

WSR 21-20-001
PROPOSED RULES
DEPARTMENT OF
CHILDREN, YOUTH, AND FAMILIES

[Filed September 22, 2021, 12:16 p.m.]

Continuance of WSR 21-18-109.

Preproposal statement of inquiry was filed as WSR 21-12-013.

Title of Rule and Other Identifying Information: WAC 110-300E-0001 Authority, 110-300E-0005 Definitions, 110-300E-0015 Outdoor nature-based licensing agreement—Uniform rules, 110-300E-0020 Enforcement actions—Right of review—Process of seeking review, and 110-300E-0400 Outdoor nature-based licenses—Application.

Hearing Location(s): On October 26, 2021, telephonic. Oral comments may be made by calling 360-902-8084 and leaving a voicemail that includes the comment and an email or physical mailing address where department of children, youth, and families (DCYF) will send its response. Comments received through and including October 26, 2021, will be considered.

Date of Intended Adoption: October 27, 2021.

Submit Written Comments to: DCYF rules coordinator, P.O. Box 40975, Olympia, WA 98504-0975, email dcyf.rules.coordinator@dcyf.wa.gov, submit comments online at <https://dcyf.wa.gov/practice/policy-laws-rules/rule-making/participate/online>, by October 26, 2021.

Assistance for Persons with Disabilities: Contact DCYF rules coordinator, phone 360-902-7956, email dcyf.rules.coordinator@dcyf.wa.gov, by October 22, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: **For Licensing-Outdoor Nature-Based Programs:** Proposed new chapter 110-300E WAC applies the early achievers quality standards to outdoor nature-based programs and explains the application process, licensing terms and conditions, and enforcement procedures for these programs.

Reasons Supporting Proposal: The proposed new rules are necessary to implement section 28, chapter 304, Laws of 2021, which authorizes the department to license outdoor nature-based programs. Application of the early achievers quality standards is necessary for these programs to receive child care subsidy payments. Rules governing the application process, licensing terms and conditions, and enforcement procedures are necessary to establish consistent and transparent licensing procedures.

Statutory Authority for Adoption: Section 28, chapter 304, Laws of 2021.

Statute Being Implemented: Section 28, chapter 304, Laws of 2021.

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

Name of Proponent: DCYF, governmental.

Name of Agency Personnel Responsible for Drafting: Tyler Farmer, 360-628-2151; Implementation and Enforcement: DCYF, statewide.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. DCYF is not among the agencies listed as

required to comply with RCW 34.05.328 (5)[(a)](i). DCYF does not voluntarily make that section applicable to the adoption of the proposed rules.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute; and rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

September 22, 2021

Brenda Villarreal

Rules Coordinator

Chapter 110-300E WAC

OUTDOOR NATURE-BASED PROGRAMS

NEW SECTION

WAC 110-300E-0001 Authority. (1) Chapter 43.216 RCW establishes the responsibility and authority for the department of children, youth, and families to set and enforce licensing requirements and standards for licensed child care agencies in Washington state, including the authority to adopt rules to implement chapter 43.216 RCW.

(2) Pursuant to section 28, chapter 304, Laws of 2021:

(a) The department must establish a licensed outdoor nature-based child care program.

(b) The department must adopt rules to implement the outdoor nature-based child care program and may waive or adapt licensing requirements when necessary to allow for the operation of outdoor classrooms in Washington state.

(c) The department must apply the early achievers program to the outdoor nature-based child care program to assess quality in outdoor learning environments and may waive or adapt early achievers requirements when necessary to allow for the operation of outdoor classrooms.

(d) A child care or early learning program operated by a federally recognized tribe may participate in the outdoor nature-based child care program through an interlocal agreement between the tribe and the department. The interlocal agreement must reflect the government-to-government relationship between the state and the tribe, including recognition of tribal sovereignty.

(3) Pursuant to RCW 43.216.250 (2)(b), the provisions of this chapter governing the physical facility, including buildings and other physical structures attached to buildings and premises, do not apply to licensed school-age programs that operate in facilities used by public or private schools. The department regulates only health, safety, and quality standards that do not relate to the physical facility for programs operating in facilities used by public or private schools.

NEW SECTION

WAC 110-300E-0005 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

"**Agency**" has the same meaning as described in RCW 43.216.010.

"**Department**" means the Washington state department of children, youth, and families (DCYF).

"**Early learning**" has the same meaning as described in RCW 43.216.010.

"**Enforcement action**" means denial, suspension, revocation, modification, or nonrenewal of a license pursuant to RCW 43.216.325(1) or assessment of civil monetary penalties (fines) pursuant to RCW 43.216.325(3).

"**Outdoor nature-based program**" has the same meaning as "outdoor nature-based child care" in RCW 43.216.010 (1)(e), which is an agency or an agency-offered program that:

- (a) Enrolls preschool or school-age children;
- (b) Provides early learning services to the enrolled children in an outdoor natural space approved by the department for not less than four hours per day or fifty percent of the daily program hours, whichever is less; and
- (c) Teaches a nature-based curriculum to enrolled children.

"**Provider**" as used in this chapter means an early learning program that offers outdoor nature-based early learning services, and is licensed under and subject to the provisions of this chapter (also "licensee").

NEW SECTION

WAC 110-300E-0015 Outdoor nature-based licensing agreement—Uniform rules. (1) Licensees under this chapter must agree, enter into, and comply with the terms and conditions of an outdoor, nature-based licensing agreement prepared by the department. The outdoor nature-based licensing agreement will require compliance with the following minimum terms and conditions:

- (a) The terms and conditions detailed in the outdoor nature-based licensing agreement;
- (b) The requirements of this chapter;
- (c) The background check requirements contained in chapter 110-06 WAC, early learning background checks; and
- (d) The requirements of the federal Child Care Development Fund (45 C.F.R. Part 98).

(2) To establish a uniform set of requirements for outdoor nature-based programs, the department may periodically update the outdoor nature-based licensing agreement, amend existing rules in this chapter, or draft new rules to be published under this chapter.

NEW SECTION

WAC 110-300E-0020 Enforcement actions—Right of review—Process of seeking review. (1) The department is authorized by RCW 43.216.020, 43.216.065, 43.216.250, and 43.216.325 to take enforcement actions when a provider fails to comply with this chapter, chapter 110-06 WAC, early learning background checks, or chapter 43.216 RCW. Enforcement actions include civil monetary penalties and the

denial, suspension, revocation, modification, or nonrenewal of a license.

(2) An applicant or provider has the right to appeal an enforcement action by requesting an adjudicative proceeding or "hearing" pursuant to the hearing rules codified in chapter 110-03 WAC, Administrative hearings.

(3) The department must issue a notice of violation to a provider when taking enforcement actions. A notice of violation must be sent certified mail or personal service and must include:

- (a) The reason why the department is taking the action;
 - (b) The rules the provider failed to comply with;
 - (c) The provider's right to appeal enforcement actions; and
 - (d) How the provider may appeal and request a hearing.
- (4) Fines must not exceed two hundred fifty dollars per day per violation.
- (5) Fines may be:
- (a) Assessed and collected with interest for each day a violation occurs;
 - (b) Imposed in addition to other enforcement actions; and
 - (c) Withdrawn or reduced if a provider comes into compliance during the notification period.

(6) A provider must pay fines within twenty-eight calendar days after receiving a notice of violation unless:

- (a) The office of financial recovery establishes a payment plan for the provider; or
- (b) The provider requests a hearing, pursuant to chapter 110-03 WAC, Administrative hearings and RCW 43.216.335 (3).

(7) The department may suspend or revoke a license if a provider fails to pay a fine within twenty-eight calendar days or becomes delinquent in making payments, pursuant to RCW 43.216.327 and 43.216.335. If a provider's license is due for annual compliance, the department may elect not to continue the license for failure to pay a fine.

NEW SECTION

WAC 110-300E-0400 Outdoor nature-based licenses—Application. (1) After submitting to the department a signed outdoor nature-based licensing agreement pursuant to WAC 100-300D-0015, an applicant must submit a complete application to the department to receive an initial license, or be granted a continuation of a full license, to operate an outdoor nature-based program.

(2) Pursuant to RCW 43.216.305, the department must grant or deny a license or continuation of a full license within ninety days of receiving a complete application.

(3) After completing a department orientation an applicant must submit to the department a complete license application packet, pursuant to chapter 43.216 RCW. This requirement also applies to a change of ownership. A complete license application packet includes:

- (a) Professional and background information about the applicant:
 - (i) A completed department application form;

(ii) A copy of the applicant's orientation certificate (orientation must be taken no more than twelve months prior to applying for a license);

(iii) A Washington state business license or a tribal, county, or city business or occupation license, if applicable;

(iv) Liability insurance, if applicable;

(v) A certificate of incorporation, partnership agreement, or similar business organization document, if applicable;

(vi) The license fee;

(vii) A copy of current government issued photo identification;

(viii) A copy of Social Security card or sworn declaration stating that the applicant does not have one;

(ix) Employer identification number (EIN) if applicant plans to hire staff; and

(x) Employment and education verification. For example, diploma, transcripts, or a sworn declaration stating that the applicant cannot verify education requirements.

(b) Information about the program to be licensed:

(i) A site plan, including use of proposed licensed and unlicensed space, with identified emergency exits or emergency exit pathways;

(ii) Certificate of occupancy, if applicable;

(iii) Documentation, no more than three years old, from a licensed inspector, septic designer, or engineer that states the septic system and drain field are maintained and in working order, if applicable;

(iv) E. coli bacteria and nitrate testing results for well water that is no more than twelve months old, if applicable;

(v) A lead or arsenic evaluation agreement for program sites located in the Tacoma smelter plume (counties of King, Pierce, and Thurston) or the Everett smelter plume (county of Snohomish); and

(vi) Lead and copper test results for drinking water, if applicable.

(c) Program days and hours of operation, including closure dates and holiday observances; and

(d) The following information about program staff:

(i) A list of staff members, and if applicable and known, staff persons and volunteers required to complete the background check process as outlined in chapter 110-06 WAC, early learning background checks; and

(ii) A resume for the applicant and each staff person, if applicable.

(e) The following policy documents, which will be reviewed by the department and returned to the applicant:

(i) Parent and program policies;

(ii) Staff policies;

(iii) An emergency preparedness plan; and

(iv) Health policies.

(4) An applicant must submit the completed application packet at least ninety calendar days prior to the planned opening of the outdoor, nature-based program. The department will inspect the program space and all submitted application materials prior to issuing a license.

(a) The ninety calendar days begins when the department receives a complete application packet.

(b) Incomplete application packets will be returned to the applicant for completion.

(c) An applicant who is unable to successfully complete the application and licensing process within ninety days may withdraw the application and reapply when the applicant is able to meet the licensing requirements. If the applicant has completed the steps of the application process within ninety days but an external barrier out of the applicant's control exists, the reapplication fee will be waived one time.

(d) An applicant who is unable to meet the application requirements and has not withdrawn his or her application will be denied a license, pursuant to RCW 43.216.325.

WSR 21-20-002

PROPOSED RULES

DEPARTMENT OF

CHILDREN, YOUTH, AND FAMILIES

[Filed September 22, 2021, 12:17 p.m.]

Continuance of WSR 21-18-107.

Preproposal statement of inquiry was filed as WSR 19-20-096.

Title of Rule and Other Identifying Information: WAC 110-04-0020 What definitions apply to WAC 110-04-0030 through 110-04-0180 of this chapter?, 110-04-0040 Who must have background checks?, 110-04-0080 What does the background check cover?, 110-04-0090 Who pays for the background check?, 110-04-0100 Will a criminal conviction permanently prohibit me from being licensed, contracted, certified, authorized to be employed at a group care facility, or authorized to have unsupervised access to children?, 110-04-0110 Are there other criminal convictions that will prohibit me from being licensed, contracted, certified, authorized to be employed at a group care facility, or authorized to have unsupervised access to children or from working with children?, 110-04-0120 If I have a conviction, may I ever be authorized to be employed at a group care facility or have unsupervised access to children?, 110-04-0130 Will I be disqualified if there are pending criminal charges on my background check?, 110-04-0140 Will you license, contract, authorize my employment at a group care facility, or authorize me to have unsupervised access to children if my conviction has been expunged, vacated from my record, or I have been pardoned for a crime?, 110-04-0160, What may I do if I disagree with the department's decision to deny me a license, certification, contract, or authorization based on the results of the background check?, 110-04-0170 Is the background check information released to my employer or prospective employer?, 110-06-0010 Purpose and scope, 110-06-0020 Definitions, 110-06-0040 Background clearance requirements, 110-06-0042 Departmental investigation and redetermination, 110-06-0043 Failure to report nonconviction and conviction information, 110-06-0044 Background check fees, 110-06-0045 Background checks for minor individuals under sixteen years of age, 110-06-0046 Requirements for license-exempt in-home/relative providers, 110-06-0050 Department action following completion of background inquiry, 110-06-0070 Disqualification. Background information that will disqualify a subject individual, 110-06-0080 Notification of disqualification, 110-06-0100 Request for

administrative hearing, 110-06-0110 Limitations on challenges to disqualifications, 110-06-0115 Reconsideration of disqualification, and 110-06-0120 Secretary's list.

Hearing Location(s): On October 26, 2021, telephonic. Oral comments may be made by calling 360-902-8084 and leaving a voicemail that includes the comment and an email or physical mailing address where department of children, youth, and families (DCYF) will send its response. Comments received through and including October 26, 2021, will be considered.

Date of Intended Adoption: October 28, 2021.

Submit Written Comments to: DCYF Rules Coordinator, P.O. Box 40975, email dcyf.dcyfrulescoordinator@dcyf.wa.gov, submit comments online at <https://www.dcyf.wa.gov/practice/policy-laws-rules/rule-making/participate/> online, by October 26, 2021.

Assistance for Persons with Disabilities: Contact DCYF Rules Coordinator, phone 360-902-7956, email dcyf.dcyfrulescoordinator@dcyf.wa.gov, by October 22, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Proposed amendments to chapters 110-04 and 110-06 WAC explain when certificates of restoration of opportunity (CROP) and certificates of parental improvement (CPI) will be included in criminal history record reports, qualifying letters, or other assessments during a background check and when they will not.

Proposed amendments to chapter 110-06 WAC also:

- Better clarify that the background check process includes requesting information from other states in which an applicant has lived during the five years before their background check;
- Allow DCYF to disqualify a previously authorized provider who:
 - (1) Used illegal drugs or misused or abused prescription drugs or alcohol that either affected their ability to perform their job duties while on the premises when children were present, or presented a risk of harm to any child receiving early learning services, or
 - (2) Attempted, committed, permitted, or assisted in an illegal act on child care premises; and
- More clearly explain which criminal convictions must disqualify an individual from being licensed, contracted, certified, or authorized to have unsupervised access to children and which trigger further review to determine whether the background check results demonstrate that an applicant possesses the character, suitability, and competence to have unsupervised access to children.

Reasons Supporting Proposal: RCW 9.97.020(4) directs the department to adopt rules that implement CROP consideration during the background check process, and it is necessary to align chapters 110-04 and 110-06 WAC with chapter 270, Laws of 2020, that authorized licensing of providers regulated by the department who have been issued CPIs.

The additional proposed amendments to chapter 110-06 WAC better explain for potential applicants when the background check will include history from other states in which they have lived, and, for providers authorized to have unsupervised access to children, the proposed rules clearly explain

under what circumstances the department will redetermine authorization.

Finally, proposed revisions to the mandatory and potential disqualifying crimes lists in WAC 110-06-0120 align with the federal child care development fund disqualifying crimes lists and are necessary to preserve federal appropriations that fund Washington state's child care subsidy programs.

Statutory Authority for Adoption: RCW 43.43.832(2), 43.216.065 and 43.216.271.

Statute Being Implemented: RCW 9.97.020, 43.216.170, 43.216.270, 43.43.837.

Rule is necessary because of federal law, 42 U.S.C. § 9858.

Name of Proponent: DCYF, governmental.

Name of Agency Personnel Responsible for Drafting: Chris Parvin, Olympia, Washington, 360-890-0464; Implementation and Enforcement: DCYF, statewide.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. DCYF is not among the agencies listed as required to comply with RCW 34.05.328 (5)[(a)](i). Further, DCYF does not voluntarily make that section applicable to the adoption of these rules.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Citation of the specific federal statute or regulation and description of the consequences to the state if the rule is not adopted: For sections contained in chapter 110-06 WAC: 42 U.S.C. § 9858. Failure to comply jeopardizes receipt of federal funds that are used for child care subsidies.

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute; and rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

September 22, 2021
Brenda Villarreal
Rules Coordinator

Chapter 110-04 WAC

BACKGROUND CHECK REQUIREMENTS ((~~FOR CHILDREN'S ADMINISTRATION~~))—CHILD WELFARE

AMENDATORY SECTION (Amending WSR 20-05-024, filed 2/7/20, effective 3/9/20)

WAC 110-04-0020 What definitions apply to ((~~WAC 110-04-0030 through 110-04-0180 of~~) this chapter? The following definitions apply to ((~~WAC 110-04-0030 through 110-04-0180 of~~) this chapter:

"Authorized" or **"authorization"** means not disqualified by the department to work in a group care facility or have unsupervised access to children. This includes persons who are certified, contracted, allowed to receive payments from department funded programs, or volunteer.

"Certification" means department or child placing agency (CPA) approval of a person, foster home, or facility that is exempt from licensing but meets the licensing requirements.

"Certificate of parental improvement (CPI)" means a certificate issued under chapter 74.13 RCW.

"Certificate of restoration of opportunity (CROP)" means a certificate issued under chapter 9.97 RCW.

"Child," "children," or "youth" means a person who is one of the following:

(a) Under eighteen years old;

(b) Up to twenty-one years of age and enrolled in services through the department of social and health services (DSHS) developmental disabilities administration (DDA) the day prior to their eighteenth birthday and pursuing either a high school or equivalency course of study (GED/HSEC) or vocational program;

(c) ~~(Up to twenty-one years of age and)~~ Participating in the extended foster care program; ~~((or))~~

(d) Up to twenty-one years of age with intellectual and developmental disabilities; or

(e) Up to twenty-five years of age and under the custody of DCYF in juvenile rehabilitation.

"Civil adjudication proceeding" is a judicial or administrative adjudicative proceeding that results in a finding of, or upholds an agency finding of, domestic violence, abuse, sexual abuse, neglect, abandonment, violation of a professional licensing standard regarding a child or vulnerable adult, or exploitation or financial exploitation of a child or vulnerable adult under any provision of law, including but not limited to chapter 13.34, 26.44 or 74.34 RCW, or rules adopted under chapters 18.51 and 74.42 RCW. "Civil adjudication proceeding" also includes judicial or administrative findings that become final due to the failure of the alleged perpetrator to timely exercise a legal right to administratively challenge such findings.

"Department" or **"DCYF"** means the department of children, youth, and families.

"I" and **"you"** refers to anyone who has unsupervised access to children in a home, facility, or program. This includes, but is not limited to, persons seeking employment, a volunteer opportunity, an internship, a contract, certification, or a license for a home or facility.

"Licensing division" or **"LD"** means the licensing division within DCYF. LD licenses and monitors foster homes, child placing agencies, and licensed group care facilities.

"Licensor" means either:

(a) An LD employee who recommends approvals for, or monitors licenses or certifications for facilities and agencies that provide or certify foster family homes or group care facilities under chapters 110-145, 110-147, and 110-148 WAC; or

(b) An employee of a child-placing agency who certifies or monitors foster homes supervised by the child-placing agency.

"Negative action" means a court order, court judgment or an adverse action taken by an agency, in any state, federal, tribal or foreign jurisdiction, which results in a finding against the subject individual reasonably related to the subject individual's character, suitability, and competence to care for or have unsupervised access to children receiving child welfare services. This may include, but is not limited to:

(a) A decision issued by an administrative law judge.

(b) A final determination, decision or finding made by an agency following an investigation.

(c) An adverse agency action, including termination, revocation, or denial of a license or certification, or if pending adverse agency action, the voluntary surrender of a license, certification or contract in lieu of the adverse action.

(d) A revocation, denial, or restriction placed on any professional license.

(e) A final decision of a disciplinary board.

"Secretary's list" means a list of crimes or negative actions that are federally disqualifying or may relate directly to child safety, permanence, or well-being and require DCYF to assess a subject individual's character, suitability, and competence to care for or have unsupervised access to children receiving child welfare services. The secretary's list is available at <https://www.dcyf.wa.gov/sites/default/files/pdf/secretaryslist.pdf>.

"Unsupervised" means will not or may not be in the presence of:

(a) The licensee, another employee, or volunteer from the same business or organization as the applicant who has not been disqualified by the background check; or

(b) Another individual who has been previously approved by DCYF.

"We" refers to the department, including licensors and caseworkers.

"WSP" refers to the Washington state patrol.

AMENDATORY SECTION (Amending WSR 20-05-024, filed 2/7/20, effective 3/9/20)

WAC 110-04-0040 Who must have background checks? (1) Under RCW 74.15.030, prior to authorizing unsupervised access to children, the department requires background checks on all providers who may have unsupervised access to children. This includes licensed, certified, or contracted providers, their current or prospective employees and prospective adoptive parents as defined in RCW 26.33.020.

(2) Under RCW 74.15.030, prior to authorizing unsupervised access to children, the department also requires background checks on other individuals who may have unsupervised access to children in department licensed or contracted homes~~((s))~~ or facilities that provide care, except for a normal childhood activity that lasts less than seventy-two hours, as stated in RCW 74.13.710. The department requires background checks on all of the following people:

(a) A volunteer or intern with regular or unsupervised access to children.

(b) Any person who regularly has unsupervised access to a child. ~~((However, a background check is not required when a caregiver approves the unsupervised access for a normal childhood activity that lasts less than seventy-two hours, as stated in RCW 74.13.710.))~~

(c) A relative other than a parent who may be caring for a child.

(d) A person who is at least sixteen years old and resides in a foster, relative, or other suitable person's home and is not a foster child.

(e) A person who is younger than sixteen years old in situations where it may be warranted to ~~((ensure))~~ verify the safety of children in out-of-home care. ~~((The department may require a background check for persons younger than sixteen years old in situations where it may be warranted to ensure the safety of children in out of home care.))~~

(3) Any person employed at a group care facility, including those not directly working with children.

(4) Under RCW 13.34.138, prior to returning a dependent child home, the department requires a background check on all adults residing in the home, including the parents.

AMENDATORY SECTION (Amending WSR 20-05-024, filed 2/7/20, effective 3/9/20)

WAC 110-04-0080 What does the background check cover? (1) The department must review criminal convictions and pending charges based on identifying information provided by you. The background check may include, but is not limited to, the following information sources:

- (a) Washington state patrol.
 - (b) Washington courts.
 - (c) Department of corrections.
 - (d) Department of health.
 - (e) Civil adjudication proceedings.
 - (f) Applicant's self-disclosure.
 - (g) Out-of-state law enforcement and court records.
- (2) Background checks conducted for DCYF also includes:

(a) A review of child protective services case files information or other applicable information system.

(b) Administrative hearing decisions related to any DSHS or DCYF license that has been revoked, suspended, or denied.

(3) In addition to the requirements in subsections (1) and (2) of this section, background checks conducted by DCYF for placement of a child in out-of-home care, including foster homes, group care facilities, adoptive homes, relative placements, and placement with other suitable persons under chapter 13.34 RCW, include the following for each person over eighteen years of age residing in the home, all staff working in a group care facility, including those not directly working with children, and group care volunteers who provide direct care:

(a) Child abuse ~~((and))~~ or neglect registries in each state in which a person has lived ~~((in,))~~ in the five years prior to conducting the background check.

(b) Washington state patrol (WSP) and Federal Bureau of Investigation (FBI) fingerprint-based background checks regardless of how long you have resided in Washington state.

(4) Except as required in subsection (3)(b) of this section, DCYF will conduct a fingerprint-based background check on any individual who has resided in the state less than three consecutive years before application.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-04-0090 Who pays for the background check? (1) ~~((Children's administration (CA)))~~ DCYF pays the DSHS general administrative costs ~~((for background checks for))~~ and WSP and FBI fingerprint processing fees for foster home applicants, ~~((CA))~~ DCYF relative and other suitable caregivers, ~~((and CA))~~ DCYF adoptive home applicants, and other adults associated with the home requiring clearances under chapter 13.34 RCW.

(2) ~~((Children's administration pays the WSP and FBI fingerprint processing fees for foster home applicants, CA relative and other suitable caregivers, CA adoptive home applicants, and other adults associated with the home requiring background clearances under chapter 13.34 RCW.~~

(3) ~~Children's administration))~~ DCYF does not pay WSP and FBI fingerprint processing fees or expenses for:

(a) Employees, contractors, or volunteers associated with facilities other than foster homes~~((;))~~;

(b) Adoptive homes proposed by ~~((the children's administration,))~~ DCYF; or

(c) Relative or other suitable caregiver homes.

AMENDATORY SECTION (Amending WSR 20-05-024, filed 2/7/20, effective 3/9/20)

WAC 110-04-0120 If I have a pending criminal charge, conviction, or negative action may I ever be authorized to be ~~((employed at a group care facility or))~~ licensed, contracted, certified, authorized to be employed at a group care facility, or authorized to have unsupervised access to children? (1) ~~((In two situations, DCYF may find))~~ DCYF must disqualify a person with convictions ~~((able to be authorized to be employed at a group care facility or have unsupervised access to children))~~ on the DCYF secretary's list that are:

(a) ~~((If the conviction for any crime listed in WAC 110-04-0110 occurred more than five years ago))~~ Permanently disqualifying; or

(b) ~~((If the conviction was for a crime other than those listed in WAC 110-04-0100 or 110-04-0110))~~ Five-year disqualifying if less than five years have passed since the date of conviction.

(2) ~~((In both of these situations))~~ DCYF may authorize a person with convictions or negative actions on the DCYF secretary's list that are not listed in subsection (1) of this section. In this situation, DCYF must review your background ~~((to determine))~~ information and assess your character, suitability, and competence to have unsupervised access to children. In this ~~((review))~~ assessment, DCYF ~~((must))~~ will consider the following factors, among others, related to your background information:

(a) The amount of time that has passed since ~~((you were convicted))~~ the conviction information or negative action;

- (b) The seriousness of the crime or incident that led to the conviction or negative action;
- (c) The number ~~((and))~~, types, and age of other convictions or negative actions in your background;
- (d) Your age at the time of conviction or negative action;
- (e) ~~((Documentation indicating you have successfully completed all court-ordered programs and restitution))~~ Completion of services or other evidence of rehabilitation since conviction or negative action; and
- (f) Your ~~((behavior since the conviction; and~~
- (g) ~~The vulnerability of those that would be under your care))~~ role or purpose of the background check.

AMENDATORY SECTION (Amending WSR 20-05-024, filed 2/7/20, effective 3/9/20)

WAC 110-04-0140 Will you license, contract, authorize my employment at a group care facility, or authorize me to have unsupervised access to children if my conviction has been expunged, vacated from my record, ~~((or))~~ I have been pardoned for a crime, I have a CPI, or CROP?

(1) If you receive a pardon or a court of law acts to expunge or vacate a conviction on your record, the crime will not be considered a conviction for the purposes of licensing, contracting, certification, authorization for employment at a group care facility, or authorization for unsupervised access to children.

(2) When the background information contains a CPI or CROP, DCYF must:

(a) Disqualify if background information contains a pending charge or conviction of a crime or pending negative action on the secretary's list; or

(b) Assess character, suitability, or competence under WAC 110-04-0120.

(3) A CROP does not apply to founded findings of child abuse or neglect. No finding of child abuse or neglect may be destroyed based solely on a CROP.

(4) A CROP must be included as part of the criminal history record reports, qualifying letters, or other assessments pursuant to RCW 43.43.830 through 43.43.838.

(5) If you have a CPI, DCYF may still consider the facts that led to any founded findings for child abuse or neglect in determining whether you have the character, suitability, or competence to have unsupervised access to children.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-04-0160 What may I do if I disagree with the department's decision to deny me a license, certification, contract, or authorization to have unsupervised access based on the results of the background check? (1) If you are seeking a license~~((;))~~ or employment with a home or facility licensed by ~~((the children's administration))~~ DCYF, you may ~~((request))~~ appeal the department's decision by requesting an administrative hearing to dispute a denial of authorization for unsupervised access to children ~~((chapter 34.05 RCW)))~~. You cannot contest the conviction or negative action in the administrative hearing.

(2) Prospective volunteers or interns, contractors or their employees, or those seeking certification do not have the

right to appeal the department's decision to deny authorization for unsupervised access to children.

(3) The employer or prospective employer cannot ~~((contest))~~ appeal the department's decision on your behalf.

(4) The administrative hearings ~~((will take place before an))~~ are conducted by administrative law judges employed by the office of administrative hearings ~~((chapter 34.05 RCW)))~~, pursuant to chapters 34.05 RCW and 110-03 WAC.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-04-0170 Is the background check information released to my employer or prospective employer?

(1) ~~((Children's administration))~~ DCYF will share with employers or approved care providers only that:

(a) You are disqualified; or

(b) You have not been disqualified by the background check.

(2) The department will follow laws related to the release of criminal history records (chapters 10.97 and 43.43 RCW) and public disclosure (chapter ~~((42.17))~~ 42.56 RCW) when releasing any information.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 110-04-0100 Will a criminal conviction permanently prohibit me from being licensed, contracted, certified, authorized to be employed at a group care facility, or authorized to have unsupervised access to children?

WAC 110-04-0110 Are there other criminal convictions that will prohibit me from being licensed, contracted, certified, authorized to be employed at a group care facility, or authorized to have unsupervised access to children or from working with children?

WAC 110-04-0130 Will I be disqualified if there are pending criminal charges on my background check?

Chapter 110-06 WAC

~~((DEL))~~ **BACKGROUND CHECKS—EARLY LEARNING PROGRAMS**

AMENDATORY SECTION (Amending WSR 19-01-111, filed 12/18/18, effective 1/18/19)

WAC 110-06-0010 Purpose and scope. (1) The purpose of this chapter is to establish rules for background checks conducted by the department of children, youth, and families (DCYF).

(2) The department conducts background checks on subject individuals who ~~((are authorized to))~~:

(a) Currently have a background clearance and are seeking to renew the authorization; and

(b) Are seeking a background check authorization for the first time.

(3) A background clearance authorizes a subject individual to:

(a) Work at a child care agency;

(b) Care for ~~((or))~~ children receiving early learning services;

(c) Have unsupervised access to children receiving early learning services;

(d) Reside on the premises of a child care agency or certified facility; or

~~((b))~~ (e) Care for children in the child's or provider's home. These providers, also known as family, friends, and neighbors (FFN) or in-home/relative care providers are exempt from licensing and receive ~~((working connections child care-))~~ WCCC~~((s))~~ subsidies.

~~((3))~~ (4) The department conducts background checks to reduce the risk of harm to children from subject individuals who have been convicted of certain crimes or who pose a risk to children.

~~((4))~~ The department's rules and (5) State law requires the evaluation of background information to determine the character, suitability, ~~((or))~~ and competence of persons who will work at an agency, or care for or have unsupervised access to children receiving early learning services or other agency authorized services.

~~((5))~~ (6) Subject to federal law, if any provision of this chapter conflicts with any substantive provision in any ~~((chapter containing a substantive))~~ rule relating to background checks and qualifications of persons who are authorized to care for or have unsupervised access to children receiving early learning services, the provisions in this chapter ~~((shall))~~ will govern.

~~((6))~~ These rules (7) This chapter implements chapters 43.216 and 43.43 RCW~~((s))~~ including, but not limited to, DCYF responsibilities in RCW 43.216.260, 43.216.270 through 43.216.273, and 43.43.830 through 43.43.832.

~~((7))~~ These rules are amended (8) This chapter is intended to allow for the increased and continued portability of background check clearances for subject individuals who are authorized to care for or may have unsupervised access to children receiving early learning services.

AMENDATORY SECTION (Amending WSR 19-01-111, filed 12/18/18, effective 1/18/19)

WAC 110-06-0020 Definitions. The following definitions apply to this chapter:

~~((Agency))~~ "Agency" has the same meaning as "agency" in RCW 43.216.010.

~~((Appellant))~~ "Appellant" means only those with the right of appeal under this chapter.

~~((Applicant))~~ "Applicant" means an individual who is seeking DCYF background check authorization as part of:

~~((a))~~ An application for a child care agency license or DCYF certification or who seeks DCYF authorization to care for or have unsupervised access to children receiving early learning services; or

~~((b))~~ A continuation of a nonexpiring license or renewal of a certificate, or renewal of DCYF's authorization to care for or have unsupervised access to children receiving early learning services, with respect to an individual who is a currently licensed or certified child care provider.

"Authorized" or "authorization" means approval by DCYF to work at a child care agency, care for ~~((or have unsupervised access to))~~ children receiving early learning services from an agency, have unsupervised access to children receiving early learning services, or to ~~((work in or))~~ reside on the premises of a child care agency or certified facility.

"Certificate of parental improvement (CPI)" has the same meaning as "certificate of parental improvement" in RCW 43.216.010.

"Certificate of restoration of opportunity (CROP)" means a certificate issued by a court under chapter 9.97 RCW that may restore an individual's eligibility for a license, certification, or background check authorization issued under chapter 43.216 RCW.

"Certification" or "certified by DCYF" means an agency that is legally exempt from licensing that has been certified by DCYF as meeting minimum licensing requirements.

"Child care agency" or "agency" has the same meaning as "agency" in RCW 43.216.010.

"Conviction or other disposition adverse to the subject" has the same meaning as "conviction or other disposition adverse to the subject" in RCW 10.97.030.

"Conviction information" means criminal history record information relating to an incident which has led to a conviction or other disposition adverse to the subject individual.

~~((DCYF))~~ "Department of children, youth, and families (DCYF)" or "department" means the Washington state department of children, youth, and families.

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

"Disqualified" or "disqualify" means a DCYF ~~((has determined that a person's))~~ determination or finding was issued to a subject individual that because of their background information ~~((prevents that person from being authorized by DCYF to care for or have))~~ history, they are prohibited from:

(a) Caring for or having unsupervised access to children receiving early learning services;

(b) Working at a child care agency; or

(c) Residing at the premises of a child care agency or certified facility.

"Early learning ((service(s)) services" ((for purposes of this chapter)) means programs and services for child care including, but not limited to, the early childhood education and assistance program (ECEAP), head start, licensed child care, and license-exempt child care services.

"In-home/relative provider" or "family, friends, and neighbors provider" or "FFN provider" means an individual who is exempt from child care licensing standards, meets the requirements of chapter 110-16 WAC, and is approved for working connections child care (WCCC) payments under WAC 110-15-0125.

"Licensee" means the individual, person, organization, or legal entity named on the child care license issued by DCYF and responsible for operating the child care facility or agency.

"Negative action" ((means)) has the same meaning as "negative action" in RCW 43.216.010. A negative action includes a court order(;) or court judgment ((or an adverse action taken by an agency, in any state, federal, tribal or foreign jurisdiction, which results in a finding against the subject individual reasonably related to the subject individual's character, suitability and competence to care for or have unsupervised access to children receiving early learning services. This may include, but is not limited to:

(a) A decision issued by an administrative law judge.

(b) A final determination, decision or finding made by an agency following an investigation.

(c) An adverse agency action, including termination, revocation or denial of a license or certification, or if pending adverse agency action, the voluntary surrender of a license, certification or contract in lieu of the adverse action.

(d) A revocation, denial or restriction placed on any professional license.

(e) A final decision of a disciplinary board)) that finds the subject individual's child dependent and the basis for such finding is RCW 13.34.030(6) or other equivalent state or federal statute.

"Nonconviction information" ((means arrest, pending charges, founded allegations of child abuse, or neglect pursuant to chapter 26.44 RCW, or other negative action adverse to the subject individual)) has the same meaning as "nonconviction information" in RCW 43.216.010.

"Nonexpiring license" or "nonexpiring full license" means a license authorized under RCW 43.216.305 that is issued to a licensee following the initial licensing period(, as provided in chapter 110-300 WAC, as appropriate).

"Premises" has the same meaning as "premises" in WAC 110-300-0005.

"Secretary's list" means ((a list of crimes, the commission of which disqualifies a subject individual from being authorized by DCYF to care for or have unsupervised access to children receiving early learning services;)) the conduct and crimes described in WAC 110-06-0120 and the federal disqualifying crimes and conduct described in 42 U.S.C. Sec. 9858f and C.F.R. Sec. 98.43.

"Subject individual" means:

(a) ((Means)) An individual who is sixteen years of age or older and is seeking:

(i) ((Is seeking)) A background check authorization ((or upon whom the department may conduct a background check authorization;

(ii) Is sixteen years of age or older;

(iii) Is an in-home/relative provider or is employed, contracted with, or volunteers to provide early learning services; and

(iv) Will care for or)) to have unsupervised access to children receiving early learning services; ((and

(b) Includes, but is not limited to, the following:

(i) Personnel, including employees and staff;

(ii) Contractors, including contracted providers;

(iii) Temporary workers;

(iv) Assistants;

(v) Volunteers;

(vi) Interns;

(vii) Each person who is sixteen years of age or older residing on, or moving into, the premises where early learning services are provided;

(viii) All other individuals who are sixteen years of age or older who will care for or have unsupervised access to children receiving early learning services;

(ix) All owners, operators, lessees, or directors of the agency or facility, or their designees;

(x) Applicants;

(xi) Licensees; or

(xii) In-home/relative providers and their household members who are sixteen years of age or older.))

(ii) A background check authorization to care for children receiving early learning services;

(iii) A background check authorization to work at a child care agency;

(iv) A background check authorization to reside at the premises of a child care agency or certified facility;

(v) A reauthorization of a background check authorization previously issued by DCYF; or

(vi) A new background check authorization, having been previously issued a background check authorization.

(b) A person who is thirteen through fifteen years of age who is seeking or has obtained a background check authorization under WAC 110-06-0045.

(c) Examples of "subject individual" include, but are not limited to:

(i) A person who is seeking an application for a child care agency license or a DCYF certification;

(ii) An individual who is currently a licensed or certified child care provider who is seeking:

(A) A continuation of a nonexpiring license or renewal of a certificate; or

(B) A renewal of DCYF's authorization to care for or have unsupervised access to children receiving early learning services;

(iii) A person who is a relative provider, in-home provider, or is employed by an early learning provider, including assistants and other persons who are temporarily employed by an early learning provider;

(iv) A person who is a volunteer or intern that provides early learning services;

(v) A person who contracts with an early learning provider;

(vi) A person who is sixteen years of age or older who:

(A) Resides at, or will be moving onto, the premises where early learning services will or are provided; or

(B) Will care for or have unsupervised access to children receiving early learning services;

(vii) All owners, operators, lessees, or directors of the agency or facility, or their designees; and

(viii) Licensees.

"Unsupervised access" means(~~(:~~

~~(a) A subject individual will or may have the opportunity to be alone with a child receiving early learning services at any time and for any length of time; and~~

~~(b)) not in the presence of a subject individual who is an employee of a child care agency and is authorized by DCYF to be alone with children receiving early learning services from the same agency. For purposes of this definition, unsupervised access includes, but is not limited to, access to ((a child)) children receiving early learning services ((that is)) who are not within constant visual or auditory range of the individual authorized by DCYF to be alone with children receiving early learning services.~~

"WCCC" means the working connections child care program.

AMENDATORY SECTION (Amending WSR 19-21-064, filed 10/11/19, effective 11/11/19)

WAC 110-06-0040 Background clearance requirements. This section applies to all subject individuals (~~(other than))~~, except for in-home/relative providers.

(1) Subject individuals (~~(associated with early learning services applying for a first-time background check))~~ must complete the DCYF background check application process (~~(including))~~ on or before the dates described in WAC 110-06-0041, 110-06-0045, and at least once every three years thereafter. The background check process includes, but is not limited to:

(a) (~~(Submitting))~~ Filing a completed background check application with the DCYF background check unit;

(b) Completing the required fingerprint process; (~~(and))~~

(c) Completing the required interstate background check process for each state the subject individual has lived outside of Washington state in the five years preceding the background check application; and

(d) Paying all required fees as provided in WAC 110-06-0044.

(2) All subject individuals (~~(qualified by the department to have unsupervised access to children in care))~~ who are (~~(renewing their applications))~~ seeking renewals of their DCYF authorizations must:

(a) Submit (~~(the))~~ a new background check application (~~(through))~~ to DCYF;

(b) Submit payment of all required fees (~~(as provided))~~ described in WAC 110-06-0044; (~~(and))~~

(c) Complete the required fingerprint process if the subject individual lives or has lived outside of Washington state

since the previous background check was completed, or has not previously completed the fingerprint process required by this section; and

(d) Complete the required interstate background check process for each state the subject individual has lived outside of Washington state in the five years preceding the background check application.

(3) Each subject individual (~~(completing the DCYF))~~ who submits a background check (~~(process))~~ application and is seeking a background check authorization, or reauthorization, must disclose whether they have:

(a) Been convicted of any crime;

(b) Any pending criminal charges; and

(c) Been or are the subject to any negative action (~~(, as defined by WAC 110-06-0020)).~~

(4) Subject individuals must not have unsupervised access to children in care unless they have obtained DCYF authorization under this chapter.

(5) (~~(A))~~ Subject individuals who (~~(has))~~ have been disqualified by DCYF must not be present on the premises when early learning services are provided to children.

AMENDATORY SECTION (Amending WSR 19-01-111, filed 12/18/18, effective 1/18/19)

WAC 110-06-0042 Departmental investigation and redetermination. (1) The department will investigate and conduct a redetermination of the background clearance of a subject individual if the department receives a complaint or information that causes the department to conclude a background check clearance redetermination is necessary to verify that the subject individual has the appropriate character, suitability, and competence to have unsupervised access to children who receive early learning services. The complaint or information may be received from an individual((s)), a law enforcement agency, or other federal, state, or local government agency.

(2) In addition to the requirements described in subsection (1) of this section, the department will determine whether to disqualify a subject individual whose initial background check revealed a negative action or conviction information but who was granted authorization, and the subject individual subsequently:

(a) Used illegal drugs or misused or abused prescription drugs or alcohol that either affected the subject individual's ability to perform their job duties while on the premises when children were present, or presented a risk of harm to any child receiving early learning services; or

(b) Attempted, committed, permitted, or assisted in an illegal act on the premises. For purposes of this subsection, a subject individual attempted, committed, permitted, or assisted in an illegal act if they knew or reasonably should have known that the illegal act occurred or would occur.

(3) Subject to the requirements in RCW 43.216.270, and based on a determination that an individual lacks the appropriate character, suitability, or competence to be approved for a background check authorization, the department may (~~(immediately))~~:

(a) Invalidate a background check authorization; or

(b) Suspend ~~((or))~~, modify ~~((the subject individual's background clearance))~~, or revoke any child care license issued by DCYF.

~~((3) Subject to the requirements in RCW 43.216.300 and 43.216.305, and based on a determination that a subject individual lacks the appropriate character, suitability, or competence to provide early learning services to children, the department may disqualify the subject individual from having any unsupervised access to children.))~~

AMENDATORY SECTION (Amending WSR 19-01-111, filed 12/18/18, effective 1/18/19)

WAC 110-06-0043 Failure to report nonconviction and conviction information. (1) The early learning services provider must report to the department within twenty-four hours if ~~((he or she))~~ the provider has knowledge ~~((of the following with respect to))~~ that a subject individual ~~((associated with their services,))~~ who has a background check ~~((clearance))~~ authorization ~~((with the department))~~ has a background that includes any of the following:

(a) Any nonconviction and conviction information ~~((for a))~~ that is related to a crime ~~((listed in WAC 110-06-0120))~~, negative action, or conduct that is included on the secretary's list; or

(b) Any other conduct, or nonconviction ~~((and))~~ or conviction information ~~((for a crime))~~, that could be reasonably related to the subject individual's suitability to provide care for or have unsupervised access to children in care ~~((or~~

~~((e) Any negative action as defined in WAC 110-06-0020)).~~

(2) A subject individual who has been issued a background check ~~((clearance))~~ authorization ~~((pursuant to WAC 110-06-0040))~~ under this chapter must report to the department the following information about themselves within twenty-four hours after becoming aware of such information:

(a) Any nonconviction ~~((and))~~ or conviction information ~~((to the department involving a disqualifying))~~ that is related to a crime ~~((under WAC 110-06-0120 against that subject individual within twenty-four hours after he or she becomes aware of the event constituting the nonconviction or conviction information))~~ negative action, or conduct that is included on the secretary's list; and

(b) Any other conduct, or nonconviction or conviction, information that could be reasonably related to the individual's suitability to provide care for or have unsupervised access to children in care.

(3) ~~((A subject individual who))~~ An individual's background check authorization may be disqualified if the individual intentionally or knowingly fails to report to the department as ~~((provided in))~~ required under subsection (1) or (2) of this section ~~((may have his or her background check clearance suspended))~~. This ~~((penalty))~~ disqualification will be in addition to any other ~~((penalty))~~ agency action that may be imposed as a result of a violation of this chapter ~~((or of the))~~, applicable provisions ~~((of any chapter of))~~ within Title 110 WAC ~~((that implement the authority and requirements of))~~, or chapter 43.216 RCW.

AMENDATORY SECTION (Amending WSR 19-01-111, filed 12/18/18, effective 1/18/19)

WAC 110-06-0044 Background check fees. This section applies to all subject individuals other than in-home/relative providers.

(1) Subject individuals ~~((associated with early learning services))~~ must pay for the cost of the background check process. The fees include:

(a) Fingerprint process fees as defined by the Washington state patrol, Federal Bureau of Investigation, DSHS, and the DCYF fingerprint contractor; and

(b) The DCYF administrative fee of:

(i) Twelve dollars for an electronic submission; or

(ii) Twenty-four dollars for a paper submission.

(2) DCYF administrative fee payments may be paid by:

(a) ~~((By))~~ Debit or credit card;

(b) ~~((In the form of))~~ Mailing a personal check, cashier's check, or money order ~~((, which shall be sent by mail))~~ to:

Department of Children, Youth, and Families (DCYF)

Attn: PBC

P.O. Box 40971

Olympia, WA 98504-0971; or

(c) ~~((By))~~ Electronic funds transfer that does not involve a debit or credit card. ~~((As used in))~~ For purposes of this section, "electronic funds transfer" means ~~((any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account))~~ an online system that allows for the secure transfer of money from one bank account to an account designated by DCYF.

(3) The department will not issue a background check ~~((clearance))~~ authorization to a subject individual ~~((~~

~~((a))~~ who fails to pay the required fees in subsection (1) of this section ~~((or~~

~~((b) Whose payment is reported as having nonsufficient funds (NSF) or is otherwise dishonored by nonacceptance or nonpayment.~~

An additional)).

(4) A processing fee of twenty-five dollars will be charged by ~~((the department))~~ DCYF for any check, money order, or electronic funds transfer that is reported as not having sufficient funds.

AMENDATORY SECTION (Amending WSR 19-01-111, filed 12/18/18, effective 1/18/19)

WAC 110-06-0045 Background checks for minor individuals under sixteen years of age. (1) ~~((When applicable within chapter 110-300 WAC, an agency, licensee, or certified facility must have subject individuals complete the required DCYF minor individual background check application process for subject individuals))~~ All agencies, licensees, and certified facilities must be in possession of a copy of a background check authorization for minor subject individuals who work or reside at the licensed or certified agency. The requirements described in this subsection apply to minor subject individuals who are:

(a) ~~Fourteen ((to sixteen)) through fifteen years of age, ((prior to)) before the date ((of hire by)) the subject individual begins working for a licensed or certified child care((-); or~~

~~(b) Thirteen ((to sixteen)) through fifteen years of age ((residing)) on or before the date the subject individual begins or continues to reside in a licensed or certified family home child care. ((e)) For a subject individual who is thirteen ((to sixteen)) through fifteen years of age((-); and who begins to reside in a licensed or certified facility after the individual's thirteenth birthday, the subject individual must complete the required DCYF minor individual background check application process within seven days after moving into the licensed family home child care.~~

~~(2) A subject individual identified in subsection (1) (a)((-)) or (b) ((or e)) of this section must not have unsupervised access to children ((in child care)) receiving early learning services.~~

~~(3) ((When conducting)) The background check application for a minor subject individual ((background check, the department:~~

~~(a) Requires the minor's)) must be signed by the minor and their parent or guardian ((to sign the noncriminal background check application;~~

~~(b) Does not review convictions or pending charges for immediate disqualification for crimes under WAC 110-06-0050(1), unless the conviction was the result of prosecution of the juvenile as an adult; and~~

~~(c) Does not immediately disqualify an individual for a conviction under WAC 110-06-0070 (1) and (2), unless the conviction was the result of prosecution of the juvenile as an adult).~~

~~(4) The minor subject individual's character, suitability, and competence determination will be made pursuant to the requirements described in this chapter.~~

AMENDATORY SECTION (Amending WSR 19-01-111, filed 12/18/18, effective 1/18/19)

WAC 110-06-0046 Requirements for license-exempt in-home/relative providers. (1) This section applies to license-exempt in-home/relative providers. The background check process must be completed for:

(a) All license-exempt in-home/relative providers who apply to care for a ((WCCC)) consumer's child who is eligible to receive WCCC benefits; ((and))

(b) Any individual sixteen years of age or older who is residing with a license-exempt in-home/relative provider ((when)) if the provider cares for the child eligible to receive WCCC benefits in the provider's ((own)) home, and the home is not where the child ((does not reside.

~~(2) Additional background checks must be completed for individuals listed in subsection (1)(a) and (b) of this section when an individual sixteen years of age or older is newly residing)) resides; and~~

~~(c) Any individual sixteen years of age or older who begins to reside with a license-exempt in-home/relative provider ((when the provider)) after the date the provider begins to care((-s)) for the child eligible to receive WCCC benefits in the provider's ((own)) home, and the home is not where the child ((does not)) resides.~~

~~((3) The background check process for license-exempt in-home/relative providers requires:)) (2) A subject individual who is seeking a background check authorization must complete the background check application process by:~~

~~(a) Submitting a completed background check application; ((and))~~

~~(b) Completing the required fingerprint process; and~~

~~(c) Completing the required interstate background check process for each state the subject individual has lived outside of Washington state in the five years preceding the background check application.~~

~~((4)) (3) Each subject individual completing the DCYF background check process must disclose whether they have:~~

~~(a) ((Whether he or she has)) Been convicted of any crime;~~

~~(b) ((Whether he or she has)) Any pending criminal charges; and~~

~~(c) ((Whether he or she has)) Been or are the subject ((to)) of any negative actions((-; as defined by WAC 110-06-0020).~~

~~((5)) (4) A subject individual must not have unsupervised access to children in care ((unless he or she has obtained)) before obtaining a DCYF background check ((clearance)) authorization under this chapter.~~

~~((6)) (5) A subject individual who has been disqualified by DCYF must not be present on the premises when early learning services are provided to children.~~

~~((7)) (6) DCYF ((pays for)) will pay the cost of the background check process. The fees include:~~

~~(a) Fingerprint process fees as defined by the Washington state patrol, Federal Bureau of Investigation, DSHS, and the DCYF fingerprint contractor; and~~

~~(b) The DCYF administrative fee.~~

AMENDATORY SECTION (Amending WSR 19-01-111, filed 12/18/18, effective 1/18/19)

WAC 110-06-0050 Department action following completion of background inquiry. (1) As part of the background check process the department will conduct ((a character, suitability or competence assessment as follows:

~~(1) Compare the background information with the DCYF secretary's list, WAC 110-06-0120, to determine whether the subject individual must be disqualified under WAC 110-06-0070 (1) and (2). In doing this comparison, the department will use the following rules)) the background check investigation and evaluation described in this section to determine whether the subject individual should be disqualified or not.~~

~~(2) A subject individual must be disqualified when their background information includes conviction information described in WAC 110-06-0070(2) or conduct described in WAC 110-06-0070 (7) or (8).~~

~~(3) Subject to the requirements of WAC 110-06-0070(5) and after comparing the subject individual's background information with the secretary's list to determine whether to disqualify under WAC 110-06-0070 (3) or (4), DCYF may conduct a character, suitability, and competence assessment of the subject individual.~~

(4) Subject to the requirements of this chapter and after comparing the subject individual's background information with the secretary's list to determine whether to disqualify under WAC 110-06-0070(6), the department must conduct a character, suitability, and competence assessment of the subject individual.

(5) For purposes of DCYF's investigation, evaluation, and determination, the following standards apply:

(a) A pending charge for a crime ~~((or))~~ that has been filed in the appropriate court, a deferred prosecution ~~((is))~~, or a deferred sentence must be given the same weight as a conviction.

(b) If the conviction has been renamed it is given the same weight as the previous named conviction.

(c) Convictions whose titles ~~((are preceded with))~~ include the word "attempted," "conspiracy," or "solicitation" are given the same weight as those titles without the word "attempted," "conspiracy," or "solicitation."

(d) The term "conviction" ~~((has the same meaning as the term "conviction record" as defined in RCW 10.97.030 and))~~ may include convictions or dispositions for crimes committed as either an adult or juvenile. ~~((It may also include convictions or dispositions for offenses for which the person received a deferred or suspended sentence, unless the record has been expunged according to law.))~~

(e) Convictions and pending charges from other states or jurisdictions will be treated the same as a crime or pending charge in Washington state. If the elements of the crime from the foreign jurisdiction are not identical or not substantially similar to its Washington equivalent or if the foreign statute is broader than the Washington definition of the particular crime, the ~~((defendant's))~~ subject individual's conduct, as evidenced by the indictment or information, will be analyzed to determine whether the conduct would have violated the comparable Washington statute.

~~((The))~~ A crime will not be considered a conviction ~~((for the purposes of the department when))~~ if the conviction has been the subject of an expungement, pardon, annulment, certification of rehabilitation, vacated, or other equivalent procedure based on a finding of the rehabilitation of the person convicted, or the conviction has been vacated, the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence.

~~((2) Evaluate any negative action information to determine whether the subject individual has any negative actions requiring disqualification under WAC 110-06-0070(3).~~

~~((3) Evaluate any negative action information and any other pertinent background information, including nondisqualifying criminal convictions, to determine whether disqualification is warranted under WAC 110-06-0070 (5), (6), or (7))~~ (g) If the subject individual's background information contains a CPI or CROP, DCYF must not disqualify the subject individual solely based on the information that pertains to the CPI, or solely based on the information that pertains to the CROP. For a subject individual who has obtained a CPI or CROP, the department should:

(i) Assess the subject individual's character, suitability, and competence to determine whether the subject individual should be disqualified if his or her background information

contains a pending charge or conviction, unrelated to the CROP, that is listed in WAC 110-06-0120(2); or

(ii) If the subject individual's background does not include a pending charge or conviction listed in WAC 110-06-0120(2), assess the subject individual's character, suitability, and competence to determine whether to disqualify the subject individual under WAC 110-06-0070.

(h) A CROP does not apply to founded findings of child abuse or neglect. A child abuse or neglect finding must be considered by the department.

(i) A CROP and CPI must be included as part of the criminal history record reports, qualifying letters, assessments, or other reports.

(j) A subject individual's background check authorization may be suspended if the subject individual is the subject of a child protective services investigation. The length of the suspension may not exceed the following time period:

(i) As defined in RCW 26.44.020, the department makes an unfounded determination; or

(ii) The date a negative action determination is issued or the date a negative action becomes final, whichever is longer.

(k) If the department suspends a subject individual's background check authorization for the time period described in (j)(ii) of this subsection, the department may disqualify the subject individual pursuant to the requirements described in this chapter.

(l) A subject individual who makes a request for a hearing or appeals a department decision to disqualify will not be authorized to care for or have unsupervised access to children receiving early learning services during the time period the hearing request or appeal is pending.

~~((4))~~ (6) If DCYF has reason to believe that additional information ~~((is))~~ or reports are needed to determine whether the subject individual has the character, suitability ~~((or))~~, and competence ~~((of the subject individual))~~ to care for or have unsupervised access to children receiving early learning services, DCYF may request that the subject individual provide such reports or additional information ~~((will be requested. The))~~. A subject individual ~~((must))~~ who does not provide ~~((to the department any additional reports or))~~ the requested information ~~((that it requests))~~ may be disqualified.

AMENDATORY SECTION (Amending WSR 19-01-111, filed 12/18/18, effective 1/18/19)

WAC 110-06-0070 ~~((Disqualification.))~~ Background check decision.

Background information that ~~((will))~~ may or must disqualify a subject individual.

(1) A subject individual ~~((who has a background containing any of the permanent convictions on the secretary's list, WAC 110-06-0120(1), will be permanently disqualified from caring for children or having unsupervised access to children receiving early learning services.~~

~~((2) A))~~ must be permanently disqualified if the subject individual has a background that includes conviction information of a crime listed in WAC 110-06-0120(2).

(2) Subject to the requirements described in subsection (3) of this section, if a subject individual who is thirteen years of age or older has a background that includes conviction

information of a crime listed in WAC 110-06-0120(2), the subject individual may be permanently disqualified from having unsupervised access to children receiving early learning services at a child care facility.

(3) For the purposes of subsections (1) and (2) of this section, if there is not an unusually high risk of an erroneous disqualification without an individualized assessment, the determination that an individual is permanently disqualified may be solely based on a permanently disqualifying crime listed in WAC 110-06-0120(2). To determine whether there is an unusually high risk of an erroneous disqualification, the department must consider the factors described in subsection (7) of this section.

(4) If a subject individual has a background that includes a negative action, or conviction information, that involves any of the conduct described in the secretary's list under WAC 110-06-0120 (3) or (4), DCYF may disqualify the subject individual if it makes a determination the subject individual does not have the appropriate character, suitability, or competence to be authorized or reauthorized.

(5) A subject individual who knowingly makes a materially false statement in connection with the criminal background check application must be disqualified.

(6) A subject individual who is registered, or is required to be registered, on a state sex offender registry or repository, or the national sex offender registry, must be disqualified.

(7) DCYF must consider the following factors related to a subject individual's background when assessing character, suitability, and competence:

(a) Whether the subject individual ((who)) has a background containing any of the ((nonpermanent)) permanent convictions on the secretary's list((;)) that are described in WAC 110-06-0120(2)((; will be disqualified from providing licensed child care, caring for children or having unsupervised access to children receiving early learning services for five years after the conviction date.

(3) A subject individual will be disqualified when his or her background contains a negative action, as defined in WAC 110-06-0020 that relates to:

(a) An act, finding, determination, decision, or the commission of abuse or neglect of a child as defined in chapters 26.44 RCW and 110-30 WAC.

(b) An act, finding, determination, decision, or commission of abuse or neglect or financial exploitation of a vulnerable adult as defined in chapter 74.34 RCW.

(4) A subject individual who has a "founded" finding for child abuse or neglect will not be authorized to care for or have unsupervised access to children during the administrative hearing and appeals process.

(5) Background information that may disqualify a subject individual. A subject individual may be disqualified for other negative action(s), as defined in WAC 110-06-0020 which reasonably relate to his or her character, suitability, or competence to care for or have unsupervised access to children receiving early learning services.

(6) A subject individual may be disqualified from caring for or having unsupervised access to children if the individual is the subject of a pending child protective services (CPS) investigation.

(7) The department may also disqualify a subject individual if that person has other nonconviction background information that renders him or her unsuitable to care for or have unsupervised access to children receiving early learning services. Among the factors the department may consider are:

(a) The subject individual attempts to obtain a license, certification, or authorization by deceitful means, such as making false statements or omitting material information on an application.

(b) The subject individual used illegal drugs or misused or abused prescription drugs or alcohol that either affected their ability to perform their job duties while on the premises when children were present or presented a risk of harm to any child receiving early learning services.

(c) The subject individual attempted, committed, permitted, or assisted in an illegal act on the premises. For purposes of this subsection, a subject individual attempted, committed, permitted, or assisted in an illegal act if he or she knew or reasonably should have known that the illegal act occurred or would occur.

(d) Subject to federal and state law, the subject individual lacks sufficient physical or mental health to meet the needs of children receiving early learning services.

(e) The subject individual had a license or certification for the care of children or vulnerable adults terminated, revoked, suspended or denied.));

(b) Whether the subject individual has a background containing any of the convictions on the secretary's list that are described in WAC 110-06-0120(3) or negative actions described in WAC 110-06-0120(4);

(c) Whether the subject individual has obtained a CROP or CPI for any of the subject individual's background that is described in WAC 110-06-0120 (3) or (4);

(d) The amount of time that has passed since the conviction information or negative action;

(e) The seriousness of the crime or subject individual's actions that led to the conviction or negative action;

(f) The number, types, and age of other convictions or negative actions in the subject individual's background;

(g) The subject individual's age at the time of conviction or the issuance of the negative action determination;

(h) The length and consistency of employment history before and after the conviction or negative action;

(i) The employment or character references and any other information regarding the subject individual's fitness to be authorized;

(j) The completion of services or other evidence of rehabilitation since the conviction or negative action;

(k) The subject individual's role or purpose in delivering early learning services; and

(l) How the subject individual's conduct that is the basis for the subject individual's conviction or negative action, is conduct that shows the subject individual does not have the appropriate character, suitability, and competence to receive a background check authorization.

AMENDATORY SECTION (Amending WSR 19-01-111, filed 12/18/18, effective 1/18/19)

WAC 110-06-0080 Notification of disqualification.

(1) ~~((The department)) DCYF will ((notify the)) send written notice to a subject individual ((in writing if he or she)) who is disqualified by the background check.~~

(2) If ~~((the department)) DCYF~~ sends a notice of disqualification, the subject individual will not be authorized to care for or have unsupervised access to children receiving early learning services, or to be present on the early learning service's premises during the hours for which child care is provided.

(3) Any decision by ~~((the department)) DCYF~~ to disqualify a subject individual under this chapter is effective immediately upon receipt of written notice from the department to the subject individual.

AMENDATORY SECTION (Amending WSR 19-01-111, filed 12/18/18, effective 1/18/19)

WAC 110-06-0100 Request for administrative hearing.

(1) ~~((Any)) A~~ subject individual has a right to contest ~~((the department's)) a~~ disqualification decision under WAC 110-06-0070 ~~((and)). The subject individual~~ must request a hearing within twenty-eight days of receipt of the written disqualification decision ~~((, regardless of whether the subject individual requests a department reconsideration of the disqualification under WAC 110-06-0115)).~~

(2) A request for a hearing must meet the requirements of chapter 110-03 WAC.

(3) Any decision by the department to disqualify a subject individual under this chapter will remain in effect pending the outcome of the administrative hearing or review under chapter 110-03 WAC, notwithstanding any provision of chapter 110-03 WAC to the contrary.

AMENDATORY SECTION (Amending WSR 19-01-111, filed 12/18/18, effective 1/18/19)

WAC 110-06-0110 Limitations on challenges to disqualifications. (1) If the disqualification is based on a criminal conviction, the subject individual cannot contest the conviction in the administrative hearing.

(2) If the disqualification is based on a finding of child abuse or neglect as defined in chapter 26.44 RCW, or a finding of abandonment, abuse, neglect, exploitation, or financial exploitation of a vulnerable adult as defined in chapter 74.34 RCW, the subject individual cannot contest the finding if:

(a) The subject individual ~~((was notified of)) failed to request a hearing to contest the finding after receiving notice of the finding ((by the department of social and health services)) from DSHS ~~((and failed to request a hearing to contest the finding))~~; or~~

(b) The subject individual was notified of the finding ~~((by DSHS))~~ and requested a hearing to contest the finding, but the finding was upheld by final administrative order or superior court order.

(3) If the disqualification is based on a court order finding the subject individual's child to be dependent as defined

in chapter 13.34 RCW, the subject individual cannot contest the finding of dependency in the administrative hearing.

(4) If the disqualification is based on a negative action ~~((as defined in WAC 110-06-0020))~~, the subject individual cannot contest the underlying negative action in the administrative hearing if the subject individual was previously given the right of review or hearing right and a final decision or finding has been issued.

AMENDATORY SECTION (Amending WSR 19-01-111, filed 12/18/18, effective 1/18/19)

WAC 110-06-0115 ((Reconsideration of)) Department decision to vacate disqualification decision.

(1) Subject to the requirements contained in this chapter ((110-06 WAC)), the department may not reconsider whether an earlier decision to disqualify a subject individual will be vacated unless the department determines a change has occurred in the circumstances of the subject individual between the date of disqualification and the date the request to vacate the disqualification is made. Subject to the requirements contained in this chapter, to receive a background check authorization under this section, the department must review the subject individual's background and assess their character, suitability, and competence to determine whether the change in circumstances demonstrates the subject individual should receive an authorization.

(2) ~~((For a disqualification based on WAC 110-06-0070 (5) or (7)(a), (c), or (e), a disqualified subject individual's request for reconsideration will be granted only if the disqualified subject individual establishes by clear and convincing evidence there has been a change of circumstances since the date of the disqualification that demonstrates there is nothing about the subject individual's character, suitability, or competence that would prevent the subject individual from caring for or having unsupervised access to children receiving early learning services. For purposes of subsection (2) of this section a disqualification based on a "negative action," WAC 110-06-0070 (5) or (7)(c) or (e) does not include a decision, final determination, or finding made by an agency or administrative law judge that relates to:~~

(a) ~~The commission of abuse or neglect of a child as defined in chapters 26.44 RCW and 388-15 WAC; or~~

(b) ~~The commission of abuse or neglect of a vulnerable adult as defined in chapter 74.34 RCW.)~~ To determine whether there has been a change in circumstances, the department must consider the factors described in subsection (3) of this section. A change in circumstances includes, but is not limited to, the following:

(a) Two years have passed since the issuance of a disqualification.

(b) The issuance of a valid CROP that pertains to a crime that was the sole basis of the subject individual's disqualification.

(c) If the sole basis for the disqualification was for a conviction that has been dismissed, vacated, the subject of a pardon, annulment, or other equivalent procedure.

(d) The issuance of a valid CPI that pertains to a negative action that was the sole basis of the subject individual's disqualification. The CPI must pertain to conduct by the subject

individual that resulted in a founded finding of negligent treatment or maltreatment, physical abuse, or a dependency finding that was the result of a finding that the subject individual abused or neglected the child under RCW 13.34.030 (6)(b).

(e) If the sole basis for the disqualification was a negative action that has been dismissed, vacated, annulled, or other equivalent procedure.

(3) ((For a disqualification based on any of the circumstances described in WAC 110-06-0070 (3) and (7)(b) or (d); a disqualified subject individual's request for reconsideration will be granted only if the disqualified subject individual establishes by clear and convincing evidence there has been a change of circumstances since the date of the disqualification that demonstrates there is nothing about the subject individual's character, suitability, or competence that would constitute a danger to a child's welfare if the individual is allowed to care for or have unsupervised access to children in care.)) Before a subject individual is issued a background check authorization under this section, the department must review the subject individual's background and assess their character, suitability, and competence. In this assessment, the department considers the following factors related to the subject individual's background:

(a) Whether the subject individual has a background containing any of the permanent convictions on the secretary's list described in WAC 110-06-0120(2);

(b) Whether the subject individual has a background containing any of the information described in the secretary's list in WAC 110-06-0120 (3) or (4);

(c) The amount of time that has passed since the negative action or conviction information that is the sole basis, or partial basis, of the subject individual's prior disqualification;

(d) The seriousness of the crime or subject individual's actions that led to the conviction or negative action that was the sole basis, or partial basis, of the subject individual's prior disqualification;

(e) The number, types, and age of other conviction information or negative actions in the subject individual's background;

(f) The subject individual's age at the time of the negative action determination or conviction that is the sole basis, or partial basis, of the subject individual's prior disqualification;

(g) The completion of services or other evidence of rehabilitation since the conviction or negative action that is the sole basis, or partial basis of the subject individual's prior disqualification;

(h) The subject individual's role or purpose in delivering early learning services;

(i) The length and consistency of employment history between the date the disqualification was issued and the date the subject individual asks the department to vacate the disqualification decision;

(j) The employment or character references and any other information regarding the subject individual's fitness to be authorized.

(4) ((The department will not reconsider qualifying a subject individual that was disqualified under WAC 110-06-0120(1-)) If a CROP or CPI has been issued for a crime or

negative action that was the sole basis for a disqualification, the department must vacate the disqualification. If a disqualification is vacated for any reason under this section, the department must conduct a new background check investigation and evaluation as described in this chapter.

(5) ((The department will not reconsider qualifying a subject individual that was disqualified under WAC 110-06-0120(2) for a period of five years from the date of the disqualifying conviction.)) As part of the background check process under this section, the department will conduct the background check investigation, evaluation, and assessment as described in this chapter.

AMENDATORY SECTION (Amending WSR 19-01-111, filed 12/18/18, effective 1/18/19)

WAC 110-06-0120 Secretary's list. ((1) A subject individual's conviction for any crimes listed in column (a) in the table below will permanently disqualify him or her from authorization to care for or have unsupervised access to children receiving early learning services.

(2) A subject individual's conviction for any crime listed in column (b) in the table below will disqualify him or her from authorization to care for or have unsupervised access to children receiving early learning services for a period of five years from the date of conviction.

(a) Crimes that permanently disqualify a subject individual	(b) Crimes that disqualify a subject individual for five years from date of conviction
Abandonment of a child	Abandonment of a dependent person not against child
Arson	Assault 3 not domestic violence
Assault 1	Assault 4/simple assault
Assault 2	Burglary
Assault 3 domestic violence	Coercion
Assault of a child	Custodial assault
Bail jumping	Custodial sexual misconduct
	Extortion 2
Child buying or selling	Forgery
Child molestation	Harassment
Commercial sexual abuse of a minor	
Communication with a minor for immoral purposes	Identity theft
Controlled substance-homicide	Leading organized crime
Criminal mistreatment	Malicious explosion 3
Custodial interference	Malicious mischief

(a) Crimes that permanently disqualify a subject individual	(b) Crimes that disqualify a subject individual for five years from date of conviction
Dealing in depictions of minor engaged in sexually explicit conduct	Malicious placement of an explosive 2
Domestic violence (felonies only)	Malicious placement of an explosive 3
Drive-by shooting	Malicious placement of imitation device 1
Extortion 1	Patronizing a prostitute
Harassment domestic violence	Possess explosive device
Homicide by abuse	Promoting pornography
Homicide by watercraft	Promoting prostitution 1
Incendiary devices (possess, manufacture, dispose)	Promoting prostitution 2
Incest	Promoting suicide attempt
Indecent exposure/public indecency (felonies only)	Prostitution
Indecent liberties	Reckless endangerment
Kidnapping	Residential burglary
Luring	Stalking
Malicious explosion 1	Theft
Malicious explosion 2	Theft-welfare
Malicious harassment	Unlawful imprisonment
Malicious mischief domestic violence	Unlawful use of a building for drug purposes
Malicious placement of an explosive 1	Violation of the Imitation-Controlled Substances Act (manufacture/deliver/intent)
Manslaughter	Violation of the Uniform-Controlled Substances Act (manufacture/deliver/intent)
Murder/aggravated murder	Violation of the Uniform-Legend Drug Act (manufacture/deliver/intent)
	Violation of the Uniform Precursor Drug Act (manufacture/deliver/intent)
Possess depictions minor engaged in sexual conduct	
Rape	
Rape of child	
Robbery	
Selling or distributing erotic material to a minor	

(a) Crimes that permanently disqualify a subject individual	(b) Crimes that disqualify a subject individual for five years from date of conviction
Sending or bringing into the state depictions of a minor	
Sexual exploitation of minors	
Sexual misconduct with a minor	
Sexually violating human remains	
Use of machine gun in felony	
Vehicular assault	
Vehicular homicide (negligent homicide)	
Violation of child abuse-restraining order	
Violation of civil anti-harassment protection order	
Violation of protection/contact/restraining order	
Voyeurism))	

(1) The crimes and conduct described in this section constitute the secretary's list.

(2) Subject to the requirements described in this chapter, the department must permanently disqualify a subject individual who has a conviction for any of the crimes listed in this subsection.

Citation	Description
<u>RCW 9A.42.060</u>	<u>Abandonment of a dependent person in the first degree (if the victim is a child)</u>
<u>RCW 9A.42.070</u>	<u>Abandonment of a dependent person in the second degree (if the victim is a child)</u>
<u>RCW 10.95.020</u>	<u>Aggravated murder</u>
<u>RCW 9A.48.020</u>	<u>Arson in the first degree</u>
<u>RCW 9A.48.030</u>	<u>Arson in the second degree</u>
<u>RCW 9A.36.011</u>	<u>Assault in the first degree</u>
<u>RCW 9A.36.021</u>	<u>Assault in the second degree</u>
<u>RCW 9A.36.031</u>	<u>Assault in the third degree (if causes bodily harm)</u>
<u>RCW 9A.36.120</u>	<u>Assault of a child in the first degree</u>

Citation	Description
<u>RCW 9A.36.130</u>	<u>Assault of a child in the second degree</u>
<u>RCW 9A.36.140</u>	<u>Assault of a child in the third degree</u>
<u>RCW 9A.52.020</u>	<u>Burglary in the first degree (if child or spouse is assaulted)</u>
<u>RCW 9A.44.083</u>	<u>Child molestation in the first degree</u>
<u>RCW 9A.44.086</u>	<u>Child molestation in the second degree</u>
<u>RCW 9A.44.089</u>	<u>Child molestation in the third degree</u>
<u>RCW 9A.64.030</u>	<u>Child buying or selling</u>
<u>RCW 9.68A.100</u>	<u>Commercial sexual abuse of a minor</u>
<u>RCW 9.68A.090</u>	<u>Communication with minor for immoral purposes (if a felony)</u>
<u>RCW 69.50.415</u>	<u>Controlled substances homicide (if the victim is a child)</u>
<u>RCW 9A.42.020</u>	<u>Criminal mistreatment in the first degree (if the victim is a child)</u>
<u>RCW 9A.42.030</u>	<u>Criminal mistreatment in the second degree (if the victim is a child)</u>
<u>RCW 9A.36.100</u>	<u>Custodial assault (if causes bodily harm)</u>
<u>RCW 9A.40.060</u>	<u>Custodial interference in the first degree (if the victim is a child)</u>
<u>RCW 9A.40.070</u>	<u>Custodial interference in the second degree (if the victim is a child; and the conviction is the subject individual's second or subsequent conviction of custodial interference in the second degree)</u>
<u>RCW 9A.44.160</u>	<u>Custodial sexual misconduct in the first degree (if the victim is a child)</u>
<u>RCW 9.68A.050</u>	<u>Dealing in depictions of minor engaged in sexually explicit conduct in the first degree or second degree</u>
<u>RCW 9A.36.045</u>	<u>Drive-by shooting (if the victim is a child)</u>
<u>RCW 9A.42.100</u>	<u>Endangerment with a controlled substance (if the victim is a child)</u>
<u>RCW 9A.56.120</u>	<u>Extortion in the first degree (if the victim is a child)</u>
<u>RCW 9A.56.130</u>	<u>Extortion in the second degree (if the victim is a child)</u>
<u>RCW 9A.36.080</u>	<u>Hate crime offense (if the victim is a child)</u>
<u>RCW 9A.32.055</u>	<u>Homicide by abuse (if the victim is a child)</u>
<u>RCW 9A.64.020</u>	<u>Incest in the first degree or second degree (if the victim is a child)</u>

Citation	Description
<u>RCW 9A.88.010</u>	<u>Indecent exposure (if a felony and the victim is a child)</u>
<u>RCW 9A.44.100</u>	<u>Indecent liberties</u>
<u>RCW 9A.40.020</u>	<u>Kidnapping in the first degree</u>
<u>RCW 9A.40.030</u>	<u>Kidnapping in the second degree</u>
<u>RCW 9A.40.090</u>	<u>Luring (if the victim is a child)</u>
<u>RCW 9A.32.060</u>	<u>Manslaughter in the first degree (if the victim is a child)</u>
<u>RCW 9A.32.070</u>	<u>Manslaughter in the second degree (if the victim is a child)</u>
<u>RCW 9A.32.030</u>	<u>Murder in the first degree</u>
<u>RCW 9A.32.050</u>	<u>Murder in the second degree</u>
<u>RCW 9.68A.070</u>	<u>Possession of depictions of minor engaged in sexually explicit conduct in the first degree or second degree</u>
<u>RCW 9.68A.101</u>	<u>Promoting commercial sexual abuse of a minor</u>
<u>RCW 9.68.140</u>	<u>Promoting pornography (if the victim is a child)</u>
<u>RCW 9A.88.070</u>	<u>Promoting prostitution in the first degree (if the victim is a child)</u>
<u>RCW 9.68A.102</u>	<u>Promoting travel for commercial sexual abuse of a minor</u>
<u>RCW 9A.44.040</u>	<u>Rape in the first degree</u>
<u>RCW 9A.44.050</u>	<u>Rape in the second degree</u>
<u>RCW 9A.44.060</u>	<u>Rape in the third degree</u>
<u>RCW 9A.44.073</u>	<u>Rape of a child in the first degree</u>
<u>RCW 9A.44.076</u>	<u>Rape of a child in the second degree</u>
<u>RCW 9A.44.079</u>	<u>Rape of a child in the third degree</u>
<u>RCW 9A.56.200</u>	<u>Robbery in the first degree (if the victim is a child)</u>
<u>RCW 9A.56.210</u>	<u>Robbery in the second degree (if the victim is a child)</u>
<u>RCW 9.68A.060</u>	<u>Sending, bringing into state depictions of minor engaged in sexually explicit conduct in the first degree or second degree</u>
<u>RCW 9.68A.040</u>	<u>Sexual exploitation of a minor</u>
<u>RCW 9A.44.093</u>	<u>Sexual misconduct with a minor in the first degree</u>
<u>RCW 9A.40.040</u>	<u>Unlawful imprisonment (if the victim is a child)</u>
<u>RCW 46.61.520</u>	<u>Vehicular homicide (if the victim is a child)</u>

(3) Subject to the requirements described in this chapter, the department may disqualify a subject individual who has a conviction for a crime listed in this subsection.

Citation	Description
<u>RCW 9A.42.060</u>	<u>Abandonment of a dependent person in the first degree (if the victim is not a child)</u>
<u>RCW 9A.42.070</u>	<u>Abandonment of a dependent person in the second degree (if the victim is not a child)</u>
<u>RCW 9A.42.080</u>	<u>Abandonment of a dependent person in the third degree</u>
<u>RCW 16.52.205</u>	<u>Animal cruelty in the first degree</u>
<u>RCW 16.52.207</u>	<u>Animal cruelty in the second degree</u>
<u>RCW 9A.36.031</u>	<u>Assault in the third degree (if no bodily harm)</u>
<u>RCW 9A.36.041</u>	<u>Assault in the fourth degree</u>
<u>RCW 9A.52.020</u>	<u>Burglary in the first degree (if a child or spouse is not assaulted)</u>
<u>RCW 9A.52.030</u>	<u>Burglary in the second degree</u>
<u>RCW 9A.36.070</u>	<u>Coercion</u>
<u>RCW 9.68A.090</u>	<u>Communication with minor for immoral purposes (if a gross misdemeanor)</u>
<u>RCW 69.50.415</u>	<u>Controlled substances homicide (if the victim is not a child)</u>
<u>RCW 9A.46.120</u>	<u>Criminal gang intimidation</u>
<u>RCW 9A.60.040</u>	<u>Criminal impersonation in the first degree</u>
<u>RCW 9A.42.020</u>	<u>Criminal mistreatment in the first degree (if the victim is not a child)</u>
<u>RCW 9A.42.030</u>	<u>Criminal mistreatment in the second degree (if the victim is not a child)</u>
<u>RCW 9A.42.035</u>	<u>Criminal mistreatment in the third degree</u>
<u>RCW 9A.42.037</u>	<u>Criminal mistreatment in the fourth degree</u>
<u>RCW 9.05.060</u>	<u>Criminal sabotage</u>
<u>RCW 9A.36.100</u>	<u>Custodial assault (if no bodily harm)</u>
<u>RCW 9A.40.060</u>	<u>Custodial interference in the first degree (if the victim is not a child)</u>
<u>RCW 9A.40.070</u>	<u>Custodial interference in the second degree (if the victim is not a child)</u>
<u>RCW 9A.44.160</u>	<u>Custodial sexual misconduct in the first degree (if the victim is not a child)</u>
<u>RCW 9A.44.170</u>	<u>Custodial sexual misconduct in the second degree</u>
<u>RCW 9.61.260</u>	<u>Cyberstalking</u>
<u>RCW 9A.36.045</u>	<u>Drive-by shooting (if the victim is not a child)</u>

Citation	Description
<u>RCW 46.61.502</u>	<u>Driving under the influence of intoxicating liquor, marijuana, or any drug (if the conviction was for a felony or the conviction occurred within three years of the date of the subject individual's request for authorization)</u>
<u>RCW 46.52.020</u>	<u>Duty in case of personal injury or death or damage to attended vehicle or other property - Penalties (if a felony)</u>
<u>RCW 9A.42.100</u>	<u>Endangerment with a controlled substance (if the victim is not a child)</u>
<u>RCW 9A.56.120</u>	<u>Extortion in the first degree (if the victim is not a child)</u>
<u>RCW 9A.56.130</u>	<u>Extortion in the second degree (if the victim is not a child)</u>
<u>RCW 9A.44.132</u>	<u>Failure to register as sex offender or kidnapping offender</u>
<u>RCW 66.44.270</u>	<u>Furnishing liquor to minors (only if the subject individual sells, gives, or otherwise supplies liquor to a person under the age of twenty-one years; or permits any person under that age to consume liquor on the subject individual's property or on any property under the subject individual's control)</u>
<u>RCW 9A.46.020</u>	<u>Harassment</u>
<u>RCW 9A.36.080</u>	<u>Hate crime offense (if the victim is not a child)</u>
<u>RCW 9A.32.055</u>	<u>Homicide by abuse (if the victim is not a child)</u>
<u>RCW 79A.60.050</u>	<u>Homicide by watercraft</u>
<u>RCW 9.40.120</u>	<u>Incendiary devices</u>
<u>RCW 9A.64.020</u>	<u>Incest in the first degree or second degree (if the victim is not a child)</u>
<u>RCW 9A.88.010</u>	<u>Indecent exposure (if felony and victim is not a child, or if a misdemeanor)</u>
<u>RCW 9A.82.060</u>	<u>Leading organized crime</u>
<u>RCW 46.61.685</u>	<u>Leaving children unattended in standing vehicle with motor running</u>
<u>RCW 9.91.060</u>	<u>Leaving children unattended in parked automobile</u>
<u>RCW 9A.40.090</u>	<u>Luring (if the victim is not a child)</u>
<u>RCW 70.74.270</u>	<u>Malicious placement of an explosive in the first, second, or third degree</u>

<u>Citation</u>	<u>Description</u>
<u>RCW 70.74.272</u>	<u>Malicious placement of an imitation device in the first degree or second degree</u>
<u>RCW 9A.32.060</u>	<u>Manslaughter in the first degree (if the victim is not a child)</u>
<u>RCW 9A.32.070</u>	<u>Manslaughter in the second degree (if the victim is not a child)</u>
<u>RCW 46.61.5249</u>	<u>Negligent driving in the first degree (if the conviction occurred within three years of the date of the subject individual's request for authorization)</u>
<u>RCW 46.61.504</u>	<u>Physical control of vehicle under the influence (if felony)</u>
<u>RCW 9.68.140</u>	<u>Promoting pornography (if the victim is not a child)</u>
<u>RCW 9A.88.070</u>	<u>Promoting prostitution in the first degree (if the victim is not a child)</u>
<u>RCW 9A.88.080</u>	<u>Promoting prostitution in the second degree</u>
<u>RCW 9A.36.060</u>	<u>Promoting a suicide attempt</u>
<u>RCW 9A.36.050</u>	<u>Reckless endangerment</u>
<u>RCW 9A.76.070</u>	<u>Rendering criminal assistance in the first degree</u>
<u>RCW 9A.52.025</u>	<u>Residential burglary</u>
<u>RCW 9A.56.200</u>	<u>Robbery in the first degree (if the victim is not a child)</u>
<u>RCW 9A.56.210</u>	<u>Robbery in the second degree (if the victim is not a child)</u>
<u>RCW 9A.44.096</u>	<u>Sexual misconduct with a minor in the second degree</u>
<u>RCW 9A.44.105</u>	<u>Sexually violating human remains</u>
<u>RCW 9A.46.110</u>	<u>Stalking</u>
<u>RCW 9.61.230</u>	<u>Telephone harassment (if felony)</u>
<u>RCW 9A.40.100</u>	<u>Trafficking in the first degree or second degree</u>
<u>RCW 13.32A.080</u>	<u>Unlawful harboring of a minor</u>
<u>RCW 9A.40.040</u>	<u>Unlawful imprisonment (if the victim is not a child)</u>
<u>RCW 69.53.010</u>	<u>Unlawful use of a building for drug abuse purposes</u>
<u>RCW 9.41.225</u>	<u>Use of machine gun or bump-fire stock in felony</u>
<u>RCW 46.61.522</u>	<u>Vehicular assault</u>
<u>RCW 46.61.520</u>	<u>Vehicular homicide (if the victim is not a child)</u>

<u>Citation</u>	<u>Description</u>
<u>RCW 9.68A.075</u>	<u>Viewing depictions of minor engaged in sexually explicit conduct in the first or second degree</u>
<u>RCW 26.50.110</u>	<u>Violation of sexual assault protection order under chapter 7.90 RCW if a felony under RCW 26.50.110.</u>
<u>RCW 26.50.110</u>	<u>Violation of stalking no-contact order or stalking protection order under chapter 7.92 RCW if a felony under RCW 26.50.110.</u>
<u>RCW 26.50.110</u>	<u>Violation of human trafficking no-contact order under chapter 9A.40 if a felony under RCW 26.50.110.</u>
<u>RCW 26.50.110</u>	<u>Violation of an order restricting contact under RCW 9A.46.080.</u>
<u>RCW 26.50.110</u>	<u>Violation of promoting prostitution no-contact order under chapter 9A.88 RCW if a felony under RCW 26.50.110.</u>
<u>RCW 26.50.110</u>	<u>Violation of domestic violence no-contact order under chapter 10.99 RCW if a felony under RCW 26.50.110.</u>
<u>RCW 26.50.110</u>	<u>Violation of dissolution proceeding restraining order under chapter 26.09 RCW if a felony under RCW 26.50.110.</u>
<u>RCW 26.50.110</u>	<u>Violation of paternity proceeding restraining order under chapter 26.26A or 26.26B RCW if a felony under RCW 26.50.110.</u>
<u>RCW 26.50.110</u>	<u>Violation of a domestic violence order for protection under chapter 26.50 RCW if a felony under RCW 26.50.110.</u>
<u>RCW 26.50.110</u>	<u>Violation of an order for protection of a vulnerable adult under chapter 74.34 RCW if a felony under RCW 26.50.110.</u>
<u>RCW 10.14.170</u>	<u>Violation of civil antiharassment protection order</u>
<u>RCW 69.52.030</u>	<u>Violation of the Uniform Controlled Substances Act (manufacture, distribute, or possess with intent to distribute)</u>
<u>Chapter 69.50 RCW (Article IV Offenses and penalties)</u>	<u>Except for controlled substance homicide if the child is a victim (RCW 69.50.415), any violation of the Uniform Controlled Substances Act</u>

Citation	Description
<u>RCW 69.41.020</u>	<u>The unlawful obtaining or attempting to obtain a legend drug, or procure or attempt to procure the administration of a legend drug</u>
<u>RCW 69.41.030</u>	<u>Sale or delivery of legend drug without prescription or order</u>
<u>RCW 69.43.070</u>	<u>Sale, transfer, or furnishing of any substance listed in RCW 69.43.010 with knowledge or intent the recipient will use the substance to unlawfully manufacture a controlled substance; or the receipt of any substance listed in RCW 69.43.010 with intent to use the substance unlawfully to manufacture a controlled substance.</u>
<u>RCW 9A.44.115</u>	<u>Voyeurism</u>
<u>RCW 69.41.030</u>	<u>Sale or delivery of legend drug without prescription or order</u>

(4) Subject to the requirements described in this chapter, the department may disqualify a subject individual who has a background that includes any negative action that is based on the conduct described in this subsection includes any negative action that is based on the conduct described in this subsection.

(a) The abuse, neglect, exploitation, or abandonment of a vulnerable adult, child, or juvenile.

(b) The suspension, termination, revocation, denial, or restriction of a license, professional license, or certification.

(c) The suspension, termination, or revocation of a state or federal contract.

(d) The relinquishment of a license, certification, or contract in lieu of an agency negative action.

(5) Under 42 U.S.C. § 9858f(c)(1)(B) a subject individual must be disqualified and not authorized for employment at a licensed or certified child care facility, if the subject individual knowingly makes a materially false statement in connection with their criminal background check.

(6) Under 42 U.S.C. § 9858f(c)(1)(C) a subject individual must be disqualified and not authorized for employment at a licensed or certified child care facility, if the subject individual is registered, or is required to be registered, on a state sex offender registry or repository or the National Sex Offender Registry established under the Adam Walsh Child Protection and Safety Act of 2006 (42 U.S.C. 16901 et seq.).

WSR 21-20-024
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
(Division of Child Support)
[Filed September 24, 2021, 8:53 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-14-021.

Title of Rule and Other Identifying Information: The division of child support (DCS) is amending WAC 388-14A-3205, 388-14A-3300, 388-14A-3302, 388-14A-3310, 388-14A-3311, 388-14A-3312, 388-14A-3316, 388-14A-3330 and 388-14A-6300; and adding a new section as WAC 388-14A-3331 to implement statutory changes authorized in SHB 2302, Chapter 227, Laws of 2020, including updated income imputation and notice of support owed procedures.

SHB 2302 includes provisions to align income imputation standards with federal rules that went into effect in 2017 provided that states that authorize imputation of income should take into consideration the specific circumstances of the parent, including the following factors: Assets, residence, employment and earnings history, job skills, educational attainment, literacy, age and health, criminal record and other employment barriers, record of seeking work, the local job market, the availability of employers willing to hire the parent, prevailing earnings in the community, and other relevant background factors. These changes fully implement these changes in our rules.

SHB 2302 also adds specific provisions governing use of notices of support owed when a person must pay a portion of medical support or child care or day care expenses. A notice of support owed must contain a statement that any subsequent notice of support owed created for reviewing amounts established in the current notice may be served on any party by regular mail to the person's last known address. A notice of support owed associated with an annual review may be served on the person required to pay support by regular mail to that person's last known address. An initial or subsequent notice of support owed may be served on the person who is entitled to receive the support by regular mail. These WAC changes implement this policy change.

Hearing Location(s): On November 23, 2021, at 10:00 a.m., at Office Building 2, Department of Social and Health Services (DSHS) Headquarters, 1115 Washington, Olympia, WA 98504. Public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/office-of-the-secretary/driving-directions-office-bldg-2>; or virtual. Due to the COVID-19 pandemic, hearings are being held virtually. Please see DSHS website for the most current information.

Date of Intended Adoption: Not earlier than November 24, 2021.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, fax 360-664-6185, by 5:00 p.m., November 23, 2021.

Assistance for Persons with Disabilities: Contact Shelley Tencza, DSHS rules consultant, phone 360-664-6198, fax 360-664-6185, TTY 711 relay service, email tenczsa@

dshs.wa.gov [tencza@dshs.wa.gov], by 5:00 p.m., November 9, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposal will update our income imputation WAC 388-14A-3205 to align with updated federal/state standards and current DCS practice. This proposal will also implement authorized changed [changes] to our notice of support owed process, which will increase efficiencies and improve outcomes for our clients.

Reasons Supporting Proposal: Our current rule regarding income imputation does not provide as much guidance or specific detail on how DCS makes an imputation determination. The proposed change will increase transparency around our practices and ensure clients and others have clear guidance in rule that aligns with relevant statutes. With regard to the notice of support owed procedures, these changes will increase efficiency and ensure adequate notice for our clients when they are obligated to pay certain expenses.

Statutory Authority for Adoption: RCW 26.09.105, 26.18.170, 26.23.110, 34.05.220, 74.04.055, 74.08.090, 74.20.040, and 74.20A.310.

Statute Being Implemented: RCW 26.19.071, 26.23.110.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Not applicable.

Name of Proponent: DSHS, economic services administration, DCS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Brady Horenstein, Rules Coordinator, DCS Head Quarters, P.O. Box 9162, Olympia, WA 98507-9162, 360-664-5291.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. This rule concerns liability for care of dependents, the proposal is exempt under RCW 34.05.328 (5)(b)(vii).

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute.

Is exempt under RCW 19.85.025(4), 34.04.328 (5)(b)(vii).

Explanation of exemptions: This proposal does not affect small businesses, concerns liability for care of dependents.

September 23, 2021
Katherine I. Vasquez
Rules Coordinator

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

WAC 388-14A-3205 How does DCS calculate my income? (1) The division of child support (DCS) calculates a parent's income using the best available information. If a parent is voluntarily unemployed or underemployed, either DCS or the administrative law judge (ALJ), or both may impute

income to that parent. Voluntary underemployment or unemployment is determined based upon the parent's assets, residence, employment and earnings history, job skills, educational attainment, literacy, health, age, criminal record, dependency court obligations, and other employment barriers, record of seeking work, the local job market, the availability of employers willing to hire the parent, the prevailing earnings level in the local community, or any other relevant factors. Income is not imputed for an unemployable parent. Income is also not imputed to a parent to the extent the parent is unemployed or significantly underemployed due to the parent's efforts to comply with court-ordered reunification efforts under chapter 13.34 RCW or under a voluntary placement agreement with an agency supervising the child.

(2) In the absence of records of a parent's actual earnings, either DCS ((and/or)) or the administrative law judge (ALJ), or both may impute a parent's income under RCW 26.19-071(6) in the following order of priority:

(a) Full-time earnings at the current rate of pay;

(b) Full-time earnings at the historical rate of pay based on reliable information, such as employment security department data;

(c) Full-time earnings at a past rate of pay where information is incomplete or sporadic;

(d) ~~((Full-time))~~ Earnings of thirty-two hours per week at minimum wage in the jurisdiction where the parent resides if the parent ((has a recent history of minimum wage earnings,)) is on or recently coming off ((public assistance, disability lifeline benefits)) temporary assistance for needy families or recently coming off aged, blind, or disabled assistance benefits, pregnant women assistance benefits, essential needs and housing support, supplemental security income, or disability, has recently been released from incarceration, or is a ((high school student or)) recent high school graduate. Imputation at thirty-two hours per week under this subsection is a rebuttable presumption; ((or))

(e) Full-time earnings at minimum wage in the jurisdiction where the parent resides if the parent has a recent history of minimum wage earnings, has never been employed and has no earnings history, or has no significant earnings history; or

(f) Median net monthly income of year-round full-time workers as derived from the United States bureau of census, current population reports.

~~((2))~~ (3) When a parent is currently enrolled in high school full-time, either DCS or the ALJ, or both may consider the totality of the circumstances of both parents when determining whether each parent is voluntarily unemployed or voluntarily underemployed. If the parent who is enrolled in high school is determined to be voluntarily unemployed or voluntarily underemployed, either DCS or the ALJ, or both may impute earnings of twenty hours per week at minimum wage in the jurisdiction where the parent resides. Imputation of earnings at twenty hours per week under this subsection is a rebuttable presumption.

(4) DCS and the ALJ impute ~~((full-time))~~ earnings of thirty-two hours per week at the minimum wage to a TANF recipient in the absence of actual income information. You may rebut the imputation of income if you are excused from being required to work while receiving TANF, because:

(a) You are either engaged in other qualifying WorkFirst activities which do not generate income, such as job search; or

(b) You are excused or exempt from being required to work in order to receive TANF, because of other barriers such as family violence or mental health issues.

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

WAC 388-14A-3300 How does the division of child support require me to make my support payments to the Washington state support registry when my support order says to pay someone else? (1) If a support order requires the noncustodial parent (NCP) to pay support to anywhere other than the Washington state support registry (WSSR), the division of child support (DCS) may serve a notice on the NCP telling the NCP to make all future payments to the WSSR.

(2) DCS determines which notice to serve on the NCP as provided in WAC 388-14A-3302 and elsewhere in this chapter.

(3) When DCS serves a notice of support debt under RCW 74.20A.040 or a notice of support owed under RCW 26.23.110, DCS notifies the ~~((other party to))~~ person entitled to receive the support as well as the payee under the order if appropriate. See WAC 388-14A-3315.

AMENDATORY SECTION (Amending WSR 11-22-116, filed 11/2/11, effective 12/3/11)

WAC 388-14A-3302 How does the division of child support decide what notice to serve when there is already an existing order for child support? (1) When the division of child support (DCS) serves a notice under WAC 388-14A-3300 to advise a noncustodial parent (NCP) that DCS is enforcing a support order, DCS may serve a notice of support debt, a notice of support debt and registration, a notice of support owed, or any other appropriate notice as provided in this chapter.

(2) If the support order sets the amount of the support obligation in a sum certain amount, DCS may serve a notice of support debt on the NCP as provided in RCW 74.20A.040 and WAC 388-14A-3304.

(3) If DCS is registering a support order or income-withholding order issued in another state, DCS may serve a notice of support debt and registration on the NCP, as provided in RCW 26.21A.500, 26.21A.540 and WAC 388-14A-7100.

(4) Under RCW 26.23.110, DCS may serve a notice of support owed on an NCP or a custodial parent (CP), as appropriate, if the underlying support order:

(a) Does not state the monthly support obligation as a fixed dollar amount stated in U.S. dollars;

(b) Contains an escalation clause or adjustment provision for which additional information not contained in the support order is needed to determine the fixed dollar amount of the support debt or the fixed dollar amount of the current and future support obligation, or both;

(c) Provides that the NCP is responsible for a portion of nonmedical expenses incurred on behalf of the child, but does not reduce the amount owed to a fixed dollar amount; or

(d) Provides that either the NCP or the custodial parent (CP) must provide medical support as provided under either RCW 26.19.105 or 74.20A.300, but does not reduce the medical support obligation to a fixed dollar amount.

(5) As of the effective date of this section, DCS does not serve a notice of support owed under RCW 26.23.110 to determine the NCP's proportionate share of any nonmedical expenses other than daycare or child care expenses incurred on behalf of the child(ren) covered by the order.

(6) The fact that an NCP or CP's request that DCS act on his or her claim for unreimbursed nonmedical expenses is rejected by DCS does not mean that the NCP or CP cannot pursue reimbursement of those expenses by proceeding in court.

(a) If a CP obtains a judgment for unreimbursed non-medical expenses, DCS may enforce the judgment if the CP qualifies for services under WAC 388-14A-2000.

(b) If DCS served a notice of support owed to determine the NCP's proportionate share of nonmedical expenses at some time before the effective date of this section and either NCP or CP requests an annual review under RCW 26.23.110, DCS may continue to provide annual reviews for the support order which was the subject of the prior notice of support owed but only for the same nonmedical expenses addressed in the prior notice of support owed.

(7) See WAC 388-14A-3310 for the general rules for a notice of support owed.

(a) WAC 388-14A-3311 describes the procedures for service of a notice of support owed to:

(i) Determine the fixed dollar amount of the support debt or the fixed dollar amount of the current and future support obligation;

(ii) Implement an escalation clause or adjustment provision;

(iii) Convert a support order set in foreign currency using the current rate of exchange to fix the amount of support in U.S. dollars; or

(iv) Determine as a sum certain the NCP's proportionate share of daycare or child care expenses paid by the NCP.

(b) WAC 388-14A-3312 describes the procedures for service of a notice of support owed to establish a parent's share of medical expenses and/or medical support owed for the child or children covered by a support order.

(c) WAC 388-14A-3330 describes the procedures for service of a notice of support owed when DCS conducts an annual review of the amounts determined by an order resulting from a previous notice of support owed.

(8) WAC 388-14A-3307 discusses how DCS proceeds when DCS decides that a determination of controlling order under chapter 26.21A RCW is required. Under that section, DCS may serve a notice of support debt and registration as provided in WAC 388-14A-7100.

(9) WAC 388-14A-3315 provides that:

(a) When DCS serves a notice of support debt or a notice of support owed on the NCP, DCS notifies the CP and the payee under the order, if the CP is not the payee under the order; and

(b) When DCS serves a notice of support owed under WAC 388-14A-3312 on the CP, DCS notifies the NCP.

AMENDATORY SECTION (Amending WSR 20-03-024, filed 1/6/20, effective 4/1/20)

WAC 388-14A-3310 What notice does the division of child support serve to establish a fixed dollar amount under an existing child support order? (1) The division of child support (DCS) may serve a notice of support owed under RCW 26.23.110 on either the noncustodial parent (NCP) or the custodial parent (CP) whenever it is necessary to establish a fixed dollar amount owed under a child support order that was entered in Washington or by any other tribunal. This section provides general information regarding the notice of support owed.

(a) WAC 388-14A-3311 describes the procedures for service of a notice of support owed on the NCP to determine the fixed dollar amount of the support debt or the fixed dollar amount of the current and future support obligation(~~(, including:~~

~~(i) The NCP's proportionate share of daycare or child care expenses incurred on behalf of the child or children; and~~
~~(ii) Converting a support order set in foreign currency using the current rate of exchange to fix the amount of support in U.S. dollars, if necessary; and))~~ for nonmedical expenses.

(b) WAC 388-14A-3312 describes the procedures for service of a notice of support owed on either parent to establish that parent's share of medical expenses or medical support, or both, owed for the child or children covered by a support order.

(2) The notice of support owed contains an initial finding, showing DCS' calculation of the fixed dollar amount of:

- (a) The current and future support obligation;
- (b) Any support debt owed; or
- (c) Both amounts.

(3) The notice of support owed facilitates enforcement of the underlying support order by implementing the terms of the order, but it cannot modify the terms of the order.

(4) The reasons that DCS may serve a notice of support owed include, but are not limited to:

(a) The underlying support order sets a support obligation but does not state the monthly support obligation as a fixed dollar amount;

(b) The underlying support order sets a support obligation stated in foreign currency and DCS seeks to convert that amount using the current rate of exchange to fix the amount of support stated in U.S. dollars;

(c) DCS is implementing the adjustment or escalation provision of a court order;

(d) The support order provides that the NCP is responsible for paying for a portion of daycare or child care expenses incurred on behalf of the child or children, but does not reduce the amount owed to a fixed dollar amount. DCS serves the notice of support owed to determine the NCP's proportionate share of those expenses; or

(e) The support order provides that either the NCP or the CP must provide medical support as required under either RCW 26.19.105 or 74.20A.300, but does not reduce the medical support obligation to a fixed dollar amount.

(5) ~~((Because of the different purposes for which DCS may serve a notice of support owed under RCW 26.23.110;))~~

DCS ~~((has developed two))~~ uses four separate forms to use for the notice of support owed:

(a) The basic form used by DCS to establish a fixed dollar amount owed by an NCP under an existing child support order is called the notice of support owed. The notice of support owed is also used to notify parties of an annual review of amounts owed established by a previous notice of support owed.

(b) ~~((DCS developed a special form called))~~ The "notice of support owed - Medical support" ~~((which))~~ is used ~~((only))~~ for the following purposes:

(i) To notify an obligated parent of the obligation to pay a portion of the premium for health insurance provided by the other parent or state of Washington; or

(ii) To determine a fixed dollar amount for uninsured medical expenses incurred on behalf of the child or children and to demand payment of the obligated parent's proportionate share when a support order requires the obligated parent to pay a specific percentage of uninsured medical expenses.

(iii) To determine the amounts owed in an annual review of the amounts established by a previous notice of support owed-Medical support.

(c) The notice of support owed-Daycare establishment is used to establish a daycare obligation for past-due and current and future daycare when the underlying order provides that daycare expenses must be determined by a percentage stated in the underlying order.

(d) The notice of support owed-Daycare annual review is used to review daycare expenses established by a previous notice of support owed-Daycare establishment or notice of support owed-Daycare annual review and to determine current and future daycare obligation subsequent to the effective period of the previous notice of support owed that addressed a daycare obligation.

(6) For the purposes of this chapter, the term "notice of support owed" includes "notice of support owed," ~~((and))~~ "notice of support owed - Medical support~~((-))~~," "notice of support owed-Daycare establishment," and "notice of support owed-Daycare annual review."

(7) DCS serves ~~((a))~~ an initial notice of support owed on the NCP or the CP, as appropriate, like a summons in a civil action or by certified mail, return receipt requested.

(8) ~~((WAC 388-14A-3315 provides that;))~~ When DCS serves a notice of support owed on one party, DCS notifies the other party to the support order by sending a form called the notice to payee, and encloses a copy of the notice.

(a) If DCS is serving a notice of support owed on the NCP, DCS mails the notice to payee to the CP and to the payee under the order, if the CP is not the payee under the order.

(b) If DCS is serving a notice of support owed on the CP, DCS mails the notice to payee to the NCP.

(9) If the order resulting from a previous notice of support owed included a statement that subsequent notices of support owed to review the amounts will be served in regular mail, DCS may serve a subsequent notice of support owed by regular mail to the parties at their last known mailing addresses on file with the department.

(10) If the previous notice of support owed does not include a statement that a subsequent notice of support owed

may be mailed by first class mail, DCS must serve the notice of support owed in the same manner as an initial notice of support owed.

(11) See WAC 388-14A-3330 for procedures used by DCS for annual review of an obligation established by a prior notice of support owed.

(12) In a notice of support owed, DCS includes:

(a) The information required by RCW 26.23.110;

(b) Any provision or factors contained in the underlying order regarding how to calculate the monthly support or the amounts claimed for medical support;

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

(d) Notice of the right to request an annual review of the order or a review on the date given in the order for an annual review, if any. WAC 388-14A-3330 describes the procedures for the annual review of a notice of support owed; and

(e) Notice that a subsequent notice of support owed for an annual review of the amounts established by the notice of support owed may be served by regular mail to each party at their last known address.

~~((10))~~ (13) A notice of support owed fully and fairly informs the parties of the rights and responsibilities in this section.

~~((11))~~ (14) After service of a notice of support owed, the recipient of the notice (which could be either the CP or the NCP, as appropriate,) must make all support payments required by the notice to the Washington state support registry (WSSR). DCS does not credit payments made to any other party after service of a notice of support owed except as provided in WAC 388-14A-3375.

~~((12))~~ (15) The need to serve a notice of support owed does not require DCS to cease all enforcement actions on a case. At any time, DCS may enforce:

(a) A fixed or minimum dollar amount for monthly support stated in the court order or a prior administrative order entered under this section;

(b) Any part of a support debt that has been reduced to a fixed dollar amount by a court or administrative order; and

(c) Any part of a support debt that neither party claims is incorrect.

~~((13))~~ (16) A notice of support owed becomes final and subject to immediate income withholding and enforcement as provided in WAC 388-14A-3316.

~~((14))~~ (17) An objection or request for hearing on a notice of support owed may be timely or untimely:

(a) WAC 388-14A-3317 discusses what happens if a parent makes a timely request for hearing; and

(b) WAC 388-14A-3318 discusses what happens if a parent makes an untimely request for hearing.

~~((15))~~ (18) WAC 388-14A-3320 provides general information regarding an administrative hearing on a notice of support owed.

~~((16))~~ (19) WAC 388-14A-3330 provides information regarding the annual review of a notice of support owed.

~~((17))~~ (20) For the purposes of this section and WAC 388-14A-3311 through ~~((388-14A-3330))~~ 388-14A-3331, the term "payee" includes "physical custodian," "custodial parent," or "party seeking reimbursement."

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

WAC 388-14A-3311 How does DCS prepare a notice of support owed to determine amounts owed to establish a fixed dollar amount under an existing child support order?

(1) The division of child support (DCS) serves a notice of support owed under RCW 26.23.110, WAC 388-14A-3310 and this section on the noncustodial parent (NCP) to determine the fixed dollar amount of the support debt, the fixed dollar amount of the current and future support obligation, or both.

(2) DCS may serve a notice of support owed on the NCP to determine the fixed dollar amount of the current and future support obligation when a support order provides that the NCP's support obligation is:

(a) A certain percentage of the NCP's gross or net earnings;

(b) Set as a sum-certain amount, but the amount is to be paid other than monthly; or

(c) To be determined by some other formula or method requiring the use of information that is not contained in the order, including currency conversion when DCS is enforcing a support order which sets the support amount in a foreign currency.

(3) DCS may serve a notice of support owed-Daycare establishment on the NCP to determine the amount of the NCP's share of daycare or child care expenses for the children when the support order sets the NCP's obligation as a percentage or proportion of those expenses. A custodial parent (CP) seeking reimbursement for daycare or childcare expenses for the ~~((child(ren)))~~ child or children must:

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

(b) Have paid the daycare or child care expenses before seeking reimbursement through DCS;

(c) Provide proof of payment of those 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 NCP to pay his or her share of the daycare or child care expenses or provide good cause for not asking the NCP for payment.

(4) DCS' denial of a request from either the CP or the NCP to serve a notice of support owed under this section does not affect either party's ability to bring an action in another tribunal to enforce a claim for the other party's proportionate share of expenses paid for the children. Either party may file an action in court to:

(a) Make a claim for reimbursement of daycare or childcare expenses;

(b) Make a claim for reimbursement of any other child rearing expenses; or

(c) Seek any other kind of relief against the other party.

(5) DCS may serve a notice of support owed under this section on the NCP to implement an escalation clause or adjustment provision for which additional information not contained in the support order is needed to determine the

fixed dollar amount of the support debt or the fixed dollar amount of the current and future support obligation.

(6) Whenever DCS serves a notice of support owed on the NCP under subsections (2), (3) or (5) above, that notice may also include a determination of the fixed dollar amount of:

- (a) Any support debt owing;
- (b) Any amount paid by the NCP that exceeds his or her actual current and future support obligation; and
- (c) Any amount paid by the NCP that exceeds his or her actual share of day care or child care expenses.

(7) If DCS is preparing a notice of support owed as part of an annual review, the notice may also include a determination of the fixed dollar amount of:

- (a) Any support debt owed by the NCP; and
- (b) Any amounts calculated under an order resulting from a previous notice of support owed that exceed the NCP's actual obligation after actual income or expenses are considered.

(8) If the notice of support owed contains a determination that the amount owed by the NCP under the previous notice of support owed (if any) is more than his or her actual current and future support obligation or his or her actual share of expenses, the notice addresses how the difference may be credited or repaid, in the absence of an agreement between the parties.

(a) Any overpayment may be applied as an offset to non-assistance child support arrears owed by the NCP on that case only.

(b) If there is no nonassistance debt owed on the case, the reimbursement must be 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) In a case where the underlying order provides that the NCP's support obligation will end in less than twelve months, spread equally over the remaining life of the order.

(9) In a notice of support owed under this section, DCS includes:

- (a) The information required by RCW 26.23.110 and WAC 388-14A-3110;
- (b) A description of any provisions or factors contained in the underlying order regarding how to calculate the monthly support obligation or the amounts claimed for non-medical expenses; and
- (c) Any other information not contained in the order that DCS used to calculate the amounts in the notice.

(10) See WAC 388-14A-3330 for additional procedures used by DCS for an annual review of the amounts established by a notice of support owed.

AMENDATORY SECTION (Amending WSR 19-02-017, filed 12/21/18, effective 1/21/19)

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~~) 388-14A-4100, the division of child sup-

port (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 health care coverage for 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 a child named in the support order, if the child receives public health care coverage 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 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 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 public health care coverage 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 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 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 cer-

tain amount and the medical expenses include premiums for health care coverage for the 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 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 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 parent is not already providing health care coverage for the 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 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 care coverage for the child. The obligated parent is only required to pay those costs if he or she is not providing accessible health 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 public health care coverage 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))~~ See WAC 388-14A-3330 for additional procedures used by DCS for an annual review of the amounts established by a notice of support owed.

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

WAC 388-14A-3316 When can a notice of support owed become a final order? (1) The division of child sup-

port (DCS) may serve a notice of support owed on either the noncustodial parent (NCP) or the custodial parent (CP), as described in WAC 388-14A-3310, 388-14A-3311, and 388-14A-3312.

(2) The notice of support owed becomes a final administrative order subject to immediate income withholding and enforcement without further notice under chapters 26.18, 26.23, 74.20, and 74.20A RCW unless one of the parties, no matter which one was served with the notice, contacts DCS within the time limits provided in this section and:

- (a) Objects to the notice;
 - (b) Requests a hearing;
 - (c) Negotiates and signs an agreed settlement as provided in WAC 388-14A-3600; or
 - (d) Obtains a stay from the superior court.
- (3) DCS treats any objection to the notice of support owed as a request for hearing on the notice.

(4) If a timely objection is filed, DCS cannot enforce the contested amounts claimed in the notice of support owed until a final order as defined in this section is entered.

(a) WAC 388-14A-3317 discusses what happens if a party makes a timely objection or request for hearing on a notice of support owed.

(b) Even after a timely objection, DCS may still enforce those parts of the support obligation listed in WAC 388-14A-3310(10).

(5) To be timely, the party must object within the following time limits:

- (a) Within twenty days of service, if the notice was served in Washington state.
- (b) Within sixty days of service, if the notice was served outside of Washington state.

(6) The effective date of an objection or hearing request is the date that DCS receives the objection or request for hearing.

(7) After a timely request for hearing, the final order is one of the following, whichever occurs latest:

- (a) An agreed settlement or consent order under WAC 388-14A-3600; or
- (b) A final order as defined in WAC 388-14A-6105 and further described in WAC 388-14A-6115.

(8) WAC 388-14A-3318 describes what happens when a party makes an untimely request for hearing on a notice of support owed.

(9) RCW 26.23.110 provides that if a party who receives a notice of support owed does not initiate an action in superior court and serve notice on DCS and on the other party to the support order within twenty days after service of the notice, that party is considered to have made an election of remedies. This means that the party (either the CP or the NCP) must exhaust the administrative remedies under chapter 26.23 RCW before bringing a court action to challenge the notice.

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

WAC 388-14A-3330 What are the procedures for the annual review of a notice of support owed? (1) RCW 26.23.110 provides for an annual review of the support order

which was previously the subject of a notice of support owed under that statute if the division of child support (DCS), the noncustodial parent (NCP), or the custodial parent (CP) requests a review.

(a) Either the CP or the NCP may request an annual review of the support order (~~(; even though RCW 26.23.110 mentions only the NCP).~~)

(b) DCS may request an annual review of the support order but has no duty to do so.

(2) For purposes of chapter 388-14A WAC, an "annual review of a support order" is defined as:

(a) The collection by DCS of necessary information from CP and NCP;

(b) The service of a notice of support owed under WAC 388-14A-3310, 388-14A-3311, or 388-14A-3312; and

(c) The determination of arrears and current support amount with an effective date which is at least twelve months after the date the last notice of support owed, or the last administrative order or decision based on a notice of support owed, became a final administrative order.

(3) A notice of support owed may be prepared and served sooner than twelve months after the date the last notice of support owed, or the last administrative order or decision based on a notice of support owed, became a final administrative order, but the amounts determined under the notice of support owed may not be effective sooner than twelve months after that date unless the notice of support owed resulted from an accelerated review under WAC 388-14A-3331.

(4) For the purpose of this section, the terms "payee" and "CP" are interchangeable, and can mean either the payee under the order or the person with whom the child resides the majority of the time.

(5) For purposes of chapter 388-14A WAC, the following rules apply to an "annual review of a support order" for a notice of support owed served under WAC 388-14A-3312:

(a) Either the CP or the NCP may be the party seeking reimbursement, so long as the CP is both a party to the order and a parent of the ~~((child(ren)))~~ child or children for whom the expenses were incurred.

(b) The party seeking reimbursement must provide proof of payment of at least five hundred dollars in uninsured medical expenses for services provided in the last twenty-four months.

(c) At least twelve months must have passed since:

(i) The date the last notice of support owed for unreimbursed medical expenses on behalf of the party seeking reimbursement became a final order; or

(ii) The last administrative order or decision based on a notice of support owed for unreimbursed medical expenses on behalf of that party became a final administrative order.

(6) WAC 388-14A-3310(1) describes the different types of notice of support owed which are served by DCS. In the event that DCS has served more than one type of notice of support owed on the same case, each notice of support owed has its own twelve-month cycle for annual review.

(7) For purposes of this section, the twelve-month cycle for annual review runs separately for the NCP and for the CP, depending on which one is the party seeking reimbursement.

(8) DCS serves the notice for an annual review on both parties by regular mail to each party's last known address if the order resulting from the prior notice of support owed included a statement that subsequent notices of support owed to review the amounts will be served by regular mail.

NEW SECTION

WAC 388-14A-3331 What are the procedures for the accelerated review of a notice of support owed for day-care expenses? (1) RCW 26.23.110 provides for an accelerated review of the amounts established by a prior notice of support owed if the division of child support (DCS), the non-custodial parent (NCP), or the custodial parent (CP) requests a review.

(a) Either the CP or the NCP may request an accelerated review of the support order.

(b) DCS may request an accelerated review of the support order but has no duty to do so.

(2) For purposes of chapter 388-14A WAC, an "accelerated review of a support order" is defined as:

(a) A review of the daycare expenses established under a prior notice of support owed;

(b) The collection by DCS of necessary information from CP and NCP;

(c) The service of a notice of support owed to review the amounts determined under a previous notice of support owed; and

(d) The service of a notice of support owed less than twelve months after the effective date of the last notice of support owed or the last administrative based on a notice of support owed.

(3) DCS may accelerate the review of a notice of support owed for daycare expenses if:

(a) The CP informs DCS in writing that daycare expenses have terminated and are not expected to resume;

(b) The NCP alleges that daycare expenses have terminated and not expected to resume and the CP fails to provide documentation to indicate continuing daycare expenses;

(c) A new child support order modifies the proportionate shares of the parties' obligations that may change the NCP's daycare obligation;

(d) A child emancipates who is the subject of a current notice of support owed.

(4) A notice of support owed on an accelerated review includes a determination of the fixed dollar amount of:

(a) Any support debt owed by the NCP; and

(b) Any amounts calculated under an order resulting from the prior notice of support owed that exceed the NCP's actual obligation after actual income or expenses are considered.

(5) If the notice of support owed contains a determination that the amount owed by the NCP under the prior notice of support owed is more than his or her actual current and future support obligation or his or her actual share of expenses, the notice addresses how the difference may be credited or repaid.

(a) Any overpayment may be applied as an offset to non-assistance child support arrears owed by the NCP on that case only.

(b) If there is no nonassistance debt owed on the case, the reimbursement must be 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) In a case where the underlying order provides that the NCP's support obligation will end in less than twelve months, spread equally over the remaining life of the order.

(6) In a notice of support owed under this section, DCS includes:

(a) The information required by RCW 26.23.110 and WAC 388-14A-3110;

(b) A description of any provisions or factors contained in the underlying order regarding how to calculate the monthly support obligation or the amounts claimed for day-care expenses; and

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

(7) An order resulting from an accelerated review of a notice of support owed is subject to the rules in chapter 388-14A WAC regarding annual review of notices of support owed.

AMENDATORY SECTION (Amending WSR 19-02-017, filed 12/21/18, effective 1/21/19)

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, and 26.23.110. 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 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 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 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 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 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, to make a monthly contribution toward the premium paid for coverage by the other parent or the state; 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 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.

(11) An administrative final order on a notice of support owed must include a provision that any subsequent notice of support owed created for the purposes of reviewing the amounts established by the final order may be served on any party to the order by regular mail to their last known address.

WSR 21-20-038

PROPOSED RULES

EXECUTIVE ETHICS BOARD

[Filed September 27, 2021, 1:03 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 19-10-022.

Title of Rule and Other Identifying Information: Chapter 292-100 WAC, Procedural rules.

Hearing Location(s): On November 12, 2021, at 9:00 a.m. Due to COVID-19 protocol the hearing will [be] conducted remotely via Zoom (link here [contact agency for link]). To provide public comment during this time please call 253-215-8782, Meeting ID 812 1639 4907.

Date of Intended Adoption: December 1, 2021.

Submit Written Comments to: Kate Reynolds, P.O. Box 40149, Olympia, WA 98504-0149, email kater[at]atg.wa.gov, by November 9, 2021.

Assistance for Persons with Disabilities: Contact Ruthann Bryant, phone 360-664-0871, email Ruthann[at]atg.wa.gov, by November 9, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of

this rule making is to update the rule and provide clarity to state employees and the public.

Statutory Authority for Adoption: RCW 42.52.360.

Statute Being Implemented: Chapter 42.52 RCW.

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

Name of Proponent: Executive ethics board, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Kate Reynolds, Olympia, 360-586-6759.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

September 27, 2021

Ruthann Bryant

Administrative Officer

AMENDATORY SECTION (Amending WSR 17-01-138, filed 12/20/16, effective 1/20/17)

WAC 292-100-050 Determination on reasonable cause. (1) Following an investigation and preparation of the written investigative report, if the complaint is not dismissed by the executive director under WAC 292-100-045, the ~~(board staff will prepare a written investigation report and make a recommendation)~~ results of the investigation will be presented to the board ~~((on whether to))~~. Board staff may recommend that the board find reasonable cause, including a recommendation as to the potential penalty, or may recommend that the matter be dismissed.

(2) Upon receipt of the board staff's investigation report and recommendation, the board will determine:

(a) Whether ~~((or not))~~ there is reasonable cause to believe that a violation of chapter 42.52 RCW has occurred, and the potential penalty; or

(b) Whether to dismiss the matter.

(3) The board's review of reasonable cause determinations will be done in closed session.

(4) If after determining reasonable cause, the board determines that the penalty and costs should be greater than ~~((five hundred dollars))~~ \$500, the respondent will be given the option to have an administrative law judge conduct the hearing and rule on procedural and evidentiary matters in accordance with RCW 42.52.500.

(5) The board may, on its own initiative, choose to retain an administrative law judge to conduct any hearing.

(6) Upon receipt of an investigation report and recommendation on a complaint referred to the employing agency for investigation, the board will either:

(a) Reject the report and recommendation and initiate its own investigation; or

(b) Reject or concur with the report and recommendation and dismiss the complaint; or

(c) Concur with the report and recommendation and proceed under this section; or

(d) Concur with the report and recommendation and refer the matter to the employing agency for implementation of the recommendation if the recommendation is within the agency's authority to implement. The agency will report implementation to the board and the board will then dismiss the complaint.

AMENDATORY SECTION (Amending WSR 01-13-033, filed 6/13/01, effective 7/14/01)

WAC 292-100-060 Notice of hearing—Filing of answer. (1) Following the board's determination on reasonable cause, the board ~~((shall))~~ will provide the complainant, the respondent and the employing agency with a copy of the written determination on reasonable cause and ~~((a copy of the board staff's written investigation))~~ investigative report. ~~((If reasonable cause is found, the determination of reasonable cause shall include a statement of the alleged violations. Prior to scheduling a public hearing, the board shall provide the respondent with an explanation of the option to request that the hearing be conducted by an administrative law judge if the penalty and costs for the alleged violation may be greater than \$500.~~

~~((2) Within 30 days of service of the written determination on reasonable cause, the respondent shall file an answer to the written determination on reasonable cause which shall state his/her response to the alleged violations. The answer shall include either a request for or a waiver of the right to))~~ (2) The respondent has 30 days from the time the determination on reasonable cause is served to file an answer to the determination on reasonable cause and request an adjudicative proceeding and/or settlement. If the penalty is over \$500, the respondent may request an administrative law judge ((if the penalty and costs for the alleged violation may be greater than \$500)) at the hearing. The administrative judge's role is limited to ruling on procedural and evidentiary matters.

~~((3) Failure to file an answer ((to the written determination on reasonable cause)) and request an adjudicative hearing and/or settlement within 30 days of service constitutes a default, and the board may proceed to resolve the case without further notice to, or hearing for the benefit of, the respondent.~~

(4) Within 10 days after service of a default order under subsection (3) of this section, the respondent may file a written motion requesting that the default order be vacated~~((;))~~ and stating the grounds relied upon. During the time within which a party may file a written motion under this subsection, the board chair or a designated board member may adjourn further proceedings or conduct them without the participation of the respondent.

~~((5) ((Within 30 days of service of the written determination on reasonable cause, the respondent shall have the right to request an administrative law judge if the penalty and costs for the alleged violation may be greater than \$500. If the respondent fails to request an administrative law judge within 30 days, the right to have the matter presided over by an~~

administrative law judge is waived. If the respondent does not request an administrative law judge within 30 days and has not defaulted pursuant to this section, the board staff may, at its option, commence an adjudicative proceeding to resolve the matter.

(6)) If a hearing is requested by the respondent, the respondent ((shall)) will be notified of the date of the hearing no later than ((20)) seven days before the hearing date.

AMENDATORY SECTION (Amending WSR 01-13-033, filed 6/13/01, effective 7/14/01)

WAC 292-100-080 Investigation procedures—Subpoenas. (1) During the course of an investigation, the board(~~(, a board member)~~), or the executive director(~~(;)~~) may issue ((a)) subpoenas ((directed to any person who is likely to possess information which is relevant and)) to persons to appear and give testimony, and may require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the investigation. The subpoena ((shall)) must:

(a) Specifically describe the information which is sought, and

(b) Require the production of information at a reasonable place and time, but no later than ((ten)) 10 days from the date it is served, and

(c) Notify the person that if the information is not produced, the board will apply to the superior court for an appropriate order or other remedy.

(2) The subpoena may be personally delivered or sent by certified mail, return receipt requested.

~~((2) The board may issue a subpoena under RCW 42.52.390 to compel persons to appear and give testimony and may require the production of any books, papers, correspondence, memorandums or other documents which the board deems relevant and material.))~~

AMENDATORY SECTION (Amending WSR 99-06-073, filed 3/2/99, effective 4/2/99)

WAC 292-100-090 ((Informal settlement—))Cases resolvable by stipulation. (1) ((RCW 34.05.060 authorizes agencies to establish by rule specific procedures for attempting and executing informal settlement of matters. The following procedures are available for informal dispute resolution that may make more elaborate proceedings under the Administrative Procedure Act unnecessary.

~~((a)) Any respondent may request settlement by notifying board staff in writing.~~

~~((b) If settlement may be accomplished by negotiation, negotiations shall be commenced at the earliest possible time. When board staff and the respondent agree that some or all of the facts are uncontested and a stipulation of the facts is reached, board staff is responsible for providing a written description of the recommended resolution or stipulation to the person(s) involved.~~

~~(e) If settlement of a hearing may be accomplished by informal negotiation, negotiations may be concluded by:~~

~~(i) Stipulation of facts by the parties; or~~

~~(ii) Stipulation of facts, conclusions and penalty by the parties.~~

~~(iii) A stipulated order agreed to by the parties.~~

~~(d) Board staff shall only present proposed stipulations and settlements to the board which it recommends the board adopt.))~~

(2) Settlement may be accomplished by a stipulation of facts, conclusions and penalty by the parties or a stipulated order agreed to by the parties.

(3) Any proposed stipulation ((shall)) must be in writing and signed by each party to the stipulation and ((his or her)) their attorney, if represented. ~~((The stipulation may be recited on the record at the hearing.))~~ Board staff will present the proposed stipulation to the board for consideration.

(4) The board has the option of accepting, rejecting, or modifying the proposed stipulation or asking for additional facts to be presented.

(a) If the board accepts the stipulation or modifies the stipulation with the agreement of the respondent, the board ((shall)) will enter ((an order in conformity with the terms of)) the stipulation.

(b) If the board rejects the stipulation or the respondent does not agree to the board's proposed modifications to the stipulation, the normal hearing process will continue.

(c) If the board requests additional facts, the matter will be referred to the board staff for further investigation.

(5) The proposed stipulation and information obtained during ((formal)) settlement discussions ((shall)) will not be admitted into evidence at a subsequent ((public)) hearing. ~~((If the board requests additional facts be presented, the matter shall be referred to the board staff for further investigation.))~~

AMENDATORY SECTION (Amending WSR 01-13-033, filed 6/13/01, effective 7/14/01)

WAC 292-100-100 Prehearing conference((—Rule)).

(1) In any proceeding, the presiding officer upon ((his/her)) the presiding officer's own motion or upon request by board staff or the respondent or their counsel, may direct the board staff ((or)) and respondent to appear at a specified time and place for a prehearing conference to consider:

(a) Simplification of issues;

(b) ~~((The necessity of amendments to the hearing notice; (e))~~ The possibility of obtaining stipulations, admissions of facts and of documents;

~~((d))~~ (c) Limitation on the number of witnesses;

~~((e))~~ (d) Authorizing discovery by any party;

~~((f))~~ (e) Scheduling order; and

~~((g))~~ (f) Procedural and such other matters as may aid in the disposition of the proceeding.

(2) Prehearing conferences may be held by ((telephone conference call or at a time and place)) teleconference, video conference, or any method specified by the presiding officer.

(3) Following the prehearing conference, the presiding officer ((shall)) will issue an order reciting the action taken and decisions made at the prehearing conference. If no objection to the order is filed with the presiding officer within seven days after the date the order is mailed, the order ((shall)) will control the subsequent course of the proceeding unless modified for good cause by subsequent order.

AMENDATORY SECTION (Amending WSR 99-06-073, filed 3/2/99, effective 4/2/99)

WAC 292-100-105 Discovery—Authority of presiding officer. After a finding of reasonable cause, no discovery is permitted by a party pursuant to WAC 292-100-110 through 292-100-150 unless authorized by the presiding officer. In deciding whether to authorize discovery and the extent of discovery to be allowed, the presiding officer ~~((shall))~~ will consider the party's need for discovery while ensuring that discovery does not unduly delay the hearing. ~~((If the determination of reasonable cause includes an allegation that the respondent has violated RCW 42.52.180, the presiding officer shall permit discovery by the parties. Prior to the appointment of a presiding officer, the chair or other member designated by the board may authorize discovery if the party can demonstrate a compelling reason why discovery must be conducted prior to the appointment of a presiding officer.))~~

AMENDATORY SECTION (Amending WSR 01-13-033, filed 6/13/01, effective 7/14/01)

WAC 292-100-110 Hearings—Discovery—Subpoenas. (1) ~~((The board, a board member, or the executive director may issue subpoenas for discovery, subpoenas to persons to appear and give testimony, and may require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material and the board or presiding officer may issue protective orders as appropriate. Any party may issue subpoenas.))~~ All subpoenas for hearings must be filed with the presiding officer, together with proof of proper service, at least five days prior to the date of the hearing for which they are issued. All subpoenas will be issued and may be enforced in the form and manner set forth in RCW 34.05.446 and WAC 10-08-120.

(2) The presiding officer, upon motion and before the time specified in the subpoena ~~((for compliance therewith))~~ at issue, may:

(a) Quash or modify the subpoena if it is unreasonable and oppressive; or

(b) Condition denial of the motion upon the advancement by the person in whose behalf the subpoena is issued of the reasonable cost of producing the books, papers, documents, or tangible things.

(3) The attendance of witnesses and such production of evidence may be required from any place within the state of Washington to any location where a hearing is being conducted.

AMENDATORY SECTION (Amending WSR 99-06-073, filed 3/2/99, effective 4/2/99)

WAC 292-100-120 Hearings—Discovery—Methods authorized. The following discovery methods are authorized: Deposition upon oral examination, written interrogatories, requests for production, and requests for admission. Deposition upon oral examination, written interrogatories, and requests for admission may be used as evidence in the hearing. The attendance of witnesses to a deposition may be compelled by use of a subpoena. Depositions ~~((shall))~~ will be taken ~~((only))~~ in accordance with this rule and the rules on

subpoenas, ~~((except that))~~ unless board staff and the respondent ~~((may))~~ stipulate to other arrangements.

AMENDATORY SECTION (Amending WSR 01-13-033, filed 6/13/01, effective 7/14/01)

WAC 292-100-130 Hearings—Discovery—Depositions and interrogatories—Notice. A party ~~((desiring to take))~~ taking the deposition of any person upon oral examination ~~((shall))~~ must give reasonable notice of not less than five days in writing to the presiding officer and all parties. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined. On motion of a party to whom the notice is served, the presiding officer may, for cause shown, enlarge or shorten the time. If the parties so stipulate in writing, depositions may be taken at any time or place, upon any notice, and in any manner and when so taken may be used as other depositions.

AMENDATORY SECTION (Amending WSR 01-13-033, filed 6/13/01, effective 7/14/01)

WAC 292-100-140 Depositions and interrogatories in hearings—Protection of parties and deponents. (1) After notice is served for taking a deposition, upon its own motion or upon motion reasonably made by any party or by the person to be examined and upon notice and for good cause shown, the presiding officer may order that the deposition ~~((shall))~~ may:

(a) Not be taken~~((;))~~;₂ or

(b) That it may be taken only at some designated place other than that stated in the notice~~((;))~~;₂ or

(c) That it may be taken only on written interrogatories~~((;))~~;₂ or

(d) That certain matters ~~((shall))~~ must not be inquired into~~((;))~~;₂ or

(e) That the scope of the examination ~~((shall))~~ must be limited to certain matters~~((;))~~;₂ or

(f) That the examination ~~((shall))~~ may be held with no one present except the parties to the action and their officers or counsel~~((;))~~;₂ or

(g) The presiding officer may make any other order which justice requires to protect the party or witness from annoyance, embarrassment, or oppression.

(2) At any time during the taking of the deposition, on motion of any party or the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the presiding officer may order the party conducting the examination to cease ~~((forthwith))~~ from taking the deposition or may limit the scope and manner of the taking of the deposition as ~~((above))~~ provided above. If the order made terminates the examination, it ~~((shall))~~ may be resumed only upon the order of the presiding officer. Upon demand of the objecting party or deponent, the taking of the deposition ~~((shall))~~ must be suspended for the time necessary to make a motion for an order.

AMENDATORY SECTION (Amending WSR 07-02-001, filed 12/20/06, effective 1/20/07)

WAC 292-100-150 Discovery—Production of documents and use at hearing. (1) Any materials to be presented at the hearing ~~((shall))~~ must be provided to the executive director and to the opposing party no less than ~~((ten))~~ 10 days prior to the hearing.

(2) Upon agreement by both parties, additional documentary evidence may be presented at the hearing. The parties ~~((shall))~~ must arrive at the hearing location or make documents available in sufficient time before the time scheduled for the hearing for the purpose of exchanging exhibits to be introduced. When documents are to be offered into evidence at the hearing, the one offering the exhibit shall provide a minimum of ~~((ten))~~ seven copies.

(3) If the parties do not reach an agreement on the submission of additional documentary evidence, at the commencement of the hearing the presiding officer ~~((shall))~~ will, after hearing argument, rule on the admissibility of the documents. The proponent of the documents proposed for submission must show good cause why the documents could not be submitted ~~((ten))~~ 10 days prior to the hearing.

(4) "Good cause" is a substantial reason or legal justification for failing to appear, to act, or respond to an action. To show good cause, the presiding officer must find that a party had a good reason for what they did or did not do, using the provisions of Superior Court civil rule 60 as a guideline.

