

WSR 19-02-017
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed December 21, 2018, 8:50 a.m., effective January 21, 2019]

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

Purpose: The department of social and health services division of child support (DCS) is adopting permanent rules to implement Part I of SSB 6334 (chapter 150, Laws of 2018), which made changes to the law and terminology concerning medical child support obligations. The statutory change introduces new terminology, but does not change the way that medical support obligations are established, either in court or in the administrative process. However, there are changes in the policies and procedures regarding how DCS enforces medical support obligations, most notably that an obligated parent can satisfy his or her health care coverage obligation by enrolling the child(ren) in public health care coverage. In Washington, "public health care coverage" means medicaid and the other programs included in the apple health program.

Citation of Rules Affected by this Order: New [amending] WAC 388-14A-1020, 388-14A-3312, 388-14A-3324, 388-14A-3925, 388-14A-4100, 388-14A-4110, 388-14A-4111, 388-14A-4112, 388-14A-4120, 388-14A-4160, 388-14A-4175, 388-14A-4180, and 388-14A-6300.

Statutory Authority for Adoption: Part I of SSB 6334 (chapter 150, Laws of 2018), effective date June 7, 2018; RCW 26.09.105, 26.18.170, 26.23.050, 34.05.220 (1)(a), 34.05.350(1), 74.08.090, 74.20.040(9).

Adopted under notice filed as WSR 18-21-149 on October 19, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 13, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 13, Repealed 0.

Date Adopted: December 19, 2018.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 13-01-075, filed 12/18/12, effective 1/18/13)

WAC 388-14A-1020 What definitions apply to the rules regarding child support enforcement? For purposes of this chapter, the following definitions apply:

"Absence of a court order" means that there is no court order either setting a support obligation for the noncustodial parent (NCP), or specifically relieving the NCP of a support obligation, for a particular child.

"Absent parent" is a term used for a noncustodial parent.

"Accessible coverage" means health (~~(insurance))~~ care coverage which provides primary care services to the children with reasonable effort by the (~~(custodian))~~ custodial parent.

"Accrued debt" means past-due child support which has not been paid.

"Acknowledged father" means a man who has established a father-child relationship (~~(under))~~ by:

(1) Signing a valid acknowledgment of paternity under RCW 26.26.300 through 26.26.375 prior to January 1, 2019;

(2) Signing a valid acknowledgment of parentage under RCW 26.26A.200 through 26.26A.265 on or after January 1, 2019; or

(3) Signing a valid acknowledgment of paternity or parentage under another jurisdiction's laws.

"Acknowledged parent" means an individual who, after January 1, 2019, has established a parent-child relationship by signing a valid acknowledgment of parentage under RCW 26.26A.200 through 26.26A.265.

"Adjudicated parent" means a person who has been adjudicated by a court of competent jurisdiction to be the parent of a child.

"Administrative order" means a determination, finding, decree or order for support issued under RCW 74.20A.-055, 74.20A.056, or 74.20A.059 or by the agency of an Indian tribe or another state or country's agency under an administrative process, establishing the existence of a support obligation (including medical support) and ordering the payment of a set or determinable amount of money for current support and/or a support debt. Administrative orders include:

(1) An order entered under chapter 34.05 RCW;

(2) An agreed settlement or consent order entered under WAC 388-14A-3600; and

(3) A support establishment notice which has become final by operation of law.

"Agency" means the Title IV-D provider of a state or tribe, or the central authority of another country. (~~(It))~~ For the state of Washington, ((this)) the Title IV-D provider is the division of child support (DCS) within the department of social and health services (DSHS).

"Agreed settlement" is an administrative order that reflects the agreement of the noncustodial parent, the custodial parent and the division of child support. An agreed settlement does not require the approval of an administrative law judge.

"Aid" or "public assistance" means cash assistance under the temporary assistance for needy families (TANF) program, the aid to families with dependent children (AFDC) program, federally funded or state-funded foster care, and includes day care benefits and medical benefits provided to families as an alternative or supplement to TANF.

"Alternate recipient" means a child of the employee or retiree named within a support order as being entitled to coverage under an employer's group health plan.

"Annual fee" means the ~~((twenty-five dollar annual))~~ fee charged on never-assistance cases based on the amount of collections between October 1 and September 30 each year, required by the Federal Deficit Reduction Act of 2005 and RCW 74.20.040.

"Applicant/custodian" means a person who applies for nonassistance support enforcement services on behalf of a child or children residing in their household.

"Applicant/recipient," "applicant," and "recipient" means a person who receives public assistance on behalf of a child or children residing in their household.

"Arrears" means the debt amount owed for a period of time before the current month.

"Assistance" means cash assistance under the state program funded under Title IV-A of the federal Social Security Act.

"Assistance unit" means a cash assistance unit as defined in WAC 388-408-0005. An assistance unit is the group of people who live together and whose income or resources the department counts to decide eligibility for benefits and the amount of benefits.

"Birth costs" means medical expenses incurred by the custodial parent or the state, tribe, or country for the birth of a child.

"Cash medical support" ~~((is a term used in RCW 26.09.105 and certain federal regulations to refer to amounts paid by an obligated parent to the other parent or to the state in order to comply with the medical support obligation stated in a child support order))~~ means a combination of:

(1) A parent's monthly payment toward the premium paid for coverage provided by a public entity or by another parent, which represents the obligated parent's proportionate share of the premium paid, but this amount is limited to no more than twenty-five percent of the obligated parent's basic support obligation; and

(2) A parent's proportionate share of uninsured medical expenses.

"Central authority" means the agency designated by a government to facilitate support enforcement with a foreign reciprocating country (FRC) pursuant to section 459A of the federal Social Security Act.

"Child," for the purposes of this chapter, means:

(a) An individual for whom a child support obligation is being established or enforced; or

(b) A dependent child as defined in RCW 74.20A.020(3); and

(c) Unless the context or the facts of a particular case clearly requires otherwise, "child" may be used interchangeably with the term "children."

"Children," for the purpose of this chapter, means more than one child, unless the context or the facts of a particular case clearly requires the term to refer to only one child.

"Conditionally assigned arrears" means those temporarily assigned arrears remaining on a case after the period of public assistance ends.

"Conference board" means a method used by the division of child support for resolving complaints regarding DCS

cases and for granting exceptional or extraordinary relief from debt.

"Consent order" means a support order that reflects the agreement of the noncustodial parent, the custodial parent and the division of child support. A consent order requires the approval of an administrative law judge.

"Controlling order" means the only order issued or, where multiple orders exist, the order determined by a tribunal to control prospective current support pursuant to the Uniform Interstate Family Support Act (UIFSA), chapter 26.21A RCW.

"Controlling order state" means the state in which the only order was issued or, where multiple orders exist, the state in which the order determined by a tribunal to control prospective current support pursuant to the UIFSA was issued.

"Country" means a foreign country (or a political subdivision thereof) declared to be a Foreign Reciprocating Country (FRC) under 42 U.S.C. 659A and any foreign country (or political subdivision thereof) with which the state has entered into a reciprocal arrangement for the establishment and enforcement of support obligations to the extent consistent with federal law pursuant to 42 U.S.C. 659A.

"Court order" means a judgment, decree or order of a Washington state superior court, or a court of comparable jurisdiction of an Indian tribe or another state or country.

"Current support" or "current and future support" means the amount of child support which is owed for each month.

"Custodial parent or CP" means the person, whether a parent or not, with whom a dependent child resides the majority of the time period for which the division of child support seeks to establish or enforce a support obligation.

"Date the state assumes responsibility for the support of a dependent child on whose behalf support is sought" means the date that the TANF or AFDC program grant is effective. For purposes of this chapter, the state remains responsible for the support of a dependent child until public assistance terminates, or support enforcement services end, whichever occurs later.

"Delinquency" means failure to pay current child support when due.

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

"Dependent child" means a person:

(1) Seventeen years of age or younger who is not self-supporting, married, or a member of the United States armed forces;

(2) Eighteen years of age or older for whom a court order requires support payments past age eighteen;

(3) Eighteen years of age or older, but under nineteen years of age, for whom an administrative support order exists if the child is participating full-time in a secondary school program or the same level of vocational or technical training.

"Determination of parentage" means the establishment of the parent-child relationship by:

(1) A judicial proceeding;

(2) The signing of a valid acknowledgment of paternity under:

(a) RCW 26.26.300 through 26.26.375 prior to January 1, 2019; or ~~((adjudication by the court))~~

(b) Another jurisdiction's laws dealing with the acknowledgment or affidavit of paternity or the acknowledgment of parentage; or

(3) The signing of a valid acknowledgment of parentage under RCW 26.26A.200 through 26.26A.265 on or after January 1, 2019.

"Differentiated support amount" means an amount of child support that represents a parent's support obligation for more than one child and may justifiably be divided into "per child" amounts for each child covered by the support order, based on information contained in the support order.

"Differentiated support order" means a child support order which provides a monthly amount of child support for two or more children, and either provides a specific support obligation for each child or provides enough information in the order so that the monthly amount may justifiably be divided into a "per child" amount for each child covered by the support order.

"Disbursement" means the amount of child support distributed to a case that is paid to the family, state, other child support enforcement agency in another state or foreign country, Indian tribe, or person or entity making the payment.

"Disposable earnings" means the amount of earnings remaining after the deduction of amounts required by law to be withheld.

"Distribution" means how a collection is allocated or split within a case or among multiple cases.

"Domestic partner" means a state registered domestic partner as defined in chapter 26.60 RCW.

"Earnings" means compensation paid or payable for personal service. Earnings include:

- (1) Wages or salary;
- (2) Commissions and bonuses;
- (3) Periodic payments under pension plans, retirement programs, and insurance policies of any type;
- (4) Disability payments under Title 51 RCW;
- (5) Unemployment compensation under RCW 50.40.-020, 50.40.050 and Title 74 RCW;
- (6) Benefits under the family and medical leave insurance program under Title 50A RCW;
- (7) Gains from capital, labor, or a combination of the two; and

~~((7))~~ (8) The fair value of nonmonetary compensation received in exchange for personal services.

"Employee" means a person to whom an employer is paying, owes, or anticipates paying earnings in exchange for services performed for the employer.

"Employer" means any person or organization having an employment relationship with any person. This includes:

- (1) Partnerships and associations;
- (2) Trusts and estates;
- (3) Joint stock companies and insurance companies;
- (4) Domestic and foreign corporations;
- (5) The receiver or trustee in bankruptcy; and
- (6) The trustee or legal representative of a deceased person.

"Employment" means personal services of whatever nature, including service in interstate commerce, performed for earnings or under any contract for personal services. Such a contract may be written or oral, express or implied.

"Family" means the person or persons on whose behalf support is sought, which may include a custodial parent and one or more children, or ~~((a child))~~ one or more children in foster care placement. The family is sometimes called the assistance unit.

"Family arrears" means the amount of past-due support owed to the family, which has not been conditionally, temporarily or permanently assigned to a state. Also called "nonassistance arrears."

"Family member" means the caretaker relative, the ~~((child(ren)))~~ child or children, and any other person whose needs are considered in determining eligibility for assistance.

"Foreign order" means a court or administrative order entered by a tribunal other than one in the state of Washington, including an order entered by a tribunal in an Indian tribe or another state or country.

"Foreign reciprocating country" or FRC means a country which the federal government has declared to be a foreign reciprocating country, which means that the foreign country has established, or undertakes to establish, procedures for the establishment and enforcement of duties of support owed to custodial parents who are residents of the United States, and that such procedures are substantially in conformity with the standards prescribed under title IV-D of the federal Social Security Act.

"Foster care case" means a case referred to the Title IV-D agency by the Title IV-E agency, which is the ~~((state division of child and family services (DCFS)))~~ the department of children, youth, and families (DCYF).

"Fraud," for the purposes of vacating an agreed settlement or consent order, means:

- (1) The representation of the existence or the nonexistence of a fact;
- (2) The representation's materiality;
- (3) The representation's falsity;
- (4) The speaker's knowledge that the representation is false;
- (5) The speaker's intent that the representation should be acted on by the person to whom it is made;
- (6) Ignorance of the falsity on the part of the person to whom it is made;
- (7) The latter's:
 - (a) Reliance on the truth of the representation;
 - (b) Right to rely on it; and
 - (c) Subsequent damage.

"Full support enforcement services" means the entire range of services available in a Title IV-D case.

"Good cause" for the purposes of late hearing requests and petitions to vacate orders on default means a substantial reason or legal justification for delay, including but not limited to the grounds listed in civil rule 60. The time periods used in civil rule 60 apply to good cause determinations in this chapter.

"Head of household" means the parent or parents with whom the dependent child or children were residing at the time of placement in foster care.

"Health care costs" means medical expenses. Certain statutes in chapter 26.19 RCW refer to medical expenses as health care costs.

"Health care coverage" means fee for service, health maintenance organization, preferred provider organization, and other types of private health insurance and public health care coverage under which medical services could be provided to a dependent child or children. These services include, but are not limited to: Medical/surgical (inpatient, outpatient, physician) care, medical equipment (crutches, wheel chairs, prosthesis, etc.), pharmacy products, optometric care, dental care, orthodontic care, preventive care, mental health care, and physical therapy. The term "health care coverage" includes, but is not limited to, health insurance coverage.

"Health insurance" ~~((means insurance coverage for all medical services related to an individual's general health and well-being. These services include, but are not limited to: Medical/surgical (inpatient, outpatient, physician) care, medical equipment (crutches, wheel chairs, prosthesis, etc.), pharmacy products, optometric care, dental care, orthodontic care, preventive care, mental health care, and physical therapy. Health insurance coverage does not include medical assistance provided under chapter 74.09 RCW))~~ or **"health insurance coverage"** is included in the definition of "health care coverage." Health insurance coverage includes any coverage under which medical services are provided by an employer or a union whether that coverage is provided through a self-insurance program, under the employee retirement income security act of 1974, a commercial insurer pursuant to chapters 48.20 and 48.21 RCW, a health care service contractor pursuant to chapter 48.44 RCW, or a health maintenance organization pursuant to chapter 48.46 RCW, and the state through chapter 41.05 RCW.

"Hearing" means an adjudicative proceeding authorized by this chapter, or chapters 26.23, 74.20 and 74.20A RCW, conducted under chapter 388-02 WAC and chapter 34.05 RCW.

"I/me" means the person asking the question which appears as the title of a rule.

"Income" includes:

- (1) All gains in real or personal property;
- (2) Net proceeds from the sale or exchange of real or personal property;
- (3) Earnings;
- (4) Interest and dividends;
- (5) Proceeds of insurance policies;
- (6) Other periodic entitlement to money from any source; and
- (7) Any other property subject to withholding for support under the laws of this state.

"Income withholding action" includes all withholding actions which DCS is authorized to take, and includes but is not limited to the following actions:

- (1) Asserting liens under RCW 74.20A.060;
- (2) Serving and enforcing liens under chapter 74.20A RCW;
- (3) Issuing orders to withhold and deliver under chapter 74.20A RCW;

(4) Issuing notices of payroll deduction under chapter 26.23 RCW; and

(5) Obtaining wage assignment orders under RCW 26.18.080.

"Initiating agency" or **"initiating jurisdiction"** means a state or Tribal IV-D agency or the central authority of another country, as defined in this rule, in which an individual has applied for or is receiving services.

"Intergovernmental IV-D case" means an IV-D case in which the noncustodial parent lives and/or works in a different jurisdiction than the custodial parent and ~~((child(ren)))~~ children that has been referred by an initiating agency to a responding agency for services. An intergovernmental IV-D case may include any combination of referrals between states, tribes, and countries. An intergovernmental IV-D case also may include cases in which a state agency is seeking only to collect support arrearages, whether owed to the family or assigned to the state.

"Locate" can mean efforts to obtain service of a support establishment notice in the manner prescribed by WAC 388-14A-3105.

"Medical assistance" means medical benefits under Title XIX of the federal Social Security Act provided to families as an alternative or supplement to TANF. This term includes public health care coverage, which is called apple health in Washington state.

"Medical expenses," for the purpose of establishing support obligations under RCW 26.09.105, 74.20A.055 and 74.20A.056, or for the purpose of enforcement action under chapters 26.18, 26.23, 74.20 and 74.20A RCW, including the notice of support debt and the notice of support owed, means medical costs incurred on behalf of a child, which include:

- Medical services related to an individual's general health and well-being, including but not limited to, medical/surgical care, preventive care, mental health care and physical therapy; and
- Prescribed medical equipment and prescribed pharmacy products;
- Health care coverage, such as coverage under a health insurance plan, including the cost of premiums for coverage of a child;
 - Dental, orthodontic, and optometrical costs incurred on behalf of a child; and
 - Copayments and/or deductibles incurred on behalf of a child.

Medical expenses are sometimes also called health care costs or medical costs.

"Medical support" ~~((means any combination))~~ consists of ((the following)):

(1) Health ~~((insurance))~~ care coverage ((for a dependent child)), which may be health insurance coverage or public health care coverage; and

(2) ~~((Amounts owed by one parent to the other parent as a monthly payment toward the premium paid by the other parent for health insurance coverage for a dependent child;))~~ Cash medical support, which consists of:

~~((3) Amounts owed by a noncustodial parent to the state as a))~~ (a) A parent's monthly payment toward the ((cost of managed care)) premium paid for coverage ((for the child by the state, if the child receives state-financed medical cover-

age through the department under chapter 74.09 RCW for which there is an assignment)) provided by a public entity or by another parent, which represents the obligated parent's proportionate share of the premium paid, but no more than twenty-five percent of the obligated parent's basic support obligation; and

~~((4) Amounts owed by one parent to the other parent as his or her)) (b) A parent's proportionate share of uninsured medical expenses ((for a dependent child)).~~

"Monthly payment toward the premium" means a parent's contribution toward((:

~~*) premiums paid ((by the other)) for coverage provided by a public entity or by another parent ((for insurance coverage for the child; or~~

~~* Amounts paid for managed care coverage for the child by the state, if the child receives state-financed medical coverage through the department under chapter 74.09 RCW for which there is an assignment.~~

~~This contribution)), which is based on the obligated parent's proportionate share of the premium paid, but ((may not exceed)) is limited to no more than twenty-five percent of the obligated parent's basic support obligation.~~

"National Medical Support Notice" or **"NMSN"** is a federally mandated form that DCS uses to enforce a health insurance support obligation; the NMSN is a notice of enrollment as described in RCW 26.18.170.

"Noncustodial parent or NCP" means the natural or biological parent, adoptive parent, adjudicated parent, presumed parent, responsible stepparent or person who signed and filed an affidavit acknowledging paternity or parentage, from whom the state seeks support for a dependent child. A parent is considered to be an NCP when for the majority of the time during the period for which support is sought, the dependent child resided somewhere other than with that parent.

"Nonmedical expenses" means amounts incurred on behalf of a child which are not medical expenses as defined in this chapter. Nonmedical expenses include, but are not limited to, day care or other special childrearing expenses such as tuition and long-distance transportation costs to and from the parents for visitation purposes.

"Obligated parent" means a parent who is required under a child support order to provide medical support, which could include health ((insurance)) care coverage or to reimburse the other parent for his or her share of uninsured medical expenses for a dependent child. The obligated parent could be either the NCP or the CP.

"Other ordinary expense" means an expense incurred by a parent which:

- (1) Directly benefits the dependent child; and
- (2) Relates to the parent's residential time or visitation with the child.

"Parent" means an individual who has established a parent-child relationship under:

- (1) RCW 26.26.101 prior to January 1, 2019;
- (2) RCW 26.26A.100 on or after January 1, 2019; or
- (3) Under the laws of another jurisdiction.

"Parent-child relationship" means the legal relationship between a child and a parent of the child. The term

includes the mother-child relationship and the father-child relationship.

"Participant" means an employee or retiree who is eligible for coverage under an employer group health plan.

"Pass-through" means the portion of a support collection distributed to assigned support that the state pays to a family currently receiving TANF.

"Past support" means support arrear.

"Paternity testing" means blood testing or genetic tests of blood, tissue or bodily fluids. This is also called genetic testing.

"Payment services only" or **"PSO"** means a case on which the division of child support's activities are limited to recording and distributing child support payments, and maintaining case records. A PSO case is not a IV-D case.

"Permanently assigned arrears" means those arrears which the state may collect and retain up to the amount of unreimbursed assistance.

"Physical custodian" means custodial parent (CP).

"Plan administrator" means the person or entity which performs those duties specified under 29 U.S.C. 1002 (16)(A) for a health plan. If no plan administrator is specifically so designated by the plan's organizational documents, the plan's sponsor is the administrator of the plan. Sometimes an employer acts as its own plan administrator.

"Premium" means the amount paid for coverage provided by a public entity or by another parent for a child covered by a child support order. This term may also mean "cost of coverage."

"Presumed parent" means a person who, by operation of law under RCW 26.26.116, is recognized as the parent of a child until that status is rebutted or confirmed in a judicial proceeding.

"Private insurance" ~~((means))~~ is a term used in this chapter to refer to accessible health insurance for a child provided by a parent without the need for service of a national medical support notice, and does not include public health ((insurance)) care coverage provided by the state ((without a contribution from either parent)).

"Proportionate share" or **"proportional share"** means an amount equal to a parent's percentage share of the combined monthly net income of both parents as computed on the worksheets when determining a parent's child support obligation under chapter 26.19 RCW.

"Public health care coverage," sometimes called "state purchased health care," means state-financed or federally financed medical coverage, whether or not there is an assignment of rights. For children residing in Washington state, public health care coverage is called apple health; this includes coverage through the department of social and health services or the health care authority, except for coverage under chapter 41.05 RCW. For children residing outside of Washington, this includes coverage through another state's agencies that administer state purchased health care programs.

"Putative father" includes all men who may possibly be the father of the child or children on whose behalf the application for assistance or support enforcement services is made.

"Reasonable efforts to locate" means any of the following actions performed by the division of child support:

(1) Mailing a support establishment notice to the noncustodial parent in the manner described in WAC 388-14A-3105;

(2) Referral to a sheriff or other server of process, or to a locate service or department employee for locate activities;

(3) Tracing activity such as:

(a) Checking local telephone directories and attempts by telephone or mail to contact the custodial parent, relatives of the noncustodial parent, past or present employers, or the post office;

(b) Contacting state agencies, unions, financial institutions or fraternal organizations;

(c) Searching periodically for identification information recorded by other state agencies, federal agencies, credit bureaus, or other record-keeping agencies or entities; or

(d) Maintaining a case in the division of child support's automated locate program, which is a continuous search process.

(4) Referral to the state or federal parent locator service;

(5) Referral to the attorney general, prosecuting attorney, the IV-D agency of another state, or the Department of the Treasury for specific legal or collection action;

(6) Attempting to confirm the existence of and to obtain a copy of a paternity acknowledgment; or

(7) Conducting other actions reasonably calculated to produce information regarding the NCP's whereabouts.

"Required support obligation for the current month" means the amount set by a superior court order, tribal court order, or administrative order for support which is due in the month in question.

"Resident" means a person physically present in the state of Washington who intends to make their home in this state. A temporary absence from the state does not destroy residency once it is established.

"Residential care" means foster care, either state or federally funded.

"Residential parent" means the custodial parent (CP), or the person with whom the child resides that majority of the time.

"Responding agency" or **"responding jurisdiction"** means the agency that is providing services in response to a referral from an initiating agency in an intergovernmental IV-D case.

"Responsible parent" is a term sometimes used for a noncustodial parent.

"Responsible stepparent" means a stepparent who has established an in loco parentis relationship with the dependent child.

"Retained support," ~~((means a))~~ depending on the context in which it is used, can mean one of the following:

(1) An amount paid directly to the custodial parent by the noncustodial parent during a time when there is an open TANF grant, which the custodial parent does not immediately report or turn over to the department;

(2) A debt owed to the division of child support by anyone other than a noncustodial parent; or

(3) Amounts collected and retained by the division of child support which are applied to current or past due child support obligations which have been assigned to the state.

"Satisfaction of judgment" means payment in full of a court-ordered support obligation, or a determination that such an obligation is no longer enforceable.

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

"Self-support reserve" or **"self support reserve"** means an amount equal to one hundred twenty-five percent of the federal poverty guideline for a one-person family.

"State" means a state or political subdivision, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a federally recognized Indian tribe or a foreign country.

"Superior court order" means a judgment, decree or order of a Washington state superior court, or of a court of comparable jurisdiction in an Indian tribe or another state or country.

"Support debt" means support which was due under a support order but has not been paid. This includes:

(1) Delinquent support;

(2) A debt for the payment of expenses for the reasonable or necessary care, support and maintenance including uninsured medical expenses, birth costs, child care costs, and special child rearing expenses of a dependent child or other person;

(3) A debt under RCW 74.20A.100 or 74.20A.270; or

(4) Accrued interest, fees, or penalties charged on a support debt, and attorney's fees and other litigation costs awarded in an action under Title IV-D to establish or enforce a support obligation.

"Support enforcement services" means all actions the Title IV-D agency is required to perform under Title IV-D of the Social Security Act and state law.

"Support establishment notice" means a notice and finding of financial responsibility under WAC 388-14A-3115, a notice and finding of parental responsibility under WAC 388-14A-3120, or a notice and finding of medical responsibility under WAC 388-14A-3125.

"Support money" means money paid to satisfy a support obligation, whether it is called child support, spousal support, alimony, maintenance, ~~((enforcement of))~~ reimbursement for uninsured medical expenses, health ~~((insurance))~~ care coverage, or birth costs.

"Support obligation" means the obligation to provide for the necessary care, support and maintenance of a dependent child or other person as required by law, including health ~~((insurance))~~ care coverage, uninsured medical expenses, birth costs, and child care or special child rearing expenses.

"Support order" means a court order, administrative order or tribal court order which contains a determination, finding, decree or order that sets a child support obligation (including medical support) and orders either the payment of a set or determinable amount of money for current support and/or a support debt, or the provision of medical support, or both.

"Temporarily assigned arrears" means those arrears which accrue prior to the family receiving assistance, for

assistance applications dated on or after October 1, 1997, but before October 1, 2008. After the family terminates assistance, temporarily assigned arrears become conditionally assigned arrears.

"Temporary assistance for needy families," or "TANF" means cash assistance under the temporary assistance for needy families (TANF) program under Title IV-A of the Social Security Act.

"Title IV-A" means Title IV-A of the Social Security Act established under Title XX of the Social Security amendments and as incorporated in Title 42 U.S.C.

"Title IV-A agency" means the part of the department of social and health services which carries out the state's responsibilities under the temporary assistance for needy families (TANF) program (and the aid for dependent children (AFDC) program when it existed).

"Title IV-D" means Title IV-D of the Social Security Act established under Title XX of the Social Security amendments and as incorporated in Title 42 U.S.C.

"Title IV-D agency" or **"IV-D agency"** means the ~~((division of child support, which is the))~~ agency responsible for carrying out the Title IV-D plan in ~~((the))~~ a state ~~((of))~~ or tribe. For the state of Washington ~~((Also refers to the Washington state support registry (WSSR)))~~, this is the division of child support (DCS) within the department of social and health services (DSHS).

"Title IV-D case" is a case in which the division of child support provides services which qualifies for funding under the Title IV-D plan.

"Title IV-D plan" means the plan established under the conditions of Title IV-D and approved by the secretary, Department of Health and Human Services.

"Title IV-E" means Title IV-E of the Social Security Act established under Title XX of the Social Security amendments and as incorporated in Title 42 U.S.C.

"Title IV-E case" means a foster care case.

"Tribal TANF" means a temporary assistance for needy families (TANF) program run by a tribe.

"Tribunal" means a state court, tribal court, administrative agency, or quasi-judicial entity authorized to establish, enforce or modify support orders or to determine parentage, and includes such courts, agencies or entities in other states or countries.

"Underlying order" means an existing child support order for which DCS serves a notice of support owed under RCW 26.23.110 to determine a sum certain support obligation.

"Undifferentiated support amount" means an amount of child support that represents a parent's support obligation for more than one child which cannot justifiably be divided into "per child" amounts for each child covered by the support order.

"Undifferentiated support order" means a child support order which provides a monthly amount of child support for two or more children, but does not provide a specific support obligation for each child or does not contain enough information in either the order or the worksheets associated with the order to justify dividing the monthly amount into "per child" amounts for each child covered by the support order.

"Uninsured medical expenses," ~~((:))~~ for the purpose of establishing or enforcing support obligations, means:

(1) Medical expenses not paid by insurance for medical, dental, orthodontic, prescription, and optometrical costs incurred on behalf of a child; and

(2) Premiums, copayments, or deductibles incurred on behalf of a child.

"Unreimbursed assistance" means the cumulative amount of assistance which was paid to the family and which has not been reimbursed by assigned support collections.

"Unreimbursed medical expenses" means any amounts paid by one parent for uninsured medical expenses, which that parent claims the obligated parent owes under a child support order, which percentage share is stated in the child support order itself, not just in the worksheets.

"Washington State Support Registry" or "WSSR" is the entity created under RCW 26.23.030 within the division of child support (DCS) which, among other duties, contains a central unit for the collection, accounting and disbursement of support payments.

"We" means the division of child support, part of the department of social and health services of the state of Washington.

~~("WSSR" is the Washington state support registry.)~~

"You" means the reader of the rules, a member of the public, or a recipient of support enforcement services.

AMENDATORY SECTION (Amending WSR 11-12-006, filed 5/19/11, effective 6/19/11)

WAC 388-14A-3312 The division of child support serves a notice of support owed to establish a fixed dollar amount owed by either parent for medical support. (1) Depending on the specific requirements of the child support order, and only if the case meets the criteria set out in WAC 388-14A-4111, the division of child support (DCS) may serve a notice of support owed under RCW 26.23.110, WAC 388-14A-3310 and this section:

(a) On either the noncustodial parent (NCP) or the custodial parent (CP), as appropriate, in order to:

(i) Establish as a sum certain and collect the obligated parent's proportionate share of uninsured medical expenses owed to the parent seeking reimbursement. This process is called reimbursement of uninsured medical expenses;

(ii) Establish as a sum certain and collect the obligated parent's monthly payment toward the premium currently being paid by the other parent for ~~((insurance))~~ health care coverage for ~~((the))~~ a child named in the support order; or

(iii) Establish and collect amounts owed under both subsections (a)(i) and (a)(ii) of this section.

(b) On the NCP in order to establish as a sum certain and collect the NCP's monthly payment toward the premium paid by the state for managed care coverage for ~~((the))~~ a child named in the support order, if the child receives ~~((state-financed medical))~~ public health care coverage ~~((through the department under chapter 74.09 RCW for which))~~ in the state of Washington, whether or not there is an assignment of rights.

(2) Unless otherwise specified in the order, each parent's proportionate share of uninsured medical expenses and

~~((medical insurance))~~ health care premiums is the same as the proportionate share of income shown on the Washington state child support schedule worksheet that was completed as part of the support order.

(a) On occasion, a tribunal may specify that medical support obligations are to be shared between the parents at a different percentage than the one on the worksheet.

(b) DCS follows the terms of the underlying order when serving a notice of support owed under this section.

(3) WAC 388-14A-4111 and 388-14A-4112 set out some of the reasons why DCS may decline a party's request to enforce a medical support obligation.

(4) Only a CP who is both a parent of the child and a party to the support order may ask DCS to serve a notice of support owed on the NCP under subsection (1)(a) of this section. If the CP is not both a parent of the child and a party to the support order, DCS' denial of the request does not affect the CP's ability to bring an action in another tribunal to enforce the CP's claim against the NCP for medical support. The CP may file an action in court to:

(a) Make a claim for reimbursement of uninsured medical expenses;

(b) Make a claim for a monthly contribution toward any ~~((insurance))~~ health care coverage provided by the CP; or

(c) Seek both kinds of relief against the NCP.

(5) DCS may serve a notice of support owed on the NCP under subsection (1)(b) of this section without regard to the CP's status as a parent or party to the order, if the child receives ~~((state financed medical))~~ public health care coverage ~~((through the department under chapter 74.09 RCW for which))~~ in the state of Washington, whether or not there is an assignment of rights.

(6) Except as limited in subsection (4) above, either the NCP or the CP may ask DCS to serve a notice of support owed on the other party to the support order in order to establish the obligated parent's proportionate share of uninsured medical expenses as a sum certain amount if the support order establishes such an obligation. The parent seeking reimbursement for uninsured medical expenses must:

(a) Apply for full collection services at the time of the request, unless the parent already has an open full collection case with DCS;

(b) Have paid the uninsured medical expenses before seeking reimbursement through DCS;

(c) Provide proof of payment of at least five hundred dollars in uninsured medical expenses;

(d) Complete the forms provided by DCS for the claim, or at a minimum present the required information and documentation in a format similar to that in the DCS forms; and

(e) Declare under penalty of perjury that he or she has asked the obligated parent to pay his or her share of the uninsured medical expenses or provide good cause for not asking the obligated parent.

(i) If the uninsured medical expenses have been incurred within the last twelve months, this requirement is waived; and

(ii) If the obligated party denies having received notice that the other party was seeking reimbursement for uninsured medical expenses or support, the service of the notice of support owed constitutes the required notice.

(7) A party's request that DCS serve a notice of support owed to establish the other parent's obligation for medical support, including reimbursement for uninsured medical expenses:

(a) May be for a period of up to twenty-four consecutive months;

(b) May include only medical services provided after July 21, 2007;

(c) May not include months which were included in a prior notice of support owed for medical support or a prior judgment;

(d) Need not be for the twenty-four month period immediately following the period included in the prior notice of support owed for medical support;

(e) May include a claim for the obligated parent's proportionate share of any health ~~((insurance))~~ care coverage premiums paid by the requesting parent after July 21, 2007, but this type of claim is limited as provided in subsections (11) and (12) of this section; and

(f) May include a request that DCS establish a monthly payment toward the premium representing the obligated parent's proportionate share of the premium paid by the requesting parent only for premiums paid for health ~~((insurance))~~ care coverage provided after September 30, 2009.

(8) The party seeking reimbursement must ask DCS to serve a notice of support owed for medical support within two years of the date that the uninsured medical expense or premium was incurred.

(a) The fact that a request that DCS serve a notice of support owed for medical support is denied, either in whole or in part, does not mean that the party cannot pursue reimbursement of those uninsured medical expenses by proceeding in court.

(b) If a party obtains a judgment for reimbursement of uninsured medical expenses or other type of medical support, DCS enforces the judgment.

(9) When either party asks DCS to serve a notice of support owed under this section to establish the other party's proportionate share of uninsured medical expenses as a sum certain amount and the medical expenses include premiums for health ~~((insurance))~~ care coverage for the ~~((child(ren)))~~ children covered by the order, DCS reviews the order to determine whether it provides for a monthly payment toward the premium when the obligated parent does not have insurance available through his or her employer or union.

(a) If the order does not have such a requirement, DCS includes the health ~~((insurance))~~ care coverage premiums in the claim for reimbursement of uninsured medical expenses, but limits the obligated parent's obligation as provided in subsections (11) and (12) of this section.

(b) If the order does have such a requirement, DCS serves a notice of support owed which:

(i) Includes the health ~~((insurance))~~ care coverage premiums in the claim for reimbursement of uninsured medical expenses; and

(ii) If appropriate, includes the provisions necessary to establish a monthly contribution which represents the obligated parent's proportionate share of the premium paid by the other parent (not to exceed twenty-five percent of the obligated parent's basic support obligation), if the obligated par-

ent is not already providing health ((~~insurance~~)) care coverage for the ((~~child(ren)~~)) children.

(10) There are two circumstances under which DCS may serve a notice of support owed to establish the amount owed by an obligated parent as a monthly payment toward the premium paid for coverage by the other parent or the state. DCS may serve the notice of support owed when the support order:

(a) Specifically provides that the obligated parent's medical support obligation under RCW 26.09.105 (1)(c) is to pay a monthly payment toward the premium instead of providing health ((~~insurance~~)) care coverage, but does not set that obligation as a sum certain; or

(b) Provides that, if health insurance is not available through the obligated parent's employer or union at a cost not to exceed twenty-five percent of the obligated parent's basic support obligation, the obligated parent must pay a monthly payment toward the premium but does not set that obligation as a sum certain. In this situation, DCS serves the notice of support owed to establish a monthly payment toward the premium paid only if the obligated parent is not already providing coverage for the children.

(11) DCS may collect a maximum of twenty-five percent of the obligated parent's basic support obligation for medical premium costs claimed by the requesting party.

(12) DCS may not collect for medical premium costs claimed by the requesting party through either the monthly payment toward the premium or the reimbursement of uninsured medical expenses if the obligated parent is providing accessible health ((~~insurance~~)) care coverage for the child. The obligated parent is only required to pay those costs if he or she is not providing accessible health ((~~insurance~~)) care coverage for the child.

(13) Once DCS serves a notice of support owed under this section that establishes a medical support obligation representing the obligated parent's proportionate share of the premium paid by the other parent, the obligated parent is not required to reimburse the other parent for any amounts of that proportionate share of the premium which are not paid because those amounts exceed twenty-five percent of the obligated parent's basic support obligation.

(a) That portion of the obligated parent's proportionate share of the premium for a month that is not included in the obligated parent's monthly payment toward the premium may not be recovered by a later claim for unreimbursed medical expenses; and

(b) The obligation to contribute a proportionate share of other uninsured medical expenses is not affected by the establishment of a medical support obligation for medical premiums paid by the requesting parent under this section.

(14) Once DCS serves a notice of support owed under this section that establishes a monthly payment toward the premium which represents the NCP's proportionate share of the premium paid by the state, the NCP is not required to reimburse the state for any amounts of that proportionate share of the premium which are not paid because those amounts exceed twenty-five percent of the NCP's basic support obligation.

(15) An NCP who wants DCS to enforce the CP's medical support obligation must first apply for full child support enforcement services.

(a) DCS enforces a CP's medical support obligation only as provided under WAC 388-14A-4112.

(b) If the parties already have an open full enforcement case with DCS, DCS opens up a new case which is called the medical support case, and the previously existing case is called the main case.

(c) If the parties do not already have an open full enforcement case with DCS, DCS opens two cases:

(i) The case where DCS is acting on NCP's request to enforce CP's medical support obligation is called the medical support case; and

(ii) The case where DCS is enforcing the underlying support order and collecting from the NCP is called the main case.

(16) In a notice of support owed under this section, DCS includes the information required by RCW 26.23.110, and:

(a) The factors stated in the order regarding medical support;

(b) A statement of uninsured medical expenses and a declaration by the parent seeking reimbursement; and

(c) Any other information not contained in the order that DCS used to calculate the amounts in the notice.

(17) Whenever DCS serves a notice of support owed under this section, that notice may also include a determination of the fixed dollar amount of:

(a) Any medical support debt owed by the obligated parent;

(b) Any amounts owed by the obligated parent under a previous notice of support owed that exceed the obligated parent's actual monthly obligation to pay a proportionate share of the premium after actual expenses or updated proportionate shares owed are considered, but not to exceed twenty-five percent of the obligated parent's basic support obligation; and

(c) Any amounts owed by the obligated parent under a previous notice of support owed that are less than the obligated parent's actual monthly obligation to pay a proportionate share of the premium after actual expenses or updated proportionate shares owed are considered, but not to exceed twenty-five percent of the obligated parent's basic support obligation.

(18) If the notice of support owed contains a determination that the order resulting from a previous notice of support owed calculated a medical support obligation that differed from the obligated parent's actual obligation after actual expenses or updated proportionate shares owed are considered, the notice may address how any difference may be credited or repaid in the absence of any agreement between the parties.

(19) If the obligated parent is the NCP, any amounts owed under a previous notice of support owed exceeding the actual obligation after actual expenses or updated proportionate shares owed are considered in the final administrative order are added to the NCP's support debt.

(a) Amounts owed to the CP are added to the unassigned arrears on the case.

(b) Amounts owed to reimburse the state for medicaid or other ((~~state financed medical~~)) public health care coverage ((~~through the department under chapter 74.09 RCW for~~

which there is an assignment)) in the state of Washington are added to the main case as permanently assigned arrears.

(20) If the obligated parent is the CP, any amounts owed under a previous notice of support owed exceeding the actual obligation after actual expenses are considered in the final administrative order are paid in the following order:

(a) Any amount owed by the CP to the NCP is applied as an offset to any nonassistance child support arrears owed by the NCP on the main case only; or

(b) If there is no debt owed to the CP on the main case, payment of the amount owed by the CP is in the form of a credit against the NCP's future child support obligation:

(i) Spread equally over a twelve-month period starting the month after the administrative order becomes final; or

(ii) When the future support obligation will end under the terms of the order in less than twelve months, spread equally over the life of the order.

(c) If the amount owed by the CP exceeds the amount that can be paid off using the methods specified in subsections (a) and (b) of this section, DCS uses the medical support case to collect the remaining amounts owed using the remedies available to DCS for collecting child support debts.

(21) If both the CP and the NCP request that DCS serve a notice of support owed under this section on the other party, those notices remain separate and may not be combined.

(a) The office of administrative hearings (OAH) may schedule consecutive hearings but may not combine the matters under the same docket number.

(b) The administrative law judge (ALJ) must issue two separate administrative orders, one for each obligated parent.

(22) DCS does not serve a second or subsequent notice of support owed under this section on an obligated parent until the party seeking reimbursement once again meets the conditions set forth in WAC 388-14A-3330.

AMENDATORY SECTION (Amending WSR 11-12-006, filed 5/19/11, effective 6/19/11)

WAC 388-14A-3324 What happens in a hearing on a notice of support owed served under WAC 388-14A-3312? (1) A hearing on a notice of support owed for medical support served under WAC 388-14A-3312 is subject to WAC 388-14A-3320 and this section. See WAC 388-14A-3323 for the rules concerning a hearing on a notice of support owed under WAC 388-14A-3311.

(2) A hearing on a notice of support owed served under WAC 388-14A-3312 is only for the purpose of determining:

(a) Issues regarding the reimbursement of uninsured medical expenses, such as:

(i) Whether the party on whom the notice was served is obligated under a support order to pay for uninsured medical expenses for the children covered by the order;

(ii) Whether the party seeking reimbursement has provided sufficient proof of payment for uninsured medical expenses for the children;

(iii) The total amount of uninsured medical expenses paid by the party seeking reimbursement;

(iv) The obligated parent's share of the uninsured medical expenses;

(v) The amount, if any, the obligated parent has already paid to the party seeking reimbursement;

(vi) Whether the obligated parent provided coverage during the time in question if reimbursement of medical premium costs is requested; and

(vii) The amount owed by the obligated parent to the party seeking reimbursement for unreimbursed medical expenses.

(b) Issues regarding a monthly payment toward the premium paid for coverage for the children, such as:

(i) Whether the support order requires the obligated parent to pay when the obligated parent does not provide coverage;

(ii) Whether the obligated parent is currently providing coverage, or did so during the time period in question;

(iii) The amount of the premium paid by the other parent or by the state to cover the ~~((child(ren)))~~ children;

(iv) The obligated parent's proportionate share of the premium;

(v) The amount, if any, the obligated parent has already contributed toward health ~~((insurance))~~ care coverage premiums paid by the other parent or the state for the time period in question; and

(vi) The monthly amount to be paid by the obligated parent as his or her proportionate share of the health ~~((insurance))~~ care coverage premium.

(3) If the administrative law judge (ALJ) determines that the uninsured medical expenses claimed by the party seeking reimbursement do not amount to at least five hundred dollars, the ALJ:

(a) May not dismiss the notice on this basis;

(b) Must make the determinations listed in subsection (2)(a) above.

(4) In an annual review hearing under WAC 388-14A-3330, the ALJ may not set a payment schedule on the support debt other than as provided in WAC 388-14A-3312 if the ALJ determines that the obligated parent has paid less than his or her actual obligation for medical support under the order after actual expenses or updated proportionate shares owed are considered.

(a) If the obligated parent is the noncustodial parent (NCP), any amounts owed are added to the NCP's support debt.

(i) Any amounts owed to the custodial parent (CP) are added to the nonassistance child support arrears owed by the NCP to the CP.

(ii) Any amounts owed to the state are added to the assigned child support arrears owed by the NCP.

(b) If the obligated parent is the CP, any amounts owed are paid as provided in WAC 388-14A-3312(17).

(5) If, in an annual review hearing under WAC 388-14A-3330, the ALJ determines that the NCP's obligation calculated in a previous notice of support owed is more than his or her actual obligation for medical support under the order after actual expenses or updated proportionate shares owed are considered, and the parties cannot agree on how the difference may be credited or repaid, the ALJ must enter an order providing that any difference may be:

(a) Applied as an offset to any nonassistance child support arrears owed by the NCP to the CP.

(b) In the form of a credit against the NCP's future child support obligation, if there is no nonassistance debt owed to the CP:

(i) Spread equally over a twelve-month period starting the month after the administrative order becomes final; or

(ii) When the future support obligation will end under the terms of the order in less than twelve months, spread equally over the life of the order.

(c) Paid in the form of a direct reimbursement by the CP to the NCP, but only with the consent of the CP.

(6) If the ALJ determines that the CP's obligation under a previous notice of support owed is more than his or her actual obligation for medical support under the order after actual expenses and updated proportionate share amounts are considered, and the parties cannot agree on how the difference may be credited or repaid, the ALJ must enter an order providing that any difference must be added to the nonassistance child support arrears owed by the NCP.

(7) The ALJ must determine either or both of the following, depending on what was requested in the notice of support owed:

(a) The amount owed by the obligated parent to the other for reimbursement of uninsured medical expenses; and

(b) The monthly amount to be paid by the obligated parent as his or her proportionate share of the health ~~((insurance))~~ care coverage premium paid by the other parent or the state.

AMENDATORY SECTION (Amending WSR 13-01-075, filed 12/18/12, effective 1/18/13)

WAC 388-14A-3925 Who can ask to modify an administrative support order? (1) The division of child support (DCS), the custodial parent (CP) or the noncustodial parent (NCP) may file a petition and request a hearing to prospectively modify an administrative order for child support. The request must be in writing and must state:

(a) Any circumstances that have changed;

(b) Any relief requested; and

(c) The proposed new support amount.

(2) The petitioning party must file the request for modification with DCS.

(3) Acting as a responding jurisdiction, DCS may file a petition to prospectively modify an administrative order for child support on behalf of an initiating jurisdiction in an inter-governmental case.

(4) DCS serves a copy of the request for modification and notice of hearing on all other parties by first class mail at their address last known to DCS.

(5) DCS, the administrative law judge (ALJ), or the department review judge:

(a) Prospectively modifies orders according to the terms of chapter 26.19 RCW and RCW 74.20A.059; and

(b) May only modify an order issued by a tribunal in another state according to the terms of RCW 26.21A.550.

(6) A request to add a requirement for the custodial parent (CP) to provide health ~~((insurance))~~ care coverage, or to add a provision in the order to include the CP's share of uninsured medical expenses, is not by itself a sufficient basis for modification of the order.

(7) If the nonpetitioning party fails to appear at the hearing, the ALJ issues a default order based on the Washington state child support schedule and the worksheets submitted by the parties, considering the terms set out in the request for modification.

(8) If the petitioning party fails to appear at the hearing, the ALJ enters an order dismissing the petition for modification.

~~((8))~~ (9) If the petition for modification does not comply with the requirements of subsection (1)(a) and (b) of this section, the ALJ may:

(a) Dismiss the petition; or

(b) Continue the hearing to give the petitioning party time to amend according to WAC 388-14A-3275 or to complete the petition.

(10) The ALJ may set the effective date of modification as the date the order is issued, the date the request was made, or any time in between. If an effective date is not set in the order, the effective date is the date the modification order is entered.

AMENDATORY SECTION (Amending WSR 11-12-006, filed 5/19/11, effective 6/19/11)

WAC 388-14A-4100 How does the division of child support enforce my obligation to provide health ~~((insurance))~~ care coverage for my children? (1) If a child support order requires a parent to provide health ~~((insurance))~~ care coverage for the children named in the order, the division of child support (DCS) attempts to enforce that requirement according to the terms of the order.

(2) A parent required to provide medical support or health ~~((insurance))~~ care coverage for a child is called the obligated parent, and can be either the custodial parent (CP) or the noncustodial parent (NCP).

(3) WAC 388-14A-4111 and 388-14A-4112 describe when DCS may accept or decline a request to enforce a medical support obligation.

(4) When DCS is enforcing a support order which contains a specific dollar limit for the cost of health ~~((insurance))~~ care coverage premiums or provides for coverage which is available at no cost to the obligated parent, DCS does not require the obligated parent to provide health ~~((insurance))~~ care coverage if coverage is not available within the limitations of the order.

(5) When DCS is enforcing a support order entered in Washington on or after October 1, 2009, providing that either or both parents must provide coverage and/or a proportionate share of uninsured medical expenses as part of the medical support obligation under RCW 26.09.105, the rules in this subsection apply unless the support order specifies differently:

(a) The obligated parent must provide health ~~((insurance))~~ care coverage for the dependent ~~((child(ren)))~~ children covered by the order if coverage is:

(i) Available or becomes available through accessible ~~((private insurance))~~ health care coverage which is not provided through the obligated parent's employer or union; or

(ii) Available or becomes available through the obligated parent's employment or union at a cost that is not more than

twenty-five percent of the obligated parent's basic support obligation.

(b) If the obligated parent does not provide proof of coverage or if coverage is not available, DCS may serve a notice of support owed under WAC 388-14A-3312 to determine the monthly amount that the obligated parent must pay as his or her proportionate share of any premium paid by the other parent or by the state on behalf of the ~~((child(ren)))~~ children.

(6) When DCS is enforcing a support order entered in Washington between May 13, 1989 and September 30, 2009, unless the support order specifies differently, the obligated parent must provide health insurance for the dependent children if coverage is:

(a) Available or becomes available through the obligated parent's employment or union; and

(b) Available at a cost of not greater than twenty-five per cent of the obligated parent's basic support obligation.

(7) When DCS is enforcing a Washington support order entered prior to May 13, 1989, unless the support order specifies differently, the obligated parent must provide health insurance for the dependent ~~((child(ren)))~~ children if coverage is available or becomes available through the obligated parent's employment or union:

(a) For a maximum of twenty-five dollars per month, if the order specifies that the obligated parent must provide coverage only if it is available at a reasonable cost; or

(b) For any premium amount whatsoever, if the order does not specify reasonable cost.

(8) DCS serves a notice of intent to enforce a health ~~((insurance))~~ care coverage obligation if the support order:

(a) Requires the obligated parent either to provide health ~~((insurance))~~ care coverage or prove that coverage is not available; and

(b) Does not inform the obligated parent that failure to provide health ~~((insurance))~~ care coverage or prove it is not available may result in enforcement of the order without notice to the obligated parent.

(9) DCS serves the notice of intent to enforce a health ~~((insurance))~~ care coverage obligation on the obligated parent by certified mail, return receipt requested, or by personal service.

(10) The notice advises the obligated parent that he or she must submit proof of coverage, proof that coverage is not available, or proof that the obligated parent has applied for coverage, within twenty days of the date of service of the notice.

(11) The notice advises the obligated parent that, if health ~~((insurance))~~ care coverage is not yet available, the obligated parent must immediately notify DCS if health ~~((insurance))~~ care coverage becomes available through the obligated parent's employer or union.

(12) When DCS enforces an obligated parent's health ~~((insurance))~~ care coverage obligation, such enforcement may include asking the employer and the plan administrator to enroll the obligated parent in a health insurance plan available through the employer.

AMENDATORY SECTION (Amending WSR 11-12-006, filed 5/19/11, effective 6/19/11)

WAC 388-14A-4110 If my support order requires me to provide medical support for my children, what do I have to do?

(1) Once a support order is entered requiring medical support, the obligated parent must take the following actions within twenty days:

(a) Provide health ~~((insurance))~~ care coverage; and

(b) Provide proof of coverage to the other parent and to the division of child support (DCS), such as:

(i) The name of the insurer providing the health insurance coverage or the type of public health care coverage provided by the obligated parent;

(ii) The names of the beneficiaries covered;

(iii) The policy number;

(iv) That coverage is current; and

(v) The name and address of the obligated parent's employer.

(2) If private, union or employer-provided health insurance coverage that is accessible to the children named in the order is available, the obligated parent must:

(a) Provide for coverage for the children without waiting for an open enrollment period, as provided under RCW 48.01.235 (4)(a); and

(b) Submit proof of coverage as outlined in subsection (1)(b) above.

(3) If health insurance is not immediately available to the obligated parent, as soon as health insurance becomes available, the obligated parent must:

(a) Provide for coverage for the children named in the order; and

(b) Submit proof of coverage as outlined in subsection (1)(b) above.

(4) ~~((Medical assistance provided by the department under chapter 74.09 RCW does not substitute))~~ Providing public health care coverage for the children satisfies an obligated parent's requirement to provide for health ~~((insurance))~~ care coverage, as long as the obligated parent also covers the children under any insurance available through his or her employer or union which is provided at no cost to the obligated parent.

(5) DCS may serve a notice of support owed for medical support under WAC 388-14A-3312 to establish either or both of the following:

(a) Either parent's share of uninsured medical expenses owed to the other parent; or

(b) Either parent's monthly payment toward the premium paid for coverage by the other parent or the state, if:

(i) Health insurance coverage is not available through the parent's employer or union or is not otherwise provided; and

(ii) The support order provides for the payment of a monthly payment toward the premium when the obligated parent does not provide coverage.

(6) See WAC 388-14A-4165 for a description of what happens when the combined total of a noncustodial parent's current support obligation, arrears payment and health insurance premiums to be withheld by the employer exceeds the fifty per cent limitation for withholding.

(7) Both parents must notify DCS any time there is a change to the health ((insurance)) care coverage for the children named in the order.

(8) WAC 388-14A-4111 and 388-14A-4112 describe when DCS may accept or decline a request to enforce a medical support obligation.

AMENDATORY SECTION (Amending WSR 11-12-006, filed 5/19/11, effective 6/19/11)

WAC 388-14A-4111 When may DCS decline a request to enforce a medical support obligation? The division of child support (DCS) may decline to enforce a medical support obligation using the remedies available under RCW 26.09.105, 26.18.170 and 26.23.110 if one or more of the following apply:

(1) The medical support obligation is imposed by a child support order that was not entered in a court or administrative forum of the state of Washington;

(2) The department of social and health services is not paying public assistance or providing foster care services;

(3) The party requesting enforcement of the medical support obligation does not have an open IV-D case with DCS for the child;

(4) The party requesting enforcement of the medical support obligation is not a parent of the child for whom the medical support obligation was established;

(5) The party is requesting reimbursement of the obligated parent's proportionate share of medical premium costs, and the obligated parent is currently providing accessible health ((insurance)) care coverage for the child;

(6) The party requesting enforcement of the medical support obligation is not a former recipient of public assistance as described in WAC 388-14A-2000 (2)(d);

(7) DCS has not received a request for services from a child support agency in another state or a child support agency of an Indian tribe or foreign country;

(8) The party requesting enforcement of the medical support obligation has not applied for full support enforcement services;

(9) The party requesting enforcement of the medical support obligation does not qualify as a party who can receive child support enforcement services from DCS under WAC 388-14A-2000;

(10) The case does not meet the requirements for provision of support enforcement services from DCS under WAC 388-14A-2010;

(11) DCS denies the application under WAC 388-14A-2020;

(12) The party requesting enforcement of the medical support obligation does not provide proof of payment, any required forms, and/or the declaration under penalty of perjury required under WAC 388-14A-3312;

(13) The case meets one or more of the reasons set out in WAC 388-14A-4112(2) that DCS does not enforce a custodial parent's obligation to provide medical support.

AMENDATORY SECTION (Amending WSR 11-12-006, filed 5/19/11, effective 6/19/11)

WAC 388-14A-4112 When does the division of child support enforce a custodial parent's obligation to provide medical support? (1) A noncustodial parent (NCP) may file an application for full child support enforcement services and specifically request that the division of child support (DCS) enforce the medical support obligation of the custodial parent (CP). WAC 388-14A-4111 describes when DCS may accept or decline a request to enforce a medical support obligation.

(2) DCS does not enforce the CP's medical support obligation unless the NCP files an application for nonassistance support enforcement services under WAC 388-14A-2000 (2)(c). The NCP must specify whether he or she is requesting that DCS enforce the CP's obligation to provide:

(a) The CP's proportionate share of uninsured medical expenses;

(b) Health ((insurance)) care coverage (including the possibility of a monthly payment toward the premium paid by the NCP for coverage of the children named in the order when appropriate); or

(c) Both.

(3) A medical support obligation includes providing health ((insurance)) care coverage or contributing a monthly payment toward the premium paid for coverage when appropriate, and paying a proportionate share of any uninsured medical expenses for the children.

(a) DCS may enforce the CP's obligation to pay a proportionate share of any uninsured medical expenses for the children under WAC 388-14A-3312.

(b) DCS may decide whether it is appropriate to enforce the CP's obligation to provide health ((insurance)) care coverage or contribute a monthly payment toward the premium paid for coverage under subsection (4) of this section.

(4) DCS does not enforce a custodial parent's obligation to provide health ((insurance)) care coverage or pay a monthly payment toward the premium paid for coverage when:

(a) The support order does not include a medical support obligation which includes providing health ((insurance)) care coverage or paying monthly payment toward the premium paid for coverage for the CP.

(b) The NCP is already providing health ((insurance)) care coverage for the children covered by the order.

(c) The amount that the CP would have to pay for the premium for health ((insurance)) care coverage exceeds the NCP's monthly support obligation for the children.

(d) The children are covered by health ((insurance)) care coverage provided by someone else.

(e) The children are receiving medicaid or another kind of public health care coverage.

(f) The children are receiving TANF.

(g) The CP does not reside in Washington state.

(h) The CP is a tribal member living on or near the reservation.

(i) The CP is receiving child support enforcement services through a tribal IV-D program.

(5) DCS does not enforce a CP's obligation to pay a proportionate share of medical expenses incurred by an NCP when(=

~~(a))~~ the support order does not include an obligation for the CP to pay a proportionate share of uninsured medical expenses ~~(; or~~

~~(b) The NCP is already providing health insurance coverage for the children covered by the order).~~

(6) If none of the conditions under subsection (4) exist, DCS may enforce the CP's obligation to provide health insurance coverage when the CP has health insurance available at a reasonable cost through the CP's employer or union.

(7) A "reasonable cost" for health insurance coverage is defined as twenty-five percent of the basic support obligation for the children covered by the order, unless the support order provides a different limitation.

AMENDATORY SECTION (Amending WSR 11-12-006, filed 5/19/11, effective 6/19/11)

WAC 388-14A-4120 DCS uses the National Medical Support Notice to enforce an obligation to provide health insurance coverage. (1) The division of child support (DCS) uses a notice of enrollment called the National Medical Support Notice (NMSN) to enforce an obligated parent's obligation to provide health insurance coverage under chapter 26.18 RCW.

(2) DCS sends the NMSN to the obligated parent's employer in one of the following ways:

- (a) In the same manner as a summons in a civil action,
- (b) By certified mail, return receipt requested,
- (c) By regular mail, or
- (d) By electronic means as provided in WAC 388-14A-4040 (1)(d).

(3) DCS sends the NMSN without notice to the obligated parent, who could be either the noncustodial parent (NCP) or the custodial parent (CP) when:

(a) A court or administrative order requires the obligated parent to provide ~~((insurance))~~ coverage for a dependent child;

(b) The obligated parent fails to provide health insurance (either by not covering the child or by letting the coverage lapse) or fails to provide proof of coverage;

(c) The requirements of RCW 26.23.050 are met; and

(d) DCS has reason to believe that coverage is available through the obligated parent's employer or union.

(4) If sending the NMSN does not result in coverage for the child, DCS may seek to enforce the obligated parent's medical support obligation by other means, as provided in RCW 26.18.170 and WAC 388-14A-4100.

AMENDATORY SECTION (Amending WSR 08-12-029, filed 5/29/08, effective 7/1/08)

WAC 388-14A-4160 Are there any limits on the amount an obligated parent may be required to pay for health insurance premiums? (1) The National Medical Support Notice (NMSN) advises the employer of any limitations on the amount an obligated parent may be required to pay for health insurance premiums to cover the children.

(2) Often the support order which contains the health insurance obligation determines the limitation on premium amounts, or states that there is no limitation. See WAC 388-14A-4100 for a discussion of premium limitation amounts.

(3) The premium limitation amount stated in the NMSN:

(a) Describes the premium amount required to cover the children named in the notice; and

(b) ~~((Does not))~~ May include any amounts required to cover the obligated parent, if DCS requires the employer or plan administrator to enroll the obligated parent in a health care coverage plan in order to obtain coverage for the obligated parent's children.

(4) Even if the medical insurance premium is within the limits set by the order or by WAC 388-14A-4100, the fifty percent limitation on withholding found in RCW 26.23.060 (3) still applies. See WAC 388-14A-4165 for a description of what happens when the fifty percent limitation is exceeded.

(5) When calculating the fifty percent limitation for withholding purposes:

(a) The premium attributable to coverage for the children is always included in this calculation; but

(b) The premium attributable to coverage for the obligated parent is included only when DCS requires the employer or plan administrator to enroll the obligated parent in a health insurance plan in order to obtain coverage for the obligated parent's children. See also WAC 388-14A-4165(3).

AMENDATORY SECTION (Amending WSR 11-12-006, filed 5/19/11, effective 6/19/11)

WAC 388-14A-4175 Who is required to notify the division of child support when ~~((insurance))~~ health care coverage for the children ends? (1) Once the division of child support (DCS) has notified an employer that a parent is obligated by a support order to provide health insurance coverage for the children named in the order, the National Medical Support Notice (NMSN) or other notice of enrollment remains in effect as specified in WAC 388-14A-4170.

(2) If coverage for the children is terminated, the employer must notify DCS within thirty days of the date coverage ends.

(3) A parent who is required by a child support order to provide health ~~((insurance))~~ care coverage for his or her children must notify DCS and the other parent within thirty days of the date coverage for the children ends. This requirement applies whether the obligated parent is the custodial parent or the noncustodial parent.

AMENDATORY SECTION (Amending WSR 11-12-006, filed 5/19/11, effective 6/19/11)

WAC 388-14A-4180 When must the division of child support communicate with the ~~((DSHS-medicaid-purchasing-administration))~~ health care authority? (1) The division of child support (DCS) must inform the ~~((DSHS-medicaid-purchasing-administration (MPA)))~~ health care authority (HCA) of the existence of a new or modified court or administrative order for child support when the order includes a requirement for medical support. ~~((MPA is the part of DSHS which))~~ The health care authority provides services for the state of Washington under Title XIX of the federal Social Security Act.

(2) DCS must provide ~~((MPA))~~ HCA with the following information:

(a) Title IV-A case number, Title IV-E foster care case number, medicaid number or the individual's Social Security number;

(b) Name of the obligated parent;

(c) Social Security number of the obligated parent;

(d) Name and Social Security number of the ~~((child(ren)))~~ children named in the order;

(e) Home address of the obligated parent;

(f) Name and address of the obligated parent's employer;

(g) Information regarding the obligated parent's health insurance policy; and

(h) Whether the ~~((child(ren)))~~ children named in the order are covered by the policy.

(3) DCS must periodically communicate with ~~((MPA))~~ HCA to determine if there have been any lapses (stops and starts) in the obligated parent's health ~~((insurance))~~ care coverage for medicaid applicants.

(4) Before DCS may serve a notice of support owed under WAC 388-14A-3312 (1)(b) to establish an obligated parent's monthly payment toward the premium paid by the state for coverage, ~~((MPA))~~ HCA must provide information regarding the premium paid for each child covered by the notice.

(a) DCS distributes to ~~((MPA))~~ HCA any collections based on the obligation established under WAC 388-14A-3312 (1)(b) when the ~~((child receives))~~ children receive state-financed medical coverage through the department under chapter 74.09 RCW for which there is an assignment.

(b) Such collections are retained by ~~((the department))~~ HCA to reimburse the state, subject to the limitations in WAC 388-14A-2035(4).

AMENDATORY SECTION (Amending WSR 11-12-006, filed 5/19/11, effective 6/19/11)

WAC 388-14A-6300 Duty of the administrative law judge in a hearing to determine the amount of a support obligation. (1) A support order entered under this chapter must conform to the requirements set forth in RCW 26.09-105, 26.18.170, and 26.23.050. The administrative law judge (ALJ) must comply with the DSHS rules on child support and include a Washington state child support schedule worksheet when entering a support order.

(2) In hearings held under this chapter to contest a notice and finding of financial responsibility or a notice and finding of parental responsibility or other notice or petition, the ALJ must determine:

(a) The noncustodial parent's obligation to provide support under RCW 74.20A.057;

(b) The names and dates of birth of the children covered by the support order;

(c) The net monthly income of the noncustodial parent (NCP) and the other parent of the ~~((child))~~ children;

(d) The NCP's share of the basic support obligation and any adjustments to that share, according to his or her circumstances;

(e) Each parent's proportionate share of costs such as ~~((health care))~~ uninsured medical expenses, day care and special child rearing expenses;

(f) If requested by a party, the NCP's proportionate share of costs such as ~~((health care))~~ uninsured medical expenses or day care expenses in a sum certain amount per month;

(g) A statement that either or both parents are obligated to provide medical support under RCW 26.09.105 and 26.18.170, as provided in subsection (3) of this section, including but not limited to notice that if proof of health ~~((insurance))~~ care coverage or proof that the coverage is unavailable is not provided to DCS within twenty days, DCS may seek direct enforcement through the obligated parent's employer or union without further notice to the parent;

(h) The NCP's accrued debt and order payments toward the debt in a monthly amount to be determined by the division of child support (DCS);

(i) The NCP's current and future monthly support obligation as a sum certain amount per month, and also as a "per month per child" amount if appropriate under WAC 388-14A-3200(4) and 388-14A-4800, and order payments in that amount.

(3) In determining the medical support obligation of the parents, the ALJ must:

(a) Require both parents to provide medical support for the children covered by the order. Medical support includes both:

(i) The obligation to provide health ~~((insurance))~~ care coverage for the children;

(A) If coverage that can be extended to cover the children is or becomes available through the obligated parent's employer or union((:));

(B) If the obligated parent can enroll the children in public health care coverage; or

(C) To make a monthly contribution toward the premium paid for coverage by the other parent or the state when coverage is not available; and

(ii) The obligation to pay his or her proportionate share of uninsured medical expenses.

(b) Determine whether one (but not both) of the parents should be excused from the obligation to provide coverage or contribute to a premium.

(i) The ALJ must state the reasons for excusing a parent from the coverage obligation.

(ii) The ALJ may not excuse that parent from the obligation to contribute his or her proportionate share of uninsured medical expenses.

(4) Having made the determinations required in subsection (2) above, the ALJ must order the NCP to make payments to the Washington state support registry (WSSR).

(5) The ALJ must allow DCS to orally amend the notice at the hearing to conform to the evidence. The ALJ may grant a continuance, when necessary, to allow the NCP or the CP additional time to present rebutting evidence or argument as to the amendment.

(6) The ALJ may not require DCS to produce or obtain information, documents, or witnesses to assist the NCP or CP in proof of defenses to liability. However, this rule does not apply to relevant, nonconfidential information or documents that DCS has in its possession.

(7) In a hearing held on a notice of support owed served on the NCP under WAC 388-14A-3310 or 388-14A-3311, the ALJ must comply with WAC 388-14A-3323 and 388-

14A-3325 to determine, depending on what was requested in the notice:

- (a) Whether a condition precedent in the order to begin or adjust the support obligation was met;
 - (b) The amount of monthly support as a fixed dollar amount;
 - (c) Any accrued arrears;
 - (d) Any difference between the amount calculated in the order resulting from a previous notice of support owed and the actual amount of the NCP's obligation for the period covered by the order; and
 - (e) The amount of the NCP's share of daycare or child care expenses for the children, including:
 - (i) The amount that the NCP must pay each month as his or her ongoing share of daycare or child care expenses for the children; and
 - (ii) The amount of NCP's accrued debt for daycare or child care expenses.
- (8) In a hearing held on a notice of support owed served on either the NCP or the CP issued under WAC 388-14A-3312, the ALJ must determine either or both of the following, depending on what was requested in the notice:
- (a) The amount owed by the obligated parent to the other for unreimbursed medical expenses;
 - (b) The monthly amount to be paid by the obligated parent as his or her proportionate share of the health ~~((insurance))~~ care coverage premium paid by the other parent or the state.
- (9) Except as provided in WAC 388-14A-3324, the ALJ does not specify how the amounts owed by the obligated parent should be paid.
- (10) In the event that DCS has served a notice of support owed under WAC 388-14A-3312 on both the NCP and the CP, the ALJ must issue a separate administrative order for each notice issued, and may not set off the debts against each other.

Purpose: These amendments align the developmental disabilities administration's current supports intensity scale (SIS) with the American Association on Intellectual and Developmental Disabilities' latest version of the SIS-A (adult version).

Citation of Rules Affected by this Order: Amending WAC 388-828-4200, 388-828-4220, 388-828-4240, 388-828-4260, 388-828-4280, 388-828-4300, 388-828-4320, 388-828-4360, 388-828-4380, 388-828-4400, 388-828-5460, 388-828-5700, 388-828-5800, 388-828-5900, 388-828-8040, 388-828-8060, 388-828-9560, 388-828-9580, 388-828-9650, 388-828-9660, 388-828-9670, and 388-828-9680.

Statutory Authority for Adoption: RCW 71A.12.030, 71A.12.120.

Adopted under notice filed as WSR 18-21-134 on October 19, 2018.

A final cost-benefit analysis is available by contacting Chantelle Diaz, P.O. Box 45310, Olympia, WA 98504-5310, phone 360-407-1589, fax 360-407-0955, TTY 1-800-833-6388, email Chantelle.Diaz@dshs.wa.gov.

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

Number of Sections Adopted at the Request of a Non-governmental 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 22, 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 22, Repealed 0.

Date Adopted: December 20, 2018.

Katherine I. Vasquez
Rules Coordinator

**WSR 19-02-020
PERMANENT RULES
DEPARTMENT OF**

SOCIAL AND HEALTH SERVICES

(Developmental Disabilities Administration)

[Filed December 21, 2018, 9:26 a.m., effective February 1, 2019]

Effective Date of Rule: February 1, 2019.

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

WAC 388-828-4200 What activities are assessed in the home living activities subscale of the support needs scale? The home living activities subscale measures your personal support needs for the following home living activities:

#	Home living activities	Type of support				Frequency of support				Daily support time				Raw score			
		0	1	2	3	4	0	1	2	3	4	0	1		2	3	4
A1	((Using the toilet)) Operating home appliances/electronics	0	1	2	3	4	0	1	2	3	4	0	1	2	3	4	
A2	Bathing and taking care of ((clothes (includes laundering))) personal hygiene and grooming needs	0	1	2	3	4	0	1	2	3	((4)) *	0	1	2	3	4	
A3	((Preparing food)) Using the toilet	0	1	2	3	4	0	1	2	3	((*) 4	0	1	2	3	4	

#	Home living activities	Type of support					Frequency of support					Daily support time					Raw score
A4	((Eating food)) Dressing	0	1	2	3	4	0	1	2	3	4	0	1	2	3	4	
A5	((Housekeeping and cleaning)) Preparing food	0	1	2	3	4	0	1	2	3	((4)) *	0	1	2	((3)) 3	((4)) 4	
A6	((Dressing)) Eating food	0	1	2	3	4	0	1	2	3	4	0	1	2	3	4	
A7	((Bathing and)) Taking care of ((personal hygiene and grooming needs)) clothes, including laundering	0	1	2	3	4	0	1	2	3	((3)) 4	0	1	2	3	4	
A8	((Operating home appliances)) Housekeeping and cleaning	0	1	2	3	4	0	1	2	3	4	0	1	2	((3)) *	((4)) *	
A9	Using currently prescribed equipment or treatment	0	1	2	3	4	0	1	2	3	4	0	1	2	3	4	
Total raw score for home living activities:																	
* = Score is not an option per AAIDD. Note: Question A9 is a question added by ((DD)) DDA. It is for ((information)) informational purposes only and is not used to calculate scores or levels for service determination.																	

