

## WSR 22-11-005

## PROPOSED RULES

## HEALTH CARE AUTHORITY

[Filed May 5, 2022, 10:08 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-07-085.

Title of Rule and Other Identifying Information: WAC 182-537-0600 School district requirements for billing and payment.

Hearing Location(s): On June 21, 2022, at 10:00 a.m. In response to the coronavirus disease 2019 (COVID-19) public health emergency, the health care authority (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://us02web.zoom.us/webinar/register/WN\\_0MvAkVJuR-eiDkr-anVLwQ](https://us02web.zoom.us/webinar/register/WN_0MvAkVJuR-eiDkr-anVLwQ). If the link above opens with an error message, please try using a different browser. After registering, you will receive a confirmation email containing information about joining the public hearing.

Date of Intended Adoption: Not sooner than June 22, 2022.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email [arc@hca.wa.gov](mailto:arc@hca.wa.gov), fax 360-586-9727, by June 21, 2022.

Assistance for Persons with Disabilities: Contact HCA rules coordinator, phone 360-725-1306, fax 360-586-9727, telecommunication[s] relay service 711, email [arc@hca.wa.gov](mailto:arc@hca.wa.gov), by June 10, 2022.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency is amending WAC 182-537-0600 to remove subsection (6), which requires participating school districts to provide local funding. The legislature changed the funding formula for school-based health services by removing the financial contribution requirement for school districts.

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Statute Being Implemented: RCW 41.05.021, 41.05.160.

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: Shanna Muirhead, P.O. Box 45505, Olympia, WA 98504-5505, 360-725-1153.

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 relate only to internal governmental operations that are not subject to violation by a nongovernment party.

Explanation of exemptions: This rule applies to government entities, specifically Washington state school districts, and thus is not subject to violation by a nongovernment party.

May 5, 2022  
Wendy Barcus  
Rules Coordinator

## OTS-3691.1

AMENDATORY SECTION (Amending WSR 20-14-062, filed 6/26/20, effective 7/27/20)

**WAC 182-537-0600 School district requirements for billing and payment.** To receive payment from the medicaid agency for providing school-based health care services (SBHS) to eligible children, a school district must:

- (1) Enroll as a billing provider in ProviderOne and have a current, signed core provider agreement (CPA) with the agency.
- (2) Have a current, signed, and executed SBHS contract with the agency.
- (3) Meet the applicable requirements in chapter 182-502 WAC.
- (4) Comply with the applicable requirements in the agency's current, published ProviderOne billing and resource guide.
- (5) Bill according to the agency's current SBHS billing guide and the SBHS fee schedule.
- ~~(6) ((Comply with the intergovernmental transfer (IGT) process. The school district must provide its local match to the agency within one hundred twenty days of the invoice date.~~
  - ~~(a) If local match is not received within one hundred twenty days of the invoice date, the agency will deny claims.~~
  - ~~(b) School districts may resubmit denied claims within twenty-four months from the date of service under WAC 182-502-0150.~~
- ~~(7))~~ Provide only early intervention or health care-related services identified through a current individualized education program (IEP) or individualized family service plan (IFSP).
- ~~((8))~~ (7) Use only licensed health care providers or nonlicensed people practicing under the supervision of a licensed provider under WAC 182-537-0350.
- ~~((9))~~ (8) Enroll licensed health care providers as servicing providers under the school district's ProviderOne account, and ensure providers have their own national provider identifier (NPI) number.
- ~~((10))~~ (9) Meet documentation requirements described in WAC 182-537-0700.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 20-14-062, § 182-537-0600, filed 6/26/20, effective 7/27/20; WSR 19-04-095, § 182-537-0600, filed 2/5/19, effective 3/8/19; WSR 16-07-141, § 182-537-0600, filed 3/23/16, effective 4/23/16. Statutory Authority: RCW 41.05.021, 34 C.F.R. 300.154(d), and chapter 182-502 WAC. WSR 13-21-079, § 182-537-0600, filed 10/17/13, effective 11/17/13. Statutory Authority: RCW 41.05.021. WSR 13-05-017, § 182-537-0600, filed 2/7/13, effective 3/10/13. WSR 11-14-075, recodified as §

182-537-0600, filed 6/30/11, effective 7/1/11. Statutory Authority:  
RCW 74.08.090, 74.09.500, and 42 C.F.R. 440.110. WSR 09-07-004, §  
388-537-0600, filed 3/4/09, effective 4/4/09.]

**WSR 22-11-030  
WITHDRAWAL OF PROPOSED RULES  
LIQUOR AND CANNABIS  
BOARD**

[Filed May 11, 2022, 11:30 p.m.]

Consistent with RCW 34.05.335 and WAC 1-21-060, the liquor and cannabis board is withdrawing its Proposed rule making (CR-102), filed on April 13, 2022, as WSR 22-09-036, regarding recommendations of the social equity in cannabis task force, requirements of RCW 69.50.335, and amendments to implement 2SHB 1210, chapter 16, Laws of 2022.

Ollie Garrett  
Acting Chair

**WSR 22-11-033**  
**PROPOSED RULES**  
**LIQUOR AND CANNABIS**  
**BOARD**

[Filed May 11, 2022, 12:06 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-05-001.

Title of Rule and Other Identifying Information: New WAC

314-42-005 Electronic transmission of documents for service and filing. The Washington state liquor and cannabis board (WSLCB) proposes a new rule section allowing electronic transmission as additional means for service and filing of documents, consistent with RCW 34.05.010. The proposed rule defines "electronic transmission," outlines procedures for service and filing of documents by electronic transmission, and describes how the date and time of delivery or receipt will be determined.

Hearing Location(s): On June 22, 2022, at 10:00 a.m. In response to the coronavirus disease 2019 (COVID-19) public health emergency, 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/Boardmeetings/Boardmeetings>.

Date of Intended Adoption: No earlier than July 6, 2022.

Submit Written Comments to: Audrey Vasek, Policy and Rules Coordinator, P.O. Box 43080, Olympia, WA 98504-3080, email [rules@lcb.wa.gov](mailto:rules@lcb.wa.gov), fax 360-704-5027, by June 22, 2022.

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](mailto:anita.bingham@lcb.wa.gov), by June 15, 2022.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule proposal is to authorize electronic transmission for service and filing of documents, consistent with RCW 34.05.010 (6) and (19). The proposed rule adopts electronic transmission as an additional means for service and filing of documents, and authorizes electronic transmission as an approved method for service and filing wherever terms such as, but not limited to, "delivery," "service," "filing," "notice," "notification," "request," "letter," "in writing," "submit," and "received" are used throughout Title 314 WAC. "Electronic transmission" is defined as including, but not limited to, email, web portal, fax, or other similar methods. The proposed rule also outlines procedures for service and filing of documents by electronic transmission, and describes how the date and time of delivery or receipt will be determined.

Reasons Supporting Proposal: A new rule section authorizing service and filing of documents by electronic transmission is needed to streamline and modernize business and adjudicative processes and bring a consistent approach to this issue across the agency. This approach will benefit anyone that interacts with the agency, including but not limited to licensees, permit holders, and any other interested par-

ties. This approach will also reduce the risks and impacts to the agency technology systems modernization project.

Statutory Authority for Adoption: RCW 66.08.030, 34.05.010.

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).

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. Under the Regulatory Fairness Act in chapter 19.85 RCW, agencies are required to consider the costs that complying with proposed rules would impose on businesses. RCW 19.85.040 requires agencies to consider reporting, recordkeeping, and other compliance costs of the proposed rules, including costs of equipment, supplies, labor, professional services, and increased administrative costs, and whether compliance with the proposed rule will cause businesses to lose sales or revenue.

In this case, the agency does not anticipate that the proposed rules will impose any new reporting, recordkeeping, or other compliance costs specified in RCW 19.85.040 on businesses. The proposed rules authorize electronic transmission as an additional means for service and filing of documents, and do not limit or otherwise change existing options for service and filing. All other existing options for service and filing, such as by mail or in-person, would remain viable options.

With respect to filing documents, under the proposed rules businesses can continue filing documents with the agency using their existing preferred methods, such as by mail or in-person, and are not required to change any business practices or adopt new technologies in order to comply with the proposed rules. Therefore, these businesses would not have any new or increased costs of compliance.

Businesses that voluntarily decide to begin filing documents with the agency using electronic transmission are also not subject to any new or increased costs of compliance. The process for filing by electronic transmission does not require agency approval, application, or any special equipment, supplies, labor, or professional services. The proposed rules define "electronic transmission" as including, but not limited to, email, web portal, fax, or other similar methods. The technology for electronic transmission, such as email or fax, is readily available to all businesses throughout the state. Therefore, sending documents to a board-specified location through electronic transmission would not impose any new or increased costs of compliance on businesses that choose to do so.

With respect to service of documents, the proposed rules would provide the agency with the option to send documents by electronic transmission to the business's email address specified in the agency's records. Businesses would not be required to receive documents by electronic transmission, change any existing practices, or adopt any new technologies in order to receive documents from the agency. The agency would continue to serve documents to businesses that do not have an email address using existing nonelectronic methods, such as by mail or in person.

For these reasons, the agency estimates that the cost of compliance with the proposed rules is \$0. Businesses potentially impacted by the proposed rules include any business that files documents with the agency or is served documents by the agency, including but not limited to licensees, permit holders, and any other interested parties. Since the estimated cost of compliance (\$0) is less than any possible minor cost threshold as defined by RCW 19.85.020(2), the agency does not anticipate that the rule proposal will impose more-than-minor costs on any potentially impacted businesses.

May 11, 2022  
Ollie Garrett  
Acting Chair

#### OTS-3760.1

#### NEW SECTION

**WAC 314-42-005 Electronic transmission of documents for service and filing.** (1) Consistent with RCW 34.05.010, the board adopts electronic transmission as an additional means for service and filing of documents. "Electronic transmission" includes, but is not limited to, email, web portal, fax, or other similar methods.

(2) Electronic transmission is an approved method for service and filing of documents wherever terms such as, but not limited to, "delivery," "service," "filing," "notice," "notification," "request," "letter," "in writing," "submit," and "received" are used throughout Title 314 WAC.

(3) Service. Documents will be sent by electronic transmission to a person's email address as specified in the board's records. The date and time indicated on the electronic transmission from the board shall be evidence of the date and time of delivery.

(4) Filing. Documents received by electronic transmission to a board specified location will be deemed filed with the board the same day, excluding Saturdays, Sundays, and legal holidays. The deadline for documents filed with the board will be based on the date and time indicated on the filing document. If no specific time is indicated, the deadline will be 11:59 p.m. of the date indicated. The date and time indicated on the electronic transmission shall be evidence of the date and time of receipt.

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**WSR 22-11-044**  
**PROPOSED RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**

[Filed May 12, 2022, 2:48 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-07-094.

Title of Rule and Other Identifying Information: WAC 392-550-035 Full-day kindergarten requirements, in alternative learning experience (ALE), and 392-550-050 Assessment requirements, in ALE.

Hearing Location(s): On June 24, 2022, at 10:00 a.m., webinar via Zoom (call-in option will be available). Due to ongoing public health emergency related to the COVID-19 virus pandemic, this public hearing will be held by webinar via Zoom (with a call-in option). There will be no physical location for the hearing. For information on registering and participating, please visit the office of superintendent of public instruction's (OSPI) website at <https://www.k12.wa.us/policyfunding/ospi-rulemaking-activity>. For questions, please email [Kristin.murphy@k12.wa.us](mailto:Kristin.murphy@k12.wa.us).

Date of Intended Adoption: June 28, 2022.

Submit Written Comments to: Anissa Sharratt, OSPI, P.O. Box 47200, Olympia, WA 98504, email [anissa.sharratt@k12.wa.us](mailto:anissa.sharratt@k12.wa.us), by June 24, 2022.

Assistance for Persons with Disabilities: Contact Kristin Murphy, phone 360-725-6133, fax 360-754-4201, TTY 360-664-3631, email [Kristin.murphy@k12.wa.us](mailto:Kristin.murphy@k12.wa.us), by June 17, 2022.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: OSPI is proposing rule language to expand the methods through which the Washington kindergarten inventory of developing skills (WaKIDS) assessment and full-day kindergarten can be implemented in an ALE setting. Specifically, proposed language would allow synchronous digital instructional contact as a method of conducting observations for the WaKIDS assessment.

Reasons Supporting Proposal: Conducting observations using synchronous digital instructional contact is currently prohibited, thus excluding students participating in certain learning options from the benefits of the assessment tool and full-day kindergarten programs.

The COVID-19 pandemic created space for and challenged schools to explore new ways of conducting student observations and gathering evidence for the assessment portion of WaKIDS. This experience allowed OSPI to reflect on the lessons learned and at how the assessment might be effectively implemented with greater flexibility than previous language allowed.

Statutory Authority for Adoption: RCW 28A.232.010.

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

Name of Agency Personnel Responsible for Drafting and Implementation: Anissa Sharratt, OSPI, 600 South Washington Street, Olympia, WA, 360-725-6229.

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 19.85.030.



Explanation of exemptions: No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed amendment does not have an impact on small business and therefore does not meet the requirements for a statement under RCW 19.85.030 (1) or (2).

May 12, 2022  
Chris P. S. Reykdal  
State Superintendent  
of Public Instruction

## OTS-3781.1

AMENDATORY SECTION (Amending WSR 20-15-062, filed 7/10/20, effective 8/10/20)

**WAC 392-550-035 Full-day kindergarten requirements.** Alternative learning experience programs providing full-day kindergarten must:

(1) Have multiple weekly (~~(, in-person, and on-site)~~) observations of students by certificated teachers each week during the eight-week WaKIDS assessment window. Observations must take place either in person or through synchronous digital instructional contact.

(2) Have at least a one thousand annual hour instructional program.

(3) Have written student learning plans that include at least the following elements:

(a) A description of curriculum activities that assist students in:

(i) Developing initial skills in the academic areas of reading, mathematics, and writing;

(ii) Developing a variety of communication skills;

(iii) Providing experiences in science, social studies, arts, health, physical education, and a world language other than English;

(iv) Acquiring large and small motor skills;

(v) Acquiring social and emotional skills including successful participation in learning activities as an individual and as part of a group; and

(vi) Learning through hands-on experiences.

(b) A description of learning environments that are developmentally appropriate and promote creativity.

(4) Implement WaKIDS in accordance with WAC 392-550-050.

[Statutory Authority: Chapter 28A.232 RCW and RCW 28A.232.030. WSR 20-15-062, § 392-550-035, filed 7/10/20, effective 8/10/20.]

AMENDATORY SECTION (Amending WSR 20-15-062, filed 7/10/20, effective 8/10/20)

**WAC 392-550-050 Assessment requirements.** (1)(a) All students enrolled in alternative learning experience courses or course work must be assessed at least annually, using, for full-time students, the

state assessment for the student's grade level and using any other annual assessments required by the school district or charter school.

(b) (i) Part-time students must be assessed at least annually.

(ii) Part-time students who are receiving home-based instruction under chapter 28A.200 RCW or who are enrolled in an approved private school under chapter 28A.195 RCW are not required to participate in the assessments required under chapter 28A.655 RCW.

(2) Any student whose alternative learning experience enrollment is claimed as greater than 0.8 full-time equivalent in any one month through the January count date must be included by the school district or charter school in any required state or federal accountability reporting for that school year, subject to existing state and federal accountability rules and procedures.

(3) (a) Students enrolled in nonresident district alternative learning experience courses or course work who are unable to participate in required annual state assessments at the nonresident district must have the opportunity to participate in such required annual state assessments at the district of physical residence, subject to that district's planned testing schedule.

(b) (i) It is the responsibility of the nonresident enrolling district to establish a written agreement with the district of physical residence that facilitates all necessary coordination between the districts and with the student and, where appropriate, the student's parent(s) to fulfill this requirement. Such coordination may include arranging for appropriate assessment materials, notifying the student of assessment administration schedules, arranging for the forwarding of completed assessment materials to the enrolling district for submission for scoring and reporting, arranging for any allowable testing accommodations, and other steps as may be necessary.

(ii) The written agreement may include rates and terms for payment of reasonable fees by the enrolling district to the district of physical residence to cover costs associated with planning for and administering the assessments to students not enrolled in the district of physical residence.

(iii) Assessment results for students assessed according to these provisions must be included in the enrolling district's accountability measurements, and not in the district of physical residence's accountability measurements.

(4) (a) School districts and charter schools offering alternative learning experience courses or course work to students enrolled in full-day kindergarten under RCW 28A.150.315 must administer WaKIDS to identify the skills, knowledge, and characteristics of kindergarten students at the beginning of the school year in order to support social-emotional, physical, and cognitive growth and development of individual children; support early learning provider and parent involvement; and inform instruction.

(b) To maintain fidelity to the state WaKIDS assessment protocol, the WaKIDS assessment requires multiple weekly (~~(, in person, and on-site)~~) observations of students by certificated teachers each week during the eight-week assessment window. Observations must take place either in person or through synchronous digital instructional contact.

[Statutory Authority: Chapter 28A.232 RCW and RCW 28A.232.030. WSR 20-15-062, § 392-550-050, filed 7/10/20, effective 8/10/20.]

**WSR 22-11-050**  
**PROPOSED RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**

[Filed May 13, 2022, 2:03 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-21-096.

Title of Rule and Other Identifying Information: WAC 392-121-136 Limitation on enrollment counts, 392-122-221 State institutional education program—Enrollment exclusions, 392-700-015 Definitions, 392-700-035 Student eligibility, 392-700-042 Program operating agreements and OSPI approval, and 392-700-160 Reporting of student enrollment.

Hearing Location(s): On June 22, 2022, at 10:00 a.m., webinar via Zoom (call-in option will be available). Due to the ongoing public health emergency related to the COVID-19 virus pandemic, this public hearing will be held by webinar via Zoom (with a call-in option). There will be no physical location for the hearing. For information on registering and participating, please visit office of superintendent of public instruction's (OSPI) website at <https://www.k12.wa.us/policyfunding/ospi-rulemaking-activity>. For questions, please email [Kristin.murphy@k12.wa.us](mailto:Kristin.murphy@k12.wa.us).

Date of Intended Adoption: June 24, 2022.

Submit Written Comments to: Becky McLean, OSPI Enrollment Supervisor, OSPI, P.O. Box 47200, Olympia, WA 98504, email [becky.mclean@k12.wa.us](mailto:becky.mclean@k12.wa.us), fax 360-664-3683, by June 22, 2022.

Assistance for Persons with Disabilities: Contact Kristin Murphy, phone 360-725-6133, fax 360-754-4201, TTY 360-664-3631, email [Kristin.murphy@k12.wa.us](mailto:Kristin.murphy@k12.wa.us), by June 15, 2022.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: OSPI is proposing rule changes to allow students enrolled in an institutional education program to be concurrently enrolled in a youth dropout reengagement program. The proposed changes would allow the student to be claimed for a combined FTE that exceeds 1.0.

In addition, for all students enrolled in youth dropout reengagement programs, the proposed rule changes to the face-to-face contact requirement for students would expand options beyond in-person communication.

Reasons Supporting Proposal: RCW 28A.190.070, recently enacted, requires OSPI to develop procedures for school districts to report student enrollment in institutional education and youth dropout reengagement programs starting with the 2021-22 school year. Current rules do not allow a student's enrollment to be shared between an institutional education and youth reengagement programs and do not allow a student enrolled in both to exceed 1.0 FTE in any month.

For all students enrolled in youth dropout reengagement programs, expanding options for contact requirements and attendance definition to allow for options when in-person contact isn't feasible for all students.

Statutory Authority for Adoption: RCW 28A.150.290 and 28A.175.115.

Statute Being Implemented: RCW 28A.190.070 and 28A.175.100.

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

Name of Agency Personnel Responsible for Drafting: Becky McLean, OSPI, 600 South Washington Street, Olympia, WA, 360-725-6306; Implementation: Michelle Matakas, OSPI, 600 South Washington Street, Olympia, WA, 360-725-6019; and Enforcement: T.J. Kelly, OSPI, 600 South Washington Street, Olympia, WA, 360-725-6301.

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 19.85.030.

Explanation of exemptions: No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed amendment does not have an impact on small business and therefore does not meet the requirements for a statement under RCW 19.85.030 (1) or (2).

May 12, 2022  
Chris P. S. Reykdal  
State Superintendent  
of Public Instruction

## OTS-3392.1

AMENDATORY SECTION (Amending WSR 17-16-162, filed 8/2/17, effective 9/2/17)

**WAC 392-121-136 Limitation on enrollment counts.** Enrollment counts (~~purported to~~) under WAC 392-121-106 through 392-121-133 are subject to the following limitations:

(1) Except as provided in (a), (b) and (c) of this subsection, no student, including a student enrolled in more than one school district, shall be counted as more than one full-time equivalent student on any count date or more than one annual average full-time equivalent student in any school year.

(a) School districts or charter schools operating approved vocational skills center programs during the summer vacation months may claim additional full-time equivalent students based upon actual enrollment in such vocational skills centers on the aggregate of enrolled hours based upon the fourth day of each summer session.

(i) Prior to the 2018-19 school year, each district or charter school operating an approved vocational skills center program shall be entitled to claim one annual average full-time equivalent student for each 900 hours of planned student enrollment for the summer term(s) subject to the limitation in (c) of this subsection.

(ii) Beginning with the 2018-19 school year, each district or charter school operating an approved vocational skills center program shall be entitled to claim one annual average full-time equivalent student for each 1,000 hours of planned student enrollment for the summer term(s) subject to the limitation in (c) of this subsection.

(b) Enrollment count limitations apply separately to a student's running start, skills center and high school enrollments and is limited to an overall maximum 1.8 FTE.

(c) Subject to (b) of this subsection((7)):

(i) A student enrolled in a skill center program during the regular school year may be claimed for up to a combined 1.6 full-time equivalent student.

(ii) A student enrolled in running start during the regular school year may be claimed for up to a combined 1.2 full-time equivalent student.

(iii) A student enrolled in high school and skills center for more than 1.0 FTE, can be claimed for a 0.2 running start FTE.

(iv) A student enrolled in an institutional education program under WAC 392-122-205 and a youth engagement program under chapter 392-700 WAC can be claimed up to a combined 2.0 FTE.

Each student may be claimed for a maximum of a 1.0 full-time equivalent for the skills center enrollment, a maximum of a 1.0 full-time equivalent for running start ((and)), a maximum of a 1.0 full-time equivalent for the student's high school enrollment, and a maximum of a 1.0 full-time equivalent for institutional education funding under WAC 392-122-225 subject to the overall combined FTE limitation in (b) of this subsection.

(2) Running start enrollment counts are limited as provided in chapter 392-169 WAC and specifically as provided in WAC 392-169-060.

(3) The full-time equivalent reported for a five year old pre-school student with a disability is limited as provided in WAC 392-121-137.

(4) No kindergarten student, including a student enrolled in more than one school district, shall be counted as more than one-half of an annual average full-time equivalent student in any school year.

(5) A student reported as part-time by a state institution educational program on Form SPI E-672 shall not be reported by a school district or charter school for more than part-time basic education funding on that enrollment count date and the total enrollment reported by one or more school districts or charter schools for basic education and on Form SPI E-672 must not exceed one full-time equivalent, except if the student is enrolled in a youth reengagement program under chapter 392-700 WAC.

(6) Districts and charter schools providing an approved state-funded full-day kindergarten program as provided in chapter 28A.150 RCW (from E2SSB 5841) may claim for an additional 0.50 FTE based upon student enrolled hours in excess of the 0.50 FTE provided under subsection (4) of this section.

[Statutory Authority: RCW 28A.150.290. WSR 17-16-162, § 392-121-136, filed 8/2/17, effective 9/2/17. Statutory Authority: RCW 28A.150.290 and 28A.710.220. WSR 15-18-078, § 392-121-136, filed 8/28/15, effective 9/28/15. Statutory Authority: RCW 28A.150.305. WSR 13-02-004, § 392-121-136, filed 12/19/12, effective 1/19/13. Statutory Authority: RCW 28A.150.290(1). WSR 10-13-020, § 392-121-136, filed 6/4/10, effective 7/5/10. Statutory Authority: RCW 28A.150.290. WSR 09-01-172, § 392-121-136, filed 12/23/08, effective 1/23/09; WSR 08-04-010, § 392-121-136, filed 1/24/08, effective 2/24/08; WSR 97-22-013 (Order 97-06), § 392-121-136, filed 10/27/97, effective 11/27/97; WSR 95-01-013, § 392-121-136, filed 12/8/94, effective 1/8/95. Statutory Authority: RCW 28A.150.290, 28A.150.250 and 28A.150.260. WSR 91-02-096 (Order 50), § 392-121-136, filed 1/2/91, effective 2/2/91. Statutory Authority: RCW 28A.41.055 and 28A.41.170. WSR 88-03-013 (Order 88-8), § 392-121-136, filed 1/11/88.]

## OTS-3393.1

AMENDATORY SECTION (Amending WSR 21-04-039, filed 1/26/21, effective 2/26/21)

- WAC 392-122-221 State institutional education program—Enrollment exclusions.** (1) The following may not be counted as an enrolled institutional education program student:
- (a) A person whose educational activity under WAC 392-122-212 has terminated.
  - (b) A person who has transferred to another institution, school district, or charter school.
  - (c) A person residing in a state institution who:
    - (i) Has not engaged in educational activity under WAC 392-122-212 in the past five school days, excluding days of excused absence;
    - (ii) Has not engaged in educational activity in the past ten school days under WAC 392-122-212, including days of excused absence; or
    - (iii) Is claimed by any school district or charter school as an enrolled student eligible for state basic education support (~~(pursuant to)~~) under chapter 392-121 WAC where the school district's count date occurs prior to the institution's count date for the month, except if the student is enrolled in a youth reengagement program under chapter 392-700 WAC.
- (2) When the institution's count date and the school district's or charter school's count date are on the same date, institutions shall have priority for counting the student.
- (3) As used in this section, "excused absence" means an absence from scheduled educational activity which certificated staff determine to be due to one or more of the following:
- (a) Illness;
  - (b) Attendance in court; or
  - (c) Meeting with a lawyer, case worker, counselor, physician, dentist, nurse, or other professional service provider.

[Statutory Authority: RCW 28A.150.290 and 28A.710.040 (5). WSR 21-04-039, § 392-122-221, filed 1/26/21, effective 2/26/21. Statutory Authority: RCW 28A.150.290 and 28A.710.220. WSR 15-18-078, § 392-122-221, filed 8/28/15, effective 9/28/15. Statutory Authority: RCW 28A.150.290. WSR 08-24-029, § 392-122-221, filed 11/24/08, effective 12/25/08; WSR 01-24-002, § 392-122-221, filed 11/21/01, effective 12/22/01. Statutory Authority: 1998 c 244 § 9(2) and RCW 28A.150.290. WSR 98-21-065 (Order 98-09), § 392-122-221, filed 10/20/98, effective 11/20/98. Statutory Authority: RCW 28A.150.290. WSR 95-08-025, § 392-122-221, filed 3/29/95, effective 4/29/95; WSR 92-03-045 (Order 92-03), § 392-122-221, filed 1/10/92, effective 2/10/92.]

## OTS-2253.7

AMENDATORY SECTION (Amending WSR 17-01-125, filed 12/20/16, effective 1/20/17)

**WAC 392-700-015 Definitions.** The following definitions in this section apply throughout this chapter:

- (1) **"Agency"** means an educational service district, nonprofit community-based organization, or public entity other than a college.
- (2) **"Annual average full-time equivalent (AAFTE)"** means the total monthly full-time equivalent (FTE) reported for each enrolled student in a school year divided by ten.
- (3) **"Attendance period requirement"** is defined as, at minimum, two hours of face-to-face interaction with a designated program staff for the purpose of instruction, academic counseling, career counseling, or case management contact aggregated over the prior month. In-person face-to-face interaction is required for the month that the student was claimed for the first time. Thereafter, the interaction may include an option for digital-synchronous interaction when a student:
  - (a) Requests digital-synchronous options; or
  - (b) Requires digital-synchronous access as determined by program staff. If, after each three months of claimed enrollment, the student has not earned an indicator of academic progress through the utilization of digital-synchronous interaction, then the interaction must return to in-person face-to-face until an indicator of academic progress is earned.
- (4) **"CEDARS"** refers to comprehensive educational data and research system, the statewide longitudinal data system of educational data for K-12 student information.
- (5) **"College"** means college or technical college pursuant to chapters 28B.20 through 28B.50 RCW.
- (6) **"College level class"** is a class provided by a college that is ((one hundred)) 100 level or above.
- (7) **"Consortium"** means a regional group of organizations that consist of districts, tribal compact schools, charter schools and agencies and/or colleges who agree to work together to create and operate a program that will serve students from multiple districts, tribal compact schools, and charter schools and reduce the administrative burden.
- (8) **"Consortium agreement"** means the agreement that is signed by the authorized consortium lead and all district, tribal compact school, and charter school superintendents or their authorized officials which are part of the consortium and agree to refer eligible students to the consortium's program. This agreement will clearly outline the responsibilities of the consortium lead and those of the referring districts, tribal compact schools, and charter schools.
- (9) **"Consortium lead"** means the lead organization in a consortium that will assume the responsibilities outlined in WAC 392-700-042(3).
- (10) **"Count day"** is the instructional day that is used to claim a program's enrollment for state funding pursuant to WAC 392-121-033. For September, the count day is the fourth instructional day. For the remaining months, the count day is the first instructional day.
- (11) **"Credential"** is identified as one of the following:
  - (a) High school diploma; or
  - (b) Associate degree.
- (12) **"Enrolled student"** is an eligible student whose enrollment and attendance meets the criteria outlined in WAC 392-700-035 and

392-700-160, and is reported as an FTE for state funding. An enrolled student can be further defined as one of the following:

(a) **New student** is an enrolled student who is being claimed for state funding for the first time by the program.

(b) **Continuing student** is an enrolled student who has continuously been enrolled in the program and claimed for state funding on at least one count day.

(c) **Returning student** is an enrolled student who has returned to the program after not receiving program services for a period of at least one count day and not more than (~~ten~~) 10 count days.

(d) **Reenrolling student** is an enrolled student who has reenrolled in the program after not receiving program services for a period of (~~eleven~~) 11 count days or more.

(13) **"ERDC"** refers to education research and data center, which conducts analyses of early learning, K-12, and higher education programs and education issues across the P-20 system that collaborates with legislative evaluation and accountability program and other statutory partner agencies.

(14) **"Full-time equivalent (FTE)"** is the measurement of enrollment that an enrolled student can be claimed on a monthly basis with the maximum being 1.0 FTE per month for each student enrolled in a program.

(15) **"Indicator of academic progress"** means a standard academic benchmark that demonstrates academic performance which is attained by a reengagement student. These indicators will be tracked and reported by the program and district, tribal compact school, or charter school for each student and for programs as a whole using definitions and procedures outlined by OSPI. Indicators of academic progress will be reported when a student does one of the following:

(a) Earns at minimum a 0.25 high school credit;

(b) Earns at minimum a whole college credit;

(c) Receives a college certificate after completion of a college program requiring at least (~~forty~~) 40 hours of instruction;

(d) Receives an industry recognized certificate of completion of training or licensing received after completion of a program requiring at least (~~forty~~) 40 hours of instruction;

(e) Passes one or more tests or benchmarks that would satisfy the state board of education's graduation requirements as provided in chapter 180-51 WAC;

(f) Passes one or more high school equivalency certificate measures (each measure may only be claimed once per enrolled student), or other state assessment;

(g) Makes a significant gain in a core academic subject based on the assessment tool's determination of significant gain (may be claimed multiple times in a year per enrolled student);

(h) Successfully completes a grade level curriculum in a core academic subject that does not earn high school or college credit;

(i) Successfully completes college readiness course work with documentation of competency attainment;

(j) Successfully completes job search and job retention course work with documentation of competency attainment;

(k) Successfully completes a paid or unpaid cooperative work based learning experience of at least (~~forty-five~~) 45 hours. This experience must meet the requirements of WAC 392-410-315(2);

(l) Enrolls in a college level class for the first time (limited to be claimed once per enrolled student);



- (m) Successfully completes an English as a second language (ESL) class;
- (n) Successfully completes an adult basic education (ABE) class;
- or
- (o) Successfully completes a series of short-term industry recognized certificates equaling at least (~~forty~~) 40 hours.

(16) "Institutional education program" means a program that meets a definition under WAC 392-122-205.

(17) "Instructional staff" means the following:

(a) For programs operated by a district, tribal compact school, charter school, or agency, the instructional staff is a certificated instructional staff pursuant to WAC 392-121-205; and

(b) For programs operated by a college, the instructional staff is one who is employed or appointed by the college whose required credentials are established by the college.

(~~(17)~~) (18) "Letter of intent" means the document signed by the district, tribal compact school, charter school, college or lead agency authorized official that specifically outlines to OSPI the required elements of a program that the district, tribal compact school, charter school, college, or agency agree to implement.

(~~(18)~~) (19) "Noninstructional staff" is any person employed in a position that is not an instructional staff as defined under subsection (~~(16)~~) (17) of this section.

(~~(19)~~) (20) "OSPI" means the office of superintendent of public instruction.

(~~(20)~~) (21) "Program" means a statewide dropout reengagement program approved by OSPI, pursuant to RCW 28A.175.105.

(~~(21)~~) (22) "School year" is the (~~twelve-month~~) 12-month period that begins September 1st and ends August 31st during which instruction is provided and FTE is reported.

(~~(22)~~) (23) "Scope of work" means the document signed by district, tribal compact school, or charter school superintendent or their authorized official and the authorized official of a program to be included in a contracted services agreement when the program is operated by a provider on behalf of the district, tribal compact school, or charter school, and will receive compensation in accordance with WAC 392-700-165. The scope of work will specifically outline all the required elements of a program that the provider and the district, tribal compact school, or charter school agree to implement.

(~~(23)~~) (24) "Resident district" means the district where the student resides or a district that has accepted full responsibility for a student who lives outside of the district through the choice transfer process pursuant to RCW 28A.225.200 through 28A.225.240. For students enrolled in a tribal compact school or charter school, the tribal compact school or charter school is the student's resident district.

(~~(24)~~) (25) "Weekly status check" means individual communication from a designated program staff to a student. Weekly status check:

(a) Can be accomplished in person or through the use of telephone, email, instant messaging, interactive video communication, or other means of digital communication;

(b) Must be for the purposes of instruction, academic counseling, career counseling, or case management;

(c) Must be documented; and

(d) Must occur at least once every week that has at least three days of instruction.

~~((25))~~ (26) "**Tribal compact school**" means a school that is the subject of a state-tribal education compact operated according to the terms of its compact executed in accordance with RCW 28A.715.010.

~~((26))~~ (27) "**Charter school**" means a public school that is established in accordance with chapter 28A.710 RCW, governed by a charter school board, and operated according to the terms of a charter contract executed under chapter 28A.710 RCW.

[Statutory Authority: RCW 28A.175.010, 28A.175.115. WSR 17-01-125, § 392-700-015, filed 12/20/16, effective 1/20/17. Statutory Authority: RCW 28A.175.100. WSR 15-15-115, § 392-700-015, filed 7/16/15, effective 8/16/15; WSR 14-22-073, § 392-700-015, filed 11/3/14, effective 12/4/14; WSR 13-13-005, § 392-700-015, filed 6/6/13, effective 7/7/13. Statutory Authority: RCW 28A.175.100 and 2010 c 20. WSR 11-17-045, § 392-700-015, filed 8/11/11, effective 9/11/11.]

AMENDATORY SECTION (Amending WSR 18-17-031, filed 8/6/18, effective 9/6/18)

**WAC 392-700-035 Student eligibility.** (1) A student is eligible to enroll in a program when they meet the following criteria:

(a) Under ~~((twenty-one))~~ 21 years of age at the beginning of the school year but whose ~~((sixteenth))~~ 16th birthday occurs on or before September 1st;

(b) Has not yet met the high school graduation requirements of either the district, tribal compact school, charter school, or the college under RCW 28B.50.535; and

(c) At the time the student enrolls, is significantly behind in credits based on the student's cohort graduation date. The cohort graduation date is established as the end of the fourth school year after a student first enrolls in the ninth grade.

(i) A student who is more than ~~((twenty-four))~~ 24 months from their cohort graduation date and has earned less than ~~((sixty-five))~~ 65 percent of the high school credits expected to be earned by their cohort or has a ratio of earned credits to attempted credits that is less than ~~((sixty-five))~~ 65 percent. A cohort is the group of students that enter the ninth grade in the same school year;

(ii) A student who is between ~~((twelve and twenty-four))~~ 12 and 24 months from their cohort graduation date and has earned less than ~~((seventy))~~ 70 percent of the high school credits expected to be earned by their cohort or has a ratio of earned credits to attempted credits that is less than ~~((seventy))~~ 70 percent;

(iii) A student who is less than ~~((twelve))~~ 12 months from their cohort graduation date or who has passed their cohort graduation date by less than ~~((twelve))~~ 12 months and has earned less than ~~((seventy-five))~~ 75 percent of the high school credits expected to be earned by their cohort or has a ratio of earned credits to attempted credits that is less than ~~((seventy-five))~~ 75 percent;

(iv) A student who is passed their cohort graduation date by ~~((twelve))~~ 12 months or more and has not met their district, tribal compact school, or charter school graduation requirements; or

(v) A student who has never attended the ninth grade and has earned zero high school credits.

(d) If determined not to be credit deficient as outlined in (c) of this subsection, has been recommended for enrollment by case manag-

ers from the department of social and health services, the juvenile justice system, a district, tribal compact school, or charter school designated school personnel, or staff from community agencies which provide educational advocacy services;

(e) Are not currently enrolled in any high school classes that receive state basic education funding, excluding an approved skill center program, a Jobs for Washington's Graduates program, ~~((or))~~ running start program, or institutional education program under WAC 392-122-205;

(f) Students who are claimed for state funding by a district, tribal compact school, or charter school outside the district they live in, must be released by either a choice transfer or interdistrict agreement. When a choice transfer is in place, the student's resident district as defined in WAC 392-700-015(~~((23))~~) (24) becomes the district operating the program.

(2) Once determined eligible for enrolling in the program, a student will retain eligibility, regardless of breaks in enrollment, until the student does one of the following:

(a) Earns a high school diploma;

(b) Earns an associate degree; or

(c) Becomes ineligible because of age which occurs when a student is ~~((twenty-one))~~ 21 years of age as of September 1st.

(3) A student's eligibility does not guarantee enrollment or continued enrollment in specific programs if the program determines that the student does not meet the program's enrollment criteria or if, after enrollment, a student's academic performance or conduct does not meet established program guidelines.

[Statutory Authority: RCW 28A.175.010 and 28A.175.115. WSR 18-17-031, § 392-700-035, filed 8/6/18, effective 9/6/18; WSR 17-01-125, § 392-700-035, filed 12/20/16, effective 1/20/17. Statutory Authority: RCW 28A.175.100. WSR 15-15-115, § 392-700-035, filed 7/16/15, effective 8/16/15; WSR 14-22-073, § 392-700-035, filed 11/3/14, effective 12/4/14; WSR 13-13-005, § 392-700-035, filed 6/6/13, effective 7/7/13. Statutory Authority: RCW 28A.175.100 and 2010 c 20. WSR 11-17-045, § 392-700-035, filed 8/11/11, effective 9/11/11.]

AMENDATORY SECTION (Amending WSR 17-01-125, filed 12/20/16, effective 1/20/17)

**WAC 392-700-042 Program operating agreements and OSPI approval.**

(1) Districts, tribal compact schools, charter schools, agencies, and colleges are encouraged to work together to design programs and collaborations that will best serve students. Many models of operation are authorized as part of the statewide dropout reengagement system.

Regardless of the model of operation, the state funding is allocated to the district, tribal compact school, charter school, or direct funded technical college that is reporting the student's enrollment for the program.

(2) A district, tribal compact school, or charter school may enter into one of the following models of operations through the OSPI approval process:

(a) Directly operate a program where the services are provided by the district, tribal compact school, or charter school resources;

(b) Enter into a partnership with an agency or college that will provide the services through a defined scope of work or contracted services agreement; or

(c) Become part of a consortium with other districts, tribal compact schools, charter schools, colleges, and/or agencies by executing a consortium agreement that is signed by all members.

(3) The purpose of the consortium will be to create and operate a program that will serve students enrolled in multiple districts including tribal compact schools and charter schools, and reduce the administrative burden. If such a regional reengagement consortium is implemented, a consortium lead agency will be identified and assume the following responsibilities:

(a) Take the lead in organizing and managing the regional consortium;

(b) Provide information and technical assistance to districts, tribal compact schools, and charter schools interested in participating in the consortium and providing the opportunity for their students to enroll;

(c) Develop scopes of work with agencies and colleges to operate the programs;

(d) Provide oversight and technical assistance to the program to align with all requirements of this chapter and the delivery of quality programming;

(e) Assist the program with the preparation of required reports, enrollment data, and course records needed to enroll students, award credit, and report FTE and performance to OSPI;

(f) Facilitate data entry of required student data into each district, tribal compact school, or charter school's statewide student information system related to enrollment; and

(g) Work with the districts, tribal compact schools, and charter schools to facilitate the provision of special education, accommodations under Section 504 of the Rehabilitation Act of 1973, and transitional bilingual instruction pursuant to WAC 392-700-147.

(4) A technical college receiving direct funding and authorized to enroll students under WAC 392-121-187 may directly operate a program and serve students referred from multiple districts. The technical college will assume the responsibilities of operating the program as described in this chapter and will meet all responsibilities outlined in WAC 392-121-187.

(5) All programs must be approved by OSPI as follows:

(a) If the program is run by a district, tribal compact school, charter school, agency or college, the program must be approved.

(b) If the program is run by a consortium, both the program and participating districts, tribal compact school, or charter school must be approved.

(c) Any program which meets the definition of an online school program in RCW 28A.250.010 must be approved as an online provider, pursuant to RCW 28A.250.060(2).

(6) Dependent on the model of operations, OSPI will specify the necessary documentation required for approval.

(7) OSPI will provide model documents that can be modified to include district-, tribal compact school-, charter school-, college-, or agency-specific language and will indicate which elements of these standard documents must be submitted to OSPI for review and approval.

(8) Upon initial approval, OSPI will specify the duration of the approval and indicate the necessary criteria to obtain reapproval.

(9) After receiving a notice of approval, OSPI will assign a code to be used when reporting students enrolled in the program.

(10) This chapter does not affect the authority of districts, tribal compact schools, and charter schools under RCW 28A.150.305, 28A.320.035, or any other provision of law to contract for educational services other than reengagement programs as defined by WAC 392-700-015(~~((+20))~~) (21).

[Statutory Authority: RCW 28A.175.010, 28A.175.115. WSR 17-01-125, § 392-700-042, filed 12/20/16, effective 1/20/17. Statutory Authority: RCW 28A.175.100. WSR 15-15-115, § 392-700-042, filed 7/16/15, effective 8/16/15; WSR 14-22-073, § 392-700-042, filed 11/3/14, effective 12/4/14; WSR 13-13-005, § 392-700-042, filed 6/6/13, effective 7/7/13.]

AMENDATORY SECTION (Amending WSR 17-01-125, filed 12/20/16, effective 1/20/17)

**WAC 392-700-160 Reporting of student enrollment.** (1) For all programs, the following will apply when reporting student enrollment for each monthly count day:

- (a) Met all eligibility criteria pursuant to WAC 392-700-035;
- (b) Been accepted for enrollment by the reporting district, tribal compact school, charter school, or the direct-funded technical college;
- (c) Enrolled in an approved program pursuant to WAC 392-700-042;
- (d) For continuing students, met the attendance period requirement pursuant to WAC 392-700-015(3);
- (e) For continuing students, met the weekly status check requirement pursuant to WAC 392-700-015(~~((+24))~~) (25);
- (f) Has not withdrawn or been dropped from the program on or before the monthly count day;
- (g) Is not enrolled in course work that has been reported by a college for postsecondary funding;
- (h) (~~Is not eligible to be claimed by a state institution pursuant to WAC 392-122-221;~~  
~~(i)~~) Is not enrolled in a high school class, including alternative learning experience, college in the high school, or another reengagement program, excluding Jobs for Washington's Graduates, special education and/or transitional bilingual instructional program;
- (~~((j))~~) (i) If concurrently enrolled in a special education, transitional bilingual instruction, skills center, (~~((k))~~) running start, or institutional education programs, does not exceed the FTE limitation (~~(pursuant to)~~) under WAC 392-121-136; and
- (~~((k))~~) (j) A student's enrollment in the program is limited to the following:
  - (i) May not exceed 1.0 FTE in any month (including nonvocational and vocational FTE). If concurrently enrolled in Jobs for Washington's Graduates, special education or transitional bilingual instructional programs, the combined FTE does not exceed 1.0 FTE in any month.
  - (ii) May not exceed 1.00 AAFTE in any school year as defined in WAC 392-700-015(2). If concurrently enrolled in Jobs for Washington's Graduates, special education or transitional bilingual instructional programs, the combined AAFTE does not exceed 1.0 AAFTE for the school year.

(2) For all below (~~one hundred~~) 100 level classes, the student enrollment is dependent upon attaining satisfactory progress.

(a) Satisfactory progress is defined as the documented attainment of at least one indicator of academic progress identified in WAC 392-700-015(~~(15)~~) (16).

(b) Continuing students and returning students who, after being claimed for state funding for three count days excluding the September count day, have not earned an indicator of academic progress cannot be claimed for state funding until an indicator of academic progress is earned.

(i) During this reporting funding exclusion period, the program may permit the student to continue to attend;

(ii) When the student achieves an indicator of academic progress, the student may be claimed for state funding on the following count day; and

(iii) Rules governing the calculation of the three count day period are:

(A) The September count day is excluded from the three count day period for the indicator of academic attainment. Students whose enrollment spans over the September count day have an additional month to earn an indicator of academic progress.

(B) The three count days may occur in two different school years, if the student is enrolled in consecutive school years; and

(C) The three count days are not limited to consecutive months, if there is a break in the student being claimed for state funding.

(3) For below (~~one hundred~~) 100 level classes, student enrollment will be reported as 1.0 FTE on each monthly count day.

Enrollment in below (~~one hundred~~) 100 level classes is limited to nonvocational funding and the FTE cannot be claimed as vocational.

(4) For college level classes, student enrollment will be reported as follows:

(a) The FTE is determined by the student's enrolled credits on each monthly count day.

(i) Fifteen college credits equal 1.0 FTE;

(ii) A student enrolled in more than (~~fifteen~~) 15 college credits is limited to be reported as 1.0 FTE for that month; and

(iii) If a student is enrolled for less than (~~fifteen~~) 15 college credits, the FTE is calculated by dividing the enrolled college credits by (~~fifteen~~) 15.

(b) Enrollment in state approved vocational college level classes and taught by a certified vocational instructor can be claimed for enhanced vocational funding as a vocational FTE.

[Statutory Authority: RCW 28A.175.010, 28A.175.115. WSR 17-01-125, § 392-700-160, filed 12/20/16, effective 1/20/17. Statutory Authority: RCW 28A.175.100. WSR 15-15-115, § 392-700-160, filed 7/16/15, effective 8/16/15; WSR 14-22-073, § 392-700-160, filed 11/3/14, effective 12/4/14; WSR 13-13-005, § 392-700-160, filed 6/6/13, effective 7/7/13. Statutory Authority: RCW 28A.175.100 and 2010 c 20. WSR 11-17-045, § 392-700-160, filed 8/11/11, effective 9/11/11.]

## WSR 22-11-054

## PROPOSED RULES

## CHARTER SCHOOL COMMISSION

[Filed May 13, 2022, 3:13 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-07-099.

Title of Rule and Other Identifying Information: General administrative and procedural rule changes in chapters 108-30 and 108-40 WAC. Changes are proposed to WAC 108-30-020, 108-30-030, 108-40-070, and 108-40-090.

Hearing Location(s): On June 29, 2022, at 10:30 a.m., Zoom <https://zoom.us/j/3607255511>, Dial[-in] 646-558-8656, Meeting ID 360 725 5511.

Date of Intended Adoption: August 18, 2022.

Submit Written Comments to: Jessica de Barros, 1068 Washington Street S.E., Olympia, WA 98501, email [charterschoolinfo@k12.wa.us](mailto:charterschoolinfo@k12.wa.us), by June 29, 2022.

Assistance for Persons with Disabilities: Contact Jessica de Barros, phone 360-725-5511, TTY 800-833-6388, email [charterschoolinfo@k12.wa.us](mailto:charterschoolinfo@k12.wa.us), by June 29, 2022.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The commission proposes to update procedural and administrative rule changes in order to clarify existing language and timelines and provide more detailed information about standards set out by the commission in adopted policies. The changes in existing rules include:

- Changes to a term from "school specific goals" to "mission specific goals";
- The updating of the process to better assist the charter public schools in navigating a renewal charter application and contract;
- Updated timeline associated with the updated renewal process;
- Updating terminology to align with state standards from "achievement index" to "school improvement framework"; and
- To update performance ratings for the organizational and financial performance frameworks to include an "approaching standard" rating.

Reasons Supporting Proposal: The changes are proposed as above to update language to align with currently used terminology. The commission has determined that an update of the renewal process should occur to align with the commission adopted policy and feedback from the inaugural process by schools and stakeholders, as the current process does not provide a streamlined timeline and order that is most relevant and meaningful for the evaluation of performance of a charter school in its fourth year of operation.

Statutory Authority for Adoption: Chapter 34.05 RCW; RCW 28A.710.100, 28A.710.170, 28A.710.190.

Statute Being Implemented: RCW 28A.710.170, 28A.710.190.

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

Name of Proponent: Charter school commission, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Jessica de Barros, 1068 Washington Street S.E., Olympia, WA 98501, 360-725-5511.

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 commission is not an agency that is required to perform an analysis 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.

May 13, 2022  
Jessica de Barros  
Interim Executive Director

### OTS-3033.1

AMENDATORY SECTION (Amending WSR 15-10-070, filed 5/1/15, effective 6/1/15)

**WAC 108-30-020 Performance framework.** (1) "Performance framework" means the standards that will be used by the commission to evaluate the performance of each charter school. The performance framework will be a source of information used by the commission to make decisions involving corrective action, renewal, modification, revocation, and/or termination of a charter school.

(2) The performance framework evaluates charter school performance and compliance in the areas of academic, financial, organizational, legal and mission specific performance and compliance. The commission will develop and post performance framework guidance for charter schools on the commission website.

(3) Academic performance and compliance. Academic performance and compliance measures whether the charter school meets or is making sufficient progress towards academic performance expectations. Academic performance and compliance includes, but is not limited to:

(a) Student achievement. Evaluation of student achievement includes evaluation of student academic proficiency in English language arts, science, and mathematics; evaluation of student achievement gaps in both proficiency and growth. In addition to overall data, this information must be disaggregated by major student subgroups including gender, race and ethnicity, poverty status, special education status, English language learner status, and highly capable status.

(b) Comparative performance. Comparative performance is evaluated by comparing charter school students' performance on required state and federal assessments to performance of students in traditional public schools and charter schools with similar demographics. This is a comparison of overall student performance in English language arts (reading and writing), math, and science, as well as any other subjects that will in the future be tested. To the extent data is available comparison schools may include, but are not limited to, district-of-residence schools and peer or comparable schools whether charter or noncharter. As additional data for comparisons become available, the comparative performance evaluation will be adjusted. In addition to aggregate data, when available, this information must be disaggregated by major student subgroups including gender, race and ethnicity, pov-



erty status, special education status, English language learner status, and highly capable status.

(c) Student progress. Student progress is evaluated using the school's median student growth percentile in reading and mathematics. As additional growth-related data become available, this evaluation will be adjusted. In addition to aggregate data, when available, this information must be disaggregated by major student subgroups including gender, race and ethnicity, poverty status, special education status, English language learner status, and highly capable status.

(d) Post secondary readiness (high school evaluation). Evaluation of post secondary readiness includes overall graduation rates in accordance with the state of Washington reporting requirements; comparison of charter school to district-of-residence graduation rates; comparison of charter school to peer or similar school graduation rates; and enrollment in post secondary institutions. As additional comparison data such as dual credit accrual, industry certification, 11th grade assessments, or others, become available, this evaluation will be adjusted. In addition to aggregate data, this information must be disaggregated by major student subgroups including gender, race and ethnicity, poverty status, special education status, English language learner status, and highly capable status.

(e) State and federal accountability. Evaluation of the charter school's compliance with state and federal accountability rules, regulations, and laws and whether the school has met the targets set forth by the state accountability system including, but not limited to, provision of basic education, instruction in the essential academic learning requirements, statewide student assessments, performance improvement goals. In addition to overall data, this information must be disaggregated by major student subgroups including gender, race and ethnicity, poverty status, special education status, English language learner status, and highly capable status.

(f) (~~Mission~~) School specific accountability. Evaluation of whether the charter school has met (~~mission~~) school specific goals identified in its contract.

(4) Financial performance and compliance. Financial performance and compliance measures the financial health and viability of a charter school. Financial performance and compliance includes, but is not limited to:

(a) Near term indicators. Evaluation of financial performance and compliance includes evaluation of charter school's assets and liabilities, available cash; actual enrollment as compared to enrollment projection and associated budget; loan and grant status.

(b) Sustainability indicators. Evaluation of sustainability indicators includes evaluation of net income and revenue; debt to asset ratio; cash flow; debt service ratio.

(c) Audit and accounting indicators. Evaluation of audit and accounting indicators includes evaluation of the charter school's compliance with generally accepted accounting principles; audit results and findings, if any.

(5) Organizational performance and compliance. Organizational performance and compliance measures compliance with specific terms and provisions of the charter contract and state and federal legal requirements. Organizational performance and compliance includes, but is not limited to:

(a) Education program. Evaluation of the education program includes evaluation of the charter school's education program in terms of compliance with specific performance expectations set forth in the

charter contract; compliance with requirements of local education agencies and public schools under those federal laws and regulations including, but not limited to, compliance with the Individuals With Disabilities Education Act, the Rehabilitation Act, the Federal Educational Rights Privacy Act, the Elementary And Secondary Education Act, McKinney-Vento Act, and any other applicable education laws or regulations.

(b) Charter school law compliance. Evaluation of charter school law compliance includes evaluation of the charter school's compliance with chapter 28A.710 RCW. This includes review of policies and practices related to admissions, waiting lists, recruitment, security and privacy.

(c) Safety and welfare compliance. Evaluation of student and employee compliance includes evaluation of the charter school's compliance with laws concerning employment of faculty and staff including, but not limited to, certification requirements and background checks; evaluation of student and employee disciplinary policies and procedures and application of associated legal and constitutional protections; evaluation of compliance with health and safety laws and regulations.

(d) Board performance and stewardship. Evaluation of board performance and stewardship will include evaluation of compliance with all applicable laws, rules, and terms of the charter contract as well as willingness and skill in identifying issues with management of the school and taking corrective action and in implementing any corrective actions imposed by the commission.

(e) Student involvement and retention. Evaluation of student involvement and retention will include evaluation of attendance and re-current enrollment.

(f) Mission specific accountability. Evaluation of whether the charter school has met mission specific goals identified in its contract including, but not limited to, proactive public engagement in student recruitment and demonstrated execution of a mission appropriate enrollment plan.

(6) Other. The commission may also include additional rigorous, valid, and reliable indicators to augment evaluations of the charter school's performance.

[Statutory Authority: RCW 28A.710.070. WSR 15-10-070, § 108-30-020, filed 5/1/15, effective 6/1/15; WSR 13-18-017, § 108-30-020, filed 8/23/13, effective 9/23/13.]

AMENDATORY SECTION (Amending WSR 13-18-017, filed 8/23/13, effective 9/23/13)

**WAC 108-30-030 Rating categories.** Unless otherwise deemed appropriate, academic measures will be rated using the following categories: Exceeds standard; meets standard; does not meet standard; falls far below standard. Financial and organizational measures will be rated using the following categories: Meets standard (~~( $\oplus$ )~~); approaching standard; does not meet standard. Each of these ratings will be defined in relation to the measure being evaluated.

[Statutory Authority: RCW 28A.710.070. WSR 13-18-017, § 108-30-030, filed 8/23/13, effective 9/23/13.]

## OTS-3502.1

AMENDATORY SECTION (Amending WSR 19-17-068, filed 8/20/19, effective 1/1/20)

**WAC 296-27-01113 Recording criteria for occupational hearing loss cases.** (1) The employer must record a hearing loss case on the OSHA 300 Log (~~(by checking)~~) and check the column for hearing loss if an employee's hearing test (audiogram) reveals that a ((recordable)) work-related standard threshold shift ((RTS)) (STS) has occurred in one or both ears ((has occurred)). Audiometric testing is required by chapter 296-817 WAC, Hearing loss prevention (noise).

(2) ~~((The employer must evaluate the employee's current audiogram with their baseline audiogram to determine whether a RTS has occurred. If the employee has previously experienced a recorded hearing loss, you must compare the employee's current audiogram with the audiogram reflecting the employee's previously recorded hearing loss case.~~

Note: Audiometric test results reflect the employee's overall hearing ability in comparison to audiometric zero. Therefore, using the employee's current audiogram, you must use the average hearing level at 2000, 3000, and 4000 Hz to determine whether or not the employee's total hearing level is 25 dB or more.

~~(3) To determine whether RTS has occurred,))~~ Minimum recordable hearing thresholds. It is not required to record an STS when the average threshold level for the employee's current audiogram at 2000 Hz, 3000 Hz, and 4000 Hz average less than 25 dB. No age adjustment is allowed for this determination.

(3) Age related hearing loss. The employer may age adjust the employee's current audiogram results by using Tables A-1 or A-2 in Appendix A of this chapter ((. The employer may not use an age adjustment when determining whether the employee's total hearing level is 25 dB or more above audiometric zero)) to determine if it must be recorded (evaluations from WAC 296-817-20035(3) are still required). Compare the age-adjusted audiogram to the employee's original baseline audiogram or the last audiogram that resulted in a recordable STS (do not age adjust the baseline or previously recorded audiogram). If the average threshold shift at 2000, 3000, and 4000 Hz from the original baseline or previously recorded audiogram to the current age adjusted audiogram is less than 10 dB, the hearing loss case is not required to be recorded.

(4) The employer is not required to record the hearing loss case on the OSHA 300 Log if they retest the employee's hearing within thirty days of the first test, and the retest does not confirm the ((RTS)) STS. If the retest confirms the ((RTS)) STS, the employer must record the hearing loss illness within seven calendar days of the retest. If subsequent audiometric testing indicates that an ((RTS)) STS is not persistent, the employer may erase or line-out the recorded entry.

(5) Work-relatedness.

(a) The employer must consider the case to be work-related if an event or exposure in the work environment either caused or contributed to the hearing loss or significantly aggravated a preexisting hearing loss.

~~((6))~~ (b) The employer is not required to consider the case work-related or recordable if a physician or other licensed health care professional determines, following the rules set out in WAC 296-27-01103 Determination of work-relatedness, that the hearing loss is not work-related or has not been significantly aggravated by occupational noise exposure.

[Statutory Authority: RCW 49.17.010, 49.17.040, and 49.17.050. WSR 19-17-068, § 296-27-01113, filed 8/20/19, effective 1/1/20; WSR 15-11-066, § 296-27-01113, filed 5/19/15, effective 7/1/15. Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060. WSR 07-03-163, § 296-27-01113, filed 1/24/07, effective 4/1/07; WSR 03-24-085, § 296-27-01113, filed 12/2/03, effective 1/1/04; WSR 02-22-029, § 296-27-01113, filed 10/28/02, effective 1/1/03. Statutory Authority: RCW 49.17.010, [49.17].040, and [49.17].050. WSR 02-01-064, § 296-27-01113, filed 12/14/01, effective 1/1/02.]

## WSR 22-11-057

## PROPOSED RULES

## HEALTH CARE AUTHORITY

[Filed May 16, 2022, 8:48 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-07-049.

Title of Rule and Other Identifying Information: WAC 182-550-6000  
Outpatient hospital services—Conditions of payment and payment meth-  
ods.

Hearing Location(s): On June 21, 2022, at 10:00 a.m. In response to the coronavirus disease 2019 (COVID-19) public health emergency, the health care authority (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://us02web.zoom.us/webinar/register/WN\\_0MvAkVJuR-eiDkr-anVLwQ](https://us02web.zoom.us/webinar/register/WN_0MvAkVJuR-eiDkr-anVLwQ). If the link above opens with an error message, please try using a different browser. After registering, you will receive a confirmation email containing information about joining the public hearing.

Date of Intended Adoption: Not sooner than June 22, 2022.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email [arc@hca.wa.gov](mailto:arc@hca.wa.gov), fax 360-586-9727, by June 21, 2022.

Assistance for Persons with Disabilities: Contact HCA rules coordinator, phone 360-725-1306, fax 360-586-9727, telecommunication[s] relay service 711, email [arc@hca.wa.gov](mailto:arc@hca.wa.gov), by June 10, 2022.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency is correcting subsection (3)(c) of this rule to align with the medicaid state plan.

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Statute Being Implemented: RCW 41.05.021, 41.05.160.

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: Melinda Froud, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-1408; Implementation and Enforcement: Tracy Huynh, P.O. Box 45500, Olympia, WA 98504-5500, 360-725-1311.

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. This rule does not impose more-than-minor costs on businesses.

May 16, 2022  
Wendy Barcus  
Rules Coordinator

OTS-3758.1

AMENDATORY SECTION (Amending WSR 22-04-051, filed 1/27/22, effective 2/27/22)

**WAC 182-550-6000 Outpatient hospital services—Conditions of payment and payment methods.** (1) The medicaid agency pays hospitals for covered outpatient hospital services provided to eligible clients when the services meet the provisions in WAC 182-550-1700. All professional medical services must be billed according to chapter 182-531 WAC.

(2) To be paid for covered outpatient hospital services, a hospital provider must:

(a) Have a current core provider agreement with the agency;

(b) Bill the agency according to the conditions of payment under WAC 182-502-0100;

(c) Bill the agency according to the time limits under WAC 182-502-0150; and

(d) Meet program requirements in other applicable WAC and the agency's published issuances.

(3) The agency does not pay separately for any services:

(a) Included in a hospital's room charges;

(b) Included as covered under the agency's definition of room and board (e.g., nursing services). See WAC 182-550-1050; or

(c) Related to an inpatient hospital admission and provided within one calendar day of a client's inpatient admission (~~or discharge~~).

(4) The agency does not pay:

(a) A hospital for outpatient hospital services when a managed care plan is contracted with the agency to cover these services;

(b) More than the "acquisition cost" ("A.C.") for HCPCS (health care common procedure coding system) codes noted in the outpatient fee schedule; or

(c) For cast room, emergency room, labor room, observation room, treatment room, and other room charges in combination when billing periods for these charges overlap.

(5) The agency uses the outpatient weighted costs-to-charges (OWCC) rate to pay for covered outpatient services provided in a critical access hospital (CAH). See WAC 182-550-2598.

(6) Hospitals must provide documentation as required or requested by the agency.

(7) All hospital providers must present final charges to the agency within 365 days of the "statement covers period from date" shown on the claim. The state of Washington is not liable for payment based on billed charges received beyond 365 days from the "statement covers period from date" shown on the claim.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 22-04-051, § 182-550-6000, filed 1/27/22, effective 2/27/22; WSR 15-18-065, § 182-550-6000, filed 8/27/15, effective 9/27/15. WSR 11-14-075, recodified as § 182-550-6000, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.08.090, 74.09.500. WSR 07-13-100, § 388-550-6000, filed 6/20/07, effective 8/1/07; WSR 04-20-060, § 388-550-6000, filed 10/1/04, effective 11/1/04. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, and Public Law 104-191. WSR 03-19-044, §

388-550-6000, filed 9/10/03, effective 10/11/03. Statutory Authority: RCW 74.08.090, 74.09.500, 74.09.035(1), and 43.88.290. WSR 02-21-019, § 388-550-6000, filed 10/8/02, effective 11/8/02. Statutory Authority: RCW 74.09.090, 42 U.S.C. 1395x(v), 42 C.F.R. 447.271 and 42 C.F.R. 11303. WSR 99-14-028, § 388-550-6000, filed 6/28/99, effective 7/1/99. Statutory Authority: RCW 74.08.090, 42 U.S.C. 1395 x(v), 42 C.F.R. 447.271, 447.11303, and 447.2652. WSR 99-06-046, § 388-550-6000, filed 2/26/99, effective 3/29/99. Statutory Authority: RCW 74.08.090, 74.09.730, 74.04.050, 70.01.010, 74.09.200, [74.09.]500, [74.09.]530 and 43.20B.020. WSR 98-01-124, § 388-550-6000, filed 12/18/97, effective 1/18/98.]

## WSR 22-11-067

## PROPOSED RULES

## DEPARTMENT OF ECOLOGY

[Order 21-06—Filed May 16, 2022, 4:04 p.m.]

## Original Notice.

Preproposal statement of inquiry was filed as WSR 21-16-111.

Title of Rule and Other Identifying Information: The rule making is proposing new chapter 173-446 WAC, Climate Commitment Act program. The purpose of this new chapter is to establish and implement the programmatic framework in the Climate Commitment Act (CCA) (Greenhouse gas (GHG) emissions—Cap-and-invest program, E2SSB 5126, chapter 316, Laws of 2021, codified as chapter 70A.65 RCW).

For more information on this rule making, visit <https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC-173-446>.

Hearing Location(s): On June 21, 2022, at 10:00 a.m., hearing via webinar. Join online and see instructions <https://waecy-wa-gov.zoom.us/meeting/register/tZctd-2vpzosGdMb4UVR6wjnJBvlzVnKELbu>; on June 22, 2022, at 6:00 p.m., hearing via webinar. Join online and see instructions <https://waecy-wa-gov.zoom.us/meeting/register/tZwucO-hrTgtGtOtrUr16JqSBWgxSoxdry3W>; on June 27, 2022, at 1:00 p.m., hearing via webinar. Join online and see instructions <https://waecy-wa-gov.zoom.us/meeting/register/tZEvdEYvrjMjH9Xip3BLEPF3Yf-10sStCZxM>; and on June 28, 2022, at 10:00 a.m., hearing via webinar. Join online and see instructions <https://waecy-wa-gov.zoom.us/meeting/register/tZclfu2rrrD4tHtaNSP550zMMsB6KhbBszaHS>. Presentation, question and answer sessions followed by the hearings.

We are holding these hearing via webinar. These are online meetings that you can attend from any computer using internet access.

Date of Intended Adoption: September 29, 2022.

Submit Written Comments to: Joshua Grice, send U.S. 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, email [ecyreclimaterules@ecy.wa.gov](mailto:ecyreclimaterules@ecy.wa.gov), online <https://aq.ecology.commentinput.com/?id=6Nx2J>, by June 30, 2022.

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](mailto:ecyADAcordinator@ecy.wa.gov), visit <https://ecology.wa.gov/accessibility> for more information, by June 16, 2022.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule making will establish the foundational regulations necessary to implement the CCA program to cap GHG emissions and implement an allowance trading market.

These components include, but are not limited to:

- Program coverage, registration, and account requirements.
- Methods and procedures for allocating allowances.
- Allowance budgets for the first compliance period (2023-2026) and distribution of allowances.
- Auction registration requirements.
- Auction floor and ceiling prices and Tier I and Tier II prices for allowance price containment reserve auctions.
- Emissions containment reserve.
- Procedures and protocols for offset projects.



- Enforcement provisions.
- Transfer and sale of allowances and recognition of compliance instruments.
- Other elements to support the operation and functioning of the cap and invest program.

Reasons Supporting Proposal: In 2020, the legislature updated Washington's greenhouse gas emissions limits for 2030, 2040, and 2050. Washington must, based on current science and emission trends, achieve these targets to support the global effort to avoid the most significant impacts of climate change. Meeting these emission-reduction commitments will require coordinated, comprehensive, and multi-sectoral implementation of policies, programs, and laws - such as CCA - as other enacted policies are insufficient by themselves. CCA establishes a new cap-and-invest program to help Washington achieve these limits. Ecology is responsible for implementing this program through rule making. The legislation directs ecology to start the program by January 1, 2023, and adopt annual allowance budgets for the first compliance period of the program by October 1, 2022.

Statutory Authority for Adoption: RCW 70A.65.220 Adoption of rules.

Statute Being Implemented: RCW 70A.65.060 through 70A.65.210 (CCA—Cap and invest program).

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: Kay Shirey, Lacey, Washington, 564-200-2372; Implementation and Enforcement: Luke Martland, Lacey, Washington, 360-764-3666.

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 Joshua Grice, Department of Ecology, Air Quality Program, P.O. Box 47600, Olympia, WA 98504-7600, phone 360-280-6566, for Washington relay service or TTY call 711 or 877-833-6341, email [ecyreclimaterules@ecy.wa.gov](mailto:ecyreclimaterules@ecy.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).

Explanation of exemptions: The analyses required under the Regulatory Fairness Act (RFA), and their inclusion in a small business economic impact statement (SBEIS), are based on whether the proposed rule would impose compliance costs on small businesses. A rule is otherwise exempt from these analyses under RCW 19.85.025(4).

Based on available information, we did not identify any small businesses that would be covered entities and therefore required to comply with the proposed rule. The average business that is likely to be a covered entity under the proposed rule employs 19,273 people. However, we do not have full information concerning all potential covered entities. For example, about half of the 50-60 expected electric power entities (EPEs) that would potentially start reporting under recent amendments to the GHG reporting rule (chapter 173-441 WAC), would

also be covered entities. Based on the size of other covered entities, we do not expect these EPEs to be small businesses.

While it may be reasonable to assume that EPEs are all large businesses, we cannot be certain of all their attributes. This is particularly true for EPEs for which we have uncertainty about emissions levels. Due to uncertainty about the employment attributes of EPEs, we chose to complete an SBEIS and complete work required under the RFA, to fully understand potential disproportion in the impacts of the proposed rule.

As the RFA requires analyses specifically related to employment impacts and price or output impacts (as they play into revenue and profits), we also determined this analysis would be the most appropriate space to discuss macroeconomic modeling we performed to fully understand the potential impacts of the proposed rule.

The proposed rule does impose more-than-minor costs on businesses.

### **SBEIS**

#### **Relevant Information for State Register Publication Proposed WAC 173-446 Climate Commitment Act Program**

This 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.

The analyses required under RFA, and their inclusion in an SBEIS, are based on whether the proposed rule would impose compliance costs on small businesses. A rule is otherwise exempt from these analyses under RCW 19.85.025(4).

Based on available information, we did not identify any small businesses that would be covered entities and therefore required to comply with the proposed rule. The average business that is likely to be a covered entity under the proposed rule employs 19,273 people. However, we do not have full information concerning all potential covered entities. For example, about half of the 50-60 expected EPEs that would potentially start reporting under recent amendments to the GHG reporting rule (chapter 173-441 WAC), would also be covered entities. Based on the size of other covered entities, we do not expect these EPEs to be small businesses.

While it may be reasonable to assume that EPEs are all large businesses, we cannot be certain of all their attributes. This is particularly true for EPEs for which we have uncertainty about emissions levels. Due to uncertainty about the employment attributes of EPEs, we chose to complete an SBEIS and complete work required under RFA, to fully understand potential disproportion in the impacts of the proposed rule.

As RFA requires analyses specifically related to employment impacts and price or output impacts (as they play into revenue and profits), we also determined this analysis would be the most appropriate space to discuss macroeconomic modeling we performed to fully understand the potential impacts of the proposed rule.

A small business is defined by 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. 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. 22-02-015, May 2022).*

**COMPLIANCE REQUIREMENTS OF THE PROPOSED RULE, INCLUDING PROFESSIONAL SERVICES:** For this rule making, the regulatory baseline includes:

- Greenhouse gas emissions—Cap and invest program, chapter 70A.65 RCW.
- Limiting greenhouse gas emissions, chapter 70A.45 RCW.
- Reporting of emissions of greenhouse gases, chapter 173-441 WAC.
- Washington Clean Air Act, chapter 70A.15 RCW.
- Clean Energy Transformation Act, chapter 19.405 RCW, and chapter 173-444 WAC.
- Transportation fuel—Clean fuels program, chapter 70A.535 RCW.
- Motor vehicle emission standards, chapter 70A.30 RCW.

**General Requirements (proposed WAC 173-446-010 through 173-446-080) :**

- Purpose.
- Definitions.
- Applicability.
- Covered emissions.
- Covered entity registration.
- Electric utilities registration.
- General market participant registration.
- Cap-and-invest consultants and advisors.
- New or modified covered entities.
- Exiting the program.
- Allowances.

**Program Account Requirements (proposed WAC 173-446-100 through 173-446-150) :**

- Program accounts required.
- Disclosure of corporate associations - indicia of corporate association.
- Disclosure of corporate associations - types of disclosures required.
- Disclosure of corporate association - information to be submitted.
- Designation and certification of account representatives.
- Designation of account viewing agents.
- Accounts for registered entities.

**Allowance Budgets and Distribution of Allowances (proposed WAC 173-446-200 through 173-446-260) :**

- Total program baseline.
- Total program allowance budgets.

- Distribution of allowances to emissions-intensive and trade-exposed entities.
- Distribution of allowances to electric utilities.
- Distribution of allowances to natural gas utilities.
- Removing and retiring allowances.
- Allowance distribution dates.

**Allowance Auctions (proposed WAC 173-446-300 through 173-446-385) :**

- Auctions of current and prior year allowances.
- Public notice.
- Registration for an auction.
- Auctions - prohibited actions.
- Suspension and revocation of registration.
- Bid guarantee.
- Purchase limits.
- Auction floor price and ceiling price.
- Administration of auction: lots.
- Bids.
- Determination of actual maximum bid value.
- Maximum bid value in excess of bid guarantee.
- Acceptance of bids.
- Payment for purchases.
- Summary of auction.
- Auction of future year allowances.
- Allowance price containment reserve account.
- Emissions containment reserve account.
- Price ceiling units.
- Price ceiling unit sales.

**Compliance Instrument Transactions (proposed WAC 173-446-400 through 173-446-440) :**

- Compliance instruments transactions - general information.
- Transfers among registered entities - process.
- Transaction requests - information required by ecology.
- Transfers to ecology - process.
- Transfers of no cost allowances from an electric utility to an electrical generating facility or to a federal power marketing administrator.
- Transfer of no cost allowances from a utility's holding account to its limited use holding account for consignment to auction.
- Compliance instrument transactions - prohibited actions.

**Offsets (proposed WAC 173-446-500 through 173-446-595) :**

- General requirements for ecology offset credits and registry offset credits.
- Requirements for compliance offset protocols.
- Requirements for offset projects using ecology compliance offset protocols.
- Authorized project designee.
- Listing of offset projects using ecology compliance offset protocols.
- Monitoring, reporting, and record retention requirements for offset projects.
- Verification of GHG emissions reductions and GHG removal enhancements from offset projects.
- Requirements for offset verification services.

- Offset verifier and verification body accreditation.
- Conflict of interest requirements for verification bodies and offset verifiers for verification of offset project data reports.
- Issuance of registry offset credits.
- Issuance of ecology offset credits.
- Process for issuance of ecology offset credits.
- Registration of ecology offset credits.
- Forestry offset reversals.
- Transferability of ecology offset credits.
- Invalidation of ecology offset credits.
- Approval requirements for offset project registries.
- Offset project registry requirements.
- Direct environmental benefits in the state.

**COSTS OF COMPLIANCE: EQUIPMENT:** Compliance with the proposed rule, compared to the baseline, is not likely to impose additional costs of equipment that are separable from emission abatement costs (see below).

**COSTS OF COMPLIANCE: SUPPLIES:** Compliance with the proposed rule, compared to the baseline, is not likely to impose additional costs of supplies.

**COSTS OF COMPLIANCE: LABOR:** Compliance with the proposed rule, compared to the baseline, is not likely to impose additional costs of labor that are separable from willingness to pay for GHG emissions allowances.

**COSTS OF COMPLIANCE: PROFESSIONAL SERVICES:** Compliance with the proposed rule, compared to the baseline, is not likely to impose additional costs of professional services that are separable from willingness to pay for GHG emissions allowances.

**COSTS OF COMPLIANCE: ADMINISTRATIVE COSTS:** Where applicable, ecology estimates administrative costs (overhead) as part of the cost of labor and professional services.

**COSTS OF COMPLIANCE: OTHER:** The various requirements in the proposed rule would interact to run the cap and invest program. To estimate the costs resulting from the proposed rule, we estimated the costs of the combined requirements. These include combined costs of:

- Allowance purchases.
- Offsets.
- Emissions reductions.

Recall that allowance prices account for various transaction costs of being a covered entity under the proposed rule and allowance auction participation.

See the preliminary regulatory analyses for this rule making for discussion of our overall analytic structure and assumptions, including underlying estimates of allowance market prices, allowance volumes, and emissions levels.

<i>Year</i>	Allowance Purchases (billions of \$)	Abatement Costs (billions of \$)	Total Costs (billions of \$)
2030	\$2.77	\$0.88	\$3.65
2040	\$0.66	\$0.44	\$1.10
2050	\$0.06	\$0.54	\$0.60
<i>Present Value through 2050</i>	\$37.45	\$11.11	\$48.56

We also estimated total costs with maximum allowed use of offset credits.

<i>Year</i>	Allowance Purchases (billions of \$)	Offset Purchases (billions of \$)	Abatement Costs (billions of \$)	Total Costs (billions of \$)
2030	\$2.50	\$0.23	\$0.88	\$3.61
2040	\$0.62	\$0.04	\$0.44	\$1.10
2050	\$0.04	\$0.02	\$0.54	\$0.60
<i>Present Value through 2050</i>	\$34.44	\$2.56	\$11.11	\$48.11

We note that maximum use of offsets reduces average compliance costs, but has only minor impact on costs. We have therefore made the simplifying assumption of no offset use in sensitivity and alternatives analyses, which also conservatively estimates the high end of potential costs for relevant scenarios.

The costs in the tables above are maximum costs for each scenario, since abatement calculations assume a unit cost equivalent to the allowance market price. In reality, covered entities with emissions abatement options available to them at costs below the allowance price would first choose to reduce emissions before using allowances. The inverse holds for entities with high marginal abatement costs, which would inform their greater demand for allowances, which is in turn reflected by higher allowance market prices.

**COMPARISON OF COMPLIANCE COST FOR SMALL VERSUS LARGE BUSINESSES:** We calculated the estimated per-business costs to comply with the proposed rule, based on the costs estimated in Chapter 3 of this document. In this section, we estimate compliance costs per employee.

Since there is uncertainty in the employment levels of potential small business electric power entities, we chose to examine the full range of one - 50 employees that defines a small business in the RFA.

<i>Type of cost (or total cost)</i>	Low	High
<i>Average small business employment</i>	1	50
<i>Average employment at largest 10 percent of businesses</i>	\$127,498	\$127,498
<i>Small business cost per employee</i>	\$266,802	\$13,216,164
<i>Largest business cost per employee</i>	\$105	\$104

We conclude that, **if the proposed rule does impose compliance costs on small businesses, it may disproportionately affect them.** Therefore, ecology must include elements in the proposed rule to mitigate the potential for this disproportion, as far as is legal and feasible.

**CONSIDERATION OF LOST SALES OR REVENUE:** Businesses that would incur costs under the cap and invest program could experience reduced sales or revenues if the proposed rule significantly affects the prices of the goods they sell. The degree to which this could happen is strongly related to each business's production and pricing model (whether additional lump-sum costs would significantly affect marginal costs), as well as 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 on directly affected markets, accounting for dynamic adjustments throughout the economy. The model accounts for: Interindustry impacts; price, wage, and population changes; and dynamic adjustment of all economic and population variables over time.

Year	Statewide Price Level Impacts	Motor vehicle fuels, lubricants, and fluids	Electricity	Natural Gas	Fuel Oil
2030	0.28%	1.50%	2.80%	-4.20%	1.40%
2040	0.07%	0.40%	1.00%	0.30%	0.40%
2050	0.03%	0.20%	0.60%	2.00%	0.20%

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Year	Statewide Output Impacts (billions of \$)	Utilities	Retail	Wholesale (includes transportation fuels)	Transportation and Warehousing
2030	-\$2.25	-\$0.29	-\$0.41	-\$0.88	-\$0.12
2040	-\$2.62	-\$0.21	-\$0.23	-\$0.62	-\$0.09
2050	-\$1.47	-\$0.10	-\$0.15	-\$0.31	-\$0.05

**MITIGATION OF DISPROPORTIONATE IMPACT:** RFA (RCW 19.85.030(2)) states that: "Based upon the extent of disproportionate impact on small business identified in the statement prepared under RCW 19.85.040, the agency shall, where legal and feasible in meeting the stated objectives of the statutes upon which the rule is based, reduce the costs imposed by the rule on small businesses. The agency must consider, without limitation, each of the following methods of reducing the impact of the proposed rule on small businesses:

- (a) Reducing, modifying, or eliminating substantive regulatory requirements;
- (b) Simplifying, reducing, or eliminating recordkeeping and reporting requirements;
- (c) Reducing the frequency of inspections;
- (d) Delaying compliance timetables;
- (e) Reducing or modifying fine schedules for noncompliance; or
- (f) Any other mitigation techniques including those suggested by small businesses or small business advocates."

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.

Though the proposed rule is not analytically separable from the regulatory baseline for the purposes of this analysis, the authorizing statute does not allow ecology to reduce, modify, or eliminate substantive requirements for any covered entities. The areas of the proposed rule reflecting these statutory requirements include rule coverage, inspections or their equivalent in verification, emissions reduction goals, compliance timetables, and fines. The areas in which ecology exercised its discretion do not control substantive regulatory requirements or these other areas dictated in whole or in part by the statute.

Ecology simplified requirements related to recordkeeping and reporting by automatically registering covered entities (a subset of which may be small businesses, though are likely not; see Section 7.2). Automatic registration allows these businesses to avoid an element of transaction costs.

Small businesses would also inherently have fewer or no corporate associations (direct or indirect), and require fewer personnel managing or observing market and compliance activities.

**SMALL BUSINESS AND LOCAL GOVERNMENT CONSULTATION:** Ecology involved small businesses and local governments in its development of the proposed rule, using:

- Four stakeholder meetings:
  - November 8, 2022.
  - December 16, 2022 (morning).
  - December 16, 2022 (afternoon).
  - January 11, 2022.
- For each stakeholder meeting we sent notifications to two email distribution lists that include multiple business and local government contacts:
  - CCA listserv.
  - GHG reporting listserv.
- Two tribal rule-making review sessions:
  - January 13, 2022.
  - January 18, 2022.
- An informal comment period from November 8 - January 26 (deadline extended from initial date of January 18 in response to stakeholder requests).

**NAICS CODES OF INDUSTRIES IMPACTED BY THE PROPOSED RULE:**

<i>NAICS</i>	NAICS Title	<i>NAICS</i>	NAICS Title
<i>1121</i>	Cattle Ranching and Farming	<i>3274</i>	Lime and Gypsum Product Manufacturing
<i>2123</i>	Nonmetallic Mineral Mining and Quarrying	<i>3311</i>	Iron and Steel Mills and Ferroalloy Manufacturing
<i>2131</i>	Support Activities for Mining	<i>3313</i>	Alumina and Aluminum Production and Processing
<i>2211</i>	Electric Power Generation, Transmission and Distribution	<i>3314</i>	Nonferrous Metal (except Aluminum) Production and Processing
<i>2212</i>	Natural Gas Distribution	<i>3321</i>	Forging and Stamping
<i>2213</i>	Water, Sewage and Other Systems	<i>3344</i>	Semiconductor and Other Electronic Component Manufacturing
<i>3112</i>	Grain and Oilseed Milling	<i>3359</i>	Other Electrical Equipment and Component Manufacturing
<i>3114</i>	Fruit and Vegetable Preserving and Specialty Food Manufacturing	<i>3364</i>	Aerospace Product and Parts Manufacturing
<i>3115</i>	Dairy Product Manufacturing	<i>4247</i>	Petroleum and Petroleum Products Merchant Wholesalers
<i>3116</i>	Animal Slaughtering and Processing	<i>4251</i>	Wholesale Electronic Markets and Agents and Brokers
<i>3119</i>	Other Food Manufacturing	<i>4451</i>	Grocery Stores
<i>3211</i>	Sawmills and Wood Preservation	<i>4471</i>	Gasoline Stations
<i>3212</i>	Veneer, Plywood, and Engineered Wood Product Manufacturing	<i>4811</i>	Scheduled Air Transportation
<i>3219</i>	Other Wood Product Manufacturing	<i>4862</i>	Pipeline Transportation of Natural Gas
<i>3221</i>	Pulp, Paper, and Paperboard Mills	<i>4881</i>	Support Activities for Air Transportation



<i>NAICS</i>	NAICS Title	<i>NAICS</i>	NAICS Title
3222	Converted Paper Product Manufacturing	4921	Couriers and Express Delivery Services
3241	Petroleum and Coal Products Manufacturing	4931	Warehousing and Storage
3251	Basic Chemical Manufacturing	5622	Waste Treatment and Disposal
3253	Pesticide, Fertilizer, and Other Agricultural Chemical Manufacturing	6113	Colleges, Universities, and Professional Schools
3272	Glass and Glass Product Manufacturing	9241	Administration of Environmental Quality Programs
3273	Cement and Concrete Product Manufacturing	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 on jobs in the state, accounting for dynamic adjustments throughout the economy.

The proposed rule would result in transfers of money within and between industries, as compared to the regulatory 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 used outputs from the same model run as described above in Section 7.5. Employment impacts are presented in thousands of full-time employee equivalents in each year.

<i>Year</i>	Statewide	Utilities	Retail	Wholesale (includes transportation fuels)	Transportation and Warehousing	Construction (infrastructure)	Manufacturing
2030	-0.28	-0.19	-2.05	-2.16	-0.77	8.48	0.352
2040	-5.49	-0.11	-0.87	-1.17	-0.52	1.86	-0.175
2050	-3.88	-0.04	-0.46	-0.45	-0.26	-0.08	0.255

A copy of the statement may be obtained by contacting Joshua Grice, Department of Ecology, Air Quality Program, P.O. Box 47600, Olympia, WA 98504-7600, phone 360-280-6566, for Washington Relay Service or TTY call 711 or 877-833-6341, email [ecyreclimaterules@ecy.wa.gov](mailto:ecyreclimaterules@ecy.wa.gov).

May 16, 2022  
 Heather R. Bartlett  
 Deputy Director

OTS-3614.4

**Chapter 173-446 WAC  
 CLIMATE COMMITMENT ACT PROGRAM RULE**

**GENERAL REQUIREMENTS**NEW SECTION

**WAC 173-446-010 Purpose.** The purpose of this chapter is to implement the provisions of the GHG emissions cap and invest program created by RCW 70A.65.060 through 70A.65.210. This program establishes a declining cap on GHG emissions from covered entities consistent with the limits established in RCW 70A.45.020, and a program to track, verify, and enforce compliance with the cap through the use of compliance instruments.

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NEW SECTION

**WAC 173-446-020 Definitions.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise. For those terms not listed in this section, the definitions found in chapters 173-441 and 173-446A WAC apply in this chapter.

"Additional" means, in the context of the offset provisions of this rule, greenhouse gas emission reductions or removals that exceed any greenhouse gas reduction or removals otherwise required by law, regulation or legally binding mandate, and that exceed any greenhouse gas reductions or removals that would otherwise occur in a business-as-usual scenario.

"Adverse offset verification statement" means an offset verification statement rendered by a verification body attesting that the verification body cannot say with reasonable assurance that the submitted offset project data report is free of an offset material misstatement, or that it cannot attest that the offset project data report conforms to the requirements of this chapter or applicable compliance offset protocol.

"Aggregation" means in the context of offsets, a grouping of offset projects carried out according to the same compliance offset protocol and under the responsibility of the same offset project developer or operator.

"Allowance" means an authorization to emit up to one metric ton of carbon dioxide equivalent.

"Allowance price containment reserve" means an account maintained by ecology with allowances available for sale through separate reserve auctions at predefined prices to assist in containing compliance costs for covered and opt-in entities in the event of unanticipated high costs for compliance instruments.

"Annual allowance budget" means the total number of GHG allowances allocated for auction and distribution for one calendar year by ecology.

"Asset controlling supplier" or "ACS" has the same meaning as in chapter 173-441 WAC.

"Auction" means the process of selling GHG allowances by offering them up for bid, taking bids, and then distributing the allowances to winning bidders.

"Auction floor price" means a price for allowances below which bids at auction are not eligible to be accepted.

"Auction purchase limit" means the limit on the number of allowances one registered entity or a group of affiliated registered entities may purchase from the share of allowances sold at an auction.

"Auction settlement price" means the price announced by ecology at the conclusion of each auction that all successful bidders pay for each allowance.

"Authorized project designee" means an entity authorized by an offset project operator to act on behalf of the offset project operator. The authorized project designee must be a primary account representative or alternate account representative on the offset project operator's holding account.

"Balancing authority" means the responsible party that integrates resource plans ahead of time, maintains load-interchange generation balance within a balancing authority area, and supports interconnection frequency in real time.

"Balancing authority area" means the collection of generation, transmission, and load within the metered boundaries of a balancing authority. A balancing authority maintains load-resource balance within this area.

"Banking" means the holding of compliance instruments from one compliance period for the purpose of sale or surrender in a future compliance period.

"Best available technology" or "BAT" means a technology or technologies that will achieve the greatest reduction in GHG emissions, taking into account the fuels, processes, and equipment used by facilities to produce goods of comparable type, quantity, and quality. Best available technology must be technically feasible, commercially available, economically viable, not create excessive environmental impacts, and be compliant with all applicable laws while not changing the characteristics of the good being manufactured.

"Biomass" means nonfossilized and biodegradable organic material originating from plants, animals, and microorganisms, including products, by-products, residues, and waste from agriculture, forestry, and related industries as well as the nonfossilized and biodegradable organic fractions of municipal wastewater and industrial waste, including gases and liquids recovered from the decomposition of nonfossilized and biodegradable organic material.

"Biomass-derived fuels," "biomass fuels," or "biofuels" means fuels derived from biomass that have at least 40 percent lower GHG emissions based on a full life-cycle analysis when compared to petroleum fuels for which biofuels are capable as serving as a substitute.

"Bundled transaction" means the retail sale of two or more products, except real property or services to real property, where:

- (a) The products are otherwise distinct and identifiable; and
- (b) The products are sold for one nonitemized price.

A bundled transaction does not include the sale of any products in which the sale price varies or is negotiable, based on the selection by the purchaser of the products included in the transaction.

"Cap and invest consultant or advisor" means an individual or party that meets the criteria in WAC 173-446-056.

"Carbon dioxide equivalents" or "CO<sub>2</sub>e" has the same meaning as in chapter 173-441 WAC.

