gate at the end of the county road) to Kalama Falls.

(ii) Open the first Saturday in June through March 31 for fly fishing only.

(iii) Release all fish, except anglers may retain up to 3 adipose clipped trout as evidenced by a healed scar at the location of the adipose fin.

(A) No minimum size.

(B) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(d) From Kalama Falls upstream to source: Open.

(49) **Kanaka Creek (Skamania County):** Selective gear rules apply.

(50) **Kidney Lake (Skamania County):** Open the fourth Saturday in April through last day in February.

(51) **Klineline Ponds (Clark County):**

(a) Closed the Monday before Thanksgiving Day through Thanksgiving Day.

(b) It is unlawful to retain more than 2 trout 20 inches or more in length.

(52) **Kress Lake (Cowlitz County):**

(a) Closed the Monday before Thanksgiving Day through Thanksgiving Day.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) It is unlawful to retain more than 2 trout 20 inches or more in length.

(d) Landlocked salmon rules apply.

(53) **Lacamas Creek (Clark County):**

(a) From the mouth to the footbridge at the lower falls:

(i) Open the first Saturday in June through August 31.

(ii) Release all fish except anglers may retain up to 3 hatchery steelhead.

(iii) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(iv) Selective gear rules apply.

(b) From the footbridge at the lower falls upstream to the source: It is permissible to fish up to the base of Lacamas Lake Dam.

(c) From footbridge at lower falls and from Round Lake upstream to source and all tributaries (Clark County) including Spring Branch, Big Ditch, Fifth Plain Creek, Matney Creek, Buck Creek, David Creek, North Fork and East Fork Lacamas Creek (Clark County): Statewide season, minimum size, and limits apply.

(54) Lacamas Creek, tributary of Cowlitz River (Lewis County):

(a) Selective gear rules apply.

(b) Trout: Limit 3.

(c) Release all trout except anglers may retain hatchery steelhead and hatchery cutthroat.

(55) Lewis River (Clark County):

(a) Mouth to the mouth of ~~((East Fork))~~ Colvin Creek:

~~(i) Open year-round ((from the mouth to the mouth of East Fork))~~ except the following areas are closed:

~~(A) From Johnson Creek upstream May 1 through May 31.~~

~~(B) Those waters shoreward of the cable buoy and cork-line at the mouth of the Lewis River Salmon Hatchery fish ladder.~~

(ii) Barbless hooks are required for salmon and steelhead.

(iii) Fishing 2 poles is permissible from Railroad Bridge near Kuhns Road upstream to ~~((mouth of East Fork Lewis))~~ Johnson Creek, so long as the angler possesses a two-pole endorsement.

(iv) Anti-snagging rule applies and night closure in effect from Johnson Creek to Colvin Creek June 1 through November 30 and April 1 through April 30. When the anti-snagging rule is in effect, only fish hooked inside the mouth may be retained.

(v) Trout:

(A) Release all trout except anglers may retain up to 3 hatchery steelhead.

(B) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

~~((+))~~ (vi) Salmon:

(A) Open January 1 through April 30: Limit 6 hatchery Chinook; no more than one may be an adult.

(B) Open August 1 through September 15:

(I) Limit 6 hatchery salmon; no more than 2 may be adult hatchery Chinook.

(II) Release all salmon except hatchery Chinook and hatchery coho.

(C) Open September 16 through December 31:

(I) Limit 6; no more than 2 may be adult Chinook.

(II) Release all salmon except Chinook and hatchery coho.

~~((b) From the mouth of East Fork to Colvin Creek:~~

~~(i) Open year-round except the following areas are closed:~~

~~(A) From Johnson Creek upstream May 1 through May 31.~~

~~(B) Those waters shoreward of the cable buoy and cork-line at the mouth of the Lewis River Salmon Hatchery fish ladder.~~

~~(ii) Barbless hooks are required for salmon and steelhead.~~

~~(iii) Fishing 2 poles is permissible from the mouth to Johnson Creek, so long as the angler possesses a valid two-pole endorsement.~~

~~(iv) Anti-snagging rule applies and night closure in effect from Johnson Creek to Colvin Creek June 1 through November 30 and April 1 through April 30. When the anti-snagging rule is in effect, only fish hooked inside the mouth may be retained.~~

~~(v) Trout:~~

~~(A) Release all trout except anglers may retain up to 3 hatchery steelhead.~~

~~(B) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.~~

~~(vi) Salmon:~~

~~(A) Open August 1 through April 30.~~

~~(B) From August 1 through September 15: Limit 6 hatchery Chinook or hatchery coho; only 2 adult hatchery Chinook may be retained.~~

~~(C) From September 16 through December 31: Limit 6 Chinook or hatchery coho; only 2 adult Chinook may be retained.~~

~~(D) From January 1 through April 30: Limit 6 hatchery Chinook; only one may be an adult salmon. Release all other salmon.~~

~~(e))~~ (vii) Bass: No limit and no size restriction.

(viii) Channel catfish: No limit.

(iv) Walleye: No limit and no size restriction.

(b) From the mouth of Colvin Creek to the overhead powerlines at Merwin Dam:

(i) Barbless hooks are required for salmon and steelhead.

(ii) Open June 1 through October 31 and December 16 through April 30.

(iii) Anti-snagging rule applies and night closure in effect April 1 through April 30 and June 1 through October 31. When the anti-snagging rule is in effect, only fish hooked inside the mouth may be retained.

(iv) Bass: No limit and no size restriction.

(v) Channel catfish: No limit.

(vi) Trout:

(A) Release all fish except anglers may retain up to 3 hatchery steelhead.

(B) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

~~((+))~~ (vii) Walleye: No limit and no size restriction.

(viii) Salmon:

(A) Open August 1 through October 31 and December 16 through April 30.

(B) From January 1 through April 30: Limit 6 hatchery Chinook; only one may be an adult salmon.

(C) From August 1 through September 15: Limit 6 hatchery salmon; only 2 may be adult hatchery Chinook. Release all salmon except hatchery Chinook and hatchery coho.

(D) From September 16 through October 31 and December 16 through December 31: Limit 6 salmon; only 2 may be adult Chinook. Release all salmon except Chinook and hatchery coho.

~~((c))~~ (c) From the overhead powerlines below Merwin Dam to Merwin Dam: Closed.

~~((d))~~ (d) From the cable crossing 1,300 feet below Yale Dam to Yale Dam: Closed.

~~((e))~~ (e) From the old Lewis River streambed between Swift No. 1 Powerhouse and Swift No. 2 Powerhouse and Lewis River Power Canal upstream to fishing pier: Closed.

~~((f))~~ (f) Within Lewis River Power Canal from the fishing pier to the access road at Swift Dam:

(i) Open the fourth Saturday in April through October 31.

(ii) It is unlawful to fish from a floating device.

(iii) Trout: Limit 5; no minimum size.

(A) From Eagle Cliff Bridge to the lower falls, including all tributaries: Selective gear rules apply.

(B) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(C) Catch and release only.

~~((g))~~ (g) From lower falls upstream and all tributaries including Copper, Alec, Quartz, Straight (tributary of Quartz), Snagtooth (tributary of Quartz), French (tributary of Quartz), Tillicum, Steamboat, Pin, Pass, Swampy, Riley, No Name (tributary of Riley), Big Spring (tributary of Riley), Mutton (tributary of Riley), and Boulder creeks (Skamania Co.): Statewide season, minimum size, and limits.

(56) Lewis River, East Fork (Clark/Skamania counties):

(a) The following areas are closed:

(i) From the posted markers at the lower end of Big Eddy to 100 feet above Lucia Falls.

(ii) From 400 feet below to 400 feet above Moulton Falls.

(iii) From 400 feet below Horseshoe Falls upstream, including all tributaries above Horseshoe Falls.

(b) From the mouth to 400 feet below Horseshoe Falls:

(i) Open the first Saturday in June through March 15.

(ii) Barbless hooks are required for steelhead.

(iii) Release all trout except anglers may retain up to 3 hatchery steelhead.

(iv) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(c) From the mouth to the top boat ramp at Lewisville Park:

(i) Additional hatchery steelhead season from April 16 through the Friday before the first Saturday in June.

(ii) Selective gear rules apply.

(iii) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(iv) Release all fish except anglers may retain up to 3 hatchery steelhead.

(57) Little Ash Lake (Skamania County): It is unlawful to retain more than 2 trout 20 inches or more in length.

(58) Little Washougal River (Clark County):

(a) Release all fish except anglers may retain up to 3 hatchery steelhead.

(b) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(c) Selective gear rules apply.

(59) Little White Salmon River (Skamania County) and all tributaries including Rock, Lapham, Lava, Moss, Wilson, Cabbage, Berry, Lusk, Homes, and Beetle creeks:

(a) Open the Saturday before Memorial Day through October 31, except Little White Salmon River is closed from the orange fishing boundary markers at Drano Lake upstream to the intake near the north boundary of the Little White Salmon National Fish Hatchery.

(b) Release all fish except trout.

(c) Trout: Limit 5.

(60) Love Lake (Clark County): Closed.

(61) Mayfield Lake (Reservoir) (Lewis County):

(a) Open from the Mayfield Dam to Onion Rock Bridge.

(b) From the Tacoma Power safety signs at Onion Rock Bridge to Mossyrock Dam: Closed.

(c) Trout:

(i) Minimum length 8 inches.

(ii) Release cutthroat and rainbow trout, except it is permissible to retain rainbow trout with a clipped adipose fin and a healed scar at the site of the clipped fin.

(iii) September 1 through last day in February: Limit 10.

(d) Salmon open September 1 through December 31:

(i) Minimum length 8 inches.

(ii) Limit 6, no more than 2 may be adult salmon.

(iii) Release wild coho and wild Chinook.

(62) Merrill Lake (Cowlitz County):

(a) Open for fly fishing only.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Catch and release only.

(63) Merwin Lake (Reservoir) (Clark/Cowlitz counties):

(a) Landlocked salmon rules apply.

(b) Kokanee: Limit 10; kokanee do not count as part of the trout limit.

(64) Merwin Lake (Reservoir)(Clark/Cowlitz counties) tributaries including Marble, Cape Horn, Day, Jim, Indian George, Squaw, Buncombe Hollow, Rock creeks, Speelyai Creek and its tributaries, Brooks, and West Fork creeks (except Canyon Creek): Statewide season, minimum size, and limits apply.

(65) Mill Creek (Cowlitz County):

(a) Open the first Saturday in June through August 31 and November 1 through March 15.

(b) Selective gear rules apply.

(c) Bass: No limit and no size restriction.

(d) Channel catfish: No limit.

(e) Trout:

(i) Release all trout except anglers may retain up to 3 hatchery steelhead.

~~((ii))~~ (ii) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(f) Walleye: No limit and no size restriction.

(66) Mill Creek (Lewis County): From the mouth to the hatchery road crossing culvert.

(a) Selective gear rules apply.

(b) Open the first Saturday in June through October 31 and from December 1 through December 31.

(c) Anti-snagging rule applies and night closure in effect December 1 through December 31.

(d) Release all fish except anglers may retain up to 3 trout.

(e) Release all trout except hatchery steelhead and hatchery cutthroat.

(f) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(67) **Mineral Lake (Lewis County):** Open the fourth Saturday in April through September 30.

(68) **Mulholland Creek (Cowlitz County):**

(a) Catch and release except anglers may retain up to 3 hatchery steelhead.

(b) Selective gear rules apply.

(69) **Nelson Creek (Skamania County):** Selective gear rules apply.

(70) **Ohanapecosh Creek (tributary to Cowlitz River) (Lewis/Pierce counties):**

(a) Selective gear rules apply.

(b) Trout: Minimum length 12 inches.

(71) **Olequa Creek (Lewis/Cowlitz counties):**

(a) Closed from 400 feet below to 200 feet above the temporary weir while the weir is installed in the creek.

(b) Trout: Limit 3.

(c) Release all trout except hatchery steelhead and hatchery cutthroat.

(d) Selective gear rules apply.

(e) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(72) **Ostrander Creek (Cowlitz County):** Selective gear rules apply.

(73) **Outlet Creek (Cowlitz County):**

(a) First Saturday in June through November 30.

(b) Trout:

(i) Release all trout except anglers may retain up to 3 hatchery steelhead.

(ii) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(c) Selective gear rules apply.

(74) **Packwood Lake (Lewis County):**

(a) Closed: All inlet streams and the outlet from the log boom to the dam.

(b) Open the fourth Saturday in April through October 31.

(c) Selective gear rules apply.

(d) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(e) Trout: Minimum length 10 inches.

(75) **Plummer Lake (Lewis County):** Open the fourth Saturday in April through the last day in February.

(76) **Rainey Creek (Lewis County):**

(a) Open from the mouth to Highway 12.

(b) Trout limit 5; release cutthroat and rainbow trout, except it is permissible to retain rainbow trout that have a clipped adipose fin and a healed scar at the location of the clipped fin.

(77) **Riffe Lake (Reservoir) (Lewis County):**

(a) Open from Mossyrock Dam to Cowlitz Falls Dam, except closed from Cowlitz Falls Dam downstream to the Lewis County PUD safety signs located approximately 800 feet below the dam.

(b) It is permissible to fish up to the base of Swofford Pond Dam.

(c) Landlocked salmon rules apply.

(78) **Riffe Lake (Reservoir) tributaries (Lewis County)** (excluding Rainey Creek), including Sulphur, Simmons, Swigert, Shelton, Steel Canyon, Indian, Sand, Landers, Peterson, Goat, and Tumwater creeks: Statewide season, minimum size, and limits apply.

(79) **Rock Creek (Skamania County):**

(a) Open from the mouth to the falls at approximately river mile one.

(i) From the first Saturday in June through March 15.

(ii) Bass: No limit and no size restriction.

(iii) Channel catfish: No limit.

(iv) Trout:

(A) Release all trout except anglers may retain up to 3 hatchery steelhead.

(B) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(C) Barbless hooks are required for steelhead.

(v) Walleye: No limit and no size restriction.

(b) From the falls upstream to source/headwaters and all tributaries including Spring Creek, Hot Springs, Budweiser Creek, Forest Creek, Steep Creek, North Fork Rock Creek, and Snag Creek: Statewide seasons, minimum size, limits apply.

(80) **Salmon Creek (Clark County):** From the mouth to 182nd Avenue Bridge:

(a) Open the first Saturday in June through March 15.

(b) Bass: No limit and no size restriction.

(c) Channel catfish: No limit.

(d) Trout:

(i) Release all trout except anglers may retain up to 3 hatchery steelhead.

(ii) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

((~~e~~)) (e) Steelhead: Barbless hooks are required (~~for steelhead~~).

(f) Walleye: No limit and no size restriction.

(81) **Salmon Creek (Lewis County):**

(a) Release all fish except anglers may retain up to 3 hatchery trout.

(b) Release all trout except hatchery steelhead and hatchery cutthroat.

(c) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(d) Selective gear rules apply.

(82) **Silver Lake (Cowlitz County):** Crappie limit 10; minimum length 9 inches.

(83) **Silver Creek (tributary to Cowlitz River) (Lewis County):**

(a) Open from the mouth to USFS Road 4778.

(b) Selective gear rules apply.

(c) Trout: Minimum length 14 inches.

(84) **Skamokawa Creek (Wahkiakum County):**

(a) Open the first Saturday in June through August 31.

(b) Bass: No limit and no size restriction.

(c) Channel catfish: No limit.

(d) Walleye: No limit and no size restriction.

(e) Trout:

(i) Release all trout except anglers may retain up to 3 hatchery steelhead.

(ii) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

((e)) (f) Selective gear rules apply.

(85) Skate Creek (tributary to Cowlitz River) (Lewis County):

(a) Release all cutthroat.

(b) Selective gear rules apply.

(86) South Lewis County Park Pond (Lewis County): Closed the Monday before Thanksgiving Day through Thanksgiving Day.

(87) Spirit Lake (Skamania County): Closed.

(88) Stillwater Creek (Lewis County):

(a) Trout: Limit 3.

(i) Release all trout except hatchery steelhead and hatchery cutthroat.

(ii) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) Selective gear rules apply.

(89) Swift Reservoir (Skamania County):

(a) Open the first Saturday in June through November 30.

(b) Release all trout, except rainbow trout with a clipped adipose fin and a healed scar at the site of the clipped fin may be retained.

(c) From the posted markers approximately 3/8 mile below Eagle Cliff Bridge to the bridge: Selective gear rules apply.

(d) From the dam to the markers approximately 3/8 mile below Eagle Cliff Bridge: Trout limit 10 from September 1 through November 30.

(e) Salmon:

(i) Open the first Saturday in June through November 30.

(ii) Landlocked salmon rules apply.

(iii) Maximum length 15 inches.

(90) Swift Reservoir tributaries (Skamania County) including Ole, Swift, Worm, Diamond, Marble, Range, Drift, and Camp creeks: Selective gear rules apply.

(91) Swofford Pond (Lewis County): It is unlawful to fish from a floating device equipped with an internal combustion motor.

(92) Tilton River (Lewis County):

(a) Open year-round from the mouth to the West Fork.

(b) Barbless hooks are required for salmon and steelhead.

(c) First Saturday in June through July 31: Selective gear rules apply.

(d) September 1 through October 31: Anti-snagging rule applies and night closure in effect. When the anti-snagging rule is in effect, only fish hooked inside the mouth may be retained.

(e) Release all cutthroat.

(f) Salmon open August 1 through December 31:

(i) Minimum length 8 inches.

(ii) Limit 6; no more than 2 adult Chinook may be retained.

(iii) Release wild coho and wild Chinook.

(93) Tilton River, East, North, South and West Forks (Lewis County):

(a) Selective gear rules apply.

(b) Trout: Minimum length 12 inches.

(94) Toutle River (Cowlitz County): From the mouth to the forks, and the North Fork from the mouth to the posted deadline below the fish collection facility:

(a) Open the first Saturday in June through November 30.

(b) September 1 through October 15: Anti-snagging rule applies and night closure in effect on the North Fork from the confluence with the South Fork to the mouth of Green River.

(c) Barbless hooks are required for salmon and steelhead.

(d) Game fish:

(i) Release all fish except anglers may retain up to 3 hatchery steelhead.

(ii) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(e) Salmon open August 1 through November 30:

(i) Limit 6, no more than 2 may be adult Chinook.

(ii) Release chum, wild coho, and wild Chinook.

(95) Toutle River, South Fork (Cowlitz County):

(a) Release all fish except anglers may retain up to 3 hatchery steelhead.

(b) Trout:

(i) Barbless hooks are required for steelhead from August 1 through November 30.

(ii) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(c) From the mouth to 4700 Road Bridge:

(i) Open the last Saturday in May to the Friday before the first Saturday in June.

(ii) Selective gear rules apply.

(d) From the mouth to the 4100 Road Bridge:

(i) Open the first Saturday in June through March 15.

(ii) From December 1 through March 15 selective gear rules apply.

(e) From 4100 Road Bridge upstream to source: Open the first Saturday in June through November 30.

(96) Tunnel Lake (Skamania County): It is unlawful to retain more than 2 trout 20 inches or more in length.

(97) Vancouver Lake and all other waters west of Burlington Northern Railroad from the Columbia River drawbridge near Vancouver downstream to Lewis River (Clark County):

(a) Vancouver Lake flushing channel and the lake shoreline 400 feet east and west of the channel exit: Closed April 1 through May 31.

(b) Chumming is permissible.

(c) Trout: Release all trout except anglers may retain up to 2 hatchery steelhead.

(98) Walupt Lake (Lewis County):

(a) All inlet streams are closed.

(b) Open the fourth Saturday in April through October 31.

(c) Selective gear rules apply.

(d) Trout: Minimum length 10 inches.

(99) Washougal River (Clark County): From the mouth to the bridge at Salmon Falls:

(a) Closed from 1,000 feet (or posted markers) below to 200 feet above the temporary weir when the weir is installed in the river.

(b) Open the first Saturday in June through March 15.

(c) Barbless hooks are required for salmon and steelhead.

(d) Night closure in effect:

(i) Year-round from the mouth to Mount Norway Bridge.

(ii) August 1 through October 31 from Mount Norway Bridge upstream.

(e) Anti-snagging rule applies:

(i) July 1 through October 31 from the mouth to Mount Norway Bridge; and

(ii) August 1 through October 31 from Mount Norway Bridge upstream.

(iii) When the anti-snagging rule is in effect, only fish hooked inside the mouth may be retained.

(f) Bass: No limit and no size restriction.

(g) Channel catfish: No limit.

(h) Trout:

(i) Release all trout except anglers may retain up to 3 hatchery steelhead.

(ii) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

~~((g))~~ (i) Walleye: No limit and no size restriction.

~~(j)~~ Open from ~~((the mouth to Mount Norway Bridge))~~ April 16 through the Friday before the first Saturday in June:

(i) Selective gear rules apply.

(ii) Bass: No limit and no size restriction.

(iii) Channel catfish: No limit.

~~(iv)~~ Trout:

(A) Release all trout except anglers may retain up to 3 hatchery steelhead.

(B) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

~~((h))~~ (v) Walleye: No limit and no size restriction.

~~(k)~~ Salmon:

(i) Open August 1 through December 31.

(ii) Limit 6; no more than 2 adults may be hatchery Chinook.

(iii) Release chum, wild coho, and wild Chinook.

(100) Washougal River, West (North) Fork (Clark/Skamania counties):

(a) From the mouth to the water intake at the department hatchery: Closed.

(b) From the intake at the department hatchery to the source:

(i) Open the first Saturday in June through March 15.

(ii) Trout:

(A) Release all trout except anglers may retain up to 3 hatchery steelhead.

(B) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(iii) Barbless hooks are required for steelhead.

(101) Willame Lake (Lewis County):

(a) Open the fourth Saturday in April through October 31.

(b) Selective gear rules apply.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Trout: Limit 2; minimum length 15 inches.

(102) Wind River (Skamania County):

(a) From the mouth to 100 feet above Shipherd Falls:

(i) Barbless hooks are required for salmon and steelhead except from March 16 through June 30.

(ii) Closed from 400 feet below to 100 feet above Shipherd Falls fish ladder, including all tributaries.

(iii) March 16 through June 30: Night closure in effect.

(iv) March 16 through 31: Closed from the Highway 14 Bridge upstream.

(v) August 1 through October 31: Anti-snagging rule applies. When the anti-snagging rule is in effect, only fish hooked inside the mouth may be retained.

(vi) May 1 through June 30:

(A) Anti-snagging rule applies from the Highway 14 Bridge upstream. When the anti-snagging rule is in effect, only fish hooked inside the mouth may be retained.

(B) From the mouth to the Highway 14 Bridge, each angler aboard a vessel may deploy salmon/steelhead angling gear until the salmon/steelhead limit for all anglers aboard has been achieved and two-pole fishing for salmon/steelhead is permissible so long as the angler possesses a two-pole endorsement.

(C) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(vii) Open year-round.

(viii) Bass: No limit and no size restriction.

(ix) Channel catfish: No limit.

~~(x)~~ Trout:

(A) Open November 1 through March 15.

(B) Release all trout except anglers may retain up to 3 hatchery steelhead.

~~((i))~~ (xi) Salmon and steelhead:

(A) Open March 16 through July 31:

(I) Limit 2; no more than 2 salmon, or 2 hatchery steelhead, or one of each, may be retained.

(II) Release wild Chinook.

(B) Open August 1 through October 31:

(I) From the mouth to the Highway 14 Bridge, the limit and retention regulations for hatchery and wild fish follows the most liberal regulations of the mainstem Columbia and Wind rivers when both areas are open concurrently for salmon.

(II) Limit 6; up to 2 adults may be retained.

(III) Release wild coho and wild Chinook.

~~(xii)~~ Walleye: No limit and no size restriction.

(b) From 100 feet above Shipherd Falls to Moore Bridge:
(i) The following areas are closed: All tributaries; from 400 feet below to 100 feet above Coffey Dam.

(ii) From 100 feet above Shipherd Falls to 800 yards downstream from Carson National Fish Hatchery:

(A) Open September 16 through November 30:

(I) Catch and release only.

(II) Selective gear rules apply.

(B) Salmon and steelhead open May 1 through June 30:

(I) Limit 2; no more than 2 salmon, or 2 hatchery steelhead, or one of each, may be retained;

(II) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead;

(III) Anti-snagging rule applies;

- (IV) Only fish hooked inside the mouth may be retained;
- (V) Night closure in effect.

(iii) From 800 yards downstream from Carson National Fish Hatchery to Moore Bridge open September 16 through November 30:

- (A) Catch and release only.
- (B) Selective gear rules apply.

(103) **Winston Creek (tributary to Cowlitz River) (Lewis County):**

- (a) Selective gear rules apply.
- (b) Trout: Minimum length 10 inches.

(104) **Yale Reservoir (Cowlitz County):**

(a) Kokanee: Limit 16; kokanee do not count toward the trout limit.

- (b) Landlocked salmon rules apply.

(105) **Yale Reservoir tributaries (Cowlitz and Clark counties)** excluding Cougar Creek and including Dog, Dry, Siouxon and its tributaries including North Siouxon, West, Horseshoe, Wildcat, Chinook, and Calamity creeks: State-wide season, minimum size and limits apply.

(106) **Yellowjacket Creek (tributary to Cispus River) (Lewis County):**

- (a) Selective gear rules apply.
- (b) Trout: Minimum length 12 inches.

AMENDATORY SECTION (Amending WSR 15-13-081, filed 6/12/15, effective 7/13/15)

WAC 220-310-190 Freshwater exceptions to state-wide rules—Puget Sound. (1) Beaver ponds located within or adjacent to streams that drain into Puget Sound listed as open to trout and other game fish follow the same rules as the adjacent stream.

(2) **County-wide freshwater exceptions to statewide rules:**

(a) Beaver ponds in Kitsap County and Mason County on Tahuya Peninsula west of Belfair-Bremerton Highway (S.R. 3):

(i) Open the fourth Saturday in April through October 31.

- (ii) Trout: No minimum length.

(b) Beaver ponds in Kitsap County and Mason County east of Belfair-Bremerton Highway (S.R. 3):

- (i) Open the first Saturday in June through October 31.

- (ii) Trout: No minimum length.

(3) **Alder Lake (Thurston County):** Kokanee limit 10; kokanee do not count toward the trout daily limit. See also Nisqually River.

(4) **Aldrich Lake (Mason County):** ((a)) Open the fourth Saturday in April through October 31((:

~~(b) Trout: It is unlawful to retain more than 2 trout over 14 inches in length).~~

(5) **Alexander Lake (Kitsap County):** Closed.

(6) **All Creek (Skagit County) (Suittle River tributary):**

- (a) Open the first Saturday in June through October 31.
- (b) Selective gear rules apply.

(7) **Alma Creek (Skagit County):**

- (a) Open the first Saturday in June through October 31.
- (b) Selective gear rules apply.

(c) Release all fish except anglers may retain up to two hatchery steelhead.

(8) **American Lake (Pierce County):** ((a)) Chumming is permissible.

~~((b) Trout: It is unlawful to retain more than 2 trout over 14 inches in length except there are no size restrictions for kokanee.))~~

(9) **Anderson Creek (Kitsap County):**

- (a) Open the first Saturday in June through October 31.

- (b) Selective gear rules apply.

- (c) Catch and release only.

(10) **Anderson Creek (Whatcom County) (Nooksack River tributary):**

- (a) Open the first Saturday in June through October 31.

- (b) Selective gear rules apply.

(11) **Armstrong Lake (Snohomish County):** Open the fourth Saturday in April through October 31.

(12) **Bacon Creek (Skagit County):**

- (a) Open the first Saturday in June through October 31.

- (b) Selective gear rules apply.

(c) Release all fish except anglers may retain up to 2 hatchery steelhead.

(13) **Bacus Creek (Skagit County):**

- (a) Open the first Saturday in June through October 31.

- (b) Selective gear rules apply.

(14) **Bainbridge Island - All streams (Kitsap County):**

- (a) Open the first Saturday in June through October 31.

- (b) Selective gear rules apply.

- (c) Trout: Minimum size 14 inches.

(15) **Baker Lake (Whatcom County):**

- (a) Chumming is permissible.

(b) Closed waters within a two hundred foot radius around the pump discharge at the south end of the lake.

(c) Open the fourth Saturday in April through October 31:

(d) ~~((Trout))~~ Kokanee: Minimum length ~~((6))~~ 8 inches and maximum length 18 inches.

- (e) Salmon: Open July 10 through September 7.

- (i) Sockeye: Limit 4; minimum length 18 inches.

(ii) Each angler aboard a vessel may deploy salmon angling gear until the limit for all licensed and juvenile anglers aboard is reached.

(16) **Baker River (Skagit County):**

- (a) From the mouth to Highway 20 Bridge:

- (i) Open September 1 through October 31.

- (ii) Night closure in effect.

- (iii) Anti-snagging rule applies.

(iv) Trout: Minimum length 14 inches, except anglers may retain Dolly Varden/Bull trout with a minimum length of 20 inches as part of the trout limit.

(b) From the Highway 20 Bridge to the Baker River fish barrier dam: Closed.

(c) From the Baker River fish barrier dam to the headwaters to Shannon and Baker lakes, including tributaries and their tributaries, except Channel Creek: Open the first Saturday in June through October 31.

(17) **Barnaby Slough (Skagit County):** Closed.

(18) ~~((Bay Lake (Pierce County): Open the fourth Saturday in April through October 31.~~

~~(19))~~ **Beaver Creek (Pierce County) (South Prairie Creek tributary):** Open the first Saturday in June through October 31.

~~((20))~~ **(19) Beaver Creek (Thurston County) from the mouth to I-5:**

- (a) Open the first Saturday in June through October 31.
- (b) Selective gear rules apply.
- (c) Night closure in effect.

(d) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

~~((21))~~ **(20) Beaver Lake (King County):** Trout: No more than 2 over 15 inches in length.

~~((22))~~ **(21) Benson Lake (Mason County):** ~~((a))~~ Open the fourth Saturday in April through October 31.

~~((b))~~ Trout: It is unlawful to retain more than 2 over 14 inches in length.

~~(23))~~ **(22) Bertrand Creek (Whatcom County) (Nooksack River tributary):**

- (a) Open the first Saturday in June through October 31.
- (b) Selective gear rules apply.

~~((24))~~ **(23) Big Bear Creek (tributary of Sammamish River) (Snohomish/King counties):** Open the first Saturday in June through August 31 to juvenile anglers only.

~~((25))~~ **(24) Big Beaver Creek (Whatcom County), from 1/4 mile upstream of the closed water markers on Ross Lake upstream, including tributary streams and beaver ponds:**

- (a) Open July 1 through October 31.
- (b) Selective gear rules apply.
- (c) Catch and release only.

~~((26))~~ **(25) Big Beef Creek (Kitsap County):**

(a) From Seabeck Highway Bridge to Lake Symington:

- (i) Open the first Saturday in June through August 31.
- (ii) Selective gear rules apply.

(iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iv) Catch and release only.

(v) August 1 through August 31: Closed within 100 feet of the Seabeck Highway N.W. Bridge.

(b) From Lake Symington upstream:

- (i) Open the first Saturday in June through October 31.
- (ii) Selective gear rules apply.
- (iii) Trout: Catch and release only.

~~((27))~~ **(26) Big Creek (Skagit County) (Suiattle River tributary):**

(a) From TeePee Falls to the source: Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

~~((28))~~ **Big Lake (Skagit County):**

(a) Crappie: Limit 10; minimum length 9 inches.

(b) Salmon: Landlocked salmon rules apply.

~~(29))~~ **(27) Big Mission Creek (Mason County):**

- (a) Open the first Saturday in June through October 31.
- (b) Selective gear rules apply.
- (c) Catch and release only.

~~((30))~~ **(28) Big Quilcene River (Jefferson County):**

(a) From the mouth to Rodgers Street:

(i) Open the first Saturday in June through August 15.

(ii) Selective gear rules apply.

(iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iv) Catch and release only.

(b) From Rodgers Street to the Highway 101 Bridge:

(i) Open the first Saturday in June through October 31.

(ii) Catch and release only.

(iii) From the first Saturday in June through August 15:

(A) Selective gear rules apply.

(B) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iv) August 16 through October 31:

(A) Night closure in effect.

(B) Single-point barbless hooks are required.

(v) Salmon:

(A) Open August 16 through October 31.

(B) Limit 4 coho only; only coho hooked inside the mouth may be retained.

(c) From the electric weir at Quilcene National Fish Hatchery to the upper boundary of Falls View campground:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply.

(iii) Catch and release only.

(d) From the upper boundary of Falls View campground upstream: Open the Saturday before Memorial Day through October 31.

(29) Big Scandia Creek (Kitsap County):

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Trout: Minimum size 14 inches.

~~((31))~~ **(30) Big Soos Creek (King County):** From the mouth to the hatchery rack:

(a) Open the first Saturday in June through August 31.

(b) Trout: Minimum length 14 inches.

~~((32))~~ **(31) Bingham Creek (Mason County) (Satsop River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

~~((33))~~ **(32) Black Creek (Snohomish County) (South Fork Stillaguamish River tributary):** Open the Saturday before Memorial Day through October 31 from the Bear Creek confluence upstream.

~~((34))~~ **(33) Black Lake (Thurston County):** ~~((a))~~ Crappie: Limit 10; minimum length 9 inches.

~~((b))~~ Trout: It is unlawful to retain more than 2 trout over 14 inches in length.

~~((35))~~ **(34) Black Lake Ditch (Thurston County):** ~~((a))~~ Open the first Saturday in June through October 31) From the confluence with Percival Creek upstream to Black Lake.

~~((b))~~ (a) Selective gear rules apply.

(b) Open the first Saturday in June through October 31.

(c) Trout: Minimum size 14 inches.

(d) Open November 1 through the first Friday in June: Catch and release only.

~~((36))~~ **(35) Blackjack Creek (Kitsap County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Trout: Minimum size 14 inches.

~~((37))~~ **(36) Blackman's Lake (Snohomish County):**

Trout limit (3) 5; no more than 2 over 15 inches in length.

~~((38))~~ (37) **Blooms Ditch (Thurston County) (Black River tributary):** From the mouth to I-5:

- (a) Open the first Saturday in June through October 31.
- (b) Selective gear rules apply.
- (c) Night closure in effect.
- (d) Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

~~((39))~~ (38) **Boise Creek (King County) (White River tributary):** Open the first Saturday in June through October 31 upstream of the Highway 410 crossing.~~((40))~~ (39) **Bosworth Lake (Snohomish County):** Open the fourth Saturday in April through October 31.~~((41))~~ (40) **Boulder Creek (Skagit County) (Cascade River tributary):**

- (a) Open the first Saturday in June through October 31.
- (b) Selective gear rules apply.
- (c) Catch and release only.

~~((42))~~ (41) **Boulder River (Snohomish County) (N.F. Stillaguamish River tributary):**

- (a) From the mouth to Boulder Falls:
 - (i) Open the first Saturday in June through October 31.
 - (ii) Selective gear rules apply.
 - (iii) Release all fish except anglers may retain up to 2 hatchery steelhead.
- (b) From Boulder Falls upstream: Open the Saturday before Memorial Day through October 31.

~~((43))~~ (42) **Boxley Creek (North Bend, King County) (Tributary to the South Fork Snoqualmie River):** Open the Saturday before Memorial Day through October 31 upstream from the falls located approximately at river mile 0.9.~~((44))~~ (43) **Boyle Lake (King County):**

- (a) Open the fourth Saturday in April through October 31.

- (b) The inlet and outlet streams to Boyle Lake are closed.

~~((45))~~ (44) **Bradley Lake (Pierce County):**

- (a) Open May 15 through the last day of free fishing weekend, as defined in WAC 220-55-160, to juvenile anglers only.

- (b) Salmon: Landlocked salmon rules apply.

~~((46))~~ (45) **Bridges Lake (King County):**

- (a) Open the fourth Saturday in April through October 31.

- (b) The inlet and outlet streams to Bridges Lake are closed.

~~((47))~~ (46) **Buck Creek (Skagit County) (Suiattle River tributary):**

- (a) Open the first Saturday in June through October 31 from the upstream boundary of Buck Creek campground.

- (b) Selective gear rules apply.

~~((48))~~ (47) **Buck Lake (Kitsap County):** ~~((+))~~ Open the fourth Saturday in April through October 31.

- ~~((b))~~ Trout: It is unlawful to retain more than 2 trout over 14 inches in length.

~~((49))~~ (48) **Burley Creek (Kitsap County):**

- (a) Open the first Saturday in June through October 31.
- (b) Selective gear rules apply.
- (c) Trout: Minimum length 14 inches.

~~((50))~~ **Cadet Creek (Snohomish County) (Sauk River tributary):**

- ~~((a))~~ Open the first Saturday in June through October 31.

- ~~((b))~~ Selective gear rules apply.

~~((51))~~ (49) **Cady Lake (Mason County):**

- (a) Open to fly fishing only.

- (b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

- (c) Catch and release only.

~~((52))~~ (50) **Cain Lake (Whatcom County):** Open the fourth Saturday in April through October 31.~~((53))~~ (51) **California Creek (Whatcom County):**

- (a) Open the first Saturday in June through October 31.

- (b) Selective gear rules apply.

~~((54))~~ (52) **Calligan Lake (King County):**

- (a) Open June 1 through October 31.

- (b) All tributary streams and the upper third of the outlet are closed.

- (c) It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.

~~((55))~~ (53) **Camp Creek (Snohomish County) (Whittechuck River tributary):**

- (a) Open the first Saturday in June through October 31.

- (b) Selective gear rules apply.

~~((56))~~ (54) **Campbell Creek (Mason County):**

- (a) Open the first Saturday in June through October 31.

- (b) Selective gear rules apply.

- (c) Trout: Catch and release only.

~~((57))~~ (55) **Campbell Lake (Skagit County):** ~~((Crap))~~ ~~pie limit ten; minimum length 9 inches.~~~~((58))~~ (56) **Grass carp:** No limit for anglers and bow and arrow fishing.(56) **Canyon Creek (Snohomish County) (Suiattle River tributary):**

- (a) Open the first Saturday in June through October 31.

- (b) Selective gear rules apply.

~~((59))~~ (57) **Canyon Creek (Snohomish County) (S.F. Stillaguamish River):**

- (a) Open the first Saturday in June through January 31 from the mouth to the forks.

- (b) Selective gear rules apply.

- (c) Release all fish except anglers may retain up to 2 hatchery steelhead.

~~((60))~~ (58) **Canyon Creek (Whatcom County) (North Fork Nooksack River):**

- (a) Open the Saturday before Memorial Day through October 31 from Canyon Creek Road Bridge upstream, including tributaries.

- (b) Selective gear rules apply.

~~((61))~~ (59) **Capitol Lake (Thurston County):** Closed.~~((62))~~ (60) **Carbon River (Pierce County):**

- (a) From the mouth to Voight Creek:

- (i) Open September 1 through January 15.

- (ii) From September 1 through November 30: Night closure in effect and anti-snagging rule applies.

- (iii) Trout:

- (A) September 1 through November 30: Minimum length 14 inches.

- (B) From December 1 through January 15:

- (I) Selective gear rules apply.

(II) Release all fish except anglers may retain up to 2 hatchery steelhead.

(iv) Salmon:

(A) Open September 1 through November 30.

(B) Limit 6 fish of which no more than 4 may be adult salmon and, of the 4 adults, no more than 2 may be adult hatchery Chinook.

(C) Release chum and wild adult Chinook salmon.

(b) From Voight Creek to the Highway 162 Bridge:

(i) Open from November 1 through January 15.

(ii) Selective gear rules apply.

(iii) Release all fish except anglers may retain up to 2 hatchery steelhead.

~~((63))~~ **(61) Carney Lake (Pierce County):**

(a) Open the fourth Saturday in April through June 30 and September 1 through November 30.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) ~~(Trout: It is unlawful to retain more than 2 trout over 14 inches in length.~~

~~(d))~~ Salmon: Landlocked salmon rules apply.

~~((64))~~ **(62) Carson Lake (Mason County):** Open the fourth Saturday in April through October 31.

~~((65))~~ **(63) Cascade Creek (San Juan County):**

(a) Open the first Saturday in June through October 31 from the mouth to Cascade Lake.

(b) Selective gear rules apply.

(c) Release all fish except anglers may retain ~~((up to 10))~~ eastern brook trout.

~~((66))~~ **(64) Cascade Lake (San Juan County):** Open the fourth Saturday in April through October 31.

~~((67))~~ **(65) Cascade River (Skagit County):**

(a) From the mouth to the Rockport-Cascade Road Bridge:

(i) Open June 1 through July 15 and September 16 through ~~((February 15))~~ January 31:

(A) Anti-snagging rule applies and night closure in effect June 1 through July 15 and September 16 through November 30.

(B) Trout: Limit 2; minimum length 14 inches~~((; except))~~. Anglers may retain Dolly Varden/Bull trout with a minimum length of 20 inches as part of the trout limit.

(ii) Salmon:

(A) Open June 1 through July 15:

(I) Up to 4 hatchery Chinook may be retained; only 2 hatchery Chinook may be adults.

(II) Release all other salmon.

(B) Open September 16 through November 30:

(I) Up to 4 coho may be retained.

(II) Release all other salmon.

(b) From the Rockport-Cascade Road Bridge upstream:

(i) Open the first Saturday in June through January 31.

(ii) Selective gear rules apply.

(iii) Release all fish except anglers may retain up to 2 hatchery steelhead.

~~((68) Cassidy Lake (Snohomish County):~~ Crappie limit 10; minimum length 9 inches.

~~((69))~~ **(66) Cavanaugh Creek (Whatcom County) and all tributaries:** Open the Saturday before Memorial Day through October 31 upstream from where Cavanaugh Creek

first flows into Whatcom County, 0.4 lineal miles from its confluence with the South Fork Nooksack River.

~~((70))~~ **(67) Cavanaugh Lake (Skagit County):** Chumming is permissible.

~~((71))~~ **(68) Cayada Creek (Pierce County) (Carbon River tributary):** Open the first Saturday in June through October 31.

~~((72))~~ **(69) Cedar Creek (Mason County):** Open the ~~((first))~~ Saturday ~~((in June))~~ before Memorial Day through October 31.

~~((73))~~ **(70) Cedar River (King County):**

(a) Open the first Saturday in June through August 31 from the mouth to Landsburg Road.

(b) Selective gear rules apply and night closure.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Trout: Catch and release only.

~~((74))~~ **(71) Chain Lake (Snohomish County):**

(a) Selective gear rules apply.

(b) Trout: Limit 2; minimum length 14 inches.

(72) Chambers Creek (Pierce County):

(a) From the mouth (Burlington Northern Bridge) to the markers 400 feet below the Boise-Cascade Dam (Pierce County):

(i) Selective gear rules apply, except bait is permissible September 1 through October 15.

(ii) Open July 1 through November 15 for game fish and salmon.

((iii)) (iii) Night closure in effect and anti-snagging rule applies.

((iii)) (iv) Trout: ((Minimum length 14 inches)) Catch and release.

~~((iv))~~ **(v) Salmon:**

(A) Limit 6 fish of which no more than 4 may be adult salmon.

(B) Release wild coho.

(b) From Boise-Cascade Dam to Steilacoom Lake:

(i) Open July 1 through October 31.

(ii) Night closure in effect and selective gear rules apply.

(iii) Trout: Minimum size 14 inches.

~~((75))~~ **(73) Chambers Lake (within Ft. Lewis Military Reservation) (Pierce County):**

(a) Selective gear rules apply.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Trout: Catch and release only.

~~((76))~~ **(74) Channel Creek (Skagit County) (Baker River tributary):** Open the first Saturday in June through August 31.

~~((77))~~ **(75) Chaplain Creek (Snohomish County) (Sultan River tributary):**

(a) Above the falls near the mouth to the inlet to the beaver pond (Grass Lake) below the water filtration plant gate, including tributaries and beaver ponds: Open the Saturday before Memorial Day through October 31 ~~((above the falls near the mouth to the dam at Chapman Lake, including tributaries and beaver ponds.~~

~~((78))~~

(b) Waters adjacent to the water filtration plant, from the inlet to the beaver pond (Grass Lake) below the water filtra-

tion plant gate to the waterfall approximately .4 miles upstream: Closed.

(c) Above the waterfall located approximately .4 miles upstream of the water filtration plant gate, including tributaries and beaver ponds: Open the Saturday before Memorial Day through October 31.

(76) **Chaplain Lake (Snohomish County):** Closed.

~~((79))~~ (77) **Cherry Creek (King/Snohomish County) (tributary to the Snoqualmie River):** Open the Saturday before Memorial Day through October 31 above Cherry Creek Falls (located at river mile 9.3, approximately 1 mile upstream of Stossel/Kelly Rd), including all tributaries and beaver ponds.

~~((80))~~ (78) **Chilliwack River (Whatcom County):** Open the first Saturday in June through October 31, including all tributaries and their tributaries.

~~((81))~~ (79) **Church Creek (Mason County):** Open the ~~((first))~~ Saturday ~~((in June))~~ before Memorial Day through October 31 upstream of the bridge on U.S. Forest Service Road #2361.

~~((82))~~ (80) **Clara Lake (also known as "Don Lake") (Mason County):** ~~((+))~~ Open the fourth Saturday in April through October 31.

~~((b))~~ Trout: It is unlawful to retain more than 2 over 14 inches in length.

~~(83))~~ (81) **Clarks Creek (Pierce County):**

(a) Open the first Saturday in June through August 15 from the mouth to 12th Avenue S.W.

(b) Selective gear rules apply.

(c) Trout: Limit 2; minimum length 14 inches.

~~((84))~~ (82) **Clear Creek (Snohomish County) (Sauk River tributary):** Open the ~~((first))~~ Saturday ~~((in June))~~ before Memorial Day through October 31 from Asbestos Creek Falls.

~~((85))~~ (83) **Clear Lake (Pierce County):**

(a) Open the fourth Saturday in April through October 31.

(b) Chumming is permissible.

(c) ~~((Trout: It is unlawful to retain more than 2 trout over 14 inches in length, except there are))~~ Kokanee: Limit 10; no size restrictions ~~((for kokanee))~~.

(d) Salmon: Landlocked salmon rules apply.

~~((86))~~ (84) **Clear Lake (Thurston County):** ~~((+))~~ Open the fourth Saturday in April through October 31.

~~((b))~~ Trout: It is unlawful to retain more than 2 over 14 inches in length, except there are no size restrictions for kokanee.

~~(87))~~ (85) **Clearwater River (Pierce County):**

(a) Open July 1 through October 31.

(b) Selective gear rules apply.

(c) Trout: Minimum length 14 inches.

~~((88))~~ (86) **Clover Creek (Pierce County):**

(a) Open July 1 through October 31 upstream of Steila-coom Lake, including all tributaries.

(b) Selective gear rules apply.

(c) Trout: Minimum length 14 inches.

~~((89))~~ (87) **Coal Creek (tributary of Lake Washington) (King County):** Open the first Saturday in June through August 31 to juvenile anglers only.

~~((90))~~ (88) **Coal Creek (near Snoqualmie) (King County):**

(a) From the mouth to Highway I-90:

(i) Open the fourth Saturday in April through October 31 to juvenile anglers only.

(ii) Trout: No minimum length.

(b) From Highway I-90 upstream: Open the Saturday before Memorial Day through October 31.

~~((91))~~ ~~Collins Lake (Mason County):~~ Open the fourth Saturday in April through October 31.

~~(92))~~ (89) **Copper Creek (Snohomish County) (Clear Creek tributary, a tributary of Sauk River):** Open the ~~((first))~~ Saturday ~~((in June))~~ before Memorial Day through October 31.

~~((93))~~ (90) **Cottage Lake (King County):** Open the fourth Saturday in April through October 31.

~~((94))~~ (91) **Coulter Creek (Kitsap/Mason counties):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Trout: Catch and release only.

~~((95))~~ (92) **County Line Ponds (Skagit County):** Closed.

~~((96))~~ (93) **Crabapple Lake (Snohomish County):** Open the fourth Saturday in April through October 31.

~~((97))~~ (94) **Cranberry Creek (Mason County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Trout: Catch and release only.

~~((98))~~ (95) **Crescent Creek (Kitsap County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Trout: Minimum size 14 inches.

~~((99))~~ (96) **Crescent Lake (Pierce County):** ~~((+))~~ Open the fourth Saturday in April through October 31.

~~((b))~~ Trout: It is unlawful to retain more than 2 trout over 14 inches in length.

~~(100))~~ (97) **Cumberland Creek (Whatcom County):**

Open the Saturday before Memorial Day through October 31 upstream from the USFS 17 Road Bridge located 0.7 lineal miles from its confluence with the Skagit River, including all tributaries.

~~((101))~~ (98) **Dakota Creek (Whatcom County):**

(a) Open the first Saturday in June through December 31 from the mouth to Giles Road Bridge.

(b) Selective gear rules apply.

(c) Salmon:

(i) Open October 1 through December 31.

(ii) Limit 2 salmon.

(iii) Release wild Chinook.

~~((102))~~ ~~Dan's Creek (Snohomish County) (Sauk River tributary):~~

~~(a) Open the first Saturday in June through October 31.~~

~~(b) Selective gear rules apply.~~

~~(c) Release all fish except anglers may retain up to 2 hatchery steelhead.~~

~~(103))~~ (99) **De Coursey Pond (Pierce County):**

(a) Open the fourth Saturday in April through November 30 to juvenile anglers only.

(b) Salmon: Landlocked salmon rules apply.

~~((104))~~ **(100) Decker Creek (Mason County) (Satsop River tributary):**

- (a) Open the first Saturday in June through October 31.
- (b) Selective gear rules apply.

~~((105))~~ **~~Deep Lake (Thurston County):~~**

~~(a) Open the fourth Saturday in April through October 31.~~

~~(b) Trout: It is unlawful to retain more than 2 trout over 14 inches in length.~~

~~((106))~~ **(101) Deer Creek (Mason County):**

- (a) Open the first Saturday in June through October 31.
- (b) Selective gear rules apply.
- (c) Trout: Catch and release only.

~~((107))~~ **(102) Deer Lake (Island County):** Open the fourth Saturday in April through October 31.

~~((108))~~ **(103) Deer Lake (Mason County):** Open the fourth Saturday in April through October 31.

