

**WSR 16-17-008
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 16-201—Filed August 4, 2016, 1:26 p.m., effective September 4, 2016]

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

Purpose: Recreational salmon fishing rules based on North of Falcon recommendations change from year to year to reflect current resource availability and to achieve conservation goals. Amendments to Puget Sound recreational salmon fishing rules are needed to implement the agreed-upon changes.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-124; and amending WAC 220-55-220, 220-310-190, 220-56-195, 232-28-621, and 220-56-180.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047.

Adopted under notice filed as WSR 16-13-142 on June 22, 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Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 5, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: August 2, 2016.

J. W. Unsworth
Director

AMENDATORY SECTION (Amending WSR 16-06-073 [16-14-038], filed 2/26/16 [6/28/16], effective 7/1/16 [7/29/16])

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
Carrie Blake Pond	Clallam

Water Body	County	
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.
Packwood Lake	Lewis	

Water Body	County		River	County	Section
Scanewa Lake	Lewis	Cowlitz Falls Reservoir.	Chehalis	Grays Harbor	From Highway 101 Bridge in Aberdeen to South Elma Bridge (Wakefield Road): ((July)) <u>August</u> 1 through November 30.
Walupt Lake	Lewis				
Willame Lake	Lewis				
Cady Lake	Mason				
Cushman Reservoir	Mason		Columbia		
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.			From Highway 395 Bridge at Pasco to Old Hanford townsite wooden power-line towers: Year-round, except for sturgeon.
Northern State Hospital Pond	Skagit				From wooden powerline towers to Vernita Bridge: February 1 through October 22, except for sturgeon.
Vogler Lake	Skagit				From Vernita Bridge to Priest Rapids Dam: Year-round, except for sturgeon.
Drano Lake	Skamania	January 1 through April 30 and July 1 through September 30.			From Priest Rapids Dam to Wanapum Dam: July 1 through August 31.
Swift Reservoir	Skamania	From dam to Eagle Cliff Bridge.			From Wanapum Dam to Wells Dam: July 1 through August 31.
Fortson Mill Pond #2	Snohomish				From Wells Dam to Highway 173 Bridge at Brewster: July 16 through August 31.
Jennings Park Pond	Snohomish				From Highway 173 Bridge at Brewster to Chief Joseph Dam: July 1 through August 31.
Monte Cristo Lake	Snohomish				
North Gissburg Pond	Snohomish				
Spada Lake	Snohomish				
Bear Lake	Spokane		Cowlitz	Lewis	Lexington Bridge Drive in Kelso upstream to the barrier dam.
North Silver Lake	Spokane				
Lucky Duck Pond	Stevens		Lewis	Clark	From railroad bridge near Kuhnns Road to mouth of East Fork Lewis.
Long's Pond	Thurston				
Munn Lake	Thurston				
Jefferson Park Pond	Walla Walla		North Fork Lewis	Clark/Cowlitz	Mouth to Johnson Creek.
Lions Park Pond	Walla Walla	College Place.	Naselle	Pacific/Wahkiakum	From Highway 101 Bridge to Highway 401: August 1 through January 31.
Diablo Lake	Whatcom				
Gorge Lake	Whatcom				
Lake Whatcom	Whatcom		Okanogan	Okanogan	<u>From the mouth to Highway 97 Bridge immediately upstream of the mouth:</u> July 1 through ((October 15)) <u>August 31.</u>
Ross Lake	Whatcom				
Squalicum Lake	Whatcom				
Garfield Juvenile Pond	Whitman				
Clear Lake	Yakima		Pend Oreille	Pend Oreille	
Leech Lake	Yakima	White Pass area.	Palouse	Whitman	Mouth to base of Palouse Falls: June 16 through August 31.
Mud Lake	Yakima				
Myron Lake	Yakima				
Sarge Hubbard Park Pond	Yakima		Spokane	Spokane and Stevens	Lower Spokane River from mouth (SR 25 bridge) to 400' below Little Falls Dam.
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
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.) <u>When permissible in WAC 232-28-620.</u>
Port Susan and Port Gardner	Tulalip Terminal Area: May 1 through September 30.
Seattle/Bremerton Area	Sinclair Inlet: July 1 through September 30.
<u>Hood Canal</u>	<u>12: South of Ayock only, excluding Hoodspout Hatchery zone: July 1 through October 31.</u>
South Puget Sound	13.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-56-124 Seasons and areas—Hoodspout Hatchery.

AMENDATORY SECTION (Amending WSR 15-13-081, filed 6/12/15, effective 7/13/15)

WAC 220-56-180 Salmon statewide rules. (1) In fresh water and in Marine Areas 2-1 and 2-2 east of the Buoy 13 line:

- (a) Adult salmon are defined as:
 - (i) Chinook over 24 inches in length;
 - (ii) Coho over 20 inches in length;
 - (iii) Pink, chum or sockeye over 12 inches in length; and
 - (iv) Atlantic salmon of any size.
- (b) In these waters the minimum size for salmon is 12 inches, except no minimum size for Atlantic salmon.

(2) In Marine Areas 1 through 4, in Area 2-1 from the opening date of adjacent ocean waters through August 15, and in Area 2-2 west of the Buoy 13 line, Chinook salmon

must be not less than 24 inches in length, coho salmon must be not less than 16 inches, but there is no minimum size on other salmon.

(3) In Marine Areas 5 through 13, Chinook salmon must be not less than 22 inches in length, except in waters listed in this subsection, but there is no minimum size for other salmon.

(a) Marine Area 12 south of Ayock from July 1 through September 30: Chinook salmon must be not less than 20 inches in length.

(b) Marine Area 12 Hoodspout Hatchery Zone from July 1 through December 30: No minimum size for Chinook.

(4) The salmon possession limit shall not exceed the equivalent of two daily limits in fresh form. An additional 40 pounds of salmon may be possessed in frozen or processed form.

(5) In all areas where the daily limit allows adult salmon to be taken, it is unlawful to continue to fish for salmon after the adult portion of the daily limit has been retained.

(6) Where landlocked salmon rules apply, no sport catch record card is required for salmon, the season, daily limit, and size and gear restriction rules for salmon are the same as trout rules. The angler's combined catch of landlocked salmon and trout applies toward the trout limit.

AMENDATORY SECTION (Amending WSR 14-16-027, filed 7/25/14, effective 8/25/14)

WAC 220-56-195 Closed areas—Saltwater salmon angling. The following areas are closed to salmon angling during the times indicated:

(1) Bellingham Bay: Those waters of Bellingham, Samish, and Padilla Bays southerly of a line projected from the most westerly point of Gooseberry Point to Sandy Point, easterly of a line from Sandy Point to Point Migley, thence along the eastern shoreline of Lummi Island to Carter Point, thence to the most northerly tip of Vendovi Island, thence to Clark Point on Guemes Island, thence following the shoreline to Yellow Bluff on the southwest corner of Guemes Island, thence to Yellow Bluff Reef range marker, thence to the ferry terminal dock east of Shannon Point and north of the Burlington Railroad Bridges at the north end of Swinomish Slough: Closed to salmon angling April 1 through April 30 and July 1 through August 15.

(2) Carr Inlet: Those waters of Carr Inlet within 1,000 feet of the outer oyster stakes at the mouth of Minter Creek: Closed to salmon angling April 16 through September 30.

(3) Dungeness Bay: Those waters westerly of a line from Dungeness Spit Light to the number 2 red Buoy, and then to the Port Williams boat ramp: Closed to salmon angling May 1 through September 30 and November 1 through April 30.

(4) Samish Bay: Those waters southerly of a line projected true east from Fish Point: Closed to salmon angling April 1 through April 30 and July 1 through October 15.

(5) Columbia River Mouth Control Zone 1: Washington waters within Control Zone 1, which Control Zone is described as an area at the Columbia River mouth bounded on the west by a line running northeast/southwest between the red lighted Buoy #4 (46°13'35" N/124°06'50" W) and the green lighted Buoy #7 (46°15'09" N/124°06'16" W); on the

east by the Buoy #10 line, which bears north/south at 357° true from the south jetty at 46°14'00" N/124°03'07" W to its intersection with the north jetty; on the north by a line running northeast/southwest between the green lighted Buoy #7 to the tip of the north jetty (46°14'48" N/124°05'20" W), and then along the north jetty to the point of intersection with the Buoy #10 line; and on the south by a line running northeast/southwest between the red lighted Buoy #4 and the tip of the south jetty (46°14'03" N/124°04'05" W), and then along the south jetty to the point of intersection with the Buoy #10 line: Closed to salmon angling at all times, except open to fishing from the north jetty when adjacent waters north of the Control Zone are open to salmon angling, or when the Buoy 10 fishery is open.

(6) Commencement Bay: Those waters east of a line projected from the Sperry Ocean Dock to landfall below the Cliff House Restaurant on the north shore of Commencement Bay: Closed to fishing for salmon April 1 through April 30 and June 1 through July 31.

(7) Southern Rosario Strait and the eastern Strait of Juan de Fuca: Waters of Area 7 in Rosario Strait and the eastern portion of the Strait of Juan de Fuca southerly of a line running true south from the westernmost point on Fidalgo Head to Burrows Island, then westerly and southerly along the shore of Burrows Island to the Burrows Island Lighthouse, then to Bird Rocks, then westerly from Bird Rocks to the southernmost point on Decatur Island, then across Lopez Pass to Lopez Island and following the shore of Lopez Island southerly and westerly to Iceberg Point, then from Iceberg Point to Cattle Point, then south-southwest to the Salmon Bank Buoy, and then true south from the Salmon Bank Buoy to the Area 7 boundary: Closed to fishing for salmon (~~July~~) August 1 through September 30.

(8) Kydaka Point - Waters south of a line from Kydaka Point to Shipwreck Point - Closed to fishing for salmon May 31 through October 31.

(9) Port Angeles Harbor - Waters westerly of a line from the tip of Ediz Hook to the I.T.T. Rayonier Dock: Closed to fishing for salmon from July 1 through October 31.

(10) Violation of this section is an infraction, punishable under RCW 77.15.160, unless the person has harvested salmon. If the person has harvested salmon, the violation is punishable under RCW 77.15.380, Unlawful recreational fishing in the second degree—Penalty, unless the salmon are taken in the amounts or manner to constitute a violation of RCW 77.15.370, Unlawful recreational fishing in the first degree—Penalty.

AMENDATORY SECTION (Amending WSR 16-06-073 [16-14-038], filed 2/26/16 [6/28/16], effective 7/1/16 [7/29/16])

WAC 220-310-190 Freshwater exceptions to statewide 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):** Open the fourth Saturday in April through October 31.

(5) **Alexander Lake (Kitsap County):** Closed.

(6) **All Creek (Skagit County) (Suittle River tributary):**

(a) Open the first Saturday in June through (~~October 31~~) September 15.

(b) Selective gear rules apply.

(7) **Alma Creek (Skagit County):**

(a) Open the first Saturday in June through (~~October 31~~) September 15.

(b) Selective gear rules apply.

(c) Release all fish except anglers may retain up to two hatchery steelhead.

(8) **American Lake (Pierce County):** Chumming is permissible.

(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~~) September 15.

(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) Kokanee: Minimum length 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.~~

~~(e)) 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) **Beaver Creek (Pierce County) (South Prairie Creek tributary):** Open the first Saturday in June through October 31.

(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.

(20) **Beaver Lake (King County):** Trout: No more than 2 over 15 inches in length.

(21) **Benson Lake (Mason County):** Open the fourth Saturday in April through October 31.

(22) **Bertrand Creek (Whatcom County) (Nooksack River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(23) **Big Bear Creek (tributary of Sammamish River) (Snohomish/King counties):** Open the first Saturday in June through August 31 to juvenile anglers only.

(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.

(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.

(26) **Big Creek (Skagit County) (Suittle River tributary):**

(a) From TeePee Falls to the source: Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(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.

(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.

(vi) Closed waters from the Highway 101 Bridge to the electric weir at Quilcene National Fish Hatchery.

(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.

(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.

(31) **Bingham Creek (Mason County) (Satsop River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(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.

(33) **Black Lake (Thurston County):** Crappie: Limit 10; minimum length 9 inches.

(34) **Black Lake Ditch (Thurston County):** From the confluence with Percival Creek upstream to Black Lake.

(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 before the first Saturday in June: Catch and release only.

(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.

(36) **Blackman's Lake (Snohomish County):** Trout limit 5; no more than 2 over 15 inches in length.

(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.

(38) **Boise Creek (King County) (White River tributary):** Open the first Saturday in June through October 31 upstream of the Highway 410 crossing.

(39) **Bosworth Lake (Snohomish County):** Open the fourth Saturday in April through October 31.

(40) **Boulder Creek (Skagit County) (Cascade River tributary):**

(a) Open the first Saturday in June through ~~((October 31))~~ September 15.

(b) Selective gear rules apply.

(c) Catch and release only.

(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))~~ August 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.

(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.

(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.

(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.

(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.

(46) **Buck Creek (Skagit County) (Suiattle River tributary):**

(a) Open the first Saturday in June through ~~((October 31))~~ September 15 from the upstream boundary of Buck Creek campground.

(b) Selective gear rules apply.

(47) **Buck Lake (Kitsap County):** Open the fourth Saturday in April through October 31.

(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.

(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.

(50) **Cain Lake (Whatcom County):** Open the fourth Saturday in April through October 31.

(51) **California Creek (Whatcom County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(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.

(53) **Camp Creek (Snohomish County) (Whitechuck River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(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.

(55) **Campbell Lake (Skagit County):**

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.

(57) **Canyon Creek (Snohomish County) (S.F. Stillaguamish River):**

(a) Open the first Saturday in June through August 31 and November 1 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.

(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.

(59) **Capitol Lake (Thurston County):** Closed.

(60) Carbon River (Pierce County):

(a) From the mouth to Voight Creek:

(i) Open September 1 through September 30 and December 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))~~ September 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 ~~((+))~~ 10 through ~~((November 30))~~ September 24.

(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 coho, chum, and wild adult Chinook salmon.

(b) From Voight Creek to the Highway 162 Bridge:

(i) Open from ~~((November))~~ December 1 through January 15.

(ii) Selective gear rules apply.

(iii) Release all fish except anglers may retain up to 2 hatchery steelhead.

(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) Salmon: Landlocked salmon rules apply.

(62) **Carson Lake (Mason County):** Open the fourth Saturday in April through October 31.

(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 eastern brook trout.

(64) **Cascade Lake (San Juan County):** Open the fourth Saturday in April through October 31.

(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))~~ December 1 through 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. 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:

~~((H))~~ (B) Up to 4 hatchery Chinook may be retained; only 2 hatchery Chinook may be adults.

~~((H))~~ (C) Release all other salmon.

~~((B))~~ Open September 16 through November 30:

~~((H))~~ Up to 4 coho may be retained.

~~((H))~~ Release all other salmon.

(b) From the Rockport-Cascade Road Bridge upstream:

(i) Open the first Saturday in June through September 15 and December 1 through January 31.

(ii) Selective gear rules apply.

(iii) Release all fish except anglers may retain up to 2 hatchery steelhead.

(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.

(67) **Cavanaugh Lake (Skagit County):** Chumming is permissible.

(68) **Cayada Creek (Pierce County) (Carbon River tributary):** Open the first Saturday in June through ~~((October 31))~~ September 30.

(69) **Cedar Creek (Mason County):** Open the Saturday before Memorial Day through October 31.

(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.

(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) Night closure in effect and anti-snagging rule applies.

(iv) Trout: Catch and release.

(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.

(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.

(74) **Channel Creek (Skagit County) (Baker River tributary):** Open the first Saturday in June through August 31.

(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.

(b) Waters adjacent to the water filtration plant, from the inlet to the beaver pond (Grass Lake) below the water filtration 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.

(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.

(78) **Chilliwack River (Whatcom County):** Open the first Saturday in June through October 31, including all tributaries and their tributaries.

(79) **Church Creek (Mason County):** Open the Saturday before Memorial Day through October 31 upstream of the bridge on U.S. Forest Service Road #2361.

(80) **Clara Lake (also known as "Don Lake") (Mason County):** Open the fourth Saturday in April through October 31.

(81) **Clarks Creek (Pierce County):**

(a) Open the first Saturday in June through August ~~((15))~~ 31 from the mouth to 12th Avenue S.W.

(b) Selective gear rules apply.

(c) Trout: Limit 2; minimum length 14 inches.

(82) **Clear Creek (Snohomish County) (Sauk River tributary):** Open the Saturday before Memorial Day through October 31 ~~((from))~~ above Asbestos Creek Falls.

(83) **Clear Lake (Pierce County):**

(a) Open the fourth Saturday in April through October 31.

(b) Chumming is permissible.

(c) Kokanee: Limit 10; no size restrictions.

(d) Salmon: Landlocked salmon rules apply.

(84) **Clear Lake (Thurston County):** Open the fourth Saturday in April through October 31.

(85) **Clearwater River (Pierce County):**

(a) Open July 1 through October 31.

(b) Selective gear rules apply.

(c) Trout: Minimum length 14 inches.

(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.

(87) **Coal Creek (tributary of Lake Washington) (King County):** Open the first Saturday in June through August 31 to juvenile anglers only.

(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.

(89) **Copper Creek (Snohomish County) (Clear Creek tributary, a tributary of Sauk River):** Open the Saturday before Memorial Day through October 31.

(90) **Cottage Lake (King County):** Open the fourth Saturday in April through October 31.

(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.

(92) **County Line Ponds (Skagit County):** Closed.

(93) **Crabapple Lake (Snohomish County):** Open the fourth Saturday in April through October 31.

(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.

(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.

(96) **Crescent Lake (Pierce County):** Open the fourth Saturday in April through October 31.

(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.

(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 and wild coho.

(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.

(100) **Decker Creek (Mason County) (Satsop River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(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.

(102) **Deer Lake (Island County):** Open the fourth Saturday in April through October 31.

(103) **Deer Lake (Mason County):** Open the fourth Saturday in April through October 31.

(104) **Dempsey Creek (Thurston County) (Black River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(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.

(106) **Devereaux Lake (Mason County):** Open the fourth Saturday in April through October 31.

(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 only.

(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.

(108) **Diobsud Creek (Skagit County):**

(a) Open the first Saturday in June through (~~October 31~~) September 15.

(b) Selective gear rules apply.

(c) Release all fish except anglers may retain up to 2 hatchery steelhead.

(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.

(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.

(111) **Downey Creek (Snohomish County) (Suittle River tributary):**

(a) Open the first Saturday in June through (~~October 31~~) September 15.

(b) Selective gear rules apply.

(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.

(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.

(114) **Eaton Creek (Thurston County) (Lake St. Clair tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(115) **Echo Lake (Snohomish County):** Open the fourth Saturday in April through October 31.

(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.

(117) **Erie Lake (Skagit County):** Open the fourth Saturday in April through October 31.

(118) **Evans Creek (Pierce County) (Carbon River tributary):** Open the first Saturday in June through (~~October 31~~) September 30 from Carbon River Fairfax Road upstream.

(119) **Falls Creek (Snohomish County) (Sauk River tributary):** From the falls located 0.4 mile upstream from the mouth to the headwaters: Open the Saturday before Memorial Day through October 31.

(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.

(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.

(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~~) September 15 from the mouth to the I-5 Bridge.

(b) Trout: Minimum length 14 inches.

(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.

(125) **Fiske Creek (Pierce County) (Puyallup River tributary):** Open upstream from Fiske Road from the first Saturday in June through August 31 and October 16 through October 31.

(126) **Fortson Mill Pond #2 (Snohomish County):** Open the fourth Saturday in April through October 31 for juvenile anglers only.

(127) **Found Creek (Skagit County) (Cascade River tributary):**

(a) Open the first Saturday in June through (~~October 31~~) September 15.

(b) Selective gear rules apply.

(c) Catch and release only.

(128) **Fox Creek (Pierce County) (Puyallup River tributary):** Open upstream from Fiske Road East from the first Saturday in June through August 31 and October 16 through October 31.

(129) **Friday Creek (Whatcom County) (Samish River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(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.

(b) From the falls at river mile 0.8 upstream: Open the Saturday before Memorial Day through October 31.

(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.

(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.

(133) **Geneva Lake (King County):** Open the fourth Saturday in April through October 31.

(134) **Gissberg Pond, North (Snohomish County):** Open for juvenile anglers only.

(135) **Gissberg Ponds (Snohomish County):** Channel catfish limit 2; no minimum size.

(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.

(137) **Goodell Creek (Skagit County):**

(a) Open the first Saturday in June through (~~October 31~~) September 15.

(b) Selective gear rules apply.

(c) Release all fish except anglers may retain up to 2 hatchery steelhead.

(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.

(140) **Goss Lake (Island County):** Open the fourth Saturday in April through October 31.

(141) **Grade Creek (Snohomish County) (Suittale River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(142) **Granite Lakes (near Marblemount) (Skagit County):** Grayling: Catch and release only.

(143) **Grass Lake (Mason County):** Open the fourth Saturday in April through October 31.

(144) **Green (Duwamish) River (King County):**

(a) From the First Avenue South Bridge to (~~Tukwila International Boulevard/Old Highway 99~~) South 277th Bridge in Auburn:

(i) (~~September~~) November 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~~) November 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~~) November 1 through December 31.

- (II) ~~((Limit 6; no more than 3 adults may be retained. (III) Release Chinook.))~~ Daily limit 3 chum only.
- (b) From ~~((Tukwila International Boulevard/Old Highway 99 to the Interstate 405))~~ South 277th Bridge to Auburn-Black Diamond Road Bridge:
- (i) ~~((September))~~ November 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))~~ 31: It is unlawful to fish from any floating device.
- (iv) Open the first Saturday in June through ~~((July 31))~~ August 15 and ~~((September))~~ November 1 through January ~~((15))~~ 31; 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))~~ November 1 through December 31.
- (II) Limit ~~((6; only 3 adults may be retained. (III) Release Chinook.))~~ 3 chum only.
- (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) Limit 6; only 3 adults may be retained.~~
~~(II) Release Chinook.~~
- (f) ~~From the mouth of Cristy Creek at Flaming Geyser State Park))~~ Auburn-Black Diamond Road Bridge 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) Closed waters within 150 feet of the mouth of Keta (Crisp) Creek.
 (iii) August 1 through August 31 and November 1 through November 30:
 (A) Anti-snagging rule applies.
- (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 Cristy 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.~~

(B) Night closure in effect.

~~((iii))~~ (iv) Open the first Saturday in June through August 31 and November 1 through January 31: Trout minimum length 14 inches.

~~((iv))~~ (v) 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), limit 3 chum only.~~

~~((g))~~ (d) From Friday Creek upstream, including all tributaries and their tributaries: Open the Saturday before Memorial Day through October 31.

(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 August 31 and October 16 through October 31.

(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.

(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 Saturday before Memorial Day through October 31.

(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.

(149) **Hansen Creek (Skagit County):** Including all tributaries and their tributaries:

(a) Open the first Saturday in June through ~~((October 31))~~ September 15.

(b) Selective gear rules apply.

(150) **Harrison Slough (Skagit County):** Open the first Saturday in June through ~~((October 31))~~ September 15.

(151) **Hatchery Lake (Mason County):** Open the fourth Saturday in April through October 31.

(152) **Haven Lake (Mason County):** Open the fourth Saturday in April through October 31.

(153) **Heart Lake (near Anacortes) (Skagit County):** Open the fourth Saturday in April through October 31.

(154) **Heins Lake (Kitsap County):** Closed.

(155) **Hicks Lake (Thurston County):** Open the fourth Saturday in April through October 31.

(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):** Open the Saturday before Memorial Day through October 31.

(157) **Horseshoe Lake (Kitsap County):**

(a) Open the fourth Saturday in April through October 31.

(b) Salmon: Landlocked salmon rules apply.

(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.

(159) **Howard Lake (Snohomish County):** Open the fourth Saturday in April through October 31.

(160) **Howell Lake (Mason County):** Open the fourth Saturday in April through October 31.

(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.

(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.

(163) **Illabot Creek (Skagit County):**

(a) Open the first Saturday in June through ~~((October 31))~~ September 15.

(b) Selective gear rules apply.

(164) **Illahoe Creek (Kitsap County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Trout: Minimum size 14 inches.

(165) **Issaquah Creek (King County):** Open the first Saturday in June through August 31 for juvenile anglers only.

(166) **Jackman Creek (Skagit County):** 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.

(168) **Jefferson Creek (Mason County):** Open the Saturday before Memorial Day through October 31.

(169) **Jennings Park Pond (Snohomish County):** Open the fourth Saturday in April through October 31 for juvenile anglers only.

(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.

(171) **Johnson Creek (Thurston County) (Skookumchuck River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(172) **Johnson Creek (Whatcom County):** Open the first Saturday in June through October 31 from the Northern Pacific Railroad tracks to the Lawson Street footbridge in Sumas for juvenile anglers only.

(173) **Jones Creek (Skagit County):** 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))~~ September 15.

(b) Selective gear rules apply.

(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.

(176) **Kelsey Creek (tributary of Lake Washington) (King County):** Open the first Saturday in June through August 31 for juvenile anglers only.

(177) **Kendall Creek (Whatcom County) (N.F. Nooksack tributary):** ~~((a))~~ Open the Saturday before Memorial Day through October 31 above the hatchery grounds.

~~((b) Selective gear rules apply.)~~

(178) **Kennedy Creek (Mason County):**

(a) From the mouth to ~~((400 feet below the falls))~~ Highway 101 Bridge:

(i) Open the first Saturday in June through the last day in February.

(ii) October 1 through December 31:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(iii) Trout minimum length 14 inches.

(iv) Salmon:

(A) Open October 1 through November 30.

(B) Limit 6; no more than 2 adults may be retained.

(C) Release wild coho.

(b) From Highway 101 Bridge to 400 feet below the falls:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply ~~((January 1 through September 30))~~.

(iii) Trout: Catch and release only.

(iv) October 1 through ~~((December))~~ October 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))~~ (c) 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.

(179) **Kennedy Creek Pond (Thurston County):** Open the fourth Saturday in April through October 31.

(180) **Ki Lake (Snohomish County):** Open the fourth Saturday in April through October 31.

(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.

(182) **Kindy Creek (Skagit County) (Cascade River tributary):**

(a) Open the first Saturday in June through ~~((October 31))~~ September 15.

(b) Selective gear rules apply.

(c) Catch and release only.

(183) **King's Creek (Pierce County) (Puyallup River tributary):** Open the first Saturday in June through August 31 and October 16 through October 31.

(184) **Kings Lake Bog (King County):** Closed.

(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.

(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.

(187) **Ladder Creek (Skagit County):**

(a) Open the first Saturday in June through ~~((October 31))~~ September 15.

(b) Selective gear rules apply.

(c) Release all fish except anglers may retain up to 2 hatchery steelhead.

(188) **Langlois Lake (King County):** Open the fourth Saturday in April through October 31.

(189) **LeBar Creek (Mason County):** Open the Saturday before Memorial Day through October 31 from the falls at river mile one upstream.

(190) **Lena Creek (Mason County):** Open the Saturday before Memorial Day through October 31.

(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 Saturday before Memorial Day through October 31.

(192) **Lime Creek (Snohomish County) (Suittle River tributary):**

(a) Open the first Saturday in June through ~~((October 31))~~ September 15.

(b) Selective gear rules apply.

(193) **Limerick Lake (Mason County):** Open the fourth Saturday in April through October 31.

(194) **Little Bear Creek (tributary of Sammamish River) (Snohomish/King counties):** Open the first Saturday in June through August 31 for juvenile anglers only.

(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.

(196) Little Scandia Creek (Kitsap County):

- (a) Open the first Saturday in June through October 31.
- (b) Selective gear rules apply.

(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.

(198) Long's Pond (Thurston County):

- (a) Open for juvenile anglers only.
- (b) Trout: Limit 1; minimum length 18 inches.
- (c) Grass carp: No limit for anglers and bow and arrow fishing.

(198) Long's Pond (Thurston County):

- (a) Open for juvenile anglers only.
- (b) Trout: Limit 1; minimum length 18 inches.
- (c) Grass carp: No limit for anglers and bow and arrow fishing.

(199) Lyle Creek (King County) (White River tributary):

- (a) Open the first Saturday in June through August 31 and October 16 through October 31.

(200) Maggie Lake (Mason County):

- (a) Open the fourth Saturday in April through November 30.

(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.

(202) Maple Creek (Whatcom County) (N.F. Nooksack tributary) above Maple Falls:

- (a) Open the Saturday before Memorial Day through October 31.

(203) Marble Creek (Skagit County) (Cascade River tributary):

- (a) Open the first Saturday in June through (~~October 31~~) September 15.
- (b) Selective gear rules apply.
- (c) Catch and release only.

(204) Margaret Lake (King County):

- (a) Open the fourth Saturday in April through October 31.

(205) Marsh Creek (Snohomish County) (Sultan River tributary):

- (a) Open the Saturday before Memorial Day through October 31 above the falls, including tributaries and beaver ponds.

(206) Martha Lake (Snohomish County):

- (a) Open the fourth Saturday in April through October 31.

(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):

- (a) Open the first Saturday in June through August 31 for juvenile anglers only.

(209) McAllister Creek (Thurston County):

- (a) Open the first Saturday in June through (~~October 31~~) September 30 and November 16 through November 30.
- (b) Selective gear rules apply.
- (c) Trout: Minimum length 14 inches.
- (d) Salmon:

(i) Open July 1 through September 30 and November 16 through November 30.

- (ii) Limit 6; of which no more than 2 may be adults.

(iii) Release coho.**(210) McLane Creek (Thurston County):**

- (a) Open the first Saturday in June through October 31.
- (b) Selective gear rules apply.
- (c) Catch and release.
- (d) Night closure in effect.

(211) McLane Creek Ponds (Thurston County):

- (a) Open the fourth Saturday in April through October 31.

(212) McMurray Lake (Skagit County):

- (a) Open the fourth Saturday in April through October 31.
- (b) Landlocked salmon rules apply.

(213) Melbourne Lake (Mason County):

- (a) Open the fourth Saturday in April through October 31.

(214) Mercer Slough (tributary of Lake Washington) (King County):

- (a) Open the first Saturday in June through August 31 for juvenile anglers only.

(215) Milk Creek (Snohomish County) (Suittale River tributary):

- (a) Open the first Saturday in June through (~~October 31~~) September 15.
- (b) Selective gear rules apply.

(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.

(217) Mill Pond (Auburn) (King County):

- (a) 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.

(218) Mima Creek (Thurston County) (Black River tributary):

- (a) Open the first Saturday in June through October 31.
- (b) Selective gear rules apply.

(219) Minter Creek (Pierce/Kitsap counties):

- (a) From the mouth to the fishing boundary markers approximately 50 feet downstream of the hatchery rack:

- (a) Open for salmon November 1 through December 31.
- (b) Night closure in effect.
- (c) Limit 4 chum; release all other salmon.

(220) Mission Lake (Kitsap County):

- (a) Open the fourth Saturday in April through October 31.

(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.

(222) Mountain Lake (San Juan County):

- (a) It is unlawful to retain more than one trout over 18 inches in length.

(223) Mud Lake (Mason County):

- (a) Open the fourth Saturday in April through October 31.

(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.

(225) New Pond Creek (Pierce County) (South Prairie Creek tributary):

- (a) Open the first Saturday in June through October 31.

(226) **Newhalem Creek (Whatcom County):** Open the Saturday before Memorial Day through October 31 above the power facility.

(227) **Newhalem Ponds (Whatcom County):** Closed.

(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)) (ii) Night closure in effect.~~

~~((C)) (iii) Barbless hooks are required.~~

~~((iii)) (iv) Open July 1 through ((January 31:~~

~~((A) From July 1)) September 30 and November 16 through November 30: Trout minimum length 14 inches.~~

~~((B) From)) (v) Open December 1 through January 31: Catch and release.~~

~~((iv)) (vi) Salmon ((open July 1 through January 31:):~~

(A) In years ending in even numbers, from July 1 through ~~((October))~~ August 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 coho and 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 ~~((+))~~ 16 through January 31:

(I) Limit 6; only 2 adults may be retained.

(II) Release coho and wild Chinook.

(b) From Military Tank Crossing Bridge to 400 feet below La Grande Powerhouse:

(i) Open July 1 through ~~((October 31))~~ September 30.

(ii) Selective gear rules apply.

(iii) Release all fish except anglers may retain up to 2 hatchery steelhead.

~~((iv)) (c) From Alder Reservoir upstream including all tributaries to mainstem and reservoir:~~

~~((A)) (i) Open the Saturday before Memorial Day through October 31.~~

~~((B)) (ii) Selective gear rules apply.~~

~~((C)) (iii) Trout minimum length 14 inches.~~

~~((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))~~ September 15, including all tributaries and their tributaries.

(b) Selective gear rules apply.

(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.

(ii) Trout: Minimum length 14 inches.

(iv) Salmon:

(A) Open September 1 through December 31:

(I) Limit 2, plus 2 additional hatchery coho; release wild coho.

(II) Release wild Chinook September 1 through September 30.

(B) In odd-numbered years, 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:

~~((A) Limit 2, plus anglers may retain 2 additional hatchery coho.~~

(B) Release wild coho and wild Chinook.

(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 hatchery coho; release wild 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.

(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.

(c) The waters above the diversion dam, including all tributaries and their tributaries are open the Saturday before Memorial Day through October 31.

(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) Salmon open October 1 through December 31:

(A) Limit 2; plus anglers may retain 2 additional hatchery coho.

(B) Release chum and wild coho.

(C) In years ending in odd numbers, release pink salmon.

(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.

(234) North Creek (Snohomish/King counties) (tributary of Sammamish River): Open the first Saturday in June through August 31 for juvenile anglers only.

(235) North Lake (King County): Open the fourth Saturday in April through October 31.

(236) Northern State Hospital Pond (Skagit County): Open the fourth Saturday in April through October 31 for juvenile anglers only.

(237) Ohop Creek (Pierce County):

(a) Open July 1 through (~~October 31~~) September 30.

(b) Selective gear rules apply.

(c) Catch and release only.

(238) Ohop Lake (Pierce County): There are no size restrictions for kokanee.

(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.

(240) Old Fishing Hole Pond (Kent, King County): Open the fourth Saturday in April through October 31 for juvenile anglers only.

(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.

(242) Olson Creek (Skagit County):

(a) Open the first Saturday in June through (~~October 31~~) September 15.

(b) Selective gear rules apply.

(243) Osborne Lake (Mason County): Open the fourth Saturday in April through October 31.

(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.

(245) Outlet Creek (Mason County) (Satsop River tributary):

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(246) Owl Creek (Snohomish County) (Whitechuck River tributary):

(a) Open the first Saturday in June through (~~October 31~~) September 15.

(b) Selective gear rules apply.

(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.

(248) Panhandle Lake (Mason County): Open the fourth Saturday in April through October 31.

(249) Panther Lake (Kitsap/Mason counties): Open the fourth Saturday in April through October 31.

(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.

(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.

(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.

(253) Phillips Lake (Mason County): Open the fourth Saturday in April through October 31.

(254) Pilchuck Creek (Snohomish County):

(a) From the mouth to the Highway 9 Bridge:
(i) Open the first Saturday in June through August 31 and November 1 through January 31.

(ii) From the first Saturday in June through August 31 and November 1 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~~) August 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.

(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.

(256) Pine Creek (Mason County): Open the Saturday before Memorial Day through October 31.

(257) Pine Lake (King County): Open the fourth Saturday in April through October 31.

(258) Pine Lake (Mason County): Open the fourth Saturday in April through October 31.

(259) Pioneer Ponds (tributary to Stillaguamish River) (Snohomish County): Closed.

(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.

(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.

(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.

(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.

(264) Pugh Creek (Snohomish County) (Whitechuck River tributary):

(a) Open the first Saturday in June through ~~((October 31))~~ September 15.

(b) Selective gear rules apply.

(265) Puyallup River (Pierce County):

(a) From the ~~((mouth))~~ 11th Street Bridge to Freeman Road:

(i) Open for game fish ~~((and salmon))~~ August 10 through August 31 and October 16 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))~~ ~~((iii))~~ August 10 through August 31 and October 16 through November 30:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(C) Barbless hooks are required.

~~((iv))~~ ~~((v))~~ (iv) Trout: Minimum length 14 inches.

~~((vi))~~ ~~((v))~~ (v) 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.))~~ Open October 16 through December 31.

(II) Limit 2 chum only.

(b) From Freeman Road to the East Main Avenue Bridge:

(i) Open for game fish ~~((and salmon))~~ August ~~((+))~~ 10 through August 30 and October 16 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 ~~((+))~~ 10 through November 30:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(C) Barbless hooks are required.

~~((iv))~~ ~~((iii))~~ (iii) Trout: Minimum length 14 inches.

~~((v))~~ ~~((iv))~~ (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 also be retained.

(II) Release wild adult Chinook.

(B) In years ending in even numbers:

(I) Open October 16 through December 31.

(II) Limit ((6; no more than 2 adults may be retained.

~~((II) Release wild adult Chinook))~~ 2 chum only.

(c) From the East Main Avenue Bridge to Carbon River:

(i) Open for game fish ~~((and salmon))~~ August 1 through August 31 and October 16 through December 31.

(ii) August 1 through August 31 and October 16 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) Open October 16 through December 31.

(II) Limit ((6; no more than 2 adults may be retained.

~~((II) Release wild adult Chinook))~~ 2 chum only.

(d) From Carbon River upstream:

(i) Open ~~((September 1))~~ October 16 through January 15.

(ii) Selective gear rules apply.

(iii) Release all fish except anglers may retain up to 2 hatchery steelhead.

(266) Pyramid Creek (King County) upstream of Forest Service Road 7000: Open the first Saturday in June through October 31.

(267) **Racehorse Creek (Whatcom County) (N.F. Nooksack tributary) above the falls located 0.2 miles above the North Fork Road:** Open the Saturday before Memorial Day through October 31.

(268) **Raging River (King County):**

(a) From the mouth to the Highway 18 Bridge:

(i) Open the first Saturday in June through August 31 and November 1 through January 31.

(ii) Trout: Minimum length 14 inches.

(b) From Highway 18 Bridge upstream: Open the first Saturday in June through ~~((October))~~ August 31.

(269) **Rapjohn Lake (Pierce County):** Open the fourth Saturday in April through October 31.

(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) 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.

(272) **Red Creek (King County) (White River tributary):** Open the first Saturday in June through October 31.

(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.

(274) **Riley Lake (Snohomish County):** Open the fourth Saturday in April through October 31.

(275) **Roaring Creek (Whatcom County):** Open the Saturday before Memorial Day through October 31 upstream from the confluence with Deer Creek, including all tributaries.

(276) **Robbins Lake (Mason County):** Open the fourth Saturday in April through October 31.

(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.

(278) **Roesiger Lake (Snohomish County):** Crappie limit 10; minimum length 9 inches.

(279) **Rose Lake (Mason County):** Open the fourth Saturday in April through October 31.

(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 1; minimum length 16 inches.

(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.

(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.

(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.

(284) **Samish Lake (Whatcom County):** Cutthroat trout limit 2; minimum length 14 inches.

(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) 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.

(c) From the I-5 Bridge to the ~~((Hickson))~~ Old Highway 99 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))~~ August 30:

~~((A)))~~ (iii) Selective gear rules apply.

~~((B)))~~ (iv) Release all fish except mandatory hatchery steelhead retention.

(d) From the WDFW hatchery rack to Hickson Bridge upstream:

(i) Open the first Saturday in June through ~~((October 31))~~ November 30.

(ii) Selective gear rules apply.

(iii) Release all fish except mandatory hatchery steelhead retention.

(e) From Hickson Bridge upstream:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply.

(iii) Mandatory hatchery steelhead retention.

(286) **Sammamish Lake (King County):**

(a) Closed to fishing within 100 yards of the mouth of Issaquah Creek August 16 through November 30.

(b) Kokanee: Catch and release only.

(c) December 1 through June 30: Release all steelhead and rainbow trout over 20 inches in length.

(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.

(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))~~ Darrington Bridge:

(i) Open the first Saturday in June through September 15 and December 1 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 Darrington Bridge to the mouth of the White Chuck River, open the first Saturday in June through September 15 and December 1 through January 31.

(e) From the Whitechuck River to the headwaters, including the North Fork from mouth to North Forks Falls and the South Fork ~~((upstream))~~ from mouth to Elliot Creek ~~((=))~~, open the first Saturday in June through ~~((October 31))~~ September 15.

~~((=))~~ (f) In the South Fork upstream from Elliot Creek: Open the first Saturday in June through August 31.

(289) **Sauk, North Fork, (Snohomish County):** Open the Saturday before Memorial Day through October 31 above North Fork falls including all tributaries.

(290) **Sawyer Lake (King County):** Chumming is permissible.

(291) **Scatter Creek (King County) (White River tributary):** Open the first Saturday in June through October 31.

(292) **Scatter Creek (Thurston County) (Chehalis River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(293) **Schneider Creek (Thurston County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Trout: Minimum size 14 inches.

(294) **Serene Lake (Snohomish County):** Open the fourth Saturday in April through October 31.

(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.

(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.

(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.

(298) **Sherman Creek (Thurston County) (Chehalis River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(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.

(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.

(301) **Shoe Lake (Mason County):** Open the fourth Saturday in April through October 31.

(302) **Silesia Creek (Chilliwack River tributary) (Whatcom County):** Open the first Saturday in June through October 31.

(303) **Silver Creek (Skagit County) (Samish River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(304) **Silver Creek (Whatcom County) (Nooksack River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(305) **Silver Lake (Pierce County):** Open the fourth Saturday in April through October 31.

(306) **Silver Lake (Whatcom County):** Open the fourth Saturday in April through October 31.

(307) **Sixteen Lake (Skagit County):** Open the fourth Saturday in April through October 31.

(308) **Skagit River (Skagit/Whatcom counties):**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) From the mouth to Highway 530 Bridge at Rockport: ~~((=))~~ 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.

~~((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 September 15 and December 1 through January 31.

(ii) March 1 through ~~((July 31))~~ September 15:

(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.)

(d) From Memorial Highway Bridge (Highway 536 at Mt. Vernon) upstream to Gilligan Creek:

(i) Open June 1 through September 15 and December 1 through January 31, except closed waters July 17 through July 20 and July 24 through July 27.

~~((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))~~ (A) Night closure in effect June 1 through September 15.

~~((C))~~ (B) June 1 through June 15 and July 16 through ~~((July 31))~~ September 15:

(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))~~ (ii) 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.)~~

(e) From Gilligan Creek to The Dalles Bridge at Concrete:

(i) Open June 1 through September 15 and December 1 through January 31, except closed waters July 17 through July 20 and July 24 through July 27.

(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))~~ September 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) Night closure in effect.

(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))~~ (B) Limit 4 salmon; only 2 wild coho may be retained.

~~((D))~~ (C) Release Chinook and chum.

(f) From The Dalles Bridge at Concrete to the Highway 530 Bridge at Rockport:

(i) Open June 1 through September 15 and December 1 through January 31, except closed waters July 17 through July 20 and July 24 through July 27.

(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))~~ September 15:

(A) ~~((September 1 through November 30: Anti-snagging rule applies.~~

~~(B))~~ Night closure in effect.

~~((C) June 1 through August 31:~~

~~(H))~~ (B) Selective gear rules apply.

~~((H))~~ (C) 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.)~~

(g) From the Highway 530 Bridge at Rockport to the Cascade River Road (Marblemount Bridge):

(i) Open June 1 through September 15 and December 1 through January 31:

(A) Trout catch and release only, except mandatory hatchery steelhead retention.

~~((ii) June 1 through November 30:~~

~~(A))~~ (B) June 1 through July 15 ~~((and September 1 through November 30:))~~ anti-snagging rule applies.

~~((B))~~ (C) June 1 through September 15 night closure in effect.

~~((C))~~ (D) July 16 through ~~((August 31))~~ September 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))~~ (ii) Salmon: ~~((A))~~ Open June 1 through July 15:

~~((H))~~ (A) Limit 4 hatchery Chinook only.

~~((H))~~ (B) 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.~~

~~(H) Release Chinook and chum.)~~

(h) From Cascade River Road to the Gorge Powerhouse:

(i) Open June 1 through September 15 and December 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.

(i) Gorge and Diablo lakes' tributary streams and their tributaries, except Stetattle Creek: Open the first Saturday in June through October 31.

(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.
 (H) Release chum and wild Chinook.
 (B) Open September 15 through December 15:
 (I) Limit 6; no more than 4 adults may be retained.
 (H) Release Chinook; release chum through October 15.
 (e) 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.
 (H) 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.
 (H) 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.
 (H) Release chum and wild Chinook.
 (D) Open September 15 through December 15:
 (I) Limit 6; no more than 4 adults may be retained.
 (H) 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.
 (H) Release chum and wild Chinook.

(B) Open September 15 through December 15:
 (I) Limit 6; no more than 4 adults may be retained.
 (H) 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) Catch and release only.
 (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.
 (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.
 (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.
 (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.
 (314) **Skookumchuck Reservoir (Thurston County):**
 (a) Open the first Saturday in June through October 31.
 (b) Trout: Daily limit 2; minimum length 12 inches.
 (315) **Skykomish River (Snohomish County):**
 (a) 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 mouth to the mouth of Wallace River:
 (i) Open June 1 through August 31 and November 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)) August 1 through August 31 and November 1 through November 30.
 (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.~~

~~(H) 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.~~

~~((H)) (c) From the mouth of the Wallace River to the forks:~~

~~(i) Open June 1 through August 31 and November 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 August 31 and November 1 through November 30: Anti-snagging rule applies and night closure in effect from Wallace River to Gold Bar/Big Eddy Access.~~

~~(iv) August 1 through November 30: Anti-snagging rule applies and night closure in effect from Gold Bar/Big Eddy Access to the forks.~~

~~(v) 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.)~~

(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 August 31 and November 1 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.

(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 August 31 and November 1 through January 31.

(ii) August 1 through August 31 and November 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))~~ August 31.

(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.

(318) Smith Creek (Whatcom County) (Nooksack River tributary):

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(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))~~ July 1 through August 31 and November 1 through June 30.

(ii) August 1 through August 31 and November 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 August 31 and November 1 through January 31.

(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.~~

~~(H) Limit 3 coho only.~~

~~(B))~~, for years ending in odd numbers:

~~((H)) (A) Open August 1 through December 31.~~

~~((H)) (B) 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 August 31 and November 1 through January 31.

(ii) August 1 through August 31 and November 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.~~

~~(H) Limit 3 coho only.~~

~~(B))~~, for years ending in odd numbers:

~~((H)) (A) Open August 16 through December 31.~~

~~((H)) (B) Limit 3 plus 1 additional pink; release Chinook and chum.~~

(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 August 31 and November 1 through November 30: Selective gear rules apply.

(iii) ~~((September))~~ November 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 August 31 and November 1 through January 31.

(v) From the boat ramp at the Plum access to the falls: Open the first Saturday in June through August 31 and November 1 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 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.

(321) South Prairie Creek (Pierce County): Open the Saturday before Memorial Day through August 31 and October 16 through October 31 from the city of Buckley diversion dam upstream.

(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.

(323) Spada Lake (Reservoir) tributaries (Snohomish County): Closed.

(324) Spanaway Lake and Spanaway Lake outlet downstream to the dam (approximately 800 feet) (Pierce County): Open year-round.

(325) Squalicum Creek (Whatcom County):

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(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.

(327) Squire Creek (Snohomish County) (N.F. Stillaguamish River tributary):

(a) Open the first Saturday in June through ~~((October))~~ August 31.

(b) Selective gear rules apply.

(c) Release all fish except anglers may retain up to 2 hatchery steelhead.

(328) Steel Lake (King County): Open the fourth Saturday in April through October 31.

(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).

(330) Stevens, Lake (Snohomish County):

(a) Chumming is permissible.

(b) Kokanee: Limit 10; kokanee do not count toward the trout limit.

(331) Steves Lake (Mason County): Open the fourth Saturday in April through October 31.

(332) Stickney Lake (Snohomish County): Open the fourth Saturday in April through October 31.

(333) Stillaguamish River (Snohomish County):

(a) From the mouth to Marine Drive, including all sloughs:

(i) Open ~~((year-round))~~ July 1 through August 31 and November 1 through June 30.

(ii) Night closure in effect.

(iii) August 1 through August 31 and November 1 through November 30: Anti-snagging rule applies~~((;))~~, except anglers fishing for sturgeon may use single-point barbless hooks of any size.

(iv) Trout: Minimum length 14 inches.

(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 August 31 and November 1 through November 30.

(A) Selective gear rules apply.

(B) Night closure in effect from August 1 through August 31 and November 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))~~ (iv) Salmon ~~((open September 1 through November 30~~:

~~(F)~~ For years ending in even numbers: Limit 2 coho only. ~~((H))~~, for years ending in odd numbers: Limit 2; release Chinook and chum.

(334) Stillaguamish River, North Fork (Snohomish County):

(a) From the North Fork mouth to the mouth of French Creek:

(i) August 1 through August 31 and November 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))~~ August 31 and November 1 through November 30:

(A) ~~((From the first Saturday in June through November 30~~:

~~((H))~~ Fly fishing only.

~~((H))~~ (B) Release all fish except anglers may retain up to 2 hatchery steelhead.

~~((B))~~ (v) Open 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 August 31 and November 1 through November 30:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(ii) Open the first Saturday in June through ~~((February 15))~~ August 31 and November 1 through November 30:

(A) ~~((From the first Saturday in June through November 30~~:

~~((H))~~ Fly fishing only.

~~((H))~~ (B) Release all fish except anglers may retain up to 2 hatchery steelhead.

~~((B))~~ (iii) Open 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))~~ August 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.

(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 August 31 and November 1 through January 31.

(ii) August 1 through August 31 and November 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 August 31 and November 1 through November 30.

(ii) Selective gear rules apply.

(ii) August 1 through August 31 and November 1 through November 30:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(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.

(337) Storm Lake (Snohomish County): Open the fourth Saturday in April through October 31.

(338) Straight Creek (Snohomish County) (Suiattle River tributary):

(a) Open the first Saturday in June through ~~((October 31))~~ September 15.

(b) Selective gear rules apply.

(339) Suiattle River (Skagit County):

(a) Open the first Saturday in June through ~~((October 31))~~ September 15.

(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.

(340) Sulphur Creek (Snohomish County) (Suiattle River tributary):

(a) Open the first Saturday in June through ~~((October 31))~~ September 15.

(b) Selective gear rules apply.

(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 August 31 and November 1 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.

(342) Sumas River (Whatcom County): Open the first Saturday in June through October 31, including all tributaries except Johnson Creek.

(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.

(345) Swamp Creek (tributary to Sammamish River)

(Snohomish/King counties): Open the first Saturday in June through August 31 for juvenile anglers only.

(346) Swan's Mill Pond (Stossel Creek) (King County): Open the first Saturday in June through October 31.

(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.

(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) October 1 through October 31: Night closure in effect.

(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) Catch and release only.

(349) Tanwax Creek (Thurston County):

(a) Open the first Saturday in June through (~~October 31~~) September 30.

(b) Selective gear rules apply.

(c) Catch and release only.

(350) Tanwax Lake (Pierce County): Crappie: Limit 10; minimum length 9 inches.

(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.

(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.

(353) Tenmile Creek (Whatcom County) (Nooksack River tributary):

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(354) Tenas Creek (Skagit County) (Suitttle River tributary):

(a) Open the first Saturday in June through (~~October 31~~) September 15.

(b) Selective gear rules apply.

(355) Tenas Lake (Mason County): Open the fourth Saturday in April through October 31.

(356) Tennant Lake (Whatcom County): It is unlawful to fish from any floating device from the first Friday in October through January 27.

(357) Terrell Creek (Whatcom County):

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(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.

(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.

(361) Thompson Creek (Thurston County) (Skookumchuck River tributary):

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(362) Thornton Creek (tributary to Lake Washington) (King County): Open the first Saturday in June through August 31 for juvenile anglers only.

(363) Thornton Creek (Whatcom County):

(a) Open the first Saturday in June through (~~October 31~~) September 15.

(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.

(366) Tiger Lake (Kitsap/Mason counties): Open the fourth Saturday in April through October 31.

(367) Toad Lake (Whatcom County): Open the fourth Saturday in April through October 31.

(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.

(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 August 31 and November 1 through January 31: Selective gear rules apply.

(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.

(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))~~ August 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.

(372) U Lake (Mason County): Open the fourth Saturday in April through October 31.

(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.

(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) 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) Catch and release only.

(375) Vogler Lake (Skagit County):

(a) Fly fishing only.

(b) Catch and release only.

(376) Voight Creek (Pierce County): Open the Saturday before Memorial Day through August 31 and October 16 through October 31 from the falls, approximately 4.0 river

miles upstream of the mouth and under the power lines, upstream.

(377) Waddell Creek (Thurston County) (Black River tributary):

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(378) Wagners Lake (Snohomish County): Open the fourth Saturday in April through October 31.

(379) Walker Lake (King County): Open the fourth Saturday in April through October 31.

(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 August 31 and November 1 through February 15.

(ii) From first Saturday in June ((+)) through August 31 and November 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))~~ November 1 through February 15.

(ii) ~~((September 16))~~ November 1 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.

(381) Wapato Lake (Pierce County): Open to juvenile anglers only.

(382) Washington Creek (Mason County): Open the Saturday before Memorial Day through October 31.

(383) Washington 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.
- (c) It is unlawful to fish from a floating device within 100 yards of either side of the floating bridges.
- (d) Chumming is permissible.
- (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.
- (f) Salmon:
 - (i) Open September 16 through October 31 north of Highway 520 Bridge and east of Montlake Bridge.
 - (ii) Limit 4 coho only.

(384) Washington Lake, Ship Canal (King County) (waters east of a north-south line 400 feet west of the fish ladder at the Chittenden Locks and west of a north-south line at the eastern ends of the concrete abutments east of the Montlake Bridge):

- (a) 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.

(385) Waughop Lake (Pierce County): Landlocked salmon rules apply.**(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 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)~~ 31.
 - (A) Limit 6; anglers may retain up to 2 adult salmon.
 - (B) Release wild coho.
 - (C) 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 the stone bridge at Whatcom Falls Park:
 - (i) Open the first Saturday in June through October 31.
 - (ii) August 1 through October 31:
 - (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: Open the fourth Saturday in April through October 31 for juvenile anglers only. Trout: No minimum length.

(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.

(388) Whatcom, Lake, tributaries (Whatcom County): Closed.**(389) White (Stuck) River (Pierce County):**

- (a) From the mouth to R Street Bridge in Auburn (~~(=~~ ~~i) Open October~~), open November 1 through ((October 31) January 15:
 - ~~((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.~~
 - (i) Night closure in effect.
 - (ii) Selective gear rules apply.
 - (iii) Trout minimum length 14 inches.

(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.

(390) Whitechuck River (Snohomish County):

- (a) Open the first Saturday in June through ~~((October 31) September 15.~~
 - (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.
- (391) **Wildberry Lake (Mason County):** Open the fourth Saturday in April through October 31.

(392) **Wildcat Lake (Kitsap County):** Open the fourth Saturday in April through October 31.

(393) **Wilderness Lake (King County):**

(a) Open the fourth Saturday in April through October 31.

(b) Landlocked salmon rules apply.

(394) **Wilkeson Creek (Pierce County) (South Prairie Creek tributary) upstream of confluence with Gale Creek:** Open the first Saturday in June through August 31 and October 16 through October 31.

(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.

(396) **Wood Lake (Mason County):** Open the fourth Saturday in April through October 31.

(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.

(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.

(399) **Wooten Lake (Mason County):** Open the fourth Saturday in April through October 31.

(400) **Wye Lake (Kitsap County):** Open the fourth Saturday in April through October 31.

(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.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

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

AMENDATORY SECTION (Amending WSR 15-13-081, filed 6/12/15, effective 7/13/15)

WAC 232-28-621 Puget Sound salmon—Saltwater seasons and daily limits. (1) It is unlawful to fish for or possess salmon taken by angling for personal use except from the following Puget Sound areas and during the seasons, in the quantities, and for the species designated in this section, and in the sizes as defined in WAC 220-56-180. An area is open when a daily limit is provided. Puget Sound waters west of the mouth of the Sekiu River are managed concurrent with ocean waters under WAC 232-28-620.

(2) **Catch Record Card Area 5:**

(a) May 1 through June 30: Closed.

(b) July 1 through August 15:

(i) Daily limit of 2 salmon.

(ii) Release chum, wild Chinook and ~~((wild))~~ coho.

(iii) In years ending in odd numbers, 2 additional pink salmon may be retained as part of the daily limit.

(iv) In years ending in even numbers, 2 additional sockeye salmon may be retained as part of the daily limit.

~~(c) ((August 16 through September 11:~~

~~(i) Daily limit of 2 salmon.~~

~~(ii) Release chum, Chinook and wild coho.~~

~~(iii) In years ending in odd numbers, any combination of 2 additional pink or sockeye salmon through September 11 may be retained as part of the daily limit.~~

~~(d) September 12 through September 30:~~

~~(i) Daily limit of 2 salmon.~~

~~(ii) Release chum and Chinook.~~

~~(iii) Release wild coho salmon September 15 through September 18, September 22 through September 25, and September 28 through September 30.~~

~~(e) October 1 through October 31:~~

~~(i) Daily limit of 2 salmon.~~

~~(ii) Release Chinook.~~

~~(f) November 1)) August 16 through February 15: Closed.~~

~~((g))~~ (d) February 16 through April 30:

(i) Daily limit of 2 salmon.

(ii) Release wild Chinook and and coho.

(3) **Catch Record Card Area 6:**

(a) May 1 through June 30: Closed.

(b) July 1 through August 15:

(i) Daily limit of 2 salmon.

(ii) Release chum, wild Chinook and ~~((wild))~~ coho.

(iii) Release all Chinook east of a true north-south line through the Number 2 Buoy immediately east of Ediz Hook.

(iv) In years ending in odd numbers, 2 additional pink salmon may be retained as part of the daily limit.

(v) In years ending in even numbers, 2 additional sockeye salmon may be retained as part of the daily limit.

~~(c) ((August 16 through September 30:~~

~~(i) Daily limit of 2 salmon.~~

~~(ii) Release chum, Chinook and wild coho.~~

~~(iii) In years ending in odd numbers, any combination of 2 additional pink or sockeye salmon may be retained as part of the daily limit.~~

~~(iv) In years ending in even numbers, 2 additional sockeye salmon may be retained as part of the daily limit.~~

~~(d))~~ Waters of Port Angeles Harbor west of a line from the tip of Ediz Hook to the ITT Rayonier Dock are closed July 1 through October 31.

~~((e) October 1 through October 31:~~

~~(i) Daily limit of 2 salmon, release wild Chinook.~~

~~(ii) Waters inside the line described in this subsection are closed at all times except during October.~~

~~(f) November 1 through November 30: Closed.~~

~~(g))~~ (d) August 16 through November 30: Closed except in Dungeness Bay as described in this section.

(e) December 1 through April ((+H)) 15:

(i) Daily limit of 2 salmon.

(ii) Release wild Chinook and coho.

~~((h))~~ (f) April ((+H)) 16 through April 30: Closed.

~~((i))~~ (g) Waters of Dungeness Bay inside a line from Dungeness Spit Lighthouse to the Number 2 Red Buoy, and then to the Port Williams Boat Ramp are closed except:

(i) For years ending in odd numbers, July 16 through August 15: Daily limit of 4 pink salmon only: Bait prohib-

ited, and only one single-point barbless hook measuring one-half inch or less from point to shank may be used.

(ii) October 1 through October 31: Daily limit of 2 hatchery coho only.

(4) Catch Record Card Area 7:

(a) May 1 through June 30: Closed.

(b) July 1 through July 31:

(i) Daily limit of 2 salmon (~~no more than one may be a Chinook salmon~~).

(ii) Release wild Chinook and coho.

~~(iii)~~ (iii) In years ending in odd numbers, 2 additional pink salmon may be retained as part of the daily limit.

~~(iii)~~ (iv) In years ending in even numbers, 2 additional sockeye salmon may be retained as part of the daily limit.

~~(iv)~~ Closed to salmon fishing in the Southern Rosario Strait and Eastern Strait of Juan de Fuca closure area described in WAC 220-56-195(7-).

(c) August 1 through September 30:

(i) Daily limit of 2 salmon; no more than one may be a Chinook salmon.

(ii) Release chum and wild coho.

(iii) In years ending in odd numbers, any combination of 2 additional pink or sockeye salmon may be retained as part of the daily limit.

(iv) In years ending in even numbers, any combination of 2 additional sockeye salmon may be retained as part of the daily limit.

(v) Closed to salmon fishing in the Southern Rosario Strait and Eastern Strait of Juan de Fuca closure area described in WAC 220-56-195(7).

(d) October 1 through October 31:

(i) Daily limit of 2 salmon.

(ii) Release wild Chinook and coho.

(e) Waters of Samish Bay described in WAC 220-56-195(4): Closed April 1 through April 30 and July 1 through October 15.

(f) November 1 through November 30: Closed.

(g) December 1 through April 30:

(i) Daily limit of 2 salmon.

(ii) Release wild Chinook and coho.

(h) Waters of Bellingham Bay described in WAC 220-56-195(1):

(i) Closed April 1 through April 30 and July 1 through August 15.

(ii) August 16 through September 30: Daily limit of 4 salmon; no more than 2 may be Chinook salmon.

(iii) October 1 through October 31:

(A) Daily limit of 4 salmon; no more than 2 may be Chinook salmon.

(B) Release wild Chinook and coho.

(iv) November 1 through March 31 and June 1 through June 30: Same rules as Area 7.

(i) Waters east of a line from Gooseberry Point to Sandy Point: Closed September 8 through October 15.

(5) Catch Record Card Area 8-1:

(a) May 1 through ~~(July)~~ October 31: Closed.

~~(b) (August 1 through September 30):~~

~~(i) Daily limit of 2 salmon.~~

~~(ii) Release Chinook.~~

~~(iii) In years ending in odd numbers, 2 additional pink salmon may be retained as part of the daily limit.~~

~~(c) October 1 through October 31:~~

~~(i) Daily limit of 2 salmon.~~

~~(ii) Release Chinook.~~

~~(d))~~ November 1 through April 30:

(i) Daily limit of 2 salmon.

(ii) Release wild Chinook and coho.