"Carbon dioxide removal" or "greenhouse gas removal" means deliberate human activities removing carbon dioxide from the atmosphere and durably storing it in geological, terrestrial, or ocean reservoirs, or in products. "Carbon dioxide removal" includes existing and potential anthropogenic enhancement of biological or geochemical sinks and including, but not limited to, carbon mineralization and direct air capture and storage.

"Closed electricity importer" means an electricity importer that has elected to permanently stop providing or importing electric power into Washington.

"Closed facility" means a facility at which the current owner or operator has elected to permanently stop production and will no longer be an emissions source.

"Closed supplier" means a supplier that has elected to permanently stop supplying any of the materials that trigger coverage as a supplier under chapter 70A.65 RCW and this chapter.

"Compliance instrument" means an allowance or offset credit issued by ecology or by an external GHG emissions trading program to which Washington has linked its cap and invest program. One compliance instrument is equal to one metric ton of carbon dioxide equivalent.

"Compliance obligation" means the requirement to submit to ecology the number of compliance instruments equivalent to a covered or opt-in entity's covered emissions during the compliance period.

"Compliance offset protocol" means an offset protocol adopted by ecology.

"Compliance period" means the four-year period for which the compliance obligation is calculated for covered entities.

"Cost burden" means the impact on rates or charges to customers of electric utilities in Washington for the incremental cost of electricity service to serve load due to the compliance cost for GHG emissions caused by the program. Cost burden includes administrative costs from the utility's participation in the program.

"Covered emissions" means the emissions described in WAC 173-446-040 for which a covered entity has a compliance obligation under this chapter.

"Covered entity" means a person that is designated by ecology as subject to this chapter as specified in WAC 173-446-030 or 173-446-060. Each facility, supplier, or first jurisdictional deliverer serving as an electricity importer is a separate covered entity.

"Crediting baseline" refers to the reduction of absolute GHG emissions below the business-as-usual scenario after the imposition of greenhouse gas emission reduction requirements or incentives.

"Crediting period" means the predetermined period of time for which an offset project will remain eligible to be issued ecology offset credits or registry offset credits for verified GHG emission reductions or GHG removal enhancements.

"Curtailed electric power entity" means an electric power entity at which the owner or operator has temporarily suspended operations but for which the owner or operator maintains any necessary permits and retains the option to resume business if conditions become amenable.

"Curtailed facility" means a facility at which the owner or operator has temporarily suspended production but for which the owner or

operator maintains operating permits and retains the option to resume production if conditions become amenable.

"Curtailed supplier" means a supplier at which the owner or operator has temporarily suspended operations but for which the owner or operator maintains any necessary permits and retains the option to resume business if conditions become amenable.

"Direct corporate association" means a group of parties that meet the requirements in WAC 173-446-105 to be a direct corporate association.

"Direct environmental benefits in the state" means environmental benefits accomplished through the reduction or avoidance of emissions of any air pollutant in the state or the reduction or avoidance of the release of any pollutant that could have an adverse impact on land or waters of the state.

"Direct GHG emission reduction" means a reduction of GHG emissions from applicable GHG emission sources, GHG sinks, or GHG reservoirs that are under control of an offset project operator or authorized project designee.

"Direct GHG removal enhancement" means a GHG removal enhancement from applicable GHG emission sources, GHG sinks, or GHG reservoirs under control of the offset project operator or authorized project designee.

"Ecology" means the Washington state department of ecology or its agents, including the auction administrator and the financial services administrator retained by ecology pursuant to RCW 70A.65.100(3).

"Electric power entity" has the same meaning as in chapter 173-441 WAC.

"Electricity importer" has the same meaning as in chapter 173-441 WAC.

"Emissions containment reserve allowance" means a conditional allowance that is withheld from sale at an auction by ecology to secure additional emissions reductions in the event prices fall below the emissions containment reserve trigger price.

"Emissions containment reserve trigger price" means the price below which allowances will be withheld from sale at an auction by ecology, as determined by ecology by rule unless ecology has suspended the emissions containment reserve trigger price.

"Emissions threshold" means the GHG emission level at or above which a person has a compliance obligation under this chapter.

"Emissions year" means the calendar year in which GHG emissions occur.

"Environmental benefits" means activities that:

(a) Prevent or reduce existing environmental harms or associated risks that contribute significantly to cumulative environmental health impacts;

(b) Prevent or mitigate impacts to overburdened communities or vulnerable populations from, or support community response to, the impacts of environmental harm; or

(c) Meet a community need formally identified to a covered agency by an overburdened community or vulnerable population that is consistent with the intent of chapter 70A.02 RCW.

"Environmental harm" means the individual or cumulative environmental health impacts and risks to communities caused by historic, current, or projected:

(a) Exposure to pollution, conventional or toxic pollutants, environmental hazards, or other contamination in the air, water, and land;

(b) Adverse environmental effects, including exposure to contamination, hazardous substances, or pollution that increase the risk of adverse environmental health outcomes or create vulnerabilities to the impacts of climate change;

(c) Loss or impairment of ecosystem functions or traditional food resources or loss of access to gather cultural resources or harvest traditional foods; or

(d) Health and economic impacts from climate change.

"Environmental impacts" means environmental benefits or environmental harms, or the combination of environmental benefits and harms, resulting or expected to result from a proposed action.

"Environmental justice council" means the council established in RCW 70A.02.110.

"External GHG emissions trading program" or "external GHG ETS" means a government program, other than Washington's program created in this chapter, that restricts GHG emissions from sources outside of Washington and that allows emissions trading.

"Facility" has the same meaning as in chapter 173-441 WAC.

"Federal power marketing administration" means any of the four federal power marketing administrations that operate electric systems and sell the electrical output of federally owned and operated hydroelectric dams in the United States.

"First jurisdictional deliverer" has the same meaning as in chapter 173-441 WAC.

"Forest buffer account" means a holding account for ecology offset credits issued to forest offset projects. It is used as a general insurance mechanism against unintentional reversals, for all forest offset projects listed under a compliance offset protocol.

"Forest owner" means the owner of any interest in the real property on which a forest offset project is located, excluding government agency or other third-party beneficiaries of conservation easements. Generally, a forest owner is the owner in fee of the real property on which a forest offset project is located. In some cases, one party may be the owner in fee while another party may have an interest in the trees or the timber on the property, in which case all parties with interest in the real property are collectively considered the forest owners; however, a single forest owner must be identified as the offset project operator.

"General market participant" means a registered entity that is not identified as a covered entity or an opt-in entity that is registered in the program registry and intends to purchase, hold, sell, or voluntarily retire compliance instruments.

"Greenhouse gas" or "GHG" has the same meaning as in chapter 173-441 WAC.

"Greenhouse gas emission reduction" or "GHG emission reduction" or "greenhouse gas reduction" or "GHG reduction" means a calculated decrease in GHG emissions relative to a project baseline over a specified period of time.

"Greenhouse gas emissions source" or "GHG emissions source" means, in the context of offset credits, any type of emitting activity that releases greenhouse gases into the atmosphere.

"Greenhouse gas removal enhancement" or "GHG removal enhancement" means a calculated increase in GHG removals relative to a project baseline.

"Greenhouse gas reservoir" or "GHG reservoir" means a physical unit or component of the biosphere, geosphere, or hydrosphere with the

capability to store, accumulate, or release a GHG removed from the atmosphere by a GHG sink or a GHG captured from a GHG emission source.

"Greenhouse gas sink" or "GHG sink" means a physical unit or process that removes a GHG from the atmosphere.

"Holding limit" means the maximum number of allowances that may be held for use or trade by a registered entity at any one time.

"Imported electricity" has the same meaning as in chapter 173-441 WAC.

"Indirect corporate association" means a group of parties that meet the requirements in WAC 173-446-105 to be an indirect corporate association.

"Initial crediting period" means the crediting period that begins with the first day of the first reporting period which receives a positive offset or qualified positive offset verification statement and has that offset verification statement approved by ecology.

"Intentional reversal" means any reversal, except as provided below, which is caused by a forest owner's negligence, gross negligence, or willful intent, including harvesting, development, and harm to the area within the offset project boundary, or caused by approved growth models overestimating carbon stocks. A reversal caused by an intentional back burn set by, or at the request of, a local, state, or federal fire protection agency for the purpose of protecting forestlands from an advancing wildfire that began on another property through no negligence, gross negligence, or willful misconduct of the forest owner is not considered an intentional reversal but, rather, an unintentional reversal. Receiving adverse offset verification statements on two consecutive offset verifications after the end of the final crediting period will be considered an intentional reversal.

"Lead offset verifier" means a party that has met all the requirements in WAC 173-441-085(7) and who may act as the lead verifier of an offset verification team providing offset verification services or as a lead verifier providing an independent review of offset verification services rendered.

"Lead offset verifier independent reviewer" or "independent offset reviewer" means a lead offset verifier within a verification body who has not participated in conducting offset verification services for an offset project developer or authorized project designee for the current offset project data report and who provides an independent review of offset verification services rendered for an offset project developer or authorized project designee as required in WAC 173-446-530. The independent reviewer is not required to also meet the requirements for a sector specific or offset project specific verifier.

"Leakage" means a reduction in emissions of GHGs within the state that is offset by a directly attributable increase in GHG emissions outside the state and outside the geography of another jurisdiction with a linkage agreement with Washington.

"Limits" means the GHG emissions reductions required by RCW 70A.45.020.

"Linkage" means a bilateral or multilateral decision under a linkage agreement between GHG market programs to accept compliance instruments issued by a participating jurisdiction to meet the obligations of regulated entities in a partner jurisdiction and to otherwise coordinate activities to facilitate operation of a joint market.

"Linkage agreement" means a nonbinding agreement that connects two or more GHG market programs and articulates a mutual understanding

of how the participating jurisdictions will work together to facilitate a connected GHG market.

"Linked jurisdiction" means a jurisdiction with which Washington has entered into a linkage agreement.

"Market position" means the combination of the current and/or expected holdings of compliance instruments by a registered entity and the current and/or expected covered emissions of that registered entity.

"Market sensitive information" means information related to registered entities, or their participation in the cap and invest program that is not otherwise publicly available, and for which ecology determines that the public interest in disclosure is outweighed by the public interest served by maintaining the confidentiality of such information, on the basis that its disclosure would be reasonably expected to have an effect on the price or value of allowances or offset credits and/or enable a registered entity to engage in market manipulation such as bidder collusion, market cornering, or extortion of other market participant. "Market sensitive information" does not include data reported under chapter 173-441 WAC, except to the extent that the disclosure of such data for a particular emission year at any time prior to November 15th of the following calendar year would enable a registered entity to engage in market manipulation. "Market sensitive information" also does not include anonymized information about the contents of registered entities' holding accounts that is publicly displayed pursuant to RCW 70A.65.090 (7) (b), except to the extent that the disclosure of such information that is less than 45 days old would enable a registered entity to engage in market manipulation.

"Multijurisdictional consumer-owned utility" has the same meaning as in chapter 173-441 WAC.

"Multijurisdictional electric company" has the same meaning as in chapter 173-441 WAC.

"NERC e-tag" or "e-tag" has the same meaning as in chapter 173-441 WAC.

"Offset credit" means a tradable compliance instrument that represents an emissions reduction or emissions removal of one metric ton of carbon dioxide equivalent.

"Offset material misstatement" means a discrepancy, omission, misreporting, or aggregation of the three, identified in the course of offset verification services that leads an offset verification team to conclude that an offset project data report contains errors resulting in an overstatement of the reported total GHG emission reductions or GHG removal enhancements by greater than five percent. Discrepancies, omissions, or misreporting, or an aggregation of the three, that result in an understatement of total reported GHG emission reductions or GHG removal enhancements in the offset project data report is not an offset material misstatement.

"Offset project" means a project that reduces or removes GHG that are not covered emissions under this chapter.

"Offset project boundary" is defined by and includes all GHG emission sources, GHG sinks, and GHG reservoirs that are affected by an offset project and under control of the offset project operator or authorized project designee. GHG emissions sources, GHG sinks or GHG reservoirs not under control of the offset project operator or authorized project designee are not included in the offset project boundary.

"Offset project data report" means the report prepared by an offset project operator or authorized project designee each reporting period that provides the information, documentation, and attestations



required by this chapter or a compliance offset protocol. An unattested report is not a valid offset project data report, and therefore cannot be used to satisfy any deadlines regarding submittal of an offset project data report.

"Offset project listing" or "listing" means the information, documentation, and attestations required by this chapter or a compliance offset protocol that an offset project operator or authorized project designee has submitted to ecology or an offset project registry, and that has been reviewed for completeness by ecology and/or the offset project registry and publicly listed by ecology or the offset project registry for an initial or renewed crediting period. An offset project listing must include the attestations required by this chapter in order to be considered complete by ecology or the offset project registry.

"Offset project operator" means the party(ies) with legal authority to implement the offset project. Only a primary account representative or alternate account representative may sign listing documents, an offset project data report, a request for issuance, or attestations on behalf of the offset project operator.

"Offset project registry" means a party that meets the requirements of this chapter and is approved by ecology that lists offset projects, collects offset project data reports, facilitates verification of offset project data reports, and issues registry offset credits for offset projects being implemented using a compliance offset protocol.

"Offset protocols" means a set of procedures and standards to quantify GHG reductions or GHG removals achieved by an offset project, as well as addressing other aspects of the offset project in order to ensure the quality of the project.

"Offset verification" means a systematic, independent, and documented process for evaluation of an offset project operator's or authorized project designee's offset project data report against ecology compliance offset protocols and this chapter for calculating and reporting project baseline emissions, project emissions, GHG reductions, and GHG removal enhancements.

"Offset verification body" means a firm accredited or recognized by ecology, which is able to render an offset verification statement and provide offset verification services for offset project operators or authorized project designees subject to providing an offset project data report under this chapter.

"Offset verification services" means services provided during offset verification, including reviewing an offset project operator's or authorized project designee's offset project data report, verifying its accuracy according to the standards specified in WAC 173-446-535 and the applicable compliance offset protocol, assessing the offset project operator's or authorized project designee's compliance with this chapter and applicable compliance offset protocol, and submitting an offset verification statement to ecology or an offset project registry.

"Offset verification statement" means the final statement rendered by a verification body attesting whether an offset project operator's or authorized project designee's offset project data report is free of an offset material misstatement, and whether the offset project data report conforms to the requirements of this chapter and applicable compliance offset protocol, and containing the attestations required pursuant to this chapter.

"Offset verification team" means all parties working for a verification body, including all subcontractors, to provide offset verification services for an offset project operator or authorized project designee.

"Opt-in entity" means a person responsible for greenhouse gas emissions that is not a covered entity but voluntarily participates in the program as authorized under RCW 70A.65.090(3).

"Overburdened community" means a geographic area where vulnerable populations face combined, multiple environmental harms and health impacts or risks due to exposure to environmental pollutants or contaminants through multiple pathways, which may result in significant disparate adverse health outcomes or effects.

"Overburdened community" includes, but is not limited to:

(a) Highly impacted communities as defined in RCW 19.405.020;

(b) Communities located in census tracts that are fully or partially on "Indian country" as defined in 18 U.S.C. Sec. 1151; and

(c) Populations, including Native Americans or immigrant populations, who may be exposed to environmental contaminants and pollutants outside of the geographic area in which they reside based on the populations' use of traditional or cultural foods and practices, such as the use of resources, access to which is protected under treaty rights in ceded areas, when those exposures in conjunction with other exposures may result in disproportionately greater risks, including risks of certain cancers or other adverse health effects and outcomes.

(d) Overburdened communities identified by ecology shall include the same communities as those identified by ecology through its process for identifying overburdened communities under RCW 70A.02.010.

"Party" means an individual, person, firm, association, organization, partnership, business trust, corporation, limited liability company, company, or government agency.

"Person" includes: An owner or operator of a facility; a supplier; or an electric power entity.

"Point of delivery" has the same meaning as in chapter 173-441 WAC.

"Positive offset verification statement" means an offset verification statement rendered by a verification body attesting that the verification body can say with reasonable assurance that the submitted offset project data report is free of an offset material misstatement and that the offset project data report conforms to the requirements of this chapter and applicable compliance offset protocol.

"Price ceiling unit" means a unit issued at a fixed price by ecology for the purpose of limiting price increases and funding further investments in GHG reductions.

"Program" means the GHG emissions cap and invest program created by chapter 70A.65 RCW and implemented pursuant to this chapter.

"Program registry" means the data system in which covered entities, opt-in entities, and general market participants are registered and in which compliance instruments are recorded and tracked.

"Project baseline" means, in the context of a specific offset project, a conservative estimate of business-as-usual GHG emission reductions or GHG removal enhancements for the offset project's GHG emission sources, GHG sinks, or GHG reservoirs within the offset project boundary.

"Qualified positive offset verification statement" means an offset verification statement rendered by a verification body attesting that the verification body can say with reasonable assurance that the submitted offset project data report is free of an offset material

misstatement, but the offset project data report may include one or more nonconformance(s) with this chapter and applicable compliance offset protocol which do not result in an offset material misstatement. Nonconformance, in this context, does not include disregarding the explicit requirements of this chapter or applicable compliance offset protocol and substituting alternative requirements not approved by ecology.

"Registered entity" means a covered entity, opt-in entity, or general market participant that has completed the process for registration in the program registry.

"Registry offset credit" means a credit issued by an offset project registry for a GHG reduction or GHG removal enhancement of one metric ton of CO<sub>2</sub>e.

"Reporter" has the same meaning as in chapter 173-441 WAC.

"Reporting period" means, in the context of offsets, the period of time for which an offset project operator or authorized project designee quantifies and reports GHG reductions or GHG removal enhancements covered in an offset project data report. An offset project's reporting period is established in the project listing documentation, but may be modified pursuant to WAC 173-446-525(11).

"Retail electric load" has the same meaning as specified in RCW 19.405.020.

"Retire" means to permanently remove a compliance instrument such that the compliance instrument may never be sold, traded, surrendered for compliance, or otherwise used again.

"Retirement account" means the account to which ecology transfers compliance instruments that have been surrendered for compliance.

"Sequestration" means the removal of carbon dioxide from the atmosphere and storage of carbon in GHG sinks or GHG reservoirs through physical or biological processes.

"Specified source of electricity" or "specified source" has the same meaning as in chapter 173-441 WAC.

"Supplier" has the same meaning as in chapter 173-441 WAC.

"Tier 1 price" means the lower of the two prices set by ecology for allowances auctioned from the allowance price containment reserve.

"Tier 2 price" means the higher of the two prices set by ecology for allowances auctioned from the allowance price containment reserve.

"Total program baseline" means the total of covered greenhouse gas emissions from covered entities as established in WAC 173-446-200.

"Tribal lands" has the same meaning as defined in RCW 70A.02.010.

"Unintentional reversal" means any reversal, including wildfires or disease that is not the result of the forest owner's negligence, gross negligence, or willful intent.

"Unspecified source of electricity" or "unspecified source" has the same meaning as in chapter 173-441 WAC.

"Vintage year" means the annual allowance allocation budget year to which an individual Washington GHG allowance is assigned.

"Voluntary renewable reserve account" or "voluntary renewable electricity reserve account" means a holding account maintained by ecology from which allowances may be retired for voluntary renewable electricity generation, which is directly delivered to the state and has not and will not be sold or used to meet any other mandatory requirements in the state or any other jurisdiction, on behalf of voluntary renewable energy purchasers or end users.

[ ]

NEW SECTION

**WAC 173-446-030 Applicability.** All facilities, suppliers, and first jurisdictional deliverers with covered emissions that meet the applicability requirements of this section are covered entities subject to this rule.

(1) Beginning with the first compliance period (emissions years 2023 through 2026) and for all subsequent compliance periods covered entities are:

(a) An owner or operator of a facility, other than a waste to energy facility used by a city or county solid waste management program whose covered emissions for any calendar year from 2015 through 2019 equal or exceed 25,000 metric tons of carbon dioxide equivalent per year;

(b) A first jurisdictional deliverer that generates electricity in Washington and whose covered emissions associated with this generation for any calendar year from 2015 through 2019 equal or exceed 25,000 metric tons of carbon dioxide equivalent per year;

(c) A first jurisdictional deliverer that imports electricity into Washington, and whose cumulative annual total of covered emissions associated with this imported electricity for any calendar year from 2015 through 2019, whether from specified or unspecified sources, equal or exceed 25,000 metric tons of carbon dioxide equivalent per year;

(d) Except as noted in WAC 173-446-040, any supplier of fossil fuel other than natural gas when, for any calendar year from 2015 through 2019, 25,000 metric tons or more of covered emissions of carbon dioxide equivalent per year would result from the full combustion or oxidation of that fuel in Washington;

(e) Except as noted in WAC 173-446-040, any of the following:

(i) A party who supplies natural gas in amounts that would result in exceeding 25,000 metric tons of carbon dioxide equivalent covered emissions for any calendar year from 2015 through 2019 if fully combusted or oxidized.

(ii) A party who is not a natural gas company and has a tariff with a natural gas company to deliver to an end-use customer in the state in amounts that would result in exceeding 25,000 metric tons of carbon dioxide equivalent covered emissions for any calendar year from 2015 through 2019 if fully combusted or oxidized.

(iii) A party who is an end-use customer in the state who directly purchases natural gas from a party that is not a natural gas company and has the natural gas delivered through an interstate pipeline to a distribution system owned by the purchaser in amounts that would result in exceeding 25,000 metric tons of carbon dioxide equivalent covered emissions for any calendar year from 2015 through 2019 if fully combusted or oxidized.

(2) Beginning with the second compliance period (emissions years 2027 through 2030) and for all subsequent compliance periods, covered entities also include any owner or operator of a waste to energy facility used by a county or city solid waste management program whose covered emissions in any year from 2023 through 2025 equal or exceed 25,000 metric tons of carbon dioxide equivalent.

(3) Beginning with the third compliance period (emissions years 2031 through 2034) and for all subsequent compliance periods, covered entities also include a railroad company, as defined in RCW 81.04.010, whose covered emissions equal or exceed 25,000 metric tons of carbon dioxide equivalent per year for the years 2027 through 2029.

[ ]

NEW SECTION

**WAC 173-446-040 Covered emissions.** (1) Reported emissions. Covered emissions are GHG emissions reported under chapter 173-441 WAC except as modified in subsections (2) through (4) of this section. Covered emissions:

(a) Are calculated on a calendar year basis using chapter 173-441 WAC;

(b) Include emissions of all GHGs identified in WAC 173-441-040;

(c) Are expressed in units of CO<sub>2</sub>e as calculated using chapter 173-441 WAC; and

(d) Must be based on any assigned emissions level under WAC 173-441-086.

(2) Exemptions.

(a) Covered emissions do not include the following emissions reported under chapter 173-441 WAC:

(i) Carbon dioxide emissions from the combustion of biomass, renewable fuels of biogenic origin, or biofuels from any facility, supplier, or first jurisdictional deliverer. Emissions of other GHGs related to the combustion of biomass or biofuels are not exempt.

(ii) GHG emissions from the following facilities:

(A) A coal-fired electric generation facility exempted from additional GHG limitations, requirements, or performance standards under RCW 80.80.110; or

(B) Facilities with North American industry classification system code 92811 (national security).

(C) Municipal solid waste landfills that are subject to, and in compliance with, chapter 70A.--- RCW (the new chapter created in section 18 of E2SHB 1663).

(iii) Sequestered carbon dioxide when it can be demonstrated to ecology's satisfaction that it qualifies as permanent sequestration, as defined in WAC 173-407-110, either through long-term geologic sequestration or by conversion into long-lived mineral form.

(b) The following supplier emissions are not covered emissions if the supplier can demonstrate to ecology's satisfaction as specified under WAC 173-441-122 (5) (d) (xi) that the emissions originate from:

(i) The combustion of the following fuels, if demonstrated to ecology's satisfaction that they are used for aviation purposes:

(A) Kerosene-type jet fuel; and

(B) Aviation gasoline.

(ii) Watercraft fuels supplied in Washington that are not combusted inside Washington or in waters under the jurisdiction of Washington:

(A) The following fuels may be assumed to be watercraft fuels combusted outside of waters under the jurisdiction of Washington:

(I) Residual fuel oil No. 5 (navy special); and

(II) Residual fuel oil No. 6 (a.k.a. bunker C).

(B) For all other fuels, including distillate No. 2 and distillate fuel oil No. 4, to qualify for this exemption, suppliers must demonstrate to ecology's satisfaction both that the fuels are used in

watercraft and that they are combusted outside of waters under the jurisdiction of Washington.

(iii) Motor vehicle fuel or special fuel used exclusively for agricultural purposes by a farm fuel user as described in WAC 173-441-122 (5) (d) (xi) (C).

(iv) Fuels used for transporting agricultural products on public highways if it meets the requirements in RCW 82.08.865 as described in WAC 173-441-122 (5) (d) (xi) (C). This exemption is in effect for emissions years 2023 through 2027 and is not available for emissions after 2027.

(v) Products listed in Table MM-1 of 40 C.F.R. Part 98 Subpart MM as adopted in chapter 173-441 WAC when the supplier can demonstrate to ecology's satisfaction that the product is not combusted or oxidized. All products listed in Table MM-1, except asphalt and road oil, are by default assumed to be combusted or oxidized unless demonstrated otherwise.

(3) Allotment of covered emissions to avoid double counting or including emissions that occur outside the program. The facility, supplier, or first jurisdictional deliverer that reports GHG emissions under chapter 173-441 WAC holds the compliance obligation for the covered emissions it reports unless otherwise provided in this subsection. This subsection provides details on allotment for covered emissions that are potentially attributable to multiple parties and provides direction for allotment when such emissions may be reported by multiple facilities, suppliers, or first jurisdictional deliverers of electricity. This subsection only describes the process for determining which covered entity is responsible for a given metric ton of covered emissions after the application of exemptions described in subsection (2) of this section, and does not expand the definition of covered emissions.

(a) Allotment of covered emissions for facilities.

(i) The following GHG emissions are covered emissions for facilities:

(A) Emissions from the on-site combustion of natural gas, natural gas liquids, liquefied petroleum gas, compressed natural gas, or liquefied natural gas;

(B) Emissions from the on-site combustion of residual fuel oil No. 5 (navy special), and residual fuel oil No. 6 (a.k.a. bunker C);

(C) Emissions from the on-site combustion of a fuel product where the fuel product was generated or modified on-site and not purchased in its combusted form from a supplier. These fuel products may include, but are not limited to: Refinery gas, still gas, fuel gas, landfill gas, and biogas;

(D) Carbon dioxide collected and supplied off-site that the facility owner or operator cannot demonstrate to ecology's satisfaction is part of the covered emissions of another covered entity under this chapter.

(E) Emissions from an electric generating facility in Washington serving as a first jurisdictional deliverer derived from any of the means in (a) (i) (A) through (D) of this subsection except as exempted in subsection (2) (b) of this section; and

(F) All other reported emissions under WAC 173-441-120 are covered emissions for the facility unless otherwise specified in subsection (2) of this section or (a) (ii) of this subsection.

(ii) The following GHG emissions are not covered emissions for facilities:

(A) Emissions from the on-site combustion of any fuel product as described in WAC 173-441-122(5) except those described in (a)(i)(A), (B) or (C) of this subsection;

(B) Carbon dioxide collected and supplied off-site that the facility owner or operator can demonstrate to ecology's satisfaction is part of the covered emissions of another covered entity under this chapter.

(b) Allotment of covered emissions for suppliers of natural gas.

(i) The following GHG emissions are covered emissions for suppliers of natural gas:

(A) Emissions from the on-site combustion of natural gas, natural gas liquids, liquefied petroleum gas, compressed natural gas, or liquefied natural gas supplied to any facility or supplier of natural gas that is not a covered or opt-in entity under this chapter.

(B) All other reported emissions under WAC 173-441-122(4) are covered emissions for the supplier unless otherwise specified in subsection (2) of this section or (b)(ii) of this subsection.

(ii) The following GHG emissions are not covered emissions for suppliers of natural gas:

(A) Emissions from the on-site combustion of natural gas, natural gas liquids, liquefied petroleum gas, compressed natural gas, or liquefied natural gas supplied to any facility, supplier of natural gas, or other party that is a covered or opt-in entity under this chapter.

(B) Emissions that would result from the combustion of fuel products that are produced or imported with a documented final point of delivery outside of Washington and combusted outside of Washington.

(c) Allotment of covered emissions for suppliers of fossil fuels other than natural gas.

(i) The following GHG emissions are covered emissions for suppliers of fossil fuels other than natural gas:

(A) Emissions from the combustion of any fuel product, except those described in (a)(i)(B) or (C) of this subsection; or

(B) All other reported emissions under WAC 173-441-122(5) are covered emissions for the supplier of fossil fuel other than natural gas unless otherwise specified in subsection (2) of this section or (c)(ii) of this subsection.

(ii) The following GHG emissions are not covered emissions for suppliers of fossil fuels other than natural gas:

(A) Emissions from the combustion of fuel products described in (a)(i)(B) or (C) of this subsection;

(B) Emissions that would result from the combustion of fuel products that are produced or imported with a documented final point of delivery outside of Washington and combusted outside of Washington; or

(C) Emissions that are part of the covered emissions of another covered or opt-in entity under this chapter.

(d) Allotment of covered emissions for suppliers of carbon dioxide.

(i) The following GHG emissions are covered emissions for suppliers of carbon dioxide:

(A) Carbon dioxide emissions that the supplier cannot demonstrate to ecology's satisfaction are part of the covered emissions of another covered or opt-in entity under this chapter; or

(B) All other reported emissions under WAC 173-441-122(3) are covered emissions for the supplier of carbon dioxide unless otherwise specified in subsection (2) of this section or (d)(ii) of this subsection.

(ii) The following GHG emissions are not covered emissions for suppliers of carbon dioxide: Carbon dioxide emissions when the supplier can demonstrate to ecology's satisfaction that they are part of the covered emissions of another covered or opt-in entity under this chapter are not covered emissions for the supplier of carbon dioxide.

(e) Allotment of covered emissions for first jurisdictional deliverers of imported electricity.

(i) GHG emissions associated with imported electricity are covered emissions for the first jurisdictional deliverer serving as the electricity importer for that electricity.

(ii) If the electricity importer is a federal power marketing administration over which the state of Washington does not have jurisdiction, and the federal power marketing administration has not voluntarily elected to comply with the program, then a utility that purchases electricity for use in the state of Washington from that federal power marketing administration is the importer and first jurisdictional deliverer of that electricity. Such a utility is a covered entity under this program and has the compliance obligation for the GHG emissions associated with that electricity.

(4) Adjustments to covered emissions. Ecology may adjust the covered emissions for any emissions year for a facility, supplier, or first jurisdictional deliverer based on new reported information, a new assigned emissions level under WAC 173-441-086, or to compensate for a change in methodology as described in WAC 173-441-050(4).

[ ]

#### NEW SECTION

**WAC 173-446-050 Covered and opt-in entity registration.** (1) Any reporter under chapter 173-441 WAC reporting at least 25,000 metric tons of CO<sub>2</sub>e covered emissions per calendar year for 2015 or any year thereafter that meets the applicability conditions in WAC 173-446-030 or 173-446-060 is automatically registered as a covered entity in Washington's cap and invest program.

(2) The owner or operator of any reporter under chapter 173-441 WAC that is not a covered entity may request to be registered in Washington's cap and invest program as an opt-in entity. Upon receipt of this request, ecology will register the reporter in the cap and invest program as an opt-in entity. Upon registration, opt-in entities incur compliance obligations for the GHGs they emit and are subject to the same program requirements as covered entities.

(3) Any party who is not a reporter but is responsible for GHG emissions in Washington may voluntarily participate in the cap and invest program as an opt-in entity. To participate, these opt-in entities must:

(a) Report their GHG emissions to ecology under the voluntary reporting requirements in WAC 173-441-030(5);

(b) Request to be registered in the cap and invest program as an opt-in entity;

(c) Incur compliance obligations for the GHGs they emit and are subject to the same program requirements as covered entities; and

(d) Consent to regulation by ecology and the jurisdiction of the courts and administrative tribunals of the state of Washington with



respect to any judicial or administrative enforcement action commenced by ecology to ensure compliance with the requirements of chapter 70A.65 RCW, RCW 70A.15.2200, chapter 173-441 WAC, and this chapter.

(4) Ecology will send a written notice of registration to the designated representative and alternate designated representative as established under WAC 173-441-060 of each covered or opt-in entity.

(5) Any party receiving notice of registration as a covered entity that believes it was registered in error and should not be included in the program may, within 30 calendar days of receiving ecology's notice, provide a signed written request to ecology explaining why it should be removed from registration.

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#### NEW SECTION

**WAC 173-446-053 Electric utilities registration.** (1) All electric utilities in Washington that are not required to report GHG emissions under chapter 173-441 WAC must register to receive no cost allowances.

(2) To register, electric utilities must provide the following information to ecology:

(a) Name, physical and mailing addresses, contact information, utility type, date and place of incorporation, and ID number assigned by the incorporating agency;

(b) Names, addresses, and contact information of each of the utility's directors and officers with authority to make legally binding decisions on behalf of the utility, and any partners with more than 10 percent of control over the partnership, including any individual or party doing business as a limited partner or general partner;

(c) Names and contact information of all individuals or parties controlling more than 10 percent of the voting rights attached to all the outstanding voting securities of the utility;

(d) A business identification number, if one has been assigned to the utility by a Washington state agency;

(e) A government issued taxpayer or employer identification number, or a U.S. federal tax employer identification number, if one has been assigned to the utility;

(f) Disclosure of all other parties with whom the utility has a direct corporate association or indirect corporate association that must be reported pursuant to WAC 173-446-120 and a brief description of the association(s);

(g) Names and contact information for all employees of the utility with knowledge of the utility's market position (current and/or expected holdings of compliance instruments and current and/or expected covered emissions);

(h) Information required pursuant to WAC 173-446-056 for individuals serving as cap and invest consultants and advisors for registered entities participating in the cap and invest program.

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NEW SECTION

**WAC 173-446-055 General market participants registration.** (1) A party not identified as a covered entity or opt-in entity that intends to hold Washington compliance instruments may apply to ecology for approval to participate as a general market participant.

(a) The following parties may be general market participants:

(i) An individual, or a party that does not meet the requirements to be a covered entity or an opt-in entity, that intends to purchase, hold, sell, or voluntarily retire compliance instruments;

(ii) An offset project operator that is registered with ecology pursuant to WAC 173-446-520(1). Parties qualifying as general market participants under this subparagraph may hold offset credits without needing to fulfill the requirements of WAC 173-446-120. Parties qualifying as general market participants under this subparagraph may also hold allowances, but only after fulfilling the requirements of WAC 173-446-120.

(b) An individual registering as a general market participant must have primary residence in the United States.

(c) Registration and consulting activities. An individual who provides cap and invest consulting services as described in WAC 173-446-056 and who registers as a general market participant in the tracking system must disclose to ecology all parties for which the individual is providing consulting services.

(i) The disclosure must be made when the individual registers as a general market participant, or within 30 calendar days of initiating the consulting activity if the individual is already registered.

(ii) If the individual is associated with a party providing cap and invest consulting services so that in the course of the individual's duties the individual gains access to the market position of another registered entity, then the individual must provide a notarized letter from the associated party providing the cap and invest consulting services, stating that it is aware of the individual's plans to apply as a general market participant in the cap and invest program and attesting that it has conflict of interest policies and procedures in place that prevent the individual from using information gained from the relationship with the party for personal gain in the cap and invest program. Failure to provide a letter with such assurances by the applicable deadline described above in (c)(i) of this subsection will result in suspension, modification, or revocation of the individual's tracking system account.

(d) An individual who is already registered in the tracking system and intends to provide cap and invest program advisory services to other registered entities must disclose to ecology the proposed relationship with the other registered entities and comply with the requirements of (a)(ii) of this subsection prior to providing the advisory services. Failure to provide the letter required by (a)(ii) of this subsection by the deadline will result in suspension, modification, or revocation of the individual's tracking system account.

(e) A party registering as a general market participant must be located in the United States, as documented in the registration information provided pursuant to subsection (3) of this section.

(f) Parties not eligible to be general market participants include individuals identified by registered entities pursuant to:

(i) WAC 173-446-120 (1)(c), (d), or (h);

(ii) WAC 173-446-130; WAC 173-446-140; or

(iii) WAC 173-446-056, unless disclosed pursuant to (c) of this subsection; and

(iv) An individual who is an employee of a party subject to the requirements of this chapter or chapter 173-441 WAC.

(2) Restrictions on other parties. The following parties do not qualify to hold compliance instruments and cannot be registered entities:

(a) An offset verifier accredited pursuant to WAC 173-446-535;

(b) An offset verification body accredited pursuant to WAC 173-446-535;

(c) Offset project registries; and

(d) An emissions reporting verifier accredited pursuant to chapter 173-441 WAC.

(3) General market participant registration.

(a) Any party wishing to register as a general market participant must provide the following information to ecology:

(i) Name, physical and mailing addresses, contact information, party type, date and place of business information, and government ID numbers associated with the business;

(ii) Names, addresses, and contact information of the general market participant's directors and officers with authority to make legally binding decisions on behalf of the general market participant, and partners with more than 10 percent of control over the partnership, including any individual or party doing business as the limited partner or general partner;

(iii) Names and contact information for persons controlling more than 10 percent of the voting rights attached to all the outstanding voting securities of the party;

(iv) A business number, if one has been assigned to the party by a Washington state agency;

(v) A government issued taxpayer or employer identification number, or a U.S. federal tax employer identification number, if assigned;

(vi) Disclosure of all other parties with whom the party has a direct corporate association or indirect corporate association that must be reported pursuant to WAC 173-446-120 and a brief description of the association. Parties qualifying as general market participants under subsection (1)(a)(ii) of this section must complete this disclosure before they may hold allowances;

(vii) Names and contact information for all employees, directors and officers of the party that will have access to or knowledge of the party's market position (current and/or expected holdings of compliance instruments and current and/or expected covered emissions);

(viii) Information required pursuant to WAC 173-446-056 for individuals serving as cap and invest consultants and advisors for registered entities participating in the cap and invest program.

(b) Any party registering as a general market participant must consent to regulation by ecology and the jurisdiction of the courts and administrative tribunals of the state of Washington with respect to any judicial or administrative enforcement action commenced by ecology to ensure compliance with the requirements of chapter 70A.65 RCW and this chapter.

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NEW SECTION

**WAC 173-446-056 Cap and invest consultants and advisors.** (1) A "cap and invest consultant or advisor" is an individual or party that is not an owner or employee of a registered entity, but is providing any of the following services in relation to the cap and invest program or the GHG reporting program to registered entity for which the individual or party is not an owner or employee regardless of if the consultant or advisor is acting in the capacity of an offset or emissions verifier:

(a) Designing, developing, implementing, reviewing, or maintaining an inventory or offset project information or data management system for air emissions or development of a forest management plan, or timber harvest plan, unless the review is part of providing GHG offset verification services; or, where applicable, designing, developing, implementing, reviewing, or maintaining electricity or fuel transactions, unless the review is part of providing GHG verification services;

(b) Developing GHG emission factors or other GHG-related engineering analyses, including developing or reviewing a GHG analysis to comply with the State Environmental Policy Act (SEPA) that includes offset project specific information;

(c) Designing energy efficiency, renewable power, or other projects that explicitly identify GHG reductions and GHG removal enhancements as a benefit;

(d) Designing, developing, implementing, internally auditing, consulting, or maintaining an offset project resulting in GHG emission reductions and GHG removal enhancements;

(e) Owning, buying, selling, trading, or retiring shares, stocks, or ecology offset credits, or registry offset credits from an offset project;

(f) Dealing in or being a promoter of Washington offset credits on behalf of an offset project operator, authorized project designee, if applicable, and their technical consultant(s), or where the credits are owned by or the offset project was developed by the reporting party;

(g) Preparing or producing GHG-related manuals, handbooks, or procedures specifically for a reporting party or an offset project operator, authorized project designee, if applicable, and their technical consultant(s);

(h) Providing appraisal services of carbon or GHG liabilities or assets;

(i) Brokering in, advising on, or assisting in any way in carbon or GHG-related markets;

(j) Being directly responsible for developing any health, environment or safety policies for the offset project operator, authorized project designee, if applicable, and their technical consultant(s); or directly managing any health, environment or safety functions for a reporting party;

(k) Bookkeeping or other services related to the accounting records or financial statements;

(l) Providing any service related to information systems, including International Organization for Standardization 14001 Certification for Environmental Management (ISO 14001 Certification) and energy management systems, including those conforming to ISO 50001, unless those systems will not be part of an emissions verification process and will not be reviewed as part of the offset verification process;

(m) Appraisal and valuation services, both tangible and intangible;

(n) Fairness opinions and contribution-in-kind reports in which the verification body has provided its opinion on the adequacy of consideration in a transaction, unless the resulting services will not be part of the emissions verification process and the information reviewed in formulating the offset verification statement will not be reviewed as part of the offset verification process;

(o) Any actuarially oriented advisory service involving the determination of accounts recorded in financial statements and related accounts;

(p) Any internal audit service that has been outsourced by the reporting party or by the offset project operator, authorized project designee, if applicable, and their technical consultant(s) that relates to the offset project operator's, authorized project designee's, if applicable, and their technical consultant(s)' internal accounting controls, financial systems, or financial statements, unless the systems and data reviewed during those services, as well as the result of those services will not be part of the offset verification process;

(q) Acting as a broker-dealer (registered or unregistered), promoter or underwriter on behalf of a reporting party or an offset project operator, authorized project designee, if applicable, and their technical consultant(s);

(r) Any legal services provided by outside counsel hired by a registered entity and providing legal services related to any of the other services described in this section. Also, any attorney providing nonlegal services, such as brokering, auditing, financial advice, bid strategy, or other services listed in this section; and

(s) Expert services to an emissions reporter or to the offset project operator, authorized project designee, if applicable, and their technical consultant(s) or a legal representative for the purpose of advocating the offset project operator's, authorized project designee's, if applicable, and their technical consultant(s)' interests in litigation or in a regulatory or administrative proceeding or investigation, unless providing factual testimony.

(2) Any registered entity employing cap and invest consultants or advisors must disclose to ecology the following information for each cap and invest consultant or advisor:

(a) Information to identify the cap and invest consultant or advisor, including:

(i) Name;

(ii) Contact information;

(iii) Physical work address of the cap and invest consultant or advisor;

(iv) Employer, if applicable; and

(v) Type of service provided.

(b) The party must disclose the information in (a) of this subsection to ecology:

(i) With the disclosures required under WAC 173-446-120;

(ii) Within 30 calendar days of entering into a contract with a cap and invest consultant or advisor; and

(iii) Within 30 calendar days of a change to the information disclosed on consultants and advisors.

[]

NEW SECTION

**WAC 173-446-060 New or modified covered entities.** (1) Unless otherwise provided under WAC 173-446-030, any facility, supplier, or first jurisdictional deliverer beginning operation or modified after January 1, 2023, becomes a covered entity in the calendar year in which its emissions reach the thresholds listed in WAC 173-446-030, or upon formal notice from ecology that the facility, supplier, or first jurisdictional deliverer is expected to exceed those thresholds, whichever happens first. Covered entities meeting these criteria are required to transfer their first allowances to their compliance accounts on November 1st of the year following the year in which their covered emissions first equaled or exceeded 25,000 metric tons CO<sub>2</sub>e per year.

(2) Any waste to energy facility that is used by a county or city solid waste management program and is newly constructed or modified after January 1, 2027, becomes a covered entity in the calendar year in which its emissions reach the thresholds listed in WAC 173-446-030, or upon formal notice from ecology that the facility is expected to exceed those thresholds, whichever happens first. Covered entities meeting these criteria are required to transfer their first allowances to their compliance accounts on November 1st of the year following the year in which their covered emissions first equaled or exceeded 25,000 metric tons CO<sub>2</sub>e per year.

(3) Any railroad company, as that term is defined in RCW 81.04.010, that is newly constructed after January 1, 2031, becomes a covered entity in the calendar year in which its emissions reach 25,000 metric tons of CO<sub>2</sub>e per year, or upon formal notice from ecology that the company is expected to exceed those thresholds, whichever happens first.

(4) Any facility, supplier, or first jurisdictional deliverer of the types described in WAC 173-446-030(1) that were in operation between 2015 and 2019 but was not required to report emissions for 2015 through 2019, becomes a covered entity in the calendar year following the year in which its covered emissions first equaled or exceeded 25,000 metric tons of CO<sub>2</sub>e per year as reported under chapter 173-441 WAC, or upon formal notice from ecology that the facility, supplier, or first jurisdictional deliverer's covered emissions are expected to exceed 25,000 metric tons of CO<sub>2</sub>e per year for the first year the entity is required to report emissions, whichever happens first. Any facility, supplier, or first jurisdictional deliverer meeting these criteria is required to transfer its first allowances to its compliance account on November 1st of the year following the year in which its covered emissions first equaled or exceeded 25,000 metric tons CO<sub>2</sub>e per year.

[ ]

NEW SECTION

**WAC 173-446-070 Exiting the program.** (1) When a covered entity reports covered emissions that are below 25,000 metric tons of CO<sub>2</sub>e in any given calendar year during a compliance period, the covered entity

continues to have a compliance obligation through the end of that compliance period.

(2) A covered entity may exit the program based on the following:

(a) Except as provided in (b) of this subsection, when a covered entity reports covered emissions below 25,000 metric tons of CO<sub>2</sub>e for every year during an entire compliance period, or has permanently ceased all processes at the facility requiring reporting under chapter 173-441 WAC, the facility, supplier, or first jurisdictional deliverer is no longer a covered entity as of the beginning of the subsequent compliance period.

(b) A covered entity identified in (a) of this subsection will remain a covered entity if ecology provides notice at least 12 months before the end of the compliance period that the facility, supplier, or first jurisdictional deliverer's covered emissions are within 10 percent of the 25,000 metric ton threshold, and the covered entity must remain a covered entity to ensure equity among all covered entities.

(c) Whenever a facility, supplier, or first jurisdictional deliverer ceases to be a covered entity, ecology will notify the appropriate policy and fiscal committees of the legislature of the name of the facility, supplier, or first jurisdictional deliverer and the reason it is no longer a covered entity.

[]

#### NEW SECTION

**WAC 173-446-080 Allowances.** (1) Ecology shall create GHG allowances as required to cover the annual allowance budgets determined in WAC 173-446-210.

(2) Ecology shall assign each GHG allowance a unique serial number that identifies the annual allowance budget from which the allowance originates.

(3) Each allowance is of the vintage year of the GHG emissions it is designated to cover.

(4) Older vintage allowances must be retired before newer vintage allowances.

(5) Allowances do not expire and may be banked.

(6) Except as provided in this chapter, a covered or opt-in entity may not use an allowance from a future allowance vintage year to meet a current or past compliance obligation.

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#### **PROGRAM ACCOUNT REQUIREMENTS**

NEW SECTION

**WAC 173-446-100 Program accounts required.** (1) Within 30 calendar days after receiving a registration notice from ecology, each registered entity must make corporate association disclosures and designate account representatives as described in WAC 173-446-105 through 173-446-140. After ecology has received the required complete documents, ecology will authorize the required accounts for each registered entity whose documentation meets the requirements of this chapter.

(2) A registered entity that is a member of a direct corporate association may apply for a consolidated entity account to include other associated registered entities from within the direct corporate association. To do so, the applicant must identify each associated registered entity that will be assigned to its account, and each associated registered entity must provide an attestation signed by its officer or director confirming that it seeks to be added to the consolidated entity account. The applicant must be able to demonstrate that it has the controlling ownership or authority to act on behalf of all members of the direct corporate association. The applicant cannot be subsidiary to or controlled by another associated entity within the direct corporate association.

(3) A registered entity that is a member of a direct corporate association and seeks to apply for its own separate registered entity account, rather than apply for a consolidated entity account, must provide an allocation of the holding and purchase limits among the separate accounts established for any of its direct corporate associates per the requirements of WAC 173-446-120 (1)(i). All members of a direct corporate association must independently confirm the allocation of holding and purchase limits.

[ ]

NEW SECTION

**WAC 173-446-105 Disclosure of corporate associations—Indicia of corporate association.** (1) A corporate association exists when one party has an ownership interest in or control over a second party. The following criteria determine ownership or control:

(a) Percent of ownership of any class of listed shares, the right to acquire such shares, or any option to purchase such shares of the other party;

(b) Percent of common owners, directors, or officers of the other party;

(c) Percent of the voting power of the other party;

(d) In the case of a partnership other than a limited partnership, percent of the interests of the partnership;

(e) In the case of a limited partnership, the percent of control over the general partner or the percent of the voting rights to select the general partner; and

(f) In the case of a limited liability corporation, percent of ownership in the other party regardless of how the interest is held.

(2) A party has a direct corporate association with another party, regardless of whether the second party is registered in the cap



and invest program or in an external GHG ETS to which Washington is linked, if either one of these parties has any criterion in subsection (1) of this section that is greater than 50 percent.

(3) A direct corporate association also exists when two parties are connected through a line of more than one direct corporate association.

(a) A party (#1) has a direct corporate association with another party (#2) if the two parties share a common parent and that parent has direct corporate association with each party (#1 and #2) when applying the indicia of control contained in subsections (1) and (2) of this section.

(b) A party that has a direct corporate association with a second party also has a direct corporate association with any party with whom the second party has a direct corporate association.

(4) A party has an indirect corporate association with another party if:

(a) The two parties do not have a direct corporate association; and

(b) The controlling party's percentage of ownership, or any indicia of control identified in subsection (1) of this section, of the controlled party is more than 20 percent but less than or equal to 50 percent. If the two parties are connected through a chain of more than one corporate association, the indicia of control identified in subsection (1) of this section is calculated by multiplying the percentages at each link in the chain of corporate associations starting with the last party that is in a direct corporate association. An indirect corporate association exists between the two parties if the total percentage of control is more than 20 percent but less than or equal to 50 percent when multiplying the percentage of control at each link in the chain of corporate associations.

(5) An electric utility that is the operator of an electricity generating facility in Washington has a direct corporate association with the operator of another electricity generating facility in Washington if the same party operates both generating facilities.

(6) An electric utility that is the operator of an electricity generating facility in Washington has a direct corporate association with an electricity importer if the same party operates the generating facility in Washington and is the party importing electricity.

(7) An individual who has access to the market positions (current and/or expected holdings of compliance instruments and current and/or expected covered emissions) of two or more parties registered in the tracking system or registered in an external GHG ETS to which Washington has linked is considered an individual who has shared roles. For the purposes of this requirement, account representatives are defined as having access to the market positions of the registered entities they serve.

(a) If any individual with shared roles is an employee of a registered entity for which the individual has a shared role, all registered entities for which the individual has the shared role will have a direct corporate association.

(b) If any individual is a cap and invest consultant or advisor for the registered entities for which the individual has a shared role, but is not disclosed pursuant to WAC 173-446-056, and the individual can use market position information obtained through the shared role without restriction, all registered entities for which the individual has shared roles will have a direct corporate association. It is the responsibility of the registered entity employing an individual

as a cap and invest consultant or advisor to determine if the individual has access to the registered entity's market position.

[]

NEW SECTION

**WAC 173-446-110 Disclosure of corporate associations—Types of disclosures required.** (1) Registered entities must disclose all direct and indirect corporate associations with other entities registered in the cap and invest program or in another external GHG ETS to which Washington has linked.

(2) Registered entities must disclose all direct corporate associations with other parties not registered in the cap and invest program or in another external GHG ETS to which Washington has linked, if those parties have the degree of ownership interest in or control over the registered entity to meet the requirements of having a direct corporate association.

(3) A registered entity that has a direct or indirect corporate association with another registered entity must disclose the identity of all parties involved in the line of direct or indirect corporate associations between the two registered entities, even if such parties are not registered entities.

(4) Registered entities that have direct corporate associations with unregistered parties in the United States or Canada that are otherwise not required to be disclosed must disclose those associations within 30 calendar days of a request by ecology. The disclosing party may elect to disclose only those directly associated parties located in the United States or Canada that participate in a market related to the cap and invest program.

(a) Parties participating in a market related to the cap and invest program include only those parties that purchase or sell GHG compliance instruments, natural gas, oil, or electricity; or parties that conduct exchange trades involving derivatives or swaps based on GHG compliance instruments, natural gas, oil, or electricity.

(b) The disclosure of parties in related markets may be accomplished through the submission of the most recent information submitted to another government agency in the United States using one or more of the following official governmental forms or documentation as needed to meet the disclosure requirements: (i) Exhibit 21 of the Form 10-K submitted to the Securities and Exchange Commission by the registrant or an affiliate of the registrant; (ii) the application for market-based rate authority, or update to such application, submitted by the registrant or an affiliate of the registrant to the Federal Energy Regulatory Commission pursuant to 18 C.F.R. Part 35 and Order 697; (iii) the application for registration with the National Futures Association, or update to such application, submitted by the registrant or an affiliate of the registrant as required by the Commodity Futures Trading Commission pursuant to the Commodity Exchange Act, 7 U.S.C. 1; (iv) Form 40 or Form 40S filed by the registrant or an affiliate of the registrant in accordance with the Commodity Futures Trading Commission's reporting rules (17 C.F.R. section 18.04); and/or (v) Part 1A of a Form ADV filed with the Securities and Exchange Commission by

a registered investment advisor responsible for managing the registrant.

(5) Registered entities that have direct corporate associations with other parties outside the United States and Canada that participate in a market related to the cap and invest program that are not otherwise required to be disclosed must disclose those associations within 30 calendar days of a request for disclosure by ecology.

(a) Parties participating in a market related to the cap and invest program include only those parties that purchase or sell GHG compliance instruments, natural gas, electricity, or oil; or parties that conduct exchange trades involving derivatives or swaps based on GHG compliance instruments, natural gas, oil, or electricity.

(b) Registered entities may disclose these associations using the documentation options listed in subsection (4)(b) of this section.

(6) The following registered entities are exempt from the disclosure requirements of this chapter:

(a) If a registered entity can demonstrate to ecology's satisfaction that the registered entity is subject to affiliate compliance rules promulgated by state or federal agencies, the registered entity shall not be required to take any action or make any disclosures that would violate those rules.

(b) A party registering as a general market participant solely to hold offset credits is not required to disclose any direct or indirect corporate associations.

[ ]

#### NEW SECTION

**WAC 173-446-120 Disclosure of corporate association—Information to be submitted.** (1) All registered entities must provide the following information about themselves regardless of whether they are part of a corporate association, as well as for each disclosable corporate association:

(a) Name, contact information, and physical address of the party;

(b) Tracking system identification number, if applicable;

(c) Names and addresses of the party's directors and officers with authority to make legally binding decisions on behalf of the party, and partners with over 10 percent of control over the partnership, including any individual or entity doing business as the limited partner or general partner;

(d) Names and contact information for individuals or parties controlling over 10 percent of the voting rights attached to all the outstanding voting securities of the party;

(e) Business number, if one has been assigned by a Washington state agency;

(f) A government issued taxpayer identification number or employer identification number, or for parties located in the United States, a U.S. federal tax employer identification number, if assigned;

(g) Place and date of incorporation, if applicable;

(h) Names and contact information for all employees of the party with knowledge of the party's market position (current and/or expected holdings of compliance instruments and current and/or expected covered emissions);

(i) For direct corporate associations with registered entities only, the percentage share of the holding limit and purchase limit assigned to each party opting out of account consolidation pursuant to this section; the sum of the shares must equal 100 percent; and

(j) Any further information requested by ecology concerning the corporate association.

(2) Registered entities that have any disclosable corporate associations must identify whether each corporate association is direct or indirect.

(a) Registered entities identifying an indirect corporate association must provide a brief description of the association, including information sufficient to explain the registered entity's evaluation of the indicia of control in WAC 173-446-105(1) that was used to determine the type of corporate association disclosed for each associated party.

(b) Registered entities identifying a direct corporate association must identify the nature of the associated party as a parent, a subsidiary, or a party with a common parent, but need not include an evaluation of the indicia of control.

(3) All corporate association disclosures required by this section must be provided to ecology electronically in a format specified by ecology.

(4) The registered entity must disclose the information required by the following deadlines:

(a) Within 30 calendar days after receiving registration notification from ecology under WAC 173-446-050;

(b) Within 10 business days after receiving a request for further information from ecology;

(c) Within 30 calendar days after the creation of a new direct or indirect corporate association or of a change in the type of an existing corporate association involving registered entities pursuant to WAC 173-446-110 (1) or (6) (b); or registered and unregistered parties pursuant to WAC 173-446-110 (2) and (3);

(d) Within one year after a modification if the changes in information involve only unregistered parties disclosed pursuant to WAC 173-446-110 (4) and (5).

(e) No later than 10 calendar days prior to the auction application deadline established in WAC 173-446-315 when disclosing a change related to another party registered in the cap and invest program or to parties registered in an external GHG ETS to which Washington has linked, if the disclosing entity intends to participate in the auction; and

(f) Within one year for all other changes.

[]

#### NEW SECTION

**WAC 173-446-130 Designation and certification of account representatives.** (1) Within 30 calendar days after receiving a registration notice from ecology, every registered entity must designate at least two and at most five individuals to act as its account representatives to perform any operations within the cap and invest program on its behalf. Each registered entity must identify one primary account representative, who is the resource person to be contacted for any in-

formation concerning the registered entity. For the purposes of the account representative designations, the registered entity must provide ecology with the following information and documents electronically in a format specified by ecology:

(a) The name and contact information of the registered entity;

(b) The following information for each designated account representative:

(i) Name and contact information of the individual to include all information including the individual's home address and email address;

(ii) Copies of at least two identity documents, including at least one with a photograph, issued by a government or one of its departments or agencies, bearing the individual's name and date of birth; along with an attestation from a notary completed less than three months prior to the application, stating that the notary has established the identity of the individual and verifying the authenticity of the copies of the identity documents;

(iii) The name and contact information of the individual's employer;

(iv) Confirmation from a financial institution located in the United States that the individual has a deposit account with the institution; and

(v) Any conviction for a criminal offense declared in any jurisdiction during the previous five years constituting a felony under U.S. federal law or Washington law, or the equivalent thereof. The disclosure must include the type of violation, jurisdiction, and year.

(c) A declaration signed by a director or by any other officer, or a resolution of the board of directors of the registered entity attesting that all of the account representatives have been duly designated to act on behalf of the registered entity for the purposes of this program;

(d) An attestation from an attorney confirming the link between an account representative and the registered entity submitted within three months of the date of attestation; and

(e) The following declaration signed by each of the account representatives: "I certify under penalty of perjury under the laws of the state of Washington that I was selected as the primary account representative or an alternate account representative, as applicable, by an agreement that is binding on all parties who have an ownership interest with respect to compliance instruments held in the account. I certify that I have all the necessary authority to carry out the duties and responsibilities contained in chapters 70A.65 RCW and 173-446 WAC on behalf of such parties and that each such party shall be fully bound by my representations, actions, inactions, or submissions and by any order or decision issued to me by ecology or a court or the pollution control hearings board regarding the account."

(2) Each registered entity must have at least two account representatives at all times, including a primary account representative.

(3) All representations, acts, errors, or omissions made by any account representative in the performance of their duties are deemed to be made by the registered entity.

(4) Each submission concerning the registered entity's account shall be submitted, signed, and attested to by the primary account representative or any alternate account representative for the party that owns the compliance instruments held in the account. Each such submission shall include the following attestation statement made and signed by the primary account representative or the alternate account representative making the submission: "I certify under penalty of per-

jury under the laws of the state of Washington that I am authorized to make this submission on behalf of the party that owns the compliance instruments held in the account. I certify under penalty of perjury under the laws of the state of Washington 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 under penalty of perjury under the laws of the state of Washington that the statements and information submitted to Ecology are true, accurate, and complete. I consent to the jurisdiction of Washington state, its courts, and the pollution control hearings board for purposes of enforcement of the laws, rules, and regulations pertaining to chapters 173-446 WAC and 70A.65 RCW. 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."

(5) The duties of the account representatives terminate when the account representative resigns, when a request for revocation is received from the registered entity or, when a registered entity has only two designated account representatives, only after a new representative has been designated. The duties of an account representatives also terminate when all the accounts of the registered entity by whom the account representative was designated are closed.

(6) If the registered entity is an individual, any act that must be performed by an account representative in this program must be performed by the registered entity.

(7) At the written request of a registered entity, ecology may, before a request for revocation of the designation of an account representative is sent to ecology by the registered entity, where the urgency of the situation warrants it, withdraw access to the electronic system from one of its account representatives.

(8) A primary account representative or at least one alternate account representative must be a resident of Washington unless the covered entity or opt-in entity has an agent who resides in Washington or the covered or opt-in entity has previously filed a foreign registration statement pursuant to RCW 23.05.510.

(9) A registered entity may not designate a party as an account representative under subsection (1) of this section or authorize a party as an account viewing agent under WAC 173-446-140, if that party was convicted, in the five calendar years prior to the notice of designation or authorization, of a criminal offense involving fraud, dishonesty, deceit, or misrepresentation, or any other criminal offense connected with the activities for which designation or authorization is requested.

[ ]

#### NEW SECTION

**WAC 173-446-140 Designation of account viewing agents.** (1) A primary account representative or alternate account representative designated by a registered entity under WAC 173-446-130 may authorize up to five individuals per account to act as account viewing agents who may view all information contained in the tracking system involving the registered entity's accounts, information, and transfer re-

ords (account viewing authority). The individuals delegated shall not have authority to take any other action with respect to an account on the tracking system.

(2) To delegate account viewing authority, the primary account representative or alternate account representative, as appropriate, must submit to ecology a notice of delegation that includes the following:

(a) The name, address, email address, and telephone number of each primary account representative or alternate account representative;

(b) The name, address, email address, and telephone number of each individual delegated to be an account viewing agent; and

(c) An attestation verifying the selection of the account viewing agent, signed by the officer of the registered entity who is responsible for the conduct of the account viewing agent, and who is one of the officers disclosed pursuant to WAC 173-446-120 (1)(c).

(3) A notice of delegation for an account viewing agent shall be effective with regard to the accounts identified in such notice, upon receipt of the notice by ecology and until receipt by ecology of a superseding notice of delegation by the primary account representative or alternate account representative as appropriate. The superseding notice of delegation may replace any previously identified account viewing agent, add a new account viewing agent, or eliminate entirely any delegation of authority.

[ ]

#### NEW SECTION

**WAC 173-446-150 Accounts for registered entities.** (1) Creation of accounts.

(a) After ecology receives the required disclosures of corporate association and complete documents for the certification and designation of the primary and alternate account representatives, ecology will set up two accounts for each covered entity and two accounts for each opt-in entity:

(i) A compliance account through which compliance instruments are transferred to ecology for retirement. Compliance instruments in compliance accounts may not be sold, transferred, traded, or otherwise provided to another account or party.

(ii) A holding account for compliance instruments that may be bought, sold, transferred to another registered entity, or traded.

(b) For each electric utility and each natural gas utility registering in the program as a covered or opt-in entity, ecology will also set up a limited use holding account. Electric utilities and natural gas utilities must transfer their no cost allowances to the limited use holding account in order to consign them to auction for the benefit of ratepayers as described in WAC 173-446-300 (2)(b).

(c) After ecology receives the required disclosures of corporate association and complete documents for the certification and designation of the primary and alternate account representatives, ecology will set up a holding account for each general market participant.

(2) Holding limits.

(a) Except as provided in (c) and (d) of this subsection, the maximum total number of allowances of the current or prior vintage

that a registered entity may hold in its holding account, its compliance account, or combination of both, is determined by the following:

$$HL_i = 0.1 \times 25,000,000 + 0.025 \times (C_i - 25,000,000)$$

Where:

HL<sub>i</sub> = holding limit for year i  
 C<sub>i</sub> = annual cap on emissions for year i  
 i = current year

(b) Except as provided in (c) and (d) of this subsection, the maximum number of allowances of each vintage subsequent to the current year that a registered entity may hold in its holding account, its compliance account, or a combination of both, is determined by the following:

$$HL_j = 0.1 \times 25,000,000 + 0.025 \times (C_j - 25,000,000)$$

Where:

HL<sub>j</sub> = holding limit for year j  
 C<sub>j</sub> = annual cap on emissions for year j  
 j = year subsequent to the current year

(c) The holding limits set in (a) and (b) of this subsection do not apply to the allowances held in the compliance account of a covered entity or opt-in entity that are needed to cover estimated GHG emissions for the current year or emissions for preceding years.

(d) The holding limits set in (a) and (b) of this subsection do not apply to allowances held in a limited use holding account that are to be consigned to auction.

(e) In addition to the holding limits described above, a general market participant may not in aggregate hold more than 10 percent of the total number of allowances of any vintage year.

(f) A registered entity that reaches or exceeds one-half of its holding limit must, within 10 business days of a request from ecology, explain its strategy and the reason for holding the allowances.

(g) When its holding limit is exceeded, a registered entity must, within five business days after the limit is exceeded, divest itself of the excess emission allowances, transfer into its compliance account the number of allowances needed to cover its emissions for the current year or preceding years, or, in the case of consolidated entities, amend the distribution of the overall holding limit to become compliant. If a registered entity fails to comply with this requirement, ecology will withdraw the excess allowances and make them available for auction.

(3) Ecology will post anonymized information about the contents of each holding account including, but not limited to, the number of allowances in the account, on ecology's cap and invest public website. Ecology will also maintain on its website a public roster of all covered entities, opt-in entities, and general market participants.

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**ALLOWANCE BUDGETS AND DISTRIBUTION OF ALLOWANCES**NEW SECTION

**WAC 173-446-200 Total program baseline.** (1) **Total program baseline and subtotal baselines.** Ecology must use the following methods for establishing a total program baseline for this chapter.

(a) Subtotal baselines are calculated individually for each reporter or sector on an annual basis as described in subsection (2) of this section. The total program baseline is the sum of the subtotal baselines. The total program baseline is given in Table 200-1. Ecology may only adjust the total program baseline through rule making as described in subsections (3) and (4) of this section.

(b) Ecology may combine information from multiple sources and use professional judgment to adjust data sets and conform to this chapter when calculating subtotal baselines. Ecology may use the following data sources when calculating subtotal baselines depending on data availability, quality, applicability, and the agency's best professional judgment.

(i) Data reported to ecology under chapter 173-441 WAC;

(ii) Data provided or described in subsections (2) through (4) of this section;

(iii) Data voluntarily provided by covered parties; or

(iv) Data or estimates obtained or made by ecology.

(2) **Subtotal baselines for sectors entering the program in the first compliance period.** Ecology must use the following methods for establishing subtotal baselines for facilities, suppliers, or first jurisdictional deliverers described under WAC 173-446-030(1) that would meet applicability requirements based on covered GHG emissions from 2015 through 2019. Subtotal baselines are the annual average of covered emissions for each reporter or sector on a mass basis as established in WAC 173-446-040 from emissions years 2015 through 2019. All emissions years are included in the average, including years with periods of closure or curtailment, and years when covered emissions from a covered entity were under the thresholds in WAC 173-446-030(1) as long as at least one emissions year from 2015 through 2019 would have exceeded the applicability requirements described under WAC 173-446-030(1) for the given facility, supplier, or first jurisdictional deliverer. Ecology may elect not to apply all methods in WAC 173-446-040(3) when calculating subtotal baselines since the total program baseline is the sum of the subtotal baselines. For example, when calculating subtotal baselines, ecology may attribute fuel product combustion described in WAC 173-446-040 (3)(a)(ii)(A) to facilities instead of reallocating those emissions to fuel suppliers. Ecology must apply WAC 173-446-040(3) to make sure that each metric ton of emissions is included in the total program baseline and avoid double counting. Ecology must fully apply WAC 173-446-040(3) any time emissions calculations are specific to a given covered party, such as calculating compliance obligations or allocation baselines.

(a) Facilities that are not EITEs. Ecology must calculate subtotal baselines for facilities that are not EITEs, including electric

generating facilities reporting under WAC 173-441-120, based on the facility's covered emissions as established in WAC 173-446-040.

(b) EITE facilities. Ecology must calculate subtotal baselines for EITE facilities based on the facility's covered emissions as established in WAC 173-446-040.

(c) Suppliers of natural gas. Ecology must calculate subtotal baselines for suppliers of natural gas based on the supplier's covered emissions as established in WAC 173-446-040. Ecology must use the supplementary reports defined in WAC 173-446-240 for calculations whenever available and adjust covered emissions to account for large customers as described in WAC 173-446-040 (3) (b) (ii).

(d) Suppliers of fossil fuel other than natural gas. Ecology must calculate subtotal baselines for suppliers of fossil fuel other than natural gas based on the supplier's covered emissions as established in WAC 173-446-040. Ecology must use the existing department of licensing based transportation fuel supplier reports previously submitted to ecology for calculations. Ecology may adjust covered emissions from the transportation fuel supplier reports to subtract GHG emissions estimated to be associated with aviation and add emissions associated with fuel products combusted at facilities as described in WAC 173-446-040 (3) (c).

(e) Carbon dioxide suppliers. Ecology must calculate subtotal baselines for carbon dioxide suppliers based on the supplier's covered emissions as established in WAC 173-446-040.

(f) Electric power entities. Ecology must calculate subtotal baselines for electricity importers based on their covered emissions as established in WAC 173-446-040. Ecology will use fuel mix disclosure reports generated by the department of commerce in accordance with RCW 19.29A.060 to identify and catalog all contracted power and methods from WAC 173-444-040 to estimate GHG emissions. Subtotal baselines for electric generating facilities reporting under WAC 173-441-120 will be calculated as specified under (a) of this subsection and are not part of the electric power entity subtotal baseline.

(3) **Subtotal baselines for sectors entering the program in the second compliance period.** Subtotal baselines for facilities in sectors described under WAC 173-446-030(2) must be calculated based on the facilities' covered emissions as established in WAC 173-446-040 averaged from emissions years 2023 through 2025. Ecology must adjust the total program baseline in Table 200-1 of this section by adding the subtotal baseline for facilities under WAC 173-446-030(2) in a future rule making by October 1, 2026.

(4) **Subtotal baselines for sectors entering the program after the second compliance period.** Subtotal baselines for facilities in sectors described under WAC 173-446-030(3) must be calculated based on the facilities' covered emissions as established in WAC 173-446-040 averaged from emissions years 2027 through 2029. Ecology must adjust the total program baseline in Table 200-1 of this section by adding the subtotal baseline for facilities under WAC 173-446-030(3) in a future rule making by October 1, 2028.

(5) **Subtotal baseline adjustments for new or modified covered reporters.** Ecology will not adjust the total program baseline in Table 200-1 of this section for any new covered reporter joining the program under WAC 173-446-060.

**Table 200-1: Total Program Baseline Values**

Emissions Years	Total Program Baseline (annual MT CO <sub>2</sub> e)
2023-2026	TEMPORARY PLACEHOLDER VALUE 68,132,501 TEMPORARY PLACEHOLDER VALUE
2027-2030	Set by rule by October 1, 2026, according to subsection (3) of this section
2031 and subsequent years	Set by rule by October 1, 2028, according to subsection (4) of this section

[ ]

NEW SECTION

**WAC 173-446-210 Total program allowance budgets.** (1) **Calculating the total program allowance budget.** Ecology must use the following methods for setting the total program allowance budget for each year. The total program allowance budget for each year must be in units of MT CO<sub>2</sub>e on a mass basis.

(a) Emissions years 2023 through 2026.

(i) The total program allowance budget for emissions year 2023 is equal to 93 percent of the total program baseline described in WAC 173-446-200 Table 200-1 for 2023 through 2026.

(ii) The total program allowance budget for 2024 through 2026 decreases annually relative to the previous year by an additional seven percent of the total program baseline in WAC 173-446-200 Table 200-1 for 2023 through 2026.

(b) Emissions years 2027 through 2030.

(i) The total program allowance budget for emissions year 2027 is equal to the 2026 total program allowance budget plus the adjustment to the total program baseline described in WAC 173-446-200(3) reduced by an additional seven percent of the total program baseline in WAC 173-446-200 Table 200-1 for 2027 through 2030.

(ii) The total program allowance budget for 2028 through 2030 decreases annually relative to the previous year by an additional seven percent of the total program baseline in WAC 173-446-200 Table 200-1 for 2027 through 2030.

(c) Emissions years 2031 through 2042.

(i) The total program allowance budget for emissions year 2031 is equal to the 2030 total program allowance budget plus the adjustment to the total program baseline described in WAC 173-446-200(4) reduced by an additional one and eight tenths percent of the total program baseline in WAC 173-446-200 Table 200-1 for 2031 and subsequent years.

(ii) The total program allowance budget for 2032 through 2042 decreases annually relative to the previous year by an additional one and eight tenths percent of the total program baseline in WAC 173-446-200 Table 200-1 for 2031 and subsequent years.

(d) Emissions years 2043 through 2049. The total program allowance budget for 2043 through 2049 decreases annually relative to the previous year by an additional two and six tenths percent of the total

program baseline in WAC 173-446-200 Table 200-1 for 2031 and subsequent years.

(2) **Total program allowance budget.** Table 210-1 displays the total program allowance budget for each year calculated using the method established in subsection (1) of this section.

**Table 210-1: Total program allowance budget for each year of the first compliance period using the methods established in subsection (1) of this section.**

Emissions Year	Total Covered Emissions (MT CO <sub>2</sub> e)
2023	TEMPORARY PLACEHOLDER VALUE 63,363,226 TEMPORARY PLACEHOLDER VALUE
2024	TEMPORARY PLACEHOLDER VALUE 58,593,951 TEMPORARY PLACEHOLDER VALUE
2025	TEMPORARY PLACEHOLDER VALUE 53,824,676 TEMPORARY PLACEHOLDER VALUE
2026	TEMPORARY PLACEHOLDER VALUE 49,055,401 TEMPORARY PLACEHOLDER VALUE

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NEW SECTION

**WAC 173-446-220 Distribution of allowances to emissions-intensive and trade-exposed entities.** (1) **Allocation baselines for EITE entities.** Ecology will use the following data source and methods to facilitate the allocation of no cost allowances to EITE entities.

(a) Owners or operators of any EITE facility who wish to be allocated no cost allowances must submit the following information to ecology electronically in a format specified by ecology. The information must include all emissions years beginning with 2015 and ending with the most recent emissions year. Owners or operators requesting no cost allowances for emissions year 2023 must submit the information by September 15, 2022. Owners or operators requesting no cost allowances beginning with emissions years after 2023 must submit the information concurrent with their petition as established in WAC 173-446A-040(1) or March 31st of the emissions year for which they request no cost allowances, whichever is earlier.

(i) The reported GHG emissions under chapter 173-441 WAC, including fuel use as specified in WAC 173-441-050 (3)(m), and covered emissions under WAC 173-446-040 for the facility.

(ii) All applicable total annual facility product data, units of production, specific product, and supporting data described in WAC 173-441-050 (3)(n). If multiple product data metrics are listed for

the facility in Table 050-1 in chapter 173-441 WAC, the same product data metric must be used for all calculations, including annual GHG reports. A facility reporting a primary North American industry classification system (NAICS) code of 324110 must use the sum of barrels of crude oil and intermediate products received from off site that are processed at the facility as the product data metric.

(iii) The EITE facility's primary NAICS code as reported under WAC 173-441-050 (3)(i), or other information demonstrating the facility is classified as emissions-intensive and trade-exposed under chapter 173-446A WAC.

(iv) An estimation of the EITE facility's carbon intensity baseline by dividing the 2015 through 2019 average of covered emissions from (a)(i) of this subsection by the 2015 through 2019 average of total annual product data from (a)(ii) of this subsection. If requesting alternate years for their allocation baseline average, the owner or operator may also include a separate calculation that uses averages for the requested years.

(v) Any owner or operator of an EITE facility requesting the use of alternate years for their allocation baseline average must submit information supporting that there were abnormal periods of operation that materially impacted the facility during one or more years in the normal baseline period of 2015 through 2019. The owner or operator must also submit information supporting the claim that the proposed alternate years are reflective of normal operation. A minimum of three full years and a maximum of five full years must be used in the baseline average. At least three years used in the baseline average must be consecutive. If an owner or operator requests to include an emissions year prior to 2015 in the facility's allocation baseline, the submission must include all information for that year. An emissions year prior to 2012 is not eligible for use as an alternate year.

(vi) Any owner or operator of an EITE facility requesting a mass-based baseline must submit information supporting the claim that the owner or operator is not able to feasibly determine a carbon intensity baseline based on unique circumstances of the facility. The mass-based baseline is calculated as the 2015 through 2019 average covered emissions from (a)(i) of this subsection. If requesting alternate years for the facility's allocation baseline average, the owner or operator may also include a separate calculation that uses averages for the requested years.

(b) Ecology must assign an allocation baseline by November 15, 2022, to any EITE facility submitting complete information under (a) of this subsection by September 15, 2022. Ecology must assign an allocation baseline within 90 calendar days of a complete submission to any EITE facility that completed submitting complete information under (a) of this subsection after September 15, 2022. The allocation baseline will be determined using the following method.

(i) Ecology may combine information from multiple sources and use professional judgment to adjust data sets and conform to this chapter when calculating subtotal baselines. Ecology may use the following data sources when calculating an allocation baseline depending on data availability, quality, applicability, and the agency's best professional judgment.

- (A) Information submitted under (a) of this subsection;
- (B) Information reported under chapter 173-441 WAC;
- (C) An assigned emissions level under WAC 173-441-086; or
- (D) Other sources of information deemed significant by ecology.

(ii) Ecology must calculate a mass-based baseline for each EITE facility by averaging the 2015 through 2019 covered emissions determined using data from the data sources listed in (b) (i) of this subsection. If approving alternate years for the allocation baseline average under (b) (iv) of this subsection, ecology must also include a separate calculation that uses averages for the approved years.

(iii) Ecology must calculate a carbon intensity baseline for each EITE facility by dividing the 2015 through 2019 average of covered emissions using the data sources listing in (b) (i) of this subsection by the 2015 through 2019 average total annual product data determined using the data sources listing in (b) (i) of this subsection unless ecology determines it is not feasible to determine product data for the facility based on the facility's unique circumstances. If approving alternate years for the allocation baseline average under (b) (iv) of this subsection, ecology must also include a separate calculation that uses averages for the approved years. It is feasible to determine product data for any facility:

(A) That reports product data as specified in WAC 173-441-050 (3) (n); or

(B) For which ecology is capable of determining product data as specified in WAC 173-441-050 (3) (n) using any of the data sources specified in (b) (i) of this subsection.

(iv) Ecology may allow the use of alternate years for an EITE facility's allocation baseline average if ecology determines there were abnormal periods of operation that materially impacted the facility during one or more years in the normal baseline period of 2015 through 2019. A minimum of three full years and a maximum of five full years must be used in the baseline average. At least three years used in the baseline average must be consecutive. An emissions year prior to 2012 is not eligible for use as an alternate year.

(v) The EITE facility's allocation baseline is equal to its carbon intensity baseline as calculated under (b) (iii) of this subsection unless ecology is unable to perform the calculation in that subsection. If ecology is unable to assign a carbon intensity baseline, then the allocation baseline is the mass-based baseline calculated in (b) (ii) of this subsection. If ecology approves alternate years for the allocation baseline average under (b) (iv) of this subsection, the allocation baseline must be based on the separate calculation described in (b) (ii) or (iii) of this subsection, as applicable, that accounts for alternate years if ecology approves alternate years.

(A) Ecology must use the following methods, in order of precedence starting with (I), to set an allocation baseline for any EITE facility joining the program after emissions year 2023 under WAC 173-446-060. Ecology must use 2015 through 2019 emissions years whenever possible based on the data sources listed in (b) (i) of this subsection and may not use an emissions year prior to 2012. Ecology may exclude emissions years that contain abnormal periods of operation, for example, the first year the facility begins operations. Ecology must consider the products and criteria pollutants produced by the facility, as well as the local environmental and health impacts associated with the facility when setting the allocation baseline. For a facility built on tribal lands or determined by ecology to impact tribal lands and resources, ecology must consult with the affected tribal nations.

(I) Use the carbon intensity baseline whenever GHG emissions and product data are available for three or more full years under normal operation.

(II) If at least three full years of GHG emissions data under normal operation are available but three full years of product data are not available, use the mass-based baseline for the available years until three years of GHG emissions and product data are available. Switch to the carbon intensity baseline as described in (b)(v)(A)(I) of this subsection based on the three or more available data years once the data are available. This switch should not occur until the next compliance period.

(III) If less than three full years of GHG emissions data under normal operation are available, ecology must estimate a mass-based baseline for the EITE facility until ecology is able to calculate a carbon intensity baseline for the facility as described in (b)(v)(A)(I) of this subsection. This switch cannot occur until the next compliance period. Ecology may base the mass-based baseline on ecology's GHG emissions estimates for the facility, GHG emissions from a best-in-class facility in the same sector, or actual GHG emissions from the facility, but the mass-based baseline must not exceed the maximum measured actual GHG emissions from the facility.

(B) Except as described in (b)(v)(A) of this subsection, the owner or operator of an EITE facility using a mass-based baseline, must submit a request to ecology if wanting to later convert to a carbon intensity baseline.

(C) Ecology may not convert the EITE facility to a carbon intensity baseline during the first three compliance periods except as described in (b)(v)(A) of this subsection or when the EITE facility reports a primary NAICS code beginning with 3364 under chapter 173-441 WAC. A facility reporting a primary NAICS code beginning with 3364 under chapter 173-441 WAC that uses a mass-based baseline may not convert to a carbon intensity baseline until the next compliance period after the facility applies for such conversion.

(D) Prior to the beginning of a new compliance period, ecology may make an upward or downward adjustment in the allocation baseline for an EITE facility effective starting in the next compliance period. Any adjustment must be based on significant changes to emissions or product data from:

(I) Revised reports under WAC 173-441-050(7) for any emissions year used in determination of the allocation baseline;

(II) A new assigned emissions level under WAC 173-441-086 for any emissions year used in determination of the allocation baseline; or

(III) A change in reporting method as described in WAC 173-441-050(4) relative to the method used for reports from emissions years used in determination of the allocation baseline.

(2) **Total no cost allowances allocated to EITE facilities.** No cost allowances allocated to an EITE facility for a given emissions year are determined using the methods in this subsection.

(a) EITE facilities are awarded no cost allowances according to the following reduction schedule: Allowances to cover 100 percent of the facility's allocation baseline for each year during the first compliance period, allowances to cover 97 percent of the facility's allocation baseline for each year during the second compliance period, and allowances to cover 94 percent of the facility's allocation baseline for each year during the third compliance period.

(b) For a facility using a carbon intensity allocation baseline, the distribution of no cost allowances for a given emissions year is determined using Eq. 220-1. The product data metric used to determine no cost allowances must be the same metric used in the carbon intensity baseline determined as described in subsection (1)(a)(ii) of this

section. Initial no cost allowances in Eq. 220-1 are vintage year  $t+1$  in emissions year 2023 and are vintage year  $t$  in subsequent years. True-up allowances in Eq. 220-1 are vintage year  $t+2$ .

$$\text{NoCostAllowances}_t \text{ (MT CO}_2\text{e)} = \text{InitialNoCostAllowances}_t + \text{TrueUp}_t \quad \text{Eq. 220-1}$$

Where:

- NoCostAllowances<sub>t</sub> = number of allowances allocated for emissions year  $t$
- InitialNoCostAllowances<sub>t</sub> = number of allowances initially allocated for emissions year  $t$ . This number is calculated using data from emissions year  $t-2$ , according to Eq. 220-2.
- TrueUp<sub>t</sub> = number of allowances allocated to account for actual production from emissions year  $t$ , determined according to Eq. 220-3.
- $t$  = emissions year for which the allocation occurs.

$$\text{InitialNoCostAllowances}_t \text{ (MT CO}_2\text{e)} = \frac{\text{CarbonIntensityAllocationBaseline} \times \text{Production}_{t-2}}{\text{ReductionSchedule}_t} \quad \text{Eq. 220-2}$$

Where:

- CarbonIntensityAllocationBaseline = carbon intensity baseline determined pursuant to subsection (1)(b) of this section
- Production<sub>t-2</sub> = total annual facility product data for the emissions year two years prior to year  $t$  from subsection (1)(a)(ii) of this section
- ReductionSchedule = reduction percentage corresponding to the compliance period for emissions year  $t$ , as provided in (a) of this subsection.
- $t$  = emissions year for which the allocation occurs.

$$\text{TrueUp}_t \text{ (MT CO}_2\text{e)} = \frac{(\text{CarbonIntensityAllocationBaseline} \times \text{Production}_t)}{\text{ReductionSchedule}_t} - \text{InitialNoCostAllowances}_t \quad \text{Eq. 220-3}$$

Where:

- CarbonIntensityAllocationBaseline = carbon intensity baseline determined pursuant to subsection (1)(b) of this section.
- Production<sub>t</sub> = total annual facility product data for the emissions year  $t$  from (a)(ii) of this subsection.
- ReductionSchedule<sub>t</sub> = reduction percentage corresponding to the compliance period for emissions year  $t$ , as provided in (a) of this subsection.
- InitialNoCostAllowances<sub>t</sub> = determined according to Eq. 220-2
- $t$  = Emissions year for which the allocation occurs.

(i) The calculation in Eq. 220-3 will be done after receipt and verification of an EITE facility's production for year  $t$  through the process in WAC 173-441-085. If the result of the calculation in Eq. 220-3 is greater than zero, the resulting number of allowances will be allocated to the applicable EITE facility.

(ii) If the result of the calculation in Eq. 220-3 is negative, the resulting number of allowances will be subtracted from the number of allowances allocated to the facility for the next emission year.

(iii) If the result of the calculation in Eq. 220-3 is zero, no further action will be taken.

(c) For a facility using a mass-based allocation baseline, the distribution of no cost allowances for a given emissions year is determined using Eq. 220-4.

$$\text{NoCostAllowances}_t \text{ (MT CO}_2\text{e)} = \text{Mass-based allocation baseline} \times \text{ReductionSchedule}_t \quad \text{Eq. 220-4}$$

Where:

- Mass-based allocation baseline = determined pursuant to subsection (1)(b) of this section.
- ReductionSchedule<sub>t</sub> = reduction percentage corresponding to the compliance period for the given emissions year, as provided in (a) of this subsection.
- $t$  = Emissions year for which the allocation occurs.

(d) Adjustments to the number of no cost allowances calculated for an EITE facility according to Eq. 220-1 and Eq. 220-4 may be made by ecology according to the following:

(i) Ecology will adjust no cost allowance allocation and credits to an EITE facility to avoid duplication with any no cost allowances transferred pursuant to WAC 173-446-230 and 173-446-240, if applicable.

(ii) Prior to the beginning of either the second, third, or subsequent compliance periods, ecology may make an upward adjustment in the next compliance period's reduction schedule for an EITE facility based on the owner's or operator's demonstration to ecology that additional reductions in carbon intensity or mass emissions are not tech-



nically or economically feasible. Ecology may not adjust the reduction schedule to levels above the first compliance period reduction level. Owners or operators of any EITE facility that wish to have an upward adjustment of their reduction schedule must submit the following information to ecology electronically in a format specified by ecology. The information must be submitted by March 31st of the year prior to the start of the compliance period in which the facility wishes to have an upward adjustment under this subsection. Ecology will make a determination on adjustments based on information contained in the facility's submission and information listed in subsection (1)(b)(i) of this section. Ecology may base the upward adjustment on the facility's best available technology analysis. The submission must include at least one of the following:

(A) Information describing changes at the facility to the manufacturing process that have a material impact on emissions and data showing a significant change in the emissions use or emissions attributable to the manufacture of an individual good or goods at the facility.

(B) Information showing significant changes to the EITE facility's external competitive environment that result in a significant increase in leakage risk.

(C) Data showing the facility's carbon intensity has been materially affected due to abnormal operating periods so that these abnormal operating periods are either excluded or otherwise considered in the establishment of the compliance period carbon intensity benchmarks.

(iii) Ecology may allocate additional no cost allowances to a facility with a primary North American industry classification system code beginning with 3364 reported under chapter 173-441 WAC that is using a mass-based allocation baseline in order to accommodate an increase in production that increases its emissions above the baseline on a basis equivalent in principle to those awarded to entities utilizing a carbon intensity allocation baseline. Owners or operators of an EITE facility who wish to be allocated additional no cost allowances under this subsection must submit the following information to ecology electronically in a format specified by ecology. The information must be submitted by March 31st of the year following the emissions year for which the facility wishes to be allocated additional allowances under this subsection. Ecology will make a determination on adjustments based on information contained in the facility's submission and information submitted in subsection (1)(b)(i) of this section.

(A) Data from the facility showing an increase in production that increases its emissions above baseline.

(B) Projected production data if the facility wishes to be allocated ongoing additional no cost allowances.

(iv) Ecology will withhold or withdraw the relevant share of no cost allowances allocated to a facility that ceases production in the state and becomes a closed facility. Any allowances withheld or withdrawn under this subsection must be transferred to the emissions containment reserve.

(v) A facility that curtails all production and becomes a curtailed facility may retain no cost allowances allocated to the facility, but the allowances cannot be traded, sold, or transferred and the facility is still subject to the emission reduction requirements specified in this section. An owner or operator of a curtailed facility may transfer the allowances to a new operator of the facility that will be operated under the same North American industry classification

system code(s). If the curtailed facility becomes a closed facility, then all unused allowances will be transferred to the emissions containment reserve. A curtailed facility is not eligible to receive free allowances during a period of curtailment. Any allowances withheld or withdrawn under this subsection must be transferred to the emissions containment reserve.

(e) An EITE facility must provide timely and accurate verified reports under WAC 173-441-050 and this chapter in order to timely receive no cost allowances. In case of noncompliance, no cost allowances will be withheld until the facility is in compliance, at which time the appropriate number of no cost allowances will be issued to the EITE facility.

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#### NEW SECTION

**WAC 173-446-230 Distribution of allowances to electric utilities.** (1) **Total no cost allowances allocated to electric utilities.** Allowances allocated to electric utilities for a compliance period are based on the cost burden effect of the program. Ecology will use the following methods to determine how cost burden and its effect will be used to allocate allowances to each electric utility for each emissions year.

(a) Ecology will use utility-specific forecasts that provide retail electric load.

(b) Ecology will determine the generation resource fuel type forecasted to be used to provide retail electric load for a utility for the compliance period. This determination will be based on the following sources, in the order necessary to most accurately determine the resource mix that will be used by that electric utility to comply with the Clean Energy Transformation Act, chapter 19.405 RCW.

(i) A forecast and supporting information created for the specific purpose of informing this calculation which has been approved by the utilities and transportation commission in the case of an investor-owned utility, or approved by the governing board of a consumer-owned utility in the case of a consumer-owned utility, as long as the forecast is also consistent with the requirements of the Clean Energy Transformation Act, chapter 19.405 RCW.

(ii) The clean energy implementation plan for a utility that is submitted pursuant to chapter 19.405 RCW, the Washington Clean Energy Transformation Act.

(iii) An integrated resource plan, or supporting materials for that plan, that is consistent with or used for the clean energy implementation plan.