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

WAC 388-828-4220 What activities are assessed in the community living activities subscale of the support needs scale? The community living activities subscale measures your personal support needs for the following community living activities:

#	Community living activities	Type of support					Frequency of support					Daily support time					Raw score
B1	Getting from place to place throughout the community (transportation)	0	1	2	3	4	0	1	2	3	*	0	1	2	3	4	
B2	Participating in recreation/leisure activities in community ((settings))	0	1	2	3	4	0	1	2	3	*	0	1	2	3	4	
B3	((Using public services in the)) Participating in preferred community activities (churches, volunteer, etc.)	0	1	2	3	4	0	1	2	3	*	0	1	2	3	4	
B4	((Going to visit friends and family)) Accessing public buildings and settings	0	1	2	3	4	0	1	2	3	((3)) 4	0	1	2	3	4	
B5	((Participating)) Using public services in ((preferred)) the community ((activities (church, volunteer, etc.))	0	1	2	3	4	0	1	2	3	*	0	1	2	3	4	
B6	Shopping and purchasing goods and services	0	1	2	3	4	0	1	2	3	4	0	1	2	3	4	
B7	Interacting with community members	0	1	2	3	4	0	1	2	3	4	0	1	2	3	4	
B8	((Accessing public buildings and settings)) Going to visit friends and family	0	1	2	3	4	0	1	2	3	((4)) *	0	1	2	3	4	
Total raw score for community living activities:																	
* = Score is not an option per AAIDD.																	

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

WAC 388-828-4240 What activities are assessed in the lifelong learning activities subscale of the support needs scale? The lifelong learning activities subscale measures your personal support needs for the following lifelong learning activities:

#	Lifelong learning activities	Type of support					Frequency of support					Daily support time					Raw score
C1	((Interacting with others in learning activities)) Learning and using problem-solving strategies	0	1	2	3	4	0	1	2	3	((3)) 4	0	1	2	3	4	
C2	((Participating in training/educational decisions)) Learning functional academics (reading signs, counting change, etc.)	0	1	2	3	4	0	1	2	3	((3)) 4	0	1	2	3	((3)) 4	
C3	Learning ((and using problem-solving strategies)) health and physical education skills	0	1	2	3	4	0	1	2	3	4	0	1	2	3	4	

#	Lifelong learning activities	Type of support					Frequency of support					Daily support time					Raw score
C4	((Using technology for)) Learning self-determination skills	0	1	2	3	4	0	1	2	3	4	0	1	2	3	4	
C5	((Accessing training/educational settings)) Learning self-management strategies	0	1	2	3	4	0	1	2	3	((4)) *	0	1	2	3	4	
C6	((Learning functional academics (reading-signs, counting change, etc.)) Participating in training/educational decisions	0	1	2	3	4	0	1	2	3	((4)) *	0	1	2	3	((4)) *	
C7	((Learning health and physical education-skills)) Accessing training/educational settings	0	1	2	3	4	0	1	2	3	4	0	1	2	3	4	
C8	Interacting with others in learning ((self-determination skills)) activities	0	1	2	3	4	0	1	2	3	((4)) *	0	1	2	3	4	
C9	Using technology for learning ((self-management strategies))	0	1	2	3	4	0	1	2	3	((4)) 4	0	1	2	3	4	
Total raw score for lifelong learning activities:																	
* = Score is not an option per AAIDD.																	

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

WAC 388-828-4260 What activities are assessed in the employment activities subscale of the support needs scale?

The employment activities subscale measures your personal support needs for the following employment activities:

#	Employment activities	Type of support					Frequency of support					Daily support time					Raw score
D1	((Accessing/receiving/job/tasks accommodations)) Learning and using specific job skills	0	1	2	3	4	0	1	2	3	*	0	1	2	3	4	
D2	((Learning and using specific job skills)) Accessing/receiving job/task accommodations	0	1	2	3	4	0	1	2	3	*	0	1	2	3	4	
D3	Interacting with co-workers	0	1	2	3	4	0	1	2	3	*	0	1	2	3	4	
D4	Interacting with supervisors ((and/or)) coaches	0	1	2	3	4	0	1	2	3	*	0	1	2	3	4	
D5	Completing work-related tasks with acceptable speed	0	1	2	3	4	0	1	2	3	*	0	1	2	3	4	
D6	Completing work-related tasks with acceptable quality	0	1	2	3	4	0	1	2	3	*	0	1	2	3	4	
D7	Changing job assignments	0	1	2	3	4	0	1	2	*	*	0	1	2	3	4	
D8	Seeking information and assistance from an employer	0	1	2	3	4	0	1	2	3	*	0	1	2	3	4	
Total raw score for employment activities:																	
* = Score is not an option per AAIDD.																	

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

WAC 388-828-4280 What activities are assessed in the health and safety activities subscale of the support needs scale?

The health and safety activities subscale measures your personal support needs for the following health and safety activities:

#	Health and safety activities	Type of support					Frequency of support					Daily support time					Raw score
E1	Taking medications	0	1	2	3	4	0	1	2	3	4	0	1	2	3	4	
E2	((Avoiding health)) Ambulating and ((safety-hazards)) moving about	0	1	2	3	4	0	1	2	3	4	0	1	2	3	4	
E3	((Obtaining health care services)) Avoiding health and safety hazards	0	1	2	3	4	0	1	2	3	4	0	1	2	((3)) 3	((4)) 4	
E4	((Ambulating and moving about)) Obtaining health care services	0	1	2	3	4	0	1	2	3	4	0	1	2	((3)) *	((4)) *	
E5	Learning how to access emergency services	0	1	2	3	4	0	1	2	3	4	0	1	2	3	4	
E6	Maintaining a nutritious diet	0	1	2	3	4	0	1	2	3	4	0	1	2	3	4	
E7	Maintaining physical health and fitness	0	1	2	3	4	0	1	2	3	4	0	1	2	3	4	
E8	Maintaining emotional well-being	0	1	2	3	4	0	1	2	3	4	0	1	2	3	4	
Total raw score for health and safety activities:																	

#	Health and safety activities	Type of support	Frequency of support	Daily support time	Raw score
* = Score is not an option per AAIDD.					

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

WAC 388-828-4300 What activities are assessed in the social activities subscale of the support needs scale? The social activities subscale measures your personal support needs for the following social activities:

#	Social activities	Type of support					Frequency of support					Daily support time					Raw score
F1	((Socializing within the household)) Using appropriate social skills	0	1	2	3	4	0	1	2	3	((*) 4	0	1	2	3	4	
F2	Participating in recreation ((and/or)) /leisure activities with others	0	1	2	3	4	0	1	2	3	*	0	1	2	3	4	
F3	Socializing outside the household	0	1	2	3	4	0	1	2	3	4	0	1	2	3	4	
F4	Making and keeping friends	0	1	2	3	4	0	1	2	3	*	0	1	2	3	4	
F5	((Communicating with others about personal needs)) Engaging in loving and intimate relationships	0	1	2	3	4	0	1	2	3	4	0	1	2	3	4	
F6	((Using appropriate social skills)) Socializing within the household	0	1	2	3	4	0	1	2	3	((4)) *	0	1	2	3	4	
F7	((Engaging in loving and intimate relationships)) Communicating with others about personal needs	0	1	2	3	4	0	1	2	3	4	0	1	2	3	4	
F8	Engaging in volunteer work	0	1	2	3	4	0	1	2	3	4	0	1	2	3	4	
Total raw score for social activities:																	
* = Score is not an option per AAIDD.																	

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

WAC 388-828-4320 What activities are assessed in the supplemental protection and advocacy activities subscale? The supplemental protection and advocacy activities subscale measures your personal support needs for the following protection and advocacy activities:

#	Protection and advocacy activities	Type of support					Frequency of support					Daily support time					Raw score
G1	Advocating for self	0	1	2	3	4	0	1	2	3	*	0	1	2	3	4	
G2	((Managing money)) Making choices and ((personal finances)) decisions	0	1	2	3	4	0	1	2	3	4	0	1	2	3	4	
G3	Protecting self from exploitation	0	1	2	3	4	0	1	2	3	4	0	1	2	3	4	
G4	Exercising legal/civic responsibilities	0	1	2	3	4	0	1	2	3	4	0	1	2	3	4	
G5	Belonging to and participating in self-advocacy/support organizations	0	1	2	3	4	0	1	2	3	4	0	1	2	3	4	
G6	Obtaining legal services	0	1	2	3	4	0	1	2	3	4	0	1	2	3	4	
G7	((Making choices)) Managing money and ((decisions)) personal finances	0	1	2	3	4	0	1	2	3	4	0	1	2	3	4	
G8	Advocating for others	0	1	2	3	4	0	1	2	3	*	0	1	2	3	4	
Total raw score for protection and advocacy activities:																	
* = Score is not an option for AAIDD.																	

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

WAC 388-828-4360 What exceptional medical support activities are evaluated to assess your medical support needs? The SIS exceptional medical support needs scale measures your personal support needs for the following medical support need(s) activities:

#	Medical supports needed	No support needed	Some support needed	Extensive support needed
1.	Inhalation or oxygen therapy	0	1	2

#	Medical supports needed	No support needed	Some support needed	Extensive support needed
2.	Postural drainage	0	1	2
3.	Chest PT	0	1	2
4.	Suctioning	0	1	2
5.	Oral stimulation or jaw positioning	0	1	2
6.	Tube feeding (e.g., nasogastric)	0	1	2
7.	Parenteral feeding (e.g., IV)	0	1	2
8.	Turning or positioning	0	1	2
9.	Dressing of open wound(s)	0	1	2
10.	Protection from infectious diseases due to immune system impairment	0	1	2
11.	Seizure management	0	1	2
12.	Dialysis	0	1	2
13.	Ostomy care	0	1	2
14.	Lifting and/or transferring	0	1	2
15.	Therapy services	0	1	2
16.	((Diabetes Management*)) Hypertension	0	1	2
17.	((Other(s) - Specify:)) Allergies	0	1	2
18.	Diabetes	0	1	2
19.	Other(s) - specify	0	1	2
Subtotal scores of 1s and 2s:				
Add subtotals scores for 1s and 2s for total exceptional medical support needs score:				
((#16 is a question added by DDD. It is used as part of the DDD medical acuity scale and is not used to calculate SIS percentiles.))				

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

WAC 388-828-4380 What exceptional behavioral support activities are evaluated to assess your behavioral support needs? The SIS exceptional behavioral support needs scale measures your personal support needs for the following behaviors:

#	Behavioral supports needed	No support needed	Some support Needed	Extensive support needed
1.	Prevention of ((assaults or injuries to others)) emotional outbursts	0	1	2
2.	Prevention of ((property destruction (e.g., fire setting, breaking furniture))) assault or injury to others	0	1	2
3.	Prevention of ((stealing)) property destruction (e.g. fire setting, breaking furniture)	0	1	2
4.	Prevention of ((self-injury)) stealing	0	1	2
5.	Prevention of ((PICA (ingestion of inedible substances))) self-injury	0	1	2
6.	Prevention of suicide attempts	0	1	2
7.	Prevention of ((sexual aggression)) PICA (ingestion of inedible substances)	0	1	2
8.	Prevention of nonaggressive but inappropriate behavior (e.g., exposes self in public, exhibitionism, inappropriate touching or gesturing)	0	1	2

#	Behavioral supports needed	No support needed	Some support Needed	Extensive support needed
9.	Prevention of ((tantrums or emotional outbursts)) <u>sexual aggression</u>	0	1	2
10.	Prevention of ((wandering)) <u>substance abuse</u>	0	1	2
11.	Prevention of ((substance abuse)) <u>wandering</u>	0	1	2
12.	Maintenance of mental health treatments	0	1	2
13.	Managing attention-seeking behavior*	0	1	2
14.	Managing uncooperative behavior*	0	1	2
15.	Managing agitated/over reactive behavior*	0	1	2
16.	Managing obsessive/repetitive behavior*	0	1	2
17.	Prevention of other serious behavior problem(s) - Specify:	0	1	2
Subtotal scores of 1s and 2s:				
Add subtotals scores for 1s and 2s for total exceptional behavioral support needs scores:				
* #13-16 are questions added by ((DDA)) <u>DDA</u> . They are used as part of the ((DDA)) <u>DDA</u> behavior acuity scale and are not used to calculate SIS percentiles.				

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

WAC 388-828-4400 How does (~~(DDA))~~ DDA determine if you meet the eligibility requirements for (~~(ICF/MR))~~ ICF/IID level-of-care if you are age sixteen or older? If you are age sixteen or older, (~~(DDA))~~ DDA determines you to be eligible for (~~(ICF/MR))~~ ICF/IID level-of-care from your SIS scores. Eligibility for (~~(ICF/MR))~~ ICF/IID level-of-care requires that your scores meet at least one of the following:

- (1) You have a percentile rank (~~(that is))~~ over nine percent for three or more of the six subscales in the SIS support needs scale;
- (2) You have a percentile rank (~~(that is))~~ over twenty-five percent for two or more of the six subscales in the SIS support needs scale;
- (3) You have a percentile rank (~~(that is))~~ over fifty percent in at least one of the six subscales in the SIS support needs scale;

(4) You have a support score of one or two for any of the questions listed in the SIS exceptional medical support needs scale;

(5) You have a support score of one or two for at least one of the following items in the SIS exceptional behavior support needs scale:

- (a) Prevention of assaults or injuries to others;
- (b) Prevention of property destruction (e.g., fire setting, breaking furniture);
- (c) Prevention of self-injury;
- (d) Prevention of PICA (ingestion of inedible substances);
- (e) Prevention of suicide attempts;
- (f) Prevention of sexual aggression; or
- (g) Prevention of wandering.

(6) You have a support score of two for any of the questions listed in the SIS exceptional behavior support needs scale; or

(7) You meet or exceed any of the qualifying scores for one or more of the following SIS questions:

Question # of SIS support needs scale	Text of question	Your score for "Type of support" is:	And your score for "Frequency of support" is:
((A1)) <u>A2</u>	((Using the toilet)) <u>Bathing and take care of personal hygiene and grooming needs</u>	2 or more	4
		3 or more	2
((A2)) <u>A3</u>	((Taking care of clothes)) <u>Using the toilet</u>	2 or more	((2 or more)) <u>4</u>
		3 or more	((1)) <u>2</u>
((A3)) <u>A4</u>	((Preparing food)) <u>Dressing</u>	2 or more	4
		3 or more	2
((A4)) <u>A5</u>	((Eating)) <u>Preparing food</u>	2 or more	4
		3 or more	2

Question # of SIS support needs scale	Text of question	Your score for "Type of support" is:	And your score for "Frequency of support" is:
((A5)) <u>A6</u>	((Housekeeping and cleaning) <u>Eating food</u>)	2 or more	((2 or more) <u>4</u>)
		3 or more	((+) <u>2</u>)
((A6)) <u>A7</u>	((Dressing) <u>Taking care of clothes, including laundering</u>)	2 or more	((4) <u>2 or more</u>)
		3 or more	((2) <u>1</u>)
((A7)) <u>A8</u>	((Bathing and taking care of personal hygiene) <u>Housekeeping and ((grooming needs)) cleaning</u>)	2 or more	((4) <u>2 or more</u>)
		3 or more	((2) <u>1</u>)
((E3)) <u>B6</u>	((Learning) <u>Shopping and ((using problem-solving strategies)) purchasing goods and services</u>)	2 or more	((3) <u>2 or more</u>)
		3 or more	((2) <u>1</u>)
((E9)) <u>C1</u>	Learning ((self-management) <u>and using problem-solving strategies</u>)	2 or more	3 or more
		3 or more	2
((B6)) <u>C5</u>	((Shopping and purchasing goods and services) <u>Learning self-management strategies</u>)	2 or more	((2) <u>3 or more</u>)
		3 or more	((+) <u>2</u>)
E1	Taking medications	2 or more	4
		3 or more	2
E2	((Avoiding health) <u>Ambulating and ((safety hazards)) moving about</u>)	2 or more	((3 or more) <u>4</u>)
		3 or more	2
((E4)) <u>E3</u>	((Ambulating) <u>Avoiding health and ((moving about)) safety hazards</u>)	2 or more	((4) <u>3 or more</u>)
		3 or more	2
E6	Maintaining a nutritious diet	2 or more	2 or more
		3 or more	1
E8	Maintaining emotional well-being	2 or more	3 or more
		3 or more	2
((F6)) <u>F1</u>	Using appropriate social skills	2 or more	3 or more
		3 or more	2
((G2)) <u>G7</u>	Managing money and personal finances	2 or more	2 or more
		3 or more	1

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

WAC 388-828-5460 How does ((DDD)) DDA determine your ADL support needs score if you are age sixteen or older? (1) If you are age sixteen or older, your ADL support needs score is the total adjusted "Type of support" scores from the following SIS questions:

ADL questions from the SIS assessment in WAC 388-828-4200 and 388-828-4280	
Question #	Text of ADL questions:
<u>A2</u>	<u>Bathing and taking care of personal hygiene and grooming needs</u>
((A+) <u>A3</u>	Using the toilet
A4	((Eating food) <u>Dressing</u>)
A6	((Dressing) <u>Eating food</u>)

ADL questions from the SIS assessment in WAC 388-828-4200 and 388-828-4280

((A7)	<u>Bathing and taking care of personal hygiene and grooming needs</u>)
E1	Taking medications
((E4)) <u>E2</u>	Ambulating and moving about

(2) If your "Frequency of support" score for a SIS ADL question is zero or one, adjust your "Type of support" score for that question to zero.

(3) If your "Frequency of support" score for a SIS ADL support question is two, three, or four, no adjustment is needed to your "Type of support" score.

Example:

SIS ADL Questions	Text of SIS ADL Questions	If your "Frequency of Support" score is:	And your "Type of Support" score is:	Then your adjusted "Type of Support" score is:
<u>A2</u>	Bathing and taking care of personal hygiene and grooming needs	<u>1</u>	<u>2</u>	<u>0</u>
((A1)) <u>A3</u>	Using the toilet	3	3	3
A4	((Eating food)) <u>Dressing</u>	((+)) <u>3</u>	((2)) <u>3</u>	((0)) <u>3</u>
A6	((Dressing)) <u>Eating food</u>	((3)) <u>1</u>	((3)) <u>2</u>	((3)) <u>0</u>
((A7	Bathing and taking care of personal hygiene and grooming needs	+	2	0))
E1	Taking medications	3	2	2
((E4)) <u>E2</u>	Ambulating and moving about	0	0	0
Your SIS ADL support needs score:				8

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

WAC 388-828-5700 How does ~~((DDD))~~ **DDA** determine your medical acuity level? ~~((DDD))~~ **DDA** uses your SIS support scores to questions in the exceptional medical support needs scale per WAC 388-828-4360 and the following table to determine your medical acuity level:

If you meet the following criteria:	Then your medical acuity level is:	Value
(1) If you have a score of 2 on questions 1, 4, and 7;	High	3
(2) If you have a score of 2 on any two of the following questions: 2, 3, 5, 6, 8, 9, 10, 11, 12, 13, 14, 16, ((or)) 17, 18, or 19;	High	3
(3) If your total exceptional medical support needs score is 8 or higher;	High	3
(4) If you have a score of 2 on any of the following questions: 2, 3, 5, 6, 8, 9, 10, 11, 12, 13, 14, 16, ((or)) 17, 18, or 19 and do not meet the criteria for a high medical acuity level;	Medium	2
(5) If your total exceptional medical support needs score is 6 or 7 and you do not meet the criteria for a high medical acuity level;	Medium	2
(6) If your total exceptional medical support needs score is 5 or less, but greater than zero, and you do not have a score of 2 on any questions excluding number 15;	Low	1
(7) If your total exceptional medical support needs score equals zero.	None	0

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

WAC 388-828-5800 How does ~~((DDD))~~ **DDA** determine your interpersonal support needs score if you are age sixteen or older? If you are age sixteen or older, your interpersonal support needs score is determined by adding your raw scores to the following SIS questions:

Interpersonal support needs questions from the SIS assessment	
Question #	Text of interpersonal support needs questions:
B7	Interacting with community members
((C1)) <u>C8</u>	Interacting with others in learning activities
D3	Interacting with co-workers
D4	Interacting with supervisors/coaches

Interpersonal support needs questions from the SIS assessment	
D8	Seeking information and assistance from an employer
F1	((Socializing within the household)) <u>Using appropriate social skills</u>
F3	Socializing outside the household
((F5)) <u>F6</u>	((Communicating with others about personal needs)) <u>Socializing within the household</u>
((F6)) <u>F7</u>	((Using appropriate social skills)) <u>Communicating with others about personal needs</u>

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

WAC 388-828-5900 How does ~~((DDD))~~ **DDA** determine your mobility acuity level if you are age sixteen or older? If you are age sixteen or older, your mobility acuity level is determined by your scores to question ~~((E4))~~ E2 "Ambulating and moving about" in WAC 388-828-4280 using the following table:

If ((you)) your score for "Frequency of Support" is:	And your score for "Type of Support" is:	Then your Mobility Acuity Level is:	Value
3 or 4	4	High	3

If ((you)) your score for "Frequency of Support" is:	And your score for "Type of Support" is:	Then your Mobility Acuity Level is:	Value
3 or 4	3	Medium	2
If your raw score for question ((E4 or)) <u>E2</u> is 5 or more and you do not meet the criteria for a high or medium mobility acuity level		Low	1
If your raw score for question ((E4)) <u>E2</u> is 4 or less		None	0

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

WAC 388-828-8040 How does ~~((DDD))~~ **DDA** determine which health and welfare needs must be addressed in your individual support plan if you are age birth through fifteen? If you are age birth through fifteen and are receiving ~~((DDD))~~ **DDA** HCBS waiver services or reside in a state only residential setting, ~~((DDD))~~ **DDA** uses the following tables to determine the health and welfare needs that must be addressed in your individual support plan:

(1) Activities from the support needs assessment for children:

#	Questions in the Support Needs Assessment for Children:	((DDD)) DDA must address in your ((ISP)) PSCP if you have an acuity score of:	Health and Welfare Category
1	Dress and groom self	2 or more	Home Living
2	Toilet self	2 or more	Home Living
3	Eat at age level	3 or more	Home Living
4	Move around	3 or more	Home Living
5	Communicate	2 or more	Home Living
7	Make choices and take responsibility	2 or more	Protection and Advocacy
8	Explore environment	3 or more	Community Living
9	Meet therapy health needs	1 or more	Medical Supports
10	Help family continue to meet child's needs	1 or more	Protection and Advocacy
15	Identify and respond safely to emergencies	1 or more	Health and Safety
16	Practice age-level safety measures	2 or more	Protection and Advocacy
17	Effectively relate to other students/peers	3 or more	Employment
18	Have behaviors which promote being included	3 or more	Behavior Supports

(2) Medical supports from the SIS exceptional medical support needs scale

#	Questions in the Exceptional Medical Support Needs Scale	((DDD)) DDA must address in your ((ISP)) PSCP if you have an acuity score of:	Health and Welfare Category
1	Inhalation or oxygen therapy	1 or more	Medical Supports
2	Postural drainage	1 or more	Medical Supports
3	Chest PT	1 or more	Medical Supports
4	Suctioning	1 or more	Medical Supports
5	Oral Stimulation or Jaw Repositioning	1 or more	Medical Supports
6	Tube feeding (e.g., nasogastric)	1 or more	Medical Supports

#	Questions in the Exceptional Medical Support Needs Scale	((DDD)) <u>DDA</u> must address in your ((ISP)) <u>PSCP</u> if you have an acuity score of:	Health and Welfare Category
7	Parenteral feeding (e.g., IV)	1 or more	Medical Supports
8	Turning or positioning	1 or more	Medical Supports
9	Dressing of open wound(s)	1 or more	Medical Supports
10	Protection from infectious diseases due to immune system impairment	1 or more	Medical Supports
11	Seizure management	1 or more	Medical Supports
12	Dialysis	1 or more	Medical Supports
13	Ostomy care	1 or more	Medical Supports
14	Lifting and/or transferring	1 or more	Medical Supports
15	Therapy services	1 or more	Medical Supports
16	((Diabetes management)) <u>Hypertension</u>	1 or more	Medical Supports
17	((Other(s))) <u>Allergies</u>	1 or more	Medical supports
<u>18</u>	<u>Diabetes</u>	<u>1 or more</u>	<u>Medical supports</u>
<u>19</u>	<u>Other(s)-Specify</u>	<u>1 or more</u>	<u>Medical Supports</u>

(3) Behavioral supports from the SIS exceptional behavior support needs scale

#	Questions in the Exceptional Behavior Support Needs Scale:	((DDD)) <u>DDA</u> must address in your ((ISP)) <u>PSCP</u> if you have an acuity score of:	Health and Welfare Category
1	Prevention of ((assaults or injuries to others)) <u>emotional outbursts</u>	1 or more	Behavioral Supports
2	Prevention of ((property destruction (e.g., fire setting, breaking furniture))) <u>assault or injury to others</u>	1 or more	Behavioral Supports
3	Prevention of ((stealing)) <u>property destruction (e.g., fire setting, breaking furniture)</u>	1 or more	Behavioral Supports
4	Prevention of ((self injury)) <u>stealing</u>	1 or more	Behavioral Supports
5	Prevention of ((pica (ingestion of inedible substances))) <u>self-injury</u>	1 or more	Behavioral Supports
6	Prevention of suicide attempts	1 or more	Behavioral Supports
7	Prevention of ((sexual aggression)) <u>pica (ingestion of inedible substances)</u>	1 or more	Behavioral Supports
8	Prevention of nonaggressive but inappropriate behavior (e.g., exposes self in public, exhibitionism, inappropriate touching or gesturing)	1 or more	Behavioral Supports
9	Prevention of ((tantrums or emotional outbursts)) <u>sexual aggression</u>	1 or more	Behavioral Supports
10	Prevention of ((wandering)) <u>substance abuse</u>	1 or more	Behavioral Supports
11	Prevention of ((substance abuse)) <u>wandering</u>	1 or more	Behavioral Supports
12	Maintenance of mental health treatments	1 or more	Behavioral Supports
13	Managing attention-seeking behavior	1 or more	Behavioral Supports
14	Managing uncooperative behavior	1 or more	Behavioral Supports
15	Managing agitated/over-reactive behavior	1 or more	Behavioral Supports
16	Managing obsessive/repetitive behavior	1 or more	Behavioral Supports

#	Questions in the Exceptional Behavior Support Needs Scale:	((DDD)) DDA must address in your ((ISP)) PSCP if you have an acuity score of:	Health and Welfare Category
17	Prevention of other serious behavior problem(s)-Specify	1 or more	Behavioral Supports

(4) Caregiver from the SIS exceptional behavior support needs scale

#	Question in the ((DDD)) DDA Caregiver Status Acuity Scale:	((DDD)) DDA must address in your ((ISP)) PSCP if you have a score:	Health and Welfare Category
6	How long do you think you expect to continue providing care?	1 to 6 months or less than 1 month	((DDD)) DDA Caregiver Status

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

WAC 388-828-8060 How does ~~((DDD))~~ DDA determine which health and welfare needs must be addressed in your individual support plan if you are age sixteen or older? (1) If you are age sixteen or older and receiving ~~((DDD))~~ DDA HCBS waiver services or reside in a state-only residential setting, ~~((DDD))~~ DDA uses the following table to determine the health and welfare needs that must be addressed in your individual support plan:

#	SIS Activity	((DDD)) DDA must address in the ((ISP)) PSCP if your Type of Support score is:	Health and Welfare Category
A1	((Using the toilet)) Operating home appliances	3 or more	Home Living
A2	Bathing and taking care of ((clothes (includes laundering))) personal hygiene and grooming needs	3 or more	
A3	((Preparing food)) Using the toilet	3 or more	
A4	((Eating food)) Dressing	3 or more	
A5	((Housekeeping and cleaning)) Preparing food	3 or more	
A6	((Dressing)) Eating food	3 or more	
A7	((Bathing and)) Taking care of ((personal hygiene and grooming needs)) clothes, including laundering	3 or more	
A8	((Operating home appliances)) Housekeeping and cleaning	3 or more	
A9	Using currently prescribed equipment or treatment	3 or more	
B1	Getting from place to place throughout the community (transportation)	2 or more	Community Living
B2	Participating in recreation/leisure activities in the community ((settings))	2 or more	
((B3))	Using public services in the community	2 or more	
B4	((Going to visit friends and family)) Accessing public buildings and settings	((4)) 2 or more	
B5	Using public services in the community	2 or more	
B6	Shopping and purchasing goods and services	2 or more	
B7	Interacting with community members	4	
B8	((Accessing public buildings and settings)) Going to visit friends and family	((2 or more)) 4	

#	SIS Activity	((DDD)) DDA must address in the ((ISP)) PSCP if your Type of Support score is:	Health and Welfare Category
D3	Interacting with co-workers	3 or more	Employment
D4	Interacting with supervisors and or coaches	3 or more	
E1	Taking medications	2 or more	Health and Safety
E2	((Avoiding health and safety hazards)) <u>Ambulating and moving about</u>	3 or more	
E3	((Obtaining health care services)) <u>Avoiding health and safety hazards</u>	3 or more	
E4	((Ambulating and moving about)) <u>Obtaining health care services</u>	3 or more	
E6	Maintaining a nutritious diet	3 or more	
E7	Maintaining physical health and fitness	3 or more	
F2	Participating in recreation/leisure activities with others	2 or more	Social Activities
F4	Making and keeping friends	4	
F6	((Using appropriate social skills)) <u>Socializing within the household</u>	4	
G2	((Managing money and personal finances)) <u>Making choices and decisions</u>	2 or more	Protection and Advocacy
G3	Protecting self from exploitation	2 or more	
G7	((Making choices and decisions)) <u>Managing money and personal finances</u>	2 or more	

(2) If you have a support score of one or more for any of the questions in the SIS exceptional medical support needs scale, ~~((DDD))~~ DDA must address your support need using the medical supports category.

(3) If you have a support score of one or more for any of the questions in the SIS exceptional behavior support needs scale, ~~((DDD))~~ DDA must address your support need using the behavior supports category.

AMENDATORY SECTION (Amending WSR 08-15-091, filed 7/17/08, effective 7/17/08)

WAC 388-828-9560 How does the residential algorithm determine your daily support needs score? The residential algorithm determines that you have daily support needs if you meet or exceed all of the qualifying scores for one or more of the following activities from the SIS:

Qualifying Scores from Supports Intensity Scale (per WAC 388-828-4200 through 388-828-4320)			
SIS Activity	If your score for type of support is:	And your score for frequency of support is:	And your daily support time is:
((A1: Using the toilet)) <u>A2: Bathing and taking care of personal hygiene and grooming needs</u>	2 or more	3 or more	1 or more
((A4: Eating food)) <u>A3: Using the toilet</u>	2 or more	3 or more	1 or more
((A6)) <u>A4: Dressing</u>	2 or more	3 or more	1 or more
((A7: Bathing, personal hygiene, grooming)) <u>A6: Eating food</u>	2 or more	3 or more	1 or more
A9: Using currently prescribed equipment or ((treatments)) <u>treatment</u>	2 or more	3 or more	1 or more
E1: Taking medication	2 or more	3 or more	1 or more

Qualifying Scores from Supports Intensity Scale (per WAC 388-828-4200 through 388-828-4320)			
SIS Activity	If your score for type of support is:	And your score for frequency of support is:	And your daily support time is:
E2: ((Avoiding health and safety hazards)) Ambulating and moving about	((+) 3 or more	3 or more	1 or more
((E4: Ambulating and moving about)) E3: Avoiding health and safety hazards	((3) 1 or more	3 or more	1 or more
Or			
Any combination of 3 of the SIS activities listed above ((A1)) A2, A3, A4, A6, ((A7,)) A9, E1, E2, ((E4)) E3	1 or more	3 or more	1 or more

AMENDATORY SECTION (Amending WSR 08-15-091, filed 7/17/08, effective 7/17/08)

WAC 388-828-9580 How does the residential algorithm determine your mid-frequency support needs score? The residential algorithm determines that you have mid-frequency support needs if you meet one of the following three conditions:

(1) You meet or exceed all of the qualifying scores for one or more of the following activities from the SIS assessment:

Qualifying Scores from Supports Intensity Scale (per WAC 388-828-4200 through 388-828-4320)			
SIS Activity	If your type of support score is:	And your frequency of support score is:	And your daily support time score is:
((A3)) A5: Preparing food	2 or more	2 or more	2 or more
((A5)) A8: Housekeeping and cleaning	3 or more	3 or more	2 or more
B2: Participating in recreational/leisure activities in community settings	3 or more	2 or more	2 or more
B7: Interacting with community members	3 or more	2 or more	2 or more
G3: Protecting self from exploitation	2 or more	2 or more	2 or more

(2) Or you meet or exceed all of the qualifying scores for four or more of the following activities from the SIS assessment:

Qualifying Scores from Supports Intensity Scale (per WAC 388-828-4200 through 388-828-4320)				
SIS Activity	If your type of support score is:	And your frequency of support score is:	And your daily support time score is:	Score if you meet or exceed criteria
((A1: Using the toilet)) A2: Bathing and taking care of personal hygiene and grooming needs	1 or more	2 or more	1 or more	
A3: ((Preparing food)) Using the toilet	1 or more	2 or more	1 or more	
A4: ((Eating food)) Dressing	1 or more	2 or more	1 or more	
A5: ((Housekeeping and cleaning)) Preparing food	1 or more	2 or more	1 or more	
A6: ((Dressing)) Eating food	1 or more	2 or more	1 or more	

Qualifying Scores from Supports Intensity Scale (per WAC 388-828-4200 through 388-828-4320)				
SIS Activity	If your type of support score is:	And your frequency of support score is:	And your daily support time score is:	Score if you meet or exceed criteria
((A7: Bathing, personal hygiene and grooming)) <u>A8: House-keeping and cleaning</u>	1 or more	2 or more	1 or more	
A9: Using currently prescribed equipment and medications	1 or more	2 or more	1 or more	
B2: Participating in recreational/leisure activities in community settings	1 or more	2 or more	1 or more	
B7: Interacting with community members	1 or more	2 or more	1 or more	
E1: Taking medications	1 or more	2 or more	1 or more	
E2: ((Avoiding health and safety hazards)) <u>Ambulating and moving about</u>	1 or more	2 or more	1 or more	
((E4: Ambulating and moving about)) <u>E3: Avoiding health and safety hazards</u>	1 or more	2 or more	1 or more	
G3: Protecting self from exploitation	1 or more	2 or more	1 or more	
Total of all questions where criteria is met or exceed =				Sum of scores entered

(3) Or you meet the qualifying scores for the following SIS activities and your total weekly critical support time score exceeds ten hours:

Qualifying Scores from Supports Intensity Scale (per WAC 388-828-4200 through 388-828-4320)					
SIS Activity	If your type of support score is:	And your frequency of support score is:	And your daily support time score is:	Your weekly critical support time is:	Enter one time for each qualifying SIS activity
((A2)) <u>A7: Taking care of clothes ((includes)), including laundering((+))</u>	1 or more	2 or more	0	0	
			1	.25	
			2	1	
			3	3	
			4	5	
((B3)) <u>B5: Using public services in the community</u>	1 or more	2 or more	0	0	
			1	.25	
			2	1	
			3	3	
			4	5	
B6: Shopping and purchasing ((foods)) <u>goods</u> and services	1 or more	2 or more	0	0	
			1	.25	
			2	1	
			3	3	
			4	5	

Qualifying Scores from Supports Intensity Scale (per WAC 388-828-4200 through 388-828-4320)					
SIS Activity	If your type of support score is:	And your frequency of support score is:	And your daily support time score is:	Your weekly critical support time is:	Enter one time for each qualifying SIS activity
F2: ((Participation)) Participating in ((recreational)) recreation/leisure activities with others	1 or more	2 or more	0	0	
			1	.25	
			2	1	
			3	3	
			4	5	
F8: Engaging in volunteer work	1 or more	2 or more	0	0	
			1	.25	
			2	1	
			3	3	
			4	5	
((G2)) G7: Managing money and personal finances	1 or more	2 or more	0	0	
			1	.25	
			2	1	
			3	3	
			4	5	
Mid-frequency support needs weekly critical support time total =					Sum of times entered

AMENDATORY SECTION (Amending WSR 08-15-091, filed 7/17/08, effective 7/17/08)

WAC 388-828-9650 How does the residential algorithm determine your toileting support needs score? The residential algorithm adds the three dimensions of the SIS activity "~~((A1))~~A3: Using the toilet" (see WAC 388-828-4200) to determine your toileting support score. Formula:

$$\begin{aligned}
 & \text{Type of support score (0-4)} \\
 & + \\
 & \text{Frequency of support score (0-4)} \\
 & + \\
 & \text{Daily support time score (0-4)} \\
 & = \\
 & \text{Toileting support needs score (0-12)}
 \end{aligned}$$

AMENDATORY SECTION (Amending WSR 08-15-091, filed 7/17/08, effective 7/17/08)

WAC 388-828-9660 How does the residential algorithm calculate your daily critical support time? The residential algorithm uses the following chart to calculate your daily critical support time score:

Qualifying Scores from Supports Intensity Scale (per WAC 388-828-4200 through 388-828-4320)					
SIS Activity:	If your type of support is:	And your frequency of support score is:	And your daily support time score is:	Then your critical task hours =	Enter one time for each SIS activity
((A1: Using the toilet)) A2: Bathing and taking care of personal hygiene and grooming needs	1 or more	0	0 or more	0	
		1	0 or more	0	
		2	0 or more	0	
		3	0	0	
			1	.25	
			2	1	
			3	3	

Qualifying Scores from Supports Intensity Scale (per WAC 388-828-4200 through 388-828-4320)								
SIS Activity:	If your type of support is:	And your frequency of support score is:	And your daily support time score is:	Then your critical task hours =	Enter one time for each SIS activity			
			4	5				
		4	0	0				
			1	.25				
			2	1				
			3	3				
((A4: Eating food) A3: <u>Using the toilet</u>)	1 or more	0	0 or more	0				
		1	0 or more	0				
		2	0 or more	0				
		3	0	0				
			1	.25				
			2	1				
			3	3				
		4	4	5				
			0	0				
			1	.25				
			2	1				
		((A6) A4: <u>Dressing</u>)	1 or more	0		0 or more	0	
				1		0 or more	0	
				2		0 or more	0	
				3		0	0	
						1	.25	
						2	1	
3	3							
4	4			5				
	0			0				
	1			.25				
	2	1						
((A7: Bathing and taking care of personal hygiene and grooming needs) A6: <u>Eating food</u>)	1 or more	0	0 or more	0				
		1	0 or more	0				
		2	0 or more	0				
		3	0	0				
			1	.25				
			2	1				
			3	3				
		4	4	5				
			0	0				
			1	.25				
2	1							

Qualifying Scores from Supports Intensity Scale (per WAC 388-828-4200 through 388-828-4320)									
SIS Activity:	If your type of support is:	And your frequency of support score is:	And your daily support time score is:	Then your critical task hours =	Enter one time for each SIS activity				
		4	0	0					
			1	.25					
			2	1					
			3	3					
			4	5					
A9: Using currently prescribed equipment or treatment	1 or more	0	0 or more	0					
			1	0 or more		0			
			2	0 or more		0			
		3	0	0					
			1	.25					
			2	1					
			3	3					
		4	4	5					
			0	0					
			1	.25					
			2	1					
		E1: Taking medications	1 or more	0		0 or more	0		
						1	0 or more		0
						2	0 or more		0
				3		0	0		
						1	.25		
2	1								
3	3								
4	4			5					
	0			0					
	1			.25					
	2			1					
E2: ((Avoiding health and safety hazards)) <u>Ambulating and moving about</u>	1 or more			0	0 or more	0			
					1	0 or more			0
					2	0 or more			0
				3	0	0			
					1	.25			
		2	1						
		3	3						
		4	4	5					
			0	0					
			1	.25					
			2	1					

Qualifying Scores from Supports Intensity Scale (per WAC 388-828-4200 through 388-828-4320)								
SIS Activity:	If your type of support is:	And your frequency of support score is:	And your daily support time score is:	Then your critical task hours =	Enter one time for each SIS activity			
		4	0	0				
			1	.25				
			2	1				
			3	3				
			4	5				
((E4: Ambulating and moving about)) <u>E3: Avoiding health and safety hazards</u>	1 or more	0	0 or more	0				
			1	0 or more		0		
			2	0 or more		0		
		3	0	0				
			1	.25				
			2	1				
			3	3				
		4	4	5				
			0	0				
			1	.25				
			2	1				
						3	3	
						4	5	
Daily critical support time score =					Sum of all times entered.			

AMENDATORY SECTION (Amending WSR 08-15-091, filed 7/17/08, effective 7/17/08)

WAC 388-828-9670 How does the residential algorithm calculate your mid-frequency critical support time? The residential algorithm uses the following chart to calculate your mid-frequency critical support time score:

Qualifying Scores from Supports Intensity Scale (per WAC 388-828-4200 through 388-828-4320)						
SIS Activity	If your type of support is:	And your frequency of support score is:	And your daily support time score is:	Then your critical task hours =	Enter one time for each SIS activity	
((A1: Using the toilet)) <u>A2: Bathing and taking care of personal hygiene and grooming needs*</u>	1 or more	0	0 or more	0		
			1	0 or more		0
			2	0 or more		0
		3	1	.25		
			2	1		
			3	3		
			4	5		
		A3: ((Preparing food)) <u>Using the toilet</u>	1 or more	0		0 or more
1	0 or more			0		

Qualifying Scores from Supports Intensity Scale (per WAC 388-828-4200 through 388-828-4320)					
SIS Activity	If your type of support is:	And your frequency of support score is:	And your daily support time score is:	Then your critical task hours =	Enter one time for each SIS activity
		2	0	0	
			1	.25	
			2	1	
			3	3	
			4	5	
		3	0	0	
			1	.25	
			2	1	
			3	3	
			4	5	
		4	0	0	
			1	.25	
			2	1	
			3	3	
			4	5	
		A4: ((Eating food)) <u>Dressing*</u>	1 or more	0	
1	0 or more			0	
2	0			0	
	1			.25	
	2			1	
	3			3	
4	5				
3	0 or more			0	
4	0 or more	0			
A5: ((Housekeeping and cleaning)) <u>Preparing food</u>	1 or more	0	0 or more	0	
		1	0 or more	0	
		2	0	0	
			1	.25	
			2	1	
			3	3	
			4	5	
		3	0	0	
			1	.25	
			2	1	
			3	3	
			4	5	

Qualifying Scores from Supports Intensity Scale (per WAC 388-828-4200 through 388-828-4320)					
SIS Activity	If your type of support is:	And your frequency of support score is:	And your daily support time score is:	Then your critical task hours =	Enter one time for each SIS activity
		4	0	0	
			1	.25	
			2	1	
			3	3	
			4	5	
A6: (Dressing) <u>Eating food*</u>	1 or more	0	0 or more	0	
		1	0 or more	0	
		2	0	0	
			1	.25	
			2	1	
			3	3	
		4	5		
		3	0 or more	0	
4	0 or more	0			
(A7: Bathing and taking care of personal hygiene and grooming needs*) <u>A8: Housekeeping and cleaning</u>	1 or more	0	0 or more	0	
		1	0 or more	0	
		2	0	0	
			1	.25	
			2	1	
			3	3	
		4	5		
		3	0 or more	0	
4	0 or more	0			
A9: Using currently prescribed equipment or treatment*	1 or more	0	0 or more	0	
		1	0 or more	0	
		2	0	0	
			1	.25	
			2	1	
			3	3	
		4	5		
		3	0 or more	0	
4	0 or more	0			
B2: Participating in recreation/leisure activities in community (settings)	1 or more	0	0 or more	0	
		1	0 or more	0	
		2	0	0	
			1	.25	
			2	1	
			3	3	
4	5				

Qualifying Scores from Supports Intensity Scale (per WAC 388-828-4200 through 388-828-4320)							
SIS Activity	If your type of support is:	And your frequency of support score is:	And your daily support time score is:	Then your critical task hours =	Enter one time for each SIS activity		
		3	0	0			
			1	.25			
			2	1			
			3	3			
			4	5			
		4	0	0			
			1	.25			
			2	1			
			3	3			
			4	5			
		B7: Interacting with community members	1 or more	0		0 or more	0
				1		0 or more	0
				2		0	0
						1	.25
2	1						
3	3						
3	0			0			
	1			.25			
	2			1			
	3			3			
4	0			0			
	1			.25			
	2			1			
	3			3			
E1: Taking medications*	1 or more			0	0 or more	0	
				1	0 or more	0	
		2	0	0			
			1	.25			
			2	1			
			3	3			
		3	0 or more	0			
			4	0 or more	0		

Qualifying Scores from Supports Intensity Scale (per WAC 388-828-4200 through 388-828-4320)					
SIS Activity	If your type of support is:	And your frequency of support score is:	And your daily support time score is:	Then your critical task hours =	Enter one time for each SIS activity
E2: ((Avoiding health and safety hazards)) Ambulating and moving about*	1 or more	0	0 or more	0	
		1	0 or more	0	
		2	0	0	
			1	.25	
			2	1	
			3	3	
		4	5		
		3	0 or more	0	
		4	0 or more	0	
		((E4: Ambulating and moving about)) E3: Avoiding health and safety hazards*	1 or more	0	
1	0 or more			0	
2	0			0	
	1			.25	
	2			1	
	3			3	
4	5				
3	0 or more			0	
4	0 or more			0	
G3: Protecting self from exploitation	1 or more			0	0 or more
		1	0 or more	0	
		2	0	0	
			1	.25	
			2	1	
			3	3	
		4	5		
		3	0	0	
			1	.25	
			2	1	
			3	3	
		4	5		
		4	0	0	
			1	.25	
			2	1	
			3	3	
4	5				
Mid-frequency critical support time score =					Sum of all times entered
*Daily support activities that have less than daily support needs are added into the mid-frequency critical support time score.					

AMENDATORY SECTION (Amending WSR 08-15-091, filed 7/17/08, effective 7/17/08)

WAC 388-828-9680 How does the residential algorithm determine your weekly critical support time? The residential algorithm uses the following chart to calculate your weekly critical support time score:

Qualifying Scores from Supports Intensity Scale (per WAC 388-828-4200 through 388-828-4320)						
SIS Activity	If your type of support is:	And your frequency of support score is:	And your daily support time score is:	Then your critical task hours =	Enter one time for each SIS activity	
((A2)) <u>A7</u> : Taking care of clothes (including laundering)	1 or more	0	0 or more	0		
		1	0 or more	0		
		2	0	0		
			1	.25		
			2	1		
			3	3		
		3	4	5		
			0	0		
			1	.25		
			2	1		
		4	3	3		
			4	5		
	0		0			
	1		.25			
	((B3)) <u>B5</u> : Using public services in the community	1 or more	2	0		0
			3	1		.25
				2		1
				3		3
				4		5
			4	0		0
1				.25		
2				1		
3				3		
B6: Shopping and purchasing goods and services			1 or more	4	5	
				0	0 or more	0
				1	0 or more	0

Qualifying Scores from Supports Intensity Scale (per WAC 388-828-4200 through 388-828-4320)					
SIS Activity	If your type of support is:	And your frequency of support score is:	And your daily support time score is:	Then your critical task hours =	Enter one time for each SIS activity
		2	0	0	
			1	.25	
			2	1	
			3	3	
			4	5	
		3	0	0	
			1	.25	
			2	1	
			3	3	
			4	5	
		4	0	0	
			1	.25	
			2	1	
			3	3	
			4	5	
F2: Participating in recreation ((and/or) /leisure activities with others	1 or more	0	0 or more	0	
		1	0 or more	0	
		2	0	0	
			1	.25	
			2	1	
			3	3	
		3	0	0	
			1	.25	
			2	1	
			3	3	
		4	0	0	
			1	.25	
			2	1	
			3	3	
		F8: Engaging in volunteer work	1 or more	0	0 or more
1	0 or more			0	
2	0			0	
	1			.25	
	2			1	
	3			3	
4	5				

Qualifying Scores from Supports Intensity Scale (per WAC 388-828-4200 through 388-828-4320)									
SIS Activity	If your type of support is:	And your frequency of support score is:	And your daily support time score is:	Then your critical task hours =	Enter one time for each SIS activity				
		3	0	0					
			1	.25					
			2	1					
			3	3					
			4	5					
		4	0	0					
			1	.25					
			2	1					
			3	3					
			4	5					
		(G2) G7: Managing money and personal finances	1 or more	0		0 or more	0		
						1	0 or more	0	
							2	0	0
								1	.25
2	1								
3	3								
3	4			5					
	0			0	0				
				1	.25				
				2	1				
3				3					
4	4			5					
	0			0	0				
				1	.25				
				2	1				
3				3					
4	4			5					
	Weekly critical support time score =				Sum of all times entered				

WSR 19-03-003
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 19-01—Filed January 2, 2019, 3:51 p.m., effective February 2, 2019]

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

Purpose: These changes are necessary to correct omitted rules that have previously been adopted by the commission or are required by the Endangered Species Act (ESA) listings. It also serves to clarify language to reflect intention of simplification:

WAC 220-310-080, clarify commission adopted language to reflect intention of opening all rivers, streams, and beaver ponds to a standard season of Saturday before Memorial Day through October 31 unless provided for in WAC 220-312-010 through 220-312-060.

WAC 220-312-020, corrects the omission of the closure of all tributaries to the Elwha River (Clallam County) during the rule simplification process. This rule had previously been adopted by the commission.

WAC 220-312-050, corrects the omission of the closure to all steelhead fishing in the lower portion of the Chelan

River (Chelan County). This is consistent with the current ESA listing for upper Columbia River steelhead.

WAC 220-312-050, corrects and clarifies river sections of Crab Creek (Adams/Grant/Lincoln counties) that was omitted when a proposed rule was not adopted by the commission and should have reverted back to previous sections.

WAC 220-312-060, corrects the omission of the closure to all steelhead fishing in two sections of the Columbia River from the Old Hanford townsite wooden power lines towers to Vernita Bridge and from Vernita Bridge to Priest Rapids Dam. This is consistent with the current ESA listing for upper Columbia River steelhead.

Citation of Rules Affected by this Order: Amending WAC 220-310-080 Game fish seasons—General rules, 220-312-020 Freshwater exceptions to statewide rules—Coast, 220-312-050 Freshwater exceptions to statewide rules—Eastside, and 220-312-060 Freshwater exceptions to statewide rules—Columbia.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.130.

Adopted under notice filed as WSR 18-21-120 on October 17, 2018.

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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 4, Repealed 0.

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

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

Date Adopted: January 2, 2019.

Kelly Susewind
Director

AMENDATORY SECTION (Amending WSR 18-06-045, filed 3/1/18, effective 4/1/18)

WAC 220-310-080 Game fish seasons—General rules. It is unlawful to fish for game fish except during the seasons and times below.

(1) Freshwater lakes, ponds and reservoirs: Open year-round except as provided for in WAC 220-312-010 through 220-312-060.

(2) Freshwater rivers, streams, and beaver ponds: ~~((a) Rivers, streams, and beaver ponds are open to fishing for game fish unless otherwise provided in department rule.~~

~~(b) All rivers, streams, and beaver ponds listed in WAC 220-312-010 through 220-312-060:))~~ Open the Saturday before Memorial Day through October 31 except as ~~((other-wise))~~ provided for in WAC 220-312-010 through 220-312-060.

(3) Saltwater (all waters downstream and seaward of the mouths of rivers and streams generally defined in WAC 220-200-060 and specifically defined in WAC 220-300-220): Open year-round, except:

(a) Lake Washington Ship Canal - Those waters of Area 10 west of the Lake Washington Ship Canal to a north-south line 175 feet west of the Burlington-Northern Railroad Bridge are closed waters.

(b) Toliva Shoal - Waters within 500 yards of the Toliva Shoal buoy are closed waters from June 16 through April 30.

(c) Freshwater Bay - Waters south of a line from Angeles Point westerly to Observatory Point are closed July 1 through October 31.

(d) Tulalip Bay - Waters of Tulalip Bay east of a line from Hermosa Point to Mission Point are closed waters.

(e) Agate Pass - Waters of Catch Record Card Area 10 west of a line from Point Monroe to Indianola and east of a line from Point Bolin to Battle Point are closed to game fish angling from January 1 through March 31; however, a person can fish with gear meeting the fly-fishing-only requirements of WAC 220-310-150 as long as he or she does not use lead-core fly line. It is unlawful to retain any fish taken during the period January 1 through March 31.

(f) Those waters of Hood Canal inshore from yellow marker buoys to the mouth of Finch Creek, and waters within the channel created when tidelands are exposed, are closed the entire year.

However, persons with disabilities who permanently use a wheelchair and who have a designated harvester card under WAC 220-220-240 may fish from the ADA-access site at the Hoodsport Salmon Hatchery, as long as such persons follow all department rules that apply to the adjoining waters of Marine Area 12.

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

AMENDATORY SECTION (Amending WSR 18-15-065, filed 7/16/18, effective 8/16/18)

WAC 220-312-020 Freshwater exceptions to statewide rules—Coast. (1) **Aberdeen Lake (Grays Harbor County):** Open the fourth Saturday in April through October 31.

(2) **Bear Creek (Clallam County) (Bogachiel River tributary):**

(a) It is unlawful to use anything other than one barbless hook.

(b) It is unlawful to use bait.

(c) Game fish: Statewide minimum length/daily limit, except: Release wild rainbow trout.

(3) **Bear Creek (Clallam County) (Sol Duc River tributary):**

(a) It is unlawful to use anything other than one barbless hook.

- (b) It is unlawful to use bait.
- (c) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.
- (4) **Bear River (Pacific County):**
- (a) Open the Saturday before Memorial Day through March 31.
- (b) From August 16 through November 30: Night closure.
- (c) From the mouth (Highway 101 Bridge) to Lime Quarry Road (approximately 2 river miles):
 - (i) From August 16 through November 30:
 - (ii) Barbless hooks required.
 - (iii) Anti-snagging rule.
 - (iv) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
 - (v) Salmon:
 - (A) Open September 1 through January 31.
 - (B) Limit 6 fish; only 4 may be adults of which only one may be a wild adult coho.
 - (C) Release wild Chinook.
- (d) From the Lime Quarry Road upstream to the Longview Fiber Bridge:
 - (i) Selective gear rules.
 - (ii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
- (5) **Beaver Creek (Clallam County) (Sol Duc River tributary):**
- (a) From the mouth upstream to Beaver Falls:
- (b) It is unlawful to use anything other than one barbless hook.
- (c) It is unlawful to use bait.
- (d) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.
- (6) **Beaver Lake (Clallam County):** Selective gear rules.
- (7) **Big River (Clallam County), outside of Olympic National Park:**
- (a) Open the Saturday before Memorial Day through October 15, and January 1 through the last day of February.
- (b) Selective gear rules.
- (c) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
- (8) **Big River tributaries (Clallam County), outside of Olympic National Park:** Open the Saturday before Memorial Day through October 15.
- (9) **Black River (Grays Harbor/Thurston counties):** From the mouth to the bridge on 128th Ave. S.W.:
 - (a) Anti-snagging rule.
 - (b) Night closure.
 - (c) Barbless hooks required.
 - (d) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
 - (e) Salmon: Open October 1 through November 30.
 - (i) Daily limit 6, of which 2 may be adults.
 - (ii) Release adult Chinook and wild adult coho.

- (10) **Bogachiel Hatchery Pond, South (Clallam County):** Open the fourth Saturday in April through October 31.
- (11) **Bogachiel River (Clallam County):**
- (a) It is unlawful to fish from a floating device equipped with an internal combustion motor.
- (b) It is unlawful to use anything other than one barbless hook.
- (c) From the mouth to Highway 101 Bridge:
 - (i) Open the Saturday before Memorial Day through April 30.
 - (ii) It is unlawful to use bait the Saturday before Memorial Day through August 31 and February 16 through April 30.
 - (iii) Game fish: Statewide minimum length/daily limit, except:
 - (A) Release wild rainbow trout.
 - (B) Cutthroat trout: Minimum length 14 inches.
 - (C) November 1 through last day in February: Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.
 - (iv) Salmon:
 - (A) From July 1 through August 31:
 - (I) Limit 6; no more than 2 adults may be retained.
 - (II) Release wild adult Chinook and wild adult coho.
 - (B) From September 1 through November 30: Limit 3; no more than one adult may be retained.
- (d) From Highway 101 Bridge to Olympic National Park boundary:
 - (i) Open the Saturday before Memorial Day through April 30.
 - (ii) It is unlawful to use bait.
 - (iii) Game fish: Statewide minimum length/daily limit, except:
 - (A) Release wild rainbow trout.
 - (B) Cutthroat trout: Minimum length 14 inches.
 - (12) **Calawah River (Clallam County):**
 - (a) It is unlawful to fish from a floating device equipped with an internal combustion motor.
 - (b) It is unlawful to use anything other than one barbless hook.
 - (c) From the mouth to the Highway 101 Bridge:
 - (i) Open the Saturday before Memorial Day through April 30.
 - (ii) It is unlawful to use bait the Saturday before Memorial Day through August 31 and February 16 through April 30.
 - (iii) Game fish: Statewide minimum length/daily limit, except:
 - (A) Release wild rainbow trout.
 - (B) Cutthroat trout: Minimum length 14 inches.
 - (C) From November 1 through the last day in February: Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.
 - (iv) Salmon:
 - (A) Open July 1 through August 31:
 - (I) Limit 6; only 2 adults may be retained.
 - (II) Release wild adult Chinook and wild adult coho.
 - (B) Open September 1 through November 30:
 - (I) Limit 3; only one adult may be retained.
 - (II) Release wild adult coho.

- (d) From the Highway 101 Bridge to the forks:
- (i) Open the Saturday before Memorial Day through April 30.
- (ii) It is unlawful to use bait.
- (iii) Game fish: Statewide minimum length/daily limit, except:
- (A) Release wild rainbow trout.
- (B) Cutthroat trout: Minimum length 14 inches.
- (13) **Calawah River, North Fork (Clallam County):**
- (a) It is unlawful to use anything other than one barbless hook.
- (b) It is unlawful to use bait.
- (c) Game fish: Statewide minimum length/daily limit, except:
- (i) Release wild rainbow trout.
- (ii) Cutthroat trout: Minimum length 14 inches.
- (14) **Calawah River, South Fork (Clallam County):**
- (a) From the mouth to the Olympic National Park boundary:
- (b) Open the Saturday before Memorial Day through the last day in February.
- (c) It is unlawful to fish from a floating device equipped with an internal combustion motor.
- (d) It is unlawful to use anything other than one barbless hook.
- (e) It is unlawful to use bait.
- (f) Game fish: Statewide minimum length/daily limit, except:
- (i) Release wild rainbow trout.
- (ii) Cutthroat trout: Minimum length 14 inches.
- (15) **Canyon River (Grays River County):** Closed waters.
- (16) **Cases Pond (Pacific County):** Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.
- (17) **Cedar Creek (Jefferson County), outside Olympic National Park:**
- (a) Open the Saturday before Memorial Day through the last day in February.
- (b) Selective gear rules.
- (c) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
- (18) **Chehalis River (Grays Harbor County), including all channels, sloughs, and interconnected waterways:**
- (a) From the mouth (Highway 101 Bridge in Aberdeen) to Highway 107 Bridge including all channels, sloughs, and interconnected waterways:
- (i) From August 1 through November 30: Single-point barbless hooks are required.
- (ii) Anglers may fish with two poles, provided they possess a valid two-pole endorsement.
- (iii) Open the Saturday before Memorial Day through April 15:
- (iv) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
- (v) Salmon:
- (A) From August 1 through September 15:
- (I) Limit 6.
- (II) Release adult salmon.
- (B) From October 1 through November 30:
- (I) Limit 6; only one adult may be retained.
- (II) Release adult Chinook.
- (C) From May 1 through June 30: Limit one Chinook.
- (b) From the Highway 107 Bridge upstream to the South Elma Bridge (Wakefield Road).
- (i) From August 1 through November 30: Single-point barbless hooks are required.
- (ii) Anglers may fish with two poles from the mouth to the South Elma Bridge (Wakefield Road), provided they possess a valid two-pole endorsement.
- (iii) Open the Saturday before Memorial Day through April 15.
- (iv) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
- (v) Salmon:
- (A) From August 1 through September 15:
- (I) Limit 6.
- (II) Release adult salmon.
- (B) From October 1 through November 30:
- (I) Limit 6; only 2 adults may be retained.
- (II) Release adult Chinook and wild adult coho.
- (C) From May 1 through June 30: Limit one Chinook.
- (c) From South Elma Bridge (Wakefield Road) to the confluence with Black River:
- (i) All species: Single-point barbless hooks are required August 1 through November 30.
- (ii) Open the Saturday before Memorial Day through April 15.
- (iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
- (iv) Salmon:
- (A) From October 1 through November 30:
- (I) Limit 6; only 2 adults may be retained.
- (II) Release adult Chinook and wild adult coho.
- (B) From May 1 through June 30: Limit one Chinook.
- (d) From the confluence of Black River to the Highway 6 Bridge near the town of Adna:
- (i) All species August 16 through November 30: Single-point barbless hooks are required.
- (ii) Open the Saturday before Memorial Day through April 15.
- (iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
- (iv) Salmon:
- (A) From October 1 through November 30:
- (I) Limit 6; only 2 adults may be retained.
- (II) Release adult Chinook and wild adult coho.
- (B) From May 1 through June 30: Limit one Chinook.
- (e) From Highway 6 Bridge near the town of Adna to the high bridge on Weyerhaeuser 1000 line (approximately 400 yards downstream from Roger Creek (south of Pe Ell):
- (i) All species August 16 through November 30: Single-point barbless hooks are required.
- (ii) Open the Saturday before Memorial Day through April 15.

(iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iv) Salmon:

(A) From October 1 through November 30:

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

(C) Release adult Chinook and wild adult coho.

(f) From high bridge on Weyerhaeuser 1000 line (approximately 400 yards downstream from Roger Creek, south of Pe Ell, including all forks) upstream:

(i) Open the Saturday before Memorial Day through April 15.

(ii) Selective gear rules.

(iii) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(19) Chehalis River, South Fork (Lewis County):

From the mouth to County Highway Bridge near Boistfort School:

(a) Open the Saturday before Memorial Day through April 15.

(b) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(20) Chimacum Creek (Jefferson County):

(a) From the mouth to Ness's Corner Road:

(i) Open the Saturday before Memorial Day through August 31.

(ii) Selective gear rules.

(iii) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(b) From Ness's Corner Road upstream:

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

(ii) Selective gear rules.

(iii) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(21) Clallam River (Clallam County):

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

(i) Selective gear rules.

(ii) Release all fish.

(b) Open from November 1 through January 31:

(i) Game fish: Statewide minimum length/daily limit, except:

(ii) Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(22) Clearwater River (Jefferson County):

(a) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(b) It is unlawful to use anything other than one barbless hook.

(c) From the mouth to Snahapish River:

(i) Open the Saturday before Memorial Day through September 30 and December 1 through April 15.

(ii) Bait is allowed September 1 through February 15.

(iii) Game fish: Statewide minimum length/daily limit, except:

(A) Release wild rainbow trout.

(B) Cutthroat trout: Minimum length 14 inches.

(iv) Salmon: Open September 1 through September 30:

(A) Limit 3; only one adult may be retained;

(B) Release wild coho.

(d) From the Snahapish River upstream:

(i) Open the Saturday before Memorial Day through September 30.

(ii) It is unlawful to use bait.

(iii) Game fish: Statewide minimum length/daily limit, except:

(A) Release wild rainbow trout.

(B) Cutthroat trout: Minimum length 14 inches.

(23) Cloquallum Creek (Grays Harbor County):

From the mouth to the outlet at Stump Lake:

(a) Open the Saturday before Memorial Day through the last day in February.

(b) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(24) Copalis River (Grays Harbor County):

(a) From the mouth to Carlisle Bridge:

(i) From the Saturday before Memorial Day through last day in February.

(ii) It is permissible to retain hatchery steelhead with a dorsal fin height of less than 2 1/8 inches or with an adipose or ventral fin clip.

(iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iv) Salmon: From October 1 through November 30.

(A) Limit 6; only one adult salmon may be retained.

(B) Release adult Chinook.

(b) From Carlisle Bridge upstream:

(i) Open the Saturday before Memorial Day through the last day in February.

(ii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(25) Crim Creek (Lewis County) (Chehalis River tributary): Closed waters.

(26) Deep Creek (Clallam County) (tributary to the straits):

(a) Open December 1 through January 31.

(b) Selective gear rules.

(c) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(27) Dickey River (Clallam County):

(a) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(b) It is unlawful to use anything other than one barbless hook.

(c) From Olympic National Park boundary upstream to the confluence of the East and West forks:

(i) Open the Saturday before Memorial Day through April 30.

(ii) It is unlawful to use bait the Saturday before Memorial Day through August 31 and February 16 through April 30.

(iii) Game fish: Statewide minimum length/daily limit, except:

(A) Release wild rainbow trout.

- (B) Cutthroat trout: Minimum length 14 inches.
- (iv) Salmon: Open July 1 through November 30:
- (A) July 1 through August 31:
- (I) Limit 6; only 2 adults may be retained.
- (II) Release wild adult Chinook and wild adult coho.
- (B) September 1 through November 30:
- (I) Limit 3; only one adult may be retained.
- (II) Release wild adult coho.
- (d) From the confluence of the East and West forks upstream (for both forks):
- (i) Open the Saturday before Memorial Day through April 30.
- (ii) It is unlawful to use bait.
- (iii) Game fish: Statewide minimum length/daily limit, except:
- (A) Release wild rainbow trout.
- (B) Cutthroat trout: Minimum length 14 inches.
- (28) **Duck Lake (Grays Harbor County):**
- (a) Game fish: Statewide minimum length/daily limit, except: Crappie: No limit and no minimum length.
- (b) Grass carp: No limit for anglers and bow and arrow fishing.
- (29) **Dungeness River (Clallam County):** From the mouth to the forks at Dungeness Forks Campground:
- (a) Open October 16 through January 31.
- (b) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
- (c) Salmon:
- (i) Open October 16 through November 30.
- (ii) Limit 4 coho only.
- (iii) Release wild coho.
- (30) **East Twin River (Clallam County):**
- (a) Selective gear rules.
- (b) Release all fish.
- (31) **Elk Creek (Lewis County) (Chehalis River tributary):** Open the Saturday before Memorial Day through September 30 and January 1 through March 31.
- (32) **Elk Lake (Clallam County):**
- (a) Open the Saturday before Memorial Day through October 15.
- (b) Selective gear rules.
- (c) Game fish: Statewide minimum length/daily limit, except:
- (i) Trout: Daily limit 2; minimum length 14 inches.
- (ii) Release kokanee.
- (33) **Elk River (Grays Harbor County):**
- (a) From the mouth (Highway 105 Bridge) to the confluence of the middle branch:
- (i) Open the Saturday before Memorial Day through the last day in February.
- (ii) From August 16 through November 30: Single-point barbless hooks are required.
- (iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
- (iv) Salmon: Open October 1 through November 30.
- (A) Daily limit 6, of which 2 may be adults.
- (B) Release adult Chinook and wild adult coho.
- (b) From confluence of the middle branch upstream:
- (i) Open the Saturday before Memorial Day through the last day in February.
- (ii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
- (34) **Elwha River and all tributaries (Clallam County):** Closed waters.
- (35) **Failor Lake (Grays Harbor County):** Open the fourth Saturday in April through September 15.
- (36) **Fork Creek (Pacific County) (Willapa River tributary):**
- (a) From Forks Creek Hatchery rack upstream 500 feet at fishing boundary sign:
- (i) Open only for anglers with lower extremity disabilities who must permanently use a medically prescribed assistive device every time for mobility as defined in WAC 220-413-150 and possess a designated harvester companion card.
- (ii) Night closure.
- (iii) From October 1 through November 30:
- (A) Single-point barbless hooks required.
- (B) Stationary gear restriction.
- (iv) Open the Saturday before Memorial Day through July 15 and October 1 through March 31.
- (v) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
- (vi) Salmon open: From October 1 through January 31:
- (A) Limit 6; only 3 adults may be retained, and only one may be a wild adult coho.
- (B) Release wild Chinook.
- (b) From the fishing boundary sign 500 feet above Forks Creek Hatchery rack upstream to the source:
- (i) Selective gear rules.
- (ii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
- (37) **Goodman Creek (Jefferson County), outside Olympic National Park:**
- (a) Open the Saturday before Memorial Day through the last day in February.
- (b) Selective gear rules.
- (c) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
- (38) **Gray Wolf River (Clallam County):**
- (a) From the confluence with the Dungeness to the bridge at river mile 1.0: Closed waters.
- (b) From the bridge at river mile 1.0, upstream:
- (i) Selective gear rules.
- (ii) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.
- (39) **Hoh River (Jefferson County):**
- (a) It is unlawful to fish from a floating device equipped with an internal combustion motor.
- (b) It is unlawful to use anything other than one barbless hook.

(c) From the Olympic National Park boundary upstream to the DNR Oxbow Campground Boat Launch:

(i) It is unlawful to use bait from July 1 through September 15 and February 16 through April 15.

(ii) Open July 1 through August 31 and September 16 through April 15:

(iii) Game fish: Statewide minimum length/daily limit, except:

(A) Release wild rainbow trout.

(B) Cutthroat trout: Minimum length 14 inches.

(C) From November 1 through February 15: Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(iv) Salmon: Open September 16 through November 30: Limit 6; only 2 adults may be retained of which only one may be a Chinook.

(d) From the DNR Oxbow Campground Boat Launch to Morgans Crossing Boat Launch:

(i) Open June 1 through April 15.

(ii) It is unlawful to use bait the Saturday before Memorial Day through October 15 and December 1 through April 15.

(iii) Game fish: Statewide minimum length/daily limit, except:

(A) Release wild rainbow trout.

(B) Cutthroat trout: Minimum length 14 inches.

(iv) Salmon: Open October 16 through November 30: Limit 6; only 2 adults may be retained, of which only one may be a Chinook.

(e) From Morgan's Crossing Boat Launch upstream to the Olympic National Park boundary below mouth of South Fork Hoh River:

(i) Open June 1 through April 15.

(ii) It is unlawful to use bait.

(iii) It is unlawful to fish from a floating device.

(iv) Game fish: Statewide minimum length/daily limit, except:

(A) Release wild rainbow trout.

(B) Cutthroat trout: Minimum length 14 inches.

(40) **Hoh River, South Fork (Jefferson County), outside the Olympic National Park boundary:**

(a) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(b) Open July 1 through August 31 and September 16 through April 15.

(c) It is unlawful to use anything other than one barbless hook.

(d) It is unlawful to use bait.

(e) Game fish: Statewide minimum length/daily limit, except:

(i) Release wild rainbow trout.

(ii) Cutthroat trout: Minimum length 14 inches.