(6) Catch Record Card Area 8-2:

(a) May 1 through ~~(July)~~ October 31 are closed, except~~(e))~~ waters described in this subsection.

(i) Waters west of Tulalip Bay and within 2,000 feet of shore from the pilings at Old Bower's Resort to a fishing boundary marker approximately 1.4 miles northwest of Hermosa Point are open only from Friday through 11:59 a.m. the following Monday of each week, May ~~(27)~~ 26 through ~~(June 10 and June 12 through July 31)~~ September 5:

~~(i))~~ (A) Daily limit of 2 salmon.

~~(i))~~ (B) Release wild Chinook and coho.

(C) In years ending in odd numbers, 2 additional pink salmon may be retained as part of the daily limit.

(ii) Waters west of Tulalip Bay and within 2,000 feet of shore from the pilings at Old Bower's Resort to a fishing boundary marker approximately 1.4 miles northwest of Hermosa Point are open only from Saturday through Sunday of each week, September 6 through September 30:

(A) Daily limit of 2 salmon.

(B) Release wild Chinook and coho.

(C) In years ending in odd numbers, 2 additional pink salmon may be retained as part of the daily limit.

~~(b) (August 1 through September 30):~~

~~(i) Waters west of Tulalip Bay and within 2,000 feet of shore from the pilings at Old Bower's Resort, to a fishing boundary marker approximately 1.4 miles northwest of Hermosa Point:~~

~~(A) August 1 through September 7: Open only from Friday through 11:59 a.m. the following Monday of each week:~~

~~(I) Daily limit of 2 salmon.~~

~~(II) In years ending in odd numbers, 2 additional pink salmon may be retained as part of the daily limit.~~

~~(B) September 8 through September 27, open only Saturday and Sunday of each week:~~

~~(I) Daily limit of 2 salmon.~~

~~(II) In years ending in odd numbers, 2 additional pink salmon may be retained as part of the daily limit.~~

~~(C) September 28 through September 30: Same rules as remainder of Area 8-2.~~

~~(ii) All other waters of Area 8-2:~~

~~(A) Daily limit of 2 salmon.~~

~~(B) Release Chinook.~~

~~(C) In years ending in odd numbers, 2 additional pink salmon may be retained as part of the daily limit.~~

~~(c) October 1 through October 31:~~

~~(i) Daily limit of 2 salmon.~~

~~(ii) Release Chinook.~~

~~(d))~~ November 1 through April 30:

(i) Daily limit of 2 salmon.

(ii) Release wild Chinook and coho.

(7) Catch Record Card Area 9:

(a) May 1 through June 30: Closed.

- (b) July 1 through July 15:
- (i) Daily limit of 2 salmon.
- (ii) Release coho, Chinook and chum.
- (iii) In years ending in odd numbers, 2 additional pink salmon may be retained as part of the daily limit.
- (c) July 16 through August ~~((31))~~ 16:
- (i) Daily limit of 2 salmon; no more than one may be a Chinook.
- (ii) Release coho, chum and wild Chinook ~~((; release Chinook from August 16 through August 31))~~.
- (iii) In years ending in odd numbers, 2 additional pink salmon may be retained as part of the daily limit.
- (iv) Closed south of a line from Foulweather Bluff to Olele Point through August 15 ~~((; except it is permissible to fish from shore between the southern and northern boundaries of Salisbury Point Park:~~
- ~~(A) Daily limit of 2 salmon.~~
- ~~(B) Release Chinook and chum.~~
- ~~(C) In years ending in odd numbers, 2 additional pink salmon may be retained as part of the daily limit.~~
- (d) September 1 through September 30:
- (i) Daily limit of 2 salmon.
- (ii) Release chum and Chinook.
- (iii) In years ending in odd numbers, 2 additional pink salmon may be retained as part of the daily limit.
- (e) October 1 through October 31:
- ~~(i) Daily limit of 2 salmon.~~
- ~~(ii) Release Chinook).~~
- (d) August 16 through October 31: Closed.
- ~~((f))~~ (e) November 1 through November 30:
- (i) Daily limit of 2 salmon.
- (ii) Release wild Chinook and coho.
- ~~((g))~~ (f) December 1 through January 15: Closed.
- ~~((h))~~ (g) January 16 through April 15:
- (i) Daily limit of 2 salmon.
- (ii) Release wild Chinook and coho.
- ~~((i))~~ (h) April 16 through April 30: Closed.
- ~~((j))~~ (i) Edmonds Fishing Pier:
- (i) Open ~~((year round))~~ November 1 through August 31.
- (ii) Daily limit of 2 salmon; no more than one may be a Chinook salmon.
- (iii) Release coho. Release chum from August 1 through September 30.
- (iv) In years ending in odd numbers, 2 additional pink salmon may be retained as part of the daily limit from July 1 through September 30.
- (8) **Catch Record Card Area 10:**
- (a) May 1 through May 31: Closed.
- (b) June 1 through June 30: Open only north of a line from Point Monroe to Meadow Point. Catch and release.
- (c) July 1 through ~~((August 31))~~ July 15:
- (i) Daily limit of 2 salmon.
- (ii) Release coho, Chinook and chum.
- (d) July 16 through August 15:
- (i) Daily limit of 2 salmon; no more than one may be a Chinook.
- (ii) Release coho, chum and wild Chinook.
- (iii) In years ending in odd numbers, 2 additional pink salmon may be retained as part of the daily limit.
- ~~((d))~~ September 1 through September 30:

- ~~(i) Daily limit of 2 salmon.~~
- ~~(ii) Release chum through September 15.~~
- ~~(iii) Release Chinook.~~
- ~~(iv) In years ending in odd numbers, 2 additional pink salmon may be retained as part of the daily limit.)~~
- (e) August 16 through October 31: Closed.
- (f) Waters of Shilshole Bay southeast of a line from Meadow Point to West Point: Closed July 1 through August 31.
- ~~((f))~~ (g) Waters of Elliott Bay east of a line from West Point to Alki Point: Closed July 1 through August 31, except: In years ending in odd numbers: Those waters north of a line from Jack Block Park through the north tip of Harbor Island to shore northeast of the North Waterway (47°35.47'N, 122°20.58'W), open August 14 through August 31 from Friday through Sunday of each week only.
- (i) Daily limit of 2 salmon plus 2 additional pink salmon.
- (ii) Release Chinook and chum.
- (iii) Bait prohibited, and only one single-point barbless hook measuring one-half inch or less from point to shank may be used.
- ~~((g))~~ (h) Waters of Sinclair Inlet and Port Orchard south of the Manette Bridge in Bremerton, south of a line true west from Battle Point, and west of a line drawn true south from Point White:
- (i) Daily limit of 3 salmon, July 1 through September 30.
- (ii) Release wild Chinook and wild coho.
- (iii) Release chum from August 1 through September 15.
- (iv) In years ending in odd numbers, one additional pink salmon may be retained as part of the daily limit.
- ~~((h) October)~~ (i) November 1 through ((January 31)) February 28:
- (i) Daily limit of 2 salmon.
- (ii) Release wild Chinook and coho.
- ~~((i))~~ (j) Waters of Agate Pass west of a line from Point Monroe to Indianola and east of a line from Point Bolin to Battle Point: Fly fishing only, lead core lines prohibited, and catch and release from January 1 through January 31.
- ~~((j) February)~~ (k) March 1 through April 30: Closed.
- ~~((k))~~ (l) Elliott Bay Fishing Pier at Terminal 86((;)) and Seacrest Pier((; Waterman Pier, Bremerton Boardwalk, and Hlahee State Park Pier, open year-round)) open November 1 through August 31:
- (i) Daily limit of 2 salmon; no more than one may be a Chinook salmon.
- (ii) Release coho. Release chum from August 1 through September 15.
- (iii) In years ending in odd numbers, 2 additional pink salmon may be retained as part of the daily limit from July 1 through September 30.
- ~~((h))~~ (m) Waterman Pier, Bremerton Boardwalk, and Illahee State Park Pier, open year-round:
- (i) Daily limit of 2 salmon; no more than one may be a Chinook salmon.
- (ii) Release wild coho. Release chum from August 1 through September 15.
- (iii) In years ending in odd numbers, 2 additional pink salmon may be retained as part of the daily limit from July 1 through September 30.

(n) Duwamish Waterway downstream from the First Avenue South Bridge to an east-west line projected through Southwest Hanford Street on Harbor Island, from July 1 through October 31 night closure, anti-snagging rule, and only fish hooked inside the mouth may be retained.

~~((m))~~ (o) Free-flowing freshwaters are closed downstream of the mouth at Chico Creek and Gorst Creek.

(9) **Catch Record Card Area 11:**

(a) May 1 through May 31: Closed.

(b) June 1 through June 30:

(i) Daily limit of 2 salmon.

(ii) Release wild Chinook and coho.

(iii) Waters of Commencement Bay east of a line from the Cliff House Restaurant to the Sperry Ocean Dock are closed.

(c) July 1 through ~~((September 30))~~ August 31:

(i) Daily limit of 2 salmon.

(ii) Release wild Chinook and coho.

(iii) In years ending in odd numbers, 2 additional pink salmon may be retained as part of the daily limit.

(iv) Waters of Commencement Bay east of a line from the Cliff House Restaurant to the Sperry Ocean Dock, closed July 1 through July 31.

(d) ~~((October 1 through December 31:~~

~~(i) Daily limit of 2 salmon.~~

~~(ii) Release wild Chinook.~~

~~(e) January))~~ September 1 through January 31: Closed.

~~((f))~~ (e) February 1 through April 30:

(i) Daily limit of 2 salmon.

(ii) Release wild Chinook and coho.

(iii) Waters of Commencement Bay east of a line from the Cliff House Restaurant to the Sperry Ocean Dock, closed from April 1 through April 30.

~~((g))~~ (f) Dash Point Dock, Les Davis Pier, Des Moines Pier, Redondo Pier, and Point Defiance Boathouse Dock are open ~~((year-round))~~ November 1 through August 31:

(i) Daily limit of 2 salmon, not more than one of which may be a Chinook salmon. Release coho.

(ii) In years ending in odd numbers, 2 additional pink salmon may be retained as part of the daily limit from July 1 through September 30.

(10) **Catch Record Card Area 12:**

(a) May 1 through June 30: Closed.

(b) July 1 through ~~((October 15))~~ September 30, in waters south of Ayock Point except waters listed in this subsection:

(i) Daily limit of 4 salmon ~~((; no more than 2 may be Chinook salmon)).~~

(ii) Release chum and wild Chinook.

(iii) Waters within a 2,000-foot arc seaward of yellow buoys at the mouth of Finch Creek at Hoodspport Salmon Hatchery:

(A) Daily limit of 4 salmon.

(B) Release wild Chinook and chum.

(C) It is unlawful to fish for or possess salmon taken from these waters from one hour after sunset to one hour before sunrise.

(D) Hoodspport Salmon Hatchery ADA-access site: Persons with disabilities who permanently use a wheelchair and who have a designated harvester card under WAC 220-55-

065 may fish from the ADA-access site at the Hoodspport Salmon Hatchery, as long as persons follow all applicable department rules.

~~((July 1))~~ In years ending in even numbers, August 16 through ~~((October 15))~~ September 30, in waters north of Ayock Point:

(i) Daily limit of 4 salmon.

(ii) Release chum and Chinook.

(iii) Waters north of a line true east from Broad Spit: Closed September 16 through September 30.

(d) In years ending in odd numbers, July 1 through August 15, in waters north of Ayock Point:

(i) Daily limit of 4 salmon.

(ii) Release chum and Chinook.

(iii) July 1 through July 31: Bait prohibited, and only one single-point barbless hook measuring one-half inch or less from point to shank may be used.

(iv) Waters north of a line true east from Broad Spit: Closed September 16 through ~~((October 15-~~

~~((4))~~ September 30.

(e) October ~~((46))~~ (1) through December 31:

(i) Waters north of a line true east from Broad Spit - Closed.

(ii) All other waters except ~~((Hoodspport Hatchery Zone))~~ waters listed in this subsection:

(A) Daily limit of 4 salmon; no more than 2 may be Chinook salmon.

(B) Release wild Chinook. Release chum October 1 through October 15.

(iii) Waters within a 2,000-foot arc seaward of yellow buoys at the mouth of Finch Creek at Hoodspport Salmon Hatchery:

(A) Daily limit of 4 salmon.

(B) Release wild Chinook. Release chum October 1 through October 15.

(C) It is unlawful to fish for or possess salmon taken from these waters from one hour after sunset to one hour before sunrise.

(D) Hoodspport Salmon Hatchery ADA-access site: Persons with disabilities who permanently use a wheelchair and who have a designated harvester card under WAC 220-55-065 may fish from the ADA-access site at the Hoodspport Salmon Hatchery, as long as persons follow all applicable department rules.

~~((e) January 1 through January 31: Closed.))~~

~~((February))~~ January 1 through April 30:

(i) Daily limit of 2 salmon.

(ii) Release wild Chinook.

~~((July 1 through December 31, the Hoodspport Hatchery Zone is managed separately from the remainder of Area 12. See WAC 220-56-124.~~

~~((h))~~ July 1 through ~~((October 15))~~ September 30: Free-flowing freshwater is closed downstream of the mouth of the Dewatto, Dosewallips, Duckabush, Hamma Hamma, and Skokomish rivers.

(11) **Catch Record Card Area 13:**

(a) May 1 through June 30:

(i) Daily limit of 2 salmon.

(ii) Release wild Chinook and coho.

(b) July 1 through ~~((September 30))~~ August 31:

- (i) Daily limit of 2 salmon.
- (ii) Release (~~(wild)~~) coho and wild Chinook.
- (iii) In years ending in odd numbers, 2 additional pink salmon may be retained as part of the daily limit.
- (c) September 1 through September 30: Closed.
- ~~(d)~~ (f) October 1 through October 31:
 - (i) Daily limit of 2 salmon.
 - (ii) Release wild Chinook and (~~(wild)~~) coho.
- ~~((e))~~ (e) Waters at the mouth of Minter Creek within 1,000 feet of the outer oyster stakes are closed April 16 through September 30.
- ~~((e))~~ (f) Waters of Budd Inlet south of the Fourth Avenue Bridge are closed.
 - (i) Contiguous waters north of the Fourth Avenue Bridge and south of a line from the northwest corner of the Thriftway Market building and a point 100 yards north of the railroad bridge on the western shore are closed July 16 through October 31.
 - (ii) Waters north of the Thriftway Market-railroad bridge line and south of a line projected due west from the KGY radio tower: Night closure and anti-snagging rule from July 16 through October 31.
- ~~((g))~~ (g) November 1 through April 30:
 - (i) Daily limit of 2 salmon.
 - (ii) Release wild Chinook and coho.
- ~~((g))~~ (h) Fox Island Public Fishing Pier, open (~~(year-round)~~) November 1 through August 31:
 - (i) Daily limit 2 salmon; no more than one may be a Chinook salmon. Release coho.
 - (ii) In years ending in odd numbers, 2 additional pink salmon may be retained as part of the daily limit July 1 through September 30.
- (12) A violation of this section is an infraction, punishable under RCW 77.15.160, unless the person has harvested salmon. If the person has harvested salmon, the violation is punishable under RCW 77.15.380, Unlawful recreational fishing in the second degree—Penalty, unless the salmon are taken in the amounts or manner to constitute a violation of RCW 77.15.370, Unlawful recreational fishing in the first degree—Penalty.

WSR 16-17-009

PERMANENT RULES DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Developmental Disabilities Administration)

[Filed August 4, 2016, 1:55 p.m., effective September 4, 2016]

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

Purpose: The department is amending chapters 388-823, 388-825, 388-828, 388-831 and 388-845 WAC, and creating new sections in chapter 388-845 WAC. The rule changes are related to the individual and family services (IFS) waiver, the community first choice (CFC) program, the client's choice for place of assessment, and overnight planned respite services.

Changes Related to the IFS Waiver: Once SSB 6387 of the 63rd legislature 2014 regular session was passed,

developmental disabilities administration (DDA) worked on the new required IFS waiver while at the same time identifying and programming the necessary enhancements to the statewide comprehensive assessment reporting evaluation (CARE) assessment tool to incorporate the waiver into our daily work process. Our intent was to be ready to file the emergency rules and implement the system changes to CARE upon the waiver approval date given by Centers for Medicare and Medicaid Services (CMS). Once CMS approved our IFS waiver, we filed the CR-103E to make those changes to rule effective by emergency rules on June 1, 2015. This was a short period of time from when CMS approved the waiver to when the waiver would be effective. Although we had also filed the CR-102 and held the public hearing, we were unable to make those rules permanent through the regular rule-making process before additional changes were needed in some sections of chapter 388-845 WAC due to the CMS implementation date for the new CFC program.

Changes Related to the CFC Program: ESHB 2746 requires DSHS to refinance personal care services and establish a 1915(k) CFC program per §1915(k) of the Social Security Act. To that end, DSHS worked to develop a state plan amendment for implementation after CMS approval. This new program also required modifications to our statewide CARE assessment tool and updates to rules, some of which were the same sections in chapter 388-845 WAC that were effective via emergency rules but had not yet completed the permanent rule-making process.

Changes Related to Where the DDA Assessment and Reassessment is Administered: These changes more closely align our rules with 42 C.F.R. 441.540 (a)(3) to allow the individual to select a time and location for their convenience for assessments.

Changes Related to the Definition of Overnight Planned Respite Services: Rule changes to implement overnight planned respite services, as approved in ESSB 6052.S.L. of the 64th legislative 2015 3rd sp. sess., are being implemented by a different emergency rule filing. However, we are including the definition changes in this filing.

Citation of Existing Rules Affected by this Order: Amending WAC 388-823-0010 Definitions, 388-825-020 Definitions, 388-825-057 Am I eligible to receive paid services from DDD?, 388-825-0571 What services am I eligible to receive from DDD if I am under the age of eighteen, have been determined to meet DDD eligibility requirements, and I am in a dependency guardianship or foster care with children's administration?, 388-825-059 How will I know which paid services I will receive?, 388-825-068 What medicaid state plan services may DDD authorize?, 388-825-083 Is there a comprehensive list of waiver and state-only DDD services?, 388-825-305 What service providers are governed by the qualifications in these rules?, 388-825-310 What are the qualifications for providers?, 388-825-325 What are required skills and abilities for individuals and agencies contracted to provide respite care, personal care services through the medicaid personal care program or the DDD HCBS Basic, Basic Plus, CIIBS, or Core waivers, or attendant care services?, 388-825-330 What is required for agencies to provide care in the home of a person with developmental disabilities?, 388-825-355 Are there any educational requirements for individ-

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388-845-1607 Can someone who lives with me be my respite provider?, 388-845-1620 Are there limits to the respite care I can receive?, 388-845-1660 Are there limitations to the sexual deviancy evaluations I can receive?, 388-845-1700 What is skilled nursing?, 388-845-1710 Are there limitations to the skilled nursing services I can receive?, 388-845-1800 What are specialized medical equipment and supplies?, 388-845-1810 Are there limitations to my receipt of specialized medical equipment and supplies?, 388-845-1840 What is specialized nutrition and specialized clothing?, 388-845-1845 Who are qualified providers of specialized nutrition and specialized clothing?, 388-845-1850 Are there limitations to my receipt of specialized nutrition and specialized clothing?, 388-845-1910 Are there limitations to the specialized psychiatric services I can receive?, 388-845-2000 What is staff/family consultation and training?, 388-845-2005 Who is a qualified provider of staff/family consultation and training?, 388-845-2010 Are there limitations to the staff/family consultation and training I can receive?, 388-845-2160 What is therapeutic equipment and supplies?, 388-845-2170 Are there limitations on my receipt of therapeutic equipment and supplies?, 388-845-2210 Are there limitations to the transportation services I can receive?, 388-845-2260 What are vehicle modifications?, 388-845-2270 Are there limitations to my receipt of vehicle modification services?, 388-845-3000 What is the process for determining the services I need?, 388-845-3055 What is a waiver individual support plan (ISP)?, 388-845-3056 What if I need assistance to understand my individual support plan?, 388-845-3060 When is my individual support plan effective?, 388-845-3061 Can a change in my individual support plan be effective before I sign it?, 388-845-3062 Who is required to sign or give verbal consent to the individual support plan?, 388-845-3063 Can my individual support plan be effective before the end of the month?, 388-845-3065 How long is my plan effective?, 388-845-3070 What happens if I do not sign or verbally consent to my individual support plan (ISP)?, 388-845-3075 What if my needs change? and 388-845-3085 What if my needs exceed what can be provided under the IFS, CIIBS, Core or Community Protection waiver?; and new WAC 388-845-0230 What is the scope of services for the individual and family services (IFS) waiver?, 388-845-0650 What are community engagement services?, 388-845-0655 Who are qualified providers of community engagement services?, 388-845-0660 Are there limitations to the community engagement services you can receive?, 388-845-1190 What is peer mentoring?, 388-845-1191 Who are qualified providers of peer mentoring?, 388-845-1192 What limitations are there for peer mentoring?, 388-845-1195 What is person-centered plan facilitation?, 388-845-1196 Who are qualified providers of person-centered plan facilitation?, 388-845-1197 What limitations are there for person-centered plan facilitation?, 388-845-1855 What is specialized clothing?, 388-845-1860 Who are qualified providers of specialized clothing?, 388-845-1865 Are there limitations to your receipt of specialized clothing?, 388-845-2130 What are supported parenting services?, 388-845-2135 Who are qualified providers of supported parenting services?, and 388-845-2140 Are there any limitations on your receipt of supported parenting services?

Statutory Authority for Adoption: SSB 6387 of the 63rd legislature, 2014 regular session for the IFS waiver, ESHB 2746 of the 63rd legislative 2014 regular session for the CFC waiver, and ESSB 6052.S.L. of the 64th legislative 2015 3rd sp. sess., for the definition of overnight planned respite services.

Other Authority: RCW 71A.12.030, 71A.12.120.

Adopted under notice filed as WSR 16-09-035 on April 14, 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 16, Amended 90, 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 16, Amended 90, Repealed 0.

Date Adopted: August 4, 2016.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 14-12-046, filed 5/29/14, effective 7/1/14)

WAC 388-823-0010 Definitions. The following definitions apply to this chapter:

"ABAS-II" means adaptive behavior assessment system-second edition, which is a comprehensive, norm-referenced assessment of adaptive behavior and skills of individuals from birth through age 89.

"CAS" means the DAS-Naglieri cognitive assessment system, a clinical instrument for assessing intelligence based on a battery of cognitive tasks. The test is used for children ages five through seventeen years eleven months.

"Client" means a person with a developmental disability as defined in chapter 388-823 WAC who is currently eligible and active with the developmental disabilities administration (DDA).

"Community first choice" or "CFC" is a medicaid state plan program defined in chapter 388-106 WAC.

"C-TONI" means the comprehensive test of nonverbal intelligence, a battery of six subtests, designed to measure different aspects of nonverbal intellectual abilities from ages six to eighteen years eleven months.

"DAS" means differential ability scales, which is a cognitive abilities battery for children and adolescents at least age two years, six months but under age eighteen.

"DDA" means the developmental disabilities administration, an administration within department of social and health services.

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

"Documentation" means written information that provides support for certain claims, such as diagnoses, test scores, or residency for the purpose of establishing DDA eligibility.

"DSM-IV-TR" means the diagnostic and statistical manual of mental disorders, fourth edition, text revision.

"DSM-5" means the diagnostic and statistical manual of mental disorders, fifth edition.

"Eligible" means that DDA has determined that you have a condition that meets all of the requirements for a developmental disability as set forth in this chapter.

"ESIT" means early support for infants and toddlers, a program administered by the department of early learning.

"Expiration date" means a specific date that your eligibility as a client of DDA and all services paid by DDA will stop.

"FSIQ" means the full scale intelligence quotient which is a broad measure of intelligence achieved through one of the standardized intelligence tests included in these rules. Any standard error of measurement value will not be taken into consideration when making a determination for DDA eligibility.

"Functional limitation" means a reduced ability or lack of ability to perform an action or activity in the manner or within the range considered to be normal.

"ICAP" means the inventory for client and agency planning. This is a standardized assessment of functional ability. The adaptive behavior section of the ICAP assesses daily living skills and the applicant awareness of when to perform these skills. The goal is to get a snapshot of his/her ability.

"K-ABC" means Kaufman assessment battery for children, which is a clinical instrument for assessing intellectual development. It is an individually administered test of intelligence and achievement for children at least age two years, six months but under age twelve years, six months. The K-ABC comprises four global scales, each yielding standard scores. A special nonverbal scale is provided for children at least age four years but under age twelve years, six months.

"Leiter-R" means Leiter international performance scale - revised, which is an untimed, individually administered test of nonverbal cognitive ability for individuals at least age two years but under age twenty-one years.

~~("MPC" means medicaid personal care and is the provision of medically necessary personal care tasks)~~ "Medicaid personal care" or "MPC" is a medicaid state plan program as defined in chapter 388-106 WAC.

"Necessary supplemental accommodation representative" means an individual who receives copies of DDA planned action notices (PANs) and other department correspondence in order to help a client understand the documents and exercise the client's rights. A necessary supplemental accommodation representative is identified by a client of DDA when the client does not have a legal guardian and the client is requesting or receiving DDA services.

"Nonverbal" means that you do not possess sufficient verbal skills to complete a standard intellectual test.

"NSA" means necessary supplemental accommodations, which are services provided to you if you have a mental, neurological, physical, or sensory impairment or other problems

that prevent you from getting program benefits in the same way that an unimpaired person would get them.

"Review" means DDA must determine that a current client of DDA still meets all of the requirements for a developmental disability as set forth in this chapter.

"RHC" means a residential habilitation center operated by the DDA.

"SIB-R" means the scale of independent behavior-revised which is an adaptive behavior assessment derived from quality standardization and norming. It can be administered as a questionnaire or as a carefully structured interview, with special materials to aid the interview process.

"SOLA" means a state operated living alternative residential service for adults operated by DDA.

"Stanford-Binet" is a battery of fifteen subtests measuring intelligence for individuals at least age two years but under age twenty-three years.

"Termination" means an action taken by DDA that stops your DDA eligibility and services paid by DDA. If your DDA eligibility is terminated your DDA authorized services will also be terminated. If you remain eligible for community first choice (CFC) or medicaid personal care (MPC) and you are under the age of eighteen DDA will continue to authorize this service. If you are eighteen or older (~~medicaid personal care~~) CFC or MPC services will be authorized by the aging and long-term support administration.

"VABS" means Vineland adaptive behavior scales, which is an assessment to measure adaptive behavior in children from birth but under age eighteen years, nine months and in adults with low functioning in four separate domains: Communication, daily living skills, socialization, and motor skills.

"Wechsler" means the Wechsler intelligence scale, which is an individually administered measure of an individual's capacity for intelligent behavior. There are three Wechsler intelligence scales, dependent upon the age of the individual:

- Wechsler preschool and primary scale of intelligence for children at least age three years but under age seven years;
- Wechsler intelligence scale for children at least age six years but under age sixteen years; and
- Wechsler adult intelligence scale for individuals at least age sixteen years but under age seventy-four years.

"WJ III(r)" means the Woodcock-Johnson(r) III, a test which is designed to provide a co-normed set of tests for measuring general intellectual ability, specific cognitive abilities, scholastic aptitude, oral language, and academic achievement. The WJ III(r) is used for ages two and up.

AMENDATORY SECTION (Amending WSR 12-22-037, filed 11/1/12, effective 12/2/12)

WAC 388-825-020 Definitions. "Authorization" means (~~DDA~~) DDA approval of funding for a service as identified in the individual support plan or evidence of payment for a service.

"Assistant secretary" means the assistant secretary of the developmental disabilities administration.

"Client" or "person" means a person who has a developmental disability as defined in RCW 71A.10.020(3) who

also has been determined eligible to receive services by the (~~division~~) administration under chapter 71A.16 RCW.

"Community first choice" or "CFC" is a medicaid state plan program defined in chapter 388-106 WAC.

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

"DDA" means the developmental disabilities administration, an administration within the department of social and health services.

(~~"Director"~~ means the director of the division of developmental disabilities.

~~"Division or DDD" means the division of developmental disabilities within the aging and disability services administration of the department of social and health services.)~~

"Enhanced respite services" means respite care for (~~DDA~~) DDA enrolled children and youth, who meet specific criteria, in a (~~DDA~~) DDA contracted and licensed staffed residential setting.

"Family" means relatives who live in the same home with the eligible client. Relatives include spouse or registered domestic partner; natural, adoptive or step parent; grandparent; child; stepchild; sibling; stepsibling; uncle; aunt; first cousin; niece; or nephew.

"ICF/IID" means a facility certified as an intermediate care facility for individuals with (~~intellectually disabled~~) intellectual disabilities by title XIX to provide diagnosis, treatment and rehabilitation services to the individuals with intellectual disabilities or individuals with related conditions.

"ICF/IID eligible" for admission to an ICF/IID means a person is determined by (~~DDA~~) DDA as needing active treatment as defined in C.F.R. 483.440. Active treatment requires:

- (1) Twenty-four hour supervision; and
- (2) Continuous training and physical assistance in order to function on a daily basis due to deficits in the following areas: Toilet training, personal hygiene, dental hygiene, self-feeding, bathing, dressing, grooming, and communication.

"Individual support plan (~~ISP~~)" or "ISP" is a document that authorizes and identifies the (~~DDA~~) DDA paid services to meet a client's assessed needs.

"Medicaid personal care" or "MPC" is (~~the provision of medically necessary personal care tasks as~~) a medicaid state plan program defined in chapter 388-106 WAC.

"Overnight planned respite services" means services intended to provide short-term intermittent relief for persons who live with the DDA client as the primary care provider and are either a family member who is paid or unpaid or a nonfamily member who is not paid. These services provide person-centered support, care and planned activities for the client in the community.

"Residential habilitation center" or "RHC" means a state-operated facility certified to provide ICF/IID and/or nursing facility level of care for persons with developmental disabilities.

"Residential programs" means provision of support for persons in community living situations. Residential programs include (~~DDA~~) DDA certified community residential services and support, both facility-based such as licensed group homes, and nonfacility based, such as supported living and state-operated living alternatives (SOLA). Other residen-

tial programs include alternative living (as described in chapter 388-829A WAC, companion homes (as described in chapter 388-829C WAC), adult family homes, adult residential care services, children's foster homes, group care and staffed residential homes.

"Respite care" means short-term intermittent care for ~~((DD))~~ DDA clients in order to provide relief for persons who normally provide that care.

"Secretary" means the secretary of the department of social and health services or the secretary's designee.

"State supplementary payment (~~((SSP))~~)" or "SSP" is the state paid cash assistance program for certain ~~((DD))~~ DDA eligible SSI clients.

AMENDATORY SECTION (Amending WSR 08-11-072, filed 5/19/08, effective 6/19/08)

WAC 388-825-057 Am I eligible to receive paid services from ~~((DD))~~ DDA? You may be eligible to receive paid services from ~~((DD))~~ DDA if you are currently an eligible client of ~~((DD))~~ DDA per chapter 388-823 WAC and:

(1) You are under the age of three and meet the eligibility requirements contained in WAC 388-823-0800 through 388-823-0850; ~~((or))~~

(2) You are a recipient of Washington ~~((state medicare))~~ apple health under the categorically needy program (CNP) or the alternative benefits plan and meet the eligibility requirements ~~((contained in chapters 388-474, 388-475 and 388-513 WAC))~~ under chapter 182-513 WAC that correspond to the program or service you have been determined eligible for; ~~((or))~~

(3) You are enrolled in a ~~((DD))~~ DDA home and community based services waiver and meet the eligibility requirements contained in chapter 388-845 WAC; ~~((or))~~

(4) You have been enrolled in the individual and family services program and meet the eligibility requirements contained in chapter 388-832 WAC; or

(5) You have been approved to receive a state-only funded service.

AMENDATORY SECTION (Amending WSR 08-11-072, filed 5/19/08, effective 6/19/08)

WAC 388-825-0571 What services am I eligible to receive from ~~((DD))~~ DDA if I am under the age of eighteen, have been determined to meet ~~((DD))~~ DDA eligibility requirements, and I am in a dependency guardianship or foster care with children's administration? Your services from ~~((DD))~~ DDA are limited to CFC or medicaid personal care services and related case management if you meet the programmatic eligibility for CFC or medicaid personal care services as defined in chapters 388-106 and 388-71 WAC ~~((governing medicaid personal care (MPC) using the current department approved assessment form, comprehensive assessment reporting evaluation (CARE))~~), and:

(1) You are under the age of eighteen;

(2) You have been determined to meet ~~((DD))~~ DDA eligibility requirements; and

(3) You are in a dependency guardianship or foster care with children's administration.

AMENDATORY SECTION (Amending WSR 08-11-072, filed 5/19/08, effective 6/19/08)

WAC 388-825-059 How will I know which paid services I will receive? Your person-centered service plan/individual support plan (ISP) identifies the services and the amount of service you can receive.

AMENDATORY SECTION (Amending WSR 12-22-037, filed 11/1/12, effective 12/2/12)

WAC 388-825-068 What medicaid state plan services can ~~((DD))~~ DDA authorize? ~~((DD may authorize the following medicaid state plan services))~~ If eligible, DDA may authorize one or more of the following medicaid state plan services:

(1) Community first choice, per chapter 388-106 WAC;

(2) Medicaid personal care, per chapter 388-106 WAC;

~~((2))~~ (3) Private duty nursing for adults age eighteen and older; per chapter 388-106 WAC;

~~((3))~~ (4) Private duty nursing for children under the age of eighteen, per WAC 182-551-3000;

~~((4 Adult day health for adults, per chapter 388-106 WAC; and))~~

(5) ICF/IID services, per chapters 388-835 and 388-837 WAC;

(6) Nursing facility services at residential habilitation centers (RHC) per chapter 388-97 WAC.

AMENDATORY SECTION (Amending WSR 10-02-101, filed 1/6/10, effective 2/6/10)

WAC 388-825-083 Is there a comprehensive list of waiver and state-only ~~((DD))~~ DDA services? For medicaid state plan services authorized by ~~((DD))~~ DDA, see WAC 388-825-068. The following is a list of waiver and state-only services that ~~((DD))~~ DDA can authorize and those services that can be either a waiver or a state-only service:

(1) **Waiver personal care services that are not available with state-only funds include:**

- (a) In-home services;
- (b) Adult family home; and
- (c) Adult residential care.

(2) **Waiver services that can be funded as state-only services:**

- (a) Assistive technology;
- (b) Behavior management and consultation;
- ~~((b))~~ (c) Community engagement;
- (d) Community guide;
- (e) Community transition;
- ~~((e))~~ (f) Environmental accessibility adaptations;
- ~~((f))~~ (g) Medical equipment and supplies;
- ~~((f))~~ (h) Occupational therapy;
- ~~((f))~~ (i) Peer mentoring;
- (j) Person-centered planning facilitation;
- (k) Physical therapy;
- ~~((g))~~ (l) Respite care;
- ~~((h))~~ (m) Sexual deviancy evaluation;
- ~~((h))~~ (n) Skilled nursing;
- ~~((h))~~ (o) Specialized clothing;

- (p) Specialized nutrition;
 (q) Specialized medical equipment or supplies;
 ((~~t~~)) (r) Specialized psychiatric services;
 ((~~h~~)) (s) Speech, hearing and language therapy;
 ((~~m~~)) (t) Staff/family consultation and training;
 ((~~n~~)) (u) Supported parenting services;
 (v) Therapeutic equipment and supplies;
 (w) Transportation/mileage;
 ((~~o~~)) (x) Vehicle modification;
 (y) Residential habilitation services (RHS), including:
 (i) Alternative living;
 (ii) Companion homes;
 (iii) Supported living;
 (iv) Group home;
 (v) Child foster care;
 (vi) Child group care;
 (vii) Staffed residential; and
 (viii) State operated living alternative (SOLA);
 ((~~p~~)) (z) Employment/day programs, including:
 (i) Community access;
 (ii) ((~~Community guide~~);
 (iii) Person-to-person;
 ((~~iv~~)) Prevocational services; and
 ((~~v~~)) (iii) Supported employment;
 ((~~q~~)) (aa) ((~~HPEIP~~)) County programs, including child development services;
 ((~~r~~)) (bb) Behavioral ((~~Mental~~)) health stabilization services, including:
 (i) Behavior ((~~management~~)) support and consultation;
 (ii) ((~~Mental health crisis~~)) Behavioral health crisis diversion bed services; and
 (iii) ((~~Skilled nursing~~; and
 ((~~s~~)) Specialized psychiatric services.
 (3) **State-only services that are not available as a waiver service:**
 (a) Adult day care;
 ((~~b~~) Architectural and vehicle modification);
 ((~~e~~)) (b) Attendant care;
 ((~~d~~)) (c) Child care for foster children;
 ((~~e~~)) (d) Chore services;
 ((~~f~~)) (e) Community services grant;
 ((~~g~~)) (f) Individual and family assistance;
 ((~~h~~)) (g) Information/education;
 ((~~i~~)) (h) Medical and dental services;
 ((~~j~~)) (i) Medical insurance copays and costs exceeding other coverage;
 ((~~k~~)) (j) Parent and sibling education;
 ((~~l~~)) (k) Parent training and counseling;
 ((~~m~~)) (l) Psychological counseling;
 ((~~n~~)) (m) Recreational opportunities;
 ((~~o~~)) (n) State supplementary payments;
 ((~~p~~) Specialized clothing;
 ((~~q~~) Specialized nutrition;
 ((~~r~~)) (o) Training of the client;
 ((~~s~~)) (p) Transportation - cost of escort service or travel time; ((~~and~~))
 ((~~t~~)) (q) Reimbursement to families for the purchase of approved items or services((~~-~~)); and
 (r) Overnight planned respite services.

AMENDATORY SECTION (Amending WSR 07-23-062, filed 11/16/07, effective 12/17/07)

WAC 388-825-305 What service providers are governed by the qualifications in these rules? These rules govern individuals and agencies contracted with to provide one or more of the following:

- (1) Respite care services;
- (2) Personal care services through the ((~~medicaid personal care program or DDD HCBS Basic~~)) basic plus((~~- or CORE~~)) waiver((~~s~~)); ((~~o~~))
- (3) Community first choice services;
- (4) Medicaid personal care; or
- (5) Attendant care services.

AMENDATORY SECTION (Amending WSR 05-17-135, filed 8/19/05, effective 9/19/05)

WAC 388-825-310 What are the qualifications for respite care, community first choice, medicaid personal care, and attendant care service providers? (1) ((~~Individuals and agencies providing medicaid personal care (chapters 388-71 and 388-106 WAC) and DDD HCBS waiver personal care (chapter 388-845 WAC))~~) The providers of services in WAC 388-825-305 must meet the qualifications and training requirements in ((~~WAC 388-71-0500 through 388-71-05909~~)) chapter 388-71 WAC.

(2) ((~~Individuals and agencies providing nonwaiver DDD home and community based services (HCBS) in the client's residence or the provider's residence or other setting must meet the requirements in WAC 388-825-300 through 388-825-400~~)) Individuals and agencies providing state only individual and family services must meet the provider qualifications in chapter 388-832 WAC for the specific service.

(3) Individuals and agencies providing HCBS waiver services must meet the provider qualifications in chapter 388-845 WAC for the specific service. In addition to meeting the provider qualifications in chapter 388-845 WAC, respite care providers must meet requirements in subsection (1) of this section.

AMENDATORY SECTION (Amending WSR 10-02-101, filed 1/6/10, effective 2/6/10)

WAC 388-825-325 What are required skills and abilities for individuals and agencies contracted to provide community first choice services, medicaid personal care, respite care, ((~~personal care services through the medicaid personal care program or the DDD HCBS Basic, Basic Plus, CHBS, or Core waivers~~)) or attendant care services? (1) As a provider of community first choice services, medicaid personal care, respite care, ((~~personal care services through the medicaid personal care program or the DDD HCBS Basic, Basic Plus, CHBS, or Core waivers~~)) or attendant care services, you must be able to:

- (a) Adequately maintain records of services performed and payments received;
- (b) Read and understand the person's service plan. Translation services may be used if needed;
- (c) Be kind and caring to the DSHS client for whom services are authorized;

- (d) Identify problem situations and take the necessary action;
 - (e) Respond to emergencies without direct supervision;
 - (f) Understand the way your employer wants you to do things and carry out instructions;
 - (g) Work independently;
 - (h) Be dependable and responsible;
 - (i) Know when and how to contact the client's representative and the client's case resource manager;
 - (j) Participate in any quality assurance reviews required by DSHS;
- (2) If you are working with an adult client of DSHS as a provider of attendant care, you must also:
- (a) Be knowledgeable about the person's preferences regarding the care provided;
 - (b) Know the resources in the community the person prefers to use and enable the person to use them;
 - (c) Know who the person's friends are and enable the person to see those friends; and
 - (d) Enable the person to keep in touch with his/her family as preferred by the person.

AMENDATORY SECTION (Amending WSR 10-02-101, filed 1/6/10, effective 2/6/10)

WAC 388-825-330 What is required for agencies (~~wanting~~) to provide care in the home of a person with developmental disabilities? (1) Agencies providing community first choice services, medicaid personal care, or respite services must be licensed as a home care agency or a home health agency through the department of health per chapter 246-335 WAC.

(2) If a residential agency certified per chapter 388-101 WAC (~~wishes~~) wants to provide medicaid personal care or respite care in the client's home(~~;~~) the agency must have a home care agency (~~certification~~) or (~~⊕~~) home health license.

(3) If a residential agency certified per chapter 388-101 WAC only wants to provide skills acquisition under the community first choice program the agency must be contracted with the department to provide the service.

AMENDATORY SECTION (Amending WSR 07-23-062, filed 11/16/07, effective 12/17/07)

WAC 388-825-355 (~~Are there any educational~~) What are the training requirements for individuals providing respite care, attendant care, community first choice, or personal care services? (~~((1) If you are an)~~ The training and certification requirements for individuals who (~~providing~~) provide personal care or community first choice services (~~for adults, you must meet the training requirements~~) are listed in (~~WAC 388-71-05665 through 388-71-05909~~) chapter 388-71 WAC.

~~((2) If you provide personal care for children, or provide respite care, there is no required training but DDD retains the authority to require training of any provider.)~~

AMENDATORY SECTION (Amending WSR 07-10-029, filed 4/23/07, effective 6/1/07)

WAC 388-828-1020 What definitions apply to this chapter? The following definitions apply to this chapter:

"AAIDD" means the American Association on Intellectual and Developmental Disabilities.

"Acuity Scale" refers to an assessment tool that is intended to provide a framework for documenting important assessment elements and for standardizing the key questions that should be asked as part of a professional assessment. The design helps provide consistency from client to client by minimizing subjective bias and assists in promoting objective assessment of a person's support needs.

~~("ADSA" means the aging and disability services administration (ADSA), an administration within the department of social and health services, which includes the following divisions: Home and community services, residential care services, management services and division of developmental disabilities.~~

~~"ADSA contracted provider" means an individual or agency who is licensed, certified, and/or contracted by ADSA to provide services to DDD clients.)~~

"Administration" or "DDA" means the developmental disabilities administration of the department of social and health services.

"Adult family home" or "AFH" means a residential home in which a person or persons 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 the person or persons providing the services (~~((see RCW 70.12.010))~~) per chapter 388-76 WAC.

"Agency provider" means a (~~licensed and/or ADSA certified business who is contracted with ADSA or a county to provide DDD services (e.g., personal care, respite care, residential services, therapy, nursing, employment, etc.)~~) business that is licensed, certified, or both, and that is contracted with the department or a county to provide DDA services such as personal care, respite care, residential services, therapy, nursing, and employment.

"Algorithm" means a numerical formula used by the (~~DDD~~) DDA assessment for one or more of the following:

(1) Calculation of assessed information to identify a client's relative level of need;

(2) Determination regarding which assessment modules a client receives as part of (~~his/her DDD~~) his or her DDA assessment; and

(3) Assignment of a service level to support a client's assessed need.

"Authorization" means (~~DDD~~) DDA approval of funding for a service as identified in the individual support plan or evidence of payment for a service.

"CARE" refers to the comprehensive assessment reporting evaluation assessment per chapter 388-106 WAC.

"Client" means a person who has a developmental disability as defined in RCW 71A.10.020(3) who also has been determined eligible to receive services by the (~~division~~) administration under chapter 71A.16 RCW.

"Collateral contact" means a person or agency that is involved in the client's life (~~(e.g.,)~~) such as legal guardian, family member, care provider, or friend(~~(, etc.)~~).

"Companion home" is a ~~((DDD))~~ DDA contracted residential service that provides twenty-four hour training, support, and supervision, to one adult living with a paid provider.

~~("DDD" means the division of developmental disabilities, a division with the aging and disability services administration (ADSA), department of social and health services (DSHS).)~~

"Contracted provider" means an individual or agency who is one or more of the following: licensed, certified, or contracted by the department to provide services to DDA clients.

"DDA" means the developmental disabilities administration of the department of social and health services.

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

"Group home" or "GH" means a ~~((ADSA))~~ licensed adult family home or ~~((boarding home))~~ assisted living facility contracted and certified ~~((by ADSA))~~ to provide residential services and support to adults with developmental disabilities.

"ICF/~~((MR))IID~~" means a facility certified as an intermediate care facility for ~~((the mentally retarded))~~ individuals with intellectual disabilities to provide habilitation services to ~~((DDD))~~ DDA clients.

"ICF/~~((MR))IID~~ level of care" is a standardized assessment of a client's need for ICF/~~((MR))IID~~ level of care per 42 C.F.R. Sec. 440 and 42 C.F.R. Sec. 483. In addition, ICF/~~((MR))IID~~ level of care refers to one of the standards used by ~~((DDD))~~ DDA to determine whether a client meets minimum eligibility criteria for one of the ~~((DDD))~~ DDA HCBS waivers.

~~("Individual support plan" or "ISP" is a document that authorizes and identifies the DDD paid services to meet a client's assessed needs.)~~

"Legal guardian" means a person/agency, appointed by a court, who is authorized to make some or all decisions for a person determined by the court to be incapacitated. In the absence of court intervention, parents remain the legal guardians for their child until the child reaches the age of eighteen.

"LOC score" means a level of care score for answers to questions in the support needs assessment for children that are used in determining if a client meets eligibility requirements for ICF/~~((MR))IID~~ level of care.

"Modules" refers to three sections of the ~~((DDD))~~ DDA assessment. They are: The support assessment, the service level assessment, and the person-centered service plan/individual support plan (ISP).

"Panel" refers to the visual user-interface in the ~~((DDD))~~ DDA assessment computer application where assessment questions are typically organized by topic and you and your respondents' answers are recorded.

"Person-centered service plan/individual support plan" or "ISP" is a document that identifies your goals and assessed health and welfare needs. Your person-centered service plan/individual support plan also indicates the paid services and natural supports that will assist you to achieve your goals and address your addressed needs.

"Plan of care" or "POC" refers to the paper-based assessment and service plan for clients receiving services on one of the ~~((DDD))~~ DDA HCBS waivers prior to June 1, 2007.

"Raw score" means the numerical value when adding a person's "frequency of support," "daily support time," and "type of support" scores for each activity in the support needs and supplemental protection and advocacy scales of the supports intensity scale (SIS) assessment.

"Residential habilitation center" or "RHC" is a state-operated facility certified to provide ICF/~~((MR))IID~~ and/or nursing facility level of care for persons with developmental disabilities per chapter 71A.20 RCW.

"Respondent" means the adult client and/or another person familiar with the client who participates in the client's ~~((DDD))~~ DDA assessment by answering questions and providing information. Respondents may include ~~((ADSA))~~ DDA contracted providers.

"SIS" means the supports intensity scale developed by the American Association of Intellectual and Developmental Disabilities (AAIDD). The SIS is in the support assessment module of the ~~((DDD))~~ DDA assessment.

"Service provider" refers to ~~((an ADSA))~~ a department contracted agency or person who provides services to ~~((DDD))~~ DDA clients. Also refers to state operated living alternative programs (SOLA).

"SOLA" means a state operated living alternative program for adults that is operated by ~~((DDD))~~ DDA.

"State supplementary payment" or "SSP" is the state paid cash assistance program for certain ~~((DDD))~~ DDA eligible Social Security income clients per chapter 388-827 WAC.

"Supported living" or "SL" refers to residential services provided by ~~((ADSA))~~ DDA certified residential agencies to clients living in homes that are owned, rented, or leased by the clients or their legal representatives.

"Waiver personal care" means physical or verbal assistance with activities of daily living (ADL) and instrumental activities of daily living (IADL) due to your functional limitations per chapter 388-106 WAC to individuals who are authorized to receive services available in the ~~((Basic))~~ basic plus ~~((and Core))~~ waiver ~~((s))~~ per chapter 388-845 WAC.

"Waiver respite care" means short-term intermittent relief for persons normally providing care to individuals who are authorized to receive services available in the ~~((Basic))~~ individual and family services (IFS), children's intensive in-home behavioral support (CIIBS), basic plus, and core waivers per chapter 388-845 WAC.

"You/Your" means the client.

AMENDATORY SECTION (Amending WSR 08-12-037, filed 5/30/08, effective 7/1/08)

WAC 388-828-1060 What is the purpose of the ~~((DDD))~~ DDA assessment? The purpose of the ~~((DDD))~~ DDA assessment is to provide a comprehensive assessment process that:

- (1) Collects a common set of assessment information for reporting purposes to the legislature and the department.
- (2) Promotes consistency in evaluating client support needs for purposes of planning, budgeting, and resource management.
- (3) Identifies a level of service and/or number of hours that is used to support the assessed needs of clients who have

been authorized by ~~((DD))~~ DDA to receive one or more of the following:

(a) Medicaid personal care services or ~~((DDD- HCBS waiver personal care))~~ community first choice services per chapter 388-106 WAC;

(b) Waiver respite care services per chapter 388-845 WAC;

(c) Services in the voluntary placement program (VPP) per chapter 388-826 WAC;

(d) Supported living residential services per chapter 388-101 WAC;

(e) Group home residential services per chapter 388-101 WAC;

(f) Group training home residential services per chapter 388-101 WAC;

(g) Companion home residential services per chapter 388-829C WAC; ~~((e))~~

(h) Individual and family services per chapter 388-832 WAC;

(i) Individual and family services waiver per chapter 388-845 WAC;

(j) State supplementary program per chapter 388-827 WAC.

(4) Records your service requests.

AMENDATORY SECTION (Amending WSR 07-10-029, filed 4/23/07, effective 6/1/07)

WAC 388-828-1500 When does DD~~((D))~~A conduct a reassessment? ~~((A reassessment must occur))~~ (1) DDA must conduct a reassessment:

~~((1))~~ (a) On an annual basis if you are receiving a paid service or SSP; ~~((e))~~

~~((2))~~ (b) When a significant change is reported that may affect your need for support ~~((E.g., changes in your medical condition, caregiver status, behavior, living situation, employment status.))~~; or

(c) Before the next ISP date of your current assessment.

(2) DDA will provide you with notice in advance of your next ISP date so you may schedule the assessment at a time that is convenient to you.

AMENDATORY SECTION (Amending WSR 07-10-029, filed 4/23/07, effective 6/1/07)

WAC 388-828-1520 Where is the DD~~((D))~~A assessment and reassessment administered? ~~((The DDD assessment and reassessment are administered in your place of residence))~~ (1) DDA assessments and reassessments are administered in your home, place of residence, or at another location that is convenient to you.

(2) If the DDA assessment is not administered in your home or place of residence and if you receive a DDA paid service in your home or residence, DDA will conduct a follow-up home visit to ensure your person-centered service plan/individual support plan can be implemented in your living environment.

AMENDATORY SECTION (Amending WSR 08-12-037, filed 5/30/08, effective 7/1/08)

WAC 388-828-1540 Who participates in your ~~((DD))~~ DDA assessment? ~~((All relevant persons who are involved in your life may participate in your DDD assessment, including your parent(s), legal representative/guardian, advocate(s), and service provider(s)))~~ You choose the people who participate in your assessment and person-centered service plan/individual support plan meeting.

~~((2))~~ DDA requires that at a minimum: You, one of your respondents, and a ~~((DD))~~ DDA employee participate in your ~~((DD))~~ DDA assessment interview. In addition:

(a) If you are under the age of eighteen, your parent(s) or legal guardian(s) must participate in your ~~((DD))~~ DDA assessment interview.

(b) If you are age eighteen or older, your court appointed legal representative/guardian must be consulted if he/she does not attend your ~~((DD))~~ DDA assessment interview.

(c) If you are age eighteen and older and have no legal representative/guardian, ~~((DD))~~ DDA will assist you to identify a respondent.

~~((d))~~ DDA may ~~((require additional respondents to participate in))~~ consult with other people who were not present at your ~~((DD))~~ DDA assessment interview, if needed, to obtain complete and accurate information.

AMENDATORY SECTION (Amending WSR 07-10-029, filed 4/23/07, effective 6/1/07)

WAC 388-828-8000 What is the purpose of the person-centered service plan/individual support plan (ISP) module? The purpose of the person-centered service plan/individual support plan module is to create a written plan that includes:

(1) Your goals and desired outcomes;

(2) The services and supports, both paid and unpaid, that will assist you to achieve your identified goals;

(3) Your acuity scores generated from the support assessment;

~~((2))~~ (4) Referral information;

~~((3))~~ (5) The SSP, if any, you are approved to receive in lieu of a ~~((DD))~~ DDA paid service; and

~~((4))~~ (6) ~~((DD))~~ DDA paid services you are authorized to receive:

(a) If you are enrolled in a ~~((DD))~~ DDA waiver, the ISP must address all the health and welfare needs identified in your ICF/~~((MR))~~ IID level of care assessment and the supports used to meet your assessed needs; or

(b) If you are not enrolled in a ~~((DD))~~ DDA waiver, ~~((DD))~~ DDA is only required to address the ~~((DD))~~ DDA paid services you are approved to receive.

AMENDATORY SECTION (Amending WSR 08-20-118, filed 9/30/08, effective 10/31/08)

WAC 388-831-0065 What if I refuse to participate in the risk assessment? (1) If you refuse to participate in the risk assessment, the ~~((division))~~ administration cannot determine what your health and safety needs are, or whether you

can be supported successfully in the community with reasonable safeguards. You will not be eligible for any ~~((division))~~ administration services except for case management and community first choice (CFC) or medicaid personal care (MPC) services (if eligible under chapter 388-106 WAC).

(2) Your name will be placed on the specialized client database. This database identifies individuals who may present a danger to their communities.

(3) If ~~((DDD))~~ DDA determines it can provide only case management and ~~((personal care))~~ CFC or MPC services, you and your legal representative will receive a notice of the determination that explains the decision and your right to appeal that decision.

AMENDATORY SECTION (Amending WSR 08-20-118, filed 9/30/08, effective 10/31/08)

WAC 388-831-0160 What services may ~~((F))~~ you receive if ~~((F))~~ you refuse placement in the community protection program? If you are offered and refuse community protection program residential services, you may only receive case management services and community first choice or medicaid personal care services (if eligible under chapter 388-106 WAC).

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-0001 Definitions. "Aggregate services" means a combination of services subject to the dollar limitations in the basic plus waivers.

"Allocation" means the amount of IFS waiver funding available to the client for a maximum of twelve months.

"CARE" means comprehensive assessment and reporting evaluation.

"CIIBS" means children's intensive in-home behavioral support waiver.

"Client" or "person" means a person who has a developmental disability as defined in RCW ~~((71A.10.020(3)))~~ 71A.10.020(5) and has been determined eligible to receive services by the administration under chapter 71A.16 RCW.

"Community crisis stabilization services" or "CCSS" means a state operated program that provides short term supports to participants who meet specific criteria and who are in crisis and/or who are at risk of hospitalization or institutional placement.

"DDA" means the developmental disabilities administration, of the department of social and health services.

"DDA assessment" refers to the standardized assessment tool as defined in chapter 388-828 WAC, used by DDA to measure the support needs of persons with developmental disabilities.

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

"EPSDT" means early and periodic screening, diagnosis, and treatment, medicaid's child health component providing a mandatory and comprehensive set of benefits and services for children up to age twenty one as defined in WAC 182-534-0100.

"Enhanced respite services" means respite care for DDA enrolled children and youth, who meet specific criteria, in a DDA contracted and licensed staffed residential setting.

"Evidence based treatment" means the use of physical, mental and behavioral health interventions for which systematic, empirical research has provided evidence of statistically significant effectiveness as treatments for specific conditions. Alternate terms with the same meaning are evidence-based practice (EBP) and empirically supported treatment (EST).

"Family" means one or more of the following relatives; ~~((who live in the same home with the eligible client. Relatives include))~~ spouse or registered domestic partner; natural, adoptive or step parent; grandparent; child; stepchild; sibling; stepsibling; uncle; aunt; first cousin; niece; or nephew.

"Family home" means the residence where you and your ~~((relatives))~~ family member(s) live.

"Gainful employment" means employment that reflects achievement of or progress towards a living wage.

"HCBS waivers" means home and community based services waivers.

"Home" means present or intended place of residence.

"ICF/IID" means an intermediate care facility for individuals with intellectual disabilities.

"IFS waiver" means the individual and family services waiver.

~~((("Individual support plan (ISP)" is a document that authorizes and identifies the DDA paid services and unpaid supports to meet a client's assessed needs.))~~

"Integrated business settings" means a setting that enables participants to either work alongside or interact with individuals who do not have disabilities, or both.

"Integrated settings" mean typical community settings not designed specifically for individuals with disabilities in which the majority of persons employed and participating are individuals without disabilities.

"Legal representative" means a parent of a person who is under eighteen years of age, a person's legal guardian, a person's limited guardian when the subject matter is within the scope of limited guardianship, a person's attorney at law, a person's attorney in fact, or any other person who is authorized by law to act for another person.

"Living wage" means the amount of earned wages needed to enable an individual to meet or exceed ~~((his/her))~~ his or her living expenses.

"Necessary supplemental accommodation representative" means an individual who receives copies of DDA planned action notices (PANs) and other department correspondence in order to help a client understand the documents and exercise the client's rights. A necessary supplemental accommodation representative is identified by a client of DDA when the client does not have a legal guardian and the client is requesting or receiving DDA services.

"Participant" means a client who is enrolled in a home and community based services waiver program.

"Person-centered service plan/individual support plan" or "ISP" is a document that identifies your goals and assessed health and welfare needs. Your person-centered service plan/individual support plan also indicates the paid services and natural supports that will assist you to achieve your goals and address your assessed needs.

"Primary caregiver" means the person who provides the majority of your care and supervision.

"Provider" means an individual or agency who meets the provider qualifications and is contracted with DSHS to provide services to you.

"Respite assessment" means an algorithm within the DDA assessment that determines the number of hours of respite care you may receive per year if you are enrolled in the basic plus, children's intensive in-home behavioral support, or core waiver.

"SSI" means supplemental security income, an assistance program administered by the federal social security administration for blind, disabled and aged individuals.

"SSP" means state supplementary payment program, a state-paid cash assistance program for certain clients of the developmental disabilities administration.

"State funded services" means services that are funded entirely with state dollars.

"You(~~your~~)" or "your" means the client.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-0015 What HCBS waivers are provided by the developmental disabilities administration (DDA)? DDA provides services through ~~((four))~~ five HCBS waivers:

- (1) Basic plus waiver;
- (2) Core waiver;
- (3) Community protection (CP) waiver; ~~((and))~~
- (4) Children's intensive in-home behavioral support waiver (CIIBS); and
- (5) Individual and family services (IFS) waiver.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-0020 When were the HCBS waivers effective? Basic plus, children's intensive in-home behavioral support, core and community protection waivers were effective September 1, 2012. Individual and family services waiver was effective June 1, 2015.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-0030 Do I meet criteria for HCBS waiver-funded services? (1) You meet criteria for DDA HCBS waiver-funded services if you meet all of the following:

- ~~((1))~~ (a) You have been determined eligible for DDA services per RCW 71A.10.020.
- ~~((2))~~ (b) You have been determined to meet ICF/IID level of care per WAC 388-845-0070, 388-828-3060 and 388-828-3080.
- ~~((3))~~ (c) You meet disability criteria established in the Social Security Act.
- ~~((4))~~ (d) You meet financial eligibility requirements as defined in WAC ~~((388-515-1510))~~ 182-515-1510.
- ~~((5))~~ (e) You choose to receive services in the community rather than in an ICF/IID facility.

~~((6))~~ (f) You have a need for monthly waiver services or monthly monitoring as identified in your person-centered service plan/individual support plan.

~~((7))~~ (g) You are not residing in hospital, jail, prison, nursing facility, ICF/IID, or other institution.

~~((8))~~ (h) Additionally, for the children's intensive in-home behavioral support (CIIBS) waiver-funded services:

~~((a))~~ (i) You are age eight or older and under the age of eighteen for initial enrollment and under age twenty-one for continued enrollment;

~~((b))~~ (ii) You have been determined to meet CIIBS program eligibility per chapter 388-828 WAC prior to initial enrollment only;

~~((c))~~ (iii) You live with your family; and

~~((d))~~ (iv) Your parent/guardian(s) and primary caregiver(s), if other than parent/guardian(s), have signed the participation agreement.

(2) For individual and family services waiver funded services, you must meet the criteria in subsection (1) of this section and also:

(a) Live in your family home; and

(b) Are age three or older.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-0041 What is DDA's responsibility to provide ~~((my))~~ your services under the DDA HCBS waivers administered by DDA? If you are enrolled in an HCBS waiver administered by ~~((DDA))~~ DDA.

(1) DDA will provide an annual comprehensive assessment to evaluate your health and welfare needs. Your person-centered service plan/individual support plan, as specified in WAC 388-845-3055, will document:

(a) Your identified health and welfare needs; and

(b) Your HCBS waiver services and non-waiver services authorized to meet your assessed need.

(2) You have access to DDA paid services that are provided within the scope of your waiver, subject to the limitations in WAC 388-845-0110 and 388-845-0115.

(3) DDA will provide waiver services you need and qualify for within your waiver.

(4) DDA will not deny or limit, based on lack of funding, the number of waiver services for which you are eligible.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-0045 When there is capacity to add people to a waiver, how does DDA determine who will be enrolled? When there is capacity on a waiver and available funding for new waiver participants, DDA may enroll people from the statewide data base in a waiver based on the following priority considerations:

(1) First priority will be given to current waiver participants assessed to require a different waiver because their identified health and welfare needs have increased and these needs cannot be met within the scope of their current waiver.