(iv) For multijurisdictional electric companies, a multistate resource allocation methodology that has been approved by the utilities and transportation commission. If the commission approves a methodology specific to this purpose, that methodology will be used in lieu of an existing general methodology that may be adapted by ecology using methods consistent with chapter 173-441 WAC.

(v) Another source that is consistent with a forecast approved by the appropriate governing board or the utilities and transportation commission of each utility's electricity supply and resource demand.

(c) Ecology will use the following emission factors to determine the emissions associated with the projected generation mix.

(i) For generation that is projected to be served by natural gas, the factor will be 0.4354 MT CO<sub>2</sub>e/MWh.

(ii) For generation that is projected to be served by coal, the factor will be 1.0614 MT CO<sub>2</sub>e/MWh, unless that generation is coal transition power, as defined in RCW 80.80.010, in which case the factor is zero.

(iii) For generation identified as a nonemitting or a renewable resource in the clean energy implementation plan, use an emission factor of zero.

(iv) For any generation from which the fuel type source is unknown or unknowable, and for unspecified market purchases, use the unspecified emission factor using the procedures identified in WAC 173-444-040.

(d) The cost burden effect from the emissions for each utility will be calculated according to Eq. 230-1. The resulting total emissions represents the cost burden effect for the utility.

$$\text{Cost Burden Effect} = (\text{Gen}_{\text{NG}} \times \text{EF}_{\text{NG}}) + (\text{Gen}_{\text{Coal}} \times \text{EF}_{\text{Coal}}) + (\text{Gen}_{\text{NE,RE}} \times 0) + (\text{Gen}_{\text{Remaining}} \times \text{EF}_{\text{Unspecified}})$$

Eq. 230-1

Where:

Gen = Generation of natural gas (NG), coal, and nonemitting and renewable resource (NE, RE), and remaining generation.

EF = Emission factor for natural gas (NG), coal, and unspecified electricity.

(e) One allowance will be allocated for each metric ton of emissions of the cost burden effect for each electric utility for each emissions year as projected through this process.

(f) An additional number of allowances will be allocated to account for the administrative costs of the program beginning in the second compliance period. The number of allowances allocated for this purpose will be determined by ecology based on a three-year rolling average of program costs derived from audited financial statements from utilities with a cost burden from the program. The mean allowance auction price from this time period will be used to translate average administrative costs into the appropriate number of allowances.

(2) Total allowances allocated for the purposes of recognizing voluntary renewable electricity purchases. Ecology will allocate allowances to a voluntary renewable electricity reserve account pursuant to RCW 70A.65.090 (9) and (11). The number of allowances allocated to the voluntary renewable electricity reserve account for the first compliance period will be 0.33 percent of the total annual allowance budget for each year as provided in Table 210-1.

(3) If a facility is identified by ecology as EITE under chapter 173-446A WAC, and if allowances have not been otherwise allocated for the electricity-related emissions for that facility and to the facility under other provisions of this chapter, then ecology will allocate allowances at no cost to the electric utility or power marketing administration that is providing electricity to the EITE facility in an amount equal to the forecasted emissions for electricity consumption for the facility for the compliance period.

(4) A consumer-owned utility that is party to a contract that meets the following conditions will be issued allowances under this section for emissions associated with imported electricity, in order to prevent impairment of the value of the contract to either party.

(a) The contract does not address compliance costs imposed upon the consumer-owned utility by the program created in this chapter; and

(b) The contract was in effect as of July 25, 2021, and expires no later than the end of the first compliance period.

(5) Allowances allocated at no cost to electric utilities may be consigned to auction for the benefit of ratepayers, transferred at no cost to an electric generating facility as described in WAC 173-446-425, deposited for compliance, or a combination of these uses. While no cost allowances may be held for future use, they may not be traded or transferred other than as authorized to WAC 173-446-425.

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#### NEW SECTION

**WAC 173-446-240 Distribution of allowances to natural gas utilities.** (1) **Allocation baselines for suppliers of natural gas.** Ecology will use the following data sources and methods to facilitate the allocation of no cost allowances to suppliers of natural gas.

(a) Ecology will assign an allocation baseline to each supplier of natural gas using the methods for subtotal baselines established in WAC 173-446-200 (2)(c) for emissions years 2015 through 2019. Allowance allocation is based on the allocation baseline for the supplier of natural gas.

(b) A supplier of natural gas that is a covered entity under WAC 173-446-030(1) must submit a complete GHG report as specified in WAC 173-441-122(4) for each emissions year 2015 through 2021 by March 31, 2022, in order to qualify for no cost allowances. A supplier of natural gas that becomes a covered entity under WAC 173-446-030(1) or 173-446-060 after 2023 must submit a complete GHG report as specified in WAC 173-441-122(4) for each emissions year 2015 through the current reporting year by the reporting deadline in WAC 173-441-050 for the year it becomes a covered entity in order to qualify for no cost allowances.

(c) Prior to the beginning of a new compliance period, ecology may make an upward or downward adjustment in the allocation baseline for a supplier of natural gas effective starting in the next compliance period. Any adjustment must be based on significant changes to emissions from:

(i) Revised reports under WAC 173-441-050(7) for emissions years used in determination of the allocation baseline;

(ii) A new assigned emissions level under WAC 173-441-086 for emissions years used in determination of the allocation baseline; or

(iii) A change in reporting method as described in WAC 173-441-050(4) relative to the method used for reports from emissions years used in determination of the allocation baseline.

(2) **Total no cost allowances allocated to natural gas utilities.** The following method establishes the total no cost allowances allocated to a given supplier of natural gas for a given emissions year.

(a) Emissions years 2023 through 2030.

(i) The total number of no cost allowances distributed to a natural gas supplier for emissions year 2023 is equal to 93 percent of the supplier's allocation baseline.

(ii) The total number of no cost allowances for 2024 through 2030 distributed to a natural gas supplier decreases annually relative to the previous year by an additional seven percent of the supplier's allocation baseline.

(b) Emissions years 2031 through 2042.

(i) The total number of no cost allowances distributed to a natural gas supplier for emissions year 2031 is equal to their 2030 allowance budget reduced by an additional one and eight tenths percent of their allocation baseline.

(ii) The total number of no cost allowances distributed to a natural gas supplier for 2032 through 2042 decreases annually relative to the previous year by an additional one and eight tenths percent of the supplier's allocation baseline.

(c) Emissions years 2043 through 2049.

(i) The total number of no cost allowances distributed to a natural gas supplier for emissions year 2043 is equal to their 2042 allowance budget reduced by an additional two and six tenths percent of their allocation baseline.

(ii) The total number of no cost allowances distributed to a natural gas supplier for 2044 through 2049 decreases annually relative to the previous year by an additional two and six tenths percent of the supplier's allocation baseline.

(d) A supplier of natural gas must continue to be in compliance with chapter 173-441 WAC and this chapter to continue receiving no cost allowances. No cost allowances are not provided during periods of closure or curtailment.

(3) No cost allowances allocated to natural gas utilities may be consigned to auction for the benefit of ratepayers, deposited for compliance, or a combination of both. No cost allowances allocated to natural gas utilities may not be traded, transferred, or sold.

[ ]

#### NEW SECTION

**WAC 173-446-250 Removing and retiring allowances.** (1) **Adjustments for the use of offsets as compliance instruments.** Ecology will use the following process to remove and retire allowances to account for the use of offset credits used for compliance in accordance with RCW 70A.65.170(5). This process will be completed by December 15th of each year.

(a) The calculation to determine the number of offset credits to be removed is as follows:

$$\text{Offset credits used} = \text{Offsets} - \text{Invalidations} \quad \text{Eq. 250-2.}$$

Where:

Offsets = number of offset credits used as compliance instruments for compliance obligations from the prior year.

Invalidations = number of offset credits invalidated by ecology (if any).

(b) If the number of offset credits calculated by Eq. 250-2 is greater than zero, a number of allowances equal to that number of offset credits will be removed from the next year's annual allowance budget and retired.

(2) **Adjustments to ensure consistency with proportional GHG emission limits.** To ensure consistency with the requirements of RCW 70A.65.060 and 70A.65.070, ecology may remove and retire allowances from the next year's allowance budget if the analysis of the state's progress toward the greenhouse gas limits required in RCW 70A.45.020 indicates insufficient progress toward those limits for the proportion

of covered emissions in the program relative to total statewide greenhouse gas emissions.

(a) This determination will be made within two months after the submittal of the progress report required by RCW 70A.45.020(2) to the legislature, or the program progress report required by RCW 70A.65.060(5).

(b) If this determination finds that Washington is meeting or exceeding the expected proportionate progress toward the limits based on the covered emissions in the program, then no further action will be taken.

(3) **Adjustments for voluntary renewable electricity.** Ecology will remove and retire allowances from the voluntary renewable electricity reserve account in recognition of the generation of renewable electricity that is directly delivered to Washington and used for the purposes of voluntary renewable electricity programs by using the following methods.

(a) Electricity generation eligible to be considered voluntary renewable electricity generation for the purposes of this section must:

- (i) Be directly delivered to a point of delivery in Washington.
- (ii) Meet the definition of renewable resource in RCW 19.405.020.
- (iii) Meet at least one of the following criteria:

(A) Be registered in the Western renewable energy generation system (WREGIS); or

(B) Be capable of creating renewable energy credits in the WREGIS system through aggregation or other means; or

(C) Have through some other means received approval from ecology.

(iv) Have associated contract or settlement documentation demonstrating the sale to and purchase of the renewable energy credits associated with the generation of the electricity to the voluntary renewable electricity end-user or entity purchasing on behalf of the end-user.

(b) Renewable energy credits for eligible voluntary renewable generation must:

(i) Represent generation that occurred during the year for which allowance retirement is requested;

(ii) Be retired for the purposes of voluntary renewable energy before the submittal of the request to retire allowances; and

(iii) Not be sold or used to meet any other mandatory requirements in Washington or any other jurisdiction, including renewable portfolio standards or clean electricity standards in Washington (RCW 19.285.040 and chapter 19.405 RCW, respectively), or similar laws or regulations in any other jurisdiction.

(c) A request for the retirement of allowances may be initiated, using a method and form approved by ecology, by any of the following:

(i) The owner or operator of the eligible voluntary renewable generation;

(ii) The owner or purchaser of the renewable energy credit associated with the eligible generation; or

(iii) The end-user that claims the voluntary renewable electricity generated by eligible generation.

(d) A request for the retirement of allowances in recognition of voluntary renewable electricity generation must also be accompanied by the following attestations:

(i) A signed attestation to ecology stating: "I certify under penalty of perjury of the laws of the state of Washington that I have not authorized use of, or sold, any renewable electricity credits or

any claims to the emissions, or lack of emissions, for electricity for which I am seeking Ecology allowance retirement, in any other voluntary or mandatory program." and

(ii) A signed attestation to ecology stating: "I understand I am voluntarily participating in the Washington state Greenhouse Gas Cap and Invest Program under chapter 70A.65 RCW and this chapter, and by doing so, I am now subject to all regulatory requirements and enforcement mechanisms of this voluntary renewable electricity program and subject myself to the jurisdiction of Washington state as the exclusive venue to resolve any and all disputes."

(e) Allowances will be retired annually from the voluntary renewable electricity reserve account for the preceding year's eligible generation in order of increasing vintage year until the account has been exhausted. For the year in which available allowances are exhausted, allowance retirement will be prorated among all eligible generation.

(f) The number of allowances retired from the voluntary renewable electricity reserve account for eligible generation in a given year is calculated as follows:

$$VRE_{\text{retired}} = MWh_{VRE} \times EF_{\text{unspecified}}$$

Where:

"VRE<sub>retired</sub>" is the number of allowances to be retired from the voluntary renewable electricity reserve account for the eligible generation rounded down to the nearest whole ton;  
 "MWh<sub>VRE</sub>" is the amount of voluntary renewable electricity, in MWh, that is generated in the previous year by the eligible generation; and  
 "EF<sub>unspecified</sub>" is the default CO<sub>2e</sub> emissions factor for unspecified power, based on the methods provided in WAC 173-444-040(4) using the data required in WAC 173-441-124 (3)(b).

(g) Any allowances from an allowance budget year that have been allocated to the voluntary electricity reserve account and not retired that year will be held in the reserve account to be available for retirement in subsequent budget years.

(h) If the surplus in the voluntary electricity reserve account grows for three or more consecutive years, and if forecasts of voluntary renewable electricity purchases project a decrease or lesser increase of voluntary renewable electricity purchases than the corresponding increase in the account, then ecology may remove surplus of allowances from the reserve account, and retire them.

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#### NEW SECTION

**WAC 173-446-260 Allowance distribution dates.** (1) By September 1, 2023, ecology will distribute vintage 2023 no cost allowances to mass-based EITE facilities, natural gas utilities, and electric utilities that have authorized accounts in the electronic compliance instrument tracking system.

(2) By September 1, 2023, ecology will make a preliminary distribution of vintage 2023 no cost allowances to intensity-based EITE facilities that have authorized accounts in the electronic compliance instrument tracking system. Distributions to intensity-based EITE facilities shall be based on 2021 production data reported to ecology and verified in 2022.

(3) By October 24th of 2023, and by October 24th of each year thereafter, ecology will distribute no cost allowances to mass-based EITE facilities, natural gas utilities, and electric utilities. The allowances distributed will be of the vintage of the year following the year in which they are distributed.

(4) By October 24th of 2023, and by October 24th of each year thereafter, ecology will make an initial distribution of no cost allowances to intensity-based EITE facilities. These distributions shall be based on production data from one year prior to the distribution year. The allowances distributed will be of the vintage of the year following the year in which they are distributed.

(5) By October 24th of 2024, and by October 24th of each year thereafter, ecology will conduct the final reconciliation of no cost allowances for intensity-based EITE facilities for the prior year based on production data from the prior year as reported to ecology and verified during the distribution year.

(a) If the initial allocation of allowances for a given year is lower than the actual number of allowances required as shown by the verified production data, ecology shall distribute additional allowances to the EITE facility to make up the difference. These allowances will come from the next year's vintage of allowances. Ecology shall accept these future vintage allowances for meeting compliance obligations for emissions from the year prior to the distribution year.

(b) If the initial allocation of allowances for a given year is higher than the actual number of allowances required as shown by the verified production data, ecology shall make up the difference by reducing the number of allowances allocated to the facility in the initial distribution of allowances for the next year. If the difference cannot be made up through reductions in the next year's initial distribution, the remaining reductions in allowances shall be carried forward to subsequent years until the deficit is resolved.

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## ALLOWANCE AUCTIONS

### NEW SECTION

#### **WAC 173-446-300 Auctions of current and prior year allowances.**

(1) Each year starting in 2023, ecology shall submit allowances for the purposes of auctions to be held on four separate occasions, each consisting of a single round of bidding.

(2) Only the following allowances shall be auctioned:

(a) Allowances reserved by ecology for the purpose of auctions;

(b) Allowances consigned to auction by electric power entities and natural gas utilities as follows:

(i) Electric utilities may choose at any time to consign up to 100 percent of their allowances to auction. During the first compliance period, electric utilities may choose whether or not to consign



no cost allowances to auction, and if so, how many allowances to consign. All proceeds from the auction of allowances consigned by electric power entities will be used for the benefit of ratepayers.

(ii) Natural gas utilities may choose at any time to consign up to 100 percent of their allowances to auction. Natural gas utilities must consign to auction:

(A) In 2023, at least 65 percent of the no cost allowances allocated to them for 2023;

(B) In 2024, at least 70 percent of the no cost allowances allocated to them for 2024;

(C) In 2025, at least 75 percent of the no cost allowances allocated to them for 2025;

(D) In 2026, at least 80 percent of the no cost allowances allocated to them for 2026;

(E) In 2027, at least 85 percent of the no cost allowances allocated to them for 2027;

(F) In 2028, at least 90 percent of the no cost allowances allocated to them for 2028;

(G) In 2029, at least 95 percent of the no cost allowances allocated to them for 2029;

(H) In 2030, and every year thereafter, 100 percent of the no cost allowances allocated to them for 2030.

(iii) All proceeds from the auction of allowances consigned by natural gas utilities shall be used for the benefit of customers, including at a minimum eliminating any additional cost burden to low-income customers from the implementation of the Climate Commitment Act.

(iv) Revenues from allowances sold at auction must be returned by providing nonvolumetric credits on ratepayer utility bills, prioritizing low-income customers, or used to minimize cost impacts on low-income, residential, and small business customers through actions that include, but are not limited to, weatherization, decarbonization, conservation and efficiency services, and bill assistance.

(A) The customer benefits provided from allowances consigned to auction under this section must be in addition to existing requirements in statute, rule, or other legal requirements.

(B) Except for low-income customers, any customer bill credits under this subsection are reserved exclusively for customers at locations connected to a natural gas utility's system on July 25, 2021. Bill credits may not be provided to customers of the gas utility at a location connected to the system after July 25, 2021.

(3) At each auction, ecology shall submit the percentage of current and prior vintage allowances ecology considers appropriate after considering the allowances in the marketplace due to the marketing of no cost allowances issued to EITE facilities, electric utilities, and natural gas utilities.

(a) Ecology shall offer only such number of allowances at each auction as will enhance the likelihood of achieving the GHG emission reductions required in RCW 70A.45.020.

(b) By January 15th of 2024 and each succeeding year, ecology shall publish on its website the dates of the quarterly auctions for that year and the number of allowances of that year's vintage allowances that ecology will submit for each of those auctions.

(4) At each auction, consigned allowances shall be sold first. If at the end of an auction, any consigned allowances remain unsold, they shall be retained to be submitted for sale in the subsequent auction.

(5) If, at the end of an auction, any of the allowances submitted to auction by ecology have not yet been sold, ecology shall hold them

to be auctioned in subsequent auctions but only after the settlement price for allowances has been above the auction floor price for two consecutive auctions. If the allowances are not sold within 24 months, ecology shall place them in the emissions containment reserve.

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NEW SECTION

**WAC 173-446-310 Public notice.** (1) At least 60 calendar days before an auction, ecology shall provide notice of the auction to the Environmental Justice Council and to the public, setting out the following information:

(a) The day on which, and time period during which, bidding in the auction may take place;

(b) The location or internet address at which the auction will be held;

(c) A summary of the requirements of this rule relating to the auction or sale, including the auction floor price and the emissions containment reserve trigger price;

(d) A summary of the auction process;

(e) For each allowance being offered for sale at the auction, the vintage year, if any, of the allowance; and

(f) The number of allowances of each vintage year being offered for sale at the auction.

(2) Ecology may, at any time after providing a notice under subsection (1) of this section, change the information included in the notice by providing notice of the change using the same methods used to provide the original 60-day notice of the auction.

(3) Ecology may change the day on which bidding in the auction may take place by up to 10 business days by providing notice using the same methods used to provide the original 60-day notice of the auction.

(4) If ecology changes the day on which the bidding in the auction may take place by more than 10 business days, ecology must provide a new 60-day notice.

(5) Subject to subsections (6) and (7) of this section, if the day on which bidding in the auction may take place is changed by 10 business days or less, all requirements under this chapter in which there is a time limit determined in relation to the day on which bidding takes place shall be determined in relation to the new day as specified in the notice of change.

(6) Subsection (5) of this section does not apply with respect to a requirement if, before the day on which ecology provides a notice of a change, the time limit in respect of the requirement expired.

(7) Despite subsection (5) of this section, if a registered entity has given a bid guarantee in accordance with WAC 173-446-325 for the purpose of bidding in an auction and the day of the auction is subsequently changed, the registered entity is not required to provide a new bid guarantee.

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NEW SECTION

**WAC 173-446-315 Registration for an auction.** (1) A registered entity must apply to ecology before bidding in each auction. To apply to bid in an auction each registered entity must:

(a) No later than 40 calendar days before the day of the auction, update any information required to be updated under WAC 173-441-050(3), 173-446-053, 173-446-055, or 173-446-105 through 173-446-140.

(b) No later than 30 calendar days before the day of the auction, submit the following information to ecology:

(i) The name, contact information, and holding account number of the registered entity.

(ii) The names and identification numbers of all designated account representatives of the registered entity.

(iii) The name and contact information of any consultant that provides advice related to the auction participant's bidding strategy and, if applicable, the name of the consultant's employer.

(iv) The form of bid guarantee to be given.

(c) No later than 12 calendar days before the day of the auction, submit a bid guarantee meeting the requirements of WAC 173-446-325.

(2) If the registered entity has retained a cap and invest consultant or advisor regarding auction bidding strategy, the registered entity must:

(a) Ensure against the consultant or advisor transferring the registered entity's information to other auction participants or coordinating the bidding strategy among participants.

(b) Inform the consultant or advisor of the prohibition on sharing information with other auction participants and ensure the consultant or advisor has read and acknowledged the prohibition under penalty of perjury.

(3) No later than 15 calendar days before the day of an auction, a cap and invest consultant or advisor advising on bidding strategy must provide to ecology the following information:

(a) Names of the registered entities participating in the cap and invest program that are being advised;

(b) Description of the advisory services being performed; and

(c) Assurance under penalty of perjury that the advisor is not transferring to or otherwise sharing information with other auction participants.

(4) Subject to subsection (5) of this section, upon receiving an application from a registered entity that meets the requirements set out in subsection (1) of this section, ecology shall permit the registered entity to bid in the auction.

(5) Ecology shall refuse permission to bid in an auction if any of the following circumstances apply:

(a) The registered entity has given false or misleading information in the application.

(b) The registered entity has failed to disclose information required under subsection (1) of this section.

(c) The registered entity has disclosed auction-related information in violation of WAC 173-446-317.

(d) The registered entity's cap and invest accounts are subject to conditions under this rule or imposed by ecology that prohibit participation in auctions or otherwise prevent allowances or credits from being transferred to the registered entity's cap and invest accounts.

(e) A bid guarantee that has been submitted in the form of a wire transfer has not been deposited into an escrow account established by the financial services administrator or the institution indicated by the financial services administrator.

(6) Any registered entity requesting permission to participate in an auction or participating in an auction must provide ecology on request within five business days of the request any additional information concerning its participation in the auction.

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NEW SECTION

**WAC 173-446-317 Auctions—Prohibited actions.** (1) To prevent bidder collusion and minimize the potential for market manipulation, a registered entity registered to participate in an auction may not release or disclose any bidding information including, but not limited to:

- (a) Intent to participate or refrain from participating in an auction;
- (b) Auction approval status;
- (c) Intent to bid;
- (d) Bidding strategy;
- (e) Bid price or bid quantity; or
- (f) Information on the bid guarantee provided to the financial administrator.

(2) No party shall coordinate the bidding strategy of more than one auction participant.

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NEW SECTION

**WAC 173-446-320 Suspension and revocation of registration.** (1) Ecology may cancel or restrict a previously approved auction participation application or reject a new application if ecology determines that a registered entity has:

- (a) Provided false or misleading information;
- (b) Withheld material information that could influence an ecology decision;
- (c) Violated any part of the auction rules;
- (d) Violated registration requirements;
- (e) Violated any of the rules regarding the conduct of the auction;
- (f) Coordinated bidding strategy of more than one auction participant in violation of WAC 173-446-317(2); or
- (e) Disclosed auction-related information in violation of WAC 173-446-317(1).

(2) The restrictions on disclosures in WAC 173-446-317 do not apply to a disclosure between registered entities who are members of the same direct corporate association.

(3) A registered entity is exempt from the prohibition on coordinating bidding strategies in WAC 173-446-317(2) if the coordination is with other registered entities with whom the registered entity is in a direct corporate association.

(4) If any of the information provided by a registered entity under WAC 173-446-120 changes during the period beginning 39 calendar days before the auction and ending on the day of the auction, the person is prohibited from bidding in the auction.

(5) Any cancellation or restriction approved by ecology under subsection (1) of this section may be permanent or for a specified number of auctions. The cancellation or restriction is not the exclusive remedy, and is in addition to the remedies that may be available under chapter 19.86 RCW or other state or federal laws.

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#### NEW SECTION

**WAC 173-446-325 Bid guarantee.** (1) Each registered entity must provide a bid guarantee for the purpose of bidding in an auction. The bid guarantee must cover bids for future vintage allowances as well as bids for current and past vintage allowances. The bid guarantee must meet the following criteria:

(a) Be in U.S. dollars;

(b) Be valid for at least 26 calendar days following the day of the auction or sale;

(c) Be one or a combination of the following and must be given in a form and manner approved by ecology:

(i) Cash in the form of a wire transfer;

(ii) An irrevocable letter of credit; or

(iii) A bond.

(d) All bid guarantees must be in a form that may be accepted by the financial services administrator consistent with U.S. banking laws and bank practices;

(i) If the bid guarantee is a wire transfer, it must be deposited in an escrow account of the financial services administrator or of the institution indicated by the financial services administrator.

(ii) If the bid guarantee is an irrevocable letter of credit, it must:

(A) Be made payable to the financial services administrator; and

(B) Be payable within three business days of a payment request.

(e) The bid guarantee must be for an amount that is greater than or equal to the registered entity's proposed maximum bid value, as determined under subsection (2) of this section.

(2) The registered entity's proposed maximum bid value for an auction is determined as follows:

(a) For each bid price proposed by the registered entity, multiply the bid price by the number of allowances that the registered entity proposes to purchase at that bid price or at a higher bid price.

(b) The highest value calculated under (a) of this subsection is the proposed maximum bid value.

(3) When parallel auctions for future allowances are held at the same time as auctions of current and past vintage allowances, the maximum bid value will be calculated first for the current and past vintage allowances. Any amount of the bid guarantee remaining after re-

solving the auction of current and past vintage allowances will be calculated for any bids for future vintage allowances.

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#### NEW SECTION

**WAC 173-446-330 Purchase limits.** A registered entity shall comply with the following rules for purchasing allowances available at an auction:

(1) A covered entity or opt-in entity that is not a member of a direct corporate association shall not purchase more than 10 percent of the allowances available.

(2) A general market participant that is not a member of a direct corporate association shall not purchase more than four percent of the allowances available.

(3) For purposes of auction purchase limits, all members of a direct corporate association are considered to be a single party subject to the purchase limits in subsections (1) and (2) of this section. A covered entity or opt-in entity that is a member of a direct corporate association shall ensure that the purchase limit set out in subsection (1) of this section is allocated among the members of the direct corporate association.

(4) If the direct corporate association mentioned in subsection (3) of this section includes a general market participant, the allocation under subsection (3) of this section must be carried out in such a manner as to ensure the rule set out in subsection (5) of this section is also complied with.

(5) A general market participant that is a member of a direct corporate association shall ensure that the purchase limits set out in subsection (2) of this section are allocated among all members of the direct corporate association who are general market participants.

(6) No registered entity that is a member of a direct corporate association shall purchase more than the share of the purchase limit allocated to the registered entity under this section.

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#### NEW SECTION

**WAC 173-446-335 Auction floor price and ceiling price.** (1) The auction floor price for 2023 shall be \$19.70 increased by five percent plus the rate of inflation as measured by the most recently available 12 months of the consumer price index for all urban consumers.

(2) The auction floor price for a year after 2023 shall be the auction floor price for the prior calendar year increased annually by five percent plus the rate of inflation as measured by the most recently available 12 months of the consumer price index for all urban consumers.

(3) Beginning in 2022, on the first business day in December of each year, ecology shall announce the floor price for the next year.

(4) The ceiling price for 2023 shall be \$72.29 increased by five percent plus the rate of inflation as measured by the most recently

available 12 months of the consumer price index for all urban consumers as of the first business day in December of 2022.

(5) The ceiling price for a year after 2023 shall be the ceiling price for the prior calendar year increased annually by five percent plus the rate of inflation as measured by the most recently available 12 months of the consumer price index for all urban consumers.

(6) Beginning in 2022, on the first business day in December of each year, ecology shall announce the ceiling price for the next year.

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NEW SECTION

**WAC 173-446-340 Emissions containment reserve trigger price.**

The emissions containment reserve trigger price is suspended as of October 1, 2022, until reinstated by rule.

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NEW SECTION

**WAC 173-446-345 Administration of auction—Lots.** Ecology shall divide allowances that are to be auctioned into lots in accordance with the following rules:

(1) Each lot, other than the final lot for each vintage, shall consist of 1,000 allowances.

(2) The final lot may consist of fewer than 1,000 allowances if fewer than 1,000 allowances remain once all other allowances have been divided into lots of 1,000.

(3) Each lot of future vintage allowances must consist of only one vintage of allowances.

(4) Each lot other than lots of future vintage allowances may include both current and past vintage allowances.

[]

NEW SECTION

**WAC 173-446-350 Bids.** (1) A registered entity must include the following in a bid submitted in an auction:

(a) The bid price, in dollars and whole cents;

(b) The number of lots that the participant wishes to purchase.

(2) Each bid must be sealed and submitted in the form approved by ecology.

(3) A participant may submit more than one bid in an auction.

(4) After the period of time for bidding has concluded, ecology shall reject bids or portions of bids of a registered entity if acceptance of all of the registered entity's bids would result in contravention of the registered entity's holding limit or purchase limit.

(5) Ecology shall reject bids or portions of bids as noted in subsection (4) of this section, starting with the registered entity's lowest bid price and continuing in increasing order by bid price, until the total of the registered entity's bids remaining would, if accepted, not result in contravention of a holding limit or purchase limit.

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NEW SECTION

**WAC 173-446-353 Determination of actual maximum bid value.** (1) Before accepting any bids, ecology shall determine whether each registered entity's actual maximum bid value, as determined under subsection (2) of this section, is greater than the registered entity's bid guarantee.

(2) The registered entity's actual maximum bid value is determined as follows:

(a) For each bid price included in the registered entity's bids, multiply the bid price by the number of allowances that the registered entity proposed to purchase at that bid price or at a higher bid price.

(b) The highest value calculated under (a) of this subsection is the actual maximum bid value.

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NEW SECTION

**WAC 173-446-355 Maximum bid value in excess of bid guarantee.**

(1) If the actual maximum bid value of a registered entity's bids exceeds the value of the registered entity's bid guarantee, ecology shall remove from the registered entity's bids enough lots such that the remaining bids would not result in the actual maximum bid value exceeding the value of the bid guarantee.

(2) If ecology has removed lots under subsection (1) of this section, each removed lot of allowances shall be considered as a new bid at each valid bid price in descending order, between:

(a) The bid price at which the actual maximum bid value was greater than the registered entity's bid guarantee; and

(b) The lowest bid price.

(3) For the purposes of subsection (2) of this section, a bid price is a valid bid price if that registered entity's actual maximum bid value at that bid price would not exceed the value of that participant's bid guarantee or the registered entity's holding limit or purchase limit.

(4) The registered entity is deemed to bid on the removed lots at the first valid bid price between the prices mentioned in subsection (2)(a) and (b) of this section that would result in the registered entity's actual maximum bid value being less than or equal to the value of the registered entity's bid guarantee.

(5) If no valid bid price between the prices mentioned in subsection (2)(a) and (b) of this section would result in a bid with an ac-



tual maximum bid value being less than or equal to the value of the registered entity's bid guarantee, ecology shall reject the removed lot.

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#### NEW SECTION

**WAC 173-446-357 Acceptance of bids.** (1) No bid price that is below the auction floor price shall be accepted.

(2) Ecology shall accept bids that have not been rejected, starting with the highest bid price and continuing in decreasing order by bid price until no more acceptable bids remain or no more of the allowances described in the notice of the auction are available.

(3) If the demand for allowances results in an auction settlement price that is lower than the emissions containment reserve trigger price, and ecology has not suspended the emissions containment reserve trigger price under WAC 173-446-340, ecology shall withhold up to 10 percent of the allowances submitted by ecology for auction as needed until either the emissions containment reserve trigger price becomes the auction settlement price or the number of allowances ecology may withhold is exhausted. Allowances withheld from the auction under this subsection shall be placed in the emissions containment reserve.

(4) Subsection (5) of this section applies if more than one bid has been submitted at the lowest accepted bid price for allowances in a quarterly auction of current, past, or future allowances, or at a Tier 1 price or the Tier 2 price for auctions from the allowance price containment reserve.

(5) If the total number of allowances bid upon at a bid price mentioned in subsection (4) of this section is greater than the number of allowances available at that bid price, ecology shall divide the remaining allowances available at that bid price between the registered entities who submitted the bids at that bid price, in accordance with the following steps:

(a) Divide the number of allowances bid upon by each registered entity at that bid price by the total number of allowances that were bid upon at that bid price. This is the registered entity's share of the allowances.

(b) Multiply each participant's share determined under (a) of this subsection by the number of allowances remaining, rounding down to the nearest whole number. This is the number of allowances to be distributed to the registered entity.

(c) If any allowances remain after carrying out the steps under (a) and (b) of this subsection, distribute the remaining allowances as follows:

(i) Assign a random number to each registered entity who submitted a bid at the applicable lowest bid price.

(ii) Distribute one allowance at a time to the registered entities in ascending order by the random number assigned, until no more of the allowances available at that bid price remain.

(6) Ecology shall distribute each allowance for which a bid has been accepted. The price to be paid by all bidders for each allowance is the lowest accepted bid price, which is also known as the auction settlement price.

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NEW SECTION

**WAC 173-446-360 Payment for purchases.** (1) A registered entity who has been notified by ecology that one or more bids by the registered entity have been successful in an auction shall pay, in the form and manner approved by ecology, the amount set out in the notice to the financial services administrator no later than seven calendar days after receiving the notice.

(2) If the registered entity provided a wire transfer as its bid guarantee, the wire transfer must be used to satisfy the amount payable under subsection (1) of this section.

(3) If the amount of the wire transfer is not sufficient to satisfy the whole amount payable under subsection (1) of this section and the registered entity does not pay the whole amount by the deadline set out in that subsection, the irrevocable letter of credit shall be used to satisfy the balance.

(4) If the registered entity did not provide a wire transfer as its bid guarantee and does not pay the whole amount payable under subsection (1) of this section by the deadline set out in that subsection, the irrevocable letter of credit shall be used to satisfy the amount.

(5) Ecology shall transfer the allowances paid for under subsections (1) through (4) of this section to the registered entity's holding account.

(6) The financial services administrator shall return any unused portions of a bid guarantee.

(7) Despite subsection (5) of this section, ecology may transfer allowances purchased at an auction to a participant's compliance account if:

(a) The allowances are current or past year vintage allowances; and

(b) Holding limits would not apply to the allowances once they are transferred to the compliance account.

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NEW SECTION

**WAC 173-446-362 Summary of auction.** No later than 45 days following the conclusion of the auction, ecology shall make available to the public a written summary of each auction, setting out the following information:

(1) The auction settlement price;

(2) The registered entities to whom ecology gave permission to participate in the auction;

(3) Details regarding the number of allowances sold, the number of each vintage year of allowances sold, and a description of how the allowances were distributed among the registered entities who submitted bids, without identifying which registered entities purchased the allowances.

[]

NEW SECTION

**WAC 173-446-365 Auction of future year allowances.** (1) Two times per year, ecology shall hold parallel auctions of future vintage allowances.

(2) Auctions of future vintage allowances shall follow the procedure set out in WAC 173-446-310 through 173-446-362.

(3) For each auction of future vintage allowances, ecology will submit for auction allowances from the year three years in the future according to the following schedule:

(a) For each auction in 2023, ecology will submit for auction five percent of the allowances in the annual allowance budget for 2026.

(b) For each auction in 2024, ecology will submit for auction five percent of the allowances in the annual allowance budget for 2027 as determined without taking into account the increase in the allowance budget caused by the addition of waste-to-energy facilities as covered entities in the second compliance period.

(c) For each auction in 2025, ecology will submit for auction five percent of the allowances in the annual allowance budget for 2028 as determined without taking into account the increase in the allowance budget caused by the addition of waste-to-energy facilities as covered entities in the second compliance period.

(d) For each auction in 2026, ecology will submit for auction five percent of the allowances in the annual allowance budget for 2029 as determined without taking into account the increase in the allowance budget caused by the addition of waste-to-energy facilities as covered entities in the second compliance period.

(e) For each auction in 2027 and each year thereafter, ecology will submit for auction five percent of the allowances in the annual allowance budget for the year three years in the future.

(4) Auctions for future vintage allowances shall occur at the same time, with bidding during the same bidding window, and using the same procedures as auctions for current vintage and past vintage allowances. Bidders shall provide one bid guarantee to cover both the auction for current and past vintage allowances and the auction for future vintage allowances. However, bidders must provide separate bids for future vintage allowances. Bidders may not include in one bid future allowances mixed with current and past vintage allowances.

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NEW SECTION**WAC 173-446-370 Allowance price containment reserve account.**

(1) Ecology shall maintain an allowance price containment reserve account.

(a) Allowances in the allowance price containment reserve have no vintage and are therefore eligible to be submitted for compliance at any time.

(b) On January 1, 2023, ecology shall place into the allowance price containment reserve account:

(i) Five percent of the allowances in the annual allowance budgets for each year of the first compliance period; and

(ii) Five percent of the allowances in the annual allowance budgets for each year of the second compliance period, as determined without taking into account the increase in the allowance budgets caused by the addition of waste-to-energy facilities as covered entities in the second compliance period.

(2) Ecology shall hold separate auctions for allowances from the allowance price containment reserve:

(a) When the settlement price in the preceding auction of current and prior vintage allowances reaches the Tier 1 price for allowances in the allowance price containment reserve;

(b) When new covered and opt-in entities enter the program and allowances from the emissions containment reserve account are exhausted; and

(c) Once each year after the final auction of current vintage allowances for the year and before the compliance deadline.

(3) Only covered entities and opt-in entities may participate in allowance price containment reserve auctions. General market participants may not participate in allowance price containment reserve auctions.

(4) Allowance price containment reserve auctions shall follow the procedures described in WAC 173-446-310 through 173-446-362, except:

(a) The purchase limits in WAC 173-446-330 do not apply to allowance price containment reserve auctions.

(b) In place of an auction floor price, there are two tiers of allowance prices at which bidders may bid:

(i) Tier 1 price for 2023 shall be \$46.05 increased by five percent plus the rate of inflation as measured by the most recently available 12 months of the consumer price index for all urban consumers as of the first business day in December of 2022.

(ii) Tier 2 price for 2023 shall be \$59.17 increased by five percent plus the rate of inflation as measured by the most recently available 12 months of the consumer price index for all urban consumers as of the first business day in December of 2022.

(iii) The allowance price containment reserve tier prices for a year after 2023 shall be the allowance price containment tier prices for the prior calendar year increased annually by five percent plus the rate of inflation as measured by the most recently available 12 months of the consumer price index for all urban consumers.

(iv) Beginning in 2022, on the first business day in December of each year, ecology shall announce the allowance price containment reserve tier prices for the next year.

(c) Bidders in an allowance price containment reserve auction may submit multiple bids. Each bid must be at either the Tier 1 price or the Tier 2 price.

(d) Tier 1 allowances shall be sold first, then Tier 2 allowances. The auction of Tier 1 allowances shall continue until all Tier 1 allowances are sold or all bids are filled, whichever occurs first. If any Tier 1 allowances remain, ecology will award them to bidders for Tier 2 allowances at the Tier 1 price using a random number selection process that assigns random numbers to each lot bid and awards Tier 1 allowances starting with the lowest random number until all Tier 1 allowances are sold. The subsequent auction of Tier 2 allowances shall

continue until all Tier 2 allowances are sold or all bids are filled, whichever occurs first.

(e) Ecology shall reject bids or portions of bids, starting with the smallest of the registered entity's Tier 2 bids, until the total of the registered entity's bids remaining would, if accepted, not result in contravention of a holding limit.

(f) The registered entity's actual maximum bid value is determined as follows:

(i) Multiply the Tier 1 bid price by the total number of allowances the registered entity proposed to purchase at that bid price.

(ii) Multiply the Tier 2 bid price by the total number of allowances the registered entity proposed to purchase at that bid price.

(iii) The registered entity's actual maximum bid value is the sum of the results obtained in (i) of this subsection added to the results obtained in (ii) of this subsection.

(g) If the actual maximum bid value of a registered entity's bids exceeds the value of the registered entity's bid guarantee, ecology shall, starting with the registered entity's Tier 2 bids, remove enough lots, such that the remaining bids would not result in the actual maximum bid value exceeding the value of the bid guarantee.

(h) If the sum of the bids accepted for a tier is greater than the number of allowances in the tier, ecology will follow the process in WAC 173-446-357(5) to distribute the allowances from each tier.

[ ]

#### NEW SECTION

##### **WAC 173-446-375 Emissions containment reserve account. (1)**

Ecology shall maintain an emissions containment reserve account containing the following allowances:

(a) Allowances amounting to two percent of the annual allowance budgets for years 2023 through 2026.

(b) Allowances submitted by ecology for auction that are unsold after being offered for sale for 24 months in current and past year vintage allowance auctions and future vintage allowance auctions.

(c) Allowances from EITE facilities that have been curtailed or closed.

(d) Allowances from facilities that fall below the emissions threshold. The number of these allowances must be proportionate to the amount of emissions the facility was previously using.

(e) Unless the emissions containment reserve trigger price is suspended under WAC 173-446-340, allowances withheld from auction as described in WAC 173-446-357(3).

(2) Ecology shall distribute allowances from the emissions containment reserve account as follows:

(a) By auction when new covered and opt-in entities enter the program; and

(b) By direct allocation at no cost to new or expanded EITE facilities that meet the following criteria:

(i) New facilities that have emissions greater than 25,000 MT CO<sub>2</sub>e per year during the first applicable compliance period.

(ii) Expanded facilities that trigger the need for governmental approval or permits.

(c) If provided to expanded EITE facilities, the allowances provided must be limited to the number of allowances required to cover the covered emissions resulting from the expansion of the facility. When provided to either new or expanded EITE facilities, the allowances must be placed in the EITE facility's compliance account and used for compliance at the next compliance deadline.

(3) (a) Ecology shall hold auctions of allowances from the emissions containment reserve account when new covered and opt-in entities enter the program.

(b) Auctions of allowances from the emissions containment reserve account shall follow the processes and procedures specified in WAC 173-446-310 through 173-446-362. Only covered entities and opt-in entities may participate in the auctions.

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#### NEW SECTION

**WAC 173-446-380 Price ceiling units.** (1) Immediately prior to each compliance deadline, in the event that no allowances remain in the allowance price containment reserve, ecology shall issue price ceiling units for sale at the ceiling price to covered and opt-in entities that do not have sufficient eligible compliance instruments in their holding and compliance accounts to meet their compliance obligations for that compliance deadline.

(2) Each price ceiling unit covers the compliance obligation for the emission of one metric ton of CO<sub>2</sub>e.

(3) Only covered and opt-in entities that do not have sufficient eligible compliance instruments in their holding and compliance accounts to meet their requirements for the immediately upcoming compliance deadline may purchase price ceiling units. These covered and opt-in entities may purchase only the number of price ceiling units necessary to meet their compliance obligations for the next compliance deadline and must surrender those price ceiling units for compliance at the immediately upcoming compliance deadline.

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#### NEW SECTION

**WAC 173-446-385 Price ceiling unit sales.** (1) Price ceiling unit sales shall only be held between the last allowance price containment reserve auction before a compliance deadline and the compliance deadline itself.

(2) Price ceiling units shall be sold at the ceiling price.

(3) Price ceiling unit sales shall be held only if a covered entity or opt-in entity requests a price ceiling unit sale at least 10 days before the immediately upcoming compliance deadline.

(4) In a request for a price ceiling unit sale, the covered entity or opt-in entity must provide an accounting to ecology showing that it has insufficient compliance instruments to meet its compliance obligations for the immediately upcoming compliance deadline. This ac-

counting must include any confirmed and finalized agreements to transfer compliance instruments to the covered or opt-in entity prior to the compliance deadline.

(5) Ecology shall review any requests and notify requesters of ecology's response.

(6) If ecology agrees to sell price ceiling units, ecology shall instruct the financial services administrator to begin to accept cash payment for purchases from price ceiling sales no earlier than 10 business days after the previous allowance price containment reserve auction and to cease accepting payments no later than seven business days thereafter.

(7) The financial services administrator will inform ecology of the amounts of payments received from covered entities no later than one business day after it ceases to accept payments.

(8) After a sale, ecology will transfer purchased price ceiling units directly to each purchaser's compliance account for retirement at the immediately upcoming compliance deadline.

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#### NEW SECTION

**WAC 173-446-390 Confidentiality.** Records containing the following information are confidential and are exempt from public disclosure in their entirety:

- (1) Bidding information as identified in WAC 173-446-317;
- (2) Information contained in the secure, online electronic tracking system for compliance instruments;
- (3) Financial, proprietary, and other market sensitive information as determined by ecology that is submitted to the department pursuant to this chapter;
- (4) Financial, proprietary, and other market sensitive information as determined by ecology that is submitted to an independent contractor or the financial services administrator engaged by ecology; and
- (5) Financial, proprietary, and other market sensitive information as determined by ecology that is submitted to a jurisdiction with which the department has entered into a linkage agreement pursuant to RCW 70A.65.210, and which is shared with ecology, the independent contractor, or the financial services administrator pursuant to a linkage agreement.

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#### **COMPLIANCE INSTRUMENT TRANSACTIONS**

NEW SECTION

**WAC 173-446-400 Compliance instruments transactions—General information.** (1) A compliance instrument can satisfy a covered or opt-in entity's compliance obligation arising from the emission of one metric ton of carbon dioxide equivalent in one calendar year. A compliance instrument does not expire, and may be held or banked. Once surrendered, a compliance instrument must be retired and never used, traded, or transferred again.

(2) By 5:00 p.m. Pacific Time November 1st of each year beginning in 2024, each covered entity and opt-in entity must surrender to ecology the number of compliance instruments equal to 30 percent of the metric tons of covered carbon dioxide equivalent emissions emitted by the covered entity or opt-in entity during the previous calendar year. Except as provided in subsections (4) and (5) of this section, allowances submitted for this annual compliance requirement must be of the vintage of the year the emissions occurred or any year prior to that year.

(3) By 5:00 p.m. Pacific Time November 1st of the year after the end of each four-year compliance period, each covered entity and opt-in entity must have surrendered to ecology the number of compliance instruments equal to the number of metric tons of covered carbon dioxide equivalent emissions emitted by the covered entity or opt-in entity during the compliance period. Except as provided in subsections (4) and (5) of this section, allowances submitted for compliance at the end of the compliance period may be of the vintage or any year of the compliance period.

(4) When surrendering allowances for compliance, EITE facilities may provide future vintage allowances obtained as described in WAC 173-446-260 in the process of reconciling their compliance obligation for a given year with their actual production data for that year.

(5) When surrendering allowances for compliance, covered and opt-in entities may provide allowances obtained from the allowance price containment reserve.

(6) Allowances may be obtained by direct distribution of no cost allowances from ecology, by purchase at auction, or by purchase, trade, or transfer from other parties owning allowances.

(7) A compliance instrument may be traded only among covered entities, opt-in entities, and general market participants registered with ecology or with an external GHG ETS to which Washington has linked.

(8) A registered entity may only hold compliance instruments for its own use and may not hold compliance instruments on behalf of another party having an interest in or control of the compliance instruments.

(9) Only compliance instruments recorded in a holding account may be traded. Once in a compliance account, compliance instruments may not be traded or sold, but may only be transferred to ecology to cover GHG emissions.

(10) Qualifying transfers of no cost allowances from an electric utility to an electrical generating facility may follow the process in WAC 173-446-425.

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NEW SECTION**WAC 173-446-410 Transfers among registered entities—Process.**

(1) Every registered entity wishing to trade compliance instruments with another party registered in Washington's program or with a party registered in an external GHG ETS to which Washington has linked must follow the procedures outlined below.

(a) To initiate the transfer, a transferor's account representative must submit to ecology and to all the transferor's other account representatives a transaction request containing the information outlined in WAC 173-446-430. A second transferor's account representative must submit confirmation of the transaction request to ecology and to all the transferee's account representatives within two calendar days after submission of the original request to ecology.

(b) If the intended transferee wishes to accept the transfer, within three calendar days after the initial transaction request referenced in this subsection, a transferee's account representative must submit to ecology and to the transferor confirmation of acceptance of the transfer.

(c) At each step in the transaction request, the account representative concerned must attest to holding due authorization to complete the transaction for the registered entity, and that the information contained in the transaction request is true, accurate, and complete.

(d) The account representatives involved in the transaction must provide ecology on request and within 10 business days with any additional information concerning the transaction.

(2) Ecology will transfer the compliance instruments unless:

(a) The transfer would result in noncompliance with chapter 70A.65 RCW or this chapter;

(b) Ecology has reasonable grounds to believe that a violation has been committed under chapter 70A.65 RCW in relation to the request; or

(c) The request contains errors, omissions, or is otherwise incomplete.

(3) Transfer refusal.

(a) If ecology refuses to transfer compliance instruments, ecology shall provide notice of the reason for the refusal to all designated account representatives who have taken steps under this regulation with respect to the request.

(b) If ecology refuses to transfer compliance instruments due to errors or omissions in the request, the notice shall identify the errors or omissions or shall include a description of how the request is otherwise incomplete.

[ ]

NEW SECTION

**WAC 173-446-415 Transaction requests—Information required by ecology.** Each transaction request submitted under WAC 173-446-410 must contain the following information:

(1) The holding account number of the transferor;

(2) The holding account number of the transferee;

(3) The quantity, type and, where applicable, vintage of the compliance instruments to be traded;

(4) The settlement price of each type, and, where applicable, each vintage of compliance instruments, as well as the method used to determine the settlement price; provided that a registered entity is not required to disclose the settlement price of transferred compliance instruments when the transaction is between registered entities in a direct corporate association or is a bundled transfer;

(5) The type of trading agreement, the date of signing of the agreement and the agreed upon trading date;

(6) Where applicable, all other transactions or products covered by the agreement, a description of those transactions or products, and the name and contact information of the parties involved; and

(7) The following attestation statement made and signed by the primary account representative or any alternate account representative: "I certify under penalty of perjury under the laws of the state of Washington that I am authorized to make this submission on behalf of the registered entity that owns the compliance instruments held in the account. I certify under penalty of perjury under the laws of the state of Washington 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 under penalty of perjury under the laws of the state of Washington that the statements and information submitted to Ecology are true, accurate, and complete. I consent to the jurisdiction of Washington and its courts for purposes of enforcement of the laws, rules and regulations pertaining to chapter 173-446 WAC and 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."

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#### NEW SECTION

**WAC 173-446-420 Transfers to ecology—Process.** (1) Every registered entity wishing to transfer compliance instruments from the registered entity's holding account to its compliance account must send ecology a request including:

(a) The registered entity's holding account number and its compliance account number; and

(b) The quantity, type, and, where applicable, vintage of the compliance instruments to be transferred.

(2) To initiate a transfer to ecology, an account representative from the registered entity must submit the transfer request to ecology and to all the registered entity's other account representatives. One of the other account representatives must confirm the transfer request within two business days after its submittal to ecology.

(3) Once the transfer has been confirmed, ecology will send a notice to all the registered entity's account representatives. Unless otherwise indicated by one of the account representatives, or ecology has reasonable grounds to believe that a violation under this rule has

been committed, ecology will transfer the compliance instruments from the registered entity's holding account to its compliance account.

(4) Account representatives who have sent a transfer request for compliance instruments must provide ecology, on request and as soon as possible, any additional information concerning the transfer.

(5) When a transaction cannot be completed because of an error or omission in the information included in the request, or because the request does not meet the requirements of this section, or because an account does not contain enough compliance instruments or for any other reason, ecology will send notice to the parties concerned within five business days following the failure to complete the transaction.

[]

#### NEW SECTION

**WAC 173-446-425 Transfers of no cost allowances from an electric utility to an electrical generating facility or to a federal power marketing administration.** (1) An electric utility wishing to transfer no cost allowances to the compliance account of an electrical generating facility or federal power marketing administration may submit a request to ecology asking for the transfer and providing the following information:

- (a) The electric utility's holding account number;
  - (b) The compliance account number of the federal power marketing administration or the electrical generating facility;
  - (c) The quantity and vintage of no cost allowances to be transferred;
  - (d) The relationship between the electric utility and the federal power marketing administration or electric generating facility.
- (2) Ecology may transfer the allowances only if:
- (a) The electric generating facility is operated by the electric utility; or
  - (b) The electric utility has an agreement to purchase imported electricity or a power purchase agreement, including a custom product contract from the federal power marketing administration or the electric generating facility.
  - (c) The transfer will not violate the federal power marketing administration's or the electrical generator's holding limit.

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#### NEW SECTION

**WAC 173-446-430 Transfers of no cost allowances from a utility's holding account to its limited use holding account for consignment to auction.** (1) A utility wishing to consign no cost allowances to auction must transfer those no cost allowances from its holding account to its limited use holding account by submitting a request to ecology asking for the transfer and providing the following information:

- (a) The utility's holding account number;
- (b) The utility's limited use holding account number; and

(c) The quantity and vintage of no cost allowances to be transferred.

(2) Upon receipt of the required information, ecology will transfer the allowances from the utility's holding account to its limited use holding account.

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#### NEW SECTION

**WAC 173-446-440 Compliance instrument transactions—Prohibited actions.** (1) Other than the account representatives directly involved in a transaction, no party holding confidential or privileged information on a compliance instrument may trade that compliance instrument, disclose the information or recommend that another party trade the compliance instrument, except if the party has reason to believe that the information is known to the public or to the other party in the transaction. However, the party may disclose the information or recommend that another party trade the compliance instrument if the party is required to disclose the information in the course of business, and if nothing leads the person to believe that the information will be used or disclosed in contravention of this section.

(2) No party prevented from trading compliance instruments pursuant to subsection (1) of this section may use the confidential or privileged information in any other way, unless the party has reason to believe that the information is known to the public. In particular, the party may not carry out operations on futures contracts or other derivatives within the meaning of the Commodities Exchange Act, 7 U.S.C. Chapter 1 involving a compliance instrument.

(3) A party with knowledge of material order information may not carry out or recommend that another party carry out a transaction involving a compliance instrument, or disclose the information to any other party except if:

(a) The party has reason to believe the other party is already aware of the information;

(b) The party must disclose the information in the course of business, and nothing leads the party to believe that it will be used or disclosed in contravention of this section; and

(c) The party carries out a transaction involving the compliance instrument concerned by the information in order to perform a written obligation that the party contracted before becoming aware of the information.

(d) For the purposes of this section, material order information is any information concerning an order to buy or an order to sell a compliance instrument that could have a material impact on the price of a compliance instrument.

(4) False or misleading information.

(a) No party may disclose false or misleading information or information that must be filed pursuant to this chapter before it is filed, in order to carry out a transaction.

(b) For the purpose of this section, false or misleading information is any information likely to mislead on an important fact, as well as the simple omission of an important fact; an important fact is

any fact that may reasonably be believed to have a material impact on the price or value of a compliance instrument.

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## OFFSETS

### NEW SECTION

**WAC 173-446-500 General requirements for ecology offset credits and registry offset credits.** (1) In order to ensure an offset credit can be used as a compliance instrument under this chapter, an offset project operator or authorized project designee must demonstrate that the ecology offset credits and/or registry offset credits generated by its offset project meet the following requirements. A registry offset credit must:

(a) Represent a GHG emission reduction or GHG removal enhancement that is real, quantifiable, permanent, verifiable, enforceable, and additional to GHG reductions or removals otherwise required by law and other GHG reductions or removals that would otherwise occur;

(b) Result from the use of a compliance offset protocol that meets the requirements of WAC 173-446-505;

(c) Result from an offset project that is listed in accordance with WAC 173-446-520;

(d) Result from an offset project that complies with the monitoring, reporting and record retention requirements of WAC 173-446-525;

(e) Result from an offset project that is verified pursuant to the requirements of WAC 173-446-530;

(f) Result from an offset project that will not produce significant adverse environmental impacts after mitigation; and

(g) Be issued by an offset project registry approved pursuant to the requirements of WAC 173-446-590.

(2) An ecology offset credit must meet the requirements of subsection (1) of this section and:

(a) Be issued pursuant to WAC 173-446-555;

(b) Be registered pursuant to WAC 173-446-565;

(c) Provide direct environmental benefits to the state pursuant to WAC 173-446-595; and

(d) When used for compliance be subject to the quantitative usage limits set forth in WAC 173-446-600(6).

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NEW SECTION**WAC 173-446-505 Requirements for compliance offset protocols.**

(1) In order for ecology to adopt an offset protocol as a compliance offset protocol the offset protocol must:

(a) Accurately determine the extent to which GHG emission reductions and GHG removal enhancements are achieved by the offset project type;

(b) Establish data collection and monitoring procedures relevant to the type of GHG emissions sources, GHG sinks, and GHG reservoirs for that offset project type;

(c) Establish a project baseline that reflects an estimate of business-as-usual performance or practices for comparison against the GHG emission reductions and/or GHG removal enhancements to be achieved by the offset project type;

(d) Account for activity-shifting leakage and market-shifting leakage for the offset project type, unless the offset protocol stipulates eligibility conditions limiting the use of the offset protocol that eliminate the risk of activity-shifting and/or market-shifting leakage;

(e) Account for any uncertainty in quantification factors for the offset project type;

(f) Ensure GHG emission reductions and GHG removal enhancements are permanent;

(g) Include a mechanism to ensure permanence of GHG removal enhancements for sequestration offset project types;

(h) Establish the length of the crediting period for the offset project type;

(i) Establish the eligibility and additionality of the offset project type and quantify GHG emission reductions and GHG removal enhancements using standardized baseline assumptions, emission factors, and monitoring methods; and

(j) Specify the geographic area(s) where the protocol is applicable.

(2) Crediting period. The crediting period for an offset project that does not involve sequestration must be no less than seven years and no greater than 10 years, unless specified otherwise in a compliance offset protocol that has been adopted by ecology under subsection (3) of this section. The crediting period for an offset project that involves sequestration must be no less than 10 years and no greater than 30 years.

(3) An ecology offset credit must result from the use of one of the following compliance offset protocols:

(a) The California Air Resources Board, Compliance Offset Protocol Livestock Projects, October 20, 2011, and Compliance Offset Protocol Livestock Projects, November 14, 2014, are adopted. Exceptions are listed in this subsection:

(i) Exceptions to adopting the Livestock Projects Compliance Offset Protocol, November 14, 2014, by reference:

(A) Every use of the word "regulation" in the Livestock Compliance Offset Protocol, November 14, 2014, is amended to refer to chapter 173-446 WAC.

(B) Every reference to subarticle 13 is amended to WAC 173-446-500 through 173-446-595.

(C) Every reference to ARB is amended to ecology except in Table 6.1.

(D) Every reference to section 95973 of the regulation is amended to WAC 173-446-510.

(E) Every reference to section 95975 of the regulation is amended to WAC 173-446-520.

(F) Every reference to section 95976 of the regulation is amended to WAC 173-446-525.

(G) Every reference to section 95977 of the regulation is amended to WAC 173-446-530.

(H) Every reference to section 95986 of the regulation is amended to WAC 173-446-585.

(I) Every reference to section 95102 of the regulation is amended to WAC 173-446-020.

(J) Section 1.2(a)(8) is amended to: "Cap and trade regulation" or "regulation" means ecology's regulation establishing the Climate Commitment Act Program, chapter 173-446 WAC.

(K) Section 1.2(a)(24) is not adopted.

(L) Section 1.2(a)(29) is amended to: "Registry offset credit" means a credit issued by an offset project registry for a GHG reduction or GHG removal enhancement of one metric ton of CO<sub>2</sub>e.

(M) Section 3.2(b) is not adopted.

(N) Section 5(c) is amended to: GHG emissions reductions must be quantified over an entire reporting period. The initial reporting period may consist of six to 24 consecutive months, and all subsequent reporting periods consist of 12 consecutive months and must meet the reporting requirements referred to in WAC 173-446-525.

(O) Section 5(e) is amended to: Global warming potential values must be determined consistent with the definition of carbon dioxide equivalent in WAC 176-441-040 Table A-1.

(ii) Exceptions to adopting the Compliance Offset Protocol Live-stock Projects, October 20, 2011, by reference:

(A) Every reference to ARB is amended to ecology except Table 6.1.

(B) Section 1, Paragraph 4 is not adopted.

(C) Section 3.1 waiver of sovereign immunity requirement is not adopted. Accordingly, Section 3.1 is amended to:

(D) Only projects located in the United States and its territories are eligible under this protocol.

(b) The California Air Resources Board, Compliance Offset Protocol U.S. Forest Projects, October 20, 2011, Compliance Offset Protocol U.S. Forest Projects, November 14, 2014, and Compliance Offset Protocol U.S. Forest Projects, June 25, 2015, are adopted. Exceptions are listed in this subsection:

(i) Exceptions to adopting the U.S. Forest Projects Compliance Offset Protocol, June 25, 2015:

(A) Every use of the word "regulation" in the U.S. Forest Projects Compliance Offset Protocol, June 25, 2015, is amended to refer to chapter 173-446 WAC.

(B) Every reference to subarticle 13 is amended to WAC 173-446-500 through 173-446-595.

(C) Every reference to ARB is amended to ecology except in section 2.1.(c.) (4), section 2.2.(b.) (6), section 2.3.(c.) (7), Table 3.1, 3.1.(a.) (2), section 3.2(b.), section 5.2.1.(c.), section 7.1.1.(26.), Table A.1, Appendix A (f.), Appendix A (g.), Appendix A (h.), Equation C.3., Appendix B(g.), Appendix C (a.) (3.) (A.) (2.), Appendix C (a.) (4.) (A.) (2.), Equation C.12., Appendix C (b.) (3.) (A.) (2.), Appendix C (b.)

(4.) (A.) (2.), Appendix E.(b.) (2.), Appendix E.(b.) (3.), Appendix F.(a.), Appendix F.(b.), Appendix F.(d.), Appendix F.(g.).

(D) Every reference to section 95973 of the regulation is amended to WAC 173-446-510.

(E) Every reference to section 95974 of the regulation is amended to WAC 173-446-515.

(F) Every reference to section 95975 of the regulation is amended to WAC 173-446-520.

(G) Every reference to section 95976 of the regulation is amended to WAC 173-446-525.

(H) Every reference to section 95977 of the regulation is amended to WAC 173-446-530.

(I) Every reference to section 95983 of the regulation is amended to WAC 173-446-570.

(J) Every reference to section 95985 of the regulation is amended to WAC 173-446-580.

(K) Every reference to section 95986 of the regulation is amended to WAC 173-446-585.

(L) Section 1.1.(b.) is not adopted.

(M) Section 1.2(a.) (14) is amended to: "Cap and trade regulation" or "regulation" means ecology's regulation establishing the Climate Commitment Act Program, chapter 173-446 WAC.

(N) Section 3.2(f.) is not adopted.

(O) Section 3.5.3.(b) (2) is amended to: For an improved forest management project, a quantity of compliance instruments equal to the total number of ARB offset credits issued to the project over all preceding reporting periods, multiplied by the appropriate compensation rate indicated in Table 3.2, must be retired.

(ii) Exceptions to adopting the U.S. Forest Projects Compliance Offset Protocol, November 14, 2014:

(A) Every use of the word "regulation" in the U.S. Forest Projects Compliance Offset Protocol, November 14, 2014, is amended to refer to chapter 173-446 WAC.

(B) Every reference to subarticle 13 is amended to WAC 173-446-500 through 173-446-595.

(C) Every reference to ARB is amended to ecology except in section 3.8.2 Paragraph 3, Table 3.2, Section 6.2.1 Paragraph 3, Appendix A A.3, Appendix C C.1, Appendix C C.2, Appendix F.

(D) Every reference to section 95974 of the regulation is amended to WAC 173-446-515.

(E) Every reference to section 95975 of the regulation is amended to WAC 173-446-520.

(F) Every reference to section 95977 of the regulation is amended to WAC 173-446-530.

(G) Every reference to section 95983 of the regulation is amended to WAC 173-446-570.

(H) Section 1. Paragraph 3 is not adopted.

(I) Section 3.4. text stating "and where applicable, all Early Action Offset Credits issued pursuant to section 95990(i) of the Regulation" is not adopted.

(J) Section 3.6. Paragraph 3 is not adopted.

(iii) Exceptions to adopting the U.S. Forest Projects Compliance Offset Protocol, October 20, 2011:

(A) Every use of the word "regulation" in the U.S. Forest Projects Compliance Offset Protocol, October 20, 2011, is amended to refer to chapter 173-446 WAC.



(B) Every reference to subarticle 13 is amended to WAC 173-446-500 through 173-446-595.

(C) Every reference to ARB is amended to ecology except in section 3.8.2 Paragraph 3, Table 3.2, Section 6.2.1 Paragraph 3, Appendix A. A.3, Appendix C. C.2, Appendix C. C.3, Appendix E, Appendix F.

(D) Every reference to section 95973 of the regulation is amended to WAC 173-446-510.

(E) Every reference to section 95974 of the regulation is amended to WAC 173-446-515.

(F) Every reference to section 95975 of the regulation is amended to WAC 173-446-520.

(G) Every reference to section 95976 of the regulation is amended to WAC 173-446-525.

(H) Every reference to section 95977 of the regulation is amended to WAC 173-446-530.

(I) Every reference to section 95983 of the regulation is amended to WAC 173-446-570.

(J) Every reference to section 95985 of the regulation is amended to WAC 173-446-580.

(K) Every reference to section 95986 of the regulation is amended to WAC 173-446-585.

(L) Section 1. Paragraph 3 is not adopted.

(M) Section 3.4. text stating "and where applicable, all Early Action Offset Credits issued pursuant to section 95990(i) of the Regulation" is not adopted.

(N) Section 3.6. Paragraph 3 is not adopted.

(O) Section 11, "Forest Buffer Pool" definition is amended to: Forest buffer account is defined in the regulation as a holding account for forest project compliance offset credits administered by ecology. It is used as a general insurance mechanism against unintentional reversals for all forest offset projects listed under a compliance offset protocol.

(P) Section 11, "Listed" definition is amended to: A forest project is considered "listed" when the offset project operator or authorized project designee is registered with ecology or an approved offset project registry, submits all required documentation for project listing in the regulation and this protocol, and the project has been approved by ecology or an approved offset project registry for listing.

(c) The California Air Resources Board, Compliance Offset Protocol Ozone Depleting Substances Projects, October 20, 2011, and Compliance Offset Protocol Ozone Depleting Substances, November 14, 2014, are adopted. Exceptions are listed in this subsection:

(i) Exceptions to adopting the Ozone Depleting Substances Compliance Offset Protocol, November 14, 2014, by reference:

(A) Every use of the word "regulation" in the Ozone Depleting Substances Compliance Offset Protocol, November 14, 2014, is amended to refer to chapter 173-446 WAC.

(B) Every reference to subarticle 13 is amended to refer to WAC 173-446-500 through 173-446-595.

(C) Every reference to ARB is amended to ecology.

(D) Every reference to section 95973 of the regulation is amended to WAC 173-446-510.

(E) Every reference to section 95975 of the regulation is amended to WAC 173-446-520.

(F) Every reference to section 95976 of the regulation is amended to WAC 173-446-525.

(G) Every reference to section 95977 of the regulation is amended to WAC 173-446-530.

(H) Section 1.1.(b.) is not adopted.

(I) Section 1.2 (a)(2) is amended to: "Cap and trade regulation" or "regulation" means ecology's regulation establishing the Climate Commitment Act Program, chapter 173-446 WAC.

(J) Section 1.2(a)(19) is amended to: "Registry offset credit" means a credit issued by an offset project registry for a GHG reduction or GHG removal enhancement of one metric ton of CO<sub>2</sub>e.

(K) Section 3.2(d.) is not adopted.

(L) Section 3.5.(c.) is not adopted.

(ii) Exceptions to adopting the Ozone Depleting Substances Compliance Offset Protocol, October 20, 2011, by reference:

(A) Every use of the word "Regulation" in the Livestock Compliance Offset Protocol, October 20, 2011, is amended to refer to chapter 173-446 WAC.

(B) Every reference to ARB is amended to ecology.

(C) Every reference to section 95975 of the regulation is amended to WAC 173-446-520.

(D) Every reference to section 95976 of the regulation is amended to WAC 173-446-525.

(E) Section 1. Paragraph 4 is not adopted.

(F) Section 3.1 waiver of sovereign immunity requirement is not adopted. Accordingly, section 3.1 is amended to: For ODS destruction to be eligible as an offset project under this protocol, all ODS must be sourced from stocks in the United States or its territories and destroyed within the United States or its territories.

(d) The California Air Resources Board, Compliance Offset Protocol Urban Forest Projects October 20, 2011, is adopted. Exceptions are listed in this subsection:

Exceptions to adopting the California Air Resources Board, Compliance Offset Protocol Urban Forest Projects, October 20, 2011:

(A) Every use of the word "regulation" in the Urban Forest Projects Compliance Offset Protocol, October 20, 2011, is amended to refer to chapter 173-446 WAC.

(B) Every reference to ARB is amended to ecology.

(C) Every reference to section 95975 of the regulation is amended to WAC 173-446-520.

(D) Section 1. Paragraph 5 is not adopted.

(E) Section 3.1 waiver of sovereign immunity requirement is not adopted. Accordingly, section 3.1 is amended to: Only offset projects located in the United States and its territories are eligible under this protocol.

[ ]

#### NEW SECTION

**WAC 173-446-510 Requirements for offset projects using ecology compliance offset protocols.** (1) General requirements for offset projects. In order to ensure that offset credits generated by an offset project can be used as compliance instruments under this chapter, an offset project operator or authorized project designee must ensure that the offset project:

(a) Meets all of the requirements set forth in the applicable compliance offset protocol;

(b) Any offset credits used must have been issued for reporting periods wholly after July 25, 2021, or within two years prior to July 25, 2021;

(c) Provides direct environmental benefits in the state of Washington, pursuant to WAC 173-446-595; and

(d) Meets the following additional requirements, regardless of whether such requirements are set forth in the applicable compliance offset protocol, as of the date of offset project commencement:

(i) The activities that result in GHG emission reductions and GHG removal enhancements are not required by law, regulation, or any other legally binding mandate applicable in jurisdiction in which the offset project is located, and would not otherwise occur in a conservative business-as-usual scenario; and

(ii) The GHG emission reductions and GHG removal enhancements resulting from the offset project must exceed the project baseline calculated pursuant to the applicable version of the compliance offset protocol under which the offset project has been listed, or under which the offset project has been transitioned for that offset project type, as set forth in WAC 173-446-505(3).

(iii) The offset project operator or authorized project designee may transition an offset project to the most recently adopted version of the compliance offset protocol by updating the listing information in an offset project data report.

(A) An offset project may only be transitioned to the most recently adopted version of the compliance offset protocol through an offset project data report submitted to ecology or the offset project registry prior to the site visit.

(B) To properly transition to the most recently adopted version of the compliance offset protocol, the offset project data report for the transitioning offset project must specify the most recently adopted compliance offset protocol as the version under which the offset project is reporting. Offset projects may only transition to the most recently adopted version of the compliance offset protocol during a reporting period that is subject to a full offset verification.

(C) For projects using a U.S. Forest Projects protocol issued by the California Air Resources Board, the first offset verification after transitioning to the most recently adopted version of the compliance offset protocol must meet all the requirements of WAC 173-446-535.

(D) An offset project will be considered to have completed the transition to being listed under the most recently adopted version of the compliance offset protocol upon ecology's approval of a positive or qualified positive offset verification statement for the applicable reporting period.

(E) An offset project that transitions to being listed under a newly adopted version of the compliance offset protocol during a crediting period will continue in the same crediting period and not start a new crediting period.

(e) For purposes of subsection (1)(a) of this section, "the applicable compliance offset protocol" is the version of a compliance offset protocol under which the offset project has been listed or transitioned as described in (d)(iii) of this subsection, except as follows.

If, during an offset project's crediting period, any new law, regulation, or other legally binding mandate requiring GHG emission

reductions or GHG removal enhancements goes into effect in Washington, in a linked jurisdiction, or in another jurisdiction in which the offset project is located, during an offset project's crediting period, then the offset project is eligible to continue to receive offset credits for those GHG emission reductions and GHG removal enhancements for the remainder of the offset project's crediting period, but the offset project may not renew that crediting period. If an offset project has not been listed under a compliance offset protocol prior to the effective date of the new law, regulation, or other legally binding mandate, or if the new law, regulation, or other legally binding mandate goes into effect before the offset project's crediting period renews, then only those GHG emission reductions or GHG removal enhancements that are in excess of what is required to comply with the new law, regulation, and/or other legally binding mandate are eligible for offset credits.

(2) Local, regional, state, and national regulatory compliance and environmental impact assessment requirements. In order to ensure that offset credits generated by an offset project can be used as compliance instruments under this chapter, an offset project operator or authorized project designee must comply with all local, regional, state, and national requirements for environmental impact assessments that apply in the jurisdiction where the offset project is located. In addition, an offset project must comply with all local, regional, state, and national requirements related to environmental and health and safety that apply in the jurisdiction where the offset project is located as well as those that directly apply to the offset project, including those specified in the applicable compliance offset protocol.

(a) An offset project may be considered out of regulatory compliance for purposes of this subsection if the project activities have been subject to formal enforcement action by a regulatory oversight body during the reporting period. Whether the project activities have been subject to such enforcement action is not the only consideration ecology may use in determining whether an offset project is out of regulatory compliance.

(b) An offset project listed under a compliance offset protocol other than urban forest projects and that is out of regulatory compliance is not eligible to receive ecology offset credits or registry offset credits for GHG emission reductions or GHG removal enhancements that occurred during the period of time during which the offset project is out of regulatory compliance. The offset project operator or authorized project designee must provide documentation indicating the beginning and end of the time period that the offset project was out of regulatory compliance as well as documentation confirming to the satisfaction of ecology that the offset project has returned to regulator compliance.

(i) The time period that the offset project was out of regulatory compliance begins on the date that the activity(ies) which led to the enforcement action actually began, regardless of the date that the regulatory oversight body first became aware of the noncompliance. To determine the initial date of the offset project being out of regulatory compliance, the offset project operator or authorized project designee must provide one or more of the following to ecology:

(A) Documentation from the local, regional, state, or national regulatory oversight body that initiated the enforcement action, which expressly identifies the precise initial date of the offset project being out of regulatory compliance. Such documentation must include

corroborating evidence of the initial date such as CEMS or other monitoring data, engineering estimates, satellite imagery, witness statements, or other reasonable methods to aid in the identification of the precise initial date; or

(B) Documentation of the most recent inspection by the local, regional, state, or national regulatory oversight body that initiated the enforcement action, which did not indicate the offset project was out of regulatory compliance for the activity(ies) in question. The offset project will be considered out of regulatory compliance beginning the day after such inspection.

(C) If the most recent inspection described in (b)(i)(B) of this subsection was prior to the beginning of the reporting period or if documentation regarding the initial date the project was out of regulatory compliance is not provided as set forth above to the satisfaction of ecology, then the time period that the offset project is out of regulatory compliance, for purposes of the reporting period, commences at the beginning of the reporting period.

(ii) The date when the offset project is deemed to have returned to regulatory compliance is the date that the local, regional, state, or national regulatory oversight body determines that the project activity(ies) returned to regulatory compliance. This date is not necessarily the date that the noncompliant activity(ies) ended or the device was repaired, and may include time for the payment of fines or completion of any additional requirements placed on the offset project by the applicable regulatory oversight body, as determined by the regulatory oversight body. To determine the end date when the offset project returned to regulatory compliance, the offset project operator or authorized project designee must provide documentation from the local, regional, state, or national regulatory oversight body attesting that the offset project is currently in regulatory compliance and identifying the date on which the offset project activity(ies) returned to compliance.

(A) If the regulatory oversight body does not provide written documentation regarding the date on which the project returned to regulatory compliance to the satisfaction of ecology, the offset project operator or authorized project designee may provide documentation to ecology from the regulatory oversight body clearly identifying the date the offset project returned to regulatory compliance. Such documentation must be official dated correspondence from the applicable regulatory oversight body such as an inspection report, an enforcement legal document such as a consent decree, or other such documentation identifying that the project has adequately remedied the condition(s) that rendered it out of regulatory compliance.

(B) If the regulatory oversight body does not provide written documentation regarding the date on which the project returned to regulatory compliance to the satisfaction of ecology, and the offset project operator or authorized project designee is unable to provide documentation clearly identifying the date the offset project returned to regulatory compliance to the satisfaction of ecology, then for purposes of the applicable reporting period, the offset project operator or authorized project designee must use the end of the reporting period for the date when the offset project returned to regulatory compliance.

(C) For purposes of this subsection, ecology may also take into consideration information pertaining to the date(s) the offset project activity(ies) subject to enforcement action occurred; whether the offset project operator, authorized project designee, or forest owner has

acknowledged responsibility for the noncompliant activity(ies); and the status of any ongoing enforcement proceedings with the local, regional, state, or national regulatory oversight body.

(D) Nothing in this section precludes the invalidation of ecology offset credits issued for previous or subsequent reporting periods if ecology determines that the offset project was out of regulatory compliance in previous or subsequent reporting periods. The offset project will continue to be deemed out of regulatory compliance in subsequent reporting periods until the offset project operator or authorized project designee provides adequate documentation demonstrating regulatory compliance to ecology.

(E) Ecology's written determination and any supporting documents from the regulatory oversight body relating to the offset project being out of regulatory compliance and the time frame identified for removal from the reporting period will be made public.

(c) To determine the GHG emission reductions or GHG removal enhancements for the reporting period as modified to reflect any period the offset project was out of regulatory compliance, the offset project operator or authorized project designee must remove the days on which the offset project was out of regulatory compliance from the reporting period using the following methods:

(i) For projects using the livestock projects protocol, each calendar day during which any portion of the offset project was not in regulatory compliance must be removed from the modeled or measured project baseline;

(ii) For projects using an ozone depleting substances projects protocol, the entire destruction(s) under a certificate of destruction that contains any day the offset project is out of regulatory compliance must be removed. For projects that consist of a single destruction under a certificate of destruction that contains any day the offset project is out of regulatory compliance, the entire offset project will be ineligible for ecology offset credits or registry offset credits;

(iii) For projects using a U.S. Forest Projects protocol, each calendar day during which any portion of the offset project was not in regulatory compliance must be removed by dividing the total calculated emissions reductions for the 12 month period from the end of the previous reporting period, by the total number of days in the previous 12 months, either 365 days or 366 days, to calculate daily emissions reductions. The daily emissions reductions will be multiplied by the number of days on which the project was not in regulatory compliance and this number will be added to the project baseline for the end of the reporting period and the emissions reductions for the reporting period, excluding the days on which the project was out of regulatory compliance, will be calculated.

(d) An offset project using an urban forest projects protocol is not eligible to receive ecology offset credits or registry offset credits for GHG emission reductions or GHG removal enhancements for the entire reporting period if the offset project is not in compliance with regulatory requirements directly applicable to the offset project during the reporting period.

(3) Only a primary account representative or alternate account representative on the offset project operator's tracking system account may sign any documents or attestations submitted to ecology or an offset project registry on behalf of the offset project operator for an offset project.

[]

NEW SECTION

**WAC 173-446-515 Authorized project designee.** (1) General requirements for designation of authorized project designee. An offset project operator may designate a party as an authorized project designee at the time of offset project listing or any time after offset project listing as long as the offset project operator meets the requirements of this section.

(a) The offset project operator may assign ownership rights of ecology offset credits or registry offset credits to any of the following parties at the time of issuance of a registry offset credit or ecology offset credit:

(i) Authorized project designee; or

(ii) Any other third party not otherwise prohibited from acquiring an ownership interest in compliance instruments under this chapter.

(b) The director or officer of the offset project operator, as identified pursuant to WAC 173-446-055 (3) (a) (ii) may delegate responsibility to the authorized project designee for performing or complying with all the requirements of WAC 173-446-520, 173-446-525, 173-446-530, 173-446-550, and 173-446-555, where the authorized project designee is specifically identified; and the requirements set forth in WAC 173-446-580 (8) (a) (iii) (B), (b) (ii) (B), and (c), for which the authorized project designee may act on behalf of the offset project operator.

(i) If an authorized project designee is designated pursuant to this subsection, the authorized project designee will be responsible for performing all activities needed to meet the requirements set forth in this chapter and will be the main point of contact with regard to the offset project for the offset project registry and ecology. The offset project operator, however, ultimately remains responsible for ensuring compliance with the requirements of this chapter and the applicable compliance offset protocol. In addition, the offset project operator retains the authority to perform any activities required under this chapter, including signing documents and attestations.

(ii) If an authorized project designee is designated pursuant to this subsection, the offset project operator must also designate an individual employed by the authorized project designee as a primary account representative or alternate account representative on the offset project operator's tracking system account before the authorized project designee may act on behalf of the offset project operator or submit any documentation to the offset project registry and ecology.

(iii) Consultants. An offset project operator or authorized project designee may use a consultant to prepare documents or attestations for submittal by the offset project operator or authorized project designee to the offset project registry or ecology. However, a consultant may not sign any such documents or attestations on behalf of the offset project operator or authorized project designee. A consultant may only communicate with ecology or the offset project registry to the extent authorized by the offset project operator or authorized project designee, and the offset project operator or authorized

project designee must be included in all communications regarding the offset project, whether written or otherwise, between the consultant and ecology or the offset project registry.

(2) Modifications to authorized project designee and activities. An offset project operator may modify or change its designation of an authorized project designee once within each calendar year after the offset project has been listed by ecology or an offset project registry by submitting a written request to ecology or the offset project registry.

[ ]

#### NEW SECTION

**WAC 173-446-520 Listing of offset projects using ecology compliance offset protocols.** (1) Registration requirements for offset project operators or authorized project designees who are submitting an offset project for listing. Before an offset project can be listed by ecology or an offset project registry, the party with legal authority to implement the offset project must be registered with ecology as an offset project operator under WAC 173-446-055. To register as a general market participant, the registered offset project operator or its authorized project designee must:

(a) Submit the information required by WAC 173-446-055 (3) (a); and

(b) Not be subject to any holding account restrictions.

(2) If an offset project is not listed by ecology, it must be listed by an approved offset project registry before the offset project operator for that offset project may receive offset credits under this chapter.

(3) General requirements for offset project listing. For offset projects being listed by ecology or an offset project registry in an initial or renewed crediting period, the offset project operator and its authorized project designee(s) must:

(a) Disclose all GHG emission reductions and GHG removal enhancements that are attributable to the offset project being listed and for which offset credits have been issued by any voluntary or mandatory program(s) or which have been used to satisfy any other GHG mitigation requirement; and

(b) Attest, in writing, to ecology as follows:

(i) "I certify under penalty of perjury under the laws of the state of Washington the GHG emission reductions and/or GHG removal enhancements for (project) from (date) to (date) will be measured in accordance with the (applicable Compliance Offset Protocol) and all information required to be submitted to ecology is true, accurate, and complete."; and

(ii) "I understand I am voluntarily participating in this program and by doing so, I am now subject to all regulatory requirements and enforcement mechanisms of this program and subject myself to the jurisdiction of Washington as the exclusive venue to resolve any and all disputes arising from the enforcement of provisions in this chapter."; and

(iii) "I understand that the offset project activity(ies) and implementation of the offset project must be in accordance with all applicable local, regional, state, and national environmental and health



and safety laws and regulations that apply in the jurisdiction in which the offset project is located. I understand that offset projects that are not in compliance with the requirements of this chapter are not eligible to receive Ecology offset credits or registry offset credits for GHG emission reductions and GHG removal enhancements."

(c) Provide all documentation required to ecology or an offset project registry.

(d) If any portion of the offset project is located on land over which the state of Washington does not have jurisdiction, the offset project operator must demonstrate that the landowner(s) consent(s) to regulation by ecology and the jurisdiction of the courts and administrative tribunals of the state of Washington with respect to any judicial or administrative enforcement action commenced by ecology to ensure compliance with the requirements of chapter 70A.65 RCW and this chapter.

(4) The attestations required by subsection (3)(b) of this section must be provided to an offset project registry with the listing information, if the offset project is being listed with an offset project registry, or to ecology if the offset project is being listed with ecology.

(5) Offset project listing information requirements. Before an offset project can be publicly listed for an initial or renewed crediting period, the offset project operator or authorized project designee must provide the listing information in the most recently adopted version of the applicable compliance offset protocol for that offset project type as set forth in WAC 173-446-505(3).

(6) Review of offset project listing information. Ecology and/or the offset project registry, as applicable, will review the offset project listing information submitted pursuant to subsection (5) of this section for completeness.

(a) Notice of completeness for offset project listing information. Within 30 calendar days of receiving complete and accurate listing information as required by subsection (5) of this section, ecology or the offset project registry, as applicable, will notify the offset project operator or authorized project designee that the offset project may be listed.

(b) If ecology or the offset project registry, as applicable, determines that the information submitted is incomplete, inaccurate, or that rejection of the listing information is otherwise required, ecology or the offset project registry will notify the offset project operator or authorized project designee of this determination within 30 calendar days of receiving the listing information from the offset project operator or authorized project designee. The offset project operator or authorized project designee may resubmit offset project listing information.

(7) Timing for offset project listing in an initial crediting period. The offset project operator or authorized project designee must submit the information required by subsection (5) of this section to ecology or an offset project registry, as applicable, according to the following deadlines:

(a) No later than the date on which the offset project operator or authorized project designee submits its required offset project data report for its first reporting period under a compliance offset protocol to ecology or an offset project registry; and

(b) No later than one year after offset project commencement, or no later than one year after meeting all of the requirements of this section, whichever is later. If the offset project operator or author-

ized project designee does not submit the listing information for the offset project to ecology or an offset project registry within one year of offset project commencement, or within one year of meeting the requirements of this section, whichever is later, the offset project will be ineligible to be listed under a compliance offset protocol and will not be issued registry offset credits or ecology offset credits.

(8) Listing status of offset projects in an initial crediting period. After the offset project operator or authorized project designee submits the offset project for listing in an initial crediting period and all required documentation, and ecology or the offset project registry has reviewed the offset project listing information for completeness, the offset project listing status will be labeled "Proposed Project." If the offset project is not ultimately accepted for listing by an offset project registry, the offset project operator or authorized project designee may request that ecology make a final determination as to whether the offset project meets the requirements to be listed for an initial crediting period by the offset project registry. Ecology may consult with the offset project registry before making such a determination.

(9) Timing for offset project listing in a renewed crediting period. The offset project operator or authorized project designee must submit the information required by subsection (5) of this section for purposes of listing the offset project for a renewed crediting period to ecology or an offset project registry, as applicable, no earlier than 18 months and no later than nine months before conclusion of the initial crediting period or a previous renewed crediting period.

(10) Listing status of offset projects in a renewed crediting period. After the offset project operator or authorized project designee submits the offset project for listing in a renewed crediting period and all required documentation, and ecology or the offset project registry has reviewed the offset project listing information for completeness, the offset project listing status will be labeled "Proposed Renewal." The verification body must assess that the offset project meets the additionality requirements set forth in WAC 173-446-510

(1)(c) and in the applicable compliance offset protocol as of the date of the commencement of the renewed crediting period when conducting offset verification services for the first reporting period of a renewed crediting period. If the offset project is not ultimately accepted for listing by an offset project registry, the offset project operator or authorized project designee may request that ecology make a final determination as to whether the project meets the requirements of this section to be listed for a renewed crediting period by the offset project registry. Ecology may consult with the offset project registry before making such a determination.

(11) Once ecology or an offset project registry approves an offset project for listing, the listing information is considered final, and may not be changed unless the offset project operator changes during the crediting period. If the offset project operator changes during the crediting period, the new offset project operator or its authorized project designee must submit updated listing information for the information that pertains to the offset project operator and authorized project designee, if applicable, to ecology within 30 calendar days of the change.

(12) Limitations for crediting period renewals. A crediting period may be renewed if the offset project meets the requirements for additionality set forth in WAC 173-446-510 (1)(c) and in the applicable compliance offset protocol.

(a) The crediting period for offset projects that do not involve sequestration may be renewed twice for the length of time identified by the applicable compliance offset protocol.

(b) Offset projects that involve sequestration are not subject to any renewal limits.

(13) Transferring an offset project. If the offset project operator or authorized project designee transfers an offset project listed with ecology to an offset project registry, or transfers a project listed with an offset project registry to ecology or another offset project registry:

(a) Ecology or the offset project registry that originally listed the offset project must change the offset project listing status on its registry system to "transferred project."

(i) If the only action taken by the offset project operator or the authorized project designee was to have the listing documentation for the offset project approved by ecology or the original offset project registry, ecology or the original offset project registry, as applicable, must retain the information related to the offset project on its website for the duration of one year before it can be removed from the registry system.

(ii) If the listing documentation was only submitted by the offset project operator or authorized project designee, but not approved by ecology or the original offset project registry, ecology or the original offset project registry, as applicable, does not need to retain the submitted listing documentation.

(iii) If a verification body submitted an offset verification statement for the offset project being transferred, ecology or the original offset project registry, as applicable, must retain the information related to the offset project on its website for the duration of the offset project life.

(iv) Ecology or the new offset project registry, as applicable, must retain the listing date and all listing information as approved by ecology or the original offset project registry. If the offset project has not undergone initial verification, the offset project commencement date may change as a result of verification activities only.

(b) The offset project operator or authorized project designee must submit the original listing documentation reviewed and accepted by ecology or the original offset project registry, as applicable, pursuant to this section to ecology or the new offset project registry, as applicable. The offset project operator or authorized project designee may only make changes to the listing documentation if the offset project operator changes during the crediting period pursuant to subsection (11) of this section.

(c) The offset project operator or authorized project designee may not transfer an offset project to ecology or another offset project registry once a notice of offset verification services has been submitted for a reporting period(s) or during the course of offset verification services for a reporting period(s). Once a notice of offset verification services has been submitted, the offset verification services must be completed for the applicable reporting period(s) before the offset project operator or authorized project designee may transfer the offset project to ecology or another offset project registry. Once the offset verification services are completed for the applicable reporting period(s), the offset project operator or authorized project designee may transfer the offset project to ecology or another offset project registry.

(14) Limitations for listing forest offset projects. Once a forest offset project has been issued registry offset credits or ecology offset credits, no other offset project may be listed within the offset project boundary of the previous offset project unless the previous offset project was terminated due to an unintentional reversal or otherwise specified in the applicable compliance offset protocol.

(15) Modification or waiver of requirements for purposes of aggregation. Ecology may elect to waive or modify listing requirements in this section for offset projects that are grouped together for the purposes of aggregation. Any proposed modifications or changes to the procedures noted in this section must be approved in advance by ecology and be documented in writing in a manner and format specified by ecology.

[ ]

#### NEW SECTION

**WAC 173-446-525 Monitoring, reporting, and record retention requirements for offset projects.** (1) General requirements for monitoring equipment for offset projects. The offset project operator or authorized project designee must employ the procedures set forth in the applicable compliance offset protocol for monitoring measurements and project performance for offset projects. All required monitoring equipment must be maintained and calibrated in a manner and at a frequency required by the equipment manufacturer, unless otherwise specified in the applicable compliance offset protocol. All modeling, monitoring, sampling, and testing procedures must be conducted in a manner consistent with the applicable compliance offset protocol.