AMENDATORY SECTION (Amending WSR 07-02-001, filed 12/20/06, effective 1/20/07)

WAC 292-100-160 Conduct of hearings. (1) A hearing ~~((shall))~~ must be conducted pursuant to the Administrative Procedure Act (chapter 34.05 RCW) and its supporting regulations (chapter 10-08 WAC) ~~((, shall be followed))~~ unless modified by chapter 292-100 WAC.

(2) Hearings may be conducted in-person, by video conference, or other virtual means as determined by the presiding officer and in accordance with WAC 10-08-180. Preference should be given to the method which will facilitate the time-liest hearing.

When circumstances prevent the scheduling of an in-person hearing, virtual hearings are strongly encouraged unless a party can demonstrate it will be prejudiced by such a hearing in accordance with the APA and WAC 10-08-180.

(3) A hearing ~~((shall))~~ must be conducted either by the board or by an administrative law judge.

(a) If an administrative law judge participates by request of a respondent, the board may choose to sit with the administrative law judge to hear the matter. If an administrative law judge sits with the board, ~~((he or she shall))~~ the administrative law judge will rule on procedural and evidentiary matters.

(b) If an administrative law judge hears the matter at the request of the board, the board may choose to sit with the administrative law judge or the board may request that the administrative law judge hear the matter alone and prepare an initial order.

~~((3))~~ (4) Following a hearing ~~((in which the board participates)),~~ the board or administrative law judge may conclude that:

(a) The respondent(s) did not violate the act, as alleged, and dismiss the case; or

(b) The respondent(s) has (have) violated chapter 42.52 RCW; or

(c) The respondent(s) is (are) in violation of chapter 42.52 RCW, the board's remedy would be inadequate and the matter should be referred to the appropriate law enforcement agency as provided in RCW 42.52.470.

~~((4))~~ (5) Following a hearing in which the board participates, the board:

(a) ~~((shall))~~ Must set forth in writing its findings of fact, conclusions of law and decision on the merits of the case; and

(b) ~~((shall))~~ Must serve each party, the complainant and the employing agency ~~((;))~~ a copy of the findings of fact, conclusions of law and decision.

~~((5))~~ (6) Following a hearing in which the board does not participate, the administrative law judge ~~((shall))~~ must:

(a) Set forth written findings of fact, conclusions of law and decision on the merits of the case in an initial order;

(b) ~~((shall))~~ Must serve each party and board staff a copy of the findings of fact, conclusions of law and decision, including a statement of the right to request review of the initial order by the board.

AMENDATORY SECTION (Amending WSR 01-13-033, filed 6/13/01, effective 7/14/01)

WAC 292-100-170 Review of initial orders by an administrative law judge. (1) An initial order by an administrative law judge ~~((shall))~~ will become the final order of the board within ~~((forty five))~~ 45 days of the initial order unless:

(a) A board member determines that the initial order should be reviewed as provided in WAC 292-100-175;

(b) A party files a petition for review of the initial order within ~~((thirty))~~ 30 days of the entry of the initial order.

(2) The petition for review ~~((will))~~ must specify the portions of the initial order to which exception is taken and ~~((will))~~ refer to the evidence of record relied upon to support the petition.

(3) Petitions for review ~~((shall))~~ must be filed with the executive director and served on all other parties. The party not filing the petition for review ~~((shall))~~ will have ~~((twenty))~~ 20 days to reply to the petition for review. The reply ~~((shall))~~ must be filed with the executive director and copies of the reply ~~((shall))~~ must be served on all other parties ~~((or their counsel at the time the reply is filed, and)).~~ A reply to a petition for review may include a cross-petition for review.

(4) If the reply contains a cross-petition for review, it ~~((shall))~~ must specify portions of the initial order to which exception is taken by the replying party, and ~~((shall))~~ refer to the evidence of the record relied upon ~~((to support the reply.~~

~~((4))~~ A respondent to a cross-petition for review will have 20 days to reply to the cross-petition for review. The reply to the cross-petition for review must be filed with the executive director and copies of the reply to the cross-petition for review must be served on all other parties.

(5) ~~When considering a petition for review, the board ((shall personally)) must consider the whole record or ((such)) the portions of it ((as may be)) cited by the parties.~~

(a) The board ((shall)) will afford each party an opportunity to present written argument and may afford each party an opportunity to present oral argument.

(b) The board ((shall)) will enter a final order disposing of the proceeding.

(c) The board ((shall)) must serve copies of the final order on all parties, the complainant, and the employing agency.

AMENDATORY SECTION (Amending WSR 01-13-033, filed 6/13/01, effective 7/14/01)

WAC 292-100-175 A board member's request for review of initial orders. (1) Within five days after receiving an initial order by an administrative law judge the executive director ((shall)) must serve a copy of the initial order upon each board member.

(2) A board member who is requesting review of an initial order ((shall)) must provide written notice to the executive director within ((thirty)) 30 days of service on the board member.

(3) Upon receipt of a board member's ((notice of)) request for review the executive director ((shall)) must serve the ((notice of review)) request on all other parties.

(4) The board ((shall personally)) will consider the whole record or ((such)) the portions of ((it as may be)) the record as required for its deliberation.

(a) The board may afford each party an opportunity to present written argument ((or)) and may afford each party an opportunity to present oral argument.

(b) The board ((shall)) will enter a final order disposing of the proceeding.

(c) The board ((shall)) must serve copies of the final order on all parties, the complainant, and the employing agency.

AMENDATORY SECTION (Amending WSR 01-13-033, filed 6/13/01, effective 7/14/01)

WAC 292-100-180 Brief adjudicative proceeding— Authority. Pursuant to RCW 34.05.482 through 34.05.494, after a finding of reasonable cause ((and notwithstanding the provision of WAC 292-100-050 through 292-100-170)), the board may provide a brief adjudicative proceeding as set forth in WAC 292-100-190 for alleged violations of provisions in chapter 42.52 RCW and corresponding rules in which the facts are undisputed, the violations appear to be relatively minor in nature, and the penalty and costs no greater than \$500 will be assessed for the violations.

AMENDATORY SECTION (Amending WSR 01-13-033, filed 6/13/01, effective 7/14/01)

WAC 292-100-190 Brief adjudicative proceeding— Procedure. (1) A brief adjudicative proceeding may be presided over by the chair, or a member of the board designated by the chair.

(2) ~~((When a violation is alleged, before taking action,))~~ The executive director ((shall)) will send the ~~((alleged violator))~~ respondent notice, which ((shall)) must include:

(a) The determination of reasonable cause and the investigative report;

(b) The maximum amount of the penalty and costs which can be imposed at the hearing; and

(c) ~~((Person's))~~ The respondent's right to respond, within ~~((twenty))~~ 20 days, either in writing or in person to explain ~~((his/her))~~ the respondent's view of the matter.

(3) At the time of the hearing, if the presiding officer believes alleged violations no longer meet the criteria in WAC 292-100-180, the presiding officer ((shall)) must immediately adjourn the brief adjudicative proceeding and direct the matter to be scheduled for a ~~((public))~~ hearing by the full board and/or an administrative law judge.

(4) ~~((At the time any unfavorable action is taken,))~~ After the brief adjudicative proceeding, the presiding officer ((shall)) must serve upon each party a written statement describing the violation, the reasons for the decision, the penalty and costs imposed and their right to request review by the board.

(5) The written decision of the presiding officer is an initial order. If no review is taken of the initial order, the initial order ((shall)) will be the final order.

AMENDATORY SECTION (Amending WSR 01-13-033, filed 6/13/01, effective 7/14/01)

WAC 292-100-200 Brief adjudicative proceeding— Administrative review procedures. (1) The board will conduct a review of the initial order upon the written or oral request of a party if the board receives the request within ~~((twenty))~~ 20 days after the service of the initial order.

(2) If the parties have not requested review, the board may conduct a review of the initial order upon its own motion and without notice to the parties, but it may not take any action on review less favorable to any party than the original order without giving that party notice and an opportunity to explain that party's view of the matter.

(3) The order on review ((shall)) must be in writing stating the findings made, and the reasons for the decision, and notice that judicial review is available. The order on review ((shall)) must be entered within ~~((twenty-one))~~ 21 days after the date of the initial order or of the request for review, whichever is later.

AMENDATORY SECTION (Amending WSR 01-13-033, filed 6/13/01, effective 7/14/01)

WAC 292-100-210 Reconsideration of final orders. (1) Within ~~((ten))~~ 10 days of the service of a final order, any party may file a petition for reconsideration ~~((as provided in RCW 34.05.470.~~

(2) ~~Any party may make a motion for reconsideration of a final order of the board as provided in RCW 34.05.470. The request for reconsideration shall be filed at the office of the board and served on the parties no later than ten days after service of the final order. A request or motion for reconsideration shall specify the grounds therefor.~~

~~(3))~~ stating the specific grounds upon which relief is requested. The petition for review must be filed at the office of the board and served on the parties.

(2) Any party may respond to a ~~((request))~~ petition for reconsideration. The response is due no later than ~~((ten))~~ 10 days after the party is served with the request.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 292-100-220 Effective date.

WSR 21-20-058 PROPOSED RULES DEPARTMENT OF HEALTH

(Nursing Care Quality Assurance Commission)

[Filed September 28, 2021, 3:00 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-11-044.

Title of Rule and Other Identifying Information: WAC 246-840-010, 246-840-840, and 246-840-850, nursing technicians. The nursing care quality assurance commission (commission) is proposing amendments to nursing technician rules to provide practice opportunities to licensed practical nursing (LPN) students.

Hearing Location(s): On November 12, 2021, at 1:15 p.m. In response to the coronavirus disease 2019 (COVID-19) public health emergency, the commission will not provide a physical location for this hearing to promote social distancing and the safety of the citizens of Washington state. A virtual public hearing, without a physical meeting space, will be held instead. You can register in advance for this meeting at https://us02web.zoom.us/join/register/tZwpduChqzosHNLiDLFiMR4IaX1Gu-S27_Tv.

Date of Intended Adoption: November 12, 2021.

Submit Written Comments to: Shad Bell, P.O. Box 47864, Olympia, WA 98504, email <https://fortress.wa.gov/doh/policyreview>, fax 360-236-4738, by October 29, 2021.

Assistance for Persons with Disabilities: Contact Shad Bell, phone 360-236-4711, fax 360-236-4711, TTY 711, email Shad.Bell@doh.wa.gov, by October 29, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The commission is proposing amendments to WAC 246-840-010, 246-840-840, and 246-840-850. The commission proposes amending the definition of nursing technician and the nursing technician rules by providing LPN students the same opportunity as registered nurse (RN) students to obtain a nursing technician credential.

Reasons Supporting Proposal: The commission's legislative panel recently completed a review of the benefits of apprenticeship programs and opportunities to improve transition into the workforce for LPN students. After the review, the panel reported to the commission its suggestion to begin the rule-making process to consider granting LPN students

the same opportunity as RN students to obtain a nursing technician credential. The commission is amending WAC 246-840-010, 246-840-840, and 246-840-850. The commission believes that granting the same opportunity to LPN students could provide a positive impact on the students and allow for a better transition into the workforce by allowing them to gain valuable judgment and knowledge through expanded work opportunities.

Statutory Authority for Adoption: RCW 18.79.010, 18.79.110, and 18.79.340.

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

Name of Proponent: Washington state nursing care quality assurance commission, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Shad Bell, 111 Israel Road S.E., Tumwater, WA 98504, 360-236-4711; Enforcement: Catherine Woodard, 111 Israel Road S.E., Tumwater, WA 98504, 360-236-4757.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Shad Bell, P.O. Box 47864, Olympia, WA 98504, phone 360-236-4711, fax 360-236-4738, TTY 711, email Shad.Bell@doh.wa.gov.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The proposed rules do not impact businesses, the proposed rules only impact provider licensing requirements.

September 28, 2021

Paula R. Meyer, MSN, RN, FRE

Executive Director

Nursing Care Quality Assurance Commission

AMENDATORY SECTION (Amending WSR 16-08-042, filed 3/30/16, effective 4/30/16)

WAC 246-840-010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Advanced clinical practice" means practicing at an advanced level of nursing in a clinical setting performing direct patient care.

(2) "Advanced nursing practice" means the delivery of nursing care at an advanced level of independent nursing practice that maximizes the use of graduate educational preparation, and in-depth nursing knowledge and expertise in such roles as autonomous clinical practitioner, professional and clinical leader, expert practitioner, and researcher.

(3) "Advanced registered nurse practitioner (ARNP)" is a registered nurse (RN) as defined in RCW 18.79.050, 18.79.240, 18.79.250, and 18.79.400 who has obtained formal graduate education and national specialty certification through a commission approved certifying body in one or more of the designations described in WAC 246-840-302, and who is licensed as an ARNP as described in WAC 246-840-300. The designations include the following:

(a) Nurse practitioner (NP);

- (b) Certified nurse midwife (CNM);
- (c) Certified registered nurse anesthetist (CRNA); and
- (d) Clinical nurse specialist (CNS).

(4) "Associate degree registered nursing education program" means a nursing education program which, upon successful completion of course work, that includes general education and core nursing courses that provide a sound theoretical base combining clinical experiences with theory, nursing principles, critical thinking, and interactive skills, awards an associate degree in nursing (ADN) to prepare its graduates for initial licensure and entry level practice as an RN.

(5) "Bachelor of science degree registered nursing education program" means a nursing education program which, upon successful completion of course work taught in an associate degree nursing education program, as defined in subsection (28) of this section, plus additional courses physical and social sciences, nursing research, public and community health, nursing management, care coordination, and the humanities, awards a bachelor of science in nursing (BSN) degree, to prepare its graduates for a broader scope of practice, enhances professional development, and provides the nurse with an understanding of the cultural, political, economic, and social issues that affect patients and influence health care delivery.

(6) "Certifying body" means a nongovernmental agency using predetermined standards of nursing practice to validate an individual nurse's qualifications, knowledge, and practice in a defined functional or clinical area of nursing.

(7) "Client advocate" means a licensed nurse who actively supports client's rights and choices, including the client's right to receive safe, high quality care, and who facilitates the client's ability to exercise those rights and choices by providing the client with adequate information about their care and options.

(8) "Commission" means the Washington state nursing care quality assurance commission.

(9) "Competency" means demonstrated knowledge, skill and ability in the practice of nursing.

(10) "Conditional approval" is the approval given a nursing education program that has not met the requirements of the law and the rules of the commission. Conditions are specified that must be met within a designated time to rectify the deficiency.

(11) "Dedicated education unit" means a clinical learning experience within a health care facility, as part of the curriculum of a nursing education program.

(12) "Delegation" means the licensed nurse transfers the performance of selected nursing tasks to competent individuals in selected situations. The nurse delegating the task is responsible and accountable for the nursing care of the client. The nurse delegating the task supervises the performance of the unlicensed person. Nurses must follow the delegation process following the RCW 18.79.260. Delegation in community and in-home care settings is defined by WAC 246-840-910 through 246-840-970.

(13) "Distance education" or "distance learning" means instruction offered by any means where the student and faculty are in separate physical locations. Teaching methods may be synchronous, where the teacher and student communicate at the same time, or asynchronous, where the student

and teacher communicate at different times, and shall facilitate and evaluate learning in compliance with nursing education rules.

(14) "Full approval" of a nursing education program is the approval signifying that a nursing program meets the requirements of the law and the rules of the commission.

(15) "Good cause" as used in WAC 246-840-860 for extension of a nurse technician registration means that the nurse technician has had undue hardship such as difficulty scheduling the examination through no fault of their own; receipt of the examination results after thirty days after the nurse technician's date of graduation; or an unexpected family crisis which caused him or her to delay sitting for the examination. Failure of the examination is not "good cause."

(16) "Good standing" as applied to a nursing technician, means the nursing technician is enrolled in a registered nursing program or licensed practical nursing program approved by the commission and is successfully meeting all program requirements.

(17) "Health care professional" means the same as "health care provider" as defined in RCW 70.02.010(18).

(18) "Home state" is defined as where the nursing education program has legal domicile.

(19) "Host state" is defined as the state jurisdiction outside the home state where a student participates in clinical experiences or didactic courses.

(20) "Immediately available" as applied to nursing technicians, means that an RN who has agreed to act as supervisor is on the premises and is within audible range and available for immediate response as needed which may include the use of two-way communication devices which allow conversation between the nursing technician and an RN who has agreed to act as supervisor.

(a) In a hospital setting, the RN who has agreed to act as supervisor is on the same patient care unit as the nursing technician and the patient has been assessed by the RN prior to the delegation of duties to the nursing technician.

(b) In a nursing home or clinic setting, an RN who has agreed to act as supervisor is in the same building and on the same floor as the nursing technician and the patient has been assessed by the RN prior to the delegation of duties to the nursing technician.

(21) "Initial approval" of nursing education program is the approval status conferred by the commission to a new nursing program based on its proposal prior to the graduation of its first class.

(22) "Licensed practical nurse (LPN)" is a nurse licensed as defined in RCW 18.79.030(3), with a scope of practice defined in RCW 18.79.020 and 18.79.060.

(23) "Limited educational authorization" is an authorization to perform clinical training when enrolled as a student through a commission approved refresher course. This authorization does not permit practice for employment.

(24) "Minimum standards of competency" means the knowledge, skills, and abilities that are expected of the beginning practitioner.

(25) "National nursing education accreditation body" means an independent nonprofit entity, approved by the United States Department of Education as a body that evalu-

ates and approves the quality of nursing education programs within the United States and territories.

(26) "Nontraditional program of nursing" means a school that has a curriculum which does not include a faculty supervised teaching and learning component in clinical settings.

(27) "Nursing education program administrator" is an individual who has the authority and responsibility for the administration of the nursing education program.

(28) "Nursing education program" means a division or department within a state supported educational institution or other institution of higher learning, charged with the responsibility of preparing nursing students and nurses to qualify for initial licensing or higher levels of nursing practice.

(29) "Nursing faculty" means an individual employed by a nursing education program who is responsible for developing, implementing, evaluating, updating, and teaching nursing education program curricula.

(30) "Nursing technician" means a nursing student preparing for RN or LPN licensure who meets the qualifications for licensure under RCW 18.79.340 who is employed in a hospital licensed under chapter 70.41 RCW or a nursing home licensed under chapter 18.51 RCW, or clinic. The nursing student must be in a nursing educational program in the United States or its territories that is approved by the state or territorial nursing regulatory authority and recognized in the list of approved nursing education programs using the National Council Licensure Examination-RN or National Council Licensure Examination-PN. Approved nursing education programs do not include nontraditional schools as defined in subsection ~~((27))~~ (26) of this section.

(31) "Philosophy" means the beliefs and principles upon which a nursing education program curriculum is based.

(32) "Practical nursing education program" means a nursing education program which, upon successful completion of course work that includes core nursing course to provide a sound theoretical base combining clinical experiences with nursing principles, critical thinking, and interactive skills for entry level practical nursing, awards a certificate or degree that the graduate is prepared for interdependent practice to prepare a practical nurse for interdependent practice as an LPN.

(33) "Registered nurse" or "RN" is a licensed nurse as defined in RCW 18.79.030(1), 18.79.040, 18.79.240, and 18.79.260.

(34) "Supervision" of licensed or unlicensed nursing personnel means the provision of guidance and evaluation for the accomplishment of a nursing task or activity with the initial direction of the task or activity; periodic inspection of the actual act of accomplishing the task or activity; and the authority to require corrective action.

(a) "Direct supervision" means the licensed RN who provides guidance to nursing personnel and evaluation of nursing tasks is on the premises, is quickly and easily available, and has assessed the patient prior to the delegation of the duties.

(b) "Immediate supervision" means the licensed RN who provides guidance to nursing personnel and evaluation of nursing tasks is on the premises, is within audible and visual range of the patient, and has assessed the patient prior to the delegation of duties.

(c) "Indirect supervision" means the licensed RN who provides guidance to nursing personnel and evaluation of nursing tasks is not on the premises but has given either written or oral instructions for the care and treatment of the patient and the patient has been assessed by the registered nurse prior to the delegation of duties.

(35) "Traditional nursing education program" means a program that has a curriculum which includes a faculty supervised teaching and learning component in clinical settings.

AMENDATORY SECTION (Amending WSR 13-15-064, filed 7/15/13, effective 8/15/13)

WAC 246-840-840 Nursing technician. The purpose of the nursing technician credential is to provide additional work related opportunities for students enrolled in an LPN, ADN, or BSN program, within the limits of their education, to gain valuable judgment and knowledge through expanded work opportunities.

(1) The nursing technician is as defined in WAC 246-840-010(~~((48)))~~ (30).

(2) The nursing technician shall have knowledge and understanding of the laws and rules regulating the nursing technician and shall function within the legal scope of their authorization under chapter 18.79 RCW and shall be responsible and accountable for the specific nursing functions which they can safely perform as verified by their nursing program.

(3) The nursing technician shall work directly for the hospital, clinic or nursing home and may not be employed in these facilities through a temporary agency.

AMENDATORY SECTION (Amending WSR 04-13-053, filed 6/11/04, effective 6/11/04)

WAC 246-840-850 Use of nomenclature. (1) Any person who meets the definition of nursing technician under WAC 246-840-010(~~((24)))~~ (30) shall use the title nursing technician.

(2) No person may practice or represent oneself as a nursing technician by use of any title or description of services without being registered under chapter 18.79 RCW, unless otherwise exempted by chapter 18.79 RCW.

WSR 21-20-066
PROPOSED RULES
LIQUOR AND CANNABIS
BOARD

[Filed September 29, 2021, 11:45 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-11-035.

Title of Rule and Other Identifying Information: Rules to implement E2SHB 1480 (chapter 48, Laws of 2021). The proposed rules amend or create the following sections:

Chapter 314-02 WAC, Requirements for retail liquor licensees.	
Amended	WAC 314-02-010 Definitions.
Amended	WAC 314-02-035 Food service requirements for a spirits, beer, and wine restaurant license.
Amended	WAC 314-02-0411 Food service requirements for a hotel license.
Amended	WAC 314-02-065 Snack bar license.
Amended	WAC 314-02-087 Spirits, beer, and wine theater license.
Amended	WAC 314-02-112 Caterer's license.
Amended	WAC 314-02-114 Senior center license.

Chapter 314-03 WAC, Allowed activities.	
Amended	WAC 314-03-200 Outside or extended alcohol service.
New	WAC 314-03-205 Temporary rules for outdoor alcohol service by on-premises licensees.
New	WAC 314-03-500 Temporary endorsement for sale of manufacturer-sealed alcohol products through curbside, takeout, or delivery service.
New	WAC 314-03-505 Temporary endorsement for sale of premixed cocktails, cocktail kits, wine by the glass, pre-mixed wine and spirits cocktails, or premixed wine drinks through curbside, takeout, or delivery service.
New	WAC 314-03-510 Temporary endorsement for sale of growlers through curbside, takeout, or delivery service.

Hearing Location(s): On November 10, 2021, at 10:00 a.m. In response to the coronavirus disease 2019 (COVID-19) public health emergency, the Washington state liquor and cannabis board (WSLCB) will not provide a physical location for this hearing to promote social distancing and the safety of the citizens of Washington state. A virtual public hearing, without a physical meeting space, will be held instead. Board members, presenters, and staff will all participate remotely. The public may login using a computer or device, or call-in using a phone, to listen to the meeting through the Microsoft Teams application. The public may provide verbal comments during the specified public comment and rules hearing segments. For more information about board meetings, please visit [https://lcb.wa.gov/Board meetings/Board_meetings](https://lcb.wa.gov/Board%20meetings/Board_meetings).

Date of Intended Adoption: No earlier than November 24, 2021.

Submit Written Comments to: Audrey Vasek, Policy and Rules Coordinator, 1025 Union Avenue, Olympia, WA 98501, email rules@lcb.wa.gov, fax 360-704-5027, by November 10, 2021.

Assistance for Persons with Disabilities: Contact Anita Bingham, ADA coordinator, human resources, phone 360-664-1739, fax 360-664-9689, TTY 711 or 1-800-833-6388, email anita.bingham@lcb.wa.gov, by October 27, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Background: In March of 2020, as the coronavirus (COVID-19) pandemic began to spread rapidly in Washington, the state announced restrictions that impacted the operations of many WSLCB licensees, particularly on-premises licensees. Some licensees were required to close entirely and others had significant limitations to sales and customer service. WSLCB worked to find temporary ways for businesses to expand their operations using methods that would not put the health of employees or customers at risk. E2SHB 1480 (which took effect on April 14, 2021) provides legislative authorization extending certain temporary privileges that WSLCB granted to liquor licensees to mitigate the impact of the COVID-19 pandemic. These temporary privileges include:

Temporary Endorsements for "To-Go" Alcohol Sales: E2SHB 1480 creates temporary alcohol to-go endorsements that allow certain licensees to engage in curbside, takeout, or delivery sales of cocktails and wine by the glass, growlers, and other alcohol products. These new endorsements are set to expire July 1, 2023. There are no fees for licensees to obtain these endorsements. See E2SHB 1480, section 2 (2)-(7) and (11).

Outdoor Alcohol Service Areas: E2SHB 1480 requires WSLCB to adopt or revise current rules to allow for temporary outdoor service of alcohol by certain on-premises licensees, and provides WSLCB with authority to adopt requirements providing for clear accountability at locations where multiple licensees use a shared space for serving customers. These outdoor alcohol service area rules are set to expire July 1, 2023. See E2SHB 1480, section 2 (8) and (11).

Food Service Menu Requirements: E2SHB 1480 requires WSLCB to consider revising current rules in order to provide greater flexibility regarding the food service menu requirements that licensees must provide in conjunction with alcohol sales. These food service requirement changes are permanent. See E2SHB 1480, section 3.

Purpose: The purpose of this proposal is to implement E2SHB 1480 by: (1) Creating rules for the temporary "to-go" alcohol endorsements; (2) creating and revising rules for the temporary outdoor alcohol service area requirements; and (3) revising food service requirement rules to provide licensees with greater flexibility and make it more financially feasible for licensees to comply with the rules. Proposed new rules and changes to existing rules are described in the table below.

Reasons Supporting Proposal: The proposed rules are needed to align existing rules with and implement the law as established by E2SHB 1480.

Rule section	Description of proposed rule changes	Supporting reasons
<i>Category: Food Service Menu Requirements</i>		
WAC 314-02-010 Definitions. (AMENDED)	The definitions of "complete meal," "minimum food service," and "snack food" are revised to provide greater flexibility for licensees. ("Complete meal" was previously defined in WAC 314-02-035.) The definition of "limited food service" is removed and consolidated with "minimum food service." New, culturally diverse food examples are added to all three of these definitions, and the definition of complete meal is expanded to include a "small plates" option in addition to the "entree with at least one side dish available" option.	To implement section 3 of E2SHB 1480 (codified as RCW 66.08.071), which directs WSLCB to "consider revising current rules in order to provide greater flexibility regarding food service menu requirements." To improve clarity of the rules by streamlining and making technical corrections to language and numbering, without changing its effect.
WAC 314-02-035 Food service requirements for a spirits, beer, and wine restaurant license. (AMENDED)	The required number of complete meals is reduced from eight to four. The section is streamlined by removing content that is repeated in the definition section and replacing it with references to the appropriate definitions in WAC 314-02-010. The section caption is revised from a question to a statement.	
WAC 314-02-0411 Food service requirements for a hotel license. (AMENDED)	The required number of complete meals is reduced from eight to four. The section is streamlined by removing content that is repeated in the definition section and replacing it with references to the appropriate definitions in WAC 314-02-010. The section caption is revised from a question to a statement.	
WAC 314-02-065 Snack bar license. (AMENDED)	The cross-reference in subsection (2) to the definition of snack food in WAC 314-02-010 is updated. The section caption is revised from a question to a statement.	
WAC 314-02-087 Spirits, beer, and wine theater license. (AMENDED)	The section is streamlined by removing food service requirements that are repeated in WAC 314-02-035, the spirits, beer, and wine restaurant license, and replacing that language with a cross-reference. The effect of this change is that the required number of complete meals is reduced from eight to four. The section caption is revised from a question to a statement.	
WAC 314-02-112 Caterer's license. (AMENDED)	The required number of complete meals is reduced from eight to four. The section is streamlined by removing content that is repeated in the definition section and replacing it with references to the appropriate definitions in WAC 314-02-010. The section caption is revised from a question to a statement. The subsection numbering is also revised throughout the section.	
WAC 314-02-114 Senior center license. (AMENDED)	The section is streamlined by removing content that is repeated in the definition of "minimum food service" and replacing it with a reference to the definition of "minimum food service" in WAC 314-02-010. The section caption is revised from a question to a statement.	

Rule section	Description of proposed rule changes	Supporting reasons
<i>Category: Outdoor Alcohol Service Areas</i>		
WAC 314-03-200 Outside or extended alcohol service. (AMENDED)	A cross-reference to the proposed temporary rules for outdoor alcohol service in WAC 314-03-205 is added to the first paragraph.	To implement section 2(8) of E2SHB 1480, which directs WSLCB to "adopt or revise current
WAC 314-03-205 Temporary rules for outdoor alcohol service by on-premises licensees. (NEW)	<p>Creates a new section. The section applies to all on-premises licensees that want to have ongoing outdoor alcohol service areas. As before, licensees must apply to WSLCB licensing division for approval/alteration request. There are different requirements for outdoor alcohol service areas in private versus public spaces. As compared to the existing rules, the temporary rules provide more flexibility and options for licensees that want to have outdoor alcohol service areas:</p> <p>Outdoor service areas in public spaces (e.g. sidewalk cafes) are no longer limited to restaurants—all licensees are eligible if they have local jurisdiction approval. The outdoor service area does not have to be contiguous to the licensed premises but must be on the same property or parcel.</p> <p>Interior access to the licensed premises from the outdoor service area is no longer required, but there must be a direct line of sight to the outdoor area from within the licensed premises or an employee must be present in the outdoor area at all times when customers are present to monitor alcohol consumption.</p> <p>Requirements for shared outdoor alcohol service areas are established as follows:</p> <ul style="list-style-type: none"> • Licensees' property parcels/buildings must be located in direct physical proximity to one another; • Licensees must maintain separate storage of products and separate financial records for the shared outdoor alcohol service area; • Licensees must use distinctly marked glassware or serving containers in the shared outdoor area to identify the source of any alcohol product being consumed. The distinctive marking may be either permanent or temporary; and • Licensees must complete an operating plan for the shared outdoor alcohol service area. 	<p>rules to allow for outdoor service of alcohol by on-premises licensees."</p> <p>To improve clarity of the rules by streamlining and making technical corrections to language and numbering, without changing its effect.</p>
<i>Category: Temporary Endorsements for "To-Go" Alcohol Sales</i>		
WAC 314-03-500 Temporary endorsement for sale of manufacturer-sealed alcohol products through curbside, takeout, or delivery service. (NEW)	<p>Creates a new rule section to implement the new temporary endorsement for sale of alcohol products through curbside, takeout, or delivery service created by E2SHB 1480. The endorsement is available to the licensees specified in E2SHB 1480: Spirits, beer, and wine (SBW) restaurants, beer and/or wine (BW) restaurants, taverns, wineries, breweries, microbreweries, distilleries, snack bars, nonprofit arts licensees, and caterers. The endorsement includes the following requirements:</p> <ul style="list-style-type: none"> • Alcohol products must be manufacturer-sealed or factory-sealed. • 21+ Labelling requirement: If the alcohol product is enclosed in a bag, box, or other packaging, the exterior of the packaging must be marked with the words "CONTAINS ALCOHOL, FOR PERSONS 21+." Producers (breweries, wineries, and distilleries) selling alcohol products through takeout are exempt from this requirement. • Delivery requirements: Delivery must be made by persons who are 21+. Third-party service providers are allowed if licensees comply with the existing consumer orders, internet sales, and delivery rules. Delivery person must verify that person receiving the alcohol is 21+ and obtain their signature. Alcohol products may not be left unattended. Delivery may not be made to intoxicated persons. 	To implement E2SHB 1480, section 2 (2), (6), and (9).

Rule section	Description of proposed rule changes	Supporting reasons
	<ul style="list-style-type: none"> • Signage requirements: Signs regarding public consumption and transportation of alcohol products sold through curbside, takeout, or delivery service will be provided electronically by WSLCB and must be posted at the main entrance and areas of the premises where customers pick up alcohol products for takeout or curbside service. 	
<p>WAC 314-03-505 Temporary endorsement for sale of premixed cocktails, cocktail kits, wine by the glass, premixed wine and spirits cocktails, or pre-mixed wine drinks through curbside, take-out, or delivery service. (NEW)</p>	<p>Creates a new rule section to implement the new temporary endorsement for sale of premixed cocktails, cocktail kits, wine by the glass, premixed wine and spirits cocktails, or pre-mixed wine drinks through curbside, takeout, or delivery service created by E2SHB 1480. The endorsement is available to the licensees specified in E2SHB 1480: SBW restaurants (for all of the above drinks), BW restaurants (for wine or premixed wine drinks by the glass). The endorsement includes the following requirements:</p> <ul style="list-style-type: none"> • Food requirements: For SBW restaurants, a complete meal must be sold with the "to-go" cocktail, wine, etc. Up to three ounces of spirits may be sold per complete meal. For BW restaurants, a minimum food service item must be sold with the "to-go" wine or premixed wine drink. • Container requirements: The "to-go" cocktails, wine, etc., must be packaged in containers that are sealed in a manner designed to prevent consumption without removal of a tamper-evident lid, cap, or seal. A noncomprehensive list of examples is provided. • 21+ Labelling requirements: The individual "to-go" containers must be clearly marked or labelled with the words "CONTAINS ALCOHOL, FOR PERSONS 21+." If the individual "to-go" containers are enclosed in a bag, box, or other packaging, the exterior of the packaging must be marked with the words "CONTAINS ALCOHOL, FOR PERSONS 21+." • To deter public consumption or consumption in a vehicle, licensees may not put ice directly into the alcohol "to-go" containers. Ice may be provided separately with the order. • Alcohol "to-go" containers must be placed in the trunk of a vehicle or beyond the immediate reach of the driver and any passengers in compliance with open container requirements in RCW. • Delivery requirements: Delivery must be made by employees of the licensed business who are 21+. Delivery may not be made by third-party service providers. Delivery person must verify that person receiving the alcohol is 21+ and obtain their signature. Alcohol products may not be left unattended. Delivery may not be made to intoxicated persons. • Signage requirements: Signs regarding public consumption and transportation of alcohol products sold through curbside, takeout, or delivery service will be provided electronically by WSLCB and must be posted at the main entrance and areas of the premises where customers pick up alcohol products for takeout or curbside service. <p>The following terms used in E2SHB 1480 are defined: "premixed cocktail," "premixed wine and spirits cocktail," and "premixed wine drink."</p>	<p>To implement E2SHB 1480, section 2 (3), (4), (6), and (9).</p>

Rule section	Description of proposed rule changes	Supporting reasons
WAC 314-03-510 Temporary endorsement for sale of growlers through curbside, takeout, or delivery service. (NEW)	Creates a new rule section to implement the new temporary endorsement for sale of growlers through curbside, takeout, or delivery service created by E2SHB 1480. The endorsement is available to the licensees specified in E2SHB 1480: Licensees that were authorized by statute or rule before January 1, 2020, to sell growlers, including taverns, BW restaurants, SBW restaurants, grocery stores, beer and wine specialty shops, breweries, microbreweries, wineries, combination SBW licensees, and hotel licensees. The endorsement includes the following requirements: <ul style="list-style-type: none"> • As specified in E2SHB 1480, sales of growlers must meet federal TTB requirements. • Growlers must be filled at the tap by the licensee at the time of sale, except that beer and wine specialty shops and breweries can prefill growlers as allowed by E2SHB 1480. • Delivery requirements: Delivery must be made by employees of the licensed business who are 21+. Delivery may not be made by third-party service providers. Delivery person must verify that person receiving the alcohol is 21+ and obtain signature. Alcohol products may not be left unattended. Delivery may not be made to intoxicated persons. • Signage requirements: Signs regarding public consumption and transportation of alcohol products sold through curbside, takeout, or delivery service will be provided electronically by WSLCB and must be posted at the main entrance and areas of the premises where customers pick up alcohol products for takeout or curbside service. 	To implement E2SHB 1480, section 2 (5)-(7), and (9).

Statutory Authority for Adoption: E2SHB 1480 (section 2, chapter 48, Laws of 2021); RCW 66.08.071, 66.08.030.

Statute Being Implemented: E2SHB 1480 (chapter 48, Laws of 2021).

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

Name of Proponent: WSLCB, governmental.

Name of Agency Personnel Responsible for Drafting: Audrey Vasek, Policy and Rules Coordinator, 1025 Union Avenue, Olympia, WA 98501, 360-664-1758; Implementation: Becky Smith, Director of Licensing, 1025 Union Avenue, Olympia, WA 98501, 360-664-1753; and Enforcement: Chandra Brady, Director of Enforcement and Education, 1025 Union Avenue, Olympia, WA 98501, 360-664-1726.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rules do not qualify as a type of rule requiring a cost-benefit analysis under RCW 34.05.328(5). WSLCB is not a listed agency under RCW 34.05.328 (5)(a)(i), so the cost-benefit analysis requirements in RCW 34.05.328 are not applicable to the proposed rules unless voluntarily applied or made applicable by the joint administrative rules review committee under RCW 34.05.328 (5)(a)(ii).

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules are adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule; rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect; and rule content is explicitly and specifically dictated by statute.

Is exempt under RCW 19.85.025(3) through the exemptions in RCW 34.05.310 (4)(c), (d), and (e)).

Explanation of exemptions: Portions of the proposed rules are exempt from the Regulatory Fairness Act's (RFA) small business economic impact statement (SBEIS) requirement under RCW 34.05.310 (4)(c), (d), and (e) as described in the following table:

Rule	Content	Citation	SBEIS Exemption
Alcohol products "To-Go" endorsement	<p><i>The following components of the rule qualify for an SBEIS exemption:</i></p> <p>Specifically dictated by E2SHB 1480:</p> <ul style="list-style-type: none"> • Endorsement is temporary • List of eligible licensees • Upon delivery, signature of person age 21 or over must by [be] obtained • Expiration date <p>Incorporation by reference:</p> <ul style="list-style-type: none"> • At time of alcohol delivery, employee must verify age using acceptable form of ID in WAC 314-11-025. (RCW 66.44.270) • Delivery may not be made of [to] any person who shows signs of intoxication. (RCW 66.44.200) • References to other applicable laws and rules in Title 66 RCW, Title 314 WAC, etc. 	WAC 314-03-500: Subsection (1) Subsection (2) Subsection (3)(c)(ii) Subsection (3)(c)(iv) Subsection (4) Subsection (5) Subsection (6)	RCW 34.05.310 (4)(e): Content of the proposed rules is explicitly and specifically dictated by statute. RCW 34.05.310 (4)(c): Adopts or incorporates by reference without material change Washington state statutes.
	<p><i>The following components of the rule do not qualify for an SBEIS exemption:</i></p> <ul style="list-style-type: none"> • 21+ Labelling requirements • Delivery requirements • Signage requirements • Definitions 	WAC 314-03-500: Subsection (3), except (3)(c)(ii) and (iv)	No exemption applies. See estimated cost of compliance and minor cost analysis in section below.
Cocktails and wine by the glass "To-Go" endorsement	<p><i>The following components of the rule qualify for an SBEIS exemption:</i></p> <p>Specifically dictated by E2SHB 1480:</p> <ul style="list-style-type: none"> • Endorsement is temporary • List of eligible licensees • Mini-bottle sales as part of cocktail kits exempt from spirits [spirits] license issuance fee and tax on retail sale of spirits • Upon delivery, signature of person age 21 or over must by [be] obtained • Expiration date • Definition of mini-bottles <p>Incorporation by reference:</p> <ul style="list-style-type: none"> • At time of alcohol delivery, employee must verify age using acceptable form of ID in WAC 314-11-025. (RCW 66.44.270) • Delivery may not be made of [to] any person who shows signs of intoxication. (RCW 66.44.200) • "To-go" alcohol drinks must be placed in trunk of vehicle, beyond reach of driver in compliance with open container laws. (RCW 46.61.519) • References to other applicable laws and rules in Title 66 RCW, Title 314 WAC, etc. • Definitions of spirits and wine 	WAC 314-03-505: Subsection (1) Subsection (2) Subsection (3)(g)(ii) Subsection (3)(g)(iv) Subsection (4) Subsection (5) (a), (b), (f), (g) Subsection (6)	RCW 34.05.310 (4)(e): Content of the proposed rules is explicitly and specifically dictated by statute. RCW 34.05.310 (4)(c): Adopts or incorporates by reference without material change Washington state statutes.
	<p><i>The following components of the rule do not qualify for an SBEIS exemption:</i></p> <ul style="list-style-type: none"> • Food requirements • Container requirements • 21+ Labelling requirements • Delivery requirements • Signage requirements • Definitions of premixed cocktail, premixed wine and spirits cocktail, and premixed wine drink 	WAC 314-03-505: Subsection (3), except (3)(g)(ii) and (iv) Subsection (5)(c)-(e)	No exemption applies. See estimated cost of compliance and minor cost analysis in section below.

Rule	Content	Citation	SBEIS Exemption
Growlers "To-Go" endorsement	<p><i>The following components of the rule qualify for an SBEIS exemption:</i></p> <p>Specifically dictated by E2SHB 1480:</p> <ul style="list-style-type: none"> • Endorsement is temporary • List of eligible licensees • Sale of growlers must meet TTB requirements • BW specialty shops and breweries may sell prefilled growlers • Upon delivery, signature of person age 21 or over must by [be] obtained • Expiration date • Definition of growlers <p>Incorporation by reference:</p> <ul style="list-style-type: none"> • At time of alcohol delivery, employee must verify age using acceptable form of ID in WAC 314-11-025. (RCW 66.44.270) • Delivery may not be made of [to] any person who shows signs of intoxication. (RCW 66.44.200) • References to other applicable laws and rules in Title 66 RCW, Title 314 WAC, etc. • Definitions of alcohol product, beer, cider, and wine 	<p>WAC 314-03-510:</p> <p>Subsection (1)</p> <p>Subsection (2)</p> <p>Subsection (3)(d)(ii)</p> <p>Subsection (3)(d)(iv)</p> <p>Subsection (4)</p> <p>Subsection (5)</p> <p>Subsection (6)</p>	<p>RCW 34.05.310 (4)(e): Content of the proposed rules is explicitly and specifically dictated by statute.</p> <p>RCW 34.05.310 (4)(c): Adopts or incorporates by reference without material change Washington state statutes.</p>
	<p><i>The following components of the rule do not qualify for an SBEIS exemption:</i></p> <ul style="list-style-type: none"> • Delivery requirements • Signage requirements 	<p>WAC 314-03-510:</p> <p>Subsection (3), except (3)(d)(ii) and (iv)</p>	<p>No exemption applies. See estimated cost of compliance and minor cost analysis in section below.</p>
Outdoor alcohol service areas	<p><i>The following components of the rule qualify for an SBEIS exemption:</i></p> <ul style="list-style-type: none"> • Statement that rules are temporary • Expiration date 	<p>WAC 314-03-205:</p> <p>Subsection (1)</p> <p>Subsection (7)</p>	<p>RCW 34.05.310 (4)(e): Content of the proposed rules is explicitly and specifically dictated by statute.</p>
	<p><i>The following components of the rule do not qualify for an SBEIS exemption:</i></p> <p>The new temporary rules provide more flexibility and options for licensees that want to have outdoor alcohol service areas, as well as establish requirements for licensees that share outdoor alcohol service areas. The existing outdoor service rule section is revised to include a cross-reference to the new temporary rule section.</p>	<p>WAC 314-03-200</p> <p>WAC 314-03-205:</p> <p>Subsections (2)-(6)</p>	<p>No exemption applies, but the changes are not anticipated to impose any new costs on licensees. The changes provide greater flexibility in outdoor alcohol service area options for licensees. See estimated cost of compliance and minor cost analysis in section below.</p>

Rule	Content	Citation	SBEIS Exemption
Food service menu requirements	<p><i>The following components of the rule qualify for an SBEIS exemption:</i></p> <p>For clarity, the language in the section captions for each of these rules is revised from a question to a statement.</p>	<p>Section captions in: WAC 314-02-010 314-02-035 314-02-0411 314-02-065 314-02-087 314-02-112 314-02-114</p>	<p>RCW 34.05.310 (4)(d): Clarifies language of a rule without changing its effect.</p>
	<p><i>The following components of the rule do not qualify for an SBEIS exemption:</i></p> <p>The number of required complete meals for certain licensees is reduced from eight to four. Definitions for "complete meal," "minimum food service," and "snack food" are revised.</p>	<p>WAC 314-02-010 314-02-035 314-02-0411 314-02-065 314-02-087 314-02-112 314-02-114</p>	<p>No exemption applies, but the changes are anticipated to reduce licensee costs to comply with food service requirements by providing greater flexibility. The changes are not anticipated to impose any new costs on licensees. See estimated cost of compliance and minor cost analysis in section below.</p>

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. Overview: E2SHB 1480 created new temporary endorsements for the sale of certain alcohol products through curbside, takeout, or delivery service ("to-go" endorsements) that certain licensees may choose to obtain. E2SHB 1480 also requires that WSLCB create or revise rules to allow for outdoor alcohol service, and to consider revising rules related to food service requirements to provide greater flexibility for licensees. The proposed rules implementing E2SHB 1480 are largely exempt from the RFA's SBEIS requirement as described in the table above. For the portions of the proposed rules that are not exempt from the RFA's SBEIS [SBEIS] requirement, the estimated annual business costs of compliance and minor cost thresholds are described below. The estimated costs of compliance do not exceed the minor cost thresholds for the affected business industries, so an SBEIS is not required under RCW 19.85.030.

Estimated Annual Costs of Compliance: WSLCB applied the following estimated costs of compliance when analyzing whether the proposed rules impose more than "minor costs" as defined in RCW 19.85.020(2) on businesses potentially impacted by the proposed rules. In order to estimate these costs of compliance, WSLCB policy and rules coordinators interviewed 12 volunteer licensees for 45 minutes each in September 2021. In order to recruit volunteer interviewees, a GovDelivery message was sent to all liquor licensee subscribers on September 3, 2021, asking for licensees impacted by the to-go endorsements to provide feedback to help estimate the costs of compliance associated with the draft rules to implement E2SHB 1480. The estimated costs are described below.

(1) Temporary manufacturer-sealed alcohol products "to-go" endorsement: \$122 to \$235.

This is an entirely optional or voluntary endorsement. Licensees are not required to obtain this endorsement unless they wish to engage in the new "to-go" sales privileges provided by this endorsement. Although the endorsement is optional, for licensees that do choose to obtain this endorsement, WSLCB estimates that the total annual cost of compliance with the proposed rules will range between \$122 to \$235, as described below.

Eligible Businesses: Businesses eligible to apply for this endorsement include SBW and BW restaurants, taverns, wineries, breweries, microbreweries, distilleries, snack bars, nonprofit arts licensees, and caterers.

Portions of proposed rules not exempt	Estimated Annual Costs of Compliance
21+ Labelling requirements	<p>\$189 one-time cost during the first year of the endorsement, and \$90 annually in subsequent years. The agency rules team interviewed 12 licensees to determine estimated annual costs of compliance with the manufacturer-sealed alcohol products to-go "CONTAINS ALCOHOL, FOR PERSONS 21+" labelling requirements. Interviewees were asked to consider equipment, supplies, labor, professional services, and administrative costs. The estimated annual cost of compliance was calculated by averaging the cost estimates provided by licensees. Some licensees indicated this requirement would impose a one-time cost (e.g. if a customized rubber stamp were purchased) while other licensees indicated this requirement would impose an annual cost (e.g. if stickers were purchased). Several other licensees indicated they already marked their to-go packaging in the manner required by the proposed rules and there would be no additional cost. The rules do not require a specific type of labelling method as long as the label is legible and readily visible. One-time first year cost: $(\\$10+\\$50+\\$70+\\$250+\\$20+\\$1100+\\$260+\\$437.50+\\$70+\\$0+\\$0+\\$0)/12 = \sim\\$188.96$; Annual cost in subsequent years: $(\\$0+\\$50+\\$0+\\$250+\\$20+\\$0+\\$250+\\$437.50+\\$70+\\$0+\\$0+\\$0)/12 = \sim\\$89.79$. For the purpose of the minor cost calculations, these estimated costs are rounded to \$189 and \$90, respectively.</p>
Delivery requirements	<p>None (\$0). The agency rules team interviewed 12 licensees to determine estimated annual costs of compliance with the manufacturer-sealed alcohol products to-go delivery requirements. Interviewees were asked to consider equipment, supplies, labor, professional services, and administrative costs. The licensees interviewed either indicated that they did not plan to do delivery so there would be no additional costs, or that they were already engaging in delivery that met the requirements in the proposed rules so that there would be no additional costs.</p>
Signage requirements	<p>\$40 one-time cost during the first year of the endorsement, and \$32 annually in subsequent years. The agency rules team interviewed 12 licensees to determine estimated annual costs of compliance with the manufacturer-sealed alcohol products to-go signage requirements. The signage requirements for each of the three "to-go" endorsements are the same. Interviewees were asked to consider equipment, supplies, labor, professional services, and administrative costs. The estimated annual cost of compliance was calculated by averaging the cost estimates provided by licensees. One-time first year cost: $(\\$30+\\$50+\\$100+\\$100+\\$0+\\$50+\\$10+\\$3+\\$0+\\$2+\\$100+\\$40)/12 = \sim\\$40.42$; Annual cost in subsequent years: $(\\$30+\\$50+\\$0+\\$100+\\$0+\\$50+\\$10+\\$3+\\$0+\\$2+\\$100+\\$40)/12 = \sim\\$32.08$. For the purpose of the minor cost calculations, these estimated costs are rounded to \$40 and \$32, respectively.</p>
Definitions	<p>None (\$0).</p>
Licensing— Administrative costs	<p>\$6 one-time cost during the first year of the endorsement, and no cost (\$0) annually in subsequent years. A licensee that chooses to apply for the endorsement will have some administrative costs related to licensing. The agency estimates that applicants will spend approximately 10-15 minutes in order to complete an initial application for an endorsement and interact with agency licensing staff. Since this is an endorsement with no fee, for renewals of the endorsement in subsequent years, the agency estimates that applicants will spend no additional time beyond what is required to renew their underlying license. According to the 2021 Occupational Employment and Wage Statistics (OEWS) Online Databook available in the Employment Security Department (ESD) labor market report library (https://esd.wa.gov/labormarketinfo/report-library), the estimated average hourly wage in Washington State for Secretaries and Administrative Assistants, Except Legal, Medical, and Executive (using the Standard Occupational Classification (SOC) Code 43-6014) is \$22.68. Based on that data, the estimated cost for these administrative activities during the initial application year is \$5.67 ($\\$22.68 \text{ avg. hourly wage} \times .25 \text{ hours} = \\5.67), and the estimated cost during subsequent renewal years is \$0. For the purpose of the minor cost calculations, these estimated administrative costs are rounded up to \$6 and \$0, respectively.</p>
Total	<p>\$235 one-time cost during the first year of the endorsement, and \$122 annually in subsequent years.</p>

(2) Temporary cocktails or wine by the glass "to-go" endorsement: \$768 to \$894.

This is an entirely optional or voluntary endorsement. Licensees are not required to obtain this endorsement unless they wish to engage in the new "to-go" sales privileges provided by this endorsement. Although the endorsement is optional, for licensees that do choose to obtain this endorsement, WSLCB estimates that the total annual cost of compliance with the proposed rules will range between \$768 to \$894, as described below.

Eligible Businesses: Businesses eligible to apply for this endorsement include SBW and BW restaurants.

Portions of proposed rules not exempt	Estimated Annual Costs of Compliance
Food requirements	None (\$0). SBW restaurants are already required to sell complete meals and BW restaurants are already required to provide minimum food service, so the agency does not anticipate that the requirement in the proposed rules that cocktails or wine by the glass to-go orders must include food items (e.g. a "complete meal" for SBW restaurants, or a food item that qualifies as "minimum food service" for BW restaurant[s]) will impose any additional costs on licensees.
Tamper-evident container requirements	<p>\$481 one-time cost during the first year of the endorsement, and \$464 annually in subsequent years. The agency rules team interviewed 12 licensees to determine estimated annual costs of compliance with the cocktail/wine by the glass to-go tamper-evident container requirements. Interviewees were asked to consider equipment, supplies, labor, professional services, and administrative costs. Depending on the type of tamper-evident container selected by the licensees, the estimated costs varied widely. For example, licensees that indicated they planned to use heat shrink wrap bands around the lid or cap of a container or planned to purchase bottles that come with break apart caps provided far lower cost estimates than licensees that indicated they planned to purchase specialized sealing equipment and custom designed bottles. Based on the overall feedback from the licensees interviewed, the agency rules team estimates that the cost of compliance with the tamper-evident requirement in the proposed rules accounts for no more than 25 percent of the estimated cost of a tamper-evident container. Without the tamper-evident requirement in the proposed rules, there would still be a cost for the licensee to purchase a regular, non-tamper-evident container in which to sell to-go drinks. The costs estimates provided by licensees were multiplied by .25 in order to capture just the added cost of compliance with the tamper-evident requirement in the proposed rules. The estimated annual cost of compliance was calculated by averaging the cost estimates provided by licensees (already multiplied by .25).</p> <p>One-time first year cost: $(\\$2012.50 + \\$0 + \\$31.50 + \\$888.71 + \\$68.75 + \\$1000 + \\$250 + \\$850 + \\$68.35 + \\$401 + \\$200 + \\$0) / 12 = \sim \\$480.90$; annual cost in subsequent years: $(\\$2012.50 + \\$0 + \\$31.50 + \\$888.71 + \\$68.75 + \\$1000 + \\$250 + \\$850 + \\$68.35 + \\$401 + \\$0 + \\$0) / 12 = \sim \\$464.23$. For the purpose of the minor cost calculations, these estimated costs are rounded to \$481 and \$464, respectively.</p>
21+ Labelling requirements	<p>\$367 one-time cost during the first year of the endorsement, and \$272 annually in subsequent years. The agency rules team interviewed 12 licensees to determine estimated annual costs of compliance with the cocktail/wine by the glass to-go "CONTAINS ALCOHOL, FOR PERSONS 21+" labelling requirements. Interviewees were asked to consider equipment, supplies, labor, professional services, and administrative costs. The estimated annual cost of compliance was calculated by averaging the cost estimates provided by licensees. Some licensees indicated this requirement would impose a one-time cost (e.g. if a customized rubber stamp were purchased) while other licensees indicated this requirement would impose an annual cost (e.g. if stickers were purchased). Several other licensees indicated they already marked their to-go packaging in the manner required by the proposed rules and there would be no additional cost. The rules do not require a specific type of labelling method as long as the label is legible and readily visible. One-time first year cost: $(\\$910 + \\$0 + \\$490 + \\$250 + \\$70 + \\$1000 + \\$260 + \\$350 + \\$140 + \\$936 + \\$0 + \\$0) / 12 = \sim \\$367.17$; annual cost in subsequent years: $(\\$900 + \\$0 + \\$420 + \\$250 + \\$20 + \\$0 + \\$250 + \\$350 + \\$140 + \\$936 + \\$0 + \\$0) / 12 = \sim \\$272.17$. For the purpose of the minor cost calculations, these estimated costs are rounded to \$367 and \$272, respectively.</p>
Delivery requirements	None (\$0). The agency rules team interviewed 12 licensees to determine estimated annual costs of compliance with the cocktail/wine by the glass to-go delivery requirements. Interviewees were asked to consider equipment, supplies, labor, professional services, and administrative costs. The licensees interviewed either indicated that they did not plan to do delivery so there would be no additional costs, or that they were already engaging in delivery that met the requirements in the proposed rules so that there would be no additional costs.

Portions of proposed rules not exempt	Estimated Annual Costs of Compliance
Signage requirements	<p>\$40 one-time cost during the first year of the endorsement, and \$32 annually in subsequent years. The agency rules team interviewed 12 licensees to determine estimated annual costs of compliance with the cocktail/wine by the glass to-go signage requirements. The signage requirements for each of the three "to-go" endorsements are the same. Interviewees were asked to consider equipment, supplies, labor, professional services, and administrative costs. The estimated annual cost of compliance was calculated by averaging the cost estimates provided by licensees. One-time first year cost: $(\\$30+\\$50+\\$100+\\$100+\\$0+\\$50+\\$10+\\$3+\\$0+\\$2+\\$100+\\$40)/12 = \sim\\$40.42$; annual cost in subsequent years: $(\\$30+\\$50+\\$0+\\$100+\\$0+\\$50+\\$10+\\$3+\\$0+\\$2+\\$100+\\$40)/12 = \sim\\$32.08$. For the purpose of the minor cost calculations, these estimated costs are rounded to \$40 and \$32, respectively.</p>
Definitions of premixed cocktail, premixed wine and spirits cocktail, and premixed wine drink	None (\$0).
Licensing—Administrative costs	<p>\$6 one-time cost during the first year of the endorsement, and no cost (\$0) annually in subsequent years. A licensee that chooses to apply for the endorsement will have some administrative costs related to licensing. The agency estimates that applicants will spend approximately 10-15 minutes in order to complete an initial application for an endorsement and interact with agency licensing staff. Since this is an endorsement with no fee, for renewals of the endorsement in subsequent years, the agency estimates that applicants will spend no additional time beyond what is required to renew their underlying license.</p> <p>According to the 2021 OEWS Online Databook available in the ESD labor market report library (https://esd.wa.gov/labormarketinfo/report-library), the estimated average hourly wage in Washington State for Secretaries and Administrative Assistants, Except Legal, Medical, and Executive (using the SOC Code 43-6014) is \$22.68. Based on that data, the estimated cost for these administrative activities during the initial application year is \$5.67 ($\\$22.68 \text{ avg. hourly wage} \times .25 \text{ hours} = \\5.67), and the estimated cost during subsequent renewal years is \$0. For the purpose of the minor cost calculations, these estimated administrative costs are rounded up to \$6 and \$0, respectively.</p>
Total	\$894 one-time cost during the first year of the endorsement, and \$768 annually in subsequent years.

(3) Temporary growlers "to-go" endorsement: \$32 to \$46.

This is an entirely optional or voluntary endorsement. Licensees are not required to obtain this endorsement unless they wish to engage in the new "to-go" sales privileges provided by this endorsement. Although the endorsement is optional, for licensees that do choose to obtain this endorsement, WSLCB estimates that the total annual cost of compliance with the proposed rules will range between \$32 to \$46, as described below.

Eligible Businesses: Businesses eligible to apply for this endorsement include licensees that were authorized by statute or rule before January 1, 2020, to sell growlers, such as taverns, restaurants, grocery stores, BW specialty shops, breweries, wineries, combination SBW licensees, and hotel licensees.

Portions of proposed rules not exempt	Estimated Annual Costs of Compliance
Delivery requirements	None (\$0). The agency rules team interviewed 12 licensees to determine estimated annual costs of compliance with the growlers to-go delivery requirements. Interviewees were asked to consider equipment, supplies, labor, professional services, and administrative costs. The licensees interviewed either indicated that they did not plan to do delivery so there would be no additional costs, or that they were already engaging in delivery that met the requirements in the proposed rules so that there would be no additional costs.

Portions of proposed rules not exempt	Estimated Annual Costs of Compliance
Signage requirements	<p>\$40 one-time cost during the first year of the endorsement, and \$32 annually in subsequent years. The agency rules team interviewed 12 licensees to determine estimated annual costs of compliance with the growlers "to-go" signage requirements. The signage requirements for each of the three "to-go" endorsements are the same. Interviewees were asked to consider equipment, supplies, labor, professional services, and administrative costs. The estimated annual cost of compliance was calculated by averaging the cost estimates provided by licensees. One-time first year cost: $(\\$30+\\$50+\\$100+\\$100+\\$0+\\$50+\\$10+\\$3+\\$0+\\$2+\\$100+\\$40)/12 = \sim\\$40.42$; annual cost in subsequent years: $(\\$30+\\$50+\\$0+\\$100+\\$0+\\$50+\\$10+\\$3+\\$0+\\$2+\\$100+\\$40)/12 = \sim\\$32.08$. For the purpose of the minor cost calculations, these estimated costs are rounded to \$40 and \$32, respectively.</p>
Licensing—Administrative costs	<p>\$6 one-time cost during the first year of the endorsement, and no cost (\$0) annually in subsequent years. A licensee that chooses to apply for the endorsement will have some administrative costs related to licensing. The agency estimates that applicants will spend approximately 10-15 minutes in order to complete an initial application for an endorsement and interact with agency licensing staff. Since this is an endorsement with no fee, for renewals of the endorsement in subsequent years, the agency estimates that applicants will spend no additional time beyond what is required to renew their underlying license.</p> <p>According to the 2021 OEWS Online Databook available in the ESD labor market report library (https://esd.wa.gov/labormarketinfo/report-library), the estimated average hourly wage in Washington State for Secretaries and Administrative Assistants, Except Legal, Medical, and Executive (using the SOC Code 43-6014) is \$22.68. Based on that data, the estimated cost for these administrative activities during the initial application year is \$5.67 ($\\$22.68 \text{ avg. hourly wage} \times .25 \text{ hours} = \\5.67), and the estimated cost during subsequent renewal years is \$0. For the purpose of the minor cost calculations, these estimated administrative costs are rounded up to \$6 and \$0, respectively.</p>
Total	\$46 one-time cost during the first year of the endorsement, and \$32 annually in subsequent years.

(4) Temporary outdoor alcohol service area rules: \$12 to \$292.

The creation of outdoor alcohol service areas by licensees is entirely optional or voluntary. The proposed changes to the outdoor alcohol service area rules do not add any new restrictions on existing outdoor alcohol service areas; instead, the rule changes are intended to increase flexibility and provide more options for licensees that wish to have outdoor alcohol service areas through the period of time established by E2SHB 1480 (until July 1, 2023). For licensees that do choose to apply for or alter their outdoor alcohol service areas under the proposed temporary new rule section, WSLCB estimates that the total annual cost of compliance with the proposed rule changes will range between \$12 to \$292, as described below.

Eligible Businesses: Businesses eligible to apply for an outdoor alcohol service area include all on-premises licensees.

Portions of proposed rules not exempt	Estimated Annual Costs of Compliance
Licensing—Administrative costs for applications or alterations of an outdoor alcohol service area	<p>\$12 one-time cost. A licensee that chooses to apply for or alter an outdoor alcohol service area will have licensing costs related to an application or alteration request. The agency estimates that a licensee will spend 15-30 minutes to complete an application or alteration request and interact with agency licensing staff. This is a one-time cost. Licensees are not required to reapply in subsequent years.</p> <p>According to the 2021 OEWS Online Databook available in the ESD labor market report library (https://esd.wa.gov/labormarketinfo/report-library), the estimated average hourly wage in Washington State for Secretaries and Administrative Assistants, Except Legal, Medical, and Executive (using the SOC Code 43-6014) is \$22.68. Based on that data, the estimated cost for these administrative activities during [the initial application year] is a one-time cost of \$11.34 ($\\$22.68 \text{ avg. hourly wage} \times .5 \text{ hour} = \\11.34). For the purpose of the minor cost calculations, this estimated administrative cost is rounded up to \$12.</p>

Portions of proposed rules not exempt	Estimated Annual Costs of Compliance
Requirements for shared outdoor alcohol service areas	<p>\$280 one-time cost during the first year, and \$178 annually in subsequent years. The proposed rules provide more flexibility and options for licensees by allowing shared outdoor alcohol service areas under certain circumstances. For licensees that choose to share outdoor alcohol service areas, there may be some compliance costs associated with (1) the requirement to use distinctly marked glassware and serving containers in the shared outdoor alcohol service area to identify the source of any alcohol product being consumed, and (2) the requirement to complete an operating plan for the shared outdoor area that demonstrates how responsibility for the outdoor alcohol service area is shared among the licensees.</p> <p>(1) \$262 one-time cost during the first year, and \$178 annually in subsequent years. The agency rules team interviewed 12 licensees to determine estimated annual costs of compliance with the glassware/serving container distinctive markings requirements for shared outdoor areas. Interviewees were asked to consider equipment, supplies, labor, professional services, and administrative costs. The costs varied widely depending on the type of markings that licensees indicated they planned to use. Licensees that indicated they planned to use temporary markings (e.g. using preprinted distinctive stickers/tags and placing these on the glassware or serving containers) estimated moderate annual costs. Licensees that indicated they planned to purchase new logo-etched glassware or otherwise distinct serving containers estimated relatively expensive one-time costs. Other licensees indicated that they did not anticipate any new costs because they already had glassware/serving containers that were distinct from the licensees with which they are planning to share outdoor space (e.g. their glassware/serving containers were already logo-etched or came in different styles, colors, and shapes than the glassware/serving containers used by other licensees in the shared space). The estimated annual cost of compliance was calculated by averaging the cost estimates provided by licensees. One-time first year cost: $(\\$630 + \\$1000 + \\$0 + \\$1010 + \\$500 + \\$0 + \\$0 + \\$0 + \\$0 + \\$0) / 12 = \sim \\$261.67$; annual cost in subsequent years: $(\\$630 + \\$1000 + \\$0 + \\$10 + \\$500 + \\$0 + \\$0 + \\$0 + \\$0 + \\$0) / 12 = \sim \\$178.33$. For the purpose of the minor cost calculations, these estimated costs are rounded to \$262 and \$178, respectively.</p> <p>(2) \$18 one-time cost. To create the operating plan and get approval from licensing, there will be additional administrative costs. The agency estimates that licensees will spend 45 minutes to complete an operating plan and interact with licensing staff. This is a one-time cost. Licensees are not required to re-submit an operating plan in subsequent years.</p> <p>According to the 2021 OEWS Online Databook available in the ESD labor market report library (https://esd.wa.gov/labormarketinfo/report-library), the estimated average hourly wage in Washington State for Secretaries and Administrative Assistants, Except Legal, Medical, and Executive (using the SOC Code 43-6014) is \$22.68. Based on that data, the estimated cost for these administrative activities during [the initial application year] is a one-time cost of \$17.01 ($\\$22.68 \text{ avg. hourly wage} \times .75 \text{ hour} = \\17.01). For the purpose of the minor cost calculations, this estimated administrative cost is rounded up to \$18.</p>
Total	\$12 one-time cost; or, if the licensees choose to create a shared outdoor alcohol service area: \$292 one-time cost during the first year, and \$178 annually in subsequent years.

(5) Food service menu requirement rules: None (\$0).

WSLCB does not anticipate that there will be any costs of compliance for licensees affected by proposed changes to the food service menu requirement rules. The proposed rules provide more flexibility and options for licensees that currently have food service menu requirements. The creation of more flexibility and options is anticipated to reduce business costs, and there are no associated licensing or administrative costs.

Affected Businesses: Businesses with existing food service requirements include licensees such as SBW restaurants, BW restaurants, snack bars, caterers, hotel licensees, senior center licensees, and SBW theater licensees.

Portions of proposed rules not exempt	Estimated Annual Costs of Compliance
The number of required complete meals for certain licensees is reduced from eight to four.	None (\$0). Provides licensees previously subject to the complete meal requirement with more flexibility. The agency anticipates that reducing the required number of complete meals will reduce costs for licensees.
Definitions for "complete meal," "minimum food service," and "snack food" are revised.	None (\$0). Provides licensees with existing complete meal, minimum food service, and snack food requirements with more flexibility by adding new, culturally diverse food examples to all three of these definitions and by expanding the definition of complete meal to include a "small plates" option.
Licensing—Administrative costs	None (\$0). There are no licensing applications or alterations required in order for licensees to take advantage of the proposed changes to the food service requirements.
Total	None (\$0).

Estimated Annual Costs of Compliance by Licensee Type: The three new alcohol "to-go" endorsements are entirely optional or voluntary. Licensees are not required to obtain these endorsements unless they wish to engage in the new "to-go" sales privileges provided by these endorsements. Similarly, the creation of outdoor alcohol service areas by licensees is entirely optional or voluntary. Although the new endorsements and outdoor alcohol service areas are optional, for licensees that choose to obtain these optional endorsements and/or apply for or alter an outdoor alcohol service area, the table below illustrates the potential estimated range of costs per licensee type by adding together the estimated costs of compliance for each of the portions of the proposed rules potentially applicable to each licensee type. Some licensees may be eligible for multiple endorsement types, in addition to an outdoor alcohol service area.

Licensee Type/Proposed Rule Section	Manufacturer-Sealed Alcohol Products "To-Go" Endorsement	Cocktails and Wine by the Glass "To-Go" Endorsement	Growlers "To-Go" Endorsement	Outdoor Alcohol Service Area (New or Alteration)	Food Service Requirements	Total Estimated Compliance Costs
Distilleries and Craft Distilleries	\$122 to \$235	N/A	N/A	\$12 to \$292	N/A	\$0 to \$527
Wineries	\$122 to \$235	N/A	\$0 to \$46	\$12 to \$292	N/A	\$0 to \$573
Breweries and Microbreweries	\$122 to \$235	N/A	\$0 to \$46	\$12 to \$292	N/A	\$0 to \$573
Taverns	\$122 to \$235	N/A	N/A	\$12 to \$292	\$0	\$0 to \$527
SBW Restaurants	\$122 to \$235	\$768 to \$894	\$0 to \$46	\$12 to \$292	\$0	\$0 to \$1467
BW Restaurants	\$122 to \$235	\$768 to \$894	\$0 to \$46	\$12 to \$292	\$0	\$0 to \$1467
Snack Bars	\$122 to \$235	N/A	N/A	\$12 to \$292	\$0	\$0 to \$527
Caterers	\$122 to \$235	N/A	N/A	N/A	\$0	\$0 to \$235
Hotels	N/A	N/A	\$0 to \$46	\$12 to \$292	\$0	\$0 to \$338
BW Specialty Shops, Combination SBW Licensees	N/A	N/A	\$0 to \$46	N/A	N/A	\$0 to \$46

Minor Cost Threshold Estimates: The agency applied the following North American Industry Classification System (NAICS) codes to estimate minor cost thresholds for licensees:

Licensee Type	NAICS Code	Description from the 2017 NAICS Manual (https://www.census.gov/library/publications/2017/econ/2017-naics-manual.html)
Distilleries and Craft Distilleries	312140 Distilleries	"This industry comprises establishments primarily engaged in one or more of the following: (1) Distilling potable liquors (except brandies); (2) distilling and blending liquors; and (3) blending and mixing liquors and other ingredients." There are no separate NAICS codes available for craft distilleries.
Wineries	312130 Wineries	"This industry comprises establishments primarily engaged in one or more of the following: (1) Growing grapes and manufacturing wines and brandies; (2) manufacturing wines and brandies from grapes and other fruits grown elsewhere; and (3) blending wines and brandies."
Breweries and Microbreweries	312120 Breweries	"This industry comprises establishments primarily engaged in brewing beer, ale, lager, malt liquors, and nonalcoholic beer." There are no separate NAICS codes available for microbreweries.
Taverns and Nightclubs	722410 Drinking Places (Alcoholic Beverages)	"This industry comprises establishments known as bars, taverns, nightclubs, or drinking places primarily engaged in preparing and serving alcoholic beverages for immediate consumption. These establishments may also provide limited food services."
SBW Restaurants	722511 Full-Service Restaurants	"This U.S. industry comprises establishments primarily engaged in providing food services to patrons who order and are served while seated (i.e. waiter/waitress service) and pay after eating. These establishments may provide this type of food service to patrons in combination with selling alcoholic beverages, providing carryout services, or presenting live non-theatrical entertainment."
BW Restaurants	722513 Limited Service Restaurants	"This U.S. industry comprises establishments primarily engaged in providing food services (except snack and nonalcoholic beverage bars) where patrons generally order or select items and pay before eating. Food and drink may be consumed on premises, taken out, or delivered to the customer's location. Some establishments in this industry may provide these food services in combination with selling alcoholic beverages."
Snack Bars	722515 Snack and Nonalcoholic Beverage Bars	"This U.S. industry comprises establishments primarily engaged in (1) preparing and/or serving a specialty snack, such as ice cream, frozen yogurt, cookies, or popcorn, or (2) serving nonalcoholic beverages, such as coffee, juices, or sodas for consumption on or near the premises. These establishments may carry and sell a combination of snack, nonalcoholic beverage, and other related products (e.g. coffee beans, mugs, coffee makers) but generally promote and sell a unique snack or nonalcoholic beverage."
Caterers	722320 Caterers	"This industry comprises establishments primarily engaged in providing single event-based food services. These establishments generally have equipment and vehicles to transport meals and snacks to events and/or prepare food at an off-premise site. Banquet halls with catering staff are included in this industry. Examples of events catered by establishments in this industry are graduation parties, wedding receptions, business or retirement luncheons, and trade shows."
Hotels	721110 Hotels (except Casino Hotels) and Motels	"This industry comprises establishments primarily engaged in providing short-term lodging in facilities known as hotels, motor hotels, resort hotels, and motels. The establishments in this industry may offer food and beverage services, recreational services, conference rooms, convention services, laundry services, parking, and other services."
BW Specialty Shops, Combination SBW Licensees	445310 Beer, Wine, and Liquor Stores	"This industry comprises establishments primarily engaged in retailing packaged alcoholic beverages, such as ale, beer, wine, and liquor. <i>Cross-References.</i> Establishments primarily engaged in retailing packaged liquor in combination with providing prepared drinks for immediate consumption on the premises are classified in Industry [NAICS] 722410, Drinking Places (Alcoholic Beverages)."

As shown in the table below, the estimated cost of compliance for businesses in each of these industries does not exceed the minor cost estimate for these industries, so a small business economic impact statement (SBEIS) is not required under RCW 19.85.030.

2017 Industry NAICS Code	Estimated Cost of Compliance	Industry Description (Licensee Type)	NAICS Code Title	Minor Cost Estimate = MAX (RT,\$100, WT)	Wage Threshold (WT) 1% of Avg Annual Payroll (0.01*Avg-Pay)	Revenue Threshold (RT) 0.3% of Avg Annual Gross Business Income (0.003*AvgGBI)
312140	\$0 to \$527	Distilleries and Craft Distilleries	Distilleries	\$2,808.53	\$2,808.53 2020 Dataset pulled from USBLS	\$1,707.60 2020 Dataset pulled from DOR
312130	\$0 to \$573	Wineries	Wineries	\$3,905.58	\$3,905.58 2020 Dataset pulled from ESD	\$3,560.33 2020 Dataset pulled from DOR
312120	\$0 to \$573	Breweries and Microbreweries	Breweries	\$3,085.32	\$2,805.97 2020 Dataset pulled from USBLS	\$3,085.32 2020 Dataset pulled from DOR
722410	\$0 to \$527	Taverns and Nightclubs	Drinking Places (Alcoholic Beverages)	\$1,388.67	\$1,388.67 2020 Dataset pulled from USBLS	\$1,376.99 2020 Dataset pulled from DOR
722511	\$0 to \$1467	SBW Restaurants	Full-Service Restaurants	\$3,221.87	\$3,221.87 2020 Dataset pulled from ESD	\$2,464.57 2020 Dataset pulled from DOR
722513	\$0 to \$1467	BW Restaurants	Limited-Service Restaurants	\$5,011.98	\$5,011.98 2020 Dataset pulled from ESD	\$3,976.52 2020 Dataset pulled from DOR
722515	\$0 to \$527	Snack Bars	Snack and Nonalcoholic Beverage Bars	\$2,722.49	\$2,722.49 2020 Dataset pulled from ESD	\$2,307.40 2020 Dataset pulled from DOR
722320	\$0 to \$235	Caterers	Caterers	\$2,067.35	\$2,067.35 2020 Dataset pulled from USBLS	\$639.07 2020 Dataset pulled from DOR
721110	\$0 to \$338	Hotels	Hotels (except Casino Hotels) and Motels	\$6,259.68	\$6,259.68 2020 Dataset pulled from ESD	\$4,099.84 2020 Dataset pulled from DOR
445310	\$0 to \$46	BW Specialty Shops, Combination SBW Licensees	Beer, Wine, and Liquor Stores	\$2,730.56	\$2,730.56 2020 Dataset pulled from USBLS	\$2,544.95 2020 Dataset pulled from DOR

The revenue and wage thresholds used to determine the minor cost estimates for each of the business industries listed in the table above were calculated using the 2020 raw datasets distributed by the employment security department, department of revenue, and United States Bureau of Labor Statistics, following the instructions for finding the minor cost of a business industry (*updated September 2021*) provided by the governor's office for regulatory innovation and assistance (ORIA). For more information, see the ORIA regulatory fairness act tools and guidance web page at https://www.oria.wa.gov/site/alias__oria/934/Regulatory-Fairness-Act-Support.aspx.

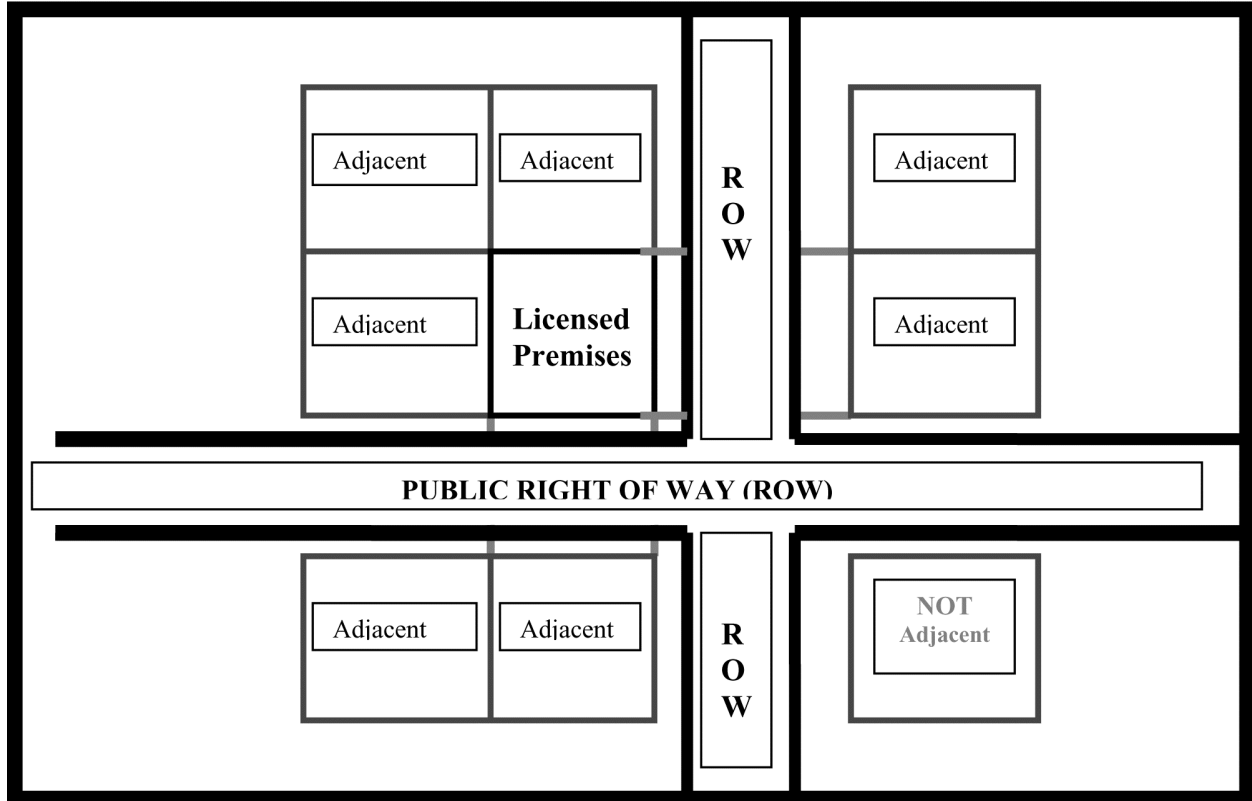
September 29, 2021
David Postman
Chair

AMENDATORY SECTION (Amending WSR 17-12-030, filed 5/31/17, effective 7/1/17)

WAC 314-02-010 Definitions. The ~~((following definitions are to clarify the purpose and intent of the rules and laws governing liquor licenses and permits))~~ definitions in this section apply throughout this title unless the context clearly

requires otherwise. Additional definitions can be found in RCW 66.04.010.

(1) "Adjacent" means having a common endpoint or border where the extension of the property lines of the licensed premises contacts that common border.



(2) ~~((“Appetizer” means a small portion of food served before the main course of a meal to stimulate the appetite. An appetizer does not qualify as minimum food service.~~

~~((3))~~ “Banquet room” means any room used primarily for the sale and service of food and liquor to private groups.

(3)(a) “Complete meal” means:

(i) An entree with at least one side dish available to order. Side dishes must be offered and available to order with the entree, but are not required to be included; or

(ii) A combination of small plates that are intended to be ordered many at a time or on a rolling basis throughout the meal service.

(b) Menu items that consist solely of the following types of food do not qualify as complete meals: Precooked frozen meals that are reheated, carry-out items obtained from another business, or snack food.

(c) For the purposes of this subsection, the following definitions apply unless the context clearly requires otherwise:

(i) “Entree” means the main course of a meal. Some examples of entrees include, but are not limited to, fish, steak, chicken, pork, pasta, pizza, burgers, pho, sushi, street tacos, tikka masala, quiche, fufu, curry, seafood salad, Cobb salad, chef’s salad, sandwiches, and breakfast items.

(ii) “Side dish” includes soups, vegetables, salads, potatoes, beans, rice, naan, couscous, irio, fruit, bread, banchan, and other similar dishes. Garnishes do not qualify as side dishes. Some examples of garnishes include, but are not limited to, pickles, salsa, and dips.

(iii) “Small plate” means a type of menu item that has a small portion size and is intended to be ordered many at a time or on a rolling basis throughout the meal service. Small plates are often shared among guests. Some examples of small plates include, but are not limited to, tapas, dim sum, and meze. Many cultures have different types of small plates. Small plates do not include snack food.

(4) “Customer service area” means areas where food and/or liquor are normally sold and served to the public, i.e., lounges and dining areas. A banquet room is not considered a customer service area.

(5) “Dedicated dining area.” In order for an area to qualify as a dedicated dining area, it must be a distinct portion inside of a restaurant that is used primarily for the sale, service, and consumption of food, and have accommodations for eating, e.g., tables, chairs, booths, etc. See WAC 314-02-025 for more information.

(6) “Designated area” means a space where alcohol may be sold, served, or consumed.

(7) "Entertainer" means someone who performs for an audience such as a disc jockey, singer, or comedian, or anyone providing entertainment services for the licensee. An entertainer is considered an employee of the liquor licensee per WAC 314-01-005. Patrons participating in entertainment are not considered employees.

(8) "Entertainment" means dancing, karaoke, singing, comedy shows, concerts, TV broadcasts, contests with patron participation and/or performing for an audience.

(9) "Food counter" means a table or counter set up for the primary purpose of food service to customers who sit or stand at the counter. Any alcohol served is incidental to food service.

(10) "Game room" means an area of a business set up for the primary purpose of patrons using games or gaming devices.

(11) (~~("Limited food service" means items such as appetizers, sandwiches, salads, soups, pizza, hamburgers, or fry orders.~~)

~~(12))~~ "Liquor bar" means a table or counter where alcohol is stored or prepared and served to customers who sit or stand at the bar. Liquor bars can only be in lounges or in premises where minors are not allowed at any time.

~~((13))~~ (12) "Lounge" means the portion of a restaurant used primarily for the preparation, sale, and service of beer, wine, or spirits. Minors are not allowed in a lounge (see RCW 66.44.316 for information on employees and professional musicians under ~~((twenty-one))~~ 21 years of age).

~~((14))~~ (13)(a) "Minimum food service" means that menu items such as sandwiches, salad, soup, pizza, hamburgers, ~~((and fry orders))~~ fries, savory pies, tacos, dumplings, fried rice, and other similar items are available to order.

(b) Menu items that consist solely of the following types of food do not qualify as minimum food service: Precooked frozen meals that are reheated, carry-out items obtained from another business, or snack food.

~~((15))~~ (14) "Minor" means a person under ~~((twenty-one))~~ 21 years of age.

~~((16))~~ (15) "On-premises liquor licensed premises" means a building in which a business is located inside that is allowed to sell alcohol for consumption on the licensed premises.

~~((17))~~ (16) "Service bar" means a fixed or portable table, counter, cart, or similar work station primarily used to prepare, mix, serve, and sell alcohol that is picked up by employees or customers. Customers may not be seated or allowed to consume food or alcohol at a service bar.

~~((18))~~ (17) "Snack food" (~~((means))~~) includes items such as peanuts, popcorn, ~~((and))~~ chips, jerky, candy, cookies, crackers, edamame, and other similar food items.

AMENDATORY SECTION (Amending WSR 18-13-063, filed 6/14/18, effective 7/15/18)

WAC 314-02-035 ((What are the)) Food service requirements for a spirits, beer, and wine restaurant license(?). (1) A spirits, beer, and wine restaurant licensee must serve at least ~~((eight))~~ four complete meals. ~~((The board may make an exception to the eight complete meal requirement on a case-by-case basis.))~~ Establishments shall be main-

tained in a substantial manner as a place for preparing, cooking, and serving of complete meals. ~~((For purposes of this title:~~

~~(a) "Complete meal" means an entree and at least one side dish. Side dishes are not required to be included with the entree, however must be offered.~~

~~(b) "Entree" means the main course of a meal. Some examples of entrees are fish, steak, chicken, pork, pasta, pizza, burgers, pho, sushi, street tacos, tikka masala, quiche, seafood salad, Cobb salad, chef's salad, sandwiches, and breakfast items (as long as they include a side dish). Entrees do not include snack items, or menu items which consist solely of precooked frozen food that is reheated, or consist solely of carry-out items obtained from another business.~~

~~(c) Examples of side dishes are soups, vegetables, salads, potatoes, rice, fruit, and bread. Garnishes such as, but not limited to, pickles, salsa, and dips do not qualify as a side dish.)~~ "Complete meal" is defined in WAC 314-02-010.

(2) The restaurant must maintain the kitchen equipment necessary to prepare the complete meals required under this section.

(3) The complete meals must be prepared on the restaurant premises.

(4) A chef or cook must be on duty while complete meals are offered.

(5) A menu must be available to customers.

(6) The food items required to maintain the menu must be on the restaurant premises. These items must be edible.

(7) Restaurants that have ~~((one hundred))~~ 100 percent dedicated dining area must maintain complete meal service any time liquor is available for sale, service, or consumption.

(8)(a) Restaurants with less than ~~((one hundred))~~ 100 percent dedicated dining area must maintain complete meal service for a minimum of five hours a day during the hours of 8:00 a.m. and 11:00 p.m., three days a week.

~~((Limited food service, such as appetizers, sandwiches, salads, soups, pizza, burgers, or fry orders, must be available outside of these hours. Snacks such as peanuts, popcorn, and chips do not qualify as limited food service.))~~ (b) Minimum food service must be available during hours of alcohol service when complete meal service is not offered. "Minimum food service" is defined in WAC 314-02-010.

(9) The hours of complete meal service must be conspicuously posted on the premises or listed on the menu. A statement that ~~((limited))~~ minimum food service is available outside of those hours must also be posted or listed on the menu.

AMENDATORY SECTION (Amending WSR 11-23-045, filed 11/9/11, effective 12/10/11)

WAC 314-02-0411 ((What are the)) Food service requirements for a hotel license(?). (1) A hotel licensee must have the ability to serve at least ~~((eight))~~ four complete meals to hotel guests or any other patron of the hotel who is offered alcohol service for on-premise consumption at a food outlet on the hotel premises. Food outlets include room service, banquets, bars/lounges, restaurants, or coffee shops. "Complete meal" is defined in WAC ~~((314-02-035))~~ 314-02-010.

(2) Complete meals must be prepared on the hotel premises.

(3) A menu must be available to hotel guests and patrons offered alcohol service that lists, at a minimum, the required complete meals.

(4) The food items required to maintain the menu must be located on the licensed premises. These items must be edible.

(5)(a) Licensees must maintain complete meal service for a minimum of five hours a day between the hours of 11:00 a.m. and 2:00 a.m. on any day that liquor is served. The board may consider written requests for exceptions to this requirement due to a demonstrated hardship and may allow exceptions under terms and conditions the board determines are in the best interests of the public.

(b) Minimum food service must be available during hours of alcohol service when complete meal service is not offered. "Minimum food service" ~~((includes items such as hamburgers or fry orders. Snacks such as peanuts, popcorn, and chips do not qualify as minimum food service))~~ is defined in WAC 314-02-010.

(6) Hours of complete meal service must be listed on the menu. If applicable, a statement must be posted or listed on the menu that minimum food service is available when alcohol is served and complete meal service is unavailable.

AMENDATORY SECTION (Amending WSR 11-23-045, filed 11/9/11, effective 12/10/11)

WAC 314-02-065 ~~((What is a))~~ Snack bar license(?), (1) Per RCW 66.24.350, a snack bar license allows a licensee to serve beer by the opened bottle or can for on-premises consumption only.

(2) Snack bar licensees must have snack food, as defined in WAC 314-02-010(~~((15))~~), available whenever beer is sold or served.

(3) Snack bars must have designated seating for on-premises consumption of beer.

(4) The annual fee for this license is ~~((one hundred twenty five dollars))~~ \$125.

AMENDATORY SECTION (Amending WSR 17-12-030, filed 5/31/17, effective 7/1/17)

WAC 314-02-087 ~~((What is a))~~ Spirits, beer, and wine theater license(?), (1) A spirits, beer, and wine theater is a place of business where motion pictures or other primarily nonparticipatory entertainment or events are shown. The holder of a beer and wine theater license is allowed to sell spirits, beer, strong beer, and wine, at retail, for consumption on the licensed premises.

(2) The requirements for the spirits, beer, and wine theater license are as follows:

(a) The theater has no more than ~~((one hundred twenty))~~ 120 seats per theater room.

(b) All servers of beer and wine are required to attend a mandatory alcohol server training (MAST) program.

(c) The serving size for spirits is one and one quarter ounce. The serving size for wine is five ounces. The serving size for beer is twelve ounces.

(d) There must be tabletop accommodations for in-theater dining.

(e) If the theater premises will be frequented by minors an alcohol control plan agreement must be signed and submitted to the board during the application process.

(3) A spirits, beer, and wine theater licensee must ~~((serve at least eight complete meals. Establishments shall be maintained in a substantial manner as a place for preparing, cooking, and serving of complete meals.~~

(a) "Complete meal" means an entree and at least one side dish.

(b) "Entree" means the main course of a meal. ~~Some examples of entrees are fish, steak, chicken, pork, pasta, pizza, hamburgers, seafood salad, Cobb salad, chef's salad, sandwiches, and breakfast items (as long as they include a side dish). Entrees do not include snack items, or menu items which consist solely of precooked frozen food that is reheated, or consist solely of carry-out items obtained from another business.~~

(c) Examples of side dishes are soups, vegetables, salads, potatoes, french fries, rice, fruit, and bread. Garnishes such as, but not limited to, pickles, salsa, and dips do not qualify as a side dish.

(d) ~~The restaurant must maintain the kitchen equipment necessary to prepare the complete meals required under this section.~~

(e) ~~The complete meals must be prepared on the restaurant premises.~~

(f) ~~A chef or cook must be on duty while complete meals are offered.~~

(g) ~~A menu must be available to customers.~~

(h) ~~The food items required to maintain the menu must be on the restaurant premises. These items must be edible)~~ meet the same food service requirements that apply to spirits, beer, and wine restaurant licensees in WAC 314-02-035.

(4) The alcohol control plan agreement will be provided on a form by the board and includes the following requirements:

(a) Ensure that alcoholic beverages are not sold to persons under the age of ~~((twenty one))~~ 21, staff will request identification from any patron who appears to be age ~~((thirty))~~ 30 or under and who is attempting to purchase an alcoholic beverage.

(b) Alcoholic beverages must be served in containers that differ significantly from containers utilized for nonalcoholic beverages.

(c) All alcoholic beverages sold under this license must be sold by the individual drink.

(d) If staff observes a patron who is in the possession of or who is consuming an alcoholic beverage, who appears to be of questionable age, staff will request identification from that patron. If the patron is unable to produce an acceptable form of identification verifying their age, the alcohol will be confiscated.

(e) Staff will accept only those forms of identification that are acceptable per WAC 314-11-025 to verify a person's age for the purpose of selling, serving, or allowing a person to possess or consume alcohol.

(f) All employees involved in the sale, service, and/or supervision of alcoholic beverages will be required to attend

MAST to obtain the appropriate permit for their level of service.

(g) Sufficient lighting must be maintained at the point of sale so that identification can be confirmed and patrons observed for signs of intoxication.

(h) To ensure alcoholic beverages are served in a safe, responsible, and controlled manner, sales and service of alcoholic beverages will be limited to one serving per person per transaction.

(i) If a patron is accompanied by another patron who wants to pay for both people's drinks, they may do so, provided that both patrons are of legal age to purchase, and have proper identification, if requested, and are not displaying signs of intoxication.

(j) Alcohol may only be sold, served, and consumed in areas designated in the alcohol control plan agreement and approved by the board.

(k) Staff will refuse to sell an alcoholic beverage to any person who appears to be intoxicated. Alcoholic beverages will be removed from any person who appears to be intoxicated.

(l) This alcohol control plan agreement will be prominently posted on the licensed premises.

(5) Penalties are doubled for a violation involving minors or the failure to follow the signed alcohol control plan agreement.

(6) If the theater premises has a restaurant located outside of the actual theater screening areas, spirits, beer, and wine may be served and consumed in the restaurant area.

(a) Spirits may be sold by the individual drink.

(b) Beer may be sold by the pitcher as well as by individual serving for consumption in the restaurant area.

(c) Wine may be sold by the bottle as well as by the individual serving for consumption in the restaurant area.

AMENDATORY SECTION (Amending WSR 17-12-030, filed 5/31/17, effective 7/1/17)

WAC 314-02-112 ((What is a) Caterer's license(?)),

(1) A caterer's license allows the licensee to sell spirits, beer, and wine by the individual serving for consumption on the premises at a catered event location.

(2) The catered event location must be owned, leased, or operated by:

(a) The holder of the caterer's license; or

(b) The sponsor of the event for which the catering services are being provided.

(3) The caterer licensee is responsible for all areas of a location where alcohol is sold, served, consumed, or stored.

(4) If the catered event is open and advertised to the public, the event must be sponsored by a nonprofit society or organization as defined in RCW 66.24.375.

(a) A registered nonprofit holding a public or civic event may invite a caterer to provide alcohol service at a location within the parameters of the event.

(b) If attendance at the catered event is limited to members or invited guests of the sponsoring individual, society, or organization, the requirement in subsection (2) of this section does not apply.

(5) A spirits, beer, and wine caterer licensee must have the ability to serve at least ~~((eight))~~ four complete meals. A commissary kitchen, licensed by the city and/or county health department, shall be maintained in a substantial manner as a place for preparing and cooking complete meals. The caterer licensee must maintain the kitchen equipment necessary to prepare the complete meals required under this section. The complete meals must be prepared at the licensed commissary kitchen premises. ~~((For the purposes of this title:~~

~~(a) "Complete meal" means an entrée and at least one side dish.~~

~~(b) "Entrée" means the main course of a meal. Some examples of entrées are fish, steak, chicken, pork, pasta, pizza, hamburgers, seafood salad, Cobb salad, chef's salad, sandwiches, and breakfast items (as long as they include a side dish). Entrées do not include snack items, or menu items which consist solely of precooked frozen food that is reheated, or consist solely of carry-out items obtained from another business.~~

~~(c) Examples of side dishes are soups, vegetables, salads, potatoes, french fries, rice, fruit, and bread.))~~ "Complete meal" is defined in WAC 314-02-010.

(6) A beer and wine caterer licensee must have the ability to provide minimum food service. A commissary kitchen shall be maintained in a substantial manner as a place for preparing and cooking minimum food service. The caterer licensee must maintain the kitchen equipment necessary to prepare minimum food service required under this section. The minimum food service must be prepared at the licensed commissary kitchen premises. ~~((For purposes of this title:~~

~~"Minimum food service" means items such as sandwiches, salad, soup, hamburgers, pizza, and fry orders.))~~ "Minimum food service" is defined in WAC 314-02-010.

(7) Licensees holding a caterer's license may share a commissary kitchen under the following conditions:

(a) Each licensee has their own secure area for their own liquor stock. Liquor stock cannot be shared.

(b) If using a shared commissary kitchen, each applicant/licensee must provide a sketch of the commissary kitchen to licensing indicating the separate secured area for each licensee.

~~((7))~~ (8) The applicant must provide the liquor and cannabis board with a copy of their commissary kitchen license issued by the city or county health department.

~~((8))~~ (9)(a) The licensee is required to send a list of scheduled catered events to their regional enforcement office on the first of each month. The licensee must provide the following information:

~~((a))~~ (i) Date of the catered events;

~~((b))~~ (ii) Time of the catered events; and

~~((c))~~ (iii) Place and location of catered events.

(b) Any changes to the information provided to the board must be reported to the regional enforcement office ~~((seventy-two))~~ 72 hours prior to the catered event.

~~((9))~~ (10) A caterer's license holder is not allowed to cater events at a liquor licensed premises.

~~((10))~~ (11) The holder of the caterer's license may store liquor on other premises operated by the licensee if the licensee owns or has a leasehold interest at the other prem-

ises. Documentation must be provided to the board showing the licensee owns or has a leasehold interest in the property.

~~((H1))~~ ~~(12)~~ All employees that sell or serve alcohol must hold MAST permits.

~~((H2))~~ ~~(13)~~ The annual fee for the caterer's license is as follows:

(a) The annual fee for beer is ~~((two hundred dollars))~~ \$200;

(b) The annual fee for wine is ~~((two hundred dollars))~~ \$200; and

(c) The annual fee for a combined spirits, beer, and wine is ~~((one thousand dollars))~~ \$1,000.

AMENDATORY SECTION (Amending WSR 14-20-048, filed 9/24/14, effective 10/25/14)

WAC 314-02-114 ~~((What is a))~~ **Senior center license** ~~(?)~~. (1) A senior center license can only be issued to a nonprofit organization whose primary service is providing recreational and social activities for seniors on the licensed premises.

(2) The senior center license permits the sale of spirits by the individual glass, including mixed drinks and cocktails mixed on the premises only, beer and wine, at retail for consumption on the licensed premises.

(3) To qualify for the senior center license, the applicant must:

(a) Be a nonprofit organization under RCW 24.03.005;

(i) "Corporation" or "domestic corporation" means a corporation not for profit subject to the provisions of this chapter, except a foreign corporation.

(ii) "Foreign corporation" means a corporation not for profit organized under laws other than the laws of this state.

(iii) "Not for profit corporation" or "nonprofit corporation" means a corporation no part of the income of which is distributable to its members, directors or officers.

(b) Only serve alcohol between the hours of 6 a.m. and 2 a.m.; and

(c) Provide ~~((limited))~~ at least minimum food service anytime alcohol is sold. "Minimum food service" is defined in WAC 314-02-010. ~~((Limited food service means foods such as:~~

(i) Appetizers;

(ii) Sandwiches;

(iii) Salads and soups;

(iv) Pizza;

(v) Hamburgers; and

~~(vi) Fry orders.))~~

(4) Alcohol may be sold and served at the following types of events:

(a) Events hosted by the senior center; and

(b) Private events where the facility is rented by a private party for an event such as a wedding reception, family reunion, etc.

(5) If minors are allowed on the premises, floor plans must meet the requirements in WAC 314-02-025.

(6) All alcohol servers must have a valid mandatory alcohol server training permit.

(7) The annual fee for this license is ~~((seven hundred twenty dollars))~~ \$720.

AMENDATORY SECTION (Amending WSR 20-03-180, filed 1/22/20, effective 2/22/20)

WAC 314-03-200 **Outside or extended alcohol service.** A licensee must request approval from the board's licensing division for ongoing outside or extended alcohol service. Except as provided in the temporary rules for outdoor alcohol service in WAC 314-03-205 that are effective until July 1, 2023, unless extended by law, the following conditions must be met:

(1) The area must be enclosed with a permanent or movable barrier a minimum of ~~((forty-two))~~ 42 inches in height.

(2) There must be an interior access to the licensed premises. If the interior access is from a minor restricted area of the premises, minors are prohibited in the outside or extended alcohol service area.

(3) There must be an attendant, wait staff, or server dedicated to the outside service area when patrons are present.

(4) Must have leasehold rights to the area and have and be connected to the licensed premises.

(5) Openings into and out of the outside area cannot exceed ~~((ten))~~ 10 feet. If there is more than one opening along one side, the total combined opening may not exceed ~~((ten))~~ 10 feet.

(6) **Exception.** For sidewalk cafe outside service, the board allows local regulations that, in conjunction with a local sidewalk cafe permit, requires a ~~((forty-two))~~ 42 inch barrier or permanent demarcation of the designated alcohol service areas for continued enforcement of the boundaries.

(a) The permanent demarcation must be at all boundaries of the outside service area;

(b) The permanent demarcation must be at least six inches in diameter;

(c) The permanent demarcation must be placed no more than ~~((ten))~~ 10 feet apart;

(d) There must be an attendant, wait staff, or server dedicated to the outside service area when patrons are present;

(e) This exception only applies to restaurant liquor licenses with sidewalk cafe service areas contiguous to the liquor licensed premises. "Contiguous" means touching along a boundary or at a point;

(f) This exception does not apply to beer gardens, standing room only venues, and permitted special events. Board approval is still required with respect to sidewalk cafe barrier requirements.

(7) **Limited exception.** The board may grant limited exceptions to the required ~~((forty-two))~~ 42 inch high barrier for outside alcohol service areas.

(a) The licensee must have exclusive leasehold rights to the outside service area.

(b) There must be permanent demarcations at all boundaries of the outside service area for continued enforcement of the boundaries.

NEW SECTION

WAC 314-03-205 **Temporary rules for outdoor alcohol service by on-premises licensees.** (1) As authorized in section 2(8), chapter 48, Laws of 2021, the temporary rules for outdoor alcohol service described in this section are effective until July 1, 2023, unless extended by law. These rules

create a temporary exception to the requirements in WAC 314-03-200. These rules apply to all on-premises licensees.

(2) For ongoing outdoor alcohol service located in privately owned spaces, a licensee must request approval from the board's licensing division and meet the following requirements:

(a) The licensee must have legal authority to use the outdoor alcohol service area including, but not limited to, ownership or leasehold rights;

(b) The licensee must have a building that provides indoor dining or production in order to qualify for an outdoor alcohol service area;

(c) The outdoor alcohol service area must be (i) contiguous to the licensed business, or (ii) located on the same property or parcel of land as the licensed business;

(d) The outdoor alcohol service area must have an attendant, wait staff, or server dedicated to the area when patrons are present;

(e) Interior access to the licensed premises from the outdoor alcohol service area is not required. However, unless there is (i) interior access to the licensed premises from the outdoor alcohol service area, or (ii) an unobstructed direct line of sight from inside the licensed premises to the outdoor alcohol service area, an employee with a mandatory alcohol server training (MAST) permit under chapter 314-17 WAC must be present in the outdoor alcohol service area at all times that patrons are present, in order to monitor alcohol consumption. This requirement is in addition to the requirement in (d) of this subsection that the outdoor alcohol service area must have an attendant, wait staff, or server dedicated to the area when patrons are present;

(f) The same food service offered inside the licensed premises must also be offered in the outdoor alcohol service area;

(g) The outdoor alcohol service area must be enclosed with a permanent or movable barrier a minimum of 42 inches in height. The board may grant limited exceptions to the required 42 inch high barrier for outdoor alcohol service areas if the licensee has permanent boundaries for the outdoor alcohol service area;

(h) Openings into and out of the outdoor alcohol service area cannot exceed 10 feet. If there is more than one opening along one side, the total combined opening may not exceed 10 feet; and

(i) Licensees must comply with local building codes, local health jurisdiction requirements, department of labor and industries requirements, and any other applicable laws and rules.

(3) For ongoing outdoor alcohol service located in public spaces, a licensee must request approval from the board's licensing division and meet the following requirements:

(a) The licensed business must have a permit from their local jurisdiction allowing the business to use the public space as a service area, such as a sidewalk cafe permit or other similar outdoor area permit authorized by local regulation;

(b) The licensee must have a building that provides indoor dining or production in order to qualify for an outdoor alcohol service area;

(c)(i) Except as provided in (c)(ii) of this subsection, the outdoor alcohol service area must be enclosed with a permanent or movable barrier a minimum of 42 inches in height. Openings into and out of the outdoor alcohol service area cannot exceed 10 feet. If there is more than one opening along one side, the total combined opening may not exceed 10 feet;

(ii) Licensees with outdoor alcohol service areas contiguous to the licensed premises may use a permanent demarcation of the designated alcohol service area for continued enforcement of the boundaries, instead of a permanent or movable barrier a minimum of 42 inches in height. If a permanent demarcation is used, the permanent demarcation must be at all boundaries of the outdoor alcohol service area, must be at least six inches in diameter, and must be placed no more than 10 feet apart;

(d) The outdoor alcohol service area must have an attendant, wait staff, or server dedicated to the area when patrons are present;

(e) The same food service offered inside the licensed premises must also be offered in the outdoor alcohol service area; and

(f) Licensees must comply with local building codes, local health jurisdiction requirements, department of labor and industries requirements, and any other applicable laws and rules.

(4) For multiple licensees to share an outdoor alcohol service area, the licensees must request approval from the board's licensing division and meet the following requirements:

(a) The licensees' property parcels or buildings must be located in direct physical proximity to one another. For the purposes of this subsection, "direct physical proximity" means that the property parcels or buildings are physically connected or touching each other along a boundary or at a point;

(b)(i) If the shared outdoor alcohol service area is located on public space, the licensees sharing the space must meet all of the requirements in subsection (3) of this section and shared use of the outdoor service area must be authorized by the licensees' local jurisdiction permits; or

(ii) If the shared outdoor alcohol service area is located in a privately owned space, the licensees sharing the space must meet all of the requirements in subsection (2) of this section and must have legal authority to share use of the outdoor service area including, but not limited to, ownership or leasehold rights;

(c) The licensees must maintain separate storage of products and separate financial records for the shared outdoor alcohol service area. If licensees share any point of sale system, the licensees must keep complete documentation and records for the shared point of sale system showing clear separation as to what sales items and categories belong to each respective licensee;

(d) The licensees must use distinctly marked glassware or serving containers in the shared outdoor alcohol service area to identify the source of any alcohol product being consumed. The distinctive markings may be either permanent or temporary. Any temporary markings must remain on the

glassware or serving containers through the duration of use by the customer;

(e) The licensees must complete an operating plan for the shared outdoor alcohol service area. The operating plan should demonstrate in general how responsibility for the outdoor alcohol service area is shared among the licensees. Licensees are required to submit the operating plan to the board's licensing division at the time of application or alteration and must keep documentation of an up-to-date plan available for inspection on premises; and

(f) Consistent with WAC 314-11-065, a licensee may not permit the removal of alcohol in an open container from the shared outdoor alcohol service area, except to reenter the licensed premises where the alcohol was purchased. Signage prohibiting the removal of alcohol in an open container must be visible to patrons in the shared outdoor alcohol service area.

(5) If multiple licensees use a shared outdoor alcohol service area as described in subsection (4) of this section, all participating licensees are jointly responsible for any violation or enforcement issues unless it can be demonstrated that the violation or enforcement issue was due to one or more licensee's specific conduct or action, in which case the violation or enforcement action applies only to those identified licensees.

(6) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Alcohol service" means service of liquor as defined in RCW 66.04.010.

(b) "Contiguous" means touching along a boundary or at a point.

(c) "Sidewalk cafe" means a designated seating area on the sidewalk, curb space, or other public space where a business provides table service and seating for their patrons during business hours.

(7) This section expires July 1, 2023, pursuant to section 2(11), chapter 48, Laws of 2021, unless extended by law.

NEW SECTION

WAC 314-03-500 Temporary endorsement for sale of manufacturer sealed alcohol products through curbside, takeout, or delivery service. (1) As authorized in section 2, chapter 48, Laws of 2021, the temporary endorsement described in this section is available until July 1, 2023, unless extended by law. There is no fee for a licensee to apply for and obtain this endorsement.

(2)(a) Consistent with section 2(2), chapter 48, Laws of 2021, an endorsement to sell manufacturer sealed alcohol products at retail through curbside, takeout, or delivery service is available to the following licensees: Beer and wine restaurants; spirits, beer, and wine restaurants; taverns; domestic wineries; domestic breweries and microbreweries; distilleries; snack bars; nonprofit arts licensees; and caterers.

(b) This endorsement is separate from the endorsements in WAC 314-03-505 and 314-03-510 that authorize the sale through curbside, takeout, or delivery service of nonmanufacturer or nonfactory sealed premixed cocktails, cocktail kits, wine by the glass, premixed wine and spirits cocktails, premixed wine drinks, or growlers.

(3) In order to obtain and maintain the endorsement described in this section, licensees must meet the following requirements:

(a) Alcohol products must be sold in closed, factory or manufacturer sealed packages or containers, such as cans, bottles, and kegs. Licensees may only sell the types of manufacturer sealed alcohol products under this endorsement that they are authorized to sell under the terms of their license.

(b)(i) Except as provided in (b)(ii) of this subsection, if an alcohol product authorized for sale under this endorsement is enclosed inside a bag, box, or other packaging before the alcohol product is provided to the customer through curbside, takeout, or delivery service, the exterior of the bag, box, or other packaging must be clearly marked or labeled with the words "CONTAINS ALCOHOL, FOR PERSONS 21+" in a size that is legible and readily visible.

(ii) Brewery, winery, and distillery licensees are not required to mark or label the exterior of the bag, box, or other packaging as described in (b)(i) of this subsection if the alcohol product is provided to the customer through takeout service.

(c) If the alcohol products authorized for sale under this endorsement are sold through delivery service:

(i) Licensees must comply with the requirements in the consumer orders, internet sales, and delivery rules in this title. For these requirements, see WAC 314-03-020 through 314-03-040. Delivery by third-party service providers is allowed with approval by the board's licensing division of an added activity application requesting internet sales privileges.

(ii) At the time of delivery, the employee making the delivery must verify that the person receiving the delivery is at least twenty-one years of age using an acceptable form of identification in WAC 314-11-025. See RCW 66.44.270.

(iii) Consistent with section 2(9), chapter 48, Laws of 2021, upon delivery of the alcohol product, the signature of the person age twenty-one or over receiving the delivery must be obtained. Delivery sales records must meet the requirements in the consumer orders, internet sales, and delivery rules. For general record retention requirements, see WAC 314-11-095.

(iv) If no person age twenty-one or over is present to accept the alcohol product at the time of delivery, the alcohol product must be returned. An alcohol product may not be left unattended at a delivery location.

(v) Delivery of an alcohol product may not be made to any person who shows signs of intoxication. See RCW 66.44.200.

(d)(i) In addition to the signs required by WAC 314-11-060, signs provided electronically by the board regarding public consumption and transportation of any alcohol products sold through curbside, takeout, or delivery service must be posted in plain view at:

(A) The main entrance to the area of the premises where alcohol products are sold; and

(B) The areas of the premises where alcohol products are picked up for takeout, curbside, or delivery service.

(ii) The signs will be designed to remind customers purchasing alcohol products through curbside, takeout, or delivery service that they must comply with applicable laws and

rules including, but not limited to, restrictions on consuming alcohol in public in RCW 66.44.100 and restrictions on drinking or having an open container in a vehicle in RCW 46.61.519.

(4) In addition to the requirements listed in this section, licensees must comply with all applicable requirements in Title 66 RCW, Title 314 WAC, and any other applicable laws and rules including, but not limited to: Keg sale requirements in WAC 314-02-115 and restrictions on sales to minors and intoxicated persons in chapter 66.44 RCW and WAC 314-16-150.

(5) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Alcohol product" means liquor as defined in RCW 66.04.010.

(b) "Factory sealed" or "manufacturer sealed" means that a package or container is in one hundred percent resalable condition, with all manufacturer's seals intact.

(6) This section expires July 1, 2023, pursuant to section 2(11), chapter 48, Laws of 2021, unless extended by law.

NEW SECTION

WAC 314-03-505 Temporary endorsement for sale of premixed cocktails, cocktail kits, wine by the glass, premixed wine and spirits cocktails, or premixed wine drinks through curbside, takeout, or delivery service. (1) As authorized in section 2, chapter 48, Laws of 2021, the temporary endorsement described in this section is available until July 1, 2023, unless extended by law. There is no fee for a licensee to apply for and obtain this endorsement.

(2) Consistent with section 2 (3) and (4), chapter 48, Laws of 2021:

(a) An endorsement is available to spirits, beer, and wine restaurants to sell premixed cocktails, cocktail kits, wine by the glass, or premixed wine and spirits cocktails through curbside, takeout, or delivery service. This endorsement does not authorize the sale of full bottles of spirits for off-premises consumption, although mini-bottles may be sold as part of cocktail kits. Consistent with section 2(3), chapter 48, Laws of 2021, mini-bottle sales as part of cocktail kits are exempt from the spirits license issuance fee under RCW 66.24.630 (4)(a) and the tax on each retail sale of spirits under RCW 82.08.150.

(b) An endorsement is also available to beer and wine restaurant licensees to sell wine or premixed wine drinks by the glass through curbside, takeout, or delivery service.

(3) In order to obtain and maintain the endorsement described in this section, licensees must meet the following requirements:

(a)(i) For spirits, beer, and wine restaurants, food that qualifies as a complete meal under WAC 314-02-010 must be sold with the premixed cocktails, cocktail kits, wine by the glass, or premixed wine and spirits cocktails authorized for sale through curbside, takeout, or delivery service under this endorsement. Spirits, beer, and wine restaurants can sell up to 3 ounces of spirits per complete meal.

(ii) For beer and wine restaurants, a food item that qualifies as minimum food service under WAC 314-02-010 must be sold with the wine or premixed wine drinks by the glass

authorized for sale through curbside, takeout, or delivery service under this endorsement.

(b) The alcohol products authorized for sale through curbside, takeout, or delivery service under this endorsement must be prepared the same day they are sold.

(c) The alcohol products authorized for sale through curbside, takeout, or delivery service under this endorsement must be packaged in a container that has been sealed in a manner designed to prevent consumption without removal of the tamper-evident lid, cap, or seal. For the purposes of this subsection, "tamper-evident" means a lid, cap, or seal that visibly demonstrates when a container has been opened. Tape is not a tamper-evident seal. The following list of examples is not comprehensive and is not intended to capture all of the possible types of allowed or disallowed containers:

(i) Examples of containers that are allowed:

(A) Containers with a screw top cap or lid that breaks apart when the container is opened.

(B) Containers with a plastic heat shrink wrap band, strip, or sleeve extending around the cap or lid to form a seal that must be broken when the container is opened.

(C) Vacuum or heat-sealed pouches without holes or openings for straws.

(ii) Examples of containers that are not allowed:

(A) Containers with lids with sipping holes or openings for straws.

(B) Containers such as styrofoam, paper, or plastic cups that lack a tamper-evident lid, cap, or seal.

(d) The containers that the alcohol products authorized for sale under this endorsement are packaged in must be clearly marked or labeled with the words "CONTAINS ALCOHOL, FOR PERSONS 21+" in a size and manner that is legible and readily visible. If a container of alcohol authorized for sale under this endorsement is enclosed inside a bag, box, or other packaging before it is provided to the customer through curbside, takeout, or delivery service, the exterior of the bag, box, or other packaging must be clearly marked or labeled with the words "CONTAINS ALCOHOL, FOR PERSONS 21+" in a size and manner that is legible and readily visible.

(e) To deter public consumption or consumption in a vehicle of premixed cocktails, cocktail kits, wine by the glass, premixed wine and spirits cocktails, and premixed wine drinks sold through curbside, takeout, or delivery service, licensees may not put ice directly into the containers that the alcohol products authorized for sale under this endorsement are packaged in, except for frozen or blended drinks. Ice may be provided separately along with the curbside, takeout, or delivery order.

(f) The premixed cocktails, cocktail kits, wine by the glass, premixed wine and spirits cocktails, and premixed wine drinks authorized for sale through curbside, takeout, or delivery service under this endorsement must be placed in the trunk of the vehicle or beyond the immediate reach of the driver or any passengers in compliance with open container requirements in RCW 46.61.519 before being transported off the licensee's premises.

(g) If the premixed cocktails, cocktail kits, wine by the glass, premixed wine and spirits cocktails, and premixed

wine drinks authorized for sale under this endorsement are sold through delivery service:

(i) Licensees must comply with the requirements in the consumer orders, internet sales, and delivery rules in this title, except to the extent that those rules allow delivery by third-party service providers and prohibit the sale of nonfactory sealed containers. For these requirements, see WAC 314-03-020 through 314-03-040.

(ii) Delivery must be made by an employee of the licensed business who is at least twenty-one years of age and holds a class 12 mandatory alcohol server training (MAST) permit under chapter 314-17 WAC. Delivery may not be made by third-party service providers.

(iii) At the time of delivery, the employee making the delivery must verify that the person receiving the delivery is at least twenty-one years of age using an acceptable form of identification in WAC 314-11-025. See RCW 66.44.270.

(iv) Consistent with section 2(9), chapter 48, Laws of 2021, upon delivery of the alcohol product, the signature of the person age twenty-one or over receiving the delivery must be obtained. Delivery sales records must meet the requirements in the consumer orders, internet sales, and delivery rules. For general record retention requirements, see WAC 314-11-095.

(v) If no person age twenty-one or over is present to accept the alcohol product at the time of delivery, the alcohol product must be returned. An alcohol product may not be left unattended at a delivery location.

(vi) Delivery of an alcohol product may not be made to any person who shows signs of intoxication. See RCW 66.44.200.

(h)(i) In addition to the signs required by WAC 314-11-060, signs provided electronically by the board regarding public consumption and transportation of any alcohol products sold through curbside, takeout, or delivery service must be posted in plain view at:

(A) The main entrance to the area of the premises where alcohol products are sold; and

(B) The areas of the premises where alcohol products are picked up for takeout, curbside, or delivery service.

(ii) The signs will be designed to remind customers purchasing alcohol products through curbside, takeout, or delivery service that they must comply with applicable laws and rules including, but not limited to, restrictions on consuming alcohol in public in RCW 66.44.100 and restrictions on drinking or having an open container in a vehicle in RCW 46.61.519.

(4) In addition to the requirements listed in this section, licensees must comply with all applicable requirements in Title 66 RCW, Title 314 WAC, and any other applicable laws and rules including, but not limited to, restrictions on sales to minors and intoxicated persons in chapter 66.44 RCW and WAC 314-16-150.

(5) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Alcohol product" or "alcoholic beverage" means liquor as defined in RCW 66.04.010.

(b) "Mini-bottles" has the same meaning as defined in section 2(10), chapter 48, Laws of 2021: Original factory-

sealed containers holding not more than 50 milliliters of a spirituous beverage.

(c) "Premixed cocktail" means a drink made by combining spirits with other alcoholic or nonalcoholic beverages and ingredients including, but not limited to, fruit juice, carbonated beverages, flavorings, or cream.

(d) "Premixed wine and spirits cocktail" means a drink made by combining wine and spirits with other alcoholic or nonalcoholic beverages and ingredients including, but not limited to, fruit juice, carbonated beverages, flavorings, or cream.

(e) "Premixed wine drink" means a drink made by combining wine with nonalcoholic beverages and ingredients including, but not limited to, fruit juice, carbonated beverages, flavorings, or cream. A premixed wine drink may not include alcoholic beverages other than wine.

(f) "Spirits" has the same meaning as defined in RCW 66.04.010.

(g) "Wine" has the same meaning as defined in RCW 66.04.010.

(6) This section expires July 1, 2023, pursuant to section 2(11), chapter 48, Laws of 2021, unless extended by law.

NEW SECTION

WAC 314-03-510 Temporary endorsement for sale of growlers through curbside, takeout, or delivery service. (1) As authorized in section 2, chapter 48, Laws of 2021, the temporary endorsement described in this section is available until July 1, 2023, unless extended by law. There is no fee for a licensee to apply for and obtain this endorsement.

(2) Consistent with section 2(5), chapter 48, Laws of 2021, an endorsement to sell growlers for off-premises consumption through curbside, takeout, or delivery service is available to licensees that were authorized by statute or rule before January 1, 2020, to sell growlers.

(a) Licensees eligible for this endorsement include: Taverns; beer and wine restaurants; spirits, beer, and wine restaurants; grocery stores; beer and wine specialty shops; breweries; microbreweries; wineries; combination spirits, beer, and wine licensees; and hotel licensees.

(b) For a beer and wine specialty shop to be eligible for the endorsement described in this section, the beer and wine specialty shop must meet the requirement in RCW 66.24.371 (3), as it existed on December 31, 2019, that the licensee's beer and/or wine sales must be more than fifty percent of the licensee's total sales.

(3) In order to obtain and maintain this endorsement, licensees must meet the following requirements:

(a) Sale of growlers must meet federal alcohol and tobacco tax and trade bureau requirements.

(b)(i) Growlers must be filled at the tap by the licensee at the time of sale, except that beer and wine specialty shops licensed under RCW 66.24.371 and domestic breweries and microbreweries with this endorsement may sell prefilled growlers consistent with section 2(7), chapter 48, Laws of 2021. Prefilled growlers must be sold the same day they are prepared for sale and not stored overnight for sale on future days.

(ii) Brewery and microbrewery products that meet federal alcohol and tobacco tax and trade bureau labeling requirements are not considered prefilled growlers and are not subject to the overnight storage prohibition.

(c) Growlers must be filled with alcohol products, such as beer, wine, or cider, that the licensee was authorized by statute or rule before January 1, 2020, to sell in growlers.

(d) If the growlers authorized for sale under this endorsement are sold through delivery service:

(i) Licensees must comply with the requirements in the consumer orders, internet sales, and delivery rules in this title, except to the extent that those rules allow delivery by third-party service providers and prohibit the delivery of growlers. For these requirements, see WAC 314-03-020 through 314-03-040.

(ii) Delivery must be made by an employee of the licensed business who is at least twenty-one years of age. Delivery may not be made by third-party service providers.

(iii) At the time of delivery, the employee making the delivery must verify that the person receiving the delivery is at least twenty-one years of age using an acceptable form of identification in WAC 314-11-025. See RCW 66.44.270.

(iv) Consistent with section 2(9), chapter 48, Laws of 2021, upon delivery of the alcohol product, the signature of the person age twenty-one or over receiving the delivery must be obtained. Delivery sales records must meet the requirements in the consumer orders, internet sales, and delivery rules. For general record retention requirements, see WAC 314-11-095.

(v) If no person age twenty-one or over is present to accept the alcohol product at the time of delivery, the alcohol product must be returned. An alcohol product may not be left unattended at a delivery location.

(vi) Delivery of an alcohol product may not be made to any person who shows signs of intoxication. See RCW 66.44.200.

(e)(i) In addition to the signs required by WAC 314-11-060, signs provided electronically by the board regarding public consumption and transportation of any alcohol products sold through curbside, takeout, or delivery service must be posted in plain view at:

(A) The main entrance to the area of the premises where alcohol products are sold; and

(B) The areas of the premises where alcohol products are picked up for takeout, curbside, or delivery service.

(ii) The signs will be designed to remind customers purchasing alcohol products through curbside, takeout, or delivery service that they must comply with applicable laws and rules including, but not limited to, restrictions on consuming alcohol in public in RCW 66.44.100 and restrictions on drinking or having an open container in a vehicle in RCW 46.61.519.

(4) In addition to the requirements listed in this section, licensees must comply with all applicable requirements in Title 66 RCW, Title 314 WAC, and any other applicable laws and rules including, but not limited to, restrictions on sales to minors and intoxicated persons in chapter 66.44 RCW and WAC 314-16-150.

(5) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Alcohol product" means liquor as defined in RCW 66.04.010.

(b) "Beer" has the same meaning as defined in RCW 66.04.010.

(c) "Cider" has the same meaning as defined in RCW 66.24.210.

(d) "Growlers" has the same meaning as defined in section 2(10), chapter 48, Laws of 2021: Sanitary containers brought to the premises by the purchaser or furnished by the licensee and filled by the retailer at the time of sale.

(e) "Wine" has the same meaning as defined in RCW 66.04.010.

(6) This section expires July 1, 2023, pursuant to section 2(11), chapter 48, Laws of 2021, unless extended by law.

WSR 21-20-068

PROPOSED RULES

HEALTH CARE AUTHORITY

[Filed September 29, 2021, 12:08 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-10-017 and 21-10-068.

Title of Rule and Other Identifying Information: WAC 182-559-100 General, 182-559-200 Eligible providers, 182-559-300 Eligibility for community support services, and 182-559-350 Eligibility for supported employment services.

Hearing Location(s): On November 9, 2021, at 10:00 a.m. The health care authority (HCA) remains closed in response to the coronavirus disease 2019 (COVID-19) public health emergency. Until further notice, HCA continues to hold public hearings virtually without a physical meeting place. This promotes social distancing and the safety of Washington state residents. To attend the virtual public hearing, you must register in advance https://zoom.us/webinar/register/WN_5E5op_X5Qq-dfxRP_a6EDg. After registering, you will receive a confirmation email containing information about joining the public hearing.

Date of Intended Adoption: Not sooner than November 10, 2021.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email arc@hca.wa.gov, fax 360-586-9727, by November 9, 2021.

Assistance for Persons with Disabilities: Contact Amber Loughheed, phone 360-725-1349, fax 360-586-9727, telecommunication[s] relay service 711, email amber.loughheed@hca.wa.gov, by October 29, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency is amending WAC 182-559-100 to remove the community support services benefit exclusion for institutes for mental diseases and is amending WAC 182-559-100, 182-559-200, 182-559-300, and 182-559-350 to correct outdated rule citations and make other clarifying changes.

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Statute Being Implemented: RCW 41.05.021, 41.05.-1605 [41.05.160].

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Not applicable.

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Brian Jensen, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-0815; Implementation and Enforcement: Matthew Christie, P.O. Box 42730, Olympia, WA 98504-2730, 360-725-1015.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to HCA rules unless requested by the joint administrative rules review committee or applied voluntarily.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The changes to the proposed rules expand a client benefit and make technical corrections and do not impose any costs on businesses.

September 29, 2021

Wendy Barcus

Rules Coordinator

AMENDATORY SECTION (Amending WSR 18-15-007, filed 7/6/18, effective 8/6/18)

WAC 182-559-100 General. (1) Under the authority of the medicaid transformation project, RCW 71.24.385, and subject to available funds, the medicaid agency covers targeted foundational community supports to eligible medicaid beneficiaries, which include the following benefits:

(a) Community support services; and

(b) Supported employment services.

(2) Community support services include:

(a) Pretenancy supports:

(i) Conducting a functional needs assessment to:

(A) Identify the participant's preferences related to housing (type, location, living alone or with someone else, identifying a roommate, accommodations needed, or other important preferences); and

(B) Identify the participant's needs for support to maintain community integration. This includes what type of setting works best for the client, assistance in budgeting for housing/living expenses, assistance in connecting the client with social services to assist with filling out applications and submitting appropriate documentation (~~(in order)~~) to obtain sources of income necessary for community living and establishing credit, and in understanding and meeting obligations of tenancy.

(ii) Assisting clients to connect with social services to help with finding and applying for housing necessary to support the clients in meeting their medical care needs;

(iii) Developing an individualized community integration plan based upon the assessment as part of the overall person-centered plan;

(iv) Identifying and establishing short and long-term measurable goal(s), and establishing how goals will be achieved and how concerns will be addressed;

(v) Participating in person-centered plan meetings at redetermination and revision plan meetings, as needed;

(vi) Providing supports and interventions according to the person-centered plan.

(b) Tenancy-sustaining services:

(i) Service planning support and participating in person-centered plan meetings at redetermination and revision plan meetings as needed;

(ii) Coordinating and linking the client to services including:

(A) Primary care and health homes;

(B) Substance use disorder treatment providers;

(C) Mental health providers;

(D) Medical, vision, nutritional and dental providers;

(E) Vocational, education, employment and volunteer supports;

(F) Hospitals and emergency rooms;

(G) Probation and parole;

(H) Crisis services;

(I) End of life planning; and

(J) Other support groups and natural supports.

(iii) Entitlement assistance including assisting clients in obtaining documentation, navigating and monitoring application process and coordinating with the entitlement agency;

(iv) Assistance in accessing supports to preserve the most independent living, including skills coaching, financing counseling, anger management, individual and family counseling, support groups, and natural supports;

(v) Providing supports to assist the client in communicating with the landlord and/or property manager regarding the participant's disability (if authorized and appropriate), detailing accommodations needed, and addressing components of emergency procedures involving the landlord and/or property manager;

(vi) Coordinating with the client to review, update and modify their housing support and crisis plan on a regular basis to reflect current needs and address existing or recurring housing retention barriers; and

(vii) Connecting the client to training and resources that will assist the client in being a good tenant and lease compliance, including ongoing support with activities related to household management.

(c) The community support services benefit does not include:

(i) Payment of rent or other room and board costs;

(ii) Capital costs related to the development or modification of housing;

(iii) Expenses for utilities or other regular occurring bills;

(iv) Goods or services intended for leisure or recreation;

(v) Duplicative services from other state or federal programs; and

(vi) Services to clients in a correctional institution (~~(or an institute for mental disease (IMD))~~).

(d) Community support services must be provided:

(i) In an integrated setting of the client's choice; and

(ii) In a manner that ensures the client's individual right of privacy, dignity, respect, and freedom from coercion and restraint;

(iii) Post tenancy, in settings consistent with home and community-based services, as defined in 42 C.F.R. Sec. 441.530, such as those that:

(A) Do not have the qualities of an institution;

(B) Are not located in a building that is also a publicly or privately operated facility providing inpatient institutional treatment;

(C) Are not on the grounds of, or immediately adjacent to a public institution;

(D) Do not have the effect of isolating the client from community members who are not receiving medicaid services; and

(E) Are not a licensed residential care facility such as an adult family home or assisted living facility.

(3) Supported employment, such as individual placement and support (IPS) services, is individualized and includes one or more of the following services:

(a) Preemployment services:

(i) Prevocational/job-related discovery or assessment;

(ii) Person-centered employment planning;

(iii) Individualized job development and placement;

(iv) Job carving;

(v) Benefits education and planning; or

(vi) Transportation (only in conjunction with the delivery of an authorized service).

(b) Employment sustaining services:

(i) Career advancement services;

(ii) Negotiation with employers;

(iii) Job analysis;

(iv) Job coaching;

(v) Benefits education and planning;

(vi) Transportation (only in conjunction with the delivery of an authorized service);

(vii) Asset development; or

(viii) Follow-along supports.

(c) The IPS benefit does not include:

(i) Generalized employer contacts that are not connected to a specific enrolled individual or an authorized service;

(ii) Employment support for individuals in subminimum wage, or sheltered workshop settings; and

(iii) Facility-based habilitation or personal care services.

(d) Supported employment services must be provided in settings consistent with settings defined in 42 C.F.R. 441.530 (a)(1)(i) through (v) and (a)(2).

(4) Clients who meet the eligibility criteria for both community support services and supported employment services ~~((are able to))~~ may receive both services concurrently. See WAC 182-559-300 for community support services eligibility criteria and WAC 182-559-350 for supported employment eligibility criteria.

(5) In order to ensure the demand for services remains within available funds, the agency may impose enrollment wait lists for services. The wait list for foundational community supports services is considered on a first-come first-serve basis using the date the client requests community support services.

(6) Services described in this chapter must be approved under the explicit authority of the medicaid transformation project.

AMENDATORY SECTION (Amending WSR 18-15-007, filed 7/6/18, effective 8/6/18)

WAC 182-559-200 Eligible providers. (1) Providers of community support services and supported employment services under this authority must be:

(a) Health care professionals, entities, or contractors as defined by WAC 182-502-0002;

(b) Agencies, centers, or facilities as defined by WAC 182-502-0002;

(c) Health home providers as described in WAC 182-557-0050;

(d) Behavioral health providers licensed and certified according to chapter ~~((388-877))~~ 246-809 WAC; or

(e) Housing, employment, social service, or related agencies with demonstrated experience and ability to provide community support services, supported employment, or equivalent services.

(i) Community support services experience may be demonstrated by:

(A) Two years' experience in the coordination of supportive housing or in the coordination of independent living services in a social service setting under qualified supervision; or

(B) ~~((Certified))~~ Certification in supportive housing services (WAC ~~((388-877-0720 or 388-877-0722))~~ by the department of social and health services/division of behavioral health and recovery (DSHS/DBHR)) 246-341-0722).

(ii) Supported employment experience may be demonstrated by one or more of the following:

(A) Accredited by the commission on accreditation of rehabilitation facilities (CARF) in employment services;

(B) Certified in employment services (WAC ~~((388-877-0718 or 388-877-0720))~~ by DSHS/DBHR)) 246-341-0720 or 246-341-0722); or

(C) All staff that will be performing supported employment services meet one of the following criteria:

(I) Be a certified employment support professional (CESP) by the employment support professional certification council (ESPCC);

(II) Be a certified rehabilitation counselor (CRC) by the commission of rehabilitation counselor certification (CRCC);

(III) Have a bachelor's degree or higher in human or social services from an accredited college or university and at least two years of demonstrated experience providing supported employment or similar services; or

(IV) Have four or more years of demonstrated experience providing supported employment or similar services.

(2) Providers of community support services or supported employment services must:

(a) Obtain a core provider agreement in accordance with WAC 182-502-0005;

(b) Enroll with the medicaid agency as a nonbilling provider in accordance with WAC 182-502-0006; or

(c) Be qualified to bill for aging and long-term support administration services to provide community support services or supported employment services.

AMENDATORY SECTION (Amending WSR 18-15-007, filed 7/6/18, effective 8/6/18)

WAC 182-559-300 Eligibility for community support services. To be eligible for community support services, a client must:

- (1) Be age eighteen or older;
- (2) Be eligible for Washington apple health (medicaid);
- (3) Meet at least one of the following health criteria and be expected to benefit from community support services:

(a) Clients assessed by a licensed behavioral health agency, under chapter ((388-877)) 246-341 WAC, to have a behavioral health need, which is defined as one or both of the following criteria:

(i) Mental health needs, including a need for improvement, stabilization, or prevention of deterioration of functioning (including the ability to live independently without support) resulting from the presence of a mental illness; or

(ii) Substance use needs determined by an assessment using the American Society of Addiction Medicine (ASAM) criteria indicates that the client meets at least ASAM level 1.0, indicating the need for outpatient substance use disorder (SUD) treatment. The ASAM is a multi-dimensional assessment approach for determining a client's need for SUD treatment.