~~((109))~~ **(104) Dempsey Creek (Thurston County) (Black River tributary):**

- (a) Open the first Saturday in June through October 31.
- (b) Selective gear rules apply.

~~((110))~~ **(105) Deschutes River (Thurston County):**

(a) From Old Highway 99 Bridge near Tumwater to Henderson Boulevard Bridge near Pioneer Park:

(i) Selective gear rules apply, except bait is allowed September 1 through October 15.

(ii) Trout: Open year-round; catch and release only.

(iii) All other game fish: Open the first Saturday in June through October 15.

(iv) Salmon:

(A) Open July 1 through October 15.

(B) Limit 6; no more than 2 adult salmon may be retained.

(C) Release coho.

(b) From Henderson Boulevard Bridge upstream:

(i) Open year-round.

(ii) Selective gear rules apply.

(iii) Trout: Catch and release only.

(iv) Salmon:

(A) Open July 1 through October 15.

(B) Limit 6; no more than 2 adult salmon may be retained.

(C) Release coho.

~~((111))~~ **(106) Devereaux Lake (Mason County):**
~~((a))~~ Open the fourth Saturday in April through October 31.

~~((b))~~ Trout: It is unlawful to retain more than 2 trout over 14 inches in length, except there are no size restrictions for kokanee.

~~((112))~~ **(107) Dewatto River (Mason County):**

(a) From the mouth to Dewatto-Holly Road Bridge:

(i) Open the first Saturday in June through August 15 and October 1 through October 31.

(ii) Selective gear rules apply.

(iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iv) October 1 through October 31: Night closure in effect.

(v) Game fish: Catch and release only.

(vi) Salmon:

(A) Open October 1 through October 31.

(B) Limit 2 coho.

(b) From Dewatto-Holly Road Bridge upstream:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply.

(iii) Catch and release only.

~~((113))~~ **(108) Diobsud Creek (Skagit County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Release all fish except anglers may retain up to 2 hatchery steelhead.

~~((114))~~ **(109) Dogfish Creek (Kitsap County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Trout: Minimum size 14 inches.

~~((115))~~ **(110) Dosewallips River (Jefferson County):**

(a) From the mouth to Highway 101 Bridge:

(i) Open the first Saturday in June through August 31.

(ii) Selective gear rules apply.

(iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iv) Release all gamefish.

(v) Salmon:

(A) Open November 1 through December 15.

(B) Limit 2 chum only.

(b) From Highway 101 Bridge to Olympic National Park boundary about three-quarters of a mile downstream of the falls:

(i) Open the first Saturday in June through August 31.

(ii) Selective gear rules apply.

(iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iv) Release all gamefish.

~~((116))~~ **(111) Downey Creek (Snohomish County) (Suiattle River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

~~((117))~~ **(112) Duckabush River (Jefferson County):**

(a) From the mouth to Mason County PUD #1 overhead distribution line:

(i) Open the first Saturday in June through August 31.

(ii) Selective gear rules apply.

(iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iv) Release all game fish.

(v) Salmon:

(A) Open November 1 through December 15.

(B) Limit 2 chum only.

(b) From Mason County PUD #1 overhead distribution line to the Olympic National Park boundary:

(i) Open the first Saturday in June through August 31.

(ii) Selective gear rules apply.

(iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iv) Catch and release only.

~~((118))~~ **(113) Dyes Inlet (Kitsap County):**

(a) Open the first Saturday in June through October 31 for all streams.

(b) Selective gear rules apply.

(c) Trout: Minimum size 14 inches.

~~((119))~~ (114) Eaton Creek (Thurston County) (Lake St. Clair tributary):

- (a) Open the first Saturday in June through October 31.
(b) Selective gear rules apply.

~~((120))~~ (115) Echo Lake (Snohomish County): Open the fourth Saturday in April through October 31.

~~((121))~~ (116) Eglon Creek (Kitsap County):

- (a) Open the first Saturday in June through October 31.
(b) Selective gear rules apply.
(c) Trout: Minimum size 14 inches.

~~((122) Elliot Creek (Snohomish County) (Sauk River tributary):~~

- ~~(a) Open the first Saturday in June through October 31.
(b) Selective gear rules apply.~~

~~(123))~~ (117) Erie Lake (Skagit County): Open the fourth Saturday in April through October 31.

~~((124))~~ (118) Evans Creek (Pierce County) (Carbon River tributary): Open the first Saturday in June through October 31 from Carbon River Fairfax Road upstream.

~~((125))~~ (119) Falls Creek (Snohomish County) (Sauk River tributary): ~~((a))~~ From the falls located 0.4 mile upstream from the mouth to the headwaters: Open the ~~((first))~~ Saturday ~~((in June))~~ before Memorial Day through October 31.

- ~~((b) Selective gear rules apply.~~

~~(126))~~ (120) Fazon Lake (Whatcom County):

- (a) It is unlawful to fish from any floating device from the first Friday in October through January 27.
(b) Channel catfish: Limit 2.

~~((127))~~ (121) Finch Creek (Mason County): Anglers with disabilities who permanently use a wheelchair and possess a designated harvester companion card may fish from the ADA accessible site at the Hoodspout Salmon Hatchery, so long as those anglers follow all applicable rules of the adjoining waters of Marine Area 12.

~~((128))~~ (122) Finney Creek (Skagit County) including all tributaries from upstream of the USFS 17 road bridge: Open the Saturday before Memorial Day through October 31.

(123) Fisher Slough (Snohomish County):

- (a) Open the first Saturday in June through October 31 from the mouth to the I-5 Bridge.
(b) Trout: Minimum length 14 inches.

~~((129))~~ (124) Fishtrap Creek (Whatcom County): Open from Kok Road to Bender Road from the first Saturday in June through October 31 for juvenile anglers only.

~~((130))~~ (125) Fiske Creek (Pierce County) (Puyallup River tributary): Open upstream from Fiske Road from the first Saturday in June through October 31.

~~((131))~~ (126) Fortson Mill Pond #2 (Snohomish County): Open the fourth Saturday in April through October 31 for juvenile anglers only.

~~((132))~~ (127) Found Creek (Skagit County) (Cascade River tributary):

- (a) Open the first Saturday in June through October 31.
(b) Selective gear rules apply.
(c) Catch and release only.

~~((133))~~ (128) Fox Creek (Pierce County) (Puyallup River tributary): Open upstream from Fiske Road from the first Saturday in June through October 31.

~~((134))~~ (129) Friday Creek (Whatcom County) (Samish River tributary):

- (a) Open the first Saturday in June through October 31.
(b) Selective gear rules apply.

~~((135))~~ (130) Fulton Creek (Mason County):

- (a) From the mouth to falls at river mile 0.8:
(i) Open the first Saturday in June through October 31.
(ii) Selective gear rules apply.
(iii) Catch and release only.

~~((first))~~ Saturday ~~((in June))~~ before Memorial Day through October 31.

~~((136))~~ (131) Gale Creek (Pierce County) (South Prairie Creek tributary): Open upstream of the confluence with Wilkeson Creek from the first Saturday in June through October 31.

~~((137))~~ (132) Gamble Creek (Kitsap County):

- (a) Open the first Saturday in June through October 31.
(b) Selective gear rules apply.
(c) Catch and release only.

~~((138))~~ (133) Geneva Lake (King County): Open the fourth Saturday in April through October 31.

~~((139))~~ (134) Gissberg Pond, North (Snohomish County): Open for juvenile anglers only.

~~((140))~~ (135) Gissberg Ponds (Snohomish County): Channel catfish limit 2; no minimum size.

~~((141))~~ (136) Goldsborough Creek (Mason County):

- (a) Open the first Saturday in June through October 31.
(b) Selective gear rules apply.
(c) Trout: Catch and release only.

~~((142))~~ (137) Goodell Creek (Skagit County):

- (a) Open the first Saturday in June through October 31.
(b) Selective gear rules apply.
(c) Release all fish except anglers may retain up to 2 hatchery steelhead.

~~((143))~~ (138) Goodman Creek (Skagit County) above the Mountain Loop Highway: Open Saturday before Memorial Day through October 31.

(139) Goodwin Lake (Snohomish County): Chumming is permissible.

~~((144))~~ (140) Goss Lake (Island County): Open the fourth Saturday in April through October 31.

~~((145))~~ (141) Grade Creek (Snohomish County) (Suiattle River tributary):

- (a) Open the first Saturday in June through October 31.
(b) Selective gear rules apply.

~~((146))~~ (142) Granite Lakes (near Marblemount) (Skagit County): Grayling: Catch and release only.

~~((147))~~ (143) Grass Lake (Mason County): Open the fourth Saturday in April through October 31.

~~((148))~~ (144) Green (Duwamish) River (King County):

- (a) From the First Avenue South Bridge to Tukwila International Boulevard/Old Highway 99:
(i) September 1 through November 30:
(A) Anti-snagging rule applies.
(B) Night closure in effect.
(ii) November 1 through January 15: It is unlawful to fish from any floating device.

(iii) Open the first Saturday in June through July 31 and September 1 through January 15: Trout minimum length 14 inches.

(iv) In years ending in odd numbers, open for game fish and salmon August 20 through August 31:

- (A) Anti-snagging rule applies.
- (B) Night closure in effect.
- (C) It is unlawful to use bait.

(D) It is unlawful to use anything other than one single-point hook measuring 1/2 inch or less from point to shank.

(E) Trout: Minimum length 14 inches.

(v) Salmon:

(A) In years ending in odd numbers:

(I) Open August 20 through December 31.

(II) Limit 6 salmon of which no more than 3 may be any combination of adult coho and adult chum.

(III) Release Chinook.

(B) In years ending in even numbers:

(I) Open September 1 through December 31.

(II) Limit 6; no more than 3 adults may be retained.

(III) Release Chinook.

(b) From Tukwila International Boulevard/Old Highway 99 to the Interstate 405 Bridge:

(i) September 1 through November 30:

- (A) Anti-snagging rule applies.
- (B) Night closure in effect.

(ii) In years ending in odd numbers: Open for salmon and gamefish August 20 through August 31:

- (A) Anti-snagging rule applies.
- (B) Night closure in effect.
- (C) It is unlawful to use bait.

(D) It is unlawful to use anything other than one single-point hook measuring 1/2 inch or less from point to shank.

(E) Trout: Minimum length 14 inches.

(iii) November 1 through January 15: It is unlawful to fish from any floating device.

(iv) Open the first Saturday in June through July 31 and September 1 through January 15; trout minimum length 14 inches.

(v) In years ending in odd numbers, open for gamefish and salmon August 20 through December 31.

(vi) Salmon:

(A) In years ending in odd numbers:

(I) Open August 20 through December 31.

(II) Limit 6 salmon; no more than 3 may be any combination of adult coho and adult chum.

(III) Release Chinook.

(B) In years ending in even numbers:

(I) Open September 1 through December 31.

(II) Limit 6; only 3 adults may be retained.

(III) Release Chinook.

(c) From the Interstate 405 Bridge to South 277th Street Bridge in Auburn:

(i) October 1 through November 30:

- (A) Anti-snagging rule applies.
- (B) Night closure in effect.

(ii) November 1 through January 15: It is unlawful to fish from any floating device.

(iii) Open the first Saturday in June through July 31 and October 1 through January 15: Trout minimum length 14 inches.

(iv) In years ending in odd numbers, open for game fish and salmon September 1 through September 30:

- (A) Night closure in effect.
- (B) Anti-snagging rule applies.
- (C) It is unlawful to use bait.

(D) It is unlawful to use anything other than one single-point hook measuring 1/2 inch or less from point to shank.

(E) Trout: Minimum length 14 inches.

(v) Salmon:

(A) In years ending in odd numbers:

(I) Open September 1 through December 31.

(II) Limit 6; no more than 3 may be any combination of adult coho and adult chum.

(III) Release Chinook.

(B) In years ending in even numbers:

(I) Open October 1 through December 31.

(II) Limit 6; only 3 adults may be retained.

(III) Release Chinook.

(d) From the 277th Street Bridge to Auburn-Black Diamond Road Bridge:

(i) October 16 through November 30:

- (A) Anti-snagging rule applies.
- (B) Night closure in effect.

(ii) November 1 through January 31: It is unlawful to fish from a floating device.

(iii) Open the first Saturday in June through August 15 and October 16 through January 31; trout minimum length 14 inches.

(iv) In years ending in odd numbers, open for game fish and salmon September 16 through October 15:

- (A) Anti-snagging rule applies.
- (B) Night closure in effect.
- (C) It is unlawful to use bait.

(D) It is unlawful to use anything other than one single-point hook measuring 1/2 inch or less from point to shank.

(E) Trout: Minimum length 14 inches.

(v) Salmon:

(A) In years ending in odd numbers:

(I) Open September 16 through December 31.

(II) Limit 6; no more than 3 may be any combination of adult coho and adult chum.

(III) Release Chinook.

(B) In years ending in even numbers:

(I) Open October 16 through December 31.

(II) Limit 6; only 3 adults may be retained.

(III) Release Chinook.

(e) From the Auburn-Black Diamond Road Bridge to the mouth of Crisy Creek at Flaming Geyser State Park:

(i) Closed waters within 150 feet of the mouth of Keta (Crisp) Creek.

(ii) August 1 through September 15 and November 1 through November 30:

- (A) Anti-snagging rule applies.
- (B) Night closure in effect.

(iii) Open the first Saturday in June through September 15 and November 1 through January 31; trout minimum length 14 inches.

- (iv) Salmon open November 1 through December 31.
 (A) In years ending in odd numbers:
 (I) Limit 6; no more than 3 may be any combination of adult coho and adult chum.
 (II) Release Chinook.
 (B) In years ending in even numbers:
 (I) Limit 6; only 3 adults may be retained.
 (II) Release Chinook.
 (f) From the mouth of Cristy Creek at Flaming Geyser State Park to the water pipeline walk bridge (1/2 mile downstream of Tacoma Headworks Dam):
 (i) Closed waters within 150 feet of the Palmer Pond outlet rack.
 (ii) August 1 through November 30:
 (A) Anti-snagging rule applies.
 (B) Night closure in effect.
 (iii) Open the first Saturday in June through January 31: Trout minimum length 14 inches.
 (iv) Salmon open November 1 through December 31:
 (A) In years ending in odd numbers:
 (I) Limit 6; no more than 3 may be any combination of adult coho and adult chum.
 (II) Release Chinook.
 (B) In years ending in even numbers:
 (I) Limit 6; only 3 adults may be retained.
 (II) Release Chinook.
 (g) From Friday Creek upstream, including all tributaries and their tributaries: Open the Saturday before Memorial Day through October 31.
~~((149))~~ **(145) Greenwater River (King County):**
 (a) From the mouth to Greenwater Lakes:
 (i) Open November 1 through January 31.
 (ii) Release all fish except whitefish.
 (iii) Whitefish gear rules apply.
 (b) From Greenwater Lakes upstream: Open the first Saturday in June through October 31.
~~((150))~~ **(146) Grovers Creek (Kitsap County):**
 (a) Open the first Saturday in June through October 31.
 (b) Selective gear rules apply.
 (c) Trout: Minimum size 14 inches.
~~((151))~~ **(147) Hamma Hamma River (Mason County):**
 (a) From the mouth to 400 feet below the falls:
 (i) Open the first Saturday in June through August 31.
 (ii) Selective gear rules apply.
 (iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.
 (iv) Catch and release only.
 (b) From the falls upstream: Open the ~~((first))~~ Saturday ~~((in June))~~ before Memorial Day through October 31.
~~((152))~~ **(148) Hancock Lake (King County):**
 (a) Open the fourth Saturday in April through October 31.
 (b) All tributary streams and the upper third of the outlet are closed.
 (c) It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.
~~((153))~~ **(149) Hansen Creek (Skagit County):** Including all tributaries and their tributaries:
 (a) Open the first Saturday in June through October 31.
 (b) Selective gear rules apply.
~~((154))~~ **(150) Harrison Slough (Skagit County):** Open the first Saturday in June through October 31.
~~((155))~~ **(151) Hatchery Lake (Mason County):** ~~((a))~~ Open the fourth Saturday in April through October 31.
~~((b))~~ Trout: It is unlawful to retain more than 2 trout over 14 inches in length.
~~((156))~~ **(152) Haven Lake (Mason County):** ~~((a))~~ Open the fourth Saturday in April through October 31.
~~((b))~~ Trout: It is unlawful to retain more than 2 over 14 inches in length.
~~((157))~~ **(153) Heart Lake (near Anacortes) (Skagit County):** Open the fourth Saturday in April through October 31.
~~((158))~~ **(154) Heins Lake (Kitsap County):** Closed.
~~((159))~~ **(155) Hicks Lake (Thurston County):** ~~((a))~~ Open the fourth Saturday in April through October 31.
~~((b))~~ Trout: It is unlawful to retain more than 2 over 14 inches in length, except there are no size restrictions for kokanee.
~~((160))~~ **(156) Hilt Creek (Skagit County) (Sauk River tributary) and all connected tributaries and beaver ponds above the falls (located 0.2 miles above the Highway 530 crossing):** ~~((a))~~ Open the ~~((first))~~ Saturday ~~((in June))~~ before Memorial Day through October 31.
~~((b))~~ Selective gear rules apply.
 (e) Release all fish except anglers may retain up to 2 hatchery steelhead.
~~((161))~~ **(157) Horseshoe Lake (Kitsap County):**
 (a) Open the fourth Saturday in April through October 31.
 (b) ~~((Trout: It is unlawful to retain more than 2 trout over 14 inches in length.~~
~~((c))~~ Salmon: Landlocked salmon rules apply.
~~((162))~~ **(158) Howard Creek (Whatcom County):** Open the Saturday before Memorial Day through October 31 upstream from where Howard Creek flows into Section 13 of Township 36N, Range 6E, 0.3 lineal miles upstream from the South Fork Nooksack River, including all tributaries.
~~((163))~~ **(159) Howard Lake (Snohomish County):** Open the fourth Saturday in April through October 31.
~~((164))~~ **(160) Howell Lake (Mason County):** ~~((a))~~ Open the fourth Saturday in April through October 31.
~~((b))~~ Trout: It is unlawful to retain more than 2 trout over 14 inches in length.
~~((165))~~ **(161) Hozomeen Lake (Whatcom County):**
 (a) Open July 1 through October 31.
 (b) It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.
~~((166))~~ **(162) Hylebos Creek (Pierce County):**
 (a) Open the first Saturday in June through October 31.
 (b) Selective gear rules apply.
 (c) Trout: Minimum length 14 inches.
~~((167))~~ **(163) Illabot Creek (Skagit County):**
 (a) Open the first Saturday in June through October 31.
 (b) Selective gear rules apply.
~~((168))~~ **(164) Illahee Creek (Kitsap County):**
 (a) Open the first Saturday in June through October 31.
 (b) Selective gear rules apply.
 (c) Trout: Minimum size 14 inches.

~~((169)) **Isabella Lake (Mason County):** It is unlawful to retain more than 2 trout over 14 inches in length.~~

~~((170)) **Island Lake (Kitsap County):** It is unlawful to retain more than 2 trout over 14 inches in length.~~

~~((171)) **Island Lake (Mason County):** It is unlawful to retain more than 2 trout over 14 inches in length.~~

~~((172))~~ **(165) Issaquah Creek (King County):** Open the first Saturday in June through August 31 for juvenile anglers only.

~~((173))~~ **(166) Jackman Creek (Skagit County):** ~~((a))~~ Open the first Saturday in June through October 31.

~~(b)~~ Selective gear rules apply.

~~((174))~~ **Open the Saturday before Memorial Day through October 31 from the falls located 0.7 miles above Highway 20 upstream.**

(167) Jackson Lake (Pierce County): Open the fourth Saturday in April through October 31.

~~((175))~~ **(168) Jefferson Creek (Mason County):** Open the Saturday before Memorial Day through October 31.

~~((176))~~ **(169) Jennings Park Pond (Snohomish County):** Open the fourth Saturday in April through October 31 for juvenile anglers only.

~~((177))~~ **(170) Johns Creek (Mason County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Trout: Catch and release only.

~~((178))~~ **(171) Johnson Creek (Thurston County) (Skookumchuck River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

~~((179))~~ **(172) Johnson Creek (Whatcom County):** Open the first Saturday in June through October 31 from the Northern Pacific Railroad tracks to the Lawson Street foot-bridge in Sumas for juvenile anglers only.

~~((180))~~ **(173) Jones Creek (Skagit County):** ~~((a))~~ Open the first Saturday in June through October 31.

~~(b)~~ Selective gear rules apply.

~~((181))~~ **Open the Saturday before Memorial Day through October 31 above the falls located 0.6 miles above Highway 20 upstream.**

(174) Jordan Creek (Skagit County) (Cascade River tributary):

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

~~((182))~~ **(175) Jorsted Creek (Mason County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Catch and release only.

~~((183)) **Kapowsin Lake (Pierce County):** It is unlawful to retain more than 2 trout over 14 inches in length.~~

~~((184))~~ **(176) Kelsey Creek (tributary of Lake Washington) (King County):** Open the first Saturday in June through August 31 for juvenile anglers only.

~~((185))~~ **(177) Kendall Creek (Whatcom County) (N.F. Nooksack tributary):**

(a) Open the ~~((first))~~ Saturday ~~((in June))~~ before Memorial Day through October 31 above the hatchery grounds.

(b) Selective gear rules apply.

~~((186))~~ **(178) Kennedy Creek (Mason County):**

(a) From the mouth to 400 feet below the falls:

(i) Open the first Saturday in June through the last day in February.

(ii) From Highway 101 Bridge to 400 feet below the falls: Selective gear rules apply January 1 through September 30.

(iii) October 1 through December 31:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(iv) Trout: Minimum length 14 inches.

(v) Salmon:

(A) Open October 1 through November 30 from the mouth to the northbound Highway 101 Bridge.

(B) Limit 6; no more than 2 adults may be retained.

(C) Release wild coho.

(b) From the falls upstream, including all tributaries:

(i) Open the Saturday before Memorial Day through October 31.

(ii) Selective gear rules apply within the mainstem of Kennedy Creek.

~~((187))~~ **(179) Kennedy Creek Pond (Thurston County):** Open the fourth Saturday in April through October 31.

~~((188))~~ **(180) Ki Lake (Snohomish County):** Open the fourth Saturday in April through October 31.

~~((189))~~ **(181) Kimball Creek (near Snoqualmie) (King County):**

(a) Open the fourth Saturday in April through October 31 for juvenile anglers only.

(b) Trout: No minimum length.

~~((190))~~ **(182) Kindy Creek (Skagit County) (Cascade River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Catch and release only.

~~((191))~~ **(183) King's Creek (Pierce County) (Puyallup River tributary):** Open the first Saturday in June through October 31.

~~((192))~~ **(184) Kings Lake Bog (King County):** Closed.

~~((193)) **Kitsap Lake (Kitsap County):** It is unlawful to retain more than 2 trout over 14 inches in length.~~

~~((194))~~ **(185) Klaus Lake (King County):**

(a) Open the fourth Saturday in April through October 31.

(b) The inlet and outlet to first Weyerhaeuser spur are closed.

~~((195))~~ **(186) Koeneman Lake (Fern Lake) (Kitsap County):**

(a) Open the fourth Saturday in April through October 31.

(b) Selective gear rules apply.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Catch and release only.

~~((196)) **Kokanee Lake (Mason County):** It is unlawful to retain more than 2 trout over 14 inches in length, except there are no size restrictions for kokanee.~~

~~((197))~~ **(187) Ladder Creek (Skagit County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Release all fish except anglers may retain up to 2 hatchery steelhead.

~~((198))~~ **(188) Langlois Lake (King County):** Open the fourth Saturday in April through October 31.

~~((199) Lawrence Lake (Thurston County): It is unlawful to retain more than 2 trout over 14 inches in length.~~

~~(200))~~ **(189) LeBar Creek (Mason County):** Open the ~~((first))~~ Saturday ~~((in June))~~ before Memorial Day through October 31 from the falls at river mile one upstream.

~~((201))~~ **(190) Lena Creek (Mason County):** Open the ~~((first))~~ Saturday ~~((in June))~~ before Memorial Day through October 31.

~~((202))~~ **(191) Lilliwaup River (Mason County):**

(a) From the mouth to 200 feet below the falls:

(i) Open the first Saturday in June through August 31.

(ii) Selective gear rules apply.

(iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iv) Catch and release only.

(b) From the falls upstream: Open the ~~((first))~~ Saturday ~~((in June))~~ before Memorial Day through October 31.

~~((203))~~ **(192) Lime Creek (Snohomish County) (Suiattle River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

~~((204))~~ **(193) Limerick Lake (Mason County):** Open the fourth Saturday in April through October 31.

~~((205))~~ **(194) Little Bear Creek (tributary of Sammamish River) (Snohomish/King counties):** Open the first Saturday in June through August 31 for juvenile anglers only.

~~((206))~~ **(195) Little Mission Creek (Mason County) from falls upstream:**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Catch and release only.

~~((207) Little Nisqually River (Lewis County):~~

~~(a) Open the first Saturday in June through October 31.~~

~~(b) Trout: Minimum length 14 inches.~~

~~(208))~~ **(196) Little Scandia Creek (Kitsap County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Trout: Minimum size 14 inches.

~~((209))~~ **(197) Lone Lake (Island County):**

(a) Selective gear rules apply.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Trout: Limit 1; minimum length 18 inches.

~~((210) Long Lake (Thurston County): It is unlawful to retain more than 2 trout over 14 inches in length.~~

~~(211))~~ **(d) Grass carp: No limit for anglers and bow and arrow fishing.**

(198) Long's Pond (Thurston County): Open for juvenile anglers only.

~~((212) Lost Lake (Mason County): It is unlawful to retain more than 2 trout over 14 inches in length, except there are no size restrictions for kokanee.~~

~~(213))~~ **(199) Lyle Creek (King County) (White River tributary):** Open the first Saturday in June through October 31.

~~((214))~~ **(200) Maggie Lake (Mason County):** ~~((a))~~ Open the fourth Saturday in April through November 30.

~~((b) Trout: It is unlawful to retain more than 2 trout over 14 inches in length.~~

~~(215))~~ **(201) Malaney Creek (Mason County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Trout: Catch and release only.

~~((216))~~ **(202) Maple Creek (Whatcom County) (N.F. Nooksack tributary) above Maple Falls:**

~~((a))~~ Open the ~~((first))~~ Saturday ~~((in June))~~ before Memorial Day through October 31.

~~((b) Selective gear rules apply.~~

~~(217))~~ **(203) Marble Creek (Skagit County) (Cascade River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Catch and release only.

~~((218))~~ **(204) Margaret Lake (King County):** Open the fourth Saturday in April through October 31.

~~((219))~~ **(205) Marsh Creek (Snohomish County) (Sultan River tributary):** Open the Saturday before Memorial Day through October 31 above the falls, including tributaries and beaver ponds.

~~((220))~~ **(206) Martha Lake (Snohomish County):**

Open the fourth Saturday in April through October 31.

~~((221))~~ **(207) Martha Lake (Warm Beach) (Snohomish County):**

(a) Selective gear rules apply.

(b) Trout: Limit 2; minimum length 14 inches.

(208) May Creek (tributary of Lake Washington) (King County): Open the first Saturday in June through August 31 for juvenile anglers only.

~~((222))~~ **(209) McAllister Creek (Thurston County):**

(a) Open the first Saturday in June through October 31.

(b) ~~((It is unlawful to use anything other than barbless hooks.~~

~~(e))~~ Selective gear rules apply.

~~((f))~~ **(c) Trout: Minimum length 14 inches.**

~~((g))~~ **(d) Salmon:**

(i) Open July 1 through November 30.

(ii) Limit 6; of which no more than 2 may be adults.

~~((223) McIntosh Lake (Thurston County):~~

~~(a) Open the fourth Saturday in April through October 31.~~

~~(b) Trout: It is unlawful to retain more than 2 over 14 inches in length.~~

~~(224))~~ **(210) McLane Creek (Thurston County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) ~~((August 1 through October 31: Night closure in effect.~~

~~(d) Trout: Minimum length 14 inches.~~

~~(225))~~ **Catch and release.**

(d) Night closure in effect.

(211) McLane Creek Ponds (Thurston County): Open the fourth Saturday in April through October 31.

~~((226))~~ **(212) McMurray Lake (Skagit County):**

(a) Open the fourth Saturday in April through October

31.

(b) Landlocked salmon rules apply.

~~((227))~~ (213) Melbourne Lake (Mason County):

Open the fourth Saturday in April through October 31.

~~((228))~~ (214) Mercer Slough (tributary of Lake Washington) (King County): Open the first Saturday in June through August 31 for juvenile anglers only.

~~((229))~~ (215) Milk Creek (Snohomish County) (Suitttle River tributary):

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

~~((230))~~ (216) Mill Creek (Mason County):

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Trout: Minimum length 14 inches.

~~((231))~~ (217) Mill Pond (Auburn) (King County):

Open the fourth Saturday in April through October 31 for juvenile anglers only, except open for all anglers during free fishing weekend, as defined by department rule.

~~((232))~~ (218) Mima Creek (Thurston County) (Black River tributary):

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

~~((233) Mineral Creek (tributary to Nisqually River), and Mineral Creek, North Fork (Lewis County):~~ Trout minimum length 14 inches.

~~(234))~~ (219) Minter Creek (Pierce/Kitsap counties):

From ~~(the mouth to the hatchery rack:~~

~~(a) Open for trout only the first Saturday in June through October 31:~~

~~(i) Selective gear rules apply.~~

~~(ii) Minimum length 14 inches.~~

~~(b) Open for salmon November 1 through December 31 from)) the mouth to the fishing boundary markers approximately 50 feet downstream of the hatchery rack:~~

~~((i))~~ (a) Open for salmon November 1 through December 31.

~~(b) Night closure in effect.~~

~~((ii))~~ (c) Limit 4 chum; release all other salmon.

~~((235))~~ (220) Mission Lake (Kitsap County): ~~((a))~~

Open the fourth Saturday in April through October 31.

~~((b) Trout: It is unlawful to retain more than 2 trout over 14 inches in length.~~

~~(236))~~ (221) Monte Cristo Lake (Snohomish County):

(a) Open the first Saturday in June through August 31.

(b) Selective gear rules apply.

(c) Release all fish except anglers may retain up to 2 hatchery steelhead.

~~((237))~~ (222) Mountain Lake (San Juan County): It is unlawful to retain more than one trout over 18 inches in length.

~~((238))~~ (223) Mud Lake (Mason County): Open the fourth Saturday in April through October 31.

~~((239))~~ (224) Munn Lake (Thurston County):

(a) Selective gear rules apply.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Catch and release only.

~~((240) Nahwatzel Lake (Mason County):~~ It is unlawful to retain more than 2 trout over 14 inches in length.

~~(241))~~ (225) New Pond Creek (Pierce County) (South Prairie Creek tributary): Open the first Saturday in June through October 31.

~~((242))~~ (226) Newhalem Creek (Whatcom County): Open the Saturday before Memorial Day through October 31 above the power facility.

(227) Newhalem Ponds (Whatcom County): Closed.

~~((243))~~ (228) Nisqually River (Pierce County):

(a) From the mouth to Military Tank Crossing Bridge:

(i) Closed August 3 through August 5, August 10 through August 12, August 17 through August 19, August 24 through August 26, August 31 through September 2, September 8 through September 10, September 14 through September 16, September 21 through September 23, and September 28 through September 29.

(ii) July 1 through January 31:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(C) Barbless hooks are required.

(iii) Open July 1 through January 31:

(A) From July 1 through November 30: Trout minimum length 14 inches.

(B) From December 1 through January 31: ~~((Release all fish except anglers may retain up to 2 hatchery steelhead.))~~ Catch and release.

(iv) Salmon open July 1 through January 31.

(A) In years ending in even numbers, from July 1 through October 31:

(I) Limit 6; no more than 3 adults may be retained, and only 2 adults may be any combination of chum and coho.

(II) Release wild Chinook.

(B) In years ending in odd numbers, from July 1 through October 31:

(I) Limit 6; no more than 3 adults may be retained plus one pink salmon; no more than 2 adults may be any combination of chum and coho.

(II) Release wild Chinook.

(C) From November 1 through January 31:

(I) Limit 6; only 2 adults may be retained.

(II) Release wild Chinook.

(b) From Military Tank Crossing Bridge to 400 feet below La Grande Powerhouse:

(i) Open July 1 through October 31.

(ii) Selective gear rules apply.

(iii) Release all fish except anglers may retain up to 2 hatchery steelhead.

(iv) From Alder Reservoir upstream including all tributaries:

(A) Open the Saturday before Memorial Day through October 31.

(B) Selective gear rules apply.

(C) Trout minimum length 14 inches.

~~((244))~~ (v) Alder Reservoir tributaries:

(A) Open the Saturday before Memorial Day through October 31.

(B) Trout: Daily limit 2 over 14 inches in length.

(C) Selective gear rules apply.

(229) Nookachamps Creek (Skagit County):

(a) Open the first Saturday in June through October 31, including all tributaries and their tributaries.

(b) Selective gear rules apply.

~~((245))~~ **(230) Nooksack River (Whatcom County):**

(a) From the Lummi Indian Reservation boundary to the yellow marker at the FFA High School barn at Deming:

(i) Open the first Saturday in June through January 31.

(ii) From the first Saturday in June through November 30:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(iii) Trout: Minimum length 14 inches.

(iv) Salmon:

(A) Open September 1 through December 31:

(I) Limit 2, plus 2 additional coho.

(II) Release wild Chinook September 1 through September 30.

(B) Open July 16 through August 31 from Lummi Indian Reservation boundary to Highway 544 Bridge at Everson during odd-numbered years:

(I) Limit 4 pink salmon.

(II) It is unlawful to use bait.

(III) It is unlawful to use anything other than single-point hooks measuring 1/2 inch or less from point to shank.

(b) From the yellow marker at the FFA High School barn in Deming to the confluence of the forks:

(i) Open from October 1 through January 31.

(ii) October 1 through November 30:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(iii) Trout: Minimum length 14 inches.

(iv) Salmon open October 1 through December 31: Limit 2, plus anglers may retain 2 additional coho.

~~((246))~~ **(231) Nooksack River, North Fork (Whatcom County):**

(a) From the mouth to Maple Creek:

(i) Open the first Saturday in June through February 15.

(ii) From the first Saturday in June through November 30:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(iii) November 1 through February 15: It is unlawful to fish from a floating device equipped with a motor.

(iv) Trout minimum length 14 inches.

(v) Salmon open October 1 through November 30: Limit 2 salmon, plus anglers may retain 2 additional coho.

(b) From Maple Creek to Nooksack Falls:

(i) Open the first Saturday in June through January 31.

(ii) Selective gear rules apply.

(iii) November 1 through January 31: It is unlawful to fish from a floating device equipped with a motor.

(iv) Trout: Minimum length 14 inches.

(c) The waters above Nooksack Falls, including all tributaries and their tributaries are open the Saturday before Memorial Day through October 31.

~~((247))~~ **(232) Nooksack River, Middle Fork (Whatcom County):**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) From the mouth to the city of Bellingham diversion dam:

(i) November 1 through January 31: It is unlawful to use motors.

(ii) Open the first Saturday in June through January 31.

(iii) Selective gear rules apply.

(iv) Trout: Minimum size 14 inches.

~~((4b))~~ (c) The waters above the diversion dam, including all tributaries and their tributaries are open the Saturday before Memorial Day through October 31.

~~((248))~~ **(233) Nooksack River, South Fork (Skagit/Whatcom counties):**

(a) Release all fish except mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) From the mouth to Skookum Creek:

(i) Open the first Saturday in June through January 31.

(ii) Selective gear rules apply.

(iii) From the first Saturday in June through November 30: Night closure in effect.

(iv) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(v) ~~((Release all fish except anglers may retain up to 2 hatchery steelhead.~~

~~((vi))~~ Salmon open October 1 through December 31:

(A) Limit 2; plus anglers may retain 2 additional coho.

(B) Release chum.

(C) In years ending in odd numbers, release pink salmon.

~~((4b))~~ (c) Upstream from and including Wanlick Creek, including all tributaries:

(i) Open the Saturday before Memorial Day through October 31 for fly fishing only.

(ii) Catch and release only except mandatory hatchery steelhead retention.

~~((249))~~ **(234) North Creek (Snohomish/King counties) (tributary of Sammamish River):** Open the first Saturday in June through August 31 for juvenile anglers only.

~~((250))~~ **(235) North Lake (King County):** Open the fourth Saturday in April through October 31.

~~((251))~~ **(236) Northern State Hospital Pond (Skagit County):** Open the fourth Saturday in April through October 31 for juvenile anglers only.

~~((252))~~ **(237) Ohop Creek (Pierce County):**

(a) Open July 1 through October 31.

(b) Selective gear rules apply.

(c) Catch and release only.

~~((253))~~ **(238) Ohop Lake (Pierce County):** ~~((It is unlawful to retain more than 2 trout over 14 inches in length, except))~~ There are no size restrictions for kokanee.

~~((254))~~ **(239) Olalla Creek (Kitsap County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Trout: Minimum size 14 inches.

~~((255))~~ **(240) Old Fishing Hole Pond (Kent, King County):** Open the fourth Saturday in April through October 31 for juvenile anglers only.

~~((256))~~ **(241) Olney Creek (Snohomish County) (Wallace River tributary):** The waters upstream of Olney Falls, including tributaries and beaver ponds are open the Saturday before Memorial Day through October 31.

~~((257))~~ **(242) Olson Creek (Skagit County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

~~((258))~~ (243) Osborne Lake (Mason County): Open the fourth Saturday in April through October 31.

~~((259))~~ (244) O'Toole (Marietta) Creek (Whatcom County): The waters upstream from Marietta Falls, located 0.3 lineal miles from the Skagit River, are open the Saturday before Memorial Day through October 31.

~~((260))~~ (245) Outlet Creek (Mason County) (Satsop River tributary):

- (a) Open the first Saturday in June through October 31.
- (b) Selective gear rules apply.

~~((261))~~ (246) Owl Creek (Snohomish County) (Whitechuck River tributary):

- (a) Open the first Saturday in June through October 31.
- (b) Selective gear rules apply.

~~((262))~~ (247) Padden Lake (Whatcom County):

(a) Open the fourth Saturday in April through October 31.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

~~((263))~~ (248) Panhandle Lake (Mason County): ~~((a))~~ Open the fourth Saturday in April through October 31.

~~((b))~~ Trout: It is unlawful to retain more than 2 trout over 14 inches in length.

~~((264))~~ (249) Panther Lake (Kitsap/Mason counties): ~~((a))~~ Open the fourth Saturday in April through October 31.

~~((b))~~ Trout: It is unlawful to retain more than 2 trout over 14 inches in length.

~~((265))~~ (250) Pass Lake (Skagit County):

(a) Open to fly fishing only.

(b) It is unlawful to fish from a floating device equipped with a motor.

(c) Catch and release only.

~~((266) Pattison Lake (Thurston County))~~:

~~((a))~~ Open the fourth Saturday in April through October 31.

~~((b))~~ Trout: It is unlawful to retain more than 2 trout over 14 inches in length.

~~((267))~~ (251) Percival Creek (Thurston County):

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Trout: Minimum length 14 inches.

~~((268))~~ (252) Perry Creek (Thurston County):

(a) Open the first Saturday in June through October 31 from the mouth to the falls.

(b) Selective gear rules apply.

(c) Trout: Minimum size 14 inches.

~~((269))~~ (253) Phillips Lake (Mason County): ~~((a))~~ Open the fourth Saturday in April through October 31.

~~((b))~~ Trout: It is unlawful to retain more than 2 trout over 14 inches in length.

~~((270))~~ (254) Pilchuck Creek (Snohomish County):

(a) From the mouth to the Highway 9 Bridge:

(i) Open the first Saturday in June through January 31.

(ii) From the first Saturday in June through November 30: Selective gear rules apply.

(iii) Trout: Minimum length 14 inches.

(b) From the Highway 9 Bridge to Pilchuck Falls:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply.

(iii) Trout: Minimum length 14 inches.

(c) From Pilchuck Falls upstream, including all tributaries and their tributaries, and all tributaries to Lake Cavanaugh: Open the Saturday before Memorial Day through October 31.

~~((271))~~ (255) Pilchuck River (Snohomish County):

(a) Open from December 1 through January 31 from the mouth to 500 feet downstream from the Snohomish City diversion dam.

(b) It is unlawful to fish from any floating device.

(c) Trout: Minimum length 14 inches.

~~((272))~~ (256) Pine Creek (Mason County): Open the ~~((first))~~ Saturday ~~((in June))~~ before Memorial Day through October 31.

~~((273))~~ (257) Pine Lake (King County): Open the fourth Saturday in April through October 31.

~~((274))~~ (258) Pine Lake (Mason County): Open the fourth Saturday in April through October 31.

~~((275))~~ (259) Pioneer Ponds (tributary to Stillaguamish River) (Snohomish County): Closed.

~~((276))~~ (260) Plumbago Creek (Whatcom County): Open the Saturday before Memorial Day through October 31 upstream from the Sierra Pacific 140 road bridge located 0.5 lineal miles upstream from the South Fork Nooksack River, including all tributaries.

~~((277))~~ (261) Pratt River (tributary to Middle Fork Snoqualmie River) (King County):

(a) Open the Saturday before Memorial Day through October 31.

(b) Selective gear rules apply.

(c) Catch and release only.

~~((278))~~ (262) Pressentin Creek (Whatcom County): Open the Saturday before Memorial Day through October 31 upstream from the waterfall located 0.3 miles from the Skagit River, including all tributaries.

~~((279))~~ (263) Prices Lake (Mason County):

(a) Selective gear rules apply.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Catch and release only.

~~((280))~~ (264) Pugh Creek (Snohomish County)

(Whitechuck River tributary):

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

~~((281))~~ (265) Puyallup River (Pierce County):

(a) From the mouth to Freeman Road:

(i) Open for game fish and salmon August 10 through December 31.

(ii) Closed August 30 through August 31, September 6 through September 8, September 13 through September 15, September 20 through September 23, September 27 through September 30, October 4 through October 7, and October 11 through October 14.

(iii) Closed within 400 feet of the mouth of Clarks Creek.

(iv) August 10 through November 30:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(C) Barbless hooks are required.

(v) Trout: Minimum length 14 inches.

(vi) Salmon:

(A) In years ending in odd numbers:

(I) Limit 6. No more than 2 adults may be retained. Two pink adults may be retained in addition to the 2 adult limit.

(II) Release wild adult Chinook.

(B) In years ending in even numbers:

(I) Limit 6; no more than 2 adults may be retained.

(II) Release wild adult Chinook.

(b) From Freeman Road to the East Main Avenue Bridge:

(i) Open for game fish and salmon August 1 through December 31.

(ii) Closed August 9, August 30 through August 31, September 6 through September 8, September 13 through September 15, September 20 through September 23, and September 27 through September 30.

(iii) August 1 through November 30:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(C) Barbless hooks are required.

(iv) Trout: Minimum length 14 inches.

(v) Salmon:

(A) In years ending in odd numbers:

(I) Limit 6. No more than 2 adults may be retained. In addition to the 2 adults, 2 adult pinks may also be retained.

(II) Release wild adult Chinook.

(B) In years ending in even numbers:

(I) Limit 6; no more than 2 adults may be retained.

(II) Release wild adult Chinook.

(c) From the East Main Avenue Bridge to Carbon River:

(i) Open for game fish and salmon August 1 through December 31.

(ii) August 1 through November 30:

(A) Anti-snagging rule applies.

(B) Night closure is in effect.

(C) Barbless hooks are required.

(iii) Trout: Minimum length 14 inches.

(iv) Salmon:

(A) In years ending in odd numbers:

(I) Limit 6. No more than 2 adults may be retained. In addition to the 2 adults, 2 adult pinks may be retained.

(II) Release wild adult Chinook.

(B) In years ending in even numbers:

(I) Limit 6; no more than 2 adults may be retained.

(II) Release wild adult Chinook.

(d) From Carbon River upstream:

(i) Open September 1 through January 15.

(ii) Selective gear rules apply.

(iii) Release all fish except anglers may retain up to 2 hatchery steelhead.

~~((282))~~ (266) **Pyramid Creek (King County) upstream of Forest Service Road 7000:** Open the first Saturday in June through October 31.

~~((283))~~ (267) **Racehorse Creek (Whatcom County) (N.F. Nooksack tributary) above the falls located 0.2 miles above the North Fork Road:** ~~((+))~~ Open the ~~((first))~~ Saturday ~~((in June))~~ before Memorial Day through October 31.

~~((b))~~ Selective gear rules apply.

~~(284))~~ (268) **Raging River (King County):**

(a) From the mouth to the Highway 18 Bridge:

(i) Open the first Saturday in June through January 31.

(ii) Trout: Minimum length 14 inches.

(b) From Highway 18 Bridge upstream: Open the first Saturday in June through October 31.

~~((285))~~ (269) **Rapjohn Lake (Pierce County):** ~~((+))~~ Open the fourth Saturday in April through October 31.

~~((b))~~ Trout: It is unlawful to retain more than 2 trout over 14 inches in length.

~~(286))~~ (270) **Rattlesnake Lake (King County):**

(a) Selective gear rules apply.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) ~~((Catch and release only.~~

~~(287))~~ Trout: Limit 2; minimum length 14 inches.

(271) **Ravensdale Lake (King County):**

(a) Open the fourth Saturday in April through October 31.

(b) Selective gear rules apply.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Trout: Limit 2; minimum length 12 inches.

~~((288))~~ (272) **Red Creek (King County) (White River tributary):** Open the first Saturday in June through October 31.

~~((289))~~ (273) **Rendsland Creek (Mason County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Catch and release only.

~~((290))~~ (274) **Riley Lake (Snohomish County):** Open the fourth Saturday in April through October 31.

~~((291))~~ (275) **Roaring Creek (Whatcom County):** Open the Saturday before Memorial Day through October 31 upstream from the confluence with Deer Creek, including all tributaries.

~~((292))~~ (276) **Robbins Lake (Mason County):** ~~((+))~~

Open the fourth Saturday in April through October 31.

~~((b))~~ Trout: It is unlawful to retain more than 2 over 14 inches in length.

~~(293))~~ (277) **Rocky Creek (Mason County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Trout: Catch and release only.

~~((294))~~ **Rocky Creek (Skagit County):**

~~(a) Open the first Saturday in June through October 31.~~

~~(b) Selective gear rules apply.~~

~~(295))~~ (278) **Roesiger Lake (Snohomish County):**

Crappie limit 10; minimum length 9 inches.

~~((296))~~ (279) **Rose Lake (Mason County):** Open the fourth Saturday in April through October 31.

~~((297))~~ (280) **Ross Lake (Reservoir) (Whatcom County):**

(a) Open July 1 through October 31:

(b) Selective gear rules apply.

(c) Trout, except eastern brook trout: Limit ~~((3))~~ 1; minimum length ~~((13))~~ 16 inches.

~~((298))~~ (d) Eastern brook trout: Limit 5; no minimum length.

(281) **Ross Lake tributary streams, and their tributaries, except Big Beaver Creek and Ruby Creek (Whatcom County):**

(a) From one mile above the mouths to the headwaters: Open July 1 through October 31.

(b) Tributaries to Ruby Creek: Open July 1 through October 31.

~~((299)) Saint Clair Lake (Thurston County): It is unlawful to retain more than 2 trout over 14 inches in length.~~
~~(300))~~ **(282) Salmon Creek (Thurston County)**

(Black River tributary):

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Night closure in effect.

(d) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

~~((301))~~ **(283) Salmonberry Creek (Kitsap County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Trout: Minimum size 14 inches.

~~((302))~~ **(284) Samish Lake (Whatcom County):** Cut-throat trout limit 2; minimum length 14 inches.

~~((303))~~ **(285) Samish River (Skagit County):**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) From the mouth to the I-5 Bridge:

(i) Open the first Saturday in June through November 30.

(ii) From the first Saturday in June through November 30: Trout minimum length 14 inches.

(iii) From August 1 through November 30:

(A) Night closure in effect.

(B) It is unlawful to use anything other than one single-point hook.

(iv) From December 1 through December 31:

(A) Selective gear rules apply.

(B) ~~((Release all fish except anglers may retain up to 2 hatchery steelhead.))~~ Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(v) Salmon:

(A) Open August 1 through November 30.

(B) Limit 2; anglers may only retain fish hooked inside the mouth.

(C) Release wild coho.

~~((B))~~ (c) From the I-5 Bridge to the Hickson Bridge:

(i) Closed from the Old Highway 99 Bridge to the WDFW salmon rack.

(ii) Closed from the I-5 Bridge to the Old Highway 99 Bridge September 1 through November 30.

(iii) Open the first Saturday in June through November 30:

(A) Selective gear rules apply.

(B) Release all fish except ~~((anglers may retain up to 2 hatchery steelhead.~~

~~(e))~~ mandatory hatchery steelhead retention.

(d) From the Hickson Bridge upstream:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply.

~~((304))~~ **(286) Sammamish Lake (King County):**

(a) Closed to fishing within 100 yards of the mouth of Issaquah Creek August 16 through November 30.

(b) ~~((January 1 through April 30: It is unlawful to use anything other than single-point barbless hooks.~~

~~(e))~~ Kokanee: Catch and release only.

~~((B))~~ (c) December 1 through June 30: Release all steelhead and rainbow trout over 20 inches in length.

~~((305))~~ **(287) Sammamish River (Slough) (King County):** From the 68th Avenue N.E. Bridge to Lake Sammamish:

(a) Open from January 1 through August 31.

(b) Selective gear rules apply.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Trout: Catch and release only.

~~((306))~~ **(288) Sauk River (Skagit/Snohomish counties):**

(a) Selective gear rules apply.

(b) Release all fish except anglers may retain up to 2 hatchery steelhead.

(c) From the mouth to the mouth of the White Chuck River:

(i) Open the first Saturday in June through January 31.

(ii) From the mouth to Darrington Bridge: It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) From the mouth of the White Chuck River to the headwaters, including the North Fork and the South Fork upstream to Elliot Creek: Open the first Saturday in June through October 31.

(e) In the South Fork upstream from Elliot Creek: Open the first Saturday in June through August 31.

~~((307))~~ **(289) Sauk, North Fork, (Snohomish County):** Open the Saturday before Memorial Day through October 31 above North Fork falls including all tributaries.