(2) DDA may also consider any of the following populations in any order:

(a) Priority populations as identified and funded by the legislature.

(b) Persons DDA has determined to be in immediate risk of ICF/IID admission due to unmet health and welfare needs.

(c) Persons identified as a risk to the safety of the community.

(d) Persons currently receiving services through state-only funds.

(e) Persons on an HCBS waiver that provides services in excess of what is needed to meet their identified health and welfare needs.

(f) Persons who were previously on an HCBS waiver since April 2004 and lost waiver eligibility per WAC ~~((388-845-0060 (1)(i)))~~ 388-845-0060 (1)(i).

(3) ~~((For the Basic Plus waiver only,))~~ DDA may consider persons who need the waiver services available in the basic plus or IFS waivers to maintain them in their family's home or in their own home.

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 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-0052 What is the process if I am already on a DDA HCBS waiver and request enrollment onto a different ~~((waiver))~~ DDA HCBS waiver? (1) If you are already enrolled in a DDA HCBS waiver and you request to be enrolled in a different waiver DDA will do the following:

(a) Assess your needs to determine whether your health and welfare needs can be met with services available on your current waiver or whether those needs can only be met through services offered on a different waiver.

(b) If DDA determines your health and welfare needs can be met by services available on your current waiver your enrollment request will be denied.

(c) If DDA determines your health and welfare needs can only be met by services available on a different waiver your service need will be reflected in your person-centered service plan/~~((ISP))~~ individual support plan.

(d) If DDA determines there is capacity on the waiver that is determined to meet your needs, DDA will place you on that waiver.

(2) You will be notified in writing of DDA's decision under subsection (1)(a) of this section and if your health and welfare needs cannot be met on your current waiver, DDA will notify you in writing whether there is capacity on the waiver that will meet your health and welfare needs and whether you will be enrolled on that waiver. If current capacity on that waiver does not exist, your eligibility for enrollment onto that different waiver will be tracked on a statewide data base.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-0055 How do I remain eligible for the waiver? (1) Once you are enrolled in a DDA HCBS waiver,

you can remain eligible if you continue to meet eligibility criteria in WAC 388-845-0030, and:

~~((+))~~ (a) You complete a reassessment with DDA at least once every twelve months to determine if you continue to meet all of these eligibility requirements; ~~((and~~

~~(2))~~ (b) You must either receive a waiver service at least once in every thirty consecutive days, as specified in WAC ~~((182-513-1320 (3)(b)))~~ 182-513-1320(3), or your health and welfare needs require monthly monitoring, which will be documented in your client record; ~~((and~~

~~(3))~~ (c) You complete an in-person DDA assessment/reassessment interview ~~((administered in your home))~~ per WAC 388-828-1520.

~~((4))~~ ~~In addition, for~~ (2) For the children's intensive in-home behavioral supports waiver, you must meet the criteria in subsection (1) of this section and:

(a) Be under age twenty-one;

(b) Live with your family; and

(c) Have an annual participation agreement signed by your parent/guardian(s) and primary caregiver(s), if other than parent/guardian(s).

(3) For the individual and family services waiver, you must meet the criteria in subsection (1) of this section and:

(a) Live in the family home; and

(b) Be age three or over.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-0060 Can ~~((my))~~ your waiver enrollment be terminated? DDA may terminate your waiver enrollment if DDA determines that:

(1) Your health and welfare needs cannot be met in your current waiver or for one of the following reasons:

(a) You no longer meet one or more of the requirements listed in WAC 388-845-0030;

(b) You do not have an identified need for a waiver service at the time of your person-centered service plan/individual support plan;

(c) You do not use a waiver service at least once in every thirty consecutive days and your health and welfare do not require monthly monitoring;

(d) You are on the community protection waiver and:

(i) You choose not to be served by a certified residential community protection provider-intensive supported living services (CP-ISLS);

(ii) You engage in any behaviors identified in WAC 388-831-0240 (1) through (4); and

(iii) DDA determines that your health and safety needs or the health and safety needs of the community cannot be met in the community protection program~~((:))~~;

(e) You choose to ~~((disenroll))~~ unenroll from the waiver;

(f) You reside ~~((out-of-state))~~ out of state;

(g) You cannot be located or do not make yourself available for the annual waiver reassessment of eligibility;

(h) You refuse to participate with DDA in:

(i) Service planning;

(ii) Required quality assurance and program monitoring activities; or

(iii) Accepting services agreed to in your person-centered service plan/individual support plan as necessary to meet your health and welfare needs~~((:))~~;

(i) You are residing in a hospital, jail, prison, nursing facility, ICF/IID, or other institution and remain in residence at least one full calendar month, and are still in residence:

(i) At the end of that full calendar month, there is no immediate plan for you to return to the community; ~~((:))~~

(ii) At the end of the twelfth month following the effective date of your current person-centered service plan/individual support plan, as described in WAC 388-845-3060; or

(iii) The end of the waiver fiscal year, whichever date occurs first~~((:))~~;

(j) Your needs exceed the maximum funding level or scope of services under the Basic Plus waiver as specified in WAC 388-845-3080; or

(k) Your needs exceed what can be provided under WAC 388-845-3085~~((:))~~;

(2) Services offered on a different waiver can meet your health and welfare needs and DDA enrolls you on a different waiver.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-0100 What determines which waiver I am assigned to? DDA will assign you to the waiver with the minimum service package necessary to meet your health and welfare needs, based on its evaluation of your DDA assessment as described in chapter 388-828 WAC and the following criteria:

(1) For the individual and family services waiver, you:

(a) Are age three or older;

(b) Live in your family home; and

(c) Are assessed to need a waiver service to remain in the family home.

(2) For the basic plus waiver your health and welfare needs require a waiver service to remain in the community.

~~((2))~~ (3) For the core waiver:

(a) You are at immediate risk of out-of-home placement; and/or

(b) You have an identified health and welfare need for residential services that cannot be met by the Basic Plus waiver.

~~((3))~~ (4) For the community protection waiver, refer to WAC 388-845-0105 and chapter 388-831 WAC.

~~((4))~~ (5) For the children's intensive in-home behavioral support waiver, you:

(a) Are age eight or older and under age eighteen;

(b) Live with your family;

(c) Are assessed at high or severe risk of out of home placement due to challenging behavior per chapter 388-828 WAC; and

(d) You have a signed participation agreement from your parent/guardian(s) and primary caregiver(s), if other than parent/guardian(s).

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-0105 What criteria determine assignment to the community protection waiver? DDA may assign you to the community protection waiver only if you are at least eighteen years of age, not currently residing in a hospital, jail or other institution, and meet the following criteria:

(1) You have been identified by DDA as a person who meets one or more of the following:

(a) You have been convicted of or charged with a crime of sexual violence as defined in chapter 71.09 RCW;

(b) You have been convicted of or charged with acts directed towards strangers or individuals with whom a relationship has been established or promoted for the primary purpose of victimization, or persons of casual acquaintance with whom no substantial personal relationship exists;

(c) You have been convicted of or charged with a sexually violent offense and/or predatory act, and may constitute a future danger as determined by a qualified professional;

(d) You have not been convicted and/or charged, but you have a history of stalking, violent, sexually violent, predatory and/or opportunistic behavior which demonstrates a likelihood to commit a sexually violent and/or predatory act based on current behaviors that may escalate to violence, as determined by a qualified professional; or

(e) You have committed one or more violent offense, as defined in RCW 9.94A.030~~((:))~~;

(2) You receive or agree to receive residential services from certified residential community protection provider-intensive supported living services (CP-ISLS); and

(3) You comply with the specialized supports and restrictions in ~~((you))~~ one or more of the following:

(a) Your person-centered service plan/individual support plan;

(b) Your individual instruction and support plan (IISP); ~~((and/or))~~ or

(c) Your treatment plan provided by DDA approved certified individuals and agencies.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-0110 Are there limitations to the waiver services ~~((4))~~ you can receive? There are limitations to waiver services. ~~((In addition to the limitations to your access to nonwaiver services cited for specific services in WAC 388-845-0115, the following limitations apply))~~ Those are:

(1) A service must be ~~((offered))~~ available in your waiver.

(2) The need for a service must be identified and authorized in your person-centered service plan/individual support plan.

~~((2))~~ (3) Behavioral health stabilization services may be added to your person-centered service plan/individual support plan after the services are provided.

~~((3))~~ (4) Waiver services are limited to services required to prevent ICF/IID placement.

~~((4))~~ (5) The cost of your waiver services cannot exceed the average daily cost of care in an ICF/IID.

~~((5))~~ (6) Waiver services cannot replace or duplicate other available paid or unpaid supports or services. You must first pursue benefits available to you through private insurance, the medicaid state plan, or other resources.

~~((6))~~ (7) Waiver funding cannot be authorized for treatments determined by DSHS to be experimental.

~~((7-The))~~ (8) For IFS and basic plus waivers, ~~((has))~~ services must not exceed the yearly limits ((on some)) specified in these programs for specific services ((and)) or combinations of services. ((The combination of services is referred to as aggregate services.

~~((8))~~ (9) Your choice of qualified providers and services is limited to the most cost effective option that meets your health and welfare needs.

~~((9))~~ (10) Services provided out-of-state, other than in recognized bordering cities, are limited to respite care and personal care during vacations of not more than thirty consecutive days.

(a) You may receive services in a recognized out-of-state bordering city on the same basis as in-state services.

(b) The only recognized bordering cities per WAC 182-501-0175 are:

(i) Coeur d'Alene, Moscow, Sandpoint, Priest River, and Lewiston, Idaho; and

(ii) Portland, The Dalles, Hermiston, Hood River, Rainier, Milton-Freewater, and Astoria, Oregon.

~~((10))~~ (11) Other out-of-state waiver services require an approved exception to rule before DDA can authorize payment.

~~((11))~~ (12) Waiver services do not cover co-pays, deductibles, dues, membership fees, or subscriptions.

AMENDATORY SECTION (Amending WSR 10-22-088, filed 11/1/10, effective 12/2/10)

WAC 388-845-0111 Are there limitations regarding who can provide services? The following limitations apply to providers for waiver services:

(1) Your spouse must not be your paid provider for any waiver service.

(2) If you are under age eighteen, your natural, step, or adoptive parent must not be your paid provider for any waiver service.

(3) If you are age eighteen or older, your natural, step, or adoptive parent must not be your paid provider for any waiver service with the exception of:

- (a) Personal care;
- (b) Transportation to and from a waiver service;
- (c) Residential habilitation services per WAC 388-845-1510 if your parent is certified as a residential agency per chapter 388-101 WAC; or

(d) Respite care if you and the parent who provides the respite care live in separate homes.

(4) If you receive CIIBS waiver services, your legal representative or family member per WAC 388-845-0001 must not be your paid provider for any waiver service with the exception of:

- (a) ~~((Personal care;~~
- ~~((b))~~) Transportation to and from a waiver service; and
- ~~((c))~~ (b) Respite per WAC 388-845-1605 through 388-845-1620.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-0115 Does ~~((my))~~ your waiver eligibility limit ~~((my))~~ your access to DDA non-waiver services? If you are enrolled in a DDA HCBS waiver:

- (1) You are not eligible for state-only funding for DDA services; and
- (2) You ~~((are not))~~ may be eligible for medicaid personal care or community first choice services.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-0200 What waiver services are available to ~~((me))~~ you? Each of the DDA HCBS waivers has a different scope of service and your person-centered service plan/individual support plan defines the waiver services available to you.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-0210 What is the scope of services for the basic plus waiver ~~((services))~~?

BASIC PLUS WAIVER	SERVICES	YEARLY LIMIT
	AGGREGATE SERVICES: Behavior support and consultation Community guide Environmental ((accessibility)) adaptations Occupational therapy Physical therapy Skilled nursing Specialized medical equipment/supplies Specialized psychiatric services Speech, hearing and language services Staff/family consultation and training Transportation	May not exceed \$6192 per year on any combination of these services

BASIC PLUS WAIVER	SERVICES	YEARLY LIMIT
	<p><u>Wellness Education</u></p> <p>EMPLOYMENT SERVICES: Prevocational services Supported employment Individual technical assistance</p>	Limits are determined by DDA assessment and employment status; <u>No new enrollment in prevocational services after September 1, 2015</u>
	<p>Community access</p> <p>((Adult foster care (adult family home))) ((Adult residential care (assisted living facility)))</p>	Limits are determined by DDA assessment ((Determined per department rate structure))
	<p>BEHAVIORAL HEALTH STABILIZATION SERVICES: Behavior support and consultation Behavioral health crisis diversion bed services Specialized psychiatric services</p>	Limits determined by a behavioral health professional or DDA
	Personal care	Limits determined by the CARE tool used as part of the DDA assessment
	Respite care	Limits are determined by the DDA assessment
	Sexual deviancy evaluation	Limits are determined by DDA
	Emergency assistance is only for Basic Plus waiver aggregate services	\$6000 per year; preauthorization required

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-0215 What is the scope of services for the CORE waiver ((services))?

CORE WAIVER	SERVICES	YEARLY LIMIT
	<p>Behavior support and consultation Community guide Community transition Environmental ((accessibility)) adaptations</p> <p>Occupational therapy Physical therapy Sexual deviancy evaluation Skilled nursing Specialized medical equipment/supplies Specialized psychiatric services Speech, hearing and language services Staff/family consultation and training Transportation <u>Wellness education</u></p>	Determined by the <u>person-centered service plan</u> /individual support plan, not to exceed the average cost of an ICF/IID for any combination of services
	<p>Residential habilitation</p>	
	<p>Community access</p> <p>Employment services</p> <p>Prevocational services Supported employment Individualized technical assistance</p>	Limits are determined by DDA assessment Limits are determined by DDA assessment and employment status; <u>No new enrollment in prevocational services after September 1, 2015</u>
	<p>BEHAVIORAL HEALTH STABILIZATION SERVICES: Behavior support and consultation Behavioral health crisis diversion bed services</p>	Limits determined by a behavioral health professional or DDA

CORE WAIVER	SERVICES	YEARLY LIMIT
	Specialized psychiatric services	
	((Personal care))	((Limits determined by the CARE tool used as part of the DDA assessment))
	Respite care	Limits are determined by the DDA assessment

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-0220 What is the scope of services for the community protection waiver ((services.))?

COMMUNITY PROTECTION WAIVER	SERVICES	YEARLY LIMIT
	Behavior support and consultation Community transition Environmental ((accessibility)) adaptations Occupational therapy Physical therapy	Determined by the <u>person-centered service plan</u> /individual support plan, not to exceed the average cost of an ICF/IID for any combination of services
	Sexual deviancy evaluation Skilled nursing Specialized medical equipment and supplies Specialized psychiatric services Speech, hearing and language services Staff/family consultation and training Transportation	
	Residential habilitation	
	Employment Services:	Limits determined by DDA assessment and employment status; <u>No new</u>

COMMUNITY PROTECTION WAIVER	SERVICES	YEARLY LIMIT
	Prevocational services Supported employment Individual technical assistance	<u>enrollment in prevocational services after September 1, 2015</u>
	BEHAVIORAL HEALTH STABILIZATION SERVICES: Behavioral support and consultation Behavioral health crisis diversion bed services Specialized psychiatric services	Limits determined by a behavioral health professional or DDA

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-0225 What is the scope of services for the children's intensive in-home behavioral support (CIIBS) waiver ((services.))?

CIIBS Waiver	Services	Yearly Limit
	<ul style="list-style-type: none"> • Behavior support and consultation • Staff/family consultation and training • Environmental ((accessibility)) adaptations • Occupational therapy • Physical therapy • Sexual deviancy evaluation • Nurse delegation • Specialized medical equipment/supplies • Specialized psychiatric services • Speech, hearing and language services • Transportation • Assistive technology • Therapeutic equipment and supplies • Specialized nutrition and clothing 	Determined by the <u>person-centered service plan</u> /individual support plan. Total cost of waiver services cannot exceed the average cost of \$4,000 per month per participant.

CIIBS Waiver	Services	Yearly Limit
	• Vehicle modifications	
	((Personal care))	((Limits determined by the DDA assessment. Costs are included in the total average cost of \$4000 per month per participant for all waiver services.))
	Respite care	Limits determined by the DDA assessment. Costs are included in the total average cost of \$4000 per month per participant for all waiver services.
	Behavioral health stabilization services: Behavioral support and consultation Crisis diversion bed services Specialized psychiatric services	Limits determined by behavioral health specialist

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

NEW SECTION

WAC 388-845-0230 What is the scope of services for the individual and family services (IFS) waiver? (1) IFS waiver services include:

IFS Waiver	Services	Yearly Limit
	<ul style="list-style-type: none"> • Assistive technology • Behavior support and consultation • Community engagement • Staff/family consultation and training • Environmental adaptations • Occupational therapy 	Total cost of waiver services cannot exceed annual allocation determined by the person-centered service plan/ISP.

IFS Waiver	Services	Yearly Limit
	<ul style="list-style-type: none"> • Physical therapy • Sexual deviancy evaluation (paid for outside of annual allocation) • Nurse delegation • Peer mentoring • Person-centered plan facilitation • Respite care • Specialized clothing • Specialized medical equipment/supplies • Specialized nutrition • Specialized psychiatric services • Speech, hearing and language services • Supported parenting services • Transportation • Therapeutic equipment and supplies • Vehicle modifications • Wellness education 	
	<ul style="list-style-type: none"> • Behavioral health stabilization services: • Behavioral support and consultation • Specialized psychiatric services 	Limits determined by behavioral health specialist.

(2) Your IFS waiver services annual allocation is based upon the DDA assessment described in chapter 388-828 WAC. The DDA assessment determines your service level and annual allocation based on your assessed need. Annual allocations are as follows:

- (a) Level 1 = one thousand two hundred dollars;
- (b) Level 2 = one thousand eight hundred dollars;
- (c) Level 3 = two thousand four hundred dollars; or
- (d) Level 4 = three thousand six hundred dollars.

AMENDATORY SECTION (Amending WSR 10-22-088, filed 11/1/10, effective 12/2/10)

WAC 388-845-0415 What is assistive technology?

Assistive technology consists of items, equipment, or product systems used to increase, maintain, or improve functional capabilities of waiver participants, as well as services to directly assist the participant and caregivers to select, acquire, and use the technology. Assistive technology is available in the CIIBS and IFS waivers, and includes the following:

- (1) The evaluation of the needs of the waiver participant, including a functional evaluation of the ~~((child))~~ participant in the ~~((child's))~~ participant's customary environment;
- (2) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices;
- (3) Selecting, designing, fitting, customizing, adapting, applying, retaining, repairing, or replacing assistive technology devices;
- (4) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
- (5) Training or technical assistance for the participant and/or if appropriate, the ~~((child's))~~ participant's family; and
- (6) Training or technical assistance for professionals, including individuals providing education and rehabilitation services, employers, or other individuals who provide services to, employ, or are otherwise involved in the assistive technology related life functions of ~~((children))~~ individuals with disabilities.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-0420 Who is a qualified provider of assistive technology? The provider of assistive technology must be an ~~((assistive technology vendor))~~ entity contracted with DDA to provide assistive technology, or one of the following professionals contracted with DDA and duly licensed, registered or certified to provide this service:

- (1) Occupational therapist;
- (2) Physical therapist;
- (3) Speech and language pathologist;
- (4) Certified music therapist;
- (5) ~~((Certified recreation therapist))~~ Recreation therapist registered in Washington and certified by the national council for therapeutic recreation;
- (6) Audiologist; ~~((or))~~
- (7) Behavior specialist~~((:));~~ or
- (8) Rehabilitation counselor.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-0425 Are there limits to the assistive technology ~~((#))~~ you can receive? (1) ~~((Providers of assistive technology services must be certified, registered or licensed therapists as required by law and contracted with DDA for the therapy they are providing.))~~ Clinical and support needs for assistive technology are identified in your

DDA assessment and documented in the person-centered service plan/individual support plan.

~~((2))~~ ~~((Vendors of assistive technology must maintain a business license required by law and be contracted with DDA to provide this service.~~

~~((3))~~ Assistive technology may be authorized as a waiver service by obtaining an initial denial of funding or information showing that the technology is not covered by medicaid or private insurance.

~~((4))~~ (3) The department does not pay for experimental technology.

~~((5))~~ (4) The department requires your treating professional's written recommendation regarding your need for the technology. This recommendation must take into account that:

(a) The treating professional has personal knowledge of and experience with the requested ~~((and alternative))~~ assistive technology; and

(b) The treating professional has recently examined you, reviewed your medical records, and conducted a functional evaluation.

~~((6))~~ (5) Assistive technology requires prior approval by the DDA regional administrator or designee.

(6) The department may require a written second opinion from a department selected professional that meets the same criteria in subsection ~~((5 above))~~ (4) of this section.

(7) The dollar amounts for your IFS waiver annual allocation limit the amount of assistive technology you are authorized to receive.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-0505 Who is a qualified provider of behavior support and consultation? Under the Basic Plus, Core, ~~((and community protection))~~ CP and IFS waivers, the provider of behavior support and consultation must be one of the following professionals contracted with DDA and duly licensed, registered or certified to provide this service:

- (1) Marriage and family therapist;
- (2) Mental health counselor;
- (3) Psychologist;
- (4) Sex offender treatment provider;
- (5) Social worker;
- (6) Registered nurse (RN) or licensed practical nurse (LPN);
- (7) Psychiatrist;
- (8) Psychiatric advanced registered nurse practitioner (ARNP);
- (9) Physician assistant working under the supervision of a psychiatrist;
- (10) Counselors registered or certified in accordance with the requirements of chapter 18.19 RCW;
- (11) Polygrapher; or
- (12) State operated behavior support agency limited to behavioral health stabilization services.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-0510 Are there limits to the behavior support and consultation ((4)) you can receive? ~~((The following limits apply to your receipt of))~~ ((1)) Clinical and support needs for behavior support and consultation((2)) are identified in your DDA assessment and documented in the person-centered service plan/individual support plan.

~~((3))~~ ((2)) DDA and the treating professional will determine the need and amount of service you will receive, subject to the limitations in subsection ~~((2) below))~~ ((3)) of this section.

~~((2))~~ ((3)) The dollar ~~((limitations))~~ amounts for aggregate services in your Basic Plus waiver or the dollar amounts in the annual allocation for the IFS waiver limit the amount of service unless provided as a behavioral health stabilization service.

~~((3))~~ ((4)) DDA reserves the right to require a second opinion from a department-selected provider.

~~((4))~~ ((5)) Behavior support and consultation not provided as a behavioral health stabilization service requires prior approval by the DDA regional administrator or designee.

NEW SECTION

WAC 388-845-0650 What are community engagement services? (1) Community engagement services are services designed to increase a waiver participant's connection to and engagement in formal and informal community supports.

(2) Services are designed to develop creative, flexible, and supportive community resources and relationships for individuals with developmental disabilities.

(3) Waiver participants are introduced to the community resources and supports that are available in their area.

(4) Participants are supported to develop skills that will facilitate integration into their community.

(5) Outcomes for this service include skill development, opportunities for socialization, valued community roles, and involvement in community activities, organizations, groups, projects, and other resources.

(6) This service is available in the IFS waiver.

NEW SECTION

WAC 388-845-0655 Who are qualified providers of community engagement services? Qualified providers of community engagement services must be contracted with DSHS to provide this service and must be an individual or organization that has specialized training to provide services to people with developmental disabilities. Qualified provider types include:

(1) Registered recreational therapists in the state of Washington; or

(2) Organizations that provide services that promote skill development, improved functioning, increased independence, as well as reducing or eliminating the effects of illness or disability, including, but not limited to:

(a) Community centers;

- (b) Municipal parks and recreation programs;
- (c) Therapeutic recreation camps and programs; and
- (d) Organizations that provide supports for individuals with developmental disabilities.

NEW SECTION

WAC 388-845-0660 Are there limitations to the community engagement services you can receive? (1) Support needs for community engagement services are limited to those identified in your DDA assessment and documented in the person-centered service plan/individual support plan;

(2) The dollar amounts in the annual allocation for the IFS waiver limit the amount of service you can receive;

(3) Community engagement services are limited to the community where you live; and

(4) Community engagement services do not pay for the following costs:

- (a) Membership fees or dues;
- (b) Equipment related to activities; or
- (c) The cost of any activities.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-0820 Are there limits to ((my)) your use of emergency assistance? All of the following limitations apply to your use of emergency assistance:

(1) Prior approval by the DDA regional administrator or designee is required based on a reassessment of your person-centered service plan/individual support plan to determine the need for emergency services;

(2) Payment authorizations are reviewed every thirty days and cannot exceed six thousand dollars per twelve months based on the effective date of your current ~~((plan of care or))~~ person-centered service plan/individual support plan;

(3) Emergency assistance services are limited to the Basic Plus waiver aggregate services; and

(4) Emergency assistance may be used for interim services until:

- (a) The emergency situation has been resolved; or
- (b) You are transferred to alternative supports that meet your assessed needs; or
- (c) You are transferred to an alternate waiver that provides the service you need.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-0900 What are environmental ((accessibility)) adaptations? (1) Environmental ~~((accessibility))~~ adaptations are available in all of the DDA HCBS waivers. Environmental adaptations ((and)) provide ((the)) physical adaptations within the physical structure of the home, or outside the home to provide access to the home. The need must be identified by the DDA assessment and the participant's person-centered service plan/((required by the individual's)) individual support plan. ((needed to)) Environmental adaptations must meet one or more of the following criteria:

(a) Ensure the health, welfare and safety of the individual or caregiver or both; or

(b) Enable the individual who would otherwise require institutionalization to function with greater independence in the home.

(2) Environmental (~~(accessibility)~~) adaptations may include the purchase and installation of (ramps and grab bars, widening of doorways, modification of bathroom facilities, or installing specialized electrical and/or plumbing systems necessary to accommodate the medical equipment and supplies that are necessary for the welfare of the individual.) the following:

(a) Portable and fixed ramps;

(b) Grab bars and handrails;

(c) Widening of doorways, addition of pocket doors, or removal of non-weight bearing walls for accessibility;

(d) Prefabricated roll-in showers and bathtubs;

(e) Automatic touchless or other adaptive faucets and switches;

(f) Automatic turn-on and shut-off adaptations for appliances in the home;

(g) Adaptive toilets, bidets, and sinks;

(h) Specialized electrical or plumbing systems necessary for an approved modification or medical equipment and supplies necessary for either the individual's welfare and safety or caregiver's safety, or both;

(i) Repairs to environmental adaptations due to wear and tear if necessary for client safety and are more cost-effective than replacement of the adaptation;

(j) Debris removal necessary due to hoarding behavior addressed in the participant's positive behavior support plan (PBSP);

(k) Lowering or raising of counters, sinks, cabinets, or other modifications for accessibility;

(l) Reinforcement of walls and replacement of hollow doors with solid core doors;

(m) Replacement of windows with non-breakable glass;

(n) Adaptive hardware and switches;

(o) Ceiling mounted lift systems or portable lift systems; and

(p) Other adaptations that meet identified needs.

(3) ~~(For the)~~ CIIBS and IFS waivers only ~~(s)~~ may include adaptations ~~(include repairs)~~ to the home necessary ~~(due to)~~ to prevent property destruction caused by the participant's behavior, as addressed in the participant's positive behavior support plan.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-0905 Who is a qualified provider for ~~(building these)~~ environmental ~~(accessibility)~~ adaptations? ~~(The provider making these environmental accessibility adaptations)~~

(1) For adaptations that do not require installation, qualified providers are retail vendors with a valid business license contracted with DDA to provide this service.

(2) For adaptations requiring installation, qualified providers must be a registered contractor per chapter 18.27 RCW and contracted with DDA. The contractor or subcontractor

must be licensed and bonded to perform the specific type of work they are providing.

(3) For debris removal, qualified providers must be contracted with DDA.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-0910 What limitations apply to environmental ~~(accessibility)~~ adaptations? The following service limitations apply to environmental ~~(accessibility)~~ adaptations:

(1) Clinical and support needs for environmental adaptations are identified in the waiver participant's DDA assessment and documented in the person-centered service plan/individual support plan.

(2) Environmental ~~(accessibility)~~ adaptations require prior approval by the DDA regional administrator or designee~~(-)~~ and must be supported by written bids from licensed contractors. One bid is required for adaptations costing one thousand five hundred dollars or less. Two bids are required for adaptations costing more than one thousand five hundred dollars and equal to or less than five thousand dollars. Three bids are required for adaptations costing more than five thousand dollars. All bids must include:

(a) The cost of all required permits and sales tax; and

(b) An itemized and clearly outlined scope of work.

(3) DDA may require an occupational therapist, physical therapist, or construction consultant to review and recommend an appropriate environmental adaptation statement of work prior to the waiver participant soliciting bids or purchasing adaptive equipment.

~~((2) With the exception of damage repairs under the CHBS waiver, e))~~ (4) Environmental ~~(accessibility)~~ adaptations or improvements to the home are excluded if they are of general utility without direct medical or remedial benefit to the individual, such as carpeting, roof repair, or central air conditioning~~(-ete)~~.

(5) Environmental adaptations must meet all local and state building codes. Evidence of any required completed inspections must be submitted to DDA prior to authorizing payment for work.

(6) Deteriorated condition of the dwelling or other remodeling projects in progress in the dwelling may prevent or limit some or all environmental adaptations at the discretion of DDA.

(7) Location of the dwelling in a flood plain, landslide zone or other hazardous area may limit or prevent any environmental adaptations at the discretion of DDA.

(8) Written consent from the dwelling landlord is required prior to starting any environmental adaptations for a rental property. The landlord must not require removal of the environmental adaptations at the end of the waiver participant's tenancy as a condition of the landlord approving the environmental adaptation to the waiver participant's dwelling.

~~((3))~~ (9) Environmental ~~(accessibility)~~ adaptations cannot add to the total square footage of the home.

~~((4))~~ (10) The dollar ~~(limitations)~~ amounts for aggregate services in your Basic Plus waiver or the dollar amount

of your annual IFS allocation limit the amount of service you may receive.

~~((5))~~ **(11)** Damage repairs under the CIIBS and IFS waivers are subject to the following restrictions:

(a) Limited to the cost of restoration to the original condition(-);

(b) Limited to the dollar amounts of the IFS waiver participant's annual allocation;

(c) Behaviors of waiver participants that resulted in damage to the dwelling must be addressed in a positive behavior support plan prior to the repair of damages; and

~~((4))~~ (d) Repairs to personal property such as furniture, appliances, and normal wear and tear are excluded.

(12) The following adaptations are not included in this service:

(a) Building fences and fence repairs; and

(b) Carpet or carpet replacement.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-1015 Are there limits to the extended state plan services **(4) you can receive?** (1) Clinical and support needs for extended state plan services are limited to those identified in your DDA assessment and documented in the person-centered service plan/individual support plan.

(2) Additional therapy may be authorized as a waiver service only after you have accessed what is available to you under medicaid and any other private health insurance plan(-).

~~((2))~~ **(3)** The department does not pay for treatment determined by DSHS to be experimental(-).

~~((3))~~ **(4)** The department and the treating professional determine the need for and amount of service you can receive:

(a) The department may require a second opinion from a department selected provider.

(b) The department will require evidence that you have accessed your full benefits through medicaid before authorizing this waiver service.

~~((4))~~ **(5)** The dollar ~~((limitations))~~ amount for basic plus waiver aggregate services limit the amount of service you may receive.

(6) The dollar amount for your annual allocation on the IFS waiver limit the amount of service you may receive.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-1040 Are there limits to the individualized technical assistance services **(4) you can receive?**

(1) Individualized technical assistance service cannot exceed three months in an individual's plan year.

(2) These services are available on the basic plus, core, and ~~((community protection))~~ CP waivers.

(3) Individual must be receiving supported employment or prevocational services.

(4) Services are limited to additional hours per WAC 388-828-9355 and 388-828-9360.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-1110 What are the limits of behavioral health crisis diversion bed services? (1) Clinical and support needs for behavioral health crisis diversion bed services are limited to those identified in the waiver participant's DDA assessment and documented in the person-centered service plan/individual support plan.

(2) Behavioral health crisis diversion bed services are intermittent and temporary. The duration and amount of services you need to stabilize your crisis is determined by a behavioral health professional and/or DDA.

~~((2))~~ **(3)** These services are available in the CIIBS, basic plus, core, and community protection waivers administered by DDA as behavioral health stabilization services in accordance with WAC 388-845-1150 through 388-845-1160.

~~((3))~~ **(4)** The costs of behavioral health crisis diversion bed services do not count toward the dollar ~~((limits))~~ amounts for aggregate services in the Basic Plus waiver.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-1150 What are behavioral health stabilization services? Behavioral health stabilization services assist persons who are experiencing a behavioral health crisis or meet criteria for enhanced respite or community crisis stabilization services. These services are available in the basic plus, core, CIIBS, IFS, and community protection waivers to individuals determined by behavioral health professionals or DDA to be at risk of institutionalization or hospitalization who need one or more of the following services:

(1) Behavior support and consultation;

(2) Specialized psychiatric services; or

(3) Behavioral health crisis diversion bed services not available to participants on the IFS waiver.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-1160 Are there limitations to the behavioral health stabilization services that **(4) you can receive?** (1) Clinical and support needs for behavioral health stabilization services are limited to those identified in your DDA assessment and documented in the person-centered service plan/individual support plan.

(2) Behavioral health stabilization services are intermittent and temporary. The duration and amount of services you need to stabilize your crisis is determined by a behavioral health professional and/or DDA.

~~((2))~~ **(3)** The costs of behavioral health stabilization services do not count toward the dollar ~~((limitations))~~ amounts for aggregate services in the basic plus waiver or the annual allocation in the IFS waiver.

~~((3))~~ **(4)** Behavioral health stabilization services require prior approval by DDA or its designee.

AMENDATORY SECTION (Amending WSR 10-22-088, filed 11/1/10, effective 12/2/10)

WAC 388-845-1170 What is nurse delegation? (1) Nurse delegation services are services in compliance with WAC 246-840-910 through 246-840-970 by a registered nurse to provide training and nursing management for nursing assistants who perform delegated nursing tasks.

(2) Delegated nursing tasks include, but are not limited to, administration of non-injectable medications except for insulin, blood glucose testing, and tube feedings.

(3) Services include the initial visit, care planning, competency testing of the nursing assistant, consent of the client, additional instruction and supervisory visits.

(4) Clients who receive nurse delegation services must be considered "stable and predictable" by the delegated nurse.

(5) Nurse delegation services are available on all DDA HCBS waivers.

AMENDATORY SECTION (Amending WSR 10-22-088, filed 11/1/10, effective 12/2/10)

WAC 388-845-1180 Are there limitations to the nurse delegation services that ~~(*)~~ you receive? The following limitations apply to receipt of nurse delegation services:

(1) Clinical and support needs for nurse delegation are limited to those identified in your DDA assessment and documented in the person-centered service plan/individual support plan.

(2) The department requires the delegating nurse's written recommendation regarding your need for the service. This recommendation must take into account that the nurse has recently examined you, reviewed your medical records, and conducted a nursing assessment.

~~((2))~~ (3) The department may require a written second opinion from a department selected nurse delegator that meets the same criteria in subsection ~~((4))~~ (2) of this section.

~~((3))~~ (4) The following tasks must not be delegated:

- (a) Injections, other than insulin;
- (b) Central lines;
- (c) Sterile procedures; and
- (d) Tasks that require nursing judgment.

(5) The dollar amounts for aggregate services in your basic plus waiver or the dollar amounts for your annual allocation in your IFS waiver limit the amount of nurse delegation service you are authorized to receive.

NEW SECTION

WAC 388-845-1190 What is peer mentoring? (1) Peer mentoring is a form of mentorship that takes place between a person who is living through the experience of having a developmental disability or family member of a person who has a developmental disability (peer mentor) and a person who is new to that experience (the peer mentee).

(2) Peer mentors utilize their personal experiences to provide support and guidance to a waiver participant and family members of a waiver participant.

(3) Peer mentors may orient a waiver participant to local community services, programs, and resources and provide answers to participants' questions or suggest other sources of support.

(4) Peer mentoring is available in the IFS waiver.

NEW SECTION

WAC 388-845-1191 Who are qualified providers of peer mentoring? Qualified providers include organizations who are contracted with DDA to provide peer mentoring support and training to individuals with developmental disabilities or to families with a member with a developmental disability.

NEW SECTION

WAC 388-845-1192 What limitations are there for peer mentoring? (1) Support needs for peer mentoring are limited to those identified in the waiver participant's DDA assessment and documented in the person-centered service plan/individual support plan.

(2) Peer mentors cannot mentor their own family members.

(3) The dollar amounts for the waiver participant's annual allocation in the IFS waiver limit the amount of peer mentoring service that the participant is authorized to receive.

NEW SECTION

WAC 388-845-1195 What is person-centered plan facilitation? (1) Person-centered plan facilitation is an approach to forming life plans that is centered on the individual. It is used as a life planning process to enable individuals with disabilities to increase personal self-determination. Person-centered plan facilitation is available in the IFS waiver.

(2) Person-centered plan facilitation typically includes:

- (a) Identifying and developing a potential circle of people who know and care about the individual;
- (b) Exploring what matters to the waiver participant by listening to and learning from the person;
- (c) Developing a vision for a meaningful life, as defined by the waiver participant, which may include goals for education, employment, housing, relationships, and recreation;

(d) Discovering capacities and assets of the waiver participant, and his or her family, neighborhood, and support network;

(e) Generating an action plan; and

(f) Facilitating follow-up meetings to track progress toward goals.

NEW SECTION

WAC 388-845-1196 Who are qualified providers of person-centered plan facilitation? Qualified providers include organizations and individuals who are contracted with DDA to provide person-centered plan facilitation to individuals with developmental disabilities.

NEW SECTION

WAC 388-845-1197 What limitations are there for person-centered plan facilitation? (1) Support needs for person-centered planning facilitation are limited to those identified in the waiver participant's DDA assessment and documented in the person-centered service plan/individual support plan.

(2) Person-centered plan facilitation may include follow up contacts with the waiver participant and his or her family to consult on plan implementation.

(3) The dollar amounts for the waiver participants' annual allocation in the IFS waiver limit the amount of person-centered plan facilitation service the individual is authorized to receive.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-1300 What are personal care services? Personal care services as defined in WAC 388-106-0010 are the provision of assistance with personal care tasks. These services are available in the basic plus (~~core~~) waiver if:

(1) You do not meet the programmatic eligibility requirements for community first choice services in chapter 388-106 WAC; and

(2) You meet the programmatic eligibility requirements for medicaid personal care in chapter 388-106 WAC.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-1310 Are there limits to the personal care services ~~(F)~~ you can receive? (1) Clinical and support needs for personal care services are limited to those identified in your DDA assessment and documented in your person-centered service plan/individual support plan.

(2) You must meet the programmatic eligibility for medicaid personal care in chapter 388-106 WAC governing medicaid personal care (MPC) using the current department approved assessment form: Comprehensive assessment reporting evaluation (CARE).

~~((2))~~ (3) The maximum hours of personal care you may receive are determined by the CARE tool used as part of the DDA assessment.

(a) Provider rates are limited to the department established hourly rates for in-home medicaid personal care.

(b) Homecare agencies must be licensed through the department of health and contracted with DSHS.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-1410 Are there limits to the prevocational services ~~(F)~~ you can receive? The following limitations apply to your receipt of prevocational services:

(1) Clinical and support needs for prevocational services are limited to those identified in your DDA assessment and documented in your person-centered service plan/individual support plan.

(2) You must be age twenty and graduating from high school prior to your July or August twenty-first birthday, age twenty-one and graduated from high school, or age twenty-two or older to receive prevocational services.

~~((2) New referrals for prevocational services require prior approval by the DDA regional administrator and county coordinator or their designees.))~~

(3) Effective September 1, 2015, no new referrals are accepted for prevocational services.

~~((3))~~ (4) Prevocational services are a time limited step on the pathway toward individual employment and are dependent on your demonstrating steady progress toward gainful employment over time. Your annual employment plan will include exploration of integrated settings within your next service year. Criteria that would trigger a review of your need for these services include, but are not limited to:

(a) Compensation at more than fifty percent of the prevailing wage;

(b) Significant progress made toward your defined goals;

(c) Recommendation by your individual support plan team.

~~((4))~~ (5) You will not be authorized to receive prevocational services in addition to community access services or supported employment services.

~~((5))~~ (6) Your service hours are determined by the assistance you need to reach your employment outcomes as described in WAC 388-828-9325.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-1600 What is respite care? Respite care is short-term intermittent care to provide relief for persons who ~~((normally provide care for and))~~:

(1) Live with you, are your primary care providers, and are:

(a) Your family members who are paid or unpaid care providers;

(b) Nonfamily members who are not paid to provide care for you;

(c) Contracted companion home providers paid by DDA to provide support to you; or

(d) Licensed children's foster home providers paid by DDA to provide support to you.

(2) This service is available in the basic plus, CIIBS, ~~((and))~~ core, and IFS waivers.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-1605 Who is eligible to receive respite care? You are eligible to receive respite care if you are in the basic plus, CIIBS, ~~((or))~~ core, or IFS waiver and ~~(())~~ meet the criteria in WAC 388-845-1600.

~~((1) You live in a private home and no person living with you is contracted by [DSHS] to provide you with a service; or~~

~~(2) You are age eighteen or older and:~~

~~(a) You live with your natural, step or adoptive parent(s) who is also contracted by [DSHS] to provide you with a service; and~~

(b) No one else living with you is contracted by DSHS to provide you with a service; or

(3) You are under the age of eighteen and:

(a) You live with your natural, step or adoptive parent(s); and

(b) There is a person living with you who is contracted by DSHS to provide you with a service; or

(4) You live with a caregiver who is paid by DDA to provide supports as:

(a) A contracted companion home provider; or

(b) A licensed children's foster home provider.)

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-1607 Can someone who lives with ~~(me)~~ you be ~~(my)~~ your respite provider? Someone who lives with you may be your respite provider as long as he or she is not ~~(the person who normally provides care for you)~~ your primary care provider and is not contracted to provide any other DSHS paid service to you. The limitations listed in WAC 388-845-0111 also apply.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-1620 Are there limits to the respite care ~~(#)~~ you can receive? The following limitations apply to the respite care you can receive:

(1) For basic plus, core, and CIIBS waivers, the DDA assessment will determine how much respite you can receive per chapter 388-828 WAC.

(2) For the IFS waiver, the dollar amount for your annual allocation in your IFS waiver limits the amount of respite care you may receive.

(3) Respite cannot replace:

(a) Day care while your parent or guardian is at work; ~~(and/or)~~ or

(b) Personal care hours available to you. When determining your unmet need, DDA will first consider the personal care hours available to you.

~~((3))~~ (4) Respite providers have the following limitations and requirements:

(a) If respite is provided in a private home, the home must be licensed unless it is the client's home or the home of a relative of specified degree per WAC 388-825-345;

(b) The respite provider cannot be the spouse of the caregiver receiving respite if the spouse and the caregiver reside in the same residence; and

(c) If you receive respite from a provider who requires licensure, the respite services are limited to those age-specific services contained in the provider's license.

~~((4))~~ (5) Your ~~(caregiver)~~ individual respite provider may not provide:

(a) Other DDA services for you ~~(or other persons)~~ during your respite care hours~~(-)~~; or

(b) DDA paid services to other persons during your respite care hours.

~~((5))~~ If your personal care provider is your parent, your parent provider will not be paid to provide respite services to

any client in the same month that you receive respite services.)

(6) Your primary caregivers may not provide other DDA services for you during your respite care hours.

(7) If your personal care provider is your parent and you live in your parent's adult family home you may not receive respite.

~~((7))~~ (8) DDA may not pay for any fees associated with the respite care; for example, membership fees at a recreational facility, or insurance fees.

~~((8))~~ (9) If you require respite from a licensed practical nurse (LPN) or a registered nurse (RN), services may be authorized as skilled nursing services per WAC 388-845-1700 using an LPN or RN. Respite care from a LPN or RN requires prior approval per WAC 388-845-1700(2). If you are ~~((#))~~ on the IFS or basic plus waiver, skilled nursing services are limited to the dollar ~~(limits)~~ amounts of your basic plus aggregate services or IFS annual allocation per WAC 388-845-0210 and 388-845-0230.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-1660 Are there limitations to the sexual deviancy evaluations ~~(#)~~ you can receive? (1) Clinical and support needs for sexual deviancy evaluations are limited to those identified in your DDA assessment and documented in the person-centered service plan/individual support plan. Sexual deviancy evaluations must meet the standards contained in WAC 246-930-320.

(2) Sexual deviancy evaluations require prior approval by the DDA regional administrator or designee.

(3) The costs of sexual deviancy evaluations do not count toward the dollar limits for aggregate services in the basic plus waivers or the annual allocation in the IFS waiver.

AMENDATORY SECTION (Amending WSR 10-22-088, filed 11/1/10, effective 12/2/10)

WAC 388-845-1700 What is skilled nursing? (1) Skilled nursing is continuous, intermittent, or part time nursing services. These services are available in the basic plus, core, IFS, and ~~(Community Protection)~~ CP waivers.

(2) Services include nurse delegation services, per WAC 388-845-1170, provided by a registered nurse, including the initial visit, follow-up instruction, ~~(and/or)~~ and supervisory visits.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-1710 Are there limitations to the skilled nursing services ~~(#)~~ you can receive? The following limitations apply to your receipt of skilled nursing services:

(1) Clinical and support needs for skilled nursing services are limited to those identified in your DDA assessment and documented in the person-centered service plan/individual support plan.

(2) Skilled nursing services with the exception of nurse delegation and nursing evaluations require prior approval by the DDA regional administrator or designee.

((2)) (3) DDA and the treating professional determine the need for and amount of service.

((3)) (4) DDA reserves the right to require a second opinion by a department-selected provider.

((4)) (5) The dollar ((limitation)) amount for aggregate services in your basic plus waiver or the dollar amount of your annual allocation in your IFS waiver limits the amount of skilled nursing services you may receive.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-1800 What are specialized medical equipment and supplies? (1) Specialized medical equipment and supplies are durable and nondurable medical equipment not available through medicaid or the state plan or are in excess of what is available through the medicaid state plan benefit which enables individuals to:

(a) Increase their abilities to perform their activities of daily living; or

(b) Perceive, control, or communicate with the environment in which they live.

(2) Durable medical equipment and medical supplies are defined in WAC 182-543-1000 and 182-543-5500 respectively.

(3) Also included are items necessary for life support((;)) and ancillary supplies and equipment necessary to the proper functioning of the equipment and supplies described in subsection (1) ((above)) of this section.

(4) Specialized medical equipment and supplies include the maintenance and repair of specialized medical equipment not covered through the medicaid state plan.

(5) Specialized medical equipment and supplies are available in all DDA HCBS waivers.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-1810 Are there limitations to ((my)) your receipt of specialized medical equipment and supplies? The following limitations apply to your receipt of specialized medical equipment and supplies:

(1) Clinical and support needs for specialized medical equipment and supplies are limited to those identified in the waiver participant's DDA assessment and documented in the person-centered service plan/individual support plan.

((+)) (2) Specialized medical equipment and supplies require prior approval by the DDA regional administrator or designee for each authorization.

((2)) (3) DDA ((reserves the right to)) may require a second opinion by a department-selected provider.

((3)) (4) Items ((reimbursed)) purchased with waiver funds ((shall)) must be in addition to any medical equipment and supplies furnished under the medicaid state plan.

((4)) (5) Items must be of direct medical or remedial benefit to the individual and necessary as a result of the individual's disability.

((5)) (6) Medications, prescribed or nonprescribed, and vitamins are excluded.

((6)) (7) The dollar ((limitations)) amounts for aggregate services in your basic plus waiver limit the amount of service you may receive.

(8) The dollar amounts for your annual allocation in your IFS waiver limit the amount of service you may receive.

AMENDATORY SECTION (Amending WSR 10-22-088, filed 11/1/10, effective 12/2/10)

WAC 388-845-1840 What is specialized nutrition ((and specialized clothing))? (1) Specialized nutrition is available to you in the CIIBS and IFS waivers and is defined as one or both of the following:

(a) Assessment, intervention, and monitoring services from a certified dietitian; ((and/or)) or

(b) Specially prepared food((;)) or purchase of particular types of food((;)) specific to your medical condition or diagnosis that are needed to sustain you in the family home. ((Specialized nutrition is in addition to meals a parent would provide and specific to your medical condition or diagnosis.))

(2) ((Specialized clothing is available to you in the CIIBS waiver and defined as nonrestrictive clothing adapted to the participant's individual needs and related to his/her disability. Specialized clothing can include weighted clothing, clothing designed for tactile defensiveness, specialized footwear, or reinforced clothing)) For children under the age of eighteen, specialized nutrition is in addition to meals a parent provides.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-1845 Who are qualified providers of specialized nutrition ((and specialized clothing))? ((+)) Qualified providers of specialized nutrition are:

((+)) (1) Certified dietitians contracted with DDA to provide this service or employed by an agency contracted with DDA to provide this service; and

((b)) (2) Specialized nutrition vendors contracted with DDA to provide this service.

((2)) Providers of specialized clothing are specialized clothing vendors contracted with DDA to provide this service.))

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-1850 Are there limitations to ((my)) your receipt of specialized nutrition ((and specialized clothing))? (1) The following limitations apply to your receipt of specialized nutrition services:

(a) Clinical and support needs for specialized nutrition are limited to those identified in your DDA assessment and documented in the person-centered service plan/individual support plan;

(b) Specialized nutrition may be authorized as a waiver service if the service is not covered by medicaid or private insurance. You must assist the department in determining whether third party payments are available;

~~((b))~~ (c) Services must be safe, effective, and individualized;

~~((e))~~ (d) Services must be ordered by a physician licensed to practice in the state of Washington;

~~((d))~~ (e) Specialized diets must be periodically monitored by a certified dietitian;

~~((e))~~ (f) Specialized nutrition products will not constitute a full nutritional regime unless an enteral diet is the primary source of nutrition;

~~((f))~~ (g) Department coverage of specialized nutrition products is limited to costs that are over and above inherent family food costs;

~~((g))~~ (h) DDA ~~((reserves the right to))~~ may require a second opinion by a department selected provider; and

~~((h))~~ (i) Prior approval by regional administrator or designee is required for the CIIBS waiver.

(2) ~~((The following limitations apply to your receipt of specialized clothing:))~~ For the IFS waiver, the dollar amount for your annual allocation limits the amount of service you may receive.

~~((a) Specialized clothing may be authorized as a waiver service if the service is not covered by medicaid or private insurance. You must assist the department in determining whether third party payments are available.~~

~~(b) The department requires written documentation from an appropriate health professional regarding your need for the service. This recommendation must take into account that the health professional has recently examined you, reviewed your medical records, and conducted an assessment.~~

~~(c) The department may require a second opinion from a department selected provider that meets the same criteria as subsection (b) of this section.~~

~~(d) Prior approval by regional administrator or designee is required.~~

NEW SECTION

WAC 388-845-1855 What is specialized clothing?

Specialized clothing is available to you in the CIIBS and IFS waivers and is defined as nonrestrictive clothing adapted to your individual needs and related to your disability, such as weighted clothing, clothing designed for tactile defensiveness, specialized footwear, or reinforced clothing.

NEW SECTION

WAC 388-845-1860 Who are qualified providers of specialized clothing? Qualified providers of specialized clothing are specialized clothing vendors contracted with DDA to provide this service.

NEW SECTION

WAC 388-845-1865 Are there limitations to your receipt of specialized clothing? (1) The following limitations apply to your receipt of specialized clothing:

(a) Clinical and support needs for specialized clothing are limited to those identified in your DDA assessment and documented in the person-centered service plan/individual support plan.

(b) Specialized clothing may be authorized as a waiver service if the service is not covered by medicaid or private insurance. You must assist the department in determining whether third party payments are available.

(c) The department requires written documentation from an appropriate health professional regarding your need for the service. This recommendation must take into account that the health professional has recently examined you, reviewed your medical records, and conducted an assessment.

(d) The department may require a second opinion from a department selected provider that meets the criteria in subsection (1)(c) of this section.

(2) For the IFS waiver, the dollar amount for your annual allocation limits the amount of service you may receive.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-1910 Are there limitations to the specialized psychiatric services ((F)) you can receive? (1) Clinical and support needs for specialized psychiatric services are limited to those identified in your DDA assessment and documented in the person-centered service plan/individual support plan.

(2) Specialized psychiatric services are excluded if they are available through other medicaid programs.

(3) DDA and the treating professional will determine the need and amount of service you will receive in the IFS, basic plus, core, CIIBS, and CP waivers, subject to the limitations in subsection (4) of this section.

~~((2))~~ (4) The dollar ~~((limitations))~~ amounts for aggregate service in your Basic Plus waiver or the dollar amount of your annual allocation in your IFS waiver limit the amount of specialized psychiatric services you are authorized to receive, unless provided as a behavioral health stabilization service.

~~((3))~~ (5) Specialized psychiatric services require prior approval by the DDA regional administrator or designee.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-2000 What is staff/family consultation and training? (1) Staff/family consultation and training is professional assistance to families or direct service providers to help them better meet the needs of the waiver person. This service is available in all DDA HCBS waivers.

(2) Consultation and training is provided to families, direct staff, or personal care providers to meet the specific needs of the waiver participant as outlined in the ~~((individuals))~~ person-centered service plan/individual support plan, including:

- (a) Health and medication monitoring;
- (b) Positioning and transfer;
- (c) Basic and advanced instructional techniques;
- (d) Positive behavior support;
- (e) Augmentative communication systems;
- (f) Diet and nutritional guidance;
- (g) Disability information and education;
- (h) Strategies for effectively and therapeutically interacting with the participant;
- (i) Environmental consultation; and

(j) For the IFS and CIIBS waivers only, individual and family counseling.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-2005 Who is a qualified provider of staff/family consultation and training? To provide staff/family consultation and training, a provider must be contracted with DDA and one of the following licensed, registered, or certified professionals (~~and be contracted with DDA~~):

- (1) Audiologist;
- (2) Licensed practical nurse;
- (3) Marriage and family therapist;
- (4) Mental health counselor;
- (5) Occupational therapist;
- (6) Physical therapist;
- (7) Registered nurse;
- (8) Sex offender treatment provider;
- (9) Speech/language pathologist;
- (10) Social worker;
- (11) Psychologist;
- (12) Certified American sign language instructor;
- (13) Nutritionist;
- (14) Counselors registered or certified in accordance with ~~(the requirements of)~~ chapter 18.19 RCW;
- (15) Certified dietician;
- (16) Recreation therapist registered in Washington and certified by the national council for therapeutic recreation;
- (17) Providers listed in WAC 388-845-0506 and contracted with DDA to provide CIIBS intensive services;
- (18) Certified music therapist (for CIIBS only); ~~((\otimes))~~
- (19) Psychiatrist; or
- (20) Professional advocacy organization.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-2010 Are there limitations to the staff/family consultation and training (~~(\otimes)~~) you can receive? (1) Clinical and support needs for staff/family consultation and training are limited to those identified in your DDA assessment and documented in the person-centered service plan/individual support plan.

(2) Expenses to the family or provider for room and board or attendance, including registration, at conferences are excluded as a service under staff/family consultation and training.

~~((2))~~ (3) ~~((Staff/family consultation and training require prior approval by the DDA regional administrator or designee.))~~ The dollar amounts for aggregate service in your basic plus waiver or the dollar amount of the annual allocation in your IFS waiver limit the amount of staff/family consultation and training you may receive.

~~((3) The dollar limitations for aggregate services in your Basic Plus waiver limit the amount of service you may receive.))~~

NEW SECTION

WAC 388-845-2130 What are supported parenting services? (1) Supported parenting services are professional services offered to participants who are parents or expectant parents.

(2) Services may include teaching, parent coaching, and other supportive strategies in areas critical to parenting, including child development, nutrition and health, safety, childcare, money management, time and household management, and housing.

(3) Supported parenting services are designed to build parental skills around the child's developmental domains of cognition, language, motor, social-emotional, and self-help.

(4) Supported parenting services are offered in the IFS waiver.

NEW SECTION

WAC 388-845-2135 Who are qualified providers of supported parenting services? Qualified providers of supported parenting services must:

(1) Have an understanding of individual learning styles related to child development and family dynamics;

(2) Have skills in child development and family dynamics;

(3) Have a supported parenting contract with DDA; and

(4) Be one or more of the following licensed, registered or certified professionals:

- (a) Audiologist;
- (b) Licensed practical nurse;
- (c) Marriage and family therapist;
- (d) Mental health counselor;
- (e) Occupational therapist;
- (f) Physical therapist;
- (g) Registered nurse or licensed practical nurse;
- (h) Speech/language pathologist;
- (i) Social worker;
- (j) Psychologist;
- (k) Certified American sign language instructor;
- (l) Nutritionist;
- (m) Counselors registered or certified in accordance with chapter 18.19 RCW;
- (n) Certified dietician;
- (o) Recreation therapist registered in Washington and certified by the national council for therapeutic recreation;
- (p) Psychiatrist;
- (q) Professional advocacy organization.

NEW SECTION

WAC 388-845-2140 Are there any limitations on your receipt of supported parenting services? The following limitations apply to your receipt of supported parenting services:

(1) Clinical and support needs for supported parenting services are limited to those identified in your DDA assessment and documented in your person-centered service plan/individual support plan; and

(2) The dollar amount of your annual allocation in your IFS waiver limit the amount of supported parenting service you are authorized to receive.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-2160 What is therapeutic equipment and supplies? (1) Therapeutic equipment and supplies are only available in the CIIBS and IFS waivers.

(2) Therapeutic equipment and supplies are equipment and supplies that are necessary to implement a behavioral support plan or other therapeutic plan, designed by an appropriate professional, such as a sensory integration or communication therapy plan, and necessary in order to fully implement the therapy or intervention.

(3) Included are items such as a weighted blanket, supplies that assist to calm or redirect the ~~((child))~~ individual to a constructive activity, or a vestibular swing.

AMENDATORY SECTION (Amending WSR 12-16-095, filed 8/1/12, effective 9/1/12)

WAC 388-845-2170 Are there limitations on ~~((my))~~ your receipt of therapeutic equipment and supplies? The following limitations apply to your receipt of therapeutic equipment and supplies under the CIIBS and IFS waivers:

(1) Therapeutic equipment and supplies may be authorized as a waiver service if the service is not covered by medicaid or private insurance. You must assist the department in determining whether third party payments are available.

(2) The department does not pay for experimental equipment and supplies.

(3) The department requires your treating professional's written recommendation regarding your need for the service. This recommendation must take into account that the treating professional has recently examined you, reviewed your medical records, and conducted a functional evaluation.

(4) The department may require a written second opinion from a department selected professional that meets the same criteria in subsection (3) of this section.

(5) The dollar amount of your annual allocation in your IFS waiver limits the amount of therapeutic equipment and supplies you are authorized to receive.

(6) Therapeutic equipment and supplies requires a prior approval by the DDA regional administrator or designee.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-2210 Are there limitations to the transportation services ~~((#))~~ you can receive? The following limitations apply to transportation services:

(1) ~~((Transportation to/from medical or medically related appointments is a medicaid transportation service and is to be considered and used first))~~ Support needs for transportation services are limited to those identified in your DDA assessment and documented in your person-centered service plan/individual support plan.

~~(2) ((Transportation is offered in addition to medical transportation but cannot replace medicaid transportation services.~~

~~((3))~~ Transportation is limited to travel to and from a waiver service. When the waiver service is supported employment, transportation is limited to days when you receive employment support services.

~~((4))~~ (3) Transportation does not include the purchase of a bus pass.

~~((5))~~ (4) Reimbursement for provider mileage requires prior ~~((approval))~~ authorization by DDA and is paid according to contract.

~~((6))~~ (5) This service does not cover the purchase or lease of vehicles.

~~((7))~~ (6) Reimbursement for provider travel time is not included in this service.

~~((8))~~ (7) Reimbursement to the provider is limited to transportation that occurs when you are with the provider.

~~((9))~~ (8) You are not eligible for transportation services if the cost and responsibility for transportation is already included in your provider's contract and payment.

~~((10))~~ (9) The dollar limitations for aggregate services in your basic plus waiver or the dollar amount of your annual allocation in the IFS waiver limit the amount of service you may receive.

~~((11) Transportation services require prior approval by the DDA regional administrator or designee.)~~

~~((12))~~ (10) If your individual waiver personal care provider uses ~~((his/her))~~ his or her own vehicle to provide transportation to you for essential shopping and medical appointments as a part of your personal care service, your provider may receive up to ~~((sixty))~~ one hundred miles per month in mileage reimbursement. If you work with more than one individual personal care provider, your limit is still a total of ~~((sixty))~~ one hundred miles per month. This cost is not counted toward the dollar limitation for aggregate services in the basic plus waiver.

AMENDATORY SECTION (Amending WSR 10-22-088, filed 11/1/10, effective 12/2/10)

WAC 388-845-2260 What are vehicle modifications?

~~((This service is only available in the CIIBS waiver.))~~ (1) Vehicle modifications are adaptations or alterations to a vehicle required in order to accommodate the unique needs of the ~~((individual))~~ participant, enable full integration into the community, and ensure the health, welfare, and safety of the ~~((individual and/or family members))~~ participant or the safety of a caregiver.

(2) Vehicle modifications require prior approval from the DDA regional administrator or designee.

(3) Examples of vehicle modifications include:

(a) Manual hitch-mounted carrier and hitch for all wheelchair types;

(b) Wheelchair cover;

(c) Wheelchair strap-downs;

(d) Portable wheelchair ramp;

(e) Accessible running boards and steps;

(f) Assist poles and grab handles.