(41) **Hoko River (Clallam County):**

(a) From the mouth to the upper Hoko Bridge:

(i) From the hatchery ladder downstream 100 feet: Closed waters.

(ii) Open the Saturday before Memorial Day through March 15.

(iii) From September 1 through October 31: Open to fly fishing only.

(iv) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(b) From the upper Hoko Bridge to Ellis Creek Bridge (river mile 18.5):

(i) Open the Saturday before Memorial Day through March 31 to fly fishing only.

(ii) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(42) **Hoquiam River, including West Fork (Grays Harbor County):**

(a) From the mouth (Highway 101 Bridge on Simpson) to Dekay Road Bridge (West Fork):

(i) August 16 through November 30: Single-point barbless hooks required.

(ii) Open the Saturday before Memorial Day through the last day of February:

(iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iv) Salmon: Open October 1 through November 30.

(A) Daily limit 6, of which 2 may be adults.

(B) Release adult Chinook and wild adult coho.

(b) From Dekay Road Bridge upstream:

(i) Open the Saturday before Memorial Day through the last day of February.

(ii) Selective gear rules.

(iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(43) **Hoquiam River, East Fork (Grays Harbor County):**

(a) From the mouth to the confluence of Berryman Creek:

(i) August 16 through November 30: Single-point barbless hooks are required.

(ii) Open the Saturday before Memorial Day through the last day of February.

(iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iv) Salmon: Open October 1 through November 30.

(A) Daily limit 6, of which 2 may be adults.

(B) Release adult Chinook and wild adult coho.

(b) From the confluence of Berryman Creek upstream:

(i) Open the Saturday before Memorial Day through the last day of February.

(ii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iii) Selective gear rules.

(44) **Humtulpis River (Grays Harbor County):**

(a) From the mouth (Jessie Slough) to the Highway 101 Bridge, including all channels, sloughs, and interconnected waterways:

(i) From August 16 through November 30:

(A) Night closure.

(B) Single-point barbless hooks are required.

(ii) Open the Saturday before Memorial Day through March 31.

(iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iv) Salmon:

(A) From September 1 through September 30:

(I) Limit 6; only 2 adults may be retained of which only one may be a wild Chinook.

(II) Release wild coho.

(B) From October 1 through November 30:

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

(II) Release wild adult Chinook and wild coho.

(b) From the Highway 101 Bridge to the confluence of the East and West forks:

(i) From December 1 through March 31: It is unlawful to fish from a floating device equipped with an internal combustion motor.

(ii) From August 16 through November 30:

(A) Night closure.

(B) Single-point barbless hooks are required.

(iii) Open the Saturday before Memorial Day through March 31.

(iv) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(v) Salmon:

(A) From September 1 through September 30:

(I) Limit 6; only 2 adults may be retained of which only one may be a wild Chinook.

(II) Release wild coho.

(B) From October 1 through November 30:

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

(II) Release wild adult Chinook and wild coho.

(45) Humptulips River, East Fork (Grays Harbor County): From August 16 through October 31:

(a) Anti-snagging rule.

(b) Night closure.

(46) Humptulips River, West Fork (Grays Harbor County): From the mouth to Donkey Creek:

(a) From August 16 through November 30:

(i) Anti-snagging rule.

(ii) Night closure.

(b) Open the Saturday before Memorial Day through March 31.

(c) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(47) Joe Creek (Grays Harbor County): From the mouth to Ocean Beach Road Bridge:

(a) August 16 through November 30: Single-point barbless hooks are required.

(b) Open the Saturday before Memorial Day through December 31.

(c) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(d) Salmon: Open October 1 through November 30:

(i) Limit 6; only one adult may be retained.

(ii) Release adult Chinook.

(48) Johns River (Grays Harbor County): From the mouth (Highway 105 Bridge) to Ballon Creek:

(a) August 16 through November 30: Single-point barbless hooks are required.

(b) Open the Saturday before Memorial Day through the last day in February.

(c) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(d) Salmon: Open October 1 through November 30.

(i) Daily limit 6, of which 2 may be adults.

(ii) Release adult Chinook and wild adult coho.

(49) Kalaloch Creek (Jefferson County), outside Olympic National Park:

(a) Open the Saturday before Memorial Day through the last day in February:

(b) Selective gear rules.

(c) Game fish: State wide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(50) Lena Lake, Lower (Jefferson County): The inlet stream from the mouth upstream to the footbridge (about 100 feet): Closed waters.

(51) Lincoln Pond (Clallam County): Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

(52) Little Hoko River (Clallam County):

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(53) Loomis Lake (Pacific County): Open the fourth Saturday in April through October 31.

(54) Lyre River (Clallam County):

(a) From the mouth to falls near river mile 3:

(i) Open the Saturday before Memorial Day through January 31.

(ii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(b) From the falls to the Olympic National Park boundary:

(i) Selective gear rules.

(ii) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(55) Matheny Creek (Jefferson County) (Queets River tributary), outside the Olympic National Park:

(a) Open the Saturday before Memorial Day through September 30.

(b) It is unlawful to use bait.

(c) It is unlawful to use anything other than one barbless hook.

(d) Game fish: Statewide minimum length/daily limit, except:

(i) Release wild rainbow trout.

(ii) Cutthroat trout: Minimum length 14 inches.

(56) McDonald Creek (Clallam County):

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(57) Moclips River (Grays Harbor County):

(a) From the mouth to the Quinault Indian Reservation boundary.

(b) Open the Saturday before Memorial Day through the last day in February.

(c) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(d) It is permissible to retain steelhead with a dorsal fin height of less than 2 1/8 inches or with an adipose or ventral fin clip.

(e) Salmon: Open October 1 through November 30.

(i) Daily limit 6, of which one may be an adult.

(ii) Release adult Chinook.

(58) Morse Creek (Clallam County): From the mouth to Port Angeles Dam:

(a) Open from December 1 through January 31.

(b) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(59) Mosquito Creek (Jefferson County): From outside Olympic National Park upstream to the Goodman 3000 Mainline Bridge:

(a) Open the Saturday before Memorial Day through the last day in February.

(b) Selective gear rules.

(c) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(60) Naselle River (Pacific/Wahkiakum counties):

(a) From the Highway 101 Bridge to the South Fork:

(i) From August 1 through November 15:

(A) Night closure.

(B) Anti-snagging rule.

(C) Barbless hooks are required.

(ii) Anglers may fish with two poles August 1 through January 31, provided they possess a valid two-pole endorsement.

(iii) Open the Saturday before Memorial Day through April 15.

(iv) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(v) Salmon: Open August 1 through January 31:

(A) Limit 6; only 4 adults may be retained, of which only one may be a wild adult coho.

(B) Release wild Chinook.

(b) From the confluence of the South Fork to the Highway 4 Bridge:

(i) From February 1 through April 15: Selective gear rules.

(ii) From August 1 through November 15:

(A) Night closure.

(B) Anti-snagging rule.

(C) Barbless hooks are required.

(D) Stationary gear restriction.

(iii) Open the Saturday before Memorial Day through April 15.

(iv) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(v) Salmon:

(A) Open August 1 through September 30.

(I) Limit 6; only 2 adults may be retained, of which only one may be a wild adult coho.

(II) Release wild Chinook.

(B) Open October 1 through January 31.

(I) Limit 6; only 4 adults may be retained, of which only one may be a wild adult coho.

(II) Release wild Chinook.

(c) From the Highway 4 Bridge to the upstream entrance of the Naselle Hatchery Attraction Channel:

(i) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(ii) From February 1 through April 15: Selective gear rules.

(iii) From August 16 through October 15: Bait or lure must be suspended below a float.

(iv) From August 16 through November 15:

(A) Night closure.

(B) Anti-snagging rule.

(C) Barbless hooks are required.

(D) Stationary gear restrictions.

(v) Open the Saturday before Memorial Day through July 31 and August 16 through April 15.

(vi) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(vii) Salmon:

(A) Open August 16 through September 30.

(I) Limit 6; only 2 adults may be retained, of which only one may be a wild adult coho.

(II) Release wild Chinook.

(B) Open October 1 through January 31.

(I) Limit 6; only 4 adults may be retained, of which only one may be a wild adult coho.

(II) Release wild Chinook.

(viii) From the upstream entrance of the hatchery attraction channel downstream 300 feet: Closed waters.

(d) From the upstream entrance of the Naselle Hatchery Attraction Channel to the Crown Mainline (Salme) Bridge:

(i) From the falls in Sec. 6, T10N, R8W (Wahkiakum Co.) downstream 400 feet: Closed waters.

(ii) Downstream of the full spanning concrete diversion structure at the Naselle Hatchery: Closed waters August 1 through October 15.

(iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iv) From August 1 through November 15:

(A) Night closure.

(B) Anti-snagging rule.

(C) Barbless hooks are required.

(D) Stationary gear rules.

(v) Open the Saturday before Memorial Day through April 15.

(vi) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(vii) Salmon: Open October 16 through January 31.

(A) Limit 6; only 4 adults may be retained, of which one may be a wild adult coho.

(B) Release wild Chinook.

(e) From the Crown Mainline (Salme) Bridge to the mouth of the North Fork:

(i) From February 1 through April 15; selective gear rules.

(ii) Open the Saturday before Memorial Day through April 15.

(iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iv) From August 16 through November 30:

(A) Night closure.

(B) Anti-snagging rule.

(f) Upstream from the mouth of the North Fork.

(i) Selective gear rules.

(ii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(61) Naselle River, South (Pacific County):

(a) From the mouth to Bean Creek: Open the Saturday before Memorial Day through the last day in February.

(b) From the Saturday before Memorial Day through August 15: Selective gear rules.

(c) From August 16 through November 30: Anti-snagging rule and night closure.

(d) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(62) Nemah River, Middle (Pacific County):

(a) From the mouth upstream to the department of natural resources bridge on the Middle Nemah A-Line Road:

(i) Open the Saturday before Memorial Day through March 31.

(ii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iii) From August 1 through November 30:

(A) Night closure.

(B) Single-point barbless hooks are required.

(iv) Salmon:

(A) Open September 1 through January 31.

(B) Limit 6; no more than 4 adults may be retained, of which one may be a wild adult coho.

(C) Release wild Chinook.

(b) From the department of natural resources bridge on the Middle Nemah A-Line Road upstream:

(i) Open the Saturday before Memorial Day through March 31:

(ii) Selective gear rules.

(iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iv) From August 16 through November 30:

(A) Anti-snagging rule.

(B) Night closure.

(63) Nemah River, North (Pacific County):

(a) From Highway 101 Bridge upstream to the bridge on Nemah Valley Road:

(i) Open the Saturday before Memorial Day through March 31.

(ii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iii) From August 1 through November 30:

(A) Night closure.

(B) Stationary gear restriction.

(C) Single-point barbless hooks are required.

(iv) Salmon: Open August 1 through January 31.

(A) Limit 6; only 4 adults may be retained, of which one may be a wild adult coho.

(B) Release wild Chinook.

(b) From the bridge on Nemah Valley Road upstream to approximately 1.66 miles to the Hancock property line:

(i) Open the Saturday before Memorial Day through July 31 and November 16 through March 31.

(ii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iii) From August 16 through November 30:

(A) Anti-snagging rule.

(B) Night closure.

(iv) From December 1 through March 31: Selective gear rules.

(c) From the Hancock property line upstream to the temporary weir (approximately 210 feet above the Nemah Hatchery Bridge):

(i) Open only for salmon for anglers that possess a senior's license from August 1 through September 15.

(ii) Open the Saturday before Memorial Day through July 31 and November 16 through March 31.

(iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iv) From August 16 through November 30:

(A) Anti-snagging rule.

(B) Night closure.

(v) From December 1 through March 31: Selective gear rules.

(A) Limit 6; only 4 adults may be retained, of which only one may be a wild coho.

(B) Release wild Chinook.

(d) From the temporary weir (approximately 210 feet above the Nemah Hatchery Bridge) upstream to the Nemah Hatchery Dam: Closed waters.

(e) From the Nemah Hatchery Dam upstream to N-700 Road:

(i) Open the Saturday before Memorial Day through March 31.

(ii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iii) From August 16 through November 30:

(A) Night closure.

(B) Anti-snagging rule.

(iv) From December 1 through March 31: Selective gear rules.

(v) Salmon: Open October 1 through January 31:

(A) Limit 6; only 4 adults may be retained, of which one may be a wild adult coho.

(B) Release wild Chinook.

(f) From the N-700 Road to Cruiser Creek:

(i) Open the Saturday before Memorial Day through March 31.

(ii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iii) From August 16 through November 30:

(A) Night closure.

(B) Anti-snagging rule.

(iv) From December 1 through March 31: Selective gear rules.

(64) Nemah River, South (Pacific County):

(a) From September 1 through November 30:

(i) Night closure.

(ii) Single-point barbless hooks are required.

(b) Open the Saturday before Memorial Day through March 31:

(c) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(d) Salmon: Open September 1 through January 31.

(i) Limit 6; only 4 adults may be retained, of which one may be a wild adult coho.

(ii) Release wild Chinook.

(65) Newaukum River, including South Fork (Lewis County):

(a) From the mouth to Leonard Road near Onalaska:

(i) Open the Saturday before Memorial Day through March 31:

(ii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iii) From August 16 through November 30:

(A) Night closure.

(B) Single-point barbless hooks are required.

(iv) Salmon: Open October 16 through November 30:

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

(B) Release adult Chinook and wild adult coho.

(b) From Leonard Road near Onalaska to Highway 508 Bridge near Kearny Creek:

(i) Open the Saturday before Memorial Day through March 31:

(ii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iii) From August 16 through November 30:

(A) Night closure.

(B) Single-point barbless hooks are required.

(66) Newaukum River, Middle Fork (Lewis County), from the mouth to Tauscher Road Bridge:

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

(b) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(67) Newaukum River, North Fork (Lewis County), from the mouth to 400 feet below the Chehalis city water intake:

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

(b) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(68) Niawiakum River (Pacific County): From Highway 101 Bridge to the South Bend/Palix Road Bridge:

(a) From August 16 through November 30:

(i) Night closure.

(ii) Single-point barbless hooks are required.

(b) Open the Saturday before Memorial Day through November 30.

(69) North River (Grays Harbor/Pacific counties):

(a) From the Highway 105 Bridge to Fall River:

(i) From August 16 through November 30:

(A) Night closure.

(B) Single-point barbless hooks are required.

(C) Anti-snagging rule.

(ii) Open the Saturday before Memorial Day through the last day in February.

(iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iv) Salmon: Open October 1 through January 31.

(A) Limit 6; only 4 adults may be retained, of which only one may be a wild adult coho.

(B) Release wild Chinook.

(b) From Fall River to Raimie Creek:

(i) Selective gear rules.

(ii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(70) Ozette Lake tributaries and their tributaries except Big River (Clallam County): Outside of Olympic National Park. Open the Saturday before Memorial Day through October 15.

(71) Palix River, including all forks (Pacific County):

(a) From the Highway 101 Bridge to the mouth of the Middle Fork:

(i) From August 16 through November 30:

(A) Night closure.

(B) Single-point barbless hooks are required.

(ii) Open the Saturday before Memorial Day through March 31.

(iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(b) From the confluence with the Middle Fork upstream and all forks, including South Fork Palix and Canon rivers:

(i) From August 16 through October 15:

(A) Anti-snagging rule.

(B) Night closure.

(ii) From the Saturday before Memorial Day through August 15, and from December 16 through March 31: Selective gear rules.

(iii) Open the Saturday before Memorial Day through October 15, and from December 16 through March 31.

(iv) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(72) **Peabody Creek (Clallam County):** Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

(73) **Pleasant Lake (Clallam County):**

(a) Game fish: Statewide minimum length/daily limit, except:

(b) Kokanee: Daily limit 5; minimum length 8 inches, maximum length 18 inches.

(74) **Pysht River (Clallam County):**

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

(b) Selective gear rules.

(c) From the Saturday before Memorial Day through October 31.

(i) Game fish: Statewide minimum length/daily limit, except:

(ii) Release cutthroat trout and wild rainbow trout.

(d) From November 1 through January 31:

(i) Game fish: Statewide minimum length/daily limit, except:

(ii) Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(75) **Quigg Lake (Grays Harbor County):**

(a) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(b) Salmon:

(i) Open October 1 through January 31.

(ii) Limit 6 hatchery coho salmon; only 4 may be adult hatchery coho.

(76) **Quillayute River (Clallam County), outside of Olympic National Park:**

(a) Open year-round.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) It is unlawful to use anything other than one barbless hook.

(i) Game fish: Statewide minimum length/daily limit, except:

(A) Release wild rainbow trout.

(B) Cutthroat trout: Minimum length 14 inches.

(ii) From November 1 through the last day in February: Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(d) Salmon:

(i) From February 1 through August 31:

(A) Limit 6; only 2 adults may be retained, of which only one may be a sockeye.

(B) Release wild adult Chinook and wild adult coho.

(ii) From September 1 through November 30:

(A) Limit 6; only 2 adults may be retained, of which only one may be a Chinook and only one may be a sockeye.

(B) Release wild adult coho.

(77) **Quinault River (Grays Harbor County):** From the mouth at the upper end of Quinault Lake upstream to the Olympic National Park boundary:

(a) Open the Saturday before Memorial Day through April 15.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) It is unlawful to use anything other than one barbless hook.

(d) It is unlawful to use bait the Saturday before Memorial Day through September 30 and February 16 through April 15.

(e) Game fish: Statewide minimum length/daily limit, except:

(i) Release wild rainbow trout.

(ii) Cutthroat trout: Minimum length 14 inches.

(f) It is permissible to retain steelhead with a dorsal fin height of less than 2 1/8 inches or with an adipose or ventral fin clip.

(g) Salmon:

(i) Open July 1 through September 30 limit 6 jack salmon only.

(ii) Open October 1 through November 30:

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

(B) Release sockeye and chum.

(78) **Rocky Brook (Jefferson County) (Dosewallips River tributary):** From the mouth upstream: Closed waters.

(79) **Salmon Creek (Pacific County) (tributary of Naselle River):**

(a) Open the Saturday before Memorial Day through the last day in February.

(b) Selective gear rules.

(c) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(80) **Salmon River (Jefferson County), outside Olympic National Park and the Quinault Indian Reservation:**

(a) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(b) It is unlawful to use anything other than one barbless hook.

(c) It is unlawful to use bait the Saturday before Memorial Day through August 31.

(d) Open the Saturday before Memorial Day through September 30 and December 1 through the last day in February.

(e) Game fish: Statewide minimum length/daily limit, except:

(i) Release wild rainbow trout.

(ii) Cutthroat trout: Minimum length 14 inches.

(iii) From Saturday before Memorial Day through September 30: It is permissible to retain steelhead with a dorsal fin height of less than 2 1/8 inches or with an adipose or ventral fin clip.

(iv) From December 1 through the last day in February: Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

- (f) Salmon: Open September 1 through September 30:
- (i) Limit 6; only 2 may be adults and only one of the adults may be a Chinook.
- (ii) Release wild coho.
- (81) **Salt Creek (Clallam County):** From the mouth to the bridge on Highway 112:
 - (a) Selective gear rules.
 - (b) From the Saturday before Memorial Day through January 31:
 - (i) Game fish: Statewide minimum length/daily limit, except:
 - (ii) Release cutthroat trout and wild rainbow trout.
- (82) **Satsop River and East Fork (Grays Harbor County):**
 - (a) From the mouth to the bridge at Schafer State Park:
 - (i) From August 16 through November 30:
 - (A) Night closure.
 - (B) Single-point barbless hooks are required.
 - (ii) Open the Saturday before Memorial Day through March 31:
 - (A) Game fish: Statewide minimum length/daily limit, except:
 - (B) Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
 - (iii) Salmon: Open October 1 through November 30:
 - (A) Limit 6; only 2 adults may be retained.
 - (B) Release adult Chinook and wild adult coho.
 - (b) From the bridge at Schafer State Park upstream to 400 feet below Bingham Creek Hatchery barrier dam:
 - (i) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
 - (ii) From August 16 through October 31:
 - (A) Night closure.
 - (B) Single-point barbless hooks are required.
 - (c) From 400 feet downstream of the Bingham Creek Hatchery barrier dam upstream to the dam:
 - (i) Open within posted markers to anglers with disabilities who permanently use a wheelchair and possess a designated harvester companion card.
 - (ii) Night closure.
 - (iii) From August 16 through November 30: Single-point barbless hooks are required.
 - (iv) Open the Saturday before Memorial Day through March 31:
 - (A) Game fish: Statewide minimum length/daily limit, except:
 - (B) Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
 - (v) Salmon: Open October 1 through November 30:
 - (A) Limit 6; only 2 adults may be retained.
 - (B) Release adult Chinook and wild adult coho.
 - (83) **Satsop River, Middle Fork (Turnow Branch) (Grays Harbor County):**
 - (a) From August 16 through November 30:
 - (i) Anti-snagging rule.
 - (ii) Night closure.

- (b) Open the Saturday before Memorial Day through the last day in February:
 - (i) Game fish: Statewide minimum length/daily limit, except:
 - (ii) Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
- (84) **Satsop River, West Fork (Grays Harbor County):**
 - (a) From August 16 through November 30:
 - (i) Anti-snagging rule.
 - (ii) Night closure.
 - (b) Open the Saturday before Memorial Day through the last day in February:
 - (i) Game fish: Statewide minimum length/daily limit, except:
 - (ii) Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
- (85) **Sekiu River (Clallam County):** From mouth to forks:
 - (a) Open the Saturday before Memorial Day through January 31.
 - (b) Selective gear rules.
 - (c) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
- (86) **Siebert Creek (Clallam County):**
 - (a) Selective gear rules.
 - (b) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.
- (87) **Sitkum River (Clallam County) (Calawah River tributary):**
 - (a) It is unlawful to fish from a floating device equipped with an internal combustion motor.
 - (b) It is unlawful to use anything other than one barbless hook.
 - (c) It is unlawful to use bait.
 - (d) Game fish: Statewide minimum length/daily limit, except:
 - (i) Release wild rainbow trout.
 - (ii) Cutthroat trout: Minimum length 14 inches.
- (88) **Skookumchuck River (Thurston County):** From the mouth to 100 feet below the outlet of the TransAlta/WDFW steelhead rearing pond located at the base of the Skookumchuck Dam:
 - (a) From August 16 through November 30:
 - (i) Night closure.
 - (ii) Single-point barbless hooks are required.
 - (b) Open the Saturday before Memorial Day through April 30:
 - (i) Game fish: Statewide minimum length/daily limit, except:
 - (ii) Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
 - (c) Salmon: Open October 16 through November 30:
 - (i) Limit 6; only 2 adults may be retained.
 - (ii) Release adult Chinook and wild adult coho.

(89) Smith Creek (near North River) (Pacific County):

- (a) From the mouth to the Highway 101 Bridge:
 - (i) From August 16 through November 30:
 - (A) Night closure.
 - (B) Single-point barbless hooks are required.
 - (ii) Open the Saturday before Memorial Day through the last day in February.
 - (iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
 - (iv) Salmon: Open October 1 through December 31:
 - (A) Limit 6; only 3 adults may be retained, of which one may be a wild adult coho.
 - (B) Release wild Chinook.
- (b) From the Highway 101 Bridge upstream:
 - (i) Selective gear rules.
 - (ii) Open the Saturday before Memorial Day through the last day in February.
 - (iii) Game fish: Statewide minimum length/daily limit, except:
 - (iv) Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(90) Snahapish River (Jefferson County) (Clearwater River tributary):

- (a) Open the Saturday before Memorial Day through September 30.
- (b) It is unlawful to fish from a floating device equipped with an internal combustion motor.
- (c) It is unlawful to use anything other than one barbless hook.
- (d) It is unlawful to use bait.
- (e) Game fish: Statewide minimum length/daily limit, except:
 - (i) Release wild rainbow trout.
 - (ii) Cutthroat trout: Minimum length 14 inches.

(91) Snow Creek and all tributaries (Jefferson County): Closed waters.**(92) Sol Duc River (Clallam County):**

- (a) It is unlawful to fish from a floating device equipped with an internal combustion motor.
- (b) It is unlawful to use anything other than one barbless hook.
- (c) From the mouth to the concrete pump station at the Sol Duc Hatchery:
 - (i) It is unlawful to use bait July 16 through August 31 and February 16 through April 30.
 - (ii) Game fish: Open year-round: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.
 - (iii) Salmon:
 - (A) From February 1 through August 31:
 - (I) Limit 6; only 2 adults may be retained, of which only one may be a sockeye.
 - (II) Release wild adult Chinook and wild adult coho.
 - (B) From September 1 through November 30:
 - (I) Limit 6; only 3 adults may be retained, of which only one may be a Chinook and only one may be a sockeye.
 - (II) Release wild adult coho.

(d) From the concrete pump station at Sol Duc Hatchery to the Highway 101 Bridge upstream of Klahowya Campground:

- (i) Open the Saturday before Memorial Day through April 30.
 - (ii) It is unlawful to use bait.
 - (iii) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.
- (e) From the Highway 101 Bridge upstream of Klahowya Campground to the Olympic National Park boundary:
- (i) It is unlawful to use bait.
 - (ii) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(93) Sol Duc River tributaries unless otherwise listed (Clallam County):

- (a) Selective gear rules.
- (b) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(94) Solleks River (Jefferson County) (Clearwater River tributary):

- (a) Open the Saturday before Memorial Day through September 30.
- (b) It is unlawful to fish from a floating device equipped with an internal combustion motor.
- (c) It is unlawful to use anything other than one barbless hook.
- (d) It is unlawful to use bait.
- (e) Game fish: Statewide minimum length/daily limit, except:
 - (i) Release wild rainbow trout.
 - (ii) Cutthroat trout: Minimum length 14 inches.

(95) Sooes River (Tsoo-Yess River) (Clallam County), outside of Makah Indian Reservation: Open the Saturday before Memorial Day through the last day in February.

(96) South Bend Mill Pond (Pacific County): Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

(97) Stevens Creek (Grays Harbor County): From the mouth to the Highway 101 Bridge:

- (a) From the WDFW hatchery outlet downstream to the cable crossing: Closed waters.
- (b) Open the Saturday before Memorial Day through September 30 and December 1 through the last day in February.
- (c) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(98) Sutherland Lake (Clallam County):

- (a) Open the fourth Saturday in April through October 31.
- (b) Game fish: Statewide minimum length/daily limit, except: Kokanee: Daily limit 5; minimum length 8 inches and maximum length 18 inches.

(99) Thrash Creek (Pacific/Lewis County): Closed waters.

(100) Thunder Creek (Clallam County) (Tributary to East Fork Dickey River):

- (a) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(b) It is unlawful to use anything other than one barbless hook.

(c) It is unlawful to use bait.

(d) Game fish: Statewide minimum length/daily limit, except:

(i) Release wild rainbow trout.

(ii) Cutthroat trout: Minimum length 14 inches.

(e) From mouth to D2400 Road: Open the Saturday before Memorial Day through April 30.

(f) From D2400 Road upstream: Open the Saturday before Memorial Day through October 31.

(101) **Valley Creek (Clallam County):** Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

(102) **Vance Creek/Elma Ponds (Grays Harbor County), Pond One (Bowers Lake) and Pond Two (Lake Ines):** Pond One/Bowers Lake is open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

(103) **Van Winkle Creek (Grays Harbor County):**

(a) From August 16 through November 30:

(i) Night closure.

(ii) Anti-snagging rule.

(b) From the mouth to 400 feet below the outlet of Lake Aberdeen Hatchery:

(i) Open the Saturday before Memorial Day through January 31.

(ii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iii) Salmon: Open October 1 through November 30:

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

(B) Release adult Chinook and wild adult coho.

(104) **West Twin River (Clallam County):**

(a) Selective gear rules.

(b) Release all fish.

(105) **Willapa River (Pacific County):**

(a) From the mouth (city of South Bend boat launch) to the Highway 6 Bridge approximately 2 miles below the mouth of Trap Creek:

(i) From August 1 through November 30:

(A) It is unlawful to fish from a floating device from the second bridge on Camp One Road upstream to the mouth of Mill Creek (approximately 0.5 miles).

(B) Night closure.

(C) Single-point barbless hooks are required.

(D) Stationary gear restriction applies, except from the mouth of the Willapa River to the WDFW access site at the mouth of Ward/Wilson creeks.

(ii) From the City of South Bend boat launch upstream to the second bridge on Camp One Road: Anglers may fish with two poles August 1 through January 31, provided they possess a valid two-pole endorsement.

(iii) Open the Saturday before Memorial Day through March 31.

(iv) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(v) Salmon: Open August 1 through January 31:

(A) Limit 6; only 4 adults may be retained, of which one may be a wild adult coho.

(B) Release wild Chinook.

(b) From Highway 6 Bridge to Fork Creek:

(i) From August 16 through November 30:

(A) Night closure.

(B) Single-point barbless hooks are required.

(C) Stationary gear restriction.

(ii) Open the Saturday before Memorial Day through March 31:

(iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iv) Salmon: Open August 16 through September 15:

(A) Limit 6; only 2 adults may be retained, of which one may be a wild adult coho.

(B) Release wild Chinook.

(v) Salmon: Open September 16 through January 31:

(A) Limit 6; only 4 adults may be retained, of which one may be a wild adult coho.

(B) Release wild Chinook.

(c) From Fork Creek upstream to the Highway 6 Bridge near the town of Lebam:

(i) From August 16 through October 31:

(A) Night closure.

(B) Single-point barbless hooks are required.

(C) Stationary gear restriction.

(ii) Open the Saturday before Memorial Day through March 31:

(iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iv) Salmon: Open October 1 through January 31:

(A) Limit 6; only 4 adults may be retained, of which only one may be a wild adult coho.

(B) Release wild Chinook.

(d) From the Highway 6 Bridge near the town of Lebam upstream:

(i) From August 16 through October 31:

(A) Night closure.

(B) Single-point barbless hooks are required.

(ii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(106) **Willapa River, South Fork (Pacific County):**

(a) From the mouth to the bridge on Pehl Road:

(i) From the falls/fish ladder downstream 400 feet in Section 6, Township 13 North, and Range 8 West: Closed waters.

(ii) From the Saturday before Memorial Day through July 31: Selective gear rules.

(iii) From August 1 through November 30:

(A) Night closure.

(B) Anti-snagging rule.

(C) Barbless hooks are required.

(b) Open the Saturday before Memorial Day through the last day in February:

(i) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(ii) Salmon: Open August 1 through January 31:

(A) Limit 6; only 3 adults may be retained, of which one may be a wild adult coho.

(B) Release wild Chinook.

(c) From Pehl Road upstream:

(i) Open the Saturday before Memorial Day through the last day in February.

(ii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(107) Wishkah River (Grays Harbor County):

(a) From August 16 through November 30: Single-point barbless hooks are required.

(b) From the mouth to 200 feet below the weir at the Wishkah Rearing Ponds:

(i) Open the Saturday before Memorial Day through the last day in February.

(ii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iii) Salmon: Open October 1 through November 30:

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

(B) Release adult Chinook and wild adult coho.

(iv) From 150 feet upstream to 150 feet downstream of the Wishkah adult attraction channel/outfall structure (within the posted fishing boundary): Open only to anglers with disabilities who permanently use a wheelchair and have a designated harvester companion card.

(108) Wynoochee River (Grays Harbor County):

(a) From the mouth to the WDFW White Bridge Access Site:

(i) From August 16 through November 30: Single-point barbless hooks are required.

(ii) Open the Saturday before Memorial Day through March 31:

(iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iv) Salmon: Open October 1 through November 30.

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

(B) Release adult Chinook and wild adult coho.

(b) From the WDFW White Bridge Access Site to the 7400 line bridge:

(i) From August 16 through November 30: Single-point barbless hooks are required.

(ii) From September 16 through November 30: It is unlawful to use bait.

(iii) Open the Saturday before Memorial Day through March 31:

(iv) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(c) From the 7400 line bridge to 400 feet below Wynoochee Dam, including the confluence of the reservoir upstream to Wynoochee Falls:

(i) From 400 feet downstream of Wynoochee Dam and from the barrier dam near Grisdale: Closed waters.

(ii) Open the Saturday before Memorial Day through March 31:

(iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iv) Selective gear rules.

(109) Wynoochee Reservoir (Grays Harbor County):

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

(b) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.

AMENDATORY SECTION (Amending WSR 18-15-065, filed 7/16/18, effective 8/16/18)

WAC 220-312-050 Freshwater exceptions to statewide rules—Eastside. (1) Countywide freshwater exceptions to statewide rules:

(a) Irrigation canals, wasteways, drains and the inlets and outlets of all lakes, ponds, and reservoirs in Grant and Adams counties (except Crab Creek, Rocky Ford Creek and Ponds, Columbia Basin Hatchery Creek, Bobcat Creek, Coyote Creek, Frenchman Hills Wasteway and Drains, Hays Creek, Red Rock Creek, Sand Hollow Creek, and Lake Lenore inlet and outlet) are open year-round, statewide lake rules apply to all species.

(b) In Adams, Douglas, Franklin, Grant, and Okanogan counties, except Zosel Dam (Okanogan River) and Enloe Dam (Similkameen River): It is permissible to fish up to the base of all dams.

(2) Aeneas Lake (Okanogan County):

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

(b) Fly fishing only.

(c) It is unlawful to fish from a floating device equipped with a motor.

(d) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

(3) Ahtanum Creek (Yakima County): Selective gear rules.

(4) Ahtanum Creek, North Fork (Yakima County):

(a) From the Grey Rock Trailhead Bridge crossing upstream to Shellneck Creek: Closed waters.

(b) Selective gear rules.

(5) Ahtanum Creek, Middle Fork (Yakima County):

(a) From the A2000 Spur Road Bridge in NE 1/4 of Section 34 upstream to the A2800 Road Bridge at Tree Phones Campground: Closed waters.

(b) Selective gear rules.

(6) Alta Lake (Okanogan County): Open the fourth Saturday in April through October 31.

(7) Amber Lake (Spokane County):

(a) Selective gear rules.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Open March 1 through November 30.

(d) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

(8) American River (Yakima County):

(a) Selective gear rules.

(b) From the Highway 410 Bridge at river mile 5.4 to the Mesatchee Creek Trail crossing at river mile 15.8: Closed waters from July 16 through September 15.

(9) Amon Wasteway (Benton County): Selective gear rules.**(10) Andrews Creek (tributary to Chewuch River) (Okanogan County):** From the mouth to the falls approximately 0.5 miles upstream: Closed waters.**(11) Asotin Creek, mainstem and forks (Asotin County):**

(a) Closed waters:

(i) South Fork from mouth upstream.

(ii) North Fork from USFS border upstream.

(b) Game fish: Statewide minimum length/daily limit, except: It is unlawful to fish for steelhead.

(c) Selective gear rules.

(12) Aspen Lake (Okanogan County): Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.**(13) Badger Lake (Spokane County):** Open the fourth Saturday in April through September 30.**(14) Banks Lake (Grant County):**

(a) Chumming is permissible.

(b) Game fish: Statewide minimum length/daily limit, except:

(i) Crappie: Daily limit 10; minimum length 9 inches.

(ii) Yellow perch: Daily limit 25.

(15) Bayley Lake (Stevens County):

(a) Inlet stream: Closed waters.

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

(c) Fly fishing only.

(d) It is unlawful to fish from a floating device equipped with a motor.

(e) Release all fish.

(16) Bear Creek (tributary to South Fork Tieton River) (Yakima County): From the mouth to the falls (approximately 0.75 mile): Closed waters.**(17) Bear Lake (Spokane County):** Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.**(18) Beaver Creek (tributary to Methow River) (Okanogan County):** Closed waters.**(19) Beaver Lake (Big) (Okanogan County):** Open the fourth Saturday in April through October 31.**(20) Beaver Lake, (Little):** Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.**(21) Beda Lake (Grant County):**

(a) Selective gear rules.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

(22) Beehive (Lake) Reservoir (Chelan County):

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

(b) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

(23) Beth Lake (Okanogan County): Open the fourth Saturday in April through October 31.**(24) Big Four Lake (Columbia County):**

(a) Fly fishing only.

(b) It is unlawful to fish from any floating device.

(c) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.

(25) Big Meadow Lake (Pend Oreille County):

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

(b) It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.

(26) Big Twin Lake (Okanogan County):

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

(b) Selective gear rules.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

(27) Blackbird Island Pond (Chelan County): Open July 1 through September 30 for juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.**(28) Black Canyon Creek (tributary to Methow River) (Okanogan County):** Closed waters.**(29) Black Lake (Chelan County):** Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.**(30) Black Lake (Okanogan County):** Selective gear rules.**(31) Black Lake (Stevens County):** Open the fourth Saturday in April through October 31.**(32) Blue Lake (Columbia County):** It is unlawful to fish from any floating device.**(33) Blue Lake (Grant County):** Open the fourth Saturday in April through September 30.**(34) Blue Lake (near Sinlahekin) (Okanogan County):**

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

(b) Selective gear rules.

(c) It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.

(d) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(e) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

(35) Blue Lake (near Wannacut Lake) (Okanogan County):

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

(b) Selective gear rules.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1, minimum length 18 inches.

(36) **Bobcat Creek and Ponds (Adams County):** Open the fourth Saturday in April through September 30.

(37) **Bonaparte Creek (Okanogan County):** From the mouth to the falls approximately river mile 1.0: Closed waters.

(38) **Bonaparte Lake (Okanogan County):**

(a) It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.

(b) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

(39) **Boulder Creek and tributaries (Okanogan County):** From the mouth to the barrier falls at river mile 1.0: Closed waters.

(40) **Box Canyon Creek and tributaries (Kittitas County):** From mouth (Kachess Reservoir) upstream approximately 2 miles to the 20 foot high waterfall, including that portion of the creek that flows through the dry lake bed: Closed waters.

(41) **Browns Lake (Pend Oreille County):**

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

(b) Fly fishing only.

(c) It is unlawful to fish from a floating device equipped with a motor.

(42) **Bumping Lake (Reservoir) (Yakima County):** Chumming is permissible.

(43) **Buckskin Creek and tributaries (Yakima County):** From the mouth to the west boundary of Suntides Golf Course: Closed waters.

(44) **Bumping River (Yakima County):**

(a) It is permissible to fish up to the base of Bumping Dam.

(b) From the mouth to Bumping Reservoir; selective gear rules.

(45) **Burke Lake (Grant County):** Open March 1 through September 30.

(46) **Buttermilk Creek (tributary to Twisp River) (Okanogan County), including tributaries:**

(a) Open the Saturday before Memorial Day through August 15.

(b) Release all fish.

(c) Selective gear rules.

(47) **Buzzard Lake (Okanogan County):**

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

(b) Selective gear rules.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

(48) **Caldwell Lake (Pend Oreille County):**

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

(b) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

(49) **Caliche Lakes, Upper (Grant County):** Open March 1 through September 30.

(50) **Calispell Creek (Calispell River) (Pend Oreille County):** From the mouth to Calispell Lake: Open year-round.

(51) **Campbell Lake (Okanogan County):**

(a) Selective gear rules.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.

(52) **Carl's Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.

(53) **Cascade Lake (Grant County):** Open March 1 through September 30.

(54) **Cattail Lake (Grant County):** Open the fourth Saturday in April through September 30.

(55) **Cedar Creek (tributary to Early Winters Creek) (Okanogan County):**

(a) From the mouth to Cedar Falls:

(i) Open the Saturday before Memorial Day through August 15.

(ii) Selective gear rules.

(iii) Release all fish.

(b) From Cedar Falls upstream including tributaries: Selective gear rules.

(56) **Cedar Lake (Stevens County):** Open the fourth Saturday in April through October 31.

(57) **Chain Lake (Pend Oreille County):**

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

(b) Game fish: Statewide minimum length/daily limit, except: Release kokanee.

(58) **Chapman Lake (Spokane County):**

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

(b) Chumming is permissible.

(59) **Chelan Hatchery Creek (Chelan County):** Closed waters.

(60) **Chelan Lake (Chelan County):**

(a) Game fish: Statewide minimum length/daily limit, except: Release wild cutthroat trout.

(b) Salmon: Daily limit 1; minimum length 15 inches.

(c) No catch record card required.

(61) **Chelan Lake tributaries (Chelan County):**

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Release wild cutthroat trout.

(62) **Chelan River (Chelan County):** From the railroad bridge to the Chelan PUD safety barrier below the power house:

(a) July 1 through October 31: Anti-snagging rule and night closure.

(b) Game fish: Statewide minimum length/daily limit, except:

(i) Release trout.

(ii) Steelhead: Closed to fishing.

(c) Salmon:

(i) Open July 1 through October 31.

(ii) Barbless hooks required.

(iii) Minimum length 12 inches; limit 4; no more than 2 adult hatchery Chinook may be retained.

(iv) Release coho, sockeye, and wild adult Chinook.

(d) From the Chelan PUD safety barrier below the power house upstream to Chelan Lake: Closed waters.

(63) Chewuch River (Okanogan County):

(a) From the mouth to Eight Mile Creek:

(i) Open the Saturday before Memorial Day through August 15.

(ii) Selective gear rules.

(iii) Release all fish.

(b) From the mouth to Pasayten Wilderness boundary falls: Whitefish:

(i) Open December 1 through the last day in February for whitefish only.

(ii) Whitefish gear rules.

(64) Chiwaukum Creek (Chelan County):

(a) From the mouth to Fool Hen Creek, including Fool Hen Creek and tributaries: Closed waters.

(b) From Fool Hen Creek upstream and tributaries: Selective gear rules.

(65) Chiwawa River (Chelan County):

(a) From the mouth to Buck Creek and tributaries not including Buck Creek: Closed waters.

(b) From Buck Creek upstream and tributaries (including Buck Creek): Selective gear rules.

(66) Chopaka Lake (Okanogan County):

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

(b) Fly fishing only.

(c) It is unlawful to fish from a floating device equipped with a motor.

(d) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

(67) **Chumstick Creek (Chelan County):** Closed waters.**(68) Clear Lake (Chelan County):**

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

(b) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

(69) **Clear Lake (Spokane County):** Open the fourth Saturday in April through October 31.(70) **Cle Elum Lake (Reservoir) (Kittitas County):** Game fish: Statewide minimum length/daily limit, except: Kokanee: Daily limit 5; minimum length 9 inches and maximum length 15 inches.**(71) Cle Elum River (Kittitas County):**

(a) From the mouth to Cle Elum Dam:

(i) Open year-round.

(ii) Selective gear rules.

(iii) Game fish: Statewide minimum length/daily limit, except: Release rainbow trout and cutthroat trout.

(iv) It is permissible to fish up to the base of Cle Elum Dam.

(v) Whitefish:

(A) Open December 1 through last day in February for whitefish only.

(B) Whitefish gear rules.

(b) From above Cle Elum Lake to outlet of Hyas Lake: Selective gear rules.

(72) **Cliff Lake (Grant County):** Open March 1 through September 30.**(73) Coffee Pot Lake (Lincoln County):**

(a) Open March 1 through September 30.

(b) Selective gear rules.

(c) Game fish: Statewide minimum length/daily limit, except:

(i) Trout: Daily limit 1; minimum length 18 inches.

(ii) Crappie: Daily limit 10; minimum length 9 inches.

(74) Columbia Basin Hatchery Creek (Grant County):

(a) Open April 1 through September 30 from the hatchery outflow to the confluence with Rocky Coulee Wasteway.

(b) Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

(75) **Columbia Park Pond (Benton County):** Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.(76) **Conconully Lake (Okanogan County):** Open the fourth Saturday in April through October 31.(77) **Conconully Reservoir (Okanogan County):** Open the fourth Saturday in April through October 31.(78) **Conger Pond (Pend Oreille County):** Open the fourth Saturday in April through October 31.**(79) Conner Lake (Okanogan County):**

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

(b) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

(80) **Cooper River (Kittitas County):** From the mouth to Cooper Lake: Selective gear rules.(81) **Coot Lake (Grant County):** Open the fourth Saturday in April through September 30.(82) **Corral Creek (Benton County):** Selective gear rules.(83) **Cougar Lake (Pasayten Wilderness) (Okanogan County):** Selective gear rules.(84) **Cougar Lake (near Winthrop) (Okanogan County):**

(a) Selective gear rules.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.

(85) **Cowiche Creek (Yakima County):** Selective gear rules.(86) **Coyote Creek and Ponds (Adams County):** Open the fourth Saturday in April through September 30.**(87) Crab Creek (Adams/Grant/Lincoln counties):**

(a) From the mouth to Morgan Lake Road: Open the Saturday before Memorial Day through September 30.

(b) From Morgan Lake Road to O'Sullivan Dam (including Marsh Unit I and II impoundments): Closed waters.

(c) From ~~(O'Sullivan Dam upstream to Grant County Road 7 NE: Open year-round, statewide lake rules apply to all species:~~(d)) the confluence of the Moses Lake outlets to Sand Dunes Road including tributaries:(i) Open year-round.(ii) Game fish: Statewide minimum length/daily limit, except:(A) Crappie: Minimum length 9 inches.(B) Crappie and bluegill: Combined limit of 25 fish.

(C) Yellow perch: Daily limit 25 fish.

(d) From the fountain buoy and shoreline markers of 150 feet down stream of the Alder Street fill to Grant County Road 7 NE:

(i) Open year-round.

(ii) Game fish: Statewide minimum length/daily limit, except:

(A) Crappie: Daily limit 10; minimum length 9 inches.

(B) Bluegill: Daily limit 5; minimum length 8 inches.

(C) Yellow perch: Daily limit 25.

(e) From Grant County Road 7 NE upstream (including all tributaries, except Goose Creek in the city of Wilbur): Open year-round.

(88) Crawfish Lake (Okanogan County):

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

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

(89) Crescent Lake (Pend Oreille County): Open the fourth Saturday in April through October 31.

(90) Crystal Lake (Grant County): Open March 1 through September 30.

(91) Cub Creek (tributary to Chewuch River) (Okanogan County): From mouth upstream to West Chewuch Road Bridge: Closed waters.

(92) Cup Lake (Grant County): Open March 1 through September 30.

(93) Curl Lake (Columbia County):

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

(b) It is unlawful to fish from any floating device.

(94) Davis Lake (Ferry County): Open the fourth Saturday in April through October 31.

(95) Davis Lake (Okanogan County):

(a) Selective gear rules.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.

(96) Dayton Pond (Columbia County): Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

(97) Deadman Lake (Adams County): Open the fourth Saturday in April through September 30.

(98) Deep Creek (tributary to Bumping Lake) (Yakima County): From the mouth to the waterfall approximately 0.33 mile above the second bridge crossing on USFS Road 1808 (approximately 3.7 miles from the junction of USFS Roads 1800 and 1808): Closed waters.

(99) Deep Lake (Grant County): Open the fourth Saturday in April through September 30.

(100) Deep Lake (Stevens County): Open the fourth Saturday in April through October 31.

(101) Deer Lake (Columbia County):

(a) Open March 1 through November 30.

(b) It is unlawful to fish from any floating device.

(102) Deer (Deer Springs) Lake (Lincoln County): Open the fourth Saturday in April through September 30.

(103) Deer Lake (Stevens County):

(a) Open March 1 through November 30.

(b) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

(104) Delaney Springs (Grant County): Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

(105) De Roux Creek (Kittitas County): From the mouth to the USFS trail 1392 (De Roux Creek Trail) stream crossing (approximately 1 river mile): Closed waters.

(106) Dog Creek (tributary to Chewuch) (Okanogan County): From mouth upstream to falls approximately 1.5 miles: Closed waters.

(107) Domerie Creek (Kittitas County): Selective gear rules.

(108) Downs Lake (Lincoln/Spokane counties):

(a) Open March 1 through September 30.

(b) Game fish: Statewide minimum length/daily limit, except: Crappie: Daily limit 10; minimum length 9 inches.

(109) Dry Falls Lake (Grant County):

(a) Open March 1 through November 30.

(b) Selective gear rules.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

(110) Dune Lake (Grant County):

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

(111) Dusty Lake (Grant County):

(a) Open March 1 through November 30.

(b) Selective gear rules.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

(112) Eagle Creek (tributary to Twisp River) (Okanogan County): From mouth upstream to the falls approximately 0.5 miles: Closed waters.

(113) Early Winters Creek (tributary to Methow River) (Okanogan County):

(a) From the mouth upstream to Forest Road 300: Closed waters.

(b) From Forest Road 300 upstream; including tributaries except Cedar Creek:

(i) Open the Saturday before Memorial Day through August 15.

(ii) Selective gear rules.

(iii) Release all fish.

(114) Eightmile Creek (tributary to Chewuch River) (Okanogan County): From the mouth upstream to Forest Road 5130 Bridge: Closed waters.

(115) Elbow Lake (Stevens County):

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

(b) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

- (116) **Ell Lake (Okanogan County):**
 (a) Open the fourth Saturday in April through October 31.
 (b) Selective gear rules.
 (c) It is unlawful to fish from a floating device equipped with an internal combustion motor.
- (117) **Eloika Lake (Spokane County):** Game fish: Statewide minimum length/daily limit, except: Crappie: Daily limit 10; minimum length 9 inches.
- (118) **Empire Lake (Ferry County):**
 (a) Open the fourth Saturday in April through October 31.
 (b) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.
- (119) **Entiat River (Chelan County):**
 (a) From mouth (railroad bridge) to the boundary marker/markers located approximately 1,500 feet upstream of the upper Roaring Creek Road Bridge (immediately downstream of the Entiat National Fish Hatchery): Open July 16 through September 30 for hatchery Chinook only.
 (i) Selective gear rules.
 (ii) Night closure.
 (iii) Minimum length 12 inches; daily limit 6.
 (iv) Release coho and sockeye.
 (v) Steelhead: Closed to fishing.
 (vi) Open December 1 through the last day in February for whitefish only.
 (vii) Whitefish gear rules.
 (b) From the boundary marker/markers located approximately 1,500 feet upstream of the upper Roaring Creek Road Bridge (immediately downstream of the Entiat National Fish Hatchery) to Entiat Falls:
 (i) Whitefish:
 (ii) Open December 1 through the last day in February for whitefish only.
 (iii) Whitefish gear rules.
 (c) Entiat River and all tributaries above Entiat Falls: Selective gear rules.
- (120) **Ephrata Lake (Grant County):** Closed waters.
- (121) **Esquatzel Coulee (Franklin County):** Open year-round.
- (122) **Esquatzel Coulee, West Branch (Franklin County):** Open year-round.
- (123) **Falls Creek (tributary to Chewuch River) (Okanogan County):** From mouth upstream to the falls approximately .15 miles: Closed waters.
- (124) **Fan Lake (Pend Oreille County):**
 (a) Open the fourth Saturday in April through September 30.
 (b) It is unlawful to fish from a floating device equipped with an internal combustion motor.
- (125) **Ferry Lake (Ferry County):** It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.
- (126) **Fiorito Lakes (Kittitas County):** It is unlawful to fish from a floating device equipped with an internal combustion motor.
- (127) **Fish Lake (Chelan County):** Game fish: Statewide minimum length/daily limit, except: Yellow perch: Daily limit 25.
- (128) **Fish Lake (Okanogan County):** Open the fourth Saturday in April through October 31.
- (129) **Fish Lake (Spokane County):**
 (a) Open the fourth Saturday in April through September 30.
 (b) It is unlawful to fish from a floating device equipped with an internal combustion motor.
 (c) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.
- (130) **Fishhook Pond (Walla Walla County):** It is unlawful to fish from a floating device.
- (131) **Fishtrap Lake (Lincoln/Spokane counties):** Open the fourth Saturday in April through September 30.
- (132) **Forde Lake (Okanogan County):**
 (a) Open the fourth Saturday in April through October 31.
 (b) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.
- (133) **Fourth of July Lake (Adams/Lincoln counties):**
 (a) Open the Friday after Thanksgiving through March 31.
 (b) It is unlawful to fish from a floating device equipped with an internal combustion motor.
- (134) **Frank's Pond (Chelan County):**
 (a) Open the fourth Saturday in April through October 31.
 (b) Open to juvenile anglers only.
- (135) **Frater Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.
- (136) **Frenchman Hills Wasteway and Drains (Grant County):** Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.
- (137) **Gadwall Lake (Grant County):** Open the fourth Saturday in April through September 30.
- (138) **Garfield Juvenile Pond (Whitman County):** Open to juvenile anglers only.
- (139) **Goat Creek (tributary to Methow River) (Okanogan County):** Closed waters.
- (140) **Gold Creek, Gold Creek Pond and outlet channel (tributary to Keechelus Lake):** Including that portion of Gold Creek that flows through the dry Keechelus Reservoir lakebed: Closed waters.
- (141) **Gold Creek (tributary to Methow River) (Okanogan County):** Closed waters.
- (142) **Goose Creek (Lincoln County), within the city limits of Wilbur:** Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.
- (143) **Goose Lake, Lower (Grant County):** Game fish: Statewide minimum length/daily limit, except:
 (a) Crappie: Daily limit 10; minimum length 9 inches.
 (b) Bluegill: It is unlawful to retain more than 5 fish over 6 inches in length.
- (144) **Grande Ronde River (Asotin County):**
 (a) From the mouth to County Road Bridge, about 2.5 miles upstream:
 (i) Open year-round for game fish other than trout and steelhead.
 (ii) From August 1 through April 15: Selective gear rules.

(iii) Trout: Open from the Saturday before Memorial Day through October 31.

(iv) Steelhead:

(A) Open January 1 through April 15; daily limit 3 hatchery steelhead; minimum length 20 inches.

(B) August 1 through December 31; release steelhead.

(b) From the County Road Bridge upstream to the Oregon state line:

(i) Open year-round for game fish other than trout and steelhead.

(ii) From August 1 through April 15: Barbless hooks required.

(iii) Trout: Open from the Saturday before Memorial Day through October 31.

(iv) Steelhead: Open August 1 through April 15; daily limit 3 hatchery steelhead; minimum length 20 inches.

(c) All tributaries: Closed waters.

(145) Green Lakes (Lower and Upper) (Okanogan County):

(a) Selective gear rules.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Game fish: Statewide minimum length/daily limit, except:

(i) Trout: Daily limit 2; minimum length 14 inches.

(ii) Eastern brook trout count as part of trout daily limit.

(146) Grimes Lake (Douglas County):

(a) Open June 1 through August 31.

(b) Selective gear rules.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

(147) Halfmoon Lake (Adams County): Open the fourth Saturday in April through September 30.

(148) Hampton Lakes (Lower and Upper) (Grant County): Open the fourth Saturday in April through September 30.

(149) H and H Reservoir Number One (Pascal's Pond) (Chelan County): Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

(150) Harris Lake (Grant County):

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

(151) Hatch Lake (Stevens County): Open the Friday after Thanksgiving through March 31.

(152) Hays Creek and Ponds (Adams County): Open the fourth Saturday in April through September 30.

(153) Headgate Pond (Asotin County): Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

(154) Hen Lake (Grant County): Open the fourth Saturday in April through September 30.

(155) Hog Canyon Creek (Spokane County): From the mouth to Scroggie Road: Closed waters.

(156) Hog Canyon Lake (Spokane County): Open the Friday after Thanksgiving through March 31.

(157) Homestead Lake (Grant County):

(a) Selective gear rules.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

(158) Hourglass Lake (Grant County): Open the fourth Saturday in April through September 30.

(159) Hutchinson Lake (Adams County): Open the fourth Saturday in April through September 30.

(160) I-82 Ponds, 1 through 7 (Yakima County): It is unlawful to fish from a floating device equipped with an internal combustion motor.

(161) Icicle River and tributaries (Creek) (Chelan County):

(a) From the mouth upstream 800 feet to posted signs: Closed waters.

(b) From posted signs 800 feet upstream of the mouth to 500 feet below Leavenworth National Fish Hatchery: Closed to all species except:

(i) Open for hatchery Chinook salmon only.

(ii) Open May 15 to July 31.

(iii) Night closure.

(iv) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(v) Daily limit 2 hatchery Chinook; minimum length 12 inches.

(vi) Mandatory retention of hatchery Chinook.

(c) From 500 feet below Leavenworth National Fish Hatchery to shoreline markers where Cyo Road would intersect the Icicle River at the Sleeping Lady Resort: Closed waters.

(d) From shoreline markers where Cyo Road would intersect the Icicle River at the Sleeping Lady Resort to the Icicle Peshastin Irrigation District footbridge (approximately 750 feet upstream of the "Snow Lakes Trailhead" parking lot):

(i) Closed to all species except:

(A) Open for hatchery Chinook only.

(B) Open May 15 to July 31.

(C) Night closure.

(D) Daily limit 2; minimum length 12 inches.

(ii) It is unlawful to retain more than 2 hatchery Chinook.

(e) From the Icicle Irrigation Peshastin District footbridge upstream, and tributaries: Selective gear rules.

(162) Indian Creek (Yakima County): From the mouth to the waterfall approximately six miles upstream including that portion that flows through the dry lake bed of Rimrock Reservoir: Closed waters.

(163) Ingalls Creek (Chelan County): From the mouth to Alpine Lakes Wilderness boundary and tributaries: Closed waters.

(164) Jameson Lake (Douglas County): Open the fourth Saturday in April through October 31.

(165) Jasmine Creek (Okanogan County):

(a) Open year-round to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

(b) Game fish: Statewide minimum length/daily limit, except: Steelhead: Closed to fishing.

(166) **Jefferson Park Pond (Walla Walla County):** Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

(167) **Jolanda, Lake (Chelan County):** Closed waters.

(168) **Kachess Lake (Reservoir) (Kittitas County):**

(a) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.

(b) Chumming is permissible.

(169) **Kachess River (Kittitas County):**

(a) From Kachess Lake (Reservoir) upstream to the waterfall approximately 0.5 miles above Mineral Creek: Closed waters.

(b) It is permissible to fish up to the base of Kachess Dam.

(c) From the mouth to Kachess Dam: Selective gear rules.

(170) **Keechelus Lake (Reservoir) (Kittitas County):**

(a) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.

(b) Chumming is permissible.

(171) **Kettle Creek (tributary to American River) (Yakima County):** Closed waters.

(172) **Kettle River (Stevens County):** From Barstow Bridge upstream:

(a) Selective gear rules, except for juvenile anglers, from the Canadian border upstream to Highway 21 Bridge at Curlew.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Game fish: Statewide minimum length/daily limit, except: Trout: Minimum length 14 inches.

(d) Whitefish:

(i) Open December 1 through the last day in February for whitefish only.

(ii) Whitefish gear rules.

(173) **Kings Lake and tributaries (Pend Oreille County):** Closed waters.

(174) **Kiwanis Pond (Kittitas County):** Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

(175) **Lake Creek (Okanogan County):**

(a) From the mouth to Black Lake: Closed waters.

(b) From Black Lake to Three Prong Creek: Closed waters.

(176) **Ledbetter Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.

(177) **Ledking Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.

(178) **Leech Lake (Yakima County):**

(a) Fly fishing only.

(b) It is unlawful to fish from a floating device equipped with a motor.

(c) Game fish: Statewide minimum length/daily limit, except: Rainbow trout: Daily limit 1; minimum length 18 inches.

(179) **Lemna Lake (Grant County):** Open the fourth Saturday in April through September 30.

(180) **Lenice Lake (Grant County):**

(a) Open March 1 through November 30.

(b) Selective gear rules.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

(181) **Lenore Lake (Grant County):**

(a) The waters within a 200 yard radius of the trash rack leading to the irrigation pumping station (on the south end of the lake) and the area approximately 100 yards beyond the mouth of inlet stream to State Highway 17: Closed waters.

(b) Open March 1 through November 30.

(c) Selective gear rules.

(d) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

(182) **Libby Creek (tributary to Methow River) (Okanogan County):** Closed waters.

(183) **Liberty Lake (Spokane County):** Open March 1 through October 31.

(184) **Lilly Lake (Chelan County):**

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

(b) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

(185) **Lions Park Pond (Walla Walla County):** Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

(186) **Little Bridge Creek (tributary of Twisp River) (Okanogan County):**

(a) Open the Saturday before Memorial Day through August 15.

(b) Release all fish.

(c) Selective gear rules.

(187) **Little Falls Reservoir (Spokane River) (Lincoln County):** From Little Falls Dam to Long Lake Dam: Land-locked salmon rules.

(188) **Little Lost Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.

(189) **Little Naches River including tributaries (Yakima County):** Selective gear rules.

(190) **Little Pend Oreille River and tributaries (Stevens County):** Selective gear rules.

(191) **Little Spokane River and tributaries (Spokane County):**

(a) From the inlet of Chain Lake upstream 0.25 mile to the railroad crossing culvert: Closed waters.

(b) From the SR 291 Bridge upstream:

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

(ii) Whitefish:

(A) Open December 1 through the last day in February for whitefish only.

(B) Whitefish gear rules.

(192) **Little Twin Lake (Okanogan County):**

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

(b) Selective gear rules.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Game fish: Statewide minimum length/daily limit, except:

- (i) Trout: Daily limit 1; minimum length 18 inches.
- (ii) Eastern brook trout count as part of trout daily limit.

(193) **Little Twin Lake (Stevens County):** Open the fourth Saturday in April through October 31.

(194) **Little Wenatchee River (Chelan County):**

(a) From the mouth to USFS road 6700 Bridge and tributaries: Closed waters.

(b) From the USFS road 6700 Bridge upstream including tributaries: Selective gear rules.

(195) **Long Lake (Ferry County):**

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

(b) Fly fishing only.

(c) It is unlawful to use flies containing lead.

(d) It is unlawful to fish from a floating device equipped with a motor.

(196) **Long Lake (Okanogan County):** Open the fourth Saturday in April through October 31.

(197) **Long Lake (Lake Spokane) (Spokane County):** From Long Lake Dam to Nine Mile Dam, including Little Spokane River from the mouth to the SR 291 Bridge: Land-locked salmon rules.

(198) **Loon Lake (Stevens County):** Open the fourth Saturday in April through October 31.

(199) **Lost Lake (Kittitas County):** Game fish: Statewide minimum length/daily limit, except: Rainbow trout: Daily limit 2; minimum length 14 inches.

(200) **Lost Lake (Okanogan County):**

(a) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(b) It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.

(c) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

(201) **Lost River (tributary to Methow River) (Okanogan County):**

(a) From the mouth to the mouth of Monument Creek: Closed waters.

(b) From the mouth of Monument Creek including tributaries upstream to Deception Creek:

(i) Open the Saturday before Memorial Day through August 15.

(ii) Selective gear rules.

(iii) Game fish: Statewide minimum length/daily limit, except:

(A) Trout: Minimum length 14 inches; daily limit 2.

(B) Dolly Varden/bull trout may be retained as part of trout daily limit.

(202) **Lyman Lake (Okanogan County):** Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

(203) **Mad River (Chelan County):**

(a) From the mouth to Windy Creek, including Windy Creek and tributaries except Tillicum Creek: Closed waters.

(b) From Windy Creek upstream and tributaries: Selective gear rules.

(204) **Manastash Creek (Kittitas County):** Selective gear rules.

(205) **Marshall Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.

(206) **Martha Lake (Grant County):** Open March 1 through September 30.

(207) **Mary Ann Lake (Okanogan County):** Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

(208) **Mattoon Lake (Kittitas County):** It is unlawful to fish from a floating device equipped with an internal combustion motor.

(209) **McCabe Pond (Kittitas County):** It is unlawful to fish from any floating device equipped with a motor.

(210) **McDowell Lake (Stevens County):**

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

(b) Fly fishing only.

(c) It is unlawful to fish from a floating device equipped with a motor.

(d) Release all fish.

(211) **McManaman Lake (Adams County):** Open the fourth Saturday in April through September 30.

(212) **Medical Lake (Spokane County):**

(a) Open March 1 through November 30.

(b) Selective gear rules.

(c) It is unlawful to fish from a floating device equipped with a motor.

(d) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.

(213) **Medical Lake, West (Spokane County):** Open the fourth Saturday in April through September 30.

(214) **Mercer Creek (Kittitas County):** Selective gear rules.

(215) **Merry Lake (Grant County):**

(a) Open March 1 through November 30.

(b) Selective gear rules.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

(216) **Methow River (Okanogan County):**

(a) From mouth to County Road 1535 (Burma Road) Bridge: Closed waters.

(b) Tributaries from mouth to County Road 1535 (Burma Road) Bridge except Black Canyon Creek: Release all fish, except: Eastern brook trout: No minimum length/daily limit.

(c) From County Road 1535 (Burma Road) Bridge to Gold Creek:

(i) Open the Saturday before Memorial Day through September 15.

(ii) Selective gear rules.

(iii) Release all fish.

(d) All tributaries from the County Road 1535 (Burma Road) to Gold Creek except Gold Creek:

(i) Selective gear rules.

(ii) Release all fish, except: Eastern brook trout: No minimum length/daily limit.

(e) From Gold Creek to Foghorn Dam:

(i) Open the Saturday before Memorial Day through September 30.

(ii) Selective gear rules.

- (iii) Release all fish.
- (iv) Whitefish:
- (A) Open December 1 through the last day in February for whitefish only.
- (B) Whitefish gear rules.
- (f) Methow River tributaries from Gold Creek to Foghorn Dam; except Twisp River, Chewuch River, Libby Creek, and Beaver Creek: Release all fish, except: Eastern brook trout: No minimum length/daily limit.
- (g) From Foghorn Dam to Weeman Bridge including tributaries:
 - (i) Open the Saturday before Memorial Day through August 15:
 - (A) Release all fish.
 - (B) Selective gear rules.
 - (ii) Whitefish:
 - (A) Open December 1 through the last day in February for Whitefish only.
 - (B) Whitefish gear rules.
 - (h) From Weeman Bridge to the falls above Brush Creek: Whitefish:
 - (i) Open December 1 through the last day in February for whitefish only.
 - (ii) Whitefish gear rules.
 - (i) Methow River tributaries from Weeman Bridge to the falls above Brush Creek; excluding Lost River, Goat Creek, Early Winters Creek, and Wolf Creek.
 - (i) Selective gear rules.
 - (ii) Release all fish.
- (217) **Mill Creek (tributary to the Walla Walla River) (Walla Walla County):**
 - (a) From the mouth to Bennington Dam, including tributaries: Closed waters.
 - (b) From Bennington Dam upstream excluding tributaries: Selective gear rules.
 - (c) All tributaries upstream of Bennington Dam: Closed waters.
- (218) **Mineral Creek (tributary to upper Kachess River) (Kittitas County):** From the mouth to the Wilderness Boundary: Closed waters.
- (219) **Molson Lake (Okanogan County):** Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.
- (220) **Monument Creek (Okanogan County), including tributaries:** Selective gear rules.
- (221) **Morgan Lake (Adams County):** Open the fourth Saturday in April through September 30.
- (222) **Moses Lake (Grant County):** Game fish: Statewide minimum length/daily limit, except:
 - (a) Crappie: Daily limit 10; minimum length 9 inches.
 - (b) Bluegill: Daily limit 5; minimum length 8 inches.
 - (c) Yellow perch: Daily limit 25.
- (223) **Mud Lake (Yakima County):**
 - (a) Selective gear rules.
 - (b) It is unlawful to fish from a floating device equipped with a motor.
 - (c) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.
- (224) **Mudgett Lake (Stevens County):** Open the fourth Saturday in April through October 31.

- (225) **Muskegon Lake (Pend Oreille County):**
 - (a) Open the fourth Saturday in April through October 31.
 - (b) Selective gear rules.
 - (c) It is unlawful to fish from a floating device equipped with an internal combustion motor.
 - (d) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.
- (226) **Myron Lake (Yakima County):**
 - (a) Selective gear rules.
 - (b) It is unlawful to fish from a floating device equipped with an internal combustion motor.
 - (c) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.
- (227) **Mystic Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.
- (228) **Naches River (Yakima/Kittitas counties):**
 - (a) From the mouth to Little Naches River:
 - (i) Selective gear rules.
 - (ii) It is unlawful to fish from a floating device equipped with an internal combustion motor.
 - (iii) Game fish: Statewide minimum length/daily limit, except:
 - (A) Trout: Daily limit 2; minimum length 14 inches.
 - (B) Release trout from the confluence with Tieton River to the confluence of the Little Naches River and Bumping River (origin of Naches River).
 - (b) From the mouth to the Tieton River:
 - (i) Whitefish: December 1 through the last day in February for whitefish only.
 - (ii) Whitefish gear rules.
- (229) **Naneum Creek and tributaries (Kittitas County):** Selective gear rules.
- (230) **Naneum Pond (Kittitas County):** Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.
- (231) **Napeequa River (Chelan County):** From mouth to Twin Lakes Creek (including Twin Lakes Creek and all tributaries: Closed waters.
- (232) **Nason Creek (Chelan County):**
 - (a) From the mouth to Gaynor Falls and tributaries except Whitepine Creek: Closed waters.
 - (b) From Gaynor Falls (approximately 0.7 miles upstream of Whitepine Creek) upstream and tributaries: Selective gear rules.
- (233) **Nile Creek and tributaries (Yakima County):** Selective gear rules.
- (234) **No Name Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.
- (235) **North Creek (tributary to Twisp River) (Okanogan County):** From the mouth upstream to Twisp River Road Bridge: Closed waters.
- (236) **North Elton Pond (Yakima County):**
 - (a) Open the Friday after Thanksgiving through March 31.
 - (b) It is unlawful to fish from a floating device equipped with an internal combustion motor.
- (237) **North Potholes Reserve Ponds (Grant County):** Open March 1 through the day before waterfowl season begins.

(238) Nunnally Lake (Grant County):

- (a) The outlet stream of Nunnally Lake is closed waters.
- (b) Open March 1 through November 30:
- (c) Selective gear rules.
- (d) It is unlawful to fish from a floating device equipped with an internal combustion motor.
- (e) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

(239) Oak Creek and tributaries (Yakima County): Selective gear rules.**(240) Okanogan River (Okanogan County):**

(a) Within the mainstem or tributaries open for game fish: It is unlawful to fish for salmon and steelhead using anything other than barbless hooks.

(b) From the mouth to Highway 97 Bridge immediately upstream of the mouth:

- (i) Open year-round.
- (ii) July 1 through October 15: Anti-snagging rule and night closure.

(iii) Game fish: Statewide minimum length/daily limit, except:

- (A) Release trout.
- (B) Steelhead: Closed to fishing.
- (iv) Salmon:

(A) Open July 1 through October 15.

(B) It is permissible to fish two poles from July 1 through August 31 so long as the angler possesses a two-pole endorsement.

(C) Daily limit 6; no more than 2 adult hatchery Chinook may be retained.

(D) Release coho, sockeye, and wild adult Chinook.

(c) From Highway 97 Bridge immediately upstream of the mouth to the highway bridge at Malott:

- (i) Open year-round.
- (ii) July 1 through September 15: Anti-snagging rule and night closure.

(iii) Game fish: Statewide minimum length/daily limit, except:

- (A) Release trout.
- (B) Steelhead: Closed to fishing.
- (iv) Salmon:

(A) Open July 1 through September 15.

(B) Daily limit 6; no more than 2 adult hatchery Chinook may be retained.

(C) Release coho, sockeye, and wild adult Chinook.

(d) From the highway bridge at Malott upstream:

(i) From Zosel Dam downstream to the first Highway 97 Bridge downstream of the dam: Closed waters.

(ii) Open the Saturday before Memorial Day through September 15.

(iii) July 1 through September 15: Anti-snagging rule and night closure.

(iv) Game fish: Statewide minimum length/daily limit, except:

- (A) Release trout.
- (B) Steelhead: Closed to fishing.
- (v) Salmon:

(A) Open July 1 through September 15.

(B) Limit 6; no more than 2 adult hatchery Chinook may be retained.

(C) Release coho, sockeye, and wild adult Chinook.