(290) Sawyer((s)) Lake (King County): ~~((A))~~ Chumming is permissible.

~~((B) Crappie: Limit 10; minimum length 9 inches.~~

~~(308))~~ **(291) Scatter Creek (King County) (White River tributary):** Open the first Saturday in June through October 31.

~~((309))~~ **(292) Scatter Creek (Thurston County) (Chehalis River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

~~((310))~~ **(293) Schneider Creek (Thurston County):** ~~((From the mouth to the falls:))~~

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Trout: Minimum size 14 inches.

~~((311))~~ **(294) Serene Lake (Snohomish County):** Open the fourth Saturday in April through October 31.

~~((312))~~ **(295) Shady Lake (King County):**

(a) Open the fourth Saturday in April through October 31.

(b) Trout: It is unlawful to retain more than one trout over 14 inches in length.

~~((313))~~ **(296) Shannon, Lake (Skagit County):**

(a) Open the fourth Saturday in April through October 31.

(b) Chumming is permissible.

(c) Trout: Minimum length 6 inches and maximum length 18 inches.

~~((314))~~ **(297) Shelton Creek (Mason County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Trout: Catch and release only.

~~((315))~~ (298) Sherman Creek (Thurston County)

(Chehalis River tributary):

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

~~((316))~~ (299) Sherwood Creek (Mason County):

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Trout: Catch and release only.

~~((317))~~ (300) Sherwood Creek Mill Pond (Mason County):

(a) Open the first Saturday in June through October 31.

(b) Trout: Limit 2; minimum length 14 inches.

~~((318))~~ (301) Shoe Lake (Mason County): Open the

fourth Saturday in April through October 31.

~~((319))~~ (302) Silesia Creek (Chilliwack River tribu-

tary) (Whatcom County): Open the first Saturday in June through October 31.

~~((320))~~ (303) Silver Creek (Skagit County) (Samish River tributary):

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

~~((321))~~ (304) Silver Creek (Whatcom County)

(Nooksack River tributary):

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

~~((322))~~ (305) Silver Lake (Pierce County): ~~((a))~~

Open the fourth Saturday in April through October 31.

~~((b))~~ Trout: ~~It is unlawful to retain more than 2 trout over 14 inches in length.~~

~~(323))~~ (306) Silver Lake (Whatcom County): Open

the fourth Saturday in April through October 31.

~~((324))~~ (307) Sixteen Lake (Skagit County): Open

the fourth Saturday in April through October 31.

~~((325))~~ (308) Skagit River (Skagit/Whatcom coun-

ties): (a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) From the mouth to ~~((Cascade River Road))~~ Highway 530 Bridge at Rockport:

(i) Trout: Minimum length 14 inches, except anglers may retain Dolly Varden/Bull Trout with a minimum length of 20 inches as part of the trout limit.

~~((b))~~ (ii) From Highway 530 Bridge in Rockport to Cascade River Road in Marblemount: June 1 through January 31: Catch and release only except mandatory hatchery steelhead retention.

(c) From the mouth to the Memorial Highway Bridge (Highway 536 at Mt. Vernon):

(i) Open March 1 through January 31 ~~((Release game fish, excluding trout, March 1 through May 31))~~.

(ii) March 1 through July 31:

(A) Selective gear rules apply, except anglers fishing for sturgeon must use bait.

(B) It is unlawful to use hooks other than those measuring 1/2 inch or less from point to shank, except anglers fishing for sturgeon may use single-point barbless hooks of any size.

(iii) Salmon:

(A) Open September 1 through December 31 in years ending in even numbers.

(B) Open August 1 through December 31 in years ending in odd numbers.

(C) Limit 4; only 2 wild coho may be retained.

(D) Release Chinook and chum.

~~((e))~~ (d) From Memorial Highway Bridge (Highway 536 at Mt. Vernon) upstream to Gilligan Creek:

(i) Open June 1 through January 31.

(ii) June 1 through November 30:

(A) September 1 through November 30: Anti-snagging rule applies, except anglers fishing for sturgeon must use bait.

(B) Night closure in effect.

(C) June 1 through June 15 and July 16 through July 31:

(I) Selective gear rules apply, except for sturgeon.

(II) It is unlawful to use hooks other than those measuring 1/2 inch or less from point to shank, except anglers fishing for sturgeon may use single-point barbless hooks of any size.

(iii) Salmon:

(A) Open June 16 through July 15; Limit 3 sockeye only.

(B) Open September 1 through December 31 in years ending in even numbers.

(C) Open August 1 through December 31 in years ending in odd numbers.

(D) Limit 4 salmon; only 2 wild coho may be retained.

(E) Release Chinook and chum.

~~((f))~~ (e) From Gilligan Creek to The Dalles Bridge at Concrete:

(i) Open June 1 through January 31.

(ii) June 1 through November 30:

(A) September 1 through November 30: Anti-snagging rule applies.

(B) Night closure in effect August 16 through November 30.

(C) From June 1 through August 15:

(I) Selective gear rules apply.

(II) It is unlawful to use hooks other than those measuring 1/2 inch or less from point to shank.

(iii) Salmon:

(A) In years ending in even numbers, open September 1 through December 31.

(B) In years ending in odd numbers, open August 16 through December 31.

(C) Limit 4 salmon; only 2 wild coho may be retained.

(D) Release Chinook and chum.

~~((g))~~ (f) From The Dalles Bridge at Concrete to the Highway 530 Bridge at Rockport:

(i) Open June 1 through January 31.

(ii) June 1 through August 31: Closed between a line projected across the thread of the river 200 feet above the east bank of the Baker River to a line projected across the thread of the river 200 feet below the west bank of the Baker River.

(iii) June 1 through November 30:

(A) September 1 through November 30: Anti-snagging rule applies.

(B) Night closure in effect.

(C) June 1 through August 31:

(I) Selective gear rules apply.

(II) It is unlawful to use hooks other than those measuring 1/2 inch or less from point to shank.

(iv) Salmon:

(A) Open September 1 through December 31.

(B) Limit 4 salmon; only 2 wild coho may be retained.

(C) Release Chinook and chum.

~~((f))~~ (g) From the Highway 530 Bridge at Rockport to the Cascade River Road (Marblemount Bridge):

(i) Open June 1 through ~~(February 15)~~ January 31: Trout catch and release only, except mandatory hatchery steelhead retention.

(ii) June 1 through November 30:

(A) June 1 through July 15 and September 1 through November 30: Anti-snagging rule applies.

(B) Night closure in effect.

(C) July 16 through August 31:

(I) Selective gear rules apply.

(II) It is unlawful to use hooks other than those measuring 1/2 inch or less from point to shank.

(iii) Salmon:

(A) Open June 1 through July 15:

(I) Limit 4 hatchery Chinook only.

(II) Only 2 adult hatchery Chinook may be retained as part of the limit.

(B) Open September 1 through December 31.

(I) Limit 4 salmon; only 2 wild coho may be retained.

(II) Release Chinook and chum.

~~((g))~~ (h) From Cascade River Road to the Gorge Pow-erhouse:

(i) Open June 1 through January 31.

(ii) Selective gear rules apply.

(iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iv) Release all fish except anglers may retain up to 2 hatchery steelhead.

~~((h))~~ (i) Gorge and Diablo lakes' tributary streams and their tributaries, except Stetattle Creek: Open the first Saturday in June through October 31.

~~((326))~~ (309) **Skokomish River (Mason County):**

(a) From the mouth to the city of Tacoma PUD overhead distribution lines: Closed.

(b) From the city of Tacoma PUD overhead distribution lines to the Highway 106 Bridge:

(i) Open the first Saturday in June through July 13 and October 1 through December 15 for game fish: Catch and release only.

(ii) August 1 through November 30:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(C) It is unlawful to use anything other than single point, barbless hooks.

(iii) September 15 through December 15: Terminal gear (hooks, weights, lures, or baits) may not be within 25 feet of tribal gillnets.

(iv) Salmon:

(A) Open August 1 through September 1:

(I) Limit 2; anglers must keep the first two fish caught provided they are legal to retain.

(II) Release chum and wild Chinook.

(B) Open September 15 through December 15:

(I) Limit 6; no more than 4 adults may be retained.

(II) Release Chinook; release chum through October 15.

(c) From the Highway 106 Bridge to the mouth of Purdy Creek:

(i) Open the first Saturday in June through July 13 and October 1 through December 15 for game fish: Catch and release only.

(ii) July 24 through November 30:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(C) It is unlawful to use anything other than single point, barbless hooks.

(iii) September 15 through December 15: Terminal gear (hooks, weights, lures, or baits) may not be within 25 feet of tribal gillnets.

(iv) July 24 through July 31: Bait or lure must be suspended below a float.

(v) Salmon:

(A) Open July 24 through July 31:

(I) Limit 2; anglers must keep the first two fish caught provided they are legal to retain.

(II) Release chum and wild Chinook.

(B) Open August 1 through August 21 on Fridays, Saturdays, and Sundays only:

(I) Limit 2; anglers must keep the first two fish caught provided they are legal to retain.

(II) Release chum and wild Chinook.

(C) Open August 22 through September 1:

(I) Limit 2; anglers must keep the first two fish caught provided they are legal to retain.

(II) Release chum and wild Chinook.

(D) Open September 15 through December 15:

(I) Limit 6; no more than 4 adults may be retained.

(II) Release Chinook; release chum through October 15.

(d) From the mouth of Purdy Creek to the Highway 101 Bridge:

(i) Open the first Saturday in June through July 13 and October 1 through December 15 for game fish: Catch and release only.

(ii) July 24 through November 30:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(C) It is unlawful to use anything other than single-point, barbless hooks.

(iii) July 24 through December 15: Terminal gear (hooks, weights, lures, or baits) may not be within 25 feet of tribal gillnets.

(iv) July 24 through September 1: Bait or lures must be suspended below a float.

(v) Salmon:

(A) Open July 24 through September 1:

(I) Limit 2; anglers must keep the first two fish caught provided they are legal to retain.

(II) Release chum and wild Chinook.

(B) Open September 15 through December 15:

(I) Limit 6; no more than 4 adults may be retained.

(II) Release Chinook; release chum through October 15.

(e) From the Highway 101 Bridge upstream to the forks:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply.

(iii) ~~((It is unlawful to fish from a floating device equipped with an internal combustion motor.~~

~~((iv)))~~ Catch and release only.

~~((327)))~~ **(310) Skokomish River, North Fork (Mason County):**

(a) Selective gear rules apply.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Catch and release only.

(d) From the mouth to the lower dam: Open the first Saturday in June through October 31.

(e) Above Lake Cushman, from the mouth to Olympic National Park boundary: Open the first Saturday in June through August 31.

~~((328)))~~ **(311) Skokomish River, South Fork (Mason County):**

(a) From the mouth to the mouth of LeBar Creek:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply.

(iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iv) Catch and release only.

(b) From the mouth of Rule Creek to the headwaters:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply.

(iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iv) Trout: Minimum length 12 inches.

~~((329)))~~ **(312) Skookum Creek (Mason County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Trout: Catch and release only.

~~((330)))~~ **(313) Skookum Creek (Whatcom County):** From the mouth of Arlecho Creek upstream, including Arlecho Creek and all other tributaries: Open the Saturday before Memorial Day through October 31.

~~((331)))~~ **(314) Skookumchuck Reservoir (Thurston County):**

(a) Open the first Saturday in June through October 31.

(b) Trout: Daily limit 2; minimum length 12 inches.

~~((332)))~~ **(315) Skykomish River (Snohomish County):**

(a) From the mouth to the mouth of Wallace River:

(i) Open June 1 through January 31.

(ii) Anti-snagging rule applies and night closure in effect:

(A) August 1 through November 30 from the mouth to Lewis Street Bridge in Monroe; and

(B) June 1 through November 30 from Lewis Street Bridge in Monroe to Wallace River.

(iii) November 1 through January 31: It is unlawful to fish from any floating device from the boat ramp below Lewis Street Bridge at Monroe downstream 2,500 feet.

(iv) Trout: Minimum length 14 inches, except anglers may retain Dolly Varden/Bull trout with a minimum length of twenty inches as part of the trout limit.

(v) Salmon:

(A) Open June 1 through July 31: Limit 4 hatchery Chinook; no more than 2 of which may be adults.

(B) For years ending in even numbers:

(I) Open September 1 through December 31.

(II) Limit 3 coho only.

(C) For years ending in odd numbers:

(I) Open August 16 through December 31 from the mouth to Lewis Street Bridge in Monroe.

(II) Open September 1 through December 31 from the Lewis Street Bridge to Wallace River.

(III) Limit 3 salmon plus 1 additional pink; release Chinook and chum.

(b) From the mouth of the Wallace River to the forks:

(i) Open June 1 through January 31.

(ii) From the Highway 2 Bridge at the Gold Bar/Big Eddy Access to the confluence of the North and South Forks: Also open February 1 through February 15.

(iii) August 1 through November 30: Anti-snagging rule applies and night closure in effect.

(iv) June 1 through February 15: It is unlawful to fish from any floating device in the area 1,500 feet upstream and 1,000 feet downstream of the outlet at Reiter Ponds.

(v) Trout: Minimum length 14 inches, except anglers may retain Dolly Varden/Bull trout with a minimum length of 20 inches as part of the trout limit.

(vi) Salmon:

(A) Open September 1 through December 31.

(B) For years ending in even numbers: Limit 3 coho only.

(C) For years ending in odd numbers: Limit 3 salmon plus 1 additional pink; release Chinook and chum.

~~((333)))~~ **(316) Skykomish River, North Fork (Snohomish County):**

(a) From the mouth to 1,000 feet downstream of Bear Creek Falls:

(i) Open the first Saturday in June through January 31.

(ii) Selective gear rules apply.

(iii) Release all fish except anglers may retain up to 2 hatchery steelhead.

(b) From Deer Falls (about 1/4 mile upstream of Goblin Creek) upstream, including all tributaries and their tributaries: Open the Saturday before Memorial Day through October 31.

~~((334)))~~ **(317) Skykomish River, South Fork (King/Snohomish counties):**

(a) From the mouth to 600 feet downstream from the Sunset Falls fishway:

(i) Open the first Saturday in June through January 31.

(ii) August 1 through November 30:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(iii) Trout: Minimum length 14 inches.

(b) From Sunset Falls to the source, including all tributaries and their tributaries:

(i) Open the first Saturday in June through November 30.

(ii) Selective gear rules apply.

(iii) Trout: Minimum length 14 inches.

(iv) December 1 through the last day in February:

(A) All tributaries of this river section are closed.

(B) Open for whitefish only; release all other fish.

~~((335)) Sloan Creek (Snohomish County) (Sauk River tributary):~~

(a) Open the first Saturday in June through October 31.

~~(b) Selective gear rules apply.~~

~~(c) Catch and release only.~~

~~(336))~~ **(318) Smith Creek (Whatcom County) (Nooksack River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

~~((337))~~ **(319) Snohomish River (Snohomish County):**

(a) From the Burlington-Northern Railroad bridges to Highway 9 Bridge, including all channels, sloughs, and interconnected waterways, but excluding all tributaries:

(i) Sturgeon catch and release is permissible year-round.

(ii) August 1 through November 30:

(A) Anti-snagging rule applies; except anglers fishing for sturgeon may use single-point barbless hooks of any size.

(B) Night closure in effect.

(iii) Gamefish:

(A) Open the first Saturday in June through January 31.

~~((ii) August 1 through November 30:~~

~~(A) Anti-snagging rule applies; except anglers fishing for sturgeon may use single-point barbless hooks of any size.~~

~~(B) Night closure in effect.~~

~~((iii))~~ (B) Trout: Minimum length 14 inches, except anglers may retain Dolly Varden/Bull trout with a minimum length of 20 inches as part of the trout limit.

(iv) Salmon:

(A) For years ending in even numbers:

(I) Open September 1 through December 31.

(II) Limit 3 coho only.

(B) For years ending in odd numbers:

(I) Open August 1 through December 31.

(II) Limit 3 salmon plus 1 additional pink; release Chinook and chum.

(b) From the Highway 9 Bridge to the confluence of the Skykomish and Snoqualmie rivers (all channels):

(i) Open the first Saturday in June through January 31.

(ii) August 1 through November 30:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(iii) Trout: Minimum length 14 inches, except anglers may retain Dolly Varden/Bull trout with a minimum length of 20 inches as part of the trout limit.

(iv) Salmon:

(A) For years ending in even numbers:

(I) Open September 1 through December 31.

(II) Limit 3 coho only.

(B) For years ending in odd numbers:

(I) Open August 16 through December 31.

(II) Limit 3 plus 1 additional pink; release Chinook and chum.

~~((338))~~ **(320) Snoqualmie River (King County):**

(a) From the mouth to Snoqualmie Falls:

(i) Closed within the Puget Power tunnel at the falls and within 50 feet of any point on Puget Power's lower Plant #2 building (north bank).

(ii) From the first Saturday in June through November 30: Selective gear rules apply.

(iii) September 1 through November 30: Night closure in effect.

(iv) From the mouth to the boat ramp at the Plum access: Open the first Saturday in June through January 31.

(v) From the boat ramp at the Plum access to the falls: Open the first Saturday in June through February 15.

(vi) From November 1 through February 15: It is unlawful to fish from any floating device in the waters from the boat ramp at the Plum access to the mouth of Tokul Creek (about 1/4 mile).

(vii) Trout: Minimum length 14 inches.

(viii) Salmon open September 1 through December 31.

(A) For years ending in even numbers: Limit 3 coho only.

(B) For years ending in odd numbers: Limit 3 salmon plus 1 additional pink; release Chinook and chum.

(b) From Snoqualmie Falls upstream, including the North and South Forks:

(i) Selective gear rules apply.

(ii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iii) Open the Saturday before Memorial Day through October 31: Trout minimum length 10 inches.

(iv) Open November 1 through the Friday before ~~((the first Saturday in June))~~ Memorial Day: Catch and release only.

(c) Snoqualmie River tributaries upstream of the falls, and the tributaries of the North and South Forks (except Tate, Sunday and Phillapa creeks): Open the Saturday before Memorial Day through October 31. From November 1 through the Friday before Memorial Day: Catch and release only.

(d) In the Snoqualmie River Middle Fork from the mouth to the source, including all tributaries except Pratt and Taylor rivers:

(i) Open year-round.

(ii) Selective gear rules apply.

(iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iv) Catch and release only.

~~((339))~~ **(321) South Prairie Creek (Pierce County):** Open the Saturday before Memorial Day through October 31 from the city of Buckley diversion dam upstream.

~~((340))~~ **(322) Spada Lake (Reservoir) (Snohomish County):**

(a) Open the fourth Saturday in April through October 31.

(b) Selective gear rules apply.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Trout: Maximum length 12 inches.

~~((341))~~ **(323) Spada Lake (Reservoir) tributaries (Snohomish County):** Closed.

~~((342))~~ **(324) Spanaway Lake and Spanaway Lake outlet downstream to the dam (approximately 800 feet) (Pierce County):** ~~((a))~~ Open year-round.

~~((b) Trout: It is unlawful to retain more than 2 trout over 14 inches in length.~~

~~(343) Spencer Lake (Mason County): It is unlawful to retain more than 2 trout over 14 inches in length.~~

~~((344))~~ **(325) Squalicum Creek (Whatcom County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

~~((345))~~ (326) **Squalicum Lake (Whatcom County):**

(a) Open for fly fishing only.

(b) It is unlawful to fish from a floating device equipped with a motor.

(c) Trout: Limit 2.

~~((346))~~ (327) **Squire Creek (Snohomish County) (N.F. Stillaguamish River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Release all fish except anglers may retain up to 2 hatchery steelhead.

~~((347))~~ (328) **Steel Lake (King County):** Open the fourth Saturday in April through October 31.

~~((348) **Steilacoom Lake (Pierce County):** It is unlawful to retain more than 2 trout over 14 inches in length.~~

~~(349))~~ (329) **Stetattle Creek (Whatcom County):** Open the first Saturday in June through October 31 above the mouth of Bucket Creek (approximately 1.5 miles upstream).

~~((350))~~ (330) **Stevens, Lake (Snohomish County):**

(a) Chumming is permissible.

(b) Kokanee: Limit 10; kokanee do not count toward the trout limit.

~~((351))~~ (331) **Steves Lake (Mason County):** Open the fourth Saturday in April through October 31.

~~((352))~~ (332) **Stickney Lake (Snohomish County):** Open the fourth Saturday in April through October 31.

~~((353))~~ (333) **Stillaguamish River (Snohomish County):**

(a) From the mouth to Marine Drive, including all sloughs:

(i) Open year-round.

(ii) Night closure in effect.

(iii) August 1 through November 30: ~~((A))~~ Anti-snagging rule applies; except anglers fishing for sturgeon may use single-point barbless hooks of any size.

~~((B) Night closure in effect.~~

~~((iii))~~ (iv) Trout: Minimum length 14 inches.

~~((iv))~~ (v) Salmon open September 1 through November 30.

(A) For years ending in even numbers: Limit 2 coho only.

(B) For years ending in odd numbers: Limit 2; release Chinook and chum.

(b) From Marine Drive to the forks:

(i) From the barrier dam (downstream of I-5) downstream 200 feet: Closed.

(ii) Open the first Saturday in June through November 30.

(A) Selective gear rules apply.

(B) Night closure in effect from August 1 through November 30.

(C) Release all fish except anglers may retain up to 2 hatchery steelhead.

(iii) Open December 1 through January 31:

(A) Trout: Minimum length 14 inches.

(B) Salmon open September 1 through November 30.

(I) For years ending in even numbers: Limit 2 coho only.

(II) For years ending in odd numbers: Limit 2; release Chinook and chum.

~~((354))~~ (334) **Stillaguamish River, North Fork (Snohomish County):**

(a) From the North Fork mouth to the mouth of French Creek:

(i) August 1 through November 30:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(ii) It is unlawful to fish from any floating device upstream of the Highway 530 Bridge at mile post 28.8 (Cicero Bridge).

(iii) It is unlawful to fish from any floating device equipped with a motor downstream from the Highway 530 Bridge.

(iv) Open the first Saturday in June through January 31:

(A) From the first Saturday in June through November 30:

(I) Fly fishing only.

(II) Release all fish except anglers may retain up to 2 hatchery steelhead.

(B) From December 1 through January 31: Trout minimum length 14 inches.

(b) From the mouth of French Creek to Swede Heaven Bridge:

(i) August 1 through November 30:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(ii) Open the first Saturday in June through February 15:

(A) From the first Saturday in June through November 30:

(I) Fly fishing only.

(II) Release all fish except anglers may retain up to 2 hatchery steelhead.

(B) December 1 through February 15: Trout minimum length 14 inches.

(c) From Swede Heaven Bridge to the falls approximately one mile upstream of Cascade Creek:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply.

(iii) Release all fish except anglers may retain up to 2 hatchery steelhead.

(d) Upstream of the falls, including all tributaries and their tributaries: Open the Saturday before Memorial Day through October 31.

~~((355))~~ (335) **Stillaguamish River, South Fork (Snohomish County):**

(a) From the mouth to 400 feet downstream of the outlet to Granite Falls fishway:

(i) Open the first Saturday in June through January 31.

(ii) August 1 through November 30:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(iii) Trout: Minimum length 14 inches.

(b) From the Mountain Loop Highway Bridge above Granite Falls upstream to the source:

(i) Open the first Saturday in June through November 30.

(ii) Selective gear rules apply.

(iii) August 1 through November 30:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

~~((356))~~ (336) Stimson Creek (Mason County):

- (a) Open the first Saturday in June through October 31.
- (b) Selective gear rules apply.
- (c) Catch and release only.

~~((357))~~ (337) April through October 31.~~((358))~~ (338) Straight Creek (Snohomish County) (Suiattle River tributary):

- (a) Open the first Saturday in June through October 31.
- (b) Selective gear rules apply.

~~((359))~~ ~~Stump Lake (Mason County):~~~~(a) Open the fourth Saturday in April through October 31.~~~~(b) It is unlawful to fish from a floating device equipped with an internal combustion engine.~~~~(c) Trout: It is unlawful to retain more than 2 trout over 15 inches in length.~~~~(360))~~ (339) Suiattle River (Skagit County):

- (a) Open the first Saturday in June through October 31.
- (b) Selective gear rules apply.
- (c) Trout: It is permissible to retain Dolly Varden/Bull trout with a minimum length of 20 inches as part of trout limit.

~~((361))~~ (340) Sulphur Creek (Snohomish County) (Suiattle River tributary):

- (a) Open the first Saturday in June through October 31.
- (b) Selective gear rules apply.

~~((362))~~ (341) Sultan River (Snohomish County):~~(a) From the mouth to a point 400 feet downstream from the diversion dam at river mile 9.7:~~~~(i) Open the first Saturday in June through January 31.~~~~(ii) Trout: Minimum length 14 inches, except anglers may retain Dolly Varden/Bull trout with a minimum length of 20 inches as part of the trout limit.~~~~(b) Upstream of the diversion dam to Culmback Dam: Open the first Saturday in June through October 31.~~~~((363))~~ (342) Sumas River (Whatcom County): Open the first Saturday in June through October 31, including all tributaries except Johnson Creek.~~((364))~~ ~~Summit Lake (Thurston County):~~~~(a) Open the fourth Saturday in April through October 31.~~~~(b) Trout: It is unlawful to retain more than 2 over 14 inches in length, except there are no size restrictions for kokanee.~~~~(365))~~ (343) Summit Lake (Thurston County):~~(a) Open the fourth Saturday in April through October 31.~~~~(b) Trout: It is unlawful to retain more than 2 over 14 inches in length, except there are no size restrictions for kokanee.~~(344) Susan Lake (Thurston County):

- (a) Selective gear rules apply.
- (b) Catch and release only.

~~((366))~~ (345) Swamp Creek (tributary to Sammamish River) (Snohomish/King counties): Open the first Saturday in June through August 31 for juvenile anglers only.~~((367))~~ (346) Swan's Mill Pond (Stossel Creek) (King County): Open the first Saturday in June through October 31.~~((368))~~ (347) Symington Lake (Kitsap County):

- (a) Open the first Saturday in June through October 31.
- (b) Selective gear rules apply.
- (c) Trout: Catch and release only.

~~((369))~~ (348) Tahuya River (Mason County):~~(a) From the mouth to the steel bridge approximately 1 mile upstream of North Shore Road Bridge:~~~~(i) Open the first Saturday in June through August 15 and October 1 through October 31.~~~~(ii) Selective gear rules apply.~~~~(iii) ((It is unlawful to fish from a floating device equipped with an internal combustion motor.~~~~(iv)) October 1 through October 31: Night closure in effect.~~~~((v))~~ ~~(iv) Release all gamefish.~~~~(b) From the steel bridge approximately one mile upstream of North Shore Road Bridge upstream:~~~~(i) Open the first Saturday in June through August 15 and October 1 through October 31.~~~~(ii) Selective gear rules apply.~~~~(iii) October 1 through October 31: Night closure in effect.~~~~(iv) ((It is unlawful to fish from a floating device equipped with an internal combustion motor.~~~~(v))~~ ~~Catch and release only.~~~~((370))~~ (349) Tanwax Creek (Thurston County):~~(a) Open the first Saturday in June through October 31.~~~~(b) Selective gear rules apply.~~~~(c) Catch and release only.~~~~((371))~~ (350) Tanwax Lake (Pierce County): ~~((a) Open the fourth Saturday in April through October 31.~~~~(b)) Crappie: Limit 10; minimum length 9 inches.~~~~((c) Trout: It is unlawful to retain more than 2 trout over 14 inches in length.~~~~(372))~~ (351) Tapps Lake (Reservoir) and Tapps Lake (Reservoir) intake canal (Pierce County), to within four hundred feet of the screen at Dingle Basin: Open year-round.~~((373))~~ (352) Taylor River (tributary to the Middle Fork Snoqualmie) (King County):~~(a) Open the Saturday before Memorial Day through October 31.~~~~(b) Selective gear rules apply.~~~~(c) Catch and release only.~~~~((374))~~ ~~Tee Lake (Mason County): It is unlawful to retain more than 2 trout over 14 inches in length.~~~~(375))~~ (353) Tenmile Creek (Whatcom County) (Nooksack River tributary):~~(a) Open the first Saturday in June through October 31.~~~~(b) Selective gear rules apply.~~~~((376))~~ (354) Tenas Creek (Skagit County) (Suiattle River tributary):~~(a) Open the first Saturday in June through October 31.~~~~(b) Selective gear rules apply.~~~~((377))~~ (355) Tenas Lake (Mason County): Open the fourth Saturday in April through October 31.~~((378))~~ (356) Tennant Lake (Whatcom County): It is unlawful to fish from any floating device from the first Friday in October through January 27.

~~((379))~~ (357) Terrell Creek (Whatcom County):

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

~~((380))~~ (358) Terrell, Lake (Whatcom County): It is unlawful to fish from any floating device from the first Saturday after Labor Day through the following Friday and from October 1 through January 31, except fishing from a floating dock is permissible.~~((381))~~ (359) Texas Pond (Skagit County): No limit for eastern brook trout.(360) Thomas Creek (Skagit County) (Samish River tributary):

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

~~((382))~~ (361) Thompson Creek (Thurston County) (Skookumchuck River tributary):

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

~~((383))~~ (362) Thornton Creek (tributary to Lake Washington) (King County): Open the first Saturday in June through August 31 for juvenile anglers only.~~((384))~~ Thornton Creek (Skagit County):~~(a) Open the first Saturday in June through October 31.~~~~(b) Release all fish except anglers may retain up to 2 hatchery steelhead.~~~~((385))~~ (363) Thornton Creek (Whatcom County):~~(a) Open the first Saturday in June through October 31.~~~~(b) Release all fish except anglers may retain up to 2 hatchery steelhead and there is no limit on cutthroat trout.~~(364) Thornton Lake, lower (Whatcom County): Cutthroat trout: No limit.(365) Tibbetts Creek (tributary to Lake Sammamish) (King County): Open the first Saturday in June through August 31 for juvenile anglers only.~~((386))~~ (366) Tiger Lake (Kitsap/Mason counties):~~((a))~~ Open the fourth Saturday in April through October 31.~~((b))~~ Trout: It is unlawful to retain more than 2 trout over 14 inches in length.~~((387))~~ (367) Toad Lake (Whatcom County): Open the fourth Saturday in April through October 31.~~((388))~~ (368) Tokul Creek (King County) (Snoqualmie River tributary):

(a) From the mouth to the Fish Hatchery Road Bridge:

(i) Open December 1 through February 15, except closed to fishing from 5:00 p.m. to 7:00 a.m.

(ii) Anti-snagging rule applies.

(iii) Trout: Minimum length 14 inches.

(b) From Fish Hatchery Road Bridge to the posted cable boundary marker located approximately 400 feet downstream of the hatchery intake:

(i) Open January 15 through February 15, except closed to fishing from 5:00 p.m. to 7:00 a.m.

(ii) Anti-snagging rule applies.

(iii) Trout: Minimum length 14 inches.

(c) From Tokul Road S.E. upstream, including all tributaries and beaver ponds: Open the Saturday before Memorial Day through October 31.

~~((389))~~ (369) Tolt River (King County):

(a) From the mouth to the USGS trolley cable near the confluence of the North and South Forks:

(i) Open the first Saturday in June through January 31 (~~(ii) From the first Saturday in June through November 30~~): Selective gear rules apply.~~((iii))~~ (ii) Trout: Minimum length 14 inches.

(b) From the falls upstream, on the North Fork, including all tributaries:

(i) Open the Saturday before Memorial Day through October 31.

(ii) Selective gear rules apply.

(iii) Catch and release only.

(c) On the South Fork, from the dam upstream:

(i) Open the Saturday before Memorial Day through October 31.

(ii) Selective gear rules apply.

(iii) Trout: Minimum length 10 inches.

~~((390))~~ Trail's End Lake (Mason County): It is unlawful to retain more than 2 trout over 14 inches in length.~~(391) Twin Lake (Mason County):~~ It is unlawful to retain more than 2 trout over 14 inches in length.~~((392))~~ (370) Twenty-two Lake Creek (Snohomish County): Open the Saturday before Memorial Day through October 31 upstream from the falls located approximately at river mile 0.25 upstream.(371) Tye River (King County):

(a) From Foss River to Alpine Falls:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply.

(iii) Trout: Minimum length 14 inches.

(iv) Open November 1 through the last day in February for whitefish only; release all other fish.

(b) From Alpine falls upstream, and all tributaries to the Tye River, including their tributaries: Open the first Saturday in June through October 31.

~~((393))~~ (372) U Lake (Mason County): Open the fourth Saturday in April through October 31.~~((394))~~ (373) Uncle John Creek (Mason County):

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Trout: Catch and release only.

~~((395))~~ (374) Union River (Mason County):

(a) From the mouth to the North Shore Road Bridge:

(i) Open the first Saturday in June through August 15.

(ii) Catch and release only.

(b) From the North Shore Road Bridge to the lower bridge on Old Belfair Highway:

(i) Open the first Saturday in June through August 15.

(ii) Selective gear rules apply.

(iii) ~~((It is unlawful to fish from a floating device equipped with an internal combustion motor.~~~~(iv))~~ Catch and release only.

(c) From the lower bridge on Old Belfair Highway upstream:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply.

(iii) ~~((It is unlawful to fish from a floating device equipped with an internal combustion motor.~~~~(iv))~~ Catch and release only.~~((396))~~ (375) Vogler Lake (Skagit County):~~(a) ((Open the fourth Saturday in April through October 31.~~

~~(b))~~ Fly fishing only.

~~((e))~~ (b) Catch and release only.

~~((397))~~ (376) **Voight Creek (Pierce County):** Open the Saturday before Memorial Day through October 31 from the falls, approximately 4.0 river miles upstream of the mouth and under the power lines, upstream.

~~((398))~~ (377) **Waddell Creek (Thurston County) (Black River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

~~((399))~~ (378) **Wagners Lake (Snohomish County):** Open the fourth Saturday in April through October 31.

~~((400))~~ (379) **Walker Lake (King County):** Open the fourth Saturday in April through October 31.

~~((401))~~ (380) **Wallace River (Snohomish County):**

(a) From the mouth to 363rd Ave. S.E./Reece Rd.

(i) Open from the first Saturday in June through February 15.

(ii) From June 1 through November 30:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(iii) From November 1 through February 15: It is unlawful to fish from any floating device.

(iv) Trout: Minimum length 14 inches, except anglers may retain Dolly Varden/Bull trout with a minimum length of 20 inches as part of the trout limit.

(v) Salmon open September 16 through November 30:

(A) In years ending in even numbers: Limit 3 coho only.

(B) In years ending in odd numbers: Limit 3 salmon plus 1 additional pink; release Chinook and chum.

(b) From 363rd Avenue S.E./Reece Road to 200 feet upstream of the water intake of the salmon hatchery:

(i) Open September 16 through February 15.

(ii) September 16 through November 30:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(iii) November 1 through February 15: It is unlawful to fish from any floating device.

(iv) Trout: Minimum length 14 inches, except anglers may retain Dolly Varden/Bull trout with a minimum length of 20 inches as part of the trout limit.

(v) Salmon open September 16 through November 30:

(A) In years ending in even numbers: Limit 3 coho only.

(B) In years ending in odd numbers: Limit 3 salmon plus 1 additional pink; release Chinook and chum.

(c) From 200 feet upstream of the water intake of the salmon hatchery to Wallace Falls:

(i) Open November 1 through January 31.

(ii) It is unlawful to fish from any floating device.

(iii) Trout: Minimum length 14 inches, except anglers may retain Dolly Varden/Bull trout with a minimum length of 20 inches as part of the trout limit.

(d) From Wallace Falls upstream, including all tributaries and their tributaries: Open the Saturday before Memorial Day through October 31.

~~((402))~~ (381) **Wapato Lake (Pierce County):** Open to juvenile anglers only.

~~((403))~~ **Ward Lake (Thurston County):**

~~(a) Open the fourth Saturday in April through October 31.~~

~~(b) Trout: It is unlawful to retain more than 2 trout over 14 inches in length, except there are no size restrictions for kokanee.~~

~~(404))~~ (382) **Washington Creek (Mason County):** Open the ~~(first)~~ Saturday ~~(in June)~~ before Memorial Day through October 31.

~~((405))~~ (383) **Washington~~(s)~~ Lake, including that portion of the Sammamish River from the 68th Avenue N.E. Bridge downstream (King County):**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) Open year-round.

~~((b))~~ (c) It is unlawful to fish from a floating device within 100 yards of either side of the floating bridges.

~~((e))~~ (d) Chumming is permissible.

~~((f))~~ (e) Trout:

(i) December 1 through the last day in February: Release steelhead and rainbow trout over 20 inches in length.

(ii) March 1 through June 30:

(A) Minimum length 12 inches.

(B) Release steelhead and rainbow trout over 20 inches in length.

~~((e))~~ (f) Salmon:

(i) Open September 16 through October 31 north of Highway 520 Bridge and east of Montlake Bridge.

(ii) Limit 4 coho only.

~~((406))~~ (384) **Washington~~(s)~~ 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):**

(a) ~~(West of the Fremont Bridge: It is unlawful to fish from a floating device.~~

~~(b))~~ Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) East of the Fremont Bridge: Chumming is permissible.

(c) From the west boundary to a north-south line 400 feet east of the eastern end of the northern wing wall of Chittenden Locks: Closed.

(d) From 400 feet east of the eastern end of the northern wing wall of Chittenden Locks to the east boundary:

(i) Open year-round for game fish.

(ii) Trout:

(A) Open December 1 through the last day in February: No minimum length.

(B) Open March 1 through June 30: Minimum length 12 inches.

(C) Open July 1 through November 30: No minimum length.

(D) Release steelhead and rainbow trout over 20 inches in length.

~~((407))~~ (385) **Waughop Lake (Pierce County):** Land-locked salmon rules apply.

~~((408))~~ (386) **Whatcom Creek (Whatcom County):**

(a) From the mouth to the markers below the footbridge below Dupont Street in Bellingham:

(i) Open the first Saturday in June through ~~(the last day in February)~~ December 31.

- (ii) August 1 through December 31:
 - (A) Anti-snagging rule applies.
 - (B) Night closure in effect.
- (iii) Trout: Minimum length 14 inches.
- (iv) Salmon: Open August 1 through December 30.
 - (A) Limit 6; anglers may retain up to 2 adult salmon.
 - (B) Anglers fishing lawfully within 50 yards of the Bellingham Technical College Hatchery Collection Tube and on the hatchery side of the creek that hook and land chum salmon may remove those chum salmon from the water and immediately place them unharmed into the Hatchery Collection Tube.
- (b) From the footbridge below Dupont Street in Bellingham to ~~((Woburn Street Bridge))~~ the stone bridge at Whatcom Falls Park:
 - (i) Open the first Saturday in June through ~~((the last day in February))~~ October 31.
 - (ii) August 1 through ~~((December))~~ October 31: ~~((A) Anti-snagging rule applies.)~~
 - (A) Anti-snagging rule applies.
 - (B) Night closure in effect.
 - (iii) Trout: Minimum length 14 inches.
- (c) From the stone bridge at Whatcom Falls Park upstream to Lake Whatcom:
 - ~~((i))~~ Open the fourth Saturday in April through October 31 for juvenile anglers only.
 - ~~((ii) August 1 through October 31: (A) Anti-snagging rule applies.~~
 - ~~(B) Night closure in effect.~~
 - ~~((iii))~~ Trout: No minimum length.
 - ~~((409))~~ (387) Whatcom, Lake (Whatcom County):
 - (a) Open the fourth Saturday in April through October 31, except the waters between the Electric Avenue Bridge and the outlet dam are closed.
 - (b) Cutthroat trout: Catch and release only.
 - ~~((410))~~ (388) Whatcom, Lake, tributaries (Whatcom County): Closed.
 - ~~((411) White Creek (Skagit County) (Sauk River tributary):~~
 - ~~(a) Open the first Saturday in June through October 31.~~
 - ~~(b) Selective gear rules apply.~~
 - ~~(c) Release all fish except anglers may retain up to 2 hatchery steelhead.~~
 - ~~(412))~~ (389) White (Stuck) River (Pierce County):
 - (a) From the mouth to R Street Bridge in Auburn:
 - (i) Open October 1 through October 31:
 - (A) Fly fishing only.
 - (B) Catch and release only.
 - (ii) Open November 1 through January 15: Trout minimum length 14 inches.
 - (iii) October 1 through January 15:
 - (A) Selective gear rules apply.
 - (B) Night closure in effect.
 - (b) From R Street Bridge to the Highway 410 Bridge at Buckley:
 - (i) Open October 1 through October 31, except closed in the Puget Power canal, including the screen bypass channel above the screen at Dingle Basin.
 - (ii) Selective gear rules apply.
 - (iii) Night closure in effect.

- (iv) Trout: Minimum length 14 inches.
- (c) From the Weyerhaeuser 6000 Road Bridge (Bridge Camp) upstream to the source:
 - (i) Open July 1 through October 31.
 - (A) October 1 through October 31: Night closure in effect.
 - (B) Selective gear rules apply.
 - (C) Catch and release only.
 - (ii) Open for whitefish only November 1 through January 31; whitefish gear rules apply.
- ~~((413))~~ (390) Whitechuck River (Snohomish County):
 - (a) Open the first Saturday in June through October 31.
 - (b) Selective gear rules apply.
 - (c) It is permissible to retain Dolly Varden/Bull trout with a minimum length of 20 inches as part of the trout limit.
- ~~((414))~~ (391) Wildberry Lake (Mason County): Open the fourth Saturday in April through October 31.
- ~~((415))~~ (392) Wildcat Lake (Kitsap County): ~~((a))~~ Open the fourth Saturday in April through October 31.
- ~~((b) Trout: It is unlawful to retain more than 2 trout over 14 inches in length.~~
- ~~(416))~~ (393) Wilderness Lake (King County):
 - (a) Open the fourth Saturday in April through October 31.
 - (b) Landlocked salmon rules apply.
- ~~((417))~~ (394) Wilkeson Creek (Pierce County) (South Prairie Creek tributary) upstream of confluence with Gale Creek: Open the first Saturday in June through October 31.
- ~~((418))~~ (395) Woodard Creek (Thurston County):
 - (a) Open the first Saturday in June through October 31.
 - (b) Selective gear rules apply.
 - (c) Trout: Minimum length 14 inches.
- ~~((419))~~ (396) Wood Lake (Mason County): ~~((a))~~ Open the fourth Saturday in April through October 31.
- ~~((b) Trout: It is unlawful to retain more than 2 trout over 14 inches in length.~~
- ~~(420))~~ (397) Woodland Creek (Thurston County):
 - (a) Open the first Saturday in June through October 31.
 - (b) Selective gear rules apply.
 - (c) Trout: Minimum length 14 inches.
- ~~((421))~~ (398) Woods Creek, East Fork (Snohomish County) (Skykomish River tributary): Open the first Saturday before Memorial Day through October 31 upstream of Old Pipeline Road above Woods Creek Falls, including tributaries and beaver ponds.
- ~~((422))~~ (399) Wooten Lake (Mason County): ~~((a))~~ Open the fourth Saturday in April through October 31.
- ~~((b) Trout: It is unlawful to retain more than 2 trout over 14 inches in length.~~
- ~~(423))~~ (400) Wye Lake (Kitsap County): ~~((a))~~ Open the fourth Saturday in April through October 31.
- ~~((b) Trout: It is unlawful to retain more than 2 trout over 14 inches in length.~~
- ~~(424))~~ (401) Youngs Creek (Snohomish County) (Skykomish River tributary) (Elwell Creek tributary, Skykomish River tributary near town of Sultan): Open the Saturday before Memorial Day through October 31 above

Potson Road (299th Avenue S.E. Bridge) including all tributaries and beaver ponds.

AMENDATORY SECTION (Amending WSR 15-13-081, filed 6/12/15, effective 7/13/15)

WAC 220-310-195 Freshwater exceptions to statewide rules—Eastside. (1) Countywide freshwater exceptions to statewide rules:

(a) All lake, pond, and reservoir inlets and outlets and irrigation canals, wasteways, and drains in Grant and Adams counties (except Crab Creek, Rocky Ford Creek and Ponds, Columbia Basin Hatchery Creek, Bobcat Creek, Coyote Creek, Hays Creek, Red Rock Creek, Sand Hollow Creek, and Lake Lenore inlet and outlet) are open year-round.

(b) In Adams, Douglas, Franklin, Grant, and Okanogan counties, except Zosel Dam (Okanogan River) and Enloe Dam (Similkameen River): It is permissible to fish up to the base of all dams.

(c) In Ferry, Lincoln, and Stevens counties:

(i) Unless otherwise provided in this section, all tributaries to Lake Roosevelt between Grand Coulee Dam and the State Highway 25 Bridge at Northport except Barnaby, Nancy, and Onion creeks are open the Saturday before Memorial Day through October 31.

(ii) Trout: Limit 5, no minimum length.

(2) Aeneas Lake (Okanogan County):

(a) Open the fourth Saturday in April through October 31 for fly fishing only.

(b) It is unlawful to fish from a floating device equipped with a motor.

(c) Trout: Limit one.

(3) Ahtanum Creek, including North and Middle Forks (Yakima County):

(a) Selective gear rules apply.

(b) Trout minimum length ten inches.

(c) In the North Fork, open from the mouth to Grey Rock Trailhead Bridge crossing and upstream from the mouth of Shellneck Creek.

(d) In the Middle Fork, open from the mouth to the A2000 Road Spur Road Bridge in NE Section 34 and upstream of the A2000 Road Bridge at Tree Phones Campground.

(4) **Alta Lake (Okanogan County):** Open the fourth Saturday in April through October 31.

(5) Amber Lake (Spokane County):

(a) Selective gear rules apply.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Open March 1 through November 30.

(i) From March 1 through the Friday before fourth Saturday in April, and October 1 through November 30: Catch and release only.

(ii) From the fourth Saturday in April through September 30:

(A) Trout: Limit two; minimum length fourteen inches.

(B) Release rainbow trout with a clipped adipose fin and a healed scar at the site of the clipped fin.

(6) American River (Yakima County):

(a) Selective gear rules apply.

(b) From the Highway 410 Bridge at river mile 5.4 to the Mesatchee Creek Trail crossing at river mile 15.8:

(i) Open the first Saturday in June to July 15.

(ii) Open September 16 to October 31.

(c) From the mouth to the Highway 410 Bridge at river mile 5.4 and upstream of the Mesatchee Creek Trail river crossing at river mile 15.8: Open the first Saturday in June through October 31.

(d) Trout minimum length ten inches in the mainstem only.

(e) American River tributaries, except Union and Kettle creeks: Open.

(7) Amon Wasteway (Benton County):

(a) Selective gear rules apply.

(b) Trout minimum length ten inches.

(8) Asotin Creek, mainstem and forks (Asotin County):

(a) It is unlawful to fish for steelhead.

(b) From SR 129 Bridge upstream to the forks: It is permissible to fish up to the base of Headgate Dam.

(c) Asotin mainstem and the mainstem North Fork from the mouth upstream to the USFS boundary: Selective gear rules apply.

(d) North Fork from the USFS boundary upstream and all other tributaries: Closed.

(e) South Fork and tributaries: Closed.

(9) **B.C. Mill Pond (Stevens County):** Open the fourth Saturday in April through October 31.

(10) **Badger Lake (Spokane County):** Open the fourth Saturday in April through September 30.

(11) Banks Lake (Grant County):

(a) Chumming is permissible.

(b) Crappie: Limit 10; minimum size 9 inches.

(c) Perch: Limit twenty-five.

(12) Bayley Lake (Stevens County):

(a) Inlet stream: Closed.

(b) Fly fishing only.

(c) It is unlawful to fish from a floating device equipped with a motor.

(d) Open the fourth Saturday in April through October 31.

(i) From the fourth Saturday in April through July 4: Trout limit one; minimum length 14 inches.

(ii) From July 5 through October 31: Catch and release only.

(13) **Bear Creek (Yakima County) (tributary to South Fork Tieton River):** Open upstream of the Bear Creek Falls, approximately 3/4 mile upstream of USFS Road 1070.

(14) **Bear Lake (Spokane County):** Open to juvenile anglers, licensed adults accompanied by a juvenile, and anglers with a disability who possess a designated harvester companion card only.

(15) Beaver Lake (Columbia County):

(a) Open March 1 through October 31.

(b) It is unlawful to fish from any floating device.

(16) **Beaver Lake (Big) (Okanogan County):** Open the fourth Saturday in April through October 31.

(17) **Beaver Lake (Little) (Okanogan County):** Open the fourth Saturday in April through October 31.