(b) Clients assessed via a CARE assessment, per WAC 388-106-0050, to have a need for assistance demonstrated by:

(i) The need for assistance with at least three activities of daily living (ADLs) defined in WAC 388-106-0010, one of which may be body care; or

(ii) The need for hands-on assistance with at least one ADL which may include body care.

(c) Clients assessed to be a homeless person with a disability, according to 24 C.F.R. 578.3, which is defined as a long continuing or indefinite physical condition requiring improvement, stabilization, or prevention of deterioration of functioning (including ability to live independently without support).

(4) Exhibit at least one of the following risk factors:

(a) Homeless clients who:

(i) Have been homeless for at least twelve months; or

(ii) Have been homeless on at least four separate occasions in the last three years, as long as the combined occasions equal at least twelve months.

Homeless is defined as living in a safe haven, an emergency shelter, or a place not meant for human habitation. See 24 C.F.R. 578.3.

(b) A history of frequent or lengthy institutional contact.

(i) Institutional care facilities include jails, substance ((abuse)) use disorder or mental health treatment facilities, hospitals, or other similar facilities, as defined in 24 C.F.R. 578.3, or skilled nursing facilities as defined in WAC 388-97-0001.

(ii) Frequent means more than one contact in the past twelve months.

(iii) Lengthy means ninety or more consecutive days within an institutional setting in the past twelve months.

(c) A history of frequent stays at adult residential care facilities as defined by WAC 388-110-020 or residential treatment facilities as defined by WAC 246-337-005. Frequent means more than one contact in the past twelve months.

(d) Have frequent turnover of in-home caregivers as defined by WAC 388-106-0040, where within the last twelve months the client utilized three or more different in-home caregiver providers and the current placement is not appropriate for the client.

(e) Have a predictive risk score of 1.5 or above. See WAC 182-557-0225.

AMENDATORY SECTION (Amending WSR 18-15-007, filed 7/6/18, effective 8/6/18)

WAC 182-559-350 Eligibility for supported employment services. To be eligible for supported employment services, a client must:

- (1) Be age sixteen or older;
- (2) Be eligible for apple health (medicaid);
- (3) Desire to obtain employment;
- (4) Meet at least one of the following health criteria and is expected to benefit from supported employment services:

(a) Clients assessed by a licensed behavioral health agency, under chapter ((388-877)) 246-341 WAC, to have a behavioral health need, which is defined as one or both of the following criteria:

(i) Mental health needs, including a need for improvement, stabilization, or prevention of deterioration of functioning (including ability to live independently without support) resulting from the presence of a mental illness; or

(ii) Substance use needs determined by an assessment using the American Society of Addiction Medicine (ASAM) criteria indicates that the client meets at least ASAM level 1.0, indicating the need for outpatient substance use disorder (SUD) treatment. The ASAM is a multi-dimensional assessment approach for determining a client's need for SUD treatment.

(b) Clients assessed via a CARE assessment, per WAC 388-106-0050, to have a need for assistance demonstrated by:

(i) The need for assistance with at least three activities of daily living (ADLs) defined in WAC 388-106-0010, one of which may be body care; or

(ii) The need for hands-on assistance with at least one ADL which may include body care.

(c) There is objective evidence, as defined by the sequential evaluation process in chapter 388-449 WAC or the progressive evaluation process in chapter 388-447 WAC, of physical or mental impairments because of which the client needs assistance with basic work-related activities, including one or more of the following: Sitting, standing, walking, lifting, carrying, handling, manipulative or postural functions (pushing, pulling, reaching, handling, stooping or crouching), seeing, hearing, communicating, remembering, understanding and following instructions, responding appropriately to supervisors and coworkers, tolerating the pressures of a work

setting, maintaining appropriate behavior, using judgment, and adapting to changes in a routine work setting.

(5) Exhibit at least one of the following risk factors:

(a) Unable to be gainfully employed for at least ninety consecutive days due to a mental or physical impairment, as demonstrated by eligibility for the aged, blind, or disabled program as defined in WAC 388-449-0001, or the housing and essential needs program as defined in WAC 388-447-0001;

(b) More than one instance of treatment for a substance use disorder within the past two years;

(c) At risk of deterioration of mental illness and substance use disorder, or both, including one or more of the following:

(i) Persistent or chronic risk factors such as social isolation due to a lack of family or social supports, poverty, criminal justice involvement, or homelessness;

(ii) Care for mental illness and substance use disorder, or both, requires multiple provider types, including behavioral health, primary care, long-term services and supports, or other supportive services; or

(iii) Past psychiatric history, with no significant functional improvement that can be maintained without treatment and/or supports.

(d) Dysfunction in role performance due to a behavioral health condition, including one or more of the following:

(i) Behaviors that disrupt employment or schooling, or put employment at risk of termination or schooling suspension;

(ii) A history of multiple terminations from work or suspensions/expulsions from school;

(iii) Cannot succeed in a structured work or school setting without additional support or accommodations; or

(iv) Performance significantly below expectations for cognitive/developmental level.

(e) An inability to obtain or maintain employment resulting from age, physical disability, or traumatic brain injury.

registering, you will receive a confirmation email containing information about joining the public hearing.

Date of Intended Adoption: Not sooner than November 10, 2021.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email arc@hca.wa.gov, fax 360-586-9727, by November 9, 2021.

Assistance for Persons with Disabilities: Contact Amber Lougheed, phone 360-725-1349, fax 360-586-9727, telecommunication[s] relay service 711, email amber.lougheed@hca.wa.gov, by October 29, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The 2021-2023 operating budget (ESSB 5092, section 211 (34)-(36)), included a proviso directing HCA to provide rate increases for behavioral health services, primary care services, and family planning services. HCA is amending WAC 182-531-1850, Payment methodology for physician-related services—General and billing modifiers, to allow for adjustment of rates as directed by the legislature.

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160; and ESSB 5092, section 211 (34)-(36).

Statute Being Implemented: RCW 41.05.021, 41.05.160; and ESSB 5092, section 211 (34)-(36).

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Not applicable.

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Jason Crabbe, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-9563; Implementation and Enforcement: Wendy Steffens, P.O. Box 45500, Olympia, WA 98504-5500, 360-725-5145.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to HCA rules unless requested by the joint administrative rules review committee or applied voluntarily.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045.

September 29, 2021

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 17-21-040, filed 10/12/17, effective 11/12/17)

WAC 182-531-1850 Payment methodology for physician-related services—General and billing modifiers.

WSR 21-20-071

PROPOSED RULES

HEALTH CARE AUTHORITY

[Filed September 29, 2021, 4:36 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-15-102.

Title of Rule and Other Identifying Information: WAC 182-531-1850 Payment methodology for physician-related services—General and billing modifiers.

Hearing Location(s): On November 9, 2021, at 10:00 a.m. The health care authority (HCA) remains closed in response to the coronavirus disease (COVID-19) public health emergency. Until further notice, HCA continues to hold public hearings virtually without a physical meeting place. This promotes social distancing and the safety of the residents of Washington state. To attend the virtual public hearing, you must register in advance https://zoom.us/webinar/register/WN_5E5op_X5Qq-dfxRP_a6EDg. After

GENERAL PAYMENT METHODOLOGY

(1) The medicaid agency bases the payment methodology for most physician-related services on medicare's RBRVS. The agency obtains information used to update the agency's RBRVS from the MPFSPS.

(2) The agency updates and revises the following RBRVS areas each January prior to the agency's annual update.

(3) The agency determines a budget-neutral conversion factor (CF) for each RBRVS update, by:

(a) Determining the units of service and expenditures for a base period. Then,

(b) Applying the latest medicare RVU obtained from the MPFSDB, as published in the MPFSPS, and GCPI changes to obtain projected units of service for the new period. Then,

(c) Multiplying the projected units of service by conversion factors to obtain estimated expenditures. Then,

(d) Comparing expenditures obtained in (c) of this subsection with base period expenditure levels. Then,

(e) Adjusting the dollar amount for the conversion factor until the product of the conversion factor and the projected units of service at the new RVUs equals the base period amount.

(4) The agency calculates maximum allowable fees (MAFs) in the following ways:

(a) For procedure codes that have applicable medicare RVUs, the three components (practice, malpractice, and work) of the RVU are:

(i) Each multiplied by the statewide GCPI. Then,

(ii) The sum of these products is multiplied by the applicable conversion factor. The resulting RVUs are known as RBRVS RVUs.

(b) For procedure codes that have no applicable medicare RVUs, RSC RVUs are established in the following way:

(i) When there are three RSC RVU components (practice, malpractice, and work):

(A) Each component is multiplied by the statewide GCPI. Then,

(B) The sum of these products is multiplied by the applicable conversion factor.

(ii) When the RSC RVUs have just one component, the RVU is not GCPI adjusted and the RVU is multiplied by the applicable conversion factor.

(c) For procedure codes with no RBRVS or RSC RVUs, the agency establishes maximum allowable fees, also known as "flat" fees.

(i) The agency does not use the conversion factor for these codes.

(ii) The agency updates flat fee reimbursement only when the legislature authorizes a vendor rate increase, except for the following categories which are revised annually during the update:

(A) Immunization codes are reimbursed at the medicare Part B drug file price or POS AAC when there is no Part B rate. (See WAC 182-530-1050 for explanation of POS AAC.) When the provider receives immunization materials from the department of health, the agency pays only a flat fee for administering the immunization.

(B) A cast material maximum allowable fee is set using an average of wholesale or distributor prices for cast materials.

(iii) Other supplies are reimbursed at physicians' acquisition cost, based on manufacturers' price sheets. Reimbursement applies only to supplies that are not considered part of the routine cost of providing care (e.g., intrauterine devices (IUDs)).

(d) For procedure codes with no RVU or maximum allowable fee, the agency reimburses "by report." By report codes are reimbursed at a percentage of the amount billed for the service.

(e) For supplies that are dispensed in a physician's office and reimbursed separately, the provider's acquisition cost when flat fees are not established.

(f) The agency reimburses at acquisition cost those HCPCS J and Q codes that do not have flat fees established.

(5) The technical advisory group reviews RBRVS changes.

(6) The agency also makes fee schedule changes when the legislature grants a vendor rate increase and the effective date of that increase is not the same as the agency's annual update.

(7) If the legislatively authorized vendor rate increase, or other increase, becomes effective at the same time as the annual update, the agency applies the increase after calculating budget-neutral fees. The agency pays providers a higher reimbursement rate for primary health care E&M services that are provided to children age twenty and under.

(8) The agency may adjust rates to maintain or increase access to health care services as directed by the legislature.

(9) The agency does not allow separate reimbursement for bundled services. However, the agency allows separate reimbursement for items considered prosthetics when those items are used for a permanent condition and are furnished in a provider's office.

~~((9))~~ (10) Variations of payment methodology which are specific to particular services, and which differ from the general payment methodology described in this section, are included in the sections dealing with those particular services.

CPT/HCFA MODIFIERS

~~((10))~~ (11) A modifier is a code a provider uses on a claim in addition to a billing code for a standard procedure. Modifiers eliminate the need to list separate procedures that describe the circumstance that modified the standard procedure. A modifier may also be used for information purposes.

~~((11))~~ (12) Certain services and procedures require modifiers in order for the agency to reimburse the provider. This information is included in the sections dealing with those particular services and procedures, as well as the fee schedule.

WSR 21-20-092
PROPOSED RULES
OFFICE OF THE
INSURANCE COMMISSIONER

[Insurance Commissioner Matter R 2021-10—Filed October 1, 2021,
 10:23 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-14-064.

Title of Rule and Other Identifying Information: Title agent county declarations.

Hearing Location(s): On November 15, 2021, at 9:00 a.m., virtual format - Zoom meeting. Detailed information for attending the Zoom meeting posted on the office of insurance commissioner (OIC) website <https://www.insurance.wa.gov/title-agent-county-declarations-r-2021-10>. Due to the COVID-19 public health emergency, this hearing will be held via Zoom. Comments can be emailed to RulesCoordinator@OIC.WA.GOV.

Date of Intended Adoption: November 19, 2021.

Submit Written Comments to: Michael Walker, P.O. Box 40260, Olympia, WA 98504-0260, email rulescoordinator@oic.wa.gov, fax 360-586-3109, by October 27, 2021.

Assistance for Persons with Disabilities: Contact Melanie Watness, phone 360-725-7013, fax 360-586-2023, TTY 360-586-0241, email MelanieW@oic.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purposes of these regulations are to require title agents to submit a declaration to OIC, which identify their insurance business as operating in certain counties and provide proof of the ownership or leasing rights for the applicable tract indexes, as required by RCW 48.29.160.

Reasons Supporting Proposal: The commissioner is considering rule making to enhance the reporting requirements for title agents, specifically in regard to their county declarations and ownership or leasing of tract indexes. An entity applying for a title agent license is required to submit the Declaration of Title Insurance Agent form as part of the application process. The purposes of the form are for the title agent to identify which counties they will be doing business in and verify that the title agent either owns or leases a complete set of tract indexes for those counties, as required per RCW 48.29.160. Unfortunately, the licensing records do not reflect the original documents which define what counties these title agents own or lease the required tract indexes in, nor is there a regulation or statute which requires them to report any expansion of business into additional counties. There likewise is no current requirement for title agents to verify that they own or lease the proper tract indexes for their counties of operations, as required per RCW 48.29.160. The proposed regulations will require title agents to submit a declaration to OIC, which will identify their counties of operations, and provide proof of ownership or leasing rights for the applicable tract indexes.

Statutory Authority for Adoption: RCW 48.02.060(3) and 48.29.005.

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

Name of Proponent: Mike Kreidler, insurance commissioner, governmental.

Name of Agency Personnel Responsible for Drafting: Michael Walker, P.O. Box 40260, Olympia, WA 98504-0260, 360-725-7036; Implementation and Enforcement: Todd Dixon, P.O. Box 40260, Olympia, WA 98504-0260, 360-725-7000.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. This rule making is exempt from the cost-benefit analysis under RCW 34.05.328 (5)(b)(iii). Under RCW 34.05.328 (5)(b)(iii), rule making is exempt from a cost-benefit analysis if the proposed rules are adopting or incorporating by reference without material change Washington state statutes, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rules. Here, OIC is adopting by reference without material change RCW 48.29.160 into WAC 284-29-130, which will regulate the same subject matter and conduct as the adopting rules, including license requirements for title agents and county tract indexes. No additional costs are required for title agents to comply with these regulations. Title agents already submit the Title Insurance Agent Declaration form, with an attestation for applicable tract indexes. The proposed rules verify a current statutory requirement in RCW 48.29.160 as a regulation for licensure and compliance.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules are adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule; and rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

Is exempt under RCW 34.05.310 (4)(c) and 34.05.310 (4)(g)(ii).

Explanation of exemptions: Under RCW 34.05.310 (4)(g)(ii) rule making is exempt from the small business economic impact statement (SBEIS) requirement (chapter 19.85 RCW) if the rules adopt a filing or related process requirement for applying to an agency for a license or permit. This rule making will provide process requirements for agents of a title insurer applying to OIC for licensure and qualifies for the SBEIS exemption contained in RCW 34.05.310 (4)(g)(ii). Currently, an entity applying for a title agent license is required to submit the Declaration of Title Insurance Agent form as part of the application process with OIC. Additionally, to be licensed as an agent of a title insurer, the applicant must own or lease and maintain a complete set of tract

indexes of the county or counties in which such agent will do business (RCW 48.29.160). This rule making will require title agents to verify that they own or lease and maintain rights to the applicable tract indexes (as required by RCW 48.29.160) during their license application process with OIC.

Under RCW 34.05.310 (4)(c) rule making is exempt from the SBEIS requirement (chapter 19.85 RCW) if the rules adopt or incorporate by reference without material change Washington state statutes, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule. This rule making is incorporating a statutory requirement (RCW 48.29.160) by reference, without material change, and regulates the same subject matter as the adopting rule, title agent ownership of applicable tract indexes. RCW 48.29.160 requires that title agents own or lease and maintain a complete set of tract indexes of the county or counties in which such agent will do business. No additional costs are required for title agents to comply with the proposed regulations. Title agents already submit the Title Insurance Agent Declaration form, with an attestation for applicable tract indexes, as part of the application process with OIC. Therefore, this rule making qualifies for an exemption from the SBEIS under RCW 34.05.310 (4)(c).

October 1, 2021
Mike Kreidler
Insurance Commissioner

AMENDATORY SECTION (Amending WSR 09-20-070, filed 10/5/09, effective 11/5/09)

WAC 284-29-130 ((Report)) Reporting required. (1)

The title insurance agent report of affiliated business ownership must be filed with the commissioner annually by March 15th.

(2) If there is any change or addition to the ownership information contained in the annual report, then the title insurance agent must file an amended report with the commissioner within fifteen days after the end of the month in which the title insurance agent learns of the change or addition.

(3) Changes to the information regarding the percent of title orders originating from each of the producers do not need to be filed with the commissioner except with the annual filing. If the title insurance agent discovers or reasonably should have discovered that the information contained in the annual filing was not correct, then the title insurance agent must file an amended report within fifteen days after the end of the month in which the title insurance agent discovered the incorrect information.

(4) Before conducting business in any counties, title insurance agents must report to the commissioner, declaring the county or counties the business will operate in and providing proof of ownership or leasing rights for the applicable tract indexes. If business is to be conducted in an additional county not included on previous declarations, then the title insurance agent must submit an updated declaration listing the added business areas and including proof of ownership or leasing rights to the applicable tract indexes, in accordance with RCW 48.29.160.

Proof shall come in the form of real property ownership documents, copies of leases, or other documentation verifying ownership or rights to the applicable tract indexes.

WSR 21-20-093
PROPOSED RULES
OFFICE OF THE
INSURANCE COMMISSIONER

[Insurance Commissioner Matter R 2021-12—Filed October 1, 2021, 10:35 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-14-075.

Title of Rule and Other Identifying Information: Captive insurance (chapter 48.201 RCW).

Hearing Location(s): On November 9, 2021, at 9:00 a.m., virtual format - Zoom meeting. Detailed information for attending the Zoom meeting posted on the office of the insurance commissioner (OIC) website here <https://www.insurance.wa.gov/captive-insurance-r-2021-12>. Due to the COVID-19 public health emergency, this hearing will be held via Zoom. Comments can be emailed to RulesCoordinator@OIC.WA.GOV.

Date of Intended Adoption: November 15, 2021.

Submit Written Comments to: Michael Walker, P.O. Box 40260, Olympia, WA 98504-0260, email rulescoordinator@oic.wa.gov, fax 360-586-3109, by October 27, 2021.

Assistance for Persons with Disabilities: Contact Melanie Watness, phone 360-725-7013, fax 360-586-2023, TTY 360-586-0241, email MelanieW@oic.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The laws for captive insurance (chapter 48.201 RCW) authorize OIC rule making to incorporate the statutory framework and requirements for captive insurance into WAC, along with implementation processes, clarifications, and regulatory guidance.

The anticipated effects of the proposal are rule making related to determining eligibility of captive insurers, registering and renewing eligible captive insurers, enforcement, and collecting associated taxes, registration fees, and annual renewal fees from captive insurers that are licensed by their domicile jurisdictions and insure Washington-based entities.

These rules will facilitate implementation of captive insurance by ensuring that all affected entities understand their rights and obligations under the new law.

Reasons Supporting Proposal: The act relating to captive insurance (2SSB 5315) has become effective as law (chapter 48.201 RCW). This law establishes statutory framework for Washington-based private entities and public institutions of higher education to manage their risks through captive insurers, which will require proper regulation and taxation by OIC. RCW 48.201.060 authorizes OIC rule making to incorporate the statutory framework and requirements for captive insurance into the WAC, along with implementation processes, clarifications, and regulatory guidance.

Statutory Authority for Adoption: RCW 48.02.060 (3)(a) and 48.201.060.

Statute Being Implemented: Chapter 48.201 RCW, Captive insurance.

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

Name of Proponent: Mike Kreidler, insurance commissioner, governmental.

Name of Agency Personnel Responsible for Drafting: Michael Walker, P.O. Box 40260, Olympia, WA 98504-0260, 360-725-7036; Implementation and Enforcement: Melanie Anderson, P.O. Box 40260, Olympia, WA 98504-0260, 360-725-7000.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. This rule making is exempt from the cost-benefit analysis under RCW 34.05.328 (5)(b)(iii) and 34.05.328 (5)(b)(v). Under RCW 34.05.328 (5)(b)(iii), rule making is exempt from a cost-benefit analysis if the proposed rules are adopting or incorporating by reference, without material change, Washington state statutes, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rules. Here, OIC is adopting the statutory requirements for captive insurers (chapter 48.201 RCW) into WAC, as rules that regulate the same subject matter and conduct of captive insurers, and without material change. Additionally, under RCW 34.05.328 (5)(b)(v) rule making is exempt from a cost-benefit analysis if the content of the rules is explicitly and specifically dictated by statute. Here, the proposed captive insurance rules (chapter 284-201 WAC) are drafted in direct alignment with chapter 48.201 RCW, and the rules are explicitly and specifically dictated by statute.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules are adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule; rule content is explicitly and specifically dictated by statute; and rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

Is exempt under RCW 34.05.310 (4)(c), 34.05.310 (4)(e), and 34.05.310 (4)(g)(ii).

Explanation of exemptions: Under RCW 34.05.310 (4)(g)(ii) rule making is exempt from the small business economic impact statement (SBEIS) requirement (chapter 19.85 RCW), if the rules adopt a filing or related process requirement for applying to an agency for a license or permit. Here, the rule making is adopting the process requirements for captive insurers applying to OIC for registration (or permit) to do

business in this jurisdiction. Therefore, this rule making qualifies for an exemption from the SBEIS under RCW 34.05.310 (4)(g)(ii).

Under RCW 34.05.310 (4)(e), rule making is exempt from [from] the SBEIS requirement (chapter 19.85 RCW), if the content of the rules are explicitly and specifically dictated by statute. Here, the proposed captive insurance rules (chapter 284-201 WAC) are drafted in direct alignment with chapter 48.201 RCW, and the rules are explicitly and specifically dictated by statute.

Under RCW 34.05.310 (4)(c), rule making is exempt from the SBEIS requirement (chapter 19.85 RCW), if the rules adopt or incorporate by reference without material change Washington state statutes, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule. This rule making is incorporating chapter 48.201 RCW by referring to the statutory requirements for captive insurers in the proposed regulations (chapter 284-201 WAC) without material changes, and regulates the same subject matter of captive insurance. Therefore, this rule making qualifies for an SBEIS exemption under RCW 34.05.310 (4)(c).

October 1, 2021

Mike Kreidler

Insurance Commissioner

Chapter 284-201 WAC

CAPTIVE INSURANCE

NEW SECTION

WAC 284-201-110 Purpose. These regulations implement captive insurance (chapter 48.201 RCW) including, but not limited to, the processes and procedures for regulation and taxation of captive insurers by the office of the insurance commissioner (commissioner).

NEW SECTION

WAC 284-201-120 Applicability and scope. This chapter applies to eligible captive insurers as defined in chapter 48.201 RCW, except for risk retention groups that must register pursuant to chapter 48.92 RCW and captive insurers that solely place insurance through a surplus line broker pursuant to chapter 48.15 RCW.

NEW SECTION

WAC 284-201-130 Definitions. The definitions in RCW 48.201.020, apply in this regulation unless otherwise specified or unless the context clearly requires otherwise. The following definitions apply to this chapter and to chapter 48.201 RCW:

(1) "Captive insurer" means an entity that is wholly or partially owned by a "captive owner" and it insures risks of the captive owner, the captive owner's other affiliates, or both.

(2) "Eligible captive insurer" has the same meaning as set forth in chapter 48.201 RCW.

(3) "Insurer" has the same meaning as set forth in RCW 48.01.050.

(4) "Principal place of business" refers to the place where a business entity's management direct, control, and coordinate the corporation's activities, i.e., its "nerve center," which will typically be found at its corporate headquarters. Except where the parent corporation is the alter ego of the subsidiary, subsidiaries are analyzed separately from their parent or holding companies. For example, if a captive insurer insures a subsidiary that is headquartered in Washington, then this state would be the principal place of business for the insured subsidiary, even if the parent company was headquartered elsewhere.

(5) "Registered eligible captive insurer" means an eligible captive insurer who submitted an application that was approved by the commissioner. A registered eligible captive insurer that fails to properly renew its registration will no longer be considered registered under chapter 48.201 RCW.

(6) "Reinsurance" means a form of insurance issued to insurers.

(7) "Reinsurer" means an insurer that assumes all or part of an insurance or reinsurance policy written by the ceding insurer.

NEW SECTION

WAC 284-201-140 Computation of time. In computing any period of time prescribed by this rule, the commissioner:

- (1) Will not count the first day; and
- (2) Will count the next and last day, unless either is a weekend or a state legal holiday.

NEW SECTION

WAC 284-201-150 Severability. If any provision of this chapter or its application to any person or circumstances is held invalid, the remainder of the chapter or its application of the provision to other persons or circumstances is not affected.

NEW SECTION

WAC 284-201-210 Registration. (1) Eligible captive insurers must register with the commissioner within 120 days of May 12, 2021, or if later, within 120 days after first issuing a policy that covers Washington risks.

(2) The registration period for eligible captive insurers will be from the date the registration is approved by the commissioner, through June 30th.

(3) The commissioner may request and the eligible captive insurer must provide additional documentation and information to show registration requirements have been met.

(4) The registration fee is \$2,500.00.

(5) The commissioner will approve an eligible captive insurer's registration, if the commissioner determines that it meets the eligibility requirements in chapter 48.201 RCW, and this section.

NEW SECTION

WAC 284-201-220 Renewal. (1) To maintain registration, a registered eligible captive insurer must renew certificates of registration annually by June 30th. If an eligible captive insurer fails to properly renew their certificate of registration, then its registration will expire at the end of its registration period.

(2) The renewal process will require that a registered eligible captive insurer continue to meet eligibility requirements in accordance with RCW 48.201.020 and 48.201.030, and pay a renewal fee.

(3) For renewal, the commissioner will charge an annual renewal fee not to exceed \$2,500.00. The amount of the renewal fee will be published on the commissioner's website and must be paid by June 30th.

(4) The renewal period will be from July 1st through June 30th.

(5) In order to obtain a timely annual renewal, a registered eligible captive insurer should file the renewal application no later than April 1st. Otherwise, OIC may not approve the eligible captive insurer's renewal before the June 30th expiration date and the eligible captive insurer's registration will expire. If an eligible captive insurer's registration expires, it will then need to complete and file a new application and pay the fee for a new registration.

NEW SECTION

WAC 284-201-230 Insurance limitations. (1) For Washington risks, a registered eligible captive insurer may provide only property and casualty insurance, and may provide such insurance to only a captive owner, to the captive owner's other affiliates, or both, unless it places the insurance through a surplus lines broker pursuant to chapter 48.15 RCW.

(a) A registered eligible captive insurer may not provide stop loss insurance as defined in RCW 48.11.030 or 48.21.015.

(b) A registered eligible captive insurer may not provide workers' compensation coverage that directly covers the worker. A registered eligible captive insurer may indemnify a self-insured employer for their workers' compensation liability.

(2) A registered eligible captive insurer may assume risks from other insurers as a reinsurer without regard to the limitations in subsection (1) of this section.

NEW SECTION

WAC 284-201-240 Taxes. (1) A registered eligible captive insurer shall on or before the first day of March of each year pay to the state treasurer through the commissioner's office a two percent tax on premiums for insurance directly procured by and provided to its parent or another affiliate for Washington risks during the previous calendar year. A registered eligible captive insurer that fails to remit the tax by the last day of the month in which the tax becomes due, will be subject to the tax, penalties, and interest provided in RCW 48.14.060.

(2) A registered eligible captive insurer shall file with the commissioner a statement of premiums on a tax form furnished by the commissioner. For tax purposes, the reporting of premiums shall be on a written basis.

(3) Instructions for accessing the online tax forms will be sent out to the registered eligible captive insurer's tax contact in January of each year. Tax contact information is provided to the commissioner as part of the registration process.

(4) The registered eligible captive insurer must share its methodology and relevant analysis in determining its Washington risks allocation by submitting this information to the commissioner by April 1st of each year, in a method as prescribed and furnished by the commissioner.

(5) Prior period taxes. Eligible captive insurers who insured Washington risk for any period after January 1, 2011, must remit a two percent tax on premiums for insurance directly procured by and provided to its parent or another affiliate for Washington risks, if not previously remitted to the commissioner. The reporting of premiums under this section shall be on a written basis, in a method as prescribed and furnished by the commissioner. Taxes due for premiums procured prior to January 1, 2021, are not subject to the penalties or interest provided in RCW 48.14.060.

(6) Eligible captive insurers must pay premium tax for Washington risks covered by all types of insurance, including premiums collected for insurance that is not property or casualty insurance, if the eligible captive insurer provided such coverage for any period after January 1, 2011.

NEW SECTION

WAC 284-201-250 Administration. (1) The commissioner is authorized to make use of any of the powers established under Title 48 RCW to enforce the laws of this state. This includes, but is not limited to, the commissioner's administrative authority to investigate, issue subpoenas, conduct depositions and hearings, issue orders, impose penalties, and seek injunctive relief. Regarding any investigation, administrative proceedings, or litigation, the commissioner can rely on the procedural laws and regulations of the state.

(2) Fines and penalties.

(a) An eligible captive insurer that fails to register or maintain registration under this chapter or chapter 48.92 RCW is acting as an unlawful, unauthorized insurer, as set forth in RCW 48.15.020 and is subject to the fines and penalties under RCW 48.15.023, taxation under RCW 48.14.095 and penalties and interest under RCW 48.14.060.

(b) Captive insurers that have insured risks in Washington but are not eligible to register with the commissioner, continue to be subject to RCW 48.15.020, 48.15.023, 48.14.020, 48.14.060, and 48.14.095.

(c) A registered eligible captive insurer that violates any provision of this chapter will be subject to the fines and penalties applicable to authorized insurers generally, as set forth in chapter 48.05 RCW, including revocation of its registration, suspension of registration, and refusal to renew registration.

(d) The commissioner may deny the registration or renewal of a captive insurer who the commissioner has determined failed to sufficiently demonstrate the requirements

outlined in RCW 48.201.020 and 48.201.030, and this chapter.

NEW SECTION

WAC 284-201-300 Adjudicative proceedings. (1) Captive insurers may demand a hearing with the commissioner by submitting a request for an adjudicative proceeding in accordance with WAC 284-02-070 and RCW 48.04.010.

(2) General procedural and substantive requirements for adjudicative proceedings are contained in WAC 284-02-070, chapters 48.04 and 34.05 RCW.

WSR 21-20-102

PROPOSED RULES

HORSE RACING COMMISSION

[Filed October 4, 2021, 8:42 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-09-033.

Title of Rule and Other Identifying Information: WAC 260-60-410 Claimed horse—In whose interest run—Delivery and passage of title.

Hearing Location(s): On November 12, 2021, at 9:30 a.m., via Zoom teleconference. Link will be available at www.whrc.wa.gov prior to hearing.

Date of Intended Adoption: December 13, 2021.

Submit Written Comments to: Douglas L. Moore, 6326 Martin Way Suite 209, Olympia, WA 98516, email doug.moore@whrc.state.wa.us, fax 360-549-6461, by November 1, 2021.

Assistance for Persons with Disabilities: Contact Melanie Bowdish, phone 360-459-6462, fax 360-459-6461, email melanie.bowdish@whrc.state.wa.us, by November 1, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To amend current rules on transfer of a claimed horse which was selected for post race testing to reflect current industry standards.

Reasons Supporting Proposal: Changes the time of transfer from the original trainer to the successful claimant to take place after a sample is collected to avoid any possible contamination attributed to the new owner or representative.

Statutory Authority for Adoption: RCW 67.16.020.

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

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516, 360-459-6462.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. Not business related.

October 4, 2021

Douglas L. Moore
Executive Secretary

AMENDATORY SECTION (Amending WSR 18-03-071, filed 1/12/18, effective 2/12/18)

WAC 260-60-410 Claimed horse—In whose interest run—Delivery and passage of title. Any purse moneys and prizes earned by a claimed horse will be awarded to the owner that entered the horse. All claims are valid and ownership of the claimed horse is official from the time the claimed horse becomes a "starter." The successful claimant becomes the owner of the horse, whether it is sound, unsound, or injured during the race or after it, unless the claim is canceled in accordance with WAC 260-60-460(2). Transfer of possession of a claimed horse will take place immediately after the race has been run unless otherwise directed by the stewards. If the horse is required to be taken to the test barn for post-race testing, the ~~((successful claimant))~~ original trainer or his/her representative must maintain physical custody of the claimed horse ~~((However, the original owner, trainer))~~ and sign the sample tag. The successful claimant or his/her representative will accompany the horse ~~((;))~~ and observe the testing procedure ~~((and sign the test sample tag)).~~

WSR 21-20-103
PROPOSED RULES
HORSE RACING COMMISSION

[Filed October 4, 2021, 8:42 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-13-015.

Title of Rule and Other Identifying Information: WAC 260-48-915 Quinfecta pools with carryover.

Hearing Location(s): On November 12, 2021, at 9:30 a.m., via Zoom teleconference. Link will be available at www.whrc.wa.gov prior to hearing.

Date of Intended Adoption: December 13, 2021.

Submit Written Comments to: Douglas L. Moore, 6326 Martin Way Suite 209, Olympia, WA 98516, email doug.moore@whrc.state.wa.us, fax 360-549-6461, by November 1, 2021.

Assistance for Persons with Disabilities: Contact Melanie Bowdish, phone 360-459-6462, fax 360-459-6461, email melanie.bowdish@whrc.state.wa.us, by November 1, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To amend current rules to reflect industry standard terminology.

Reasons Supporting Proposal: Quinfecta's are called Pentfectas in all other jurisdictions; no other changes made to calculations or carryover requirements.

Statutory Authority for Adoption: RCW 67.16.020.

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

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516, 360-459-6462.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. Not business related.

October 4, 2021
Douglas L. Moore
Executive Secretary

AMENDATORY SECTION (Amending WSR 12-03-074, filed 1/13/12, effective 2/13/12)

WAC 260-48-915 ((Quinfecta)) Pentafecta pools with carryover. (1) The ~~((quinfecta))~~ pentafecta requires selection of the first five finishers in their exact order, for a single race.

(2) The net ~~((quinfecta))~~ pentafecta pool will be distributed as a single price pool to those who selected the first five finishers in exact order based on the official order of finish. If there are no such wagers, then the net ~~((quinfecta))~~ pentafecta pool will be carried forward to the next ~~((quinfecta))~~ pentafecta performance as a carryover or added to an existing carryover.

(3) If less than five betting interests finish the race and the race is declared official, the entire ~~((quinfecta))~~ pentafecta pool for that performance will be refunded.

(4) If, due to a late scratch or a participant is declared a nonstarter, and this causes the number of betting interest in the ~~((quinfecta))~~ pentafecta pool to be reduced to fewer than five, the entire ~~((quinfecta))~~ pentafecta pool for that performance will be refunded.

(5) If the ~~((quinfecta))~~ pentafecta contest is canceled or declared "no contest," the entire ~~((quinfecta))~~ pentafecta pool for that performance will be refunded.

(6) If horses representing the same betting interest finish in the first five positions, the ~~((quinfecta))~~ pentafecta pool will be distributed as a single price pool to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish.

(7) If there is a dead heat for first involving:

(a) Horses representing five or more betting interests, all of the wagering combinations selecting five betting interests which correspond with any of the betting interests involved in the dead heat will share in a profit split.

(b) Horses representing four betting interests, all of the wagering combinations selecting the four dead-heated betting interests, irrespective of order, along with the fifth-place betting interest will share in a profit split.

(c) Horses representing three betting interests, all of the wagering combinations selecting the three dead-heated betting interests, irrespective of order, along with the fourth-place and fifth-place betting interests will share in a profit split.

(d) Horses representing two betting interests, both of the wagering combinations selecting the two dead-heated betting interests, irrespective of order, along with the third-place, fourth-place and fifth-place betting interests will share in a profit split.

(8) If there is a dead heat for second involving:

(a) Horses representing four or more betting interests, all of the wagering combinations correctly selecting the winner combined with any of the four or more betting interests involved in the dead heat for second will share in a profit split.

(b) Horses representing three betting interests, all of the wagering combinations correctly selecting the winner, the three dead-heated betting interests, irrespective of order, and the fifth-place betting interests will share in a profit split.

(c) Horses representing two betting interests, all of the wagering combinations correctly selecting the winner, the two dead-heated betting interests, irrespective of order, and the fourth-place and fifth-place betting interests will share in a profit split.

(9) If there is a dead heat for third involving:

(a) Horses representing three or more betting interests, all of the wagering combinations correctly selecting the winner, the second-place betting interest, and the three or more dead-heated betting interests will share in a profit split.

(b) Horses representing two betting interests, all the wagering combinations correctly selecting the winner, the second-place betting interest, the two dead-heated betting interests, irrespective of order and the fifth-place betting interest will share in a profit split.

(10) If there is a dead heat for fourth, all wagering combinations correctly selecting the first three finishers, in correct sequence, along with any two of the betting interests involved in the dead heat for fourth will share in a profit split.

(11) If there is a dead heat for fifth, all wagering combinations correctly selecting the first four finishers, in correct sequence, along with any of the betting interests involved in the dead heat for fourth will share in a profit split.

(12) ~~((Quinfecta))~~ Pentafecta wagering is prohibited on any race in which there is more than one mutuel field, except with written permission of the board of stewards.

(13) Mandatory distribution of the carryover. The ~~((quinfecta))~~ pentafecta carryover will be designated for a change in distribution on a specified date and performance under the following circumstances:

(a) Upon approval from the board of stewards. If the designated date of the race for the mandatory distribution is during the race meet and the carryover pool is not distributed, the ~~((quinfecta))~~ pentafecta wager must be offered on a subsequent race until the carryover pool is distributed. A written request must contain the following information:

(i) The reason and justification for the change.

(ii) The date of the proposed distribution.

(b) On the closing performance of the meet.

(14) If the ~~((quinfecta))~~ pentafecta pool and any carryover are approved for distribution, the net ~~((quinfecta))~~ pentafecta pool and carryover, if any, will be distributed as a single price pool to winning wagers based upon the official order of finish.

(a) As a single price pool to those whose combination finished in correct sequence as the first five betting interests; but if there are no such wagers, then

(b) As a single price pool to those whose combination included, in correct sequence, the first four betting interests; but if there are no such wagers, then

(c) As a single price pool to those whose combination included, in correct sequence, the first three betting interests; but if there are no such wagers, then

(d) As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then

(e) As a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then

(f) The entire net pool will be refunded on ~~((quinfecta))~~ pentafecta wagers for that race and the carryover, if any, will be held over to a ~~((quinfecta))~~ pentafecta pool of the subsequent meet.

(15) If, for any reason, the ~~((quinfecta))~~ pentafecta carryover must be held over to the corresponding ~~((quinfecta))~~ pentafecta pool of a subsequent meet, the carryover will be deposited in an interest-bearing account approved by the executive secretary. The ~~((quinfecta))~~ pentafecta carryover plus accrued interest will then be added to the net ~~((quinfecta))~~ pentafecta pool of the following meet on a date and performance approved by the board of stewards.

WSR 21-20-104

PROPOSED RULES

DEPARTMENT OF FISH AND WILDLIFE

[Filed October 4, 2021, 9:19 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-15-112 on July 20, 2021.

Title of Rule and Other Identifying Information: The department is considering rule making for recreational fishing to address conservation objectives and harvest opportunities: WAC 220-300-160 Definitions—Personal-use fishing, 220-310-090 Game fish possession limits and size limits, 220-310-150 Fly fishing, 220-315-040 Smelt—Unlawful acts, 220-330-090 Crawfish, sea urchins, sea cucumbers, goose barnacles, scallops, squid, octopus—Areas and seasons, 220-305-110 Possession of personal-use food fish and shellfish, 220-330-010 Shellfish—Daily limits, size restrictions, and unlawful acts, 220-312-050 Freshwater exceptions to statewide rules—Eastside, 220-312-020 Freshwater exceptions to statewide rules—Coast, 220-312-030 Freshwater exceptions to statewide rules—Southwest, 220-312-040 Freshwater exceptions to statewide rules—Puget Sound, and 220-312-060 Freshwater exceptions to statewide rules—Columbia River.

Hearing Location(s): On December 2-4, 2021, at 8:00 a.m., webinar. This meeting of the fish and wildlife commission will take place by webinar. See <https://wdfw.wa.gov/about/commission> or contact the commission office at 360-902-2267 or commission@dfw.wa.gov for instructions on how to join the meeting.

Date of Intended Adoption: No earlier than January 1, 2022.

Submit Written Comments to: Kelly Henderson, P.O. Box 43200, Olympia, WA 98504, email RecFishing102@

PublicInput.com, <https://publicinput.com/RecFishing>, leave comments by phone 855-925-2801, project code 4855, by December 4, 2021.

Assistance for Persons with Disabilities: Contact Title VI/ADA compliance coordinator, phone 360-902-2349, TTY 1-800-833-6388 or 711, email Title6@dfw.wa.gov, by December 4, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 220-300-160:

(1) This rule proposal would remove Bull Trout, Dolly Varden, Eastern Brook Trout, and Lake Trout from the trout definition and create separate definitions for "trout" and "char."

(2) This rule proposal would clarify the intent of the "single point hook" as listed in definitions for selective gear rules or whitefish gear rules.

WAC 220-310-150, this rule proposal would clarify the intent of the "single point hook" as listed in definitions for fly fishing.

WAC 220-310-090, this rule proposal will list lake trout with no daily limit/no size restriction.

WAC 220-315-040, this rule proposal will require each limit of smelt (any species) to be kept in separate containers. This rule would apply to smelt fisheries in both freshwater and marine waters and all methods of harvest, i.e. dipnet and jig.

WAC 220-330-090, this rule proposal will close all of District 3 (Marine Areas 8-1, 8-2, 10, and part of 9) to recreational dive harvest of sea cucumber and establish a statewide seasonal spawning closure for recreational sea cucumber harvest.

WAC 220-305-110, this rule proposal will clarify possession limits of shellfish through consistent language.

WAC 220-330-010:

(1) This rule proposal will clarify possession limits of shellfish through consistent language.

(2) This proposed rule will modify the daily possession limit for shrimp after May 31 to no longer require the retention of spot shrimp heads when only spot shrimp are being retained.

WAC 220-312-050:

(1) Reverts Billy's Pond, a small pond located in Yakima, to statewide rules.

(2) This rule proposal would close kokanee fishing/retaining rules on Lake Wenatchee.

(3) This proposal would align steelhead rules with Snake River concurrent waters with Idaho.

(4) Adding "Steelhead Closed" to all sections of the Methow River.

WAC 220-312-020, this proposal will change the status of this pond from "open for fishing" to "Closed waters." A pond that had been open for fishing is now being utilized for hatchery rearing.

WAC 220-312-030:

(1) This proposal would open Carlisle Lake to year-round angling, with landlocked salmon rules.

(2) Changes rules for the Muddy River from *selective gear and release of wild trout from Saturday before Memorial Day through July 15* to instead be *selective gear and*

release all fish from Saturday before Memorial Day through October 31.

WAC 220-312-040, this proposal will change rules on select rivers in Kitsap, Mason, Pierce County, and Thurston County from the statewide daily limit with a minimum size of 14" for cutthroat trout and wild rainbow trout to nonretention of cutthroat trout and wild rainbow trout.

WAC 220-312-060, adds jointly (Oregon and Washington) managed off-channel waters in the Columbia River to WAC/Pamphlet. These locations are Blind Slough and Knappa Slough. This will be included in WAC 220-312-060 within the "From a line at Rocky Point on the Washington bank through Red Buoy 44 to red navigation marker 2 at Tongue Point on the Oregon bank upstream to a line at the west end of Puget Island projected from green navigation marker 39 on the Washington bank to green navigation marker 41, then to red navigation marker 42, and terminating at red navigation marker 44A on the Oregon bank" section.

Reasons Supporting Proposal: The department is considering amendments to several recreational fishing regulations including shellfish, gamefish, and forage fish. This rule making is addressing critical conservation objectives with changes to sea cucumber harvest seasons, changes to cutthroat trout retention in several streams throughout [throughout] areas of Puget Sound and Hood Canal, particularly around the Kitsap Peninsula and South Sound streams, and closes steelhead fishing on the Methow river. This rule making provides harvest opportunities consistent with conservation objectives by opening Carlisle Lake for year-round fishing. Also included in these proposals are some clarification and simplification changes that include separate containers for smelt, shrimp head retention changes, clarification of "single-point hooks," concurrent rule reflections for steelhead season on the Snake River with Idaho and clarifying section of the Columbia [River] with catch record card locations.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.045, and 77.12.047.

Statute Being Implemented: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.045, and 77.12.047.

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

Name of Proponent: Washington state department of fish and wildlife, governmental.

Name of Agency Personnel Responsible for Drafting: Kelly Henderson, 1111 Washington Street S.E., Olympia, WA 98501, 360-902-2684; Implementation: Kelly Cunningham, 1111 Washington Street S.E., Olympia, WA 98501, 360-902-2325; and Enforcement: Chief Steve Bear, 1111 Washington Street S.E., Olympia, WA 98501, 360-902-2373.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. This rule proposal does not require a cost-benefit analysis per RCW 34.05.328 (5)(a)(i).

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(4). This chapter does not apply to the adoption of a rule if an agency is

able to demonstrate that the proposed rule does not affect small businesses.

Explanation of exemptions: The department is exempt from the requirements of chapter 19.85 RCW because the proposed recreational fishing rules do not regulate small businesses; rather, the department's proposed fishing rules open fishing seasons, and provide fishing opportunity, that would otherwise be closed. In doing so, the proposed rules regulate individuals who undertake recreational fishing activities. The proposed statewide recreational rules simply govern the time, place, and manner for individuals who want to enjoy the recreational fishing opportunities provided. While recreational fisheries contribute to statewide or local economies, and while those economic effects are part of the department's consideration in opening fisheries, the economic effect of different possible recreational fishery packages does not constitute the direct imposition of any regulatory compliance costs on small businesses that supply recreational fishers, or that benefit from the state's decision to open such fisheries.

September 28, 2021
Annie Szvetcz
Rules Coordinator

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

WAC 220-300-160 Definitions—Personal-use fishing. The following definitions apply to personal-use fishing rules in Title 220 WAC:

- (1) "Anadromous game fish" means steelhead, sea-run cutthroat trout, and sea-run Dolly Varden and bull trout.
- (2) "Anti-snagging rule" means:
 - (a) Except when fishing with a buoyant lure (with no weights added to the lure or line) or trolling from a vessel or floating device, terminal fishing gear is limited to a lure or bait with one single point hook.
 - (b) Only single point hooks measuring not more than 3/4 inch from point to shank may be used and all hooks must be attached to or below the lure or bait.
 - (c) Weights may not be attached below or less than 12 inches above the lure or bait.
- (3) "Bait" means any substance which attracts fish by scent or flavors. Bait includes any lure which uses scent or flavoring to attract fish.
- (4) "Barbless hook" means a hook on which all barbs have been deleted when manufactured or filed off or pinched down.
- (5) "Bass" means largemouth and smallmouth bass.
- (6) "Bow and arrow fishing" means any method of taking, or attempting to take, fish by the use of an arrow equipped with a barbed head and a line attached, and propelled by a bow, as in the sport of archery, while the fisher is above the surface of the water.
- (7) "Buoy 10 line" means a true north-south line projected through Buoy 10 at the mouth of the Columbia River. "Buoy 10 fishery" means a fishery between a line in the Columbia River from Tongue Point in Oregon to Rocky Point in Washington and the Buoy 10 line.

(8) "Buoyant lure" means a lure that floats on the surface of freshwater when no additional weight is applied to the line or lure, and when not being retrieved by a line.

(9) "Channel Marker 13 line" means a true north-south line through Grays Harbor Channel Marker 13.

(10) "Char" means bull trout, Dolly Varden, Eastern brook trout, and lake trout.

(11) "Daily limit" means the maximum number or pounds of fish, shellfish, or seaweed of the required size of a given species or aggregate of species which a person may retain in a single day.

~~((11))~~ (12) "Fresh" means fish or shellfish that are refrigerated, iced, salted, or surface glazed.

~~((12))~~ (13) "Freshwater area" means:

- (a) Within any freshwater river, lake, stream or pond.
- (b) On the bank or within 10 yards of any freshwater river, lake, stream or pond.
- (c) On or within any boat launch, ramp, or parking facility associated with any freshwater river, lake, stream or pond.

~~((13))~~ (14) "Frozen" means fish or shellfish that are hard frozen throughout.

~~((14))~~ (15) "Gaffing" means an effort to take fish by impaling the fish with a hook attached directly to a pole or other device.

~~((15))~~ (16) "Hatchery" when used to describe the difference between a hatchery fish and a nonhatchery fish, except salmon, means a fish having a clipped adipose fin or a clipped ventral fin with a healed scar at the location of the clipped fin. A hatchery salmon is a salmon having a clipped adipose fin and a healed scar at the location of the clipped fin, regardless of whether the fish is missing a ventral fin.

~~((16))~~ (17) "Hook" means one single point, double or treble hook. A "single point hook" means a hook having only one point. A "double hook" means a hook having two points on a common shank. A "treble hook" means a hook having three points on a common shank.

~~((17))~~ (18) "Hook and line" or "angling" are identical in meaning and, except as provided in WAC 220-310-110, are defined as the use of not more than one line with three hooks attached to a pole held in hand while landing fish, or the use of a hand operated line without rod or reel, to which may be attached not more than three hooks. When fishing for bottom fish, "angling" and "jigging" are identical in meaning.

~~((18))~~ (19) "In the field or in transit" means at any place other than at the ordinary residence of the harvester. An ordinary residence is a residential dwelling where a person normally lives, with associated features such as address, telephone number, utility account, etc. A motor home or camper parked at a campsite or a vessel are not considered to be an ordinary residence.

~~((19))~~ (20) "Juvenile" means a person under fifteen year of age.

~~((20))~~ (21) "Lure" means a manufactured article constructed of feathers, hair, fiber, wood, metal, glass, cork, leather, rubber or plastic which does not use scent or flavoring to attract fish. "Nonbuoyant lure" means a lure complete with hooks, swivels or other attachments, which does not float in freshwater.

~~((21))~~ (22) "Night closure" means closed to fishing from one hour after official sunset to one hour before official sunrise.

~~((22))~~ (23) "Opening day of lowland lake season" means the fourth Saturday in April.

~~((23))~~ (24) "Possession limit" means the number of daily limits allowed to be retained in the field or in transit.

~~((24))~~ (25) "Processed" means fish or shellfish which have been processed by heat for human consumption as kippered, smoked, boiled, or canned.

~~((25))~~ (26) "Steelhead license year limit" means the maximum number of steelhead trout any one angler may retain from April 1st through the following March 31st.

~~((26))~~ (27) "Selective gear rules" means terminal fishing gear is limited to artificial flies with ~~((barbless single))~~ single-point barbless hooks or lures with ~~((barbless single))~~ single-point barbless hooks and bait is prohibited. Up to three hooks may be used. Only knotless nets may be used to land fish. In waters under selective gear rules, fish may be released until the daily limit is retained.

~~((27))~~ (28) "Slough" means any swamp, marsh, bog, pond, side-channel, or backwater connected to a river by water. Waters called sloughs that are not connected to a river are considered lakes.

~~((28))~~ (29) "Snagging" means an effort to take fish with a hook and line in a manner that the fish does not take the hook or hooks voluntarily in its mouth.

~~((29))~~ (30) "Spearing" or "spear fishing" means an effort to take fish or shellfish by impaling the fish or shellfish on a shaft, arrow or other device.

~~((30))~~ (31) "Stationary gear restriction" means the line and weight and lure or bait must be moving while in the water. The line and weight and lure or bait may not be stationary.

~~((31))~~ (32) "Steelhead" means sea-run rainbow trout over twenty inches in length.

~~((32))~~ (33) "Trolling" means a method of fishing from a vessel or floating device that is underway and under power.

~~((33))~~ (34) "Unmarked salmon" means a salmon with intact adipose and ventral fins.

~~((34))~~ (35) "Trout" means brown trout, ~~((bull trout,))~~ cutthroat trout, ~~((Dolly Varden, Eastern brook trout,))~~ golden trout, grayling, ~~((lake trout,))~~ rainbow trout (except steelhead), tiger trout, and, in WAC 220-312-010 through 220-312-060, salmon from waters designated as "landlocked salmon rules apply."

~~((35))~~ (36) "Whitefish gear rules" means terminal fishing gear is restricted to one ~~((single))~~ single-point hook, maximum hook size three-sixteenths inch point to shank (hook size 14), and bait is allowed. All species: Release all fish except whitefish.

~~((36))~~ (37) "Wild" when used to describe the difference between a hatchery fish and a nonhatchery fish, except salmon, means a fish with all fins intact.

~~((37))~~ (38) "Wild" when used to describe a salmon (Chinook, coho, chum, pink or sockeye), means a salmon with an unclipped adipose fin, regardless of whether the fish is ventral fin-clipped. A salmon with a clipped adipose fin and a healed scar at the site of the clipped fin is not a wild salmon.

~~((38))~~ (39) "Wild cutthroat release" means it is unlawful to retain any cutthroat trout that does not have a clipped adipose fin and a healed scar at the location of the clipped fin.

~~((39))~~ (40) "Wild steelhead release" means it is unlawful to retain any steelhead that does not have a clipped adipose or ventral fin and a healed scar at the location of the clipped fin.

~~((40))~~ (41) "Shoreline fishing" or "shore fishing" means fishing from shore or a structure affixed to the shore or by wading in the water.

AMENDATORY SECTION (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

WAC 220-305-110 Possession of personal-use food fish and shellfish. (1) The personal-use possession limit of food fish shall include all fresh, frozen, canned and other processed fish in the immediate possession of an individual while in the field or in transit, together with fish held ~~((for him))~~ by a custom canner or processor, and fish consigned ~~((by him))~~ for processing, preserving, storing, or transporting to a place other than where such food fish were taken.

(2) It shall be unlawful for any custom canner, or any person operating as a canner or processor of personal-use catches of food fish to accept, process or hold in the name of an individual more than his lawful possession limit.

(3) Custom cannery or processors of personal-use food fish or shellfish, resort operators and others who hold fish on their premises for sport fishermen, shall maintain accurate written accounts of such fish. These records shall be made available for inspection by the department of fisheries, and shall contain the name, signature and permanent address of the taker, the date and area of catch; the number, weight, species and date submitted for processing or holding and the final quantities processed by numbers of units.

(4) It shall be unlawful for any commercial fish dealer, cold storage plant operator, restaurant or hotel to store or have in possession any food fish or shellfish taken by any person for personal use, unless it is identified by tags attached bearing the names and addresses of the persons taking such food fish or shellfish.

(5) It shall be unlawful for any person taking food fish or shellfish for personal use to intermingle his catch or part of his catch with that of any duly licensed person taking food fish or shellfish for commercial purposes except for commercially caught fish retained for personal use as provided for in WAC 220-354-030 and 220-353-110.

AMENDATORY SECTION (Amending WSR 20-03-130, filed 1/17/20, effective 2/17/20)

WAC 220-310-090 Game fish possession limits and size limits. It is unlawful to retain or possess game fish taken in excess of the daily, possession, or license year possession limits, or game fish that do not conform to the size limits provided for in this section, unless otherwise provided for in WAC 220-312-010 through 220-312-060.

(1) Daily game fish possession and size limits:

Species	Daily limit	Size limits	Species	Daily limit	Size limits
Largemouth Bass	No limit for all rivers, streams and beaver ponds. 5 from lakes, ponds, reservoirs.	No size restriction. Release bass 12 to 17 inches in length. Not more than 1 large-mouth bass 17 inches in length or greater may be retained.	Walleye	No limit for all rivers, streams and beaver ponds. 8 from lakes, ponds, reservoirs.	No size restriction. 12-inch minimum size. Not more than 1 walleye greater than 22 inches in length may be retained.
Smallmouth Bass	No limit for all rivers, streams and beaver ponds. 10 from lakes, ponds, reservoirs.	No size restriction. No minimum size. Not more than one smallmouth bass over 14 inches in length or greater may be retained.	Whitefish	15	No size restriction.
Burbot	5	No size restriction.	All other game fish	No limit.	No size restriction.
Channel catfish	No limit for all rivers, streams and beaver ponds. 5 from lakes, ponds, reservoirs.	No size restriction. No size restriction.	<p>(2) Possession limit: The game fish possession limit in the field or in transit is two daily limits in fresh, frozen or processed form.</p> <p>(3) Wild steelhead, Dolly Varden, and bull trout: Except as provided for in this section and WAC 220-312-010 through 220-312-060, it is unlawful to retain wild steelhead, Dolly Varden, or bull trout.</p> <p>(4) Saltwater game fish retention: Game fish taken in saltwater may not be retained, except that up to two hatchery steelhead per day may be retained.</p>		
Eastern brook trout	No daily limit.	No size restriction.	<p><u>AMENDATORY SECTION</u> (Amending WSR 17-17-109, filed 8/21/17, effective 9/21/17)</p> <p>WAC 220-310-150 Fly fishing. (1) It is unlawful to fish in waters restricted to "fly fishing only" with the use of:</p> <p>(a) A fixed spool reel.</p> <p>(b) Fishing line other than conventional fly line or conventional "Tenkara" fly line, except that other line may be used for backing and leader if it is attached to not less than 25 feet of conventional fly line.</p> <p>(c) Hooks that exceed 1/2 inch when measured from point to shank.</p> <p>(d) Not more than two flies each with a <u>single-point</u> barbless (single) hook.</p> <p>(e) Bait.</p> <p>(f) Weight attached to the leader or line.</p> <p>(2) Only knotless nets may be used to land fish in waters restricted to "fly fishing only."</p> <p>(3)(a) A violation of gear restrictions in subsection (1) or (2) of this section is an infraction, punishable under RCW 77.15.160, unless the person possesses fish taken with prohibited gear.</p> <p>(b) It is unlawful to possess fish taken with gear in violation of the provisions of this section. Possession of fish while using gear in violation of the provisions of this section is a rebuttable presumption that the fish were taken with such gear. Possession of such fish is punishable under RCW 77.15.380 Unlawful recreational fishing in the second degree—Penalty, unless the fish are taken in the amounts or manner to constitute a violation of RCW 77.15.370 Unlawful recreational fishing in the first degree—Penalty.</p> <p>(4) "Fly" means a lure on which thread, feathers, hackle, foam, rubber, or yarn cover a minimum of half the shank of the hook. Metallic colored tape, metal wire, metal tape, tinsel,</p>		
Grass carp	Unlawful to retain unless otherwise provided in WAC 220-312-020 and 220-312-040.	Not applicable.			
Tiger Musklunge	1	Minimum size 50 inches in length.			
Kokanee	10	No size restriction.			
<u>Lake trout</u>	<u>No daily limit.</u>	<u>No size restriction.</u>			
Trout (except Eastern brook trout and Kokanee)	5 from lakes, ponds and reservoirs. 2 from rivers, streams, and beaver ponds. The daily trout limit is 5 trout, regardless of origin.	No size restriction. Wild trout 8-inch minimum length. Hatchery trout no minimum length.			
Hatchery steelhead	2	20-inch minimum length.			

mylar, or beadeyes may be used as an integral part of the design of the fly pattern.

AMENDATORY SECTION (Amending WSR 21-14-067, filed 7/2/21, effective 8/2/21)

WAC 220-312-020 Freshwater exceptions to state-wide 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 single-point 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 single-point 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) 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.

(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 single-point 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 December 31.

(i) Daily limit 6; up to 1 may be an adult.

(ii) Release Chinook and wild coho.

(10) **Bogachiel Hatchery Pond, South (Clallam County):** (~~Open the fourth Saturday in April through October 31.~~) Closed waters.

(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 single-point 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) Open July 1 through July 31:

(I) Daily limit 4; up to 2 adults may be retained.

(II) Release wild adult Chinook and wild adult coho.

(B) Open September 16 through November 30:

(I) Daily limit 3; up to 1 adult may be retained.

(II) Release wild adult coho.

(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 single-point 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) 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 July 31:

(I) Daily limit 4; up to 2 adults may be retained.

(II) Release wild adult Chinook and wild adult coho.

(B) Open September 16 through November 30:

(I) Daily limit 3; up to 1 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 single-point 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 single-point 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 Harbor 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) August 1 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) Open August 1 through September 23:

(I) Daily limit 6.

(II) Release adult salmon.

(B) September 24 through September 30: Closed.

(C) Open October 1 through November 30:

(I) Daily limit 6; up to 1 may be an adult.

(II) Release Chinook.

(D) Open December 1 through December 31:

(I) Daily limit 6; up to 1 may be an adult.

(II) Release Chinook and wild coho.

(b) From Highway 107 Bridge to South Elma Bridge (Wakefield Road) including all channels, sloughs, and interconnected waterways:

(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) Open August 1 through September 23:

(I) Daily limit 6.

(II) Release adult salmon.

(B) September 24 through September 30: Closed.

(C) Open October 1 through December 31:

(I) Daily limit 6; up to 1 may be an adult.

(II) Release Chinook and wild coho.

(c) From South Elma Bridge (Wakefield Road) to the confluence of Black River:

(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: Open October 1 through December 31.

(A) Daily limit 6; up to 1 may be an adult.

(B) Release Chinook and wild coho.

(d) From the confluence of Black River to high bridge on Weyerhaeuser 1000 line (approximately 400 yards downstream from Roger Creek, south of Pe Ell):

(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.

(iv) Salmon: Open October 1 through December 31.

(A) Daily limit 6; up to 1 may be an adult.

(B) Release Chinook and wild coho.

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

(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:

(A) Open September 1 through September 30.

(B) Daily limit 3; up to 1 may be an adult.

(C) 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) Open 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:

(A) Open October 1 through December 31.

(B) Daily limit 6; up to 1 may be an adult.

(C) Release 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) **Damon Lake (Grays Harbor County):** Game fish: Statewide minimum length/daily limit, except:

(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(27) **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.

(28) **Dickey Lake (Clallam County):** Game fish: Statewide minimum length/daily limit, except:

(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(29) 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 single-point 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 July 31 and September 16 through April 30.

(ii) It is unlawful to use bait the Saturday before Memorial Day through July 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:

(A) Open July 1 through July 31:

(I) Daily limit 4; up to 2 may be adults.

(II) Release wild adult Chinook and wild adult coho.

(B) Open September 16 through November 30:

(I) Daily limit 3; up to 1 may be an adult.

(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.

(30) 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.

(31) 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) Daily limit 4 coho only.

(iii) Release wild coho.

(32) East Twin River (Clallam County):

(a) Selective gear rules.

(b) Release all fish.

(33) Elk Creek (Lewis County) (Chehalis River tributary): Open the Saturday before Memorial Day through September 30 and January 1 through March 31.

(34) 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.

(35) 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) 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 December 31.

(A) Daily limit 6; up to 1 may be an adult.

(B) Release Chinook and wild 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.

(36) Elwha River and all tributaries (Clallam County): Closed waters.

(37) Failor Lake (Grays Harbor County): Open the fourth Saturday in April through September 15.

(38) 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 October 1 through January 31:

(A) Daily limit 6; up to 2 may be adults.

(B) Release wild Chinook and wild coho.

(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.

(39) 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.

(40) 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.

(41) 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 single-point 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 February 16 through April 15 and June 1 through August 31.

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

(iv) Salmon: Open September 16 through November 30: Daily limit 2; up to 1 adult may be retained. Release wild coho.

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

(i) Open June 1 through August 31 and September 16 through April 15.

(ii) It is unlawful to use bait June 1 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: Daily limit 2; up to 1 adult may be retained. Release wild coho.

(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 August 31 and September 16 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.

(42) 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 June 1 through August 31 and September 16 through April 15.

(c) It is unlawful to use anything other than one single-point 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.

(43) 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) 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.

(44) 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 December 31.

(A) Daily limit 6; up to 1 may be an adult.

(B) Release Chinook and wild 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.

(45) 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 December 31.

(A) Daily limit 6; up to 1 may be an adult.

(B) Release Chinook and wild 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.

(46) Humptulips River (Grays Harbor County):

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

(i) 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) Open September 1 through September 30:

(I) Daily limit 6; up to 2 may be adults.

(II) Release wild Chinook and wild coho.

(B) Open October 1 through October 31:

(I) Daily limit 6; up to 1 may be an adult.

(II) Release wild Chinook and wild coho.

(C) Open November 1 through December 31:

(I) Daily limit 6; up to 1 may be an adult.

(II) Release 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) August 16 through November 30:

(A) Night closure.

(B) Single-point barbless hooks are required.

(iii) March 1 through March 31: Selective gear rule.

(iv) Game fish:

(A) Open the Saturday before Memorial Day through the last day in February: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(B) Open March 1 through March 31: Release all fish, except: Anglers may retain up to 2 hatchery steelhead.

(v) Salmon:

(A) Open September 1 through September 30:

(I) Daily limit 6; up to 2 may be adults.

(II) Release wild Chinook and wild coho.

(B) Open October 1 through October 31:

(I) Daily limit 6; up to 1 may be an adult.

(II) Release wild Chinook and wild coho.

(C) Open November 1 through December 31:

(I) Daily limit 6; up to 1 may be an adult.

(II) Release Chinook and wild coho.

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

(a) Anti-snagging rule.

(b) Night closure.

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

(a) August 16 through November 30:

(i) Anti-snagging rule.

(ii) Night closure.

(b) March 1 through March 31: Selective gear rule.

(c) Game fish:

(i) Open the Saturday before Memorial Day through the last day in February: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(ii) Open March 1 through March 31: Release all fish, except: Anglers may retain up to 2 hatchery steelhead.

(49) 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:

(i) Open October 1 through December 31:

(ii) Daily limit 6; up to 1 may be an adult.

(iii) Release Chinook.

(50) 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 December 31.

(i) Daily limit 6; up to 1 may be an adult.

(ii) Release Chinook and wild coho.

(51) 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.

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

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

(54) 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.

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

(56) **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.

(57) **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.

(58) **McDonald Creek (Clallam County):**

(a) Selective gear rules.

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

(59) **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:

(i) Open October 1 through December 31.

(ii) Daily limit 6; up to 1 may be an adult.

(iii) Release Chinook.

(60) **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.

(61) **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.

(62) **Naselle River (Pacific/Wahkiakum counties):**

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

(i) August 1 through November 15:

(A) Night closure.

(B) Anti-snagging rule.

(C) 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) Open August 1 through January 31.

(B) Daily limit 6; up to 2 adults may be retained.

(C) Release wild Chinook and wild coho.

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

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

(ii) 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 January 31.

(B) Daily limit 6; up to 2 adults may be retained.

(C) Release wild Chinook and wild coho.

(c) From the Highway 4 Bridge to 300 feet below 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) February 1 through April 15: Selective gear rules.

(iii) August 16 through October 15: Bait or lure must be suspended below a float.

(iv) 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 October 16 through January 31.

(B) Daily limit 6; up to 2 adults may be retained.

(C) Release wild Chinook and wild coho.

(d) From 300 feet below the upstream entrance of the Naselle Hatchery attraction channel to the upstream entrance of the Naselle Hatchery attraction channel: Closed waters.

(e) From the upstream entrance of the Naselle Hatchery attraction channel to the full spanning concrete diversion structure at the Naselle Hatchery:

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

(ii) August 1 through October 15: Closed waters.

(iii) October 16 through November 15:

(A) Night closure.

(B) Anti-snagging rule.

(C) Barbless hooks are required.

(D) Stationary gear rules.

(iv) February 1 through April 15: Selective 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:

(A) Open October 16 through January 31.

(B) Daily limit 6; up to 2 adults may be retained.

(C) Release wild Chinook and wild coho.

(f) From the full spanning concrete diversion structure at the Naselle Hatchery to 400 feet downstream of the falls in Sec. 6 T10N R8W:

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

(ii) August 1 through November 15:

(A) Night closure.

(B) Anti-snagging rule.

(C) Barbless hooks are required.

(D) Stationary gear rules.

(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 October 16 through January 31.

(B) Daily limit 6; up to 2 adults may be retained.

(C) Release wild Chinook and wild coho.

(g) From 400 feet downstream of the falls in Sec. 6, T10N, R8W to the falls in (Wahkiakum County): Closed waters.

(h) From the falls in Sec. 6, T10N, R8W to the Crown Mainline (Salme) Bridge:

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

(ii) August 1 through November 15:

(A) Night closure.

(B) Anti-snagging rule.

(C) Barbless hooks are required.

(D) Stationary gear rules.

(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 October 16 through January 31.

(B) Daily limit 6; up to 2 adults may be retained.

(C) Release wild Chinook and wild coho.

(i) From the Crown Mainline (Salme) Bridge to the mouth of the North Fork:

(i) 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) August 16 through November 30:

(A) Night closure.

(B) Anti-snagging rule.

(j) 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.

(63) 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) The Saturday before Memorial Day through August 15: Selective gear rules.

(c) 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.

(64) Nemah River, Middle (Pacific County):

(a) From the mouth upstream to the department of natural resources decommissioned 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) August 1 through November 30:

(A) Night closure.

(B) Single-point barbless hooks are required.

(iv) Salmon:

(A) Open September 1 through September 30.

(B) Daily limit 6; up to 2 adults may be retained.

(C) Release wild Chinook and wild coho.

(b) From the department of natural resources decommissioned 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) August 16 through November 30: Night closure.

(65) 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) August 1 through November 30:
 - (A) Night closure.
 - (B) Stationary gear restriction.
 - (C) Single-point barbless hooks are required.
- (iv) Salmon:
 - (A) Open August 1 through September 30.
 - (B) Daily limit 6; up to 2 adults may be retained.
 - (C) Release wild Chinook and wild coho.
- (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) 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:
 - (A) Salmon: Daily limit 6; up to 2 adults may be retained.
 - (B) Release wild Chinook and wild coho.
 - (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) August 16 through November 30:
 - (A) Anti-snagging rule.
 - (B) Night closure.
 - (v) December 1 through March 31: Selective gear rules.
 - (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 (46° 28.58N, 123° 48.54W):
 - (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) August 16 through November 30:
 - (A) Night closure.
 - (B) Anti-snagging rule.
 - (iv) December 1 through March 31: Selective gear rules.
 - (f) From the N-700 Road (46° 28.58N, 123° 48.54W) 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) August 16 through November 30:
 - (A) Night closure.

- (B) Anti-snagging rule.
- (iv) December 1 through March 31: Selective gear rules.
- (66) Nemah River, South (Pacific County):**
 - (a) 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:
 - (i) Open September 1 through September 30.
 - (ii) Daily limit 6; up to 2 adults may be retained.
 - (iii) Release wild Chinook and wild coho.
- (67) 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) August 16 through November 30:
 - (A) Night closure.
 - (B) Single-point barbless hooks are required.
 - (iv) Salmon: Open October 16 through December 31.
 - (A) Daily limit 6; up to 1 may be an adult.
 - (B) Release Chinook and wild 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) August 16 through November 30:
 - (A) Night closure.
 - (B) Single-point barbless hooks are required.
 - (68) 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.
 - (69) 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.
 - (70) Niawiakum River (Pacific County):** From Highway 101 Bridge to the South Bend/Palix Road Bridge:
 - (a) 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.

(71) North River (Grays Harbor/Pacific counties):

(a) From the Highway 105 Bridge to Fall River:

(i) 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.

(b) From Fall River upstream to Raimie Creek:

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

(72) 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.

(73) Palix River, including all forks (Pacific County):

(a) From the Highway 101 Bridge to the mouth of the Middle Fork:

(i) 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) August 16 through October 15:

(A) Anti-snagging rule.

(B) Night closure.

(ii) The Saturday before Memorial Day through August 15, and December 16 through March 31: Selective gear rules.

(iii) Open the Saturday before Memorial Day through October 15, and December 16 through March 31.

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

(74) Peabody Creek (Clallam County): Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

(75) Pleasant Lake (Clallam County): Game fish: Statewide minimum length/daily limit, except:

(a) Kokanee: Daily limit 5; minimum length 8 inches, maximum length 18 inches.

(b) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(c) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(d) Channel catfish: Daily limit 10; no size restriction.

(e) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(76) Pysht River (Clallam County):

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

(b) Selective gear rules.

(c) 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) 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.

(77) 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) Daily limit 6 hatchery coho salmon; up to 4 may be adult hatchery coho.

(78) Quillayute River (Clallam County), outside of Olympic National Park:

(a) Open year-round, except closed August 1 through September 15. Also closed Mondays and Tuesdays September 16 through September 30 and Mondays October 1 through October 20.

(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 single-point barbless hook.

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

(A) Release wild rainbow trout.

(B) Cutthroat trout: Minimum length 14 inches.

(ii) November 1 through the last day in February: Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(d) Salmon:

(i) Open February 1 through July 31:

(A) Daily limit 4; up to 2 adults may be retained.

(B) Release sockeye, wild adult Chinook and wild adult coho.

(ii) Open September 16 through November 30:

(A) Daily limit 6; up to 3 adults may be retained, of which only 1 may be a wild Chinook.

(B) Release sockeye and wild adult coho.

(79) 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: Daily limit 6 jack salmon only.

(ii) Open October 1 through November 30:

(A) Daily limit 6; only 2 adults may be retained.

(B) Release sockeye and chum.

(80) **Rocky Brook (Jefferson County) (Dosewallips River tributary):** From the mouth upstream: Closed waters.

(81) **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.

(82) **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) 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) December 1 through the last day in February: Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(f) Salmon:

(i) Open September 1 through September 30:

(ii) Daily limit 6; up to 2 may be adults and only 1 of the adults may be a Chinook.

(iii) Release wild coho.

(83) **Salt Creek (Clallam County):** From the mouth to the bridge on Highway 112:

(a) Selective gear rules.

(b) Open 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.

(84) **Satsop River and East Fork (Grays Harbor County):**

(a) From the mouth to the bridge at Schafer State Park:

(i) August 16 through November 30:

(A) Night closure.

(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 December 31.

(A) Daily limit 6; up to 1 may be an adult.

(B) Release Chinook and wild 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) 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) 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 December 31.

(A) Daily limit 6; up to 1 may be an adult.

(B) Release Chinook and wild coho.

(85) **Satsop River, Middle Fork (Turnow Branch) (Grays Harbor County):**

(a) 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.

(86) **Satsop River, West Fork (Grays Harbor County):**

(a) 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.

(87) **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.

(88) **Siebert Creek (Clallam County)**:

(a) Selective gear rules.

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

(89) **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 single-point 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.

(90) **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) 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 December 31.

(i) Daily limit 6; up to 1 may be an adult.

(ii) Release Chinook and wild coho.

(91) **Smith Creek (near North River) (Pacific County)**:

(a) From the mouth to the Highway 101 Bridge:

(i) 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.

(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.

(92) **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.

(93) **Snow Creek and all tributaries (Jefferson County)**: Closed waters.

(94) **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 single-point 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 July 31 and February 16 through April 30.

(ii) Game fish: Open year-round; except closed August 1 through September 15: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(iii) Salmon:

(A) Open February 1 through July 31:

(I) Daily limit 4; up to 2 adults may be retained.

(II) Release sockeye, wild adult Chinook and wild adult coho.

(B) Open September 16 through November 30:

(I) Daily limit 6; up to 3 adults may be retained, of which only 1 may be a wild Chinook.

(II) Release sockeye and 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 July 31 and September 16 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) Open the Saturday before Memorial Day through July 31 and September 16 through October 31.

(ii) It is unlawful to use bait.

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

(95) **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.

(96) **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.

(97) **Sooes River (Tsoo-Yess River) (Clallam County), outside of Makah Indian Reservation:** Open the Saturday before Memorial Day through the last day in February.

(98) **Soules Pond (Pacific County):** Game fish: Statewide minimum length/daily limit, except:

(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(99) **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.

(100) **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.

(101) **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.

(102) **Thrash Creek (Pacific/Lewis County):** Closed waters.

(103) **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 single-point 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.

(104) **Thunder Lake (Clallam County):** Game fish: Statewide minimum length/daily limit, except:

(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(105) **Valley Creek (Clallam County):** Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

(106) **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.

(107) **Van Winkle Creek (Grays Harbor County):**

(a) 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 December 31.

(A) Daily limit 6; up to 1 may be an adult.

(B) Release Chinook and wild coho.

(108) **West Twin River (Clallam County):**

(a) Selective gear rules.

(b) Release all fish.

(109) **Willapa River (Pacific County):**

(a) From the mouth (city of South Bend boat launch) to the WDFW access site at the mouth of Ward/Wilson creeks:

(i) August 1 through November 30:

(A) Night closure.

(B) Single-point barbless hooks are required.

(ii) Open December 1 through January 31.

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

(iv) Salmon:

(A) Open August 1 through January 31.

(B) Daily limit 6; up to 2 adults may be retained.

(C) Release wild Chinook and wild coho.

(b) From the WDFW access site at the mouth of Ward/Wilson creeks to the second bridge on Camp One Road:

(i) August 1 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:

(A) Open August 1 through January 31.

(B) Daily limit 6; up to 2 adults may be retained.

(C) Release wild Chinook and wild coho.

(c) From the second bridge on Camp One Road upstream to the mouth of Mill Creek (approximately 0.5 miles):

(i) August 1 through November 30:

(A) Night closure.

(B) Single-point barbless hooks are required.

(C) Stationary gear restriction.

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

(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) Open August 1 through January 31.

(B) Daily limit 6; up to 2 adults may be retained.

(C) Release wild Chinook and wild coho.

(d) From the mouth of Mill Creek to the Highway 6 bridge (approximately 2 miles below the mouth of Trap Creek):

(i) August 1 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:

(A) Open August 1 through January 31.

(B) Daily limit 6; up to 2 adults may be retained.

(C) Release wild Chinook and wild coho.

(e) From Highway 6 Bridge (approximately 2 miles below the mouth of Trap Creek) to Fork Creek:

(i) 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:

(A) Open August 16 through January 31.

(B) Daily limit 6; up to 2 adults may be retained.

(C) Release wild Chinook and wild coho.

(f) From Fork Creek upstream to the Highway 6 Bridge near the town of Lebam:

(i) 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:

(A) Open October 1 through January 31.

(B) Daily limit 6; up to 2 adults may be retained.

(C) Release wild Chinook and wild coho.

(g) From the Highway 6 Bridge near the town of Lebam upstream:

(i) 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.

(110) 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) The Saturday before Memorial Day through July 31: Selective gear rules.

(iii) 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:

(A) Open August 1 through September 30:

(B) Daily limit 6; up to 2 adults may be retained.

(C) Release wild Chinook and wild coho.

(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.

(111) Wirkkala Pond 1 (Pacific County): Game fish: Statewide minimum length/daily limit, except:

(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(112) Wishkah River (Grays Harbor County):

(a) 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 December 31.

(A) Daily limit 6; up to 1 may be an adult.

(B) Release Chinook and wild 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.

(113) Wynoochee River (Grays Harbor County):

(a) From the mouth to the WDFW White Bridge Access Site:

(i) 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 December 31.

(A) Daily limit 6; up to 1 may be an adult.

(B) Release Chinook and wild 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:

(i) From 400 feet downstream of Wynoochee Dam to the Wynoochee dam and from the barrier dam near Grisdale to the barrier dam: 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.

(d) From the confluence of the Wynoochee Reservoir upstream to Wynoochee Falls:

(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.

(114) Wynoochee Reservoir (Grays Harbor County):

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

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

(i) Trout: Daily limit 2; minimum length 14 inches.

(ii) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(iii) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(iv) Channel catfish: Daily limit 10; no size restriction.

(v) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

AMENDATORY SECTION (Amending WSR 21-14-067, filed 7/2/21, effective 8/2/21)

WAC 220-312-030 Freshwater exceptions to state-wide rules—Southwest. (1) Abernathy Creek and tributaries (Cowlitz County):

(a) From 200 feet above Abernathy Falls to posted markers 500 feet downstream from the Abernathy Fish Technology Center: Closed waters.

(b) Open the Saturday before Memorial Day through August 31 and November 1 through March 15.

(c) Selective gear rules, except: Use of barbed hooks is allowed.

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

(i) Trout: Daily limit 2; minimum length 14 inches.

(ii) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(e) Salmon:

(i) Open November 1 through December 31.

(ii) Daily limit 6; up to 2 may be adults.

(iii) Only hatchery Chinook and hatchery coho may be retained.

(2) **Beaver Creek (Wahkiakum County):** Closed waters.

(3) **Blue Creek (Lewis County), from the mouth to Spencer Road:**

(a) From posted sign above rearing pond outlet to Spencer Road: Closed waters.

(b) Anti-snagging rule.

(c) Night closure.

(d) Open Saturday before Memorial Day through April 15.

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

(i) Trout: Daily limit 5; minimum length 8 inches.

(ii) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(f) Salmon:

(i) Open August 1 through December 31.

(ii) Daily limit 6; up to 2 may be adults.

(iii) Only hatchery Chinook and hatchery coho may be retained.

(4) **Blue Lake (Cowlitz County):**

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

(b) Selective gear rules.

- (c) Release all fish.
- (5) **Blue Lake Creek (Lewis County):** Selective gear rules.
- (6) **Butter Creek (Lewis County):** Selective gear rules.
- (7) **Canyon Creek (Clark County):** Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 5.
- (8) **Carlisle Lake (Lewis County):**
- (a) Open (~~the fourth Saturday in April through October 31~~) year-round.
- (b) Landlocked salmon rules.
- (9) **Cedar Creek and tributaries (tributary of N.F. Lewis) (Clark County):**
- (a) From the Grist Mill Bridge to 100 feet upstream of the falls: Closed waters.
- (b) Selective gear rules, except: Use of barbed hooks is allowed.
- (c) Open the Saturday before Memorial Day through August 31 and November 1 through March 15.
- (d) Game fish: Statewide minimum length/daily limit, except:
- (i) Trout: Daily limit 2; minimum length 14 inches.
- (ii) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.
- (e) Salmon:
- (i) Open November 1 through December 31.
- (ii) Daily limit 6; up to 3 adults, of which 2 may be Chinook.
- (iii) Release all salmon except hatchery Chinook and hatchery coho.
- (10) **Chinook River (Pacific County):** From the Highway 101 Bridge upstream:
- (a) Selective gear rules.
- (b) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.
- (11) **Cispus River (Lewis County):** From the mouth to the falls, not including the North Fork:
- (a) Open year-round, except closed to all angling within posted "Closed Waters" signs around the adult fish release site.
- (b) Game fish: Statewide minimum length/daily limit, except: Release wild rainbow and wild cutthroat trout.
- (c) Salmon:
- (i) Daily limit 6; up to 2 may be adults.
- (ii) Only hatchery Chinook and hatchery coho may be retained.
- (12) **Cispus River, North Fork (Lewis County):** Selective gear rules.
- (13) **Coal Creek (Cowlitz County):**
- (a) From the mouth to 400 feet below the falls:
- (i) Open the Saturday before Memorial Day through August 31 and November 1 through March 15.
- (ii) Selective gear rules, except: Use of barbed hooks is allowed.
- (iii) Game fish: Statewide minimum length/daily limit, except:
- (A) Trout: Daily limit 2; minimum length 14 inches.
- (B) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.
- (iv) Salmon:
- (A) Open November 1 through December 31.
- (B) Daily limit 6; up to 2 may be adults.
- (C) Only hatchery Chinook and hatchery coho may be retained.
- (b) From 400 feet below the falls to the falls: Closed waters.
- (14) **Coldwater Lake (Cowlitz County):**
- (a) The Coldwater Lake inlet and outlet streams: Closed waters.
- (b) Selective gear rules.
- (c) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.
- (15) **Cougar Creek (tributary to Yale Reservoir) (Cowlitz County):**
- (a) Selective gear rules.
- (b) Open the Saturday before Memorial Day through August 31.
- (16) **Cowceman River and tributaries (Cowlitz County):**
- (a) Open the Saturday before Memorial Day through August 31 and November 1 through March 15.
- (b) Game fish: Statewide minimum length/daily limit, except:
- (i) Trout: Daily limit 2; minimum length 14 inches.
- (ii) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.
- (c) Salmon:
- (i) Open November 1 through December 31.
- (ii) Daily limit 6; up to 2 may be adults.
- (iii) Only hatchery Chinook and hatchery coho may be retained.
- (17) **Cowlitz Falls Reservoir (Lake Scanewa) (Lewis County):**
- (a) The upstream boundary of the reservoir in the Cowlitz arm is at the posted Lewis County PUD sign on Peters Road.
- (b) The upstream boundary of the reservoir in the Cispus arm is at the posted markers at the Lewis County PUD kayak launch, approximately 1.5 miles upstream from the confluence of the Cowlitz and Cispus arm.
- (c) Game fish: Statewide minimum length/daily limit, except:
- (i) Release wild rainbow and wild cutthroat trout.
- (ii) Trout: Daily limit 10; minimum length 8 inches.
- (iii) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.
- (iv) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.
- (v) Channel catfish: Daily limit 10; no size restriction.
- (vi) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.
- (d) Salmon:
- (i) Daily limit 6; minimum length 12 inches.
- (ii) Up to 2 may be adults.
- (iii) Only hatchery Chinook and hatchery coho may be retained.
- (18) **Cowlitz River (Lewis/Cowlitz counties):**

(a) From the boundary markers at the mouth to Lexington Bridge:

(i) July 1 through September 30: Night closure for salmon and steelhead fishing.

(ii) Game fish:

(A) Trout:

(I) Open the Saturday before Memorial Day through March 31: Daily limit 5; minimum length 8 inches. Release wild rainbow and wild cutthroat trout.

(II) Open April 1 through the Friday before Memorial Day: Statewide minimum length/daily limit, except: Release wild rainbow and wild cutthroat trout.

(B) Steelhead:

(I) Open July 1 through July 31: Daily limit 1 hatchery steelhead; minimum length 20 inches.

(II) August 1 through August 31: Closed.

(III) Open September 1 through September 30: Daily limit 1 hatchery steelhead; minimum length 20 inches.

(IV) Open October 1 through June 30: Daily limit 3 hatchery steelhead, minimum length 20 inches.

(C) Other game fish: Open year-round, statewide minimum size/daily limit.

(iii) Salmon:

(A) Open January 1 through July 31.

(I) Daily limit 6; up to 2 may be adults.

(II) Only hatchery Chinook and hatchery coho may be retained.

(B) Open August 1 through December 31.

(I) Daily limit 6; up to 3 may be adults.

(II) Only hatchery coho may be retained.

(b) From the Lexington Bridge to the mouth of Mill Creek:

(i) Within a 100 foot radius of the new Cowlitz Trout Hatchery outfall structure, except open to anglers with disabilities who permanently use a wheelchair and possess a designated harvester companion card within posted markers when adjacent waters are open: Closed waters.

(ii) Game fish:

(A) Trout:

(I) Open the Saturday before Memorial Day through March 31: Daily limit 5; minimum length 8 inches. Release wild rainbow and wild cutthroat trout.

(II) Open April 1 through the Friday before Memorial Day: Statewide minimum length/daily limit, except: Release wild rainbow and wild cutthroat trout.

(B) Steelhead: Open year-round; daily limit 3 hatchery steelhead; minimum length 20 inches.

(C) Other game fish: Open year-round, statewide minimum size/daily limit.

(iii) Salmon:

(A) Open January 1 through July 31.

(I) Daily limit 6; up to 2 may be adults.

(II) Only hatchery Chinook and hatchery coho may be retained.

(B) Open August 1 through December 31.

(I) Daily limit 6; up to 3 may be adults.

(II) Only hatchery coho may be retained.

(c) From the mouth of Mill Creek to 1,700 feet upstream of the Cowlitz Salmon Hatchery barrier dam:

(i) From 400 feet or posted markers below Cowlitz Salmon Hatchery barrier dam to boundary markers near the Cowlitz Salmon Hatchery water intake approximately 1,700 feet upstream of the Cowlitz Salmon Hatchery barrier dam: Closed waters.

(ii) Within a 100 foot radius of the Cowlitz Salmon Hatchery wheelchair ramp (within the posted fishing boundary) except for anglers with disabilities **and** who have a designated harvester companion card: Closed waters.

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

(iv) April 1 through November 30:

(A) Anti-snagging rule.

(B) Night closure.

(v) May 1 through June 15: It is unlawful to fish from the south side of the river.

(vi) Game fish:

(A) Trout:

(I) Open the Saturday before Memorial Day through March 31: Daily limit 5; minimum length 8 inches. Release wild rainbow and wild cutthroat trout.

(II) Open April 1 through the Friday before Memorial Day: Statewide minimum length/daily limit, except: Release wild rainbow and wild cutthroat trout.

(B) Steelhead: Open year-round; daily limit 3 hatchery steelhead; minimum length 20 inches.

(C) Other game fish: Open year-round, statewide minimum size/daily limit.

(vii) Salmon:

(A) Open January 1 through July 31.

(I) Daily limit 6; up to 2 may be adults.

(II) Only hatchery Chinook and hatchery coho may be retained.

(B) Open August 1 through December 31.

(I) Daily limit 6; up to 3 may be adults.

(II) Only hatchery coho may be retained.

(d) From 1,700 feet upstream of the Cowlitz Salmon Hatchery barrier dam to Mayfield Dam.

(i) From 400 feet below the Mayfield powerhouse upstream to Mayfield Dam: Closed waters.

(ii) Game fish:

(A) Trout:

(I) Open the Saturday before Memorial Day through March 31: Daily limit 5; minimum length 8 inches. Release wild rainbow and wild cutthroat trout.

(II) Open April 1 through the Friday before Memorial Day: Statewide minimum length/daily limit, except: Release wild rainbow and wild cutthroat trout.

(B) Steelhead: Open year-round; daily limit 3 hatchery steelhead; minimum length 20 inches.

(C) Other game fish: Open year-round, statewide minimum size/daily limit.

(iii) Salmon:

(A) Open January 1 through July 31.

(I) Daily limit 6; up to 2 may be adults.

(II) Only hatchery Chinook and hatchery coho may be retained.

(B) Open August 1 through December 31.

(I) Daily limit 6; up to 3 may be adults.

(II) Only hatchery coho may be retained.

(e) From the posted PUD sign on Peters Road to the Forest Road 1270 (old Jody's Bridge):

(i) Closed to all angling within posted "Closed Waters" signs around the adult fish release site.

(ii) September 1 through October 31: Anti-snagging rule and night closure.

(iii) Open year-round.

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

(v) Salmon:

(A) Open year-round.

(B) Daily limit 6; up to 2 may be adults.

(C) Only hatchery Chinook and hatchery coho may be retained.

(f) From Forest Road 1270 (old Jody's Bridge) upstream and tributaries.

(i) Selective gear rules.

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

(19) **Deep River (Wahkiakum County):**

(a) Open year-round.

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

(i) Trout: Daily limit 2; minimum length 14 inches.

(ii) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(c) Salmon:

(i) Daily limit 6; up to 2 may be adults.

(ii) Only hatchery Chinook and hatchery coho may be retained.

(20) **Delameter Creek (Cowlitz County):**

(a) From 400 feet below to 200 feet above the temporary weir while the weir is installed in the creek: Closed waters.

(b) Selective gear rules, except: Use of barbed hooks is allowed.

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

(i) Trout: Daily limit 2; minimum length 14 inches.

(ii) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(d) Salmon:

(i) Open August 1 through October 31.

(ii) Daily limit 6; up to 2 may be adults.

(iii) Only hatchery Chinook and hatchery coho may be retained.

(21) **Drano Lake (Skamania County):** In the waters downstream of markers on point of land downstream and across from Little White Salmon National Fish Hatchery and upstream of the Highway 14 Bridge:

(a) Closed on Wednesdays beginning the second Wednesday in April through June 30.

(b) Closed from 6 p.m. Tuesdays through 6 p.m. Wednesdays during the month of October.

(c) March 16 through October 31: Night closure.

(d) August 1 through December 31: Anti-snagging rule.

(e) May 1 through June 30 and October 1 through December 31:

(i) Each angler aboard a vessel may deploy salmon/steelhead angling gear until the salmon/steelhead limit for all anglers aboard has been achieved.

(ii) Two-pole fishing for salmon/steelhead is permissible so long as the angler possesses a two-pole endorsement.

(f) April 16 through June 30: The area west of a line projected from the easternmost pillar of the Highway 14 Bridge to a posted marker on the north shore is open only to bank fishing.

(g) Open year-round.

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

(A) Bass: No limit and no size restriction.

(B) Channel catfish: No limit.

(C) Walleye: No limit and no size restriction.

(D) Release trout.

(E) Steelhead: From January 1 through March 15; daily limit 2 hatchery steelhead; minimum length 20 inches.

(ii) Salmon and steelhead: Open March 16 through December 31:

(A) March 16 through June 30: Daily limit 2 hatchery steelhead or 2 hatchery Chinook, or one of each. Release all other salmon.

(B) July 1 through July 31:

(I) Daily limit 2 hatchery Chinook. Closed to fishing for or retaining steelhead.

(II) Release all other salmon.

(C) August 1 through October 31: Daily limit 6; no more than 1 adult salmon. Closed to fishing for or retaining steelhead.

(D) November 1 through December 31: Daily limit 6; up to 1 may be an adult salmon or hatchery steelhead.

(22) **Elochoman River (Wahkiakum County):**

(a) From the mouth to Foster (Risk) Road Bridge:

(i) August 1 through October 31:

(A) Anti-snagging rule.

(B) Night closure.

(C) Stationary gear restriction.

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

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

(A) Trout: Daily limit 2; minimum length 14 inches.

(B) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(iv) Salmon: Open the Saturday before Memorial Day through March 15.

(A) Daily limit 6; up to 2 may be adults.

(B) Only hatchery Chinook and hatchery coho may be retained.

(C) All Chinook must be adipose and/or ventral fin clipped to be retained.

(v) Salmon and steelhead: Open April 16 through the Friday before Memorial Day: Daily limit 6; of which 3 may be adult hatchery Chinook or hatchery steelhead. Release wild Chinook.

(b) From Foster (Risk) Road Bridge upstream to 200 feet above the WDFW temporary weir:

(i) From Foster (Risk) Road Bridge to 200 feet above the WDFW temporary weir while the weir is installed in the river: Closed waters.

(ii) August 1 through October 31:

(A) Anti-snagging rule.

- (B) Night closure.
- (C) Stationary gear restriction.
- (iii) Open the Saturday before Memorial Day through March 15.
- (iv) Game fish: Statewide minimum length/daily limit, except:
 - (A) Trout: Daily limit 2; minimum length 14 inches.
 - (B) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.
 - (v) Salmon: Open the Saturday before Memorial Day through March 15.
 - (A) Daily limit 6; up to 2 may be adults.
 - (B) Only hatchery Chinook and hatchery coho may be retained.
 - (C) All Chinook must be adipose and/or ventral fin clipped to be retained.
 - (vi) Salmon and steelhead: Open April 16 through the Friday before Memorial Day: Daily limit 6; of which 3 may be adult hatchery Chinook or hatchery steelhead. Release wild Chinook.
 - (c) From 200 feet above the WDFW temporary weir to the Beaver Creek Road Bridge:
 - (i) August 1 through October 31:
 - (A) Anti-snagging rule.
 - (B) Night closure.
 - (C) Stationary gear restriction.
 - (ii) Open the Saturday before Memorial Day through March 15.
 - (iii) Game fish: Statewide minimum length/daily limit, except:
 - (A) Trout: Daily limit 2; minimum length 14 inches.
 - (B) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.
 - (iv) Salmon: Open the Saturday before Memorial Day through March 15.
 - (A) Daily limit 6; up to 2 may be adults.
 - (B) Only hatchery Chinook and hatchery coho may be retained.
 - (C) All Chinook must be adipose and/or ventral fin clipped to be retained.
 - (v) Salmon and steelhead:
 - (A) Open April 16 through the Friday before Memorial Day.
 - (B) Daily limit 6; up to 3 may be adult hatchery Chinook or hatchery steelhead. Release wild Chinook.
 - (d) From the Beaver Creek Road Bridge to the Elochoman Hatchery Bridge:
 - (i) August 1 through October 31:
 - (A) Anti-snagging rule.
 - (B) Night closure.
 - (C) Stationary gear restriction.
 - (ii) Open the Saturday before Memorial Day through March 15.
 - (iii) Game fish: Statewide minimum length/daily limit, except:
 - (A) Trout: Daily limit 2; minimum length 14 inches.
 - (B) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.
 - (iv) Salmon: Open the Saturday before Memorial Day through March 15.
 - (A) Daily limit 6; up to 2 may be adults.
 - (B) Only hatchery Chinook and hatchery coho may be retained.
 - (C) All Chinook must be adipose and/or ventral fin clipped to be retained.

- (A) Daily limit 6; up to 2 may be adults.
- (B) Only hatchery Chinook and hatchery coho may be retained.
- (C) All Chinook must be adipose and/or ventral fin clipped to be retained.
- (v) Salmon and steelhead:
 - (A) Open April 16 through the Friday before Memorial Day.
 - (B) Daily limit 6; up to 3 may be adult hatchery Chinook or hatchery steelhead. Release wild Chinook.
 - (e) Elochoman Hatchery Bridge to West Fork:
 - (i) August 1 through October 31:
 - (A) Anti-snagging rule.
 - (B) Night closure.
 - (C) Stationary gear restriction.
 - (ii) Open the Saturday before Memorial Day through March 15.
 - (iii) Game fish: Statewide minimum length/daily limit, except:
 - (A) Trout: Daily limit 2; minimum length 14 inches.
 - (B) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.
 - (iv) Salmon: Open the Saturday before Memorial Day through March 15.
 - (A) Daily limit 6; up to 2 may be adults.
 - (B) Only hatchery Chinook and hatchery coho may be retained.
 - (C) All Chinook must be adipose and/or ventral fin clipped to be retained.
 - (f) From West Fork upstream:
 - (i) Game fish: Statewide minimum length/daily limit, except: Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.
 - (ii) Salmon:
 - (A) Daily limit 6; up to 2 may be adults.
 - (B) Only hatchery Chinook and hatchery coho may be retained.
 - (C) All Chinook must be adipose and/or ventral fin clipped to be retained.
- (23) **Franz Lake (Skamania County):** Closed waters.
- (24) **Germany Creek (Cowlitz County) and all tributaries:**
 - (a) Open the Saturday before Memorial Day through August 31 and November 1 through March 15.
 - (b) Selective gear rules, except: Use of barbed hooks is allowed.
 - (c) Game fish: Statewide minimum length/daily limit, except:
 - (i) Trout: Daily limit 2; minimum length 14 inches.
 - (ii) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.
 - (d) Salmon:
 - (i) Open November 1 through December 31.
 - (ii) Daily limit 6; up to 2 may be adults.
 - (iii) Only hatchery Chinook and hatchery coho may be retained.
- (25) **Grays River (Wahkiakum County):** From the mouth to South Fork:
 - (a) From mouth to Barr Road Bridge:
 - (i) August 1 through November 15:

- (A) Anti-snagging rule.
- (B) Night closure.
- (C) Stationary gear restriction.
- (ii) January 1 through March 15: Selective gear rules, except: Use of barbed hooks is allowed.
- (iii) Open Saturday before Memorial Day through March 15.
- (iv) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.
- (v) Salmon:
 - (A) Open Saturday before Memorial Day through July 31:
 - (I) Daily limit 6; up to 2 may be adults.
 - (II) Only hatchery Chinook may be retained.
 - (B) Open August 1 through December 31:
 - (I) Daily limit 6; up to 2 may be adults.
 - (II) Only hatchery coho and hatchery Chinook may be retained.
 - (III) All Chinook must be adipose and/or ventral fin clipped to be retained.
 - (b) From Barr Road Bridge to Highway 4 Bridge:
 - (i) August 1 through November 15:
 - (A) Anti-snagging rule.
 - (B) Night closure.
 - (C) Stationary gear restriction.
 - (ii) January 1 through March 15: Selective gear rules, except: Use of barbed hooks is allowed.
 - (iii) Open Saturday before Memorial Day through March 15.
 - (iv) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.
 - (v) Salmon:
 - (A) Open Saturday before Memorial Day through July 31:
 - (I) Daily limit 6; up to 2 may be adults.
 - (II) Only hatchery Chinook may be retained.
 - (B) Open August 1 through December 31:
 - (I) Daily limit 6; up to 2 may be adults.
 - (II) Only hatchery coho and hatchery Chinook may be retained.
 - (III) All Chinook must be adipose and/or ventral fin clipped to be retained.
 - (c) From the Highway 4 Bridge to the mouth of South Fork:
 - (i) From 400 feet below to 200 feet above the temporary weir while the weir is installed in the river: Closed waters.
 - (ii) August 1 through November 15:
 - (A) Anti-snagging rule.
 - (B) Night closure.
 - (C) Stationary gear restriction.
 - (iii) January 1 through March 15: Selective gear rules, except: Use of barbed hooks is allowed.
 - (iv) Open Saturday before Memorial Day through March 15.
 - (v) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.
 - (vi) Salmon:
 - (A) Open Saturday before Memorial Day through July 31:
 - (I) Daily limit 6; up to 2 may be adults.
 - (II) Only hatchery Chinook may be retained.
 - (B) Open August 1 through December 31:
 - (I) Daily limit 6; up to 2 may be adults.
 - (II) Only hatchery Chinook and hatchery coho may be retained.
 - (III) All Chinook must be adipose and/or ventral fin clipped to be retained.
 - (d) From South Fork upstream:
 - (i) Selective gear rules, except: Use of barbed hooks is allowed.
 - (ii) Open the Saturday before Memorial Day through March 15.
 - (iii) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.
 - (iv) Salmon:
 - (A) Open the Saturday before Memorial Day through December 31.
 - (B) Daily limit 6; minimum length 12 inches. Up to 2 adults may be retained.
 - (C) Only hatchery Chinook and hatchery coho may be retained. All Chinook must be adipose and/or ventral fin clipped to be retained.
- (26) **Grays River tributaries (unless otherwise listed) (Wahkiakum County):**
 - (a) Selective gear rules.
 - (b) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.
- (27) **Grays River, East Fork (Wahkiakum County):**
 - (a) Selective gear rules, except: Use of barbed hooks is allowed.
 - (b) Open the Saturday before Memorial Day through October 31.
 - (c) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.
 - (d) Salmon:
 - (i) Open the Saturday before Memorial Day through October 31.
 - (ii) Daily limit 6; up to 2 may be adults.
 - (iii) Only hatchery Chinook and hatchery coho may be retained.
 - (iv) Effective August 1, all Chinook must be adipose and/or ventral fin clipped to be kept.
- (28) **Grays River, East Fork tributaries (unless otherwise listed) (Wahkiakum County):**
 - (a) Selective gear rules.
 - (b) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.
- (29) **Grays River, South Fork (Wahkiakum County):**
 - (a) Selective gear rules, except: Use of barbed hooks is allowed.
 - (b) Open the Saturday before Memorial Day through October 31.
 - (c) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.
 - (d) Salmon:
 - (i) Open the Saturday before Memorial Day through October 31.
 - (ii) Daily limit 6; up to 2 may be adults.

(iii) Only hatchery Chinook and hatchery coho may be retained; all Chinook must be adipose and/or ventral fin clipped to be kept.

(30) Grays River, South Fork tributaries (unless otherwise listed) (Wahkiakum County):

(a) Selective gear rules.

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

(31) Grays River, West Fork (Wahkiakum County):

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

(b) August 1 through November 15: Anti-snagging rule, night closure and stationary gear restriction.

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

(d) Salmon: Open the Saturday before Memorial Day through December 31.

(i) Daily limit 6; up to 2 may be adults.

(ii) Only hatchery Chinook and hatchery coho may be retained; all Chinook must be adipose and/or ventral fin clipped to be kept.

(32) Grays River, West Fork tributaries (unless otherwise listed) (Wahkiakum County):

(a) Selective gear rules.

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

(33) Green River (Cowlitz County):

(a) From the mouth to Miner's Creek:

(i) From 400 feet above and 400 feet below the salmon hatchery rack (or from the posted signs above and below the salmon hatchery rack) when the rack is installed in the river: Closed waters.

(ii) From 400 feet below to 400 feet above the water intake at the upper end of the hatchery grounds from September 1 through November 30: Closed waters.

(iii) September 1 through October 31: Anti-snagging rule applies and night closure in effect from the mouth to 400 feet below the salmon hatchery rack.

(iv) Selective gear rules, except: Use of barbed hooks is allowed from the Saturday before Memorial Day through July 31 and December 1 through March 15.

(v) Open the Saturday before Memorial Day through March 15. Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(vi) Salmon:

(A) Open August 1 through November 30.

(B) Daily limit 6; up to 3 may be adults, of which 1 may be a Chinook.

(C) Only hatchery Chinook and hatchery coho may be retained.

(b) From Miner's Creek upstream:

(i) Selective gear rules, except: Use of barbed hooks is allowed.

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

(34) Green River tributaries (Cowlitz County):

(a) Selective gear rules.

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

(35) Grizzly Lake (Skamania County): Closed waters.

(36) Hamilton Creek (Skamania County):

(a) Tributaries downstream from the Highway 14 Bridge: Closed waters.

(b) Selective gear rules, except: Use of barbed hooks is allowed.

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

(i) Trout: Daily limit 2; minimum length 14 inches.

(ii) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(d) Salmon:

(i) Open August 1 through October 31.

(ii) Daily limit 6; up to 2 may be adults.

(iii) Only hatchery Chinook and hatchery coho may be retained.

(37) Horsethief Lake (Klickitat County): Open the fourth Saturday in April through October 31.

(38) Indian Heaven Wilderness Lakes (Skamania County): Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 8 inches.

(39) Johnson Creek (Lewis County) (Cowlitz River tributary): Selective gear rules.

(40) Kalama River (Cowlitz County):

(a) From the mouth to the railroad bridge below Interstate 5:

(i) July 1 through October 31: Night closure.

(ii) Game fish: Open year-round.

(A) Statewide minimum length/daily limit, except:

(B) Trout: Daily limit 2; minimum length 14 inches.

(iii) Steelhead:

(A) Open July 1 through July 31: Daily limit 1 hatchery steelhead; minimum length 20 inches.

(B) August 1 through August 31: Closed.

(C) Open September 1 through September 30: Daily limit 1 hatchery steelhead; minimum length 20 inches.

(D) Open October 1 through June 30: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(iv) Salmon:

(A) Open January 1 through July 31:

(I) Daily limit 6; up to 2 may be adults.

(II) Only hatchery Chinook and hatchery coho may be retained.

(B) Open August 1 through December 31:

(I) Daily limit 6; up to 3 may be adults.

(II) Only hatchery Chinook and hatchery coho may be retained.

(b) From the railroad bridge below Interstate 5 to Modrow Bridge:

(i) From Modrow Bridge downstream to the markers approximately 1,000 feet below the temporary rack when the rack is installed below Modrow Bridge: Closed waters.

(ii) April 1 through October 31:

(A) Night closure.

(B) Anti-snagging rule.

(iii) Game fish: Open year-round.

(A) Statewide minimum length/daily limit, except:

(B) Trout: Daily limit 2; minimum length 14 inches.

(C) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(iv) Salmon:

- (A) Open January 1 through July 31:
 - (I) Daily limit 6; up to 2 may be adults.
 - (II) Only hatchery Chinook and hatchery coho may be retained.
 - (B) Open August 1 through December 31:
 - (I) Daily limit 6; up to 3 may be adults.
 - (II) Only hatchery Chinook and hatchery coho may be retained.
 - (c) From the Modrow Bridge to the natural gas pipeline crossing:
 - (i) It is unlawful to fish from a floating device equipped with an internal combustion motor.
 - (ii) April 1 through October 31:
 - (A) Night closure.
 - (B) Anti-snagging rule.
 - (iii) Game fish: Open year-round.
 - (A) Statewide minimum length/daily limit, except:
 - (B) Trout: Daily limit 2; minimum length 14 inches.
 - (C) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.
 - (iv) Salmon:
 - (A) Open January 1 through July 31:
 - (I) Daily limit 6; up to 2 may be adults.
 - (II) Only hatchery Chinook and hatchery coho may be retained.
 - (B) Open August 1 through December 31:
 - (I) Daily limit 6; up to 3 may be adults.
 - (II) Only hatchery Chinook and hatchery coho may be retained.
 - (d) From the natural gas pipeline crossing to the deadline at the intake to the lower salmon hatchery:
 - (i) It is unlawful to fish from a floating device equipped with an internal combustion motor.
 - (ii) April 1 through October 31:
 - (A) Night closure.
 - (B) Anti-snagging rule.
 - (iii) Open September 1 through October 31 for fly fishing only, except: Use of barbed hooks is allowed.
 - (iv) Game fish: Open year-round.
 - (A) Statewide minimum length/daily limit, except:
 - (B) Trout: Daily limit 2; minimum length 14 inches.
 - (C) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.
 - (v) Salmon:
 - (A) Open January 1 through July 31:
 - (I) Daily limit 6; up to 2 may be adults.
 - (II) Only hatchery Chinook and hatchery coho may be retained.
 - (B) Open August 1 through December 31:
 - (I) Daily limit 6; up to 3 may be adults.
 - (II) Only hatchery Chinook and hatchery coho may be retained.
 - (e) From the Fallert Creek hatchery intake to 1,000 feet below fishway at the Kalama Falls hatchery:
 - (i) It is unlawful to fish from a floating device equipped with an internal combustion motor.
 - (ii) Game fish: Open year-round.
 - (A) Statewide minimum length/daily limit, except:
 - (B) Trout: Daily limit 2; minimum length 14 inches.
 - (C) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.
 - (iii) Salmon:
 - (A) Open January 1 through July 31:
 - (I) Daily limit 6; up to 2 may be adults.
 - (II) Only hatchery Chinook and hatchery coho may be retained.
 - (B) Open August 1 through December 31:
 - (I) Daily limit 6; up to 3 may be adults.
 - (II) Only hatchery Chinook and hatchery coho may be retained.
 - (f) From 1,000 feet below to 1,000 feet above the fishway at the Kalama Falls hatchery: Closed waters.
 - (g) From 1,000 feet above the fishway at the Kalama Falls hatchery, upstream to Summers Creek:
 - (i) Open year-round.
 - (ii) Selective gear rules, except: Use of barbed hooks is allowed.
 - (iii) Game fish: Statewide minimum length/daily limit, except:
 - (A) Trout: Daily limit 2; minimum length 14 inches.
 - (B) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.
 - (h) From Summers Creek upstream to the intersection of 6000 and 6420 roads: Open year-round:
 - (i) Fly fishing only, except: Use of barbed hooks is allowed.
 - (ii) Game fish: Statewide minimum length/daily limit, except:
 - (A) Trout: Daily limit 2; minimum length 14 inches.
 - (B) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.
 - (i) From the intersection of 6000 and 6420 roads to the 6600 road bridge immediately downstream of Jacks Creek:
 - (i) Selective gear rules, except: Use of barbed hooks is allowed.
 - (ii) Open the Saturday before Memorial Day through November 30.
 - (iii) Game fish: Statewide minimum length/daily limit, except:
 - (A) Trout: Daily limit 2; minimum length 14 inches.
 - (B) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.
 - (j) From the 6600 road bridge immediately downstream of Jacks Creek to Kalama Falls and tributaries: Closed waters.
- (41) **Klickitat River (Klickitat County):**
- (a) From the mouth (Burlington Northern Railroad Bridge) to Fisher Hill Bridge:
 - (i) April 1 through the Friday before Memorial Day:
 - (A) Anti-snagging rule.
 - (B) Night closure.
 - (ii) July 1 through July 31: Night closure.
 - (iii) August 1 through January 31:
 - (A) Anti-snagging rule.
 - (B) Night closure.
 - (iv) Game fish:
 - (A) Open Saturday before Memorial Day through January 31.
 - (B) Statewide minimum length/daily limit, except:

- (C) Trout: Daily limit 2; minimum length 14 inches.
- (v) Steelhead:
- (A) Open Saturday before Memorial Day through June 30: Daily limit 3 hatchery steelhead, minimum length 20 inches.
- (B) July 1 through October 31: Closed.
- (C) Open November 1 through January 31: Daily limit 3 hatchery steelhead, minimum length 20 inches.
- (vi) Salmon:
- (A) Open Saturday before Memorial Day through July 31: Daily limit 6; up to 2 adults may be retained. Release wild Chinook.
- (B) Open August 1 through January 31: Daily limit 6; up to 2 adults may be retained.
- (vii) Salmon and steelhead: Open April 1 to the Friday before Memorial Day for salmon and steelhead on Mondays, Wednesdays, and Saturdays only:
- (A) Daily limit 2; no more than 2 hatchery steelhead, or 2 salmon, or one of each, may be retained.
- (B) Release wild Chinook.
- (b) From Fisher Hill Bridge to the boundary markers above Klickitat Salmon Hatchery, the following waters are closed: From Fishery Hill Bridge to 400 feet above #5 fishway, tributaries except Bird, Blockhouse, Bowman, Spring, Outlet creeks and the Little Klickitat River, and the waters from the boundary markers above Klickitat Salmon Hatchery to the boundary markers below the hatchery.
- (c) From 400 feet above #5 fishway to the boundary markers below Klickitat Salmon Hatchery:
- (i) Open the Saturday before Memorial Day through November 30:
- (A) Game fish: Statewide minimum length/daily limit, except:
- (B) Trout: Daily limit 2; minimum length 14 inches.
- (C) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.
- (ii) Whitefish:
- (A) Open December 1 through the last day in February for Whitefish only.
- (B) Whitefish gear rules.
- (iii) Salmon:
- (A) Saturday before Memorial Day through July 31:
- (I) Daily limit 6 fish; no more than 2 adults may be retained.
- (II) Release wild Chinook.
- (B) August 1 through November 30: Daily limit 6 fish; no more than 2 may be adults.
- (d) From the boundary markers above Klickitat Salmon Hatchery to the Yakama Indian Reservation boundary:
- (i) Game fish open the Saturday before Memorial Day through November 30.
- (ii) Game fish: Statewide minimum length/daily limit, except:
- (A) Trout: Daily limit 2; minimum length 14 inches.
- (B) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.
- (iii) Whitefish:
- (A) Open December 1 through the last day in February for whitefish only.
- (B) Whitefish gear rules.

- (42) **Lacamas Creek (Clark County):**
- (a) From the mouth to the footbridge at the lower falls:
- (i) Open the Saturday before Memorial Day through August 31.
- (ii) Selective gear rules, except: Use of barbed hooks is allowed.
- (iii) Game fish: Statewide minimum length/daily limit, except:
- (A) Trout: Daily limit 2; minimum length 14 inches.
- (B) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.
- (b) From the footbridge at the lower falls upstream: It is permissible to fish up to the base of Lacamas Lake Dam.
- (43) **Lacamas Creek, tributary of Cowlitz River (Lewis County):**
- (a) Selective gear rules, except: Use of barbed hooks is allowed.
- (b) Game fish: Statewide minimum length/daily limit, except:
- (i) Trout: Daily limit 2; minimum length 14 inches.
- (ii) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.
- (c) Salmon:
- (i) Open August 1 through October 31.
- (ii) Daily limit 6; up to 2 may be adults.
- (iii) Only hatchery Chinook and hatchery coho may be retained.
- (44) **Lewis River (Clark County):**
- (a) From the mouth to the mouth of the East Fork Lewis River:
- (i) July 1 through September 30: Night closure for salmon and steelhead fishing.
- (ii) Game fish:
- (A) Open year-round.
- (B) Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.
- (iii) Steelhead:
- (A) July 1 through July 31: Daily limit 1 hatchery steelhead; minimum length 20 inches.
- (B) August 1 through August 31: Closed.
- (C) Open September 1 through September 30: Daily limit 1 hatchery steelhead; minimum length 20 inches.
- (D) Open October 1 through June 30: Daily limit 3 steelhead; minimum length 20 inches.
- (iv) Salmon:
- (A) Open January 1 through April 30: Daily limit 6 hatchery Chinook; up to 1 may be an adult.
- (B) Open August 1 through September 30:
- (I) Daily limit 6; up to 3 adults, of which 2 may be Chinook.
- (II) Only hatchery Chinook and hatchery coho may be retained.
- (C) Open October 1 through December 31:
- (I) Daily limit 6; up to 3 adults, of which 2 may be Chinook.
- (II) Only Chinook and hatchery coho may be retained.
- (b) From the mouth of the East Fork Lewis River to Johnson Creek.
- (i) Game fish:
- (A) Open year-round.

- (B) Statewide minimum length/daily limit, except:
- (I) Trout: Daily limit 2; minimum length 14 inches.
- (II) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.
- (ii) Salmon:
- (A) Open January 1 through April 30: Daily limit 6 hatchery Chinook; up to 1 may be an adult.
- (B) Open August 1 through September 30:
- (I) Daily limit 6; up to 3 adults, of which 2 may be Chinook.
- (II) Only hatchery Chinook and hatchery coho may be retained.
- (C) Open October 1 through December 31:
- (I) Daily limit 6; up to 3 adults, of which 2 may be Chinook.
- (II) Only Chinook and hatchery coho may be retained.
- (c) From Johnson Creek to Colvin Creek:
- (i) May 1 through May 31: Closed waters.
- (ii) Those waters shoreward of the cable buoy and cork-line at the mouth of the Lewis River Salmon Hatchery fish ladder: Closed waters.
- (iii) June 1 through November 30 and April 1 through April 30: Anti-snagging rule and night closure.
- (iv) Game fish:
- (A) Open June 1 through April 30.
- (B) Statewide minimum length/daily limit, except:
- (I) Trout: Daily limit 2; minimum length 14 inches.
- (II) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.
- (v) Salmon:
- (A) Open January 1 through April 30: Daily limit 6 hatchery Chinook; up to 1 may be an adult.
- (B) Open August 1 through September 30:
- (I) Daily limit 6; up to 3 adults, of which 2 may be Chinook.
- (II) Only hatchery Chinook and hatchery coho may be retained.
- (C) Open October 1 through December 31:
- (I) Daily limit 6; up to 3 adults, of which 2 may be Chinook.
- (II) Only Chinook and hatchery coho may be retained.
- (d) From the mouth of Colvin Creek to the overhead powerlines at Merwin Dam:
- (i) Open June 1 through October 31 and December 16 through April 30.
- (ii) Anti-snagging rule and night closure April 1 through April 30 and June 1 through October 31.
- (iii) Game fish: Statewide minimum length/daily limit, except:
- (A) Trout: Daily limit 2; minimum length 14 inches.
- (B) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.
- (iv) Salmon:
- (A) Open January 1 through April 30: Daily limit 6 hatchery Chinook; up to 1 may be an adult.
- (B) Open August 1 through September 30:
- (I) Daily limit 6; up to 3 adults, of which 2 may be Chinook.
- (II) Only hatchery Chinook and hatchery coho may be retained.
- (C) Open October 1 through October 31:
- (I) Daily limit 6; up to 3 adults, of which 2 may be Chinook.
- (II) Only Chinook and hatchery coho may be retained.
- (D) Open December 16 through December 31:
- (I) Daily limit 6; up to 3 adults, of which 2 may be Chinook.
- (II) Only Chinook and hatchery coho may be retained.
- (e) From the overhead powerlines below Merwin Dam to Merwin Dam: Closed waters.
- (f) From the cable crossing 1,300 yards below Yale Dam to Yale Dam: Closed waters.
- (g) From the old Lewis River streambed between Swift No. 1 Powerhouse and Swift No. 2 Powerhouse: Closed waters.
- (h) Lewis River Power Canal:
- (i) Open the fourth Saturday in April through October 31.
- (ii) It is unlawful to fish from a floating device.
- (iii) Game fish: Statewide minimum length/daily limit, except:
- (iv) Trout: Daily limit 5; no minimum length.
- (i) From Eagle Cliff Bridge to ~~((and including))~~ Muddy River, including all tributaries except Muddy River:
- (i) Selective gear rules.
- (ii) Open the Saturday before Memorial Day through July 15.
- (iii) Game fish: Statewide minimum length/daily limit, except:
- (A) Trout: Daily limit 10; minimum length 8 inches.
- (B) Release wild trout.
- (j) From ~~((above))~~ the Muddy River to the lower falls and tributaries (including the Muddy River):
- (i) Selective gear rules.
- (ii) Release all fish.
- (45) Lewis River, East Fork (Clark/Skamania counties):**
- (a) From the posted markers at the lower end of Big Eddy to 100 feet above Lucia Falls: Closed waters.
- (b) From 400 feet below to 400 feet above Moulton Falls: Closed waters.
- (c) From 400 feet below Horseshoe Falls upstream, including tributaries above Horseshoe Falls: Closed waters.
- (d) From the mouth to 400 feet below Horseshoe Falls:
- (i) Open the Saturday before Memorial Day through July 15 and September 16 through March 15.
- (ii) Selective gear rules, except: Use of barbed hooks is allowed.
- (iii) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.
- (iv) Salmon:
- (A) Open September 16 through December 31.
- (B) Daily limit 6; up to 2 may be adults.
- (C) Only hatchery Chinook and hatchery coho may be retained.
- (e) Tributaries from the mouth to 400 feet below Horseshoe Falls:
- (i) Selective gear rules.
- (ii) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(46) **Little Klickitat River (Klickitat County):** Within Goldendale city limits:

(a) Open the fourth Saturday in April through the Friday before Memorial Day to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

(b) Open the Saturday before Memorial Day through October 31 to all anglers.

(c) Game fish: Statewide minimum length/daily limit, except: Trout: Limit 5; no minimum length.

(47) **Little Washougal River (Clark County):**

(a) Selective gear rules, except: Use of barbed hooks is allowed.

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

(i) Trout: Daily limit 2; minimum length 14 inches.

(ii) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(c) Salmon:

(i) Open August 1 through October 31.

(ii) Daily limit 6; up to 2 may be adults.

(iii) Only hatchery Chinook and hatchery coho may be retained.

(48) **Little White Salmon River (Skamania County):**

(a) From the orange fishing boundary markers at Drano Lake upstream to the intake near the north boundary of the Little White Salmon National Fish Hatchery: Closed waters.

(b) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 5; minimum length 8 inches.

(49) **Love Lake (Clark County):** Closed waters.

(50) **Mayfield Lake (Reservoir) (Lewis County):**

(a) Open from the Mayfield Dam to Onion Rock Bridge.

(b) From the Tacoma Power safety signs at Onion Rock Bridge to Mossyrock Dam: Closed waters.

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

(i) Trout: Daily limit 10; minimum length 8 inches.

(ii) Release wild rainbow trout and wild cutthroat trout.

(iii) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(iv) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(v) Channel catfish: Daily limit 10; no size restriction.

(vi) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(d) Salmon:

(i) Open September 1 through December 31:

(ii) Daily limit 6; minimum length 12 inches.

(iii) Up to 2 may be adults.

(iv) Only hatchery Chinook and hatchery coho may be retained.

(51) **Merrill Lake (Cowlitz County):**

(a) Fly fishing only.

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

(c) Release all fish.

(52) **Merwin Lake (Reservoir) (Clark/Cowlitz counties):** Landlocked salmon rules.

(53) **Mill Creek (Cowlitz County):**

(a) Open the Saturday before Memorial Day through August 31 and November 1 through March 15.

(b) Selective gear rules, except: Use of barbed hooks is allowed.

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

(i) Trout: Daily limit 2; minimum length 14 inches.

(ii) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(d) Salmon:

(i) Open November 1 through December 31.

(ii) Daily limit 6; up to 2 may be adults.

(iii) Only hatchery Chinook and hatchery coho may be retained.

(54) **Mill Creek (Lewis County):** From the mouth to the hatchery road crossing culvert.

(a) Selective gear rules, except: Use of barbed hooks is allowed.

(b) Open the Saturday before Memorial Day through October 31 and December 1 through December 31.

(c) Anti-snagging rule from December 1 through December 31.

(d) Night closure from December 1 through December 31.

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

(i) Trout: Daily limit 2; minimum length 14 inches.

(ii) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(f) Salmon:

(i) Open August 1 through October 31 and December 1 through December 31.

(ii) Daily limit 6; up to 2 may be adults.

(iii) Only hatchery Chinook and hatchery coho may be retained.

(55) **Mineral Lake (Lewis County):** Open the fourth Saturday in April through September 30.

(56) **Olequa Creek (Lewis/Cowlitz counties):**

(a) From 400 feet below to 200 feet above the temporary weir while the weir is installed in the creek: Closed waters.

(b) Selective gear rules, except: Use of barbed hooks is allowed.

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

(i) Trout: Daily limit 2; minimum length 14 inches.

(ii) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(d) Salmon:

(i) Open August 1 through October 31.

(ii) Daily limit 6; up to 2 may be adults.

(iii) Only hatchery Chinook and hatchery coho may be retained.

(57) **Ostrander Creek (Cowlitz County):**

(a) Selective gear rules, except: Use of barbed hooks is allowed.

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

(i) Trout: Daily limit 2; minimum length 14 inches.

(ii) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(58) Outlet Creek (Silver Lake) (Cowlitz County):

(a) From the Saturday before Memorial Day through November 30.

(b) Selective gear rules, except: Use of barbed hooks is allowed.

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

(i) Trout: Daily limit 2; minimum length 14 inches.

(ii) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(d) Salmon:

(i) Open August 1 through November 30.

(ii) Daily limit 6; up to 2 may be adults.

(iii) Only hatchery Chinook and hatchery coho may be retained.

(59) Rainey Creek (Lewis County):

(a) From mouth to Highway 12.

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

(i) Trout: Daily limit 5; minimum length 8 inches.

(ii) Release wild rainbow and cutthroat trout.

(60) Riffe Lake (Reservoir) (Lewis County):

(a) Open from Mossyrock Dam to Cowlitz Falls Dam:

(b) From Cowlitz Falls Dam downstream to the Lewis County PUD safety signs located approximately 800 feet below the dam: Closed waters.

(c) It is permissible to fish up to the base of Swofford Pond Dam.

(d) Landlocked salmon rules.

(61) Rock Creek (Klickitat County):

(a) From Army Corps of Engineers Park upstream to the source: Closed waters.

(b) Open year-round from the mouth to the Army Corps of Engineers Park. Limits, size restrictions, and gear restrictions are the same as those in the adjacent portion of the Columbia River.

(62) **Rock Creek (Skamania County):** From the mouth to the falls at approximately river mile one:

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

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

(i) Trout: Daily limit 2; minimum length 14 inches.

(ii) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(c) Salmon:

(i) Open August 1 through December 31.

(ii) Daily limit 6; up to 2 may be adults.

(iii) Only hatchery Chinook and hatchery coho may be retained.

(63) **Rowland Lake, North (Klickitat County):** Open the fourth Saturday in April through March 31.

(64) **Salmon Creek (Clark County):** From the mouth to 182nd Avenue Bridge:

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

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

(i) Trout: Daily limit 2; minimum length 14 inches.

(ii) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(c) Salmon:

(i) Open August 1 through December 31.

(ii) Daily limit 6; up to 2 may be adults.

(iii) Only hatchery Chinook and hatchery coho may be retained.

(65) Salmon Creek (Lewis County):

(a) Selective gear rules, except: Use of barbed hooks is allowed.

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

(i) Trout: Daily limit 2; minimum length 14 inches.

(ii) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(c) Salmon:

(i) Open August 1 through October 31.

(ii) Daily limit 6; up to 2 may be adults.

(iii) Only hatchery Chinook or hatchery coho may be retained.

(66) **Silver Lake (Cowlitz County):** Game fish: Statewide minimum length/daily limit, except:

(a) Crappie: Daily limit 10; minimum length 9 inches.

(b) Grass carp: No limit and no minimum length.

(c) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(d) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(e) Channel catfish: Daily limit 10; no size restriction.

(f) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(67) **Silver Creek (tributary to Cowlitz River) (Lewis County):** From the mouth to USFS Road 4778. Selective gear rules.

(68) Skamokawa Creek (Wahkiakum County):

(a) Selective gear rules, except: Use of barbed hooks is allowed.

(b) Open the Saturday before Memorial Day through August 31 and November 1 through March 15.

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

(i) Trout: Daily limit 2; minimum length 14 inches.

(ii) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(d) Salmon:

(i) Open November 1 through December 31.

(ii) Daily limit 6; up to 2 may be adults.

(iii) Only hatchery Chinook and hatchery coho may be retained.

(69) **Skate Creek (tributary to Cowlitz River) (Lewis County):** Selective gear rules.

(70) **Spearfish Lake (Klickitat County):** Open the fourth Saturday in April through March 31.

(71) **Spirit Lake (Skamania County):** Closed waters.

(72) **Spring Creek (Klickitat County):** From Hill Road upstream to the Goldendale Hatchery: Game fish: Statewide

minimum length/daily limit, except: Trout: Limit 5; minimum length 8 inches.

(73) Stillwater Creek (Lewis County):

(a) Selective gear rules, except: Use of barbed hooks is allowed.

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

(i) Trout: Daily limit 2; minimum length 14 inches.

(ii) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(c) Salmon:

(i) Open August 1 through October 31.

(ii) Daily limit 6; up to 2 may be adults.

(iii) Only hatchery Chinook and hatchery coho may be retained.

(74) Swift Reservoir (Skamania County):

(a) From dam to posted markers approximately 3/8 mile below Eagle Cliff Bridge:

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

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

(A) Trout: Daily limit 10; minimum length 8 inches.

(B) Release wild trout.

(C) Release all steelhead.

(iii) Salmon:

(A) Open the Saturday before Memorial Day through November 30.

(B) Salmon count toward trout daily limit.

(C) Minimum length 8 inches.

(D) Maximum length 15 inches.

(E) No catch record card required.

(b) From the posted markers approximately 3/8 mile below Eagle Cliff Bridge to the bridge:

(i) Selective gear rules.

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

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

(A) Trout: Daily limit 10; minimum length 8 inches.

(B) Release wild trout.

(C) Release all steelhead.

(iv) Salmon:

(A) Open the Saturday before Memorial Day through July 15.

(B) Landlocked salmon rules.

(C) Maximum length 15 inches.

(75) Tilton River (Lewis County): From the mouth to the West Fork:

(a) Within posted "Closed Waters" signs around the adult fish release sites: Closed waters.

(b) Anti-snagging rule from September 1 through October 31.

(c) Night closure from September 1 through October 31.

(d) Game fish: Statewide minimum length/daily limit, except: Release wild rainbow and wild cutthroat trout. Open year-round.

(e) Salmon:

(i) Open year-round.

(ii) Daily limit 6; up to 2 may be adults.

(iii) Only hatchery coho may be retained.

(76) Tilton River, East, North, South and West Forks (Lewis County): Selective gear rules.

(77) Toutle River (Cowlitz County): From the mouth to the forks:

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

(b) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.

(c) Salmon open August 1 through November 30:

(i) Daily limit 6; up to 3 may be adults, of which 1 may be a Chinook.

(ii) Only hatchery Chinook and hatchery coho may be retained.

(78) Toutle River tributaries (unless otherwise listed) (Cowlitz County):

(a) Selective gear rules.

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

(79) Toutle River, North Fork (Cowlitz County):

(a) From the mouth to the posted deadline below the fish collection facility:

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

(ii) September 1 through October 15: Anti-snagging rule and night closure on the North Fork from the confluence with the South Fork to the mouth of Green River.

(iii) Selective gear rules, except: Use of barbed hooks is allowed the Saturday before Memorial Day through July 31 and December 1 through March 15.

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

(v) Salmon open August 1 through Nov 30:

(A) Daily limit 6; up to 3 adults, of which 1 may be a Chinook.

(B) Only hatchery Chinook and hatchery coho may be retained.

(b) From the posted deadline downstream of the fish collection facility upstream and tributaries: Closed waters.

(80) Toutle River, North Fork tributaries from the mouth to the posted deadline below the fish collection facility (unless otherwise listed) (Cowlitz County):

(a) Selective gear rules.

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

(81) Toutle River, South Fork (Cowlitz County):

(a) From the mouth to 4700 Road Bridge:

(i) Open April 16 through the Friday before Memorial Day:

(A) Selective gear rules, except: Use of barbed hooks is allowed.

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

(I) Release trout.

(II) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(ii) Open the Saturday before Memorial Day through November 30:

Game fish: Statewide minimum length/daily limit, except:

- (A) Trout: Daily limit 2; minimum length 14 inches.
 (B) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.
 (iii) Open December 1 through March 15:
 (A) Selective gear rules, except: Use of barbed hooks is allowed.
 (B) Game fish: Statewide minimum length/daily limit, except:
 (I) Trout: Daily limit 2; minimum length 14 inches.
 (II) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.
 (C) Salmon:
 (I) Open August 1 through November 30.
 (II) Daily limit 6; up to 2 may be adults.
 (III) Only hatchery Chinook and hatchery coho may be retained.
 (b) From 4700 Road Bridge upstream:
 (i) Open the Saturday before Memorial Day through March 15.
 (ii) From December 1 through March 15: Selective gear rules, except: Use of barbed hooks is allowed.
 (iii) Game fish: Statewide minimum length/daily limit, except:
 (A) Trout: Daily limit 2; minimum length 14 inches.
 (B) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.
 (iv) Salmon:
 (A) Open August 1 through November 30.
 (B) Daily limit 6; up to 2 may be adults.
 (C) Only hatchery Chinook and hatchery coho may be retained.
- (82) Vancouver Lake and all other waters west of Burlington Northern Railroad from the Columbia River drawbridge near Vancouver downstream to Lewis River (Clark County):**
 (a) Vancouver Lake flushing channel and the lake shoreline 400 feet east and west of the channel exit: Closed April 1 through May 31.
 (b) Chumming is permissible.
 (c) Game fish: Statewide minimum length/daily limit, except:
 (i) Trout: Daily limit 2; minimum length 14 inches.
 (ii) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.
 (iii) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.
 (iv) Channel catfish: Daily limit 10; no size restriction.
 (v) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.
- (83) Walupt Lake (Lewis County):** All inlet streams: Closed waters.
- (84) Washougal River (Clark County):**
 (a) From the mouth to the boat ramp at the WDFW county line access site:
 (i) From 1,000 feet (or posted markers) below to 200 feet above the temporary weir when the weir is installed in the river: Closed waters.
 (ii) Night closure.
 (iii) July 1 through October 31: Anti-snagging rule.
 (iv) Open April 16 through the Friday before Memorial Day:
 (A) Selective gear rules, except: Use of barbed hooks is allowed.
 (B) Game fish: Statewide minimum length/daily limit, except: Release all trout.
 (v) Open the Saturday before Memorial Day through March 15.
 (A) Game fish: Statewide minimum length/daily limit, except:
 (B) Trout: Daily limit 2; minimum length 14 inches.
 (vi) March 16 through April 15: Closed.
 (vii) Steelhead:
 (A) Open April 16 through March 15: Daily limit 3 hatchery steelhead; minimum length 20 inches.
 (B) March 16 through April 15: Closed.
 (viii) Salmon:
 (A) Open August 1 through December 31.
 (B) Daily limit 6; up to 3 adults may be retained, of which 1 may be a Chinook.
 (C) Only hatchery Chinook and hatchery coho may be retained.
 (b) From the boat ramp at the WDFW county line access site to the bridge at Salmon Falls:
 (i) From 1,000 feet (or posted markers) below to 200 feet above the temporary weir when the weir is installed in the river: Closed waters.
 (ii) August 1 through October 31:
 (A) Anti-snagging rule.
 (B) Night closure.
 (iii) Game fish:
 (A) Open from the Saturday before Memorial Day through March 15.
 (B) Game fish: Statewide minimum length/daily limit, except:
 (C) Trout: Daily limit 2; minimum length 14 inches.
 (D) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.
 (iv) Salmon:
 (A) Open August 1 through December 31.
 (B) Daily limit 6; up to 3 adults may be retained, of which 1 may be a Chinook.
 (C) Only hatchery Chinook and hatchery coho may be retained.
 (c) From the bridge at Salmon Falls upstream and tributaries: Closed waters.
- (85) Washougal River, West (North) Fork (Clark/Skamania counties):**
 (a) From the mouth to the water intake at the department hatchery: Closed waters.
 (b) From the intake at the department hatchery upstream:
 (i) Open the Saturday before Memorial Day through March 15.
 (ii) Game fish: Statewide minimum length/daily limit, except:
 (A) Trout: Daily limit 2; minimum length 14 inches.
 (B) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.
 (iii) Salmon:

(A) Open August 1 through December 31.