(e) All Okanogan River tributaries, except Salmon Creek, Jasmine Creek, Bonaparte Creek, and the Similkameen River:

- (i) Selective gear rules.
- (ii) Game fish: Statewide minimum length/daily limit, except:

(A) Release trout.

(B) Steelhead: Closed to fishing.

(241) **Palouse River (Whitman County):** From the mouth to the base of Palouse Falls:

(a) Open year-round for game fish except trout and steelhead.

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

(c) Steelhead:

(i) Open August 1 through April 15.

(ii) Daily limit 3 hatchery steelhead; minimum length 20 inches.

(d) It is permissible to fish with two poles so long as the angler possesses a valid two-pole endorsement, except for steelhead.

(242) **Palouse River (Whitman County) mainstem above Palouse Falls and tributaries (Washington waters only), except Rock Creek and Hog Canyon Creek:** Open year-round.

(243) Pampa Pond (Whitman County):

(a) Open March 1 through September 30.

(b) It is unlawful to fish from any floating device.

(244) **Park Lake (Grant County):** Open the fourth Saturday in April through September 30.

(245) **Parker Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.

(246) Pataha Creek (Garfield County):

(a) Within the city limits of Pomeroy: Open to juvenile anglers, senior angler, and anglers with a disability who possess a designated harvester companion card only.

(b) From the city limits of Pomeroy upstream: Selective gear rules.

(247) **Patterson Lake (Okanogan County):** Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

(248) **Pearrygin Lake (Okanogan County):** Open the fourth Saturday in April through October 31.

(249) Pend Oreille River (Pend Oreille County):

(a) Open year-round.

(b) Game fish: Statewide lake rules.

(c) All sloughs within the boundaries of the Kalispel Reservation, except Calispell Slough: Closed waters.

(250) **Perch Lake (Grant County):** Open the fourth Saturday in April through September 30.

(251) **Peshastin Creek and all tributaries except Ingalls Creek (Chelan County):** Closed waters.

(252) Petit Lake (Pend Oreille County):

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

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(253) **Phalon Lake (Stevens County):** Closed waters.

(254) **Phillips Lake (Stevens County):** Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

(255) **Pierre Lake (Stevens County):** It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.

(256) **Pillar Lake (Grant County):** Open the fourth Saturday in April through September 30.

(257) **Ping Pond (Oasis Park Pond) (Grant County):** Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

(258) **Pit Lake (Douglas County):** Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

(259) **Poacher Lake (Grant County):** Open the fourth Saturday before April through September 30.

(260) **Potholes Reservoir (Grant County):** Game fish: Statewide minimum length/daily limit, except:

- (a) Crappie: Minimum length 9 inches.
- (b) Crappie and bluegill: Combined limit of 25 fish.
- (c) Yellow perch: Daily limit 25 fish.

(261) **Potter's Pond (Stevens County):** Open the fourth Saturday in April through October 31.

(262) **Powerline Lake (Franklin County):** Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.

(263) **Quail Lake (Adams County):**

(a) Fly fishing only.
(b) It is unlawful to fish from any floating device equipped with a motor.

(c) Release all fish.

(264) **Quarry Pond (Walla Walla County):** It is unlawful to fish from any floating device.

(265) **Quincy Lake (Grant County):** Open March 1 through September 30.

(266) **Rainbow Lake (Columbia County):**

- (a) Open March 1 through November 30.
- (b) It is unlawful to fish from any floating device.

(267) **Rat Lake (Okanogan County):**

(a) Selective gear rules.
(b) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.

(268) **Rattlesnake Creek and tributaries (Yakima County):**

- (a) Selective gear rules.
- (b) Release all fish.

(269) **Red Rock Creek (Grant County):** Open the Saturday before Memorial Day through September 30.

(270) **Reflection Pond (Okanogan County):**

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

(b) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

(271) **Renner Lake (Ferry County):**

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

(b) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

(272) **Rigley Lake (Stevens County):**

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

(b) Selective gear rules.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2, minimum length 14 inches.

(273) **Rimrock Lake (Reservoir) (Yakima County):** Chumming is permissible.

(274) **Ringold Springs Hatchery Creek (Franklin County):** Closed waters.

(275) **Roaring Creek (Entiat River tributary) (Chelan County):** Closed waters.

(276) **Rock Creek (Adams/Whitman counties):**

(a) From the mouth to the bridge on Jordan Knott Road at Revere:

- (i) Selective gear rules.
- (ii) Release all fish.

(b) From the bridge on Jordan Knott Road upstream: Open year-round.

(277) **Rocky Ford Creek and Ponds (Grant County):**

(a) Open to fly fishing and fishing from the bank only (no wading).

(b) Release all fish.

(278) **Rocky Lake (Stevens County):** Open the fourth Saturday in April through October 31.

(279) **Roosevelt Lake (Grant/Ferry/Lincoln/Stevens counties):** Columbia River from Grand Coulee Dam to U.S. Canadian border including Hawk Creek downstream of the falls at Hawk Creek Campground, Spokane River from 400 feet downstream of Little Falls Dam, Kettle River downstream of Barstow Bridge, and Colville River downstream of S.R. 25 Bridge.

(a) The following areas are closed waters:

(i) From the Little Dalles power line crossing upstream approximately one mile to the marked rock point from March 1 through the Friday before Memorial Day.

(ii) Northport power line crossing upstream to the most upstream point of Steamboat Rock, from March 1 through the Friday before Memorial Day.

(iii) The Kettle River upstream to Barstow Bridge from March 1 through the Friday before Memorial Day.

(b) From Grand Coulee Dam to the Little Dalles power line crossing:

(i) Game fish: Statewide minimum length/daily limit, except:

(A) Kokanee: Daily limit 6; no more than 2 with intact adipose fins.

(B) Trout (except kokanee): Daily limit 5; it is unlawful to retain trout with an intact adipose fin.

(C) Walleye: Daily limit 16 fish; no size restrictions.

(ii) Salmon: Landlocked salmon rules apply.

(c) From the Little Dalles power line crossing to the Canadian border:

(i) Game fish: Statewide minimum length/daily limit, except:

(A) Kokanee: Daily limit 6; no more than 2 with intact adipose fins.

(B) Trout (except kokanee): Daily limit 2; minimum size 18 inches.

(C) Walleye: Daily limit 16; no size restrictions.

(ii) Salmon: Landlocked salmon rules apply.

(280) **Round Lake (Okanogan County):** Open the fourth Saturday in April through October 31.

(281) **Royal Lake (Adams County):** Closed waters.

(282) **Royal Slough (including Marsh Unit IV impoundments) (Adams County):** Closed waters.

(283) **Rufus Woods Lake (Douglas/Okanogan counties):**

(a) From Grand Coulee Dam downstream to State Route 155 Bridge: Closed waters.

(b) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.

(c) Sturgeon: Closed to fishing.

(284) **Sacheen Lake (Pend Oreille County):** Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

(285) **Saddle Mountain Lake (Grant County):** Closed waters.

(286) **Sago Lake (Grant County):** Open the fourth Saturday in April through September 30.

(287) **Salmon Creek (Okanogan County):**

(a) From the mouth to Conconully Reservoir:

(i) Selective gear rules.

(ii) Game fish: Statewide minimum length/daily limit, except:

(A) Release trout other than eastern brook trout.

(B) Steelhead: Closed to fishing.

(b) From Conconully Reservoir upstream including tributaries: Selective gear rules.

(288) **San Poil River (Ferry County):**

(a) From the western shoreline at the mouth of the San Poil Arm (as marked by a regulatory buoy) directly eastward across the San Poil Arm to the eastern shoreline of the San Poil Arm (as marked by a regulatory buoy) upstream to the north shore of the outlet of French Johns Lake (Manila Creek) northeast across the San Poil Arm to the north shore of the outlet of Dick Creek:

(i) Game fish: Open year-round; statewide minimum length/daily limit, except:

(A) Open June 1 through January 31 for kokanee, smallmouth bass, trout, and walleye:

(I) Kokanee: Daily limit 2.

(II) Trout: Daily limit 5; it is unlawful to retain trout with an intact adipose fin.

(III) Walleye: Daily limit 16; no size restrictions.

(IV) Smallmouth bass: Daily limit 10; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(B) Largemouth bass: Daily limit 5; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(ii) Salmon: Open year-round; landlocked salmon rules apply.

(iii) Carp: Open year-round.

(b) From the north shore of the outlet of French Johns Lake (Manila Creek) northeast across the San Poil Arm to the north shore of the outlet of Dick Creek to approximately 5

miles upstream from the outlet of French Johns Lake, as marked by regulatory buoys:

(i) Game fish: Open year-round; statewide minimum length/daily limit, except:

(A) Kokanee: Unlawful to fish for or retain.

(B) Trout: Unlawful to fish for or retain.

(C) Open June 1 through January 31 for walleye and smallmouth bass:

(I) Walleye: Daily limit 16; no size restrictions.

(II) Smallmouth bass: Daily limit 10; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(D) Largemouth bass: Daily limit 5; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(ii) Salmon: Open year-round; landlocked salmon rules apply.

(iii) Carp: Open year-round; unlawful to fish for carp with bow and arrow.

(c) The waters from approximately 5 miles upstream from the outlet of French Johns Lake, as marked by regulatory buoys, to all waters north of the regulatory buoy line at or above 1,310 feet mean sea level elevation upstream to the northern reservation boundary are managed under the regulatory authority of the Colville Confederated Tribes.

(289) **Sand Hollow Creek (Grant County) including tributaries:** From the mouth (State Route 243) upstream: Open the Saturday before Memorial Day through September 30.

(290) **Sarg Hubbard Park Pond (Reflection Pond) (Yakima County):** Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

(291) **Schallow Pond (Okanogan County):** Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

(292) **Sedge Lake (Grant County):**

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

(293) **Shellneck Creek (Yakima County):** Closed waters.

(294) **Sherman Creek (Ferry County) and tributaries:** From the hatchery boat dock to 400 feet upstream of hatchery water diversion dam: Closed waters.

(295) **Shiner Lake (Adams County):** Open the fourth Saturday in April through September 30.

(296) **Shoveler Lake (Grant County):** Open the fourth Saturday in April through September 30.

(297) **Silver Lake (Spokane County):** Game fish: Statewide minimum length/daily limit, except: Crappie: Daily limit 10; minimum length 9 inches.

(298) **Silver Nail Lake (Okanogan County):** Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

(299) **Similkameen River (Okanogan County):**

(a) From Enloe Dam downstream 400 feet: Closed waters.

(b) From the mouth to Enloe Dam:

(i) Open July 1 through September 15:

- (ii) Barbless hooks required for salmon and steelhead.
- (iii) Anti-snagging rule.
- (iv) Night closure.
- (v) Game fish: Statewide minimum length/daily limit, except:
 - (A) Release trout.
 - (B) Steelhead: Closed to fishing.
 - (vi) Salmon:
 - (A) Daily limit 6; no more than 2 adult hatchery Chinook may be retained.
 - (B) Release coho, sockeye, and wild adult Chinook.
 - (vii) Whitefish:
 - (A) Open December 1 through the last day in February for whitefish only.
 - (B) Whitefish gear rules.
 - (c) From Enloe Dam to the Canadian border, including tributaries, except Sinlahekin Creek:
 - (i) Open the Saturday before Memorial Day through October 31.
 - (ii) Whitefish:
 - (A) Open December 1 through the last day in February for whitefish only.
 - (B) Whitefish gear rules.
 - (300) **Sinlahekin Creek (Okanogan County):** From Palmer Lake to Cecile Creek Bridge:
 - (a) Open the Saturday before Memorial Day through August 31.
 - (b) Selective gear rules.
 - (c) Whitefish:
 - (i) Open December 1 through the last day in February for whitefish only.
 - (ii) Whitefish gear rules.
 - (301) **Skookum Lake, North (Pend Oreille County):** Open the fourth Saturday in April through October 31.
 - (302) **Skookum Lake, South (Pend Oreille County):**
 - (a) Open the fourth Saturday in April through October 31.
 - (b) It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.
 - (303) **Snake River:**
 - (a) Tributaries except Palouse River, Tucannon River, Asotin Creek, and Grande Ronde River: Closed waters.
 - (b) Columbia River rules apply downstream of the Burbank-to-Pasco railroad bridge at Snake River mile 1.5.
 - (c) Within 400 feet of the base of any dam: Closed waters.
 - (d) Within a 400 foot radius around the fish ladder entrance at Lyons Ferry Hatchery: Closed waters.
 - (e) Within a 200 foot radius upstream of the fish ladder exit above Lower Granite Dam: Closed waters.
 - (f) Within an area 1,200 feet downstream from the base of the west lock gate at Little Goose Dam on the south bank of the Snake River and 100 feet out into the river from the south river bank: Closed waters.
 - (g) Game fish: Open year-round; statewide minimum length/daily limit, except:
 - (i) Trout: Open the Saturday before Memorial Day through October 31.
 - (ii) Steelhead:
 - (A) Open the Saturday before Memorial Day through July 31; daily limit 2, barbless hooks required.
 - (B) Open August 1 through March 31; Daily limit 3 hatchery steelhead; barbless hooks required.
 - (304) **Snipe Lake (Grant County):** Open the fourth Saturday in April through September 30.
 - (305) **Snipes Creek (Benton County):** Selective gear rules.
 - (306) **Spectacle Lake (Okanogan County):** Open April 1 through September 30.
 - (307) **Spokane River (Spokane County):** From Nine Mile Dam upstream to the Idaho/Washington state line:
 - (a) Selective gear rules.
 - (b) Open the Saturday before Memorial Day through March 15:
 - (c) Game fish: Release all fish, except: Hatchery rainbow trout: Daily limit 2.
 - (308) **Sprague Lake (Adams/Lincoln counties):**
 - (a) The following waters are closed waters:
 - (i) Cow Creek.
 - (ii) The marsh at the southwest end of the lake from the lakeside edge of the reeds, including Cow Creek, to Danekas Road.
 - (iii) The small bay at the southeast end of the lake.
 - (b) All other waters southwest of the southwest tip of Harper Island: Closed from October 1 through April 30.
 - (c) Game fish: Statewide minimum length/daily limit except:
 - (i) Crappie: Minimum length 9 inches.
 - (ii) Crappie and bluegill: Combined limit of 25 fish.
 - (309) **Spring Creek (Benton County):** Selective gear rules.
 - (310) **Spring Hill Reservoir (Black Lake, Lower Wheeler Reservoir) (Chelan County):**
 - (a) Open the fourth Saturday in April through October 31.
 - (b) Selective gear rules.
 - (c) It is unlawful to fish from a floating device equipped with an internal combustion motor.
 - (d) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1, minimum length 18 inches.
 - (311) **Spring Lake (Columbia County):** It is unlawful to fish from any floating device.
 - (312) **Spring Lakes (Upper and Lower) (Grant County):** Open March 1 through September 30.
 - (313) **Springdale Pond (Lucky Duck Pond) (Stevens County):** Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.
 - (314) **Spruce Creek (tributary to South Fork Tieton River) (Yakima County):** Closed waters.
 - (315) **Starvation Lake (Stevens County):** Open the fourth Saturday in April through October 31.
 - (316) **Starzman Lakes (Okanogan County):** Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.
 - (317) **Stehekin River (Chelan County):** From the mouth (Powerline crossing) upstream and tributaries:
 - (a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Release wild cutthroat.

(318) **Stratford/Brook Lake (Grant County):** Open March 1 through September 30.

(319) **Sugarloaf Lake (Okanogan County):** Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

(320) **Sullivan Creek and tributaries (Pend Oreille County):**

(a) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout.

(b) Selective gear rules.

(321) **Sullivan Lake (Pend Oreille County):** Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.

(322) **Summit Lake (Okanogan County):** Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

(323) **Summit Lake (Stevens County):** Open the fourth Saturday in April through October 31.

(324) **Swan Lake (Ferry County):** It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.

(325) **Swauk Creek and tributaries (Kittitas County):** Selective gear rules.

(326) **Taneum Creek and tributaries (Kittitas County):** Selective gear rules.

(327) **Teal Lakes (North and South) (Grant/Adams counties):** Open the fourth Saturday in April through September 30.

(328) **Teanaway River (Kittitas County), and tributaries except North Fork:** Selective gear rules.

(329) **Teanaway River, North Fork (Kittitas County):**

(a) From the mouth to Beverly Creek and tributaries; including Beverly Creek:

(i) Selective gear rules.

(ii) Game fish: Statewide minimum length/daily limit, except: Release trout.

(b) From Beverly Creek to the impassable waterfall at the end of USFS Road 9737: Closed waters.

(330) **Tern Lake (Grant County):**

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

(331) **Thirtymile Creek (tributary to Chewuch River) (Okanogan County):** From mouth upstream to falls (approximately 700 feet): Closed waters.

(332) **Tieton River (Yakima County):**

(a) It is permissible to fish up to the base of Tieton (Rimrock) Dam.

(b) Selective gear rules apply.

(333) **Tieton River, North Fork (Yakima County):**

(a) The Clear Lake spillway channel: Closed waters.

(b) From the USFS Road 740 Bridge to Clear Lake Dam: Closed waters.

(c) The mainstem and tributaries including that portion of the river that flows through the dry lakebed of Rimrock Reservoir, upstream of Clear Lake:

(i) Open the Saturday before Memorial Day through August 15.

(ii) Selective gear rules.

(334) **Tieton River, South Fork (Yakima County):** From the bridge on USFS Road 1200 to bridge on USFS road 1070: Closed waters.

(335) **Tillicum Creek (tributary to Mad River) (Chelan River):**

(a) From mouth to the intersection of USFS 5800 and USFS 5808: Closed waters.

(b) From the intersection of USFS 5800 and USFS 5808 upstream (upstream 2.25 miles) including tributaries: Selective gear rules.

(336) **Touchet River and tributaries (Columbia/Walla Walla counties):**

(a) From the mouth to the confluence of the North and South Forks:

(i) All tributaries: Closed waters.

(ii) Game fish: Open the Saturday before Memorial Day through April 15; statewide minimum length/daily limit, except:

(A) November 1 through April 15: Release all fish except steelhead.

(B) August 1 through April 15: Hatchery steelhead daily limit 3, barbless hooks required.

(b) From the confluence of the North and South Forks upstream including both forks, Robinson Fork, and Wolf Fork:

(i) All other tributaries: Closed waters.

(ii) Open the Saturday before Memorial Day through August 31.

(iii) Selective gear rules.

(337) **Trout Lake (Ferry County):** Open the fourth Saturday in April through October 31.

(338) **Tucannon River (Columbia County):**

(a) All tributaries are closed waters, except Pataha Creek.

(b) Mouth upstream to Tucannon Hatchery Road Bridge:

(c) Game fish: Open the Saturday before Memorial Day through April 15; statewide minimum length/daily limit, except:

(i) November 1 through April 15: Release all fish except steelhead.

(ii) August 1 through April 15: Hatchery steelhead daily limit 3, barbless hooks required.

(d) Tucannon Hatchery Bridge to 500 feet above intake for Rainbow Lake: Closed waters.

(e) 500 feet above intake for Rainbow Lake to Cow Camp Bridge:

(i) Open the Saturday before Memorial Day through August 31.

(ii) Selective gear rules.

(f) Cow Camp Bridge upstream: Closed waters.

(339) **Tucquala Lake (Kittitas County):**

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

(b) Statewide stream rules apply.

(340) **Twentymile Creek (tributary to Chewuch River) (Okanogan County):** From the mouth upstream to falls (approximately 0.75 miles): Closed waters.

(341) **Twin Lakes, tributaries, and Twin Lakes Creek (outlet stream) to the confluence with the Napeequa River (Chelan County):** Closed waters.

(342) **Twisp River (Okanogan County):**

(a) Mouth to War Creek:

(i) Open the Saturday before Memorial Day through August 15.

(ii) Selective gear rules.

(iii) Release all fish.

(b) Twisp River tributaries from War Creek upstream except North Creek and North Fork Twisp River:

(i) Selective gear rules.

(ii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iii) Release all fish.

(c) From War Creek upstream: Closed waters.

(343) **Twisp River, North Fork (Okanogan County):** From mouth to falls including tributaries: Closed waters.

(344) **Umtanum Creek (Kittitas County):** Selective gear rules.

(345) **Union Creek (Yakima County):** From the mouth to the falls: Closed waters.

(346) **Upper Wheeler Reservoir (Chelan County):**

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

(b) Fly fishing only.

(c) It is unlawful to fish from a floating device equipped with a motor.

(d) Release all fish.

(347) **Vic Meyers (Rainbow) Lake (Grant County):**

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

(b) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

(348) **Walla Walla River (Walla Walla County):** From mouth to Washington/Oregon stateline:

(a) All tributaries except Touchet River and Mill Creek: Closed waters.

(b) Game fish: Open year-round; statewide minimum length/daily limit, except for trout and steelhead:

(i) Trout: Open the Saturday before Memorial day through October 31; statewide minimum length/daily limit.

(ii) Steelhead:

(A) Open the Saturday before Memorial Day through July 31; daily limit 2 hatchery steelhead.

(B) Open August 1 through April 15; daily limit 3 hatchery steelhead, barbless hooks required.

(349) **Wannacut Lake (Okanogan County):** Open the fourth Saturday in April through October 31.

(350) **Wapato Lake (Chelan County):** Open the fourth Saturday in April through October 31.

(351) **Ward Lake (Ferry County):**

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

(b) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

(352) **Warden Lake (Grant County):** Open the fourth Saturday in April through September 30.

(353) **Warden Lake, South (Grant County):** Open the fourth Saturday in April through September 30.

(354) **Washburn Island Pond (Okanogan County):**

(a) Open April 1 through September 30.

(b) An internal combustion motor may be attached to a floating device, but cannot be used.

(355) **Washburn Lake (Okanogan County):**

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

(b) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

(c) Selective gear rules.

(d) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(356) **Watson Lake (Columbia County):**

(a) Open March 1 through November 30.

(b) It is unlawful to fish from any floating device.

(357) **Wenaha River tributaries:**

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

(b) Selective gear rules.

(358) **Wenas Creek (Yakima County):** From the mouth to Wenas Lake, including tributaries: Selective gear rules.

(359) **Wenatchee Lake (Chelan County):**

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except:

(i) Release trout.

(ii) Steelhead: Closed to fishing.

(360) **Wenatchee River (Chelan County):** From the mouth to the Icicle Road Bridge:

(a) Closed waters, except:

(b) Salmon:

(i) Open August 1 through September 30.

(ii) Selective gear rules.

(iii) Night closure.

(iv) Daily limit 6; minimum length 12 inches it is unlawful to retain more than 2 adult hatchery Chinook.

(v) Release coho, sockeye, and wild adult Chinook salmon.

(c) From Icicle Road Bridge upstream to Lake Wenatchee: Closed waters.

(361) **Whitepine Creek (Chelan County):** From the mouth to Whitepine Creek Falls (1 mile upstream of mouth) and tributaries: Closed waters.

(362) **White River (Chelan County):** From the mouth to White River Falls and tributaries, except Napeequa River: Closed waters.

(363) **Widgeon Lake (Grant County):** Open the fourth Saturday in April through September 30.

(364) **Williams Lake (Spokane County):** Open the fourth Saturday in April through September 30.

(365) **Williams Lake (Stevens County):** Open the Friday after Thanksgiving through March 31.

(366) **Wilson Creek (Kittitas County):** From BNSF railroad bridge upstream: Selective gear rules.

(367) **Winchester Wasteway (Grant County) (that portion within the Winchester Game Reserve):** Open March 1 through September 30.

(368) **Wolf Creek (Methow River tributary) (Okanogan County):** Closed waters.

(369) Yakima River (Yakima County):

(a) Downstream of Highway 240 Bridge, Columbia River rules apply.

(b) From the Highway 240 Bridge to the downstream side of the westbound I-82 Bridge: Open March 1 through October 31.

(i) From 200 feet above to 200 feet below the USBR Chandler Powerhouse/Pumping Station: Closed waters September 1 through October 31.

(ii) From March 1 through October 31; for all open species except sturgeon: It is permissible to fish with two poles so long as the angler possesses a valid two-pole endorsement.

(iii) Chumming is permissible.

(c) From the Grant Avenue bridge in Prosser downstream approximately 1.25 miles to the downstream side of the westbound I-82 Bridge: Open March 1 through October 31.

(i) From March 1 through October 31; for all open species except sturgeon: It is permissible to fish with two poles so long as the angler possesses a valid two-pole endorsement.

(ii) Chumming is permissible.

(iii) Fishing from a floating device is prohibited September 1 through October 31.

(iv) Game fish: Statewide minimum size/daily limit, except: Release trout.

(v) Salmon:

(A) Open September 1 through October 31.

(B) Night closure.

(C) Barbless hooks required.

(D) Limit 6; it is unlawful to retain more than 2 adults.

(d) From Prosser Dam to Highway 223 Bridge:

(i) Open March 1 through October 31.

(ii) Game fish: Statewide minimum size/daily limit, except: Release trout.

(e) From Grant Avenue Bridge to Prosser Dam: Closed waters.

(f) From Highway 223 Bridge to 3,500 feet below Roza Dam:

(i) From Yakima Avenue-Terrace Heights Bridge upstream 400 feet: Closed waters.

(ii) Selective gear rules.

(iii) Game fish: Statewide minimum length/daily limit, except: Trout: Minimum length 14 inches.

(iv) Whitefish:

(A) Open December 1 through the last day in February for whitefish only.

(B) Whitefish gear rules.

(g) From 3,500 feet below Roza Dam to Roza Dam: Closed waters.

(h) From Roza Dam to 400 feet below Easton Dam; including the portion of Wilson Creek from the mouth upstream to the BNSF railroad bridge: Open year-round.

(i) It is permissible to fish from floating devices equipped with motors only from the U.S. Bureau of Reclamation restricted area signs at Roza Dam upstream to the boat launch ramp on the Roza Access Area (approximately 1.3 river miles).

(ii) Selective gear rules.

(iii) Game fish: Statewide minimum length/daily limit, except: Release trout.

(iv) Whitefish:

(A) Open December 1 through the last day in February for whitefish only.

(B) Whitefish gear rules.

(i) From Easton Dam to the base of Keechelus Dam including Easton Lake:

(i) Selective gear rules.

(ii) Game fish: Statewide minimum length/daily limit, except: Release rainbow and cutthroat trout.

(370) Yakima Sportsmen's Park Ponds (Yakima County): Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

(371) Yocum Lake (Pend Oreille County):

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

(b) It is unlawful to use lead weights or lead jigs that measure 1.5 inches or less along the longest axis.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

AMENDATORY SECTION (Amending WSR 18-15-065, filed 7/16/18, effective 8/16/18)

WAC 220-312-060 Freshwater exceptions to statewide rules—Columbia. The following exceptions to statewide rules apply to the Columbia River, including impoundments and all connecting sloughs, except Wells Ponds:

(1) General Columbia River rules:

(a) In the concurrent waters of the Columbia River between Washington and Oregon, the license of either state is valid when fishing from a vessel.

(i) Anglers must comply with the fishing regulations of the state in which they are fishing.

(ii) This subsection does not allow an angler licensed in Oregon to fish on the Washington shore, or in the sloughs or tributaries in Washington except as otherwise provided by department rule.

(iii) Anglers fishing the Columbia River are restricted to one limit, as defined by the laws of the state in which they are fishing, even if they are licensed by both states.

(b) It is unlawful to possess in the field salmon or steelhead mutilated so that size, species, or fin clip cannot be determined until the angler has reached their automobile or principal means of land transportation and completed his or her daily angling.

(c) Salmon and trout handling rules provided in WAC 220-56-118 apply to the Columbia River, except from February 15 through June 15 in the mainstem Columbia from the Rocky Point/Tongue Point line upstream to the Washington-Oregon border where WAC 220-56-118 applies only to anglers fishing from vessels less than 30 feet in length (as substantiated by Coast Guard documentation or Marine Board registration).

(d) From Buoy 10 to the Washington/Oregon border:

(i) From March 1 through May 15, the mainstem Columbia River is open for retention of adipose fin-clipped steelhead and shad only during days and in areas that are open for the retention of adipose fin-clipped spring Chinook salmon.

(ii) From August 1 through December 31, each angler aboard a vessel may deploy salmon/steelhead angling gear until the salmon/steelhead limit for all anglers aboard has been achieved.

(e) Open year-round unless otherwise provided.

(f) Barbless hooks are required for salmon and steelhead.

(2) **Rules by river section:**

(a) **From a true north-south line through Buoy 10, upstream to a line projected from Rocky Point on the Washington bank through Red Buoy 44 to the navigation light at Tongue Point on the Oregon bank:**

(i) Fishing from the north jetty is permissible when Marine Area 1 or Buoy 10 areas are open for salmon, and the limit and minimum size restrictions follow the most liberal regulations if both areas are open. Only single point barbless hooks may be used for salmon and steelhead.

(ii) Release all trout, except anglers may retain hatchery steelhead.

(iii) Salmon and steelhead:

(A) Open June 16 through July 31: Closed to fishing for salmon and steelhead from Buoy 10 to the Megler-Astoria Bridge.

(B) From June 16 through June 21:

(I) Daily limit 6; no more than 2 hatchery steelhead may be retained.

(II) Release all salmon other than hatchery jack Chinook.

(C) From June 22 through July 4:

(I) Daily limit 6; up to 2 adult salmon or 2 hatchery steelhead or one of each may be retained.

(II) Release all salmon other than hatchery Chinook.

(D) From July 5 through July 31:

(I) Daily limit 6; no more than 2 hatchery steelhead may be retained.

(II) Release all salmon other than hatchery jack Chinook.

(E) Open August 1 through August 24:

(I) Daily limit one.

(II) Release all salmon except Chinook and hatchery coho.

(III) Chinook minimum length 24 inches.

(IV) Coho minimum length 16 inches.

(F) Open August 25 through September 30:

(I) Daily limit 2, of which only one hatchery steelhead may be retained.

(II) Release all salmon other than hatchery coho.

(III) Coho minimum length 16 inches.

(G) Open October 1 through December 31:

(I) Limit 6; no more than 2 adult hatchery salmon, or one hatchery adult salmon and one hatchery steelhead, may be retained.

(II) Release all salmon except hatchery coho.

(H) Open January 1 through March 31:

(I) Limit 6; no more than 2 adult hatchery Chinook, or 2 hatchery steelhead, or one of each, may be retained.

(II) Release all salmon except hatchery Chinook.

(iv) Shad open May 16 through March 31.

(v) Forage fish and bottomfish: Marine Area 1 general rules apply; eulachon closed.

(b) **From a line projected from Rocky Point on the Washington bank through Red Buoy 44 to the navigation**

light at Tongue Point on the Oregon bank, upstream to the I-5 Bridge:

(i) Trout:

(A) Open May 16 through March 31.

(B) Release all trout except hatchery cutthroat.

(C) Daily limit 2 hatchery cutthroat; minimum length 12 inches.

(D) Barbless hooks are required for cutthroat trout.

(ii) Shad open May 16 through March 31.

(iii) For the purpose of this subsection, "Warrior Rock line" is defined as a line projected from the Warrior Rock Lighthouse, through Red Buoy 4, to the orange marker atop the dolphin on the Washington shore.

(iv) Downstream of Warrior Rock line:

(A) Salmon and steelhead:

(I) Open May 16 through June 21: Daily limit 6; no more than 2 hatchery steelhead may be retained. Release all salmon except hatchery jack Chinook.

(II) Open June 22 through July 4: Daily limit 6; no more than 2 hatchery adult salmon or 2 hatchery steelhead or one of each may be retained. Release all salmon except hatchery Chinook.

(III) Open July 5 through July 31: Daily limit 6; no more than 2 hatchery steelhead may be retained. Release all salmon except hatchery jack Chinook.

(IV) Open August 1 through September 2: Daily limit 6; no more than one adult salmon, or one hatchery steelhead, may be retained. Release all salmon except Chinook and hatchery coho.

(V) Open September 3 through December 31: Daily limit 6; no more than 2 hatchery adult salmon, or one adult salmon and one hatchery steelhead, may be retained. Release all salmon except Chinook and hatchery coho.

(VI) Open January 1 through March 31: Daily limit 6; no more than 2 hatchery adult salmon, or 2 steelhead or one of each may be retained. Release all salmon except hatchery Chinook.

(v) Upstream of Warrior Rock line: Salmon and steelhead:

(A) Open May 16 through June 21: Daily limit 6; no more than 2 hatchery steelhead may be retained. Release all salmon except hatchery jack Chinook.

(B) Open June 16 through July 31: Daily limit 6; no more than 2 hatchery steelhead may be retained.

(C) Open June 22 through July 4: Daily limit 6; no more than 2 hatchery adult salmon or one hatchery adult salmon and one hatchery steelhead may be retained. Release all salmon except hatchery Chinook.

(D) Open January 1 through March 31: Daily limit 6; no more than 2 hatchery adult salmon, or 2 hatchery steelhead or one of each may be retained. Release all salmon except hatchery Chinook.

(E) Open August 1 through September 14: Daily limit 6; no more than one adult salmon or one hatchery steelhead. Release all salmon except Chinook and hatchery coho.

(F) Open September 15 through December 31: Daily limit 6; no more than 2 hatchery adult salmon, or one hatchery adult salmon and one hatchery steelhead, may be retained. Release all salmon except hatchery coho.

(c) From the I-5 Bridge to Bonneville Dam:

(i) The following waters are closed:

(A) From the upstream line of Bonneville Dam to boundary markers 600 feet below the fish ladder at the powerhouse.

(B) January 1 through April 30 from a line between the upstream end of Sand Island (near Rooster Rock) on the Columbia River, to the boundary marker on the Oregon shore, downstream to a line between the lower end of Sand Island and the boundary marker on the Oregon shore.

(C) Closed to angling from a floating device or by any method except hand-casted gear from shore from Bonneville Dam downstream to a line from the Hamilton Island boat ramp to an Oregon boundary marker on the westernmost tip of Robins Island.

(ii) Camas Slough:

(A) It is permissible for an angler licensed in Oregon or Washington to fish from a floating device.

(B) In the waters of the Columbia River downstream from the mouth of the Washougal River, north of Lady Island, and downstream of the Highway 14 Bridge at the upstream end of Lady Island:

(I) From August 1 through December 31: It is permissible to fish with two poles so long as the angler possesses a valid two-pole endorsement.

(II) From August 1 through December 31: Each angler aboard a vessel may deploy salmon/steelhead angling gear until the salmon/steelhead limit for all anglers aboard has been achieved.

(III) Open for salmon when the adjacent mainstem Columbia or Washougal rivers are open for salmon.

(IV) The limit for salmon is the same as the most liberal regulation of either area, except anglers may only retain hatchery Chinook and hatchery coho; release all other salmon.

(iii) Release all trout.

(iv) Salmon and steelhead:

(A) Open June 16 through June 21: Daily limit 6; no more than 2 hatchery steelhead may be retained. Release all salmon except hatchery jack Chinook.

(B) Open June 22 through July 4: Daily limit 6; up to 2 hatchery adult salmon or 2 hatchery steelhead or one of each may be retained. Release all salmon except hatchery Chinook.

(C) Open July 5 through July 31: Daily limit 6; no more than 2 hatchery steelhead may be retained. Release all salmon except hatchery jack Chinook.

(D) Open August 1 through September 14: Limit 6; no more than one adult salmon or one hatchery steelhead. Release all salmon except Chinook and hatchery coho.

(E) Open September 15 through December 31: Daily limit 6; no more than 2 hatchery adult salmon, or one hatchery adult salmon and one hatchery steelhead, may be retained. Release all salmon except hatchery coho.

(F) Closed to fishing for salmon and steelhead November 1 through December 31 from Beacon Rock to Bonneville Dam.

(v) Steelhead: Open January 1 through March 31. Daily limit 2 hatchery steelhead.

(vi) Shad: Open May 16 through March 31.

(d) From Bonneville Dam to The Dalles Dam:

(i) Closed waters:

(A) Within one quarter mile of the USFWS Spring Creek Hatchery Grounds, between posted markers located one quarter mile on either side of the fish ladder entrance.

(B) At The Dalles between the upstream line of The Dalles Dam to the upstream side of the Interstate 197 Bridge, except that bank fishing is permitted up to the downstream navigation lock wall on the Washington shore.

(ii) Release all trout, except anglers may retain hatchery steelhead.

(iii) Salmon and steelhead:

(A) When open from March 16 through June 15:

(I) Bank fishing only from Bonneville Dam to Tower Island powerlines (approximately 6 miles below The Dalles Dam).

(II) Only hand-cast lines may be used. It is unlawful to use a floating device to set lines for salmon and steelhead.

(B) Open June 16 through July 31:

(I) Daily limit 6; no more than 2 hatchery adult salmon ~~((or 2 hatchery adult salmon))~~ or 2 hatchery steelhead or one of each, may be retained.

(II) Release all salmon except hatchery Chinook.

(C) Open August 1 through December 31:

(I) August 1 through October 15: Anti-snagging rule applies. When the anti-snagging rule is in effect, only fish hooked inside the mouth may be retained.

(II) Daily limit 6; no more than 2 adult salmon or one adult salmon and one hatchery steelhead may be retained. No more than one salmon may be an adult Chinook.

(III) Release all salmon except Chinook and coho.

(IV) Release wild coho from Bonneville Dam to Hood River Bridge.

(iv) Steelhead: Open January 1 through March 31. Daily limit 2 hatchery steelhead.

(e) From The Dalles Dam to McNary Dam:

(i) Closed waters:

(A) At John Day Dam between the upstream line of John Day Dam to markers approximately 3,000 feet downstream, except that bank fishing is permitted up to 400 feet below the fishway entrance on the Washington shore.

(B) At McNary Dam between the upstream line of McNary Dam downstream to a line across the river from the red and white marker on the Oregon shore on a line that intersects the downstream end of the wing-wall of the boat lock near the Washington shore.

(ii) Release all trout except hatchery steelhead.

(iii) Salmon and steelhead:

(A) When open from March 16 through June 15:

(I) Anglers may possess up to 4 hatchery adult Chinook salmon in fresh form.

(II) Anglers aboard a boat may only possess one daily limit of salmon in fresh form.

(B) Open June 16 through July 31:

(I) Daily limit 6; no more than 2 hatchery adult salmon, or 2 hatchery steelhead, or one of each may be retained.

(II) Release all salmon except hatchery Chinook.

(C) Open August 1 through December 31:

(I) August 1 through October 15: Anti-snagging rule applies. When the anti-snagging rule is in effect, only fish hooked inside the mouth may be retained.

(II) Limit 6; no more than 2 adults, of which no more than 2 may be adult salmon or one adult salmon and one hatchery steelhead. No more than one salmon may be an adult Chinook.

(III) Release all salmon except Chinook and coho.

(iv) Steelhead: Open January 1 through March 31. Daily limit 2 hatchery steelhead.

(f) From McNary Dam to Highway 395 Bridge at Pasco:

(i) Columbia River rules apply downstream of the Burbank-to-Pasco railroad bridge at Snake River mile 1.5.

(ii) Release all trout except hatchery steelhead.

(iii) Salmon and steelhead:

(A) When open from March 16 through June 15 from McNary Dam to the Washington/Oregon border:

(I) Anglers may possess up to 4 hatchery adult Chinook in fresh form.

(II) Anglers aboard a boat may only possess one daily limit of salmon in fresh form.

(III) From August 1 through December 31, each angler aboard a vessel may deploy salmon/steelhead angling gear until the salmon/steelhead limit for all anglers aboard has been achieved.

(B) Open June 16 through July 31:

(I) Daily limit 6; no more than 2 hatchery adult salmon, or 2 hatchery steelhead, or one of each may be retained.

(II) Release all salmon except hatchery Chinook.

(C) Open August 1 through December 31:

(I) Daily limit 6; no more than 2 adult salmon or one adult salmon and one hatchery steelhead may be retained. No more than one salmon may be an adult Chinook.

(II) Release all salmon except Chinook and coho.

(iv) Steelhead: Open January 1 through March 31. Daily limit 2 hatchery steelhead.

(g) From the Highway 395 Bridge at Pasco to the Interstate 182 Bridge:

(i) Closed waters: Within a 400 foot radius of the Columbia Irrigation District (CID) fish barrier at the mouth of the CID wasteway at Columbia Park.

(ii) For all open species except sturgeon: It is permissible to fish with two poles so long as the angler possesses a two-pole endorsement.

(iii) Trout: Open year-round catch and release only.

(iv) Steelhead:

(A) Open October 1 through October 31: Daily limit 2 hatchery steelhead with both the adipose and a ventral fin clipped may be retained.

(B) Open November 1 through March 31: Daily limit 2 hatchery steelhead.

(v) Salmon:

(A) Open June 16 through August 15:

(I) Limit 4; no more than one adult hatchery Chinook salmon.

(II) Release sockeye and wild adult Chinook.

(B) Open August 16 through October 31: Limit 6; no more than 2 adult salmon may be retained.

(h) From the Interstate 182 Bridge to the Old Hanford townsite wooden powerline towers, in Sec. 30, T13N, R28E:

(i) Closed waters:

(A) The area of the Columbia River between the markers located 100 feet upstream and 100 feet downstream of the Ringold Springs Hatchery Creek, and extending 100 feet towards the middle of the river.

(B) West Branch Esquatzel Coulee Block 1 Irrigation Wasteway Lagoon in the Columbia River, September 1 through November 30: Closed waters.

(ii) Trout and steelhead: Ringold Area Bank Fishery waters, from WDFW markers 1/4 mile downstream from the Ringold wasteway outlet, to WDFW markers 1/2 mile upstream from Spring Creek:

(A) Fishing is allowed only from the bank and only on the hatchery side of the river.

(B) Open April 1 through April 15:

(I) Release all trout.

(II) Daily limit 2 hatchery steelhead.

(C) From April 16 through March 31 adjacent Columbia River rules apply.

(iii) For all open species except sturgeon: It is permissible to fish with two poles so long as the angler possesses a two-pole endorsement.

(iv) Trout: Open year-round catch and release only.

(v) Steelhead:

(A) Open October 1 through October 31 daily limit 2 hatchery steelhead with both the adipose and a ventral fin clipped may be retained.

(B) Open November 1 through March 31 daily limit 2 hatchery steelhead.

(vi) Salmon:

(A) Open June 16 through August 15:

(I) Limit 6; no more than 2 adult hatchery Chinook.

(II) Release sockeye and wild adult Chinook.

(B) Open August 16 through October 31: Limit 6; no more than 2 adult salmon may be retained.

(i) From the Old Hanford townsite wooden power line towers, in Sec. 30, T13N, R28E, to Vernita Bridge, (Highway 24):

(i) Open February 1 through October 15.

(ii) For all open species except sturgeon: It is permissible to fish with two poles so long as the angler possesses a two-pole endorsement.

(iii) Trout: Catch and release only.

(iv) Steelhead: Closed to fishing.

(v) Salmon:

(A) Open June 16 through August 15:

(I) Limit 6; no more than 2 adult hatchery Chinook.

(II) Release sockeye and wild adult Chinook.

(B) Open August 16 through October 15: Limit 6; no more than 2 adult salmon may be retained.

(j) From Vernita Bridge (Highway 24) to Priest Rapids Dam:

(i) Closed waters:

(A) At Priest Rapids Dam; waters between the upstream line of Priest Rapids Dam downstream to the boundary markers 650 feet below the fish ladders.

(B) At Jackson (Moran) Creek (waters of the Priest Rapids Hatchery system); extending to midstream of the Columbia River between boundary markers located 100 feet upstream and 400 feet downstream of the mouth of Jackson Creek.

(ii) For all open species except sturgeon: It is permissible to fish with two poles so long as the angler possesses a two-pole endorsement.

(iii) Trout: Catch and release only.

(iv) Steelhead: Closed to fishing.

(v) Salmon:

(A) Open June 16 through August 15:

(I) Limit 6; no more than 2 adult hatchery Chinook.

(II) Release sockeye and wild adult Chinook.

(B) Open August 16 through October 15: Limit 6; no more than 2 adult salmon may be retained.

(k) **From Priest Rapids Dam to Rock Island Dam:**

(i) Closed waters:

(A) Wanapum Dam, between the upstream line of Wanapum Dam to the boundary markers 750 feet downstream of the east fish ladder and 500 feet downstream of the west fish ladder.

(B) Rock Island Dam, between the upstream line of Rock Island Dam to boundary markers 400 feet downstream of the fish ladders.

(ii) July 1 through August 31: Fishing two poles is permissible so long as the angler possesses a two-pole endorsement.

(iii) Release all trout.

(iv) Steelhead: Closed to fishing.

(v) Salmon:

(A) Open July 1 through August 31:

(I) Minimum length 12 inches; daily limit 6; no more than 2 adult hatchery Chinook may be retained.

(II) Release coho, sockeye, and wild adult Chinook.

(B) Open September 1 through October 15: Open for Chinook only; daily limit 6, no more than 2 adults may be retained.

(l) **From Rock Island Dam to Wells Dam:**

(i) Closed waters:

(A) At Rocky Reach Dam between the upstream line of the dam to boundary markers 400 feet downstream of the fish ladders.

(B) At Wells Dam, between the upstream line of Wells Dam to boundary markers 400 feet downstream of the spawning channel discharge (on Chelan County side) and fish ladder (on Douglas County side).

(ii) July 1 through August 31: Fishing two poles is permissible so long as the angler possesses a two-pole endorsement.

(iii) Release all trout.

(iv) Steelhead: Closed to fishing.

(v) Salmon open July 1 through October 15:

(A) Minimum size 12 inches; limit 6; no more than 2 adult hatchery Chinook may be retained.

(B) Release coho, sockeye, and wild adult Chinook.

(m) **From Wells Dam to Highway 173 Bridge at Brewster:**

(i) July 16 through August 31: Fishing two poles is permissible so long as the angler possesses a two-pole endorsement.

(ii) Hatchery trout: Open July 16 through August 15. Minimum size 12 inches. Daily limit 10. Barbless hooks required.

(iii) Steelhead: Closed to fishing.

(iv) Salmon open July 16 through August 31:

(A) Minimum size 12 inches; limit 6; no more than 2 adult hatchery Chinook may be retained.

(B) Release coho, sockeye, and wild adult Chinook.

(n) **From Highway 173 Bridge at Brewster to Chief Joseph Dam:**

(i) Closed waters:

(A) From the Okanogan County shore between Chief Joseph Dam and the Highway 17 Bridge.

(B) From the Douglas County shore from Chief Joseph Dam to the rock jetty at the upstream shoreline of Foster Creek.

(ii) July 1 through August 31: Fishing two poles is permissible so long as the angler possesses a two-pole endorsement.

(iii) It is unlawful to fish from a floating device downstream of Chief Joseph Dam from the boundary marker to the Corps of Engineers safety zone marker.

(iv) Hatchery trout: Open July 1 through August 15. Minimum 12 inches. Daily limit 10. Barbless hooks required.

(v) Steelhead: Closed to fishing.

(vi) Salmon: Open July 1 through October 15:

(A) Minimum size 12 inches; limit 6; no more than 2 adult hatchery Chinook may be retained.

(B) Release coho, sockeye, and wild adult Chinook.

(o) **Above Chief Joseph Dam:** See Rufus Woods Lake in WAC 220-310-195.

(p) **Above Grand Coulee Dam:** See Lake Roosevelt in WAC 220-310-195.

WSR 19-03-020

PERMANENT RULES

STUDENT ACHIEVEMENT COUNCIL

[Filed January 4, 2019, 9:44 a.m., effective February 4, 2019]

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

Purpose:

- Add definitions and clarifications.
- Strengthen requirements related to administrators of degree-granting institutions.
- Amend guidelines for distance learning programs.
- Add a requirement that institutions may not benefit from student loan products offered to students and must disclose to the council student loan products marketed or provided to students.
- Clarify that the council may conduct a site visit at any time.
- Strengthen requirements related to publications and recruitment materials.

- Amend the security requirement for institutions seeking initial standard authorization as a result of a change in ownership.
- Strengthen requirements relating to disclosure of actions that must be reported to the council.
- Add requirements for institutions discontinuing a program or all operations in Washington.
- Amend the fees for initial authorization and renewal of authorization based on the number of programs offered.

Citation of Rules Affected by this Order: New WAC 250-61-115 and 250-61-151; and amending WAC 250-61-020, 250-61-050, 250-61-080, 250-61-090, 250-61-100, 250-61-110, 250-61-120, 250-61-140, 250-61-160, 250-61-170, 250-61-180, and 250-61-200.

Statutory Authority for Adoption: RCW 28B.76.120 and 28B.85.020.

Adopted under notice filed as WSR 18-22-121 on December 14 [November 6], 2018.

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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 2, Amended 12, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, Amended 12, Repealed 0.

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

Date Adopted: December 21, 2018.

Don Bennett
Deputy Director

AMENDATORY SECTION (Amending WSR 15-02-021, filed 12/30/14, effective 1/30/15)

WAC 250-61-020 Applicability. A degree-granting institution shall not operate, conduct business, grant or offer to grant any academic courses or degree programs unless the institution has obtained authorization from the council, been granted a waiver of the requirements of authorization, or been determined by the council to be exempt.

The act applies to:

- (1) Institutions granting or offering to grant degree programs and/or academic credit courses either at or from a location within the state; and
- (2) Institutions maintaining or advertising a Washington location, mailing address, or telecommunications number for any purpose (~~(or any function of a degree-granting institution)~~) other than contact with the institution's former students; and
- (3) Institutions specifically targeting Washington citizens with promotion of their degree programs and/or academic credit courses.

The act does not apply to degree programs and academic credit courses offered exclusively from outside the state through individual and private interstate communication.

AMENDATORY SECTION (Amending WSR 17-09-041, filed 4/14/17, effective 5/15/17)

WAC 250-61-050 Definitions. The definitions set forth in this section are intended to supplement the definitions in chapter 28B.85 RCW and shall apply throughout this chapter.

(1) "Accredited institution" means an institution that has been accredited by an accrediting association recognized by the council and the Secretary of the U.S. Department of Education.

(2) "Accrediting association" means a national or regional accrediting association that is recognized by the council and the Secretary of the U.S. Department of Education.

(3) "Act" means the Degree-Granting Institutions Act, chapter 28B.85 RCW.

(4)(a) "Administrative capability" means that both administrative services and educational instruction take place at an authorized location.

(b) "Additional site" means a site with administrative capability that is not currently authorized.

(5) "Adverse action" means a warning or other sanction issued by the institution's accrediting association, (~~(a sanction issued by)~~) the United States Department of Education(~~(;)~~) or a state regulatory entity; a judgment against an institution that may impact ongoing operations; or any action, decision, or finding that impacts the institution's financial solvency.

(6) "At-risk" means a designation made by the council based on an adverse action or other findings that indicate a heightened potential of closure or other negative impacts on students.

(7) "Authorization" means the authority to operate in Washington state as a degree-granting institution.

(a) "Standard authorization" means authorization granted to institutions seeking to operate in Washington, but does not include institutions seeking field placement authorization only.

(b) "Field placement authorization" means authorization granted to institutions seeking authorization solely to offer required field placements at locations in Washington as part of distance learning programs.

(8) "Council" means the student achievement council, a Washington state agency, as established under chapter 28B.77 RCW.

(9) "Credit" generally means the unit by which an institution measures its course work. The number of credits assigned to a course is generally defined by the number of hours per week in class and preparation and the number of weeks in a term. One credit is usually assigned for three hours of student work per week or its equivalent. The three hours of student work per week is usually comprised of a combination of one hour of lecture and two of homework or three hours of laboratory. Semester and quarter credits are the most common systems of measuring course work. A semester credit is generally based on at least a fifteen week calendar or 45

hours of student work. A quarter credit is generally based on at least a ten week calendar or 30 hours of student work.

(10) "Degree" means any designation, appellation, letters, or words including, but not limited to, "associate," "bachelor," "master," "doctor," or "fellow" which signify or imply satisfactory completion of the requirements of an academic program of study at the postsecondary level.

(a) "Associate degree" means a lower division undergraduate degree that requires no fewer than 60 semester hours or 90 quarter hours.

(b) "Bachelor's degree" or "baccalaureate degree" means an undergraduate degree that requires no fewer than 120 semester hours or 180 quarter hours.

(c) "Master's degree" means a graduate degree that requires no fewer than 24 semester hours or 36 quarter hours beyond the baccalaureate degree.

(d) "Doctor's degree" or "doctorate" means a postgraduate degree that requires no fewer than 60 semester hours or 90 quarter hours beyond the baccalaureate degree.

(11) "Degree-granting institution" means an entity that offers educational credentials, instruction, or services prerequisite to or indicative of a degree.

(a) "College" means an institution which offers programs culminating with associate and/or baccalaureate degrees. In some instances, a college may also offer first professional degree programs and/or graduate programs culminating with master's degrees.

(b) "University" means a multiunit institution with varied educational roles including instruction, promotion of scholarship, preservation and discovery of knowledge, research and public service. Such institutions provide a wide range of undergraduate and graduate studies, programs in professional fields, and may also provide programs leading to a doctorate.

(c) "Private vocational school" means a nonpublic entity that offers postsecondary programs designed to prepare individuals with the skills and training required for employment in a specific trade, occupation, or profession related to the educational program.

(12) "Distance learning" means a form of educational instruction other than classroom instruction to include, but not limited to, correspondence, video-conferencing, television, internet transmission, or other electronic communication.

(13) "Executive director" means the executive director of the council or the executive director's designee.

(14) "Faculty" means personnel who are appointed by the institution for purposes of teaching, research, mentoring, advisory roles and/or other activities relating to the development and delivery of the instructional programs of the institution.

(15) "False academic credential" means a document that signifies or implies satisfactory completion of the requirements of an academic program of study beyond the secondary level issued by a person or entity that:

(a) Is not accredited by a council-recognized accrediting association or does not have the international equivalent to such accreditation; or

(b) Is not authorized by the council; or

(c) Has not been exempted or granted a waiver from the requirements of authorization by the council.

Additionally, it can mean a credential falsely claimed to have been earned from an institution accredited by a council-recognized accrediting association; authorized by the council; or that has been exempted or granted a waiver by the council.

(16) "Field placement" means a student learning experience comprised primarily of the practical application of previously studied theories and skills. Examples include, but are not limited to, clinicals, student teaching, and practica.

(17) "Operate" means, but is not limited to, the following:

(a) Offering courses for academic credit at any Washington location or via distance learning from a Washington location.

(b) Granting or offering to grant degrees in Washington for credit obtained within or outside the state.

(c) Maintaining or advertising a Washington location, mailing address, or telecommunications number for any purpose ~~((or any other function of a degree-granting institution.))~~ other than contact with the institution's former students for any legitimate purpose related to their ~~((having attended))~~ previous attendance.

(d) Maintaining or advertising an application for enrollment or a mechanism to collect prospective student data in any advertisement, publication, web site, software application, or other media, if the institution maintains a Washington location.

~~((d))~~ (e) Advertising, promoting, publicizing, soliciting or recruiting for the institution or its offerings that is targeted specifically at Washington citizens, excluding multi-institutional college fairs.

(18) "Oversight entity" includes, but is not limited to, the following:

(a) Any federal or state entity that provides financial aid to students of the institution or approves the institution for participation in a financial aid program;

(b) Any state or federal attorney general's office or department of justice;

(c) Any regulator that approves the operation of a post-secondary degree-granting institution;

(d) The federal consumer financial protection bureau or the federal securities and exchange commission; and

(e) Any accrediting agency.

(19)(a) "Program of study" means any course or grouping of courses prerequisite to or indicative of a degree.

(b) "Additional program" means a degree program that:

(i) Differs in title and curriculum from any currently authorized program; or

(ii) Is comprised of a curriculum that is twenty-five percent or more different in content than any currently authorized program.

~~((19))~~ (20) "Resident-based instruction" means a course or series of courses or degree programs which are taught by faculty at a specific location where students physically attend the course or program.

~~((20))~~ (21) "State authorization reciprocity agreement (SARA)" means an agreement among member states, districts and territories that establishes comparable standards for

interstate offering of postsecondary distance education courses and programs. SARA is overseen by a national council and is administered by four regional education compacts.

~~((21))~~ (22) "Suspend" means that, due to deficiencies, the council interrupts for a stated time the institution's authority to recruit and enroll new students, but it may continue serving currently enrolled students for the remainder of the term. Authorization or exemption may be reinstated, provided the deficiencies have been resolved to the satisfaction of the council.

~~((22))~~ (23) "Withdraw" means that, due to significant deficiencies or failure to meet the criteria of authorization or exemption, the council has withdrawn the authorization or exemption granted to an institution. Upon withdrawal, the institution must cease all degree-granting operations immediately.

AMENDATORY SECTION (Amending WSR 17-09-041, filed 4/14/17, effective 5/15/17)

WAC 250-61-080 Authorization standards. These standards form the basis for the review of an institution and guide the decisions of the council. To receive authorization, the institution shall meet all of the specific requirements of this chapter. ~~((An institution is required to notify the council of any adverse action within thirty days of the action being taken. Failure to report an adverse action may result in suspension of the authorization granted.))~~

AMENDATORY SECTION (Amending WSR 12-09-037, filed 4/11/12, effective 5/12/12)

WAC 250-61-090 Administrative requirements. (1) Name. The official name of the institution shall be consistent with, and appropriate to, the program(s) of study offered.

(2) Purpose. The institution shall clearly define its purpose or mission in an official statement which describes its role in higher education. The statement shall reflect the practices of the institution.

(3) Administration and governance. The institution shall be governed by bylaws or policies defining a chain of authority and responsibility.

(a) Administrators shall normally be graduates of accredited institutions and have academic credentials and prior higher education administrative experience for their area of responsibility.

(b) The main campus of the institution shall have, as a minimum, personnel to adequately staff the following roles: A chief executive officer, academic officer, registrar, business officer, student services officer, library director, and, if financial aid services are offered, financial aid officer. These officers shall be accessible to students, faculty, and other personnel located at the main campus and at educational sites or centers in Washington. In the event that the proposed Washington site is a branch campus of an out-of-state institution, the branch campus shall also have sufficient personnel to adequately serve the students at that location.

(i) The chief executive and academic officers shall have at least a master's degree from an accredited institution and experience in college-level management, teaching, and academic administration, unless the institution can demonstrate

that these are not the normally accepted standards for an institution offering the same level of instruction.

(ii) The registrar shall have at least a baccalaureate degree from an accredited institution and college-level experience in admissions and student records, unless the institution can demonstrate that these are not the normally accepted standards for an institution offering the same level of instruction.

(iii) The business, student services, and financial aid officers and library director shall have at least a baccalaureate degree from an accredited institution and experience in their assigned areas, unless the institution can demonstrate that these are not the normally accepted standards for an institution offering the same level of instruction.

(c) The institution shall specify an individual who will serve as the principal contact person for each educational site or academic center in Washington.

(d) The institution shall have policies and provisions for the involvement of faculty in the academic affairs, curriculum development, and governance of the institution.

(e) The institution shall have policies and provisions for faculty selection, orientation, teaching load, supervision, evaluation, and professional development.

(4) The following conditions shall disqualify an individual as an administrator of a degree-granting institution:

(a) Conviction of a felony within the past ten years;

(b) Involuntary surrender of authorization or a license to operate a school ~~((in Washington))~~ as the result of any action by the council or an oversight entity;

(c) Having been served with a cease and desist order for activities in violation of ~~((the current Washington Administrative Code))~~ any applicable law or regulation; or

(d) ~~((Denial of renewal of authorization or a license))~~ Withdrawal of a license to operate an institution or denial of a renewal of authorization because of violation of ~~((the current Washington Administrative Code))~~ any applicable law or regulation; or

(e) Having been found in violation of any law or regulation applicable to the operation of a postsecondary institution.

AMENDATORY SECTION (Amending WSR 17-09-041, filed 4/14/17, effective 5/15/17)

WAC 250-61-100 Academic requirements. (1) Educational programs. Each program shall require the completion of a prescribed program of study leading to the attainment of competence in an interdisciplinary area or specific field of study. Programs shall generally meet the guidelines or standards of an accrediting association recognized by the council and the Secretary of the U.S. Department of Education that accredits similar programs of study.

(a) Associate degrees:

(i) An associate degree shall require at least ninety quarter credits or sixty semester credits.

(A) An associate degree intended for occupational preparation shall require, as a minimum, general education requirements that comprise a recognizable body of instruction in three program-related areas:

(I) Communications;

(II) Computation; and

(III) Human relations.

(B) The general education requirements of all other associate degrees shall be consistent with the current guidelines of Washington's direct transfer agreement associate degree.

(ii) The following associate degree designations shall be acceptable:

(A) The associate of arts (A.A.), and associate of science (A.S.) for programs which emphasize the liberal arts and sciences. These programs generally satisfy the general education requirements for a baccalaureate degree and are transfer oriented.

(B) The associate in applied technology (A.A.T.), associate in applied science (A.A.S.), associate of occupational science (A.O.S.) and other such applied or technology-related degree designations for programs which emphasize preparation for occupations at the technical level. These programs generally do not satisfy the general education requirements for a baccalaureate degree and are not transfer-oriented.

(b) Baccalaureate degrees: A baccalaureate degree shall require at least one hundred eighty quarter credits or one hundred twenty semester credits. The degree shall require a distinct major and, as a minimum, twenty-five percent of the program shall be in general education curricula.

(c) Master's degrees:

(i) A master's degree program shall require at least thirty-six quarter credits or twenty-four semester credits, specialization in an academic or professional area, and a demonstration of mastery.

(ii) The following master's degree designations shall be acceptable:

(A) The master of arts (M.A.) and master of science (M.S.) for programs which advance study and exploration in the discipline. The majority of credit for M.A. and M.S. degrees shall be at the graduate level in the major field.

(B) The master of business administration (M.B.A.), master of fine arts (M.F.A.), master of education (M.Ed.), etc. for programs which emphasize professional preparation.

(d) Doctoral degrees:

(i) Doctoral degree programs shall provide a broad range of advanced course offerings, faculty in ancillary and supporting fields, access to adequate laboratory and research facilities, and a wide range of current reference materials in the subject field. A doctoral degree shall require at least three full academic years of specialized postbaccalaureate study. To obtain a doctoral degree a student shall be required to demonstrate, through comprehensive examination, the ability to perform research at the level of the professional scholar or perform the work of a professional that involves the highest levels of knowledge and expertise.

(ii) The following doctoral degree designations shall be acceptable:

(A) The doctor of philosophy (Ph.D.) degree for programs which are oriented toward original research and require a dissertation.

(B) A professional doctoral degree (J.D., Ed.D., etc.) for programs which emphasize technical knowledge and professional competence and require either a research thesis or a project involving the solution of a substantial problem of professional interest.

(e) Distance learning program(s) (~~of study must be comparable in content, faculty, and resources to those offered in residence, and include regular student-faculty interaction by computer, telephone, mail, or face-to-face meetings~~) shall meet the following guidelines:

(i) Online learning is appropriate to the institution's mission and purposes;

(ii) The institution's plans for developing, sustaining, and, if appropriate, expanding online learning offerings are integrated into its regular planning and evaluation processes;

(iii) Online learning is incorporated into the institution's systems of governance and academic oversight;

(iv) Curricula for the institution's online learning offerings are coherent, cohesive, and comparable in academic rigor to programs offered in traditional instructional formats;

(v) The institution evaluates the effectiveness of its online learning offerings, including the extent to which the online learning goals are achieved, and uses the results of its evaluations to enhance the attainment of the goals;

(vi) Faculty responsible for delivering the online learning curricula and evaluating the students' success in achieving the online learning goals are appropriately qualified and effectively supported;

(vii) The institution provides effective student and academic services to support students enrolled in online learning offerings;

(viii) The institution provides sufficient resources to support and, if appropriate, expand its online learning offerings; and

(ix) The institution assures the integrity of its online offerings.

(f) Prior experiential learning.

(i) Credit for prior experiential learning may be awarded when validated through a portfolio or similar assessment procedure. The institution shall maintain copies of examinations, portfolios, and evaluations used in this process.

(ii) Credit awarded for prior experiential learning at the undergraduate and graduate level must be consistent with the minimum standards as published by the institution's accrediting association. This subsection applies to institutions that meet WAC 250-61-085 (1), (2), or (3).

(iii) Prior experiential learning credit shall constitute no more than twenty-five percent of an undergraduate or graduate degree program. This subsection applies to institutions that meet WAC 250-61-085(4).

(2) Faculty.

(a) Faculty shall be professionally prepared and graduates of accredited institutions and, as a group, the institutions from which they earned their degrees shall be diverse.

(b) Faculty shall be sufficient in number and kind and in the proportion of full-time and part-time positions to sustain rigorous courses, programs, and services.

(c) Faculty teaching academic courses at the undergraduate degree level shall have, as a minimum, a master's degree in the assigned or related program area from an accredited institution. Faculty assigned to teach in vocational-technical subjects shall have educational credentials and experience compatible with their teaching assignment. Faculty assigned to teach general education courses within any undergraduate

program shall have, as a minimum, a master's degree in a related area from an accredited institution.

(d) Faculty teaching at the master's degree level in programs which emphasize advanced study and exploration in a discipline shall have an earned doctorate in a related field from an accredited institution and experience in directing independent study and research. Faculty teaching in master's programs which emphasize professional preparation shall have, as a minimum, a master's degree from an accredited institution and documented achievement in a related field.

(e) Faculty teaching at the doctoral level shall have an earned doctorate in a related field from an accredited institution and experience in teaching and directing independent study and research.

(3) Admissions. Admission requirements shall be based on the institution's objectives and consistently applied to each program of study. Through preenrollment assessments, testing and advising, the institution shall determine the readiness and ability of each student to succeed in his/her degree program. Institutions shall use only those tests reviewed and approved by the U.S. Department of Education.

High school graduation or the equivalent shall be required for undergraduate admission. A baccalaureate degree or the equivalent shall be required for admission into graduate programs. Special undergraduate admission may be granted, based on the applicant's general educational development.

(4) Enrollment contract. If an enrollment contract is utilized, the institution shall discuss all terms and provisions of the contract with the student prior to the student's execution of the contract. The contract shall contain an acknowledgment section directly above the student's signature blank for the student to acknowledge that the institution discussed all terms and provisions of the contract with the student and that the student understands all financial obligations and responsibilities.

(5) Evaluation. The institution shall provide evidence that it has procedures for continuing evaluation and improvement of educational programs, quality of instruction, and overall operations of the institution.

(a) Student, alumni, and employer evaluations of the effectiveness of the curricula shall be considered in these evaluations.

(b) The institution's chief academic officer or designee shall periodically evaluate all areas of the institution to determine their effectiveness in fulfilling institutional objectives and meeting the standards set forth in these regulations or implied in the statute. The results of those evaluations shall be submitted to council staff upon request.

AMENDATORY SECTION (Amending WSR 17-09-041, filed 4/14/17, effective 5/15/17)

WAC 250-61-110 Student services and instructional resources requirements. (1) Student services. The institution shall provide adequate services for students in addition to formal instruction. These services shall normally include admissions, advising and guidance, financial assistance, student records, and disability accommodation.

(a) Advising and guidance services shall be readily available to students to assist them in program planning, course selection, and other academic activities.

~~(b) ((Financial aid administration and distribution, if provided, shall be performed according to institutional, state, and federal policies.~~

~~(c))~~ Student records shall be maintained in accordance with the guidelines established by the U.S. Department of Education.

~~((d))~~ (c) Students with disabilities shall have access to, and reasonable accommodations in, all programs for which they are qualified consistent with the provisions of the Americans with Disabilities Act.

~~((e))~~ (d) Placement services and employment opportunities, if provided, shall be accurately described.

(2) Financial aid.

(a) Financial aid administration and distribution, if provided, shall be performed according to institutional, state, and federal policies.

(b) The institution shall not market, sell, or induce students to obtain loan products that financially benefit any owner or agent of the institution, unless it demonstrates that the student has exhausted all federal aid options and has been denied private commercial loan products. This rule shall apply to any institution with one hundred fifty or more students enrolled in the state in any given year or that has been operating in the state for less than two consecutive years.

(c) The institution shall disclose to the council, upon request, all information relating to loan products that are marketed, sold, or otherwise provided to any current or prospective student, as well as all communications with students regarding such loan products.

(3) Facilities for site-based instruction.

(a) The institution shall have adequate space, facilities and equipment, instructional materials, and staff to support quality education and services.

(b) The institution shall comply with all applicable ordinances, laws, codes, and regulations concerning the safety, health, and access of all persons on its premises.

~~((d))~~ (c) The council may conduct a site visit at any time. The fee for a site visit shall be five hundred dollars, payable to the Washington student achievement council.

(4) Disability accommodations. The institution shall provide reasonable accommodations for students and employees with disabilities. To the extent practicable, the institution must consider diagnosis, assessments, and accommodation plans received from prior secondary and postsecondary educational institutions or employers. The institution shall inform students and employees of local, state, and federal laws regarding discrimination against people with disabilities.

~~((e))~~ (5) Library. The institution shall provide adequate and accessible library resources and facilities to support the educational needs of students and faculty. If the institution, educational site, or academic center does not maintain its own library on site, it must demonstrate that it can provide sufficient library resources to meet the needs of the program(s) through a written agreement with another institution or organization, or through other mechanisms.

~~((5))~~ (6) Financial resources.

(a) The institution shall have adequate financial resources necessary to sustain its purpose and commitment to students.

(b) In the case of an institution seeking initial authorization, it shall have sufficient financial resources to sustain itself for one full academic year without the assistance of revenue from tuition and fees.

~~((6))~~ (7) Financial records.

(a) The institution shall maintain financial records in conformity to generally accepted accounting principles.

(b) The institution shall be audited annually by an independent certified public accountant according to generally accepted auditing standards.

(c) Such records shall be made available to the council upon request.

~~((7) Recruitment and publications. All publications relating to the institution, including advertisements, catalogs, and other communications shall be accurate and not misleading. Any catalog and/or web site that is made available to students describing the educational services offered shall include the statement of authorization as provided by the council upon the granting of authorization.~~

~~Authorized institutions shall not advertise or publicize that they are approved, recommended, accredited, or otherwise endorsed by the council. Such institutions may only state that they are authorized by the council.)~~

(8) Transcripts and academic credentials. The institution shall provide accurate and appropriate transcripts of credit for enrolled students and diplomas for graduates.

(a) For each student, the institution shall maintain and make available a transcript that specifies the name of the institution, the name of the student, all courses completed and academic credentials awarded, and an explanation of the institution's evaluation system. Each course entry shall include a title, the number of credits awarded, and a grade or written evaluation. The transcript shall distinguish credits awarded by transfer, for prior learning experience, and credit by examination.

(b) The institution shall not be required to make copies of transcripts available unless all tuition and fees and other expenses owed by the student to the institution have been paid.

(c) In addition to transcripts, the institution shall maintain records to document the performance and progress of each student, including, but not limited to: Financial transactions, admissions records, and records of interruption for unsatisfactory progress or conduct. Transcripts shall be kept permanently after a student has discontinued enrollment. All other records and accounts shall be kept for a minimum of six years after a student has discontinued enrollment.

(d) The institution shall maintain physical or electronic copies of all transcripts at a secure off-site facility.

NEW SECTION

WAC 250-61-115 Publications. (1) Recruitment and publications. All publications and recruitments relating to the institution shall be accurate and not misleading or deceptive.

(2) Authorized institutions shall not advertise or publicize that they are approved, recommended, accredited, or otherwise endorsed by the council. Such institutions may only state that they are authorized by the council.