(2) The offset project operator or authorized project designee must use the missing data methods as provided in the applicable compliance offset protocol for that offset project type, if provided and applicable.

(3) An offset project operator or authorized project designee must install and operate all monitoring equipment and mechanisms required by the applicable compliance offset protocol for that offset project type as set forth in WAC 173-446-505(3).

(4) Offset project reporting requirements. An offset project operator or authorized project designee shall submit an offset project data report to ecology or the offset project registry, as applicable, for each reporting period.

(a) Each offset project data report must cover a single reporting period. Reporting periods must be contiguous, and there must be no gaps in reporting once the first reporting period has commenced.

(b) The offset project operator or authorized project designee must submit an offset project data report to ecology or the offset project registry, as applicable, within 28 months of listing their offset project and must also meet all other applicable deadlines pertaining to submittal of the offset project data report.

(i) An offset project data report may be submitted after the deadline identified in this subsection, but before the end of the next reporting period, to maintain continuous reporting for purposes of (a) of this subsection; however, no ecology offset credits will be issued for the GHG emission reductions or removal enhancements quantified and reported in the untimely offset project data report.

(ii) If the offset project operator or authorized project designee does not submit an offset project data report to ecology or an offset project registry within 28 months of listing an offset project, then the offset project operator or authorized project designee must update the listing information in the offset project data report to reflect the most recently adopted version of the applicable compliance offset protocol for that project type in order to remain eligible to be issued ecology offset credits. If an offset project data report that does not meet the 28 month deadline also fails to meet the four month deadline set in this section set forth in subsection (5) of this section, an offset project data report covering the reporting period must be submitted using the most recently adopted version of the applicable compliance offset protocol; however, no ecology offset credits will be issued for the GHG emission reductions or removal enhancements.

(iii) For forestry offset projects, when an offset project data report is not filed within the deadline specified in this subsection, the values used for  $AC_{\text{onsite},y-1}$  and  $BC_{\text{onsite},y-1}$  in the offset project data report for the subsequent reporting period will be the  $AC_{\text{onsite},y}$  and  $BC_{\text{onsite},y}$  values reported in the untimely offset project data report for the preceding reporting period. The offset project data report shall contain the information required by the applicable version of the compliance offset protocol for that offset project type as set forth in WAC 174-446-505(3).

(iv) For ozone depleting substance projects, one offset project data report may be submitted for each offset project and the offset project data report may cover up to a maximum of 12 months of data.

(v) If the offset project operator or authorized project designee fails to submit an offset project data report as required by this subsection, then the offset project will be considered terminated and no longer eligible for ecology offset credits.

(5) An offset project data report must be submitted to ecology or the offset project registry, as applicable, within four months after the conclusion of each reporting period. For a submission to be considered valid, the submitted offset project data report must include all required attestation(s) and must be signed by the offset project operator's primary account representative or alternate account representative.

(a) The primary account representative or alternate account representative on the offset project operator's tracking system account must attest, in writing, as follows: "I certify under penalty of perjury under the laws of the state of Washington the GHG emission reductions and/or GHG removal enhancements for (project) from (date) to (date) are measured in accordance with the (applicable Compliance Offset Protocol) and all information required to be submitted to Ecology or the Offset Project Registry, as applicable, in the Offset Project Data Report is true, accurate, and complete." This attestation must be provided with each version of the offset project data report to an offset project registry if the offset project is listed with an offset project registry, or to ecology if the offset project is listed with ecology.

(b) If an offset project data report is not submitted to ecology or an offset project registry as required by this subsection by the four-month reporting deadline, the GHG emission reductions and GHG removal enhancements quantified and reported in the untimely offset

project data report are not eligible to be issued registry offset credits or ecology offset credits.

(6) Each version of an offset project data report submitted to ecology or an offset project registry must specify the version number and the date submitted.

(7) For any offset project reporting under a different version of the applicable compliance offset protocol than the version under which the project was initially listed, the offset project data report must include reference to both the version of the applicable compliance offset protocol under which the project was initially listed and the version under which the project is reporting.

(8) Requirements for records retention for offset projects. An offset project operator or authorized project designee must meet the following requirements:

(a) The offset project operator or authorized project designee must retain records containing the following information:

(i) All information submitted to ecology or an offset project registry as part of the offset project data report;

(ii) Documentation of the offset project boundary, including a list of all GHG emissions sources, GHG sinks, and GHG reservoirs included in the offset project boundary and the project baseline;

(iii) Fuel use and any other underlying measured or sampled data used to calculate project baseline emissions, GHG emission reductions, and GHG removal enhancements for each source, categorized by process and fuel, or material type;

(iv) Documentation of the process for collecting fuel use or any other underlying measured or sampled data for the offset project and its GHG emissions sources, GHG sinks, and GHG reservoirs for quantifying project baseline emissions, project emissions, GHG emission reductions, and GHG removal enhancements;

(v) Documentation of all project baseline emissions, project emissions, GHG emission reductions, and GHG removal enhancements;

(vi) All point of origin and chain of custody documents required by the applicable compliance offset protocol, if any;

(vii) All chemical analyses, results, and testing-related documentation for material and sources used for inputs to calculate project baseline emissions, project emissions, GHG emission reductions, and GHG removal enhancements;

(viii) All model inputs and assumptions used for quantifying project baseline emissions, project emissions, GHG emission reductions, and GHG removal enhancements;

(ix) Any data used to assess the accuracy of project baseline emissions, GHG emission reductions, and GHG removal enhancements from each offset project GHG emissions source, GHG sink, and GHG reservoir, categorized by process;

(x) Quality assurance and quality control information, including information regarding any measurement gaps, missing data substitution, calibrations or maintenance records for monitoring equipment, or models providing data for calculating project baseline emissions, project emissions, GHG emission reductions, and GHG removal enhancements;

(xi) A detailed technical description of any offset project continuous measurement/monitoring system(s), including documentation of any related findings and approvals by federal, state, or local agencies;

(xii) Raw and aggregated data from any measurement system;

(xiii) Documentation of any changes over time and the log book on tests, down-times, calibrations, servicing, and maintenance for any

measurement/monitoring equipment providing data for project baseline calculations, project emissions, GHG emission reductions, and GHG removal enhancements;

(xiv) For sequestration offset projects, documentation of inventory methodologies and sampling procedures, including all calculation methodologies and equations used, and any data related to plot sampling;

(xv) Any other documents associated with the preparation of an offset project data report; and

(xvi) Any other documentation or data required to be retained by the applicable compliance offset protocol, if any.

(b) All records containing the information set forth in (a) of this subsection shall be retained in paper, electronic, or other useable format for a minimum of 15 years. For documents associated with the preparation of a particular offset project data report, the 15-year timeline begins on the date of issuance of ecology offset credits based on that offset project data report.

(c) The documents retained pursuant to this section must be sufficient to allow for third-party verification of each offset project data report.

(d) Upon request by ecology or an offset project registry, the offset project operator or authorized project designee must provide to ecology or the offset project registry, as applicable, all documents retained pursuant to this subsection, including data used to develop an offset project data report within 10 calendar days of the request.

(9) General procedure for interim data collection. This section only applies if the applicable compliance offset protocol does not already include methods, or does not include a specific method for the data in question, for collecting or accounting for missing data in the event of an unforeseen breakdown of gas or fuel analytical monitoring equipment or other data collection systems.

(a) In the event of an unforeseen breakdown of offset project data monitoring equipment and gas or fuel flow monitoring devices required for the GHG emission reductions and GHG removal enhancement estimation, ecology may authorize an offset project operator or authorized project designee to use an interim data collection procedure if ecology determines that the offset project operator or authorized project designee has satisfactorily demonstrated that:

(i) The unforeseen breakdown may result in a loss of more than 20 percent of the source's data for the year covered by an offset project data report;

(ii) The data monitoring equipment cannot be promptly repaired or replaced without shutting down a process unit significantly affecting the offset project operations, or that the monitoring equipment must be replaced and replacement equipment is not immediately available;

(iii) The interim procedure will not remain in effect longer than is reasonably necessary for repair or replacement of the malfunctioning data monitoring equipment; and

(iv) The request was submitted within 30 calendar days of the unforeseen breakdown of the data monitoring equipment.

(b) An offset project operator or authorized project designee seeking approval of an interim data collection procedure must, within 30 calendar days of the unforeseen monitoring equipment breakdown, submit a written request to ecology that includes all of the following:

(i) The proposed start date and end date of the interim procedure;

(ii) A detailed description of what data are affected by the breakdown;

(iii) A discussion of the accuracy of data collected during the interim procedure compared with the data collected under the offset project;

(iv) The offset project operator's or authorized project designee's usual equipment-based method; and

(v) A demonstration that no feasible alternative procedure exists that would provide more accurate emissions data.

(c) When approving an interim data collection procedure, ecology shall determine whether the accuracy of data collected under the procedure is reasonably equivalent to data collected from properly functioning monitoring equipment, and if it is not, the relative accuracy to assign for purposes of assessing possible offset material misstatement. Ecology may limit the duration of the interim data collection procedure or include other conditions it deems necessary for approval.

(d) Data collected pursuant to an approved interim data collection procedure shall be considered captured data for purposes of compliance with the applicable compliance offset protocol.

(10) General procedure for approving alternate monitoring and measurement methods pursuant to compliance offset protocols. This subsection applies only to alternate methods for monitoring and measurement that were not in common usage at the time when ecology adopted the applicable compliance offset protocol under which an offset project data report is being submitted. Alternate methods may include remote sensing methods for forestry or other alternate methods that meet the requirements of this subsection.

(a) An offset project operator or authorized project designee seeking approval of an alternate monitoring and measurement method must, at least 30 calendar days prior to the beginning of the reporting period in which the alternate method will be used, submit a written request to ecology that includes all of the following:

(i) The name and identification numbers of the offset project for which the alternate method is proposed;

(ii) The beginning and end dates for the reporting period for which the alternate method is proposed;

(iii) A detailed description of the alternate method. This description must include:

(A) The purpose for which the alternate method is proposed;

(B) A discussion of the accuracy of the alternate method, including any peer-reviewed literature or other information that the offset project operator or authorized project designee believes may aid ecology in making a determination of the accuracy of the method; and

(C) A detailed analysis identifying how the alternate method is consistent with the relevant requirements, and not explicitly prohibited by the applicable compliance offset protocol.

(b) A request for approval of an alternate method may only be submitted for a reporting period for which a project is receiving a full offset verification.

(c) Ecology shall provide written notification to the offset project operator or the authorized project designee of approval or disapproval of the interim alternate method within 30 calendar days of receipt of the request, or within 30 calendar days of receipt of any additional information requested by ecology, whichever is later.

(i) Ecology may approve an alternate method on an interim basis for one reporting period to review the accuracy of the method before approving it for subsequent reporting periods. Approval of an alter-



nate method on an interim basis in and of itself does not provide any presumption of approval on a longer term basis. Ecology may also include other conditions it deems necessary as part of its interim approval.

(ii) Before approving an alternate method, ecology shall determine that the accuracy of the alternate method is at least reasonably equivalent to the accuracy of the method(s) commonly employed when the applicable compliance offset protocol was adopted and that the alternate method is capable of being verified to a reasonable level of assurance.

(iii) Prior to approving any request for approval of an alternate method, ecology may request additional information from the offset project operator or authorized project designee seeking approval.

(d) Data collected pursuant to an approved alternate method shall be considered in compliance with the requirements of the applicable compliance offset protocol.

(e) If information comes to ecology's attention subsequent to approving an alternate method indicating that the alternate method is not at least reasonably equivalent to the accuracy of the method(s) commonly employed when the applicable compliance offset protocol was adopted, or is not capable of being verified to a reasonable level of assurance, ecology may rescind approval of the alternate method at any time.

(f) If after using the alternate method for one reporting period ecology has determined that the alternate method is at least reasonably equivalent to the accuracy of the method(s) commonly employed when the applicable compliance offset protocol was adopted, or is not capable of being verified to a reasonable level of assurance, ecology may approve the alternate method, including any conditions, on a permanent basis.

(g) For the purposes of this section, "common usage" means a method that is demonstrated to be in use by an offset project using the same protocol type (e.g., U.S. forests, livestock, etc.) on the compliance or voluntary market in the U.S. at the time of adoption of the applicable compliance offset protocol.

(11) Modifications to the reporting period. Modifications to the reporting period are only allowed by notifying ecology in writing or by providing updated listing information with the submittal of the offset project data report, and only if ecology is notified in writing prior to any deadlines being missed.

(a) The first reporting period for an offset project in an initial crediting period may consist of six to 24 consecutive months.

(b) All subsequent reporting periods in an initial crediting period and all reporting periods in any renewed crediting period must consist of 12 consecutive months, except that offset projects that submitted a first reporting period in the initial crediting period that was less than 24 consecutive months may include any months not included in the first reporting period in the final reporting period of the initial crediting period, such that the combined duration of the initial and final reporting periods in the initial crediting period do not exceed 36 months total.

(c) The reporting period may not be longer than 12 months and there is no minimum time frame imposed for the reporting period.

[ ]

NEW SECTION

**WAC 173-446-530 Verification of GHG emission reductions and GHG removal enhancements from offset projects.** (1) General requirements. An offset project operator or authorized project designee must obtain the services of an ecology-accredited verification body for the purposes of verifying its offset project data reports.

(2) Schedule for verification of nonsequestration offset projects.

(a) The verification of GHG emission reductions for nonsequestration offset projects that achieve greater than or equal to 25,000 metric tons of GHG emission reductions must be performed on a reporting period basis and cover the reporting period for which the most recent offset project data report was submitted unless otherwise specified in the applicable compliance offset protocol.

(b) For reporting periods in which an offset project data report for a nonsequestration offset project shows that the offset project achieved fewer than 25,000 metric tons of GHG emission reductions in a reporting period, the offset project operator or authorized project designee may choose to perform verification that covers two consecutive reporting periods, even if the offset project produced greater than or equal to 25,000 metric tons of GHG emission reductions for the subsequent reporting period.

(c) If an offset project data report shows the offset project achieved zero GHG emission reductions, the offset project operator or authorized project designee may defer verification until the offset project produces an offset project data report that no longer shows the offset project achieved zero GHG emission reductions.

(3) Schedule for verification of sequestration offset projects.

(a) An initial verification of GHG emission reductions and GHG removal enhancements for all sequestration offset projects must be performed following the first reporting period and cover one reporting period.

(b) After the first reporting period, verification must be conducted at least once every six years and may cover up to six reporting periods for which offset project data reports were submitted.

(c) After an initial verification with a positive offset verification statement, reforestation offset projects and urban forest offset projects that meet the requirements of the applicable compliance offset protocol may defer the second verification for 12 years, but verification of offset project data reports must be performed at least once every six years thereafter.

(d) For offset projects that do not renew their crediting period, verification must still be conducted at least once every six years for the remainder of the project life. However, after a successful full offset verification of an offset project data report indicating that actual on-site carbon stocks (in MT CO<sub>2</sub>e) are at least 10 percent greater than the actual on-site carbon stocks reported in the final offset project data report of the final crediting period that received a positive offset verification statement, the next full offset verification service may be deferred for 12 years.

(e) An offset project that has deferred verification for 12 years must resume conducting a full verification at least once every six years if it receives an adverse offset verification statement.

(4) Timing for submittal of offset verification statements to ecology or an offset project registry.

(a) The verification body must issue one offset verification statement for each offset project data report that it verifies for the offset project operator or authorized project designee.

(b) Any offset verification statement must be received by ecology or an offset project registry, as applicable, within 11 months after the conclusion of the reporting period for which offset verification services were performed, except for reporting periods for which verification is deferred in accordance with subsection (3) of this section. If the offset verification statement is not submitted to ecology or an offset project registry by this verification deadline, the GHG emission reductions and GHG removal enhancements quantified and reported in the offset project data report are not eligible to be issued ecology offset credits or registry offset credits.

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#### NEW SECTION

##### **WAC 173-446-535 Requirements for offset verification services.**

(1) Rotation of verification bodies. An offset project shall have no more than any six out of nine consecutive reporting periods verified by the same verification body or offset verification team member(s), unless otherwise specified. The rotation requirements in this section are applied between the offset project operator, the authorized project designee, if applicable, any technical consultant(s) used by the offset project operator or authorized project designee, if applicable, and the verification body and offset verification team member(s) on an offset project basis.

(2) Ozone depleting substances offset projects.

(a) Neither a verification body nor an offset verification team member may conduct offset verification services for more than any six out of nine consecutive offset projects developed by the following:

(i) Any given offset project operator;

(ii) Any authorized project designee on behalf of such an offset project operator; or

(iii) Any technical consultant(s) used by the offset project operator or its authorized project designee(s).

(b) For ozone depleting substances offset projects, the order of consecutive projects is determined by the project commencement dates. For purposes of this provision, an offset project is defined by any activities reported in an offset project data report, and is applied to offset projects listed by the offset project operator and authorized project designee, if applicable.

(3) Reforestation offset projects and urban forest offset projects.

(a) An offset project operator or authorized project designee that has deferred the second verification for six to 12 years pursuant to WAC 173-446-530(3) may have up to 13 offset project data reports verified by the same verification body and offset verification team member(s).

(b) If an offset project operator or authorized project designee has not deferred the second verification for six or more years, the following requirements for rotation of verification bodies and offset verification team member(s) shall apply.

(i) An offset project operator or authorized project designee may contract with a previously contracted verification body or offset verification team member(s) only if at least three consecutive offset project data reports for the offset project have been verified by a different verification body(ies) and offset verification team member(s) before the previously contracted verification body and offset verification team member(s) can be selected again.

(ii) When rotating verification bodies and offset verification team members under this subsection, the rotation requirements must also apply to any technical consultant(s) used by the offset project operator or authorized project designee, if applicable.

(4) Offset verification services. Offset verification services shall be subject to the following requirements.

(a) Notice of offset verification services for offset projects. Before offset verification services may begin, the offset project operator or authorized project designee must submit the offset project data report to ecology or an offset project registry, as applicable, and the verification body must submit a notice of offset verification services to ecology and an offset project registry, if applicable.

(i) The verification body may begin offset verification services for the offset project operator or authorized project designee 10 calendar days after the notice for offset verification services is received by ecology and the offset project registry, if applicable.

(ii) The verification body may not conduct the site visit until at least 15 calendar days after the notice for offset verification services is received by ecology and the offset project registry, if applicable. If a verification is being audited by ecology or by an offset project registry and if ecology or the offset project registry notify the verification body of the audit in writing within five business days of receiving the notice for offset verification services, the verification body may not conduct the site visit until at least 40 calendar days after the notice for offset verification services is received by ecology and the offset project registry, if applicable, unless each auditing party approves in writing an earlier site visit date.

(b) The notice of offset verification services must include the following information:

(i) The offset project name and its identification numbers, the version of the applicable compliance offset protocol under which the offset project is reporting, indication of whether a single or multiple reporting periods will receive offset verification services, the reporting period start and end dates, and the crediting period start date;

(ii) A list of staff who will be designated to provide offset verification services as part of an offset verification team, including the names of each designated staff member, the lead verifier, independent reviewer, all subcontractors, and a description of the roles and responsibilities each team member will have during the offset verification process;

(iii) Documentation that the designated members of the offset verification team have the skills required to provide offset verification services for the offset project operator or authorized project designee, including documentation showing that at least one offset verification team member is accredited by ecology as an offset project specific verifier for an offset project of that type; and

(iv) General information about the offset project operator or authorized project designee, including:

(A) The name of the offset project operator or authorized project designee, and contact information, including mailing address, telephone number, and email address;

(B) The offset project boundary or the portion(s) thereof that will be subject to offset verification services;

(C) The date(s) of on-site visits, with contact information; and

(D) A brief description of expected offset verification services to be performed, including the expected date for submitting the offset verification statement to ecology or the offset project registry.

(c) If any information submitted pursuant to this subsection changes after the notice for offset verification services is submitted to ecology and the offset project registry, if applicable, the verification body must notify ecology and the offset project registry, as applicable, by submitting an updated notice of offset verification services within 10 business days.

(i) If the verification body has been notified by ecology or the offset project registry of an audit for the relevant verification, then the verification body must notify the auditing party at least two business days prior to a revised start date for offset verification services and at least 15 business days prior to a revised site visit date(s), unless each auditing party approves in writing an earlier date.

(ii) If ecology and the offset project registry, if applicable, request revisions to the notice of offset verification services, the verification body must resubmit the revised notice of offset verification services within 10 business days of such request, or if there is a reason the verification body cannot submit the revisions within 10 business days, the verification body must communicate in writing to ecology and the offset project registry, if applicable, as to the reasons why and get approval from the offset project registry or ecology for an extension.

(d) Offset verification services must include the following:

(i) Offset verification plan. The offset project operator or authorized project designee must submit the following information, which is necessary to develop an offset verification plan, to the offset verification team:

(A) Information to allow the offset verification team to develop a general understanding of offset project boundaries, operations, project baseline emissions, and reporting period GHG emission reductions and GHG removal enhancements;

(B) Information regarding the training or qualifications of personnel involved in developing the offset project data report;

(C) The name and date of the applicable compliance offset protocol used to quantify and report project baselines, GHG emission reductions, GHG removal enhancements, and other data as required in the applicable compliance offset protocol; and

(D) Information about any data management system, offset project monitoring system, and models used to track project baselines, GHG emission reductions, GHG removal enhancements, and other data required in the applicable compliance offset protocol.

(ii) Timing of offset verification services. The offset verification plan shall also include the following information:

(A) Dates of proposed meetings and interviews with personnel related to the offset project;

(B) Dates of proposed site visits;

(C) Types of proposed document and data reviews; and

(D) Expected date for completing offset verification services.

(iii) Planning meetings with the offset project operator or authorized project designee. The offset verification team must discuss with the offset project operator or authorized project designee the scope of the offset verification services and request any information and documents needed for initiating offset verification services.

(A) The offset verification team must review the documents submitted and plan and conduct a review of original documents and supporting data for the offset project data report. Information regarding planning meetings may be included in the offset verification plan, but is not required.

(B) Any discussions or meetings to secure an offset verification services contract or to collect preliminary project documents to bid the offset verification services may occur prior to submitting the notice of offset verification services.

(iv) Site visits for offset projects.

(A) For a nonsequestration offset project, at least one accredited offset verifier in the offset verification team, including the offset project specific verifier, must make at least one site visit for each reporting period that an offset project data report is submitted, except for those nonsequestration offset projects for which the offset project data reports qualify for a two-year offset verification period. In this case, at least one offset verifier in the offset verification team, including the offset project specific verifier, must make a site visit each time offset verification services are performed; offset verification services for nonsequestration offset projects would include one or two reporting periods, depending on whether verification is eligible to be deferred.

(B) For ozone depleting substances and livestock offset projects, if the project is no longer in operation and all destruction devices, metering and monitoring equipment has been removed, the site visit can occur at the offices of the offset project operator, or authorized project designee. Such a site visit cannot be used for reducing the invalidation time frame.

(C) For a forest or urban forest offset project, at least one accredited offset verifier in the offset verification team, including the offset project specific verifier, must make a site visit every year that offset verification services are provided, except for those offset projects approved for less intensive verification, for which a site visit must be performed at least once every six years.

(D) A site visit is also required after the first reporting period of an offset project under a compliance offset protocol and after the first reporting period for each renewed crediting period under a compliance offset protocol. Any site visit performed under this subsection must be conducted after the offset project operator or authorized project designee submits its offset project data report to ecology or an offset project registry, as applicable.

(v) Scope of review. During the required verification, the offset verification team member(s) must conduct the following reviews, and document or explain how each requirement was fulfilled in the detailed verification report:

(A) During the initial verification conducted following the first reporting period of the crediting period, the offset verification team must complete all of the following requirements, either during the required site visit or as part of a desk review:

(I) Review the information submitted for listing and determine if it is complete and accurate;

(II) Assess offset project eligibility, including whether the offset project meets the requirements for additionality set forth in WAC 173-446-510 (1)(c) and the applicable compliance offset protocol;

(III) Assess whether the offset project boundary is appropriately defined;

(IV) Review project baseline calculations and modeling;

(V) Assess the operations, functionality, data control systems, and GHG measurement and monitoring techniques; and

(VI) Assess whether all applicable eligibility criteria to design, measure, establish the chain of custody, and monitor the offset project conforms to the requirements of the applicable compliance offset protocol.

(VII) All criteria pertaining to the eligibility of the offset project must be assessed during the first site visit in the first reporting period of each crediting period. All eligibility criteria must be met and are not subject to sampling. If any of the eligibility criteria are not met, the project would be ineligible for crediting and receive an adverse offset verification statement.

(B) During the initial verification conducted following the first reporting period of the crediting period and each subsequent verification, the offset verification team must complete all of the following requirements, either during the required site visit or as part of a desk review:

(I) Check that all offset project boundaries, GHG emissions sources, GHG sinks, and GHG reservoirs in the applicable compliance offset protocol are identified appropriately;

(II) Review and understand the data management systems used by the offset project operator or authorized project designee to track, quantify, and report GHG emission reductions, GHG removal enhancements, or other data required in the applicable compliance offset protocol. This includes reviewing data collection processes and procedures, sampling techniques and metering accuracy, quality assurance/quality control processes and procedures, and missing data procedures. The offset verification team member(s) must evaluate the uncertainty and effectiveness of these systems;

(III) Interview key personnel involved in collecting offset project data and preparing the offset project data report;

(IV) Make direct observations of equipment for data sources and equipment supplying data for GHG emission sources in the sampling plan determined to be high risk;

(V) Review all chain of custody documents as required in the applicable compliance offset protocol, if any;

(VI) Review offset project operations to identify applicable GHG emissions sources, project emissions, GHG sinks, and GHG reservoirs required to be included and quantified in the offset project data report as required by the applicable compliance offset protocol. This must include a review of each type of GHG emissions source, GHG sink, and GHG reservoir to ensure that all GHG emissions sources, GHG sinks, and GHG reservoirs required to be reported for the offset project are properly included in the offset project data report;

(VII) Confirm the offset project conforms with all local, regional, state, or national environmental regulatory requirements, including health and safety regulations; and

(VIII) Collect and review any other information that, in the professional judgment of the team, is needed in the offset verification process;

(C) If the offset project is found by the offset verification team to not meet the requirements of this chapter, the offset project is ineligible to receive ecology offset credits or registry offset credits for some or all GHG reductions and GHG removal enhancements quantified and reported in the offset project data report.

(vi) An offset project operator or authorized project designee must make available to the offset verification team all information and documentation used to calculate and report project baseline and project GHG emissions, GHG emission reductions, and GHG removal enhancements and other information required by the applicable compliance offset protocol.

(vii) Sampling plan for offset project data reports. As part of confirming the offset project data report, the offset verification team must develop a sampling plan that meets the following requirements:

(A) The sampling plan must be based on a strategic analysis developed from document reviews and interviews to assess the likely nature, scale, and complexity of the offset verification services for an offset project operator or authorized project designee. The analysis must review the inputs for the development of the submitted offset project data report, the rigor and appropriateness of the GHG data management systems, and the coordination within an offset project operator's or authorized project designee's organization to manage the operation and maintenance of equipment and systems used to develop the offset project data reports;

(B) The sampling plan must include a ranking of GHG emissions sources, GHG sinks, and GHG reservoirs within the offset project boundary by the amount of contribution to total project GHG emissions, GHG emission reductions, and GHG removal enhancements, and a ranking of GHG emissions sources, GHG sinks, or GHG reservoirs with the largest calculation uncertainty; and

(C) The sampling plan must include a qualitative narrative of uncertainty risk assessment in the following areas, as required in the applicable compliance offset protocol:

(I) Data acquisition equipment;

(II) Data sampling and frequency;

(III) Data processing and tracking;

(IV) Calculations of project baseline, project GHG emissions, GHG emission reductions, and GHG removal enhancements;

(V) Data reporting; and

(VI) Management policies or practices in developing offset project data reports.

(viii) After completing the analysis described in (d)(v) of this subsection, the offset verification team must include in the sampling plan a list that includes the following:

(A) GHG emissions sources, GHG sinks, and GHG reservoirs that will be targeted for document reviews to ensure conformance with the applicable compliance offset protocol and data checks as specified, and an explanation of why they were chosen;

(B) Methods used to conduct data checks for each GHG emissions source, GHG sink, and GHG reservoir; and

(C) A summary of the information analyzed in the data checks and document reviews conducted for each GHG emissions source, GHG sink, and GHG reservoir.

(ix) The sampling plan list must be updated and finalized prior to the completion of offset verification services. The final sampling plan must describe in detail how the GHG emissions sources, GHG sinks,



and GHG reservoirs with identified risk, subject to data checks, were reviewed for accuracy.

The offset verification team must revise the sampling plan to describe tasks completed or needed to be completed by the offset verification team as relevant information becomes available and potential issues emerge of offset material misstatement or nonconformance with the requirements of the applicable compliance offset protocol and this chapter.

(x) Records retention.

(A) The verification body must retain the final sampling plan in paper, electronic, or other useable format for a period of not less than 15 years following the submission of each offset verification statement. The sampling plan must be made available at any time during offset verification services to ecology or the offset project registry, as applicable, within 10 calendar days of a request.

(B) The verification body must retain all materials received, reviewed, or generated to render an offset verification statement for an offset project operator or authorized project designee for 15 years following the submittal of each offset verification statement. The documentation must allow for a transparent review of how a verification body reached its conclusion in the detailed verification report and offset verification statement.

(xi) Data checks for offset project data reports. To determine the reliability of the submitted offset project data report, the offset verification team must use data checks. Such data checks must focus first on the largest and most uncertain estimates of project baseline GHG emissions, project emissions, GHG emission reductions, and GHG removal enhancements. Specifically, the offset verification team must:

(A) Use data checks to ensure that the appropriate methodologies and GHG emission factors have been applied in calculating the project baseline and reporting period GHG emissions, project emissions, GHG emission reductions, and GHG removal enhancements as required by the applicable compliance offset protocol.

(B) Select GHG emissions sources, project emissions, GHG sinks, and GHG reservoirs for data checks based on their relative sizes and risks of offset material misstatement or nonconformance as indicated in the sampling plan;

(C) Use professional judgment in the number of data checks required for the offset verification team to conclude with reasonable assurance whether the offset project operator's or authorized project designee's total reported GHG emission reductions and GHG removal enhancements are free of offset material misstatement and the offset project data report otherwise conforms to the requirements of the applicable compliance offset protocol and this chapter. At a minimum, a data check must include the following:

(I) Tracing data in the offset project data report to its origin;

(II) Looking at the process for data compilation and collection;

(III) Reviewing all GHG inventory designs for GHG sources, GHG sinks, and GHG reservoirs, and sampling procedures, if applicable;

(IV) Recalculating baseline GHG emissions, project emissions, GHG emission reductions, and GHG removal enhancements estimates to check original calculations;

(V) Reviewing calculation methodologies used by the offset project operator or authorized project designee for conformance with the applicable compliance offset protocol and this chapter;

(VI) Reviewing meter and fuel analytical instrumentation calibration, if applicable; and

(VII) Reviewing the quantification from models approved for use in the applicable compliance offset protocol, if any; and

(D) Compare its own calculated results for the data checks conducted with the reported offset project data in order to confirm the extent and impact of any omissions and errors.

(I) Any discrepancies must be identified in the issues log.

(II) The comparison of data checks must also include a narrative to indicate which GHG emissions sources, GHG sinks, and GHG reservoirs were checked, the types and quantity of data that were evaluated for each GHG emissions source, GHG sink, and GHG reservoir, how the data checks were conducted including calculations, and any discrepancies that were identified.

(xii) Offset project data report modifications. Following the review by the offset verification team and prior to completion of an offset verification statement, the offset project operator or authorized project designee must make any possible improvements and fix correctable errors that affect GHG emissions reductions or GHG removal enhancements in the submitted offset project data report, and a revised offset project data report must be submitted to ecology or the offset project registry, as applicable.

(A) The offset verification team shall use professional judgment in the identification of correctable errors, including whether differences are not errors but result from truncation or rounding. The offset verification team must document in the issues log the source of any difference identified, including whether the difference results in a correctable error.

(B) Correctable errors that, when summed, result in less than a three percent overstatement of the GHG emissions reductions or GHG removal enhancements do not need to be fixed. However, correctable errors subject to the three percent exception that are attributable to the offset project operator or authorized designee providing false or misleading facts, or withholding material information that could influence a decision by ecology still constitute violations for which the offset project operator and authorized project designee, if applicable, are subject to enforcement under WAC 173-446-610(4).

(C) The revised offset project data report must include all components required in WAC 173-446-525.

(D) The verification body must issue an adverse offset verification statement if the offset project operator or authorized project designee does not make all possible improvements and fix any correctable errors to the offset project data report, except as provided by (d)(xii)(B) of this subsection the verification body must issue an adverse offset verification statement.

(E) Documentation for all revised offset project data report submittals must be retained by the offset project operator or authorized project designee for 15 years following the submittal.

(xiii) To verify that the offset project data report is free of offset material misstatement, the offset verification team must make its own determination of GHG emission reductions or GHG removal enhancements relative to the project baseline using the data check(s) conducted pursuant to (d)(xi) of this subsection, and must determine whether there is reasonable assurance that the offset project data report does not contain an offset material misstatement, on a CO<sub>2</sub>e basis. To assess conformance with this chapter and the applicable com-

pliance offset protocol, the offset verification team must review the methods and factors used to develop the offset project data report for adherence to the requirements of this chapter and the applicable compliance offset protocol and ensure that all other requirements of this chapter are met.

(xiv) Issues log. The offset verification team must keep a log of any issues identified in the course of offset verification services that may affect determinations of offset material misstatement and nonconformance.

(A) The issues log must identify the section(s) of this chapter or the applicable compliance offset protocol related to the nonconformance, if applicable, and indicate whether the identified issues were corrected by the offset project operator or authorized project designee prior to completing the offset verification services.

(B) Any other concerns that the offset verification team has with the preparation of the offset project data report must be documented in the issues log. The issues log must indicate whether the identified issues could have any bearing on offset material misstatement or conformance.

(xv) Offset material misstatements.

(A) The offset verification team must conduct an assessment of offset material misstatement(s) related to net GHG emission reductions and GHG removal enhancements achieved in a given reporting period relative to the project baseline in that reporting period in metric tons of CO<sub>2</sub>e.

(B) The offset verification team must determine whether the GHG emission reductions and GHG removal enhancements quantified and reported in the offset project data report contain an offset material misstatement using the following equation:

$$\text{Percent error} = \frac{[\sum \text{Discrepancies} + \sum \text{Omissions} + \sum \text{Misreporting}] \times 100\%}{\text{Total Reported GHG Emission Reductions and GHG Removal Enhancements}}$$

Where:

"Discrepancies" means any differences between the reported value(s) for GHG sources, GHG sinks, and GHG reservoirs for the project baseline or project GHG emissions, and the verifier-calculated value(s) for a data source subject to data checks conducted by the offset verification team pursuant to subsection (4)(d)(xi) of this section. Any discrepancies so identified by the offset verification team must include a description of the positive or negative impact of the GHG source, GHG sink, or GHG reservoir on the total reported GHG emission reductions and GHG removal enhancements when input into the offset material misstatement equation.

"Omissions" means any GHG emission reductions or GHG removal enhancements associated with required GHG sources, GHG sinks, and GHG reservoirs for the project baseline or project GHG emissions, that the offset verification team concludes are required to be part of the offset project data report, but were not included by the offset project operator or authorized project designee in the offset project data report. Any omissions so identified by the offset verification team must include a description of the positive or negative impact of the omission on the total reported GHG emission reductions and GHG removal enhancements when input into the offset material misstatement equation.

"Misreporting" means any duplicative, incomplete, or otherwise inappropriate GHG emission reductions or GHG removal enhancements for required GHG sources, GHG sinks, and GHG reservoirs in the project baseline or project GHG emissions, that the offset verification team concludes should, or should not, be part of the offset project data report. Any misreporting so identified by the offset verification team must include a description of the positive or negative impact of the misreporting on the total reported GHG emission reductions and GHG removal enhancements when input into the offset material misstatement equation.

"Total reported GHG emission reductions and GHG removal enhancements" means the total net GHG emission reductions and GHG removal enhancements reported by the offset project operator or authorized project designee for an offset project data report relative to the project baseline for that offset project data report, in metric tons CO<sub>2</sub>e.

(e) Offset verification services are not complete until ecology offset credits are issued for the GHG emission reductions and GHG removal enhancements reported in the offset project data report for which such verification services were provided. Offset verification services must include:

(i) Offset verification statement. Prior to completion of the offset verification services, the verification body must complete an offset verification statement for each offset project data report for which offset verification services were provided and submit the offset verification statement to the offset project operator or authorized project designee as well as ecology or the offset project registry, as applicable, by the verification deadline.

(ii) Independent review. Before the offset verification statement is submitted pursuant to (e)(i) of this subsection, the verification body must ensure its offset verification services and the findings of the offset verification team are independently reviewed within the verification body by an independent reviewer who was not involved in providing offset verification services for that offset project data report.

(A) The independent reviewer must concur with the findings of the offset verification team before the offset verification statement can be issued.

(B) The independent reviewer may not be the offset project specific verifier, and may not accompany the offset verification team on any of their site visits. The independent reviewer may conduct a separate site visit, if necessary.

(C) The independent reviewer shall serve as the final check of the offset verification team's work to identify any significant concerns, including:

(I) Errors in planning;

(II) Errors in data sampling; and

(III) Errors in judgment by the offset verification team that are related to the draft offset verification statement.

(D) The independent reviewer must maintain independence from the offset verification services and may not make specific recommendations about how the offset verification services should be conducted, except as necessary to identify significant concerns pursuant to (e)(ii)(B) of this subsection.

(E) The independent reviewer will review documents applicable to the offset verification services provided by the verification team and identify any failure(s) to comply with the requirements of this chapter, the applicable compliance offset protocol, or the verification body's internal policies and procedures for providing offset verification services.

(iii) Document submissions. After the offset verification team completes its findings and the independent reviewer concurs with those findings, the verification body must submit final documentation as follows:

(A) Detailed verification report. The verification body must provide to the offset project operator or authorized project designee a detailed verification report for each offset project data report for which offset verification services were conducted. The verification

body must make the detailed verification report available to ecology within 10 calendar days upon request. The detailed verification report must at a minimum include the following:

(I) The offset verification plan required by (d)(i) of this subsection;

(II) The detailed comparison of the data checks conducted during offset verification services, including the required narrative, as required by (d)(xi) of this subsection;

(III) The issues log documenting all issues identified in the course of offset verification activities and the issue resolutions, as required by (d)(xiv) of this subsection;

(IV) The calculations performed pursuant to (d)(xv) of this subsection, with enough detail to enable a third-party reviewer to understand the relationship(s) between the data checks and the offset material misstatement evaluation; and

(V) Any qualifying comments made regarding the findings of the offset verification team during the independent review of offset verification services required by (e)(ii) of this subsection.

(B) Offset verification statement. If the offset verification statement is being submitted to an offset project registry, then the verification body must submit the detailed verification report required by (e)(iii)(A) of this subsection to the offset project registry together with the offset verification statement. The detailed verification report must be submitted to the offset project operator or authorized project designee at the same time or before the offset verification statement is submitted to ecology or the offset project registry.

(I) The verification body must provide the offset verification statement to the offset project operator or authorized project designee as well as ecology or the offset project registry, as applicable, attesting whether the verification body has found the submitted offset project data report to be free of offset material misstatement, and whether the offset project data report is in conformance with the requirements of this chapter and the applicable compliance offset protocol.

(II) A compliance offset protocol may restrict the use of a qualified positive offset verification statement for certain project types, in which case the verification body must submit either a positive offset verification statement or an adverse offset verification statement. In the case of a qualified positive offset verification statement, when not restricted by the applicable compliance offset protocol, the verification body will qualify the offset verification statement to indicate any nonconformances allowed for a qualified positive offset verification statement contained within the offset project data report and attest that these nonconformances do not result in an offset material misstatement.

(III) The offset verification team must have a final discussion with the offset project operator or authorized project designee explaining the offset verification team's findings and notifying the offset project operator or authorized project designee of any unresolved issues noted in the issues log before the offset verification statement is finalized and submitted to ecology or the offset project registry, as applicable.

(IV) The lead verifier in the offset verification team must attest to ecology or the offset project registry, as applicable, in the offset verification statement that the offset verification team has

carried out all offset verification services as required by this section.

(V) The independent reviewer who conducted the review of offset verification services and findings pursuant to (e)(ii) of this subsection must attest to his or her independent review on behalf of the verification body and his or her concurrence with the offset verification team's findings. In particular, the independent reviewer must attest in writing to ecology or the offset project registry, as applicable, in the offset verification statement, as follows: "I certify under penalty of perjury under the laws of the state of Washington that the offset verification team has carried out all offset verification services as required by the applicable Compliance Offset Protocol and this chapter, and the findings are true, accurate, and complete and have been independently reviewed by an independent reviewer."

(C) Prior to the verification body providing an adverse offset verification statement to ecology or the offset project registry, as applicable, the offset project operator or authorized project designee must be provided at least 10 business days to modify the offset project data report to correct any offset material misstatement(s) or nonconformance(s) identified by the offset verification team. The modified offset project data report and offset verification statement must be submitted to ecology or the offset project registry, as applicable, by the verification deadline, unless the offset project operator or authorized project designee obtains an extension of the deadline from ecology.

(D) If the offset project operator or authorized project designee and the verification body cannot reach agreement on modifications to the offset project data report that result in a positive offset or qualified positive offset verification statement due to a disagreement about the requirements of this chapter or the applicable compliance offset protocol, the offset project operator or authorized project designee may petition ecology to make a decision as to the verifiability of the submitted offset project data report.

(E) If ecology determines that the offset project data report does not meet the standards and requirements specified in this chapter or in the applicable compliance offset protocol, the offset project operator or authorized project designee must provide all necessary additional information within 30 calendar days of ecology's determination. Ecology will review the additional information and notify the offset project operator or authorized project designee and verification body of its final determination. In reverifying a revised offset project data report, the verification body and offset verification team shall be subject to the requirements of subsection

(2)(c)(xviii)(A) through (D) of this section and must submit the revised offset verification statement to ecology or the offset project registry, as applicable, within 15 calendar days.

(iv) If ecology or the offset project registry, as applicable, determines that the detailed verification report submitted pursuant to (e)(iii)(A) of this subsection does not contain sufficient information to substantiate the attestations in the offset verification statement, then the verification body must submit a revised detailed verification report and a revised offset verification statement to ecology or the offset project registry, as applicable, within 15 calendar days of such a determination.

(v) Upon submission of the offset verification statement to ecology or the offset project registry, as applicable, the offset project data report must be considered final and no further changes may be

made by the offset project operator or authorized project designee unless the offset project registry or ecology requests any changes as part of their review. Once ecology offset credits are issued for the offset project data report, all offset verification requirements of this chapter shall be considered complete for the applicable offset project data report.

(vi) If ecology finds that a conflict of interest existed between a verification body and an offset project operator or authorized project designee to which the verification body provided its services, or if an offset project data report that received a positive offset or qualified positive offset verification statement subsequently fails an ecology audit, ecology may set aside the positive offset or qualified positive offset verification statement submitted by the verification body and require the offset project operator or authorized project designee to have the offset project data report reverified by a different verification body within 90 calendar days of such a finding. Upon request by ecology or the offset project registry, as applicable, the offset project operator or authorized project designee must provide the data used to generate an offset project data report, including all data available to the offset verification team in the conduct of offset verification services, within 10 business days of the request.

(vii) Upon request by ecology or the offset project registry, as applicable, the verification body must provide the detailed verification report given to the offset project operator or authorized project designee, as well as the sampling plan, contracts for offset verification services, and any other supporting documentation. All documentation must be provided by the verification body to ecology or the offset project registry, as applicable, within 10 business days of the request.

(viii) Upon written notification by ecology the verification body and its staff must be available for an offset verification services audit regarding the offset verification services it provided for an offset project listed with ecology or an offset project registry using a compliance offset protocol.

(5) In addition to meeting the offset verification requirements described in this section, offset project operators or authorized project designees must ensure the GHG emission reductions and GHG removal enhancements resulting from an offset project meet any additional verification requirements set forth in the applicable compliance offset protocol, if any, for an offset project of that type.

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**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

## NEW SECTION

**WAC 173-446-540 Offset verifier and verification body accreditation.** Accreditation of offset verification bodies and offset verifiers for the purpose of verifying offset project data reports under WAC 173-446-535 must be achieved separately from accreditation for the purpose of verifying reports submitted under chapter 173-441 WAC.

(1) An offset verifier or verification body must meet the following accreditation requirements to provide offset verification services

to verify GHG emission reductions and GHG removal enhancements for offset projects listed pursuant to this chapter:

- (a) Registration as a third-party verifier with ecology. Registration is required for both the offset verification body and all individuals performing verification services for the verification body.
- (b) Demonstration to ecology's satisfaction that the offset verification body has sufficient knowledge of the relevant methods and protocols in this chapter. Certification may be limited to certain types or sources of emissions.
- (c) Active accreditation or recognition as a third-party verifier under California ARB's offset verification program or another offset verification standard approved by ecology.
  - (2) Ecology may modify, suspend, or revoke the accreditation of an offset verification body or a member of the offset verification team based on the accuracy of their signed verification statements, conformance with conflict of interest provisions, or compliance with other requirements of this section.
  - (3) Accreditation of offset verification bodies and offset verifiers for the purpose of verifying offset project data reports under WAC 173-446-535 must be achieved separately from accreditation for the purpose of verifying reports submitted under chapter 173-441 WAC.
  - (4) An ecology-accredited offset verification body must make itself and its personnel available for an offset verification services audit by ecology.
  - (5) An ecology-accredited offset verification body may employ or contract with technical experts who are not accredited by ecology to assist with offset verification services, subject to the following requirements:
    - (a) All technical experts must be listed on the notice of offset verification services and must be included in the evaluation for conflicts of interest required by WAC 173-446-545.
    - (b) All technical experts must be under the direct supervision of an ecology-accredited offset verifier while performing verification activities.
    - (c) Technical experts may assist in underlying offset verification tasks, but may not be responsible for completing any offset verification service(s).
  - (6) "Direct supervision," for purposes of this section, means daily, on-site, close contact with an ecology-accredited verifier acting as a supervisor to a technical expert during a site visit, who is able to respond to the needs of the technical expert in real time. During a site visit, the supervisor must be physically present, or within four hours travel time and available to respond to the needs of the technical expert.
  - (7) "Technical expert," for purposes of this section, means a natural person, who is not an ecology-accredited verifier, and who has demonstrated expertise in a particular technical area for which the natural person was hired by the verification body to assist with underlying offset verification task(s) that require a particular expertise. A technical expert may be an employee of the verification body working to get the required experience to become an ecology-accredited verifier.

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NEW SECTION

**WAC 173-446-545 Conflict of interest requirements for verification bodies and offset verifiers for verification of offset project data reports.** (1) The conflict of interest provisions of this section shall apply to verification bodies, lead verifiers, and offset verifiers accredited by ecology to perform offset verification services for offset project operators, and authorized project designees, if applicable, as well as any other member(s) of the offset verification team and any technical expert(s) used by the offset project operator or authorized project designee, if applicable.

(a) "Member," for the purposes of this section, means any officer, employee, contractor, or subcontractor of the verification body or related parties of the verification body. "Member" also includes any individual who has a majority equity share in the verification body or its related parties.

(b) "Related party," for the purposes of this section, means any direct parent company, direct subsidiary, or sister company.

(c) "Nonoffset verification services," for purposes of this section, do not include independent, third-party certification or verification services which have been provided for ecology or any other voluntary or mandatory program; such certification and verification services may be counted as offset verification services for the purposes of this section.

(2) The potential for a conflict of interest must be deemed to be high where:

(a) The verification body and the offset project operator, including its authorized project designee, if applicable, and its technical consultant(s), share any senior management staff or board of directors membership; or

(b) Any of the senior management staff of the offset project operator, including its authorized project designee, if applicable, and its technical consultant(s), have been employed by the verification body, or vice versa, within the previous three years; or

(c) Within the previous five years, any member of the verification body or any related party, including any member of the offset verification team, has provided to the offset project operator, its authorized project designee, if applicable, or its technical consultant(s) any of the following nonoffset verification services:

(i) Designing, developing, implementing, reviewing, or maintaining an inventory or offset project information or data management system for air emissions, unless such services were part of providing offset verification services; or

(ii) Developing a forest management plan or timber harvest plan, unless such development was part of providing offset verification services;

(iii) Developing GHG emission factors or other GHG-related engineering analysis, including developing or reviewing a Washington State Environmental Policy Act (SEPA) GHG analysis that includes offset project specific information;

(iv) Designing energy efficiency, renewable power, or other projects which explicitly identify GHG emission reductions and/or GHG removal enhancements as a benefit;

(v) Designing, developing, implementing, internally auditing, consulting, or maintaining an offset project resulting in GHG emission reductions and/or GHG removal enhancements;

- (vi) Owning, buying, selling, trading, or retiring shares, stocks, or ecology offset credits or registry offset credits from the offset project;
- (vii) Dealing in or being a promoter of ecology offset credits or registry offset credits on behalf of an offset project operator, its authorized project designee, if applicable, or its technical consultant(s);
- (viii) Preparing or producing GHG-related manuals, handbooks, or procedures specifically for the offset project operator, its authorized project designee, if applicable, or its technical consultant(s);
- (ix) Appraisal services of carbon or GHG liabilities or assets;
- (x) Brokering in, advising on, or assisting in any way in carbon or GHG-related markets;
- (xi) Developing any health, environment or safety policies for the offset project operator, its authorized project designee, if applicable, or its technical consultant(s);
- (xii) Bookkeeping or other services related to accounting records or financial statements;
- (xiii) Any services related to information systems, including International Organization for Standardization 14001 Certification for Environmental Management (ISO 14001 Certification), unless those systems will not be reviewed as part of the offset verification process;
- (xiv) Appraisal and valuation services, both tangible and intangible;
- (xv) Fairness opinions and contribution-in-kind reports in which the verification body has provided its opinion on the adequacy of consideration in a transaction, unless the information reviewed in formulating the offset verification statement will not be reviewed as part of the offset verification services;
- (xvi) Any actuarially oriented advisory services involving the determination of amounts recorded in financial statements and related accounts;
- (xvii) Any internal audit service that has been outsourced by the offset project operator, its authorized project designee, if applicable, or its technical consultant(s) that relates to the offset project operator's, authorized project designee's, if applicable, and their technical consultant(s)' internal accounting controls, financial systems, or financial statements, unless the systems and data reviewed during those services, as well as the result of those services will not be part of the offset verification process;
- (xviii) Any services related to internal accounting controls, financial systems, or financial statements, unless the systems and data reviewed during those services, as well as the result of those services will not be part of the offset verification process;
- (xix) Acting as a broker-dealer (registered or unregistered), promoter, or underwriter on behalf of the offset project operator, its authorized project designee, if applicable, or its technical consultant(s);
- (xx) Any legal services; and
- (xxi) Expert services provided to the offset project operator, its authorized project designee, if applicable, or its technical consultant(s) or a legal representative for the purpose of advocating for the interests of the offset project operator, its authorized project designee's, if applicable, or its technical consultant(s) in litigation or in a regulatory or administrative proceeding or investigation, unless solely providing factual testimony; and

(d) Within the previous three years, any staff member of the verification body or any related entity or any member of the offset verification team has provided to an ozone depleting substances destruction facility a third-party certification to meet the requirements set forth by the United Nations Environment Programme Ozone Secretariat's Technology and Assessment Panel (TEAP) for ozone depleting substances destruction;

(e) Any member of the verification body provides any type of incentive to an offset project operator, its authorized project designee, if applicable, or its technical consultant(s) to secure an offset verification services contract.

(f) Any member of the verification body has previously provided offset verification services for the offset project operator, its authorized project designee, if applicable, or its technical consultant(s), except within the time periods in which the offset project operator, its authorized project designee, if applicable, and its technical consultant(s) are allowed to use the same verification body pursuant to WAC 173-446-535 (1) through (3).

(3) The potential for a conflict of interest must be deemed to be low where:

(a) No potential for a conflict of interest is identified; and

(b) Any nonoffset verification services provided by any member of the verification body to the offset project operator, its authorized project designee, if applicable, or its technical consultant(s) within the last five years are valued at less than 20 percent of the fee for the proposed offset verification services, except where a medium conflict of interest based on personal, employment, or familial relationships is identified under subsection (4) (b) of this section.

(4) The potential for a conflict of interest must be deemed to be medium where:

(a) The potential for a conflict of interest is not deemed to be either high or low; or

(b) There are any instances of personal, employment, or familial relationships between a member of the verification body and a member of the offset project operator, its authorized project designee, if applicable, or its technical consultant(s). For purposes of this section only, "employment" means the condition of having been paid for work as documented in a W-2 form.

(5) Conflict of interest submittal requirements for accredited verification bodies.

(a) Mitigation plan. If a verification body identifies a medium potential for conflict of interest pursuant to subsection (4) of this section and intends to provide offset verification services for the offset project operator, its authorized project designee, if applicable, or its technical consultant(s), the verification body must submit, in addition to the self-evaluation specified in (b) of this subsection, a plan to avoid, neutralize, or mitigate the potential conflict of interest. At a minimum, the conflict of interest mitigation plan must include:

(i) A demonstration that any members of the verification body with potential conflicts of interest have been removed and insulated from the offset verification team that will be providing verification services for the offset project;

(ii) An explanation of any changes to the organizational structure of the verification body that were made to remove the potential conflict(s) of interest.

(iii) A demonstration that any organizational unit with potential conflicts of interest has been divested or moved into an independent party; and

(iv) Any other circumstance that specifically addresses other sources for potential conflicts of interest.

(b) Self-evaluation. Before providing any offset verification services under this chapter, a verification body must submit to the offset project operator, its authorized project designee, if applicable, ecology, and the offset project registry, a self-evaluation of the potential for any conflicts of interest that the verification body, its members, or any subcontractors performing offset verification services may have with the offset project operator, its authorized project designee, if applicable, or its technical consultant(s) for which it will perform offset verification services. Offset verification services shall not commence prior to approval of the conflict of interest self-evaluation by ecology or the offset project registry, as applicable. The self-evaluation must include the following:

(i) Identification of whether the potential for conflict of interest is high, low, or medium based on factors specified in this section;

(ii) Identification of whether any member of the offset verification team has previously provided offset verification services for the offset project operator, its authorized project designee, if applicable, or its technical consultant(s), and, if so, the years in which such offset verification services were provided;

(iii) Identification of whether any member of the offset verification team or related party has engaged in any nonoffset verification services of any nature with the offset project operator, its authorized project designee, if applicable, or its technical consultant(s), either within or outside the state of Washington during the previous five years. If such nonoffset verification services have been provided during the previous five years, the following information must also be submitted:

(A) Identification of the nature and location of the work performed for the offset project operator, its authorized project designee, if applicable, or its technical consultant(s) and whether the work is similar to the type of work to be performed during offset verification; and

(B) The nature of past, present, or future relationship(s) with the offset project operator, its authorized project designee, if applicable, or its technical consultant(s), including:

(I) Instances when any member of the offset verification team has performed or intends to perform work for the offset project operator, its authorized project designee, if applicable, or its technical consultant(s);

(II) Identification of whether work is currently being performed for the offset project operator, its authorized project designee, if applicable, or its technical consultant(s), and if so, the nature of the work;

(III) The value of the work performed for the offset project operator, its authorized project designee, if applicable, or its technical consultant(s) in the last five years, in dollars;

(IV) Whether any member of the offset verification team has any contracts or other arrangements to perform work for the offset project operator, its authorized project designee, if applicable, or its technical consultant(s) or a related party; and

(V) The value of the work related to GHG emission reductions and GHG removal enhancements the offset verification team or a member thereof has performed for the offset project operator, its authorized project designee, if applicable, or its technical consultant(s) or related parties in the last five years, in dollars;

(iv) Explanation of how the amount and nature of work previously performed is such that the credibility and lack of bias of any member of the offset verification team should not be under question;

(v) A list of names of the staff that would perform offset verification services for the offset project operator and authorized project designee, if applicable, and a description of any instances of personal, employment, or familial relationships identified under subsection (4)(b) of this section that potentially represent a conflict of interest;

(vi) Identification of any other circumstances known to the verification body, or to the offset project operator, its authorized project designee, if applicable, or its technical consultant(s) that could result in a conflict of interest; and

(vii) Attestation, in writing, to ecology as follows: "I certify under penalty of perjury of the laws of the state of Washington the information provided in the Conflict of Interest self-evaluation is true, accurate, and complete."

(6) Approval of conflict of interest submittals. Ecology or the offset project registry, as applicable, must review the self-evaluation submitted by the verification body pursuant to subsection (5)(b) of this section and determine whether the verification body is authorized to perform the offset verification services for the offset project operator and authorized project designee, if applicable.

(a) Ecology or the offset project registry, as applicable, has 30 calendar days after submission of the self-evaluation to make a determination on whether to accept or deny the conflict of interest submittal and to notify the verification body as to whether it may proceed with the offset verification services for the offset project operator and authorized project designee, if applicable.

(i) If ecology or an offset project registry requests revisions to the conflict of interest self-evaluation prior to approval, the verification body must resubmit the revised conflict of interest self-evaluation within 10 business days of such request, or if there is a reason the verification body cannot submit the revisions within 10 business days, the verification body must communicate in writing to ecology or the offset project registry, as applicable, the reasons why and get approval from ecology or the offset project registry for an extension.

(ii) If ecology or the offset project registry finds that the verification body or any member of the offset verification team meets any of the criteria set forth in subsection (2) of this section, ecology or the offset project registry, as applicable, shall determine that there is a high potential for conflict of interest, and the proposed offset verification services may not proceed.

(iii) If ecology or the offset project registry determines that there is a low potential for conflict of interest pursuant to subsection (3) of this section, the proposed offset verification services may proceed.

(iv) If ecology or the offset project registry determines that the verification body or any member of the offset verification team have a medium potential for conflict of interest pursuant to subsection (4) of this section, ecology or the offset project registry, as

applicable, shall evaluate the conflict of interest mitigation plan submitted by the verification body pursuant to subsection (5)(a) of this section, and may request additional information from the verification body to complete the determination of whether the proposed offset verification services may proceed.

(v) In determining whether the proposed offset verification services may proceed, ecology or the offset project registry, as applicable, may consider factors including, but not limited to, the nature of previous work performed, the current and past relationship(s) between the verification body, related parties, and its subcontractors with the offset project operator and authorized project designee, if applicable, and any technical consultant(s) used by the offset project operator or authorized project designee, and related parties, and the cost of the offset verification services to be performed. If ecology or the offset project registry determines that these factors when considered in combination demonstrate an acceptable level of potential for conflict of interest, ecology or the offset project registry, as applicable, will authorize the verification body to proceed with the proposed offset verification services.

(b) If the offset project was listed with an offset project registry, the conflict of interest self-evaluation acceptance or denial notification will be provided by the offset project registry. Within 15 calendar days of approving a conflict of interest self-evaluation, the offset project registry must notify ecology in writing of the date on which it approved the self-evaluation.

(c) When a conflict of interest self-evaluation is updated before or during offset verification services to add a verification team member, ecology or the offset project registry, as applicable, must approve the updated self-evaluation before any new team member may participate in offset verification services. If the offset project was listed with an offset project registry, within 15 calendar days of approving an updated self-evaluation, the offset project registry must notify ecology in writing of the date on which it approved the updated self-evaluation.

(7) Monitoring conflict of interest situations.

(a) After commencement of offset verification services, the verification body must monitor and immediately make full disclosure, in writing, to ecology or the offset project registry, as applicable, regarding any potential for a conflict of interest that arises for an offset project using a compliance offset protocol. This disclosure must include a description of the actions that the verification body has taken or proposes to take to avoid, neutralize, or mitigate the potential for a conflict of interest.

(b) The verification body must continue to monitor arrangements or relationships that may present the potential for a conflict of interest for a period of at least one year after the completion of offset verification services for an offset project using a compliance offset protocol.

(i) During that one-year period, if the verification body or any verification team member enters into any contract with the offset project operator or its authorized project designee, if applicable, related to an offset project for which the verification body has previously provided offset verification services, the verification body must notify ecology or the offset project registry, as applicable, of the contract and the nature of the work to be performed within 30 calendar days of entering into such contract.

(ii) Within 30 business days after receipt of such notification, ecology or the offset project registry, as applicable, will evaluate the level of potential for conflict of interest using the criteria set forth in subsections (2) through (4) of this section, and will determine whether the offset project operator and its authorized project designee, if applicable, must reverify their offset project data report, and whether accreditation revocation is warranted.

(c) The verification body must notify ecology or the offset project registry, as applicable, within 30 calendar days of any emerging potential for conflicts of interest during the time offset verification services are being provided for an offset project using a compliance offset protocol.

(i) If ecology or the offset project registry determines that an emerging potential for conflict of interest disclosed by the verification body is low, or that it is medium but can be adequately mitigated, then the verification body meets the conflict of interest requirements to continue to provide offset verification services for the offset project operator and its authorized project designee, if applicable, and will not be subject to suspension or revocation of accreditation on the basis of conflict of interest.

(ii) If ecology or the offset project registry determines that an emerging potential for conflict of interest disclosed by the verification body is medium or high, and that this risk cannot be adequately mitigated, then the verification body will not be able to continue to provide offset verification services for the offset project operator or its authorized project designee, if applicable, and may be subject to the suspension or revocation of accreditation by ecology on the basis of conflict of interest.

(d) The verification body must report to ecology or the offset project registry, as applicable, any changes in its organizational structure, including mergers, acquisitions, or divestitures, for one year after completion of offset verification services.

(e) Ecology may void a positive offset or qualified positive offset verification statement if it discovers a potential for conflict of interest has arisen for any member of the offset verification team. In such a case, the offset project operator and its authorized project designee, if applicable, shall be provided 90 calendar days to complete reverification.

(f) If the verification body or its subcontractor(s) are found to have violated the conflict of interest requirements of this chapter, ecology may rescind accreditation of the body, its verifier staff, or its subcontractor(s) for any appropriate period of time.

[ ]

#### NEW SECTION

**WAC 173-446-550 Issuance of registry offset credits.** (1) One registry offset credit, which represents one metric ton of CO<sub>2</sub>e for a direct GHG emission reduction or direct GHG removal enhancement, will be issued pursuant to this section only if:

(a) An offset project registry has listed the offset project;

(b) The GHG emission reductions or GHG removal enhancements were issued a positive offset or qualified positive offset verification statement; and

(c) An offset project registry has received a positive offset or qualified positive offset verification statement issued and attested to by an ecology-accredited verification body for the offset project data report for which registry offset credits would be issued.

(2) Within 45 calendar days of receiving a positive offset or qualified positive offset verification statement, the offset project registry will determine whether the information submitted is complete, whether the GHG emission reductions and GHG removal enhancements meet the requirements of this chapter and the applicable compliance offset protocol, and whether the positive offset or qualified positive offset verification statement meets the requirements WAC 173-446-535.

(3) Determination for timing and duration of initial crediting periods for offset projects submitted through an offset project registry.

(a) The initial crediting period will begin with the date that the first verified GHG emission reductions and GHG removal enhancements occur, according to the first positive offset or qualified positive offset verification statement that is received by an offset project registry, unless otherwise specified in the applicable compliance offset protocol.

(b) An early action offset project that transitioned pursuant to the program for recognition of early action offset credits is considered to have begun its initial crediting period on the date that the first verified GHG emission reductions and GHG removal enhancements under the applicable compliance offset protocol took place according to the first positive offset or qualified positive offset verification statement that was received by the offset project registry.

(4) Determination for timing and duration of renewed crediting for offset projects submitted through an offset project registry. A renewed crediting period will begin the day after the conclusion of the prior crediting period.

[]

#### NEW SECTION

**WAC 173-446-555 Issuance of ecology offset credits.** (1) One ecology offset credit, which represents one metric ton of CO<sub>2</sub>e for a direct GHG emission reduction or direct GHG removal enhancement, will be issued only for a GHG emission reduction or GHG removal enhancement that occurs during a reporting period. One ecology offset credit will be issued for each metric ton of CO<sub>2</sub>e only if:

(a) Ecology or an offset project registry has listed the offset project;

(b) The GHG emission reductions and GHG removal enhancements were issued a positive offset or qualified positive offset verification statement;

(c) Ecology or an offset project registry has received a positive offset or qualified positive offset verification statement issued and attested to by an ecology accredited verification body for the offset project data report for which registry offset credits were issued if



the offset project was submitted for listing with an offset project registry, or for which ecology offset credits would be issued; and

(d) The issued ecology offset credits would not immediately be subject to invalidation.

(2) Requirements for offset projects submitted through an offset project registry seeking issuance of ecology offset credits. The offset project operator or its authorized project designee, if applicable, must submit a request for issuance of ecology offset credits to ecology for each offset project data report for which they are seeking issuance of ecology offset credits. Such a request must identify which holding account(s) the ecology offset credits should be placed into and how many ecology offset credits will be placed into each holding account, if applicable. The offset project operator or authorized project designee may request that ecology offset credits be placed into the holding account of any party not prohibited from holding compliance instruments under this chapter.

(a) An offset project operator or authorized project designee may request that only a portion of the eligible GHG emission reductions and GHG removal enhancements for the applicable reporting period be issued ecology offset credits in the request for issuance.

(b) If the offset project was listed by an offset project registry, the request for issuance of ecology offset credits may not be provided to ecology until the offset project registry has issued registry offset credits for the applicable offset project data report(s).

(3) Within 45 calendar days of receiving a positive offset or qualified positive offset verification statement, ecology will determine whether the information submitted is complete, whether GHG emission reductions and GHG removal enhancements meet the requirements of this chapter and the applicable compliance offset protocol, and whether the positive offset or qualified positive offset verification statement meets the requirements of WAC 173-446-535.

(4) Before ecology issues an ecology offset credit for GHG emission reductions and GHG removal enhancements achieved by an offset project in a reporting period, the primary account representative or alternate account representative must attest, in writing, to ecology as follows:

(a) "I certify under penalty of perjury under the laws of the state of Washington the GHG emission reductions or GHG removal enhancements for (project) from (date) to (date) have been measured in accordance with the (applicable Compliance Offset Protocol) and all information required to be submitted to Ecology is true, accurate, and complete.";

(b) "I understand I am voluntarily participating in the Washington cap and invest program, and by doing so, I am now subject to all regulatory requirements and enforcement mechanisms of this program and subject myself to the jurisdiction of Washington as the exclusive venue to resolve any and all disputes arising from the enforcement of provisions in this chapter.";

(c) "I understand that the offset project activity(ies) and implementation of the offset project must be in accordance with all applicable local, regional, state, and national environmental and health and safety regulations that apply in the jurisdiction in which the offset project is located. I understand that offset projects are not eligible to receive Ecology or registry offset credits for GHG emission reductions and GHG removal enhancements that are not in compliance with the requirements of this chapter.";

(d) "I certify under penalty of perjury under the laws of the state of Washington that all information provided to Ecology in support of issuance of Ecology offset credits is true, accurate, and complete."; and

(e) "I certify under penalty of perjury under the laws of the state of Washington that the GHG emission reductions and GHG removal enhancements for which I am seeking Ecology Offset Credits have not been issued any offset credits or been used for any GHG mitigation requirements in any other voluntary or mandatory program, except, if applicable, an Offset Project Registry pursuant to this chapter."

(5) Determination for timing and duration of initial crediting periods for offset projects submitted through ecology. The initial crediting period will begin with the date that the first verified GHG emission reductions and GHG removal enhancements occur, according to the first positive offset or qualified positive offset verification statement that is received by ecology, unless otherwise specified in the applicable compliance offset protocol.

(6) Determination for timing and duration of renewed crediting for offset projects submitted through ecology. A renewed crediting period will begin the day after the conclusion of the prior crediting period.

[ ]

#### NEW SECTION

##### **WAC 173-446-560 Process for issuance of ecology offset credits.**

(1) Ecology will issue ecology offset credits for GHG emission reductions and GHG removal enhancements achieved in a reporting period by an offset project that meets the requirements of WAC 173-446-555 (1) and (2) to the ecology issuance account, no later than 15 calendar days after ecology makes a determination pursuant to WAC 173-446-555(3) provided that all required attestations set forth in WAC 173-446-555(4) have been received by ecology prior to its determination.

(2) Change of listing status at ecology. When ecology issues an ecology offset credit for GHG emission reductions and GHG removal enhancements achieved by an offset project, the listing status for that offset project will be changed from "active registry project" to "active ecology project," or from "active registry renewal" to "active ecology renewal," at the offset project registry and ecology.

(3) Notice of issuance of ecology offset credits. Not later than five calendar days after ecology issues an ecology offset credit, ecology will notify the offset project operator or authorized project designee of the issuance of ecology offset credits.

(4) Requests for additional information. Ecology may request additional information about offset projects that are listed by an offset project registry and seeking issuance of ecology offset credits.

(a) If ecology determines the information submitted by the offset project operator or authorized project designee is incomplete, ecology will notify the offset project operator or authorized project designee within 15 calendar days of its determination of incompleteness and specify the additional information needed.

(b) Ecology may request any of the required additional information as specified under (a) of this subsection from the offset project

operator, authorized project designee, offset project registry, or verification body before issuing ecology offset credits. The offset project operator, authorized project designee, offset project registry, or verification body, as applicable, must submit the requested information to ecology within 10 calendar days of ecology's request.

(c) If ecology determines the information submitted by the offset project operator or authorized project designee does not meet the requirements for issuance of ecology offset credits, then ecology may deny issuance of ecology offset credits. The offset project operator or authorized project designee may petition ecology within 10 calendar days of such denial for a review of additional information. Such a petition may also respond to any issues that would prevent the issuance of ecology offset credits.

(d) Ecology must make a final determination within 30 calendar days of receiving a request under (c) of this subsection and may request additional information from the offset project operator, authorized project designee, verification body, or offset project registry in support of its review.

(5) A registry offset credit issued by an offset project registry must be removed or canceled by the offset project registry within one year after ecology issues an ecology offset credit for that offset project pursuant to this section, such that the registry offset credit is no longer available for use in transactions on the offset project registry system.

(a) Within five business days of the removal or cancellation of such registry offset credits, the offset project registry must provide proof to ecology that the registry offset credits have been permanently removed or canceled from the offset project registry system.

(b) If registry offset credits are not canceled within one year, ecology will cancel the ecology offset credits. Ecology offset credits that are canceled pursuant to this subsection may not be reissued.

(c) Ecology will transfer ecology offset credits into the holding account(s) of the offset project operator, authorized project designee, or any other third party designated by the offset project operator or authorized project designee to receive such ecology offset credits, within 15 business days of the offset project registry providing proof to ecology that the registry offset credits have been permanently removed or canceled from the offset project registry system.

[ ]

#### NEW SECTION

**WAC 173-446-565 Registration of ecology offset credits.** Ecology will register an ecology offset credit by:

(1) Creating a unique ecology serial number and assigning it to the ecology offset credit; and

(2) Transferring the ecology offset credit to the holding account(s) of the listed offset project operator, authorized project designee, or another third party as requested by the offset project operator or authorized project designee to receive ecology offset credits, unless otherwise required by a forestry offset reversal under WAC 173-446-570.

[]

NEW SECTION

**WAC 173-446-570 Forestry offset reversals.** (1) For forest sequestration projects, a portion of ecology offset credits issued to the offset project operator will be placed by ecology into the forest buffer account.

(a) The number of ecology offset credits that must be placed in the forest buffer account shall be determined as set forth in the applicable version of the compliance offset protocol.

(b) Ecology offset credits will be transferred to the forest buffer account by ecology at the time of ecology offset credit registration under WAC 173-446-565.

(c) If a forest offset project is originally listed by an offset project registry, an equal number of registry offset credits must be removed or canceled by the offset project registry, such that those registry offset credits are no longer available for use in transactions on the offset project registry system, and issued by ecology for placement in the forest buffer account.

(d) The ecology offset credits placed into the forest buffer account must correspond to the reporting period for which the ecology offset credits are issued.

(2) Unintentional reversals. If there has been an unintentional reversal, the offset project operator or authorized project designee must provide written notification of the reversal to ecology or the offset project registry, as applicable, and provide an explanation of the nature of the unintentional reversal within 30 calendar days of its discovery.

(a) In the event of an unintentional reversal, the offset project operator or authorized project designee shall provide in writing to ecology or the offset project registry, as applicable, a completed verified estimate of current carbon stocks within the offset project boundary within 23 months of the discovery of the unintentional reversal.

To determine the verified estimate of current carbon stocks, a full offset verification must be conducted, including a site visit. The verified estimate may be submitted as a separate offset verification service, or incorporated into a chapter of the detailed verification report prepared under WAC 173-446-535 (4)(e)(iii) when offset verification services are conducted for an offset project data report.

(b) After an unintentional reversal, the offset project operator or authorized project designee does not need to submit an offset project data report until the required verified estimate of current carbon stocks within the offset project boundary is completed.

(c) If ecology determines that there has been an unintentional reversal, and ecology offset credits have been issued to the offset project, ecology will retire a number of those ecology offset credits from the forest buffer account. Ecology will retire the number of ecology offset credits equal to the number of metric tons CO<sub>2</sub>e reversed for all reporting periods.

(3) Intentional reversals. Requirements for intentional reversals are as follows:

(a) If an intentional reversal occurs, the offset project operator or authorized project designee shall, within 30 calendar days of the intentional reversal:

(i) Provide notice, in writing, to ecology or the offset project registry, as applicable, of the intentional reversal; and

(ii) Provide a written description and explanation of the nature of the intentional reversal to ecology or the offset project registry, as applicable.

(b) Within one year of the occurrence of an intentional reversal, the offset project operator or authorized project designee shall submit to ecology or the offset project registry, as applicable, a completed verified estimate of current carbon stocks within the offset project boundary.

To determine the verified estimate of current carbon stocks, a full offset verification must be conducted, including a site visit. The verified estimate may be submitted as a separate offset verification services, or incorporated into a chapter of the detailed verification report prepared under WAC 173-446-535 (4)(e)(iii) when offset verification services are conducted for an offset project data report.

(c) If an intentional reversal occurs from a forest offset project, and ecology offset credits have been issued to the offset project, the current or most recent (in the case of an offset project after the final crediting period) forest owner(s) must submit to ecology for placement in the retirement account a number of valid ecology offset credits or other approved compliance instruments within six months of notification by ecology. The forest owner(s) must turn in the number of such valid compliance instruments equal to the number of metric tons CO<sub>2</sub>e reversed for all reporting periods.

(d) Notification by ecology of the requirement to submit compliance instruments under (c) of this subsection will occur after the verified estimate of carbon stocks has been submitted to ecology, or after one year has elapsed since the occurrence of the reversal if the offset project operator or authorized project designee fails to submit the verified estimate of carbon stocks.

(e) If the forest owner(s) fails to submit the required number of valid ecology offset credits or other approved compliance instruments to ecology within six months of notification by ecology under (d) of this subsection, ecology will retire a number of ecology offset credits equal to the difference between the number of metric tons of CO<sub>2</sub>e determined pursuant to this section and the number of retired approved compliance instruments from the forest buffer account, and the forest owner(s) will be subject to enforcement action under WAC 173-446-610. Each ecology offset credit retired from the forest buffer account pursuant to this subsection will constitute a separate violation.

(f) Early project terminations. If a project termination, as defined in the applicable compliance offset protocol, occurs to a forest offset project, and ecology offset credits have been issued to the offset project, the current or most recent (in the case of an offset project after the final crediting period), forest owner(s) must submit to ecology for placement in the retirement account the number of valid ecology offset credits or other approved compliance instruments equal to the number of ecology offset credits issued to the offset project for each reporting period, except for improved forest management forest offset projects. If the project is an improved forest management forest offset project, the number of metric tons CO<sub>2</sub>e reversed must be

multiplied by the compensation rate in the applicable compliance offset protocol.

(i) Ecology will notify the forest owner(s) of how many ecology offset credits must be replaced with valid compliance instruments.

(ii) The forest owner(s) must submit to ecology for placement in the retirement account a valid ecology offset credit or another approved compliance instrument for each ecology offset credit required to be replaced within six months of ecology's retirement.

(iii) If the forest owner(s) fails to submit the required number of valid ecology offset credits or other approved compliance instruments to ecology within six months of ecology's notification, ecology will retire the number of ecology offset credits equal to the difference between the number of metric tons of CO<sub>2</sub>e determined pursuant to this section and the number of retired approved compliance instruments from the forest buffer account, and the forest owner(s) will be subject to enforcement action under WAC 173-446-610. Each ecology offset credit retired from the forest buffer account pursuant to this subsection will constitute a separate violation.

(4) Disposition of forest sequestration projects after a reversal. If an unintentional or intentional reversal lowers the forest offset project's actual standing live carbon stocks below its project baseline standing live carbon stocks, the forest offset project will be terminated by ecology or the offset project registry, as applicable.

(a) If the forest offset project is terminated due to an unintentional reversal, ecology will retire from the forest buffer account the number of ecology offset credits equal to the total number of ecology offset credits issued pursuant to WAC 173-446-555.

(b) If the forest offset project is terminated due to an unintentional reversal, another offset project may be subsequently initiated and submitted to ecology or an offset project registry for listing within the same offset project boundary.

(c) If the forest offset project has experienced an unintentional reversal and its actual standing live carbon stocks are still above the approved baseline levels, it may continue without termination as long as the unintentional reversal has been compensated by the forest buffer account pursuant to subsection (2)(b) of this section. The offset project operator or authorized project designee must continue contributing to the forest buffer account in future years.

(d) If the forest offset project is terminated due to any reason except an unintentional reversal, new offset projects may not be initiated within the same offset project boundary, unless otherwise specified in the applicable compliance offset protocol.

(5) Change of forest owner or offset project operator. When a forest owner or offset project operator changes, whether by merger, acquisition, or any other means, the successor forest owner or offset project operator, after the change in ownership, as applicable, is expressly liable for all obligations of the predecessor forest owner or offset project operator to submit compliance instruments under this chapter. For the avoidance of doubt, this obligation of the successor forest owner or offset project operator, as applicable, consists of the difference between the number of metric tons of CO<sub>2</sub>e determined pursuant to this section and the number of valid ecology offset credits or other approved compliance instruments submitted by the predecessor forest owner.

[ ]

NEW SECTION

**WAC 173-446-575 Transferability of ecology offset credits.** (1)

An ecology offset credit may be sold, traded, or transferred, unless:

- (a) It has been retired, surrendered for compliance, or used to meet any GHG mitigation requirements in any voluntary or regulatory program;
  - (b) It resides in the forest buffer account; or
  - (c) It has been invalidated pursuant to WAC 173-446-580.
- (2) An ecology offset credit may only be used:
- (a) To meet a compliance obligation under this chapter, except if used by a covered entity in a program approved for linkage; or
  - (b) By a general market participant for purposes of voluntary retirement.

[ ]

NEW SECTION

**WAC 173-446-580 Invalidation of ecology offset credits.** (1) An

ecology offset credit issued under this chapter will remain valid unless invalidated pursuant to this section.

(2) Time frame for invalidation. If a determination is made pursuant to subsection (6) of this section, ecology may invalidate an ecology offset credit pursuant to this section within the following time frame:

(a) Within eight years of issuance of an ecology offset credit, as that corresponds to the end of the reporting period for which the ecology offset credit is issued, if the ecology offset credit is issued pursuant to WAC 173-446-555, except as provided in (b) and (c) of this subsection.

(b) The eight-year time frame set forth in (a) of this subsection does not apply if one of the following requirements is met:

(i) The offset project operator or authorized project designee for an offset project developed under the applicable compliance offset protocol does all of the following:

(A) Engages a different verification body that has not verified the offset project data report for the issuance of ecology offset credits, and meets the requirements for conflict of interest in WAC 173-446-545 and rotation of verification services in WAC 173-446-535 (1) through (3), to conduct a second independent offset verification, except for offset project data report modifications, for the same offset project data report. Although the requirements for offset project data report modifications do not need to be met under this subsection, any misreporting, discrepancies, or omissions identified during the independent offset verification must be included in the offset material misstatement calculation prepared under WAC 173-446-535 (4) (d) (xv). If minor correctable errors that do not result in an offset material misstatement are identified during the independent offset verification and the verification body does not identify any other nonconformance

that would result in an adverse offset verification statement, the verification body must issue a qualified positive offset verification statement and identify the correctable errors on the offset verification statement;

(B) The second independent offset verification must be completed within three years of ecology's issuance of the ecology offset credits through the submittal of an offset verification statement, and the offset project operator or authorized project designee must receive a positive or qualified positive offset verification statement from the new verification body for the same offset project data report.

(I) If the offset project is listed with an offset project registry, the verification body must submit the detailed verification report and offset verification statement from the second independent offset verification to the offset project registry and ecology.

(II) The offset project registry must review the offset verification documents and submit a report to ecology that includes the details and findings of the offset project registry's review. During its review, the offset project registry may request additional information from the verification body and offset project operator or authorized project designee, if applicable, and may request clarifications and revisions to the materials, if necessary.

(III) The offset project registry has 45 calendar days to review the offset verification information once complete and accurate verification documents are received from the verification body.

(IV) The offset project registry has an additional 15 business days to submit its report to ecology. Ecology will review the offset project registry report and determine based on the report and all the information submitted by the verification body and offset project operator or authorized project designee, if applicable, if the invalidation time frame will be reduced. During its review, ecology may request additional information, clarifications, and revisions to the materials, if necessary.

(C) If the requirements in (b) (i) (A) and (B) of this subsection are met, the ecology offset credits issued under the offset project data report may only be subject to invalidation within three years of the date that corresponds to the end of the reporting period for which the ecology offset credits were issued, if the ecology offset credits were issued pursuant to WAC 173-446-555.

(ii) The offset project operator or authorized project designee for an offset project does all of the following:

(A) Engages a different verification body than the one which conducted the most recent verification, and that meets the requirements for conflict of interest in WAC 173-446-545 and rotation of verification services in WAC 173-446-535 (1) through (3), to verify a subsequent offset project data report; and

(B) The verification conducted by the new verification body for the subsequent offset project data report under this subsection in order to reduce the invalidation time frame of any ecology offset credits is completed through the submittal of an offset verification statement within, at a maximum, three years from the date that ecology offset credits were issued for the reporting period. The verification of the subsequent offset project data report must result in a positive or qualified positive offset verification statement from the new verification body.

(C) If the requirements in (b) (ii) (A) and (B) of this subsection are met, the ecology offset credits issued for no more than three reporting periods prior to the reporting period for which the subsequent



offset project data report was verified by a new verification body may only be subject to invalidation within three years of the date that corresponds to the end of the reporting period for which the ecology offset credits were issued.

(c) If an offset project developed under one of the compliance offset protocols is in the last reporting period of a crediting period, and will not have a renewed crediting period, the invalidation time frame for up to the last three reporting periods may be reduced from eight years to three years if the following requirements are met for the last offset project data report of the crediting period:

(i) The offset project operator or authorized project designee engages a different verification body that has not verified the offset project data reports and that meets the requirements for conflict of interest in WAC 173-446-545 and rotation of verification services in WAC 173-446-535 (1) through (3), to conduct a second independent offset verification, except for offset project data report modifications, for the last offset project data report of the crediting period. Although the requirements for offset project data report modifications do not need to be met under this subsection, any misreporting, discrepancies, and omissions identified during the independent offset verification must be included in the offset material misstatement calculation prepared under WAC 173-446-535 (4) (d) (xv); and

(ii) The second independent offset verification must be completed within three years of ecology's issuance of the ecology offset credits through the submittal of an offset verification statement, and the offset project operator or authorized project designee must receive a positive or qualified positive offset verification statement from the new verification body for the same last offset project data report.

(iii) If the offset project is listed with an offset project registry, the verification body must submit the detailed verification report and offset verification statement for the second independent offset verification to the offset project registry and ecology.

(iv) The offset project registry must review the offset verification documents and submit a report to ecology that includes the details and findings of the offset project registry's review. During its review, the offset project registry may request additional information from the verification body and the offset project operator or authorized project designee, if applicable, and may request clarifications and revisions to the materials, if necessary.

(v) The offset project registry has 45 calendar days to review the offset verification information after complete and accurate verification documents are received from the verification body.

(vi) The offset project registry has an additional 15 business days to submit its report to ecology. Ecology will review the offset project registry's report and make a determination based on the report and all the information submitted by the verification body and offset project operator or authorized project designee, if applicable, and may request additional information, clarifications, and revisions to the materials, if necessary.

(3) Grounds for initial determination of invalidation. Ecology may determine that an ecology offset credit is invalid for the following reasons:

(a) The offset project data report contains errors that overstate the amount of GHG emission reductions or GHG removal enhancements by more than five percent;

(i) If ecology finds that there has been an overstatement by more than five percent, ecology shall determine how many GHG emission re-

ductions and GHG removal enhancements were achieved by the offset project for the applicable reporting period. Within 10 calendar days of making this determination, ecology will notify the verification body that performed the offset verification and the offset project operator or authorized project designee.

(A) Within 25 calendar days of receiving a written notification by ecology under this subsection, the verification body shall provide ecology any available offset verification services information or correspondence related to the offset project data report.

(B) Within 25 calendar days of receiving a written notification by ecology under this subsection, the offset project operator or authorized project designee shall provide ecology data that is required to calculate GHG emission reductions and GHG removal enhancements for the offset project according to the requirements of this chapter or the applicable compliance offset protocol, the detailed offset verification report prepared by the verification body, and any other information requested by ecology. The offset project operator or authorized project designee shall also make available personnel who can assist in ecology's evaluation determination of how many GHG emission reductions and GHG removal enhancements were achieved by the offset project for the applicable reporting period.

(ii) Ecology shall determine how many GHG emission reductions and GHG removal enhancements were achieved by the offset project for the applicable reporting period using the best information available.

(A) Ecology will determine the actual GHG emission reductions and GHG removal enhancements achieved by the offset project for the applicable reporting period based on, at a minimum, the following information:

(I) The GHG sources, GHG sinks, and GHG reservoirs within the offset project boundary for that reporting period; and

(II) Any previous offset project data reports submitted by the offset project operator or authorized project designee, and the offset verification statements rendered for those reports.

(B) In determining how many GHG emission reductions and GHG removal enhancements were achieved by the offset project for the applicable reporting period, ecology may use the following methods, as applicable:

(I) The applicable compliance offset protocol;

(II) In the event of missing data, ecology will rely on the missing data provisions set forth in the applicable compliance offset protocol; and

(III) Any information reported under this chapter for this reporting period and past reporting periods.

(iii) If ecology determines that an overstatement has occurred, ecology shall determine the number of ecology offset credits that correspond to the overstatement using Eq. 580-1, rounded to the nearest whole ton:

$$\begin{array}{ll} \text{If:} & \text{IEcologyOC} > \times 1.05 \\ \text{Then:} & \text{OR} = \text{IEcologyOC} - \text{ROPDR} \end{array} \quad \text{Eq. 580-1}$$

Where:

"OR" is the amount of overstated GHG emission reductions and GHG removal enhancements for the applicable offset project data report, rounded to the nearest whole ton;

"IEcologyOC" is the number of ecology offset credits issued under the applicable offset project data report;

"ROPDR" is the number of GHG emissions reductions and GHG removal enhancements determined by ecology for the applicable offset project data report;

(b) The offset project activity(ies) or implementation of the offset project was not in accordance with all local, regional, state, and national environmental and health and safety laws and regulations that apply in the jurisdiction in which the offset project is located and that directly apply to the offset project, including as specified in the applicable compliance offset protocol during the reporting period for which the ecology offset credit was issued.

(i) For offset projects using a forestry, ozone depleting substances, or livestock protocol, if ecology finds that the offset project is out of regulatory compliance, then ecology shall determine how many GHG emission reductions and GHG removal enhancements were achieved by the offset project for the applicable reporting period. Within 10 calendar days of making this determination, ecology will notify the verification body that performed the offset verification and the offset project operator or authorized project designee.

(A) Within 25 calendar days of receiving a written notification by ecology under this subsection, the verification body shall provide ecology any available offset verification services information or correspondence related to the relevant offset project data report(s).

(B) Within 25 calendar days of receiving a written notification by ecology under this subsection, the offset project operator or authorized project designee shall provide ecology data that is required to calculate GHG emission reductions and GHG removal enhancements for the offset project according to the requirements of this chapter or the applicable compliance offset protocol, the detailed offset verification report prepared by the verification body, and any other information requested by ecology. The offset project operator or authorized project designee shall also make available personnel who can assist in ecology's evaluation of how many GHG emission reductions and GHG removal enhancements were achieved by the offset project for the applicable reporting period.

(ii) Ecology shall determine how many GHG emission reductions and GHG removal enhancements were achieved by the offset project for the applicable reporting period using the best information available.

(A) Ecology will determine the actual GHG emission reductions and GHG removal enhancements achieved by the offset project for the applicable reporting period based on, at a minimum, the following information:

(I) The GHG sources, GHG sinks, and GHG reservoirs within the offset project boundary for that reporting period;

(II) Any previous offset project data reports submitted by the offset project operator or authorized project designee, and the offset verification statements rendered for those reports; and

(III) Any information relating to the regulatory compliance of the offset project provided by the offset project operator, authorized project designee, or regulatory oversight body.

(B) In determining how many GHG emission reductions and GHG removal enhancements were achieved by the offset project for the applicable reporting period, ecology may use the following methods, as applicable:

(I) The applicable compliance offset protocol;

(II) In the event of missing data, ecology will rely on the missing data provisions set forth in the applicable compliance offset protocol; and

(III) Any information reported under this chapter for this reporting period and past reporting periods.

(iii) If ecology determines that an offset project is out of regulatory compliance then ecology shall determine the number of ecology offset credits, rounded to the nearest whole number, that correspond to the time period that the offset project is determined to be out of regulatory compliance. All offset credits corresponding to this time period shall be deemed ineligible for crediting, and therefore any offset credits corresponding to this time period are subject to invalidation.

(iv) For offset projects using an urban forestry protocol, if ecology finds that the offset project is out of regulatory compliance, then ecology shall determine that all ecology offset credits issued for the applicable reporting period are subject to invalidation; or

(c) Ecology determines that offset credits have been issued in any other voluntary or mandatory program within the same offset project boundary and for the same reporting period in which ecology offset credits were issued for GHG emission reductions and GHG removal enhancements.

(d) The following circumstances shall not be grounds for invalidation under this section:

(i) A reversal that occurs under a forest offset project. If such a reversal occurs, the provisions in WAC 173-446-570 apply in lieu of this section; and

(ii) An update to a compliance offset protocol will not result in an invalidation of ecology offset credits issued to an offset project listed or reporting under a previous version of the compliance offset protocol.