(B) Daily limit 6; up to 2 may be adults.

(C) Only hatchery Chinook and hatchery coho may be retained.

(86) White Salmon River (Klickitat/Skamania counties):

(a) From the mouth (Burlington Northern Railroad Bridge) to the county road bridge below the former location of the powerhouse:

(i) Open year-round.

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

(iii) July 1 through October 31: Night closure for salmon and steelhead.

(iv) August 1 through December 31: Anti-snagging rule.

(v) Salmon and steelhead:

(A) Open April 1 through June 30:

(I) Daily limit 2; up to 2 salmon, or 2 hatchery steelhead, or one of each, may be retained.

(II) Release wild Chinook.

(B) Open July 1 through July 31:

(I) Daily limit 2; up to 2 salmon.

(II) Release wild Chinook. Closed to fishing for or retaining steelhead.

(C) Open August 1 through October 31:

(I) Daily limit 6; up to 2 adult salmon. Closed to fishing for or retaining steelhead.

(II) Only hatchery Chinook and hatchery coho may be retained.

(D) Open November 1 through March 31:

(I) Daily limit 6; up to 2 salmon, or 2 hatchery steelhead, or one of each, may be retained.

(II) Only hatchery Chinook and hatchery coho may be retained.

(b) From the county road bridge below the former location of the powerhouse upstream to Big Brother Falls (river mile 16):

(i) From Big Brother Falls downstream 400 feet: Closed waters.

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

(iii) Selective gear rules, except: Use of barbed hooks is allowed.

(iv) Salmon and steelhead:

(A) Open Saturday before Memorial Day through July 31:

(I) Daily limit 2 fish, up to 2 salmon, or 2 steelhead, or one of each may be retained.

(II) Only hatchery salmon and hatchery steelhead may be retained.

(B) Open August 1 through October 31:

(I) Daily limit 6; up to 2 adult salmon, or 2 steelhead, or one of each may be retained.

(II) Only hatchery salmon and hatchery steelhead may be retained.

(87) Wind River (Skamania County):

(a) From the mouth to the Highway 14 Bridge:

(i) Open year-round.

(ii) March 16 through June 30: Night closure.

(iii) March 16 through June 30: Each angler aboard a vessel may deploy salmon/steelhead angling gear until the salmon/steelhead limit for all anglers aboard has been achieved.

(iv) March 16 through June 30: Two-pole fishing for salmon/steelhead is permissible so long as the angler possesses a two-pole endorsement.

(v) July 1 through October 31: Night closure for salmon and steelhead fishing.

(vi) August 1 through October 31: Anti-snagging rule applies.

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

(A) Release cutthroat trout and wild rainbow trout.

(B) Steelhead: Open November 1 through March 15; daily limit 3 hatchery steelhead; minimum length 20 inches.

(viii) Salmon and steelhead:

(A) Open March 16 through June 30: Daily limit 6; up to 2 adult salmon, or 2 hatchery steelhead, or one of each, may be retained. Release wild Chinook and wild coho.

(B) Open July 1 through October 31:

(I) Daily limit 6; up to 2 adult salmon may be retained. Closed to fishing for or retaining steelhead.

(II) Release wild Chinook and wild coho.

(b) From the Highway 14 Bridge to 400 feet below Shipherd Falls:

(i) Open year-round.

(ii) March 16 through June 30: Night closure.

(iii) July 1 through October 31: Night closure for salmon and steelhead fishing.

(iv) Anti-snagging rule from May 1 through June 30 and August 1 through October 31.

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

(A) Release cutthroat trout and wild rainbow trout.

(B) Steelhead: Open November 1 through March 15; daily limit 3 hatchery steelhead; minimum length 20 inches.

(vi) Salmon and steelhead:

(A) Open March 16 through June 30: Daily limit 6; up to 2 adult salmon, or 2 hatchery steelhead, or one of each, may be retained. Release wild Chinook and wild coho.

(B) Open July 1 through July 31:

(I) Daily limit 6; up to 2 adult salmon may be retained. Closed to fishing for or retaining steelhead.

(II) Release wild Chinook and wild coho.

(C) Open August 1 through October 31:

(I) Daily limit 6; up to 2 adult salmon may be retained. Closed to fishing for or retaining steelhead.

(II) Release wild Chinook and wild coho.

(c) From 400 feet below to 100 feet above Shipherd Falls fish ladder: Closed waters.

(d) From 100 feet above Shipherd Falls fish ladder to 400 feet below the Coffey Dam:

(i) Anti-snagging rule.

(ii) Night closure.

(iii) Open September 16 through November 30:

(A) Release all fish.

(B) Selective gear rules, except: Use of barbed hooks is allowed.

(iv) Salmon and steelhead:

- (A) Open May 1 through June 30.
- (B) Daily limit 6; up to 2 adult salmon, or 2 hatchery steelhead, or one of each, may be retained.
- (c) From 400 feet below the Coffey Dam to 100 feet above the Coffey Dam: Closed waters.
- (f) From 100 feet above the Coffey Dam to 800 yards downstream from Carson National Fish Hatchery:
 - (i) Anti-snagging rule.
 - (ii) Night closure.
 - (iii) Open September 16 through November 30:
 - (A) Release all fish.
 - (B) Selective gear rules, except: Use of barbed hooks is allowed.
 - (iv) Salmon and steelhead open May 1 through June 30: Daily limit 6; up to 2 adult salmon, or 2 hatchery steelhead, or one of each, may be retained.
 - (g) From 800 yards downstream from Carson National Fish Hatchery upstream to Moore Bridge:
 - (i) Open September 16 through November 30.
 - (ii) Release all fish.
 - (iii) Selective gear rules, except: Use of barbed hooks is allowed.
 - (h) From Moore Bridge upstream: Closed waters.
- (88) **Wind River tributaries (Skamania County):** Closed waters.
- (89) **Yale Reservoir (Cowlitz County):** Landlocked salmon rules.
- (90) **Yellowjacket Creek (tributary to Cispus River) (Lewis County):** Selective gear rules.

AMENDATORY SECTION (Amending WSR 21-14-067, filed 7/2/21, effective 8/2/21)

WAC 220-312-040 Freshwater exceptions to state-wide rules—Puget Sound. (1) Beaver ponds located within or adjacent to streams that drain into Puget Sound listed as open to trout and other game fish follow the same rules as the adjacent stream.

(2) **County-wide freshwater exceptions to statewide rules:**

(a) Beaver ponds in Kitsap County and Mason County on Tahuya Peninsula west of Belfair-Bremerton Highway (S.R. 3):

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

(ii) Trout: No minimum length.

(b) Beaver ponds in Kitsap County and Mason County east of Belfair-Bremerton Highway (S.R. 3):

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

(ii) Trout: No minimum length.

(3) **AKL Pond (King County):** Game fish: Statewide minimum length/daily limit, except:

(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

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

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

(6) **American Lake (Pierce County):**

(a) Chumming is permissible.

(b) Game fish: Statewide minimum length/daily limit, except: Combined daily limit of trout and kokanee is 5, any length.

(7) **Anderson Creek (Kitsap County):**

(a) Selective gear rules.

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

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

(9) **Bainbridge Island - All streams (Kitsap County):**

(a) Selective gear rules.

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

(10) **Baker Lake (Whatcom County):**

(a) Closed waters within a 200-foot radius around the pump discharge at the south end of the lake.

(b) Chumming is permissible.

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

(d) Game fish: Statewide minimum length/daily limit, except: Kokanee: Minimum length 8 inches and maximum length 18 inches.

(11) **Baker River (Skagit/Whatcom County):** From the mouth to the Lower Baker Dam: Closed waters.

(12) **Ballinger Lake (Snohomish County):** Game fish: Statewide minimum length/daily limit, except:

(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(13) **Beaver Lake (Skagit County):** Game fish: Statewide minimum length/daily limit, except:

(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(14) **Beecher, Lake (Snohomish County):** Game fish: Statewide minimum length/daily limit, except:

(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

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

(16) **Big Beaver Creek (Whatcom County), from 1/4 mile upstream of the closed water markers on Ross Lake upstream, including tributary streams and beaver ponds:**

(a) Open July 1 through October 31.

(b) Selective gear rules.

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

(17) **Big Beef Creek (Kitsap County):**

(a) From Seabeck Highway Bridge to Lake Symington:

(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.

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

(v) From August 1 through August 31: Closed waters within 100 feet of the Seabeck Highway N.W. Bridge.

(b) From Lake Symington upstream:

(i) Selective gear rules.

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

(18) **Big Lake (Skagit County):**

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

(i) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(ii) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(iii) Channel catfish: Daily limit 10; no size restriction.

(iv) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(b) Landlocked salmon rules.

(19) **Big Mission Creek (Mason County):**

(a) Selective gear rules.

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

(20) **Big Quilcene River (Jefferson County):**

(a) From the mouth to Rodgers Street: Open the Saturday before Memorial Day through August 15:

(i) Selective gear rules.

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

(b) From Rodgers Street to the Highway 101 Bridge:

(i) From the Saturday before Memorial Day through August 15: Selective gear rules.

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

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

(iv) From August 16 through October 31:

(A) Night closure.

(B) Anti-snagging rules.

(v) Salmon:

(A) Open August 16 through October 31.

(B) Daily limit 4 coho only; minimum length 12 inches.

(c) From the Highway 101 Bridge to the weir at Quilcene National Fish Hatchery: Closed waters.

(d) From the weir at Quilcene National Fish Hatchery to the upper boundary of Falls View campground:

(i) Selective gear rules.

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

(21) **Big Soos Creek (King County):** From the mouth to the hatchery rack:

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

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

(22) **Black Lake (Thurston County):** Game fish: Statewide minimum length/daily limit, except: Crappie: Daily limit 10; minimum length 9 inches.

(23) **Blackjack Creek (Kitsap County):**

(a) Open Saturday before Memorial Day through August 31.

(b) Selective gear rules.

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

(24) **Blacksmith Pond (Mason County):** Game fish: Statewide minimum length/daily limit, except:

(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(25) **Boise Creek (King County) (White River tributary):** From the mouth to the Highway 410 crossing: Closed waters.

(26) **Bosworth Lake (Snohomish County):**

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

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

(i) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(ii) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(iii) Channel catfish: Daily limit 10; no size restriction.

(iv) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(27) **Boulder River (Snohomish County) (N.F. Stillaguamish River tributary):** From the mouth to Boulder Falls:

- (a) Open September 16 through October 31.
- (b) Selective gear rules.
- (c) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(28) **Bradley Lake (Pierce County):** Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

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

(30) **Buffington Pond (Kitsap County):** Game fish: Statewide minimum length/daily limit, except:

(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(31) **Burley Creek (Kitsap County):**

(a) Selective gear rules.

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

(32) **Cady Lake (Mason County):**

(a) Fly fishing only.

(b) Release all fish.

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

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

(34) **Calligan Lake (King County):** It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.

(35) **Campbell Creek (Mason County):**

(a) Selective gear rules.

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

(36) **Campbell Lake (Skagit County):** Grass carp: No daily limit for anglers and bow and arrow fishing allowed.

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

(a) From the mouth to the forks (North Fork and South Fork):

(i) Open September 16 through January 31.

(ii) Selective gear rules.

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

(b) From the forks (North Fork and South Fork) upstream: Closed waters.

(38) **Capitol Lake (Thurston County):** Closed waters.

(39) **Carbon River (Pierce County):**

(a) From the mouth to Voight Creek:

(i) From September 1 through November 30:

(A) Night closure.

(B) Anti-snagging rules.

(C) Barbless hooks required.

(ii) Open September 1 through November 30.

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

(iv) Open December 1 through January 15:

(A) Selective gear rules.

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

(v) Salmon:

(A) Open September 1 through November 30.

(B) Daily limit 6; up to 2 may be adults, minimum length 12 inches.

(C) Release wild Chinook and chum.

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

(i) Open from December 1 through January 15.

(ii) Selective gear rules.

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

(40) **Carney Lake (Pierce County):**

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

(b) Salmon: Landlocked salmon rules.

(41) **Carpenter Lake (Kitsap County):** Game fish: Statewide minimum length/daily limit, except:

(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(42) **Cascade Creek (San Juan County):**

(a) From the mouth to Mountain Lake.

(b) Selective gear rules.

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

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

(44) **Cascade River (Skagit County):**

(a) From the mouth to the Rockport-Cascade Road Bridge:

(i) Open July 1 through July 15: Tuesdays through Saturdays only:

(A) Anti-snagging rules and night closure.

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

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

(II) Dolly Varden/Bull trout: Minimum length of 20 inches as part of the trout limit.

(C) Salmon: Daily limit 4 hatchery Chinook; up to 2 may be adults.

(I) Release all other salmon.

(II) Minimum length 12 inches.

(ii) Open September 16 through October 15: Tuesdays through Saturdays only:

(A) Anti-snagging rules and night closure.

- (B) Salmon: Daily limit 4 coho.
- (I) Release all other salmon.
- (II) Minimum length 12 inches.
- (C) Game fish: Statewide length/daily limit, except:
 - (I) Cutthroat trout and wild rainbow: Minimum length 14 inches.
 - (II) Dolly Varden/Bull trout: Minimum length of 20 inches as part of the trout limit.
 - (iii) Open December 1 through January 31:
 - (A) Game fish: Statewide length/daily limit, except:
 - (I) Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
 - (II) Dolly Varden/Bull trout: Minimum length of 20 inches as part of the trout limit.
 - (B) Salmon: Closed.
 - (b) From the Rockport-Cascade Road Bridge upstream:
 - (i) Open June 1 through January 31.
 - (ii) Selective gear rules.
 - (iii) Release all fish except hatchery steelhead.
- (45) **Cass Pond (King County):** Game fish: Statewide minimum length/daily limit, except:
 - (a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.
 - (b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.
 - (c) Channel catfish: Daily limit 10; no size restriction.
 - (d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.
- (46) **Cavanaugh Lake (Skagit County):** Chumming is permissible.
- (47) **Cedar River (King County):**
 - (a) From the mouth to Landsburg Road:
 - (i) Open the Saturday before Memorial Day through August 31.
 - (ii) Selective gear rules.
 - (iii) Night closure.
 - (iv) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.
 - (v) It is unlawful to fish from a floating device equipped with an internal combustion motor.
 - (b) From Landsburg Bridge upstream to the falls: Closed waters.
- (48) **Chain Lake (Snohomish County):**
 - (a) Selective gear rules.
 - (b) Game fish: Statewide minimum length/daily limit, except:
 - (i) Trout: Daily limit 2; minimum length 14 inches.
 - (ii) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.
 - (iii) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.
 - (iv) Channel catfish: Daily limit 10; no size restriction.
 - (v) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.
- (49) **Chambers Creek (Pierce County):**

- (a) From the mouth (Burlington Northern Bridge) to the markers 400 feet below the Boise-Cascade Dam:
 - (i) Selective gear rules, except bait is permissible September 1 through October 15.
 - (ii) Open the Saturday before Memorial Day through November 15 for game fish.
 - (iii) Night closure.
 - (iv) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.
 - (v) Salmon:
 - (A) Open July 1 through November 15:
 - (B) Daily limit 6; up to 4 may be adults; minimum length 12 inches.
 - (C) Release chum, wild Chinook, and wild coho.
 - (b) From Boise-Cascade Dam to Steilacoom Lake:
 - (i) Selective gear rules.
 - (ii) Night closure.
 - (iii) Game fish: Statewide minimum length/daily limit, except: ~~Release cutthroat trout and wild rainbow trout~~ (~~Minimum length 14 inches~~).
- (50) **Chambers Lake (within Ft. Lewis Military Reservation) (Pierce 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) Release cutthroat trout and wild rainbow trout.
 - (ii) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.
 - (iii) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.
 - (iv) Channel catfish: Daily limit 10; no size restriction.
 - (v) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.
- (51) **Channel Creek (Whatcom County) (Baker River tributary):** Open the Saturday before Memorial Day through August 31.
- (52) **Chaplain Creek (Snohomish County) (Sultan River tributary):** Waters adjacent to the water filtration plant, from the inlet to the beaver pond (Grass Lake) below the water filtration plant gate to the waterfall approximately .4 miles upstream: Closed waters.
- (53) **Cherry Creek (King/Snohomish County) (tributary to the Snoqualmie River):** From the mouth to Cherry Creek Falls: Selective gear rules.
- (54) **Chico Creek (Kitsap County):**
 - (a) Open Saturday before Memorial Day through August 31.
 - (b) Selective gear rules.
 - (c) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.
- (55) **Christine, Lake (Mason County):** Game fish: Statewide minimum length/daily limit, except:
 - (a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(56) **Church Creek (Mason County):** From the mouth to the bridge on U.S. Forest Service Road #2361: Closed waters.

(57) **Clarks Creek (Pierce County):** Closed waters.

(58) **Clear Creek (Kitsap County):**

(a) Selective gear rules.

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

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

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

(b) Chumming is permissible.

(60) **Clear Lake (Skagit County):** Game fish: Statewide minimum length/daily limit, except:

(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

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

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

(a) Selective gear rules.

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

(63) **Clover Creek (Pierce County):** From the mouth upstream to Steilacoom Lake: Closed waters.

(64) **Cottage Creek South Pond (King County):** Game fish: Statewide minimum length/daily limit, except:

(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(65) **Cottage Lake (King County):**

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

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

(i) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(ii) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(iii) Channel catfish: Daily limit 10; no size restriction.

(iv) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(66) **Coulter Creek (Kitsap/Mason counties):**

(a) Selective gear rules.

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

(67) **County Line Ponds (Skagit County):** Closed waters.

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

(69) **Cranberry Creek (Mason County):**

(a) Selective gear rules.

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

(70) **Cranberry Lake (Mason County):** Game fish: Statewide minimum length/daily limit, except:

(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(71) **Crescent Creek (Kitsap County):**

(a) Selective gear rules.

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

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

(73) **Crocker Lake (Jefferson County):** Game fish: Statewide minimum length/daily limit, except: Closed to trout fishing.

(74) **Cushman Lake (Mason County):** Game fish: Statewide minimum length/daily limit, except:

(a) Kokanee: Minimum length 8 inches and maximum length 18 inches.

(b) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(c) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(d) Channel catfish: Daily limit 10; no size restriction.

(e) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(75) **Dakota Creek (Whatcom County):** From the mouth to Giles Road Bridge.

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

(b) Selective gear rules.

(76) **De Coursey Pond (Pierce County):** Open the fourth Saturday in April through October 31 to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

(77) **Deer Creek (Mason County):**

(a) Selective gear rules.

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

(78) **Deer Creek (Snohomish/Skagit counties) (Tributary to the N.F. Stillaguamish) and all tributaries:** Closed waters.

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

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

(81) **Deschutes River (Thurston County):** From Old Highway 99 Bridge upstream:

(a) Selective gear rules.

(b) Game fish:

(i) Open year-round.

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

(c) Salmon:

(i) Open year-round.

(ii) Daily limit 6; up to 2 may be adults.

(iii) Release coho.

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

(83) **Dewatto River (Mason County):**

(a) From the mouth to Dewatto-Holly Road Bridge:

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

(ii) Selective gear rules.

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

(A) Release cutthroat trout and wild rainbow trout.

(B) No steelhead retention.

(b) From Dewatto-Holly Road Bridge upstream:

(i) Selective gear rules.

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

(84) **Dogfish Creek (Kitsap County):**

(a) Selective gear rules.

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

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

(86) **Dosewallips River (Jefferson County):**

(a) From the mouth to Highway 101 Bridge:

(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.

(iv) Salmon:

(A) Open November 1 through December 15.

(B) Limit 2 chum only.

(b) From Highway 101 Bridge to Olympic National Park boundary about three-quarters of a mile downstream of the falls:

(i) Open the 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.

(87) **Duckabush River (Jefferson County):**

(a) From the mouth to Mason County PUD #1 overhead distribution line:

(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.

(iv) Salmon:

(A) Open November 1 through December 15.

(B) Daily limit 2 chum only.

(b) From Mason County PUD #1 overhead distribution line to the Olympic National Park boundary:

(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.

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

(89) **Eglon Creek (Kitsap County):**

(a) Selective gear rules.

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

(90) **Elson Creek (Thurston County):** Closed waters.

(91) **Erdman Lake (Mason County):** Game fish: Statewide minimum length/daily limit, except:

(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(92) **Erickson Pond (Kitsap County):** Game fish: Statewide minimum length/daily limit, except:

(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(93) **Erickson Reservoir (Kitsap County):** Game fish: Statewide minimum length/daily limit, except:

(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

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

(95) Fawn Lake (Upper and Lower) (Mason County):

Game fish: Statewide minimum length/daily limit, except:

(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

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

(97) Finch Creek (Mason County): Anglers with disabilities who permanently use a wheelchair and possess a designated harvester companion card may fish from the ADA accessible site at the Hoodspout Salmon Hatchery, so long as those anglers follow all applicable rules of the adjoining waters of Marine Area 12.

(98) Finney Creek (Skagit County): From the mouth up to the USFS 17 road bridge: Closed waters.

(99) Fisher Creek Slough (Skagit County): From the mouth to the I-5 Bridge: Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(100) Fortson Mill Pond #1 (Snohomish County): Game fish: Statewide minimum length/daily limit, except:

(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(101) Fortson Mill Pond #2 (Snohomish County):

(a) Open the fourth Saturday in April through October 31 for juvenile anglers only.

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

(i) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(ii) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(iii) Channel catfish: Daily limit 10; no size restriction.

(iv) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(102) Fulton Creek (Mason County): From the mouth to falls at river mile 0.8:

(a) Selective gear rules.

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

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

(104) Gibbs Lake (Jefferson 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 1; minimum length 18 inches.

(ii) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(iii) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(iv) Channel catfish: Daily limit 10; no size restriction.

(v) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

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

(106) Goat Ranch Pond (Mason County): Game fish: Statewide minimum length/daily limit, except:

(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(107) Goldsborough Creek and tributaries (Mason County):

(a) Selective gear rules.

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

(108) Goodwin Lake (Snohomish County): Chumming is permissible.

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

(110) Gorst Creek (Kitsap County):

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

(b) Selective gear rules.

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

(111) Grandy Lake (Skagit County): Game fish: Statewide minimum length/daily limit, except:

(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(112) Granite Lakes (near Marblemount) (Skagit County): Game fish: Statewide minimum length/daily limit, except: Release Grayling.

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

(114) Green (Duwamish) River (King County):

(a) From an east-west line extending through the southernmost tip of Harbor Island to Tukwila International Boulevard/Old Highway 99:

(i) Open for game fish the Saturday before Memorial Day through July 31.

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

(iii) In years ending in odd numbers, open for game fish and salmon August 20 through December 31:

(A) Anti-snagging rules.

(B) Night closure.

(C) Daily limit 6 salmon of which no more than 3 may be any combination of adult coho and adult chum.

(I) Release Chinook.

(II) Salmon minimum length 12 inches.

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

(iv) In years ending in even numbers, open for game fish and salmon September 1 through December 31:

(A) Anti-snagging rules.

(B) Night closure.

(C) Salmon: Daily limit 6 salmon of which no more than 3 adults may be retained. Release Chinook.

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

(b) From Tukwila International Boulevard/Old Highway 99 to the South 212th Street Bridge:

(i) Open for game fish the Saturday before Memorial Day through July 31.

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

(iii) In years ending in odd numbers: Open for salmon and game fish August 20 through December 31:

(A) Anti-snagging rules.

(B) Night closure.

(C) Salmon: Daily limit 6; up to 3 may be any combination of adult coho, chum, or adult Chinook. Up to 2 of the daily limit may be Chinook, anglers must keep the first 2 Chinook caught.

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

(iv) In years ending in even numbers, open for game fish and salmon September 1 through December 31:

(A) Anti-snagging rules.

(B) Night closure.

(C) Salmon: Daily limit 6; up to 3 adults may be retained, of which one may be a Chinook.

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

(c) From the South 212th Street Bridge to the Highway 18 Eastbound Bridge:

(i) Open for game fish the Saturday before Memorial Day through August 15.

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

(iii) In years ending in odd numbers, open for game fish and salmon September 16 through December 31:

(A) Anti-snagging rules.

(B) Night closure.

(C) Salmon: Daily limit 6; up to 3 may be any combination of adult coho and adult chum. Release Chinook.

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

(iv) In years ending in even numbers, open for game fish and salmon October 1 through December 31:

(A) Anti-snagging rules.

(B) Night closure.

(C) Salmon: Daily limit 6; up to 3 adults may be retained. Release Chinook.

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

(d) From Highway 18 Eastbound Bridge to the Auburn-Black Diamond Road Bridge: Closed waters.

(e) From the Auburn-Black Diamond Road Bridge to Tacoma Municipal Watershed Boundary Marker (1.3 miles downstream of Tacoma Headworks Dam):

(i) From 150 feet upstream and 150 feet downstream from a point directly across the river from the mouth of Keta Creek (Crisp) including both banks of the river: Closed waters.

(ii) Open for game fish the Saturday before Memorial Day through September 15.

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

(iv) Open for game fish and salmon November 1 through December 31:

(A) Anti-snagging rules.

(B) Night closure.

(C) Daily limit 6; up to 3 may be any combination of adult coho and adult chum. Release Chinook.

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

(f) From Tacoma Municipal Watershed Boundary Marker (1.3 miles downstream of Tacoma Headworks Dam) to Friday Creek: Closed waters.

(115) **Greenwater River (King County):** From the mouth to Greenwater Lakes:

(a) Open December 1 through last day in February for whitefish only.

(b) Whitefish gear rules.

(116) **Grovers Creek (Kitsap County):**

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

(b) Selective gear rules.

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

(117) **Hamma Hamma River (Mason County):** From the mouth to 400 feet below the falls:

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

(b) Selective gear rules.

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

(118) **Hancock Lake (King County):** It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.

(119) **Harvey Creek (Snohomish County):** Closed waters.

(120) **Haven Lake (Mason County):**

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

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

(i) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(ii) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(iii) Channel catfish: Daily limit 10; no size restriction.

(iv) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

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

(122) **Heins Lake (Kitsap County):** Closed waters.

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

(124) **Horseshoe Lake (Jefferson 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.

(125) **Horseshoe Lake (King County):** Game fish: Statewide minimum length/daily limit, except:

(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

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

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

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

(129) **Hozomeen Lake (Whatcom County):** It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.

(130) **Illahee Creek (Kitsap County):**

(a) Selective gear rules.

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

(131) **Isabella Lake (Mason County):** Game fish: Statewide minimum length/daily limit, except:

(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(132) **Issaquah Creek (King County):** Open the Saturday before Memorial Day through August 31.

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

(134) **Jennings Park Pond (Snohomish County):** Open for juvenile anglers, senior anglers and anglers with a disability who possess a designated harvester companion card.

(135) **Jimmy-come-lately Creek (Clallam County):** From the mouth to the confluence with East Fork. Open the Saturday before Memorial Day through August 31.

(136) **Johns Creek (Mason County):**

(a) Selective gear rules.

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

(137) **Joy, Lake (King County):** Game fish: Statewide minimum length/daily limit, except:

(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(138) **Kapowsin, Lake (Pierce County):** Game fish: Statewide minimum length/daily limit, except:

(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(139) **Keefe Lake (Whatcom County):** Game fish: Statewide minimum length/daily limit, except:

(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(140) **Kendall Creek (Whatcom County) (N.F. Nooksack tributary):** From the mouth through the hatchery to the hatchery boundary fence: Closed waters.

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

(a) From the mouth to Highway 101 Bridge:

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

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

(iii) Salmon: Closed.

(b) From Highway 101 Bridge upstream:

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

(ii) Selective gear rules.

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

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

(143) **Kings Lake Bog (King County):** Closed waters.

(144) **Kitsap Creek (Kitsap County):**

(a) Selective gear rules.

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

(145) **Kitsap Lake (Kitsap County):** Game fish: Statewide minimum length/daily limit, except:

(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(146) **Koeneman Lake (Fern Lake) (Kitsap 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) Release all fish.

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

(148) **Larsen Lake (King County):** Game fish: Statewide minimum length/daily limit, except:

(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(149) **LeBar Creek (Mason County):** From the mouth to the falls at river mile 1: Closed waters.

(150) **Lilliwaup River (Mason County):** From the mouth to 200 feet below the falls:

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

(b) Selective gear rules.

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

(151) **Limerick Lake (Mason County):**

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

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

(i) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(ii) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(iii) Channel catfish: Daily limit 10; no size restriction.

(iv) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(152) **Little Menzel Lake (Snohomish County):** Game fish: Statewide minimum length/daily limit, except:

(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(153) **Little Quilcene River (Jefferson County):** From the mouth to the Little Quilcene River Bridge on Penny Creek Road:

(a) From the mouth to the Highway 101 Bridge: Open the Saturday before Memorial Day through August 31.

(b) Selective gear rules.

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

(154) **Little Scandia Creek (Kitsap County):**

(a) Selective gear rules.

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

(155) **Lois Lakes (Thurston County):** Game fish: Statewide minimum length/daily limit, except:

(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(156) **Lone Lake (Island 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 1; minimum length 18 inches.

(ii) Grass carp: No limit for anglers and bow and arrow fishing.

(157) **Long Lake (Kitsap County):** Game fish: Statewide minimum length/daily limit, except:

(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(158) **Long's Pond (Thurston County):** Open for juvenile anglers, senior anglers and anglers with a disability who possess a designated harvester companion card only.

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

(160) **Malaney Creek (Mason County):**

(a) Selective gear rules.

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

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

(162) **Martha Lake (Alderwood Manor) (Snohomish County):** Open the fourth Saturday in April through October 31.

(163) **Martha Lake (Warm Beach) (Snohomish County):**

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.

(164) **Mashel River (Pierce County):** Closed waters.

(165) **Mason Lake (Mason County):** Game fish: Statewide minimum length/daily limit, except:

(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(166) **McAllister Creek (Thurston County):**

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

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

(c) Salmon:

(i) Open July 1 through November 15.

(ii) Daily limit 6; up to 2 may be adults.

(iii) Release chum, wild coho, and wild Chinook.

(167) **McLane Creek (Thurston County):**

(a) Selective gear rules.

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

(c) Night closure.

(168) **McMurray Lake (Skagit County):**

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

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

(i) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(ii) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(iii) Channel catfish: Daily limit 10; no size restriction.

(iv) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(c) Landlocked salmon rules.

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

(170) **Mill Creek (Mason County):**

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: (~~Trout: Daily limit 2; minimum length 14 inches~~;) Release cutthroat trout and wild rainbow trout.

(171) **Mill Pond (Auburn) (King County):** Open for juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

(172) **Millers Pond (King County):** Game fish: Statewide minimum length/daily limit, except:

(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(173) **Minter Creek (Pierce/Kitsap counties):** From the mouth to the fishing boundary markers approximately 50 feet downstream of the hatchery rack:

(a) Open for salmon September 1 through December 31.

(b) Night closure.

(c) Anti-snagging rule.

(d) Daily limit 6; up to 4 may be adults, of which only 2 may be coho or Chinook. Release wild coho.

(e) Game fish: Closed.

(174) **Mission Lake (Kitsap County):**

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

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

(i) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(ii) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(iii) Channel catfish: Daily limit 10; no size restriction.

(iv) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(175) **Mission Lower Pond (Kitsap County):** Game fish: Statewide minimum length/daily limit, except:

(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(176) **Monte Cristo Lake (Snohomish County):**

(a) Open June 1 through August 31.

(b) Selective gear rules.

(c) Release all fish except hatchery steelhead.

(177) **Muck Lake (Pierce County):** Game fish: Statewide minimum length/daily limit, except:

(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

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

(179) **Munn Lake (Thurston County):**

(a) Selective gear rules.

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

(c) Release all fish.

(180) **Nisqually River (Pierce County):**

(a) From the mouth to Military Tank Crossing Bridge:

(i) Anti-snagging rules.

(ii) Night closure.

(iii) Barbless hooks are required.

(iv) Open July 1 through November 15. From August 22 through September 6 and from October 1 through November 15: Closed Sundays and Mondays.

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

(vi) Salmon:

(A) Daily limit 6; up to 2 may be adults.

(B) Release chum, wild coho, and wild Chinook.

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

(i) Open July 1 through October 31.

(ii) Selective gear rules.

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

(181) **Nisqually River tributaries downstream of Alder Dam not otherwise listed (Pierce County):**

(a) Open July 1 through October 31.

(b) Selective gear rules.

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

(182) **Nooksack River (Whatcom County):**

(a) From the Lummi Indian Reservation boundary to the yellow marker at the FFA High School barn at Deming:

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

(ii) From the Saturday before Memorial Day through December 31:

(A) Anti-snagging rules.

(B) Night closure.

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

(iv) Salmon:

(A) Open August 1 through September 30:

(I) Daily limit 2; plus 2 additional pinks or hatchery coho or 1 of each.

(II) Release chum and wild Chinook.

(B) Open October 1 through December 31:

(I) Daily limit 2; plus 2 additional pinks or hatchery coho or 1 of each.

(II) Release chum.

(b) From the yellow marker at the FFA High School barn in Deming to the confluence of the forks:

(i) Open from October 1 through January 31.

(ii) October 1 through December 31:

(A) Anti-snagging rules.

(B) Night closure.

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

(iv) Salmon:

(A) Open October 1 through December 31:

(B) Daily limit 2; plus 2 additional pinks or hatchery coho or 1 of each.

(C) Release chum.

(183) **Nooksack River, North Fork (Whatcom County):**

(a) From the mouth to the Highway 9 bridge: Closed waters.

(b) From the Highway 9 bridge to the yellow marker at the upstream side of Kendall Hatchery:

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

(ii) The Saturday before Memorial Day through December 31:

(A) Anti-snagging rules.

(B) Night closure.

(iii) November 1 through February 15: It is unlawful to fish from a floating device equipped with a motor.

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

(v) Salmon:

(A) Open October 1 through November 30.

(B) Daily limit 2; plus 2 additional hatchery coho.

(C) Release chum.

(c) From the yellow marker at the upstream side of Kendall Hatchery to Maple Creek:

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

(ii) From the Saturday before Memorial Day through December 31:

(A) Anti-snagging rules.

(B) Night closure.

(iii) November 1 through February 15: It is unlawful to fish from a floating device equipped with a motor.

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

(v) Salmon:

(A) Open October 1 through November 30.

(B) Daily limit 2; plus 2 additional hatchery coho.

(C) Release chum.

(d) From Maple Creek to Nooksack Falls:

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

(ii) Selective gear rules.

(iii) November 1 through January 31: It is unlawful to fish from a floating device equipped with a motor.

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

(184) Nooksack River, Middle Fork (Whatcom County): From the mouth to the city of Bellingham diversion dam:

(a) November 1 through January 31: It is unlawful to use motors.

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

(c) Selective gear rules.

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

(185) Nooksack River, South Fork (Skagit/Whatcom counties):

(a) From the mouth to Skookum Creek:

(i) Open October 1 through January 31.

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

(iii) Only one single-point hook allowed.

(iv) From October 1 through November 30: Night closure.

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

(vi) Salmon:

(A) Open October 1 through October 15:

(I) Daily limit 2; plus 4 additional hatchery coho.

(II) Release chum and wild Chinook.

(B) Open October 16 through December 31:

(I) Daily limit 2; plus 4 additional hatchery coho.

(II) Release chum.

(b) From Skookum Creek upstream to Wanlick Creek: Closed waters.

(c) Upstream from and including Wanlick Creek, including all tributaries:

(i) Open the Saturday before Memorial Day through October 31 for fly fishing only.

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

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

(187) **Northern State Hospital Pond (Skagit County):** Open for juvenile anglers only.

(188) **Ohop Lake (Pierce County):** Game fish: Statewide minimum length/daily limit, except:

(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(189) Olalla Creek (Kitsap County):

(a) Selective gear rules.

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

(190) Old Fishing Hole Pond (Kent, King County): Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card.

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

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

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

(194) Panther Lake (Snohomish County): Game fish: Statewide minimum length/daily limit, except:

(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(195) Pass Lake (Skagit County):

(a) Fly fishing only.

(b) All motors prohibited.

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

(196) Perry Creek (Thurston County): From the mouth to the falls:

(a) Selective gear rules.

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

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

(198) Pilchuck Creek (Snohomish County):

(a) From the mouth to the Highway 9 Bridge:

(i) Open September 16 through January 31.

(ii) Selective gear rules.

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

- (b) From the Highway 9 Bridge to Pilchuck Falls:
- (i) Open the Saturday before Memorial Day through January 31.
- (ii) From the Saturday before Memorial Day through November 30; selective gear rules.
- (iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
- (199) **Pilchuck River (Snohomish County):**
- (a) From the mouth to 500 feet downstream from the Snohomish City diversion dam:
- (i) Open from December 1 through January 31.
- (ii) It is unlawful to fish from any floating device.
- (iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
- (b) From 500 feet downstream from the Snohomish City diversion dam upstream: Closed waters.
- (200) **Pine Lake (King County):** Open the fourth Saturday in April through October 31.
- (201) **Pioneer Ponds (tributary to Stillaguamish River) (Snohomish County):** Closed waters.
- (202) **Pipers Creek (King County) and tributaries:** Closed waters.
- (203) **Portage Creek (Snohomish County):** Closed waters.
- (204) **Prices Lake (Mason County):**
- (a) Selective gear rules.
- (b) It is unlawful to fish from a floating device equipped with an internal combustion motor.
- (c) Release all fish.
- (205) **Puyallup River (Pierce County):**
- (a) From the 11th Street Bridge to 400 feet downstream of Clarks Creek:
- (i) From August 16 through August 31 all waters closed Sundays.
- (ii) From September 1 through September 30 all waters closed Sundays, Mondays, and Tuesdays.
- (iii) August 16 through November 30:
- (A) Anti-snagging rules.
- (B) Night closure.
- (C) Barbless hooks are required.
- (iv) Open for game fish August 16 through November 30. Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.
- (v) Salmon: Open August 16 through November 30.
- (A) Daily limit 6; up to 4 may be adults, of which only 2 may be coho or Chinook.
- (B) Release chum and wild Chinook.
- (b) From 400 feet downstream to 400 feet upstream of Clarks Creek: Closed waters.
- (c) From 400 feet upstream of Clarks Creek to East Main Bridge:
- (i) From August 16 through August 31 all waters closed Sundays.
- (ii) From September 1 through September 30 all waters closed Sundays, Mondays, and Tuesdays.
- (iii) August 16 through November 30:
- (A) Anti-snagging rules.
- (B) Night closure.

- (C) Barbless hooks are required.
- (iv) Game fish: Open August 16 through November 30: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.
- (v) Salmon: Open August 16 through November 30.
- (A) Daily limit 6; up to 4 may be adults, of which 2 may be coho or Chinook.
- (B) Release chum and wild Chinook.
- (d) From East Main Bridge to Carbon River:
- (i) August 16 through November 30:
- (A) Anti-snagging rules.
- (B) Night closure.
- (C) Barbless hooks are required.
- (ii) Game fish:
- (A) Open August 16 through November 30.
- (B) Statewide minimum length/daily limit except: Release cutthroat trout and wild rainbow trout.
- (iii) Salmon:
- (A) Open August 16 through November 30.
- (B) Daily limit 6; up to 4 may be adults, of which only 2 may be coho or Chinook.
- (C) Release chum and wild Chinook.
- (e) From Carbon River upstream:
- (i) Open the Saturday before Memorial Day through January 15.
- (ii) Selective gear rules.
- (iii) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.
- (206) **Raging River (King County):** From the mouth to the Highway 18 Bridge:
- (a) Open the Saturday before Memorial Day through January 31.
- (b) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
- (207) **Rapjohn Lake (Pierce County):** Open the fourth Saturday in April through October 31.
- (208) **Rattlesnake Lake (King County):**
- (a) Selective gear rules.
- (b) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.
- (209) **Ravensdale Lake (King County):**
- (a) Selective gear rules.
- (b) Game fish: Statewide minimum length/daily limit, except:
- (i) Trout: Daily limit 2; minimum length 14 inches.
- (ii) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.
- (iii) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.
- (iv) Channel catfish: Daily limit 10; no size restriction.
- (v) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.
- (210) **Riley Lake (Snohomish County):** Open the fourth Saturday in April through October 31.
- (211) **Robbins Lake (Mason County):** Open the fourth Saturday in April through October 31.
- (212) **Rocky Creek (Mason County):**

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

(213) **Roesiger Lake (Snohomish County):** Game fish: statewide minimum length/daily limit, except: Crappie: Daily limit 10; minimum length 9 inches.

(214) **Ross Lake (Reservoir) (Whatcom County):**

(a) Open July 1 through October 31.

(b) Selective gear rules.

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

(i) Trout except eastern brook trout: Daily limit 1; minimum length 16 inches.

(ii) Eastern brook trout: Daily limit 5; no minimum size.

(215) **Ross Lake tributary streams, and their tributaries, except Big Beaver Creek and Ruby Creek (Whatcom County):**

(a) From mouth to one mile upstream: Closed waters.

(b) From one mile above the mouths to the headwaters: Open July 1 through October 31.

(216) **Ruby Creek (Whatcom County):** Closed waters.

(217) **Ruby Creek tributaries (Whatcom County):** Open July 1 through October 31.

(218) **Salmon Creek and all forks (Jefferson/Clallam counties):** Closed waters.

(219) **Salmonberry Creek (Kitsap County):**

(a) Selective gear rules.

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

(220) **Samish Lake (Whatcom County):** Game fish: Statewide minimum length/daily limit, except:

(a) Cutthroat trout: Daily limit 2; minimum length 14 inches.

(b) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(c) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(d) Channel catfish: Daily limit 10; no size restriction.

(e) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(221) **Samish River (Skagit County):**

(a) From the mouth to the Thomas Road Bridge:

(i) Open the Saturday before Memorial Day through September 13 and October 1 through November 30.

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

(iii) August 1 through November 30:

(A) Night closure.

(B) It is unlawful to use anything other than one single-point hook.

(iv) Salmon:

(A) Open August 1 through September 13.

(B) Daily limit 2; anglers may only retain fish hooked inside the mouth.

(C) Release chum, pink, and wild coho.

(b) From Thomas Road Bridge to the I-5 Bridge:

(i) Open the Saturday before Memorial Day through July 31 and October 1 through November 30.

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

(iii) August 1 through November 30:

(A) Night closure.

(B) It is unlawful to use anything other than one single-point hook.

(c) From the I-5 Bridge to the Old Highway 99 Bridge:

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

(ii) Selective gear rules.

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

(d) From the Old Highway 99 Bridge to the Samish hatchery salmon rack: Closed waters.

(e) From upstream of the Samish hatchery rack to Hickson Bridge:

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

(ii) Selective gear rules.

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

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

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

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

(i) Release all kokanee.

(ii) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(iii) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(iv) Channel catfish: Daily limit 10; no size restriction.

(v) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

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

(d) Landlocked salmon rules apply for December 1 through May 31. Hatchery coho only may be retained as part of the trout daily limit under the landlocked salmon rules, minimum length 12 inches.

(e) Salmon: Closed.

(223) **Sammamish River (Slough) (King County):** From the 68th Avenue N.E. Bridge to Lake Sammamish:

(a) Open from January 1 through August 31.

(b) Selective gear rules.

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

(224) **Sandyshore Lake (Jefferson County):** Open the fourth Saturday in April through October 31.

(225) **Sauk River (Skagit/Snohomish counties):**

(a) Selective gear rules.

(b) Release all fish except hatchery steelhead.

(c) From the mouth to Darrington Bridge:

- (i) Open June 1 through January 31.
- (ii) It is unlawful to fish from a floating device equipped with an internal combustion motor.
- (d) From Darrington Bridge to the mouth of the White Chuck River: Open June 1 through January 31.
- (e) From the Whitechuck River to the headwaters, including the North Fork from mouth to North Forks Falls and the South Fork from mouth to Elliot Creek: Open June 1 through October 31.
- (f) In the South Fork upstream from Elliot Creek: Open June 1 through August 31.
- (226) **Sawyer Lake (King County):**
 - (a) Chumming is permissible.
 - (b) Game fish: Statewide minimum length/daily limit, except:
 - (i) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.
 - (ii) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.
 - (iii) Channel catfish: Daily limit 10; no size restriction.
 - (iv) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.
- (227) **Schneider Creek (Thurston County):**
 - (a) Selective gear rules.
 - (b) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.
- (228) **Serene Lake (Snohomish County):** Open the fourth Saturday in April through October 31.
- (229) **Shady Lake (King County):** Open the fourth Saturday in April through October 31.
- (230) **Shannon, Lake (Skagit County):**
 - (a) Open the fourth Saturday in April through October 31.
 - (b) Chumming is permissible.
 - (c) Game fish: Statewide minimum length/daily limit, except: Kokanee: Minimum length 8 inches.
- (231) **Shelton Creek (Mason County):**
 - (a) Selective gear rules.
 - (b) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.
- (232) **Sherwood Creek (Mason County):**
 - (a) Selective gear rules.
 - (b) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.
- (233) **Sherwood Creek Mill Pond (Mason County):** Game fish: Statewide minimum length/daily limit, except:
 - (a) Trout: Daily limit 2; minimum length 14 inches.
 - (b) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.
 - (c) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.
 - (d) Channel catfish: Daily limit 10; no size restriction.
 - (e) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.
- (234) **Shoe Lake (Mason County):** Open the fourth Saturday in April through October 31.

- (235) **Silent Lake (Jefferson County):** Open the fourth Saturday in April through October 31.
- (236) **Silver Lake (Pierce County):** Open the fourth Saturday in April through October 31.
- (237) **Silver Lake (Whatcom County):** Open the fourth Saturday in April through October 31.
- (238) **Sixteen Lake (Skagit County):** Open the fourth Saturday in April through October 31.
- (239) **Skagit River (Skagit/Whatcom counties):**
 - (a) From the mouth to the Memorial Highway Bridge (Highway 536 at Mt. Vernon):
 - (i) Open March 1 through January 31.
 - (ii) March 1 through August 13:
 - (A) Selective gear rule except anglers fishing for sturgeon must use bait.
 - (B) It is unlawful to use hooks other than those measuring 1/2 inch or less from point to shank, except anglers fishing for sturgeon may use single-point barbless hooks of any size.
 - (iii) August 14 through October 15: Night closure.
 - (iv) Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
 - (v) Dolly Varden/Bull Trout: Minimum length of 20 inches as part of the trout limit.
 - (vi) Salmon:
 - (A) Open August 14 through August 31: Daily limit 4 pink salmon only. Release all other salmon.
 - (B) Open September 1 through October 15:
 - (I) Daily limit 2 salmon, plus 2 additional pinks.
 - (II) Release Chinook and chum.
 - (b) From Memorial Highway Bridge (Highway 536 at Mt. Vernon) upstream to Gilligan Creek:
 - (i) Open June 1 through January 31.
 - (ii) August 14 through October 15: Night closure.
 - (iii) June 1 through August 13:
 - (A) Selective gear rules except for sturgeon.
 - (B) It is unlawful to use hooks other than those measuring 1/2 inch or less from point to shank, except anglers fishing for sturgeon may use single-point barbless hooks of any size.
 - (iv) Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
 - (v) Dolly Varden/Bull Trout: Minimum length of 20 inches as part of the trout limit.
 - (vi) Salmon:
 - (A) Open August 14 through August 31: Daily limit 4 pink salmon only. Release all other salmon.
 - (B) Open September 1 through October 15:
 - (I) Daily limit 2 salmon, plus 2 additional pink salmon.
 - (II) Release Chinook and chum.
 - (c) From Gilligan Creek to The Dalles Bridge at Concrete:
 - (i) Open June 1 through January 31.
 - (ii) June 1 through August 31:
 - (A) Selective gear rules.
 - (B) It is unlawful to use hooks other than those measuring 1/2 inch or less from point to shank.
 - (iii) June 1 through October 15: Night closure.
 - (iv) Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(v) Dolly Varden/Bull Trout: Minimum length of 20 inches as part of the trout limit.

(vi) Salmon: Open September 1 through October 15:

(A) Daily limit 2 salmon, plus 2 additional pink salmon.

(B) Release Chinook and chum.

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

(i) Open June 1 through January 31.

(ii) June 1 through August 31: Closed waters between a line projected across the thread of the river 200 feet above the east bank of the Baker River to a line projected across the thread of the river 200 feet below the west bank of the Baker River.

(iii) June 1 through August 31:

(A) Selective gear rules.

(B) It is unlawful to use hooks other than those measuring 1/2 inch or less from point to shank.

(iv) June 1 through October 15: Night closure.

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

(vi) Dolly Varden/Bull Trout: Minimum length of 20 inches as part of the trout limit.

(vii) Salmon: Open September 1 through October 15:

(A) Daily limit 2 salmon, plus 2 additional pink salmon.

(B) Release Chinook and chum.

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

(i) Open June 1 through January 31:

(A) June 1 through July 15; anti-snagging rules.

(B) June 1 through July 15 and September 1 through October 15; night closure.

(C) July 16 through August 31: Selective gear rules and it is unlawful to use hooks other than those measuring 1/2 inch or less from point to shank.

(ii) Salmon:

(A) Open July 1 through July 15: Daily limit 4 hatchery Chinook only; up to 2 may be adults.

(B) Open September 1 through October 15:

(I) Daily limit 2, plus 2 additional pink salmon.

(II) Release Chinook and chum.

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

(i) Open June 1 through January 31.

(ii) Selective gear rules.

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

(iv) Release all fish except hatchery steelhead.

(240) Skokomish River (Mason County):

(a) From the mouth to the city of Tacoma PUD overhead distribution lines: Closed waters.

(b) From the city of Tacoma PUD overhead distribution lines to the Bonneville Transmission lines west of Highway 101: Closed waters.

(c) From the Bonneville Transmission lines west of Highway 101 to the forks:

(i) Selective gear rules.

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

(241) Skokomish River, North Fork (Mason County):

(a) From the mouth to the lower dam:

(i) Selective gear rules.

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

(b) Above Lake Cushman, from the mouth to Olympic National Park boundary:

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

(ii) Selective gear rules.

(iii) Release all fish.

(242) Skokomish River, South Fork (Mason County):

(a) From the mouth to the mouth of LeBar Creek:

(i) Selective gear rules.

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

(b) From LeBar Creek to Rule Creek: Closed waters.

(243) Skookum Creek (Mason County):

(a) Selective gear rules.

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

(244) Skykomish River (Snohomish County):

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

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

(ii) Dolly Varden/Bull trout: Minimum length of 20 inches as part of the trout limit.

(b) From the mouth to the mouth of Wallace River:

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

(ii) From August 1 through November 30:

(A) Anti-snagging rules.

(B) Night closure.

(iii) From November 1 through January 31: It is unlawful to fish from any floating device from the boat ramp below Lewis Street Bridge at Monroe downstream 2,500 feet.

(iv) Salmon:

(A) Open the Saturday before Memorial Day through July 31: Daily limit 4 hatchery Chinook; up to 2 may be adults.

(B) Open August 30 through September 19: Daily limit 4 pink and hatchery coho only.

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

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

(ii) August 1 through November 30:

(A) Anti-snagging rules.

(B) Night closure.

(iii) From the Saturday before Memorial Day through February 15: It is unlawful to fish from any floating device in the area 1,500 feet upstream and 1,000 feet downstream of the outlet at Reiter Ponds.

(iv) Salmon: Open August 30 through September 19: Daily limit 4, pink and hatchery coho only.

(245) Skykomish River, North Fork (Snohomish County):

(a) From the mouth to 1,000 feet downstream of Bear Creek Falls:

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

(ii) Selective gear rules.

(iii) Release all fish except hatchery steelhead.

(b) From 1000 feet downstream of Bear Creek Falls to Deer Falls and all tributaries: Closed waters.

(246) Skykomish River, South Fork (King/Snohomish counties):

(a) From the mouth to 600 feet downstream from the Sunset Falls fishway:

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

(ii) From August 1 through November 30:

(A) Anti-snagging rules.

(B) Night closure.

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

(b) From 600 feet downstream of Sunset Falls fishway to Sunset Falls: Closed waters.

(c) From Sunset Falls to the source:

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

(ii) Selective gear rules.

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

(d) All tributaries and their tributaries above Sunset Falls:

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

(ii) Selective gear rules.

(247) Snohomish River (Snohomish County):

(a) From the Burlington-Northern Railroad bridges to Highway 9 Bridge, including all channels, sloughs, and interconnected waterways, but excluding all tributaries:

(i) Sturgeon catch and release is permissible year-round.

(ii) August 1 through November 30:

(A) Anti-snagging rules; except anglers fishing for sturgeon may use single-point barbless hooks of any size.

(B) Night closure.

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

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

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

(B) Dolly Varden/Bull trout: Minimum length of 20 inches as part of the trout limit.

(v) Salmon: Open August 23 through September 19: Daily limit 4, pink and hatchery coho only.

(b) From the Highway 9 Bridge to the confluence of the Skykomish and Snoqualmie rivers and all channels:

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

(ii) August 1 through November 30:

(A) Anti-snagging rules.

(B) Night closure.

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

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

(B) Dolly Varden/Bull trout: Minimum length of 20 inches as part of the trout limit.

(iv) Salmon: Open August 23 through September 19: Daily limit 4, pink and hatchery coho only.

(248) Snoqualmie River (King County):

(a) From the mouth to Snoqualmie Falls:

(i) From the Saturday before Memorial Day through November 30: Selective gear rules.

(ii) From September 1 through November 30: Night closure.

(iii) From the mouth to the boat ramp at the Plum access: Open the Saturday before Memorial Day through January 31.

(iv) From the boat ramp at the Plum access to the falls: Open the Saturday before Memorial Day through February 15.

(v) From November 1 through February 15: It is unlawful to fish from any floating device in the waters from the boat ramp at the Plum access to the mouth of Tokul Creek (about 1/4 mile).

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

(b) From Snoqualmie Falls upstream, including the North Fork, South Fork, all tributaries except Middle Fork and tributaries to the Middle Fork:

(i) Selective gear rules.

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

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

(iv) Open November 1 through the Friday before Memorial Day: Release all fish.

(c) Middle Fork from the mouth to the source, including all tributaries:

(i) Open year-round.

(ii) Selective gear rules.

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

(iv) Release all fish.

(249) South Prairie Creek (Pierce County): From the mouth to the city of Buckley diversion dam: Closed waters.

(250) Spada Lake (Reservoir) (Snohomish 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 5; maximum length 12 inches.

(251) Spada Lake (Reservoir) tributaries (Snohomish County): Closed waters.

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

(253) Sprague Pond (Kitsap County): Game fish: Statewide minimum length/daily limit, except:

(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(254) Squalicum Lake (Whatcom County):

(a) Fly fishing only.

(b) All motors prohibited.

(c) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.

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

(a) Open September 16 through October 31.

(b) Selective gear rules.

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

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

(257) Stetattle Creek (Whatcom County): From the mouth to Bucket Creek: Closed waters.

(258) Stevens, Lake (Snohomish County):

(a) Chumming is permissible.

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

(i) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(ii) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(iii) Channel catfish: Daily limit 10; no size restriction.

(iv) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(259) Steilacoom Lake (Pierce County): Game fish: Statewide minimum length/daily limit, except:

(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

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

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

(262) Stillaguamish River (Snohomish County):

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

(i) Open year-round.

(ii) Night closure.

(iii) From August 1 through November 30: Anti-snagging rules, except anglers fishing for sturgeon may use single-point barbless hooks of any size.

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

(b) From Marine Drive to the forks:

(i) From the barrier dam (downstream of I-5) downstream 200 feet: Closed waters.

(ii) Open September 16 through November 15:

(A) Selective gear rules.

(B) Night closure.

(C) Release all fish except hatchery steelhead.

(iii) Open from December 1 through January 31. Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iv) Salmon: Closed.

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

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

(i) It is unlawful to fish from any floating device upstream of the Highway 530 Bridge at mile post 28.8 (Cicero Bridge).

(ii) It is unlawful to fish from any floating device equipped with a motor downstream from the Highway 530 Bridge.

(iii) Open the September 16 through November 30:

(A) Fly fishing only.

(B) From September 16 through November 30; night closure.

(C) Release all fish except hatchery steelhead.

(iv) Open from December 1 through January 31. Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(b) From the mouth of French Creek to Swede Heaven Bridge:

(i) From September 16 through November 30:

(A) Night closure.

(B) Anti-snagging rules.

(ii) Open September 16 through November 30:

(A) Fly fishing only.

(B) Release all fish except hatchery steelhead.

(iii) Open from December 1 through February 15. Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(c) From Swede Heaven Bridge to North Forks Falls approximately one mile upstream of Cascade Creek:

(i) Open September 16 through November 30.

(ii) Selective gear rules.

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

(264) Stillaguamish River, South Fork (Snohomish County):

(a) From the mouth to 400 feet downstream of the outlet to Granite Falls fishway:

(i) Open September 16 through January 31.

(ii) From September 16 through November 30:

(A) Anti-snagging rules.

(B) Night closure.

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

(b) From 400 feet below the Granite Falls Fishway to the Mountain Loop Highway Bridge above Granite Falls: Closed waters.

(c) From the Mountain Loop Highway Bridge above Granite Falls upstream to the source:

(i) Open Saturday before Memorial Day through November 30.

(ii) From August 1 through November 30:

(A) Anti-snagging rules.

(B) Night closure.

(265) **Stitch Lake (Snohomish County):** Game fish: Statewide minimum length/daily limit, except:

(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

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

(267) **Suiattle River (Skagit/Snohomish County):**

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Dolly Varden/Bull trout: Minimum length of 20 inches as part of trout limit.

(268) **Sultan River (Snohomish County):** From the mouth to a point 400 feet downstream from the diversion dam at river mile 9.7:

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

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

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

(ii) Dolly Varden/Bull trout: Minimum length of 20 inches as part of the trout limit.

(269) **Sultan River; North Fork (Snohomish County):** Closed waters.

(270) **Sultan River; South Fork (Snohomish County):** Closed waters.

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

(272) **Sunset Lake (Whatcom County):** Game fish: Statewide minimum length/daily limit, except:

(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(273) **Susan Lake (Thurston County):**

(a) Selective gear rules.

(b) Release all fish.

(274) **Swan's Mill Pond (Stossel Creek) (King County):** Open the Saturday before Memorial Day through October 31.

(275) **Symington Lake (Kitsap County):**

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

(b) Selective gear rules.

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

(i) Release cutthroat trout and wild rainbow trout.

(ii) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(iii) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(iv) Channel catfish: Daily limit 10; no size restriction.

(v) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(276) **Tahuya Lake (Kitsap County):** Game fish: Statewide minimum length/daily limit, except:

(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(277) **Tahuya River (Mason County):**

(a) From the mouth to the Belfair Tahuya Road Bridge:

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

(ii) Selective gear rules.

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

(b) From the Belfair Tahuya Road Bridge upstream:

(i) Selective gear rules.

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

(278) **Tanwax Lake (Pierce County):** Game fish: Statewide minimum length/daily limit, except: Crappie: Daily limit 10; minimum length 9 inches.

(279) **Tapps Lake (Reservoir) and Tapps Lake (Reservoir) intake canal (Pierce County), to within 400 feet of the screen at Dingle Basin:** Open year-round.

(280) **Tarboo Creek (Jefferson County):**

(a) Selective gear rules.

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

(281) **Tarboo Lake (Jefferson County):**

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

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

(282) **Teal Lake (Jefferson County):**

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

(b) Selective gear rules.

(c) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

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

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

(285) **Terrell, Lake (Whatcom County):** It is unlawful to fish from any floating device from the first Saturday after Labor Day through the following Friday and from October 1 through January 31, except fishing from a floating dock is permissible.

(286) **Thornton Creek (Whatcom County):** Game fish: Statewide minimum length/daily limit, except: Cutthroat trout: No daily limit; no minimum length.

(287) **Thornton Lake, lower (Whatcom County):** Game fish: Statewide minimum length/daily limit, except: Cutthroat trout: No daily limit; no minimum length.

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

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

(290) **Tokul Creek (King County) (Snoqualmie River tributary):**

(a) From the mouth to the Fish Hatchery Road Bridge:

(i) Open December 1 through February 15, except closed waters from 5:00 p.m. to 7:00 a.m.

(ii) Anti-snagging rules.

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

(b) From Fish Hatchery Road Bridge to the posted boundary marker located downstream of the diversion dam:

(i) Open January 15 through February 15, except closed waters from 5:00 p.m. to 7:00 a.m.

(ii) Anti-snagging rules.

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

(c) From the posted boundary marker downstream of the diversion dam to Tokul Road S.E.: Closed waters.

(291) **Tolt River (King County):**

(a) From the mouth to the USGS trolley cable near the confluence of the North and South Forks:

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

(ii) Selective gear rules.

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

(b) From the USGS trolley cable just below the confluence of the North Fork and South Forks to the forks: Closed waters.

(292) **Tolt River, North Fork (King County):**

(a) From the mouth upstream to the falls approximately 1/3 miles above the Northeast North Fork Road Bridge (Pipeline Bridge): Closed waters.

(b) From the falls approximately 1/3 mile above the Northeast North Fork Road Bridge (Pipeline Bridge) upstream, including all tributaries:

(i) Selective gear rules.

(ii) Release all fish.

(293) **Tolt River, South Fork (King County):** From the mouth upstream to the dam: Closed waters.

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

(295) **Uncle John Creek (Mason County):**

(a) Selective gear rules.

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

(296) **Union River (Mason County):**

(a) From the mouth to the lower bridge on Old Belfair Highway:

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

(ii) Selective gear rules.

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

(b) From the lower bridge on Old Belfair Highway upstream:

(i) Selective gear rules.

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

(297) **Vogler Lake (Skagit County):**

(a) Fly fishing only.

(b) Release all fish.

(298) **Voight Creek (Pierce County):** From the mouth to the Highway 162 Bridge: Closed waters.

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

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

(301) **Wallace River (Snohomish County):**

(a) From the mouth to 363rd Ave. S.E./Reece Rd:

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

(ii) From the Saturday before Memorial Day through November 30:

(A) Anti-snagging rules.

(B) Night closure.

(iii) From November 1 through February 15: It is unlawful to fish from any floating device.

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

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

(B) Dolly Varden/Bull trout: Minimum length of 20 inches as part of the trout limit.

(v) Salmon:

(A) Open October 1 through November 30.

(B) Daily limit 2 hatchery coho only.

(b) From 363rd Avenue S.E./Reece Road to 200 feet downstream of the water intake of the salmon hatchery:

(i) Open September 16 through February 15.

(ii) September 16 through November 30:

(A) Anti-snagging rules.

(B) Night closure.

(iii) November 1 through February 15: It is unlawful to fish from any floating device.

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

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

(B) Dolly Varden/Bull trout: Minimum length of 20 inches as part of the trout limit.

(v) Salmon:

(A) Open October 1 through November 30.

(B) Daily limit 2 hatchery coho only.

(c) From 200 feet downstream of the water intake to 200 feet upstream of the water intake: Closed waters when the hatchery weir is in operation.

(d) From 200 feet upstream of the water intake of the salmon hatchery to Wallace Falls:

(i) Open November 1 through January 31.

(ii) It is unlawful to fish from any floating device.

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

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

(B) Dolly Varden/Bull trout: Minimum length of 20 inches as part of the trout limit.

(302) Walsh Lake (King County): Game fish: Statewide minimum length/daily limit, except:

(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(303) Wapato Lake (Pierce County): Open to juvenile anglers, senior anglers and anglers with a disability who possess a designated harvester companion card.

(304) Washington Lake, including that portion of the Sammamish River from the 68th Avenue N.E. Bridge downstream and Mercer slough (King County):

(a) Open year-round.

(b) Chumming is permissible.

(c) From July 1 through November 30: Game fish: Statewide minimum length/daily limit, except:

(i) Kokanee: Daily limit 5; minimum length 8 inches; maximum length 18 inches.

(ii) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(iii) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(iv) Channel catfish: Daily limit 10; no size restriction.

(v) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(d) December 1 through the last day in February:

(i) Game fish: Statewide minimum length/daily limit, except: Release steelhead and rainbow trout over 20 inches in length.

(ii) Kokanee: Daily limit 5; minimum length 8 inches; maximum length 18 inches.

(iii) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(iv) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(v) Channel catfish: Daily limit 10; no size restriction.

(vi) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(e) March 1 through June 30: Game fish: Statewide minimum length/daily limit, except:

(i) Kokanee: Daily limit 5; minimum length 8 inches; maximum length 18 inches.

(ii) Trout: Minimum length 12 inches.

(iii) Release steelhead and rainbow trout over 20 inches in length.

(iv) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(v) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(vi) Channel catfish: Daily limit 10; no size restriction.

(vii) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(f) Salmon: Closed.

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

(a) East of the Fremont Bridge: Chumming is permissible.

(b) From the west boundary to a north-south line 400 feet east of the eastern end of the northern wing wall of Chittenden Locks: Closed waters.

(c) From 400 feet east of the eastern end of the northern wing wall of Chittenden Locks to the east boundary:

(i) From July 1 through November 30: Game fish: Statewide minimum length/daily limit, except:

(A) Kokanee: Daily limit 5; minimum length 8 inches; maximum length 18 inches.

(B) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(C) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(D) Channel catfish: Daily limit 10; no size restriction.

(E) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(ii) From December 1 through the last day in February: Game fish: Statewide minimum length/daily limit, except:

(A) Release steelhead and rainbow trout over 20 inches in length.

(B) Kokanee: Daily limit 5; minimum length 8 inches; maximum length 18 inches.

(C) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(D) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(E) Channel catfish: Daily limit 10; no size restriction.

(F) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(iii) March 1 through June 30: Game fish: Statewide minimum length/daily limit, except:

(A) Kokanee: Daily limit 5; minimum length 8 inches; maximum length 18 inches.

(B) Trout: Minimum length 12 inches.

(C) Release steelhead and rainbow trout over 20 inches in length.

(D) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(E) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(F) Channel catfish: Daily limit 10; no size restriction.

(G) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(306) Whatcom Creek (Whatcom County):

(a) From the mouth to the markers below the footbridge below Dupont Street in Bellingham:

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

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

(iii) Anglers fishing lawfully within 50 yards of the Bellingham Technical College Hatchery Collection Tube and on the hatchery side of the creek that hook and land chum salmon may remove those chum salmon from the water and immediately place them unharmed into the Hatchery Collection Tube.

(b) From the markers below the footbridge below Dupont Street in Bellingham to the footbridge below Dupont Street: Closed waters.

(c) From the footbridge below Dupont Street in Bellingham to the stone bridge at Whatcom Falls Park:

(i) August 1 through October 31:

(A) Anti-snagging rules.

(B) Night closure.

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

(d) From the stone bridge at Whatcom Falls Park upstream to Lake Whatcom: Open the fourth Saturday in April through October 31 for juvenile anglers only.

(e) Game fish: Statewide minimum length/daily limit, except: Trout: No minimum length.

(307) Whatcom, Lake (Whatcom County):

(a) The waters between the Electric Avenue Bridge and the outlet dam: Closed waters.

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

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

(308) Whatcom, Lake, tributaries (Whatcom County): Closed waters.

(309) White (Stuck) River (Pierce County):

(a) From October 1 through October 31:

(i) Night closure.

(ii) Selective gear rules.

(b) Release all fish.

(c) Cascade Water Alliance canal, including the screen bypass channel above the screen at Dingle Basin: Closed waters.

(d) Whitefish: Open December 1 through the last day in February: Whitefish gear rules.

(310) White Chuck River (Snohomish County):

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Dolly Varden/Bull trout: Minimum length of 20 inches as part of the trout limit.

(311) Wildcat Creek (Kitsap County):

(a) Selective gear rules.

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

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

(313) Wilderness Lake (King County):

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

(b) Landlocked salmon rules.

(314) Wilkeson Creek (Pierce County) (South Prairie Creek tributary): From the mouth to the confluence with Gale Creek: Closed waters.

(315) Woodard Creek (Thurston County):

(a) Selective gear rules.

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

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

(317) Woodland Creek (Thurston County):

(a) Selective gear rules.

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

(318) Woodland Farm Reservoir (Snohomish County): Game fish: Statewide minimum length/daily limit, except:

(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

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

AMENDATORY SECTION (Amending WSR 21-14-067, filed 7/2/21, effective 8/2/21)

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) ((Billy's Acclimation Pond (Yakima County): Game fish: Statewide minimum length/daily limit, except:~~

~~(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.~~

~~(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.~~

~~(c) Channel catfish: Daily limit 10; no size restriction.~~

~~(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.~~

(28)) 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.

((29)) (28) Black Canyon Creek (tributary to Methow River) (Okanogan County): Closed waters.

((30)) (29) Black Lake (Chelan County): Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

((31)) (30) Black Lake (Okanogan County): Selective gear rules.

((32)) (31) Black Lake (Stevens County): Open the fourth Saturday in April through October 31.

((33)) (32) Blue Lake (Columbia County): It is unlawful to fish from any floating device.

((34)) (33) Blue Lake (Grant County): Open the fourth Saturday in April through September 30.

((35)) (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.

((36)) (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.

~~((37)) (36) Bobcat Creek and Ponds (Adams County):~~ Open the fourth Saturday in April through September 30.

~~((38)) (37) Bonaparte Creek (Okanogan County):~~ From the mouth to the falls approximately river mile 1.0: Closed waters.

~~((39)) (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.~~

~~((40)) (39) Boulder Creek and tributaries (Okanogan County):~~ From the mouth to the barrier falls at river mile 1.0: Closed waters.

~~((41)) (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.

~~((42)) (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.~~

~~((43)) (42) Bumping Lake (Reservoir) (Yakima County):~~ Chumming is permissible.

~~((44)) (43) Buckskin Creek and tributaries (Yakima County):~~ From the mouth to the west boundary of Suntides Golf Course: Closed waters.

~~((45)) (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.~~

~~((46)) (45) Burke Lake (Grant County):~~ Open March 1 through September 30.

~~((47)) (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.~~

~~((48)) (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.~~

~~((49)) (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.~~

~~((50)) (49) Caliche Lakes, Upper (Grant County):~~ Open March 1 through September 30.

~~((54))~~ (50) **Calispell Creek (Calispell River) (Pend Oreille County):** From the mouth to Calispell Lake: Open year-round.

~~((52))~~ (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.

~~((53))~~ (52) **Carl's Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.

~~((54))~~ (53) **Cascade Lake (Grant County):** Open March 1 through September 30.

~~((55))~~ (54) **Cattail Lake (Grant County):** Open the fourth Saturday in April through September 30.

~~((56))~~ (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.

~~((57))~~ (56) **Cedar Lake (Stevens County):** Open the fourth Saturday in April through October 31.

~~((58))~~ (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.

~~((59))~~ (58) **Chapman Lake (Spokane County):**

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

(b) Chumming is permissible.

~~((60))~~ (59) **Chelan Hatchery Creek (Chelan County):** Closed waters.

~~((61))~~ (60) **Chelan Lake (Chelan County):**

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

(i) Release wild cutthroat trout.

(ii) Lake trout: No limit and no size restriction.

(b) Salmon: Daily limit 1; minimum length 15 inches.

(c) No catch record card required.

~~((62))~~ (61) **Chelan Lake tributaries (Chelan County):**

(a) Selective gear rules.

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

~~((63))~~ (62) **Chelan River (Chelan County):** From the railroad bridge to the Chelan PUD safety barrier below the power house:

(a) Salmon: Open July 16 through October 15:

(i) Daily limit 6; up to 2 may be adult hatchery Chinook. Release sockeye, coho, and wild adult Chinook.

(ii) July 16 through October 15: Anti-snagging rule and night closure.

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

(i) Release trout.

(ii) Steelhead: Closed to fishing.

(c) From the Chelan PUD safety barrier below the power house upstream to Chelan Lake: Closed waters.

~~((64))~~ (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.

~~((65))~~ (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.

~~((66))~~ (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.

~~((67))~~ (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.

~~((68))~~ (67) **Chumstick Creek (Chelan County):** Closed waters.

~~((69))~~ (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.

~~((70))~~ (69) **Clear Lake (Spokane County):** Open the fourth Saturday in April through October 31.

~~((71))~~ (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.

~~((72))~~ (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.

~~((73))~~ (72) **Cliff Lake (Grant County)**: Open March 1 through September 30.

~~((74))~~ (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.

~~((75))~~ (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.

~~((76))~~ (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.

~~((77))~~ (76) **Colville River (Stevens County)**: From the mouth to bridge at the town of Valley including Meyers Falls Reservoir: Open year-round.

~~((78))~~ (77) **Conconully Lake (Okanogan County)**: Open the fourth Saturday in April through October 31.

~~((79))~~ (78) **Conconully Reservoir (Okanogan County)**: Open the fourth Saturday in April through October 31.

~~((80))~~ (79) **Conger Pond (Pend Oreille County)**: Open the fourth Saturday in April through October 31.

~~((81))~~ (80) **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.

~~((82))~~ (81) **Cooper River (Kittitas County)**: From the mouth to Cooper Lake: Selective gear rules.

~~((83))~~ (82) **Coot Lake (Grant County)**: Open the fourth Saturday in April through September 30.

~~((84))~~ (83) **Corral Creek (Benton County)**: Selective gear rules.

~~((85))~~ (84) **Cougar Lake (Pasayten Wilderness) (Okanogan County)**: Selective gear rules.

~~((86))~~ (85) **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.

~~((87))~~ (86) **Cowiche Creek (Yakima County)**: Selective gear rules.

~~((88))~~ (87) **Coyote Creek and Ponds (Adams County)**: Open the fourth Saturday in April through September 30.

~~((89))~~ (88) **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 the confluence of the Moses Lake outlets to Sand Dunes Road including tributaries:

(i) Open year-round.

(ii) Statewide lake rules apply to all species, 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) Statewide lake rules apply to all species, 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.

~~((90))~~ (89) **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.

~~((91))~~ (90) **Crescent Lake (Pend Oreille County)**: Open the fourth Saturday in April through October 31.

~~((92))~~ (91) **Crystal Lake (Grant County)**: Open March 1 through September 30.

~~((93))~~ (92) **Cub Creek (tributary to Chewuch River) (Okanogan County)**: From mouth upstream to West Chewuch Road Bridge: Closed waters.

~~((94))~~ (93) **Cup Lake (Grant County)**: Open March 1 through September 30.

~~((95))~~ (94) **Curl Lake (Columbia County)**:

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

(b) It is unlawful to fish from any floating device.

~~((96))~~ (95) **Davis Lake (Ferry County)**: Open the fourth Saturday in April through October 31.

~~((97))~~ (96) **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.

~~((98))~~ (97) **Dayton Pond (Columbia County)**: Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

~~((99))~~ (98) **Deadman Lake (Adams County)**: Open the fourth Saturday in April through September 30.

~~((100))~~ (99) **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.

~~((101))~~ (100) **Deep Lake (Grant County)**: Open the fourth Saturday in April through September 30.

~~((102))~~ (101) **Deep Lake (Stevens County):** Open the fourth Saturday in April through October 31.

~~((103))~~ (102) **Deer Lake (Columbia County):**

(a) Open March 1 through November 30.

(b) It is unlawful to fish from any floating device.

~~((104))~~ (103) **Deer (Deer Springs) Lake (Lincoln County):** Open the fourth Saturday in April through September 30.

~~((105))~~ (104) **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.

~~((106))~~ (105) **Delaney Springs (Grant County):** Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

~~((107))~~ (106) **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.

~~((108))~~ (107) **Dog Creek (tributary to Chewuch) (Okanogan County):** From mouth upstream to falls approximately 1.5 miles: Closed waters.

~~((109))~~ (108) **Domerie Creek (Kittitas County):** Selective gear rules.

~~((110))~~ (109) **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.

~~((111))~~ (110) **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.

~~((112))~~ (111) **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.

~~((113))~~ (112) **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.

~~((114))~~ (113) **Eagle Creek (tributary to Twisp River) (Okanogan County):** From mouth upstream to the falls approximately 0.5 miles: Closed waters.

~~((115))~~ (114) **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.

~~((116))~~ (115) **Eightmile Creek (tributary to Chewuch River) (Okanogan County):** From the mouth upstream to Forest Road 5130 Bridge: Closed waters.

~~((117))~~ (116) **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.

~~((118))~~ (117) **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.

~~((119))~~ (118) **Eloika Lake (Spokane County):** Game fish: Statewide minimum length/daily limit, except: Crappie: Daily limit 10; minimum length 9 inches.

~~((120))~~ (119) **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.

~~((121))~~ (120) **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):

(i) Salmon: Open from July 16 through September 30:

(A) Daily limit 6 Chinook salmon. Release all other salmon.

(B) Night closure.

(ii) Open December 1 through the last day in February for whitefish only.

(iii) 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.

~~((122))~~ (121) **Ephrata Lake (Grant County):** Closed waters.

~~((123))~~ (122) **Esquatzel Coulee (Franklin County):** Open year-round.

~~((124))~~ (123) **Esquatzel Coulee, West Branch (Franklin County):** Open year-round.

~~((125))~~ (124) **Falls Creek (tributary to Chewuch River) (Okanogan County):** From mouth upstream to the falls approximately .15 miles: Closed waters.

~~((126))~~ (125) **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.

~~((127))~~ (126) **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.

~~((128))~~ (127) **Fiorito Lakes (Kittitas County)**: It is unlawful to fish from a floating device equipped with an internal combustion motor.

~~((129))~~ (128) **Fish Lake (Chelan County)**: Game fish: Statewide minimum length/daily limit, except: Yellow perch: Daily limit 25.

~~((130))~~ (129) **Fish Lake (Okanogan County)**: Open the fourth Saturday in April through October 31.

~~((131))~~ (130) **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.

~~((132))~~ (131) **Fishhook Pond (Walla Walla County)**: It is unlawful to fish from a floating device.

~~((133))~~ (132) **Fishtrap Lake (Lincoln/Spokane counties)**: Open the fourth Saturday in April through September 30.

~~((134))~~ (133) **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.

~~((135))~~ (134) **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.

~~((136))~~ (135) **Frank's Pond (Chelan County)**:

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

(b) Open to juvenile anglers only.

~~((137))~~ (136) **Frater Lake (Pend Oreille County)**: Open the fourth Saturday in April through October 31.

~~((138))~~ (137) **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.

~~((139))~~ (138) **Gadwall Lake (Grant County)**: Open the fourth Saturday in April through September 30.

~~((140))~~ (139) **Garfield Juvenile Pond (Whitman County)**: Open to juvenile anglers only.

~~((141))~~ (140) **Goat Creek (tributary to Methow River) (Okanogan County)**: Closed waters.

~~((142))~~ (141) **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.

~~((143))~~ (142) **Gold Creek (tributary to Methow River) (Okanogan County)**: Closed waters.

~~((144))~~ (143) **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.

~~((145))~~ (144) **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.

~~((146))~~ (145) **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.

~~((147))~~ (146) **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.

~~((148))~~ (147) **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.

~~((149))~~ (148) **Halfmoon Lake (Adams County)**: Open the fourth Saturday in April through September 30.

~~((150))~~ (149) **Hampton Lakes (Lower and Upper) (Grant County)**: Open the fourth Saturday in April through September 30.

~~((151))~~ (150) **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.

~~((152))~~ (151) **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.

~~((153))~~ (152) **Hatch Lake (Stevens County)**: Open the Friday after Thanksgiving through March 31.

((154)) (153) **Hays Creek and Ponds (Adams County):** Open the fourth Saturday in April through September 30.

((155)) (154) **Headgate Pond (Asotin County):** Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

((156)) (155) **Hen Lake (Grant County):** Open the fourth Saturday in April through September 30.

((157)) (156) **Hog Canyon Creek (Spokane County):** From the mouth to Scroggie Road: Closed waters.

((158)) (157) **Hog Canyon Lake (Spokane County):** Open the Friday after Thanksgiving through March 31.

((159)) (158) **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.

((160)) (159) **Hourglass Lake (Grant County):** Open the fourth Saturday in April through September 30.

((161)) (160) **Hutchinson Lake (Adams County):** Open the fourth Saturday in April through September 30.

((162)) (161) **I-82 Ponds, 1 through 7 (Yakima County):** It is unlawful to fish from a floating device equipped with an internal combustion motor.

((163)) (162) **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 waters.

(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): Closed waters.

(e) From the Icicle Irrigation Peshastin District footbridge upstream, and tributaries: Selective gear rules.

((164)) (163) **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.

((165)) (164) **Ingalls Creek (Chelan County):** From the mouth to Alpine Lakes Wilderness boundary and tributaries: Closed waters.

((166)) (165) **Jameson Lake (Douglas County):** Open the fourth Saturday in April through October 31.

((167)) (166) **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.

((168)) (167) **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.

((169)) (168) **Jolanda, Lake (Chelan County):** Closed waters.

((170)) (169) **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.

((171)) (170) **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.

((172)) (171) **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.

((173)) (172) **Kettle Creek (tributary to American River) (Yakima County):** Closed waters.

((174)) (173) **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.

((175)) (174) **Kings Lake and tributaries (Pend Oreille County):** Closed waters.

((176)) (175) **Kiwanis Pond (Kittitas County):** Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

((177)) (176) **Lake Creek (Okanogan County):**

(a) From the mouth to Black Lake: Closed waters.

(b) From Black Lake to Three Prong Creek: Closed waters.

((178)) (177) **Ledbetter Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.

((179)) (178) **Ledking Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.

((180)) (179) **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.

((181)) (180) **Lemna Lake (Grant County):** Open the fourth Saturday in April through September 30.

((182)) (181) **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.
- ~~((183))~~ **(182) 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.
- ~~((184))~~ **(183) Libby Creek (tributary to Methow River) (Okanogan County):** Closed waters.
- ~~((185))~~ **(184) Liberty Lake (Spokane County):** Open March 1 through October 31.
- ~~((186))~~ **(185) 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.
- ~~((187))~~ **(186) 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.
- ~~((188))~~ **(187) 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.
- ~~((189))~~ **(188) Little Falls Reservoir (Spokane River) (Lincoln County):** From Little Falls Dam to Long Lake Dam: Landlocked salmon rules.
- ~~((190))~~ **(189) Little Lost Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.
- ~~((191))~~ **(190) Little Naches River including tributaries (Yakima County):** Selective gear rules.
- ~~((192))~~ **(191) Little Pend Oreille River and tributaries (Stevens County):** Selective gear rules.
- ~~((193))~~ **(192) 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.
- ~~((194))~~ **(193) 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.
- ~~((195))~~ **(194) Little Twin Lake (Stevens County):** Open the fourth Saturday in April through October 31.
- ~~((196))~~ **(195) 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.
- ~~((197))~~ **(196) 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.
- ~~((198))~~ **(197) Long Lake (Okanogan County):** Open the fourth Saturday in April through October 31.
- ~~((199))~~ **(198) 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: Landlocked salmon rules.
- ~~((200))~~ **(199) Loon Lake (Stevens County):** Open the fourth Saturday in April through October 31.
- ~~((201))~~ **(200) Lost Lake (Kittitas County):** Game fish: Statewide minimum length/daily limit, except: Rainbow trout: Daily limit 2; minimum length 14 inches.
- ~~((202))~~ **(201) 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.
- ~~((203))~~ **(202) 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.
- ~~((204))~~ **(203) Lyman Lake (Okanogan County):** Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.
- ~~((205))~~ **(204) 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.

~~((206))~~ (205) **Manastash Creek (Kittitas County):** Selective gear rules.

~~((207))~~ (206) **Marshall Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.

~~((208))~~ (207) **Martha Lake (Grant County):** Open March 1 through September 30.

~~((209))~~ (208) **Mary Ann Lake (Okanogan County):** Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

~~((210))~~ (209) **Mattoon Lake (Kittitas County):** It is unlawful to fish from a floating device equipped with an internal combustion motor.

~~((211))~~ (210) **McCabe Pond (Kittitas County):** It is unlawful to fish from any floating device equipped with a motor.

~~((212))~~ (211) **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.

~~((213))~~ (212) **McManaman Lake (Adams County):** Open the fourth Saturday in April through September 30.

~~((214))~~ (213) **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.

~~((215))~~ (214) **Medical Lake, West (Spokane County):** Open the fourth Saturday in April through September 30.

~~((216))~~ (215) **Mercer Creek (Kittitas County):** Selective gear rules.

~~((217))~~ (216) **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.

~~((218))~~ (217) **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:

(i) Release all fish, except: Eastern brook trout: No minimum length/daily limit.

(ii) Steelhead: Closed to fishing.

(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.

(iv) Steelhead: Closed to fishing.

(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.

(iii) Steelhead: Closed to fishing.

(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) Steelhead: Closed to fishing.

(v) 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:

(i) Release all fish, except: Eastern brook trout: No minimum length/daily limit.

(ii) Steelhead: Closed to fishing.

(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.

(C) Steelhead: Closed to fishing.

(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.

~~((219))~~ (iii) Steelhead: Closed to fishing.

(218) 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.

~~((220))~~ (219) Mineral Creek (tributary to upper Kachess River) (Kittitas County): From the mouth to the Wilderness Boundary: Closed waters.

~~((221))~~ (220) Molson Lake (Okanogan County): Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

~~((222))~~ (221) Monument Creek (Okanogan County), including tributaries: Selective gear rules.

~~((223))~~ (222) **Morgan Lake (Adams County)**: Open the fourth Saturday in April through September 30.

~~((224))~~ (223) **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.

~~((225))~~ (224) **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.

~~((226))~~ (225) **Mudgett Lake (Stevens County)**: Open the fourth Saturday in April through October 31.

~~((227))~~ (226) **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.

~~((228))~~ (227) **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.

~~((229))~~ (228) **Mystic Lake (Pend Oreille County)**: Open the fourth Saturday in April through October 31.

~~((230))~~ (229) **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.

~~((231))~~ (230) **Naneum Creek and tributaries (Kittitas County)**: Selective gear rules.

~~((232))~~ (231) **Naneum Pond (Kittitas County)**: Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

~~((233))~~ (232) **Napeequa River (Chelan County)**: From mouth to Twin Lakes Creek (including Twin Lakes Creek and all tributaries: Closed waters.

~~((234))~~ (233) **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.

~~((235))~~ (234) **Nile Creek and tributaries (Yakima County)**: Selective gear rules.

~~((236))~~ (235) **No Name Lake (Pend Oreille County)**: Open the fourth Saturday in April through October 31.

~~((237))~~ (236) **North Creek (tributary to Twisp River) (Okanogan County)**: From the mouth upstream to Twisp River Road Bridge: Closed waters.

~~((238))~~ (237) **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.

~~((239))~~ (238) **North Potholes Reserve Ponds (Grant County)**: Open March 1 through the day before waterfowl season begins.

~~((240))~~ (239) **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.

~~((241))~~ (240) **Oak Creek and tributaries (Yakima County)**: Selective gear rules.

~~((242))~~ (241) **Okanogan River (Okanogan County)**: (a) From the mouth to Highway 97 Bridge immediately upstream of the mouth:

(i) Salmon: Open July 1 through October 15:

(A) Daily limit 6; up to 2 adult Chinook may be retained.

(B) Release sockeye, coho, and wild adult Chinook.

(ii) July 1 through October 15: Anti-snagging rule and night closure.

(iii) Game fish: Open year-round. Statewide minimum length/daily limit, except:

(A) Release trout.

(B) Steelhead: Closed to fishing.

(b) From Highway 97 Bridge immediately upstream of the mouth to the highway bridge at Malott:

(i) Salmon: Open July 1 through September 15:

(A) Daily limit 6; up to 2 adult hatchery Chinook may be retained.

(B) Release sockeye, coho, and wild adult Chinook.

(ii) July 1 through September 15: Anti-snagging rule and night closure.

(iii) Game fish: Open year-round. Statewide minimum length/daily limit, except:

(A) Release trout.

(B) Steelhead: Closed to fishing.

(c) 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) Salmon: Open July 1 through September 15:

(A) Daily limit 6; up to 2 adult hatchery Chinook may be retained.

(B) Release sockeye, coho, and wild adult Chinook.

(iii) July 1 through September 15: Anti-snagging rule and night closure.

(iv) Game fish: Open the Saturday before Memorial Day through September 15. Statewide minimum length/daily limit, except:

(A) Release trout.

(B) Steelhead: Closed to fishing.

(d) 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.

~~((243))~~ (242) **Osoyoos Lake (Okanogan County):** Game fish: Statewide minimum length/daily limit, except:

(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

~~((244))~~ (243) **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.

~~((245))~~ (244) **Palouse River (Whitman County) mainstem above Palouse Falls and tributaries (Washington waters only), except Rock Creek and Hog Canyon Creek:** Open year-round.

~~((246))~~ (245) **Pampa Pond (Whitman County):**

(a) Open March 1 through September 30.

(b) It is unlawful to fish from any floating device.

~~((247))~~ (246) **Park Lake (Grant County):** Open the fourth Saturday in April through September 30.

~~((248))~~ (247) **Parker Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.

~~((249))~~ (248) **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.

~~((250))~~ (249) **Pearrygin Lake (Okanogan County):** Open the fourth Saturday in April through October 31.

~~((251))~~ (250) **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.

~~((252))~~ (251) **Perch Lake (Grant County):** Open the fourth Saturday in April through September 30.

~~((253))~~ (252) **Peshastin Creek and all tributaries except Ingalls Creek (Chelan County):** Closed waters.

~~((254))~~ (253) **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.

~~((255))~~ (254) **Phalon Lake (Stevens County):** Closed waters.

~~((256))~~ (255) **Phillips Lake (Stevens County):** Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

~~((257))~~ (256) **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.

~~((258))~~ (257) **Pillar Lake (Grant County):** Open the fourth Saturday in April through September 30.

~~((259))~~ (258) **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.

~~((260))~~ (259) **Pit Lake (Douglas County):** Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

~~((261))~~ (260) **Poacher Lake (Grant County):** Open the fourth Saturday before April through September 30.

~~((262))~~ (261) **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.

~~((263))~~ (262) **Potter's Pond (Stevens County):** Open the fourth Saturday in April through October 31.

~~((264))~~ (263) **Powerline Lake (Franklin County):** Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.

~~((265))~~ (264) **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.

~~((266))~~ (265) **Quarry Pond (Walla Walla County):** It is unlawful to fish from any floating device.

~~((267))~~ (266) **Quincy Lake (Grant County):** Open March 1 through September 30.

~~((268))~~ (267) **Rainbow Lake (Columbia County):**

(a) Open March 1 through November 30.

(b) It is unlawful to fish from any floating device.

~~((269))~~ (268) **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.

~~((270))~~ (269) **Rattlesnake Creek and tributaries (Yakima County):**

- (a) Selective gear rules.
 (b) Release all fish.
 ((271)) **(270) Red Rock Creek (Grant County):**
 Open the Saturday before Memorial Day through September 30.
- ((272)) **(271) 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.
 ((273)) **(272) 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.
 ((274)) **(273) 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.
 ((275)) **(274) Rimrock Lake (Reservoir) (Yakima County):** Chumming is permissible.
 ((276)) **(275) Ringold Springs Hatchery Creek (Franklin County):** Closed waters.
 ((277)) **(276) Roaring Creek (Entiat River tributary) (Chelan County):** Closed waters.
 ((278)) **(277) 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.
 ((279)) **(278) Rocky Ford Creek and Ponds (Grant County):**
 (a) Open to fly fishing and fishing from the bank only (no wading).
 (b) Release all fish.
 ((280)) **(279) Rocky Lake (Stevens County):** Open the fourth Saturday in April through October 31.
 ((281)) **(280) 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:
 (A) Salmon count toward trout daily limit.
 (B) No catch record card required.
 (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:
 (A) Salmon count toward trout daily limit.
 (B) No catch record card required.
 ((282)) **(281) Round Lake (Okanogan County):**
 Open the fourth Saturday in April through October 31.
 ((283)) **(282) Royal Lake (Adams County):** Closed waters.
 ((284)) **(283) Royal Slough (including Marsh Unit IV impoundments) (Adams County):** Closed waters.
 ((285)) **(284) 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.
 (c) Sturgeon: Closed to fishing.
 (d) A nonmember fishing permit issued by the Colville Tribes shall satisfy the license requirement of RCW 77.32.010 on the waters of Lake Rufus Woods and on the north shore of Lake Rufus Woods.
 (e) A Colville tribal member identification card satisfies the license requirement of RCW 77.32.010 on all waters of Lake Rufus Woods.
 ((286)) **(285) Sacheen Lake (Pend Oreille County):**
 Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.
 ((287)) **(286) Saddle Mountain Lake (Grant County):** Closed waters.
 ((288)) **(287) Sago Lake (Grant County):** Open the fourth Saturday in April through September 30.
 ((289)) **(288) 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.

~~((290))~~ (289) **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:

(A) Salmon count toward trout daily limit.

(B) No catch record card required.

(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.

~~((291))~~ (290) **Sand Hollow Creek (Grant County) including tributaries:** From the mouth (State Route 243) upstream: Open the Saturday before Memorial Day through September 30.

~~((292))~~ (291) **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.

~~((293))~~ (292) **Schallow Pond (Okanogan County):** Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

~~((294))~~ (293) **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.

~~((295))~~ (294) **Shellneck Creek (Yakima County):** Closed waters.

~~((296))~~ (295) **Sherman Creek (Ferry County) and tributaries:** From the hatchery boat dock to 400 feet upstream of hatchery water diversion dam: Closed waters.

~~((297))~~ (296) **Shiner Lake (Adams County):** Open the fourth Saturday in April through September 30.

~~((298))~~ (297) **Shoveler Lake (Grant County):** Open the fourth Saturday in April through September 30.

~~((299))~~ (298) **Silver Lake (Spokane County):** Game fish: Statewide minimum length/daily limit, except: Crappie: Daily limit 10; minimum length 9 inches.

~~((300))~~ (299) **Silver Nail Lake (Okanogan County):** Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

~~((301))~~ (300) **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) Salmon: Daily limit 6; up to 2 adult hatchery Chinook may be retained. Release sockeye, coho, and wild adult Chinook:

(A) Anti-snagging rule.

(B) Night closure.

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

(A) Release trout.

(B) Steelhead: Closed to fishing.

(vi) 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.

~~((302))~~ (301) **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.

~~((303))~~ (302) **Skookum Lake, North (Pend Oreille County):** Open the fourth Saturday in April through October 31.

~~((304))~~ (303) **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.

~~((305))~~ (304) **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;))~~ July 1 through August 31; catch and release only. Barbless hooks required.

(B) Open ~~((August))~~ September 1 through March 31; Daily limit 3 hatchery steelhead; barbless hooks required.

~~((306))~~ (C) April 1 through June 30; closed to fishing.

(305) Snipe Lake (Grant County): Open the fourth Saturday in April through September 30.

~~((307))~~ (306) Snipes Creek (Benton County): Selective gear rules.

~~((308))~~ (307) South Columbia Basin Irrigation PE16.4 spillway at the Ringold Springs access downstream 400' towards the Columbia River. (46°30'20.0"N 119°15'28.7"W) (Franklin County): Closed waters.

~~((309))~~ (308) Spectacle Lake (Okanogan County): Open April 1 through September 30.

~~((310))~~ (309) 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.

~~((311))~~ (310) 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.

~~((312))~~ (311) Spring Creek (Benton County): Selective gear rules.

~~((313))~~ (312) 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.

~~((314))~~ (313) Spring Lake (Columbia County): It is unlawful to fish from any floating device.

~~((315))~~ (314) Spring Lakes (Upper and Lower) (Grant County): Open March 1 through September 30.

~~((316))~~ (315) 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.

~~((317))~~ (316) Spruce Creek (tributary to South Fork Tieton River) (Yakima County): Closed waters.

~~((318))~~ (317) Starvation Lake (Stevens County): Open the fourth Saturday in April through October 31.

~~((319))~~ (318) Starzman Lakes (Okanogan County): Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

~~((320))~~ (319) 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.

~~((321))~~ (320) Stratford/Brook Lake (Grant County): Open March 1 through September 30.

~~((322))~~ (321) Sugarloaf Lake (Okanogan County): Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

~~((323))~~ (322) Sullivan Creek and tributaries (Pend Oreille County):

(a) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout.

(b) Selective gear rules.

~~((324))~~ (323) Sullivan Lake (Pend Oreille County): Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.

~~((325))~~ (324) Summit Lake (Okanogan County): Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

~~((326))~~ (325) Summit Lake (Stevens County): Open the fourth Saturday in April through October 31.

~~((327))~~ (326) **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.

~~((328))~~ (327) **Swauk Creek and tributaries (Kittitas County)**: Selective gear rules.

~~((329))~~ (328) **Taneum Creek and tributaries (Kittitas County)**: Selective gear rules.

~~((330))~~ (329) **Teal Lakes (North and South) (Grant/Adams counties)**: Open the fourth Saturday in April through September 30.

~~((331))~~ (330) **Teanaway River (Kittitas County), and tributaries except North Fork**: Selective gear rules.

~~((332))~~ (331) **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.

~~((333))~~ (332) **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.

~~((334))~~ (333) **Thirtymile Creek (tributary to Chewuch River) (Okanogan County)**: From mouth upstream to falls (approximately 700 feet): Closed waters.

~~((335))~~ (334) **Tieton River (Yakima County)**:

(a) It is permissible to fish up to the base of Tieton (Rimrock) Dam.

(b) Selective gear rules apply.

~~((336))~~ (335) **Tieton River, North Fork (Yakima County)**:

(a) From mouth to USFS Road 740 Bridge:

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

(ii) Selective gear rules.

(b) The Clear Lake spillway channel: Closed waters.

(c) From the USFS Road 740 Bridge to Clear Lake Dam: Closed waters.

(d) 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.

~~((337))~~ (336) **Tieton River, South Fork (Yakima County)**: From the bridge on USFS Road 1200 to bridge on USFS road 1070: Closed waters.

~~((338))~~ (337) **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.

~~((339))~~ (338) **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.

~~((340))~~ (339) **Trout Lake (Ferry County)**: Open the fourth Saturday in April through October 31.

~~((341))~~ (340) **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.

~~((342))~~ (341) **Tucquala Lake (Kittitas County)**:

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

(b) Statewide stream rules apply.

~~((343))~~ (342) **Twentymile Creek (tributary to Chewuch River) (Okanogan County)**: From the mouth upstream to falls (approximately 0.75 miles): Closed waters.

~~((344))~~ (343) **Twin Lakes, tributaries, and Twin Lakes Creek (outlet stream) to the confluence with the Napeequa River (Chelan County)**: Closed waters.

~~((345))~~ (344) **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.

~~((346))~~ (345) **Twisp River, North Fork (Okanogan County):** From mouth to falls including tributaries: Closed waters.

~~((347))~~ (346) **Umtanum Creek (Kittitas County):** Selective gear rules.

~~((348))~~ (347) **Union Creek (Yakima County):** From the mouth to the falls: Closed waters.

~~((349))~~ (348) **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.

~~((350))~~ (349) **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.

~~((351))~~ (350) **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.

~~((352))~~ (351) **Wannacut Lake (Okanogan County):** Open the fourth Saturday in April through October 31.

~~((353))~~ (352) **Wapato Lake (Chelan County):** Open the fourth Saturday in April through October 31.

~~((354))~~ (353) **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.

~~((355))~~ (354) **Warden Lake (Grant County):** Open the fourth Saturday in April through September 30.

~~((356))~~ (355) **Warden Lake, South (Grant County):** Open the fourth Saturday in April through September 30.

~~((357))~~ (356) **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.

~~((358))~~ (357) **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.

~~((359))~~ (358) **Watson Lake (Columbia County):**

(a) Open March 1 through November 30.

(b) It is unlawful to fish from any floating device.

~~((360))~~ (359) **Wenaha River tributaries:**

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

(b) Selective gear rules.

~~((361))~~ (360) **Wenas Creek (Yakima County):** From the mouth to Wenas Lake, including tributaries: Selective gear rules.

~~((362))~~ (361) **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.

~~((363))~~ (iii) **Kokanee: Closed to fishing.**

(362) **Wenatchee River (Chelan County):**

(a) From the mouth to the Icicle Road Bridge:

(i) Game fish: Closed to fishing.

(ii) Salmon: Open August 1 through September 30:

(A) Daily limit 6; up to 2 adult hatchery Chinook may be retained.

(B) Release sockeye, coho, and wild adult Chinook.

(iii) Night closure.

(iv) Selective gear rules, except bait allowed.

(b) From Icicle Road Bridge upstream to Lake Wenatchee: Closed waters.

~~((364))~~ (363) **Whitepine Creek (Chelan County):** From the mouth to Whitepine Creek Falls (1 mile upstream of mouth) and tributaries: Closed waters.

~~((365))~~ (364) **White River (Chelan County):** From the mouth to White River Falls and tributaries, except Napequa River: Closed waters.

~~((366))~~ (365) **Widgeon Lake (Grant County):** Open the fourth Saturday in April through September 30.

~~((367))~~ (366) **Williams Lake (Spokane County):** Open the fourth Saturday in April through September 30.

~~((368))~~ (367) **Williams Lake (Stevens County):** Open the Friday after Thanksgiving through March 31.

~~((369))~~ (368) **Wilson Creek (Kittitas County):** From BNSF railroad bridge upstream: Selective gear rules.

~~((370))~~ (369) **Winchester Wasteway (Grant County) (that portion within the Winchester Game Reserve):** Open March 1 through September 30.

~~((371))~~ (370) **Wolf Creek (Methow River tributary) (Okanogan County):** Closed waters.

~~((372))~~ (371) **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 downstream of the USBR Chandler Powerhouse to 200 feet upstream of the Chandler Powerhouse: September 1 through October 31: Closed waters.

(ii) Chumming is permissible.

(iii) Game fish: Statewide minimum size/daily limit, except: Release trout.

(iv) Barbless hooks required for steelhead.

(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) Chumming is permissible.

(ii) Fishing from a floating device is prohibited September 1 through October 31.

(iii) Game fish: Statewide minimum size/daily limit, except: Release trout.

(iv) Barbless hooks required for steelhead.

(d) From Grant Avenue Bridge to Prosser Dam: Closed waters.

(e) 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.

(iii) Barbless hooks required for steelhead.

(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: December 1 through the last day in February: 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.

~~((373))~~ **(372) 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.

~~((374))~~ **(373) 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 21-14-067, filed 7/2/21, effective 8/2/21)

WAC 220-312-060 Freshwater exceptions to state-wide rules—Columbia. The following exceptions to state-wide rules apply to the Columbia River, including impoundments and all connecting sloughs, except Wells Ponds:

(1) General Columbia River rules:

(a) In the concurrent waters of the Columbia River between Washington and Oregon, the license of either state is valid when fishing from a vessel.

(i) Anglers must comply with the fishing regulations of the state in which they are fishing.

(ii) This subsection does not allow an angler licensed in Oregon to fish on the Washington shore, or in the sloughs or tributaries in Washington except as otherwise provided by department rule.

(iii) Anglers fishing the Columbia River are restricted to one limit, as defined by the laws of the state in which they are fishing, even if they are licensed by both states.

(b) It is unlawful to possess in the field salmon or steelhead mutilated so that size, species, or fin clip cannot be determined until the angler has reached their automobile or principal means of land transportation and completed his or her daily angling.

(c) Salmon and trout handling rules provided in WAC 220-310-100 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 220-310-100 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 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.

(ii) Barbless hooks are required for salmon and steelhead.

(e) Open year-round unless otherwise provided.

(f) Year-round night closure for salmon and steelhead fishing from Buoy 10 to Chief Joseph Dam.

(2) Rules by river section:

(a) 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.

(b) From a true north-south line through Buoy 10 to the Megler Astoria Bridge:

(i) The Youngs Bay Control Zone is defined as those waters southerly of a line originating on the Oregon shore at the east end of the seawall at the Warrenton Fiber log yard (approximately river mile 10.1) northeasterly through green navigation buoys 29, 31, 33, and 35A to the center of the Astoria-Megler Bridge abutment adjacent to, and north of the

ship channel, and continuing southerly in line with the center of the Megler Bridge span to the Oregon shore.

(ii) The Youngs Bay Control Zone is closed to recreational angling from August 1 through September 15.

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

(iv) Salmon and steelhead:

(A) April 1 through July 31: Closed.

(B) Open August 1 through August 10:

(I) Daily limit 2; of which only 1 may be a Chinook.

(II) Release all salmon and steelhead except hatchery Chinook and hatchery coho.

(III) Chinook minimum length 24 inches.

(IV) Coho minimum length 16 inches.

(C) Open August 11 through September 6:

(I) Daily limit 2; of which 1 may be a Chinook.

(II) Release all salmon and steelhead except Chinook and hatchery coho.

(III) Chinook minimum length 24 inches.

(IV) Coho minimum length 16 inches.

(D) Open September 7 through September 30:

(I) Daily limit 3.

(II) Release all salmon and steelhead except hatchery coho.

(III) Coho minimum length 16 inches.

(E) Open October 1 through October 31:

(I) Daily limit 6; up to 3 adult salmon may be retained.

(II) Release all salmon and steelhead except hatchery coho.

(III) Coho minimum length 12 inches.

(F) Open November 1 through December 31:

(I) Daily limit 6; up to 3 adult salmon or 1 adult salmon and 2 hatchery steelhead may be retained.

(II) Release all salmon except hatchery coho.

(III) Coho minimum length 12 inches.

(G) Open January 1 through March 31:

(I) Daily limit 6; up to 2 adult salmon, or 2 hatchery steelhead, or 1 of each, may be retained.

(II) Release all salmon except hatchery Chinook.

(v) Shad:

(A) April 1 through May 15: Closed.

(B) Open May 16 through March 31.

(vi) Forage fish and bottomfish: Marine Area 1 general rules apply; eulachon closed.

(c) From the Megler Astoria Bridge to a projected line from Rocky Point on the Washington bank through Red Buoy 44 to the red navigation marker 2 at Tongue Point on the Oregon bank:

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

(ii) Salmon and steelhead:

(A) April 1 through June 15: Closed.

(B) Open from June 16 through June 30:

(I) Daily limit 6; up to 1 hatchery steelhead may be retained.

(II) Release all salmon except hatchery jack Chinook.

(C) Open July 1 through July 5:

(I) Daily limit 6; up to 2 may be adults, of which up to 1 may be a sockeye and up to 1 hatchery steelhead may be retained.

(II) Release all salmon except sockeye and hatchery Chinook.

(D) Open July 6 through July 31:

(I) Daily limit 6; up to 2 may be adults, of which up to 1 may be a sockeye and up to 1 hatchery steelhead may be retained.

(II) Release all salmon except sockeye and hatchery jack Chinook.

(E) Open August 1 through August 10:

(I) Daily limit 2; of which 1 may be a Chinook.

(II) Release all salmon and steelhead except hatchery coho and hatchery Chinook.

(III) Chinook minimum length 24 inches.

(IV) Coho minimum length 16 inches.

(F) Open August 11 through September 6:

(I) Daily limit 2; of which 1 may be a Chinook.

(II) Release all salmon and steelhead except Chinook and hatchery coho.

(III) Chinook minimum length 24 inches.

(IV) Coho minimum length 16 inches.

(G) Open September 7 through September 30:

(I) Daily limit 3.

(II) Release all salmon and steelhead except hatchery coho.

(III) Coho minimum length 16 inches.

(H) Open October 1 through October 31:

(I) Daily limit 6; up to 3 adult salmon may be retained.

(II) Release all salmon and steelhead except hatchery coho.

(III) Coho minimum length 12 inches.

(I) Open November 1 through December 31:

(I) Daily limit 6; up to 3 adult salmon or 1 adult salmon and 2 hatchery steelhead may be retained.

(II) Release all salmon except hatchery coho.

(III) Coho minimum length 12 inches.

(J) Open January 1 through March 31:

(I) Daily limit 6; up to 2 adult salmon, or 2 hatchery steelhead or 1 of each may be retained.

(II) Release all salmon except hatchery Chinook.

(iii) Shad:

(A) April 1 through May 15: Closed.

(B) Open May 16 through March 31.

(iv) Forage fish and bottomfish: Marine Area 1 general rules apply; eulachon closed.

(d) From a line at Rocky Point on the Washington bank through Red Buoy 44 to red navigation marker 2 at Tongue Point on the Oregon bank upstream to a line at the west end of Puget Island projected from green navigation marker 39 on the Washington bank to green navigation marker 41, then to red navigation marker 42, and terminating at red navigation marker 44A on the Oregon bank:

(i) The Blind Slough Select Area is defined as waters of Blind Slough and Gnat Creek from a north-south line represented by regulatory markers at the mouth of Blind Slough upstream to a regulatory marker in Gnat Creek located approximately 0.5 miles southeasterly (upstream) of the Barndse Road Bridge.

(ii) The Knappa Slough Select Area is defined as waters of Knappa Slough, Calendar Slough, and Big Creek Slough

bounded to the north (upstream) by a line projecting from a regulatory marker on the eastern shore of Karlson Island to the northernmost regulatory marker at the mouth of Blind Slough and bounded to the west (downstream) by a line projecting southerly from a regulatory marker on the southwestern tip of Karlson Island through regulatory markers on the western tips of Minaker Island to a marker on the Oregon shore.

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

(B) Salmon: Daily limit is 2 adult salmon or 2 steelhead or 1 of each and 5 jacks. No more than 2 daily jack limits in possession. 12" minimum size. Release all salmon other than hatchery Chinook, hatchery coho, and hatchery steelhead. Use of barbed hooks allowed.

(C) Shad: Open year-round.

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

(A) Trout: Open May 16 through March 31:

(B) Daily limit 2 hatchery cutthroat; minimum length 12 inches.

(C) Release all trout except hatchery cutthroat.

(D) Barbless hooks required for cutthroat trout.

((iii)) (iv) Salmon and steelhead:

(A) April 1 through May 15: Closed.

(B) Open May 16 through June 15:

(I) Daily limit 6; up to 2 hatchery steelhead may be retained.

(II) Release all salmon except hatchery jack Chinook.

(C) Open June 16 through June 30:

(I) Daily limit 6; up to 1 hatchery steelhead may be retained.

(II) Release all salmon except hatchery jack Chinook.

(D) Open July 1 through July 5:

(I) Daily limit 6; up to 2 adult salmon of which up to 1 may be a sockeye and up to 1 hatchery steelhead may be retained.

(II) Release all salmon except sockeye and hatchery Chinook.

(E) Open July 6 through July 31:

(I) Daily limit 6; up to 2 adults of which 1 may be a sockeye and 1 hatchery steelhead may be retained.

(II) Release all salmon except sockeye and hatchery jack Chinook.

(F) Open August 1 through September 9:

(I) Daily limit 6; up to 2 may be adults of which 1 may be a Chinook may be retained.

(II) Release all salmon and steelhead except Chinook and hatchery coho.

(G) Open September 10 through October 31:

(I) Daily limit 6; up to 2 adult salmon may be retained.

(II) Release all salmon and steelhead except hatchery coho.

(H) Open November 1 through December 31:

(I) Daily limit 6; up to 2 adult salmon or 2 hatchery steelhead or 1 of each may be retained.

(II) Release all salmon except hatchery coho.

(I) Open January 1 through March 31:

(I) Daily limit 6; up to 2 adult salmon or 2 hatchery steelhead or 1 of each may be retained.

(II) Release all salmon except hatchery Chinook.

((iii)) (v) Shad:

(A) April 1 through May 15: Closed.

(B) Open May 16 through March 31.

(e) From a line at the west end of Puget Island projected from green navigation marker 39 on the Washington bank to green navigation marker 41, then to red navigation marker 42, and terminating at red navigation marker 44A on the Oregon bank, upstream to the Longview Bridge:

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

(A) Trout: 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) Salmon and steelhead:

(A) April 1 through May 15: Closed.

(B) Open May 16 through June 15:

(I) Daily limit 6; up to 2 hatchery steelhead may be retained.

(II) Release all salmon except hatchery jack Chinook.

(C) Open June 16 through June 30:

(I) Daily limit 6; 1 hatchery steelhead may be retained.

(II) Release all salmon except hatchery jack Chinook.

(D) Open July 1 through July 5:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be a sockeye and 1 hatchery steelhead may be retained.

(II) Release all salmon except sockeye and hatchery Chinook.

(E) Open July 6 through July 31:

(I) Daily limit 6; up to 2 adults of which 1 may be a sockeye and 1 hatchery steelhead may be retained.

(II) Release all salmon except sockeye and hatchery jack Chinook.

(F) Open August 1 through September 9:

(I) Daily limit 6; up to 2 adult salmon, of which 1 may be a Chinook may be retained.

(II) Release all salmon and steelhead except Chinook and hatchery coho.

(G) Open September 10 through October 31:

(I) Daily limit 6; up to 2 adult salmon may be retained.

(II) Release all salmon and steelhead except hatchery coho.

(H) Open November 1 through December 31:

(I) Daily limit 6; up to 2 adult salmon or 2 hatchery steelhead or 1 of each may be retained.

(II) Release all salmon except hatchery coho.

(I) Open January 1 through March 31:

(I) Daily limit 6; up to 2 adult salmon or 2 hatchery steelhead or 1 of each may be retained.

(II) Release all salmon except hatchery Chinook.

(iii) Shad:

(A) April 1 through May 15: Closed.

(B) Open May 16 through March 31.

(f) From the Longview Bridge to a line projected from the Warrior Rock lighthouse through Red Buoy 4 to the marker atop the piling dolphin located at the down-

stream end of Bachelor Island on the Washington shore (Warrior Rock line):

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

- (A) Trout: 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) Salmon and steelhead:

- (A) April 1 through May 15: Closed.
- (B) Open May 16 through June 15:
- (I) Daily limit 6; up to 2 hatchery steelhead may be retained.
- (II) Release all salmon except hatchery jack Chinook.
- (C) Open June 16 through June 30:
- (I) Daily limit 6; up to 1 steelhead may be retained.
- (II) Release all salmon except hatchery jack Chinook.
- (D) Open July 1 through July 5:
- (I) Daily limit 6; up to 2 adult salmon of which 1 may be a sockeye and 1 hatchery steelhead may be retained.
- (II) Release all salmon except sockeye and hatchery Chinook.

(E) Open July 6 through July 31:

(I) Daily limit 6; up to 2 adults of which 1 may be a sockeye and 1 hatchery steelhead may be retained.

(II) Release all salmon except sockeye and hatchery jack Chinook.

(F) Open August 1 through September 9:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be a Chinook may be retained.

(II) Release all salmon and steelhead except Chinook and hatchery coho.

(G) Open September 10 through October 31:

(I) Daily limit 6; up to 2 adult salmon may be retained.

(II) Release all salmon and steelhead except hatchery coho.

(H) Open November 1 through December 31:

(I) Daily limit 6; up to 2 adult salmon or 2 hatchery steelhead or 1 of each may be retained.

(II) Release all salmon except hatchery coho.

(I) Open January 1 through March 31:

(I) Daily limit 6; up to 2 adult salmon or 2 hatchery steelhead or 1 of each may be retained.

(II) Release all salmon except hatchery Chinook.

(iii) Shad:

(A) April 1 through May 15: Closed.

(B) Open May 16 through March 31.

(g) From a line projected from the Warrior Rock lighthouse through Red Buoy 4 to the marker atop the piling dolphin located at the downstream end of Bachelor Island on the Washington shore (Warrior Rock line) to the I-5 Bridge:

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

- (A) Trout: 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) Salmon and steelhead:

(A) April 1 through May 15: Closed.

(B) Open May 16 through June 15:

(I) Daily limit 6; up to 2 hatchery steelhead may be retained.

(II) Release all salmon except hatchery jack Chinook.

(C) Open June 16 through June 30:

(I) Daily limit 6; up to 1 hatchery steelhead may be retained.

(II) Release all salmon except hatchery jack Chinook.

(D) Open July 1 through July 5:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be a sockeye and 1 hatchery steelhead may be retained.

(II) Release all salmon except sockeye and hatchery Chinook.

(E) Open July 6 through July 31:

(I) Daily limit 6; up to 2 adults of which 1 may be a sockeye and 1 hatchery steelhead may be retained.

(II) Release all salmon except sockeye and hatchery jack Chinook.

(F) Open August 1 through October 31:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be a Chinook may be retained.

(II) Release all salmon and steelhead except Chinook and hatchery coho.

(G) Open November 1 through December 31:

(I) Daily limit 6; up to 2 adult salmon or 2 hatchery steelhead or 1 of each may be retained.

(II) Release all salmon except hatchery coho.

(H) Open January 1 through March 31:

(I) Daily limit 6; up to 2 adult salmon or 2 hatchery steelhead or 1 of each may be retained.

(II) Release all salmon except hatchery Chinook.

(iii) Shad:

(A) April 1 through May 15: Closed.

(B) Open May 16 through March 31.

(h) From the I-5 Bridge to a line crossing the Columbia from Navigation Marker 82 on the Oregon shore westerly to the boundary marker on the Washington shore upstream of Fir Point 9 miles downstream from Bonneville Dam:

(i) Game fish: Statewide minimum size/daily limit, except: Release all trout.

(ii) Salmon and steelhead:

(A) April 1 through June 15: Closed.

(B) Open June 16 through June 30:

(I) Daily limit 6; up to 1 hatchery steelhead may be retained.

(II) Release all salmon except hatchery jack Chinook.

(C) Open July 1 through July 5:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be a sockeye and 1 hatchery steelhead may be retained.

(II) Release all salmon except sockeye and hatchery Chinook.

(D) Open July 6 through July 31:

(I) Daily limit 6; up to 2 adults of which 1 may be a sockeye and 1 hatchery steelhead may be retained.

(II) Release all salmon except sockeye and hatchery jack Chinook.

(E) Open August 1 through October 31:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be a Chinook may be retained.

(II) Release all salmon and steelhead except Chinook and hatchery coho.

(F) Open November 1 through December 31:

(I) Daily limit 6; up to 2 adult salmon or 2 hatchery steelhead or 1 of each may be retained.

(II) Release all salmon except hatchery coho.

(G) January 1 through March 31:

(I) Daily limit 2 hatchery steelhead.

(II) Release all salmon.

(iii) Shad:

(A) April 1 through May 15: Closed.

(B) Open May 16 through March 31.

(i) **Camas Slough:**

(i) It is permissible for an angler licensed in Oregon or Washington to fish from a floating device.

(ii) 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.

(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.

(iv) Open for salmon when the adjacent mainstem Columbia or Washougal rivers are open for salmon.

(v) 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.

(j) 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:

(i) January 1 through April 30: Closed waters.

(ii) Game fish:

(A) Open May 1 through December 31.

(B) Statewide minimum size/daily limit, except: Release all trout.

(iii) Salmon and steelhead:

(A) May 1 through June 15: Closed.

(B) Open June 16 through June 30:

(I) Daily limit 6; up to 1 hatchery steelhead may be retained.

(II) Release all salmon except hatchery jack Chinook.

(C) Open July 1 through July 5:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be a sockeye and 1 hatchery steelhead may be retained.

(II) Release all salmon except sockeye and hatchery Chinook.

(D) Open July 6 through July 31:

(I) Daily limit 6; up to 2 adults of which 1 may be a sockeye and 1 hatchery steelhead may be retained.

(II) Release all salmon except sockeye and hatchery jack Chinook.

(E) Open August 1 through October 31:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be a Chinook may be retained.

(II) Release all salmon and steelhead except Chinook and hatchery coho.

(F) Open November 1 through December 31:

(I) Daily limit 6; up to 2 adult salmon or 2 hatchery steelhead or 1 of each may be retained.

(II) Release all salmon except hatchery coho.

(G) January 1 through April 30: Closed waters.

(iv) Shad:

(A) May 1 through May 15: Closed.

(B) Open May 16 through December 31.

(k) From a line crossing the Columbia from Navigation Marker 82 on the Oregon shore westerly to the boundary marker on the Washington shore upstream of Fir Point 9 miles downstream from Bonneville Dam to Beacon Rock:

(i) Game fish: Statewide minimum size/daily limit, except: Release all trout.

(ii) Salmon and steelhead:

(A) April 1 through June 15: Closed.

(B) Open June 16 through June 30:

(I) Daily limit 6; up to 1 hatchery steelhead may be retained.

(II) Release all salmon except hatchery jack Chinook.

(C) Open July 1 through July 5:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be a sockeye and 1 hatchery steelhead may be retained.

(II) Release all salmon except sockeye and hatchery Chinook.

(D) Open July 6 through July 31:

(I) Daily limit 6; up to 2 adults of which 1 may be a sockeye and 1 hatchery steelhead may be retained.

(II) Release all salmon except sockeye and hatchery jack Chinook.

(E) Open August 1 through October 31:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be a Chinook may be retained.

(II) Release all salmon and steelhead except Chinook and hatchery coho.

(F) Open November 1 through December 31:

(I) Daily limit 6; up to 2 adult salmon or 2 hatchery steelhead or 1 of each may be retained.

(II) Release all salmon except hatchery coho.

(G) Open January 1 through March 31:

(I) Daily limit 2 hatchery steelhead.

(II) Release all salmon.

(iii) Shad:

(A) April 1 through May 15: Closed.

(B) Open May 16 through March 31.

(l) From Beacon Rock to a line from the Hamilton Island boat ramp to an Oregon boundary marker on the westernmost point of Robins Island to a marker on the Oregon mainland shore:

(i) Game fish: Statewide minimum size/daily limit, except: Release all trout.

(ii) Salmon and steelhead:

(A) April 1 through June 15: Closed.

(B) Open June 16 through June 30:

(I) Daily limit 6; up to 1 hatchery steelhead may be retained.

(II) Release all salmon except hatchery jack Chinook.

- (C) Open July 1 through July 5:
 (I) Daily limit 6; up to 2 adult salmon of which 1 may be a sockeye and 1 hatchery steelhead may be retained.
 (II) Release all salmon except sockeye and hatchery Chinook.
- (D) Open July 6 through July 31:
 (I) Daily limit 6; up to 2 adults of which 1 may be a sockeye and 1 hatchery steelhead may be retained.
 (II) Release all salmon except sockeye and hatchery jack Chinook.
- (E) Open August 1 through October 31:
 (I) Daily limit 6; up to 2 adult salmon of which 1 may be a Chinook may be retained.
 (II) Release all salmon and steelhead except Chinook and hatchery coho.
- (F) November 1 through December 31: Closed.
- (G) Open January 1 through March 31:
 (I) Daily limit 2 hatchery steelhead.
 (II) Release all salmon.
 (iii) Shad:
 (A) April 1 through May 15: Closed.
 (B) Open May 16 through March 31.
- (m) **From a line from the Hamilton Island boat ramp to an Oregon boundary marker on the westernmost point of Robins Island to a marker on the Oregon mainland shore to a line projected from a boundary marker about 4,000 feet downstream from the fish ladder at the new Bonneville Dam Powerhouse south to the downstream end of Cascade Island and across to the Oregon angling boundary on Bradford Island (about 850 feet downstream from the fish ladder):**
 (i) It is unlawful to fish from any floating device.
 (ii) Closed to any method of angling except hand-casted gear from shore.
 (iii) Game fish: Statewide minimum size/daily limit, except: Release all trout.
 (iv) Salmon and steelhead:
 (A) April 1 through June 15: Closed.
 (B) Open June 16 through June 30:
 (I) Daily limit 6; up to 1 hatchery steelhead may be retained.
 (II) Release all salmon except hatchery jack Chinook.
 (C) Open July 1 through July 5:
 (I) Daily limit 6; up to 2 adult salmon of which 1 may be a sockeye and 1 hatchery steelhead may be retained.
 (II) Release all salmon except sockeye and hatchery Chinook.
 (D) Open July 6 through July 31:
 (I) Daily limit 6; up to 2 adults of which 1 may be a sockeye and 1 hatchery steelhead may be retained.
 (II) Release all salmon except sockeye and hatchery jack Chinook.
 (E) Open August 1 through October 31:
 (I) Daily limit 6; up to 2 adult salmon of which 1 may be a Chinook may be retained.
 (II) Release all salmon and steelhead except Chinook and hatchery coho.
 (F) Open November 1 through December 31:
 (I) Daily limit 6; up to 2 adult salmon or 2 hatchery steelhead or 1 of each may be retained.
 (II) Release all salmon except hatchery coho.
 (G) Open January 1 through March 31:
 (I) Daily limit 2 hatchery steelhead.
 (II) Release all salmon.
 (iv) Shad:
 (A) April 1 through May 15: Closed.
 (B) Open May 16 through March 31.
- (p) **From a point 600 feet below the fish ladder at the new Bonneville Dam Powerhouse to the upstream line of Bonneville Dam:** Closed waters.
 (q) **From Bonneville Dam to the Hood River Bridge:**
 (i) Game fish: Statewide minimum size/daily limit, except: Release all trout.
 (ii) Salmon and steelhead:
 (II) Release all salmon except hatchery coho.
 (G) Open January 1 through March 31:
 (I) Daily limit 2 hatchery steelhead.
 (II) Release all salmon.
 (v) Shad:
 (A) April 1 through May 15: Closed.
 (B) Open May 16 through March 31.
 (n) **Inside the south navigation lock at Bonneville Dam, from a marker on the westernmost point of Robins Island to a marker on the Oregon mainland shore:** Closed waters.
 (o) **From a boundary marker about 4,000 feet downstream from the fish ladder at the new Bonneville Dam Powerhouse south to the downstream end of Cascade Island and across to the Oregon angling boundary on Bradford Island (about 850 feet downstream from the fish ladder) to a point 600 feet below the fish ladder at Bonneville Dam powerhouse:**
 (i) It is unlawful to fish from any floating device.
 (ii) Game fish: Statewide minimum size/daily limit, except: Release all trout.
 (iii) Salmon and steelhead:
 (A) April 1 through June 15: Closed.
 (B) Open June 16 through June 30:
 (I) Daily limit 6; up to 1 hatchery steelhead may be retained.
 (II) Release all salmon except hatchery jack Chinook.
 (C) Open July 1 through July 5:
 (I) Daily limit 6; up to 2 adult salmon of which 1 may be a sockeye and 1 hatchery steelhead may be retained.
 (II) Release all salmon except sockeye and hatchery Chinook.
 (D) Open July 6 through July 31:
 (I) Daily limit 6; up to 2 adults of which 1 may be a sockeye and 1 hatchery steelhead may be retained.
 (II) Release all salmon except sockeye and hatchery jack Chinook.
 (E) Open August 1 through October 31:
 (I) Daily limit 6; up to 2 adult salmon of which 1 may be a Chinook may be retained.
 (II) Release all salmon and steelhead except Chinook and hatchery coho.
 (F) Open November 1 through December 31:
 (I) Daily limit 6; up to 2 adult salmon or 2 hatchery steelhead or 1 of each may be retained.
 (II) Release all salmon except hatchery coho.
 (G) Open January 1 through March 31:
 (I) Daily limit 2 hatchery steelhead.
 (II) Release all salmon.
 (iv) Shad:
 (A) April 1 through May 15: Closed.
 (B) Open May 16 through March 31.

(A) When open from March 16 through June 15: Bank fishing only.

(B) When open from March 16 through June 15: Only hand-cast lines may be used.

(C) When open from March 16 through June 15: It is unlawful to use a floating device to set lines for salmon and steelhead.

(D) When open from 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.

(E) April 1 through June 15: Closed.

(F) Open June 16 through June 30:

(I) Daily limit 6; up to 1 hatchery steelhead may be retained.

(II) Release all salmon except hatchery jack Chinook.

(G) Open July 1 through July 31:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be a sockeye and 1 hatchery steelhead may be retained.

(II) Release all salmon except sockeye and hatchery Chinook.

(H) Open August 1 through October 15:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be a Chinook may be retained.

(II) Release all salmon and steelhead except Chinook and hatchery coho.

(I) Open October 16 through October 31:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be a Chinook may be retained.

(II) Release all salmon and steelhead except Chinook and hatchery coho.

(J) Open November 1 through December 31:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be a Chinook or 2 hatchery steelhead or 1 of each may be retained.

(II) Release all salmon except Chinook and hatchery coho.

(K) Open January 1 through March 31:

(I) Daily limit 2 hatchery steelhead.

(II) Release all salmon.

(r) **Waters within 1/4 mile of the USFWS Spring Creek Hatchery grounds between posted markers located 1/4 mile on either side of the fish ladder entrance:** Closed waters.

(s) **From Hood River Bridge to the Tower Island power lines:**

(i) Game fish: Statewide minimum size/daily limit, except: Release all trout.

(ii) Salmon and steelhead:

(A) When open from March 16 through June 15: Bank fishing only.

(B) When open from March 16 through June 15: Only hand-cast lines may be used.

(C) When open from March 16 through June 15: It is unlawful to use a floating device to set lines for salmon and steelhead.

(D) When open from 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.

(E) April 1 through June 15: Closed.

(F) Open June 16 through June 30:

(I) Daily limit 6; up to 1 hatchery steelhead may be retained.

(II) Release all salmon except hatchery jack Chinook.

(G) Open July 1 through July 31:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be a sockeye and 1 hatchery steelhead may be retained.

(II) Release all salmon except sockeye and hatchery Chinook.

(H) Open August 1 through October 15:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be a Chinook may be retained.

(II) Release all salmon and steelhead except Chinook and coho.

(I) Open October 16 through October 31:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be a Chinook may be retained.

(II) Release all salmon and steelhead except Chinook and coho.

(J) Open November 1 through December 31:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be a Chinook or 2 hatchery steelhead or 1 of each may be retained.

(II) Release all salmon except Chinook and coho.

(K) Open January 1 through March 31:

(I) Daily limit 2 hatchery steelhead.

(II) Release all salmon.

(t) **From Tower Island power lines to a line from the east (upstream) dock at the Port of The Dalles boat ramp straight across to a boundary marker on the Washington shore (approximately 1.8 miles below The Dalles Dam):**

(i) Game fish: Statewide minimum size/daily limit, except: Release all trout.

(ii) Salmon and steelhead:

(A) When open from 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.

(B) April 1 through June 15: Closed.

(C) Open June 16 through June 30:

(I) Daily limit 6; up to 1 hatchery steelhead may be retained.

(II) Release all salmon except hatchery jack Chinook.

(D) Open July 1 through July 31:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be a sockeye and 1 hatchery steelhead may be retained.

(II) Release all salmon except sockeye and hatchery Chinook.

(E) Open August 1 through October 15:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be a Chinook may be retained.

(II) Release all salmon and steelhead except Chinook and coho.

(F) Open October 16 through October 31:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be a Chinook may be retained.

(II) Release all salmon and steelhead except Chinook and coho.

(G) Open November 1 through December 31:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be a Chinook or 2 hatchery steelhead or 1 of each may be retained.

(II) Release all salmon except Chinook and coho.

(H) Open January 1 through March 31:

(I) Daily limit 2 hatchery steelhead.

(II) Release all salmon.

(u) From a line from the east (upstream) dock at the Port of The Dalles boat ramp straight across to a boundary marker on the Washington shore to the upstream side of the Interstate (Highway 197) Bridge:

(i) Game fish: Statewide minimum size/daily limit, except: Release all trout.

(ii) Salmon and steelhead:

(A) When open from 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.

(B) April 1 through June 15: Closed.

(C) Open June 16 through June 30:

(I) Daily limit 6; up to 1 hatchery steelhead may be retained.

(II) Release all salmon except hatchery jack Chinook.

(D) Open July 1 through July 31:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be a sockeye and 1 hatchery steelhead may be retained.

(II) Release all salmon except sockeye and hatchery Chinook.

(E) Open August 1 through October 15:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be a Chinook may be retained.

(II) Release all salmon and steelhead except Chinook and coho.

(F) Open October 16 through October 31:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be a Chinook may be retained.

(II) Release all salmon and steelhead except Chinook and coho.

(G) Open November 1 through December 31:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be a Chinook or 2 hatchery steelhead or 1 of each may be retained.

(II) Release all salmon except Chinook and coho.

(H) Open January 1 through March 31:

(I) Daily limit 2 hatchery steelhead.

(II) Release all salmon.

(v) From the Washington shore from the upstream side of the Interstate (Highway 197) Bridge to the navigation lock wall:

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

(ii) Game fish: Statewide minimum size/daily limit, except: Release all trout.

(iii) Salmon and steelhead:

(A) When open from 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.

(B) April 1 through June 15: Closed.

(C) Open June 16 through June 30:

(I) Daily limit 6; up to 1 hatchery steelhead may be retained.

(II) Release all salmon except hatchery jack Chinook.

(D) Open July 1 through July 31:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be a sockeye and 1 hatchery steelhead may be retained.

(II) Release all salmon except sockeye and hatchery Chinook.

(E) Open August 1 through October 15:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be a Chinook may be retained.

(II) Release all salmon and steelhead except Chinook and coho.

(F) Open October 16 through October 31:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be a Chinook may be retained.

(II) Release all salmon and steelhead except Chinook and coho.

(G) Open November 1 through December 31:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be a Chinook or 2 hatchery steelhead or 1 of each may be retained.

(II) Release all salmon except Chinook and coho.

(H) Open January 1 through March 31:

(I) Daily limit 2 hatchery steelhead.

(II) Release all salmon.

(w) From the Interstate (Highway 197) Bridge to the upstream line of The Dalles Dam except the Washington shore from the upstream side of the Interstate Bridge to the navigation lock wall: Closed waters.

(x) From The Dalles Dam to the west end of the grain silo at Rufus, Oregon 2.4 miles downstream of John Day Dam:

(i) Game fish: Statewide minimum size/daily limit, except: Release all trout.

(ii) Salmon and steelhead:

(A) When open 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.

(B) Open June 16 through June 30:

(I) Daily limit 6; up to 1 hatchery steelhead may be retained.

(II) Release all salmon except hatchery jack Chinook.

(C) Open July 1 through July 31:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be sockeye and 1 hatchery steelhead may be retained.