(3) The institution shall provide to the council, upon request, any testimonial, endorsement, advertisement, data or other recruitment made available to prospective students or the public regarding:

(a) Current practices of the school;

(b) Retention or completion rates;

(c) Conditions or opportunities for employment, including probable earnings;

(d) Postgraduation employment, including median hourly and annual earnings or employment statistics;

(e) Financial aid opportunities; or

(f) The ability of graduates to repay loans.

(4) The institution shall present to the council, upon request, any information necessary to confirm or verify the veracity of any statements or claims made in any testimonial, endorsement, advertisement, data or other recruitment.

(5) The institution shall not present data about the institution or its current or former students that is inconsistent with data posted by the workforce training and education coordinating board's career bridge web site or the United States Department of Education.

(6) The institution shall not use any official United States military logo in advertising or promotional materials.

AMENDATORY SECTION (Amending WSR 17-09-041, filed 4/14/17, effective 5/15/17)

WAC 250-61-120 Catalog requirements. (1) An institution granted authorization shall publish a catalog supplemented as necessary by other published materials, providing sufficient information for students to obtain an adequate understanding of the institution, its programs, policies and procedures. Institutional catalogs shall be published at least once every two years and be provided to students at the time of their enrollment. Electronic catalogs must be archived and students must have access to the archived information.

(2) ~~((An institution granted authorization shall print a statement in a prominent position in the catalog and on its web site that reads))~~ Any catalog or web site that is made available to students describing the educational services offered shall prominently feature the following statement upon the granting of authorization: "(Name of institution) is authorized by the Washington student achievement council (the council) and meets the requirements and minimum educational standards established for degree-granting institutions under the Degree-Granting Institutions Act. This authorization is subject to periodic review and authorizes (name of institution) to offer specific degree programs. The council may be contacted for a list of currently authorized programs. Authorization by the council does not carry with it an endorsement by the council of the institution or its programs. Any person desiring information about the requirements of the act or the applicability of those requirements to the institution may contact the council at P.O. Box 43430, Olympia, WA 98504-3430 or by email at degreeauthorization@wsac.wa.gov."

(3) An institution granted authorization shall make the following statement regarding transferability available to all students: "The transferability of credits earned at (name of institution) is at the discretion of the receiving college, university, or other educational institution. Students considering transferring to any institution should not assume that credits earned in any program of study at (name of institution) will be accepted by the receiving institution. Similarly, the ability of a degree, certificate, diploma, or other academic credential earned at (name of institution) to satisfy an admission requirement of another institution is at the discretion of the receiving institution. Accreditation does not guarantee credentials or credits earned at (name of institution) will be accepted by or transferred to another institution. To minimize the risk of having to repeat coursework, students should contact the receiving institution in advance for evaluation and determination of transferability of credits and/or acceptability of degrees, diplomas, or certificates earned."

(4) The catalog shall include elements as required by the council in application materials such that a prospective student may become reasonably informed about the institution, its offerings, policies and procedures.

AMENDATORY SECTION (Amending WSR 17-09-041, filed 4/14/17, effective 5/15/17)

WAC 250-61-140 Security requirements. The institution is required to have on file with the council an original surety bond or other security acceptable to the council in lieu of the bond.

(1) An institution shall have a separate acceptable security for each authorized site with administrative capability.

(2) For institutions seeking initial standard authorization, the surety bond or security amount for the initial period of authorization shall be fifty thousand dollars for each proposed (~~Washington~~) site with administrative capability. However, for institutions seeking initial standard authorization as a result of a change in ownership or control, the surety bond or security amount for the initial period of authorization shall be ten percent of the preceding fiscal year's total tuition and fee revenue received for educational services in Washington, but not less than fifty thousand dollars for each authorized site with administrative capability.

(3) For institutions seeking initial field placement authorization, the surety bond or security amount for the initial period of authorization shall be twenty-five thousand dollars.

(4) For institutions seeking renewal of standard authorization, the surety bond or security amount shall be ten percent of the preceding fiscal year's total tuition and fee revenue received for educational services in Washington, but not less than fifty thousand dollars for each authorized (~~Washington~~) site with administrative capability.

(5) For institutions seeking renewal of field placement authorization, the surety bond or security amount shall be ten percent of the preceding fiscal year's total tuition and fee revenue received for the field placement courses offered in Washington, but not less than twenty-five thousand dollars.

(6) For private vocational schools that offer nondegree programs as well as degree programs, the amount required

shall be based only on the degree program portion of its revenue from tuition and fees.

(7) Release of surety bonds and other securities shall be made in compliance with chapter 28B.85 RCW.

NEW SECTION

WAC 250-61-151 Disclosure requirements. (1) The institution shall disclose to the council any adverse action against the institution and any investigation by an oversight entity within thirty days of the institution's first knowledge of the action or investigation.

(a) The disclosure must include information about the nature of the adverse action or investigation and any additional documents or materials requested by the council.

(b) Failure to report an adverse action or an investigation by an oversight entity may result in suspension or withdrawal of the authorization granted.

(2) The institution shall disclose to the council any changes in the institution's operations that are inconsistent with the requirements of this chapter or that may impair the institution's ability to satisfy any requirement of this chapter within thirty days of the institution's first knowledge of the change.

(a) The disclosure must include information about the nature of the changes in the institution's operations and any additional documents or materials requested by the council.

(b) The institution shall have a reasonable opportunity to address or correct any deficiencies within a time period specified by the council.

(3) The institution shall disclose the availability of the student complaint portal in all sections of the institutional catalog and web site containing information about complaints or complaint processes, or in a manner and location otherwise directed by the council.

(4) The institution shall disclose the availability of the student loan advocate in all sections of the institutional catalog and web site containing information about financial aid, or in a manner and location otherwise directed by law or by the council.

AMENDATORY SECTION (Amending WSR 17-09-041, filed 4/14/17, effective 5/15/17)

WAC 250-61-160 Discontinuance or closure requirements. (1) In the event an institution plans to discontinue a program and/or site currently available to Washington residents, but maintain other operations, it shall notify the council immediately and (~~provide information to the council pertaining to accommodations to be made for any currently enrolled students to ensure they are provided the~~) submit alternative opportunities for program completion, acceptable to the council, that allow currently enrolled students a reasonable opportunity to complete their studies. Institutions may be subject to additional reporting requirements as specified by the council.

(2) In the event an institution plans to discontinue all its operations in Washington, the chief administrative officer of the institution shall:

(a) Notify the council immediately by certified mail and email; (~~and~~)

(b) Furnish enrolled students with a written notice explaining the reasons for closure and what procedures they are to follow to secure refunds and their official records, and what arrangements have been made for providing continuing instruction at other institutions; ~~((and))~~

(c) ~~((The institution shall make all reasonable efforts to ensure that))~~ Provide current students ~~((are provided))~~ with alternative opportunities, acceptable to the council, to complete their studies; and

(d) Submit to the council the following:

(i) A timeline for the planned discontinuance of operations including the planned closure date; ~~((and))~~

(ii) A list of all students currently enrolled in program(s) of study at the Washington locations showing student name, contact information, program name, number of credits completed, and number of credits remaining for program completion; ~~((and))~~

(iii) The total number of students currently enrolled in each program of study for each site at which the program is offered; ~~((and))~~

(iv) The alternative opportunities for program completion, acceptable to the council, that are provided by the institution for students currently enrolled in programs of study; ~~((and))~~

(v) A copy of all information regarding the closure that is provided to students, administrators, and faculty at the Washington locations; ~~((and))~~

(vi) A copy of all documents provided by the institution's accrediting agency related to the closure; ~~((and))~~

(vii) A copy of any signed transfer agreement; ~~((and))~~

(viii) A copy of any signed teach-out agreement; ~~((and))~~

(ix) Electronic copies of transcripts for all current and past students; ~~((and))~~

(x) An account ledger for each student that includes, at a minimum, clear and correct information about student charges, payments, and the source for each payment; and

(xi) A plan for the maintenance of student records.

(3) Upon discontinuance of all Washington operations, the institution shall:

(a) Submit to the council a list of all students enrolled in program(s) of study at the Washington locations showing student name, contact information, program name, number of credits completed, number of credits remaining for program completion, and the alternative opportunities selected for program completion by each student; ~~((and))~~

(b) Provide at least one official transcript to each student who is currently enrolled or who was enrolled at any point in the preceding term, at no cost to such students;

(c) Provide for the permanent maintenance of official records; and

(d) Submit the following:

(i) Contact information for the location where records for Washington students will be maintained; and

(ii) A description of the method and language used to inform students as to how final transcripts may be obtained.

(4) In the event it appears to the council that the official records of an institution discontinuing its operations are in danger of being destroyed, secreted, mislaid, or otherwise made unavailable to the students and the council, the council

may seek a court order to take possession of the records and provide for their permanent maintenance.

AMENDATORY SECTION (Amending WSR 17-09-041, filed 4/14/17, effective 5/15/17)

WAC 250-61-170 Application requirements. (1) Initial application.

(a) Institutions seeking initial standard authorization shall contact the council staff to arrange for a preliminary conference to discuss the authorization criteria, application procedures and the review process.

(b) An institution shall submit a fully completed application packet using forms provided by council staff. The application packet will not be considered complete until all required elements have been received by the council.

(c) For standard authorization, ~~((an))~~ the initial application fee ~~((in the amount of five))~~ shall be two thousand dollars ~~((is to))~~, plus one thousand dollars for each proposed program, and shall be submitted along with the application packet. The check is to be made payable to the Washington student achievement council.

(d) For field placement authorization, ~~((an))~~ the initial application fee ~~((in the amount of))~~ shall be two thousand dollars ~~((is to))~~ and shall be submitted along with the application packet. The check is to be made payable to the Washington student achievement council.

(2) Renewal application.

(a) Authorized institutions must submit an application for renewal of authorization on a biennial basis when requested by council staff.

(b) No later than the due date provided by the council, an institution seeking renewal must submit a fully completed renewal application packet using the forms provided by council staff. Failure to provide all requested materials by the due date may result in temporary suspension of the institution's authorization.

(c) For standard authorization, ~~((a))~~ the renewal application fee ~~((in the amount of two thousand five hundred dollars is to be submitted along with the application packet))~~ shall be one thousand dollars, plus two hundred and fifty additional dollars per program. The check is to be made payable to the Washington student achievement council.

(d) For field placement authorization, a renewal application fee in the amount of one thousand dollars is to be submitted along with the application packet. The check is to be made payable to the Washington student achievement council.

(e) Any programs that have been authorized for at least one year prior to the authorization renewal date, but which are not yet made available to students, must be so noted in the renewal application. The authorization granted for these programs will be withdrawn at that time and the institution must seek authorization for these programs through the new program application if it wishes to offer them in the future.

(3) Additional program(s).

(a) If an institution plans to offer additional program(s) of study ~~((during the current authorization period))~~, the institution shall submit a new program application well in advance of the proposed offering.

(b) An additional program application fee in the amount of one thousand dollars per program is to be submitted along with the application packet. The check is to be made payable to the Washington student achievement council.

(c) The program(s) of study may not be offered, advertised or promoted prior to the granting of authorization.

(d) A nonaccredited institution will be limited to no more than two additional programs per calendar year until full accreditation is received.

(4) Additional site(s).

(a) If an institution plans to offer programs at a new site in Washington, the institution shall submit a new site application well in advance of the proposed start of operations at that site.

(b) An additional site application fee in the amount of five hundred dollars per site is to be submitted along with the application packet. The check is to be made payable to the Washington student achievement council.

(c) The site may not be utilized, advertised or promoted prior to the granting of authorization.

(5) Late fees. A late fee for applications for renewal of authorization shall be applied to applications received after the renewal application deadline. The late fee imposed shall be one thousand dollars and shall be added to all other applicable fees.

(6) All fees submitted to the council are nonrefundable.

(7) Change of ownership or control. A significant change of ownership or control of an institution shall nullify any previous authorization or exemption. The chief administrator, representing the new owner(s), shall notify the council as soon as the change is known. If the chief administrator asserts in a written statement that all conditions set forth in the act and these rules are being met or will be met before offering instruction, the council may issue a temporary certificate of authorization for a maximum of one hundred eighty days. The new ownership shall complete an application for initial authorization and submit the application to the council no later than sixty days prior to the expiration of the temporary certificate of authorization.

AMENDATORY SECTION (Amending WSR 17-09-041, filed 4/14/17, effective 5/15/17)

WAC 250-61-180 Application review procedures. (1) Staff analysis. Following receipt of a fully completed application, council staff shall review and analyze the material submitted.

(2) Additional documentation and site visit. If council staff determines it is necessary to verify or supplement the information provided in the application, the staff may require additional written documentation and/or arrange for a site visit. The expense for any site visits shall be paid by the institution applying for authorization.

(3) External consultants. At the discretion of the council, the expertise of other higher education experts may be used to assist in the evaluation of the documentation submitted. The cost for the services of the evaluation expert(s) shall be paid by the institution applying for authorization. The fee for such services is five hundred dollars per program per consultant, to be submitted by the institution upon request by the council

during the review process. The check is to be made payable to the Washington student achievement council.

(4) Comment period. Upon completion of a preliminary review, the council shall post a notification of the request for authorization on its web site for a set period of time. Any persons having knowledge as to why the institution or its program(s) may not meet the requirements for degree authorization may provide comment to the council on the proposal.

(5) Staff recommendations. After the final review has been completed, council staff shall summarize its findings and develop a recommendation to the executive director regarding the application. This recommendation will take one of the following forms:

(a) That the institution be granted authorization, subject to biennial reporting and maintenance of the conditions under which authorization has been granted.

(b) That the institution be granted conditional authorization, subject to additional conditions as established by the council, and maintenance of the conditions under which authorization has been granted.

(c) That the institution be denied authorization.

(6) Notification. Following the council's decision to authorize or deny the institution's request, a letter signifying the action shall be sent from the council to the chief administrative officer of the institution.

(a) The letter of authorization will serve as official authorization for the institution to operate in Washington for the specific programs and locations designated in the letter.

(b) An institution denied authorization shall be provided with an explanation as to how the institution and/or its programs failed to meet the criteria for authorization. ~~((Any institution denied standard authorization that wishes to reapply within one year of the denial date may submit a new fully completed initial application packet and pay a reapplication fee of four thousand dollars. Any institution denied field placement authorization that wishes to reapply within one year of the denial date may submit a new fully completed initial application packet and pay a reapplication fee of one thousand dollars. The check is to be made payable to the Washington student achievement council.))~~

AMENDATORY SECTION (Amending WSR 17-09-041, filed 4/14/17, effective 5/15/17)

WAC 250-61-200 Suspension or withdrawal of authorization. (1) The executive director may suspend or withdraw an institution's authorization based on a finding that:

(a) Any information contained in the application for authorization is untrue; or

(b) The institution has failed to maintain the standards for authorization as detailed in the act and this chapter; or

(c) Advertising or representations made on behalf of, and sanctioned by, the institution is deceptive or misleading; or

(d) The institution has violated any provision of this chapter; or

(e) The institution has violated any applicable federal or state law.

(2) In the case of an adverse finding the executive director shall provide the institution a notice of violation that

includes details of the legal basis of the finding and the facts used to make the determination.

(3) The institution will have an opportunity to respond to the notice of violation and address deficiencies within a reasonable time period specified by the council.

(4) The executive director may designate an institution as at-risk.

(5) The executive director may suspend the institution's authorization for a period of time if, in the executive director's judgment, the deficiencies can be corrected within the given time period. Upon suspension, the institution must immediately cease the recruitment and/or enrollment of new students. The institution may continue serving currently enrolled students for the remainder of the term. Authorization may be reinstated after any deficiencies have been resolved to the satisfaction of the council.

(6) The executive director may withdraw the institution's authorization if, in the executive director's judgment, the deficiencies cannot be corrected within the given time period. Upon withdrawal, the institution must immediately cease all degree-granting operations. To seek reinstatement of authorization, the institution must apply for initial authorization.

(7) The executive director's action to suspend or withdraw authorization is subject to the hearing procedures specified in WAC 250-61-210.

WSR 19-03-023

PERMANENT RULES DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed January 4, 2019, 10:06 a.m., effective February 4, 2019]

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

Purpose: The department is amending WAC 388-492-0070 How are my WASHCAP food benefits calculated?, to clarify language to align with the requirements of the Washington combined application project.

Citation of Rules Affected by this Order: Amending WAC 388-492-0070.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090.

Other Authority: 7 C.F.R. § 282.1.

Adopted under notice filed as WSR 18-21-142 on October 19, 2018.

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

Number of Sections Adopted at the Request of a Non-governmental 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: January 3, 2019.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 17-24-008, filed 11/27/17, effective 1/1/18)

WAC 388-492-0070 How are my WASHCAP food benefits calculated? We calculate your Washington state combined application project (WASHCAP) food benefits as follows:

(1) We begin with your gross income.

(2) We subtract the current standard deduction for one person under WAC 388-450-0185 from your gross income to get your countable income.

(3) We figure your shelter cost based on information we receive from the Social Security Administration (SSA) unless you report a change as described under WAC 388-492-0080.

(a) If you pay more than three hundred twenty dollars (~~or more~~) a month for shelter, we use four hundred twenty-five dollars as your shelter cost.

(b) If you pay (~~less than~~) three hundred twenty dollars or less a month for shelter, we use two hundred ten dollars as your shelter cost.

(c) We add the current standard utility allowance under WAC 388-450-0195 to the shelter cost we use under either (a) or (b) of this subsection to determine your total shelter cost.

(4) We figure your shelter deduction by subtracting one half of your countable income from your total shelter cost under subsection (3)(c) of this section.

(5) We figure your net income by subtracting your shelter deduction from your countable income and rounding the resulting figure up from fifty cents and down from forty-nine cents to the nearest whole dollar.

(6) We figure your WASHCAP food benefits (allotment) by:

(a) Multiplying your net income by thirty percent and rounding up to the next whole dollar; and

(b) Subtracting the result from the maximum allotment under WAC 388-478-0060.

(7) If you are eligible for WASHCAP, you will get at least the minimum monthly benefit for basic food under WAC 388-412-0015.

WSR 19-03-036

PERMANENT RULES BUILDING CODE COUNCIL

[Filed January 7, 2019, 12:57 p.m., effective July 1, 2019]

Effective Date of Rule: July 1, 2019.

Purpose: To add an alternate method for sizing footings in light-frame residential construction under chapter 51-51 WAC.

Citation of Rules Affected by this Order: Amending WAC 51-51-0403.

Statutory Authority for Adoption: RCW 19.27.031, 19.27.074.

Other Authority: Chapter 19.27 RCW.

Adopted under notice filed as WSR 18-21-130 on October 18, 2018.

A final cost-benefit analysis is available by contacting Richard Brown, P.O. Box 41449, Olympia, WA 98504-1449, phone 360-407-9277, email sbcc@des.wa.gov, web site sbcc.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 the Request of a Non-governmental Entity: New 0, Amended 1, Repealed 0.

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

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

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

Date Adopted: January 2, 2019.

Doug Orth
Council Chair

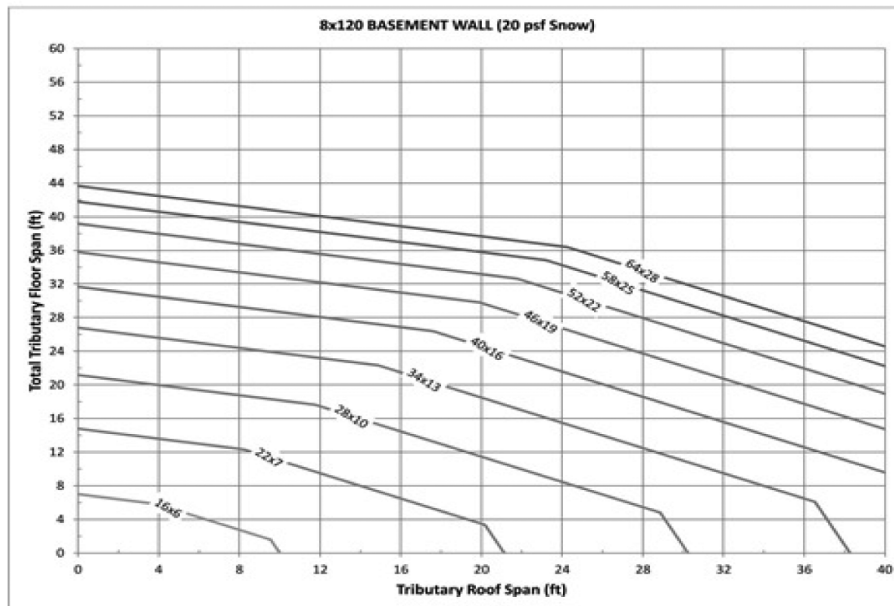
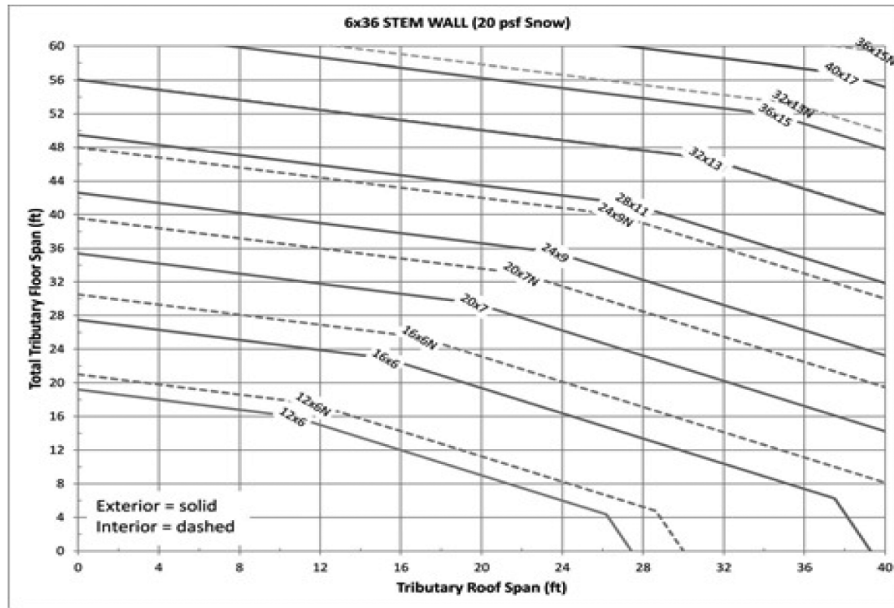
AMENDATORY SECTION (Amending WSR 16-03-025, filed 1/11/16, effective 7/1/16)

WAC 51-51-0403 (~~Reserved~~) Section R403—Footings.

R403.1.1 Minimum size. The minimum width, W, and thickness, T, for concrete footings shall be in accordance with Tables R403.1(1) through R403.1(3) and Figure R403.1(1) or R403.1.3, as applicable. The footing width shall be based on the load-bearing value of the soil in accordance with Table R401.4.1. Footing projections, P, shall be not less than 2 inches (51 mm) and shall not exceed the thickness of the footing. Footing thickness and projection for fireplaces shall be in accordance with Section R1001. The size of footings supporting piers and columns shall be based on the tributary load and allowable soil pressure in accordance with Table R401.4.1. Footings for wood foundations shall be in accordance with the details set forth in Section R403.2, and Figures R403.1(2) and R403.1(3).

EXCEPTION: Light-frame construction shall be permitted to have minimum footing size in accordance with Figures R403.1.1(1) through R403.1.1(4) in lieu of that determined by Table R403.1(1).

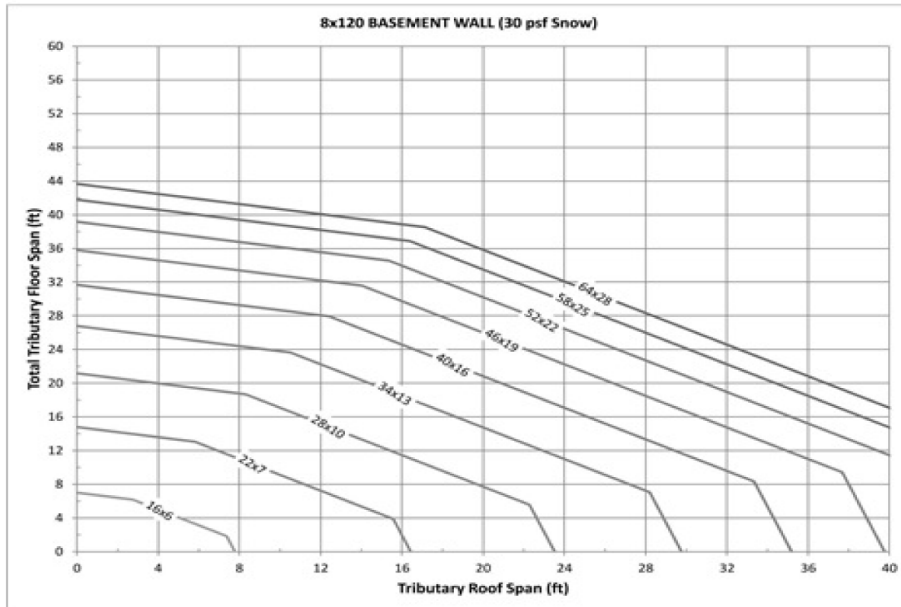
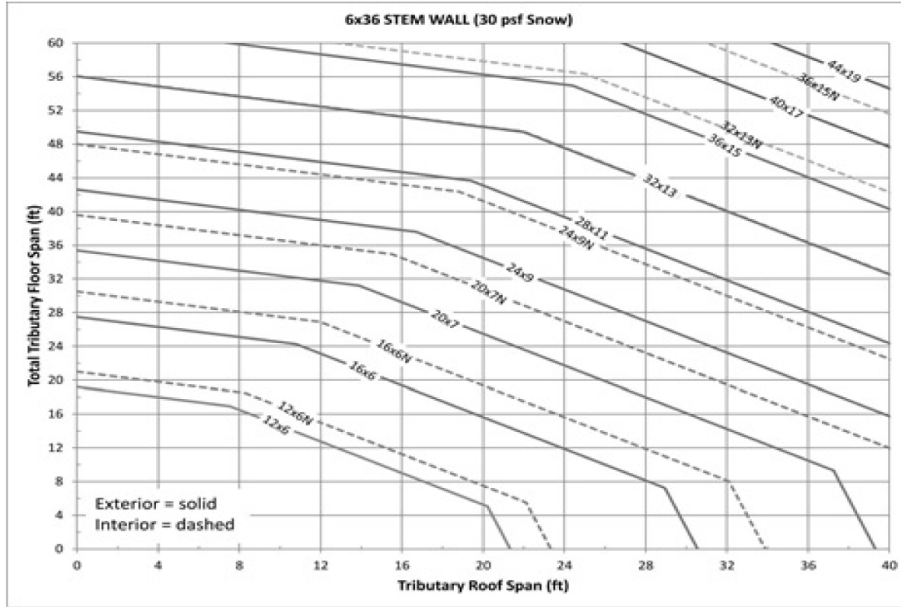
Figure R403.1.1(1)
 Alternative Minimum Footing Size for Light-Frame Construction ^{a,b,c,d,e,f,g,h,i}
 20 PSF Snow Load



- Notes:
- a The minimum footing size is based on the following assumptions: Material weights per Section R301.2.2.2.1 and soil density = 120 pcf. Wood framed walls = 10 foot; crawlspace stem wall = 6 inches × 36 inches; basement wall = 8 inches × 120 inches. Total load (TL) equal to the maximum of three load combinations: LC1=D+L, LC2=D+S and LC3=D+0.75(L+S), where D=dead load, L=live load, S=snow load. TL=max(LC1, LC2, LC3).
 - b Use tributary span of floor and roof. Figure may be used to size exterior and interior footings.
 - c Add 4 feet to tributary floor span for each wood framed wall above first level (i.e., 4' for 2-story, 8' for 3-story).
 - d Multiply floor span by 1.25 for interior footings supporting continuous joists.
 - e Multiply footing width by (1500 psf/capacity) for soil capacity other than 1500 psf. See Section R403.1.1 for thickness.
 - f Dashed line may be used for interior footing size only.

- g Use footing size indicated on line above the span combination used.
- h For span combinations above the upper line, a design professional is required.
- i Interpolation between footing sizes is allowed. Extrapolation is not allowed.

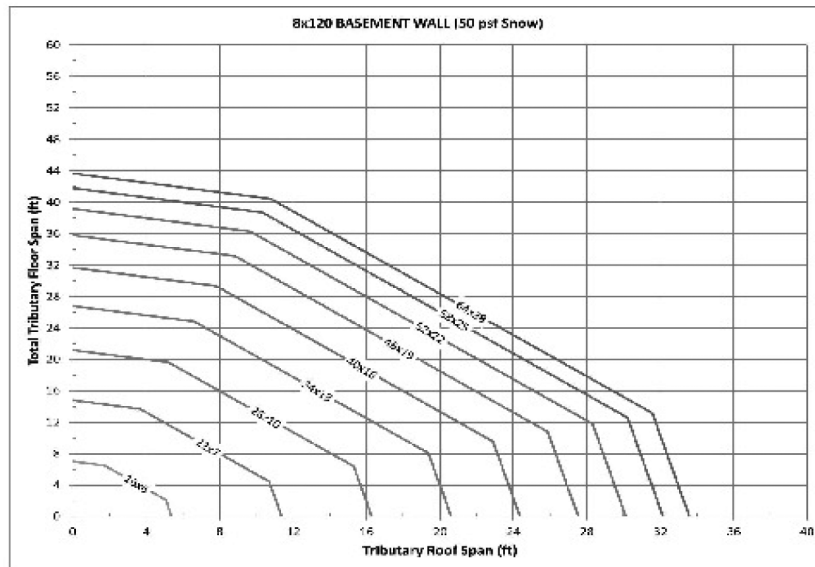
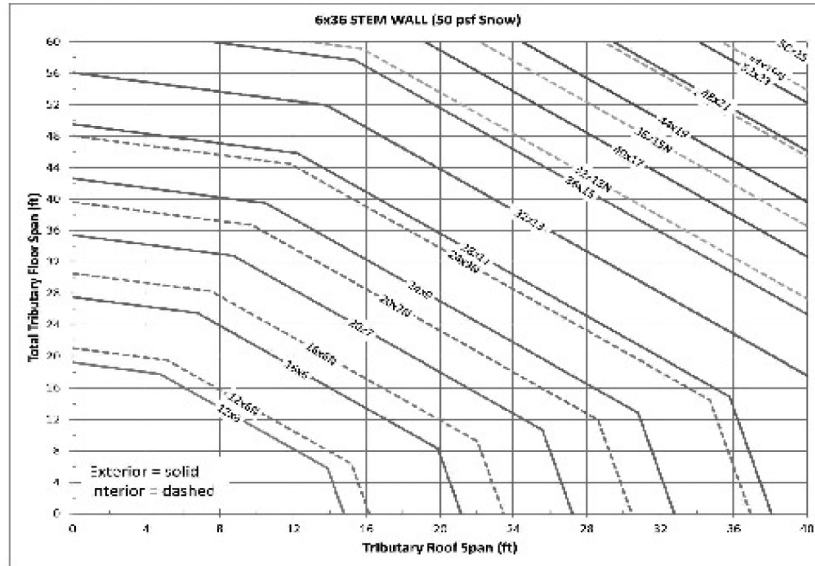
Figure R403.1.1(2)
Alternative Minimum Footing Size for Light-Frame Construction a,b,c,d,e,f,g,h,i
30 PSF Snow Load



- Notes:
- a The minimum footing size is based on the following assumptions: Material weights per Section R301.2.2.2.1 and soil density = 120 pcf. Wood framed walls = 10 foot; crawlspace stem wall = 6 inches × 36 inches; basement wall = 8 inches × 120 inches. Total load (TL) equal to the maximum of three load combinations: LC1=D+L, LC2=D+S and LC3=D+0.75(L+S), where D=dead load, L=live load, S=snow load. TL=max(LC1, LC2, LC3).
 - b Use tributary span of floor and roof. Figure may be used to size exterior and interior footings.
 - c Add 4 feet to tributary floor span for each wood framed wall above first level (i.e., 4' for 2-story, 8' for 3-story).

- d Multiply floor span by 1.25 for interior footings supporting continuous joists.
- e Multiply footing width by (1500 psf/capacity) for soil capacity other than 1500 psf. See Section R403.1.1 for thickness.
- f Dashed line may be used for interior footing size only.
- g Use footing size indicated on line above the span combination used.
- h For span combinations above the upper line, a design professional is required.
- i Interpolation between footing sizes is allowed. Extrapolation is not allowed.

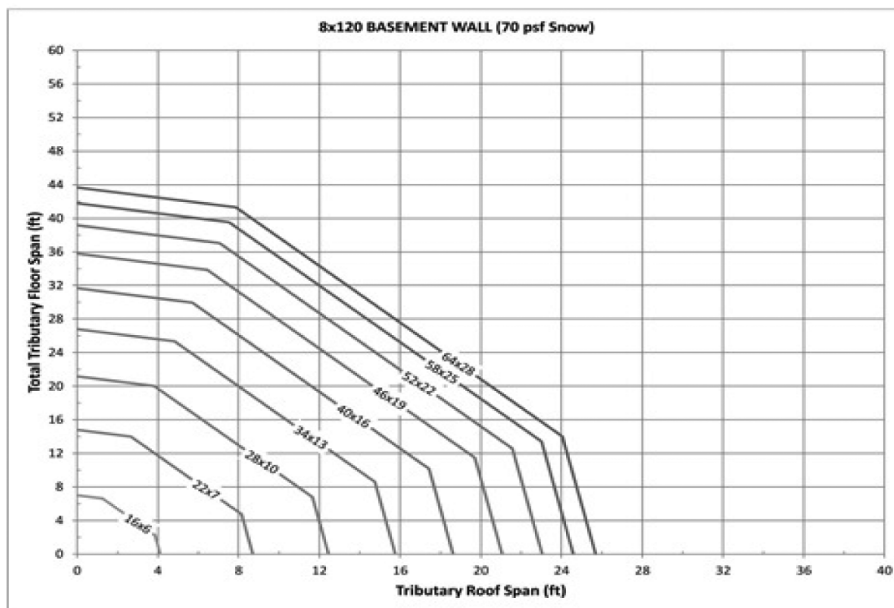
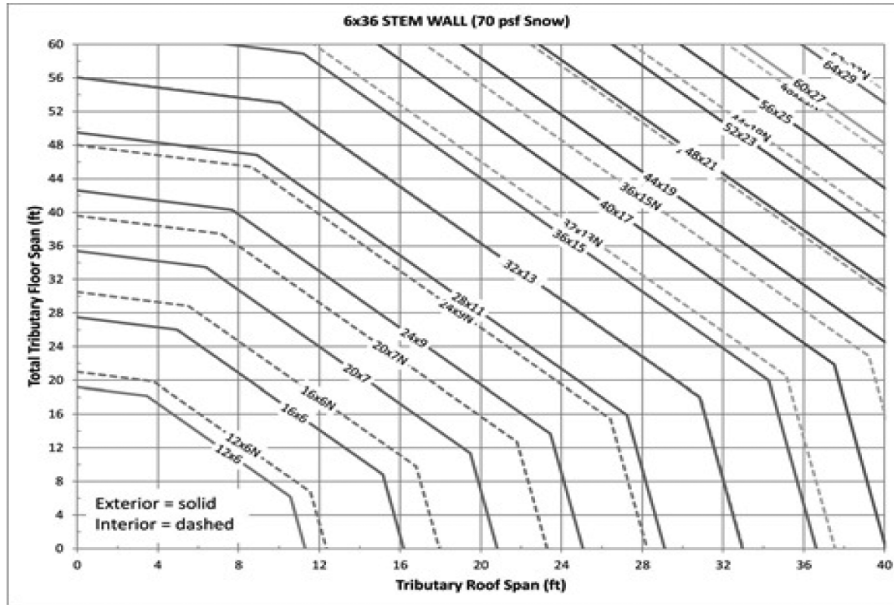
Figure R403.1.1(3)
Alternative Minimum Footing Size for Light-Frame Construction a,b,c,d,e,f,g,h,i
50 PSF Snow Load



- Notes:
- a The minimum footing size is based on the following assumptions: Material weights per Section R301.2.2.2.1 and soil density = 120 pcf. Wood framed walls = 10 foot; crawlspace stem wall = 6 inches × 36 inches; basement wall = 8 inches × 120 inches. Total load (TL) equal to the maximum of three load combinations: LC1=D+L, LC2=D+S and LC3=D+0.75(L+S), where D=dead load, L=live load, S=snow load. TL=max(LC1, LC2, LC3).
 - b Use tributary span of floor and roof. Figure may be used to size exterior and interior footings.

- c Add 4 feet to tributary floor span for each wood framed wall above first level (i.e., 4' for 2-story, 8' for 3-story).
- d Multiply floor span by 1.25 for interior footings supporting continuous joists.
- e Multiply footing width by (1500 psf/capacity) for soil capacity other than 1500 psf. See Section R403.1.1 for thickness.
- f Dashed line may be used for interior footing size only.
- g Use footing size indicated on line above the span combination used.
- h For span combinations above the upper line, a design professional is required.
- i Interpolation between footing sizes is allowed. Extrapolation is not allowed.

Figure R403.1.1(4)
Alternative Minimum Footing Size for Light-Frame Construction ^{a,b,c,d,e,f,g,h,i}
70 PSF Snow Load



- Notes:
- a The minimum footing size is based on the following assumptions: Material weights per Section R301.2.2.2.1 and soil density = 120 pcf. Wood framed walls = 10 foot; crawl-space stem wall = 6 inches × 36 inches; basement wall = 8 inches × 120 inches. Total load (TL) equal to the maximum of three load combinations: LC1=D+L, LC2=D+S and LC3=D=0.75(L+S), where D=dead load, L=live load, S=snow load. TL=max (LC1, LC2, LC3).
 - b Use tributary span of floor and roof. Figure may be used to size exterior and interior footings.
 - c Add 4 feet to tributary floor span for each wood framed wall above first level (i.e., 4' for 2-story, 8' for 3-story).
 - d Multiply floor span by 1.25 for interior footings supporting continuous joists.
 - e Multiply footing width by (1500 psf/capacity) for soil capacity other than 1500 psf. See Section R403.1.1 for thickness.
 - f Dashed line may be used for interior footing size only.
 - g Use footing size indicated on line above the span combination used.
 - h For span combinations above the upper line, a design professional is required.
 - i Interpolation between footing sizes is allowed. Extrapolation is not allowed.

WSR 19-03-037
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed January 7, 2019, 2:34 p.m., effective February 7, 2019]

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

Purpose: The department is amending WAC 388-460-0010 Do I have an authorized representative for basic food if I live in a treatment center or group home?, to align with changes to federal regulations specifying how and when treatment centers and group homes act as authorized representatives for residents who receive basic food.

When effective, this filing cancels and supersedes the emergency adopted under WSR 18-21-097.

Citation of Rules Affected by this Order: Amending WAC 388-460-0010.

Statutory Authority for Adoption: RCW 74.04.500, 74.04.510, 74.08A.120.

Other Authority: 7 C.F.R. 273.11 (e) and (f).

Adopted under notice filed as WSR 18-23-099 on November 20, 2018.

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

Number of Sections Adopted at the Request of a Non-governmental 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: January 7, 2019.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 15-16-022, filed 7/24/15, effective 8/24/15)

WAC 388-460-0010 Do I have an authorized representative for basic food if I live in a treatment center or group home? (1) If you live in a qualified developmental disabilities administration (DDA) group home under WAC 388-408-0040, you may choose to apply for basic food benefits:

- (a) On your own behalf;
- (b) Through an authorized representative of your choice;

or

- (c) Through the DDA group home acting as your authorized representative.

(2) If you live in a qualified drug and alcohol treatment center under WAC 388-408-0040, ~~((you must have an employee of the facility as your authorized representative))~~ a designated treatment center employee must apply for your basic food benefits, and the center will act as your authorized representative.

(3) ~~When the ((person acting as authorized representative for residents in a))~~ qualified drug and alcohol treatment facility or qualified DDA group home is your authorized representative, it must:

- (a) Be aware of ~~((the resident's))~~ your circumstances;
- (b) Notify the department of any changes in your income, resources, or circumstances within ten days of the change;

- (c) Use ~~((the resident's))~~ your basic food benefits for meals served to ~~((the resident))~~ you; and

- (d) ~~((Keep enough benefits in the facility's account to transfer one half of a client's monthly allotment to the client's own account. If the client leaves the facility on or before the fifteenth of the month, the facility must return one half of the client's Basic Food allotment for that month))~~ Give you a change in circumstances report form, when the center or group home learns you plan to leave, and advise you to report any changes as required under WAC 388-418-0005 to the department within ten days of the date of change.

(4) When a ~~((facility assigns an employee as the))~~ center or group home is an authorized representative for residents, the facility accepts responsibility for:

- (a) Any misrepresentation or intentional program violation; and

- (b) Liability for basic food benefits held at the facility on behalf of ((the resident)) residents.

(5) When you leave a facility and the center or group home is your authorized representative, it must:

(a) Either:

(i) Return to you a prorated amount of your basic food allotment for that month based on the number of days remaining in the month; or

(ii) Notify the department, within five days of your departure, that the facility is unable to refund your prorated share;

(b) Notify the department of your change in address, new address if available, and that the facility is no longer your authorized representative; and

(c) Provide you with your electronic benefits transfer (EBT) card within five days of leaving the facility if the facility was in possession of the card; or

(d) Return your EBT card to the department within five days if they are unable to provide it to you.

WSR 19-03-041

PERMANENT RULES

DEPARTMENT OF

CHILDREN, YOUTH, AND FAMILIES

[Filed January 8, 2019, 12:11 p.m., effective February 8, 2019]

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

Purpose: Implement chapter 155, Laws of 2018, which expanded the early childhood education and assistance program (ECEAP) by allowing participation of children whose family income is above one hundred ten percent of the federal poverty level and who are homeless or impacted by specific developmental or environmental risk factors that are linked by research to school performance. Additionally, make non-substantive amendments necessary following the decodification of Title 170 WAC and recodification to Title 110 WAC.

Citation of Rules Affected by this Order: Amending WAC 110-425-0010, 110-425-0030, 110-425-0040, 110-425-0050, 110-425-0060, 110-425-0070, 110-425-0080, and 110-425-0090.

Statutory Authority for Adoption: RCW 43.216.065, 43.216.512, and 43.216.525.

Adopted under notice filed as WSR 18-22-119 on November 8 [6], 2018.

Changes Other than Editing from Proposed to Adopted Version: WAC 110-425-0080 (1)(c), revised to better align with RCW 43.216.215 and clarify that there is a statewide cap for ECEAP enrollment of over-income children and WAC 110-425-0080(9), revised to better align with RCW 43.216.215 and clarify ECEAP enrollment priority.

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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: January 8, 2019.

Brenda Villarreal
Rules Coordinator

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-425-0010 Authority. These rules are adopted under the authority of (~~chapter 28A.215~~) RCW 43.216.525.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-425-0030 Definitions. (1) "Contractor" means a public or private organization that contracts with the department of (~~early learning~~) children, youth, and families to provide local (~~early childhood education and assistance~~) ECEAP services.

(2) "Department" means the department of (~~early learning~~) children, youth, and families.

(3) (~~"Director" means the director of the department of early learning.~~) "ECEAP" means the early childhood education and assistance program.

(4) "Eligible organization" means public or private organizations including, but not limited to, school districts, educational service districts, community and technical colleges, local governments, nonprofit organizations, and for-profit organizations provided that their proposed (~~early childhood education and assistance program~~) ECEAP is free from religious instruction, activities, or symbolism.

(5) "Performance standards" means the most current release of the ECEAP performance standards as incorporated into the ECEAP contract.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-425-0040 Process for allocating or awarding funds. (1) Eligible organizations may apply to become contractors for (~~the early childhood education and assistance program~~) ECEAP.

(2) Funds shall be awarded on a competitive basis to new contractors or allocated by the department for renewal contracts, consistent with the amount allocated by the legislature.

(3) An applicant must use the application procedures established by the department.

(4) Successful applicants will be awarded a contract with the department. This contract must be signed by an official with authority to bind the recipient.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-425-0050 Use of funds. (1) Contracting agencies must provide comprehensive early education and family support services free of charge to enrolled families.

(2) ~~((Early childhood education and assistance program funds must))~~ ECEAP funds may be used as dollars of last resort for medical, dental, nutrition, and mental health services.

(3) Administrative costs funded under this program are limited to fifteen percent of the total award.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-425-0060 Comprehensive service delivery.

(1) Contractors must ~~((conduct a community assessment, and must))~~ plan and deliver the following comprehensive services to enrolled children and their families:

(a) Early childhood education;

(b) Family support, using the mobility mentoring approach to help families overcome the extreme stresses of poverty by improving focus, planning, and decision making;

(c) Parent involvement including options for participation in their child's classroom, program policy decisions, service delivery system development, and parent education and training; and

(d) Health screening, information, and referral, including medical, dental, nutrition, and mental health.

(2) Contractors must comply with the early childhood education and assistance program contract, performance standards, and policy memos in the delivery of all services.

(3) Contractors may request exceptions to rules, performance standards, or policies. Contractors must receive written approval from the department before implementing exceptions.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-425-0070 Nondiscrimination. Contractors must not deny service to, or discriminate against, any person who meets the eligibility criteria for the ~~((early childhood education and assistance program))~~ ECEAP on the basis of sex, gender identity, race, ethnicity, color, religion, age, national origin, citizenship, ancestry, physical or mental disability, family configuration, sexual orientation, culture, or public assistance recipient status.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-425-0080 Eligibility for services. (1) ~~((Children are eligible for ECEAP if they are))~~ A child is eligible for ECEAP if the child is at least three years old ~~((, but not yet five years old,))~~ by August 31st of the school year, is not age-eligible for kindergarten, and ~~((one of the following))~~ is:

(a) ~~((Returning to the same ECEAP contractor from the previous school year.~~

~~((b)))~~ Qualified by ~~((their))~~ a school district for special education services under RCW 28A.155.020. All children on a school district individualized education program (IEP) meet this requirement ~~((:~~

~~((e) Receiving child protective services under RCW 26.44.020(3) or family assessment response services under RCW 26.44.260.~~

~~((d)))~~;

~~((b) From a family with income at or below one hundred ten percent of the federal poverty guidelines established by the U.S. Department of Health and Human Services~~ ~~((:~~

~~((e)))~~; or

~~((c) From a family with income that exceeds one hundred ten percent federal poverty level~~ ~~((and))~~ ("over-income") and is homeless or is impacted by specific ~~((developmental or environmental))~~ risk factors identified by the department that are linked by research to school performance ~~((:~~

~~((f) Ninety percent of enrolled families statewide must qualify by income or IEP. DEL establishes over-income limits for each contractor annually.~~

~~((2) Children who are eligible for ECEAP are not automatically enrolled in ECEAP. They must still be prioritized))~~, provided that no more than ten percent of slots statewide are enrolled with children eligible under this provision.

(2) Contractors may provide ECEAP services to over-income children without IEPs as follows:

(a) Contractors must actively recruit and enroll income-eligible children within their service area.

(b) Contractors may enroll over-income children without IEPs up to the initial over-income limit assigned by the department to each contractor annually.

(i) This limit is based on contractor size; contractors with fewer funded ECEAP slots are allowed higher over-income percentages to provide flexibility to fill classes in rural areas.

(ii) For sites operated by tribes or tribal organizations, the department will set initial over-income limits at twenty-five percent.

(iii) The department may adjust limits midyear if slots are moved between contractors.

(c) Contractors may apply for additional over-income slots for the current year using the application provided by the department if:

(i) The contractor has enrolled all assigned over-income slots;

(ii) Additional funded slots are available; and

(iii) Efforts to recruit income-eligible children within the contractor's service area have been exhausted.

(d) The department will consider the following factors when reviewing applications for additional over-income slots:

(i) The statewide number of enrolled over-income children without IEPs must not equal more than twenty-five percent of the total funded ECEAP slots;

(ii) The similarity of the income levels, risk factors, and priority points of the children described in the applications and other ECEAP children enrolled in over-income slots;

(iii) The statewide plan to serve all income-eligible children from families who choose to participate;

(iv) The requesting contractor's need to fill slots to fully enroll a class to ensure access to services for income-eligible children; and

(v) The presence of unserved, income-eligible children in other locations in the state.

(3) Eligible, enrolled children (~~are allowed to remain in~~) maintain their eligibility for ECEAP until kindergarten, without reverification of income or risk factors. All previously enrolled children returning for a new school year may be reprioritized against new children when enrollment slots are limited.

(4) Children (~~may not be simultaneously~~) are not eligible for ECEAP if they are enrolled in (~~both ECEAP and~~) Head Start, however Head Start duration funds may be used to increase the length of the ECEAP preschool day when federal funds are provided to a contractor specifically for this purpose.

(5) Children served by school district special education may be simultaneously enrolled in ECEAP.

(6) (~~Contractors must systematically review all applications of eligible children and prioritize them to determine which children to enroll in the available ECEAP slots. Contractors must prioritize children who are:~~

(a) Four years old by August 31st of the school year.

(b) From families at the lowest federal poverty levels, as published annually by the U.S. Department of Health and Human Services.

(c) Homeless, as defined by the federal McKinney-Vento Homeless Assistance Act.

(d) Receiving child protective services under RCW 26.44.020(3) or family assessment response services under RCW 26.44.260.

(e) From families with multiple needs.

(7) Contractors must use either the standard or customized priority point system built into the early learning management system (ELMS). Contractors may customize the environmental risk factor section of the priority points built into ELMS to best meet the needs of families in their community.) Once contractors have established a pool of eligible children, contractors must prioritize the eligible children for available ECEAP slots using the department priority point system which is based on state law and department review of research linking risk factors to school performance, including:

(a) For children eligible by income or qualification for special education, prioritization of children from families with the lowest incomes, children in foster care, and families with multiple needs;

(b) For over-income children eligible under subsection (1)(c) of this section, prioritization of children experiencing homelessness or impacted by specific developmental or environmental risk factors that are linked by research to school performance;

(c) For allowable children from over-income families who are not eligible nor proposed to be entitled to ECEAP in 2022-2023, prioritization of children experiencing homelessness, involved in the child welfare system, or with a developmental delay or disability that does not meet the eligibility criteria for special education provided for in RCW 28A.155-.020;

(d) Child age, with priority for children who are within one year of kindergarten age; and

(e) State law requiring ECEAP priority for children in foster care, in the child welfare system, homeless, in families with the lowest income, or in families with multiple risk factors.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-425-0090 Staff qualifications. (1) Contractors must provide adequate staff to comply with all ECEAP performance standards.

(2) Contractors must require their staff and other persons associated with the contractor that are considered to be a "subject individual" as defined in WAC (~~(170-06-0020)~~) 110-06-0020, and who may have unsupervised access to children, to obtain a fingerprint background check in compliance with the requirements of RCW (~~(43.215.215, 43.215.425)~~) 43.216.270, 43.216.525 and chapter (~~(170-06)~~) 110-06 WAC.

(3) All persons serving in the role of ECEAP lead teacher must meet one of the following qualifications:

(a) An associate or higher degree with the equivalent of thirty college quarter credits (~~(or)~~) in early childhood education. These thirty credits may be included in the degree or in addition to the degree; or

(b) A valid Washington state teaching certificate with an endorsement in early childhood education (pre-K - grade 3) or early childhood special education.

(4) All persons serving in the role of ECEAP assistant teacher must meet one of the following qualifications:

(a) Employment as an (~~early childhood education and assistance program~~) ECEAP assistant teacher in the same agency before July 1, 1999;

(b) The equivalent of twelve college quarter credits in early childhood education;

(c) Initial or higher Washington state early childhood education certificate; or

(d) A current Child Development Associate (CDA) credential awarded by the Council for Early Childhood Professional Recognition.

(5) All persons serving in the role of ECEAP family support staff must meet one of the following qualifications:

(a) Employment as an (~~early childhood education and assistance program~~) ECEAP family support staff in the same agency before July 1, 1999;

(b) An associate's or higher degree with the equivalent of thirty college quarter credits (~~(or)~~) in adult education, human development, human services, family support, social work, early childhood education, child development, psychology, or another field directly related to their job responsibilities. These thirty credits may be included in the degree or in addition to the degree; (~~or~~

~~(e) A degree, credential or certificate)~~

(c) A current home visitor child development associate (CDA) credential from the council for professional recognition; or

(d) A department-approved credential from a comprehensive and competency-based program that increases

knowledge and skills in providing direct family support services to families.

(6) All persons serving in the role of ECEAP health advocate must meet one of the following qualifications:

(a) Employment as an ~~((early childhood education and assistance program))~~ ECEAP family support aide or health aide in the same agency before July 1, 2014; or

(b) The equivalent of twelve college quarter credits in family support, public health, health education, nursing, or another field directly related to their job responsibilities.

(7) The ~~((early childhood education and assistance program))~~ ECEAP health consultant must meet one of the following qualifications:

(a) Licensed in Washington state as a registered nurse (R.N.) or physician (M.D., N.D., D.O.); or

(b) A bachelor's or higher degree in public health, nursing, health education, health sciences, medicine, or related field.

(8) The ~~((early childhood education and assistance program))~~ ECEAP nutrition consultant must meet one of the following qualifications:

(a) Registered dietitian (RD) credentialed through the Commission on Dietetic Registration (CDR), the credentialing agency for the Academy of Nutrition and Dietetics (formerly the American Dietetic Association); or

(b) Washington state certified nutritionist under chapter 18.138 RCW.

(9) The ~~((early childhood education and assistance program))~~ ECEAP mental health consultant must meet one of the following qualifications:

(a) Licensed by the Washington state department of health as a mental health counselor, marriage and family therapist, social worker, psychologist, psychiatrist, or psychiatric nurse;

(b) Approved by the Washington state department of health as an agency affiliated or certified counselor, with a master's degree in counseling, social work or related field; or

(c) Credentialed by the Washington state office of the superintendent of public instruction as a school counselor, social worker, or psychologist.

(10) The ECEAP coach must meet all of the following qualifications:

(a) Bachelor's degree in early childhood or related field or a bachelor's degree with the equivalent of thirty college quarter credits in early childhood education. These thirty credits may be included in the degree or in addition to the degree;

(b) A minimum of two years working with young children in a group setting; and

(c) Experience as an early learning coach, consultant, mentor, or trainer.

(11) Contractors must hire and employ staff who meet the qualifications for their position.

(a) If the best candidate for the position is not fully qualified, the contractor must ensure the newly hired staff person is on a professional development plan (PDP) to fully meet the qualifications of their role within five years from the date of hire.

(b) Contractors must monitor progress on all PDPs and ensure staff make adequate yearly progress to meet the required qualifications.

~~((H))~~ (12) Equivalent degrees and certificates from other states and countries are accepted for ECEAP staff qualifications.

WSR 19-03-054

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed January 10, 2019, 9:56 a.m., effective February 10, 2019]

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

Purpose: The department is amending WAC 388-412-0046 What is the purpose of DSHS cash and food assistance benefits and how can I use my benefits? and 388-446-0015 What is an intentional program violation (IPV) and administrative disqualification hearings (ADH) for food assistance? Changes made under this filing will amend WAC 388-412-0046 to clarify illegal use of basic food benefits as proposed in the supplemental CR-102 notice of proposed rule making filed as WSR 18-21-121. This filing will also amend WAC 388-446-0015 to align with federal regulations specifying administrative law judges' jurisdiction over administrative disqualification hearings for intentional program violations of the basic food and food assistance programs as proposed in the original CR-102 notice of proposed rule making filed as WSR 18-13-079.

Citation of Rules Affected by this Order: Amending WAC 388-446-0015 and 388-412-0046.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090.

Other Authority: 7 C.F.R. § 271.2, § 273.16.

Adopted under notice filed as WSR 18-21-121 on October 17, 2018.

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

Number of Sections Adopted at the Request of a Non-governmental 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 2, Repealed 0.

Date Adopted: January 8, 2019.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 14-05-063, filed 2/18/14, effective 3/21/14)

WAC 388-412-0046 What is the purpose of DSHS cash and food assistance benefits and how can I use my benefits? (1) What is the purpose of DSHS cash benefits?

(a) DSHS cash assistance benefits are provided to low-income residents who qualify for public assistance programs. These benefits are intended to help pay for basic living expenses as described under RCW 74.04.770. TANF cash grants must be used for the sole benefit of the children, and we may require proof that you are using your TANF cash assistance to benefit your children as allowed under RCW 74.12.260.

(b) Your electronic benefit transfer (EBT) card or cash assistance benefits may only be used by you, an eligible member of your household, or an authorized representative/protective payee for the purposes of your cash assistance program. You are not allowed to sell, attempt to sell, exchange, or donate your EBT card or benefits to any other person or entity.

(c) You may use your cash benefits to pay a reasonable amount of basic living expenses such as:

- (i) Shelter;
- (ii) Utilities such as heating, telephone, water, sewer, garbage, and recycling;
- (iii) Food;
- (iv) Transportation;
- (v) Clothing;
- (vi) Household maintenance;
- (vii) Personal hygiene;
- (viii) Employment or school related items; and
- (ix) Other necessary incidentals and items.

(d) It is not legal to use electronic benefit transfer (EBT) cards or cash obtained with EBT cards to:

- (i) Gamble. Gambling includes:
 - (A) The purchase of lottery tickets;
 - (B) The purchase of pull tabs;
 - (C) Use of punch boards;
 - (D) Purchase of bingo cards;
 - (E) Betting on horse racing;
 - (F) Participating in casino games; and
 - (G) Participating in other games of chance as found in chapters 9.46, 67.16 and 67.70 RCW.

(ii) Participate in or purchase any activities located in a tattoo, body piercing, or body art shop licensed under chapter 18.300 RCW;

(iii) Purchase cigarettes as defined in RCW 82.24.010 or tobacco products as defined in RCW 82.26.010;

(iv) Purchase any alcoholic items regulated under Title 66 RCW;

(v) Purchase or participate in any activities in any of the following locations:

- (A) Taverns licensed under RCW 66.24.330;
- (B) Beer/wine specialty stores licensed under RCW 66.24.371;
- (C) Nightclubs licensed under RCW 66.24.600;
- (D) Contract liquor stores defined under RCW 66.04.-010;
- (E) Bail bond agencies regulated under chapter 18.185 RCW;

(F) Gambling establishments licensed under chapter 9.46 RCW;

(G) Adult entertainment venues with performances that contain erotic material where minors under the age of eighteen are prohibited under RCW 9.68A.150;

(H) Any establishments where persons under the age of eighteen are not permitted.

(e) If you use your electronic benefit transfer (EBT) card or cash obtained from your EBT card illegally we may:

(i) Assign a protective payee to manage your cash assistance benefits under WAC 388-460-0035;

(ii) For households receiving TANF, require proof that your benefits are being used for the benefit of the children in the household;

(iii) Terminate your cash benefits; or

(iv) Pursue legal action, including criminal prosecution.

(2) What is the purpose of DSHS food assistance benefits?

(a) DSHS food assistance benefits, including those from the basic food program, state funded basic food program for legal immigrants (FAP), Washington state combined application project (WASHCAP), and transitional food assistance (TFA), help low-income individuals and families have a more nutritious diet by providing food assistance benefits through EBT cards for eligible households to buy groceries.

(b) You, members of your household, or an authorized representative may use your food assistance benefits to buy food items for your household from a food retailer authorized to accept supplemental nutrition assistance program (SNAP) benefits by the U.S. Department of Agriculture Food and Nutrition Service (FNS).

(c) You can use your food assistance benefits to buy items such as:

- (i) Breads and cereals;
- (ii) Fruits and vegetables;
- (iii) Cheese, milk, and other dairy products;
- (iv) Meats, fish, poultry, and eggs;
- (v) Most other food items that are not prepared hot foods; and
- (vi) Seeds and plants that produce food.

(d) It is not legal to:

(i) Give your EBT card or benefits to anyone who is not in your food assistance household or your authorized representative.

(ii) Use food benefits (~~on your EBT card~~) for any purpose other than to buy food for eligible household members.

(iii) Exchange (~~your~~) food benefits for anything of value (trafficking). Examples of illegal trafficking include exchanging food benefits or attempting to exchange food benefits for cash, drugs, weapons, or anything other than food from an authorized retailer.

(iv) Sell, attempt to sell, exchange, or donate (~~your~~) an EBT card, EBT card number, personal identification numbers (PINs), or any benefits to any person or entity.

(v) Buy, attempt to buy, or steal someone's EBT card, EBT card number, or PIN.

(vi) Sell or trade any food that was purchased using (~~your~~) food assistance benefits for cash, drugs, alcohol, tobacco products, firearms, or anything of value.

(vii) Use food benefits to buy nonfood items such as cigarettes, tobacco, beer, wine, liquor, household supplies, soaps, paper products, vitamins, medicine, or pet food.

(viii) Commit any other act in violation of the Food Nutrition Act of 2008, regulations for the supplemental nutrition assistance program (SNAP) under Title 7 of the Code of Federal Regulations or any Washington state administrative code relating to the use, presentation, transfer, acquisition, receipt, trafficking, or possession of food assistance benefits.

(e) If you intentionally misuse ~~((your))~~ food assistance benefits, you may be:

(i) Disqualified for an intentional program violation under WAC 388-446-0015 and 388-446-0020. If you are disqualified you will lose your benefits for at least one year and up to a lifetime. The disqualification continues even if you move to another state.

(ii) Subject to fines.

(iii) Subject to legal action, including criminal prosecution. DSHS will cooperate with state, local, and federal prosecuting authorities to prosecute trafficking in food assistance/SNAP benefits.

AMENDATORY SECTION (Amending WSR 14-05-063, filed 2/18/14, effective 3/21/14)

WAC 388-446-0015 What is an intentional program violation (IPV) and administrative disqualification hearing(s) (ADH) for basic food ~~((assistance))~~?

(1) An intentional program violation (IPV) is an act in which someone intentionally:

(a) Misrepresents, conceals, or withholds facts in order to be found eligible for benefits or to receive more benefits than their actual circumstances would allow~~((This includes))~~ including making a false statement regarding household circumstances~~((:))~~;

(b) Acts in violation of the Food Nutrition Act of 2008, regulations for the supplemental nutrition assistance program (SNAP) under Title 7 of the Code of Federal Regulations ~~((or))~~, any state statute, or WAC relating to the use, presentation, transfer, acquisition, receipt, trafficking, or possession of food assistance benefits including~~((:))~~; or

(c) Attempts to buy, sell, steal, or trade food assistance benefits issued and accessed via electronic benefit transfer (EBT) cards, EBT card numbers or personal identification numbers (PINs), for cash or anything other than eligible food, alone or acting with others.

(2) If we suspect someone has committed an IPV we refer their case for an administrative disqualification hearing (ADH), ~~((if))~~ unless:

(a) ~~((The suspected IPV causes an over-issuance of four hundred fifty dollars or more))~~ case is currently referred for prosecution; or

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

~~((The person has not been referred for criminal proceedings))~~ A court or prosecutor already took action against the person for the same or related facts.

(3) An administrative disqualification hearing (ADH) is a formal hearing to determine if a person committed an IPV. ADHs are governed by the rules found in chapter 388-02

WAC. However, rules in this section are the overriding authority if there is a conflict.

(4) A person suspected of an IPV can choose to waive their right to an ADH by signing a disqualification consent agreement that waives their right to the hearing and accepts the IPV penalty under WAC 388-446-0020.

(5) If someone commits one or more IPV's and is suspected of committing another, we refer them for an ADH when the act of suspected violation occurred:

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

(b) After criminal proceedings for the most recent IPV are concluded.

(6) When we ~~((suspect someone has committed an IPV, we))~~ refer ~~((their))~~ a case for an administrative disqualification hearing (ADH)~~((:))~~, the office of administrative hearings (OAH) sends ~~((them))~~ the person notice of ~~((an))~~ the ADH at least thirty days in advance of the hearing date. OAH sends the notice by certified mail, or personal service. The notice will contain the following information:

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

(b) The charges against the person;

(c) A summary of the evidence, and how and where they may examine the evidence;

(d) A warning that a decision will be based entirely on the evidence the department provides if they fail to appear at the hearing;

(e) A statement that the person has ten days from the date of the scheduled hearing to show good cause for failing to attend the hearing and to ask for a new hearing date;

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

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

(7) The department may combine an ADH and a regular hearing when the reason for both hearings is related.

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

(9) The administrative law judge (ALJ) will conduct the ADH and render a decision even if the person or representative fails to appear, unless within ten days from the date of the scheduled hearing:

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

(b) The person or representative requests the hearing be reinstated.

(10) We may change a scheduled telephone hearing to an in-person hearing if this is requested by the person or department representative at least ~~((a))~~ one week in advance. The person requesting a change less than one week in advance must show good cause for the requested change.

(11) The ALJ issues a final decision as specified in WAC 388-02-0215 through 388-02-0525. The decision determines whether the department had established with clear and convincing evidence that the person committed and intended to commit an IPV.

(12) The department and the client each have the right to request a reconsideration of the decision as specified in WAC 388-02-0610 through 388-02-0635. The final order or the reconsideration decision is the final agency decision.

(13) We will not implement a disqualification and continue benefits at the current amount if:

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

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

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

WSR 19-03-056
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Economic Services Administration)

[Filed January 10, 2019, 10:50 a.m., effective March 1, 2019]

Effective Date of Rule: March 1, 2019.

Purpose: The department is amending WAC 388-408-0025 When can I choose who is in my TANF or SFA assistance unit?, to disregard the relationship between siblings and half-siblings, when the adult applying for a child-only grant has no legal responsibility for the child(ren).

Citation of Rules Affected by this Order: Amending WAC 388-408-0025.

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

Adopted under notice filed as WSR 18-21-176 on October 23, 2018.

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 the Request of a Non-governmental 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: January 8, 2019.

Katherine I. Vasquez
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 05-02-017, filed 12/27/04, effective 1/27/05)

WAC 388-408-0025 When can I choose who is in my TANF or SFA assistance unit? If you are a child's parent or other caretaker relative (a relative who cares for the child's basic needs as defined in WAC 388-454-0010), use the table below to find who you may choose to include or exclude in your TANF or SFA AU. If you include a child in your AU, it could cause you to get more or less benefits. If someone is not allowed in the AU under WAC 388-408-0020, you cannot choose to include them in your TANF or SFA AU.

(1) If you are the parent of the child, you may choose whether or not to include:	(a) Yourself in the AU if the child gets SSI; and (b) The child in the AU if: (i) You already receive TANF or SFA; (ii) You are not married to the child's other parent; and (iii) The child lives with both parents.
(2) If you are not the child's parent, and do not live with the parents of the child, you may choose to:	(a) Include yourself if you are a relative defined in WAC 388-454-0010; (b) Include someone else that cares for the child and is a relative defined in WAC 388-454-0010; or (c) Receive a grant for the child only <u>and</u> : <u>(i) Exclude a full, half, or adoptive sibling if that sibling:</u> <u>(A) Receives income; or</u> <u>(B) Would otherwise cause the household to be ineligible, with the exception of noncompliance sanction.</u>
(3) If you are the child's parent or caretaker relative, you may choose whether or not to include any of the following children:	(a) Brothers or sisters of a child who gets SSI; (b) Stepsisters and stepbrothers of a child; and (c) Other children that are not the child's brother or sister.

WSR 19-03-061
PERMANENT RULES
LIQUOR AND CANNABIS
BOARD

[Filed January 10, 2019, 2:38 p.m., effective August 1, 2019]

Effective Date of Rule: August 1, 2019.

Purpose: The revised rules allow liquor licensed grocery stores to provide curbside service to customers utilizing online ordering and pickup programs. The rules outline requirements for curbside service of orders that contain alcohol. The rules ensure that grocery stores and customers have

requirements in place for this service. Other changes are technical and provide clarification.

Citation of Rules Affected by this Order: New WAC 314-03-400; and amending WAC 314-11-015.

Statutory Authority for Adoption: RCW 66.08.030, 66.24.360.

Adopted under notice filed as WSR 18-22-057 on October 31, 2018.

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 the Request of a Non-governmental Entity: New 1, Amended 1, Repealed 0.

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

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

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

Date Adopted: January 9, 2019.

Jane Rushford
Chair

NEW SECTION

WAC 314-03-400 Curbside service. (1) Grocery stores that have the appropriate liquor licenses may provide curbside service to customers who order groceries online and pick them up in designated pickup areas outside of the grocery store. Curbside service in a designated pickup area must be administered pursuant to all applicable RCW and WAC provisions. Drive-through service from pickup or pass-through windows is prohibited.

(2) Curbside pickup of groceries that include spirits, beer, and wine are allowed under the following conditions:

(a) Orders must include at least twenty-five dollars of nonalcohol items.

(b) Orders must be delivered by an employee of the licensee to a vehicle parked in a designated pickup area owned or controlled by the licensee as part of the licensed premises.

(c) Employees delivering orders to the customer's vehicle and completing the sale must be at least eighteen years of age and be trained on verifying ID, recognizing signs of intoxication, and preventing youth access.

(d) If ID cannot be verified, or if the driver appears intoxicated, all alcohol will be removed from the order and the customer will not be charged for any removed products.

AMENDATORY SECTION (Amending WSR 14-02-002, filed 12/18/13, effective 1/18/14)

WAC 314-11-015 What are my responsibilities as a liquor licensee? (1)(a) Liquor licensees are responsible for the operation of their licensed premises in compliance with

the liquor laws and rules of the board (Title 66 RCW and Title 314 WAC). Any violations committed or permitted by employees will be treated by the board as violations committed or permitted by the licensee.

(b) The penalties for violations of liquor laws or rules are in: WAC 314-29-015 through 314-29-035, as now or hereafter amended, for licensees; and WAC 314-17-105 and 314-17-110, as now or hereafter amended, for employees who hold mandatory alcohol server training permits. These rules also outline aggravating and mitigating circumstances that may affect what penalty is applied if a licensee or employee violates a liquor law or rule.

(2) Licensees and their employees also have the responsibility to conduct the licensed premises in compliance with the following laws, as they now exist or may later be amended:

(~~(■)~~) • Titles 9 and 9A RCW, the criminal code laws;

(~~(■)~~) • Title 69 RCW, which outlines the laws regarding controlled substances; and

(~~(■)~~ ~~Titles~~) • Chapters 70.155, 82.24 RCW, and RCW 26.28.080 which outline laws regarding tobacco.

(3) Licensees have the responsibility to control their conduct and the conduct of employees and patrons on the premises at all times. Except as otherwise provided by law, licensees or employees may not:

(a) Be disorderly or apparently intoxicated on the licensed premises;

(b) (~~(Permit)~~) Allow any disorderly person to remain on the licensed premises;

(c) Engage in or allow behavior that provokes conduct which presents a threat to public safety;

(d) Consume liquor of any kind while working on the licensed premises; except that:

(i) Entertainers per WAC 314-02-010 may drink while performing under the following conditions:

(A) Alcohol service must be monitored by MAST servers;

(B) Drinks must be served in unlabeled containers;

(C) Entertainers may not advertise any alcohol brands or products;

(D) Entertainers may not promote drink specials; and

(E) If any member of the entertainment group is under twenty-one years of age, alcohol may not be consumed by any member of the group while performing.

(ii) Licensed beer manufacturers and their employees may sample beer of their own manufacture for manufacturing, evaluating or pricing product in areas where the public is not served, so long as the licensee or employee does not become apparently intoxicated;

(iii) Licensed wine manufacturers and their employees may:

(A) Sample wine for manufacturing, evaluating, or pricing product, so long as the licensee or employee does not become apparently intoxicated; and the licensee or employee who is sampling for these purposes is not also engaged in serving alcohol to the public; and

(B) Sample wine of their own manufacture for quality control or consumer education purposes, so long as the

licensee or employee does not become apparently intoxicated.