(4) Suspension of transfers. When ecology makes an initial determination that one of the invalidation circumstances listed in subsection (3) of this section has occurred, ecology will immediately block any transfers of ecology offset credits for the applicable offset project data report. Once ecology makes a final determination under subsection (6) of this section, the block on transfers for any ecology offset credits not invalidated will be canceled.

(5) Identification of affected parties. If ecology makes an initial determination that one of the invalidation circumstances listed in subsection (3) of this section has occurred, ecology will identify the following parties:

(a) Any registered entities that currently hold any ecology offset credits in their holding and/or compliance accounts from the applicable offset project data report;

(b) The parties for which ecology transferred any ecology offset credits from the applicable offset project data report into the retirement account; and

(c) The current, or most recent (in the case of an offset project after the final crediting period) offset project operator and authorized project designee, and, for forest offset projects the current, or most recent (in the case of an offset project after the final crediting period) forest owner(s).

(6) Final determination and process of invalidation.

(a) Ecology will provide notification of its initial determination to the parties identified under subsection (5) of this section, and provide each party an opportunity to submit additional information to ecology prior to making its final determination, as follows:

(i) Ecology will specify in its notification the reason for its initial determination that one of the invalidation circumstances listed in subsection (3) of this section has occurred.

(ii) The parties identified under subsection (5) of this section will have 25 calendar days after receiving such notification to provide any additional information to ecology.

(iii) Ecology may request any additional information as needed.

(b) Within 30 calendar days after all information is submitted under this subsection, ecology will make a final determination of whether one or more circumstances listed in subsection (3) of this section has occurred and whether to invalidate ecology offset credits.

(i) Ecology will notify the parties identified under subsection (5) of this section of ecology's final determination of invalidation.

(ii) Ecology will notify any approved program for linkage of the invalidation at the time of ecology's final determination.

(7) Removal of invalidated ecology offset credits from holding, compliance, and/or forest buffer accounts. If ecology makes a final determination under subsection (6) of this section that an ecology offset credit is invalid, then:

(a) Ecology offset credits will be removed from any holding, compliance, or forest buffer account, as follows;

(i) If an ecology offset credit is determined to be invalid due to any of the circumstances listed in subsection (3) (a) or (b) (i) of this section, then:

(A) Ecology will determine which ecology offset credits will be removed from the compliance and/or holding accounts of each party identified under subsection (5) (a) of this section according to Eq. 580-2, truncated to the nearest whole ton:

$$HEcology = \frac{TOT Holding}{IEcology OC} \text{ OR } \text{Eq. 580-2}$$

Where:

"OR" is the number of overstated GHG emission reductions and GHG removal enhancements for the applicable offset project data report;

"IEcologyOC" is the number of ecology offset credits issued under the applicable offset project data report;

"TOT Holding" is the total number of ecology offset credits currently being held in a compliance and/or holding account by each party identified under subsection (5)(a) of this section for the applicable offset project data report; and

"HEcology" is the total number of ecology offset credits, rounded to the nearest whole ton, that will be removed from the holding and/or compliance account of each party identified under subsection (5)(a) of this section.

(B) Ecology will determine the number of ecology offset credits issued to each party identified in subsection (5) (a) of this section, under the applicable offset project data report using Eq. 580-2, and remove that number of ecology offset credits from each party's holding and/or compliance account.

(C) Ecology will determine the number of ecology offset credits issued under the applicable offset project data report, for all projects that contribute to the forest buffer account, using Eq. 580-2, multiply that number by the project's reversal risk rating, and remove the resulting number of ecology offset credits from the forest buffer account.

(ii) If an ecology offset credit is determined to be invalid due to any of the circumstances listed in subsection (3) (b) (ii) or (c) of this section, ecology will remove all ecology offset credits issued under the applicable offset project data report from any holding

and/or compliance accounts of the parties identified under subsection (5) (a) of this section, and from the forest buffer account.

(b) The parties identified in subsection (5) of this section will be notified of which ecology offset credits, identified by serial numbers, were removed from any compliance, holding, and/or forest buffer accounts.

(c) Any approved program for linkage will be notified of which ecology offset credits, identified by serial numbers, were removed from any compliance, holding, and/or forest buffer accounts.

(8) Requirements for replacement of ecology offset credits.

(a) If an ecology offset credit that was issued to a nonsequestration offset project or an urban forest offset project, or that was issued to a U.S. forest offset project, and that has been transferred to the retirement account, is subsequently determined by ecology to be invalid for only the circumstances listed in subsection (3) (a) or (b) (i) of this section, then:

(i) Each party identified under subsection (5) (b) of this section must replace ecology offset credits with the number of valid offset credits or other approved compliance instruments determined for the individual party using Eq. 580-3, truncated to the nearest whole ton:

$$\text{REcologyOC} = (\text{TOTRetired}/\text{IEcologyOC}) * \text{OR} \quad \text{Eq. 580-3}$$

Where:

"REcologyOC" is the calculated total number of retired ecology offset credits for the applicable offset project data report, rounded to the nearest whole ton, that must be replaced by each individual party identified under subsection (5) (b) of this section;

"TOTRetired" is the total number of ecology offset credits from the applicable offset project data report ecology transferred into the retirement account;

"IEcologyOC" is the number of ecology offset credits issued under the applicable offset project data report; and

"OR" is the number of metric tons of overstated GHG emission reductions and GHG removal enhancements calculated for the applicable offset project data report.

(ii) Each party identified under subsection (5) (b) of this section must replace the ecology offset credits with the number of valid ecology offset credits or other approved compliance instruments calculated using Eq. 580-3, within six months of notification by ecology.

(iii) If each party identified under subsection (5) (b) of this section does not replace the number of invalidated ecology offset credits calculated using Eq. 580-3, within six months of ecology's notice of invalidation, each unreplaced invalidated ecology offset credit will constitute a violation for that party under WAC 173-446-610.

(A) If a party identified under subsection (5) (b) of this section is no longer in business, ecology will require the offset project operator identified under subsection (5) (c) of this section to replace the number of invalidated ecology offset credits calculated for that party using Eq. 580-3 and will notify the offset project operator that they must replace the credits.

(B) If the offset project operator is required to replace ecology offset credits pursuant to (a) (iii) (A) of this subsection, the offset project operator must replace each invalidated ecology offset credit with a valid ecology offset credit or another approved compliance instrument, within six months of notification by ecology.

(C) If the offset project operator is required to replace ecology offset credits pursuant to (a) (iii) (A) of this subsection, and the offset project operator does not replace each invalid ecology offset credit within six months of notification by ecology, each unreplaced

invalidated ecology offset credit will constitute a violation for that offset project operator under WAC 173-446-610.

(iv) Ecology will determine the number of invalid ecology offset credits issued under the applicable offset project data report and invalidate that number of ecology offset credits.

(v) The parties identified under subsection (5) of this section will be notified of the number of ecology offset credits, identified by serial numbers, that were invalidated.

(vi) Any approved program for linkage will be notified of which ecology offset credits, identified by serial numbers, were invalidated.

(b) If an ecology offset credit that was issued to a nonsequestration offset project or an urban forest project, or that was issued to a U.S. forest offset project, and that has been transferred to the retirement account, is subsequently determined to be invalid due to any of the circumstances listed in subsection (3)(b)(ii) or (c) of this section, then:

(i) The parties identified under subsection (5)(b) of this section must replace each ecology offset credit for the applicable offset project data report that it previously requested ecology transfer into the retirement account with a valid ecology offset credit or another approved compliance instrument within six months of notification by ecology.

(ii) If a party identified under subsection (5)(b) of this section does not replace each invalidated ecology offset credit within six months of ecology's notice of invalidation, each unreplaced invalidated ecology offset credit will constitute a violation for that party under WAC 173-446-610.

(A) If the party identified under subsection (5)(b) of this section is no longer in business, ecology will require the offset project operator identified under subsection (5)(c) of this section to replace the number of invalidated ecology offset credits calculated for that party using Eq. 580-3 and will notify the offset project operator that they must replace them.

(B) If the offset project operator is required to replace ecology offset credits pursuant to (b)(ii)(A) of this subsection, the offset project operator must replace each invalidated ecology offset credit with a valid ecology offset credit or another approved compliance instrument, within six months of notification by ecology.

(C) If the offset project operator is required to replace ecology offset credits pursuant to (b)(ii)(A) of this subsection and the offset project operator does not replace each invalidated ecology offset credit within six months of notification by ecology, each unreplaced invalidated ecology offset credit will constitute a violation for that offset project operator under WAC 173-446-610.

(iii) The parties identified under subsection (5) of this section will be notified of which ecology offset credits, identified by serial numbers, were invalidated.

(iv) Any approved program for linkage will be notified of which ecology offset credits, identified by serial numbers, were invalidated.

(c) The offset project operator of an offset project that had ecology offset credits removed from the forest buffer account must replace a percentage of the ecology offset credits removed from the forest buffer account equal to the percentage of ecology offset credits retired from the forest buffer account for unintentional reversals as of the date ecology makes the final determination of invalidation,

rounding up to the next whole number, with a valid ecology offset credit or another approved compliance instrument, within six months of notification by ecology. If the offset project operator does not replace the required number of ecology offset credits within six months of notification by ecology, each unreplaced invalidated ecology offset credit will constitute a violation for that offset project operator under WAC 173-446-610.

(9) Change of forest owner or offset project operator. When a forest owner or offset project operator changes, whether by merger, acquisition, or any other means, the successor forest owner or offset project operator, after the change in ownership, as applicable, is expressly liable for all obligations of the predecessor forest owner or offset project operator to submit compliance instruments. For the avoidance of doubt, this obligation of the successor forest owner or offset project operator, as applicable, consists of the difference between the number of metric tons of CO<sub>2</sub>e and the number of valid ecology offset credits or other approved compliance instruments submitted by the predecessor forest owner.

[ ]

#### NEW SECTION

**WAC 173-446-585 Approval requirements for offset project registries.** (1) The approval requirements specified in this section apply to all offset project registries that will operate to provide offset registry services under this chapter.

(2) Ecology may approve offset project registries that meet and maintain compliance with the requirements specified in this section.

(a) Offset project registry approval application. To apply for approval as an offset project registry, the applicant shall submit the following information to ecology, in a manner specified by ecology:

- (i) Name of applicant;
- (ii) Name of president or chief executive officer;
- (iii) List of all board members, if applicable;
- (iv) Addresses of all offices located in the United States;
- (v) Documentation that the applicant carries at least \$5,000,000 U.S. dollars of active professional liability insurance; and
- (vi) List of any judicial proceedings and administrative actions filed against the applicant within the previous five years, with a detailed explanation as to the nature and outcome of the proceedings.

(b) In addition to the information required under (a) of this subsection, the applicant must submit, in writing, its procedures to screen and address internal conflicts of interest. The applicant must provide the following information to ecology:

(i) A staff, management, and board member conflict of interest policy where there are clear criteria for what constitutes a conflict of interest. The policy must:

(A) Identify specific activities and limits on monetary and non-monetary gifts that staff, management, and board members must not conduct or accept to meet the offset project registry's internal policies regarding conflicts of interest, or alternatively provide a comprehensive policy on the applicant's requirements for the reporting of any



and all conflicts of interest based on internal policies that guard against conflicts of interest; and

(B) Documentation that the applicant has an internal requirement for annual disclosure by each staff, management, and board member of any items or instances that are covered by the applicant's conflict of interest policy on an ongoing basis or for the previous calendar year.

(C) Documentation that the applicant has appropriate conflict of interest and confidentiality requirements in place for any of its contractors;

(ii) List of all service types provided by the applicant;

(iii) List of the industrial sectors the applicant serves;

(iv) Locations where services are provided; and

(v) A detailed organizational chart that includes the applicant and any parent, subsidiary, and affiliate companies.

(vi) If the applicant is going to designate a subdivision of its organization to provide registry services, then the prohibition on serving as an offset project consultant shall apply at the subdivision level and the applicant must provide the following general information for its self:

(A) General types of services; and

(B) General locations where services are provided.

(c) The applicant must have the following capabilities for registration and tracking of registry offset credits issued under this chapter:

(i) A comprehensive registration requirement for all registry participants;

(ii) A system for tracking ownership and transactions of all registry offset credits it issues at all times; and

(iii) A permanent repository of ownership information on all transactions involving all registry offset credits it issues under this chapter from the time they are issued to the time they are retired, invalidated, or canceled.

(3) The applicant's primary business must be operating an offset project registry for voluntary or regulatory purposes and the applicant must meet the following business requirements:

(a) Once approved as an offset project registry, the applicant may not act as an offset project operator, authorized project designee, or offset project consultant for offset projects registered or listed on its own offset project registry and developed using a compliance offset protocol. The applicant must annually disclose to ecology any nonoffset project related consulting services it provides to an offset project operator or authorized project designee who lists a project using a compliance offset project with the applicant as part of the information included in the annual report;

(b) The applicant may not act as an offset verification body or provide offset verification services once approved as an offset project registry;

(c) If the applicant designates a subdivision of its organization to provide registry services, the applicant may not be an offset project operator or authorized project designee for offset projects listed at the subdivision's registry, act as a verification body, or be a covered entity or opt-in entity;

(d) The applicant must demonstrate experience in the continuous operation of a registry serving an environmentally focused market that includes the trading of carbon emissions-based commodities for a minimum of two years in a mandatory and/or voluntary market; and

(e) The applicant's primary incorporation or other business formation and primary place of business, or the primary place of business of the designated subdivision, if the applicant designates a subdivision to provide registry services pursuant to this section, must be in the United States of America.

(4) The offset project registry must continue to maintain the professional liability insurance required by subsection (2)(a)(v) of this section while it provides registry services to offset project operators or authorized project designees who are implementing offset projects using compliance offset protocols.

(5) If any information submitted pursuant to this section changes after the approval of an offset project registry, the offset project registry must notify ecology within 30 calendar days of the change and provide updated information consistent with that required in this section.

(6) The offset project registry must attest, in writing, to ecology as follows:

(a) "As the authorized representative for this Offset Project Registry, I understand that the Offset Project Registry is voluntarily participating in the program under this chapter and the Offset Project Registry is now subject to all regulatory requirements and enforcement mechanisms of this program.";

(b) "All information generated and submitted to Ecology by the Offset Project Registry related to an offset project that uses a Compliance Offset Protocol will be true, accurate, and complete.";

(c) "All information provided to Ecology as part of an Ecology audit of the Offset Project Registry will be true, accurate, and complete.";

(d) "All registry services provided will be in accordance with the requirements of WAC 173-446-590.";

(e) "The Offset Project Registry is committed to participating in all Ecology training related to Ecology's compliance offset program or Compliance Offset Protocols."; and

(f) The authorized representative of the offset project registry must attest in writing, to ecology: "I certify under penalty of perjury under the laws of the state of Washington I have authority to represent the Offset Project Registry and all information provided as part of this application is true, accurate, and complete."

(7) At least two of the management staff at the offset project registry must take an ecology-approved training on ecology's compliance offset program and pass an ecology-approved examination upon completion of training.

(8) The offset project registry must have staff members who have collectively completed the ecology-provided training described in subsection (7) of this section and passed an examination upon completion of training in all applicable compliance offset protocols.

(9) The offset project registry must have at least two years of demonstrated experience in, and requirements for, direct staff oversight and review of offset projects, project listing, offset verification, and registry offset credit issuance.

(10) Ecology approval.

(a) The applicant may be allowed to submit additional supporting documentation before a decision is made by ecology.

(b) Within 60 calendar days of receiving an application for approval as an offset project registry and completion by all management staff of the training required by subsection (7) of this section, ecology will inform the applicant in writing either that the applica-

tion is complete or that additional specific information is required to make the application complete.

(c) Within 60 calendar days following completion of the application process, ecology shall approve an offset project registry if evidence of qualification submitted by the applicant has been found to meet the requirements of this section.

(d) Ecology and the applicant may mutually agree, in writing, to longer time periods than those specified in this section.

(e) Ecology approval for an offset project registry is valid for a period of 10 years, whereupon the applicant may reapply. At the time of reapplication, the offset project registry must:

(i) Demonstrate it consistently met all of the requirements in this section;

(ii) Pass a performance review, which, at a minimum shows the offset project registry consistently:

(A) Demonstrates knowledge of the ecology compliance offset program and compliance offset protocols;

(B) Meets all regulatory deadlines; and

(C) Provides registry services in accordance with the requirements of this chapter; and

(iii) Not have been subject to enforcement action under WAC 173-446-610.

(11) Modification, suspension, and revocation of ecology's approval of an offset project registry. Ecology may review, and, for good cause, modify, suspend, or revoke its prior approval of an offset project registry.

(a) During revocation proceedings, the offset project registry may not continue to provide registry services for ecology.

(b) Within five business days of suspension or revocation of approval, an offset project registry must notify all offset project operators or authorized project designees for whom it is providing registry services, or for whom it has provided registry services within the past 12 months, of its suspension or revocation of approval.

(c) An offset project operator or authorized project designee who has been notified by an offset project registry of a suspended or revoked approval under (b) of this subsection must resubmit its offset project information to a new offset project registry or ecology. An offset project listed by ecology or a new offset project registry will continue to operate under its originally approved crediting period, provided that ecology may extend the crediting period or the relevant deadline for one year if ecology determines that such extension is necessary to provide time for resubmission of information to the new offset project registry or ecology.

(12) If the applicant under this section is going to designate a subdivision of its organization to provide registry services, all the requirements of this section may be applied at the designated subdivision level.

(13) An approved offset project registry must make itself and its personnel available for an ecology audit.

[ ]

NEW SECTION

**WAC 173-446-590 Offset project registry requirements.** (1) The offset project registry shall use compliance offset protocols approved pursuant to the requirements of this section to determine whether an offset project may be listed with the offset project registry for issuance of registry offset credits. The offset project registry may list projects under noncompliance offset protocols, but must make it clear that any GHG emission reductions and GHG removal enhancements achieved under those protocols are not eligible to be issued registry offset credits or ecology offset credits.

(2) The offset project registry must make the following information publicly available for each offset project developed under a compliance offset protocol:

(a) Within 10 business days of the offset project listing requirements being deemed complete:

(i) Offset project name;

(ii) Offset project location;

(iii) Offset project operator and, if applicable, the authorized project designee;

(iv) Type of offset project;

(v) Name and date of the compliance offset protocol used by the offset project;

(vi) Date of offset project listing submittal and offset project;

(vii) Commencement date; and

(viii) Identification of whether the offset project is in an initial or renewed crediting period;

(b) Within 10 business days of the offset project registry making a determination of registry offset credit issuance:

(i) reporting period verified project baseline emissions;

(ii) reporting period verified GHG emission reductions and GHG removal enhancements achieved by the offset project;

(iii) The unique serial numbers of registry offset credits issued to the offset project for the applicable offset project data report;

(iv) Total verified GHG emission reductions and GHG removal enhancements for the offset project by reporting period for when an offset project data report was submitted;

(v) The final offset project data report for each reporting period; and

(vi) Offset verification statement for each year the offset project data report was verified; and

(c) Clear identification of which offset projects are listed and submitting offset project data reports using compliance offset protocols. Once an offset project registry has approved a project listing, the offset project registry must continue to list the offset project but may update the project listing status to "inactive" if the project has not been issued any registry offset credits or ecology offset credits or may update the listing status to "terminated" if the project has been issued any registry offset credits or ecology offset credits. The offset project registry may update the listing status to "inactive" or "terminated" if any of the following circumstances exist:

(i) The offset project has missed the 28-month reporting deadline;

(ii) The offset project has missed the deadline for continuous reporting;

(iii) The offset project terminates; or

(iv) The offset project operator submits a letter to the offset project registry stating that it no longer intends to pursue registry offset credit issuance for this project. The letter must be signed by the offset project operator's primary or alternate account representative and must include the following:

(A) Offset project operator name;

(B) Offset project name and both ecology and offset project registry identification numbers;

(C) Name and date of the compliance offset protocol used by the offset project;

(D) Date on which the offset project registry approved the listing;

(E) Indication that the offset project operator will no longer pursue any registry offset credits for the project;

(F) Request to change the project status to "inactive" or "terminated"; and

(G) Signature, printed name, title, and date signed.

(d) When an offset project registry updates the listing status to "inactive" or "terminated," the offset project registry must make publicly available a copy of the letter or must make publicly available a memo authored by the offset project registry explaining the change of status. The memo must include the following:

(i) Offset project operator name and (offset credit registry) identification number;

(ii) Offset project name and both ecology and offset project registry identification numbers;

(iii) Name and date of the compliance offset protocol used by the offset project;

(iv) Date on which the offset project registry approved the listing;

(v) Indication of the deadline(s) missed; and

(vi) Date on which the offset project registry has updated the status to "inactive" or "terminated."

(e) An offset project registry may update an offset project's listing status to "completed" if:

(i) Ecology offset credits have been issued for the offset project;

(ii) No further ecology offset credits will be issued to the project;

(iii) The project may no longer undergo offset verification services that could reduce the invalidation period for any ecology offset credits from eight years to three years;

(iv) The project is no longer required to monitor, report, and verify the permanence of its GHG emission reductions or GHG removal enhancements; and

(v) The end of the project life has been reached as defined in the compliance offset protocols, if applicable.

(f) An offset project registry may update an offset project's listing status to "monitored" if:

(i) Ecology offset credits have been issued for the offset project;

(ii) No further ecology offset credits will be issued to the project; and

(iii) The project is still required to monitor, report, and verify the permanence of its GHG emission reductions or GHG removal enhancements.

(3) Conflict of interest review by offset project registries. The offset project registry must apply the conflict of interest requirements in WAC 173-466-545 when making a conflict of interest determination for a verification body proposing to conduct offset verification services. The offset project registry must review and make sure the conflict of interest submittal is complete. When an offset project operator or authorized project designee submits its information to ecology, the offset project registry must provide ecology with the information and attestation within 15 calendar days.

(4) The offset project registry may provide guidance to offset project operators, authorized project designees, or offset verifiers for offset projects using a compliance offset protocol, if there is no clear requirement for the topic in the applicable compliance offset protocol, this chapter, or an ecology guidance document, after consulting and coordinating with ecology.

(a) An offset project registry must maintain all correspondence and records of communication with an offset project operator, authorized project designee, or offset verifier when providing clarifications or guidance for an offset project using a compliance offset protocol.

(b) Before providing such guidance, the offset project registry may request ecology to provide clarification on the topic.

(c) Any offset project operator or authorized project designee requests for clarifications or guidance must be documented and the offset project registry response must be submitted on an ongoing monthly basis to ecology beginning with the date of approval as an offset project registry.

(5) The offset project registry must audit at least 10 percent of the annual full offset verifications developed for offset projects using a compliance offset protocol.

(a) The audit must include the following checks:

(i) Attendance with the offset verification team on the offset project site visit;

(ii) In-person or conference call attendance for the first offset verification team and offset project operator or authorized project designee meeting;

(iii) In-person or conference call attendance to the last meeting or discussion between the offset verification team and offset project operator or authorized project designee;

(iv) Documentation of any findings during the audit that cause the offset project registry to provide guidance to, or require corrective action with, the offset verification team, including a list of issues noted during the audit and how those were resolved;

(v) A review of the detailed verification report and sampling plan to ensure that it meets the minimum requirements and documentation of any discrepancies found during the review; and

(vi) An investigative review of the conflict of interest assessment provided by the verification body, which includes the following:

(A) Discussions with the lead verifier, the verification body officer or staff person most knowledgeable about the conflict of interest self-evaluation, and the offset project operator or authorized project designee to confirm the information on the conflict of interest self-assessment form is true, accurate, and complete;

(B) An internet-based search to ascertain the existence of any previous relationship between the verification body and the offset project operator or authorized project designee, and if so the nature and extent; and

(C) Any other follow up by the offset project registry to have reasonable assurance that the information provided on the conflict of interest assessment form is true, accurate, and complete.

(b) All information related to audits of offset projects developed using a compliance offset protocol must be provided to ecology within 10 calendar days of an ecology request.

(c) The audits must be selected to provide a representative sampling of geographic locations of all offset projects, representative sampling of verification bodies, representative sampling of lead verifiers, representative sampling of offset project types, and representative sampling of offset projects by size.

(d) The offset project registry must provide an annual report to ecology by January 31st for its previous year's audit program of offset projects developed using compliance offset protocols that includes:

(i) A list of all offset projects audited;  
(ii) Locations of all offset projects audited;  
(iii) Verification bodies associated with each offset project and names of offset verification team members;

(iv) Dates of site visits;

(v) Offset project registry staff that conducted the audit; and

(vi) Audit findings as required in this section.

(6) The offset project registry must review each detailed verification report for completeness and accuracy and to ensure it meets the requirements before accepting the associated offset verification statement for the offset project data report and issuing registry offset credits. The offset project registry must maintain a log of all issues raised during its review of a detailed verification report and the corresponding offset project data report and offset verification statement and how the issues were resolved. Within three business days of issuing registry offset credits, the offset project registry must provide the following to ecology:

(a) The attestations required in this section and any in the applicable compliance offset protocol;

(b) The final offset project data reports submitted to an offset project registry;

(c) The final offset verification statements; and

(d) The offset project registry's log of all issues raised during its review.

(7) The offset project registry must provide all information in its possession, custody, or control related to a listed offset project under a compliance offset protocol within 10 calendar days of request by ecology.

(8) The offset project registry must make its staff and all information related to listed offset projects under compliance offset protocols by the offset project registry available to ecology during any audits or oversight activities initiated by ecology to ensure the requirements of this section are being carried out as required by this chapter.

(9) The offset project registry must remove or cancel any registry offset credits issued for an offset project using a compliance offset protocol, such that the registry offset credits are no longer available for transaction on the offset project registry system, once notified by ecology that the offset project is eligible to be issued ecology offset credits.

(10) The offset project registry must provide an annual report by January 31st of the previous year's offset projects that are listed

using a compliance offset protocol. The report must contain the name of the offset project, type of offset project and applicable compliance offset protocol, name of offset project operator or authorized project designee, location of offset project, status of offset project, associated verification body, crediting period, amount of any registry offset credits issued to date, amount of any registry offset credits retired or canceled for the offset project by the offset project registry to date.

(11) The offset project registry may choose to offer insurance or other products to cover the risk of invalidation of ecology offset credits, but purchase or use of the insurance or other invalidation risk mechanisms will be optional for all parties involved with registry offset credits and ecology offset credit transactions.

(12) Within 10 business days of first receiving an offset project data report to meet the reporting deadline pursuant to WAC 173-446-525 (5)(b), an offset project registry must provide ecology a copy of the offset project data report and confirm the date on which the offset project data report was submitted to the offset project registry.

(13) All information submitted, and correspondence related to, listed offset projects under compliance offset protocols by the offset project registry must be maintained by the offset project registry for a minimum of 15 years.

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#### NEW SECTION

##### **WAC 173-446-595 Direct environmental benefits in the state. (1)**

Offset projects that are located within the state of Washington, or that reduce or avoid GHG emissions that would otherwise occur within the state of Washington, are presumed to provide direct environmental benefits in the state.

(2) For any offset project located outside the state of Washington, the offset project operator or authorized project designee may request a determination by ecology of whether the offset project provides direct environmental benefits in the state.

(a) Such a determination must be based on a showing that the offset project or offset project type provides for either:

(i) The reduction or avoidance of emissions of any air pollutant that is not credited pursuant to the applicable compliance offset protocol in the state of Washington; or

(ii) A reduction or avoidance of any pollutant that is not credited pursuant to the applicable compliance offset protocol that could have an adverse impact on waters of the state of Washington.

(b) To support a request for such a determination, the offset project operator or authorized project designee may submit the following information to ecology:

(i) Scientific, peer-reviewed information or reports demonstrating that the offset project or offset project type results in this type of reduction or avoidance of any pollutant in the state of Washington;

(ii) Governmental reports from local, regional, state, or national environmental, health, or energy agencies, or multinational bodies (such as the intergovernmental panel on climate change) demonstrating



that the offset project or offset project type results in this type of reduction or avoidance of any pollutant in the state of Washington; or

(iii) Monitoring or other analytical data demonstrating that the offset project or offset project type results in this type of reduction or avoidance of any pollutant in the state of Washington.

(3) New offset projects. In order to be eligible to demonstrate that a new offset project located outside the state of Washington provides direct environmental benefits in the state, the offset project operator or authorized project designee shall submit all relevant materials listed in subsection (2)(b) of this section along with the first reporting period offset project data report.

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## COMPLIANCE AND ENFORCEMENT

### NEW SECTION

**WAC 173-446-600 Compliance obligations.** (1) All covered entities and opt-in entities must comply with all requirements for monitoring, reporting, participating in auctions, and holding and transferring compliance instruments, as well as all other provisions of this chapter. All general market participants must comply with all requirements for participating in auctions, and holding and transferring compliance instruments, as well as all other provisions of this chapter.

(2) All parties participating in the program must provide to ecology within 14 calendar days any additional information requested by ecology concerning their participation in the program.

(3) By 5:00 p.m. Pacific Time November 1st of each year, each covered entity and opt-in entity must transfer to ecology sufficient compliance instruments of former vintage years to cover at least 30 percent of its covered emissions for the previous calendar year.

(4) By 5:00 p.m. Pacific Time November 1st of the year following the final year of each compliance period, each covered entity and each opt-in entity must have transferred to ecology one compliance instrument for each metric ton of covered emissions of carbon dioxide equivalent emitted by that party during the compliance period. Except as provided in (a) and (b) of this subsection, allowances submitted for compliance under this provision may be of the vintage or any year of the compliance period or of any prior year.

(a) When surrendering allowances for compliance, EITE facilities may provide future vintage allowances obtained as described in WAC 173-446-260 in the process of reconciling their compliance obligation for a given year with their actual production data for that year.

(b) When surrendering allowances for compliance, covered and opt-in entities may provide allowances obtained from the allowance price containment reserve.

(5) Compliance instruments to be used for compliance must be in the complying covered or opt-in entity's compliance account. Once placed in a compliance account, compliance instruments can only be removed by ecology. Immediately after each compliance deadline, ecology will remove and permanently retire sufficient compliance instruments from each covered entity's or opt-in entity's compliance account to cover that covered entity's or opt-in entity's compliance obligation.

(6) A portion of each covered entity's or opt-in entity's compliance obligation may be met by transferring to ecology offset credits. Each offset credit is worth one metric ton of carbon dioxide equivalent.

(a) For the first compliance period (January 1, 2023, through December 31, 2026), no more than five percent of a covered entity's or opt-in entity's compliance obligation may be satisfied by offset credits not from projects on federally recognized tribal land. In addition to, but separate from this limit, a covered entity or opt-in entity may satisfy up to three percent of its compliance obligation using offset credits generated from offset projects on federally recognized tribal land.

(i) Unless ecology has linked with an external GHG trading system, all offset credits must provide direct environmental benefits to Washington state.

(ii) If ecology has linked with an external GHG trading system, at least 50 percent of any offset credits used by a covered entity or opt-in entity for compliance must be sourced from offset projects that provide direct environmental benefits in Washington state. The remaining amount must be located in a jurisdiction with which ecology has linked.

(b) For the second compliance period (January 1, 2027, through December 31, 2030), no more than four percent of a covered entity's or opt-in entity's compliance obligation may be satisfied by offset credits not from projects on federally recognized tribal land. In addition to, but separate from this limit, a covered entity or opt-in entity may satisfy up to two percent of its compliance obligation using offset credits generated from offset projects on federally recognized tribal land.

(i) Unless ecology has linked with an external GHG trading system, all offset credits must provide direct environmental benefits to Washington state.

(ii) If ecology has linked with an external GHG trading system, at least 75 percent of any offset credits used by a covered entity or opt-in entity for compliance must be sourced from offset projects that provide direct environmental benefits in Washington state. The remaining amount must be located in a jurisdiction with which ecology has linked.

(c) For the third and subsequent compliance periods no more than four percent of a covered entity's or opt-in entity's compliance obligation may be satisfied by offset credits including offset credits from projects on federally recognized tribal land. A covered entity or opt-in entity may satisfy an additional two percent of its compliance obligation using offset credits generated from offset projects on federally recognized tribal land.

(i) Unless ecology has linked with an external GHG trading system, all offset credits must provide direct environmental benefits to the state.

(ii) If ecology has linked with an external GHG trading system, at least 75 percent of any offset credits used by a covered entity or

opt-in entity for compliance must be sourced from offset projects that provide direct environmental benefits in Washington state. The remaining amount must be located in a jurisdiction with which ecology has linked.

(d) Ecology may reduce the limits in (a), (b), and (c) of this subsection for a specific covered entity or opt-in entity if ecology, in consultation with the environmental justice council, determines that the covered or opt-in entity has or is likely to:

(i) Contribute substantively to cumulative air pollution burden in an overburdened community identified by ecology pursuant to RCW 70A.65.020 (1)(a) in consultation with the environmental justice council.

(ii) Violate any permits required by any federal, state, or local air pollution control agency where the violation may result in any increase in emissions.

[ ]

#### NEW SECTION

**WAC 173-446-610 Enforcement.** (1) If a covered or opt-in entity does not submit sufficient compliance instruments to meet its compliance obligation by the specified transfer dates, it has violated its compliance obligation and correction is not possible. As a result of such noncompliance, the covered or opt-in entity must submit four penalty allowances for every one compliance instrument that it failed to submit by the specified transfer date to ecology within six months after the compliance deadline.

(2) When a covered entity or opt-in entity reasonably believes that it will be unable to meet a compliance obligation, the entity shall immediately notify ecology. Upon receiving notification, ecology will issue an order requiring the covered or opt-in entity to submit the penalty allowances.

(3) If a covered entity or opt-in entity fails to submit penalty allowances as required by subsection (1) of this section, ecology must issue an order or issue a penalty of up to \$10,000 per day per violation, or both, for failure to submit penalty allowances as required by subsection (1) of this section. Each metric ton of CO<sub>2</sub>e not covered by a compliance instrument constitutes a separate violation. The order may include a plan and schedule for coming into compliance.

(4) Ecology may issue a penalty of up to \$50,000 per day per violation if ecology determines that a registered entity has:

(a) Provided false or misleading facts;

(b) Withheld material information that could influence a decision by ecology;

(c) Violated any part of the auction rules;

(d) Violated registration requirements; or

(e) Violated any rules regarding the conduct of the auction.

(5) In addition to the specific sanctions in subsections (3) and (4) of this section, any person that violates the terms of this chapter or an order issued under this chapter incurs a penalty of up to \$10,000 per day per violation for each day that the person does not comply. All penalties under subsections (3) and (4) of this section

and this subsection must be deposited into the climate investment account.

(6) Violators are also subject to the sanctions authorized in chapter 19.86 RCW, as appropriate.

(7) Orders and penalties issued under this chapter are appealable to the pollution control hearings board under chapter 43.21B RCW.

(8) For the first compliance period, ecology may reduce the amount of the penalty by adjusting the monetary amount of a civil penalty or reducing the number of penalty allowances required to be provided within six months under subsection (1) of this section. In no case will ecology reduce the number of penalty allowances required to a number below one allowance for each missing compliance instrument.

(9) An electric utility or natural gas utility must notify its retail customers and the Environmental Justice Council in published form within three months after paying a monetary penalty under this section.

(10) If ecology determines that a covered entity or an opt-in entity has over reported its GHG emissions under chapter 173-441 WAC, ecology will reduce the covered or opt-in entity's compliance obligation by sufficient compliance instruments to cover the amount of over-reported emissions.

(11) If ecology determines that a covered entity or an opt-in entity has under reported its GHG emissions under chapter 173-441 WAC:

(a) The covered or opt-in entity must, by November 1st of the year in which ecology makes the determination, provide sufficient compliance instruments to cover the additional emissions.

(b) If the covered or opt-in entity fails to submit the compliance instruments required under (a) of this subsection, the covered or opt-in entity must, within six months after the compliance deadline, submit four penalty allowances for every one compliance instrument that it failed to submit.

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#### NEW SECTION

**WAC 173-446-620 Contact information.** Unless otherwise specified, 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:

For U.S. mail:

Climate Commitment Act Program  
Air Quality Program  
Department of ecology  
P.O. Box 47600  
Olympia, WA 98504-7600

For email: CCAMailbox@ecy.wa.gov

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**SEVERABILITY**

NEW SECTION

**WAC 173-446-700 Severability.** If any provision of the rule or its application to any covered entity or other person or party or circumstances is held invalid, the remainder of the rule or application of the provision to other covered entities or other persons or parties or circumstances is not affected.

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**WSR 22-11-069**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
[Filed May 17, 2022, 8:49 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-07-088.

Title of Rule and Other Identifying Information: The department of labor and industries (L&I) is proposing a fee increase for conveyances under WAC 296-96-00922, 296-96-01005, 296-96-01010, 296-96-01025, 296-96-01027, 296-96-01030, 296-96-01035, 296-96-01040, 296-96-01045, 296-96-01055, 296-96-01057, 296-96-01060, and 296-96-01065.

Hearing Location(s): On June 22, 2022, at 9:00 a.m., virtual and telephonic hearing only. Please join on your computer or mobile app (Microsoft Teams) by visiting [https://teams.microsoft.com/l/meetup-join/19%3ameeting\\_NjQxNTBjNzktZGE2MS00NDBhLWE3ZmUtMTQwZTNkMmQyZTk%40thread.v2/0?context=%7b%22Tid%22%3a%2211d0e217-264e-400a-8ba0-57dcc127d72d%22%2c%220id%22%3a%22acbl1df6f-3588-43aa-b503-63aebce21ddc%22%7d](https://teams.microsoft.com/l/meetup-join/19%3ameeting_NjQxNTBjNzktZGE2MS00NDBhLWE3ZmUtMTQwZTNkMmQyZTk%40thread.v2/0?context=%7b%22Tid%22%3a%2211d0e217-264e-400a-8ba0-57dcc127d72d%22%2c%220id%22%3a%22acbl1df6f-3588-43aa-b503-63aebce21ddc%22%7d); or calling (audio only) 1-253-372-2181, Phone Conference ID 437 259 221# (pound sign must be entered). The virtual/telephonic hearing starts at 9:00 a.m. and will continue until all oral comments are received.

Date of Intended Adoption: July 19, 2022.

Submit Written Comments to: Alicia Curry, L&I, Field Services and Public Safety Division, P.O. Box 44400, Olympia, WA 98504-4400, email [Alicia.Curry@Lni.wa.gov](mailto:Alicia.Curry@Lni.wa.gov), fax 360-902-5292, by 5 p.m. on June 22, 2022.

Assistance for Persons with Disabilities: Contact Alicia Curry, phone 360-902-6244, fax 360-902-5292, email [Alicia.Curry@Lni.wa.gov](mailto:Alicia.Curry@Lni.wa.gov), by June 8, 2022.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule making is to propose a 17 percent fee increase to the elevator fees. A fee increase is needed to fund a new conveyance management system (CMS) for the elevator program. The CMS is the database used to provide permitting, inspection, and other information. The current system is aging, failing, and no longer meets the service needs of customers and staff.

Reasons Supporting Proposal: L&I is in the process of replacing its current CMS database. The fee increase will support funding for the new system and other operating expenses for the elevator program.

Statutory Authority for Adoption: Chapter 70.87 RCW.

Statute Being Implemented: Chapter 70.87 RCW.

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

Name of Proponent: L&I, governmental.

Name of Agency Personnel Responsible for Drafting: Gerald Brown, Program Manager, Tumwater, Washington, 360-999-0952; Implementation and Enforcement: Steve Reinmuth, Assistant Director, Tumwater, Washington, 360-902-6348.

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 rule is exempt from the cost-benefit analysis requirement under the Administrative Procedure Act. Specifically, RCW 34.05.328 (5) (b) (vi) exempts rules that 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.

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.

May 17, 2022  
Joel Sacks  
Director

**OTS-3713.1**

AMENDATORY SECTION (Amending WSR 22-05-076, filed 2/15/22, effective 3/18/22)

**WAC 296-96-00922 Licensing fees.** The following are the department's elevator license fees:

Type of Fee	Period Covered by Fee	Dollar Amount of Fee
Elevator contractor/mechanic application fee (not required for renewal of valid license)	Per application	(( <del>\$74.10</del> )) <u>\$86.70</u>
Elevator contractor/ mechanic examination fee	Per application	(( <del>\$223.70</del> )) <u>\$261.70***</u>
Reciprocity application fee	Per application*	(( <del>\$74.10</del> )) <u>86.70</u>
Elevator mechanic license	2 years	(( <del>\$149.00</del> )) <u>\$174.30</u>
Elevator contractor license	2 years	(( <del>\$149.00</del> )) <u>\$174.30</u>
Temporary elevator mechanic license application fee (not required for renewal)	Per application	(( <del>\$74.10</del> )) <u>\$86.70</u>
Temporary elevator mechanic license	1 year	(( <del>\$149.00</del> )) <u>\$174.30</u>
Emergency elevator mechanic license	30 days	(( <del>\$36.80</del> )) <u>\$43.00</u>
Elevator mechanic/contractor timely renewal fee	2 years	(( <del>\$149.00</del> )) <u>\$174.30</u>
Elevator mechanic/contractor late renewal fee	2 years	(( <del>\$298.50</del> )) <u>\$349.20</u>
Temporary elevator mechanic timely renewal fee	1 year	(( <del>\$149.00</del> )) <u>\$174.30</u>
Temporary elevator mechanic late renewal fee	1 year	(( <del>\$298.50</del> )) <u>\$349.20</u>
Training provider application/renewal fee	2 years	(( <del>\$149.00</del> )) <u>174.30</u>
Continuing education course fee by approved training provider	1 year**	Not applicable
Replacement of any licenses		(( <del>\$22.10</del> )) <u>\$25.80</u>
Refund processing fee		(( <del>\$44.40</del> )) <u>\$51.90</u>

\* Reciprocity application is only allowed for applicants who are applying for licensing based upon possession of a valid license that was obtained in state(s) with which the department has a reciprocity.

\*\* This fee is paid directly to the continuing education training course provider approved by the department.

\*\*\* This fee may be collected by an outside vendor for some exams and may differ from the fee shown above.

[Statutory Authority: Chapter 70.87 RCW. WSR 22-05-076, § 296-96-00922, filed 2/15/22, effective 3/18/22; WSR 21-18-096, § 296-96-00922, filed 8/31/21, effective 10/1/21; WSR 19-24-086, § 296-96-00922, filed 12/3/19, effective 12/3/19. Statutory Authority:

Chapters 18.27, 70.87, 43.22, and 43.22A RCW. WSR 18-24-102, § 296-96-00922, filed 12/4/18, effective 1/4/19. Statutory Authority: Chapter 70.87 RCW. WSR 18-18-068, § 296-96-00922, filed 8/31/18, effective 10/1/18. Statutory Authority: Chapter 70.87 RCW and 2013 2nd sp.s. c 4. WSR 14-06-041, § 296-96-00922, filed 2/26/14, effective 4/1/14. Statutory Authority: Chapter 70.87 RCW and 2011 1st sp.s. c 50. WSR 12-06-065, § 296-96-00922, filed 3/6/12, effective 4/30/12. Statutory Authority: Chapters 18.27, 18.106, 43.22, and 70.87 RCW. WSR 07-11-128, § 296-96-00922, filed 5/22/07, effective 6/30/07. Statutory Authority: Chapters 18.106, 43.22, and 70.87 RCW. WSR 06-10-066, § 296-96-00922, filed 5/2/06, effective 6/30/06. Statutory Authority: Chapters 18.27, 43.22, and 70.87 RCW. WSR 05-12-032, § 296-96-00922, filed 5/24/05, effective 6/30/05. Statutory Authority: RCW 70.87.020, 70.87.030, 70.87.034, 70.87.120, 70.87.185, 70.87.190, 2002 c 98, 2003 c 143 and 2004 c 66. WSR 04-12-047, § 296-96-00922, filed 5/28/04, effective 6/30/04.]

AMENDATORY SECTION (Amending WSR 22-05-076, filed 2/15/22, effective 3/18/22)

- WAC 296-96-01005 Obtaining permits.** (1) See WAC 296-96-01000 for the permit process.
- (2) Construction and alteration permits are valid for one year from the date of issue. However, permits may be renewed if:
- (a) Application for a renewal permit is submitted before the current permit expires;
  - (b) The department approves the request for a renewal permit; and
  - (c) A renewal fee of (~~(\$67.20)~~) \$78.60 is paid to the department for each permit renewed;
- (3) If the permit has expired the applicant shall reapply for a new permit.
- (4) See WAC 296-96-01006 for work requiring a permit.

[Statutory Authority: Chapter 70.87 RCW. WSR 22-05-076, § 296-96-01005, filed 2/15/22, effective 3/18/22; WSR 21-18-096, § 296-96-01005, filed 8/31/21, effective 10/1/21. Statutory Authority: Chapters 18.27, 70.87, 43.22, and 43.22A RCW. WSR 18-24-102, § 296-96-01005, filed 12/4/18, effective 1/4/19. Statutory Authority: Chapter 70.87 RCW. WSR 18-18-070, § 296-96-01005, filed 8/31/18, effective 10/1/18. Statutory Authority: Chapter 70.87 RCW and 2013 2nd sp.s. c 4. WSR 14-06-041, § 296-96-01005, filed 2/26/14, effective 4/1/14. Statutory Authority: Chapter 70.87 RCW. WSR 07-24-041, § 296-96-01005, filed 11/30/07, effective 1/1/08. Statutory Authority: Chapters 18.27, 18.106, 43.22, and 70.87 RCW. WSR 07-11-128, § 296-96-01005, filed 5/22/07, effective 6/30/07. Statutory Authority: RCW 70.87.020, 70.87.030, 70.87.034, 70.87.120, 70.87.185, 70.87.190, 2002 c 98, 2003 c 143 and 2004 c 66. WSR 04-12-047, § 296-96-01005, filed 5/28/04, effective 6/30/04. Statutory Authority: RCW 43.22.350, 43.22.434, 43.22.480, 43.22.500, 70.87.030, 18.106.070, 18.106.125, 2001 c 7, and chapters 18.106, 43.22, and 70.87 RCW. WSR 03-12-045, § 296-96-01005, filed 5/30/03, effective 6/30/03. Statutory Authority: RCW 70.87.020, 70.87.030, 70.87.034, 70.87.120, 70.87.185 and chapter 70.87 RCW. WSR 01-02-026, § 296-96-01005, filed 12/22/00, effective 1/22/01.]



AMENDATORY SECTION (Amending WSR 22-05-076, filed 2/15/22, effective 3/18/22)

**WAC 296-96-01010 Installation and alteration permit fees.** Permit fees are based on the total cost of the conveyance or alteration and the labor to install or alter the conveyance. The following permit fees apply to the construction, alteration, or relocation of all conveyances except personnel and material hoists (see WAC 296-96-01025):

TOTAL COST OF INSTALLATION OR ALTERATION	FEE
\$0 to and including \$1,000 .....	(( <del>\$74.10</del> ) \$86.70)
\$1,001 to and including \$5,000 .....	(( <del>\$111.50</del> ) \$130.40)
\$5,001 to and including \$7,000 .....	(( <del>\$186.20</del> ) \$217.80)
\$7,001 to and including \$10,000 .....	(( <del>\$223.70</del> ) \$261.70)
\$10,001 to and including \$15,000 .....	(( <del>\$298.50</del> ) \$349.20)
OVER \$15,000 for installation only*....	(( <del>\$417.90</del> ) \$488.90 plus
OVER \$15,000 for alteration only*.....	(( <del>\$298.50</del> ) \$349.20)
*Each additional \$1,000 or fraction thereof.....	(( <del>\$10.10</del> ) \$11.80)

[Statutory Authority: Chapter 70.87 RCW. WSR 22-05-076, § 296-96-01010, filed 2/15/22, effective 3/18/22; WSR 21-18-096, § 296-96-01010, filed 8/31/21, effective 10/1/21. Statutory Authority: Chapters 18.27, 70.87, 43.22, and 43.22A RCW. WSR 18-24-102, § 296-96-01010, filed 12/4/18, effective 1/4/19. Statutory Authority: Chapter 70.87 RCW. WSR 18-18-070, § 296-96-01010, filed 8/31/18, effective 10/1/18. Statutory Authority: Chapter 70.87 RCW and 2013 2nd sp.s. c 4. WSR 14-06-041, § 296-96-01010, filed 2/26/14, effective 4/1/14. Statutory Authority: Chapter 70.87 RCW and 2011 1st sp.s. c 50. WSR 12-06-065, § 296-96-01010, filed 3/6/12, effective 4/30/12. Statutory Authority: Chapter 70.87 RCW. WSR 07-24-041, § 296-96-01010, filed 11/30/07, effective 1/1/08. Statutory Authority: Chapters 18.27, 18.106, 43.22, and 70.87 RCW. WSR 07-11-128, § 296-96-01010, filed 5/22/07, effective 6/30/07. Statutory Authority: Chapters 18.106, 43.22, and 70.87 RCW. WSR 06-10-066, § 296-96-01010, filed 5/2/06, effective 6/30/06. Statutory Authority: Chapters 18.27, 43.22, and 70.87 RCW. WSR 05-12-032, § 296-96-01010, filed 5/24/05, effective 6/30/05. Statutory Authority: RCW 70.87.020, 70.87.030, 70.87.034, 70.87.120, 70.87.185, 70.87.190, 2002 c 98, 2003 c 143 and 2004 c 66. WSR 04-12-047, § 296-96-01010, filed 5/28/04, effective 6/30/04. Statutory Authority: RCW 43.22.350, 43.22.434, 43.22.480, 43.22.500, 18.27.040, 18.27.070, 18.27.075, 70.87.030, 19.28.041, 19.28.051, 19.28.101, 19.28.121, 19.28.161, 19.28.201, 19.28.211, 19.28.341, 2001 c 7, 2002 c 249, and chapters 19.28, 43.22, 18.27, and 70.87 RCW. WSR 02-12-022, § 296-96-01010, filed 5/28/02, effective 6/28/02. Statutory Authority: RCW 43.22.350, 43.22.434, 43.22.480, 43.22.500, 18.27.070, 18.27.075, 70.87.030, 19.28.041, 19.28.051, 19.28.101, 19.28.121, 19.28.161, 19.28.201, 19.28.211, 19.28.341, 2001 c 159, and chapters 43.22,

19.28, 18.27, and 70.87 RCW. WSR 01-12-035, § 296-96-01010, filed 5/29/01, effective 6/29/01. Statutory Authority: RCW 70.87.020, 70.87.030, 70.87.034, 70.87.120, 70.87.185 and chapter 70.87 RCW. WSR 01-02-026, § 296-96-01010, filed 12/22/00, effective 1/22/01.]

AMENDATORY SECTION (Amending WSR 22-05-076, filed 2/15/22, effective 3/18/22)

**WAC 296-96-01025 Permit fees for personnel and material hoists.**

The fee for each personnel hoist or material hoist installation is (~~(\$298.50)~~) \$349.20.

See WAC 296-96-01035(2) for requirements for jumps.

**Note:** An operating certificate is also required for these types of conveyances.

[Statutory Authority: Chapter 70.87 RCW. WSR 22-05-076, § 296-96-01025, filed 2/15/22, effective 3/18/22; WSR 21-18-096, § 296-96-01025, filed 8/31/21, effective 10/1/21. Statutory Authority: Chapters 18.27, 70.87, 43.22, and 43.22A RCW. WSR 18-24-102, § 296-96-01025, filed 12/4/18, effective 1/4/19. Statutory Authority: Chapter 70.87 RCW. WSR 18-18-070, § 296-96-01025, filed 8/31/18, effective 10/1/18. Statutory Authority: Chapter 70.87 RCW and 2013 2nd sp.s. c 4. WSR 14-06-041, § 296-96-01025, filed 2/26/14, effective 4/1/14. Statutory Authority: Chapter 70.87 RCW and 2011 1st sp.s. c 50. WSR 12-06-065, § 296-96-01025, filed 3/6/12, effective 4/30/12. Statutory Authority: Chapter 70.87 RCW. WSR 07-24-041, § 296-96-01025, filed 11/30/07, effective 1/1/08. Statutory Authority: RCW 43.22.350, 43.22.434, 43.22.480, 43.22.500, 18.27.040, 18.27.070, 18.27.075, 70.87.030, 19.28.041, 19.28.051, 19.28.101, 19.28.121, 19.28.161, 19.28.201, 19.28.211, 19.28.341, 2001 c 7, 2002 c 249, and chapters 19.28, 43.22, 18.27, and 70.87 RCW. WSR 02-12-022, § 296-96-01025, filed 5/28/02, effective 6/28/02. Statutory Authority: RCW 70.87.020, 70.87.030, 70.87.034, 70.87.120, 70.87.185 and chapter 70.87 RCW. WSR 01-02-026, § 296-96-01025, filed 12/22/00, effective 1/22/01.]

AMENDATORY SECTION (Amending WSR 22-05-076, filed 2/15/22, effective 3/18/22)

**WAC 296-96-01027 Permit fee refunds.** The initial installation permit fees are refundable minus a processing fee if the installation work has not been performed. No refunds will be issued for expired permits. All requests for refunds shall be submitted in writing to the elevator section and shall identify the specific permits and the reasons for which the refunds are requested.

The processing fee for each refund is (~~(\$44.40)~~) \$51.90.

[Statutory Authority: Chapter 70.87 RCW. WSR 22-05-076, § 296-96-01027, filed 2/15/22, effective 3/18/22; WSR 21-18-096, § 296-96-01027, filed 8/31/21, effective 10/1/21. Statutory Authority: Chapters 18.27, 70.87, 43.22, and 43.22A RCW. WSR 18-24-102, § 296-96-01027, filed 12/4/18, effective 1/4/19. Statutory Authority: Chapter 70.87 RCW. WSR 18-18-070, § 296-96-01027, filed 8/31/18, effective 10/1/18. Statutory Authority: Chapter 70.87 RCW and 2013 2nd

sp.s. c 4. WSR 14-06-041, § 296-96-01027, filed 2/26/14, effective 4/1/14. Statutory Authority: Chapter 70.87 RCW and 2011 1st sp.s. c 50. WSR 12-06-065, § 296-96-01027, filed 3/6/12, effective 4/30/12. Statutory Authority: Chapter 70.87 RCW. WSR 07-24-041, § 296-96-01027, filed 11/30/07, effective 1/1/08. Statutory Authority: Chapters 18.27, 18.106, 43.22, and 70.87 RCW. WSR 07-11-128, § 296-96-01027, filed 5/22/07, effective 6/30/07. Statutory Authority: Chapters 18.106, 43.22, and 70.87 RCW. WSR 06-10-066, § 296-96-01027, filed 5/2/06, effective 6/30/06. Statutory Authority: Chapters 18.27, 43.22, and 70.87 RCW. WSR 05-12-032, § 296-96-01027, filed 5/24/05, effective 6/30/05. Statutory Authority: RCW 70.87.020, 70.87.030, 70.87.034, 70.87.120, 70.87.185, 70.87.190, 2002 c 98, 2003 c 143 and 2004 c 66. WSR 04-12-047, § 296-96-01027, filed 5/28/04, effective 6/30/04. Statutory Authority: RCW 43.22.350, 43.22.434, 43.22.480, 43.22.500, 18.27.040, 18.27.070, 18.27.075, 70.87.030, 19.28.041, 19.28.051, 19.28.101, 19.28.121, 19.28.161, 19.28.201, 19.28.211, 19.28.341, 2001 c 7, 2002 c 249, and chapters 19.28, 43.22, 18.27, and 70.87 RCW. WSR 02-12-022, § 296-96-01027, filed 5/28/02, effective 6/28/02. Statutory Authority: RCW 43.22.350, 43.22.434, 43.22.480, 43.22.500, 18.27.070, 18.27.075, 70.87.030, 19.28.041, 19.28.051, 19.28.101, 19.28.121, 19.28.161, 19.28.201, 19.28.211, 19.28.341, 2001 c 159, and chapters 43.22, 19.28, 18.27, and 70.87 RCW. WSR 01-12-035, § 296-96-01027, filed 5/29/01, effective 6/29/01. Statutory Authority: RCW 70.87.020, 70.87.030, 70.87.034, 70.87.120, 70.87.185 and chapter 70.87 RCW. WSR 01-02-026, § 296-96-01027, filed 12/22/00, effective 1/22/01.]

AMENDATORY SECTION (Amending WSR 22-05-076, filed 2/15/22, effective 3/18/22)

**WAC 296-96-01030 Plan approval.** Prior to the start of construction and the issuance of a permit, the applicant shall submit to the department for approval a permit application and plans for new installations or major alterations. To be approved, the plan shall comply with the latest adopted applicable standard and applicable Washington Administrative Code (WAC). In addition, the plans shall include all information necessary to determine whether each installation/alteration complies with all applicable codes. The permit holder shall keep a copy of the approved plan on the job site until the department has witnessed all acceptance tests. Any alterations to the approved plan shall be submitted to the department for approval before a final inspection will be conducted. The nonrefundable fees for processing the applications are (~~(\$36.80)~~) \$43.00 for each installation/major alteration.

**Exception:** Residential incline chair lifts will not require plan review. Equipment shall be listed and labeled by a product testing laboratory which is accredited by the department and plans supplied by the manufacturer shall be on-site. If the equipment is not listed and labeled as per RCW 19.28.010 it shall be field evaluated or replaced with equipment that is listed and labeled by a product testing laboratory which is accredited by the department. The department may request additional information as deemed necessary to determine if lifts comply with current codes and testing standards. Governor overspeed safety testing shall be verified by manufacturer's documentation (see A18.1 Requirement 9.9.3). The test results certified by, a nationally recognized testing laboratory (NRTL). Certification shall be provided at time of application.

[Statutory Authority: Chapter 70.87 RCW. WSR 22-05-076, § 296-96-01030, filed 2/15/22, effective 3/18/22; WSR 21-18-096, § 296-96-01030, filed 8/31/21, effective 10/1/21. Statutory Authority: Chapters 18.27, 70.87, 43.22, and 43.22A RCW. WSR 18-24-102, § 296-96-01030, filed 12/4/18, effective 1/4/19. Statutory Authority:

Chapter 70.87 RCW. WSR 18-18-070, § 296-96-01030, filed 8/31/18, effective 10/1/18. Statutory Authority: Chapter 70.87 RCW and 2013 2nd sp.s. c 4. WSR 14-06-041, § 296-96-01030, filed 2/26/14, effective 4/1/14. Statutory Authority: Chapter 70.87 RCW and 2011 1st sp.s. c 50. WSR 12-06-065, § 296-96-01030, filed 3/6/12, effective 4/30/12. Statutory Authority: Chapter 70.87 RCW. WSR 07-24-041, § 296-96-01030, filed 11/30/07, effective 1/1/08. Statutory Authority: Chapters 18.27, 18.106, 43.22, and 70.87 RCW. WSR 07-11-128, § 296-96-01030, filed 5/22/07, effective 6/30/07. Statutory Authority: Chapters 18.106, 43.22, and 70.87 RCW. WSR 06-10-066, § 296-96-01030, filed 5/2/06, effective 6/30/06. Statutory Authority: Chapters 18.27, 43.22, and 70.87 RCW. WSR 05-12-032, § 296-96-01030, filed 5/24/05, effective 6/30/05. Statutory Authority: RCW 43.22.350, 43.22.434, 43.22.480, 43.22.500, 70.87.030, 18.106.070, 18.106.125, 2001 c 7, and chapters 18.106, 43.22, and 70.87 RCW. WSR 03-12-045, § 296-96-01030, filed 5/30/03, effective 6/30/03. Statutory Authority: RCW 43.22.350, 43.22.434, 43.22.480, 43.22.500, 18.27.040, 18.27.070, 18.27.075, 70.87.030, 19.28.041, 19.28.051, 19.28.101, 19.28.121, 19.28.161, 19.28.201, 19.28.211, 19.28.341, 2001 c 7, 2002 c 249, and chapters 19.28, 43.22, 18.27, and 70.87 RCW. WSR 02-12-022, § 296-96-01030, filed 5/28/02, effective 6/28/02. Statutory Authority: RCW 43.22.350, 43.22.434, 43.22.480, 43.22.500, 18.27.070, 18.27.075, 70.87.030, 19.28.041, 19.28.051, 19.28.101, 19.28.121, 19.28.161, 19.28.201, 19.28.211, 19.28.341, 2001 c 159, and chapters 43.22, 19.28, 18.27, and 70.87 RCW. WSR 01-12-035, § 296-96-01030, filed 5/29/01, effective 6/29/01. Statutory Authority: RCW 70.87.020, 70.87.030, 70.87.034, 70.87.120, 70.87.185 and chapter 70.87 RCW. WSR 01-02-026, § 296-96-01030, filed 12/22/00, effective 1/22/01.]

AMENDATORY SECTION (Amending WSR 22-05-076, filed 2/15/22, effective 3/18/22)

**WAC 296-96-01035 Inspection fees.** The initial inspection of construction, alteration or relocation of a conveyance is included with the permit fee. Once the department has approved the initial installation of the conveyance, a temporary 30-day operating certificate will be issued. Prior to the expiration of the 30-day temporary operating certificate, the application for an annual operating certificate and the appropriate fees shall be paid to the department. Once the department has received the appropriate fees and application the owner will be issued the first annual operating certificate. The owner or owner's representative will receive an invoice from the department for renewal. The owner is required to renew the annual operating certificate yearly.

The following inspections require an additional inspection fee:

(1) **Reinspection.** If a conveyance does not pass an initial inspection and an additional inspection is required, the fee for each reinspection of a conveyance is (~~(\$149.00)~~) \$174.30 per conveyance plus (~~(\$72.30)~~) \$84.50 per hour for each hour in addition to the first hour.

The department may waive reinspection fees.

(2) **Inspecting increases in the height (jumping) of personnel and material hoists.**

The fee for inspecting an increase in the height (jumping) of each personnel hoist or material hoist is (~~(\$149.00)~~) \$174.30 plus

((~~\$74.10~~)) \$86.70 per hour for each hour in addition to two hours. This fee is for inspections occurring during regular working hours.

The permit holder may be allowed to operate a hoist prior to the jump inspection if:

(a) The electrical limits will not allow the lift to operate above the previously inspected landing; and

(b) The state elevator inspector is contacted, agrees and can schedule an inspection within three days.

(3) **Variance inspections.**

(a) The fee for an on-site variance inspection is ((~~\$223.70~~)) \$261.70 per conveyance plus ((~~\$74.10~~)) \$86.70 per hour for each hour in addition to two hours. This fee is for inspections occurring during regular working hours.

(b) The fee for a variance that does not require an on-site inspection is ((~~\$74.10~~)) \$86.70 per conveyance. The individual requesting the variance shall provide the department with pictures, documentation, or other information necessary for the department to review the variance. The department may conduct an on-site variance inspection to verify the information provided or if it determines that an inspection is necessary. If an on-site variance inspection is performed, the fees in (a) of this subsection will apply.

(4) **"Red tag" status fee.** The annual fee for a conveyance in "Red tag" status is ((~~\$36.80~~)) \$43.00.

**Note:** The department shall be provided with written approval from the building official, indicating that the conveyance is not required for building occupancy, when applying to have the conveyance placed in voluntary red tag status.

(5) **Decommission inspection.** The fee for performing a decommission inspection is ((~~\$74.10~~)) \$86.70. Once the decommission inspection has been performed and approved, the conveyance will no longer require annual inspections until such time that the conveyance is brought back into service. Prior to operating the conveyance, a new inspection and annual operating permit shall be obtained.

(6) **Voluntary inspections by request.** The owner or potential purchaser of a building within the department's jurisdiction may request a voluntary inspection of a conveyance. The fee for this inspection will be ((~~\$149.00~~)) \$174.30 per conveyance and ((~~\$74.10~~)) \$86.70 per hour for each hour in addition to two hours plus the standard per diem and mileage allowance granted to department inspectors. The owner/potential purchaser requesting the voluntary inspection will not be subject to any penalties based on the inspector's findings.

[Statutory Authority: Chapter 70.87 RCW. WSR 22-05-076, § 296-96-01035, filed 2/15/22, effective 3/18/22; WSR 21-18-096, § 296-96-01035, filed 8/31/21, effective 10/1/21. Statutory Authority: Chapters 18.27, 70.87, 43.22, and 43.22A RCW. WSR 18-24-102, § 296-96-01035, filed 12/4/18, effective 1/4/19. Statutory Authority: Chapter 70.87 RCW. WSR 18-18-070, § 296-96-01035, filed 8/31/18, effective 10/1/18. Statutory Authority: Chapter 70.87 RCW and 2013 2nd sp.s. c 4. WSR 14-06-041, § 296-96-01035, filed 2/26/14, effective 4/1/14. Statutory Authority: Chapter 70.87 RCW and 2011 1st sp.s. c 50. WSR 12-06-065, § 296-96-01035, filed 3/6/12, effective 4/30/12. Statutory Authority: Chapter 70.87 RCW. WSR 07-24-041, § 296-96-01035, filed 11/30/07, effective 1/1/08. Statutory Authority: Chapters 18.27, 18.106, 43.22, and 70.87 RCW. WSR 07-11-128, § 296-96-01035, filed 5/22/07, effective 6/30/07. Statutory Authority: Chapters 18.106, 43.22, and 70.87 RCW. WSR 06-10-066, § 296-96-01035, filed 5/2/06, effective 6/30/06. Statutory Authority: Chapters 18.27, 43.22, and 70.87 RCW. WSR 05-12-032, § 296-96-01035, filed 5/24/05, effective 6/30/05.]

Statutory Authority: RCW 70.87.020, 70.87.030, 70.87.034, 70.87.120, 70.87.185, 70.87.190, 2002 c 98, 2003 c 143 and 2004 c 66. WSR 04-12-047, § 296-96-01035, filed 5/28/04, effective 6/30/04. Statutory Authority: RCW 43.22.350, 43.22.434, 43.22.480, 43.22.500, 18.27.040, 18.27.070, 18.27.075, 70.87.030, 19.28.041, 19.28.051, 19.28.101, 19.28.121, 19.28.161, 19.28.201, 19.28.211, 19.28.341, 2001 c 7, 2002 c 249, and chapters 19.28, 43.22, 18.27, and 70.87 RCW. WSR 02-12-022, § 296-96-01035, filed 5/28/02, effective 6/28/02. Statutory Authority: RCW 43.22.350, 43.22.434, 43.22.480, 43.22.500, 18.27.070, 18.27.075, 70.87.030, 19.28.041, 19.28.051, 19.28.101, 19.28.121, 19.28.161, 19.28.201, 19.28.211, 19.28.341, 2001 c 159, and chapters 43.22, 19.28, 18.27, and 70.87 RCW. WSR 01-12-035, § 296-96-01035, filed 5/29/01, effective 6/29/01. Statutory Authority: RCW 70.87.020, 70.87.030, 70.87.034, 70.87.120, 70.87.185 and chapter 70.87 RCW. WSR 01-02-026, § 296-96-01035, filed 12/22/00, effective 1/22/01.]

AMENDATORY SECTION (Amending WSR 22-05-076, filed 2/15/22, effective 3/18/22)

**WAC 296-96-01040 Construction-use inspection fee.** (1) The fee for the inspecting and testing of elevators used for construction is (~~(\$119.10)~~) \$139.30, in addition to any other fees required in this chapter. This fee purchases a 30-day temporary use permit that may be renewed at the department's discretion.

(2) When this temporary use permit is purchased, a notice declaring that the equipment has not received final approval from the department shall be conspicuously posted in the elevator.

[Statutory Authority: Chapter 70.87 RCW. WSR 22-05-076, § 296-96-01040, filed 2/15/22, effective 3/18/22; WSR 21-18-096, § 296-96-01040, filed 8/31/21, effective 10/1/21. Statutory Authority: Chapters 18.27, 70.87, 43.22, and 43.22A RCW. WSR 18-24-102, § 296-96-01040, filed 12/4/18, effective 1/4/19. Statutory Authority: Chapter 70.87 RCW. WSR 18-18-070, § 296-96-01040, filed 8/31/18, effective 10/1/18. Statutory Authority: Chapter 70.87 RCW and 2013 2nd sp.s. c 4. WSR 14-06-041, § 296-96-01040, filed 2/26/14, effective 4/1/14. Statutory Authority: Chapter 70.87 RCW and 2011 1st sp.s. c 50. WSR 12-06-065, § 296-96-01040, filed 3/6/12, effective 4/30/12. Statutory Authority: Chapters 18.27, 18.106, 43.22, and 70.87 RCW. WSR 07-11-128, § 296-96-01040, filed 5/22/07, effective 6/30/07. Statutory Authority: Chapters 18.106, 43.22, and 70.87 RCW. WSR 06-10-066, § 296-96-01040, filed 5/2/06, effective 6/30/06. Statutory Authority: Chapters 18.27, 43.22, and 70.87 RCW. WSR 05-12-032, § 296-96-01040, filed 5/24/05, effective 6/30/05. Statutory Authority: RCW 43.22.350, 43.22.434, 43.22.480, 43.22.500, 18.27.040, 18.27.070, 18.27.075, 70.87.030, 19.28.041, 19.28.051, 19.28.101, 19.28.121, 19.28.161, 19.28.201, 19.28.211, 19.28.341, 2001 c 7, 2002 c 249, and chapters 19.28, 43.22, 18.27, and 70.87 RCW. WSR 02-12-022, § 296-96-01040, filed 5/28/02, effective 6/28/02. Statutory Authority: RCW 43.22.350, 43.22.434, 43.22.480, 43.22.500, 18.27.070, 18.27.075, 70.87.030, 19.28.041, 19.28.051, 19.28.101, 19.28.121, 19.28.161, 19.28.201, 19.28.211, 19.28.341, 2001 c 159, and chapters 43.22, 19.28, 18.27, and 70.87 RCW. WSR 01-12-035, § 296-96-01040, filed 5/29/01, effective 6/29/01. Statutory Authority: RCW 70.87.020, 70.87.030, 70.87.034,

70.87.120, 70.87.185 and chapter 70.87 RCW. WSR 01-02-026, § 296-96-01040, filed 12/22/00, effective 1/22/01.]

AMENDATORY SECTION (Amending WSR 22-05-076, filed 2/15/22, effective 3/18/22)

**WAC 296-96-01045 Residential elevator inspection and fees.** (1) Chapter 70.87 RCW requires the department to inspect all new, altered or relocated conveyances operated exclusively for single-family use in private residences. Prior to installation, a licensed elevator contractor shall complete a permit application as described in WAC 296-96-01005 and pay the appropriate fee listed in WAC 296-96-01010.

(2) Chapter 70.87 RCW allows the department to inspect conveyances operated exclusively for single-family use in private residences when the department is investigating an accident or an alleged or apparent violation of the statute or these rules.

(3) No annual inspection and operating certificate is required for a private residence conveyance operated exclusively for single-family use unless the owner requests it. When an owner requests an inspection and an annual operating certificate, the following fee shall be paid prior to an inspection:

TYPE OF CONVEYANCE	FEE
Each inclined stairway chair lift in private residence .....	(( <del>\$34.50</del> )) \$40.30
Each inclined wheel chair lift in a private residence .....	(( <del>\$34.50</del> )) \$40.30
Each vertical wheel chair lift in a private residence .....	(( <del>\$43.60</del> )) \$51.00
Each dumbwaiter in a private residence .....	(( <del>\$34.50</del> )) \$40.30
Each inclined elevator at a private residence ..	(( <del>\$123.80</del> )) \$144.80
Each private residence elevator .....	(( <del>\$79.70</del> )) \$93.20
Duplication of a lost, damaged or stolen operating permit .....	(( <del>\$14.40</del> )) \$16.80

[Statutory Authority: Chapter 70.87 RCW. WSR 22-05-076, § 296-96-01045, filed 2/15/22, effective 3/18/22; WSR 21-18-096, § 296-96-01045, filed 8/31/21, effective 10/1/21. Statutory Authority: Chapters 18.27, 70.87, 43.22, and 43.22A RCW. WSR 18-24-102, § 296-96-01045, filed 12/4/18, effective 1/4/19. Statutory Authority: Chapter 70.87 RCW. WSR 18-18-070, § 296-96-01045, filed 8/31/18, effective 10/1/18. Statutory Authority: Chapter 70.87 RCW and 2013 2nd sp.s. c 4. WSR 14-06-041, § 296-96-01045, filed 2/26/14, effective 4/1/14. Statutory Authority: Chapter 70.87 RCW and 2011 1st sp.s. c 50. WSR 12-06-065, § 296-96-01045, filed 3/6/12, effective 4/30/12. Statutory Authority: Chapter 70.87 RCW. WSR 07-24-041, § 296-96-01045, filed 11/30/07, effective 1/1/08. Statutory Authority: Chapters 18.27, 18.106, 43.22, and 70.87 RCW. WSR 07-11-128, § 296-96-01045, filed 5/22/07, effective 6/30/07. Statutory Authority: Chapters 18.106, 43.22, and 70.87 RCW. WSR 06-10-066, § 296-96-01045, filed 5/2/06, effective 6/30/06. Statutory Authority: Chapters 18.27, 43.22, and 70.87 RCW. WSR 05-12-032, § 296-96-01045, filed 5/24/05, effective 6/30/05.]

Statutory Authority: RCW 43.22.350, 43.22.434, 43.22.480, 43.22.500, 18.27.040, 18.27.070, 18.27.075, 70.87.030, 19.28.041, 19.28.051, 19.28.101, 19.28.121, 19.28.161, 19.28.201, 19.28.211, 19.28.341, 2001 c 7, 2002 c 249, and chapters 19.28, 43.22, 18.27, and 70.87 RCW. WSR 02-12-022, § 296-96-01045, filed 5/28/02, effective 6/28/02. Statutory Authority: RCW 43.22.350, 43.22.434, 43.22.480, 43.22.500, 18.27.070, 18.27.075, 70.87.030, 19.28.041, 19.28.051, 19.28.101, 19.28.121, 19.28.161, 19.28.201, 19.28.211, 19.28.341, 2001 c 159, and chapters 43.22, 19.28, 18.27, and 70.87 RCW. WSR 01-12-035, § 296-96-01045, filed 5/29/01, effective 6/29/01. Statutory Authority: RCW 70.87.020, 70.87.030, 70.87.034, 70.87.120, 70.87.185 and chapter 70.87 RCW. WSR 01-02-026, § 296-96-01045, filed 12/22/00, effective 1/22/01.]

AMENDATORY SECTION (Amending WSR 22-05-076, filed 2/15/22, effective 3/18/22)

**WAC 296-96-01055 Technical services and consultations.** A person, firm, corporation, or governmental agency may request elevator field technical services from the department by paying a fee of (~~(\$89.10)~~) \$104.20 per hour or any portion thereof (including travel time) plus the standard per diem and mileage allowance granted to department inspectors. These field technical services may include code evaluation, code consultation, plan examination, code interpretation, and clarification of technical data relating to the application of the department's conveyance rules. Field technical services do not include inspections.

[Statutory Authority: Chapter 70.87 RCW. WSR 22-05-076, § 296-96-01055, filed 2/15/22, effective 3/18/22; WSR 21-18-096, § 296-96-01055, filed 8/31/21, effective 10/1/21. Statutory Authority: Chapters 18.27, 70.87, 43.22, and 43.22A RCW. WSR 18-24-102, § 296-96-01055, filed 12/4/18, effective 1/4/19. Statutory Authority: Chapter 70.87 RCW. WSR 18-18-070, § 296-96-01055, filed 8/31/18, effective 10/1/18. Statutory Authority: Chapter 70.87 RCW and 2013 2nd sp.s. c 4. WSR 14-06-041, § 296-96-01055, filed 2/26/14, effective 4/1/14. Statutory Authority: Chapter 70.87 RCW and 2011 1st sp.s. c 50. WSR 12-06-065, § 296-96-01055, filed 3/6/12, effective 4/30/12. Statutory Authority: Chapters 18.27, 18.106, 43.22, and 70.87 RCW. WSR 07-11-128, § 296-96-01055, filed 5/22/07, effective 6/30/07. Statutory Authority: Chapters 18.106, 43.22, and 70.87 RCW. WSR 06-10-066, § 296-96-01055, filed 5/2/06, effective 6/30/06. Statutory Authority: Chapters 18.27, 43.22, and 70.87 RCW. WSR 05-12-032, § 296-96-01055, filed 5/24/05, effective 6/30/05. Statutory Authority: RCW 43.22.350, 43.22.434, 43.22.480, 43.22.500, 70.87.030, 18.106.070, 18.106.125, 2001 c 7, and chapters 18.106, 43.22, and 70.87 RCW. WSR 03-12-045, § 296-96-01055, filed 5/30/03, effective 6/30/03. Statutory Authority: RCW 43.22.350, 43.22.434, 43.22.480, 43.22.500, 18.27.040, 18.27.070, 18.27.075, 70.87.030, 19.28.041, 19.28.051, 19.28.101, 19.28.121, 19.28.161, 19.28.201, 19.28.211, 19.28.341, 2001 c 7, 2002 c 249, and chapters 19.28, 43.22, 18.27, and 70.87 RCW. WSR 02-12-022, § 296-96-01055, filed 5/28/02, effective 6/28/02. Statutory Authority: RCW 43.22.350, 43.22.434, 43.22.480, 43.22.500, 18.27.070, 18.27.075, 70.87.030, 19.28.041, 19.28.051, 19.28.101, 19.28.121, 19.28.161, 19.28.201, 19.28.211, 19.28.341, 2001 c 159, and chapters 43.22, 19.28, 18.27, and 70.87 RCW. WSR 01-12-035, § 296-96-01055, filed



5/29/01, effective 6/29/01. Statutory Authority: RCW 70.87.020, 70.87.030, 70.87.034, 70.87.120, 70.87.185 and chapter 70.87 RCW. WSR 01-02-026, § 296-96-01055, filed 12/22/00, effective 1/22/01.]

AMENDATORY SECTION (Amending WSR 22-05-076, filed 2/15/22, effective 3/18/22)

**WAC 296-96-01057 Accident investigations.** The department shall investigate an injury-related accident reported by the owner or owner's duly authorized agent. The department may charge at a rate of (~~(\$89.10)~~) \$104.20 per hour or portion thereof (including travel time) plus the standard per diem and mileage allowance granted to department inspectors.

[Statutory Authority: Chapter 70.87 RCW. WSR 22-05-076, § 296-96-01057, filed 2/15/22, effective 3/18/22; WSR 21-18-096, § 296-96-01057, filed 8/31/21, effective 10/1/21. Statutory Authority: Chapters 18.27, 70.87, 43.22, and 43.22A RCW. WSR 18-24-102, § 296-96-01057, filed 12/4/18, effective 1/4/19. Statutory Authority: Chapter 70.87 RCW. WSR 18-18-070, § 296-96-01057, filed 8/31/18, effective 10/1/18. Statutory Authority: Chapter 70.87 RCW and 2013 2nd sp.s. c 4. WSR 14-06-041, § 296-96-01057, filed 2/26/14, effective 4/1/14. Statutory Authority: Chapter 70.87 RCW and 2011 1st sp.s. c 50. WSR 12-06-065, § 296-96-01057, filed 3/6/12, effective 4/30/12. Statutory Authority: Chapter 70.87 RCW. WSR 07-24-041, § 296-96-01057, filed 11/30/07, effective 1/1/08.]

AMENDATORY SECTION (Amending WSR 22-05-076, filed 2/15/22, effective 3/18/22)

**WAC 296-96-01060 Inspections after normal business hours.** An inspection outside of normal business hours and business days (i.e., Monday through Friday excluding holidays; 7:00 a.m. to 5:00 p.m.) may be requested under the following conditions:

- (1) An inspector is available; and
- (2) The inspection is authorized by the department.
- (3) The minimum fee for an after-hours inspection is (~~(\$111.50 and \$111.50)~~) \$130.40 and \$130.40 per hour for each hour in addition to the first hour plus the standard per diem and mileage allowance granted to department inspectors.
- (4) This fee is in addition to any other fees required for the project.

[Statutory Authority: Chapter 70.87 RCW. WSR 22-05-076, § 296-96-01060, filed 2/15/22, effective 3/18/22; WSR 21-18-096, § 296-96-01060, filed 8/31/21, effective 10/1/21. Statutory Authority: Chapters 18.27, 70.87, 43.22, and 43.22A RCW. WSR 18-24-102, § 296-96-01060, filed 12/4/18, effective 1/4/19. Statutory Authority: Chapter 70.87 RCW. WSR 18-18-070, § 296-96-01060, filed 8/31/18, effective 10/1/18. Statutory Authority: Chapter 70.87 RCW and 2013 2nd sp.s. c 4. WSR 14-06-041, § 296-96-01060, filed 2/26/14, effective 4/1/14. Statutory Authority: Chapter 70.87 RCW and 2011 1st sp.s. c 50. WSR 12-06-065, § 296-96-01060, filed 3/6/12, effective 4/30/12.]

Statutory Authority: Chapters 18.27, 18.106, 43.22, and 70.87 RCW. WSR 07-11-128, § 296-96-01060, filed 5/22/07, effective 6/30/07. Statutory Authority: Chapters 18.106, 43.22, and 70.87 RCW. WSR 06-10-066, § 296-96-01060, filed 5/2/06, effective 6/30/06. Statutory Authority: Chapters 18.27, 43.22, and 70.87 RCW. WSR 05-12-032, § 296-96-01060, filed 5/24/05, effective 6/30/05. Statutory Authority: RCW 43.22.350, 43.22.434, 43.22.480, 43.22.500, 18.27.040, 18.27.070, 18.27.075, 70.87.030, 19.28.041, 19.28.051, 19.28.101, 19.28.121, 19.28.161, 19.28.201, 19.28.211, 19.28.341, 2001 c 7, 2002 c 249, and chapters 19.28, 43.22, 18.27, and 70.87 RCW. WSR 02-12-022, § 296-96-01060, filed 5/28/02, effective 6/28/02. Statutory Authority: RCW 43.22.350, 43.22.434, 43.22.480, 43.22.500, 18.27.070, 18.27.075, 70.87.030, 19.28.041, 19.28.051, 19.28.101, 19.28.121, 19.28.161, 19.28.201, 19.28.211, 19.28.341, 2001 c 159, and chapters 43.22, 19.28, 18.27, and 70.87 RCW. WSR 01-12-035, § 296-96-01060, filed 5/29/01, effective 6/29/01. Statutory Authority: RCW 70.87.020, 70.87.030, 70.87.034, 70.87.120, 70.87.185 and chapter 70.87 RCW. WSR 01-02-026, § 296-96-01060, filed 12/22/00, effective 1/22/01.]

AMENDATORY SECTION (Amending WSR 22-05-076, filed 2/15/22, effective 3/18/22)

**WAC 296-96-01065 Annual operating permit fees.** An annual operating certificate will be issued to the building owner upon payment of the appropriate fee. The owner of record shall be invoiced by the department. If a change of ownership has occurred, it is the new owner's responsibility to ensure the department has the corrected information. Below is the fee structure table:

TYPE OF CONVEYANCE	FEE
Each hydraulic elevator .....	(( <del>\$149.00</del> )) \$174.30
Each roped-hydraulic elevator .....	(( <del>\$186.20</del> )) \$217.80
plus for each hoistway opening in excess of two .....	(( <del>\$14.40</del> )) \$16.80
Each cable elevator .....	(( <del>\$186.20</del> )) \$217.80
plus for each hoistway opening in excess of two .....	(( <del>\$14.40</del> )) \$16.80
Each cable elevator traveling more than 25 feet without an opening—for each 25 foot traveled .....	(( <del>\$14.40</del> )) \$16.80
Each limited-use/limited-application (—LULA) elevator .....	(( <del>\$149.00</del> )) \$174.30
Each escalator .....	(( <del>\$123.70</del> )) \$144.70
Each dumbwaiter in other than a private residence .....	(( <del>\$79.70</del> )) \$93.20
Each material lift .....	(( <del>\$149.00</del> )) \$174.30
Each incline elevator in other than a private residence .....	(( <del>\$160.20</del> )) \$187.40
Each belt manlift .....	(( <del>\$149.00</del> )) 174.30

TYPE OF CONVEYANCE	FEE
Each stair lift in other than a private residence .....	(((\$79.70)) \$93.20
Each wheel chair lift in other than a private residence .....	(((\$79.70)) \$93.20
Each personnel hoist .....	(((\$149.00)) \$174.30
Each grain elevator personnel lift .....	(((\$123.70)) \$144.70
Each material hoist .....	(((\$149.00)) \$174.30
Each special purpose elevator .....	(((\$149.00)) \$174.30
Each private residence elevator installed in other than a private residence .....	(((\$149.00)) \$174.30
Each casket lift .....	(((\$123.70)) \$144.70
Each sidewalk freight elevator .....	(((\$123.70)) \$144.70
Each hand-powered manlift or freight elevator .....	(((\$83.80)) \$98.00
Each boat launching elevator .....	(((\$123.70)) \$144.70
Each auto parking elevator .....	(((\$123.70)) \$144.70
Each moving walk .....	(((\$123.70)) \$144.70
Duplication of a damaged, lost or stolen operating permit .....	(((\$14.40)) \$16.80

[Statutory Authority: Chapter 70.87 RCW. WSR 22-05-076, § 296-96-01065, filed 2/15/22, effective 3/18/22; WSR 21-18-096, § 296-96-01065, filed 8/31/21, effective 10/1/21. Statutory Authority: Chapters 18.27, 70.87, 43.22, and 43.22A RCW. WSR 18-24-102, § 296-96-01065, filed 12/4/18, effective 1/4/19. Statutory Authority: Chapter 70.87 RCW. WSR 18-18-070, § 296-96-01065, filed 8/31/18, effective 10/1/18. Statutory Authority: Chapter 70.87 RCW and 2013 2nd sp.s. c 4. WSR 14-06-041, § 296-96-01065, filed 2/26/14, effective 4/1/14. Statutory Authority: Chapter 70.87 RCW and 2011 1st sp.s. c 50. WSR 12-06-065, § 296-96-01065, filed 3/6/12, effective 4/30/12. Statutory Authority: Chapter 70.87 RCW. WSR 07-24-041, § 296-96-01065, filed 11/30/07, effective 1/1/08. Statutory Authority: Chapters 18.27, 18.106, 43.22, and 70.87 RCW. WSR 07-11-128, § 296-96-01065, filed 5/22/07, effective 6/30/07. Statutory Authority: Chapters 18.106, 43.22, and 70.87 RCW. WSR 06-10-066, § 296-96-01065, filed 5/2/06, effective 6/30/06. Statutory Authority: Chapters 18.27, 43.22, and 70.87 RCW. WSR 05-12-032, § 296-96-01065, filed 5/24/05, effective 6/30/05. Statutory Authority: RCW 43.22.350, 43.22.434, 43.22.480, 43.22.500, 18.27.040, 18.27.070, 18.27.075, 70.87.030, 19.28.041, 19.28.051, 19.28.101, 19.28.121, 19.28.161, 19.28.201, 19.28.211, 19.28.341, 2001 c 7, 2002 c 249, and chapters 19.28, 43.22, 18.27, and 70.87 RCW. WSR 02-12-022, § 296-96-01065, filed 5/28/02, effective 6/28/02. Statutory Authority: RCW 43.22.350, 43.22.434, 43.22.480, 43.22.500, 18.27.070, 18.27.075, 70.87.030, 19.28.041, 19.28.051, 19.28.101, 19.28.121, 19.28.161, 19.28.201, 19.28.211, 19.28.341, 2001 c 159, and chapters 43.22, 19.28, 18.27, and 70.87 RCW. WSR 01-12-035, § 296-96-01065,

filed 5/29/01, effective 6/29/01. Statutory Authority: RCW 70.87.020, 70.87.030, 70.87.034, 70.87.120, 70.87.185 and chapter 70.87 RCW. WSR 01-02-026, § 296-96-01065, filed 12/22/00, effective 1/22/01.]

WSR 22-11-076  
PROPOSED RULES  
BOARD OF INDUSTRIAL  
INSURANCE APPEALS

[Filed May 17, 2022, 12:58 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: Chapter 263-12, Practice and procedure (before the board of industrial insurance appeals).

Hearing Location(s): On June 21, 2022, at 10:00 a.m., virtual or telephonic hearing only. Please use your computer or mobile app to join on Zoom <https://us06web.zoom.us/j/86225928259>; or call-in (audio only) 253-215-8782, Meeting ID 862 2592 8259.

Date of Intended Adoption: June 22, 2022.

Submit Written Comments to: Brian Watkins, P.O. Box 42401, Olympia, WA 98501, email [brian.watkins@biia.wa.gov](mailto:brian.watkins@biia.wa.gov), fax 855-586-5611, by June 14, 2022.

Assistance for Persons with Disabilities: Contact Kylee Redman, phone 360-753-6823, fax 855-586-5611, TTY 800-833-6388, email [kylee.redman@biia.wa.gov](mailto:kylee.redman@biia.wa.gov), website for reasonable accommodation [www.biia.wa.gov/Accommodation.html](http://www.biia.wa.gov/Accommodation.html), by June 14, 2022.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: **Mediation confidentiality, WAC 263-12-092.** Amendments clarify that, except by agreement of the parties or as otherwise required by law, mediation and claim resolution settlement conference communications are confidential and are not to be admitted as evidence. Clarifies that participants, representatives, and the judge are not required to disclose such communications. The proposed revision would clarify that the board doesn't need an objection from a party to determine such communications inadmissible. Any waiver of the confidentiality must be affirmatively expressed. Amendments also clarify that mediation and claim resolution settlement conference judges may not be called to testify to, and shall not disclose, their or any participant's mediation or claims resolution settlement communications in any kind of proceeding, whether the proceeding takes the form of a discovery or perpetuation deposition, a hearing, or some other form.

**Update the telephone hearings/depositions rules to include videoconferencing,** update WAC 263-12-115(10) and 263-12-117. Add videoconferencing to WAC governing telephonic proceedings.

**Housekeeping update to various rules to remove structured from the phrase claim resolution structured settlement.** Claim resolution settlement agreements can now be lump sum agreements by statute. We now call them *claim resolution settlement agreements*. Affects WAC 263-12-01501, 263-12-020, 263-12-054, 263-12-092, and 263-12-165.

Reasons Supporting Proposal: **Mediation confidentiality:** The provision we currently have in WAC 263-12-092 identifies mediation and claim resolution settlement conference communications of participants as "privileged ... unless waived." The provision doesn't explain what "privileged" means, nor does it explain how the privilege might be waived. The provision seems to suggest that a party can offer these otherwise privileged communications as evidence in a hearing or other board proceeding, and it is up to the other parties or the mediation judge to expressly object or risk their admission by waiver. The current rule could be interpreted to mean that a mediation judge or

structured settlement conference judge could be required to disclose statements made by participants if no participant objects. The amended rule clarifies that a mediation or conference judge cannot disclose mediation communications and participants similar cannot disclose mediation communication unless waived by agreement or by operation of other law. The rule doesn't prohibit parties from introducing evidence obtained through means outside of mediation.

**Videoconferencing, WAC 263-12-115(10) and 263-12-117.** Update the telephone hearings/depositions rules to include videoconferencing; add videoconferencing to WAC. "Telephonic or videoconference by contemporaneous transmission."