(II) Release all salmon except sockeye and hatchery Chinook.

(D) Open August 1 through August 31:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be Chinook and 1 hatchery steelhead may be retained.

(II) Release all salmon except Chinook and coho.

(E) September 1 through October 15:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be a Chinook may be retained.

(II) Release all salmon and steelhead except Chinook and coho.

(F) Open October 16 through December 31:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be a Chinook may be retained.

(II) Release all salmon and steelhead except Chinook and coho.

(G) January 1 through June 15: Closed.

(y) From the west end of the grain silo at Rufus, Oregon 2.4 miles downstream of John Day Dam to markers approximately 3,000 feet downstream of John Day Dam:

(i) Game fish: Statewide minimum size/daily limit, except: Release all trout.

(ii) Salmon and steelhead:

(A) When open 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.

(B) Open June 16 through June 30:

(I) Daily limit 6; up to 1 hatchery steelhead may be retained.

(II) Release all salmon except hatchery jack Chinook.

(C) Open July 1 through July 31:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be sockeye and 1 hatchery steelhead may be retained.

(II) Release all salmon except sockeye and hatchery Chinook.

(D) Open August 1 through August 31:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be Chinook and 1 hatchery steelhead may be retained.

(II) Release all salmon except Chinook and coho.

(E) September 1 through October 15:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be a Chinook may be retained.

(II) Release all salmon and steelhead except Chinook and coho.

(F) Open October 16 through December 31:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be a Chinook may be retained.

(II) Release all salmon and steelhead except Chinook and coho.

(G) January 1 through June 15: Closed.

(z) From markers approximately 3,000 feet downstream of John Day Dam to 400 feet below the fishway entrance:

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

(ii) Game fish: Statewide minimum size/daily limit, except: Release all trout.

(iii) Salmon and steelhead:

(A) When open 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.

(B) Open June 16 through June 30:

(I) Daily limit 6; up to 1 hatchery steelhead may be retained.

(II) Release all salmon except hatchery jack Chinook.

(C) Open July 1 through July 31:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be sockeye and 1 hatchery steelhead may be retained.

(II) Release all salmon except sockeye and hatchery Chinook.

(D) Open August 1 through August 31:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be Chinook and 1 hatchery steelhead may be retained.

(II) Release all salmon except Chinook and coho.

(E) September 1 through October 15:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be a Chinook may be retained.

(II) Release all salmon and steelhead except Chinook and coho.

(F) Open October 16 through December 31:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be a Chinook may be retained.

(II) Release all salmon and steelhead except Chinook and coho.

(G) January 1 through June 15: Closed.

(aa) From 400 feet below the John Day Dam fishway entrance to the upstream line of John Day Dam: Closed waters.

(bb) From John Day Dam to a line from the grain elevators at Patterson Ferry Road on the Oregon shore, straight across to a marker on the Washington shore at the west end of the old concrete foundation:

(i) Game fish: Statewide minimum size/daily limit, except: Release all trout.

(ii) Salmon and steelhead:

(A) When open 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.

(B) Open June 16 through June 30:

(I) Daily limit 6; up to 1 hatchery steelhead may be retained.

(II) Release all salmon except hatchery jack Chinook.

(C) Open July 1 through July 31:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be a sockeye and 1 hatchery steelhead may be retained.

(II) Release all salmon except sockeye and hatchery Chinook.

(D) Open August 1 through August 31:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be Chinook and 1 hatchery steelhead may be retained.

(II) Release all salmon except Chinook and coho.

(E) September 1 through October 15:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be a Chinook may be retained.

(II) Release all salmon and steelhead except Chinook and coho.

(F) Open October 16 through December 31:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be a Chinook may be retained.

(II) Release all salmon and steelhead except Chinook and coho.

(G) January 1 through June 15: Closed.

(cc) From a line from the grain elevators at Patterson Ferry Road on the Oregon shore, straight across to a marker on the Washington shore at the west end of the old concrete foundation to the Interstate 82/Highway 395 Bridge:

(i) Game fish: Statewide minimum size/daily limit, except: Release all trout.

(ii) Salmon and steelhead:

(A) When open 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.

(B) Open June 16 through June 30:

(I) Daily limit 6; up to 1 hatchery steelhead may be retained.

(II) Release all salmon except hatchery jack Chinook.

(C) Open July 1 through July 31:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be sockeye and 1 hatchery steelhead may be retained.

(II) Release all salmon except sockeye and hatchery Chinook.

(D) Open August 1 through August 31:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be Chinook and 1 hatchery steelhead may be retained.

(II) Release all salmon except Chinook and coho.

(E) September 1 through October 15:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be a Chinook may be retained.

(II) Release all salmon and steelhead except Chinook and coho.

(F) Open October 16 through December 31:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be a Chinook may be retained.

(II) Release all salmon and steelhead except Chinook and coho.

(G) January 1 through June 15: Closed.

(dd) From the Interstate 82/Highway 395 Bridge to a red and white marker on the Oregon shore on a line that intersects the downstream end of the wingwall of the boat lock near the Washington shore:

(i) Game fish: Statewide minimum size/daily limit, except: Release all trout.

(ii) Salmon and steelhead:

(A) When open 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.

(B) Open June 16 through June 30:

(I) Daily limit 6; up to 1 hatchery steelhead may be retained.

(II) Release all salmon except hatchery jack Chinook.

(C) Open July 1 through July 31:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be sockeye and 1 hatchery steelhead may be retained.

(II) Release all salmon except sockeye and hatchery Chinook.

(D) Open August 1 through August 31:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be Chinook and 1 hatchery steelhead may be retained.

(II) Release all salmon except Chinook and coho.

(E) September 1 through October 15:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be a Chinook may be retained.

(II) Release all salmon and steelhead except Chinook and coho.

(F) Open October 16 through December 31:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be a Chinook may be retained.

(II) Release all salmon and steelhead except Chinook and coho.

(G) January 1 through June 15: Closed.

(ee) From 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 wingwall of the boat lock near the Washington shore to the upstream line of McNary Dam: Closed waters.

(ff) From McNary Dam to Highway 730 at Washington/Oregon border:

(i) Game fish: Statewide minimum size/daily limit, except: Release all trout.

(ii) Salmon and steelhead:

(A) When open 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.

(B) Open June 16 through June 30:

(I) Daily limit 6; up to 1 hatchery steelhead may be retained.

(II) Release all salmon except hatchery jack Chinook.

(C) Open July 1 through July 31:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be sockeye and 1 hatchery steelhead may be retained.

(II) Release all salmon except sockeye and hatchery Chinook.

(D) Open August 1 through August 31:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be Chinook and 1 hatchery steelhead may be retained.

(II) Release all salmon except Chinook and coho.

(E) September 1 through October 15:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be a Chinook may be retained.

(II) Release all salmon and steelhead except Chinook and coho.

(F) Open October 16 through December 31:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be a Chinook may be retained.

(II) Release all salmon and steelhead except Chinook and coho.

(G) January 1 through June 15: Closed.

(gg) From Highway 730 at Washington/Oregon border to the Highway 395 Bridge at Pasco:

(i) Game fish: Statewide minimum size/daily limit, except: Release all trout.

(ii) Salmon and steelhead:

(A) When open 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.

(B) Open June 16 through June 30:

(I) Daily limit 6; up to 1 hatchery steelhead may be retained.

(II) Release all salmon except hatchery jack Chinook.

(C) Open July 1 through July 31:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be sockeye and 1 hatchery steelhead may be retained.

(II) Release all salmon except sockeye and hatchery Chinook.

(D) Open August 1 through August 31:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be Chinook and 1 hatchery steelhead may be retained.

(II) Release all salmon except Chinook and coho.

(E) September 1 through October 15:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be a Chinook may be retained.

(II) Release all salmon and steelhead except Chinook and coho.

(F) Open October 16 through December 31:

(I) Daily limit 6; up to 2 adult salmon of which 1 may be a Chinook may be retained.

(II) Release all salmon and steelhead except Chinook and coho.

(G) January 1 through June 15: Closed.

(hh) From the Highway 395 Bridge at Pasco to the Interstate 182 Bridge:

(i) Game fish: Statewide minimum size/daily limit, except: Release all trout.

(ii) Steelhead: Closed to fishing for or retaining.

(iii) Salmon: Open August 16 through October 31: Daily limit 6; up to 2 adult salmon may be retained. Release all salmon except Chinook and coho.

(ii) Within a 400 foot radius of the Columbia Irrigation District (CID) fish barrier at the mouth of the CID wasteway at Columbia Park: Closed waters.

(jj) From the Interstate 182 Bridge to WDFW markers 1/4 mile downstream from the Ringold wasteway outlet:

(i) Game fish: Statewide minimum size/daily limit, except: Release all trout.

(ii) Steelhead: Closed to fishing for or retaining.

(iii) Salmon:

(A) Open July 1 through August 15:

(I) Daily limit 6 salmon; up to 2 may be adults.

(II) Release wild adult Chinook.

(B) Open August 16 through October 31:

(I) Daily limit 6; up to 2 may be adults.

(II) Release all salmon other than Chinook and coho.

(kk) West Branch Esquatzel Coulee Block 1 Irrigation Wasteway Lagoon in the Columbia River:

(i) September 1 through November 30: Closed waters.

(ii) Game fish: Statewide minimum size/daily limit, except: Release all trout.

(iii) Steelhead: Closed to fishing for or retaining.

(iv) Salmon:

(A) Open July 1 through August 15:

(B) Daily limit 6 salmon; up to 2 may be adults.

(C) Release wild adult Chinook.

(v) Open August 16 through August 31:

(A) Daily limit 6; up to 2 adult salmon may be retained.

(B) Release all salmon except Chinook and coho.

(ll) From WDFW markers 1/4 mile downstream from the Ringold wasteway outlet to WDFW markers 1/2 mile upstream from Ringold Springs Hatchery Creek:

(i) Game fish: Statewide minimum size/daily limit, except: Release all trout.

(ii) Steelhead: Closed to fishing for or retaining.

(iii) Salmon:

(A) Open July 1 through August 15:

(I) Daily limit 6 salmon; up to 2 may be adults.

(II) Release wild adult Chinook.

(B) Open August 16 through October 31:

(I) Daily limit 6; up to 2 may be adults.

(II) Release all salmon other than Chinook and coho.

(mm) 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: Closed waters.

(nn) From WDFW markers 1/2 mile upstream from Ringold Springs Hatchery Creek to the Old Hanford townsite powerline crossing:

(i) Game fish: Statewide minimum size/daily limit, except: Release all trout.

(ii) Steelhead: Closed to fishing for or retaining.

(iii) Salmon:

(A) Open July 1 through August 15:

(I) Daily limit 6 salmon; up to 2 may be adults.

(II) Release wild adult Chinook.

(B) Open August 16 through October 31:

(I) Daily limit 6; up to 2 may be adults.

(II) Release all salmon other than Chinook and coho.

(oo) From the Old Hanford townsite powerline crossing to Vernita Bridge (Highway 24):

(i) Open February 1 through October 15.

(ii) Game fish: Statewide minimum size/daily limit, except: Release all trout.

(iii) Steelhead: Closed to fishing for or retaining.

(iv) Salmon:

(A) Open July 1 through August 15:

(I) Daily limit 6 salmon; up to 2 may be adults.

(II) Release wild adult Chinook.

(B) Open August 16 through October 15:

(I) Daily limit 6; up to 2 may be adults.

(II) Release all salmon other than Chinook and coho.

(pp) From Vernita Bridge (Highway 24) to 400 feet downstream of the Priest Rapids Hatchery outlet channel (Jackson Creek):

(i) Game fish: Statewide minimum size/daily limit, except: Release all trout.

(ii) Steelhead: Closed to fishing for or retaining.

(iii) Salmon:

(A) Open July 1 through August 15:

(I) Daily limit 6 salmon; up to 2 may be adults.

(II) Release wild adult Chinook.

(B) Open August 16 through October 15:

(I) Daily limit 6; up to 2 may be adults.

(II) Release all salmon other than Chinook and coho.

(qq) From the marker 400 feet downstream of the mouth of the Priest Rapids Hatchery outlet channel (Jackson Creek) to boundary markers 650 feet below the fish ladders at Priest Rapids Dam:

(i) Game fish: Statewide minimum size/daily limit, except: Release all trout.

(ii) Steelhead: Closed to fishing for or retaining.

(iii) Salmon:

(A) Open July 1 through August 15:

(I) Daily limit 6 salmon; up to 2 may be adults.

(II) Release wild adult Chinook.

(B) Open August 16 through October 15:

(I) Daily limit 6; up to 2 may be adults.

(II) Release all salmon other than Chinook and coho.

(rr) At Priest Rapids Hatchery outlet channel (Jackson Creek) extending to midstream of the Columbia River between boundary markers located 400 feet downstream of outlet channel to 100 feet upstream: Closed waters.

(ss) From boundary markers 650 feet below the fish ladders at Priest Rapids Dam to the upstream line of the dam: Closed waters.

(tt) From Priest Rapids Dam to a line from boundary markers 750 feet downstream of the east fish ladder and 500 feet downstream of west fish ladder at Wanapum Dam:

(i) Game fish: Statewide minimum size/daily limit, except: Release all trout.

(ii) Steelhead: Closed to fishing for or retaining.

(iii) Salmon:

(A) Open July 1 through August 31:

(I) Daily limit 6; up to 2 adult hatchery Chinook and up to 2 sockeye may be retained.

(II) Release coho and wild adult Chinook.

(B) Open September 1 through October 15: Daily limit 6 Chinook only; up to 2 adults may be retained.

(uu) **From a line from boundary markers 750 feet downstream of the east fish ladder and 500 feet downstream of the west fish ladder to the Wanapum Dam:** Closed waters.

(vv) **From the Wanapum Dam to boundary markers 400 feet downstream of the fish ladders at Rock Island Dam:**

(i) Game fish: Statewide minimum size/daily limit, except: Release all trout.

(ii) Steelhead: Closed to fishing for or retaining.

(iii) Salmon:

(A) Open July 1 through August 31:

(I) Daily limit 6; up to 2 adult hatchery Chinook and up to 2 sockeye.

(II) Release coho and wild adult Chinook.

(B) Open September 1 through October 15: Daily limit 6 Chinook only; up to 2 adults may be retained.

(ww) **From the boundary markers 400 feet downstream of the fish ladders at Rock Island Dam to the upstream line of the dam:** Closed waters.

(xx) **From the upstream line of Rock Island Dam to boundary markers 400 feet downstream of the Rocky Reach Dam fish ladders:**

(i) Game fish: Statewide minimum size/daily limit, except: Release all trout.

(ii) Steelhead: Closed to fishing for or retaining.

(iii) Salmon: Open July 1 through October 15:

(A) Daily limit 6; up to 2 adult hatchery Chinook and up to 2 sockeye.

(B) Release coho and wild adult Chinook.

(yy) **From boundary markers 400 feet downstream of the Rocky Reach Dam fish ladders to the upstream line of Rocky Reach Dam:** Closed waters.

(zz) **From the upstream line of Rocky Reach Dam to boundary markers 400 feet downstream of the spawning channel discharge (on Chelan County side) and fish ladder (on Douglas County side):**

(i) Game fish: Statewide minimum size/daily limit, except: Release all trout.

(ii) Steelhead: Closed to fishing for or retaining.

(iii) Salmon: Open July 1 through October 15:

(A) Daily limit 6; up to 2 adult hatchery Chinook and up to 2 sockeye.

(B) Release coho and wild adult Chinook.

(aaa) **From the boundary markers 400 feet downstream of the spawning channel discharge (on Chelan County side) and fish ladder (on Douglas County side) to the upstream line of Wells Dam:** Closed waters.

(bbb) **From Wells Dam to Highway 173 Bridge at Brewster:**

(i) Game fish: Statewide minimum size/daily limit, except: Hatchery trout: Open July 16 through August 15. Minimum size 12 inches. Daily limit 10. Barbless hooks required.

(ii) Steelhead: Closed to fishing for or retaining.

(iii) Salmon: Open July 16 through September 30:

(A) Daily limit 6; up to 2 adult hatchery Chinook and up to 2 sockeye.

(B) Release coho and wild adult Chinook.

(ccc) **From Highway 173 Bridge at Brewster to the Highway 17 Bridge:**

(i) Game fish: Statewide minimum size/daily limit, except: Hatchery trout: Open July 1 through August 15. Minimum 12 inches. Daily limit 10. Barbless hooks required.

(ii) Steelhead: Closed to fishing for or retaining.

(iii) Salmon: Open July 1 through October 15:

(A) Daily limit 6; up to 2 adult hatchery Chinook and up to 2 sockeye.

(B) Release coho and wild adult Chinook.

(ddd) **From the Highway 17 Bridge to the Corps of Engineers safety marker on the Douglas County shore to the rock jetty at the upstream shoreline of Foster Creek:**

(i) From the Okanogan County shore between Chief Joseph Dam and the Highway 17 Bridge: Closed waters.

(ii) From the Douglas County shore from Chief Joseph Dam to the rock jetty at the upstream shoreline of Foster Creek: Closed waters.

(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 for or retaining.

(vi) Salmon: Open July 1 through September 15:

(A) Daily limit 6; up to 2 adult hatchery Chinook and up to 2 sockeye.

(B) Release coho and wild adult Chinook.

(eee) **Above Chief Joseph Dam:** See Rufus Woods Lake in WAC 220-312-050.

(fff) **Above Grand Coulee Dam:** See Lake Roosevelt in WAC 220-312-050.

AMENDATORY SECTION (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

WAC 220-315-040 Smelt—Unlawful acts. It shall be unlawful for any person taking smelt for personal use to fail to retain all smelt caught up to the daily limit. In the field, each person taking smelt must use a separate container to hold their catch and the container must be in the harvester's presence or identified with the harvester's name.

AMENDATORY SECTION (Amending WSR 20-04-058, filed 1/30/20, effective 7/1/20)

WAC 220-330-010 Shellfish—Daily limits, size restrictions, and unlawful acts. It is unlawful for any one person to possess (~~at any time~~) more than one daily limit of fresh shellfish while in the field or in transit. Additional shellfish may be possessed in a frozen or processed form. It is unlawful for any one person to take more than the following

quantities of shellfish in any one day for personal use, or take or possess shellfish that measure less than the caliper measurement described in this section. Caliper measurement is defined as a linear measurement when both points of a movable caliper are touching the shell of the shellfish. A fixed caliper gauge is the linear distance between points of the caliper gauge or the diameter of a circular gauge.

(1) Marine clams:

(a) **Clams** (not including razor clams, geoduck clams and horse clams):

(i) Daily limit is 40 clams total, not to exceed 10 pounds in the shell.

(ii) Minimum size for Manila, native littleneck, butter clams, and cockles is 1 1/2 inches across the widest dimension of the shell.

(b) Geoduck clams:

(i) Daily limit is first 3 clams dug, regardless of size or condition. Broken clams count towards daily limit. No minimum size limit.

(ii) It is unlawful to maim, injure or attempt to capture a geoduck by thrusting any instrument through its siphon or to possess only the siphon or neck portion of a geoduck.

(c) **Horse clams:** Daily limit is first 7 clams dug, regardless of size or condition. Broken clams count towards daily limit. No minimum size limit.

(d) **Razor clams:** Daily limit is 15 clams. No minimum size limit.

(e) It is unlawful for any person digging clams (other than razor clam) for personal use to fail to refill holes created during the digging operation. Beach terrain must be returned to its approximate original condition by the clam diggers before leaving immediate site of harvest. Violation of provisions of this subsection is an infraction punishable under RCW 77.15.160.

(f) **Relic shells:** No license or permit is required to take or possess up to 5 pounds of relic shells per day. It is unlawful to take or possess more than 5 pounds of relic shells from public tidelands without first obtaining a scientific collection permit. Notwithstanding the provisions of this section, it is unlawful to remove relic oyster shells from public tidelands.

(2) Crab:

(a) General provisions:

(i) All crab measurements must be made at the widest part of the shell (carapace) immediately in front of the points (tips) on the carapace.

(ii) It is unlawful to possess in the field any crab or crab parts without also retaining the back shell of each crab.

(iii) It is unlawful for any person to take or possess any female Dungeness crab.

(iv) It is unlawful to possess soft-shelled crab for any purpose. Violation of this subsection is an infraction, punishable under RCW 77.15.160.

(b) Dungeness crab:

(i)(A) In Marine Area 1 (except when fishing from the north jetty of the Columbia River), Marine Areas 2, 3, and 4 west of the Bonilla-Tatoosh line (Coastal waters): Daily limit is 6 male crab.

(B) Minimum size limit is 6 inches.

(ii)(A) In the Columbia River upstream of a line from the outermost end of the north jetty to the exposed end of the

south jetty, and when fishing from the north jetty of the Columbia River: Daily limit is 12 male crab.

(B) Minimum size limit is 5 3/4 inches.

(iii)(A) In Marine Area 4 east of the Bonilla-Tatoosh line, and Marine Areas 5, 6, 7, 8, 9, 10, 11, 12, and 13 (Puget Sound): Daily limit is 5 male crab.

(B) Minimum size limit is 6 1/4 inches.

(c) Red rock crab:

(i) Daily limit is 6 crab. Either sex may be retained.

(ii) Minimum size limit is 5 inches.

(d) **King and box crab:** Closed in all waters.

(e) Tanner crab:

(i) Daily limit is 6 crab. Either sex may be retained.

(ii) Minimum size limit is 4 1/2 inches.

(3) Crawfish:

(a) Daily limit is 10 pounds, whole crawfish in the shell.

(b) Minimum size limit 3 1/4 inches from tip of rostrum to tip of tail.

(c) Female crawfish with eggs or young attached to the abdomen must be released immediately.

(d) Take or possession of crawfish must also comply with provisions of chapter 220-640 WAC.

(4) **Goose barnacles:** Daily limit is 10 pounds of whole barnacles in the shell or 5 pounds of barnacle stalks. No minimum size limit.

(5) **Mussels:** Daily limit is 10 pounds in the shell, all species in the aggregate. No minimum size limit.

(6) **Octopus:** Daily limit is one octopus. No minimum size limit.

(7) Oysters:

(a) Daily limit is 18 oysters.

(b) Minimum size limit before shucking is 2 1/2 inches along the widest dimension of the shell. Violation of this subsection is an infraction, punishable under RCW 77.15.160.

(c) Oysters taken for personal use must be shucked before removing oysters from the intertidal zone and the shells replaced on the tidelands at the approximate tide level from which original was taken. Violation of this subsection is an infraction, punishable under RCW 77.15.160.

(8) Scallops:

(a) Rock scallops:

(i) Daily limit is 6 scallops.

(ii) Minimum size limit is 4 inches. Violation of this subsection is an infraction, punishable under RCW 77.15.160.

(b) Pink and spiny scallops:

(i) Combined daily limit is 40 scallops in the shell.

(ii) Minimum size limit is 2 inches. Violation of this subsection is an infraction, punishable under RCW 77.15.160.

(c) Weathervane scallops:

(i) Daily limits is 12 scallops.

(ii) Minimum size limit is 4 inches.

(9) **Sea cucumbers:** Daily limit is 18 California sea cucumbers. No minimum size limit.

(10) Sea urchins:

(a) Red sea urchins:

(i) Daily limit is 18 red sea urchins.

(ii) Minimum size limit 3 1/4 inch shell diameter exclusive of the spines. Maximum size limit is 5 inch shell diameter exclusive of the spines. Violation of this subsection is an infraction, punishable under RCW 77.15.160.

(b) Purple sea urchins:

(i) Daily limit is 18 purple sea urchins.

(ii) Minimum size limit is 2 1/4 inch shell diameter exclusive of the spines.

(c) Green sea urchins:

(i) Daily limit is 18 green sea urchins.

(ii) Minimum size limit is 2 1/4 inch shell diameter exclusive of the spines.

(11) Shrimp:

(a) In Marine Areas 1, 2, and 3 and Marine Area 4 west of the Bonilla-Tatoosh line: Daily total weight limit is 25 pounds, maximum of 200 spot shrimp as part of the 25-pound limit.

(b)(i) In Marine Area 4 east of the Bonilla-Tatoosh line and Marine Areas 5, 6, 7, 8-1, 8-2, 9, 10, 11, 12, and 13: ~~(First Saturday in May through May 31,)~~ Daily limit is 80 spot shrimp; ~~(during all other open periods))~~ with a total daily ~~((total))~~ weight limit ~~((is))~~ of 10 pounds (whole shrimp) all species combined ~~((maximum of 80 spot shrimp as part of the 10-pound limit)).~~(ii) If retaining nonspot shrimp ~~((heads may be removed, but after May 31)), all shrimp heads (spot and nonspot)~~ must be retained in the field until ashore and finished fishing for the day.(c) **Ghost and mud shrimp:** Daily limit is 120 shrimp.**(12) Squid:**(a) **Humboldt squid:** 1 squid. No minimum size limit.(b) **All other species of squid:** Daily limit is 10 pounds or 5 quarts of squid. No minimum size limit.AMENDATORY SECTION (Amending WSR 20-04-058, filed 1/30/20, effective 7/1/20)**WAC 220-330-090 Crawfish, sea urchins, sea cucumbers, goose barnacles, scallops, squid, octopus—Areas and seasons.** It is unlawful to fish for personal use for crawfish, sea urchins, sea cucumbers, goose barnacles, and scallops except in the following areas and seasons:(1) **Crawfish:** Open in all waters from the first Monday in May through October 31.(2) **Sea cucumbers ~~((and sea urchins))~~:** Open ~~((year-round))~~ July 1 through the last day in February in all waters, except ~~((that it is unlawful to take sea cucumbers and sea urchins in Marine Area 12 and))~~ in the following closed areas:(a) All waters of Marine Area 12.(b) All waters of Marine Area 8-1.(c) All waters of Marine Area 8-2.(d) All waters of Marine Area 10.(e) Those waters of Marine Area 9 south of a line projected from Foulweather Bluff (47° 56.4'N, 122° 36.726'W) to Double Bluff (47° 58.054'N, 122° 32.78'W).(f) Those waters of San Juan Channel and Upright Channel within the following lines: North and west of a line from the northernmost point of Turn Island on San Juan Island (48° 32.146'N, 122° 58.279'W) to Flat Point on Lopez Island (48° 33.060'N, 122° 55.181'W) and ~~((thence))~~ then projected from Flat Point true west to Shaw Island (48° 33.062'N, 122° 56.509'W) north of a line projected from the northernmost point of Turn Island (48° 32.146'N, 122° 58.279'W) true west

to San Juan Island (48° 32.146'N, 122° 59.033'W) west of a line from Neck Point on Shaw Island (48° 35.233'N, 123° 0.744'W) to Steep Point on Orcas Island (48° 36.559'N, 123° 1.387'W) and south of a line from Steep Point on Orcas Island to Limestone Point on San Juan Island (48° 37.348'N, 123° 6.450'W).

~~((b))~~ (g) Those waters of Haro Strait north of a line projected true west from the southernmost point of Cattle Point on San Juan Island (48° 27.006'N, 122° 57.818'W) to the international border and south of a line projected true west from a point ~~((one-quarter))~~ 1/4 mile north of Lime Kiln Light on San Juan Island (48° 31.202'N, 123° 9.162'W) to the international border.~~((e))~~ (h) Argyle Lagoon: Those University of Washington-owned tidelands and all bedlands enclosed by the inner spit of Argyle Lagoon on San Juan Island.~~((d))~~ (i) Those waters within ~~((one-quarter))~~ 1/4 mile of Tatoosh Island.~~((e))~~ (j) Those waters of the Strait of Juan de Fuca in the vicinity of Low Point west of a line projected true north from the shoreline at 123° 48.3'W longitude to the international border, and east of a line projected true north from the shoreline at 123° 52.7'W longitude to the international border at 123° 52.7'W longitude.~~((f))~~ (k) Those waters of Eagle Harbor west of a line projected from Wing Point (47° 37.241'N, 122° 29.535'W) to Eagle Harbor Creosote Light Number 1 (47° 36.975'N, 122° 29.792'W), then projected true west to the shore on Bainbridge Island (47° 36.975'N, 122° 29.977'W).~~((g))~~ (l) The waters of Sinclair Inlet west of a line projected southerly from the easternmost point of Point Turner (47° 33.886'N, 122° 37.397'W) to landfall directly below the ~~((Veteran's Home))~~ Kitsap Transit foot ferry terminal in Annapolis (47° 32.868'N, 122° 36.973'W).~~((h))~~ (m) All waters of Hale Passage and Wollochet Bay within the following lines: ~~((West of a line projected true south from the shoreline near Point Fosdick (47° 14'N, 122° 35'W), and thence projected true west to the shoreline of Fox Island (47° 14'N, 122° 35.368'W) and east of a line projected true south from the shoreline near Green Point (47° 16.5'N, 122° 41'W), and thence projected true east to the shoreline of Fox Island (47° 16.5'N, 122° 40.145'W).~~~~((i))~~ West and north of a line starting at Point Fosdick following longitude 122° 35'W southward to latitude 47° 14'; then true west to Fox Island, and east and north of a line starting at Green Point following longitude 122° 41'W southward to latitude 47° 16.5'N; then true east to Fox Island.(3) **Sea urchins:** Open year-round in all waters, except in the following closed areas:(a) All waters of Marine Area 12.(b) Those waters of San Juan Channel and Upright Channel within the following lines: North and west of a line from the northernmost point of Turn Island on San Juan Island (48° 32.146'N, 122° 58.279'W) to Flat Point on Lopez Island (48° 33.060'N, 122° 55.181'W), and then projected from Flat Point true west to Shaw Island (48° 33.062'N, 122° 56.509'W) north of a line projected from the northernmost point of Turn Island (48° 32.146'N, 122° 58.279'W) true west to San Juan Island (48° 32.146'N, 122° 59.033'W) west of a line from Neck Point on Shaw Island (48° 35.233'N, 123°

0.744'W) to Steep Point on Orcas Island (48° 36.559'N, 123° 1.387'W) and south of a line from Steep Point on Orcas Island to Limestone Point on San Juan Island (48° 37.348'N, 123° 6.450'W).

(c) Those waters of Haro Strait north of a line projected true west from the southernmost point of Cattle Point on San Juan Island (48° 27.006'N, 122° 57.818'W) to the international border and south of a line projected true west from a point 1/4 mile north of Lime Kiln Light on San Juan Island (48° 31.202'N, 123° 9.162'W) to the international border.

(d) Argyle Lagoon: Those University of Washington-owned tidelands and all bedlands enclosed by the inner spit of Argyle Lagoon on San Juan Island.

(e) Those waters within 1/4 mile of Tatoosh Island.

(f) Those waters of the Strait of Juan de Fuca in the vicinity of Low Point west of a line projected true north from the shoreline at 123° 48.3'W longitude to the international border, and east of a line projected true north from the shoreline at 123° 52.7'W longitude to the international border at 123° 52.7'W longitude.

(g) Those waters of Eagle Harbor west of a line projected from Wing Point (47° 37.241'N, 122° 29.535'W) to Eagle Harbor Creosote Light Number 1 (47° 36.975'N, 122° 29.792'W), then projected true west to the shore on Bainbridge Island (47° 36.975'N, 122° 29.977'W).

(h) The waters of Sinclair Inlet west of a line projected southerly from the easternmost point of Point Turner (47° 33.886'N, 122° 37.397'W) to landfall directly below the Kitsap Transit foot ferry terminal in Annapolis (47° 32.868'N, 122° 36.973'W).

(i) All waters of Hale Passage and Wollochet Bay within the following lines: West and north of a line starting at Point Fosdick following longitude 122° 35'W southward to latitude 47° 14'; then true west to Fox Island, and east and north of a line starting at Green Point following longitude 122° 41'W southward to latitude 47° 16.5'N; then true east to Fox Island.

(4) Goose barnacles:

(a) In Marine Area 4 east of the Bonilla-Tatoosh line, and Marine Areas 5, 6, 7, 8-1, 8-2, 9, 10, 11, 12, and 13 (Puget Sound), open year-round.

(b) In Marine Areas 1, 2, and 3 and Marine Area 4 west of the Bonilla-Tatoosh line (outside of Olympic National Park), open November 1 through March 31 only.

~~((4))~~ (5) Scallops: Open in all waters year-round.

~~((5))~~ (6) Squid: Open in all waters year-round.

~~((6))~~ (7) Octopus: Open year-round in all waters, except that is unlawful to take octopus in Marine Area 12 and from the following closed areas:

(a) **Redondo Beach.** Redondo Beach is defined as the waters, bedlands, and tidelands within the area described by a line starting from shore at 47° 20.927'N, 122° 19.462'W; then northwesterly to 47° 20.947'N, 122° 19.513'W; then to 47° 20.955'N, 122° 19.564'W; then northeasterly to 47° 21.039'N, 122° 19.496'W; then returning to shore at 47° 21.011'N, 122° 19.42'W.

(b) **Three Tree Point.** Three Tree Point is defined as the waters, bedlands, and tidelands within the area described by a line starting from shore at 47° 27.108'N, 122° 22.811'W; then northwesterly to 47° 27.255'N, 122° 22.948'W; then north-

easterly to 47° 27.425'N, 122° 22.617'W; then returning to shore at 47° 27.278'N, 122° 22.461'W.

(c) **Alki Beach Seacrest Coves 1, 2, and 3.** Alki Beach Seacrest Coves 1, 2, and 3 are defined as the waters, bedlands, and tidelands within the area described by a line starting from shore at 47° 35.216'N, 122° 22.622'W; then north-easterly and offshore to 47° 35.268'N, 122° 22.560'W; then northwesterly to 47° 35.492'N, 122° 23.87'W; then returning to shore at 47° 35.480'N, 122° 23.905'W. This area does not include waters within 150 feet of the Seacrest Public Fishing Pier, as demarcated at the surface with buoys and on the sea floor by a perimeter line.

(d) **Les Davis.** Les Davis is defined as the waters, bedlands, and tidelands within the area described by a line starting from shore at 47° 17.086'N, 122° 29.120'W; the north-easterly to 47° 17.176'N, 122° 29.016'W; then southeasterly to 47° 17.115'N, 122° 28.902'W; then returning to shore at 47° 17.025'N, 122° 29.003'W.

(e) **Alki Beach Junk Yard.** Alki Beach Junk Yard is defined as the waters, bedlands, and tidelands within the area described by a line starting from shore at 47° 34.677'N, 122° 24.953'W; then northwesterly to 47° 34.834'N, 122° 25.054'W; then northeasterly to 47° 34.946'N, 122° 24.678'W; then returning to shore at 47° 34.789'N, 122° 24.575'W.

(f) **Days Island.** Days Island is defined as the waters, bedlands, and tidelands within the area described by a line starting from shore at 47° 14.125'N, 122° 33.819'W; then west to 47° 14.126'N, 122° 34.024'W; then north to 47° 14.696'N, 122° 34.013'W; then returning to shore at 47° 14.696'N, 122° 34.679'W.

(g) **Deception Pass.** Deception Pass is defined as the waters, bedlands, and tidelands east of a line starting at 48° 24.134'N, 122° 39.801'W; and north to 48° 25.169'N, 122° 40.343'W; then east to 48° 25.269'N, 122° 40.161'W; proceeding to 48° 24.925'N, 122° 39.845'W; and west of a line starting at 48° 24.492'N, 122° 36.904'W; and north to 48° 24.815'N, 122° 36.912'W.

WSR 21-20-107

PROPOSED RULES

OFFICE OF THE

INSURANCE COMMISSIONER

[Insurance Commissioner Matter R 2021-17—Filed October 4, 2021,
2:23 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-14-097.

Title of Rule and Other Identifying Information: Health care sharing ministries (HCSM) rule making.

Hearing Location(s): On Wednesday, November 24, 2021, at 3:30 p.m., Zoom meeting. Detailed information for attending the Zoom meeting posted on the office of insurance commissioner (OIC) website here <https://www.insurance.wa.gov/health-care-sharing-ministries-r-2021-17>. Due to the COVID-19 public health emergency, this meeting will be held via Zoom platform.

Date of Intended Adoption: November 29, 2021.

Submit Written Comments to: Jane Beyer, P.O. Box 40260, Olympia, WA 98504-0260, email rulescoordinator@oic.wa.gov, fax 360-586-3109, by November 24, 2021.

Assistance for Persons with Disabilities: Contact Melanie Watness, phone 360-725-7013, fax 360-586-2023, TTY 360-586-0241, email MelanieW@oic.wa.gov, by November 24, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The commissioner is adopting rules relating to the exemption for HCSM found in RCW 48.43.009 to reduce confusion and increase transparency.

Reasons Supporting Proposal: The rule is adopting new WAC to be consistent with federal law, increase transparency, and make it easy to locate all applicable rules related to health care sharing ministries in one location.

Statutory Authority for Adoption: RCW 48.02.060, 48.17.005, and 48.15.015.

Statute Being Implemented: RCW 48.43.009.

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

Name of Proponent: Mike Kreidler, insurance commissioner, governmental.

Name of Agency Personnel Responsible for Drafting: Jane Beyer, P.O. Box 40260, Olympia, WA 98504-0260, 360-725-7043; Implementation: Molly Nollette, P.O. Box 40260, Olympia, WA 98504-0260, 360-725-7000; and Enforcement: Charles Malone, P.O. Box 40260, Olympia, WA 98504-0260, 360-725-7000.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. **Background information:** OIC has developed this rule, relating to the exemption for HCSM found in RCW 48.43.009 to incorporate federal law adding clarity and setting expectations for health care sharing ministries.

Legal obligations: The Washington Administrative Procedure Act (APA)¹ requires that "significant legislative rules" be evaluated to determine if the probable benefits of a proposed rule making exceed its probable costs. Taking into account both quantitative and qualitative information and analysis². A draft of this determination must be available at the time the filing for the rule's preproposal or CR-102. The final version of this document must be completed prior to final rule adoption and included in the rule-making file.

¹ Chapter 34.05 RCW.

² RCW 34.05.328 (1)(c).

Determination of exemption: OIC has determined that under:

- RCW 34.05.328 (5)(b)(iii), this rule will adopt or incorporate, one or more of the following without change: Federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or items as referenced by Washington state law, national consensus codes that generally establish industry standards. The material adopted or incorporated regulates the same sub-

ject matter and conduct as the adopting or incorporating rule and is exempt from RCW 34.05.328 (1)(c).

- RCW 34.05.328 (5)(b)(v), the content of the rule is explicitly and specifically dictated by statute and is exempt from RCW 34.05.328 (1)(c).

Rationale: The scope of the rule making is limited to develop rules to incorporate federal law regarding the definition of an HCSM and set expectations on responding to inquiries of the OIC.

Determination: OIC determines that this rule is exempt from cost-benefit analysis requirements.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW [no information supplied].

Explanation of exemptions: **Background information:** OIC has taken enforcement action against several entities that have marketed their products as HCSM, but these entities have not met the statutory and federal definition required for exemption under the Insurance Code as an HCSM. This rule making will add additional clarity, set expectations, and provide direction to entities that are considering marketing in Washington state by defining some of the terms utilized in the federal definition that was adopted into the statute.

Legal obligations: Chapter 19.85 RCW states that "... an agency shall prepare a small business economic impact statement: (i) If the proposed rule will impose more than minor costs on businesses in an industry³ ..." The small business economic impact statement (SBEIS) must include "... a brief description of the reporting, recordkeeping, and other compliance requirements of the proposed rule, and the kinds of professional services that a small business is likely to need in order to comply with such requirements ... To determine whether the proposed rule will have a disproportionate cost impact on small businesses⁴."

³ RCW 19.85.030:

<http://app.leg.wa.gov/RCW/default.aspx?cite=19.85.030>.

⁴ RCW 19.85.040:

<http://app.leg.wa.gov/RCW/default.aspx?cite=19.85.040>.

This rule proposal, or portions of the proposal, are exempt from requirements of the Regulatory Fairness Act under:

- RCW 19.85.061 - this rule making is being adopted solely to conform and/or comply with federal statute or regulations.
- RCW 19.85.025(3) - provides exclusions under RCW 34.05.310 (4)(e), the provisions of this rule were dictated by statute.
- RCW 19.85.025(3) - provides exclusions under RCW 34.05.310 (4)(c), it incorporates existing rules/statutes [statutes] by reference; and
- RCW 19.85.025(3) - provides exclusions under RCW 34.05.310 (4)(d), it corrects/clarifies existing language.

Rationale: This rule amends existing rules and add[s] new sections relating to the exemption for HCSM found in RCW 48.43.009 and the sale of HCSM plans by licensed producers.

Determination: OIC determines that this rule is exempt from SBEIS requirements.

October 4, 2021
Mike Kreidler
Insurance Commissioner

SUBCHAPTER N

HEALTH CARE SHARING MINISTRIES

NEW SECTION

WAC 284-43-8210 Definitions. For the purposes of this subchapter:

(1) "Annual audit" means an audit occurring once a year at approximately the same time each year for the preceding calendar year.

(2) "Certified public accounting firm" means a firm licensed by state boards of accountancy, the District of Columbia, and U.S. territories.

(3) "Continuously" means without a break or interruption.

(4) "For-profit organization" means an organization in which persons are permitted to have an ownership or partnership interest, such as corporate stock. It includes sole proprietorships, corporations, and other entities that provide for ownership interests.

(5) "Generally accepted accounting principles" means the compulsory accrual method of accounting for a public company.

(6) "Health care sharing ministry" means:

(a) An organization described in Section 501 (c)(3) and is exempt from taxation under Section 501(a);

(b) Has members who share a common set of ethical or religious beliefs and share medical expenses among members in accordance with those beliefs and without regard to the state in which a member resides or is employed;

(c) Members retain membership in the health care sharing organization even after the member develops a medical condition;

(d) Which, or a predecessor of which, has been in existence at all times since December 31, 1999, and medical expenses of its members have been shared continuously and without interruption since at least December 31, 1999; and

(e) Conducts an annual audit, which is performed by an independent certified public accounting firm in accordance with generally accepted accounting principles and which is made available to the public upon request.

(7) "Independent certified public accounting firm" means a certified public accounting firm that meets the standards of independence set forth by the American Institute of Certified Public Accountants (AICPA), the Public Company Accounting Oversight Board (PCAOB), or another similar body that oversees or sets standards for the accounting or auditing professions.

(8) "Nonprofit organization" means organizations meeting specified requirements that qualify for exemption under subsections other than Section 501 (c)(3).

(9) "Organization" means an entity organized as a corporation, a limited liability company (LLC), an unincorporated

association, or a trust. Entities must be organized under United States federal or state law.

(10) "Predecessor" means an organization that was acquired, merged with, or otherwise replaced by a successor organization, and the predecessor organization no longer shares medical expenses.

(11) "Share medical expenses" or "sharing medical expenses" means providing for the medical needs and financial needs related to medical expenses of a participant through member contributions.

NEW SECTION

WAC 284-43-8220 Prompt reply to the commissioner required. Health care sharing ministries shall timely reply in writing to an inquiry of the commissioner regarding their compliance with RCW 48.43.009, any potential violations of RCW 48.05.030(1) and 48.15.020(1), and any related regulations, including this regulation. A timely response is one that is received by the commissioner within 15 business days from receipt of the inquiry.

NEW SECTION

WAC 284-43-8230 Continuously sharing medical expenses. A health care sharing ministry must share medical expenses among its members, and this sharing must be continuous and without interruption. In order for sharing between a predecessor organization and its successor organization to be continuous and without interruption, remaining predecessor organization members must share medical expenses with successor organization members, if any, at the time the successor organization acquires, merges with, or otherwise replaces the predecessor's medical expense sharing activities.

WSR 21-20-108

PROPOSED RULES

OFFICE OF THE

INSURANCE COMMISSIONER

[Insurance Commissioner Matter R 2021-16—Filed October 4, 2021, 2:30 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-14-094.

Title of Rule and Other Identifying Information: Implementation of E2SHB 1477 and consolidated health care rule making.

Hearing Location(s): On Wednesday, November 10, 2021, at 3:30 p.m., Zoom meeting. Detailed information for attending the Zoom meeting posted on the office of insurance commissioner (OIC) website here <https://www.insurance.wa.gov/implementation-e2shb-1477-and-consolidated-health-care-rulemaking-r-2021-16>. Due to the COVID-19 public health emergency, this meeting will be held via Zoom platform.

Date of Intended Adoption: November 12, 2021.

Submit Written Comments to: Jane Beyer, P.O. Box 40260, Olympia, WA 98504-0260, email rulescoordinator@oic.wa.gov, fax 360-586-3109, by November 10, 2021.

Assistance for Persons with Disabilities: Contact Melanie Watness, phone 360-725-7013, fax 360-586-2023, TTY 360-586-0241, email MelanieW@oic.wa.gov, by November 10, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The commissioner is adopting rules to implement E2SHB 1477 concerning access to next day appointments required in the legislation. This rule is also being used to consolidate rule making to ensure that rules related to recently enacted legislation that also amend WAC 284-170-280 are adopted by OIC prior to January 1, 2022. These rules will facilitate implementation of recent laws by ensuring that all affected health care entities understand their rights and obligations.

Reasons Supporting Proposal: The rule is amending WAC 284-170-280 to be consistent with changes in legislative requirements, to adopt reporting requirements regarding access to the next day services to ensure that enrollees are receiving these vital services for the prevention of suicide, and to address network access plan standards specific to gender affirming treatment.

Statutory Authority for Adoption: RCW 48.02.060, 48.43.515, 48.44.050, 48.46.200; chapter 302, Laws of 2021, and chapter 280, Laws of 2021.

Statute Being Implemented: RCW 48.43.790 and 48.43.-0128.

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

Name of Proponent: Mike Kreidler, insurance commissioner, governmental.

Name of Agency Personnel Responsible for Drafting: Jane Beyer, P.O. Box 40260, Olympia, WA 98504-0260, 360-725-7043; **Implementation:** Molly Nollette, P.O. Box 40260, Olympia, WA 98504-0260, 360-725-7000; and **Enforcement:** Charles Malone, P.O. Box 40260, Olympia, WA 98504-0260, 360-725-7000.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. The Washington Administrative Procedure Act (APA)¹ requires that "significant legislative rules" be evaluated to determine if the probable benefits of a proposed rule making exceed its probable costs. Considering both quantitative and qualitative information and analysis². A draft of this determination must be available at the time [of] the filing for the rule's preproposal or CR-102. The final version of this document must be completed prior to final rule adoption and included in the rule-making file.

¹ Chapter 34.05 RCW.

² RCW 34.05.328 (1)(c).

Determination of exemption: OIC has determined that under RCW 34.05.328 (5)(b)(iii), this rule will adopt or incorporate, one or more of the following without change: Federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of

statewide significance, or items as referenced by Washington state law, national consensus codes that generally establish industry standards. The material adopted or incorporated.

Rationale: E2SHB 1477 was signed into law after this most recent session. Among various requirements assigned to other agencies such as implementing the national 988 suicide prevention hotline in Washington, the bill also add [added] a section to Title 48 RCW that requires carriers to ensure that enrollees experiencing urgent, symptomatic behavioral health conditions have access to next day appointment. Additionally, the team is utilizing this rule making as the consolidate [consolidated] rule making to ensure that rules related to recently enacted legislation are adopted by OIC prior to January 1, 2022. The rule is amending WAC 284-170-280 to be consistent with these requirements and to adopt reporting requirements regarding access to the next day services to ensure that enrollees are receiving these vital services for the prevention of suicide.

Determination: OIC determines that this rule is exempt from cost-benefit analysis requirements.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: Chapter 19.85 RCW states that "... an agency shall prepare a small business economic impact statement: (i) If the proposed rule will impose more than minor costs on businesses in an industry ..." The small business economic impact statement must include "... a brief description of the reporting, recordkeeping, and other compliance requirements of the proposed rule, and the kinds of professional services that a small business is likely to need in order to comply with such requirements ... To determine whether the proposed rule will have a disproportionate cost impact on small businesses."

This rule proposal, or portions of the proposal, are exempt from requirements of the Regulatory Fairness Act under: RCW 19.85.025(4) - the businesses that must comply with the proposed rule are not small businesses, under chapter 19.85 RCW.

This rule only impacts large insurance carriers which are not classified as small business [businesses] ad [as] defined by RCW 19.85.020(2). While calculating, we have applied default cost of compliance \$1,000 as it is indeterminate at this time. OIC has directly heard from stakeholders regarding questions and issues related to implementation and have revised internal processes to respond to some of these issues. OIC has determined that the compliance with the proposed rule does not put any disproportionate impact on small businesses or government agencies.

| 2019 Industry NAICS Code | Estimated Cost of Compliance | Industry Description | NAICS Code Title | Average number of employees/ business | Minor Cost Estimate - 0.003% of Avg. Annual Receipts |
|--------------------------|------------------------------|--|-----------------------|---------------------------------------|--|
| 524114 | \$1,000 | Direct Health and Medical Insurance Carriers | Finance and insurance | 742 (Not small business) | \$3,503,165 |

Source: United States Census Bureau, (2017). Retrieved October 24, 2021, from census.gov.

October 4, 2021
 Mike Kreidler
 Insurance Commissioner

AMENDATORY SECTION (Amending WSR 16-14-106, filed 7/6/16, effective 8/6/16)

WAC 284-170-280 Network reports—Format. (1) An issuer must submit its provider network materials to the commissioner for approval prior to or at the time it files a newly offered health plan.

(a) For individual and small groups, the submission must occur when the issuer submits its plan under WAC 284-43-0200. For groups other than individual and small, the submission must occur when the issuer submits a new health plan and as required in this section.

(b) The commissioner may extend the time for filing for good cause shown.

(c) For plan year 2015 only, the commissioner will permit a safe harbor standard. An issuer who can not meet the submission requirements in ~~((e) and (f) of this)~~ subsection (3)(f) and (g) of this subsection will be determined to meet the requirements of those subsections even if the submissions are incomplete, provided that the issuer:

(i) Identifies specifically each map required under subsection ~~(3)((e))~~ (f) (i) of this section, or Access Plan component required under subsection ~~(3)((f))~~ (g) of this section, which has not been included in whole or part;

(ii) Explains the specific reason each map or component has not been included; and

(iii) Sets forth the issuer's plan to complete the submission, including the date(s) by which each incomplete map and component will be completed and submitted.

(2) Unless indicated otherwise, the issuer's reports must be submitted electronically and completed consistent with the posted submission instructions on the commissioner's website, using the required formats.

(3) For plan years beginning January 1, 2015, an issuer must submit the following specific documents and data to the commissioner to document network access:

(a) **Provider Network Form A.** An issuer must submit a report of all participating providers by network.

(i) The Provider Network Form A must be submitted for each network being reviewed for network access. A network may be used by more than one plan.

(ii) An issuer must indicate whether a provider is an essential community provider as instructed in the commissioner's Provider Network Form A instructions.

(iii) An issuer must submit an updated, accurate Provider Network Form A on a monthly basis by the 5th of each month

for each network and when a material change in the network occurs as described in subchapter B.

(iv) Filing of this data satisfies the reporting requirements of RCW 48.44.080 and the requirements of RCW 48.46.030 relating to filing of notices that describe changes in the provider network.

(b) **Provider directory certification.** An issuer must submit at the time of each Provider Network Form A submission a certification that the provider directory posted on the issuer's website is specific to each plan, accurate as of the last date of the prior month. A certification signed by an officer of the issuer must confirm that the provider directory contains only providers and facilities with which the issuer has a signed contract that is in effect on the date of the certification.

(c) **988 Crisis Hotline Appointment Form D report.** For health plans issued or renewed on or after January 1, 2023, issuers must make next day appointments available to enrollees experiencing urgent, symptomatic behavioral health conditions to receive covered behavioral health services. Beginning on January 7, 2023, issuers must submit a weekly report that will detail their health plans' compliance with next day appointment access.

(i) The report is due each Friday except on state or federal recognized holidays and in such situations the report is due the first Monday following the holiday.

(ii) The report must contain all data items shown in and conform to the format of the 988 Crisis Hotline Appointment Form D report prescribed by and available from the commissioner.

(A) If an issuer has not received any next day appointment requests, the issuer must still utilize and submit the report to attest that no requests were received during the filing time frame.

(B) If an issuer has received request for next day appointments, the issuer's report must include, but is not limited to, data to identify the issuer's name, provider network name, service area by county, available appointments, appointments accessed, number of appointments for which the scheduling time frame was met within one day, number of appointments for which the scheduling time frame was not met within one day and an explanation for not meeting the time frame.

(iii) For purposes of this report, urgent symptomatic behavioral health condition has the same meaning as described in RCW 48.43.790 or as established by the

National Suicide Hotline Designation Act of 2020 and federal communications rules adopted July 16, 2020.

(d) Network Enrollment Form B. The Network Enrollment Form B report provides the commissioner with an issuer's count of total covered lives for the prior year, during each month of the year, for each health plan by county.

(i) The report must be submitted for each network as a separate report. The report must contain all data items shown in and conform to the format of Network Enrollment Form B prescribed by and available from the commissioner.

(ii) An issuer must submit this report by March 31st of each year.

~~((e))~~ **(e) Alternate Access Delivery Request Form C.** For plan years that begin on or after January 1, 2015, alternate access delivery requests must be submitted when an issuer's network meets one or more of the criteria in WAC 284-170-200 (15)(a) through (d). Alternate access delivery requests must be submitted to the commissioner using the Alternate Access Delivery Request Form C.

(i) The Alternate Access Delivery Request Form C submission must address the following areas, and may include other additional information as requested by the commissioner:

(A) A description of the specific issues the alternate access delivery system is intended to address, accompanied by supporting data describing how the alternate access delivery system ensures that enrollees have reasonable access to sufficient providers and facilities, by number and type, for covered services;

(B) A description and schedule of cost-sharing requirements for providers that fall under the alternate access delivery system;

(C) The issuer's proposed method of noting on its provider directory how an enrollee can access provider types under the alternate access delivery system;

(D) The issuer's marketing plan to accommodate the time period that the alternate access delivery system is in effect, and specifically describe how it impacts current and future enrollment and for what period of time;

(ii) Provider Network Form A and Network Enrollment Form B submissions are required in relation to an alternate access delivery system on the basis described in subsections (1) and (2) of this section.

(iii) If a network becomes unable to meet the network access standards after approval but prior to the health product's effective date, an alternate access delivery request must include a timeline to bring the network into full compliance with this subchapter.

~~((f))~~ **(f) Geographic Network Reports.**

(i) The geographic mapping criteria outlined below are minimum requirements and will be considered in conjunction with the standards set forth in WAC 284-170-200 and 284-170-310. One map for each of the following provider types must be submitted:

(A) Hospital and emergency services. Map must identify provider locations, and demonstrate that each enrollee in the service area has access within thirty minutes in an urban area and sixty minutes in a rural area from either their residence or workplace to general hospital facilities including emergency services.

(B) Primary care providers. Map must demonstrate that eighty percent of the enrollees in the service area have access within thirty miles in an urban area and sixty miles in a rural area from either their residence or workplace to a primary care provider with an open practice. The provider type selected must have a license under Title 18 RCW that includes primary care services in the scope of license.

(C) Mental health and substance use disorder providers. For general mental health providers, such as licensed psychiatrists, psychologists, social workers, and mental health nurse practitioners, the map must demonstrate that eighty percent of the enrollees in the service area have access to a mental health provider within thirty miles in an urban area and sixty miles in a rural area from either their residence or workplace. For specialty mental health providers and substance use disorder providers, the map must demonstrate that eighty percent of the enrollees have access to the following types of service provider or facility: Evaluation and treatment, voluntary and involuntary inpatient mental health and substance use disorder treatment, outpatient mental health and substance use disorder treatment, and behavioral therapy. If one of the types of specialty providers is not available as required above, the issuer must propose an alternate access delivery system to meet this requirement.

(D) Pediatric services. For general pediatric services, the map must demonstrate that eighty percent of the covered children in the service area have access to a pediatrician or other provider whose license under Title 18 RCW includes pediatric services in the scope of license. This access must be within thirty miles in an urban area and sixty miles in a rural area of their family or placement residence. For specialty pediatric services, the map must demonstrate that eighty percent of covered children in the service area have access to pediatric specialty care within sixty miles in an urban area and ninety miles in a rural area of their family or placement residence. The pediatric specialty types include, but are not limited to, nephrology, pulmonology, rheumatology, hematology-oncology, perinatal medicine, neurodevelopmental disabilities, cardiology, endocrinology, and gastroenterology.

(E) Specialty services. An issuer must provide one map for the service area for specialties found on the American Board of Medical Specialties list of approved medical specialty boards. The map must demonstrate that eighty percent of the enrollees in the service area have access to an adequate number of providers and facilities in each specialty. Subspecialties are subsumed on the map.

(F) Therapy services. An issuer must provide one map that demonstrates that eighty percent of the enrollees have access to the following types of providers within thirty miles in an urban area and sixty miles in a rural area of their residence or workplace: Chiropractor, rehabilitative service providers and habilitative service providers.

(G) Home health, hospice, vision, and dental providers. An issuer must provide one map that identifies each provider or facility to which an enrollee has access in the service area for home health care, hospice, vision, and pediatric oral coverage, including allied dental professionals, dental therapists, dentists, and orthodontists.

(H) Covered pharmacy dispensing services. An issuer must provide one map that demonstrates the geographic distribution of the pharmacy dispensing services within the service area. If a pharmacy benefit manager is used by the issuer, the issuer must establish that the specifically contracted pharmacy locations within the service area are available to enrollees through the pharmacy benefit manager.

(I) Essential community providers. An issuer must provide one map that demonstrates the geographic distribution of essential community providers, by type of provider or facility, within the service area. This requirement applies only to qualified health plans as certified in RCW 43.71.065.

(ii) Each report must include the provider data points on each map, title the map as to the provider type or facility type it represents, include the network identification number the map applies to, and the name of each county included on the report.

(iii) For plan years beginning January 1, 2015, and every year thereafter, an issuer must submit reports as required in subsection (1) of this section to the commissioner for review and approval, or when an alternate access delivery request is submitted.

~~((F))~~ (g) **Access Plan.** An issuer must establish an access plan specific to each product that describes the issuer's strategy, policies, and procedures necessary to establishing, maintaining, and administering an adequate network.

(i) At a minimum, the issuer's policies and procedures referenced in the access plan must address:

(A) Referral of enrollees out-of-network, including criteria for determining when an out-of-network referral is required or appropriate;

(B) Copayment and coinsurance determination standards for enrollees accessing care out-of-network;

(C) Standards of accessibility expressed in terms of objectives and minimum levels below which corrective action will be taken, including the proximity of specialists and hospitals to primary care sources, and a method and process for documentation confirming that access will not result in delay detrimental to health of enrollees;

(D) Monitoring policies and procedures for compliance, including tracking and documenting network capacity and availability;

(E) Standard hours of operation, and after-hours, for prior authorization, consumer and provider assistance, and claims adjudication;

(F) Triage and screening arrangements for prior authorization requests;

(G) Prior authorization processes that enrollees must follow, including the responsibilities and scope of use of nonlicensed staff to handle enrollee calls about prior authorization;

(H) Specific procedures and materials used to address the needs of enrollees with limited-English proficiency and literacy, with diverse cultural and ethnic backgrounds, and with physical and mental disabilities;

(I) Assessment of the health status of the population of enrollees or prospective enrollees, including incorporation of the findings of local public health community assessments, and standardized outcome measures, and use of the assessment data and findings to develop network or networks in the service area;

(J) For gender affirming treatment:

(I) Standards of accessibility expressed in terms of objectives and minimum levels below which corrective action will be taken, including the proximity of gender affirming treatment services to primary care sources, and a method and process for documentation confirming that access will not result in delay detrimental to health of enrollees;

(II) Monitoring policies and procedures for compliance, including tracking and documenting network capacity and availability;

~~(K)~~ (L) Notification to enrollees regarding personal health information privacy rights and restrictions, termination of a provider from the network, and maintaining continuity of care for enrollees when there is a material change in the provider network, insolvency of the issuer, or other cessation of operations;

~~((K))~~ (L) Issuer's process for corrective action for providers related to the provider's licensure, prior authorization, referral and access compliance. The process must include remedies to address insufficient access to appointments or services;

(M) The process for ensuring access to next day appointments for urgent, symptomatic behavioral health conditions.

(ii) An access plan applicable to each product must be submitted with every Geographic Network Report when the issuer seeks initial certification of the network, submits its annual rate filing to the commissioner for review and approval, or when an alternative access delivery request is required due to a material change in the network.

(iii) The current access plan, with all associated data sets, policies and procedures, must be made available to the commissioner upon request, and a summary of the access plan's associated procedures must be made available to the public upon request.

(4) For purposes of this section, "urban area" means:

(a) A county with a density of ninety persons per square mile; or

(b) An area within a twenty-five mile radius around an incorporated city with a population of more than thirty thousand.

WSR 21-20-109

PROPOSED RULES

OFFICE OF THE

INSURANCE COMMISSIONER

[Insurance Commissioner Matter R 2021-13—Filed October 4, 2021, 2:37 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-14-096.

Title of Rule and Other Identifying Information: Student health plans.

Hearing Location(s): On Tuesday, November 9, 2021, at 3:30 [p.m.], Zoom. Detailed information for attending the Zoom meeting will be posted on the office of insurance commissioner (OIC) website here <https://www.insurance.wa.gov/student-health-plans-r-2021-13>. Due to the COVID-19

public health emergency, this meeting will be held via Zoom platform.

Date of Intended Adoption: November 15, 2021.

Submit Written Comments to: Shari Maier, P.O. Box 40260, Olympia, WA 98504-0260, email rulescoordinator@oic.wa.gov, fax 360-725-7171, by November 9, 2021.

Assistance for Persons with Disabilities: Contact Melanie Watness, phone 360-725-7013, fax 360-586-2023, TTY 360-586-0241, email MelanieW@oic.wa.gov, by November 8, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The commissioner is adopting rules to amend existing rules as necessary to implement chapter 53, Laws of 2021 (HB 1009), ensure existing regulations comply with the requirement of this legislation regarding student health plan coverage, and adopt technical corrections.

Reasons Supporting Proposal: HB 1009 recently passed and was signed into law (chapter 53, Laws of 2021) requiring that student health plans which provide maternity coverage must also provide substantially similar coverage for termination of pregnancy. OIC needs to update existing rules to align with the legislation's requirements.

Statutory Authority for Adoption: RCW 48.02.060; and chapter 53, Laws of 2021 (HB 1009).

Statute Being Implemented: RCW 48.43.073.

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

Name of Proponent: Mike Kreidler, insurance commissioner, governmental.

Name of Agency Personnel Responsible for Drafting: Shari Maier, P.O. Box 40260, Olympia, WA 98504-0260, 360-725-7173; Implementation: Molly Nollette, P.O. Box 40260, Olympia, WA 98504-0260, 360-725-7000; and Enforcement: Charles Malone, P.O. Box 40260, Olympia, WA 98504-0260, 360-725-7000.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. This rule is exempt from requirements for a cost-benefit analysis under RCW 34.05.328 (5)(b)(iii), as this rule will adopt or incorporate, one or more of the following without change: Federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, items as referenced by Washington state law, national consensus codes that generally establish industry standards. The material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule and is exempt from RCW 34.05.328 (1)(c).

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) - provides exclusions under RCW 34.05.310 (4)(e), the provisions of this rule were dictated by statute.

RCW 19.85.025(4) - the businesses that must comply with the proposed rule are not small businesses under chapter 19.85 RCW. OIC has found that none

of the existing health insurance issuers may be considered small businesses under RCW 19.85.020(2).

Explanation of exemptions: The commissioner is adopting this rule to amend existing rules as necessary to implement chapter 53, Laws of 2021 (HB 1009), ensure existing regulations comply with the requirement of this legislation regarding student health plan coverage, and adopt technical corrections.

HB 1009 recently passed and was signed into law (chapter 53, Laws of 2021) requiring that student health plans which provide maternity coverage must also provide substantially similar coverage for termination of pregnancy. OIC needs to update existing rules to align with the legislation's requirements.

Legal obligations: Chapter 19.85 RCW states that "... an agency shall prepare a small business economic impact statement: (i) If the proposed rule will impose more than minor costs on businesses in an industry¹ ..." The small business economic impact statement (SBEIS) must include "... a brief description of the reporting, recordkeeping, and other compliance requirements of the proposed rule, and the kinds of professional services that a small business is likely to need in order to comply with such requirements ... To determine whether the proposed rule will have a disproportionate cost impact on small businesses²."

¹ RCW 19.85.030: <http://app.leg.wa.gov/RCW/default.aspx?cite=19.85.030>.

² RCW 19.85.040: <http://app.leg.wa.gov/RCW/default.aspx?cite=19.85.040>.

This rule proposal, or portions of the proposal, are exempt from requirements of the Regulatory Fairness Act under RCW 19.85.025(3) - provides exclusions under RCW 34.05.310 (4)(e), the provisions of this rule were dictated by statute; RCW 19.85.025(4) - the businesses that must comply with the proposed rule are not small businesses, under chapter 19.85 RCW. OIC has found that none of the existing health insurance issuers may be considered small businesses under RCW 19.85.020(2).

Rationale: To comply with HB 1099 that passed in 2020 legislative session and was signed into law, this rule updates existing regulations so that health insurance carriers offering maternity coverage to also provide similar coverage for termination of pregnancy.

Determination: OIC determines that this rule is exempt from SBEIS requirements.

October 4, 2021

Mike Kreidler

Insurance Commissioner

AMENDATORY SECTION (Amending WSR 19-24-039, filed 11/26/19, effective 12/27/19)

WAC 284-43-7210 Definitions. (1) "Contraceptive services" means consultations, examinations, procedures, and other health care services to obtain contraceptive supplies or voluntary sterilization. This includes prescribing, dispensing, inserting, delivering, distributing, administering, or removing contraceptive supplies and voluntary sterilization procedures.

(2) "Contraceptive supplies" means all contraceptive drugs, devices, and other products approved by the Federal Food and Drug Administration. This includes over-the-counter contraceptive drugs, devices, and products approved by the Federal Food and Drug Administration.

(3) "Cost-sharing" means any expenditure required of a covered person for covered services or supplies, including applicable taxes. Cost-sharing includes deductibles, coinsurance, copayments, or similar charges. Cost-sharing does not include premiums, balance billing amounts for nonnetwork providers, or spending for noncovered services or supplies.

(4) "Covered person" or "enrollee" has the same meaning as defined in RCW 48.43.005.

(5) "Gender expression" has the same meaning as defined in ~~((section 3, chapter 399, Laws of 2019))~~ RCW 48.43.072.

(6) "Gender identity" has the same meaning as defined in ~~((section 3, chapter 399, Laws of 2019))~~ RCW 48.43.072.

(7) "Medical management" or "medical management techniques" has the same meaning as defined in RCW 48.165.010.

(8) "Reproductive health care services" has the same meaning as defined in ~~((section 3, chapter 399, Laws of 2019))~~ RCW 48.43.072.

(9) "Reproductive system" has the same meaning as defined in ~~((section 3, chapter 399, Laws of 2019))~~ RCW 48.43.072.

(10) "Well-person preventative visits" has the same meaning as defined in ~~((section 3, chapter 399, Laws of 2019))~~ RCW 48.43.072.

AMENDATORY SECTION (Amending WSR 19-24-039, filed 11/26/19, effective 12/27/19)

WAC 284-43-7220 Coverage required. A health plan must provide coverage for all services and supplies required under RCW 48.43.072 and 48.43.073. ~~((Effective January 1, 2021))~~ A student health plan must also provide coverage for all services and supplies required under RCW 48.43.072 and 48.43.073.

(1) Required coverage of contraceptive services and supplies includes, but is not limited to:

(a) All prescription and over-the-counter contraceptive drugs, devices, and other products approved by the Federal Food and Drug Administration;

(b) Voluntary sterilization procedures; and

(c) The consultations, examinations, procedures, and medical services that are necessary to prescribe, dispense, insert, deliver, distribute, administer, or remove the drugs, devices, and other products or services in (a) and (b) of this subsection.

(2) A health plan or student health plan that provides coverage for maternity care or services must also provide a covered person with substantially equivalent coverage to permit the abortion of a pregnancy. For the coverage to be substantially equivalent, a health plan or student health plan must not apply cost-sharing or coverage limitations differently for abortion and related services than for maternity care and its related services unless the difference provides the enrollee with access to care and treatment commensurate with the

enrollee's specific medical needs, without imposing a surcharge or other additional cost to the enrollee beyond normal cost-sharing requirements under the plan.

(3) This subchapter does not diminish or affect any rights or responsibilities provided under RCW 48.43.065.

AMENDATORY SECTION (Amending WSR 19-24-039, filed 11/26/19, effective 12/27/19)

WAC 284-43-7250 Filing requirements. (1) For health plans and student health plans subject to RCW 48.43.072 and 48.43.073, the carrier must ensure that the health plan and student health plan forms clearly inform covered persons of their rights to access contraceptive services and supplies, voluntary sterilization and abortion. The health plan and student health plan forms must clearly inform covered persons how they access these services and supplies.

~~(2) ((For student health plans subject to RCW 48.43.072, the carrier must ensure that the plan forms clearly inform covered persons of their rights to access contraceptive services and supplies, and voluntary sterilization. The plan forms must clearly inform covered persons how they access these services and supplies.~~

~~(3))~~ A health plan's forms and student health plan's forms must include a detailed description of the plan's benefits provided to covered persons that specifically instructs covered persons where and how they access coverage of contraceptive supplies, including over-the-counter supplies. This information must include:

(a) Whether covered supplies are available from in-network and out-of-network providers; and

(b) How to submit a claim including, at a minimum:

(i) Whether covered persons may purchase covered supplies and seek reimbursement from the carrier;

(ii) How to access and submit any necessary claim forms; and

(iii) Where to send a claim, such as a mailing address or instructions for submitting a claim electronically.

~~((4))~~ (3) If a health plan or student health plan limits the number of covered over-the-counter contraceptive supplies, the health plan or student health plan must include with its filing supporting evidence showing that the limitation does not impose any restriction or delay on the coverage of contraceptive supplies in violation of RCW 48.43.072 or any other state or federal law.

~~((5))~~ (4) If a health plan or student health plan limits the number of covered contraceptive services or supplies, the plan forms must include a detailed description of the plan's benefits that specifically instructs covered persons how to request coverage of additional contraceptive services or supplies. The process may not impose any restrictions or delays on the coverage or access of contraceptive services or supplies in violation of RCW 48.43.072, or any other state or federal law.

WSR 21-20-110
PROPOSED RULES
OFFICE OF THE
INSURANCE COMMISSIONER

[Insurance Commissioner Matter R 2021-14—Filed October 4, 2021,
 2:44 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-14-095.

Title of Rule and Other Identifying Information: Health insurance discrimination and gender affirming treatment.

Hearing Location(s): On November 9, 2021, at 9:00 a.m., Zoom meeting. Detailed information for attending the Zoom meeting posted on the office of insurance commissioner (OIC) website here <https://www.insurance.wa.gov/health-insurance-discrimination-and-gender-affirming-treatment-r-2021-14>. Due to the COVID-19 public health emergency, this hearing will be held via Zoom.

Date of Intended Adoption: November 10, 2021.

Submit Written Comments to: Shari Maier, P.O. Box 40260, Olympia, WA 98504-0260, email rulescoordinator@oic.wa.gov, fax 360-586-3109, by November 9, 2021.

Assistance for Persons with Disabilities: Contact Melanie Watness, phone 360-725-7013, fax 360-586-2023, email MelanieW@oic.wa.gov, by November 9, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To add new sections and amend existing rules as necessary to implement chapter 280, Laws of 2021, regarding health insurance discrimination and gender affirming treatment.

Reasons Supporting Proposal: 2SSB 5313 recently passed and was signed into law (chapter 280, Laws of 2021). The law prohibits health insurance discrimination in relation to coverage for gender affirming treatment. OIC needs to make applicable updates to the existing rules for them to align with the legislation's requirements.

Statutory Authority for Adoption: RCW 48.02.060, 48.43.515; and chapter 280, Laws of 2021.

Statute Being Implemented: Chapter 280, Laws of 2021; RCW 48.43.0128.

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

Name of Proponent: Mike Kreidler, insurance commissioner, governmental.

Name of Agency Personnel Responsible for Drafting: Shari Maier, P.O. Box 40255, Olympia, WA 98504-0255, 360-725-7173; Implementation: Molly Nollette, P.O. Box 40255, Olympia, WA 98504-0255, 360-725-7000; and Enforcement: Charles Malone, P.O. Box 40255, Olympia, WA 98504-0255, 360-725-7000.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. The Washington Administrative Procedure Act (APA)¹ requires that "significant legislative rules" be evaluated to determine if the probable benefits of a proposed rule making exceed its probable costs. Considering both quantitative and qualitative information and analysis². A draft of this determination must be available at the time [of] the filing for the rule's preproposal or CR-102. The final version of this

document must be completed prior to final rule adoption and included in the rule-making file.

¹ Chapter 34.05 RCW.

² RCW 34.05.328 (1)(c).

Determination of exemption: OIC has determined that under RCW 34.05.328 (5)(b)(iii), this rule will adopt or incorporate one or more of the following without change: Federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, items as referenced by Washington state law, national consensus codes that generally establish industry standards. The material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule and is exempt from RCW 34.05.328 (1)(c).

Rationale: 2SSB 5313 recently passed and was signed into law (chapter 280, Laws of 2021). The law prohibits health insurance discrimination in relation to coverage for gender affirming treatment. OIC needs to make applicable updates to the existing rules for them to align with the legislation's requirements.

Determination: OIC determines that this rule is exempt from cost-benefit analysis requirements.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: Chapter 19.85 RCW states that "... an agency shall prepare a small business economic impact statement: (i) If the proposed rule will impose more than minor costs on businesses in an industry ..." The small business economic impact statement must include "... a brief description of the reporting, recordkeeping, and other compliance requirements of the proposed rule, and the kinds of professional services that a small business is likely to need in order to comply with such requirements ... To determine whether the proposed rule will have a disproportionate cost impact on small businesses."

This rule proposal, or portions of the proposal, are exempt from requirements of the Regulatory Fairness Act under RCW 19.85.025(4) - the businesses that must comply with the proposed rule are not small businesses, under chapter 19.85 RCW.

This rule only impacts large insurance carriers which are not classified as small business [businesses] ad [as] defined by RCW 19.85.020(2). While calculating, we have applied default cost of compliance \$1,000 as it is indeterminate at this time. OIC has directly heard from stakeholders regarding questions and issues related to implementation and have revised internal processes to respond to some of these issues. OIC has determined that the compliance with the proposed rule does not put any disproportionate impact on small businesses or government agencies.

| 2019 Industry NAICS Code | Estimated Cost of Compliance | Industry Description | NAICS Code Title | Average number of employees/business | Minor Cost Estimate - 0.003% of Avg. Annual Receipts |
|--------------------------|------------------------------|--|-----------------------|--------------------------------------|--|
| 524114 | \$1,000 | Direct Health and Medical Insurance Carriers | Finance and insurance | 742 (Not small business) | \$3,503,165 |

Source: United States Census Bureau, (2017). Retrieved October 24, 2021, from census.gov.

October 4, 2021
 Mike Kreidler
 Insurance Commissioner

AMENDATORY SECTION (Amending WSR 20-24-120, filed 12/2/20, effective 1/2/21)

WAC 284-43-3070 Notice and explanation of adverse benefit determination—General requirements. (1) A carrier must notify enrollees of an adverse benefit determination either electronically or by U.S. mail. The notification must be provided:

- (a) To an appellant or their authorized representative;
 - (b) To the provider if the adverse benefit determination involves the preservice denial of treatment or procedure prescribed by the provider; and
 - (c) Whenever an adverse benefit determination relates to a protected individual, as defined in RCW 48.43.005, the health carrier must follow RCW 48.43.505.
- (2) A carrier or health plan's notice must include the following information, worded in plain language:
- (a) The specific reasons for the adverse benefit determination;
 - (b) The specific health plan policy or contract sections on which the determination is based, including references to the provisions;
 - (c) The plan's review procedures, including the appellant's right to a copy of the carrier and health plan's records related to the adverse benefit determination;
 - (d) The time limits applicable to the review; ~~((and))~~
 - (e) The right of appellants and their providers to present evidence as part of a review of an adverse benefit determination;

(f) Effective April 1, 2022, the following statement: "Enrollees may request that a health insurer identify the medical, vocational, or other experts whose advice was obtained in connection with the adverse benefit determination, even if the advice was not relied on in making the determination. Health insurers may satisfy this requirement by providing the job title, a statement as to whether the expert is affiliated with the carrier as an employee, and the expert's specialty, board certification status, or other criteria related to the expert's qualification without providing the expert's name or address."; and

(g) When the adverse benefit determination concerns gender affirming treatment or services, a confirmation that a health care provider experienced with prescribing or delivering gender affirming treatment has reviewed the determination and confirmed that an adverse benefit determination denying or limiting the service is appropriate and provide

information to confirm that the reviewing provider has clinically appropriate expertise prescribing or delivering gender affirming treatment.

(3) If an adverse benefit determination is based on medical necessity, decisions related to experimental treatment, or a similar exclusion or limit involving the exercise of professional judgment, the notification must contain either an explanation of the scientific or clinical basis for the determination, the manner in which the terms of the health plan were applied to the appellant's medical circumstances, or a statement that such explanation is available free of charge upon request.

(4) A health carrier must not issue an adverse benefit determination concerning gender affirming services or treatment until a health care provider with experience prescribing or delivering gender affirming treatment has reviewed and confirmed the appropriateness of the adverse benefit determination.

(5) If an internal rule, guideline, protocol, or other similar criterion was relied on in making the adverse benefit determination, the notice must contain either the specific rule, guideline, protocol, or other similar criterion; or a statement that a copy of the rule, guideline, protocol, or other criterion will be provided free of charge to the appellant on request.

~~((5))~~ (6) The notice of an adverse benefit determination must include an explanation of the right to review the records of relevant information, including evidence used by the carrier or the carrier's representative that influenced or supported the decision to make the adverse benefit determination.

(a) For purposes of this subsection, "relevant information" means information relied on in making the determination, or that was submitted, considered, or generated in the course of making the determination, regardless of whether the document, record, or information was relied on in making the determination.

(b) Relevant information includes any statement of policy, procedure, or administrative process concerning the denied treatment or benefit, regardless of whether it was relied on in making the determination.

~~((6))~~ (7) If the carrier and health plan determine that additional information is necessary to perfect the denied claim, the carrier and health plan must provide a description of the additional material or information that they require, with an explanation of why it is necessary, as soon as the need is identified.

~~((7))~~ (8) An enrollee or covered person may request that a carrier identify the medical, vocational, or other experts whose advice was obtained in connection with the adverse benefit determination, even if the advice was not relied on in making the determination. The carrier may satisfy this requirement by providing the job title, a statement as to whether the expert is affiliated with the carrier as an employee, and the expert's specialty, board certification status, or other criteria related to the expert's qualification without providing the expert's name or address. The carrier must be able to identify for the commissioner upon request the name of each expert whose advice was obtained in connection with the adverse benefit determination.

~~((8))~~ (9) The notice must include language substantially similar to the following:

"If you request a review of this adverse benefit determination, (Company name) will continue to provide coverage for the disputed benefit pending outcome of the review if you are currently receiving services or supplies under the disputed benefit. If (Company name) prevails in the appeal, you may be responsible for the cost of coverage received during the review period. The decision at the external review level is binding unless other remedies are available under state or federal law."

NEW SECTION

WAC 284-43-5151 Unfair practice relating to gender affirming treatment and services. When a treatment or service is gender affirming treatment, as defined in RCW 48.43.0128, it is an unfair practice for any health carrier to:

(1) Deny or limit coverage, issue automatic denials of coverage, impose additional cost sharing or other limitations or restrictions on coverage, or deny or limit coverage of a claim, if gender affirming treatment is:

(a) Prescribed to an individual because of, related to, or consistent with a person's gender expression or identity, as defined in RCW 49.60.040;

(b) Medically necessary; and

(c) Prescribed in accordance with accepted standards of care;

(2) Apply blanket exclusions or categorical exclusions to gender affirming treatment; or

(3) When prescribed as medically necessary, exclude facial feminization surgeries and other facial gender affirming treatment (such as tracheal shaves), hair electrolysis and other care (such as mastectomies, breast reductions, breast implants, or any combination of gender affirming procedures, including revisions to prior treatment) as cosmetic services.

AMENDATORY SECTION (Amending WSR 20-24-040, filed 11/23/20, effective 12/24/20)

WAC 284-43-5940 Nondiscrimination in health plans, short-term limited duration medical plans and student-only health plans. (1) An issuer offering a plan, and the issuer's officials, employees, agents, or representatives may not:

(a) Design plan benefits, or implement its plan benefits, in a manner that results in discrimination against individuals because of their age, expected length of life, present or predicted disability, degree of medical dependency, quality of life, or other health conditions; and

(b) With respect to the plan including, but not limited to, administration, member communication, medical protocols or criteria for medical necessity or other aspects of plan operations:

(i) Discriminate on the basis of race, color, national origin, sex, gender identity, sexual orientation, age, or disability;

(ii) Deny, cancel, limit, or refuse to issue or renew a plan, or deny or limit coverage of a claim, or impose additional cost sharing or other limitations or restrictions on coverage, on the basis of race, color, national origin, sex, gender identity, sexual orientation, age, or disability;

(iii) Have or implement marketing practices or benefit designs that discriminate on the basis of race, color, national origin, sex, gender identity, sexual orientation, age, or disability. In reviewing plan design, plan features that attempt to circumvent coverage of medically necessary benefits such as by labeling a benefit as a pediatric service, and thereby excluding adults, or by placing all or most drugs for a specific condition in the highest cost-sharing tier, absent an appropriate reason for the exclusion, are potentially discriminatory. In these or other instances, the commissioner may request a justification for the practice. If requested, issuers must identify an appropriate nondiscriminatory reason that supports their benefit design;

(iv) Deny or limit coverage, deny or limit coverage of a claim, issue automatic denials of coverage or impose additional cost sharing or other limitations or restrictions on coverage, for:

(A) Any health services that are ordinarily or exclusively available to individuals of one sex, based on the fact that an individual's sex assigned at birth, gender identity, or gender otherwise recorded is different from the one to which such health services are ordinarily or exclusively available. For example, a denial of coverage for medically necessary hormone prescriptions for transgender, gender nonconforming, or intersex individuals because the dosages exceed those typically prescribed for cisgender people would be discriminatory against transgender, nonbinary, gender nonconforming, or intersex individuals; or

(B) Gender affirming treatment, as defined in RCW 48.43.0128, when that treatment is:

(I) Prescribed to an individual because of, related to, or consistent with a person's gender expression or identity, as defined in RCW 49.60.040;

(II) Medically necessary; and

(III) Prescribed in accordance with accepted standards of care;

(v) Have or implement a categorical coverage exclusion or limitation for all medical, surgical, or behavioral health services related to a person's gender identity or sexual orientation, including gender affirming treatment; or

(vi) When prescribed as medically necessary, exclude facial feminization surgeries and other facial gender affirming treatment (such as tracheal shaves), hair electrolysis and other care (such as mastectomies, breast reductions, breast

implants, or any combination of gender affirming procedures, including revisions to prior treatment) as cosmetic services; or

(vii) Otherwise deny or limit coverage, deny or limit coverage of a claim, or impose additional cost sharing or other limitations or restrictions on coverage, for specific medical, surgical, or behavioral health services related to a person's gender identity or sexual orientation if such denial, limitation, or restriction results in discrimination against a transgender, nonbinary, gender nonconforming or intersex individual.

(2) The enumeration of specific forms of discrimination in subsection (1)(b)(ii) through ~~((vi))~~ (vii) of this section does not limit the general applicability of the prohibition in subsection (1)(b)(i) of this section.

(3) Nothing in this section may be construed to prevent an issuer from appropriately utilizing fair and reasonable medical management techniques. Appropriate use of medical management techniques includes use of evidence based criteria for determining whether a service or benefit is medically necessary and clinically appropriate.

(4) An issuer's obligation to comply with these requirements is nondelegable; an issuer is obligated to ensure compliance with WAC 284-43-5935 through 284-43-5980, even if they use a third-party vendor or subcontracting arrangement. An issuer is not exempt from any of these requirements because it relied upon a third-party vendor or subcontracting arrangement for administration of any aspect of its benefits or services.

(5) The commissioner may determine whether an issuer's actions to comply with this section are consistent with current state law, the legislative intent underlying RCW 48.43.0128 to maintain the enrollee protections of the Affordable Care Act, and the federal regulations and guidance in effect as of January 1, 2017, including, but not limited to, those issued by the U.S. Department of Health and Human Services Office of Civil Rights and federal regulations implementing 42 U.S.C. Sec. 18116 (Sec. 1557 of the Affordable Care Act) as set forth in 81 Fed. Reg. 31375 et seq. (2016).

AMENDATORY SECTION (Amending WSR 20-24-040, filed 11/23/20, effective 12/24/20)

WAC 284-43-7080 Prohibited exclusions. (1) Benefits for actual treatment and services rendered may not be denied solely because a course of treatment was interrupted or was not completed.

(2) If a service is prescribed for a mental health condition and is medically necessary, it may not be denied solely on the basis that it is part of a category of services or benefits that is excluded by the terms of the contract.

(3) Benefits for mental health services and substance use disorder may not be limited or denied based solely on age or condition.

(4) When a treatment or service is gender affirming treatment, as defined in RCW 48.43.0128, a health carrier may not:

(a) Deny or limit coverage, deny or limit coverage of a claim, issue automatic denials of coverage or impose addi-

tional cost sharing or other limitations or restrictions on coverage if that treatment is:

(i) Prescribed to an individual because of, related to, or consistent with a person's gender expression or identity, as defined in RCW 49.60.040;

(ii) Medically necessary; and

(iii) Prescribed in accordance with accepted standards of care; or

(b) Apply blanket exclusions; or

(c) When prescribed as medically necessary, exclude facial feminization surgeries and other facial gender affirming treatment (such as tracheal shaves), hair electrolysis and other care (such as mastectomies, breast reductions, breast implants, or any combination of gender affirming procedures, including revisions to prior treatment) as cosmetic services.

(5) Nothing in this section relieves a plan or an issuer from its obligations to pay for a court ordered substance use disorder benefit or mental health benefit when it is medically necessary.

AMENDATORY SECTION (Amending WSR 21-01-094, filed 12/11/20, effective 1/11/21)

WAC 284-170-260 Provider directories. (1) For each carrier that uses a provider network, the carrier must make information about that network available to the general public, prospective enrollees and enrollees, in the form of an easily accessible and searchable online provider directory.

Easily accessible for the purposes of this section means:

(a) The general public is able to view all of the current providers for each plan in the provider directory on the carrier's public website through a clearly identifiable link or tab and without creating or accessing an account or entering a policy number; and

(b) If a carrier maintains multiple provider networks, the carrier must post the current provider directory for each plan so the general public is able to easily discern which providers participate in which plans and which provider networks.

(2) Carriers must make a printed copy of the current provider directory available to an enrollee upon request as required under RCW 48.43.510 (1)(g). The printed directory must contain the carrier's telephone number, including a TTY/TTD number, and any other contact information to enable the enrollee to obtain information about providers in the health plan network.

(3) Printed and online provider directories must be made available to the general public, prospective ~~((enrollee's))~~ enrollees and ~~((enrollee's))~~ enrollees in a manner that accommodates individuals with limited-English proficiency or disabilities.

(4) Printed and online provider directories must be updated for accuracy at least monthly. To ensure accuracy:

(a) Each provider directory must include clear instructions about how a consumer or an enrollee can report inaccurate information in the provider directory to the carrier.

(b) Carriers must have an easily available method for providers to report changes to their provider directory information, in addition to any reports associated with initial or renewed credentialing used by the carrier.

(c) Carriers must investigate reported inaccuracies from providers and consumers, and if verified, correct inaccuracies as part of the carrier's monthly updates.

(d) Carriers must establish processes and procedures to confirm the accuracy of provider directory information, including processes and procedures to ensure that changes are made when inaccuracies are verified. Carriers must provide the processes and procedures and any associated records, including the provider directories, to the commissioner upon request for review.

(5) Printed and online provider directories must include the following information for each provider:

(a) The provider's location and telephone number;

(b) The specialty area or areas for which the provider is licensed to practice and included in the network;

(c) Any in-network institutional affiliation of the provider, such as hospitals where the provider has admitting privileges or provider groups with which a provider is a member;

(d) Whether the provider may be accessed without referral;

(e) Any languages, other than English, spoken by the provider; and

(f) If a provider offers mental health or substance use disorder treatment services, identify in the directory that the provider is contracted to deliver mental health or substance use disorder treatment services.

(6) A carrier must include in its printed and online provider directories a notation of any primary care, chiropractor, women's health care provider, mental health provider, substance use disorder provider, or pediatric provider whose practice is closed to new patients.

(7) Printed and online provider directories must include information about any available telemedicine services, including any audio-only telemedicine services that are available, and specifically describe the services and how to access those services.

(8) Printed and online provider directories must include information about any available interpreter services, communication and language assistance services, and accessibility of the physical facility, and the mechanism by which an enrollee may access such services.

(9) Printed and online provider directories must include information about the network status of emergency providers as required by WAC 284-170-370.

(10) In both printed and online provider directories, the carrier must indicate that, if an enrollee is unable to locate a gender affirming treatment provider, the carrier must identify a gender affirming treatment provider.

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

Title of Rule and Other Identifying Information: WAC 110-300-0355 Family home capacity, ratio, and group size and 110-300-0358 Capacity waiver for family home providers.

Hearing Location(s): On November 9, 2021, telephonic. Oral comments may be made by calling 360-902-8084 and leaving a voicemail that includes the comment and an email or physical mailing address where the department of children, youth, and families (DCYF) will send its response. Comments received through and including November 9, 2021, will be considered.

Date of Intended Adoption: November 10, 2021.

Submit Written Comments to: DCYF Rules Coordinator, P.O. Box 40975, email dcyf.rulescoordinator@dcyf.wa.gov, submit comments online at <https://www.dcyf.wa.gov/practice/policy-laws-rules/rule-making/participate/online>, by November 9, 2021.

Assistance for Persons with Disabilities: Contact DCYF rules coordinator, phone 360-902-7956, email dcyf.rulescoordinator@dcyf.wa.gov, by November 5, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Establish conditions for waiving licensed family home child cares' capacity to serve more than 12 children, namely, the licensee's years of experience providing early learning services, the available square footage, staffing qualifications, staff-to-child ratios and age group limits, the intended use of licensed space, the emergency preparedness plan, the number of working, accessible toilets and sinks, the number and variety of early learning materials, and the total capacity the provider is requesting.

Reasons Supporting Proposal: The proposals comply with section 313, chapter 199, Laws of 2021, which directs DCYF to establish, by rule, the conditions for waiving the limit that restricts family home providers from serving not more than 12 children. The proposed conditions will allow greater flexibility for family homes and promote the health, safety, and well-being of children served.

Statutory Authority for Adoption: RCW 43.216.692.

Statute Being Implemented: RCW 43.216.692.

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

Name of Proponent: DCYF, governmental.

Name of Agency Personnel Responsible for Drafting: Tyler Farmer, 360-628-2151; Implementation and Enforcement: DCYF, statewide.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. DCYF is not among the agencies listed as required to comply with RCW 34.05.328 (5)[(a)](i). Further, DCYF does not voluntarily make that section applicable to the adoption of this rule.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules adopt, amend, or repeal a procedure, practice, or require-

WSR 21-20-111
PROPOSED RULES
DEPARTMENT OF
CHILDREN, YOUTH, AND FAMILIES

[Filed October 4, 2021, 4:25 p.m.]

Original Notice.

ment relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

October 4, 2021
Brenda Villarreal
Rules Coordinator

AMENDATORY SECTION (Amending WSR 18-15-001, filed 7/5/18, effective 7/5/18)

WAC 110-300-0355 Family home capacity, ratio, and group size. (1) The department issues initial or nonexpiring family home licenses for up to twelve children. The department will not issue a family license to care for more children than permitted by the rules in this chapter but may issue a license to care for fewer than the maximum allowable enrolled children. Family home licenses state:

(a) The maximum number of children that may be in care at any one time (total capacity); and

(b) The age range of children allowed in care.

(2) The department determines capacity for a family home early learning program after considering:

(a) Square footage of the early learning program;

(b) An early learning provider's years of experience in licensed child care (experience must be from working as a center director, program supervisor, lead teacher, family home licensee, or another similar role in a child care setting);

(c) A provider's education and ongoing training;

(d) The age range requested or approved by the department;

(e) The amount of developmentally appropriate equipment, materials, and toys an early learning program can provide children to use;

(f) A provider's licensing history with the department; and

(g) The number of qualified staff available to meet staff-to-child ratios.

(3) A family home licensee must not exceed the total capacity or age range stated on the child care license at any time except as provided in this section and WAC 110-300-0358. All children on the premises, signed in to child care, on an off-site trip from the early learning program, or being transported by the early learning program staff are counted in capacity including the children of staff.

(a) A family home licensee must receive department approval to care for a child with special needs, pursuant to WAC 110-300-0300, if the child is older than the maximum age identified on the license. A child with documented special needs may be in care up to age nineteen and must be counted in both capacity and staff-to-child ratio.

(b) A child with special needs who requires individualized supervision pursuant to WAC 110-300-0300 counts towards capacity but does not count in the staff-to-child ratio.

(c) A child who turns thirteen years old permitted by chapter 110-15 WAC and who must be counted in both capacity and staff-to-child ratio.

(4) Any child birth through twelve years old on the premises, signed in to the child care, on an off-site trip from the early learning program, or being transported counts in capacity. This includes a family home licensee's own chil-

dren, children of staff, or visiting children not accompanied or supervised by an adult.

(5) A family home licensee must provide qualified staff to fulfill the staffing requirements and staff-to-child ratios during operating hours, including off-site activities and when transporting children in care.

(6) A family home licensee must provide additional staff, pursuant to WAC 110-300-0350, when children are participating in water activities or activities near water.

(7) When applying for an initial or nonexpiring family home license, a family home licensee with less than one year of experience may request from the department a capacity of up to six children, birth through twelve years of age.

(a) A maximum of three children may be under two years of age.

(b) If there are three children under two years of age, one of these children must be able to walk independently.

(8) When applying for an initial or nonexpiring family home license, a family home licensee with at least one year but less than two years of experience and:

(a) Working alone may request a capacity of up to eight children ages two through twelve years of age, with a maximum of four children under three years of age.

(b) Working with a qualified assistant may request a capacity of up to nine children birth through twelve years of age with a maximum of four children under two years of age.

(9) When applying for an initial or nonexpiring family home license, a family home licensee with at least two years' experience and:

(a) Working alone may request a capacity of up to ten children ages three years through twelve years of age;

(b) Working alone may request a capacity of up to twelve children for school age children only; and

(c) Working with a qualified assistant, may request a capacity of up to twelve children birth through twelve years of age with a maximum of six children under two years of age with two children being able to walk independently.

(10) A family home licensee, with two years of experience, may request a license for birth to twenty-four months of age with a maximum group size of eight when:

(a) There are two staff present with the group consisting of one staff who meets the qualification of the licensee and another who meets the qualifications to be counted in ratio;

(b) The staff-to-child ratio is 1:4;

(c) Fifteen additional square feet are provided for each infant or toddler; and

(d) A second staff member is present whenever:

(i) More than two children in care do not walk independently; or

(ii) When there are more than four children in care.

(11) The staff-to-child ratio is determined by the ages and number of children in care. Two early learning program staff are required anytime:

(a) More than six children are in care and any child in care is under two years of age;

(b) More than eight children are in care and any child in care is under three years of age; or

(c) More than ten children are in care and any child is under school age.

NEW SECTION

WAC 110-300-0358 Capacity waiver for family home providers. (1) Pursuant to section 313, chapter 199, Laws of 2021, the department may waive the limit established in RCW 43.216.010 (1)(c) that restricts family home providers from serving more than 12 children.

(2) A family home provider must apply to the department in writing to request a waiver to serve more than 12 children. To apply in writing, a family home provider must use the process prescribed by the department.

(3) The department will consider the following criteria to determine whether to grant a waiver to a family home provider's total capacity of 12 children:

(a) **The licensee's years' of experience providing early learning services.** A family home provider must have at least three years' of experience to be eligible for a waiver under this section. To satisfy the three years' experience requirement, the family home provider must have served for a total of three years or more in one or more of the following child care roles: Center director, program supervisor, family home licensee, or other similar role in a child care setting.

(b) **Available square footage:**

(i) There must be at least 35 square feet of licensed, accessible indoor space for each child included in the total capacity.

(ii) There must be an additional 15 square feet of licensed, accessible indoor space for each infant or toddler included in the total capacity.

(iii) There must be at least 75 square feet of licensed, accessible outdoor space for each child included in the total capacity. Alternatively, a family home provider may develop a plan to rotate groups of children to play outdoors or a department approved plan to use an off-site play area.

(c) **Staffing qualifications.** The licensee and at least one lead teacher working on-site must have an ECE short certificate when operating with 13 or more children.

(d) **Staff-to-child ratios and age group limits:**

(i) A family home provider must not exceed a maximum staff-to-child ratio of 1:6 when operating with 13 or more children.

(ii) A family home provider licensed to care for children under two years of age may have up to six children under two years of age attend at any one time under the following conditions:

(A) Five children under two years of age may attend at any one time if at least one of those children can walk independently;

(B) Six children under two years of age may attend at any one time if at least two of those children can walk independently.

(iii) A family home provider licensed to care for children under two years of age must not have more than six children under two years of age attend at any one time;

(e) **The intended use of licensed space.** Plans to use the space must include details regarding napping, supervision, and diapering, if applicable.

(f) **The emergency preparedness plan.** The emergency plan must account for the total capacity of children requested.

(g) **The number of working, accessible toilets and sinks.**

(i) There must be a ratio of at least one working flush toilet and one handwashing sink for every 15 household members, staff, and requested capacity of children. A child in diapers does not count for purposes of toilet calculations until the child begins toilet training.

(ii) A family home provider whose facility relies on a private septic system must provide to the department verification from the local health jurisdiction the system can accommodate the total number of household members, staff, and requested capacity of children.

(h) **The provider's licensing history.**

(i) **The number and variety of early learning materials.** For the total capacity requested there must be a sufficient number and variety of materials to engage children in the early learning program.

(j) **The total capacity the provider is requesting.**

(4) A waiver granted under this section may be time specific or may remain in effect for as long as the family home provider continues to comply with the waiver's conditions. If the waiver is time limited, the provider must not exceed the time frame established by the department.

(5) Before the family home provider implements a waiver under this section, the waiver must be approved in writing by the department secretary or the secretary's designee.

(6) A denial of a waiver request is not an enforcement action as described in RCW 43.216.010 and is not subject to an appeal by a provider.

(7) The department may rescind a waiver granted under this section at any time including, but not limited to, the following reasons:

(a) The provider no longer meets the criteria described in this section;

(b) The department issues an enforcement action against the provider;

(c) The department and the provider enter into a facility licensing compliance agreement;

(d) The department determines that continued operation under the waiver does or may harm the health, safety, or well-being of enrolled children; or

(e) A licensing rule that was considered in granting the waiver is repealed or amended.

(8) A family home provider granted a waiver under this section must inform the parents and guardians of enrolled children of the approved waiver prior to operating with 13 or more children.

WSR 21-20-112

PROPOSED RULES

DEPARTMENT OF

CHILDREN, YOUTH, AND FAMILIES

[Filed October 4, 2021, 4:28 p.m.]

Original Notice.

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

Title of Rule and Other Identifying Information: WAC 110-15-0280 Right to request an administrative hearing.

Hearing Location(s): On November 9, 2021, telephonic. Oral comments may be made by calling 360-902-8084 and leaving a voicemail that includes the comment and an email or physical mailing address where the department of children, youth, and families (DCYF) will send its response. Comments received through and including November 9, 2021, will be considered.

Date of Intended Adoption: November 10, 2021.

Submit Written Comments to: DCYF Rules Coordinator, P.O. Box 40975, email dcyf.rulescoordinator@dcyf.wa.gov, submit comments online at <https://www.dcyf.wa.gov/practice/policy-laws-rules/rule-making/participate/> online, by November 9, 2021.

Assistance for Persons with Disabilities: Contact DCYF rules coordinator, phone 360-902-7956, email dcyf.rulescoordinator@dcyf.wa.gov, by November 5, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: For families and child care providers participating in the working connections and seasonal child care subsidy programs, better clarify the administrative hearing process for subsidy benefit and payment decisions. The proposal better clarifies the separate legal authority for the adjudicative process that participating families and providers must follow, better explains what must be included with the hearing request, and better explains review rights for families and providers who disagree with the administrative hearing orders.

Reasons Supporting Proposal: The proposal explains the hearing rights more clearly than the current rule for program participants who disagree with DCYF decisions impacting benefits or child care payments, including how to timely request a hearing and what to include with the request.

Statutory Authority for Adoption: RCW 34.05.229 and 43.216.065.

Statute Being Implemented: RCW 43.216.135 through 43.216.145.

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

Name of Proponent: DCYF, governmental.

Name of Agency Personnel Responsible for Drafting: Toni Sebastian, 206-200-0824; Implementation and Enforcement: DCYF, statewide.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. DCYF is not among the agencies listed as required to comply with RCW 34.05.328 (5)[(a)](i). Further, DCYF does not voluntarily make that section applicable to the adoption of this rule.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

October 4, 2021
Brenda Villarreal
Rules Coordinator

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-15-0280 Right to request an administrative hearing. ~~((1) WCCC consumers have a right to request a hearing under chapter 388-02 WAC on any action affecting WCCC benefits.~~

~~(2) Child care providers may request hearings under chapter 388-02 WAC only for WCCC overpayments. A provider's burden of proof is a preponderance of the evidence.~~

~~(3) To request a hearing, a consumer or provider:~~

~~(a) Contacts the DSHS office which sent them the notice; or~~

~~(b) Writes to the office of administrative hearings, P.O. Box 42489, Olympia, WA 98504 2489; and~~

~~(c) Makes the request for a hearing within:~~

~~(i) Ninety days of the date a decision is received for consumers; or~~

~~(ii) Twenty-eight days of the date a decision is received for providers.~~

~~(4) The office of administrative hearings administrative law judge enters initial or final orders as provided in WAC 388-02-0217. Initial orders may be appealed to a DSHS review judge under chapter 388-02 WAC.~~

~~(5) To request a hearing under the seasonal child care program, see WAC 170-290-3860 and 170-290-3865.)~~ **(1)**

Consumers: Consumers who disagree with DCYF's decisions affecting their WCCC benefits have administrative hearing rights under chapter 110-03 WAC.

(a) Consumers' requests for hearing:

(i) May be made by contacting DCYF in-person, by telephone, or by serving DCYF with written requests that are also filed with the office of administrative hearings (OAH) as described in WAC 110-03-0060 and 110-03-0080.

(ii) Must include the information and documents described in WAC 110-03-0050(2), if requests are made in writing.

(iii) Must be made within 90 days of the date the consumers received the decisions being appealed.

(b) After completing the administrative hearings, OAH issues initial orders pursuant to WAC 110-03-0460 and 110-03-0480. Consumers who disagree with initial orders may request reviews as provided in WAC 110-03-0510 through 110-03-0550.

(c) When consumers request reviews of the initial orders, review judges issue final orders after considering the requests for review, initial orders, and hearing records. Consumers who disagree with final orders may request reconsiderations as provided in WAC 110-03-0570 through 110-03-0580 or seek judicial reviews as described in WAC 110-03-0590.

(2) Providers: Child care providers who disagree with WCCC overpayment decisions may request administrative hearings pursuant to RCW 43.20B.675 and chapter 388-02 WAC.

(a) To request administrative hearings, child care providers must:

(i) Make their hearing requests in writing and include the information and documents described in RCW 43.20B.675(3) and WAC 388-02-0105 including, but not limited to, copies of the overpayment notices and statements

explaining why they believe the overpayment notices are incorrect; and

(ii) Serve the hearing requests on the Department of Social and Health Services, Office of Financial Recovery, P.O. Box 9501, Olympia, WA 98507-9501, using certified mail return receipt requested or other manner that provides proof of receipt within 28 days of the date they received the overpayment notices being appealed.

(b) After completing the administrative hearings, OAH will issue final orders under WAC 388-02-0217. Child care providers who disagree with final orders may request reconsideration as described in WAC 388-02-0605 through 388-02-0635. Providers may also seek judicial review of final orders as described in WAC 388-02-0640 through 388-02-0650.

WSR 21-20-113
PROPOSED RULES
OFFICE OF
FINANCIAL MANAGEMENT

[Filed October 4, 2021, 5:01 p.m.]

Original Notice.

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

Title of Rule and Other Identifying Information: WAC 357-01-023 Anniversary date (general government), 357-01-348 Unbroken service date (general government), 357-28-055 How is the periodic increment date determined for a general government employee?, 357-28-056 How is the periodic increment date determined for a higher education employee?, 357-31-180 When an employee has taken leave without pay during the month is the employee's rate of accrual adjusted for the leave without pay?, 357-31-345 How does leave without pay affect a general government employee's anniversary date, unbroken service date, periodic increment date, and seniority date?, and 357-31-346 Does leave without pay affect a higher education employee's periodic increment date?

Hearing Location(s): On November 11, 2021, at 8:30 a.m., at Office of Financial Management (OFM), audio conference only, Dial-in 888-285-8919, Enter pin 8101730, Code (if asked) 415.

Date of Intended Adoption: November 18, 2021.

Submit Written Comments to: Brandy Chinn, OFM, P.O. Box 47500, Olympia, WA 98501, email brandy.chinn@ofm.wa.gov, fax 360-586-4694, by November 4, 2021.

Assistance for Persons with Disabilities: Contact OFM, TTY 711 or 1-800-833-6384, by November 4, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To remove the requirement for a general government employer to adjust an employee's anniversary date, unbroken service date, and periodic increment date (PID) for any period of leave without pay (LWOP) which exceeds fifteen consecutive calendar days, and to remove the requirement for a higher education employer to adjust an employee's vacation leave accrual date

and PID for any period of LWOP which exceeds ten working days (consecutive calendar days).

Reasons Supporting Proposal: Address inequities among state employees, streamline process, and application of civil service rules and reduce significant workload for employers. These changes will result in more equal treatment between certain categories of employees and will result in less manual date adjustments for employers. Removing the requirement to adjust for LWOP will make it easier for employers to administer because they will no longer need to decipher which employees need to have their service dates manually adjusted; easier application of anniversary and PID for transfers between general government nonrepresented and represented employees; and easier application of anniversary and PID for transfers between general government and institutions of higher education.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Statute Being Implemented: Chapter 41.06 RCW.

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

Name of Proponent: [No information supplied by agency], governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Brandy Chinn, 128 10th Avenue, Olympia, WA 98501, 360-878-2901.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. Rules are related to internal government operations and are not subject to violation by a nongovernmental party. See RCW 34.05.328 (5)(b)(ii) for exemption.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party.

October 4, 2021
Roselyn Marcus
Assistant Director of Legal
and Legislative Affairs

AMENDATORY SECTION (Amending WSR 05-12-093, filed 5/27/05, effective 7/1/05)

WAC 357-01-023 Anniversary date (general government). For employees of general government agencies, anniversary date is the unbroken service date plus prior state service (~~(minus leave without pay when it exceeds fifteen consecutive calendar days as provided in WAC 357-31-345)~~). The anniversary date is used to determine when vacation leave over two hundred forty hours is lost and for computing the rate of vacation leave accrual beginning with the fifth year of total state employment.

AMENDATORY SECTION (Amending WSR 05-12-093, filed 5/27/05, effective 7/1/05)

WAC 357-01-348 Unbroken service date (general government). The date a general government employee

began current continuous state service. This date is used for computing the rate of vacation leave accrual through and including the employee's fourth year of continuous service. ~~((The unbroken service date is adjusted by leave without pay when it exceeds fifteen consecutive calendar days as provided in WAC 357-31-345.))~~

AMENDATORY SECTION (Amending WSR 16-05-057, filed 2/12/16, effective 3/14/16)

WAC 357-28-055 How is the periodic increment date determined for a general government employee? (1) For a general government employee appointed to a position before July 1, 2005, the employee's periodic increment date as of June 30, 2005, is retained.

(2) For a general government employee appointed to a position on or after July 1, 2005, whose base salary is set at the minimum of the salary range, the periodic increment date is six months from the date of appointment.

(3) For a general government employee appointed to a position on or after July 1, 2005, whose base salary is set above the minimum but below step L of the salary range, the periodic increment date is twelve months from date of appointment.

(4) A general government employee appointed to a position on or after July 1, 2005, whose base salary is set at step L of the range will not have a periodic increment date set. If the employee later receives a new appointment, the periodic increment date will be set at that time, as described in this section.

(5) Once a general government employee's periodic increment date is set, it remains the same unless:

(a) The periodic increment date is advanced or postponed in accordance with WAC 357-28-070; or

(b) ~~((The periodic increment date is adjusted for leave without pay in accordance with WAC 357-31-345.~~

~~(e))~~) The periodic increment date is reset in accordance with subsections (2) and (3) of this section when an employee is rehired after a break in service.

AMENDATORY SECTION (Amending WSR 16-05-057, filed 2/12/16, effective 3/14/16)

WAC 357-28-056 How is the periodic increment date determined for a higher education employee? (1) For a higher education employee appointed to a position before July 1, 2005, the employee's periodic increment date as of June 30, 2005, is retained.

(2) For a higher education employee appointed to a position on or after July 1, 2005, whose base salary is set at the minimum of the salary range, the periodic increment date is six months from the date of appointment.

(3) For a higher education employee appointed to a position on or after July 1, 2005, whose base salary is set above the minimum ~~((but))~~ and at or below step L of the salary range, the periodic increment date is twelve months from date of appointment.

(4) Once a higher education employee's periodic increment date is set, it remains the same unless:

(a) The periodic increment date is advanced or postponed in accordance with WAC 357-28-070; or

(b) The employee is appointed to another position with a different salary range maximum. Upon subsequent appointment, the provisions of subsection (2) and (3) of this section apply.

(c) The periodic increment date is reset in accordance with subsections (2) and (3) of this section when an employee is rehired after a break in service.

~~((d) The periodic increment date is adjusted for leave without pay in accordance with WAC 357-31-346.))~~

AMENDATORY SECTION (Amending WSR 12-04-016, filed 1/24/12, effective 2/24/12)

WAC 357-31-180 When an employee has taken leave without pay during the month is the employee's rate of accrual adjusted for the leave without pay? Leave without pay ~~((taken for military leave of absence without pay, for temporary layoff as provided in WAC 357-46-063, or for scheduled mandatory periods of leave without pay for employees in cyclic year positions do))~~ does not affect the rate at which employees accrue vacation leave. ~~((For all other periods of leave without pay, the following applies:~~

~~(1) When a general government employee takes leave without pay which exceeds fifteen consecutive calendar days, the employee's anniversary date and unbroken service date are adjusted in accordance with WAC 357-31-345. These adjustments affect the rate at which an employee accrues vacation leave.~~

~~(2) When a higher education employee takes more than ten working days of leave without pay, that month does not qualify as a month of employment under WAC 357-31-165. Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.))~~

AMENDATORY SECTION (Amending WSR 09-11-068, filed 5/14/09, effective 6/16/09)

WAC 357-31-345 How does leave without pay affect a general government employee's ~~((anniversary date, unbroken service date, periodic increment date, and))~~ seniority date? ~~((1) For a general government employee, the anniversary date, unbroken service date, and periodic increment date is adjusted for any period of leave without pay which exceeds fifteen consecutive calendar days except when the leave without pay is taken for:~~

~~(a) Military leave of absence without pay as provided in WAC 357-31-370;~~

~~(b) Compensable work-related injury or illness leave;~~

~~(c) Government service leave not to exceed two years and one month;~~

~~(d) Educational leave, contingent upon successful completion of the coursework; and/or~~

~~(e) Voluntarily reducing the effect of an employer's lay-off.~~

~~(2) When an employee is on leave without pay for more than fifteen consecutive calendar days and the absence is not due to one of the reasons listed above, the employee's anniversary date, unbroken service date and periodic increment date must be moved forward in an amount equal to the number of calendar days on leave without pay.~~

~~(3) For~~) A general government employee's ~~(the)~~ seniority date is adjusted for leave without pay in accordance with WAC 357-46-055.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 357-31-346 Does leave without pay affect a higher education employee's periodic increment date?

WSR 21-20-114
PROPOSED RULES
OFFICE OF
FINANCIAL MANAGEMENT

[Filed October 4, 2021, 5:03 p.m.]

Original Notice.

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

Title of Rule and Other Identifying Information: WAC 357-01-1805 Holiday credit, 357-01-229 Part-time general government employee, 357-01-2290 Part-time higher education employee, 357-28-255 What constitutes overtime for an overtime eligible employee?, 357-28-301 When must holiday credit be paid in cash?, 357-31-010 Which employees qualify for holiday compensation?, 357-31-021 For part-time higher education employees, how is holiday credit prorated?, 357-31-022 For part-time higher education employees, how is personal holiday prorated?, 357-31-025 How many hours are higher education employees compensated for on a holiday?, 357-31-027 When must a higher education employer allow a part-time employee to use accrued holiday credit?, 357-31-030 What happens when a holiday falls on an employee's scheduled day off?, 357-31-065 How many hours are higher education employees compensated for when taking a personal holiday?, 357-31-115 How many hours of sick leave does an employee earn each month?, 357-31-121 Do overtime eligible employees accrue sick leave if they have taken leave without pay during the month?, 357-31-127 For higher education part-time employees, how is leave accrual prorated?, 357-31-166 At what rate do higher education employees accrue vacation leave?, 357-31-170 At what rate do part-time employees accrue vacation leave?, 357-31-175 Do employees accrue vacation leave if they have taken leave without pay during the month?, 357-31-245 What happens if an employee uses accrued vacation leave, accrued sick leave, accrued compensatory time, accrued holiday credit, recognition leave, or receives holiday pay during a period when the employee is receiving time loss compensation?, 357-31-248 May an employee use vacation leave, sick leave, personal holiday, compensatory time, holiday credit, recognition leave, or holiday pay as a supplemental benefit during a period when the employee is receiving partial wage replacement for paid family and/or medical leave under Title 50A RCW?, 357-31-250 Are employees entitled to paid bereavement leave?, 357-31-255 What types of leave may an

employee use when absent from work or arriving late to work because of inclement weather?, 357-31-265 What is the effect of suspended operations on employees who are not required to work during the closure?, 357-31-295 What type of leave may employees use for family care emergencies?, 357-31-490 Will time off for parental leave be paid or unpaid?, 357-31-515 Will time off during the period of disability leave due to pregnancy and/or childbirth be paid?, 357-31-530 Under the Family and Medical Leave Act of 1993, how is an eligible employee defined?, 357-31-590 When is an employee who participates in a sick leave pool eligible to use sick leave from the pool?, 357-31-595 Is a participant eligible to use sick leave from a pool if the employee illness or injury is work-related?, 357-31-687 Must employees use their own leave before receiving shared leave from the uniformed service shared leave pool?, 357-31-797 Must employees use their own leave before receiving shared leave from the veterans' in-state service shared leave pool?, and 357-31-895 Must employees use their own leave before receiving shared leave from the foster parent shared leave pool?

Hearing Location(s): On November 11, 2021, at 8:30 a.m., at Office of Financial Management (OFM), audio conference only, Dial-in 888-285-8919, Enter pin 8101730, Code (if asked) 415.

Date of Intended Adoption: November 18, 2021.

Submit Written Comments to: Brandy Chinn, OFM, P.O. Box 47500, Olympia, WA 98501, email brandy.chinn@ofm.wa.gov, fax 360-586-4694, by November 4, 2021.

Assistance for Persons with Disabilities: Contact OFM, TTY 711 or 1-800-833-6384, by November 4, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To expand the current civil service rules so that part-time higher education employees can accrue holiday compensation, sick, and vacation leave.

Reasons Supporting Proposal: To align Title 357 WAC with the requirements in RCW 41.06.070.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Statute Being Implemented: RCW 41.06.070.

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

Name of Proponent: [No information supplied by agency], governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Brandy Chinn, 128 10th Avenue, Olympia, WA 98501, 360-878-2901.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. Rules are related to internal government operations and are not subject to violation by a nongovernmental party. See RCW 34.05.328 (5)(b)(ii) for exemption.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party.

October 4, 2021

Roselyn Marcus
Assistant Director of Legal
and Legislative Affairs

NEW SECTION

WAC 357-01-1805 Holiday credit. Holiday credit is a balance of leave that is received in lieu of holiday compensation for higher education part-time employees as defined in WAC 357-01-2290(2).

AMENDATORY SECTION (Amending WSR 05-12-093, filed 5/27/05, effective 7/1/05)

WAC 357-01-229 Part-time general government employee. ~~((A#))~~ A general government employee who is scheduled to work less than that required for a full-time employee.

NEW SECTION

WAC 357-01-2290 Part-time higher education employee. A higher education employee who works less than that required for a full-time employee. A part-time employee may be considered one of the following:

- (1) Scheduled: An employee who is assigned a schedule with a fixed number of working hours in a workweek that is less than full-time equivalent.
- (2) Nonscheduled: An employee who is not assigned a fixed schedule or amount of working time in a workweek.

AMENDATORY SECTION (Amending WSR 05-01-205, filed 12/21/04, effective 7/1/05)

WAC 357-28-255 What constitutes overtime for an overtime eligible employee? (1) The following conditions constitute overtime for overtime eligible employees:

- (a) Work in excess of forty hours in one workweek, except for law enforcement positions or hospital personnel assigned to a fourteen-day schedule.
 - (i) For hospital personnel assigned to a fourteen-day schedule, work in excess of eight hours in any workday or eight hours in a fourteen-day period constitutes overtime.
 - (ii) For law enforcement positions, work in excess of the one hundred sixty-hour, twenty-eight-day work period constitutes overtime.
- (b) Work on a holiday per WAC 357-28-200.
- (c) For full-time employees, work on a scheduled day off when assigned by the employer.

(2) All paid holidays including the use of holiday credit during the employee's regular work schedule **are** considered time worked. Leave with pay during the employee's regular work schedule is **not** considered time worked for purposes of determining overtime eligibility.

(3) When an overtime eligible employee experiences a schedule change which causes an overlap in workweeks and requires work in excess of forty hours in either the previous or current workweek, the employee must receive overtime compensation.

(4) Compensation under the provisions of this section must be in accordance with the employer's policy, as approved by the director, for the following individuals:

(a) Employees dispatched to emergency response duty under an incident command system as defined in RCW 38.52.010; and

(b) Employees of the department of corrections and department of social and health services who are in charge of offenders assigned to assist in forest fire suppression and other emergency incidents.

NEW SECTION

WAC 357-28-301 When must holiday credit be paid in cash? All holiday credit must be used annually in accordance with the employer's leave policy. An employee who does not use their accrued holiday credit by the annual date specified in the employer's leave policy will receive monetary compensation. Holiday credit must also be paid when:

- (1) The employee separates from state service for any reason.
- (2) The employee is appointed to a position with a different employer.
- (3) The employee is appointed to a position that has a different funding source within the same employer.

AMENDATORY SECTION (Amending WSR 18-17-132, filed 8/20/18, effective 9/21/18)

WAC 357-31-010 Which employees qualify for holiday compensation? (1) Full-time general government employees who work full monthly schedules qualify for holiday compensation if they are employed before the holiday and are in pay status:

- (a) For at least eighty nonovertime hours during the month of the holiday; or
- (b) For the entire work shift preceding the holiday.
- (c) Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.

(2) Full-time higher education employees and cyclic year position employees who work full monthly schedules qualify for holiday compensation if they are in pay status for the entire work shift preceding the holiday. Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.

(3) Cyclic year position employees scheduled to work less than full monthly schedules throughout their work year qualify for holiday compensation if they work or are in pay status on their last regularly scheduled working day before the holiday(s) in that month. Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.

(4) Part-time general government employees who are in pay status during the month of the holiday qualify for holiday pay on a pro rata basis in accordance with WAC 357-31-020, except that part-time employees hired during the month of the holiday will not receive compensation for holidays that occur prior to their hire date.

(5) Part-time higher education employees as defined in WAC 357-01-2290(1) who satisfy the requirements of sub-

section (2) of this section are entitled to the number of paid hours on a holiday that their monthly schedule bears to a full-time schedule. Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.

(6) Part-time higher education employees as defined in WAC 357-01-2290(2) who are in pay status during the month of the holiday qualify for holiday credit on a pro rata basis in accordance with WAC 357-31-021 except that part-time employees hired during the month of the holiday will not receive credit for holidays that occur prior to their hire date.

NEW SECTION

WAC 357-31-021 For part-time higher education employees, how is holiday credit prorated? Holiday credit for part-time higher education employees who meet the definition in WAC 357-01-2290(2) will be proportionate to the number of hours in pay status in the same month of the holiday to that required for full-time employment, excluding all holiday hours. Part-time employees hired during the month of the holiday will not receive compensation for holidays that occur prior to their hire date.

NEW SECTION

WAC 357-31-022 For part-time higher education employees, how is personal holiday prorated? Personal holiday for part-time higher education employees who meet the definition in WAC 357-01-2290(2) will be proportionate to the number of hours in pay status in the same month when the personal holiday is requested to that required for full-time employment, excluding all holiday hours.

AMENDATORY SECTION (Amending WSR 10-23-120, filed 11/17/10, effective 12/18/10)

WAC 357-31-025 How many hours are higher education employees compensated for on a holiday? When a holiday as designated under WAC 357-31-005 falls on a higher education employee's scheduled work day:

(1) Full-time employees receive eight hours of regular holiday pay per holiday. Any differences between the scheduled shift for the day and eight hours may be adjusted by use of vacation leave, use of accumulation of compensatory time as appropriate, or leave without pay.

(2) Part-time higher education employees as defined in WAC 357-01-2290(1) are entitled to the number of paid hours on a holiday that their monthly schedule bears to a full-time schedule. Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.

(3) Part-time higher education employees as defined in WAC 357-01-2290(2) are entitled to the equivalent paid time off in the form of holiday credit for the holiday on a pro rata basis in accordance with WAC 357-31-021.

NEW SECTION

WAC 357-31-027 When must a higher education employer allow a part-time employee to use accrued holi-

day credit? Higher education employers must allow a part-time employee as defined in WAC 357-01-2290(2) to use accrued holiday credit for the following reasons:

(1) Employees must request to use accrued holiday credit in accordance with the employer's leave policy. When considering employees' requests to use accrued holiday credit, employers must consider their business needs and the wishes of the employee.

(2) An employee must be granted the use of accrued holiday credit to care for a spouse, registered domestic partner, parent, parent-in-law, or grandparent of the employee who has a serious health condition or an emergency health condition, or to care for a minor/dependent child with a health condition that requires treatment or supervision. In accordance with the employer's leave policy, approval of the employee's request to use accrued holiday credit time may be subject to verification that the condition exists.

(3) An employee must be granted the use of accrued holiday credit if the employee or the employee's family member, as defined in chapter 357-01 WAC, is a victim of domestic violence, sexual assault, or stalking as defined in RCW 49.76.020. An employer may require the request for leave under this section be supported by verification in accordance with WAC 357-31-730.

(4) In accordance with WAC 357-31-373, an employee must be granted the use of accrued holiday credit to be with a spouse or registered domestic partner who is a member of the armed forces of the United States, National Guard, or reserves after the military spouse or registered domestic partner has been notified of an impending call or order to active duty, before deployment, or when the military spouse or registered domestic partner is on leave from deployment.

(5) An employee must be granted the use of accrued holiday credit when requested as a supplemental benefit while receiving a partial wage replacement for paid family and/or medical leave under Title 50A RCW as provided in WAC 357-31-248. Leave taken under this subsection may be subject to verification that the employee has been approved to receive benefits for approved paid family and/or medical leave under Title 50A RCW.

(6) Employers may require that accumulated holiday credit be used before vacation leave is approved, except in those instances where this requirement would result in loss of accumulated vacation leave.

AMENDATORY SECTION (Amending WSR 05-08-136, filed 4/6/05, effective 7/1/05)

WAC 357-31-030 What happens when a holiday falls on an employee's scheduled day off? When a holiday (as identified in WAC 357-31-005) falls on an employee's regularly scheduled day off, the employer must provide that employee an in-lieu of holiday as follows:

(1) For a full-time employee who is eligible for holiday compensation, the employer may:

(a) Designate the prior or the following work day as the holiday;

(b) Provide the employee with equivalent paid time off; or

(c) Allow the employee to request an alternate work day to observe as the holiday. The employer may require that the employee request an alternate day off within the same pay period as the holiday.

(2) For a part-time general government employee who is eligible for holiday compensation, the employer must compensate the employee on a pro rata basis in accordance with WAC 357-31-020.

(3) For a part-time higher education employee as defined in WAC 357-01-2290(1) who is eligible for holiday compensation, the employee is entitled to the equivalent paid time off for the holiday that their monthly schedule bears to a full-time schedule.

(4) For a part-time higher education employee as defined in WAC 357-01-2290(2) who is eligible for holiday compensation, the employer must provide the employee with equivalent paid time off in the form of holiday credit for the holiday. The amount of holiday credit is calculated on a pro rata basis in accordance with WAC 357-31-021.

AMENDATORY SECTION (Amending WSR 05-08-136, filed 4/6/05, effective 7/1/05)

WAC 357-31-065 How many hours are higher education employees compensated for when taking a personal holiday? (1) Full-time employees receive eight hours of regular holiday pay on a personal holiday. Any differences between the scheduled shift for the day and eight hours may be adjusted by use of vacation leave, use or accumulation of compensatory time as appropriate, or leave without pay.

(2) Part-time higher education employees as defined in WAC 357-01-2290(1) are entitled to the number of paid hours on a personal holiday that their monthly schedule bears to a full-time schedule.

(3) Part-time higher education employees as defined in WAC 357-01-2290(2) are entitled the number of paid hours on a personal holiday on a pro rata basis in accordance with WAC 357-31-022.

AMENDATORY SECTION (Amending WSR 10-23-120, filed 11/17/10, effective 12/18/10)

WAC 357-31-115 How many hours of sick leave does an employee earn each month? (1) Full-time employees earn eight hours of sick leave per month.

(2) Part-time general government employees earn sick leave on a pro rata basis in accordance with WAC 357-31-125.

(3) Part-time higher education employees as defined in WAC 357-01-2290(1) earn sick leave on the same pro rata basis that their appointment bears to a full-time appointment. Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.

(4) Part-time higher education employees as defined in WAC 357-01-2290(2) earn sick leave on a pro rata basis in accordance with WAC 357-31-127.

AMENDATORY SECTION (Amending WSR 18-05-032, filed 2/10/18, effective 3/13/18)

WAC 357-31-121 Do overtime eligible employees accrue sick leave if they have taken leave without pay during the month? (1) Full-time overtime eligible general government employees who are in pay status for less than eighty hours in a month, earn a monthly accrual proportionate to the number of hours in pay status, in the month to that required for full-time employment. Sick leave accruals must not exceed eight hours in a month. Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this section.

(2) Full-time and part-time (part-time employee as defined in WAC 357-01-2290(1)) overtime eligible higher education employees with leave without pay exceeding eighty hours in a month (prorated for part-time) will ~~((accrue a minimum of one hour for every forty hours worked))~~ earn a monthly accrual proportionate to the number of hours in pay status, in the month to that required for full-time employment. Sick leave accruals must not exceed eight hours in a month.

NEW SECTION

WAC 357-31-127 For higher education part-time employees, how is leave accrual prorated? Vacation and sick leave accruals for part-time higher education employees as defined in WAC 357-01-2290(2) will be proportionate to the number of hours in pay status in the month to that required for full-time employment. Sick leave accruals must not exceed eight hours in a month.

AMENDATORY SECTION (Amending WSR 17-20-052, filed 9/29/17, effective 10/31/17)

WAC 357-31-166 At what rate do higher education employees accrue vacation leave? (1) Full-time higher education employees accrue vacation leave at the following rates:

- (a) During the first year of continuous state employment - Twelve days (eight hours per month);
- (b) During the second year of continuous state employment - Thirteen days (eight hours, forty minutes per month);
- (c) During the third and fourth years of continuous state employment - Fourteen days (nine hours, twenty minutes per month);
- (d) During the fifth, sixth, and seventh years of total state employment - Fifteen days (ten hours per month);
- (e) During the eighth, ninth, and tenth years of total state employment - Sixteen days (ten hours, forty minutes per month);
- (f) During the eleventh year of total state employment - Seventeen days (eleven hours, twenty minutes per month);
- (g) During the twelfth year of total state employment - Eighteen days (twelve hours per month);
- (h) During the thirteenth year of total state employment - Nineteen days (twelve hours, forty minutes per month);
- (i) During the fourteenth year of total state employment - Twenty days (thirteen hours, twenty minutes per month);

(j) During the fifteenth year of total state employment - Twenty-one days (fourteen hours per month);

(k) During the sixteenth and succeeding years of total state employment - Twenty-two days (fourteen hours, forty minutes per month).

(2) Higher education employers may establish accrual rates that exceed the rates listed in subsection (1) of this section. This does not apply to individual positions.

(3) The following applies for purposes of computing the rate of vacation leave accrual: Each contract year, or equivalent, of full-time faculty and/or administrative exempt employment with a higher education employer is credited as one year of qualifying service.

(4) Employment exempt by the provisions of WAC 357-04-040, 357-04-045, 357-04-050, and 357-04-055 is not credited for the purposes of computing the rate of vacation leave accrual.

AMENDATORY SECTION (Amending WSR 17-18-028, filed 8/28/17, effective 10/2/17)

WAC 357-31-170 At what rate do part-time employees accrue vacation leave? (1) Part-time general government employees accrue vacation leave hours in accordance with WAC 357-31-165 on a pro rata basis. Proration will be calculated in accordance with WAC 357-31-125.

(2) Part-time higher education employees as defined in WAC 357-01-2290(1) accrue on the same pro rata basis that their appointment bears to a full-time appointment. Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.

(3) Part-time higher education employees as defined in WAC 357-01-2290(2) accrue vacation leave in accordance with WAC 357-31-166 on a pro rata basis. Proration will be calculated in accordance with WAC 357-31-127.

AMENDATORY SECTION (Amending WSR 12-04-016, filed 1/24/12, effective 2/24/12)

WAC 357-31-175 Do employees accrue vacation leave if they have taken leave without pay during the month? (1) Full-time general government employees who are in pay status for less than eighty nonovertime hours in a month do not earn a monthly accrual of vacation leave. Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.

(2) Full-time and part-time higher (part-time employee as defined in WAC 357-01-2290(1)) education employees ((who have more than ten working days of)) with leave without pay exceeding eighty hours in a month (prorated for part-time) do not earn a monthly accrual of vacation leave. Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.

AMENDATORY SECTION (Amending WSR 15-11-102, filed 5/20/15, effective 6/22/15)

WAC 357-31-245 What happens if an employee uses accrued vacation leave, accrued sick leave, accrued compensatory time, accrued holiday credit, recognition leave, or receives holiday pay during a period when ((he/she)) the employee is receiving time loss compensation? An employee who uses accrued vacation leave, accrued sick leave, accrued compensatory time, accrued holiday credit, recognition leave, or receives holiday pay during a period when ((he/she)) the employee is receiving time loss compensation is entitled to time-loss compensation and full pay for vacation leave, sick leave, compensatory time, holiday credit, recognition leave, and holiday pay.

AMENDATORY SECTION (Amending WSR 20-06-008, filed 2/20/20, effective 5/1/20)

WAC 357-31-248 May an employee use vacation leave, sick leave, personal holiday, compensatory time, holiday credit, recognition leave, or holiday pay as a supplemental benefit during a period when the employee is receiving partial wage replacement for paid family and/or medical leave under Title 50A RCW? An employee may use vacation leave, sick leave, personal holiday, compensatory time, holiday credit, recognition leave, or holiday pay during a period when the employee is receiving partial wage replacement under Title 50A RCW as a supplemental benefit.

AMENDATORY SECTION (Amending WSR 05-08-137, filed 4/6/05, effective 7/1/05)

WAC 357-31-250 Are employees entitled to paid bereavement leave? (1) If an employee's family member or household member dies, the employee is entitled to three days of paid bereavement leave. An employee may request less than three days of paid bereavement leave.

(2) In accordance with the employer's leave policy, the employer may require verification of the family member's or household member's death.

(3) In addition to paid bereavement leave, the employer may approve an employee's request to use paid leave (accrued compensatory time, holiday credit, sick leave, vacation leave, and/or a personal holiday) or to take leave without pay for purposes of bereavement.

AMENDATORY SECTION (Amending WSR 15-11-102, filed 5/20/15, effective 6/22/15)

WAC 357-31-255 What types of leave may an employee use when absent from work or arriving late to work because of inclement weather? When the employer determines inclement weather conditions exist, the employer's leave policy governs the order in which accrued leave ((and)), compensatory time, and holiday credit may be used to account for the time an employee is absent from work due to the inclement weather. The employer's policy must allow the use of accrued vacation leave, accrued sick leave up to a maximum of three days in any calendar year, and the use of leave without pay in lieu of paid leave at the request of the

employee. The employer's policy may allow leave with pay when an employee is absent due to inclement weather.

AMENDATORY SECTION (Amending WSR 15-11-102, filed 5/20/15, effective 6/22/15)

WAC 357-31-265 What is the effect of suspended operations on employees who are not required to work during the closure? At a minimum, employees not required to work during suspended operations must be allowed to use their personal holiday, accrued holiday credit, or accrued vacation leave. Overtime eligible employees must also be allowed to use accrued compensatory time to account for the time lost due to the closure. Overtime eligible employees may be allowed to use leave without pay and given an opportunity to make up work time lost (as a result of suspended operations) within the work week. For overtime eligible employees, compensation for making up lost work time must be in accordance with WAC 357-28-255, 357-28-260, and 357-28-265 if it causes the employee to work in excess of forty hours in the workweek, and must be part of the employer's suspended operations procedures. The amount of compensation earned under this section must not exceed the amount of salary lost by the employee due to suspended operation.

If the employer's suspended operations procedure allows, employees may be released without a loss in pay.

AMENDATORY SECTION (Amending WSR 05-08-137, filed 4/6/05, effective 7/1/05)

WAC 357-31-295 What type of leave may employees use for family care emergencies? (1) After an employee has used all accrued compensatory time and accrued holiday credit, the employee may choose any of the following leave categories to use to account for time away from work for family care emergencies:

- (a) Vacation leave.
- (b) Sick leave in accordance with WAC 357-31-130.
- (c) Leave without pay.
- (d) Personal holiday.

(2) Use of any of these leave categories is dependent on the employee's eligibility to use that leave.