(e) Engage in, or ~~((permit any employee or))~~ allow others ~~((person))~~ to engage in, conduct on the licensed premises which is prohibited by any portion of Titles 9, 9A, or 69 RCW;

(f) Engage in ~~((or permit any employee or other person to engage in))~~ the consumption of any type of marijuana, usable marijuana, or marijuana-infused products in a liquor licensed business, including outdoor service areas or any part of the property owned or controlled by the licensee;

(g) ~~((Permit))~~ Allow any person to consume any type of marijuana, usable marijuana, or marijuana-infused products in a liquor licensed business, including outdoor service areas or any part of the property owned or controlled by the licensee;

(h) Allow any person consuming, or who has consumed ~~((within))~~ on any part of the licensed premises, any type of marijuana, usable marijuana, or marijuana-infused products to remain on any part of the licensed premises; or

~~((h))~~ (i) Sell or serve liquor by means of ("drive-in" or by "curb service.") drive-through service from pickup or pass-through windows.

(4) Licensees have the responsibility to control the interaction between the licensee or employee and their patrons. At a minimum, licensees or employees may not:

(a) Solicit any patron to purchase any beverage for the licensee or employee, or allow a person to remain on the premises for such purpose;

(b) Spend time or dance with, or permit any person to spend time or dance with, any patron for direct or indirect compensation by a patron.

~~((e))~~ See WAC 314-11-050 for further guidelines on prohibited conduct.

WSR 19-03-073

PERMANENT RULES

HORSE RACING COMMISSION

[Filed January 14, 2019, 8:55 a.m., effective February 14, 2019]

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

Purpose: To create a new section to move a policy into WAC allowing the attendance of commissioners at public meetings by telecommunication methods.

Citation of Rules Affected by this Order: New WAC 260-08-074.

Statutory Authority for Adoption: RCW 67.16.020.

Adopted under notice filed as WSR 18-24-034 on November 28, 2018.

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 the Request of a Non-governmental 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 1, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: January 11, 2019.

Douglas L. Moore
Executive Secretary

NEW SECTION

WAC 260-08-074 Public meetings—Members and public meetings. (1) Commissioners may attend public meetings using telecommunication technology.

(2) The chair or designee must attend physically to preside over the meeting.

WSR 19-03-074

PERMANENT RULES

HORSE RACING COMMISSION

[Filed January 14, 2019, 8:57 a.m., effective February 14, 2019]

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

Purpose: To prepare the agency for the Jockey Club's move from physical tattoo to microchipping and electronic registration papers.

Citation of Rules Affected by this Order: Amending chapter 260-40 WAC.

Statutory Authority for Adoption: RCW 67.16.020.

Adopted under notice filed as WSR 18-24-038 on November 28, 2018.

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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

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

Date Adopted: January 11, 2019.

Douglas L. Moore
Executive Secretary

AMENDATORY SECTION (Amending WSR 17-03-093, filed 1/13/17, effective 2/13/17)

WAC 260-40-090 Registration certificate. No horse may be allowed to start unless a Jockey Club registration cer-

tificate, American Quarter Horse Association certificate of registration, or other applicable breed certificate of registration is on file in the office of the racing secretary, except that the stewards may waive this requirement, if the horse is otherwise properly identified and the horse is not entered for a claiming price, with the exception of those horses whose registration certificate is on file in electronic form.

AMENDATORY SECTION (Amending WSR 07-07-010, filed 3/8/07, effective 4/8/07)

WAC 260-40-120 Identification prerequisite to start.

- (1) No horse may start that has not been properly identified.
- (2) All horses must be properly tattooed, or micro-chipped with the corresponding digital number recorded on the registration papers in the case of thoroughbred horses foaled in 2018 or after, by the thoroughbred racing protective bureau or an approved breeding association, or freeze marked in a manner that meets the standards of the National Crime Information Center.

A horse will not be allowed to start if the tattoo is not applied at least twenty-four hours prior to scheduled post time.

- (3) No horse may start unless ownership is first established.

WSR 19-03-075

PERMANENT RULES

HORSE RACING COMMISSION

[Filed January 14, 2019, 8:59 a.m., effective February 14, 2019]

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

Purpose: To prepare the agency for the Jockey Club's move from physical tattoo to microchipping and electronic registration papers.

Citation of Rules Affected by this Order: Amending WAC 260-12-010 and 260-24-520.

Statutory Authority for Adoption: RCW 67.16.020.

Adopted under notice filed as WSR 18-24-037 on November 28, 2018.

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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

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

Date Adopted: January 11, 2019.

Douglas L. Moore
Executive Secretary

AMENDATORY SECTION (Amending WSR 16-05-070, filed 2/16/16, effective 3/18/16)

WAC 260-12-010 Definitions. The definitions in this section apply throughout these rules unless the context requires otherwise.

(1) "Added money." Money added to the purse of a race by the association, or other fund, in the amount paid by owners for nominations, entry, and starting fees.

(2) "Allowance race." An overnight race for which there is no claiming price established.

(3) "Also eligible."

(a) A number of eligible horses, properly entered, which were not drawn for inclusion in a race, but which become eligible according to preference or lot if an entry is scratched prior to the scratch time deadline; or

(b) In a trial race, the next preferred contestant that is eligible to participate when an entry is scratched, pursuant to the written conditions of the race.

(4) "Apprentice jockey." A jockey who has not won a certain number of races within a specific period of time who is granted an extra weight allowance as provided in WAC 260-32-370(9).

(5) "Apprentice allowance." A five pound weight allowance given to an apprentice jockey.

(6) "Authorized agent." A person appointed by a written document signed by the owner with authority to act for the owner.

(7) "Assistant trainer." A person employed by a licensed trainer whom has the authority to represent the trainer in all racing matters. An assistant trainer may also perform all the duties of a groom.

(8) "Association." Any person or persons, associations, or corporations licensed by the commission to conduct parimutuel wagering on a race meet.

(9) "Association employee." Any person hired by a racing association.

(10) "Association grounds." All real property utilized by the association in the conduct of its race meeting, including the race track, grandstand, concession stands, offices, barns, stable area, and parking lots and any other areas under the jurisdiction of the commission.

(11) "Bar shoe." A special shoe with a solid bar that runs across the rear of the shoe for extra protection.

(12) "Barn superintendent." An association employee who is responsible to assign stalls and maintain records of number of horses in a trainer's care on a daily basis.

(13) "Bit." The metal mouthpiece on a bridle used to guide and control a horse.

(14) "Bleeder." A horse that demonstrates exercise induced pulmonary hemorrhaging.

(15) "Blinkers." A hood with different size cups to limit the peripheral vision of a horse.

(16) "Breakage." The remaining cents after parimutuel payoffs are rounded down to a dime or nickel.

(17) "Breeder." For thoroughbreds, the breeder is the owner of the horse's dam at the time of foaling. For quarter horses, appaloosas, arabians and paint horses, the breeder is the owner of the dam at the time of service.

(18) "Cheek pieces." Two pieces of sheepskin or other material which are attached to the cheek pieces of a bridle which may restrict vision.

(19) "Claiming." The act of buying a horse out of a race for a specific price.

(20) "Claim box." A box in a specified location where a claim must be deposited to be valid.

(21) "Claiming race." Races in which horses are entered subject to being claimed for a specified price.

(22) "Clerk of scales." An official who weighs the jockeys prior to and after each race.

(23) "Clocker." An official that times horses when horses are performing an official workout.

(24) "Colors." Racing silks with owners' distinct designs and color worn by jockeys while racing.

(25) "Colt." Male horse under the age of five.

(26) "Commission."

(a) The three-member commission established by RCW 67.16.012; or

(b) The state agency known as the Washington horse racing commission.

(27) "Condition book." A book issued by the racing secretary with specific eligibility conditions for scheduled races.

(28) "Coupled entry." Two or more horses running as a single betting interest for parimutuel wagering purposes.

(29) "Daily double." Type of wager calling for the selection of the winner of two consecutive races.

(30) "Dead heat." Two or more horses in an exact tie at the finish line.

(31) "Denial." The refusal to grant an applicant a license after the applicant has made application for a license, but prior to the individual performing the duties associated with the license.

(32) "Digital tattoo." A microchip, or other unique identifier, which is implanted or affixed to a horse and is noted on the registration papers.

(33) "Eligible." A horse that is qualified to start in a race as established by the racing secretary's conditions.

~~((33))~~ (34) "Engagement." A commitment given by a jockey or his/her agent to accept a mount in a specified race.

~~((34))~~ (35) "Entry."

(a) A horse eligible for and entered in a race.

(b) Two or more horses which are entered or run in a race with common ownership.

~~((35))~~ (36) "Equipment." Tack carried or used on a racehorse including whips, blinkers, tongue ties, muzzle, nosebands, bits, shadow rolls, martingales, breast plates, bandages, boots and plates.

~~((36))~~ (37) "Exacta." A wager involving selecting the first two finishers in a race in exact order.

~~((37))~~ (38) "Exercise rider." A person licensed by the commission to ride horses for the purpose of exercising. Exercise riders working at a race track must be licensed as "Exercise rider - track," while those working at the farm or training centers must be licensed as "Exercise rider - farm" if

the trainer wishes to provide their employee industrial insurance coverage under the horse industry account.

~~((38))~~ (39) "Field." The total horses scheduled to run in a race.

~~((39))~~ (40) "Filly." A female horse four years and younger.

~~((40))~~ (41) "Front leg wraps." Bandages that extend at least four inches up the horse's front legs for support.

~~((41))~~ (42) "Furlong." One-eighth of a mile, two hundred twenty yards, or six hundred sixty feet.

~~((42))~~ (43) "Furosemide." Generic term for a medication used for the treatment of bleeders.

~~((43))~~ (44) "Furosemide list." A list of horses maintained by the official veterinarian eligible to race in this jurisdiction on furosemide.

~~((44))~~ (45) "Gelding." A male horse that has been castrated.

~~((45))~~ (46) "Groom." A person licensed by the commission who is employed by a licensed trainer to care for the trainer's horses.

~~((46))~~ (47) "Handicap."

(a) A race in which the racing secretary designates the weight to be carried for each horse.

(b) Making wagering selections on the basis of a horse's past performances.

~~((47))~~ (48) "Handle." Total amount of money wagered in the parimutuel pool for a race, race card, or a race meet.

~~((48))~~ (49) "Horse."

(a) A registered filly, mare, colt, horse, gelding or ridgling of a breed that is eligible to race in the state of Washington.

(b) Any male horse five years old or older.

~~((49))~~ (50) "Intact male." Any male horse, colt, or ridgling.

~~((50))~~ (51) "Inquiry." A review of a race conducted by the board of stewards to determine if a racing violation was committed.

~~((51))~~ (52) "Jockey." A person licensed by the commission to ride a horse in a race meet, whether a jockey or an apprentice jockey.

~~((52))~~ (53) "Jockey fee." The money paid to a jockey for riding in a race.

~~((53))~~ (54) "Maiden." A horse, which at the time of starting in a race, has never won a race on the flat in any country, at a track which is covered by a recognized racing publication showing the complete results of the race. A maiden who has been disqualified after finishing first is still considered a maiden.

~~((54))~~ (55) "Mare." A female horse five years old or older.

~~((55))~~ (56) "Minus pool." A mutuel pool caused when one horse is heavily bet and after all mandatory deductions there is not enough money in the pool to pay the legally prescribed minimum on each winning wager.

~~((56))~~ (57) "Morning line." A handicapper's approximate odds quoted in the program.

~~((57))~~ (58) "Mutuel field." A group of horses, with no common ties, coupled by the association for wagering purposes in a single race.

~~((58))~~ (59) "Net pool price calculations." The method of calculating the parimutuel pools when international pools are conducted (WAC 260-48-800).

~~((59))~~ (60) "Nerved" or "heel nerved." A horse upon which a digital neurectomy has been performed.

~~((60))~~ (61) "Nomination." The naming of a horse to a certain race or series of races generally accompanied by payment of a prescribed fee.

~~((61))~~ (62) "Objection." When a claim of foul is lodged by a jockey, owner, or trainer following the running of the race.

~~((62))~~ (63) "Official."

(a) When the board of stewards has determined that the order of finish of a race is correct for the mutuel payouts.

(b) An individual designated to perform functions to regulate a race meet.

~~((63))~~ (64) "Off-track betting." Parimutuel wagering on horse races conducted at a location other than the racing association's grounds, often referred to as a satellite location.

~~((64))~~ (65) "Optional claiming race." A race offered in which horses may be entered either for a claiming price or under specific allowance conditions.

~~((65))~~ (66) "Overnight race." A contest for which entries close at a time set by the racing secretary.

~~((66))~~ (67) "Overweight." Extra weight carried by the jockey that is greater than the listed weight in the official program.

~~((67))~~ (68) "Owner." Any person licensed by the commission with an ownership interest in a horse, including a lessee. An interest only in the winnings of a horse does not constitute part ownership.

~~((68))~~ (69) "Owners' bonus." A percentage of the gross mutuel pool the association is required by RCW 67.16.102 to withhold to be paid to owners of Washington bred horses at the conclusion of the meet based on the owner's horse finishing first, second, third or fourth.

~~((69))~~ (70) "Paddock." Enclosure or area where horses are saddled prior to the post parade.

~~((70))~~ (71) "Paddock judge." An official who monitors the saddling of the horses before a race to ensure consistent equipment on each horse and supervises the paddock.

~~((71))~~ (72) "Penalty weight." Additional weight to be carried by the horse as stated in the condition book.

~~((72))~~ (73) "Pick n." A type of wager requiring the patron to select the winners of a specified number of consecutive races.

~~((73))~~ (74) "Pick three." A type of wager requiring the patron to select the winners of three consecutive races.

~~((74))~~ (75) "Place." To finish second in a race.

~~((75))~~ (76) "Poles." Markers positioned around the track indicating the distance to the finish line.

~~((76))~~ (77) "Pony rider." A person licensed by the commission to escort horses either in the morning during training or in the afternoon during racing. A pony rider may not exercise horses. Pony riders working at a race track must be licensed as "Pony rider - track," while those working at the farm or training centers must be licensed as "Pony rider - farm" if the trainer wishes to provide their employee industrial insurance coverage under the horse industry account.

~~((77))~~ (78) "Post." The starting position on the track.

~~((78))~~ (79) "Post parade." Horses passing in front of the stewards stand and public prior to warming up for the race.

~~((79))~~ (80) "Post position." Position assigned to the horse to break from the starting gate determined by lot at the time of the draw of the race.

~~((80))~~ (81) "Post time." The scheduled time for the horses to arrive at the starting gate for a race.

~~((81))~~ (82) "Program/paper trainer." A licensed trainer who, solely for the purposes of the official race program, is identified as the trainer of a horse that is actually under the control of and trained by another person who may or may not hold a current trainer's license.

~~((82))~~ (83) "Purse." The amount of prize money offered by the racing association for each race.

~~((83))~~ (84) "Protest." A complaint filed regarding a horse running in a race that is filed in writing with the board of stewards.

~~((84))~~ (85) "Quinella." A wager in which the patron selects the first two finishers regardless of order.

~~((85))~~ (86) "Race meet." The dates of live horse racing that have been approved by the commission. (Also refer to RCW 67.16.010.)

~~((86))~~ (87) "Racing plates." Shoes designed for race-horses, usually made of aluminum.

~~((87))~~ (88) "Racing secretary." An official who drafts conditions of each race and accepts entries and conducts the post position draw of the races.

~~((88))~~ (89) "Receiving barn." Structure where horses may be identified prior to proceeding to the paddock.

~~((89))~~ (90) "Recognized race meet." Any race meet involving parimutuel wagering held under the sanction of a racing authority.

~~((90))~~ (91) "Registration certificate." A certificate issued by a breed specific organization, either hard copy or digital, identifying the individual horse.

(92) "Retired horse." A horse that at the time of sale or gift is no longer fit to race. No retired horse is eligible to run in a race under the jurisdiction of the commission.

~~((91))~~ (93) "Revocation." The cancellation of an existing license for a minimum of three hundred sixty-five days and up to an indefinite period of time (e.g., life-time). Individuals revoked are ineligible for a license during the period of revocation. Individuals revoked are banned from all facilities under the jurisdiction of the commission during the period of their revocation.

~~((92))~~ (94) "Ridgling." A male horse with one or both testicles undescended.

~~((93))~~ (95) "Scale of weights." Fixed weight assignments to be carried by horses according to age, sex, distance, and time of year.

~~((94))~~ (96) "Scratch." Withdrawing an entered horse from the race after the closing of entries.

~~((95))~~ (97) "Scratch time." The established deadline for the withdrawal of entries from a scheduled performance.

~~((96))~~ (98) "Sex allowance." Weight allowance given to fillies and mares when competing against males.

~~((97))~~ (99) "Show." To finish third in a race.

~~((98))~~ (100) "Simulcast." Broadcasting a live race from another racing association for purposes of parimutuel wagering on that race, or sending a broadcast of a live race to

another racing association for purposes of parimutuel wagering on that race.

~~((99))~~ (101) "Spouse groom." The spouse of a trainer, licensed by the commission and permitted to perform all the duties of a groom, but is not extended industrial insurance coverage under the horse industry account.

~~((100))~~ (102) "Stake race." A race for which nominations close more than seventy-two hours in advance of its running and for which owners or nominators contribute money toward its purse, or a race for which horses are invited by an association to run for a guaranteed purse of thirty thousand dollars or more without payment of nomination, entry, or starting fees.

~~((101))~~ (103) "Stallion." A male horse or colt which can be used for breeding purposes.

~~((102))~~ (104) "Standard price calculations." A method of calculating the parimutuel payoffs used mostly when calculating pools nationally.

~~((103))~~ (105) "Starter."

(a) A horse is a "starter" for a race when the stall doors of the starting gate open in front of it at the time the starter dispatches the horses; or

(b) An official responsible for dispatching the horses from the starting gate.

~~((104))~~ (106) "Starter's list." A list, maintained by the official starter, of horses that have been unruly when loading in the starting gate. Horses on the starter's list are ineligible to enter.

~~((105))~~ (107) "Starter race." An allowance or handicap race restricted to horses who have started for a specific claiming price or less.

~~((106))~~ (108) "Stewards." The officials designated by the commission responsible for enforcing the rules of racing.

~~((107))~~ (109) "Stewards' list." A list, maintained by the stewards, of horses which are ineligible to enter for various reasons, e.g., poor performance, ownership disputes, etc.

~~((108))~~ (110) "Suspension." The temporary loss of license privileges for a specific period of time (not to exceed three hundred sixty-five days), or until specific conditions are met. All suspensions for a specific period of time will be in calendar days; with the exception of riding suspensions, which will be race days. Individuals suspended may be banned from all facilities under the jurisdiction of the commission during the period of their suspension.

~~((109))~~ (111) "Test barn." The enclosure to which selected horses are taken for post race testing.

~~((110))~~ (112) "Tongue tie." Bandage or other apparatus used to tie down a horse's tongue to prevent the tongue from getting over the bit, which can affect the horse's breathing and the jockey's ability to control the horse.

~~((111))~~ (113) "Trainer." A person who holds a valid trainer's license who has a horse eligible to race under his/her care, custody, or control at the time of entry.

~~((112))~~ (114) "Trifecta." A wager picking the first three finishers in exact order in a specific race.

~~((113))~~ (115) "Turf course." A racing surface comprised of grass.

~~((114))~~ (116) "Vendor." Any individual or business which offers a product or service in the restricted area of the grounds.

~~((115))~~ (117) "Veterinarian's list." A list of horses ineligible to enter due to sickness, lameness, or other conditions as determined by an official veterinarian.

~~((116))~~ (118) "Walk over." A race that has only one participant.

~~((117))~~ (119) "Washington bred." A horse that was foaled in the state of Washington.

~~((118))~~ (120) "Washington race track." A race track licensed and regulated by the commission during the track's licensed race meet and periods of training.

~~((119))~~ (121) "Weigh-in." The clerk of scales weighing of a jockey immediately follows the race.

~~((120))~~ (122) "Weigh-out." The clerk of scales weighing of a jockey prior to a race.

~~((121))~~ (123) "Weight allowance." A reduction in weight to be carried by a horse as established by the conditions for each race.

~~((122))~~ (124) "Workout" or "official workout." An exercise at moderate to extreme speed for a predetermined distance of a horse as required in WAC 260-40-105 to make a horse eligible to be entered or run in a race.

AMENDATORY SECTION (Amending WSR 08-05-088, filed 2/15/08, effective 3/17/08)

WAC 260-24-520 Racing secretary. The racing secretary is responsible for the following duties:

- (1) Programming of races during the race meet;
- (2) Compiling and publishing condition books;
- (3) Assigning weights for handicap races;
- (4) Receiving all entries, nominations, and scratches;
- (5) Supervising the racing office employees, including the assistant racing secretary;
- (6)(a) Receiving, inspecting, and safeguarding all required foal and health certificates, Equine Infectious Anemia (EIA) test certificates, and other documents of eligibility for all horses competing at the track or stabled on the grounds;

(b) Effective January 1, 2020, the racing secretary shall ensure that the registration certificates for all thoroughbred horses entered to race that were foaled in 2018 or later have a digital tattoo. The digital tattoo shall indicate that the thoroughbred racing protective bureau has confirmed the identity of the horse and uploaded digital photographs to the breed registry database;

(7) Recording the alteration of the sex of a horse on the horse's ~~((foal papers))~~ registration certificates and reporting such to the appropriate breed registry and past performance services;

(8) Recording on a horse's registration certificate when a posterior digital neurectomy (heel nerving) is performed on that horse;

(9) Maintaining a list of heel nerved horses on association grounds and making the list available for inspection by persons participating in the race meet;

(10) Maintaining a list of all fillies or mares on association grounds that have been covered by a stallion, and making this list available for inspection by persons participating in the race meet. This list will include the name of the stallion;

(11) Assigning stalls to be occupied by horses in preparation for racing;

(12) Determining conflicting claims of stable privileges and maintaining a record of arrivals and departures of all horses arriving and departing the association grounds;

(13) Establishing the conditions and eligibility for entering races and publishing the conditions and eligibility to owners, trainers, and the commission. Conditions and eligibility will also be posted in the racing secretary's office.

(a) For the purpose of establishing conditions, winnings will be considered to include all moneys won up to the time of the start of the race;

(b) Winnings during the calendar year will be calculated by the racing secretary from the preceding January 1st;

(14) Entries of horses, which will include:

(a) Examining all entry blanks to verify correct information; and

(b) Selecting the horses to start and the "also eligible" horses, if any, from those entries received in accordance with WAC 260-52-020;

(15) Upon completion of the draw each day, posting a list of entries in a conspicuous location in the race office and making the lists available upon request;

(16) Publishing the official daily program and ensuring the accuracy of the following information:

(a) Sequence of races to be run and post time for the first race;

(b) Purse, conditions and distance for each race, and current track record for each distance;

(c) The name of licensed owners of each horse (indicate as leased, if applicable), and the description of racing colors to be carried;

(d) The name of the trainer and the name of the jockey for each horse together with the weight to be carried;

(e) The post position and the saddlecloth number or designation for each horse if there is a variance with the saddlecloth designation;

(f) Identification of each horse by name, color, sex, age, sire and dam; and

(g) Any other information that may be requested by the association or commission;

(17) Update the foal certificates on all winners to reflect type of race won and amount of purse money awarded;

(18) Accurately record on the foal certificates any transfer of ownership of horses, by either claim or bill of sale, to reflect true ownership of horse;

(19) Examining nominations received for early closing events, late closing events, and stakes events to verify the eligibility of all nominations and compile lists for publication;

(20) Maintaining the permanent records of all stakes and verifying that all entrance moneys due are paid prior to entry for races conducted at the race meet.

Purpose: To incorporate a policy statement into rule to clarify certain services provided by the racing association that may be considered as part of the individuals license operation.

Citation of Rules Affected by this Order: Amending WAC 260-28-030.

Statutory Authority for Adoption: RCW 67.16.020.

Adopted under notice filed as WSR 18-24-036 on November 28, 2018.

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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: January 11, 2019.

Douglas L. Moore
Executive Secretary

AMENDATORY SECTION (Amending WSR 07-07-007, filed 3/8/07, effective 4/8/07)

WAC 260-28-030 Financial responsibility. (1) A licensee may not willfully fail or refuse to pay money due for services, supplies, or fees connected with his or her operations as a licensee. A licensee may not falsely deny such an amount due or the validity of a complaint on such an amount due for the purpose of hindering, delaying, or defrauding the person to whom the amount is due.

(2) A financial responsibility complaint against a licensee must be in writing, signed by the complainant, and accompanied by documentation of the services, supplies or fees alleged to have been provided, or by a judgment from a civil court that has been issued within two years of the date of the complaint.

(3) Any licensee failing to make restitution as a result of a complaint where the amount owed is undisputed or judgment may be subject to disciplinary action, including a license suspension.

(4) The stewards will consider for disciplinary action only those financial responsibility complaints that meet the following criteria:

(a) The complaint involves services, supplies or fees that are directly related to the licensee's Washington racetrack and training operations; ~~((and))~~

(b) Check cashing provided by the racing association and providers of food services to licensees on the race track premises; and

WSR 19-03-076

PERMANENT RULES

HORSE RACING COMMISSION

[Filed January 14, 2019, 9:01 a.m., effective February 14, 2019]

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

(c) The debt or cause of action originated in Washington, or the civil court judgment was issued in Washington, within two years of the date the complaint is filed.

(5) In determining whether to act on a financial responsibility complaint, the stewards may consider the number of financial responsibility complaints made by the complainant against the same licensee within a two-year period immediately preceding the current complaint.

(6) A licensee may not write, issue, make or present any check in payment for any license fee, fine, nomination or entry fee or other fees, or for any service or supplies when the licensee knows or should reasonably know that the check will be refused for payment by the bank upon which it is written, or that the account upon which the check is written does not contain sufficient funds for payment of the check, or that the check is written on a closed or nonexistent account. The fact that such a check is returned to the payee by the bank as refused is grounds for license suspension pending satisfactory redemption of the returned check.

WSR 19-03-077

PERMANENT RULES

HORSE RACING COMMISSION

[Filed January 14, 2019, 9:02 a.m., effective February 14, 2019]

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

Purpose: To move into rule a policy statement that addresses individuals that are not required to obtain a license to gain access to the restricted areas.

Citation of Rules Affected by this Order: Amending WAC 260-36-010.

Statutory Authority for Adoption: RCW 67.16.020.

Adopted under notice filed as WSR 18-24-035 on November 28, 2018.

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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: January 11, 2019.

Douglas L. Moore
Executive Secretary

AMENDATORY SECTION (Amending WSR 07-15-041, filed 7/13/07, effective 8/13/07)

WAC 260-36-010 License required. (1) Any person acting in an official capacity or any person participating directly in horse racing must have a valid license, except as provided in subsection (2) of this section.

(2) The following persons are not required to have a license:

(a) Commissioners and employees of the commission;

(b) Persons employed by a racing association who only perform duties of concessions, housekeeping, parking, food and beverage, landscaping or similar functions, and do not act in an official capacity or participate directly in horse racing; ~~(and)~~

(c) Persons employed by an out-of-state racing association and holding a valid license from a recognized racing jurisdiction, who work for a Class A or B racing association as parimutuel clerks for a period not to exceed eight days total in any calendar year;

(d) Federal, state, or local governmental agency employees, and public service employees with need to access the grounds in the performance of their duties. Nonuniformed employees will be required to provide proper identification; and

(e) Individuals participating in functions or events on the grounds of a nonprofit meet that is also a multi-use facility will have access to the grounds while the event is taking place.

(3) Decisions regarding who is required to be licensed, if not addressed in this chapter, will be made by the executive secretary. It is a violation of these rules for any person to act in an official capacity or participate directly in horse racing unless licensed by the commission.

WSR 19-03-078

PERMANENT RULES

HORSE RACING COMMISSION

[Filed January 14, 2019, 9:04 a.m., effective February 14, 2019]

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

Purpose: To correct the outdated term "whip," to the industry standard "riding crop."

Citation of Rules Affected by this Order: Amending WAC 260-44-010.

Statutory Authority for Adoption: RCW 67.16.020.

Adopted under notice filed as WSR 18-24-039 on November 28, 2018.

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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: January 11, 2019.

Douglas L. Moore
Executive Secretary

AMENDATORY SECTION (Amending WSR 13-03-060, filed 1/11/13, effective 2/11/13)

WAC 260-44-010 Equipment changes. (1) Permission to change any equipment from that which a horse carried in its previous race must be obtained from the stewards.

(2) Permission for a horse to add or remove blinkers or cheek pieces must be approved by the starter before being granted by the stewards.

(3) A trainer may tie down a horse's tongue but only with materials that are not dangerous or likely to cause injury to the horse. An official veterinarian will decide any question about the appropriateness of the material used for a tongue-tie. The stewards may monitor the use of tongue-ties.

(4) (~~Whips~~) Riding crops will be considered standard equipment in all horse races, unless declared at time of entry.

WSR 19-03-079

PERMANENT RULES

HORSE RACING COMMISSION

[Filed January 14, 2019, 9:05 a.m., effective February 14, 2019]

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

Purpose: To allow the racing association the option of using different means to assist the board of stewards in identifying horses in photo finishes.

Citation of Rules Affected by this Order: Amending WAC 260-44-050 and 260-52-010.

Statutory Authority for Adoption: RCW 67.16.020.

Adopted under notice filed as WSR 18-24-040 on November 28, 2018.

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 the Request of a Non-governmental Entity: New 0, Amended 2, 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 2, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: January 11, 2019.

Douglas L. Moore
Executive Secretary

AMENDATORY SECTION (Amending WSR 10-07-049, filed 3/11/10, effective 4/11/10)

WAC 260-44-050 Weighing out—Equipment included in jockey's weight. (1) The jockey's weight must also include their clothing and boots, and the saddle and its attachments.

(2) The following items may not be included in a jockey's weight: Riding crop, head number or numbered armband, bridle, bit, reins, number cloth, blinker, over girth, protective helmet or safety vest.

(3) Upon approval by the board of stewards or their designee, jockeys may be allowed up to two pounds more than published weights to account for inclement weather clothing and equipment.

AMENDATORY SECTION (Amending WSR 08-05-088, filed 2/15/08, effective 3/17/08)

WAC 260-52-010 Paddock to post. (1) Permission must be obtained from a steward to exercise a horse between races.

(2) In a race, each horse must carry a conspicuous saddlecloth number and one of the following: A head number affixed to the horse's bridle, a numbered armband affixed on the right shoulder of the jockey's silks, or a helmet cover on the jockey's helmet, corresponding to its number on the official program. (~~In the case of an entry each horse making up the entry must carry the same number (head and saddlecloth) with a distinguishing letter. For example, 1-1A, 1X. In the case of a field the horses comprising the field must carry an individual number; i.e., 12, 13, 14, 15, and so on.~~)

(3) After the horses enter the track, and before the start of the race, no jockey may dismount and no horse may be handled by anyone other than the jockey, the starter, the starter's assistants, the outrider, the pony rider, or the official veterinarian without permission of the stewards or the starter.

(4) In the case of injury to a jockey, his/her mount, or damage to equipment, the stewards or the starter may permit the jockey to dismount and the horse to be cared for during the delay. The stewards may permit all jockeys to dismount during the delay.

(5) All horses must participate in the post parade, which includes passing the steward's stand and, all horses must carry their weight from the paddock until the finish of the race unless approved by the stewards.

(6) The post parade may not exceed twelve minutes unless approved by the stewards. When horses have reached the post, they will be started without unnecessary delay.

(7) If the jockey is injured on the way to the post, the horse will be taken to the paddock and another jockey obtained, if available.

(8) No person may (~~wilfully~~) willfully delay the arrival of a horse at the post.

(9) No person other than the rider, starter, or assistant starter may strike a horse, or attempt to assist the horse in starting.

(10) A jockey is not required to carry a ~~((whip))~~ crop. However, in any race in which a jockey will not ride with a ~~((whip))~~ crop, the public will be notified prior to the race.

WSR 19-03-080

PERMANENT RULES

HORSE RACING COMMISSION

[Filed January 14, 2019, 9:07 a.m., effective February 14, 2019]

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

Purpose: To move into rule a policy that allows a horse to race unshod under certain circumstances.

Citation of Rules Affected by this Order: Amending WAC 260-44-150.

Statutory Authority for Adoption: RCW 67.16.020.

Adopted under notice filed as WSR 18-24-041 on November 28, 2018.

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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: January 11, 2019.

Douglas L. Moore
Executive Secretary

AMENDATORY SECTION (Amending WSR 11-09-042, filed 4/15/11, effective 5/16/11)

WAC 260-44-150 Horseshoes. (1) A horse starting in a race must be fully shod with racing plates, unless approval, as described in this subsection, is obtained to allow for any other condition relating to horseshoes. Horses racing partially, or completely unshod, must be approved by the official veterinarian, declared at time of entry and noted in the official program with the following exception:

The board of stewards, in consultation with the official veterinarian and the trainer, may allow a horse to race when it has been discovered the horse has loosened or lost a shoe in the receiving barn or paddock and a repair cannot be done. If the stewards allow a horse to run unshod, the public must be notified immediately.

(2) During off-track conditions the trainer is required to report any additional traction devices to the board of stewards or designee.

(3) For turf racing, horses must be shod with racing plates approved by the association.

(4) Toe grabs with a height greater than two millimeters, worn on the front shoes of thoroughbred horses while racing or training on any surface or conditions are prohibited.

WSR 19-03-081

PERMANENT RULES

HORSE RACING COMMISSION

[Filed January 14, 2019, 9:09 a.m., effective February 14, 2019]

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

Purpose: To update the threshold levels for anabolic steroids in plasma or serum. To create a new section to address environmental substances that may be the result of contamination.

Citation of Rules Affected by this Order: New WAC 260-70-635; and amending WAC 260-70-630.

Statutory Authority for Adoption: RCW 67.16.020.

Adopted under notice filed as WSR 18-24-044 on November 28, 2018.

Changes Other than Editing from Proposed to Adopted Version: The level of testosterone was increased by the Association of Racing Commissioners International model rules and has been incorporated into the draft with stakeholder support.

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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: January 11, 2019.

Douglas L. Moore
Executive Secretary

AMENDATORY SECTION (Amending WSR 18-07-018, filed 3/9/18, effective 4/9/18)

WAC 260-70-630 Threshold levels. (1) Permitted medications.

(a) The following quantitative medications and/or metabolites are permissible in test samples up to the stated concentrations in urine:

Acepromazine - 10 ng/ml

Albuterol - 1 ng/ml
 Bupivacaine - 5 ng/ml
 Butorphanol - 300 ng/ml
 Carboxydetomidine - 1 ng/ml
 Clenbuterol - 140 pg/ml (in quarter horse and mixed breed races the presence of clenbuterol is prohibited)
 Mepivacaine - 10 ng/ml
 Promazine - 25 ng/ml
 Pyrilamine - 25 ng/ml

(b) The following quantitative medications and/or metabolites are permissible in test samples up to the stated concentrations in serum or plasma:

Betamethasone - 10 pg/ml
 Butorphanol - 2 ng/ml
 Clenbuterol - 2 pg/ml (in quarter horse and mixed races the presence of clenbuterol is prohibited)
 Cetirizine - 6 ng/ml
 Cimetidine - 400 ng/ml
 Dantrolene - 100 pg/ml
 Detomidine - 1 ng/ml
 Dexamethasone - 5 pg/ml
 Diclofenac - 5 ng/ml
 DMSO - 10 mcg/ml
 Firocoxib - 20 ng/ml
 Glycopyrrrolate - 3 pg/ml
 Guaifenesin - 12 ng/ml
 Isoflupredone - 100 pg/ml
 Lidocaine - 20 pg/ml
 Methocarbamol - 1 ng/ml
 Methylprednisolone - 100 pg/ml
 Omeprazole - 10 ng/ml
 Prednisolone - 1 ng/ml
 *Procaine penicillin - 25 ng/ml
 Ranitidine - 40 ng/ml
 Triamcinolone acetonide - 100 pg/ml
 Xylazine - 200 pg/ml

* Administration of procaine penicillin to those horses entered must be reported to the commission and may require surveillance up to six hours prior to post time.

(c) Hair samples in pre- or post-race testing for quarter horses and mixed breed races may not be found to contain clenbuterol, ractopamine, zilpaterol, or albuterol in any concentration.

(d) Where a permitted medication has thresholds in both urine and serum or plasma, as set forth in this section, it is not a defense to a violation that the permitted medication does not exceed both thresholds.

(2) ~~((Environmental substances.~~

~~(a) Certain substances can be considered "environmental" in that they are endogenous to the horse or that they can arise from plants traditionally grazed or harvested as equine feed or are present in equine feed because of contamination or exposure during the cultivation, processing, treatment, storage, or transportation phases. Certain drugs are recognized as substances of human use and could therefore be found in a horse. The following substances are permissible in test samples up to the stated concentrations:~~

~~Arsenic - 0.3 mcg/ml urine~~

~~Caffeine - 100 ng/ml serum or plasma~~

~~Cobalt - 50 ppb serum or plasma*~~

~~* A level of 25 ppb in serum or plasma will result in the horse being placed on the official veterinarians list until such time as the level drops below the 25 ppb.~~

~~Benzylecgonine - 50 ng/ml urine~~

~~Estranediol - 0.045 mcg/ml free + conjugated (5a-estrane-3 β ,17a-diol), in the urine of male horses, other than geldings~~

~~Gamma Aminobutyric Acid (GABA) - 110 ng/ml in serum or plasma~~

~~Hydrocortisone - 1 mcg/ml urine~~

~~Methamphetamine - 10 ng/ml~~

~~Methoxytyramine - 4 mcg/ml, free + conjugated urine~~

~~Morphine Glucuronides - 50 ng/ml urine~~

~~Salicylate salicylic acid - 750 mcg/ml serum or plasma~~

~~Theobromine - 2 mcg/ml urine~~

~~Tramadol - 50 ng/ml urine~~

~~(b) If a preponderance of evidence presented shows that a positive test is the result of environmental substance or inadvertent exposure due to human drug use, that evidence should be considered as a mitigating factor in any disciplinary action taken against the trainer.~~

~~(3)) Androgenic-anabolic steroids.~~

~~(a) The following androgenic-anabolic steroids are permissible in test samples up to the stated concentrations after hydrolysis of conjugates in urine:~~

~~Boldenone (Equipoise) - 15 ng/ml urine in (~~intact~~ males)) male horses other than geldings - 1 ng/ml in urine for geldings, fillies or mares.~~

~~Nandrolone (Durabolin) - 1 ng/ml urine in geldings, fillies, and mares, and for nandrolone metabolite (5a-estrane-3 β ,17a-diol) - 45 ng/ml urine in (~~intact~~ males)) male horses other than geldings.~~

~~Testosterone - Not less than 20 ng/ml urine in geldings. Not greater than 55 ng/ml urine in fillies and mares (unless in foal). Samples from (~~intact~~ males)) male horses other than geldings will not be tested for the presence of testosterone.~~

~~(b) The following androgenic-anabolic steroids are permissible in test samples up to the stated free (not conjugated), concentration in plasma or serum:~~

~~Boldenone (equipoise) - 25 pg/ml for all horses regardless of sex.~~

~~Nandrolone (durabolin) - 25 pg/ml for fillies and mares and geldings, male horses other than geldings shall be tested for nandrolone in urine.~~

~~Testosterone - 100 pg/ml in fillies, mares, and geldings.~~

~~(c) The sex of the horse must be identified to the laboratory on samples submitted for all pre- and post-race testing designated specifically for AAS screening.~~

~~(d) If an anabolic steroid is reported as administered to any horse to assist it with recovery from injury or illness, the horse may be placed on the official veterinarian list until such time as a sample is submitted and the levels are reported below the approved thresholds.~~

~~(e) All other androgenic-anabolic steroids are prohibited in race horses.~~

NEW SECTION

WAC 260-70-635 Environmental substances. Certain substances can be considered "environmental" in that they are endogenous to the horse or that they can arise from plants traditionally grazed or harvested as equine feed or are present in equine feed because of contamination or exposure during the cultivation, processing, treatment, storage, or transportation phases. Certain drugs are recognized as substances of human use and could therefore be found in a horse.

(1) The following substances are permissible in test samples up to the stated concentrations:

Arsenic - 0.3 mcg/ml urine

Caffeine - 100 ng/ml serum or plasma

Cobalt - 50 ppb serum or plasma*

* A level of 25 ppb in serum or plasma will result in the horse being placed on the official veterinarians list until such time as the level drops below the 25 ppb.

Benzoylcegonine - 50 ng/ml urine

Estranediol - 0.045 mcg/ml free + conjugated (5α-estrane-3β,17α-diol), in the urine of male horses, other than geldings

Gamma aminobutyric acid (GABA) - 110 ng/ml in serum or plasma

Hydrocortisone - 1 mcg/ml urine

Methamphetamine - 10 ng/ml urine

Methoxytyramine - 4 mcg/ml, free + conjugated urine

Morphine glucuronides - 50 ng/ml urine

Salicylate salicylic acid - 750 mcg/ml serum or plasma

Theobromine - 2 mcg/ml urine

Tramadol - 50 ng/ml urine

(2) If a preponderance of evidence presented shows that a positive test is the result of environmental substance or inadvertent exposure due to human drug use, that evidence should be considered as a mitigating factor in any disciplinary action taken against the trainer.

WSR 19-03-105**PERMANENT RULES****DEPARTMENT OF ARCHAEOLOGY
AND HISTORIC PRESERVATION**

[Filed January 16, 2019, 10:42 a.m., effective February 16, 2019]

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

Purpose: The Washington state department of archaeology and historic preservation (DAHP) is revising rules for the issuance of archaeological excavation and removal permits under WAC 25-48-020 and 25-48-060. DAHP has identified the need to develop rules that simplify requirements for permits that propose archaeological monitoring. The proposed monitoring permit simplifies and reduces application requirements and DAHP anticipates the cost to applicants for this permit will be reduced.

Citation of Rules Affected by this Order: Amending WAC 25-48-020 and 25-48-060.

Statutory Authority for Adoption: RCW 27.34.220, 27.53.140, 43.21C.120.

Adopted under notice filed as WSR 18-23-050 on November 15, 2018.

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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

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

Date Adopted: January 1, 2019.

Lance Wollwage
Assistant State Archaeologist

AMENDATORY SECTION (Amending WSR 06-06-001, filed 2/15/06, effective 3/18/06)

WAC 25-48-020 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Archaeology" means systematic, scientific study of the human past through material remains.

(2) "Historic" means peoples and cultures who are known through written documents in their own or other languages. As applied to underwater archaeological resources, the term historic shall include only those properties which are listed in or eligible for listing in the Washington State Register of Historic Places (RCW 27.34.220) or the National Register of Historic Places as defined in the National Historic Preservation Act of 1966 (Title 1, Sec. 101, Public Law 889-665; 80 Stat. 915; 16 U.S.C. Sec. 470) as now or hereafter amended.

(3) "Prehistoric" means peoples and cultures who are unknown through contemporaneous written documents in any language.

(4) "Professional archaeologist" means a person who:

(a) Has designed and executed an archaeological study as evidenced by a thesis or dissertation and been awarded an advanced degree such as an M.A., M.S., or Ph.D. in archaeology, anthropology, history or other germane discipline with a specialization in archaeology from an accredited institution of higher education; and

(b) Has a minimum of one year of field experience with at least twenty-four weeks of field work under the supervision of a professional archaeologist, including no less than twelve weeks of survey or reconnaissance work and at least eight weeks of supervised laboratory experience. Twenty weeks of field work in a supervisory capacity must be documentable with a report on the field work produced by the individual.

(5) "Public lands" means lands owned by or under the possession, custody, or control of the state of Washington or

any county, city, or political subdivision of the state; including the state's submerged lands under the Submerged Lands Act, 43 U.S.C. Sec. 1301 et seq.

(6) "Site restoration" means to repair the archaeological property to its preexcavation vegetational and topographic state.

(7) "Amateur society" means any organization composed primarily of persons who are not professional archaeologists, whose primary interest is in the archaeological resources of the state, and which has been certified in writing by two professional archaeologists.

(8) "Archaeological object" means an object that comprises the physical evidence of an indigenous and subsequent culture including material remains of past human life including monuments, symbols, tools, facilities, and technological by-products.

(9) "Archaeological site" means a geographic locality in Washington, including but not limited to, submerged and submersible lands and the bed of the sea within the state's jurisdiction, that contains archaeological objects.

(10) "Archaeological resource" means any material remains of human life or activities which are of archaeological interest, including all sites, objects, structures, artifacts, implements, and locations of prehistorical or archaeological interest, whether previously recorded or still unrecognized, including, but not limited to, those pertaining to prehistoric and historic American Indian or aboriginal burials, campsites, dwellings, and their habitation sites, including rock shelters and caves, their artifacts and implements of culture such as projectile points, arrowheads, skeletal remains, grave goods, basketry, pestles, mauls, and grinding stones, knives, scrapers, rock carvings and paintings, and other implements and artifacts of any material.

(11) "Historic archaeological resources" means those properties which are listed in or eligible for listing in the Washington State Register of Historic Places (RCW 27.34.220) or the National Register of Historic Places as defined in the National Historic Preservation Act of 1966 (Title 1, Sec. 101, Public Law 89-665; 80 Stat. 915; 16 U.S.C. Sec. 470) as now or hereafter amended.

(12) "Of archaeological interest" means capable of providing scientific or humanistic understandings of past human behavior, cultural adaptation, and related topics through the application of scientific or scholarly techniques such as controlled observation, contextual measurement, controlled collection, analysis, interpretation, and explanation.

(13) "Director" means the director of the department of archaeology and historic preservation or his or her designee.

(14) "Department" means the department of archaeology and historic preservation.

(15) "State historic preservation officer" means the director, who serves as the state historic preservation officer under RCW 43.334.020.

(16) "Suspension" means the abeyance of a permit under this chapter for a specified period of time.

(17) "Revocation" means the termination of a permit under this chapter.

(18) "Mitigation" means:

(a) Avoiding the impact altogether by not taking a certain action or parts of an action;

(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;

(c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

(d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;

(e) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and/or

(f) Monitoring the impact and taking appropriate corrective measures.

(19) "Abandonment" means that the resource has been deserted and the owner has relinquished ownership rights with no retention, as demonstrated by a writing, oral communication, action, or inaction.

(20) "Person" means any individual, corporation, partnership, trust, institution, association, or other private entity; or any officer, employee, agent, department, or instrumentality of the state or any county, city, or other political subdivision of the state.

(21) "Permittee" means any person who holds an active archaeological excavation permit issued under RCW 27.53.-060 and this chapter.

(22) "Respondent" means any person who has received a notice of violation under WAC 25-48-041, a notice of permit denial under WAC 25-48-105, a notice that a right of first refusal has been extinguished under WAC 25-48-108, or a notice of suspension or revocation under WAC 25-48-110, and who has filed an application for an adjudicative proceeding.

(23) "Repository" means a facility, including but not limited to, a museum, archeological center, laboratory, or storage facility managed by a university, college, museum, other educational or scientific institution of a federal, state or local government agency or Indian tribe that provides secure, environmentally controlled storage, for archaeological collections and their associated records making them available for scientific, educational and cultural needs.

(24) "Archaeological value" means the cost comparable volume archaeological excavation would be, including retrieving scientific information from the site before it was vandalized. This includes field work, lab analysis, background research and reporting, and curation of the collection and records.

(25) "Archaeological monitoring" means the observation of ground-disturbing activities by a professional archaeologist as described in subsection (4) of this section in order to identify, document, avoid, and/or recover human skeletal remains and archaeological resources, under a plan approved by the department.

AMENDATORY SECTION (Amending WSR 06-06-001, filed 2/15/06, effective 3/18/06)

WAC 25-48-060 Summary of information required of an applicant. (1) Each application for (a) an archaeological site alteration and excavation permit shall include:

(a) An archaeological site alteration and excavation permit application coversheet;

(b) Sufficient background information and summary of previous field investigation, research and data gaps about the site(s) proposed for excavation such that the reviewers have a comprehensive understanding of the site(s) and current research questions to be able to review the proposal as a complete document((-

~~(b))~~);

(c) The nature and extent of the work proposed, including how and why it is proposed to be conducted and the methods proposed for excavation and recovery, number and placement of excavation units, proposed excavation volumes, proposed time of performance, locational maps, and a completed site inventory form((-

~~(c))~~);

(d) Summary of the environmental setting and depositional context, with an emphasis on vegetation, past and present available natural resources, geomorphology and formation processes, and their relationship to the archaeological deposits((-

~~(d))~~);

(e) An artifact inventory plan detailing the character of the expected data categories to be recovered including the proposed methods of inventorying the recovered data and proposed methods of cleaning, stabilizing, and curating of specimens and recovered data consistent with the Secretary of the Interior's standards for archaeological curation in 36 C.F.R. Part 79((-

~~(e))~~);

(f) If human remains are proposed for recovery, a plan for their removal and disposition must be provided; if human remains are not proposed for recovery, a plan for responding to the inadvertent discovery of human remains must be provided((-

~~(f))~~);

(g) A professional, scientific research design, including research questions, demonstrating that the work and reporting will be performed in a scientific and technically acceptable manner utilizing methods and techniques designed to address current scientific research questions and cultural resource management plans((-

~~(g))~~);

(h) The name and address of the individual(s) proposed to be responsible for conducting the work, institutional affiliation, if any, and evidence of education, training, and experience in accord with the minimal qualifications listed in this chapter((-

~~(h))~~);

(i) The name and address of the individual(s) proposed to be responsible for carrying out the terms and conditions of the permit, if different from the individual(s) enumerated under (g) of this subsection((-

~~(i))~~);

(j) Financial evidence of the applicant's ability to initiate, conduct, and complete the proposed work, including evidence of logistical support and laboratory facilities and evidence of financial support for analysis and report writing((-

~~(j))~~);

(k) A plan for site restoration following excavation activities and evidence of plans to secure bonding to cover the cost of site restoration((-

~~(k))~~);

(l) Evidence of an agreement for the proposed work from the owner, agency, or political subdivision with management responsibility over the land((-

~~(l))~~);

(m) A site security plan to assure the protection of the site and its contents during the public permit review and excavation process((-

~~(m))~~);

(n) A public participation plan detailing the extent of public involvement and dissemination of project results to the public, as appropriate. Examples of appropriate public dissemination can include, but not be limited to: *Archaeology Month* lectures, slide shows, anthropological conferences, school presentations, newspaper articles, if warranted((-

~~(n))~~);

(o) A completed environmental checklist as required by WAC 197-11-100 to assist the department in making a threshold determination and to initiate SEPA compliance((-

~~(o))~~);

(p) Evidence of abandonment: Abandonment will be presumed where the applicant presents information that thirty or more years have elapsed since the loss of the resource. If it appears to the department from any source that the resource has not been abandoned or may not have been abandoned, and in the case of all United States government warships, aircraft, or other public vessels, the department will find that the presumption does not arise and will require proof of abandonment. Proof may be satisfied by submission of a statement of abandonment from the owner, his or her successors, assigns or legal representatives, or through final adjudication by a court of law((-

~~(p))~~);

(q) Disclosure by the applicant of any previous violation of this chapter or any federal or state law regulating archaeological objects or sites, historic archaeological resources, glyptic or painted records, or native Indian cairns or graves. The applicant shall disclose any such violation by the applicant, by the individual(s) proposed to be responsible for conducting the work, or by the individual(s) proposed to be responsible for carrying out the terms and conditions of the permit, and shall provide details, dates, and circumstances of each violation((-

~~(q))~~); and

(r) Disclosure by the applicant of outstanding archaeological excavation permits issued by the department to the applicant.

(2) Each application for an archaeological monitoring permit shall include:

(a) An archaeological monitoring permit application coversheet;

(b) Sufficient background information and summary of previous field investigation and research about the site(s) proposed for monitoring, such that the reviewers have a comprehensive understanding of the site(s) to be able to review the proposal as a complete document;

(c) The nature and extent of the work proposed, including how and why it is proposed to be conducted and the methods proposed for monitoring, proposed time of performance, locational maps showing archaeological and project construction elements and monitoring areas;

(d) A protocol for immediate steps to be taken on-site by the archaeological monitor should they find archaeological resources or human skeletal remains and stating the authority of the archaeologists to halt excavations or other activities that may endanger archaeological resources or human skeletal remains. The protocol must state that if archaeological resources are identified during archaeological monitoring, measures to avoid, minimize and mitigate impacts, collect and curate artifacts and records must be addressed through a permit amendment after additional consultation with the DAHP and interested/affected tribes;

(e) The name and address of the professional archaeologist(s) who will conduct the monitoring work;

(f) The name and address of the individual(s) proposed to be responsible for carrying out the terms and conditions of the permit, if different from the individual(s) enumerated under (e) of this subsection; and

(g) A completed site inventory form.

(3) Where the application is for the excavation and/or removal of archaeological resources on public lands, the name of the Washington university, museum, repository or other scientific or educational institution meeting the Secretary of the Interior's standards for archaeological curation in 36 C.F.R. Part 79, in which the applicant proposes to store all collections, and copies of records, data, photographs, and other documents derived from the proposed work other than human skeletal remains and funerary objects. The applicant shall submit written certification, signed by an authorized official of the institution, of willingness to assume curatorial responsibility for the collections, records, data, photographs and other documents and to safeguard, preserve, and allow for the future scientific access to these materials as property of the state.

~~((3))~~ (4) Where the application is for the excavation and/or removal of archaeological resources on private land, the name of the university, museum, repository, or other scientific or educational institution in which the applicant proposes to store copies of records, data, photographs, and other documents derived from the proposed work and all collections in the event the landowner wishes to take custody of the collection. The applicant shall submit written certification from the landowner stating this intention. If the landowner does not wish to take custody of the collection, the name of the university, museum, repository, or other scientific or educational institution in which the collection will be curated. The applicant shall submit written certification, signed by an authorized official of the institution, of willingness to assume curatorial responsibility for the collections, if applicable, and/or the records, data, photographs, and other documents derived from the proposed work and to safeguard, preserve, and allow for the future scientific access to these materials.

~~((4))~~ (5) An applicant may temporarily curate a collection identified in subsection ~~((2) or (3))~~ (3) or (4) of this section in a repository that meets the Secretary of the Interior's standards for archaeological curation in 36 C.F.R. Part 79

until the appropriate Indian tribe has available facilities meeting the Secretary of the Interior's standards for archaeological curation in 36 C.F.R. Part 79 into which the collection may be curated.

~~((5))~~ (6) Where the application is for the excavation and/or removal of a historic archaeological resource that is an historic aircraft, the name of the Washington museum, historical society, nonprofit organization, or governmental entity that proposes to assume curatorial responsibility for the resource. The applicant shall submit written certification, signed by an authorized official of the institution, of willingness to assume curatorial responsibility for the resource and all associated records, data, photographs and other documents derived from the proposed work and to safeguard, preserve, and allow for the future scientific and public access to these materials.

~~((6))~~ (7) After review of the application, the department may require additional information to properly evaluate the proposed work and shall so inform the applicant. Field investigation or research may be required of the applicant or conducted by the department at the applicant's cost. A bond in an amount specified by the department may be required of the applicant to ensure payment of the professional expenses incurred by the department. Advance notice of any anticipated cost shall be given to the applicant.

WSR 19-03-108
PERMANENT RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed January 16, 2019, 12:40 p.m., effective February 16, 2019]

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

Purpose: Amends WAC 181-77-081 to clarify requirements for earning a career guidance specialist certificate.

Citation of Rules Affected by this Order: Amending WAC 181-77-081.

Statutory Authority for Adoption: RCW 28A.410.220.

Adopted under notice filed as WSR 18-24-079 on December 3, 2018.

A final cost-benefit analysis is available by contacting David Brenna, 600 Washington Street S.E., Olympia, WA 98504, phone 360-725-6238, fax 360-586-4548, email david.brenna@k12.wa.us, web site www.pesb.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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making:

New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: January 10, 2019.

David Brenna
Senior Policy Analyst

AMENDATORY SECTION (Amending WSR 18-21-070, filed 10/11/18, effective 11/11/18)

WAC 181-77-081 Requirements for certification of career guidance specialist. Career guidance specialists must meet the following requirements in addition to those set forth in WAC 181-79A-150 (1) and (2) and 181-79A-155:

(1) Probationary certificate.

(a) Beginning July 1, 2018, a candidate is eligible for the probationary career guidance specialist certification if meeting one or more of the following:

(i) Completion of three years of experience as a certified career and technical education administrator, career and technical education instructor, or career and technical education counselor, at the initial or continuing certificate level; or

(ii) Hold a valid educational staff associate - Counselor certificate as provided in WAC 181-79A-221; or

(iii) Provide documentation of three years (six thousand hours) of full-time paid occupational experience of which two years shall have been in the last six years, dealing with employment, personnel or with placement and evaluation of workers, or experience providing career guidance, employment or career counseling services.

(b) Such a certificate may be issued upon recommendation by the employing school district according to the following:

(i) The candidate shall have developed a written training plan in cooperation with the career and technical education administrator. The plan must be approved by a district career and technical education advisory committee.

(ii) The plan shall develop procedures and timelines for the candidate to meet the requirements for the initial certificate.

(c) The probationary certificate is valid for two years and is renewable one time for two additional years upon recommendation of the employing district if the individual has completed the procedures outlined for the first year in the written training plan and has made additional progress in meeting the requirements for the initial certificate.

(2) Initial certificate.

(a) The initial career guidance specialist certificate is valid for five years.

(b) Candidates must meet the eligibility requirements for the probationary certificate outlined in this section.

(c) Candidates for the initial certificate shall demonstrate competence through a course of study from a state approved program provider or state approved continuing education provider in the general standards for career guidance specialist which include, but are not limited to, knowledge and skills in the following areas as approved by the professional educator standards board:

(i) Individual and group career guidance skills;

(ii) Individual and group career development assessment;

(iii) Information and resources in providing career guidance;

(iv) Career guidance program planning, implementation, and management;

(v) Diverse populations;

(vi) Student leadership development;

(vii) Ethical/legal issues;

(viii) Technology;

(ix) History and philosophy of career and technical education.

(d) In order to teach worksite learning and career choices courses, candidates must successfully complete requirements per WAC 181-77A-180.

(3) Initial certificate renewal.

(a) Candidates for renewal of the initial career guidance specialist certificate must complete at least ten quarter hours of college credit, one hundred clock hours, or four professional growth plans since the initial certificate was issued or renewed. At least two quarter credits or fifteen clock hours must be related to the knowledge and skills areas listed in subsection (2)(c) of this section. Individuals completing fewer than four annual professional growth plans must complete the necessary continuing education credit hours needed to be the equivalent of one hundred clock hours.

Application for renewals shall not be submitted earlier than twelve months prior to the expiration date of the current certificate.

Expired certificates may be renewed with completion of one hundred continuing education credit hours within the previous five years from the date of the renewal application, or by completing four professional growth plans. Individuals completing fewer than four annual professional growth plans must complete the necessary continuing education credit hours needed to be the equivalent of one hundred clock hours.

An expired certificate may be renewed by presenting evidence to the superintendent of public instruction of completing the continuing education credit hours or professional growth plan requirement within the five years prior to the date of the renewal application.

(b) The initial renewal certificate is valid for five years.

(4) Continuing certificate.

(a) Candidates for the continuing career guidance specialist certificate shall have in addition to the requirements for the initial certificate at least fifteen quarter hours of college credit or one hundred fifty clock hours completed subsequent to the issuance of the initial certificate; or hold a valid national board certificate issued by the National Board for Professional Teaching Standards in any certificate area.

(b) Candidates for the continuing certificate shall provide as a condition for the issuance of a continuing certificate documentation of two years full-time equivalency (FTE) as a career guidance specialist with an authorized employer (i.e., school district(s) or skills center(s)).

(c) The continuing career guidance specialist certificate is valid for five years.

(5) Continuing certificate renewal. The continuing career guidance specialist certificate shall be renewed with

the completion of ten quarter hours of college credit, the equivalent of one hundred clock hours, or four professional growth plans prior to the lapse date of the first issuance of the continuing certificate and during each five-year period between subsequent lapse dates. At least four quarter credits or thirty clock hours must be related to the knowledge and skills areas listed in subsection (2)(c) of this section. Individuals completing fewer than four annual professional growth plans must complete the necessary continuing education credit hours needed to be the equivalent of one hundred clock hours.

Application for renewals shall not be submitted earlier than twelve months prior to the expiration date of the current certificate.

Expired certificates may be renewed with completion of one hundred continuing education credit hours within the previous five years from the date of the renewal application, or by completing four professional growth plans. Individuals completing fewer than four annual professional growth plans must complete the necessary continuing education credit hours needed to be the equivalent of one hundred clock hours.

An expired certificate may be renewed by presenting evidence to the superintendent of public instruction of completing the continuing education credit hours or professional growth plan requirement within the five years prior to the date of the renewal application.

(6) Certificates issued under previous standards.

(a) Any person with a valid one-year occupational information specialist, or career and technical education counselor, certificate issued prior to July 1, 2018, under previous standards of the professional educator standards board (~~shall be eligible for the probationary certificate and must meet the requirements for earning the initial certificate~~) may apply for the initial career guidance specialist certificate, and will be considered to have met the requirements to obtain an initial career guidance specialist certificate in subsection (2) of this section.

Holders of expired one-year occupational information specialist, or one-year career and technical education counselor certificates, may apply for the initial career guidance specialist certificate, and will be considered to have met the requirements to obtain an initial career guidance specialist certificate with completion of one hundred continuing education credit hours within the previous five years from the date of the renewal application.

These holders of expired one-year certificates must present evidence to the superintendent of public instruction of completing the continuing education credit hours within the five years prior to the date of the renewal application.

(b) Any person with a valid three-year or five-year occupational information specialist, or career and technical education counselor, certificate issued prior to July 1, 2018, under previous standards of the professional educator standards board may apply for the continuing career guidance specialist certificate by the expiration date of the original certificate held, and will be considered to have met the requirements to obtain a continuing career guidance specialist certificate in subsection (4) of this section.

Holders of expired three-year or five-year occupational information specialist, or three-year or five-year career and technical education counselor certificates, may apply for the initial career guidance specialist certificate, and will be considered to have met the requirements to obtain an initial career guidance specialist certificate with completion of one hundred continuing education credit hours within the previous five years from the date of the renewal application.

These holders of expired three-year or five-year certificates must present evidence to the superintendent of public instruction of completing the continuing education credit hours within the five years prior to the date of the renewal application.

(c) Upon issuance of the probationary initial or continuing career guidance specialist certificate, individuals addressed in this subsection will be subject to certificate renewal requirements of this section.

WSR 19-03-133
PERMANENT RULES
DEPARTMENT OF
FINANCIAL INSTITUTIONS

[Filed January 18, 2019, 3:50 p.m., effective February 18, 2019]

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

Purpose: The department of financial institutions hereby amends the investment adviser rules in chapter 460-24A WAC. The amendments update various provisions of the investment adviser rules, including the rules regarding examination and registration requirements, advertisements, custody, advisory contracts, performance compensation arrangements, books and records, and unethical business practices. The amendments add new rule sections or subsections addressing physical and cybersecurity policies and procedures, code of ethics, business continuity and succession plans, and material nonpublic information policies and procedures.

Citation of Rules Affected by this Order: New WAC 460-24A-122, 460-24A-126, 460-24A-135 and 460-24A-190; and amending WAC 460-24A-005, 460-24A-030, 460-24A-035, 460-24A-040, 460-24A-045, 460-24A-047, 460-24A-050, 460-24A-055, 460-24A-057, 460-24A-060, 460-24A-070, 460-24A-071, 460-24A-072, 460-24A-100, 460-24A-105, 460-24A-106, 460-24A-107, 460-24A-108, 460-24A-109, 460-24A-110, 460-24A-120, 460-24A-125, 460-24A-130, 460-24A-145, 460-24A-150, 460-24A-170, 460-24A-200, 460-24A-205, 460-24A-210, and 460-24A-220.

Statutory Authority for Adoption: RCW 21.20.005, 21.20.020, 21.20.030, 21.20.040, 21.20.050, 21.20.060, 21.20.070, 21.20.080, 21.20.090, 21.20.100, 21.20.330, 21.20.340, 21.20.450, 21.20.702.

Adopted under notice filed as WSR 18-23-017 on November 9, 2018.

Changes Other than Editing from Proposed to Adopted Version: In response to comments received, the department of financial institutions revised WAC 460-24A-100, 46A-24A-120, 46A-24A-122, 46A-24A-125, and 46A-24A-126

in order to remove references that indicated that these sections applied to federal covered advisers.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 3, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 4, Amended 30, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 4, Amended 30, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 4, Amended 30, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: January 18, 2019.

Gloria Papiez
Director

AMENDATORY SECTION (Amending WSR 14-13-068, filed 6/12/14, effective 7/13/14)

WAC 460-24A-005 Definitions. For purposes of this chapter:

(1) **"Advertisement"** means any business card, notice, circular, letter or other written communication addressed to more than one person, or any notice or other announcement in any publication or by electronic means, including online, or by radio or television, which offers:

(a) Any analysis, report, or publication concerning securities, or which is to be used in making any determination as to when to buy or sell any security, or which security to buy or sell;

(b) Any graph, chart, formula or other device to be used in making any determination as to when to buy or sell any security, or which security to buy or sell; or

(c) Any other investment advisory service with regard to securities.

(2) **"Assignment"** means any direct or indirect transfer or hypothecation of an investment advisory contract by the assignor or of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor; but if the investment adviser is a partnership, no assignment of an investment advisory contract will be deemed to result from the death or withdrawal of a minority of the members of the investment adviser having only a minority interest in the business of the investment adviser, or from the admission to the investment adviser of one or more members who, after such admission, will be only a minority of the members and will have only a minority interest in the business. An "assignment" does not include a transaction which does not result in a change of actual control or management of the investment adviser.

(3) **"Central Registration Depository" or "CRD"** means the electronic filing system operated by FINRA for the registration of broker-dealers, broker-dealer representatives, and investment adviser representatives.

(4) **"Chief compliance officer"** means a supervised person with the authority and resources to develop and enforce the investment adviser's policies and procedures. The individual designated to serve as chief compliance officer must be registered as an investment adviser representative and must have the background and skills appropriate for fulfilling the responsibilities of the position.

(5) **"Control"** means the power, directly or indirectly, to direct the management or policies of a person whether through ownership of securities, by contract, or otherwise. The following persons are presumed to have control:

(a) Each of the investment adviser's officers, partners, or directors exercising executive responsibility (or persons having similar status or functions); and

(b) A person who:

(i) Directly or indirectly has the right to vote twenty-five percent or more of a class of the voting securities of a corporation or limited liability company;

(ii) Has the power to sell or direct the sale of twenty-five percent or more of a class of the voting securities of a corporation or limited liability company;

(iii) Has the right to receive, upon dissolution, or that has contributed, twenty-five percent or more of the capital of a partnership or limited liability company; or

(iv) Is the manager of a limited liability company or the trustee or managing agent of a trust.

(6) **"Custody"** means holding, directly or indirectly, client funds or securities, or having any authority to obtain possession of them or the ability to appropriate them. An investment adviser has custody if a related person holds, directly or indirectly, client funds or securities, or has any authority to obtain possession of them, in connection with advisory services the investment adviser provides to clients.

(a) "Custody" includes:

(i) Possession of client funds or securities unless received inadvertently and returned to the sender promptly, but in any case within three business days of receiving them;

(ii) Any arrangement (including a general power of attorney) under which an investment adviser is authorized or permitted to withdraw client funds or securities maintained with a custodian upon an investment adviser's instruction to the custodian; ~~(and)~~

(iii) Any capacity (such as general partner of a limited partnership, managing member of a limited liability company or a comparable position for another type of pooled investment vehicle, or trustee of a trust) that gives an investment adviser or its supervised person legal ownership of or access to client funds or securities; or

(iv) Any arrangement where the investment adviser requires the payment of advisory fees six months or more in advance and in excess of five hundred dollars per client.

(b) Receipt of checks drawn by clients and made payable to unrelated third parties will not meet the definition of custody if forwarded to the third party within three business days of receipt and the adviser maintains a ledger or other listing of all securities or funds held or obtained inadvertently as set forth in WAC 460-24A-200.

~~((2))~~ (7) **"Discretionary authority"** means the authority, directly or indirectly, to:

(a) Determine what securities or other property will be purchased or sold by or on behalf of a client;

(b) Make decisions as to what securities or other property will be purchased or sold by or for the benefit of a client even though some other person may have responsibility for such investment decisions; or

(c) Make decisions as to what investment advisers to retain on behalf of a client.

(8) **"FINRA"** means the Financial Industry Regulatory Authority, Inc., the self-regulatory organization for broker-dealers and broker-dealer representatives that is registered as a national securities association with the Securities and Exchange Commission under Section 15A of the Securities Exchange Act of 1934, 15 U.S.C. Sec. 78o.

(9) **"Independent certified public accountant"** means a certified public accountant that meets the standards of independence described in Rule 2-01 (b) and (c) of Regulation S-X, 17 C.F.R. 210.2-01 (b) and (c), as amended effective March 8, 2005.

(10) **"Independent party"** means a person who:

(a) Is engaged by an investment adviser to act as a gatekeeper for the payment of fees, expenses, and capital withdrawals from a pooled investment;

(b) Does not control and is not controlled by and is not under common control with the investment adviser;

(c) Does not have, and has not had within the past two years, a material business relationship, including acting as an independent representative on behalf of a client of the investment adviser, with the investment adviser;

(d) ~~(Shall)~~ Must not negotiate or agree to have material business relations with an investment adviser, or relationships with entities under common control with an investment adviser, for a period of two years after serving as the person engaged in an independent party agreement; and

(e) Is required to act in the best interest of the limited partners, members, or other beneficial owners.

~~((3))~~ (11) **"Independent representative"** means a person who:

(a) Acts as an agent for an advisory client, including in the case of a pooled investment vehicle, for limited partners of a limited partnership, members of a limited liability company, or other beneficial owners of another type of pooled investment vehicle and by law or contract is obliged to act in the best interest of the advisory client or the limited partners or members, or other beneficial owners;

(b) Does not control, is not controlled by, and is not under common control with the investment adviser;

(c) Does not have, and has not had within the past two years, a material business relationship, including acting as an independent party, with the investment adviser.

~~((4))~~ (12) **"Investment Adviser Registration Depository" or "IARD"** means the electronic filing system operated by FINRA for the registration of investment advisers and submission of filings by exempt reporting advisers.

(13) **"Private fund adviser"** means an investment adviser who provides advice solely to one or more qualifying private funds.

(14) **"Qualified custodian"** means the following independent institutions or entities:

(a) A bank, including a trust company, as defined in section 202 (a)(2) of the Advisers Act, 15 U.S.C. 80b-2 (a)(2), or a savings association as defined in section 3 (b)(1) of the Federal Deposit Insurance Act, 12 U.S.C. 1813 (b)(1), that has deposits insured by the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act, 12 U.S.C. 1811;

(b) A broker-dealer registered in this state and under section 15 (b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78o (b)(1), holding the client assets in customer accounts;

(c) A futures commission merchant registered under section 4f(a) of the Commodity Exchange Act, 7 U.S.C. 6f(a), holding the client assets in customer accounts, but only with respect to clients' funds and security futures, or other securities incidental to transactions in contracts for the purchase or sale of a commodity for future delivery and options thereon;

(d) A foreign financial institution that customarily holds financial assets for its customers, provided that the foreign financial institution keeps the advisory clients' assets in customer accounts segregated from its proprietary assets; and

(e) The transfer agent for an open-end company as defined in section 5 (a)(1) of the Investment Company Act of 1940, 15 U.S.C. 80a-5 (a)(1), only with respect to shares of the open-end company.