- (18) **Beda Lake (Grant County):**
 (a) Selective gear rules apply.
 (b) It is unlawful to fish from a floating device equipped with an internal combustion motor.
 (c) Trout: Limit one.
- (19) **Beehive (Lake) Reservoir (Chelan County):**
 (a) Open the fourth Saturday in April through October 31.
 (b) From July 5 through October 31:
 (i) Selective gear rules apply.
 (ii) It is unlawful to fish from a floating device equipped with an internal combustion motor.
 (iii) Catch and release only.
- (20) **Bennington Lake (Mill Creek Reservoir) (Walla Walla County):**
 (a) It is unlawful to fish from a floating device equipped with an internal combustion motor.
 (b) Trout: It is unlawful to retain more than 2 trout over 13 inches in length.
- (21) **Beth Lake (Okanogan County):** Open the fourth Saturday in April through October 31.
- (22) **Big Four Lake (Columbia County):**
 (a) Open March 1 through October 31 for fly fishing only.
 (b) It is unlawful to fish from any floating device.
 (c) Trout: Limit two.
- (23) **Big Meadow Creek (Chelan County):** From the mouth upstream:
 (a) Open the Saturday before Memorial Day through October 31.
 (b) Selective gear rules apply.
 (c) Trout:
 (i) Rainbow trout: Catch and release only.
 (ii) Eastern brook trout do not count toward the trout limit. However, once the limit of trout other than eastern brook trout is reached, the limit for all species of trout is reached and the angler must cease fishing for trout.
 (d) Big Meadow Creek tributaries from the mouth of Big Meadow Creek upstream: Open the Saturday before Memorial Day through October 31.
- (24) **Big Meadow Lake (Pend Oreille County):**
 (a) Open the fourth Saturday in April through October 31.
 (b) It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.
- (25) **Big Tiffany Lake (Okanogan County):**
 (a) Eastern brook trout: No limit; eastern brook trout do not count toward the trout limit.
 (b) Cutthroat: Limit two.
- (26) **Big Twin Lake (Okanogan County):**
 (a) Open the fourth Saturday in April through October 31.
 (b) Selective gear rules apply.
 (c) It is unlawful to fish from a floating device equipped with an internal combustion motor.
 (d) Trout: Limit one.
- (27) **Bird Creek (Klickitat County):**
 (a) Open the Saturday before Memorial Day through October 31.
 (b) Trout: Limit 5.
- (28) **Blackbird Island Pond (Chelan County):** Open July 1 through September 30 for juvenile anglers only.
- (29) **Black Lake (Okanogan County):**
 (a) Selective gear rules apply.
 (b) It is unlawful to fish from a floating device equipped with an internal combustion motor.
- (30) **Black Lake (Stevens County):** Open the fourth Saturday in April through October 31.
- (31) **Blockhouse Creek (Klickitat County):** Trout limit five.
- (32) **Blue Lake (Columbia County):**
 (a) It is unlawful to fish from any floating device.
 (b) Trout: It is unlawful to retain more than 2 trout over 13 inches in length.
- (33) **Blue Lake (Grant County):** Open the fourth Saturday in April through September 30.
- (34) **Blue Lake (near Sinlahekin) (Okanogan County):**
 (a) Open the fourth Saturday in April through October 31.
 (b) Selective gear rules apply.
 (c) It is unlawful to fish from a floating device equipped with an internal combustion motor.
 (d) It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.
 (e) Trout: Limit one.
- (35) **Blue Lake (near Wannacut Lake) (Okanogan County):**
 (a) Open the Fourth Saturday in April through October 31.
 (b) Selective gear rules apply.
 (c) It is unlawful to fish from a floating device equipped with an internal combustion motor.
 (d) Trout: Limit one.
- (36) **Bobcat Creek and Ponds (Adams County):** Open April 1 through September 30.
- (37) **Bonaparte Creek (Okanogan County):** From the falls upstream to river mile 1.0, including all tributaries:
 (a) Open the Saturday before Memorial Day through October 31.
 (b) Bass: No limit and no size restrictions.
 (c) Channel catfish: No limit.
 (d) Walleye: No limit and no size restrictions.
- (38) **Bonaparte Lake (Okanogan County):**
 (a) It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.
 (b) Trout: It is unlawful to retain more than one trout over twenty inches in length.
- (39) **Boulder Creek and tributaries (Okanogan County):**
 (a) From the mouth to the barrier falls at river mile 1.0:
 (i) Open the Saturday before Memorial Day through August 15:
 (ii) Selective gear rules apply.
 (iii) Catch and release only.
 (b) From barrier falls at river mile 1.0 upstream, including all tributaries:
 (i) Open the Saturday before Memorial Day through October 31:

(ii) Eastern brook trout: Limit 10; eastern brook trout do not count toward the trout limit.

(c) Cutthroat: Limit 2.

(40) **Bowman Creek (Klickitat County):** From Canyon Creek upstream to source: Trout limit 5.

(41) **Box Canyon Creek and tributaries (Kittitas County):** Upstream from the 20 foot waterfall approximately 2 miles upstream of the mouth to the USFS Road #4930 Bridge: Selective gear rules apply. Open the first Saturday in June through October 31.

(42) **Browns Creek (Pend Oreille County):**

(a) Open the Saturday before Memorial Day until October 31.

(b) Fly fishing only.

(43) **Browns Lake (Pend Oreille County):**

(a) Open the fourth Saturday in April through October 31.

(b) Fly fishing only.

(c) It is unlawful to fish from a floating device equipped with a motor.

(d) Trout: It is unlawful to retain more than one trout greater than 11 inches in length.

(44) **Buck Creek and tributaries (Chelan County):**

(a) Open the Saturday before Memorial Day through October 31 from the mouth of Buck Creek upstream.

(b) Selective gear rules apply.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(45) **Bumping Lake (Reservoir) (Yakima County):**

(a) It is permissible to fish two poles, so long as the angler possesses a valid two-pole endorsement.

(b) Chumming is permissible.

(c) Kokanee: Limit sixteen; kokanee do not count towards the trout limit.

(46) **Bumping River (Yakima County):**

(a) It is permissible to fish up to the base of Bumping Dam.

(b) From the mouth to Bumping Reservoir, including all tributaries except American River:

(i) Selective gear rules apply.

(ii) Trout minimum size ten inches.

(c) From Bumping Lake upstream, including all tributaries except Deep Creek: Open the Saturday before Memorial Day through October 31.

(47) **Burbank Slough (Walla Walla County):** It is unlawful to fish from any floating device in the area east and north of Highway 12, except for the channel east of Highway 12 up to the fish screen at the Number 3 Pumping Station.

(48) **Burke Lake (Grant County):** Open March 1 through July 31.

(49) **Buttermilk Creek (Okanogan County), including all tributaries:**

(a) Open the Saturday before Memorial Day through August 15.

(b) Catch and release only.

(c) Selective gear rules apply.

(50) **Buzzard Lake (Okanogan County):**

(a) Open the fourth Saturday in April through October 31.

(b) Selective gear rules apply.

(c) Trout: Limit one.

(51) **Caldwell Lake (Pend Oreille County):**

(a) Open the fourth Saturday in April through October 31.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Trout: Limit two; minimum length twelve inches.

(52) **Caliche Lakes, Upper (Grant County):** Open March 1 through July 31.

(53) **Calispell Creek (Calispell River) (Pend Oreille County):**

(a) Eastern brook trout: Limit 10; once an angler retains 2 trout other than eastern brook trout, the entire trout limit has been taken.

(b) From the mouth to Calispell Lake: Open year-round.

(c) From Calispell Lake upstream to the source:

(i) Selective gear rules apply.

(ii) Open the Saturday before Memorial Day through October 31.

(54) **Calispell Creek tributaries (Pend Oreille County):**

(a) Open the Saturday before Memorial Day through October 31.

(b) Selective gear rules apply.

(c) Eastern brook trout: Limit 10; once an angler retains 2 trout other than eastern brook trout, the entire trout limit has been taken.

(55) **Campbell Lake (Okanogan County):**

(a) Open year-round.

(b) April 1 through August 31.

(i) Selective gear rules apply.

(ii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iii) Catch and release only.

(56) **Carl's Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.

(57) **Cascade Lake (Grant County):** Open March 1 through July 31.

(58) **Cattail Lake (Grant County):** Open April 1 through September 30.

(59) **Cedar Creek (Okanogan County):**

(a) From the mouth to Cedar Falls: Open the Saturday before Memorial Day through August 15.

(i) Selective gear rules apply.

(ii) Catch and release only.

(b) Cedar Creek and all tributaries above Cedar Falls:

(i) Open the Saturday before Memorial Day through October 31.

(ii) Selective gear rules apply.

(60) **Cedar Creek and tributaries (Pend Oreille County):**

(a) Open the Saturday before Memorial Day through October 31.

(b) Eastern brook trout: Limit 10; once an angler retains 2 trout other than eastern brook trout, the entire trout limit has been taken.

(61) **Cedar Lake (Stevens County):** Open the fourth Saturday in April through October 31.

- (62) **Chain Lake (Pend Oreille County):**
 (a) Open the fourth Saturday in April through October 31.
 (b) Release ((a#)) kokanee.
- (63) **Chapman Lake (Spokane County):**
 (a) Open the fourth Saturday in April through October 31.
 (b) Chumming is permissible.
 (c) Kokanee: Limit ten; kokanee do not count toward the trout limit.
- (64) **Chelan Lake (Chelan County):**
 (a) South of a line from Purple Point at Stehekin and Painted Rocks:
 (i) Within 400 feet of all tributaries: Closed.
 (ii) Trout:
 (A) Release wild cutthroat.
 (B) Kokanee and lake trout do not count toward the trout limit.
 (iii) Kokanee: Limit 10; no minimum size.
 (iv) Lake trout: No limit; no minimum size.
 (v) Salmon open year round: Daily limit 1; no minimum size.
 (b) North of a line between Purple Point at Stehekin and Painted Rocks:
 (i) Lake trout open year-round: No limit.
 (ii) Salmon open year-round: Limit 1; minimum length 15 inches.
 (iii) From August 1 through March 31:
 (A) Trout:
 (I) Release wild cutthroat.
 (II) Kokanee and lake trout do not count toward the trout limit.
 (B) Kokanee: Limit 10.
- (65) **Chelan Lake tributaries (Chelan County):**
 (a) Open August 1 through September 30 from the mouths upstream one mile, except Stehekin River.
 (b) Selective gear rules apply.
 (c) Trout: Release wild cutthroat.
- (66) **Chelan River (Chelan County):**
 (a) From the railroad bridge to the Chelan P.U.D. safety barrier below the power house:
 (i) Open May 15 through August 31.
 (ii) Barbless hooks are required for salmon and steel-head.
 (iii) July 1 through October 15: Anti-snagging rule and night closure in effect.
 (b) Trout: Catch and release only.
 (c) Salmon: Open July 1 through October 15:
 (i) Limit 8; no more than 2 adult hatchery Chinook and no more than 6 sockeye may be retained.
 (ii) Release coho and wild adult Chinook.
- (67) **Chewuch River (Okanogan County):**
 (a) From the mouth to Eight Mile Creek:
 (i) Open the Saturday before Memorial Day through August 15.
 (ii) Selective gear rules apply.
 (iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.
 (iv) Catch and release only.

(b) From the mouth to Pasayten Wilderness boundary falls: Open December 1 through March 31 for whitefish only; whitefish gear rules apply.

(c) From the Pasayten Wilderness boundary falls upstream, including tributaries: Open the Saturday before Memorial Day through October 31.

(68) Chikamin Creek and all tributaries (Chelan County):

(a) Open the Saturday before Memorial Day through October 31.

(b) Selective gear rules apply.

(c) Trout:

(i) Rainbow trout are catch and release only.

(ii) Eastern brook trout do not count toward the trout limit. However, once the limit of trout other than eastern brook trout is reached, the limit for all species of trout is reached and the angler must cease fishing for trout.

(69) Chiwaukum Creek and all tributaries from Fool Hen Creek upstream, not including Fool Hen Creek (Chelan County):

(a) Selective gear rules apply.

(b) Open the Saturday before Memorial Day through October 31.

(c) Chiwaukum Creek tributaries from mouth of Chiwaukum Creek to Fool Hen Creek, including Fool Hen Creek: Open the Saturday before Memorial Day through October 31.

(70) Chiwawa River and all tributaries from Buck Creek upstream, including Buck Creek (Chelan County):

(a) Selective gear rules apply.

(b) Open the Saturday before Memorial Day through October 31.

(c) Chiwawa River tributaries from the mouth to Buck Creek, except Big Meadow, Buck, Chikamin, Clear, Phelps and Rock creeks: Open the Saturday before Memorial Day through October 31.

(71) Chopaka Lake (Okanogan County):

(a) Open the fourth Saturday in April through October 31 for fly fishing only.

(b) It is unlawful to fish from a floating device equipped with a motor.

(c) Trout: Limit one.

(72) Chumstick Creek (Chelan County): From the mouth upstream:

(a) Open the Saturday before Memorial Day through October 31.

(b) Selective gear rules apply.

(c) Trout:

(i) Rainbow trout, catch and release only.

(ii) Eastern brook trout: Limit 16. Eastern brook trout do not count toward the trout limit. However, once the limit of trout other than eastern brook trout is reached, the limit for all species of trout is reached and the angler must cease fishing for trout.

(d) Chumstick Creek tributaries from the mouth of Chumstick Creek upstream: Open the Saturday before Memorial Day through October 31.

(73) Clear Creek (Chelan County): Closed.

- (74) **Clear Lake (Chelan County):**
 (a) Open the fourth Saturday in April through October 31.
 (b) From July 5 through October 31:
 (i) Selective gear rules apply.
 (ii) It is unlawful to fish from a floating device equipped with an internal combustion motor.
 (c) Catch and release only.
- (75) **Clear Lake (Spokane County):** Open the fourth Saturday in April through October 31.
- (76) **Cle Elum Lake (Reservoir) (Kittitas County):**
 (a) Trout: Lake trout, brown trout, and eastern brook trout are not included in the trout limit.
 (b) Kokanee: Minimum length 9 inches and maximum length 15 inches.
- (77) **Cle Elum River (Kittitas County):**
 (a) From the mouth to Cle Elum Dam:
 (i) Open year-round.
 (ii) Selective gear rules apply.
 (iii) Trout: Catch and release only.
 (iv) It is permissible to fish up to the base of Cle Elum Dam.
 (v) December 1 through January 31: Whitefish gear rules apply.
 (b) From above Cle Elum Lake to outlet of Hyas Lake (not including Tucquala Lake):
 (i) Open the Saturday before Memorial Day through October 31.
 (ii) Selective gear rules apply.
 (iii) Trout minimum size ten inches.
 (c) All tributaries to Cle Elum River above Cle Elum Lake to outlet of Hyas Lake not otherwise provided for in this section: Open the Saturday before Memorial Day through October 31.
- (78) **Cliff Lake (Grant County):** Open March 1 through July 31.
- (79) **Coffee Pot Lake (Lincoln County):**
 (a) Open March 1 through September 30.
 (b) Selective gear rules apply.
 (c) Crappie: Limit ten; minimum length nine inches.
 (d) Trout: Limit one; minimum length eighteen inches.
- (80) **Columbia Basin Hatchery Creek (Grant County):**
 (a) Open April 1 through September 30 from the hatchery outflow to the confluence with Rocky Coulee Wasteway.
 (b) Open to juvenile anglers and anglers with a disability who possess a designated harvester companion card only.
 (c) Trout: Limit 3; no minimum size.
- (81) **Columbia Park Pond (Benton County):**
 (a) Open to juvenile anglers and anglers with a disability who possess a designated harvester companion card only.
 (b) All species: Limit 5 fish combined.
- (82) **Columbia River tributaries (all independent tributaries in Kittitas County between Wanapum Dam and Chelan County boundary line):**
 (a) Selective gear rules apply.
 (b) Trout minimum size ten inches.
- (83) **Colville River (Stevens County):**
 (a) From the mouth to the bridge at town of Valley:
 (i) Open year-round.
 (ii) Trout:
 (A) Limit 5.
 (B) From October 1 through November 30, no more than 2 brown trout may be retained.
 (iii) Walleye: Limit 16; no size restrictions.
 (b) All tributaries to Colville River, from the mouth to the bridge at the town of Valley, open the Saturday before Memorial Day through October 31.
 (c) From the bridge at the town of Valley upstream, including tributaries:
 (i) Open the Saturday before Memorial Day through October 31.
 (ii) Selective gear rules apply.
- (84) **Conconully Lake (Okanogan County):** Open the fourth Saturday in April through October 31.
- (85) **Conconully Reservoir (Okanogan County):** Open the fourth Saturday in April through October 31.
- (86) **Conger Pond (Pend Oreille County):** Open the fourth Saturday in April through October 31.
- (87) **Conner Lake (Okanogan County):** Open the fourth Saturday in April through October 31.
- (88) **Coot Lake (Grant County):** Open April 1 through September 30.
- (89) **Corral Creek (Benton County):**
 (a) Selective gear rules apply.
 (b) Trout minimum size ten inches.
- (90) **Cottonwood Creek (Lincoln County):** Open year-round.
- (91) **Cottonwood Creek (Walla Walla County):** Closed.
- (92) **Cougar Lake (Pasayten Wilderness) (Okanogan County):**
 (a) Selective gear rules apply.
 (b) It is permissible to fish two poles so long as the angler possesses a two-pole endorsement.
- (93) **Cougar Lake (near Winthrop) (Okanogan County):**
 (a) Open year-round.
 (b) Selective gear rules apply.
 (c) From April 1 through August 31:
 (i) Catch and release only.
 (ii) It is unlawful to fish from a floating device equipped with an internal combustion motor.
- (94) **Coyote Creek and Ponds (Adams County):** Open April 1 through September 30.
- (95) **Crab Creek (Adams/Grant/Lincoln counties):**
 (a) From the mouth to Morgan Lake Road in Section 36: Open April 1 through September 30.
 (b) From Morgan Lake Road in Section 36 to O'Sullivan Dam (including Marsh Unit I and II impoundments): Closed.
 (c) From the confluence of the Moses Lake outlets to Sand Dune Rd. (including all tributaries):
 (i) Open year-round.
 (ii) For minimum size and limits see Potholes Reservoir Rules (Eastside Lakes).
 (iii) All species from March 1 through May 31: Only one single-point hook 3/4 inch or less measured from point to shank may be used.
 (d) From the fountain buoy and shoreline markers or 150' downstream of the Alder Street fill to Grant County Rd. 7

(including all tributaries except Columbia Basin Hatchery Creek):

- (i) Open year-round.
- (ii) For minimum size and limits see Moses Lake Rules (Eastside Lakes).
- (iii) All species from March 10 through May 31: Only one single-point hook 3/4 inch or less measured from point to shank may be used.
- (e) Above Grant County Rd. 7 (including all tributaries, except Goose Creek in the city of Wilbur): Open year-round.
- (96) **Crawfish Lake (Okanogan County):**
 - (a) Open the fourth Saturday in April through October 31.
 - (b) It is unlawful to fish from a floating device equipped with an internal combustion motor.
- (97) **Crescent Lake (Pend Oreille County):** Open the Fourth Saturday in April through October 31.
- (98) **Crystal Lake (Grant County):** Open March 1 through July 31.
- (99) **Cup Lake (Grant County):** Open March 1 through July 31.
- (100) **Curl Lake (Columbia County):**
 - (a) Open the fourth Saturday in April through October 31.
 - (b) It is unlawful to fish from any floating device.
 - (c) Trout: It is unlawful to retain more than 2 trout over 13 inches in length.
- (101) **Dalton Lake (Franklin County):** It is unlawful to retain more than 2 trout over 13 inches in length.
- (102) **Davis Lake (Ferry County):** Open the fourth Saturday in April through October 31.
- (103) **Davis Lake (Okanogan County):**
 - (a) Open year-round.
 - (b) April 1 through August 31:
 - (i) Selective gear rules apply.
 - (ii) It is unlawful to fish from a floating device equipped with an internal combustion motor.
 - (iii) Catch and release only.
- (104) **Davis Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.
- (105) **Dayton Pond (Columbia County):**
 - (a) Open to juvenile anglers and anglers with a disability who possess a designated harvester companion card only.
 - (b) Trout: It is unlawful to retain more than 2 trout over 13 inches in length.
- (106) **Deadman Lake (Adams County):** Open April 1 through September 30.
- (107) **Deep Creek (tributary to Bumping Lake) (Yakima County):** Upstream from the waterfall approximately 1/3 mile above the second bridge crossing on USFS Road 1808 upstream: Open the Saturday before Memorial Day through October 31.
- (108) **Deep Lake (Grant County):** Open the fourth Saturday in April through September 30.
- (109) **Deep Lake (Stevens County):** Open the fourth Saturday in April through October 31.
- (110) **Deer Lake (Columbia County):**
 - (a) Open March 1 through October 31.
 - (b) It is unlawful to fish from any floating device.

(c) Trout: It is unlawful to retain more than 2 trout over 13 inches in length.

- (111) **Deer (Deer Springs) Lake (Lincoln County):** Open the fourth Saturday in April through September 30.
- (112) **Deer Lake (Stevens County):**
 - (a) Open March 1 through October 31.
 - (b) Trout: It is unlawful to retain more than two trout over thirty inches in length.
- (113) **Diamond Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.
- (114) **Dog Lake (Yakima County):** It is unlawful to retain more than 1 trout over 14 inches in length.
- (115) **Domerie Creek (Kittitas County):**
 - (a) Selective gear rules apply.
 - (b) Trout minimum size ten inches.
- (116) **Downs Lake (Lincoln/Spokane counties):**
 - (a) Open March 1 through September 30.
 - (b) Crappie: Limit ten; minimum length nine inches.
- (117) **Dry Falls Lake (Grant County):**
 - (a) Open April 1 through November 30.
 - (b) Selective gear rules apply.
 - (c) It is unlawful to fish from a floating device equipped with an internal combustion motor.
 - (d) Trout: Limit one.
- (118) **Dune Lake (Grant County):**
 - (a) Selective gear rules apply.
 - (b) Trout: Limit one.
- (119) **Dusty Lake (Grant County):**
 - (a) Open March 1 through November 30.
 - (b) Selective gear rules apply.
 - (c) It is unlawful to fish from a floating device equipped with an internal combustion motor.
 - (d) Trout: Limit one.
- (120) **Early Winters Creek (Okanogan County):** From the mouth upstream; including all tributaries except Cedar Creek:
 - (a) Open the Saturday before Memorial Day through August 15.
 - (b) Selective gear rules apply.
 - (c) It is unlawful to fish from a floating device equipped with an internal combustion motor.
 - (d) Catch and release only.
- (121) **East Little Walla Walla River (Walla Walla County):** Closed.
- (122) **Eightmile Lake (Chelan County):** It is unlawful to retain more than two mackinaw as part of the trout limit.
- (123) **Elbow Lake (Stevens County):** Open the fourth Saturday in April through October 31.
- (124) **Ell Lake (Okanogan County):**
 - (a) Open the fourth Saturday in April through October 31.
 - (b) Selective gear rules apply.
 - (c) It is unlawful to fish from a floating device equipped with an internal combustion motor.
 - (d) Trout: Limit one.
- (125) **Ellen Lake (Ferry County):**
 - (a) Open the fourth Saturday in April through October 31.
 - (b) Release all fish, except anglers may retain up to five rainbow trout.

(126) **Eloika Lake (Spokane County):** Crappie limit ten; minimum length nine inches.

(127) **Lake Entiat (Col.R.) tributaries (Chelan/Douglas County):** Open the Saturday before Memorial Day through October 31 from Rocky Reach Dam to Wells Dam, except the Entiat River, Chelan River and Chelan Hatchery Creek.

(128) **Entiat River (Chelan County):**

(a) From mouth (railroad bridge) to the upper Roaring Creek Road Bridge (immediately downstream of the Entiat National Fish Hatchery): Salmon open July 25 through September 30.

(i) Minimum length 12 inches.

(ii) Limit 2 hatchery Chinook salmon.

(iii) Selective gear rules apply.

(iv) Night closure in effect.

(b) From mouth (railroad bridge) to Entiat Falls: Whitefish open December 1 through March 31; Whitefish gear rules apply.

(c) Entiat River tributaries from the mouth to Entiat Falls, except the Mad River and Roaring Creek: Open the Saturday before Memorial Day through October 31.

(d) Entiat River and all tributaries above Entiat Falls:

(i) Open the Saturday before Memorial Day through October 31.

(ii) Selective gear rules apply.

(iii) Trout:

(A) Limit 5; it is unlawful to retain more than one trout greater than 12 inches in length.

(B) Eastern brook trout: Limit 10. Eastern brook trout do not count toward the trout limit. However, once the limit of trout other than eastern brook trout is reached, the limit for all species of trout is reached and the angler must cease fishing for trout.

(129) **Ephrata Lake (Grant County):** Closed.

(130) **Empire Lake (Ferry County):** Open the fourth Saturday in April through October 31.

(131) **Esquatzel Coulee (Franklin County):** Open year-round.

(132) **Esquatzel Coulee, West Branch (Franklin County):** Open year-round.

(133) **Fan Lake (Pend Oreille County):**

(a) Open the fourth Saturday in April through September 30.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(134) **Ferry Lake (Ferry County):** It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.

(135) **Fio Rito Lakes (Kittitas County):** It is unlawful to fish from a floating device equipped with an internal combustion motor.

(136) **Fish Lake (Chelan County):**

(a) Perch: Limit 25.

(b) Trout: It is unlawful to retain more than 2 trout over 15 inches in length.

(137) **Fish Lake (Ferry County):** Open the fourth Saturday in April through October 31.

(138) **Fish Lake (Okanogan County):** Open the fourth Saturday in April through October 31.

(139) **Fish Lake (Spokane County):**

(a) Open the fourth Saturday in April through September 30.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(140) **Fishhook Pond (Walla Walla County):**

(a) Open March 1 through October 31.

(b) It is unlawful to fish from a floating device.

(c) Trout: It is unlawful to retain more than 2 trout over 13 inches in length.

(141) **Fishtrap Lake (Lincoln/Spokane counties):** Open the fourth Saturday in April through September 30.

(142) **Forde Lake (Okanogan County):** Open the fourth Saturday in April through October 31.

(143) **Fourth of July Lake (Adams/Lincoln counties):**

(a) Open the first Friday after Thanksgiving through March 31.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Trout: It is unlawful to retain more than two trout over fourteen inches in length.

(144) **Frater Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.

(145) **Frenchman Hills Lake (Grant County):** Open February 1 through September 30.

(146) **Gadwall Lake (Grant County):** Open April 1 through September 30.

(147) **Garfield Juvenile Pond (Whitman County):** Open to juvenile anglers only.

(148) **Gillette Lake (Stevens County):** Open the fourth Saturday in April through October 31.

(149) **Goat Creek (Okanogan County):** From the mouth upstream including all tributaries:

(a) Open the Saturday before Memorial Day through August 15.

(b) Selective gear rules apply.

(c) Catch and release only.

(150) **Golf Course Pond (Asotin County):** It is unlawful to retain more than 2 trout over 13 inches in length.

(151) **Goose Creek (Lincoln County), within the city limits of Wilbur:** Open year-round to juvenile anglers and anglers with a disability who possess a designated harvester companion card only.

(152) **Goose Lake, Lower (Grant County):**

(a) Bluegill: It is unlawful to retain more than five fish over six inches in length.

(b) Crappie: Limit ten; minimum length nine inches.

(153) **Grande Ronde River (Asotin County):**

(a) General river rules:

(i) For all portions of the Grande Ronde River and its tributaries that are open to game fish angling:

(A) Bass: No limit.

(B) Channel catfish: No limit.

(C) Walleye: No limit and no size restrictions.

(ii) From September 15 through March 15: It is unlawful to fish from a floating device equipped with an internal combustion motor.

- (b) Rules by river section:
- (i) From the mouth to County Road Bridge, about 2.5 miles upstream:
- (A) Open year-round.
- (B) September 1 through May 31: Selective gear rules apply.
- (C) Trout:
- (I) Minimum length ~~((+θ))~~ 8 inches, maximum length 20 inches.
- ~~((+θ))~~ (II) No minimum size for trout with a clipped adipose fin as evidenced by a healed scar at the location of the adipose fin.
- ~~((+θ))~~ (III) From January 1 through April 15: Anglers may retain up to 3 hatchery steelhead.
- (IV) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.
- (ii) From County Road Bridge upstream to the Oregon state line and all tributaries, except Wenaha River tributaries:
- (A) Open the first Saturday in June through October 31:
- (I) Trout: No minimum size for trout with a clipped adipose fin as evidenced by a healed scar at the location of the adipose fin.
- (II) Anglers may retain up to 3 hatchery steelhead.
- ~~((+θ))~~ (III) ~~Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.~~
- (B) From the first Saturday in June through August 31: Selective gear rules apply.
- (C) From September 1 through April 15: It is unlawful to use anything other than barbless hooks.
- (D) Open November 1 through April 15, except all tributaries are closed.
- (E) Release all fish except anglers may retain up to 15 whitefish and 3 hatchery steelhead.
- (F) From January 1 through April 15 mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.
- (154) **Granite Creek and tributaries (Pend Oreille County):** Closed.
- (155) **Green Lake (Upper) (Okanogan County):**
- (a) Open year-round.
- (b) March 1 through November 30:
- (i) Selective gear rules apply.
- (ii) It is unlawful to fish from a floating device equipped with an internal combustion motor.
- (iii) Catch and release only.
- (156) **Green Lake (Lower) (Okanogan County):**
- (a) Open year-round.
- (b) March 1 through November 30:
- (i) Selective gear rules apply.
- (ii) It is unlawful to fish from a floating device equipped with an internal combustion motor.
- (iii) Catch and release only.
- (157) **Grimes Lake (Douglas County):**
- (a) Open June 1 through August 31:
- (b) Selective gear rules apply.
- (c) It is unlawful to fish from a floating device equipped with an internal combustion motor.
- (d) Trout: Limit one.
- (158) **Halfmoon Lake (Adams County):** Open April 1 through September 30.

- (159) **Halfmoon Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.
- (160) **Hampton Lakes, Lower and Upper (Grant County):**
- (a) Open April 1 through September 30.
- (b) It is unlawful to fish from a floating device equipped with an internal combustion motor.
- (161) **Harris Lake (Grant County):**
- (a) Selective gear rules apply.
- (b) Trout: Limit one.
- (162) **Harvey Creek (tributary to Sullivan Lake) (Pend Oreille County) and tributaries:**
- (a) From the mouth to Bridge 4830 on county road (about 1 1/2 miles): Closed.
- (b) From Bridge 4830 upstream: Selective gear rules apply.
- (163) **Hatch Lake (Stevens County):**
- (a) Open the first Friday after Thanksgiving through March 31.
- (b) Release all fish, except up to five rainbow trout may be retained.
- (164) **Hawk Creek and tributaries (Lincoln County) upstream of the Falls at Hawk Creek Campground:** Open year-round.
- (165) **Hays Creek and Ponds (Adams County):** Open April 1 through September 30.
- (166) **Headgate Pond (Asotin County):** Open the fourth Saturday in April through October 31 to juvenile anglers, seniors, and anglers with a disability who possess a designated harvester companion card only.
- (167) **Hen Lake (Grant County):** Open April 1 through September 30.
- (168) **Heritage Lake (Stevens County):** Open the fourth Saturday in April through October 31.
- (169) **Hog Canyon Creek (Spokane County):** Open year-round from the Hog Canyon Dam to Scroggie Road.
- (170) **Hog Canyon Lake (Spokane County):**
- (a) Open the first Friday after Thanksgiving through March 31.
- (b) Trout: It is unlawful to retain more than two trout over fourteen inches in length.
- (171) **Homestead Lake (Grant County):**
- (a) Selective gear rules apply.
- (b) It is unlawful to fish from a floating device equipped with an internal combustion motor.
- (c) Trout: Limit one.
- (172) **Horseshoe Lake (Pend Oreille County):**
- (a) Open the fourth Saturday in April through October 31.
- (b) Kokanee: Limit ten; kokanee do not count toward the trout limit.
- (173) **Horsethief Lake (Klickitat County):** Open the fourth Saturday in April through October 31.
- (174) **Hourglass Lake (Grant County):** Open April 1 through September 30.
- (175) **Huff Lake (Pend Oreille County):** Closed.
- (176) **Hutchinson Lake (Adams County):**
- (a) Open April 1 through September 30.
- (b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(177) **I-82 Ponds, 1 through 7 (Yakima County):** It is unlawful to fish from a floating device equipped with an internal combustion motor.

(178) **Icicle River and all tributaries (Creek) (Chelan County):**

(a) From the Leavenworth National Fish Hatchery rack upstream to Leland Creek, including Leland Creek:

(i) Open the Saturday before Memorial Day through October 31.

(ii) Selective gear rules apply.

(iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iv) Trout: Eastern brook trout: Limit 16. Eastern brook trout do not count toward the trout limit. However, once the limit of trout other than eastern brook trout is reached, the limit for all species of trout is reached and the angler must cease fishing for trout.

(b) From Leland Creek upstream, not including Leland Creek: Open the Saturday before Memorial Day through October 31.

(179) **Indian Creek and tributaries (Pend Oreille County):**

(a) Open the Saturday before Memorial Day through October 31.

(b) Eastern brook trout: Limit 10. Once an angler has retained 2 trout other than eastern brook trout, the entire trout limit has been taken and the angler must cease fishing for trout.

(180) **Indian Creek (Yakima County):** Upstream of the waterfall approximately 6 miles upstream from the mouth:

(a) Open the Saturday before Memorial Day through October 31.

(b) Eastern brook trout:

(i) No limit and no length restrictions.

(ii) Eastern brook trout do not count toward the trout limit.

(181) **Ingalls Creek and all tributaries upstream of the Alpine Lakes Wilderness boundary (Chelan County):**

(a) Open the Saturday before Memorial Day through October 31.

(b) Ingalls Creek tributaries from the mouth of Ingalls Creek to the Alpine Lakes Wilderness boundary: Open the Saturday before Memorial Day through October 31.

(182) **Jameson Lake (Douglas County):** Open the fourth Saturday in April through July 4 and October 1 through October 31.

(183) **Jasmine Creek (Okanogan County):** Open year-round to juvenile anglers only.

(184) **Jefferson Park Pond (Walla Walla County):**

(a) Open to juvenile fishers only.

(b) It is unlawful to retain more than 2 trout over 13 inches in length.

(185) **Jolanda, Lake (Chelan County):** Closed.

(186) **Jump-Off Joe Lake (Stevens County):** Open the fourth Saturday in April through October 31.

(187) **Kachess Lake (Reservoir) (Kittitas County):**

(a) Chumming is permissible.

(b) Kokanee limit ten; kokanee do not count toward the trout limit.

(c) Trout limit 2; minimum length 12 inches.

(188) **Kachess River (Kittitas County):**

(a) From the mouth to Kachess Dam:

(i) It is permissible to fish up to the base of Kachess Dam.

(ii) Selective gear rules apply.

(iii) Trout minimum size ten inches.

(b) Kachess Lake tributaries, except Box Canyon Creek: Open.

(c) Upstream of impassable 50 to 60 foot fall about 1/2 mile upstream of Mineral Creek: Open.

(189) **Kalispell Creek and tributaries (Pend Oreille County):**

(a) Open the last Saturday in April through October 31.

(b) Selective gear rules apply.

(190) **Keechelus Lake (Reservoir) (Kittitas County):**

(a) Chumming is permissible.

(b) Trout limit 2; minimum length 12 inches.

(c) Kokanee limit 10; kokanee do not count toward the trout limit.

(191) **Keechelus Lake tributaries, except Gold Creek:** Open the Saturday before Memorial Day through October 31.

(192) **Kettle River (Stevens County):**

(a) The tributaries from the mouth to Barstow Bridge: Open from the Saturday before Memorial Day through October 31.

(b) From Barstow Bridge upstream:

(i) Open the Saturday before Memorial Day until October 31.

(ii) Selective gear rules apply, except for juvenile anglers, from the Canadian border upstream to Highway 21 Bridge at Curlew.

(iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iv) Trout: Minimum length 12 inches.

(v) Open November 1 through May 31 for whitefish only. Whitefish gear rules apply.

(c) Tributaries to Kettle River, from Barstow Bridge upstream: Open from the Saturday before Memorial Day through October 31.

(193) **Kings Lake and tributaries (Pend Oreille County):** Closed.

(194) **Kiwanis Pond (Kittitas County):** Open to juvenile anglers and anglers with a disability who possess a designated harvester companion card only.

(195) **Klickitat River (Klickitat County):**

(a) From the mouth (Burlington Northern Railroad Bridge) to Fisher Hill Bridge:

(i) Game fish open April 1 through January 31.

(A) Release all fish except hatchery steelhead from April 1 through May 31 and December 1 through January 31.

(B) June 1 through January 31: Anglers may retain up to 3 hatchery steelhead.

(C) Bass: No limit and no size restriction.

(D) Channel catfish: No limit.

(E) Walleye: No limit and no size restriction.

(ii) Barbless hooks are required for salmon and steelhead, except from September 1 through December 31.

(iii) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(iv) Anti-snagging rule in effect and night closure applies April 1 through May 31 and August 1 through January 31. When the anti-snagging rule is in effect, only fish hooked inside the mouth may be retained.

(v) Salmon and steelhead: Open April 1 through May 31 on Sundays, Mondays, Wednesdays and Saturdays only:

(A) Limit 2; no more than 2 hatchery steelhead, or 2 salmon, or one of each, may be retained.

(B) Release wild Chinook.

(vi) Salmon: Open June 1 through January 31.

(A) June 1 through July 31: Limit 6 fish; no more than 2 adults may be retained. Release wild Chinook.

(B) August 1 through January 31: Limit 6 fish, no more than 3 may be adult Chinook.

(b) From Fisher Hill Bridge to the boundary markers above Klickitat Salmon Hatchery, the following waters are closed: From Fishery Hill Bridge to 400 feet above #5 fishway, all tributaries except Bird, Blockhouse, Bowman, Spring, Outlet creeks and the Little Klickitat River, and the waters from the boundary markers above Klickitat Salmon Hatchery to the boundary markers below the hatchery.

(c) From 400 feet above #5 fishway to the boundary markers below Klickitat Salmon Hatchery:

(i) Barbless hooks are required for salmon and steelhead.

(ii) Game fish open June 1 through November 30:

(A) Daily limit 3 trout of which only 2 may be other than hatchery steelhead.

(B) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(C) Trout minimum length twelve inches.

~~((B) Daily limit 3 trout of which only 2 may be other than hatchery steelhead.~~

~~(C) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.))~~

(iii) Whitefish open December 1 through March 31: Whitefish gear rules apply.

(iv) Salmon open June 1 through November 30:

(A) June 1 through July 31:

(I) Limit 6 fish; no more than 2 adults may be retained.

(II) Release wild Chinook.

(B) From August 1 through November 30: Limit 6 fish; no more than 3 adult Chinook may be retained.

(d) From the boundary markers above Klickitat Salmon Hatchery to the Yakama Indian Reservation boundary:

(i) Game fish open June 1 through November 30:

(A) Daily limit 3 trout of which no more than 2 may be other than hatchery steelhead.

(B) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(C) Trout minimum length 12 inches.

~~((B) Daily limit 3 trout of which no more than 2 may be other than hatchery steelhead.~~

~~(C) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.))~~

(ii) Whitefish open December 1 through March 31: Whitefish gear rules apply.

(iii) Barbless hooks are required for salmon and steelhead.

(196) **Lake Creek (Okanogan County):**

(a) From the mouth to Black Lake: Closed.

(b) From Black Lake to Three Prong Creek: Closed.

(197) **Latah (Hangman) Creek (Spokane County):** From the mouth upstream to Idaho state line: Open year-round.

(198) **Latah (Hangman) Creek Tributaries (Spokane County) including all tributaries within this system:** Open the Saturday before Memorial Day through October 31 from the mouths upstream.

(199) **Le Clerc Creek and tributaries (Pend Oreille County):**

(a) Open the Saturday before Memorial Day through October 31.

(b) Eastern brook trout: Limit 10. Once an angler retains 2 trout other than eastern brook trout, the entire trout limit has been taken.

(200) **Ledbetter Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.

(201) **Ledking Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.

(202) **Leech Lake (Yakima County):**

(a) Open for fly fishing only.

(b) It is unlawful to fish from a floating device equipped with a motor.

(c) Trout: It is unlawful to retain more than one trout over 14 inches in length.

(203) **Lemna Lake (Grant County):** Open April 1 through September 30.

(204) **Lenice Lake (Grant County):**

(a) Open March 1 through November 30.

(b) Selective gear rules apply.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Trout: Limit one.

(205) **Lenore Lake (Grant County):**

(a) The waters within a 200 yard radius of the trash rack leading to the irrigation pumping station (on the south end of the lake) and the area approximately 100 yards beyond the mouth of inlet stream to State Highway 17: Closed.

(b) Selective gear rules apply.

(c) It is unlawful to fish from a floating device with an internal combustion motor.

(d) Open from March 1 through November 30:

(i) From March 1 through May 31: Catch and release only.

(ii) June 1 through November 30: Trout limit one.

(206) **Leo Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.

(207) **Liberty Lake (Spokane County):** Open March 1 through October 31.

(208) **Lilly Lake (Chelan County):**

(a) Open the fourth Saturday in April through October 31.

(b) July 5 through October 31:

(i) Selective gear rules apply.

(ii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iii) Catch and release only.

(209) **Lions Park Pond (Walla Walla County):**

(a) Open to juvenile anglers only.

(b) It is unlawful to retain more than 2 trout over 13 inches in length.

(210) Little Klickitat River (Klickitat County):

(a) Within Goldendale city limits:

(i) Open the fourth Saturday in April through October 31.

(ii) Open the fourth Saturday in April through May 31 to juvenile and senior fishers only.

(iii) Trout: Limit five; no minimum length.

(b) All other waters including tributaries: Open first Saturday in June through October 31.

(211) Little Lost Lake (Pend Oreille County): Open the fourth Saturday in April through October 31.

(212) Little Pend Oreille River (Stevens County):

(a) Open the Saturday before Memorial Day through October 31.

(b) From the Little Pend Oreille wildlife refuge boundary approximately one mile downstream from the refuge headquarters office, to Crystal Falls:

(i) Selective gear rules apply.

(ii) Release all fish except anglers may retain up to 5 eastern brook trout.

(c) All tributaries to the Little Pend Oreille River are open the Saturday before Memorial Day through October 31.

(213) Little Spokane River (Spokane County):

(a) Open year-round from the mouth to the SR 291 Bridge.

(b) From the SR 291 Bridge upstream to the West Branch:

(i) Open the fourth Saturday in April through October 31.

(ii) Open December 1 through March 31 for whitefish only; whitefish gear rules apply; limit 15 whitefish; no minimum size.

(c) From the West Branch upstream:

(i) Closed from the inlet of Chain Lake upstream one-quarter mile to the railroad crossing culvert.

(ii) Open the Saturday before Memorial Day through October 31.

(iii) Kokanee: It is unlawful to retain kokanee taken upstream from the bridge at Fridegar Road, including Chain Lake.

(d) Unless otherwise provided in this section, all tributaries to the Little Spokane River are open the Saturday before Memorial Day through October 31.

(214) Little Twin Lake (Okanogan County):

(a) Open the fourth Saturday in April through October 31.

(b) Selective gear rules apply.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Trout: Limit one.

(215) Little Twin Lake (Stevens County): Open the fourth Saturday in April through October 31.

(216) Little Wenatchee River (Chelan County):

(a) From the falls below USFS Rd. 6700 Bridge upstream: Open the Saturday before Memorial Day through October 31.

(b) Little Wenatchee tributaries from the mouth upstream, except Rainy Creek: Open the Saturday before Memorial Day through October 31.

(217) Long Lake (Ferry County):

(a) Open the fourth Saturday in April through October 31

(b) Fly fishing only.

(c) It is unlawful to use flies containing lead.

(d) It is unlawful to fish from a floating device equipped with a motor.

(218) Long Lake (Okanogan County): Open the fourth Saturday in April through October 31.

(219) Long Lake (Spokane County): Landlocked salmon rules apply.

(220) Loon Lake (Stevens County):

(a) Open the fourth Saturday in April through October 31.

(b) Kokanee: Limit ten; kokanee do not count toward the trout limit.

(c) Trout (except kokanee): Limit five, except it is unlawful to retain more than two trout over twenty inches in length.

~~((220))~~ **(221) Lost Lake (Kittitas County):** It is unlawful to retain more than one trout over 14 inches in length.

~~((221))~~ **(222) Lost Lake (Okanogan County):**

(a) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(b) It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.

~~((222))~~ **(223) Lost River (Okanogan County):**

(a) From the mouth to the mouth of Monument Creek: Closed.

(b) Lost River and all tributaries from the mouth of Monument Creek to the outlet of Cougar Lake, including Monument Creek:

(i) Open the Saturday before Memorial Day through August 15.

(ii) Selective gear rules apply.

(iii) Catch and release only.

(iv) Trout: Minimum length 14 inches; it is permissible to retain Dolly Varden/Bull Trout with a minimum length of 14 inches as part of the trout limit.

~~((223))~~ **(224) Lucky Duck Pond (Stevens County):** Open to juvenile anglers only.

~~((224))~~ **(225) Mad River and all tributaries from mouth to Jimmy Creek, including Jimmy Creek (Chelan County):**

(a) Open the Saturday before Memorial Day through October 31.

(b) Selective gear rules apply.

(c) Trout:

(i) Rainbow trout, catch and release only.

(ii) Eastern brook trout do not count toward the trout limit. However, once the limit of trout other than eastern brook trout is reached, the limit for all species of trout is reached and the angler must cease fishing for trout.

(d) Mad River and all tributaries from Jimmy Creek upstream, not including Jimmy Creek: Open the Saturday before Memorial Day through October 31.

~~((225))~~ (226) **Marshall Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.

~~((226))~~ (227) **Martha Lake (Grant County):** Open March 1 through July 31.

~~((227))~~ (228) **Mattoon Lake (Kittitas County):** It is unlawful to fish from a floating device equipped with an internal combustion motor.

~~((228))~~ (229) **McCabe Pond (Kittitas County):**

(a) It is unlawful to fish from any floating device equipped with a motor.

(b) Five fish limit for all game fish species combined.

~~((229))~~ (230) **McDowell Lake (Stevens County):**

(a) Open the fourth Saturday in April through October 31 for fly fishing only.

(b) It is unlawful to fish from a floating device equipped with a motor.

(c) Catch and release only.

~~((230))~~ (231) **McManaman Lake (Adams County):**

Open April 1 through September 30.

~~((231))~~ (232) **Medical Lake (Spokane County):**

(a) Open March 1 through October 31.

(b) Selective gear rules apply.

(c) It is unlawful to fish from a floating device equipped with a motor.

(d) Trout: Limit two; minimum length fourteen inches.

~~((232))~~ (233) **Medical Lake, West (Spokane County):** Open the fourth Saturday in April through September 30.

~~((233))~~ (234) **Mercer Creek (Kittitas County):**

(a) Open to juvenile anglers only within the Ellensburg city limits.

(b) Trout ten inch minimum length.

(c) Selective gear rules apply.

~~((234))~~ (235) **Merritt Lake (Chelan County):**

(a) Trout limit sixteen, except eastern brook trout. Eastern brook trout do not count towards the trout limit.

(b) Eastern brook trout: No minimum size and no limit.

~~((235))~~ (236) **Merry Lake (Grant County):**

(a) Open March 1 through November 30.

(b) Selective gear rules apply.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Trout: Limit one.

~~((236))~~ (237) **Methow River (Okanogan County):**

(a) From County Road 1535 (Burma Road) Bridge to Gold Creek:

(i) Open the Saturday before Memorial Day through September 15.

(ii) Selective gear rules apply.

(iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iv) Catch and release only.

(b) From Gold Creek to Foghorn Dam:

(i) Open the Saturday before Memorial Day through September 30.

(ii) Selective gear rules apply.

(iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iv) Catch and release only.

(c) Methow River tributaries from Gold Creek to Foghorn Dam; except Twisp River and Chewuch River:

(i) Open the Saturday before Memorial Day through October 31.

(ii) Selective gear rules apply.

(iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iv) Trout:

(A) Catch and release ~~((A))~~ rainbow trout.

(B) Eastern brook trout: Limit 16. Eastern brook trout do not count toward the trout limit. However, once the limit of trout other than eastern brook trout is reached, the limit for all species of trout is reached and the angler must cease fishing for trout.

(d) From Foghorn Dam to Weeman Bridge:

(i) Open the Saturday before Memorial Day through August 15.

(ii) Selective gear rules apply.

(iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iv) Trout:

(A) Catch and release only for rainbow trout.

(B) Eastern brook trout: Limit 16. Eastern brook trout do not count toward the trout limit. However, once the limit of trout other than eastern brook trout is reached, the limit for all species of trout is reached and the angler must cease fishing for trout.

(e) Methow River tributaries from Weeman Bridge to the falls above Brush Creek; excluding Lost River, Goat Creek, and Early Winters Creek.

(i) Open the Saturday before Memorial Day through October 31.

(ii) Selective gear rules apply.

(iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iv) Catch and release only.

(f) Methow River and tributaries above the falls above Brush Creek: Open the Saturday before Memorial Day through October 31.

(g) From Gold Creek to the falls above Brush Creek:

(i) Open December 1 through March 31 for whitefish only.

(ii) Whitefish gear rules apply.

(h) Methow River tributaries not otherwise provided for in this section:

(i) Open the Saturday before Memorial Day through October 31.

(ii) Selective gear rules apply.

(iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

~~((237))~~ (238) **Mill Creek and tributaries (Pend Oreille County):**

(a) Open the Saturday before Memorial Day through October 31.

(b) Eastern brook trout: Limit 10.

(c) Once an angler has retained 2 trout other than eastern brook trout, the entire trout limit has been taken.

~~((238))~~ (239) **Mill Creek (Walla Walla County):**

(a) From the mouth to Bennington Dam, including tributaries: Closed waters.

(b) From Bennington Dam upstream: All tributaries: Closed waters.

(c) Selective gear rules apply.

(d) Release ((a#)) steelhead.

((239)) (240) **Mill Pond (Pend Oreille County):** Open the fourth Saturday in April through October 31.

((240)) (241) **Mineral Creek (tributary to upper Kachess River) (Kittitas County):** Statewide rules apply upstream of the Wilderness Boundary.

((241)) (242) **Molson Lake (Okanogan County):**

(a) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(b) Trout: Limit 2.

((242)) (243) **Monument Creek (Okanogan County), including tributaries:** Selective gear rules apply.

((243)) (244) **Morgan Lake (Adams County):** Open April 1 through September 30.

((244)) (245) **Moses Lake (Grant County):**

(a) Bluegill: Limit five; minimum length eight inches.

(b) Crappie: Limit ten; minimum length nine inches.

(c) Yellow perch: Limit 25.

((245)) (246) **Mud Lake (Yakima County):**

(a) Selective gear rules apply.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Trout: Limit one.

((246)) (247) **Mudgett Lake (Stevens County):** Open the fourth Saturday in April through October 31.

((247)) (248) **Muskegon Lake (Pend Oreille County):**

(a) Open the fourth Saturday in April through October 31.

(b) Selective gear rules apply.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Trout: Limit two.

((248)) (249) **Myron Lake (Yakima County):**

(a) Selective gear rules apply.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Trout: Limit one.

((249)) (250) **Myrtle Lake (Chelan County):** Eastern brook trout no minimum size and no limit.

((250)) (251) **Mystic Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.

((251)) (252) **Naches River (Yakima/Kittitas counties):**

(a) From the mouth to Little Naches River:

(i) Selective gear rules apply.

(ii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iii) Trout:

(A) Minimum length twelve inches, maximum length twenty inches.

(B) Release trout from the confluence with Tieton River to the confluence of the Little Naches River and Bumping River (origin of Naches River).