AMENDATORY SECTION (Amending WSR 20-06-008, filed 2/20/20, effective 5/1/20)

WAC 357-31-490 Will time off for parental leave be paid or unpaid? (1) Parental leave may be a combination of vacation leave, personal holiday, compensatory time, holiday credit, shared leave and leave of absence without pay. Sick leave may be used if the criteria in WAC 357-31-130 are met. The combination and use of paid and unpaid leave during a parental leave is at the employee's choice.

(2) If necessary while on approved parental leave, the employee must be allowed to use a minimum of eight hours per month of the accrued paid leave identified in subsection (1) of this section during a parental leave of absence without pay to provide for continuation of benefits as provided by the public employees' benefits board. The employer designates

when during the month paid leave will be interspersed to maintain benefits.

AMENDATORY SECTION (Amending WSR 20-06-008, filed 2/20/20, effective 5/1/20)

WAC 357-31-515 Will time off during the period of disability leave due to pregnancy and/or childbirth be paid? Disability leave due to pregnancy and/or childbirth may be a combination of sick leave, vacation leave, personal holiday, compensatory time, holiday credit, shared leave and leave without pay. The combination and use of paid and unpaid leave must be per the choice of the employee.

AMENDATORY SECTION (Amending WSR 15-11-102, filed 5/20/15, effective 6/22/15)

WAC 357-31-530 Under the Family and Medical Leave Act of 1993, how is an eligible employee defined? In accordance with 29 C.F.R. Part 825, an eligible employee is an employee who has worked for the state for at least twelve months and for at least one thousand two hundred fifty hours during the previous twelve-month period. Paid time off such as vacation leave, sick leave, personal holiday, compensatory time off, holiday credit, or shared leave and unpaid leave is not counted towards the one thousand two hundred and fifty hour eligibility requirement.

AMENDATORY SECTION (Amending WSR 07-11-095, filed 5/16/07, effective 7/1/07)

WAC 357-31-590 When is an employee who participates in a sick leave pool eligible to use sick leave from the pool? A participating employee is eligible to use sick leave from a pool only when the employee has a personal illness, accident, or injury and the employee has exhausted all of his/her personal holiday and all of his/her sick, vacation, ~~((and))~~ compensatory time, and holiday credit.

AMENDATORY SECTION (Amending WSR 07-11-095, filed 5/16/07, effective 7/1/07)

WAC 357-31-595 Is a participant eligible to use sick leave from a pool if ~~((his/her))~~ the employee illness or injury is work-related? If the illness or injury is work-related and the participant has diligently pursued and been found to be ineligible for benefits under chapter 51.32 RCW the participant may be eligible to use leave from a pool if ~~((he/she))~~ the employee has exhausted all of his/her personal holiday and all of his/her sick, vacation, ~~((and))~~ compensatory time, and holiday credit.

AMENDATORY SECTION (Amending WSR 20-24-017, filed 11/20/20, effective 12/28/20)

WAC 357-31-687 Must employees use their own leave before receiving shared leave from the uniformed service shared leave pool? Employees who are eligible to receive shared leave from the uniformed service shared leave pool must first use all accrued compensatory time, holiday credit, recognition leave as described in WAC 357-31-565,

personal holiday, vacation leave, and paid military leave allowed under RCW 38.40.060 before receiving shared leave from the uniformed service shared leave pool. The employee is not required to deplete all of their accrued vacation leave and paid military leave allowed under RCW 38.40.060 and can maintain up to forty hours of vacation leave and forty hours of paid military leave.

AMENDATORY SECTION (Amending WSR 20-24-017, filed 11/20/20, effective 12/28/20)

WAC 357-31-797 Must employees use their own leave before receiving shared leave from the veterans' in-state service shared leave pool? Employees who are eligible to receive shared leave from the veterans' in-state service shared leave pool must first use all accrued compensatory time, holiday credit, recognition leave as described in WAC 357-31-565, personal holiday, sick leave, and vacation leave before receiving shared leave from the veterans' in-state service shared leave pool. The employee is not required to deplete all of their accrued vacation leave and sick leave and can maintain up to forty hours of vacation leave and forty hours of sick leave.

AMENDATORY SECTION (Amending WSR 18-03-081, filed 1/15/18, effective 2/16/18)

WAC 357-31-895 Must employees use their own leave before receiving shared leave from the foster parent shared leave pool? Employees who are eligible to receive shared leave from the foster parent shared leave pool must first use all accrued compensatory time, holiday credit, recognition leave as described in WAC 357-31-565, and personal holiday before requesting shared leave from the foster parent shared leave pool. The employee is not required to deplete all of their accrued vacation leave and sick leave and can maintain up to forty hours of vacation leave and forty hours of sick leave.

WSR 21-20-115
PROPOSED RULES
OFFICE OF
FINANCIAL MANAGEMENT

[Filed October 4, 2021, 5:06 p.m.]

Original Notice.

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

Title of Rule and Other Identifying Information: WAC 357-31-325 When must an employer grant leave with pay for other miscellaneous reasons? and 357-31-326 When may an employer grant leave with pay?

Hearing Location(s): On November 11, 2021, at 8:30 a.m., at Office of Financial Management (OFM), audio conference only, Dial-in 888-285-8919, Enter pin 8101730, Code (if asked) 415.

Date of Intended Adoption: November 18, 2021.

Submit Written Comments to: Caroline Kirk, OFM, P.O. Box 47500, Olympia, WA 98501, email caroline.kirk@ofm.wa.gov, fax 360-586-4694, by November 4, 2021.

Assistance for Persons with Disabilities: Contact OFM, TTY 711 or 1-800-833-6384, by November 4, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To remove the requirement for a general government employer to grant leave with pay (LWP) when an employee is required by Centers of [for] Disease Control and Prevention (CDC) guidelines to self-quarantine due to the novel coronavirus disease 2019 (COVID-19) but is otherwise healthy and has not tested positive for COVID-19 and the employer has determined the employee does not have the option to telework. To remove the option for higher education employers to grant LWP when an employee is required by CDC guidelines to self-quarantine due to COVID-19 but is otherwise healthy and has not tested positive for COVID-19 and the employer has determined the employee does not have the option to telework.

Reasons Supporting Proposal: To align chapter 357-31 WAC with the progression of the COVID-19 response including increased availability of testing and vaccines along with updated CDC requirements/guidelines for preventing the spread of COVID-19. Based on these changed circumstances, leave with pay is no longer needed for individuals to self-quarantine.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Statute Being Implemented: Chapter 41.06 RCW.

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

Name of Proponent: Governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Caroline Kirk, 128 10th Avenue, Olympia, WA 98501, 360-878-4827.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. Rules are related to internal government operations and are not subject to violation by a nongovernmental party. See RCW 34.05.328 (5)(b)(ii) for exemption.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party.

October 4, 2021
Roselyn Marcus
Assistant Director of Legal
and Legislative Affairs

AMENDATORY SECTION (Amending WSR 21-12-020, filed 5/24/21, effective 7/1/21)

WAC 357-31-325 When must an employer grant leave with pay for other miscellaneous reasons? Leave with pay **must** be granted to an employee in accordance with WAC 357-31-320 and for the following reasons:

(1) To allow an employee to receive assessment from the employee assistance program.

(2) When an employee is scheduled to take an examination or participate in an interview for a position with a state employer during scheduled work hours.

(a) Employers may limit the number of occurrences or the total amount of paid leave that will be granted to an employee to participate in an interview or take an examination during scheduled work hours.

(b) Employers may deny an employee's request to participate in an interview or take an examination during scheduled work hours based upon operational necessity.

(3) When an employee is required to appear during working hours for a physical examination to determine physical fitness for military service.

(4) To allow a general government employee to take paid leave, not to exceed thirty days in a two-year period to participate in life-giving procedures, such as medical procedures, including testing, sampling, or donation of organs, tissues, and other body components for the purpose of donation, without compensation. For this subsection blood or plasma donations are not considered life-giving procedures.

(a) General government employers may take operational necessity into account and require the employee to provide reasonable advance notice.

(b) Employees must provide written proof from an accredited medical institution, physician, or other medical professional that the employee will or has participated in a life-giving procedure.

~~(5) ((When a general government employee is required by Centers for Disease Control and Prevention guidelines to self-quarantine due to novel coronavirus disease 2019 (COVID-19), but is otherwise healthy and has not tested positive for COVID-19, and the employer has determined the employee does not have the option to telework. An employer may subsequently determine that a telework option exists for the employee and direct the employee to telework. If the employee is directed to telework under this subsection and declines to do so, the employee must use other available leave options. The employee may receive up to fourteen days of leave with pay under this subsection. This subsection is effective until the expiration of proclamation 20-05, issued February 29, 2020, by the governor and declaring an emergency in the state of Washington, or any amendment thereto, whichever is later. An employer may require written verification, including verification submitted electronically, confirming the circumstances warranting the self-quarantine or inability to telework, which may include a signed affidavit from the employee or any other information requested by the employer.~~

~~(6))~~ To allow a general government employee to take a reasonable amount of leave with pay for the employee to travel and receive each dose of COVID-19 immunization if the vaccine is not offered at the workplace. An employer may authorize leave in excess of one day in extraordinary circumstances, such as to accommodate travel where the vaccine is unavailable locally. The employer may require that the request for leave be supported by documentation, which may include proof of the vaccination. This subsection is effective until the expiration of proclamation 20-05, issued February

29, 2020, by the governor and declaring an emergency in the state of Washington, or any amendment thereto, whichever is later. This subsection no longer applies if state or federal law otherwise provides paid leave specifically for employees to receive the COVID-19 immunization.

AMENDATORY SECTION (Amending WSR 21-12-020, filed 5/24/21, effective 7/1/21)

WAC 357-31-326 When may an employer grant leave with pay? (1) A general government employer **may** grant leave with pay for an employee to perform civil duties as a volunteer including, but not limited to, firefighting, search and rescue efforts, or donating blood. Leave granted to participate in blood and plasma donations must not exceed five days in a two-year period.

(2) A higher education employer may grant leave with pay for an employee to perform civil duties as a volunteer including, but not limited to, firefighting, search and rescue efforts, participating in life-giving procedures, or donating blood. Leave granted to participate in life-giving procedures must not exceed five days in a two-year period.

(3) In the department of natural resources, leave with pay equivalent to one regular workshift **may** be allowed for the purpose of rest and recuperation after ten consecutive calendar days performing emergency work under an incident command system, defined in RCW 38.52.010. The employer may grant one additional day of leave with pay for rest and recuperation after twenty-one consecutive calendar days performing emergency work under an incident command system.

~~(4) ((When a higher education employee is required by Centers for Disease Control and Prevention guidelines to self-quarantine due to novel coronavirus disease 2019 (COVID-19), but is otherwise healthy and has not tested positive for COVID-19, and the employer has determined the employee does not have the option to telework. An employer may subsequently determine that a telework option exists for the employee and direct the employee to telework. If the employee is directed to telework under this subsection and declines to do so, the employee must use other available leave options. The employee may receive up to fourteen days of leave with pay under this subsection. This subsection is effective until the expiration of proclamation 20-05, issued February 29, 2020, by the governor and declaring an emergency in the state of Washington, or any amendment thereto, whichever is later. An employer may require written verification, including verification submitted electronically, confirming the circumstances warranting the self-quarantine or inability to telework, which may include a signed affidavit from the employee or any other information requested by the employer.~~

~~(5))~~ A general government employer may grant a reasonable amount of leave with pay for an employee to receive each dose of COVID-19 immunization if the vaccine is offered at the workplace. An employer may authorize leave in excess of one day for receipt of the vaccine in extraordinary circumstances, such as to accommodate travel where the vaccine is unavailable locally. The employer may require that the request for leave be supported by documentation, which may include proof of the vaccination. This subsection is

effective until the expiration of proclamation 20-05, issued February 29, 2020, by the governor and declaring an emergency in the state of Washington, or any amendment thereto, whichever is later. This subsection no longer applies if state or federal law otherwise provides paid leave specifically for employees to receive the COVID-19 immunization.

((6)) (5) A higher education employer may grant a reasonable amount of leave with pay for an employee to receive each dose of COVID-19 immunization if the vaccine is not offered at the workplace. An employer may authorize leave in excess of one day for receipt of the vaccine in extraordinary circumstances, such as to accommodate travel where the vaccine is unavailable locally. The employer may require that the request for leave be supported by documentation, which may include proof of the vaccination. This subsection is effective until the expiration of proclamation 20-05, issued February 29, 2020, by the governor and declaring an emergency in the state of Washington, or any amendment thereto, whichever is later. This subsection no longer applies if state or federal law otherwise provides paid leave specifically for employees to receive the COVID-19 immunization.

WSR 21-20-117
PROPOSED RULES

WESTERN WASHINGTON UNIVERSITY

[Filed October 5, 2021, 7:47 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-21-014.

Title of Rule and Other Identifying Information: Chapter 516-21 WAC, Student conduct code, Western Washington University.

Hearing Location(s): On November 16, 2021, at 11:00 a.m. Due to the public health emergency related to the COVID-19 virus pandemic, this public hearing will be held via Zoom (with a call-in option). The link to join the meeting will be available on the rules coordinator's website approximately two weeks before the hearing date at <https://rcps.wvu.edu/2020/08/21/chapter-516-21-wac-student-conduct-code/>.

Date of Intended Adoption: December 10, 2021.

Submit Written Comments to: Jennifer Sloan, Rules Coordinator, 516 High Street, Mailstop 9015, email sloanj2@wwu.edu, by November 16, 2021.

Assistance for Persons with Disabilities: Contact Jennifer Sloan, rules coordinator, phone 360-650-3117, TTY 711, email sloanj2@wwu.edu, by November 2, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The university edited sections and created new sections to update current chapter 516-21 WAC, Student conduct code, to be in compliance with the new United States Department of Education (DOE) Title IX regulations that went into effect in August 2020. Minor housekeeping changes were made as well.

Reasons Supporting Proposal: The new DOE Title IX regulations went into effect, and to maintain compliance with these new regulations, Western Washington University updated existing sections and created new sections to our cur-

rent chapter 516-21 WAC, Student conduct code. Minor housekeeping changes were made as well. Agencies not in compliance would be at risk of losing federal funding. The university currently has an emergency rule filed to maintain compliance while we complete this permanent rule making.

Statutory Authority for Adoption: RCW 28B.35.120 (12).

Statute Being Implemented: 34 C.F.R. Part 106.

Rule is necessary because of federal law, 34 C.F.R. Part 106.

Name of Proponent: Western Washington University, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Michael Sledge, Executive Director, Student Life, 516 High Street, VU544, Bellingham, WA 98225, 360-650-2484.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. Does not apply to the university.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Citation of the specific federal statute or regulation and description of the consequences to the state if the rule is not adopted: 34 C.F.R. Part 106, DOE, Title IX regulation updates. If a university is not in compliance, they could risk the loss of federal funding.

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; and rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: The proposed rule has no impact on small businesses

October 5, 2021
Jennifer L. Sloan
Rules Coordinator

AMENDATORY SECTION (Amending WSR 17-05-100, filed 2/15/17, effective 3/18/17)

WAC 516-21-010 Introduction. (~~Western Washington University students enjoy the same basic rights, privileges, and freedoms granted to all members of society. At the same time, acceptance of admission to the university carries with it an obligation to fulfill certain responsibilities and expectations as a member of the Western Washington University community.~~

~~As members of the Western community, students must assume responsibility for their own actions and maintain an environment conducive to academic success. In addition, they are expected to be truthful, respect the rights of others, and abide by all university policies and procedures, as well as all applicable local, state, and federal laws and regulations.~~

All students are responsible for understanding and complying with the responsibilities and expectations set forth in this code both on and off campus.

The student conduct process is intended to be educational in ensuring that students act in a manner consistent with high standards of scholarship and behavior, while maintaining the safety and well-being of all members of the university community. The student conduct code is intended to support the mission and values of Western Washington University by promoting integrity, responsibility, and accountability. As a public institution of higher education, the university is committed to maintaining a learning environment that supports student development through fostering community values and promoting holistic wellness for the Western community. As members of this community, students are expected to understand and comply with the student conduct code, as well as other university rules, regulations, procedures, and policies.

The board of trustees of Western Washington University, acting under the authority of RCW 28B.35.120(12) has established the following regulations for student conduct. The responsibility for enforcement of the student conduct code lies with the university president and is delegated to the vice president of enrollment and student services.

AMENDATORY SECTION (Amending WSR 17-05-100, filed 2/15/17, effective 3/18/17)

WAC 516-21-020 Definitions. As used in this chapter, the following words and phrases mean:

(1) ~~((Day. Any day, Monday through Friday (excluding holidays), during which university offices are open.))~~

Appeals board. The student conduct appeals board.

(2) **Catalog.** The *Western Washington University General Catalog*.

(3) **Code.** The student conduct code.

(4) ~~((Board. The student conduct appeals board.~~

~~(5))~~ **Conduct hold.** A block placed on a student's official university record at the request of a conduct officer or dean of students. A conduct hold prohibits a student from registering for classes, ~~((requesting))~~ and may prohibit the request of an official transcript, or receiving a degree from the university until the hold has been removed.

~~((6))~~ (5) **Conduct officer.** A conduct officer or their authorized designee as determined by the dean of students.

(6) **Day.** Any day, Monday through Friday (excluding holidays), during which university offices are open.

(7) **Dean of students.** ~~((The dean of students or their authorized designee.))~~ The person designated by the vice president for enrollment and student services for oversight and administration of the code.

(8) **Guest.** Any person who is not a member of the university community, who is on university property or attending an official university function at the invitation and/or hosting of a student.

(9) **Member of the university community.** Any person who is a student, university official, registered volunteer or who is otherwise employed or contracted by the university. Any question regarding a person's status in a particular situa-

tion for purposes of this code shall be determined by the dean of students.

(10) **Official university function.** Any live or virtual activity, on or off campus, that is initiated, sponsored, or supervised by any entity of Western Washington University.

(11) **Preponderance of evidence.** Defined as "more likely than not," the standard of responsibility that is used when determining whether a violation of the student conduct code has occurred.

(12) **Reasonable person similarly situated.** The standard of a reasonable person taking into consideration any particularized circumstances, perspectives, and identities of the complainant within the context of the alleged conduct/incident.

(13) **Retaliation.** Retaliation includes, but is not limited to, intimidation, threats, harassment, and/or other adverse action taken against any student or other person for filing a complaint or participating in a university investigation or student conduct proceeding in good faith.

(14) **Sexual violence.** Sexual assault, dating violence, domestic violence, and stalking or any other type of sexual misconduct or gender-based discrimination.

(15) **Student.** Any person who:

(a) Has been formally admitted to the university;

(b) Is enrolled in one or more classes at the university, including nonmatriculated international students attending language institutes or foreign study programs;

(c) Is participating in a certificate, degree, distance learning, or professional enrichment program, through extended education and summer programs;

(d) Is participating in a university-sponsored study abroad program;

(e) Was enrolled in a prior quarter or summer session at the university and is eligible to continue enrollment in the quarter or summer session that immediately follows; or

(f) Withdrew from the university after an alleged violation of the code, for conduct that occurred while they were enrolled in or participating in a program offered by the university.

~~((13))~~ (16) **Title IX.** Title IX refers to any behavior covered under federal regulation and investigated by Western's office of civil rights and Title IX compliance. Definitions and regulations related to alleged violations of Title IX begin in WAC 516-21-191.

(17) **Title IX committee.** The student conduct committee that hears cases under Title IX. The committee consists of at least a chair, and may include faculty and/or staff, and is responsible for conferring and drafting an initial conduct order as described in WAC 516-21-298.

(18) **University.** Western Washington University and all associated programs, including those offered online and/or at off-campus program sites.

~~((14))~~ (19) **University official.** Any person employed or contracted by the university, who is performing assigned teaching, administrative, or professional responsibilities. University officials may be full- or part-time, and may include student staff members.

~~((15))~~ (20) **University property.** All land, buildings, facilities, electronic presences, and other property that is owned, used, leased, or controlled by Western Washington

University wherever located. University property also includes computer systems, virtual programs and platforms, and adjacent streets and sidewalks.

~~((16))~~ (21) WAC. An abbreviation for the Washington Administrative Code.

AMENDATORY SECTION (Amending WSR 17-05-100, filed 2/15/17, effective 3/18/17)

WAC 516-21-030 Jurisdiction. (1) The student conduct code applies to all conduct that occurs on university property or in connection with any official university function.

(2) ~~((Western Washington University does not act as a policing agent for students when they are off campus. However, the university reserves the right to take action if a student's conduct is determined to adversely affect a substantial university interest.))~~ Student conduct that occurs off campus may be subject to the student conduct code when it:

(a) Adversely affects the safety or well-being of any member of the university community; or

(b) Adversely affects the pursuit of the university's vision, mission, or values; or

(c) Involves academic work or any records, documents, or identifications of the university.

In determining whether to exercise jurisdiction over such conduct, a conduct officer shall consider the seriousness of the alleged offense, the risk of harm involved, and whether the alleged complainant(s) are members of the university community. Any question of interpretation or application of jurisdiction shall be referred to the dean of students for final determination.

(3) Students are responsible for their conduct from the time they have confirmed their enrollment at Western through the awarding of their degree. This includes conduct that occurs before classes begin, after classes end, and during periods between actual terms of enrollment. Students who are found to be in violation of the code may be subject to sanctions under the code.

(4) A student with a pending conduct violation may not avoid the conduct process by withdrawing from the university. In these circumstances, either:

(a) The university will proceed with the conduct process and, if so, the respondent will be provided with a continued opportunity to participate; and/or

(b) A conduct hold ((with)) may be placed on the student's official record, preventing them from registering for classes, requesting an official transcript, or receiving a degree from the university. This hold will remain in place until the student has met with the conduct officer to discuss the alleged conduct violation(s).

(5) The code applies to the conduct of any student employee whose position is conditioned upon their student status.

(6) Sanctions against student organizations are decided by procedures established by the university administrative unit governing that organization's recognition. Conduct proceedings against individual member(s) of a student organization can be initiated under this code, independent of any departmental action(s) taken against the student organization.

AMENDATORY SECTION (Amending WSR 12-01-021, filed 12/9/11, effective 1/9/12)

WAC 516-21-040 Student responsibility for guests.

(1) Guests and visitors on university property or at official university functions are expected to ~~((comply with))~~ follow all university policies and procedures, as well as all applicable local, state, and federal laws and regulations.

(2) Students who invite guests into their campus residence hall or apartment, or to official university functions open only to Western students, are responsible for the behavior of their guests. As a result, a student may be held responsible for any alleged violation(s) of the code committed by their guests. See also WAC 516-24-001 Conduct of campus guests and visitors.

AMENDATORY SECTION (Amending WSR 17-05-100, filed 2/15/17, effective 3/18/17)

WAC 516-21-055 Amnesty. (1) In situations involving intoxication, alcohol poisoning, or drug-related medical issues, students are encouraged to seek swift medical assistance for themselves and others without fear of penalty. Students requesting and receiving medical assistance in these situations ~~((with))~~ are not typically ~~((be))~~ subject to the student conduct process. This policy refers to isolated incidents and does not excuse students who repeatedly or flagrantly violate the alcohol or drug policy, nor does it preclude action arising from other violations of the code. Western will consider the positive impact of reporting a situation when determining any course of action.

(2) Complainants and witnesses who in good faith report sexual violence will not be subject to alcohol or drug violations of the code occurring at or near the time of the sexual violence unless their own conduct placed another person's health or safety at risk. Without imposing sanctions, Western may initiate educational remedies regarding alcohol or drug use.

AMENDATORY SECTION (Amending WSR 17-05-100, filed 2/15/17, effective 3/18/17)

WAC 516-21-060 Conduct that harms or threatens health or safety. Conduct that harms, attempts to harm, or threatens the health or safety of any member of the Western community by any means (e.g., in person, through a third party, online) ~~((or others on university property or in connection with any official university function, is a violation of the code))~~. This includes, but is not limited to:

(1) Physical assault.

(2) Any threat~~((s))~~ stated or implied, to the health, safety or well-being of others.

(3) Any contact or communication of a threatening nature that intimidates, harasses, and would cause a reasonable person similarly situated to fear for their safety or well-being.

(4) Intoxication or impairment through the use of alcohol or other substances to the point that a student is unable to exercise care for their own safety or well-being.

(5) Sexual violence including sexual assault, dating violence, domestic violence, and stalking or any other type of sexual misconduct or gender-based discrimination.

AMENDATORY SECTION (Amending WSR 17-05-100, filed 2/15/17, effective 3/18/17)

WAC 516-21-070 Disruptive behavior. Behavior that substantially disrupts, disturbs, or interferes with the ability of students to learn or their on-campus living environment or the ability of university officials to perform their assigned duties is a violation of the code. Disruptive behavior includes, but is not limited to:

Any behavior that substantially disrupts, disturbs, or interferes with:

- (1) Classroom activities or other educational pursuits;
- (2) Official university activities or functions including, but not limited to, ceremonies, meetings, office functions, performances, or athletic events;
- (3) Pedestrian or vehicular traffic; or
- (4) The preservation and protection of university property and/or the personal property of members of the university community.

AMENDATORY SECTION (Amending WSR 17-05-100, filed 2/15/17, effective 3/18/17)

WAC 516-21-115 Discrimination and discriminatory harassment. Discrimination or discriminatory harassment is prohibited on the basis of ~~race, sex, sexual orientation, gender identity/expression, religion, age, color, creed, national or ethnic origin, physical, mental, or sensory disability (including disability requiring the use of a trained service animal), marital status, genetic information, and/or veteran status;~~ ethnicity, color, national origin, age, citizenship or immigration status, pregnancy, use of protective leave, genetic status, sex, sexual orientation, gender identity, gender expression, marital status, creed, religion, veteran or military status, disability or the use of a trained guide dog or service animal by a person with a disability; and as defined in Western Washington University policy POL-U1600.02 and POL-U1600.04, which prohibit discrimination, sexual harassment, and sexual misconduct. Anyone ~~((complaining))~~ filing or involved in a complaint of discrimination is protected against retaliation.

(1) Sexual harassment is a violation of the code. Sexual harassment is any unwelcome conduct of a sexual nature including unwelcome sexual advances, requests for sexual favors, or other verbal, nonverbal, electronic, or physical conduct of a sexual nature, when:

(a) It has a tangible impact on a student's education including, but not limited to, classroom experiences, academic grades, living environment, participation in a university activity; or

(b) It is sufficiently severe ~~((and/or))~~, persistent and pervasive to interfere with a member of the university community's ability to work, study, or participate in their regular activities, or benefit from the university's programs or activities and creates a hostile environment.

(2) Gender-based harassment includes nonsexual acts of verbal, nonverbal, or physical aggression, intimidation, or

hostility based on a person's gender or nonconformity with gender stereotypes, and is a violation of the code. Gender-based harassment violates this code when it is sufficiently severe and/or pervasive, such that it denies or limits another's ability to work, study, participate in, or benefit from the university's programs or activities.

(3) Sexual violence includes sexual assault, dating violence, domestic violence, and stalking or any other type of sexual misconduct or gender-based discrimination.

AMENDATORY SECTION (Amending WSR 17-05-100, filed 2/15/17, effective 3/18/17)

WAC 516-21-140 Drugs and paraphernalia. Except as permitted by law and university policy, the possession, use, cultivation, manufacturing, packaging, distribution, or provision of a controlled or illegal substance or the possession of drug paraphernalia while on university property or at an official university function is a violation of the code. This code violation also includes the intentional misuse or distribution of prescription drugs or inhalants; including volatile, aerosols, gases, and nitrites. See also *Policy Concerning Alcohol and Other Drugs* in the appendices section of the university catalog.

AMENDATORY SECTION (Amending WSR 17-05-100, filed 2/15/17, effective 3/18/17)

WAC 516-21-150 Interfering with ~~((the conduct))~~ a university complaint process. Interfering with ~~((the conduct))~~ a university complaint process is a violation of the code. This includes, but is not limited to:

- (1) Giving a false report or claim;
- (2) Attempting to influence the impartiality of ~~((witnesses or))~~ any decision maker including appeals board member(s);
- (3) Participating in or encouraging retaliation against a complainant or witness;
- (4) Threatening, harassing, or intimidating complainants or witnesses;
- (5) Disrupting or interfering with the orderly conduct of a hearing or meeting; and
- (6) Failing to comply with any sanction(s) imposed as the result of a code violation.

AMENDATORY SECTION (Amending WSR 17-05-100, filed 2/15/17, effective 3/18/17)

WAC 516-21-180 Sexual misconduct. Sexual misconduct is a violation of the code and includes nonconsensual sexual contact, sexual exploitation, and sexual violence (sexual assault, dating violence, domestic violence, and stalking or any other type of sexual misconduct or gender-based discrimination). See also WAC 516-21-110 Harassment (other than sexual harassment or discriminatory harassment), WAC 516-21-115 Discrimination or discriminatory harassment, WAC 516-21-060 Conduct that harms or threatens, WAC 516-21-188 Stalking, WAC 516-21-184 Dating violence, and WAC 516-21-186 Domestic violence.

(1) Consent to any sexual activity must be clear, knowing, and voluntary. Anything less is equivalent to a "no."

Clear, knowing, and voluntary consent to sexual activity requires that, at the time of the act, actual words or conduct demonstrate clear permission regarding willingness to engage in sexual activity and the conditions of such activity. Silence or passivity is not consent. Consent is ongoing and can be withdrawn at any time. Even if words or conduct alone seem to imply consent, sexual activity is nonconsensual when:

(a) Force or coercion is threatened or used to procure compliance with the sexual activity;

(i) Force is the use of physical violence, physical force, threat, or intimidation to overcome resistance or gain consent to sexual activity.

(ii) Coercion is unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to obtain consent from another. When an individual makes it clear through words or actions that they do not want to engage in sexual contact, want to stop, or do not want to go past a certain point of sexual interaction, continued pressure beyond that point may be coercive. Other examples of coercion may include using blackmail, extortion, or a position of power to overcome resistance or gain consent to sexual activity.

(b) The person is asleep, unconscious, or physically unable to communicate their unwillingness to engage in sexual activity; or

(c) The person lacks the mental capacity at the time of the sexual activity to be able to understand the nature or consequences of the act, whether that incapacity is produced by illness, the influence of alcohol or another substance, or some other cause. When alcohol or drugs are involved, a person is considered incapacitated or unable to give valid consent if they cannot fully understand the details of the sexual interaction (i.e., who, what, when, where, why, and how), and/or they lack the capacity to reasonably understand the situation and to make rational, reasonable decisions.

(2) Sexual assault is attempted or actual nonconsensual penetration, no matter how slight, of the vagina or anus by any body part or object; or of another's vagina, anus, or mouth by a penis. Sexual assault is also nonconsensual sexual contact or any intentional sexual touching, however slight, with any object or body part, by one person against another person's intimate parts (genitals or genital area, breast, or buttock (clothed or unclothed)). This includes any intentional bodily contact of one's own intimate area with another person.

(3) Sexual exploitation occurs when a person takes non-consensual or abusive sexual advantage of another for their own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of the other sexual misconduct offenses explained above.

(4) Use of alcohol or other drugs is not a valid defense to a violation of this policy.

(5) Sexual misconduct represents a range of behaviors; it can occur between strangers or acquaintances, including individuals involved in an intimate or sexual relationship. Sexual misconduct can be committed by individuals or groups of individuals directed to one or more people and can occur between people of the same or different sex. See also *Univer-*

sity Policy U1600.04 Preventing and Responding to ((Sex Discrimination, Including Sexual Misconduct)) Sexual Harassment Under Title IX.

AMENDATORY SECTION (Amending WSR 17-05-100, filed 2/15/17, effective 3/18/17)

WAC 516-21-184 Dating violence. Conduct by a student who is or has been in a romantic or intimate relationship with another that intentionally or recklessly causes bodily injury or places another in reasonable fear of ~~((serious))~~ bodily injury is a violation of the code. The nature of the relationship is determined by the length, type, and frequency of interaction between them. Sexual violence includes sexual assault, dating violence, domestic violence, and stalking or any other type of sexual misconduct or gender-based discrimination.

AMENDATORY SECTION (Amending WSR 17-05-100, filed 2/15/17, effective 3/18/17)

WAC 516-21-186 Domestic violence. Conduct by a student ~~((who is a current or former spouse or intimate partner (including between two people that share a child in common) that intentionally or recklessly causes bodily injury, or causes another to be in reasonable fear of serious bodily injury is a violation of the code))~~ with whom the victim shares a child in common, who is cohabitating with or has cohabitated with another as a spouse or a person situated to a spouse by law with another that includes physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking. Sexual violence includes sexual assault, dating violence, domestic violence, and stalking or any other type of sexual misconduct or gender-based discrimination.

AMENDATORY SECTION (Amending WSR 17-05-100, filed 2/15/17, effective 3/18/17)

WAC 516-21-190 Student violation of the law. Students are expected to abide by all local, state, and federal laws while on campus or at official university functions. Failure to comply with these laws is a violation of the code.

~~((While Western does not act as a policing agent for students when they are off campus, the university reserves the right to take action if a student's conduct is determined to adversely affect a substantial university interest as set forth in WAC 516-21-030 Jurisdiction.))~~ Western reserves the right to take action if a student's off-campus conduct is determined to adversely affect the safety or well-being of any member of the university community or the pursuit of the university's vision, mission, or values as set forth in WAC 516-21-030 Jurisdiction.

Proceedings under the code may be carried out prior to, simultaneously, or following civil or criminal proceedings in the courts. ~~((Sinee))~~ Due to the standard of proof under the code (preponderance of evidence) ~~((differs))~~ differing from that of criminal law, decisions made through the student conduct process are not subject to challenge on the grounds that criminal charges involving the same incident have been dismissed or reduced by a court of law.

AMENDATORY SECTION (Amending WSR 17-05-100, filed 2/15/17, effective 3/18/17)

WAC 516-21-195 Notification of criminal arrest.

Failure by the student to notify the ~~((dean of students))~~ office of student life of any off-campus felony arrest, or when the arrest is for an offense that is violent, weapons-related, involves kidnapping, or requires that the student register as a sex offender by any legal authority within the U.S., within five calendar days of release from custody is a violation of the code. The university may send a letter to the student requiring that they make an appointment for an interview. During this interview, the dean of students or their designee shall discuss with the student:

- (1) The facts involved in the student's arrest;
- (2) The student's obligation to keep the university informed of the progress of any criminal charge(s);
- (3) The student's obligation to advise the university of the final disposition of any criminal charge(s); and
- (4) Whether the behavior falls under jurisdiction of the student code.

The university will cooperate with law enforcement and other agencies administering a corrective or rehabilitative program for the student. See also *POL-U5620.02 Notifying Campus Community About Sex and Kidnapping Offenders*.

AMENDATORY SECTION (Amending WSR 17-05-100, filed 2/15/17, effective 3/18/17)

WAC 516-21-230 Sanctions. ~~Sanctions ((serve many purposes including, but not limited to, educating students about the seriousness of their actions; reinforcing the high standards of scholarship and behavior expected of Western students; promoting student development; and maintaining the safety and well-being of members of the university community. When a student admits responsibility or is found in violation of the code, a conduct officer or dean of students may impose one or more of the sanctions listed in this section. This list of sanctions is not meant to be exclusive. Other sanctions, designed or intended to enhance the educational value of conduct proceedings, may be applied in a given case)) are intended to facilitate student learning, promote personal and community development, and maintain the safety of the university community. When a student accepts responsibility or is found in violation of the code, a conduct officer may impose one or more of the sanctions listed in this section. This list of sanctions is not meant to be exclusive. Other sanctions may be applied in each case at the conduct officer's discretion.~~

(1) **Warning.** A formal written notice to the student that a violation of the code has occurred, and that further violations may result in additional sanctions under the code.

(2) **Conditional status.** A probationary status imposed for a specific period of time, during which the student must demonstrate conduct that ~~((conforms to))~~ meets university ~~((standards))~~ expectations. Conditions restricting the student's privileges or eligibility for activities may be imposed. Violations of any conditions specified in the notice of conditional status or violations of any other university policies or regulations during the period of the sanction, may result in additional sanctions under the code.

(3) **Loss of privileges.** A student may be denied specific privileges ~~((i.e.))~~ e.g., participation in specific activities, restriction from specific areas of campus, etc.) on a temporary or permanent basis. Violations of any conditions specified in the notice of loss of privileges or violations of any other university policies or regulations during the period of the sanction, may result in additional sanctions under the code.

(4) **Restriction from contacting others ("no contact" order).** A student may be restricted from direct or indirect physical, verbal, or electronic contact with another person and/or group. Indirect or direct contact made with another person or group while a "no contact" order is in place may result in additional sanctions under the code.

(5) **Educational activities.** A student may be required to engage in educational activities related to violation(s) of the code. Such activities may include, but are not limited to, required attendance at educational programs, community service, conducting research projects, writing assignments, and/or meeting with campus officials.

(6) **Assessment, counseling, or treatment programs.** A student may be required to participate in an assessment, counseling, and/or treatment program (at the student's expense), to address substance abuse, anger issues, or other issues or types of behaviors that pose a threat to the safety or well-being of others.

(7) **Restitution.** A student may be required to provide compensation for loss, damage, or injury resulting from a violation of the code. Restitution may take the form of monetary or material replacement or appropriate service to repair or otherwise compensate for the loss, damage, and/or injury caused.

(8) **Parental notification.** Parents may be notified of conduct findings when a student under the age of twenty-one is found responsible for violations involving alcohol and/or drugs. When possible, students whose parents are to be notified will be informed before such notification occurs and given an opportunity to initiate contact with their parents.

(9) **Campus residence hall or apartment relocation.** A student's on-campus living arrangements may be transferred to another residence hall or apartment.

(10) **Termination of university residences agreement.** A student may be removed from their campus residence hall or apartment and their housing agreement terminated.

(11) **Suspension from the university.** A student may be removed from the university for a designated period of time, after which the student will be eligible to return. While suspended, the student is trespassing from all university facilities and prohibited from participating in official university functions. Specific conditions for readmission to the university may be imposed (e.g., counseling, completion of substance abuse treatment, etc.).

(12) **Deferred suspension.** A student may receive a notice of deferred suspension from the university, with a provision that they are allowed to remain enrolled contingent on meeting specific conditions. Failure to meet any condition(s) specified in the notice of deferred suspension will result in immediate suspension from the university.

(13) **Expulsion from the university.** A student may be permanently separated from the university. A student who has been expelled is not eligible for readmission.

AMENDATORY SECTION (Amending WSR 17-05-100, filed 2/15/17, effective 3/18/17)

WAC 516-21-240 Student conduct system. (1) The vice president for enrollment and student services is responsible for administration of the code. Supervision of the code has been delegated by the vice president to the dean of students.

(2) A conduct officer(s) shall be appointed and supervised by the dean of students or their authorized designee. A conduct officer has the authority to consider complaints, make findings, and administer sanctions for violations of the code. ~~In complaints alleging ((discrimination or sexual violence, which includes sexual assault, dating violence, domestic violence, and stalking or any other type of sexual misconduct or gender-based discrimination, an investigation and written report of findings from Western Washington University's equal opportunity office (or their designee) will be provided to a conduct officer in lieu of the conduct officer's investigation))~~ a violation of any type of sexual misconduct or gender-based discrimination including Title IX sexual harassment which encompasses quid pro quo harassment, hostile environment, domestic violence, dating violence, stalking or sexual assault which includes nonconsensual sexual intercourse, nonconsensual sexual contact, incest or statutory rape, complaints should be made to Western Washington University's office of civil rights and Title IX compliance. A final investigation report from Western Washington University's office of civil rights and Title IX compliance (or their designee) will be provided to the conduct officer in lieu of the conduct officer's investigation. The conduct officer will then consider this report and make a referral to the Title IX committee.

(3) Appeal board members shall be appointed to consider appeals of a conduct officer's findings and sanctions. Appeal board members shall include a pool of the following:

(a) Four faculty members, appointed by the faculty senate; and

(b) ~~((Six student members, appointed by the associated students board of directors and/or residence hall association. Student board members must:~~

~~(i) Have a cumulative grade point average above 2.0;~~

~~(ii) Not currently be under an active sanction of the conduct code or have had previous conduct violations during the current academic year; and~~

~~(iii) Be confirmed by the dean of students; and~~

~~(e)) Four staff members, generally but not exclusively from the division of enrollment and student services, confirmed by the dean of students.~~

(4) An appeals board shall be composed of five members and any three persons constitute a quorum of a board. Generally, an appeals board will be comprised of faculty(;) and staff(, ~~and students, but in some instances may only be comprised of members from two of the three groups~~). The dean of students, or their designee, will appoint a chair from this pool for each board. Board members may not have been

involved in consideration of the complaint(;) or involved in the complaint. Board members must be properly trained in accordance with state and/or federal guidance. The dean of students or their designee will have final authority to approve all of those serving on a board. The dean of students, or their designee, will work to ensure that any board is balanced and representative.

(5) A staff member appointed by the dean of students may advise the appeals board on technical details of the code and its procedures.

(6) Conduct officers, the appeals board, the Title IX committee, and the dean of students or authorized designees have full authority to administer a decision under the code.

NEW SECTION

WAC 516-21-245 Interim measures. After receiving a complaint of misconduct, the dean of students may implement interim measures intended to safeguard a member, or members, of the Western community. An interim measure will be as minimally restrictive as possible and will remain in place until the complaint is resolved. Interim measures can include administrative no-contact orders, trespass orders, or similar directives. Notices for interim measures are made in writing and will include how an objection can be raised.

AMENDATORY SECTION (Amending WSR 17-05-100, filed 2/15/17, effective 3/18/17)

WAC 516-21-270 Proceedings for violations of the code. (1) Any member of the university community may file a complaint against a student for a violation of the student conduct code. A complaint should be made in writing to the office of student life. Additionally, information received from any source (police report, third party, online, etc.) may be considered a complaint.

(2) After a consideration of the complaint, a conduct officer may take any of the following actions:

(a) Review the complaint, investigate and make a finding whether the code was violated and impose sanction(s);

(b) Terminate the proceeding and enter a finding that there is no violation of the code and/or that the respondent is not responsible for the alleged conduct violation; or

(c) Dismiss the investigation, which may be reopened at a later date if relevant information that was unknown to the conduct officer arises.

(3) In complaints alleging ~~((discrimination and/or sexual violence, including sexual assault, dating violence, domestic violence, and stalking or any other type of sexual misconduct or gender-based discrimination, complaints should be made to Western Washington University's equal opportunity office. An investigation and written report of findings from Western Washington University's equal opportunity office))~~ a violation of any type of sexual misconduct or gender-based discrimination including Title IX sexual harassment which encompasses quid pro quo harassment, hostile environment, domestic violence, dating violence, stalking or sexual assault which includes nonconsensual sexual intercourse, nonconsensual sexual contact, incest or statutory rape, complaints should be made to Western Washington University's office of civil rights and Title IX compliance. A final investigation

report from Western Washington University's office of civil rights and Title IX compliance (or their designee) will be provided to the conduct officer in lieu of the conduct officer's investigation. The conduct officer will then consider this report and make a finding as to whether the code was violated and impose sanction(s).

(4) Any student charged by a conduct officer with a violation of the student code is provided at least three days written notice of the student's meeting date, time and location. Any request to extend the time and/or date of the conduct officer meeting should be addressed to the conduct officer. The written notice shall include:

(a) A brief summary of the complaint, including the sections of the code allegedly violated;

(b) The approximate time and place of the alleged behavior that forms the factual basis for the charge of violation;

(c) The time, date, and place of the meeting;

(d) A copy of, or link to, the code.

(5) The respondent and complainant (if applicable) are notified in writing of the determination made by the conduct officer, including the basis for any findings and sanctions. The notice includes information regarding the right to request an appeal.

(6) All notifications under the code are delivered by electronic mail to the students' university email account. Any notifications sent via regular U.S. mail (for instance, to students not currently enrolled) may be sent to the party's last known address or the address on file with the university registrar. Students are responsible for maintaining an updated mailing address on file with the registrar. Deadlines described in the code begin the date the notification is sent via electronic means.

(7) Upon written request to the dean of students' office, staff will be available to the respondent and complainant (if applicable) to assist in understanding the student conduct process.

(8) A conduct officer's determinations and findings are made on the basis of a "preponderance of the evidence," that is, whether it is more likely than not that the respondent violated the code.

(9) Evidence is relevant if it tends to make existence of a fact more or less probable. A conduct officer, appeal board chair, or dean of students shall have the discretion to determine admissibility of evidence.

(10) If respondent or complainant (if applicable) to whom notice of a meeting or hearing has been sent does not appear before a conduct officer or appeals board, the complaint may be considered in their absence, and the conduct officer or appeals board may issue a decision based upon that information.

(11) If any provision of this code is invalidated by court order or operation of law, the affected provision of the code will no longer apply.

AMENDATORY SECTION (Amending WSR 17-05-100, filed 2/15/17, effective 3/18/17)

WAC 516-21-280 Basis for appeal. (1) A student found in violation of the code may appeal the conduct officer's findings and/or the sanctions imposed. For incidents

involving violence and/or sexual violence, including sexual assault, dating violence, domestic violence, and stalking or any other type of sexual misconduct or gender-based discrimination, a complainant may also request an appeal. An appeal may be requested for any reason including:

(a) The proceedings were not conducted in conformity with prescribed procedures and significantly impacted the outcome of the student conduct process;

(b) The sanctions imposed are substantially disproportionate to the violation(s) committed;

(c) The decision reached did not properly consider the information presented; and/or

(d) New information becomes available that was unavailable at the time of the original meeting(;) and could substantially impact the original decision. A summary of this new information and its potential impact must be included. The dean of students or designee may then refer the complaint to the conduct officer for further action as appropriate.

(2) The appeal must be submitted by the respondent or complainant (if applicable) in writing to the dean of students within ten days of the decision. The appeal must state, as clearly and concisely as possible, the reason for the appeal.

(3) Appeals of a finding that resulted, or may have resulted, in suspension or expulsion are considered by an appeals board. All other appeals are considered by the dean of students.

(4) No sanction will begin while an appeal or request for review is pending(~~(, except)~~). However, interim (~~sanctions such as~~) measures (e.g., administrative no-contact orders, trespass, (~~etc~~) loss of privileges) may continue.

AMENDATORY SECTION (Amending WSR 17-05-100, filed 2/15/17, effective 3/18/17)

WAC 516-21-290 Appeal procedures. (1) Appeals can be made by the respondent (or complainant in incidents involving violence and/or sexual violence, including sexual assault, dating violence, domestic violence, and stalking or any other type of sexual misconduct or gender-based discrimination) and must be made to the dean of students.

(2) The dean of students or their designee reviews the appeal.

(3) Where new information, unavailable at the time of the original meeting, that could substantially impact the original decision, is received, the dean of students or designee may then refer the complaint to the conduct officer for further action as appropriate. The dean of students or their designee may, at their discretion, refer the complaint to a different conduct officer for reconsideration.

(4) In appeals in which the possible or recommended sanction is not expulsion or suspension as determined by the conduct officer, a designee of the dean of students will consider the appeal and hold an informal meeting, giving each party an opportunity to be informed of the conduct officer's view of the matter and to explain their view of the matter.

(5) In appeals in which the possible or recommended sanction is expulsion or suspension as determined by the conduct officer, an appeals board considers the appeal.

(a) The appeals board will provide the respondent and complainant (if applicable) with five days' notice of an

appeals hearing date, time and location. An appeal by respondent or complainant will be shared with the other party (parties).

(b) The appeals board meets (~~in private~~) confidentially and reviews the complaint, the results of the subsequent investigation and its findings, and the conduct officer's decision. The board provides an opportunity for respondent and complainant (if applicable) to share information and the board may call witnesses. The appeals board then deliberates in private.

(c) The chair of the appeals board will ensure that appropriate procedures and due process are in place for any respondent(s) and/or complainant(s), including:

(i) Only one official recording of the meeting is made and no other cameras or recording devices are allowed;

(ii) All written materials are shared with any respondent(s) and/or complainant(s);

(iii) Any respondent(s) and/or complainant(s) may be accompanied through the appeals board by an advisor of their choice and at their own expense;

(iv) Any respondent(s) and/or complainant(s) may make brief opening and closing statements;

(v) Any limits on questioning, including no direct questioning between any complainant and respondent; and

(vi) All witnesses and involved parties are sworn in under oath.

(d) After any appeal, the respondent and complainant (if applicable) may request that a decision be reviewed by the dean of students. This request for review must be made in writing within ten days of the written outcome of an appeal. The dean of students will review the written documentation only; any involved person (e.g., respondent, witnesses, complainant) may be called to meet if necessary and at the discretion of the dean of students.

~~((e))~~ (e) During limited times during the year, such as break periods and summer quarter, when board members are unavailable, an interim board may be appointed by the dean of students.

(6) Respondent and complainant (if applicable) will be informed of the outcome of reviews and/or appeals simultaneously and in writing within ten days.

(7) If there is no request for appeal received by the dean of students within ten days, the decision of the conduct officer is considered final. If there is no request for review within five days (or ten days of an appeals board decision), the decision is considered final.

NEW SECTION

WAC 516-21-291 Order of precedence under Title IX. This supplemental procedure applies to allegations of sexual harassment subject to Title IX jurisdiction pursuant to regulations promulgated by the United States Department of Education. See 34 C.F.R Part 106. To the extent these supplemental hearing procedures conflict with Western Washington University's standard disciplinary procedures, WAC 516-21-240 and 516-21-270, these supplemental procedures shall take precedence.

NEW SECTION

WAC 516-21-292 Jurisdiction under Title IX. (1)

This supplemental procedure applies only if the alleged misconduct:

(a) Occurred in the United States;

(b) Occurred during a Western Washington University educational program or activity; and

(c) Meets the definition of sexual harassment as that term is defined in this supplemental procedure.

(2) For purposes of this supplemental procedure, an "educational program or activity" is defined as locations, events, or circumstances over which the Western Washington University exercised substantial control over both the respondent and the context in which the alleged sexual harassment occurred. This definition includes any building owned or controlled by a student organization that is officially recognized by Western Washington University.

(3) Proceedings under this supplemental procedure must be dismissed if the decision maker determines that one or all of the requirements of subsection (1)(a), (b), and (c) of this section have not been met. Dismissal under this supplemental procedure does not prohibit Western Washington University from pursuing other disciplinary action based on allegations that the respondent violated other provisions of Western Washington University's student conduct code, chapter 516-21 WAC.

(4) If the Title IX coordinator determines the facts in the investigation report are not sufficient to support Title IX jurisdiction and/or pursuit of a Title IX violation, the Title IX coordinator will issue a notice of dismissal in whole or part to both parties explaining why some or all of the Title IX claims have been dismissed.

NEW SECTION

WAC 516-21-293 Prohibited conduct under Title IX.

Pursuant to RCW 28B.50.140(13) and Title IX of the Education Amendments Act of 1972, 20 U.S.C. Sec. 1681, Western Washington University may impose disciplinary sanctions against a student who commits, attempts to commit, or aids, abets, incites, encourages, or assists another person to commit, an act(s) of "sexual harassment."

For purposes of this supplemental procedure, "sexual harassment" encompasses the following conduct:

(1) Quid pro quo harassment. A Western Washington University employee conditioning the provision of an aid, benefit, or service of Western Washington University on an individual's participation in unwelcome sexual conduct.

(2) Hostile environment. Unwelcome conduct that a reasonable person would find to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to Western Washington University's educational programs or activities, or employment.

(3) Sexual assault. Sexual assault includes the following conduct:

(a) Nonconsensual sexual intercourse. Any actual or attempted sexual intercourse (anal, oral, or vaginal), however slight, with any object or body part, by a person upon another person, that is without consent and/or by force. Sexual intercourse includes anal or vaginal penetration by a penis,

tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.

(b) Nonconsensual sexual contact. Any actual or attempted sexual touching, however slight, with any body part or object, by a person upon another person that is without consent and/or by force. Sexual touching includes any bodily contact with the breasts, groin, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

(c) Incest. Sexual intercourse or sexual contact with a person known to be related to them, either legitimately or illegitimately, as an ancestor, descendant, brother, or sister of either wholly or half related. Descendant includes stepchildren and adopted children under the age of eighteen.

(d) Statutory rape. Consensual sexual intercourse between someone who is eighteen years of age or older and someone who is under the age of sixteen.

(4) Domestic violence. Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Washington, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of Washington, RCW 26.50.010.

(5) Dating violence. Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

- (a) The length of the relationship;
- (b) The type of relationship; and
- (c) The frequency of interaction between the persons involved in the relationship.

(6) Stalking. Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress.

NEW SECTION

WAC 516-21-294 Initiation of discipline under Title IX. (1) Upon receiving the Title IX final investigation report from the Title IX coordinator, the student conduct officer will independently review the report to determine whether there are sufficient grounds to pursue a disciplinary action against the respondent for engaging in prohibited conduct under Title IX.

(2) If the student conduct officer determines that there are sufficient grounds to proceed under these supplemental procedures, the student conduct officer will initiate a Title IX disciplinary proceeding by filing a written disciplinary notice with the chair of the student conduct committee and serving the notice on the respondent and the complainant, and their respective advisors. The notice must:

- (a) Set forth the basis for Title IX jurisdiction;
- (b) Identify the alleged Title IX violation(s);
- (c) Set forth the facts underlying the allegation(s);
- (d) Identify the range of possible sanctions that may be imposed if the respondent is found responsible for the alleged violation(s);
- (e) Explain that the parties are entitled to be accompanied by their chosen advisors during the hearing and that:
 - (i) The advisors will be responsible for questioning all witnesses on the party's behalf;
 - (ii) An advisor may be an attorney; and
 - (iii) Western Washington University will appoint the party an advisor of Western Washington University's choosing at no cost to the party, if the party fails to do so.
- (3) Explain that if a party fails to appear at the hearing, a decision of responsibility may be made in their absence.

NEW SECTION

WAC 516-21-295 Prehearing procedure under Title IX. (1) Upon receiving the disciplinary notice, the chair of the student conduct committee will send a hearing notice to all parties, in compliance with WAC 516-21-250. In no event will the hearing date be set less than ten days after the Title IX coordinator provided the final investigation report to the student conduct officer.

(2) A party may choose to have an attorney serve as their advisor at the party's own expense. This right will be waived unless, at least five days before the hearing, the attorney files a notice of appearance with the committee chair with copies to all parties and the student conduct officer.

(3) In preparation for the hearing, the parties will have equal access to all evidence gathered by the investigator during the investigation, regardless of whether Western Washington University intends to offer the evidence at the hearing.

NEW SECTION

WAC 516-21-296 Rights of parties under Title IX. (1) Western Washington University's student conduct procedures, WAC 516-21-250 and 516-21-270 and this supplemental procedure shall apply equally to all parties.

(2) Western Washington University bears the burden of offering and presenting sufficient testimony and evidence to establish that the respondent is responsible for a Title IX violation by a preponderance of the evidence.

(3) The respondent will be presumed not responsible until such time as the disciplinary process has been finally resolved.

(4) During the hearing, each party shall be represented by an advisor who will conduct all questioning on the party's behalf. The parties are entitled to an advisor of their own choosing and the advisor may be an attorney. If a party does not choose an advisor, then the Title IX coordinator will appoint an advisor of Western Washington University's choosing on the party's behalf at no expense to the party.

NEW SECTION

WAC 516-21-297 Evidence under Title IX. The introduction and consideration of evidence during the hearing is subject to the following procedures and restrictions:

(1) **Relevance:** The committee chair shall review all questions for relevance and shall explain on the record their reasons for excluding any question based on lack of relevance.

(2) **Relevance means** that information elicited by the question makes facts in dispute more or less likely to be true.

(3) Questions or evidence about a complainant's sexual predisposition or prior sexual behavior are not relevant and must be excluded, unless such question or evidence:

(a) Is asked or offered to prove someone other than the respondent committed the alleged misconduct; or

(b) Concerns specific incidents of prior sexual behavior between the complainant and the respondent, which are asked or offered on the issue of consent.

(4) **No negative inference:** The committee may not make an inference regarding responsibility solely on a witness's or party's absence from the hearing or refusal to answer questions.

(5) **Privileged evidence:** The committee shall not consider legally privileged information unless the holder has effectively waived the privilege. Privileged information includes, but is not limited to, information protected by the following:

(a) Spousal/domestic partner privilege;

(b) Attorney-client and attorney work product privileges;

(c) Privileges applicable to members of the clergy and priests;

(d) Privileges applicable to medical providers, mental health therapists, and counselors;

(e) Privileges applicable to sexual assault and domestic violence advocates; and

(f) Other legal privileges identified in RCW 5.60.060.

NEW SECTION

WAC 516-21-298 Initial conduct order under Title IX. (1) In addition to complying with WAC 516-21-250 and 516-21-270, the student conduct committee will be responsible for conferring and drafting an initial conduct order that:

(a) Identifies the allegations of sexual harassment;

(b) Describes the grievance and disciplinary procedures, starting with filing of the formal complaint through the determination of responsibility, including notices to parties, interviews with witnesses and parties, site visits, methods used to gather evidence, and hearings held;

(c) Makes findings of fact supporting the determination of responsibility;

(d) Reaches conclusions as to whether the facts establish whether the respondent is responsible for engaging in sexual harassment in violation of Title IX;

(e) Contains a statement of, and rationale for, the committee's determination of responsibility for each allegation;

(f) Describes any disciplinary sanction or conditions imposed against the respondent, if any;

(g) Describes to what extent, if any, complainant is entitled to remedies designed to restore or preserve complainant's

equal access to Western Washington University's educational programs or activities; and

(h) Describes the process for appealing the initial conduct order.

(2) The committee chair will serve the initial conduct order on the parties simultaneously.

NEW SECTION

WAC 516-21-299 Appeals under Title IX. (1) The parties shall have the right to request a review from the initial conduct order's determination of responsibility and/or dismissal of an allegation(s) of sexual harassment in a formal complaint. The right to request a review will be subject to the same procedures and time frames set forth in WAC 516-21-290 (5)(c). Appeals of initial conduct orders under Title IX move directly to the review stage of the student conduct code's proceedings.

(2) The vice president of enrollment and student services or their delegate will determine whether the grounds for a request for review have merit, provide the rationale for this conclusion, and state whether the disciplinary sanction and condition(s) imposed in the initial conduct order are affirmed, vacated, or amended, and, if amended, set forth any new disciplinary sanction and/or condition(s).

(3) The vice president of enrollment and student services or their delegate shall serve the final decision on the parties simultaneously.

AMENDATORY SECTION (Amending WSR 17-05-100, filed 2/15/17, effective 3/18/17)

WAC 516-21-310 Confidentiality of conduct proceedings and records. (1) The confidentiality of all conduct proceedings and records will be maintained in compliance with the student records policy(;;) as ((well as all)) applicable with state and federal laws. Conduct records prepared by a conduct officer, the appeals board, the Title IX committee, and/or the dean of students:

(a) Will be held in the ((~~dean of students~~)) office of student life for six years, except in cases of suspension, interim suspension, or expulsion, which are permanent records; and

(b) Will not be shared with any member of the public, except upon the informed written consent of the student(s) involved or as stated in the student records policy, or as required by law or court order. This includes, but may not be limited to:

(i) Information disclosed in conformance with exceptions to the prior written consent requirement of the Family Educational Rights and Privacy Act (FERPA) and implementing regulations found at 34 C.F.R. Sec. 99.

(ii) Files subjected to public records requests as required by state law.

(iii) In cases involving any crime of violence or a non-forcible sex offense where the complainant is deceased, final results of any disciplinary proceeding may be shared with the complainant's next of kin, upon their written request.

(2) The conduct officer's findings may be shared with the complainant, as required by law, in cases involving violence as defined by FERPA or sexual violence, including sexual assault, dating violence, domestic violence, and stalking or

any other type of sexual misconduct or gender-based discrimination.

(3) The findings may also be shared with university officials involved in the completion or supervision of the sanction and/or the student. See also chapter 516-26 WAC, Student records.

AMENDATORY SECTION (Amending WSR 17-05-100, filed 2/15/17, effective 3/18/17)

WAC 516-21-340 Revision of the code. The code shall be reviewed every five years or more often, if needed, by ~~((the committee on the student conduct code. The))~~ a committee ~~((on student rights and responsibilities))~~ which shall include students, faculty, and staff. Once recommendations are complete, they will be forwarded to the vice president for enrollment and student services. See also POL-U1000.11 *Developing and Maintaining University Provisions of the Washington Administrative Code.*

AMENDATORY SECTION (Amending WSR 12-01-021, filed 12/9/11, effective 1/9/12)

WAC 516-21-350 Referenced policies and regulations in the code. Policies or regulations referenced in the code are available, upon request, in the ~~((dean of students'))~~ office of student life.

WSR 21-20-120
PROPOSED RULES
COLUMBIA RIVER
GORGE COMMISSION
[Filed October 5, 2021, 10:48 a.m.]

Original Notice.

Proposal is exempt under RCW 34.05.310(4) or 34.05.-330(1).

Title of Rule and Other Identifying Information: Chapter 350, Division 082, Land use ordinance.

Hearing Location(s): On December 14, 2021, at 9:00 a.m., remote via Zoom webinar. Persons who want to attend the rule-making hearing and give oral testimony on the proposed rule must register for the webinar at https://us02web.zoom.us/webinar/register/WN_MwpLr_dWTV2kW8St9c-9rw. A registration link will also be available on the commission's website approximately one week prior to the commission's meeting.

Date of Intended Adoption: December 14, 2021.

Submit Written Comments to: Krystyna Wolniakowski, Executive Director, Columbia River Gorge Commission, 57 N.E. Wauna Avenue, P.O. Box 730, White Salmon, WA 98672, email PublicComment@gorgecommission.org, by December 1, 2021.

Assistance for Persons with Disabilities: Contact Connie Acker, phone 509-493-3323 ext. 0, email connie.acker@gorgecommission.org, by December 6, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule adopts a land use ordinance for the Columbia River Gorge National

Scenic Area as required by RCW 43.97.015, ORS 196.150, 16 U.S.C. §§ 544e(c) and 544f(I), incorporating the guidelines from the revised management plan for the Columbia River Gorge National Scenic Area, adopted by the Columbia River Gorge Commission on October 13, 2020, and concurred on by the United States Secretary of Agriculture on February 19, 2021.

On September 14, 2021, the Gorge Commission reviewed the differences in the application and decision process in this new land use ordinance compared to the current land use ordinance (division 350-81) and clarifications to provisions of the management plan. A copy of the staff report detailing those differences and clarifications is available on the Gorge Commission website at <http://www.gorgecommission.org/meeting/september-2021-monthly-crgc-meeting>. Since that September 14 meeting, the following additional clarifications were added to the draft rule:

350-082-0070(62) changed the definition of "dwelling unit" to use the term "sleeping area(s)" instead of "bedrooms" because some dwellings have lofts or other areas that are not technically bedrooms and to remove the word "full" when referring to bathrooms to recognize that bathrooms may not be considered "full" if they have only a stall shower and other variations on bathroom fixtures.

350-082-0070(183) clarified that committed to other uses means committed "by development." This is the phrase used in the forest land policies and ensures consistency with the standards in 16 USC § 544d(d) that require the plan to allow conversion of agricultural land to forest use and forest land to agricultural use. Without the term "by development," this definition could suggest that forest land is committed to another use and could not be suitable for agriculture.

350-082-0220 (2)(a)(B); 350-082-0600 (2)(k) changed "square area" to "area in square feet." This fixes a term that is not commonly used to a common term that needs no further interpretation.

350-082-0350 (3)(b); 350-082-0520 (3)(a); 350-082-0700 (3)(D)(E)(i) changed several instances of "shall be allowed" to "may be allowed" consistent with the same change made in other sections of the draft ordinance. In these instances, the use allowed is conditional upon meeting other required criteria.

350-082-0290 and 350-082-0300 were moved into 350-082-0270 (5) and (6) because the provisions in these sections apply only in the Growth Management Act and did not need separate rule numbers. All subsequent rules were renumbered and all cross-references were updated.

350-082-0410 (6) and (7) were added to include policies from the management plan that contain mandatory standards.

350-082-0430 (6)(b) and (c) were added. These provisions in the management plan were inadvertently left out of the draft presented to the Gorge Commission for its September 14, 2021, meeting. Subsection (b) was clarified relative to the management plan to reflect current practice, use consistent terms with 350-10, and for clarity. Subsection (c) was revised to use the same terms as subsection (b).

350-082-0650 (1)(a) added a new cross-reference to the Priority Habitat Table in 350-082-0690.

350-082-0660 (1)(b) added a new reference to the Endemic Plant Species Table in 350-082-0690 and noted that endemic plants are considered rare plants.

350-082-0690 added an introductory sentence necessary specifying that the tables in that section apply in the general and special management areas. This introductory sentence is necessary to comply with Oregon's rule drafting requirements, which do not permit a rule with only tables.

Reasons Supporting Proposal: This rule is required by federal law (16 U.S.C. §§ 544e(c) and 544f(l)) because Klickitat County does not adopt a National Scenic Area land use ordinance. The rule could also be used in any county that does not adopt revisions to its National Scenic Area land use ordinance or that repeals its ordinance in the future.

Statutory Authority for Adoption: RCW 43.97.015; ORS 196.150; 16 U.S.C. §§ 544e(c) and 544f(l).

Statute Being Implemented: RCW 43.97.015; ORS 196.150; 16 U.S.C. §§ 544e(c) and 544f(l).

Rule is necessary because of federal law, RCW 43.97.015; ORS 196.150; 16 U.S.C. §§ 544e(c) and 544f(l).

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Comments received by December 1, 2021, will be incorporated into a staff report to the commission. Staff will address comments received after December 1, 2021, at the hearing by oral report.

Name of Proponent: Columbia River Gorge Commission, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Krystyna Wolniakowski, White Salmon, Washington, 509-493-3323.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. This rule is exempt pursuant to RCW 34.05.328 (5)(b)(iii) and (v).

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Citation of the specific federal statute or regulation and description of the consequences to the state if the rule is not adopted: RCW 43.97.015; ORS 196.150; 16 U.S.C. §§ 544e(c) and 544f(l). If this rule is not adopted, the state will be in violation of the Columbia River Gorge Compact and federal Columbia River Gorge National Scenic Area Act and no land use development within the National Scenic Area portion of Klickitat County will be permitted.

Is exempt under RCW 19.85.025(3) as the rules are adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of state-wide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted

or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule; and rule content is explicitly and specifically dictated by statute.

October 5, 2021
Connie L. Acker
Rules Coordinator

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 21-22 issue of the Register.

WSR 21-20-125
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed October 5, 2021, 12:26 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-17-068.

Title of Rule and Other Identifying Information: The department is proposing to amend WAC 388-478-0015 Needs standards for cash assistance.

Hearing Location(s): On November 9, 2021, at 10:00 a.m., at Office Building 2, Department of Social and Health Services Headquarters (DSHS), 1115 Washington [Street S.E.], Olympia, WA 98504. Public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/sesa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2>; or virtually. Due to the COVID-19 pandemic, hearings are being held virtually. Please see the DSHS website for the most current information.

Date of Intended Adoption: Not earlier than November 10, 2021.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAU RulesCoordinator@dshs.wa.gov, fax 360-664-6185, by 5:00 p.m., November 9, 2021.

Assistance for Persons with Disabilities: Contact Shelley Tencza, rules consultant, phone 360-664-6198, fax 360-664-6185, TTY 711 relay service, email Tencza@dshs.wa.gov, by 5:00 p.m., October 26, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is required by RCW 74.04.770 to establish standards of need for cash assistance programs on an annual basis.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 74.04.770, 74.04.050, 74.04.055, 74.04.057, and 74.08.090.

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

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Sarah Garcia, P.O. Box 45470, Olympia, WA 98504-5470, 360-522-2214.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. This amendment is exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in part, "[t]his section does not apply to ... rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents."

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 34.05.328 (5)(b)(vii).

Explanation of exemptions: The proposed amendments do not impact small businesses. They only impact DSHS clients.

October 5, 2021
Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 20-20-007, filed 9/24/20, effective 10/25/20)

WAC 388-478-0015 Need standards for cash assistance. The monthly need and payment standards for cash assistance are based on a determination of the assistance unit size. The need standards for cash assistance units are:

~~((1) Effective January 1, 2020:))~~

| Assistance unit size | Need standard |
|----------------------|--|
| 1 | ((<u>\$1,520</u>)) <u>\$1,631</u> |
| 2 | ((<u>1,923</u>)) <u>2,064</u> |
| 3 | ((<u>2,374</u>)) <u>2,548</u> |
| 4 | ((<u>2,804</u>)) <u>3,007</u> |
| 5 | ((<u>3,229</u>)) <u>3,465</u> |
| 6 | ((<u>3,656</u>)) <u>3,924</u> |
| 7 | ((<u>4,226</u>)) <u>4,535</u> |
| 8 | ((<u>4,677</u>)) <u>5,020</u> |
| 9 | ((<u>5,128</u>)) <u>5,504</u> |
| 10 or more | ((<u>5,579</u>)) <u>5,988</u> |

~~((2) Effective January 1, 2021:))~~

| ((Assistance unit size | Need standard)) |
|-----------------------------------|----------------------------|
| ((1 | (\$1,538)) |
| ((2 | 1,946)) |
| ((3 | 2,402)) |
| ((4 | 2,834)) |
| ((5 | 3,267)) |
| ((6 | 3,699)) |
| ((7 | 4,276)) |
| ((8 | 4,732)) |
| ((9 | 5,188)) |
| ((10 or more | 5,645)) |

**WSR 21-20-126
PROPOSED RULES
OFFICE OF THE
INSURANCE COMMISSIONER**

[Insurance Commissioner Matter R 2021-07—Filed October 5, 2021, 1:39 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-13-131.

Title of Rule and Other Identifying Information: Temporary prohibition on use of credit history on some personal lines.

Hearing Location(s): On November 23, 2021, at 9:30 a.m., Zoom meeting. Detailed information for attending the Zoom meeting posted on the office of the insurance commissioner (OIC) website here <https://www.insurance.wa.gov/temporary-prohibition-use-credit-history-r-2021-07>. Due to the COVID-19 public health emergency, this meeting will be held via Zoom platform.

Date of Intended Adoption: November 24, 2021.

Submit Written Comments to: David Forte, P.O. Box 40260, Olympia, WA 98504-0260, email rulescoordinator@oic.wa.gov, fax 360-586-3109, by November 22, 2021.

Assistance for Persons with Disabilities: Contact Melanie Watness, phone 360-725-7013, fax 360-586-2023, TTY 360-586-0241, email MelanieW@oic.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: For all private passenger automobile coverage, renter's coverage, and homeowners coverage issued in the state of Washington, insurers shall not use credit history to determine personal insurance rates, premiums, or eligibility for coverage. The temporary prohibition shall remain in effect for three years following the day the national emergency concerning the novel coronavirus disease (COVID-19) outbreak declared by the president on March 13, 2020, under the National Emergencies Act (50 U.S.C. 1601 et seq.) terminates, or the day the Governor's Proclamation 20-05, proclaiming a State of Emergency throughout the state of Washington as a result of the coronavirus disease 2019 (COVID-19) outbreak in the United States expires, whichever is later.

Reasons Supporting Proposal: The commissioner is tasked with ensuring that insurance rates are not excessive, inadequate, or unfairly discriminatory, and with enacting rules that ensure the use of credit history and credit history factors in setting insurance premiums is not excessive, inadequate, or unfairly discriminatory.

Insurance companies which use credit-based insurance scoring claim that credit scoring is a predictive tool to identify risk of loss from a specific consumer. This credit-based insurance score is then used to determine premiums charged to each consumer.

On February 29, 2020, the governor of the state of Washington issued Proclamation 20-05, proclaiming a State of Emergency throughout the state of Washington as a result of the coronavirus disease 2019 (COVID-19) outbreak in the United States. On March 13, 2020, under the National Emergencies Act (50 U.S.C. 1601 et seq.) the President of the United States declared a national emergency concerning the novel coronavirus disease (COVID-19) outbreak in the

United States. Addressing the state of emergency caused by the coronavirus pandemic has required difficult steps that have had a severe financial impact on large groups within our state.

In part to mitigate the financial impacts of the COVID-19 pandemic to individual households, on March 27, 2020, the President of the United States signed the CARES Act (P.L. 116-136). Section 4021 of the CARES Act addresses credit reporting during the pandemic. The CARES Act requires financial institutions to report consumers as current if they were not previously delinquent or, for consumers that were previously delinquent, not to advance the level of delinquency, for credit obligations for which the furnisher makes payment accommodations to consumers affected by COVID-19 and the consumer makes any payments the accommodation requires. Section 4022 of the CARES Act requires certain lenders to offer forbearance options to borrowers, and imposed a moratorium on foreclosures for certain home loans. In addition, section 3513 of the CARES Act specifically addresses the furnishing of federally-held student loans for which payments are suspended. This provision results in all nondefaulted federally-held student loans being reported as current.

In addition, the governor of the state of Washington has issued several emergency proclamations limiting state agencies from charging late fees and penalties, and placing a moratorium on garnishment actions (emergency Proclamation 20-49, and subsequent amendments) and evictions (emergency Proclamation 20-19, and subsequent amendments). The critical consumer protections included in these proclamations have also had the effect of preventing creditors from taking actions that are otherwise reportable on a consumer's credit history.

The result of the CARES Act is that all credit bureaus are collecting a credit history that is objectively inaccurate for some consumers and therefore results in an unreliable credit score being assigned to them. Consequently, this untrustworthy credit score degrades any predicative value that may be found in a consumer's credit-based insurance score.

The commissioner finds that the current protections to consumer credit history at the state and federal level have disrupted the credit reporting process. This disruption has caused credit-based insurance scoring models to be unreliable and therefore inaccurate when applied to produce a premium amount for an insurance consumer in Washington state. This makes the use of currently filed credit-based insurance scoring models unfairly discriminatory within the meaning of RCW 48.19.020.

There is evidence that the negative economic impacts of the pandemic have disproportionately fallen on people of color. Therefore, when the CARES Act protections are eliminated, and negative credit information can be fully reported again, credit histories for people of color will have been disproportionately eroded by the pandemic.

Remaining consumer credit protections in the CARES Act will expire after the national state of emergency. When the CARES Act fully expires, a large volume of negative credit corrections will flood consumer credit histories. This flood of negative credit history has not been accounted for in the current credit scoring models. Without data to demon-

strate that the predictive ability of credit scoring models based on pre-pandemic credit and claims histories is unchanged, the predicative ability of current credit scoring models cannot be assumed. This will make the use of currently filed credit-based insurance scoring models unfairly discriminatory within the meaning of RCW 48.19.020.

It is impossible to know precisely when the state and federal states of emergency will end. Insurance companies must have an alternative to the currently unreliable credit scoring models they have in place before the protections of the CARES Act end. Therefore, it is necessary to immediately implement changes to the use of credit scoring.

The commissioner is considering this rule making to support the effects of the emergency rule, on the same subject and as filed in WSR 21-07-103 and 21-15-058, will last for three years after the public health emergency concludes.

Statutory Authority for Adoption: RCW 48.02.060, 48.18.480, 48.19.020, 48.19.035, 48.19.080.

Statute Being Implemented: RCW 48.18.480, 48.19.020.

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

Name of Proponent: Mike Kreidler, insurance commissioner, governmental.

Name of Agency Personnel Responsible for Drafting: David Forte, P.O. Box 40260, Olympia, WA 98504-0260, 360-725-7042; Implementation and Enforcement: Molly Nollette, P.O. Box 40260, Olympia, WA 98504-0260, 360-725-7000.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting David Forte, P.O. Box 40260, Olympia, WA 98504-0260, phone 360-725-7042, fax 360-586-3109, email rulescoordinator@oic.wa.gov.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.030 (1)(a).

Explanation of exemptions: The proposed rule will not impose more-than-minor costs on businesses in an industry. See below for calculations and rationale.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. Chapter 19.85 RCW states that "... an agency shall prepare a small business economic impact statement: (i) If the proposed rule will impose more than minor costs on businesses in an industry¹ ..." The small business economic impact statement (SBEIS) must include "... a brief description of the reporting, record-keeping, and other compliance requirements of the proposed rule, and the kinds of professional services that a small business is likely to need in order to comply with such requirements ... To determine whether the proposed rule will have a disproportionate cost impact on small businesses²."

¹ RCW 19.85.030: <http://app.leg.wa.gov/RCW/default.aspx?cite=19.85.030>.

² RCW 19.85.040: <http://app.leg.wa.gov/RCW/default.aspx?cite=19.85.040>.

This rule proposal, or portions of the proposal, are exempt from requirements of the Regulatory Fairness Act under RCW 19.85.030 (1)(a) - the proposed rule will not impose more-than-minor costs on businesses in an industry.

RCW 19.85.030 (1)(a) states that "... an agency shall prepare a small business economic impact state [statement]: (i) If the proposed rule will impose more than minor costs on businesses in an industry ..." An analysis conducted by OIC determined that this rule would not impose [impose] more-than-minor costs on businesses.

OIC determined that both property and casualty insurance companies and insurance agencies and brokerages are impacted by the implementation of this rule. Based on 2019 Bureau of Labor Statistics (BLS) data, direct property and casualty insurers are not considered small businesses, as they have on average 74 employees per firm (6,393 total employees in Washington/87 average number of firms in Washington). Small business is defined as a business entity that has 50

$$\$40.65 \text{ per hour} * 1 \text{ hour} * (15,498 / 2,471) = \$254.95$$

Based on these assumptions, we calculate a per firm cost of \$254.95. We can use this figure as a cost of compliance when determining whether the rule is below or exceeds the minor cost threshold. The below chart shows the estimated cost of compliance (calculated above), as well as the minor cost estimate, which is the larger of either one percent of the average annual payroll or 0.3 percent of the average annual gross business income. When the cost of compliance is estimated to be \$254.95, it is well under the minor cost estimate of \$4,879.47. The second row is an alternate estimated cost of compliance. In this scenario, we have increased the cost of compliance to \$1,000, and it is still well below the minor cost estimate. Even if we use the minimum of either the one percent of average annual payroll or the 0.3 percent of average annual gross business income (which would be \$2,407.22 in this case), both scenarios are still well below the minor cost estimate.

| 2017 Industry NAICS Code | Estimated Cost of Compliance | NAICS Code Title | Minor Cost Estimate | 1% of Avg Annual Payroll | 0.3% of Avg Annual Gross Business Income |
|--------------------------|------------------------------|-----------------------------------|---------------------|--------------------------|--|
| 524210 | \$254.95 | Insurance Agencies and Brokerages | \$4,879.47 | \$4,879.47 | \$2,407.22 |
| 524210 | \$1,000.00 | Insurance Agencies and Brokerages | \$4,879.47 | \$4,879.47 | \$2,407.22 |

Evidently, the estimated cost of compliance is below the minor cost threshold. The figures used for this calculation are drawn from relevant data from the United States BLS and the Washington department of revenue.

OIC determines that this rule is exempt from SBEIS requirements.

October 5, 2021
Mike Kreidler
Insurance Commissioner

AMENDATORY SECTION (Amending WSR 05-02-026, filed 12/29/04, effective 7/1/05)

WAC 284-24A-050 What types of information must an insurer include in a multivariate analysis? (1) A multivariate statistical analysis must evaluate the rating factors listed below (if applicable to the rating plan, and to the extent that data are credible):

- (a) For ((~~homeowners, dwelling property,~~) earthquake(;) and personal inland marine insurance:
 - (i) Insurance score;
 - (ii) Territory and/or geographic area;
 - (iii) Protection class;
 - (iv) Amount of insurance;
 - (v) Surcharges or discounts based on loss history;
 - (vi) Number of family units; and
 - (vii) Policy form relativity.

(b) For ((~~private passenger automobile,~~) personal liability and theft, and mechanical breakdown insurance:

- (i) Insurance score;
 - (ii) Driver class;
 - (iii) Multicar discount;
 - (iv) Territory and/or geographic area;
 - (v) Vehicle use;
 - (vi) Rating factors related to driving record; and
 - (vii) Surcharges or discounts based on loss history.
- (2) An insurer must provide a general description of the model used to perform the multivariate analysis, including the:
- (a) Formulas the model uses;
 - (b) Rating factors that are included in the modeling process; and
 - (c) Output from the model, such as indicated rates or rating factors.

(3) An insurer must show how the proposed rates or rating factors are related to the multivariate analysis.

(4) The temporary prohibition in WAC 284-24A-090 on the use of credit history to determine personal insurance rates, premiums, or eligibility for coverage for all homeowners and private passenger automobile coverage will remain in effect for three years following the day the national emergency concerning the novel coronavirus disease (COVID-19) outbreak declared by the President on March 13, 2020, under the National Emergencies Act (50 U.S.C. 1601 et seq.) terminates, or the day the Governor's Proclamation 20-05, proclaiming a state of emergency throughout the state of Washington as a result of the coronavirus disease 2019 (COVID-19) outbreak in the United States expires, whichever is later.

(a) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(i) Homeowners coverage includes dwelling property, mobile homeowners, manufactured homeowners, renters, and condominium owner's coverage.

(ii) Private passenger automobile coverage includes motorcycles and recreational vehicle coverage.

(b) The temporary prohibition on the use of credit history to determine personal insurance rates, premiums, or eligibility for homeowners and private passenger automobile coverage does not apply to commercial lines, personal liability and theft, earthquake, personal inland marine, or mechanical breakdown coverage.

NEW SECTION

WAC 284-24A-090 Temporary prohibition of use of credit history. (1) Notwithstanding any other provision of this chapter, this section applies to all homeowners and private passenger automobile insurance pertaining to and issued in the state of Washington while this rule is effective.

(2) The insurance commissioner finds that as a result of the broad negative economic impact of the coronavirus pandemic, the disproportionately negative economic impact the coronavirus pandemic has had on communities of color, and the disruption to credit reporting caused by both the state and federal consumer protections designed to alleviate the economic impacts of the pandemic, for homeowners and private passenger automobile coverage issued in the state of Washington, the use of insurance credit scores results in premiums that are excessive, inadequate, or unfairly discriminatory within the meaning of RCW 48.19.020 and 48.18.480.

(3) For all homeowners and private passenger automobile coverage issued in the state of Washington, insurers must not use credit history to determine personal insurance rates, premiums, or eligibility for coverage.

(4) For purposes of this section, insurers must not:

(a) Use credit history to place insurance coverage with a particular affiliated insurer or insurer within an overall group of affiliated insurance companies.

(b) Use credit history to determine a consumer's eligibility for any payment plan.

(5)(a) In order to comply with this section, insurers subject to this rule may substitute any insurance credit score factor used in a rate filing with a neutral rating factor.

(b) For purposes of this section, insurers may, but are not required to, implement the neutral factor by peril or coverage.

(6) Insurers may not include rate stability rules in filings submitted to comply with this section.

(7) This subsection applies to insurers that have used credit history to place insurance coverage with a particular affiliated insurer or insurer within a group of insurance companies. For each such impacted insured, the insurer:

(a) Must provide the following notification to each impacted insured, no later than 60 calendar days prior to renewal: "You are currently insured with (COMPANY NAME) at least in part due to your credit history. You may also be eligible for coverage in one or more of our affiliated companies, which may provide a more competitive premium or broader coverage options. Factors other than credit history may still limit your eligibility for coverage. Please contact your Agent/Broker for further assistance. If you do not have an Agent/Broker, you may contact our customer service representatives directly at (PHONE NUMBER) for assistance. This notice does not constitute an offer of renewal or guaranteed coverage.";

(b) Must allow an impacted insured to either secure quotes, or secure coverage, or both, in an affiliated insurer that provides the same line of insurance; and

(c) May not consider the insured's prior company placement when determining premiums or eligibility for coverage for the impacted insured in an affiliated insurer that provides the same line of insurance.

(8) The temporary prohibition on the use of credit history in this section will remain in effect for three years following the day the national emergency concerning the novel coronavirus disease (COVID-19) outbreak declared by the President on March 13, 2020, under the National Emergencies Act (50 U.S.C. 1601 et seq.) terminates, or the day the Governor's Proclamation 20-05, proclaiming a state of emergency throughout the state of Washington as a result of the coronavirus disease 2019 (COVID-19) outbreak in the United States expires, whichever is later.

(9) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) Homeowners coverage includes dwelling property, mobile homeowners, manufactured homeowners, renters, and condominium owner's coverage.

(b) Private passenger automobile coverage includes motorcycles and recreational vehicle coverage.

(c) "Neutral factor" means a single constant factor calculated such that, when it is applied in lieu of insurance-score-based rating factors to all policies in an insurer's book of business, the total premium for the book of business is unchanged.

WSR 21-20-127
PROPOSED RULES
DEPARTMENT OF HEALTH
[Filed October 5, 2021, 1:46 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-15-112.

Title of Rule and Other Identifying Information: Chapter 246-100 WAC, Communicable and certain other diseases. The state board of health (board) is proposing amending this chapter to implement changes made by ESHB 1551 (chapter 76, Laws of 2020) as it relates to HIV/AIDS. The board is also proposing other technical or editorial changes as needed.

Hearing Location(s): On November 10, 2021, at 1:30 p.m. In response to the coronavirus disease 2019 (COVID-19) public health emergency, the board will not provide a physical location for this hearing to promote social distancing and the safety of the citizens of Washington state. A virtual public hearing, without a physical meeting space, will be held instead. You can register in advance for this meeting at https://us02web.zoom.us/webinar/register/WN_S8YQaN8HQY2TIXVHX7SFtQ.

Date of Intended Adoption: November 10, 2021.

Submit Written Comments to: Samantha Pskowski, P.O. Box 47990, Olympia, WA 98504-7990, email <https://fortress.wa.gov/doh/policyreview>, by October 28, 2021.

Assistance for Persons with Disabilities: Contact Melanie Hisaw, phone 360-236-4104, TTY 711, email CommunicableDisease@sboh.wa.gov, by October 22, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule making is to revise chapter 246-100 WAC to assure consistency with the statutory requirements and protect public health and safety. Revisions include, but are not limited to: (1) Establishing reporting requirements and procedures for investigations for sexually transmitted diseases; (2) specifying behavior that endangers the public health; (3) defining specimens that can be obtained and tests that can be administered for sexually transmitted diseases, blood-borne pathogens, and other infections; (4) determining categories of employment that are at risk of substantial exposure to a blood-borne pathogen; and (5) defining what constitutes an exposure that presents a possible risk of transmission of a blood-borne pathogen.

Reasons Supporting Proposal: During the 2020 legislative session, the legislature passed ESHB 1551, modernizing the control of certain communicable diseases. This bill modernized the state's control of communicable disease laws by ending statutory HIV/AIDS exceptionalism, reducing HIV-related stigma, defelonizing HIV exposure, and removing barriers to HIV testing. The bill took effect June 11, 2020.

The board's CR-101, Preproposal statement of inquiry, identified potential revisions to both chapter 246-100 WAC, Communicable and certain other diseases, and chapter 246-101 WAC, Notifiable conditions. Proposed changes related to ESHB 1551 for chapter 246-101 WAC were adopted under a separate rule-making process, as revisions to the notifiable conditions chapter were already underway at the time of filing the CR-101 to implement ESHB 1551. Amendments to chapter 246-101 WAC were adopted by the board at its March 2021 public meeting and were limited to minor editorial revisions consistent with the changes in ESHB 1551. These changes can be found in WSR 21-11-040.

Statutory Authority for Adoption: RCW 43.20.050, 70.24.130.

Statute Being Implemented: ESHB 1551 (chapter 76, Laws of 2020).

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Not applicable.

Name of Proponent: Washington state board of health, governmental.

Name of Agency Personnel Responsible for Drafting: Samantha Pskowski, 101 Israel Road S.E., Tumwater, WA 98504-7990, 360-789-2358; Implementation and Enforcement: Alexandra Montano, 101 Israel Road S.E., Tumwater, WA 98504-7990, 360-236-4205.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Samantha Pskowski, P.O. Box 47990, Olympia, WA 98504-7990, phone 360-789-2358, TTY 711, email CommunicableDisease@sboh.wa.gov.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The proposed rule does not impose more-than-minor cost to regulated entities, including enhanced service facilities and adult family homes, as well as local public health jurisdictions. The cost threshold for nursing homes/residential care facilities and public administration is \$10,276.98 and \$57,636.38 respectively. The board assumes potential one-time costs for enhanced service facilities and adult family homes to comply with the proposed rules to range between \$0 and \$300. The board assumes potential costs for local health jurisdictions to comply with the proposed rules to range between \$226 to \$907.

October 5, 2021
Michelle A. Davis
Executive Director

AMENDATORY SECTION (Amending WSR 18-23-056, filed 11/15/18, effective 12/16/18)

WAC 246-100-011 Definitions. The definitions in this section apply throughout chapter 246-100 WAC unless the context clearly requires otherwise:

(1) ~~("Acquired immunodeficiency syndrome (AIDS)" means illness, disease, or conditions defined and described by the Centers for Disease Control, U.S. Public Health Service, Morbidity and Mortality Weekly Report (MMWR), April 11, 2014, Volume 63, Number RR-03. A copy of this publication is available for review at the department and at each local health department.~~

(2) ~~"HIV counseling" means counseling directed toward:~~
(a) ~~Increasing the individual's understanding of acquired immunodeficiency syndrome; and~~

(b) ~~Assessing the individual's risk of HIV acquisition and transmission; and~~

(c) ~~Affecting the individual's behavior in ways to reduce the risk of acquiring and transmitting HIV infection.~~

(3) ~~"Anonymous HIV testing" means that the name or identity of the (individual) person tested for HIV will not be recorded or linked to the HIV test result. ((However, once the~~

individual testing positive receives HIV health care or treatment services, reporting of the identity of the individual to the state or local public health officer is required.

~~(4))~~ (2) "Blood-borne pathogen" means a pathogenic microorganism that is present in human blood and can cause disease in humans, including hepatitis B virus, hepatitis C virus, human immunodeficiency virus, and syphilis.

~~(3)~~ "Board" means the Washington state board of health.

~~((5))~~ (4) "Case" means a person, alive or dead, having been diagnosed to have a particular disease or condition by a health care provider with diagnosis based on clinical criteria, or laboratory criteria, or both.

~~((6))~~ "Child day care facility" means an agency regularly providing care for a group of children for less than twenty-four hours a day and subject to licensing under chapter 74.15 RCW.

~~(7))~~ (5) "Communicable disease" means an illness caused by an infectious agent ((which)) that can be transmitted from ((one)) a person, animal, or object to ((another)) a person by direct or indirect means including, but not limited to, transmission via an intermediate host or vector, food, water, or air.

~~((8))~~ "Confidential HIV testing" means that the name or identity of the individual tested for HIV will be recorded and linked to the HIV test result, and that the name of the individual testing positive for HIV will be reported to the state or local health officer in a private manner.

~~(9))~~ (6) "Contaminated" or "contamination" means containing or having contact with infectious agents or chemical or radiological materials that pose an immediate threat to present or future public health.

~~((10))~~ (7) "Contamination control measures" means the management of persons, animals, goods, and facilities that are contaminated, or suspected to be contaminated, in a manner to avoid human exposure to the contaminant, prevent the contaminant from spreading, and/or effect decontamination.

~~((11))~~ (8) "Department" means the Washington state department of health.

~~((12))~~ (9) "Detention" or "detainment" means physical restriction of activities of ((an individual)) a person by confinement for the purpose of controlling or preventing a serious and imminent threat to public health and may include physical plant, facilities, equipment, and/or personnel to physically restrict activities of the ((individual)) person to accomplish ((such)) these purposes.

~~((13))~~ (10) "Disease control measures" means the management of persons, animals, goods, and facilities that are infected with, suspected to be infected with, exposed to, or suspected to be exposed to an infectious agent in a manner to prevent transmission of the infectious agent to humans.

~~((14))~~ (11) "Health care facility" ((means)) includes:

(a) ((Any facility or institution)) Adult family homes licensed under chapter 70.128 RCW;

(b) Assisted living facilities licensed under chapter 18.20 RCW ((, assisted living facilities,));

(c) Birthing centers licensed under chapter 18.46 RCW ((, birthing centers,));

(d) Clinics or other settings where one or more health care providers practice;

(e) Enhanced service facilities licensed under chapter 70.97 RCW;

(f) Hospitals licensed under chapter 70.41 RCW;

(g) Nursing homes licensed under chapter 18.51 RCW ((, nursing homes, chapter 70.41 RCW, hospitals, or));

(h) Private establishments licensed under chapter 71.12 RCW ((, private establishments, clinics, or other settings where one or more health care providers practice)); and

~~((b))~~ (i) In reference to ((a)) sexually transmitted ((disease)) infections or blood-borne pathogens, other settings as defined in chapter 70.24 RCW.

~~((15))~~ (12) "Health care provider" means any person having direct or supervisory responsibility for the delivery of health care who is:

(a) Licensed or certified in this state under Title 18 RCW; or

(b) Is military personnel providing health care within the state regardless of licensure.

~~((16))~~ (13) "Health order" or "order" means a written directive issued by the state or local health officer that requires the recipient to take specific action to remove, reduce, control, or prevent a risk to public health.

(14) "HIV testing" means conducting a laboratory test or sequence of tests to detect or monitor the human immunodeficiency virus (HIV) or antibodies to HIV performed in accordance with requirements ((to)) of WAC 246-100-207. ((To assure that the protection, including but not limited to, pre- and post-test counseling, and confidentiality afforded to HIV testing as described in chapter 246-100 WAC also applies to the enumeration of CD4 + (T4) lymphocyte counts (CD4 + counts) and CD4 + (T4) percents of total lymphocytes (CD4 + percents) when used to diagnose HIV infection, CD4 + counts and CD4 + percents will be presumed HIV testing except when shown by clear and convincing evidence to be for use in the following circumstances:

(a) Monitoring previously diagnosed infection with HIV;

(b) Monitoring organ or bone marrow transplants;

(c) Monitoring chemotherapy;

(d) Medical research; or

(e) Diagnosis or monitoring of congenital immunodeficiency states or autoimmune states not related to HIV.

The burden of proving the existence of one or more of the circumstances identified in (a) through (e) of this subsection shall be on the person asserting such existence.

~~((17))~~ (15) "Human immunodeficiency virus" or "HIV" means all HIV and HIV-related viruses which damage the cellular branch of the human immune system and leave the person immunodeficient.

(16) "Infectious agent" means an organism such as a virus, rickettsia, bacteria, fungus, protozoan, or helminth that is capable of producing infection or infectious disease.

~~((18))~~ (17) "Isolation" means the separation ((, for the period of communicability or contamination,)) of infected or contaminated persons or animals from others ((in such places and under such conditions as)) to prevent or limit the ((direct or indirect)) transmission of the infectious agent or contaminant from those infected or contaminated to those who are susceptible to disease or who may spread the agent or contaminant to others.

~~((19))~~ (18) "Local health ~~((department))~~ jurisdiction" or "LHJ" means ~~((the city, town, county, or district agency providing public health services to persons within the area, as provided in chapter 70.05 RCW and chapter 70.08 RCW))~~ a county health department under chapter 70.05 RCW, city/county health department under chapter 70.08 RCW, or health district under chapter 70.46 RCW.

~~((20))~~ (19) "Local health officer" means the ~~((individual))~~ person having been appointed under chapter 70.05 RCW as the health officer for the local health ~~((department))~~ jurisdiction, or having been appointed under chapter 70.08 RCW as the director of public health of a combined city-county health department, or ~~((his or her))~~ their delegee appointed by the local board of health.

~~((21))~~ "Nosocomial infection" means an infection acquired in a hospital or other health care facility.

~~((22))~~ (20) "Medical treatment" or "treatment" means the treatment for curable diseases and treatment that causes a person to be unable to transmit a disease to others, based on generally accepted standards of medical and public health science.

(21) "Outbreak" means the occurrence of cases of a disease or condition in any area over a given period of time in excess of the expected number of cases.

~~((23))~~ "Post-test counseling" means counseling after the HIV test when results are provided and directed toward:

(a) Increasing the individual's understanding of human immunodeficiency virus (HIV) infection;

(b) Affecting the individual's behavior in ways to reduce the risk of acquiring and transmitting HIV infection;

(c) Encouraging the individual testing positive to notify persons with whom there has been contact capable of spreading HIV;

(d) Assessing emotional impact of HIV test results; and

(e) Appropriate referral for other community support services.

~~((24))~~ "Pretest counseling" means counseling provided prior to HIV testing and aimed at:

(a) Helping an individual to understand:

(i) Ways to reduce the risk of human immunodeficiency virus (HIV) transmission;

(ii) The nature, purpose, and potential ramifications of HIV testing;

(iii) The significance of the results of HIV testing; and

(iv) The dangers of HIV infection; and

(b) Assessing the individual's ability to cope with the results of HIV testing.

~~((25))~~ (22) "Principal health care provider" means the attending physician or other health care provider licensed or certified under Title 18 RCW, recognized as primarily responsible for diagnosis and treatment of a patient or, in the absence of such, the health care provider initiating diagnostic testing or medical treatment or medical therapy for a patient.

~~((26))~~ (23) "Quarantine" means the limitation of freedom of movement of ~~((such well))~~ persons or domestic animals ~~((as))~~ that have been exposed to, or are suspected to have been exposed to, an infectious agent~~((;))~~:

(a) For a period of time not longer than the longest usual incubation period of the infectious agent~~((; in such manner as))~~;

(b) In a way to prevent effective contact with those not so exposed.

~~((27))~~ (24) "School" means a facility for programs of education as defined in RCW 28A.210.070 (preschool and kindergarten through grade twelve).

~~((28))~~ (25) "Sexually transmitted ~~((disease (STD)))~~ infection (STI)" or "sexually transmitted disease (STD)" means a bacterial, viral, fungal, or parasitic ~~((disease))~~ infection or condition which is usually transmitted through sexual contact and considered to be a threat to public health and welfare, and to be an infection for which a legitimate public interest will be served by providing for regulation and treatments, including:

(a) ~~((Acute pelvic inflammatory disease;~~

~~((b)))~~ Chancroid;

~~((c))~~ (b) Chlamydia trachomatis infection;

~~((d))~~ (c) Genital ~~((and neonatal))~~ herpes simplex;

~~((e))~~ (d) Genital human papilloma virus infection;

~~((f))~~ (e) Gonorrhea;

~~((g))~~ (f) Granuloma inguinale;

~~((h))~~ (g) Hepatitis B infection;

~~((i))~~ (h) Human immunodeficiency virus infection (HIV) ~~((and acquired immunodeficiency syndrome (AIDS)))~~;

~~((j))~~ (i) Lymphogranuloma venereum; and

~~((k))~~ (k) Nongonococcal urethritis (NGU); and

~~((l))~~ (j) Syphilis.

~~((29))~~ (26) "Spouse" means any individual who is the marriage partner of an HIV-infected individual, or who has been the marriage partner of the HIV-infected individual within the ten-year period prior to the diagnosis of HIV-infection, and evidence exists of possible exposure to HIV.

~~((30))~~ (27) "State health officer" means the person ~~((designated))~~ appointed by the secretary ~~((of the department))~~ under RCW 43.70.020 to serve as statewide health officer, or, in the absence of such designation, the ~~((person having primary responsibility for public health matters in the state))~~ secretary.

~~((31))~~ (28) "Suspected case" or "suspected to be infected" means the local health officer, in ~~((his or her))~~ their professional judgment, reasonably believes that infection with a particular infectious agent is likely based on signs and symptoms, laboratory evidence, or contact with an infected ~~((individual))~~ person, animal, or contaminated environment.

~~((32))~~ (29) "Veterinarian" means ~~((an individual))~~ a person licensed under provisions of chapter 18.92 RCW~~((; veterinary medicine, surgery, and dentistry and practicing animal health care))~~.

AMENDATORY SECTION (Amending WSR 15-05-014, filed 2/6/15, effective 3/9/15)

WAC 246-100-021 Responsibilities and duties—Health care providers. Every health care provider, as defined in chapter 246-100 WAC, shall:

(1) Provide adequate, understandable instruction in control measures designed to prevent the spread of disease to:

(a) Each patient with a communicable disease under his or her care; and

(b) Others as appropriate to prevent spread of disease.

(2) Cooperate with public health authorities during investigation of:

(a) Circumstances of a case or suspected case of a notifiable condition or other communicable disease; and

(b) An outbreak or suspected outbreak of illness.

~~(3)~~ (3) Comply with requirements in WAC 246-100-206, 246-100-211, and chapter 246-101 WAC.

~~((3))~~ (4) Use protocols established in the *Control of Communicable Diseases Manual*, 20th edition, published by the American Public Health Association, when treating wounds caused by animal bites. A copy of this publication is available for review at the department and at each local health ~~((department))~~ jurisdiction.

(5) Conduct anonymous HIV testing consistent with the provisions of this chapter and, in accordance with chapter 246-101 WAC, report the identity of persons tested to the state or local public health officer if they have tested positive and received HIV health care or treatment services.

AMENDATORY SECTION (Amending WSR 15-05-014, filed 2/6/15, effective 3/9/15)

WAC 246-100-036 Responsibilities and duties—Local health officers. (1) The local health officer shall establish, in consultation with local health care providers, health facilities, emergency management personnel, law enforcement agencies, and any other entity ~~((he or she))~~ they deem((s)) necessary, plans, policies, and procedures for instituting emergency measures necessary to prevent the spread of communicable disease or contamination.

(2) Local health officers shall:

(a) Notify health care providers within the local health ~~((district))~~ jurisdiction regarding requirements in this chapter;

(b) Ensure anonymous HIV testing is reasonably available;

(c) Make HIV testing, ~~((AIDS counseling, and pretest and post-test counseling,))~~ as defined in this chapter, available for voluntary, mandatory, and anonymous testing ~~((and counseling as required by RCW 70.24.400));~~

(d) Make information on anonymous HIV testing ~~((, AIDS counseling, and pretest and post-test counseling, as described under WAC 246-100-208 and 246-100-209,))~~ available;

(e) Use identifying information on ~~((HIV-infected individuals))~~ persons diagnosed with HIV provided according to chapter 246-101 WAC only:

(i) For purposes of contacting the ~~((HIV-positive individual))~~ person diagnosed with HIV to provide test results ~~((and post-test counseling));~~ or

(ii) To contact persons who may have experienced ~~((substantial))~~ exposure, including persons identified as sex ~~((and))~~ or injection equipment-sharing partners((s)) and spouses; or

(iii) To link with other name-based public health disease registries when doing so will improve ability to provide needed social and health care services ~~((and counseling))~~ and disease prevention~~((, and~~

~~((f))~~ Destroy documentation of referral information established in WAC 246-100-072 and this subsection containing

~~identities and identifying information on HIV-infected individuals and at-risk partners of those individuals immediately after notifying partners or within three months, whichever occurs first), if the identity or identifying information of the persons living with HIV is not disclosed outside of the local health jurisdiction.~~

(3) Local health officers shall, when necessary, conduct investigations and institute disease control and contamination control measures, including medical examination, testing, counseling, treatment, vaccination, decontamination of persons or animals, isolation, quarantine, vector control, condemnation of food supplies, and inspection and closure of facilities, consistent with those indicated in the *Control of Communicable Diseases Manual*, 20th edition, published by the American Public Health Association, or other measures ~~((he or she))~~ they deem((s)) necessary based on ~~((his or her))~~ their professional judgment, current standards of practice, and the best available medical and scientific information.

(4) A local health ~~((department))~~ jurisdiction should seek agreements as necessary with tribal governments((s)) and with federal authorities ~~((or))~~, with state agencies ~~((or))~~, and institutions of higher education that empower the local health officer to conduct investigations and institute control measures in accordance with WAC 246-100-040 on tribal lands, federal enclaves and military bases, and the campuses of state institutions. State institutions include, but are not limited to, state-operated: Colleges and universities, schools, hospitals, prisons, group homes, juvenile ~~((detention centers, institutions for juvenile delinquents))~~ rehabilitation facilities, and residential habilitation centers.

AMENDATORY SECTION (Amending WSR 03-05-048, filed 2/13/03, effective 2/13/03)

WAC 246-100-070 Enforcement of local health officer orders. (1) An order issued by a local health officer in accordance with this chapter shall constitute the duly authorized application of lawful rules adopted by the ~~((state))~~ board ~~((of health))~~ and must be enforced by all police officers, sheriffs, constables, and all other officers and employees of any political subdivisions within the jurisdiction of the health department in accordance with RCW 43.20.050.

(2) Any person who ~~((shall))~~ violates any of the provisions of this chapter or any lawful rule adopted by the board ~~((shall be))~~ is deemed guilty of a misdemeanor punishable ~~((as provided))~~ under RCW ~~((43.20.050))~~ 70.05.120.

(3) Any person who ~~((shall))~~ fails or refuses to obey any lawful order issued by any local health officer ~~((shall be))~~ is deemed guilty of a misdemeanor punishable ~~((as provided))~~ under RCW 70.05.120.

(4) Any person who violates or fails to comply with a health order issued under RCW 70.24.024 to a person with a sexually transmitted disease who is engaging in behaviors endangering the public health is guilty of a gross misdemeanor as described in RCW 70.24.025.

AMENDATORY SECTION (Amending WSR 10-01-082, filed 12/15/09, effective 1/15/10)

WAC 246-100-072 Rules for notification of partners at risk of human immunodeficiency virus (HIV) ~~((infe-~~

~~tion~~)). (1) A local health officer or authorized representative shall:

(a) Within three working days of receipt of a report of a previously unreported case of HIV infection, attempt to contact the principal health care provider to:

(i) Seek input on the best means of conducting a case investigation including partner notification; and

(ii) If appropriate, request that the provider contact the ~~((HIV-infected))~~ person living with HIV as required in subsection (2) of this section.

(b) Contact the ~~((HIV-infected))~~ person diagnosed with HIV to:

(i) ~~((Provide post-test counseling as described under WAC 246-100-209;~~

~~((ii)))~~ Discuss the need to notify sex or injection equipment-sharing partners, including spouses, that they may have been exposed to ~~((and infected with))~~ HIV and that they should seek HIV testing; and

~~((iii)))~~ (ii) Offer assistance with partner notification as appropriate.

(c) Unless the health officer or designated representative determines partner notification is not needed or the ~~((HIV-infected))~~ person living with HIV refuses assistance with partner notification, assist with notifying partners in accordance with the "*Recommendations for Partner Services Programs for HIV Infection, Syphilis, Gonorrhea, and Chlamydial Infection*" as published by the Centers for Disease Control and Prevention, October 2008.

(2) If the local health officer or designated representative informs the principal health care provider that ~~((he or she))~~ they intend~~((s))~~ to conduct a partner notification case investigation, the principal health care provider shall attempt to inform the ~~((HIV-infected))~~ person living with HIV that the local health officer or authorized representative will contact the ~~((HIV-infected))~~ person living with HIV for the purpose of providing assistance with the notification of partners.

(3) A health care provider ~~((shall))~~ may not disclose the identity of ~~((an HIV-infected individual))~~ a person living with HIV or the identity of sex ~~((and))~~ or injection equipment-sharing partners, including spouses, at risk of HIV infection, except as authorized in RCW ~~((70.24.105))~~ 70.02.220 or in this section.

(4) Local health officers and authorized representatives shall~~((:~~

~~((a)))~~ use identifying information, according to this section, on ~~((HIV-infected individuals))~~ persons living with HIV only to:

~~((i)))~~ (a) Contact the ~~((HIV-infected individual to provide post-test counseling and))~~ person living with HIV to refer, as appropriate, ~~((referral))~~ to medical care, or to contact sex ~~((and))~~ or injection equipment-sharing partners, including spouses; or

~~((ii)))~~ (b) Carry out an investigation of ~~((conduct endangering))~~ behavior that endangers the public health or of behaviors presenting an imminent danger to the public health pursuant to RCW 70.24.022 or 70.24.024~~((; and~~

~~((b))~~ Destroy documentation of referral information established under this subsection, containing identities and identifying information on the HIV-infected individual and at-risk partners of that individual, immediately after notifying part-

ners or within three months of the date information was received, whichever occurs first, unless such documentation is being used in an active investigation of conduct endangering the public health or of behaviors presenting an imminent danger to the public health pursuant to RCW 70.24.022 or 70.24.024).

(5) A health care provider may consult with the local health officer or an authorized representative about ~~((an HIV-infected individual))~~ a person living with HIV and the need for notification of persons identified as sex or injection equipment-sharing partners at any time.

AMENDATORY SECTION (Amending WSR 09-22-097, filed 11/4/09, effective 12/5/09)

WAC 246-100-202 ~~((Special diseases—))~~ Sexually transmitted ~~((diseases))~~ infections—Duties and authorities. (1) Health care providers shall:

(a) Report each case of notifiable sexually transmitted ~~((disease))~~ infection as required in chapter 246-101 WAC; ~~((and))~~

(b) At each medical encounter, when providing treatment for an infectious sexually transmitted ~~((disease))~~ infection, provide ~~((instruction))~~ education, appropriate to each patient regarding:

(i) Communicability of the disease; ~~((and))~~

(ii) ~~((Requirements to refrain from acts))~~ Activities that may transmit the disease to another; ~~((and))~~

(c) Ensure completion of a prenatal serologic test for syphilis in each pregnant woman pursuant to RCW 70.24.090 including:

(i) Submitting a blood sample for syphilis to a laboratory approved to perform prenatal serologic tests for syphilis, as required in RCW 70.24.090, at the time of the first prenatal visit; ~~((and))~~

(ii) Deciding whether or not to omit the serologic test for syphilis if the test was performed elsewhere during the current pregnancy; ~~((and))~~

(d) When diagnosing or caring for a patient with gonococcal or chlamydial ophthalmia neonatorum, reporting the case to the local health officer or local health ~~((department))~~ jurisdiction in accordance with the provisions of chapter 246-101 WAC; and

(e) Instill a prophylactic ophthalmic agent into both eyes of the newborn as prophylaxis against ophthalmia neonatorum up to two hours after the delivery, whether the delivery occurred vaginally or by cesarean section. Acceptable ophthalmic prophylactic agents are application of erythromycin ~~((or tetracycline))~~ consistent with the "Sexually Transmitted Diseases Treatment Guidelines" as published by the Centers for Disease Control and Prevention, 2015. In the event the U.S. Food and Drug Administration declares a shortage of ~~((these))~~ this prophylactic ophthalmic agent~~((s))~~, health care providers may substitute alternative prophylactic ophthalmic agents recommended by the Centers for Disease Control and Prevention. If the newborn's parent(s) or legal guardian refuses this procedure, the health care provider will document the refusal in the newborn's medical record.

(2) Laboratories, health care providers, and other persons shall deny issuance of a certificate or statement imply-

ing ~~((an individual))~~ a person is free from sexually transmitted ~~((disease))~~ infection.

(3) State and local health officers or their authorized representatives ~~((shall have authority to))~~ may conduct or cause to be conducted an interview and investigation of persons infected or reasonably believed to be infected with a sexually transmitted ~~((disease))~~ infection when:

(a) ~~((For the purpose of this section, "reasonable belief" and "reasonably believed" shall mean a health officer's belief based upon a credible report from an identifiable individual indicating another person is likely to have a sexually transmitted disease (STD) or to have been exposed to a STD;~~

~~(b))~~ (i) They know or have reason to believe that a person in their jurisdiction has an STI and is engaging in specified behavior that endangers the public health; and

(ii) The basis for the health officer's investigation is the officer's direct medical knowledge or reliable testimony of another who is in a position to have direct knowledge of the person's behavior.

(b) In conducting the investigation, the health officer shall evaluate the allegations, as well as the reliability and credibility of any person or persons who provided information related to the specified behavior that endangers the public health.

(c) Investigations shall be conducted using procedures and measures described in WAC 246-100-036~~((4))~~.

(4) Local health officers, health care providers, and others shall comply with the provisions in chapter 70.24 RCW, in addition to requirements in chapters 246-100 and 246-101 WAC.

(5) Any person who violates a rule adopted by the board for the control and treatment of a sexually transmitted ~~((disease))~~ infection is subject to penalty under RCW 70.24.080.

AMENDATORY SECTION (Amending WSR 14-08-046, filed 3/27/14, effective 4/27/14)

WAC 246-100-203 ~~((Special diseases—))~~Sexually transmitted ~~((diseases))~~ infections—Health officer orders.

(1) A state or local health officer within ~~((his or her))~~ their jurisdiction may, in accordance with RCW 70.24.024, issue orders for a person to submit to medical examination~~((;))~~ testing, and/or counseling, ~~((as well as orders to))~~ receive medical treatment, cease and desist specific activities, ~~((when he or she knows or has reason to believe that a person has a sexually transmitted disease and is engaging in conduct endangering the public health.~~

(a) ~~For purposes of this section, "reason to believe" means a health officer's belief that is based on:~~

~~(i) Laboratory test results confirming or suggestive of a STD; or~~

~~(ii) A health care provider's direct observation of clinical signs confirming an individual has or is likely to have a STD; or~~

~~(iii) Information obtained directly from an individual infected with a STD about the identity of his or her sexual or needle-sharing contacts when:~~

~~(A) Contact with the infected individual occurred during a period when the disease may have been infectious; and~~

~~(B) The contact was sufficient to transmit the disease; and~~

~~(C) The infected individual is, in the health officer's judgment, credible and believable.~~

~~(b) "Conduct endangering" or any combination of these after concluding an investigation and determining that a person is infected with an STI and continues to engage in specified behavior that endangers the public health despite reasonable efforts to obtain the person's voluntary cooperation.~~

~~(2) For the purposes of RCW 70.24.024 and this section, "behavior that endangers the public health" ~~((for the purposes of RCW 70.24.024 and this section,))~~ means~~((:~~~~

~~(i))~~ for all sexually transmitted infections:

~~(a) Anal, oral, or vaginal intercourse ~~((for all sexually transmitted diseases;~~~~

~~(ii))~~ without a latex or plastic condom resulting in introduction of semen and/or vaginal fluids to mucous membranes, eyes, or an interruption of the epidermis.

~~(b) For HIV and Hepatitis B, the following behaviors that result in the introduction of blood, semen and/or vaginal fluids to mucous membranes, eyes, or an interruption of the epidermis:~~

~~((A))~~ (i) Anal, oral, or vaginal intercourse without a latex or plastic condom; and/or

~~((B))~~ (ii) Sharing of injection equipment; and/or

~~((C))~~ (iii) Knowingly donating or selling blood, blood products, body tissues, or semen~~((; and~~

~~(iii) Activities described in (b)(i) and (ii) of this subsection resulting in introduction of blood, semen, and/or vaginal fluids to:~~

~~(A) Mucous membranes;~~

~~(B) Eyes;~~

~~(C) Open cuts, wounds, lesions; or~~

~~(D) Interruption of epidermis); or~~

~~(iv) Any combination of these.~~

~~((e))~~ (3) State and local health officers and their authorized representatives ~~((shall have authority to))~~ may issue written orders for medical examination, testing, ~~((and/or))~~ counseling, and cessation of behavior that endangers public health under ~~((chapter 70.24))~~ RCW 70.24.024, only after:

~~((i))~~ (a) All other efforts to protect public health have failed, including reasonable efforts to obtain the voluntary cooperation of the person to be affected by the order; and

~~((ii))~~ (b) They have sufficient evidence to "reasonably believe" the ~~((individual))~~ person to be affected by the order:

~~((A))~~ (i) Has a sexually transmitted ~~((disease))~~ infection; and

~~((B))~~ (ii) Is knowingly engaging in "~~((conduct endangering))~~ behavior that endangers the public health"; and

~~((iii))~~ (c) They have investigated and reasonably confirmed the ~~((existence of "conduct endangering the public health"))~~ occurrence of these behaviors by:

~~((A))~~ (i) Interviewing sources to assess their credibility and accuracy; and

~~((B))~~ (ii) Interviewing the person to be affected by the order; and

~~((iv))~~ (d) They have incorporated all information required in RCW 70.24.024 in a written order.

~~((d))~~ (4) State and local health officers and their authorized representatives ~~((shall have authority to))~~ may issue

written orders for treatment under RCW ~~((70.24.022))~~ 70.24.024 only after laboratory test results or direct observation of clinical signs or assessment of clinical data by a ~~((physician))~~ health care provider confirm the ~~((individual))~~ person has, or is likely to have, a sexually transmitted ~~((disease))~~ infection.

~~((e))~~ (5) State and local health officers and their authorized representatives ~~((shall have authority to))~~ may issue written orders to cease and desist ~~((from))~~ specified ~~((activities))~~ behaviors under RCW 70.24.024 only after:

~~((i))~~ (a) They have determined the person to be affected by the order is engaging in "~~((conduct endangering))~~ behavior that endangers the public health"; and

~~((ii))~~ (b) Laboratory test results, or direct observation of clinical signs or assessment of clinical data by a ~~((physician))~~ health care provider, confirm the ~~((individual))~~ person has, or is likely to have, a sexually transmitted ~~((disease))~~ infection; and

~~((iii))~~ (c) They have exhausted procedures described in subsection ~~((8))~~ (a) (1) of this section; and

~~((iv))~~ (d) They have enlisted, if appropriate, court enforcement of the orders described in (c) and (d) of this subsection.

~~((f))~~ (6) Written orders to cease and desist ~~((from))~~ specified ~~((activities shall be for an initial))~~ behaviors must be reasonably related to the purpose or the restriction or restrictions for a period of time not to exceed ~~((three))~~ twelve months ~~((, and may be renewed by the health officer for periods of time not to exceed three months))~~ provided all requirements of RCW 70.24.024 regarding notification, confidentiality, right to a judicial hearing, and right to counsel are met ~~((again at the time of renewal))~~.

~~((2))~~ A state or local health officer within his or her jurisdiction may, in accordance with RCW 70.24.034, bring action in superior court to detain a person in a designated or approved facility when he or she knows or has reason to believe that person has a sexually transmitted disease and continues to engage in behaviors that present an imminent danger to the public health.

"Behaviors that present an imminent danger to public health" or "BPID" for the purposes of detention in accordance with RCW 70.24.034 and this section means the following activities, under conditions specified below, performed by an individual with a laboratory-confirmed HIV infection:

(i) Anal or vaginal intercourse without a latex condom;
or

(ii) Shared use of blood-contaminated injection equipment;

(iii) Donating or selling HIV-infected blood, blood products, or semen; and

(iv) Activities described in (a)(i) and (ii) of this subsection constitute BPID only if:

(A) The infected individual received post-test counseling as described in WAC 246-100-209 prior to repeating activities; and

(B) The infected individual did not inform the persons with whom the activities occurred of his or her infectious status.

~~(b) State and local health officers and their authorized representatives shall have authority to seek court orders for detainment under RCW 70.24.034 only for persons infected with HIV and only after:~~

~~(i) Exhausting procedures described in subsection (1) of this section; and~~

~~(ii) Enlisting, if appropriate, court enforcement of orders to cease and desist; and~~

~~(iii) Having sufficient evidence to "reasonably believe" the person is engaging in BPID.~~

~~(c) A local health officer may notify the state health officer if he or she determines:~~

~~(i) The criteria for BPID are met by an individual; and~~

~~(ii) Such individual fails to comply with a cease and desist order affirmed or issued by a court.~~

~~(d) A local or state health officer may request the prosecuting attorney to file an action in superior court to detain an individual specified in this subsection. The requesting local or state health officer or authorized representative shall:~~

~~(i) Notify the department prior to recommending the detainment setting where the individualized counseling and education plan may be carried out consistent with subsection (9)(d), (e), and (f) of this section;~~

~~(ii) Make a recommendation to the court for placement of such individual consistent with (e), (f), and (g) of this subsection; and~~

~~(iii) Provide to the court an individualized plan for education and counseling consistent with (f) of this subsection.~~

~~(e) State board of health requirements for detainment of individuals demonstrating BPID include:~~

~~(i) Sufficient number of staff, caregivers, and/or family members to:~~

~~(A) Provide round-the-clock supervision, safety of detainee, and security; and~~

~~(B) Limit and restrict activities to prevent BPID; and~~

~~(C) Make available any medical, psychological, or nursing care when needed; and~~

~~(D) Provide access to AIDS education and counseling; and~~

~~(E) Immediately notify the local or state health officer of unauthorized absence or elopement; and~~

~~(ii) Sufficient equipment and facilities to provide:~~

~~(A) Meals and nourishment to meet nutritional needs; and~~

~~(B) A sanitary toilet and lavatory; and~~

~~(C) A bathing facility; and~~

~~(D) Bed and clean bedding appropriate to size of detainee; and~~

~~(E) A safe detention setting appropriate to chronological and developmental age of detainee; and~~

~~(F) A private sleeping room; and~~

~~(G) Prevention of sexual exploitation;~~

~~(iii) Sufficient access to services and programs directed toward cessation of BPID and providing:~~

~~(A) Linguistically, socially, culturally, and developmentally appropriate ongoing AIDS education and counseling; and~~

~~(B) Psychological and psychiatric evaluation and counseling; and~~

(C) Implementation of court-ordered plan for individualized counseling and education consistent with (g) of this subsection;

(iv) If required, provide access to isolation and/or restraint in accordance with restraint and seclusion rules in WAC 275-55-263 (2)(e);

(v) Maintain a safe, secure environment free from harassment, physical danger, and sexual exploitation.

(f) Washington state board of health standards for an individualized counseling and education plan for a detainee:

(i) Consideration of detainee's personal and environmental characteristics, culture, social group, developmental age, and language;

(ii) Identification of habitual and addictive behavior and relapse pattern;

(iii) Identification of unique risk factors and possible cross-addiction leading to behavior presenting imminent danger to public health;

(iv) Identification of obstacles to behavior change and determination of specific objectives for desired behavior;

(v) Provision of information about acquisition and transmission of HIV infection;

(vi) Teaching and training of individual coping skills to prevent relapse to BPID;

(vii) Specific counseling for chemical dependency, if required;

(viii) Identification of and assistance with access to community resources, including social services and self-help groups appropriate to provide ongoing support and maintenance of behavior change; and

(ix) Designation of a person primarily responsible for counseling and/or education who:

(A) Completed pretest and post-test counselor training approved by the office on AIDS; and

(B) Received training, as approved by the office on AIDS, focused on facilitating behavior change related to preventing BPID; and

(C) Has a postgraduate degree in social work, psychology, counseling, psychosocial nursing, or other allied profession; and

(D) Completed at least one year clinical experience after postgraduate education with a primary focus on individualized behavior change; and

(E) Is a certified counselor under chapter 18.19 RCW;

(x) Designation and provision of a qualified counselor under WAC 275-19-145 when the detainee is assessed to have a drug or alcohol problem.

(g) The state board of health designates the following settings appropriate for detainment provided a setting meets requirements in (e)(i), (ii), (iii), (iv), and (v) of this subsection:

(i) Homes, care facilities, or treatment institutions operated or contracted by the department;

(ii) Private homes, as recommended by the local or state health officer;

(iii) Assisted living facilities licensed under chapter 18.20 RCW;

(iv) Nursing homes licensed under chapter 18.51 RCW;

(v) Facilities licensed under chapter 71.12 RCW, including:

(A) Psychiatric hospitals, per chapter 246-322 WAC;

(B) Alcoholism treatment centers if certified for substance use under chapter 275-19 WAC;

(C) Adult residential rehabilitation centers, per chapter 246-325 WAC;

(D) Private adult treatment homes, per chapter 246-325 WAC;

(E) Residential treatment facilities for psychiatrically impaired children and youth, per chapter 246-323 WAC;

(vi) A hospital licensed under chapter 70.41 RCW.)

NEW SECTION

WAC 246-100-2031 Sexually transmitted infections—Orders and standards for detainment. (1) When the requirements in RCW 70.24.024 have been exhausted, a state or local health officer within their jurisdiction may, in accordance with RCW 70.24.034, bring an action in superior court to detain a person, who continues to engage in behaviors that present an imminent danger to the public health, in a designated facility.

(2) For the purposes of detention in accordance with RCW 70.24.034 and this section, "behaviors that present an imminent danger to public health" or "BPID" means the following activities, under conditions specified below, performed by a person with a laboratory-confirmed HIV infection:

(a) Anal or vaginal intercourse without a latex or plastic condom; or

(b) Shared use of blood-contaminated injection equipment;

(c) Donating or selling blood, blood products, or semen; and

(d) Activities described in (a) and (b) of this subsection constitute BPID only if the person with a laboratory confirmed HIV infection did not inform the persons with whom the activities occurred of their infectious status.

(3) State and local health officers and their authorized representatives may seek court orders for detainment under RCW 70.24.034 only for persons with a laboratory confirmed HIV infection and only after:

(a) Laboratory test results confirming or suggestive of an STI; or

(b) A health care provider's direct observation of clinical signs confirming a person has or is likely to have an STI;

(c) Having sufficient medical information that the person has an STI which may include (a) and (b) of this subsection. Leaving it as "may" because of the "reason to believe" element.

(4) A local health officer may notify the state health officer if they determine:

(a) The criteria for BPID are met by a person; and

(b) The local health officer obtained a superior court order requiring the person to comply with a cease and desist order and the person failed to comply.

(5) A state or local health officer may request the prosecuting attorney to file an action in superior court to detain a person specified in this subsection. The requesting state or local health officer or authorized representative shall:

(a) Notify the department prior to recommending the detainment setting where an individualized counseling and education plan may be carried out consistent with subsections (6), (7), and (8) of this section;

(b) Make a recommendation to the court for placement of the person consistent with subsections (6), (7), and (8) of this section; and

(c) Provide to the court an individualized plan for education and counseling consistent with subsection (7) of this section.

(6) Requirements for detainment of persons demonstrating BPID include:

(a) Sufficient number of staff, caregivers, and/or family members to:

(i) Provide round-the-clock supervision, safety of detainee, and security;

(ii) Limit and restrict activities to prevent BPID;

(iii) Make available any medical, psychological, or nursing care when needed;

(iv) Provide access to education and counseling; and

(v) Immediately notify the state or local health officer of unauthorized absence or elopement.

(b) Sufficient equipment and facilities to provide:

(i) Meals and nourishment to meet nutritional and religious or cultural needs;

(ii) A sanitary toilet and lavatory;

(iii) A bathing facility;

(iv) Bed and clean bedding appropriate to size of detainee;

(v) A safe detention setting appropriate to chronological and developmental age of detainee; and

(vi) A private sleeping room.

(c) Sufficient access to services and programs directed toward cessation of BPID and providing:

(i) Psychological and psychiatric evaluation and counseling; and

(ii) Implementation of court-ordered plan for individualized counseling and education consistent with subsection (7) of this section.

(d) If required, provide access to facilities equipped to provide isolation and/or restraint in accordance with their applicable rules;

(e) Maintain a safe, secure environment free from harassment, physical danger, and sexual exploitation.

(7) Standards for an individualized counseling and education plan for a detainee include:

(a) Alignment with the detainee's personal and environmental characteristics, culture, social group, developmental age, and language;

(b) Identification of habitual and addictive behavior and relapse pattern;

(c) Identification of unique risk factors and possible cross-addiction leading to BPID;

(d) Identification of obstacles to behavior change and determination of specific objectives for desired behavior;

(e) Provision of information about acquisition and transmission of HIV;

(f) Teaching and training of individual coping skills to prevent relapse to BPID;

(g) Specific counseling for substance use disorder, if required;

(h) Identification of and assistance with access to community resources, including social services and self-help groups appropriate to provide ongoing support and maintenance of behavior change; and

(i) Designation of a person primarily responsible for counseling and/or education who:

(i) Has a postgraduate degree in social work, psychology, counseling, psychosocial nursing, or other allied profession; and

(ii) Completed at least one year of clinical experience after postgraduate education with a primary focus on individualized behavior change; and

(iii) Is a certified counselor under chapter 18.19 RCW;

(j) Designation and provision of a qualified counselor under chapter 246-811 WAC when the detainee is assessed to have substance use disorder.

(8) The following settings are appropriate for detainment provided a setting meets requirements in subsection (6)(a) through (e) of this section:

(a) Homes, care facilities, or treatment institutions operated or contracted by the department;

(b) Private homes, as recommended by the state or local health officer;

(c) Assisted living facilities licensed under chapter 18.20 RCW;

(d) Nursing homes licensed under chapter 18.51 RCW;

(e) Facilities licensed under chapter 71.12 RCW that provide behavioral health services, including:

(i) Psychiatric hospitals, under chapter 246-322 WAC;

(ii) Chemical dependency hospitals licensed under chapter 246-324 WAC;

(iii) Residential treatment facilities under chapter 246-337 WAC;

(f) A hospital licensed under chapter 70.41 RCW.

AMENDATORY SECTION (Amending WSR 05-11-110, filed 5/18/05, effective 6/18/05)

WAC 246-100-204 ((~~Special diseases—Human immunodeficiency virus (HIV)~~))Absence of HIV or hepatitis C as an occupational qualification. For the purpose of RCW 49.60.172 concerning the absence of HIV or hepatitis C infection as a bona fide occupational qualification only, "significant risk" means a job qualification which requires person-to-person contact likely to result in direct introduction of blood into the eye(~~(, an open cut or wound, or other))~~) or interruption of the epidermis, when:

(1) No adequate barrier protection is practical; and

(2) Determined only on case-by-case basis consistent with RCW 49.60.180.

AMENDATORY SECTION (Amending WSR 05-11-110, filed 5/18/05, effective 6/18/05)

WAC 246-100-205 ((~~Special diseases—HIV—Testing and counseling following occupational exposure.~~))Blood-borne pathogen exposure—Occupation settings other than jail and corrections settings. A person who has experienced ((~~a substantial~~)) an exposure to another person's

bodily fluids in a manner that presents a possible risk of transmission of ~~((HIV))~~ blood-borne pathogens, and who is exposed while engaged in a category of employment determined to be at risk of substantial exposure to ~~((HIV))~~ blood-borne pathogens, may ask a state or local health officer to order ~~((pretest counseling, HIV testing, and post-test counseling))~~ testing for blood-borne pathogens of the person who was the source of the bodily fluids in accordance with RCW 70.24.340.

(1) Substantial exposure that presents a possible risk of transmission ~~((shall be)), and is therefore substantial, is~~ limited to:

(a) A physical assault upon the exposed person involving blood ~~((or)), semen, or vaginal fluid;~~

(b) Intentional, unauthorized, nonconsensual use of needles or sharp implements to inject or mutilate the exposed person; or

(c) An accidental parenteral or mucous membrane or nonintact skin exposure to blood, semen, or vaginal fluids.

(2) The alleged exposure must have occurred on the job while the ~~((individual))~~ person was employed or acting as an authorized volunteer in one of the following employment categories that are at risk of substantial exposure to ~~((HIV))~~ blood-borne pathogens:

(a) Law enforcement officer;

(b) Firefighter;

(c) Health care provider;

(d) Staff of health care facilities;

(e) Funeral director; ~~((or))~~

(f) Embalmer; or

(g) Persons licensed to perform body art, body piercing, and tattooing under chapter 18.300 RCW.

(3) The state or local health officer shall:

(a) Determine ~~((that))~~ whether the alleged exposure meets the criteria established in this section for substantial exposure that presents a possible risk of transmission~~((; and~~

~~((b) Ensure that pretest counseling of the individual to be tested, or a legal representative, occurs; and~~

~~((c)), and, if criteria are met, notify and arrange for testing of the ((individual)) person who is the source of the exposure ((to occur within seven days of the request from the person exposed)) in accordance with RCW 70.24.340; and~~

~~((d))~~ (b) Ensure that records ((on HIV)) related to blood-borne pathogen testing ordered by ((a)) the health officer are maintained only by the ordering health officer or authorized representative.

(4) The health officer, as a precondition for ordering counseling and testing of the person who was the source of the ~~((bodily fluids))~~ exposure, may require that the exposed individual agree to be tested for ~~((HIV if such))~~ blood-borne pathogens if the health officer determines testing is ((determined)) appropriate ((by the health officer)).

(5) This section does not apply to the department of corrections or to inmates in its custody or subject to its jurisdiction.

AMENDATORY SECTION (Amending WSR 05-11-110, filed 5/18/05, effective 6/18/05)

WAC 246-100-206 ((Special diseases—HIV—Testing and counseling of jail detainees.)) ~~Blood-borne pathogen exposure—Local jail facilities.~~ Jail administrators, with the approval of the local public health officer, may order ~~((pretest counseling, HIV testing and post-test counseling))~~ blood-borne pathogen testing of a jail detainee in accordance with RCW 70.24.360, ~~((provided that))~~ if the local ~~((public))~~ health officer determines that the detainee's ~~((actual or threatened behavior presents a possible risk to the staff, general public, or other persons.~~

(1) Actual behaviors present a possible risk if they result in "exposure presenting a possible risk" and involve one of the following actions:

~~((a) Anal, oral, or vaginal intercourse excluding conjugal visits; or~~

~~((b) Physical assault; or~~

~~((c) Sharing of injection equipment or sharp implements;~~

or

~~((d) Throwing or smearing of blood, semen, or vaginal fluids; or~~

(2) Threatened behaviors present a "possible risk" if:

~~((a) The threatening individual states he or she is infected with HIV; and~~

~~((b) The threatened behavior is listed in subsection (1)(a), (b), (c), or (d) of this section; and~~

~~((c) The threatened behavior could result in "exposure presenting a possible risk."~~

(3)) behavior exposed the staff, other detainees, the general public, or other persons and the exposure presents a possible risk of transmitting a blood-borne pathogen.

(1) For purpose((s of subsections (1) and (2))) of this section, "exposure presenting possible risk" means one or more of the activities identified in Column A of Table 1 resulting in one or more of the ((following):

~~((a) Introduction of blood, semen, or vaginal fluids into:~~

~~((i) A body orifice or a mucous membrane;~~

~~((ii) The eye; or~~

~~((iii) An open cut, wound, lesion, or other interruption of the epidermis.~~

~~((b) A needle puncture or penetrating wound resulting in exposure to blood, semen, and/or vaginal fluids.~~

(4)) outcomes identified in Column B of Table 1.

TABLE 1. "Exposure Presenting Possible Risk" - One or more of the activities in Column A resulting in one or more of the outcomes in Column B

| COLUMN A. Activities | COLUMN B. Outcomes |
|--|---|
| <ul style="list-style-type: none"> • <u>Anal, oral, or vaginal intercourse without a latex or plastic condom excluding conjugal visits; or</u> • <u>Physical assault; or</u> • <u>Sharing of injection equipment or sharp implements; or</u> • <u>Throwing or smearing of blood, semen, or vaginal fluid</u> | <ul style="list-style-type: none"> • <u>Introduction of blood, semen, or vaginal fluids, or some combination of these, into:</u> - <u>A mucous membrane;</u> - <u>The eye; or</u> - <u>An interruption of the epidermis; or</u> • <u>A needle puncture or penetrating wound resulting in exposure to blood, semen, or vaginal fluids, or some combination of these</u> |

(2) Jail administrators may order ~~((pretest counseling, post test counseling, and HIV))~~ blood-borne pathogen testing only under the following conditions:

(a) The jail administrator documents and reports to the local health officer, within seven days after the incident, any incident ~~((perceived to be actual or threatened "behaviors"))~~ resulting in "exposure presenting possible risk"; and

(b) The local health officer:

(i) Determines the documented behavior or behaviors meet the criteria established in this section for behaviors presenting a "possible risk"; and

(ii) Interviews the detained ~~((individual))~~ person to evaluate the factual basis for alleged ~~((actual or threatened))~~ behavior; and

(iii) Makes a fact determination, based upon the documented behavior, the interview with the detained ~~((individual))~~ person, and/or independent investigation, that sufficient factual evidence exists to support the allegation ~~((of actual or threatened "behaviors presenting possible risk"))~~ that the detainee's behavior resulted in exposure presenting possible risk of transmitting a blood-borne pathogen; and

(iv) Arranges for testing of the ~~((individual))~~ person who is the source of the ~~((behavior))~~ exposure to occur within seven days of the request from the jail administrator; and

(v) Reviews with the detained ~~((individual))~~ person who is the source of the ~~((behavior))~~ exposure the documentation of the ~~((actual or threatened))~~ behavior to try to assure understanding of the basis for ~~((HIV))~~ blood-borne pathogen testing; and

(vi) Provides written approval of the jail administrator's order prior to ~~((HIV))~~ blood-borne pathogen testing.