~~((5))~~ ~~**"Independent certified public accountant"**~~ means a certified public accountant that meets the standards of independence described in rule 2-01 (b) and (c) of Regulation S-X, 17 C.F.R. 210.2-01 (b) and (c).

~~(6)~~ ~~**"Related person"**~~ means any person, directly or indirectly, controlling or controlled by the investment adviser, and any person that is under common control with the investment adviser.

~~(7)~~ ~~**"Control"**~~ means the power, directly or indirectly, to direct the management or policies of a person whether through ownership of securities, by contract, or otherwise. The following persons are presumed to have control:

~~(a)~~ Each of the investment adviser's officers, partners, or directors exercising executive responsibility (or persons having similar status or functions); and

~~(b)~~ A person who:

~~(i)~~ Directly or indirectly has the right to vote twenty-five percent or more of a class of the voting securities of a corporation or limited liability company;

~~(ii)~~ Has the power to sell or direct the sale of twenty-five percent or more of a class of the voting securities of a corporation or limited liability company;

~~(iii)~~ Has the right to receive, upon dissolution, or that has contributed, twenty-five percent or more of the capital of a partnership or limited liability company; or

~~(iv)~~ Is the manager of a limited liability company or the trustee or managing agent of a trust.

~~(8)~~ ~~**"Private fund adviser"**~~ means an investment adviser who provides advice solely to one or more qualifying private funds.

~~(9))~~ (15) **"Qualifying private fund"** means a private fund that ((meets the definition of a qualifying private fund in Securities and Exchange Commission Rule 203 (m)-1, 17

C.F.R. 275.203 (m) 1, other than a private fund that qualifies for the exclusion from the definition of "investment company" provided in section 3 (c)(1) of the Investment Company Act of 1940, 15 U.S.C. 80a-3 (c)(1).

(10) ~~"Discretionary authority" means the authority, directly or indirectly, to:~~

~~(a) Determine what securities or other property shall be purchased or sold by or on behalf of a client;~~

~~(b) Make decisions as to what securities or other property shall be purchased or sold by or for the benefit of a client even though some other person may have responsibility for such investment decisions; or~~

~~(c) Make decisions as to what investment advisers to retain on behalf of a client.~~

(11) ~~"FINRA" means the Financial Industry Regulatory Authority, Inc., the self-regulatory organization for broker-dealers and broker-dealer representatives that is registered as a national securities association with the Securities and Exchange Commission under Section 15A of the Securities Exchange Act of 1934, 15 U.S.C. § 78o.~~

(12) ~~"Central Registration Depository" or "CRD" means the electronic filing system operated by FINRA for the registration of broker-dealers and broker-dealer representatives.~~

(13) ~~"Investment Adviser Registration Depository" or "IARD" means the electronic filing system operated by FINRA for the registration of investment advisers and investment adviser representatives and submission of filings by exempt reporting advisers):~~

(a) Qualifies for the exclusion from the definition of "investment company" provided in section 3 (c)(7) of the Investment Company Act of 1940, 15 U.S.C. 80a-3 (c)(7);

(b) Is not registered under section 8 of the Investment Company Act of 1940, 15 U.S.C. 80a-8; and

(c) Has not elected to be treated as a business development company pursuant to section 54 of Investment Company Act of 1940, 15 U.S.C. 80a-53.

(16) "Related person" means any person, directly or indirectly, controlling or controlled by the investment adviser, and any person that is under common control with the investment adviser.

(17) "Supervised person" means any partner, officer, director (or other person occupying a similar status or performing similar functions), or employee of an investment adviser, or other person who provides investment advice on behalf of the investment adviser and is subject to the supervision and control of the investment adviser. The definition includes investment adviser representatives, employees, independent contractors, or other associated persons and supervised personnel, or other persons acting on behalf of the investment adviser.

AMENDATORY SECTION (Amending WSR 14-13-068, filed 6/12/14, effective 7/13/14)

WAC 460-24A-030 Use of the term "investment counsel" is prohibited. If you are an investment adviser or investment adviser representative, you ~~(shall)~~ must not use the title "investment counsel" in the conduct of your business nor represent that you are an "investment counsel" nor use the

term "investment counsel" as descriptive of your business where such use is prohibited under the provisions of the Federal Investment Advisers Act of 1940, as amended.

AMENDATORY SECTION (Amending WSR 14-13-068, filed 6/12/14, effective 7/13/14)

WAC 460-24A-035 ((Definition of "client" of an investment adviser:)) Counting of clients for registration purposes. (1) **General.** You may ~~((deem))~~ count each of the following ((to be)) as a single client of an investment adviser for purposes of the registration requirement in RCW 21.20.040(3):

(a) A natural person; and

(i) Any minor child of the natural person;

(ii) Any relative, spouse, or relative of the spouse of the natural person who has the same principal residence;

(iii) All accounts of which the natural person and/or the persons referred to in (a) of this subsection are the only primary beneficiaries; and

(iv) All trusts of which the natural person and/or the persons referred to in (a) of this subsection are the only primary beneficiaries;

(b)(i) A corporation, general partnership, limited partnership, limited liability company, trust (other than a trust referred to in subsection (1)(a)(iv) of this section), or other legal organization (any of which are referred to hereinafter as a "legal organization") to which you provide investment advice based on its investment objectives rather than the individual investment objectives of its shareholders, partners, limited partners, members, or beneficiaries (any of which are referred to hereinafter as an "owner"); and

(ii) Two or more legal organizations referred to in subsection (1)(b)(i) of this section that have identical owners.

(2) **Special rules.** For purposes of this section:

(a) You must count an owner as a client if you provide investment advisory services to the owner separate and apart from the investment advisory services you provide to the legal organization; provided, however, that the determination that an owner is a client will not affect the applicability of this section with regard to any other owner;

(b) You are not required to count an owner as a client solely because you, on behalf of the legal organization, offer, promote, or sell interests in the legal organization to the owner, or report periodically to the owners as a group solely with respect to the performance of or plans for the legal organization's assets or similar matters;

(c) A limited partnership or limited liability company is a client of any general partner, managing member or other person acting as investment adviser to the partnership or limited liability company;

(d) You are not required to count as a client any person for whom you provide investment advisory services without compensation;

(e) If you have your principal office and place of business outside the United States, you are not required to count clients that are not United States residents, but if your principal office and place of business is in the United States, you must count all clients;

(f) You may not rely on subsection (1)(b)(i) of this section with respect to any company that would be an investment company under section 3(a) of the Investment Company Act of 1940, 15 U.S.C. 80a-3(a), but for the exception from that definition by either section 3 (c)(1) or 3 (c)(7) of such act, 15 U.S.C. 80a-3 (c)(1) or (7); and

(g) For purposes of (e) of this subsection, a client who is an owner of a private fund is a resident of the place at which the client resides at the time of the client's investment in the fund.

AMENDATORY SECTION (Amending WSR 14-13-068, filed 6/12/14, effective 7/13/14)

WAC 460-24A-040 Use of certain terms deemed similar to "financial planner" or "investment counselor." (1) For the purposes of RCW 21.20.040(4), use of any term, or abbreviation for a term, including the word "financial planner" or the word "investment counselor" is considered the same as the use of either of those terms alone.

(2) For the purposes of RCW 21.20.040(4), terms that are deemed similar to "financial planner" and "investment counselor" include, but are not limited to, the following:

- (a) Financial consultant;
- (b) Investment consultant;
- (c) Money manager;
- (d) Investment manager;
- (e) Investment planner;
- (f) Chartered financial consultant or its abbreviation ChFC; ~~((or))~~
- (g) ~~((The))~~ Certified financial planner or its abbreviation CFP®; or

(h) Any combination of terms similar to the above if used in a manner that implies to the general public that the individual or entity using the terms is in the business of providing investment advisory or financial planning services.

AMENDATORY SECTION (Amending WSR 14-13-068, filed 6/12/14, effective 7/13/14)

WAC 460-24A-045 Holding out as a financial planner. If you use a term deemed similar to "financial planner" or "investment counselor" under WAC 460-24A-040(2), you will not be considered to be holding yourself out as a financial planner for purposes of RCW 21.20.005 and 21.20.040 under the following circumstances:

(1) You are not in the business of providing advice relating to the purchase or sale of securities, and would not, but for your use of such a term, be an investment adviser required to register pursuant to RCW 21.20.040; and

(2) You do not directly or indirectly receive a fee for providing investment advice. Receipt of any portion of a "wrap fee," that is, a fee for some combination of brokerage and investment advisory services, constitutes receipt of a fee for providing investment advice for the purpose of this section; and

(3) You deliver to every customer, at least forty-eight hours before accepting any compensation, including commissions from the sale of any investment product, a written disclosure including the following information:

(a) You are not registered as an investment adviser or investment adviser representative in the state of Washington;

(b) You are not authorized to provide financial planning or investment advisory services and do not provide such services; and

(c) A brief description of your business which description ~~((shall))~~ must include a statement of the kind of products offered or services provided (e.g., you are in the business of selling securities and insurance products) and of the basis on which you are compensated for the products sold or services provided; and

(4) You have each customer to whom a disclosure described in subsection (3) of this section is given sign a written dated acknowledgment of receipt of the disclosure; and

(5) You retain the executed acknowledgments of receipt required by subsection (4) of this section and of the disclosure given for so long as you continue to receive compensation from such customers, but in no case for less than three years from date of execution of the acknowledgment; and

(6) If you received compensation from the customer on more than one occasion, you need give the customer the disclosure described in subsection (3) of this section only on the first occasion unless the information in the disclosure becomes inaccurate, in which case you must give the customer updated disclosure before receiving further compensation from the customer.

AMENDATORY SECTION (Amending WSR 14-13-068 and 14-10-040, filed 6/12/14 and 4/29/14)

WAC 460-24A-047 Electronic filing (~~((with designated entity))~~). (1) Designation. Pursuant to RCW 21.20.050, the director designates the Investment Adviser Registration Depository (IARD) and the Central Registration Depository (CRD) operated by Financial Industry Regulatory Authority (FINRA) to receive and store filings and collect related fees from investment advisers, federal covered advisers, and investment adviser representatives on behalf of the director.

(2) Use of IARD and CRD. Unless otherwise provided, all investment adviser, federal covered adviser, and investment adviser representative applications, amendments, reports, notices, related filings, and fees required to be filed with the director pursuant to the rules promulgated under this chapter, ~~((shall))~~ must be filed electronically with and transmitted to IARD or CRD. The following additional conditions relate to such electronic filings:

(a) Electronic signature. When a signature or signatures are required by the particular instructions of any filing to be made through IARD or CRD, a duly authorized officer of the applicant or the applicant him or herself, as required, ~~((shall))~~ must affix his or her electronic signature to the filing by typing his or her name in the appropriate fields and submitting the filing to IARD or CRD. Submission of a filing in this manner ~~((shall))~~ will constitute irrefutable evidence of legal signature by any individuals whose names are typed on the filing.

(b) When filed. Solely for purposes of a filing made through IARD or CRD, a document is considered filed with the director when all fees are received and the filing is accepted by IARD or CRD on behalf of the state.

(3) Electronic filing. Notwithstanding subsection (2) of this section, ~~((the electronic filing of))~~ you are not required to file any particular document ((and the collection of related)) or pay processing fees ((shall not be required)) using the IARD or CRD system until such time as IARD or CRD provides for receipt of such filings and fees and thirty days' notice is provided by the director. Any documents or fees required to be filed with the director that are not permitted to be filed with or cannot be accepted electronically by IARD ~~((shall))~~ or CRD must be filed directly with the director. The director may establish a proprietary online filing system for the purpose of accepting such filings electronically.

(4) Hardship exemptions. Notwithstanding subsection (2) of this section, electronic filing is not required under the following circumstances:

(a) Temporary hardship exemption.

(i) Investment advisers registered or required to be registered under RCW 21.20.040, who experience unanticipated technical difficulties that prevent submission of an electronic filing to IARD or CRD, may request a temporary hardship exemption from the requirements to file electronically.

(ii) To request a temporary hardship exemption, the investment adviser must:

(A) File Form ADV-H in paper format with the appropriate regulatory authority in the state where the investment adviser's principal place of business is located, no later than one business day after the filing, that is the subject of the Form ADV-H, was due. If the state where the investment adviser's principal place of business is located has not mandated the use of IARD or CRD, the investment adviser should file the Form ADV-H with the appropriate regulatory authority in the first state that mandates the use of IARD or CRD by the investment adviser; and

(B) Submit the filing that is the subject of the Form ADV-H in electronic format to IARD or CRD no later than seven business days after the filing was due.

(iii) Effective date - Upon filing. The temporary hardship exemption will be deemed effective by the director upon receipt of the complete Form ADV-H by appropriate regulatory authority noted in (a)(ii)(A) of this subsection. Multiple temporary hardship exemption requests within the same calendar year may be disallowed by the director.

(b) Continuing hardship exemption.

(i) Criteria for exemption. A continuing hardship exemption will be granted only if the investment adviser is able to demonstrate that the electronic filing requirements of this section are prohibitively burdensome.

(ii) To apply for a continuing hardship exemption, the investment adviser must:

(A) File Form ADV-H in paper format with the director at least twenty business days before a filing is due; and

(B) If a filing is due to more than one state, the Form ADV-H must be filed with the appropriate regulatory authority in the state where the investment adviser's principal place of business is located. If the state where the investment adviser's principal place of business is located has not mandated the use of IARD or CRD, the investment adviser should file the Form ADV-H with the appropriate regulatory authority in the first state that mandates the use of IARD or CRD by the investment adviser. Any applications received by the

director will be granted or denied within ten business days after the filing of Form ADV-H.

(ii) Effective date - Upon approval. The exemption is effective upon approval by the director. The time period of the exemption may be no longer than one year after the date on which the Form ADV-H is filed. If the director approves the application, the investment adviser must, no later than five business days after the exemption approval date, submit filings in paper format (along with the appropriate processing fees) for the period of time for which the exemption is granted.

(c) Recognition of exemption. The decision to grant or deny a request for a hardship exemption will be made by the appropriate regulatory authority in the state where the investment adviser's principal place of business is located. If the state where the investment adviser's principal place of business is located has not mandated the use of IARD or CRD, the decision to grant or deny a request for a hardship exemption will be made by appropriate regulatory authority in the first state that mandates the use of IARD or CRD by the investment adviser. The decision will be followed by the director if the investment adviser is registered in this state.

AMENDATORY SECTION (Amending WSR 14-13-068, filed 6/12/14, effective 7/13/14)

WAC 460-24A-050 Registration and examination requirements. (1) **Examination requirements.** If you are applying to be registered as an investment adviser or investment adviser representative under RCW 21.20.040, you ~~((shall))~~ must provide the director with proof that you have obtained a passing score ~~((on))~~ within the two-year period immediately preceding the date of your application on the following examinations:

(a) The Uniform Investment Adviser Law Examination (Series 65 examination); ~~((or))~~

(b) If you apply prior to October 1, 2018, the General Securities Representative Examination (Series 7 examination) and the Uniform Combined State Law Examination (Series 66 examination); or

(c) If you apply on or after October 1, 2018, the Securities Industry Essentials Examination (SIE examination), the General Securities Representative Examination (Series 7 examination), and the Uniform Combined State Law Examination (Series 66 examination).

(2) **Exceptions from examination requirements.**

(a) If you were registered as an investment adviser or investment adviser representative in any jurisdiction in the United States on January 1, 2000, and there has been no period longer than two years since that date in which you were not registered as an investment adviser or investment adviser representative, the director will not require you ~~((shall not be required))~~ to satisfy the examination requirements for initial or continued registration, provided that the director may require additional examinations if you are found to have violated the Securities Act of Washington, chapter 21.20 RCW, or the Uniform Securities Act.

(b) ~~((Any person who has been))~~ If you were registered as an investment adviser or investment adviser representative in any state requiring the licensing, registration, or qualifica-

tion of investment advisers or investment adviser representatives within the two-year period immediately preceding the date of filing of an application (~~shall~~), the director will not (be required) require you to comply with the examination requirement set forth in subsection (1) of this section provided that (~~the person~~) you previously met the examination requirement in subsection (1) of this section.

(c) (~~An applicant who has taken and~~) If you passed the Uniform Investment Adviser State Law Examination (Series 65 examination) within two years prior to the date (~~the~~) you filed your application (is filed) with the director (~~shall not be required~~), the director will not require you to take and pass the Uniform Investment Adviser State Law Examination (Series 65 examination) again.

(d) If you are an applicant who is an agent for a broker-dealer/investment adviser and (who is not required by the agent's) your home jurisdiction does not require you to make a separate filing on CRD as an investment adviser representative (~~but who has~~), and you previously met the examination requirement in subsection (1) of this section (~~necessary to provide advisory services on behalf of the broker-dealer/investment adviser, shall not be required~~), the director will not require you to take and pass the Uniform Investment Adviser State Law Examination (Series 65 examination) or the Uniform Combined State Law Examination (Series 66 examination) again.

(e) If you passed the General Securities Representative Examination (Series 7 examination) prior to October 1, 2018, the director will not require you to take and pass the Securities Industry Essentials Examination (SIE examination) if:

(i) You are currently registered as an investment adviser or investment adviser representative in at least one state that requires the registration of investment advisers or investment adviser representatives; or

(ii) You were registered in a state that requires the registration of investment advisers or investment adviser representatives within the two-year period immediately preceding the date you filed your application for registration as an investment adviser or investment adviser representative with the director.

(f) If you passed the Securities Industry Essentials Examination (SIE examination) within the four-year period immediately preceding the date you filed your application with the director for registration as an investment adviser or investment adviser representative, the director will not require you to take and pass the SIE examination again.

(3) **Examination waivers.** You are not required to take the examinations set forth in subsection (1) of this section if you currently hold one of the following professional designations and are in good standing with the certifying organization:

(a) Certified Financial Planner (CFP®) issued by the Certified Financial Planner Board of Standards, Inc.;

(b) Chartered Financial Consultant (ChFC) awarded by The American College, Bryn Mawr, Pennsylvania;

(c) Personal Financial Specialist (PFS) administered by the American Institute of Certified Public Accountants;

(d) Chartered Financial Analyst (CFA) granted by the CFA Institute;

(e) Chartered Investment Counselor (CIC) granted by the Investment Adviser Association; or

(f) Such other professional designation as the director may by order recognize.

(4) If you are applying for registration as an investment adviser and you are any entity other than a sole proprietor, an officer, general partner, managing member, or other equivalent person of authority in the entity may take the examination on behalf of the entity. The person taking the exam on behalf of the entity must be a person who is or will be registered as an investment adviser representative of the investment adviser. If the person that took the examination ceases to be a person of authority in the entity, then you must notify the director of a substitute person of authority who has registered with the director as an investment adviser representative.

(5) **Registration requirements.**

(a) To apply for initial registration as an investment adviser, you must file the following in the manner specified:

(i) You must file the following through IARD or CRD:

(A) A completed Form ADV (with IARD along with the following:

(i);

(B) Proof of complying with the examination or waiver requirements specified in subsections (1) through (4) (above) of this section;

((ii) Such financial statements as are set forth in WAC 460-24A-060, including a copy of the balance sheet for the last fiscal year, and if such balance sheet is as of a date more than ninety days from the date of filing the application, an unaudited balance sheet prepared as set forth in WAC 460-24A-060, if necessary;

(iii) A copy of the surety bond required by WAC 460-24A-170, if applicable;

(iv)) (C) The application fee specified in RCW 21.20.340; (and

(v))

(D) A completed Form BR; and

(E) Such other documents as the director may require that are accepted for filing through IARD or CRD.

(ii) You must file the following directly with the director by email or through a proprietary electronic filing system established by the director for the purpose of accepting such filings:

(A) Such financial statements as are set forth in WAC 460-24A-060, including a copy of the balance sheet for the last fiscal year, and if such balance sheet is a date more than ninety days from the date of filing the application, an unaudited balance sheet prepared as set forth in WAC 460-24A-060, if necessary. The financial statements must be prepared in accordance with generally accepted accounting principles in the United States;

(B) A copy of the surety bond required by WAC 460-24A-170, if applicable; and

(C) If you advise one or more pooled investment vehicles, then you must also submit to the director as part of your application, copies of the following documents:

(I) Account agreement with each qualified custodian for each pooled investment vehicle pursuant to WAC 460-24A-105;

(II) Engagement letter with an independent certified public accountant or agreement with an independent party for each pooled investment vehicle pursuant to WAC 460-24A-107;

(III) Private placement memorandum or other offering circular used to solicit investors to purchase interests in each pooled investment vehicle;

(IV) Subscription agreement for each pooled investment vehicle;

(V) Limited partnership agreement or other operating agreement for each pooled investment vehicle; and

(D) If you provide supervisory or management services to securities portfolios, then you must submit a list of the custodians that hold the client funds or securities that you supervise or manage. You may satisfy this requirement by disclosing these custodians in Schedule D to Form ADV Part 1A, regardless of the percentage of your regulatory assets under management held with the custodian;

(E) Such other documents as the director may require in order to complete the application.

(b) To apply for initial registration as an investment adviser representative, you ~~((shall))~~ must file a completed Form U4 with ~~((IARD))~~ CRD along with the following:

(i) Proof of complying with the examination or waiver requirements specified in subsections (1) through (4) above;

(ii) The application fee specified in RCW 21.20.340; and

(iii) Such other documents as the director may require.

~~((e))~~ If you advise one or more pooled investment vehicles, then you must also submit to the division as part of your application, copies of the following documents:

(i) Account agreement with each qualified custodian for each pooled investment vehicle pursuant to WAC 460-24A-105;

(ii) Engagement letter with an independent certified public accountant or agreement with an independent party for each pooled investment vehicle pursuant to WAC 460-24A-107;

~~(iii) Private placement memorandum or other offering circular used to solicit investors to purchase interests in each pooled investment vehicle;~~

~~(iv) Subscription agreement for each pooled investment vehicle;~~

~~(v) Operating agreement for each pooled investment vehicle; and~~

~~(vi) Such other documents as the director may require in order to complete the application.)~~

AMENDATORY SECTION (Amending WSR 01-16-125, filed 7/31/01, effective 10/24/01)

WAC 460-24A-055 Effective date of ~~((license))~~ registration. All investment adviser and investment adviser representative ~~((licenses shall))~~ registrations will be effective ~~((until))~~ beginning on the date the director approves the application in IARD or CRD. All registrations will expire on December 31st of the year of issuance ~~((at which time the license shall be renewed, or if not renewed, shall be deemed)).~~ If the investment adviser or investment adviser representative does not renew its registration by December 31st, the director will deem the registration delinquent.

AMENDATORY SECTION (Amending WSR 14-13-068, filed 6/12/14, effective 7/13/14)

WAC 460-24A-057 Renewal of investment adviser and investment adviser representative registration—Delinquency fees. (1) **Application for renewal.** You may renew your registration as an investment adviser or investment adviser representative by filing the following with IARD or CRD no later than the renewal application deadline set by FINRA:

(a) Any renewal application required by IARD;

(b) The renewal fee required by RCW 21.20.340; and

(c) An electronically submitted Form U4, unless:

(i) The Form U4 has been previously submitted to IARD electronically; or

(ii) The investment adviser, filing on behalf of the investment adviser representative, has been granted a hardship exemption under WAC 460-24A-047(4).

(2) **Delinquency fees.** For any renewal application received by IARD or CRD after the expiration date set forth in WAC 460-24A-055, but on or before March 1st of the following year, the ~~((licensee shall))~~ registrant must pay a delinquency fee in addition to the renewal fee. The delinquency fee for investment advisers ~~((shall be))~~ is one hundred dollars. The delinquency fee for investment adviser representatives ~~((shall be))~~ is fifty dollars.

~~((No))~~ The director will not accept renewal applications ~~((will be accepted))~~ after March 1st. After March 1st, an investment adviser or investment adviser representative ~~((may apply for reregistration))~~ must reapply for initial registration by complying with WAC 460-24A-050.

AMENDATORY SECTION (Amending WSR 14-13-068, filed 6/12/14, effective 7/13/14)

WAC 460-24A-060 Financial reporting requirements for investment advisers. (1) If you are an investment adviser registered or required to be registered under RCW 21.20.040 who has custody of client funds or securities ~~((or you require payment of advisory fees six months or more in advance and in excess of five hundred dollars per client)),~~ you must file with the director an audited balance sheet as of the end of your fiscal year. You must file the audited balance sheet in electronic format by email or through a proprietary electronic filing system to be established by the director for the purposes of accepting such filings. Each balance sheet filed pursuant to this subsection must be:

(a) Prepared in conformity with generally accepted accounting principles (GAAP) in the United States and audited in accordance with generally accepted auditing standards (GAAS) in the United States by an independent certified public accountant; and

(b) Accompanied by an audit opinion of the accountant on the audit of the balance sheet.

(2) If you are an investment adviser registered or required to be registered under RCW 21.20.040 that has custody as defined in WAC 460-24A-005 ~~((+))~~ (6)(a)(iii) and you have notified the director on Form ADV that you will comply with the ~~((safekeeping))~~ requirements in WAC 460-24A-107 (1)(b), you must file with the director a copy of the audited financial statements of each pooled investment vehi-

cle for which you are a general partner (or managing member or other comparable position).

(3) If you are an investment adviser registered or required to be registered under RCW 21.20.040 and are not subject to the financial statement reporting requirements in subsection (1) or (2) of this section, you must file with the director a balance sheet, which need not be audited, but which must be prepared in accordance with generally accepted accounting principles in the United States and represented by you or the person who prepared the statement as true and accurate, as of the end of your fiscal year.

(4) The financial statements required by this section must be filed with the director within one hundred twenty days following the end of your fiscal year, except for the audited financial statements of pooled investment vehicles you obtain and distribute pursuant to WAC 460-24A-107(1), which must be filed with the director within one hundred twenty days following the end of each pooled investment vehicle's fiscal year.

(5) If you are an investment adviser that has its principal place of business in a state other than this state, you must file only such reports with the director as required by the state in which you maintain your principal place of business, provided that you are (~~licensed~~) registered in such state and are in compliance with such state's financial reporting requirements.

AMENDATORY SECTION (Amending WSR 14-13-068, filed 6/12/14, effective 7/13/14)

WAC 460-24A-070 Notice filing requirements for federal covered advisers. (1) **Notice filing.** If you are a federal covered adviser, you must file the notice filing required pursuant to RCW 21.20.050 with IARD on a completed Form ADV. The notice filing (~~shall~~) will be deemed filed when the fee required by RCW 21.20.340 and the Form ADV are filed with and accepted by IARD on behalf of the state.

(2) **Form ADV Part 2.** The director will accept a copy of Part 2 of Form ADV as filed electronically with IARD.

(3) **Renewal.** If you are a federal covered adviser, you must file the annual renewal of your notice filing with IARD. The renewal (~~shall~~) will be deemed filed when the fee required by RCW 21.20.340 is filed with and accepted by IARD on behalf of the state.

(4) **Updates and amendments.** If you are a federal covered adviser, you must file any amendments to your Form ADV with IARD in accordance with the instructions in the Form ADV.

(5) **Hardship exemption.** If you are a federal covered adviser that, because you have received a hardship exemption from the Securities and Exchange Commission (SEC), are not required to file your Form ADV with the SEC through IARD you (~~shall~~) will, in lieu of filing electronically, file the documents and fees required by this section directly with the director.

AMENDATORY SECTION (Amending WSR 14-13-068, filed 6/12/14, effective 7/13/14)

WAC 460-24A-071 Registration exemption for investment advisers to private funds. (1) **Exemption for**

private fund advisers. You are exempt from the registration requirements for investment advisers in RCW 21.20.040 if you are a private fund adviser as defined in WAC 460-24A-005 and you satisfy each of the following conditions:

(a) Neither you nor any of your advisory affiliates are subject to a disqualification as described in (~~WAC 460-44A-505 (2)(d)~~) Securities and Exchange Commission Rule 506(d), 17 C.F.R. Sec. 230.506(d), as amended effective September 23, 2013; and

(b) You file with the (~~division~~) director each report and amendment thereto that an exempt reporting adviser is required to file with the Securities and Exchange Commission pursuant to Securities and Exchange Commission Rule 204-4, 17 C.F.R. 275.204-4, as amended effective September 19, 2011.

(2) **Federal covered investment advisers.** If you are a private fund adviser that is registered with the Securities and Exchange Commission, you are not eligible for the exemption provided in subsection (1) of this section and you must comply with the state notice filing requirements applicable to federal covered investment advisers in WAC 460-24A-070.

(3) **Investment adviser representatives.** You are exempt from the registration requirements for investment adviser representatives set forth in RCW 21.20.040 if you are employed by or associated with an investment adviser that is exempt from registration in this state pursuant to subsection (1) of this section and you do not otherwise act as an investment adviser representative.

(4) **Electronic filing.** You must make the report filings described in subsection (1)(b) of this section electronically through IARD. A report (~~shall~~) will be deemed filed when the report is filed and accepted by the IARD on the state's behalf.

(5) **Transition.** If you become ineligible for the exemption provided in subsection (1) of this section, you must comply with all applicable laws and rules requiring registration or notice filing within ninety days from the date your eligibility for this exemption ceases.

(6) **Waiver authority with respect to statutory disqualification.** Subsection (1)(a) of this section (~~shall~~) will not apply upon a showing of good cause and without prejudice to any other action of the securities division, if the (~~securities administrator~~) director determines that it is not necessary under the circumstances that an exemption be denied.

AMENDATORY SECTION (Amending WSR 14-13-068, filed 6/12/14, effective 7/13/14)

WAC 460-24A-072 Registration exemption for investment advisers to venture capital funds. (1) **Exemption for venture capital fund advisers.** You are exempt from the registration requirements for investment advisers in RCW 21.20.040 if you are exempt from registration under Section 203(l) of the Investment Advisers Act of 1940, 15 U.S.C. 80b-3(l), and Securities and Exchange Commission Rule 203 (l)-1 (~~adopted thereunder~~), 17 C.F.R. 275.203 (l)-1, as adopted effective July 21, 2011, provided you satisfy each of the following conditions:

(a) Neither you nor any of your advisory affiliates are subject to a disqualification as described in ~~((WAC 460-44A-505(2)(4)))~~ Securities and Exchange Commission Rule 506(d), 17 C.F.R. Sec. 230.506(d), as amended effective September 23, 2013; and

(b) You file with the ~~((division))~~ director each report and amendment thereto that an exempt reporting adviser is required to file with the Securities and Exchange Commission pursuant to Securities and Exchange Commission Rule 204-4, 17 C.F.R. 275.204-4, as adopted effective September 19, 2011.

(2) **Federal covered investment advisers.** If you are a venture capital fund adviser that is registered with the Securities and Exchange Commission, you are not eligible for the exemption provided in subsection (1) of this section and you must comply with the state notice filing requirements applicable to federal covered investment advisers in WAC 460-24A-070.

(3) **Investment adviser representatives.** You are exempt from the registration requirements for investment adviser representatives set forth in RCW 21.20.040 if you are employed by or associated with an investment adviser that is exempt from registration in this state pursuant to subsection (1) of this section and you do not otherwise act as an investment adviser representative.

(4) **Electronic filing.** You must make the report filings described in subsection (1)(b) of this section electronically through IARD. A report ~~((shall))~~ will be deemed filed when the report is filed and accepted by the IARD on the state's behalf.

(5) **Transition.** If you become ineligible for the exemption provided in subsection (1) of this section, you must comply with all applicable laws and rules requiring registration or notice filing within ninety days from the date your eligibility for this exemption ceases.

(6) **Waiver authority with respect to statutory disqualification.** Subsection (1)(a) of this section ~~((shall))~~ will not apply upon a showing of good cause and without prejudice to any other action of the securities division, if the ~~((securities administrator))~~ director determines that it is not necessary under the circumstances that an exemption be denied.

AMENDATORY SECTION (Amending WSR 14-13-068, filed 6/12/14, effective 7/13/14)

WAC 460-24A-100 Advertisements and written client communications by investment advisers. ~~((H))~~ If you are an investment adviser ~~((, federal covered adviser,))~~ or investment adviser representative, it is an "act, practice, or course of business" which operates or would operate as a fraud within the meaning of RCW 21.20.020 for you, directly or indirectly, to publish, circulate or distribute any advertisement or written client communication (including advertisements and written communications directed to prospective clients) if the advertisement or written client communication:

~~((a))~~ Which) (1) Refers, directly or indirectly, to any testimonial of any kind concerning you or concerning any advice, analysis, report or other service rendered by you; ~~((b))~~ Which)

(2) Refers, directly or indirectly, to any past specific recommendations you made which were or would have been profitable to any person: Provided, however, That this clause ~~((b))~~ under this subsection (2) does not prohibit you from setting out or offering to furnish a list of all recommendations you made within the immediately preceding period of not less than one year if such advertisement or written client communication, and such list if it is furnished separately:

~~((+))~~ (a) States the name of each such security recommended, the date and nature of each such recommendation (e.g., whether to buy, sell or hold), the market price at that time, the price at which the recommendation was to be acted upon, and the market price of each such security as of the most recent practicable date; and

~~((+))~~ (b) Contains the following cautionary legend on the first page thereof in print or type as large as the largest print or type used in the body or text thereof: "It should not be assumed that recommendations made in the future will be profitable or will equal the performance of the securities in this list" ~~((or~~

~~((e))~~ Which).

(3) Represents, directly or indirectly, that any graph, chart, formula or other device being offered can in and of itself be used to determine which securities to buy or sell, or when to buy or sell them; or which represents, directly or indirectly, that any graph, chart, formula or other device being offered will assist any person in making his own decisions as to which securities to buy or sell, or when to buy or sell them, without prominently disclosing in such advertisement or written client communication the limitations thereof and the difficulties with respect to its use; ~~((or~~

~~((d))~~ Which)

(4) Contains any statement to the effect that any report, analysis, or other service will be furnished free or without charge, unless such report, analysis or other service actually is or will be furnished entirely free and without any condition or obligation, directly or indirectly; ~~((or~~

~~((e))~~ Which)

(5) Contains past performance data, unless the advertisement or written client communication is accurate and discloses all material facts necessary to ensure that the advertisement or written client communication is not misleading. An advertisement or written client communication containing past performance data must adhere to the following standards:

(a) The advertisement or written client communication must disclose the following:

(i) The effect of material market or economic conditions on portrayed results;

(ii) The effect on performance of fees, commissions, or other client paid expenses;

(iii) The effect of dividends and earnings on the results portrayed;

(iv) The potential for both profit and loss;

(v) Any material conditions, objectives, or investment strategies used to obtain the performance result; and

(vi) Any additional information reasonably necessary to ensure that the data is not misleading;

(b) The advertisement or written client communication must include the most recently available results computed using an appropriate time frame;

(c) Where the performance results are only for a selected group of clients, the advertisement or written communication must disclose the basis on which an objective selection was made; and

(d) This subsection (5) does not apply to client-specific account past performance data in an account statement that an unaffiliated qualified custodian generates and sends directly to the client;

(6) Compares past performance results to an index or other portfolio, unless the comparison index or other portfolio is a relevant comparison and the advertisement or written client communication includes full disclosure of the material facts regarding the comparison;

(7) Contains "backtested" or "hypothetical model" performance figures. Backtesting involves developing a strategy or model then applying the strategy or model to past historical performance. Hypothetical modeling involves creating a hypothetical portfolio and then monitoring it based upon forward-looking strategies and measuring it as if it constitutes a real portfolio;

(8) Fails to include the full legal name of the investment adviser;

(9) Includes information inconsistent with the information disclosed by an investment adviser on Form ADV or by an investment adviser representative on Form U4;

(10) Uses the acronyms "IA," "IAR," or "RIA" unless they are defined;

(11) Uses senior-specific certifications or professional designations in a manner inconsistent with chapter 460-25A WAC;

(12) Fails to provide a citation or attribution for any data or other information presented from outside sources; or

(13) Contains any omission or untrue statement of a material fact, or which is otherwise false or misleading.

~~((2) For the purposes of this section, the term "advertisement" includes any notice, circular, letter or other written communication addressed to more than one person, or any notice or other announcement in any publication or by electronic means, including online, or by radio or television, which offers:~~

~~(a) Any analysis, report, or publication concerning securities, or which is to be used in making any determination as to when to buy or sell any security, or which security to buy or sell; or~~

~~(b) Any graph, chart, formula or other device to be used in making any determination as to when to buy or sell any security, or which security to buy or sell; or~~

~~(c) Any other investment advisory service with regard to securities;))~~

AMENDATORY SECTION (Amending WSR 14-13-068, filed 6/12/14, effective 7/13/14)

WAC 460-24A-105 Requirements for an investment adviser that has custody or possession of client funds or securities. If you are an investment adviser registered or required to be registered under RCW 21.20.040, it ~~(shall)~~

will constitute an "act, practice, or course of business" which operates or would operate as a fraud within the meaning of RCW 21.20.020 for you to have custody of client funds or securities unless:

(1) You notify the director. You notify the director promptly on Form ADV that you have or may have custody;

(2) A qualified custodian maintains your clients' funds and securities.

(a) A qualified custodian maintains your clients' funds and securities:

(i) In a separate account for each client under that client's name; or

(ii) In accounts that contain only your clients' funds and securities, under either your name as agent or trustee for the clients or, in the case of a pooled investment vehicle that you manage, in the name of the pooled investment vehicle; and

(b) You maintain a separate record for each such account which shows the name and address of the qualified custodian where such account is maintained, the dates and amounts of deposits in and withdrawals from such account, and the exact amount of each client's beneficial interest in such account;

(3) You notify clients of the identity of the qualified custodian. If you open an account with a qualified custodian on your client's behalf, either under the client's name, under your name as agent, or under the name of a pooled investment vehicle, you notify the client in writing of the qualified custodian's name, address, and the manner in which the funds or securities are maintained, promptly when the account is opened and following any changes to this information. If both you and the qualified custodian send account statements to a client to which you are required to provide this notice, you must include in the notification provided to that client and in any subsequent account statement you send that client a statement urging the client to compare the account statements from the custodian with those from you;

(4) Either you or a qualified custodian sends account statements to your clients. You or a qualified custodian sends your clients account statements subject to the following requirements:

(a) Requirements if qualified custodian sends account statements. If you do not send account statements to your clients, you have a reasonable basis for believing, after due inquiry, that the qualified custodian sends an account statement, at least quarterly, to each of your clients for which the qualified custodian maintains funds or securities, within a reasonable period of time after the end of the statement period, identifying the amount of funds and of each security in the account at the end of the period and setting forth all transactions in the account during that period;

(b) Requirements if you send account statements. If the qualified custodian does not send account statements to your clients:

(i) You send account statements, at least quarterly, to each of your clients for whom you have custody of funds or securities, within a reasonable period of time after the end of the statement period, identifying the amount of funds and of each security of which you have custody at the end of the period and setting forth all transactions during that period;

(ii) An independent certified public accountant verifies all client funds and securities by actual examination at least

once during each calendar year, pursuant to a written agreement between you and the accountant, at a time that is chosen by the accountant without prior notice or announcement to you and that is irregular from year to year. The written agreement must provide for the first examination to occur within six months of becoming subject to this subsection, except that, if the investment adviser maintains client funds or securities pursuant to this rule as a qualified custodian, the agreement must provide for the first examination to occur no later than six months after obtaining the internal control report. The written agreement must require the accountant to:

(A) File a certificate on Form ADV-E with the director within one hundred twenty days of the time chosen by the independent certified public accountant to conduct the examination, stating that it has examined the funds and securities and describing the nature and extent of the examination; and

(B) Notify the director within one business day of the finding of any material discrepancies during the course of the examination, by means of a facsimile transmission or electronic mail, followed by first class mail, directed to the attention of the director; and

(C) File within four business days of the resignation or dismissal from, or other termination of, the engagement, or removing itself or being removed from consideration for being reappointed, Form ADV-E accompanied by a statement that includes:

(I) The date of such resignation, dismissal, removal, or other termination, and the name, address, and contact information of the independent certified public accountant; and

(II) An explanation of any problems relating to examination scope or procedure that contributed to such resignation, dismissal, removal, or other termination;

(5) **A client may designate an independent representative to receive account statements.** A client may designate an independent representative to receive, on his or her behalf, notices and account statements as required under subsections (3) and (4) of this section. You must not recommend persons to serve as independent representatives;

(6) **Investment advisers acting as qualified custodians.** If you are an investment adviser that maintains, or if you have custody because a related person maintains, client funds or securities pursuant to this rule as a qualified custodian in connection with the advisory services you provide to clients:

(a) You must enter into an agreement with an independent certified public accountant to conduct an examination to verify client funds and securities as otherwise provided in subsection (4)(b)(ii) of this section. The independent certified public accountant you retain must be registered with, and subject to regular inspection as of the commencement of the professional engagement period, and as of each calendar year-end, by, the Public Company Accounting Oversight Board in accordance with its rules; and

(b) You must obtain, or receive from your related person, within six months of becoming subject to this subsection (6) and thereafter no less frequently than once each calendar year a written internal control report prepared by an independent certified public accountant subject to the following:

(i) The internal control report must include an opinion of an independent certified public accountant as to whether controls have been placed in operation as of a specific date, and

are suitably designed and are operating effectively to meet control objectives relating to custodial services, including safeguarding of funds and securities held by either you or a related person on behalf of your clients;

(ii) The independent certified public accountant must verify that the funds and securities are reconciled to a custodian other than you or your related person; and

(iii) The independent certified public accountant must be registered with, and subject to regular inspection as of the commencement of the professional engagement period, and as of each calendar year-end, by, the Public Company Accounting Oversight Board in accordance with its rules.

AMENDATORY SECTION (Amending WSR 14-13-068, filed 6/12/14, effective 7/13/14)

WAC 460-24A-106 Additional custody requirements for an investment adviser that directly deducts fees from client accounts. (1) If you are an investment adviser registered or required to be registered under RCW 21.20.040 who has custody as defined in WAC 460-24A-005~~((+))~~ (6) because you have the authority to directly deduct fees from client accounts, you must comply with the ~~((safekeeping))~~ requirements in WAC 460-24A-105 and the following additional safeguards:

(a) **You must have your client's written authorization.** You must have written authorization from your client to deduct advisory fees from the account held with the qualified custodian.

(b) **You must provide notice to the qualified custodian and an itemized invoice to your client.** Each time a fee is directly deducted from your client's account, you must concurrently:

(i) Send the qualified custodian notice of the amount of the fee to be deducted from your client's account; and

(ii) Send your client an invoice itemizing the fee. Itemization includes the formula used to calculate the fee, the fee calculation itself, the amount of assets under management the fee is based on, ~~((and))~~ the time period covered by the fee, and if you charge performance compensation, the client's cumulative net investment gain (or loss), and the amount of cumulative net investment gain above which you will receive performance compensation. You must include the name of the custodian(s) on the fee invoice.

(c) **You must notify the director that you will comply with these ~~((safekeeping))~~ requirements.** You must notify the director on Form ADV that you will comply with the ~~((safekeeping))~~ requirements set forth in this section.

(2) **Waiver of net worth and bonding requirements.** If you have custody as defined in WAC 460-24A-005~~((+))~~ (6) solely because you have the authority to have fees directly deducted from client accounts and you comply with the ~~((safekeeping))~~ requirements set forth in this section, you are not required to comply with the net worth and bonding requirements for an investment adviser that has custody set forth in WAC 460-24A-170.

(3) **Waiver of audited balance sheet requirement.** If you have custody as defined in WAC 460-24A-005~~((+))~~ (6) solely because you have the authority to directly deduct fees from client accounts, you are not required to comply with the

requirement to file an audited balance sheet as set forth in WAC 460-24A-060(1) if you comply with WAC 460-24A-060(3), (~~the safekeeping~~) requirements in WAC 460-24A-105, and subsection (1) of this section.

AMENDATORY SECTION (Amending WSR 14-13-068, filed 6/12/14, effective 7/13/14)

WAC 460-24A-107 Additional custody requirements for an investment adviser that manages a pooled investment vehicle or trust. (1) If you are an investment adviser registered or required to be registered under RCW 21.20.040 that has custody as defined in WAC 460-24A-005 (~~(+)~~) (6)(a)(iii), you must, in addition to complying with the (~~safekeeping~~) requirements set forth in WAC 460-24A-105, either:

(a) **Engage an independent party to authorize withdrawals from the pooled account.**

(i) You must enter into a written agreement with an independent party to review all fees, expenses, and capital withdrawals from the pooled accounts;

(ii) You must send all invoices or receipts to the independent party, detailing the amount of the fee, expenses, or capital withdrawal and the method of calculation such that the independent party can:

(A) Determine that the payment is in accordance with the pooled investment vehicle standards (generally the partnership agreement or membership agreement); and

(B) Forward, to the qualified custodian, approval for payment of the invoice with a copy to the investment adviser; and

(iii) You must notify the director on Form ADV that you will comply with the safekeeping requirements in (a) of this subsection; or

(b) **Provide audited financial statements of the pooled investment vehicle to all limited partners or members.**

(i) You must cause the financial statements of the limited partnership (or limited liability company, or another type of pooled investment vehicle) for which you are a general partner (or managing member or other comparable position) to be subject to audit, at least annually, by an independent certified public accountant to be conducted in accordance with generally accepted auditing standards. The financial statements must be prepared in accordance with generally accepted accounting principles in the United States;

(ii) You must distribute the audited financial statements to all limited partners (or members or other beneficial owners), or the independent representative where one has been designated, within one hundred twenty days of the end of the pooled investment vehicle's fiscal year. If the limited partners (or members or other beneficial owners) are themselves limited partnerships (or limited liability companies, or another type of pooled investment vehicle) that are related persons to you, you must distribute the audited financial statements to each beneficial owner that is unrelated to you;

(iii) You must distribute, upon liquidation, the fund's final audited financial statements prepared in accordance with generally accepted accounting principles in the United States to all limited partners (or members or other beneficial owners), or the independent representative where one has

been designated, and the director promptly after the completion of such audit;

(iv) You must enter into a written agreement with the independent certified public accountant who will audit the financial statements of the pooled investment vehicle. The written agreement with the independent certified public accountant must require the independent certified public accountant to, upon resignation or dismissal from, or other termination of, the engagement, or upon removing itself or being removed from consideration for being reappointed, notify the director within four business days accompanied by a statement that includes:

(A) The date of such resignation, dismissal, removal, or other termination, and the name, address, and contact information of the independent certified public accountant; and

(B) An explanation of any problems relating to audit scope or procedure that contributed to such resignation, dismissal, removal, or other termination; and

(v) You must notify the director on Form ADV that you will comply with the (~~safekeeping~~) requirements in (b)(i) and (ii) of this subsection;

(2) **You must deliver account statements to each limited partner (or member or other beneficial owner).** If you are an investment adviser registered or required to be registered under RCW 21.20.040 and you are an investment adviser to a limited partnership (or managing member of a limited liability company, or hold a comparable position for another type of pooled investment vehicle), you must:

(a) Send the account statements required under WAC 460-24A-105 to each limited partner (or member or other beneficial owner). If the limited partners (or members or other beneficial owners) are themselves limited partnerships (or limited liability companies, or another type of pooled investment vehicle) that are your related persons, you must send the account statements required under WAC 460-24A-105 to each beneficial owner of the fund that is unrelated to you; and

(b) Include the following information in the account statements, which will satisfy the requirements under WAC 460-24A-105 (4)(a) and (b)(i):

(i) The total amount of all additions to and withdrawals from the fund as a whole as well as the opening and closing net asset value of the fund at the end of the quarter based on the fund's governing documents;

(ii) A listing of the fund's long and short positions, including cash equivalent positions, on the closing date of the statement in a form and to the extent required by FASB Rule ASC 946-210-50; and

(iii) The total amount of additions to and withdrawals from the fund by the investor as well as the total value of the investor's interest in the fund at the end of the quarter.

(3) **If you engage an independent party, you are not required to comply with the net worth and bonding requirements for an investment adviser that has custody.** If you have custody solely as defined in WAC 460-24A-005 (~~(+)~~) (6)(a)(iii) and you comply with the safekeeping requirements in WAC 460-24A-105 and subsection (1)(a) of this section, you are not required to comply with the net worth and bonding requirements for an investment adviser that has custody set forth in WAC 460-24A-170.

(4) **If you distribute audited financial statements of the pooled investment vehicle to all beneficial owners, you are not required to comply with the surprise examination requirements.** You are not required to comply with the surprise examination requirements set forth in WAC 460-24A-105 (4)(b)(ii) with respect to the account of a limited partnership (or limited liability company, or another type of pooled investment vehicle) that is subject to audit if you otherwise comply with the safekeeping requirements in WAC 460-24A-105 and subsection (1)(b) of this section.

(5) **If you distribute audited financial statements of the pooled investment vehicle to all beneficial owners, you are not required to file an audited balance sheet.** If you have custody solely as defined in WAC 460-24A-005 ((+)) (6)(a)(iii), you are not required to comply with the requirement to file an audited balance sheet as set forth in WAC 460-24A-060(1) if you comply with WAC 460-24A-060(3), the safekeeping requirements in WAC 460-24A-105, and subsections (1)(b) and (2) of this section.

AMENDATORY SECTION (Amending WSR 14-13-068, filed 6/12/14, effective 7/13/14)

WAC 460-24A-108 Additional custody requirements for an investment adviser that acts as trustee and investment adviser to a trust. If you are an investment adviser registered or required to be registered under RCW 21.20.040 that acts as an investment adviser to a trust and the trust has retained you or one of your representatives, employees, directors, or owners as trustee, you must comply with the following requirements:

(1) **You must send invoices to the qualified custodian and a person connected to the trust at the same time.** You must send to the grantor of the trust, the attorney for the trust if it is a testamentary trust, the co-trustee (other than you or one of your representatives, employees, directors, or owners); or a defined beneficiary of the trust, at the same time that you send any invoice to the qualified custodian, an invoice showing the amount of the trustees' fee or investment management or advisory fee, the value of the assets on which the fees were based, and the specific manner in which the fees were calculated.

(2) **You must have an agreement with a qualified custodian that contains certain terms.** You must enter into a written agreement with a qualified custodian that complies with the following requirements:

(a) **The agreement must restrict payments to you or persons related to you.** The agreement must specify that the qualified custodian will neither deliver trust securities nor transmit any funds to you or one of your representatives, employees, directors, or owners, except that the qualified custodian may pay trustees' fees to the trustee and investment management or advisory fees to you, provided that:

(i) The grantor of the trust or attorneys for the trust, if it is a testamentary trust, the co-trustee (other than you or one of your representatives, employees, directors, or owners), or a defined beneficiary of the trust has authorized the qualified custodian in writing to pay those fees;

(ii) The statements for those fees show the amount of the fees for the trustee and, in the case of statements for invest-

ment management or advisory fees, show the value of the trust assets on which the fee is based and the manner in which the fee was calculated; and

(iii) The qualified custodian agrees to send to the grantor of the trust, the attorneys for a testamentary trust, the co-trustee (other than you or one of your representatives, employees, directors, or owners); or a defined beneficiary of the trust, at least quarterly, a statement of all disbursements from the account of the trust, including the amount of investment management fees paid to you and the amount of trustees' fees paid to the trustee.

(b) **The agreement must restrict the transfer of funds or securities.** Except as otherwise set forth in subsection (1)(b)(i) of this section, the agreement must specify that the qualified custodian may transfer funds or securities, or both, of the trust only upon the direction of the trustee (who may be you or one of your representatives, employees, directors, or owners), who you have duly accepted as an authorized signatory. The grantor of the trust or attorneys for the trust, if it is a testamentary trust, the co-trustee (other than you or one of your representatives, employees, directors, or owners), or a defined beneficiary of the trust, must designate the authorized signatory for management of the trust. The agreement must further specify that the direction to transfer funds or securities, or both, can only be made to the following:

(i) To a trust company, bank trust department or brokerage firm independent from you for the account of the trust to which the assets relate;

(ii) To the named grantors or to the named beneficiaries of the trust;

(iii) To a third person independent from you in payment of the fees or charges of the third person including, but not limited to:

(A) Attorney's, accountant's, or qualified custodian's fees for the trust; and

(B) Taxes, interest, maintenance, or other expenses, if there is property other than securities or cash owned by the trust;

(iv) To third persons independent from you for any other purpose legitimately associated with the management of the trust; or

(v) To a broker-dealer in the normal course of portfolio purchases and sales, provided that the transfer is made on payment against delivery basis or payment against trust receipt.

(3) **You must notify the director that you will comply with these ((safekeeping)) requirements.** You must notify the director on Form ADV that you will comply with the ((safekeeping)) requirements set forth in this section.

(4) **You are not required to comply with the net worth and bonding requirements for an investment adviser that has custody if you comply with these ((safekeeping)) requirements.** If you have custody solely as defined in WAC 460-24A-005 ((+)) (6)(a)(iii) because you are the trustee of a trust and you comply with the ((safekeeping)) requirements in WAC 460-24A-105 and this section, you are not required to comply with the net worth and bonding requirements for an investment adviser that has custody set forth in WAC 460-24A-170.

AMENDATORY SECTION (Amending WSR 14-13-068, filed 6/12/14, effective 7/13/14)

WAC 460-24A-109 Exceptions from custody requirements. Exceptions from the custody requirements for investment advisers that are registered or required to be registered under RCW 21.20.040 are available in the following circumstances:

(1)(a) **You are not required to engage a qualified custodian to hold certain privately offered securities.** You are not required to comply with WAC 460-24A-105(2) with respect to securities that are:

(i) Acquired from the issuer in a transaction or chain of transactions not involving any public offering;

(ii) Uncertificated, and ownership thereof is recorded only on books of the issuer or its transfer agent in the name of the client; and

(iii) Transferable only with prior consent of the issuer or holders of the outstanding securities of the issuer.

(b) Notwithstanding (a) of this subsection, the provisions of this subsection (1) are available with respect to securities held for the account of a limited partnership (or limited liability company, or other type of pooled investment vehicle) only if you comply with the requirements in WAC 460-24A-107 (1)(b).

(2) **You are not required to comply with the custody requirements with respect to the account of a registered investment company.** You are not required to comply with WAC 460-24A-105 through 460-24A-108 with respect to the account of an investment company registered under the Investment Company Act of 1940, 15 U.S.C. 80a-1 to 80a-64.

(3) **You are not required to comply with the custody requirements with respect to a trust for the benefit of your relative.** You are not required to comply with the ((safekeeping)) requirements of WAC 460-24A-105 through 460-24A-108 or the net worth and bonding requirements for an investment adviser that has custody set forth in WAC 460-24A-170 if you have custody solely because you or one of your representatives, employees, directors, or owners is a trustee for a beneficial trust, if all of the following conditions are met for each trust:

(a) The beneficial owner of the trust is your parent, a grandparent, a spouse or domestic partner, a sibling, a child, ((or)) a grandchild, an aunt, an uncle, a niece, a nephew, or a first cousin. These relationships ((shall)) include "step" relationships.

(b) For each account under (a) of this subsection, you comply with the following:

(i) You provide a written statement to each beneficial owner of the account setting forth a description of the requirements of WAC 460-24A-105 through 460-24A-108 and WAC 460-24A-170 and the reasons why you will not be complying with those requirements;

(ii) You obtain from each beneficial owner a signed and dated statement acknowledging the receipt of the written statement required under (b)(i) of this subsection; and

(iii) You maintain a copy of both documents described in (b)(i) and (ii) of this subsection until the account is closed or you are no longer trustee.

AMENDATORY SECTION (Amending WSR 14-13-068, filed 6/12/14, effective 7/13/14)

WAC 460-24A-110 Agency cross transactions. (1) For purposes of this rule, "agency cross transaction for an advisory client" means a transaction in which a person acts as an investment adviser in relation to a transaction in which the investment adviser, or any person controlling, controlled by, or under common control with such investment adviser, including an investment adviser representative, acts as a broker-dealer for both the advisory client and another person on the other side of the transaction. When acting in such capacity such person is required to be registered as a broker-dealer in this state unless excluded from the definition.

(2) If you are an investment adviser or investment adviser representative, it ((shall be)) is unlawful for you to effect an agency cross transaction for an advisory client under RCW 21.20.020(2) unless you satisfy these conditions:

(a) You obtain the written consent of the advisory client prospectively authorizing you to effect agency cross transactions for such client;

(b) Before obtaining such written consent from the client, you make full written disclosure to the client that, with respect to agency cross transactions, you will act as broker-dealer for, receive commissions from and have a potentially conflicting division of loyalties and responsibilities regarding both parties to the transactions;

(c) At or before the completion of each agency cross transaction, you or any other person relying on this rule sends the client a written confirmation. You must include the following in the written confirmation:

(i) A statement of the nature of the transaction;

(ii) The date the transaction took place;

(iii) An offer to furnish, upon request, the time when the transaction took place; and

(iv) The source and amount of any other remuneration the investment adviser received or will receive in connection with the transaction. In the case of a purchase, if the investment adviser was not participating in a distribution, or, in the case of a sale, if the investment adviser was not participating in a tender offer, the written confirmation may state whether the investment adviser has been receiving or will receive any other remuneration and that the investment adviser will furnish the source and amount of such remuneration to the client upon the client's written request;

(3) At least annually, and with or as part of any written statement or summary of the account from the investment adviser, the investment adviser or any other person relying on this rule sends each client a written disclosure statement identifying:

(a) The total number of agency cross transactions during the period for the client since the date of the last such statement or summary; and

(b) The total amount of all commissions or other remuneration the investment adviser received or will receive in connection with agency cross transactions for the client during the period.

(4) Each written disclosure and confirmation required by this rule must include a conspicuous statement that the client may revoke the written consent required under subsection

(2)(a) of this section at any time by providing written notice to the investment adviser.

(5) No agency cross transaction may be effected in which the same investment adviser recommended the transaction to both any seller and any purchaser.

(6) Nothing in this rule (~~shall~~) will be construed to relieve an investment adviser or investment adviser representative from acting in the best interest of the client, including fulfilling his duty with respect to the best price and execution for the particular transaction for the client nor (~~shall~~) will it relieve any investment adviser or investment adviser representative of any other disclosure obligations imposed by the Securities Act of Washington, chapter 21.20 RCW, and the rules and regulations thereunder.

AMENDATORY SECTION (Amending WSR 14-13-068, filed 6/12/14, effective 7/13/14)

WAC 460-24A-120 Compliance procedures and practices. If you are an investment adviser registered or required to be registered under RCW 21.20.040, (~~or a federal covered adviser,~~) and have more than one employee, it is unlawful under RCW 21.20.020 for you to provide investment advice to clients unless you:

(1) **Policies and procedures.** (~~Adopt and implement~~) Establish, maintain, and enforce written policies and procedures reasonably designed to prevent violation, by you and your supervised persons, of the Securities Act of Washington, chapter 21.20 RCW, and the rules adopted thereunder, and the federal securities laws;

(2) **Annual review of policies and procedures.** Review, no less frequently than annually, the adequacy of the policies and procedures established pursuant to this section and the effectiveness of their implementation; (~~and~~)

(3) **Chief compliance officer.** Designate an individual responsible for administering the policies and procedures that you adopt under subsection (1) of this section and under WAC 460-24A-122, 460-24A-125, 460-24A-126, 460-24A-200 (1)(t), (aa), and (bb); and

(4) You must tailor the policies and procedures required by this section to the facts and circumstances of your business model, taking into account the size of your firm, the type(s) of services you provide, and the number of locations that you have.

NEW SECTION

WAC 460-24A-122 Material nonpublic information policies and procedures. If you are an investment adviser registered or required to be registered under RCW 21.20.040, it is unlawful under RCW 21.20.020 for you to provide investment advice to clients unless you comply with the following requirements:

(1) You must establish, maintain, and enforce written policies and procedures reasonably designed to prevent the misuse of material, nonpublic information by you or any person associated with you;

(2) You must review, no less frequently than annually, the adequacy of the policies and procedures established pursuant to this section and the effectiveness of its implementation; and

(3) You must tailor the policies and procedures required by this section to the facts and circumstances of your business model, taking into account the size of your firm, the type(s) of services you provide, and the number of locations that you have.

AMENDATORY SECTION (Amending WSR 14-13-068, filed 6/12/14, effective 7/13/14)

WAC 460-24A-125 Proxy voting. If you are an investment adviser registered or required to be registered under RCW 21.20.040, (~~or a federal covered adviser,~~) it is unlawful under RCW 21.20.020 for you to have or to exercise voting authority with respect to client securities, unless you:

(1) (~~Adopt and implement~~) Establish, maintain, and enforce written policies and procedures that are reasonably designed to ensure that you vote client securities in the best interest of clients, which procedures must include how you address material conflicts that may arise between your interests and those of your clients;

(2) Disclose to clients how they may obtain information from you about how you voted with respect to their securities; and

(3) Describe to clients your proxy voting policies and procedures and, upon request, furnish a copy of the policies and procedures to the requesting client.

NEW SECTION

WAC 460-24A-126 Business continuity and succession plan. If you are an investment adviser registered or required to be registered pursuant to RCW 21.20.040, it is unlawful under RCW 21.20.020 for you to provide investment advice to clients unless you comply with the following requirements:

(1) You must establish, maintain, and enforce written procedures relating to a business continuity and succession plan. The business continuity and succession plan must provide for at least the following:

(a) The protection, backup, and recovery of books and records;

(b) Alternate means of communications with customers, key personnel, employees, vendors, service providers (including third-party custodians), and regulators including, but not limited to, providing notice of a significant business interruption or the death or unavailability of key personnel or other disruptions or cessation of business activities;

(c) Office relocation in the event of temporary or permanent loss of a principal place of business;

(d) Assignment of duties to qualified responsible persons in the event of the death or unavailability of key personnel; and

(e) Otherwise minimizing service disruption and client harm that could result from a sudden, significant business interruption.

(2) You must review, no less frequently than annually, the adequacy of the business continuity and succession plan established pursuant to this section and the effectiveness of its implementation.

(3) You must tailor the business continuity and succession plan required by this section to the facts and circum-

stances of your business model, taking into account the size of your firm, the type(s) of services you provide, and the number of locations that you have.

AMENDATORY SECTION (Amending WSR 14-13-068, filed 6/12/14, effective 7/13/14)

WAC 460-24A-130 Contents of investment advisory contract. If you are an investment adviser registered or required to be registered under RCW 21.20.040, it is unlawful under RCW 21.20.020 and 21.20.030 for you to provide investment advice unless you have a written investment advisory contract with the person you are advising. Further, it is unlawful under RCW 21.20.020 and 21.20.030 for you to enter into, extend, or renew any investment advisory contract unless ((#)) the contract provides in writing:

(1) The services to be provided, the term of the contract, the investment advisory fee, the formula for computing the fee, the amount of prepaid fee to be returned in the event of termination or nonperformance of the contract, and whether and the extent to which the contract grants discretionary authority to you and any limits on such authority. The contract must describe these items with specificity;

(2) A statement that you will make no direct or indirect assignment or transfer of the contract (~~((may be made by you))~~) without the written consent of the client or other party to the contract. You may not assign a contract through implied or negative consent;

(3) A statement that you ((shall)) will not be compensated on the basis of a share of capital gains upon or capital appreciation of the funds or any portion of the funds of the client except as permitted under WAC 460-24A-150;

(4) A statement that if you are a partnership, you ((shall)) must notify the client or other party to the investment contract of any change in the membership of the partnership within a reasonable time after the change;

(5) A statement that if you are an investment adviser who has custody as a consequence of your authority to make withdrawals from client accounts to pay your advisory fee, ((that)) the contract gives you the authority to deduct your advisory fees from the account held with the qualified custodian;

(6) The nature and extent to which you are granted proxy voting authority with respect to client securities;

(7) The terms for termination of the contract;

(8) The nature and extent to which you may deliver electronically the documents specified in WAC 460-24A-145, account statements, fee invoices, and other documents and the extent and manner in which a client may opt out of receiving documents electronically; (~~and~~)

(9) A statement that you must deliver the brochure required by WAC 460-24A-150 to an advisory client or prospective advisory client not less than forty-eight hours prior to entering into any investment advisory contract with such client or prospective client. Alternately, if you will provide the brochure at the time of entering into any such contract, the investment advisory contract must provide that the advisory client has a right to terminate the contract without penalty within five business days after entering into the contract;

(10) A statement that the investment adviser must obtain the client's written consent in order to revise any material terms of the investment advisory contract;

(11) The full legal name of the investment adviser, the contact information for the investment adviser, and an indication of the preferred method for clients to contact the investment adviser;

(12) A statement that the investment adviser owes the client a fiduciary duty; and if the investment adviser manages a pooled investment vehicle, a statement that each investor in the pooled investment vehicle is a client of the investment adviser; and

(13) For clients residing in Washington, the advisory contract ((shall)) must not waive or limit compliance with, or require indemnification for any violations of, any provision of the Securities Act of Washington, chapter 21.20 RCW, or the rules adopted thereunder.

NEW SECTION

WAC 460-24A-135 Dissemination of advisory fee billing information for advisers who do not directly deduct fees. (1) If you are an investment adviser registered or required to be registered pursuant to RCW 21.20.040, it is unlawful under RCW 21.20.020 for you to provide investment advice to clients unless you deliver written billing information to your advisory clients each time you charge an advisory fee. The written billing information must include the fee(s) charged, the formula used to calculate the fee(s), the fee calculation itself, the amount of assets under management the fee is based on, and the time period covered by the fee(s). If you charge performance compensation, the written billing information must also include the client's cumulative net investment gain (or loss) and the amount of cumulative net investment gain over which you will receive performance compensation. You must include the name of the custodian(s) on the fee invoice.

(2) The provision of invoices in accordance with WAC 460-24A-106 (1)(b) will satisfy the requirements of this section.

AMENDATORY SECTION (Amending WSR 14-13-068, filed 6/12/14, effective 7/13/14)

WAC 460-24A-145 Investment adviser brochure rule. (1) **General requirements.** Unless otherwise provided in this rule, if you are an investment adviser registered or required to be registered pursuant to RCW 21.20.040, you (~~((shall))~~) must, in accordance with the provisions of this section, deliver to each advisory client and prospective advisory client:

(a) A brochure which may be a copy of Part 2A of your Form ADV or written documents containing the information required by Part 2A of Form ADV. The brochure must comply with the language, organizational format and filing requirements specified in the Instructions to Form ADV Part 2;

(b) A copy of your Part 2B brochure supplement for each individual:

(i) Providing investment advice and having direct contact with clients in this state; or

(ii) Exercising discretion over assets of clients in this state, even if no direct contact is involved;

(c) A copy of your Part 2A Appendix 1 wrap fee brochure if you sponsor or participate in a wrap fee account;

(d) A summary of material changes, which may be included in Form ADV Part 2 or given as a separate document; and

(e) Such other information as the director may require.

(2) Delivery.

(a) **Initial delivery.** Except as provided in (c) of this subsection, you ~~((shall))~~ must deliver the materials required by this section to an advisory client or prospective advisory client (i) not less than forty-eight hours prior to entering into any investment advisory contract with such client or prospective client, or (ii) at the time of entering into any such contract, if the advisory client has a right to terminate the contract without penalty within five business days after entering into the contract.

(b) **Annual delivery.** Except as provided in ~~((e))~~ (d) of this subsection, if there have been any material changes that have taken place since the last summary and brochure delivery to your clients, you must:

(i) Deliver within one hundred twenty days of the end of your fiscal year a free, updated brochure and related brochure supplements which include or are accompanied by a summary of the material changes; or

(ii) Deliver a summary of material changes that includes an offer to provide a copy of the updated brochure and supplements and information on how the client may obtain a copy of the brochure and supplements. You must mail or deliver any materials requested by the client pursuant to such an offer within seven days of the receipt of the request.

(c) **Other-than-annual delivery.** If the instructions to Form ADV require you to file an other-than-annual amendment, and if the amendment adds disclosure of an event or materially revises information already disclosed about an event in response to Item 9 of Part 2A of Form ADV, or Item 3 of Part 2B of Form ADV, you must promptly deliver the following to each client:

(i) The amended brochure or brochure supplement, along with a statement describing the material change in disciplinary information; or

(ii) A statement describing the material change in disciplinary information and an offer to deliver the amended brochure.

(d) **Exception for certain clients.** You are not required to deliver the materials set forth in (1) of this section to:

(i) Clients receiving advisory services solely pursuant to a contract for impersonal advisory services requiring a payment of less than two hundred dollars;

(ii) An investment company registered under the Investment Company Act of 1940; or

(iii) A business development company as defined in the Investment Company Act of 1940 and whose advisory contract meets the requirements of section 15c of that act.

(3) **Electronic delivery.** You may deliver the materials required by this section electronically if you:

(a) In the case of an initial delivery to a potential client, obtain a verification that readable copies of the materials were received by the client;

(b) In the case of deliveries other than initial deliveries, obtain each client's prior consent to provide the materials electronically;

(c) In the case of deliveries through a passive delivery system such as a web site or portal, you notify the client when the materials become available on the system:

~~((d))~~ (d) Prepare the electronically delivered materials in the format prescribed in ~~((a))~~ subsection (1) of this ~~((subsection))~~ section and the instructions to Form ADV Part 2;

~~((e))~~ (e) Deliver the materials in a format that can be retained by the client in either electronic or paper form; and

~~((f))~~ (f) Establish procedures to supervise personnel transmitting the materials and prevent violations of this rule.

(4) **Delivery to limited partners.** If you are the adviser to a limited partnership, a limited liability company, or a trust, then you must treat each of the partnership's limited partners, the company's members, or the trust's beneficial owners, as a client. For purposes of this section, a limited liability partnership or limited liability limited partnership is a "limited partnership."

(5) **Omission of inapplicable information.** If you render substantially different types of investment advisory services to different advisory clients, you may provide them with different disclosure materials, provided that each client receives all applicable information about services and fees. The disclosure delivered to a client may omit any information required by Part 2 of Form ADV if such information is applicable only to a type of investment advisory service or fee which is not rendered or charged, or proposed to be rendered or charged, to that client or prospective client.

(6) **Other disclosure obligations.** Nothing in this section ~~((shall))~~ relieves you from any obligation to disclose any information to your advisory clients or prospective advisory clients not specifically required by this rule under chapter 21.20 RCW, the rules and regulations thereunder, or any other federal or state law.

(7) **Definitions.** For the purposes of this rule:

(a) "Contract for impersonal advisory services" means any contract relating solely to the provision of investment advisory services:

(i) By means of written material or oral statements which do not purport to meet the objectives or needs of specific individuals or accounts;

(ii) Through the issuance of statistical information containing no expression of opinion as to the investment merits of a particular security; or

(iii) Any combination of the foregoing services.

(b) "Entering into," in reference to an investment advisory contract, does not include an extension or renewal without material change of any such contract which is in effect immediately prior to such extension or renewal.

AMENDATORY SECTION (Amending WSR 14-13-068, filed 6/12/14, effective 7/13/14)

WAC 460-24A-150 Performance compensation arrangements. (1) **General.** If you are an investment adviser you may, without violating RCW 21.20.030(1), enter into, extend, or renew an investment advisory contract which provides for compensation to you on the basis of a share of cap-

ital gains upon or capital appreciation of the funds, or any portion of the funds, of the client if:

(a) You are an investment adviser who is not registered and is not required to be registered under RCW 21.20.040; or

(b) The client is a "qualified client" as defined in subsection (2) of this section and the conditions of subsections (3) through (8) of this section are met.