**Claim resolution settlement agreements: WAC 263-12-01501, 263-12-020, 263-12-054, 263-12-092, and 263-12-165.** Housekeeping updated to recognize that claim resolution agreements need not be structured in nature due to changes by the legislature to allow for lump sum claim resolution settlement agreements.

Statutory Authority for Adoption: RCW 51.52.020.

Statute Being Implemented: For claim resolution settlement agreements, RCW 51.04.063.

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

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Brian Watkins, Olympia, 360-753-6823.

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. These are procedural rules relating to procedures, practices, or requirements relating to agency rules. There are no significant legislative rules proposed.

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; 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.

May 16, 2022

Brian O. Watkins  
Chief Legal Officer

## OTS-3778.1

AMENDATORY SECTION (Amending WSR 21-15-042, filed 7/14/21, effective 8/14/21)

**WAC 263-12-01501 Communications and filing with the board.** (1) **Where to file communications with the board.** Except as provided elsewhere in this section all written communications shall be filed with the board at its headquarters in Olympia, Washington. With written permission of the industrial appeals judge assigned to an appeal, dep-

ositions, witness confirmations, motions (other than motions for stay filed pursuant to RCW 51.52.050), briefs, stipulations, agreements, and general correspondence may be filed in the appropriate regional board facilities located in Tacoma, Spokane, or Seattle.

(2) **Methods of filing.** Unless otherwise provided by statute or these rules any written communication may be filed with the board by using one of four methods: Personally, by mail, by telephone facsimile, or by electronic filing. Failure of a party to comply with the filing methods selected by the party for use under this section, or as otherwise set forth in these rules or statute for filing written communications may prevent consideration of a document.

(a) **Filing personally.** The filing of a written communication with the board personally is accomplished by delivering the written communication to an employee of the board at the board's headquarters in Olympia during customary office hours.

(b) **Filing by mail.** The filing of a written communication with the board is accomplished by mail when the written communication is deposited in the United States mail, properly addressed to the board's headquarters in Olympia and with postage prepaid. Where a statute or rule imposes a time limitation for filing the written communication, the party filing the same should include a certification demonstrating the date filing was perfected as provided under this subsection. Unless evidence is presented to the contrary, the date of the United States postal service postmark shall be presumed to be the date the written communication was mailed to the board.

(c) **Filing by telephone facsimile.**

(i) The filing of a written communication with the board by telephone facsimile is accomplished when a legible copy of the written communication is reproduced on the board's telephone facsimile equipment during the board's customary office hours. All facsimile communications must be filed with the board via fax numbers listed on the board's website.

(ii) The hours of staffing of the board's telephone facsimile equipment are the board's customary office hours. Documents sent by facsimile communication comments outside of the board's customary office hours will be deemed filed on the board's next business day.

(iii) Any written communication filed with the board by telephone facsimile should be preceded by a cover page identifying the party making the transmission, listing the address, telephone and telephone facsimile number of such party, referencing the appeal to which the written communication relates, and indicating the date of, and the total number of pages included in, such transmission. A separate transmission must be used for each appeal. Transmissions containing more than one docket number will be rejected and filing will not be accomplished, unless the multiple docket numbers have been previously consolidated by the board.

(iv) The party attempting to file a written communication by telephone facsimile bears the risk that the written communication will not be received or legibly printed on the board's telephone facsimile equipment due to error in the operation or failure of the equipment being utilized by either the party or the board.

(v) The board may require a party to file an original of any document previously filed by telephone facsimile.

(d) **Electronic filing.** Electronic filing is accomplished by using the electronic filing link on the board's website. Communication sent by email will not constitute or accomplish filing. Communication filed using the board's website outside of the board's customary office

hours will be deemed filed on the board's next business day. A separate transmission must be used for each appeal. Transmissions containing more than one docket number will be rejected and filing will not be accomplished, unless the multiple docket numbers have been previously consolidated by the board.

(3) **Electronic filing of a notice of appeal.** A notice of appeal may be filed electronically when using the appropriate form for electronic filing of appeals as provided on the board's website. An electronic notice of appeal is filed when it is received by the board's designated computer during the board's customary office hours pursuant to WAC 263-12-015. Appeals received via the board's website outside of the board's customary office hours will be deemed filed on the board's next business day. The board will issue confirmation to the filing party that an electronic notice of appeal has been received. The board may reject a notice of appeal that fails to comply with the board's filing requirements. The board will notify the filing party of the rejection.

(4) **Electronic filing of application for approval of claim resolution ((structured)) settlement agreement.** An application for approval of claim resolution ((structured)) settlement agreement must be filed electronically using the form for electronic filing of applications for approval of claim resolution ((structured)) settlement agreement as provided on the board's website. An electronic application for approval of claim resolution ((structured)) settlement agreement is filed when received by the board's designated computer during the board's customary office hours pursuant to WAC 263-12-015. Applications received by the board via the board's website outside of the board's customary office hours will be deemed filed on the board's next business day. The board will issue confirmation to the filing party that an electronic application for approval of claim resolution ((structured)) settlement agreement has been received. An electronic copy of the signed agreement for claim resolution ((structured)) settlement agreement must be submitted as an attachment to the application for approval. The board will reject an application for approval of claim resolution ((structured)) settlement agreement that fails to comply with the board's filing requirements. The board will notify the filing party of the rejection.

(5) **Sending written communication.** All correspondence or written communication filed with the board pertaining to a particular case, before the entry of a proposed decision and order, should be sent to the attention of the industrial appeals judge assigned to the case. Interlocutory appeals should be sent to the attention of the chief industrial appeals judge. In all other instances, written communications shall be directed to the chief legal officer of the board.

(6) **Form requirements.** Any written communications with the board concerning an appeal should reference the docket number assigned by the board to the appeal, if known. Copies of any written communications filed with the board shall be served on all other parties or their representatives of record, and the original shall demonstrate compliance with the requirement to serve all parties. All written communications with the board shall be on paper 8 1/2" x 11" in size.

[Statutory Authority: RCW 51.52.020. WSR 21-15-042, § 263-12-01501, filed 7/14/21, effective 8/14/21; WSR 18-24-123, § 263-12-01501, filed 12/5/18, effective 1/5/19; WSR 17-24-121, § 263-12-01501, filed 12/6/17, effective 1/6/18; WSR 16-24-054, § 263-12-01501, filed 12/2/16, effective 1/2/17; WSR 14-24-105, § 263-12-01501, filed



12/2/14, effective 1/2/15; WSR 11-23-154, § 263-12-01501, filed 11/22/11, effective 12/23/11; WSR 10-14-061, § 263-12-01501, filed 6/30/10, effective 7/31/10; WSR 06-12-003, § 263-12-01501, filed 5/25/06, effective 6/25/06; WSR 04-22-047, § 263-12-01501, filed 10/28/04, effective 11/28/04; WSR 04-16-097, § 263-12-01501, filed 8/3/04, effective 9/3/04; WSR 98-20-109, § 263-12-01501, filed 10/7/98, effective 11/7/98; WSR 91-13-038, § 263-12-01501, filed 6/14/91, effective 7/15/91.]

AMENDATORY SECTION (Amending WSR 21-15-042, filed 7/14/21, effective 8/14/21)

**WAC 263-12-020 Appearances of parties before the board.** (1) **Who may appear?** Any party to any appeal may appear before the board at any conference or hearing held in such appeal, either on the party's own behalf or by a representative as described in subsections (3) and (4) of this section.

(2) **Who must obtain approval prior to representing a party?** A person who is disbarred, resigns in lieu of discipline, or is presently suspended from the practice of law in any jurisdiction, or has previously been denied admission to the bar in any jurisdiction for reasons other than failure to pass a bar examination, shall not represent a party without the prior approval of the board. A written petition for approval shall be filed (~~sixty~~) 60 calendar days prior to any event for which the person seeks to appear as a representative. The board may deny any petition that fails to demonstrate competence, moral character, or fitness.

(3) **Who may represent a party?**

(a) A worker or beneficiary may be represented by:

(i) An attorney at law with membership in good standing in the Washington state bar association or a paralegal supervised by an attorney at law with membership in good standing in the Washington state bar association.

(ii) An attorney at law with membership in good standing in the highest court of any other state or the District of Columbia.

(iii) A lay representative so long as the person does not charge a fee, is not otherwise compensated for the representation except as provided in (a)(iv) of this subsection, and files a declaration or affidavit with the board certifying compliance with this rule. The industrial appeals judge may alternatively permit this certification to be made under oath and reflected in a transcript or report of proceeding.

(iv) A lay representative employed by the worker's labor union whose duties include handling industrial insurance matters for the union, provided the person files a declaration or affidavit with the board certifying this status. The industrial appeals judge may alternatively permit this certification to be made under oath and reflected in a transcript or report of proceeding.

(v) Any lay representative seeking to represent a worker or beneficiary who has not provided the certification required under (a)(iii) and (iv) of this subsection will be excluded from serving as a worker's or beneficiary's representative.

(b) An employer or retrospective rating group may be represented by:

(i) An attorney at law with membership in good standing in the Washington state bar association or a paralegal supervised by an attorney at law with membership in good standing in the Washington state bar association.

(ii) An attorney at law with membership in good standing in the highest court of any other state or the District of Columbia.

(iii) A lay representative who is a corporate officer or an employee of the employer or retrospective rating group.

(iv) A firm that contracts with the employer or retrospective rating group to handle matters pertaining to industrial insurance.

(c) The department of labor and industries may be represented by:

(i) An attorney employed as assistant attorney general or appointed as a special assistant attorney general.

(ii) A paralegal supervised by an assistant attorney general or special assistant attorney general.

(iii) An employee of the department of labor and industries designated by the director, or his or her designee, in a claim resolution ((structured)) settlement agreement under RCW 51.04.063.

(d) A licensed legal intern may represent any party consistent with Washington state admission to practice rule 9(e).

**(4) Appeals under the Washington Industrial Safety and Health Act.**

(a) In an appeal by an employee or employee representative under the Washington Industrial Safety and Health Act, the cited employer may enter an appearance as prescribed in subsection (7) of this section and will be deemed a party to the appeal.

(b) In an appeal by an employer, under the Washington Industrial Safety and Health Act, an employee or employee representative may enter an appearance as prescribed in subsection (7) of this section and will be deemed a party to the appeal.

(c) A lay representative appearing on behalf of an employee or an employee representative in an appeal under the Washington Industrial Safety and Health Act is not subject to the compensation restrictions of subsection (3) of this section.

**(5) May a self-represented party be accompanied by another person?** Where the party appears representing himself or herself, he or she may be accompanied, both at conference and at hearing, by a lay person of his or her choosing who shall be permitted to accompany the party into the conference or hearing room and with whom he or she can confer during such procedures. If the lay person is also a witness to the proceeding, the industrial appeals judge may exclude the lay person from the proceeding as provided by Evidence Rule 615.

**(6) Assistance by the industrial appeals judge.** Although the industrial appeals judge may not advocate for either party, all parties who appear either at conferences or hearings are entitled to the assistance of the industrial appeals judge presiding over the proceeding. Such assistance shall be given in a fair and impartial manner consistent with the industrial appeals judge's responsibilities to the end that all parties are informed of the procedure to be followed and the issues involved in the proceedings. Any party who appears representing himself or herself shall be advised by the industrial appeals judge of the burden of proof required to establish a right to the relief being sought.

**(7) How to make an appearance.**

(a) Appearance by employer representative. Within ((fourteen)) 14 days of receipt of an order granting appeal, any representative of an employer or retrospective rating group must file a written notice of

appearance that includes the name, address, and telephone number of the individual who will appear.

(b) Appearances by a worker or beneficiary representative shall be made either by:

(i) Filing a written notice of appearance with the board containing the name of the party to be represented, and the name and address of the representative; or by

(ii) Appearing at the time and place of a conference or hearing on the appeal, and notifying the industrial appeals judge of the party to be represented, and the name and address of the representative.

**(8) Notice to other parties.**

(a) The appearing party shall furnish copies of every written notice of appearance to all other parties or their representatives of record at the time the original notice is filed with the board.

(b) The board will serve all of its notices and orders on each representative and each party represented. Service upon the representative shall constitute service upon the party. Where more than one individual associated with a firm, or organization, including the office of the attorney general, has made an appearance, service under this subsection shall be satisfied by serving the individual who filed the notice of appeal, or who last filed a written notice of appearance or, if no notice of appeal or written notice of appearance has been filed on behalf of the party, the individual who last appeared at any proceeding concerning the appeal.

**(9) Withdrawal or substitution of representatives.** An attorney or other representative withdrawing from a case shall immediately notify the board and all parties of record in writing. The notice of withdrawal shall comply with the rules applicable to notices of withdrawal filed with the superior court in civil cases. Withdrawal is subject to approval by the industrial appeals judge or the chief legal officer. Any substitution of an attorney or representative shall be accomplished by written notification to the board and to all parties of record together with the written consent of the prior attorney or representative. If such consent cannot be obtained, a written statement of the reason therefor shall be supplied.

**(10) Conduct.** All persons appearing as counsel or representatives in proceedings before the board or before its industrial appeals judges shall conform to the standards of ethical conduct required of attorneys before the courts of the state of Washington.

(a) Industrial appeals judge. If any such person does not conform to such standard, the industrial appeals judge presiding over the appeal, at his or her discretion and depending on all the circumstances, may take any of the following actions:

(i) Admonish or reprimand such person.

(ii) Exclude such person from further participation or adjourn the proceeding.

(iii) Certify the facts to the appropriate superior court for contempt proceedings as provided in RCW 51.52.100.

(iv) Report the matter to the board.

(b) The board. In its discretion, either upon referral by an industrial appeals judge as stated above or on its own motion, after information comes to light that establishes to the board a question regarding a person's ethical conduct and fitness to practice before the board, and after notice and hearing, the board may take appropriate disciplinary action including, but not limited to:

(i) A letter of reprimand.

(ii) Refusal to permit such person to appear in a representative capacity in any proceeding before the board or its industrial appeals judges.

(iii) Certification of the record to the superior court for contempt proceedings as provided in RCW 51.52.100. If the circumstances require, the board may take action as described above prior to notice and hearing if the conduct or fitness of the person appearing before the board requires immediate action in order to preserve the orderly disposition of the appeal(s).

(c) Proceedings. If any person in proceedings before the board disobeys or resists any lawful order or process, or misbehaves during a hearing or so near the place thereof as to obstruct the same, or neglects to produce, after having been ordered so to do, any pertinent book, paper or document, or refuses to appear after having been subpoenaed, or upon appearing refuses to take oath as a witness, or after having the oath refuses to be examined according to law, the industrial appeals judge may, at his or her discretion and depending on all the circumstances:

(i) Admonish or reprimand such person.

(ii) Exclude such person from further participation or adjourn the proceeding.

(iii) Certify the facts to the appropriate superior court for contempt proceedings as provided in RCW 51.52.100.

(iv) Report the matter to the board for action consistent with (b) of this subsection.

[Statutory Authority: RCW 51.52.020. WSR 21-15-042, § 263-12-020, filed 7/14/21, effective 8/14/21; WSR 16-24-054, § 263-12-020, filed 12/2/16, effective 1/2/17; WSR 14-24-105, § 263-12-020, filed 12/2/14, effective 1/2/15; WSR 10-14-061, § 263-12-020, filed 6/30/10, effective 7/31/10; WSR 04-16-009, § 263-12-020, filed 7/22/04, effective 8/22/04; WSR 00-23-021, § 263-12-020, filed 11/7/00, effective 12/8/00; WSR 98-20-109, § 263-12-020, filed 10/7/98, effective 11/7/98; WSR 91-13-038, § 263-12-020, filed 6/14/91, effective 7/15/91. Statutory Authority: RCW 51.41.060(4) and 51.52.020. WSR 83-01-001 (Order 12), § 263-12-020, filed 12/2/82. Statutory Authority: RCW 51.52.020. WSR 82-03-031 (Order 11), § 263-12-020, filed 1/18/82; Order 7, § 263-12-020, filed 4/4/75; Order 6, § 263-12-020, filed 9/29/72; Order 4, § 263-12-020, filed 6/9/72; General Order 2, § 3.1, filed 6/12/63; General Order 1, filed 3/23/60; General Order 3, § 3.1(b), Subsection (2), filed 10/29/65.]

AMENDATORY SECTION (Amending WSR 11-23-154, filed 11/22/11, effective 12/23/11)

**WAC 263-12-054 Petition to enforce terms of claim resolution ((structured)) settlement agreement.** A petition to enforce the terms of a claim resolution ((structured)) settlement agreement must include:

- (1) A copy of the agreement;
- (2) A copy of the board order approving the agreement;
- (3) A statement setting forth the basis for the parties' failure to comply with the agreement; and
- (4) The current mailing address of each party to the agreement.

[Statutory Authority: RCW 51.52.020. WSR 11-23-154, § 263-12-054, filed 11/22/11, effective 12/23/11.]

AMENDATORY SECTION (Amending WSR 14-24-105, filed 12/2/14, effective 1/2/15)

**WAC 263-12-092 Mediation and claim resolution ((structured) settlement agreement conferences.** (~~((1) A statement made by any party, representative or other participant in the course of mediation conducted pursuant to RCW 51.52.095 or a claim resolution structured settlement agreement conference conducted pursuant to RCW 51.04.063, whether verbal or written, is privileged as provided in subsection (2) of this section and is not subject to discovery or admissible in evidence in a proceeding unless waived or reduced to writing and made part of a settlement agreement.~~

~~(2) In a proceeding, the following privileges apply:~~

~~(a) A party may refuse to disclose and may prevent any other person from disclosing a statement;~~

~~(b) A mediator or structured settlement conference judge may refuse to disclose and may prevent any other person from disclosing a statement from the mediator or judge; and~~

~~(c) A nonparty participant may refuse to disclose and may prevent any other person from disclosing a statement of the nonparty participant.)~~ (1) Except as otherwise required by law, subsection (3) of this section, or by expressed agreement of the parties, all mediation and claim resolution settlement agreement conferences conducted pursuant to RCW 51.52.095 or 51.04.063, including communications, statements, and disclosures made by any participant shall be confidential. Such communications, statements, and disclosures shall not be reported, placed in evidence, or disclosed to anyone not a party to the appeal. Such communications, statements, and disclosures shall not be construed as an admission or declaration against interest. No party shall be bound by anything done or said during such events unless a settlement or other agreement is reached in writing or reduced to writing by the mediator or judge.

(2) Despite any agreement of the parties to the contrary, a mediation or claim resolution settlement agreement conference judge is prohibited from disclosing any communications, statements, disclosures, or representations identified in subsection (1) of this section, and shall not be called as a witness or deponent in any later proceeding for the purpose of making such disclosures.

(3) Evidence or information that is otherwise admissible or subject to discovery does not become inadmissible or protected from discovery solely by reason of its disclosure or use in a mediation (~~(unless otherwise privileged by subsection (2) of this section)~~).

(4) Mediation and claim resolution ((structured)) settlement agreement conferences are confidential and nonparties may be excluded from the ((proceedings)) events.

(5) Mediation and claim resolution ((structured)) settlement agreement conferences may not be recorded by any type of recording device.

[Statutory Authority: RCW 51.52.020. WSR 14-24-105, § 263-12-092, filed 12/2/14, effective 1/2/15; WSR 08-01-081, § 263-12-092, filed 12/17/07, effective 1/17/08.]

AMENDATORY SECTION (Amending WSR 17-24-121, filed 12/6/17, effective 1/6/18)

**WAC 263-12-115 Procedures at hearings.** (1) **Industrial appeals judge.** All hearings shall be conducted by an industrial appeals judge who shall conduct the hearing in an orderly manner and rule on all procedural matters, objections and motions.

(2) **Order of presentation of evidence.**

(a) In any appeal under either the Industrial Insurance Act, the Worker and Community Right to Know Act, or the Crime Victims Compensation Act, the appealing party shall initially introduce all evidence in his or her case-in-chief except that in an appeal from an order of the department that alleges fraud or willful misrepresentation the department or self-insured employer shall initially introduce all evidence in its case-in-chief.

(b) In all appeals subject to the provisions of the Washington Industrial Safety and Health Act, the department shall initially introduce all evidence in its case-in-chief.

(c) After the party with the initial burden has presented his or her case-in-chief, the other parties may then introduce the evidence necessary to their cases-in-chief. In the event there is more than one other party, they may either present their cases-in-chief successively or may join in their presentation. Rebuttal evidence shall be received in the same order. Witnesses may be called out of turn in contravention of this rule only by agreement of all parties.

(3) **Objections and motions to strike.** Objections to the admission or exclusion of evidence shall be in short form, stating the legal grounds of objection relied upon. Extended argument or debate shall not be permitted.

(4) **Rulings.** The industrial appeals judge on objection or on his or her own motion shall exclude all irrelevant or unduly repetitious evidence and statements that are inadmissible pursuant to WAC 263-12-095(5). All rulings upon objections to the admissibility of evidence shall be made in accordance with rules of evidence applicable in the superior courts of this state.

(5) **Interlocutory appeals to the board - Confidentiality of trade secrets.** A direct appeal to the board shall be allowed as a matter of right from any ruling of an industrial appeals judge adverse to the employer concerning the confidentiality of trade secrets in appeals under the Washington Industrial Safety and Health Act.

(6) **Interlocutory review by a chief industrial appeals judge.**

(a) Except as provided in subsection (5) of this section interlocutory rulings of the industrial appeals judge are not subject to direct review by the board. A party to an appeal or a witness who has made a motion to quash a subpoena to appear at board related proceedings, may within five working days of receiving an adverse ruling from an industrial appeals judge request a review by a chief industrial appeals judge or his or her designee. Such request for review shall be in writing and shall be accompanied by an affidavit in support of the request and setting forth the grounds for the request, including the

reasons for the necessity of an immediate review during the course of conference or hearing proceedings. Within (~~ten~~) 10 working days of receipt of the written request, the chief industrial appeals judge, or designee, may decline to review the ruling based upon the written request and supporting affidavit; or, after such review as he or she deems appropriate, may either affirm or reverse the ruling, or refer the matter to the industrial appeals judge for further consideration.

(b) Failure to request review of an interlocutory ruling shall not constitute a waiver of the party's objection, nor shall an unfavorable response to the request preclude a party from subsequently renewing the objection whenever appropriate.

(c) No conference or hearing shall be interrupted for the purpose of filing a request for review of the industrial appeals judge's rulings; nor shall any scheduled proceedings be canceled pending a response to the request.

(7) **Recessed hearings.** Where, for good cause, all parties to an appeal are unable to present all their evidence at the time and place originally set for hearing, the industrial appeals judge may recess the hearing to the same or a different location so as to insure that all parties have reasonable opportunity to present their respective cases. No written "notice of hearing" shall be required as to any recessed hearing.

(8) **Failure to present evidence when due.**

(a) If any party is due to present certain evidence at a hearing or recessed hearing and, for any reason on its part, fails to appear and present such evidence, the industrial appeals judge may conclude the hearing and issue a proposed decision and order on the record, or recess or set over the proceedings for further hearing for the receipt of such evidence.

(b) In cases concerning Washington Industrial Safety and Health Act citations, a failure to appear by the person and/or party who filed the appeal is deemed to be an admission of the validity of any citation, abatement period, or penalty issued or proposed, and constitutes a waiver of all rights except the right to receive a copy of the decision.

(c) In cases concerning willful misrepresentation, the industrial appeals judge may proceed with the hearing, receive evidence, and issue a proposed decision and order without requirement of further notice to the appealing party who fails to appear.

(9) **Offers of proof in colloquy.** When an objection to a question is sustained an offer of proof in question and answer form shall be permitted unless the question is clearly objectionable on any theory of the case.

(10) **Telephone and video testimony.** At hearings, the parties may present the testimony of witnesses by telephone or video if agreed to by all parties and approved by the industrial appeals judge. For good cause the industrial appeals judge may authorize telephone or video testimony over the objection of a party after weighing the following nonexclusive factors:

- The need to weigh a witness's demeanor or credibility.
- Difficulty in handling documents and exhibits.
- The number of parties participating in the hearing.
- Whether any of the testimony will need to be translated.
- Ability of the witness to travel.
- Feasibility of taking a perpetuation deposition.
- Availability of quality telecommunications equipment and service.

When telephone or video testimony is permitted, the industrial appeals judge presiding at the hearing will swear in the witness testifying by (~~phone~~) telephone or video as if the witness appeared live at the hearing. For rules relating to telephone or video deposition testimony, see WAC 263-12-117.

[Statutory Authority: RCW 51.52.020. WSR 17-24-121, § 263-12-115, filed 12/6/17, effective 1/6/18; WSR 14-24-105, § 263-12-115, filed 12/2/14, effective 1/2/15; WSR 08-01-081, § 263-12-115, filed 12/17/07, effective 1/17/08; WSR 03-02-038, § 263-12-115, filed 12/24/02, effective 1/24/03; WSR 00-23-021, § 263-12-115, filed 11/7/00, effective 12/8/00; WSR 91-13-038, § 263-12-115, filed 6/14/91, effective 7/15/91; WSR 84-08-036 (Order 17), § 263-12-115, filed 3/30/84. Statutory Authority: RCW 51.41.060(4) and 51.52.020. WSR 83-01-001 (Order 12), § 263-12-115, filed 12/2/82. Statutory Authority: RCW 51.52.020. WSR 82-03-031 (Order 11), § 263-12-115, filed 1/18/82; Order 9, § 263-12-115, filed 8/8/75; Order 7, § 263-12-115, filed 4/4/75; Order 4, § 263-12-115, filed 6/9/72; General Order 3, Rule 7.5, filed 10/29/65; General Order 2, Rule 7.4, filed 6/12/63; General Order 1, Rule 5.10, filed 3/23/60. Formerly WAC 296-12-115.]

AMENDATORY SECTION (Amending WSR 21-15-042, filed 7/14/21, effective 8/14/21)

**WAC 263-12-117 Perpetuation depositions.** (1) **Evidence by deposition.** The industrial appeals judge may permit or require the perpetuation of testimony by deposition, subject to the applicable provisions of WAC 263-12-115. Such ruling may only be given after the industrial appeals judge gives due consideration to:

- (a) The complexity of the issues raised by the appeal;
- (b) The desirability of having the witness's testimony presented at a hearing;
- (c) The costs incurred by the parties in complying with the ruling; and
- (d) The fairness to the parties in complying with the ruling.

(2) **Telephone and video depositions:** When testimony is taken by perpetuation deposition, it may be taken by telephone or video if all parties agree. For good cause the industrial appeals judge may permit the parties to take the testimony of a witness by telephone or video deposition over the objection of a party after weighing the following nonexclusive factors:

- The need of a party to observe a witness's demeanor.
- Difficulty in handling documents and exhibits.
- The number of parties participating in the deposition.
- Whether any of the testimony will need to be translated.
- Ability of the witness to travel.
- Availability of quality telecommunications equipment and service.

If a perpetuation deposition is taken by telephone or video, the court reporter transcribing the deposition is authorized to swear in the deponent, regardless of the deponent's location within or outside the state of Washington.

(3) The industrial appeals judge may require that depositions be taken and published within prescribed time limits. The time limits may be extended by the industrial appeals judge for good cause. Each party



shall bear its own costs except when the industrial appeals judge allocates costs to parties or their representatives. If a party takes a deposition under this section, but elects not to file the deposition as evidence in the appeal, the party shall provide written notice to the assigned industrial appeals judge and all other parties prior to the deposition filing deadline.

(4) The party filing a deposition must submit the stenographically reported and transcribed deposition, certification, and exhibits in an electronic format in accordance with procedures established by the board. The following requirements apply to the submission of depositions:

(a) Video depositions will not be considered as part of the record on appeal;

(b) The electronic deposition must be submitted in searchable pdf format;

(c) Exhibits to the deposition must be filed electronically as a single attachment separate from the deposition transcript and certification;

(d) Any media exhibit (audio or video) must meet the requirements set forth in WAC 263-12-116; and

(e) If the deposition is not transcribed in a reproducible format or properly submitted it may be excluded from the record.

(5) **Procedure at deposition.** Unless the parties stipulate or the industrial appeals judge determines otherwise all depositions permitted to be taken for the perpetuation of testimony shall be taken subject to the following conditions:

(a) That all motions and objections, whether to form or otherwise, shall be raised at the time of the deposition and if not raised at such time shall be deemed waived.

(b) That all exhibits shall be marked and identified at the time of the deposition and, if offered into evidence, appended to the deposition.

(c) That the deposition be published without necessity of further conference or hearing at the time it is received by the industrial appeals judge.

(d) That all motions, including offers to admit exhibits and objections raised at the time of the deposition, shall be ruled upon by the industrial appeals judge in the proposed decision and order.

(e) That the deposition may be appended to the record as part of the transcript, and not as an exhibit, without the necessity of being retyped into the record.

[Statutory Authority: RCW 51.52.020. WSR 21-15-042, § 263-12-117, filed 7/14/21, effective 8/14/21; WSR 17-24-121, § 263-12-117, filed 12/6/17, effective 1/6/18; WSR 16-24-054, § 263-12-117, filed 12/2/16, effective 1/2/17; WSR 14-24-105, § 263-12-117, filed 12/2/14, effective 1/2/15; WSR 10-14-061, § 263-12-117, filed 6/30/10, effective 7/31/10; WSR 04-16-009, § 263-12-117, filed 7/22/04, effective 8/22/04; WSR 03-02-038, § 263-12-117, filed 12/24/02, effective 1/24/03.]

AMENDATORY SECTION (Amending WSR 18-24-123, filed 12/5/18, effective 1/5/19)

**WAC 263-12-165 Attorney's fees. (1) Applications for attorney's fees.**

(a) For the fixing of attorney fees as provided by RCW 51.52.120, the board shall fix a reasonable attorney fee to be paid by the worker, crime victim or beneficiary for services rendered before the board, or before the department in a claim resolution (~~(structured)~~) settlement agreement, if written application therefor is made by the attorney, worker, crime victim or beneficiary, within one year after the board's final decision and order, or approval of the claim resolution (~~(structured)~~) settlement agreement, is communicated to the party making the application. If such application for fixing of a fee is made by the attorney, it shall set forth therein the monetary amount which the attorney considers reasonable for all services rendered before the board in an appeal, or before the department in a claim resolution (~~(structured)~~) settlement agreement, and the justification supporting the requested fee. The board shall afford to all parties affected a minimum of (~~(ten)~~) 10 days in which to submit comments and material information which may be helpful to the board in setting a fair and reasonable fee.

(b) For the ordered payment of attorney fees as provided by RCW 51.32.185 and 51.32.187, the board shall set the attorney fee in a manner consistent with applicable provisions of subsections (2) and (3) (~~(below)~~) of this section.

(2) **Fee fixing criteria.** All attorney fees fixed by the board, where application therefor has been made, shall be established in accordance with Rule 1.5 of the Rules of Professional Conduct and the following general principles:

(a) Only one fee shall be fixed for legal services in any one appeal or claim resolution (~~(structured)~~) settlement agreement regardless of the number of attorneys representing the worker, crime victim or beneficiary, except that in cases of multiple beneficiaries represented by one or multiple attorneys the board has the discretion to set more than one attorney fee if so requested.

(b) The board shall defer fixing a fee until such time as information, which it deems sufficient upon which to base a fee, is available.

(c) A fee shall be fixed only in those cases where the attorney's services are instrumental in securing additional benefits to the worker, crime victim or beneficiary, sustaining the worker's or beneficiary's right to benefits upon an appeal by another party, or in securing a claim resolution (~~(structured)~~) settlement agreement.

(d) Where increased compensation is obtained, the fee may be fixed without regard to any medical benefits secured.

(e) In setting all fees, the following factors shall be carefully considered and weighed:

(i) Nature of the appeal or the claim resolution (~~(structured)~~) settlement agreement.

(ii) Novelty and complexity of the issues presented or other unusual circumstances.

(iii) Time and labor expended.

(iv) Skill and diligence in conducting the case or in securing the claim resolution (~~(structured)~~) settlement agreement.

(v) Extent and nature of the relief. In computing the extent of additional benefits, or the retention of benefits awarded by the de-

partment, the cost to the worker, crime victim or beneficiary of the litigation, i.e., medical examination and witness fees, shall be first deducted and the net benefits considered.

(vi) The amount of accrued time-loss payments as a result of proceedings before the board.

(vii) The prevalent practice of charging contingency fees in cases before the board.

(viii) The worker's or crime victim's circumstances and the remedial social purposes of the Industrial Insurance Act and of the Crime Victims Compensation Act, which are intended to provide sure and adequate relief to injured workers and crime victims and their families.

(f) In those cases where the payment of accumulated benefits is insufficient to allow payment of the fee set and allow the worker, crime victim or beneficiary to retain a reasonable monetary amount, the board may also set the schedule and manner in which such fee shall be payable.

**(3) Amount of fees.**

(a) Where additional compensation for permanent partial disability, loss of earning power, or total temporary disability is obtained as a result of settlement of the appeal on agreement of the parties prior to presentation of testimony, a fee of from 10 to 25 percent of the increased compensation due the worker, crime victim or beneficiary on the date of the board's order on agreement of the parties and by reason thereof shall be fixed after considering all factors.

(b) Where additional compensation for permanent partial disability, loss of earning power or total temporary disability is obtained after the presentation of testimony, a fee of from 10 to 30 percent of the increased compensation shall be fixed after considering all factors. This provision shall also apply to retroactive permanent total disability (pension) benefits.

(c) Where no additional compensation is obtained, but the worker or crime victim is relieved of the payment for medical benefits, a fee of from 10 to 25 percent of the amount the worker or crime victim is so relieved of paying shall be fixed after considering all factors.

(d) Where permanent total disability (pension) benefits are obtained for survivors of a deceased worker or crime victim, 10 percent of the first \$40,000.00 of the pension reserve as calculated by the department of labor and industries, and 15 percent of the pension reserve in excess of \$40,000.00 shall constitute the usual fee, which may be decreased or increased after weighing all factors.

(e) Where indeterminate additional compensation is obtained because the claimant is successful in establishing a proper claim for benefits which was previously rejected or for which responsibility was denied, a fee in accordance with the preceding principles and factors shall be fixed.

(f) Where, upon an appeal by a party other than the worker or his or her beneficiary, the right to receive the benefits awarded by the department is affirmed, a fee in accordance with the preceding principles and factors shall be fixed.

(g) Where a claim resolution (~~(structured)~~) settlement agreement is approved by the board, fees for attorney's services are limited to (~~(fifteen)~~) 15 percent of the total amount to be paid to the worker after the agreement becomes final.

(h) When a firefighter, law enforcement officer, or Hanford site worker has prevailed and the final decision is to allow the claim, making the opposing party responsible for the payment of reasonable

costs, including attorney fees, the fees may be established based on an hourly rate.

(i) The number of hours expended must be supported by documentation. The board will disregard inflated hours or hours reflecting reimbursement for clerical functions.

(ii) All requests for costs must be accompanied by invoices and documentation including hourly breakdowns where applicable.

(4) **Excess fee unlawful.** Where the board, pursuant to written application by an attorney, worker, crime victim or beneficiary, fixes a reasonable fee for the services of the attorney in proceedings before this board, or before the department in securing a claim resolution ((structured)) settlement agreement, it is unlawful for the attorney to charge or receive any fee for such services in excess of that fee so fixed, per RCW 51.52.132.

[Statutory Authority: RCW 51.52.020. WSR 18-24-123, § 263-12-165, filed 12/5/18, effective 1/5/19; WSR 11-23-154, § 263-12-165, filed 11/22/11, effective 12/23/11; WSR 08-01-081, § 263-12-165, filed 12/17/07, effective 1/17/08; WSR 95-12-062, § 263-12-165, filed 6/5/95, effective 7/6/95; WSR 91-13-038, § 263-12-165, filed 6/14/91, effective 7/15/91; WSR 82-03-031 (Order 11), § 263-12-165, filed 1/18/82; Order 7, § 263-12-165, filed 4/4/75; Order 4, § 263-12-165, filed 6/9/72; Subsection 1 from General Order 3, Rule 9.1, filed 10/29/65; General Order 2, Rule 9.2, filed 6/12/63; General Order 1, Rule 6.4, filed 3/23/60; Subsection (2), General Order 3, Rule 9.2, filed 10/29/65; General Order 9.1, filed 6/12/63; General Order 1, Rule 6.4, filed 3/23/60. Formerly WAC 296-12-165.]

**WSR 22-11-084**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Filed May 17, 2022, 7:58 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-08-095.

Title of Rule and Other Identifying Information: The department is proposing to amend commercial rules to require additional information when submitting an electronic fish receiving ticket while using mobile electronic catch reporting software or applications. Proposed amendments include WAC 220-352-010 and 220-352-040.

Hearing Location(s): On June 23-25, [2022], at 8:00 a.m., in-person at Olympia, Washington and webinar/teleconference. Visit our website at <https://wdfw.wa.gov/about/commission/meetings> or contact the commission office at 360-902-2267 (email [commission@dfw.wa.gov](mailto:commission@dfw.wa.gov)) for instructions on how to join the meeting.

Date of Intended Adoption: On or after August 29, 2022.

Submit Written Comments to: Kelly Henderson, P.O. Box 43200, Olympia, WA 98504, email [fishticketCR102@PublicInput.com](mailto:fishticketCR102@PublicInput.com), voicemail comments 855-925-280, project code 2908, public input web page <https://publicinput.com/fishticketCR102>, by June 25, 2022.

Assistance for Persons with Disabilities: Contact Title VI/ADA compliance coordinator, phone 360-902-2349, email [Title6@dfw.wa.gov](mailto:Title6@dfw.wa.gov), <https://wdfw.wa.gov/accessibility/requests-accommodation>.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 220-352-010, this proposal adds "location services" and "terms of use" to the commercial fish receiving ticket definitions.

WAC 220-352-040, the proposed rule changes would require location services on a user's mobile computing device (specifically but not limited to smartphone or tablet) be enabled when required by the terms of use of a department-approved mobile catch reporting software or application. Location services allows the geolocation of a user's mobile device be automatically determined when submitting an electronic fish receiving ticket.

Reasons Supporting Proposal: Enabling location services when required by the terms of use of a department-approved electronic catch reporting software or application so that a geolocation can be determined is a necessary tool to strengthen enforceability of deliveries when submitting an electronic fish receiving ticket. Paper fish tickets require the original receiver be present at the location and time of the purchase or delivery. When submitting an electronic fish receiving ticket using a mobile catch reporting software like the Washington department of fish and wildlife (WDFW)-developed WA-Tix application, there is a potential loophole for users to not be physically present at the location of purchase or delivery. This could be problematic if there are requirements relative to the location where deliveries are allowed. Requiring that location services is enabled so that a geolocation can be determined when completing an electronic fish [receiving] ticket when using a mobile application will address this enforcement challenge.

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

Statute Being Implemented: RCW 77.04.012, 77.04.020, 77.04.055, and 77.12.047.

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

Name of Proponent: WDFW, governmental.

Name of Agency Personnel Responsible for Drafting: Aaron Dufault, 1111 Washington Street S.E., Olympia, WA, 360-584-6195; Implementation: Aaron Dufault or Heather Hall, 1111 Washington Street S.E., Olympia, WA, 360-584-6195 or 360-490-9628; and Enforcement: Chief Steve Bear, 1111 Washington Street S.E., Olympia, WA, 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. A cost-benefit analysis is not required for this rule making under RCW 34.05.328 (5) (a).

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 costs associated with transitioning from paper fish receiving tickets to electronic fish receiving tickets was included in previously adopted commission rule making (WSR 21-14-001) and summarized in a small business [economic] impact statement (SBEIS). Those cost impacts were expected to be negligible for the majority of potentially impacted businesses, regardless of size. The proposed rule amendments included here are focused on the WA-Tix mobile application and do not accrue any costs in addition to what is already included in the SBEIS from WSR 21-14-001.

May 17, 2022  
Annie Szvetcz  
Rules Coordinator

## OTS-3803.2

AMENDATORY SECTION (Amending WSR 18-11-052, filed 5/10/18, effective 6/10/18)

**WAC 220-352-010 Fish receiving ticket definitions.** The following definitions apply to this chapter:

(1) "Department" means the Washington Department of Fish and Wildlife, Fish Program - Commercial Harvest Data Team, 600 Capitol Way North, Olympia, Washington 98501-1091.

(2) "Fish" means food fish classified under WAC 220-300-370, game fish classified under WAC 220-300-380, and any other fish species subject to catch or harvest reporting requirements under state or federal law.

(3) "Fish broker" means a person who facilitates the sale or purchase of raw or frozen fish or shellfish on a fee or commission basis, without assuming title to the fish or shellfish and is required to have a fish dealer license.

A broker is not required to have a fish dealer license if the fish or shellfish only transit the state of Washington, and no storage, handling, processing, or repackaging occurs within the state.

(4) "Fish buyer," "buyer," or "wholesale fish buyer" means a person who:

(a) Takes first possession or ownership of fish or shellfish directly from a commercial fisher that is landed into the state of Washington; or

(b) Takes first possession or ownership of raw or frozen fish or shellfish in the state of Washington from interstate or foreign commerce; or

(c) Engages in the wholesale buying or selling of fish or shellfish harvested by fishers exercising treaty rights; or

(d) Acts as an agent for a wholesale fish buyer, to include purchasing or receiving fish or shellfish on a contractual basis.

(5) "Fish receiving ticket" is an official department document, available in paper or electronic form, for recording the delivery of commercial fish and shellfish and related transactions identified in WAC 220-352-020.

(6) "Fisher" means a person engaged in commercial fishing activities.

(7) "Fresh" or "raw" means unprocessed and unfrozen, regardless of whether the fish or shellfish are in the round, cleaned, or packaged for retail sale.

(8) "Frozen" means completely frozen throughout. Flash frozen and surface glaze frozen fish and shellfish are unfrozen fish and shellfish.

(9) "Groundfish" refers to the flatfish, rockfish, and roundfish species managed under the Pacific Fishery Management Council's Pacific Coast Groundfish Fishery Management Plan and equivalent management plans in British Columbia and Alaska. The term is largely synonymous with the definition of "bottomfish" at WAC 220-300-040 but identifies a more limited subset of species.

(10) For deliveries made from the groundfish fisheries operating under 50 C.F.R., Part 660, the terms "to land(~~(=)~~)," "landing(~~(=)~~)," and "landed" are equivalent to the term "to deliver" as defined under RCW 77.15.630 (4) (b).

(11) "Location services" is a feature of an electronic computing device which enables applications and websites to automatically generate a geographic location of a person or device.

(12) "Nontreaty" means all entities not qualified by definition as "treaty."

~~((12))~~ (13) Except as provided, "original receiver" or "receiver" means a person who holds a wholesale fish buyer endorsement or a limited fish seller endorsement. Except as provided, an original receiver means the first person in possession of fish or shellfish in the state of Washington who is acting in the capacity of a buyer:

(a) A fisher who is not the holder of a limited fish seller endorsement and who sells fish or shellfish to anyone other than a wholesale fish buyer, or a fisher who delivers fish or shellfish and places the fish or shellfish into interstate or foreign commerce, is the original receiver of the fish or shellfish;

(b) A cold storage facility that holds fish or shellfish for a fisher is not an original receiver, provided that the facility does not process, package, or otherwise handle the fish or shellfish;

(c) A person transporting fish or shellfish on behalf of a fisher, and who is in possession of an accurately completed commercial food fish and shellfish transportation ticket, is not an original receiver, provided that the fish or shellfish are transported only to a cold storage facility or to a wholesale fish buyer.

~~((13))~~ (14) "Processed" means preparing and preserving and requires a fish buyer's license. Preserving includes treating with heat,

including smoking and kippering. Cooked crab is processed. Preserving also includes freezing fish and shellfish.

~~((14))~~ (15) "Shellfish" means shellfish classified under WAC 220-320-010 and any other marine invertebrate species subject to catch or harvest reporting requirements under state or federal law.

~~((15))~~ (16) "Terms of use" are the rules, specifications, and requirements for the use of department-approved electronic catch reporting software or applications.

(17) "Treaty" and "treaty Indian," for purposes of fish receiving tickets only, means persons who are members of federally recognized Indian tribes who harvest fish or shellfish in Washington pursuant to an Indian treaty, whether such harvest is on or off reservation.

~~((16))~~ (18) "Working day" means Monday through Friday, exclusive of a Washington state or federal holiday.

[Statutory Authority: RCW 77.04.090 and 77.04.130. WSR 18-11-052 (Order 18-92), § 220-352-010, filed 5/10/18, effective 6/10/18. Statutory Authority: RCW 77.04.090, 77.04.130, 77.15.568, 77.08.010, 77.65.510, 77.65.515, and 77.65.520. WSR 17-22-100, § 220-352-010, filed 10/30/17, effective 1/1/18. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-352-010, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, 77.12.047, and 50 C.F.R. Part 660. WSR 17-03-006 (Order 17-04), § 220-69-210, filed 1/4/17, effective 1/4/17. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.055, 77.12.045, and 77.12.047. WSR 14-02-013 (Order 13-304), § 220-69-210, filed 12/19/13, effective 1/19/14. Statutory Authority: RCW 77.04.020, 77.12.045, 77.12.047, and 50 C.F.R. 660. WSR 12-04-028 (Order 12-09), § 220-69-210, filed 1/26/12, effective 2/26/12. Statutory Authority: RCW 77.12.047. WSR 04-17-096 (Order 04-210), § 220-69-210, filed 8/17/04, effective 9/17/04. Statutory Authority: RCW 75.08.080. WSR 00-01-145 (Order 99-221), § 220-69-210, filed 12/20/99, effective 1/20/00; Order 76-153, § 220-69-210, filed 12/17/76.]

AMENDATORY SECTION (Amending WSR 18-11-052, filed 5/10/18, effective 6/10/18)

**WAC 220-352-040 Required information for Washington state non-treaty fish receiving tickets.** (1) The following information is required to be reported on all nontreaty fish receiving ticket forms for all deliveries except imports (WAC 220-352-020 (1)(b)):

(a) Fisher identification: The name and license number of the licensed deliverer.

(b) Address: The address of the licensed deliverer.

(c) Boat name: The name or Coast Guard number of the landing vessel, unless the fishery does not require a vessel.

(d) WDFW boat registration: The Washington department of fish and wildlife boat registration number, unless the fishery does not require a vessel.

(e) Gear: The code number or name of the specific type of gear used.

(f) Fisher's signature: The signature of the licensed deliverer as required in WAC 220-352-140.

(g) Date: Date of landing.



(h) Original receiver: Name of original receiver and the department number assigned to original receiver.

(i) Buyer identification: The name of buyer and the department number assigned to buyer.

(j) Receiver's signature: The signature of the original receiver as required in WAC 220-352-140.

(k) Number of days fished: Days spent catching fish.

(l) Fish or shellfish caught inside or outside 3-mile limit: Check one box.

(m) Catch area:

(i) The salmon catch area code if salmon are caught.

(ii) The marine fish/shellfish catch area code if marine fish are caught or shellfish are caught or harvested.

(n) Port: Port or landing location of delivery using the relevant location code in use by the department.

(o) Species description: Species must be reported using the relevant species or species category code in use by the department.

(p) Delivery amounts:

(i) Number of individuals caught: Deliveries of salmon and sturgeon and all species landed as part of an incidental catch allowance or catch ratio restriction that is expressed in numbers of fish must be reported as counts of individuals.

(ii) The number of ghost shrimp in dozens, the number of oysters in dozens or gallons.

(iii) The original total weight in round pounds of all shellfish or fish, except that pounds of legally dressed fish and shellfish may be recorded in original dressed weight so long as dressed fish and shellfish are designated as dressed on the fish receiving ticket.

(q) Value of fish and shellfish sold or purchased.

(i) Summary information for species or species groups landed: Price per pound or per unit and total value for the line.

(ii) Total amount: Total value of landing.

(r) Take-home fish: Species, number, and pounds of fish or shellfish retained for personal use.

(s) Crew: The name and signature of crew members who take home fish for personal use.

(t) Fish ticket number: Alphanumeric or numeric code assigned to uniquely identify the fish ticket.

(u) Any other fishery specific requirements under this chapter.

(2) For deliveries reported using paper fish receiving ticket forms:

(a) A valid license card or duplicate license card issued by the department used with an approved mechanical imprinter satisfies the requirements in subsection (1)(a) through (e) of this section except as provided in WAC 220-352-150.

(b) A valid dealer or buyer card issued by the department used with an approved mechanical imprinter satisfies the requirements in subsection (1)(h) and (i) of this section.

(3) For import deliveries under WAC 220-352-020 (1)(b), the receiver must:

(a) Report the following information on the fish receiving ticket form:

(i) Place of origin: Area of harvest using the department provided area code.

(ii) Date of import: Date the fish or shellfish entered Washington state.

(iii) Buyer or broker name.

- (iv) Fisher or harvester name.
- (v) Deliverer name.
- (vi) Delivery amount: Species description and weights.

(b) Attach any previously completed fish receiving ticket, or equivalent document, or the bill of lading to the receiver's retained copy of the paper or electronic fish receiving ticket form.

(4) For deliveries reported using electronic fish receiving tickets: If required by the terms of use of a department-approved electronic catch reporting software or application, the receiver must enable location services so that geolocation may be automatically determined during completion and submission of a fish receiving ticket in accordance with WAC 220-352-060.

[Statutory Authority: RCW 77.04.090 and 77.04.130. WSR 18-11-052 (Order 18-92), § 220-352-040, filed 5/10/18, effective 6/10/18. Statutory Authority: RCW 77.04.090, 77.04.130, 77.15.568, 77.08.010, 77.65.510, 77.65.515, and 77.65.520. WSR 17-22-100, § 220-352-040, filed 10/30/17, effective 1/1/18. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), amended and recodified as § 220-352-040, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.055, 77.12.045, and 77.12.047. WSR 14-02-013 (Order 13-304), § 220-69-230, filed 12/19/13, effective 1/19/14. Statutory Authority: RCW 77.04.020, 77.12.047, 50 C.F.R. § 660.370, and 50 C.F.R. § 300.63. WSR 10-02-002 (Order 09-262), § 220-69-230, filed 12/23/09, effective 1/23/10. Statutory Authority: RCW 77.12.047. WSR 07-23-002 (Order 07-279), § 220-69-230, filed 11/7/07, effective 12/8/07; WSR 07-04-030, § 220-69-230, filed 1/29/07, effective 3/1/07. Statutory Authority: RCW 75.08.080. WSR 00-01-145 (Order 99-221), § 220-69-230, filed 12/20/99, effective 1/20/00; WSR 85-11-020 (Order 85-43), § 220-69-230, filed 5/10/85; WSR 84-08-014 (Order 84-24), § 220-69-230, filed 3/27/84; WSR 83-24-049 (Order 83-203), § 220-69-230, filed 12/2/83; WSR 80-05-093 (Order 80-27), § 220-69-230, filed 5/2/80; WSR 78-03-031 (Order 78-7), § 220-69-230, filed 2/17/78; Order 76-153, § 220-69-230, filed 12/17/76.]



The intent of this rule-making package, once adopted, is to replace and supersede the language in these WAC in their entirety: WAC 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, 220-312-060 Freshwater exceptions to statewide rules—Columbia River, 220-313-060 Puget Sound salmon—Saltwater seasons and daily limits, and 220-313-070 Coastal salmon—Saltwater seasons and daily limits.

The Washington department of fish and wildlife (WDFW) is proposing *specific revisions* to these rules to describe the seasons and dates for these fisheries for 2022. However, all of the provisions encompassed within WAC listed above are available for public review and comment, and WDFW will consider all public comments received on this rule making.

Reasons Supporting Proposal: The proposed rules were developed through the annual North of Falcon salmon season setting process, which is an extensive stakeholder engagement process to develop and analyze various season options for recreational, commercial, and tribal fisheries for the current year. It is named "North of Falcon" as it includes setting the salmon seasons for the area north of Cape Falcon, Oregon, which is located at 45° N. latitude.

The North of Falcon process typically begins in January and consists of government-to-government meetings involving the National Marine Fisheries Service (NMFS), treaty tribes, and WDFW representatives. Separate meetings are held with stakeholders—both at a state-wide and regional level—to review preseason run size forecasts and NMFS guidance relative to allowable impacts for species listed under the Endangered Species Act (ESA), which includes salmon, but other protected species as well, such as southern resident killer whales. Meeting schedules and information can be found on the agency's website at <https://wdfw.wa.gov/fishing/management/north-falcon>.

Ocean fishery seasons are developed through the Pacific Fishery Management Council process, which is concurrent with and part of the broader North of Falcon process, with meetings in early March and early April. Ocean fishery options are also analyzed and considered in light of potential ESA-listed species impacts and state/tribal harvest agreements and are also reviewed for consistency with the Pacific Salmon Treaty.

Statutory Authority for Adoption: RCW 77.32.470, 77.04.012, 77.04.013, 77.04.055, and 77.12.047.

Statute Being Implemented: RCW 77.32.470, 77.04.012, 77.04.013, 77.04.055, and 77.12.047.

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

Name of Proponent: WDFW, governmental.

Name of Agency Personnel Responsible for Drafting: Kelly Henderson, 1111 Washington Street [S.E.], Olympia, WA 98501, 360-902-2684; Implementation: Kyle Adicks, 1111 Washington Street [S.E.], Olympia, WA 98501, 360-902-2664; 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 proposal is exempt under RCW 34.05.328 (5) (a).

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.

May 17, 2022  
Annie Szvetcz  
Rules Coordinator

## OTS-3771.2

AMENDATORY SECTION (Amending WSR 22-05-066, filed 2/11/22, effective 7/1/22)

### **WAC 220-312-020 Freshwater exceptions to statewide rules—Coast.**

- (1) **Aberdeen Lake (Grays Harbor County):** Open the fourth Saturday in April through October 31.
- (2) **Bear Creek (Clallam County) (Bogachiel River tributary):**
  - (a) It is unlawful to use anything other than one 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.

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

(A) Daily limit 6; up to 2 may be adults; of which 1 may be a wild coho.

(B) Release wild Chinook.

(d) From the Lime Quarry Road upstream to the Longview Fiber Bridge:

(i) Selective gear rules.

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

(5) **Beaver Creek (Clallam County) (Sol Duc River tributary):**

(a) From the mouth upstream to Beaver Falls:

(b) It is unlawful to use anything other than one 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:

(i) Open October 1 through (~~December~~) October 31(~~(-i-)~~).

(A) Daily limit 6; up to (~~(4)~~) 2 may be (~~(an)~~) adults.

(~~(-ii-)~~) (B) Release adult Chinook (~~(and wild coho)~~).

(ii) Open November 1 through November 30:

(A) Daily limit 6; up to 1 may be an adult.

(B) Release Chinook.

(iii) Open December 1 through December 31:

(A) Daily limit 6; up to 1 may be an adult.

(B) Release Chinook and wild coho.

(10) **Bogachiel Hatchery Pond, South (Clallam County):** 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~~) August 31:
- (I) Daily limit 4; up to 2 (~~adults~~) may be (~~retained~~) adults.
- (II) Release wild adult Chinook and wild adult coho.
- (B) Open September (~~16~~) 1 through (~~November 30~~) September 15:
- (I) Daily limit 3; up to 1 (~~adult~~) may be (~~retained~~) an adult.
- (II) Release wild adult coho and sockeye.
- (C) Open September 16 through December 15:
- (I) Daily limit 3; up to 1 may be an adult.
- (II) Release sockeye.
- (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~~) August 31:
- (I) Daily limit 4; up to 2 (~~adults~~) may be (~~retained~~) adults.
- (II) Release wild adult Chinook and wild adult coho.
- (B) Open September (~~16~~) 1 through (~~November 30~~) September 15:
- (I) Daily limit 3; up to 1 (~~adult~~) may be (~~retained~~) an adult.
- (II) Release wild adult coho and sockeye.
- (C) Open September 16 through December 15:
- (I) Daily limit 3; up to 1 may be an adult.
- (II) Release sockeye.
- (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~~) Fuller Bridge (Keys Road) 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~~) 15:

(I) Daily limit 6.

(II) Release adult salmon.

(B) September (~~24~~) 16 through (~~September 30~~) October 31:

(~~Closed~~.)

(I) Daily limit 6; up to 2 may be adults.

(II) Release adult Chinook.

(C) Open (~~October~~) November 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~~) Fuller Bridge (Keys Road) 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)) 15:~~

(I) Daily limit 6.  
(II) Release adult salmon.  
(B) September 16 through September 30: Closed.  
(C) Open October 1 through October 31:  
(I) Daily limit 6; up to 2 may be adults.  
(II) Release adult Chinook.  
(D) Open November 1 through November 30:  
(I) Daily limit 6; up to 1 may be an adult.  
(II) Release Chinook.

(E) Open (~~October~~) December 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:

(A) Open October 1 through October 31:  
(I) Daily limit 6; up to 2 may be adults.  
(II) Release adult Chinook.

(B) Open (~~October~~) November 1 through (~~December 31~~.) November 30:

~~((A))~~ (I) Daily limit 6; up to 1 may be an adult.  
~~((B))~~ (II) Release Chinook (~~and wild coho~~).  
(C) Open December 1 through December 31:  
(I) Daily limit 6; up to 1 may be an adult.  
(II) 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))~~ (A) Open October 1 through October 31:  
(I) Daily limit 6; up to 2 may be adults.  
(II) Release adult Chinook.

(B) Open November 1 through November 30:  
(I) Daily limit 6; up to 1 may be an adult.  
(II) Release Chinook.

(C) Open December 1 through December 31:  
(I) Daily limit 6; up to 1 may be an adult.  
(II) 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~~) November 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~~) October 31.

(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 September 1 through October 31:

(I) Daily limit 6; up to 2 may be adults.

(II) Release adult Chinook.

(B) Open (~~October~~) November 1 through December 31 (~~(B)~~):

(I) Daily limit 6; up to 1 may be an adult.

(~~(C)~~) (II) 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))~~ August 31 and February 16 through April 30.
- (iii) Game fish: Statewide minimum length/daily limit, except:
  - (A) Release wild rainbow trout.
  - (B) Cutthroat trout: Minimum length 14 inches.
- (iv) Salmon:
  - (A) Open July 1 through ~~((July))~~ August 31:
    - (I) Daily limit 4; up to 2 may be adults.
    - (II) Release wild adult Chinook and wild adult coho.
  - (B) Open September ~~((16))~~ 1 through ~~((November 30))~~ September 15:
    - (I) Daily limit 3; up to 1 may be an adult.
    - (II) Release wild adult coho and sockeye.
  - (C) Open September 16 through December 15:
    - (I) Daily limit 3; up to 1 may be an adult.
    - (II) Release sockeye.
- (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:

(A) Open October 1 through ~~((December))~~ October 31~~((-~~  
~~(A-))~~).

(I) Daily limit 6; up to ~~((4))~~ 2 may be ~~((an))~~ adults.  
~~((B))~~ (II) Release adult Chinook ~~((and wild coho))~~.

(B) Open November 1 through November 30:

(I) Daily limit 6; up to 1 may be an adult.

(II) Release Chinook.

(C) 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 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; of which 1 may be a wild coho.

(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:

(A) Open September 16 through November 30: Daily limit 2; up to 1 ((adult)) may be ((retained)) an adult. ((Release wild coho.))

(B) Open December 1 through December 15: Daily limit 1 coho only.

(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:

(A) Open October 16 through November 30: Daily limit 2; up to 1 adult may be retained. ((Release wild coho.))

(B) Open December 1 through December 15: Daily limit 1 coho only.

(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-)) (A) Open October 1 through October 31:~~
          - (I) Daily limit 6; up to 2 may be adults.
          - (II) Release adult Chinook.
        - (B) Open November 1 through November 30:
          - (I) Daily limit 6; up to 1 may be an adult.
          - (II) Release Chinook.
        - (C) 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 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-)) (A) Open October 1 through October 31:~~
              - (I) Daily limit 6; up to 2 may be adults.
              - (II) Release adult Chinook.
            - (B) Open November 1 through November 30:
              - (I) Daily limit 6; up to 1 may be an adult.
              - (II) Release Chinook.
            - (C) 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 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, of which 1 may be a wild Chinook.
      - (II) Release ((~~wild Chinook and~~)) wild coho.
    - (B) Open October 1 through October 31:
      - (I) Daily limit 6; up to ((±)) 2 may be ((~~an~~)) adults, of which 1 may be a Chinook.
      - (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, of which 1 may be a wild Chinook.
        - (II) Release ((~~wild Chinook and~~)) wild coho.
      - (B) Open October 1 through October 31:
        - (I) Daily limit 6; up to ((±)) 2 may be ((~~an~~)) adults, of which 1 may be a Chinook.
        - (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))~~ Open September 1 through October 31:
      - (A) Daily limit 6; up to 2 may be adults.
      - (B) Release adult Chinook.
    - (ii) Open November 1 through December 31:
      - (A) Daily limit 6; up to 1 may be an adult.
      - (B) 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))~~
    - (i) Open October 1 through October 31:
      - (A) Daily limit 6; up to 2 may be adults.
      - (B) Release adult Chinook.
    - (ii) Open November 1 through November 30:
      - (A) Daily limit 6; up to 1 may be an adult.
      - (B) Release Chinook.
    - (iii) Open December 1 through December 31:
      - (A) Daily limit 6; up to 1 may be an adult.
      - (B) 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~~) October 31.

(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))~~ September 1 through October 31:

(A) Daily limit 6; up to 2 may be adults.

(B) Release adult Chinook.

(ii) Open November 1 through December 31:

(A) Daily limit 6; up to 1 may be an adult.

(B) 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~~) adults, of which 1 may be a wild coho.
- (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~~) adults, of which 1 may be a wild coho.
- (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~~) October 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~~) adults, of which 1 may be a wild coho.
- (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)~~) adults, of which 1 may be a wild coho.

(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)~~) adults, of which 1 may be a wild coho.

(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~~) adults, of which 1 may be a wild coho.
- (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~~) January 31:
- (B) Daily limit 6; up to 2 (~~adults~~) may be (~~retained~~) adults.
- (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~~) January 31:

- (B) Daily limit 6; up to 2 ((adults)) may be ((retained)) adults, of which 1 may be a wild coho.
- (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)) adults, of which 1 may be a wild coho.
- (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.
- (v) Salmon: Open October 1 through January 31:
- (A) Daily limit 6; up to 2 may be adults, of which 1 may be a wild coho.
- (B) Release wild Chinook.
- (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~~) January 31.
  - (ii) Daily limit 6; up to 2 (~~adults~~) may be (~~retained~~) adults.
  - (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:
      - (A) Open October 16 through (~~December~~) October 31 (~~(A)~~):
        - (I) Daily limit 6; up to (~~4~~) 2 may be (~~an~~) adults.
        - (~~(B)~~) (II) Release adult Chinook (~~and wild coho~~).
        - (B) Open November 1 through November 30:
          - (I) Daily limit 6; up to 1 may be an adult.
          - (II) Release Chinook.
        - (C) 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 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.

(iv) Salmon: Open October 1 through January 31:

(A) Daily limit 6; up to 2 may be adults, of which 1 may be a wild coho.

(B) Release wild Chinook.

(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.

(iv) Salmon: Open September 1 through January 31:

(A) Daily limit 6; up to 2 may be adults.

(B) Release wild Chinook and wild coho.

(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)~~) August 29 through ((September 30 and Mondays October 1 through October 20)) October 11.
- (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)~~) August 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)~~) 1 through (~~(November 30)~~) September

15:

- (A) Daily limit 6; up to 3 (~~(adults)~~) may be (~~(retained)~~) adults, of which only 1 may be a wild Chinook.
- (B) Release sockeye and wild adult coho.
- (iii) Open September 16 through December 15:
- (A) Daily limit 6; up to 3 may be adults, of which only 1 may be a wild Chinook and only 1 may be a wild coho.
- (B) Release sockeye.

(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))~~ November 30:
- (ii) Daily limit 6; up to ~~((2))~~ 1 may be an adult ~~((s 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))~~ (A) Open October 1 through October 31:
- (I) Daily limit 6; up to 2 may be adults.
- (II) Release adult Chinook.
- (B) Open November 1 through November 30:

(I) Daily limit 6; up to 1 may be an adult.

(II) Release Chinook.

(C) 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 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)) (A) Open October 1 through October 31:~~

~~(I) Daily limit 6; up to 2 may be adults.~~

~~(II) Release adult Chinook.~~

~~(B) Open November 1 through November 30:~~

~~(I) Daily limit 6; up to 1 may be an adult.~~

~~(II) Release Chinook.~~

~~(C) Open December 1 through December 31:~~

~~(I) Daily limit 6; up to 1 may be an adult.~~

~~(II) 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)) (i) Open October 16 through October 31:~~  
(A) Daily limit 6; up to 2 may be adults.  
(B) Release adult Chinook.  
(ii) Open November 1 through November 30:  
(A) Daily limit 6; up to 1 may be an adult.  
(B) Release Chinook.  
(iii) Open December 1 through December 31:  
(A) Daily limit 6; up to 1 may be an adult.  
(B) 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.
- (iv) Salmon: Open October 1 through December 31:  
(A) Daily limit 6; up to 2 may be adults, of which 1 may be a wild coho.  
(B) Release wild Chinook.
- (b) From the Highway 101 Bridge upstream:
- (i) Selective gear rules.
- (ii) Open the Saturday before Memorial Day through the last day in February.
- (iii) Game fish: Statewide minimum length/daily limit, except:
- (iv) Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

**(92) Snahapish River (Jefferson County) (Clearwater River tributary):**

(a) Open the Saturday before Memorial Day through ~~((September 30))~~ October 31.

(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))~~ August 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))~~ August 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))~~ 1 through ~~((November 30))~~ September 15:

(I) Daily limit 6; up to 3 ~~((adults))~~ may be ~~((retained))~~ adults, of which only 1 may be a wild Chinook.

(II) Release sockeye and wild adult coho.

(C) Open September 16 through December 15:

(I) Daily limit 6; up to 3 may be adults, of which only 1 may be a wild Chinook and only 1 may be a wild coho.

(II) Release sockeye.

(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~~) October 31.

(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)) (A) Open October 1 through October 31:~~

(I) Daily limit 6; up to 2 may be adults.

(II) Release adult Chinook.

(B) Open November 1 through November 30:

(I) Daily limit 6; up to 1 may be an adult.

(II) Release Chinook.

(C) Open December 1 through December 31:

(I) Daily limit 6; up to 1 may be an adult.

(II) 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))~~:

(A) Daily limit 6; up to 2 ((adults)) may be ((retained)) adults, of which 1 may be a wild coho.

~~((C)) (B) 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))~~:

(A) Daily limit 6; up to 2 ((adults)) may be ((retained)) adults, of which 1 may be a wild coho.

~~((C))~~ (B) 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))~~:

(A) Daily limit 6; up to 2 ((adults)) may be ((retained)) adults, of which 1 may be a wild coho.

~~((C))~~ (B) 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))~~:

(A) Daily limit 6; up to 2 ((adults)) may be ((retained)) adults, of which 1 may be a wild coho.

~~((C))~~ (B) 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))~~:

(A) Daily limit 6; up to 2 ((adults)) may be ((retained)) adults, of which 1 may be a wild coho.

~~((C))~~ (B) 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)) adults, of which 1 may be a wild coho.

~~((C))~~ (B) 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 bridge:

(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))~~ January 31:

~~((B))~~ (A) Daily limit 6; up to 2 ((adults)) may be ((retained)) adults, of which 1 may be a wild coho.

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

(c) From Pehl Road 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.

**(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-)) (A) Open October 1 through October 31:~~

~~(I) Daily limit 6; up to 2 may be adults.~~

~~(II) Release adult Chinook.~~

~~(B) Open November 1 through November 30:~~

~~(I) Daily limit 6; up to 1 may be an adult.~~

~~(II) Release Chinook.~~

~~(C) Open December 1 through December 31:~~

~~(I) Daily limit 6; up to 1 may be an adult.~~

~~(II) 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-)) (A) Open October 1 through October 31:~~

~~(I) Daily limit 6; up to 2 may be adults.~~

~~(II) Release adult Chinook.~~

~~(B) Open November 1 through November 30:~~

~~(I) Daily limit 6; up to 1 may be an adult.~~

~~(II) Release Chinook.~~

~~(C) 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 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.

[Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.045, and 77.12.047. WSR 22-05-066 (Order 22-06), § 220-312-020, filed 2/11/22, effective 7/1/22. Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.055, and 77.12.047. WSR 21-14-067 (Order 21-95), § 220-312-020, filed 7/2/21, effective 8/2/21; WSR 20-14-052 (Order 20-97), § 220-312-020, filed 6/25/20, effective 7/26/20. Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.045, and 77.12.047. WSR 20-03-130 (Order 20-09), § 220-312-020, filed 1/17/20, effective 2/17/20. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 19-15-050 (Order 19-139), § 220-312-020, filed 7/12/19, effective 8/12/19. Statutory Authority: RCW 77.04.012, 77.04.020, and 77.04.130. WSR 19-03-003 (Order 19-01), § 220-312-020, filed 1/2/19, effective 2/2/19. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 18-15-065 (Order 18-163), § 220-312-020, filed 7/16/18, effective 8/16/18. Statutory Authority: RCW 77.04.012, 77.04.020, and 77.12.047. WSR 18-06-045 (Order 18-30), § 220-312-020, filed 3/1/18, effective 4/1/18. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-19-008 (Order 17-229), § 220-312-020, filed 9/7/17, effective 10/8/17; WSR 17-05-112 (Order 17-04), amended and recodified as § 220-312-020, filed 2/15/17, effective 3/18/17; WSR 16-14-045 (Order 16-160), § 220-310-180, filed 6/28/16, effective 7/29/16. Statutory Authority: RCW 77.04.012 and 77.12.047. WSR 16-06-073 (Order 16-30), § 220-310-180, filed 2/26/16, effective 7/1/16. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 15-17-010 (Order 15-245), § 220-310-180, filed 8/6/15, effective 9/6/15. Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.045, and 77.12.047. WSR 14-16-027 (Order 14-185), § 220-310-180, filed 7/25/14, effective 8/25/14. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.055, and 77.12.047. WSR 14-04-120 (Order 14-26), § 220-310-180, filed 2/4/14, effective 3/7/14.]

## OTS-3768.1

AMENDATORY SECTION (Amending WSR 22-05-066, filed 2/11/22, effective 7/1/22)

**WAC 220-312-030 Freshwater exceptions to statewide 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 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) **Coweeman 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, of which 1 may be a Chinook.

(II) Only hatchery (~~coho~~) salmon 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: State-wide 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, of which 1 may be a Chinook.

(II) Only hatchery (~~coho~~) salmon 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: State-wide 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, of which 1 may be a Chinook.

(II) Only hatchery (~~coho~~) salmon 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, of which 1 may be a Chinook.

(II) Only hatchery (~~coho~~) salmon 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.
- (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 corkline 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 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 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 ((±)) 2 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 ((±)) 2 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~~) September 30:
        - (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 October 1 through October 31:

(I) Daily limit 6; up to 2 may be adults. Closed to fishing for or retaining steelhead.

(II) Release 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 Coffe 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.

(e) From 400 feet below the Coffe Dam to 100 feet above the Coffe Dam: Closed waters.

(f) From 100 feet above the Coffe 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.

[Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.045, and 77.12.047. WSR 22-05-066 (Order 22-06), § 220-312-030, filed 2/11/22, effective 7/1/22. Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.055, and 77.12.047. WSR 21-14-067 (Order 21-95), § 220-312-030, filed 7/2/21, effective 8/2/21; WSR 20-14-052 (Order 20-97), § 220-312-030, filed 6/25/20, effective 7/26/20. Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.045, and 77.12.047. WSR 20-03-130 (Order 20-09), § 220-312-030, filed 1/17/20, effective 2/17/20. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 19-15-050 (Order 19-139), § 220-312-030, filed 7/12/19, effective 8/12/19; WSR 18-15-065 (Order 18-163), § 220-312-030, filed 7/16/18, effective 8/16/18. Statutory Authority: RCW 77.04.012, 77.04.020, and 77.12.047. WSR 18-06-045 (Order 18-30), § 220-312-030, filed 3/1/18, effective 4/1/18. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-17-029, § 220-312-030, filed 8/8/17, effective 9/8/17; WSR 17-05-112 (Order 17-04), recodified as § 220-312-030, filed 2/15/17, effective 3/18/17; WSR 16-14-038 (Order 16-158), § 220-310-185, filed 6/28/16, effective 7/29/16. Statutory Authority: RCW 77.04.012 and 77.12.047. WSR 16-06-073 (Order 16-30), § 220-310-185, filed 2/26/16, effective 7/1/16. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 15-13-081 (Order 15-177), § 220-310-185, filed 6/12/15, effective 7/13/15. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.055, and 77.12.047. WSR 15-06-065 and 15-06-006 (Order 15-033), § 220-310-185, filed 3/4/15 and 2/20/15, effective 7/1/15. Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.045, and 77.12.047. WSR 14-16-027 (Order 14-185), § 220-310-185, filed 7/25/14, effective 8/25/14. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.055, and 77.12.047. WSR 14-04-120 (Order 14-26), § 220-310-185, filed 2/4/14, effective 3/7/14.]

## OTS-3772.2

AMENDATORY SECTION (Amending WSR 22-05-066, filed 2/11/22, effective 7/1/22)

**WAC 220-312-040 Freshwater exceptions to statewide rules—Puget Sound.** (1) Beaver ponds located within or adjacent to streams that drain into Puget Sound listed as open to trout and other game fish follow the same rules as the adjacent stream.

(2) **County-wide freshwater exceptions to statewide rules:**

(a) Beaver ponds in Kitsap County and Mason County on Tahuya Peninsula west of Belfair-Bremerton Highway (S.R. 3):

- (i) Open the fourth Saturday in April through October 31.
- (ii) Trout: No minimum length.
- (b) Beaver ponds in Kitsap County and Mason County east of Bel-fair-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.
  - (e) Salmon: Open July 9 through August 31: Daily limit 2 sockeye only. Minimum size 18 inches. Release all other salmon. Each angler aboard a vessel may deploy salmon angling gear until the salmon limit for all anglers aboard has been achieved.
- (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.
- (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.

**(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~~) September 30:
- (A) Night closure.
- (B) Anti-snagging rules.
- (C) Barbless hooks required.
- (ii) Open September 1 through (~~November~~) September 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~~) September 30, Wednesdays through Saturdays only.
- (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~~) Wednesdays 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)) 31: Wednesdays 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.

**(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.
- (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.

(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 Hoodsport

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.
- (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~~) may be adults of which up to 2 of the daily limit may be Chinook. Anglers must keep the first 2 adult Chinook caught.

(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)~~) adults. 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.

(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.
- (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.

(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.

(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.

(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: 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~~) 7 through August 30, Wednesdays through Saturdays only. Closed August 24, August 31, and September 1. From September 4 through November 7, Tuesdays through Saturday only.

(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) Steelhead:
    - (A) Open the Saturday before Memorial Day through September 30: Statewide minimum size/daily limit.
    - (B) From October 1 through December 31: Closed to retention.
    - (C) Open January 1 through January 31: Statewide minimum size/daily limit.
  - (v) Salmon:
    - (A) Open August 1 through September 30:
      - (I) Daily limit ((~~2; plus 2 additional pinks or hatchery coho or 1 of each~~) 4; of which up to 2 may be wild coho and up to 2 may be hatchery Chinook.
      - (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~~) 4; of which up to 2 may be wild coho and up to 2 may be Chinook.
      - (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) Steelhead:
    - (A) From October 1 through December 31: Closed to retention.
    - (B) Open January 1 through January 31: Statewide minimum size/daily limit.
  - (v) Salmon:
    - (A) Open October 1 through December 31:
    - (B) Daily limit ((~~2; plus 2 additional pinks or hatchery coho or 1 of each~~) 4; up to 2 may be wild coho.
    - (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 up-stream 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) Steelhead:
      - (A) Open the Saturday before Memorial Day through September 30: Statewide minimum size/daily limit.

(B) From October 1 through December 31: Closed.

(C) Open January 1 through February 15: Statewide minimum size/daily limit.

(vi) Salmon:

(A) Open October 1 through November 30.

(B) Daily limit ((~~2~~; ~~plus 2 additional hatchery~~)) 4; up to 2 may be wild 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) Steelhead:

(A) Open the Saturday before Memorial Day through September 30: Statewide minimum size/daily limit.

(B) From October 1 through December 31: Closed to retention.

(C) Open January 1 through February 15: Statewide minimum size/daily limit.

(vi) Salmon:

(A) Open October 1 through November 30.

(B) Daily limit ((~~2~~; ~~plus 2 additional hatchery~~)) 4; up to 2 may be wild 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 former 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~~)) December 31: Night closure.

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

(vi) Steelhead:

(A) From October 1 through December 31: Closed to retention.

(B) Open January 1 through January 31: Statewide minimum size/daily limit.

(vii) Salmon:

(A) Open October 1 through October 15:

(I) Daily limit (~~((2; plus 4 additional hatchery coho))~~) 6; of which up to 2 may be wild coho or 2 hatchery Chinook or 1 of each.

(II) Release chum and wild Chinook.

(B) Open October 16 through December 31:

(I) Daily limit (~~((2; plus 4 additional hatchery coho))~~) 6; of which up to 2 may be wild coho or 2 Chinook or 1 of each.

(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.

(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))~~ 1 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.)~~ September 30 all waters open Wednesdays through Saturdays.
- (A) Anti-snagging rules.
- (B) Night closure.
- (C) Barbless hooks are required.
- ~~((iv))~~ (ii) Open for game fish August 16 through ~~((November))~~ September 30. Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.
- ~~((v))~~ (iii) Salmon: Open August 16 through ~~((November))~~ September 30.

(A) Daily limit 6; up to ((4)) 2 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:~~) September 30 all waters open Wednesdays through Saturdays.

(A) Anti-snagging rules.

(B) Night closure.

(C) Barbless hooks are required.

~~((iv))~~ (ii) Game fish: Open August 16 through ((November)) September 30: Statewide minimum length/daily limit, except: Release cut-throat trout and wild rainbow trout.

~~((v))~~ (iii) Salmon: Open August 16 through ((November)) September 30.

(A) Daily limit 6; up to ((4)) 2 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~~) September 30 open Wednesdays through Saturdays:

(A) Anti-snagging rules.

(B) Night closure.

(C) Barbless hooks are required.

(ii) Game fish:

(A) Open August 16 through (~~November~~) September 30.

(B) Statewide minimum length/daily limit except: Release cut-throat trout and wild rainbow trout.

(iii) Salmon:

(A) Open August 16 through (~~November~~) September 30.

(B) Daily limit 6; up to ((4)) 2 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: Cut-throat 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.
- (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~~) Open October 1 through November 30: Daily limit 4 coho only. Release all other salmon.

(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))~~ 31:

(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))~~ September 1 through October ~~((15))~~ 31: 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))~~ 31: ~~((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))~~ July 1 through July 15 and September 1 through October ~~((15))~~ 31: Night closure.

(iii) June 1 through August ~~((13))~~ 31:

(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 July 1 through July 15:

(I) Daily limit 2 sockeye only.

(II) Release all other salmon.

(B) Open September 1 through October ~~((15))~~ 31:

(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))~~ 31: 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 July 1 through July 15:
    - (I) Daily limit 2 sockeye only.
    - (II) Release all other salmon.
  - (B) Open September 1 through October ~~((15))~~ 31:
    - ~~((A)) (I) Daily limit 2 salmon(~~(, plus 2 additional pink salmon)~~).~~
    - ~~((B)) (II) 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))~~ 31: 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))~~ 31: ~~((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))~~ 31: ~~((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. Release all other salmon.

~~((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.

(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.

~~((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)) 1 through November ((15)) 30:

(A) Selective gear rules.

(B) Night closure.

(C) Release all fish except hatchery steelhead.

(iii) Open from December 1 through January 31. Game fish: State-wide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iv) Salmon: (~~Closed~~) Open September 1 through November 15: Daily limit 2 coho only. Release all other salmon.

(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: State-wide 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: State-wide 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~~) Open September 16 through October 31: North of Highway 520 bridge and east of Montlake Bridge. Daily limit 4 coho only. Release all other salmon.

(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.

**(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.

**(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.

[Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.045, and 77.12.047. WSR 22-05-066 (Order 22-06), § 220-312-040, filed 2/11/22, effective 7/1/22. Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.055, and 77.12.047. WSR 21-14-067 (Order 21-95), § 220-312-040, filed 7/2/21, effective 8/2/21; WSR 20-14-052 (Order 20-97), § 220-312-040, filed 6/25/20, effective 7/26/20. Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.045, and 77.12.047. WSR 20-03-130 (Order 20-09), § 220-312-040, filed 1/17/20, effective 2/17/20. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 19-15-050 (Order 19-139), § 220-312-040, filed 7/12/19, effective 8/12/19; WSR 18-15-065 (Order 18-163), § 220-312-040, filed 7/16/18, effective 8/16/18. Statutory Authority: RCW 77.04.012, 77.04.020, and 77.12.047. WSR 18-06-045 (Order 18-30), § 220-312-040, filed 3/1/18, effective 4/1/18. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-16-109 (Order 17-147), § 220-312-040, filed 7/28/17, effective 8/28/17; WSR 17-05-112 (Order 17-04), amended and recodified as § 220-312-040, filed 2/15/17, effective 3/18/17; WSR 16-17-008 (Order 16-201), § 220-310-190, filed 8/4/16, effective 9/4/16; WSR 16-14-038 (Order 16-158), § 220-310-190, filed 6/28/16, effective 7/29/16. Statutory Authority: RCW 77.04.012 and 77.12.047. WSR 16-06-073 (Order 16-30), § 220-310-190, filed 2/26/16, effective 7/1/16. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 15-13-081 (Order 15-177), § 220-310-190, filed 6/12/15, effective 7/13/15. Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.045, and 77.12.047. WSR 14-16-027 (Order 14-185), § 220-310-190, filed 7/25/14, effective 8/25/14. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.055, and 77.12.047. WSR 14-04-120 (Order 14-26), § 220-310-190, filed 2/4/14, effective 3/7/14.]

## OTS-3774.2

AMENDATORY SECTION (Amending WSR 22-05-066, filed 2/11/22, effective 7/1/22)

**WAC 220-312-060 Freshwater exceptions to statewide rules—Columbia.** The following exceptions to statewide rules apply to the Columbia River, including impoundments and all connecting sloughs, except Wells Ponds:

(1) **General Columbia River rules:**

(a) In the concurrent waters of the Columbia River between Washington and Oregon, the license of either state is valid when fishing from a vessel.

(i) Anglers must comply with the fishing regulations of the state in which they are fishing.

(ii) This subsection does not allow an angler licensed in Oregon to fish on the Washington shore, or in the sloughs or tributaries in Washington except as otherwise provided by department rule.

(iii) Anglers fishing the Columbia River are restricted to one limit, as defined by the laws of the state in which they are fishing, even if they are licensed by both states.

(b) It is unlawful to possess in the field salmon or steelhead mutilated so that size, species, or fin clip cannot be determined until the angler has reached their automobile or principal means of land transportation and completed his or her daily angling.

(c) Salmon and trout handling rules provided in WAC 220-310-100 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~~) 24:

(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)) 25 through September ((6)) 7:

(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)) 8 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~~), of which 1 may be a Chinook.

(II) Release all salmon and steelhead except Chinook and hatchery coho.

(III) ((~~Coho~~)) Salmon minimum length 12 inches.

(F) Open November 1 through December 31:

(I) Daily limit 6; up to 3 adults (~~salmon or 1 adult salmon~~), of which up to 1 may be a Chinook and up to 2 hatchery steelhead may be retained.

(II) Release all salmon except Chinook and hatchery coho.

(III) ((~~Coho~~)) Salmon 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~~)) July 31:

(I) Daily limit 6; up to 1 hatchery steelhead may be retained.

(II) Release all salmon except hatchery jack Chinook.

(III) Salmon minimum length 12 inches.

~~(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)) 24:~~

~~(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)) (D) Open August ((11)) 25 through September ((6)) 7:~~

(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))~~ (E) Open September ~~((7))~~ 8 through September 30:

(I) Daily limit 3.

(II) Release all salmon and steelhead except hatchery coho.

(III) Coho minimum length 16 inches.

~~((H))~~ (F) Open October 1 through October 31:

(I) Daily limit 6; up to 3 adult salmon (~~may be retained~~) of which 1 may be a Chinook.

(II) Release all salmon and steelhead except Chinook and hatchery coho.

(III) ~~((I))~~ Salmon minimum length 12 inches.

~~((I))~~ (G) Open November 1 through December 31:

(I) Daily limit 6; up to 3 (~~adult salmon or 1 adult salmon and~~) adults, of which up to 1 may be a Chinook and up to 2 hatchery steelhead may be retained.

(II) Release all salmon except Chinook and hatchery coho.

(III) ~~((I))~~ Salmon minimum length 12 inches.

~~((J))~~ (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.

(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 Barendse 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.  
 (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))~~ July 31:  
 (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))~~ August 24:~~  
 (I) Daily limit 6; up to 2 may be adults of which 1 may be a Chi-  
 nook may be retained.  
 (II) Release all salmon and steelhead except hatchery Chinook and  
 hatchery coho.  
(E) Open August 25 through September 7:  
(I) Daily limit 6; up to 2 may be adult salmon of which only 1  
may be a Chinook.  
(II) Release all salmon and steelhead except Chinook and hatchery  
coho.  
(III) Salmon minimum length 12 inches.  
(F) Open September 8 through September 30:  
(I) Daily limit 6; up to 3 may be adults.  
(II) Release all salmon and steelhead except hatchery coho.  
(III) Coho minimum length 12 inches.  
 (G) Open ~~((September 10))~~ October 1 through October 31:  
 (I) Daily limit 6; up to ~~((2 adult salmon may be retained))~~ 3 may  
be adult salmon, of which 1 may be a Chinook.  
 (II) Release all salmon and steelhead except Chinook and 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))~~ 3 may be adults, of which up to 1 may  
be a Chinook and up to 2 hatchery steelhead may be retained.  
 (II) Release all salmon except Chinook and 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.  
 (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))~~ July 31:
    - (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 September ((9))~~ 7:
    - (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))~~ (E) September ((10)) 8 through September 30: Closed.
    - (F) Open October 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.
  - ~~((H))~~ (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 hatchery coho.
  - ~~((I))~~ (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.
- (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 downstream 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))~~ July 31:

(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 September ~~((9))~~ 7:

(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))~~ (E) September 8 through September 30: Closed.

(F) Open ((September 10)) October 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.

~~((H))~~ (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 hatchery coho.

~~((I))~~ (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.

(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))~~ July 31:

(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)) September 13:~~  
 (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.  
 (E) September 14 through September 30: Closed.  
 (F) Open October 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, 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.  
 (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)) July 31:  
 (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)) September 13:~~  
 (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.  
 (D) September 14 through September 30: Closed.  
 (E) Open October 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 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.

- (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.)~~ Additional angling rules for Camas Slough are the same as the special rules or effective emergency rule in the adjacent mainstem Columbia.
- (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))~~ July 31:
    - (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))~~ September 13:
    - (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.
  - (D) September 14 through September 30: Closed.
  - (E) Open October 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 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.
- (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))~~ July 31:
- (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))~~ September 13:~~
- (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.
- (D) September 14 through September 30: Closed.
- (E) Open October 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 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.
- (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))~~ July 31:
- (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 sock-~~  
~~eye 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)) September 13:~~
- (I) Daily limit 6; up to 2 adult salmon of which 1 may be a Chi-  
nook may be retained.  
(II) Release all salmon and steelhead except Chinook and hatchery  
coho.
- (D) September 14 through September 30: Closed.  
(E) Open October 1 through October 31:  
(I) Daily limit 6; up to 2 adult salmon of which 1 may be a Chi-  
nook 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 mark-  
er about 4,000 feet downstream from the fish ladder at the new Bonne-  
ville 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: Re-  
lease all trout.  
(iv) Salmon and steelhead:  
(A) April 1 through June 15: Closed.  
(B) Open June 16 through ((June 30)) July 31:  
(I) Daily limit 6; up to 1 hatchery steelhead may be retained.  
(II) Release all salmon except hatchery Chinook.  
(C) ~~((Open July 1 through July 5:~~  
~~(I) Daily limit 6; up to 2 adult salmon of which 1 may be a sock-~~  
~~eye 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)) September 13:~~
- (I) Daily limit 6; up to 2 adult salmon of which 1 may be a Chi-  
nook may be retained.  
(II) Release all salmon and steelhead except Chinook and hatchery  
coho.  
(D) September 14 through September 30: Closed.

(E) Open October 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 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.

(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))~~ July 31:

(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))~~ September 13:

(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.

(D) September 14 through September 30: Closed.

(E) Open October 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 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.

(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:

(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~~) 2 adult salmon or 1 hatchery steelhead and 1 adult salmon 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)~~) or 1 hatchery steelhead and 1 adult salmon 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)~~) or 1 hatchery steelhead and 1 adult salmon 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~~) or 1 hatchery steelhead and 1 adult salmon 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~~) or 1 hatchery steelhead and 1 adult salmon 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 a line starting from a fishing boundary sign on the Washington north shore located approximately 1,300 feet upstream of The Dalles Dam and Lock boat ramp projected easterly across the Columbia River to a boundary sign on the Washington southern shore located approximately 200 feet above the fish ladder exit:**
- (i) Game fish: Statewide minimum size/daily limit, except: Release all trout.
- (ii) Salmon and steelhead: Closed.
- (y) **From a line starting from a fishing boundary sign on the Washington north shore located approximately 1,300 feet upstream of The Dalles Dam and Lock boat ramp projected easterly across the Columbia River to a boundary sign on the Washington southern shore located approximately 200 feet above the fish ladder exit 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~~) or 1 hatchery steelhead and 1 adult salmon 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))~~ (z) **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~~) or 1 hatchery steelhead and 1 adult salmon may be retained.

(II) Release all salmon except (~~sookeye 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))~~ (aa) **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~~) or 1 hatchery steelhead and 1 adult salmon may be retained.

(II) Release all salmon except (~~sookeye 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))~~ **(bb) From 400 feet below the John Day Dam fishway entrance to the upstream line of John Day Dam: Closed waters.**

~~((bb))~~ **(cc) 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~~) or 1 hatchery steelhead and 1 adult salmon 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))~~ **(dd) 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~~) or 1 hatchery steelhead and 1 adult salmon 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))~~ (ee) **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))~~ or 1 hatchery steelhead and 1 adult salmon may be retained.

(II) Release all salmon except ~~((sokeeye 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))~~ (ff) **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))~~ (gg) **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 seek-eye and 1 hatchery steelhead)~~) or 1 hatchery steelhead and 1 adult salmon may be retained.

(II) Release all salmon except (~~(seekeye 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))~~ **(hh) 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 seek-eye and 1 hatchery steelhead)~~) or 1 hatchery steelhead and 1 adult salmon may be retained.