(c) The jail administrator maintains ~~((HIV))~~ blood-borne pathogen test results and identity of the tested ~~((individual))~~ person as a confidential, nondisclosable record, ~~((as provided in RCW 70.24.105))~~ consistent with chapter 70.02 RCW.

NEW SECTION

WAC 246-100-2061 Blood-borne pathogen exposure—Department of corrections facilities. (1) For purposes of RCW 70.24.370, an exposure that presents a "possible risk of transmission of a blood-borne pathogen" means one or more of the activities identified in Column A of Table 2 resulting in one or more of the outcomes identified in Column B of Table 2.

TABLE 2. "Possible Risk of Transmission of a Blood-borne Pathogen" - One or more of the activities in Column A resulting in one or more of the outcomes in Column B

| COLUMN A. Activities | COLUMN B. Outcomes |
|--|--|
| <ul style="list-style-type: none"> • Anal, oral, or vaginal intercourse without a latex or plastic condom excluding conjugal visits; or • Physical assault; or • Sharing of injection equipment or sharp implements; or • Throwing or smearing of blood, semen, or vaginal fluid | <ul style="list-style-type: none"> • Introduction of blood, semen, or vaginal fluids, or some combination of these, into: - A mucous membrane; - The eye; or - An interruption of the epidermis; or • A needle puncture or penetrating wound resulting in exposure to blood, semen, or vaginal fluids, or some combination of these |

(2) The chief medical officer of the department of corrections may order blood-borne pathogen testing for a detainee in accordance with RCW 70.24.370, if the chief medical officer or their designee determines that the inmate's behavior exposed the staff, general public, or other inmates and that exposure presents a possible risk of transmitting a blood-borne pathogen as defined in subsection (1) of this section.

AMENDATORY SECTION (Amending WSR 18-23-056, filed 11/15/18, effective 12/16/18)

WAC 246-100-207 (~~(Human immunodeficiency virus (HIV))~~) Blood-borne pathogen testing—Ordering—Laboratory screening—Interpretation—Reporting. (1) Except for persons (~~(conducting seroprevalent studies under chapter 70.24 RCW, or)~~) ordering or prescribing (~~(an HIV)~~) a blood-borne pathogen test for another (~~(individual)~~) person under subsections (~~((4) and (5))~~) (3) and (4) of this section (~~(or under WAC 246-100-208(1))~~), any person ordering or prescribing (~~(an HIV)~~) a blood-borne pathogen test for another (~~(individual, shall,)~~) person if the (~~(HIV)~~) test is positive for or suggestive of (~~(HIV)~~) blood-borne pathogen infection, (~~(provide the name of the individual and locating information to the local health officer for follow-up and post-test counseling as required by WAC 246-100-209)~~) shall follow the provisions of chapter 246-101 WAC.

(2) The local and state health officer or authorized representative shall periodically make efforts to inform providers in their respective jurisdiction about the September 2006 Centers for Disease Control and Prevention "*Revised Recommendations for HIV Testing of Adults, Adolescents, and Pregnant Women in Healthcare Settings.*"

(3) (~~(Health care providers may obtain a sample brochure about the September 2006 Centers for Disease Control and Prevention "*Revised Recommendations for HIV Testing of Adults, Adolescents, and Pregnant Women in Healthcare Settings*" by contacting the department's HIV prevention program at P.O. Box 47840, Olympia, WA 98504.~~)

(4) Any person authorized to order or prescribe an HIV test for another (~~(individual)~~) person may offer anonymous HIV testing without restriction.

(5) (4) Blood banks, tissue banks, and others collecting or processing blood, sperm, tissues, or organs for transfusion/transplanting shall:

(a) Explain that donations are tested to prevent contamination of the blood supply, tissue, or organ bank donations;

(b) At the time of notification regarding a positive (~~(HIV)~~) blood-borne pathogen test, provide or ensure at least one individual counseling session; and

(c) Inform the (~~(individual)~~) person that the name of the (~~(individual)~~) person testing positive for (~~(HIV infection)~~) a blood-borne pathogen will be confidentially reported to the state or local health officer.

(6) (5) Persons subject to regulation under Title 48 RCW and requesting an insured, subscriber, or potential insured or subscriber to furnish the results of (~~(an HIV)~~) a blood-borne pathogen test for underwriting purposes, as a condition for obtaining or renewing coverage under an insurance contract, health care service contract, or health maintenance organization agreement shall:

(a) Before obtaining a specimen to perform (~~(an HIV)~~) a blood-borne pathogen test, provide written information to the (~~(individual)~~) person tested explaining(=

(i) What an HIV test is;

(ii) Behaviors placing a person at risk for HIV infection;

(iii) which blood-borne pathogen test is being administered and that the purpose of (~~(HIV)~~) blood-borne pathogen testing in this setting is to determine eligibility for coverage;

(iv) The potential risks of HIV testing; and

(v) Where to obtain HIV pretest counseling;)

(b) Obtain informed specific written consent for (~~(an HIV)~~) a blood-borne pathogen test or tests. The written informed consent (~~(shall)~~) must include:

(i) An explanation of confidential treatment of test result reports limited to persons involved in handling or determining applications for coverage or claims for the applicant or claimant; and

(ii) That the name of the (~~(individual)~~) person testing positive for (~~(HIV infection)~~) a blood-borne pathogen will be confidentially reported to the state or local health officer(= and

(iii) At the time of notification regarding a positive HIV test, provide or ensure at least one individual counseling session).

(c) Establish procedures to inform an applicant of the following:

(i) (~~(Post-test counseling specified under WAC 246-100-209 is required if an HIV test is positive or indeterminate;~~

(ii) Post-test counseling is done at the time any positive or indeterminate HIV test result is given to the tested individual;

(iii) The applicant (~~(is required to)~~) may designate a health care provider or health care agency to whom (~~(positive or indeterminate HIV)~~) test results indicative of infection with a blood-borne pathogen are to be provided for interpretation (~~(and post-test counseling)~~); and

(iv) When an individual applicant does not identify a designated health care provider or health care agency and the applicant's HIV test results are positive or indeterminate, the insurer, health care service contractor, or health maintenance organization shall provide the test results to the state or local health department for interpretation and post-test counseling.

(7) (ii) Test results indicative of infection are sent directly to the applicant.

(6) Laboratories and other places where (~~(HIV)~~) blood-borne pathogen testing is performed must demonstrate compliance with all of the requirements in the medical test site rules, chapter 246-338 WAC.

(8) ~~The department laboratory quality assurance section shall accept substitutions for enzyme immunoassay (EIA) screening only as approved by the United States Food and Drug Administration (FDA) and a published list or other written FDA communication.~~

(9) (7) Persons informing a tested (~~(individual)~~) person of positive laboratory test results indicating (~~(HIV)~~) blood-borne pathogen infection shall do so only when:

(a) The test or sequence of tests has been approved by the FDA or the Federal Centers for Disease Control and Prevention as a confirmed positive test result; and

(b) (~~(Such)~~) The information consists of relevant facts communicated in such a way that it will be readily understood by the recipient and is linguistically, socially, culturally, and developmentally appropriate.

(10) (8) Persons may inform a tested (~~(individual)~~) person of the unconfirmed reactive results of an FDA-approved rapid (~~(HIV)~~) blood-borne pathogen test provided the test result is interpreted as preliminarily positive (~~(for HIV antibodies)~~), and the tested (~~(individual)~~) person is informed that:

- (a) Further testing is necessary to confirm the reactive screening test result;
- (b) The meaning of reactive screening test result is explained in simple terms, avoiding technical jargon;
- (c) The importance of confirmatory testing is emphasized and a return visit for confirmatory test results is scheduled; and
- (d) The importance of taking precautions to prevent transmitting infection to others while awaiting results of confirmatory testing is stressed.

AMENDATORY SECTION (Amending WSR 91-02-051, filed 12/27/90, effective 1/31/91)

WAC 246-100-211 ((Special diseases —))Tuberculosis. (1) Health care providers diagnosing or caring for a person with tuberculosis, whether pulmonary or nonpulmonary, shall:

- (a) Report the case to the local health officer or local health ((department)) jurisdiction in accordance with the provisions of this chapter, and

- (b) Report patient status to the local health officer every three months or as requested.

(2) The local health officer or local health ((department)) jurisdiction shall:

- (a) Have primary responsibility for control of tuberculosis within the designated jurisdiction;

- (b) Maintain a tuberculosis control program including:

- (i) Prophylaxis,

- (ii) Treatment,

- (iii) Surveillance,

- (iv) Case finding,

- (v) Contact tracing, and

- (vi) Other aspects of epidemiologic investigation;

- (c) Maintain a tuberculosis register of all persons with tuberculosis, whether new or recurrent, within the local jurisdiction including information about:

- (i) Identification of patient,

- (ii) Clinical condition,

- (iii) Epidemiology of disease,

- (iv) Frequency of examinations;

- (d) Impose isolation of a person with tuberculosis in an infectious stage if that person does not observe precautions to prevent the spread of the infection;

- (e) Designate the place of isolation when imposed;

- (f) Release the person from isolation when appropriate;

- (g) Maintain and provide outpatient tuberculosis diagnostic and treatment services as necessary, including public health nursing services and physician consultation; and

- (h) Submit reports of all cases to the department in accordance with the provisions of this chapter.

(3) When a person with tuberculosis requires hospitalization,

- (a) Hospital admission shall occur in accordance with procedures arranged by the local health officer and the medical director or administrator of the hospital, and

- (b) The principal health care provider shall:

- (i) Maintain responsibility for deciding date of discharge, and

- (ii) Notify the local health officer of intended discharge in order to assure appropriate outpatient arrangements.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 246-100-208 Counseling standard—HIV counseling.

WAC 246-100-209 Counseling standards—Human immunodeficiency virus (HIV) pretest counseling—HIV post-test counseling.

WSR 21-20-129

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

(Division of Child Support)

[Filed October 5, 2021, 5:32 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-09-148.

Title of Rule and Other Identifying Information: WAC 388-14A-2210 What is the procedure for service by certified mail due to COVID-19? Due to the COVID-19 pandemic, the United States Postal Service (USPS) has altered certified mail delivery practices to limit in-person contact for signatures. The division of child support (DCS) relies on the certified mail return receipt requested delivery method for service of various notices. Because these USPS practices do not have a projected end date at this time, DCS is proposing a permanent rule to ensure due process and adequate service under the modified USPS processes.

Hearing Location(s): On November 9, 2021, at 10:00 a.m., at Office Building 2, Department of Social and Health Services (DSHS) Headquarters, 1115 Washington [Street S.E.], Olympia, WA 98504. Public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/office-of-the-secretary/driving-directions-office-bldg-2>. Hearing will be held virtually. Due to the COVID-19 pandemic, hearings are being held virtually. Please see the DSHS website for the most current information.

Date of Intended Adoption: Not earlier than November 10, 2021.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, fax 360-664-6185, by 5:00 p.m., November 9, 2021.

Assistance for Persons with Disabilities: Contact Shelley Tencza, DSHS rules consultant, phone 360-664-6198, fax 360-664-6185, 711 relay service, email tenczsa@dshs.wa.gov, by 5:00 p.m., October 26.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposed rule will ensure due process for our clients when serving notices by certified mail return receipt requested in light of special

USPS COVID-19 delivery procedures. The rule establishes criteria under which service is considered valid without a signature from the recipient.

Reasons Supporting Proposal: Service by certified mail return receipt requested has been a routine method for DCS for a number of years. Due to special USPS COVID-19 delivery procedures that limit in-person contact, direct signatures are no longer being obtained in all cases. This rule is necessary to continue to utilize certified mail as a valid method of service.

Statutory Authority for Adoption: RCW 26.23.110, 34.05.220, 74.08.090, 74.20A.055.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Not applicable.

Name of Proponent: DSHS, economic services administration, DCS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Brady Horenstein, DCS Rules Coordinator, DCS Headquarters, P.O. Box 9162, Olympia, WA 98507-9162, 360-664-5291.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. This rule relates only to internal governmental operations that are not subject to violation by a nongovernment party under RCW 34.05.328 (5)(b)(ii) and 34.05.328 (5)(b)(vii), and is concerning liability of care for dependents.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party.

Is exempt under RCW 19.85.025(4) and 34.05.328 (5)(b)(vii).

Explanation of exemptions: This proposal does not affect small businesses and is concerning liability for care of dependents.

October 5, 2021
Katherine I. Vasquez
Rules Coordinator

NEW SECTION

WAC 388-14A-2210 What is the procedure for service by certified mail due to COVID-19? (1) The United States Postal Service has made temporary changes to its certified mail signature gathering procedures to limit direct contact with recipients. As long as these special signature gathering procedures remain in effect, the division of child support (DCS) will consider service by certified mail, return receipt requested when required under chapter 388-14A WAC to be successful 10 days after the following requirements are satisfied:

(a) The notice is sent by certified mail, return receipt requested, with restricted delivery to the noncustodial or custodial parent DCS is serving; and

(b) The postal service employee signs the receipt on behalf of the individual taking delivery as required by current postal service restricted delivery procedures.

(2) The individual taking delivery under section (1)(b) of this section is presumed to be the subject of service or the authorized agent of the subject.

WSR 21-20-136

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Developmental Disabilities Administration)

[Filed October 6, 2021, 10:43 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-17-045.

Title of Rule and Other Identifying Information: WAC 388-823-0500 How do I show that I have autism as an eligible condition?, and 388-823-0720 What evidence do I need of my FSIQ?

Hearing Location(s): On November 9, 2021, at 10:00 a.m., at Office Building 2, Department of Social and Health Services (DSHS) Headquarters, 1115 Washington [Street S.E.], Olympia, WA 98504. Public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/office-of-the-secretary/driving-directions-office-bldg-2>. Hearing will be held virtually. Due to the COVID-19 pandemic, hearings are being held virtually. Please see the DSHS website for the most current information.

Date of Intended Adoption: Not earlier than November 10, 2021.

Submit Written Comments to: DSHS Rules Coordinator, email DSHSRPAURulesCoordinator@dshs.wa.gov, fax 360-664-6158, by 5:00 p.m. on November 9, 2021.

Assistance for Persons with Disabilities: Contact Shelley Tencza, phone 360-664-6100, fax 360-664-6185, email shelley.tencza@dshs.wa.gov, by 5:00 p.m. on October 26, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Amendments to WAC 388-823-0500 establish criteria for an acceptable diagnostic report. Amendments to WAC 388-823-0720 replace the Woodcock-Johnson Test of Achievement with the Woodcock-Johnson Test of Cognitive Abilities.

Reasons Supporting Proposal: These changes are necessary to correct errors recently adopted under WSR 21-13-164. Specifically, subsection (2) was erroneously left off WAC 388-823-0500, and "test of achievement" in WAC 388-823-0720 should have been "test of cognitive abilities."

Statutory Authority for Adoption: RCW 71A.12.030.

Statute Being Implemented: RCW 71A.12.020, 71A.16-020.

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

Name of Proponent: DSHS, developmental disabilities administration, governmental.

Name of Agency Personnel Responsible for Drafting: Chantelle Diaz, P.O. Box 45310, Olympia, WA 98504-5310, 360-407-1575; Implementation and Enforcement: Will Nichol, P.O. Box 45310, Olympia, WA 98504-5310, 360-407-1583.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Chantelle Diaz, P.O. Box 45310, Olympia, WA 98504-5310, fax 360-407-0955, TTY 1-800-833-6388, email Chantelle.Diaz@dshs.wa.gov.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(4) because the rules do not affect small businesses, they relate to determining client eligibility for services.

Explanation of exemptions: The proposed amendments impose no new or disproportionate costs on small businesses so a small business economic impact statement is not required

October 5, 2021
Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 21-13-164, filed 6/23/21, effective 8/1/21)

WAC 388-823-0500 How do I show that I have autism as an eligible condition? (1) To be considered for eligibility under the condition of autism:

- (a) You must be age four or older;
- (b) You must have been diagnosed with:
 - (i) Autism spectrum disorder 299.00 under the diagnostic and statistical manual of mental disorders, fifth edition (DSM-5); or
 - (ii) Autistic disorder 299.00 under the diagnostic and statistical manual of mental disorders, fourth edition, text revision (DSM-IV-TR) before February 1, 2022;
- (c) You must have been diagnosed by:
 - (i) A board-certified neurologist;
 - (ii) A board-certified psychiatrist;
 - (iii) A licensed psychologist;
 - (iv) An advanced registered nurse practitioner (ARNP) associated with an autism center, developmental center, or center of excellence;
 - (v) A licensed physician associated with an autism center, developmental center, or center of excellence; or
 - (vi) A board certified developmental and behavioral pediatrician.
- (d) The condition must be expected to continue indefinitely; and
- (e) You must provide evidence of onset before age five.

(2) An acceptable diagnostic report includes documentation of diagnostic criteria specified in:

- (a) The DSM-5; or
- (b) DSM-IV-TR for a diagnostic report dated before February 1, 2022.

AMENDATORY SECTION (Amending WSR 21-13-164, filed 6/23/21, effective 8/1/21)

WAC 388-823-0720 What evidence do I need of my FSIQ? Evidence of a qualifying FSIQ is derived from one of the tests listed in the table below.

| Assessment | Qualifying score at more than 2 standard deviations | Qualifying score at more than 1.5 standard deviations | Qualifying score at more than 1 standard deviation |
|--|---|---|--|
| Stanford-Binet 4th edition or earlier editions | 67 or less | 75 or less | 83 or less |
| Stanford-Binet 5th edition | 69 or less | 77 or less | 84 or less |
| Wechsler intelligence scales (Wechsler) | 69 or less | 77 or less | 84 or less |
| Differential abilities scale (DAS) | 69 or less | 77 or less | 84 or less |
| Kaufman assessment battery for children (K-ABC) | 69 or less | 77 or less | 84 or less |
| Das-Naglieri cognitive assessment system (CAS) | 69 or less | 77 or less | 84 or less |
| Woodcock-Johnson-Test of ((achievement)) cognitive abilities III, III-R, or IV | 69 or less | 77 or less | 84 or less |
| Reynolds intellectual assessment scales, 2nd edition (RIAS 2) | 69 or less | 77 or less | 84 or less |

(1) The test must be administered by a licensed psychologist or Washington certified school psychologist or other school psychologist certified by the National Association of School Psychologists.

(2) The FSIQ score cannot be attributable to mental illness or other psychiatric condition occurring at any age; or other illness or injury occurring after age eighteen:

(a) If you are dually diagnosed with a qualifying condition and mental illness, other psychiatric condition, or other illness or injury, you must provide acceptable documentation that your intellectual impairment, measured by a FSIQ test, would meet the requirements for DDA eligibility without the influence of the mental illness, other psychiatric condition, or other illness or injury.

(b) "Acceptable documentation" means written reports or statements that are directly related to the subject at issue, reasonable in light of all the evidence, and from a source of appropriate authority. The determination of whether a document is acceptable is made by DDA.

(c) If no documentation is provided or DDA determines that the documentation is not acceptable DDA will deny eligibility. The determination may be challenged through an administrative appeal.

(3) If you have a vision impairment that prevents completion of the performance portion of the IQ test, the administering professional may estimate an FSIQ using only the verbal IQ score of the appropriate Wechsler.

(4) If you have a significant hearing impairment, English is not your primary language, or you are nonverbal your FSIQ may be estimated using one of the tests shown in the table below.

| Assessment | Qualifying score at more than 2 standard deviations | Qualifying score at 1.5 or more standard deviations | Qualifying score more than 1 standard deviation |
|---|--|--|--|
| Wechsler intelligence scales (WISC, WAIS, WNV) | 69 or less on the performance scale, or, on both the perceptual reasoning index and processing speed index | 77 or less on the performance scale, or, on both the perceptual reasoning index and the processing speed index | 84 or less on the performance scale, or, on both the perceptual reasoning index and the processing speed index |
| Leiter international performance scale-revised (Leiter-R) | 69 or less | 77 or less | 84 or less |
| Comprehensive test of nonverbal intelligence (C-TONI) | 69 or less on full scale (NVIQ) | 77 or less on full scale (NVIQ) | 84 or less on full scale (NVIQ) |

| Assessment | Qualifying score at more than 2 standard deviations | Qualifying score at 1.5 or more standard deviations | Qualifying score more than 1 standard deviation |
|---|---|---|---|
| Kaufman assessment battery for children (K-ABC) | Nonverbal scale index of 69 or less | Nonverbal scale index of 77 or less | Nonverbal scale index of 84 or less |

(5) If you are over the age of nineteen at the time of your determination you must have a valid FSIQ obtained at age thirteen or older.

WSR 21-20-137
PROPOSED RULES
DEPARTMENT OF ECOLOGY

[Order 21-07—Filed October 6, 2021, 10:56 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-14-087.

Title of Rule and Other Identifying Information: Chapter 173-441 WAC, Reporting of emissions of greenhouse gases.

For more information on this rule making visit <https://ecology.wa.gov/Regulations-Permits/Laws-rules-rule-making/Rulemaking/WAC-173-441>.

Hearing Location(s): On November 9, 2021, at 10:00 a.m. PST, webinar. Presentation, question and answer session followed by the hearing. We are holding this hearing via webinar. This is an online meeting that you can attend from any computer using internet access. Join online and see instructions <https://watech.webex.com/watech/onstage/g.php?MTID=edd3abbe82235916235a28b0384338561>. For audio, call 415-655-0001 or US Toll free number 1-855-929-3239 and enter access code 177 547 4858; or to receive a free call back, provide your phone number when you join the event.

Date of Intended Adoption: February 9, 2022.

Submit Written Comments to: Rachel Assink, send US mail to Department of Ecology, Air Quality Program, P.O. Box 47600, Olympia, WA 98504-7600; or send parcel delivery services to Department of Ecology, Air Quality Program, 300 Desmond Drive S.E., Lacey, WA 98503, submit comments by mail, online, or at the hearing, online <https://aq.ecology.commentinput.com/?id=9m3jh>, by November 16, 2021.

Assistance for Persons with Disabilities: Contact ecology ADA coordinator, phone 360-407-6831, for Washington relay service or TTY call 711 or 877-833-6341, email ecyADAcordinator@ecy.wa.gov, visit <https://ecology.wa.gov/accessibility> for more information, by November 6, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: In 2021, the legislature passed the Climate Commitment Act (CCA). The CCA

establishes a cap and invest program to meet Washington's greenhouse gas (GHG) emissions limits.

This rule making is proposing amendments to chapter 173-441 WAC, Reporting of emissions of greenhouse gases, to expand persons subject to reporting and improve reporting requirements. Specifically, this rule making:

- Adds natural gas suppliers, carbon dioxide suppliers, and electric power entities to the existing GHG reporting program.
- Replaces the existing transportation fuel supplier program with a CCA-compatible fuel supplier program.
- Updates GHG reporting requirements to support the CCA and facilitates program linkage with other jurisdictions.
- Adds program elements to support the verification of GHG reporting data.
- Modifies administrative provisions such as deadlines and GHG reporting fees.
- Includes requirements necessary to support the above items, the overall objectives of the statute or chapter, or the goals of the CCA.
- Makes administrative changes for correction or clarification.

Reasons Supporting Proposal: The CCA (chapter 70A.65 RCW) amends chapter 173-441 WAC to support new CCA requirements. Approximately 75 percent of the emissions included in the cap and invest program are currently not reported or are reported using methods inconsistent with the CCA. Ecology will create an accurate system for reporting GHGs by adding new reporters to the program, improving data verification processes, and modifying reporting requirements and reporting fees.

Statutory Authority for Adoption: RCW 70A.15.2200.

Statute Being Implemented: CCA (chapter 316, Laws of 2021), codified as chapter 70A.65 RCW and RCW 70A.15.2200.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Not applicable.

Name of Proponent: Department of ecology, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Neil Caudill, 300 Desmond Drive S.E., Lacey, WA 98503, 360-764-9733.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Rachel Assink, Department of Ecology, Air Quality Program, P.O. Box 47600, Olympia, WA 98504-7600, phone 360-407-6827, for Washington relay service or TTY call 711 or 877-833-6341, email rachel.assink@ecy.wa.gov.

The proposed rule does impose more-than-minor costs on businesses.

Small Business Economic Impact Statement

Proposed amendments to chapter 173-441 WAC, Reporting of emissions of greenhouse gases.

This small business economic impact statement (SBEIS) presents the:

- Compliance requirements of the proposed rule.
- Results of the analysis of relative compliance cost burden.
- Consideration of lost sales or revenue.
- Cost-mitigating action taken by ecology, if required.
- Small business and local government consultation.
- Industries likely impacted by the proposed rule.
- Expected net impact on jobs statewide.

A small business is defined by the Regulatory Fairness Act (RFA) (chapter 19.85 RCW) as having 50 or fewer employees. Estimated costs are determined as compared to the existing regulatory environment—the regulations in the absence of the rule. The SBEIS only considers costs to "businesses in an industry" in Washington state. This means that impacts, for this document, are not evaluated for government agencies. The existing regulatory environment is called the "baseline" in this document. It includes only existing laws and rules at federal and state levels.

This information is excerpted from ecology's complete set of regulatory analyses of the proposed rule. For complete discussion of the likely costs, benefits, minimum compliance burden, and relative burden on small businesses, see the Regulatory Analyses (Ecology publication no. 21-02-022, October 2021)

COMPLIANCE REQUIREMENTS OF THE PROPOSED RULE, INCLUDING PROFESSIONAL SERVICES:

Baseline: The baseline for our analyses generally consists of existing rules and laws and their requirements. This is what allows us to make a consistent comparison between the state of the world with and without the proposed rule amendments.

For this rule making, the baseline includes the:

- Existing rule: Chapter 173-441 WAC, Reporting of emissions of greenhouse gases.
- Authorizing statute: CCA (E2SSB 5126), chapter 316, Laws of 2021.
- Federal Clean Air Act, 42 U.S.C. §§ 7401 et seq.
- Washington Clean Air Act, chapter 70A.15 RCW.
- Limiting greenhouse gas emissions, chapter 70A.45 RCW.
- Existing federal and state regulations, including those covering GHG reporting at the federal level.

Separability of baseline from proposed rule requirements: Ecology included some of the proposed rule amendments as explicitly part of the baseline, while it based others on ecology's discretion. In some cases, however, it is difficult to conceptually and analytically separate the baseline from discretionary elements of the proposed rule - for example, where the baseline CCA establishes reporting scope and some definitions, but the proposed rule amendments include additional definitions, methods, or references needed to fully define the reporting program and facilitate compliance.

When this is the case, the actual impacts of proposed amendments ecology chose to include are not separable from the impacts of the overall program established under the baseline. To avoid underestimating costs in these cases, ecology estimates the costs and benefits of the overall program, accounting for individual elements of the baseline wherever possible.

Proposed rule amendments: The proposed rule amendments would make the following changes:

- **Applicability and definitions:** The rule would require facilities, suppliers, and electric power entities emitting at least 10,000 metric tons of carbon dioxide equivalent (MTCO₂e) GHG per year to report GHG emissions to ecology. Many already report under the existing rules, but the amendment adds electric power entities and some suppliers.
- **Reporting:** Expands calculation and report content, including production, fuel use, and electricity use.
- **Third party verification:** Reporters emitting at least 25,000 MTCO₂e per year or with a compliance obligation under the CCA would need to have verification performed by a third party.
- **Fees:** While the rule would continue to base total fees on program administration costs, it would reallocate fees based on degree of third party verification required.
- **Administrative changes** such as changing the reporting deadline to match the new deadline set in statute and various clarifications and corrections.

Applicability and definitions: The proposed rule amendments would make the following definition changes to the existing rule.

- Add definitions consistent with statute.
- Remove references to the Washington state department of licensing, as they are no longer relevant.
- Amend the definition of facility to account for other specifications in rule.
- Remove overlap of facility and supplier terminology.
- Add fuel-related definitions necessary for implementation, and assumptions for consistency with statute.
- Add definitions specific to the CCA program, per statute.
- Add definitions consistent with statutory requirements for consistency with federal definitions.

The proposed rule amendments would make the following applicability changes to the existing rule.

- Add electric power entities, per statute.
- Add reporting threshold of 10,000 MTCO₂e per year for suppliers and electric power entities, from all source categories, per statute.
- Amend supplier reporting basis to be the statutory threshold, based on all source categories.
- Add electric power entity reporting basis to be the statutory threshold, based on all source categories.
- Add specification that reporters with a compliance obligation under the CCA program must report for any year with an obligation, per statute.

The proposed rule amendments would affect the definition of GHG and listed GHGs.

Reporting: The proposed rule amendments would make the following changes to the baseline rule:

- Set a universal reporting deadline of March 31, for mandatory and voluntary reporters, per statute.
- Allow electric power entities to submit a provisional report by March 31, followed by a final report by June 1.
- Added report contents.
- Require reporters to use the same emission calculation methods for all reports, but provide a process to request approval to change the method.
- Specify that reporters must cooperate with ecology verification efforts.
- Extend recordkeeping from three years to 10 years. This is consistent with California reporting, per statute.
- Specify a limit of 15 business days to provide ecology with records upon request.
- Monitoring plan.
- Clarify that "days" refers to calendar days unless otherwise specified.
- Increase the number of days a reporter has to request an extension from two days to five days before the report is due and reduce the length of the extension from 30 days to 15 days.
- Calibration and accuracy.
- Clarify that facilities use emissions calculations to determine their reporting requirements.
- Specify which emissions calculation equations municipal solid waste landfills must use for reporting.
- Specify that entities must report supplied CO₂ from facilities, but it does not count toward the reporting threshold.
- Add calculation methods for suppliers. This is consistent with California reporting, per statute.
- Add calculation methods for electric power entities. This is consistent with California reporting, per statute.
- Require electric power entities that import or export electricity to prepare GHG inventory program documentation, in lieu of a GHG monitoring plan.

The proposed rule amendments would not affect elements of the existing rule related to:

- Designated representatives.
- Certification.
- Report submittal.
- Standardized methods and conversion factors incorporated by reference.
- Petition for alternative methods.

Third party verification: The proposed rule amendments would make the following changes to the baseline rule:

- Require third party verification for some reporters.
- Require third party verification for some years.
- Specify that previously verified emissions factors meeting certain standards do not need reverification, but reports using them do.
- Allow a maximum five percent discrepancy between reported emissions and verified emissions.

- Require full third party verification (including site visit), except for reporters without compliance obligation under CCA, once every three years. Use the subsequent two years for less-intensive verification.
- Add a list of what verification data checks must include.
- Set a deadline for corrections after verification.
- Verification report.
- Limit eligible verifiers to those accredited under the California Air Resources Board (CARB) program.
- Clarify that conflict of interest does not include working for a reporter to verify GHG emissions in another jurisdiction.
- Specify that ecology may assign an emissions level in cases of discrepancy, per statute.
- Specify that ecology may assign the emissions level used under the CCA program, per statute.

Fees: The proposed rule amendments would not affect the total program budget (this is not specified in rule), but would change how fees are allocated across reporters. A reporter's fee would depend on whether their GHG emissions report is subject to third party verification.

Current estimates of likely annual fees are:

- \$700 for reporters not subject to third party verification.
- \$4,000 for reporters subject to third party verification.

Administrative changes: The proposed rule amendments make administrative changes that are specifically from the baseline or have no material impact other than ensuring the rule is clear and consistent, such as clarifications and updating references.

COSTS OF COMPLIANCE: EQUIPMENT, SUPPLIES, LABOR:

Compliance with the proposed rule, compared to the baseline, is not likely to impose additional costs of equipment, supplies, or labor. We estimated all labor costs to be based on contracting to professional services (see below).

COSTS OF COMPLIANCE: PROFESSIONAL SERVICES:

Reporting: We expect the proposed rule amendments to reporting to increase the time and effort necessary to report. For existing reporters, this would be an incremental change in reporting costs. For new reporters, the cost would be of the entire reporting effort.

Many elements of calculation methods and reporting are part of the baseline, while ecology based others on its discretion. Elements of costs and benefits that are a result of statutory requirements are not costs and benefits of the proposed rule amendments, but it is not possible to separate the discretionary choices made by ecology from the statutory requirements. To avoid underestimating costs, we considered the impacts of proposed reporting changes as a whole.

To estimate the costs of proposed amendments to reporting, including applicability expansion, we used the list of current facility and fuel supplier reporters, as well as identifying likely new facility, supplier, and electric power entity reporters. The table below summarizes them.

| Reporter Type | Low Count | High Count |
|---------------------|-----------|------------|
| Existing facilities | 159 | 159 |

| Reporter Type | Low Count | High Count |
|--------------------------------------|------------|------------|
| New facilities | 0 | 0 |
| Existing suppliers | 42 | 42 |
| New suppliers | 16 | 26 |
| New electric power entities | 50 | 60 |
| Ceasing reporting (statutory change) | 5 | 5 |
| Total | 272 | 292 |

Since electric power entities and many suppliers are not currently required to report, we could not identify all specific entities that would likely become reporters under the proposed amendments:

- In addition to six likely new suppliers identified, based on ecology staff professional judgment and experience implementing the GHG reporting program, we assumed between 10 and 20 additional suppliers would become reporters.
- Based on professional judgement and experience, as well as corroborating information from the Bonneville Power Administration and Washington utilities and transportation commission, we assumed between 50 and 60 electric power entities would become reporters.

Based on past estimates of necessary reporting workload, as well as assessments by the United State Environmental Protection Agency (EPA), we assumed how much additional time it would take various positions to complete the reporting required under the proposed amendments. Loaded wages reflect overhead costs such as benefits, equipment, and administrative support, based on median wages by employment type in Washington. Overhead costs conservatively potentially overestimate labor costs, corresponding to hiring outside contractors for reporting. Existing internal staff hourly wages would not reflect overhead. For existing reporters, this would be the increase in costs from current reporting, and new reporters would incur the full cost.

Based on the above numbers of reporters and reporting costs, we estimated total reporting costs:

- Facilities (all existing reporters):
 - \$5,824 in the first year.
 - \$2,229 in subsequent years.
- Existing supplier reporters:
 - \$54,499 in the first year.
 - \$52,680 in subsequent years.
- New supplier reporters:
 - \$24,591 - \$39,960 in the first year.
 - \$23,702 - \$38,515 in subsequent years.
- Electric power entities (all new reporters):
 - \$76,846 - \$92,215 in the first year.
 - \$74,068 - \$88,881 in subsequent years.

Third party verification: We expect the proposed rule amendments to third party verification to result in additional verification costs for some reporters. Reporters emitting at least 25,000 MTCO_{2e} per year or with compliance obligations under the CCA would incur these additional costs.

The third party verification requirements in the proposed rule are largely as required by statute, but ecology used its discretion to add specifications that would help implement the rule. Elements of costs and benefits that are a result of statutory requirements are not costs and benefits of the proposed rule amendments, but it is not possible to separate the discretionary choices made by ecology from the statutory requirements. To avoid underestimating costs, we considered the impacts of proposed applicability and definition changes as a whole.

We estimated the costs of third party verification based on estimated costs of full (including site visit) verification and less intensive verification, of \$22,195 and \$701, respectively. According to the proposed rule amendments, reporters subject to third party verification:

- Must undergo full verification the first year of each three-year compliance period, followed by less intensive verification the remaining two years, if they have a compliance obligation under the CCA.
- Must undergo less intensive verification if they emit over 25,000 MTCO_{2e} per year and do not have a compliance obligation under the CCA.

| Verification Type | Low Count | High Count |
|--------------------------|------------|------------|
| Third party required | 201 | 221 |
| Third party NOT required | 71 | 71 |
| Total | 272 | 292 |

To simplify calculations around uncertainty ranges, we conservatively assumed all new suppliers and electric power entities were subject to full third party verification.

COSTS OF COMPLIANCE: ADMINISTRATIVE COSTS:

Where applicable, ecology estimates administrative costs ("overhead") as part of the cost of labor and professional services, above.

COSTS OF COMPLIANCE: OTHER:

Applicability and definitions: We expect the proposed rule amendments to applicability and definitions to increase the number of reporters subject to GHG reporting requirements. These new reporters would incur costs of reporting, verification, and fees, which are all addressed in the relevant sections below.

Based on past implementation of the reporting rule, the total number of reporters remains relatively stable over time, if not, decreases. Given the requirements and provisions of the CCA, the number of new electric power entity reporters in the future may increase. That would increase the total number of reporters beyond the current expanded scope of the proposed amendments. This would scale both costs and benefits.

The statute largely expands the scope of the proposed rule, but ecology used its discretion to add specifications and definitions that would help implement the rule and clarify who must comply with the rule. Elements of costs and benefits that are a result of statutory requirements are not costs and benefits of the proposed rule amendments, but it is not possible to separate the discretionary choices made by ecology from the statutory requirements. To avoid underestimat-

ing costs, we considered the impacts of proposed applicability and definition changes as a whole.

Fees: We expect the proposed rule amendments to fee allocation to result in both individual fee increases and decreases. The direction of an individual fee change depends on whether a reporter is an existing facility or supplier, and whether it would likely be subject to third party verification under the proposed amendments. New reporters (see section 2.3.1) would experience only fee increases of the full fee amount. The rule does not dictate the total program budget. Any change in total costs will result from additional sources required to report and any increased effort required for administration of the expanded program.

Current fees are:

- \$2,635 per facility.
- \$0 per transportation fuel supplier.

Current estimates of likely fees under the proposed rule amendments are:

- \$700 for reporters not subject to third party verification.
- \$4,000 for reporters subject to third party verification.

Across the entire population of likely reporters, this would result in increased annual costs of \$431,235 - \$511,235, accounting for both positive and negative cost impacts.

COMPARISON OF COMPLIANCE COST FOR SMALL VERSUS LARGE BUSINESSES:

We calculated the estimated per-business costs to comply with the proposed rule amendments, based on the costs estimated in chapter 3 of this document. In this section, we estimate compliance costs per employee. We note that costs of compliance are potentially significantly different, as compared to the baseline, for existing reporters that are largely facilities. We therefore considered costs per employee separately for a median facility, supplier, and electric power entity.

The median affected small business likely covered by the proposed rule amendments employs between five and 10 people. The largest 10 percent of affected businesses employ a median of between 500 and 3,150 people. The table below summarizes them.

Based on annual cost estimates above, we estimated the following annual compliance costs per employee.

| Reporter Type | Median Cost per Employee Small Businesses | Median Cost per Employee Largest 10 Percent of Businesses |
|-------------------------|---|---|
| Electric power entities | \$2,188 | \$44 |
| Facilities | \$208 | \$1 |
| Suppliers | \$2,334 | \$23 |

We conclude that the proposed rule amendments are likely to have disproportionate impacts on small businesses, based on median values and industry attributes, and therefore ecology must include elements in the proposed rule amend-

ments to mitigate this disproportion, as far as is legal and feasible. As discussed above, however, the degree of disproportion is likely smaller than quantified here, based on conservative underestimation of employment numbers.

CONSIDERATION OF LOST SALES OR REVENUE:

Businesses that would incur costs could experience reduced sales or revenues if the proposed rule amendments significantly affect the prices of the goods they sell. Each business's production and pricing model (whether additional lump-sum costs would significantly affect marginal costs) strongly determine the degree to which this could happen. It also relates to the specific attributes of the markets in which they sell goods, including the degree of influence each firm has on market prices, as well as the relative responsiveness of market demand to price changes.

We used the REMI E3+ model for Washington state to estimate the impact of the proposed rule amendments on directly affected markets, accounting for dynamic adjustments throughout the economy. The model accounts for: Inter-industry impacts; price, wage, and population changes; and dynamic adjustment of all economic variables over time.

Based on E3+ model runs for low and high cost estimates aggregated to the four-digit North American Industry Classification System (NAICS) level, we estimated potential impacts to price levels and output value over time. This allowed us to estimate the degree to which businesses would be able to pass costs on to their customers through increased prices, as well as to what degree customers would be able to substitute to less expensive goods. Together, these impact the likelihood that businesses would experience impacts to sales or revenue.

Model results did not indicate significant immediate or long-run impacts to overall price levels in the state (0 to 0.001 percent increase), but did forecast relatively small aggregate impacts to the value of output statewide. Most of the median \$6 million per year statewide impact was concentrated in the following industries, likely due to minor increases in energy costs impacting broad sectors. For context, total annual output in the state is worth over \$600 billion.

- Manufacturing: \$1 million to \$1.2 million.
- Construction: \$600,000 to \$1.2 million.
- Utilities: \$600,000 to \$1.2 million.

MITIGATION OF DISPROPORTIONATE IMPACT:

We considered all of the above options, the goals and objectives of the authorizing statutes (see chapter 6), and the scope of this rule making. We limited compliance cost-reduction methods to those that:

- Are legal and feasible.
- Meet the goals and objectives of the authorizing statute.
- Are within the scope of this rule making.

The proposed rule amendments maintain or add elements from the above list provided in the RFA:

- The baseline rule and proposed amendments are reporting rules only. They do not contain substantive regulatory requirements, and we are not proposing any for addition.

- Recordkeeping and reporting requirements would rely largely on maintaining consistency with other programs, using known operations data and information, and using standardized common calculations.
- If we consider the equivalent of inspections for the proposed amendments to the reporting rule to be third party verification, the proposed rule amendments limit this verification to where it is necessary for data quality assurance in its support of the CCA program (as required by statute). Smaller reporters are less likely to have compliance obligations or emissions over the threshold that would require third party verification.
- As part of this rule making, ecology received information that electric power entities (many of which are small) desired later deadlines. While the statute specifies the reporting deadline, the proposed rule amendments require electric power entities to submit a provisional report by the statutory deadline, followed by a final report two months later as proposed by stakeholders. Ecology also made changes to third party verification to streamline the process for smaller utilities.

The statute specifies many elements related to noncompliance, and could not be changed.

SMALL BUSINESS AND LOCAL GOVERNMENT CONSULTATION:

We involved small businesses and local governments in development of the proposed rule amendments as part of our overall communications and rule development strategy.

- Rule announcement notice sent via email to:
 - Rules and state implementation plan (SIP) listserv.
 - GHG reporting listserv.
 - CCA listserv.
 - Current GHG reporters.
 - WAC track (rule making).
- Stakeholder meeting materials sent on July 15, 2021, to:
 - Registered participants.
 - GHG reporting listserv.
 - Current GHG reporters.
- Stakeholder meeting on July 22, 2021, to provide overview of rule changes and get feedback on draft rule language.

Email recipients and meeting attendees included potential reporters, business associations, and industry associations across all three categories of proposed reporter. These included or represented small businesses unable to participate. Local governments (cities, counties) were also direct participants.

NAICS CODES OF INDUSTRIES IMPACTED BY THE PROPOSED RULE:

The proposed rule amendments likely impact the following industries, with associated NAICS codes. NAICS definitions and industry hierarchies are discussed at <https://www.census.gov/cgi-bin/sssd/naics/naicsrch?chart=2017>.

- 1121 Cattle Ranching and Farming
- 2123 Nonmetallic Mineral Mining and Quarrying
- 2131 Support Activities for Mining
- 2211 Electric Power Generation, Transmission and Distribution
- 2212 Natural Gas Distribution

- 2213 Water, Sewage and Other Systems
- 3112 Grain and Oilseed Milling
- 3114 Fruit and Vegetable Preserving and Specialty Food
- Manufacturing
 - 3115 Dairy Product Manufacturing
 - 3116 Animal Slaughtering and Processing
 - 3119 Other Food Manufacturing
 - 3211 Sawmills and Wood Preservation
 - 3212 Veneer, Plywood, and Engineered Wood Product
- Manufacturing
 - 3219 Other Wood Product Manufacturing
 - 3221 Pulp, Paper, and Paperboard Mills
 - 3222 Converted Paper Product Manufacturing
 - 3241 Petroleum and Coal Products Manufacturing
 - 3251 Basic Chemical Manufacturing
 - 3253 Pesticide, Fertilizer, and Other Agricultural Chemical
- Manufacturing
 - 3272 Glass and Glass Product Manufacturing
 - 3273 Cement and Concrete Product Manufacturing
 - 3274 Lime and Gypsum Product Manufacturing
 - 3311 Iron and Steel Mills and Ferroalloy Manufacturing
 - 3313 Alumina and Aluminum Production and Processing
 - 3314 Nonferrous Metal (except Aluminum) Production and Processing
 - 3321 Forging and Stamping
 - 3344 Semiconductor and Other Electronic Component
- Manufacturing
 - 3359 Other Electrical Equipment and Component Manufacturing
 - 3364 Aerospace Product and Parts Manufacturing
 - 4247 Petroleum and Petroleum Products Merchant
- Wholesalers
 - 4251 Wholesale Electronic Markets and Agents and Brokers
- 4451 Grocery Stores
- 4471 Gasoline Stations
- 4811 Scheduled Air Transportation
- 4862 Pipeline Transportation of Natural Gas
- 4881 Support Activities for Air Transportation
- 4921 Couriers and Express Delivery Services
- 4931 Warehousing and Storage
- 5621 Waste Collection
- 5622 Waste Treatment and Disposal
- 6113 Colleges, Universities, and Professional Schools
- 9241 Administration of Environmental Quality Programs
- 9281 National Security and International Affairs

IMPACT ON JOBS:

We used the REMI E3+ model for Washington state to estimate the impact of the proposed rule amendments on jobs in the state, accounting for dynamic adjustments throughout the economy.

The proposed rule amendments would result in transfers of money within and between industries, as compared to the baseline. The modeled impacts on employment are the result of multiple small increases and decreases in employment, prices, and other economic variables across all industries in the state. We define a job as one year of a full-time equivalent

job, and may not reflect the ongoing or accumulating loss of entire employment positions.

Compliance cost impacts on jobs:

| Industry | Initial Jobs Impact | Jobs Impact in Year 20 |
|-----------------------------------|---------------------|------------------------|
| All industries | -19 to -21 | -18 to -20 |
| Construction | -4 to -5 | -2 |
| Retail trade | -2 to -3 | -1 |
| Manufacturing | -2 | -2 |
| Health care and social assistance | -1 to -2 | -1 to -2 |

These employment impacts are based only on compliance costs incurred as a result of the proposed rule amendments (internal costs, payments to consultants), and do not account for benefits resulting from the reporting program's support of the CCA.

Accounting for the employment impacts of transfer payments to other industries - payments for consulting services - the total employment impact across all industries would be lower, while employment impacts to industries incurring costs, or their customers sensitive to small price impacts, would remain largely the same.

Net impacts on jobs:

| Industry | Initial Jobs Impact | Jobs Impact in Year 20 |
|--|---------------------|------------------------|
| All industries | -1 to -8 | -16 to -18 |
| Construction | -4 | -2 |
| Retail trade | -2 | -1 |
| Manufacturing | -2 | -2 |
| Health care and social assistance | -1 | -2 |
| Professional, scientific, and technical services | +5 to +7 | -1 to +1 |

For context, the REMI E3+ model forecasts the Washington state economy to have over 4.7 million FTEs in 2022, increasing to nearly 5.4 million FTEs over the next 20 years.

By supporting the CCA cap-and-invest program, the proposed rule amendments would also contribute to the effectiveness and efficiency of benefits resulting from the program, such as reductions in greenhouse gas emissions, avoided social costs of climate change, and investment in GHG reduction projects and industries. These benefits, supported indirectly by the proposed rule, would result in additional employment increases as the state shifts toward a green economy under the CCA.

A copy of the statement may be obtained by contacting Rachel Assink, Department of Ecology, Air Quality Program, P.O. Box 47600, Olympia, WA 98504-7600, phone 360-407-6827, for Washington relay service or TTY call 711 or 877-833-6341, email rachel.assink@ecy.wa.gov.

October 6, 2021
Heather R. Bartlett

Deputy Director

AMENDATORY SECTION (Amending WSR 15-04-051, filed 1/29/15, effective 3/1/15)

WAC 173-441-010 Scope. This rule establishes mandatory greenhouse gas (GHG) reporting requirements for owners and operators of certain facilities that directly emit GHG as well as for certain suppliers ~~((of liquid motor vehicle fuel, special fuel, or aircraft fuel))~~ and electric power entities. For suppliers, the GHGs reported are the quantity that would be emitted from the complete combustion or oxidation of the products supplied.

AMENDATORY SECTION (Amending WSR 16-19-047, filed 9/15/16, effective 10/16/16)

WAC 173-441-020 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) Definitions specific to this chapter:

(a) "40 C.F.R. Part 98" or "40 C.F.R. § 98" means the United States Environmental Protection Agency's Mandatory Greenhouse Gas Reporting regulation including any applicable subparts. All references are adopted by reference as if it was copied into this rule. References mentioned in this rule are adopted as they exist on July 1, 2021, or the adoption date in WAC 173-400-025(1), whichever is later.

(b) "Biomass" means nonfossilized and biodegradable organic material originating from plants, animals, or microorganisms, including products, by-products, residues and waste from agriculture, forestry, and related industries as well as the nonfossilized and biodegradable organic fractions of industrial and municipal wastes, including gases and liquids recovered from the decomposition of nonfossilized and biodegradable organic material.

~~((b))~~ (c) "Carbon dioxide equivalent" or "CO₂e" means a metric measure used to compare the emissions from various greenhouse gases based upon their global warming potential.

~~((e))~~ "Department of licensing" or "DOL" means the Washington state department of licensing.

(d) "Director" means the director of the department of ecology.

(e) "Ecology" means the Washington state department of ecology.

(f) "Electric power entity" includes any of the following that supply electric power in Washington: (i) Electricity importers and exporters; (ii) retail providers, including multi-jurisdictional retail providers; and (iii) first jurisdictional deliverers. See WAC 173-441-124 for more detail.

(g) "Facility" unless otherwise specified in WAC 173-441-122, 173-441-124, or any subpart of 40 C.F.R. Part 98 as adopted ((by September 1, 2016)) in WAC 173-441-120, means any physical property, plant, building, structure, source, or stationary equipment located on one or more contiguous or adjacent properties in actual physical contact or separated solely by a public roadway or other public right of way and under common ownership or common control, that emits or may emit any greenhouse gas. Operators of military installations may classify such installations as more than a

single facility based on distinct and independent functional groupings within contiguous military properties. ~~((All source categories in WAC 173-441-120 are considered facilities even if the source category name includes the word "supplier."))~~

~~((g))~~ (h) "Fuel products" means petroleum products, biomass-derived fuels, coal-based liquid fuels, natural gas, biogas, and liquid petroleum gas as established in 40 C.F.R. Part 98 Subparts LL through NN. Renewable or biogenic versions of fuel products listed in Tables MM-1 or NN-1 of 40 C.F.R. Part 98 are also considered fuel products. Assume complete combustion or oxidation of fuel products when calculating GHG emissions.

(i) "Fuel supplier" means any of the following: (See WAC 173-441-122 for more detail.)

(i) A supplier of petroleum products;

(ii) A supplier of biomass-derived fuels;

(iii) A supplier of natural gas including:

(A) Operators of interstate and intrastate pipelines;

(B) Suppliers of liquefied or compressed natural gas;

(C) Natural gas liquid fractionators;

(D) Local distribution companies.

(iv) A supplier of liquid petroleum gas; or

(v) A supplier of coal-based liquid fuels.

(j) "Greenhouse gas," "greenhouse gases," "GHG," and "GHGs" includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride. Beginning on January 1, 2012, "greenhouse gas" also includes any other gas or gases designated by ecology by rule in Table A-1 in WAC 173-441-040.

~~((h))~~ (k) "Operator" means any individual or organization who operates or supervises a facility, supplier, or electric power entity.

(l) "Owner" means any individual or organization who has legal or equitable title to, has a leasehold interest in, or control of a facility, supplier, or electric power entity, except an individual or organization whose legal or equitable title to or leasehold interest in the facility, supplier, or electric power entity arises solely because the person is a limited partner in a partnership that has legal or equitable title to, has a leasehold interest in, or control of the facility, supplier, or electric power entity shall not be considered an "owner" of the facility, supplier, or electric power entity.

(m) "Person" includes the owner or operator of:

(i) ~~((An owner or operator, as those terms are defined by the United States Environmental Protection Agency in its mandatory greenhouse gas reporting regulation in 40 C.F.R. Part 98, as adopted by September 1, 2016; and))~~ A facility;

(ii) A supplier; or

(iii) An electric power entity.

~~((h))~~ (n) "Product data" means data related to a facility's production that is part of the annual GHG report.

~~((f))~~ (o) "Reporter" means any of the following subject to this chapter:

(i) A facility;

(ii) A supplier; or

(iii) An electric power entity.

(p) "Supplier" ~~((or "transportation fuel supplier"))~~ means:

~~((f))~~ Any person who is a:

~~((A) A motor vehicle fuel or special fuel supplier or distributor, as those terms are defined in RCW 82.38.020; or~~

~~(B) A distributor of aircraft fuel, as the term is defined in RCW 82.42.010.~~

~~(ii) Any use of the term "supplier" in a source category in WAC 173-441-120 or incorporated from 40 C.F.R. Part 98, as adopted by September 1, 2016, is not a "supplier" under this definition. Those uses are instead types of "facilities.")~~

~~(i) Fuel supplier that produces, imports, or delivers, or any combination of producing, importing, or delivering, fuel products in Washington; and~~

~~(ii) Supplier of carbon dioxide that produces, imports, or delivers a quantity of carbon dioxide in Washington that, if released, would result in emissions in Washington.~~

(2) Definitions specific to ((suppliers)) the Climate Commitment Act program. ~~((Suppliers must use the definitions found in the following statutes unless the definition is in conflict with a definition found in subsection (1) of this section. These definitions do not apply to facilities.~~

~~(a) Chapter 82.38 RCW; and~~

~~(b) Chapter 82.42 RCW.) For those terms not listed in subsection (1) of this section, WAC 173-441-122(2), or 173-441-124(2), the definitions from chapter 316, Laws of 2021, as described in chapters 173-446 and 173-446A WAC apply in this chapter in order of precedence.~~

(3) Definitions from 40 C.F.R. Part 98. For those terms not listed in subsection (1) or (2) of this section, WAC 173-441-122(2), or 173-441-124(2), the definitions found in 40 C.F.R. § 98.6 or a subpart as adopted in ~~((WAC 173-441-120, as adopted by September 1, 2016, are adopted by reference))~~ this chapter, apply in this chapter as modified in WAC 173-441-120(2).

(4) Definitions from chapter 173-400 WAC. ~~((If no definition is provided))~~ For those terms not listed in subsections (1) through (3) in this section, ((use)) WAC 173-441-122(2), or 173-441-124(2), the definitions found in chapter 173-400 WAC apply in this chapter.

AMENDATORY SECTION (Amending WSR 15-04-051, filed 1/29/15, effective 3/1/15)

WAC 173-441-030 Applicability. The GHG reporting requirements and related monitoring, recordkeeping, and reporting requirements of this chapter apply to the owners and operators of any facility that meets the requirements of subsection (1) of this section; ~~((and))~~ any supplier that meets the requirements of subsection (2) of this section; and any electric power entity that meets the requirements of subsection (3) of this section. In determining whether reporting is required, the requirements of each subsection ~~((+))~~ must be applied independently of the requirements of the other subsections ~~((+))~~. Research and development activities are not considered to be part of any source category defined in this chapter.

(1) Facility reporting. Reporting is mandatory for an owner or operator of any facility located in Washington state with total GHG emissions that exceeds the reporting threshold defined in (a) of this subsection. GHG emissions from all applicable source categories listed in WAC 173-441-120 at

the facility must be included when determining whether emissions from the facility meet the reporting threshold.

(a) Facility reporting threshold. Any facility that emits ten thousand metric tons CO₂e or more per calendar year in total GHG emissions from all applicable source categories listed in WAC 173-441-120 exceeds the reporting threshold.

(b) Calculating facility emissions for comparison to the threshold. To calculate GHG emissions for comparison to the reporting threshold, the owner or operator must:

(i) Calculate the total annual emissions of each GHG in metric tons from all applicable source categories that are listed and defined in WAC 173-441-120. The GHG emissions must be calculated using the calculation methodologies specified in WAC 173-441-120 and available company records.

(ii) Include emissions of all GHGs that are listed in Table A-1 of WAC 173-441-040, including all GHG emissions from the combustion of biomass and all fugitive releases of GHG emissions from biomass, calculated as provided in the calculation methods referenced in Table 120-1.

(iii) Sum the emissions estimates for each GHG and calculate metric tons of CO₂e using Equation A-1 of this subsection.

$$CO_2e = \sum_{i=1}^n GHG_i \times GWP_i \quad (Eq. A-1)$$

Where:

CO₂e = Carbon dioxide equivalent, metric tons/year.

GHG_i = Mass emissions of each greenhouse gas listed in Table A-1 of WAC 173-441-040, metric tons/year.

GWP_i = Global warming potential for each greenhouse gas from Table A-1 of WAC 173-441-040.

n = The number of greenhouse gases emitted.

~~((iv) Include in the emissions calculation any CO₂ that is captured for transfer off site.)~~

(2) Supplier(s) reporting. Reporting is mandatory for an owner or operator of any supplier ((required to file periodic tax reports to DOL and has)) with total ((carbon dioxide)) GHG emissions in Washington that exceed the reporting threshold defined in (a) of this subsection. GHG emissions from all applicable source categories listed in WAC 173-441-122 from the supplier must be included when determining whether emissions from the supplier meet the reporting threshold.

(a) Supplier reporting threshold. Any supplier that ~~((supplies applicable fuels that are reported to DOL as sold in Washington state of which the complete combustion or oxidation would result in total calendar year emissions of ten thousand metric tons or more of carbon dioxide)) produces,~~

imports, or delivers ten thousand metric tons CO₂e or more per calendar year in total GHG emissions from all applicable source categories listed in WAC 173-441-122 exceeds the reporting threshold.

(b) Calculating supplier emissions for comparison to the threshold. To calculate ((CO₂-GHG)) GHG emissions for comparison to the reporting threshold, ((a supplier)) the owner or operator must:

(i) ~~(Base its emissions on the applicable fuel quantities as established in WAC 173-441-130(1) and reported to DOL. A supplier must apply the mass in metric tons per year of CO₂ that would result from the complete combustion or oxidation of these fuels towards the reporting threshold.~~

(ii) ~~Calculate the total annual carbon dioxide emissions in metric tons from all applicable fuel quantities and fuel types as established in WAC 173-441-130(1) and reported to DOL. The CO₂ emissions must be calculated using the calculation methodologies specified in WAC 173-441-130 and data reported to DOL.~~

(iii) ~~Only include emissions of carbon dioxide associated with the complete combustion or oxidation of the applicable fuels. Include all CO₂ emissions from the combustion of biomass fuels.~~

~~(3))~~ Calculate the total annual emissions of each GHG in metric tons from all applicable source categories that are listed and defined in WAC 173-441-122. The GHG emissions must be calculated using the calculation methodologies specified in WAC 173-441-122 and available company records. Supplied CO₂ is considered emissions.

(ii) Include emissions of all GHGs that are listed in Table A-1 of WAC 173-441-040, including all GHG emissions from the combustion of biomass, calculated as provided in the calculation methods referenced in WAC 173-441-122.

(iii) Sum the emissions estimates for each GHG and calculate metric tons of CO₂e using Equation A-1 of this section.

(3) Electric power entity reporting. Reporting is mandatory for an owner or operator of any electric power entity with total GHG emissions that exceed the reporting threshold defined in (a) of this subsection. GHG emissions from all applicable source categories listed in WAC 173-441-124 from the electric power entity must be included when determining whether emissions from the electric power entity meet the reporting threshold.

(a) Electric power entity reporting threshold. Any electric power entity that imports or delivers ten thousand metric tons CO₂e or more per calendar year in total GHG emissions from all applicable source categories listed in WAC 173-441-124 exceeds the reporting threshold.

(b) Calculating electric power entity emissions for comparison to the threshold. To calculate GHG emissions for comparison to the reporting threshold, the owner or operator must:

(i) Calculate the total annual emissions of each GHG in metric tons from all applicable source categories that are listed and defined in WAC 173-441-124. The GHG emissions must be calculated using the calculation methodologies specified in WAC 173-441-124 and available company records.

(ii) Include emissions of all GHGs that are listed in Table A-1 of WAC 173-441-040, including all GHG emissions from the combustion of biomass, calculated as provided in the calculation methods referenced in WAC 173-441-124.

(iii) Sum the emissions estimates for each GHG and calculate metric tons of CO₂e using Equation A-1 of this section.

(4) Applicability over time. A person that does not meet the applicability requirements of ((either)) subsection (1) ((or)), (2), or (3) of this section is not subject to this rule. Such a person would become subject to the rule and the reporting requirements of this chapter if they exceed the applicability requirements of subsection (1) ((or)), (2), or (3) of this section at a later time. Thus, persons should reevaluate the applicability to this chapter (including the revising of any relevant emissions calculations or other calculations) whenever there is any change that could cause a ((facility or supplier)) reporter to meet the applicability requirements of subsection (1) ((or)), (2), or (3) of this section. Such changes include, but are not limited to, process modifications, increases in operating hours, increases in production, changes in fuel or raw material use, addition of equipment, facility expansion, and changes to this chapter.

~~((4))~~ **(5) Voluntary reporting.** A person may choose to voluntarily report to ecology GHG emissions that are not required to be reported under subsection (1) ((or)), (2), or (3) of this section. Persons voluntarily reporting GHG emissions must use the methods established in WAC 173-441-120(3), 173-441-122 (1)(c), and ((+73-441-130)) 173-441-124 (1)(c) to calculate any voluntarily reported GHG emissions.

~~((5))~~ **(6) Reporting requirements when emissions of greenhouse gases fall below reporting thresholds.** Except as provided in this subsection, once a ((facility or supplier)) reporter is subject to the requirements of this chapter, the person must continue for each year thereafter to comply with all requirements of this chapter, including the requirement to submit annual GHG reports (annual GHG reports, GHG report, emissions report, annual report), even if the ((facility or supplier)) reporter does not meet the applicability requirements in subsection (1) ((or)), (2), or (3) of this section in a future year. Reporters with a compliance obligation under chapter 316, Laws of 2021, as described in chapter 173-446 WAC must continue to report for any year with a compliance obligation.

(a) If reported emissions are less than ten thousand metric tons CO₂e per year for five consecutive years, then the person may discontinue reporting as required by this chapter provided that the person submits a notification to ecology that announces the cessation of reporting and explains the reasons for the reduction in emissions. The notification must be submitted no later than the report submission due date, specified in WAC 173-441-050(2), of the year immediately following the fifth consecutive year of emissions less than ten thousand tons CO₂e per year. The person must maintain the corresponding records required under WAC 173-441-050(6) for each of the five consecutive years and retain such records for ((three)) ten years following the year that reporting was discontinued. The person must resume reporting if annual emissions in any future calendar year increase above the thresholds in subsection (1) or (2) of this section.

(b) If reported emissions are less than five thousand metric tons CO₂e per year for three consecutive years, then the person may discontinue reporting as required by this chapter provided that the person submits a notification to ecology that announces the cessation of reporting and explains the reasons for the reduction in emissions. The notification must be submitted no later than the report submission due date, specified in WAC 173-441-050(2), of the year immediately following the third consecutive year of emissions less than five thousand tons CO₂e per year. The person must maintain the corresponding records required under WAC 173-441-050(6) for each of the three consecutive years and retain such records for ~~((three))~~ ten years following the year that reporting was discontinued. The person must resume reporting if annual emissions in any future calendar year increase above the thresholds in subsection (1) or (2) of this section. This provision does not apply to electric power entities.

(c) If the operations of a ~~((facility or supplier))~~ reporter are changed such that all applicable GHG-emitting processes and operations listed in WAC 173-441-120, 173-441-122, and ~~((173-441-130))~~ 173-441-124 cease to operate, then the person is exempt from reporting in the years following the year in which cessation of such operations occurs, provided

that the person submits a notification to ecology that announces the cessation of reporting and certifies to the closure of all GHG-emitting processes and operations no later than the report submission due date, specified in WAC 173-441-050(2), of the year following such changes. This provision does not apply to seasonal or other temporary cessation of operations. This provision does not apply to facilities with municipal solid waste landfills, industrial waste landfills, or to underground coal mines. The person must resume reporting for any future calendar year during which any of the GHG-emitting processes or operations resume operation.

AMENDATORY SECTION (Amending WSR 15-04-051, filed 1/29/15, effective 3/1/15)

WAC 173-441-040 Greenhouse gases. (1) **Greenhouse gases.** Table A-1 of this section lists the GHGs regulated under this chapter and their global warming potentials.

(2) **CO₂e conversion.** Use Equation A-1 of WAC 173-441-030 (1)(b)(iii) and the global warming potentials (GWP) listed in Table A-1 of this section to convert emissions into CO₂e.

**Table A-1:
Global Warming Potentials (100-Year Time Horizon)**

| Name | CAS No. | Chemical Formula | GWP (100 yr.) ^{1,2} | |
|---------------------------------------|------------|--|------------------------------|-----------------------|
| | | | 2012-2013 | ≥ 2014 ^{3,4} |
| Carbon dioxide | 124-38-9 | CO ₂ | 1 | 1 |
| Methane | 74-82-8 | CH ₄ | 21 | 25 |
| Nitrous oxide | 10024-97-2 | N ₂ O | 310 | 298 |
| Fully Fluorinated GHGs | | | | |
| Sulfur hexafluoride | 2551-62-4 | SF ₆ | 23,900 | 22,800 |
| Trifluoromethyl sulphur pentafluoride | 373-80-8 | SF ₅ CF ₃ | 17,700 | 17,700 |
| Nitrogen trifluoride | 7783-54-2 | NF ₃ | 17,200 | 17,200 |
| PFC-14 (Perfluoromethane) | 75-73-0 | CF ₄ | 6,500 | 7,390 |
| PFC-116 (Perfluoroethane) | 76-16-4 | C ₂ F ₆ | 9,200 | 12,200 |
| PFC-218 (Perfluoropropane) | 76-19-7 | C ₃ F ₈ | 7,000 | 8,830 |
| Perfluorocyclopropane | 931-91-9 | C-C ₃ F ₆ | 17,340 | 17,340 |
| PFC-3-1-10 (Perfluorobutane) | 355-25-9 | C ₄ F ₁₀ | 7,000 | 8,860 |
| PFC-318 (Perfluorocyclobutane) | 115-25-3 | C-C ₄ F ₈ | 8,700 | 10,300 |
| PFC-4-1-12 (Perfluoropentane) | 678-26-2 | C ₅ F ₁₂ | 7,500 | 9,160 |
| PFC-5-1-14 (Perfluorohexane, FC-72) | 355-42-0 | C ₆ F ₁₄ | 7,400 | 9,300 |
| PFC-6-1-12 (Hexadecafluoroheptane) | 335-57-9 | C ₇ F ₁₆ ; CF ₃ (CF ₂) ₅ CF ₃ | 7,820 | 7,820 |
| PFC-7-1-18 (Octadecafluorooctane) | 307-34-6 | C ₈ F ₁₈ ; CF ₃ (CF ₂) ₆ CF ₃ | 7,620 | 7,620 |
| PFC-9-1-18 | 306-94-5 | C ₁₀ F ₁₈ | 7,500 | 7,500 |

| Name | CAS No. | Chemical Formula | GWP (100 yr.) ^{1,2} | |
|---|-------------|--|------------------------------|-----------------------|
| | | | 2012-2013 | ≥ 2014 ^{3,4} |
| PFPME (HT-70) | NA | CF ₃ OCF(CF ₃)CF ₂ OCF ₂ OCF ₃ | 10,300 | 10,300 |
| Perfluorodecalin (cis) | 60433-11-6 | Z-C ₁₀ F ₁₈ | 7,236 | 7,236 |
| Perfluorodecalin (trans) | 60433-12-7 | E-C ₁₀ F ₁₈ | 6,288 | 6,288 |
| Saturated Hydrofluorocarbons (HFCs) with Two or Fewer Carbon-Hydrogen Bonds | | | | |
| HFC-23 | 75-46-7 | CHF ₃ | 11,700 | 14,800 |
| HFC-32 | 75-10-5 | CH ₂ F ₂ | 650 | 675 |
| HFC-125 | 354-33-6 | C ₂ HF ₅ | 2,800 | 3,500 |
| HFC-134 | 359-35-3 | C ₂ H ₂ F ₄ | 1,000 | 1,100 |
| HFC-134a | 811-97-2 | CH ₂ FCF ₃ | 1,300 | 1,430 |
| HFC-227ca (1,1,1,2,2,3,3-Heptafluoropropane) | 2252-84-8 | CF ₃ CF ₂ CHF ₂ | 2,640 | 2,640 |
| HFC-227ea | 431-89-0 | C ₃ HF ₇ | 2,900 | 3,220 |
| HFC-236cb | 677-56-5 | CH ₂ FCF ₂ CF ₃ | 1,340 | 1,340 |
| HFC-236ea | 431-63-0 | CHF ₂ CHFCF ₃ | 1,370 | 1,370 |
| HFC-236fa | 690-39-1 | C ₃ H ₂ F ₆ | 6,300 | 9,810 |
| HFC-329p (1,1,1,2,2,3,3,4,4-Nonafluorobutane) | 375-17-7 | CHF ₂ CF ₂ CF ₂ CF ₃ | 2,360 | 2,360 |
| HFC-43-10mee | 138495-42-8 | CF ₃ CFHCFHCF ₂ CF ₃ | 1,300 | 1,640 |
| Saturated Hydrofluorocarbons (HFCs) with Three or More Carbon-Hydrogen Bonds | | | | |
| HFC-41 | 593-53-3 | CH ₃ F | 150 | 92 |
| HFC-143 | 430-66-0 | C ₂ H ₃ F ₃ | 300 | 353 |
| HFC-143a | 420-46-2 | C ₂ H ₃ F ₃ | 3,800 | 4,470 |
| HFC-152 | 624-72-6 | CH ₂ FCH ₂ F | 53 | 53 |
| HFC-152a | 75-37-6 | CH ₃ CHF ₂ | 140 | 124 |
| HFC-161 | 353-36-6 | CH ₃ CH ₂ F | 12 | 12 |
| HFC-245ca | 679-86-7 | C ₃ H ₃ F ₅ | 560 | 693 |
| HFC-245cb (1,1,1,2,2-Pentafluoropropane) | 1814-88-6 | CF ₃ CF ₂ CH ₃ | 4,620 | 4,620 |
| HFC-245ca (1,1,2,3,3-Pentafluoropropane) | 24270-66-4 | CHF ₂ CHFCHF ₂ | 235 | 235 |
| HFC-245eb (1,1,1,2,3-Pentafluoropropane) | 431-31-2 | CH ₂ FCHFCF ₃ | 290 | 290 |
| HFC-245fa | 460-73-1 | CHF ₂ CH ₂ CF ₃ | 1,030 | 1,030 |
| HFC-263fb (1,1,1-Trifluoropropane) | 421-07-8 | CH ₃ CH ₂ CF ₃ | 76 | 76 |
| HFC-272ca (2,2-Difluoropropane) | 420-45-1 | CH ₃ CF ₂ CH ₃ | 144 | 144 |
| HFC-365mfc | 406-58-6 | CH ₃ CF ₂ CH ₂ CF ₃ | 794 | 794 |
| Saturated Hydrofluoroethers (HFEs) and Hydrochlorofluoroethers (HCFEs) with One Carbon-Hydrogen Bond | | | | |
| HFE-125 | 3822-68-2 | CHF ₂ OCF ₃ | 14,900 | 14,900 |

| Name | CAS No. | Chemical Formula | GWP (100 yr.) ^{1,2} | |
|---|-------------|--|------------------------------|-----------------------|
| | | | 2012-2013 | ≥ 2014 ^{3,4} |
| HFE-227ea | 2356-62-9 | CF ₃ CHFOCF ₃ | 1,540 | 1,540 |
| HFE-329mcc2 | 134769-21-4 | CF ₃ CF ₂ OCF ₂ CHF ₂ | 919 | 919 |
| HFE-329me3
(1,1,1,2,3,3-Hexafluoro-3-(trifluoromethoxy)propane) | 428454-68-6 | CF ₃ CFHCF ₂ OCF ₃ | NA | 4,550* |
| 1,1,1,2,2,3,3-Heptafluoro-3-(1,2,2,2-tetrafluoroethoxy)-propane | 3330-15-2 | CF ₃ CF ₂ CF ₂ OCHFCF ₃ | NA | 6,490* |
| Saturated HFEs and HCFEs with Two Carbon-Hydrogen Bonds | | | | |
| HFE-134 (HG-00) | 1691-17-4 | CHF ₂ OCHF ₂ | 6,320 | 6,320 |
| HFE-236ca
(1-(Difluoromethoxy)-1,1,2,2-tetrafluoroethane) | 32778-11-3 | CHF ₂ OCF ₂ CHF ₂ | NA | 4,240* |
| HFE-236ca12 (HG-10) | 78522-47-1 | CHF ₂ OCF ₂ OCHF ₂ | 2,800 | 2,800 |
| HFE-236ea2 (Desflurane) | 57041-67-5 | CHF ₂ OCHFCF ₃ | 989 | 989 |
| HFE-236fa | 20193-67-3 | CF ₃ CH ₂ OCF ₃ | 487 | 487 |
| HFE-338mcf2 | 156053-88-2 | CF ₃ CF ₂ OCH ₂ CF ₃ | 552 | 552 |
| HFE-338mmz1 | 26103-08-2 | CHF ₂ OCH(CF ₃) ₂ | 380 | 380 |
| HFE-338pcc13 (HG-01) | 188690-78-0 | CHF ₂ OCF ₂ CF ₂ OCHF ₂ | 1,500 | 1,500 |
| HFE-43-10pccc (H-Galden 1040x, HG-11) | E1730133 | CHF ₂ OCF ₂ OC ₂ F ₄ OCHF ₂ | 1,870 | 1,870 |
| HCFE-235ca2 (Enflurane)
(2-Chloro-1-(difluoromethoxy)-1,1,2-trifluoroethane) | 13838-16-9 | CHF ₂ OCF ₂ CHFC1 | NA | 583* |
| HCFE-235da2 (Isoflurane) | 26675-46-7 | CHF ₂ OCHC1CF ₃ | 350 | 350 |
| HG-02 (1-(Difluoromethoxy)-2-(2-(difluoromethoxy)-1,1,2,2-tetrafluoroethoxy)-1,1,2,2-tetrafluoroethane) | 205367-61-9 | HF ₂ C-(OCF ₂ CF ₂) ₂ -OCF ₂ H | NA | 3,825* |
| HG-03
(1,1,3,3,4,4,6,6,7,7,9,9,10,10,12,12-Hexadecafluoro-2,5,8,11-tetraoxadodecane) | 173350-37-3 | HF ₂ C-(OCF ₂ CF ₂) ₃ -OCF ₂ H | NA | 3,670* |
| HG-20 ((Difluoromethoxy)((difluoromethoxy) difluoromethoxy) difluoromethane) | 249932-25-0 | HF ₂ C-(OCF ₂) ₂ -OCF ₂ H | NA | 5,300* |
| HG-21 (1,1,3,3,5,5,7,7,8,8,10,10-Dodecafluoro-2,4,6,9-tetraoxadecane) | 249932-26-1 | HF ₂ C-OCF ₂ CF ₂ OCF ₂ OCF ₂ O-CF ₂ H | NA | 3,890* |
| HG-30 (1,1,3,3,5,5,7,7,9,9-Decafluoro-2,4,6,8-tetraoxanonane) | 188690-77-9 | HF ₂ C-(OCF ₂) ₃ -OCF ₂ H | NA | 7,330* |
| 1,1,3,3,4,4,6,6,7,7,9,9,10,10,12,12,13,13,15,15-eicosafluoro-2,5,8,11,14-Pentaoxapentadecane | 173350-38-4 | HCF ₂ O(CF ₂ CF ₂ O) ₄ CF ₂ H | NA | 3,630* |

| Name | CAS No. | Chemical Formula | GWP (100 yr.) ^{1,2} | |
|--|----------------------------|--|------------------------------|-----------------------|
| | | | 2012-2013 | ≥ 2014 ^{3,4} |
| 1,1,2-Trifluoro-2-(trifluoromethoxy)-ethane | 84011-06-3 | CHF ₂ CHFOCF ₃ | NA | 1,240* |
| Trifluoro (fluoromethoxy) methane | 2261-01-0 | CH ₂ FOCF ₃ | NA | 751* |
| Saturated HFEs and HCFEs with Three or More Carbon-Hydrogen Bonds | | | | |
| HFE-143a | 421-14-7 | CH ₃ OCF ₃ | 756 | 756 |
| HFE-245cb2 | 22410-44-2 | CH ₃ OCF ₂ CF ₃ | 708 | 708 |
| HFE-245fa1 | 84011-15-4 | CHF ₂ CH ₂ OCF ₃ | 286 | 286 |
| HFE-245fa2 | 1885-48-9 | CHF ₂ OCH ₂ CF ₃ | 659 | 659 |
| HFE-254cb2 | 425-88-7 | CH ₃ OCF ₂ CHF ₂ | 359 | 359 |
| HFE-263fb2 | 460-43-5 | CF ₃ CH ₂ OCH ₃ | 11 | 11 |
| HFE-263m1; R-E-143a (1,1,2,2-Tetrafluoro-1-(trifluoromethoxy)ethane) | 690-22-2 | CF ₃ OCH ₂ CH ₃ | NA | 29* |
| HFE-347mcc3 (HFE-7000) | 375-03-1 | CH ₃ OCF ₂ CF ₂ CF ₃ | 575 | 575 |
| HFE-347mcf2 | 171182-95-9 | CF ₃ CF ₂ OCH ₂ CHF ₂ | 374 | 374 |
| HFE-347mmy1 | 22052-84-2 | CH ₃ OCF(CF ₃) ₂ | 343 | 343 |
| HFE-347mmz1; Sevoflurane (2-(Difluoromethoxy)-1,1,1,3,3,3-hexafluoropropane) | 28523-86-6 | (CF ₃) ₂ CHOCHF ₂ | NA | 216* |
| HFE-347pcf2 | 406-78-0 | CHF ₂ CF ₂ OCH ₂ CF ₃ | 580 | 580 |
| HFE-356mec3 | 382-34-3 | CH ₃ OCF ₂ CHF ₂ CF ₃ | 101 | 101 |
| HFE-356mff2 (bis(2,2,2-trifluoroethyl) ether) | 333-36-8 | CF ₃ CH ₂ OCH ₂ CF ₃ | NA | 17* |
| HFE-356mmz1 | 13171-18-1 | (CF ₃) ₂ CHOCH ₃ | 27 | 27 |
| HFE-356pcc3 | 160620-20-2 | CH ₃ OCF ₂ CF ₂ CHF ₂ | 110 | 110 |
| HFE-356pcf2 | 50807-77-7 | CHF ₂ CH ₂ OCF ₂ CHF ₂ | 265 | 265 |
| HFE-356pcf3 | 35042-99-0 | CHF ₂ OCH ₂ CF ₂ CHF ₂ | 502 | 502 |
| HFE-365mcf2 (1-Ethoxy-1,1,2,2,2-pentafluoroethane) | 22052-81-9 | CF ₃ CF ₂ OCH ₂ CH ₃ | NA | 58* |
| HFE-365mcf3 | 378-16-5 | CF ₃ CF ₂ CH ₂ OCH ₃ | 11 | 11 |
| HFE-374pc2 | 512-51-6 | CH ₃ CH ₂ OCF ₂ CHF ₂ | 557 | 557 |
| HFE-449sl (HFE-7100)
Chemical blend | 163702-07-6
163702-08-7 | C ₄ F ₉ OCH ₃
(CF ₃) ₂ CF ₂ OCH ₃ | 297 | 297 |
| HFE-569sf2 (HFE-7200)
Chemical blend | 163702-05-4
163702-06-5 | C ₄ F ₉ OC ₂ H ₅
(CF ₃) ₂ CF ₂ OC ₂ H ₅ | 59 | 59 |
| HG'-01 (1,1,2,2-Tetrafluoro-1,2-dimethoxyethane) | 73287-23-7 | CH ₃ OCF ₂ CF ₂ OCH ₃ | NA | 222* |
| HG'-02 (1,1,2,2-Tetrafluoro-1-methoxy-2-(1,1,2,2-tetrafluoro-2-methoxyethoxy)ethane) | 485399-46-0 | CH ₃ O(CF ₂ CF ₂ O) ₂ CH ₃ | NA | 236* |

| Name | CAS No. | Chemical Formula | GWP (100 yr.) ^{1,2} | |
|--|--------------|---|------------------------------|-----------------------|
| | | | 2012-2013 | ≥ 2014 ^{3,4} |
| HG ¹ -03 (3,3,4,4,6,6,7,7,9,9,10,10-Dodecafluoro-2,5,8,11-tetraoxadodecane) | 485399-48-2 | CH ₃ O(CF ₂ CF ₂ O) ₃ CH ₃ | NA | 221* |
| Difluoro(methoxy)methane | 359-15-9 | CH ₃ OCHF ₂ | NA | 144* |
| 2-Chloro-1,1,2-trifluoro-1-methoxyethane | 425-87-6 | CH ₃ OCF ₂ CHFCl | NA | 122* |
| 1-Ethoxy-1,1,2,2,3,3,3-heptafluoropropane | 22052-86-4 | CF ₃ CF ₂ CF ₂ OCH ₂ CH ₃ | NA | 61* |
| 2-Ethoxy-3,3,4,4,5-pentafluorotetrahydro-2,5-bis[1,2,2,2-tetrafluoro-1-(trifluoromethyl)ethyl]-furan | 920979-28-8 | C ₁₂ H ₅ F ₁₉ O ₂ | NA | 56* |
| 1-Ethoxy-1,1,2,3,3,3-hexafluoropropane | 380-34-7 | CF ₃ CHFCF ₂ OCH ₂ CH ₃ | NA | 23* |
| Fluoro(methoxy)methane | 460-22-0 | CH ₃ OCH ₂ F | NA | 13* |
| 1,1,2,2-Tetrafluoro-3-methoxypropane; Methyl 2,2,3,3-tetrafluoropropyl ether | 60598-17-6 | CHF ₂ CF ₂ CH ₂ OCH ₃ | NA | 0.5* |
| 1,1,2,2-Tetrafluoro-1-(fluoromethoxy) ethane | 37031-31-5 | CH ₂ FOCF ₂ CF ₂ H | NA | 871* |
| Difluoro (fluoromethoxy) methane | 461-63-2 | CH ₂ FOCHF ₂ | NA | 617* |
| Fluoro (fluoromethoxy) methane | 462-51-1 | CH ₂ FOCH ₂ F | NA | 130* |
| Fluorinated Formates | | | | |
| Trifluoromethyl formate | 85358-65-2 | HCOOCF ₃ | NA | 588* |
| Perfluoroethyl formate | 313064-40-3 | HCOOCF ₂ CF ₃ | NA | 580* |
| 1,2,2,2-Tetrafluoroethyl formate | 481631-19-0 | HCOOCHFCF ₃ | NA | 470* |
| Perfluorobutyl formate | 197218-56-7 | HCOOCF ₂ CF ₂ CF ₂ CF ₃ | NA | 392* |
| Perfluoropropyl formate | 271257-42-2 | HCOOCF ₂ CF ₂ CF ₃ | NA | 376* |
| 1,1,1,3,3,3-Hexafluoropropan-2-yl formate | 856766-70-6 | HCOOCH(CF ₃) ₂ | NA | 333* |
| 2,2,2-Trifluoroethyl formate | 32042-38-9 | HCOOCH ₂ CF ₃ | NA | 33* |
| 3,3,3-Trifluoropropyl formate | 1344118-09-7 | HCOOCH ₂ CH ₂ CF ₃ | NA | 17* |
| Fluorinated Acetates | | | | |
| Methyl 2,2,2-trifluoroacetate | 431-47-0 | CF ₃ COOCH ₃ | NA | 52* |
| 1,1-Difluoroethyl 2,2,2-trifluoroacetate | 1344118-13-3 | CF ₃ COOCF ₂ CH ₃ | NA | 31* |
| Difluoromethyl 2,2,2-trifluoroacetate | 2024-86-4 | CF ₃ COOCHF ₂ | NA | 27* |
| 2,2,2-Trifluoroethyl 2,2,2-trifluoroacetate | 407-38-5 | CF ₃ COOCH ₂ CF ₃ | NA | 7* |
| Methyl 2,2-difluoroacetate | 433-53-4 | HCF ₂ COOCH ₃ | NA | 3* |
| Perfluoroethyl acetate | 343269-97-6 | CH ₃ COOCF ₂ CF ₃ | NA | 2.1* |

| Name | CAS No. | Chemical Formula | GWP (100 yr.) ^{1,2} | |
|---|--------------|--|------------------------------|-----------------------|
| | | | 2012-2013 | ≥ 2014 ^{3,4} |
| Trifluoromethyl acetate | 74123-20-9 | CH ₃ COOCF ₃ | NA | 2.0* |
| Perfluoropropyl acetate | 1344118-10-0 | CH ₃ COOCF ₂ CF ₂ CF ₃ | NA | 1.8* |
| Perfluorobutyl acetate | 209597-28-4 | CH ₃ COOCF ₂ CF ₂ CF ₂ CF ₃ | NA | 1.6* |
| Ethyl 2,2,2-trifluoroacetate | 383-63-1 | CF ₃ COOCH ₂ CH ₃ | NA | 1.3* |
| Carbonofluoridates | | | | |
| Methyl carbonofluoridate | 1538-06-3 | FCOOCH ₃ | NA | 95* |
| 1,1-Difluoroethyl carbonofluoridate | 1344118-11-1 | FCOOCF ₂ CH ₃ | NA | 27* |
| Fluorinated Alcohols other than Fluorotelomer Alcohols | | | | |
| Bis(trifluoromethyl)-methanol | 920-66-1 | (CF ₃) ₂ CHOH | 195 | 195 |
| (Octafluorotetramethyl-ene) hydroxymethyl group | NA | X-(CF ₂) ₄ CH(OH)-X | 73 | 73 |
| 2,2,3,3,3-pentafluoropropanol | 422-05-9 | CF ₃ CF ₂ CH ₂ OH | 42 | 42 |
| 2,2,3,3,3,4,4,4-Heptafluorobutan-1-ol | 375-01-9 | C ₃ F ₇ CH ₂ OH | NA | 25* |
| 2,2,2-Trifluoroethanol | 75-89-8 | CF ₃ CH ₂ OH | NA | 20* |
| 2,2,3,4,4,4-Hexafluoro-1-butanol | 382-31-0 | CF ₃ CHFCF ₂ CH ₂ OH | NA | 17* |
| 2,2,3,3-Tetrafluoro-1-propanol | 76-37-9 | CHF ₂ CF ₂ CH ₂ OH | NA | 13* |
| 2,2-Difluoroethanol | 359-13-7 | CHF ₂ CH ₂ OH | NA | 3* |
| 2-Fluoroethanol | 371-62-0 | CH ₂ FCH ₂ OH | NA | 1.1* |
| 4,4,4-Trifluorobutan-1-ol | 461-18-7 | CF ₃ (CH ₂) ₂ CH ₂ OH | NA | 0.05* |
| Unsaturated Perfluorocarbons (PFCs) | | | | |
| PFC-1114; TFE (tetrafluoroethylene (TFE); Perfluoroethene) | 116-14-3 | CF ₂ =CF ₂ ; C ₂ F ₄ | 0.04 | 0.004 |
| PFC-1216; Dyneon HFP (hexafluoropropylene (HFP); Perfluoropropene) | 116-15-4 | C ₃ F ₆ ; CF ₃ CF=CF ₂ | 0.05 | 0.05 |
| PFC C-1418 (Perfluorocyclopentene; Octafluorocyclopentene) | 559-40-0 | c-C ₅ F ₈ | 1.97 | 1.97 |
| Perfluorobut-2-ene | 360-89-4 | CF ₃ CF=CFCF ₃ | 1.82 | 1.82 |
| Perfluorobut-1-ene | 357-26-6 | CF ₃ CF ₂ CF=CF ₂ | 0.10 | 0.10 |
| Perfluorobuta-1,3-diene | 685-63-2 | CF ₂ =CFCF=CF ₂ | 0 | 0.003 |
| Unsaturated Hydrofluorocarbons (HFCs) and Hydrochlorofluorocarbons (HCFCs) | | | | |
| HFC-1132a; VF2 (vinylidene fluoride) | 75-38-7 | C ₂ H ₂ F ₂ , CF ₂ =CH ₂ | 0.04 | 0.04 |
| HFC-1141; VF (vinyl fluoride) | 75-02-5 | C ₂ H ₃ F, CH ₂ =CHF | 0.02 | 0.02 |
| (E)-HFC-1225ye ((E)-1,2,3,3,3-Pentafluoroprop-1-ene) | 5595-10-8 | CF ₃ CF=CHF(E) | 0.06 | 0.06 |
| (Z)-HFC-1225ye ((Z)-1,2,3,3,3-Pentafluoroprop-1-ene) | 5528-43-8 | CF ₃ CF=CHF(Z) | 0.22 | 0.22 |
| Solstice 1233zd(E) (trans-1-chloro-3,3,3-trifluoroprop-1-ene) | 102687-65-0 | C ₃ H ₂ ClF ₃ ; CHCl=CHCF ₃ | NA | 1.34* |

| Name | CAS No. | Chemical Formula | GWP (100 yr.) ^{1,2} | |
|--|-------------|---|------------------------------|-----------------------|
| | | | 2012-2013 | ≥ 2014 ^{3,4} |
| HFC-1234yf; HFO-1234yf
(2,3,3,3-Tetrafluoroprop-1-ene) | 754-12-1 | C ₃ H ₂ F ₄ ; CF ₃ CF=CH ₂ | 0.31 | 0.31 |
| HFC-1234ze(E) ((E)-1,3,3,3-Tetrafluoroprop-1-ene) | 1645-83-6 | C ₃ H ₂ F ₄ ; trans-CF ₃ CH=CHF | 0.97 | 0.97 |
| HFC-1234ze(Z) ((Z)-1,3,3,3-Tetrafluoroprop-1-ene) | 29118-25-0 | C ₃ H ₂ F ₄ ; cis-CF ₃ CH=CHF;
CF ₃ CH=CHF | 0.29 | 0.29 |
| HFC-1243zf; TFP (trifluoro propene (TFP)); 3,3,3-Trifluoroprop-1-ene) | 677-21-4 | C ₃ H ₃ F ₃ ; CF ₃ CH=CH ₂ | 0.12 | 0.12 |
| (Z)-HFC-1336 ((Z)-1,1,1,4,4,4-Hexafluorobut-2-ene) | 692-49-9 | CF ₃ CH=CHCF ₃ (Z) | 1.58 | 1.58 |
| HFC-1345zfc (3,3,4,4,4-Pentafluorobut-1-ene) | 374-27-6 | C ₂ F ₅ CH=CH ₂ | 0.09 | 0.09 |
| Capstone 42-U (perfluorobutyl ethene (42-U)); 3,3,4,4,5,5,6,6,6-Nonafluorohex-1-ene) | 19430-93-4 | C ₆ H ₃ F ₉ ; CF ₃ (CF ₂) ₃ CH=CH ₂ | 0.16 | 0.16 |
| Capstone 62-U (perfluorohexyl ethene (62-U)); 3,3,4,4,5,5,6,6,7,7,8,8,8-Tridecafluorooct-1-ene) | 25291-17-2 | C ₈ H ₃ F ₁₃ ; CF ₃ (CF ₂) ₅ CH=CH ₂ | 0.11 | 0.11 |
| Capstone 82-U (perfluorooctyl ethene (82-U)); 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-Heptafluorodec-1-ene) | 21652-58-4 | C ₁₀ H ₃ F ₁₇ ; CF ₃ (CF ₂) ₇ CH=CH ₂ | 0.09 | 0.09 |
| Unsaturated Halogenated Ethers | | | | |
| PMVE; HFE-216 (perfluoromethyl vinyl ether (PMVE)) | 1187-93-5 | CF ₃ OCF=CF ₂ | NA | 0.17* |
| Fluoroxene ((2,2,2-Trifluoroethoxy) ethene) | 406-90-6 | CF ₃ CH ₂ OCH=CH ₂ | NA | 0.05* |
| Fluorinated Aldehydes | | | | |
| 3,3,3-Trifluoro-propanal | 460-40-2 | CF ₃ CH ₂ CHO | NA | 0.01* |
| Fluorinated Ketones | | | | |
| Novac 1230 (FK-5-1-12 Perfluoroketone; FK-5-1-12myy2; perfluoro (2-methyl-3-pentanone)) | 756-13-8 | CF ₃ CF ₂ C(O)CF (CF ₃) ₂ | NA | 0.1* |
| Fluorotelomer Alcohols | | | | |
| 3,3,4,4,5,5,6,6,7,7,7-Undecafluoroheptan-1-ol | 185689-57-0 | CF ₃ (CF ₂) ₄ CH ₂ CH ₂ OH | NA | 0.43* |
| 3,3,3-Trifluoropropan-1-ol | 2240-88-2 | CF ₃ CH ₂ CH ₂ OH | NA | 0.35* |
| 3,3,4,4,5,5,6,6,7,7,8,8,9,9,9-Pentadecafluoronon-1-ol | 755-02-2 | CF ₃ (CF ₂) ₆ CH ₂ CH ₂ OH | NA | 0.33* |
| 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,11-Nonadecafluoroundecan-1-ol | 87017-97-8 | CF ₃ (CF ₂) ₈ CH ₂ CH ₂ OH | NA | 0.19* |
| Fluorinated GHGs with Carbon-Iodine Bond(s) | | | | |
| Trifluoroiodomethane | 2314-97-8 | CF ₃ I | NA | 0.4* |

| Name | CAS No. | Chemical Formula | GWP (100 yr.) ^{1,2} | |
|---|----------|---------------------------------|------------------------------|-----------------------|
| | | | 2012-2013 | ≥ 2014 ^{3,4} |
| Other Fluorinated Compounds | | | | |
| Dibromodifluoromethane (Halon 1202) | 75-61-6 | CBr ₂ F ₂ | NA | 231* |
| 2-Bromo-2-chloro-1,1,1-trifluoroethane (Halon-2311/Halothane) | 151-67-7 | CHBrClCF ₃ | NA | 41* |
| Default GWPs for which Chemical-Specific GWPs are not Listed Above | | | | |
| Saturated PFCs | | | 10,000 | 10,000 |
| Saturated HFCs with 2 or fewer carbon-hydrogen bonds | | | 3,700 | 3,700 |
| Saturated HFCs with 3 or more carbon-hydrogen bonds | | | 930 | 930 |
| Unsaturated PFCs and unsaturated HFCs | | | 1 | 1 |

NA = not available.

¹ = **Determining applicability for emissions years 2013 and 2014.** For emissions year 2013 (reported in 2014) and emissions year 2014 (reported in 2015), facilities may use the GWPs in either column when calculating GHG emissions for comparison to the reporting threshold under WAC 173-441-030((+)).

² = **Calculating annual GHG emissions for emissions year 2013.** For emissions year 2013 (reported in 2014), facilities may use the GWPs in either column when calculating GHG emissions for the annual GHG report.

³ = **Determining applicability for emissions year 2015+.** For emissions year 2015 (reported in 2016) and subsequent years, facilities must use the GWPs in this column when calculating GHG emissions for comparison to the reporting threshold under WAC 173-441-030((+)).

⁴ = **Calculating annual GHG emissions for emissions year 2014+.** For emissions year 2014 (reported in 2015) and subsequent years, facilities must use the GWPs in this column when calculating GHG emissions for the annual GHG report.

* = Requirements to include emissions of this compound when calculating GHG emissions for comparison to the reporting threshold under WAC 173-441-030((+)) and when calculating GHG emissions for the annual GHG report become effective beginning with emissions year 2016 (reported in 2017).

AMENDATORY SECTION (Amending WSR 16-19-047, filed 9/15/16, effective 10/16/16)

WAC 173-441-050 General monitoring, reporting, recordkeeping and verification requirements. Persons subject to the requirements of this chapter must submit GHG reports to ecology, as specified in this section. Every metric ton of CO₂e emitted by a ((facility or supplier)) reporter required to report under this chapter and covered under any applicable source category listed in WAC 173-441-120, ~~173-441-122, or ((173-441-130)) 173-441-124~~ must be included in the report.

(1) **General.** Follow the procedures for emission calculation, monitoring, quality assurance, missing data, record-keeping, and reporting that are specified in each relevant section of this chapter.

(2) **Schedule.** The annual GHG report must be submitted as follows:

(a) Report submission due date:

(i) A person required to report or voluntarily reporting GHG emissions ((to the United States Environmental Protection Agency under 40 C.F.R. Part 98)) under WAC 173-441-030 must submit the report required under this chapter to ecology no later than March 31st of each calendar year for GHG emissions in the previous calendar year. Electric power entities reporting under WAC 173-441-124 must submit a report based on best available information by March 31st. Electric power entities reporting under WAC 173-441-124 must submit a final revised report by June 1st of each calendar year for GHG emissions in the previous calendar year

consistent with deadlines for electric power entities in external GHG emissions trading programs.

(ii) ((A person not required to report GHG emissions to the United States Environmental Protection Agency under 40 C.F.R. Part 98 must submit the report required under this chapter to ecology no later than October 31st of each calendar year for GHG emissions in the previous calendar year.

(iii)) Unless otherwise stated, if the final day of any time period falls on a weekend or a state holiday, the time period shall be extended to the next business day.

(b) Reporting requirements begin:

(i) For an existing ((facility or supplier)) reporter that began operation before January 1, 2012, report emissions for calendar year 2012 and each subsequent calendar year.

(ii) For a new ((facility or supplier)) reporter that begins operation on or after January 1, 2012, and becomes subject to the rule in the year that it becomes operational, report emissions beginning with the first operating month and ending on December 31st of that year. Each subsequent annual report must cover emissions for the calendar year, beginning on January 1st and ending on December 31st.

(iii) For any ((facility or supplier)) reporter that becomes subject to this rule because of a physical or operational change that is made after January 1, 2012, report emissions for the first calendar year in which the change occurs.

(A) ((Facilities)) Reporters begin reporting with the first month of the change and ending on December 31st of that year. For a ((facility)) reporter that becomes subject to this rule solely because of an increase in hours of operation or level of production, the first month of the change is the month

in which the increased hours of operation or level of production, if maintained for the remainder of the year, would cause the ~~((facility or supplier))~~ reporter to exceed the applicable threshold.

(B) Suppliers and electric power entities begin reporting January 1st and ending on December 31st the year of the change.

(C) For ~~((both facilities and suppliers))~~ all reporters, each subsequent annual report must cover emissions for the calendar year, beginning on January 1st and ending on December 31st.

(3) **Content of the annual report.** Each annual GHG report must contain the following information~~((+))~~. All reported information is subject to verification by ecology as described in subsection (5) of this section.

(a) ~~((Facility name or supplier))~~ Reporter name ~~((as appropriate), facility or supplier)~~, reporter ID number, and physical street address of the ~~((facility or supplier))~~ reporter, including the city, state, and zip code. If the facility does not have a physical street address, then the facility must provide the latitude and longitude representing the geographic centroid or center point of facility operations in decimal degree format. This must be provided in a comma-delimited "latitude, longitude" coordinate pair reported in decimal degrees to at least four digits to the right of the decimal point.

(b) Year and months covered by the report.

(c) Date of submittal.

(d) For facilities, report annual emissions of each GHG (as defined in WAC 173-441-020) and each fluorinated heat transfer fluid, as follows:

(i) Annual emissions (including biogenic CO₂) aggregated for all GHGs from all applicable source categories in WAC 173-441-120 and expressed in metric tons of CO₂e calculated using Equation A-1 of WAC 173-441-030 (1)(b)(iii).

(ii) Annual emissions of biogenic CO₂ aggregated for all applicable source categories in WAC 173-441-120, expressed in metric tons.

(iii) Annual emissions from each applicable source category in WAC 173-441-120, expressed in metric tons of each applicable GHG listed in subsections (3)(d)(iii)(A) through (F) of this section.

(A) Biogenic CO₂.

(B) CO₂ (including biogenic CO₂).

(C) CH₄.

(D) N₂O.

(E) Each fluorinated GHG.

(F) For electronics manufacturing each fluorinated heat transfer fluid that is not also a fluorinated GHG as specified under WAC 173-441-040.

(iv) Emissions and other data for individual units, processes, activities, and operations as specified in the "data reporting requirements" section of each applicable source category referenced in WAC 173-441-120.

(v) Indicate (yes or no) whether reported emissions include emissions from a cogeneration unit located at the facility.

(vi) When applying subsection (3)(d)(i) of this section to fluorinated GHGs and fluorinated heat transfer fluids, calcu-

late and report CO₂e for only those fluorinated GHGs and fluorinated heat transfer fluids listed in WAC 173-441-040.

(vii) For reporting year 2014 and thereafter, you must enter into verification software specified by the director the data specified in the verification software records provision in each applicable recordkeeping section. For each data element entered into the verification software, if the software produces a warning message for the data value and you elect not to revise the data value, you may provide an explanation in the verification software of why the data value is not being revised. Whenever the use of verification software is required or voluntarily used, the file generated by the verification software must be submitted with the facility's annual GHG report.

(e) For suppliers and electric power entities, report ~~((the following information:~~

~~(i) Annual emissions of CO₂, expressed in metric tons of CO₂, as required in subsections (3)(e)(i)(A) and (B) of this section that would be emitted from the complete combustion or oxidation of the fuels reported to DOL as sold in Washington state during the calendar year.~~

~~(A) Aggregate biogenic CO₂.~~

~~(B) Aggregate CO₂ (including nonbiogenic and biogenic CO₂).~~

~~(ii) All contact information reported to DOL not included in (a) of this subsection.)~~ annual emissions of each GHG (as defined in WAC 173-441-020) as follows:

(i) Annual emissions (including biogenic CO₂) aggregated for all GHGs from all applicable source categories in WAC 173-441-122 and 173-441-124 and expressed in metric tons of CO₂e calculated using Equation A-1 of WAC 173-441-030 (1)(b)(iii).

(ii) Annual emissions of biogenic CO₂ aggregated for all applicable source categories in WAC 173-441-122 and 173-441-124, expressed in metric tons.

(iii) Annual emissions from each applicable source category in WAC 173-441-122 and 173-441-124, expressed in metric tons of each applicable GHG listed in subsection (3)(d)(iii)(A) through (E) of this section.

(A) Biogenic CO₂.

(B) CO₂ (including biogenic CO₂).

(C) CH₄.

(D) N₂O.

(E) Each fluorinated GHG.

(iv) Emissions and other data for individual units, processes, activities, and operations as specified in the "data reporting requirements" section of each applicable source category referenced in WAC 173-441-122 and 173-441-124.

(f) A written explanation, as required under subsection (4) of this section, if you change emission or product data calculation methodologies during the reporting period or since the previous reporting period.

(g) Each data element for which a missing data procedure was used according to the procedures of an applicable subpart referenced in WAC 173-441-120, 173-441-122, or 173-441-124 and the total number of hours in the year that a missing data procedure was used for each data element.

(h) A signed and dated certification statement provided by the designated representative of the owner or operator, according to the requirements of WAC 173-441-060 (5)(a).

(i) NAICS code(s) that apply to the ~~((facility or supplier))~~ reporter. NAICS codes are subject to approval by ecology.

(i) Primary NAICS code. Report the NAICS code that most accurately describes the ~~((facility or supplier's))~~ reporter's primary product/activity/service. The primary product/activity/service is the principal source of revenue for the ~~((facility or supplier))~~ reporter. A ~~((facility or supplier))~~ reporter that has two distinct products/activities/services providing comparable revenue may report a second primary NAICS code.

(ii) Additional NAICS code(s). Report all additional NAICS codes that describe all product(s)/activity(s)/service(s) at the ~~((facility or supplier))~~ reporter that are not related to the principal source of revenue.

(j) Legal name(s) and physical address(es) of the highest-level United States parent company(s) of the owners (or operators) of the ~~((facility or supplier))~~ reporter and the percentage of ownership interest for each listed parent company as of December 31st of the year for which data are being reported according to the following instructions~~(s)~~. Also describe any direct or indirect affiliation with other reporters.

(i) If the ~~((facility or supplier))~~ reporter is entirely owned by a single United States company that is not owned by another company, provide that company's legal name and physical address as the United States parent company and report one hundred percent ownership.

(ii) If the ~~((facility or supplier))~~ reporter is entirely owned by a single United States company that is, itself, owned by another company (e.g., it is a division or subsidiary of a higher-level company), provide the legal name and physical address of the highest-level company in the ownership hierarchy as the United States parent company and report one hundred percent ownership.

(iii) If the ~~((facility or supplier))~~ reporter is owned by more than one United States company (e.g., company A owns forty percent, company B owns thirty-five percent, and company C owns twenty-five percent), provide the legal names and physical addresses of all the highest-level companies with an ownership interest as the United States parent companies and report the percent ownership of each company.

(iv) If the ~~((facility or supplier))~~ reporter is owned by a joint venture or a cooperative, the joint venture or cooperative is its own United States parent company. Provide the legal name and physical address of the joint venture or cooperative as the United States parent company, and report one

hundred percent ownership by the joint venture or cooperative.

(v) If the ~~((facility or supplier))~~ reporter is entirely owned by a foreign company, provide the legal name and physical address of the foreign company's highest-level company based in the United States as the United States parent company, and report one hundred percent ownership.

(vi) If the ~~((facility or supplier))~~ reporter is partially owned by a foreign company and partially owned by one or more United States companies, provide the legal name and physical address of the foreign company's highest-level company based in the United States, along with the legal names and physical addresses of the other United States parent companies, and report the percent ownership of each of these companies.

(vii) If the ~~((facility or supplier))~~ reporter is a federally owned facility, report "U.S. Government" and do not report physical address or percent ownership.

(k) An indication of whether the facility includes one or more plant sites that have been assigned a "plant code" by either the Department of Energy's Energy Information Administration or by the Environmental Protection Agency's (EPA) Clean Air Markets Division.

(l) Facilities, report total annual electricity purchased in megawatt hours (Mwh), itemized by the supplying utility or, if not obtained from a utility, from the supplying electric power entity for each different source of electricity. Total annual purchases must be reported separately for each supplying utility or electric power entity. Self-generated electricity should be itemized separately.

(m) Report fuel use or supplied as follows:

(i) Facilities, report each fuel combusted separately by type, quantity, and units of measurement.

(ii) Fuel suppliers, report:

(A) Each fuel supplied separately by type, quantity, and units of measurement; and

(B) Separately report the quantity of each fuel type by purpose if the fuel supplier reports that the fuel is used for one of the purposes described in WAC 173-441-122 (5)(d)(xi).

(n) Facilities, report total annual facility product data, units of production, and specific product based on their first primary NAICS code.

(i) Facilities with a primary NAICS code listed in Table 050-1 of this section must report total annual facility product data as described in Table 050-1. Use six digit NAICS codes when available, otherwise use the shorter NAICS codes listed below substituting the values in the full reported six digit NAICS code for "X".

Table 050-1: Total Annual Facility Product Data Requirements by Primary NAICS Code.

| <u>Primary NAICS Code and Sector Definition</u> | <u>Activity</u> | <u>Production Metric</u> |
|---|---|---|
| <u>112112: Cattle Feedlots</u> | <u>Cattle feedlots</u> | <u>Cattle head days</u> |
| <u>211130: Natural Gas Extraction</u> | <u>Natural gas extraction</u> | <u>Million standard cubic feet of natural gas extracted</u> |
| <u>212399: All Other Nonmetallic Mineral Mining</u> | <u>Freshwater diatomite filter aids manufacturing</u> | <u>Metric tons of mineral product produced</u> |

| <u>Primary NAICS Code and Sector Definition</u> | <u>Activity</u> | <u>Production Metric</u> |
|--|--|--|
| <u>2211XX: Electric Power Generation, Transmission and Distribution</u> | <u>Electric power generation, transmission and distribution</u> | <u>Net megawatt hours</u> |
| <u>221210: Natural Gas Distribution</u> | <u>Natural gas distribution</u> | <u>Million standard cubic feet of natural gas distributed</u> |
| <u>221330: Steam and Air-conditioning Supply</u> | <u>Steam supply</u> | <u>Kilograms steam produced</u> |
| <u>311213: Malt Manufacturing</u> | <u>Malt manufacturing</u> | <u>Metric tons of malt produced</u> |
| <u>3114XX: Fruit and Vegetable Preserving and Specialty Food Manufacturing</u> | <u>Fruit and vegetable preserving and specialty food manufacturing</u> | <u>Metric tons of food product produced</u> |
| <u>3115XX: Dairy Product Manufacturing</u> | <u>Dairy product manufacturing</u> | <u>Metric tons of dairy product produced</u> |
| <u>311611: Animal (except poultry) Slaughtering</u> | <u>Animal (except poultry) slaughtering</u> | <u>Metric tons of meat product processed</u> |
| <u>311613: Rendering and Meat By-product Processing</u> | <u>Rendering and meat by-product processing</u> | <u>Metric tons of meat by-product processed</u> |
| <u>311919: Other Snack Food Manufacturing</u> | <u>Other snack food manufacturing</u> | <u>Metric tons of snack food produced</u> |
| <u>311920: Coffee and Tea Manufacturing</u> | <u>Coffee and tea manufacturing</u> | <u>Metric tons of coffee and tea produced</u> |
| <u>321XXX: Wood Product Manufacturing</u> | <u>Wood product manufacturing</u> | <u>Air dried metric tons of wood product produced</u> |
| <u>3221XX: Pulp, Paper, and Paperboard Mills</u> | <u>Pulp, paper, and paperboard mills</u> | <u>Air dried metric tons of pulp produced</u> |
| <u>322299: All Other Converted Paper Product Manufacturing</u> | <u>All other converted paper product manufacturing</u> | <u>Metric tons of converted paper product produced</u> |
| <u>324110: Petroleum Refineries</u> | <u>Petroleum refineries</u> | <u>Complexity weighted barrel as described in CARB MRR section 95113 (1)(3) as adopted by 7/1/2021. Supporting data must also be submitted to Ecology as described in CARB MRR section 95113 (1)(3).</u> |
| <u>324121: Asphalt Paving Mixture and Block Manufacturing</u> | <u>Asphalt paving mixture and block manufacturing</u> | <u>Metric tons of asphalt paving mixture and block produced</u> |
| <u>3251XX: Basic Chemical Manufacturing</u> | <u>Basic chemical manufacturing</u> | <u>Metric tons of chemical produced</u> |
| <u>325311: Nitrogenous Fertilizer Manufacturing</u> | <u>Nitric acid production</u> | <u>Metric tons of nitric acid produced</u> |
| <u>32721X: Glass and Glass Product Manufacturing</u> | <u>Glass and glass product manufacturing</u> | <u>Metric tons of glass produced</u> |
| <u>327310: Cement Manufacturing</u> | <u>Cement manufacturing</u> | <u>Metric tons of adjusted clinker and mineral additives produced</u> |
| <u>327390: Other Concrete Product Manufacturing</u> | <u>Other concrete product manufacturing</u> | <u>Metric tons of concrete product produced</u> |
| <u>327410: Lime Manufacturing</u> | <u>Lime manufacturing</u> | <u>Metric tons of lime produced</u> |
| <u>327420: Gypsum Product Manufacturing</u> | <u>Gypsum product manufacturing</u> | <u>Metric tons of gypsum product produced</u> |
| <u>331110: Iron and Steel Mills and Ferroalloy Manufacturing</u> | <u>Steel production using an electric arc furnace (EAF)</u> | <u>Metric tons of steel produced</u> |

| <u>Primary NAICS Code and Sector Definition</u> | <u>Activity</u> | <u>Production Metric</u> |
|---|---|---|
| <u>33131X: Alumina and Aluminum Production and Processing</u> | <u>Alumina and aluminum production and processing</u> | <u>Metric tons of aluminum produced</u> |
| <u>331410: Nonferrous Metal (except aluminum) Smelting and Refining</u> | <u>Granular polysilicon production</u> | <u>Metric tons of granular polysilicon produced</u> |
| <u>332111: Iron and Steel Forging</u> | <u>Iron forging</u> | <u>Metric tons of iron produced</u> |
| <u>334413: Semiconductor and Related Device Manufacturing</u> | <u>Semiconductor and related device manufacturing</u> | <u>Square meters of wafer produced</u> |
| <u>335991: Carbon and Graphite Product Manufacturing</u> | <u>Carbon and graphite product manufacturing</u> | <u>Metric tons of carbon and graphite product produced</u> |
| <u>3364XX: Aerospace Product and Parts Manufacturing</u> | <u>Aerospace product and parts manufacturing</u> | <u>Metric tons of aircraft product and parts produced</u> |
| <u>486210: Pipeline Transportation of Natural Gas</u> | <u>Pipeline transportation of natural gas</u> | <u>Million standard cubic feet of natural gas transported</u> |
| <u>488119: Other Airport Operations</u> | <u>Other airport operations</u> | <u>Passenger kilometers serviced</u> |
| <u>562111: Solid Waste Collection</u> | <u>Solid waste collection</u> | <u>Metric tons of total solid waste collected</u> |
| <u>562212: Solid Waste Landfill</u> | <u>Solid waste landfill</u> | <u>Metric tons of total waste entered into landfill</u> |
| <u>562213: Solid Waste Combustors and Incinerators</u> | <u>Solid waste combustors and incinerators</u> | <u>Net megawatt hours</u> |
| <u>611310: Colleges, Universities, and Professional Schools</u> | <u>Colleges, universities, and professional schools</u> | <u>Students serviced</u> |
| <u>928110: National Security</u> | <u>Military bases</u> | <u>Troops stationed</u> |

(ii) Facilities without a primary NAICS code listed in Table 050-1 of this section must contact ecology no later than forty-five calendar days prior to the emissions report deadline established in subsection (2) of this section and report total annual facility product data as instructed by the department. If ecology does not identify product data for a facility, a facility must use the energy-based calculation method described in Equation 050-1 of this section. Report product data and inputs to the equation. Product data calculated using the energy-based method shall use the following equation:

$$\text{Product data} \equiv S_{\text{consumed}} + E_{\text{consumed}} - e_{\text{sold}} \quad (\text{Eq. 050-1})$$

Where:

"S_{Consumed}" is the annual amount of steam consumed, measured in MMBtu, at the facility for any process, including heating or cooling applications. This value shall exclude any steam used to produce electricity. This value shall exclude steam produced from an on-site cogeneration unit;

"E_{Consumed}" is the annual amount of energy produced due to fuel combustion at the facility, measured in MMBtu. This value shall be calculated based on measured higher heating values or the default higher heating value of the applicable fuel in Table C-1 of 40 C.F.R. Part 98. This value shall include any energy from fuel combusted in an on-site electricity generation or cogeneration unit. This value shall exclude energy to generate the steam accounted for in the "S_{Consumed}" term;

"e_{Sold}" is the annual amount of electricity sold or provided for off-site use, measured in MWh and converted to MMBtu using the reporting year U.S. Energy Information Administration conversion factor;

(iii) Facilities with a change in operation that alters either their primary NAICS code, units of production, or product data measurement method must contact ecology no later than forty-five calendar days prior to the emissions report deadline established in subsection (2) of this section and report total annual facility product data as instructed by the department. If ecology does not identify product data for a facility, a facility must use the energy-based calculation method described in Equation 050-1 of this section. Report product data and inputs to the equation.

(o) Reporters that cease operation, other than routine maintenance or seasonal shutdowns, for more than 90 calendar days must provide the following information:

(i) The anticipated type of cessation: Closure or curtailment;

(ii) Date cessation began;

(iii) Date cessation ended (if applicable); and

(iv) Reason for cessation and/or resumption of operation.

(p) If there is an increase or decrease of more than five percent in emissions of greenhouse gases in relation to the previous year, the reporter must provide a brief narrative description of what caused the increase or decrease in emissions.

(4) **Emission calculations.** In preparing the GHG report, you must use the calculation methodologies specified in the relevant sections of this chapter. For each source category, you must use the same calculation methodology as previous reports. This includes throughout a reporting period (~~unless you~~), and between reporting years. An owner or operator intending to change methodologies must provide a written explanation at least 60 calendar days before the report submission due date in subsection (2)(a) of this section of why a change in methodology was required. Ecology has 45 calendar days to approve or reject the change in method. The reporter must continue to use existing methods until the change is approved by ecology.

(5) **Verification.** To verify the completeness and accuracy of reported GHG emissions, ecology may review the certification statements described in subsection (3)(h) of this section and any other credible evidence, in conjunction with a comprehensive review of the GHG reports and periodic audits of selected reporting facilities. Nothing in this section prohibits ecology from using additional information to verify the completeness and accuracy of the reports. Reporters must cooperate with ecology's efforts to verify GHG reports.

(6) **Recordkeeping.** A person that is required to report GHGs under this chapter must keep records as specified in this subsection. Retain all required records for at least ~~(three)~~ 10 years from the date of submission of the annual GHG report for the reporting year in which the record was generated. Upon request by ecology, the person must submit the records required under this section (~~must be made available to ecology~~) within 15 business days of receipt of the notification, unless a different schedule is agreed to by ecology. Records may be retained off-site if the records are readily available for expeditious inspection and review. For records that are electronically generated or maintained, the equipment or software necessary to read the records must be made available, or, if requested by ecology, electronic records must be converted to paper documents. You must retain the following records, in addition to those records prescribed in each applicable section of this chapter:

(a) A list of all units, operations, processes, and activities for which GHG emissions were calculated.

(b) The data used to calculate the GHG emissions for each unit, operation, process, and activity, categorized by fuel or material type. These data include, but are not limited to, the following information:

(i) The GHG emissions calculations and methods used.

(ii) Analytical results for the development of site-specific emissions factors.

(iii) The results of all required analyses for high heat value, carbon content, and other required fuel or feedstock parameters.

(iv) Any facility operating data or process information used for the GHG emission calculations.

(c) The annual GHG reports.

(d) Missing data computations. For each missing data event, also retain a record of the cause of the event and the corrective actions taken to restore malfunctioning monitoring equipment.

(e) Owners or operators required to report under WAC 173-441-030(~~(+)~~) must keep a written GHG monitoring plan (monitoring plan, plan).

(i) At a minimum, the GHG monitoring plan must include the following elements:

(A) Identification of positions of responsibility (i.e., job titles) for collection of the emissions data.

(B) Explanation of the processes and methods used to collect the necessary data for the GHG calculations.

(C) Description of the procedures and methods that are used for quality assurance, maintenance, and repair of all continuous monitoring systems, flow meters, and other instrumentation used to provide data for the GHGs reported under this chapter.

(D) Facilities must reference to one or more simplified block diagrams that provide a clear visual representation of the relative locations and positions of measurement devices and sampling locations, as applicable, required for calculating covered emissions and covered product data (e.g., temperature, total pressure, HHV, fuel consumption). The diagram(s) must include fuel sources, combustion units, and production processes, as applicable.

(ii) The GHG monitoring plan may rely on references to existing corporate documents (e.g., standard operating procedures, quality assurance programs under appendix F to 40 C.F.R. Part 60 or appendix B to 40 C.F.R. Part 75, and other documents) provided that the elements required by (e)(i) of this subsection are easily recognizable.

(iii) The owner or operator must revise the GHG monitoring plan as needed to reflect changes in production processes, monitoring instrumentation, and quality assurance procedures; or to improve procedures for the maintenance and repair of monitoring systems to reduce the frequency of monitoring equipment downtime.

(iv) Upon request by ecology, the owner or operator must make all information that is collected in conformance with the GHG monitoring plan available for review during an audit within 15 business days of receipt of the notification. Electronic storage of the information in the plan is permissible, provided that the information can be made available in hard copy upon request during an audit.

(f) The results of all required certification and quality assurance tests of continuous monitoring systems, fuel flow meters, and other instrumentation used to provide data for the GHGs reported under this chapter.

(g) Maintenance records for all continuous monitoring systems, flow meters, and other instrumentation used to provide data for the GHGs reported under this chapter.

(h) Suppliers and electric power entities must retain any other data specified in WAC (~~(173-441-130(5))~~) 173-441-122 and 173-441-124.

(7) Annual GHG report revisions.

(a) A person must submit a revised annual GHG report within forty-five calendar days of discovering that an annual GHG report that the person previously submitted contains

one or more substantive errors. The revised report must correct all substantive errors.

(b) Ecology may notify the person in writing that an annual GHG report previously submitted by the person contains one or more substantive errors. Such notification will identify each such substantive error. The person must, within forty-five calendar days of receipt of the notification, either resubmit the report that, for each identified substantive error, corrects the identified substantive error (in accordance with the applicable requirements of this chapter) or provide information demonstrating that the previously submitted report does not contain the identified substantive error or that the identified error is not a substantive error.

(c) A substantive error is an error that impacts the quantity of GHG emissions reported, product data reported, or otherwise prevents the reported data from being validated or verified.

(d) Notwithstanding (a) and (b) of this subsection, upon request by a person, ecology may provide reasonable extensions of the forty-five day period for submission of the revised report or information under (a) and (b) of this subsection. If ecology receives a request for extension of the forty-five day period, by email (~~(to ghgreporting@ecy.wa.gov)~~), at least ~~((two))~~ five business days prior to the expiration of the forty-five calendar day period, and ecology does not respond to the request by the end of such period, the extension request is deemed to be automatically granted for ~~((thirty))~~ 15 more calendar days. During the automatic ~~((thirty-day))~~ 15 day extension, ecology will determine what extension, if any, beyond the automatic extension is reasonable and will provide any such additional extension.

(e) The owner or operator must retain documentation for three years to support any revision made to an annual GHG report.

(8) Calibration and accuracy requirements. The owner or operator of a facility that is subject to the requirements of this chapter must meet the applicable flow meter calibration and accuracy requirements of this subsection. The accuracy specifications in this subsection do not apply where either the use of company records (as defined in WAC 173-441-020(3)) or the use of "best available information" is specified in an applicable subsection of this chapter to quantify fuel usage and/or other parameters. Further, the provisions of this subsection do not apply to stationary fuel combustion units that use the methodologies in 40 C.F.R. Part 75 to calculate CO₂ mass emissions. ~~((Suppliers subject to the requirements of this chapter must meet the calibration accuracy requirements in chapters 308-72, 308-77, and 308-78 WAC.))~~ Measurement devices used for financial transactions between two or more independent parties meet the calibration and accuracy requirements of this chapter.

(a) Except as otherwise provided in (d) through (f) of this subsection, flow meters that measure liquid and gaseous fuel feed rates, process stream flow rates, product data measuring devices, or feedstock flow rates and provide data for the GHG emissions calculations or product data, must be calibrated prior to January 1, 2012, for emissions data or January 1, 2023, for product data, using the procedures specified in this subsection when such calibration is specified in a relevant section of this chapter. Each of these flow meters must

meet the applicable accuracy specification in (b) or (c) of this subsection. All other measurement devices (e.g., weighing devices) that are required by a relevant subsection of this chapter, and that are used to provide data for the GHG emissions calculations or product data, must also be calibrated prior to January 1, 2012, for emissions data or January 1, 2023, for product data; however, the accuracy specifications in (b) and (c) of this subsection do not apply to these devices. Rather, each of these measurement devices must be calibrated to meet the accuracy requirement specified for the device in the applicable subsection of this chapter, or, in the absence of such accuracy requirement, the device must be calibrated to an accuracy within the appropriate error range for the specific measurement technology, based on an applicable operating standard including, but not limited to, manufacturer's specifications and industry standards. The procedures and methods used to quality-assure the data from each measurement device must be documented in the written monitoring plan, pursuant to subsection (6)(e)(i)(C) of this section.

(i) All flow meters and other measurement devices that are subject to the provisions of this subsection must be calibrated according to one of the following: You may use the manufacturer's recommended procedures; an appropriate industry consensus standard method; or a method specified in a relevant section of this chapter. The calibration method(s) used must be documented in the monitoring plan required under subsection (6)(e) of this section.

(ii) For ~~((facilities and suppliers))~~ reporters that become subject to this chapter after January 1, 2012, all flow meters and other measurement devices (if any) that are required by the relevant subsection(s) of this chapter to provide data for the GHG emissions calculations or product data must be installed no later than the date on which data collection is required to begin using the measurement device, and the initial calibration(s) required by this subsection (if any) must be performed no later than that date.

(iii) Except as otherwise provided in (d) through (f) of this subsection, subsequent recalibrations of the flow meters and other measurement devices subject to the requirements of this subsection must be performed at one of the following frequencies:

(A) You may use the frequency specified in each applicable subsection of this chapter.

(B) You may use the frequency recommended by the manufacturer or by an industry consensus standard practice, if no recalibration frequency is specified in an applicable subsection.

(b) Perform all flow meter calibration at measurement points that are representative of the normal operating range of the meter. Except for the orifice, nozzle, and venturi flow meters described in (c) of this subsection, calculate the calibration error at each measurement point using Equation A-2 of this subsection. The terms "R" and "A" in Equation A-2 must be expressed in consistent units of measure (e.g., gallons/minute, ft³/min). The calibration error at each measurement point must not exceed 5.0 percent of the reference value.

$$CE = \frac{|R-A|}{R} \times 100 \quad (Eq. A-2)$$

Where:

- CE = Calibration error (%)
 R = Reference value
 A = Flow meter response to the reference value

(c) For orifice, nozzle, and venturi flow meters, the initial quality assurance consists of in situ calibration of the differential pressure (delta-P), total pressure, and temperature transmitters.

(i) Calibrate each transmitter at a zero point and at least one upscale point. Fixed reference points, such as the freezing point of water, may be used for temperature transmitter calibrations. Calculate the calibration error of each transmitter at each measurement point, using Equation A-3 of this subsection. The terms "R," "A," and "FS" in Equation A-3 of this subsection must be in consistent units of measure (e.g., milliamperes, inches of water, psi, degrees). For each transmitter, the CE value at each measurement point must not exceed 2.0 percent of full-scale. Alternatively, the results are acceptable if the sum of the calculated CE values for the three transmitters at each calibration level (i.e., at the zero level and at each upscale level) does not exceed 6.0 percent.

$$CE = \frac{|R-A|}{FS} \times 100 \quad (Eq. A-3)$$

Where:

- CE = Calibration error (%)
 R = Reference value
 A = Transmitter response to the reference value
 FS = Full-scale value of the transmitter

(ii) In cases where there are only two transmitters (i.e., differential pressure and either temperature or total pressure) in the immediate vicinity of the flow meter's primary element (e.g., the orifice plate), or when there is only a differential pressure transmitter in close proximity to the primary element, calibration of these existing transmitters to a CE of 2.0 percent or less at each measurement point is still required, in accordance with (c)(i) of this subsection; alternatively, when two transmitters are calibrated, the results are acceptable if the sum of the CE values for the two transmitters at each calibration level does not exceed 4.0 percent. However, note that installation and calibration of an additional transmitter (or transmitters) at the flow monitor location to measure temperature or total pressure or both is not required in these cases. Instead, you may use assumed values for temperature and/or total pressure, based on measurements of these param-

eters at a remote location (or locations), provided that the following conditions are met:

(A) You must demonstrate that measurements at the remote location(s) can, when appropriate correction factors are applied, reliably and accurately represent the actual temperature or total pressure at the flow meter under all expected ambient conditions.

(B) You must make all temperature and/or total pressure measurements in the demonstration described in (c)(ii)(A) of this subsection with calibrated gauges, sensors, transmitters, or other appropriate measurement devices. At a minimum, calibrate each of these devices to an accuracy within the appropriate error range for the specific measurement technology, according to one of the following: You may calibrate using a manufacturer's specification or an industry consensus standard.

(C) You must document the methods used for the demonstration described in (c)(ii)(A) of this subsection in the written GHG monitoring plan under subsection (6)(e)(i)(C) of this section. You must also include the data from the demonstration, the mathematical correlation(s) between the remote readings and actual flow meter conditions derived from the data, and any supporting engineering calculations in the GHG monitoring plan. You must maintain all of this information in a format suitable for auditing and inspection.

(D) You must use the mathematical correlation(s) derived from the demonstration described in (c)(ii)(A) of this subsection to convert the remote temperature or the total pressure readings, or both, to the actual temperature or total pressure at the flow meter, or both, on a daily basis. You must then use the actual temperature and total pressure values to correct the measured flow rates to standard conditions.

(E) You must periodically check the correlation(s) between the remote and actual readings (at least once a year), and make any necessary adjustments to the mathematical relationship(s).

(d) Fuel billing meters are exempted from the calibration requirements of this section and from the GHG monitoring plan and recordkeeping provisions of subsection((s)) (6)(e)(i)(C) and (g) of this section, provided that the fuel supplier and any unit combusting the fuel do not have any common owners and are not owned by subsidiaries or affiliates of the same company. Meters used exclusively to measure the flow rates of fuels that are used for unit startup are also exempted from the calibration requirements of this section.

(e) For a flow meter that has been previously calibrated in accordance with (a) of this subsection, an additional calibration is not required by the date specified in (a) of this subsection if, as of that date, the previous calibration is still active (i.e., the device is not yet due for recalibration because the time interval between successive calibrations has not elapsed). In this case, the deadline for the successive calibrations of the flow meter must be set according to one of the following: You may use either the manufacturer's recommended calibration schedule or you may use the industry consensus calibration schedule.

(f) For units and processes that operate continuously with infrequent outages, it may not be possible to meet the deadline established in (a) of this subsection for the initial calibration of a flow meter or other measurement device

without disrupting normal process operation. In such cases, the owner or operator may postpone the initial calibration until the next scheduled maintenance outage. The best available information from company records may be used in the interim. The subsequent required recalibrations of the flow meters may be similarly postponed. Such postponements must be documented in the monitoring plan that is required under subsection (6)(e) of this section.

(g) If the results of an initial calibration or a recalibration fail to meet the required accuracy specification, data from the flow meter must be considered invalid, beginning with the hour of the failed calibration and continuing until a successful calibration is completed. You must follow the missing data provisions provided in the relevant missing data sections during the period of data invalidation unless specified in (h) of this subsection.

(h) Missing data substitution procedures. Persons must comply with 40 C.F.R. Part 98 when substituting for missing data, except as otherwise provided in this subsection.

(i) Substitute missing data used for emissions calculations under Subparts C, H, P, Y, and AA of 40 C.F.R. Part 98 using the following methods:

(A) If the analytical data capture rate is at least 90 percent for the data year, the person must substitute for each missing value using the best available estimate of the parameter, based on all available process data.

(B) If the analytical data capture rate is at least 80 percent but not at least 90 percent for the data year, the person must substitute for each missing value with the highest quality assured value recorded for the parameter during the given data year, as well as the two previous data years.

(C) If the analytical data capture rate is less than 80 percent for the data year, the person must substitute for each missing value with the highest quality assured value recorded for the parameter in all records kept.

(ii) Substitute missing data used for product data required under subsection (3)(n) of this section by using the best available estimate of the parameter, based on all available data.

(9) **Measurement device installation.** 40 C.F.R. § 98.3(j) and 40 C.F.R. § 98.3(d) ((as adopted by September 1, 2016,)) are adopted by reference as modified in WAC 173-441-120(2).

AMENDATORY SECTION (Amending WSR 15-04-051, filed 1/29/15, effective 3/1/15)

WAC 173-441-060 Authorization and responsibilities of the designated representative. (1) **General.** Except as provided under subsection (6) of this section, each ((facility, and each supplier,)) reporter that is subject to this chapter, must have one and only one designated representative, who must be responsible for certifying, signing, and submitting GHG emissions reports and any other submissions for such ((facility and supplier)) reporter respectively to ecology under this chapter. If the ((facility)) reporter is required to submit a GHG emissions report to EPA under 40 C.F.R. Part 98, that designated representative must also be the designated representative responsible for certifying, signing, and submitting GHG emissions reports to ecology under this chapter.

(2) **Authorization of a designated representative.** The designated representative of the ((facility or supplier)) reporter must be an individual selected by an agreement binding on the owners and operators of such ((facility or supplier)) reporter and must act in accordance with the certification statement in subsection (9)(d) of this section.

(3) **Responsibility of the designated representative.** Upon receipt by ecology of a complete certificate of representation under this section for a ((facility or supplier)) reporter, the designated representative identified in such certificate of representation must represent and, by his or her representations, actions, inactions, or submissions, legally bind each owner and operator of such ((facility or supplier)) reporter in all matters pertaining to this chapter, notwithstanding any agreement between the designated representative and such owners and operators. The owners and operators must be bound by any decision or order issued to the designated representative by ecology, pollution control hearings board, or a court.

(4) **Timing.** No GHG emissions report or other submissions under this chapter for a ((facility or supplier)) reporter will be accepted until ecology has received a complete certificate of representation under this section for a designated representative of the ((facility or supplier)) reporter. Such certificate of representation must be submitted at least sixty calendar days before the deadline for submission of the ((facility's or supplier's)) reporter's initial emission report under this chapter.

(5) **Certification of the GHG emissions report.** Each GHG emission report and any other submission under this chapter for a ((facility or supplier)) reporter must be certified, signed, and submitted by the designated representative or any alternate designated representative of the ((facility or supplier)) reporter in accordance with this section and 40 C.F.R. § 3.10 as adopted on October 13, 2005.

(a) Each such submission must include the following certification statement signed by the designated representative or any alternate designated representative: "I am authorized to make this submission on behalf of the owners and operators of the ((facility or supplier)) reporter, as applicable, for which the submission is made. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."

(b) Ecology will accept a GHG emission report or other submission for a ((facility or supplier)) reporter under this chapter only if the submission is certified, signed, and submitted in accordance with this section.

(6) **Alternate designated representative.** A certificate of representation under this section for a ((facility or supplier)) reporter may designate one alternate designated representative, who must be an individual selected by an agreement binding on the owners and operators, and may act on

behalf of the designated representative, of such ((~~facility or supplier~~)) reporter. The agreement by which the alternate designated representative is selected must include a procedure for authorizing the alternate designated representative to act in lieu of the designated representative.