(2) **Definitions.** For the purposes of this section:

(a) The term "qualified client" means:

(i) A natural person who, or a company that, immediately after entering into the contract has at least one million dollars under the management of the investment adviser;

(ii) A natural person who, or a company that, the investment adviser entering into the contract (and any person acting on his or her behalf) reasonably believes, immediately prior to entering into the contract, either:

(A) Has a net worth (together, in the case of a natural person, with assets held jointly with a spouse) of more than ~~((two))~~ 2.1 million dollars. For purposes of calculating a natural person's net worth:

(I) The person's primary residence must not be included as an asset;

(II) Indebtedness secured by the person's primary residence, up to the estimated fair market value of the primary residence at the time the investment advisory contract is entered into may not be included as a liability (except that if the amount of such indebtedness outstanding at the time of calculation exceeds the amount outstanding sixty days before such time, other than as a result of the acquisition of the primary residence, the amount of such excess must be included as a liability); and

(III) Indebtedness that is secured by the person's primary residence in excess of the estimated fair market value of the residence must be included as a liability; or

(B) Is a qualified purchaser as defined in section 2 (a)(51)(A) of the Investment Company Act of 1940 (15 U.S.C. 80a-2 (a)(51)(A)) at the time the contract is entered into; or

(iii) A natural person who immediately prior to entering into the contract is:

(A) An executive officer, director, trustee, general partner, or person serving in a similar capacity, of the investment adviser; or

(B) An employee of the investment adviser (other than an employee performing solely clerical, secretarial, or administrative functions with regard to the investment adviser) who, in connection with his or her regular functions or duties, participates in the investment activities of such investment adviser, provided that such employee has been performing such functions and duties for or on behalf of the investment adviser, or substantially similar functions or duties for or on behalf of another company for at least twelve months.

(b) The term "company" has the same meaning as in section 202 (a)(5) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2 (a)(5)), but does not include a company that is required to be registered under the Investment Company Act of 1940 but is not registered.

(c) The term "private investment company" means a company that would be defined as an investment company under section 3(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(a)) but for the exception provided from that definition by section 3 (c)(1) of such Act (15 U.S.C. 80a-3 (c)(1)).

(d) The term "executive officer" means the president, any vice president in charge of a principal business unit, division or function (such as sales, administration, or finance), any other officer who performs a policy-making function, or any other person who performs similar policy-making functions, for the investment adviser.

(3) **Compensation formula.** The compensation paid to you with respect to the performance of any securities over a given period must be based on a formula with the following characteristics:

(a) In the case of securities for which market quotations are readily available within the meaning of ~~((Rule 2a-4(a)(1)))~~ Securities and Exchange Commission Rule 2a-4 (a)(1) under the Investment Company Act of 1940 (Definition of "Current Net Asset Value" for Use in Computing Periodically the Current Price of Redeemable Security), 17 C.F.R. 270.2a-4 (a)(1), as amended effective February 7, 2014, the formula must include the realized capital losses and unrealized capital depreciation of the securities over the period;

(b) In the case of securities for which market quotations are not readily available within the meaning of Securities and Exchange Commission Rule 2a-4 (a)(1) under the Investment Company Act of 1940, 17 C.F.R. 270.2a-4 (a)(1), as amended effective February 7, 2014, the formula must include:

(i) The realized capital losses of securities over the period;

(ii) If the unrealized capital appreciation of the securities over the period is included, the unrealized capital depreciation of the securities over the period; ~~((and))~~

(c) The formula must provide that any compensation paid to you under this section is based on the gains less the losses (computed in accordance with (a) and (b) of this subsection) in the client's account ~~((for a period of not less than one year))~~ over a specified period. The formula must not calculate the compensation more frequently than once per calendar quarter. However, if your client invests mid-period in a private fund that you manage, you may apply the compensation formula to that client for the partial period in order to keep the client on the same schedule as the other clients who invest in the private fund; and

(d) The formula must reflect that you will only receive performance compensation on the client's cumulative net investment gain, and only upon the amount of the client's cumulative net investment gain for which you have not previously received a performance fee.

(4) **Client disclosure.** To the extent not otherwise disclosed on Form ADV Part 2, you must disclose in writing to the client all material information concerning the proposed advisory arrangement, including the following:

(a) That the fee arrangement may create an incentive for the investment adviser to make investments that are riskier or

more speculative than would be the case in the absence of a performance fee;

(b) Where relevant, that the investment adviser may receive increased compensation with regard to unrealized appreciation as well as realized gains in the client's account;

(c) The period which will be used to measure investment performance throughout the contract and their significance in the computation of the fee;

(d) The nature of any index which will be used as a comparative measure of investment performance, the significance of the index, and the reason the investment adviser believes that the index is appropriate; and

(e) Where your compensation is based in part on the unrealized appreciation of securities for which market quotations are not readily available within the meaning of Securities and Exchange Commission Rule 2a-4 (a)(1) under the Investment Company Act of 1940, 17 C.F.R. 270.2a-4 (a)(1), as amended effective February 7, 2014, how the securities will be valued and the extent to which the valuation will be independently determined.

(5) **Equity owners.** In the case of a private investment company, as defined in subsection (2)(c) of this rule, an investment company registered under the Investment Company Act of 1940, or a business development company, as defined in section 202 (a)(22) of the Investment Advisers Act of 1940, each equity owner of any such company (except for the investment adviser entering into the contract and any other equity owners not charged a fee on the basis of a share of capital gains or capital appreciation) will be considered a client for the purposes of subsection (1) of this rule.

(6) **Informed consent.** You or any of your investment adviser representatives that enter into a contract under this rule, must reasonably believe, immediately before entering into the contract that the contract represents an arm's length arrangement between the parties and that the client, alone or together with the client's independent agent, understands the proposed method of compensation and its risks.

(7) **Nonexclusive.** Any person entering into or performing an investment advisory contract under this section is not relieved of any obligations under RCW 21.20.020 or any other applicable provision of the Securities Act of Washington, chapter 21.20 RCW, or any rule or order thereunder.

(8) **Obligations of independent representative.** Nothing in this section (~~shall~~) relieves a client's independent representative from any obligation to the client under applicable law.

(9) **Transition rules.**

(a) **Registered investment advisers.** If you are a registered investment adviser that entered into a contract and satisfied the conditions of this section that were in effect when the contract was entered into, you will be considered to satisfy the conditions of this section. If a natural person or company who was not a party to the contract becomes a party (including an equity owner of a private investment company advised by the adviser), however, the conditions of this section in effect at that time will apply with regard to that person or company.

(b) **Registered investment advisers that were previously not registered.** This section (~~shall~~) does not apply to an advisory contract entered into when you were not required

to register and were not registered. If a natural person or a company who was not a party to the contract becomes a party (including an equity owner of a private investment company advised by the adviser) when you are registered or required to register, however, the conditions of this section in effect at that time will apply with regard to that person or company.

(c) **Certain transfers of interest.** Solely for purposes of (a) and (b) of this subsection, a transfer of an equity ownership interest in a private investment company by gift or bequest, or pursuant to an agreement related to a legal separation or divorce, will not cause the transferee to "become a party" to the contract and will not cause this section to apply to such transferee.

AMENDATORY SECTION (Amending WSR 14-13-068, filed 6/12/14, effective 7/13/14)

WAC 460-24A-170 Minimum (~~financial~~) net worth requirements for investment advisers. (1) If you are an investment adviser registered or required to be registered under RCW 21.20.040, who has custody of client funds or securities, you (~~shall~~) must maintain at all times a minimum net worth of \$35,000 unless provided otherwise in this chapter. If you are an investment adviser registered or required to be registered under RCW 21.20.040, who has discretionary authority over client funds or securities, but does not have custody of client funds or securities, you (~~shall~~) must maintain at all times a minimum net worth of \$10,000.

(2) If you are an investment adviser registered or required to be registered under RCW 21.20.040 who has custody or discretionary authority over client funds or securities, but does not meet the minimum net worth requirements in subsection (1) of this section you (~~shall~~) must maintain a bond in the amount of the net worth deficiency rounded up to the nearest \$5,000. Any bond required by this section (~~shall~~) must be in the form determined by the director, issued by a company qualified to do business in this state, and (~~shall~~) must be subject to the claims of all clients of the investment adviser regardless of the clients' states of residence.

(3) If you are an investment adviser registered or required to be registered under RCW 21.20.040, you (~~shall~~) must maintain at all times a positive net worth.

(4) Unless otherwise exempted, as a condition of the right to transact business in this state, if you are an investment adviser registered or required to be registered under RCW 21.20.040 you (~~shall~~) must, by the close of business on the next business day, notify the director if your net worth is less than the minimum required. After transmitting such notice, you (~~shall~~) must file, by the close of business on the next business day, a report with the director of its financial condition, including the following:

- (a) A trial balance of all ledger accounts;
- (b) A statement of all client funds or securities which are not segregated;
- (c) A computation of the aggregate amount of client ledger debit balances; and
- (d) A statement as to the number of client accounts.

(5) For purposes of this section, the term "net worth" (~~shall~~) means an excess of assets over liabilities, as deter-

mined by generally accepted accounting principles, but ~~((shall))~~ does not include the following as assets:

(a) Prepaid expenses (except as to items properly classified as assets under generally accepted accounting principles in the United States), deferred charges, goodwill, franchise rights, organizational expenses, patents, copyrights, marketing rights, unamortized debt discount and expense, and all other assets of intangible nature; and

(b) In the case of an individual: Primary residence, home furnishings, automobile(s), and any other personal items not readily marketable (~~((in the case of an individual))~~);

(c) In the case of a corporation: Advances or loans to stockholders and officers (~~((in the case of a corporation; and))~~);

(d) In the case of a partnership: Advances or loans to partners (~~((in the case of a partnership))~~); and

(e) For limited liability companies: Advances or loans to members and managers.

(6) For purposes of this section, if you are an investment adviser you ~~((shall))~~ will not be deemed to be exercising discretion when you place trade orders with a broker-dealer pursuant to a third-party trading agreement if:

(a) You have executed an investment adviser contract exclusively with your client which acknowledges that a third-party trading agreement will be executed to allow you to effect securities transactions for your client in your client's broker-dealer account;

(b) Your contract specifically states that your client does not grant discretionary authority to you and you in fact do not exercise discretion with respect to the account; and

(c) A third-party trading agreement is executed between your client and a broker-dealer which specifically limits your authority in your client's broker-dealer account to the placement of trade orders and deduction of investment adviser fees.

(7) The director may require that a current appraisal be submitted in order to establish the worth of any asset for the purposes of meeting the minimum net worth requirements in subsection (1) of this section or the positive net worth requirement in subsection (3) of this section.

(8) If you are an investment adviser that has its principal place of business in a state other than this state, you ~~((shall))~~ must maintain only such minimum net worth as required by the state in which you maintain your principal place of business, provided you are ~~((licensed))~~ registered in that state and are in compliance with that state's minimum capital requirements.

NEW SECTION

WAC 460-24A-190 Training regarding vulnerable adults. If you are an investment adviser registered or required to be registered pursuant to RCW 21.20.040, or a federal covered adviser, it is unlawful under RCW 21.20.020 for you to provide investment advice to clients unless you provide training concerning financial exploitation of vulnerable adults pursuant to RCW 74.34.220. You must provide the training to your investment adviser representatives and to your employees who have contact with clients and access to account information on a regular basis and as part of their jobs. The training must include recognition of indicators of

financial exploitation of a vulnerable adult, the manner in which employees may report suspected financial exploitation to the department of social and health services and law enforcement as permissive reporters, and steps employees may take to prevent suspected financial exploitation of a vulnerable adult as authorized by law or agreements between you and your clients.

AMENDATORY SECTION (Amending WSR 14-13-068, filed 6/12/14, effective 7/13/14)

WAC 460-24A-200 Books and records to be maintained by investment advisers. (1) If you are an investment adviser registered or required to be registered pursuant to RCW 21.20.040, you ~~((shall))~~ must make and keep true, accurate, and current the following books, ledgers, and records:

(a) A journal or journals, including cash receipts and disbursement records, and any other records of original entry forming the basis of entries in any ledger.

(b) General and auxiliary ledgers (or other comparable records) reflecting asset, liability, reserve, capital, income and expense accounts.

(c) A memorandum of each order given by you for the purchase or sale of any security, of any instruction received by you from a client concerning the purchase, sale, receipt or delivery of a particular security, and of any modification or cancellation of any such order or instruction. The memoranda ~~((shall))~~ must show the terms and conditions of the order, instruction, modification or cancellation; ~~((shall))~~ must identify the person connected with you who recommended the transaction to the client and the person who placed the order; and ~~((shall))~~ must show the account for which entered, the date of entry, and the bank or broker-dealer by or through whom executed where appropriate. Orders entered pursuant to the exercise of a power of attorney ~~((shall))~~ must be so designated.

(d) All check books, bank statements, canceled checks and cash reconciliations of the investment adviser.

(e) All bills or statements (or copies thereof), paid or unpaid, relating to your business.

(f) All trial balances, financial statements, and internal audit working papers or other supporting financial records relating to your business as an investment adviser. For purposes of this subsection, "financial statements" ~~((shall))~~ means a balance sheet prepared in accordance with generally accepted accounting principles in the United States, an income statement, a cash flow statement, and a net worth computation, if applicable, as required by WAC 460-24A-170.

(g) ~~((Originals))~~ Physical or electronic copies of all written communications received and copies of all written communications sent by you relating to your investment advisory business including, but not limited to:

(i) Any recommendation made or proposed to be made and any advice given or proposed to be given;

(ii) Any receipt, disbursement or delivery of funds or securities; and

(iii) The placing or execution of any order to purchase or sell any security: Provided, however, That you ~~((shall))~~ will

not be required to keep any unsolicited market letters and other similar communications of general public distribution not prepared by or for you: And provided, That if you send any notice, circular or other advertisement offering any report, analysis, publication or other investment advisory service to more than ten persons, you ((shall)) will not be required to keep a record of the names and addresses of the persons to whom it was sent, except that if such notice, circular or advertisement is distributed to persons named on any list, you ((shall)) must retain with the copy of such notice, circular or advertisement a memorandum describing the list and the source thereof.

(h) A list or other record of all accounts in which you are vested with any discretionary authority over the funds, securities or transactions of any client.

(i) A copy of all powers of attorney and other evidences of the granting of any discretionary authority by any client to you.

(j) A written copy of each signed agreement entered into by you with any client and all other written agreements otherwise relating to your business as an investment adviser.

(k) A file containing a copy of each notice, circular, advertisement, newspaper article, investment letter, bulletin or other communication, including by electronic media, and all amendments thereto, that you circulate or distribute, directly or indirectly, to two or more persons (other than persons connected with you), and if such communication recommends the purchase or sale of a specific security and does not state the reasons for the recommendation, a memorandum by you indicating the reasons for the recommendation.

(l)(i) A record of every transaction in a security in which you or any of your advisory representatives has, or by reason of such transaction acquires, any direct or indirect beneficial ownership, except:

(A) Transactions effected in any account over which neither you nor any of your advisory representatives has any direct or indirect influence or control; and

(B) Transactions in securities which are direct obligations of the United States.

The record ((shall)) must state the title and amount of the security involved; the date and nature of the transaction (i.e., purchase, sale or other acquisition or disposition); the price at which it was effected; and the name of the broker-dealer or bank with or through whom the transaction was effected. The record may also contain a statement declaring that the reporting or recording of any such transaction ((shall)) will not be construed as an admission that you or your advisory representative has any direct or indirect beneficial ownership in the security. You ((shall)) must record each transaction not later than ten days after the end of the calendar quarter in which the transaction was effected.

(ii) For the purposes of this subsection (1)(l), the following definitions will apply:

(A) "Advisory representative" ((shall)) means any of your partners, officers or directors; any employee who participates in any way in the determination of which recommendations ((shall)) will be made, or whose functions or duties relate to the determination of which recommendation ((shall)) will be made; any employee who, in connection with his or her duties, obtains any information concerning which

securities are being recommended prior to the effective dissemination of the recommendations; and any of the following persons who obtain information concerning securities recommendations being made by you prior to the effective dissemination of the recommendations:

(I) Any person in a control relationship to you;

(II) Any affiliated person of a controlling person; and

(III) Any affiliated person of an affiliated person.

(B) "Control" ((shall)) means the power to exercise a controlling influence over the management or policies of a company, unless such power is solely the result of an official position with such company. Any person who owns beneficially, either directly or through one or more controlled companies, more than twenty-five percent of the voting securities of a company ((shall)) will be presumed to control such company.

(ii) You ((shall)) will not be deemed to have violated the provisions of this subsection (1) because of the failure to record securities transactions of any ((~~advisory representative~~)) supervised person if you establish that you instituted adequate procedures, and used reasonable diligence to obtain promptly, reports of all transactions required to be recorded.

(m)(i) Notwithstanding the provisions of (l) of this subsection, if you are primarily engaged in a business or businesses other than advising investment advisory clients, you must maintain a record of every transaction in a security in which you or any of your advisory representatives (as hereinafter defined) has, or by reason of any transaction acquires, any direct or indirect beneficial ownership, except:

(A) Transactions effected in any account over which neither you nor any of your advisory representatives has any direct or indirect influence or control; and

(B) Transactions in securities which are direct obligations of the United States.

The record ((shall)) must state the title and amount of the security involved; the date and nature of the transaction (i.e., purchase, sale, or other acquisition or disposition); the price at which it was effected; and the name of the broker-dealer or bank with or through whom the transaction was effected. The record may also contain a statement declaring that the reporting or recording of any transaction shall not be construed as an admission that you or any of your advisory representatives has any direct or indirect beneficial ownership in the security. You ((shall)) must record a transaction not later than ten days after the end of the calendar quarter in which the transaction was effected.

(ii) You are "primarily engaged in a business or businesses other than advising investment advisory clients" if, for each of your most recent three fiscal years or for the period of time since organization, whichever is lesser, you derived, on an unconsolidated basis, more than fifty percent of:

(A) Your total sales and revenues; and

(B) Your income (or loss) before income taxes and extraordinary items, from such other business or businesses.

(iii) For purposes of this subsection (1)(m) of this section the following definitions will apply:

(A) "Advisory representative," when used in connection with a company primarily engaged in a business or businesses other than advising investment advisory clients, ((shall)) means any partner, officer, director, or employee of

the investment adviser who participates in any way in the determination of which recommendation shall be made, or whose functions or duties relate to the determination of which securities are being recommended prior to the effective dissemination of the recommendations; and any of the following persons who obtain information concerning securities recommendations being made by the investment adviser prior to the effective dissemination of the recommendations or of the information concerning the recommendations:

(I) Any person in a control relationship to the investment adviser;

(II) Any affiliated person of a controlling person; and

(III) Any affiliated person of an affiliated person.

(B) "Control" ((shall)) will be presumed to control such company, unless such power is solely the result of an official position with such company. Any person who owns beneficially, either directly or through one or more controlled companies, more than twenty-five percent of the voting securities of a company ((shall)) will be presumed to control such company.

(iv) You ((shall)) will not be deemed to have violated the provisions of this subsection (1)(m) because of your failure to record securities transactions of any advisory representative if you establish that you instituted adequate procedures, and used reasonable diligence to obtain promptly, reports of all transactions required to be recorded.

(n) The following items related to WAC 460-24A-145 and Part 2 of Form ADV:

(i) A copy of each written statement, and each amendment or revision, given or sent to any of your clients or prospective clients as required by WAC 460-24A-145;

(ii) Any summary of material changes that is required by Part 2 of Form ADV that is not included in the written statement; and

(iii) A record of the dates that each written statement, each amendment or revision thereto, and each summary of material changes was given or offered to any client or prospective client who subsequently becomes a client.

(o) For each client that you obtained by means of a solicitor to whom you paid a cash fee:

(i) Evidence of a written agreement to which you are a party related to the payment of such fee;

(ii) A signed and dated acknowledgment of receipt from the client evidencing the client's receipt of your disclosure statement and a written disclosure statement of the solicitor; and

(iii) A copy of the solicitor's written disclosure statement. The written agreement, acknowledgment, and solicitor disclosure statement will be considered to be in compliance if such documents are in compliance with Rule 275.206 (4)-3 of the Investment Advisers Act of 1940.

For purposes of this subsection, the term "solicitor" ((shall)) means any person or entity who, for compensation, acts as an agent of an investment adviser in referring potential clients.

(p) All accounts, books, internal working papers, and any other records or documents that are necessary to form the basis for or demonstrate the calculation of the performance or rate of return of all managed accounts or securities recom-

mendations in any notice, circular, advertisement, newspaper article, investment letter, bulletin, or other communication including, but not limited to, electronic media that you circulate or distribute, directly or indirectly, to two or more persons (other than persons connected with you); provided however, that, with respect to the performance of managed accounts, the retention of all account statements, if they reflect all debits, credits, and other transactions in a client's account for the period of the statement, and all worksheets necessary to demonstrate the calculation of the performance or rate of return of all managed accounts ((shall)) will be deemed to satisfy the requirements of this subsection.

(q) A file containing a copy of all written communications received or sent regarding any litigation involving you or any investment adviser representative or employee, and regarding any written customer or client complaint.

(r) Written information about each investment advisory client that is the basis for making any recommendation or providing any investment advice to such client. The written information about the investment advisory client must include, but is not limited to, the client's age, other investments, financial situation and needs, tax status, investment objectives, investment experience, investment time horizon, liquidity needs, risk tolerance, and any other information the client may disclose to the investment adviser in connection with such recommendation or investment advice. On an annual basis, the investment adviser must make a reasonable effort to confirm or update the written information about each investment advisory client.

(s) Written information about each security that you recommended a client buy or sell that is the basis for making any recommendation or providing any investment advice to such client.

(t) Written procedures to supervise the activities of employees and investment adviser representatives that are reasonably designed to achieve compliance with applicable securities laws and regulations.

(u) A file containing a copy of each document (other than any notices of general dissemination) that was filed with or received from any state or federal agency or self regulatory organization and that pertains to you or your advisory representatives as that term is defined in (m)(iii)(A) of this subsection, which file should contain, but is not limited to, all applications, amendments, renewal filings, and correspondence.

(v) If you inadvertently held or obtained a client's securities or funds and returned them to the client within three business days or forwarded third-party checks within three business days, you ((shall)) must keep the following records relating to the inadvertent custody:

(i) Issuer;

(ii) Type of security and series;

(iii) Date of issue;

(iv) For debt instruments, the denomination, interest rate and maturity date;

(v) Certificate number, including alphabetical prefix or suffix;

(vi) Name in which registered;

(vii) Date given to the adviser;

(viii) Date sent to client or sender;

(ix) Form of delivery to client or sender, or copy of the form of delivery to client or sender; and

(x) Mail confirmation number, if applicable, or confirmation by client or sender of the fund's or security's return.

(w) Copies, with ~~((original))~~ signatures of your appropriate signatory and the investment adviser representative, of each initial Form U4 and each amendment to Disclosure Reporting Pages (DRPs) must be retained by you (filing on behalf of the investment adviser representative) and must be made available for inspection upon regulatory request.

(x) If you obtain possession of securities that are acquired from the issuer in a transaction or chain of transactions not involving any public offering that comply with the exception from custody under WAC 460-24A-109(1), you ~~((shall))~~ must keep the following records:

(i) A record showing the issuer or current transfer agent's name, address, phone number, and other applicable contact information pertaining to the party responsible for recording client interests in the securities; and

(ii) A copy of any legend, shareholder agreement or other agreement showing that those securities are transferable only with prior consent of the issuer or holders of the outstanding securities of the issuer.

(y) A copy of a current written business continuity ~~((plan which identifies procedures to be followed in the event of an emergency or significant business disruption and which is reasonably designed to enable you to meet your fiduciary obligations to your clients))~~ and succession plan adopted in accordance with WAC 460-24A-126.

(z) Written policies and procedures required to be established pursuant to WAC 460-24A-120, 460-24A-122, and 460-24A-125, and any records required to be created or maintained thereunder.

(aa) A copy of a written code of ethics that establishes standards of business conduct which reflect your fiduciary obligations and those of your supervised persons.

(bb) Written physical and cyber security policies and procedures that are reasonably designed to ensure the security and integrity of your physical and electronic records.

(cc) A copy of the written advisory fee billing information provided clients in accordance with WAC 460-24A-135, and a written record of the services provided to each client during the billing period.

(dd) Documentation of client's authorization for each nondiscretionary securities transaction.

(2)(a) If you are subject to subsection (1) of this section and have custody or possession of securities or funds of any client, the records required to be made and kept under subsection (1) of this section ~~((shall))~~ must include:

(i) A copy of any and all documents executed by the client (including a limited power of attorney) under which the adviser is authorized or permitted to withdraw a client's funds or securities maintained with a custodian upon the adviser's instruction to the custodian.

(ii) A journal or other record showing all purchases, sales, receipts and deliveries of securities (including certificate numbers) for all accounts and all other debits and credits to the accounts.

(iii) A separate ledger account for each such client showing all purchases, sales, receipts and deliveries of securities,

the date and price of each purchase or sale, and all debits and credits.

(iv) Copies of confirmations of all transactions effected by or for the account of any client.

(v) A record for each security in which any client has a position, which record ~~((shall))~~ must show the name of each client having any interest in each security, the amount of interest of each client, and the location of each security.

(vi) A copy of each of the client's quarterly account statements, as generated and delivered by the qualified custodian. If you also generate a statement that is delivered to the client, you ~~((shall))~~ must also maintain copies of such statements along with the date such statements were sent to the clients.

(vii) If applicable to your situation, a copy of the special examination report verifying the completion of the examination by an independent certified public accountant and describing the nature and extent of the examination.

(viii) A record of any finding by the independent certified public accountant of any material discrepancies found during the examination.

(ix) If applicable, evidence of the client's designation of an independent representative.

(b) If you have custody because you advise a pooled investment vehicle, as defined in WAC 460-24A-005 ~~((+))~~ (6)(a)(iii), you ~~((shall))~~ must also keep the following records:

(i) True, accurate and current account statements;

(ii) Where you comply with WAC 460-24A-107 (1)(b) the records required to be made and kept ~~((shall))~~ must include:

(A) The date of the audit;

(B) A copy of the audited financial statements; and

(C) Evidence of the mailing of the audited financial statements to all limited partners, members or other beneficial owners within one hundred twenty days of the end of its fiscal year.

(iii) Where you comply with WAC 460-24A-107 (1)(a) the records required to be made and kept ~~((shall))~~ must include:

(A) A copy of the written agreement with the independent party reviewing all fees and expenses, indicating the responsibilities of the independent party; and

(B) Copies of all invoices and receipts showing the approval by the independent party for payment through the qualified custodian.

(c) If you have custody because you are acting as the trustee for a beneficial trust as it is described in WAC 460-24A-109(3), you ~~((shall))~~ must also keep the following records until the account is closed or the adviser is no longer acting as trustee:

(i) A copy of the written statement given to each beneficial owner setting forth a description of the requirements of WAC 460-24A-105 and the reason why you will not be complying with those requirements; and

(ii) A written acknowledgment signed and dated by each beneficial owner, and evidencing receipt of the statement required under WAC 460-24A-109 (3)(b).

(3) If you are subject to subsection (1) of this section and you render any investment supervisory or management service to any client, you ~~((shall))~~ must, with respect to the portfolio being supervised or managed and to the extent that the

information is reasonably available to or obtainable by you, make and keep true, accurate and current:

(a) Records showing separately for each client the securities purchased and sold, and the date, amount and price of each purchase or sale.

(b) For each security in which any client has a current position, information from which you can promptly furnish the name of each client, and the current amount or the interest of the client.

(4) Any books or records required by this section may be maintained by you in such manner that the identity of any client to whom you render investment supervisory services is indicated by numerical or alphabetical code or some similar designation.

(5) If you are subject to subsection (1) of this section, you ~~((shall))~~ must preserve the following records in the manner prescribed:

(a) All books and records required to be made under the provisions of subsections (1) to (3), inclusive, of this section except for books and records required to be made pursuant to subsection (1)(k) and (p) of this section ~~((shall))~~ must be maintained and preserved in an easily accessible place for ~~((a period of not less than five years from the end of the fiscal year during which))~~ at least six years from the date the last entry was made on the record, the first two years in your principal office.

(b) Your partnership articles and any amendments, articles of incorporation, charter documents, minute books and stock certificate books of you and any of your predecessors, ~~((shall))~~ must be maintained in your principal office and preserved until at least three years after termination of the enterprise.

(c) Books and records required to be made pursuant to subsection (1)(k) and (p) of this section ~~((shall))~~ must be maintained and preserved in an easily accessible place for a period of not less than five years, the first two years in your principal office, from the end of the fiscal year during which you last published or otherwise disseminated, directly or indirectly, including by electronic media, the notice, circular, advertisement, newspaper article, investment letter, bulletin, or other communication.

(d) Notwithstanding other record preservation requirements of this section, you ~~((shall))~~ must maintain the following records or copies at your business location from which the customer or client is being provided or has been provided with investment advisory services:

(i) Records required to be preserved under subsections (1)(c), (g) through (j), ~~(l), (m),~~ (n), (o), and (q) through ~~((s))~~ ~~((dd))~~, (2), and (3) of this section ~~((shall))~~ must be maintained for the period prescribed in (a) of this subsection; and

(ii) Records or copies required pursuant to subsection (1)(k) and (p) of this section which records or related records identify the name of the investment adviser representative providing investment advice from that business location, or which identify the business locations' physical address, mailing address, electronic mailing address, or telephone number ~~((shall))~~ must be maintained for the period prescribed in (c) of this subsection.

(6) If you are an investment adviser subject to subsection (1) of this section, you ~~((shall))~~ must, before ceasing to con-

duct or discontinuing business as an investment adviser, arrange for and be responsible for the preservation of the books and records required to be maintained and preserved under this section for the remainder of the period specified in this section, and ~~((shall))~~ must notify the director in writing of the exact address where the books and records will be maintained during the period.

(7)(a) The records required to be maintained and preserved pursuant to this section may be immediately produced or reproduced, and maintained and preserved for the required time, by an investment adviser on:

(i) Paper or hard copy form, as those records are kept in their original form;

(ii) Micrographic media, including microfilm, microfiche, or any similar medium; or

(iii) Electronic storage media, including any digital storage medium or system that meets the terms of this section.

(b) If you are an investment adviser required to maintain and preserve records pursuant to this section, you must:

(i) Arrange and index the records in a way that permits easy location, access, and retrieval of any particular record;

(ii) Provide promptly any of the following that the director may request:

(A) A legible, true, and complete copy of the record in the medium and format in which it is stored;

(B) A legible, true, and complete printout of the record; and

(C) Means to access, view, and print the records; and

(iii) Separately store, for the time required for preservation of the original record, a duplicate copy of the record on any medium allowed by this section.

(c) If the records that the investment adviser is required to maintain and preserve pursuant to this section are created or maintained on electronic storage media, the investment adviser must establish and maintain procedures:

(i) To maintain and preserve the records, so as to reasonably safeguard them from loss, alteration, or destruction;

(ii) To limit access to the records to properly authorized personnel and the director; and

(iii) To reasonably ensure that any reproduction of a non-electronic original record on electronic storage media is complete, true, and legible when retrieved.

(8) As used in this section, "investment supervisory services" means the giving of continuous advice as to the investment of funds on the basis of the individual needs of each client; and "discretionary authority" ~~((shall))~~ does not include discretion as to the price at which, or the time when, a transaction is or is to be effected, if, before the order is given by the investment adviser, the client has directed or approved the purchase or sale of a definite amount of the particular security.

(9) Any book or other record made, kept, maintained, and preserved in compliance with Rules 17a-3 and 17a-4 under the Securities Exchange Act of 1934, which is substantially the same as the book or other record required to be made, kept, maintained, and preserved under this section, ~~((shall))~~ will be deemed to be made, kept, maintained, and preserved in compliance with this section.

(10) If you are an investment adviser registered or required to be registered in this state and have your principal

place of business in a state other than this state, you are exempt from the requirements of this section, provided you are ~~((licensed))~~ registered in the state where you have your principal place of business and are in compliance with that state's recordkeeping requirements.

(11) If you are an investment adviser registered or required to be registered under RCW 21.20.040, you must make the records required to be maintained under this section easily accessible for inspection by the director or the director's representatives. In the conduct of an examination authorized by RCW 21.20.100(4), you must honor all requests by the director or the director's representatives to have physical access to all areas of the office that is the subject of the examination. Upon request, you must permit the director or the director's representatives to access, copy, scan, image, and examine all records and electronic data that you are required to retain under this section.

AMENDATORY SECTION (Amending WSR 14-13-068, filed 6/12/14, effective 7/13/14)

WAC 460-24A-205 Notice of changes by investment advisers and investment adviser representatives. (1) If you are an investment adviser registered or required to be registered pursuant to RCW 21.20.040, you must:

(a) Promptly file with IARD, in accordance with the instructions to Form ADV, any amendments to your Form ADV. An amendment will be considered promptly filed if it is filed within thirty days of the event that requires the filing of the amendment;

(b) File an annual updating amendment to the Form ADV with IARD within ninety days after the end of your fiscal year; ~~((and))~~

(c) File with the director by email thirty days prior to use any amendments to your advisory contracts or offering materials for any pooled investment vehicles that you advise. This includes the advisory contracts or offering materials that you intend to use in connection with any newly formed pooled investment vehicles to which you will provide investment advice; and

(d) Promptly file with the director by email any amendment to your list of the custodians that hold the client funds or securities that you supervise or manage. If you disclose this information on Schedule D of Form ADV Part 1A, and you file an amendment to Form ADV pursuant to (a) of this subsection, you will have satisfied this requirement. The director will consider an amendment to be filed promptly if it is filed within thirty days of the event that requires the filing of the amendment.

(2) If you are an investment adviser representative registered or required to be registered pursuant to RCW 21.20.040, you have a continuing obligation to update the information required by Form U4 as changes occur and you must promptly file with IARD any amendments to your Form U4. An amendment will be considered promptly filed if it is filed within thirty days of the event that requires the filing of the amendment.

AMENDATORY SECTION (Amending WSR 14-13-068, filed 6/12/14, effective 7/13/14)

WAC 460-24A-210 Notice of complaint must be filed with director. If you are an investment adviser registered or required to be registered pursuant to RCW 21.20.040 who has filed a complaint against any of your partners, officers, directors, agents ~~((licensed))~~ registered in Washington or associated persons with any law enforcement agency, any other regulatory agency having jurisdiction over the securities industry, or with any bonding company regarding any loss arising from alleged acts of such person, you ~~((shall))~~ must send a copy of such complaint to the director, within ten days following its filing with such other agency or bonding company.

AMENDATORY SECTION (Amending WSR 14-13-068, filed 6/12/14, effective 7/13/14)

WAC 460-24A-220 Unethical business practices—Investment advisers and federal covered advisers. If you are an investment adviser, investment adviser representative, or a federal covered adviser, you are a fiduciary and have a duty to act primarily for the benefit of your clients. If you are a federal covered adviser, the provisions of this subsection apply to the extent that the conduct alleged is fraudulent, deceptive, or as otherwise permitted by the National Securities Markets Improvement Act of 1996 (Pub. L. No. 104-290). While the extent and nature of this duty varies according to the nature of the relationship with the client and the circumstances of each case, in accordance with RCW 21.20.020 (1)(c) and 21.20.110 (1)(g) you ~~((shall))~~ must not engage in dishonest or unethical business practices including, but not limited to, the following:

(1) Recommending to a client to whom investment supervisory, management or consulting services are provided the purchase, sale or exchange of any security without reasonable grounds to believe that the recommendation is suitable for the client on the basis of information furnished by the client after reasonable inquiry concerning the client's investment objectives, financial situation and needs, and any other information known by the investment adviser, investment adviser representative, or federal covered investment adviser.

(2) Exercising any discretion in placing an order for the purchase or sale of securities for a client without obtaining written discretionary authority from the client within ten business days after the date of the first transaction placed pursuant to oral discretionary authority, unless the discretion relates solely to the price at which, or the time when, an order involving a definite amount of a specified security ~~((shall))~~ must be executed, or both.

(3) Inducing trading in a client's account that is excessive in size or frequency in view of the financial resources, investment objectives and character of the account in light of the fact that an investment adviser, investment adviser representative, or federal covered adviser in such situations can directly benefit from the number of securities transactions effected in a client's account. The rule appropriately forbids an excessive number of transaction orders to be induced by an adviser for a "customer's account."

(4) Placing an order to purchase or sell a security for the account of a client without authority to do so.

(5) Placing an order to purchase or sell a security for the account of a client upon instruction of a third party without first having obtained a written third-party trading authorization from the client.

(6) Borrowing money or securities from a client unless the client is a broker-dealer, an affiliate of the investment adviser, or a financial institution engaged in the business of loaning funds.

(7) Loaning money or securities to a client unless you are a financial institution engaged in the business of loaning funds or the client is an affiliate of the investment adviser.

(8) Misrepresenting to any advisory client, or prospective advisory client, the qualifications of the investment adviser, investment adviser representative, federal covered adviser, or any employee, or person affiliated with the investment adviser, or misrepresenting the nature of the advisory services being offered or fees to be charged for such service, or to omit to state a material fact necessary to make the statements made regarding qualifications, services or fees, in light of the circumstances under which they are made, not misleading.

(9) Providing a report or recommendation to any advisory client prepared by someone other than you without disclosing that fact. (This prohibition does not apply to a situation where you use published research reports or statistical analyses to render advice or where you order such a report in the normal course of providing service.)

(10) Charging a client an unreasonable advisory fee.

(11) Failing to disclose to clients in writing before any advice is rendered any material conflict of interest relating to the investment adviser, investment adviser representative, federal covered adviser, or any employees or affiliated persons thereof which could reasonably be expected to impair the rendering of unbiased and objective advice including, but not limited to:

(a) Compensation arrangements connected with advisory services to clients which are in addition to compensation from such clients for such services; ~~((and))~~

(b) Charging a client an advisory fee for rendering advice when compensation for effecting securities transactions pursuant to such advice will be received by the investment adviser, investment adviser representative, federal covered investment adviser, or employees or affiliated persons thereof; and

(c) Serving as an officer, director, or similar capacity of any outside company or other entity.

(12) Guaranteeing a client that a specific result will be achieved (gain or no loss) with advice which will be rendered.

(13) Publishing, circulating or distributing any advertisement which does not comply with Rule 206(4)-1 under the Investment Advisers Act of 1940.

(14) Disclosing the identity, investments, or other financial information of any client or former client unless required by law to do so, or unless consented to by the client.

(15) Taking any action, directly or indirectly, with respect to those securities or funds in which any client has any beneficial interest, where you have custody or possession

of such securities or funds when the action of the investment adviser, federal covered adviser, or investment adviser representative or employee is subject to and does not comply with applicable custody requirements.

(16) Entering into, extending or renewing any investment advisory contract that does not comply with the requirements set forth in WAC 460-24A-130.

(17) Failing to establish, maintain, and enforce written policies and procedures (~~reasonably designed to prevent the misuse of material nonpublic information contrary to the provisions of Section 204A of the Investment Advisers Act of 1940~~) pursuant to WAC 460-24A-120, 460-24A-122, 460-24A-125, 460-24A-126, 460-24A-200 (1)(t), (aa), or (bb).

(18) Entering into, extending, or renewing any advisory contract contrary to the provisions of section 205 of the Investment Advisers Act of 1940. This provision (~~shall~~) will apply to all advisers and investment adviser representatives registered or required to be registered under the Securities Act of Washington, chapter 21.20 RCW, notwithstanding whether you would be exempt from federal registration pursuant to section 203(b) of the Investment Advisers Act of 1940.

(19) To indicate (~~in an advisory~~) or require by contract or otherwise, any condition, stipulation, or provisions binding any person to waive or limit compliance with, or require indemnification for any violations of, any provision of the Securities Act of Washington, chapter 21.20 RCW, or the rules adopted thereunder, or of the Investment Advisers Act of 1940, or any other practice contrary to the provisions of section 215 of the Investment Advisers Act of 1940.

(20) Engaging in any act, practice, or course of business which is fraudulent, deceptive, manipulative or unethical.

(21) Engaging in conduct or any act, indirectly or through or by any other person, which would be unlawful for such person to do directly under the provisions of the Securities Act of Washington, chapter 21.20 RCW, or any rule or regulation thereunder.

(22) Using any term or abbreviation thereof in a manner that misleadingly states or implies that a person has special expertise, certification, or training in financial planning, including, but not limited to, the misleading use of a senior-specific certification or designation as set forth in WAC 460-25A-020.

(23) Making, in the solicitation of clients, any untrue statement of fact, or omitting to state a material fact necessary in order to make the statement made, in light of the circumstances under which they are made, not misleading.

(24) Failing to provide advisory fee billing information to advisory clients pursuant to WAC 460-24A-135.

(25) Failing to provide training regarding the financial exploitation of vulnerable adults pursuant to WAC 460-24A-190.

(26) Accessing a client's account by using the client's own unique identifying information (such as username and password).

The conduct set forth above is not inclusive. Engaging in other conduct such as nondisclosure, incomplete disclosure, or deceptive practices (~~shall~~) will be deemed an unethical business practice. The federal statutory and regulatory provisions referenced herein (~~shall~~) will apply to investment

advisers, investment adviser representatives, and federal covered advisers, to the extent permitted by the National Securities Markets Improvement Act of 1996 (Pub. L. No. 104-290).

WSR 19-03-141
PERMANENT RULES
BOARD OF
PILOTAGE COMMISSIONERS

[Filed January 22, 2019, 10:53 a.m., effective February 22, 2019]

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

Purpose: The purpose of the rule changes are to codify several statements of policy enacted by the board including policies concerning the training program stipend, conning quizzes and local knowledge exams, and the length of the training program in the Puget Sound pilotage district, modernize the training program rules to better align with current board practices and recent enhancements, improve the alignment between WAC 363-116-078 and 363-116-080, and clarify existing language.

Citation of Rules Affected by this Order: Amending WAC 363-116-078 and 363-116-080.

Statutory Authority for Adoption: Chapter 88.16 RCW.

Adopted under notice filed as WSR 18-23-076 on November 19, 2018.

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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

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

Date Adopted: January 17, 2019.

Jaimie C. Bever
Executive Director

AMENDATORY SECTION (Amending WSR 13-08-025, filed 3/27/13, effective 4/27/13)

WAC 363-116-078 Pilot training program. After passing the written examination and simulator evaluation, pilot ~~((applicants))~~ candidates pursuing a pilot license ~~((will be put))~~ are positioned on a list for the applicable pilotage district(s) and must enter and successfully complete a training program specified by the board before consideration for licensure.

(1) Notification. Pilot ~~((applicants))~~ candidates on a list as described in subsection (2) of this section, waiting to enter a training program shall provide the board with ~~((a current))~~ the best address ~~((to be used))~~ for notification ~~((for entry))~~ to enter into a training program. ~~((Such address shall be a place at which mail is delivered.))~~ In addition, a pilot ~~((applicant may))~~ candidate shall provide the board with other means of contact such as ~~((a))~~ postal mailing or email address, phone number, and/or fax number~~((, and/or an email address))~~. The ~~((mailing))~~ email address ~~((with))~~ with a read receipt request, however, will be considered the primary means of notification by the board. It will be the responsibility of the pilot ~~((applicant))~~ candidate to ensure ~~((that))~~ the board has ~~((a))~~ current ~~((mailing address))~~ contact information at all times. If a pilot ~~((applicant))~~ candidate cannot personally receive ~~((mail))~~ postal or electronic mail at the ~~((address))~~ address(es) provided to the board for any period of time, another person may be designated in writing ~~((with a notarized copy to the board))~~ as having power of attorney specifically to act in the pilot ~~((applicant's))~~ candidate's behalf regarding such notice. If notice sent to the email address provided by the pilot ~~((applicant))~~ candidate is not acknowledged after three attempts or if notice sent via certified mail is returned after three attempts to deliver, that pilot ~~((applicant))~~ candidate will be skipped and the next pilot ~~((applicant))~~ candidate on the list will be contacted for entry into a training program. A person so skipped will remain next on the list. A pilot ~~((applicant))~~ candidate or his/her designated attorney-in-fact shall respond within fifteen calendar days of receipt of notification to accept, refuse, or request a delayed entry into a training program.

(2) Entry. At such time that the board chooses to start a pilot ~~((applicant or applicants))~~ candidate or candidates in a training program for ~~((a))~~ either pilotage district, notification shall be given as provided in ~~((this section))~~ subsection (1) of this section. Pilot ~~((applicants))~~ candidates shall be ranked in accordance with a point system established by the board ~~((to assess))~~ based on overall performance on the written examination and simulator evaluation. ~~((Applicants))~~ Candidates shall be eligible to enter a training program for a pilotage district in the order of such rankings or as otherwise may be determined by the board. A pilot ~~((applicant))~~ candidate who refuses entry into a program will be removed from the waiting list with no further obligation by the board to offer a position in that district's training program to such pilot ~~((applicant))~~ candidate. If the pilot ~~((applicant applied for a license))~~ candidate indicated interest in the other pilotage district ~~((when applying))~~ on the application for the written examination, the ~~((applicant))~~ candidate shall remain available for that other district's training program in accordance with his/her position on that list.

(a) A pilot ~~((applicant))~~ candidate who is not able to start a training program within two months of the board's specified entry date may, with written consent of the board, delay entry into that training program. When ~~((an applicant))~~ a pilot candidate delays entry into a training program by more than two months, the board ~~((will))~~ gives notice to the next pilot ~~((applicant))~~ candidate on the list for that pilotage district to enter a training program. The pilot ~~((applicant))~~ candidate who delays entry~~((s))~~ shall remain eligible for the next posi-

tion in that district((s)) provided that the next position becomes available within the earlier of:

(i) Four years from the pilot ((applicant's)) candidate's taking the written examination; or

(ii) The date scheduled for the next pilotage examination for the district.

(b) A pilot ((applicant)) candidate not able to start in a training program within two months of the board's specified entry date and who does not obtain the board's written consent to delay entry into a training program shall no longer be eligible for that district's training program without retaking the examination provided in WAC 363-116-076 and the simulator evaluation provided in WAC 363-116-077.

(3) Training license. Prior to receiving a training license pilot ((applicants)) candidates must pass a physical examination by a board-designated physician and in accordance with the requirements of WAC 363-116-120 for initial pilot ((applicants)) candidates. A form provided by the board must be completed by the physician and submitted to the board along with a cover letter indicating the physician's findings and recommendations as to the pilot ((applicant's)) candidate's fitness to pilot. The physical examination must be taken not more than ninety days before issuance of the training license. Holders of a training license will be required to pass a general physical examination annually within ninety days prior to the anniversary date of that training license. Training license physical examinations will be at the expense of the pilot ((applicant)) candidate. All training licenses shall be signed by the chairperson or his/her designee and shall have an expiration date. Training licenses shall be surrendered to the board upon completion or termination of the training program.

(4) Development. As soon as practical after receiving notification of eligibility for entry into a training program as set forth in this section, the pilot ((applicant shall meet with)) candidate shall provide a completed experience questionnaire to the trainee evaluation committee (TEC) ((for the purpose of devising a training program for that pilot applicant)), a committee created per subsection (11) of this section. The training program ((shall be tailored to the ability and experience of the individual pilot applicant and shall)) consists of three phases: Observation trips, training trips, and evaluation trips, and such other forms of learning and instruction that may be designated. The TEC shall recommend a training program for adoption by the board. After adoption by the board, it will be presented to the pilot ((applicant)) candidate. If the pilot ((applicant)) candidate agrees in writing to the training program, the board shall issue a training license to the pilot ((applicant)) candidate, which license shall authorize the pilot ((applicant)) candidate to take such actions as are contained in the training program. If the pilot ((applicant)) candidate does not agree to the terms of a training program, in writing, within fifteen business days of it being ((mailed to the applicant)) received by certified mail((s)) return receipt, or by email read receipt requested, that pilot ((applicant)) candidate shall no longer be eligible for entry into that pilotage district's training program and the board may give notice to the next available pilot ((applicant)) candidate that he/she is eligible for entry into a training program pursuant to the terms in subsections (1) and (2) of this section.

(5) Initial assigned route.

(a) The ((~~trainee evaluation committee (TEC)~~) TEC) shall assign an initial route to each trainee at the beginning of his/her training program between a commonly navigated port or terminal and the seaward boundary of the pilotage district ((~~to each trainee at the beginning of his/her training program~~)).

(b) Unless an extension of time is granted by the board, within eight months of the beginning of the training program if the trainee is continuously on stipend ((~~or within fifteen months of the beginning of the training program if the trainee is not on stipend~~)), plus an additional month for every month a trainee is off stipend (up to a maximum of fifteen months), the trainee must:

(i) Take and pass with a minimum score of eighty percent all conning quizzes provided by the board applicable to the initial assigned route as described in subsection (8) of this section. These quizzes ((~~can~~) may) be repeated as necessary((s)) provided that they may not be taken more than once in any seven-day period, and further provided that they must be successfully passed ((~~before the expiration date~~)) within the time period specified in (b) of this subsection; and

(ii) Take and pass with a minimum score of eighty-five percent the local knowledge ((~~examinations~~) examination(s)) provided by the board applicable to the initial assigned route as described in subsection (8) of this section. These examinations can be repeated as necessary((s)) provided that they may not be taken more than once in any seven-day period, and further provided that they must be successfully passed before the expiration date time period specified in (b) of this subsection; and

(iii) Possess a first class pilotage endorsement without tonnage or other restrictions on his/her United States Coast Guard license to pilot on the initial assigned ((~~initial~~)) route.

(6) Specification of trips. To the extent possible, a training program shall provide a wide variety of ((~~assignments~~)) assigned requirements in three phases: Observation, training, and evaluation trips. A training program may contain deadlines for achieving full or partial completion of certain necessary actions. Where relevant, it may specify such factors as route, sequence of trips, weather conditions, day or night, stern or bow first, draft, size of ship and any other relevant factors. The board may designate specific trips or specific numbers of trips that shall be made with training pilots or with the pilot members of the ((~~trainee evaluation committee (TEC)~~) TEC) or with pilots ((~~of specified experience~~)) designated by the TEC. In the Puget Sound pilotage district, pilot trainees shall complete a minimum of one hundred fifty trips. The board shall set from time to time the minimum number of trips for pilot trainees in the Grays Harbor pilotage district. The total number of trips in a training program shall be established by the board based on the recommendation of the TEC. The board will ensure that during a training program the pilot trainee will get significant review by ((~~training~~) supervising) pilots and the pilot members of the TEC or with pilots designated by the TEC.

(7) Length of training program. ((~~The board shall set the minimum length of a training program provided that it will not be less than eight months in the Puget Sound pilotage district.~~)) For the Puget Sound district the length of the program

shall not exceed thirty-six months. For the Grays Harbor district the length of the program will be determined at the time the training program is written.

(8) Local knowledge conning quizzes and local knowledge exams. A training program shall provide opportunities for the education of pilot trainees and shall provide for testing of pilot trainees on the local knowledge necessary to become a pilot. ((This education program shall be developed by the trainee evaluation committee (TEC) and recommended to the board for adoption, in the form of a policy statement, and shall be tailored to the needs of the individual pilot trainee.)) It shall be the responsibility of the pilot trainee to obtain the local knowledge necessary to be licensed as a pilot in the pilotage district for which he/she is applying. ((Prior to the completion of a training program, the board, or its designee, may give such local knowledge examination(s) as it deems appropriate to the pilot trainees who shall be required to pass such examination(s) before completing a training program. The TEC may require a pilot trainee to sit for a local knowledge examination provided the TEC informs the pilot trainee in writing sixty days in advance of the scheduled date of the examination. Failure to sit for the examination on the date scheduled may constitute cause for removal from the training program. The TEC may also establish in writing such interim performance requirements as it deems necessary. These local examinations can be repeated as necessary, except that an examination for the same local area may not be taken more than once in any seven day period and all required local knowledge examinations must be successfully passed before the expiration date of the training program.)) Each conning quiz will be organized by main channel routes, ports, and approaches. A conning quiz is not intended to replace a local knowledge exam as specified in subsection (5)(b)(ii) of this section, but there will be some overlap of subject matter. A pilot trainee shall pass a conning quiz or quizzes related to the route or harbor area to move from the observation phase to the training phase of his/her training program for that route or harbor area. After a trainee has successfully passed a conning quiz on a main channel route or a port and approach, he/she will be eligible to take the conn on that route or approach unless it is a U.S. flag vessel and the required federal pilotage endorsement has not been obtained. The local knowledge exam for the initial route must be completed within eight months of the training start date if the trainee is taking the stipend. For each month the trainee is off stipend, an additional month is added up to a maximum of fifteen months to successfully pass the appropriate local knowledge exam. The final local knowledge exam must be completed before consideration for licensing and must be successfully passed before the expiration date of the training program. The conning quizzes and local knowledge exams will be administered at the offices of the board of pilotage commissioners. Eighty percent is the passing grade for conning quizzes, and eighty-five percent is required for the local knowledge exams. If a trainee fails a conning quiz or local knowledge exam, it may be retaken after seven days, but must be passed within the timing deadlines discussed above. The local knowledge required of a pilot trainee and the local knowledge examination(s) may include the following subjects as

they pertain to the pilotage district for which the pilot trainee seeks a license:

- (a) Area geography;
- (b) Waterway configurations including channel depths, widths and other characteristics;
- (c) Hydrology and hydraulics of large ships in shallow water and narrow channels;
- (d) Tides and currents;
- (e) Winds and weather;
- (f) Local aids to navigation;
- (g) Bottom composition;
- (h) Local docks, berths and other marine facilities including length, least depths and other characteristics;
- (i) Mooring line procedures;
- (j) Local traffic operations e.g., fishing, recreational, dredging, military and regattas;
- (k) Vessel traffic system;
- (l) Marine VHF usage and phraseology, including bridge-to-bridge communications regulations;
- (m) Air draft and keel clearances;
- (n) Submerged cable and pipeline areas;
- (o) Overhead cable areas and clearances;
- (p) Bridge transit knowledge - Signals, channel width, regulations, and closed periods;
- (q) Lock characteristics, rules and regulations;
- (r) Commonly used anchorage areas;
- (s) Danger zone and restricted area regulations;
- (t) Regulated navigation areas;
- (u) Naval operation area regulations;
- (v) Local ship assist and escort tug characteristics;
- (w) Tanker escort rules - State and federal;
- (x) Use of anchors and knowledge of ground tackle;
- (y) Applicable federal and state marine and environmental safety law requirements;
- (z) Marine security and safety zone concerns;
- (aa) Harbor safety plan and harbor regulations;
- (bb) Chapters 88.16 RCW and 363-116 WAC, and other relevant state and federal regulations in effect on the date the examination notice is published pursuant to WAC 363-116-076; and

(cc) Courses in degrees true and distances in nautical miles and tenths of miles between points of land, navigational buoys and fixed geographical reference points, and the distance off points of land for such courses as determined by parallel indexing along pilotage routes.

(9) Rest. It is the ((pilot trainee's)) responsibility ((to provide adequate rest time so that he/she is fully able to pilot on training trips. Pilot trainees shall not take pilot training trips in which they will be piloting the vessel without observing)) of the pilot trainee to obtain adequate rest. Pilot trainees shall observe the rest rules for pilots in place by federal or state law or regulation and rules established in the applicable pilotage district in which they will train, or any other rest requirements contained in a training program. ((For purposes of calculating rest required before a training trip in which the pilot trainee will be piloting after an observation trip in which the pilot trainee did not pilot the vessel, such observation trip shall be treated as though it had been a normal pilot training assignment.))

(10) Stipend.

(a) At the initial meeting with the ~~((training evaluation committee (TEC)))~~ TEC the pilot trainee shall indicate whether he/she wishes to receive a stipend during their training program. In the Puget Sound pilotage district, as a condition of receiving such stipend, pilot trainees will agree to forego during their training program other full- or part-time employment which prevents them from devoting themselves on a full-time basis to the completion of their training program. With the consent of the ~~((board and, if necessary, the restructuring of their training program))~~ TEC, pilot trainees may elect to change from a stipend to nonstipend status, and vice versa, during their training program provided that such change request is provided in writing from the trainee. If the trainee intends to be in nonstipend status more than four consecutive months, his/her particular training program may be constructed to provide recency and/or a change in seniority placement prior to resuming the training program. In the Puget Sound pilotage district the stipend paid to pilot trainees shall be a maximum of six thousand dollars per month (or such other amount as may be set by the board from time to time), shall be contingent upon the board's setting of a training surcharge in the tariffs levied pursuant to WAC 363-116-300 sufficient to cover the expense of the stipend, and shall be paid from a pilot training account as directed by the board ~~((and pursuant thereto shall be paid to pilot trainees as set forth below:~~

~~((b)))~~ In the Grays Harbor pilotage district the stipend paid to pilot trainees shall be determined by the board and shall be contingent upon the board's receipt of funds, from any party collecting the tariff or providing funds, sufficient to cover the expense of the stipend and shall be paid from a pilot training account as directed by the board ~~((and pursuant thereto shall be paid to pilot trainees as set forth below:))~~.

Determinations as to stipend entitlement will be made on a full calendar month basis and documentation of trips will be submitted to the board by the ~~((fifth))~~ third day of the following month. Proration of the stipend ~~((will be paid on an all or nothing basis for each month except that prorations))~~ shall be allowed at the rate of two hundred dollars per day (or such other amount as may be set by the board from time to time), under the following circumstances:

(i) For the first and last months of a training program (unless the training program starts on the first or ends on the last day of a month); or

(ii) For a pilot trainee who is deemed unfit for duty by a board-designated physician during a training month~~((; or~~

~~((iii))~~ ~~For a pilot trainee who requests a change from a nonstipend status to a stipend status, or from a stipend status to a nonstipend status as set forth in (g) of this subsection))~~.

~~((e)))~~ (b) In the Puget Sound pilotage district a minimum of ~~((eighteen))~~ twelve trips are required each month for eligibility to receive the ~~((stipend))~~ minimum stipend amount as set by the board, or eighteen trips to receive the maximum stipend amount as set by the board. A trainee may make more than eighteen trips in a calendar month, but no further stipend will be earned for doing so. In the Grays Harbor pilotage district the minimum number of trips each month for eligibility to receive the stipend is seventy percent or such number or percentage of trips that may be set by the board of the total

number of vessel movements occurring in this district during that month. Only trips required by the training program can be used to satisfy these minimums. Trips will be documented at the end of each month.

~~((d)))~~ (c) The TEC will define areas that are considered to be hard-to-get, which many differ for trainees depending on their date of entry. It is the pilot trainee's responsibility to make all available hard-to-get trips ~~((before the end of the training program. If a training program is extended due to a failure to get all of these trips)),~~ as defined and assigned by the TEC. The board may elect not to pay the stipend if the missing trips were available to the pilot trainee but not taken.

~~((e)))~~ (d) The TEC, with approval by the board may allocate, assign or specify training program trips among multiple pilot trainees. Generally, the pilot trainee who entered his/her training program earlier has the right of first refusal of training program trips provided that the TEC may, with approval by the board, allocate or assign training trips differently as follows:

(i) When it is necessary to accommodate any pilot trainee's initial route;

(ii) When it is necessary to spread hard-to-get trips among pilot trainees so that as many as possible complete required trips on time. If a pilot trainee is deprived of a hard-to-get trip by the TEC, that trip will not be considered "available" under (c) of this subsection. However, the pilot trainee will still be required to complete the minimum number of trips for the month in order to receive a stipend, and the minimum number of trips as required to complete his/her training program;

~~((f)))~~ (e) If a pilot trainee elects to engage in any full- or part-time employment, the terms and conditions of such employment must be submitted to the TEC for prior determination by the board of whether such employment complies with the intent of this section prohibiting employment that "prevents (pilot trainees) from devoting themselves on a full-time basis to the completion of the training program."

~~((g)))~~ (f) If a pilot trainee requests to change to a nonstipend status as provided in this section such change shall be effective for a minimum nonstipend period of thirty days beginning at the beginning of a month, provided that before any change takes effect ~~((the board and)),~~ a request is made to the TEC in writing. The requirement for designated hard-to-get trips is waived during the time the pilot trainee ~~((must agree in writing on the terms of a revised training program))~~ is authorized to be in nonstipend status.

~~((h)))~~ (g) Any approved pilot association or other organization collecting the pilotage tariff levied by WAC 363-116-185 or 363-116-300 shall transfer the pilot training surcharge receipts to the board at least once a month or otherwise dispose of such funds as directed by the board. In the Grays Harbor pilotage district, if there is no separate training surcharge in the tariff, any organization collecting the pilotage tariff levied by WAC 363-116-185 shall transfer sufficient funds to pay the stipend to the board at least once a month or otherwise dispose of such funds as directed by the board. The board may set different training stipends for different pilotage districts. Receipts from the training surcharge shall not belong to the pilot providing the service to the ship that generated the surcharge or to the pilot association or

other organization collecting the surcharge receipts, but shall be disposed of as directed by the board. Pilot associations or other organizations collecting surcharge receipts shall provide an accounting of such funds to the board on a ~~((quarterly))~~ monthly basis or at such other intervals as may be requested by the board. Any audited financial statements filed by pilot associations or other organizations collecting pilotage tariffs shall include an accounting of the collection and disposition of these surcharges. The board shall direct the disposition of all funds in the account.

(11) Trainee evaluation committee. There is hereby created a trainee evaluation committee (TEC) to which members shall be appointed by the board. The TEC shall include at a minimum: Three active licensed Washington state pilots, who, to the extent possible, shall be from the pilotage district in which the pilot trainee seeks a license and at least one of whom shall be a member of the board; one representative of the marine industry (who may be a board member) who holds, or has held, the minimum U.S. Coast Guard license required by RCW 88.16.090; and one other member of the board who is not a pilot. The TEC may include such other persons as may be appointed by the board. The TEC shall be chaired by a pilot member of the board and shall meet as necessary to complete the tasks accorded it. In the event that the TEC cannot reach consensus with regard to any issue it shall report both majority and minority opinions to the board.

(12) ~~((Training))~~ Supervising pilots. The board shall designate as ~~((training))~~ supervising pilots those pilots who are willing to undergo such specialized training as the board may require and provide. ~~((Training))~~ Supervising pilots shall receive such training from the board to better enable them to give guidance and training to pilot trainees and to properly evaluate the performance of pilot trainees. The board shall keep a list of ~~((training))~~ supervising pilots available for public inspection at all times. All pilot members ~~((of the trainee evaluation committee (TEC)))~~ TEC shall also be ~~((training))~~ supervising pilots.

(13) Training ~~((and assessment. Before, during and after a pilot trainee pilots a vessel under the supervision of a pilot on a training trip, the supervising pilot shall, to the extent possible, communicate with and give guidance to the pilot trainee in an effort to make the trip a valuable learning experience. On an evaluation trip, this communication will normally occur after completion of the trip))~~ program trip reports. After each training program trip, the licensed or supervising pilot shall complete a training program trip report form (TPTR) provided by the board. ~~((Trip report forms prepared by licensed pilots who are not))~~ Training program trip report forms prepared by licensed pilots who are supervising pilots shall be used by the ~~((trainee evaluation committee (TEC)))~~ TEC and the board for assessing a pilot trainee's progress, providing guidance to the pilot trainee and for making alterations to a training program. ~~((The use of trip report forms prepared by))~~ Licensed pilots who are not ~~((training pilots shall be appropriately weighed by the board and the TEC when making licensing decisions and recommendations))~~ supervising pilots may only have trainees on board for observation trips. All trip report forms shall be delivered or mailed by the licensed or supervising pilot to the board. They shall not be given to the pilot trainee. The licensed or super-

vising pilot may show the contents of the form to the pilot trainee, but the pilot trainee has no right to see the form until it is filed with the board. The TEC shall review these training program trip report forms from time to time and the chairperson of the TEC shall report the progress of all pilot trainees at each meeting of the board. If it deems it necessary, the TEC may recommend, and the board may make, changes from time to time in the training program requirements applicable to a pilot trainee, including the number of trips in a training program.

(14) Termination of and removal from a training program. A pilot trainee's program may be immediately terminated and the trainee removed from a training program by the board if it finds any of the following:

- (a) Failure to maintain the minimum federal license required by RCW 88.16.090;
- (b) Conviction of an offense involving drugs or involving the personal consumption of alcohol;
- (c) Failure to devote full time to training in the Puget Sound pilotage district ~~((if))~~ while receiving a stipend;
- (d) The pilot trainee is not physically fit to pilot;
- (e) Failure to make satisfactory progress toward timely completion of the program or timely meeting of interim performance requirements in a training program;
- (f) Inadequate performance on examinations or other actions required by a training program;
- (g) Failure to complete the initial route requirements specified in subsection (5) of this section within the time periods specified;
- (h) Inadequate, unsafe, or inconsistent performance in a training program and/or on training program trips as determined by the supervising pilots, the ~~((trainee evaluation committee (TEC)))~~ TEC and/or the board; or
- (i) Violation of a training program requirement, law, regulation or directive of the board.

(15) Completion of a training program shall include the requirements that the pilot trainee:

- (a) Successfully ~~((and timely complete the))~~ complete all requirements set forth in the training program including any addendum(s) to the program;
- (b) Possess a valid first class pilotage endorsement without tonnage or other restrictions on his/her United States government license to pilot in all of the waters of the pilotage district in which the pilot ~~((applicant))~~ candidate seeks a license; and
- (c) ~~((Successfully complete any local knowledge examination(s) required by the board and specified in the training program.))~~ Complete portable piloting unit (PPU) training as defined by the TEC.

AMENDATORY SECTION (Amending WSR 12-05-064, filed 2/15/12, effective 3/17/12)

WAC 363-116-080 Licensing of pilots. (1) No person shall be issued a pilot license until he/she has applied for a pilot license and successfully completed:

- (a) The written examination(s);
- (b) The simulator evaluation;
- (c) The pilot training program, as determined by the board;

(d) A physical examination; and

(e) Tendered the license fee stipulated in WAC 363-116-070.

(2) A majority of board members in attendance at a meeting where licensing of an applicant is scheduled for consideration, shall ~~((pass))~~ vote on the issuance of a pilot license. Pilot licenses shall be signed by the chairperson or his/her designee.

(3) At the time of completion of a training program as provided in WAC 363-116-078 and at the time of consideration for licensing, all applicants must provide a copy of his/her U.S. master license required by RCW 88.16.090 with a first class U.S. pilotage endorsement without tonnage or other restrictions on that U.S. master license to pilot in all of the waters of the pilotage district defined in RCW 88.16.050 in which the applicant desires to be licensed and an endorsement on that U.S. master license as a radar observer (unlimited); and a certificate representing competency in automatic radar plotting aids (ARPA).

(4) No person shall be licensed by the board who has been convicted of an offense involving drugs or the personal consumption of alcohol in the twelve months prior to the date of application. This restriction shall not apply to license renewals.

(5) After completion of a training program the trainee evaluation committee (TEC) shall review the evaluations and the pilot trainee's performance on other required aspects of the training program and ~~((make a recommendation))~~ report to the board that the pilot trainee ~~((is: Suitable for licensing; not suitable for licensing; or, in need of more training and further evaluation))~~ has or has not: Successfully completed all requirements set forth in the training program including any addendum(s) to the program. The board shall consider ~~((such recommendation))~~ training program documentation and TEC reports and may: Issue the license if there is a need for a pilot in the relevant pilotage district; ~~((require more training for the pilot trainee if necessary;))~~ deny a license if it finds that the pilot trainee should not be licensed; or, delay the issuance of a license, if there is no need for a pilot at that time in the relevant district. If the board delays the issuance of a license, it ~~((may prescribe additional training trips for the pilot trainee and continue the pilot trainee in the training program))~~ may at its discretion offer an optional program that would maintain piloting skills and knowledge and may enable stipend credit to be earned and paid. The criteria to be followed by the board in issuing or denying licenses shall include, but not be limited to: Performance in the training program; piloting and ship handling and general seamanship skills; local knowledge; and, bridge presence and communication skills.

(6) If two or more pilot trainees are deemed qualified by the board for issuance of a license at the same meeting of the board, the pilot trainee with the highest combined score on the initial written examination and simulator evaluation shall be licensed first.

WSR 19-03-152
PERMANENT RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed January 22, 2019, 1:21 p.m., effective February 22, 2019]

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

Purpose: E2SSB 6362 (2018) added a new section to chapter 28A.300 RCW. The changes go into effect for the 2018-19 school year. New language added to the statute addresses requirements that districts follow criteria specified in the law when identifying students for highly capable services. The superintendent of public instruction is directed to require districts to follow these criteria and to disseminate guidance that is updated and aligned with evidence-based practices. This rule making aligns the rules with the statutory changes.

Citation of Rules Affected by this Order: New 392-170-083; and amending WAC 392-170-005 and 392-170-055.

Statutory Authority for Adoption: RCW 28A.150.290, 28A.185.030, 28A.185.050.

Adopted under notice filed as WSR 18-24-120 on December 5, 2018.

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

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: January 14, 2019.

Chris P. S. Reykdal
State Superintendent
of Public Instruction

AMENDATORY SECTION (Amending WSR 13-07-020, filed 3/12/13, effective 4/12/13)

WAC 392-170-005 Authority. The authority for this chapter is RCW 28A.150.290, 28A.185.030, and 28A.185.050, which authorize the superintendent of public instruction to adopt rules and regulations for the administration of a program for highly capable students in kindergarten through twelfth grade, including the ~~((nomination))~~ referral, assessment, and selection of such students.

AMENDATORY SECTION (Amending WSR 18-03-012, filed 1/5/18, effective 2/5/18)

WAC 392-170-055 Assessment process for selection as highly capable student. (1) The superintendent of public instruction must require school districts to have identification

procedures for their highly capable programs that are clearly stated and implemented by school districts using the following criteria:

(a) Districts must use multiple objective criteria to identify students who are among the most highly capable. Multiple pathways for qualifications must be available and no single criterion may disqualify a student from identification;

(b) Highly capable selection decisions must be based on consideration of criteria benchmarked on local norms, but local norms may not be used as a more restrictive criteria than national norms;

(c) Subjective measures such as teacher recommendations or report card grades may not be used to screen out a student from assessment. These data points may be used alongside other criteria during selection to support identification, but may not be used to disqualify a student from being identified; and

(d) To the extent practicable, screening and assessments must be given in the native language of the student. If native language screening and assessments are not available, a non-verbal screening and assessment must be used.

(2) Students (~~nominated~~) referred for selection as a highly capable student, unless eliminated through screening as provided in WAC 392-170-045, shall be assessed by qualified district personnel;

~~((2) Districts shall use multiple objective criteria for identification of students who are among the most highly capable.))~~ (3) There is no single prescribed method for identification of students among the most highly capable;

~~((3))~~ (4) Districts shall have a clearly defined and written assessment process; and

~~((4))~~ (5) Consistent with RCW 28A.185.020, district practices for identifying the most highly capable students must prioritize equitable identification of low-income students.

NEW SECTION

WAC 392-170-083 Guidance aligned with evidence-based practices. The superintendent of public instruction must disseminate guidance on best practices for highly capable programs that includes: Referral, screening, assessment, selection, and placement. The guidance must be regularly updated and aligned with evidence-based practices.