(g) Power activated carrier for all wheelchair types;

- (h) Permanently installed wheelchair ramps;
- (i) Repairs and maintenance to vehicular modifications as needed for client safety; and
- (j) Other access modifications.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-2270 Are there limitations to ~~((my))~~ your receipt of vehicle modification services? Vehicle modification services are only available on the CIIBS or IFS waiver. The following limitations apply ~~((to your receipt of vehicle modifications under the CIIBS waiver))~~:

- (1) ~~((Prior approval by the regional administrator or designee is required.))~~ Clinical and support needs for vehicle modification services are limited to those identified in your DDA assessment and documented in the person-centered service plan/individual support plan.
- (2) Vehicle modifications are excluded if they are of general utility without direct medical or remedial benefit to ~~((the individual))~~ you.
- (3) If you are eligible for or enrolled with division of vocational rehabilitation (DVR) you must pursue this benefit through DVR first.
- (4) Vehicle modifications must be the most cost effective modification based upon a comparison of contractor bids as determined by DDA.
- ~~((4))~~ (5) Modifications will only be approved for a vehicle that serves as ~~((the participant's))~~ your primary means of transportation and is owned by ~~((the family))~~ you, your family, or both.
- ~~((5))~~ The department (6) DDA requires your treating professional's written recommendation regarding your need for the service. This recommendation must take into account that the treating professional has recently examined you, reviewed your medical records, and conducted a functional evaluation.
- ~~((6))~~ (7) The department may require a second opinion from a department selected provider that meets the same criteria as subsection ~~((5))~~ (6) of this section.
- (8) The dollar amount for your annual allocation in your IFS waiver limits the amount of vehicle modification service you are authorized to receive.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-3000 What is the process for determining the services ~~((#))~~ you need? Your service needs are determined through the DDA assessment and the service planning process as defined in chapter 388-828 WAC. Only identified health and welfare needs will be authorized for payment in the ~~((ISP))~~ person-centered service plan/individual support plan.

- (1) You receive an initial and annual assessment of your needs using a department-approved form.
 - (a) You meet the eligibility requirements for ICF/IID level of care.
 - (b) The ~~((#))~~ comprehensive assessment reporting evaluation (CARE)~~((#))~~ tool will determine your eligibility and amount of personal care services.

(c) If you are in the basic plus, CIIBS, or core waiver, the DDA assessment will determine the amount of respite care available to you.

(2) From the assessment, DDA develops your waiver person-centered service plan/individual support plan (ISP) with either you ~~((and/or))~~, or you and your legal representative, and others who are involved in your life such as your parent or guardian, advocate, and service providers.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-3055 What is a waiver person-centered service plan/individual support plan (ISP)? (1) The person-centered service plan/individual support plan (ISP) is the primary tool DDA uses to determine and document your needs and to identify the services to meet those needs.

- (2) Your person-centered service plan/ISP must include:
 - (a) Your identified health and welfare needs;
 - (b) Both paid and unpaid services and supports approved to meet your identified health and welfare needs as identified in WAC 388-828-8040 and 388-828-8060; and
 - (c) How often you will receive each waiver service~~((#))~~, how long you will need it~~((#))~~, and who will provide it.
- (3) For ~~((an initial))~~ any person-centered service plan/ISP, you or your legal representative must sign ~~((or give verbal consent to))~~ the plan indicating your agreement to the receipt of services.
- (4) ~~((For a reassessment or review of your ISP, you or your legal representative must sign or give verbal consent to the plan indicating your agreement to the receipt of services.))~~ You may choose any qualified provider for the service, who meets all of the following:
 - (a) Is able to meet your needs within the scope of their contract, licensure, and certification;
 - (b) Is reasonably available;
 - (c) Meets provider qualifications in chapters 388-845 and 388-825 WAC for contracting; and
 - (d) Agrees to provide the service at department rates.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-3056 What if ~~((#))~~ you need assistance to understand ~~((my))~~ your person-centered service plan/individual support plan? If you are unable to understand your person-centered service plan/individual support plan and the individual who has agreed to provide assistance to you as your necessary supplemental accommodation representative is unable to assist you with understanding your individual support plan, DDA will take the following steps:

- (1) Consult with the office of the attorney general to determine if you require a legal representative or guardian to assist you with your individual support plan~~((#))~~;
- (2) Continue your current waiver services~~((#))~~; and
- (3) If the office of the attorney general or a court determines that you do not need a legal representative, DDA will continue to try to provide necessary supplemental accommodations in order to help you understand your person-centered service plan/individual support plan.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-3060 When is ~~((my))~~ your person-centered service plan/individual support plan effective? Your person-centered service plan/individual support plan is effective the last day of the month in which DDA signs and dates it ~~((after a signature or consent is obtained))~~.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-3061 Can a change in ~~((my))~~ your person-centered service plan/individual support plan be effective before ~~((H))~~ you sign it? If you verbally request a change in service to occur immediately, DDA can sign the person-centered service plan/individual support plan and approve it prior to receiving your signature.

(1) Your person-centered service plan/individual support plan will be mailed to you for signature.

(2) You retain the same appeal rights as if you had signed the person-centered service plan/individual support plan.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-3062 Who is required to sign ~~((or give verbal consent to))~~ the person-centered service plan/individual support plan? (1) If you do not have a legal representative, you must sign ~~((or give verbal consent to))~~ the person-centered service plan/individual support plan.

(2) If you have a legal representative, your legal representative must sign ~~((or give verbal consent to))~~ the person-centered service plan/individual support plan.

(3) If you need assistance to understand your person-centered service plan/individual support plan, DDA will follow the steps outlined in WAC 388-845-3056 (1) and (3).

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-3063 Can ~~((my))~~ your person-centered service plan/individual support plan be effective before the end of the month? You may request to DDA to have your person-centered service plan/individual support plan effective prior to the end of the month. The effective date will be the date DDA signs and dates it ~~((after receiving your signature or verbal consent))~~.

AMENDATORY SECTION (Amending WSR 13-04-005, filed 1/24/13, effective 2/24/13)

WAC 388-845-3065 How long is ~~((my))~~ your plan effective? Your person-centered service plan/individual support plan is effective through the last day of the twelfth month following the effective date or until another ISP is completed, whichever occurs sooner.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-3070 What happens if ~~((H))~~ you do not sign ~~((or verbally consent to my))~~ your person-centered service plan/individual support plan (ISP)? If DDA is unable to obtain the necessary signature ~~((or verbal consent))~~ for an initial assessment, reassessment, or review of your person-centered service plan/individual support plan (ISP), DDA will take one or more of the following actions:

(1) If this person-centered service plan/individual support plan is an initial plan, DDA will be unable to provide waiver services. DDA will not assume consent for an initial plan and will follow the steps described in WAC 388-845-3056 (1) and (3).

(2) If this person-centered service plan/individual support plan is a reassessment or review ~~((and you are able to understand your ISP))~~:

(a) DDA will continue providing services as identified in your most current ISP until the end of the ten-day advance notice period as stated in WAC 388-825-105.

(b) ~~((At the end of the ten-day advance notice period, unless you file an appeal, DDA will assume consent and implement the new ISP without the required signature or verbal consent as defined in WAC 388-845-3062 above))~~ After DDA signs and dates your complete person-centered service plan/individual support plan, DDA will send it to you for signature. If you do not return your signed ISP to DDA within two months of your assessment completion, DDA will terminate your services.

(3) If this person-centered service plan/individual support plan is a reassessment or review and you are not able to understand your ISP, DDA will continue your existing services and take the steps described in WAC 388-845-3056.

(4) You will be provided written notification and appeal rights to this action to implement the new ISP.

(5) Your appeal rights are in WAC 388-845-4000 and 388-825-120 through 388-825-165.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-3075 What if ~~((my))~~ your needs change? You may request a review of your person-centered service plan/individual support plan at any time by calling your case manager. If there is a significant change in your condition or circumstances, DDA must reassess your person-centered service plan/individual support plan with you and amend the plan to reflect any significant changes. This reassessment does not affect the end date of your annual person-centered service plan/individual support plan.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-3085 What if ~~((my))~~ your needs exceed what can be provided under the IFS, CIIBS, core, or community protection waiver? (1) If you are on the IFS, CIIBS, core, or community protection waiver and your assessed need for services exceeds the scope of services pro-

vided under your waiver, DDA will make one or more of the following efforts to meet your health and welfare needs:

- (a) Identify more available natural supports;
 - (b) Initiate an exception to rule to access available non-waiver services not included in the IFS, CIIBS, core, or community protection waiver other than natural supports;
 - (c) Offer you the opportunity to apply for an alternate waiver that has the services you need, subject to WAC 388-845-0045; or
 - (d) Offer you placement in an ICF/IID.
- (2) If none of the above options is successful in meeting your health and welfare needs, DDA may terminate your waiver eligibility.
- (3) If you are terminated from a waiver, you will remain eligible for non-waiver DDA services but access to state-only funded DDA services is limited by availability of funding.

WSR 16-17-049
PERMANENT RULES
NORTHWEST CLEAN
AIR AGENCY

[Filed August 11, 2016, 3:06 p.m., effective September 11, 2016]

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

Purpose: The goal of this rule making is three-fold. First is to clarify and update the solid fuel burning device program to be more consistent with other local agencies within Washington as adapted for local needs. This includes adding, deleting, or revising certain definitions; clarifying that devices that did not meet the solid fuel burning device requirements in effect at the time of installation must be removed or made permanently inoperable; and clarifying and adding burn ban exemptions that allow certain categories of people to continue using their solid fuel burning devices during burn bans. Second is to update the general definition section in the rule to add a couple of new definitions as a result of the solid fuel burning device program rule change and to clarify a couple of existing definitions. Third is to update the external adoption-by-reference list to ensure that the most recent versions of the referenced regulations are adopted.

Citation of Existing Rules Affected by this Order: Amending sections 104, 200, and 506 of the Regulation of the northwest clean air agency.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Adopted under notice filed as WSR 16-13-001 on June 1, 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 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: August 11, 2016.

Mark Buford
Deputy Director

AMENDATORY SECTION

SECTION 104 - ADOPTION OF STATE AND FEDERAL LAWS AND RULES

104.1 All provisions of State Law that are in effect as of (~~June 17, 2015~~) June 8, 2016, which are pertinent to the operation of the NWCAA, are hereby adopted by reference and made part of the Regulation of the NWCAA. Specifically, there is adopted by reference the portions pertinent to the operation of the NWCAA of the Washington State Clean Air Act (chapter 70.94 RCW), the Administrative Procedure Act (chapter 34.05 RCW) and chapters 43.21A and 43.21B RCW and the following state rules: chapter 173-400 WAC, (except - -035, -036, -040(1), -075, -099, -100, -101, -102, -103, -104, -105(7), -110, -114, -115, -116, -171, -930), chapter 173-401 WAC, chapter 173-407 WAC, chapter 173-420 WAC, chapter 173-425 WAC, chapter 173-430 WAC, chapter 173-433 WAC, chapter 173-434 WAC, chapter 173-435 WAC, chapter 173-441 WAC, chapter 173-450 WAC, chapter 173-460 WAC, chapter 173-470 WAC, chapter 173-474 WAC, chapter 173-475 WAC, chapter 173-481 WAC, chapter 173-490 WAC, chapter 173-491 WAC, chapter 173-492 WAC, and chapter 173-495 WAC.

104.2 All provisions of the following federal rules that are in effect as of (~~June 17, 2015~~) June 8, 2016 are hereby adopted by reference and made part of the Regulation of the NWCAA: 40 CFR Part 50 (National Primary and Secondary Ambient Air Quality Standards); 40 CFR Part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans) Appendix M; 40 CFR Part 60 (Standards of Performance For New Stationary Sources) subparts A, D, Da, Db, Dc, E, Ea, Eb, Ec, F, G, Ga, H, I, J, Ja, K, Ka, Kb, L, M, N, Na, O, P, Q, R, T, U, V, W, X, Y, Z, AA, AAA, CC, DD, EE, GG, HH, KK, LL, MM, NN, PP, QQ, RR, SS, TT, UU, VV, VVa, WW, XX, AAA, BBB, DDD, FFF, GGG, GGGa, HHH, III, JJJ, KKK, LLL, NNN, OOO, PPP, QQQ, RRR, SSS, TTT, UUU, VVV, WWW, AAAA, CCCC, EEEE, IIII, JJJJ, KKKK, LLLL, OOOO, QQQQ, and Appendix A - I; (~~and~~) 40 CFR Part 61 (National Emission Standards For Hazardous Air Pollutants) Subparts A, C, D, E, F, J, L, M, N, O, P, V, Y, BB, FF; 40 CFR Part 62 (Approval and Promulgation of State Plans for Designated Facilities and Pollutants) Subpart LLL; (~~and~~) 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) Subparts A, B, C, D, F, G, H, I, L, M, N, O, Q, R, T, U, W, X, Y, AA, BB, CC, DD, EE, GG, HH, II, JJ, KK, OO, PP, QQ, RR, SS, TT, UU, VV, WW, XX, YY, CCC, DDD, EEE, GGG, HHH, III, JJJ, LLL, MMM, NNN, OOO, PPP, QQQ, TTT, UUU, VVV, XXX, AAAA, CCCC, DDDD, EEEE, FFFF, GGGG, HHHH, IIII, JJJJ, KKKK, MMMM, NNNN, OOOO, PPPP, QQQQ, RRRR, SSSS, TTTT, UUUU, VVVV, WWWW, XXXX, YYYY, ZZZZ, AAAAA,

BBBBB, CCCCC, DDDDD, EEEEE, FFFFF, GGGGG, HHHHH, IIIII, LLLLL, MMMMM, NNNNN, PPPPP, QQQQQ, RRRRR, SSSSS, TTTTT, UUUUU, WWWWW, YYYYY, ZZZZZ, BBBBBB, CCCCCC, EEEEEEE, FFFFFFF, GGGGGG, HHHHHH, JJJJJ, MMMMM, NNNNN, QQQQQQ, SSSSSS, TTTTTT, VVVVVV, WWWWWW, XXXXXX, ZZZZZZ, AAAAAA, DDDDDDD, EEEEEEE, and HHHHHHH; 40 CFR Part 65 (Consolidated Federal Air Rule); and 40 CFR Parts 72, 73, 74, 75, 76, 77 and 78 (Acid Rain Program).

PASSED: July 8, 1970 AMENDED: April 14, 1993, September 8, 1993, December 8, 1993, October 13, 1994, May 11, 1995, February 8, 1996, May 9, 1996, March 13, 1997, May 14, 1998, November 12, 1998, November 12, 1999, June 14, 2001, July 10, 2003, July 14, 2005, November 8, 2007, June 10, 2010, June 9, 2011, November 17, 2011, August 9, 2012, March 14, 2013, September 11, 2014, August 13, 2015, August 11, 2016

AMENDATORY SECTION

SECTION 200 - DEFINITIONS

...

COMMENCE((D)) - ~~((a) Commenced a)~~ As applied to construction, ((means that)) the owner or operator has either: ((all the necessary preconstruction approvals or permits and either has:))

(1) Begun, or caused to begin, a continuous program of actual on-site construction of the stationary source, to be completed within a reasonable time; or

(2) Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the stationary source to be completed within a reasonable time.

~~((b) For the purpose of this definition, "necessary preconstruction approvals" means those permits or orders of approval required under federal air quality control laws and regulations, including state, local and federal regulations and orders contained in the SIP.))~~

...

PM_{2.5} - Particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by a reference method based on 40 CFR Part 50 Appendix L and designated in accordance with 40 CFR Part 53 or by an equivalent method designated in accordance with 40 CFR Part 53.

PM_{2.5} EMISSIONS - Finely divided solid or liquid material, including condensable particulate matter, with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternate method, specified in 40 CFR Part 51 or by a test method specified in the SIP.

...

TOXIC AIR POLLUTANT (TAP) or TOXIC AIR CONTAMINANT - ~~((Any Class A or B toxic air pollutant listed in WAC 173-460-150 and 173-460-160. The term toxic air pollutant may include particulate matter and volatile organic compounds if~~

~~an individual substance or a group of substances within either of these classes is listed in WAC 173-460-150 and/or 173-460-160. The term toxic air pollutant does not include particulate matter and volatile organic compounds as generic classes of compounds.)) Any toxic air pollutant listed in WAC 173-460-150. The term toxic air pollutant may include particulate matter and volatile organic compounds if an individual substance or a group of substances within either of these classes is listed in WAC 173-460-150. The term toxic air pollutant does not include particulate matter and volatile organic compounds as generic classes of compounds.~~

...

PASSED: January 8, 1969 AMENDED: October 31, 1969, September 3, 1971, June 14, 1972, July 11, 1973, February 14, 1973, January 9, 1974, October 13, 1982, November 14, 1984, October 13, 1994, February 8, 1996, May 9, 1996, March 13, 1997, November 12, 1998, June 14, 2001, July 10, 2003, July 14, 2005, November 8, 2007, November 17, 2011, March 14, 2013, August 13, 2015, August 11, 2016

AMENDATORY SECTION

SECTION 506 - SOLID FUEL BURNING DEVICES

506.1 PURPOSE((-))

This Section establishes emission standards, certification standards and procedures, ~~((curtailment))~~ burn ban rules, and fuel restrictions for solid fuel burning devices in order to maintain compliance with the National Ambient Air Quality Standards (NAAQS) for PM_{2.5} ~~((fine particulates))~~ and to further the policy of the NWCAA as stated in Section 102 of this Regulation.

506.2 DEFINITIONS((-))

~~((Unless a different meaning is clearly required by context, words and phrases used in this Section shall have the following meaning as defined in WAC 173-433-030:)) All terms not defined herein shall have the meaning given them in WAC 173-433-030 as referenced in NWCAA 104.1 and NWCAA Section 200.~~

ADEQUATE SOURCE OF HEAT - ~~((a))~~ A permanently installed furnace or heating system, connected or disconnected from its energy source, designed to maintain 70°F ((degrees Fahrenheit)) at a point 3 ~~((three))~~ feet above the floor in all normally inhabited areas of a residence or commercial establishment. If any part of the heating system has been disconnected, damaged, or is otherwise nonfunctional, NWCAA will base the assessment of the adequacy of the design on the system's capability prior to the disconnection, damage, improper maintenance, malfunction, or occurrence that rendered the system nonfunctional.

~~((ANTIQUÉ WOOD STOVE—a stove manufactured before 1940 which has a current market value substantially greater than a common wood stove manufactured during the same time period.))~~

CERTIFIED - Meeting at least one of the following: ((a solid fuel burning device that meets emission performance standards when tested by an accredited independent laboratory and labeled according to procedures specified by EPA in 40 CFR 60 Subpart AAA—Standards of Performance for Residential Wood Heaters as amended through July 1, 1990; or a solid fuel burning device that has been determined by

Ecology to meet emission performance standards, pursuant to RCW 70.94.457.)

(1) Has been determined by Ecology to meet Washington emission performance standards pursuant to RCW 70.94.457 and WAC 173-433-100 as referenced in NWCAA 104.1;

(2) Meets EPA emission performance standards when tested by an accredited independent laboratory and labeled according to procedures specified by EPA in 40 CFR 60 Subpart AAA as referenced in NWCAA 104.2; or

(3) Was manufactured prior to 1989 and meets the "Oregon Department of Environmental Quality Phase 2" emissions standards contained in Subsections (2) and (3) of Section 340-21-115, and certified in accordance with "Oregon Administrative Rules, Chapter 340, Division 21 - Woodstove Certification" dated November 1984.

COAL STOVE - An enclosed, coal-burning appliance capable of and intended for residential space heating, domestic water heating, or indoor cooking, which has all the following characteristics:

(1) An opening for loading coal which is located near the top or side of the appliance;

(2) An opening for emptying ash which is located near the bottom or the side of the appliance;

(3) A system which admits air primarily up and through the fuel bed;

(4) A grate or other similar device for shaking or disturbing the fuel bed;

(5) Listing by a nationally recognized safety testing laboratory for use of coal only, except for coal ignition purposes; and

(6) Not configured or capable of burning cordwood.

COMMERCIAL ESTABLISHMENT - An establishment possessing a valid business license issued by a governmental entity.

COOKSTOVE - ~~((a wood-fired appliance designed primarily for cooking food and containing an integrally built-in oven, with an internal temperature indicator and oven rack, around which the fire is vented, as well as a shaker grate, ash pan and an ash clean-out below the firebox. Any device with a fan or heat channels used to dissipate heat into the room shall not be considered a cookstove.))~~ A wood-fired appliance designed with the primary function of cooking food, which has all of the following characteristics:

(1) An integrally built-in oven with volume of 1 cubic foot or greater and an oven rack;

(2) A cooking surface measured in square inches or square feet that is 1.5 times greater than the firebox measured in cubic inches or cubic feet (e.g., a firebox of 2 cubic feet would require a cooking surface of at least 3 square feet);

(3) A device for measuring oven internal temperatures;

(4) A flame path that is routed around the oven;

(5) A shaker grate ash pan and an ash cleanout below the firebox;

(6) A portion of at least four sides of the oven must be exposed to the flame path during the oven heating cycle, while a flue gas bypass will be permitted for temperature control.

Any device with a fan or heat channels used to dissipate heat into the room is not considered a cookstove. Devices

designed or advertised as room heaters that also bake or cook do not qualify as cookstoves.

~~((ECOLOGY—the Washington State Department of Ecology.))~~

~~((EPA—the United States Environmental Protection Agency.))~~

FIREPLACE - A permanently-installed masonry fireplace or a factory-built metal solid fuel burning device designed to be used with an air-to-fuel ratio equal to or greater than 35 to 1 and without features to control the inlet air-to-fuel ratio other than doors or windows such as may be incorporated into the fireplace design for reasons of safety, building code requirements, or aesthetics.

NON-AFFECTED PELLET STOVE - A pellet stove that has an air-to-fuel ratio equal to or greater than 35 to 1 when tested by an accredited laboratory in accordance with methods and procedures specified in EPA Method 28A in 40 CFR 60 Appendix A as referenced in NWCAA 104.2.

SEASONED WOOD - Untreated wood or untreated lumber of any species that has been sufficiently dried so as to contain 20 percent or less moisture by weight. It includes manufactured pressed wood products such as pellets and logs.

SOLID FUEL BURNING DEVICE - ~~((a))~~ A device that burns wood, coal, or any other non-gaseous or non-liquid fuels, and includes ~~((wood stoves or))~~ any device burning any solid fuel except those fuels prohibited by WAC 173-433-120 as referenced in NWCAA 104.1. This ~~((also))~~ includes, but is not limited to, woodstoves, coal stoves, cookstoves, pellet stoves, fireplaces, and wood-burning hydronic heaters. This also includes devices used for aesthetic or space-heating purposes in a private residence or commercial establishment, which have a heat input of less than 1 ~~((one))~~ million British thermal units per hour.

SUBSTANTIALLY REMODELED - ~~((a))~~ Any alteration or restoration of a building the cost of which exceeds ~~((one))~~ 60 percent of the appraised value of such building within a 12-month period.

TREATED WOOD - ~~((w))~~ Wood of any species that has been chemically impregnated, painted, or similarly modified to improve resistance to insects, weathering, or deterioration.

WOOD((-)STOVE - ~~((a))~~ A wood-fueled appliance, other than a cookstove, capable of and intended for residential space heating and domestic water heating that meets the criteria contained in 40 CFR 60 Subpart AAA ~~((Standards of Performance for Residential Wood Heaters.))~~ as referenced in NWCAA 104.2 and has all of the following:

(1) An air-to-fuel ratio in the combustion chamber averaging less than 35 to 1 as determined by EPA Method 28A in 40 CFR 60 Appendix A as referenced in NWCAA 104.2;

(2) A useable firebox volume of less than 20 cubic feet;

(3) A minimum burn rate less than 5 kg/hr as determined by EPA Method 28 in 40 CFR 60 Appendix A as referenced in NWCAA 104.2; and

(4) A maximum weight of 800 kg, excluding fixtures and devices that are normally sold separately, such as flue pipe, chimney, and masonry components not integral to the appliance.

Any combination of parts, typically consisting of, but not limited to, doors, legs, flue pipe collars, brackets, bolts and other hardware, when manufactured for the purpose of being

assembled, with or without additional owner-supplied parts, into a wood()stove, is considered a wood(-)stove.

506.3 EMISSION PERFORMANCE STANDARDS((-))

(A) Solid Fuel Burning Devices. ~~(-) Except as provided in Sections 506.3 (B) and (C), ((A)) a person shall not advertise to sell, offer to sell, sell, bargain, exchange, or give away any solid fuel burning device ((in Washington)) unless it ((has been certified and labeled in accordance with procedures and criteria specified in 40 CFR 60 Subpart AAA—Standards of Performance for Residential Wood Heaters,)) complies with WAC 173-433-100(, and meets)) as referenced in NWCAA 104.1 which includes meeting the following particulate air contaminant emission standards:~~

(1) ~~2.5 g/hr ((Two and one-half grams per hour))~~ for catalytic wood((-)stoves(;) and

(2) ~~4.5 g/hr ((Four and one-half grams per hour))~~ for all other solid fuel burning devices.

(B) Fireplaces. ~~Except as provided in NWCAA 506.3(C), a ((A)) person shall not advertise to sell, offer to sell, sell, bargain, exchange, or give away a factory-built fireplace unless it meets 40 CFR 60 Subpart AAA as referenced in NWCAA 104.2 ((the 1990 EPA standards for wood stoves)) or equivalent standard that may be established by the state building code council by rule. Particulate emissions from ((factors for)) factory-built fireplaces shall not exceed 7.3 g/kg.~~

~~(C) Solid fuel burning devices which have been rendered permanently inoperable are exempt from NWCAA 506.3 (A) and (B).~~

506.4 INSTALLATION OF SOLID FUEL ((HEATING)) BURNING DEVICES((-))

(A) No new or used solid fuel burning device shall be installed in new or existing buildings unless such device meets Washington state emission performance standards in WAC 173-433-100 as referenced in NWCAA 104.1. ~~((is either Oregon Department of Environmental Quality Phase II or EPA certified to meet current Washington State standards or a pellet stove either certified or exempt from certification in accordance with 40 CFR 60 Subpart AAA—Standards of Performance for Residential Wood Heaters.)) Any solid fuel burning device not meeting the applicable standards at the time of installation must be removed or rendered permanently inoperable.~~

~~((B) No used solid fuel burning device shall be installed in new or existing buildings unless such device has been certified and labeled in accordance with either Oregon Department of Environmental Quality Phase II or US EPA certification standard or is a pellet stove either certified or exempt from certification by the US EPA in accordance with 40 CFR 60 Subpart AAA—Standards of Performance for Residential Wood Heaters.))~~

~~((C)) (B) An adequate source of heat other than a solid fuel burning device is required in all new and substantially remodeled residential and commercial construction. The rule shall apply to:~~

(1) Areas designated by a county to be an urban growth area under chapter 36.70A RCW(;) and

(2) Areas designated by the EPA as being in nonattainment for particulate matter.

~~((D) After January 1, 1997, no fireplace, except masonry fireplaces, shall be offered for sale unless such fireplace meets the 1990 EPA standards for wood stoves or equivalent standard established by the state building code council by rule in accordance with RCW 70.94.457.))~~

506.5 OPACITY STANDARDS((-))

(A) Opacity level. Any person shall not cause or allow emission of a smoke plume from any solid fuel burning device to exceed an average of 20 percent opacity for ~~6 ((six))~~ consecutive minutes in any ~~1 ((one))~~-hour period. This ~~limit ((restriction))~~ does not apply during the starting of a new fire for a period not to exceed 20 minutes in any ~~4 ((four))~~-hour period.

(B) Test methods and procedures. EPA ~~((reference to))~~ Method 9 or EPA Alternative Method 082 ~~((Visual Determination of Opacity Emissions of Stationary Sources shall))~~ will be used to determine compliance with this Section.

(C) Enforcement. Smoke visible from a chimney, flue or exhaust duct in excess of the opacity standard shall constitute prima facie evidence of unlawful operation of an applicable solid fuel burning device. This presumption may be refuted by demonstration that the smoke was not caused by an applicable solid fuel burning device.

506.6 ((PROHIBITED)) FUEL TYPES

~~((A) A person shall not burn any substance, other than properly seasoned fuel wood, in a solid fuel burning device.~~

~~(B) A person shall not burn paper in a solid fuel burning device other than the amount of colorless paper necessary to start a fire.))~~

~~(A) A person shall cause or allow only the following materials to be burned in a solid fuel burning device:~~

~~(1) Seasoned wood,~~

~~(2) An amount of paper necessary for starting a fire, and~~

~~(3) Coal with sulfur content less than 1.0% by weight burned in a coal stove.~~

~~(B) All other materials are prohibited from being burned in a solid fuel burning device, including, but not limited to: garbage, treated pallets, treated lumber, fencing, treated wood, plastic and plastic products, rubber products, animal carcasses, asphaltic products, waste petroleum products, paints and chemicals, paper (other than an amount necessary to start a fire), or any substance that emits dense smoke or obnoxious odors when burned.~~

506.7 AIR QUALITY BURN BANS ((LIMITATIONS ON BURNING WOOD FOR HEAT))

~~((A) Any person in a residence or commercial establishment which has an adequate source of heat without burning wood shall:~~

~~(1) Not burn wood in any solid fuel burning device whenever the Ecology or NWCAA has determined under RCW 70.94.715 that any air pollution episode exists in that area;~~

~~(2) Not burn wood in any solid fuel burning device except those which are either Oregon Department of Environmental Quality Phase II or US EPA certified or certified by Ecology under RCW 70.94.457(1) or a pellet stove either certified or issued an exemption by the US EPA in accordance with 40 CFR Part 60, in the geographical area and for the period of time that a first stage of impaired air quality has been determined, by NWCAA or Ecology, for that area.))~~

(A) Stage 1 Burn Ban

No person shall operate a solid fuel burning device located in a geographic area for which NWCAA has called a Stage 1 Burn Ban unless the solid fuel burning device is certified or a non-affected pellet stove except as provided in NWCAA 506.8.

~~((a)) (1) A (first stage of impaired air quality is reached) Stage 1 Burn Ban may be called when forecasted meteorological conditions are predicted to cause $PM_{2.5}$ (fine particulate) levels to reach or exceed 35 micrograms per cubic meter, measured on a 24-hour average, within 48 hours, except for areas of $PM_{2.5}$ (fine particulate) nonattainment or areas at risk for $PM_{2.5}$ (fine particulate) nonattainment. (and)~~

~~((b)) (2) For a county containing $PM_{2.5}$ nonattainment areas or areas at risk for $PM_{2.5}$ nonattainment, and, when feasible, only for the necessary portions of the county, a Stage 1 Burn Ban ((A first stage burn ban for impaired air quality)) may be called ((for a county containing fine particulate nonattainment areas or areas at risk for fine particulate nonattainment, and when feasible only for the necessary portions of the county,)) when forecasted meteorological conditions are predicted to cause $PM_{2.5}$ (fine particulate) levels to reach or exceed 30 micrograms per cubic meter, measured on a 24-hour average, within 72 hours. (and)~~

~~((3)(a) Not burn wood in any solid fuel burning device in a geographical area and for the period of time that a second stage of impaired air quality has been determined by NWCAA or Ecology, for that area. A second stage of impaired air quality is reached when:))~~

(B) Stage 2 Burn Ban

No person shall operate a solid fuel burning device located in a geographic area for which NWCAA has called a Stage 2 Burn Ban except as provided in NWCAA 506.8.

(1) A Stage 2 Burn Ban may be called when:

~~((i)) (a) A Stage 1 Burn Ban is already in effect and has not reduced the trend of rising $PM_{2.5}$ levels adequately; ((A first stage of impaired air quality has been in force and has not been sufficient to reduce the increasing fine particulate pollution trend;))~~

~~((ii)) (b) The 24-hour average of $PM_{2.5}$ levels have already reached or exceeded 25 micrograms per cubic meter; and ((Fine particulates are at an ambient level of 25 micrograms per cubic meter measured on a 24-hour average; and))~~

~~((iii)) (c) Forecasted meteorological conditions are not expected to allow levels of $PM_{2.5}$ (fine particulates) to decline below 25 micrograms per cubic meter for a period of 24 hours or more from the time that $PM_{2.5}$ is ((the fine particulates are)) measured at the trigger level.~~

~~((b)) (2) A Stage 2 ((second stage b)) Burn ((b)) Ban may be called ((by Ecology or NWCAA)) without first calling a Stage 1 ((first stage b)) Burn ((b)) Ban only when all of the following occur:~~

~~((i)) (a) $PM_{2.5}$ ((Fine particulate)) levels have reached or exceeded 25 micrograms per cubic meter, measured on a 24-hour average;~~

~~((ii)) (b) Meteorological conditions have caused $PM_{2.5}$ ((fine particulate)) levels to rise rapidly;~~

~~((iii)) (c) Meteorological conditions are predicted to cause $PM_{2.5}$ ((fine particulate)) levels to exceed ((the)) 35 micrograms per cubic meter, measured on a 24-hour average, within 24 hours; and~~

~~((iv)) (d) Meteorological conditions are highly likely to prevent sufficient dispersion of $PM_{2.5}$ ((fine particulate)).~~

~~((e)) (3) For a county containing $PM_{2.5}$ nonattainment areas or areas at risk for $PM_{2.5}$ nonattainment and, when feasible, only the necessary portions of the county, ((In fine particulate nonattainment areas or areas at risk for fine particulate nonattainment,)) a Stage 2 ((second stage b)) Burn ((b)) Ban may be called ((for the county containing the nonattainment area or areas at risk for nonattainment, and when feasible only for the necessary portions of the county,)) without first calling a Stage 1 ((first stage b)) Burn ((b)) Ban only when ((3)(b)(i), (ii), and (iv) of this subsection)) NWCAA 506.7 (B)(2)(a), (b), and (d) have been met and meteorological conditions are predicted to cause $PM_{2.5}$ ((fine particulate)) levels to reach or exceed 30 micrograms per cubic meter, measured on a 24-hour average, within 24 hours.~~

(C) Air Pollution Episode Declared by Ecology

No person shall operate a solid fuel burning device located in a geographic area for which Ecology has declared an alert, warning, or emergency air pollution episode pursuant to WAC 173-433-150(3), chapter 173-435 WAC, and RCW 70.94.715 as referenced in NWCAA 104.1.

~~((B)) (D) Upon declaration and for the duration of a Stage 1 or Stage 2 Burn Ban or an air pollution episode ((or a first or second stage burn ban)), new solid fuel shall be withheld from any solid fuel burning device that is restricted from operating under NWCAA 506.7 (A), (B), and (C) ((subsection (A) of this section)).~~

~~((C)) (E) Smoke visible from a chimney, flue, or exhaust duct after 3 ((three)) hours has elapsed from the time of declaration of a Stage 1 or Stage 2 Burn Ban or an air pollution episode ((or a first or second stage burn ban)) shall constitute prima facie evidence of unlawful operation of a solid fuel burning device if that solid fuel burning device is restricted from operating under NWCAA 506.7 (A), (B), and (C) ((subsection (A) of this section)). This presumption may be refuted by demonstration that the smoke was not caused by a restricted solid fuel burning device.~~

(506.8 GENERAL EMISSION STANDARDS.

~~(A) Emissions detrimental to persons or property. No person shall cause or permit the emission of any air contaminant from any solid fuel burning device, in sufficient amounts and of such characteristics and duration as is likely to be injurious or cause damage to human health, plant or animal life, or property; or which unreasonably interfere with enjoyment of life and property.~~

~~(B) Odors. Any person who shall cause or allow the generation of any odor from any solid fuel burning device which may interfere with any other property owner's use or enjoyment of his property must use recognized good practice and procedures to reduce these odors to a reasonable minimum.))~~

506.8(9) EXEMPTIONS((-)

~~((A) The provisions of Section 506.7 shall not apply to any person who possesses a valid written exemption approved by the NWCAA. The NWCAA may allow written~~

exemptions to any person who demonstrates any of the following to the satisfaction of the NWCAA:

(1) An economic need to burn solid fuel for residential space heating purposes by qualifying for energy assistance under the low income energy assistance program.

(2) That his/her heating system, other than a solid fuel heating device, is inoperable for reasons other than his/her own actions.

(a) That there is no adequate source of heat and the structure was constructed or substantially remodeled prior to July 1, 1992.

(b) That there is no adequate source of heat and the structure was constructed or substantially remodeled after July 1, 1992 and is outside an urban growth area, as defined in chapter 36.70A RCW.

(B) Written exemptions shall be valid for a period determined by the NWCAA and shall not exceed one year from the date of approval.)

(A) The provisions of NWCAA 506.7 do not apply to any person who possesses a valid exemption approved by NWCAA. NWCAA may issue exemptions to any person who demonstrates any of the following to the satisfaction of NWCAA:

(1) One-Time 10-Day Temporary Exemption

NWCAA may issue one-time 10-day temporary solid fuel burning device exemptions if persons making such requests indicate they qualify for an exemption under NWCAA 506.8 (A)(2), (3), or (4) and provide all of the information below. Unless required otherwise by NWCAA, such exemption requests may be taken via telephone.

(a) Full name,

(b) Mailing address,

(c) Telephone number,

(d) The exemption under NWCAA 506.8 (A)(2), (3), or (4) for which the applicant believes they qualify,

(e) Physical address where the exemption applies,

(f) Description of the habitable space for which the exemption is being requested,

(g) A statement that the applicant has not previously requested such an exemption for the same physical address. Exceptions may be allowed for unrelated breakdowns of the primary heat source, and

(h) A statement that all of the information provided is accurate.

(2) Low Income

NWCAA may issue written low income exemptions. The applicant must demonstrate an economic need to burn solid fuel for residential space heating purposes by qualifying under the low income energy assistance program (LIEAP) pursuant to economic guidelines established by the U.S. Office of Management and Budget.

(3) Temporary Breakdown of Primary Heat Source

NWCAA may issue written exemptions for a residence or commercial establishment if all of the following apply:

(a) A person in a residence or commercial establishment does not have an adequate source of heat without using a solid fuel burning device.

(b) The applicant demonstrates that the primary heating system, other than a solid fuel burning device, is temporarily inoperable for reasons other than the applicant's own actions.

When applying for this exemption, the applicant must submit a compliance schedule for bringing the primary heating system, other than a solid fuel burning device, back into operation to be used as the primary heating source. Unless otherwise approved by NWCAA, exemptions will be limited to 30 calendar days.

A person's income level is not a determining factor in the approval or denial of an exemption under this provision. Exemptions based on income level are addressed in NWCAA 506.8 (A)(2).

(4) No Adequate Source of Heat

NWCAA may issue written exemptions for a residence if both of the following apply:

(a) The residence was constructed prior to July 1, 1992 and

(b) A person in the residence does not have an adequate source of heat without using a solid fuel burning device.

A person's income level is not a determining factor in the approval or denial of an exemption under this provision. Exemptions based on income level are addressed in NWCAA 506.8 (A)(2).

(B) Exemption Duration and Renewals

Unless otherwise specified, written exemptions will expire June 30th of each year. Exemptions in NWCAA 506.8 (A)(2), (3), and (4) may be renewed by NWCAA, provided the applicant meets the applicable requirements at the time of exemption renewal. For renewals under NWCAA 506.8 (A)(2), the applicant must demonstrate the low income status is met each time application is made. Exemption requests may be denied by NWCAA, regardless of the applicant's exemption history.

(C) Residential and Commercial Exemption Limitations

Except for commercial establishments qualifying under NWCAA 506.8 (A)(3), exemptions are limited to residences. Exemptions are limited to normally inhabited areas of a residence, which includes areas used for living, sleeping, cooking, and eating. Exemptions will not be issued for attached and detached garages, shops, and outbuildings. For commercial establishments, exemptions will be limited to areas identified in the exemption.

PASSED: July 14, 2005 AMENDED: November 8, 2007, October 8, 2015, August 11, 2016

WSR 16-18-003

PERMANENT RULES

DEPARTMENT OF

LABOR AND INDUSTRIES

[Filed August 25, 2016, 9:00 a.m., effective October 1, 2016]

Effective Date of Rule: October 1, 2016.

Purpose: The board of boiler rules is adopting amendments to WAC 296-104-700 What are the inspection fees— Examination fees—Certificate fees—Expenses?, to increase fees by the fiscal growth factor of 4.32 percent for fiscal year 2017 (OFM's maximum allowable fiscal growth rate). The boiler program's budget and projected revenue were evaluated and a fee increase is necessary to cover the program's operating expenses.

Citation of Existing Rules Affected by this Order:
Amending WAC 296-104-700 What are the inspection fees—Examination fees—Certificate fees—Expenses?

Statutory Authority for Adoption: Chapter 70.79 RCW, Boilers and unfired pressure vessels.

Adopted under notice filed as WSR 16-14-097 on July 5, 2016.

A final cost-benefit analysis is available by contacting Alicia Curry, Management Analyst, Department of Labor and Industries, P.O. Box 44400, Olympia, WA 98504-4400, phone (360) 902-6244, fax (360) 902-5292, e-mail Alicia.Curry@Lni.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 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: August 25, 2016.

Terry Chapin, Chair
Board of Boiler Rules

AMENDATORY SECTION (Amending WSR 13-10-018, filed 4/23/13, effective 6/1/13)

WAC 296-104-700 What are the inspection fees—Examination fees—Certificate fees—Expenses? The following fees shall be paid by, or on behalf of, the owner or user upon the completion of the inspection. The inspection fees apply to inspections made by inspectors employed by the state.

Boiler and pressure vessel installation/reinstallation permit (excludes inspection and certificate of inspection fee): \$((~~50.00~~)) 52.10.

Certificate of inspection fees: For objects inspected, the certificate of inspection fee per object is \$((~~21.50~~)) 22.40.

Hot water heaters per RCW 70.79.090, inspection fee: \$((~~6.70~~)) 6.90.

Heating boilers:	Internal	External
Cast iron—All sizes	\$((36.30)) <u>37.80</u>	\$((29.00)) <u>30.20</u>
All other boilers less than 500 sq. ft.	\$((36.30)) <u>37.80</u>	\$((29.00)) <u>30.20</u>

500 sq. ft. to 2500 sq. ft.	\$((72.40)) <u>75.50</u>	\$((36.30)) <u>37.80</u>
Each additional 2500 sq. ft. of total heating surface, or any portion thereof	\$((29.00)) <u>30.20</u>	\$((14.20)) <u>14.80</u>
Power boilers:	Internal	External
Less than 100 sq. ft.	\$((36.30)) <u>37.80</u>	\$((29.00)) <u>30.20</u>
100 sq. ft. to less than 500 sq. ft.	\$((43.90)) <u>45.80</u>	\$((29.00)) <u>30.20</u>
500 sq. ft. to 2500 sq. ft.	\$((72.40)) <u>75.50</u>	\$((36.30)) <u>37.80</u>
Each additional 2500 sq. ft. of total heating surface, or any portion thereof	\$((29.00)) <u>30.20</u>	\$((14.20)) <u>14.80</u>
Pressure vessels:		
Square feet shall be determined by multiplying the length of the shell by its diameter.		
	Internal	External
Less than 15 sq. ft.	\$((29.00)) <u>30.20</u>	\$((21.50)) <u>22.40</u>
15 sq. ft. to less than 50 sq. ft.	\$((43.00)) <u>44.80</u>	\$((21.50)) <u>22.40</u>
50 sq. ft. to 100 sq. ft.	\$((50.10)) <u>52.30</u>	\$((29.00)) <u>30.20</u>
For each additional 100 sq. ft. or any portion thereof	\$((50.10)) <u>52.20</u>	\$((14.20)) <u>14.80</u>
Nonnuclear shop inspections, field construction inspections, and special inspection services:		
For each hour or part of an hour up to 8 hours		\$((43.90)) <u>45.80</u>
For each hour or part of an hour in excess of 8 hours		\$((65.50)) <u>68.30</u>
Nuclear shop inspections, nuclear field construction inspections, and nuclear triennial shop survey and audit:		
For each hour or part of an hour up to 8 hours		\$((65.50)) <u>68.30</u>
For each hour or part of an hour in excess of 8 hours		\$((102.40)) <u>106.80</u>
Nonnuclear triennial shop survey and audit:		
When state is authorized inspection agency:		
For each hour or part of an hour up to 8 hours		\$((43.90)) <u>45.80</u>
For each hour or part of an hour in excess of 8 hours		\$((65.50)) <u>68.30</u>
When insurance company is authorized inspection agency:		
For each hour or part of an hour up to 8 hours		\$((65.50)) <u>68.30</u>

For each hour or part of an hour ~~\$(102.40)~~
in excess of 8 hours 106.80

Examination fee: A fee of ~~\$(81.00)~~ 84.50 will be charged for each applicant sitting for an inspection examination(s).

Special inspector commission: A fee of ~~\$(43.80)~~ 45.70 for initial work card. A fee of ~~\$(27.30)~~ 28.40 for annual renewal.

If a special inspector changes companies: A work card fee of ~~\$(43.80)~~ 45.70.

Expenses shall include:

Travel time and mileage: The department shall charge for its inspectors' travel time from their offices to the inspection sites and return. The travel time shall be charged for at the same rate as that for the inspection, audit, or survey. The department shall also charge the current Washington office of financial management accepted mileage cost fees or the actual cost of purchased transportation. Hotel and meals: Actual cost not to exceed the office of financial management approved rate.

Requests for Washington state specials and extensions of inspection frequency: For each vessel to be considered by the board, a fee of ~~\$(407.40)~~ 425.00 must be paid to the department before the board meets to consider the vessel. The board may, at its discretion, prorate the fee when a number of vessels that are essentially the same are to be considered.

WSR 16-18-019
PERMANENT RULES
HEALTH CARE AUTHORITY
(Washington Apple Health)

[Filed August 26, 2016, 9:44 a.m., effective September 26, 2016]

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

Purpose: For clarification, the agency added a definition of "client" to WAC 182-500-0020.

Citation of Existing Rules Affected by this Order: Amending WAC 182-500-0020 Definitions—C.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 16-15-056 on July 15, 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 1, Repealed 0.

Date Adopted: August 26, 2016.

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 15-17-013, filed 8/7/15, effective 9/7/15)

WAC 182-500-0020 (~~Washington apple health~~)

Definitions—C. "Caretaker relative" means a relative of a dependent child by blood, adoption, or marriage with whom the child is living, who assumes primary responsibility for the child's care, and who is one of the following:

(1) The child's father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece.

(2) The spouse of such parent or relative (including same sex marriage or domestic partner), even after the marriage is terminated by death or divorce.

(3) Other relatives including relatives of half-blood, first cousins once removed, people of earlier generations (as shown by the prefixes of great, great-great, or great-great-great), and natural parents whose parental rights were terminated by a court order.

"Carrier" means an organization that contracts with the federal government to process claims under medicare Part B.

"Categorically needy (CN) or categorically needy program (CNP)" is the state and federally funded health care program established under Title XIX of the Social Security Act for people within medicaid-eligible categories, whose income and/or resources are at or below set standards.

"Categorically needy income level (CNIL)" is the standard used by the agency to determine eligibility under a categorically needy program.

"Categorically needy (CN) scope of care" is the range of health care services included within the scope of service categories described in WAC 182-501-0060 available to people eligible to receive benefits under a CN program. Some state-funded health care programs provide CN scope of care.

"Center of excellence" - A hospital, medical center, or other health care provider that meets or exceeds standards set by the agency for specific treatments or specialty care.

"Centers for Medicare and Medicaid Services (CMS)" - The federal agency that runs the medicare, medicaid, and children's health insurance programs, and the federally facilitated marketplace.

"Children's health program or children's health care programs" See "Apple health for kids."

"Client" means a person who is an applicant for, or recipient of, any Washington apple health program, including managed care and long-term care. See definitions for "applicant" and "recipient" in RCW 74.09.741.

"Community spouse." See "spouse" in WAC 182-500-100.

"Cost-sharing" means any expenditure required by or on behalf of an enrollee with respect to essential health benefits; such term includes deductibles, coinsurance, copay-

ments, or similar charges, but excludes premiums, balance billing amounts for nonnetwork providers, and spending for noncovered services.

"Cost-sharing reductions" means reductions in cost-sharing for an eligible person enrolled in a silver level plan in the health benefit exchange or for a person who is an American Indian or Alaska native enrolled in a qualified health plan (QHP) in the exchange.

"Couple." See "spouse" in WAC 182-500-0100.

"Covered service" is a health care service contained within a "service category" that is included in a Washington apple health (WAH) benefits package described in WAC 182-501-0060. For conditions of payment, see WAC 182-501-0050(5). A noncovered service is a specific health care service (for example, cosmetic surgery), contained within a service category that is included in a WAH benefits package, for which the agency or the agency's designee requires an approved exception to rule (ETR) (see WAC 182-501-0160). A noncovered service is not an excluded service (see WAC 182-501-0060).

"Creditable coverage" means most types of public and private health coverage, except Indian health services, that provide access to physicians, hospitals, laboratory services, and radiology services. This term applies to the coverage whether or not the coverage is equivalent to that offered under premium-based programs included in Washington apple health (WAH). Creditable coverage is described in 42 U.S.C. 300gg-3 (c)(1).

WSR 16-18-023
PERMANENT RULES
HEALTH CARE AUTHORITY

[Filed August 26, 2016, 10:50 a.m., effective September 26, 2016]

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

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: A settlement agreement related to King County Superior Court No. 13-2-03122-1-SEA.

Purpose: The health care authority (HCA) has not reviewed chapter 182-55 WAC since its adoption in 2006. HCA is conducting this rule-making action to provide clarification and modernization of the rules, as well as the adoption of a rule(s) addressing administrative review processes of health technology assessment (HTA) actions and decisions.

Citation of Existing Rules Affected by this Order: Amending WAC 182-55-005, 182-55-010, 182-55-015, 182-55-020, 182-55-025, 182-55-030, 182-55-035, 182-55-040, 182-55-045, 182-55-050, and 182-55-055.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 16-11-067 on May 16, 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 2, Amended 11, 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 11, Repealed 0.

Date Adopted: August 26, 2016.

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 06-23-083, filed 11/13/06, effective 12/14/06)

WAC 182-55-005 Authority and purpose. Under RCW 70.14.080 through 70.14.140, the ~~((administrator))~~ director of the Washington state health care authority ~~((is required to establish and))~~ provides administrative support for, and ((is authorized to)) adopts rules to govern ~~((;))~~ the health technology clinical committee and a health technology assessment program ((that uses evidence to make coverage determinations for participating state agencies that purchased health care)) within the health care authority. The health technology assessment program will:

- (1) ~~((Selects health technologies for assessment; (2)))~~ Contract ~~((s))~~ with an evidence-based technology assessment center to produce health technology assessments; ~~((3))~~ Establishes an (2) Administratively support the independent health technology clinical committee; and
- ~~((4))~~ 3) Maintain((s)) a centralized, internet-based communication tool.

AMENDATORY SECTION (Amending WSR 06-23-083, filed 11/13/06, effective 12/14/06)

WAC 182-55-010 Definitions. When used in this chapter:

- (1) ~~(("Administrator" means the administrator of the Washington state health care authority under chapter 41.05 RCW, as set forth in RCW 70.14.080, as amended.~~
- ~~((2))~~ "Advisory group" as defined in RCW 70.14.080 means a group established under RCW 70.14.110 (2)(c).
- (2) "Centralized, internet-based communication tool" means the health care authority's health technology assessment program internet web pages established under RCW 70.14.130(1).
- (3) "Committee" as defined in RCW 70.14.080 means the health technology clinical committee established under RCW 70.14.090.
- (4) "Coverage determination" as defined in RCW 70.14.-080 means a determination of the circumstances, if any, under which a health technology will be included as a covered benefit in a state purchased health care program ~~((, as set forth in RCW 70.14.080, as amended)).~~
- (5) "Decisions made under the federal medicare program" means national coverage determinations issued by the

Centers for Medicare and Medicaid Services stating whether and to what extent medicare covers specific services, procedures, or technologies.

(6) "Director" means the director of the Washington state health care authority under chapter 41.05 RCW.

(7) "Health technology" as defined in RCW 70.14.080 means medical and surgical devices and procedures, medical equipment, and diagnostic tests. Health technologies do not include prescription drugs governed by RCW 70.14.050.

((6)) (8) "Health technology assessment" means a report produced by a contracted, evidence-based, technology assessment center or other appropriate entity, as provided for in RCW 70.14.100(4), based on a systematic review of evidence of a technology's safety, efficacy, and cost-effectiveness.

(9) "Participating agency" as defined in RCW 70.14.080 means the department of social and health services, the state health care authority, and the department of labor and industries (, as set forth in RCW 70.14.080, as amended.

(7) "Reimbursement determination" means a determination to provide or deny reimbursement for a health technology included as a covered benefit in a specific circumstance for an individual patient who is eligible to receive health care services from the state purchased health care program making the determination, as set forth in RCW 70.14.080, as amended.

(8) "Health technology assessment" means a report produced by a contracted evidence-based technology assessment center as provided for in RCW 70.14.100(4) that is based on a systematic review of evidence of a technology's safety, efficacy, and cost-effectiveness).

AMENDATORY SECTION (Amending WSR 06-23-083, filed 11/13/06, effective 12/14/06)

WAC 182-55-015 Committee purpose. The purpose of the committee is to make coverage determinations for the participating agencies ((based on: A health technology assessment that reviews the scientific evidence of the relative safety, efficacy, and cost; information from any special advisory groups; and their professional knowledge and expertise)) as described under RCW 70.14.110.

AMENDATORY SECTION (Amending WSR 06-23-083, filed 11/13/06, effective 12/14/06)

WAC 182-55-020 Committee selection. (1) The ((administrator)) director, in consultation with the participating state agencies, ((shall make appointments to)) appoints vacant committee positions ((, including the appointment of a chair,)) from a pool of interested applicants. Interested persons ((will be)) are provided an opportunity to submit applications to the ((administrator)) director for consideration.

(2) When appointing committee members, the ((administrator will)) director considers, in addition to the membership requirements imposed by RCW 70.14.090 ((and any)), other relevant information, ((the following factors)) including:

(a) Practitioner specialty or type and use of health technologies, especially in relation to current committee member specialty or types;

(b) Practice location and community knowledge;

(c) Length of practice experience;

(d) Knowledge of and experience with evidence-based medicine, including formal additional training in fields relevant to evidence-based medicine;

(e) Medical quality assurance experience; and

(f) Health technology assessment review experience.

AMENDATORY SECTION (Amending WSR 06-23-083, filed 11/13/06, effective 12/14/06)

WAC 182-55-025 Committee member requirements and committee member terms. (1) As a continuing condition of appointment, committee members must:

(a) ((Shall)) Not have a substantial financial conflict of interest, such as an interest in a health technology company, including the holding of stock options, or the receipt of honoraria, or consultant moneys;

(b) ((Must)) Complete a conflict of interest disclosure form, update the form annually, and keep disclosure statements current;

(c) ((Must)) Abide by confidentiality requirements and keep all personal medical information and proprietary information confidential; and

(d) ((Shall not utilize)) Not use information gained ((as a result of)) from committee membership outside of committee responsibilities, unless ((such)) the information is publicly available.

(2) The ((administrator, in his/her)) director has the sole discretion ((, may disqualify)) to terminate a committee ((members)) member's appointment if ((he/she)) the director determines that the committee member has violated a condition of appointment.

((2) Committee members shall be appointed to a term of three years and shall serve until a successor is appointed. A member may be reappointed for additional three-year terms for a total of nine years. One year after the end of a nine-year term, a person is eligible for appointment to one additional three-year term.)) (3) Committee members serve staggered three-year terms. ((Of the initial members, in order)) To provide for staggered terms, ((some)) committee members may be appointed initially for less than three years. ((If an initial appointment is for less than twenty-four months, that period of time shall not be counted toward the limitation of years of appointment. Vacancies on the committee will be filled for the balance of the unexpired term.

(3) The appointed committee chair shall select a vice-chair from among the committee membership; ratify committee bylaws approved by the administrator; and operate the committee according to the bylaws and committee member agreements.))

(4) A committee member may be appointed for a total of nine years of committee service, but an initial appointment of less than twenty-four months is not included in the nine-year limitation.

(5) A committee member may serve until that member's successor is appointed, notwithstanding the limits on service in subsection (3) of this section.

(6) Mid-term vacancies on the committee are filled for the remainder of the unexpired three-year term.

NEW SECTION

WAC 182-55-026 Committee governance. (1) The committee may establish bylaws, within applicable statutory and regulatory requirements, to govern the orderly resolution of the committee's purposes. Proposed bylaw amendments are published on the centralized, internet-based communication tool at least fourteen calendar days before adoption by the committee. Before adoption, the committee gives an opportunity at an open public meeting for public comment on proposed bylaw amendments. Committee bylaws shall be published on the centralized, internet-based communication tool.

(2) The director appoints a committee chair.

(3) The committee chair:

(a) Selects a vice-chair from among the committee membership;

(b) Presents bylaws, or amendments to the bylaws, to the committee for review and ratification; and

(c) Operates the committee according to the bylaws and committee member agreements.

AMENDATORY SECTION (Amending WSR 06-23-083, filed 11/13/06, effective 12/14/06)

WAC 182-55-030 Committee coverage determination process. (1) In making a coverage determination, committee members shall review and consider evidence regarding the safety, efficacy, and cost-effectiveness of the technology as set forth in the health technology assessment. The committee ~~((may))~~ also considers other information it deems relevant, including other information provided by the ~~((administrator))~~ director, reports ~~((and/or))~~ or testimony from an advisory group, and submissions or comments from the public.

(2) The committee shall give the greatest weight to the evidence determined, based on objective factors, to be the most valid and reliable, considering the nature and source of the evidence, the empirical characteristic of the studies or trials upon which the evidence is based, and the consistency of the outcome with comparable studies. The committee ~~((may))~~ also considers additional evidentiary valuation factors such as recency ~~((date of information))~~; relevance ~~((the applicability of the information to the key questions presented or participating agency programs and clients))~~; and bias ~~((presence of conflict of interest or political considerations))~~, relevance, and bias.

(3) The committee also considers any unique impacts the health technology has on specific populations based on factors like sex, age, ethnicity, race, or disability, as identified in the health technology assessment.

(4) The committee provides an opportunity for public comment after the health technology assessment is published on the centralized, internet-based communication tool and before the committee's final coverage determination decision.

(5) After the committee makes a final coverage determination, the health technology assessment program publishes it on the centralized, internet-based communication tool and submits a notice in the *Washington State Register*.

AMENDATORY SECTION (Amending WSR 06-23-083, filed 11/13/06, effective 12/14/06)

WAC 182-55-035 Committee coverage determination. ~~((Based on the evidence regarding safety, efficacy, and cost-effectiveness of the health technology;))~~ The committee shall:

(1) Determine the conditions, if any, under which the health technology will be included as a covered benefit in health care programs of participating agencies by deciding that:

(a) Coverage is allowed without special conditions because the evidence is sufficient to conclude that the health technology is safe, efficacious, and cost-effective for all indicated conditions; or

(b) Coverage is allowed with special conditions because the evidence is sufficient to conclude that the health technology is safe, efficacious, and cost-effective in only certain situations; or

(c) Coverage is not allowed because either the evidence is insufficient to conclude that the health technology is safe, efficacious, and cost-effective or the evidence is sufficient to conclude that the health technology is unsafe, ~~((ineffectual))~~ inefficacious, or not cost-effective.

(2) Identify whether the coverage determination is consistent with ~~((the identified medicare))~~ decisions made under the federal medicare program and expert treatment guidelines.

(3) For decisions that are inconsistent with either ~~((the identified medicare))~~ decisions made under the federal medicare program or expert treatment guidelines, including those from specialty physician and patient advocacy organizations, specify the ~~((reason(s) for the decision and the evidentiary basis))~~ substantial evidence regarding the safety, efficacy, and cost-effectiveness of the technology that supports the contrary determination.

(4) For covered health technologies, specify criteria for participating agencies to use when deciding whether the health technology is medically necessary or proper and necessary treatment.

AMENDATORY SECTION (Amending WSR 06-23-083, filed 11/13/06, effective 12/14/06)

WAC 182-55-040 ~~((Publication of committee))~~ Health care authority's implementation of final coverage determinations. ~~((1))~~ The administrator shall publish final committee determinations by posting on a centralized, internet-based communication tool within ten days.

(2) Upon publication, participating agencies will implement the committee determination according to their statutory, regulatory, or contractual process unless:

(a) The determination conflicts with an applicable federal statute or regulation, or applicable state statute; or

(b) Reimbursement is provided under an agency policy regarding experimental or investigational treatment, services under a clinical investigation approved by an institutional review board, or health technologies that have a humanitarian device exemption from the federal food and drug administration.) This section applies to all final coverage determinations made after August 1, 2016.

(1) The health care authority reviews the final coverage determination for conflicts identified in RCW 70.14.120 (1)(a) and (b).

(2) The health care authority reviews whether the health technology review process meets the requirements in this subsection before compliance by the health care authority's state-purchased health care programs. The review includes whether the:

(a) Notification of the health technology selected for review was made on the centralized, internet-based communication tool as required by RCW 70.14.130 (1)(a);

(b) Health technology assessment provided to the committee met the requirements in RCW 70.14.100(4) and WAC 182-55-055;

(c) Health technology assessment was published on the centralized, internet-based communication tool at least fourteen calendar days before the committee's consideration of the health technology assessment;

(d) Health technology assessment was considered by the committee in an open and transparent process, as required by RCW 70.14.110 (2)(a);

(e) Committee provided an opportunity for public comment prior to the committee's final coverage determination decision;

(f) Committee acknowledged public comment timely received after publication of the committee's draft coverage determination and before the committee's final coverage determination decision;

(g) Committee's final coverage determination specifies the reason or reasons for a decision that is inconsistent with the identified decisions made under the federal medicare program and expert treatment guidelines, including those from specialty physician and patient advocacy organizations, for the reviewed health technology; and

(h) Committee meetings complied with the requirements of the Open Public Meetings Act as required by RCW 70.14.-090(3).

(3) After the health care authority completes its reviews under subsections (1) and (2) of this section, it establishes an implementation date for each of the health care authority's state-purchased health care programs and publishes the implementation dates on the health care authority's web site.

(4) The health care authority's implementation of a final coverage determination can be reviewed as other agency action under RCW 34.05.570(4). A petition for review must be filed in superior court and comply with all statutory requirements for judicial review of other agency action required in chapter 34.05 RCW.

NEW SECTION

WAC 182-55-041 Judicial review of final coverage determination. Nothing in this chapter limits the superior court's inherent authority to review health technology clinical committee determinations to the extent of assuring the decisions are not arbitrary, capricious, or contrary to law.