(II) Release all salmon except (~~(seekeye 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))~~ **(ii) 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))~~ (jj) **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))~~ (kk) **From the Interstate 182 Bridge to WDFW markers 1/4 mile downstream from the South Columbia Basin Irrigation PE16.4 wasteway (Ringold wasteway) outlet:**

(i) Game fish: Statewide minimum size/daily limit, except: Release all trout.

(ii) Steelhead: ~~((Closed to fishing for or retaining.))~~ Open October 1 through March 31: Statewide minimum size/daily limit except steelhead must be both adipose fin clipped and ventral fin clipped to be retained.

(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))~~ December 31:

(I) Daily limit 6; up to 2 may be adults.

(II) Release all salmon other than Chinook and coho.

~~((kk))~~ (ll) **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))~~ (mm) **From WDFW markers 1/4 mile downstream from the South Columbia Basin Irrigation PE16.4 wasteway (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.))~~

(A) Open October 1 through March 31: Statewide minimum size/daily limit except steelhead must be both adipose fin clipped and ventral fin clipped to be retained.

(B) Open April 1 through April 15: Statewide minimum size/daily limit except steelhead must be both adipose fin clipped and ventral fin clipped to be retained. Open only to fishing from the bank on the hatchery side of the river only.

(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))~~ December 31:

(I) Daily limit 6; up to 2 may be adults.

(II) Release all salmon other than Chinook and coho.

~~((mm))~~ (nn) **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))~~ (oo) **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.))~~ Open October 1 through March 31: Statewide minimum size/daily limit except steelhead must be both adipose fin clipped and ventral fin clipped to be retained.

(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))~~ December 31:

(I) Daily limit 6; up to 2 may be adults.

(II) Release all salmon other than Chinook and coho.

~~((oo))~~ (pp) **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))~~ (qq) **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))~~ (rr) **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))~~ (ss) **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))~~ (tt) **From boundary markers 650 feet below the fish ladders at Priest Rapids Dam to the upstream line of the dam:** Closed waters.

~~((ttt))~~ (uu) **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))~~ (vv) **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.

~~((vvv))~~ (ww) **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))~~ (xx) **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))~~ (yy) **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))~~ (zz) **From boundary markers 400 feet downstream of the Rocky Reach Dam fish ladders to the upstream line of Rocky Reach Dam:** Closed waters.

~~((zz))~~ (aaa) **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 at Wells Dam (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)) (bbb) **From the boundary markers 400 feet downstream of the spawning channel discharge (on Chelan County side) and fish ladder at Wells Dam (on Douglas County side) to the upstream line of Wells Dam:** Closed waters.

((bbb)) (ccc) **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.

((eee)) (ddd) **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)) (eee) **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~~) October 15:

(A) Daily limit 6; up to 2 adult hatchery Chinook and up to 2 sockeye.

(B) Release coho and wild adult Chinook.

((eee)) (fff) **Above Chief Joseph Dam:** See Rufus Woods Lake in WAC 220-312-050.

((fff)) (ggg) **Above Grand Coulee Dam:** See Lake Roosevelt in WAC 220-312-050.

[Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.045, and 77.12.047. WSR 22-05-066 (Order 22-06), § 220-312-060, filed 2/11/22, effective 7/1/22. Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.055, and 77.12.047. WSR 21-14-067 (Order 21-95), § 220-312-060, filed 7/2/21, effective 8/2/21; WSR 20-14-052 (Order 20-97), § 220-312-060, filed 6/25/20, effective 7/26/20. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 19-15-050 (Order 19-139), § 220-312-060, filed 7/12/19, effective 8/12/19. Statutory Authority: RCW 77.04.012, 77.04.020, and 77.04.130. WSR 19-03-003 (Order 19-01), § 220-312-060, filed 1/2/19, effective 2/2/19. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 18-15-065 (Order 18-163), §

220-312-060, filed 7/16/18, effective 8/16/18. Statutory Authority: RCW 77.04.012, 77.04.020, and 77.12.047. WSR 18-06-045 (Order 18-30), § 220-312-060, filed 3/1/18, effective 4/1/18. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-17-029, § 220-312-060, filed 8/8/17, effective 9/8/17; WSR 17-05-112 (Order 17-04), recodified as § 220-312-060, filed 2/15/17, effective 3/18/17; WSR 16-14-038 (Order 16-158), § 220-310-200, filed 6/28/16, effective 7/29/16. Statutory Authority: RCW 77.04.012 and 77.12.047. WSR 16-06-073 (Order 16-30), § 220-310-200, filed 2/26/16, effective 7/1/16. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 15-13-081 (Order 15-177), § 220-310-200, filed 6/12/15, effective 7/13/15. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.055, and 77.12.047. WSR 15-06-065 and 15-06-006 (Order 15-033), § 220-310-200, filed 3/4/15 and 2/20/15, effective 7/1/15. Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.045, and 77.12.047. WSR 14-16-027 (Order 14-185), § 220-310-200, filed 7/25/14, effective 8/25/14. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.055, and 77.12.047. WSR 14-04-120 (Order 14-26), § 220-310-200, filed 2/4/14, effective 3/7/14.]

### OTS-3773.3

AMENDATORY SECTION (Amending WSR 21-14-067, filed 7/2/21, effective 8/2/21)

**WAC 220-313-060 Puget Sound salmon—Saltwater seasons and daily limits.** (1) It is unlawful to fish for or possess salmon taken by angling for personal use except from the following Puget Sound areas and during the seasons, in the quantities, and for the species designated in this section, and in the sizes as defined in WAC 220-313-010. An area is open when a daily limit is provided. Puget Sound waters west of the mouth of the Sekiu River are managed concurrent with ocean waters under WAC 220-313-070.

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

(a) May 1 through June 30: Closed.

(b) Open July 1 through August 15:

(i) Daily limit 2 salmon; up to 1 may be a Chinook.

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

(c) Open August 16 through September (~~30~~) 28:

(i) Daily limit 2 salmon.

(ii) Release chum, Chinook and wild coho.

(d) (~~October 1~~) September 29 through last day in February:

Closed.

(e) Open March 1 through April 30:

(i) Daily limit 2 salmon; up to 1 may be a Chinook.

(ii) Release coho and wild Chinook.

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

(a) May 1 through June 30: Closed.

(b) Waters east of a true north-south line through the Number 2

Buoy immediately east of Ediz Hook:

(i) Open July 1 through August 15.

(ii) Daily limit 2 salmon.

- (iii) Release chum, Chinook and wild coho.
- (c) Waters of Port Angeles Harbor west of a line from the tip of Ediz Hook to the ITT Rayonier Dock:
  - (i) Open July 1 through August 15.
  - (ii) Daily limit 2 salmon.
  - (iii) Release chum, wild Chinook and wild coho.
- (d) Open August 16 through September (~~(30)~~) 28:
  - (i) Daily limit 2 salmon.
  - (ii) Release chum, Chinook and wild coho.
- (e) (~~(October 1)~~) September 29 through April 30: Closed except in Dungeness Bay as described in this section.
- (f) Waters of Dungeness Bay inside a line from Dungeness Spit Lighthouse to the Number 2 Red Buoy, and then to the Port Williams Boat Ramp are closed except:
  - (i) Open October 1 through October 31.
  - (ii) Daily limit 2 hatchery coho only.
- (4) **Catch Record Card Area 7:**
  - (a) May 1 through (~~(June 30)~~) July 13: Closed.
  - (b) Open July (~~(1)~~) 14 through (~~(July 31)~~) August 15, Thursdays through Saturdays only of each week:
    - (i) Daily limit 2 salmon; up to 1 may be a hatchery Chinook.
    - (ii) Release chum, wild coho, and wild Chinook.
    - (iii) Closed to salmon fishing in the Southern Rosario Strait and Eastern Strait of Juan de Fuca closure area described in WAC 220-313-020(7).
  - (c) Open August (~~(1)~~) 16 through September 30:
    - (i) Daily limit 2 salmon.
    - (ii) Release chum, Chinook, and wild coho.
    - (iii) Lummi Bay: Waters east of a line from Gooseberry Point to Sandy Point: Closed the Tuesday after Labor Day through September 30.
  - (d) October 1 through April 30: Closed.
  - (e) Closed to salmon fishing in Samish Bay area described in WAC 220-313-020(7).
  - (f) Waters of Bellingham Bay described in WAC 220-313-020(1):
    - (i) July 1 through August 15: Closed.
    - (ii) Open August 16 through September 30: Daily limit 4 salmon; up to 2 may be Chinook salmon.
    - (iii) October 1 through April 30: Closed.
- (5) **Catch Record Card Area 8-1:**
  - (a) May 1 through July 31: Closed.
  - (b) Open August 1 through (~~(September 19)~~) October 9:
    - (i) Daily limit 2 salmon.
    - (ii) Release Chinook and chum.
  - (c) (~~(September 20)~~) October 10 through April 30: Closed.
- (6) **Catch Record Card Area 8-2:**
  - (a) (~~(May 1 through August 13)~~) Year-round: Closed, except waters described in this subsection.
    - (b) Waters west of Tulalip Bay and within 2,000 feet of shore from the pilings at Old Bower's Resort to a fishing boundary marker approximately 1.4 miles northwest of Hermosa Point:
      - (i) Open May (~~(28)~~) 27 through September (~~(6)~~) 5; only from Friday through 11:59 a.m. the following Monday of each week. Daily limit 2 salmon.
      - (ii) Open September (~~(11)~~) 10 through September (~~(26)~~) 25; only from Saturdays through Sundays of each week. Daily limit 2 salmon.
    - (c) Waters from the Mukilteo fishing pier west south west of the Clinton Ferry Dock. Open August (~~(14)~~) 13 through September 19:

- (i) Daily limit 2 salmon.
- (ii) Release Chinook, chum, and wild coho.
- (7) **Catch Record Card Area 9:**
  - (a) May 1 through July (~~(15)~~) 13: Closed.
  - (b) Open July (~~(16)~~) 14 through (~~(August 15)~~) July 27, Thursdays through Saturdays only of each week:
    - (i) Daily limit 2 salmon; up to 1 may be a hatchery Chinook salmon.
    - (ii) Release chum, wild coho, and wild Chinook.
    - (iii) Waters south of a line from Foulweather Bluff to Olele Point: Closed.
      - (c) Open July 28 through August 15:
        - (i) Daily limit 2 salmon; up to 1 may be a hatchery Chinook.
        - (ii) Release chum, wild coho, and wild Chinook.
      - (d) Open August 16 through September (~~(30)~~) 25:
        - (i) Daily limit 2 salmon.
        - (ii) Release Chinook, chum, and wild coho.
      - (~~(d)~~ October 1) (e) September 26 through April 30: Closed.
      - (~~(e)~~) (f) Edmonds Fishing Pier:
        - (i) Open October 1 through July 31: Daily limit 2 salmon; up to 1 may be a Chinook salmon.
        - (ii) Open August 1 through September 30:
          - (A) Daily limit 2 salmon; up to 1 may be a Chinook salmon.
          - (B) Release chum.
    - (8) **Catch Record Card Area 10:**
      - (a) May 1 through June 15: Closed.
      - (b) Open June 16 through July (~~(15)~~) 13:
        - (i) Daily limit 2 salmon.
        - (ii) Release Chinook and chum.
      - (c) Open July (~~(16)~~) 14 through August 31:
        - (i) Daily limit 2 salmon; up to 1 may be a hatchery Chinook (~~(salmon)~~).
        - (ii) Release chum and wild Chinook.
      - (d) Open September 1 through October 31:
        - (i) Daily limit 2 salmon.
        - (ii) Release Chinook and chum.
      - (e) November 1 through (~~(December)~~) January 31: Closed.
      - (f) Open (~~(January)~~) February 1 through March 31.
        - (i) Daily limit 2 salmon.
        - (ii) Release wild Chinook.
      - (g) April 1 through April 30: Closed.
      - (h) Waters of Shilshole Bay southeast of a line from Meadow Point to West Point: Closed July 1 through August 31.
        - (i) West (~~(Elliott)~~) Elliott Bay: Waters of Elliott Bay between a line from West Point to Alki Point and a line from Duwamish Head to Pier 91.
          - (i) May 1 through June 15: Closed.
          - (ii) Open June 16 through June 30:
            - (A) Daily limit 2 salmon.
            - (B) Release (~~(chum, and)~~) Chinook and chum.
          - (iii) July 1 through August (~~(19)~~) 31: Closed.
          - (iv) Open (~~(August 20 through August 31)~~) September 1 through October 31:
            - (A) Daily limit 2 salmon.
            - (B) Release Chinook and chum.
          - (v) (~~(Open September 1 through October 31~~:
            - (A) ~~Daily limit 2 salmon.~~

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

~~(vi))~~ November 1 through ~~((December))~~ January 31: Closed.

~~((vii))~~ (vi) Open ~~((January))~~ February 1 through March 31:

(A) Daily limit 2 salmon.

(B) Release wild Chinook.

~~((viii))~~ (vii) April 1 through April 30: Closed.

(j) East ~~((Elliott))~~ Elliott Bay: Waters of Elliott Bay between a line from Duwamish Head to Pier 91 up to the mouth of the Duwamish River including Harbor Island (Duwamish Waterways).

(i) May 1 through May 31: Closed.

(ii) Open June ~~((4))~~ 16 through June 30:

(A) Daily limit 2 salmon.

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

(iii) July 1 through August ~~((19))~~ 4: Closed.

(iv) Open August ~~((20 through August 31))~~ 5 through August 7 at 11:59 a.m. Daily limit 2 salmon. Release chum.

(v) August 7 at 12:00 p.m. through August 31: Closed.

(vi) Open September 1 through September 15:

(A) Daily limit 2 salmon.

(B) Release Chinook and chum.

~~((v))~~ (vii) Open September ~~((1))~~ 16 through October 31:

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

(B) Release Chinook and chum.

~~((vi))~~ (viii) November 1 through ~~((December))~~ January 31: Closed.

~~((vii))~~ (ix) Open ~~((January))~~ February 1 through March 31~~((-))~~:

(A) Daily limit 2 salmon.

(B) Release wild Chinook.

~~((viii))~~ (x) April 1 through April 30: Closed.

(k) Waters of Sinclair Inlet and Port Orchard south of the Manette Bridge in Bremerton, south of a line true west from Battle Point, and west of a line drawn true south from Point White:

(i) May 1 through June 15: Closed.

(ii) Open June 16 through ((July 15)) June 30:

(A) Daily limit 2 salmon.

(B) Release Chinook and chum.

~~((iii))~~ (iii) Open July ~~((16))~~ 1 through September 30:

(A) Daily limit 3 salmon.

(B) Release chum and wild Chinook.

~~((iii))~~ (iv) Open October 1 through October 31:

(A) Daily limit 2 salmon.

(B) Release Chinook and chum.

~~((iv))~~ (v) November 1 through ~~((December))~~ January 31: Closed.

~~((v) Open January 1 through March 31.)~~ (vi) Open February 1 through March 31:

(A) Daily limit 2 salmon.

(B) Release wild Chinook.

~~((vi))~~ (vii) April 1 through April 30: Closed.

(l) Waters of Agate Pass west of a line from Point Monroe to Indianola and east of a line from Point Bolin to Battle Point: Fly fishing only, lead core lines prohibited, and catch and release from January 1 through January 31. April 1 through April 30: Closed.

(m) Elliott Bay Fishing Pier at Terminal 86, Seacrest Pier, Waterman Pier, Bremerton Boardwalk, and Illahee State Park Pier, open year-round: ~~((i))~~ Daily limit 2 salmon; up to 1 may be a Chinook salmon. ~~((ii))~~ Release chum.

(n) Duwamish Waterway downstream from an east-west line projected through southernmost tip of Harbor Island to a line extending from Jack Block Park through the northernmost tip of Harbor Island extending to shore northeast of the North Waterway (47°35.47'N, 122°20.58'W), from July 1 through October 31 night closure, anti-snagging rule, and only fish hooked inside the mouth may be retained.

(o) Free-flowing freshwaters are closed downstream of the mouth at Gorst Creek, Blackjack Creek, Chico Creek, Curley Creek, Grovers Creek from July 1 through December 31.

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

(a) May 1 through (~~June 15~~) May 31: Closed.

(b) Open June (~~16~~) 1 through September 30:

(i) Daily limit 2 salmon; up to 1 may be a hatchery Chinook.

(ii) Release wild Chinook.

(c) Open October 1 through October 31:

(i) Daily limit 2 salmon.

(ii) Release Chinook and chum.

(d) Open November 1 through December 31:

(i) Daily limit 2 salmon.

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

(e) January 1 through April 30: Closed.

(f) Waters of Commencement Bay east of a line from the Cliff House Restaurant to the Sperry Ocean Dock: June 1 through July 31 (~~and April 1 through April 30~~): Closed.

(g) Dash Point Dock, Les Davis Pier, Des Moines Pier, Redondo Pier, and Point Defiance Boathouse Dock: (~~(i)~~) Open year-round.

(~~(ii)~~) Daily limit 2 salmon; up to 1 may be a Chinook salmon.

(~~(iii)~~) Release chum.

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

(a) May 1 through June 30: Closed.

(b) (~~Open July 1 through September 30:~~

~~(i) Daily limit 4 salmon.~~

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

~~(c) Open October 1 through October 15:~~

~~(i) Daily limit 4 salmon.~~

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

~~(d) Open October 16 through November 30:~~

~~(i) Daily limit 4 salmon.~~

~~(ii) Release Chinook.~~

~~(e) December 1 through April 30: Closed.~~

~~(f)~~) In waters south of Ayock Point including waters within a 2,000-foot arc seaward of yellow buoys at the mouth of Finch Creek at Hoodsport Salmon Hatchery:

(i) (~~May 1 through June 30: Closed.~~

~~(ii)~~) Open July 1 through September 30:

(A) Daily limit 4 salmon.

(B) Release chum and wild Chinook.

(~~(iii)~~) (ii) Open October 1 through October 15:

(A) Daily limit 4 salmon.

(B) Release chum and Chinook.

(~~(iv)~~) (iii) Open October 16 through (~~November 30~~) October

31:

(A) Daily limit 4 salmon.

(B) Release Chinook.

(iv) Open November 1 through November 30:

(A) Daily limit 4 salmon.

(B) Release Chinook and coho.

(v) December 1 through April 30: Closed.

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

(vii) Those waters of Hood Canal inshore of the 2 yellow buoy markers to the mouth of Finch Creek, waters within the channel created by Finch Creek on exposed tideland and fishing from any Hoodspport Hatchery structure are closed except to persons with disabilities who permanently use a wheelchair and who have a designated harvester card may fish from the ADA-access site at the Hoodspport Salmon Hatchery, as long as persons follow all applicable department rules.

~~((g))~~ (c) In waters north of Ayock Point except waters north of a true east line from the mouth of Turner Creek to the Toandos Peninsula:

(i) ~~((May 1 through July 10))~~ July 1 through August 31: Closed.

(ii) Open ~~((July 11))~~ September 1 through September 30:

(A) Daily limit 4 salmon.

(B) Release chum and Chinook.

(iii) Open October 1 through October 15:

(A) Daily limit 4 salmon.

(B) Release chum and Chinook.

(iv) Open October 16 through ~~((November 30))~~ October 31:

(A) Daily limit 4 salmon.

(B) Release Chinook.

(v) Open November 1 through November 31:

(A) Daily limit 4 salmon.

(B) Release Chinook and coho.

(vi) December 1 through April 30: Closed.

~~((h) September 16 through December 31:))~~ (d) In waters north of a true east line from the mouth of Turner Creek to the Toandos Peninsula (Quilcene Bay):

(i) Open August 1 through August 31: Daily limit 4 coho only. Release all other salmon.

(ii) Open September 1 through September 30:

(A) Daily limit 4 salmon.

(B) Release chum and Chinook.

(iii) Open October 16 through October 31:

(A) Daily limit 4 salmon.

(B) Release Chinook.

(iv) Open November 1 through November 31:

(A) Daily limit 4 salmon.

(B) Release Chinook and coho.

(v) December 1 through April 30: Closed.

(vi) Waters north of a line true east from Broad Spit (Tarboo Bay): September 19 through December 31: Closed.

~~((i))~~ (e) July 1 through October 15: Free-flowing freshwater is closed to all fishing downstream of the mouth of the Dewatto, Dosewal-lips, Duckabush, Hamma Hamma, and Skokomish rivers.

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

(a) Open May 1 through June 30:

(i) Daily limit 2 salmon.

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

(b) Open July 1 through September 30:

(i) Daily limit 2 salmon.

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

(iii) Chinook minimum length 20 inches.

(c) Open October 1 through April 30:

(i) Daily limit 2 salmon.

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

(d) Waters at the mouth of Minter Creek within 1,000 feet of the outer oyster stakes: April 16 through September 15: Closed.

(e) Waters of Budd Inlet south of the Fourth Avenue Bridge: Closed.

(f) Contiguous waters north of the Fourth Avenue Bridge and south of a line from the northwest corner of the Thriftway Market building and a point 100 yards north of the railroad bridge on the western shore: July 16 through October 31: Closed.

(g) Waters north of the Thriftway Market-railroad bridge line and south of a line projected due west from the KGY radio tower: July 16 through October 31: Night closure and anti-snagging rule.

(h) Fox Island Public Fishing Pier:

(i) Open May 1 through June 30: ((+A+)) Daily limit 2 salmon; up to 1 may be a Chinook salmon. ((-B-)) Release chum.

(ii) Open July 1 through September 30:

(A) Daily limit 2 salmon; up to 1 may be a Chinook salmon.

(B) Chinook minimum length 20 inches.

(C) Release chum.

(iii) Open October 1 through April 30: ((+A+)) Daily limit 2 salmon; up to 1 may be a Chinook salmon. ((-B-)) Release chum.

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

[Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.055, and 77.12.047. WSR 21-14-067 (Order 21-95), § 220-313-060, filed 7/2/21, effective 8/2/21; WSR 20-14-052 (Order 20-97), § 220-313-060, filed 6/25/20, effective 7/26/20. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 19-15-050 (Order 19-139), § 220-313-060, filed 7/12/19, effective 8/12/19; WSR 18-15-065 (Order 18-163), § 220-313-060, filed 7/16/18, effective 8/16/18; WSR 17-16-109 (Order 17-147), § 220-313-060, filed 7/28/17, effective 8/28/17; WSR 17-05-112 (Order 17-04), amended and recodified as § 220-313-060, filed 2/15/17, effective 3/18/17; WSR 16-17-008 (Order 16-201), § 232-28-621, filed 8/4/16, effective 9/4/16; WSR 15-13-081 (Order 15-177), § 232-28-621, filed 6/12/15, effective 7/13/15. Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.045, and 77.12.047. WSR 14-16-027 (Order 14-185), § 232-28-621, filed 7/25/14, effective 8/25/14; WSR 13-20-021 (Order 13-210), § 232-28-621, filed 9/23/13, effective 10/24/13. Statutory Authority: RCW 77.04.020, 77.12.045, and 77.12.047. WSR 12-18-006 (Order 12-190), § 232-28-621, filed 8/23/12, effective 9/23/12; WSR 11-21-038 (Order 11-273), § 232-28-621, filed 10/11/11, effective 11/11/11; WSR 10-12-062 (Order 10-137), § 232-28-621, filed 5/27/10, effective 6/27/10. Statutory Authority: RCW 77.12.047 and 77.04.020. WSR 09-15-035 (Order 09-133), § 232-28-621, filed 7/8/09, effective 8/8/09; WSR 08-15-002 (Order 08-165), § 232-28-621, filed 7/3/08, effective 8/3/08; WSR 07-16-056, § 232-28-621, filed 7/26/07, effective 8/26/07. Statutory Authority: RCW 77.12.047. WSR 06-16-096 (Order 06-174), § 232-28-621, filed 7/31/06, effective 8/31/06; WSR 05-17-007 (Order 05-168), § 232-28-621, filed 8/3/05, effective 9/3/05; WSR



04-16-006 (Order 04-182), § 232-28-621, filed 7/22/04, effective 8/22/04; WSR 03-16-109 (Order 03-182), § 232-28-621, filed 8/6/03, effective 9/6/03; WSR 03-05-057 (Order 03-24), § 232-28-621, filed 2/14/03, effective 5/1/03; WSR 02-15-097 (Order 02-158), § 232-28-621, filed 7/16/02, effective 8/16/02; WSR 02-08-048 (Order 02-53), § 232-28-621, filed 3/29/02, effective 5/1/02; WSR 01-14-001 (Order 01-107), § 232-28-621, filed 6/21/01, effective 7/22/01. Statutory Authority: 2000 c 107 § 7. WSR 00-16-091 (Order 00-134), amended and recodified as § 232-28-621, filed 7/31/00, effective 8/31/00. Statutory Authority: RCW 75.08.080. WSR 00-01-103 (Order 99-215), § 220-56-191, filed 12/16/99, effective 1/16/00. Statutory Authority: RCW 75.08.080 and 77.12.040. WSR 99-15-081 (Order 99-102), § 220-56-191, filed 7/20/99, effective 8/20/99; WSR 98-15-081 (Order 98-122), § 220-56-191, filed 7/15/98, effective 8/15/98; WSR 98-06-031, § 220-56-191, filed 2/26/98, effective 5/1/98. Statutory Authority: RCW 75.08.080 and 75.12.040. WSR 97-18-035, § 220-56-191, filed 8/27/97, effective 9/27/97. Statutory Authority: RCW 75.08.080. WSR 96-11-078 (Order 96-44), § 220-56-191, filed 5/13/96, effective 6/13/96; WSR 95-12-027 (Order 95-46), § 220-56-191, filed 5/31/95, effective 7/1/95; WSR 94-14-069, § 220-56-191, filed 7/1/94, effective 8/1/94; WSR 93-14-043 (Order 93-36), § 220-56-191, filed 6/29/93, effective 7/30/93.]

## OTS-3769.2

AMENDATORY SECTION (Amending WSR 21-14-067, filed 7/2/21, effective 8/2/21)

**WAC 220-313-070 Coastal salmon—Saltwater seasons and daily limits.** It is unlawful to take, fish for, or possess salmon taken by angling for personal use except from the following coastal areas, during the following seasons, in the quantities and the sizes provided for in WAC 220-313-010, and for the species designated in this section. An area is open when a daily limit is provided:

(1) **Willapa Bay (Catch Record Card Area 2-1):**

(a) Open concurrent with Area 2 as specified in WAC 220-313-075; otherwise closed, except as described in (b) of this subsection.

(b) Open August 1 through January 31:

(i) Daily limit 6 salmon; up to 2 may be adult salmon.

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

(iii) (~~Beginning August 1, the Willapa Bay Control Zone is open.~~) Waters of the Willapa Bay Control Zone area ((is)) defined as waters east of a line drawn from Leadbetter Point (46°39.20'N, 124°3.516'W) due west to 46°39.20'N, 124°5.3'W then due north to the westerly most landfall on Cape Shoalwater (46°44.66'N, 124°5.3'W) and west from a line drawn from Leadbetter Point (46°39.20'N, 124°3.516'W) through green marker 11 to landfall: Closed August 1 through September 30.

(iv) Anglers in possession of a valid two-pole endorsement may use up to two lines while fishing.

(v) Waters north of a line from Toke Point channel marker 3 easterly through Willapa Harbor channel marker 13 (green) then, northeast-

erly to the power transmission pole located at 46°43.19'N, 123°50.83'W are closed August 1 through September 30.

(2) **Grays Harbor (Catch Record Card Area 2-2 east of the Buoy 13 line):**

(a) May 1 through July 31: Closed.

(b) Humptulips North Bay Fishery is defined as northerly of a line running from the south end of the eastern jetty at Ocean Shores Marina, then to a fishing boundary marker on Sand Island (46°57.52'N, 124°03.36'W) then to the Tripod Station located at 46°59.12'N, 124°00.72'W on Brackenridge Bluff. Open August 1 through September

((23)) 15:

(i) Daily limit 1 salmon.

(ii) Release ((wild Chinook and)) wild coho.

(c) East Grays Harbor Fishery is defined as easterly of a projected line from the mouth of Johns River (Highway 105 bridge) to the Tripod Station on Brackenridge Bluff (46°59.12'N, 124°00.72'W) through channel marker 27 (green).

(i) Open ((October 1)) September 16 through ((November 30)) October 31:

(A) Daily limit ((4)) 2 salmon.

(B) Release Chinook.

(ii) Open November 1 through November 30:

(A) Daily limit 1 salmon.

(B) Release Chinook.

(iii) Waters south of a line running from the south end of the eastern jetty at Ocean Shores Marina to the fishing boundary marker on Sand Island (46°57.52'N, 124°03.36'W) to the Tripod Station on Brackenridge Bluff (46°59.12'N, 124°00.72'W) and waters west of a line running from the Tripod Station on Brackenridge Bluff (46°59.12'N, 124°00.72'W) through channel marker 27 (green) to the mouth of Johns River (Highway 105 Bridge): Closed.

(d) Notwithstanding the provisions of this subsection, the Westport Boat Basin and Ocean Shores Boat Basin are open only August 16 through January 31:

(i) Daily limit 6 salmon; up to 4 may be adult salmon.

(ii) Release Chinook.

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

(3) **Grays Harbor (Catch Record Card Area 2-2 west of the Buoy 13 line):** Closed, except open concurrent with openings of the Grays Harbor Control Zone as specified in WAC 220-313-075.

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

[Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.055, and 77.12.047. WSR 21-14-067 (Order 21-95), § 220-313-070, filed 7/2/21, effective 8/2/21. Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.045, and 77.12.047. WSR 20-22-101 (Order 20-242), § 220-313-070, filed 11/3/20, effective 12/4/20. Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.055, and 77.12.047. WSR 20-14-052 (Order 20-97), § 220-313-070, filed 6/25/20, effective 7/26/20. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and

77.12.047. WSR 19-15-050 (Order 19-139), § 220-313-070, filed 7/12/19, effective 8/12/19; WSR 18-15-065 (Order 18-163), § 220-313-070, filed 7/16/18, effective 8/16/18. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, 77.12.045, and 77.12.047. WSR 17-19-009 (Order 17-230), § 220-313-070, filed 9/7/17, effective 10/8/17. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), amended and recodified as § 220-313-070, filed 2/15/17, effective 3/18/17; WSR 16-14-038 (Order 16-158), § 232-28-620, filed 6/28/16, effective 7/29/16; WSR 15-13-081 (Order 15-177), § 232-28-620, filed 6/12/15, effective 7/13/15. Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.045, and 77.12.047. WSR 14-16-027 (Order 14-185), § 232-28-620, filed 7/25/14, effective 8/25/14; WSR 13-20-021 (Order 13-210), § 232-28-620, filed 9/23/13, effective 10/24/13. Statutory Authority: RCW 77.04.020, 77.12.045, and 77.12.047. WSR 12-18-006 (Order 12-190), § 232-28-620, filed 8/23/12, effective 9/23/12; WSR 11-21-038 (Order 11-273), § 232-28-620, filed 10/11/11, effective 11/11/11; WSR 10-12-061 (Order 09-108), § 232-28-620, filed 5/27/10, effective 6/27/10. Statutory Authority: RCW 77.12.047 and 77.04.020. WSR 09-15-035 (Order 09-133), § 232-28-620, filed 7/8/09, effective 8/8/09; WSR 08-15-002 (Order 08-165), § 232-28-620, filed 7/3/08, effective 8/3/08; WSR 07-16-056, § 232-28-620, filed 7/26/07, effective 8/26/07. Statutory Authority: RCW 77.12.047. WSR 06-16-096 (Order 06-174), § 232-28-620, filed 7/31/06, effective 8/31/06; WSR 05-17-007 (Order 05-168), § 232-28-620, filed 8/3/05, effective 9/3/05; WSR 04-16-006 (Order 04-182), § 232-28-620, filed 7/22/04, effective 8/22/04; WSR 03-16-109 (Order 03-182), § 232-28-620, filed 8/6/03, effective 9/6/03; WSR 02-15-097 (Order 02-158), § 232-28-620, filed 7/16/02, effective 8/16/02; WSR 01-14-001 (Order 01-107), § 232-28-620, filed 6/21/01, effective 7/22/01. Statutory Authority: 2000 c 107 § 7. WSR 00-16-091 (Order 00-134), amended and recodified as § 232-28-620, filed 7/31/00, effective 8/31/00. Statutory Authority: RCW 75.08.080 and 77.12.040. WSR 99-15-081 (Order 99-102), § 220-56-190, filed 7/20/99, effective 8/20/99; WSR 98-15-081 (Order 98-122), § 220-56-190, filed 7/15/98, effective 8/15/98; WSR 97-18-035, § 220-56-190, filed 8/27/97, effective 9/27/97. Statutory Authority: RCW 75.08.080. WSR 96-11-078 (Order 96-44), § 220-56-190, filed 5/13/96, effective 6/13/96; WSR 95-12-027 (Order 95-46), § 220-56-190, filed 5/31/95, effective 7/1/95; WSR 94-14-069, § 220-56-190, filed 7/1/94, effective 8/1/94; WSR 93-14-043 (Order 93-36), § 220-56-190, filed 6/29/93, effective 7/30/93; WSR 91-08-054 (Order 91-13), § 220-56-190, filed 4/2/91, effective 5/3/91; WSR 90-06-026, § 220-56-190, filed 2/28/90, effective 3/31/90; WSR 89-07-060 (Order 89-12), § 220-56-190, filed 3/16/89; WSR 87-09-066 (Order 87-16), § 220-56-190, filed 4/21/87; WSR 86-09-020 (Order 86-08), § 220-56-190, filed 4/9/86; WSR 85-09-017 (Order 85-20), § 220-56-190, filed 4/9/85; WSR 84-09-026 (Order 84-22), § 220-56-190, filed 4/11/84; WSR 83-07-043 (Order 83-16), § 220-56-190, filed 3/17/83; WSR 82-13-040 (Order 82-61), § 220-56-190, filed 6/9/82; WSR 82-07-047 (Order 82-19), § 220-56-190, filed 3/18/82; WSR 80-03-064 (Order 80-12), § 220-56-190, filed 2/27/80, effective 4/1/80. Formerly WAC 220-56-064.]

**WSR 22-11-086**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 2022-02—Filed May 17, 2022, 11:06 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-03-087 on January 18, 2022.

Title of Rule and Other Identifying Information: 2022 North of Falcon Puget Sound commercial salmon seasons. The department is proposing amendments to WAC 220-354-080 Puget Sound salmon—Closed Areas, 220-354-120 Puget Sound salmon—Purse seine—Open periods, 220-354-160 Puget Sound salmon—Gillnet—Open periods, 220-354-180 Puget Sound salmon—Reef net—Open periods, and 220-354-210 Puget Sound salmon—Beach seine—Open periods.

Hearing Location(s): On June 22, 2022, at 2:00 p.m., Zoom webinar. Register for this webinar [https://us02web.zoom.us/join/register/tZYqf-6oqz4tE9eow9BizCL9\\_x2fBUIO1-Gx](https://us02web.zoom.us/join/register/tZYqf-6oqz4tE9eow9BizCL9_x2fBUIO1-Gx). After registering, you will receive a confirmation email containing information about joining the webinar.

Date of Intended Adoption: June 27, 2022.

Submit Written Comments to: 2022 North of Falcon - Puget Sound Commercial Fisheries Rule Making, <https://publicinput.com/2022NoFPugetSoundCR102>, email [2022NoFPugetSoundCR102@PublicInput.com](mailto:2022NoFPugetSoundCR102@PublicInput.com), voicemail comments 855-925-2801, project code 4250, <https://wdfw.wa.gov/about/regulations/development/north-falcon-puget-sound-commercial-fisheries>, by June 22, 2022.

Assistance for Persons with Disabilities: Contact Title VI/ADA coordinator, phone 360-902-2349, TTY 711 or 360-902-2207, email [Title6@dfw.wa.gov](mailto:Title6@dfw.wa.gov), <https://wdfw.wa.gov/accessibility/requests-accommodation>, by June 22, 2022.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules were developed through the annual North of Falcon salmon season setting process, which began in January 2022, and provide the season schedule for the 2022 commercial fisheries in Puget Sound.

These proposed rules regulate the commercial fisheries in Puget Sound and are part of a comprehensive rule-making package to implement the new 2022-23 salmon seasons for Washington state developed through the broader North of Falcon process pursuant to the fish and wildlife commission's North of Falcon Policy C-3608 for 2019-2023. As such, the seasons specified in these proposed rules are structured in a coordinated manner intended to provide commercial and recreational fishing opportunities in Puget Sound while ensuring conservation requirements and management objectives in federal and state laws and regulations, state/tribal harvest management agreements, and fish and wildlife commission policies are met. Even though drafted as amendments to preceding rules, these new amendments function as a coordinated and unitary fishery package for the 2022-23 fishery season, and thus substantively replace prior years' fisheries in Puget Sound. Comments should be considered and provided with that understanding.

The intent of this rule-making proposal is to replace and supersede the language in these WAC: WAC 220-354-080 Puget Sound salmon—Closed areas, 220-354-120 Puget Sound salmon—Purse seine—Open periods, 220-354-160 Puget Sound salmon—Gillnet—Open periods, 220-354-180

Puget Sound salmon—Reef net—Open periods, and 220-354-210 Puget Sound salmon—Beach seine—Open periods.

The Washington state department of fish and wildlife (WDFW) is proposing specific revisions to these rules to describe the seasons and dates for these fisheries for 2022; however, all of the provisions encompassed within the WAC listed above are available for public review and comment, and WDFW will consider all public comments received on this rule making.

Reasons Supporting Proposal: The proposed rules were developed through the annual North of Falcon salmon season setting process, which is an extensive stakeholder engagement process to develop and analyze various season options for recreational, commercial, and tribal fisheries for the current year. It is named "North of Falcon" as it includes setting the salmon seasons for the area north of Cape Falcon, Oregon, which is located at 45°N. latitude.

The North of Falcon process typically begins in January and consists of government-to-government meetings involving the National Marine Fisheries Service (NMFS), treaty tribes, and WDFW representatives. Separate meetings are held with stakeholders—both at a state-wide and regional level—to review preseason run size forecasts, NMFS guidance relative to allowable impacts for species listed under the Endangered Species Act (ESA), which includes salmon, but other protected species as well, such as southern resident killer whales.

Ocean fishery seasons are developed through the Pacific Fishery Management Council process, which is concurrent with and part of the broader North of Falcon process, with meetings in early March and early April. Ocean fishery options are also analyzed and considered in light of potential ESA-listed species impacts and state/tribal harvest agreements and are also reviewed for consistency with the Pacific Salmon Treaty. Meeting schedules and information can be found on the agency's website at <https://wdfw.wa.gov/fishing/management/north-falcon>.

Stakeholder meetings specific to the Puget Sound fisheries were held in February and March. The comprehensive North of Falcon meeting schedule and the meeting agendas, handouts, and audio recordings of the public meetings are available on WDFW's website at <https://wdfw.wa.gov/fishing/management/north-falcon/public-meetings>.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.055, 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: WDFW, governmental.

Name of Agency Personnel Responsible for Drafting: David Low, 1111 Washington Street S.E., Olympia, WA 98501, 360-902-2717; Implementation: Kyle Adicks, 1111 Washington Street S.E., Olympia, WA 98501, 360-902-2664; 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. The proposed rule is exempt under RCW 34.05.328 (5) (a).

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, while WDFW considers commercial fishers to be a "small business," the commercial fishing rules proposed for 2022-2023 do not affect these small businesses by imposing new direct costs of regulatory compliance. These rule changes clarify dates for anticipated open periods and areas for full-fleet and limited-participation salmon fisheries, and legal gear requirements for those fisheries. There are no new anticipated professional services required to comply. Based on the department's analysis, the proposed rules do not require any new or additional equipment, supplies, labor, or administrative costs.

May 17, 2022  
Annie Szvetcz  
Rules Coordinator

## OTS-3783.1

AMENDATORY SECTION (Amending WSR 21-14-068, filed 7/2/21, effective 8/2/21)

**WAC 220-354-080 Puget Sound salmon—Closed areas.** It is unlawful at any time, unless otherwise provided, to take, fish for, or possess salmon taken for commercial purposes with any type of gear from the following portions of Puget Sound Salmon Management and Catch Reporting Areas, except that closures listed in this section do not apply to reef net fishing areas listed in RCW 77.50.050:

**Areas 4B, 5, 6, 6B, and 6C** - The Strait of Juan de Fuca Preserve as defined in WAC 220-354-330.

**Area 6D** - Waters within 1/4 nautical mile of the Dungeness River mouth (48°9'16"N, 123°7'48"W, east to waters within 500 feet of Meadowbrook Creek mouth (48°9'7"N, 123°7'19"W).

**Area 7** -

(1) The San Juan Island Preserve as defined in WAC 220-354-320.

(2) Those waters within 1,500 feet of shore on Orcas Island from Deer Point (48°36'5.1"N, 122°47'59.7"W) northeasterly to Lawrence Point (48°39'38.1"N, 122°44'31"W), thence west to a point intercepting a line projected from the northernmost point of Jones Island (48°37'17"N, 123°2'11.4"W), thence 90 degrees true to Orcas Island.

(3) Those waters within 1,500 feet of the shore of Cypress Island from Cypress Head (48°34'3.1"N, 122°40'5.5"W) to the northernmost point of Cypress Island (48°36'31.5"N, 122°42'42.2"W).

(4) Those waters easterly of a line projected from Iceberg Point (48°25'20.2"N, 122°53'41.1"W) to Iceberg Island (48°25'20.2"N, 122°53'41.1"W), to the easternmost point of Charles Island (48°26'25.8"N, 122°54'18.5"W), then true north from the northernmost point of Charles Island (48°26'41.1"N, 122°54'34.3"W) to the shore of Lopez Island (48°26'47.1"N, 122°54'34.2"W).

(5) Those waters northerly of a line projected from the southernmost point of land at Aleck Bay (48°25'25.6"N, 122°51'8.2"W) to the

westernmost point of Colville Island (48°24'56"N, 122°49'31.9"W), thence from the easternmost point of Colville Island (48°24'53.5"N, 122°49'10.7"W) to Point Colville (48°25'17.1"N, 122°48'50.7"W).

(6) Those waters easterly of a line projected from Biz Point on Fidalgo Island (48°26'33.1"N, 122°40'42.3"W) to the Williamson Rocks Lighted Buoy 4 (Light List No. 19335 FlR4s4M"4"RED, 48°26'51"N, 122°42'27.8"W), thence to the Dennis Shoal Buoy 6 (Light List No. 19345 Red Nun, 48°27'27"W, 122°42'57"N), thence to Burrows Island Light (Light List No. 19350 FlW6s57ft7MHorn(Bl(2)30s, 48°27'27.6"N, 122°42'59.3"W) on the westernmost point of Burrows Island, thence to the southwestern-most point of Fidalgo Head (48°29'31.2"N, 122°42'10.6"W), and including those waters within 1,500 feet of the western shore of Allan Island, those waters within 1,500 feet of the western shore of Burrows Island, and those waters within 1,500 feet of the shore of Fidalgo Island from the southwestern-most point of Fidalgo Head (48°29'31.2"N, 122°42'10.6"W) northerly to Shannon Point (48°30'32.8"N, 122°41'2.5"W).

(7) Additional Fraser sockeye and pink seasonal closure: Those waters within 1,500 feet of the shore of Fidalgo Island from the Initiative 77 marker (48°25'14.2"N, 122°40'04.5"W) northerly to Biz Point (48°26'33.1"N, 122°40'42.3"W).

(8) Those waters within 1,500 feet of the eastern shore of Lopez Island from Point Colville (48°25'17.1"N, 122°48'50.7"W) northerly to Lopez Pass (48°28'42.1"N, 122°49'10.7"W), and those waters within 1,500 feet of the eastern shore of Decatur Island from the southern-most point of land (48°28'52"N, 122°49'5"W) northerly to Fauntleroy Point (48°31'28.4"N, 122°47'18.8"W), and including those waters within 1,500 feet of the shore of James Island.

**Area 7A** - The Drayton Harbor Preserve as defined in WAC 220-354-310.

**Area 7B** -

(1) That portion south and east of a line from William Point on Samish Island (48°34'55.2"N, 122°33'38.2"W) to Saddlebag Island (48°32'7.2"W, 122°33'32.6"N) to Casperson Point on Guemes Island to landfall on March Point (48°29'58.4"N, 122°33'55.9"W), and that portion northerly of the railroad trestle in Chuckanut Bay.

(2) That portion of Bellingham Bay and Portage Bay adjacent to Lummi Indian Reservation is closed north and west of a line from the intersection of Marine Drive and Hoff Road (48°46'59"N, 122°34'25"W) projected 180 degrees true for 1.80 nautical miles (nm) to a point at 48°45'11"N, 122°34'25"W, then 250 degrees true for 0.92 nm to a point at 48°44'50"N, 122°35'42"W, then 270 degrees true for 0.95 nm to 48°44'50"N, 122°37'08"W, then 228 degrees true for 0.65 nm to 48°44'24"N, 122°37'52"W, then 200 degrees true for 0.69 nm to 48°43'45"N, 122°38'12"W, then 90 degrees true for 0.64 nm to a point just northeast of Portage Island (48°43'45"N, 122°37'14"W), then 155 degrees true for 0.97 nm to a point just east of Portage Island (48°42'52"N, 122°36'37"W), then 247 degrees true for 80 yards to landfall on Portage Island (48°42'51.1"N, 122°36'40.3"W).

(3) \*Section reserved\* Additional coho seasonal closure: Hale Pass - Not in place for 2021.

(4) Additional chum seasonal closure: That portion of Bellingham Bay referred to as the Whatcom Creek Zone is closed east of a line projected 186 degrees true from the Bellingham Breakwater north entrance light 4 (Light List No. 19280 Fl(1)R6s17m5M, 48°45'26.3"N, 122°30'41.5"W) at the west entrance to Squalicum Harbor, to landfall

((at)) east of Post Point (~~((48°42'47.4"N, 122°31'0.5"W))~~)  
 (48°43'18"N, 122°30'42"W).

**Area 7C** - That portion southeasterly of a line projected from the mouth of Oyster Creek (48°36'51.6"N, 122°26'27.8"W) 237 degrees true to the fishing boundary marker on Samish Island (48°34'33.1"N, 122°31'49.3"W).

**Area 8** -

(1) That portion of Skagit Bay easterly of a line projected from Brown Point on Camano Island (48°16'12.6"N, 122°27'52.8"W) to a white monument on the easterly point of Ika Island (48°21'40.1"N, 122°29'52.8"W), thence across the Skagit River to the terminus of the jetty with McGlinn Island (48°22'18.3"N, 122°30'18.3"W).

(2) Those waters within 1,500 feet of the western shore of Camano Island south of a line projected true west from Rocky Point (48°15'1.3"N, 122°31'47.2"W).

**Area 8A** -

(1) Those waters easterly of a line projected from Mission Beach (48°3'19.3"N, 122°17'23.1"W) to Gedney Island Light 1 (Light List No. 18480 FLG25s15ft4M"1, " 48°0'15.5"N, 122°17'49.7"W), excluding the waters of Area 8D, thence through the Snohomish River Light 5 (Light List No. 18535 FLG4s16ft5M, 47°59'16.3"N, 122°13'47.4"W) and across the mouth of the Snohomish River to landfall on the eastern shore (47°59'13.3"N, 122°13'35"W), and those waters northerly of a line from Camano Head (48°3'23.2"N, 122°21'24.6"W) to the northern boundary of Area 8D, except when open for pink fisheries.

(2) Additional coho seasonal closure prior to October 3: Those waters southerly of a line projected from the Washington state ferry Clinton terminal (47°58'28.8"N, 122°21'5.2"W) to landfall on the eastern shore (47°56'57"N, 122°18'15.7"W).

**Area 8D** - Those waters easterly of a line projected from the northerly most point of Mission Beach (48°3'19.3"N, 122°17'23.1"W) to Hermosa Point (48°3'42.7"N, 122°17'36.4"W).

**Area 9** - Those waters lying inside and westerly of a line projected from the Point No Point Light (Light List No. 16550 Fl(3)W10s27ft14M, 47°54'43.9"N, 122°31'36.3"W) to the traffic separation lane Lighted Buoy SE (Light List No. 16540 FLY2.5s5MY"SE, " (47°55'26.8"N, 122°29'30.7"W), thence to landfall at (47°55'4.2"N, 122°32'46"W) on Norwegian Point.

**Area 9A** -

(1) Those waters north of a line projected from the southern edge of the old mill site (47°51'05.5"N, 122°34'59"W) to the fallen tree on the opposite shore (47°51'6.6"N, 122°34'15.9"W).

(2) Those waters within 1000 feet of Port Gamble Creek and Martha John Creek.

**Area 10** -

(1) Those waters easterly of a line projected from Meadow Point (47°41'35.9"N, 122°24'21.6"W) to West Point (47°39'43.6"N, 122°26'8.5"W).

(2) Those waters of Port Madison westerly of a line projected from Point Jefferson (47°44'51.7"N, 122°28'25.6"W) to the northernmost portion of Point Monroe (47°42'32"N, 122°30'43.5"W).

(3) Additional pink seasonal closure: The area east inside of the line projected from West Point (47°39'43.6"N, 122°26'8.5"W) and extending west to the traffic separation lane Lighted Buoy SG (Light List No. 16815 FLY2.5s5MY"SG, " 47°39'41.6"N, 122°27'52.6"W), thence 20 degrees true until reaching latitude 47°44'30.0"N, thence extending directly east to the shoreline (47°44'30"N, 122°22'40.5"W).



(4) Additional purse seine pink seasonal closure: The area within 500 feet of the eastern shore in Area 10 is closed to purse seines north of latitude 47°44'30.0"N.

(5) Additional chum seasonal closure: Those waters of Elliott Bay east of a line from Alki Point (Light List No. 16915 Fl5s39ft16M, 47°34'34.5"N, 122°25'14"W) to the Fourmile Rock Light 1 (Light List No. 16810 FlG6s15ft6M"1," 47°38'20.4"N, 122°24'48.7"W), and those waters northerly of a line projected from Point Wells to traffic separation lane Lighted Buoy SF (Light List No. 16745 FlY2.5s5MY"SF," 47°45'53"N, 122°26'15.7"W), then west to President's Point (47°45'57.2"N, 122°28'20.1"W).

(6) Those waters of Rich Passage, easterly of a line projected from Orchard Point (47°33'55"N, 122°31'56"W) to Beans Point (47°34'29"N, 122°31'20"W) on Bainbridge Island, and westerly of a line projected from Restoration Point (47°35'1"N, 122°28'46"W) to landfall at Colchester (47°32'41"N, 122°32'22.6"W) true west from the northwest point of Blake Island.

**Area 10E** - Those waters of Liberty Bay north of a line projected true east from 47°41'56.4"N, 122°36'53.5"W to 47°41'56.4"N, 122°36'17.4"W, those waters of Dyes Inlet north of the Manette Bridge, and those waters of Sinclair Inlet southwest of a line projected true east from the Washington state ferry Bremerton terminal (47°33'43.9"N, 122°37'31.1"W) to landfall at Port Orchard (47°33'43.9"N, 122°35'31.1"W).

**Area 11** -

(1) The waters of Gig Harbor, northerly of a line projected true west from the Gig Harbor Light (Light List No. 17221 FlR4s13ft3MPriv., 47°19'35.7"N, 122°34'29.2"W). The waters of Commencement Bay, south of a line from Browns Point (47°18'20.3"N, 122°26'39.4"W) to the northernmost point of land on Point Defiance (47°19'7.7"N, 122°32'23.9"W).

(2) Additional chum seasonal closure: Those waters south of a line projected from the Gig Harbor Light (Light List No. 17221 FlR4s13ft3MPriv., 47°19'35.7"N, 122°34'29.2"W) to the Washington state ferry Tahlequah terminal (47°19'58.3"N, 122°30'25.5"W), south of a line projected from Neill Point (47°19'53"N, 122°29'33"W) to Piner Point (47°20'37"N, 122°27'17"W), west of a line projected from Piner Point (47°20'37"N, 122°27'17"W) to Dash Point (47°19'10"N, 122°25'47"W), and north of Area 11/11A line.

**Areas 12, 12B, and 12C** - Those waters within 1,000 feet of the eastern shore.

**Area 12** - Those waters inside and easterly of a line projected from Lone Rock (47°39'46"N, 122°46'11"W) to Hood Canal Light 13 (Light List No. 17855 FlG2.5s20ft4M"13," 47°39'45.5"N, 122°47'14.4"W) off Big Beef Creek, thence southerly to the outermost northern headland of Little Beef Creek (47°39'24.4"N, 122°47'23.4"W).

**Area 12 - Additional chum seasonal closures:** Those waters of Area 12 south and west of a line projected 94 degrees true from south Hazel Point (47°41'29.1"N, 122°46'22.6"W) to the Hood Canal Light 11 on the opposite shore (Light List No. 17845 FlG4s15ft5M"11," 47°41'24.6"N, 122°44'50.4"W), bounded on the west by the Area 12/12B boundary line are closed to purse seine weeks 43, 44, and 45. Open to gillnets weeks 43 and 44.

**Area 12A** -

(1) Those waters north of a line projected due east from Broad Spit (47°48'37.8"N, 122°48'59.3"W) to landfall on the Toandos Peninsula (47°48'37.8"N, 122°47'42.5"W).

(2) Those waters within 1,000 feet of the mouth of the Quilcene River.

**Area 12B -**

(1) Those waters within 1/4-mile of the mouths of the Dosewal-lips, Duckabush, and Hamma Hamma rivers and Anderson Creek.

(2) Additional Chinook seasonal closure: Those waters north and east of a line projected from Tekiu Point (47°35'6.6"N, 122°57'52.8"W) to Triton Head (47°36'10.9"N, 122°59'0.5"W).

**Area 12C -**

(1) Those waters within 2,000 feet of the western shore between the dock at Glen Ayr R.V. Park (47°25'14.1"W, 23°7'50.7"N) and the Port of Hoodspport marina dock (47°24'12.6"N, 123°8'29.5"W). This area is also referred to as the Hoodspport Hatchery Zone.

(2) Those waters south of a line projected 107 degrees true from the Cushman Powerhouse (47°22'11.2"N, 123°09'35.9"W) to the Union boat launch (47°21'27.5"N, 123°6'1.9"W).

(3) Those waters within 1/4-mile of the mouth of the Dewatto Riv-er.

**Area 13A -** Those waters of Burley Lagoon north of State Route 302; those waters within 1,000 feet of the outer oyster stakes off Minter Creek Bay from 47°21'47.5"N, 122°41'10.1"W to 47°21'9.8"N, 122°41'57.7"W, including all waters of Minter Creek Bay; those waters westerly of a line drawn due north from Thompson Spit (47°19'58.6"N, 122°43'42.7"W) at the mouth of Glen Cove; and those waters within 1/4-mile of Green Point.

[Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.045 [77.04.055], and 77.12.047. WSR 21-14-068 (Order 21-94), § 220-354-080, filed 7/2/21, effective 8/2/21. Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.055, and 77.12.047. WSR 20-14-050 (Order 20-98), § 220-354-080, filed 6/25/20, effective 7/26/20. Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.130, 77.12.045, and 77.12.047. WSR 19-15-051 (Order 19-140), § 220-354-080, filed 7/12/19, effective 8/12/19. Statutory Authority: RCW 77.04.090, 77.04.130, 77.15.568, 77.08.010, 77.65.510, 77.65.515, and 77.65.520. WSR 18-18-078 (Order 18-221), § 220-354-080, filed 9/4/18, effective 10/5/18. Statutory Au-thority: RCW 77.04.012, 77.04.020, 77.04.130, 77.12.045, and 77.12.047. WSR 17-17-100 (Order 17-205), amended and recodified as § 220-354-080, filed 8/18/17, effective 9/18/17; WSR 16-18-067, § 220-47-307, filed 9/2/16, effective 10/3/16; WSR 15-17-034 (Order 15-254), § 220-47-307, filed 8/11/15, effective 9/11/15; WSR 14-14-011 (Order 14-144), § 220-47-307, filed 6/19/14, effective 7/20/14. Statu-tory Authority: RCW 77.04.020, 77.12.045, and 77.12.047. WSR 13-15-148 (Order 13-144), § 220-47-307, filed 7/23/13, effective 8/23/13; WSR 12-15-034 (Order 12-131), § 220-47-307, filed 7/12/12, effective 8/12/12; WSR 11-16-016 (Order 11-165), § 220-47-307, filed 7/22/11, effective 8/22/11; WSR 10-14-129 (Order 10-137), § 220-47-307, filed 7/7/10, effective 8/7/10. Statutory Authority: RCW 77.12.047 and 77.04.020. WSR 09-15-054 (Order 09-108), § 220-47-307, filed 7/9/09, effective 8/9/09; WSR 08-15-031 (Order 08-167), § 220-47-307, filed 7/8/08, effective 8/8/08. Statutory Authority: RCW 77.12.047. WSR 04-16-125 (Order 04-202), § 220-47-307, filed 8/4/04, effective 9/4/04; WSR 03-18-005 (Order 03-210), § 220-47-307, filed 8/20/03, ef-fective 9/20/03. Statutory Authority: RCW 75.08.080. WSR 99-24-011 (Order 99-202), § 220-47-307, filed 11/19/99, effective 12/20/99. Statutory Authority: RCW 75.08.080 and 77.12.040. WSR 98-15-081 (Order 98-122), § 220-47-307, filed 7/15/98, effective 8/15/98. Statutory Au-

thority: RCW 75.08.080. WSR 97-16-030 (Order 97-124), § 220-47-307, filed 7/29/97, effective 8/29/97; WSR 96-15-101 (Order 96-81), § 220-47-307, filed 7/22/96, effective 8/22/96; WSR 95-13-056 (Order 95-75), § 220-47-307, filed 6/16/95, effective 7/17/95; WSR 94-15-001 (Order 94-62), § 220-47-307, filed 7/6/94, effective 8/6/94; WSR 92-15-105 (Order 92-47), § 220-47-307, filed 7/20/92, effective 8/20/92; WSR 91-18-024 (Order 91-72), § 220-47-307, filed 8/27/91, effective 9/27/91; WSR 90-13-025 (Order 90-49), § 220-47-307, filed 6/11/90, effective 7/12/90; WSR 88-14-133 (Order 88-48), § 220-47-307, filed 7/6/88; WSR 85-13-032 (Order 85-60), § 220-47-307, filed 6/12/85; WSR 84-13-078 (Order 84-53), § 220-47-307, filed 6/21/84; WSR 83-14-020 (Order 83-57), § 220-47-307, filed 6/28/83; WSR 82-15-040 (Order 82-83), § 220-47-307, filed 7/15/82; WSR 81-18-017 (Order 81-101), § 220-47-307, filed 8/25/81; WSR 80-10-058 (Order 80-83), § 220-47-307, filed 8/6/80.]

AMENDATORY SECTION (Amending WSR 21-14-068, filed 7/2/21, effective 8/2/21)

**WAC 220-354-120 Puget Sound salmon—Purse seine—Open periods.**

(1) It is unlawful to take, fish for, or possess salmon taken with purse seine gear for commercial purposes from Puget Sound, except in the following designated Puget Sound Salmon Management and Catch Reporting Areas and during the periods provided for in each respective Management and Catch Reporting Area:

AREA	TIME	DATE
7, 7A:	7AM - 6PM	- <del>((10/10))</del> 10/11, 10/12, 10/14, 10/15, <del>10/18,</del> 10/19, 10/20, 10/21, 10/22, 10/23, 10/24, 10/25, 10/26, 10/27, 10/28, 10/29, 10/30, 10/31, 11/1, 11/2, 11/3, 11/4, 11/5( <del>(-11/6)</del> )
Note: In Areas 7 and 7A, it is unlawful to fail to brail when fishing with purse seine gear. Any time brailing is required, purse seine fishers must also use a recovery box in compliance with WAC 220-354-100 (7)(a) through (f).		
7B( <del>(-7C)</del> ):	6AM - 8PM	- <del>((8/18, 8/25, 8/26, 9/1))</del> 8/10, 8/17, 8/24, 8/25, 8/31
	7AM - 7PM	- <del>((9/6, 9/8, 9/10))</del> 9/5, 9/7, 9/9
7B:	7AM - 7PM	- <del>((9/13, 9/15, 9/17))</del> 9/12, 9/14, 9/16
	7AM <del>((9/19))</del> 9/18	- 6PM <del>((10/23))</del> 10/22
	7AM - 6PM	- <del>((10/27))</del> 10/24 - 10/28
	7AM - 6PM	- <del>((11/3))</del> 10/31 - 11/4
	7AM - 5PM	- <del>((11/40))</del> 11/7 - 11/11
	7AM - 5PM	- <del>((11/47))</del> 11/14 - 11/18
	7AM - 5PM	- <del>((11/24))</del> 11/21 - 11/25
	<u>7AM - 5PM</u>	= 11/28 - 12/2
7C:	<u>6AM - 8PM</u>	= 8/10, 8/17, 8/24, 8/25, 8/31
	<u>7AM - 7PM</u>	= 9/5, 9/7, 9/9

AREA	TIME	DATE
<p>Note: The Whatcom Creek Zone: That portion of Area 7B east of a North - South line from the flashing red light at the west entrance to Squaleicum Harbor to land fall east of Post Point ((to the flashing red light at the west entrance to Squaleicum Harbor is CLOSED)) may close per in-season management needs.</p>		
8:	Closed	
8A:	Closed	
8D:	Closed	
10, 11:	7AM - <del>((7PM))</del> 6PM	- ((8/17, 8/19, 8/24, 8/26, 8/31, 9/2))
		Additional October dates (determined per agreement with tribal co-managers in-season if harvestable surplus of salmon increase).
12, 12B:	7AM - 6PM	- (( <del>10/20, 10/25</del> ) 10/11, 10/18, 10/26, 11/1, 11/3)
	7AM - 5PM	- (( <del>11/3</del> ) 11/8)
12C:	7AM - 6PM	- 11/1, 11/3, 11/8
	7AM - 5PM	- Additional November dates (determined per agreement with tribal co-managers in-season if harvestable surplus of salmon increase).

Note: In Area 10 during any open period occurring in August or September, it is unlawful to fail to brail or use a brailing bunt when fishing with purse seine gear. Any time brailing is required, purse seine fishers must also use a recovery box in compliance with WAC 220-354-100 (7)(a) through (f).

(2) It is unlawful to retain the following salmon species taken with purse seine gear within the following areas during the following periods:

- (a) Chinook salmon - At all times in Areas 7, 7A, 8, 8A, 8D, 10, 11, 12, 12B, and 12C, and after October 20 in Area 7B.
- (b) Coho salmon - At all times in Areas 7, 7A, 10, 11, 12, 12B, and 12C, and prior to September 1 in Area 7B.
- (c) Chum salmon - Prior to October 1 in Areas 7 and 7A, and at all times in 8A.
- (d) All other saltwater and freshwater areas - Closed.

(3) Fishers must take department observers, if requested by department staff, when participating in these openings.

[Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.045 [77.04.055], and 77.12.047. WSR 21-14-068 (Order 21-94), § 220-354-120, filed 7/2/21, effective 8/2/21. Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.055, and 77.12.047. WSR 20-14-050 (Order 20-98), § 220-354-120, filed 6/25/20, effective 7/26/20. Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.130, 77.12.045, and 77.12.047. WSR 19-15-051 (Order 19-140), § 220-354-120, filed 7/12/19, effective 8/12/19; WSR 18-14-013 (Order 18-131), § 220-354-120, filed 6/22/18, effective 7/23/18; WSR 17-17-100 (Order 17-205), amended and recodified as § 220-354-120, filed 8/18/17, effective 9/18/17; WSR 16-18-067, § 220-47-311, filed 9/2/16, effective 10/3/16; WSR 15-17-034 (Order 15-254), § 220-47-311, filed 8/11/15, effective 9/11/15; WSR 14-14-011 (Order 14-144), § 220-47-311, filed 6/19/14, effective 7/20/14. Statutory Authority: RCW 77.04.020, 77.12.045, and 77.12.047. WSR 13-15-148 (Order 13-144), § 220-47-311, filed 7/23/13, effective 8/23/13; WSR 12-15-034 (Order 12-131), § 220-47-311, filed 7/12/12, effective 8/12/12; WSR 11-16-016 (Order 11-165), §

220-47-311, filed 7/22/11, effective 8/22/11; WSR 10-14-129 (Order 10-137), § 220-47-311, filed 7/7/10, effective 8/7/10. Statutory Authority: RCW 77.12.047 and 77.04.020. WSR 09-15-054 (Order 09-108), § 220-47-311, filed 7/9/09, effective 8/9/09; WSR 08-15-031 (Order 08-167), § 220-47-311, filed 7/8/08, effective 8/8/08; WSR 07-20-006, § 220-47-311, filed 9/20/07, effective 10/21/07. Statutory Authority: RCW 77.12.047. WSR 06-16-045 (Order 06-173), § 220-47-311, filed 7/26/06, effective 8/26/06; WSR 05-17-002 (Order 05-166), § 220-47-311, filed 8/3/05, effective 9/3/05; WSR 04-16-125 (Order 04-202), § 220-47-311, filed 8/4/04, effective 9/4/04; WSR 03-18-005 (Order 03-210), § 220-47-311, filed 8/20/03, effective 9/20/03; WSR 02-16-004 (Order 02-167), § 220-47-311, filed 7/25/02, effective 8/25/02; WSR 01-13-056 (Order 01-106), § 220-47-311, filed 6/15/01, effective 7/16/01; WSR 00-18-023 (Order 00-172), § 220-47-311, filed 8/28/00, effective 9/28/00. Statutory Authority: RCW 75.08.080. WSR 99-24-011 (Order 99-202), § 220-47-311, filed 11/19/99, effective 12/20/99. Statutory Authority: RCW 75.08.080 and 77.12.040. WSR 98-15-081 (Order 98-122), § 220-47-311, filed 7/15/98, effective 8/15/98. Statutory Authority: RCW 75.08.080. WSR 97-16-030 (Order 97-124), § 220-47-311, filed 7/29/97, effective 8/29/97; WSR 96-15-101 (Order 96-81), § 220-47-311, filed 7/22/96, effective 8/22/96; WSR 95-13-056 (Order 95-75), § 220-47-311, filed 6/16/95, effective 7/17/95; WSR 94-15-001 (Order 94-62), § 220-47-311, filed 7/6/94, effective 8/6/94; WSR 93-14-041 (Order 93-55), § 220-47-311, filed 6/29/93, effective 7/30/93; WSR 92-15-105 (Order 92-47), § 220-47-311, filed 7/20/92, effective 8/20/92; WSR 91-18-024 (Order 91-72), § 220-47-311, filed 8/27/91, effective 9/27/91; WSR 90-13-025 (Order 90-49), § 220-47-311, filed 6/11/90, effective 7/12/90; WSR 89-13-004 (Order 89-44), § 220-47-311, filed 6/8/89; WSR 88-14-133 (Order 88-48), § 220-47-311, filed 7/6/88; WSR 87-15-059 (Order 87-72), § 220-47-311, filed 7/14/87; WSR 86-13-038 (Order 86-46), § 220-47-311, filed 6/12/86; WSR 85-13-032 (Order 85-60), § 220-47-311, filed 6/12/85; WSR 84-13-078 (Order 84-53), § 220-47-311, filed 6/21/84; WSR 83-14-020 (Order 83-57), § 220-47-311, filed 6/28/83; WSR 82-15-040 (Order 82-83), § 220-47-311, filed 7/15/82; WSR 81-18-017 (Order 81-101), § 220-47-311, filed 8/25/81; WSR 80-10-058 (Order 80-83), § 220-47-311, filed 8/6/80; WSR 78-05-018 (Order 78-16), § 220-47-311, filed 4/13/78; Order 77-66, § 220-47-311, filed 8/5/77; Order 77-14, § 220-47-311, filed 4/15/77; Order 76-41, § 220-47-311, filed 6/4/76; Order 1251, § 220-47-311, filed 8/18/75; Order 1210, § 220-47-311, filed 5/26/75; Order 1143, § 220-47-311, filed 8/8/74; Order 1125, § 220-47-311, filed 6/6/74; Order 1066, § 220-47-311, filed 7/19/73; Order 1057, § 220-47-311, filed 5/22/73; Order 988, § 220-47-311, filed 4/28/72.]

AMENDATORY SECTION (Amending WSR 21-14-068, filed 7/2/21, effective 8/2/21)

**WAC 220-354-160 Puget Sound salmon—Gillnet—Open periods. (1)**

It is unlawful to take, fish for, or possess salmon taken with gillnet gear for commercial purposes from Puget Sound, except in the following designated Puget Sound Salmon Management and Catch Reporting Areas during the periods provided for in each respective fishing area:

AREA	TIME	DATE(S)	MINIMUM MESH
6D: Skiff gillnet only, definition WAC 220-350-170 and lawful gear description WAC 220-354-140.	7AM - 7PM	9/21, 9/22, 9/23, <del>((9/24))</del> 9/26, 9/27, 9/28, 9/29, 9/30, <del>((10/1))</del> 10/3, 10/4, 10/5, 10/6, 10/7, <del>((10/8))</del> 10/10, 10/11, 10/12, 10/13, 10/14, <del>((10/15))</del> 10/17, 10/18, 10/19, 10/20, 10/21, <del>((10/22, 10/25, 10/26, 10/27, 10/28, 10/29))</del> 10/24, 10/25, 10/26, 10/27, 10/28, 10/31, 11/1, 11/2, 11/3, 11/4	5"

Note: In Area 6D, it is unlawful to use other than 5-inch minimum mesh in the skiff gillnet fishery. It is unlawful to retain Chinook taken in Area 6D at any time, or any chum salmon taken in Area 6D prior to October ~~((12))~~ 15 per Table 3.34 of the SCSCI Base Conservation Regime. In Area 6D, any Chinook or chum salmon required to be released must be removed from the net by cutting the meshes ensnaring the fish.

7, 7A:	7AM - Midnight	<del>((10/10,))</del> 10/11, 10/12, 10/14, 10/15, 10/18, 10/19, 10/20, 10/21, 10/22, 10/23, 10/24, 10/25, 10/26, 10/27, 10/28, 10/29, 10/30, 10/31, 11/1, 11/2, 11/3, 11/4, 11/5 <del>((, 11/6))</del>	6 1/4"
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Note: In Areas 7 and 7A after October 9 and prior to October 18, coho and Chinook salmon must be released, and it is unlawful to use a net soak time of more than 45 minutes. Net soak time is defined as the time elapsed from when the first of the gillnet web enters the water, until the gillnet is fully retrieved from the water. Fishers must also use a recovery box in compliance with WAC 220-354-140 (5)(a) through (f) when coho and Chinook release is required.

7B <del>((, 7C))</del> :	7PM - 8AM	<del>((NIGHTLY 8/15, 8/16, 8/17))</del> NIGHTLY 8/7, 8/8, 8/9, 8/14, 8/15, 8/16, 8/17, 8/21, 8/22, 8/23, 8/24	7"
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	<del>((7PM - 8AM</del>	NIGHTLY 8/22, 8/23, 8/24	5"))
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	7AM <del>((8/29))</del> 8/28	- 7AM <del>((9/3))</del> 9/2	5"
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	7AM <del>((9/5))</del> 9/4	- 7AM <del>((9/10))</del> 9/9	5"
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<del>((7B:))</del>	7AM <del>((9/12))</del> 9/11	- 7AM <del>((9/17))</del> 9/16	5"
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	7AM <del>((9/19))</del> 9/18	- Midnight <del>((10/23))</del> 10/22	5"
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	<del>((7AM - 7PM</del>	DAILY 10/26, 10/27, 11/2, 11/3, 11/9, 11/10, 11/16, 11/17, 11/23, 11/24, 11/30, 12/1	6-1/4"))
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	7AM 10/24	- 4PM 10/28	<del>((DAILY 10/28, 11/2, 11/4, 11/11, 11/18, 11/25))</del>	6 1/4"
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	7AM 10/31	= 4PM 11/4		
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	7AM 11/7	= 4PM 11/11		
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	7AM 11/14	= 4PM 11/18		
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	7AM 11/21	= 4PM 11/25		
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	7AM 11/28	= 4PM 12/2		
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7C:	7PM	= 8AM	NIGHTLY 8/7, 8/8, 8/9, 8/14, 8/15, 8/16, 8/17, 8/21, 8/22, 8/23, 8/24	7"
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	7AM 8/28	= 7AM 9/2		7"
	7AM 9/4	= 7AM 9/9		7"

Note: In Area 7C the minimum mesh size is 7" through ~~((9/11))~~ 9/9.

Note: The Whatcom Creek Zone: That portion of Area 7B east of a ~~((line from Post Point to))~~ North - South line from the flashing red light at the west entrance to Squalicum Harbor ~~((is CLOSED))~~ to land fall east of Post Point may close per in-season management needs.

8:	5AM - 11PM	Closed	5"
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Note: In Area 8 it is unlawful to take or fish for pink salmon with drift gillnets greater than 60-mesh maximum depth. Fishers must also use minimum 5" and maximum 5 1/2" mesh during pink salmon management periods.

8A:	6PM - 8AM	Closed	5"
	6PM - 8AM	Closed	5"

Note: In Area 8A fishers must use minimum 5" and maximum 5 1/2" mesh during pink salmon management periods.

8D:	6PM - 8AM	Closed	5"
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	6PM - 8AM	Closed	5"
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	6PM - 8AM	Closed	5"
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	6PM - 8AM	Closed	5"
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	5PM - 9AM	Closed	5"
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	5PM - 9AM	Closed	5"
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	5PM - 9AM	Closed	5"
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	4PM - 8AM	Closed	5"
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	4PM - 8AM	Closed	5"
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	6AM - 6PM	Closed	6 1/4"
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AREA	TIME	DATE(S)	MINIMUM MESH
	7AM - 6PM	Closed	6 1/4"
9A: Skiff gillnet only, definition WAC 220-350-170 and lawful gear description WAC 220-354-140.	7AM ((8/15)) 8/7 - 7PM ((40/30)) 10/29		5"
Note: It is unlawful to retain chum salmon taken in Area 9A prior to October 1, and it is unlawful to retain Chinook salmon at any time. Any salmon required to be released must be removed from the net by cutting the meshes ensnaring the fish.			
10, 11:	((7AM - 7PM 5PM - 7AM 5PM - 9AM	8/16, 8/18, 8/23, 8/25, 8/30, 9/1 Closed Additional October dates (determined per agreement with tribal co- managers in-season if harvestable surplus of salmon increase).	5" 6 1/4") 6 1/4"
Note: Areas 10 pink directed purse seine and gillnet fisheries, adjusted hours 7AM-7PM, limited participation to 5 purse seine and 5 gillnet, observers required, use of recovery box required in compliance with WAC 220-354-140 (5)(a) through (f). Purse seines must trail. For gillnets it is unlawful to use a net soak time of more than 90 minutes. Net soak time is defined as the time elapsed from when the first of the gillnet web enters the water, until the gillnet is fully retrieved from the water. Retention of Chinook, coho, and chum is prohibited for all gears.			
12A: Skiff gillnet only, definition WAC 220-350-170 and lawful gear description WAC 220-354-140.	7AM - 7PM	((Dates determined per agreement with tribal co-managers in-season if Summer Chum Salmon Conservation Initiative goals are met allowing for openings of gillnet gear.)) Closed.	5"
Note: In Area 12A, it is unlawful to use other than 5-inch minimum mesh in the skiff gillnet fishery. It is unlawful to retain Chinook or chum salmon taken in Area 12A at any time, and any salmon required to be released must be removed from the net by cutting the meshes ensnaring the fish.			
12, 12B:	7AM - 8PM	((10/18, 10/21, 10/26, 10/28)) 10/13, 10/17, 10/19, 10/24, 10/27, 10/31, 11/2	6 1/4"
	7AM - 7PM	((11/1, 11/4)) 11/7, 11/9	6 1/4"
	6AM - 6PM	Additional November dates (determined per agreement with tribal co-managers in-season if harvestable surplus of salmon increase).	6 1/4"
12C:	6AM - 6PM	10/31, 11/2, 11/4, 11/7	6 1/4"
All other saltwater and freshwater areas - Closed.			

Nightly openings refer to the start date.

Within an area or areas, a mesh size restriction remains in effect from the first date indicated until a mesh size change is shown, and the new mesh size restriction remains in effect until changed.

(2) Fishers must take department observers, if requested by department staff, when participating in these openings.

[Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.045 [77.04.055], and 77.12.047. WSR 21-14-068 (Order 21-94), § 220-354-160, filed 7/2/21, effective 8/2/21. Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.055, and 77.12.047. WSR 20-14-050 (Order 20-98), § 220-354-160, filed 6/25/20, effective 7/26/20. Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.130, 77.12.045, and 77.12.047. WSR 19-15-051 (Order 19-140), § 220-354-160, filed 7/12/19, effective 8/12/19; WSR 18-14-013 (Order 18-131), § 220-354-160, filed 6/22/18, effective 7/23/18; WSR 17-17-100 (Order 17-205), amended and recodified as § 220-354-160, filed 8/18/17, effective 9/18/17; WSR 16-18-067, § 220-47-411, filed 9/2/16, effective 10/3/16; WSR 15-17-034 (Order 15-254), § 220-47-411, filed 8/11/15, effective 9/11/15; WSR 14-14-011 (Order 14-144), § 220-47-411, filed 6/19/14, effective 7/20/14. Statutory Authority: RCW 77.04.020, 77.12.045, and 77.12.047. WSR 13-15-148 (Order 13-144), § 220-47-411, filed 7/23/13, effective 8/23/13; WSR 12-15-034 (Order 12-131), § 220-47-411, filed 7/12/12, effective 8/12/12; WSR 11-16-016 (Order 11-165), § 220-47-411, filed 7/22/11, effective 8/22/11; WSR 10-14-129 (Order 10-137), § 220-47-411, filed 7/7/10, effective 8/7/10. Statutory Authority: RCW 77.12.047 and 77.04.020. WSR 09-15-054 (Order 09-108), § 220-47-411, filed 7/9/09, effective 8/9/09; WSR 08-15-031 (Order 08-167), § 220-47-411, filed 7/8/08, effective 8/8/08; WSR 07-20-006, § 220-47-411, filed 9/20/07, effective 10/21/07. Statutory Authority:

RCW 77.12.047. WSR 06-16-045 (Order 06-173), § 220-47-411, filed 7/26/06, effective 8/26/06; WSR 05-17-002 (Order 05-166), § 220-47-411, filed 8/3/05, effective 9/3/05; WSR 04-16-125 (Order 04-202), § 220-47-411, filed 8/4/04, effective 9/4/04; WSR 03-16-101 (Order 03-179), § 220-47-411, filed 8/6/03, effective 9/6/03; WSR 02-16-004 (Order 02-167), § 220-47-411, filed 7/25/02, effective 8/25/02; WSR 01-13-056 (Order 01-106), § 220-47-411, filed 6/15/01, effective 7/16/01; WSR 00-18-023 (Order 00-172), § 220-47-411, filed 8/28/00, effective 9/28/00. Statutory Authority: RCW 75.08.080. WSR 99-24-011 (Order 99-202), § 220-47-411, filed 11/19/99, effective 12/20/99. Statutory Authority: RCW 75.08.080 and 77.12.040. WSR 98-15-081 (Order 98-122), § 220-47-411, filed 7/15/98, effective 8/15/98. Statutory Authority: RCW 75.08.080. WSR 97-16-030 (Order 97-124), § 220-47-411, filed 7/29/97, effective 8/29/97; WSR 96-15-101 (Order 96-81), § 220-47-411, filed 7/22/96, effective 8/22/96; WSR 95-13-056 (Order 95-75), § 220-47-411, filed 6/16/95, effective 7/17/95; WSR 94-15-001 (Order 94-62), § 220-47-411, filed 7/6/94, effective 8/6/94; WSR 93-14-041 (Order 93-55), § 220-47-411, filed 6/29/93, effective 7/30/93; WSR 92-15-105 (Order 92-47), § 220-47-411, filed 7/20/92, effective 8/20/92; WSR 91-18-024 (Order 91-72), § 220-47-411, filed 8/27/91, effective 9/27/91; WSR 90-13-025 (Order 90-49), § 220-47-411, filed 6/11/90, effective 7/12/90; WSR 89-13-004 (Order 89-44), § 220-47-411, filed 6/8/89; WSR 88-14-133 (Order 88-48), § 220-47-411, filed 7/6/88; WSR 87-15-059 (Order 87-72), § 220-47-411, filed 7/14/87; WSR 86-13-038 (Order 86-46), § 220-47-411, filed 6/12/86; WSR 85-13-032 (Order 85-60), § 220-47-411, filed 6/12/85; WSR 84-13-078 (Order 84-53), § 220-47-411, filed 6/21/84; WSR 83-14-020 (Order 83-57), § 220-47-411, filed 6/28/83; WSR 82-15-040 (Order 82-83), § 220-47-411, filed 7/15/82; WSR 81-18-017 (Order 81-101), § 220-47-411, filed 8/25/81; WSR 80-10-058 (Order 80-83), § 220-47-411, filed 8/6/80; WSR 78-05-018 (Order 78-16), § 220-47-411, filed 4/13/78; Order 77-66, § 220-47-411, filed 8/5/77; Order 77-14, § 220-47-411, filed 4/15/77; Order 76-41, § 220-47-411, filed 6/4/76; Order 1251, § 220-47-411, filed 8/18/75; Order 1210, § 220-47-411, filed 5/26/75; Order 1143, § 220-47-411, filed 8/8/74; Order 1125, § 220-47-411, filed 6/6/74; Order 1066, § 220-47-411, filed 7/19/73; Order 1057, § 220-47-411, filed 5/22/73; Order 988, § 220-47-411, filed 4/28/72.]

AMENDATORY SECTION (Amending WSR 21-14-068, filed 7/2/21, effective 8/2/21)

**WAC 220-354-180 Puget Sound salmon—Reef net open periods.** (1)

It is unlawful to take, fish for, or possess salmon taken with reef net gear for commercial purposes in Puget Sound, except in the following designated Puget Sound Salmon Management and Catch Reporting Areas, during the periods provided for in each respective area:

AREA	TIME	DATE(S)
7	3AM - 9PM Daily	((9/19-11/6)) 9/18 - 11/5

(2) It is unlawful at all times to retain unmarked Chinook salmon taken with reef net gear, and it is unlawful to retain chum salmon taken with reef net gear prior to October 1.

(3) It is unlawful to retain marked Chinook after September 30.



(a) It is unlawful to retain marked Chinook with reef net gear if the fisher does not have in his or her immediate possession a department-issued Puget Sound Reef Net Logbook with all retained Chinook accounted for in the logbook. Marked Chinook are those with a clipped adipose fin and a healed scar at the site of the clipped fin.

(b) Completed logs must be submitted and received within six working days to: Puget Sound Commercial Salmon Manager, Department of Fish & Wildlife, 600 Capitol Way N, Olympia, WA 98501-1091.

(4) All other saltwater and freshwater areas - Closed.

[Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.045 [77.04.055], and 77.12.047. WSR 21-14-068 (Order 21-94), § 220-354-180, filed 7/2/21, effective 8/2/21. Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.055, and 77.12.047. WSR 20-14-050 (Order 20-98), § 220-354-180, filed 6/25/20, effective 7/26/20. Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.130, 77.12.045, and 77.12.047. WSR 19-15-051 (Order 19-140), § 220-354-180, filed 7/12/19, effective 8/12/19; WSR 18-14-013 (Order 18-131), § 220-354-180, filed 6/22/18, effective 7/23/18; WSR 17-17-100 (Order 17-205), amended and recodified as § 220-354-180, filed 8/18/17, effective 9/18/17; WSR 16-18-067, § 220-47-401, filed 9/2/16, effective 10/3/16; WSR 15-17-034 (Order 15-254), § 220-47-401, filed 8/11/15, effective 9/11/15; WSR 14-14-011 (Order 14-144), § 220-47-401, filed 6/19/14, effective 7/20/14. Statutory Authority: RCW 77.04.020, 77.12.045, and 77.12.047. WSR 12-15-034 (Order 12-131), § 220-47-401, filed 7/12/12, effective 8/12/12; WSR 11-16-016 (Order 11-165), § 220-47-401, filed 7/22/11, effective 8/22/11; WSR 10-14-129 (Order 10-137), § 220-47-401, filed 7/7/10, effective 8/7/10. Statutory Authority: RCW 77.12.047 and 77.04.020. WSR 09-15-054 (Order 09-108), § 220-47-401, filed 7/9/09, effective 8/9/09; WSR 08-15-031 (Order 08-167), § 220-47-401, filed 7/8/08, effective 8/8/08; WSR 07-20-006, § 220-47-401, filed 9/20/07, effective 10/21/07. Statutory Authority: RCW 77.12.047. WSR 06-16-045 (Order 06-173), § 220-47-401, filed 7/26/06, effective 8/26/06; WSR 05-17-002 (Order 05-166), § 220-47-401, filed 8/3/05, effective 9/3/05; WSR 04-16-125 (Order 04-202), § 220-47-401, filed 8/4/04, effective 9/4/04; WSR 03-18-005 (Order 03-210), § 220-47-401, filed 8/20/03, effective 9/20/03; WSR 02-16-004 (Order 02-167), § 220-47-401, filed 7/25/02, effective 8/25/02; WSR 01-13-056 (Order 01-106), § 220-47-401, filed 6/15/01, effective 7/16/01; WSR 00-18-023 (Order 00-172), § 220-47-401, filed 8/28/00, effective 9/28/00. Statutory Authority: RCW 75.08.080. WSR 99-24-011 (Order 99-202), § 220-47-401, filed 11/19/99, effective 12/20/99. Statutory Authority: RCW 75.08.080 and 77.12.040. WSR 98-15-081 (Order 98-122), § 220-47-401, filed 7/15/98, effective 8/15/98. Statutory Authority: RCW 75.08.080. WSR 97-16-030 (Order 97-124), § 220-47-401, filed 7/29/97, effective 8/29/97; WSR 96-15-101 (Order 96-81), § 220-47-401, filed 7/22/96, effective 8/22/96; WSR 95-13-056 (Order 95-75), § 220-47-401, filed 6/16/95, effective 7/17/95; WSR 94-15-001 (Order 94-62), § 220-47-401, filed 7/6/94, effective 8/6/94; WSR 93-14-041 (Order 93-55), § 220-47-401, filed 6/29/93, effective 7/30/93; WSR 92-15-105 (Order 92-47), § 220-47-401, filed 7/20/92, effective 8/20/92; WSR 91-18-024 (Order 91-72), § 220-47-401, filed 8/27/91, effective 9/27/91; WSR 90-13-025 (Order 90-49), § 220-47-401, filed 6/11/90, effective 7/12/90; WSR 89-13-004 (Order 89-44), § 220-47-401, filed 6/8/89; WSR 88-14-133 (Order 88-48), § 220-47-401, filed 7/6/88; WSR 87-15-059 (Order 87-72), § 220-47-401, filed 7/14/87; WSR 86-13-038 (Order 86-46), § 220-47-401,

filed 6/12/86; WSR 81-18-017 (Order 81-101), § 220-47-401, filed 8/25/81; WSR 80-10-058 (Order 80-83), § 220-47-401, filed 8/6/80; WSR 78-05-018 (Order 78-16), § 220-47-401, filed 4/13/78; Order 77-66, § 220-47-401, filed 8/5/77; Order 77-14, § 220-47-401, filed 4/15/77; Order 76-41, § 220-47-401, filed 6/4/76; Order 1210, § 220-47-401, filed 5/26/75; Order 1143, § 220-47-401, filed 8/8/74; Order 1125, § 220-47-401, filed 6/6/74; Order 1066, § 220-47-401, filed 7/19/73; Order 1057, § 220-47-401, filed 5/22/73; Order 988, § 220-47-401, filed 4/28/72.]

AMENDATORY SECTION (Amending WSR 21-14-068, filed 7/2/21, effective 8/2/21)

**WAC 220-354-210 Puget Sound salmon—Beach seine—Open periods.**

(1) It is unlawful to take, fish for, or possess salmon taken with beach seine gear for commercial purposes from Puget Sound except in the following designated Puget Sound Salmon Management and Catch Reporting Areas during the periods provided hereinafter in each respective Management and Catch Reporting Area:

All areas:

AREA	TIME	DATE(S)
12A:	7AM - 7PM	8/22, 8/23, 8/24, 8/25, 8/26, 8/29, 8/30, 8/31, 9/1, 9/2, ((9/3)) 9/5, 9/6, 9/7, 9/8, 9/9, ((9/10)) 9/12, 9/13, 9/14, 9/15, 9/16, ((9/17)) 9/19, 9/20, 9/21, 9/22, 9/23, ((9/24)) 9/26, 9/27, 9/28, 9/29, 9/30((9/10/1))
12C, Hoodspout Hatchery Zone:	7AM - 7PM	((7/22, 7/29, 8/5, 8/12, 8/19, 8/26, 9/2)) 7/25, 8/1, 8/8, 8/15, 8/22, 8/29 Additional July and August dates (determined per agreement with tribal co-managers in-season if harvestable surplus of salmon increase).  November (dates determined per agreement with tribal co-managers in-season if harvestable surplus of salmon remain).

(2) It is unlawful to retain the following salmon species taken with beach seine gear within the following areas during the following periods:

- (a) Chinook salmon - At all times in Area 12A.
- (b) Chum salmon - In all areas prior to October 10.

[Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.045 [77.04.055], and 77.12.047. WSR 21-14-068 (Order 21-94), § 220-354-210, filed 7/2/21, effective 8/2/21. Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.055, and 77.12.047. WSR 20-14-050 (Order 20-98), § 220-354-210, filed 6/25/20, effective 7/26/20. Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.130, 77.12.045, and 77.12.047. WSR 19-15-051 (Order 19-140), § 220-354-210, filed 7/12/19, effective 8/12/19; WSR 18-14-013 (Order 18-131), § 220-354-210, filed 6/22/18, effective 7/23/18; WSR 17-17-100 (Order 17-205), amended and recodified as § 220-354-210, filed 8/18/17, effective 9/18/17; WSR 16-18-067, § 220-47-428, filed 9/2/16, effective 10/3/16; WSR 15-17-034 (Order 15-254), § 220-47-428, filed 8/11/15, effective 9/11/15; WSR 14-14-011 (Order 14-144), § 220-47-428, filed 6/19/14, effective 7/20/14. Statutory Authority: RCW 77.04.020, 77.12.045, and

77.12.047. WSR 13-15-148 (Order 13-144), § 220-47-428, filed 7/23/13, effective 8/23/13; WSR 12-15-034 (Order 12-131), § 220-47-428, filed 7/12/12, effective 8/12/12; WSR 11-16-016 (Order 11-165), § 220-47-428, filed 7/22/11, effective 8/22/11; WSR 10-14-129 (Order 10-137), § 220-47-428, filed 7/7/10, effective 8/7/10. Statutory Authority: RCW 77.12.047 and 77.04.020. WSR 09-15-054 (Order 09-108), § 220-47-428, filed 7/9/09, effective 8/9/09. Statutory Authority: RCW 77.12.047. WSR 05-17-002 (Order 05-166), § 220-47-428, filed 8/3/05, effective 9/3/05; WSR 04-16-125 (Order 04-202), § 220-47-428, filed 8/4/04, effective 9/4/04; WSR 03-18-005 (Order 03-210), § 220-47-428, filed 8/20/03, effective 9/20/03; WSR 02-16-004 (Order 02-167), § 220-47-428, filed 7/25/02, effective 8/25/02; WSR 01-13-056 (Order 01-106), § 220-47-428, filed 6/15/01, effective 7/16/01; WSR 00-18-023 (Order 00-172), § 220-47-428, filed 8/28/00, effective 9/28/00. Statutory Authority: RCW 75.08.080. WSR 99-24-011 (Order 99-202), § 220-47-428, filed 11/19/99, effective 12/20/99. Statutory Authority: RCW 75.08.080 and 77.12.040. WSR 98-15-081 (Order 98-122), § 220-47-428, filed 7/15/98, effective 8/15/98. Statutory Authority: RCW 75.08.080. WSR 97-16-030 (Order 97-124), § 220-47-428, filed 7/29/97, effective 8/29/97; WSR 96-15-101 (Order 96-81), § 220-47-428, filed 7/22/96, effective 8/22/96.]