(b) From the mouth to the Tieton River:

(i) December 1 through January 31.

(ii) Only whitefish may be retained;

(iii) Whitefish gear rules apply.

((252)) (253) **Naches River tributaries except Bumping River, Tieton River and Rattlesnake Creek:**

(a) Selective gear rules apply.

(b) Trout: Minimum size ten inches.

((253)) (254) **Naneum Creek and tributaries (Kittitas County):**

(a) Selective gear rules apply.

(b) Trout: Minimum size ten inches.

((254)) (255) **Naneum Pond (Kittitas County):** Open to juvenile anglers only.

((255)) (256) **Napeequa River and all tributaries from Twin Lakes Creek upstream (Chelan County):** Open.

((256)) (257) **Nason Creek (Chelan County):**

(a) From Smith Brook to Stevens Creek:

(i) Open the Saturday before Memorial Day through October 31.

(ii) Selective gear rules apply.

(iii) Eastern brook trout: Limit 16. Eastern brook trout do not count toward the trout limit. However, once the limit of trout other than eastern brook trout is reached, the limit for all species of trout is reached and the angler must cease fishing for trout.

(b) Nason Creek and all tributaries from Stevens Creek upstream, including Stevens Creek:

(i) Open the Saturday before Memorial Day through October 31.

(ii) Eastern brook trout: Limit 16. Eastern brook trout do not count toward the trout limit. However, once the limit of trout other than eastern brook trout is reached, the limit for all species of trout is reached and the angler must cease fishing for trout.

(c) Nason Creek tributaries from mouth of Nason Creek to Smith Brook, including Smith Brook, except the Mill Creek drainage:

(i) Open the Saturday before Memorial Day through October 31.

(ii) Eastern brook trout: Limit 16. Eastern brook trout do not count toward the trout limit. However, once the limit of trout other than eastern brook trout is reached, the limit for all species of trout is reached and the angler must cease fishing for trout.

((257)) (258) **Negro Creek (Whitman County):** Open the fourth Saturday in April through July 15.

((258)) (259) **Nile Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.

((259)) (260) **No Name Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.

((260)) (261) **North Elton Pond (Yakima County):** (a) Open the first Friday after Thanksgiving through March 31.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Trout: Limit two.

((261)) (262) **North Fork Teanaway River tributaries from mouth to Beverly Creek, including Beverly Creek:**

(a) Selective gear rules apply.

(b) Trout: Minimum size ten inches.

~~((262))~~ (263) North Potholes Reserve Ponds (Grant County):

(a) Open February 1 through the day before waterfowl season begins.

(b) It is unlawful to fish from any floating device, except it is permissible to fish using float tubes.

~~((263))~~ (264) Nunnally Lake (Grant County):

(a) The outlet stream of Nunnally Lake is closed.

(b) Open March 1 through November 30:

(i) Selective gear rules apply.

(ii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iii) Trout: Limit one.

~~((264))~~ (265) Okanogan River (Okanogan County):

(a) Within the mainstem or tributaries open for game fish angling:

(i) It is unlawful to fish for salmon and steelhead using anything other than barbless hooks.

(ii) Bass: No limit and no size restrictions.

(iii) Channel catfish: No limit.

(iv) Walleye: No limit and no size restrictions.

(b) From the mouth to Highway 97 Bridge immediately upstream of the mouth:

(i) Open year-round.

(ii) July 1 through October 15: Anti-snagging rule applies and night closure in effect.

(iii) Trout: Catch and release only.

(iv) Salmon:

(A) Open July 1 through October 15.

(B) It is permissible to fish two poles from July 1 through October 15 so long as the angler possesses a two-pole endorsement.

(C) Limit 8; no more than 2 adult hatchery Chinook and no more than 4 sockeye may be retained.

(D) Release coho and wild adult Chinook.

(c) From Highway 97 Bridge immediately upstream of the mouth to the highway bridge at Malott:

(i) Open year-round.

(ii) July 1 through September 15: Anti-snagging rule applies and night closure in effect.

(iii) Trout: Catch and release only.

(iv) Salmon:

(A) Open July 1 through September 15.

(B) Limit 8; no more than 2 adult hatchery Chinook and no more than 4 sockeye may be retained.

(C) Release coho and wild adult Chinook.

(D) It is permissible to fish two poles from July 1 through October 15 so long as the angler possesses a two-pole endorsement.

(d) From the highway bridge at Malott upstream:

(i) From Zosel Dam downstream to the first Highway 97 Bridge downstream of the dam: Closed.

(ii) Open the Saturday before Memorial Day through September 15.

(iii) July 1 through September 15: Anti-snagging rule applies and night closure in effect.

(iv) Trout: Catch and release only.

(v) Salmon:

(A) Open July 1 through September 15.

(B) Limit 8; no more than 2 adult hatchery Chinook and no more than 4 sockeye may be retained.

(C) Release coho and wild adult Chinook.

(e) All Okanogan River tributaries, except Salmon Creek, Jasmine Creek, Bonaparte Creek, and the Similkameen River:

(i) Open the Saturday before Memorial Day through October 31.

(ii) Selective gear rules apply.

(iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iv) Trout: Catch and release (~~(all)~~) trout.

~~((265))~~ (266) Outlet Creek (Klickitat County):

(a) Open the Saturday before Memorial Day through October 31.

(b) Trout: Limit 5.

~~((266))~~ (267) Palouse River (Whitman County):

(a) Open year-round from the mouth to the base of Palouse Falls.

(b) Bass: No limit.

(c) Channel catfish: No limit.

(d) Trout: Open June 16 through March 31 only.

(i) From June 16 through August 31:

(A) Limit 6; minimum length 10 inches.

(B) No minimum size for trout with clipped adipose fin as evidenced by a healed scar at the location of the adipose fin.

(C) Anglers may retain up to 3 hatchery steelhead. Mandatory steelhead retention. No catch and release of hatchery steelhead.

(D) It is permissible to fish with two poles so long as the angler possesses a valid two-pole endorsement.

(ii) From September 1 through March 31:

(A) Limit 6; minimum length 10 inches.

(B) No minimum size for trout with a clipped adipose fin as evidenced by a healed scar at the location of the adipose fin.

(C) Anglers may retain up to 3 hatchery steelhead. Mandatory steelhead retention. No catch and release of hatchery steelhead.

(D) It is unlawful to fish for steelhead using anything other than barbless hooks.

(e) Walleye: No limit.

~~((267))~~ (268) Palouse River (Whitman County) mainstem above Palouse Falls and tributaries (Washington waters only), except Rock Creek: Open year-round.

~~((268))~~ (269) Pampa Pond (Whitman County):

(a) Open March 1 through September 30.

(b) It is unlawful to fish from any floating device.

(c) Trout: It is unlawful to retain more than two over 13 inches in length.

~~((269))~~ (270) Para-Juvenile Lake (Adams/Grant counties): Open April 1 through September 30 to juvenile anglers only.

~~((270))~~ (271) Park Lake (Grant County): Open the fourth Saturday in April through September 30.

~~((271))~~ (272) Parker Lake (Pend Oreille County): Open the fourth Saturday in April through October 31.

~~((272))~~ (273) Pataha Creek (Garfield County):

(a) Bass: No limit.

(b) Channel catfish: No limit.
 (c) Walleye: No limit.
 (d) Within the city limits of Pomeroy: Open to juvenile anglers only.
 (e) From the city limits of Pomeroy upstream:
 (i) Selective gear rules apply.
 (ii) Trout:
 (A) Eastern brook trout: Limit 10.
 (B) Once an angler has retained 2 trout other than Eastern brook trout, the entire trout limit has been taken.
 ((273)) **(274) Pearrygin Lake (Okanogan County):** Open the fourth Saturday in April through October 31.
 ((274)) **(275) Pend Oreille River (Pend Oreille County):**
 (a) In the mainstem:
 (i) Open year-round.
 (ii) All sloughs within the boundaries of the Kalispel Reservation, except Calispell Slough: Closed.
 (iii) Two pole fishing is permissible so long as the angler possesses a two-pole endorsement.
 (b) Pend Oreille River tributaries are open the Saturday before Memorial Day through October 31, unless otherwise provided for in this section.
 ((275)) **(276) Perch Lake (Grant County):** Open the fourth Saturday in April through September 30.
 ((276)) **(277) Peshastin Creek and all tributaries from Ruby Creek upstream, not including Ruby Creek (Chelan County):**
 (a) Open the Saturday before Memorial Day through October 31.
 (b) Selective gear rules apply.
 (c) Trout:
 (i) Rainbow trout, catch and release only.
 (ii) Eastern brook trout do not count toward the trout limit. However, once the limit of trout other than eastern brook trout is reached, the limit for all species of trout is reached and the angler must cease fishing for trout.
 (d) Peshastin Creek tributaries from the mouth of Peshastin Creek to Ruby Creek (including Ruby Creek), except Ingalls Creek: Open the Saturday before Memorial Day through October 31.
 ((277)) **(278) Petit Lake (Pend Oreille County):**
 (a) Open the fourth Saturday in April through October 31.
 (b) It is unlawful to fish from a floating device equipped with an internal combustion motor.
 ((278)) **(279) Phalon Lake (Stevens County):** Closed.
 ((279)) **(280) Phelps Creek and all tributaries from the mouth to the barrier falls (mile 1) (Chelan County):**
 (a) Open the Saturday before Memorial Day through October 31.
 (b) Selective gear rules apply.
 (c) From the barrier falls (mile 1) upstream, including all tributaries: Open the Saturday before Memorial Day through October 31.
 ((280)) **(281) Phillips Lake (Stevens County):** Open the fourth Saturday in April through October 31.
 ((281)) **(282) Pierre Lake (Stevens County):** It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.

((282)) **(283) Pillar Lake (Grant County):** Open April 1 through September 30.
 ((283)) **(284) Ping Pond (Grant County):**
 (a) Open the third Saturday in April through Labor Day to juvenile anglers and anglers with a disability who possess a designated harvester companion card only.
 (b) Limit 5 game fish; no minimum size restrictions.
 ((284)) **(285) Pit Lake (Douglas County):** Open to juvenile anglers only.
 ((285)) **(286) Poacher Lake (Grant County):** Open April 1 through September 30.
 ((286)) **(287) Potholes Reservoir (Grant County):**
 (a) Crappie: Minimum length nine inches.
 (b) Crappie and bluegill: Combined limit of twenty-five fish.
 (c) Perch: Limit twenty-five fish.
 ((287)) **(288) Potter's Pond (Stevens County):** Open the fourth Saturday in April through October 31.
 ((288)) **(289) Powerline Lake (Franklin County):** Trout limit 2.
 ((289)) **(290) Priest Lake tributaries (Pend Oreille County):** Open the Saturday before Memorial Day through October 31, including Upper Priest Lake tributaries, except as otherwise provided in this section.
 ((290)) **(291) Priest River tributaries (Pend Oreille County):** Open the Saturday before Memorial Day through October 31.
 ((291)) **(292) Quail Lake (Adams County):**
 (a) Open for fly fishing only.
 (b) It is unlawful to fish from any floating device equipped with a motor.
 (c) Catch and release only.
 ((292)) **(293) Quarry Pond (Walla Walla County):**
 (a) It is unlawful to fish from any floating device.
 (b) It is unlawful to retain more than 2 trout over 13 inches in length.
 ((293)) **(294) Quincy Lake (Grant County):** Open March 1 through July 31.
 ((294)) **(295) Rainbow Lake (Columbia County):**
 (a) Open March 1 through October 31.
 (b) It is unlawful to fish from any floating device.
 (c) Trout: It is unlawful to retain more than 2 trout over 13 inches in length.
 ((295)) **(296) Rainy Creek (Chelan County):** From the mouth of Rainy Creek upstream:
 (a) Open the Saturday before Memorial Day through October 31.
 (b) Selective gear rules apply.
 ((296)) **(297) Rat Lake (Okanogan County):**
 (a) Open year-round.
 (b) From April 1 to November 30:
 (i) Selective gear rules apply.
 (ii) It is unlawful to fish from a floating device equipped with an internal combustion motor.
 (iii) Catch and release only.
 ((297)) **(298) Rattlesnake Creek (Yakima County):**
 (a) Selective gear rules apply.
 (b) Catch and release only for all species in the mainstem.

~~((298))~~ (299) **Rattlesnake Creek tributaries:**

- (a) Selective gear rules apply.
- (b) Trout minimum size 10 inches.

~~((299))~~ (300) **Red Rock Creek (Grant County):**

Open April 1 through September 30.

~~((300))~~ (301) **Reflection Pond (Okanogan County):**

Open the fourth Saturday in April through October 31.

~~((301))~~ (302) **Renner Lake (Ferry County):** Open the fourth Saturday in April through October 31.~~((302))~~ (303) **Rigley Lake (Stevens County):**

(a) Open the fourth Saturday in April through October 31.

- (b) Selective gear rules apply.
- (c) It is unlawful to fish from a floating device equipped with an internal combustion motor.
- (d) Trout: Limit two, minimum length twelve inches.

~~((303))~~ (304) **Rimrock Lake (Reservoir) (Yakima County):**

(a) It is permissible to fish using two poles, so long as the angler possesses a valid two-pole endorsement.

- (b) Chumming is permissible.
- (c) Kokanee: Limit sixteen; kokanee do not count toward the trout limit.

~~((304))~~ (305) **Roaring Creek (Entiat River Tributary) and all tributaries (Chelan County):** From the mouth of Roaring Creek upstream:

(a) Open the Saturday before Memorial Day through October 31.

- (b) Selective gear rules apply.
- (c) Trout:
 - (i) Rainbow trout are catch and release only.
 - (ii) The eastern brook trout limit of 5 fish does not count toward the trout limit. However, once the limit of trout other than eastern brook trout is reached, the limit for all species of trout is reached and the angler must cease fishing for trout.

~~((305))~~ (306) **Rock Creek (Adams/Whitman counties):**

(a) From the mouth to Endicott West Road: Open year-round.

(b) From Endicott West Road to the bridge on Jordan Knott Road at Revere:

(i) Open the Saturday before Memorial Day through October 31.

- (ii) Selective gear rules apply.
- (iii) Catch and release only.
- (c) From the bridge on Jordan Knott Road upstream:

Open year-round.

~~((306))~~ (307) **Rock Creek (Chelan County):**

(a) Open the Saturday before Memorial Day through October 31.

(b) Selective gear rules apply.

~~((307))~~ (308) **Rock Creek (Klickitat County):**

(a) From Army Corps of Engineers Park upstream to the source: Closed waters.

(b) Open year-round from the mouth to the Army Corps of Engineers Park. Limits, size restrictions and gear restrictions are the same as those in the adjacent portion of the Columbia River.

~~((308))~~ (309) **Rock Island Pool (Col.R.) tributaries (Chelan/Douglas County):** Open the Saturday before

Memorial Day through October 31 from Rock Island Dam to Rocky Reach Dam, except the Wenatchee River.

~~((309))~~ (310) **Rocky Ford Creek and Ponds (Grant County):**

(a) Open to fly fishing and fishing from the bank only (no wading).

(b) Catch and release only.

~~((310))~~ (311) **Rocky Lake (Stevens County):**

(a) Open the fourth Saturday in April through October 31.

(b) From June 1 through October 31:

- (i) Selective gear rules apply.
- (ii) It is unlawful to fish from a floating device equipped with an internal combustion motor.
- (iii) Catch and release only.

~~((311))~~ (312) **Roosevelt Lake (Grant/Ferry/Lincoln/Stevens counties):**

(a) The following areas are closed:

(i) From the Little Dalles power line crossing upstream approximately one mile to the marked rock point, and from Northport power line crossing upstream to the most upstream point of Steamboat Rock, from March 1 through the Friday before Memorial Day.

(ii) The Kettle arm upstream to Barstow Bridge from April 1 through the Friday before Memorial Day.

(b) Carp: It is unlawful to fish for carp with bow and arrow.

(c) Kokanee: Limit 6; no more than 2 with intact adipose fins may be retained.

(d) Salmon: Landlocked salmon rules apply.

(e) Trout (except kokanee): Limit 5; it is unlawful to retain more than 2 over 20 inches in length.

(f) Walleye: No size restrictions; limit 16 fish.

~~((312))~~ (313) **Round Lake (Okanogan County):**

Open the fourth Saturday in April through October 31.

~~((313))~~ (314) **Rowland Lake, North (Klickitat County):** Open the fourth Saturday in April through the last day in February, except closed the Monday before Thanksgiving Day through Thanksgiving Day.~~((314))~~ (315) **Royal Lake (Adams County):** Closed.~~((315))~~ (316) **Royal Slough (including Marsh Unit IV impoundments) (Adams County):** Closed.~~((316))~~ (317) **Ruby Creek and tributaries (Pend Oreille County):**

(a) Open the Saturday before Memorial Day through October 31.

(b) Eastern brook trout: Limit 10; once an angler retains 2 trout other than eastern brook trout, the entire trout limit has been taken and the angler must cease fishing for trout.

~~((317))~~ (318) **Rufus Woods Lake (Douglas/Okanogan counties):**

(a) From Grand Coulee Dam downstream to State Route 155 Bridge: Closed.

(b) Trout: Limit 2; only uninjured trout caught using artificial lures or flies with single-point barbless hooks may be released.

(c) Tributaries to Rufus Woods Lake: Open the Saturday before Memorial Day through October 31.

~~((318))~~ (319) **Sacheen Lake (Pend Oreille County):**

Open the fourth Saturday in April through October 31.

~~((319))~~ (320) **Saddle Mountain Lake (Grant County):** Closed.

~~((320))~~ (321) **Sago Lake (Grant County):** Open April 1 through September 30.

~~((321))~~ (322) **Salmon Creek, mainstem (Okanogan County):**

(a) Open the Saturday before Memorial Day through October 31.

(b) Selective gear rules apply.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Trout: Catch and release only.

~~((322))~~ (323) **Salmon Creek, North Fork and West Fork from mouth to South Fork (Okanogan County):**

(a) Open the Saturday before Memorial Day through October 31.

(b) Selective gear rules apply.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

~~((323))~~ (324) **San Poil River (Ferry County):**

(a) From the western shoreline at the mouth of the San Poil Arm (as marked by a regulatory buoy) directly eastward across the San Poil Arm to the eastern shoreline of the San Poil Arm (as marked by a regulatory buoy) upstream to the north shore of the outlet of French Johns Lake (Manila Creek) northeast across the San Poil Arm to the north shore of the outlet of Dick Creek:

(i) Open April 1 through January 31 for kokanee, smallmouth bass, trout, and walleye:

(A) Kokanee: Limit 2 fish in addition to the trout limit; no minimum size requirement.

(B) Smallmouth bass: Limit 10; it is unlawful to retain more than one over 14 inches.

(C) Trout:

(I) Limit 5; it is unlawful to retain more than 2 trout over 20 inches.

(II) Release (~~(aH)~~) rainbow trout with adipose fins intact.

(D) Walleye: Limit 16; no size restrictions.

(ii) Open year-round for other game fish, salmon, and carp:

(A) Carp: It is unlawful to fish for carp with bow and arrow.

(B) Salmon: Landlocked salmon rules apply.

(b) From the north shore of the outlet of French Johns Lake (Manila Creek) northeast across the San Poil Arm to the north shore of the outlet of Dick Creek to approximately 5 miles upstream from the outlet of French Johns Lake, as marked by regulatory buoys:

(i) It is unlawful to fish for or retain trout.

(ii) Open April 1 through January 31 for walleye and smallmouth bass:

(A) Smallmouth bass: Limit 10; it is unlawful to retain more than one over 14 inches.

(B) Walleye: Limit 16; no size restrictions.

(iii) Open year-round for other game fish, salmon, and carp:

(A) Carp: It is unlawful to fish for carp with bow and arrow.

(B) Salmon: Landlocked salmon rules apply.

(c) The waters from approximately 5 miles upstream from the outlet of French Johns Lake, as marked by regulatory buoys, to all waters north of the regulatory buoy line at or above 1,310 feet mean sea level elevation are managed under the regulatory authority of the Colville Confederated Tribe of Indians.

(d) From above the Colville Confederated Tribe of Indians Reservation northern boundary, upstream to the headwaters, including tributaries: Open the Saturday before Memorial day through October 31.

~~((324))~~ (325) **Sand Hollow Creek (Grant County) including all tributaries:** Open April 1 through September 30 from State Route 243 upstream.

~~((325))~~ (326) **Sarg Hubbard Park Pond (Reflection Pond) (Yakima County):** Open to juvenile anglers and anglers with a disability who possess a designated harvester companion card only.

~~((326))~~ (327) **Schaefer Lake (Chelan County):**

(a) Trout limit sixteen, except eastern brook trout. Eastern brook trout do not count towards the trout limit.

(b) Eastern brook trout: No minimum size and no limit.

~~((327))~~ (328) **Scootney Reservoir (Franklin County):** Walleye limit 8; minimum size 12 inches. It is unlawful to retain more than one walleye over 22 inches in length.

~~((328))~~ (329) **Sedge Lake (Grant County):**

(a) Selective gear rules apply.

(b) Trout: Limit one.

~~((329))~~ (330) **Sherman Creek (Ferry County) and all tributaries:**

(a) From the hatchery boat dock to 400 feet upstream of hatchery water diversion dam: Closed.

(b) Open the Saturday before Memorial Day through October 31.

~~((330))~~ (331) **Sherry Lake (Stevens County):** Open the fourth Saturday in April through October 31.

~~((331))~~ (332) **Shiner Lake (Adams County):**

(a) Open April 1 through September 30.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

~~((332))~~ (333) **Shoveler Lake (Grant County):** Open April 1 through September 30.

~~((333))~~ (334) **Sidley Lake (Okanogan County):** Trout limit two.

~~((334))~~ (335) **Silver Lake (Spokane County):** Crappie limit ten; minimum length nine inches.

~~((335))~~ (336) **Silver Nail Lake (Okanogan County):** Open to juvenile anglers only.

~~((336))~~ (337) **Similkameen River (Okanogan County):**

(a) Barbless hooks required for salmon and steelhead.

(b) From the mouth to Enloe Dam:

(i) Closed from Enloe Dam downstream 400 feet.

(ii) July 1 through September 15:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(iii) Salmon:

(A) Open July 1 through September 15.

(B) Limit 8; no more than 2 adult hatchery Chinook and no more than 6 sockeye may be retained.

(C) Release coho and wild adult Chinook.

(iv) Open December 1 through March 31 for whitefish only; whitefish gear rules apply.

(c) From Enloe Dam to the Canadian border, including tributaries, except Sinlahekin Creek:

(i) Open the Saturday before Memorial Day through October 31.

(ii) Open December 1 through March 31 for whitefish only; whitefish gear rules apply.

~~((337))~~ **(338) Sinlahekin Creek (Okanogan County):**

(a) From Palmer Lake to Cecile Creek Bridge:

(i) Open the Saturday before Memorial Day through August 31.

(ii) Selective gear rules apply.

(iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iv) Open December 1 through March 31 for whitefish only; whitefish gear rules apply.

(b) From Cecile Creek Bridge upstream, including all tributaries: Open the Saturday before Memorial Day through October 31.

~~((338))~~ **(339) Skookum Lake, North (Pend Oreille County):** Open the fourth Saturday in April through October 31.

~~((339))~~ **(340) Skookum Lake, South (Pend Oreille County):** It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.

~~((340))~~ **(341) Slate Creek and tributaries (Pend Oreille County):**

(a) Open the Saturday before Memorial Day through October 31.

(b) Eastern brook trout: Limit 10; once an angler retains 2 trout other than eastern brook trout, the entire trout limit has been taken.

~~((341))~~ **(342) Snake River:**

(a) Open year-round, except the following areas are closed:

(i) Within 400 feet of the base of any dam;

(ii) Within a 400 foot radius around the fish ladder entrance at Lyons Ferry Hatchery;

(iii) Within a 200 foot radius upstream of the fish ladder exit above Lower Granite Dam; and

(iv) Within an area 1,200 feet downstream from the base of the west lock gate at Little Goose Dam on the south bank of the Snake River and 100 feet out into the river from the south river bank.

(b) Bass: No limit and no size restrictions.

(c) Channel catfish: No limit.

(d) Trout:

(i) Open June 16 through March 31.

(ii) April 1 through June 15: Catch and release only.

(iii) Limit 6; minimum length 10 inches.

(iv) It is unlawful to retain more than 3 hatchery steelhead.

(v) Barbless hooks required for steelhead.

(e) Walleye: No limit and no size restrictions.

~~((342))~~ **(343) Snipe Lake (Grant County):** Open April 1 through September 30.

~~((343))~~ **(344) Snipes Creek (Benton County):**

(a) Selective gear rules apply.

(b) Trout minimum length ten inches.

~~((344))~~ **(345) South Salmo River (Pend Oreille County), including tributaries:** Open the Saturday before Memorial Day through October 31.

~~((345))~~ **(346) Spearfish Lake (Klickitat County):** Open the fourth Saturday in April through last day in February.

~~((346))~~ **(347) Spectacle Lake (Okanogan County):** Open April 1 through September 30.

~~((347))~~ **(348) Spokane River (Spokane County):**

(a) From SR 25 Bridge upstream to 400 feet below Little Falls Dam:

(i) It is permissible to fish with two poles so long as the angler possesses a two-pole endorsement.

(ii) Open year-round:

(A) Kokanee:

(I) Limit 6; no minimum size.

(II) It is unlawful to retain more than 2 with intact adipose fins.

(III) Kokanee does not count towards the trout limit.

(B) Salmon: Landlocked salmon rules apply.

(C) Trout:

(I) Limit 5; no minimum size.

(II) It is unlawful to retain more than 2 trout over 20 inches in length.

(D) Walleye: Limit 16; no size restrictions.

(b) From the Little Falls Dam to the upstream boundary of the Plese Flats Day Use Area (Riverside State Park), except Long Lake (Nine Mile Dam to Long Lake Dam): Open year-round.

(i) Landlocked salmon rules apply.

(ii) Trout: Limit 5; no more than 2 trout over 20 inches in length may be retained.

(c) From the upstream boundary at Plese Flats Day Use Area (Riverside State Park) upstream to the Monroe Street Dam:

(i) Selective gear rules apply.

(ii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iii) Open June 1 through March 15:

(A) Salmon: Landlocked salmon rules apply.

(B) Trout:

(I) Limit one; minimum length 8 inches.

(II) Release wild trout (only rainbow trout with a clipped adipose fin and a healed scar at the site of the clipped fin may be retained).

(d) From Monroe Street Dam upstream to Upriver Dam:

(i) Open year-round.

(ii) Landlocked salmon rules apply.

(e) From Upriver Dam upstream to the Idaho/Washington state line:

(i) Selective gear rules apply.

(ii) Open the first Saturday in June through March 15.

(iii) Catch and release only.

(f) Unless otherwise provided in this section, all tributaries to the Spokane River (Washington waters only) are open the Saturday before Memorial Day through October 31.

~~((348))~~ (349) **Sprague Lake (Adams/Lincoln counties):**

- (a) The following waters are closed:
 - (i) Cow Creek;
 - (ii) The marsh at the southwest end of the lake from the lakeside edge of the reeds to Danekas Road;
 - (iii) The small bay at the southeast end of the lake; and
 - (iv) Those waters within 50 feet of Harper Island.
- (b) All other waters southwest of the southwest tip of Harper Island: Closed from October 1 through April 30.
- (c) Crappie: Minimum length nine inches.
- (d) Crappie and bluegill: Combined limit of twenty-five fish.
- (e) Trout: Limit 5; it is unlawful to retain more than two trout over twenty inches in length.

~~((349))~~ (350) **Spring Creek (Benton County):**

- (a) Selective gear rules apply.
- (b) Trout minimum length ten inches.

~~((350))~~ (351) **Spring Creek (Klickitat County):**

- (a) Goldendale Hatchery: Open the Saturday before Memorial Day through October 31. Trout: Limit 5.
- (b) All other waters: Open the first Saturday in June through October 31.

~~((351))~~ (352) **Spring Hill Reservoir (Black Lake, Lower Wheeler Reservoir) (Chelan County):**

- (a) Open the fourth Saturday in April through October 31.
- (b) July 5 through October 31: Selective gear rules apply.
- (c) It is unlawful to fish from a floating device equipped with an internal combustion motor.
- (d) Catch and release only.

~~((352))~~ (353) **Spring Lake (Columbia County):**

- (a) It is unlawful to fish from any floating device.
- (b) Trout: It is unlawful to retain more than 2 trout over 13 inches in length.

~~((353))~~ (354) **Spring Lakes (Grant County):** Open March 1 through July 31.~~((354))~~ (355) **Stan Coffin Lake (Grant County):** Bass: Catch and release only.~~((355))~~ (356) **Starvation Lake (Stevens County):**

- (a) Open the fourth Saturday in April through October 31.
- (b) From June 1 through October 31:
 - (i) Selective gear rules apply.
 - (ii) It is unlawful to fish from a floating device equipped with an internal combustion motor.
 - (iii) Catch and release only.
- (c) (356) **Stehekin River (Chelan County):**
 - (a) From the mouth to Agnes Creek:
 - (i) Selective gear rules apply.
 - (ii) It is unlawful to fish from a floating device equipped with an internal combustion motor.
 - (iii) Open July 1 through October 31: Trout minimum length fifteen inches; release cutthroat.
 - (iv) Open March 1 through June 30: Catch and release only.
 - (b) From Agnes Creek upstream: Open the Saturday before Memorial Day through October 31.

~~((357))~~ (358) **Stratford/Brook Lake (Grant County):** Open February 1 through September 30.~~((358))~~ (359) **Sullivan Creek (Pend Oreille County):**

- (a) From the mouth to Mill Pond: Open the Saturday before Memorial Day through October 31.
 - (i) Barbless hooks are required.
 - (ii) Eastern brook trout: Limit 10; once an angler retains 2 trout other than eastern brook trout, the entire trout limit has been taken.
 - (iii) Release ((aH)) cutthroat.
- (b) From Mill Pond upstream and tributaries:
 - (i) Selective gear rules apply.
 - (ii) Release ((aH)) cutthroat.
 - (iii) Open the Saturday before Memorial Day through October 31.
 - (iv) Eastern brook trout: Limit 10; once an angler retains 2 trout other than eastern brook trout, the entire trout limit has been taken.

~~((359))~~ (360) **Sullivan Lake (Pend Oreille County):**

- (a) Kokanee: Limit ten; kokanee do not count toward the trout limit.
- (b) Trout (except kokanee): Limit two trout.

~~((360))~~ (361) **Sullivan Lake tributaries (Pend Oreille County), except as otherwise provided in this section:** Open the Saturday before Memorial Day through October 31.~~((361))~~ (362) **Summit Lake (Stevens County):** Open the fourth Saturday in April through October 31.~~((362))~~ (363) **Swan Lake (Ferry County):**

- (a) Open the fourth Saturday in April through October 31.
- (b) It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.

~~((363))~~ (364) **Tacoma Creek and tributaries (Pend Oreille County):**

- (a) Open the Saturday before Memorial Day through October 31.
- (b) Eastern brook trout: Limit 10; once an angler retains 2 trout other than eastern brook trout, the entire trout limit has been taken and the angler must cease fishing for trout.

~~((364))~~ (365) **Teal Lakes (North and South) (Grant/Adams counties):** Open April 1 through September 30.~~((365))~~ (366) **Teanaway River (Kittitas County), and tributaries except North Fork:**

- (a) Selective gear rules apply.
- (b) Trout minimum length ten inches.
- (c) (366) **Teanaway River, North Fork (Kittitas County):** From the mouth to Beverly Creek:
 - (a) Selective gear rules apply.
 - (b) Trout: Catch and release only.

~~((367))~~ (368) **Tern Lake (Grant County):**

- (a) Selective gear rules apply.
- (b) Trout: Limit one.

~~((368))~~ (369) **Thomas Lake (Stevens County):** Open the fourth Saturday in April through October 31.~~((369))~~ (370) **Tieton River (Yakima County):**

- (a) From the mouth to Tieton Dam, including all tributaries:
 - (i) It is permissible to fish up to the base of Tieton (Rimrock) Dam.
 - (ii) Selective gear rules apply.
 - (iii) Trout minimum length ten inches.

(b) Tributaries upstream of Tieton Dam except North Fork Tieton River, South Fork Tieton River and Indian Creek: Open the Saturday before Memorial Day through October 31.

~~((370))~~ **(371) Tieton River, North Fork (Yakima County):**

(a) Mainstem including that portion of the river that flows through the dry lakebed of Rimrock Reservoir, upstream to the USFS Road 740 Bridge below Clear Lake Dam:

(i) Open the Saturday before Memorial Day through August 15.

(ii) Selective gear rules apply.

(b) Mainstem upstream of Clear Lake:

(i) Open the Saturday before Memorial Day through August 15.

(ii) Selective gear rules apply.

(c) All North Fork Tieton tributaries, including Clear Creek: Open the Saturday before Memorial Day through October 31.

~~((371))~~ **(372) Tieton River, South Fork (Yakima County):** From the bridge on USFS Road 1070 upstream and all tributaries, except Bear Creek and Spruce Creek: Open the Saturday before Memorial Day through October 31.

~~((372))~~ **(373) Touchet River (Columbia/Walla Walla counties):**

(a) General river rules: For all portions of the Touchet River and its tributaries that are open to game fish angling:

(i) Bass: No limit.

(ii) Channel catfish: No limit.

(iii) Walleye: No limit and no size restrictions.

(iv) Release (~~(aH)~~) wild steelhead.

(b) Rules by river section:

(i) From the mouth to the confluence of Coppei Creek:

(A) Open the first Saturday in June through October 31:

(I) No minimum size for trout with a clipped adipose fin as evidenced by a healed scar at the location of the adipose fin.

(II) Steelhead: Open September 1 through October 31; limit 3. It is unlawful to use anything other than barbless hooks when fishing for steelhead.

(B) Open November 1 through April 15:

(I) Release all fish except hatchery steelhead and brown trout.

(II) Limit 3 hatchery steelhead and brown trout combined.

(III) It is unlawful to use anything other than barbless hooks.

(ii) From the mouth of Coppei Creek to the confluence of North and South Forks and all tributaries:

(A) Open the first Saturday in June through October 31.

(B) No minimum size for trout with a clipped adipose fin as evidenced by a healed scar at the location of the adipose fin.

(C) Steelhead:

(I) Open September 1 through October 31; mandatory hatchery steelhead retention, limit 3. No catch and release of hatchery steelhead. Release (~~(aH)~~) wild steelhead. It is unlawful to use anything other than barbless hooks when fishing for steelhead.

(II) Open November 1 through April 15. Release all fish except hatchery steelhead and brown trout. Limit 3 hatchery steelhead and brown trout combined. It is unlawful to use anything other than barbless hooks when fishing for steelhead.

(iii) From the confluence of the North and South Forks upstream:

(A) Selective gear rules apply.

(B) Release (~~(aH)~~) steelhead.

(iv) From mouth of North Fork, upstream to Spangler Creek:

(A) Open the first Saturday in June through October 31.

(B) Trout: No minimum size for trout with a clipped adipose fin as evidenced by a healed scar at the location of the adipose fin.

(v) North Fork upstream of Spangler Creek:

(A) Open the first Saturday in June through August 31.

(B) Trout: No minimum size for trout with a clipped adipose fin.

(vi) Wolf Fork from the mouth to Coates Creek:

(A) Open the first Saturday in June through October 31.

(B) No minimum size for trout with a clipped adipose fin.

(vii) Wolf Fork above Coates Creek:

(A) Open the first Saturday in June through August 31.

(B) No minimum size for trout with a clipped adipose fin as evidenced by a healed scar at the location of the adipose fin.

(viii) Robinson Fork:

(A) Open the first Saturday in June through August 31.

(B) No minimum size for trout with a clipped adipose fin as evidenced by a healed scar at the location of the adipose fin.

(ix) South Fork, from the mouth to Griffin Fork:

(A) Open the first Saturday in June through October 31.

(B) No minimum size for trout with a clipped adipose fin as evidenced by a healed scar at the location of the adipose fin.

(x) South Fork, upstream from Griffin Creek: Open the first Saturday in June through August 31.

~~((373))~~ **(374) Trapper Lake (Chelan County):** Trout: Limit two.

~~((374))~~ **(375) Trout Lake (Ferry County):** Open the fourth Saturday in April through October 31.

~~((375))~~ **(376) Trout Lake (tributary to Big White Salmon River) (Klickitat County) including all tributaries:** Open the first Saturday in June through October 31.

~~((376))~~ **(377) Tucannon River (Columbia County):**

(a) Unless otherwise provided in this section, all tributaries are closed, except Pataha Creek.

(b) Mouth upstream to Turner Road Bridge at Marengo:

(i) First Saturday in June through October 31.

(A) Bass: No limit and no size restrictions.

(B) Channel catfish: No limit.

(C) Trout:

(I) No minimum size for trout with a clipped adipose fin as evidenced by a healed scar at the location of the adipose fin.

(II) Steelhead: Limit (~~(3)~~) 2 hatchery fish.

(III) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(D) Walleye: No limit and no size restrictions.

(ii) November 1 through last day in February.

(A) Release all fish, except anglers may retain up to 2 hatchery steelhead and 15 whitefish.

(B) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(C) Barbless hooks required.

(c) Turner Road Bridge at Marengo to Tucannon Hatchery Bridge:

(i) First Saturday in June through ~~((October))~~ August 31.

(ii) Selective gear rules apply.

(iii) Bass: No limit and no size restrictions.

(iv) Trout:

(A) No minimum size for trout with a clipped adipose fin as evidenced by a healed scar at the location of the adipose fin.

(B) Steelhead: Limit ~~((3))~~ 2 hatchery fish.

(C) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(v) Channel catfish: No limit.

(vi) Walleye: No limit and no size restrictions.

(d) Tucannon Hatchery Bridge to 500 feet above intake for Rainbow Lake: Closed to fishing.

(e) 500 feet above intake for Rainbow Lake to Cow Camp Bridge:

(i) First Saturday in June through ~~((October))~~ August 31.

(ii) Selective gear rules apply.

(iii) Bass: No limit and no size restrictions.

(iv) Channel catfish: No limit.

(v) Trout:

(A) No minimum size for trout with a clipped adipose fin as evidenced by a healed scar at the location of the adipose fin.

(B) Release ~~((all))~~ steelhead.

(vi) Walleye: No limit and no size restrictions.

(f) Cow Camp Bridge upstream: Closed to fishing.

~~((377))~~ (378) Tucquala Lake (Kittitas County):

(a) Open the Saturday before Memorial Day through October 31.

(b) Eastern brook trout: No limit; eastern brook trout do not count towards the trout limit.

~~((378))~~ (379) Twin Lakes (Chelan County) and tributaries and outlet stream to junction with the Napeequa River: Closed.

~~((379))~~ (380) Twisp River (Okanogan County): Mouth to War Creek:

(a) Open the Saturday before Memorial Day through August 15.

(b) Selective gear rules apply.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Catch and release only.

(e) Twisp River Tributaries from the mouth to War Creek; including Buttermilk Creek and Little Bridge Creek:

(i) Open the Saturday before Memorial Day through August 15.

(ii) Selective gear rules apply.

(ii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iv) Catch and release only.

(f) Twisp River tributaries from War Creek to the North Fork Twisp River, including War Creek, South Fork Twisp River, North Creek to Twisp River Road Bridge, and North Fork Twisp River to the falls:

(i) Open the Saturday before Memorial Day through August 15.

(ii) Selective gear rules apply.

(iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iv) Catch and release only.

(g) North Fork Twisp River above the falls and North Creek above Twisp River Road Bridge are open from the Saturday before Memorial Day to October 31.

~~((380))~~ (381) Union Creek (Yakima County): Open upstream of the falls (approximately 1/4 mile from the mouth).

~~((381))~~ (382) Upper Wheeler Reservoir (Chelan County):

(a) Open the fourth Saturday in April through October 31.

(b) Fly fishing only.

(c) It is unlawful to fish from a floating device equipped with a motor.

(d) Catch and release only.

~~((382))~~ (383) Vanes Lake (Pend Oreille County): Open the fourth Saturday in April through October 31.

~~((383))~~ (384) Vic Meyers (Rainbow) Lake (Grant County): Open the fourth Saturday in April through September 30.

~~((384))~~ (385) Waitts Lake (Stevens County): Open the fourth Saturday in April through last day in February.

~~((385))~~ (386) Walla Walla River (Walla Walla County):

(a) General rules in the mainstem:

(i) Bass: No limit and no size restrictions.

(ii) Channel catfish: No limit.

(iii) Walleye: No limit and no size restrictions.

(b) Rules by river section:

(i) From the mouth to McDonald Road Bridge:

(A) Open year-round, except all tributaries other than the Touchet River are closed.

(B) Trout:

(I) Open first Saturday in June through March 31.

(II) No minimum size for trout with a clipped adipose fin and healed scar at the location of the adipose fin.

(III) It is unlawful to fish for steelhead using anything other than barbless hooks.

(IV) Mandatory hatchery steelhead retention, limit 3. No catch and release of hatchery steelhead.

(ii) From the McDonald Road Bridge upstream to the Oregon state line:

(A) Open from the first Saturday in June through October 31.

(B) Selective gear rules apply.

(C) No minimum size for trout with a clipped adipose fin as evidenced by a healed scar at the location of the adipose fin.

- (D) Limit 3 hatchery steelhead.
- (E) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.
- (F) From November 1 through March 31:
- (I) Selective gear rules apply.
- (II) Release all fish, except anglers may retain up to 3 hatchery steelhead.
- (III) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.
- ~~((386))~~ **(387) Wanapum Pool (Columbia River) tributaries (Chelan/Douglas County):** Open the Saturday before Memorial Day through October 31 from Wanapum Dam to Rock Island Dam.
- ~~((387))~~ **(388) Wannacut Lake (Okanogan County):** Open the fourth Saturday in April through October 31.
- ~~((388))~~ **(389) Wapato Lake (Chelan County):**
 - (a) Trout: Open the fourth Saturday in April through October 31.
 - (b) All other game fish: Open the fourth Saturday in April through October 31.
- ~~((389))~~ **(390) Ward Lake (Ferry County):** Open the fourth Saturday in April through October 31.
- ~~((390))~~ **(391) Warden Lake (Grant County):** Open the fourth Saturday in April through September 30.
- ~~((391))~~ **(392) Warden Lake, South (Grant County):** Open the fourth Saturday in April through September 30.
- ~~((392))~~ **(393) Washburn Island Pond (Okanogan County):**
 - (a) Open April 1 through September 30.
 - (b) It is unlawful to fish with use of an internal combustion motor. An internal combustion motor may be attached to a floating device, but must not be used.
- ~~((393))~~ **(394) Washburn Lake (Okanogan County):**
 - (a) Open the fourth Saturday in April through October 31.
 - (b) Trout: Limit one.
 - (c) Selective gear rules apply.
 - (d) It is unlawful to fish from a floating device equipped with an internal combustion motor.
- ~~((394))~~ **(395) Watson Lake (Columbia County):**
 - (a) Open March 1 through October 31.
 - (b) It is unlawful to fish from any floating device.
 - (c) Trout: It is unlawful to retain more than 2 trout over 13 inches in length.
- ~~((395))~~ **(396) Wenaha River tributaries within Washington:**
 - (a) Open the first Saturday in June through August 31.
 - (b) Selective gear rules apply.
 - (c) Trout: Release ~~((aH))~~ steelhead.
- ~~((396))~~ **(397) Wenas Creek (Yakima County):**
 - (a) From the mouth to Wenas Lake, including all tributaries:
 - (i) Selective gear rules apply.
 - (ii) Trout: Minimum size ten inches.
 - (b) Upstream of Wenas Lake, including all tributaries: Open the Saturday before Memorial Day to October 31.
- ~~((397))~~ **(398) Wenatchee Lake (Chelan County):**
 - (a) Selective gear rules apply.
 - (b) Salmon:
 - (i) Open July 18 through August 31.

- (ii) Minimum length 12 inches.
- (iii) Limit 6 sockeye salmon only.
- (iv) Release ~~((aH))~~ bull trout, steelhead trout, and Chinook salmon.
- (v) Night closure in effect.
- (vi) It is permissible to fish with two poles so long as the angler possesses a valid two-pole endorsement.
- (c) Trout: Limit two; minimum length twelve inches.
- ~~((398))~~ **(399) Wenatchee River (Chelan County):**
 - (a) From the mouth to 400 feet below Dryden Dam:
 - (i) Salmon open August 1 through September 30.
 - (ii) Selective gear rules apply.
 - (iii) Night closure in effect.
 - (iv) Limit 4; it is unlawful to retain more than 2 adult hatchery Chinook.
 - (v) Release wild adult Chinook salmon.
 - (vi) Minimum length 12 inches.
 - (b) From the mouth of Peshastin Creek (above Dryden Dam) to the Iceicle River Road Bridge:
 - (i) Salmon open August 1 through September 30.
 - (ii) Limit 4; it is unlawful to retain more than 2 adult hatchery Chinook.
 - (iii) Release wild adult Chinook salmon.
 - (iv) Selective gear rules apply and night closure in effect.
 - (v) Minimum length 12 inches.
- ~~((399))~~ **(400) West Evans Pond (Asotin County):** It is unlawful to retain more than 2 trout over 13 inches in length.
- ~~((400))~~ **(401) White River (Chelan County), from the mouth upstream to White River Falls upstream:** Open the Saturday before Memorial Day through October 31, including White River tributaries from the mouth of the White River upstream, except Panther Creek and the Napequa River.
- ~~((401))~~ **(402) White Salmon River (Klickitat/Skamaania counties):**
 - (a) From the mouth (Burlington Northern Railroad Bridge) to the county road bridge below the former location of the powerhouse:
 - (i) It is unlawful to fish for salmon and steelhead using anything other than barbless hooks.
 - (ii) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.
 - (iii) Open year-round.
 - (iv) August 1 through December 31: Anti-snagging rule applies.
 - (v) Bass: No limit and no size restriction.
 - (vi) Channel catfish: No limit.
 - (vii) Salmon and steelhead open year-round:
 - (A) From April 1 through July 31:
 - (I) Limit 2; no more than 2 salmon, or 2 hatchery steelhead, or one of each, may be retained.
 - (II) Release wild Chinook.
 - (B) From August 1 through March 31:
 - (I) Limit 6; no more than 2 adult salmon, or 2 hatchery steelhead, or one of each, may be retained.
 - (II) Release wild Chinook and wild coho.
 - (viii) Walleye: No limit and no size restriction.
 - (b) From the county road bridge below the former location of the powerhouse upstream to the Northwestern Road Bridge:

- (i) Open April 1 through October 31:
 - (A) Catch and release, except up to 3 hatchery steelhead may be retained.
 - (B) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.
 - (C) Selective gear rules.
- (ii) Salmon and steelhead: Open April 1 through July 31.
 - (A) Daily limit 3 fish, of which no more than 2 may be salmon.
 - (B) Release wild Chinook.
 - (C) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.
 - (D) Selective gear rules.
- (c) From the Northwestern Road Bridge upstream to Big Brothers Falls (river mile 16):
 - (i) From Big Brothers Falls downstream 400 feet: Closed.
 - (ii) Open the first Saturday in June through October 31.
 - (iii) Selective gear rules apply.
 - (iv) Release all fish, except anglers may retain up to 3 hatchery steelhead.
 - (v) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.
 - (d) Big Brothers Falls upstream to the source, including all tributaries: Open the first Saturday in June through October 31.
 - ((402)) **(403) Wide Hollow Creek (Yakima County):** Open to juvenile anglers only.
 - ((403)) **(404) Widgeon Lake (Grant County):** Open April 1 through September 30.
 - ((404)) **(405) Williams Lake (Spokane County):** Open the fourth Saturday in April through September 30.
 - ((405)) **(406) Williams Lake (Stevens County):**
 - (a) Open the first Friday after Thanksgiving through March 31.
 - (b) Release all fish except anglers may retain up to five rainbow trout.
 - ((406)) **(407) Wilson Creek (Kittitas County):**
 - (a) Selective gear rules apply.
 - (b) Trout: Minimum size ten inches.
 - (c) Two branches within Ellensburg city limits: Open to juvenile anglers only.
 - ((407)) **(408) Winchester Wasteway (Grant County) (that portion within the Winchester Game Reserve):** Open February 1 through September 30.
 - ((408)) **(409) Yakima River (Yakima County):**
 - (a) General river rules:
 - (i) Release ((a)) steelhead in the mainstem and tributaries.
 - (ii) Downstream of Highway 240 Bridge, Columbia River rules apply.
 - (iii) In the mainstem and tributaries:
 - (A) Bass: No limit and no size restrictions.
 - (B) Channel catfish: No limit.
 - (C) Walleye: No limit and no size restrictions.
 - (b) Rules by river section:
 - (i) From the Highway 240 Bridge to 400 feet below Prosser Dam:
 - (A) Open March 1 through October 22.
 - (B) From the WDFW white markers 200 feet downstream of the USBR Chandler Powerhouse/Pumping Station spillway chute to the powerline crossing immediately upstream of the powerhouse: Open March 1 through August 31.
 - (C) From March 1 through August 31; for all open species except sturgeon: It is permissible to fish with two poles so long as the angler possesses a valid two-pole endorsement.
 - (D) Chumming is permissible.
 - (E) Trout: Catch and release only.
 - (F) Salmon:
 - (I) Open September 1 through October 22.
 - (II) Night closure in effect.
 - (III) It is unlawful to fish for salmon using anything other than barbless hooks.
 - (IV) Limit 6; it is unlawful to retain more than 2 adults.
 - (V) Fishing from a floating device is prohibited from the Grant Avenue Bridge in Prosser downstream approximately 1.25 miles to the downstream side of the westbound Interstate 82 Bridge.
 - (ii) From Prosser Dam to Highway 223 Bridge:
 - (A) Open May 1 through October 31.
 - (B) Trout: Catch and release only.
 - (iii) From Highway 223 Bridge to 400 feet below Sunny-side Dam: Trout: Minimum length is 12 inches, maximum length is 20 inches.
 - (iv) From Sunnyside Dam to 3,500 feet below Roza Dam:
 - (A) Closed from Yakima Avenue-Terrace Heights Bridge upstream 400 feet.
 - (B) Selective gear rules apply.
 - (C) It is unlawful to fish from a floating device equipped with an internal combustion motor from the I-82 Bridge at Selah Gap to 3,500 feet below Roza Dam.
 - (D) Trout: Minimum length 12 inches, maximum length 20 inches.
 - (E) Open December 1 through January 31 for whitefish only; whitefish gear rules apply.
 - (v) From Roza Dam to 400 feet below Easton Dam:
 - (A) Open year-round.
 - (B) It is permissible to fish from floating devices equipped with motors 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 1.3 river miles).
 - (C) Selective gear rules apply.
 - (D) Trout: Catch and release.
 - (E) Open December 1 through January 31 for whitefish only; whitefish gear rules apply.
 - (vi) From Easton Dam to the base of Keechelus Dam:
 - (A) Selective gear rules apply.
 - (B) Trout: Catch and release only, except anglers may retain eastern brook trout. There is no limit and no minimum size restriction for eastern brook trout.
 - (vii) For all Yakima River tributaries from Roza Dam to Keechelus Dam not otherwise provided for in this section:
 - (A) Selective gear rules apply.
 - (B) Trout: Minimum length ten inches.
 - (C) Wilson Creek downstream of BNSF railroad bridge: Yakima River rules apply.