(a) Upon receipt by ecology of a complete certificate of representation under this section for a ((~~facility or supplier~~)) reporter identifying an alternate designated representative:

(i) The alternate designated representative may act on behalf of the designated representative for such ((~~facility or supplier~~)) reporter.

(ii) Any representation, action, inaction, or submission by the alternate designated representative must be deemed to be a representation, action, inaction, or submission by the designated representative.

(b) Except in this section, whenever the term "designated representative" is used in this chapter, the term must be construed to include the designated representative or any alternate designated representative.

(7) Changing a designated representative or alternate designated representative. The designated representative or alternate designated representative identified in a complete certificate of representation under this section for a ((~~facility or supplier~~)) reporter received by ecology may be changed at any time upon receipt by ecology of another later signed, complete certificate of representation under this section for the ((~~facility or supplier~~)) reporter. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous designated representative or the previous alternate designated representative of the ((~~facility or supplier~~)) reporter before the time and date when ecology receives such later signed certificate of representation must be binding on the new designated representative and the owners and operators of the ((~~facility or supplier~~)) reporter.

(8) Changes in owners and operators. In the event an owner or operator of the ((~~facility or supplier~~)) reporter is not included in the list of owners and operators in the certificate of representation under this section for the ((~~facility or supplier~~)) reporter, such owner or operator must be deemed to be subject to and bound by the certificate of representation, the representations, actions, inactions, and submissions of the designated representative and any alternate designated representative of the ((~~facility or supplier~~)) reporter, as if the owner or operator were included in such list. Within ninety calendar days after any change in the owners and operators of the ((~~facility or supplier~~)) reporter (including the addition of a new owner or operator), the designated representative or any alternate designated representative must submit a certificate of representation that is complete under this section except that such list must be amended to reflect the change. If the designated representative or alternate designated representative determines at any time that an owner or operator of the ((~~facility or supplier~~)) reporter is not included in such list and such exclusion is not the result of a change in the owners and operators, the designated representative or any alternate designated representative must submit, within ninety calendar days of making such determination, a certificate of representation that is complete under this section except that such list must be amended to include such owner or operator.

(9) Certificate of representation. A certificate of representation shall be complete if it includes the following elements in a format prescribed by ecology in accordance with this section:

(a) Identification of the ((~~facility or supplier~~)) reporter for which the certificate of representation is submitted.

(b) The name, organization name (company affiliation-employer), address, email address (if any), telephone number, and facsimile transmission number (if any) of the designated representative and any alternate designated representative.

(c) A list of the owners and operators of the ((~~facility or supplier~~)) reporter identified in (a) of this subsection, provided that, if the list includes the operators of the ((~~facility or supplier~~)) reporter and the owners with control of the ((~~facility or supplier~~)) reporter, the failure to include any other owners must not make the certificate of representation incomplete.

(d) The following certification statements by the designated representative and any alternate designated representative:

(i) "I certify that I was selected as the designated representative or alternate designated representative, as applicable, by an agreement binding on the owners and operators of the facility ((~~or binding on the~~)), supplier, or electric power entity, as applicable."

(ii) "I certify that I have all the necessary authority to carry out my duties and responsibilities under chapter 173-441 WAC on behalf of the owners and operators of the facility ((~~and on behalf of~~)), supplier(s), or electric power entity, as applicable, and that each such owner and operator must be fully bound by my representations, actions, inactions, or submissions."

(iii) "I certify that the ((~~supplier or~~)) owners and operators of the facility, supplier, or electric power entity, as applicable, must be bound by any order issued to me by ecology, the pollution control hearings board, or a court regarding the ((~~facility or supplier~~)) reporter."

(iv) "If there are multiple owners and operators of the facility or multiple suppliers, as applicable, I certify that I have given a written notice of my selection as the 'designated representative' or 'alternate designated representative,' as applicable, and of the agreement by which I was selected to each owner and operator of the facility and each supplier."

(e) The signature of the designated representative and any alternate designated representative and the dates signed.

(10) Documents of agreement. Unless otherwise required by ecology, documents of agreement referred to in the certificate of representation shall not be submitted to ecology. Ecology shall not be under any obligation to review or evaluate the sufficiency of such documents, if submitted.

(11) Binding nature of the certificate of representation. Once a complete certificate of representation under this section for a ((~~facility or supplier~~)) reporter has been received, ecology will rely on the certificate of representation unless and until a later signed, complete certificate of representation under this section for the ((~~facility or supplier~~)) reporter is received by ecology.

(12) Objections concerning a designated representative.

(a) Except as provided in subsection (7) of this section, no objection or other communication submitted to ecology concerning the authorization, or any representation, action, inaction, or submission, of the designated representative or alternate designated representative must affect any representation, action, inaction, or submission of the designated representative or alternate designated representative, or the finality of any decision or order by ecology under this chapter.

(b) Ecology will not adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of any designated representative or alternate designated representative.

(13) Delegation by designated representative and alternate designated representative.

(a) A designated representative or an alternate designated representative may delegate his or her own authority, to one or more individuals, to submit an electronic submission to ecology provided for or required under this chapter, except for a submission under this subsection.

(b) In order to delegate his or her own authority, to one or more individuals, to submit an electronic submission to ecology in accordance with (a) of this subsection, the designated representative or alternate designated representative must submit electronically to ecology a notice of delegation, in a format prescribed by ecology, that includes the following elements:

(i) The name, organization name (company affiliation-employer), address, email address (if any), telephone number, and facsimile transmission number (if any) of such designated representative or alternate designated representative.

(ii) The name, address, email address, telephone number, and facsimile transmission number (if any) of each such individual (referred to as an "agent").

(iii) For each such individual, a list of the type or types of electronic submissions under (a) of this subsection for which authority is delegated to him or her.

(iv) For each type of electronic submission listed in accordance with subsection (13)(b)(iii) of this section, the ~~((facility or supplier))~~ reporter for which the electronic submission may be made.

(v) The following certification statements by such designated representative or alternate designated representative:

(A) "I agree that any electronic submission to ecology that is by an agent identified in this notice of delegation and of a type listed, and for a ~~((facility or supplier))~~ reporter designated, for such agent in this notice of delegation and that is made when I am a designated representative or alternate designated representative, as applicable, and before this notice of delegation is superseded by another notice of delegation under WAC 173-441-060 (13)(c) must be deemed to be an electronic submission certified, signed, and submitted by me."

(B) "Until this notice of delegation is superseded by a later signed notice of delegation under WAC 173-441-060 (13)(c), I agree to maintain an email account and to notify ecology immediately of any change in my email address unless all delegation of authority by me under WAC 173-441-060(13) is terminated."

(vi) The signature of such designated representative or alternate designated representative and the date signed.

(c) A notice of delegation submitted in accordance with (b) of this subsection must be effective, with regard to the designated representative or alternate designated representative identified in such notice, upon receipt of such notice by ecology and until receipt by ecology of another such notice that was signed later by such designated representative or alternate designated representative, as applicable. The later signed notice of delegation may replace any previously identified agent, add a new agent, or eliminate entirely any delegation of authority.

(d) Any electronic submission covered by the certification in (b)(v)(A) of this subsection and made in accordance with a notice of delegation effective under (c) of this subsection must be deemed to be an electronic submission certified, signed, and submitted by the designated representative or alternate designated representative submitting such notice of delegation.

AMENDATORY SECTION (Amending WSR 15-04-051, filed 1/29/15, effective 3/1/15)

WAC 173-441-070 Report submittal. The following must be submitted electronically in accordance with the requirements of WAC 173-441-050 and 173-441-060 and in a format specified by ecology.

- (1) Facility reporters:
 - (a) GHG report;
 - (b) Certificate of representation; and
 - (c) Verification software file.
- (2) ~~((Transportation fuel))~~ Suppliers:
 - (a) GHG report; and
 - (b) Certificate of representation.
- (3) Electric power entities:
 - (a) GHG report; and
 - (b) Certificate of representation.

AMENDATORY SECTION (Amending WSR 16-19-047, filed 9/15/16, effective 10/16/16)

WAC 173-441-080 Standardized methods and conversion factors incorporated by reference. (1) The materials incorporated by reference by EPA in 40 C.F.R. § 98.7, ~~((as adopted by September 1, 2016,))~~ are incorporated by reference in this chapter for use in the sections of this chapter that correspond to the sections of 40 C.F.R. Part 98 referenced here.

(2) Table A-2 of this section provides a conversion table for some of the common units of measure used in this chapter.

**Table A-2:
Units of Measure Conversions**

| To convert from | To | Multiply by |
|-----------------|----------------|----------------------------|
| Kilograms (kg) | Pounds (lbs) | 2.20462 |
| Pounds (lbs) | Kilograms (kg) | 0.45359 |
| Pounds (lbs) | Metric tons | 4.53592 x 10 ⁻⁴ |
| Short tons | Pounds (lbs) | 2,000 |
| Short tons | Metric tons | 0.90718 |

| To convert from | To | Multiply by |
|---------------------------------|--------------------------------------|----------------------------|
| Metric tons | Short tons | 1.10231 |
| Metric tons | Kilograms (kg) | 1,000 |
| Cubic meters (m ³) | Cubic feet (ft ³) | 35.31467 |
| Cubic feet (ft ³) | Cubic meters (m ³) | 0.028317 |
| Gallons (liquid, US) | Liters (l) | 3.78541 |
| Liters (l) | Gallons (liquid, US) | 0.26417 |
| Barrels of liquid fuel (bbl) | Cubic meters (m ³) | 0.15891 |
| Cubic meters (m ³) | Barrels of liquid fuel (bbl) | 6.289 |
| Barrels of liquid fuel (bbl) | Gallons (liquid, US) | 42 |
| Gallons (liquid, US) | Barrels of liquid fuel (bbl) | 0.023810 |
| Gallons (liquid, US) | Cubic meters (m ³) | 0.0037854 |
| Liters (l) | Cubic meters (m ³) | 0.001 |
| Feet (ft) | Meters (m) | 0.3048 |
| Meters (m) | Feet (ft) | 3.28084 |
| Miles (mi) | Kilometers (km) | 1.60934 |
| Kilometers (km) | Miles (mi) | 0.62137 |
| Square feet (ft ²) | Acres | 2.29568 x 10 ⁻⁵ |
| Square meters (m ²) | Acres | 2.47105 x 10 ⁻⁴ |
| Square miles (mi ²) | Square kilometers (km ²) | 2.58999 |
| Degrees Celsius (°C) | Degrees Fahrenheit (°F) | °C = (5/9) x (°F - 32) |
| Degrees Fahrenheit (°F) | Degrees Celsius (°C) | °F = (9/5) x (°C + 32) |
| Degrees Celsius (°C) | Kelvin (K) | K = °C + 273.15 |
| Kelvin (K) | Degrees Rankine (°R) | 1.8 |
| Joules | Btu | 9.47817 x 10 ⁻⁴ |
| Btu | MMBtu | 1 x 10 ⁻⁶ |
| Pascals (Pa) | Inches of Mercury (in Hg) | 2.95334 x 10 ⁻⁴ |
| Inches of Mercury (in Hg) | Pounds per square inch (psi) | 0.49110 |
| Pounds per square inch (psi) | Inches of Mercury (in Hg) | 2.03625 |

AMENDATORY SECTION (Amending WSR 16-19-047, filed 9/15/16, effective 10/16/16)

WAC 173-441-085 Third-party verification. ~~((The owner or operator of a facility that exceeds the compliance threshold under WAC 173-442-030 or voluntarily participating under WAC 173-442-030(6)))~~ Beginning with the 2023 emissions year, a person that emits 25,000 metric tons CO₂e or more per calendar year in total GHG emissions as calculated using the methods in WAC 173-441-030 or has a mandatory or voluntary compliance obligation under chapter 316, Laws of 2021, as described in chapter 173-446 WAC must have the ((facility's)) reporter's annual GHG reports verified by a third party as specified in this section. Third-party verification requirements are in addition to other verification and report correction requirements in this chapter.

(1) **Annual GHG reports must be third-party verified each emissions year that:**

(a) ~~The ((facility has a GHG emission reduction pathway under WAC 173-442-060))~~ reporter emits 25,000 metric tons CO₂e or more per calendar year in total GHG emissions as calculated using the methods in WAC 173-441-030;

(b) ~~The ((facility is voluntarily participating under WAC 173-442-030(6)))~~ reporter has a mandatory or voluntary compliance obligation under chapter 316, Laws of 2021, as described in chapter 173-446 WAC;

(c) ~~Is part of a baseline calculation ((for a new entrant after 2020 under WAC 173-442-050 (1)(b)))~~ or otherwise covered under chapter 316, Laws of 2021, as described in chapter 173-446 WAC; or

(d) For the first year after no longer meeting the requirements of (a) through (c) of this subsection unless the operations of the ((facility)) reporter are changed such that all applicable GHG emitting processes and operations listed in WAC 173-441-120, 173-441-122, and 173-441-124 permanently cease to operate.

(2) ~~((Emissions))~~ **Information subject to third-party verification.** ~~All ((covered)) GHG emissions and other information reported under this chapter ((173-442 WAC))~~ are subject to the requirements of this section. Emissions factors published by ecology based on data previously reported under this chapter that received a positive verification statement would not need to be reverified; however, any calculations based on that information are subject to the requirements of this section.

(3) **Verification standards.** The third-party verifier must certify that annual GHG reports meet the following conditions:

(a) Annual GHG reports must be consistent with the relevant requirements and methods in this chapter.

(b) The absolute value of any discrepancy, omission, or misreporting, or aggregation of the three, must be less than five percent of total reported ((covered)) emissions (metric tons of CO₂e) or the verification will result in a material misstatement and an adverse verification statement. This standard also separately applies to any ((covered)) product data in the annual GHG report.

(i) "Discrepancies" means any differences between the reported ((covered)) emissions or ((covered)) product data and the third-party verifier's review of ((covered)) emissions or ((covered)) product data for a data source or product data subject to this ((section)) chapter.

(ii) "Omissions" means any ((covered)) emissions or ((covered)) product data the third-party verifier concludes must be part of the annual GHG report, but were not included by the reporting entity in the annual GHG report.

(iii) "Misreporting" means duplicate, incomplete or other ((covered)) emissions the third-party verifier concludes should, or should not, be part of the annual GHG report or duplicate or other product data the verifier concludes should not be part of the annual GHG report.

(iv) "Total reported ((covered)) emissions or ((covered)) product data" means the total annual ((reporting entity covered)) reporter's emissions or total ((reported covered)) annual reporter's product data for which the third-party verifier is conducting an assessment.

(4) **Verification services.**

(a) Full verification is required at least once every three reporting years for reporters subject to third-party verification under subsection (1)(b) through (d) of this section. The first year of third-party verification for a ~~((facility)) reporter subject to third-party verification under subsection (1)(b) through (d) of this section~~ must be full verification. ~~((A n owner or operator))~~ A person required to conduct third-party verification under subsection (1)(b) through (d) of this section may choose to obtain less intensive verification services for the remaining two years in the three-year period as long as:

- (i) No year in the three-year period has an adverse verification statement;
- (ii) The third-party verifier can provide findings with a reasonable level of assurance;
- (iii) There has not been a change in the third-party verifier;
- (iv) There has not been a change in operational control of the ~~((facility)) reporter~~; and
- (v) There has not been a significant change in sources or emissions. A difference in emissions of greater than twenty-five percent relative to the preceding year's emissions is considered significant unless that change can be directly shown to result from a verifiable change in product data.

(b) Full verification. A full verification report must be in a format specified by ecology and contain:

- (i) Documentation identifying the ~~((facility)) reporter~~ reporting emissions and the scope of emissions verified in the report.
- (ii) Documentation identifying the third-party verifier, including all relevant information about the third-party verifier in subsection (7)(a) of this section and the names, roles, and sector specific qualifications (if any) of all individuals working on the verification report.
- (iii) Documentation demonstrating and certifying that the requirements of subsection (7)(b) and (c) of this section have been met.
- (iv) A verification plan that details the data and methodologies used to verify the annual GHG report and schedule describing when the verification services occurred. This must include a sampling plan that describes how the third-party verifier prioritized which emissions to verify and a summary of the data checks used to determine the reliability of the annual GHG report. Full verification requires a more complete sampling of data and additional data checks than less intensive verification. At a minimum, data checks for a full verification must include the following:

(A) Tracing data in the emissions data report to its origin;

(B) Reviewing the process for data compilation and collection;

(C) Recalculating emission estimates to check original calculations;

(D) Reviewing calculation methodologies used by the reporter for conformance with this chapter; and

(E) Reviewing meter and fuel analytical instrumentation measurement accuracy and calibration for consistency with the requirements of this chapter.

(v) Documentation of the third-party verifier's review of ~~((facility)) reporter~~ operations to identify applicable GHG

emissions sources and product data. Any applicable GHG emissions sources or product data not included in the annual GHG report must be identified. The third-party verifier must also ensure that the reported current NAICS code(s) accurately represents the activities on-site.

(vi) Documentation of any corrections made to the annual GHG report.

(vii) Documentation supporting the third-party verifiers' findings evaluating if the annual GHG report is compliant with the requirements in subsection (3) of this section. This must include a log of any issues (if any) identified in the course of verification, their potential impact on the quality of the annual GHG report, and their resolution.

(viii) The individuals conducting the third-party verification must certify that the verification report is true, accurate, and complete to the best of their knowledge and belief.

(ix) Information about the required on-site visit, including date(s) and a description of the verification services conducted on-site. At least one accredited verifier in the verification team, including the sector specific verifier, if applicable, must at a minimum make one site visit, during each year full verification is required. The third-party verifier must visit the headquarters or other location of central data management when the ~~((facility)) reporter~~ is a supplier ~~((of petroleum products or supplier of natural gas and natural gas liquids))~~ or electric power entity. During the site visit, the third-party verifier must:

(A) Confirm that all applicable emissions are included in the annual GHG report.

(B) Check that all sources specified in the annual GHG report are identified appropriately.

(C) Review and understand the data management systems used by the owners or operators to track, quantify, and report GHG emissions and, when applicable, product data and fuel transactions. The third-party verifier must evaluate the uncertainty and effectiveness of these systems.

(D) Interview key personnel.

(E) Make direct observations of equipment for data sources and equipment supplying data for sources determined to be high risk.

(F) Assess conformance with measurement accuracy, data capture, and missing data substitution requirements.

(G) Review financial transactions to confirm fuel, feedstock, and product data, and confirming the complete and accurate reporting of required data such as ~~((facility)) reporter~~ fuel suppliers, fuel quantities delivered, and if fuel was received directly from an interstate pipeline.

(c) Less intensive verification. A less intensive verification report must be in a format specified by ecology and meet the requirements of subsection (4)(b)(i) through (viii) of this section. Less intensive verification of an annual GHG report allows for less detailed data checks and document reviews of the annual GHG report based on the analysis and risk assessment in the most current sampling plan developed as part of the most current full verification. Persons subject to third-party verification under subsection (1)(a) through (d) of this section must, at a minimum, conduct less intensive verification for any year full verification is not conducted.

(5) **Annual GHG report corrections.** Owners or operators subject to this section must correct errors in their annual GHG report.

- (a) Corrections are required if errors are identified by:
- (i) The third-party verifier;
 - (ii) The owner or operator;
 - (iii) Ecology; or
 - (iv) EPA.

(b) The owner or operator must fix all correctable errors that affect ~~((covered))~~ emissions(~~(, nonecovered emissions,))~~ or ~~((covered))~~ product data in the submitted emissions data report, and submit a revised emissions data report to ecology. Failure to do so will result in an adverse verification statement.

(c) Failure to fix correctable errors that do not affect ~~((covered))~~ emissions(~~(, nonecovered emissions,))~~ or ~~((covered))~~ product data represents a nonconformance with this chapter but does not, absent other errors, result in an adverse verification statement.

(d) Any corrections to the annual GHG report identified during the verification process must be submitted to ecology no later than 45 calendar days after discovery of the error or the verification report deadline in subsection (6)(a) of this section, whichever is sooner. Any corrections to the annual GHG report or verification report discovered after the verification report deadline in subsection (6)(a) of this section must be submitted to ecology no later than 45 calendar days after discovery of the error.

(e) The owner or operator must maintain documentation to support any revisions made to the initial emissions data report. Documentation for all emissions data report submissions must be retained by the reporting entity for ten years.

(6) ~~((Timing))~~ Report.

(a) The third-party verifier must submit a complete verification report to ecology for each year as required under subsection (1) of this section no later than ~~((one hundred fifty days after the report submission due date for the facility, specified in WAC 173-441-050(2)))~~ August 10th for GHG emissions occurring in the previous calendar year.

~~((Any corrections to the annual GHG report or verification report must be submitted to ecology no later than forty-five days after discovery of the error.))~~

(b) The third-party verifier must include a certification of one of the following verification statements based on the verification standards in subsection (3) of this section.

(i) A positive verification statement may be issued by a third-party verifier if the third-party verifier can say with high confidence that the submitted GHG data report is free of material misstatement and that the GHG data report conforms to the requirements of this chapter.

(ii) A qualified positive verification statement must be issued by a third-party verifier if the third-party verifier can say with high confidence that the submitted GHG data report is free of material misstatement and contains no errors that affect emissions or product data, but the GHG data report may include one or more other nonconformance(s) with the requirements of this chapter which do not result in a material misstatement.

(iii) An adverse verification statement must be issued by a third-party verifier if the third-party verifier cannot say with

high confidence that the submitted GHG data report is free of material misstatement, or that the emissions or product data submitted in the GHG data report is free of errors that affect emissions or product data and thus is not in conformance with the requirements to fix such errors.

(c) Records must be retained following the requirements of WAC 173-441-050(6).

(7) Eligible third-party verifiers.

(a) Owners or operators subject to this section must have their annual GHG report verified by a third-party verifier certified by ecology. Certification requires:

(i) Registering as a third-party verifier with ecology. Registration is required for both the verification organization and all individuals performing verification services for the verification organization.

(ii) Demonstrating to ecology's satisfaction that the third-party verifier has sufficient knowledge of the relevant methods and protocols in this chapter. Certification may be limited to certain types or sources of emissions.

(iii) Active accreditation or recognition as a third-party verifier under ~~((at least one of the following GHG programs: (A)))~~ California ARB's Mandatory Reporting of Greenhouse Gas Emissions program(~~(; (B) The Climate Registry; (C) Climate Action Reserve; (D) American National Standards Institute (ANSI); (E) Accredited ISO 14064 registrars; or (F) Other GHG verification standard approved by ecology))~~).

(iv) Ecology may modify, suspend, or revoke certification of a third-party verifier based on the accuracy of their signed verification statements, conformance with conflict of interest provisions, or other requirements of this section.

(b) An owner or operator must not use the same third-party verifier (either organization or individuals) for a period of more than six consecutive years. The owner or operator must wait at least three years before using the previous third-party verifier to verify their annual GHG reports.

(c) An owner or operator and third-party verifier must certify that there is not a conflict of interest in verifying the annual GHG report. The potential for a conflict of interest must be deemed to be high where:

(i) The third-party verifier and ~~((facility))~~ reporter share any management staff or board of directors membership, or any of the senior management staff of the ~~((facility))~~ reporter have been employed by the third-party verifier, or vice versa, within the previous five years; or

(ii) Any employee of the third-party verifier, or any employee of a related entity, or a subcontractor who is a member of the verification team has provided to the ~~((facility))~~ reporter any services within the previous five years, unless the service was part of GHG verification for another jurisdiction. Any years of previous service in the other jurisdiction count towards the limit in (b) of this subsection.

(iii) Any staff member of the third-party verifier provides any type of incentive to a ~~((facility))~~ reporter to secure a verification services contract.

(8) **Ecology verification.** Ecology retains full authority in determining if an annual GHG report contains a discrepancy, omission, or misreporting, or any aggregation of the

three, that impacts the verification status of the annual GHG report. Ecology may issue an adverse verification statement for an annual GHG report even if the annual GHG report has received a positive verification statement from the third-party verifier. Ecology may also issue an adverse verification statement for:

- (a) Failure to submit a complete annual GHG report in a timely manner;
- (b) Failure to complete third-party verification if required by this subsection; or
- (c) Other forms of noncompliance with this chapter.

AMENDATORY SECTION (Amending WSR 16-19-047, filed 9/15/16, effective 10/16/16)

WAC 173-441-086 Assigned emissions level. (1) Ecology may assign an emissions level to any annual GHG report that:

- (a) Failed to submit a complete annual GHG report by the report submission due date, specified in WAC 173-441-050(2);
- (b) Failed to meet the third-party verification requirements in WAC 173-441-085;
- (c) Has an adverse verification statement; or
- (d) Ecology determines ~~((the absolute value of any))~~ a discrepancy, omission, or misreporting, ~~((or aggregation of the three, is at least five percent of total reported covered emissions (metric tons of CO₂e)))~~ as described in WAC 173-441-085 (3)(b)(i) through (iv), results in a substantive error as defined in WAC 173-441-050 (7)(c). This standard also separately applies to any ~~((covered))~~ product data in the annual GHG report.

~~((i)) "Discrepancies" means any differences between the reported covered emissions or covered product data and ecology's review of covered emissions or covered product data for a data source or product data.~~

~~((ii)) "Omissions" means any covered emissions or covered product data ecology concludes must be part of the annual GHG report, but were not included by the reporting entity in the annual GHG report.~~

~~((iii)) "Misreporting" means duplicate, incomplete or other covered emissions ecology concludes should, or should not, be part of the annual GHG report or duplicate or other product data ecology concludes should not be part of the annual GHG report.~~

~~((iv)) "Total reported covered emissions or covered product data" means the total annual reporting entity covered emissions or total reported covered product data for which ecology is conducting an assessment.~~

(2) The assigned emissions level must be used when determining compliance with chapter 316, Laws of 2021, as described in chapter ~~((+73-442))~~ 173-446 WAC.

(3) Ecology must use conservative assumptions when setting the assigned emissions level to avoid underestimating emissions in a compliance year or overestimating emissions in a baseline year.

(a) Within five working days of a written request by ecology, the third-party verifier (if applicable) must provide any available verification services information or correspondence related to the emissions data.

(b) Within five working days of a written request by ecology, the owner or operator of a ~~((facility))~~ reporter must provide the data that is required to calculate GHG emissions for the ~~((facility))~~ reporter according to the requirements of this chapter, the preliminary or final detailed verification report prepared by the third-party verifier (if applicable), and other information requested by ecology, including the operating days and hours of the ~~((facility))~~ reporter during the data year. The owner or operator must also make available personnel who can assist ecology's determination of an assigned emissions level for the data year.

(4) Ecology may adjust the assigned emissions level if the owner or operator is able to obtain a positive verification statement for the annual GHG report at a later date.

AMENDATORY SECTION (Amending WSR 16-19-047, filed 9/15/16, effective 10/16/16)

WAC 173-441-090 Compliance and enforcement. (1) **Violations.** Any violation of any requirement of this chapter must be a violation of chapter ~~((70-94))~~ 70A.15 RCW and subject to enforcement as provided in that chapter. A violation includes, but is not limited to, failure to submit a complete report ((GHG emissions)) by the reporting deadline, failure to report accurately, failure to collect data needed to calculate GHG emissions or product data, failure to continuously monitor and test as required, failure to retain records needed to verify the amount of GHG emissions or product data, failure to calculate GHG emissions or product data following the methodologies specified in this chapter, failure to have the annual GHG report third-party verified, and failure to pay the required reporting fee. Each calendar day and each metric ton CO₂e of emissions of a violation constitutes a separate violation.

(2) **Enforcement responsibility.** Ecology must enforce the requirements of this chapter ~~((unless ecology approves a local air authority's request to enforce the requirements for persons operating within the authority's jurisdiction)).~~

AMENDATORY SECTION (Amending WSR 15-04-051, filed 1/29/15, effective 3/1/15)

WAC 173-441-100 Addresses. All requests, notifications, and communications to ecology pursuant to this chapter, must be submitted in a format as specified by ecology to either of the following:

(1) For U.S. mail: Greenhouse Gas ~~((Report))~~ Reporting, Air Quality Program, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600.

(2) For email: ghgreporting@ecy.wa.gov.

AMENDATORY SECTION (Amending WSR 16-19-047, filed 9/15/16, effective 10/16/16)

WAC 173-441-110 Fees. (1) **Fee determination.** All persons required to report or voluntarily reporting under WAC 173-441-030~~((+))~~ must pay a reporting fee for each year they submit a report to ecology. Ecology must establish reporting fees based on workload using the process outlined below. The fees must be sufficient to cover ecology's costs to administer the GHG emissions reporting program.

(2) **Fee eligible activities.** All costs of activities associated with administering this reporting program, as described in RCW ((70.94.151)) 70A.15.2200(2), are fee eligible.

(3) **Workload analysis and budget development.** Each biennium, ecology must conduct a workload analysis and develop a budget based on the process outlined below:

(a) Ecology must conduct a workload analysis projecting resource requirements for administering the reporting program, organized by categories of fee eligible activities, for the purpose of preparing the budget. Ecology must prepare the workload analysis for the two-year period corresponding to each biennium. The workload analysis must identify the fee eligible administrative activities related to the reporting program that it will perform during the biennium and must estimate the resources required to perform these activities.

(b) Ecology must prepare a budget for administering the reporting program for the two-year period corresponding to each biennium. Ecology must base the budget on the resource requirements identified in the workload analysis for the biennium and must take into account the reporting program account balance at the start of the biennium.

(4) **Allocation methodology.** ~~((The reporting fee for an owner or operator of a facility required to report under WAC 173-441-030(1) is calculated by the equal division of the budget amount by the total number of facilities required to report GHG emissions under this chapter in a given calendar year. A person required to report multiple facilities under WAC 173-441-030(1) must pay a fee for each facility reported.))~~ Ecology must allocate the reporting program budget among the persons required to report or voluntarily reporting under WAC 173-441-030 according to the following:

(a) The reporting fee for a person that is required to report or voluntarily reporting under WAC 173-441-030 and is subject to third-party verification under WAC 173-441-085 is calculated by the equal division of 90 percent of the budget amount by the total number of persons subject to third-party verification under WAC 173-441-085 in a given calendar year. A person required to report or voluntarily reporting multiple reporters under this category must pay a fee for each reporter.

(b) The reporting fee for a person that is required to report or voluntarily reporting under WAC 173-441-030 but is not subject to third-party verification under WAC 173-441-085 is calculated by the equal division of 10 percent of the budget amount by the total number of persons reporting GHG emissions under this chapter not subject to third-party verifi-

cation under WAC 173-441-085 in a given calendar year. A person required to report or voluntarily reporting multiple reporters under this category must pay a fee for each reporter.

(5) **Fee schedule.** Ecology must issue annually a fee schedule reflecting the reporting fee to be paid per ((~~facility or supplier~~)) reporter. Ecology must base the fee schedule on the budget and workload analysis described above and conducted each biennium. Ecology must publish the fee schedule for the following year on or before October 31st of each year.

(6) **Fee payments.** Fees specified in this section must be paid within sixty calendar days of receipt of ecology's billing statement. All fees collected under this chapter must be made payable to the Washington department of ecology. A late fee surcharge of fifty dollars or ten percent of the fee, whichever is more, may be assessed for any fee received after ninety calendar days past the due date for fee payment.

(7) **Dedicated account.** Ecology must deposit all reporting fees they collect in the air pollution control account.

AMENDATORY SECTION (Amending WSR 16-19-047, filed 9/15/16, effective 10/16/16)

WAC 173-441-120 Calculation methods ((~~incorporated by reference from 40 C.F.R. Part 98~~)) for facilities. This section establishes the scope of reportable GHG emissions under this chapter and GHG emissions calculation methods for facilities. Owners and operators of facilities must follow the requirements of this section to determine if they are required to report under WAC 173-441-030(1). Owners and operators of facilities that are subject to this chapter must follow the requirements of this ((~~chapter~~)) section and all subparts of 40 C.F.R. Part 98 listed in Table 120-1 of this section when calculating emissions. If a conflict exists between a provision in WAC ((~~173-441-050(3)~~)) 173-441-010 through ((~~173-441-080~~)) 173-441-110 and 173-441-140 through 173-441-170 and any applicable provision of this section, the requirements of ((~~this~~)) those sections must take precedence.

(1) **Source categories and calculation methods for facilities.** An owner or operator of a facility subject to the requirements of this chapter must report GHG emissions, including GHG emissions from biomass, from all applicable source categories in Washington state listed in Table 120-1 of this section using the methods incorporated by reference in Table 120-1. Table 120-1 and subsection (2) of this section list modifications and exceptions to calculation methods adopted by reference in this section.

Table 120-1:

Source Categories and Calculation Methods

Incorporated by Reference from 40 C.F.R. Part 98 for Facilities

((**Note:** All source categories in Table 120-1 are considered facilities even if the source category name includes the word "supplier."))

| Source Category | 40 C.F.R. Part 98 Subpart* | Exceptions to Calculation Method or Applicability Criteria ^{†#} |
|--|----------------------------|--|
| General Stationary Fuel Combustion Sources | C | |
| Electricity Generation | D | |
| Adipic Acid Production | E | |

| Source Category | 40 C.F.R. Part 98 Subpart* | Exceptions to Calculation Method or Applicability Criteria ^{+#} |
|--|----------------------------|---|
| Aluminum Production | F | |
| Ammonia Manufacturing | G | |
| Cement Production | H | |
| Electronics Manufacturing | I | In § 98.91, replace "To calculate total annual GHG emissions for comparison to the 25,000 metric ton CO ₂ e per year emission threshold in paragraph § 98.2 (a)(2), follow the requirements of § 98.2(b), with one exception" with "To calculate GHG emissions for comparison to the emission threshold in WAC 173-441-030(1), follow the requirements of WAC 173-441-030 (1)(b), with one exception." |
| Ferroalloy Production | K | |
| Fluorinated Gas Production | L | In § 98.121, replace "To calculate GHG emissions for comparison to the 25,000 metric ton CO ₂ e per year emission threshold in § 98.2 (a)(2)" with "To calculate GHG emissions for comparison to the emission threshold in WAC 173-441-030(1)." |
| Glass Production | N | |
| HCFC-22 Production and HFC-23 Destruction | O | |
| Hydrogen Production | P | |
| Iron and Steel Production | Q | |
| Lead Production | R | |
| Lime Manufacturing | S | |
| Magnesium Production | T | |
| Miscellaneous Uses of Carbonate | U | |
| Nitric Acid Production | V | |
| Petroleum and Natural Gas Systems | W | § 98.231(a) should read: "You must report GHG emissions under this subpart if your facility contains petroleum and natural gas systems and the facility meets the requirements of WAC 173-441-030(1)." |
| Petrochemical Production | X | |
| Petroleum Refineries | Y | |
| Phosphoric Acid Production | Z | |
| Pulp and Paper Manufacturing | AA | |
| Silicon Carbide Production | BB | |
| Soda Ash Manufacturing | CC | |
| Electrical Transmission and Distribution Equipment Use | DD | § 98.301 should read: "You must report GHG emissions under this subpart if your facility contains any electrical transmission and distribution equipment use process and the facility meets the requirements of WAC 173-441-030(1)."
See subsection (2)(f) of this section. |
| Titanium Dioxide Production | EE | |
| Underground Coal Mines | FF | |
| Zinc Production | GG | |

| Source Category | 40 C.F.R. Part 98 Subpart* | Exceptions to Calculation Method or Applicability Criteria ^{†#} |
|---|----------------------------|---|
| Municipal Solid Waste Landfills | HH | CO ₂ from combustion of landfill gas must also be included in calculating emissions for reporting and determining if the reporting threshold is met. <u>§ 98.346 (i)(13) should read: "Methane emissions for the landfill (i.e., the subpart HH total methane emissions). If the quantity of recovered CH₄ from Equation HH-4 of this subpart is used as the value of G_{CH4} in Equation HH-6, use the methane emissions calculated using Equation HH-8 as the methane emissions for the landfill." Otherwise use the higher methane emissions value from Equation HH-6 or Equation HH-8 of this subpart unless otherwise instructed by ecology.</u> |
| Industrial Wastewater Treatment | II | CO ₂ from combustion of wastewater biogas must also be included in calculating emissions for reporting and determining if the reporting threshold is met. |
| (Manure Management | JJ | See subsection (2)(e) of this section. |
| Suppliers of Coal Based Liquid Fuels | LL | § 98.380(b) should read: "An importer or exporter shall have the same meaning given in WAC 173-441-120 (2)(h)." § 98.381 should include: "Reporting of exports is voluntary." |
| Suppliers of Petroleum Products | MM | § 98.391 should read: "Any refiner or importer that meets the requirements of WAC 173-441-030(1) must report GHG emissions. Any exporter of petroleum products and natural gas liquids may report GHG emissions associated with exported petroleum products using the methods established in this subpart." See subsection (2)(h) of this section. |
| Suppliers of Natural Gas and Natural Gas Liquids | NN | § 98.401 should read: "Any supplier of natural gas and natural gas liquids that meets the requirements of WAC 173-441-030(1) must report GHG emissions." |
| Suppliers of Industrial Greenhouse Gases | OO | § 98.411 should include: "Reporting of exports is voluntary." |
| Suppliers of Carbon Dioxide | PP | § 98.421 should read: "Any supplier of CO ₂ who meets the requirements of WAC 173-441-030(1) must report the mass of CO ₂ captured, extracted, or imported. The mass of CO ₂ exported may be reported using the methods established in this subpart." |
| Importers and Exporters of Fluorinated Greenhouse Gases Contained in Pre-Charged Equipment or Closed-Cell Foams | QQ | § 98.431 should read: "Any importer of fluorinated GHGs contained in pre-charged equipment or closed-cell foams who meets the requirements of WAC 173-441-030(1) must report each fluorinated GHG contained in the imported pre-charged equipment or closed-cell foams. Any exporter of fluorinated GHGs contained in pre-charged equipment or closed-cell foams may report GHG emissions associated with exported products using the methods established in this subpart.") |
| Geologic Sequestration of Carbon Dioxide | RR | § 98.441(a) should read: "You must report GHG emissions under this subpart if any well or group of wells within your facility injects any amount of CO ₂ for long-term containment in subsurface geologic formations and the facility meets the requirements of WAC 173-441-030(1)." |

| Source Category | 40 C.F.R. Part 98 Subpart* | Exceptions to Calculation Method or Applicability Criteria [#] |
|---|----------------------------|--|
| Electrical Equipment Manufacture or Refurbishment | SS | § 98.451 should read: "You must report GHG emissions under this subpart if your facility contains an electrical equipment manufacturing or refurbishing process and the facility meets the requirements of WAC 173-441-030(1)." |
| Industrial Waste Landfills | TT | CO ₂ from combustion of landfill gas must also be included in calculating emissions for reporting and determining if the reporting threshold is met. |
| Injection of Carbon Dioxide | UU | § 98.471 should read: "(a) You must report GHG emissions under this subpart if your facility contains an injection of carbon dioxide process and the facility meets the requirements of WAC 173-441-030(1). For purposes of this subpart, any reference to CO ₂ emissions in WAC 173-441-030 means CO ₂ received." |

* Unless otherwise noted, all calculation methods are from 40 C.F.R. Part 98((as adopted by September 1, 2016)).

+ Modifications and exceptions in subsection (2) of this section and WAC 173-441-010 through ((173-441-050(2))) 173-441-110 and 173-441-140 through 173-441-170 also apply.

Whenever the use of verification software is required or voluntarily used, the file generated by the verification software must be submitted with the facility's annual GHG report.

(2) Modifications and exceptions to calculation methods adopted by reference. Except as otherwise specifically provided:

(a) Wherever the term "administrator" is used in the rules incorporated by reference in this chapter, the term "director" must be substituted.

(b) Wherever the term "EPA" is used in the rules incorporated by reference in this chapter, the term "ecology" must be substituted.

(c) Wherever the term "United States" is used in the rules incorporated by reference in this chapter, the term "Washington state" must be substituted.

(d) Wherever a calculation method adopted by reference in Table 120-1 of this section or a definition adopted by reference from 40 C.F.R. Part 98.6 refers to another subpart or paragraph of 40 C.F.R. Part 98:

(i) If Table 120-2 of this section lists the reference, then replace the reference with the corresponding reference to this chapter as specified in Table 120-2.

(ii) If the reference is to a subpart or subsection of a reference listed in Table 120-2 of this section, then replace the reference with the appropriate subsection of the corresponding reference to this chapter as specified in Table 120-2.

(iii) If the reference is to a subpart or paragraph of 40 C.F.R. Part 98 Subparts C through UU incorporated by reference in Table 120-1, then use the existing reference except as modified by this chapter.

(c) ((For manure management, use the following subsections instead of the corresponding subsections in 40 C.F.R. § 98.360 as adopted by September 1, 2016.

(i) 40 C.F.R. § 98.360(a): This source category consists of livestock facilities with manure management systems:

(A) § 98.360 (a)(1) is not adopted by reference.

(B) § 98.360 (a)(2) is not adopted by reference.

(ii) 40 C.F.R. § 98.360(b): A manure management system (MMS) is a system that stabilizes and/or stores livestock

~~manure, litter, or manure wastewater in one or more of the following system components: Uncovered anaerobic lagoons, liquid/slurry systems with and without crust covers (including, but not limited to, ponds and tanks), storage pits, digesters, solid manure storage, dry lots (including feedlots), high-rise houses for poultry production (poultry without litter), poultry production with litter, deep bedding systems for cattle and swine, manure composting, and aerobic treatment.~~

~~(iii) 40 C.F.R. § 98.360(e): This source category does not include system components at a livestock facility that are unrelated to the stabilization and/or storage of manure such as daily spread or pasture/range/paddock systems or land application activities or any method of manure utilization that is not listed in § 98.360(b) as modified in WAC 173-441-120 (2)(e)(ii).~~

~~(iv) 40 C.F.R. § 98.360(d): This source category does not include manure management activities located off site from a livestock facility or off-site manure composting operations.~~

~~(v) 40 C.F.R. § 98.361: Livestock facilities must report GHG emissions under this subpart if the facility contains a manure management system as defined in 98.360(b) as modified in WAC 173-441-120 (2)(e)(ii), and meets the requirements of WAC 173-441-030(1).~~

~~(vi) 40 C.F.R. § 98.362 (b) and (c) are not adopted by reference.~~

~~(vii) 40 C.F.R. § 98.362(a), 40 C.F.R. § 98.363 through 40 C.F.R. § 98.368, Equations JJ 2 through JJ 15, and Tables JJ-2 through JJ-7 as adopted by September 1, 2016, remain unchanged unless otherwise modified in this chapter.~~

~~(viii) CO₂ from combustion of gas from manure management must also be included in calculating emissions for reporting and determining if the reporting threshold is met.) Use the following method to obtain specific version or date references for any reference in 40 C.F.R. Part 98 that refers to any document not contained in 40 C.F.R. Part 98:~~

(i) If the reference in 40 C.F.R. Part 98 includes a specific version or date reference, then use the version or date as specified in 40 C.F.R. Part 98.

(ii) If the reference in 40 C.F.R. Part 98 does not include a specific version or date reference, then use the version of the referenced document as available on the date of adoption of this chapter.

(f) For electrical transmission and distribution equipment use facilities where the electrical power system crosses Washington state boundaries, limit the GHG report to emissions that occur in Washington state using one of the following methods:

(i) Direct, state specific measurements;

(ii) Prorate the total emissions of the electric power system based upon either nameplate capacity or transmission line miles in the respective service areas by state using company records. Update the nameplate capacity or transmission line miles factor each reporting year and include the data used to establish the nameplate capacity or transmission line miles factor with your annual GHG report;

(iii) Prorate the total emissions of the electric power system based upon population in the respective service areas by state using the most recent U.S. Census data. Update the population factor each reporting year and include the data used to establish the population factor with your annual GHG report.

~~((g) Use the following method to obtain specific version or date references for any reference in 40 C.F.R. Part 98 that refers to any document not contained in 40 C.F.R. Part 98:~~

~~(i) If the reference in 40 C.F.R. Part 98 includes a specific version or date reference, then use the version or date as specified in 40 C.F.R. Part 98.~~

~~(ii) If the reference in 40 C.F.R. Part 98 does not include a specific version or date reference, then use the version of the referenced document as available on the date of adoption of this chapter.~~

~~(h) For suppliers of petroleum products or coal-based liquid fuels, use the following subsections instead of the corresponding subsections in 40 C.F.R. § 98.390 as adopted by September 1, 2016:~~

~~(i) 40 C.F.R. § 98.390: Definition of the source category.~~

~~This source category consists of petroleum refineries and importers and exporters of petroleum products and natural gas liquids as listed in Table MM-1 of this subpart.~~

~~(A) A petroleum refinery for the purpose of this subpart is any facility engaged in producing petroleum products through the distillation of crude oil.~~

~~(B) A refiner is the owner or operator of a petroleum refinery.~~

~~(C) Importer has the same meaning given in subsection (2)(h)(ii) of this section and includes any entity that imports petroleum products, natural gas liquids, or coal-based liquid~~

~~fuels as listed in Table MM-1 of this subpart. Any blender or refiner of refined or semi-refined petroleum products shall be considered an importer if it otherwise satisfies the aforementioned definition.~~

~~(D) Exporter has the same meaning given in subsection (2)(h)(ii) of this section and includes any entity that exports petroleum products, natural gas liquids, or coal-based liquid fuels as listed in Table MM-1 of this subpart. Any blender or refiner of refined or semi-refined petroleum products shall be considered an exporter if it otherwise satisfies the aforementioned definition.~~

~~(ii) Definitions specific to imports and exports:~~

~~(A) Export means to transport a product from inside Washington state to persons outside Washington state, excluding any such transport on behalf of the United States military including foreign military sales under the Arms Export Control Act. The final destination of the product must occur outside of Washington state.~~

~~(B) Exporter means any person, company or organization of record that transfers for sale or for other benefit, products from Washington state to another state, country, or to an affiliate in another country, excluding any such transfers on behalf of the United States military or military purposes including foreign military sales under the Arms Export Control Act. The final destination of the product must occur outside of Washington state. An exporter is not the entity merely transporting the domestic products, rather an exporter is the entity deriving the principal benefit from the transaction.~~

~~(C) Import means, to land on, bring into, or introduce into, any place subject to the jurisdiction of Washington state.~~

~~(D) Importer means any person, company, or organization of record that for any reason brings a product into Washington state from a different state or foreign country, excluding introduction into Washington state jurisdiction exclusively for United States military purposes. The term includes, as appropriate:~~

~~(I) The consignee.~~

~~(II) The importer of record.~~

~~(III) The actual owner.~~

~~(IV) The transferee, if the right to draw merchandise in a bonded warehouse has been transferred.~~

~~(iii) Each importer shall report all information at the state level.~~

~~(iv) Each exporter choosing to report emissions associated with exported products to ecology under these subparts shall report all information at the state level:~~

~~(v) Exporters choosing to report emissions associated with exported products to ecology under these subparts and refineries and importers must report information for each product where emissions were calculated.))~~

**Table 120-2:
Corresponding References in 40 C.F.R. Part 98 and
Chapter 173-441 WAC**

| Reference in 40 C.F.R. Part 98 | | Corresponding Reference in Chapter 173-441 WAC | |
|--------------------------------|------------------------------------|--|--|
| Section | Topic | Section | Topic |
| 40 C.F.R. Part 98 or "part" | Mandatory Greenhouse Gas Reporting | Chapter 173-441 WAC | Reporting of Emissions of Greenhouse Gases |

| Reference in 40 C.F.R. Part 98 | | Corresponding Reference in Chapter 173-441 WAC | |
|---|---|--|---|
| Subpart A | General Provision | WAC 173-441-010 through 173-441-100 | General Provisions |
| § 98.1 | Purpose and scope | WAC 173-441-010 | Scope |
| § 98.2 | Who must report? | WAC 173-441-030 | Applicability |
| § 98.2(a) | Applicability: Facility reporting | WAC 173-441-030(1) | Applicability: Facility reporting |
| § 98.2 (a)(1) | Applicability: Facility reporting Table A-3 | WAC 173-441-030(1) | Applicability: Facility reporting |
| § 98.2 (a)(2) | Applicability: Facility reporting Table A-4 | WAC 173-441-030(1) | Applicability: Facility reporting |
| § 98.2 (a)(3) | Applicability: Facility reporting source categories that meet all three of the conditions listed in this paragraph (a)(3) | WAC 173-441-030(1) | Applicability: Facility reporting |
| § 98.2 (a)(4) | Applicability: Facility reporting Table A-5 source categories | WAC 173-441-030(1) | Applicability: Facility reporting |
| § 98.2(b) | Calculating emissions for comparison to the threshold | WAC 173-441-030 (1)(b) | Calculating facility emissions for comparison to the threshold |
| § 98.2(i) | Reporting requirements when emissions of greenhouse gases fall below reporting thresholds | WAC 173-441-030(5) | Reporting requirements when emissions of greenhouse gases fall below reporting thresholds |
| § 98.3 | What are the general monitoring, reporting, recordkeeping and verification requirements of this part? | WAC 173-441-050 | General monitoring, reporting, recordkeeping and verification requirements |
| § 98.3(c) | Content of the annual report | WAC 173-441-050(3) | Content of the annual report |
| § 98.3(g) | Recordkeeping | WAC 173-441-050(6) | Recordkeeping |
| § 98.3 (g)(5) | A written GHG monitoring plan | WAC 173-441-050 (6)(e) | A written GHG monitoring plan |
| § 98.3(i) | Calibration accuracy requirements | WAC 173-441-050(8) | Calibration and accuracy requirements |
| § 98.3 (i)(6) | Calibration accuracy requirements: Initial calibration | WAC 173-441-050 (8)(f) | Calibration accuracy requirements: Initial calibration |
| § 98.4 | Authorization and responsibilities of the designated representative | WAC 173-441-060 | Authorization and responsibilities of the designated representative |
| § 98.5 | How is the report submitted? | WAC 173-441-070 | Report submittal |
| § 98.5(b) | Verification software | WAC 173-441-070(1) | Facility report submittal |
| § 98.6 | Definitions | WAC 173-441-020 | Definitions |
| § 98.7 | What standardized methods are incorporated by reference into this part? | WAC 173-441-080 | Standardized methods and conversion factors incorporated by reference |
| § 98.8 | What are the compliance and enforcement provisions of this part? | WAC 173-441-090 | Compliance and enforcement |
| § 98.9 | Addresses | WAC 173-441-100 | Addresses |
| Table A-1 to Subpart A of Part 98—Global Warming Potentials, Table A-1 of this part, or Table A-1 of this subpart | Global Warming Potentials | Table A-1 of WAC 173-441-040 | Global Warming Potentials |
| Table A-2 to Subpart A of Part 98—Units of Measure Conversions | Units of Measure Conversions | Table A-2 of WAC 173-441-080 | Units of Measure Conversions |

(3) **Calculation methods for voluntary reporting.** GHG emissions reported voluntarily under WAC 173-441-030((4)) (5) must be calculated using the following methods:

(a) If the GHG emissions have calculation methods specified in Table 120-1 of this section, use the methods specified in Table 120-1.

(b) If the GHG emissions have calculation methods specified in WAC ((173-441-130)) 173-441-122 or 173-441-124, use the methods specified in WAC ((173-441-130)) 173-441-122 or 173-441-124.

(c) For all GHG emissions from facilities not covered in Table 120-1 of this section or persons supplying any product

other than those listed in WAC ((173-441-130)) 173-441-122 or 173-441-124, contact ecology for an appropriate calculation method no later than one hundred eighty calendar days prior to the emissions report deadline established in WAC 173-441-050(2) or submit a petition for alternative calculation methods according to the requirements of WAC 173-441-140.

(4) **Alternative calculation methods approved by petition.** An owner or operator may petition ecology to use calculation methods other than those specified in Table 120-1 of this section to calculate its facility GHG emissions. Such alternative calculation methods must be approved by ecology

prior to reporting and must meet the requirements of WAC 173-441-140.

(5) Emissions subject to reporting, but not subject to the reporting threshold. Facilities required to report or voluntarily reporting under WAC 173-441-030 (1) or (5) based on GHG emissions calculated under subsections (1) through (4) of this section must report the following regardless of the amount of GHG emissions. The following emissions do not count towards the reporting threshold in WAC 173-441-030(1).

(a) Owners and operators of facilities that supply CO₂ as described in WAC 173-441-122 (3)(b) must include those emissions as part of their facility report as described in that section.

(b) Owners and operators of petroleum refineries and biofuel production facilities as described in WAC 173-441-122 (5)(d)(x) must include those emissions as part of their facility report as described in that section.

NEW SECTION

WAC 173-441-122 Calculation methods for suppliers. This section establishes the scope of reportable GHG emissions under this chapter and GHG emissions calculation methods for suppliers. Owners and operators of suppliers must follow the requirements of this section to determine if they are required to report under WAC 173-441-030(2). Owners and operators of suppliers that are subject to this chapter must follow the requirements of this section and all subparts of 40 C.F.R. Part 98 listed in this section when calculating emissions. If a conflict exists between a provision in WAC 173-441-010 through 173-441-110 and 173-441-140 through 173-441-170 and any applicable provision of this section, the requirements of those sections must take precedence.

(1) **General requirements.** An owner or operator of a supplier subject to the requirements of this chapter must report GHG emissions, including GHG emissions from biomass, from all applicable source categories with GHG emissions in Washington state listed in (a) of this subsection using the methods in this section.

(a) Supplier source categories:

(i) Position holders at terminals and refiners delivering fuel products, other than natural gas described in Subpart NN;

(ii) Enterers that import fuel products, other than natural gas described in Subpart NN, outside the bulk transfer/terminal system, and biofuel production facilities that produce and deliver fuel products outside the bulk/terminal system;

(iii) Refiners that produce liquefied petroleum gas;

(iv) Operators of interstate pipelines delivering natural gas;

(v) Importers of liquefied petroleum gas, compressed natural gas, or liquefied natural gas into Washington;

(vi) Local distribution companies who are public utility gas corporations or publicly owned natural gas utilities delivering natural gas;

(vii) Operators of intrastate pipelines delivering natural gas;

(viii) Natural gas liquid fractionators;

(ix) Producers, importers, and exporters of carbon dioxide;

(x) Facilities that make and deliver liquefied natural gas products or compressed natural gas products by liquefying or compressing natural gas received from interstate pipelines.

(b) All references to 40 C.F.R. Part 98 are modified consistent with WAC 173-441-120 (2)(a) through (e).

(c) The calculation methods for voluntary reporting in WAC 173-441-120(3) apply, except calculation methods in WAC 173-441-120 (3)(b) take precedence over the methods from WAC 173-441-120 (3)(a).

(d) An owner or operator may petition ecology to use calculation methods other than those specified in this section to calculate its supplier GHG emissions. Such alternative calculation methods must be approved by ecology prior to reporting and must meet the requirements of WAC 173-441-140.

(2) **Definitions specific to suppliers.** The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Biomethane" or "renewable methane" means biogas that meets pipeline quality natural gas standards.

(b) "Biofuel production facility" means a production facility that produces one or more biomass-derived fuels.

(c) "Biomass-derived fuels" means a fuel listed in 40 C.F.R. Part 98 Table MM-2, or any renewable or biogenic version of a product listed in 40 C.F.R. Part 98 Table MM-1.

(d) "Biogas" or "renewable natural gas" means a gas consisting largely of methane and other hydrocarbons derived from the decomposition of organic material in landfills, wastewater treatment facilities, and anaerobic digesters.

(e) "Bulk transfer/terminal system" means a fuel distribution system consisting of refineries, pipelines, vessels, and terminals. Fuel storage and blending facilities that are not fed by pipeline or vessel are considered outside the bulk transfer system.

(f) "Enterer" means an entity that imports fuel products into Washington and who is the importer of record under federal customs law or the owner of fuel upon import into Washington if the fuel is not subject to federal customs law. Only enterers that import the fuels specified in this definition outside the bulk transfer/terminal system are subject to reporting under the regulation.

(g) "Fractionator" means plants that produce fractionated natural gas liquids (NGLs) extracted from produced natural gas and separate the NGLs individual component products: Ethane, propane, butanes and pentane-plus (C5+). Plants that only process natural gas but do not fractionate NGLs further into component products are not considered fractionators. Some fractionators do not process production gas, but instead fractionate bulk NGLs received from natural gas processors. Some fractionators both process natural gas and fractionate bulk NGLs received from other plants.

(h) "Fuel transaction" means the record of the exchange of fuel possession, ownership, or title from one entity to another.

(i) "Importer of fuel" means an entity that imports fuel products into Washington and who is the importer of record under federal customs law. For imported fuel products not subject to federal customs law, the "importer of fuel" is the

owner of the fuel product upon its entering into Washington if the eventual transfer of ownership of the product to an end user or marketer located in Washington occurs at a location inside Washington. However, where the transfer of ownership of the fuel product to a Washington end user or marketer occurs at a location outside of Washington, the "importer of fuel" is the producer, marketer, or distributor that is the seller of the fuel product to the end user or marketer located inside Washington. Pursuant to subsection (4) of this section, only importers of liquefied petroleum gas, compressed natural gas, and liquefied natural gas are subject to reporting as an importer of fuel.

(j) "Importer of record" means the owner or purchaser of the goods that are imported into Washington.

(k) "Interstate pipeline" means any entity that owns or operates a natural gas pipeline delivering natural gas to consumers in the state and is subject to rate regulation by the Federal Energy Regulatory Commission.

(l) "Intrastate pipeline" means any pipeline or piping system wholly within Washington state that is delivering natural gas to end users and is not regulated as a public utility gas corporation by the Washington state utilities and transportation commission, is not a publicly owned natural gas utility, and is not regulated as an interstate pipeline by the Federal Energy Regulatory Commission. For purposes of this chapter, only intrastate pipeline operators that physically deliver gas to end users in Washington are subject to reporting under this chapter. This definition includes onshore petroleum and natural gas production facilities and natural gas processing facilities, as defined in 40 C.F.R. Part 98, that deliver pipeline and/or nonpipeline quality natural gas to one or more end users. Facility operators that operate an interconnection pipeline that connects their facility to an interstate pipeline, or that share an interconnection pipeline to an interstate pipeline with other nearby facilities, are not considered intrastate pipeline operators. Facilities that receive gas from an upstream LDC and redeliver a portion of the gas to one or more adjacent facilities are not considered intrastate pipelines.

(m) "Local distribution company" or "LDC," for purposes of this chapter, means a company that owns or operates distribution pipelines, not interstate pipelines, that physically deliver natural gas to end users and includes public utility gas corporations, publicly owned natural gas utilities and intrastate pipelines that are delivering natural gas to end users.

(n) "Position holder" means an entity that holds an inventory position in fuel products as reflected in the records of the terminal operator or a terminal operator that owns fuel products in its terminal. "Position holder" does not include inventory held outside of a terminal, fuel jobbers (unless directly holding inventory at the terminal), retail establishments, or other fuel suppliers not holding inventory at a fuel terminal.

(o) "Producer" means a person who owns, leases, operates, controls, or supervises a Washington state production facility.

(p) "Rack" means a mechanism for delivering motor vehicle fuel or diesel from a refinery or terminal into a truck, trailer, railroad car, or other means of nonbulk transfer.

(q) "Refiner" means, for purposes of this chapter, an individual entity or a corporate-wide entity that delivers fuel products to end users in Washington state that were produced by petroleum refineries owned by that entity or a subsidiary of that entity.

(r) "Terminal" means a fuel product storage and distribution facility that is supplied by pipeline or vessel, and from which fuel product may be removed at a rack. "Terminal" includes a fuel production facility where fuel product is produced and stored and from which fuel product may be removed at a rack.

(s) "Terminal operator" means any entity that owns, operates, or otherwise controls a terminal that is supplied by pipeline or vessel and from which accountable fuel products may be removed at a rack.

(3) **Suppliers of carbon dioxide.** Any supplier of carbon dioxide with supplied CO₂ calculated under this subsection that exceeds the reporting threshold in WAC 173-441-030(2) of this chapter must comply with 40 C.F.R. Part 98 Subpart PP in reporting to ecology, except as otherwise provided in this section. Also use Subpart PP for threshold calculations.

(a) When reporting imported and exported quantities of CO₂ as required in 40 C.F.R. § 98.422, the supplier must report quantities of carbon dioxide imported into and exported from Washington state. Exports for purposes of geologic sequestration must be reported separately from exports for other purposes.

(b) Facilities required to report or voluntarily reporting under WAC 173-441-030 (1) or (5) with the following processes must report supplied CO₂ using the methods in this section as part of their facility GHG report under WAC 173-441-070(1) regardless of the amount of CO₂ supplied.

(i) Production process units located in Washington state that capture a CO₂ stream for purposes of supplying CO₂ to another entity or facility or that capture the CO₂ stream in order to utilize it for geologic sequestration where capture refers to the initial separation and removal of CO₂ from a manufacturing process or any other process; or

(ii) CO₂ production wells located in Washington state that extract or produce a CO₂ stream for purposes of supplying CO₂ for commercial applications or that extract a CO₂ stream in order to utilize it for geologic sequestration.

(c) Missing data substitution procedures. The supplier must comply with 40 C.F.R. § 98.425 when substituting for missing data, except as otherwise provided below.

(i) If the data capture rate is at least 90 percent for the data year, the supplier must substitute for each missing value using the best available estimate of the parameter, based on all available process data.

(ii) If the data capture rate is at least 80 percent but not at least 90 percent for the data year, the supplier must substitute for each missing value with the highest quality assured value recorded for the parameter during the given data year, as well as the two previous data years.

(iii) If the data capture rate is less than 80 percent for the data year, the supplier must substitute for each missing value with the highest quality assured value recorded for the

parameter in all records kept according to WAC 173-441-050.

(iv) The supplier must document and retain records of the procedure used for all missing data estimates pursuant to the recordkeeping requirements of WAC 173-441-050.

(4) Suppliers of natural gas, natural gas liquids, liquefied petroleum gas, compressed natural gas, and liquefied natural gas. Any supplier of natural gas or natural gas liquids with emissions calculated under this subsection that exceeds the reporting threshold in WAC 173-441-030(2) must comply with 40 C.F.R. Part 98 Subpart NN in reporting emissions and related data to ecology, except as otherwise provided in this section. Also use the methods in this section for threshold calculations.

(a) *GHGs to report.* In addition to the CO₂ emissions specified under 40 C.F.R. § 98.402, all suppliers of natural gas covered in this section must separately report the CO₂, CO₂ from biomass-derived fuels, CH₄, N₂O, and CO_{2e} emissions from the complete combustion or oxidation of the annual volume of natural gas delivered, sold or imported in Washington state.

(b) *Calculating GHG emissions.* When reporting imported and exported quantities of GHGs as required in 40 C.F.R. § 98.403 and (a) of this subsection, the supplier must report quantities of GHGs imported into and exported from Washington state.

(i) Natural gas liquid fractionators must use calculation methodology 2 as specified in 40 C.F.R. § 98.403(a)(2) to estimate the CO₂ emissions that would result from the complete combustion of all natural gas liquid products supplied.

$$MMBtu_{Total} = MMBtu_{redelivery} - MMBtu_{receipts} \quad \text{(Eq. 122-1)}$$

Where:

MMBtu_{Total} = Total annual MMBtu used in Equation NN-3

MMBtu_{redelivery} = Total annual MMBtu of natural gas delivered to other companies as specified above

MMBtu_{receipts} = Total annual MMBtu of natural gas received from other companies as specified above

(iv) For the calculation of CO_{2l} in Equation 122-2, emissions from receipts of pipeline quality natural gas from in-state natural gas producers and net volume of pipeline quality natural gas injected into storage are estimated according to Equation NN-5a of 40 C.F.R. § 98.403 (b)(3) except that CO_{2l} will be calculated as the product of the net annual MMBtu and a default emission factor from Table NN-1 or the product of the net annual MMBtu and a reporter specific emission factor.

(v) For the calculation of CO_{2n} in Equation 122-2, emissions natural gas received directly by LDC systems from producers or natural gas processing plants from local production, received as a liquid and vaporized for delivery, or received from any other source that bypassed the city gate are estimated according to Equation NN-5b of 40 C.F.R. § 98.403 (b)(3) except that CO_{2n} will be calculated as the product of the net annual MMBtu and a default emission factor from Table NN-1 or the product of the net annual MMBtu and the reporter specific emission factor.

For calculating the emissions from liquefied petroleum gas, the fractionators must sum the emissions from the individual constituents of liquefied petroleum gas sold or delivered to others that was produced on-site, except for products for which a final destination outside Washington state can be demonstrated.

(ii) Local distribution companies must estimate CO₂ emissions at the state border or city gate for pipeline quality natural gas using calculation methodology 1 as specified in 40 C.F.R. § 98.403 (a)(1), except that the product of HHV and Fuel is replaced by the annual MMBtu of natural gas received.

(iii) For the calculation of CO_{2j} in Equation 122-2, public utility gas corporations and publicly owned natural gas utilities must estimate annual CO₂ emissions from in-state receipts of pipeline quality natural gas from other public utility gas corporations, interstate pipelines and intrastate transmission pipelines, and annual CO₂ emissions from all natural gas redelivered to other public utility gas corporations or interstate pipelines. Annual CO₂ emissions from redelivered natural gas to intrastate pipelines or publicly owned natural gas utilities must be estimated only if the intrastate pipeline or publicly owned natural gas utility also reports emissions under this section. Emissions are calculated according to Equation NN-3 of 40 C.F.R. § 98.403 (b)(1) except that CO_{2j} will be the product of MMBtu_{Total} and the default emission factor from Table NN-1 or the product of MMBtu_{Total} and the reporter specific emission factor. MMBtu_{Total} must be calculated as follows:

(vi) For the calculation of CO_{2k} in Equation 122-2, natural gas delivered to large end users, use Equation NN-4 of 40 C.F.R. § 98.403 (b)(2), except that CO_{2k} will be calculated as the product of the annual MMBtu delivered and a default emission factor from Table NN-1 or the product of the annual MMBtu delivered and the reporter specific emission factor. A large end user means any end user facility required to report under WAC 173-441-030(1).

(vii) Determination of pipeline quality natural gas is based on the annual weighted average HHV, determined according to Equation C-2b of 40 C.F.R. § 98.33 (a)(2) (ii)(A), for natural gas from a single city gate, storage facility, or connection with an in-state producer, interstate pipeline, intrastate pipeline or local distribution company. If the HHV is outside the range of pipeline quality natural gas, emissions will be calculated using the appropriate subsection (4) of this section replacing the default emission factor with either a reporter specific emission factor as calculated in 40 C.F.R. § 98.404 (b)(2) or one determined as follows:

(A) For natural gas or biomethane with an annual weighted HHV below 970 Btu/scf and not exceeding three percent of total emissions estimated under this section, the local distribution company may use the reporter specific weighted yearly average higher heating value and the default emission factor or an emission factor as determined in 40 C.F.R. § 98.404 (c)(3). If emissions exceed three percent of the total, then the Tier 3 method specified in 40 C.F.R. § 98.33 (a)(3)(iii) must be used with monthly carbon content samples to calculate the annual emissions from the portion of natural gas that is below 970 Btu/scf.

(B) For natural gas or biomethane with an annual HHV above 1100 Btu/scf and not exceeding three percent of total

emissions estimated under this section, the local distribution company must use the reporter specific weighted yearly average higher heating value and a default emission factor of 54.67 kg CO₂/MMBtu or an emission factor as determined in 40 C.F.R. § 98.404 (c)(3). If emissions exceed three percent of the total, then the Tier 3 method specified in 40 C.F.R. § 98.33 (a)(3)(iii) must be used with monthly carbon content samples to calculate the annual emissions from the portion of natural gas that is above 1100 Btu/scf.

(viii) When calculating total CO₂ emissions for Washington state, the equation below must be used:

$$\text{CO}_2 = \sum \text{CO}_{2i} - \sum \text{CO}_{2j} - \sum \text{CO}_{2l} + \sum \text{CO}_{2n} - \sum \text{CO}_{2k} \quad (\text{Eq. 122-2})$$

Where:

CO₂ = Total emissions.

CO_{2i} = Emissions from natural gas received at the state border or city gate, calculated pursuant to subsection (4)(b)(ii) of this section.

CO_{2j} = Emissions from natural gas received for redistribution to or received from other natural gas transmission companies, calculated pursuant to subsection (4)(b)(iii) of this section.

CO_{2l} = Emissions from storage and direct deliveries from producers calculated pursuant to subsection (4)(b)(iv) of this section.

CO_{2k} = Emissions from natural gas delivered to each large end user as calculated pursuant to subsection (4)(b)(vi) of this section.

CO_{2n} = Emissions from natural gas received by the LDC directly from sources bypassing the city gate, and is not otherwise accounted for, as calculated pursuant to subsection (4)(b)(v) of this section.

(ix) The importer of liquefied petroleum gas into Washington state must use calculation methodology 2 described in 40 C.F.R. § 98.403 (a)(2) for calculating CO₂ emissions. For liquefied petroleum gas, the importer must sum the emissions from the individual components of the gas to calculate the total emissions. If the composition is not supplied by the producer, the importer must use the default value for liquefied petroleum gas presented in Table C-1 of 40 C.F.R. Part 98. The importer of compressed natural gas or liquefied natural gas into Washington state must estimate CO₂ using calculation methodology 1 as specified in 40 C.F.R. § 98.403 (a)(1), except that the product of HHV and fuel is replaced by the annual MMBtu of the imported compressed natural gas and liquefied natural gas.

(x) Operators of facilities that make liquefied natural gas products or compressed natural gas products must estimate CO₂ using calculation methodology 1 as specified in 40 C.F.R. § 98.403 (a)(1), except that the product of HHV and fuel is replaced by the annual MMBtu of the liquefied natural gas sold or delivered in Washington state.

(xi) Operators of facilities that make liquefied natural gas products or compressed natural gas products, importers of liquefied petroleum gas, compressed natural gas, or liquefied natural gas into Washington state, natural gas liquid fractionators, and local distribution companies must estimate and report CH₄ and N₂O emissions using Equation C-8 and Table C-2 as described in 40 C.F.R. § 98.33 (c)(1) for all fuels where annual CO₂ emissions are required to be reported.

Operators of facilities that make liquefied natural gas products or compressed natural gas products must estimate CH₄ and N₂O emissions based on the MMBtu of liquefied natural gas sold or delivered. Local distribution companies must use the annual MMBtu determined in (b)(ii) through (vi) of this subsection above in place of the product of the fuel and HHV in Equation C-8 when calculating emissions.

(xii) Local distribution companies must separately and individually calculate end user emissions of CH₄, N₂O, CO₂ from biomass-derived fuels, and CO_{2e} by replacing CO₂ in Equation 122-2 with CH₄, N₂O, CO₂ from biomass-derived fuels, and CO_{2e}. CO₂ emissions from biomass-derived fuel are based on the fuel the LDC has contractually purchased on behalf of and delivered to end users. LDCs can elect to report biomethane directly purchased by an end user and delivered by the LDC if the LDC can provide the relevant documentation including invoices, shipping reports, in-kind nomination reports, and contracts to demonstrate the receipt of eligible biomethane and the following information for each contracted delivery:

(A) Name and address of the biomethane vendor from which biomethane is purchased;

(B) Annual MMBtu delivered by each biomethane vendor;

(C) Name, address, and facility type of the facility from which the biomethane is produced;

Emissions from contractually purchased biomethane are calculated using the methods for natural gas required by this

section, including the use of the emission factor for natural gas found in 40 C.F.R. § 98.408, Table NN-1. Biomass-derived fuels directly purchased by end users and delivered by the LDC must be reported as natural gas by the LDC, unless the LDC has elected to report the delivery as biomethane and can provide the necessary documentation during verification as stated above.

(xiii) All suppliers in this section must also estimate CO₂e emissions using Equation A-1.

(c) *Monitoring and QA/QC requirements.* For each emissions calculation method chosen under this section, the supplier must meet all monitoring and QA/QC requirements specified in 40 C.F.R. § 98.404, except as modified in WAC 173-441-050, 173-441-120, and below.

(i) All natural gas suppliers must measure required values at least monthly.

(ii) All natural gas suppliers must determine reporter specific HHV at least monthly, or if the local distribution company does not make its own measurements according to standard business practices, it must use the delivering pipeline measurement.

(iii) All natural gas liquid fractionators must sample for composition at least monthly.

(iv) All importers of liquefied petroleum gas into Washington state must record composition, if provided by the supplier, and quantity in barrels, corrected to 60 degrees Fahrenheit, for each shipment received.

(d) *Data reporting requirements.*

(i) For the emissions calculation method selected under (b) of this subsection, natural gas liquid fractionators must report, in addition to the data required by 40 C.F.R. § 98.406(a), the annual volume of liquefied petroleum gas, corrected to 60 degrees Fahrenheit, that was produced on-site and sold or delivered to others, except for products for which a final destination outside Washington state can be demonstrated. Natural gas liquid fractionators must report the annual quantity of liquefied petroleum gas produced and sold or delivered to others as the total volume in barrels as well as the volume of the individual components for all components listed in 40 C.F.R. Part 98 Table MM-1. Fractionators must also include the annual CO₂, CH₄, N₂O, and CO₂e mass emissions (metric tons) from the volume of liquefied petroleum gas reported in 40 C.F.R. § 98.406 (a)(5) as modified by this regulation, calculated in accordance with (b) of this subsection.

(ii) For the emissions calculation method selected under (b) of this subsection, local distribution companies must report all the data required by 40 C.F.R. § 98.406(b) subject to the following modifications:

(A) Publicly owned natural gas utilities that report interstate receipts at the city gate under 40 C.F.R. § 98.406 (b)(1) must also identify each delivering entity by name and report the annual energy of natural gas received in MMBtu.

(B) Local distribution companies that report under 40 C.F.R. § 98.406 (b)(1) through (b)(7) must also report the annual energy of natural gas in MMBtu associated with the volumes.

(C) In addition to the requirements in 40 C.F.R. § 98.406 (b)(8), local distribution companies must also include CO₂,

CO₂ from biomass-derived fuels, CH₄, N₂O, and CO₂e annual mass emissions in metric tons calculated in accordance with 40 C.F.R. § 98.403 (a) and (b)(1) through (b)(3) as modified by (b) of this subsection.

(D) Local distribution companies and intrastate pipelines that deliver natural gas to downstream gas pipelines and other local distribution companies, must report the annual energy in MMBtu, and the information required in 40 C.F.R. § 98.406 (b)(12). These requirements are in addition to the requirements of 40 C.F.R. § 98.406 (b)(6).

(E) Local distribution companies and intrastate pipelines must also report the annual energy in MMBtu, customer information required in 40 C.F.R. § 98.406 (b)(12), and ecology reporter ID if available, for all end users required to report under WAC 173-441-030(1). In addition to reporting the information specified in 40 C.F.R. § 98.406 (b)(13), local distribution companies and intrastate pipelines that deliver to end users must report the annual energy in MMBtu delivered to the following end use categories: Residential consumers; commercial consumers; industrial consumers; electricity generating facilities; and other end users not identified as residential, commercial, industrial, or electricity generating facilities. Local distribution companies must also report the total energy in MMBtu delivered to all Washington state end users.

(F) Local distribution companies that report under 40 C.F.R. § 98.406 (b)(9) must report annual CO₂, CO₂ from biomass-derived fuel, CH₄, N₂O, and CO₂e emissions (metric tons) that would result from the complete combustion or oxidation of the natural gas supplied to all entities calculated in accordance with (b) of this subsection.

(iii) In addition to the information required in 40 C.F.R. § 98.3(c), the operator of an interstate pipeline, which is not a local distribution company, must report the customer name, address, and ecology reporter ID along with the annual energy of natural gas in MMBtu for natural gas delivered to each customer, including themselves.

(iv) In addition to the information required in 40 C.F.R. § 98.3(c), the operator of an intrastate pipeline that delivers natural gas directly to end users must follow the reporting requirements described under Subpart NN of 40 C.F.R. Part 98 and this section for local distribution companies. The intrastate pipeline operator must also report the summed energy (MMBtu) of natural gas delivered to each entity receiving gas from the intrastate pipeline for purposes of estimating the CO₂i parameter as specified in (b)(ii) of this subsection. Additionally, intrastate pipeline operators are required to estimate a value for CO₂j as specified in (b)(iii) of this subsection for natural gas delivered to local distribution companies, interstate pipelines, and other intrastate pipelines. The CO₂l parameter as specified in (b)(iv) of this subsection must have a value of zero for calculating emissions.

(v) In addition to the information required in 40 C.F.R. § 98.3(c), the importer of liquefied petroleum gas into Washington state must report the annual quantity of liquefied petroleum gas imported as the total volume in barrels as well as the volume of its individual components for all components listed in 40 C.F.R. Part 98 Table MM-1, if supplied by the producer, and report CO₂, CH₄, N₂O, and CO₂e annual

mass emissions in metric tons using the calculation methods in (b) of this subsection. All importers of compressed or liquefied natural gas into Washington state and liquefied natural gas production facilities must report the annual quantities imported, and delivered or sold, respectively, in MMBtu, and report CO₂, CH₄, N₂O, and CO_{2e} annual mass emissions in metric tons separately for compressed natural gas and liquefied natural gas using the calculation methods in (b) of this subsection.

(vi) In addition to the information required in 40 C.F.R. § 98.3(c), all local distribution companies that report biomass emissions from biomethane fuel that was contractually purchased by the LDC on behalf of and delivered to end users, and all liquefied natural gas production facilities reporting biomass emission from biomethane, must report, for each contracted delivery, the information specified in (b)(x) of this subsection.

(vii) All operators of facilities that make liquefied natural gas products must report end user information for deliveries of liquefied natural gas to industrial facilities and natural gas utility customers, including customer name, address, and the annual quantity of liquefied natural gas delivered to each customer in MMBtu.

(viii) All natural gas liquid fractionators and importers of liquefied petroleum gas must report the total quantity in barrels of liquefied petroleum gas that is excluded from emissions reporting due to demonstration of final destination outside Washington state.

(e) *Procedures for estimating missing data.* Suppliers must follow the missing data procedures specified in 40 C.F.R. § 98.405. The operator must document and retain records of the procedure used for all missing data estimates pursuant to the recordkeeping requirements of WAC 173-441-050.

(5) Suppliers of petroleum products, biomass-derived fuels, and coal-based liquid fuels. Any supplier of petroleum products, biomass-derived fuels, or coal-based liquid fuels with emissions calculated under this subsection that exceeds the reporting threshold in WAC 173-441-030(2) must comply with 40 C.F.R. Part 98 Subparts LL and MM in reporting emissions and related data to ecology, except as otherwise provided in this section. Also use the methods in this section for threshold calculations. For the purposes of this subsection, fuel products do not include products reported under subsection (4) of this section but do include all fuel products listed in 40 C.F.R. Part 98 Subpart MM Tables MM-1 and MM-2, including products listed in Table MM-1 of Subpart MM that are coal-based (coal-to-liquid products). Renewable or biogenic versions of fuel products listed in Table MM-1 are also considered fuel products.

(a) *GHGs to report.*

(i) In addition to the CO₂ emissions specified under 40 C.F.R. § 98.392, all refiners that produce liquefied petroleum gas must report the CO₂, CO₂ from biomass-derived fuels, CH₄, N₂O and CO_{2e} emissions that would result from the complete combustion or oxidation of the annual quantity of liquefied petroleum gas sold or delivered, except for fuel products for which a final destination outside Washington state can be demonstrated.

(ii) Refiners, position holders of fossil fuel products, and biomass-derived fuel products that supply fuel products at Washington state terminal racks, and enterers that import fuel products for distribution outside the bulk transfer/terminal system must report the CO₂, CO₂ from biomass-derived fuels, CH₄, N₂O, and CO_{2e} emissions that would result from the complete combustion or oxidation of each fuel product. However, emissions reporting is not required for fuel products in which a final destination outside Washington state can be demonstrated to ecology's satisfaction, or for fuel products that can be demonstrated to ecology's satisfaction to have been previously delivered by a position holder or refiner out of an upstream Washington state terminal or refinery rack prior to delivery out of a second terminal rack. The volume of all fuel products that are excluded from emissions reporting based on the criteria in this paragraph must be reported pursuant to the requirements in (d)(ix) of this subsection. No fuel product shall be reported as finished fuel. Fuel products must be reported as the individual fuel product. For purposes of this chapter, CARBOB blendstocks are reported as RBOB blendstocks.

(b) *Calculating GHG emissions.*

(i) Refiners, position holders at Washington state terminals, and enterers that import fuel products for distribution outside the bulk transfer system must use Equation MM-1 as specified in 40 C.F.R. § 98.393 (a)(1) to estimate the CO₂ emissions that would result from the complete combustion of the fuel product. Emissions must be based on the quantity of fuel product removed from the rack (for refiners and position holders), fuel product imported for distribution outside the bulk transfer/terminal system (by enterers), and fuel product sold to unlicensed entities as specified in (d)(iii) of this subsection (by refiners). For fuel products that are blended, emissions must be reported for each individual fuel product separately, and not as motor gasoline (finished), biofuel blends, or other similar finished fuel product. Emissions from denatured fuel ethanol must be calculated as 100 percent ethanol only. The volume of denaturant is assumed to be zero and is not required to be reported. Emission factors must be taken from column C of 40 C.F.R. Part 98 Table MM-1 or MM-2 as specified in Calculation Method 1 of 40 C.F.R. § 98.393 (f)(1), except that the emission factor for renewable diesel is equivalent to the emission factor for Distillate No. 2. The emission factor for a renewable or biogenic version of a fuel product is equivalent to the emission factor for the corresponding nonrenewable or nonbiogenic version of the fuel product listed in Table MM-1. If a position holder in diesel or biodiesel fuel does not have sealed or financial transaction meters at the rack, and the position holder is the sole position holder at the terminal, the position holder must calculate emissions based on the delivering entity's invoiced volume of fuel product or a meter that meets the requirements of 40 C.F.R. § 98.394 either at the rack or at a point prior to the fuel product going into the terminal storage tanks.

(ii) Refiners that produce liquefied petroleum gas must use Equation MM-1 as specified in 40 C.F.R. § 98.393 (a)(1) to estimate the CO₂ emissions that would result from the complete combustion of the fuel product supplied. For calculating the emissions from liquefied petroleum gas, the emis-

sions from the individual components must be summed. Emission factors must be taken from column C of 40 C.F.R. Part 98 Table MM-1 as specified in Calculation Method 1 of 40 C.F.R. § 98.393 (f)(1).

(iii) Refiners, position holders at Washington state terminals, and enterers identified in this section must estimate and report CH₄ and N₂O emissions using Equation C-8 and Table

C-2 as described in 40 C.F.R. § 98.33 (c)(1), except for fuel products listed in Table 122-1, which must use the emission factors in Table 122-1 and Equation C-8 as described in 40 C.F.R. § 98.33 (c)(1). Renewable or biogenic versions of a fuel product must use the same emission factor as required for the corresponding nonrenewable or nonbiogenic version of the fuel product.

Table 122-1. Fuel Product CH₄ and N₂O Emission Factors

| Fuel | CH ₄ (g/bbl) | N ₂ O (g/bbl) |
|----------------------------------|-------------------------|--------------------------|
| Blendstocks or finished gasoline | 20 | 20 |
| Distillate and diesel-other | 2 | 1 |
| Ethanol | 37 | 27 |
| Biodiesel and renewable diesel | 2 | 1 |
| Oxygenates | 13 | 3 |
| Residuum | 18 | 4 |
| Waxes | 17 | 3 |
| Still gas | 19 | 4 |
| Miscellaneous products | 17 | 3 |

(iv) All fuel suppliers in this section must estimate CO_{2e} emissions using Equation A-1.

(c) *Monitoring and QA/QC requirements.* The operator must meet all the monitoring and QA/QC requirements as specified in 40 C.F.R. § 98.394, and the requirements of 40 C.F.R. § 98.3(i) as further specified in WAC 173-441-050 and below.

(i) Position holders are exempt from 40 C.F.R. § 98.3(i) calibration requirements except when the position holder and entity receiving the fuel product have common ownership or are owned by subsidiaries or affiliates of the same company. In such cases the 40 C.F.R. § 98.3(i) calibration requirements apply, unless:

(A) The fuel supplier does not operate the fuel billing meter;

(B) The fuel billing meter is also used by companies that do not share common ownership with the fuel supplier; or

(C) The fuel billing meter is sealed with a valid seal from the county sealer of weights and measures and the operator has no reason to suspect inaccuracies.

(ii) As required by 40 C.F.R. § 98.394 (a)(1)(iii), for fuel products that are liquid at 60 degrees Fahrenheit and one standard atmosphere, the volume reported must be temperature- and pressure-adjusted to these conditions. For liquefied petroleum gas the volume reported must be temperature-adjusted to 60 degrees Fahrenheit.

(d) *Data reporting requirements.* In addition to reporting the information required in 40 C.F.R. Part 98 Subpart MM, the following entities must also report the information identified below:

(i) Washington state position holders must report the annual quantity in barrels, as reported by the terminal operator, of each fuel product, that is delivered across the rack in Washington state, except for fuel products for which a final destination outside Washington state can be demonstrated to ecology's satisfaction, or for fuel products that can be demon-

strated to ecology's satisfaction to have been previously delivered by a position holder or refiner out of an upstream Washington state terminal or refinery rack prior to delivery out of a second terminal rack. Denatured fuel ethanol will be reported with the entire volume as 100 percent ethanol only. The volume of denaturant is assumed to be zero and is not required to be reported.

(ii) Washington state position holders that are also terminal operators and refiners must report the annual quantity in barrels delivered across the rack of each fuel product, except for fuel products for which a final destination outside Washington state can be demonstrated to ecology's satisfaction, or for fuel products that can be demonstrated to ecology's satisfaction to have been previously delivered by a position holder or refiner out of an upstream Washington state terminal or refinery rack prior to delivery out of a second terminal rack. Denatured fuel ethanol will be reported with the entire volume as 100 percent ethanol only. The volume of denaturant is assumed to be zero and is not required to be reported. If there is only a single position holder at the terminal, and only diesel or biodiesel is being dispensed at the rack then the position holder must report the annual quantity of fuel using a meter meeting the requirements of 40 C.F.R. § 98.394 or billing invoices from the entity delivering fuel to the terminal.

(iii) Refiners that supply fuel products within the bulk transfer system to entities not licensed by the Washington state department of licensing as a fuel supplier must report the annual quantity in barrels delivered of each fuel product, except for fuel products for which a final destination outside Washington state can be demonstrated to ecology's satisfaction. Denatured fuel ethanol will be reported with the entire volume as 100 percent ethanol only. The volume of denaturant is assumed to be zero and is not required to be reported.

(iv) Enterers delivering fuel products for distribution outside the bulk transfer/terminal system must report the annual quantity in barrels, as reported on the bill of lading or

other shipping documents of each fuel product that is imported as a blended component of a finished fuel product, except for fuel products for which a final destination outside Washington state can be demonstrated to ecology's satisfaction, typically based on bills of lading. The denatured fuel ethanol component of a finished fuel products must be reported with the entire denatured ethanol volume as 100 percent ethanol only. The volume of denaturant is assumed to be zero and is not required to be reported. Biomass-derived blends containing no more than one percent petroleum-derived fuel by volume are considered to be 100 percent biomass-derived fuel. Individual biomass-derived fuels and biomass-derived fuels that are a blended component of an imported fuel product must be reported by enterers.

(v) In addition to the information required in 40 C.F.R. § 98.396, refiners must also report the volume of liquefied petroleum gas in barrels supplied in Washington state as well as the volumes of the individual components as listed in 40 C.F.R. Part 98 Table MM-1, except for fuel for which a final destination outside Washington state can be demonstrated.

(vi) All fuel suppliers identified in this section must also report CO₂, CO₂ from biomass-derived fuels, CH₄, N₂O, and CO₂e emissions in metric tons that would result from the complete combustion or oxidation of each fuel product calculated according to Equation A-1.

(vii) All fuel suppliers identified in this section, except for refiners that report pursuant to WAC 173-441-120, must report the total quantity of each fuel product that was imported from outside of Washington state for use in Washington state. In addition, for fuel product imports, the designated percentage of oxygenate must be reported.

(viii) Fuel suppliers identified in this section, except for refiners that report pursuant to WAC 173-441-120, must report the total quantity of biomass-derived fuel blended in Washington state petroleum-derived fuel for use in Washington state.

(ix) Fuel suppliers identified in this section must report the total quantity in barrels of each fuel product that is excluded from emissions reporting due to demonstration of final destination outside Washington state, or demonstration to ecology's satisfaction, typically based on bills of lading, that the fuel product was previously delivered by a position holder or refiner out of an upstream Washington state terminal or refinery rack prior to delivery out of a second terminal rack.

(x) Owners and operators of petroleum refineries and biofuel production facilities required to report or voluntarily reporting under WAC 173-441-030 (1) or (5) must submit a complete refiner report, as defined in 40 C.F.R. Part 98 Subpart MM, that includes all products listed in Tables MM-1 and MM-2, as part of their facility GHG report under WAC 173-441-070(1) regardless of the amount of fuel products produced.

(xi) Owners and operators may separately indicate the quantity of each fuel type if the fuel supplier can demonstrate to ecology's satisfaction that the fuel is used for one of the following purposes:

(A) Aviation fuels;

(B) Watercraft fuels that are combusted outside of Washington state; or

(C) Motor vehicle fuel or special fuel that is used exclusively for agricultural purposes by a farm fuel user. The supplier must demonstrate to ecology's satisfaction that the buyer of the fuel provided the seller with an exemption certificate as described in RCW 82.08.865. Fuel used for the purpose of transporting agricultural products on public highways may be included if it is flagged separately and meets the requirements in RCW 82.08.865. For the purposes of (d)(xi) of this subsection, "agricultural purposes" and "farm fuel user" have the same meanings as provided in RCW 82.08.865 and motor vehicle fuel and special fuel have the same meanings as provided in RCW 82.38.020.

(e) *Procedures for missing data.* For quantities of fuel products that are purchased, sold, or transferred in any manner, fuel suppliers must follow the missing data procedures specified in 40 C.F.R. § 98.395. The supplier must document and retain records of the procedure used for all missing data estimates pursuant to the recordkeeping requirements of WAC 173-441-050.

NEW SECTION

WAC 173-441-124 Calculation methods for electric power entities. This section establishes the scope of reportable energy and GHG emissions under this chapter and GHG emissions calculation methods for electric power entities. Owners and operators of electric power entities must follow the requirements of this section to determine if they are required to report under WAC 173-441-030(3). Owners and operators of electric power entities that are subject to this chapter must follow the requirements of this section when calculating emissions. If a conflict exists between a provision in WAC 173-441-010 through 173-441-110 and 173-441-140 through 173-441-170 and any applicable provision of this section, the requirements of those sections must take precedence.

(1) **General requirements.** An owner or operator of an electric power entity subject to the requirements of this chapter must report GHG emissions, including GHG emissions from biomass, from all applicable source categories listed in (a) of this subsection using the methods in this section.

(a) Electric power entity source categories:

(i) Electricity importers and exporters, as defined in this section;

(ii) Retail providers, including multijurisdictional retail providers, as defined in this section;

(iii) Bonneville Power Administration (BPA).

(b) The calculation methods for voluntary reporting in WAC 173-441-120(3) apply, except calculation methods in WAC 173-441-120 (3)(b) take precedence over the methods from WAC 173-441-120 (3)(a).

(c) Alternative calculation methods approved by petition. An owner or operator may petition ecology to use calculation methods other than those specified in this section to calculate its electric power entities GHG emissions. Such alternative calculation methods must be approved by ecology prior to reporting and must meet the requirements of WAC 173-441-140.

(2) **Definitions specific to electric power entities.** The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Electricity importer" means:

(i) For electricity that is scheduled with an e-tag to a final point of delivery into a balancing authority area located entirely within Washington state, the electricity importer is identified on the e-tag as the purchasing-selling entity on the last segment of the tag's physical path with the point of receipt located outside Washington state and the point of delivery located inside Washington state;

(ii) For facilities physically located outside Washington state with the first point of interconnection to a balancing authority area located entirely within Washington state when the electricity is not scheduled on an e-tag, the electricity importer is the facility operator or owner;

(iii) For electricity imported through a centralized market, the electricity importer is the energy imbalance market purchaser;

(iv) For electricity from facilities allocated to serve retail electricity customers of a multijurisdictional electric company, the electricity importer is the multijurisdictional electric company;

(v) If the importer identified under (a)(i) of this subsection is a federal power marketing administration over which Washington state does not have jurisdiction, and the federal power marketing administration has not voluntarily elected to comply with the program, then the electricity importer is the next purchasing-selling entity in the physical path on the e-tag, or if no additional purchasing-selling entity over which Washington state has jurisdiction, then the electricity importer is the electric utility that operates the Washington state transmission or distribution system, or the generation balancing authority;

(vi) For electricity that is imported into the state by a federal power marketing administration and sold to a public body or cooperative customer or direct service industrial customer located in Washington state pursuant to section 5(b) or (d) of the Pacific Northwest Electric Power Planning and Conservation Act of 1980, P.L. 96-501, the electricity importer is the federal marketing administration;

(vii) If the importer identified under (a)(vi) of this subsection has not voluntarily elected to comply with the program, then the electricity importer is the public body or cooperative customer or direct service industrial customer; or

(viii) For electricity from facilities allocated to a consumer-owned utility inside Washington state from a multijurisdictional consumer-owned utility, the electricity importer is the consumer-owned utility inside Washington state.

(b) "First jurisdictional deliverer" means the owner or operator of an electric generating facility in Washington state or an electricity importer.

(c) "Retail provider" means any of the following:

(i) An electric utility as defined in RCW 19.405.020(14);

(ii) Multijurisdictional retail providers;

(iii) Multijurisdictional consumer-owned utilities.

(d) "Imported electricity" means electricity generated outside Washington state with a final point of delivery within the state.

(i) "Imported electricity" includes electricity from an organized market, such as the energy imbalance market.

(ii) "Imported electricity" includes imports from linked jurisdictions, but such imports shall be construed as having no emissions.

(iii) Electricity from a system that is marketed by a federal power marketing administration shall be construed as "imported electricity," not electricity generated in Washington state.

(iv) "Imported electricity" does not include electricity imports of unspecified electricity that are netted by exports of unspecified electricity to any jurisdiction not covered by a linked program by the same entity within the same hour.

(v) For a multijurisdictional electric company, "imported electricity" means electricity, other than from in-state facilities, that contributes to a common system power pool. Where a multijurisdictional electric company has a cost allocation methodology approved by the Washington state utilities and transportation commission, the allocation of specific facilities to Washington state's retail load will be in accordance with that methodology.

(vi) For a multijurisdictional consumer-owned utility, "imported electricity" includes electricity from facilities that contribute to a common system power pool that are allocated to a consumer-owned utility inside Washington state pursuant to a methodology approved by the governing board of the consumer-owned utility.

(e) "Multijurisdictional consumer-owned utility" means an electric generation and transmission cooperative owned by a collection of consumer-owned utilities in multiple states or a consumer-owned utility that provides electricity to member owners in Washington state and in one or more other states in a contiguous service territory or from a common power system.

(f) "Multijurisdictional electric company" means an investor-owned utility that provides electricity to customers in Washington state and in one or more other states in a contiguous service territory or from a common power system.

(g) "Multijurisdictional retail provider" means a:

(i) Multijurisdictional electric company; or

(ii) Multijurisdictional consumer-owned utility.

(h) "E-tag" means an energy tag representing transactions on the North American bulk electricity market scheduled to flow between or across balancing authority areas and to and from locations listed in an affiliated registry, as represented in a manner and form created by the North American Electric Reliability Corporation and as maintained by the North American Energy Standards Board or a successor organization.

(i) "Point of delivery" means a point on the electricity transmission or distribution system where a deliverer makes electricity available to a receiver, or available to serve load. This point may be an interconnection with another system or a substation where the transmission provider's transmission and distribution systems are connected to another system, or a distribution substation where electricity is imported into the state over a multijurisdictional retail provider's distribution system.

(j) "Specified source of electricity" or "specified source" means a facility, unit, or asset controlling supplier that is per-

mitted to be claimed as the source of electricity delivered. The reporting entity must have either full or partial ownership in the facility or a written power contract to procure electricity generated by that facility or unit or from an asset controlling supplier at the time of entry into the transaction to procure electricity.

(k) "Unspecified source of electricity" or "unspecified source" means a source of electricity that is not a specified source at the time of entry into the transaction to procure electricity.

(i) "Electricity exporter" means electric power entities that deliver exported electricity. The entity that exports electricity is identified on the e-tag as the purchasing-selling entity (PSE) on the last segment of the tag's physical path, with the point of receipt located inside Washington state and the point of delivery located outside Washington state.

(ii) "Electricity generation provider" means a provider of the energy or generation component of electricity services, as distinguished from the provider of transmission and/or distribution service that provides the wires for the transport of electricity. Electricity generation providers may include cogeneration facilities and other entities in addition to electrical distribution utilities that may provide both generation and transmission/distribution service.

(iii) "Energy imbalance market purchaser" or "EIM purchaser" means, for a given data year an electrical distribution utility or EPE that directly or indirectly purchases any electricity through the EIM to serve Washington state load in the data year.

(iv) "Electricity transaction" means the purchase, sale, import, export or exchange of electric power.

(v) "Electricity wheeled through Washington" or "wheeled electricity" means electricity that is generated outside Washington state and delivered into Washington state with the final point of delivery outside Washington state. Electricity wheeled through Washington state is documented on a single e-tag showing the first point of receipt located outside Washington state, an intermediate point of delivery located inside Washington state, and the final point of delivery located outside Washington state.

(vi) "Energy imbalance market" or "EIM" means the western energy imbalance market operated by the California independent system operator.

(vii) "Exported electricity" means electricity generated inside Washington state and delivered to serve load located outside Washington state. This includes electricity delivered from a first point of receipt inside Washington state, to the first point of delivery outside Washington state, with a final point of delivery outside Washington state. Exported electricity delivered across balancing authority areas is documented on e-tags with the first point of receipt located inside Washington state and the final point of delivery located outside Washington state. Exported electricity does not include electricity generated inside Washington state then transmitted outside of Washington state, but with a final point of delivery inside Washington state. Exported electricity does not include electricity generated inside Washington state that is allocated to serve Washington state retail customers of a multijurisdictional retail provider, consistent with a cost allocation methodology approved by the Washington state utilities

and transportation commission and the utility regulatory commission of at least one additional state in which the multijurisdictional retail provider provides retail electric service.

(viii) "Final point of delivery" means the sink specified on the e-tag, where defined points have been established through the affiliated registry. When e-tags are not used to document electricity deliveries, as may be the case within a balancing authority, the final point of delivery is the location of the load. Exported electricity is disaggregated by the final point of delivery on the e-tag.

(ix) "First point of delivery in Washington" means the first defined point on the transmission system located inside Washington state at which imported electricity and electricity wheeled through Washington may be measured, consistent with defined points that have been established through the affiliated registry.

(x) "First point of receipt" means the generation source specified on the e-tag, where defined points have been established through the affiliated registry. When e-tags are not used to document electricity deliveries, as may be the case within a balancing authority, the first point of receipt is the location of the individual generating facility or unit, or group of generating facilities or units. Imported electricity and wheeled electricity are disaggregated by the first point of receipt on the e-tag.

(xi) "Grid" or "electric power grid" means a system of synchronized power providers and consumers connected by transmission and distribution lines and operated by one or more control centers.

(xii) "Importer of record" means the owner or purchaser of the goods that are imported into Washington state.

(xiii) "Last point of delivery in Washington" means the last defined point on the transmission system located inside Washington state at which exported electricity may be measured, consistent with defined points that have been established through the North American Energy Standards Board Electric Industry Registry.

(xiv) "Marketer" means a purchasing-selling entity that delivers electricity and is not a retail provider.

(xv) "Particular end user" means a final purchaser of an energy product (e.g., electricity or thermal energy) for whom the energy product is delivered for final consumption and not for the purposes of retransmission or resale.

(xvi) "Point of receipt" or "POR" means the point on an electricity transmission or distribution system where an electricity receiver receives electricity from a first jurisdictional deliverer. This point can be an interconnection with another system or a substation where the transmission provider's transmission and distribution systems are connected to another system.

(xvii) "Power" means electricity, except where the context makes clear that another meaning is intended.

(xviii) "Power contract" or "written power contract," as used for the purposes of documenting specified versus unspecified sources of imported and exported electricity, means a written document, including associated verbal or electronic records if included as part of the written power contract, arranging for the procurement of electricity. Power contracts may be, but are not limited to, power purchase agreements, enabling agreements, electricity transactions,

and tariff provisions, without regard to duration, or written agreements to import or export on behalf of another entity, as long as that other entity also reports to ecology the same imported or exported electricity. A power contract for a specified source is a contract that is contingent upon delivery of power from a particular facility, unit, or asset-controlling supplier's system that is designated at the time the transaction is executed.

(xix) "Purchasing-selling entity" or "PSE" means the entity that is identified on an e-tag for each physical path segment.

(xx) "Retail end use customer" or "retail end user" means a residential, commercial, agricultural, or industrial electric customer who buys electricity to be consumed as a final product and not for resale.

(xxi) "Retail sales" means electricity sold to retail end users.

(xxii) "Sink" or "sink to load" or "load sink" means the sink identified on the physical path of e-tags, where defined points have been established through the affiliated registry. Exported electricity is disaggregated by the sink on the e-tag, also referred to as the final point of delivery on the e-tag.

(xxiii) "Source of generation" or "generation source" means the generation source identified on the physical path of e-tags, where defined points have been established through the affiliated registry. Imported electricity and wheels are disaggregated by the source on the e-tag, also referred to as the first point of receipt.

(xxiv) "Substitute power" or "substitute electricity" means electricity that is provided to meet the terms of a power purchase contract with a specified facility or unit when that facility or unit is not generating electricity.

(xxv) "Tolling agreement" means an agreement whereby a party rents a power plant from the owner. The rent is generally in the form of a fixed monthly payment plus a charge for every megawatt generated, generally referred to as a variable payment.

(3) **Data requirements and calculation methods.** The electric power entity who is required to report under WAC 173-441-030(3) of this chapter must comply with the following requirements.

(a) General requirements and content for GHG emissions data reports for electricity importers and exporters.

(i) Greenhouse gas emissions. The electric power entity must report GHG emissions separately for each category of delivered electricity required, in metric tons of CO₂ equivalent (MT of CO₂e), with biogenic CO₂ reported separately, according to the calculation methods in this section.

(ii) Delivered electricity. The electric power entity must report imported, exported, and wheeled electricity in MWh disaggregated by first point of receipt (POR) or final point of delivery, as applicable, and must also separately report imported and exported electricity from unspecified sources, including the energy imbalance market, and from each specified source. Substitute electricity must be separately reported for each specified source, as applicable. First points of receipt and final points of delivery (POD) must be reported using the standardized code used in e-tags, as well as the full name of the POR/POD.

(iii) Imported electricity from unspecified sources. When reporting imported electricity from unspecified sources, the electric power entity must report for each first point of receipt the following information:

(A) Whether the first point of receipt is located in a linked jurisdiction published on the ecology website;

(B) The amount of electricity from unspecified sources as measured at the first point of delivery in Washington state;

(C) The amount of electricity imports of unspecified electricity that are netted by exports of unspecified electricity to any jurisdiction not covered by a linked program by the same entity within the same hour.

(D) The net amount of imported unspecified electricity after taking into account the requirements in (a)(iii)(C) of this subsection.

(E) GHG emissions, including those associated with transmission losses, as required in this section.

(F) When the unspecified power was obtained from the energy imbalance market.

(iv) Imported electricity from specified facilities or units. The electric power entity must report all direct delivery of electricity as from a specified source for facilities or units in which they are a generation providing entity (GPE) or have a written power contract to procure electricity. A GPE must report imported electricity as from a specified source when the importer is a GPE of that facility. When reporting imported electricity from specified facilities or units, the electric power entity must disaggregate electricity deliveries and associated GHG emissions by facility or unit and by first point of receipt, as applicable. The reporting entity must also report total GHG emissions and MWh from specified sources and the sum of emissions from specified sources explicitly listed as not covered in chapter 316, Laws of 2021, as described in chapter 173-446 WAC. Seller Warranty: The sale or resale of specified source electricity is permitted among entities on the e-tag market path insofar as each sale or resale is for specified source electricity in which sellers have purchased and sold specified source electricity, such that each seller warrants the sale of specified source electricity from the source through the market path. Claims of specified sources of imported electricity, must include the following information:

(A) Measured at busbar. The amount of imported electricity from specified facilities or units as measured at the busbar; and

(B) Not measured at busbar. If the amount of imported electricity deliveries from specified facilities or units as measured at the busbar is not provided, report the amount of imported electricity as measured at the first point of delivery in Washington state, including estimated transmission losses as required in this section and the reason why measurement at the busbar is not known.

(v) Imported electricity from the energy imbalance market. The reporting entity must separately report power obtained from the energy imbalance market.

(vi) Imported electricity supplied by asset-controlling suppliers. The reporting entity must separately report imported electricity supplied by asset-controlling suppliers recognized by ecology. The reporting entity must:

(A) Report the asset-controlling supplier standardized purchasing-selling entity (PSE) acronym or code, full name, and the ecology identification number;

(B) Report asset-controlling supplier power that was not acquired as specified power, as unspecified power;

(C) Report delivered electricity from asset-controlling suppliers as measured at the first point of delivery in Washington state; and

(D) Report GHG emissions calculated pursuant to this section, including transmission losses.

(E) Tagging ACS power. To claim power from an asset-controlling supplier, the asset-controlling supplier must be identified on the physical path of the e-tag as the PSE at the first point of receipt, or in the case of asset-controlling suppliers that are exclusive marketers, as the PSE immediately following the associated generation owner.

(vii) Exported electricity. The electric power entity must report exported electricity in MWh and associated GHG emissions in MT of CO₂e for unspecified sources disaggregated by each final point of delivery outside Washington state, and for each specified source disaggregated by each final point of delivery outside Washington state, as well as the following information:

(A) Exported electricity as measured at the last point of delivery located in Washington state, if known. If unknown, report as measured at the final point of delivery outside Washington state.

(B) Do not report estimated transmission losses.

(C) Report whether the final point of delivery is located in a linked jurisdiction published on the ecology website.

(D) Report GHG emissions calculated pursuant to this section.

(viii) Exchange agreements. The electric power entity must report delivered electricity under power exchange agreements consistent with imported and exported electricity requirements of this section. Electricity delivered into Washington state under exchange agreements must be reported as imported electricity and electricity delivered out of Washington state under exchange agreements must be reported as exported electricity.

(ix) Electricity wheeled through Washington state. The electric power entity who is the PSE on the last physical path segment that crosses the border of Washington state on the e-tag must separately report electricity wheeled through Washington state, aggregated by first point of receipt, and must exclude wheeled power transactions from reported imports and exports. When reporting electricity wheeled through Washington state, the electric power entity must include the quantities of electricity wheeled through Washington state as measured at the first point of delivery inside Washington state. Only an electric power entity must report wheeled electricity through Washington state.

(x) Verification documentation. The electric power entity must retain for purposes of verification documentation of e-tags, written power contracts, settlements data, and all other information required to confirm reported electricity procurements and deliveries pursuant to the recordkeeping requirements of WAC 173-441-050.

(xi) Electricity generating units and cogeneration units in Washington state. Electric power entities that also operate

electricity generating units or cogeneration units located inside Washington state that meet the applicability requirements of WAC 173-441-030(1) must report GHG emissions to ecology under WAC 173-441-120.

(xii) Electricity generating units and cogeneration units outside Washington state. Operators and owners of electricity generating units and cogeneration units located outside Washington state who elect to report to ecology under WAC 173-441-030(5) must fully comply with the reporting and verification requirements of this chapter.

(b) Calculating GHG emissions.

(i) Calculating GHG emissions from unspecified sources. For electricity from unspecified sources, the electric power entity must calculate the annual CO₂ equivalent mass emissions using the method established in WAC 173-444-040(4) and based on the amount of net imported electricity reported consistent with (a)(iii)(D) of this subsection.

(ii) Calculating GHG emissions from specified facilities or units. For electricity from specified facilities or units, the electric power entity must calculate emissions using the following equation:

$$CO_{2e} = MWh \times TL \times EF_{sp} \quad (\text{Eq. 124-1})$$

Where:

CO_{2e} = Annual CO₂ equivalent mass emissions from the specified electricity deliveries from each facility or unit claimed (MT of CO₂e).

MWh = Megawatt-hours of specified electricity deliveries from each facility or unit claimed.

EF_{sp} = Facility-specific or unit-specific emission factor published on the ecology website and calculated using total emissions and transactions data as described below. The emission factor is based on data from the year prior to the reporting year.

TL = Transmission loss correction factor.

TL = 1.02 to account for transmission losses associated with generation outside of a Washington state balancing authority.

TL = 1.0 if the reporting entity provides documentation that demonstrates to the satisfaction of a verifier and ecology that transmission losses have been accounted for, or are compensated by using electricity sourced from within Washington state.

(A) Ecology shall calculate facility-specific or unit-specific emission factors and publish them on the ecology website using the following equation:

$$EF_{sp} = E_{sp}/EG \quad (\text{Eq. 124-2})$$

Where:

Esp = CO₂e emissions for a specified facility or unit for the report year (MT of CO₂e).
 EG = Net generation from a specified facility or unit for the report year shall be based on data reported to the Energy Information Administration (EIA).

$$Esp = 0.001 \times \Sigma(Q \times EF) \quad (\text{Eq. 124-3})$$

Where:

0.001 = Conversion factor kg to MT
 Q = Heat of combustion for each specified fuel type from the specified facility or unit for the report year (MMBtu). For cogeneration, Q is the quantity of fuel allocated to electricity generation consistent with EIA reporting. For geothermal electricity, Q is the steam data reported to EIA (MMBtu).
 EF = CO₂e emission factor for the specified fuel type as required by this chapter (kg CO₂e/MMBtu). For geothermal electricity, EF is the estimated CO₂ emission factor published by EIA.

(B) To register a specified unit(s) source of power, the reporting entity must provide to ecology unit level GHG emissions consistent with the data source requirements of this section and net generation data as reported to the EIA, along with contracts for delivery of power from the specified unit(s) to the reporting entity, and proof of direct delivery of the power by the reporting entity as an import to Washington state.

(I) For specified facilities or units whose operators are subject to this chapter or whose owners or operators voluntarily report under this chapter, Esp shall be equal to the sum of CO₂e emissions reported pursuant to this section.

(II) For specified facilities or units whose operators are not subject to reporting under this chapter or whose owners or operators do not voluntarily report under this chapter, but are subject to the U.S. EPA GHG Mandatory Reporting Regulation, Esp shall be based on GHG emissions reported to U.S. EPA pursuant to 40 C.F.R. Part 98. For GHG emissions reported to U.S. EPA pursuant to 40 C.F.R. Part 98, if it is not possible to isolate the emissions that are directly related to electricity production, ecology may calculate Esp based on EIA data. Emissions from combustion of biomass-derived fuels will be based on EIA data until such time the emissions are reported to U.S. EPA.

(III) For specified facilities or units whose operators are not subject to reporting under this chapter or whose owners or operators do not voluntarily report under this chapter, nor are subject to the U.S. EPA GHG Mandatory Reporting Regulation, Esp is calculated using heat of combustion data reported to the Energy Information Administration (EIA) as shown below.

$$\text{Sum of Lesser of MWh} = \Sigma HM_{sp} \min(MG_{sp} * S_{sp}, TG_{sp}) \quad (\text{Eq. 124-4})$$

Where:

ΣHM_{sp} = Sum of the Hourly Minimum of MG_{sp} and TG_{sp} (MWh).
 MG_{sp} = Metered facility or unit net generation (MWh).
 S_{sp} = Entity's share of metered output, if applicable.
 TG_{sp} = Tagged or transmitted energy at the transmission or subtransmission level imported to Washington (MWh).

(IV) Facilities or units will be assigned an emission factor by the ecology based on the type of fuel combusted or the technology used when a U.S. EPA GHG Report or EIA fuel consumption report is not available, including new facilities and facilities located outside the U.S.

(V) Meter data requirement. For verification purposes, electric power entities shall retain meter generation data to document that the power claimed by the reporting entity was generated by the facility or unit at the time the power was directly delivered.

A lesser of analysis is applicable to imports from specified sources, including imported electricity under EIM, for which ecology has calculated an emission factor of zero, and for imports from Washington renewable portfolio standard (RPS) eligible resources, excluding the following: Dynamically tagged power deliveries; nuclear power; asset controlling supplier power; and imports from hydroelectric facilities for which an entity's share of metered output on an hourly basis is not established by power contract. A lesser of analysis is required pursuant to the following equation:

suppliers recognized by the ecology. The reporting entity must calculate emissions for electricity supplied using the following equation:

$$CO_2e = MWh \times TL \times EF_{acs} \quad (\text{Eq. 124-5})$$

Where:

CO₂ = Annual CO₂ equivalent mass emissions from the specified electricity deliveries from ecology-recognized asset-controlling suppliers (MT of CO₂e).
 MWh = Megawatt-hours of specified electricity deliveries.

(iii) Calculating GHG emissions of imported electricity supplied by asset-controlling suppliers. Based on annual reports submitted to ecology pursuant to WAC 173-441-070(3), ecology will calculate and publish on the ecology website the system emission factor for all asset-controlling

EFACS = Asset-Controlling Supplier system emission factor published on the ecology website (MT CO₂e/MWh). Ecology will assign the system emission factors for all asset-controlling suppliers based on a previously verified GHG report submitted to ecology pursuant to WAC 173-441-070(3). The supplier-specific system emission factor is calculated annually by ecology. The calculation is derived from data contained in annual reports submitted that have received a positive or qualified positive verification statement. The emission factor is based on data from two years prior to the reporting year.

TL = Transmission loss correction factor.
 TL = 1.02 when deliveries are not reported as measured at a first point of receipt located within the balancing authority area of the asset-controlling supplier.
 TL = 1.0 when deliveries are reported as measured at a first point of receipt located within the balancing authority area of the asset-controlling supplier.

(A) Ecology must calculate the system emission factor for asset-controlling suppliers using the following equations:

$$EFACS = \frac{\text{Sum of System Emissions MT of CO}_2\text{e}}{\text{Sum of System MWh}} \quad (\text{Eq. 124-6})$$

$$\text{Sum of System Emissions, MT of CO}_2\text{e} = \Sigma E_{\text{asp}} + \Sigma (PE_{\text{asp}} * EF_{\text{sp}}) + \Sigma (PE_{\text{unsp}} * EF_{\text{unsp}}) - \Sigma (SE_{\text{asp}} * EF_{\text{sp}}) \quad (\text{Eq. 124-7})$$

$$\text{Sum of System MWh} = \Sigma EG_{\text{asp}} + \Sigma PE_{\text{asp}} + \Sigma PE_{\text{unsp}} - \Sigma SE_{\text{asp}} \quad (\text{Eq. 124-8})$$

Where:

ΣE_{asp} = Emissions from owned facilities. Sum of CO₂e emissions from each specified facility/unit in the asset-controlling supplier's fleet (MT of CO₂e).

ΣEG_{asp} = Net generation from owned facilities. Sum of net generation for each specified facility/unit in the asset-controlling supplier's fleet for the data year as reported to ecology under this chapter (MWh).

PE_{asp} = Electricity purchased from specified sources. Amount of electricity purchased wholesale and taken from specified sources by the asset-controlling supplier for the data year as reported to ecology under this chapter (MWh).

PE_{unsp} = Electricity purchased from unspecified sources. Amount of electricity purchased wholesale from unspecified sources by the asset-controlling supplier for the data year as reported to ecology under this chapter (MWh).

SE_{asp} = Electricity sold from specified sources. Amount of wholesale electricity sold from specified sources by the asset-controlling supplier for the data year as reported to ecology under this chapter (MWh).

EF_{sp} = CO₂e emission factor as defined for each specified facility or unit calculated consistent with (b)(ii) of this subsection (MT CO₂e/MWh).

EF_{unsp} = Default emission factor for unspecified sources calculated consistent with (b)(i) of this subsection (MT CO₂e/MWh).

(iv) Calculating GHG emissions of imported electricity for multijurisdictional retail providers. Multijurisdictional retail providers must include emissions and megawatt-hours in the terms below from facilities or units that contribute to a common system power pool. Multijurisdictional retail providers do not include emissions or megawatt-hours in the terms below from facilities or units allocated to serve retail loads in designated states pursuant to a cost allocation methodology approved by the Washington state utilities and transportation commission and the utility regulatory commission of at least one additional state in which the multijurisdictional retail provider provides retail electric service. For multijurisdictional consumer-owned utilities, the cost allocation methodology must be approved by its governing board. Multijurisdictional retail providers must calculate emissions that have a compliance obligation using the following equation:

$$CO_2e = (MWhR \times TLR - MWhWSP-WA - EGWA) \times EFMJRP + MWhWSP-notWA \times TLWSP \times EFunsp - CO_2e \text{ linked} \quad (\text{Eq. 124-9})$$

Where:

- CO₂e = Annual CO₂e mass emissions of imported electricity (MT of CO₂e).
- MWhR = Total electricity procured by multijurisdictional retail provider to serve its retail customers in Washington, reported as retail sales for Washington state service territory, MWh.
- MWhWSP-WA = Wholesale electricity procured in Washington state by multijurisdictional retail provider to serve its retail customers in Washington state, as determined by the first point of receipt on a e-tag and pursuant to a cost allocation methodology approved by the Washington state utilities and transportation commission (UTC) and the utility regulatory commission of at least one additional state in which the multijurisdictional retail provider provides retail electric service, MWh. For multijurisdictional consumer-owned utilities, the cost allocation methodology must be approved by its governing board.
- MWhWSP-not WA = Wholesale electricity imported into Washington state by multijurisdictional retail provider with a final point of delivery in Washington state and not used to serve its Washington state retail customers, MWh.
- EFMJRP = Multijurisdictional retail provider system emission factor calculated by ecology and consistent with a cost allocation methodology approved by the Washington state utilities and transportation commission and the utility regulatory commission of at least one additional state in which the multijurisdictional retail provider provides retail electric service. For multijurisdictional consumer-owned utilities, the cost allocation methodology must be approved by its governing board.
- EFunsp = Default emission factor for unspecified sources calculated consistent with this section (MT CO₂e/MWh).
- EGWA = Net generation measured at the busbar of facilities and units located in Washington state that are allocated to serve its retail customers in Washington state pursuant to a cost allocation methodology approved by the Washington state utilities and transportation commission and the utility regulatory commission of at least one additional state in which the multijurisdictional retail provider provides retail electric service, MWh. For multijurisdictional consumer-owned utilities, the cost allocation methodology must be approved by its governing board.
- TL = Transmission loss correction factor.
- TL WSP = 1.02 for transmission losses applied to wholesale power.
- TL R = Estimate of transmission losses from busbar to end user reported by multijurisdictional retail provider.

CO₂e linked = Annual CO₂e mass emissions recognized by ecology pursuant to linkage under chapter 316, Laws of 2021, as described in chapter 173-446 WAC (MT of CO₂e).

(c) Additional requirements for retail providers, excluding multijurisdictional retail providers. Retail providers must include the following information in the GHG emissions data report for each report year, in addition to the information identified in (a)(i), (ii), and (vii) of this subsection.

(i) Retail providers must report Washington state retail sales. A retail provider who is required only to report retail sales may choose not to apply the verification requirements specified in WAC 173-441-085, if the retail provider deems the emissions data report nonconfidential.

(ii) Retail providers may elect to report the subset of retail sales attributed to the electrification of shipping ports, truck stops, and motor vehicles if metering is available to separately track these sales from other retail sales.

(d) Retail providers that report as electricity importers or exporters also must separately report electricity imported from specified and unspecified sources by other electric power entities to serve their load, designating the electricity importer. In addition, all imported electricity transactions documented by e-tags where the retail provider is the PSE at the sink must be reported.

(e) Additional requirements for multijurisdictional retail providers. Multijurisdictional retail providers that provide electricity into Washington state at the distribution level must include the following information in the GHG emissions data report for each report year, in addition to the information identified elsewhere in this section.

(i) A report of the electricity transactions and GHG emissions associated with the common power system or contiguous service territory that includes consumers in Washington state. This includes the requirements in this section as applicable for each generating facility or unit in the multijurisdictional retail provider's fleet;

(ii) The multijurisdictional retail provider must include in its emissions data report wholesale power purchased and taken (MWh) from specified and unspecified sources and wholesale power sold from specified sources according to the specifications in this section, and as required for ecology to calculate a supplier-specific emission factor;

(iii) Total retail sales (MWh) by the multijurisdictional retail provider in the contiguous service territory or power system that includes consumers in Washington state;

(iv) Retail sales (MWh) to Washington state customers served in Washington state's portion of the service territory;

(v) Retail sales derived from the energy imbalance market;

(vi) GHG emissions associated with the imported electricity, including both Washington state retail sales and wholesale power imported into Washington state from the retail provider's system, according to the specifications in this section;

(vii) Multijurisdictional retail providers that serve Washington state load must claim as specified power all power purchased or taken from facilities or units in which they have

operational control or an ownership share or written power contract;

(viii) Multijurisdictional retail providers that serve Washington state load may elect to exclude information listed in this section when registering claims to specified power from facilities located outside Washington state and participating in the Federal Energy Regulatory Commission's PURPA Qualifying Facility program.

(f) Additional requirements for asset-controlling suppliers. Owners or operators of electricity generating facilities or exclusive marketers for certain generating facilities may apply for an asset-controlling supplier designation from ecology. Approved asset-controlling suppliers may request that ecology calculate or adopt a supplier-specific emission factor pursuant to this section. To apply for asset-controlling supplier designation, the applicant must:

(i) Meet the requirements in this chapter, including reporting pursuant as applicable for each generating facility or unit in the supplier's fleet;

(ii) Include in its emissions data report wholesale power purchased and taken (MWh) from specified and unspecified sources and wholesale power sold from specified sources according to the specifications in this section, and as required for ecology to calculate a supplier-specific emission factor;

(iii) Retain for verification purposes documentation that the power sold by the supplier originated from the supplier's fleet of facilities and either that the fleet is under the supplier's operational control or that the supplier serves as the fleet's exclusive marketer;

(iv) Provide the supplier-specific ecology identification number to electric power entities who purchase electricity from the supplier's system.

(v) To apply for and maintain asset-controlling supplier status, the entity shall submit as part of its emissions data report the following information, annually:

(A) General business information, including entity name and contact information;

(B) List of officer names and titles;

(C) Data requirements as prescribed by ecology;

(D) A list and description of electricity generating facilities for which the reporting entity is a first jurisdiction deliverer; and

(E) An attestation, in writing and signed by an authorized officer of the applicant, as follows:

(I) "I certify under penalty of perjury under the laws of the State of Washington that I am duly authorized by (name of entity) to sign this attestation on behalf of (name of entity), that (name of entity) meets the definition of an asset-controlling supplier as specified in this section and that the information submitted herein is true, accurate, and complete."

(II) Asset-controlling suppliers must annually adhere to all reporting and verification requirements of this chapter, or be removed from asset-controlling supplier designation. Asset-controlling suppliers will also lose their designation if they receive an adverse verification statement, but may reapply in the following year for redesignation.

(g) Requirements for claims of specified sources of electricity. Each reporting entity claiming specified facilities or units for imported or exported electricity must register its anticipated specified sources with ecology by the registration

due date in WAC 173-441-060(4) to obtain associated emission factors calculated by ecology for use in the emissions data report required to be submitted by the report submission due date in WAC 173-441-050 (2)(a). If an operator fails to register a specified source by the registration due date in WAC 173-441-060(4), the operator must use the emission factor provided by ecology for a specified facility or unit in the emissions data report required to be submitted by the report submission due date in WAC 173-441-050 (2)(a). Each reporting entity claiming specified facilities or units for imported or exported electricity must also meet requirements in the emissions data report.

(i) Registration information for specified sources. The following information is required:

(A) The facility names and, for specification to the unit level, the facility and unit names.

(B) For sources with a previously assigned ecology identification number, the ecology facility or unit identification number or supplier number published on ecology's website. For newly specified sources, ecology will assign a unique identification number.

(C) If applicable, the facility and unit identification numbers as used for reporting to the U.S. EPA Acid Rain Program, U.S. EPA pursuant to 40 C.F.R. Part 98, U.S. Energy Information Administration, Federal Energy Regulatory Commission's PURPA Qualifying Facility program, as applicable.

(D) The physical address of each facility, including jurisdiction.

(E) Provide names of facility owner and operator.

(F) The percent ownership share and whether the facility or unit is under the electricity importer's operational control.

(G) Total facility or unit gross and net nameplate capacity when the electricity importer is a GPE.

(H) Total facility or unit gross and net generation when the electricity importer is a GPE.

(I) Start date of commercial operation and, when applicable, date of repowering.

(J) GPEs claiming additional capacity at an existing facility must include the implementation date, the expected increase in net generation (MWh), and a description of the actions taken to increase capacity.

(K) Designate whether the facility or unit is a newly specified source, a continuing specified source, or was a specified source in the previous report year that will not be specified in the current report year.

(L) Provide the primary technology or fuel type as listed below:

(I) Variable renewable resources by type, defined for purposes of this chapter as pure solar, pure wind, and run-of-river hydroelectricity;

(II) Hybrid facilities such as solar thermal;

(III) Hydroelectric facilities \leq 30 MW, not run-of-river;

(IV) Hydroelectric facilities $>$ 30 MW;

(V) Geothermal binary cycle plant or closed loop system;

(VI) Geothermal steam plant or open loop system;

(VII) Units combusting biomass-derived fuel, by primary fuel type;

(VIII) Nuclear facilities;

- (IX) Cogeneration by primary fuel type;
- (X) Fossil sources by primary fuel type;
- (XI) Co-fired fuels;
- (XII) Municipal solid waste combustion;
- (XIII) Other.

(ii) Emission factors. The emission factor published on the ecology website, calculated by ecology according to the methods in this section, must be used when reporting GHG emissions for a specified source of electricity.

(iii) Delivery tracking conditions required for specified electricity imports. Electricity importers must claim a specified source when the electricity delivery meets any of the criteria for direct delivery of electricity, and one of the following sets of conditions:

(A) The electricity importer is a GPE; or

(B) The electricity importer has a written power contract for electricity generated by the facility or unit, subject to meeting all other specified source requirements.

(iv) Additional information for specified sources. For each claim to a specified source of electricity, the electricity importer must indicate whether one or more of the following descriptions applies:

(A) Deliveries from existing federally owned hydroelectricity facilities by exclusive marketers. Electricity from specified federally owned hydroelectricity facility delivered by exclusive marketers;

(B) Deliveries from new facilities. Specified source of electricity is first registered pursuant to this section and delivered by an electricity importer within 12 months of the start date of commercial operation and the electricity importer making a claim in the current data year is either a GPE or purchaser of electricity under a written power contract;

(C) Deliveries from existing facilities with additional capacity. Specified source of electricity is first registered pursuant to this section and delivered by a GPE within 12 months of the start date of an increase in the facility's generating capacity due to increased efficiencies or other capacity increasing actions.

(v) Substitute electricity. Report substitute electricity received from specified and unspecified sources pursuant to the requirements of this section.

(4) **Recordkeeping.** GHG inventory program for electric power entities that import or export electricity. In lieu of a GHG monitoring plan, electric power entities that import or export electricity must prepare GHG inventory program documentation that is maintained and available for verifier review and ecology audit pursuant to the recordkeeping requirements of this section. The following information is required:

(a) Information to allow the verification team to develop a general understanding of entity boundaries, operations, and electricity transactions;

(b) Reference to management policies or practices applicable to reporting pursuant to this section;

(c) List of key personnel involved in compiling data and preparing the emissions data report;

(d) Training practices for personnel involved in reporting delivered electricity and responsible for data report certification, including documented training procedures;

(e) Query of e-tag source data to determine the quantity of electricity (MWh) imported, exported, and wheeled for transactions in which they are the purchasing-selling entity on the last physical path segment that crosses the border of Washington state, access to review the raw e-tag data, a tabulated summary, and query description;

(f) Reference to other independent or internal data management systems and records, including written power contracts and associated verbal or electronic records, full or partial ownership, invoices, and settlements data used to document whether reported transactions are specified or unspecified and whether the requirements for adjustments to covered emissions of chapter 316, Laws of 2021, as described in chapter 173-446 WAC are met;

(g) Description of steps taken and calculations made to aggregate data into reporting categories required pursuant to this section;

(h) Records of preventive and corrective actions taken to address verifier and ecology findings of past nonconformances and material misstatements;

(i) Log of emissions data report modifications made after initial certification; and

(j) A written description of an internal audit program that includes emissions data report review and documents ongoing efforts to improve the GHG inventory program.

AMENDATORY SECTION (Amending WSR 15-04-051, filed 1/29/15, effective 3/1/15)

WAC 173-441-140 Petitioning ecology to use an alternative calculation method to calculate greenhouse gas emissions. An owner or operator may petition ecology to use calculation methods other than those specified in WAC 173-441-120, 173-441-122, or 173-441-124 to calculate GHG emissions. ~~((Alternative calculation methodologies are not available for GHG emissions covered by a source category adopted by reference in WAC 173-441-130.))~~ The following requirements apply to the submission, review, and approval or denial of a petition:

(1) **Petition submittal.** An owner or operator must submit a petition that meets the following conditions before ecology may review the petition and issue a determination.

(a) An owner or operator must submit a complete petition no later than one hundred eighty calendar days prior to the emissions report deadline established in WAC 173-441-050(2). Such petition must include sufficient information, as described in (b) of this subsection, for ecology to determine whether the proposed alternative calculation method will provide emissions data sufficient to meet the reporting requirements of RCW ~~((70.94.151))~~ 70A.15.2200. Ecology will notify the owner or operator within thirty calendar days of receipt of a petition of any additional information ecology requires to approve the proposed calculation methods in the petition. If a petition is under review by ecology at the time an annual emissions report is due under WAC 173-441-050(2), the owner or operator must submit the emissions report using the calculation methods approved under this chapter at the time of submittal of the emissions report.

(b) The petition must include, at a minimum, the following information:

(i) Identifying information as specified in WAC 173-441-060 (9)(b) and 173-441-060 (13)(b)(ii) of the designated representative and any agent submitting a petition;

(ii) Identifying information as specified in WAC 173-441-050 (3)(a) of the facility or facilities where the owner or operator proposes to use the alternative calculation method;

(iii) A clear and complete reference to the subparts or sections in EPA's mandatory greenhouse gas reporting regulation that contain the alternative calculation method and the date that EPA adopted the subparts or sections;

(iv) The source categories that will use the alternative calculation method;

(v) The date that the owner or operator intends to start using the alternative calculation method;

(vi) Any other supporting data or information as requested by ecology as described in subsection (2) of this section; and

(vii) The designated representative must sign and date the petition.

(2) **Ecology review of the petition.** Ecology must approve the alternative calculation method before the owner or operator may use it to report GHG emissions. Ecology will issue a determination within sixty calendar days of receiving a complete petition. The alternative calculation method must meet the following conditions:

(a) Except as noted in (b) of this subsection, alternative calculation methods for ~~((facilities))~~ reporters required to report under WAC 173-441-030~~((+))~~ must be methods adopted by the United States Environmental Protection Agency in its mandatory greenhouse gas reporting regulation, or otherwise more recent versions of methods adopted in this chapter. The alternative calculation method must be more recent than the method for the given source category adopted by reference in WAC 173-441-120, 173-441-122, or 173-442-124.

(b) For GHG emissions reported voluntarily under WAC 173-441-030~~((+))~~ (5), ecology must apply the following criteria when evaluating an alternative calculation method:

(i) If the GHG emissions are covered by a source category adopted by reference in WAC 173-441-120, 173-441-122, or 173-442-124, then the requirements of (a) and (b) of this subsection apply.

(ii) If the GHG emissions are not covered by a source category adopted by reference in WAC 173-441-120, 173-441-122, or ((173-441-130)) 173-441-124, then ecology must consider whether the methods meet the following criteria:

(A) The alternative calculation method is established by a nationally or internationally recognized body in the field of GHG emissions reporting such as:

(I) Ecology;

(II) EPA;

(III) California Air Resources Board;

(IV) The ~~((International))~~ Intergovernmental Panel on Climate Change;

~~((IV))~~ The Western Climate Initiative;

~~((V))~~ The Climate Registry;

(B) If an alternative calculation method is not available from sources listed in (b)(ii)(A) of this subsection, then ecology may accept a method from an industry or trade associa-

tion or devised by the owner or operator if ecology determines the alternative calculation method is consistent with the requirements established under RCW ~~((70-94-151))~~ 70A.15.2200.

(c) For all source categories, including those covered in (a) and (b) of this subsection, the alternative calculation method must be consistent in content and scope with the requirements established under RCW ~~((70-94-151))~~ 70A.15.2200. In the event that a proposed alternative calculation method does not include all required GHG emissions, the owner or operator must use the calculation methods specified in subsection (3) of this section to calculate those emissions.

(3) **Calculating emissions not included in alternative calculation method.** An owner or operator must report all source categories of GHG emissions for which reporting is required under RCW ~~((70-94-151))~~ 70A.15.2200 and for which calculation methods have been established in WAC 173-441-120, 173-441-122, or ((173-441-130)) 173-441-124. If an approved alternative calculation method does not include calculation methods for all required source categories of emissions, then the owner or operator must use a method described in WAC 173-441-120, ~~((173-441-130))~~ 173-441-122, 173-441-124, or approved for the owner or operator by ecology in a separate petition to calculate and report those emissions.

(4) **Appeal of determination.** An approval or denial issued by ecology in response to a written petition filed under this subsection is a determination appealable to the pollution control hearings board per RCW 43.21B.110 (1)(h).

AMENDATORY SECTION (Amending WSR 10-24-108, filed 12/1/10, effective 1/1/11)

WAC 173-441-150 Confidentiality. (1) Emissions data submitted to ecology under this chapter are public information and must not be designated as confidential.

(2) ~~((Any proprietary or confidential information exempt from disclosure when reported to DOL that ecology obtains directly from DOL remains exempt from disclosure.~~

~~((3))~~ Information considered confidential by EPA or other jurisdictions is not considered confidential by ecology unless it also meets the conditions established in subsection ~~((2) or (4))~~ (3) of this section.

~~((4))~~ (3) Any person submitting information to ecology under this chapter may request that ecology keep information that is not emissions data confidential as proprietary information under RCW ~~((70-94-205))~~ 70A.15.2510 or because it is otherwise exempt from public disclosure under the Washington Public Records Act (chapter 42.56 RCW). All such requests for confidentiality must meet the requirements of RCW ~~((70-94-205))~~ 70A.15.2510.

~~((5))~~ (4) Ecology's determinations of the verification status of each report are public information. All confidential data used in the verification process will remain confidential.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 173-441-130 Calculation methods for suppliers.