AMENDATORY SECTION (Amending WSR 06-23-083, filed 11/13/06, effective 12/14/06)

WAC 182-55-045 Advisory group. (1) The committee chair, upon an affirmative vote of the committee members, may establish ad hoc temporary advisory ~~((group(s) if specialized expertise or input from enrollees or clients is needed to review a particular health technology or group of health technologies. The purpose or scope of the advisory group and time period shall be stated. The advisory group shall provide a report and/or testimony to the committee on the key questions identified by the committee as requiring the input of the advisory group.~~

~~((2) Advisory group membership:))~~ groups under RCW 70.14.110 (2)(c). At the time an ad hoc temporary advisory group is formed, the committee must state the ad hoc temporary advisory group's objective and questions to address. Notice of the formation of an ad hoc temporary advisory group, and information about how to participate, shall be posted on the centralized, internet-based communication tool.

(2) The committee chair, or designee, may appoint or remove an advisory group member. An ad hoc temporary advisory group ~~((shall))~~ must include at least three members. ~~((Membership should reflect the diverse perspectives and/or technical expertise that drive the need for the specialized advisory group.))~~ The advisory group will generally include at least one enrollee, client, or patient~~((; and))~~. The advisory group must have:

(a) Two or more experts or specialists within the field relevant to the health technology, preferably with demonstrated experience in the use, evaluation, or research of the health technology ~~((; If substantial controversy over the health technology is present;))~~;

(b) At least one expert ~~((that))~~ who is a proponent or advocate of the health technology; and

(c) At least one expert ~~((that))~~ who is an opponent or critic of the health technology ~~((should be appointed. A majority of each advisory group shall have no substantial financial interest in the health technology under review)).~~

(3) ~~((As a continuing condition of appointment, advisory group members:~~

~~((a) Must))~~ Each advisory group member must:

(a) Not have a substantial financial conflict of interest, such as an interest in a health technology company, including the holding of stock options, or the receipt of honoraria, or consultant moneys;

(b) Complete an advisory group member agreement, including a conflict of interest disclosure form, and keep disclosure statements current;

~~((b) Must))~~ (c) Abide by confidentiality requirements and keep all personal medical information and proprietary information confidential; and

~~((c) Shall))~~ (d) Not utilize information gained as a result of advisory group membership outside of advisory group responsibilities, unless such information is publicly available.

AMENDATORY SECTION (Amending WSR 06-23-083, filed 11/13/06, effective 12/14/06)

WAC 182-55-050 Health technology selection. (1) ~~((Prior to selection of a health technology for review or rereview, the administrator shall consider nominations from participating agencies and recommendations from the committee.))~~ The director, in consultation with participating agencies and the committee, selects health technologies to be reviewed or rereviewed by the committee.

(2) ~~The ((administrator)) director or committee may also consider petitions requesting initial review of a health technology from interested parties. ((The administrator shall make available, including publication to the centralized internet-based communication tool required at RCW 70.14.130, a petition for interested parties to request a health technology be selected for a review or rereview. Interested parties shall complete the petition and submit it to the administrator. The administrator, or designee, will provide copies of the petition to participating agencies and the committee for comment, and provide the completed petition, with any comments, to the administrator for consideration.~~

~~(2) Interested parties that have submitted a petition for the review or rereview of a health technology that was not selected by the administrator may submit the petition to the committee for review or rereview.~~

~~(3) The committee may consider petitions submitted by interested parties for review or rereview of a health technology. The committee shall apply the priority criteria set forth in RCW 70.14.100.~~

~~(4)) To suggest a topic for initial review, interested parties must use the petition form made available on the centralized, internet-based communication tool. The health technology assessment program will provide copies of the petition to the director, committee members, and participating agencies.~~

~~(a) Petitions are considered by the director, in consultation with participating agencies and the committee.~~

~~(b) Only after the director has declined to grant the petition can a petition be considered for selection by the committee, as described in RCW 70.14.100(3).~~

~~(c) If a health technology is selected by the committee ((shall be)), the health technology is referred to the ((administrator)) director for assignment to the next available contract for a health technology assessment review as described in RCW 70.14.100(4).~~

~~(3) Interested parties may submit a petition for the rereview of a health technology. Interested parties must use the petition form available on the centralized, internet-based communication tool and may submit to the health technology assessment program evidence that has since become available that could change the previous coverage determination. The health technology assessment program will provide copies of the petition to the director, committee members, and participating agencies.~~

~~(a) Petitions are considered by the director, in consultation with participating agencies and the committee.~~

~~(b) Only after the director has declined to grant the petition can a petition be reviewed by the committee, as described in RCW 70.14.100(3).~~

AMENDATORY SECTION (Amending WSR 06-23-083, filed 11/13/06, effective 12/14/06)

WAC 182-55-055 Health technology assessment. (1) Upon providing notice ~~((of the selection of the health technology for review, the administrator))~~ on the centralized, internet-based communication tool required by RCW 70.14.100 (1)(b) that the health technology has been selected for review, the director shall post an invitation for interested parties to submit information relevant to the health technology for consideration by the evidence-based technology assessment center. ~~((Such))~~ The information ((shall be required to)) must be submitted to the ~~((administrator,))~~ director or designee ~~((, no earlier than))~~ within thirty calendar days from the date of the notice.

(2) Upon notice of the ~~((selection of the))~~ health technology selected for review, the ~~((administrator))~~ director or designee shall request participating agencies to provide information relevant to the health technology, including data on safety, health outcome, and cost. ~~((Such))~~ The relevant information ((shall be required to)) must be submitted to the ~~((administrator,))~~ director or designee ~~((, no earlier than))~~ within thirty calendar days from the date of the notice.

(3) Upon notice of the ~~((selection of the))~~ health technology selected for review, the ~~((administrator))~~ director or designee shall ~~((require staff to))~~ identify ((and organize)) relevant decisions made under the federal medicare ((national coverage determinations)) program and expert treatment guidelines, including those from specialty physician and patient advocacy organizations, and any referenced information used as the basis for such determinations ~~((and/or))~~ or guidelines.

(4) The ~~((administrator))~~ director shall provide all information ~~((relevant to the selected health technology))~~ gathered under subsections (1), (2), and (3) of this section to the evidence-based technology assessment center ~~((;))~~ and shall post such information, along with the key questions for review, on ~~((a))~~ the centralized, internet-based communication tool.

(5) Upon completion of the health technology assessment by the evidence-based technology assessment center, the ~~((administrator))~~ director shall publish a copy of the health technology assessment on the centralized, internet-based communication tool and provide the committee with:

(a) ~~((Final))~~ A copy of the health technology assessment;

(b) ~~((Information as to whether the federal medicare program has made a national coverage determination;))~~

~~((;))~~ A copy of ((identified national coverage)) decisions made under the federal medicare program related to the health technology being reviewed and accompanying information describing the basis for the decision;

~~((;))~~ (c) Information as to whether expert treatment guidelines exist, including those from specialty physician organizations and patient advocacy organizations((; and

~~((; and~~ (e) A copy of identified guidelines and accompanying information)), and describing the basis for the guidelines.

WSR 16-18-024
PERMANENT RULES
GAMBLING COMMISSION

[Filed August 26, 2016, 11:05 a.m., effective September 26, 2016]

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

Purpose: The petitioner requested increased wagering limits for nonhouse-banked card games, such as poker. Specifically, the proposed change would:

- Increase the maximum amount of a single wager on any authorized poker game, not just Texas Hold 'Em, from \$40 to \$100 at Class F card rooms; and
- Increase the maximum amount of a single wager on any authorized poker game, not just Texas Hold 'Em, played at house-banked card room licensees to \$300, the same limits as those for house-banked card games.

Citation of Existing Rules Affected by this Order: Amending WAC 230-15-135.

Statutory Authority for Adoption: RCW 9.46.070, 9.46.0201.

Adopted under notice filed as WSR 16-13-152 on June 22, 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 1, Repealed 0.

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 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: August 11, 2016.

Michelle Rancour
Acting Rules Coordinator

AMENDATORY SECTION (Amending WSR 12-21-048, filed 10/12/12, effective 1/1/13)

WAC 230-15-135 Wagering limits for nonhouse-banked card games. Card room licensees must not exceed these wagering limits:

(1) **Poker** -

(a) There must be no more than five betting rounds in any one game; and

(b) There must be no more than four wagers in any betting round, for example, the initial wager plus three raises; and

(c) The maximum amount of a single wager must not exceed forty dollars; however, class F may offer a maximum single wager not to exceed one hundred dollars and house-banked card game licensees may offer a single wager not to

exceed ~~((one))~~ three hundred dollars ~~((for the game of Texas Hold'em))~~;

(2) **Games based on achieving a specific number of points** - Each point must not exceed five cents in value;

(3) **Ante** - No more than the maximum wager allowed for the first betting round for any game, except for Panguingue (Pan). The ante may, by house rule:

(a) Be made by one or more players, but the total ante may not exceed the maximum wager allowed for the first betting round; and

(b) Be used as part of a player's wager;

(4) **Panguingue (Pan)** - The maximum value of a chip must not exceed ten dollars. An ante must not exceed one chip. We prohibit doubling of conditions. Players going out may collect no more than two additional chips for going out from each participating player.

WSR 16-18-027
PERMANENT RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed August 26, 2016, 11:40 a.m., effective September 26, 2016]

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

Purpose: The rule revision removes charter schools from levy planning, budgets, and funding distribution due to E2SSB 6194.

Citation of Existing Rules Affected by this Order: Amending WAC 392-139-310.

Statutory Authority for Adoption: RCW 28A.150.290 and 28A.710.220.

Adopted under notice filed as WSR 16-13-139 on June 22, 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 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: August 23, 2016.

Randy Dorn
State Superintendent
of Public Instruction

AMENDATORY SECTION (Amending WSR 14-17-009, filed 8/7/14, effective 9/7/14)

WAC 392-139-310 Determination of excess levy base.

The superintendent of public instruction shall calculate each school district's excess levy base as provided in this section.

(1) Sum the following state and federal allocations from the prior school year(s) as determined in subsections (4) and (5) of this section:

(a) The basic education allocation as defined in WAC 392-139-115 and as reported on the August Report 1191;

(b) The state and federal categorical allocations for the following:

(i) Pupil transportation. Allocations for pupil transportation include allocations for the following accounts:

4199 Transportation - Operations;
4399 Transportation - Operations;
4499 Transportation - Depreciation;
6199 Transportation - Operations;
6299 Transportation - Operations; and
6399 Transportation - Operations.

(ii) Special education. Allocations for special education include allocations for the following accounts:

4121 Special education;
4122 Special education - Infants and toddlers - State;
4321 Special education;
4322 Special education - Infants and toddlers - State;
6114 Federal Stimulus - IDEA;
6124 Special education supplemental;
6125 Special education - Infants and toddlers - Federal;
6214 Federal Stimulus - IDEA;
6224 Special education supplemental;
6225 Special education - Infants and toddlers - Federal;
6314 Federal Stimulus - IDEA;
6324 Special education supplemental; and
6325 Special education - Infants and toddlers - Federal.

(iii) Education of highly capable students. Allocations for education of highly capable students include allocations identified by account 4174 Highly capable.

(iv) Compensatory education. Allocations for compensatory education include allocations identified by the following accounts:

3100 Barrier reduction;
4155 Learning assistance;
4165 Transitional bilingual;
4365 Transitional bilingual;
6111 Federal Stimulus - Title 1;
6151 Disadvantaged;
6153 Migrant;
6164 Limited English proficiency;
6211 Federal Stimulus - Title 1;
6251 Disadvantaged;
6253 Migrant;
6264 Limited English proficiency;
6267 Indian education - JOB;
6268 Indian education - ED;
6311 Federal Stimulus - Title 1;
6351 Disadvantaged;

6353 Migrant;
6364 Limited English proficiency;
6367 Indian education - JOM; and
6368 Indian education - ED.

(v) Food services. Allocations for food services include allocations identified by the following accounts:

4198 School food services (state);
4398 School food services;
6198 School food services (federal);
6298 School food services;
6398 School food services; and
6998 USDA commodities.

(vi) Statewide block grant programs. Allocations for statewide block grant programs include allocations identified by the following accounts:

6113 Federal Stimulus - State Fiscal Stabilization Fund;
6176 Targeted assistance;
6213 Federal Stimulus - State Fiscal Stabilization Fund;
6276 Targeted assistance;
6313 Federal Stimulus - State Fiscal Stabilization Fund;
and
6376 Targeted assistance.

(c) General federal programs. Allocations for general federal programs identified by the following accounts:

5200 General purpose direct federal grants - Unassigned;
6100 Special purpose - OSPI - Unassigned;
6112 Federal Stimulus - School Improvement;
6118 Federal Stimulus - Competitive Grants;
6119 Federal Stimulus - Other;
6121 Special education - Medicaid reimbursement;
6138 Secondary vocational education;
6146 Skills center;
6152 School improvement;
6154 Reading first;
6162 Math and science - Professional development;
6200 Direct special purpose grants;
6212 Federal Stimulus - School Improvement;
6218 Federal Stimulus - Competitive Grants;
6219 Federal Stimulus - Other;
6221 Special education - Medicaid reimbursement;
6238 Secondary vocational education;
6246 Skills center;
6252 School improvement;
6254 Reading first;
6262 Math and science - Professional development;
6300 Federal grants through other agencies - Unassigned;
6310 Medicaid administrative match;
6312 Federal Stimulus - School Improvement;
6318 Federal Stimulus - Competitive Grants;
6319 Federal Stimulus - Other;
6321 Special education - Medicaid reimbursement;
6338 Secondary vocational education;
6346 Skills center;
6352 School improvement;

6354 Reading first; and
6362 Math and science - Professional development.

(2) Increase the result obtained in subsection (1) of this section by the percentage increase per full-time equivalent student in the state basic education appropriation between the prior school year and the current school year as stated in the state Operating Appropriations Act divided by 0.55.

(3) Revenue accounts referenced in this section are defined in the accounting manual for public school districts in the state of Washington.

(4) The dollar amount of revenues for state and federal categorical allocations identified in this section shall come from the following sources:

(a) The following state and federal categorical allocations are taken from the Report 1197 Column A (Annual Allotment Due):

3100 Barrier reduction;
4121 Special education;
4122 Special education - Infants and toddlers - State;
4155 Learning assistance;
4165 Transitional bilingual;
4174 Highly capable;
4198 School food services (state);
4199 Transportation - Operations;
4499 Transportation - Depreciation;
6111 Federal Stimulus - Title 1;
6112 Federal Stimulus - School Improvement;
6113 Federal Stimulus - State Fiscal Stabilization Fund;
6114 Federal Stimulus - IDEA, one-half the August 2010 amount will be used in the 2011 calculation, and one-half in the 2012;
6118 Federal Stimulus - Competitive Grants;
6119 Federal Stimulus - Other;
6121 Special education - Medicaid reimbursements;
6124 Special education - Supplemental; however, for the federal safety net portion, the amount awarded rather than the amount included on report 1197 will be used;
6125 Special education - Infants and toddlers - Federal;
6138 Secondary vocational education;
6146 Skills center;
6151 Disadvantaged;
6152 School improvement;
6153 Migrant;
6154 Reading first;
6162 Math and science - Professional development;
6164 Limited English proficiency;
6176 Targeted assistance;
6198 School food services (federal); and
6199 Transportation - Operations.

(b) For the 2004 calendar year, the following state and federal allocations are taken from the F-195 budget including budget extensions.

For the 2005 calendar year and thereafter, the following federal allocations shall be taken from the school district's second prior year F-196 annual financial report:

4321 Special education;
4322 Special education - Infants and toddlers - State;
4365 Transitional bilingual;

4398 School food services;
4399 Transportation - Operations;
5200 General purpose direct federal grants - Unassigned;
6100 Special purpose - OSPI - Unassigned;
6200 Direct special purpose grants;
6211 Federal Stimulus - Title 1;
6212 Federal Stimulus - School Improvement;
6213 Federal Stimulus - State Fiscal Stabilization Fund;
6214 Federal Stimulus - IDEA;
6218 Federal Stimulus - Competitive Grants;
6219 Federal Stimulus - Other;
6221 Special education - Medicaid reimbursement;
6224 Special education supplemental;
6225 Special education - Infants and toddlers - Federal;
6238 Secondary vocational education;
6246 Skills center;
6251 Disadvantaged;
6252 School improvement;
6253 Migrant;
6254 Reading first;
6262 Math and science - Professional development;
6264 Limited English proficiency;
6267 Indian education - JOM;
6268 Indian education - ED;
6276 Targeted assistance;
6298 School food services;
6299 Transportation - Operations;
6300 Federal grants through other agencies - Unassigned;
6310 Medicaid administrative match;
6311 Federal Stimulus - Title 1;
6312 Federal Stimulus - School Improvement;
6313 Federal Stimulus - State Fiscal Stabilization Fund;
6314 Federal Stimulus - IDEA;
6318 Federal Stimulus - Competitive Grants;
6319 Federal Stimulus - Other;
6321 Special education - Medicaid reimbursement;
6324 Special education supplemental;
6325 Special education - Infants and toddlers - Federal;
6338 Secondary vocational education;
6346 Skills center;
6351 Disadvantaged;
6352 School improvement;
6353 Migrant;
6354 Reading first;
6362 Math and science - Professional development;
6364 Limited English proficiency;
6367 Indian education - JOM;
6368 Indian education - ED;
6376 Targeted assistance;
6398 School food services;
6399 Transportation - Operations; and
6998 USDA commodities.

(5) Effective for levy authority and local effort assistance calculations for the 2005 calendar year and thereafter:

(a) District revenues determined in subsection (4) of this section shall be reduced for revenues received as a fiscal agent. School districts shall report fiscal agent revenues pur-

suant to instructions provided by the superintendent of public instruction.

(b) The amount determined in subsection (4)(b) of this section, after adjustment for fiscal agent moneys, shall be inflated for one year using the percentage change in the implicit price deflator for personal consumption expenditures for the United States as published for the most recent twelve-month period by the Bureau of Economic Analysis of the Federal Department of Commerce.

(6) State and federal moneys generated by a school district's students and redirected by the superintendent of public instruction to an educational service district at the request of the school district shall be included in the district's levy base.

(7) State basic education moneys generated by a school district's students and allocated directly to a technical college shall be included in the district's levy base.

(8) Funding which the district would have received calculated pursuant to RCW 84.52.0531 shall be included in the district's levy base.

~~((9) Allocations referenced above received by a charter school shall be included in the school district's levy base for the calendar year for which levy authority is being calculated only if the charter school is eligible to receive levy moneys from that levy.))~~

WSR 16-18-028
PERMANENT RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed August 26, 2016, 11:49 a.m., effective September 1, 2016]

Effective Date of Rule: September 1, 2016.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Under RCW 34.05.380(3), this rule may become effective immediately upon filing with the code reviser. Office of superintendent of public instruction finds that an immediate effective date is required by statute, as the revised rules are necessary to align chapter 392-400 WAC with changes to student discipline laws under 4SHB 1541. In addition, failing to have the permanent rules in place by September 1, 2016, the start of the 2016-17 school year, will peril the welfare of public school students who are entitled to these legal protections under 4SHB 1541, regarding the administration of student discipline and provision of educational services.

Purpose: The revisions to chapter 392-400 WAC adopt, without material change, changes to student discipline laws under 4SHB 1541, effective June 9, 2016, including:

1. The maximum length for a long-term suspension or expulsion;
2. Restrictions on the use of long-term suspension or expulsion as a form of discretionary discipline, as defined under 4SHB 1541;
3. Provision of educational services during a period of suspension or expulsion;
4. Student reengagement meetings and reengagement plans for long-term suspensions and expulsions; and
5. School district discipline policies and procedures.

Citation of Existing Rules Affected by this Order: Amending WAC 392-400-205, 392-400-225, 392-400-235, 392-400-245, 392-400-260, 392-400-275, 392-400-410, and 392-400-420.

Statutory Authority for Adoption: RCW 28A.600.015.

Adopted under notice filed as WSR 16-13-144 on June 22, 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 8, 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: August 24, 2016.

Randy Dorn
State Superintendent
of Public Instruction

AMENDATORY SECTION (Amending WSR 14-15-153, filed 7/23/14, effective 8/23/14)

WAC 392-400-205 Definitions. As used in this chapter the term:

(1) "Discipline" shall mean all forms of corrective action other than emergency removal from a class, subject, or activity, suspension, or expulsion and shall include the exclusion of a student from a class by a teacher or administrator for a period of time not exceeding the balance of the immediate class period: Provided that the student is in the custody of a school district employee for the balance of such period. Discipline shall also mean the exclusion of a student from any other type of activity conducted by or on behalf of a school district.

(2) "Suspension" shall mean a denial of attendance (other than for the balance of the immediate class period for "discipline" purposes) for any single subject or class, or for any full schedule of subjects or classes for a stated period of time. A suspension also may include a denial of admission to, or entry upon, real and personal property that is owned, leased, rented, or controlled by the school district.

(3) "Short-term suspension" shall mean a suspension for any portion of a calendar day up to and not exceeding ten consecutive school days.

(4) "Long-term suspension" shall mean a suspension that:

(a) Exceeds ten school days and has an end date of not more than the length of an academic term, as defined by the school board, from the time of corrective action;

(b) Cannot be imposed in such a manner that causes the student to lose academic grades or credit in excess of one semester or trimester during the same school year; and

(c) Cannot be imposed beyond the school year in which the alleged misbehavior occurs.

(5) "Emergency expulsion" shall mean an emergency removal from school for up to, and not exceeding, ten consecutive school days from the student's current school placement by a school district superintendent or a designee of the superintendent. The superintendent or designee must have good and sufficient reason to believe that the student's presence poses an immediate and continuing danger to other students or school staff or an immediate and continuing threat of substantial disruption of the educational process. An emergency expulsion must end or be converted to another form of corrective action within ten school days from the date of the emergency removal from school.

(6) "Expulsion" shall mean a denial of attendance for a period of time up to, but not longer than, ~~((one calendar year))~~ the length of an academic term, as defined by the school board, from the time a student is removed from his or her current school placement by a school district superintendent or a designee of the superintendent. An expulsion also may include a denial of admission to, or entry upon, real and personal property that is owned, leased, rented, or controlled by the school district.

(7) "School business day" shall mean any calendar day, exclusive of Saturdays, Sundays, and any federal and school holidays, upon which the office of the superintendent of the school district is open to the public for the conduct of business. A school business day shall be concluded or terminated upon the closure of said office for the calendar day.

(8) "School day" shall mean a calendar day except school holidays on which students enrolled in the school district are afforded the opportunity to be engaged in educational activity which is planned, supervised, and conducted by or under the supervision of the school district certificated staff, and on which day all or any portion of the students enrolled in the program actually participate in such educational activity.

(9) "Reengagement meeting" shall mean a meeting held between the school district and the student and parent and/or guardian to discuss how to return a long-term suspended or expelled student to an education setting as soon as possible.

(10) "Reengagement plan" shall mean a written plan developed between a school district and a student and his/her parent or guardian designed to aid the student in taking the necessary steps to remedy the situation that led to the student's suspension or expulsion and return the student to the educational setting as soon as possible.

(11) "Discretionary discipline" shall mean a disciplinary action taken by a school district for student behavior that violates rules of student conduct adopted by a school district board of directors under RCW 28A.600.010 and 28A.600.015, but does not constitute action taken in response to any of the following:

(a) A violation of RCW 28A.600.420;

(b) An offense in RCW 13.04.155;

(c) Two or more violations of RCW 9A.46.120, 9.41.-280, 28A.600.455, 28A.635.020, or 28A.635.060 within a three-year period; or

(d) Behavior that adversely impacts the health or safety of other students or educational staff.

AMENDATORY SECTION (Amending WSR 06-14-009, filed 6/22/06, effective 6/22/06)

WAC 392-400-225 School district rules defining misconduct—Distribution of rules. (1) It shall be the responsibility and duty of each school district to adopt, publish, and make available to all students and parents written rules which state with reasonable clarity the types of misconduct for which discipline, suspension, and expulsion may be imposed. In addition, written procedures for administering corrective action shall be developed and reviewed periodically as follows:

(a) Each school district shall provide for the development with parent and community participation of written procedures for administering corrective action at each school as required by RCW 28A.600.020(3).

(b) In a manner consistent with the district procedures developed pursuant to (a) above, the principal and certificated employees in each school building shall confer at least annually for the purpose of developing, or reviewing, or both, building discipline standards and the uniform enforcement of those standards, as required by RCW 28A.400.110.

(c) School districts shall use disaggregated data collected pursuant to RCW 28A.300.042 to monitor the impact of the school district's discipline policies and procedures, as required by WAC 392-190-048.

(d) School districts, in consultation with school district staff, students, families, and the community, shall periodically review and update their discipline rules, policies, and procedures.

(2) Rules that establish types of misconduct pursuant to this section must have a real and substantial relationship to the lawful maintenance and operation of the school district including, but not limited to, the preservation of the health and safety of students and employees and the preservation of an educational process which is conducive to learning.

(3) The rules set forth in this chapter, the rules of a school district that establish types of misconduct pursuant to subsection (1) above, and the written procedures of a district for administering corrective action adopted pursuant to subsection (1)(a) ~~((above))~~ and (d) of this subsection, shall be published and made available to all students and parents on an annual basis. ~~((If a school district chooses not to distribute such rules to all students and parents, then notice which describes the contents of such rules and specifies the person(s) to contact for a copy thereof shall be provided to students and parents on an annual basis in a manner reasonably calculated to come to their attention.))~~ School districts shall annually disseminate discipline policies and procedures to students, families, and the community.

AMENDATORY SECTION (Amending WSR 14-15-153, filed 7/23/14, effective 8/23/14)

WAC 392-400-235 Discipline—Conditions and limitations. Discipline may be imposed upon any student for violation of the rules of the school district that have been established pursuant to this section, subject to the following limitations and conditions and the grievance procedure set forth in WAC 392-400-240:

(1) No form of discipline shall be enforced in such a manner as to prevent a student from accomplishing specific academic grade, subject, or graduation requirements.

(2) School districts may not suspend the provision of educational services to a student as a disciplinary action.

(3) Corporal punishment which is defined as any act which willfully inflicts or willfully causes the infliction of physical pain on a student is prohibited.

Corporal punishment does not include:

(a) The use of reasonable physical force by a school administrator, teacher, school employee or volunteer as necessary to maintain order or to prevent a student from harming him/herself, other students and school staff or property;

(b) Physical pain or discomfort resulting from or caused by training for or participation in athletic competition or recreational activity voluntarily engaged in by a student; or

(c) Physical exertion shared by all students in a teacher directed class activity, which may include, but is not limited to, physical education exercises, field trips or vocational education projects.

~~((3) Nothing herein shall be construed as limiting or otherwise modifying provisions governing aversive interventions set forth in WAC 392-172A-03120 through 392-172A-03135.))~~

AMENDATORY SECTION (Amending WSR 14-15-153, filed 7/23/14, effective 8/23/14)

WAC 392-400-245 Short-term suspension—Conditions and limitations. A short-term suspension may be imposed upon a student for violation of school district rules adopted pursuant to WAC 392-400-225, subject to the following limitations or conditions, the prior informal conference procedures set forth in WAC 392-400-250, and the grievance procedures set forth in WAC 392-400-255:

(1) The nature and circumstances of the violation must be considered and must reasonably warrant a short-term suspension and the length of the suspension imposed. This requirement does not preclude the boards of directors of school districts from establishing the nature and extent of the corrective actions which, as a general rule, must be imposed as a consequence of proscribed misconduct. Such advance notice to students is advisable, and the imposition of such preestablished corrective action is permissible as long as (a) disciplinarians and hearing officers are allowed to grant exceptions in cases involving extenuating or exceptional circumstances, and (b) short-term suspension is not established as the corrective action for a student's first time offense other than for offenses involving exceptional misconduct as defined in subsection (2) of this section.

(2) As a general rule, no student shall be suspended for a short term unless another form of corrective action reason-

ably calculated to modify his or her conduct has previously been imposed upon the student as a consequence of misconduct of the same nature. A school district may, however, elect to adopt rules providing for the immediate resort to short-term suspension in cases involving exceptional misconduct as long as disciplinarians and hearing officers may grant exceptions in cases involving extenuating or exceptional circumstances, notwithstanding the fact prior alternative corrective action has not been imposed upon the student(s) involved. For the purpose of this rule, "exceptional misconduct" means misconduct other than absenteeism which a school district has judged, following consultation with an ad hoc citizens committee, to (a) be of such frequent occurrence, notwithstanding past attempts of district staff to control such misconduct through the use of other forms of corrective action, as to warrant an immediate resort to short-term suspension, or (b) be so serious in nature or so serious in terms of the disruptive effect upon the operation of the school(s) as to warrant an immediate resort to short-term suspension. The ad hoc citizens committee required by this section shall be composed of three or more persons chosen by the school district or the administrative designee(s) of the district, and shall be constituted with the intent and purpose of representing various socioeconomic, minority and majority populations of the school district to the extent deemed practical.

(3) No student in grades kindergarten through grade four shall be subject to short-term suspensions for more than a total of ten school days during any single semester or trimester as the case may be, and no loss of academic grades or credit shall be imposed by reason of the suspension of such a student.

(4) No student in the grade five and above program shall be subjected to short-term suspensions for more than a total of fifteen school days during any single semester or ten school days during any single trimester, as the case may be.

(5) A student may be excluded from a particular classroom or instructional or activity area for the period of suspension, but the school district must provide an opportunity for a student to receive educational services during a period of suspension. Any student subject to a short-term suspension shall be provided the opportunity upon his or her return to make up assignments and tests missed by reason of the short-term suspension if:

(a) Such assignments or tests have a substantial effect upon the student's semester or trimester grade or grades; or

(b) Failure to complete such assignments or tests would preclude the student from receiving credit for the course or courses.

(6) Any student who has been suspended shall be allowed to make application for readmission at any time. Each school district board of directors shall adopt written rules which provide for such an application for readmission and set forth the procedures to be followed.

AMENDATORY SECTION (Amending WSR 14-15-153, filed 7/23/14, effective 8/23/14)

WAC 392-400-260 Long-term suspension—Conditions and limitations. A long-term suspension may be imposed upon a student for violation of school district rules

adopted pursuant to WAC 392-400-225, subject to the following limitations or conditions and the notice requirements set forth in WAC 392-400-265 and the hearing requirements set forth in WAC 392-400-270:

(1) School districts may not impose long-term suspension as a form of discretionary discipline as defined in WAC 392-400-205(11).

(2) A student may be excluded from a particular classroom or instructional or activity area for the period of suspension, but the school district must provide an opportunity for a student to receive educational services during a period of suspension.

(3) The nature and circumstances of the violation must be considered and must reasonably warrant a long-term suspension and the length of the suspension imposed. This requirement does not preclude the boards of directors of school districts from establishing the nature and extent of the corrective actions which, as a general rule, must be imposed as a consequence of proscribed misconduct. Such advance notice to students is advisable, and the imposition of such preestablished corrective action is permissible as long as (a) disciplinarians and hearing officers are allowed to grant exceptions in cases involving extenuating or exceptional circumstances, and (b) long-term suspension is not established as the corrective action for a student's first time offense other than for offenses involving exceptional misconduct as defined in subsection ~~((2))~~ (4) of this section.

~~((2))~~ (4) As a general rule, no student shall be suspended for a long term unless another form of corrective action reasonably calculated to modify his or her conduct has previously been imposed upon the student as a consequence of misconduct of the same nature. A school district may, however, elect to adopt rules providing for the immediate resort to long-term suspension in cases involving exceptional misconduct as long as disciplinarians and hearing officers are allowed to grant exceptions in cases involving extenuating or exceptional circumstances, notwithstanding the fact prior alternative corrective action has not been imposed upon the student(s) involved. For the purpose of this rule, "exceptional misconduct" means misconduct other than absenteeism which a school district has judged following consultation with an ad hoc citizens committee to (a) be of such frequent occurrence, notwithstanding past attempts of district staff to control such misconduct through the use of other forms of corrective action, as to warrant an immediate resort to long-term suspension, or (b) be so serious in nature or so serious in terms of the disruptive effect upon the operation of the school(s) as to warrant an immediate resort to long-term suspension. The ad hoc citizens committee required by this section shall be composed of three or more persons chosen by the school district or the administrative designee(s) of the district, and shall be constituted with the intent and purpose of representing various socioeconomic, minority and majority populations of the school district to the extent deemed practical.

~~((3))~~ (5) No student in grades kindergarten through four shall be subject to long-term suspension during any single semester or trimester, as the case may be, and no loss of academic grades or credit shall be imposed by reason of the suspension of such a student.

~~((4))~~ (6) No single long-term suspension shall be imposed upon a student in the grade five and above program in a manner which causes the student to lose academic grades or credit for in excess of one semester or trimester, as the case may be, during the same school year.

~~((5))~~ (7) Any student who has been suspended shall be allowed to make application for readmission at any time. Each school district board of directors shall adopt written rules which provide for such an application for readmission and set forth the procedures to be followed.

~~((6))~~ (8) All long-term suspensions and the reasons therefor shall be reported in writing to the superintendent of the school district or his or her designee within twenty-four hours after the imposition of the suspension.

AMENDATORY SECTION (Amending WSR 14-15-153, filed 7/23/14, effective 8/23/14)

WAC 392-400-275 Expulsion—Conditions and limitations. A student may be expelled for violation of school district rules adopted pursuant to WAC 392-400-225, subject to the following limitations or conditions, the notice requirements set forth in WAC 392-400-280, and the hearing requirements set forth in WAC 392-400-285:

(1) School districts may not impose expulsion as a form of discretionary discipline as defined in WAC 392-400-205(11).

(2) A student may be excluded from a particular classroom or instructional or activity area for the period of suspension or expulsion, but the school district must provide an opportunity for a student to receive educational services during a period of suspension or expulsion.

(3) The nature and circumstances of the violation must reasonably warrant the harshness of expulsion.

~~((2))~~ (4) No student shall be expelled unless other forms of corrective action reasonably calculated to modify his or her conduct have failed or unless there is good reason to believe that other forms of corrective action would fail if employed.

~~((3))~~ (5) An expulsion may not be for an indefinite period of time. An expulsion may not exceed ~~((one calendar year))~~ the length of an academic term, as defined by the school board, from the date of the corrective action unless:

(a) The school petitions the district superintendent for an extension; and

(b) The district superintendent authorizes the extension in compliance with the superintendent of public instruction's rules adopted for this purpose.

~~((4))~~ (6) The district shall make reasonable efforts to assist students in returning to an educational setting prior to, and no later than, the end date of the corrective action.

~~((5))~~ (7) Once a student has been expelled in compliance with this chapter, the expulsion shall be brought to the attention of appropriate local and state authorities including, but not limited to, juvenile authorities acting pursuant to chapter 13.04 RCW in order that such authorities may address the student's educational needs.

~~((6))~~ (8) Any student who has been expelled shall be allowed to make application for readmission at any time. Each school district board of directors shall adopt written

rules which provide for such an application for readmission and set forth the procedures to be followed.

~~((7))~~ (9) All expulsions and the reasons therefor shall be reported in writing to the superintendent of the school district or his or her designee within twenty-four hours after the imposition of the expulsion.

AMENDATORY SECTION (Amending WSR 14-15-153, filed 7/23/14, effective 8/23/14)

WAC 392-400-410 Appeal for extension of ~~((a one-year))~~ an expulsion. When warranted because of risk to the public health and safety, the principal or the principal's designee may petition the district's superintendent for authorization to exceed the ~~((one calendar year))~~ academic term limitation on an expulsion. The superintendent may exercise his/her discretion to grant the petition in limited circumstances, on a case-by-case basis, so long as there is evidence that, if the student were to return at or before ~~((one calendar year))~~ the length of an academic term, as defined by the school board, he/she would pose a risk to public health or safety.

(1) The petition to exceed the ~~((one-year))~~ academic term limit shall include, at least, the following:

(a) A detailed description of the student's misconduct, the school rules which were violated, and the public health and/or safety concerns of the district;

(b) A detailed description of the student's academic, attendance, and discipline history, if any;

(c) A description of the lesser forms of corrective actions which were considered and reasons why those were rejected;

(d) A description of all alternative learning experiences, vocational programs, and/or other educational services which may be available to the student;

(e) The proposed extended length of the expulsion;

(f) Identification of special education services or accommodations pursuant to Section 504 of the Rehabilitation Act of 1973, if appropriate; and

(g) A proposed date for the reengagement meeting.

(2) Designated staff shall submit the petition at any time after final imposition of ~~((a one-year))~~ an academic term expulsion and prior to the end of that expulsion.

(3) A copy of the petition shall be delivered in person or by certified mail to the student and his/her parent(s)/guardian(s).

(4) The petition shall be provided in the predominant language of the student and/or parent(s)/guardian(s) who speak a language, other than English, in accordance with Title VI of the Civil Rights Act of 1964.

(5) The student and/or parent(s)/guardian(s) may submit a written or verbal response to the petition within ten school business days of the recorded receipt of the petition.

(6) Within eleven school business days, but no later than twenty school business days of the date of the petition's recorded delivery to the student/parent(s)/guardian(s), the district superintendent shall issue a written decision indicating whether the petition is granted or denied. The written decision shall also include a description of all rights and procedures for appeal.

(7) If the petition is granted, within ten school business days of the receipt of the decision, the student and/or parent(s)/guardian(s) may appeal the decision to the district's school board in accordance with WAC 392-400-310 and 392-400-315.

Annually, all school districts shall report the number of petitions submitted, approved and denied to the office of the superintendent of public instruction.

AMENDATORY SECTION (Amending WSR 14-15-153, filed 7/23/14, effective 8/23/14)

WAC 392-400-420 Reengagement meetings and plans. (1) School districts should make efforts to have suspended or expelled students return to an educational setting as soon as possible. School districts ~~((should))~~ must convene a meeting with the student and the student's parents or guardians within twenty days of the student's long-term suspension or expulsion, but no later than five days before the student's reentry or enrollment, to discuss a plan to reengage the student in a school program. Families must have access to, provide meaningful input on, and have the opportunity to participate in a culturally sensitive and culturally responsive reengagement plan.

(2) In developing a reengagement plan, school districts should consider shortening the length of time that the student is suspended or expelled, other forms of corrective action, and supportive interventions that aid in the student's academic success and keep the student engaged and on track to graduate. School districts must create a reengagement plan tailored to the student's individual circumstances, including consideration of the incident that led to the student's long-term suspension or expulsion. The plan should aid the student in taking the necessary steps to remedy the situation that led to the student's suspension or expulsion.

(3) Any reengagement meetings conducted by the school district involving the suspended or expelled student and his or her parents or guardians are not intended to replace a petition for readmission.

WSR 16-18-029

PERMANENT RULES

GAMBLING COMMISSION

[Filed August 26, 2016, 11:55 a.m., effective September 26, 2016]

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

Purpose: The proposed change would allow house-banked card rooms to be open twenty-four hours a day, seven days a week. Before, house-banked card rooms could be open twenty-four hours a day, five days a week. On the remaining two days, they were required to be closed for a four hour period.

Citation of Existing Rules Affected by this Order: Amending WAC 230-15-025.

Statutory Authority for Adoption: RCW 9.46.070, 9.46.0201.

Adopted under notice filed as WSR 16-12-113 on June 1, 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 1, Repealed 0.

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 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: August 11, 2016.

Michelle Rancour
Acting Rules Coordinator

AMENDATORY SECTION (Amending WSR 14-11-021, filed 5/9/14, effective 7/1/14)

WAC 230-15-025 Hours of play. (1) Licensees may ~~((only))~~ allow the use of their premises for card playing ~~((between the hours of 2:00 a.m. and 6:00 a.m.))~~ twenty-four hours a day with written approval from us.

(2) After we have received a written request, we will consult with the local law enforcement agency with jurisdiction over the licensee's business and with other state agencies involved in regulation of the business.

(3) After you have received written approval to operate ~~((between the hours of 2:00 a.m. and 6:00 p.m.))~~ twenty-four hours a day you may change your hours of operation without further approval from us. Class F and house-banked card rooms must include their hours of operation in their internal controls.

(4) You must also meet the following requirements:

(a) Open the food and/or drink business being stimulated to the public for business any time licensees are conducting card games; and

~~(b) ((Observe a four-hour period of closure at the end of at least two business days a week before beginning the next period of operation; and~~

~~(c))~~ Comply with any other terms and conditions we require.

(5) We may deny the request for extended hours or revoke hours already approved if:

(a) The local law enforcement agency or a state agency objects; or

(b) We determine that the licensee has violated any provisions of chapter 9.46 RCW, any other commission rule, or any of the terms of our approval.

(6) Licensees must submit all objections to revocations of operating hours in writing.

(7) If requested, we allow the licensee an opportunity for a brief adjudicative proceeding (BAP) before denying or revoking the licensee's authorization for extended card game hours. An administrative law judge hears the BAP, under the provisions of Title 230 WAC and chapter 34.05 RCW.

WSR 16-18-031
PERMANENT RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed August 26, 2016, 12:25 p.m., effective September 1, 2016]

Effective Date of Rule: September 1, 2016.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Under RCW 34.05.380(3), this rule may become effective immediately upon filing with the code reviser. Office of superintendent of public instruction finds that an immediate effective date is required by statute, as the revised rules are necessary to align WAC 392-121-108 with changes to student discipline laws under 4SHB 1541. In addition, failing to have the permanent rules in place by September 1, 2016, the start of the 2016-17 school year, will peril the welfare of public school students who are entitled to these legal protections under 4SHB 1541 regarding the administration of student discipline and provision of educational services.

Purpose: The purpose of this order is to update WAC 392-121-108 to address changes required with the passage of 4SHB 1541, which requires school districts to provide educational services for students who have been long-term suspended or expelled. Formerly, the WAC prohibited districts and charter schools from claiming state funding for a student who has been expelled or long-term suspended when the conditions of the suspension will cause the student to lose academic grades or credit. With these changes, a student who has been expelled or long-term suspended can be claimed for state funding when the district has provided educational services to the student during the expulsion or suspension.

Citation of Existing Rules Affected by this Order: Amending WAC 392-121-108.

Statutory Authority for Adoption: RCW 28A.150.290.

Adopted under notice filed as WSR 16-14-107 on July 6, 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 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: August 15, 2016.

Randy Dorn
Superintendent of
Public Instruction

AMENDATORY SECTION (Amending WSR 15-18-078, filed 8/28/15, effective 9/28/15)

WAC 392-121-108 Definition—Enrollment exclusions. A person who qualifies for any of the exclusions set forth in this section shall not be counted as an enrolled student pursuant to WAC 392-121-106.

(1) Absences - Except as provided in (a) and (b) of this subsection, a student whose consecutive days of absence from school exceed twenty school days, or a part-time student that has not attended school at least once within a time period consisting of twenty consecutive school days, shall not be counted as an enrolled student until attendance is resumed. School days are defined as the regularly scheduled instructional days for the general population of the school or district the student is enrolled in, regardless of the student's individualized schedule.

(a) If there is a written agreement between the appropriate school official and a student's parent or guardian pursuant to RCW 28A.225.010 that the student's temporary absence is not deemed to cause a serious adverse effect upon the student's educational progress, the absent student may be counted as an enrolled student for up to two monthly enrollment count dates as specified in WAC 392-121-122.

(b) A student receiving home and/or hospital service pursuant to WAC 392-172A-02100 shall be counted as an enrolled student as provided in WAC 392-122-145.

(2) Dropouts - A student for whom the school district or charter school has received notification of dropping out of school by the student or the student's parent or guardian shall not be counted as an enrolled student until attendance is resumed.

(3) Transfers - A student who has transferred to another public or private school and for whom the school district or charter school has received notification of transfer from the school to which the student has transferred, from the student, or from the student's parent or guardian shall not be counted as an enrolled student unless the student reenrolls in the school district or charter school.

~~(4) ((Suspensions—A student who has been suspended from school pursuant to WAC 392-400-260 or in accordance with a charter school's student discipline policy, when the conditions of the suspension will cause the student to lose academic grades or credit, shall not be counted as an enrolled student until attendance is resumed.~~

~~(5) Expulsions—A student who has been expelled from all school subjects or classes by the school district pursuant to WAC 392-400-275 or 392-400-295 or in accordance with a charter school's student discipline policy shall not be counted as an enrolled student until such time as enrollment in a district program has resumed; a student who has been partially expelled, such as from a single school subject or class, by the school district or charter school pursuant to WAC 392-400-275 or 392-400-295 or in accordance with a charter school's student discipline policy may be considered a part-time enrolled student.~~

~~(6)) Graduates - A student who has met the high school graduation requirements of chapter 180-51 WAC by the beginning of the school year.~~

~~((7))~~ (5) Tuition - A student paying tuition including, but not limited to, students on an F-1 visa or students enrolled in a tuition-based summer school program.

~~((8))~~ (6) An institution student who is claimed as a 1.0 FTE by any institution as an enrolled student eligible for state institutional education support pursuant to chapter 392-122 WAC where the institution's count date occurs prior to the school district count date for the month. Where the count dates occur on the same date, the institution shall have priority for counting the student.

WSR 16-18-033

PERMANENT RULES

HEALTH CARE AUTHORITY

(Washington Apple Health)

[Filed August 26, 2016, 1:50 p.m., effective September 26, 2016]

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

Purpose: Revisions to these rules add a cross-reference in regards to documenting client's dental records, clarify limitations of covered services, and clarify the time period that an authorization is valid. Other revisions were made to improve language throughout these rules.

Citation of Existing Rules Affected by this Order: Amending WAC 182-535-1079, 182-535-1080, 182-535-1082, 182-535-1084, 182-535-1088, 182-535-1090, 182-535-1092, 182-535-1094, 182-535-1098, 182-535-1099, and 182-535-1220.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 16-15-101 on July 20, 2016.

Changes Other than Editing from Proposed to Adopted Version: The agency removed the following proposed language:

Behavior management is for the following clients whose documented behavior requires the assistance of one additional professional staff ~~employed by the billing provider~~ to protect the client and the professional staff from injury while treatment is rendered:

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 11, 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 11, Repealed 0.

Date Adopted: August 26, 2016.

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 14-08-032, filed 3/25/14, effective 4/30/14)

WAC 182-535-1079 Dental-related services—General. (1) Clients described in WAC 182-535-1060 are eligible to receive the dental-related services described in this chapter, subject to coverage limitations, restrictions, and client age requirements identified for a specific service. The medicaid agency pays for dental-related services and procedures provided to eligible clients when the services and procedures:

- (a) Are part of the client's dental benefit package;
- (b) Are within the scope of an eligible client's Washington apple health (~~((WAH))~~) program;
- (c) Are medically necessary;
- (d) Meet the agency's prior authorization requirements, if any;
- (e) Are documented in the client's dental record in accordance with chapter 182-502 WAC and meet the department of health's requirements in WAC 246-817-305 and 246-817-310;
- (f) Are within accepted dental or medical practice standards;
- (g) Are consistent with a diagnosis of a dental disease or dental condition;
- (h) Are reasonable in amount and duration of care, treatment, or service; and
- (i) Are listed as covered in the agency's rules and published billing instructions and fee schedules.

(2) For orthodontic services, see chapter 182-535A WAC.

(3) The agency requires site-of-service prior authorization, in addition to prior authorization of the procedure, if applicable, for nonemergency dental-related services performed in a hospital or an ambulatory surgery center when:

- (a) A client is not a client of the developmental disabilities administration of the department of social and health services (DSHS) according to WAC 182-535-1099;
- (b) A client is age nine (~~((years of age))~~) or older;
- (c) The service is not listed as exempt from the site-of-service authorization requirement in the agency's current published dental-related services fee schedule or billing instructions; and
- (d) The service is not listed as exempt from the prior authorization requirement for deep sedation or general anesthesia (see WAC 182-535-1098 (1)(c)(v)).

(4) To be eligible for payment, dental-related services performed in a hospital or an ambulatory surgery center must be listed in the agency's current published outpatient fee schedule or ambulatory surgery center fee schedule. The claim must be billed with the correct procedure code for the site-of-service.

(5) Under the early periodic screening and diagnostic treatment (EPSDT) program, clients age twenty (~~((years of age))~~) and younger may be eligible for dental-related services listed as noncovered.

(6) The agency evaluates a request for dental-related services that are:

- (a) In excess of the dental program's limitations or restrictions, according to WAC 182-501-0169; and
- (b) Listed as noncovered, according to WAC 182-501-0160.

AMENDATORY SECTION (Amending WSR 14-08-032, filed 3/25/14, effective 4/30/14)

WAC 182-535-1080 Dental-related services—Covered—Diagnostic. Clients described in WAC 182-535-1060 are eligible to receive the dental-related diagnostic services listed in this section, subject to coverage limitations, restrictions, and client age requirements identified for a specific service.

(1) **Clinical oral evaluations.** The medicaid agency covers the following oral health evaluations and assessments, per client, per provider or clinic:

(a) Periodic oral evaluations as defined in WAC 182-535-1050, once every six months. Six months must elapse between the comprehensive oral evaluation and the first periodic oral evaluation.

(b) Limited oral evaluations as defined in WAC 182-535-1050, only when the provider performing the limited oral evaluation is not providing routine scheduled dental services for the client on the same day. The limited oral evaluation:

- (i) Must be to evaluate the client for a:
 - (A) Specific dental problem or oral health complaint;
 - (B) Dental emergency; or
 - (C) Referral for other treatment.
- (ii) When performed by a dentist, is limited to the initial examination appointment. The agency does not cover any additional limited examination by a dentist for the same client until three months after a removable prosthesis has been delivered.

(c) Comprehensive oral evaluations as defined in WAC 182-535-1050, once per client, per provider or clinic, as an initial examination. The agency covers an additional comprehensive oral evaluation if the client has not been treated by the same provider or clinic within the past five years.

(d) Limited visual oral assessments as defined in WAC 182-535-1050, (~~((up to two per year))~~) once every six months only when the assessment is:

- (i) Not performed in conjunction with other clinical oral evaluation services; and
- (ii) Performed by a licensed dentist or dental hygienist to determine the need for sealants or fluoride treatment (~~((and/or))~~) or when triage services are provided in settings other than dental offices or clinics (~~((; and~~
 - (iii) ~~Provided by a licensed dentist or licensed dental hygienist~~)).

(2) **Radiographs (X rays).** The agency:

(a) Covers radiographs per client, per provider or clinic, that are of diagnostic quality, dated, and labeled with the client's name. The agency requires:

- (i) Original radiographs to be retained by the provider as part of the client's dental record; and
- (ii) Duplicate radiographs to be submitted:
 - (A) With requests for prior authorization; or
 - (B) When the agency requests copies of dental records.
- (b) Uses the prevailing standard of care to determine the need for dental radiographs.

(c) Covers an intraoral complete series once in a three-year period for clients age fourteen (~~((years of age))~~) and older only if the agency has not paid for a panoramic radiograph for the same client in the same three-year period. The intraoral complete series includes at least fourteen to twenty-two peri-

apical and posterior bitewings. The agency limits reimbursement for all radiographs to a total payment of no more than payment for a complete series.

(d) Covers medically necessary periapical radiographs for diagnosis in conjunction with definitive treatment, such as root canal therapy. Documentation supporting medical necessity must be included in the client's record.

(e) Covers an occlusal intraoral radiograph, per arch, once in a two-year period, for clients age twenty (~~((years of age))~~) and younger.

(f) Covers a maximum of four bitewing radiographs once every twelve months.

(g) Covers panoramic radiographs in conjunction with four bitewings, once in a three-year period, only if the agency has not paid for an intraoral complete series for the same client in the same three-year period.

(h) Covers one preoperative and postoperative panoramic radiograph per surgery without prior authorization. The agency considers additional radiographs on a case-by-case basis with prior authorization. For orthodontic services, see chapter 182-535A WAC.

(i) Covers one preoperative and postoperative cephalometric film per surgery without prior authorization. The agency considers additional radiographs on a case-by-case basis with prior authorization. For orthodontic services, see chapter 182-535A WAC.

(j) Covers radiographs not listed as covered in this subsection, only on a case-by-case basis and when prior authorized.

(k) Covers oral and facial photographic images, only on a case-by-case basis and when requested by the agency.

(3) **Tests and examinations.** The agency covers the following for clients who are age twenty (~~((years of age))~~) and younger:

(a) One pulp vitality test per visit (not per tooth):

(i) For diagnosis only during limited oral evaluations; and

(ii) When radiographs (~~and/or~~) or documented symptoms justify the medical necessity for the pulp vitality test.

(b) Diagnostic casts other than those included in an orthodontic case study, on a case-by-case basis, and when requested by the agency.

AMENDATORY SECTION (Amending WSR 14-08-032, filed 3/25/14, effective 4/30/14)

WAC 182-535-1082 Dental-related services—Covered—Preventive services. Clients described in WAC 182-535-1060 are eligible for the dental-related preventive services listed in this section, subject to coverage limitations and client-age requirements identified for a specific service.

(1) **Dental prophylaxis.** The medicaid agency covers prophylaxis as follows. Prophylaxis:

(a) Includes scaling and polishing procedures to remove coronal plaque, calculus, and stains when performed on primary or permanent dentition.

(b) Is limited to once every:

(i) Six months for clients age eighteen (~~((years of age))~~) and younger;

(ii) Twelve months for clients age nineteen (~~((years of age))~~) and older; or

(iii) Four months for a client residing in a nursing facility.

(c) Is reimbursed only when the service is performed:

(i) At least six months after periodontal scaling and root planing, or periodontal maintenance services, for clients from age thirteen (~~((to))~~) through eighteen (~~((years of age))~~);

(ii) At least twelve months after periodontal scaling and root planing, periodontal maintenance services, for clients age nineteen (~~((years of age))~~) and older; or

(iii) At least six months after periodontal scaling and root planing, or periodontal maintenance services for clients who reside in a nursing facility.

(d) Is not reimbursed (~~((for))~~) separately when performed on the same date of service as periodontal scaling and root planing, periodontal maintenance, gingivectomy, or gingivoplasty.

(e) Is covered for clients of the developmental disabilities administration of the department of social and health services (DSHS) according to (a), (c), and (d) of this subsection and WAC 182-535-1099.

(2) **Topical fluoride treatment.** The agency covers the following per client, per provider or clinic:

(a) Fluoride rinse, foam or gel, fluoride varnish, including disposable trays, for clients age six (~~((years of age))~~) and younger, (~~((up to three times within a twelve month period))~~) every four months.

(b) Fluoride rinse, foam or gel, fluoride varnish, including disposable trays, for clients from age seven through eighteen (~~((years of age, up to two times))~~), every six months within a twelve-month period.

(c) Fluoride rinse, foam or gel, fluoride varnish, including disposable trays, (~~((up to three times))~~) every four months within a twelve-month period during orthodontic treatment.

(d) Fluoride rinse, foam or gel, fluoride varnish, including disposable trays, for clients age nineteen (~~((years of age))~~) and older, once within a twelve-month period.

(e) Fluoride rinse, foam or gel, fluoride varnish, including disposable trays, for clients who reside in alternate living facilities as defined in WAC 182-513-1301, (~~((up to three times))~~) every four months within a twelve-month period.

(f) Additional topical fluoride applications only on a case-by-case basis and when prior authorized.

(g) Topical fluoride treatment for clients of the developmental disabilities administration of DSHS according to WAC 182-535-1099.

(3) **Oral hygiene instruction.** Includes (~~((individualized))~~) instruction for home care such as tooth brushing technique, flossing, and use of oral hygiene aids. The agency covers individualized oral hygiene instruction, per client, as follows:

(a) For clients age eight (~~((years of age))~~) and younger. For clients age nine (~~((years of age))~~) and older, oral hygiene instruction is included as part of the global fee for oral prophylaxis.

(b) Once every six months (~~((, up to two times))~~) within a twelve-month period.

(c) Only when not performed on the same date of service as prophylaxis or within six months from a prophylaxis by the same provider or clinic.

(d) Only when provided by a licensed dentist or a licensed dental hygienist and the instruction is provided in a setting other than a dental office or clinic.

(4) **Tobacco cessation counseling for the control and prevention of oral disease.** The agency covers tobacco cessation counseling for pregnant women only. See WAC 182-531-1720.

(5) **Sealants.** The agency covers:

(a) Sealants for clients age twenty (~~(years of age)~~) and younger and clients any age of the developmental disabilities administration of DSHS.

(b) Sealants only when used on a mechanically (~~(and/or)~~) or chemically prepared enamel surface.

(c) Sealants once per tooth:

(i) In a three-year period for clients age twenty (~~(years of age)~~) and younger; and

(ii) In a two-year period for clients any age of the developmental disabilities administration of DSHS according to WAC 182-535-1099.

(d) Sealants only when used on the occlusal surfaces of:

(i) Permanent teeth two, three, fourteen, fifteen, eighteen, nineteen, thirty, and thirty-one; and

(ii) Primary teeth A, B, I, J, K, L, S, and T.

(e) Sealants on noncarious teeth or teeth with incipient caries.

(f) Sealants only when placed on a tooth with no preexisting occlusal restoration, or any occlusal restoration placed on the same day.

(g) Sealants are included in the agency's payment for occlusal restoration placed on the same day.

(h) Additional sealants not described in this subsection on a case-by-case basis and when prior authorized.

(6) **Space maintenance.** The agency covers:

(a) One fixed unilateral space maintainer per quadrant or one fixed bilateral space maintainer(s) per arch, including recementation, for missing primary molars A, B, I, J, K, L, S, and T, (~~(subject to the following)~~) when:

(i) (~~(Only when there is)~~) Evidence of pending permanent tooth eruption(-) exists; and

(ii) (~~(Only one space maintainer is covered per quadrant.)~~) The service is not provided during approved orthodontic treatment.

(b) Replacement space maintainers (~~(are covered only)~~) on a case-by-case basis (~~(and)~~) when prior authorized.

(~~(b)~~) (c) The removal of fixed space maintainers when removed by a different provider. Space maintainer removal is allowed once per (quadrant) appliance.

AMENDATORY SECTION (Amending WSR 15-10-043, filed 4/29/15, effective 5/30/15)

WAC 182-535-1084 Dental-related services—Covered—Restorative services. Clients described in WAC 182-535-1060 are eligible for the dental-related restorative services listed in this section, subject to coverage limitations, restrictions, and client age requirements identified for a specific service.

(1) **Amalgam and resin restorations for primary and permanent teeth.** The medicaid agency considers:

(a) Tooth preparation, acid etching, all adhesives (including bonding agents), liners and bases, polishing, and curing as part of the restoration.

(b) Occlusal adjustment of either the restored tooth or the opposing tooth or teeth as part of the (~~(amalgam)~~) restoration.

(c) Restorations placed within six months of a crown preparation by the same provider or clinic to be included in the payment for the crown.

(2) **Limitations for all restorations.** The agency:

(a) Considers multiple restoration involving the proximal and occlusal surfaces of the same tooth as a multisurface restoration, and limits reimbursement to a single multisurface restoration.

(b) Considers multiple restorative resins, flowable composite resins, or resin-based composites for the occlusal, buccal, lingual, mesial, and distal fissures and grooves on the same tooth as a one-surface restoration.

(c) Considers multiple restorations of fissures and grooves of the occlusal surface of the same tooth as a one-surface restoration.

(d) Considers resin-based composite restorations of teeth where the decay does not penetrate the dentoenamel junction (DEJ) to be sealants. (See WAC 182-535-1082(4) for sealant coverage.)

(e) Reimburses proximal restorations that do not involve the incisal angle on anterior teeth as a two-surface restoration.

(f) Covers only one buccal and one lingual surface per tooth. The agency reimburses buccal or lingual restorations, regardless of size or extension, as a one-surface restoration.

(g) Does not cover preventive restorative resin or flowable composite resin on the interproximal surfaces (mesial or distal) when performed on posterior teeth or the incisal surface of anterior teeth.

(h) Does not pay for replacement restorations within a two-year period unless the restoration has an additional adjoining carious surface. The agency pays for the replacement restoration as one multisurface restoration (~~(per client; per provider or clinic)~~). The client's record must include X rays (~~(and)~~) or documentation supporting the medical necessity for the replacement restoration.

(3) **Additional limitations on restorations on primary teeth.** The agency covers:

(a) A maximum of two surfaces for a primary first molar. (See subsection (6) of this section for a primary first molar that requires a restoration with three or more surfaces.) The agency does not pay for additional restorations on the same tooth.

(b) A maximum of three surfaces for a primary second molar. (See subsection (6) of this section for a primary posterior tooth that requires a restoration with four or more surfaces.) The agency does not pay for additional restorations on the same tooth.

(c) A maximum of three surfaces for a primary anterior tooth. (See subsection (6) of this section for a primary anterior tooth that requires a restoration with four or more surfaces.) The agency does not pay for additional restorations on the same tooth after three surfaces.

(d) Glass ionomer restorations for primary teeth, only for clients age five (~~(years of age)~~) and younger. The agency pays for these restorations as a one-surface, resin-based composite restoration.

(4) **Additional limitations on restorations on permanent teeth.** The agency covers:

(a) Two occlusal restorations for the upper molars on teeth one, two, three, fourteen, fifteen, and sixteen if, the restorations are anatomically separated by sound tooth structure.

(b) A maximum of five surfaces per tooth for permanent posterior teeth, except for upper molars. The agency allows a maximum of six surfaces per tooth for teeth one, two, three, fourteen, fifteen, and sixteen.

(c) A maximum of six surfaces per tooth for resin-based composite restorations for permanent anterior teeth.

(5) **Crowns.** The agency:

(a) Covers the following indirect crowns once every five years, per tooth, for permanent anterior teeth for clients age fifteen (~~((t))~~) through twenty (~~(years of age)~~) when the crowns meet prior authorization criteria in WAC 182-535-1220 and the provider follows the prior authorization requirements in (c) of this subsection:

(i) Porcelain/ceramic crowns to include all porcelains, glasses, glass-ceramic, and porcelain fused to metal crowns; and

(ii) Resin crowns and resin metal crowns to include any resin-based composite, fiber, or ceramic reinforced polymer compound.

(b) Considers the following to be included in the payment for a crown:

(i) Tooth and soft tissue preparation;

(ii) Amalgam and resin-based composite restoration, or any other restorative material placed within six months of the crown preparation. Exception: The agency covers a one-surface restoration on an endodontically treated tooth, or a core buildup or cast post and core;

(iii) Temporaries, including but not limited to, temporary restoration, temporary crown, provisional crown, temporary prefabricated stainless steel crown, ion crown, or acrylic crown;

(iv) Packing cord placement and removal;

(v) Diagnostic or final impressions;

(vi) Crown seating (placement), including cementing and insulating bases;

(vii) Occlusal adjustment of crown or opposing tooth or teeth; and

(viii) Local anesthesia.