~~((409))~~ (410) **Yakima Sportsmen's Park Ponds (Yakima County):** Open to juvenile anglers only.

~~((410))~~ (411) **Yellowhawk Creek (Walla Walla County):** Closed.

~~((411))~~ (412) **Yocum Lake (Pend Oreille County):**

(a) Open the fourth Saturday in April through October 31.

(b) It is unlawful to use lead weights or lead jigs that measure 1.5 inches or less along the longest axis.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

AMENDATORY SECTION (Amending WSR 15-13-081, filed 6/12/15, effective 7/13/15)

WAC 220-310-200 Freshwater exceptions to state-wide rules—Columbia. The following exceptions to state-wide rules apply to the Columbia River, including impoundments and all connecting sloughs, except Wells Ponds:

(1) General Columbia River rules:

(a) In the concurrent waters of the Columbia River between Washington and Oregon, the license of either state is valid when fishing from a vessel.

(i) Anglers must comply with the fishing regulations of the state in which they are fishing.

(ii) This subsection does not allow an angler licensed in Oregon to fish on the Washington shore, or in the sloughs or tributaries in Washington except as otherwise provided by department rule.

(iii) Anglers fishing the Columbia River are restricted to one limit, as defined by the laws of the state in which they are fishing, even if they are licensed by both states.

(b) It is unlawful to possess in the field salmon or steelhead mutilated so that size, species, or fin clip cannot be determined until the angler has reached their automobile or principal means of land transportation and completed his or her daily angling.

(c) Salmon and trout handling rules provided in WAC 220-56-118 apply to the Columbia River, except from February 15 through June 15 in the mainstem Columbia from the Rocky Point/Tongue Point line upstream to the Washington-Oregon border where WAC 220-56-118 applies only to anglers fishing from vessels less than 30 feet in length (as substantiated by Coast Guard documentation or Marine Board registration).

(d) From Buoy 10 to the Washington/Oregon border:

(i) From March 1 through May 15, the mainstem Columbia River is open for retention of adipose fin-clipped steelhead and shad only during days and in areas that are open for the retention of adipose fin-clipped spring Chinook salmon.

(ii) From August 1 through December 31, each angler aboard a vessel may deploy salmon/steelhead angling gear until the salmon/steelhead limit for all anglers aboard has been achieved.

(e) Open year-round unless otherwise provided.

(f) Barbless hooks are required for salmon and steelhead.

(g) Walleye and bass: No limit and no size restriction.

(h) Channel catfish: No limit.

(2) Rules by river section:

(a) **From a true north-south line through Buoy 10, upstream to a line projected from Rocky Point on the Washington bank through Red Buoy 44 to the navigation light at Tongue Point on the Oregon bank:**

(i) Fishing from the north jetty is permissible when Marine Area 1 or Buoy 10 areas are open for salmon, and the limit and minimum size restrictions follow the most liberal regulations if both areas are open.

(ii) Release all trout, except anglers may retain hatchery steelhead.

(iii) ~~((Walleye:~~

~~(A) Limit 10; no minimum length.~~

~~(B) No more than 5 longer than 18 inches may be retained, and only one walleye may be longer than 24 inches.~~

~~(iv) Bass: Limit 5 bass between 12 and 17 inches in length; no more than 3 longer than 15 inches may be retained.~~

~~(v) Channel catfish: No limit.~~

~~((vi))~~ Salmon and steelhead:

(A) Open June 16 through July 31:

(I) Closed to fishing for salmon and steelhead from Buoy 10 to the Megler-Astoria Bridge.

(II) Limit 6; no more than 2 adult salmon, or 2 hatchery steelhead, or one of each, may be retained.

(III) Release all salmon other than sockeye and hatchery Chinook.

(IV) From July 7 through July 31, release adult Chinook and sockeye.

(B) Open August 1 through September 7:

(I) Limit 2 salmon, or 2 hatchery steelhead, or one of each.

(II) Release all salmon except Chinook and hatchery coho.

(III) Chinook minimum length 24 inches; only one Chinook may be retained as part of the limit.

(IV) Coho minimum length 16 inches.

(C) Open September 8 through September 30:

(I) Limit 2; hatchery coho or hatchery steelhead or one of each.

(II) Release all salmon other than hatchery coho.

(III) Coho minimum length 16 inches.

(D) Open October 1 through December 31:

(I) Limit 6; no more than 2 adult salmon, or 2 hatchery steelhead, or one of each, may be retained.

(II) Release all salmon except Chinook and hatchery coho.

(E) Open January 1 through March 31:

(I) Limit 6; no more than 2 adult hatchery Chinook, or 2 hatchery steelhead, or one of each, may be retained.

(II) Release all salmon except hatchery Chinook.

~~((vii))~~ (iv) Shad open May 16 through March 31.

~~((viii))~~ (v) Forage fish and bottomfish: Marine Area 1 general rules apply; eulachon closed.

(b) **From a line projected from Rocky Point on the Washington bank through Red Buoy 44 to the navigation light at Tongue Point on the Oregon bank, upstream to the I-5 Bridge:**

(i) Trout:

(A) Open May 16 through March 31.

(B) Release all trout except hatchery cutthroat and hatchery steelhead (the limit is as provided under (b)(v) of this subsection).

(I) Anglers may retain up to 2 hatchery cutthroat.

(II) Hatchery cutthroat minimum length 12 inches.

(III) Barbless hooks are required for cutthroat trout.

(ii) ~~((Walleye:~~

~~(A) Limit 10; no minimum length.~~

~~(B) No more than 5 longer than 18 inches may be retained, and only one may be longer than 24 inches.~~

~~(iii) Bass: Limit 5 bass between 12 and 17 inches in length; it is unlawful to retain more than 3 longer than 15 inches.~~

~~(iv) Channel catfish: No limit.~~

~~(v)) Salmon and steelhead:~~

(A) Open May 16 through July 31:

(I) Release all salmon except hatchery Chinook and sockeye.

(II) Limit 6; no more than 2 adult salmon, or 2 hatchery steelhead, or one of each, may be retained.

(III) Release sockeye and adult Chinook May 16 through June 15 and July 7 through July 31.

(B) Open August 1 through September 30:

(I) Upstream of Warrior Rock line: Limit 6; no more than 2 adult salmon, or 2 hatchery steelhead, or one of each, may be retained. Release all salmon except Chinook and hatchery coho.

(II) Downstream of Warrior Rock line: Limit 6; no more than 2 adult salmon, and only one adult Chinook may be retained. Release wild Chinook from September 8 through September 14, and release all Chinook from September 15 through September 30.

(C) For the purpose of this subsection, "Warrior Rock line" is defined as a line projected from the Warrior Rock Lighthouse, through Red Buoy 4, to the orange marker atop the dolphin on the Washington shore.

(D) Open October 1 through December 31:

(I) Limit 6; no more than 2 adult salmon, or 2 hatchery steelhead, or one of each, may be retained.

(II) Release all salmon except Chinook and hatchery coho.

(E) Open January 1 through March 31:

(I) Limit 6 fish; no more than 2 adult hatchery Chinook, or 2 hatchery steelhead, or one of each, may be retained.

(II) Release all salmon except hatchery Chinook.

~~((vi))~~ (iii) Shad open May 16 through March 31.

(c) **From the I-5 Bridge to Bonneville Dam:**

(i) The following waters are closed:

(A) From the upstream line of Bonneville Dam to boundary markers 600 feet below the fish ladder at the powerhouse.

(B) January 1 through April 30 from a line between the upstream end of Sand Island (near Rooster Rock) on the Columbia River, to the boundary marker on the Oregon shore, downstream to a line between the lower end of Sand Island and the boundary marker on the Oregon shore.

(C) Closed to angling from a floating device or 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 the westernmost tip of Robins Island.

(ii) Camas Slough:

(A) It is permissible for an angler licensed in Oregon or Washington to fish from a floating device.

(B) In the 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:

(I) From August 1 through December 31: It is permissible to fish with two poles so long as the angler possesses a valid two-pole endorsement.

(II) From August 1 through December 31: Each angler aboard a vessel may deploy salmon/steelhead angling gear until the salmon/steelhead limit for all anglers aboard has been achieved.

(III) Open for salmon when the adjacent mainstem Columbia or Washougal rivers are open for salmon.

(IV) The limit for salmon is the same as the most liberal regulation of either area, except anglers may only retain hatchery Chinook and hatchery coho; release all other salmon.

(iii) Release all trout except hatchery steelhead.

(iv) ~~((Walleye:~~

~~(A) Limit 10; no minimum length.~~

~~(B) No more than 5 longer than 18 inches may be retained, and only one walleye may be longer than 24 inches.~~

~~(v) Bass: Limit 5 bass between 12 and 17 inches in length; no more than 3 longer than 15 inches may be retained.~~

~~(vi) Channel catfish: No limit.~~

~~(vii)) Salmon and steelhead:~~

(A) Open June 16 through July 31:

(I) Limit 6; no more than 2 adult salmon, or 2 hatchery steelhead, or one of each, may be retained.

(II) Release all salmon except hatchery Chinook and sockeye.

(III) Release adult Chinook and sockeye July 7 through July 31.

(B) Open August 1 through December 31:

(I) Limit 6; no more than 2 adult salmon or 2 hatchery steelhead, or one of each, may be retained, except no more than 3 adults, of which no more than 2 may be hatchery coho or 2 hatchery steelhead, or one of each, may be retained upstream from a line projected from the lower end of the Steamboat Landing dock on the Washington shore through navigation Light #50 to the Oregon shore.

(II) Release all salmon except Chinook and hatchery coho.

(III) Closed November 1 through December 31 from Beacon Rock to Bonneville Dam.

~~((viii))~~ (v) Steelhead: Open January 1 through March 31.

~~((ix))~~ (vi) Shad: Open May 16 through March 31.

(d) **From Bonneville Dam to The Dalles Dam:**

(i) Closed waters:

(A) Within one quarter mile of the USFWS Spring Creek Hatchery Grounds, between posted markers located one quarter mile on either side of the fish ladder entrance.

(B) At The Dalles between the upstream line of The Dalles Dam to the upstream side of the Interstate 197 Bridge, except that bank fishing is permitted up to the downstream navigation lock wall on the Washington shore.

(ii) Release all trout, except anglers may retain hatchery steelhead.

(iii) ~~((Walleye:~~

~~(A) Limit 10; no minimum length.~~

~~(B) No more than 5 longer than 18 inches may be retained, and only one may be longer than 24 inches.~~

~~(iv) Bass: Limit 5 bass between 12 and 17 inches in length; no more than 3 longer than 15 inches may be retained.~~

~~(v) Channel catfish: No limit.~~

~~(vi)) Salmon and steelhead:~~

~~(A) When open from March 16 through June 15:~~

~~(I) Bank fishing only from Bonneville Dam to Tower Island powerlines (approximately 6 miles below The Dalles Dam).~~

~~(II) Only hand-cast lines may be used. It is unlawful to use a floating device to set lines for salmon and steelhead.~~

~~(B) Open June 16 through July 31:~~

~~(I) Limit 6; no more than 2 adult salmon, or 2 hatchery steelhead, or one of each, may be retained.~~

~~(II) Release all salmon except sockeye and hatchery Chinook.~~

~~(C) Open August 1 through December 31:~~

~~(I) August 1 through October 15: Anti-snagging rule applies and night closure in effect.~~

~~(II) Limit 6; no more than 3 adults, of which no more than 2 may be coho or 2 hatchery steelhead, or one of each, may be retained.~~

~~(III) Release all salmon except Chinook and coho.~~

~~(IV) Release wild coho from Bonneville Dam to Hood River Bridge.~~

~~((vii)) (iv) Steelhead: Open January 1 through March 31.~~

~~(e) **From The Dalles Dam to McNary Dam:**~~

~~(i) Closed waters:~~

~~(A) At John Day Dam between the upstream line of John Day Dam to markers approximately 3,000 feet downstream, except that bank fishing is permitted up to 400 feet below the fishway entrance on the Washington shore.~~

~~(B) At McNary Dam between the upstream line of 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.~~

~~(ii) Release all trout except hatchery steelhead.~~

~~(iii) ~~((Walleye:~~~~

~~(A) Limit 10; no minimum length.~~

~~(B) No more than 5 longer than 18 inches may be retained, and only one walleye may be longer than 24 inches.~~

~~(iv) Bass: Limit 5 bass between 12 and 17 inches in length; no more than 3 longer than 15 inches may be retained.~~

~~(v) Channel catfish: No limit.~~

~~(vi)) Salmon and steelhead:~~

~~(A) When open from March 16 through June 15:~~

~~(I) Anglers may possess up to 4 hatchery adult Chinook salmon in fresh form.~~

~~(II) Anglers aboard a boat may only possess one daily limit of salmon in fresh form.~~

~~(B) Open June 16 through July 31:~~

~~(I) Limit 6; no more than 2 adult salmon, or 2 hatchery steelhead, or one of each, may be retained.~~

(II) Release all salmon except hatchery Chinook and sockeye.

(C) Open August 1 through December 31:

(I) August 1 through October 15: Anti-snagging rule applies and night closure in effect.

(II) Limit 6; no more than 3 adults, of which no more than 2 may be coho or 2 hatchery steelhead, or one of each, may be retained.

(III) Release all salmon except Chinook and coho.

~~((vii)) (iv) Steelhead: Open January 1 through March 31.~~

(f) From McNary Dam to Highway 395 Bridge at Pasco:

~~(i) ~~((Barbless hooks are required for salmon and steelhead.~~~~

~~((ii)) The Snake River Confluence Protection Area includes waters of the Columbia River from the railroad bridge between Burbank and Kennewick, upstream approximately 2.1 miles to the first power line crossing the Columbia upstream of the navigation light on the point of Sacajawea State Park. For all species, limits, seasons, size restrictions and gear restrictions are the same as those in the adjacent portion of the Snake River.~~

~~((iii)) (ii) Release all trout except hatchery steelhead.~~

~~((iv) From McNary Dam upstream to Highway 730 at the Oregon/Washington border: Walleye limit 10; no minimum length. No more than 5 walleye longer than 18 inches may be retained, and only one may be longer than 24 inches.~~

~~(v) Upstream from Highway 730 at the Oregon/Washington border:~~

~~(A) Bass: No limit and no size restrictions.~~

~~(B) Channel catfish: No limit.~~

~~(C) Walleye: No limit and no size restrictions.~~

~~(vi)) (iii) Salmon and steelhead:~~

~~(A) When open from March 16 through June 15 from McNary Dam to the Washington/Oregon border:~~

~~(I) Anglers may possess up to 4 hatchery adult Chinook in fresh form.~~

~~(II) Anglers aboard a boat may only possess one daily limit of salmon in fresh form.~~

~~(B) Open June 16 through July 31:~~

~~(I) Limit 6; no more than 2 adult salmon, or 2 hatchery steelhead, or one of each, may be retained.~~

~~(II) Release all salmon except hatchery Chinook and sockeye.~~

~~(C) Open August 1 through December 31:~~

~~(I) Limit 6; no more than 3 adults, of which no more than 2 may be coho or 2 hatchery steelhead, or one of each, may be retained.~~

~~(II) Release all salmon except Chinook and coho.~~

~~((vii)) (iv) Steelhead: Open January 1 through March 31.~~

(g) From the Highway 395 Bridge at Pasco to the Interstate 182 Bridge:

~~(i) ~~((Barbless hooks are required for salmon and steelhead.~~~~

~~((ii)) Closed waters: Within a 400 foot radius of the Columbia Irrigation District (CID) fish barrier at the mouth of the CID wasteway at Columbia Park.~~

~~((iii))~~ (ii) For all open species except sturgeon: It is permissible to fish with two poles so long as the angler possesses a two-pole endorsement.

~~((iv))~~ (iii) Trout:

(A) October 1 through October 31 release all trout, except 2 hatchery steelhead with both the adipose and a ventral fin clipped may be retained.

(B) November 1 through March 31 release all trout, except anglers may retain up to 2 hatchery steelhead.

~~((v) Bass: No limit and no size restrictions.~~

~~(vi) Channel catfish: No limit.~~

~~(vii) Walleye: No limit and no size restrictions.~~

~~(viii))~~ (iv) Salmon:

(A) Open June 16 through August 15:

(I) Limit 3; no more than 1 adult hatchery Chinook salmon and no more than 2 sockeye may be retained.

(II) Release wild adult Chinook salmon.

(B) Open August 16 through October 31: Limit 6; no more than 3 adult salmon may be retained. Once the adult salmon limit is retained, anglers may not continue to fish for any species the remainder of the day.

(h) From the Interstate 182 Bridge to the Old Hanford townsite wooden powerline towers, in Sec. 30, T13N, R28E:

(i) ~~((Barbless hooks are required for salmon and steelhead.~~

~~((ii))~~ Closed waters:

(A) The area of the Columbia River between the markers located 100 feet upstream and 100 feet downstream of the Ringold Springs Hatchery Creek, and extending 100 feet towards the middle of the river.

(B) September 1 through November 30: West Branch Esquatzel Coulee Block 1 Irrigation Wasteway Lagoon in the Columbia River.

~~((iii))~~ (ii) Ringold Area Bank Fishery waters, from WDFW markers 1/4 mile downstream from the Ringold wasteway outlet, to WDFW markers 1/2 mile upstream from Spring Creek:

(A) Fishing is allowed only from the bank and only on the hatchery side of the river.

(B) Release all trout, except anglers may retain up to 2 hatchery steelhead from April 1 through April 15.

~~((iv))~~ (iii) For all open species except sturgeon: It is permissible to fish with two poles so long as the angler possesses a two-pole endorsement.

~~((v))~~ (iv) Trout:

(A) October 1 through October 31 release all trout, except 2 hatchery steelhead with both the adipose and a ventral fin clipped may be retained.

(B) November 1 through March 31 release all trout, except anglers may retain up to 2 hatchery steelhead.

~~((vi) Bass: No limit and no size restrictions.~~

~~(vii) Channel catfish: No limit.~~

~~(viii) Walleye: No limit and no size restrictions.~~

~~(ix))~~ (v) Salmon:

(A) Open June 16 through August 15:

(I) Limit 8; no more than 2 adult hatchery Chinook and no more than 6 sockeye may be retained.

(II) Release wild adult Chinook.

(B) Open August 16 through October 31: Limit 6; no more than 3 adult salmon may be retained. Once the adult salmon daily limit has been retained, anglers may not continue to fish for any species the remainder of the day.

(i) From the Old Hanford townsite wooden power line towers, in Sec. 30, T13N, R28E, to Vernita Bridge, (Highway 24):

(i) ~~((Barbless hooks are required for salmon and steelhead.~~

~~((ii))~~ Open February 1 through October 22.

~~((iii))~~ (ii) For all open species except sturgeon: It is permissible to fish with two poles so long as the angler possesses a two-pole endorsement.

~~((iv))~~ (iii) Trout: Catch and release only.

~~((v) Bass: No limit and no size restrictions.~~

~~(vi) Channel catfish: No limit.~~

~~(vii) Walleye: No limit and no size restrictions.~~

~~(viii))~~ (iv) Salmon:

(A) Open June 16 through August 15:

(I) Limit 8; no more than 2 adult hatchery Chinook and no more than 6 sockeye may be retained.

(II) Release wild adult Chinook.

(B) Open August 16 through October 22: Limit 6; no more than 3 adult salmon may be retained. Once the adult salmon daily limit is retained, anglers may not continue to fish for any species the remainder of the day.

(j) From Vernita Bridge (Highway 24) to Priest Rapids Dam:

(i) ~~((Barbless hooks are required for salmon and steelhead.~~

~~((ii))~~ Closed waters:

(A) At Priest Rapids Dam; waters between the upstream line of Priest Rapids Dam downstream to the boundary markers 650 feet below the fish ladders.

(B) At Jackson (Moran) Creek, or Priest Rapids Hatchery Outlet Creek; waters of the Priest Rapids Hatchery system to the outlet on the Columbia River, extending to mid-stream Columbia River between boundary markers located 100 feet upstream and 400 feet downstream of the mouth.

~~((iii))~~ (ii) For all open species except sturgeon: It is permissible to fish with two poles so long as the angler possesses a two-pole endorsement.

~~((iv))~~ (iii) Trout: Catch and release only.

~~((v) Walleye: No limit and no size restrictions.~~

~~(vi) Bass: No limit and no size restrictions.~~

~~(vii) Channel catfish: No limit.~~

~~(viii))~~ (iv) Salmon:

(A) Open June 16 through August 15:

(I) Limit 8; no more than 2 adult hatchery Chinook and no more than 6 sockeye may be retained.

(II) Release wild adult Chinook.

(B) Open August 16 through October 22: Limit 6; no more than 3 adult salmon may be retained. Once the adult salmon daily limit is retained, anglers may not continue to fish for any species the remainder of the day.

(k) From Priest Rapids Dam to Rock Island Dam:

(i) ~~((Barbless hooks required for salmon and steelhead.~~

~~((ii))~~ Closed waters:

(A) Wanapum Dam, between the upstream line of Wanapum Dam to the boundary markers 750 feet downstream of

the east fish ladder and 500 feet downstream of the west fish ladder.

(B) Rock Island Dam, between the upstream line of Rock Island Dam to boundary markers 400 feet downstream of the fish ladders.

~~((iii))~~ (ii) July 1 through August 31: Fishing two poles is permissible so long as the angler possesses a two-pole endorsement.

~~((iv))~~ (iii) Release all trout.

~~((v) Walleye: No limit and no size restrictions.~~

~~(vi) Bass: No limit and no size restrictions.~~

~~(vii) Channel catfish: No limit.~~

~~(viii))~~ (iv) Salmon:

(A) Open July 1 through August 31:

(I) Limit 8; no more than 2 adult hatchery Chinook and no more than 6 sockeye may be retained.

(II) Release coho and wild adult Chinook.

(B) Open September 1 through October 22: Limit 6 Chinook; no more than 3 adult Chinook salmon may be retained.

(I) From Rock Island Dam to Wells Dam:

(i) ~~((Barbless hooks are required for salmon and steel head.~~

~~((ii))~~ Closed waters:

(A) At Rocky Reach Dam between the upstream line of the dam to boundary markers 400 feet downstream of the fish ladders.

(B) At Wells Dam, between the upstream line of Wells Dam to boundary markers 400 feet downstream of the spawning channel discharge (on Chelan County side) and fish ladder (on Douglas County side).

~~((iii))~~ (ii) July 1 through August 31: Fishing two poles is permissible so long as the angler possesses a two-pole endorsement.

~~((iv))~~ (iii) Trout: Catch and release only.

~~((v) Walleye: No limit and no size restrictions.~~

~~(vi) Bass: No limit and no size restrictions.~~

~~(vii) Channel catfish: No limit.~~

~~(viii))~~ (iv) Salmon open July 1 through October 15:

(A) Limit 8; no more than 2 adult hatchery Chinook and no more than 6 sockeye may be retained.

(B) Release coho and wild adult Chinook.

(m) From Wells Dam to Highway 173 Bridge at Brewster:

(i) ~~((Barbless hooks are required for salmon and steel head.~~

~~((ii))~~ July 16 through August 31: Fishing two poles is permissible so long as the angler possesses a two-pole endorsement.

~~((iii))~~ (ii) Release all trout.

~~((iv) Walleye: No limit and no size restrictions.~~

~~(v) Bass: No limit and no size restrictions.~~

~~(vi) Channel catfish: No limit.~~

~~(vii))~~ (iii) Salmon open July 16 through August 31:

(A) Limit 8; no more than 2 adult hatchery Chinook and no more than 6 sockeye may be retained.

(B) Release coho and wild adult Chinook.

(n) From Highway 173 Bridge at Brewster to Chief Joseph Dam:

(i) ~~((Barbless hooks are required for salmon and steel head.~~

~~((ii))~~ Closed waters:

(A) From the Okanogan County shore between Chief Joseph Dam and the Highway 17 Bridge.

(B) From the Douglas County shore from Chief Joseph Dam to the rock jetty at the upstream shoreline of Foster Creek.

~~((iii))~~ (ii) July 1 through August 31: Fishing two poles is permissible so long as the angler possesses a two-pole endorsement.

~~((iv))~~ (iii) It is unlawful to fish from a floating device downstream of Chief Joseph Dam from the boundary marker to the Corps of Engineers safety zone marker.

~~((v))~~ (iv) Trout: Catch and release only.

~~((vi) Walleye: No limit and no size restrictions.~~

~~(vii) Bass: No limit and no size restrictions.~~

~~(viii) Channel catfish: No limit.~~

~~((ix))~~ (v) Salmon: Open July 1 through October 15:

(A) Limit 8; no more than 2 adult hatchery Chinook and no more than 6 sockeye may be retained.

(B) Release coho and wild adult Chinook.

(o) **Above Chief Joseph Dam:** See Rufus Woods Lake in WAC 220-310-195.

(p) **Above Grand Coulee Dam:** See Lake Roosevelt in WAC 220-310-195.

WSR 16-06-100
PERMANENT RULES
DEPARTMENT OF HEALTH

[Filed March 1, 2016, 1:17 p.m., effective April 1, 2016]

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

Purpose: Chapter 246-296 WAC, Drinking water state revolving fund loan program, the rules set specific requirements for awarding infrastructure loans to eligible Group A public water systems due to an emergency event. The rules identify specific criteria and rule requirement waivers to expedite loan approvals to better public health protection.

Citation of Existing Rules Affected by this Order: Amending WAC 246-296-010, 246-296-020, 246-296-050, and 246-296-070.

Statutory Authority for Adoption: RCW 70.119A.170.

Adopted under notice filed as WSR 16-03-057 on January 19, 2016.

A final cost-benefit analysis is available by contacting Theresa Phillips, Department of Health, P.O. Box 47820, Olympia, WA 98504-7820, phone (360) 236-3147, fax (360) 236-2250, e-mail theresa.phillips@doh.wa.gov.

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

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 4, Repealed 0.

Date Adopted: March 1, 2016.

John Wiesman, DrPH, MPH
Secretary

AMENDATORY SECTION (Amending WSR 12-01-077, filed 12/19/11, effective 2/1/12)

WAC 246-296-010 Purpose and scope. The purpose of this chapter is to:

(1) Establish a funding program for public water system infrastructure improvements that increase a public water system's ability to provide safe and reliable drinking water and improve public health protection;

(2) Establish eligibility criteria for public water systems to receive funding including, but not limited to, proper operation, management, and maintenance consistent with federal DWSRF capacity requirements;

(3) Provide additional financial assistance to eligible disadvantaged communities;

(4) Provide DWSRF loans in response to an emergency;

(5) Use a portion of the EPA capitalization grant for set-aside activities according to federal law;

~~((5))~~ (6) Establish that sound financial practices and ongoing oversight are in place to manage the DWSRF in perpetuity;

~~((6))~~ (7) Establish requirements for public water systems to receive a DWSRF loan including, but not limited to, planning requirements; being resource efficient, sustainable, and environmentally sound; ~~((and~~

~~(7))~~ (8) Establish requirements for public water systems to receive a DWSRF loan in response to an emergency; and

(9) Establish the responsibilities of the department, the board, and commerce, for administering the DWSRF loan program.

AMENDATORY SECTION (Amending WSR 12-01-077, filed 12/19/11, effective 2/1/12)

WAC 246-296-020 Definitions, abbreviations, and acronyms. The definitions, abbreviations, and acronyms in this section apply throughout this chapter unless the context clearly indicates otherwise.

(1) "**Affordability**" means a community's ability, on a per household basis, to pay for rate increases that result from a DWSRF loan project.

(2) "**Application**" means the DWSRF loan request form provided by the department.

(3) "**Application package**" means the DWSRF loan application form(s), requirements, terms of assistance, and related information created by the department, the board, and commerce.

(4) "**Board**" means the Washington state public works board.

(5) "**Borrower**" means the person that has legal and financial responsibility for the DWSRF loan.

(6) "**Capitalization grant**" means an award by EPA of funds to a state for the DWSRF and other purposes as authorized in Section 1452 of the SDWA.

(7) "**Commerce**" means the Washington state department of commerce.

(8) "**Construction completion report**" means a form provided by the department and completed for each specific construction project to document:

(a) Project construction in accordance with chapter 246-290 WAC and general standards of engineering practice;

(b) Physical capacity changes;

(c) Satisfactory test results; and

(d) The completed form is stamped with an engineer's seal, and signed and dated by a professional engineer.

(9) "**Default**" means failure to meet a financial obligation such as a DWSRF loan payment.

(10) "**Department**" means the Washington state department of health.

(11) "**Disadvantaged community**" means the service area of a proposed project within a public water system where the project will result in:

(a) Water rates that are more than one and one-half percent of the MHI of the service area; or

(b) Restructuring, when one or more public water systems are having financial difficulties.

(12) "**DWSRF (drinking water state revolving fund)**" means the program that meets the requirements of RCW 70.119A.170 to administer federal funds and other funds deposited in a dedicated account used to finance public water system infrastructure improvements and drinking water program activities.

(13) "**DWSRF loan**" means an agreement between the board and the borrower in which the DWSRF provides funds for eligible assistance and the borrower agrees to repay the principal sum, applicable interest, and DWSRF loan fee to the DWSRF.

(14) "**DWSRF loan fee**" means a nonrefundable fee that is charged on all DWSRF loans, including DWSRF loans for which all or part of the principal is forgiven.

(15) "**Ecology**" means the Washington state department of ecology.

(16) "**Eligible public water system**" means a Group A community public water system, either privately or publicly owned, or a nonprofit Group A noncommunity public water system.

(17) "**Emergency**" means an event such as a natural disaster or other unforeseen or unavoidable circumstances that causes damage or disrupts normal public water system operations and requires immediate action to protect public health and safety. A failure to maintain, replace, reconstruct, upgrade, or make necessary infrastructure improvements does not constitute an emergency.

(18) "**EPA**" means the United States Environmental Protection Agency.

~~((18))~~ (19) "**Green project**" means a public water system infrastructure improvement project that includes water efficiency, energy efficiency, or environmental innovations as follows:

(a) Water efficiency projects use improved technologies and practices to deliver equal or better service with less

water, including preventing water loss and reducing customer demand to protect water resources;

(b) Energy efficiency projects use improved technologies and practices to reduce energy consumption or produce cleaner energy for use in water treatment;

(c) Environmentally innovative projects use new or innovative approaches to manage water resources in a more environmentally sustainable way. Projects that are considered environmentally innovative include those that:

(i) Prevent or remove pollution;

(ii) Help a community adapt to climate change through water resource protection programs; or

(iii) Result in other proven, sustainable environmental benefits.

~~((19))~~ (20) **"Group A public water system"** means a public water system providing service such that it meets the definition of a public water system provided in the 1996 amendments to the federal Safe Drinking Water Act, P.L. 104-182, Section 101(b).

A Group A public water system is further defined as a community or noncommunity public water system.

(a) "Community public water system" means any Group A public water system providing service to fifteen or more service connections used by year-round residents for one hundred eighty or more days within a calendar year, regardless of the number of people, or regularly serving at least twenty-five people year-round more than one hundred eighty days per year, as defined in chapter 246-290 WAC.

(b) "Noncommunity public water system" means a Group A public water system that is not a community public water system. Noncommunity public water systems are further defined as:

(i) "Nontransient noncommunity public water system" means a public water system that serves twenty-five or more of the same nonresidential people for one hundred eighty or more days within a calendar year.

(ii) "Transient noncommunity public water system" means a public water system that serves:

(A) Twenty-five or more different people each day for sixty or more days within a calendar year;

(B) Twenty-five or more of the same people each day for sixty or more days, but less than one hundred eighty days within a calendar year; or

(C) One thousand or more people for two or more consecutive days within a calendar year.

~~((20))~~ (21) **"Group B public water system"** means a public water system that is not a Group A public water system. A public water system is classified as a Group B public water system if it serves fewer than fifteen service connections, and:

(a) Fewer than twenty-five people; or

(b) Twenty-five or more people per day for less than sixty days per year provided the public water system does not serve one thousand or more people for two or more consecutive days.

~~((21))~~ (22) **"Individual water supply system"** means any water system that is not subject to chapter 246-290 or 246-291 WAC; and provides water to either one single-family residence, or to a system with four or fewer connections, all of which serve residences on the same farm.

~~((22))~~ (23) **"IUP (intended use plan)"** means the federally required document prepared each year by the department identifying the intended uses of the DWSRF funds and describing how those uses support the DWSRF goals.

~~((23))~~ (24) **"Loan closeout"** means a loan agreement is complete when the loan is repaid in full.

~~((24))~~ (25) **"MHI (median household income)"** means the midpoint or the average of two midpoints in the range of household incomes in the project's service area. The median divides the list of households in a service area into two parts; half of the households exceed the median, and half of the households are below the median.

~~((25))~~ (26) **"Multiple benefit"** means projects that address more than one type of health risk.

~~((26))~~ (27) **"Municipality"** means a city, town, special purpose district, or municipal corporation established according to the applicable laws of this state.

~~((27))~~ (28) **"NEPA"** means the National Environmental Policy Act of 1969, 42 United States Code 4321 et seq., PL-91-190.

~~((28))~~ (29) **"Nonprofit organization"** means an entity that has a federal tax exempt status identification number.

~~((29))~~ (30) **"Owner"** means any agency, subdivision of the state, municipal corporation, firm, company, mutual or cooperative association, institution, partnership, person, or any other entity that holds as property a public water system.

~~((30))~~ (31) **"Person"** means any individual, corporation, company, association, society, firm, partnership, joint stock company, or any governmental agency, or the authorized agents of these entities.

~~((31))~~ (32) **"Principal forgiveness"** means that a reduction of ~~((up to fifty percent))~~ a percentage of the total loan amount is not required to be paid back by the borrower. Principal forgiveness is applied when the project is complete.

~~((32))~~ (33) **"Project report"** means a department-approved document the borrower or borrower's agency develops under WAC 246-290-110.

~~((33))~~ (34) **"Public water system"** means any public water system providing water for human consumption through pipes or other constructed conveyances, excluding water systems serving only one single-family residence and water systems with four or fewer connections, all of which serve residences on the same farm. This includes:

(a) Collection, treatment, storage, and distribution facilities under control of the owner, or owner's authorized agent, primarily used in connection with the public water system; and

(b) Collection or pretreatment storage facilities not under the control of the owner, or owner's authorized agent, but primarily used in connection with the public water system.

~~((34))~~ (35) **"Receivership"** means the voluntary or involuntary transfer of ownership and operation of a public water system according to chapter 7.60 RCW and RCW 43.70.195.

~~((35))~~ (36) **"Regional benefit"** means project improvements that affect more than one public water system.

~~((36))~~ (37) **"Restructuring"** means changing public water system ownership, including, but not limited to:

(a) Consolidation of two or more existing public water systems into a single public water system;

(b) Transfer of ownership; or

(c) Receivership.

~~((37))~~ (38) "**SDWA (Safe Drinking Water Act)**" means Public Law 93-523, including all amendments.

~~((38))~~ (39) "**SEPA**" means the State Environmental Policy Act under chapter 43.21C RCW.

~~((39))~~ (40) "**Set-aside**" means the use of a portion of DWSRF funds allotted to the state for a range of specific SDWA-related activities under Section 1452 of the SDWA, to fund new programs, and for other drinking water program activities.

~~((40))~~ (41) "**SERP (state environmental review process)**" means the NEPA-like environmental review process adopted by Washington state to comply with the requirements of 40 C.F.R. 35.3140. SERP combines the SEPA review with additional elements to comply with federal requirements.

~~((41))~~ (42) "**Surface water**" means a body of water open to the atmosphere and subject to surface runoff.

~~((42))~~ (43) "**Sustainable**" means able to continue a benefit into the future as a result of appropriate public water system design, processes, operations, governance, and maintenance.

~~((43))~~ (44) "**SWSMP (small water system management program)**" means a document for a small nonexpanding Group A public water system developed and approved under WAC 246-290-105.

~~((44))~~ (45) "**System capacity**" means a public water system's operational, technical, managerial, and financial capability to achieve and maintain ongoing compliance with all relevant local, state, and federal plans and regulations.

~~((45))~~ (46) "**Transfer of ownership**" means to change legal ownership of a public water system from one person to another.

~~((46))~~ (47) "**Water right**" means a legal authorization, such as a permit, claim, or other authorization, on record with or accepted by the department of ecology, authorizing the beneficial use of water in accordance with all applicable state laws.

~~((47))~~ (48) "**WFI (water facilities inventory)**" means a department form summarizing a public water system's characteristics.

~~((48))~~ (49) "**WSP (water system plan)**" means a document that a Group A community public water system submits to the department as required under WAC 246-290-100. The plan addresses a public water system's capacity to comply with relevant local, state, and federal plans and regulations, describes the public water system's present and future needs, and establishes eligibility for funding under this chapter.

AMENDATORY SECTION (Amending WSR 12-01-077, filed 12/19/11, effective 2/1/12)

WAC 246-296-050 DWSRF loan terms. (1) The board may approve a DWSRF loan for a project that will not serve a disadvantaged community at or below market interest rates for a maximum of twenty years from project completion.

(2) The board may approve a DWSRF loan for projects that will serve disadvantaged communities:

(a) At an interest rate set at or below market interest rates for up to thirty years, as long as the DWSRF loan does not exceed the useful life of the project; ~~((or))~~

(b) That qualifies for principal forgiveness for up to fifty percent of the principal DWSRF loan amount; or

(c) That qualifies for principal forgiveness for up to seventy-five percent of the principal DWSRF loan amount for an emergency loan.

(3) A project is considered complete when the department approves the construction completion report.

(4) The borrower shall begin repaying the principal and interest no later than one year after the project is complete.

(5) The department and the board shall:

(a) Set terms that secure repayment of the debt and maintain a financially sound DWSRF program in perpetuity; and

(b) Publish specific rates and contract terms in the annual application package.

AMENDATORY SECTION (Amending WSR 12-01-077, filed 12/19/11, effective 2/1/12)

WAC 246-296-070 Eligible projects and project-related costs. (1) Projects eligible for a DWSRF loan include those that:

(a) Address or prevent violations of applicable federal, state, and local drinking water requirements;

(b) Replace aging infrastructure to help a public water system comply with applicable federal, state, and local drinking water requirements to improve public health protection;

(c) Improve system capacity of a public water system to help assure sustainable drinking water; ~~((or))~~

(d) Promote increased water or energy efficiency, green projects, or innovation that will improve environmental sustainability and protect public health; or

(e) Respond to an emergency.

(2) Specific project-related costs eligible for a DWSRF loan include, but are not limited to, those that:

(a) Improve a public water system's treatment, transmission, distribution, source, or storage;

(b) Restructure water supplies or public water systems that have system capacity difficulties;

(c) Retroactively finance municipal projects that:

(i) Are for surface water treatment;

(ii) Address groundwater under the direct influence of surface water;

(iii) Address volatile organic or inorganic chemicals; or

(iv) Are required by department or EPA order;

(d) Acquire real property if needed to meet or maintain compliance with regulations or increase public health protection;

(e) Pay for planning or design that is directly related to a DWSRF eligible project;

(f) Finance the costs of restructuring for a publicly owned public water system;

(g) Acquire, build, or repair reservoirs, including clear wells, that are part of the treatment process and located on the same property as the treatment facility;

(h) Acquire, build, or repair distribution reservoirs; or

(i) Are associated with a department-approved green project.

NEW SECTION**WAC 246-296-105 DWSRF emergency loans.** (1)

When the department determines an emergency exists and emergency funding is available, the department may award a DWSRF emergency loan to an eligible public water system that meets the requirements of this chapter, except that the department may waive one or more of the DWSRF loan requirements under WAC 246-296-100, 246-296-120, 246-296-130, 246-296-140, and 246-296-150.

(2) An applicant must submit a completed emergency application package to the department to be considered for a DWSRF emergency loan.

WSR 16-06-106**PERMANENT RULES****DEPARTMENT OF HEALTH**

(Dental Quality Assurance Commission)

[Filed March 1, 2016, 2:38 p.m., effective April 1, 2016]

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

Purpose: WAC 246-817-724, 246-817-740, 246-817-745, 246-817-755, 246-817-760 and 246-817-772, changing monitoring and equipment requirements when dentists administer anesthetic agents for dental procedures. The adopted changes set minimum patient safety standards when administering minimal and moderate sedation and removes a duplicate statement requiring a trained individual to be present to monitor.

Citation of Existing Rules Affected by this Order: Amending WAC 246-817-724, 246-817-740, 246-817-745, 246-817-755, 246-817-760, and 246-817-772.

Statutory Authority for Adoption: RCW 18.32.0365 and 18.32.640.

Adopted under notice filed as WSR 15-20-053 on September 30, 2015.

Changes Other than Editing from Proposed to Adopted Version: WAC 246-817-740 (5)(b) was modified to remove the reference of renewing the minimal sedation by inhalation permit. WAC 246-817-745 (4)(b) was modified to remove the reference of renewing the minimal sedation permit. A permit is not required for either levels of sedation.

A final cost-benefit analysis is available by contacting Jennifer Santiago, P.O. Box 47852, Olympia, WA 98504-7852, phone (360) 236-4893, fax (360) 236-2901, e-mail jennifer.santiago@doh.wa.gov.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 6, Repealed 0.

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 6, Repealed 0.

Date Adopted: December 11, 2015.

Charles Hall, DDS, Chair
Dental Quality Assurance Commission

AMENDATORY SECTION (Amending WSR 09-04-042, filed 1/30/09, effective 3/2/09)

WAC 246-817-724 Recordkeeping, equipment and emergency medications or drugs required in all sites where anesthetic agents of any kind are administered. (1)

Dental records must contain an appropriate medical history and patient evaluation. Any adverse reactions, and all medications and dosages, must be recorded.

(2) When sedation of any level is to be administered, excluding minimal sedation by inhalation, pre-sedation vitals including, but not limited to, blood pressure and heart rate must be obtained and recorded, unless the cooperation of the patient or circumstances of the case will not allow it. If pre-sedation vitals cannot be obtained, the reason(s) why must be recorded.

(3) Office facilities and equipment must include:

(a) Suction equipment capable of aspirating gastric contents from the mouth and pharynx;

(b) Portable oxygen delivery system including full face masks and a bag-valve-mask combination with appropriate connectors capable of delivering positive pressure, oxygen enriched ventilation to the patient;

(c) Blood pressure cuff (sphygmomanometer) of appropriate size;

(d) Stethoscope or equivalent monitoring device.

~~((3))~~ (4) The following emergency drugs must be available and maintained:

(a) Bronchodilator;

(b) Sugar (glucose);

(c) Aspirin;

(d) Antihistaminic;

(e) Coronary artery vasodilator;

(f) Anti-anaphylactic agent.

AMENDATORY SECTION (Amending WSR 09-04-042, filed 1/30/09, effective 3/2/09)

WAC 246-817-740 "Minimal sedation by inhalation" (to include, but not limited to, nitrous oxide). (1)

Training requirements: To administer inhalation minimal sedation a dentist must have completed a course containing a minimum of fourteen hours of either predoctoral dental school or post-graduate instruction in inhalation minimal sedation.

(2) Procedures for administration: Inhalation minimal sedation must be administered under the close supervision of a person qualified under this chapter and dental hygienists as provided in chapter 18.29 RCW:

(a) When administering inhalation minimal sedation, a second individual must be on the office premises and able to immediately respond to any request from the person administering the inhalation minimal sedation;

(b) The patient must be continuously observed while inhalation minimal sedation is administered.

(3) Equipment and emergency medications: All offices in which inhalation minimal sedation is administered must comply with the recordkeeping and equipment standards listed in WAC 246-817-724.

(4) Dental records must contain documentation in the chart of either nitrous oxide, oxygen or any other inhalation sedation agent dispensed.

(a) In the case of nitrous oxide sedation only "N₂O used" is required.

(b) Other inhalation agents require a dose record noting the time each concentration or agent was used.

(5) Continuing education: A dentist who administers inhalation sedation to patients must participate in seven hours of continuing education or equivalent every five years.

(a) The education must include instruction in one or more of the following areas:

- (i) Sedation;
- (ii) Physiology;
- (iii) Pharmacology;
- (iv) Inhalation analgesia;
- (v) Patient evaluation;
- (vi) Patient monitoring; and
- (vii) Medical emergencies(☺).

(b) In addition to education requirements in (a) of this subsection, the dentist must obtain health care provider basic life support (BLS), or advanced cardiac life support (ACLS) (~~(training does not count towards this requirement; however, these continuing education credit hours)~~) certification. Hourly credits earned from certification in BLS or ACLS courses may not be used to meet the education requirements in (a) of this subsection. However, the hourly credits earned in BLS or ACLS certification may be used to meet (renewal) the requirements ((for the dental)) of WAC 246-817-440 to renew the dentist license.

(6) A permit of authorization is not required.

AMENDATORY SECTION (Amending WSR 09-04-042, filed 1/30/09, effective 3/2/09)

WAC 246-817-745 "Minimal sedation." (1) Training requirements: To administer "minimal sedation," including:

(a) A single oral agent, a dentist must have completed a course containing a minimum of fourteen hours of a predoctoral dental school, postgraduate instruction, or continuing education (as defined in WAC 246-817-440) in the use of oral agents;

(b) Any oral agent in combination with a different agent or multiple agents other than nitrous oxide or injectable agents, a dentist must have completed a course containing a minimum of twenty-one hours of either predoctoral dental school or postgraduate instruction.

(2) Procedures for administration:

(a) Oral sedative agents can be administered in the treatment setting or prescribed for patient dosage prior to the appointment;

(b) A second individual must be on the office premises and able to immediately respond to any request from the person administering the drug;

(c) The patient (~~(shall)~~) must be continuously observed while in the office under the influence of the drug;

(d) Any adverse reactions must be documented in the records;

(e) If a patient unintentionally enters into a moderate level of sedation, the patient must be returned to a level of minimal sedation as quickly as possible. While returning the patient to the minimal sedation level, periodic monitoring of pulse, respiration, and blood pressure must be maintained. In such cases, these same parameters must be taken and recorded at appropriate intervals throughout the procedure and vital signs and level of consciousness must be recorded during the sedation and prior to dismissal of the patient.

(3) Dental records must contain documentation in the chart of all agents administered, time administered, and dosage for minimal sedation.

(a) In the case of nitrous oxide sedation only "N₂O used" is required.

(b) Other inhalation agents require a dose record noting the time each concentration and agent was used.

(4) Continuing education: A dentist who administers minimal sedation to patients must participate in seven hours of continuing education or equivalent every five years.

(a) The education must include instruction in one or more of the following areas:

- (i) Sedation;
- (ii) Physiology;
- (iii) Pharmacology;
- (iv) Nitrous oxide analgesia;
- (v) Patient evaluation;
- (vi) Patient monitoring; and
- (vii) Medical emergencies(☺).

(b) In addition to education requirements in (a) of this subsection, the dentist must obtain health care provider basic life support (BLS) or advanced cardiac life support (ACLS) (~~((must be taken in addition to the continuing education requirement; however, these continuing education credit hours))~~) certification. Hourly credits earned from certification in BLS or ACLS courses may not be used to meet the education requirements in (a) of this subsection. However, the hourly credit hours earned in BLS or ACLS certification may be used to meet the renewal requirements ((for the dental)) of WAC 246-817-440 to renew the dentist license.

(5) A permit of authorization is not required.

AMENDATORY SECTION (Amending WSR 09-04-042, filed 1/30/09, effective 3/2/09)

WAC 246-817-760 Moderate sedation with parenteral agents. (1) Training requirements: To administer moderate sedation with parenteral agents, the dentist must have successfully completed a postdoctoral course(s) of sixty clock hours or more which includes training in basic moderate sedation, physical evaluation, venipuncture, technical administration, recognition and management of complications and emergencies, monitoring, and supervised experience in providing moderate sedation to fifteen or more patients.

(2) In addition to meeting the (~~(above))~~) criteria in subsection (1) of this section, the dentist must also have a current

and documented proficiency in advanced cardiac life support (ACLS) or pediatric advanced life support (PALS). One way to demonstrate such proficiency is to hold a valid and current ACLS, PALS certificate or equivalent.

(3) Procedures for administration of moderate sedation with parenteral agents by a dentist and an individual trained in monitoring sedated patients:

(a) In the treatment setting, a patient receiving moderate parenteral sedation must have that sedation administered by a person qualified under this chapter.

(b) A patient may not be left alone in a room and must be continually monitored by a dentist or trained anesthesia monitor.

(c) An intravenous infusion (~~(shall)~~) must be maintained during the administration of a parenteral agent.

(d) When the operative dentist is also the person administering the moderate sedation, the operative dentist must be continuously assisted by at least one individual experienced in monitoring sedated patients.

(e) In the treatment setting, a patient experiencing moderate sedation with parenteral agents (~~(shall have visual and tactile observation as well as continual monitoring of pulse, respiration, blood pressure and blood oxygen saturation. Unless prevented by the patient's physical or emotional condition, these vital sign parameters must be noted and recorded whenever possible prior to the procedure.)~~) must be visually and tactilely monitored by the dentist or an individual trained in monitoring sedated patients. Patient monitoring must include:

(i) Heart rate;

(ii) Blood pressure;

(iii) Respiration; and

(iv) Pulse oximetry.