The intent of this rule-making package, once adopted, is to replace and supersede the language in WAC 220-354-250 for the Willapa Bay salmon fall fishery and WAC 220-354-290 for the Grays Harbor salmon fall fishery in their entirety. As such, while WDFW is proposing specific revisions to these rules to describe the seasons and dates for these fisheries for 2022, all of the provisions encompassed within WAC 220-354-250 and 220-354-290 are available for public review and comment, and WDFW will consider all public comments received on this rule making.

Reasons Supporting Proposal: The proposed rules were developed through the annual North of Falcon salmon season setting process, which is an extensive stakeholder engagement process to develop and analyze various season options for recreational, commercial, and tribal fisheries for the current year. It is named "North of Falcon" as it includes setting the salmon seasons for the area north of Cape Falcon, Oregon, which is located at 45°N. latitude.

The North of Falcon process typically begins in January and consists of government-to-government meetings involving the National Marine Fisheries Service (NMFS), treaty tribes, and WDFW representatives. Separate meetings are held with stakeholders—both at a state-wide and regional level—to review preseason run size forecasts, NMFS guidance relative to allowable impacts for species listed under the Endangered Species Act (ESA), which includes salmon, but other protected species as well, such as southern resident killer whales. Meeting schedules and information can be found on the agency's website at <https://wdfw.wa.gov/fishing/management/north-falcon>.

Ocean fishery seasons are developed through the Pacific Fishery Management Council process, which is concurrent with and part of the broader North of Falcon process, with meetings in early March and early April. Ocean fishery options are also analyzed and considered in light of potential ESA-listed species impacts and state/tribal harvest agreements and are also reviewed for consistency with the Pacific Salmon Treaty.

Stakeholder meetings specific to the Willapa Bay and Grays Harbor fisheries were held in March and April. The comprehensive North of Falcon meeting schedule and the meeting agendas, handouts, and audio recordings of the public meetings are available on WDFW's website at <https://wdfw.wa.gov/fishing/management/north-falcon/public-meetings>.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.055, 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: WDFW, governmental.

Name of Agency Personnel Responsible for Drafting: Barbara McClellan or Kim Figlar-Barnes, 48 Devonshire Road, Montesano, WA 98563, 360-249-1213 or 360-249-4628; Implementation: Kyle Adicks, 1111 Washington Street S.E., Olympia, WA 98501, 360-902-2664; 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 proposal is exempt under RCW 34.05.328 (5) (a).

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, while WDFW considers commercial fishers to be a "small business," the commercial fishing rules proposed for 2022-2023 do not affect these small businesses by imposing new direct costs of regulatory compliance. These rule changes clarify dates for anticipated open periods and areas for full-fleet and limited-participation salmon fisheries, and legal gear requirements for those fisheries. There are no new anticipated professional services required to comply. Based on the department's analysis, the proposed rules do not require any new or additional equipment, supplies, labor, or administrative costs.

Specific to WAC 220-354-250 for the Willapa Bay salmon fall fishery, in the past, WDFW has produced a small business economic impact statement (SBEIS) to address new gear restrictions in the fishery that likely resulted in small businesses incurring new direct regulatory compliance costs (e.g., purchase of new tangle nets not previously required). However, we believe an SBEIS is not necessary for this rule making as the gear restrictions in the proposed rule have not changed since they went into effect in 2016 and this proposed rule does not impose any new costs on small businesses.

May 17, 2022  
Annie Szvetecz  
Rules Coordinator

**OTS-3764.1**

AMENDATORY SECTION (Amending WSR 21-14-069, filed 7/2/21, effective 8/2/21)

**WAC 220-354-250 Willapa Bay salmon fall fishery.** From August 16 through December 31 of each year, it is unlawful to fish for salmon in Willapa Bay for commercial purposes or to possess salmon taken from those waters for commercial purposes, except that:

**Fishing periods:**

(1) Gillnet gear may be used to fish for coho salmon, chum salmon, and Chinook salmon:

Area	Time	Date(s)	Maximum Mesh Size
2N, <u>2M</u>	6:00 a.m. through 6:00 p.m.	((8/20)) <u>8/26</u>	4.25"
2N, 2M	6:00 a.m. through 6:00 p.m.	((8/27)) <u>9/2</u>	4.25"
2N, 2M	6:00 a.m. through 6:00 p.m.	((9/3)) <u>9/7</u>	4.25"
2N( <del>(,2M)</del> )	<del>((6:00 a.m. through 6:00 p.m.))</del> 7:00 a.m. through 7:00 p.m.	((9/10)) <u>9/12, 9/13, 9/15, 9/16, 9/17</u>	4.25"
((2N)) <u>2M</u>	7:00 a.m. through 7:00 p.m.	9/12, ((9/14)) <u>9/13, 9/15, 9/16</u>	4.25"
((2M)) <u>2T, 2U</u>	7:00 a.m. through 7:00 p.m.	((9/14)) <u>9/16, 9/17</u>	4.25"

Area	Time	Date(s)	Maximum Mesh Size
((2N, 2M, 2T, 2U	7:00 a.m. through 7:00 p.m.	9/16	4.25"
2N, 2T, 2U	7:00 a.m. through 7:00 p.m.	9/18	4.25"))
2N, 2M, <u>2R</u> , 2T, 2U	7:00 a.m. through 7:00 p.m.	((9/21, 9/24)) <u>9/19, 9/20, 9/21, 9/22, 9/23</u>	6.5"
2N, <u>2M</u> , <u>2R</u> , 2T, 2U(( 2R))	7:00 a.m. through 7:00 p.m.	((9/22)) <u>9/26, 9/27, 9/29, 9/30, 10/1</u>	6.5"
((2N, 2T	7:00 a.m. through 7:00 p.m.	9/25	6.5"
2N, 2M, 2U	7:00 a.m. through 7:00 p.m.	9/28, 10/1	6.5"
2N, 2R, 2T, 2U	7:00 a.m. through 7:00 p.m.	9/29	6.5"
2T	7:00 a.m. through 7:00 p.m.	10/1	6.5"
2N, 2U	7:00 a.m. through 7:00 p.m.	10/2	6.5"))
2N, 2M, 2R, 2T, 2U	7:00 a.m. through 7:00 p.m.	((10/5)) <u>10/3, 10/4, 10/5, 10/6, 10/7</u>	6.5"
2N, ((2M,)) <u>2R</u> , <u>2T</u> , 2U	7:00 a.m. through 7:00 p.m.	((10/7)) <u>10/9, 10/10, 10/13, 10/15</u>	6.5"
((2N, 2M, 2R, 2T, 2U	7:00 a.m. through 7:00 p.m.	10/12	6.5"
2N, 2T, 2U	7:00 a.m. through 7:00 p.m.	10/14	6.5"
2N, 2M, 2R, 2T, 2U	7:00 a.m. through 7:00 p.m.	10/19	6.5"))
<u>2M</u>	<u>7:00 a.m. through 7:00 p.m.</u>	<u>10/9, 10/10</u>	<u>6.5"</u>
2N, 2T, 2U	7:00 a.m. through 7:00 p.m.	11/1, 11/2, 11/3, 11/4, 11/5	6.5"
2N, 2M, 2T, 2U	7:00 a.m. through 7:00 p.m.	((11/8)) <u>11/7, 11/11</u>	6.5"
2N, 2M, <u>2T</u> , 2U	7:00 a.m. through 7:00 p.m.	((11/15)) <u>11/16</u>	6.5"

**Gear :**

(2) Gillnet gear restrictions - All areas:

(a) Drift gillnet gear only. It is unlawful to use set net gear.

(b) It is permissible to have on-board a commercial vessel more than one net, provided the nets are of a mesh size that is legal for the fishery, and the length of any one net does not exceed one thousand five hundred feet in length.

(c) It is unlawful to use a gillnet to fish for salmon if the lead line weighs more than two pounds per fathom of net as measured on the cork line.

(d) It is permissible to have a gillnet with a lead line weighing more than two pounds per fathom aboard a vessel when the vessel is fishing in or transiting through Willapa Bay, provided the net is properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope that is 3/8 (0.375) inches or greater.

(e) From 12:01 a.m. August ((20)) 26 through 11:59 p.m. November ((15, 2021)) 16, 2022: Mesh size must not exceed six and one-half inches stretched, except mesh size must not exceed four and one-quarter inches stretched in Area 2N on August ((20, 27)) 26, September ((3, 10, 12, 14, 16, and 18)) 2, 7, 12, 13, 15, 16, and 17, Area 2M on August ((27)) 26, September ((3, 10, 14)) 2, 7, 12, 13, 15, and 16, and Areas 2T and 2U on September 16 and ((18, 2021)) 17, 2022.

**Other :**

(3) Recovery boxes and soak time limits described in this section are required from 12:01 a.m. August ((20)) 26 through 11:59 p.m. November ((15, 2021)) 16, 2022:

(a) Each boat must have two operable recovery boxes or one box with two chambers on board when fishing in Willapa Bay Areas 2M, 2N, 2R, 2T, and 2U.

(i) Each box and chamber must be operating during any time the net is being retrieved or picked. The flow in the recovery box must be a minimum of 16 gallons per minute in each chamber of the box, not to exceed 20 gallons per minute.

(ii) Each chamber of the recovery box must meet the following dimensions as measured from within the box:

(A) The inside length measurement must be at or within 39-1/2 inches to 48 inches;

(B) The inside width measurements must be at or within 8 to 10 inches; and

(C) The inside height measurement must be at or within 14 to 16 inches.

(iii) Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of the chamber and 1-3/4 inches from the floor of the chamber. Each chamber of the recovery box must include a water outlet hole opposite the inflow that is at least 1-1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber. The fisher must demonstrate to department employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river/bay water into each chamber.

(b) From 12:01 a.m. August ((20)) 26 through 11:59 p.m. November ((15, 2021)) 16, 2022, all steelhead and all wild (unmarked) Chinook must be placed in an operating recovery box, which meets the requirements in (a) of this subsection prior to being released to the river/bay as set forth in (c) of this subsection.

(c) All fish placed in recovery boxes must remain until they are not lethargic and/or not bleeding and must be released to the river/bay prior to landing or docking.

(d) Soak time must not exceed 45 minutes. Soak time is defined as the time elapsed from when the first of the gillnet web is deployed into the water until the gillnet web is fully retrieved from the water.

(4) Quick reporting is required for wholesale dealers and fishers retailing their catch under a "limited fish seller endorsement." According to WAC 220-352-320, reports must be submitted by 10:00 a.m. on the day after the purchase date, unless otherwise specified in a voluntary electronic fish receiving ticket reporting agreement (see WAC 220-352-035(3)).

(5) Retention prohibitions:

(a) All green and white sturgeon and all steelhead, except as provided in subsection (3) of this section, must be handled with care to minimize injury to the fish and must be released immediately to the river/bay.

(b) Retention of any species other than coho, Chinook, or chum salmon is prohibited.

(c) From 12:01 a.m. August ((20)) 26 through 11:59 p.m. November ((15, 2021)) 16, 2022, retention of any species other than coho salmon, hatchery Chinook salmon marked by a healed scar at the site of the adipose fin, or chum salmon is prohibited.

(6) Report all encounters of green sturgeon, white sturgeon, and steelhead, (your name, date of encounter, and number of species encountered) to the quick reporting office via phone at #866-791-1280, fax at #360-249-1229, or email at harborfishtickets@dfw.wa.gov. Fishers may have wholesale dealers use the "buyer only" portion of the



fish ticket and have encounters included with each day's quick reporting.

(7) Do not remove tags from white sturgeon. Please obtain available information from tags without removing tags. Submit tag information to the Washington Department of Fish and Wildlife, 48 Devonshire Rd., Montesano, WA 98563.

(8) Those waters of Area 2T, north of a line from Toke Point channel marker 3 easterly through Willapa Harbor channel marker 13 (green), then northeasterly to the power transmission pole located at 46°43.1907'N, 123°50.83134'W are closed from 12:01 a.m. September 16, ((2021)) 2022, through 11:59 p.m., September 30, ((2021)) 2022.

(9) It is unlawful to fish with gillnet gear in Areas 2M, 2N, 2R, 2T, and 2U unless the vessel operator has attended a "Fish Friendly" best fishing practices workshop and has in their possession while fishing a department-issued certification card.

(10) Fishers must take department observers, if requested by department staff, when participating in these openings. Fishers also must provide notice of intent to participate by contacting quick reporting by phone, fax, or email, listed in subsection (6) of this section. Notice of intent must be given prior to 5:00 p.m. on August ((67-2021)) 19, 2022.

[Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.055, and 77.12.047. WSR 21-14-069 (Order 21-93), § 220-354-250, filed 7/2/21, effective 8/2/21; WSR 20-14-051 (Order 20-103), § 220-354-250, filed 6/25/20, effective 7/26/20. Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.045, and 77.12.047. WSR 19-15-053 (Order 19-127), § 220-354-250, filed 7/12/19, effective 8/12/19; WSR 18-15-070, § 220-354-250, filed 7/17/18, effective 8/17/18. Statutory Authority: RCW 77.04.090 and 77.04.130. WSR 18-11-052 (Order 18-92), § 220-354-250, filed 5/10/18, effective 6/10/18. Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.045, and 77.12.047. WSR 17-17-012, § 220-354-250, filed 8/4/17, effective 9/4/17. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), amended and recodified as § 220-354-250, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.04.012, 77.04.020, 77.12.045, 77.12.047, and 77.04.055. WSR 16-15-029 (Order 16-176), § 220-40-027, filed 7/12/16, effective 8/12/16; WSR 15-18-029 (Order 15-281), § 220-40-027, filed 8/25/15, effective 9/8/15; WSR 14-15-052 (Order 14-173), § 220-40-027, filed 7/11/14, effective 8/11/14. Statutory Authority: RCW 77.04.020, 77.12.045, and 77.12.047. WSR 13-17-001 (Order 13-184), § 220-40-027, filed 8/7/13, effective 8/12/13; WSR 12-11-093, § 220-40-027, filed 5/18/12, effective 6/18/12; WSR 11-14-003 (Order 11-91), § 220-40-027, filed 6/22/11, effective 7/23/11; WSR 10-12-061 (Order 09-108), § 220-40-027, filed 5/27/10, effective 6/27/10. Statutory Authority: RCW 77.12.047 and 77.04.020. WSR 09-16-125 (Order 09-109), § 220-40-027, filed 8/4/09, effective 9/4/09; WSR 08-15-003 (Order 08-166), § 220-40-027, filed 7/3/08, effective 8/3/08. Statutory Authority: RCW 77.04.020, 77.12.047, and 77.65.200. WSR 07-17-010, § 220-40-027, filed 8/3/07, effective 9/3/07. Statutory Authority: RCW 77.12.047. WSR 05-17-006 (Order 05-167), § 220-40-027, filed 8/3/05, effective 9/3/05; WSR 04-16-013 (Order 04-183), § 220-40-027, filed 7/22/04, effective 8/22/04; WSR 03-18-004 (Order 03-208), § 220-40-027, filed 8/20/03, effective 9/20/03; WSR 02-16-021 (Order 02-173), § 220-40-027, filed 7/26/02, effective 8/26/02; WSR 01-13-055 (Order 01-104), § 220-40-027, filed 6/15/01, effective 7/16/01; WSR 00-23-065

(Order 00-240), § 220-40-027, filed 11/15/00, effective 12/16/00. Statutory Authority: RCW 75.08.080. WSR 99-24-104 (Order 99-206), § 220-40-027, filed 11/30/99, effective 12/31/99. Statutory Authority: RCW 75.08.080 and 77.12.040. WSR 98-15-081 (Order 98-122), § 220-40-027, filed 7/15/98, effective 8/15/98. Statutory Authority: RCW 75.08.080. WSR 97-15-148 (Order 97-123), § 220-40-027, filed 7/23/97, effective 8/23/97; WSR 96-13-035 (Order 96-77), § 220-40-027, 6/11/96, effective 7/12/96; WSR 95-13-065 (Order 95-76), § 220-40-027, filed 6/19/95, effective 7/20/95; WSR 94-16-017 (Order 94-61), § 220-40-027, filed 7/21/94, effective 8/21/94; WSR 93-14-042 (Order 93-54), § 220-40-027, filed 6/29/93, effective 7/30/93; WSR 90-18-023 (Order 90-77), § 220-40-027, filed 8/24/90, effective 9/24/90; WSR 89-16-056 (Order 89-71), § 220-40-027, filed 7/28/89, effective 8/28/89.]

### OTS-3765.1

AMENDATORY SECTION (Amending WSR 21-14-069, filed 7/2/21, effective 8/2/21)

**WAC 220-354-290 Grays Harbor salmon fall fishery.** From August 16 through December 31 of each year, it is unlawful to fish for salmon in Grays Harbor for commercial purposes or to possess salmon taken from those waters for commercial purposes, except that:

#### Fishing periods:

(1) Gillnet gear may be used to fish for Chinook, coho, and chum salmon, and shad as provided in this section and in the (~~times and area identified in the~~) chart below.

Time:	Areas:
<del>((7:00 a.m. through 7:00 p.m. October 25;</del>	Area 2A and Area 2D
<del>7:00 a.m. through 7:00 p.m. October 26;</del>	
<del>7:00 a.m. through 7:00 p.m. October 27;</del>	
<del>Noon through 11:59 p.m. November 2;</del>	
AND	
<del>7:00 a.m. through 7:00 p.m. November 3;</del>	
AND	
<del>Noon October 17 through noon October 20;</del>	Area 2C
AND	
<del>6:00 a.m. October 24 through 6:00 a.m. October 26.))</del>	
<u>12:01 p.m. through 7:00 p.m. September 28;</u>	<u>Area 2A and Area 2D</u> <u>Maximum Mesh Size</u> <u>4.25"</u>
<u>12:01 p.m. through 7:00 p.m. October 12;</u>	<u>Maximum Mesh Size</u> <u>4.25"</u>

Time: Areas:

7:00 a.m. through 7:00 p.m.  
October 19;

7:00 a.m. through 7:00 p.m.  
October 20;

7:00 a.m. through 7:00 p.m.  
October 24;

7:00 a.m. through 7:00 p.m.  
October 25;

7:00 a.m. through 7:00 p.m.  
October 26;

7:00 a.m. through 7:00 p.m.  
November 1;

AND

7:00 a.m. through 7:00 p.m.  
November 2;

AND

7:00 a.m. October 17 through Area 2C  
7:00 p.m. October 18;

AND

7:00 a.m. through 7:00 p.m.  
October 27.

#### **Gear :**

(2) Gillnet gear restrictions - All areas:

(a) It is permissible to have on board a commercial vessel more than one net, provided that the length of any one net does not exceed (~~one thousand five hundred~~) 1,500 feet in length. Nets not specifically authorized for use in this fishery may be aboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of (~~ten~~) 10 revolutions of rope that is  $\frac{3}{8}$  (0.375) inches in diameter or greater.

(b) Areas 2A and 2D from (~~October 1~~) September 28 through November 30: Gillnet gear only.

(i) Drift gillnet gear only. It is unlawful to use set net gear.

(ii) It is unlawful to utilize any object, except the vessel deploying the gear, to impede a gillnet or its attached line or float from drifting.

(iii) Mesh size must not exceed six and one-half inch maximum, except mesh size must not exceed four and one-quarter inches stretched in Areas 2A and 2D on September 28 and October 12, 2022.

(iv) It is unlawful to use a gillnet to fish for salmon if the lead line weighs more than two pounds per fathom of net as measured on the cork line. It is permissible to have a gillnet with a lead line weighing more than two pounds per fathom aboard a vessel when the vessel is fishing in or transiting through Grays Harbor.

(c) Area 2C from October 1 through November 30: Gillnet gear only.

(i) Drift gillnet gear only. It is unlawful to use set net gear.

(ii) It is unlawful to utilize any object, except the vessel deploying the gear, to impede a gillnet or its attached line or float from drifting.

(iii) Mesh size must not exceed nine inches.

(iv) It is unlawful to use a gillnet to fish for salmon if the lead line weighs more than two pounds per fathom of net as measured on the cork line. It is permissible to have a gillnet with a lead line weighing more than two pounds per fathom aboard a vessel when the vessel is fishing in or transiting through Grays Harbor.

**Other:**

(3) Recovery boxes and soak times:

(a) Each boat must have two operable recovery boxes or one box with two chambers on board when fishing Areas 2A, 2C, and 2D.

(i) Each box and chamber must be operating during any time the net is being retrieved or picked and any time a fish is being held in accordance with (b) and (c) of this subsection. The flow in the recovery box must be a minimum of 16 gallons per minute in each chamber of the box, not to exceed 20 gallons per minute.

(ii) Each chamber of the recovery box must meet the following dimensions as measured from within the box:

(A) The inside length measurement must be at or within 39-1/2 inches to 48 inches;

(B) The inside width measurements must be at or within 8 to 10 inches; and

(C) The inside height measurement must be at or within 14 to 16 inches.

(iii) Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of the chamber and 1-3/4 inches from the floor of the chamber. Each chamber of the recovery box must include a water outlet hole opposite the inflow that is at least 1-1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber. The fisher must demonstrate to department employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river or fresh bay water into each chamber.

(b) When fishing in Grays Harbor Areas 2A and 2D, all steelhead and wild (unmarked) Chinook must be placed in an operating recovery box which meets the requirements in (a) of this subsection prior to being released to the river/bay as set forth in (d) of this subsection.

(c) When fishing in Grays Harbor Area 2C, all steelhead must be placed in an operating recovery box which meets the requirements in (a) of this subsection prior to being released to the river/bay as set forth in (d) of this subsection.

(d) All fish placed in recovery boxes must remain until they are not lethargic and not bleeding and must be released to the river or bay prior to landing or docking.

(e) For Areas 2A and 2D, soak time must not exceed 45 minutes. Soak time is defined as the time elapsed from when the first of the gillnet web is deployed into the water until the gillnet web is fully retrieved from the water.

(4) Retention of any species other than coho, chum, hatchery Chinook marked by a healed scar at the site of the adipose fin, or shad is prohibited in Areas 2A and 2D from (~~October 1~~) September 28 through November 30.

(5) Retention of any species other than Chinook, chum, coho or shad, is prohibited in Area 2C from October 1 through November 30.

(6) Quick reporting is required for original receivers. According to WAC 220-352-320, reports must be made by 10:00 a.m. the day following landing, unless otherwise specified in an electronic fish receiving ticket reporting agreement (see WAC 220-352-035(3)).

(7) Report all encounters of green sturgeon to the quick reporting office via phone at 866-791-1280, fax at 360-249-1229, or email at harborfishtickets@dfw.wa.gov. Fishers may have wholesale fish buyers use the "buyer only" portion of the fish ticket and include encounters with each day's quick reporting.

(8) Do NOT remove tags from white or green sturgeon. Please obtain available information from tags without removing tags. Submit tag information to:

Washington Department of Fish and Wildlife  
48 Devonshire Rd.  
Montesano, WA 98563.

(9) (a) Fishers must take department observers, if requested, by department staff when participating in these openings.

(b) Fishers also must provide notice of intent to participate by contacting Quick Reporting by phone, fax or email. Notice of intent must be given prior to 5:00 p.m. on (~~October 11~~) September 21, for openings in Areas 2A, 2C, or 2D.

(10) It is unlawful to fish for salmon with tangle net or gillnet gear in Areas 2A and 2D unless the vessel operator has attended a "Fish Friendly" best fishing practices workshop and has in his or her possession a department-issued certification card.

(11) Those waters of Area 2D commonly known as the South Channel, shoreward of a line projected from a point on the southwest side of Hwy 105 bridge (46°53.925'N, 123°59.986'W) then northwest to a point on an unnamed projection of land (46°54.060'N, 124°0.239'W) then northerly to Channel Marker 8 (46°55.369'N, 124°00.576'W) and to Channel Marker 27 (46°56.487'N, 124°0.394'W), then easterly to North Pipeline Beacon (46°57.329'N, 123°50.957'W) and south easterly in a straight line through the South Pipeline Beacon (46°57.303'N, 123°50.932'W) to the south shore are closed from 12:01 a.m. September 28, 2022, through 11:59 p.m., October 20, 2022.

[Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.055, and 77.12.047. WSR 21-14-069 (Order 21-93), § 220-354-290, filed 7/2/21, effective 8/2/21; WSR 20-14-051 (Order 20-103), § 220-354-290, filed 6/25/20, effective 7/26/20. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, 77.12.045, and 77.12.047. WSR 19-15-054 (Order 19-129), § 220-354-290, filed 7/12/19, effective 8/12/19; WSR 18-17-071 (Order 18-191), § 220-354-290, filed 8/10/18, effective 9/10/18. Statutory Authority: RCW 77.04.090 and 77.04.130. WSR 18-11-052 (Order 18-92), § 220-354-290, filed 5/10/18, effective 6/10/18. Statutory Authority: RCW 77.04.090, 77.04.130, 77.15.568, 77.08.010, 77.65.510, 77.65.515, and 77.65.520. WSR 17-22-100, § 220-354-290, filed 10/30/17, effective 1/1/18. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, 77.12.045, and 77.12.047. WSR 17-19-007 (Order 17-234), § 220-354-290, filed 9/7/17, effective 10/8/17. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), amended and recodified as § 220-354-290, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.045, and 77.12.047. WSR 16-19-010 (Order 16-239), § 220-36-023, filed 9/8/16, effective 10/9/16; WSR 15-19-086 (Order 15-343), §

220-36-023, filed 9/16/15, effective 10/11/15; WSR 14-20-023 (Order 14-268), § 220-36-023, filed 9/19/14, effective 10/20/14. Statutory Authority: RCW 77.04.020, 77.12.045, and 77.12.047. WSR 13-19-027 (Order 13-227), § 220-36-023, filed 9/9/13, effective 10/10/13; WSR 12-11-093, § 220-36-023, filed 5/18/12, effective 6/18/12; WSR 11-14-003 (Order 11-91), § 220-36-023, filed 6/22/11, effective 7/23/11; WSR 10-12-061 (Order 09-108), § 220-36-023, filed 5/27/10, effective 6/27/10. Statutory Authority: RCW 77.12.047 and 77.04.020. WSR 09-16-125 (Order 09-109), § 220-36-023, filed 8/4/09, effective 9/4/09; WSR 08-15-003 (Order 08-166), § 220-36-023, filed 7/3/08, effective 8/3/08. Statutory Authority: RCW 77.04.020, 77.12.047, and 77.65.200. WSR 07-17-010, § 220-36-023, filed 8/3/07, effective 9/3/07. Statutory Authority: RCW 77.12.047. WSR 05-17-006 (Order 05-167), § 220-36-023, filed 8/3/05, effective 9/3/05; WSR 04-16-013 (Order 04-183), § 220-36-023, filed 7/22/04, effective 8/22/04; WSR 03-18-004 (Order 03-208), § 220-36-023, filed 8/20/03, effective 9/20/03; WSR 01-13-055 (Order 01-104), § 220-36-023, filed 6/15/01, effective 7/16/01; WSR 00-23-065 (Order 00-240), § 220-36-023, filed 11/15/00, effective 12/16/00. Statutory Authority: RCW 75.08.080. WSR 99-24-104 (Order 99-206), § 220-36-023, filed 11/30/99, effective 12/31/99. Statutory Authority: RCW 75.08.080 and 77.12.040. WSR 98-15-081 (Order 98-122), § 220-36-023, filed 7/15/98, effective 8/15/98. Statutory Authority: RCW 75.08.080. WSR 97-15-148 (Order 97-123), § 220-36-023, filed 7/23/97, effective 8/23/97; WSR 96-13-035 (Order 96-77), § 220-36-023, filed 6/11/96, effective 7/12/96; WSR 95-13-065 (Order 95-76), § 220-36-023, filed 6/19/95, effective 7/20/95; WSR 94-13-014 (Order 94-46), § 220-36-023, filed 6/3/94, effective 7/4/94; WSR 93-14-042 (Order 93-54), § 220-36-023, filed 6/29/93, effective 7/30/93; WSR 90-18-023 (Order 90-77), § 220-36-023, filed 8/24/90, effective 9/24/90; WSR 89-16-056 (Order 89-71), § 220-36-023, filed 7/28/89, effective 8/28/89.]

**WSR 22-11-089**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 2022-11—Filed May 18, 2022, 9:02 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-24-082 on November 30, 2021.

Title of Rule and Other Identifying Information: WAC 220-415-100 Cougar hunting seasons and regulations.

Hearing Location(s): On June 23-25, 2022, at 8:00 a.m., at Natural Resources Building (NRB), Room 175, 1111 Washington Street S.E., Olympia, WA 98504. Information on how to register to testify at the public hearing is available at <http://wdfw.wa.gov/about/commission/meetings> or contact the commission office at 360-902-2267.

Date of Intended Adoption: July 15, 2022.

Submit Written Comments to: Wildlife Program, P.O. Box 43200, Olympia, WA 98504, email [2022CougarSeasonCR102@PublicInput.com](mailto:2022CougarSeasonCR102@PublicInput.com), fax 360-902-2162, <https://publicinput.com/2022CougarSeasonCR102>, comment by phone 855-925-2801, project code 2297, by June 25, 2022.

Assistance for Persons with Disabilities: Contact Title VI/ADA compliance coordinator, phone 360-902-2349, TTY 711, email [Title6@dfw.wa.gov](mailto:Title6@dfw.wa.gov), <https://wdfw.wa.gov/accessibility/requests-accommodation>, by June 25, 2022.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposed amendments to WAC 220-415-100 Cougar hunting seasons and regulations, is to provide an additional recreational cougar hunting opportunity in specific geographic areas with the primary purpose of addressing a cougar and ungulate management concern by using recreational hunting through a second cougar harvest opportunity in identified game management units (GMUs). If the proposed amendments are adopted, Washington department of fish and wildlife (WDFW) would expect an increase in cougar harvest in the GMUs that constitute the population management units (PMU) 9, 10, and 11, where the Blue Mountain elk herd is more susceptible to cougar-caused mortality. WDFW also anticipates a corresponding increase in juvenile elk survival in PMUs 9, 10, and 11, where in recent years the agency has observed insufficient juvenile elk survival to achieve population growth or stability in the Blue Mountain elk population. This amendment would also add the cougar PMU number to each of the hunt areas. These amendments, if adopted, would provide an additional hunting opportunity to hunters who may elect to pursue a second cougar within the identified GMUs, and clearly identify the PMU numbers and the GMUs associated with each.

Reasons Supporting Proposal: A fundamental part of WDFW's legislative mandate is to preserve, protect, and manage wildlife while providing maximum, sustainable recreational hunting opportunities. Elk have been a part of Washington's wildlife for over 10,000 years, and the recent downward population trends of Blue Mountain elk are concerning to ungulate managers. WDFW strives to manage for viable and productive elk populations with desirable population characteristics, as explained in WDFW's 2015-2021 Game Management Plan. A recent risk-assessment conducted by WDFW has identified cougar predation as a leading cause of elk calf mortality. WDFW recognizes cougar management actions, which aim to reduce cougar numbers in specific areas, as a viable management tool to minimize potential predation on ungulates

and provide support to the ungulate herd. The increased opportunity to harvest cougars within the Blue Mountain elk herd range would also assist in efforts to meet the harvest guidelines for those PMUs where the harvest has not met the guideline. The addition of the PMU numbers would clarify to hunters which GMUs are contained within each PMU and further state which PMUs are authorized for a second cougar transport tag.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.055, 77.12.047, 77.08.030.

Statute Being Implemented: RCW 77.04.012, 77.04.055, 77.12.047, 77.08.030.

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: If adopted, the proposed amendments would be implemented for the 2022-2023 cougar seasons and be effective by the season open date of September 1, 2022.

Name of Proponent: WDFW, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Eric Gardner, 1111 Washington Street S.E., Olympia, WA 98501, 360-902-2515; Enforcement: 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, 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: The proposed rule is for recreational hunting opportunity and does not affect small businesses.

May 18, 2022  
Annie Szvetcz  
Rules Coordinator

**OTS-3792.2**

AMENDATORY SECTION (Amending WSR 20-11-020, filed 5/12/20, effective 6/12/20)

**WAC 220-415-100 Cougar hunting seasons and regulations.** (1) As used in this section and in the context of general cougar hunting seasons, "harvest guideline" means the estimated allowable harvest; the actual harvest may be less than or more than the harvest guideline.

(2) Early general cougar season is September 1<sup>st</sup> to December 31<sup>st</sup>, late general cougar season is January 1<sup>st</sup> to April 30<sup>th</sup> of the following year. Hunters can use any legal weapon to hunt cougars.

Harvest guidelines:

(Implied density in parentheses)

<b>Population Management Unit (PMU)</b>	<b>Hunt Area</b>	<b>Harvest Guideline</b>
<u>1</u>	GMU 101	7-11 (2.6)



<b>Population Management Unit (PMU)</b>	<b>Hunt Area</b>	<b>Harvest Guideline</b>
<u>2</u>	GMU 105	4 (3.72)
<u>3</u>	GMUs 108, 111	9-11 (3.63)
<u>4</u>	GMU 113	4-5 (1.91)
<u>5</u>	GMU 117	11-13 (3.57)
<u>6</u>	GMU 121	9-11 (3.65)*
<u>7</u>	GMUs 124, 127, 130	7-9 (2.15)
<u>8</u>	GMUs 133, 136, 139, 142, 248, 254, 260, 262, 266, 269, 272, 278, 284, 290, 330, 334, 371, 372, 373, 379, 381	None
<u>9**</u>	GMUs 149, 154, 162, 163	7-9 (3.56)*
<u>10**</u>	GMUs 145, 166, 175, 178	6-7 (3.51)
<u>11**</u>	GMUs 169, 172, 181, 186	5-6 (3.68)
<u>12</u>	GMU 203	4-5 (1.91)
<u>13</u>	GMU 204	6-8 (2.17)
<u>14</u>	GMUs 209, 215	3-4 (1.91)
<u>15</u>	GMUs 218, 231	4-5 (1.91)
<u>16</u>	GMU 224	2 (1.91)
<u>17</u>	GMUs 233, 239	4-5 (2.42)
<u>18</u>	GMUs 242, 243	5-6 (2.28)
<u>19</u>	GMUs 244, 246, 247	4-6 (1.91)
<u>20</u>	GMUs 245, 250	4-6 (1.91)
<u>21</u>	GMUs 249, 251	4-6 (1.91)
<u>22</u>	GMUs 328, 329, 335	8-10 (2.79)
<u>23</u>	GMUs 336, 340, 342, 346	9-11 (3.61)
<u>24</u>	GMUs 352, 356, 360, 364, 368	7-9 (2.9)
<u>25</u>	GMUs 382, 388	3 (1.91)
<u>26</u>	GMU 407	None
<u>27</u>	GMUs 418, 426, 437	10-13 (1.91)
<u>28</u>	GMUs 448, 450	8-11 (1.91)
<u>29</u>	GMU 454	None
<u>30</u>	GMU 460	4-6 (1.91)
<u>31</u>	GMUs 466, 485, 490	2-3 (1.91)
<u>32</u>	GMUs 501, 504, 506, 530	6-9 (1.91)
<u>33</u>	GMUs 503, 505, 520, 550	5-7 (1.91)
<u>34</u>	GMUs 510, 513	3 (1.91)
<u>35</u>	GMU 516	3-4 (1.91)
<u>36</u>	GMUs 524, 554, 556	3 (1.91)
<u>37</u>	GMU 560	4-5 (1.91)
<u>38</u>	GMU 564	1 (1.91)
<u>39</u>	GMU 568	3 (2.74)
<u>40</u>	GMU 572	2-3 (1.91)
<u>41</u>	GMUs 574, 578	5-6 (2.82)
<u>42</u>	GMUs 601, 602, 603, 612	4-6 (1.91)
<u>43</u>	GMUs 607, 615	3-4 (1.91)

<b>Population Management Unit (PMU)</b>	<b>Hunt Area</b>	<b>Harvest Guideline</b>
<u>44</u>	GMUs 618, 636, 638	3-5 (1.91)
<u>45</u>	GMUs 621, 624, 627, 633	None
<u>46</u>	GMUs 642, 648, 651	6-8 (2.18)
<u>47</u>	GMUs 652, 666	None
<u>48</u>	GMUs 653, 654	4-5 (1.91)
<u>49</u>	GMUs 658, 660, 663, 672, 673, 681, 684, 699	8-11 (1.91)
<u>50</u>	GMU 667	6-7 (3.48)

\* Adjusted to stay within realistic density.

\*\* A second cougar may be harvested in the hunt area with the purchase of a second cougar transport tag.

(a) In hunt areas with a harvest guideline, the cougar late hunting season may close on or after January 1st in one or more GMUs if cougar harvest meets or exceeds the guideline.

(b) In hunt areas with a harvest guideline, starting January 1st, cougar hunters may hunt cougar from January 1st until the hunt area harvest guideline has been met, and the department has notified licensed cougar hunters by posting the hunt area closure on the department's website and on the toll-free cougar hunting hotline, or April 30th, whichever occurs first.

(3) Harvest guideline system:

(a) All cougar of the appropriate age class killed by licensed hunters during the early and late hunting seasons, shall be counted toward the harvest guideline.

(b) Individual problem cougar will continue to be killed on an as-needed basis utilizing depredation permits, landowner kill permits, and WDFW depredation authority regardless of harvest guidelines.

(c) It is each cougar hunter's responsibility to verify if the cougar late hunting season is open or closed in hunt areas with a harvest guideline. Cougar hunters can verify if the season is open or closed by calling the toll-free cougar hunting hotline or visiting the department's website.

(4) Cougar hunting season requirements and special restrictions.

(a) A valid big game hunting license which includes cougar as a species option is required to hunt cougar.

(b) The statewide bag limit is one ((1)) cougar per license year statewide and one additional cougar per license year may only be harvested from the following PMUs 9, 10, and 11; excluding removals authorized under WAC 220-440-030. One cougar transport tag is included with a big game hunting license that has cougar as a species option. A second cougar transport tag must be purchased to take a second cougar in PMUs 9, 10, and 11; which are comprised of the following GMUs: 145, 149, 154, 162, 163, 166, 169, 172, 175, 178, 181, and 186. Hunters may only purchase the second transport tag after having purchased a license which includes cougar as a species option. It is unlawful to kill or possess spotted cougar kittens or adult cougars accompanied by spotted kittens.

(c) The use of dogs to hunt cougar is prohibited; except by a commission authorized permit (WAC 220-440-030 and 220-412-130).

(d) Any person who takes a cougar must comply with the notification and sealing requirements in WAC 220-400-050.

(e) A special cougar permit is required to hunt cougar in GMU 485.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, and 77.04.055. WSR 20-11-020 (Order 20-67), § 220-415-100, filed 5/12/20, effective 6/12/20. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, 77.12.020, 77.12.040, 77.12.047, 77.12.150, 77.12.210, 77.12.240, 77.12.320, 77.12.570, 77.12.800, 77.15.245, 77.32.007, 77.32.050, 77.32.070, 77.32.090, 77.32.370, and 77.32.530. WSR 18-11-061 (Order 18-76), § 220-415-100, filed 5/11/18, effective 6/11/18. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), amended and recodified as § 220-415-100, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.047, 77.12.150, 77.12.240, 77.12.800, 77.32.090, and 77.32.155. WSR 16-12-087, § 232-28-297, filed 5/31/16, effective 7/1/16. Statutory Authority: RCW 77.04.012, 77.04.055, 77.12.047, 77.12.150, and 77.12.240. WSR 15-10-066 (Order 15-99), § 232-28-297, filed 5/1/15, effective 6/1/15. Statutory Authority: RCW 77.04.012, 77.04.055, 77.12.047, and 77.15.245. WSR 13-16-056 (Order 13-180), § 232-28-297, filed 8/1/13, effective 9/1/13. Statutory Authority: RCW 77.12.047. WSR 12-11-005 (Order 12-70), § 232-28-297, filed 5/2/12, effective 6/2/12.]

## WSR 22-11-090

## PROPOSED RULES

## DEPARTMENT OF REVENUE

[Filed May 18, 2022, 9:34 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-22-033.

Title of Rule and Other Identifying Information: WAC 458-20-285 Working families tax credit.

Hearing Location(s): On June 21, 2022, at 2:00 p.m. This meeting will be conducted over the internet/telephone. Contact Atif Aziz at AtifA@dor.wa.gov for login/dial-in information.

Date of Intended Adoption: July 19, 2022.

Submit Written Comments to: Chelsea Brenegan, P.O. Box 47453, Olympia, WA 98504-7453, email ChelseaB@dor.wa.gov, fax 360-534-1606, 360-534-1530, by July 5, 2022.

Assistance for Persons with Disabilities: Contact Julie King or Renee Cosare, phone 360-704-5733 or 360-704-5734, TTY 800-833-6384.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department intends to create a rule to clarify eligibility requirements and program administration standards, including application submission procedures for the working families tax credit (WFTC). The rule is to explain the statutory requirements for eligibility and to explain department processes for application, how the refund is to be calculated, and how the program will be administered.

Reasons Supporting Proposal: WFTC is a new program by the department and this rule will assist eligible low-income persons to better understand whether they qualify and their responsibilities under the 2021 and 2022 legislation.

Statutory Authority for Adoption: RCW 82.08.0206, 84.32.300.

Statute Being Implemented: RCW 82.08.0206.

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: How should community-based organization (CBO) be defined, and should this definition be incorporated into the rule?

Name of Proponent: Department of revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Chelsea Brenegan, 6400 Linderson Way S.W., Tumwater, WA, 360-534-1530; Implementation and Enforcement: John Ryser, 6400 Linderson Way S.W., Tumwater, WA, 360-534-1605.

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 not a significant legislative rule as defined by 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. The proposed rule language for WAC 458-20-285 provides clarification regarding WFTC and how eligible low-income persons may apply to receive a WFTC refund in accordance with RCW 82.06.0206. WFTC program targets individuals rather than businesses, so the proposed rule does not impose more-than-minor costs on businesses as defined by RCW 19.85.020(2).

May 18, 2022

## OTS-3829.1

NEW SECTION

**WAC 458-20-285 Working families tax credit.** This rule provides information on the working families tax credit (WFTC). The WFTC is a credit in the form of a refund of retail sales and use tax due provided to eligible low-income persons (referred to as "refund" in this rule). Starting February 1, 2023, applicants may apply to the department to receive a refund of sales or use tax paid during the period for which they are claiming the refund. The refund amount is based upon the applicant's income (including the applicant spouse's income, if the applicant is filing married filing jointly on their federal income tax return) and the number of qualifying children the applicant (and the applicant's spouse, if applicable) have.

To qualify for a refund, applicants must meet the eligibility requirements provided in RCW 82.08.0206 and complete a WFTC application in the form and manner provided by the department.

This rule is organized into four parts. Each part addresses a question or topic relevant to the application for and administration of the WFTC program as follows:

1. Part 1: Eligibility Requirements
2. Part 2: Application Process
3. Part 3: Refund Amount
4. Part 4: General Administration and Review

Examples included in this rule identify a number of facts and then state a general conclusion; they should be used only as a general guide. The tax consequences of all situations must be determined after a review of all the facts and circumstances.

References in this rule to "I," "my," "you," "your," "we," or "our" are intended to refer to the individual applying for the WFTC (i.e., the applicant).

**Part 1: Eligibility Requirements**

(1) **Am I eligible to receive a WFTC refund?** To be eligible for a refund under the working families tax credit (WFTC), you must be an "eligible low-income person." An "eligible low-income person" is an "individual" who meets all of the requirements in (a) through (e) of this subsection. An "individual" means any natural person who files a federal income tax return under the single, head of household, qualifying widow/widower, and married filing separately (only if they meet the "unmarried" requirements per answer 1A of this rule) filing statuses. The term "individual" **also** means to an individual natural person and that individual's spouse if they file a federal joint income tax return with the married filing status. Accordingly, if you file a federal income tax return with your spouse under the married filing jointly filing status, you and your spouse are each considered to be a single "individual" for the purposes of WFTC eligibility with the exception of determining residency.

(a) **Valid SSN or ITIN:** You (and your spouse if you are filing married filing jointly on your federal income tax return) must have a

valid Social Security number (SSN) or individual taxpayer identification number (ITIN);

(b) **Properly file a federal income tax return:** You (and your spouse if you are filing married filing jointly) must properly file a federal income tax return for the tax year for which the refund is being claimed;

(c) **EITC eligible:** You must generally be eligible for the federal Earned Income Tax Credit (EITC), including meeting the federal income thresholds; however, the one exception is that you, your spouse (if you are filing married filing jointly on your federal income tax return), and/or your qualifying children may have a valid ITIN instead of a SSN, which is not permitted under federal EITC eligibility requirements;

(d) **Residency:** You (or your spouse, if you are filing married filing jointly on your federal income tax return) must be a resident of Washington at least 183 days during the tax year for which the refund is being claimed; and

(e) **Sales or use tax paid:** You (and/or your spouse if you are filing married filing jointly on your federal income tax return) paid Washington sales or use tax on taxable purchases you made during the period for which the refund is being claimed.

**Question 1A: What if I am still married to my spouse, but we are separated, and I file a separate federal income tax return. Am I still eligible for the WFTC?**

**Answer 1A:** Yes, you are eligible if certain conditions are met. If you are still married to your spouse, but you do not file a federal income tax return under the married filing jointly status and you are considered "unmarried" per Internal Revenue Code section 32(d), then you may still be eligible for the federal EITC, and this in turn would make you an individual eligible for a WFTC refund.

If you are filing "married filing separately" on your federal income tax return, then the department will require you to provide additional information to confirm your "unmarried" status. "Unmarried," as used in Internal Revenue Code section 32(d) requires the following:

(a) You are married, but you did not file a federal income tax return under the married filing jointly status.

(b) You lived with your qualifying child for more than half of the year. You may prove this by providing:

(i) School records that match your place of residence;

(ii) Rental application or lease with child/children listed;

(iii) Landlord statement regarding child/children;

(iv) Public benefits verification letters or statements;

(v) Community-based organization letters of recommendation, or vouchers; or

(vi) Any other records that establish that your qualifying child lived with you for more than half of the year.

(c) You must either be able to show:

(i) You did not have the same principal place of abode as your spouse during the last six months of the tax year; or

(ii) You have a decree, instrument, or agreement (other than a divorce decree) described in IRC 121 (d) (3) (C) (e.g., a written separation agreement, alimony, or spousal maintenance decree, etc.) with your spouse concerning marital separation and you and your spouse are not members of the same household by the end of the tax year.

**Question 1B: I am still legally married and I meet the "unmarried" requirements in Answer 1A. If my spouse is not eligible for a WFTC refund, does that disqualify me from receiving the WFTC refund?**

**Answer 1B:** No. If you are filing a separate federal income tax return from your spouse, you will not be disqualified from receiving the WFTC refund solely because your spouse does not meet the WFTC requirements as you are considered to be a separate individual from your spouse in this situation. If you are filing your federal income tax return under the married filing separately status, the department will require additional documentation to establish your "unmarried" status as indicated in Answer 1A.

The following subsections (xx) through (xx) of this rule describe these eligibility requirements in subsection (1)(a) through (e) of this rule.

(2) **Valid SSN or ITIN** - To be eligible for the WFTC, you must have a valid Social Security number (SSN) or a valid individual taxpayer identification number (ITIN).

**Question 2A: What is a valid SSN?**

**Answer 2A:** An SSN is a number issued by the Social Security Administration to identify and record an individual's wages or self-employment earnings. Your SSN must be valid for employment and issued before the due date of the federal income tax return you plan to claim the federal EITC (including extensions). A Social Security number on a Social Security card that provides, "Valid for work with DHS authorization," will be accepted as a valid SSN.

However, if your Social Security card has the words, "Not valid for employment," your SSN is not valid.

**Question 2B: What is a valid ITIN?**

**Answer 2B:** An ITIN is a tax processing number issued by the Internal Revenue Service (IRS). A valid ITIN for WFTC eligibility purposes is one that is not expired.

An ITIN must be applied for and renewed periodically pursuant to federal requirements. If you, your spouse, or any of your qualifying children do not have a valid ITIN and are waiting for an ITIN or an ITIN renewal from the IRS, provide proof to the department that you have applied for and are waiting to receive an ITIN or an ITIN renewal from the IRS when you submit your WFTC application. If the department does not receive documentation confirming that you, your spouse, or your qualifying children have received a valid ITIN by December 31st, then your application may be denied.

(3) **Properly file a federal income tax return** - To be eligible for the WFTC, you (and your spouse, if filing married filing jointly on your federal income tax return) must properly file a federal income tax return for the tax year for which you are claiming the refund.

**Question 3A: What does it mean to "properly file" a federal income tax return?**

**Answer 3A:** The federal income tax return you and your spouse (if you are filing married filing jointly on your federal income tax return) file must fulfill the statutory and regulatory requirements for the federal government to process your return. For example, if you wish to claim the WFTC refund for the 2022 tax period, you must properly file your 2022 federal tax return and include all information required on the return for the federal government to be able to process it.

**Question 3B: Do I have to claim the EITC to be eligible for the WFTC refund?**

**Answer 3B:** No. You are not required to claim or to actually receive the federal EITC to be eligible to receive the WFTC refund. So long as you and your spouse (if you are filing married filing jointly on your federal income tax return) and your qualifying children have

valid SSNs or ITINs, and otherwise meet all other requirements to be eligible for the federal EITC, you may be eligible to receive the WFTC refund.

(4) **Federal earned Income Tax Credit eligible** - To be eligible for the WFTC, you must first be eligible for the federal Earned Income Tax Credit (EITC), except for the requirement to have a valid SSN. This includes meeting the federal income thresholds for your federal adjusted gross income (AGI). If your AGI is at or above the federal income threshold, you will not be eligible for the EITC. The department will calculate the WFTC refund based on the earned income you reported on your properly filed federal income tax return. For more information on how the WFTC refund is determined, see Part 3 of this rule.

**Question 4A: What does earned income mean?**

**Answer 4A:** "Earned income" means earned income as defined by the Internal Revenue Code (IRC or Title 26 U.S.C.) section 32. RCW 82.08.0206 (2) (b).

**Question 4B: Is "combat pay" considered earned income for purposes of the WFTC refund?**

**Answer 4B:** IRC section 32 allows those who have combat pay to elect whether to include their combat pay as earned income for the purposes of calculating their federal EITC amount. Regardless of whether you elect to include your combat pay as earned income for federal purposes, you can make a separate election of whether to include your combat pay as earned income for WFTC refund calculation purposes.

**Question 4C: What are the federal income thresholds?**

**Answer 4C:** The federal income thresholds are income limits the federal government applies to determine eligibility for the EITC. The federal income thresholds for the federal EITC generally changes on an annual basis. These thresholds vary depending on your filing status and how many qualifying children you have. Eligibility for the federal EITC is based on your adjusted gross income (AGI). If your AGI is equal to or more than the federal income threshold, then you are not eligible for the federal EITC and, as such, you are not eligible for the WFTC. The department will use the federal income thresholds applicable for the tax period for which the refund is being claimed. For more information about these federal income thresholds, please see Part 3 of this rule.

**Question 4D: Not all members of my family have a valid SSN, but I am otherwise eligible for the federal EITC. Am I still eligible for the WFTC?**

**Answer 4D:** Yes, unlike the federal EITC, the WFTC does not require that all claimed individuals must have a valid SSN to be eligible. To be eligible for the WFTC, you, your spouse (if you are married and filing married filing jointly on your federal income tax return), and your qualifying children (if applicable), may either have a valid SSN or a valid ITIN.

**Question 4E: Are there any other federal EITC requirements that could potentially disqualify me from receiving the WFTC?**

**Answer 4E:** Yes. To be eligible for the federal EITC, you cannot file Form 2555, Foreign Earned Income and your investment income (income you receive from interest, dividends, capital gains, royalties, rental income, or other passive activities) cannot exceed \$10,000 (based on 2021 figures, indexed by the federal government for inflation in later years). Additionally, nonresident aliens are ineligible to receive the federal EITC, even if they have a valid SSN. If you are



not eligible to receive the federal EITC for these reasons, then you are not eligible to receive the WFTC.

**Question 4F: What if I am prohibited from claiming the federal EITC? Can I still qualify to receive the WFTC refund?**

**Answer 4F:** If the federal government has prohibited you from claiming the EITC due to reckless or intentional disregard or due to fraud and you are currently within the disallowance period during which you are not allowed to claim the federal EITC, then you are ineligible to receive the WFTC refund.

(5) **Residency** - To be eligible for the WFTC, you must be a resident of Washington. The term resident means that you were physically present and resided in Washington for at least 183 days during the year for which you are claiming the refund.

**Question 5A: What does it mean to be "physically present" and "reside" in Washington?**

**Answer 5A:** To be "physically present" means that you are in or located within the state of Washington. To "reside" in Washington means that you have your home or residence in the state. Individuals who commute to Washington (e.g., for work) do not "reside" in Washington.

**Example 1:**

**Facts:** Doug lives in an apartment in Tacoma, Washington. Doug is located in Washington for 300 days during calendar year 2022. Doug is placed on a job assignment in Utah for the remaining 65 days of the same year.

**Conclusion:** Doug was "physically present" and "resided" in Washington for at least 183 days in 2022. Doug meets the definition of a resident of Washington for the 2022 calendar year and would be eligible for a WFTC refund during the year if all other statutory requirements are met.

**Example 2:**

**Facts:** Sally lives in Oregon but works in Washington. Sally drives to her work in Washington every morning and drives back to her home in Oregon every evening. She does this for 300 days during the 2022 calendar year.

**Conclusion:** While Sally might be "physically present" in Washington for at least 183 days, she did not "reside" in Washington as she resided in Oregon and simply commuted to Washington. Sally does not meet the definition of a resident of Washington for the 2022 calendar year and, accordingly, would not be eligible for a WFTC refund.

**Question 5B: What if I am in Washington for at least 183 days for work or for school without commuting back to my state of residence, do I meet the WFTC residency requirement?**

**Answer 5B:** Yes. An individual who is physically present in Washington for at least 183 days and does not commute back to their state of residence will generally be considered to "reside" in Washington and is a Washington resident for WFTC residency purposes.

**Question 5C: What if I work or attend school out-of-state and was not physically present in Washington for at least 183 days, can I still qualify if I consider Washington to be my home?**

**Answer 5C:** No. Even if you consider Washington to be your home and your state of residence, you must still be physically present in Washington for at least 183 days to meet the WFTC residency requirement.

**Question 5D: What if my spouse is not a Washington resident but I am and we file under the married filing jointly status on our federal income tax return, are we eligible for the WFTC refund?**

**Answer 5D:** Yes. If you and your spouse are filing married filing jointly on your federal income tax return and your spouse does not meet the definition of a Washington resident, you may both still qualify to receive a joint refund so long as one of you meets the definition of a Washington resident.

**Question 5E: What if I am experiencing homelessness, can I still qualify for the WFTC refund?**

**Answer 5E:** Yes. The term "reside" does not require that an individual have a physical dwelling in Washington, just that Washington is the place they reside for the required period of time. Individuals or their families who are experiencing homelessness may demonstrate that they "reside" in Washington by providing proof of their residency via a letter from a community-based organization, shelter, public benefits caseworker, or from any other organizations or programs that interact with the individual or their families that states the following:

- (a) They know and can identify the individual;
- (b) The individual has resided in a particular area in Washington (which the organization or shelter will describe); and
- (c) The individual has resided in this area at least 183 days during the period for which the credit is being claimed. If an individual or their families are experiencing homelessness and move frequently as a result, the letter or affidavit may attest that the individual has resided within a general geographic area or areas (i.e., town, city, county, etc.) within the state of Washington for at least 183 days during the period for which the refund is being claimed.

**Question 5F: What if I am not a United States citizen or what if I am in the United States on a visa, can I still qualify as a Washington resident for WFTC purposes?**

**Answer 5F:** Yes, if you can demonstrate you resided in Washington and were physically present in Washington for at least 183 days during the year for which you are claiming the credit. Generally, an individual's citizenship or visa status is not considered for WFTC residency purposes.

**Question 5G: What if the department has questions and needs additional documentation?**

**Answer 5G:** If you are asked to confirm your status as a Washington resident, you must provide the department with documentation which proves that you were physically present and resided in Washington for at least 183 days during the year for which you are claiming the refund.

- (a) Documents that may help you to prove you are a Washington resident include, but are not limited to, the following:
  - (i) Washington driver's license;
  - (ii) Washington ID card;
  - (iii) Utility bills;
  - (iv) Landlord statements;
  - (v) Rental agreement or lease;
  - (vi) Mortgage statements;
  - (vii) Public benefits verification letters from state or federal agencies or case worker statements;
  - (viii) Community-based organization letters or statements; or
  - (ix) School records.
- (b) If you are unable to provide documentation that proves your Washington resident status, you will need to contact the department to determine if there are other methods by which you can prove you meet the residency requirement, which the department may allow at its discretion.

(6) **Sales or use tax paid** - The department will generally presume that if you and/or your spouse (if you are filing married filing jointly on your federal income tax return) lived in the state of Washington for at least 183 days, that you paid Washington sales or use tax on the taxable purchases you made during that period. You will need to attest to this fact on the WFTC application under penalties of perjury.

### **Part 2: Application Process**

(7) **How do I file a WFTC application with the department?** To receive a refund, you must file an application with the department. The department will accept either a paper or electronic application. The department will begin accepting WFTC applications on February 1st of each year or, if the 1st falls on a Saturday, Sunday, or legal holiday, the next business day. RCW 1.12.070(3).

The WFTC application, along with the required attachments, must be received by the department no later than December 31st in the calendar year following the tax year for which you file your federal income tax return. If December 31st falls on a Saturday or Sunday, then the application will be due the next business day. For example, if you are requesting a WFTC refund based on your 2022 tax year information, the WFTC application, along with all required attachments, are due on or before January 2, 2024. This is because December 31, 2023, falls on a Sunday and January 1, 2024, is a holiday, so the WFTC application deadline would fall on the next business day which is January 2, 2024.

(a) If you are submitting your application electronically: To be considered timely, your WFTC application, along with all required attachments, must be received by the department on or before December 31st.

(b) If you are submitting your application by mail: To be considered timely, your WFTC application, along with all required attachments, must be sent by the United States mail and postmarked on or before the December 31st deadline.

(c) For information on how to file an application, refer to the department's website.

(8) **What additional items do I need to include for the department to process my WFTC application?** In addition to the WFTC application, you must also provide the following items as attachments to your WFTC application in order for the department to process and remit your WFTC refund:

(a) Federal income tax return: Applicants must include a copy of their complete federal income tax return, including all applicable schedules that they filed for the period for which they are claiming the WFTC refund. For example, if you are claiming a WFTC refund for the 2022 tax year, you must submit a full and complete copy of your 2022 federal income tax return that you filed with the federal government.

(b) Proof of identity: You must provide proof of your identity.

(i) A government or tribal-issued photo identification of the applicant to establish your identity.

(ii) Examples of acceptable identification include, but are not limited to, the following:

(A) Washington driver's license (preferred);

(B) Passport (U.S. or foreign) or passport card;

(C) Permanent resident card (Form I-551) or alien registration receipt card;

(D) Employee authorization document card (Form I-766);

(E) U.S. visa with picture; or

(F) Other verifiable identification card issued by a federal, state, tribal, or local government agency or entity which has a picture.

(iii) If you are filing with a third-party preparer or with tax preparation software, you must include a copy of your picture identification with your WFTC application at the time of filing.

(iv) Only applicants must provide a copy of their identification. If you are married and filing married filing jointly on your federal income tax return, you do not need to provide photo identification for your spouse with the WFTC application. If you have qualifying children, you do not need to provide photo identification for your children with the WFTC application.

(v) If you are unable to provide proof of your identity, you will need to contact the department to determine if there are other methods by which you can prove your identity, which the department may allow at its discretion.

**Question 8A: What happens if I do not provide the additional required documents with my WFTC application?**

**Answer 8A:** Your application will not be considered "complete" and the department will not be able to process your WFTC refund.

**Question 8B: What does it mean to have a "complete" WFTC application?**

**Answer 8B:** To process your WFTC refund, you must provide a "complete" WFTC application to the department on or before the filing deadline, which includes the following items:

(a) A filled-out and signed WFTC application (your spouse must also sign the WFTC application if you are filing married filing jointly on your federal income tax return);

(b) Your federal income tax return; and

(c) Proof of your identity.

(9) **What if I did not file my WFTC application by December 31st, is it too late to file?** If you do not apply to receive the refund before the December 31st deadline, then you cannot apply for it later. For example, if you wish to request a WFTC refund based on your 2022 tax year information, the department will not accept WFTC applications that were filed or postmarked after January 2, 2024 (December 31, 2023, falls on a Sunday and January 1, 2024, is a holiday, so the deadline would fall on the next business day which is January 2, 2024).

However, the department, for good cause, may extend the due date for filing your WFTC application.

### **Part 3: Refund amount**

(10) **How much of a refund can I receive?** WFTC refunds will be paid to individuals who file a timely completed application and who meet the eligibility requirements. The refund amount you can receive is based on your income, your spouse's income (if you are filing married filing jointly on your federal income tax return), and how many qualifying children you have.

**Question 10A: What is the maximum refund amount that I can receive?**

**Answer 10A:** The maximum refund amount depends on how many qualifying children you have, but only your first three qualifying children are considered for payment purposes.

(a) If you have no qualifying children, your maximum refund amount is \$300;

(b) If you have one qualifying child, your maximum refund amount is \$600;

(c) If you have two qualifying children, your maximum refund amount is \$900; and

(d) If you have three or more qualifying children, your maximum refund amount is \$1,200.

The maximum refund amount will be reduced in cases where your income is greater than what is referred to in this rule as the "reduced federal income threshold." See answer 9D for more information on this reduction.

**Question 10B: What is the minimum refund amount that I can receive?**

**Answer 10B:** So long as you meet all eligibility requirements and you are entitled to receive one cent or more under the WFTC, you will receive a minimum refund of \$50. RCW 82.08.0206 (3)(c).

**Question 10C: What information does the department use to calculate my WFTC refund?**

**Answer 10C:** The department calculates your WFTC refund based on your properly filed federal income tax return for the period for which you are claiming the refund.

**Question 10D: What is the reduced federal income threshold and how does it affect my WFTC refund amount?**

**Answer 10D:** To be eligible for the WFTC refund, you must generally be eligible for the federal EITC, including satisfying the federal income thresholds for that program; however, in determining the amount of the WFTC refund, the department must first calculate the reduced federal income threshold. The department determines the reduced federal income thresholds as provided in RCW 82.08.0206 (3)(b). If your income exceeds the reduced federal income threshold, but is still below the federal income thresholds, your maximum refund will be decreased, but not below \$50, as follows:

(a) If you have no qualifying children, then the department will reduce the federal income threshold by \$2,500 for the prior federal tax year. Then, for every additional dollar of income you have over the reduced federal income threshold, the department will reduce the amount of refund received by \$0.18 (i.e., the WFTC remittance reduction).

(b) If you have one qualifying child, then the department will reduce the federal income threshold by \$5,000 for the prior federal tax year. Then, for every additional dollar of income you have over the reduced federal income threshold, the department will reduce the amount of refund by \$0.12.

(c) If you have two qualifying children, then the department will reduce the federal income threshold by \$5,000 for the prior federal tax year. Then, for every additional dollar of income you have over the reduced federal income threshold, the department will reduce the amount of refund by \$0.15.

(d) If you have three or more qualifying children, then the department will reduce the federal income threshold by \$5,000 for the prior federal tax year. Then, for every additional dollar of income you have over the reduced federal income threshold, the department will reduce the amount of refund by \$0.18.

The department will adjust the WFTC remittance reduction amounts on an annual basis beginning in 2023 in order to align the WFTC program with the federal EITC program. These adjustments will be published in an *Excise Tax Advisory* separate from this rule on the department's website located here XX.

**Question 10E: How does the department calculate my WFTC refund?**

**Answer 10E:** Below is an example of how the WFTC refund is calculated based on the federal income threshold amounts for the 2021 tax year.

**Note:** This is an example of the calculation only. The earliest that the WFTC may be claimed is January 1, 2023, which would rely on the maximum qualifying income for tax year 2022 rather than tax year 2021 as demonstrated in the example below. Please refer to the department's website here XX for updated calculation tables for tax year 2022 and beyond.

**Table A**  
**For those filing as Single, Head of Household, Widowed, or Married Filing Separately\***

Number of Qualifying Children	Federal Income Thresholds	Federal Income Threshold Reduction Amount	Reduced Federal Income Threshold
0	\$21,430	\$2,500	\$18,930
1	\$42,158	\$5,000	\$37,158
2	\$47,915	\$5,000	\$42,915
3 or more	\$51,464	\$5,000	\$46,464

\*Those filing married filing separately must meet the "unmarried" requirement to qualify.

**Table B**  
**For those filing as married filing jointly**

Number of Qualifying Children	Federal Income Thresholds	Federal Income Threshold Reduction Amount	Reduced Federal Income Threshold
0	\$27,380	\$2,500	\$24,880
1	\$48,108	\$5,000	\$43,108
2	\$53,865	\$5,000	\$48,865
3 or more	\$57,414	\$5,000	\$52,414

**Example 3:**

**Facts:** John and Mary are married and filed their 2021 federal income tax return as married filing jointly. John and Mary have one qualifying child. On their federal income tax return, John and Mary's combined earned income was \$43,200 and they meet all of the requirements in subsection (1)(a) through (e) of this rule to qualify for the WFTC refund.

**Conclusion:** The applicable federal income threshold for a couple that is married filing jointly with one qualifying child is \$48,108. See Table B. This amount must be reduced by \$5,000 (the federal income threshold reduction amount), which results in a reduced federal income threshold amount of \$43,108. See Table B. John and Mary's earned income for WFTC purposes is \$92 higher than the reduced federal income threshold (\$43,200 - \$43,108 = \$92). The department must reduce the couple's maximum refund by \$0.12 for every dollar above the \$43,108 reduced federal income threshold (or 12 percent for each dollar).

Because they have one qualifying child, the maximum refund amount that John and Mary could receive is \$600. Because their earned income is \$92 above the reduced federal income threshold, their refund will be reduced by \$11.04 (\$92 x \$0.12 = \$11.04). John and Mary's refund amount is \$588.96.

**Question 10F: What is a "qualifying child" for WFTC purposes?**

**Answer 10F:** To be eligible under the WFTC, a "qualifying child" must meet the federal tax requirements under Internal Revenue Code section 32. The only exception to this is that children who do not meet the valid SSN requirements for federal EITC purposes will still be considered "qualifying children" for WFTC purposes so long as they have a valid ITIN and meet all other federal requirements.

**Question 10G: How do I determine whether a person is a "qualifying child"?**

**Answer 10G:** A qualifying child must meet the following requirements per IRC section 32:

(a) The child must be:  
 (i) Your child or grandchild; or  
 (ii) Your brother, sister, stepbrother, stepsister, or any descendant of such relative;  
 (b) The child must have shared the same principal place of abode with you in the United States for more than one-half of the tax year;  
 (c) The child has not filed a joint tax return with their spouse;  
 (d) The child must be younger than you (and your spouse, if you are filing married filing jointly on your federal income tax return) and:

(i) Is not yet 19 years old at the end of the year for which you are claiming the refund; or

(ii) Is a student no older than 24 years old at the end of the year for which you are claiming the refund; or

(iii) Permanently and totally disabled during the tax year, regardless of age.

**Question 10H: For circumstances where several people could potentially claim the same qualifying child, how does the department decide who can claim the qualifying child for WFTC purposes?**

**Answer 10H:** If there is a question of who may claim the child, the department will determine who can claim based on the following hierarchy of rules:

(a) If only one person is the child's legal parent ("parent"): The parent may claim the child;

(b) If both parents file a joint tax return with each other: They may claim the child;

(c) If both parents claim the child on separate tax returns: The parent with whom the child lived with the longest during the year may claim the child;

(d) If the child lived with each parent for the same amount of time: The parent with the higher adjusted gross income (AGI) for the year may claim the child;

(e) If neither parent can claim the child: The person who had the highest AGI for the year may claim the child; and

(f) If a parent can claim the child but does not: The person who had the highest AGI for the year may claim the child, but only if that person's AGI is greater than the AGI of any of the child's parents who can claim the child.

**Example 4:**

**Facts:** Tina and her five year old son, Anthony, live with Tina's parents (Anthony's grandparents), Jordan and Alex. Both Tina and Jordan and Alex provide more than half of their own support and cannot be claimed as dependents by anyone else. Tina's federal AGI is \$16,000 while Jordan and Alex's federal AGI is \$15,000. Tina and Jordan and Alex otherwise qualify for the federal EITC and fulfill all other WFTC eligibility requirements. Anthony meets the requirements of a qualifying child with respect to Tina, and Jordan and Alex and no one else is able to claim Anthony as a qualifying child.

**Conclusion:** In this situation, there is a question of whether Tina or Jordan and Alex may claim Anthony as a qualifying child for WFTC purposes. In applying the rules above, Tina would be the one eligible to claim Anthony as a qualifying child for WFTC purposes for 2022 as

she is Anthony's legal parent and her federal AGI is greater than Jordan and Alex's.

**Example 5:**

**Facts:** Lucas is 25 years old and lives in the same home with his mother, Betty, and his eight year old niece, Tabatha, for all of 2022. Tabatha's parents do not live in the same principal place of abode as Lucas, Betty, and Tabatha. Both Lucas and Betty provide more than half of their own support and cannot be claimed as dependents by anyone else. In completing their 2022 federal income tax returns, Lucas's federal AGI is \$15,000 and Betty's federal AGI is \$9,300. Tabatha's parents file married filing jointly on their federal income tax return and their federal AGI is \$9,000. Lucas and his mother otherwise qualify for the federal EITC and fulfill all other WFTC eligibility requirements. There are no other persons who would be able to claim Tabatha as a qualifying child.

**Conclusion:** Lucas is eligible to claim the WFTC with his niece as his qualifying child. Tabatha's parents are not eligible to claim Tabatha as a qualifying child as she did not share the same principal place of abode with them for at least 183 days during 2022. Lucas and Betty both otherwise meet the relationship, age, residency, and joint return requirements to treat Tabatha as a qualifying child, but because Lucas's federal AGI is higher, he would be able to claim Tabatha as a qualifying child for WFTC purposes.

**Question 10I: What if I am the noncustodial parent of my child?**

**Can I still receive the WFTC refund if my spouse does not claim our child?**

**Answer 10I:** You may still qualify to receive the WFTC if you meet the requirements for an individual without children, but you cannot claim the child as a qualifying child on your WFTC application. A custodial parent is the parent with whom the child lived for the greater number of nights during the year. The other parent is the noncustodial parent. While it may be possible for you to claim the child as your qualifying child for other federal tax benefits, the child must still live with you for more than half the year to be considered a qualifying child for federal EITC purposes. As you are the noncustodial parent, and therefore the child did not live with you for the required period of time during the year, you cannot claim this child for federal EITC purposes and, as such, you cannot claim this child for WFTC purposes.

**Question 10J: What if my qualifying child lives with my spouse outside of Washington? If I am a Washington resident, can I claim my qualifying child for WFTC purposes?**

**Answer 10J:** Yes, but only if you and your spouse are filing married filing jointly on your federal income tax return and you or your spouse are considered to be a Washington resident for the year for which you are claiming the refund. The child claimed must also meet all WFTC requirements for a qualifying child. The department may request additional information from you and your spouse to confirm that these requirements have been met.

**Question 10K: Will the WFTC refunds be adjusted for inflation?**

**Answer 10K:** Yes, the refund amounts will be adjusted for inflation each year beginning January 1, 2024, based on changes to the consumer price index that are published by November 15th of the previous year for the most recent 12-month period. "Consumer price index" means, for any 12-month period, the average consumer price index for the Seattle, Washington area for urban wage earners and clerical work-



ers, all items, compiled by the Bureau of Labor Statistics, United States Department of Labor. RCW 82.08.0206 (3)(d) and (e).

Credit amounts that are adjusted due to inflation must be rounded to the nearest \$5. Updated credit amounts will be published in an *Excise Tax Advisory* on the department's website here XX.

(11) **What if I made a mistake?** If you realize that you have made a mistake on your WFTC application, then you must correct the mistake by updating or amending your WFTC application.

**Question 11A: When do I need to amend my WFTC application?**

**Answer 11A:** You must amend your WFTC application when you realize the information submitted on your application is not accurate. This allows the department to make sure that it has accurate records and that it can process your refund without additional delay. If you have questions about amending your application, please contact the department for additional information.

**Question 11B: What if the Internal Revenue Service (IRS) makes changes to my federal income tax return? Do I need to amend my WFTC application?**

**Answer 11B:** Yes, if the IRS makes changes to your federal income tax return, then the amount of refund that you are eligible to receive may be different than what the department provided to you. Accordingly, you will need to amend your WFTC application. If the department finds that the IRS has made changes to the federal income tax return that would increase or decrease the amount of the WFTC refund you are entitled to receive, then the department may make changes to your WFTC refund amount. This may mean that you will be required to pay back some of the refund that you received. If you know that the IRS has made changes to your federal tax return, you should alert the department of these changes as soon as possible by amending your WFTC application.

**Question 11C: How long do I have to amend my WFTC application?**

**Answer 11C:** If you timely filed your WFTC application, along with all required attachments, you may amend your application at any point within the statutory nonclaim period provided in RCW 82.32.060. The statutory nonclaim period is four years beginning with the calendar year for which the refund is being claimed. For example, if an applicant wishes to amend their 2022 WFTC application, they may do so at any point during the shaded years below:

Year 1	Year 2	Year 3	Year 4	Year 5
2022 - Sales/use tax paid	2023 - Applicant files 2022 WFTC application			2026 - Final year to submit amended application

**Question 11D: If I should have received a larger WFTC refund than I got, can I still receive the additional amount?**

**Answer 11D:** Yes, if you alert the department that you should have been paid a larger refund than you received, or if the department finds that you should have been paid a larger refund than you received, then the department will pay the additional amount; however, the department may only do so if it discovers or is notified of the error before the end of the four-year statutory nonclaim period. The department encourages you to submit an amended application as soon as possible to avoid being time barred. Interest is not paid on any additional WFTC amounts that you are entitled to receive. See RCW 82.08.0206(10).

**Part 4: General Administration and Review**

(12) **How is the WFTC program administered?** The department is responsible for administering the WFTC program. The department administers the application process described in Part 2 of this rule, by providing refunds to applicants who meet the eligibility requirements in Part 1 of this rule. As part of this administration, the department has the authority to review all WFTC applications and determine the amount the applicant is legally entitled to receive. If the department determines that a refund was overpaid, it may issue an assessment within four years after the close of the calendar year for which the WFTC refund is being claimed. For example, if you file your 2022 WFTC application on December 1, 2023, the department has until the end of 2026 to issue an assessment for the overpaid refund amount. If the department finds that you have received less than you were legally entitled to receive, then the department must adjust your WFTC refund amount and pay you the additional refund owed to you.

(13) **What if I disagree with the department's decision?** If you disagree with the department's decision concerning your WFTC refund amount or assessment of WFTC overpayment, you may seek administrative review of that decision. To have this decision reviewed, you must seek an informal review under WAC 458-20-100. Additional information and details regarding the process in WAC 458-20-100 is available on the department's website at <https://dor.wa.gov/file-pay-taxes/reviews-and-appeals>.

**Question 13A: For what types of issues may I seek informal review?**

**Answer 13A:** You may seek administrative review of the following actions taken by the department regarding the WFTC:

- (a) You received an assessment for overpayment of the WFTC refund amounts;
- (b) The department denied all or part of your request for a WFTC refund;
- (c) You received an adverse letter ruling from the department.

You may find additional details regarding letter rulings on the department's website here.

**Question 13B: How do I request an informal review?**

**Answer 13B:** All informal review requests must be submitted in writing to the department within 30 days of the date the preliminary decision was issued. Information about how to seek review, including filing your petition, is available on the department's website.

**Question 13C: What is the informal review process?**

**Answer 13C:** WFTC reviews are subject to small claims review as described in WAC 458-20-100 as the amount at issue is below \$25,000. This process provides petitioners with a simplified review that includes an abbreviated written determination, which becomes the final action of the department. If you do not want your case heard as a small claims review, you may request a longer mainstream review at the department. Once the petition for informal review is received, the department will acknowledge receipt with a letter. You will have the opportunity to provide additional records and explain your position in an informal hearing. After the department has reviewed your claim, a tax review officer assigned to your case will issue a final agency determination. A determination concerning the review of an assessment or refund denial may be appealed to the board of tax appeals. A determination concerning the review of a letter ruling is not subject to further appeal beyond the department.

(14) **What if I owe money to the department?** If you receive a WFTC refund amount that is larger than you were entitled to receive, the department may assess the overpaid amount.

**Question 14A: Do the WFTC overpayments accrue interest?**

**Answer 14A:** Yes. However, interest will not begin to accrue on the amount assessed for the first six months from the date the department issued the assessment. After this initial six-month period, interest will accrue on the amount due and owing at the rates specified under RCW 82.32.050 until the total amount due has been paid in full.

**Question 14B: Can the department assess penalties on WFTC overpayments?**

**Answer 14B:** Yes. If overpayment due is not paid in full by the date due, or the department issues a warrant for the collection of amounts due under this subsection, the department may assess applicable penalties under RCW 82.32.090; however, these penalties are not due until six months after the date the assessment has been issued. The department will take appropriate steps to work with you to establish a payment plan or other means to resolve the liability.

If the department finds, by clear, cogent, and convincing evidence, that an individual knowingly submitted, caused to be submitted, or consented to the submission of, a fraudulent WFTC claim for refund, the department must assess a penalty of 50 percent of the overpaid amount in addition to any other applicable penalties.

Below is an example of how interest and penalties may be assessed if you received a larger WFTC refund than you were entitled to receive and are required to pay the overpayment back:

<b>January 1st</b>	WFTC overpayment amount is assessed and issued. The issued notice requires full payment of the WFTC overpayment amount that is due and owing on or before June 30th.
<b>January 1st through June 30th</b>	Six-month period in which no penalties are assessed and interest does not accrue.
<b>June 30th</b>	Due date of WFTC overpayment amount per notice issued January 1st.
<b>July 1st</b>	If the WFTC overpayment amount is not fully paid, the department assesses a 15 percent penalty on the WFTC overpayment amount that is still due and owing. Interest begins to accrue on the WFTC overpayment amount that is still due and owing.
<b>July 15th</b>	If the WFTC overpayment amount is not fully paid, the department may issue a warrant for any WFTC overpayment amount that is still due and owing. If a warrant is issued, the department will also assess an additional 10 percent warrant penalty to the WFTC overpayment amount that is still due and owing. Interest continues to accrue until the WFTC overpayment amount is fully paid.
<b>July 31st</b>	If the WFTC overpayment amount is not fully paid, the department may assess an additional 10 percent penalty on the WFTC overpayment amount that is still due and owing for a total of 25 percent penalty (excluding warrant penalty if warrant is issued). Interest continues to accrue until the WFTC overpayment amount is fully paid.

[ ]

**WSR 22-11-092**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Filed May 18, 2022, 10:02 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-21-058 on October 14, 2020, and WSR 20-21-057 on October 14, 2020.

Title of Rule and Other Identifying Information: WAC 220-200-100 Wildlife classified as protected shall not be hunted or fished.

Hearing Location(s): On June 24-25, 2022, at 8:00 a.m., at Natural Resources Building (NRB), Room 172, 1111 Washington Street S.E., Olympia, WA 98501. Information on how to register to testify at the public hearing is available at <http://wdfw.wa.gov/about/commission/meetings> or contact the commission office at 360-902-2267.

Date of Intended Adoption: August 5, 2022.

Submit Written Comments to: Wildlife Program, P.O. Box 43200, Olympia, WA 98504, email [RedFoxCR102@PublicInput.com](mailto:RedFoxCR102@PublicInput.com), [WhitePelicanCR102@PublicInput.com](mailto:WhitePelicanCR102@PublicInput.com), fax 360-902-2162, voicemail comments 855-925-2801, red fox project code 4936, white pelican project code 7748, SEPA comments <https://publicinput.com/RedFoxWhitePelican> or email to [RedFoxWhitePelican@PublicInput.com](mailto:RedFoxWhitePelican@PublicInput.com), comment websites <https://publicinput.com/RedFox102>, <https://publicinput.com/whitepelican102>, by June 27, 2022.

Assistance for Persons with Disabilities: Contact Title VI/ADA compliance coordinator, phone 360-902-2349, TTY 711, email [Title6@dfw.wa.gov](mailto:Title6@dfw.wa.gov). For more information, see <https://wdfw.wa.gov/accessibility/requests-accommodation>, by June 27, 2022.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposed amendments to WAC 220-200-100, if adopted, would classify the Cascade red fox as "threatened" in the state of Washington and reclassify the white pelican from "threatened" to "sensitive."

If the proposed amendments are adopted by the commission, the Cascade red fox would be classified as "threatened" and the American white pelican would be downlisted to "sensitive." The proposed amendments, if approved, would include the additional regulation and enforcement of wildlife classified as "threatened" identified in RCW 77.15.120. The Washington department of fish and wildlife (WDFW) would also initiate work on a recovery plan for the species according to WAC 220-610-110.

Reasons Supporting Proposal: The Cascade red fox (*Vulpes vulpes cascadenensis*) is a subspecies of red fox that historically occurred in subalpine meadow, parkland, upper montane forest, and alpine habitats of the Cascade Range of Washington and southern British Columbia. Lack of detections of Cascade red foxes in British Columbia in recent decades indicate that this species is now restricted to Washington. A southward range contraction appears to have occurred within Washington within recent decades, as the only known population now occurs in the South Cascades (south of the I-90 corridor). It now occurs within  $\leq 50$  percent of its historical range in the state.

The western population of white pelicans has recovered substantially and given the size of the Badger Island colony and number of nonbreeding white pelicans in Washington during the past several years, a change in listing could be considered. The species remains somewhat vulnerable, however, as only the single colony regularly

forms in Washington, and white pelican colonies are highly sensitive to disturbances; adults will desert and/or leave eggs and young exposed to predation following disturbances. We recommend the species be downlisted to "sensitive". A sensitive species is "vulnerable or declining and is likely to become endangered or threatened in a significant portion of its range within the state without cooperative management or removal of threats" (WAC 220-610-110).

Statutory Authority for Adoption: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, 77.12.020, 77.12.047, and 77.12.240.

Statute Being Implemented: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, 77.12.020, 77.12.047, and 77.12.240.

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

Name of Proponent: WDFW, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Eric Gardner, 1111 Washington Street S.E., Olympia, WA 98501, 360-902-2515; and Enforcement: 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. The proposed periodic status review for the Cascade red fox and white pelican does not require a cost-benefit analysis per 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(4).

Explanation of exemptions: The addition and downlisting of a periodic status review does not affect small businesses.

May 18, 2022  
Annie Szvetecz  
Rules Coordinator

**OTS-3762.1**

AMENDATORY SECTION (Amending WSR 21-20-010, filed 9/23/21, effective 10/24/21)

**WAC 220-200-100 Wildlife classified as protected shall not be hunted or fished.** Protected wildlife are designated into three subcategories: Threatened, sensitive, and other.

(1) Threatened species are any wildlife species native to the state of Washington that are likely to become endangered within the foreseeable future throughout a significant portion of their range within the state without cooperative management or removal of threats. Protected wildlife designated as threatened include:

Common Name	Scientific Name
western gray squirrel	<i>Sciurus griseus</i>
sea otter	<i>Enhydra lutris</i>
green sea turtle	<i>Chelonia mydas</i>
<u>Cascade red fox</u>	<u><i>Vulpes vulpes cascadenis</i></u>
Mazama pocket gopher	<i>Thomomys mazama</i>

Common Name	Scientific Name
<del>((American white pelican</del>	<i>Pelecanus erythrorhynchos</i> )

(2) Sensitive species are any wildlife species native to the state of Washington that are vulnerable or declining and are likely to become endangered or threatened in a significant portion of their range within the state without cooperative management or removal of threats. Protected wildlife designated as sensitive include:

Common Name	Scientific Name
Gray whale	<i>Eschrichtius robustus</i>
Common Loon	<i>Gavia immer</i>
Larch Mountain salamander	<i>Plethodon larselli</i>
Pygmy whitefish	<i>Prosopium coulteri</i>
Margined sculpin	<i>Cottus marginatus</i>
<u>American white pelican</u>	<u><i>Pelecanus erythrorhynchos</i></u>
Olympic mudminnow	<i>Novumbra hubbsi</i>

(3) Other protected wildlife include:

Common Name	Scientific Name
cony or pika	<i>Ochotona princeps</i>
least chipmunk	<i>Tamias minimus</i>
yellow-pine chipmunk	<i>Tamias amoenus</i>
Townsend's chipmunk	<i>Tamias townsendii</i>
red-tailed chipmunk	<i>Tamias ruficaudus</i>
hoary marmot	<i>Marmota caligata</i>
Olympic marmot	<i>Marmota olympus</i>
Cascade golden-mantled ground squirrel	<i>Callospermophilus saturatus</i>
golden-mantled ground squirrel	<i>Callospermophilus lateralis</i>
Washington ground squirrel	<i>Urocitellus washingtoni</i>
red squirrel	<i>Tamiasciurus hudsonicus</i>
Douglas squirrel	<i>Tamiasciurus douglasii</i>
northern flying squirrel	<i>Glaucomys sabrinus</i>
Humboldt's flying squirrel	<i>Glaucomys oregonensis</i>
wolverine	<i>Gulo gulo</i>
painted turtle	<i>Chrysemys picta</i>
California mountain kingsnake	<i>Lampropeltis zonata</i>

All birds not classified as game birds, predatory birds or endangered species, or designated as threatened species or sensitive species; all bats, except when found in or immediately adjacent to a dwelling or other occupied building; mammals of the order Cetacea, including whales, porpoises, and mammals of the order Pinnipedia not otherwise classified as endangered species, or designated as threatened species or sensitive species. This section shall not apply to hair seals and sea lions which are threatening to damage or are damaging commercial fishing gear being utilized in a lawful manner or when

said mammals are damaging or threatening to damage commercial fish being lawfully taken with commercial gear.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.020. WSR 21-20-010 (Order 21-196), § 220-200-100, filed 9/23/21, effective 10/24/21. Statutory Authority: RCW 77.04.012, 77.04.055, 77.12.047, and 77.12.240. WSR 21-13-032 (Order 21-60), § 220-200-100, filed 6/10/21, effective 7/11/21. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.055, 77.12.020, and 77.12.047. WSR 18-17-153 (Order 18-207), § 220-200-100, filed 8/21/18, effective 9/21/18. Statutory Authority: RCW 77.04.012, 77.04.055, 77.12.020, and 77.12.047. WSR 17-20-030 (Order 17-254), § 220-200-100, filed 9/27/17, effective 10/28/17. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), re-codified as § 220-200-100, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.04.012, 77.04.055, 77.12.020, and 77.12.047. WSR 17-02-084 (Order 17-02), § 232-12-011, filed 1/4/17, effective 2/4/17; WSR 15-10-021 (Order 14-95), § 232-12-011, filed 4/27/15, effective 5/28/15. Statutory Authority: RCW 77.12.047, 77.12.020. WSR 08-03-068 (Order 08-09), § 232-12-011, filed 1/14/08, effective 2/14/08; WSR 06-04-066 (Order 06-09), § 232-12-011, filed 1/30/06, effective 3/2/06. Statutory Authority: RCW 77.12.047, 77.12.655, 77.12.020. WSR 02-11-069 (Order 02-98), § 232-12-011, filed 5/10/02, effective 6/10/02. Statutory Authority: RCW 77.12.047. WSR 02-08-048 (Order 02-53), § 232-12-011, filed 3/29/02, effective 5/1/02; WSR 00-17-106 (Order 00-149), § 232-12-011, filed 8/16/00, effective 9/16/00. Statutory Authority: RCW 77.12.040, 77.12.010, 77.12.020, 77.12.770. WSR 00-10-001 (Order 00-47), § 232-12-011, filed 4/19/00, effective 5/20/00. Statutory Authority: RCW 77.12.040, 77.12.010, 77.12.020, 77.12.770, 77.12.780. WSR 00-04-017 (Order 00-05), § 232-12-011, filed 1/24/00, effective 2/24/00. Statutory Authority: RCW 77.12.020. WSR 98-23-013 (Order 98-232), § 232-12-011, filed 11/6/98, effective 12/7/98. Statutory Authority: RCW 77.12.040. WSR 98-10-021 (Order 98-71), § 232-12-011, filed 4/22/98, effective 5/23/98. Statutory Authority: RCW 77.12.040 and 75.08.080. WSR 98-06-031, § 232-12-011, filed 2/26/98, effective 5/1/98. Statutory Authority: RCW 77.12.020. WSR 97-18-019 (Order 97-167), § 232-12-011, filed 8/25/97, effective 9/25/97. Statutory Authority: RCW 77.12.040, 77.12.020, 77.12.030 and 77.32.220. WSR 97-12-048, § 232-12-011, filed 6/2/97, effective 7/3/97. Statutory Authority: RCW 77.12.020. WSR 93-21-027 (Order 615), § 232-12-011, filed 10/14/93, effective 11/14/93; WSR 90-11-065 (Order 441), § 232-12-011, filed 5/15/90, effective 6/15/90. Statutory Authority: RCW 77.12.040. WSR 89-11-061 (Order 392), § 232-12-011, filed 5/18/89; WSR 82-19-026 (Order 192), § 232-12-011, filed 9/9/82; WSR 81-22-002 (Order 174), § 232-12-011, filed 10/22/81; WSR 81-12-029 (Order 165), § 232-12-011, filed 6/1/81.]