(c) Requires the provider to submit the following with each prior authorization request:

(i) Radiographs to assess all remaining teeth;

(ii) Documentation and identification of all missing teeth;

(iii) Caries diagnosis and treatment plan for all remaining teeth, including a caries control plan for clients with rampant caries;

(iv) Pre- and post-endodontic treatment radiographs for requests on endodontically treated teeth; and

(v) Documentation supporting a five-year prognosis that the client will retain the tooth or crown if the tooth is crowned.

(d) Requires a provider to bill for a crown only after delivery and seating of the crown, not at the impression date.

(6) **Other restorative services.** The agency covers the following restorative services:

(a) All recementations of permanent indirect crowns.

(b) Prefabricated stainless steel crowns, including stainless steel crowns with resin window, resin-based composite crowns (direct), prefabricated esthetic coated stainless steel crowns, and prefabricated resin crowns for primary anterior teeth once every three years only for clients age twenty (~~(years of age)~~) and younger as follows:

(i) For age(~~(s)~~) twelve and younger without prior authorization if the tooth requires a four or more surface restoration; and

(ii) For age(~~(s)~~) thirteen (~~((t))~~) through twenty with prior authorization.

(c) Prefabricated stainless steel crowns, including stainless steel crowns with resin window, resin-based composite crowns (direct), prefabricated esthetic coated stainless steel crowns, and prefabricated resin crowns, for primary posterior teeth once every three years without prior authorization if:

(i) Decay involves three or more surfaces for a primary first molar;

(ii) Decay involves four or more surfaces for a primary second molar; or

(iii) The tooth had a pulpotomy.

(d) Prefabricated stainless steel crowns, including stainless steel crowns with resin window, and prefabricated resin crowns, for permanent posterior teeth excluding one, sixteen, seventeen, and thirty-two once every three years, for clients age twenty (~~(years of age)~~) and younger, without prior authorization.

(e) Prefabricated stainless steel crowns for clients of the developmental disabilities administration of the department of social and health services (DSHS) without prior authorization according to WAC 182-535-1099.

(f) Core buildup, including pins, only on permanent teeth, only for clients age twenty (~~(years of age)~~) and younger, and only allowed in conjunction with crowns and when prior authorized. For indirect crowns, prior authorization must be obtained from the agency at the same time as the crown. Providers must submit pre- and post-endodontic treatment radiographs to the agency with the authorization request for endodontically treated teeth.

(g) Cast post and core or prefabricated post and core, only on permanent teeth, only for clients age twenty (~~(years of age)~~) and younger, and only when in conjunction with a crown and when prior authorized.

AMENDATORY SECTION (Amending WSR 14-08-032, filed 3/25/14, effective 4/30/14)

WAC 182-535-1088 Dental-related services—Covered—Periodontic services. Clients described in WAC 182-535-1060 are eligible to receive the dental-related periodontic services listed in this section, subject to coverage limitations, restrictions, and client-age requirements identified for a specified service.

(1) **Surgical periodontal services.** The medicaid agency covers the following surgical periodontal services, including all postoperative care:

(a) Gingivectomy/gingivoplasty (does not include distal wedge procedures on erupting molars) only on a case-by-case basis and when prior authorized and only for clients age twenty (~~(years of age)~~) and younger; and

(b) Gingivectomy/gingivoplasty (does not include distal wedge procedures on erupting molars) for clients of the developmental disabilities administration of the department of social and health services (DSHS) according to WAC 182-535-1099.

(2) **Nonsurgical periodontal services.** The agency:

(a) Covers periodontal scaling and root planing for clients (~~(from)~~) age thirteen (~~(to)~~) through eighteen (~~(years of age)~~), once per quadrant per client, in a two-year period on a case-by-case basis, when prior authorized, and only when:

(i) The client has radiographic evidence of periodontal disease and subgingival calculus;

(ii) The client's record includes supporting documentation for the medical necessity, including complete periodontal charting and a definitive diagnosis of periodontal disease;

(iii) The client's clinical condition meets current published periodontal guidelines; and

(iv) Performed at least two years from the date of completion of periodontal scaling and root planing or surgical periodontal treatment, or at least twelve calendar months from the completion of periodontal maintenance.

(b) Covers periodontal scaling and root planing once per quadrant per client in a two-year period for clients age nineteen (~~(years of age)~~) and older. Criteria in (a)(i) through (iv) of this subsection must be met.

(c) Considers ultrasonic scaling, gross scaling, or gross debridement to be included in the procedure and not a substitution for periodontal scaling and root planing.

(d) Covers periodontal scaling and root planing only when the services are not performed on the same date of service as prophylaxis, periodontal maintenance, gingivectomy, or gingivoplasty.

(e) Covers periodontal scaling and root planing for clients of the developmental disabilities administration of DSHS according to WAC 182-535-1099.

(f) Covers periodontal scaling and root planing, one time per quadrant in a twelve-month period for clients residing in a nursing facility.

(3) **Other periodontal services.** The agency:

(a) Covers periodontal maintenance for clients (~~(from)~~) age thirteen through eighteen (~~(years of age)~~) once per client in a twelve-month period on a case-by-case basis, when prior authorized, and only when:

(i) The client has radiographic evidence of periodontal disease;

(ii) The client's record includes supporting documentation for the medical necessity, including complete periodontal charting with location of the gingival margin and clinical attachment loss and a definitive diagnosis of periodontal disease;

(iii) The client's clinical condition meets current published periodontal guidelines; and

(iv) The client has had periodontal scaling and root planing but not within twelve months of the date of completion of periodontal scaling and root planing, or surgical periodontal treatment.

(b) Covers periodontal maintenance once per client in a twelve month period for clients age nineteen (~~(years of age)~~) and older. Criteria in (a)(i) through (iv) of this subsection must be met.

(c) Covers periodontal maintenance only if performed at least twelve calendar months after receiving prophylaxis, periodontal scaling and root planing, gingivectomy, or gingivoplasty.

(d) Covers periodontal maintenance for clients of the developmental disabilities administration of DSHS according to WAC 182-535-1099.

(e) Covers periodontal maintenance for clients residing in a nursing facility:

(i) Periodontal maintenance (four quadrants) substitutes for an eligible periodontal scaling or root planing once every six months.

(ii) Periodontal maintenance allowed six months after scaling or root planing.

AMENDATORY SECTION (Amending WSR 15-10-043, filed 4/29/15, effective 5/30/15)

WAC 182-535-1090 Dental-related services—Covered—Prosthodontics (removable). Clients described in WAC 182-535-1060 are eligible to receive the prosthodontics (removable) and related services, subject to the coverage limitations, restrictions, and client-age requirements identified for a specific service.

(1) **Prosthodontics.** The medicaid agency requires prior authorization for all removable prosthodontic and prosthodontic-related procedures. Prior authorization requests must meet the criteria in WAC 182-535-1220. In addition, the agency requires the dental provider to submit:

(a) Appropriate and diagnostic radiographs of all remaining teeth.

(b) A dental record which identifies:

(i) All missing teeth for both arches;

(ii) Teeth that are to be extracted; and

(iii) Dental and periodontal services completed on all remaining teeth.

(2) **Complete dentures.** The agency covers complete dentures, including overdentures, when prior authorized.

The agency considers three-month post-delivery care (e.g., adjustments, soft relines, and repairs) from the delivery (placement) date of the complete denture (~~(, is considered)~~) as part of the complete denture procedure and (~~(is)~~) does not (~~(paid)~~) pay separately for this care.

(a) The agency covers complete dentures (~~(are limited to)~~) only as follows:

(i) One initial maxillary complete denture and one initial mandibular complete denture per client, per the client's lifetime.

(~~(A)~~) (ii) Replacement of a partial denture with a complete denture (~~(is covered)~~;

~~(F) At least~~) only when the replacement occurs three or more years after the seat date of the last resin partial denture~~((; or~~

~~(H) At least five years after the seat date of the last cast-metal partial denture~~)).

~~((; (ii))~~) (iii) One replacement maxillary complete denture and one replacement mandibular complete denture per client, per client's lifetime.

(b) The agency covers replacement of a complete denture or overdenture ~~((is covered))~~ only if prior authorized, and only when the replacement occurs at least five years after the seat date of the initial complete denture or overdenture.

(c) The provider must obtain a signed Denture Agreement of Acceptance (HCA 13-809) form from the client at the conclusion of the final denture try-in and at the time of delivery for an agency-authorized complete denture. If the client abandons the complete denture after signing the agreement of acceptance, the agency will deny subsequent requests for the same type of dental prosthesis if the request occurs prior to the dates specified in this section. A copy of the signed agreement must be kept in the provider's files and be available upon request by the agency.

(3) **Resin partial dentures.** The agency covers resin partial dentures~~((;))~~ only as follows:

(a) ~~((A resin partial denture is covered))~~ For anterior and posterior teeth only when the following criteria are met:

(i) The remaining teeth in the arch must be free of periodontal disease and have a reasonable prognosis.

(ii) The client has established caries control.

(iii) The client has one or more missing anterior teeth or four or more missing posterior teeth (excluding teeth one, two, fifteen, sixteen, seventeen, eighteen, thirty-one, and thirty-two). Pontics on an existing fixed bridge do not count as missing teeth. The agency does not consider closed spaces of missing teeth to qualify as a missing tooth.

(iv) There is a minimum of four stable teeth remaining per arch.

(v) There is a three-year prognosis for retention of the remaining teeth.

(b) Prior authorization is required ~~((for resin partial dentures))~~.

(c) The agency considers three-month post-delivery care (e.g., adjustments, soft relines, and repairs) from the delivery (placement) date of the resin partial denture~~((; is considered))~~ as part of the resin partial denture procedure and ~~((is))~~ does not ~~((paid))~~ pay separately for this care.

(d) Replacement of a resin-based partial denture with a new resin partial denture or a complete denture ~~((is covered))~~ if it occurs at least three years ~~((since))~~ after the seat date of the resin-based partial denture. The replacement denture must be prior authorized and meet agency coverage criteria in (a) of this subsection.

(e) The agency does not cover replacement of a cast-metal framework partial denture, with any type of denture, within five years of the seat date of the cast-metal partial denture.

(4) **Provider requirements.**

(a) The agency requires a provider to bill for a removable partial or complete denture only after the delivery of the prosthesis, not at the impression date. Refer to subsection (5)(e)

of this section for what the agency may pay if the removable partial or complete denture is not delivered and inserted.

(b) The agency requires a provider to submit the following with a prior authorization request for a removable resin partial or complete denture for a client residing in an alternate living facility (ALF) as defined in WAC 182-513-1301 or in a nursing facility as defined in WAC 182-500-0075:

(i) The client's medical diagnosis or prognosis;

(ii) The attending physician's request for prosthetic services;

(iii) The attending dentist's or denturist's statement documenting medical necessity;

(iv) A written and signed consent for treatment from the client's legal guardian when a guardian has been appointed; and

(v) A completed copy of the Denture/Partial Appliance Request for Skilled Nursing Facility Client (HCA 13-788) form available from the agency's published billing instructions which can be downloaded from the agency's web site.

(c) The agency limits removable partial dentures to resin-based partial dentures for all clients residing in one of the facilities listed in (b) of this subsection.

(d) The agency requires a provider to deliver services and procedures that are of acceptable quality to the agency. The agency may recoup payment for services that are determined to be below the standard of care or of an unacceptable product quality.

(5) **Other services for removable prosthodontics.** The agency covers:

(a) Adjustments to complete and partial dentures three months after the date of delivery.

(b) Repairs:

(i) To complete dentures, once in a twelve-month period. The cost of repairs cannot exceed the cost of the replacement denture. The agency covers additional repairs on a case-by-case basis and when prior authorized.

(ii) To partial dentures, once in a twelve-month period. The cost of the repairs cannot exceed the cost of the replacement partial denture. The agency covers additional repairs on a case-by-case basis and when prior authorized.

(c) A laboratory reline or rebase to a complete or partial denture, once in a three-year period when performed at least six months after the delivery (placement) date. An additional reline or rebase may be covered for complete or partial dentures on a case-by-case basis when prior authorized.

(d) Up to two tissue conditionings, only for clients age twenty ~~((years of age))~~ and younger, and only when performed within three months after the delivery (placement) date.

(e) Laboratory fees, subject to the following:

(i) The agency does not pay separately for laboratory or professional fees for complete and partial dentures; and

(ii) The agency may pay part of billed laboratory fees when the provider obtains prior authorization, and the client:

(A) Is not eligible at the time of delivery of the partial or complete denture;

(B) Moves from the state;

(C) Cannot be located;

(D) Does not participate in completing the partial or complete denture; or

(E) Dies.

(iii) A provider must submit copies of laboratory prescriptions and receipts or invoices for each claim when billing for laboratory fees.

AMENDATORY SECTION (Amending WSR 14-08-032, filed 3/25/14, effective 4/30/14)

WAC 182-535-1092 Dental-related services—Covered—Maxillofacial prosthetic services. Clients described in WAC 182-535-1060 are eligible to receive the maxillofacial prosthetic services listed in this section, subject to the following:

(1) Maxillofacial prosthetics are covered (~~only for clients twenty years of age and younger~~) on a case-by-case basis and when prior authorized; and

(2) The medicaid agency must preapprove a provider qualified to furnish maxillofacial prosthetics.

AMENDATORY SECTION (Amending WSR 15-10-043, filed 4/29/15, effective 5/30/15)

WAC 182-535-1094 Dental-related services—Covered—Oral and maxillofacial surgery services. Clients described in WAC 182-535-1060 are eligible to receive the oral and maxillofacial surgery services listed in this section, subject to the coverage limitations, restrictions, and client-age requirements identified for a specific service.

(1) **Oral and maxillofacial surgery services.** The medicaid agency:

(a) Requires enrolled providers who do not meet the conditions in WAC 182-535-1070(3) to bill claims for services that are listed in this subsection using only the current dental terminology (CDT) codes.

(b) Requires enrolled providers (oral and maxillofacial surgeons) who meet the conditions in WAC 182-535-1070(3) to bill claims using current procedural terminology (CPT) codes unless the procedure is specifically listed in the agency's current published (~~Dental-Related Services Provider Guide~~) billing guide as a CDT covered code (e.g., extractions).

(c) Covers nonemergency oral surgery performed in a hospital or ambulatory surgery center only for:

(i) Clients age eight (~~years of age~~) and younger;

(ii) Clients (~~from~~) age nine through twenty (~~years of age~~) only on a case-by-case basis and when the site-of-service is prior authorized by the agency; and

(iii) Clients any age of the developmental disabilities administration of the department of social and health services (DSHS).

(d) For site-of-service and oral surgery CPT codes that require prior authorization, the agency requires the dental provider to submit:

(i) Documentation used to determine medical appropriateness;

(ii) Cephalometric films;

(iii) Radiographs (X rays);

(iv) Photographs; and

(v) Written narrative/letter of medical necessity.

(e) Requires the client's dental record to include supporting documentation for each type of extraction or any other

surgical procedure billed to the agency. The documentation must include:

(i) Appropriate consent form signed by the client or the client's legal representative;

(ii) Appropriate radiographs;

(iii) Medical justification with diagnosis;

(iv) Client's blood pressure, when appropriate;

(v) A surgical narrative and complete description of each service performed beyond surgical extraction or beyond code definition;

(vi) A copy of the post-operative instructions; and

(vii) A copy of all pre- and post-operative prescriptions.

(f) Covers routine and surgical extractions. Prior authorization is required when the:

(i) Extractions of four or more teeth per arch over a six-month period, resulting in the client becoming edentulous in the maxillary arch or mandibular arch; or

(ii) Tooth number is not able to be determined.

(g) Covers unusual, complicated surgical extractions with prior authorization.

(h) Covers tooth reimplantation/stabilization of accidentally evulsed or displaced teeth.

(i) Covers surgical extraction of unerupted teeth for clients age twenty (~~years of age~~) and younger.

(j) Covers debridement of a granuloma or cyst that is five millimeters or greater in diameter. The agency includes debridement of a granuloma or cyst that is less than five millimeters as part of the global fee for the extraction.

(k) Covers the following without prior authorization:

(i) Biopsy of soft oral tissue;

(ii) Brush biopsy.

(l) Requires providers to keep all biopsy reports or findings in the client's dental record.

(m) Covers the following with prior authorization (photos or radiographs, as appropriate, must be submitted to the agency with the prior authorization request):

(i) Alveoloplasty on a case-by-case basis (~~only when not performed in conjunction with extractions~~).

(ii) Surgical excision of soft tissue lesions only on a case-by-case basis.

(iii) Only the following excisions of bone tissue in conjunction with placement of complete or partial dentures:

(A) Removal of lateral exostosis;

(B) Removal of torus palatinus or torus mandibularis;

and

(C) Surgical reduction of osseous tuberosity.

(iv) Surgical access of unerupted teeth for clients age twenty (~~years of age~~) and younger.

(2) **Surgical incisions.** The agency covers the following surgical incision-related services:

(a) Uncomplicated intraoral and extraoral soft tissue incision and drainage of abscess. The agency does not cover this service when combined with an extraction or root canal treatment. Documentation supporting medical necessity must be in the client's record.

(b) Removal of foreign body from mucosa, skin, or subcutaneous alveolar tissue when prior authorized. Documentation supporting the medical necessity for the service must be in the client's record.

(c) Frenuloplasty/frenulectomy for clients age six ((years of age)) and younger without prior authorization.

(d) Frenuloplasty/frenulectomy for clients ((from)) age seven ((to)) through twelve ((years of age)) only on a case-by-case basis and when prior authorized. Photos must be submitted to the agency with the prior authorization request. Documentation supporting the medical necessity for the service must be in the client's record.

(3) **Occlusal orthotic devices.** (Refer to WAC 182-535-1098 (4)(c) for occlusal guard coverage and limitations on coverage.) The agency covers:

(a) Occlusal orthotic devices for clients ((from)) age twelve through twenty ((years of age)) only on a case-by-case basis and when prior authorized.

(b) An occlusal orthotic device only as a laboratory processed full arch appliance.

AMENDATORY SECTION (Amending WSR 15-10-043, filed 4/29/15, effective 5/30/15)

WAC 182-535-1098 Dental-related services—Covered—Adjunctive general services. Clients described in WAC 182-535-1060 are eligible to receive the adjunctive general services listed in this section, subject to coverage limitations, restrictions, and client-age requirements identified for a specific service.

(1) **Adjunctive general services.** The medicaid agency:

(a) Covers palliative (emergency) treatment, not to include pupal debridement (see WAC 182-535-1086 (2)(b)), for treatment of dental pain, limited to once per day, per client, as follows:

(i) The treatment must occur during limited evaluation appointments;

(ii) A comprehensive description of the diagnosis and services provided must be documented in the client's record; and

(iii) Appropriate radiographs must be in the client's record supporting the medical necessity of the treatment.

(b) Covers local anesthesia and regional blocks as part of the global fee for any procedure being provided to clients.

(c) Covers office-based ((oral or parenteral conscious sedation, deep sedation, or general anesthesia, as follows)) deep sedation/general anesthesia services:

(i) ((The provider's current anesthesia permit must be on file with the agency.

((ii))) For all eligible clients age eight ((years of age)) and younger ((;)) and ((for)) clients any age of the developmental disabilities administration of the department of social and health services (DSHS) ((;)). Documentation supporting the medical necessity of the anesthesia service must be in the client's record.

((iii))) ((ii)) For clients age nine ((years of age to)) through twenty ((years of age, deep sedation or general anesthesia services are covered)) on a case-by-case basis and when prior authorized, except for oral surgery services. For oral surgery services listed in WAC 182-535-1094 (1) ((b)) (f) through (m) and clients with cleft palate diagnoses, deep sedation ((or)) general anesthesia services do not require prior authorization.

((iv)) Prior authorization is not required for oral or parenteral conscious sedation)) ((iii)) For clients age twenty-one and older when prior authorized. The agency considers these services for only those clients:

(A) With medical conditions such as tremors, seizures, or asthma;

(B) Whose files contain documentation of tried and failed treatment under local anesthesia or other less costly sedation alternatives due to behavioral health conditions; or

(C) With other conditions for which general anesthesia is medically necessary, as defined in WAC 182-500-0070.

(d) Covers office-based intravenous moderate (conscious) sedation/analgesia:

(i) For any dental service for clients age twenty ((years of age)) and younger, and for clients any age of the developmental disabilities administration of DSHS. Documentation supporting the medical necessity of the service must be in the client's record.

((v)) For clients from nine to twenty years of age who have a diagnosis of oral facial cleft, the agency does not require prior authorization for deep sedation or general anesthesia services when the dental procedure is directly related to the oral facial cleft treatment.

((vi) A) ((i)) For clients age twenty-one and older when prior authorized. The agency considers these services for only those clients:

(A) With medical conditions such as tremors, seizures, or asthma;

(B) Whose files contain documentation of tried and failed treatment under local anesthesia, or other less costly sedation alternatives due to behavioral health conditions; or

(C) With other conditions for which general anesthesia or conscious sedation is medically necessary, as defined in WAC 182-500-0070.

(e) Covers office-based nonintravenous conscious sedation:

(i) For any dental service for clients age twenty and younger, and for clients any age of the developmental disabilities administration of DSHS. Documentation supporting the medical necessity of the service must be in the client's record.

((ii)) For clients age twenty-one and older, only when prior authorized.

(f) Requires providers ((must)) to bill anesthesia services using the current dental terminology (CDT) codes listed in the agency's current published billing instructions.

((vii)) For clients twenty-one years of age and older, prior authorization is required for general anesthesia and will be considered only for those clients with medical conditions such as tremors, seizures, behavioral health conditions, breathing difficulties, and other conditions for which general anesthesia is medically necessary, as defined in WAC 182-500-0070.

((iv)) (g) Requires providers to have a current anesthesia permit on file with the agency.

(h) Covers administration of nitrous oxide, once per day.

((e)) (i) Requires providers of oral or parenteral conscious sedation, deep sedation, or general anesthesia to meet:

(i) The prevailing standard of care;

(ii) The provider's professional organizational guidelines;

(iii) The requirements in chapter 246-817 WAC; and
 (iv) Relevant department of health (DOH) medical, dental, or nursing anesthesia regulations.

~~((f))~~ (j) Pays for dental anesthesia services according to WAC 182-535-1350.

~~((g))~~ (k) Covers professional consultation/diagnostic services as follows:

(i) A dentist or a physician other than the practitioner providing treatment must provide the services; and

(ii) A client must be referred by the agency for the services to be covered.

(2) **Professional visits.** The agency covers:

(a) Up to two house/extended care facility calls (visits) per facility, per provider. The agency limits payment to two facilities per day, per provider.

(b) One hospital visit, including emergency care, per day, per provider, per client, and not in combination with a surgical code unless the decision for surgery is a result of the visit.

(c) Emergency office visits after regularly scheduled hours. The agency limits payment to one emergency visit per day, per client, per provider.

(3) **Drugs and medicaments (pharmaceuticals).** ~~((The agency covers drugs and medicaments, such as antibiotics, steroids, anti-inflammatory, or other therapeutic medications for clients twenty years of age and younger. The agency's dental program does not pay for oral sedation medications.))~~

(a) The agency covers oral sedation medications only when prescribed and the prescription is filled at a pharmacy. The agency does not cover oral sedation medications that are dispensed in the provider's office for home use.

(b) The agency covers therapeutic parenteral drugs as follows:

(i) Includes antibiotics, steroids, anti-inflammatory drugs, or other therapeutic medications. This does not include sedative, anesthetic, or reversal agents.

(ii) Only one single-drug injection or one multiple-drug injection per date of service.

(c) For clients age twenty and younger, the agency covers other drugs and medicaments dispensed in the provider's office for home use. This includes, but is not limited to, oral antibiotics and oral analgesics. The agency does not cover the time spent writing prescriptions.

(4) **Miscellaneous services.** The agency covers:

(a) Behavior management ~~((when))~~ provided in dental offices or dental clinics. Documentation supporting the need for behavior management ~~((is))~~ must be in the client's record. Behavior management is for the following clients whose documented behavior requires the assistance of one additional professional ~~((dental))~~ staff to protect the client and the professional staff from injury while treatment is rendered~~((-))~~:

(i) Clients age eight ~~((years of age))~~ and younger;

(ii) Clients ~~((from))~~ age nine through twenty ~~((years of age))~~, only on a case-by-case basis and when prior authorized;

(iii) Clients any age of the developmental disabilities administration of DSHS;

(iv) Clients diagnosed with autism; and

(v) Clients who reside in an alternate living facility (ALF) as defined in WAC 182-513-1301, or in a nursing facility as defined in WAC 182-500-0075.

(b) Treatment of post-surgical complications (e.g., dry socket). Documentation supporting the medical necessity of the service must be in the client's record.

(c) Occlusal guards when medically necessary and prior authorized. (Refer to WAC 182-535-1094(3) for occlusal orthotic device coverage and coverage limitations.) The agency covers:

(i) An occlusal guard only for clients ~~((from))~~ age twelve through twenty ~~((years of age))~~ when the client has permanent dentition; and

(ii) An occlusal guard only as a laboratory processed full arch appliance.

AMENDATORY SECTION (Amending WSR 15-10-043, filed 4/29/15, effective 5/30/15)

WAC 182-535-1099 Dental-related services for clients of the developmental disabilities administration of the department of social and health services. Subject to coverage limitations~~((-))~~ and restrictions~~((- and client age requirements))~~ identified for a specific service, the medicaid agency pays for the additional dental-related services listed ~~((under the categories of services))~~ in this section that are provided to clients of the developmental disabilities administration of the department of social and health services (DSHS)~~((This chapter also applies to clients any age of the developmental disabilities administration of DSHS, unless otherwise stated in this section))~~, regardless of age.

(1) **Preventive services.** The agency covers:

(a) Periodic oral evaluations~~((The agency covers periodic oral evaluations up to three times in a twelve-month period))~~ once every four months per client, per provider.

(b) Dental prophylaxis~~((The agency covers dental prophylaxis or))~~ once every four months.

(c) Periodontal maintenance ~~((up to three times in a twelve-month period))~~ once every six months (see subsection (3) of this section for limitations on periodontal scaling and root planing).

~~((e))~~ (d) Topical ~~((fluoride treatment. The agency covers topical))~~ fluoride varnish, rinse, foam or gel, ~~((up to three times within a twelve-month period))~~ once every four months, per client, per provider or clinic.

~~((f))~~ (e) Sealants~~((The agency covers sealants))~~:

(i) Only when used on the occlusal surfaces of:

(A) Primary teeth A, B, I, J, K, L, S, and T; or

(B) Permanent teeth two, three, four, five, twelve, thirteen, fourteen, fifteen, eighteen, nineteen, twenty, twenty-one, twenty-eight, twenty-nine, thirty, and thirty-one.

(ii) Once per tooth in a two-year period.

(2) **Other restorative services.** The agency covers ~~((the following restorative services))~~:

(a) All recementations of permanent indirect crowns.

(b) Prefabricated stainless steel crowns, including stainless steel crowns with resin window, resin-based composite crowns (direct), prefabricated esthetic coated stainless steel crowns, and prefabricated resin crowns for primary anterior

teeth once every two years only for clients age twenty (~~(years of age)~~) and younger without prior authorization.

(c) Prefabricated stainless steel crowns, including stainless steel crowns with resin window, resin-based composite crowns (direct), prefabricated esthetic coated stainless steel crowns, and prefabricated resin crowns for primary posterior teeth once every two years for clients age twenty (~~(years of age)~~) and younger without prior authorization if:

(i) Decay involves three or more surfaces for a primary first molar;

(ii) Decay involves four or more surfaces for a primary second molar; or

(iii) The tooth had a pulpotomy.

(d) Prefabricated stainless steel crowns, including stainless steel crowns with resin window, and prefabricated resin crowns for permanent posterior teeth excluding one, sixteen, seventeen, and thirty-two once every two years without prior authorization for any age.

(3) Periodontic services.

(a) **Surgical periodontal services.** The agency covers:

(i) Gingivectomy/gingivoplasty once every three years. Documentation supporting the medical necessity of the service must be in the client's record (e.g., drug induced gingival hyperplasia).

(ii) Gingivectomy/gingivoplasty with periodontal scaling and root planing or periodontal maintenance when the services are performed:

(A) In a hospital or ambulatory surgical center; or

(B) For clients under conscious sedation, deep sedation, or general anesthesia.

(b) **Non-surgical periodontal services.** The agency covers:

(i) Periodontal scaling and root planing, one time per quadrant in a twelve-month period.

(ii) Periodontal maintenance (four quadrants) substitutes for an eligible periodontal scaling or root planing, twice in a twelve-month period.

(iii) Periodontal maintenance allowed six months after scaling or root planing.

(iv) Full-mouth or quadrant debridement allowed once in a twelve-month period.

(4) **Adjunctive general services.** The agency covers:

(a) Oral parenteral conscious sedation, deep sedation, or general anesthesia for any dental services performed in a dental office or clinic. Documentation supporting the medical necessity must be in the client's record.

(b) Sedation services according to WAC 182-535-1098 (1)(c) and (e).

(5) **Non-emergency dental services.** The agency covers non-emergency dental services performed in a hospital or an ambulatory surgical center for services listed as covered in WAC 182-535-1082, 182-535-1084, 182-535-1086, 182-535-1088, and 182-535-1094. Documentation supporting the medical necessity of the service must be included in the client's record.

(6) **Miscellaneous services - Behavior management.** The agency covers behavior management provided in dental offices or dental clinics. Documentation supporting the medical necessity of the service must be included in the client's record.

AMENDATORY SECTION (Amending WSR 14-08-032, filed 3/25/14, effective 4/30/14)

WAC 182-535-1220 Obtaining prior authorization for dental-related services. (1) The medicaid agency uses the determination process for payment described in WAC 182-501-0165 for covered dental-related services that require prior authorization.

(2) The agency requires a dental provider who is requesting prior authorization to submit sufficient objective clinical information to establish medical necessity. The request must be submitted in writing on the General Information for Authorization (HCA 13-835) form, available on the agency's web site.

(3) The agency may request additional information as follows:

(a) Additional radiographs (X rays) (refer to WAC 182-535-1080(2));

(b) Study models;

(c) Photographs; and

(d) Any other information as determined by the agency.

(4) The agency may require second opinions and/or consultations by a licensed independent doctor of dental surgery (DDS)/doctor of dental medicine (DMD) before authorizing any procedure.

(5) When the agency authorizes a dental-related service for a client, that authorization indicates only that the specific service is medically necessary; it is not a guarantee of payment. The authorization is valid for six to twelve months as indicated in the agency's authorization letter and only if the client is eligible for covered services on the date of service.

(6) The agency denies a request for a dental-related service when the requested service:

(a) Is covered by another agency program;

(b) Is covered by an agency or other entity outside the agency; or

(c) Fails to meet the program criteria, limitations, or restrictions in this chapter.

WSR 16-18-035

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed August 30, 2016, 8:09 a.m., effective September 30, 2016]

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

Purpose: WAC 16-390-010, the rule identifying two inspection districts, is being repealed consistent with the 2016 legislation (SB 6345; chapter 229, Laws of 2016) repealing the statutory authority in chapter 15.17 RCW that established two inspection districts. SB 6345 took effect on June 9, 2016, at which time WAC 16-390-010 also became ineffective.

WAC 16-390-025 and 16-390-030 established fee increases to take effect January 1, 2017. The department has determined that current revenue projections support extending the effective date of the fee increases under each rule from January 1, 2017, to January 1, 2019.

Citation of Existing Rules Affected by this Order: Repealing WAC 16-390-010; and amending WAC 16-390-025 and 16-390-030.

Statutory Authority for Adoption: RCW 15.17.030, 15.17.150, chapter 229, Laws of 2016.

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 16-13-058 on June 13, 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 1.

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 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: August 30, 2016.

Derek I. Sandison
Director

Chapter 16-390 WAC

~~(WSDA)) FRUIT AND VEGETABLE ((INSPECTION DISTRICTS,)) INSPECTION FEES AND OTHER CHARGES~~

AMENDATORY SECTION (Amending WSR 14-24-086, filed 12/1/14, effective 1/1/15)

WAC 16-390-025 Hourly inspection fee. (1) Effective January 1, 2015, the hourly inspection fee is \$65.00 per hour for regular hours and \$97.50 for overtime and holiday hours for any inspection service that is not covered by CWT fees.

(2) Effective January 1, ~~((2017))~~ 2019, the hourly inspection fee is \$75.00 per hour for regular hours and \$112.50 per hour for overtime and holiday hours for any inspection service that is not covered by CWT fees.

(3) An additional fee amounting to three regular hours, plus the inspection fees for time worked, at the applicable hourly fee specified in this section will be charged when inspection service notification is not given prior to the end of normal business hours on the day preceding any weekend or holiday inspection work.

AMENDATORY SECTION (Amending WSR 14-24-086, filed 12/1/14, effective 1/1/15)

WAC 16-390-030 Fruit and vegetable CWT fees. The following inspection and certification services are charged fees based on the stated CWT fee, provided that if the applied CWT fee would result in a charge less than the applicable

hourly fee under WAC 16-390-025 for the staff hours worked, the applicable hourly fee will be assessed.

(1) Effective January 1, 2015, the fee for federal-state grade and condition certification for all fresh and processing fruits, vegetables, and nuts, except in-state processing potatoes, is \$0.175 per CWT or fraction thereof.

(2) Effective January 1, ~~((2017))~~ 2019, the fee for federal-state grade and condition certification for all fresh and processing fruits, vegetables, and nuts, except in-state processing potatoes, is \$0.185 per CWT or fraction thereof.

(3) In-state processing potatoes are charged the following fees:

(a) Effective January 1, 2015, the fee to determine the percentage of potatoes meeting U.S. No. 1 or U.S. No. 2 fresh potato grades as listed in the United States Grades for Potatoes (U.S. Potato Standards) is \$0.038 per CWT or fraction thereof.

(b) Effective January 1, ~~((2017))~~ 2019, the fee to establish a percentage of potatoes meeting U.S. No. 1 or U.S. No. 2 fresh potato grades as listed in the United States Grades for Potatoes (U.S. Potato Standards) is \$0.043 per CWT or fraction thereof.

(c) Effective January 1, 2015, the fee to establish a percentage of dirt, rot, and green is \$0.021 per CWT or fraction thereof.

(d) Effective January 1, ~~((2017))~~ 2019, the fee to determine the percentage of dirt, rot, and green is \$0.023 per CWT or fraction thereof.

(e) Contracts may be negotiated with the potato processing industry for inspection services to meet specific inspection requests, but not for less than the equivalent hourly fee specified in WAC 16-390-025 for the staff hours worked.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-390-010 Inspection districts.

WSR 16-18-040

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed August 30, 2016, 9:57 a.m., effective September 30, 2016]

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

Purpose: The department is amending existing sections, repealing sections, and creating new sections in chapter 388-101 WAC, Certified community residential services and supports, to align them with new or changed legislation.

HB 1307 outlines enforcement changes regarding certified community residential services and supports (CCRSS) providers. Initiative 1163 modifies the law governing background checks, training, and home care aide certification for long-term care, requiring changes in WAC 388-101-3000 Definitions and creating new sections WAC 388-101-3259 Long-term care worker requirements and 388-101-3202

Background checks—National fingerprint background checks. SB 5600 modified certain definitions concerning vulnerable adults including the definitions of abuse and sexual abuse, and also amended RCW 74.34.020, which is reflected in WAC 388-101-3000 Definitions.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-101-4210, 388-101-4220 and 388-101-4230; and amending WAC 388-101-3000, 388-101-4190, 388-101-4200, 388-101-4240, and 388-101-4260.

Statutory Authority for Adoption: Chapters 71A.12, 74.34, 74.39A RCW.

Adopted under notice filed as WSR 16-13-007 (supplemental) on June 2, 2016; and WSR 15-20-113 (original CR-102) on October 6, 2015.

Changes Other than Editing from Proposed to Adopted Version:

- WAC 388-101-3000, changes made to text to include definitions of abuse, improper restraint, and chemical restraint to align with chapter 74.34 RCW definitions.
- WAC 388-101-3000, definition reworded for clarity.
- WAC 388-101-3202, section reworded for additional clarification.
- WAC 388-101-4205, section reworded to add clarity to rule.
- WAC 388-101-4215, section reworded to add clarity to rule.
- WAC 388-101-4225, correction made to wording.
- WAC 388-101-4230, repealed.
- WAC 388-101-4260, amended.
- WAC 388-101-4515, 388-101-4525, and 388-101-4535 renumbered to WAC 388-101-4215, 388-101-4225, and 388-101-4235.

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 9, Amended 5, 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 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 9, Amended 5, Repealed 3.

Date Adopted: August 25, 2016.

Katherine I. Vasquez
Rules Coordinator

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 16-19 issue of the Register.

WSR 16-18-047
PERMANENT RULES
OFFICE OF

INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2015-15—Filed August 31, 2016, 8:38 a.m., effective October 1, 2016]

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

Purpose: This proposed rule will add a new section to chapter 284-24 WAC, requiring each insurer that uses credit history for rating personal lines of property/casualty insurance to update the credit history and resulting insurance score no less often than once every three years. This section applies to insurers using insurance scores for rating of personal insurance under the provisions of RCW 48.19.035.

Statutory Authority for Adoption: RCW 48.02.060, 48.19.035, and 48.19.080.

Adopted under notice filed as WSR 16-13-127 on June 21, 2016.

A final cost-benefit analysis is available by contacting Stacy Middleton, P.O. Box 40258, Olympia, WA 98504, phone (360) 725-9651, fax (360) 586-3109, e-mail rulescoordinator@oic.wa.gov.

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

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

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

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

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

Date Adopted: August 31, 2016.

Mike Kreidler
Insurance Commissioner

NEW SECTION

WAC 284-24-140 Updating insurance scores. (1) This section applies to insurers using insurance scores for rating of personal insurance under the provisions of RCW 48.19.035.

(2) If an insurer uses insurance scores to calculate renewal premiums, the insurer must:

(a) Update each policyholder's insurance score no less often than once every three years; and

(b) Calculate premiums for each policy using the insurer's most recently determined insurance score for the policy.

(3) For the purposes of this section, if an insurance score is used to assign a policy to a particular rating class or rating tier, then it is considered using an insurance score to calculate renewal premiums if the insurer:

(a) Leaves that policy in the same rating class or rating tier upon renewal; or

(b) Assigns the policy to a rating class or rating tier that depends on the prior insurance-score-based rating class or rating tier.

(4) When an insurer updates an insurance score, it must update all information necessary to determine the insurance score, rather than partially update the score. This process must include updating credit information on policyholders who were previously classified as "no hit" or "no score," as defined in WAC 284-24A-055(2).

(5) An insurer's filed manual of rates and rules should specify the conditions under which insurance scores will be updated and how updated insurance scores will be used in the calculation of renewal premiums. If, however, an insurer uses insurance scores to calculate renewal premiums and its filed manual of rates and rules does not specify the conditions under which insurance scores will be updated, the insurer must update each policyholder's insurance score at each renewal.

(6) In the rate filing process, rates and rating rules that do not satisfy the requirements of this section will be considered to be unfairly discriminatory and in violation of RCW 48.19.020.

(7) Nothing in this section prohibits an insurer from:

(a) Updating insurance scores more frequently than once every three years, including updating insurance score upon policyholder request; or

(b) Using a rating system that includes insurance scores in the rating of new business but not in the rating of renewal business.

(8) This section applies to rates and rating rules in effect on and after January 1, 2017.

WSR 16-18-052

PERMANENT RULES

DEPARTMENT OF ECOLOGY

[Order 15-14—Filed August 31, 2016, 11:51 a.m., effective October 1, 2016]

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

Purpose: Chapter 173-186 WAC establishes oil spill contingency plan, drill and equipment verification requirements, and provisions for inspection of records for owners and operators of railroads required to submit oil spill contingency plans under chapter 90.56 RCW, and for the response contractors that support the implementation of the railroad plans. The adoption of this rule requires railroads to develop and maintain contingency plans approved by ecology. Contingency plans for railroads will ensure that environmental and economic damages from oil spills are reduced and that public health and safety is protected through immediate notifications of spills and threats of spills, coordination with first responders, prestaged oil response equipment, and personnel trained to respond to incidents in a rapid, aggressive, and well-coordinated manner. The rule also requires regularly scheduled oil spill drills to test and strengthen the plans through implementation.

Statutory Authority for Adoption: RCW 90.56.210.

Adopted under notice filed as WSR 16-08-117 on April 6, 2016.

Changes Other than Editing from Proposed to Adopted Version: Other than minor edits for clarity, the following changes were made:

- A definition for the term "planning standards" has been added to the definition section, WAC 173-186-040. The paragraph describing the context of a planning standard has been moved to WAC 173-186-300 for greater clarity.
- The word "local" was added to the paragraph describing coordination of spills responses to more fully reflect the state's emergency response planning structure.
- The definition of "rail classification" was deleted after changes were made to WAC 173-186-120 which eliminated the need to use this term in the rules.
- Minor clarifying changes were made to WAC 173-186-100 to better reflect that a single integrated railroad plan may be submitted on behalf of a group of rail operators, and that the plan could be submitted by either an owner, an operator, or a primary response contractor.
- No change was made to the definition of worst case spill volume involving the entire number of railcars; however, a change was made to the portion of the definition that allows a railroad to submit an alternative calculation for consideration, which is permitted by statute.
- Several changes were made to the phase-in section, WAC 173-186-120.
 - In the interim while a full plan is being developed, rail operators will provide either a federal oil spill plan or a letter containing key information to demonstrate the ability to respond to spills;
 - A process is defined for managing a plan submittal if there is a rail operating area where geographic response plans (GRP) do not yet exist;
 - The phase-in time for purchasing equipment if that is necessary after initial plan review by ecology was shortened; and
 - A paragraph relating to rail operators that may move oil in the future (not currently subject to regulation) was moved to WAC 173-186-420 where it is more appropriately located because it is not a phase-in for the current rules.
- A minor clarification change was made to WAC 173-186-140 to indicate that the reference is to oil products and not "any" products, which could be interpreted broadly.
- A change was made to WAC 173-186-200 to indicate that all rail operators, not limited to those transporting biological oils, may use the boilerplate plan that will be posted on the ecology web site.
- Several changes were made to WAC 173-186-220, primarily clarifying edits. This section was clarified to describe the process for protecting the environment in areas where GRPs do not yet exist.
- The equipment planning standards in WAC 173-186-310 were adjusted to be aligned, and in proportion with, the planning standards for facilities, pipelines and vessels.

- It was clarified in WAC 173-186-320 that the equipment maintenance procedures apply to oil spill response equipment and not to other types of railroad equipment.
- The requirement to have access to equipment capable of responding to oils that sink or submerge was expanded to all crude oils since many types of crude oils will sink under certain conditions, whether they are classified as Group 5 oils or not.
- An addition to WAC 173-186-430 was made to require a public comment period for permanent significant changes to approved plans.
- The drill core components listed in WAC 173-186-520 were modified to reflect recent changes in the federal national preparedness for response exercise program guidelines, published in 2016.

A final cost-benefit analysis is available by contacting Kasia Patora, Economics and Regulatory Research, Department of Ecology, P.O. Box 47600, Olymipa [Olympia], WA 98504-7600, phone (360) 407-6184, fax (360) 407-6989, e-mail Kasia.Patora@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 36, 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: August 31, 2016.

Maia Bellon
Director
by Polly Zehm

Chapter 173-186 WAC

OIL SPILL CONTINGENCY PLAN—RAILROAD

PART I: PURPOSE, APPLICABILITY, AUTHORITY AND DEFINITIONS

NEW SECTION

WAC 173-186-010 Purpose. The purpose of this chapter is to establish railroad oil spill contingency plan requirements, drill and equipment verification requirements, and provisions for inspection of records, effects of noncompliance, and enforcement, which:

- (1) Ensure maximally effective and rapid responses to oil spills by plan holders and response contractors;
- (2) Ensure constant readiness, well-maintained equipment and trained personnel;

(3) Support coordination with state, federal, local, tribal and other contingency planning efforts;

(4) Provide for the protection of Washington waters, and natural, cultural and significant economic resources by minimizing the impact of oil spills; and

(5) Provide the highest level of protection that can be met through the use of best achievable technology and those staffing levels, training procedures, and operational methods that constitute best achievable protection (BAP) as informed by the BAP five year review cycle (WAC 173-186-410) and as determined by ecology.

NEW SECTION

WAC 173-186-020 Applicability. (1) This chapter applies to:

(a) Railroad facilities required to submit oil spill contingency plans under chapter 90.56 RCW except for facilities as described in subsection (2) of this section.

(b) Railroad facility owners or operators who lease access to state owned railroad tracks.

(c) Any person submitting a contingency plan on behalf of a facility regulated under this chapter.

(d) Primary response contractors (PRCs) under contract to railroad contingency plan holders.

(2) This chapter does not apply to:

(a) A railroad that is owned and operated by the state.

(b) Pipelines or facilities other than railroads. Contingency planning regulations for pipelines and facilities other than railroads are described in chapter 173-182 WAC.

NEW SECTION

WAC 173-186-030 Authority. RCW 88.46.160, 90.48.080, 90.56.005, 90.56.050, 90.56.060, 90.56.210, 90.56.240, 90.56.260, 90.56.270, 90.56.280, 90.56.300, 90.56.310, 90.56.320, 90.56.340, and 90.56.570 provide statutory authority for the contingency plan preparation and review requirements and drill standards established by this chapter for railroads.

NEW SECTION

WAC 173-186-040 Definitions. Unless the context clearly requires otherwise, the definitions in chapters 90.56 RCW, 173-182 WAC and the following apply to this chapter.

"Bulk" means material that is stored or transported in a loose, unpackaged liquid, powder, or granular form capable of being conveyed by a pipe, bucket, chute, or belt system.

"Cargo" means goods or services carried as freight for commerce.

"Facility" means:

(a) Any structure, group of structures, equipment, pipeline, or device, other than a vessel, located on or near the navigable waters of the state that transfers oil in bulk to or from a tank vessel or pipeline, that is used for producing, storing, handling, transferring, processing, or transporting oil in bulk.

(b) For the purposes of oil spill contingency planning in RCW 90.56.210, facility also means a railroad that is not owned by the state that transports oil as bulk cargo.

(c) Except as provided in (b) of this subsection, a facility does not include any:

(i) Railroad car, motor vehicle, or other rolling stock while transporting oil over the highways or rail lines of this state;

(ii) Underground storage tank regulated by the department or a local government under chapter 90.76 RCW;

(iii) Motor vehicle motor fuel outlet;

(iv) Facility that is operated as part of an exempt agricultural activity as provided in RCW 82.04.330; or

(v) Marine fuel outlet that does not dispense more than three thousand gallons of fuel to a ship that is not a covered vessel, in a single transaction.

"Oil" or **"oils"** means oil of any kind that is liquid at twenty-five degrees Celsius and one atmosphere of pressure and any fractionation thereof including, but not limited to, crude oil, bitumen, synthetic crude oil, natural gas well condensate, petroleum, gasoline, fuel oil, diesel oil, biological oils and blends, oil sludge, oil refuse, and oil mixed with wastes other than dredged spoil. Oil does not include any substance listed in Table 302.4 of 40 C.F.R. Part 302 adopted August 14, 1989, under Section 102(a) of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by P.L. 99-499.

"Owner" or **"operator"** means, in the case of a railroad, any person owning or operating the railroad. Operator does not include any person who owns the land underlying a railroad if the person is not involved in the operations of the railroad.

"Planning standards" means goals and criteria that ecology will use to assess whether a plan holder is prepared to respond to the maximum extent practicable to a worst case spill. Ecology will use planning standards for reviewing oil spill contingency plans and evaluating drills.

"Rail plan holder" means a person who submits and implements a railroad contingency plan consistent with RCW 90.56.210 on the person's own behalf or on behalf of one or more persons.

"Tank car" means a rail car, the body of which consists of a tank for transporting liquids.

"Worst case spill" means, in the case of a railroad, a spill that includes the entire fuel capacity of the locomotive and the entire cargo capacity of the largest number of cargo rail cars carried by the railroad, based on seven hundred fourteen barrels per tank car, complicated by adverse weather conditions unless ecology determines that a larger or smaller volume is more appropriate given a particular facility's site characteristics and storage, unique operations, industry spill history and transfer capacity.

PART II: OIL SPILL CONTINGENCY PLANS

Section A—Plan Submittal and Maintenance

NEW SECTION

WAC 173-186-100 Authority to submit contingency plan. (1) A plan may be submitted by any of the following:

(a) The owner or operator of the railroad; or

(b) A person who has contracted with the railroad to provide containment and cleanup services and who has been approved by ecology.

(2) A person may submit a single integrated plan for more than one railroad provided that all requirements of this chapter are met.

(3) A contingency plan prepared for an agency of the federal government or another state that satisfies the requirements of this chapter may be accepted by ecology.

NEW SECTION

WAC 173-186-110 Submitting a railroad contingency plan. (1) The rail plan holder shall submit two copies of the plan and all appendices. Electronic submission of plans is encouraged, provided it is in an electronic format acceptable to ecology. In the case of electronic submission, only one copy is necessary.

(2) Once the initial plan is approved, rail plan holders shall resubmit their plans to ecology every five years for review and approval.

(3) Ecology will maintain mailing address and electronic submittal instructions on the agency web site.

NEW SECTION

WAC 173-186-120 Phase-in dates for this chapter. (1) Railroads that transport crude oil, currently operating in Washington, shall submit plans to ecology no more than ninety days after the effective date of this chapter; however, no later than within thirty days after the effective date of this chapter the rail plan holder shall provide ecology either a federal plan or the following information to demonstrate capability for response to oil spills:

(a) Contact information for the railroad.

(b) Notification procedures in case of spills to water.

(c) Description of rail operations in the state.

(d) Letter of intent with a primary response contractor.

If the plan covers operations in areas where geographic response plans do not currently exist, the plan will be submitted without that information and a timeline to develop interim resources at risk data will be developed together by the plan holder and ecology.

(2) Railroads exclusively transporting oils other than crude oil, currently operating in Washington, shall submit a plan to ecology or have enrolled in an integrated plan no more than one hundred eighty days after the effective date of this chapter; however, no later than within ninety days after the effective date of this chapter the rail plan holder shall provide ecology either a federal plan or the following information to demonstrate capability for response to oil spills:

(a) Contact information for the railroad.

(b) Notification procedures in case of spills to water.

(c) Description of rail operations in the state.

(d) Letter of intent with a primary response contractor.

(3) If upon initial plan review ecology determines that there is insufficient access to equipment described in WAC 173-186-310, railroads shall have no more than eighteen additional months after initial plan review to reach full compliance with the equipment planning standards.

(4) For rail plan holders exclusively transporting oils other than crude oils, a letter of intent with a contractor shall initially be sufficient to meet WAC 173-186-220. The rail plan holders shall then have an additional twelve months to secure a contract with a primary response contractor after initial plan approval.

NEW SECTION

WAC 173-186-130 Annual plan maintenance. At least once annually, rail plan holders shall review the entire plan for accuracy and either:

- (1) Update and submit the amended page(s) of the plan to ecology for review and approval; or
- (2) If no plan changes are needed, provide a letter to ecology confirming that the existing plan is still accurate.

NEW SECTION

WAC 173-186-140 Significant changes to approved plans. (1) At any point during the five year approval period, if there is a temporary or permanent significant change in the personnel or response equipment described in the plan, the rail plan holder shall:

(a) Notify ecology in writing within twenty-four hours of the change; and

(b) Provide both a schedule for the prompt return of the plan to full operational status and a proposal for any backfill to compensate for the temporary significant change. This proposal shall be reviewed and approved by ecology.

(2) Changes which are considered significant include:

(a) Loss of equipment that results in being out of compliance with any planning standard;

(b) Movement of greater than ten percent of available boom, storage, recovery, in situ burn or shoreline cleanup equipment out of the home base as depicted on the western regional response list (WRRL);

(c) Transfers of equipment to support spill response for out-of-region spills;

(d) Permanent loss of initial response personnel listed in command and general staff incident command system (ICS) positions provided in the plan;

(e) Permanent loss of personnel designated as the binding agreement signer;

(f) Changes in the oil types handled; permanent changes in storage capacity; changes in handling or transporting of an oil product;

(g) Changes in equipment ownership if used to satisfy a rail plan holder planning standard; or

(h) Modification or discontinuation of any mutual aid, letter of intent or contract or letter of agreement.

(3) Notification by facsimile or e-mail will be considered written notice.

(4) Failure to report significant changes in the plan could result in the loss of plan approval.

(5) If the proposed change to the plan is to be made permanent, the rail plan holder then shall have thirty calendar days from notification to ecology to distribute the amended page(s) of the contingency plan to ecology for review and approval.

(6) If ecology finds that, as a result of a change, the plan no longer meets approval criteria; ecology may place the plan into conditional approval or disapprove the plan.

NEW SECTION

WAC 173-186-150 Post-spill review and documentation procedures. Rail plan holders are required to conduct post-spill review procedures to review both the effectiveness of the plan and make plan improvements. Debriefs with ecology and other participating agencies and organizations may be appropriate if unified command has been established during a spill, and are required when significant plan updates are identified or significant lessons can be recorded and implemented.

Section B—Contingency Plan Format, Content and Implementation

NEW SECTION

WAC 173-186-200 Contingency plan format requirements. (1) Rail plan holders shall format and maintain plans to maximize their usefulness during a spill. Information shall be readily accessible and plans shall contain job aids, diagrams and checklists for maximum utility. Plans shall be formatted to allow replacement of pages with revisions without requiring replacement of the entire plan.

(2) Plans shall be divided into a system of numbered, tabbed chapters, sections and annexes/appendices. Each plan shall include a detailed table of contents based on chapter, section, and annex/appendix numbers and titles, as well as tables and figures.

(3) Where provided by ecology, an easy-to-use boilerplate plan for rail plan holders may be used.

NEW SECTION

WAC 173-186-210 Binding agreement. (1) Each plan shall contain a written statement binding the rail plan holder to its use. Form number ECY 070-550 may be used.

(2) The binding agreement shall be signed by each of the following: (a) The rail plan holder, (b) the owner or operator, or a designee with authority to bind the owners and operators of the railroad covered by the plan.

(3) The plan holder shall submit the agreement with the plan and shall include the name, address, phone number, and if appropriate the e-mail address, and web site of the submitting party.

(4) In the statement, the signator shall:

(a) Verify acceptance of the plan and commit to a safe and immediate response to spills and to substantial threats of spills that occur in, or could impact Washington waters or Washington's natural, cultural and economic resources;

(b) Commit to having an incident commander in the state within six hours after notification of a spill;

(c) Commit to the implementation and use of the plan during a spill and substantial threat of a spill, and to the training of personnel to implement the plan;

(d) Verify authority and capability to make necessary and appropriate expenditures in order to implement plan provisions; and

(e) Commit to working in unified command within the ICS to ensure that all personnel and equipment resources necessary to the response will be called out to cleanup the spill safely and to the maximum extent practicable.

NEW SECTION

WAC 173-186-220 Contingency plan general content. (1) Contingency plans shall include all of the content and meet all the requirements in this section.

(2) In Washington state, the Northwest Area Contingency Plan (NWACP) serves as the statewide master oil and hazardous substance contingency plan required by RCW 90.56.060. Rail plan holders shall write plans that refer to and are consistent with the NWACP.

(3) All contingency plans shall include the following:

(a) Each plan shall state the name, location, type and address of the facility and the federal or state requirements intended to be met by the plan.

(b) Each plan shall state the size of the worst case spill volume. If oil handling operations vary on different rail routes, more than one worst case spill volume may be submitted to ecology for consideration.

(c) Each plan shall have a log sheet to record revisions and updates to the plan. The log sheet shall identify each section amended, including the date and page of the amendment and the name of the authorized person making the change.

(d) Each plan shall have a table of contents and a cross-reference table reflecting the locations in the plan of each component required by this chapter.

(e) Each plan shall provide a list and map of expected rail routes in Washington and a description of the operations covered by the plan, including locations where fueling occurs and an inventory of above ground storage tanks and the tank capacities.

An inventory of above ground storage tanks and tank capacities is not required if the total above ground storage capacity from containers with capacity of at least fifty-five gallons is less than one thousand three hundred twenty gallons.

(f) Each plan shall list all oil cargo transported, including region of origin, oil types, physical properties, and health and safety hazards of the oil cargo. A safety data sheet (SDS) or equivalent information may satisfy some of these requirements; the plan shall identify where the SDS or equivalent is kept for emergency response use.

(g) Each plan shall have the PRC's name, address, phone number or other means of contact at any time of the day, and include:

(i) A contract or letter summarizing the terms of the contract signed by the PRC, shall be included in the plan. If the entire contract is not submitted, that document shall be available for inspection, if requested by ecology.

(ii) For mutual aid agreements that a rail plan holder relies on to meet the planning standards, the plan shall include a copy of the agreement and describe the terms of that document in the plan.

(h) Each plan shall contain information on the personnel (including contract personnel) who will be available to manage an oil spill response. This includes:

(i) An organizational diagram depicting the chain of command for the spill management team for a worst case spill.

(ii) An organization list of one primary and one alternate person to lead each ICS spill management position down to the section chief and command staff level as depicted in the NWACP standard ICS organizational chart. If a response contractor is used to fill positions, they shall agree in writing to staff the positions. If the entire contract for additional spill management team support is not included in the plan, that document shall be made available for inspection, if requested by ecology.

(iii) A detailed description of the planning process and job description for each spill management position; except if the rail plan holder follows without deviation the planning process or job descriptions contained in the NWACP. If the planning process or job descriptions are consistent with those contained in the NWACP, then the rail plan holder may reference the NWACP rather than repeat the information.

(iv) Include a description of the type and frequency of training that the spill management team receives, which shall include at a minimum ICS, NWACP policies, use and location of geographic response plans (GRPs), the contents of the plan and worker health and safety. New employees shall complete the training program prior to being assigned job responsibilities which require participation in emergency response situations.

(v) Identify a primary and alternate incident commander's representative that can form unified command at the initial command post, and if located out-of-state, a primary and alternate incident commander that could arrive at the initial command post within six hours.

(i) Each plan shall include procedures for immediately notifying appropriate parties that a spill or a substantial threat of a spill has occurred. The procedures shall establish a clear order of priority for immediate notification and include:

(i) A list of the names and phone numbers of required notifications to government agencies, response contractors and spill management team members. The notification section shall include names and phone numbers, except that the portion of the list containing internal call down information need not be included in the plan, but shall be available for review by ecology upon request and verified during spills and drills.

(ii) Identify the central reporting office or individuals responsible for implementing the notification process.

(iii) Include a form to document those notifications.

(j) Each plan shall contain the procedures to track and account for the entire volume of oil recovered and oily wastes generated and disposed of during spills. The responsible party shall provide waste disposal records to ecology upon request.

(k) Each plan shall state how an oil spill will be assessed for determining product type, potential spill volume, and environmental conditions including tides, currents, weather, river speed and initial trajectory as well as a safety assessment including air monitoring.

(i) Each plan shall list procedures that will be used to confirm the occurrence, and estimate the quantity and nature of the spill. An updated notification report is required if the initially reported estimated quantity or the area extent of the contamination changes significantly. Rail plan holders and responsible parties are required to document their initial spill actions and the plan shall include the forms that will be used for such documentation.

(ii) The plan shall contain a checklist that identifies significant steps used to respond to a spill, listed in a logical progression of response activities.

(l) Each plan shall include a description of the methods to be used to promptly assess spills with the potential to impact groundwater, including contact information in the plan for resources typically used to investigate, contain and remediate/recover spills to groundwater.

(m) Each plan shall include concise procedures to manage oil spill liability claims of damages to persons or property, public or private, for which a responsible party may be liable.

(n) Each plan shall include a description of the sensitive areas and a description of how environmental protection will be achieved, including containment, enhanced collection and diversion tactics.

(i) The plan shall include information on natural, cultural and economic resources, coastal and aquatic habitat types and sensitivity by season, breeding sites, presence of state or federally listed endangered or threatened species, and presence of commercial and recreational species, physical geographic features, including relative isolation of coastal regions, beach types, and other geological characteristics; public beaches, water intakes including both drinking and agricultural water supplies, private and public wells that supply drinking water, and marinas; shellfish resources, significant economic resources and vulnerable populations to be protected in the geographic area covered by the plan.

(ii) The GRPs have been developed to meet these requirements and plans may refer to the NWACP to meet these requirements. If railroad facilities occur in areas where descriptions of the sensitive areas and a description of how environmental protection will be achieved do not exist, railroad plan holders will submit summary descriptions of the sensitive areas and prepare booming strategy "control points" for waterways in the vicinity of the railroad tracks.

(o) Each plan shall identify potential initial command post locations.

(p) Each plan shall contain a description of how the rail plan holder meets each applicable planning standard in Section C of this chapter.

NEW SECTION

WAC 173-186-230 Field document. (1) Each plan shall contain a field document which lists time critical information for the initial emergency phase of a spill or a substantial threat of a spill. The owner or operator of the railroad shall make the field document available to personnel who participate in oil handling operations and shall keep the field document in key locations for use during an initial response.

The locations where field documents are kept shall be listed in the plan.

(2) At a minimum, the field document shall contain:

(a) Procedures to detect, assess and document the presence and size of a spill;

(b) Spill notification procedures; and

(c) The checklist that identifies significant steps used to respond to a spill, listed in a logical progression of response activities.

NEW SECTION

WAC 173-186-240 Plan implementation procedures.

Every rail plan holder is required to implement the ecology approved plan in any response to an oil spill and drill. A decision to use a different plan shall first be approved by the state and federal on-scene coordinators.

Section C—Planning Standards

NEW SECTION

WAC 173-186-300 Planning standards.

(1) Ecology shall apply a planning standard when determining the ability of a rail plan holder to meet the requirements of these regulations. The planning standards described in this chapter do not constitute cleanup standards nor response standards that must be met by the holder of a contingency plan. Failure to remove a discharge within the time periods set out in this chapter does not constitute failure to comply with a contingency plan, for purposes of this section or for the purpose of imposing administrative, civil, or criminal penalties under any other law.

In an actual spill event, initial deployment shall be guided by safety considerations. The responsible party shall address the entire volume of an actual spill regardless of the planning standards.