(f) The patient's blood pressure and heart rate must be recorded every five minutes, pulse oximetry recorded every five minutes, and respiration rate must be recorded at least every fifteen minutes. In all cases these vital sign parameters must be noted and recorded at the conclusion of the procedure.

~~((f) Blood oxygen saturation must be continuously monitored and recorded at appropriate intervals.))~~

(g) The patient's level of consciousness (~~(shall)~~) must be recorded prior to the dismissal of the patient.

(h) Patient's receiving these forms of sedation must be accompanied by a responsible adult upon departure from the treatment facility.

(i) If a patient unintentionally enters a deeper level of sedation, the patient must be returned to a level of moderate sedation as quickly as possible. While returning the patient to the moderate level of sedation, periodic monitoring of pulse, respiration, blood pressure and continuous monitoring of oxygen saturation must be maintained. In such cases, these same parameters must be taken and recorded at appropriate intervals throughout the procedure and vital signs and level of consciousness must be recorded during the sedation and prior to dismissal of the patient.

(4) Dental records must contain appropriate medical history and patient evaluation. (~~(Dosage and forms of medications dispensed shall be noted.)~~) Sedation records must be

recorded during the procedure in a timely manner and must include:

(a) Blood pressure;

(b) Heart rate;

(c) Respiration;

(d) Pulse oximetry;

(e) Drugs administered including amounts and time administered;

(f) Length of procedure; and

(g) Any complications of sedation.

(5) Equipment and emergency medications: All offices in which moderate parenteral sedation is administered or prescribed must comply with the following equipment standards:

Office facilities and equipment shall include:

(a) Suction equipment capable of aspirating gastric contents from the mouth and pharynx;

(b) Portable oxygen delivery system including full face masks and a bag-valve-mask combination with appropriate connectors capable of delivering positive pressure, oxygen-enriched patient ventilation and oral and nasal pharyngeal airways of appropriate size;

(c) A blood pressure cuff (sphygmomanometer) of appropriate size and stethoscope; or equivalent monitoring devices;

(d) An emergency drug kit with minimum contents of:

(i) Sterile needles, syringes, and tourniquet;

(ii) Narcotic antagonist;

(iii) Alpha and beta adrenergic stimulant;

(iv) Vasopressor;

(v) Coronary vasodilator;

(vi) Antihistamine;

(vii) Parasympatholytic;

(viii) Intravenous fluids, tubing, and infusion set; and

(ix) Sedative antagonists for drugs used, if available.

(6) Continuing education: A dentist who administers moderate parenteral sedation must participate in eighteen hours of continuing education or equivalent every three years.

(a) The education must include instruction in one or more of the following areas:

(i) Venipuncture;

(ii) Intravenous sedation;

(iii) Physiology;

(iv) Pharmacology;

(v) Nitrous oxide analgesia;

(vi) Patient evaluation;

(vii) Patient monitoring; and

(viii) Medical emergencies.

(b) In addition to the education requirements in (a) of this subsection, the dentist must obtain health care provider basic life support (BLS), advanced cardiac life support (ACLS), or pediatric advanced life support (PALS) ((must be taken in addition to the continuing education requirement; however, these continuing education credit hours)) certification to renew the moderate sedation with parenteral agents permit. Hourly credits earned from certification in BLS, ACLS, or PALS courses may not be used to meet the education requirements in (a) of this subsection to renew a moderate sedation with parenteral agents permit. However, the

hourly credits earned in BLS, ACLS, or PALS certification may be used to meet the ((renewal)) requirements ((for the dental)) of WAC 246-817-440 to renew the dentist license.

(7) A permit of authorization is required. See WAC 246-817-774 for permitting requirements.

AMENDATORY SECTION (Amending WSR 09-04-042, filed 1/30/09, effective 3/2/09)

WAC 246-817-772 ((Training)) Requirements for anesthesia monitor. (1) ~~((In addition to those individuals necessary to assist the practitioner in performing the procedure, a trained individual must be present to monitor the patient's cardiac and respiratory functions.~~

~~((2)))~~ (2) When the dentist is also administering the deep sedation or general anesthesia, one additional appropriately trained team member must be designated for patient monitoring.

~~((3)))~~ (2) When deep sedation or general anesthesia is administered by a dedicated anesthesia provider, the anesthesia provider may serve as the monitoring personnel.

~~((4)))~~ (3) The dentist cannot employ an individual to monitor patients receiving deep sedation or general anesthesia unless that individual has received a minimum of fourteen hours of documented training (such as national certification American Association of Oral and Maxillofacial Surgeons "AAOMS") in a course specifically designed to include instruction and practical experience in use of equipment to include, but not be limited to, the following equipment:

(a) Sphygmomanometer; or a device able to measure blood pressure;

(b) Pulse oximeter; or other respiratory monitoring equipment;

(c) Electrocardiogram;

(d) Bag-valve-mask resuscitation equipment;

(e) Oral and nasopharyngeal airways;

(f) Defibrillator; automatic external defibrillator.

~~((5)))~~ (4) The course referred to in subsection ~~((4)))~~ (3) of this section must also include instruction in:

(a) Basic sciences;

(b) Evaluation and preparation of patients with systemic diseases;

(c) Anesthetic drugs and techniques;

(d) Anesthesia equipment and monitoring; and

(e) Office anesthesia emergencies.

AMENDATORY SECTION (Amending WSR 09-04-042, filed 1/30/09, effective 3/2/09)

WAC 246-817-755 Moderate sedation. (1) Training requirements: To administer moderate sedation the dentist must have completed a course containing a minimum of seven hours of a predoctoral dental school, postgraduate instruction, or continuing education (as defined in WAC 246-817-440) in moderate sedation in addition to twenty-one hours for minimal sedation.

(2) Procedures for administration:

(a) Oral sedative agents can be administered in the treatment setting or prescribed for patient dosage prior to the appointment.

(b) A second individual must be on the office premises who can immediately respond to any request from the person administering the drug.

(c) The patient must be continuously observed while in the office under the influence of the drug.

(d) Any adverse reactions must be documented in the records.

(e) If a patient unintentionally enters a deeper level of sedation, the patient must be returned to a level of moderate sedation as quickly as possible. While returning the patient to the moderate level of sedation, periodic monitoring of pulse, respiration, and blood pressure and pulse oximetry must be maintained. In such cases, these same parameters must be taken and recorded at appropriate intervals throughout the procedure and vital signs and level of consciousness must be recorded during the sedation and prior to dismissal of the patient.

(f) Patients receiving these forms of sedation must be accompanied by a responsible adult upon departure from the treatment facility.

(3) Equipment and emergency medications: All offices must comply with the requirements listed in WAC 246-817-724. When a sedative drug is used that has a reversal agent, the reversal agent must be in the office emergency kit and the equipment to administer the reversal agent must be stored with the delivery device. Pulse oximetry equipment or equivalent respiratory monitoring equipment must be available in the office.

(4) Continuing education: A dentist who administers moderate sedation to patients must participate in seven hours of continuing education or equivalent every five years.

(a) The education must include instruction in one or more of the following areas:

(i) Sedation;

(ii) Physiology;

(iii) Pharmacology;

(iv) Nitrous oxide analgesia;

(v) Patient evaluation;

(vi) Patient monitoring ((✕)); and

(vii) Medical emergencies.

(b) In addition to education requirements in (a) of this subsection, the dentist must obtain health care provider basic life support (BLS), advanced cardiac life support (ACLS), or pediatric advanced life support (PALS) ((must be taken in addition to the continuing education requirement; however, these continuing education credit hours)) certification to renew the moderate sedation permit. Hourly credits earned from certification in BLS, ACLS, or PALS courses may not be used to meet the education requirements in (a) of this subsection. However, the hourly credits earned in BLS, ACLS, or PALS certification may be used to meet the ((renewal)) requirements ((for the dental)) of WAC 246-817-440 to renew the dentist license.

(5) A permit of authorization is required. See WAC 246-817-774 for permitting requirements.

WSR 16-06-107
PERMANENT RULES
DEPARTMENT OF ECOLOGY

[Order 15-03—Filed March 1, 2016, 3:25 p.m., effective April 1, 2016]

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

Purpose: The purpose of chapter 173-900 WAC is to implement a stewardship program to fulfill legislative findings that: "... a convenient, safe, and environmentally sound system for the collection, transportation, and recycling of covered electronic products must be established; ... that the system must encourage the design of electronic products that are less toxic and more recyclable; ... and that the responsibility for this system must be shared among all stakeholders, with the manufacturers financing the collection, transportation, and recycling system."

The revised rule responds to amendments adopted to the underlying statute, chapter 70.95N RCW, by the 2013 legislature. The rule was revised to account for each manufacturer's financial obligation to the stewardship program based totally on market share and eliminating all references to return share calculations in the existing rule.

Also in response to 2013 legislation, annual reports required to be submitted to ecology by the stewardship organization on the operation of an electronics recycling program are required to include:

(1) An estimate of each type of material recovered from the recycling of electronics including cathode ray tube glass, circuit boards, batteries, mercury-containing devices, plastics, and metals;

(2) An estimate of the weight of all collected products that are ultimately reused, recycled, or end up as residual waste that is disposed;

(3) A description of program revenues and costs including the average cost of the program per pound of covered electronic product collected, and costs for education and promotional efforts, collection, transportation, processing and labor, and program administration; and

(4) A description of the methods used to collect, transport and process covered electronic products.

Other amendments include:

- Retailers of covered electronic products must provide take-home information on the recycling of electronics to consumers at the time of purchase of a covered electronic product,
- Allowing ecology to provide notifications electronically to the organizations operating recycling programs rather than by certified mail, and
- Updating references to the ecology oversight program from the old name, the solid waste and financial assistance program, to the current program name, the waste 2 resources program.

Citation of Existing Rules Affected by this Order: Amending chapter 173-900 WAC, Electronic product recycling program.

Statutory Authority for Adoption: RCW 70.95N.230.

Adopted under notice filed as WSR 15-21-065 on October 19, 2015.

Changes Other than Editing from Proposed to Adopted Version: Under WAC 173-900-030 Definitions, the follow-

ing changes were made from the proposed rule filed on October 19, 2015.

1. The definitions of "Manufacturers whose CEPs (covered electronic products) are not directly sold in or into Washington state" and "Manufacturers who previously manufactured" were proposed to be stricken entirely, but a commenter noted that these terms were not also stricken from WAC 173-900-280 where the rule explains the tiered administrative fees ecology uses to charge manufacturers. For clarity, it was decided to only strike the portion of these definitions that referred to return share - the previous system for assigning manufacturer program responsibility that was replaced by a one hundred percent market share system by the 2013 legislation. This allows ecology to keep the rule language consistent and accurate without making a number of more convoluted deletions and adjustments to WAC 173-900-280.

2. As a result of the change noted in #1, above, the proposed subsection (d) to the definition of "Manufacturer" was moved up to immediately follow subsection (c). In the proposed language it appeared following the deletion of the two definitions discussed in #1 above, and if not moved would have been in the wrong location in the adopted rule.

3. The proposed rule amended the following definition, "Small business means a business in Washington state employing less than fifty people." Commenters noted that the addition of "in Washington state" raised the question as to whether this meant a business must employ less than fifty people company-wide or that less than fifty people could be employed by the company and located in Washington state. Since this attempt at a clarification was unclear and not essential, ecology opted to delete the proposed change.

In new WAC 173-900-925 Calculation of market shares, a commenter pointed out that ecology failed to incorporate the entire passage from the 2013 legislation requiring implementation of a market share system to replace the original return share system. It was ecology's intent to use the exact legislative language for the portion of this section in question, so the rule language was edited as follows to match the language in the statute:

WAC 173-900-925(2) "Ecology will determine each manufacturer's percentage of market share by dividing each manufacturer's total pounds of CEPs sold in or into Washington by the sum total of all pounds of CEPs sold in or into Washington by all manufacturers."

A final cost-benefit analysis is available by contacting Kirsten Miller, Waste 2 Resources Program, Washington State Department of Ecology, P.O. Box 47600, Olympia, WA 98504, (360) 407-6707, fax (360) 407-6102, e-mail kirsten.miller@ecy.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 16, Repealed 3.

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 17, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 17, Repealed 3.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 33, Repealed 3.

Date Adopted: March 1, 2016.

Maia D. Bellon
Director

AMENDATORY SECTION (Amending WSR 07-21-013, filed 10/5/07, effective 11/5/07)

WAC 173-900-030 Definitions. "Authority" means the Washington materials management and financing authority.

"Authorized party" means a manufacturer who submits an individual independent plan or the entity authorized to submit an independent plan for more than one manufacturer.

"Board" means the board of directors of the Washington materials management and financing authority.

"Brand" means a name used to identify an electronic product in the consumer marketplace which attributes the electronic product to the owner of the name as the manufacturer.

"Brand label" typically includes, but is not limited to, name, logos, trademarks, and other visual elements including fonts, color schemes, shapes, symbols, and icons, which, when set in a special typeface or arranged in a particular way, differentiate electronic products by their manufacturers and brand owners.

"Cathode ray tube" or "CRT" means a vacuum tube, composed primarily of glass, which is the visual or video display component of an electronic device. A used, intact CRT means a CRT whose vacuum has not been released. A used, broken CRT means glass removed from its housing or casing whose vacuum has been released.

"Certified" means certified by signature on a form or other "hard copy," or by electronic signature or certification by a means implemented and approved by ecology, to be sent by mail or faxed or otherwise submitted to ecology.

"Charity" means an organization that qualifies for a taxation exemption under section 501 (c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. Sec. 501 (c)(3)).

"Collection services" include drop-off collection sites or alternative collection services such as residential at-home pick-up services, curb-side collection, or premium services such as those provided when performing system up-grades at small businesses.

"Collector" means an entity that is licensed to do business in Washington state and that gathers unwanted covered electronic products from households, small businesses, school districts, small governments, and charities for the purpose of recycling and meets the registration and collector performance standard requirements in Part IV, WAC 173-900-400 through 173-900-490.

"Component" includes, but is not limited to, televisions, computers, laptops, portable computers, monitors, keyboards, mice, and external hard drives.

"Computer" means a machine, used by one user at a time, designed for manipulating data according to a list of instructions known as a program, and are generally known as desktops, laptops, and portable computers. **"Computer"** does not include any of the following:

(a) ~~((A machine capable of supporting two or more work stations simultaneously for computing;~~

~~(b)))~~ Computer servers marketed to professional users; or

~~((c)))~~ (b) Retail store terminals or cash registers, used at customer checkout in the retail industry.

"Contract for services" means an instrument executed by the authority and one or more persons or entities that delineates collection, transportation, processing and recycling services, in whole or in part, that will be provided to the citizens of Washington state within service areas as described in the approved standard plan.

"Covered electronic product" or "CEP" includes any one of the following four types of products that has been used in Washington state by any covered entity, regardless of original point of purchase:

(a) Any monitor having a viewable area greater than four inches when measured diagonally;

(b) A desktop computer;

(c) A laptop or a portable computer; or

(d) Any video display device having a viewable area greater than four inches when measured diagonally.

"Covered electronic product" does not include:

(a) A motor vehicle or replacement parts for use in motor vehicles or aircraft, or any computer, computer monitor, or television that is contained within, and is not separate from, the motor vehicle or aircraft;

(b) Monitoring and control instruments or systems;

(c) Medical devices;

(d) Products including materials intended for use as ingredients in those products as defined in the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.) or the Virus-Serum-Toxin Act of 1913 (21 U.S.C. Sec. 151 et seq.), and regulations issued under those acts;

(e) Equipment used in the delivery of patient care in a health care setting;

(f) A computer, computer monitor, or television that is contained within a clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, or air purifier; automatic teller machines, vending machines or similar business transaction machines; or

(g) Hand-held portable voice or data devices used for commercial mobile services as defined in 47 U.S.C. Sec. 332 (d)(1).

"Covered entity" means any household, charity, school district, small business, or small government located in Washington state.

"Curbside service" means a collection service providing regularly scheduled pickup of covered electronic products from households or other covered entities in quantities generated from households.

"Desktop" is a computer designed for nonportable use.

"Direct processor" means a processor contracted with a CEP recycling plan to provide processing services for the plan.

"Ecology" means the department of ecology.

"Electronic product" includes any monitor having a viewable area greater than four inches when measured diagonally; a desktop computer; a laptop or portable computer; or any video display device having a viewable area greater than four inches when measured diagonally.

"Equivalent share" means the weight in pounds of covered electronic products identified for an individual manufacturer as described in Part IX, WAC 173-900-930, 173-900-940, and 173-900-950.

"Existing manufacturers" are those entities whose covered electronic products are offered for sale or sold in or into Washington state, through any sales method, ~~((as of))~~ on or before December 8, 2006.

"Household" means a single detached dwelling unit or a single unit of a multiple dwelling unit and appurtenant structures.

"Implement" or **"plan implementation"** means that collection, transportation, processing, and recycling services and other plan requirements are fully operational as described in the approved CEP recycling plan.

"Independent plan" means a plan for the collection, transportation, processing and recycling of unwanted covered electronic products that is developed, implemented, and financed by an individual manufacturer or by an authorized party.

"Laptop" is a computer.

"Manufacturer" means the person who:

(a) Has legal ownership of the brand, brand-name or cobrand of covered electronic products sold in or into Washington state;

(b) Imports an electronic product branded by a manufacturer that meets (a) of this subsection and that manufacturer has no physical presence in the United States of America; ~~((or))~~

(c) Sells at retail a covered electronic product acquired from an importer that is the manufacturer as described in (b) of this subsection, and elects to register in lieu of the importer; or

(d) Beginning in program year 2016, elects to assume the responsibility and register in lieu of a manufacturer as defined under this section. In the event the entity that assumes responsibility fails to comply, the manufacturer as defined under (a) through (c) of this subsection remains fully responsible.

"Manufacturers whose CEPs are not directly sold in or into Washington state" are those entities who have never sold or offered for sale covered electronic products in or into Washington state ~~((and whose CEP brand names are identified on the return share list or their CEPs are returned for recycling by a covered entity))~~.

"Manufacturers who previously manufactured" are those entities that previously manufactured covered electronic products but no longer do so ~~((and whose brand names of CEPs are identified on the return share list or their CEPs are returned for recycling by a covered entity))~~.

"Market share" means a percent of covered electronic products by weight sold in Washington state representing the manufacturer's share of all covered electronic products sold in Washington state assigned to a registered manufacturer based on the calculations in WAC 173-900-280.

"Material" means processed CEPs, components, and parts.

"Materials of concern" are any of the following:

(a) Any devices, including fluorescent tubes, containing mercury or PCBs;

(b) Batteries;

(c) CRTs and leaded glass; and

(d) Whole circuit boards.

"Monitor" is a video display device without a tuner that can display pictures and sound and is used with a computer.

"New entrant" means:

(a) A manufacturer of televisions that have been sold in Washington state for less than ten consecutive years; or

(b) A manufacturer of desktop computers, laptop and portable computers, or computer monitors that have been sold in Washington state for less than five consecutive years;

(c) However, a manufacturer of both televisions and computers or a manufacturer of both televisions and computer monitors that is deemed a new entrant under either only (a) or (b) of this subsection is considered an existing manufacturer and not a new entrant for purposes of this chapter.

"New manufacturers to Washington state" are those entities whose covered electronic products are offered for sale or sold in or into Washington state for the first time after December 8, 2006. These manufacturers become existing manufacturers for all program years after participation the first year.

"Nonprofit organization" means an organization that qualifies for a taxation exemption under section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. Sec. 501(c)(3)).

"Offering for sale" means providing electronic products for purchase, in or into Washington state, regardless of sales method.

"Orphan product" means a covered electronic product that lacks a manufacturer's brand or for which the manufacturer is no longer in business and has no successor in interest, or is a brand for which ecology cannot identify an owner.

"Part" means whole pieces out of CEPs, or components such as but not limited to processors, chips, or cathode ray tubes.

"Person" means any individual, business, manufacturer, transporter, collector, processor, retailer, charity, nonprofit organization, or government agency.

"Plan" means a CEP recycling plan.

"Plan's equivalent share" means the weight in pounds of covered electronic products for which a plan is responsible. A plan's equivalent share is equal to the sum of the equivalent shares of each manufacturer participating in that plan.

"Plan's ~~((return))~~ market share" means the sum of the ~~((return))~~ market shares of each manufacturer participating in that plan.

"Portable computer" is a computer.

"Preferred status" means that a direct processor is conforming with the performance standards for electronic prod-

uct recycling as described in ecology's publication *"Environmentally Sound Management and Performance Standards for Direct Processors."*

"Premium service" means services such as at-location system upgrade services provided to covered entities and at-home pickup services offered to households or any handling requirements imposed by the covered entity in excess of those required in this chapter. ((^(b))Premium service(^(b)) does not include curbside service.

"Processing facility" means a facility where the processing of CEPs for a plan is conducted by a direct processor.

"Providing processing services" means disassembling, dismantling, or shredding electronic products to recover materials contained in the CEPs received from registered collectors or transporters and preparing those materials for reclaiming or reuse in accordance with processing standards established by this chapter.

"Processor" means an entity:

(a) Engaged in disassembling, dismantling, or shredding electronic products to recover materials contained in the electronic products and preparing those materials for reclaiming or reuse in new products in accordance with processing standards established by this chapter; and

(b) That may salvage CEPs, components, and parts to be used ~~((in new products))~~ as or in a salvaged or restored CEP.

"Product type" means one of the following categories: Computer monitors; desktop computers; laptop and portable computers; and televisions.

"Program" means the collection, transportation, processing and recycling activities conducted to implement an independent plan or the standard plan. Programs can vary for different areas of the state.

"Program year" means each full calendar year after the program has been initiated.

"Recycling" means transforming or remanufacturing unwanted electronic products, components, and by-products into usable or marketable materials for use other than landfill disposal or incineration. **"Recycling"** does not include energy recovery or energy generation by means of combusting unwanted electronic products, components, and by-products with or without other waste. Smelting of electronic materials to recover metals for reuse in conformance with all applicable laws and regulations is not considered disposal or energy recovery.

"Residual" means leftover materials from processing CEPs, components, parts and materials. Residuals cannot be used for their original function or cannot be recycled and are sent by a processor to a disposal facility.

"Retailer" means a person who offers covered electronic products for sale at retail through any means including, but not limited to, remote offerings such as sales outlets, catalogs, or the internet, but does not include a sale that is either reused products or a wholesale transaction with a distributor or a retailer.

~~((**"Return share"** means the percentage of covered electronic products by weight identified for an individual manufacturer, as determined by ecology.))~~

"Reuse" means any operation by which an electronic product or a component of a covered electronic product

changes ownership and is used, as is, for the same purpose for which it was originally purchased.

"Sell" or **"sold"** means an electronic product is purchased regardless of sales method.

"Small business" means a business employing less than fifty people.

"Small government" means a city in Washington state with a population less than fifty thousand, a county in Washington state with a population less than one hundred twenty-five thousand, and special purpose districts in Washington state.

"Standard plan" means the plan for the collection, transportation, processing and recycling of unwanted covered electronic products developed, implemented, and financed by the authority on behalf of manufacturers participating in the authority.

"Television" is an enclosed video display device with a tuner able to receive and output frequency waves or digital signals to display pictures and sounds.

"Transporter" means an entity that transports covered electronic products from collection sites or services to processors or other locations for the purpose of recycling, but does not include any entity or person that hauls their own unwanted electronic products.

"Unwanted electronic product" means a covered electronic product that has been discarded or is intended to be discarded by its owner.

"White box manufacturer" means a person who manufactured unbranded covered electronic products offered for sale in Washington state within ten consecutive years prior to a program year for televisions or within five consecutive years prior to a program year for desktop computers, laptop or portable computers, or computer monitors.

"Video display devices" include units capable of presenting images electronically on a screen, with a viewable area greater than four inches when measured diagonally, viewed by the user and may include cathode ray tubes, flat panel computer monitors, plasma displays, liquid crystal displays, rear and front enclosed projection devices, and other similar displays that exist or may be developed. Televisions and monitors are video display devices.

AMENDATORY SECTION (Amending WSR 07-21-013, filed 10/5/07, effective 11/5/07)

WAC 173-900-200 Manufacturers who must register and participate in a CEP recycling plan. (1) The following manufacturers must register with ecology and participate in a CEP recycling plan:

Table 200
Type of Manufacturer

| Type of Manufacturer | | Initial Registration Due Date | Must be Listed as a Plan Participant By: |
|---|---|--|--|
| Existing manufacturers | Those entities whose CEPs are offered for sale or sold in or into Washington state, as of December 8, 2006. | On or before January 1, 2007. | No later than February 1, 2008. |
| New manufacturers to Washington state | Those entities whose CEPs are offered for sale or sold in or into Washington state for the first time after December 8, 2006. | Prior to the offering for sale of their CEPs in or into WA. | Within thirty days of ecology approving registration. |
| ((Manufacturers whose CEPs are not directly sold in or into Washington state | If a CEP brand is identified in the Washington state return share list or is returned for recycling by a covered entity, a manufacturer must register even if that manufacturer has never sold or offered for sale the identified brands directly in or into Washington state. | Within sixty days of receiving notice from ecology that the manufacturer must register. | Within thirty days of ecology approving registration. |
| Manufacturers who previously manufactured | Those entities that previously manufactured CEPs but no longer do so and whose brand names of CEPs are identified in the Washington state return share list or their CEPs are returned for recycling by a covered entity. | Within sixty days of receiving notice from ecology that the manufacturer must register. | Within thirty days of ecology approving registration.)) |

- (2) A manufacturer is registered under this chapter when:
 - (a) Ecology has determined the manufacturer's registration form is complete and accurate; and
 - (b) The manufacturer has paid the required administrative fee (see WAC 173-900-280).
- (3) Registration under this chapter is only for purposes of administering the electronic product recycling program, and does not constitute endorsement by ecology of a particular registrant.
- (4) A manufacturer must participate in either the standard plan or, if approved, an independent plan.
- (5) In the event that the plan fails to meet the manufacturers' obligations under this chapter, each manufacturer participating in the plan retains responsibility and liability, including financial liability, for the collection, transportation, processing, and recycling of the manufacturer's equivalent share of CEPs as described in this chapter.

AMENDATORY SECTION (Amending WSR 07-21-013, filed 10/5/07, effective 11/5/07)

WAC 173-900-215 Initial CEP manufacturer registration.

Step 1: Complete the manufacturer registration form.

- (1) CEP manufacturers must use the online or paper manufacturer registration form provided by ecology.

- (2) A manufacturer must provide all of the following information to ecology:
 - (a) The name, contact, and billing information of the manufacturer;
 - (b) The manufacturer's brand names of CEPs, including:
 - (i) All brand names sold in Washington state in the past, including the years each brand was sold;
 - (ii) All brand names currently being sold in Washington state, including the year the manufacturer started using the brand name;
 - (c) All brand names of electronic products for which the registrant assembles but does not have legal ownership of the brand name placed on the product;
 - (d) When a word or phrase is used as the label, the manufacturer must include that word or phrase and a general description of the ways in which it may appear on the manufacturer's electronic products;
 - (e) When a logo, mark, or image is used as a label, the manufacturer must include a graphic representation of the logo, mark, or image and a general description of the logo, mark, or image as it appears on the manufacturer's electronic products;
 - (f) The method or methods of sale used in or into Washington state; and
 - (g) CEP recycling plan participation information.

Step 2: Submit the manufacturer registration form.

(3) The individual responsible for implementing the manufacturer's requirements under this chapter must sign the form. The signature means the manufacturer has provided accurate and complete information on the form and reviewed their responsibilities under the electronic product recycling program.

(4) The manufacturer must submit the form using one of the three options below:

(a) The online registration form;

(b) The original paper version through the U.S. Postal Service:

Department of Ecology
Electronic Product Recycling
~~((Solid Waste and Financial Assistance))~~
Waste 2 Resources Program
P.O. Box 47600
Olympia, WA 98504-7600

(c) The original paper version through a courier:

Department of Ecology
Electronic Product Recycling
~~((Solid Waste and Financial Assistance))~~
Waste 2 Resources Program
300 Desmond Drive
Lacey, WA 98503

Step 3: Pay the administrative fee.

(5) The following manufacturers must pay an annual administrative fee to ecology (see WAC 173-900-280 and ecology's web site for administrative fee schedule):

(a) Existing manufacturers;

(b) New manufacturers.

(6) Starting in 2007, ecology will send out billing statements by November 1 of each year to all registered manufacturers. The billing statement will include the amount of the administrative fee owed by the manufacturer.

(7) **New manufacturers** must send ecology the required administrative fee so that ecology receives the fee within sixty days of the date on the billing statement.

(8) **Existing manufacturers** must send ecology the appropriate administrative fee so that ecology receives it no later than January 1 of each calendar year.

(9) The manufacturer must send payment to one of the following addresses:

For U.S. Postal Service:

Department of Ecology
~~((Electronic Product Recycling Program))~~
Cashiering Unit
P.O. Box ~~((5128))~~
~~Lacey, WA 98509-5128))~~ 47611
Olympia, WA 98504-7611

For Courier to:

Department of Ecology
Attn: ~~((Fiscal))~~ Cashiering
300 Desmond Drive
Lacey, WA 98503

AMENDATORY SECTION (Amending WSR 07-21-013, filed 10/5/07, effective 11/5/07)

WAC 173-900-230 Annual manufacturer registration. (1) After initial registration, to remain registered, manufacturers must submit a registration form and required administrative fee to ecology each year.

(2) Annual registration is due no later than January 1 of each calendar year for the next program year.

(3) The manufacturer must submit the annual registration form using one of the options below:

(a) Submit the manufacturer's online registration form;

(b) Submitting a paper version through:

U.S. Postal Service:

Department of Ecology
Electronic Product Recycling
~~((Solid Waste and Financial Assistance))~~
Waste 2 Resources Program
P.O. Box 47600
Olympia, WA 98504-7600

Courier Service:

Department of Ecology
Electronic Product Recycling
~~((Solid Waste and Financial Assistance))~~
Waste 2 Resources Program
300 Desmond Drive
Lacey, WA 98503

(4) Ecology will review manufacturer registration forms submitted for annual registration under the process described in WAC 173-900-220.

(5) For annual registrations, if ecology denies the manufacturer's registration form, the manufacturer will be removed from the "manufacturer registration list."

AMENDATORY SECTION (Amending WSR 07-21-013, filed 10/5/07, effective 11/5/07)

WAC 173-900-240 Updates to manufacturer registration. (1) If there are any changes to the information on the manufacturer's registration approved by ecology, a registered manufacturer must submit an updated form within fourteen days of when any change occurs.

(2) The manufacturer must submit updates using one of the options below:

(a) Updating the manufacturer's registration information using the online form;

(b) Submitting a paper version of the form with updated information through:

U.S. Postal Service to:

Department of Ecology
Electronic Product Recycling
~~((Solid Waste and Financial Assistance))~~
Waste 2 Resources Program
P.O. Box 47600
Olympia, WA 98504-7600

Courier Service to:

Department of Ecology
Electronic Product Recycling
(Solid Waste and Financial Assistance)
Waste 2 Resources Program
300 Desmond Drive
Lacey, WA 98503

(3) Ecology will review manufacturer's updated registration forms under the process described in WAC 173-900-220.

AMENDATORY SECTION (Amending WSR 07-21-013, filed 10/5/07, effective 11/5/07)

WAC 173-900-255 Manufacturer violations. (1) A manufacturer is in violation of this chapter when there is a:

- (a) Registration violation;
- (b) Labeling violation; or
- (c) Plan violation(~~(c) or~~);
- (d) ~~Return share violation~~).

Manufacturer registration violations:

(2) A manufacturer is in "registration violation" of this chapter if any of the following occurs:

- (a) The manufacturer does not submit an updated registration form within fourteen days of changes in the registration information.
- (b) A manufacturer offers for sale or sells its brand of CEPs in or into Washington state and:
 - (i) The manufacturer's brand is not listed as in "in compliance" or "pending" status on the "manufacturer registration list"; or
 - (ii) The manufacturer's brand name is not listed as part of the manufacturer's registration.

(c) A retailer offers for sale or sells a manufacturer's brand of CEP in or into Washington state and on the date the products were ordered from the manufacturer or their agent:

- (i) The manufacturer's brand was not listed as in "in compliance" or "pending" status on the "manufacturer registration list";
- (ii) The brand name of the CEP was not listed as in "in compliance" or "pending" status on the "manufacturer registration list."

(3) A manufacturer may notify retailers, in writing, if the manufacturer's brand of CEPs cannot be offered for sale or sold in or into Washington state. The manufacturer must provide ecology a copy of this notice to avoid a registration violation.

(4) Each unregistered CEP unit offered for sale or sold is a separate violation by the manufacturer.

Manufacturer labeling violation:

(5) A manufacturer is in "labeling violation" of this chapter if any of the following occurs:

(a) The manufacturer offers for sale or sells a manufacturer's electronic product in or into Washington state that does not have a permanently affixed or readily visible label with the manufacturer's brand name.

(b) A retailer offers for sale or sells the manufacturer's electronic product in or into Washington state that the manufacturer has not labeled with the manufacturer's brand name.

(6) Each of the manufacturer's unlabeled units offered for sale or sold is a separate violation by the manufacturer.

Manufacturer plan violation:

(7) Starting February 1, 2008, a manufacturer is in "plan violation" of this chapter if any of the following occurs, the manufacturer:

- (a) Has not met the manufacturer's financial obligations to its plan; or
- (b) Is not participating in a plan or complying with the manufacturer's responsibilities as described in their ecology approved plan; or
- (c) Is participating in a plan that is not fully implemented and the authority or authorized party has not taken action approved by ecology to correct violations.

~~**(Return share violation:**~~

~~(8) It is a "return share violation" when the manufacturer's brands of CEPs are identified on ecology's return share list posted on the agency web site and:~~

- ~~(a) Within sixty days of receiving notice from ecology, the manufacturer has not registered with ecology; or~~
- ~~(b) Within thirty days of registering is not participating in a plan.)~~

AMENDATORY SECTION (Amending WSR 07-21-013, filed 10/5/07, effective 11/5/07)

WAC 173-900-260 Warnings and penalties for manufacturer violations.

**Table 260
Manufacturer Warning and Penalties**

| Type of Violation | Written Warning | First Penalty | Second and Subsequent Penalties |
|-------------------------------------|---------------------------|--|---|
| Registration Violation | Warning Letter | Up to \$1,000 | Up to \$2,000 |
| Labeling Violation | Warning Letter | Up to \$1,000 | Up to \$2,000 |
| Plan Violation | Warning Letter | Up to \$10,000 | Up to \$10,000 |
| ((Return Share Violation | Warning Letter | Up to \$10,000 plus the percentage of their return share of the costs of operating the standard plan. | Up to \$10,000 plus the percentage of their return share of the costs of operating the standard plan.) |

Warning letter:

(1) When ecology issues a written warning letter via certified mail, for any violation, the warning will include a copy of the requirements to let the manufacturer know what the manufacturer must do to be in compliance status.

Penalties:

(2) **First penalties:** If the manufacturer does not meet the compliance requirements in the warning letter within thirty days of receipt of the warning, ecology will assess a first penalty, as defined in Table 260 above and do one of the following:

- (a) Change the manufacturer's status to "in violation";
- (b) Add the manufacturer to the "manufacturer registration list" and put them in "in violation."

(3) **Second and subsequent penalties:** Ecology will issue second and subsequent penalties as defined in Table 260 no more often than every thirty days for the same violation.

(4) Ecology will deposit all penalties collected under this section into the electronic products recycling account created under RCW 70.95N.130.

Appeals:

(5) Violations and penalties may be appealed to the pollution control hearings board, pursuant to chapter 43.21B RCW.

AMENDATORY SECTION (Amending WSR 07-21-013, filed 10/5/07, effective 11/5/07)

WAC 173-900-270 Corrective actions for manufacturer violations. (1) If a manufacturer is in "in violation" status, ecology will not return them to "in compliance" status until the manufacturer corrects the violation.

Corrective actions for manufacturer registration violations:

(2) To correct a registration violation the manufacturer must:

- (a) Provide evidence that the violation has been corrected; and
- (b) Pay or settle any penalties to ecology.

Corrective actions for manufacturer labeling violations:

(3) To correct a labeling violation the manufacturer must:

- (a) Meet the requirements in WAC 173-900-210;
- (b) Correct any other violations; and
- (c) Pay or settle any penalties due to ecology.

Corrective actions for plan violations:

(4) To correct a plan violation the manufacturer must:

- (a) Join and participate in an approved plan or a plan currently under review for approval;
- (b) Correct any other violations; and
- (c) Pay or settle any penalties due to ecology.

~~((Corrective actions for return share violations:~~

~~(5) To correct a return share violation the manufacturer must:~~

- ~~(a) Join and participate in an approved plan or a plan currently under review for approval;~~
- ~~(b) Correct any other violations; and~~
- ~~(c) Pay or settle any penalties due to ecology.))~~

AMENDATORY SECTION (Amending WSR 07-21-013, filed 10/5/07, effective 11/5/07)

WAC 173-900-280 Administrative fee. (1) **Legislative mandate.** The administrative fee covers ecology's administrative costs related to implementing the electronic product recycling program authorized under chapter 70.95N RCW. It does not include the fees for ecology's review of the standard plan or independent plans.

(2) **Data.**

(a) Ecology will use data collected to extrapolate Washington market shares, and to calculate manufacturer ~~((unit))~~ sales, either by unit or weight. Ecology will use market share and/or CEP ~~((unit))~~ sales to assign each manufacturer to an administrative fee tier. Ecology may use any of, or a combination of, the following data:

- (i) Generally available market research data;
- (ii) CEP ~~((unit))~~ sales data, either by unit or weight, supplied by manufacturers for brands they manufacture or sell; or
- (iii) CEP ~~((unit))~~ sales data, either by unit or weight, supplied by retailers for brands they sell.

(b) Ecology may put the data directly into the data base. Ecology will aggregate the data in sets of at least three companies for confidentiality when published.

(3) **Distribution:**

(a) Ecology will establish a fee schedule to distribute administrative fees on a sliding scale, based on tiers, that are representative of annual sales of CEPs in Washington state.

(b) Fees will be distributed to each tier in order to spread costs based on the estimated ~~((unit))~~ sales, either by unit or weight, given the number of manufacturers and the amount of revenue that needs to be generated to cover ecology's administrative costs.

(c) Tier 7 will have no fee amount associated with it ~~((; but the manufacturers assigned to this tier must still complete the registration form (see WAC 173-900-215) and join a plan))~~.

**Table 280
Market Share Tiers**

| Tiers | Manufacturer's Market Share |
|--------|---|
| Tier 1 | 5% or greater |
| Tier 2 | 1% to < 5% |
| Tier 3 | 0.1% to < 1% |
| Tier 4 | 0.03% to < 0.1% |
| Tier 5 | 0.01% to < 0.03% |
| Tier 6 | < 0.01% |
| Tier 7 | Manufacturers who previously manufactured |

| Tiers | Manufacturer's Market Share |
|-------|--|
| | Manufacturers whose CEPs are not directly sold in or into Washington state |

(4) **Calculating the administrative fee:** Ecology will calculate the tiers based on the combined (~~unit~~) sales, either by unit or weight, of CEPs sold under manufacturer brands as a percentage of the total sales of electronic products sold in or into Washington state.

(a) **Administrative fee tier calculations for program year 2007:** For administrative fees due January 1, 2007, ecology will base fees on the amount appropriated in the budget for the electronic product recycling program by the legislature. Year one includes start-up costs and it funds the first eighteen months of operations. This amount is four hundred seventy-five thousand dollars.

(b) **Administrative fee tier calculations for program year 2008 and future years:**

(i) For administrative fees due January 1, 2008, and thereafter, ecology will base the fee on the expenditure authority for the electronic product recycling program which for program year 2008 is two hundred twenty-one thousand five hundred dollars.

(ii) The total administrative fee amount will be adjusted (~~annually~~) biennially by the fiscal growth factor (FGF) as calculated under chapter 43.135 RCW (Fee_{FGF}).

(5) **Tier placement:**

(a) **Existing manufacturers:** Ecology will place existing manufacturers in the appropriate tier based on data obtained or received as described in subsection (2) of this section. If ecology has no data, ecology will place the manufacturer in (~~Tier 4~~) the same tier it was assigned in the previous year.

(b) **New manufacturers to Washington state:** Ecology will assign these manufacturers to Tier 6 for their initial program year. After the initial program year, ecology will treat these manufacturers as an existing manufacturer (see (a) of this subsection).

(c) **Manufacturers whose CEPs are not directly sold in or into Washington state:** Ecology will assign these manufacturers to Tier 7.

(d) **Manufacturers who previously manufactured:** Ecology will assign these manufacturers to Tier 7.

(6) **Publication of tier assignment:**

(a) **Tiers for fees due January 1, 2007:** Ecology will publish the final tier schedule on ecology's web site by November 15, 2006, for fees due January 1, 2007. The tiers will be based on data available to ecology and received from manufacturers and retailers prior to November 9, 2006. When providing data to ecology, manufacturers must meet the requirements of subsection (7)(a) of this section prior to November 9, 2006.

(b) **Tiers for fees due January 1, 2008, and future years:** For administrative fees for 2008, and future years, ecology will publish a preliminary tier schedule for review and a final tier schedule.

(i) **Preliminary tier schedule:** For program years 2008 through 2015, ecology will publish the preliminary tier schedule on ecology's web site by September 1 of each calendar year. For program year 2016 and future years, ecology

will publish the preliminary tier schedule on ecology's web site by June 1 of each calendar year.

(A) This preliminary tier schedule will include the tiers and a list of manufacturers assigned to each tier.

(B) Ecology will also publish the estimated total percentage share of the market attributable to each tier and a list of the brand names for each manufacturer, which form the basis for the estimates used in the tier assignment.

(C) For program years 2008 through 2015, manufacturers will have until October 1 to submit a request for tier reassignment if they believe they are assigned to the wrong tier. (See subsection (7)(b) of this section.) For program year 2016 and future years, manufacturers will have until July 1 to submit a request for tier reassignment if they believe they are assigned to the wrong tier.

(ii) **Final tier schedule:** For program years 2008 through 2015, ecology will publish the agency's final tier schedule on ecology's web site by November 1 of each calendar year. For program year 2016 and future years, ecology will publish the agency's final tier schedule on ecology's web site by August 1 of each calendar year. This final tier schedule will reflect ecology's evaluation of all available data including but not limited to tier reassignment requests.

(7) **Tier reassignment requests:**

(a) **Requests for tier reassignment submitted for fees due January 1, 2007.** Manufacturers may request to be assigned to a different tier for fees due January 1, 2007.

(i) To submit a request for tier reassignment the manufacturer must, on or before November 9, 2006, do one of the following:

(A) Submit or update their online manufacturer registration form. The manufacturer must provide the number of units of CEPs, sold in the prior year, in or into Washington state;

(B) Send a written letter to ecology including the number of units of CEPs sold in the prior year in or into Washington state; or

(C) Submit a complete tier request form available on ecology's web site.

(ii) If CEP unit sales data is provided, ecology will exempt this data from public disclosure in accordance with RCW 42.56.270(13).

(iii) In addition to submitting information about CEP unit sales as described above, ecology may request that the manufacturer submit the CEP unit sales data in writing certified by a certified public accountant. Ecology may request this if ecology finds the data gives a different market share than the national data collected and/or the information changes the tier assignment distribution.

(b) **Requests for tier reassignment for fees due after January 1, 2007.** If submitting a tier reassignment request:

(i) For program years 2008 through 2015, existing manufacturers must submit the request on or before October 1 prior to the next billing cycle and must follow the steps in (c) of this subsection. For program year 2016 and future years, existing manufacturers must submit the request on or before July 1 prior to the next billing cycle and must follow the steps in WAC 173-900-925 (5) and (6).

(ii) **New manufacturers** to Washington state may not submit a tier reassignment request for their first program

year. Requests for tier reassignment for future program years must follow the process for existing manufacturers.

(iii) **Manufacturers whose CEPs are not directly sold in or into Washington state** may request to be assigned to a different tier at any time and must follow the steps in (c) of this subsection.

(iv) **Manufacturers who previously manufactured** may request to be assigned to a different tier at any time and must follow the steps in (c) of this subsection.

(c) **Submitting tier reassignment requests:** To request tier reassignment, the manufacturer must ~~((do one of the following:~~

~~(i) Submit or update their online manufacturer registration form. The manufacturer must provide the number of units of CEPs, sold in the prior calendar year, in or into Washington state; or~~

~~(ii) Send a letter to ecology including the number of units of CEPs sold in the prior calendar year in or into Washington state.~~

~~(iii)) follow the steps in WAC 173-900-925 (5) and (6).~~ If CEP unit sales data is provided, ecology will exempt this data from public disclosure in accordance with RCW 42.56-270(13).

~~((iv) In addition to submitting information about CEP unit sales as described above, ecology may request that the manufacturer submit the CEP unit sales data in writing including a basis for the alternative unit sales number and may request this information is certified by a certified public accountant. Ecology may request this if the CEP unit sales data results in a different market share than the national data collected and/or the information changes the tier assignment distribution.))~~

AMENDATORY SECTION (Amending WSR 07-21-013, filed 10/5/07, effective 11/5/07)

WAC 173-900-300 Covered electronic product (CEP) recycling plans. (1) CEP recycling plans (plans) must provide a program for the collection, transportation, processing, and recycling of CEPs produced by any manufacturer from covered entities in Washington state.

(2) All plans intending to begin implementation on or before January 1, 2009, must be submitted to ecology no later than February 1, 2008.

(3) The authority or authorized party of a plan must:

(a) Provide collectors with information that can be shared with covered entities about how and where CEPs received into the program are recycled.

(b) Ensure that any CEP that is reused after being received by the processor is not included in any weight counts or used to satisfy an equivalent share.

(4) Collection, transportation, processing, and recycling systems and services for a plan:

(a) To implement the program described in the CEP recycling plan the authority or authorized party must only use the services of registered collectors, transporters, and processors that are in "in compliance" status.

(b) Processing services: The authority shall accept and use any processor that:

(i) Meets the requirements of this chapter; and

(ii) Meets any requirements described in the authority's operating plan or through contractual arrangements.

(c) Collection services: The authority of the standard plan must accept CEPs from registered collectors who meet the requirements of this chapter. The authority must compensate registered collectors for the reasonable costs associated with collection of CEPs. If a collector offers premium or curbside services, the compensation paid by the standard plan does not have to cover additional costs associated with those services.

(d) A plan must provide for the processing of large quantities of CEPs at no charge to small businesses, small governments, charities, and school districts.

AMENDATORY SECTION (Amending WSR 07-21-013, filed 10/5/07, effective 11/5/07)

WAC 173-900-310 An independent plan. (1) A single manufacturer or a group of manufacturers may submit an independent plan to ecology for approval if:

(a) ~~((The manufacturers participating in the proposed plan represent at least five percent return share of CEPs))~~ For program year 2016 and all subsequent program years, the manufacturers participating in the proposed plan represent at least five percent market share of CEPs; and

(b) No manufacturer participating in the proposed plan is a new entrant or a white box manufacturer.

(2) For program year 2016 and all subsequent program years, if an independent plan does not represent five percent ((return)) market share for two consecutive program years, ecology will dissolve the independent plan (see WAC 173-900-360).

(3) **Individual independent plan:** A single manufacturer submitting an independent plan to ecology is responsible for collecting, transporting, processing, and recycling its equivalent share of CEPs.

(4) **Collective independent plan:** Manufacturers collectively submitting an independent plan are responsible for collecting, transporting, processing, and recycling the sum of the equivalent shares of all manufacturers participating in the collective independent plan.

(5) Individual or collective groups of manufacturers submitting an independent plan must designate an "authorized party" that is responsible for submitting the independent plan to ecology. A letter of certification from each of the manufacturers designating the authorized party must be submitted to ecology together with their independent plan.

(6) Prior to beginning implementation of an independent plan, the authorized party for that plan must receive plan approval from ecology.

AMENDATORY SECTION (Amending WSR 07-21-013, filed 10/5/07, effective 11/5/07)

WAC 173-900-325 CEP recycling plan submittal, approval, and implementation.

Step 1: Format of the CEP recycling plan.

(1) All plans must use the "CEP recycling plan template" provided by ecology.

(2) The authority or authorized party must submit paper copies of their plan in a three-ring binder so that individual pages can be submitted and replaced when updates or revisions are required.

Step 2: Submit the CEP recycling plan.

(3) The authority or authorized party must submit one paper copy and one usable electronic copy of their plan to ecology.

(4) All plans intending to begin implementation on or before January 1, 2009, must be submitted to ecology no later than February 1, 2008.

(a) The one paper copy must be submitted by mail to one of the following addresses:

For U.S. Postal Service:

Department of Ecology
Electronic Product Recycling
~~((Solid Waste and Financial Assistance))~~
Waste 2 Resources Program
P.O. Box 47600
Olympia, WA 98504-7600

For Courier:

Department of Ecology
Electronic Product Recycling
~~((Solid Waste and Financial Assistance))~~
Waste 2 Resources Program
300 Desmond Drive
Lacey, WA 98503

(b) The electronic copy may be submitted by e-mail or other electronic format usable by ecology that allows electronic editing and commenting by ecology.

(5) The following section of a plan may be submitted to ecology for review and approval separate from the rest of the plan:

- Standard plan participant assessment of charges or apportionment of costs.

When submitting a section separate from the rest of the plan, the authority must follow the process described in this section.

Step 3: Approval process.

(6) Within ninety days after receipt of a complete plan, ecology will determine whether the plan complies with this chapter. Ecology will determine if the plan is:

(a) **Approved.** If approved, ecology will send a letter of approval to the authority or authorized party via certified mail. The approval letter will include an expiration date for the plan.

(b) **Disapproved.** If disapproved, ecology will send a letter of disapproval to the authority or authorized party via certified mail. The disapproval letter will provide ecology's reasons for not approving the plan.

(i) The authority or authorized party must submit a new or revised plan within sixty days after receipt of the disapproval letter.

(ii) Ecology then has an additional ninety days to review the new or revised plan.

(c) Ecology will approve plans for no more than five years. If an independent plan does not represent five percent ~~((return))~~ market share for two consecutive program years, ecology will dissolve the independent plan (see WAC 173-900-360).