(2) Ecology will use the procedures described in WAC 173-182-345 and 173-182-348 to evaluate recovery capability required in these planning standards.

NEW SECTION

WAC 173-186-310 Equipment planning standards.

(1) The equipment necessary to address the worst case spill volume is brought to an incident over a period of time. The methodology to determine this is described in WAC 173-186-380 and 173-186-400. The spreadsheet referred to in WAC 173-186-380 will be used to demonstrate compliance with these equipment requirements.

(2) The following planning points shall be used to calculate the equipment access and timelines, as applicable to the plan holder. There shall be at least one planning point for each plan. If rail operates in an area where a planning point does not exist, ecology will develop one or more planning points during the plan review process.

Location	Within a five mile radius of a point at Latitude/Longitude
Bellingham	48°45'7.003"N, 122°29'2.115"W
Mukilteo/Everett	47°58'15.401"N, 122°13'44.976"W
Seattle	47°35'32.642"N, 122°19'49.044"W
Tacoma	47°14'39.119"N, 122°24'23.921"W
Centralia/Chehalis	46°41'26.620"N, 122°58'9.712"W
Longview/Kelso	46°9'15.778"N, 122°54'57.501"W
Aberdeen	46°58'32.008"N, 123°48'33.378"W
Vancouver	45°40'29.530"N, 122°41'31.781"W
Coulee City	47°36'38.209"N, 119°17'43.416"W
Tri-Cities (Kennewick)	46°12'34.024"N, 119°6'14.065"W

Location	Within a five mile radius of a point at Latitude/Longitude
Colfax	46°52'38.350"N, 117°21'10.692"W
Clarkston	46°25'53.599"N, 117°3'25.114"W
Spokane	47°39'57.991"N, 117°23'24.746"W
Colville	48°38'18.875"N, 118°4'48.810"W
Pend Oreille/Colville National Forest	48°45'54.659"N, 117°24'9.704"W
Okanogan	48°21'52.386"N, 119°34'28.344"W
Wenatchee	47°27'16.949"N, 120°20'0.204"W
Yakima/Union Gap	46°32'1.385"N, 120°28'23.376"W
Moses Lake	47°6'41.058"N, 119°17'0.334"W
Bingen	45°43'15.298"N, 121°29'4.066"W

(3) All rail plan holders shall demonstrate access to the equipment in the table below within the time frames identified based on the areas rail plan holders operate.

Time (hours)	Boom/Assessment	Minimum Oil Recovery Rate % of WCS volume per 24 hours	Minimum Storage in Barrels
6	A safety assessment of the spill by trained crew and appropriate air monitoring could have arrived 5,000 feet of boom available for containment, recovery or protection could have arrived Alternatively, resources identified to deploy a site specific strategy to keep oil from entering surface waters or penetrating into the ground could have arrived	Capacity to recover the lesser of 10% of worst case spill volume or 4,100 barrels within 24-hour period could have arrived	1 times the effective daily recovery capacity (EDRC) appropriate to operating environment
12	Additional 20,000 feet of boom to be used for containment, protection or recovery could have arrived	Capacity to recover the lesser of 15% of worst case spill volume or 12,000 barrels within 24-hour period could have arrived	1.5 times the EDRC appropriate to operating environment
24	More boom as necessary for containment, recovery or protection	Capacity to recover the lesser of 20% of worst case spill volume or 16,000 barrels within 24-hour period could have arrived	2 times the EDRC appropriate to operating environment
48	More boom as necessary for containment, recovery or protection	Capacity to recover the lesser of 25% of worst case spill volume or 20,000 barrels within 24-hour period could have arrived	More as necessary to not slow the response

NEW SECTION

WAC 173-186-320 Maintenance records for oil spill response equipment. Rail plan holders that own oil spill response equipment shall develop schedules, methods, and procedures for response equipment maintenance. Maintenance records shall be kept for at least five years and made available if requested by ecology. Equipment shall be listed on the WRRL or equivalent spreadsheet included in the contingency plan.

NEW SECTION

WAC 173-186-330 Planning standards for crude oils. (1) Rail plan holders carrying, handling, storing, or transporting crude oils shall have a letter of intent with a primary response contractor that maintains the resources and/or capabilities necessary to respond to a spill of oil that may weather, and sink or submerge. Such equipment shall include, but is not limited to, the following:

- (a) Sonar, sampling equipment or other methods to locate the oil on the bottom or suspended in the water column;
 - (b) Containment boom, sorbent boom, silt curtains, or other methods for containing the oil that may remain floating on the surface or to reduce spreading on the bottom;
 - (c) Dredges, pumps, or other equipment necessary to recover oil from the bottom and shoreline;
 - (d) Equipment necessary to assess the impact of such discharges; and
 - (e) Other appropriate equipment necessary to respond to a discharge involving the type of oil handled, stored, or transported.
- (2) The equipment shall be capable of being on scene within twelve hours of spill notification.

NEW SECTION

WAC 173-186-340 Planning standards for in situ burning. Based on the NWACP, plan holders operating in areas where in situ burning could be approved shall identify equipment for the use of in situ burning including locations of fire booms, air monitoring equipment, firefighting foam, igniters and aircraft or vessels to be used to deploy the igniters. These resources shall be capable of being on scene within twelve hours of spill notification.

NEW SECTION

WAC 173-186-350 Planning standards for shoreline cleanup. Each rail plan holder shall identify and ensure the availability of response resources necessary to perform shoreline cleanup operations capable of being on scene within twenty-four hours of spill notification.

NEW SECTION

WAC 173-186-360 Planning standards for air monitoring to protect oil spill responders and the public. Rail contingency plans shall include a narrative description of applicable federal, state, and local requirements and the plan

holder's resources for conducting air monitoring to protect oil spill responders and the public, including:

- (1) A description of how initial site characterization for responders will occur;
- (2) A description of air monitoring instruments and detection limits that will be used when monitoring for public safety;
- (3) A description of action levels for various oil constituents of concern based on products handled by the railroad (benzene, H₂S, etc.);
- (4) A description of how data management protocols and reporting time frames will be managed under unified command;
- (5) A description of how communication methods to at-risk populations will be managed under unified command;
- (6) A description of how evacuation zones and shelter-in-place criteria are established under unified command.

NEW SECTION

WAC 173-186-370 Planning standards for wildlife rescue and rehabilitation. Each plan shall identify applicable federal, state and NWACP requirements for wildlife rescue and rehabilitation, and describe the equipment, personnel, resource and strategies for compliance with the requirements. These resources shall have the capability to arrive on scene within twenty-four hours of spill notification.

NEW SECTION

WAC 173-186-380 Documenting compliance with the planning standards. (1) The rail plan holder shall describe how the planning standards found in this chapter are met.

(2) The rail plan holder shall include in the plan, a spreadsheet provided by ecology on the resources to meet the planning standards as described in this chapter. This spreadsheet shall account for boom, recovery systems, storage, and personnel by type, quantity, home base and provider.

(3) Ecology will use the process and criteria found in WAC 173-182-350 to analyze the spreadsheet.

Section D—Plan EvaluationNEW SECTION

WAC 173-186-400 Plan evaluation criteria and alternative method of evaluating planning standards. (1) Rail plan holders shall prepare a plan that demonstrates capability, to the maximum extent practicable, of promptly and properly removing oil and minimizing environmental damage from a variety of spill sizes, up to and including worst case spills. Ecology will evaluate plans using the process and criteria contained in WAC 173-182-610.

(2) A rail plan holder may request that ecology review and approve a plan using an alternative planning standard. Such requests should be submitted with the plan and shall be subject to a thirty day public review period and comment period which includes, but is not limited to, interested local and tribal governments and other stakeholders.

(a) The proposal shall include, at a minimum:

(i) A reference to which planning standard(s) in this chapter the proposal will be substituted for;

(ii) A detailed description of the alternative proposal including equipment, personnel, response procedures, and maintenance systems that are being proposed; and

(iii) An analysis of how the proposal offers equal or greater protection or prevention measures as compared to the requirement in this chapter.

(b) Ecology may approve the alternative compliance proposal if, based upon the documents submitted and other information available to the agency, it finds that:

(i) The alternative compliance proposal is complete and accurate; and

(ii) The alternative compliance proposal provides an equivalent or higher level of protection in terms of spill preparedness and response when compared with the planning standards found in this chapter.

(c) Ecology may reconsider an approval at any time, in response to lessons learned from spills, drills, and significant plan changes which indicated that the requirements of this section for approval are not met.

NEW SECTION

WAC 173-186-410 Oil spill contingency plan best achievable protection five-year review cycle. Using the procedures and criteria outlined in WAC 173-182-621, ecology will review the planning standards at five-year intervals to ensure the maintenance of best achievable protection to respond to a worst case spill and provide for continuous operation of oil spill response activities to the maximum extent practicable and without jeopardizing crew safety.

NEW SECTION

WAC 173-186-420 Process for plan approval. Rail owners or operators for new railroad operations shall submit plans to ecology no less than sixty-five days prior to their planned date for beginning of operations in Washington.

(1) Upon receipt of a plan, ecology shall evaluate whether the plan is complete, and if not, the rail plan holder shall be notified of any deficiencies within five business days. The public review and comment period does not begin until a complete plan is received.

(2) Once a plan has been determined to be complete, ecology shall notify interested parties, including local and tribal governments and make the plan available for public review and comment. Ecology will accept comments on the plan for a period of thirty days after the plan has been made publicly available. No later than sixty-five days from the date of public notice of availability, ecology will make a written determination either approving, conditionally approving, or disapproving the plan. The written determination will be provided in the form of an order and subject to appeal as specified in chapter 43.21B RCW.

(a) If the plan is approved, the rail plan holder will receive a certificate of plan approval and the plan expiration date. Approved plans shall be valid for five years.

(b) If the plan is conditionally approved, ecology may require a rail plan holder to operate under specific restrictions

until unacceptable components of the plan are revised, resubmitted and approved. In the conditional approval ecology will describe:

(i) Each specific restriction and the duration for which it applies;

(ii) Each required item to bring the plan into compliance; and

(iii) The schedule for rail plan holders to submit required updates, including a reference to the regulatory standard in question.

Restrictions may include, but are not limited to, additional information for the plan or additional requirements to ensure availability of response equipment.

Conditional approval expires no later than eighteen months from date of issue at which time the rail plan holder shall need to request an extension, which is subject to public review.

Ecology shall revoke its conditional approval prior to the expiration date when a rail plan holder fails to meet the terms of the conditional approval. The revocation will be in the form of an appealable order.

(c) If the plan is disapproved, the rail plan holder shall receive an explanation of the factors.

(3) Ecology may review a plan following an actual spill or drill of a plan and may require revisions as appropriate.

(4) Public notice will be given of any approval, conditional approval, or disapproval of a plan.

NEW SECTION

WAC 173-186-430 Process for public notice and opportunity for public review and comment period. (1)

The purpose of this section is to specify the procedures for notifying the public which includes interested local and tribal governments about contingency plan status and decisions in order to provide opportunities for the public to review and comment.

(2) In order to receive notification of the public review and comment period, interested public, local, and tribal governments should sign up on the ecology e-mail list (listserv) for posting notice about plan review and comment. Ecology's web site will also be used to post notice of public review and comment periods.

(3) Public comment periods shall extend at least thirty days. Public notice, review, and comment periods are required in the following circumstances:

(a) Plan submittals for railroads that have never submitted a plan in Washington;

(b) Plan updates required by WAC 173-186-130;

(c) The submittal of plans for five-year review as required by WAC 173-186-110;

(d) Requests for an alternative planning standard in accordance with WAC 173-186-400;

(e) Rail plan holder requests for drill requirement waivers in accordance with WAC 173-186-540; and

(f) A permanent significant change to an approved plan.

(4) Public notice, review, and comment period are not required in the following circumstances:

(a) Routine updates to names, phone numbers, formatting, or forms that do not change the approved content of the plan;

(b) Plan updates to resubmit the binding agreement based on changes to the binding agreement signer; and

(c) Annual plan reviews that result in a letter to ecology confirming that the existing plan is still accurate.

PART III: DRILL AND EQUIPMENT VERIFICATION PROGRAM

NEW SECTION

WAC 173-186-500 Drill participation, scheduling and evaluation. (1) Rail plan holders and PRCs shall participate in a drill and equipment verification program for the purpose of ensuring that all contingency plan components function to provide, to the maximum extent practicable, prompt and proper removal of oil and minimization of damage from a variety of spill sizes. In Washington, a modified triennial cycle for drills, as found in the National Prepared-

ness for Response Exercise Program (NPREP), is relied on to test each component of the plan.

(2) **Ecology's participation in drills:** Rail plan holders and PRCs shall ensure ecology is provided an opportunity to help design and evaluate all tabletop and deployment drills for which the rail plan holder desires drill credit.

(3) **Scheduling drills:** Rail plan holders shall schedule drills on the NWACP area exercise calendar. Drill scheduling requirements are listed in the table in WAC 173-186-510.

(4) **Evaluating drills:** Ecology shall provide a written drill evaluation report to the rail plan holder following each drill. Credit will be granted for drill objectives that are successfully met.

(5) Objectives that are not successfully met shall be tested again and successfully demonstrated within the triennial cycle, except that significant failures will be retested within thirty days.

(6) Where plan deficiencies have been identified in the written evaluation, rail plan holders may be required to make specific amendments to the plan or conduct additional trainings to address the deficiencies.

(7) A rail plan holder may request an informal review with ecology of the ecology drill evaluation within thirty days of receipt of the report.

NEW SECTION

WAC 173-186-510 Type and frequency of drills. To receive the credit from ecology for performing a required drill, the plan holder shall conduct the following drills within each triennial cycle.

Type of Drill	Frequency Within the Triennial Cycle	Special Instructions	Scheduling Instructions
Tabletop drills	3 - One in each year of the cycle	One of the three shall involve a worst case discharge scenario. The worst case discharge scenario drill shall be conducted once every three years.	Scheduled at least 60 days in advance, except the worst case discharge scenario at least 90 days in advance.
Deployment drills	6 - Two per year	These drills include notification, safety assessments, GRP and equipment deployments.	Scheduled at least 30 days in advance.
Ecology initiated unannounced drills	As necessary	This drill may involve testing any component of the plan, including notification procedures, deployment of personnel, boom, recovery and storage equipment.	No notice.
Wildlife Deployment Drill	1 - One in each three year cycle. This is an additional drill unless it is incorporated into a large multiobjective deployment drill	This drill will be a deployment of wildlife equipment and wildlife handlers.	Scheduled at least 30 days in advance.

(1) **Tabletop drills:** Tabletop drills are intended to demonstrate a rail plan holder's capability to manage a spill using the ICS. Role playing shall be required in this drill.

(a) During all required tabletop drills rail plan holders shall provide a master list of equipment and personnel identified to fill both command post and field operations roles.

(b) Once during each three year cycle, the rail plan holder shall ensure that key members of the regional/national

"away" team as identified in the plan shall be mobilized in state for a tabletop drill. However, at ecology's discretion, team members that are out-of-state may be evaluated in out-of-state tabletop drills if ecology has sufficient notice, an opportunity to participate in the drill planning process, and provided that the out-of-state drills are of similar scope and scale to what would have occurred in state. In this case, key away team members shall be mobilized in this state at least once every six years.

(2) **Deployment drills:** Rail plan holders shall use deployment drills to demonstrate the actions they would take in a spill, including: Notifications, safety actions, environmental assessment, land-based tactics and equipment deployment.

(a) During the triennial cycle, deployment drills shall include a combination of rail plan holder owned assets, contracted PRC assets, and nondedicated assets.

(b) Rail plan holders should ensure that each type of dedicated equipment listed in the plan and personnel responsible for operating the equipment are tested during each triennial cycle.

(c) Rail plan holders shall design drills that will demonstrate the ability to meet the planning standards, including recovery systems and system compatibility and the suitability of the system for the operating environment. Drills shall be conducted in all operating environments that the rail plan holder could impact from spills.

(d) At least twice during a triennial cycle, rail plan holders shall deploy a GRP or sensitive area strategy identified within the plan.

(e) Rail plan holders may receive credit for deployment drills conducted by PRCs if:

(i) The PRC is listed in the plan; and

(ii) The rail plan holder operates in the area, schedules on the drill calendar, and participates in or observes the drill.

(3) **Unannounced drills:** Unannounced drills may be initiated by ecology when specific problems are noted with individual rail plan holders, or randomly, to strategically ensure that all operating environments, personnel and equipment readiness have been adequately tested.

(a) Immediately prior to the start of an unannounced drill, rail plan holders will be notified in writing of the drill objectives, expectations and scenario.

(b) Rail plan holders may request to be excused from an unannounced drill if conducting the drill poses an unreasonable safety or environmental risk, or significant economic hardship. If the rail plan holder is excused, ecology will conduct an unannounced drill at a future time.

(4) **Wildlife deployment drills:** Once every three years rail plan holders shall deploy regional mobile wildlife rehabilitation equipment and personnel necessary to set up the wildlife rehabilitation system found in the plan.

NEW SECTION

WAC 173-186-520 Drill evaluation criteria. The ecology drill evaluation process is based on the 2016 NPREP guidance document. The NPREP guidance document lists fifteen core components that shall be demonstrated by the rail plan holder during the triennial cycle. Ecology adopts the fif-

teen core components as the criteria used to evaluate rail plan holder tabletop and deployment drills. The core components are as follows:

(1) **Notifications:** Test the notifications procedures identified in the plan.

(2) **Staff mobilization:** Demonstrate the ability to assemble the spill response organization identified in the plan.

(3) **Ability to operate within the response management system described in the plan:** This includes demonstration of the ICS staffing and process identified in the plan.

(4) **Source control:** Demonstrate the ability of the spill response organization to control and stop the discharge at the source, and to effectively coordinate source control activities within the response.

(5) **Assessment:** Demonstrate the ability of the spill response organization to provide an initial assessment of the discharge, or potential discharge, and provide continuing assessments of the effectiveness of the planning and tactical operations.

(6) **Containment:** Demonstrate the ability of the spill response organization to contain the discharge at the source or in various locations for recovery operations.

(7) **Mitigation:** Demonstrate the ability of the spill response organization to recover, mitigate, and remove the discharged product. This includes mitigation and removal activities such as dispersant use, in situ burn use, and bioremediation use, in addition to mechanical oil recovery.

(8) **Protection:** Demonstrate the ability of the spill response organization to protect the environmentally, culturally and economically sensitive areas identified in the NWACP and the plan.

(9) **Disposal:** Demonstrate the ability of the spill response organization to dispose of the recovered material and contaminated debris in compliance with guidance found in the NWACP.

(10) **Communications:** Demonstrate the ability to establish an effective communications system throughout the scope of the plan for the spill response organization.

(11) **Transportation:** Demonstrate the ability to provide effective multimodal transportation both for execution of the discharge and support functions.

(12) **Personnel support:** Demonstrate the ability to provide the necessary logistical support of all personnel associated with the response.

(13) **Equipment maintenance and support:** Demonstrate the ability to maintain and support all equipment associated with the response.

(14) **Procurement:** Demonstrate the ability to establish an effective procurement system.

(15) **Documentation:** Demonstrate the ability of the rail plan holder's spill management organization to document all operational and support aspects of the response and provide detailed records of decisions and actions taken.

NEW SECTION

WAC 173-186-530 Other ways to get drill credit. (1) Drill credits for actual spills: Rail plan holders may request drill credit for a response to an actual spill, provided that

ecology has an opportunity to participate during the spill and evaluate the spill response. Credit from spills shall not entirely alleviate the rail plan holder's responsibility to drill. To obtain credit:

(a) The plan holder shall submit a written request to ecology within sixty days of completion of the cleanup operations.

The request shall include documentation supporting the components of WAC 173-186-520.

(b) Within ninety days, the rail plan holder shall submit a lessons learned summary supporting the request for drill credit.

(2) Rail plan holders may request drill credit for out-of-state tabletop drills if:

(a) Ecology has been invited to attend the drill;

(b) Ecology has an opportunity to participate in the planning process for the drill. There shall be a meeting to discuss the scope and scale of the exercise, the drill objectives and the types of criteria for which Washington credit may be applicable;

(c) Documentation of the drill and self-certification documentation shall be provided to ecology within thirty days of the drill; and

(d) Rail plan holders seeking credit for a scheduled out-of-state drill shall use the drill calendar to schedule the drill at least ninety days in advance, to provide ecology an opportunity to participate.

NEW SECTION

WAC 173-186-540 Drill requirement waivers. (1)

Rail plan holders may request a waiver for deployment or tabletop drill requirements.

(2) The request shall be in writing and shall describe why a waiver should be considered and how the rail plan holder is meeting the purpose and intent of the drill program.

(3) Rail plan holder's requests for a drill waiver will be made available for public review and comment, including interested local and tribal governments and other stakeholders, for a period of thirty days.

(4) Ecology will evaluate the request and respond in writing within sixty calendar days of receipt of the waiver request.

PART IV: INSPECTION OF RECORDS, NONCOMPLIANCE, AND ENFORCEMENT

NEW SECTION

WAC 173-186-600 Inspection of records. Ecology may verify compliance with this chapter by examining:

(1) Training and equipment maintenance records;

(2) Drill records;

(3) Accuracy of call-out and notification lists;

(4) Spill management team lists;

(5) ICS forms;

(6) Waste disposal records; and

(7) Post-spill reviews and other records on lessons learned.

NEW SECTION

WAC 173-186-610 Enforcement—Noncompliance.

(1) If an owner or operator of a railroad, a person, or rail plan holder is unable to comply with an approved contingency plan or otherwise fails to comply with requirements of this chapter, ecology may, at its discretion:

(a) Place conditions on plan approval.

(b) Require additional drills to demonstrate effectiveness of the plan.

(c) Revoke the approval status.

(2) Approval of a plan by ecology does not constitute an express assurance regarding the adequacy of the plan nor constitute a defense to liability imposed under state law.

(3) Any violation of this chapter may be subject to enforcement and penalty sanctions.

(4) Ecology may assess a civil penalty of up to one hundred thousand dollars against any person who is in violation of this chapter. Each day that a railroad is in violation of this chapter shall be considered a separate violation.

(5) Any person found guilty of willfully violating any of the provisions of this chapter, or any final written orders or directive of ecology or a court shall be deemed guilty of a gross misdemeanor and upon conviction shall be punished by a fine of up to ten thousand dollars and costs of prosecution, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment in the discretion of the court. Each day upon which a willful violation of the provisions of this chapter occurs may be deemed a separate and additional violation.

NEW SECTION

WAC 173-186-620 Severability. If any provision of this chapter is held invalid, the remainder of the chapter is not affected.

WSR 16-18-062

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed September 1, 2016, 3:33 p.m., effective October 2, 2016]

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

Purpose: The department is amending WAC 388-442-0010 to conform to federal regulation changes regarding who is considered a fleeing felon. This amendment updates the department's rules for determining who is a fleeing felon or breaking a condition of parole or probation and therefore ineligible for benefits. The amended rule is necessary to conform to new federal rule changes on this subject that went into effect November 2015.

Citation of Existing Rules Affected by this Order: Amending WAC 388-442-0010.

Statutory Authority for Adoption: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.08A.100, 74.04.770, 74.08.025, 7 C.F.R. 273.11.

Adopted under notice filed as WSR 16-14-059 on June 30, 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 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: September 1, 2016.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 13-24-044, filed 11/26/13, effective 1/1/14)

WAC 388-442-0010 ((How does being a fleeing felon impact my eligibility for benefits)) Am I eligible for benefits if I am fleeing from the law or breaking a condition for parole or probation? (1) ((You are a fleeing felon if you are fleeing to avoid prosecution, custody, or confinement for a crime or an attempt to commit a crime that is considered a felony in the place from which you are fleeing.

(2)) If you are a fleeing felon(;) or violating a condition of probation or parole ((as determined by an administrative body or court that has the authority to make this decision,)) you are not eligible for ((TANF/SFA)) temporary assistance for needy families (TANF), state family assistance (SFA), ((PWA)) pregnant women assistance (PWA), ((ABD)) aged, blind, or disabled (ABD) cash, referral to the ((HEN)) housing and essential needs (HEN) program, or basic food benefits.

(2) You are a fleeing felon if:

(a) A federal, state, or local law enforcement officer presents us with a felony arrest warrant that includes the national crime information center (NCIC) codes for escape (4901), flight to avoid (4902), or flight-escape (4999);

(b) The officer presenting the warrant is acting in an official capacity to obtain information on your location or other information; and

(c) You are the individual named in the warrant.

(3) You are violating a condition of parole or probation when:

(a) An administrative or judicial order has found you in violation of the terms of your parole or probation; and

(b) A law enforcement agency is actively seeking you to enforce the conditions of your parole or probation.

(4) "Actively seeking" as used in subsection (3)(b) of this section means a law enforcement agency intends to arrest you for a probation or parole violation within:

(a) Thirty days from the date we request information about the parole or probation violation; or

(b) Twenty days from the date the law enforcement agency requests information from us.

WSR 16-18-067
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Filed September 2, 2016, 11:21 a.m., effective October 3, 2016]

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

Purpose: Amend rules for commercial salmon fishing in Puget Sound, including WAC 220-47-307 Closed areas—Puget Sound salmon, 220-47-311 Purse seine—Open periods, WAC 220-47-401 Reef net—Open periods, 220-47-411 Gillnet—Open periods, and 220-47-428 Beach seine—Open periods.

Citation of Existing Rules Affected by this Order: Amending WAC 220-47-307, 220-47-311, 220-47-401, 220-47-411, and 220-47-428.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.130, 77.12.045, and 77.12.047.

Adopted under notice filed as WSR 16-06-102 on March 1, 2016, and WSR 16-13-155 on June 22, 2016.

Changes Other than Editing from Proposed to Adopted Version: Minor changes made to WAC 220-47-311 and 220-47-411 to correct fishing hours related to daylight savings time.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 5, Repealed 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: September 1, 2016.

J. W. Unsworth
Director

AMENDATORY SECTION (Amending WSR 15-17-034, filed 8/11/15, effective 9/11/15)

WAC 220-47-307 Closed areas—Puget Sound salmon. It is unlawful at any time, unless otherwise provided, to take, fish for, or possess salmon taken for commercial purposes with any type of gear from the following portions of Puget Sound Salmon Management and Catch Reporting

Areas, except that closures listed in this section do not apply to reef net fishing areas listed in RCW 77.50.050:

Areas 4B, 5, 6, 6B, and 6C - The Strait of Juan de Fuca Preserve as defined in WAC 220-47-266.

Area 6D - That portion within 1/4-mile of each mouth of the Dungeness River.

Area 7 -

(1) The San Juan Island Preserve as defined in WAC 220-47-262.

(2) Those waters within 1,500 feet of shore on Orcas Island from Deer Point northeasterly to Lawrence Point, thence west to a point intercepting a line projected from the northernmost point of Jones Island, thence 90° true to Orcas Island.

(3) Those waters within 1,500 feet of the shore of Cypress Island from Cypress Head to the northernmost point of Cypress Island.

(4) Those waters easterly of a line projected from Iceberg Point to Iceberg Island, to the easternmost point of Charles Island, then true north from the northernmost point of Charles Island to the shore of Lopez Island.

(5) Those waters northerly of a line projected from the southernmost point of land at Aleck Bay to the westernmost point of Colville Island, thence from the easternmost point of Colville Island to Point Colville.

(6) Those waters easterly of a line projected from Biz Point on Fidalgo Island to the Williamson Rocks Light, thence to the Dennis Shoal Light, thence to the light on the westernmost point of Burrows Island, thence to the southwestern-most point of Fidalgo Head, and including those waters within 1,500 feet of the western shore of Allan Island, those waters within 1,500 feet of the western shore of Burrows Island, and those waters within 1,500 feet of the shore of Fidalgo Island from the southwestern-most point of Fidalgo Head northerly to Shannon Point.

(7) Additional Fraser sockeye and pink seasonal closure: Those waters within 1,500 feet of the shore of Fidalgo Island from the Initiative 77 marker northerly to Biz Point.

(8) Those waters within 1,500 feet of the eastern shore of Lopez Island from Point Colville northerly to Lopez Pass, and those waters within 1,500 feet of the eastern shore of Decatur Island from the southernmost point of land northerly to Fauntleroy Point, and including those waters within 1,500 feet of the shore of James Island.

Area 7A - The Drayton Harbor Preserve as defined in WAC 220-47-252.

Area 7B -

(1) That portion south and east of a line from William Point on Samish Island to Saddlebag Island to the southeastern tip of Guemes Island, and that portion northerly of the railroad trestle in Chuckanut Bay.

(2) That portion of Bellingham Bay and Portage Bay adjacent to Lummi Indian Reservation is closed north and west of a line from the intersection of Marine Drive and Hoff Road (48°46'59"N, 122°34'25"W) projected 180° true for 2.75 nautical miles (nm) to a point at 48°45'11"N, 122°34'25"W, then 250° true for 1.4 nm to a point at 48°44'50"N, 122°35'42"W, then 270° true for 1.4 nm to 48°44'50"N, 122°37'08"W, then 230° true for 1.3 nm to 48°44'24"N, 122°37'52"W, then 200° true for 1 nm to

48°43'45"N, 122°38'12"W, then 90° true for 1 nm to a point just northeast of Portage Island (48°43'45"N, 122°37'14"W), then 160° true for 1.4 nm to a point just east of Portage Island (48°42'52"N, 122°36'37"W).

~~((3) Additional coho seasonal closure: September 1 through September 21, closed to gillnets in the waters of Area 7B west of a line from Point Francis (48°41'46"N, 122°36'32"W) to the red and green buoy southeast of Point Francis (48°40'27"N, 122°35'24"W), then to the northernmost tip of Eliza Island (48°39'38"N, 122°35'14"W), then along the eastern shore of the island to its southernmost tip (48°38'40"N, 122°34'57"W) and then north of a line from the southernmost tip of Eliza Island to Carter Point (48°38'24"N, 122°36'31"W). Nontreaty purse seiners fishing September 1 through September 21 in this area must release coho.))~~

Area 7C - That portion southeasterly of a line projected from the mouth of Oyster Creek 237° true to a fishing boundary marker on Samish Island.

Area 8 -

(1) That portion of Skagit Bay easterly of a line projected from Brown Point on Camano Island to a white monument on the easterly point of Ika Island, thence across the Skagit River to the terminus of the jetty with McGlenn Island.

(2) Those waters within 1,500 feet of the western shore of Camano Island south of a line projected true west from Rocky Point.

Area 8A -

(1) Those waters easterly of a line projected from Mission Point to Buoy C1, excluding the waters of Area 8D, thence through the green light at the entrance jetty of the Snohomish River and across the mouth of the Snohomish River to landfall on the eastern shore, and those waters northerly of a line from Camano Head to the northern boundary of Area 8D, except when open for pink fisheries.

(2) Additional coho seasonal closure prior to October 3: Those waters southerly of a line projected from the Clinton ferry dock to the Mukilteo ferry dock.

Area 8D - Those waters easterly of a line projected from Mission Point to Hermosa Point.

Area 9 - Those waters lying inside and westerly of a line projected from the Point No Point light to Sierra Echo buoy, thence to Forbes Landing wharf east of Hansville.

Area 10 -

(1) Those waters easterly of a line projected from Meadow Point to West Point.

(2) Those waters of Port Madison westerly of a line projected from Point Jefferson to the northernmost portion of Point Monroe.

(3) Additional pink seasonal closure: The area east inside of the line originating from West Point and extending west to the closest midchannel buoy, thence true through Point Wells until reaching latitude 47°44'50"N, thence extending directly east to the shoreline.

(4) Additional purse seine pink seasonal closure: The area within 500 feet of the eastern shore in Area 10 is closed to purse seines north of latitude 47°44'50"N.

(5) Additional coho and chum seasonal closure: Those waters of Elliott Bay east of a line from Alki Point to the light at Fourmile Rock, and those waters northerly of a line pro-

jected from Point Wells to "SF" Buoy, then west to President's Point.

Area 10E - Those waters of Liberty Bay north of a line projected due east from the southernmost Keyport dock, those waters of Dyes Inlet north of the Manette Bridge, and those waters of Sinclair Inlet southwest of a line projected true east from the Bremerton ferry terminal.

Area 11 -

(1) Those waters northerly of a line projected true west from the light at the mouth of Gig Harbor, and those waters south of a line from Browns Point to the northernmost point of land on Point Defiance.

(2) Additional coho seasonal closure: Those waters south of a line projected from the light at the mouth of Gig Harbor to the Tahlequah ferry dock, then south to the Point Defiance ferry dock, and those waters south of a line projected from the Point Defiance ferry dock to Dash Point.

Areas 12, 12B, and 12C - Those waters within 1,000 feet of the eastern shore.

Area 12 - ~~((+))~~ Those waters inside and easterly of a line projected from Lone Rock to the navigation light off Big Beef Creek, thence southerly to the tip of the outermost northern headland of Little Beef Creek.

~~((2) Additional purse seine chum seasonal closure: Those waters of Area 12 within 2 statute miles of the Hood Canal Bridge are closed to purse seines on October 26 and November 3-))~~

Area 12 - Additional purse seine chum seasonal closures:

(1) Those waters of Area 12 south and west of a line projected 94 degrees true from Hazel Point to the light on the opposite shore, bounded on the west by the Area 12/12B boundary line are closed to purse seines except this area is open for purse seines on October 24 and October 31.

(2) Those waters of Area 12 within 2 miles of the Hood Canal Bridge are closed to purse seines on October 24 and October 31.

Area 12A -

(1) Those waters north of a line projected due east from Broad Spit.

(2) Those waters within 1,000 feet of the mouth of the Quilcene River.

Area 12B -

(1) Those waters within 1/4-mile of the mouths of the Dosewallips, Duckabush, and Hamma Hamma rivers and Anderson Creek.

(2) Additional Chinook seasonal closure: Those waters north and east of a line projected from Tekiu Point to Triton Head.

~~((Areas 12, 12B and 12C - Those waters within 1,000 feet of the eastern shore-))~~

Area 12C -

(1) Those waters within 2,000 feet of the western shore between the dock at Glen Ayr R.V. Park and the Hoodspout marina dock.

(2) Those waters south of a line projected from the Cushman Powerhouse to the public boat ramp at Union.

(3) Those waters within 1/4-mile of the mouth of the Dewatto River.

~~((Area 12 - Chum seasonal closures:~~

~~(1) Those waters of Area 12 south and west of a line projected 94 degrees true from Hazel Point to the light on the opposite shore, bounded on the west by the Area 12/12B boundary line are closed to purse seines except this area is open for purse seines on October 27 and November 3.~~

~~(2) Those waters of Area 12 within 2 miles of the Hood Canal Bridge are closed to purse seines on October 27 and November 3-))~~

Area 13A - Those waters of Burley Lagoon north of State Route 302; those waters within 1,000 feet of the outer oyster stakes off Minter Creek Bay, including all waters of Minter Creek Bay; those waters westerly of a line drawn due north from Thompson Spit at the mouth of Glen Cove; and those waters within 1/4-mile of Green Point.

AMENDATORY SECTION (Amending WSR 15-17-034, filed 8/11/15, effective 9/11/15)

WAC 220-47-311 Purse seine—Open periods. (1) It is unlawful to take, fish for, or possess salmon taken with purse seine gear for commercial purposes from Puget Sound, except in the following designated Puget Sound Salmon Management and Catch Reporting Areas and during the periods provided for in each respective Management and Catch Reporting Area:

AREA	TIME	DATE
7, 7A:	7AM - 6PM	10/10, 10/12, 10/13, 10/15, 10/16, 10/17, 10/18, 10/19, 10/20, 10/21, 10/22, 10/23, 10/24, 10/25, 10/26, 10/27, 10/28, 10/29, 10/30, 10/31, 11/1, 11/2, 11/3, 11/4, 11/5
	7AM - 5PM	((11/1, 11/2, 11/3, 11/4, 11/5)) 11/6, 11/7, 11/8, 11/9, 11/10, 11/11, 11/12
Note: In Areas 7 and 7A, it is unlawful to fail to brail when fishing with purse seine gear. Any time brailing is required, purse seine fishers must also use a recovery box in compliance with WAC 220-47-301 (7)(a) through (f).		
((7B, 7C:	6AM - 9PM	8/12))
7B, 7C:	6AM - 8PM	((8/19, 8/26, 9/2) 8/10, 8/17, 8/24, 8/31
7B:	6AM - 8PM	9/5, 9/7, 9/9((9/11))
	7AM - 7PM	9/12, 9/14, 9/16((9/18))
	7AM ((9/20)) 9/18	6PM ((10/24)) 10/29
	7AM ((10/26)) 10/31	4PM ((10/30)) 11/4
	7AM ((11/2)) 11/7	4PM ((11/6)) 11/11

AREA	TIME	DATE	AREA	TIME	DATE
	7AM ((11/9)) <u>11/14</u>	- 4PM ((11/13)) <u>11/18</u>		7AM - 5PM	- ((11/3, 11/9, 11/11, 11/17, 11/24)) <u>11/08, 11/14, 11/16, 11/22</u>
	7AM ((11/16)) <u>11/21</u>	- 4PM ((11/20)) <u>11/25</u>	12, 12B:	7AM - 6PM	- ((10/15, 10/19, 10/26)) <u>10/20, 10/24, 10/31</u>
	((7AM- 11/23	- 4PM 11/27))		7AM - 5PM	- ((11/3, 11/9, 11/11, 11/17)) <u>11/08, 11/14, 11/16</u>
Note: That portion of Area 7B east of a line from Post Point to the flashing red light at the west entrance to Squilicum Harbor is open to purse seines beginning at 12:01 a.m. on the last Monday in October and until 4:00 p.m. on the first Friday in December.			12C:	<u>7AM - 6PM</u>	= <u>10/31</u>
8:	((6AM- 8PM)) <u>Closed</u>	- ((8/25, 9/2, 9/9))	((12C:))	7AM - 5PM	- ((11/3, 11/9, 11/11, 11/17, 11/24)) <u>11/08, 11/14, 11/16, 11/22</u>
8A:	((7AM- 7PM)) <u>Closed</u>	- ((8/18, 8/26, 9/1))	Note: In Area 10 during any open period occurring in August or September, it is unlawful to fail to brail or use a brailing bunt when fishing with purse seine gear. Any time brailing is required, purse seine fishers must also use a recovery box in compliance with WAC 220-47-301 (7)(a) through (f).		
	((7AM- 7PM	- Limited participation- Two boats 9/14, 9/21))	(2) It is unlawful to retain the following salmon species taken with purse seine gear within the following areas during the following periods:		
8D:	((7AM- 7PM)) <u>Closed</u>	- ((9/21, 9/28, 10/5))	(a) Chinook salmon - At all times in Areas 7, 7A, 8, 8A, 8D, 10, 11, 12, 12B, and 12C, and after October 20 in Area 7B.		
	((7AM- 6PM	- 10/12, 10/20, 10/26, 10/28	(b) Coho salmon - At all times in Areas 7, 7A, 10, and 11, and prior to September 1 in Area 7B.		
	7AM- 5PM	- 11/3, 11/9, 11/11, 11/17, 11/24	(c) Chum salmon - Prior to October 1 in Areas 7 and 7A, and at all times in 8A.		
10:	7AM- 7PM	- Limited participation- Five boats only 8/19, 8/25, 8/27, 8/31, 9/2))	(d) All other saltwater and freshwater areas - Closed for all species at all times.		
10, 11:	7AM - 6PM	- ((10/15, 10/19, 10/26)) <u>10/20, 10/24, 10/31</u>			

AMENDATORY SECTION (Amending WSR 15-17-034, filed 8/11/15, effective 9/11/15)

WAC 220-47-411 Gillnet—Open periods. It is unlawful to take, fish for, or possess salmon taken with gillnet gear for commercial purposes from Puget Sound, except in the following designated Puget Sound Salmon Management and Catch Reporting Areas during the periods provided for in each respective fishing area:

AREA	TIME	DATE(S)	MINIMUM MESH
6D: Skiff gillnet only, definition WAC 220-16-046 and lawful gear description WAC 220-47-302.	7AM - 7PM	9/21, 9/22, 9/23, ((9/24, 9/25)) <u>9/26, 9/27, 9/28, 9/29, 9/30, ((10/1, 10/2)) 10/3, 10/4, 10/5, 10/6, 10/7, ((10/8, 10/9)) 10/10, 10/11, 10/12, 10/13, 10/14, ((10/15, 10/16)) 10/17, 10/18, 10/19, 10/20, 10/21, ((10/22, 10/23)) 10/24, 10/25, 10/26, 10/27, 10/28((10/29, 10/30))</u>	5"

Note: In Area 6D, it is unlawful to use other than 5-inch minimum mesh in the skiff gillnet fishery. It is unlawful to retain Chinook taken in Area 6D at any time, or any chum salmon taken in Area 6D prior to October 16. In Area 6D, any Chinook or chum salmon required to be released must be removed from the net by cutting the meshes ensnaring the fish.

7, 7A:	7AM -	- Midnight; use of recovery box required	10/10, 10/12, 10/13, 10/15, 10/16, 10/17, 10/18, 10/19, 10/20, 10/21, 10/22	6 1/4"
	7AM -	- Midnight	((10/18, 10/19, 10/20, 10/21, 10/22,)) 10/23, 10/24, 10/25, 10/26, 10/27, 10/28, 10/29, 10/30, 10/31, 11/1, 11/2, 11/3, 11/4, 11/5, 11/6, 11/7, 11/8, 11/9, 11/10, 11/11, 11/12	6 1/4"

AREA	TIME		DATE(S)	MINIMUM MESH
<p>Note: In Areas 7 and 7A after October 9 ((but)) and prior to October ((18)) 23, coho and Chinook salmon must be released, and it is unlawful to use a net soak time of more than 45 minutes. Net soak time is defined as the time elapsed from when the first of the gillnet web enters the water, until the gillnet is fully retrieved from the water. Fishers must also use a recovery box in compliance with WAC 220-47-302 (5)(a) through (f) when coho and Chinook release is required.</p>				
7B, 7C:	7PM	-	8AM NIGHTLY ((8/9, 8/11, 8/12)) 8/7, 8/8, 8/9, 8/14, 8/15, 8/16, 8/17, ((8/18, 8/19)) 8/21, 8/22, 8/23, 8/24 ((8/25, 8/26))	7"
7B, 7C:	7AM ((8/30)) 8/28	-	7AM ((9/4)) 9/2	5"
7B:	7AM ((9/6)) 9/4	-	7AM ((9/11)) 9/9	5"
	7AM ((9/13)) 9/11	-	7AM ((9/18)) 9/16	5"
	7AM ((9/20)) 9/18	-	Midnight ((10/23)) 10/29	5"
	7AM ((10/26)) 10/31	-	4PM ((10/30)) 11/4	6 1/4"
	6AM ((11/2)) 11/7	-	4PM ((11/6)) 11/11	6 1/4"
	6AM ((11/9)) 11/14	-	4PM ((11/13)) 11/18	6 1/4"
	((6AM-11/16)) 7AM 11/21	-	4PM ((11/20)) 11/25	6 1/4"
	((7AM-11/23))	-	4PM 11/27	6 1/4"
<p>Note: That portion of Area 7B east of a line from Post Point to the flashing red light at the west entrance to Squalicum Harbor is open to gillnets using 6 1/4-inch minimum mesh beginning 12:01 AM on the last day in October and until 4:00 PM on the first Friday in December.</p>				
8:	5AM	-	11PM ((8/26, 9/1, 9/8)) closed	5"
<p>Note: In Area 8 it is unlawful to take or fish for pink salmon with drift gillnets greater than 60-mesh maximum depth. Fishers must also use minimum 5" and maximum 5 1/2" mesh during pink salmon management periods.</p>				
8A:	((5AM-6PM)) 6PM	-	11PM 8/19, 8/25, 9/2	5"
	((6PM-8AM)) 8AM	-	8AM ((Limited participation; 2 boats only-9/16)) Closed	5"
	((6PM-8AM)) 8AM	-	8AM NIGHTLY 9/22, 9/23	5"
<p>Note: In Area 8A fishers must use minimum 5" and maximum 5 1/2" mesh during pink salmon management periods.</p>				
8D:	6PM	-	8AM ((NIGHTLY 9/20, 9/24, 9/27, 10/1, 10/4, 10/8)) Closed	5"
	((6PM-9/21)) 9/21	-	8AM 9/24	5"
	6PM 9/28	-	8AM 10/1	5"
	6PM 10/5	-	8AM 10/8	5"
	5PM	-	8AM 10/11, 10/15	5"
	5PM-10/12	-	8AM 10/15	5"
	5PM	-	9AM 10/18, 10/22, 10/25, 10/29	5"
	5PM-10/19	-	9AM 10/22	5"
	5PM-10/26	-	9AM 10/29	5"

AREA	TIME		DATE(S)	MINIMUM MESH
	4PM	-	8AM	5"
	4PM-11/2	-	8AM-11/5	5"
	6AM	-	6PM	6 1/4"
	6AM	-	4PM	6 1/4"
	7AM	-	6PM	6 1/4"
	7AM	-	4PM	6 1/4"))
9A: Skiff gillnet only, definition WAC 220-16-046 and lawful gear description WAC 220-47-302.	7AM	-	7PM ((10/31))	5"
	((8/16))		<u>10/29</u>	
	<u>8/14</u>			

Note: It is unlawful to retain chum salmon taken in Area 9A prior to October 1, and it is unlawful to retain Chinook salmon at any time. Any salmon required to be released must be removed from the net by cutting the meshes ensnaring the fish.

10:	7PM	-	7AM	((Limited participation—5 boats only—8/18, 8/24, 8/26, 9/1, 9/3) closed)	4 1/2" minimum and 5 1/2" maximum
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Note: In Area 10 fishers must use minimum 4 1/2" and maximum 5 1/2" mesh during pink salmon management periods. Also, during August or September openings, coho and Chinook salmon must be released, and it is unlawful to use a net soak time of more than 90 minutes. Net soak time is defined as the time elapsed from when the first of the gillnet web enters the water, until the gillnet is fully retrieved from the water. Fishers must also use a recovery box in compliance with WAC 220-47-302 (5)(a) through (f). During all limited participation fisheries, it is unlawful for vessels to take or fish for salmon without department observers on board.

10, 11:	5PM	-	9AM	NIGHTLY ((10/13, 10/20, 10/22, 10/27, 10/29)) <u>10/16, 10/25, 10/27, 11/1, 11/3</u>	6 1/4"
	5PM	-	7AM	NIGHTLY ((10/14)) <u>10/19</u>	6 1/4"
	4PM	-	8AM	((11/1, 11/4, 11/12)) <u>11/6, 11/9, 11/15, 11/20, 11/23</u>	6 1/4"
	4PM	-	7AM	NIGHTLY ((11/10)) <u>11/17</u>	6 1/4"
12A: Skiff gillnet only, definition WAC 220-16-046 and lawful gear description WAC 220-47-302.	7AM	-	7PM	Dates determined per agreement with tribal co-managers in-season if Summer Chum Salmon Conservation Initiative goals are met allowing for openings of gillnet gear.	5"

Note: In Area 12A, it is unlawful to use other than 5-inch minimum mesh in the skiff gillnet fishery. It is unlawful to retain Chinook or chum salmon taken in Area 12A at any time, and any salmon required to be released must be removed from the net by cutting the meshes ensnaring the fish.

12, 12B:	7AM	-	8PM	((10/13, 10/14, 10/20, 10/22)) <u>10/17, 10/19</u>	6 1/4"
	7AM	-	7PM	((10/27, 10/29)) <u>10/25, 10/27, 11/1, 11/3</u>	6 1/4"
	6AM	-	6PM	((11/2, 11/4, 11/10, 11/12, 11/16, 11/18)) <u>11/7, 11/9, 11/15, 11/17</u>	6 1/4"
<u>12C:</u>	<u>7AM</u>	=	<u>7PM</u>	<u>11/1, 11/3</u>	
((12C:))	6AM	-	6PM	((11/2, 11/4, 11/10, 11/12, 11/16, 11/18)) <u>11/7, 11/9, 11/15, 11/17</u>	6 1/4"
	7AM	-	6PM	<u>11/21, 11/23((11/24))</u>	6 1/4"

All other saltwater and freshwater areas - Closed.

Nightly openings refer to the start date.

Within an area or areas, a mesh size restriction remains in effect from the first date indicated until a mesh size change is shown, and the new mesh size restriction remains in effect until changed.

AMENDATORY SECTION (Amending WSR 15-17-034, filed 8/11/15, effective 9/11/15)

WAC 220-47-401 Reef net open periods. (1) It is unlawful to take, fish for, or possess salmon taken with reef net gear for commercial purposes in Puget Sound, except in the following designated Puget Sound Salmon Management and Catch Reporting Areas, during the periods provided for in each respective area:

AREA	TIME	DATE(S)
7((-7A))	5AM - 9PM Daily	((9/27-11/7)) <u>9/18 - 11/12</u>

(2) It is unlawful at all times to retain unmarked Chinook salmon taken with reef net gear, and it is unlawful prior to October 1 to retain chum or unmarked coho salmon taken with reef net gear.

(3) It is unlawful to retain marked Chinook after September 30.

(a) It is unlawful to retain marked Chinook with reef net gear if the fisher does not have in his or her immediate possession a department-issued Puget Sound Reef Net Logbook with all retained Chinook accounted for in the logbook. Marked Chinook are those with a clipped adipose fin and a healed scar at the site of the clipped fin.

(b) Completed logs must be submitted and received within six working days to: Puget Sound Commercial Salmon Manager, Department of Fish & Wildlife, 600 Capitol Way N, Olympia, WA 98501-1091.

(4) All other saltwater and freshwater areas - Closed.

AMENDATORY SECTION (Amending WSR 15-17-034, filed 8/11/15, effective 9/11/15)

WAC 220-47-428 Beach seine—Open periods. (1) It is unlawful to take, fish for, or possess salmon taken with beach seine gear for commercial purposes from Puget Sound except in the following designated Puget Sound Salmon Management and Catch Reporting Areas during the periods provided hereinafter in each respective Management and Catch Reporting Area:

All areas:

AREA	TIME	DATE(S)
((6D)	7AM - 7PM	Limited participation—2 boats only—7/20, 7/21, 7/22, 7/23, 7/24, 7/27, 7/28, 7/29, 7/30, 7/31))
12A:	7AM - 7PM	((8/21)) 8/22, 8/23, 8/24, 8/25, 8/26, ((8/27, 8/28)) 8/29, 8/30, 8/31, 9/1, 9/2, ((9/3, 9/4)) 9/5, 9/6, 9/7, 9/8, 9/9, ((9/10, 9/11)) 9/12, 9/13, 9/14, 9/15, 9/16, ((9/17, 9/18)) 9/19, 9/20, 9/21, 9/22, 9/23, ((9/24, 9/25)) 9/26, 9/27, 9/28, 9/29, 9/30
((12H)) 12C, Hoodport Hatchery Zone:	7AM - 7PM	7/25, 7/27, 8/1, 8/3, 8/8, 8/10, 8/15, 8/17, 8/22, 8/24, 8/29, 8/31 November (dates determined per agreement with tribal co-managers in-season if harvestable surplus of salmon remain).

(2) It is unlawful to retain ~~((Chinook))~~ the following salmon species taken with beach seine gear ((in all areas, and it is unlawful to retain chum from Area 12A)) within the following areas during the following periods:

(a) Chinook salmon - At all times in Area 12A.

(b) Chum salmon - In all areas prior to October 10.

WSR 16-18-069

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed September 2, 2016, 2:29 p.m., effective September 8, 2016]

Effective Date of Rule: September 8, 2016.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: SSB 6558 requires adoption of emergency hospital pharmacy associ-

ated clinics (HPAC) licensing rules by September 8, 2016. The fee rules must be effective at the same time for timely implementation of SSB 6558.

Purpose: WAC 246-907-0302 Hospital pharmacy associated clinics (HPAC)—Fees and renewal cycle, setting new fees to cover the costs of regulating and inspecting hospital pharmacy licenses that include individual practitioner offices and multi-practitioner clinics owned, operated or under the common control of a hospital. The pharmacy quality assurance commission (commission) is adopting licensing rules for HPACs under a separate rule making.

Statutory Authority for Adoption: RCW 43.70.250.

Other Authority: SSB 6558 (chapter 118, Laws of 2016).

Adopted under notice filed as WSR 16-15-053 on July 15, 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 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 1, Amended 0, Repealed 0.

Date Adopted: September 2, 2016.

Kristin Peterson, JD

Government Relations Director
for John Wiesman, DrPH MPH
Secretary

NEW SECTION

WAC 246-907-0302 Hospital pharmacy associated clinics licensing periods and fees—Fees and renewal cycle. (1) Parent hospital pharmacy licenses with one or more hospital pharmacy associated clinics (HPAC) expire on June 1st of each year.

(2) A parent hospital pharmacy must submit fees for HPACs in addition to fees set in WAC 246-907-030(4). HPAC fees are due annually, except as provided under subsection (3)(d) of this section.

(3) A parent hospital pharmacy must submit the following nonrefundable fees based on category and number of HPACs as defined in WAC 246-873A-020(3) added to the parent hospital pharmacy license.

(a) **Category 1 HPAC.** A parent hospital pharmacy must submit the Category 1 HPAC fee according to the number of Category 1 HPACs under the parent hospital pharmacy license.

HPAC tier	Number of Category 1 HPACs under parent hospital pharmacy license	Total fee
A	1-10	\$640.00
B	11-50	\$1,600.00
C	51-100	\$2,240.00
D	Over 100	\$2,880.00

(b) **Category 2 HPAC.** A parent hospital pharmacy must submit the Category 2 HPAC fee for each Category 2 HPAC under the parent hospital pharmacy license.

Category 2 HPAC fee	\$540.00
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(c) The department charges a processing fee of fifty-five dollars for an amended license to change the number of HPACs.

(d) If at any time a parent hospital pharmacy submits an addendum increasing the number of HPACs on the parent hospital pharmacy license, which changes the applicable HPAC tier to a higher fee amount, the parent hospital pharmacy shall submit the difference in fees with the addendum.

(e) The department will not refund fees when a tier reduction occurs between renewal periods.

**WSR 16-18-072
PERMANENT RULES
GAMBLING COMMISSION**

[Filed September 2, 2016, 4:44 p.m., effective October 3, 2016]

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

Purpose: In July 2015, the commissioners authorized group 12 amusement games to be played by persons twenty-one and over. At their February 2016 meeting, the commissioners asked staff to explore regulating the appearance so the game does not look like a slot machine. The commissioners also asked staff to revise the language to better explain the preview function on the game.

This rule change requires group 12 amusement games to prominently display on a sticker or on the screen, "This is not a slot machine. No cash prizes are allowed. You can preview the points to be awarded if the puzzle is correctly solved before each play of the game without the insertion of money or anything of value."

Citation of Existing Rules Affected by this Order: Amending WAC 230-13-067 Electronic puzzle and pattern solving game.

Statutory Authority for Adoption: RCW 9.46.070, 9.46.0201.

Adopted under notice filed as WSR 16-12-107 on June 1, 2016.

Changes Other than Editing from Proposed to Adopted Version: WAC 230-13-067, language was added to the proposed version to clarify the prize preview function. Specifically, language was changed in subsections (2) and (6) to clarify that players can preview the points to be awarded if

the puzzle is correctly solved before each play of the game without the insertion of money or anything of value.

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

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

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

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

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

Date Adopted: August 11, 2016.

Michelle Rancour
Acting Rules Coordinator

AMENDATORY SECTION (Amending WSR 15-15-063, filed 7/10/15, effective 8/10/15)

WAC 230-13-067 Group 12—Electronic puzzle and pattern solving game standards. (1) In group 12 games, players must correctly solve a puzzle to win a ~~((prize))~~ game, which is viewable by the player before each puzzle is presented.

~~((1))~~ (2) The game must allow the player to ~~((view the prize that is available))~~ preview points to be awarded if the puzzle is correctly solved before each play of the game without the insertion of money or any other thing of value; and

~~((2))~~ (3) Prizes are awarded based upon the player's skill in correctly discerning a pattern and completing that pattern; and

~~((3))~~ (4) When a game presents a potential winning pattern, the puzzle must be capable of completion within the predetermined time period; and

~~((4))~~ (5) Group 12 amusement games are for adults over the age of twenty-one only and may only be operated by licensees where persons under the age of twenty-one are prohibited from entering~~((:))~~; and

(6) The amusement game must prominently display a sticker or on the screen, "This is not a slot machine. No cash prizes are allowed. You can preview the points to be awarded if the puzzle is correctly solved before each play of the game without the insertion of money or anything of value."

**WSR 16-18-073
PERMANENT RULES
DEPARTMENT OF HEALTH**

[Filed September 2, 2016, 5:27 p.m., effective October 3, 2016]

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

Purpose: Chapter 246-338 WAC, Medical test site rules, adopting amendments to rules to comply with federal regula-

tions and statutory requirements. Adopted amendments add the Centers for Medicaid and Medicare (CMS) clinical laboratory amendments (CLIA) new regulations regarding patients having access to laboratory results and clarify medical test site regulations.

Citation of Existing Rules Affected by this Order: Amending WAC 246-338-010, 246-338-028, 246-338-070, and 246-338-090.

Statutory Authority for Adoption: RCW 70.42.220 and 43.70.041.

Other Authority: 42 C.F.R. 493.1291(l), 1832, 1241(b), 1299, 1256 (2)(iv, v), 1273(a).

Adopted under notice filed as WSR 16-13-057 on June 10, 2016.

Changes Other than Editing from Proposed to Adopted Version: One minor change was made to the WAC 246-338-090 (9)(f)(v)(A) and (vi)(A), Table 090-8, to cite the specific publication edition of a clinical laboratory standards institute document.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 4, 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 4, Repealed 0.

Date Adopted: September 2, 2016.

Kristin Peterson, JD
Government Relations Director
for John Wiesman, DrPH, MPH
Secretary

AMENDATORY SECTION (Amending WSR 05-04-040, filed 1/27/05, effective 3/19/05)

WAC 246-338-010 Definitions. For the purposes of this chapter, the following words and phrases have these meanings unless the context clearly indicates otherwise.

(1) "Accreditation organization" means a public or private organization or agency approved by CMS as having standards which are consistent with federal law and regulation, and judged by the department to be equivalent to this chapter.

(2) "Authorized person" means any individual allowed by Washington state law or rule to order tests or receive test results.

(3) "Biannual verification" means a system for verifying the accuracy of test results, at least twice a calendar year, for those tests for which proficiency testing is not required by the department.

(4) "Calibration" means a process of testing and adjusting an instrument, kit, or test system to provide a known relationship between the measurement response and the value of the substance that is being measured by the test procedure.

(5) "Calibration verification" means the assaying of materials of known concentration in the same manner as patient samples to confirm that the calibration of the instrument, kit, or test system has remained stable throughout the laboratory's reportable range for patient test results.

(6) "Calibrator" means a material, solution, or lyophilized preparation designed to be used in calibration. The values or concentrations of the analytes of interest in the calibration material are known within limits ascertained during its preparation or before use.

(7) "Case" means any slide or group of slides, from one patient specimen source, submitted to a medical test site, at one time, for the purpose of cytological or histological examination.

(8) "CDC" means the federal Centers for Disease Control and Prevention.

(9) "CMS" means the federal Centers for Medicare and Medicaid Services.

(10) "CLIA" means Section 353 of the Public Health Service Act, Clinical Laboratory Improvement Amendments of 1988, and regulations implementing the federal amendments, 42 C.F.R. Part 493-Laboratory Requirements in effect on September 22, 2003.

(11) "Control" means a material, solution, lyophilized preparation, or pool of collected serum designed to be used in the process of quality control. The concentrations of the analytes of interest in the control material are known within limits ascertained during its preparation or before routine use.

(12) "Control slide" means a preparation of a material known to produce a specific reaction which is fixed on a glass slide and is used in the process of quality control.

(13) "Days" means calendar days.

(14) "Deemed status" means recognition that the requirements of an accreditation organization have been judged to be equal to, or more stringent than, the requirements of this chapter and the CLIA requirements, and the accreditation organization has agreed to comply with all requirements of this chapter and CLIA.

(15) "Deficiency" means a finding from an inspection or complaint investigation that is not in compliance with this chapter and requires corrective action.

(16) "Department" means the department of health.

(17) "Direct staff time" means all state employees' work time; travel time; telephone contacts and staff or management conferences; and expenses involved with a complaint investigation or an on-site follow-up visit.

(18) "Director," defined as the designated test site supervisor in RCW 70.42.010, means the individual responsible for the technical functions of the medical test site. This person must meet the qualifications for Laboratory Director, listed in 42 C.F.R. Part 493 Subpart M - Personnel for Non-waived Testing.

(19) "Disciplinary action" means license or certificate of waiver denial, suspension, condition, revocation, civil fine, or any combination of the preceding actions, taken by the department against a medical test site.

(20) "Facility" means one or more locations within one campus or complex where tests are performed under one owner.

(21) "Forensic" means investigative testing in which the results are never used for clinical diagnosis, or referral to a health care provider for treatment of an individual.

(22) "HHS" means the federal Department of Health and Human Services.

(23) "High complexity" means a test system, assay, or examination that is categorized under CLIA as a high complexity test.

(24) "May" means permissive or discretionary.

(25) "Medical test site" or "test site" means any facility or site, public or private, which analyzes materials derived from the human body for the purposes of health care, treatment, or screening. A medical test site does not mean:

(a) A facility or site, including a residence, where a test approved for home use by the Federal Food and Drug Administration is used by an individual to test himself or herself without direct supervision or guidance by another and where this test is not part of a commercial transaction; or

(b) A facility or site performing tests solely for forensic purposes.

(26) "Moderate complexity" means a test system, assay, or examination that is categorized under CLIA as a moderate complexity test.

(27) "Must" means compliance is mandatory.

(28) "Nonwaived" means all tests categorized under CLIA as:

(a) Moderate complexity tests, including provider-performed microscopic procedures; or

(b) High complexity tests.

(29) "Owner" means the person, corporation, or entity legally responsible for the business requiring licensure or a certificate of waiver as a medical test site under chapter 70.42 RCW.

(30) "Patient's personal representative" means a person legally authorized to make health care decisions on an individual's behalf.

(31) "Performance specification" means a value or range of values for a test that describe its accuracy, precision, analytical sensitivity, analytical specificity, reportable range and reference range.

~~((31))~~ (32) "Person" means any individual, public organization, private organization, agent, agency, corporation, firm, association, partnership, or business.

~~((32))~~ (33) "Physician" means an individual with a doctor of medicine, doctor of osteopathy, doctor of podiatric medicine, or equivalent degree who is a licensed professional under chapter 18.71 RCW Physicians; chapter 18.57 RCW Osteopathy—Osteopathic medicine and surgery; or chapter 18.22 RCW Podiatric medicine and surgery.

~~((33))~~ (34) "Provider-performed microscopic procedures" means only those moderate complexity tests listed under WAC 246-338-020 (2)(b)(i) through (x), when the tests are performed in conjunction with a patient's visit by a licensed professional meeting qualifications specified in WAC 246-338-020 (2)(a)(i) through (vi).

~~((34))~~ (35) "Provisional license" means an interim approval issued by the department to the owner of a medical test site.

~~((35))~~ (36) "Records" means books, files, reports, or other documentation necessary to show compliance with the quality control and quality assurance requirements under this chapter.

~~((36))~~ (37) "Reference material" means a material or substance, calibrator, control, or standard where one or more properties are sufficiently well established for use in calibrating a process or for use in quality control.

~~((37))~~ (38) "Specialty" means a group of similar subspecialties or tests. The specialties for a medical test site are as follows:

- (a) Chemistry;
- (b) Cytogenetics;
- (c) Diagnostic immunology;
- (d) Immunohematology;
- (e) Hematology;
- (f) Histocompatibility;
- (g) Microbiology;
- (h) Pathology; and
- (i) Radiobioassay.

~~((38))~~ (39) "Standard" means a reference material of fixed and known chemical composition capable of being prepared in essentially pure form, or any certified reference material generally accepted or officially recognized as the unique standard for the assay regardless of level or purity of the analyte content.

~~((39))~~ (40) "Subspecialty" means a group of similar tests. The subspecialties of a specialty for a medical test site are as follows, for:

- (a) Chemistry, the subspecialties are routine chemistry, urinalysis, endocrinology, and toxicology;
- (b) Diagnostic immunology, the subspecialties are syphilis serology and general immunology;
- (c) Immunohematology, the subspecialties are ABO grouping and Rh typing, antibody detection, antibody identification, and compatibility testing;
- (d) Hematology, the subspecialties are routine hematology and coagulation;
- (e) Microbiology, the subspecialties are bacteriology, mycology, parasitology, virology, and mycobacteriology; and
- (f) Pathology, the subspecialties are histopathology (including dermatopathology), diagnostic cytology, and oral pathology.

~~((40))~~ (41) "Supervision" means authoritative procedural guidance by an individual qualified under 42 C.F.R. Part 493 Subpart M - Personnel for Non-waived Testing, assuming the responsibility for the accomplishment of a function or activity by technical personnel.

~~((41))~~ (42) "Technical personnel" means individuals employed to perform any test or part of a test.

~~((42))~~ (43) "Test" means any examination or procedure conducted on a sample taken from the human body.

~~((43))~~ (44) "Validation inspection" means an on-site inspection by the department of an accredited medical test site to determine that the accreditation organization's regulations are equivalent to this chapter and are enforced.

~~((44))~~ (45) "Waived test" means a test system that is:

- (a) Cleared by the Food and Drug Administration for home use; or
- (b) A simple laboratory examination or procedure that has an insignificant risk of an erroneous result.

In order for a test system to be waived, it must be approved for waiver under CLIA.

~~((45))~~ (46) "Will" means compliance is mandatory.

AMENDATORY SECTION (Amending WSR 05-04-040, filed 1/27/05, effective 3/19/05)

WAC 246-338-028 On-site inspections. (1) The department may conduct an on-site review of a licensee or applicant at any time to determine compliance with chapter 70.42 RCW and this chapter as described in Table 020-1.

(2) The department may at any time examine records of the medical test site to determine compliance with chapter 70.42 RCW and this chapter.

(3) The department will:

- (a) Provide written notice of deficiencies to the medical test site; ~~(and)~~
- (b) Allow the owner a reasonable period of time, not to exceed sixty days after department approval of the written plan of correction, to correct a deficiency unless the deficiency is an immediate threat to public health, safety, or welfare; and

(c) Impose a directed plan of correction or a partial directed plan of correction as an alternative sanction for any laboratory that has serious deficiencies per 42 C.F.R. 493.1832 and RCW 43.05.100.

(4) The medical test site must:

- (a) Present a written plan of correction to the department within fourteen days following the date of postmark of the notice of deficiencies;
- (b) Comply with the written plan of correction within a specified time, not to exceed sixty days, after department approval of the written plan of correction which must detail how and when the medical test site will correct the deficiencies;
- (c) Submit to inspections by CMS or CMS agents as a condition of licensure for the purpose of validation or in response to a complaint against the medical test site;
- (d) Authorize the department to release all records and information requested by CMS to CMS or CMS agents;
- (e) Cooperate with any on-site review conducted by the department; and
- (f) Authorize the accreditation organization to submit, upon request of the department:
 - (i) On-site inspection results;
 - (ii) Reports of deficiencies;
 - (iii) Plans of corrections for deficiencies cited;
 - (iv) Any disciplinary or enforcement action taken by the accreditation organization against the medical test site and results of any disciplinary or enforcement action taken by the accreditation organization against the medical test site; and
 - (v) Any records or other information about the medical test site required for the department to determine whether or not standards are consistent with chapter 70.42 RCW and this chapter.

AMENDATORY SECTION (Amending WSR 14-09-001, filed 4/2/14, effective 5/3/14)

WAC 246-338-070 Records. Medical test sites must maintain records as described in this section.

(1) REQUISITIONS must include the following information, in written or electronic form:

- (a) Patient name, identification number, or other method of patient identification;
- (b) Name and address or other suitable identifiers of the authorized person ordering the test. The laboratory may accept oral requests for laboratory tests if it solicits a written or electronic authorization within thirty days of the oral request and maintains the authorization or documentation of its efforts to obtain the authorization;
- (c) Date of specimen collection, and time, if appropriate;
- (d) Source of specimen, if appropriate;
- (e) Type of test ordered;
- (f) Sex, and age or date of birth, of the patient; and
- (g) For cytology and histopathology specimens:
 - (i) Pertinent clinical information; and
 - (ii) For Pap smears:
 - (A) Date of last menstrual period; and
 - (B) Indication whether the patient had a previous abnormal report, treatment, or biopsy.

(2) TEST RECORD SYSTEMS MUST:

- (a) Consist of instrument printouts, worksheets, accession logs, corrective action logs, and other records that ensure reliable identification of patient specimens as they are processed and tested to assure that accurate test results are reported; and
- (b) Include:
 - (i) The patient's name or other method of specimen identification;
 - (ii) The date and time the specimen was received;
 - (iii) The reason for specimen rejection or limitation;
 - (iv) The date of specimen testing; and
 - (v) The identification of the personnel who performed the test.

(3) TEST REPORTS must:

- (a) Be maintained in a manner permitting identification and reasonable accessibility;
- (b) Except as provided in WAC 246-338-070 (3)(c) be released only to authorized persons or designees;
- (c) Upon a request by a patient or patient's personal representative, the laboratory may provide patients, their personal representatives, and those persons specified under 45 C.F.R. 164.524 (c)(3)(ii), with access to completed test reports that, using the laboratory's authentication process, can be identified as belonging to that patient;

(d) Include:

- (i) Name and address of the medical test site, or where applicable, the name and address of each medical test site performing each test;
- (ii) Patient's name and identification number, or a unique patient identifier and identification number;
- (iii) Date reported;
- (iv) Time reported, if appropriate;
- (v) Specimen source, when appropriate, and any information regarding specimen rejection or limitation; and

(vi) Name of the test performed, test result, and units of measurement, if applicable.

(4) CYTOLOGY REPORTS must:

(a) Distinguish between unsatisfactory specimens and negative results;

(b) Provide narrative descriptions for any abnormal results, such as the 2001 Bethesda system of terminology as published in the *Journal of the American Medical Association*, 2002, Volume 287, pages 2114-2119; and

(c) Include the signature or initials of the technical supervisor, or an electronic signature authorized by the technical supervisor, for nongynecological preparations and gynecological preparations interpreted to be showing reactive or reparative changes, atypical squamous or glandular cells of undetermined significance, or to be in the premalignant (dysplasia, cervical intraepithelial neoplasia or all squamous intraepithelial neoplasia lesions including human papilloma-virus-associated changes) or malignant category.

(5) HISTOPATHOLOGY REPORTS must include the signature or initials of the technical supervisor or an electronic signature authorized by the technical supervisor on all reports. Reports must be signed by the same qualified individual who performs the diagnostic interpretation and evaluation, and

must utilize appropriate terminology such as the SnoMed system.

(6) CYTOGENETICS REPORTS must:

(a) Use the International System for Human Cytogenetic Nomenclature on final reports;

(b) Include the number of cells counted and analyzed; and

(c) Include a summary and interpretation of the observations.

(7) If a specimen is referred to another laboratory for testing, the medical test site must:

(a) Report the essential elements of the referred test results without alterations that could affect the clinical interpretation of the results; and

(b) Retain or be able to produce an exact duplicate of each testing report from the referral laboratory.

(8) The medical test site must retain records, slides, and tissues as described in Table 070-1, under storage conditions that ensure proper preservation.

(9) If the medical test site ceases operation, it must make provisions to ensure that all records and, as applicable, slides, blocks and tissue are retained and available for the time frames specified in Table 070-1.

Table 070-1 Record/Slide/Tissue Retention Schedule

	Two Years	Five Years	Ten Years
(a) General Requirements for all Laboratory Specialties	<ul style="list-style-type: none"> • Test requisitions or equivalent; • Test records, including instrument printouts if applicable; • Test reports; • Quality control records; • Quality assurance records; • Proficiency testing records; • Hard copy of report, or ability to reproduce a copy, for all specimens referred for testing; and • Discontinued procedures for all specialty areas 		
(b) Transfusion Services		<ul style="list-style-type: none"> • Test requisitions or equivalent; • Test records; • Test reports; • Quality control records; and • Quality assurance records 	<ul style="list-style-type: none"> • Individual product records*
(c) Cytology		<ul style="list-style-type: none"> • All cytology slides, from date of examination of the slide 	<ul style="list-style-type: none"> • All cytology reports

	Two Years	Five Years	Ten Years
(d) Histopathology/Oral Pathology	<ul style="list-style-type: none"> Specimen blocks, from date of examination 		<ul style="list-style-type: none"> All histopathology and oral pathology reports; and Stained slides, from date of examination of the slide
(e) Histopathology/Oral Pathology-Tissues	Retain remnants of tissue specimens in an appropriate preserved state until the portions submitted for microscopic examination have been examined and diagnosed		
(f) Instrument/method Validation Studies	For life of instrument/method plus two years		

* Must be retained for no less than ten years in accordance with 21 C.F.R. 606.160 (7)(d).

AMENDATORY SECTION (Amending WSR 05-04-040, filed 1/27/05, effective 3/19/05)

WAC 246-338-090 Quality control. The medical test site must use quality control procedures, providing and assuring accurate and reliable test results and reports, meeting the requirements of this chapter.

(1) The medical test site must have and follow written procedures and policies available in the work area for:

(a) Analytical methods used by the technical personnel including:

- (i) Principle;
- (ii) Specimen collection and processing procedures;
- (iii) Equipment/reagent/supplies required;
- (iv) Preparation of solutions, reagents, and stains;
- (v) Test methodology;
- (vi) Quality control procedures;
- (vii) Procedures for reporting results (normal, abnormal, and critical values);
- (viii) Reference range;
- (ix) Troubleshooting guidelines - limitations of methodology;

(x) Calibration procedures; and
 (xi) Pertinent literature references; and
 (b) Alternative or backup methods for performing tests including the use of a reference facility if applicable.

(2) The medical test site must establish written criteria for and maintain appropriate documentation of:

- (a) Temperature-controlled spaces and equipment;
- (b) Preventive maintenance activities;
- (c) Equipment function checks;
- (d) Procedure calibrations; and
- (e) Method/instrument validation procedures.

(3) The medical test site must maintain documentation of:

(a) Expiration date, lot numbers, and other pertinent information for:

- (i) Reagents;
- (ii) Solutions;
- (iii) Culture media;
- (iv) Controls;
- (v) Calibrators;
- (vi) Standards;
- (vii) Reference materials; and
- (viii) Other testing materials; and

(b) Testing of quality control samples.

(4) For **quantitative tests**, the medical test site must perform quality control as follows:

(a) Include two reference materials of different concentrations each day of testing unknown samples, if these reference materials are available; or

(b) Follow an equivalent quality testing procedure that meets federal CLIA regulations.

(5) For **qualitative tests**, the medical test site must perform quality control as follows:

(a) Use positive and negative reference material each day of testing unknown samples; or

(b) Follow an equivalent quality testing procedure that meets federal CLIA regulations.

(6) The medical test site must:

(a) Use materials within their documented expiration date;

(b) Not interchange components of kits with different lot numbers, unless specified by the manufacturer;

(c) Determine the statistical limits for each lot number of unassayed reference materials through repeated testing;

(d) Use the manufacturer's reference material limits for assayed material, provided they are:

(i) Verified by the medical test site; and

(ii) Appropriate for the methods and instrument used by the medical test site;

(e) Make reference material limits readily available;

(f) Report patient results only when reference materials are within acceptable limits; ~~((and))~~

(g) Rotate control material testing among all persons who perform the test;

(h) Use calibration material from a different lot number than that used to establish a cut-off value or to calibrate the test system, if using calibration material as a control material; ~~((and))~~

(i) For each test system that has an extraction phase, include two control materials, including one that is capable of detecting errors in the extraction process;

(j) For each molecular amplification procedure, include two control materials and, if reaction inhibition is a significant source of false negative results, a control material capable of detecting the inhibition is required; and

(k) Comply with general quality control requirements as described in Table 090-1, unless otherwise specified in subsection (9)(a) through (l) of this section.

(7) The medical test site must perform, when applicable:

(a) Calibration and calibration verification for **moderate and high complexity testing** as described in Table 090-2;

(b) Validation for **moderate complexity testing** by verifying the following performance characteristics when the medical test site introduces a new procedure classified as moderate complexity:

- (i) Accuracy;
- (ii) Precision;
- (iii) Reportable range of patient test results; and
- (iv) If using the reference range provided by the manufacturer, that it is appropriate for the patient population;

(c) Validation for **high complexity testing**:

- (i) When the medical test site introduces a new procedure classified as high complexity;
- (ii) For each method that is developed in-house, is a modification of the manufacturer's test procedure, or is an

instrument, kit or test system that has not been cleared by FDA; and

(iii) By verifying the following performance characteristics:

- (A) Accuracy;
- (B) Precision;
- (C) Analytical sensitivity;
- (D) Analytical specificity to include interfering substances;
- (E) Reference ranges (normal values);
- (F) Reportable range of patient test results; and
- (G) Any other performance characteristic required for test performance.

(8) When patient values are above the maximum or below the minimum calibration point or the reportable range, the medical test site must:

- (a) Report the patient results as greater than the upper limit or less than the lower limit or an equivalent designation; or
- (b) Use an appropriate procedure to rerun the sample allowing results to fall within the established linear range.

Table 090-1 General Quality Control Requirements

	Control Material	Frequency
(a) Each batch or shipment of reagents, discs, antisera, and identification systems	<ul style="list-style-type: none"> • Appropriate control materials for positive and negative reactivity 	<ul style="list-style-type: none"> • When prepared or opened, unless otherwise specified
(b) Each batch or shipment of stains	<ul style="list-style-type: none"> • Appropriate control materials for positive and negative reactivity 	<ul style="list-style-type: none"> • When prepared or opened; and • Each day of use, unless otherwise specified
(c) Fluorescent and immunohistochemical stains	<ul style="list-style-type: none"> • Appropriate control materials for positive and negative reactivity 	<ul style="list-style-type: none"> • Each time of use, unless otherwise specified
(d) Quality control for each specialty and subspecialty	<ul style="list-style-type: none"> • Appropriate control materials; or • Equivalent mechanism to assure the quality, accuracy, and precision of the test if reference materials are not available 	<ul style="list-style-type: none"> • At least as frequently as specified in this section; • More frequently if recommended by the manufacturer of the instrument or test procedure; or • More frequently if specified by the medical test site
(e) Direct antigen detection systems without procedural controls	<ul style="list-style-type: none"> • Positive and negative controls that evaluate both the extraction and reaction phase 	<ul style="list-style-type: none"> • Each batch, shipment, and new lot number; and • Each day of use

Table 090-2 Calibration and Calibration Verification—Moderate and High Complexity Testing

	Calibration Material	Frequency
CALIBRATION	<ul style="list-style-type: none"> • Calibration materials appropriate for methodology 	<ul style="list-style-type: none"> • Initial on-site installation/implementation of instrument/method; • At the frequency recommended by the manufacturer; and • Whenever calibration verification fails to meet the medical test site's acceptable limits for calibration verification.

	Calibration Material	Frequency
CALIBRATION VERIFICATION	<ul style="list-style-type: none"> Use assayed material, if available, at the lower, mid-point, and upper limits of procedure's reportable range; or Demonstrate alternate method of assuring accuracy at the lower, mid-point, and upper limits of procedure's reportable range 	<ul style="list-style-type: none"> At least every six months; When there is a complete change of reagents (i.e., new lot number or different manufacturer) is introduced; When major preventive maintenance is performed or there is a replacement of critical parts of equipment; or When controls are outside of the medical test site's acceptable limits or exhibit trends.

(9) The medical test site must perform quality control procedures as described for each specialty and subspecialty in (a) through (l) of this subsection.

(a) **Chemistry.**

Perform quality control procedures for chemistry as described in Table 090-3 or follow an equivalent quality testing procedure that meets federal CLIA regulations.

Table 090-3 Quality Control Procedures—Chemistry

Subspecialty/Test	Qualitative		Quantitative	
	Control Material	Frequency	Control Material	Frequency
Routine Chemistry	<ul style="list-style-type: none"> Positive and negative reference material 	<ul style="list-style-type: none"> Each day of use 	<ul style="list-style-type: none"> Two levels of reference material in different concentrations 	<ul style="list-style-type: none"> Each day of use
Toxicology				
<ul style="list-style-type: none"> GC/MS for drug screening Urine drug screen 	<ul style="list-style-type: none"> Analyte-specific control Positive control containing at least one drug representative of each drug class to be reported; must go through each phase of use including extraction 	<ul style="list-style-type: none"> With each run of patient specimens With each run of patient specimens 	<ul style="list-style-type: none"> Analyte-specific control 	<ul style="list-style-type: none"> With each analytical run
Urinalysis				
<ul style="list-style-type: none"> Nonwaived instrument Refractometer for specific gravity 			<ul style="list-style-type: none"> Two levels of control material Calibrate to zero with distilled water One level of control material 	<ul style="list-style-type: none"> Each day of use Each day of use
Blood Gas Analysis				
			<ul style="list-style-type: none"> Calibration One level of control material 	<ul style="list-style-type: none"> Follow manufacturer's specifications and frequency Each eight hours of testing, using both low and high values on each day of testing

Subspecialty/Test	Qualitative		Quantitative	
	Control Material	Frequency	Control Material	Frequency
			<ul style="list-style-type: none"> One-point calibration or one control material 	<ul style="list-style-type: none"> Each time patient specimen is tested, unless automated instrument internally verifies calibration every thirty minutes
Electrophoresis	<ul style="list-style-type: none"> One control containing fractions representative of those routinely reported in patient specimens 	<ul style="list-style-type: none"> In each electrophoretic cell 	<ul style="list-style-type: none"> One control containing fractions representative of those routinely reported in patient specimens 	<ul style="list-style-type: none"> In each electrophoretic cell

(b) Hematology.

- (i) Run patient and quality control samples in duplicate for manual cell counts;
- (ii) If reference material is unavailable, document the mechanism used to assure the quality, accuracy, and precision of the test; and
- (iii) Perform quality control procedures for hematology as described in Table 090-4 or follow an equivalent quality testing procedure that meets federal CLIA regulations.

Table 090-4 Quality Control Procedures—Hematology

	Control Material	Frequency
Automated	<ul style="list-style-type: none"> Two levels of reference material in different concentrations 	<ul style="list-style-type: none"> Each day that patient samples are tested
Manual Blood Counts	<ul style="list-style-type: none"> One level of reference material 	<ul style="list-style-type: none"> Every eight hours that patient samples are tested
Qualitative Tests	<ul style="list-style-type: none"> Positive and negative reference material 	<ul style="list-style-type: none"> Each day of testing

(c) Coagulation.

- (i) Run patient and quality control samples in duplicate for manual coagulation test (tilt tube);
- (ii) If reference material is unavailable, document the mechanism used to assure the quality, accuracy, and precision of the test; and
- (iii) Perform quality control procedures for coagulation as described in Table 090-5 or follow an equivalent quality testing procedure that meets federal CLIA regulations.

Table 090-5 Quality Control Procedures—Coagulation

	Control Material	Frequency
Automated	<ul style="list-style-type: none"> Two levels of reference material in different concentrations 	<ul style="list-style-type: none"> Every eight hours that patient samples are tested; and Each time reagents are changed
Manual Tilt Tube Method	<ul style="list-style-type: none"> Two levels of reference material in different concentrations 	<ul style="list-style-type: none"> Every eight hours that patient samples are tested; and Each time reagents are changed

(d) General immunology.

- (i) Employ reference materials for all test components to ensure reactivity;
- (ii) Report test results only when the predetermined reactivity pattern of the reference material is observed; and
- (iii) Perform quality control procedures for general immunology as described in Table 090-6 or follow an equivalent quality testing procedure that meets federal CLIA regulations.

Table 090-6 Quality Control Procedures—General Immunology

	Control Material	Frequency
Serologic tests on unknown specimens	<ul style="list-style-type: none"> Positive and negative reference material 	<ul style="list-style-type: none"> Each day of testing
Kits with procedural (internal) controls	<ul style="list-style-type: none"> Positive and negative reference material (external controls) Procedural (internal) controls 	<ul style="list-style-type: none"> When kit is opened; and Each day of testing, or follow an equivalent quality testing procedure that meets federal CLIA regulations Each time patient sample is tested
<p>(e) Syphilis serology.</p> <p>(i) Use equipment, glassware, reagents, controls, and techniques that conform to manufacturer's specifications;</p> <p>(ii) Employ reference materials for all test components to ensure reactivity; and</p> <p>(iii) Perform serologic tests on unknown specimens each day of testing with a positive serum reference material with known titer or graded reactivity and a negative reference material.</p> <p>(f) Microbiology.</p> <p>(i) Have available and use:</p> <p>(A) Appropriate stock organisms for quality control purposes; and</p> <p>(B) A collection of slides, photographs, gross specimens, or text books for reference sources to aid in identification of microorganisms;</p> <p>(ii) Document all steps (reactions) used in the identification of microorganisms on patient specimens;</p> <p>(iii) For antimicrobial susceptibility testing:</p> <p>(A) Record zone sizes or minimum inhibitory concentration for reference organisms; and</p> <p>(B) Zone sizes or minimum inhibitory concentration for reference organisms must be within established limits before reporting patient results; and</p> <p>(C) Perform quality control on antimicrobial susceptibility testing media as described in Table 090-8;</p> <p>(iv) For noncommercial media, check each batch or shipment for sterility, ability to support growth and, if appropriate, selectivity, inhibition, or biochemical response;</p> <p>(v) For commercial media:</p> <p>(A) Verify that the product insert specifies that the quality control checks meet the requirements for media quality control as outlined by the ((NCCLS, <i>Quality Assurance for Commercially Prepared Microbiological Culture Media—Second Edition; Approved Standard (1996)</i>)) <u>Clinical Laboratory Standards Institute (CLSI). <i>M22-A3 Quality Control for Commercially Prepared Microbiological Culture Media; Approved Standard—Third Edition</i>. June 2004. (Volume 24, Number 19)</u>;</p> <p>(B) Keep records of the manufacturer's quality control results;</p> <p>(C) Document visual inspection of the media for proper filling of the plate, temperature or shipment damage, and contamination before use; and</p> <p>(D) Follow the manufacturer's specifications for using the media; and</p> <p>(vi) For microbiology subspecialties:</p> <p>(A) Bacteriology: Perform quality control procedures for bacteriology as described in Tables 090-7 and 090-8.</p>		

Table 090-7 Quality Control Procedures—Bacteriology

	Control Material	Frequency
Reagents, disks, and identification systems	<ul style="list-style-type: none"> Positive and negative reference organisms, unless otherwise specified 	<ul style="list-style-type: none"> Each batch, shipment, and new lot number unless otherwise specified
Catalase, coagulase, oxidase, and Beta-lactamase Cefinase™ reagents		
Bacitracin, optochin, ONPG, X and V disks or strips		
Stains, unless otherwise specified; DNA probes; and all beta-lactamase methods other than Cefinase™	<ul style="list-style-type: none"> Positive and negative reference organisms 	<ul style="list-style-type: none"> Each batch, shipment, and new lot number; and Each day of use
Fluorescent stains	<ul style="list-style-type: none"> Positive and negative reference organisms 	<ul style="list-style-type: none"> Each batch, shipment, and new lot number; and Each time of use

	Control Material	Frequency
Gram stains	<ul style="list-style-type: none"> Positive and negative reference organisms 	<ul style="list-style-type: none"> Each batch, shipment, and new lot number; and Each week of use
Direct antigen detection systems without procedural controls	<ul style="list-style-type: none"> Positive and negative controls that evaluate both the extraction and reaction phase 	<ul style="list-style-type: none"> Each batch, shipment, and new lot number; and Each day of use
Test kits with procedural (internal) controls	<ul style="list-style-type: none"> Positive and negative reference material (external) controls Procedural (internal) controls 	<ul style="list-style-type: none"> Each batch, shipment, and new lot number; and Each day of testing, or follow an equivalent quality testing procedure that meets federal CLIA regulations Each time patient sample is tested
Antisera	<ul style="list-style-type: none"> Positive and negative reference material 	<ul style="list-style-type: none"> Each batch, shipment, and new lot number; and Every six months

Table 090-8 Quality Control Procedures—Bacteriology - Media for Antimicrobial Susceptibility Testing

	Control Material	Frequency
Check each new batch of media and each new lot of antimicrobial disks or other testing systems (MIC)	<ul style="list-style-type: none"> Approved reference organisms (ATCC organisms) 	<ul style="list-style-type: none"> Before initial use and each day of testing; or May be done weekly if the medical test site can meet the quality control requirements for antimicrobial disk susceptibility testing as outlined by ((NCCLS Performance Standards for Antimicrobial Disk Susceptibility Tests—Eighth Edition; Approved Standard (2003))) <u>CLSI M100S Performance Standards for Antimicrobial Susceptibility Testing; Twenty-Sixth Edition.</u>

(B) **Mycobacteriology:** Perform quality control procedures for mycobacteriology as described in Table 090-9.

Table 090-9 Quality Control Procedures—Mycobacteriology

	Control Material	Frequency
All reagents or test procedures used for mycobacteria identification unless otherwise specified	<ul style="list-style-type: none"> Acid-fast organism that produces a positive reaction and an acid-fast organism that produces a negative reaction 	<ul style="list-style-type: none"> Each day of use
Acid-fast stains	<ul style="list-style-type: none"> Acid-fast organism that produces a positive reaction and an organism that produces a negative reaction 	<ul style="list-style-type: none"> Each day of use
Fluorochrome acid-fast stains	<ul style="list-style-type: none"> Acid-fast organism that produces a positive reaction and an acid-fast organism that produces a negative reaction 	<ul style="list-style-type: none"> Each time of use
Susceptibility tests performed on <i>Mycobacterium tuberculosis</i> isolates	<ul style="list-style-type: none"> Appropriate control organism(s) 	<ul style="list-style-type: none"> Each batch of media, and each lot number and shipment of antimycobacterial agent(s) before, or concurrent with, initial use Each week of use

(C) **Mycology:** Perform quality control procedures for mycology as described in Table 090-10.

Table 090-10 Quality Control Procedures—Mycology

	Control Material	Frequency
Susceptibility tests: Each drug NOTE: Establish control limits and criteria for acceptable control results prior to reporting patient results	<ul style="list-style-type: none"> One control strain that is susceptible to the drug 	<ul style="list-style-type: none"> Each day of use
Lactophenol cotton blue stain	<ul style="list-style-type: none"> Appropriate control organism(s) 	<ul style="list-style-type: none"> Each batch or shipment and each lot number
Acid-fast stains	<ul style="list-style-type: none"> Organisms that produce positive and negative reactions 	<ul style="list-style-type: none"> Each day of use
Reagents for biochemical and other identification test procedures	<ul style="list-style-type: none"> Appropriate control organism(s) 	<ul style="list-style-type: none"> Each batch or shipment and each lot number
Commercial identification systems utilizing two or more substrates	<ul style="list-style-type: none"> Organisms that verify positive and negative reactivity of each media type 	<ul style="list-style-type: none"> Each batch or shipment and each lot number

(D) Parasitology:

(I) Have available and use:

- Reference collection of slides or photographs and, if available, gross specimens for parasite identification; and
- Calibrated ocular micrometer for determining the size of ova and parasites, if size is a critical parameter.

(II) Check permanent stains each month of use with reference materials.

(E) Virology:

(I) Have available:

- Host systems for isolation of viruses; and
- Test methods for identification of viruses that cover the entire range of viruses that are etiologically related to the clinical diseases for which services are offered; and

(II) Simultaneously culture uninoculated cells or cell substrate as a negative control when performing virus identification.

(g) **Histopathology:** Fluorescent and immunohistochemical stains must be checked for positive and negative reactivity each time of use. For all other differential or special stains, include a control slide of known reactivity with each slide or group of slides ((for differential or special stains)) and document reactions.

(h) Cytology.

(i) Processing specimens:

(A) Stain all gynecological smears using a Papanicolaou or a modified Papanicolaou staining method;

(B) Have methods to prevent cross-contamination between gynecologic and nongynecologic specimens during the staining process; and

(C) Stain nongynecological specimens that have a high potential for cross-contamination separately from other nongynecological specimens, and filter or change the stains following staining.

(ii) Performing specimen examinations:

(A) All cytology preparations must be evaluated on the premises of the medical test site;

(B) Technical personnel must examine, unless federal law and regulation specify otherwise, no more than one hundred cytological slides (one patient specimen per slide; gynecologic, nongynecologic, or both) in a twenty-four-hour period and in no less than an eight-hour work period;

(C) Previously examined negative, reactive, reparative, atypical, premalignant or malignant gynecological cases and previously examined nongynecologic cytology preparations and tissue pathology slides examined by a technical supervisor are not included in the one hundred slide limit;

(D) Each nongynecologic slide preparation made using liquid-based slide preparatory techniques that result in cell dispersion over one-half or less of the total available slide may be counted as one-half slide; and

(E) Records of the total number of slides examined by each individual at all sites during each twenty-four-hour period must be maintained.

(iii) Establish and implement a quality assurance program that ensures:

(A) There is criteria for submission of material;

(B) All providers submitting specimens are informed of these criteria;

(C) All samples submitted are assessed for adequacy;

(D) Records of initial examinations and rescreening results are available and documented;

(E) Rescreening of benign gynecological slides is:

(I) Performed by an individual who meets the personnel requirements for technical or general supervisor in cytology as defined under 42 C.F.R. Part 493 Subpart M;

(II) Completed before reporting patient results on those selected cases;

(III) Performed and documented on:

- No less than ten percent of the benign gynecological slides; and

- Includes cases selected at random from the total case-load and from patients or groups of patients that are identified as having a high probability of developing cervical cancer, based on available patient information;

(F) The technical supervisor:

(I) Confirms all gynecological smears interpreted to be showing reactive or reparative changes, atypical squamous or glandular cells of undetermined significance, or to be in the premalignant (dysplasia, cervical intraepithelial neoplasia or all squamous intraepithelial neoplasia lesions including human papillomavirus-associated changes) or malignant category;

(II) Reviews all nongynecological cytological preparations; and

(III) Establishes, documents, and reassesses, at least every six months, the workload limits for each cytotechnologist;

(G) All cytology reports with a diagnosis of high-grade squamous intraepithelial lesion (HSIL), adenocarcinoma, or other malignant neoplasms are correlated with prior cytology reports and with histopathology reports if available, and the causes of any discrepancies are determined;

(H) Review of all normal or negative gynecological specimens received within the previous five years, if available in the laboratory system, or records of previous reviews, for each patient with a current high grade intraepithelial lesion or moderate dysplasia of CIN-2 or above;

(I) Notification of the patient's physician if significant discrepancies are found that would affect patient care and issuance of an amended report;

(J) An annual statistical evaluation of the number of cytology cases examined, number of specimens processed by specimen type, volume of patient cases reported by diagnosis, number of cases where cytology and histology are discrepant, number of cases where histology results were unavailable for comparison, and number of cases where rescreen of negative slides resulted in reclassification as abnormal; and

(K) Evaluation and documentation of the performance of each individual examining slides against the medical test site's overall statistical values, with documentation of any discrepancies, including reasons for the deviation and corrective action, if appropriate.

(i) Immunohematology/transfusion services.

(i) Perform ABO grouping, Rh (D) typing, antibody detection and identification, and compatibility testing as described by the Food and Drug Administration (FDA) under 21 C.F.R. Parts 606 and 640.

(A) Perform ABO grouping:

(I) By concurrently testing unknown red cells with FDA approved anti-A and anti-B grouping sera;

(II) Confirm ABO grouping of unknown serum with known A1 and B red cells;

(B) Perform Rh (D) typing by testing unknown red cells with anti-D (anti-Rh) blood grouping serum; and

(C) Perform quality control procedures for immunohematology as described in Table 090-11.

(ii) Blood and blood products:

(A) Collecting, processing, and distributing:

(I) Must comply with FDA requirements listed under 21 C.F.R. Parts 606, 610.40, 610.53, and 640; and

(II) Must establish, document, and follow policies to ensure positive identification of a blood or blood product recipient.

(B) Labeling and dating must comply with FDA requirements listed under 21 C.F.R. 606 Subpart G, and 610.53.

(C) Storing:

(I) There must be an adequate temperature alarm system that is regularly inspected.

(II) The system must have an audible alarm system that monitors proper blood and blood product storage temperature over a twenty-four-hour period.

(III) High and low temperature checks of the alarm system must be documented.

(D) Collection of heterologous or autologous blood products on-site:

(I) Must register with the FDA; and

(II) Have a current copy of the form FDA 2830 "Blood Establishment Registration and Product Listing."

(iii) Must have an agreement approved by the director for procurement, transfer, and availability to receive products from outside entities.

(iv) Promptly investigate transfusion reactions according to established procedures, and take any necessary remedial action.

Table 090-11 Quality Control Procedures—Immunohematology

Reagent	Control Material	Frequency
ABO antisera	• Positive control	• Each day of use
Rh antisera	• Positive and negative controls • Patient control to detect false positive Rh test results	• Each day of use • When required by the manufacturer
Other antisera	• Positive and negative controls	• Each day of use
ABO reagent red cells	• Positive control	• Each day of use
Antibody screening cells	• Positive control using at least one known antibody	• Each day of use

(j) Histocompatibility.

(i) Use applicable quality control standards for immunohematology, transfusion services, and diagnostic immunology as described in this chapter; and

(ii) Meet the standards for histocompatibility as listed in 42 C.F.R. Part 493.1278, Standard: Histocompatibility, available from the department upon request.

(k) Cytogenetics.

(i) Document:

(A) Number of metaphase chromosome spreads and cells counted and karyotyped;

(B) Number of chromosomes counted for each metaphase spread;

(C) Media used;

(D) Reactions observed;

(E) Quality of banding; and

(F) Sufficient resolution appropriate for the type of tissue or specimen and the type of study required based on the clinical information provided;

(ii) Assure an adequate number of karyotypes are prepared for each patient according to the indication given for performing cytogenetics study;

(iii) Use an adequate patient identification system for:

(A) Patient specimens;

(B) Photographs, photographic negatives, or computer stored images of metaphase spreads and karyotypes;

(C) Slides; and

(D) Records; and

(iv) Perform full chromosome analysis for determination of sex.

(l) **Radiobioassay and radioimmunoassay.**

(i) Check the counting equipment for stability each day of use with radioactive standards or reference sources; and

(ii) Meet Washington state radiation standards described under chapter 70.98 RCW and chapters 246-220, 246-221, 246-222, 246-232, 246-233, 246-235, 246-239, 246-247, 246-249, and 246-254 WAC.

WSR 16-18-085

PERMANENT RULES DEPARTMENT OF

LABOR AND INDUSTRIES

[Filed September 6, 2016, 1:01 p.m., effective October 7, 2016]

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

Purpose: This rule making implements requirements of ESSB 6293, which allowed public and private colleges to create unpaid student volunteer programs in for-profit or non-profit businesses, and allowed those businesses to elect medical aid coverage for student volunteers and unpaid students participating in the program. Providing employers the opportunity to elect medical aid coverage for student volunteers and unpaid students in experience-based activities will encourage more employers to participate in these school-sponsored programs.

Also, private colleges may now elect medical aid coverage for qualifying students volunteering for the college. (Past law required state colleges to cover volunteers serving the college, but allowed only charitable private organizations to elect coverage for volunteers.)

This legislation also created a means for all entities with coverage for volunteers, student volunteers, or unpaid students to cap reporting at one hundred hours per volunteer per calendar year. This type of reporting has not historically been an option for employers and L&I has designed rules to implement the change.

Citation of Existing Rules Affected by this Order: New WAC 296-17-935 Options for reporting qualifying volunteers, including student volunteers and unpaid students; and amending WAC 296-17-35201 Recordkeeping and retention, 296-17-925 Student volunteers, 296-17-930 Volunteers, 296-17A-6901 Volunteers and student volunteers, and 296-17A-6906 Volunteer law enforcement officers.

Statutory Authority for Adoption: RCW 51.04.020 and 51.16.035.

Adopted under notice filed as WSR 16-13-118 on June 21, 2016.

Changes Other than Editing from Proposed to Adopted Version: Clarifying words were added to WAC 296-17A-6901 (Classification 6901) describing unpaid students as recommended by a stakeholder. The meaning is unchanged.

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 5, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 1, Amended 5, 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 1, Amended 5, 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: September 6, 2016.

Joel Sacks
Director

AMENDATORY SECTION (Amending WSR 03-23-025, filed 11/12/03, effective 1/1/04)

WAC 296-17-35201 Recordkeeping and retention.

Washington law (RCW 51.48.030) requires every employer to make, keep, and preserve records which are adequate to facilitate the determination of premiums due to the state for workers' compensation insurance for their covered workers. In the administration of Title 51 RCW, the department of labor and industries has deemed the records and information required in the various subsections of this section to be essential in the determination of premiums due to the state fund. The records so specified and required, shall be provided at the time of audit to any authorized representative of the department who has requested them.

Failure to produce the requested records within thirty days of the request, or within an agreed upon time period shall constitute prima facie evidence of noncompliance with this rule and shall invoke the statutory bar to challenge found in RCW 51.48.030 and/or 51.48.040. See WAC 296-17-925, 296-17-930, and 296-17-935 for additional reporting and recordkeeping requirements for qualifying volunteers, student volunteers, and unpaid students.

(1) Employment records. Every employer shall with respect to each worker, make, keep, and preserve original records containing all of the following information for three full calendar years following the calendar year in which employment occurred:

(a) The name of each worker;

(b) The Social Security number of each worker;

(c) The beginning date of employment for each worker and, if applicable, the separation date of employment of each such worker;

(d) The basis upon which wages are paid to each worker;

(e) The number of units earned or produced for each worker paid on a piecework basis;

(f) The risk classification applicable to each worker whenever the worker hours of any one employee are being divided between two or more classifications;

(g) The number of actual hours worked (WAC 296-17-31002) by each worker, unless another basis of computing hours worked is prescribed in WAC 296-17-31021 or 296-17-935;

(h) A summary time record for each worker showing the calendar day or days of the week work was performed and the actual number of hours worked each work day;

(i) The workers' total gross pay period earnings;

(j) The specific sums withheld from the earnings of each worker, and the purpose of each sum withheld;

(k) The net pay earned by each such worker.

(2) Business, financial records, and record retention. Every employer is required to keep and preserve all original employment time records for three full calendar years following the calendar year in which employment occurred. The three-year period is specified in WAC 296-17-352 as the composite period from the date any such premium became due.

Employers who pay their workers by check are required to keep and preserve all check registers and bank statements. Employers who pay their workers by cash are required to keep and preserve records of these cash transactions which provide a detailed record of wages paid to each worker.

(3) Recordkeeping - Estimated premium computation. Any employer required by this section to make, keep, and preserve records containing the information as specified in subsections (1) and (2) of this section, who fails to make, keep, and preserve such records, shall for the purpose of premium calculation assume worker hours using the average hourly wage rate for each classification, and also will be subject to penalties prescribed in subsection (4) of this section. The records compiled by the department shall be the basis for determining the average hourly wage rate: Provided, That the average hourly wage rate shall be no less than the state minimum wage existing at the time such assumed hours are worked. Notwithstanding any other provisions of this section, workers employed in a work activity center subject to Classification 7309 shall be reported on the basis of the average hourly wage.

(4) Failure to maintain records - Penalties. Any employer required by this section to make, keep, and preserve records containing the information as specified in subsections (1) and (2) of this section, who fails to make, keep, and preserve such record, shall be liable, subject to RCW 51.48.030, to a penalty in the amount of two hundred fifty dollars for each such offense. Failure to make, keep, and preserve records containing the information as specified in subsections (1) and (2) of this section, for a single employee shall constitute one offense, for two employees two offenses, and so forth.

AMENDATORY SECTION (Amending WSR 94-24-007, filed 11/28/94, effective 1/1/95)

WAC 296-17-925 ((Student volunteers.)) Record-keeping requirements for student volunteers and/or unpaid students. ((Any employer electing to insure student volunteers under the authority of chapter 51.12 RCW as now

~~or hereafter amended shall give notice in writing on a form prescribed by the department. Any employer having elected to insure student volunteers shall maintain office records of all hours of work performed by student volunteers. Such office records shall include notice in writing as a registration of each student who has been recognized by the school and accepted by the employer to perform or observe the work of the employer. A report of such hours will be included with the employer's regular quarterly report of payroll as prescribed by the department, and will include payment for the premium based on such hours and at such rates per hour as assigned by the department.)) If you elect to insure qualifying student volunteers and/or unpaid students as defined in chapter 51.12 RCW, as now or hereafter amended, you must give the department written notice on a form prescribed by the department.~~

All entities with coverage for qualifying student volunteers or unpaid students must maintain the following additional records relating to:

- Names of all qualifying persons that the employer seeks to cover under this election; and

- Proof of registration of qualifying persons' current enrollment in school or institution of higher education as defined in RCW 51.12.170; and

- Authorization from the school or institution of higher education for qualifying persons' participation in the school's volunteer program or the school's unpaid work-based learning program;

- Qualifying persons' actual hours worked, unless you have notified the department in writing of your decision to report one hundred hours per volunteer per calendar year (one hundred hour-cap method; see WAC 296-17-935).

If you fail to keep records to demonstrate individuals are qualified student volunteers or unpaid students, or if you are unable to provide records to the department upon request, the department will determine classification and premiums due for each individual in question.

See relevant rules, including WAC 296-17-935, for reporting options for volunteers, student volunteers, and unpaid students; and WAC 296-17-35201 for recordkeeping requirements.

AMENDATORY SECTION (Amending Order 77-27, filed 11/30/77, effective 1/1/78)

WAC 296-17-930 Volunteers. Any city, town, county, school district, municipal corporation or any other political subdivision, or private nonprofit charitable organization electing to insure qualified volunteers under the authority of RCW 51.12.035 as now or hereafter amended, shall give ~~((notice in writing on a form prescribed by the department. Any employer having elected to insure volunteers shall maintain office records of all hours of work performed by volunteers. Such office records shall include notice in writing as a registration of each person who has volunteered and has been accepted by the employer to perform work as a volunteer. A report of such hours will be included with the employer's regular quarterly report of payroll as prescribed by the department, and will include payment for the premium based on such hours and at such rates per hour as assigned by))~~ the

department written notice of its intent to provide coverage on a form prescribed by the department. Any employer insuring qualifying volunteers shall choose a reporting method option to apply to all qualifying volunteers. Employers have the option of choosing either:

• Maintaining records of all actual hours of work performed by each qualifying volunteer; or

• Reporting one hundred hours for each qualifying volunteer per calendar year (one hundred-hour cap method) rather than keep a record of actual hours for each qualifying volunteer per calendar year (see WAC 296-17-935).

Note: Election of reporting method is for each calendar year. Electing employers must report all of their qualified volunteers in the same manner each calendar year.

Note: Employers insuring qualifying volunteers must provide their reporting method (by selecting between either: Actual hours per qualifying volunteer or one hundred hours per such volunteer per calendar year) in the first quarter of the calendar year in which coverage for the volunteers is effective, along with the employer's regular quarterly report of payroll as prescribed by the department; see relevant reporting rules, including WAC 296-17-935.

The employer's office records shall include, in addition to records required under WAC 296-17-35201, written:

• Registration of each person who has volunteered; and
 • Acceptance by the employer to perform work as a volunteer.

NEW SECTION

WAC 296-17-935 Options for reporting qualifying volunteers, including student volunteers and unpaid students. If you elect to insure qualifying volunteers, including student volunteers or unpaid students, as defined in chapter 51.12 RCW as now or hereafter amended, you must give notice in writing on a form prescribed by the department. If you do not currently have elective coverage for such volunteers, including student volunteers or unpaid students, and you would like to cover them, please contact our underwriting section at phone number 360-902-4817.

Effective June 9, 2016, a law change (see section 3, chapter 62, Laws of 2016) created an additional reporting option for employers who cover qualifying volunteers (including student volunteers and unpaid students) for medical aid only.

When filing your quarterly report in the first quarter of the calendar year in which coverage for your qualifying volunteers is effective, you must indicate your choice to report all such qualifying volunteers based on either:

• Actual hours worked; or
 • One hundred hours per qualifying volunteer per calendar year (one hundred-hour cap method).

You must use the same method to report all your qualifying volunteers in the calendar year. The first time you file your quarterly report in subsequent calendar years, you may change your reporting method for that calendar year.

If you have previously chosen in a calendar year to report one hundred hours per qualifying volunteer per calendar year, for all quarterly reports for that calendar year:

• You must report one hundred hours for any new qualifying volunteers who you have not reported in previous quarters of the calendar year.

• If you have no new qualifying volunteers in the quarters after you chose to report one hundred hours per qualifying volunteer, you must report zero hours for the volunteer classification.

For calendar year 2016 only, in addition to the above requirements, since the one hundred hour reporting option may be used only after the effective date of the law change, if you choose to report one hundred hours per qualifying volunteer:

• You must still report and pay premium based on actual hours for qualifying volunteers in the second quarter of 2016; and

• Your premium payment for one hundred hours per qualifying volunteer applies only for coverage for the third and fourth quarter of 2016; and

• Hours reported in the first and second quarter of 2016 for volunteer coverage do not count toward the one hundred hours per qualifying volunteer for 2016.

See relevant rules, including WAC 296-17-925 for recordkeeping requirements for student volunteers and unpaid students, WAC 296-17-930 for recordkeeping requirements for other volunteers, and WAC 296-17-35201 for general recordkeeping and retention requirements.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-6901 Classification 6901.

~~((6901-00))~~ Volunteers

~~((Applies to the medical aid coverage for volunteers of state agencies, municipal corporations, political subdivisions, or private nonprofit charitable organizations. Medical aid coverage is *mandatory* for volunteers of state agencies. Medical aid coverage is *optional* for volunteers of city, county, town, special district, municipal corporations, political subdivisions, or nonprofit charitable organizations.~~

~~This classification excludes student volunteers of private sector employers who are to be reported separately in classification 6901-01; volunteer law enforcement officers of cities, towns, counties and taxing districts for whom medical aid only coverage has been elected who are to be reported separately in classification 6906; and volunteer law enforcement officers of cities, towns, counties, or Native American tribal councils for whom full coverage has been elected who are to be reported separately in classification 6905.~~

~~**Special note:** To elect coverage for volunteers, employers or charitable organizations must submit a completed Application for Optional Coverage to the department. Conditions of coverage are outlined on the application. State Fund workers' compensation is not provided to volunteer firemen covered by chapter 41.24 RCW and emergency services workers covered by chapter 38.52 RCW.~~

~~6901-01 Student volunteers~~

~~Applies to the medical aid coverage for student volunteers. Medical aid coverage is *optional* for student volunteers. A student volunteer is defined as a student who is enrolled in~~

a public school (kindergarten level through grade 12), is participating as a volunteer in a program authorized or sponsored by the public school to provide work-based learning experiences, and who receives no wages for their volunteer services. Maintenance and reimbursement for actual expenses incurred in performing assigned duties are not considered wages.

This classification excludes volunteer workers for state agencies, local government agencies and private nonprofit charitable organizations who are to be reported separately in classification 6901-00; volunteer law enforcement officers of cities, towns, counties and taxing districts for whom medical aid only coverage has been elected who are to be reported separately in classification 6906; and volunteer law enforcement officers of cities, towns, counties, or Native American tribal councils for whom full coverage has been elected who are to be reported separately in classification 6905.

Special note: To elect coverage for student volunteers, employers or charitable organizations must submit a completed Application for Optional Coverage to the department. Conditions of coverage are outlined on the application. State Fund workers' compensation is not provided to volunteer firemen covered by chapter 41.24 RCW and emergency services workers covered by chapter 38.52 RCW.)) Applies to the medical aid coverage for volunteers of state agencies, municipal corporations, political subdivisions, private nonprofit charitable organizations, and student volunteers and/or unpaid students as defined in chapter 51.12 RCW.

- Medical aid coverage is *mandatory* for volunteers of state agencies.

- Medical aid coverage is *optional* for volunteers of cities, counties, towns, special districts, municipal corporations, political subdivisions, private nonprofit charitable organizations, and for qualifying student volunteers and/or unpaid students as defined in chapter 51.12 RCW.

This classification excludes:

- Volunteer law enforcement officers of cities, towns, counties and taxing districts for whom medical aid only coverage has been elected who are to be reported separately in classification 6906; and

- Volunteer law enforcement officers of cities, towns, counties, or Native American tribal councils for whom full coverage has been elected who are to be reported separately in classification 6905.

Special note: See relevant rules, including WAC 296-17-925, 296-17-930, 296-17-935, and 296-17-35201 for reporting instructions and recordkeeping requirements. To elect coverage for qualified volunteers, employers or charitable organizations must submit a completed Application for Elective Coverage of Excluded Employment form to the department. State Fund workers' compensation is not provided to volunteer firefighters covered by chapter 41.24 RCW, nor to emergency services workers covered by chapter 38.52 RCW.

For administrative purposes, classification 6901 is divided into the following subclassifications:

6901-00 Volunteers of state agencies, cities, counties, towns, municipal corporations, political subdivisions, or private nonprofit charitable organizations

6901-01 Student volunteers, unpaid students

A student volunteer is defined as a student who is:

- Currently enrolled in a public or private K-12 school or state public or private institution of higher education; and

- Participating as a student volunteer in a program authorized by the school; and

- Performing duties for the employer without receiving wages for their volunteer services. Maintenance and reimbursement for actual expenses necessarily incurred in performing the assigned duties are not considered wages.

An unpaid student is defined as a student who is:

- Currently enrolled in a state public or private institution of higher education; and

- Participating in an unpaid work-based learning program (including cooperative education, clinical experience, and internship programs) authorized by the school; and

- Performing duties for the employer without receiving wages for their services; and

- Receiving credit towards completing the school program, certification, or degree from an institution of higher education. Maintenance and reimbursement for actual expenses necessarily incurred in performing the assigned duties are not considered wages. Credit towards completing the school program, certification, or degree are not considered wages.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-6906 Classification 6906.

~~((6906-00 Volunteer law enforcement officers of cities and towns—Medical aid only~~

~~Applies to medical aid coverage for volunteer law enforcement officers of cities and towns for whom the cities or towns have elected coverage. Duties of law enforcement officers include, but are not limited to, directing traffic, patrolling by motor vehicle, motorcycle, bicycle, or on foot or horseback, preventing crimes, investigating disturbances of the peace, arresting violators, conducting criminal investigations, giving first aid, and guarding persons detained at the police station.~~

~~This classification excludes salaried law enforcement officers and volunteer law enforcement officers for whom the cities or towns have elected full coverage who are to be reported separately in classification 6905.~~

~~See classifications 0803, 1301, 1507, 5305, 6901, 6904, and 6905 for other city or town operations.~~

~~**Special note:** This coverage is optional for volunteer law enforcement officers. To elect coverage for volunteer law enforcement officers, the city or town must submit a completed Application for Optional Coverage to the department. Conditions of coverage are outlined on the application. If coverage is provided, all law enforcement officers must be included.~~

~~6906-01 Volunteer law enforcement officers of counties, taxing districts and Native American tribal councils—Medical aid only~~

~~Applies to medical aid coverage for volunteer law enforcement officers of counties, taxing districts and Native~~

American tribal councils for whom the counties, taxing districts or Native American tribal councils have elected coverage. Duties of law enforcement officers include, but are not limited to, directing traffic, patrolling by motor vehicle, motorcycle, bicycle, or on foot or horseback, preventing crimes, investigating disturbances of the peace, arresting violators, conducting criminal investigations, giving first aid, and guarding persons detained at the police station.

This classification excludes salaried law enforcement officers and volunteer law enforcement officers for whom the counties, taxing districts or Native American tribal councils have elected full coverage, who are to be reported separately in classification 6905. See classifications 1301, 1501, 1507, 5306, 6901, 6904, and 6905 for other county or taxing district operations.

Special note: This coverage is optional for volunteer law enforcement officers. To elect coverage for volunteer law enforcement officers, the counties, taxing districts or Native American tribal councils must submit a completed Application for Optional Coverage to the department. Conditions of coverage are outlined on the application. If coverage is provided, all law enforcement officers must be included.

6906-02 Volunteer law enforcement officers of state agencies - Medical aid only

Applies to medical aid coverage for volunteer law enforcement officers of state agencies for whom the state agencies have elected coverage. Duties of law enforcement officers include, but are not limited to, directing traffic, patrolling by motor vehicle, motorcycle, bicycle, or on foot or horseback, preventing crimes, investigating disturbances of the peace, arresting violators, conducting criminal investigations, giving first aid, and guarding persons detained at the police station.

This classification excludes salaried law enforcement officers and volunteer law enforcement officers for whom the state agencies have elected full coverage who are to be reported separately in classification 7103.

See classifications 4902, 4906, 5307, 7103, and 7201 for other state government operations.

Special note: This coverage is optional for volunteer law enforcement officers. To elect coverage for volunteer law enforcement officers, the state agencies must submit a completed Application for Optional Coverage to the department. Conditions of coverage are outlined on the application. If coverage is provided, all law enforcement officers must be included.)) **Volunteer law enforcement officers**

Applies to medical aid coverage for volunteer law enforcement officers of cities, towns, counties, taxing districts, Native American tribal councils, and state agencies for whom these entities have elected coverage for medical aid only. Duties of law enforcement officers include, but are not limited to:

- Directing traffic;
- Patrolling by motor vehicle, motorcycle, bicycle, on foot or horseback;
- Preventing crimes;
- Investigating disturbances of the peace;
- Arresting violators;
- Conducting criminal investigations;
- Giving first aid;

- Guarding persons detained at the police station; and
- Other similar activity conducted within the course of official duties.

This classification excludes:

- Salaried law enforcement officers;
- Volunteer law enforcement officers for whom the cities, towns, counties, taxing districts or Native American tribal councils have elected full coverage, who are to be reported separately in classification 6905;
- Volunteer law enforcement officers for whom the state agencies have elected full coverage who are to be reported separately in classification 7103;
- Student volunteers and/or unpaid students as defined in chapter 51.12 RCW for whom the cities, towns, counties, taxing districts, or Native American tribal councils have elected medical aid coverage, or for whom state agencies must provide coverage, who are to be reported separately in classification 6901.

For other operations of cities, towns, counties, taxing districts, or state government, see chapter 296-17A WAC classifications: 0803, 1301, 1501, 1507, 4902, 4906, 5305, 5306, 5307, 6901, 6904, 6905, 7103, and 7201.

Special note: This coverage is optional for volunteer law enforcement officers of cities, towns, counties, taxing districts, Native American tribal councils, and state agencies. To elect coverage for volunteer law enforcement officers, the city, town, county, taxing district, Native American tribal council, or state agency must submit a completed Application for Elective Coverage of Excluded Employments to the department. Conditions of coverage are outlined on the application. If coverage is provided, all law enforcement officers must be included. See relevant rules, including WAC 296-17-925, 296-17-930, 296-17-935, and 296-17-35201 for reporting instructions and recordkeeping requirements.

For administrative purposes, classification 6906 is divided into the following subclassifications:
6906-00 Volunteer law enforcement officers of cities and towns - Medical aid only
6906-01 Volunteer law enforcement officers of counties, taxing districts and Native American tribal councils - Medical aid only
6906-02 Volunteer law enforcement officers of state agencies - Medical aid only

WSR 16-18-087

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed September 6, 2016, 1:19 p.m., effective October 7, 2016]

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

Purpose: WAC 246-907-030 Pharmaceutical licensing periods—Fees and renewal cycle, the adopted rule increases application and renewal fees for Controlled Substances Act (CSA) researcher registration and separates it from the "Other CSA registrations" category. Revenue does not support the cost of inspections. RCW 43.70.250 requires the cost of each licensing program to be fully borne by the profession's members and fees to be based on the licensing program's costs.

Citation of Existing Rules Affected by this Order:
Amending WAC 246-907-030.

Statutory Authority for Adoption: RCW 69.50.302,
43.70.250.

Adopted under notice filed as WSR 16-12-044 on May
25, 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 Nongov-
ernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Ini-
tiative: 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: September 6, 2016.

Kristin Peterson, JD
Deputy Secretary
for John Wiesman, DrPH, MPH
Secretary

AMENDATORY SECTION (Amending WSR 11-20-092,
filed 10/4/11, effective 12/1/11)

**WAC 246-907-030 Pharmaceutical licensing periods
and fees—Fees and renewal cycle.** (1) Pharmacist, phar-
macy technician, and pharmacy intern licenses must be
renewed every year on the practitioner's birthday as provided
in chapter 246-12 WAC, Part 2.

(2) Pharmacy location, controlled substance registration
(pharmacy), Controlled Substances Act researcher registra-
tion, pharmacy technician utilization, and shopkeepers differ-
ential hours licenses will expire on June 1 of each year.

(3) All other licenses, including health care entity
licenses, registrations, permits, or certifications will expire
on October 1 of each year.

(4) The following nonrefundable fees will be charged for
pharmacy location:

Title of fee	Fee
Original pharmacy fee	\$370.00
Original pharmacy technician utilization fee	65.00
Renewal pharmacy fee	405.00
Renewal pharmacy technician utilization fee	75.00
Penalty pharmacy fee	205.00

(5) The following nonrefundable fees will be charged for
vendor:

Original fee	75.00
Renewal fee	75.00
Penalty fee	50.00

(6) The following nonrefundable fees will be charged for
pharmacist:

Original license fee	145.00
Renewal fee, active and inactive license	190.00
Renewal fee, retired license	25.00
Penalty fee	100.00
Expired license reissuance (active and inac- tive)	90.00
Reciprocity fee	335.00
Certification of license status to other states	30.00
Retired license	25.00
Temporary permit	65.00

(7) The following nonrefundable fees will be charged for
shopkeeper:

Original fee	40.00
Renewal fee	40.00
Penalty fee	40.00
Shopkeeper - <u>With differential hours:</u>	
Original fee	35.00
Renewal fee	35.00
Penalty fee	35.00

(8) The following nonrefundable fees will be charged for
drug manufacturer:

Original fee	590.00
Renewal fee	590.00
Penalty fee	295.00

(9) The following nonrefundable fees will be charged for
drug wholesaler - Full line:

Original fee	590.00
Renewal fee	590.00
Penalty fee	295.00

(10) The following nonrefundable fees will be charged
for drug wholesaler - OTC only:

Original fee	330.00
Renewal fee	330.00
Penalty fee	165.00

(11) The following nonrefundable fees will be charged for drug wholesaler - Export:

Original fee	590.00
Renewal fee	590.00
Penalty	295.00

(12) The following nonrefundable fees will be charged for drug wholesaler - Export nonprofit humanitarian organization.

Original fee	25.00
Renewal fee	25.00
Penalty	25.00

(13) The following nonrefundable fees will be charged for pharmacy technician:

Original fee	60.00
Renewal fee	50.00
Penalty fee	50.00
Expired license reissuance	50.00

(14) The following nonrefundable fees will be charged for pharmacy intern:

Original registration fee	30.00
Renewal registration fee	30.00

(15) The following nonrefundable fees will be charged for Controlled Substances Act (CSA):

Registrations	
Dispensing registration fee (i.e., pharmacies and health care entities)	80.00
Dispensing renewal fee (i.e., pharmacies and health care entities)	65.00
Distributors registration fee (i.e., wholesalers)	115.00
Distributors renewal fee (i.e., wholesalers)	115.00
Manufacturers registration fee	115.00
Manufacturers renewal fee	115.00
Sodium pentobarbital for animal euthanization registration fee	40.00
Sodium pentobarbital for animal euthanization renewal fee	40.00
<u>Researchers registration fee</u>	<u>400.00</u>
<u>Researchers renewal fee</u>	<u>400.00</u>
Other CSA registrations	40.00

(16) The following nonrefundable fees will be charged for legend drug sample - Distributor:

Registration fees	
Original fee	365.00
Renewal fee	265.00
Penalty fee	135.00

(17) The following nonrefundable fees will be charged for poison manufacturer/seller - License fees:

Original fee	40.00
Renewal fee	40.00

(18) The following nonrefundable fees will be charged for facility inspection fee:

200.00

(19) The following nonrefundable fees will be charged for precursor control permit:

Original fee	65.00
Renewal fee	65.00

(20) The following nonrefundable fees will be charged for license reissue:

Reissue fee	30.00
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(21) The following nonrefundable fees will be charged for health care entity:

Original fee	365.00
Renewal	265.00
Penalty	135.00