(7) **Approval criteria:** Ecology will consider the following when reviewing a plan for approval:

(a) The plan submittal dates were met;

(b) The plan meets the requirements in this chapter;

(c) The plan contains all of the information required in this chapter and provides descriptive information sufficient to allow ecology to determine that the implementation of the plan will be in compliance with this chapter;

(d) When reviewing a plan for service level, ecology may contact the local government or community identified in the plan; and

(e) The plan, when implemented, would meet or exceed required collection service levels (see WAC 173-900-355).

(8) Ecology may ask for additional information or clarification during the review of a plan.

(9) Ecology will post all plans on the agency web site.

(10) Proprietary information submitted to ecology under this chapter is exempt from public disclosure under RCW 42.56.270.

AMENDATORY SECTION (Amending WSR 07-21-013, filed 10/5/07, effective 11/5/07)

WAC 173-900-345 Changing CEP recycling plan participation. (1) After January 1, 2008, no manufacturer may change CEP recycling plans for program year 2009.

(2) For program year 2010 and thereafter, registered CEP manufacturers may change participation in plans if the manufacturer meets the requirements in this section.

The following is the process for changing plan participation:

(3) The plan the manufacturer is joining must, by August 1 prior to the program year for which the change will take effect, submit:

(a) For an existing plan, an update or revision under WAC 173-900-335; or

(b) For a new independent plan, a plan that meets the requirements of WAC 173-900-310.

(4) Ecology will review the plan under the process described in WAC 173-900-325 or 173-900-335, as appropriate. If approved, ecology will send notice, via certified mail, to:

(a) The manufacturer requesting the change; and

(b) The authorized party(ies) and the authority affected by the change.

(5) If ecology does not approve the submitted plan or plan update by January 1 of the program year for which the change was submitted, the change cannot be implemented that program year. Ecology may still review the plan or plan update for approval for the following program year.

(6) Within fourteen days of receiving plan approval notice from ecology, the manufacturer must submit an updated registration form to ecology (see Part II, WAC 173-900-240).

(7) Within sixty days of receiving the notice, the plan the manufacturer left must submit a plan revision to ecology that meets the requirements in WAC 173-900-335.

(8) If an independent plan does not represent five percent ((~~return~~) market share after the manufacturer leaves the plan, the independent plan has until the end of the following program year to increase participation to represent the five percent ((~~return~~) market share. If the independent plan does not represent five percent ((~~return~~) market share at that time, the remaining members will then become members of the standard plan (see WAC 173-900-360).

AMENDATORY SECTION (Amending WSR 07-21-013, filed 10/5/07, effective 11/5/07)

WAC 173-900-360 Dissolving an independent plan.

(1) If an independent plan does not represent five percent ((~~return~~) market share for two consecutive program years, ecology will dissolve the independent plan.

(2) After August 1 but prior to the start of the next program year, ecology will dissolve any independent plan that does not meet the independent plan criteria in WAC 173-900-310.

(a) Ecology will send notice, via certified mail, informing all participants in the plan that they must join the standard plan and update their manufacturer registration form (see Part II, WAC 173-900-240).

(b) If a manufacturer does not submit their updated registration form within fourteen days of receiving the notice, it is a registration violation (see WAC 173-900-255) and ecology will follow the warning and penalty procedures in Part II, WAC 173-900-255, 173-900-260, and 173-900-270 of this chapter.

(3) If ecology determines that this change may significantly alter the program described in the standard plan, the authority must submit an updated plan to ecology (see WAC 173-900-335).

AMENDATORY SECTION (Amending WSR 07-21-013, filed 10/5/07, effective 11/5/07)

WAC 173-900-370 Authority or authorized party violations. (1) The authority or authorized party is in violation of this chapter when there is:

- (a) A plan violation; or
- (b) An annual report violation; or
- (c) A performance standards violation.

(2) **Plan violation:** As of January 1, 2009, it is a plan violation if the authority or authorized party:

- (a) Does not implement the plan so that the plan meets the requirements in this chapter (see Part III of this chapter);
- (b) Uses a collector((:)) or transporter, that is not in "in compliance" status; or
- (c) Uses a direct processor for processing services that is not registered or has not updated their registration as required under this chapter.

((~~(d) Does not implement return share sampling as required in WAC 173-900-900.~~))

(3) Annual report violation.

As of March 1, 2010, it is an authority or authorized party violation if the plan's annual report is not submitted to ecology and approved under WAC 173-900-800.

(4) Performance standards violation.

As of January 1, 2009, it is an authority or authorized party "performance standards" violation if the plan uses a direct processor that does not meet the minimum performance standards in WAC 173-900-650.

AMENDATORY SECTION (Amending WSR 07-21-013, filed 10/5/07, effective 11/5/07)

WAC 173-900-410 Initial registration as a CEP collector.

Step 1: Complete the collector registration form.

(1) Each collector must complete the online or paper registration form provided by ecology and must include all of the following:

- (a) Name of individual responsible for implementing the collector requirements;
- (b) Contact and location information;
- (c) Business license information;
- (d) Permit information, when applicable;
- (e) Description of services provided; and
- (f) Geographic areas where services are provided.

Step 2: Submit the collector registration form.

(2) The individual responsible for implementing the collector requirements must sign the form. Signing the form means the collector has provided accurate and complete information on the form and will comply with the collector performance standards in WAC 173-900-450.

(3) The collector must submit the form using one of the following options:

- (a) Online registration;
- (b) Submitting the original paper version through:

U.S. Postal Service to:

Department of Ecology
Electronic Product Recycling
~~((Solid Waste and Financial Assistance))~~
Waste 2 Resources Program
P.O. Box 47600
Olympia, WA 98504-7600

Courier Service to:

Department of Ecology
Electronic Product Recycling
~~((Solid Waste and Financial Assistance))~~
Waste 2 Resources Program
300 Desmond Drive
Lacey, WA 98503

AMENDATORY SECTION (Amending WSR 07-21-013, filed 10/5/07, effective 11/5/07)

WAC 173-900-430 Annual renewal of collector registration. (1) A collector must submit its annual registration

renewal form to ecology between June 1 and September 1 of each calendar year for the next program year.

(2) If a collector does not submit an annual registration renewal form, ecology will remove the collector from the "collector registration list."

(3) The collector must submit their annual registration form using one of the options below:

- (a) Submit the online registration form;
- (b) Submit a paper version of a form through:

U.S. Postal Service:

Department of Ecology
Electronic Product Recycling
~~((Solid Waste and Financial Assistance))~~
Waste 2 Resources Program
P.O. Box 47600
Olympia, WA 98504-7600

Courier Service:

Department of Ecology
Electronic Product Recycling
~~((Solid Waste and Financial Assistance))~~
Waste 2 Resources Program
300 Desmond Drive
Lacey, WA 98503

(4) Ecology will review collector registration forms submitted for annual registration under the process described in WAC 173-900-420.

(5) For annual registrations, if ecology denies the collector's registration form, ecology will remove the collector from the "collector registration list." In order to resume collecting CEPs for a plan, the collector must resubmit an initial registration (WAC 173-900-410) and receive registration approval from ecology.

AMENDATORY SECTION (Amending WSR 07-21-013, filed 10/5/07, effective 11/5/07)

WAC 173-900-440 Updates to collector registration.

(1) A registered collector must submit an updated registration form to ecology within fourteen days of any change to the information provided in its registration form.

(2) The collector must submit updates to its registration form by using one of the options below:

- (a) Updating the collector's registration information using the online form;
- (b) Submitting a paper version of the form with updated information through:

U.S. Postal Service to:

Department of Ecology
Electronic Product Recycling
~~((Solid Waste and Financial Assistance))~~
Waste 2 Resources Program
P.O. Box 47600
Olympia, WA 98504-7600

Courier Service to:

Department of Ecology
Electronic Product Recycling
~~((Solid Waste and Financial Assistance))~~
Waste 2 Resources Program
300 Desmond Drive
Lacey, WA 98503

(3) Ecology will review collector updated registration forms under the process described in WAC 173-900-420.

AMENDATORY SECTION (Amending WSR 07-21-013, filed 10/5/07, effective 11/5/07)

WAC 173-900-450 Performance standards for collectors. (1) CEPs collected for a plan must be collected from covered entities free of charge except for the following services:

- (a) Premium services as described in an approved plan to cover the costs not paid by the standard or independent plans;
- (b) Curbside collection services to cover the costs not paid by the standard or independent plans; or
- (c) Collection of large quantities of CEPs from small businesses, small governments, charities, and school districts as defined in WAC 173-900-355(7).

(2) A registered collector must not process CEPs, or components, for purposes of recycling or disposal, unless they also meet the direct processor performance standards and are a registered direct processor under this chapter.

(3) In addition to the requirements in this chapter, all registered collectors must comply with all applicable environmental laws, rules, and local ordinances.

(4) When providing collection services for a plan, the registered collector must:

- (a) Staff the site during operating hours.
- (b) Notify the authority and/or authorized party of any changes in hours and days of operation and types of CEPs accepted if the collection services provided are identified in an ecology approved plan.

(c) ~~((Cooperate with CEP sampling efforts conducted by CEP recycling programs approved under this chapter.~~

~~((d)))~~ Provide enclosed storage areas with impervious floors so that the CEPs and components collected are protected from the weather.

~~((e)))~~ ~~((d))~~ Collectors must post, in a readily visible location, information that can be shared with covered entities about how and where CEPs received into the program are recycled. Recycling information is provided by the plan(s) for which the collector is providing services.

~~((f)))~~ ~~((e))~~ If a registered collector also gleans CEPs or components for reuse, they must notify the covered entity.

(5) ~~((A registered collector must allow access to ecology or their authorized third party representative for purposes of conducting sampling to determine return share.~~

~~((g)))~~ A registered collector must allow access to ecology for inspections to determine compliance with the requirements in this chapter.

~~((h)))~~ ~~((6))~~ No entity shall claim to be collecting CEPs for a plan unless the entity is registered as a collector and submits all collected CEPs to a plan. Except fully functional CEPs

and components may be gleaned for reuse. Collectors shall not include gleaned CEPs and components for reuse in the weight totals for plan compensation.

~~((8))~~ (7) A registered collector must notify the authority and authorized parties for all plans that the collector submits CEPs if the collector's days/hours of operations change or the collector changes the CEPs collected.

AMENDATORY SECTION (Amending WSR 07-21-013, filed 10/5/07, effective 11/5/07)

WAC 173-900-510 Initial registration as a CEP transporter.

Step 1: Complete the transporter registration form.

(1) Each transporter must use the form provided by ecology and must include all of the following:

- (a) Contact and location information;
- (b) Business license information;
- (c) Permit information;
- (d) Description of services provided; and
- (e) Geographic areas where services are provided.

Step 2: Submit the registration form.

(2) The individual responsible for implementing the transporter requirements must sign the form. Signing the form means the transporter has provided accurate and complete information on the form and will comply with the transporter standards in WAC 173-900-550.

(3) The transporter must submit the form using one of the options below:

- (a) Online registration;
- (b) The original paper version through:

U.S. Postal Service:

Department of Ecology
Electronic Product Recycling
~~((Solid Waste and Financial Assistance))~~
Waste 2 Resources Program
P.O. Box 47600
Olympia, WA 98504-7600

Courier Service:

Department of Ecology
Electronic Product Recycling
~~((Solid Waste and Financial Assistance))~~
Waste 2 Resources Program
300 Desmond Drive
Lacey, WA 98503

AMENDATORY SECTION (Amending WSR 07-21-013, filed 10/5/07, effective 11/5/07)

WAC 173-900-530 Annual renewal of transporter registration. (1) A transporter must submit its annual renewal registration form to ecology between June 1 and September 1 of each calendar year for the next program year.

(2) If a transporter does not submit a renewal registration form, ecology will remove the transporter from the "transporter registration list."

(3) The transporter must submit its annual registration form using one of the options below:

- (a) Submit the online registration form;
- (b) Submit a paper version through:

U.S. Postal Service to:

Department of Ecology
Electronic Product Recycling
~~((Solid Waste and Financial Assistance))~~
Waste 2 Resources Program
P.O. Box 47600
Olympia, WA 98504-7600

Courier Service to:

Department of Ecology
Electronic Product Recycling
~~((Solid Waste and Financial Assistance))~~
Waste 2 Resources Program
300 Desmond Drive
Lacey, WA 98503

(4) Ecology will review transporter registration forms submitted for annual registration under the process described in WAC 173-900-520.

(5) For annual registrations, if ecology denies the transporter's registration form, ecology will remove the transporter from the "transporter registration list." In order to resume transporting CEPs for a plan, the transporter must resubmit an initial registration (WAC 173-900-510) and receive registration approval from ecology.

AMENDATORY SECTION (Amending WSR 07-21-013, filed 10/5/07, effective 11/5/07)

WAC 173-900-540 Updates to transporter registration. (1) A registered transporter must submit an updated registration form to ecology within fourteen days of a change to the information provided in a registration form.

(2) The transporter must submit updates to its registration form by using one of the options below:

- (a) Updating the transporter's registration information using the online form;
- (b) Submitting a paper version of the form with updated information through:

U.S. Postal Service to:

Department of Ecology
Electronic Product Recycling
~~((Solid Waste and Financial Assistance))~~
Waste 2 Resources Program
P.O. Box 47600
Olympia, WA 98504-7600

Courier Service to:

Department of Ecology
Electronic Product Recycling
~~((Solid Waste and Financial Assistance))~~
Waste 2 Resources Program
300 Desmond Drive
Lacey, WA 98503

(3) Ecology will review transporter updated registration forms under the process described in WAC 173-900-520.

AMENDATORY SECTION (Amending WSR 07-21-013, filed 10/5/07, effective 11/5/07)

WAC 173-900-550 Performance standards for transporters. (1) All registered transporters must comply with all applicable laws, rules, and local ordinances.

(2) ~~((A registered transporter must allow access to ecology or their authorized third party representative for purposes of conducting sampling to determine return share.~~

~~((3)))~~ (3) A registered transporter must allow access to ecology for inspections to determine compliance with the requirements in this chapter.

~~((4)))~~ (3) Transporters must deliver CEPs for a plan to registered direct processors.

AMENDATORY SECTION (Amending WSR 07-21-013, filed 10/5/07, effective 11/5/07)

WAC 173-900-610 Initial registration for direct processors.

**Table 610
Direct Processor Registration Types**

| Type of Registration | Definition | Due Date |
|----------------------|---|---|
| Initial registration | Direct processor is not currently registered with ecology under this chapter. | Submit registration form to ecology at any time. |
| Annual renewal | Direct processor is currently registered with ecology under this chapter. | Submit renewal form to ecology between June 1 and September 1 of each year. |

At least thirty days prior to receiving CEPs for processing, the direct processor must submit a registration form to ecology and may not begin processing until ecology places the direct processor in "in compliance" status on the "direct processor registration list" on ecology's web site.

Step 1: Complete a direct processor registration form.

(1) Each direct processor must complete a registration form which includes all the following:

- (a) Contact and location information;
- (b) Business license information;
- (c) Documentation of any necessary operating permits issued as required by local, state, or national authorities;
- (d) Description of services provided;
- (e) Geographic areas from which electronic products are accepted; and
- (f) The names of plans the direct processor is contracted to provide processing services to meet the requirements of this chapter.

Step 2: Submit the direct processor registration form.

(2) The person responsible for implementing the direct processor requirements under this chapter must sign the registration form. The signature certifies the company has provided accurate and complete information on the form and is complying with all applicable state, local, and national laws and regulations.

(3) The person must submit the form to ecology. When mailing in an original paper copy, the person must use one of the addresses below:

U.S. Postal Service:

Department of Ecology
Electronic Product Recycling
~~((Solid Waste and Financial Assistance))~~
Waste 2 Resources Program
P.O. Box 47600
Olympia, WA 98504-7600

Courier Service:

Department of Ecology
Electronic Product Recycling
~~((Solid Waste and Financial Assistance))~~
Waste 2 Resources Program
300 Desmond Drive
Lacey, WA 98503

AMENDATORY SECTION (Amending WSR 07-21-013, filed 10/5/07, effective 11/5/07)

WAC 173-900-630 Annual renewal of direct processor registration. (1) Direct processors must submit their annual renewal registration form to ecology between June 1 and September 1 of each calendar year for the next program year.

(2) If an annual renewal registration form is not received during this time period, and subsequently approved by ecology, the direct processor will be removed from the "direct processor registration list" and must not process CEPs for a plan until a registration form is submitted and approved.

(3) When mailing in the original paper copy, the direct processor must use one of the addresses below:

U.S. Postal Service:

Department of Ecology
Electronic Product Recycling
~~((Solid Waste and Financial Assistance))~~
Waste 2 Resources Program
P.O. Box 47600
Olympia, WA 98504-7600

Courier Service:

Department of Ecology
Electronic Product Recycling
~~((Solid Waste and Financial Assistance))~~
Waste 2 Resources Program
300 Desmond Drive
Lacey, WA 98503

(4) Ecology will review direct processor registration forms submitted for annual renewal under the process described in WAC 173-900-620.

(5) For annual registrations, if ecology denies the direct processor's registration form, ecology will remove the direct processor from the "direct processor registration list." In order to resume processing services for a plan, the processor must resubmit an initial registration (WAC 173-900-610) and receive registration approval from ecology.

AMENDATORY SECTION (Amending WSR 07-21-013, filed 10/5/07, effective 11/5/07)

WAC 173-900-640 Updates to direct processor registration. (1) A direct processor must submit an updated registration form to ecology thirty days prior to providing new, additional, or reducing processing services for a plan.

(2) When mailing in the original paper copy, the direct processor must use one of the addresses below:

U.S. Postal Service:

Department of Ecology
Electronic Product Recycling
~~((Solid Waste and Financial Assistance))~~
Waste 2 Resources Program
P.O. Box 47600
Olympia, WA 98504-7600

Courier Service:

Department of Ecology
Electronic Product Recycling
~~((Solid Waste and Financial Assistance))~~
Waste 2 Resources Program
300 Desmond Drive
Lacey, WA 98503

(3) Ecology will review direct processor updated registration forms under the process described in WAC 173-900-620.

AMENDATORY SECTION (Amending WSR 07-21-013, filed 10/5/07, effective 11/5/07)

WAC 173-900-800 CEP recycling plan annual reports. (1) By March 1, 2010, and each program year thereafter, the authority and each authorized party must file an annual report with ecology for the preceding year's program. Ecology will review the report and notify the authority or authorized party of any deficiencies that need to be addressed.

(2) **Annual report content:** The annual report must include the following information:

(a) The total weight in pounds of each type of CEP(~~(s)~~), including orphans, for the preceding program year including documentation verifying collection and processing of that material for:

- (i) CEPs collected, reported by county, not including CEPs gleaned for reuse;
- (ii) CEPs recycled;
- (iii) Nonrecycled residuals from CEPs; and

(iv) Final destination for the processing of CEPs and components and final destination for disposal of residuals.

(b) The total weight in pounds of CEPs received from each nonprofit charitable organization primarily engaged in the business of reuse and resale used by the plan;

(c) The total weight in pounds of CEPs that were received in large quantities from small businesses, small governments, charities and school districts;

(d) The collection services provided in each county and for each city with a population greater than ten thousand including a list of all collection sites and services operating in the state in the prior program year and the parties who operated them;

(e) Processor information:

(i) A list of all direct processors used;

(ii) The weight of CEPs processed by each direct processor;

(iii) A description of the processes and methods used by each direct processor to recycle the CEPs including a description of the processing and facility locations; and

(iv) A compliance audit report meeting the requirements in WAC 173-900-365 for each direct processor listed in the authority or authorized party's ecology approved plan;

(f) A list of subcontractors used by the direct processor including their facility addresses;

(g) An estimate of the weight of each type of material recovered as a result of the processing of recycled CEPs including, at a minimum:

(i) Cathode ray tube glass;

(ii) Circuit boards;

(iii) Batteries;

(iv) Mercury containing devices;

(v) Plastics; and

(vi) Metals;

(h) An estimate of the percentage, by weight, of all CEPs that ultimately are reused, recycled, or end up as residual waste that is disposed;

(i) Educational and promotional efforts that were undertaken to inform covered entities about where and how to reuse and recycle their CEPs;

~~((h))~~ (j) For program years 2009 through 2014, the results of sampling as required in WAC 173-900-900;

~~((i))~~ (k) The amount of unwanted electronic products, electronic components, and electronic scrap that have been exported from Washington state to countries that are not members of the organization for economic cooperation and development or the European Union;

~~((j))~~ (l) The list of manufacturers that are participating in the plan;

~~((k))~~ (m) A description of the program revenues and costs, including:

(i) The total cost of the program; and

(ii) The average cost of the program per pound of CEP collected;

(n) A detailed accounting of the following costs of the program:

(i) Program delivery, including:

(A) Education and promotional efforts;

(B) Collection;

(C) Transportation;

(D) Processing and labor; and

(ii) Program administration;

(o) A description of the methods used by the program to collect, transport, recycle, and process CEPs;

(p) Signature of the authority or the authorized party;

~~((H))~~ (q) Any other clarifying information deemed necessary by ecology to determine compliance with this chapter; and

~~((m))~~ (r) Documentation of work done with the processors used by the plan to promote and encourage the design of electronic products that are less toxic and contain components that are more recyclable.

(3) **Submittal:** The authority or authorized party must submit

~~(a))~~ one electronic copy in a format usable by ecology that allows electronic editing and commenting; ~~(; and~~

~~(b) Two paper copies to one of the following addresses:~~

~~For U.S. Postal Service:~~

~~Department of Ecology
Electronic Product Recycling
Solid Waste and Financial Assistance Program
P.O. Box 47600
Olympia, WA 98504-7600~~

~~Or~~

~~For Courier:~~

~~Department of Ecology
Electronic Product Recycling
Solid Waste and Financial Assistance Program
300 Desmond Drive
Lacey, WA 98503~~

~~(e) Faxes are not accepted).~~

(4) All reports must use the "CEP recycling report template" provided by ecology.

(5) **Review and approval:** Ecology will review each report within ninety days of receipt and will notify the authority or authorized party of any need for additional information or documentation, or any deficiency in its program or the report.

(a) Within five business days of receipt of the report, ecology will notify the authority or authorized party that the report has been received and it is under review.

(b) If ecology determines that there are no deficiencies in the report, a written notice of approval will be sent ~~((via certified mail))~~ electronically or by U.S. Postal Service.

(c) If ecology determines that additional information is needed, the authority or authorized party must submit the additional information to ecology within thirty days of receipt of the notice.

(d) If ecology determines that there are deficiencies in the authority's or authorized party's program, the authority or authorized party must submit an updated plan to ecology following the process in WAC 173-900-335.

(6) Ecology will post all reports on the agency web site.

(7) Proprietary information submitted to ecology under this chapter is exempt from public disclosure under RCW 42.56.270.

AMENDATORY SECTION (Amending WSR 07-21-013, filed 10/5/07, effective 11/5/07)

WAC 173-900-810 Local government and community satisfaction reports. (1) Starting January 1, 2010, local governments and local communities are encouraged to submit an annual satisfaction report to ecology by March 1 of each calendar year.

(2) The entity responsible for preparing the solid waste management plan for an area is responsible for submitting the satisfaction report to ecology.

(3) **Report content:** If submitting a report to ecology, the report must include information about local government and community satisfaction with the services provided by plans in their community including:

(a) Accessibility and convenience of services;

(b) How services are working in their community;

(c) What services are not working and why;

(d) Suggestions for improvements to the services being provided by plans;

(e) Description of public outreach and education; and

(f) Any other information the local government determines is important to include.

(4) **Submittal:** If submitting a report, the submitting entity must submit:

(a) One electronic copy, by e-mail or other electronic means, in a format usable by ecology that allows electronic editing and commenting; ~~((and))~~ or

(b) One paper copy by mail to one of the following addresses:

For U.S. Postal Service:

~~Department of Ecology
Electronic Product Recycling
(Solid Waste and Financial Assistance)
Waste 2 Resources Program
P.O. Box 47600
Olympia, WA 98504-7600~~

~~Or~~

~~For Courier:~~

~~Department of Ecology
Electronic Product Recycling
(Solid Waste and Financial Assistance)
Waste 2 Resources Program
300 Desmond Drive
Lacey, WA 98503~~

(5) All reports must use the "local government satisfaction report template" prescribed by ecology.

(6) **Review and approval:** Ecology will review each report within ninety days of receipt and will notify the submitting entity of any need for additional information or documentation.

~~((a) Within five business days of receipt of the report, ecology will notify the submitting entity that the satisfaction report has been received and it is under review.~~

~~(b) If ecology determines that no additional information is needed, ecology will send a written notice of approval to the submitting entity.~~

~~(e))~~ If ecology determines that additional information is needed, the submitting entity must submit the additional information to ecology within thirty days of receipt of the notice.

(7) If a report is submitted, ecology will use the information provided in these reports when reviewing plan updates and revisions.

(a) Reports indicating dissatisfaction will be sent to the authority or authorized party.

(b) The authority or authorized party has sixty days to respond to the report submittee(s) and ecology addressing issues raised in the report.

(c) If based on this response, ecology determines that the plan is failing to provide service in a community, ecology will send written notice, ~~((via certified mail))~~ electronically or by U.S. Postal Service, to the authority or authorized party.

(d) The authority or authorized party will have sixty days from receipt of the notice to submit an updated plan to ecology (see WAC 173-900-335).

(8) At any time, communities may submit comments to ecology about the CEP recycling programs in their area.

AMENDATORY SECTION (Amending WSR 07-21-013, filed 10/5/07, effective 11/5/07)

WAC 173-900-820 Nonprofit charitable organization collection reports. (1) Starting in 2010, and every calendar year thereafter, nonprofit charitable organizations that are primarily engaged in the business of reuse and resale that collect CEPs for a plan must submit an annual report to ecology by March 1.

(2) The report must indicate and document the weight of CEPs sent for recycling during the previous program year attributed to each plan that the nonprofit charitable organization is participating in.

(3) **Submittal:** The nonprofit charitable organization must submit:

(a) One electronic copy, by e-mail or other electronic means, in a format usable by ecology that allows electronic editing and commenting; ~~((and))~~ or

(b) One paper copy by mail to one of the following addresses:

For U.S. Postal Service:

Department of Ecology
Electronic Product Recycling
~~((Solid Waste and Financial Assistance))~~
Waste 2 Resources Program
P.O. Box 47600
Olympia, WA 98504-7600

Or

For Courier:

Department of Ecology
Electronic Product Recycling
~~((Solid Waste and Financial Assistance))~~
Waste 2 Resources Program
300 Desmond Drive
Lacey, WA 98503

(4) All reports must use the "nonprofit charitable organization report template" prescribed by ecology.

(5) **Review and approval:** Ecology will review each report within ninety days of receipt and will notify the nonprofit charitable organization of any need for additional information or documentation.

~~(a) ((Within five business days of receipt of the report, ecology will notify the nonprofit charitable organization that the collection report has been received and it is under review.~~

~~(b) If ecology determines no additional information is needed, ecology will send written notice to the nonprofit charitable organization.~~

~~(e))~~ If ecology determines that additional information is needed, the nonprofit charitable organization must submit the additional information to ecology within thirty days of receipt of the notice.

~~((b))~~ (b) If a nonprofit charitable organization used by a plan does not submit an annual collection report, that is approved by ecology, the plan cannot receive the five percent credit for using that organization as a collector.

PART IX

~~((SAMPLING, RETURN SHARE,))~~ CALCULATING MARKET SHARE AND EQUIVALENT SHARE

NEW SECTION

WAC 173-900-925 Calculation of market shares. (1) For program year 2016, and all subsequent program years, ecology will determine market share by weight for all manufacturers using any combination of the following data:

- (a) Generally available market research data;
- (b) CEP sales data supplied by manufacturers for brands they manufacture or sell; or
- (c) CEP sales data provided by retailers for brands they sell.

(2) Ecology will determine each manufacturer's percentage of market share by dividing each manufacturer's total pounds of CEPs sold in or into Washington by the sum total of all pounds of CEPs sold in or into Washington by all manufacturers.

(3) If CEP sales data is provided by manufacturers under subsection (1) or (6) of this section, ecology will exempt this data from public disclosure in accordance with RCW 42.56.270(13).

(4) Ecology will notify each registered manufacturer of their preliminary market share determination by June 1 of each calendar year.

(5) Manufacturers may challenge their preliminary market share determination by written petition to ecology. The petition must be received by ecology within thirty days of the date of publication of the preliminary market shares.

- (6) The petition must contain:
 - (a) A detailed explanation of the grounds for the challenge;
 - (b) Detailed CEP sales data supporting the challenge; and
 - (c) Complete contact information for requests for additional information or clarification.

(7) Ecology will notify each registered manufacturer of their final market share determination by August 1 of each calendar year.

AMENDATORY SECTION (Amending WSR 07-21-013, filed 10/5/07, effective 11/5/07)

WAC 173-900-930 Calculating the total equivalent share.

Step 1: Calculating individual manufacturer equivalent share.

(1) ~~(Ecology must determine the total equivalent share for each manufacturer in the standard plan or an independent plan by dividing the return share percentage for each manufacturer by one hundred, then multiplying the quotient by the sum of total weight in pounds of CEPs collected, not including any CEPs, components or parts gleaned for reuse, for that program year and any additional credited pounds under WAC 173-900-940-))~~ For program year 2016, and all subsequent program years, ecology will determine the total equivalent share for each manufacturer in the standard plan or an independent plan by dividing the market share percentage for each manufacturer by one hundred, then multiplying the quotient by the total weight in pounds of CEPs collected for that program year not including any CEPs, components or parts gleaned for reuse, for that program year and any additional credited pounds under WAC 173-900-940.

(2) The manufacturer is responsible for distributing responsibility for equivalent share among its past and present licensees.

Step 2: Calculating a plan's equivalent share.

(3) A plan's equivalent share is equal to the total of the equivalent shares for all manufacturers participating in the plan.

AMENDATORY SECTION (Amending WSR 07-21-013, filed 10/5/07, effective 11/5/07)

WAC 173-900-970 Collecting and paying share payments.

Billing share payments.

(1) By June 1 of each program year, ecology will bill any authorized party or authority that has not attained its plan's equivalent share as determined in WAC 173-900-930 ~~((share payments))~~. The authorized party or authority must remit its share payment to ecology within sixty days from the billing date.

Ecology payment of share payments.

(2) By September 1 of each program year, ecology must pay any authorized party or authority that exceeded its plan's equivalent share.

AMENDATORY SECTION (Amending WSR 07-21-013, filed 10/5/07, effective 11/5/07)

WAC 173-900-980 Public outreach.

Independent and standard plans:

(1) Public outreach and marketing requirements: An independent plan and the standard plan must inform covered entities about where and how to reuse and recycle their CEPs at the end of the product's life. At a minimum, the plan must:

(a) Include a web site or a toll-free number that gives information about the recycling program in sufficient detail to educate covered entities regarding how to return their CEPs for recycling;

(b) Describe the method or methods used to provide outreach to covered entities; and

(c) Ensure outreach throughout the state.

Ecology:

(2) Ecology will promote CEP recycling by:

(a) Posting information describing where to recycle unwanted CEPs on its web site;

(b) Providing information about recycling CEPs through a toll-free telephone service; and

(c) Developing and providing artwork for use by others in flyers, signage, web content, and other advertising mechanisms.

(3) Ecology will determine the effectiveness of the public outreach and education campaign based on information supplied in the reports required under this chapter.

Local governments:

(4) Local governments must promote CEP recycling, including listings of local collection sites and services, through existing educational methods typically used by each local government.

Retailers:

(5) A retailer who sells new CEPs must provide take-home information to consumers describing where and how to recycle CEPs and opportunities and locations for the convenient collection or return of the products at the point of sale. Providing ecology's toll-free telephone number and web site will fulfill this requirement. This ~~((outreach))~~ may include:

(a) Use of ecology's artwork in advertisements such as on flyers, shelf-tags, stickers, or brochures for this program~~((~~

~~))~~); and

~~((~~); and ~~))~~ Providing information about how to recycle CEPs in Washington either in, on, or with the packaging~~((~~); or on sales receipts.

(6) Remote sellers may include the information in a visible location on their web site or on sales receipts as fulfillment of this requirement.

Collaboration:

(7) Manufacturers, state government, local governments, retailers, and collection sites and services must collaborate in the development and implementation of the public information campaign.

AMENDATORY SECTION (Amending WSR 07-21-013, filed 10/5/07, effective 11/5/07)

WAC 173-900-993 Appointing the board of the authority. The board of directors of the authority is comprised of eleven participating manufacturers:

~~(1) ((Five board positions are reserved for representatives of the top ten brand owners by return share of covered electronic products.~~

~~(2) Six board positions are reserved for representatives of other brands. At least one of these board positions is reserved for a manufacturer who is also a retailer selling their own private label.~~

~~(3)) For program years 2016 and beyond, five board positions are reserved for representatives of the top ten brand owners by market share of covered electronic products and six board positions are reserved for representatives of other brands. At least one of these board positions is reserved for a manufacturer who is also a retailer selling their own private label.~~

(2) The board must have representation from both television and computer manufacturers.

~~((4))~~ (3) The board of directors is appointed by the director of the department of ecology.

(a) Manufacturers will indicate their interest in serving on the board of directors to ecology.

(b) Manufacturers expressing interest will be asked to submit the name of their representative.

(c) Ecology will select board members from the candidates that have expressed interest using the following criteria:

~~(i) ((Five from the top ten brand owners by return share of CEPs willing to participate on the board;))~~ For program year 2016 and beyond, five of the top ten brand owners by market share willing to participate on the board;

(ii) One retailer that is also a manufacturer;

(iii) Representation of manufacturers from eastern Washington;

(iv) Representation from small, in-state manufacturers;

(v) Balance between manufacturers whose business is primarily that of television manufacturing and those whose business is primarily that of computer manufacturing; and

(vi) At least one manufacturer that is a new market entrant.

~~((5))~~ (4) The first board will be appointed from those manufacturers expressing interest in serving on the board in the first registration of manufacturers.

~~((6))~~ (5) The first board of directors will serve a term of one year.

~~((7))~~ (6) Subsequent appointments to the board of directors will be made on intervals established in the authority by-laws created by the board.

AMENDATORY SECTION (Amending WSR 07-21-013, filed 10/5/07, effective 11/5/07)

WAC 173-900-997 The standard plan's assessment of charges and apportionment of costs. (1) Manufacturers participating in the standard plan must pay the authority to cover all administrative and operational costs associated with the collection, transportation, processing, and recycling of covered electronic products within the state of Washington

incurred by the standard program operated by the authority to meet the standard plan's equivalent share obligation.

(2) The authority must assess charges on each manufacturer participating in the standard plan and collect funds from each participating manufacturer for the manufacturer's portion of the costs in subsection (1) of this section.

~~(a) ((Such apportionment must be based on return share, market share, any combination of return share and market share, or any other equitable method.))~~ For program years 2016 and beyond, such apportionment must be based on market share.

(b) The authority's apportionment of costs to manufacturers participating in the standard plan may not include nor be based on electronic products imported through the state and subsequently exported outside the state.

(c) Charges assessed under this section must not be formulated in such a way as to create incentives to divert imported electronic products to ports or distribution centers in other states.

(d) The authority must adjust the charges to manufacturers participating in the standard plan as necessary in order to ensure that all costs associated with the identified activities are covered.

(3) The authority may require financial assurances or performance bonds for manufacturers participating in the standard plan, including but not limited to new entrants and white box manufacturers, when determining equitable methods for apportioning costs to ensure that the long-term costs for collecting, transporting, and recycling of a covered electronic product are borne by the appropriate manufacturer in the event that the manufacturer ceases to participate in the program.

(4) Nothing in this section authorizes the authority to assess fees or levy taxes directly on the sale or possession of electronic products.

(5) If a manufacturer has not met its financial obligations as determined by the authority, the authority must notify ecology that the manufacturer is not participating in the standard plan (see WAC 173-900-350).

(6) The authority must submit its plan for assessing charges and apportioning cost on manufacturers as part of the standard plan (see Part III, WAC 173-900-320).

(7) **Appeals:** Any manufacturer participating in the standard plan may appeal an assessment of charges or apportionment of cost as collected by the authority.

(a) The manufacturer must pay their charges or apportionment to the authority and submit a written petition to the director of the department of ecology within fourteen calendar days of receipt of notification of charges or apportionment. The written petition must include proof that:

(i) The authority's assessments or apportionment of costs were an arbitrary administrative decision;

(ii) An abuse of administrative discretions is proven; or

(iii) It is not an equitable assessment of apportionment of costs.

(b) Within thirty calendar days of receipt of the written petition, the director or the director's designee will review the appeal.

(c) The director will reverse any assessments of charges or apportionment of costs if the appeal is determined to be correct.

(d) If the director reverses an assessment of charges, the authority must:

(i) Redetermine the assessment or apportionment of costs and submit a plan revision as described in WAC 173-900-335, CEP recycling plan update; and

(ii) Once the revision is approved by ecology, send refunds or assess additional charges to standard plan participants per the revision.

(8) **Arbitration:** Disputes regarding the final decision by the director or the director's designee may be challenged through arbitration.

(a) The director shall appoint one member to serve on the arbitration panel.

(b) The challenging party shall appoint one member to serve on the arbitration panel.

(c) These two members shall choose a third person to serve. If the two persons cannot agree on a third person, the presiding judge of the Thurston county superior court shall choose a third person.

(d) The decision of the arbitration panel shall be final and binding, subject to review by the superior court solely upon the question of whether the decision of the panel was arbitrary or capricious.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 173-900-900 Return share sampling.
- WAC 173-900-910 Calculating return share.
- WAC 173-900-920 Use and publication of CEP return shares.

WSR 16-06-108
PERMANENT RULES
BUILDING CODE COUNCIL

[Filed March 1, 2016, 6:05 p.m., effective July 1, 2016]

Effective Date of Rule: July 1, 2016.

Purpose: The purpose of this filing is to make a correction to the filing due to a clerical error found in new Section 312.

Citation of Existing Rules Affected by this Order: Amending chapter 51-50 WAC.

Statutory Authority for Adoption: RCW 19.27.031.

Other Authority: RCW 19.27.074.

Adopted under notice filed as WSR 15-16-107 on August 4, 2015.

Changes Other than Editing from Proposed to Adopted Version: Only minor modifications re: Clerical error as noted above.

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

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

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

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

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

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

Date Adopted: November 13, 2015.

David F. Kokot
 Chair

NEW SECTION

WAC 51-50-0312 Section 312—Utility and miscellaneous Group U. 312.1 General. Buildings and structures of an accessory character and miscellaneous structures not classified in any specific occupancy shall be constructed, equipped and maintained to conform to the requirements of this code commensurate with the fire and life hazard incidental to their occupancy. Group U shall include, but not be limited to, the following:

- Agricultural buildings
- Aircraft hangers, accessory to a one- or two-family residence (see Section 412.5)
- Barns
- Carports
- Fences more than 6 feet (1829 mm) in height
- Grain silos, accessory to a residential occupancy
- Greenhouses and other structures used for cultivation, protection or maintenance of plants
- Livestock shelters
- Private garages
- Retaining walls
- Sheds
- Stables
- Tanks
- Towers

WSR 16-06-109
PERMANENT RULES
HEALTH CARE AUTHORITY

(Washington Apple Health)

[Filed March 2, 2016, 8:14 a.m., effective April 2, 2016]

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

Purpose: The agency is striking the definition for "Medical assistance administration," adding definitions for "Medicaid agency" and ["Medically needy income level,["] and making other changes to improve clarity.

Citation of Existing Rules Affected by this Order: Amending WAC 182-500-0070.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 16-01-178 on December 22, 2015.

Changes Other than Editing from Proposed to Adopted Version: "**Medicaid**" means the federal medical aid program under Title XIX of the Social Security Act that provides health care to eligible ~~persons~~ people.

"**Medical assistance**" is the term the agency and its predecessors use to mean all federal or state-funded health care programs, or both, administered by the agency or its designees. Medical assistance programs are referred to as Washington apple health (~~WAH~~).

"**Medical care services (MCS)**" means the limited scope health care program financed by state funds for clients who are eligible for the aged, blind, or disabled (ABD) cash assistance (see WAC 388-400-0060) or the housing and essential needs (HEN) referral program (see WAC 388-500-0065) and not eligible for other full-scope WAH programs due to their citizenship or immigration status.

"**Medical services card**" or "services card" means the card the agency issues at the initial approval of a person's ~~WAH Washington apple health~~ benefit. The card identifies the person's name and medical services identification number but is not proof of ~~WAH~~ eligibility. The card may be replaced upon request if it is lost or stolen, but is not required to access health care through ~~WAH~~ Washington apple health.

"**Medically needy (MN)**" or "**medically needy program (MNP)**" means the state and federally funded health care program available to specific groups of people who would be eligible as categorically needy (CN), except their monthly income is above the CN standard. Some long-term care clients with income or resources above the CN standard may also qualify for MN.

"**Medicare**" ~~means~~ is the ~~medical aid~~ federal government health insurance program under Titles II and XVIII of the Social Security Act. For additional information, see www.Medicare.gov.

"**Medicare assignment**" means the process by which a provider agrees to provide services to a medicare beneficiary ~~client~~ and accept medicare's payment for the services.

"**Medicare cost-sharing**" means out-of-pocket medical expenses related to services provided by medicare. For ~~WAH~~ clients enrolled in medicare, cost-sharing may include Part A and Part B premiums, co-insurance, deductibles, and copayments for medicare services. See chapter 182-517 WAC.

"**Modified adjusted gross income (MAGI)**" means the adjusted gross income as determined by the Internal Revenue Service under the Internal Revenue Code of 1986 (IRC) increased by:

- (1) Any amount excluded ... ;
- (2) Any amount of interest ... ; and
- (3) Any amount of Title II Social Security income or Tier 1 railroad retirement benefits excluded from gross income under 26 U.S.C. Sec. 86. See chapter 182-509 WAC for additional rules regarding MAGI.

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

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

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

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

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

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

Date Adopted: March 2, 2016.

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 14-01-021, filed 12/9/13, effective 1/9/14)

WAC 182-500-0070 Medical assistance definitions—
M. "Medicaid" ((is)) means the federal medical aid program under Title XIX of the Social Security Act ((under which)) that provides health care ((~~is provided~~)) to eligible ((~~persons~~)) people.

"**Medicaid agency**" means the state agency that administers the medicaid program. The Washington state health care authority (HCA) is the state's medicaid agency.

"**Medical assistance**" is the term the agency and its predecessors ((~~used prior to the implementation of the Affordable Care Act in Washington state~~)) use to mean all federal ((~~and/or~~)) or state-funded health care programs, or both, administered by the agency or its ((~~designee that are now known~~)) designees. Medical assistance programs are referred to as Washington apple health.

((~~"Medical assistance administration (MAA)" is the former organization within the department of social and health services authorized to administer the federally funded and/or state-funded health care programs that are now administered by the agency, formerly the medicaid purchasing administration (MPA), of the health and recovery services administration (HRSA).~~))

"**Medical care services (MCS)**" means the limited scope health care program financed by state funds for clients ((~~who meet the incapacity criteria defined in chapter 182-508 WAC or~~)) who are eligible for the ((~~Alcohol and Drug Addiction Treatment and Support Act (ADATSA) program~~)) aged, blind, or disabled (ABD) cash assistance (see WAC 388-400-0060) or the housing and essential needs (HEN) referral program (see WAC 388-400-0065) and not eligible for other full-scope programs due to their citizenship or immigration status.

"**Medical consultant**" means a physician employed by or contracted ((~~by~~)) with the agency or the agency's designee.

"**Medical facility**" means a medical institution or clinic that provides health care services.

"**Medical institution**" See "institution" in WAC 182-500-0050.

"**Medical services card**" or "**services card**" means the card ((~~issued by~~)) the agency issues at the initial approval of

a person's Washington apple health ~~((WAH))~~ benefit. The card identifies the person's name and medical services identification number ~~((#))~~ but is not proof of eligibility ~~((for WAH))~~. The card may be replaced upon request if it is lost or stolen, but is not required to access health care through ~~((WAH))~~ Washington apple health.

"**Medically necessary**" is a term for describing requested service which is reasonably calculated to prevent, diagnose, correct, cure, alleviate or prevent worsening of conditions in the client that endanger life, or cause suffering or pain, or result in an illness or infirmity, or threaten to cause or aggravate a handicap, or cause physical deformity or mal-function. There is no other equally effective, more conservative or substantially less costly course of treatment available or suitable for the client requesting the service. For the purposes of this section, "course of treatment" may include mere observation or, where appropriate, no medical treatment at all.

"**Medically needy (MN)**" or "**medically needy program (MNP)**" ~~((is))~~ means the state ~~((-))~~ and federally funded health care program available to specific groups of ~~((persons))~~ people who would be eligible as categorically needy (CN), except their monthly income is above the CN standard. Some long-term care clients with income ~~((and/or))~~ or resources above the CN standard may also qualify for MN.

"**Medically needy income level (MNIL)**" means the standard the agency uses to determine eligibility under the medically needy program. See WAC 182-519-0050.

"**Medicare**" is the federal government health insurance program ~~((for certain aged or disabled persons))~~ under Titles II and XVIII of the Social Security Act. ~~((Medicare has four parts:~~

(1) "**Part A**" ~~Covers medicare inpatient hospital services, post-hospital skilled nursing facility care, home health services, and hospice care.~~

(2) "**Part B**" ~~The supplementary medical insurance benefit (SMIB) that covers medicare doctors' services, outpatient hospital care, outpatient physical therapy and speech pathology services, home health care, and other health services and supplies not covered under Part A of medicare.~~

(3) "**Part C**" ~~Covers medicare benefits for clients enrolled in a medicare advantage plan.~~

(4) "**Part D**" ~~The medicare prescription drug insurance benefit.)~~ For additional information, see www.Medicare.gov.

"**Medicare assignment**" means the process by which a provider agrees to provide services to a medicare beneficiary and accept medicare's payment for the services.

"**Medicare cost-sharing**" means out-of-pocket medical expenses related to services provided by medicare. For ~~((medical assistance))~~ clients ~~((who are))~~ enrolled in medicare, cost-sharing may include Part A and Part B premiums, co-insurance, deductibles, and copayments for medicare services. See chapter 182-517 WAC ~~((for more information))~~.

"**Minimum essential coverage**" means coverage ~~((defined in Section 5000A(f) of Subtitle D of the Internal Revenue Code of 1986, as added by Section 1401 of the Affordable Care Act))~~ under 26 U.S.C. Sec. 5000A(f).

"**Modified adjusted gross income (MAGI)**" means the adjusted gross income ~~((#))~~ as determined by the Internal Revenue

Service under the Internal Revenue Code of 1986 (IRC) ~~((#))~~ increased by:

(1) Any amount excluded from gross income under ~~((Section 911 of the IRC))~~ 26 U.S.C. Sec. 911;

(2) Any amount of interest received or accrued by the ~~((taxpayer))~~ client during the taxable year which is exempt from tax; and

(3) Any amount of Title II Social Security income or Tier 1 railroad retirement ~~((income which is))~~ benefits excluded from gross income under ~~((Section 86 of the IRC. See WAC 182-509-0300 through 182-509-0375 for additional rules regarding MAGI))~~ 26 U.S.C. Sec. 86. See chapter 182-509 WAC for additional rules regarding MAGI.

WSR 16-06-124

PERMANENT RULES SUPERINTENDENT OF PUBLIC INSTRUCTION

[Filed March 2, 2016, 10:15 a.m., effective April 2, 2016]

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

Purpose: The revision to WAC 392-121-124 Full-time equivalent enrollment for work based learning, would allow work based learning provided by a state-approved skill center program to be claimed for enhanced skill center vocational funding.

Skill centers providing work based learning currently cannot claim students who are enrolled in work based learning for state-funded enhanced skill center vocational funding. This revision would allow work based learning enrollment to be claimed for this enhanced funding. Additionally, this change would allow the host district of the skill center to claim nonresident students who reside in a district that is part of the skill center cooperative without having to complete an interdistrict agreement for each nonresident student.

Citation of Existing Rules Affected by this Order: Amending WAC 392-121-124.

Statutory Authority for Adoption: RCW 28A.150.305, 28A.150.290.

Adopted under notice filed as WSR 16-03-091 on January 20, 2016.

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

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

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

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

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

Date Adopted: February 29, 2016.

Randy Dorn
Superintendent of
Public Instruction

AMENDATORY SECTION (Amending WSR 15-18-078, filed 8/28/15, effective 9/28/15)

WAC 392-121-124 Full-time equivalent enrollment for work based learning. For work based learning provided pursuant to WAC 392-410-315 or by charter schools, a student's full-time equivalent shall be determined as follows:

(1) For cooperative work based learning experience, in accordance with WAC 392-410-315 (1)(g), divide the student's hours of work experience for the month by two hundred; for example: Forty hours of cooperative work experience equals two tenths of a full-time equivalent ($40 \div 200 = 0.20$). For instructional work based learning experience, in accordance with WAC 392-410-315 (1)(f) and 296-125-043(4), divide the student's enrolled hours of work experience for the month by one hundred; for example: Twenty hours of instructional work experience equals two tenths of a full-time equivalent ($20 \div 100 = 0.20$). Enrollment exclusions in WAC 392-121-108 apply to instructional work based learning enrolled hours.

(2) Estimated or scheduled hours of cooperative work based learning experience may be used in determining a student's full-time equivalent on an enrollment count date: Provided, That the combined monthly hours reported for the school year shall not exceed the student's actual hours of cooperative work based learning experience documented on the student's work records and maintained by the school district or charter school for audit purposes.

(3) Work based learning provided as part of a state-approved vocational education program qualifies for enhanced vocational funding and may be included in determining a student's vocational full-time equivalent enrollment.

(4) Work based learning provided as part of a state-approved skill center program qualifies for enhanced skill center vocational funding and may be included in determining a student's skill center vocational full-time equivalent enrollment.

(5) No more than three hundred sixty hours of cooperative work based learning may be claimed for funding for each credit a student pursues as reported on the student's transcript. No more than one hundred eighty hours of instructional work based learning may be claimed for funding for each credit a student pursues as reported on the student's transcript.

~~((5))~~ (6) Funding may be claimed only for work based learning hours that occur after the work based learning plan, work based agreement, program orientation and new employee orientation, as defined in WAC 392-410-315, are completed.